



# Finance (No. 2) Act 1945

## 1945 CHAPTER 13

An Act to grant certain duties, to alter other duties, and to amend the law relating to the Public Revenue and the National Debt, and to make further provision in connection with Finance. [20th December 1945.]

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

#### PURCHASE TAX, CUSTOMS AND EXCISE.

##### *Purchase Tax.*

#### **1 Cesser of charge of purchase tax in respect of certain cooking and heating appliances and refrigerators.**

- (1) Purchase tax shall cease to be chargeable in respect of goods of the classes specified in the First Schedule to this Act.
- (2) In accordance with the preceding subsection, the Seventh Schedule to the Finance (No. 2) Act, 1940, shall be amended by inserting in the third column thereof, immediately before the entry relating to hurricane lamps and other lamps, the words contained in the First Schedule to this Act.

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- (3) The preceding provisions of this section shall be deemed to have come into operation on the twenty-fourth day of October, nineteen hundred and forty-five.
- (4) Tax shall not be chargeable by virtue of a purchase of goods of any of the said classes in respect of any such goods delivered under the purchase on or after the said twenty-fourth day of October, notwithstanding that the purchase was made before the said day.
- (5) Where, in respect of goods of any of the said classes bought under a purchase made before the said twenty-fourth day of October, any tax which would have been chargeable if this Act had not been passed does not become chargeable, the buyer may, in the absence of agreement to the contrary and if the seller has had in respect of the goods the benefit of the tax not becoming chargeable, deduct from the consideration a sum equal to the amount which would have been the amount of the tax chargeable in respect of the goods if this Act had not been passed.
- (6) Nothing in this section shall affect the operation of section twenty of the Finance (No. 2) Act, 1940 (which empowers the Treasury by order to direct that tax shall become chargeable in respect of goods of any class in respect of which it is not for the time being chargeable).

## **2 Exemption from purchase tax of wireless sets for the blind.**

The Commissioners may, subject to such conditions as they may impose for the protection of the Revenue, remit purchase tax chargeable in respect of a wireless receiving set, by virtue either of a purchase thereof or of such an appropriation or application thereof as is mentioned in section twenty-five of the Finance (No. 2) Act, 1940, if they are satisfied, by a certificate to that effect given to them on behalf of a charity registered under section three of the Blind Persons Act, 1920, that the purchase, appropriation or application, was made for the purpose of making the set available for the -use of the blind to the exclusion of use otherwise, and that the property therein will be retained by the charity for that purpose.

## **3 Temporary exemption from purchase tax of war memorials.**

Subject to such conditions as they may impose for the protection of the Revenue, the Commissioners, upon an application in that behalf made to them within the period of five years beginning with the passing of this Act, may remit purchase tax chargeable in respect of an article of furniture, plate or textile material, or an ornament, by virtue either of a purchase thereof or of such an appropriation or application thereof as is mentioned in section twenty-five of the Finance (No. 2) Act, 1940, if they are satisfied that the purchase, appropriation or application was made for the purpose of placing the article or ornament in a place of religious worship as a war memorial and that it will be retained therein.

### *Mechanically Propelled Vehicles.*

## **4 Amendment as to grading of certain of the rites of excise duty on mechanically propelled hackney and goods vehicles, etc..**

- (1) For the purpose of providing, as respects the duties of excise chargeable in respect of mechanically propelled vehicles,—

- (a) for the grading of certain of the rates of the said duties which are graded ' according to seating capacity, or to weight unladen, by reference to units consisting respectively of a single person and of one quarter of a ton, in lieu of by reference to larger units;
- (b) for revoking such of the rates of the said duties as are chargeable in respect of vehicles by reference to their not being fitted entirely with pneumatic tyres; and
- (c) for making certain formal amendments in the provisions by which the said duties are charged;

section thirteen of the Finance Act, 1920 (which imposes the said duties) shall, as from the first day of January, nineteen hundred and forty-six, have effect subject to the subsequent provision of this section.

- (2) The said section thirteen shall have effect as respects vehicles of the descriptions specified in paragraph 3 of the Second Schedule to the said Act (which paragraph relates to hackney carriages) as if the paragraph set out in Part I of the Second Schedule to this Act were substituted for that paragraph.
- (3) The said section thirteen shall have effect as respects vehicles of the descriptions specified in sub-paragraphs (a), (b) and (c) of paragraph 5 of the Second Schedule to the said Act (which paragraph relates to goods vehicles) as if for the rates of duty specified in those sub-paragraphs there were substituted the rates of duty specified in Part II of the Second Schedule to this Act.
- (4) The rates of the duties chargeable under the said section thirteen in respect of goods vehicles used solely within the area of a local authority by that local authority, or by any person' acting in pursuance of a contract with that local authority, for the purpose of cleansing or watering roads or cleansing gullies shall be those specified in Part III of the Second Schedule to this Act, in lieu of those specified in sub-paragraphs (a) and (d) of the paragraph numbered 5 in the Third Schedule to the Finance Act, 1928, and—
  - (a) such vehicles shall be excepted from the descriptions of vehicles specified in sub-paragraph (c) of paragraph 5 of the Second Schedule to the Finance Act, 1920, and, if used for drawing a trailer, from sub-paragraph (d) thereof;
  - (b) the proviso to section twenty-five of the Finance Act, 1933 (by virtue of which such vehicles are excepted as aforesaid), shall be repealed:

Provided that the said duties in respect of such vehicles shall be deemed for all purposes to be chargeable under paragraph 5 of the Second Schedule to the Finance Act, 1920.

## **5 Charge of excise duty on certain mechanically propelled vehicles by reference to cylinder capacity in lieu of horse-power.**

- (1) Section thirteen of the Finance Act, 1920, shall have effect as if the following proviso were inserted at the end of paragraph 6 of the Second Schedule to that Act, that is to say,—

“Provided that, notwithstanding anything in the preceding provisions of this paragraph, the duty to be charged in respect of a vehicle falling within this paragraph which derives its motive power wholly from an internal combustion engine worked by a cylinder or cylinders shall, if the vehicle is registered under the Roads Act, 1920, for the first time on or after the appointed day, be charged at a rate for each unit or part of a unit of the cylinder capacity of the

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vehicle equal to four-fifths of the rate fixed by this paragraph for each unit or part of a unit of horse-power, so however that if duty so charged in respect of the vehicle would be less than duty charged in respect thereof at the rate fixed by this paragraph for a vehicle not exceeding 6 horse-power, the rate of the duty to be charged in respect of the vehicle shall be the last-mentioned rate.

For the purposes of this proviso—

- (a) a unit of cylinder capacity shall be one hundred cubic centimetres;
- (b) the appointed day shall be such day as the Treasury may by order appoint.”

(2) In—

- (a) subsection (3) of section thirteen of the Finance Act, 1920 (which confers power to make regulations as to the calculation of a unit of horse-power);
- (b) subsection (3) of section thirteen of the Roads Act, 1920 (which relates to the burden of proof in respect of certain matters in proceedings relating to licences under the Finance Act, 1920); and
- (c) paragraph (f) of section twelve of the Road Traffic Act, 1934 (which provides for the avoidance of restrictions by reference to certain matters on the scope of insurance against third-party risks);

after the words " horse-power " there shall be inserted the words " or cylinder capacity ".

## **6 Amendment as to rate of excise duty on electrically propelled bicycles.**

As from the first day of January, nineteen hundred and forty-six, section thirteen of the Finance Act, 1920, shall have effect as if, in paragraph 1 of the Second Schedule to that Act (which relates to cycles)—

- (a) the following sub-paragraph were inserted after sub-paragraph (a), namely—  
“ (aa) Bicycles which are electrically propelled: 17s. 6d.”;
- (b) for the words "sub-paragraph (a) of this paragraph " there were substituted the words " sub-paragraph (a) or (aa) of this paragraph ".

### *Hydrocarbon Oils.*

## **7 Extension of rebate on heavy oil used for farm tractors.**

Section eight of the Finance Act, 1942 (which provides for a rebate, limited to expire on the expiration of the Emergency Powers (Defence) Act, 1939, on heavy oil for certain farm tractors, etc.) shall continue in force notwithstanding the expiration of the Emergency Powers (Defence) Act, 1939, until such date as His Majesty may by Order in Council determine, and accordingly for subsection (2) of the said section eight there shall be substituted the following subsection—

- “(2) This section shall cease to have effect on such date, not being earlier than the expiration of the Emergency Powers (Defence) Act, 1939, as His Majesty may by Order in Council determine.”

## **8 Amendment as to duty on oils used in refineries.**

- (1) Subsections (1), (2) and (4) of section two of the Finance Act, 1934 (which impose, subject to certain modifications, customs duty on imported hydrocarbon oils used in a refinery) shall cease to have effect, and in lieu thereof the following provisions of this section shall have effect.
- (2) Where any dutiable hydrocarbon oils on which customs duty has not been paid are used in a refinery for generating heat, light or power, or for producing gas, the same customs duty shall be charged and the same rebate shall be allowed in respect thereof as would be chargeable or allowable on the importation of the like oils:

Provided that the duty shall not be charged under this subsection—

- (a) in respect of oils used for generating heat, light or power where it is shown to the satisfaction of the Commissioners that the heat, light or power is consumed inside the refinery; or
  - (b) in respect of oils used for producing gas where it is shown to the satisfaction of the Commissioners that the gas is not for use in generating heat, light or power, or that the heat, light or power in the generation of which it is used is consumed inside the refinery.
- (3) Nothing in the last preceding subsection shall affect the provisions of subsection (5) of section two of the Finance Act, 1928, as to the charge of duty or allowance of rebate on oils delivered from a refinery, but where it appears to the Commissioners that a refinery is not used primarily for the purpose of subjecting hydrocarbon oils to a process of purification or blending or a process resulting in the conversion thereof into other oils or solid or semi-solid residues, the Commissioners may, notwithstanding anything in the said subsection (5), require that customs duty shall be charged on the removal of such oils to that refinery instead of on their delivery therefrom, and that any rebate allowable shall be allowed accordingly :

Provided that—

- (a) where rebate has been allowed under this subsection on the removal of oils to a refinery and those oils are converted in the refinery into light oils, an amount equal to the rebate allowed on so much of those oils as appears to the Commissioners to have been so converted shall be charged on the delivery of the light oils from the refinery for home consumption; and
  - (b) where any oils are shown to the satisfaction of the Commissioners to have been removed from a refinery with respect to which a requirement under this subsection is in force to a refinery with respect to which no such requirement is -"in-"force; any customs duty charged on removal to the first mentioned refinery, less any rebate allowed, shall be repaid.
- (4) Where it is shown to the satisfaction of the Commissioners that any indigenous hydrocarbon oils have been delivered to a refinery (not being a refinery with respect to which a requirement under the last preceding subsection is in force) and used therein, except—
    - (a) for generating heat, light or power for consumption outside the refinery; or
    - (b) for producing gas for use in generating heat, light or power for consumption outside the refinery,

the Commissioners shall pay to the occupier of the refinery out of the sums received by them on account of customs duties an amount equal to the duty for the time being chargeable on the importation of the like oils, not being indigenous oils, less the amount of any rebate allowable in respect thereof:

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Provided that—

- (i) oils shall not be deemed for the purposes of this sub-section to have been used by reason only that they have been subjected to a process of purification or blending, or to a process resulting in the conversion thereof into other oils or solid or semi-solid residues, or have been wasted in the course of any such process; and
- (ii) where oils are used in a refinery in any process which permits the whole or part of the oils to be recovered in a useable state, only the part, if any, of the oils not so recovered shall be treated for the purposes of this subsection as having been used; and
- (iii) where oils are so used in a refinery that an amount falls to be paid to the occupier of the refinery under this subsection, the amount to be paid shall be computed as if the amount of oils so used included any wastage of the oils occurring in the refinery which, in the opinion of the Commissioners, is properly attributable to the oils so used; and
- (iv) in computing the amount payable under this subsection rebate shall be deemed to be allowable in respect of all oils other than such oils as satisfy both of the first two requirements specified in, the definition of " light oils " in subsection (3) of section two of the Finance Act, 1928, that is to say the requirement as to distillation at a temperature not exceeding one hundred and eighty-five degrees centigrade and the requirement as to distillation at a temperature not exceeding two hundred and forty degrees centigrade.

(5) It is hereby declared that—

- (a) any reference to hydrocarbon oils in section three of the Finance Act, 1928 (which enables the Commissioners to make regulations) includes a reference to indigenous hydrocarbon oils; and
- (b) save in so far as those powers relate only to imported hydrocarbon "oils, any of those powers may be exercised either as respects all hydrocarbon oils or any class of hydrocarbon oils, and in particular (but without prejudice to the generality of the preceding provision) either as respects indigenous hydrocarbon oils, or as respects other hydrocarbon oils, or as respects hydrocarbon oils whether indigenous or not; and
- (c) the reference in subsection (2) of the said section three to the value of the goods (including duty) includes a reference to the value of goods in respect of which no duty is payable,

and the power of the Commissioners to make regulations under the said section three shall include power—

- (i) to prescribe the time and manner in which payments are to be made under subsection (4) of this section and the proof to be given that the conditions specified in that subsection have been satisfied; and
- (ii) to make provision for securing that gas produced in a refinery from dutiable hydrocarbon oils on which customs duty has not been paid or has been repaid, or from oils in respect of which a payment is made under subsection (4) of this section, is not used in generating heat, light or power for consumption outside the refinery.

(6) In this section the expressions' " hydrocarbon oils ", " light oils " and " refinery " have the same meanings as in section two of the Finance Act, 1928, and the expression "indigenous hydrocarbon oils" means hydrocarbon oils which have neither

been imported into the United Kingdom nor produced from oils or other materials imported into the United Kingdom.

- (7) Any requirement made by the Commissioners under subsection (2) of section two of the Finance Act, 1934, that customs duty shall be charged on the removal of oils to a refinery instead of on delivery therefrom shall be deemed for the purposes of this section to have been a requirement under the corresponding provision thereof.

*Spirits.*

**9 Power to substitute regulations for certain provisions of the Spirits Act, 1880, relating to distillers.**

- (1) The Commissioners may make regulations for all or any of the following purposes, that is to say—
- (a) for substituting, as respects distillers, for all or any of the provisions of the Spirits Act, 1880, specified in Part I of the Third Schedule to this Act such provisions for securing the duties on spirits and regulating the manufacture of spirits as may be set out in the regulations; and
  - (b) for relaxing the requirements of section ten of that Act (which provides that a distillery shall not be within a quarter of a mile of a rectifier's premises),

and as from the date or which regulations made under this subsection first come into "operation, the provisions of section forty-six of that Act (which relate to the charging of excise duty on spirits made in a distillery) shall have effect subject to the provisions of Part II of that Schedule:

Provided that nothing in this subsection shall—

- (i) affect any of the said provisions in their application to rectifiers, dealers or retailers; or
  - (ii) affect the powers conferred by subsection (1) of section fourteen of the Finance Act, 1921, to make regulations with respect to spirits manufactured by a process other than the distillation of a fermented liquor.
- (2) If any person acts in contravention of or fails to comply with any regulation made under the preceding subsection, he shall for each offence be liable to an excise penalty of one thousand pounds, and the spirits in respect of which the offence was committed and any vessels, utensils and materials used for distilling or preparing those spirits shall be forfeited.
- (3) Any regulations made under subsection (1) of this section shall be laid before the Commons House of Parliament as soon as may be after they are made, and if that House within forty days from the date on which any such regulations are laid before it resolves that the regulations be annulled, the regulations shall thereupon cease to have effect but without prejudice to anything previously done or to the making of new regulations.

In reckoning any such period of forty days as aforesaid no account shall be taken of any time during which Parliament is dissolved or prorogued or during which the Commons House is adjourned for more than four days.

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## **10 Increased penalties for offences under the Spirits Act, 1880**

- (1) The fine of five hundred pounds incurred by a person who contravenes section five of the Spirits Act, 1880 (which prohibits distilling, etc., without a licence) as amended by section fourteen of the Finance Act, 1921, shall be increased to a fine of one thousand pounds and accordingly for the words " five hundred " in subsection (2) of the said section five there shall be substituted the words " one thousand ".
- (2) The fine of two hundred pounds incurred under subsection (2) of section one hundred of the Spirits Act, 1880, by a distiller who removes without a permit spirits from approved premises, within two miles from his distillery, on which he carries on the business of a dealer shall be increased to a fine of five hundred pounds, and accordingly in the said subsection (2) for the words " incur the same fine and forfeiture as if the removal had been from his spirit store " there shall be substituted the words " for each offence incur a fine of five hundred pounds and the spirits in respect of which the offence is committed shall be forfeited ".

## **11 Cessation of certain allowances in respect of spirits.**

As from the first day of January, nineteen hundred and forty-six, no allowance shall be payable—

- (a) under section three of the Customs and Inland Revenue Act, 1885, in respect of plain British spirits exported from or used in, or spirits in the nature of spirits of wine exported from, or used or deposited in, a customs Or excise warehouse; or
- (b) under section six of the Finance Act, 1895, in respect of spirits used for methylation which are removed from a place of methylation and exported; or
- (c) under section one of the Revenue Act, 1906, in respect of spirits (including methylic alcohol) used by an authorised methylator or received by any person for use in any art or manufacture under section eight of the Finance Act, 1902; or
- (d) under section three of the Revenue Act, 1906, in respect of spirits of wine exported direct from the premises of a person licensed to rectify or compound spirits,

and the enactments specified in Part III of the Third Schedule to this Act shall be repealed to the extent specified in the third column of that Part of that Schedule:

Provided that nothing in this section shall affect any allowance in respect of plain British, spirits exported from a customs or excise warehouse where it is shown to the satisfaction of the Commissioners that the whole of the spirits were warehoused before the said date, or any allowance in respect of any other spirits where it is shown to the satisfaction of the Commissioners that the whole of the spirits were distilled before the said date.

## **12 Reduction of distiller's licence duty in certain cases.**

After paragraph 3 of the " provisions applicable to manufacturers' licences " in the First Schedule to the Finance (1909-10) Act, 1910 (which-provides, amongst other things, for an excise duty on distillers' licences by reference to the amount of spirits distilled in the preceding year, subject to a minimum of ten pounds) there shall be inserted the following paragraph:—



“3A In the case of a licence granted to a distiller of spirits on or after the first day of October, nineteen hundred and forty-six, there shall be left out of account in determining the duty thereon all spirits shown to the satisfaction of the Commissioners to have been directly delivered out of the distiller's store or the distiller's warehouse—

- (a) for use in any art or manufacture so as to be exempt from duty by virtue of section eight of the Finance Act, 1902; or
- (b) for methylation; or
- (c) at a strength exceeding sixty degrees over proof, for exportation or for use as ship's stores,

and in determining the amount of spirits so delivered there shall be included the amount of any wastage thereof which is shown to the satisfaction of the Commissioners to have occurred in the distiller's store or the distiller's warehouse:

Provided that the duty shall in the first place be charged, levied and paid as if the reference in this paragraph to spirits delivered for the purposes therein mentioned were a reference to spirits so delivered before the end of the preceding year, and the amount of the duty shall be subsequently adjusted where spirits are delivered as aforesaid after the end of the preceding year.”

*Release of Imported Goods.*

**13 Release of imported goods.**

- (1) Where it is impracticable immediately to ascertain whether any or what customs duty is payable in respect of any goods, the Commissioners may, if they think fit, upon the making of an entry of the goods for home consumption and upon the giving by the importer or his agent of security for payment of the duty by deposit of money or otherwise to their satisfaction, allow the goods to be delivered.
- (2) The Commissioners may treat an entry made for the purposes of the preceding subsection as a perfect entry if it contains all such particulars required for perfect entry as are then known to the importer or his agent, and in that event the importer or his agent shall supply the remaining particulars as soon as may be to the Commissioners.
- (3) Where goods are allowed to be delivered under this section, the Commissioners shall, when they have determined the amount of duty which in their opinion is payable, give to the importer or his agent a notice specifying that amount, and that amount shall, subject to the provisions of the next following subsection, be deemed to be the proper duty payable, and, where a deposit has been made under subsection (1) of this section, such additional amount shall be paid, or such amount shall be repaid, as-; may be required.
- (4) Sections thirty and thirty-one of the Customs Consolidation Act, 1876 (which relate to disputes respecting duties of customs) shall (both as originally enacted and as applied by any subsequent enactment) apply in relation to the amount specified in such a notice as aforesaid as if, on the date of the notice, the goods had been delivered under the said section thirty on deposit of the said amount:

Provided that where no amount has been deposited under subsection (1) of this section or the amount deposited thereunder is less than the amount specified in the notice, it shall not be competent for proceedings to be commenced in accordance with the said

section thirty to ascertain whether any or what duty is payable on the goods until the amount specified in the notice, or the difference between that amount and the amount so deposited, as the case may be, has been paid, and no interest shall be allowed under the said section thirty-one in respect of any period before the said amount or the said difference, as the case may be, is paid.

- (5) Where goods which have been delivered out of a warehouse for removal under bond to be rewarehoused are delivered under this section without having been rewarehoused, the duty to be paid on the goods shall, notwithstanding anything in section nine of the Finance Act, 1900 (which, as amended by section three of the Finance Act, 1911, provides that the duty to be paid shall be the duty chargeable at the date on which duty is paid) be the duty chargeable on the date on which security is given under this section.

#### **14 Purchase tax : provisions as to application of customs enactments to imported chargeable goods.**

- (1) The reference to enactments relating to Customs generally in subsection (1) of section eleven of the Finance Act, 1944 (which provides that such enactments are to have effect, subject to the provisions of that section, in relation to imported goods that are chargeable goods for the purposes of purchase tax) shall include a reference to any such enactment passed or made after the passing of the Finance Act, 1944, unless the contrary intention appears.
- (2) Subsection (4) of the last preceding section shall, in its application as respects purchase tax by virtue of subsection (1) of section eleven of the Finance Act, 1944, be limited as follows, that is to say, that, so far as regards any question as to the wholesale value of goods subsections (2) and (3) of section twenty-one of the Finance (No. 2) Act, 1940 (which relate to the determination by arbitration of any such question and to the deposit of tax pending a reference to arbitration) shall have effect to the exclusion of sections thirty and thirty-one of the Customs Consolidation Act, 1876.

## **PART II**

### **INCOME TAX.**

#### **15 Income tax for 1946-47.**

- (1) Income tax for the year 1946-47 shall be charged at the standard rate of nine shillings in the pound, and, in the case of an individual whose total income exceeds two thousand pounds, shall be charged in respect of the excess at rates in the pound which respectively exceed the standard rate by the amounts specified in the second column of the following Table:—

TABLE

	s.	d.
For every pound of—		
the first five hundred	2	0
pounds of the excess		

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	s.	d.
the next five hundred pounds of the excess	2	6
the next one thousand pounds of the excess	3	6
the next one thousand pounds of the excess	4	6
the next one thousand pounds of the excess	5	6
the next two thousand pounds of the excess	6	6
the next two thousand pounds of the excess	7	6
the next two thousand pounds of the excess	8	6
the next three thousand pounds of the excess	9	6
the next five thousand pounds of the excess	10	0
the remainder of the excess	10	6

- (2) All such enactments as had effect with respect to the income tax charged for the year 1945-46, other than such enactments as by their terms relate only to tax for that year, shall have effect with, respect to the income tax charged for the year 1946-47.

## 16 Higher rates of income tax for 1945-46.

Income tax for the year 1945-46 shall be charged at rates exceeding the standard rate in the case of individuals whose total incomes exceed two thousand pounds and in respect of the excess of their total incomes over that sum; and the said rates shall be rates in the pound which respectively exceed the standard rate for the year 1945-46 by the amounts specified in the second column of the Table in subsection (1) of section seven of the Finance (No. 2) Act, 1940.

## 17 Increase of certain reliefs for 1946-47 and subsequent years.

- (1) Subsection (2) of section forty of the Finance Act, 1927 (which, as amended by subsequent enactments, provides for the reduction of the tax remaining chargeable after the allowance of other reliefs by a sum equal to seven-twentieths of the amount so remaining chargeable or seven-twentieths of the tax on one hundred and sixty-five pounds, whichever is the less) shall, as respects the year 1946-47 and all subsequent years of assessment, have effect as if the words—

“equal—

- (a) where the amount so remaining chargeable does not exceed the tax at the standard rate on fifty pounds, to two-thirds of that amount; and

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- (b) where that amount exceeds the tax at the standard rate on fifty pounds, to two-thirds of the tax at the standard rate on fifty pounds plus— (i) one-third of the excess; or
  - (i) one-third of the excess, or
  - (ii) one-third of the tax at the standard rate on seventy-five pounds,

whichever is the less:”

were substituted for the words " equal to seven-twentieths of the amount so remaining chargeable p/ equal to seven-twentieths the tax at the standard rate on one hundred and sixty-five pounds, whichever is the less. "

- (2) Section eighteen of the Finance Act, 1920 (which, as amended by subsequent enactments, provides, in the case of married persons, for a deduction of tax on one hundred and forty pounds, and, in the case of single persons, for a deduction of tax on eighty pounds) shall, as respects the year 1946-47 and all subsequent years of assessment, have effect as if—
  - (a) the words " one hundred and eighty pounds " were substituted for the words " one hundred and forty pounds "; and
  - (b) in subsection (1) thereof, the words " one hundred and ten pounds " were substituted for the words " eighty pounds ".
- (3) Section nineteen of the Finance Act, 1935 (which, as amended by subsequent enactments, exempts from tax incomes not exceeding one hundred and ten pounds and limits the tax on incomes exceeding one hundred and ten pounds but less than one hundred and thirty-three pounds to three-quarters of the excess) shall, as respects the year 1946-47 and all subsequent years of assessment, have effect as if—
  - (a) the words " one hundred and twenty pounds " were substituted for the words " one hundred and ten pounds " in both places where they occur; and
  - (b) the words " one hundred and thirty-five pounds " were substituted for the words " one hundred and thirty-three pounds "; and
  - (c) the words " one-quarter " were substituted for the words " three-quarters ".
- (4) Section seven of the Finance Act, 1941 (which provides for the crediting, after the war, of certain amounts of income tax) shall not apply to tax for the year 1946-47 or any subsequent year of assessment.

## **18 Appointed day for Part IV of Finance Act, 1944, and Income Tax Act, 1945.**

In Part IV of the Finance Act, 1944 (which relates to allowances for expenditure on scientific research) and in the Income Tax Act, 1945, the expression " the appointed day " means the sixth day of April, nineteen hundred and forty-six, and the definitions of that expression in subsection (1) of section thirty-one of the Finance Act, 1944, and subsection (1) of section sixty-eight of the Income Tax Act, 1945, are hereby repealed.

## **19 Extension to 1945-46 of s. 11 of Finance (No. 2) Act, 1939.**

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 1945-46 as it applied 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 1945-46 and references to the year 1938-39 shall be construed as references to the year 1944-45

## **20 Tax free annuities, etc..**

- (1) The amendments of section twenty-five of the Finance Act, 1941, specified in this section shall have effect for the purpose of rendering the said section twenty-five (which provides for a reduction of tax free annuities, etc., in years of assessment where the standard rate of income tax is ten shillings in the pound) applicable with modifications to all years of assessment for which the standard rate of income tax is over five shillings and sixpence in the pound.
- (2) In subsection of the said section twenty-five, for the words " is ten shillings " there shall be substituted the words " exceeds five shillings and six pence. "
- (3) For the words " twenty twenty-ninths " wherever they occur in the said section twenty-five there shall be substituted the words " the appropriate fraction "; and at the end of the said section twenty-five there shall be inserted the following subsection—
  - “(6) In this section, the expression ' the appropriate fraction ' means, in relation to any year of assessment, the fraction the denominator of which is twenty-nine and the numerator of which is twenty-nine decreased by one for every complete sixpence in the pound by which the standard rate of income tax for the year exceeds five shillings and six pence in the pound.”
- (4) In sub-paragraph (ii) of paragraph (b) of subsection (4) of the said section twenty-five, for the words " ten shillings in the pound " there should be substituted the words " the standard rate of tax for the year of assessment in which the payment falls to be made. "
- (5) Nothing in this section affects any payments falling to be made before the sixth day of April, nineteen hundred and forty-one.

## **21 Application of Rules 19 and 21 of the General Rules to interest, etc., payable by local authorities.**

- (1) Subject to the provisions of this section, in determining for the purpose of Rules 19 and 21 of the General Rules whether any sum payable by a local authority is payable wholly out of profits or gains brought into charge to tax, all profits or gains of the authority for the year of assessment in question shall, notwithstanding any restriction imposed by law upon the application of moneys belonging to the authority, be treated as being available for the payment of any sums to which those Rules apply which fall to be paid by the authority.
- (2) Subject to the provisions of this section, where, in any year of assessment, a local authority occupy any land and any tax for that year under Schedule A in respect thereof is, or apart from the said Rules would be, ultimately borne by them, there shall be deemed for the purposes of those Rules to be available to them for that year for the payment of any sums to which those Rules apply which fall to be paid by them an amount equal to the net amount on which tax is or would be borne by them as aforesaid.
- (3) Where any sum—
  - (a) has been or is to be reimbursed to a local authority by the Crown or by any other person; or
  - (b) is taken into account in computing deficiency which the Crown or any other person is under a legal obligation to make good to a local authority; or
  - (c) is charged to capital,

profits or gains which, apart from the provisions of this section, would not have been treated as available for the payment of that sum shall not be so treated by virtue of this section:

Provided that where any sum taken into account in computing such a deficiency as aforesaid exceeds the amount of the deficiency, this subsection shall not prevent profits or gains from being treated as available for the payment of the excess.

- (4) In this section, the expression " local authority "—
- (a) in relation to England, means any authority being, within the meaning of the Local Loans Act, 1875, an authority having power to levy a rate, and includes any joint board or joint committee all the constituent members of which are such authorities as aforesaid;
  - (b) in relation to Scotland, means any county council, town council, or district council, or any other authority within the meaning of the Local Authorities Loans (Scotland) Act, 1891, and includes any joint board or joint committee which is appointed under any enactment, order or scheme, and of which all the constituent authorities are such local authorities as aforesaid; and
  - (c) in relation to Northern Ireland, means the council of any county, county or other borough, urban or rural district, a board of guardians, the commissioners of a town, an education authority, and any committee or board appointed wholly or partly by a county or district council or board of guardians, or by several such councils or boards jointly:

Provided that, for the purposes of this section the Mayor and commonalty and citizens of the City of London and the Common Council of the City of London shall be deemed to be one local authority.

- (5) The preceding provisions of this section shall have effect as respects the year 1944-45 and all subsequent years of assessment.
- (6) Rule 6 of the Miscellaneous Rules applicable to Schedule D (which provides for charging the proper officer with the tax payable on any interest of money charged on any rates or assessments not chargeable as profits) is hereby repealed.

## **22 Amendments as to carrying forward of losses.**

- (1) Section thirty-three of the Finance Act, 1926 (which authorises the carrying forward of losses sustained by a person in any trade, profession or vocation, and the deduction or setting off of those losses from or against the amount of profits or gains on which he is assessed under Schedule D in respect of that trade, profession or vocation for the six following years of assessment), and any other enactment extending, amending or applying the said section thirty-three, shall, in its application to any case in which the six following years of assessment include any of the relevant years as hereinafter defined, have effect, and be deemed always to have had effect, as if for any reference to the six following years there were substituted a reference to those six years plus such number of the years of assessment immediately succeeding those six years as is equal to the number of the relevant years which are subsequent to the year in which the loss was sustained.

For the purposes of this subsection, the relevant years are the year 1939-40 and every subsequent year of assessment up to and including the year 1945-46.

- (2) Where, in any year of assessment, relief cannot be given, or cannot be wholly given, in respect of a loss carried forward under the said section thirty-three because the amount of the profits or gains of the trade assessed under Case I of Schedule D for that year is insufficient, any interest or dividends on investments arising in that year, being interest or dividends which would fall to be taken into account as trading receipts in computing the profits or gains of the trade for the purpose of assessment under that Case but for the fact that they have been subjected to tax under other provisions of the Income Tax Acts, shall be treated for the purposes of the application of the said section thirty-three as if they were profits or gains on which the person carrying on the trade was assessed under the said Case I in respect of that trade for that year of assessment, and relief shall be given accordingly by repayment or otherwise:

Provided that, for the purpose of determining whether any, and, if So, what, relief can be given under this subsection for any year of assessment, the loss which may be carried forward under the said section thirty-three shall be computed in the case of life assurance business or capital redemption business (as defined for the purposes of section twenty-seven of the Finance Act, 1938) as if it were being computed for the purpose of setting it off against the profits of another business carried on by the same person.

- (3) Any dispute as to whether any, and, if so, what, relief can be given under the last preceding subsection for any year of assessment shall be heard; and determined by the Commissioners concerned in like manner as in the case of an appeal against an assessment under Case I of Schedule D in respect of the trade in question, and the provisions of the Income Tax Acts relating to the statement of a case for the opinion of the High Court on a point of law shall apply.

## **23 War gratuities.**

War gratuities paid in respect of service in connection with the present war either—

- (a) under any Order in Council, Royal Warrant, King's Order, Army Order or Air Ministry Order to members of the armed forces of the Crown or any of the women specified in the First Schedule to the Disabled Persons (Employment) Act, 1944; or
- (b) under arrangements certified by the Treasury to be arrangements providing similar benefits to members of the armed forces of the Crown raised outside the United Kingdom to whom paragraph (a) of this section does not apply or to women employed in or in connection with any such armed forces; or
- (c) under arrangements certified by the Treasury to be arrangements providing similar benefits to—
  - (i) special constables appointed under the Special Constables Act, 1831, or section one hundred and ninety-six of the Municipal Corporations Act, 1882, or under section ninety-six of the Burgh Police (Scotland) Act, 1892, as amended or extended by any subsequent enactment or any similar provision contained in a local Act, or members of the Police War Reserve, the Women's Auxiliary Police Corps or the Police Auxiliary Messenger Service; or
  - (ii) members of the National Fire Service, the Auxiliary Fire Service or the fire brigade of a local authority; or
  - (iii) members of the Civil Defence Reserve or the civil defence ambulance, decontamination, first aid party, first aid post, messenger, report and control, rescue or wardens' services; or

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- (iv) members of the fireguard service; or
- (v) members of the Royal Observer Corps; or
- (vi) members of the Auxiliary Coastguard; or
- (vii) persons in Northern Ireland similar to any of the persons specified in any of the preceding sub-paragraphs; or
- (viii) ; employees of the Navy, Army and Air Force Institutes serving with the Royal Navy or in the Royal Army Service Corps Expeditionary Force Institutes or in the Auxiliary Territorial Service Expeditionary Force Institutes; or
- (ix) employees of the War Organisation of the British Red Cross Society and Order of St. John of Jerusalem certified by the Treasury to be employed on conditions of service analogous to those of any of the persons specified in any of the preceding sub-paragraphs,

shall not be regarded as income for any of the purposes of the Income Tax Acts for any year of assessment, including a year of assessment before the year 1945-46.

## **24 Treatment of certain payments made under redundancy schemes.**

- (1) Subject to the provisions of this section, where under any scheme which is for the time being certified or has at any time been certified by the Board of Trade under section twenty-five of the Finance Act, 1935 (which provides for the deduction, in computing the profits or gains of a trade, of contributions paid under redundancy schemes which are certified under that section), any payment is made, on or after the sixth day of April, nineteen hundred and forty-five, to a person carrying on a trade to which the scheme relates, that payment shall be treated for the purposes of the Income Tax Acts as a trading receipt of the trade and shall accordingly be taken into account in computing the profits or gains of the trade for those purposes.
- (2) Where it is shown in accordance with the provisions of Part II of the Fourth Schedule to this Act that the payments which, on or after the said date, have been made under such a scheme in respect of a trade, have been made wholly or partly in respect of damage in respect of which no relief may be given under the Income Tax Acts, then, subject to and in accordance with the provisions of that Schedule, relief shall be given in respect of those payments by reducing the amounts which are to be treated as trading receipts of the trade under the preceding subsection, but, where such relief is given, the said section twenty-five shall, in relation to contributions subsequently paid under the scheme in respect of the trade, have effect subject to the modifications specified in Part III of that Schedule.
- (3) The provisions of this section and of the said Schedule shall apply in relation to any payment made to a person who has ceased to carry on a trade to which any such scheme as aforesaid relates as they apply in relation to payments made to. a person carrying on such a trade, subject to the modification that so much of that payment as falls to be treated as a trading receipt by virtue of the said provisions shall be deemed for the purposes of those provisions to have been made to him on the last day on which he was engaged in carrying on the trade.
- (4) In determining, for the purposes of this section and of the said Schedule—
  - (a) whether any trade has ceased to be carried on; or
  - (b) whether any contribution is paid in respect of a trade in respect of which a payment has been made; or



- (c) whether any payment is made in respect of a trade in respect of which a contribution has been paid,  
no regard shall be had to any event which, by virtue of any of the provisions of Rule 11 of the Rules applicable to Cases I and II of Schedule D, is to be treated as effecting a discontinuance of a trade.
- (5) In this section and in the said Schedule, the expression " payment " does not include a payment made by way of repayment of contributions.

## **25 Effect of cancellation of certificates granted under Finance Act, 1935, s. 25.**

- (1) Where any certificate granted with respect to a scheme under section twenty-five of the Finance Act, 1935, is cancelled by the Board of Trade after the passing of this Act, and any deductible contributions paid in furtherance of the scheme have not been repaid at the expiration of one year from the cancellation, the body of persons carrying out the scheme shall, for the year of assessment in which the said year expires, be charged to income tax under Case VI of Schedule D upon the aggregate amount of the deductible contributions which have not been repaid at that time:

Provided that the charge shall not be made if the total amount of any contributions, other than deductible contributions, which have been paid under the scheme and have not been repaid before that time is greater than the available resources of the scheme, and shall not in any case be made upon an amount greater than the excess, if any, of those resources over that total amount.

In this subsection the expression " available resources ", in relation to any scheme, means a sum representing the total funds held for the purposes of the scheme at the expiration of one year from the cancellation of the certificate plus a sum representing any funds held for the purposes of the scheme which, during that year, have been applied otherwise than in accordance with the provisions of the scheme as in force when the certificate was granted.

- (2) Where the body of persons carrying out a scheme are charged to income tax by virtue of the preceding subsection, and, after the expiration of the said year, any deductible contribution paid in furtherance of the scheme is repaid, the amount upon which the charge is made shall be reduced by the amount repaid, and all such repayments of tax shall be made as are necessary to give effect to the provisions of this subsection.
- (3) In this section, the expression " contribution " includes a part of a contribution, and the expression " deductible contribution " means a contribution allowed to be deducted under the said section twenty-five, any reduction thereof under Part III of the Fourth Schedule to this Act being left out of account.
- (4) Subsection (5) of the said section twenty-five (which relates to the order in which contributions are to be deemed to be repaid) shall have effect for the purposes of this section as it has effect for the purposes of that section.

## **26 Statutory redundancy schemes.**

- (1) The following provisions, that is to say—
- (a) subsections (4) and (5) of section twenty-five of the Finance Act, 1935 (which provide, in relation to schemes certified under that section, that deductions made for contributions shall be treated as unauthorised deductions if the contributions are repaid); and

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

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(b) the two last preceding sections of this Act and the Fourth Schedule to this Act, shall, subject to the adaptations specified in subsection (2) of this section, apply in relation to a statutory redundancy scheme as they apply in relation to a scheme certified under the said section twenty-five.

(2) The said adaptations are as follows, that is to say—

- (a) for any reference to a contribution allowed to be deducted under the said section twenty-five there shall be substituted a reference to a contribution allowed to be deducted under any of the provisions of the Income Tax Acts;
- (b) any provision that the said section twenty-five shall, in relation to contributions, have effect subject to modifications, shall be construed as a provision that so much of the Income Tax Acts as authorises the deduction of contributions shall, in relation to the contributions in question, have effect subject to the modifications in question;
- (c) for any reference to the cancellation of a certificate with respect to a scheme there shall be substituted a reference to the scheme ceasing to have effect; and
- (d) for any reference to the provisions of the scheme as in force when the certificate was granted there shall be substituted a reference to the provisions of the scheme as in force when contributions were first paid thereunder.

(3) In this section the expression "a statutory redundancy scheme" means a scheme for the elimination or reduction of redundant works, machinery or plant, or for other similar purposes, to which effect is given by or under any Act (whether passed before or after this Act).

## **27 Adjustment of liability to income tax consequential on adjustments of excess profits tax or the national defence contribution.**

- (1) Where any adjustment is made of the liability of any person to excess profits tax or the national defence contribution, any consequential adjustment of the liability of that or any other person to income tax (including surtax) for any year of assessment may be made, whether by way of additional assessment, repayment of tax or otherwise, notwithstanding that the time limited by the Income Tax Acts for the making of assessments or claims for repayment of tax has expired.
- (2) Section forty-one of the Finance Act, 1927 (which contains provisions with respect to the making and determination of claims) shall apply in relation to claims for relief from income tax (other than surtax) consequential on any adjustment as respects excess profits tax or the national defence contribution as it applies in relation to claims for deductions of tax under section forty of that Act:

Provided that any such claim to which objection is made shall, if the claimant so elects when he makes the claim, be heard and determined by the Special Commissioners, and subsection (2) of the said section forty-one shall have effect accordingly.

## **28 Incorrect returns.**

If a person delivers to any surveyor a list, declaration or statement on a form prepared for the purpose by direction of the Commissioners of Inland Revenue, he shall be deemed for the purposes of section one hundred and seven of the Income Tax Act, 1918 (which, amongst other things, provides a penalty for certain incorrect returns) to have been required by a particular notice under the Income Tax Acts to prepare and deliver that list, declaration or statement, and the time limited for the delivery thereof

shall be deemed for the purposes of the said section to have expired on the date of its delivery to the said surveyor.

### PART III

#### EXCESS PROFITS TAX AND THE NATIONAL DEFENCE CONTRIBUTION.

#### 29 Reduction of rate of excess profits tax.

(1) Subsection (1) of section twenty-six of the Finance Act, 1940 (which raises the rate of excess profits tax from sixty per cent. to one hundred per cent. as from the beginning of April, nineteen hundred and forty) shall not apply to any chargeable accounting period beginning on or after the first day of January, nineteen hundred and forty-six.

(2) For subsection (2) of the said section twenty-six (which contains provisions for securing that deficiencies occurring after the end of March, nineteen hundred and forty, shall, so far as possible, be applied to reduce profits arising after the said end of March and that deficiencies occurring before the said end of March shall so far as possible, be applied to reduce profits arising before the said end of March) there shall be substituted the following subsection—

“(2) Notwithstanding anything in subsection (2) of section fifteen of the said Act, a deficiency of profits occurring in a chargeable accounting period to which subsection (1) of this section applies shall first be applied so as to reduce profits chargeable to tax arising in another chargeable accounting period to which the said subsection (1) applies, and a deficiency of profits occurring in a chargeable accounting period to which the said subsection (1) does not apply shall first be applied so as to reduce profits chargeable to tax arising in another chargeable accounting period to which the said subsection (1) does not apply; and where owing to an insufficiency of profits against which the deficiency can be set off for chargeable accounting periods to which the said subsection (1) applies or, as the case may be, does not apply, 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
- (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”;

and, in paragraph 1 of the Fourth Schedule to the Finance Act, 1941, the words ' (which contains provisions for securing that deficiencies occurring after the end of March, nineteen hundred and forty, shall, so far as possible, be applied to reduce profits arising after the said end of March and deficiencies occurring before the said end of March shall, so far as possible, be applied to reduce profits arising before the said end of March) ' shall be omitted.

(3) Any excess profits or deficiency of profits occurring for a chargeable accounting period falling partly before and partly after the end of the year nineteen hundred and forty-five shall be apportioned between the part of the period before and the part of the period after the end of the said year, and for the purpose of determining the rate at which excess profits tax is to be charged on any excess profits and of giving relief for deficiencies of profits under the enactments relating to excess profits tax, and for

the purposes of section twenty-eight of the Finance Act, 1941, each of the two parts of the period shall be treated as if it were a separate chargeable accounting period.

In this subsection, the expression " excess profits " means the amount by which the profits for any period exceed the standard profits therefor, and 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 period.

- (4) In subsection (4) of section thirty-four of the Finance Act, 1941 (which section relates to the recovery from directors and other persons of expenses for fees or other payments for services disallowed for excess profits tax purposes) for the words " shall be treated as reduced by the sum recovered " there shall be substituted the words " shall be treated as reduced, in the case of the profits, by an amount excess profits tax on which is equal to the sum recovered and, in the case of the liability to excess profits tax, by the sum recovered. "
- (5) The enactments relating to excess profits tax shall be deemed always to have had effect as amended by this section.

### **30 Relief not to be given for deficiencies of profits occurring after end of 1946.**

- (1) No relief shall be given in respect of any deficiency of profits occurring in any chargeable accounting period beginning on or after the first day of January, nineteen hundred and forty-seven.
- (2) Any deficiency of profits occurring in a chargeable accounting period falling partly before and partly after the end of the year nineteen hundred and forty-six shall be apportioned between the part of the period before and the part of the period after the end of the said year, and each of the two parts of the period shall be treated for the purpose of relief for deficiencies of profits as if it were a separate chargeable accounting period.
- (3) Notwithstanding anything, in the preceding provisions of this section, a deficiency of profits occurring in any chargeable accounting period in the case of a trade or business carried on by a member of a group of companies may be applied in reducing either—
  - (a) the profits arising to another member of the group in a chargeable accounting period coterminous with, or falling wholly within, that chargeable accounting period; or
  - (b) so much of the profits arising to another member of the group in a chargeable accounting period part of which falls in that chargeable accounting period as is apportionable to that part.

Expressions used in this subsection have the same meanings as they have in the Fifth Schedule to the Finance Act, 1940 (which relates to groups of companies).

- (4) Any apportionment required to be made by this section of any profits or deficiency of profits for any period shall be made by reference to the number of months or fractions of months in each of the parts of that period.

**31 Extension of relief for deficiencies of profits where a trader acquires or commences a new trade or partly discontinues a trade.**

- (1) The provisions of this section shall have effect where either of the following events occurs in relation to a person carrying on a trade or business (hereinafter referred to as "the original trade or business"), that is to say—
  - (a) that, while continuing to carry on the whole or some part of the original trade or business, or upon ceasing to carry on the original trade or business, he acquires or commences another trade or business; or
  - (b) that he ceases to carry on part of the original trade or business.
- (2) If, in the opinion of the Commissioners of Inland Revenue, the trade or business carried on by that person immediately after the event (hereinafter referred to as "the second trade or business") is not substantially different in its nature from the original trade or business, the second trade or business shall, if he makes application to the Commissioners for that purpose, be deemed for the purposes of subsection (2) of section fifteen of the Finance (No.2 ) Act, 1939 (which provides for granting relief from excess profits tax in respect of deficiencies of profits) to be a continuation of the original trade or business.
- (3) If, in the opinion of the Commissioners, the second trade or business is substantially but not wholly different in its nature from the original trade or business and—
  - (a) a final deficiency of profits occurs in either trade or business; and
  - (b) the said person is chargeable to excess profits tax in respect of any profits of the other trade or business, after account has been taken of all such relief as can, apart from the provisions of this and the two next following sections, be given in respect of deficiencies of profits; and
  - (c) the said person applies to the Commissioners for relief under this subsection, the profits in respect of which he is so chargeable shall, for the purposes of excess profits tax, be deemed to be reduced by so much of the final deficiency as the Commissioners think just, having regard to the extent to which that deficiency and those profits are respectively attributable to so much of one trade or business as is of the same nature as the whole or some part of the other trade or business.
- (4) Where any application is made under this section, the second trade or business shall, for the purposes of subsection (1) of section eighteen of the Finance (No. 2) Act, 1939, and of paragraph 2 of Part II of the Seventh Schedule to that Act (which contain provisions with respect to the effect of the grant of relief in respect of deficiencies of profits), be treated as a continuation of the original trade or business, and any relief given under this section shall be treated as having been given in respect of a deficiency of profits occurring in such chargeable accounting period or periods as the Commissioners may determine.
- (5) Any relief falling to be given under this section shall be given by repayment or otherwise.
- (6) The enactments relating to excess profits tax shall be deemed always to have had effect as amended by this section.

### **32      Extension of relief for deficiencies of profits in the case of certain amalgamations.**

(1) The provisions of this section shall have effect where either of the following events occurs in relation to two or more trades or businesses (hereinafter referred to as "the constituent concerns"), that is to say—

- (a) that the constituent concerns are acquired by a partnership which has not previously carried on any trade or business, and the persons by whom the constituent concerns were carried on immediately before the acquisition are, at the time of the acquisition, all members of the partnership; or
- (b) that the constituent concerns are acquired by a company which has not previously carried on any trade or business, and at the time of the acquisition the said persons together beneficially own more than one half of the ordinary share capital of the company.

(2) Subject to the provisions of this section, if—

- (a) throughout any chargeable accounting period of the trade or business carried on by the partnership or the company, any of the said persons is a member of the partnership or the beneficial owner of ordinary share capital of the company; and
- (b) a final deficiency of profits occurs, in relation to that chargeable accounting period, in the trade or business carried on by the partnership or the company; and
- (c) that person is chargeable to excess profits tax in respect of the profits of the constituent concern carried on by him, after account has been taken of all such relief as can, apart from the provisions of the last preceding section, this section and the next following section, be given in respect of deficiencies of profits; and
- (d) that person applies to the Commissioners of Inland Revenue for relief under this section,

the profits in respect of which he is so chargeable shall, for the purposes of excess profits tax, be deemed to be reduced by so much of the final deficiency as the Commissioners think just, having regard to the said person's interest in the partnership or the company.

(3) Subject to the provisions of this section, if—

- (a) throughout any chargeable accounting period of the trade or business carried on by the partnership or the company, any of the said persons is a member of the partnership or the beneficial owner of ordinary share capital of the company; and
- (b) a final deficiency of profits has occurred in the constituent concern carried on by that person; and
- (c) the profits of the partnership or the company in that chargeable accounting period are, after account has been taken of all such relief as can, apart from the provisions of the last preceding section, this section and the next following section, be given in respect of deficiencies of profits, chargeable to excess profits tax; and
- (d) the partnership or the company apply to the Commissioners of Inland Revenue for relief under this section,

the final deficiency shall be applied in reducing, for the purposes of excess profits tax, the profits of the partnership or company in that chargeable accounting period to such

extent as the Commissioners think just, having regard to the said person's interest in the partnership or the company.

- (4) Any relief falling to be given under this section shall be given by repayment or otherwise, and where that relief is relief from excess profits tax chargeable in respect of the profits of a constituent concern, and is given by repayment, the Commissioners shall take into account any increased sums which would have fallen to be paid in respect of income tax (including surtax) by the person who carried on that concern if the amount repayable apart from this subsection had been profits or gains of a trade carried on by him and as such had been chargeable to income tax (including surtax) for the year of assessment which includes the last day of the chargeable accounting period in which the deficiency in respect of which relief is to be given occurred, and shall reduce the amount of the relief accordingly.
- (5) Where one of the constituent concerns was, immediately before the acquisition, carried on by a partnership, the preceding provisions of this section shall have effect in relation to that concern subject to the following modifications—
  - (a) a member of that partnership shall be entitled to relief under this section in respect of so much only of any excess profits' tax chargeable in respect of the profits of the partnership's trade or business as is appropriate having regard to his interest in the partnership; and
  - (b) where a final deficiency of profits has occurred in the trade or business carried on by that partnership, then, for the purposes of this section, there shall be attributed to each member of the partnership so much only of that final deficiency as is appropriate having regard to his interest in the partnership.
- (6) The question whether any and if so what final deficiency of profits has occurred in relation to any chargeable accounting period shall be determined for the purposes of this section by the Commissioners.
- (7) The enactments relating to excess profits tax shall be deemed always to have had effect as amended by this section.

### **33 Supplementary provisions as to relief for deficiencies of profits.**

- (1) Any person aggrieved by a determination of the Commissioners of Inland Revenue on an application under the provisions of the last two preceding sections may appeal to the Board of Referees.
- (2) Where an application has been made to the commissioners for relief, under the provisions of the last two preceding sections, the Commissioners may, pending an ascertainment whether relief falls to be given on the application, if they are satisfied that the circumstances are such that it is likely that relief will fall to be given thereon, grant such relief as they think fit, but any relief so granted shall be provisional only, and shall be subject to adjustment from time to time as the Commissioners may direct, and shall be finally adjusted when it is ascertained whether any and if so what relief falls to be given upon the application.
- (3) In the last two preceding sections the expression " final deficiency of profits " means, when used in relation to a particular chargeable accounting period, so much of any deficiency of profits which has occurred in that chargeable accounting period in relation to the trade or business in question as cannot be applied in reducing profits under the provisions of subsection (2) of section, fifteen of the Finance (No. 2) Act, 1939, or of sub-paragraph (2) of paragraph 6 of Part IV of the Fifth Schedule to

the Finance Act, 1940, and, save as aforesaid, means the aggregate amount of all deficiencies of profits which have occurred in the trade or business in question in all chargeable accounting periods ending on or before the thirty-first day of December, nineteen hundred and forty-six, minus so much of those deficiencies as, under the said provisions, has been or can be applied in reducing profits.

- (4) Subsection (2) of section twenty-six of the Finance Act, 1940, subsection (4) of section thirty-two of the Finance Act, 1944, and subsection (3) of section five of the Finance Act, 1945 (which relate to the order in which deficiencies of profits are to be applied) and the first two sections of this Part of this Act shall have effect with respect to the grant of relief under the provisions of the last two preceding sections as they have effect with respect to the grant of relief under section fifteen of the Finance (No. 2) Act, 1939.
- (5) Where two or more applications are made under the provisions of the last two preceding sections in respect of the same deficiency of profits, the applications shall be treated as numbered in the order in which the events giving rise to the applications respectively occurred, and so much only of the deficiency as remains after the first application has been disposed of shall be available for the granting of relief on the second application, and so on.
- (6) Where two or more events occur which, under the provisions of the last two preceding sections, entitle a person to relief in respect of the same profits, any applications for relief in respect of those events shall be treated as numbered in the order in which the events giving rise to the applications respectively occurred, and for the purpose of the second application, the profits in respect of which relief is claimed shall be treated as being such only as remain after the first application has been disposed of, and so on.

### **34 Treatment of certain contributions and other payments made under redundancy schemes.**

- (1) Notwithstanding anything in the enactments relating to the computation of profits for the purposes of excess profits tax and the national defence contribution, where, on or after the first day of January, nineteen hundred and forty-five, the Board of Trade certify a scheme under section twenty-five of the Finance Act, 1935 (which provides for the deduction in computing the profits or gains of a trade of contributions paid under schemes which are certified under that section), then, in computing the profits arising from any trade or business for the purposes of excess profits tax or the national defence contribution—
  - (a) no contribution paid in furtherance of the scheme shall be allowed to be deducted; and
  - (b) no payment made under the scheme shall be taken into account as a trading receipt.
- (2) This section- shall apply in relation to schemes for the elimination or reduction of redundant works, machinery or plant, or for other similar purposes, to which effect is given by or under any Act (whether passed before or after this Act) as it applies in relation to schemes certified by the Board of Trade under the said section twenty-five on or after the first day of January, nineteen hundred and forty-five.
- (3) The enactments relating to excess profits tax and the national defence contribution shall be deemed always to have had effect as amended by this section.



**35 Extension of time for making assessments to excess profits tax and the national defence contribution, and relief in cases of error or mistake.**

- (1) So much of any provision of the enactments relating to excess profits tax and the national defence contribution as limits the time for the making of assessments to six years from the end of the chargeable accounting period in respect of which the assessment is made shall not have effect, and such assessments may be made at any time, as the case may require, unless and until Parliament otherwise determines.
- (2) The provisions of section twenty-four of the Finance Act, 1923 (which provide for relief from income tax in respect of errors or mistakes in returns or statements made for the purposes of tax under Schedule D) shall, as set out with adaptations in the Fifth Schedule to this Act, apply in relation to assessments to excess profits tax or to the national defence contribution.

**36 Research expenditure.**

The provisions of Part IV of the Finance Act, 1944 (which provide for allowances for income tax purposes in respect of expenditure incurred on scientific research in connection with any trade) shall not apply for the purposes of excess profits tax or the national defence contribution,

**37 Application of certain provisions as to losses to the national defence contribution.**

The provisions of subsection (1) of section twenty-two of this Act extending, in certain cases, the period for the carrying forward of losses shall have effect for the purposes of sub-paragraph (1) of paragraph 2 of the Fourth Schedule to the Finance Act, 1937 (which relates to the carrying forward of losses for the purposes of the national defence contribution) as well as for the purposes of income tax.

## **PART IV**

### **EXCESS PROFITS TAX POST-WAR REFUNDS.**

#### *Date of payment.*

**38 Time for repayment of post-war refunds.**

Subject to the provisions of this Part of this Act, the sums payable under subsection (1) of section twenty-eight of the Finance Act, 1941, as amended by section thirty-seven of the Finance Act, 1942 (hereafter in this Part of this Act referred to as " post-war refunds ") shall be paid as soon as may be after the final ascertainment and satisfaction of the total liability of the person in question to excess profits tax and the national defence contribution for all relevant chargeable accounting periods:

Provided that, if the Commissioners of Inland Revenue think fit and the requirements of the four next following sections are complied with, they may, before the final ascertainment and satisfaction of the said total liability, make payments on account of any post-war refund which, in their opinion, is likely to be found due.

*Conditions for payment.*

**39 Refunds to be used for purposes of trade or business.**

- (1) No post-war refund shall be made to any person unless such undertakings and authorities are given as are specified in the next following section, being undertakings and authorities in connection with the use of the net amount of the refund for the purposes of a specified trade or business, being such-a trade or business as is mentioned in subsection (2) of this section:

Provided that undertakings and authorities may be given as aforesaid in connection with the use of part only of the said amount and shall, if so given, operate to authorise the payment of-a corresponding part of the refund, and references in this and the three next folio wing, sections to the refund and the net amount of the refund shall be construed accordingly.

- (2) A trade or business may be specified under subsection (1) of this section if it is either—
- (a) the original trade or business; or
  - (b) a trade or business carried on or to be carried on by the person who carried on the original trade or business in the relevant chargeable accounting periods, or, where that person is an individual, by him or by a relative of his; or
  - (c) a trade or business in which the said person, or, where the said person is an individual, he or a relative of his, has or is to have an interest which is substantial in relation to the size of the trade or business:

Provided that in considering whether the interest of a person in a trade or business is substantial, any interest acquired by or for him in consideration of the making over, to the persons who are carrying on or are to carry on that trade or business, of the whole or any part of the post-war refund in question shall be left out of account.

In this subsection, the expression " a relative " means, in relation to a person, that person's husband or wife, or a son, daughter, brother or sister of that person or of that person's husband or wife or deceased husband or deceased wife, and for the purposes of this definition the expressions " son " and " daughter " include an adopted son or adopted daughter (whether adopted under the Adoption of Children Act, 1926, or under the Adoption of Children (Scotland) Act, 1930, or otherwise) and an illegitimate son or illegitimate daughter, and the expressions " brother " and " sister " include a half-brother or half-sister.

- (3) A trade or business shall be treated for the purposes of this and the three next following sections as continuing to be the same trade or business notwithstanding, any change in the persons carrying it on.

**40 Undertakings and authorities which must be given.**

- (1) Where the trade or business specified under subsection (1) of the last preceding section is or is to be carried on by the person to whom the post-war refund is paid, and is not, or, as the case may be, is not to be, carried on by him in partnership with any other person, the undertakings shall comprise an undertaking by him that—
- (a) the net amount of the refund will be used in developing or re-equipping the trade or business and, until so used, will be so dealt with as to remain available , for use, .when required, in developing or re-equipping of the trade or business; and

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- (b) without prejudice to the generality of the preceding provision, any part of the said net amount which is not so used shall not be directly or indirectly distributed by way of dividend or cash bonus or capitalized for the purpose of issuing bonus shares or debentures or releasing any liability for uncalled share capital or applied, whether by way of remuneration, drawings, loans or otherwise, for the benefit of partners, shareholders or proprietors.
- (2) In any other case, the undertakings shall comprise—
  - (a) an undertaking by the person to whom the post-war refund is paid that the net amount of the refund will be made over to the person carrying on the specified trade or business; and
  - (b) such undertakings as are mentioned in the preceding subsection by the person to whom the said net amount is to be made over.
- (3) Where any such undertakings are given, every person who gives any of the undertakings shall, in "addition—
  - (a) give an undertaking to furnish, on the demand of the Treasury, or the advisory panel or referee hereinafter mentioned, to any person authorised by the Treasury, the said panel or the said referee, as the case may be, such accounts or other information as may be specified in the demand, being accounts or information required for the purpose of establishing how the said net amount has been dealt with;
  - (b) give to the Commissioners of Inland Revenue an authority (which shall be irrevocable) to disclose for the said purpose any documents or other information in their possession to the Treasury or the said panel or the said referee or any person authorised by them as aforesaid respectively.
- (4) Any undertaking or authority given under any of the preceding provisions of this section by the persons carrying on a trade or business shall be in writing, shall be in such form as may be prescribed by the Treasury and shall, by virtue of this section, be binding on all persons who, at any time within the five years next following the date of the giving of the undertaking, carry on that trade or business either alone or in partnership with any other person.

#### **41 Effect of breach of undertakings, etc..**

- (1) Subject to the provisions of the next following section, if—
  - (a) the whole or any part of the said net amount, is dealt with by any person in breach of an undertaking given by him or which, by virtue of the last preceding section is binding upon him; or
  - (b) any breach is committed by any person of an under taking given by him, or binding on him as aforesaid, to produce documents or information required to be produced in connection with the whole or any part of the said net amount; or
  - (c) the trade or business specified in any such under taking as aforesaid is permanently discontinued within the five years next following the date of the giving of the undertaking, and, at .the date of the discontinuance, the whole or any part of the said net amount has not been used for developing or re-equipping the trade or business,

the said net amount or that part thereof, as the case may be, shall be recoverable from the person who committed the breach of the undertaking or, as the case may be, the person who was carrying on the trade or business immediately before the discontinuance thereof, as a debt due to the Crown:

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Provided that no sum shall be recoverable under this subsection by reason of the permanent discontinuance of the trade or business if the like undertakings and authorities are given and approved in connection with the use of that sum as would be required to be given and approved if that sum were the net amount of a post-war refund in respect of the original trade or business payable to the person who was carrying on the specified trade or business immediately before the discontinuance, and the preceding provisions of this Part of this Act, and of the next following section shall, with the necessary adaptations, have effect accordingly in relation to those undertakings and authorities, so, however, that the references in the said provisions to the five years next following the date of the giving of the undertaking shall be construed as references to the five years next following the date of the giving of the undertaking given in connection with the original refund.

- (2) Subject to the provisions of this subsection, where any sum becomes recoverable under this section from any body corporate by reason of the breach of any undertaking given by or binding on that body corporate, the body corporate and every person who, when the breach was committed, was, or was purporting to act as, a director of the body corporate, shall be jointly and severally liable to the Crown for that sum:

Provided that no person shall be under any liability under this subsection by reason that he was or purported to act as a director of a body corporate, if he proves that the breach in question was committed without his knowledge or against his will and that, in either case, he exercised all due diligence to prevent the commission of the breach.

## **42 Establishment and duties of advisory panel and referee.**

- (1) The Treasury may appoint—
- (a) an advisory panel consisting of such persons as the Treasury think fit; and
  - (b) a referee,
- to exercise such functions as are specified in this section in relation to them respectively.
- (2) Where—
- (a) the whole or any part of the net amount of a refund is not to be paid to the person who carried on the original trade or business in the relevant chargeable accounting periods, or is not to be used for the purposes of the original trade or business; or
  - (b) there has, since the end of the relevant chargeable accounting periods, been any change in the persons by whom the original trade or business is carried on,
- no refund shall be paid unless the undertakings and authorities required in relation to the payment thereof under the preceding provisions of this Part of this Act are approved by the advisory panel, and, without prejudice to the generality of the preceding provision, the panel shall not, where the said net amount is, under the undertakings, to be made over to any other person by the person to whom the refund is made, approve the undertakings and authorities unless they are satisfied that the terms on which the amount is to be made over are proper having regard to the provisions of this Part of this Act.
- (3) It shall be the duty of the advisory panel, in such cases and at such times as they think fit, to enquire how the net amount of any post-war refund has been dealt with, and, if, in the opinion of the panel, any part of the said net amount has, under the last preceding

section, become due to the Crown, to report to the Treasury accordingly, and no sum shah" be so recoverable unless the panel have so reported in respect thereof.

- (4) Any person aggrieved by any refusal of the panel to approve any undertakings and authorities or by any report of the panel under this section may, within such time and in such manner as the Treasury may prescribe, appeal to the referee.
- (5) On any such appeal the referee shall- give to the appellant and to the Treasury an opportunity of being heard, and shall hear such evidence, on oath or otherwise, as the appellant and the Treasury desire to put before him, and shall, after such further inquiry, if any, as he thinks fit, decide the question, and his decision on any matters arising on the appeal shall be final and conclusive for all purposes:

Provided that where proceedings are brought in any court for the recovery of any sum from a person on the ground that, when a breach of an undertaking was committed by a body corporate, he was or purported to act as a director of that body corporate, nothing in this subsection shall preclude that person from contending in those proceedings that the breach was committed without his knowledge or against his will and that he exercised all due diligence to prevent the commission of the breach.

#### *Income Tax.*

### **43 Income tax on post-war refunds.**

Subject to the provisions of the two next following sections, income tax shall be charged for the year 1946-47 on all sums paid as, or on account of, post-war refunds, whenever those sums are paid, and shall be so charged by deduction of tax at the standard rate for that year, and any sums so paid shall be deemed to be income for all the purposes of the Income Tax Acts.

### **44 Option to spread refunds backwards for income tax purposes.**

- (1) Where a post-war refund is paid to an individual, and in the relevant chargeable accounting periods that individual carried on the original trade or business either atone or in partnership with any other person, he may claim that the income tax (including surtax) payable by him by reason of the receipt of the refund shall be reduced to such extent as may be just having regard to the total income tax (including surtax) which would have been payable by him if the amounts of refund referable to those periods had been treated for the purposes of income tax as additions to the profits or gains of the trade or business for those periods or, as the case may be, as additions to his share thereof, and charged to income tax (including surtax) accordingly.
- (2) Where the amount of income tax which would have been payable as aforesaid is affected by any allowance falling to be made under the provisions of the Income Tax Acts relating to wear and tear and the carrying forward of losses (including the provisions of section nineteen of the Finance Act, 1928) such adjustments, if any, shall be made—
  - (a) in computing the relief falling to be granted under subsection (1) of this section; and
  - (b) in computing the allowances falling to be granted under any of the said provisions of the Income Tax Acts for the year 1947-48 or any subsequent year of assessment,

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as are necessary to secure that the same wear and tear, loss or other amount is not taken into account so as to increase the relief under the said subsection (1) and also allowed under the said provisions of the Income Tax Acts.

- (3) References in this section to the income tax (including surtax) payable by an individual include, in cases where profits of a wife are deemed to be profits of her husband, references to the income tax (including surtax) payable by his wife or her husband, as the case may be.
- (4) A claim under this section must be made to the Commissioners of Inland Revenue not later than the fifth day of April, nineteen hundred and forty-seven, or within such further period as those Commissioners may allow, and section nineteen of the Finance Act, 1925 (which relates to the making and allowing of claims for certain reliefs and to rights of appeal) shall apply in relation to claims under this section as it applies to the claims mentioned in that section.

#### **45 Option to have refunds treated as profits of 1947-48.**

- (1) Where the net amount of any post-war refund is to be used for the purpose of a trade the profits or gains of which are assessable to tax for the year 1947-48 under Case I of Schedule D or would be so assessable if there were any profits or gains thereof for that year, then, if all the persons who are or would be assessable to tax as aforesaid in respect of those profits or gains for that year and the person to whom the refund is payable, by notice in writing given to the surveyor not later than the end of the year nineteen hundred and forty-eight, or within such further period as the Commissioners of Inland Revenue may allow, so elect—
  - (a) in lieu of the refund being chargeable to income tax for the year 1946-47, it shall be charged to income tax for the year 1947-48 as if it were profits or gains of the trade, and shall be so charged, by means of an assessment for the year 1947-48 on the profits or gains of the trade in addition to any other assessment falling to be made thereon for that year; but
  - (b) tax at the standard rate for the year 1946-47 shall nevertheless be deducted from any sum paid as, or on account of, the refund and the amount deducted shall be treated as if it had been paid by the persons chargeable under paragraph (a) of this subsection, and had been so paid by them on account of income tax in respect of the profits or gains of the trade for the year 1947-48:

Provided that this subsection shall not apply unless the persons or one or more of the persons who carried on the original trade or business in the relevant chargeable accounting periods also carry on the trade in connection with which the refund is to be used, either alone or in partnership with any other person, for the whole or any part of the year 1947-48.

- (2) If during the year 1947-48 there is any change in the persons carrying on the trade for the purposes of which the sum repaid is to be used and, by virtue of the change, the trade is, for the purposes of Rule n of the Rules applicable to Cases I and II of Schedule D, treated as discontinued, the references in subsection (1) of this section to the trade shall be construed as references to the trade carried on up to the date of the discontinuance, or, where there is more than one discontinuance in the said year, up to the first of the discontinuances.
- (3) The preceding provisions of this section shall, with the necessary adaptations, apply where the net amount of any post-war refund is to be used for the purposes of more than one trade as it applies where the net amount of a post-war refund is to be used for

the purposes of one trade, so, however, that an election can only be made with respect to the whole of the refund and all persons who are or would be assessable to tax under Case I of Schedule D in respect of the profits or gains of any of the trades must be parties to the giving of the notice of the election.

- (4) No election shall be valid under this section in relation to any refund if a claim is made and allowed in relation thereto under the last preceding section.

*Miscellaneous.*

**46 Reliefs given and repayments made after payments have been made by way of post-war refund.**

- (1) Where any sum has been paid as, or on account of, a post-war refund, any relief from, or repayment of, the excess profits tax in respect of which the sum was paid, being a relief or repayment which falls to be given or made after the payment of that sum, shall be computed as if the rate of excess profits tax had, as respects all relevant chargeable accounting periods, been eighty per cent.:

Provided that, in computing the amount of capital employed in the trade or business, the said tax shall be treated as chargeable at one hundred per cent. for all those periods.

- (2) Where—
- (a) the amount of any relief or repayment is reduced by virtue of subsection (1) of this section; and
  - (b) if the said subsection (1) had not applied and the relief or repayment had been taken into account in computing any sum paid as, or on account of, a postwar refund, that sum would have been reduced,

any undertakings given under this Part of this Act in connection with the payment of that sum shall have effect with respect only to such reduced amount as may be just having regard to the reduction which would have been made in that sum.

- (3) References in this section to a repayment of tax do not include references to any payment of, or on account of, a post-war refund.

**47 Set-off of refunds against excess profits tax.**

Where after the end of the year nineteen hundred and forty-five, excess profits tax is due and payable in respect of any relevant chargeable accounting period and, if that tax were paid, a sum would (on the giving, or giving and approval, of the requisite undertakings and authorities) be payable for or on account of a post-war refund, the Commissioners may, if they think fit and if the requisite undertakings and authorities are given, or given and approved, give credit for the amount of the sum payable as afore--said, after deduction of tax at the standard rate for the year 1946-47, against the same amount of the excess profits tax which is due and payable as aforesaid, and, where credit is so given, the amount for which credit is given shall be deemed to have been paid to the Commissioners and repaid by them and the ' said undertakings and authorities shall, with the necessary modifications, have effect accordingly:

Provided that the amount deemed to have been repaid by the Commissioners shall for the purposes of income tax be treated as a payment made after deduction of tax at the standard rate for the year 1946-47.

#### **48 Payment of refunds out of Consolidated Fund.**

- (1) Such sums as are required by the Commissioners of Inland Revenue for the purpose of making payments of, or on account of, post-war refunds shall be issued to the Commissioners out of the Consolidated Fund of the United Kingdom or the growing produce thereof.
- (2) For the purpose of providing any sums to be issued under subsection (1) of this section, the Treasury may raise money in any manner in which they are authorised to raise money under the National Loans Act, 1939, and any securities created and issued to raise money under this section shall be deemed for all purposes to have been created and issued under that Act.
- (3) Notwithstanding anything in sub-paragraph (2) of paragraph 1 of Part II of the Seventh Schedule to the Finance (No. 2) Act, 1939, in computing the amount of the capital employed in a trade or business for the purposes of excess profits tax no deduction shall be made from the price of any asset on the ground that it was acquired wholly or partly out of a sum paid for or on account of a post-war refund and that that sum was, by virtue of this section, contributed but of the Consolidated Fund.

#### **49 Special cases.**

The provisions of this Part of this Act and of section twenty-eight of the Finance Act, 1941 (as amended by any subsequent enactment) shall, in relation to partnerships, members of groups of companies and tax paid under section twenty-four of the Finance Act, 1943 (which relates to sales of stock at an under-value), have effect subject to the provisions of the Sixth Schedule to this Act.

#### **50 Interpretation of Part IV.**

- (1) In this Part of this Act and in the Sixth Schedule to this Act, the following expressions have, except so far as the context otherwise requires, the meanings hereby respectively assigned to them, that is to say—
  - " the original trade or business " means, in relation to a post-war refund, the trade or business, tax on the profits of which is or is to be refunded;
  - " relevant chargeable accounting period " means any chargeable accounting period (for the purposes of excess profits tax) beginning on or after the first day of April, nineteen hundred and forty and ending on or before the thirty-first day of December, nineteen hundred and forty-five, or any part of a chargeable accounting period, being a part beginning on or after the said first day of April and ending on or before the said thirty-first day of December, which falls to be treated for the purposes of section twenty-eight of the Finance Act, 1941, as a separate chargeable accounting period;
  - " net amount " means, in relation to a post-war refund, the gross amount thereof less the income tax deducted therefrom, and, where the payment is made otherwise than to a body corporate, less also any surtax ascribable to the payment of the refund, the amount of surtax so ascribable being ascertained on the basis that the refund is to be treated as the highest part of the income of the person to whom the payment is made;
  - "group of companies, " " the principal company " and " subsidiary member " have the meanings respectively assigned to them by subsection (1) of section twenty-eight of the Finance Act, 1940.



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- (2) References in this Part of this Act to the national defence contribution for a relevant chargeable accounting period shall, where the relevant chargeable accounting period is not also a chargeable accounting period for the purposes of the national defence contribution, be taken to be references to a sum made up by apportioning and aggregating the amounts of the national defence contribution paid or payable in respect of any chargeable accounting period (as defined for the purposes of the national defence contribution) which falls wholly or partly within the relevant chargeable accounting 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 the period to which the apportionment relates.

- (3) Any reference in this Part of this Act or in the Sixth Schedule to this Act to the relevant chargeable accounting periods to which a post-war refund is referable shall be construed as a reference to the relevant chargeable accounting periods in which there was extra tax, and any reference in this Part of this Act or in the said Sixth Schedule to the amount of refund which is referable to any such period shall be construed as a reference to an amount which bears to the total amount of the refund the same proportion as the extra tax in that period bears to the sum of the amounts of extra tax in all the periods to which the refund is referable.

For the purposes of this subsection, if the excess profits tax for any of the relevant chargeable accounting periods exceeds the national defence contribution for that period, there shall be deemed to have been extra tax for that period equal to whichever of the two following amounts is the smaller, that is to say—

- (a) twenty per cent. of the excess profits tax for the period; and
- (b) the amount by which the excess profits tax for the period exceeds the national defence contribution for the period:

Provided that, if the national defence contribution is equal to or exceeds the excess profits tax in the case of all the relevant chargeable accounting periods, there shall be deemed to have been extra tax for all the chargeable accounting periods for which there was excess profits tax, equal, in the case of each such period, to twenty per cent. of the excess profits tax for that period.

In determining for the purposes of this subsection whether there is any, and, if so, what excess profits tax for any period, any national defence contribution payable for that or any other period shall be disregarded except in computing capital and any relief for any deficiency of profits occurring in any other chargeable accounting period shall be altogether disregarded, and in determining for the said purposes whether there is any, and, if so, what national defence contribution for any period, excess profits tax shall be altogether disregarded.

- (4) Where any expenditure has been incurred on or after the first day of April, nineteen hundred and forty-five, in developing or re-equipping a trade or business, any sum used in or towards the recouping of that expenditure shall be deemed for the purposes of this Part of this Act to have been used in developing or re-equipping that trade or business and any undertakings given under this Part of this Act shall have effect accordingly.

## PART V

### RELIEF FROM DOUBLE TAXATION.

#### 51 Agreements for relief from double taxation of income.

- (1) If His Majesty by Order in Council declares that arrangements specified in the Order have been made with the Government of any territory outside the United Kingdom with a view to affording relief from double taxation in relation to income tax, excess profits tax or the national defence contribution and any taxes of a similar character imposed by the laws of that territory, and that it is expedient that those arrangements should have effect, then, subject to the provisions of this Part of this Act, the arrangements shall, notwithstanding anything in any enactment, have effect in relation to income tax, excess profits tax and the national defence contribution so far as they provide for relief from tax, or for charging the income arising from sources in the United Kingdom to persons not resident in the United Kingdom, determining the income to be attributed to such persons and their agencies, branches or establishments in the United Kingdom, or determining the income to be attributed to persons resident in the United Kingdom who have special relationships with persons not so resident.
- (2) On the making of an Order in Council under this section with respect to any arraignments relating to a Dominion as defined for the purposes of section twenty-seven of the Finance Act, 1920 (which provides for relief in respect of Dominion income tax), the said section twenty-seven shall cease to have effect as respects that Dominion except in so far as the arrangements otherwise provide.
- (3) Where any arrangements having effect by virtue of this section relate to any territory with respect to which an Order in Council is in force under section thirty of the Finance Act, 1940 (which provides for relief in respect of excess profits tax in His Majesty's dominions outside the United Kingdom), then, except in so far as the arrangements otherwise provide, no relief shall be granted under that section against excess profits tax or the national defence contribution chargeable for any chargeable accounting period to which the arrangements apply or, where the arrangements apply to part only of a chargeable accounting period, against such part of the excess profits tax or the national defence contribution chargeable for that chargeable accounting period as is proportionate to the length of that part thereof.
- (4) The provisions of the Seventh Schedule to this Act shall have effect where arrangements which have effect by virtue of this section provide that tax payable under the laws of the territory concerned shall be allowed as a credit against tax payable in the United Kingdom.
- (5) Where, under any arrangements which have effect by virtue of this section, relief may be given either in the United Kingdom or in the territory with the Government of which the arrangements are made in respect of any income, and it appears that the assessment to income tax made in respect of the income is not made in respect of the full amount thereof or is incorrect having regard to the credit, if any, which falls to be given under the arrangements, any such additional assessments may be made as are necessary to ensure that the total amount of the income is assessed and the proper credit, if any, is given in respect thereof, and where the income is entrusted to any person in the United Kingdom for payment any such additional assessment may be made on the recipient of the income under Case VI of Schedule D.

- (6) Any arrangements to which effect is given under this section may include provision for relief from tax for periods before the passing of this Act or before the making of the arrangements and provisions as to income which is not itself subject to double taxation, and the preceding provisions of this section shall have effect accordingly.

## **52 Deduction of income tax from dividends.**

- (1) This section applies to any dividend payable more than two months after the passing of this Act, being a dividend from which deduction of tax is authorised by Rule 20 of the General Rules, and in this section the expression " the company " means a body of persons paying a dividend to which this section applies.
- (2) Subsection (5) of section twenty-seven of the Finance Act, 1920 (which limits the rate at which tax may be deducted from dividends) shall not apply to any dividend to which this section applies, and the amount of tax which is authorised by Rule 20 of the General Rules to be deducted from any such dividend shall be determined without taking into account any reduction, by reason of double taxation relief, of the United Kingdom income tax payable directly or by deduction by the company, but—
- (a) notwithstanding anything in the Income Tax Acts, no relief or repayment in respect of the tax deducted or authorised to be deducted from any such dividend shall be allowed at a rate exceeding the rate (hereinafter referred to as " the net United Kingdom rate ") of the United Kingdom income tax payable directly or by deduction by the company after taking double taxation relief into account; and
  - (b) where the United Kingdom income tax payable directly or by deduction by the company is affected by double taxation relief, the particulars to be given by the company in the statement required by section thirty-three of the Finance Act, 1924, shall (in addition to the particulars required to be given apart from this section) include particulars of the net United Kingdom rate.
- (3) Where a dividend to which this section does not apply has been paid, whether before or after the passing of this Act, and any double taxation relief would have fallen to be taken into account in relation to that dividend if this section had applied thereto, that relief shall, unless it is relief which has been taken into account for the purposes of subsection (5) of the said section twenty-seven, be taken into account as far as possible in determining the net United Kingdom rate in relation to the first dividend payable by the company to which this section applies, and any part of that relief which cannot be so taken into account shall as far as possible be taken into account in relation to the next succeeding dividend, and so on.
- (4) Where the whole or any part of any annual payment is payable out of a dividend to which this section applies, and the rate of relief or repayment allowable in respect of the tax deducted or authorised to be deducted from the dividend is affected by double taxation relief, the annual payment, or that part thereof, as the case may be, shall be deemed to be paid out of profits or gains not brought into charge to tax and Rule 21 of the General Rules shall apply accordingly, but the tax chargeable under the said Rule on the person making the payment shall be reduced by an amount equal to tax on the payment or part of the payment at the net United Kingdom rate applicable to the dividend.
- (5) In this section the expression " double taxation relief " means any credit for foreign income tax which is allowable against United Kingdom income tax by virtue of arrangements having effect under this Part of this Act and any relief allowable under

the provisions of section twenty-seven of the Finance Act, 1920, including any credit or relief which has been taken into account for the purposes of determining the net United Kingdom rate applicable to any dividends received by the company.

### **53 Power to make regulations.**

The Commissioners of Inland Revenue may from time to time make regulations generally for carrying out the preceding provisions of this Part of this Act or any arrangements having effect thereunder and may, in particular, by those regulations provide—

- (a) for securing that relief from taxation imposed by the laws of the territory to which any such arrangements relate does not enure to the benefit of persons not entitled thereto;
- (b) for prescribing the principles upon which the net United Kingdom rate is to be determined for the purposes of the last preceding section; and
- (c) for authorising, in cases where tax deductible from any periodical payment has, in order to comply with any such arrangements, not been deducted and it is discovered that the arrangements do not apply to that payment, the recovery of the tax by assessment on the person entitled to the payment or by deduction from subsequent payments.

### **54 Agreements for relief from double estate duty.**

- (1) If His Majesty by Order in Council declares that arrangements specified in the Order have been made with the Government of any territory outside the United Kingdom with a view to affording relief from double taxation in relation to estate duty payable under the laws of the United Kingdom and any duty of a similar character imposed under the laws of that territory, and that it is expedient that those arrangements should have effect, the arrangements shall, notwithstanding anything in any enactment, have effect so far as they provide for relief from estate duty, or for determining the place where any property is to be treated as being situated for the purposes of estate duty.
- (2) Where arrangements have effect by virtue of this section—
  - (a) subsection (4) of section seven of the Finance Act, 1894 (which provides for relief in respect of duty payable in a foreign country) shall not have effect in relation to duty to which the arrangements apply chargeable under the laws of the territory concerned; and
  - (b) if the territory concerned is one to which section twenty of the Finance Act, 1894, applies, no allowance shall be made under that section in respect of duty to which the arrangements apply chargeable under the laws of that territory.
- (3) Any arrangements to which effect is given under this section may include provision for relief from duty in the case of deaths occurring before the passing of this Act or before the making of the arrangements and provisions as to property which is not itself subject to double duty, and the provisions of this section shall have effect accordingly.
- (4) Notwithstanding anything in the Government of Ireland Act, 1920, the Parliament of Northern Ireland shall, as respects estate duty payable under the laws of Northern Ireland, have power to make laws for purposes similar to the purposes of this section.

**55 Disclosure of information.**

- (1) Where any arrangements have effect by virtue of this Part of this Act, the obligation as to secrecy imposed by any enactment shall not prevent the Commissioners of Inland Revenue or any authorised officer of the Commissioners of Inland Revenue from disclosing to any authorised officer of the Government with which the arrangements are made such information as is required to be disclosed under the arrangements.
- (2) Where a person beneficially entitled to the income from any securities, as defined by section eighteen of the Finance Act, 1939 (which empowers the Special Commissioners to obtain information as to income from securities) is resident in a territory to which arrangements with respect to income tax which have effect under this Part of this Act relate, subsection (5) of that section shall not exempt any bank from the duty of disclosing to the Special Commissioners particulars relating to the income of that person.

**56 Supplementary.**

- (1) Any Order in Council made under this Part of this Act may be revoked by a subsequent Order in Council, and any such revoking Order may contain such transitional provisions as appear to His Majesty to be necessary or expedient.
- (2) Before any Order proposed to be made under this Part of this Act is submitted to His Majesty in Council, a draft thereof shall be laid before the Commons House of Parliament, and the Order shall not be so submitted unless an Address is presented to His Majesty by that House praying that the Order be made.

**PART VI**

MISCELLANEOUS.

**57 Relief from death duties on land subsequently acquired by government departments, local authorities, etc..**

- (1) The following provisions of this section shall have effect where an interest in land—
  - (a) is compulsorily acquired by a government department or a local or public authority within the meaning of the Acquisition of Land (Assessment of Compensation) Act, 1919; or
  - (b) is acquired by agreement by such a government department or local or public authority as aforesaid, being a department or authority who, when the agreement is made, are authorised by, or are or can be authorised under, any enactment to acquire that interest in land compulsorily,and, in either case, the date of acquisition falls within the period of five years from the seventeenth day of November, nineteen hundred and forty-four.
- (2) If it is proved to the satisfaction of the Commissioners of Inland Revenue—
  - (a) that estate duty has been paid, or is payable, in respect of the whole of the interest, and that that interest was valued for the purposes of that duty as at a date after the thirty-first day of March, nineteen hundred and thirty-nine, and before the date of acquisition; and
  - (b) that the persons to whom the interest passed beneficially on the death on which the duty was payable were the same persons as were beneficially

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interested therein at the date of acquisition, and the beneficial interests which they respectively took on the death were the same beneficial interests as they respectively had at the date of acquisition; and

- (c) that the interest was the same in all respects and with the same incidents at the date of acquisition and at all dates relevant for the purpose of ascertaining the duty; and
- (d) that the land in which the interest subsisted was in the same state and with the same incidents and held with the same land at the date of acquisition and at all dates relevant for the purpose of ascertaining the duty; and
- (e) that the duty fell or falls to be wholly borne by the persons who were beneficially interested at the date of the acquisition according to the respective interests which they then had; and
- (f) that the acquisition did not operate to sever the land from land with which it was held at any of the dates relevant for the purpose of ascertaining the duty,

the amount of duty payable in respect of the interest shall, where necessary, be reduced by repayment or remission of duty so as not to exceed the amount which would have been payable in respect thereof if the principal value of the interest had been equal to the amount of the compensation or price payable for the purchase thereof, including, in the case of compensation, any supplement thereto under section fifty-eight or section fifty-nine of the Town and Country Planning Act, 1944, or any corresponding enactment relating to Scotland.

- (3) Where the Commissioners are satisfied that the provisions of the last preceding subsection would have had effect but for all or any of the following facts, that is to say—

- (a) that the requirement in paragraph (a) thereof is not fulfilled in that the duty was paid or payable on part of the interest only; or
- (b) that one or more of the requirements respectively specified in paragraphs (b) to (e) thereof are only partly fulfilled; or
- (c) that the requirement in paragraph (f) thereof is not fulfilled,

they may grant to any of the persons paying or bearing any of the duty such relief by repayment or remission of duty as may seem to them just and reasonable.

- (4) The two last preceding subsections shall have effect in relation to any legacy or succession duty becoming payable on the principal value of the interest as they have effect in relation to estate duty, subject, however, to the modification that for the references to the death there shall be substituted references to the happening of any event or the expiry of any period upon which the legacy or succession duty became or becomes payable.

- (5) An interest which is limited to expire, or is subject to an interest which is limited to expire, shall not be treated for the purposes of this section as being the same in all respects at different dates.

- (6) In this section, the expression " the date of acquisition " means—

- (a) in the case of a compulsory acquisition, the date of the service of the notice to treat; and
- (b) in the case of an acquisition by agreement, the date of the making of the agreement,

and the reference in this subsection to the service of the notice to treat shall be taken to include a reference to the constructive service of such a notice which, by virtue of

the Sixth Schedule to the Town and Country Planning Act, 1944, or by virtue of any other enactment, is to be deemed to be served.

**58 Amendment of law as to exceptional depreciation allowances.**

- (1) The enactments relating to the computation of profits for the purposes of excess profits tax and the national defence contribution shall, in relation to allowances for exceptional depreciation of buildings, plant or machinery, have effect, and be deemed always to have had effect, subject to the modifications specified in Parts I and II of the Eighth Schedule to this Act.
- (2) The provisions of Part II of the Eighth Schedule to this Act shall, in relation to allowances under section nineteen of the Finance Act, 1941, have effect and be deemed always to have had effect in substitution for the provisions of section fifty-eight and subsections (2) to (5) of section fifty-nine of the Income Tax Act, 1945, and accordingly the said sections fifty-eight and fifty-nine shall have effect and be deemed always to have had effect subject to the following amendments—
  - (a) in subsection (4) of the said section fifty-eight, paragraph (b) shall be omitted and for the words " sections nineteen and twenty-nine " there shall be substituted the words " section twenty-nine " ;
  - (b) in subsection (2) of the said section fifty-nine, after the words " subsection (1) of this section " there shall be inserted the words " (other than the said section nineteen) " ; and
  - (c) in subsection (5) of the said section fifty-nine, the words " and, as respects exceptional depreciation allowances, the provisions of this section shall be deemed always to have had effect " shall be omitted.

**59 Determination of questions affecting allowances for exceptional depreciation.**

- (1) In this section the expression " exceptional depreciation allowance " means any allowance, other than an allowance which, by the terms of the enactments relating thereto, is expressed to be provisional only,—
  - (a) under section nineteen of the Finance Act, 1941; or
  - (b) under paragraph 3 of Part I of the Seventh Schedule to the Finance (No. 2) Act, 1939, and subsection (1) of section thirty-three of the Finance Act, 1940; or
  - (c) under the said paragraph 3 and the said subsection (1) as applied in relation to the national defence contribution by subsection (2) of section forty-three of the Finance Act, 1941.
- (2) The question as to whether any, and, if so, what, exceptional depreciation allowance falls to be made in respect of any asset or group of assets shall be determined by the Commissioners of Inland Revenue.
- (3) The Commissioners shall give notice of their decision to the person to whom the exceptional depreciation allowance falls or would fall to be made, and where, for the purposes of their decision, the Commissioners decide—
  - (a) how much of the price paid on a sale of two or more assets sold together is properly attributable to any of those assets; or
  - (b) what is the relevant price (as defined for the purposes of paragraph 8 of Part II of the Eighth Schedule to this Act) of any asset or group of assets,they shall give notice of their decision on that question to the said person, and, if it appears to them that the same question is also material in relation to the liability of

any other person to income tax, excess profits tax or the national defence contribution, shall also give notice of their decision thereon to that other

A person to whom notice of any decision has been given under this subsection shall not, in any proceedings relating to his liability to income tax, excess profits tax or the national defence contribution, be entitled to call that decision in question otherwise than in accordance with the provisions of this section relating to appeals.

- (4) Any person to whom such a notice is given may appeal against the decision to the Special Commissioners, and the provisions of the Income Tax Acts relating to appeals against assessments, including the provisions relating to the statement of cases for the opinion of the High Court on a point of law, shall, with the necessary modifications, have effect in relation to any such appeal as if it were an appeal against an assessment under Schedule D signed and allowed by the Special Commissioners, and as if the notice were a notice of that assessment:

Provided that upon any such appeal all persons who have received notices under this section in connection with the decision under appeal shall be entitled to appear and be heard, and, in relation to the statement of a case, shall have the same rights as the appellant, and, when the questions under appeal are finally decided, either by the Special Commissioners or by the Court, that decision shall not be called in question by any of the said persons in any proceedings relating to his liability to income tax, excess profits tax or the national defence contribution.

- (5) There shall be made all such adjustments, whether by way of repayment of tax or otherwise, and all such assessments, as are required in consequence of the decision of any question under this section, and, in particular, there shall be made all such assessments as may be necessary for securing that the amount of tax ultimately borne by any person is what it would have been if no provisional allowances had been made and if any exceptional depreciation allowance which, under the decision, falls to be made to him or to any other person had been made immediately upon the conclusion of the year of assessment or chargeable accounting period for which it falls to be made.

Notwithstanding any provision of the Income Tax Acts limiting the time for claiming adjustments or the time for making assessments, any adjustment or assessment (including any consequential assessment to surtax) required to be made under this subsection may be made at any time.

- (6) Subsection (6) of section nineteen of the Finance Act, 1941, shall not have effect in relation to any adjustments or assessments which are required in consequence of any decision under this section.
- (7) Any notice to be given by the Commissioners under this section may be given on behalf of the Commissioners by any surveyor appointed for the purposes of the Income Tax Acts.
- (8) This section shall have effect both in relation to questions arising before, and in relation to questions arising after, the passing of this Act.
- (9) Section sixty-one of the Income Tax Act, 1945, shall not apply as respects any apportionment or determination which is material as respects the right of any person to an exceptional depreciation allowance.



**60 Appointment of collectors of taxes, etc. for City of London.**

- (1) The power to appoint collectors of taxes and collectors of land tax for the division of the City of London shall be transferred to and vested in the Commissioners of Inland Revenue; and all collectors of taxes and collectors of land tax for that division, by whomsoever appointed, shall hold office during the will and pleasure of the Commissioners of Inland Revenue and shall be paid such remuneration as the Treasury may determine; and the enactments relating to the collection of income tax and land tax mentioned in the Ninth Schedule to this Act shall have effect subject to the provisions of that Schedule.
- (2) The Treasury are hereby authorised to grant, subject to and in accordance with such conditions as they may prescribe, out of moneys provided by Parliament, annual allowances by way of compensation to any such collectors of taxes, collectors of land tax or other persons as may be designated by the Treasury, being collectors or other persons whose appointments are determined by the Commissioners of Inland Revenue at any time after the thirty-first day of March, nineteen hundred and forty-six, and who were employed in and about the collection of income tax or land tax in the division of the City of London immediately before the passing of this Act.
- (3) The Pensions Commutation Acts, 1871 to 1882, shall apply to any person to whom a compensation allowance is awarded in pursuance of subsection (2) of this section as if he had retired from a public civil office in consequence of the abolition of his office.

**61 Amendment as to deficit for 1944-45.**

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-five.

**62 Short title, construction, extent and repeals.**

- (1) This Act may be cited as the Finance (No. 2) Act, 1945
- (2) Part I of this Act—
  - (a) so far as it relates to purchase tax, shall be construed as one with Part V of the Finance (No. 2) Act, 1940;
  - (b) so far as it relates to duties of customs, shall be construed as one with the Customs (Consolidation) Act, 1876;
  - (c) 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 and, so far as they relate to income tax, Parts IV, V and VI thereof, shall be construed as one with the Income Tax Acts.
- (4) Parts III, IV, V and VI of this Act, so far as they relate to excess profits tax, shall be construed as one with Part III of the Finance (No. 2) Act, 1939.
- (5) Parts V and VI of this Act, so far as they relate to estate duty, shall be construed as one with Part I of the Finance Act, 1894.

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- (6) Any reference in this Act to any other enactment shall, unless the context otherwise requires, be construed as a reference to that enactment as amended by or under any other enactment, including this Act.
- (7) Save as otherwise expressly provided, 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 specified in the Tenth Schedule to this Act are hereby repealed to the extent mentioned in the third column of that Schedule as from the first day of January, nineteen hundred and forty-six.

## SCHEDULES.

### FIRST SCHEDULE

Section 1.

#### CLASSES OF GOODS IN RESPECT OF WHICH PURCHASE TAX IS TO CEASE TO BE CHARGEABLE.

- 1 Domestic cooking, space heating and water heating appliances of the following descriptions, namely,—
  - stoves, grates, ranges and fireplaces ;
  - boiling rings, grillers and hot-plates ;
  - radiators and convectors ;
  - instantaneous water heaters, immersion water heaters and storage water heaters ;
  - wash boilers and wash coppers.
- 2 Parts of such stoves, grates, ranges and fireplaces as aforesaid.
- 3 Domestic refrigerators.

### SECOND SCHEDULE

Section 4.

#### RATES OF EXCISE DUTY ON CERTAIN MECHANICALLY PROPELLED VEHICLES.

#### PART I

#### PARAGRAPH TO BE SUBSTITUTED FOR PARAGRAPH 3 OF THE SECOND SCHEDULE TO THE FINANCE ACT, 1920.

"Description of vehicles.	Rate of duty.
(a) Hackney carriages being tramcars	15s.
(b) Other hackney carriages—	
For the purposes of this paragraph—	
(1) The number of persons mentioned does not include the driver of the vehicle;	
(2) The seating capacity of a vehicle shall be determined in accordance with regulations made under section twelve of the Roads Act, 1920;	
(3) The expression "hackney carriage" means a mechanically propelled vehicle standing or plying for hire, and includes any mechanically propelled vehicle let for hire by a person whose trade it is to sell mechanically propelled vehicles or to let mechanically propelled vehicles for hire provided that the vehicle is not let for a period amounting to three months or more.	

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“Description of vehicles. <i>Seating capacity of vehicle.</i> ”		Rate of duty.	
<i>1</i> <i>Exceeding.</i>	<i>2</i> <i>Not exceeding.</i>	<i>3</i> <i>Initial.</i>	<i>4</i> <i>Additional for each person in excess of the number in column 1.</i>
—	4 persons	£10	—
4 persons	8 persons	£12	—
8 persons	26 persons	£12	£2
26 persons	32 persons	£48	£1 12S.
32 persons	—	£57 12S.	£1 4S.”

For the purposes of this paragraph—

- (1) The number of persons mentioned does not include the driver of the vehicle;
- (2) The seating capacity of a vehicle shall be determined in accordance with regulations made under section twelve of the Roads Act, 1920;
- (3) The expression "hackney carriage" means a mechanically propelled vehicle standing or plying for hire, and includes any mechanically propelled vehicle let for hire by a person whose trade it is to sell mechanically propelled vehicles or to let mechanically propelled vehicles for hire provided that the vehicle is not let for a period amounting to three months or more.

## PART II

RATES OF DUTY ON GOODS VEHICLES CHARGEABLE UNDER SUB-PARAGRAPHS (A), (B)  
AND (C) OF PARAGRAPH 5 OF THE SECOND SCHEDULE TO THE FINANCE ACT, 1920.

Weight unladen of vehicle.		Rate.	
<i>1</i> <i>Exceeding.</i>	<i>2</i> <i>Not exceeding.</i>	<i>3</i> <i>Initial.</i>	<i>4</i> <i>Additional for each ¼ ton or part of a ¼ ton in excess of the weight in column 1.</i>
<b><i>Rates chargeable under sub-paragraph (a) of paragraph 5 (Farmers Vehicles).</i></b>			
—	12 cwt.	£10	—
12 cwt.	1 ton	£11	—
1 ton	2 ½ tons	£11	10S.
2 ½ tons	3 tons	£14	£1
3 tons	—	£16	10S.
<b><i>Rates chargeable under sub-paragraph (6) of paragraph 5 (Showmen's Special Vehicles)</i></b>			
—	12 cwt.	£10	—
12 cwt.	1 ton	£12	—

Weight unladen of vehicle.		Rate.	
1	2	3	4
Exceeding.	Not exceeding.	Initial.	Additional for each ¼ ton or part of a ¼ ton in excess of the weight in column 1.
1 ton	—	£12	£1
<b><i>Rates chargeable under sub-paragraph (c) (i) of paragraph 5 (Other Goods Vehicles electrically propelled).</i></b>			
—	12 cwt.	£10	—
12 cwt.	1 ton	£15	—
1 ton	2 tons	£15.	£1 5 S.
2 tons	3 tons	£20.	£2 10S.
3 tons	6 tons	£30	£1 5 S.
6 tons	—	£45	£2 10S.
<b><i>Rates chargeable under sub-paragraph (c) (ii) of paragraph 5 (Other Goods Vehicles propelled by steam or using gas as fuel).</i></b>			
—	12 cwt.	£10	—
12 cwt.	1 ton	£15	—
1 ton	3 tons	£15	£2 10S.
3 tons	4 tons	£35	£3 15 S.
4 tons	6 tons	£50	£5
6 tons	—	£90	£3 15 S.
<b><i>Rates chargeable under sub-paragraph (c) (iii) of paragraph 5 (Other Goods Vehicles to which the foregoing Rates do not apply).</i></b>			
—	12 cwt.	£10	—
12 cwt.	1 ton	£15	—
1 ton	3 tons	£15	£2 10S.
3 tons	4 tons	£35	£3 15 S.
4 tons	—	£50	£5

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### PART III

#### RATES OF DUTY ON GOODS VEHICLES BEING LOCAL AUTHORITIES' WATERING VEHICLES.

Weight unladen of vehicle.		Rate.	
1	2	3	4
Exceeding.	Not exceeding.	Initial.	Additional for each ¼ ton or part of a ¼ ton in excess of the weight in column 1.
<b><i>Rates on Vehicles Electrically Propelled.</i></b>			
—	1 ¼ tons	£6	—
1 ¼ tons	2 tons	£6	£2 6s. 8d.
2 tons	3 tons	£13	15S.
3 tons	4 tons	£16	16S.
4 tons	5 tons	£19 4S.	12S.
5 tons	—	£24	—
With an additional duty, in any case, if used for drawing a trailer, of £6.			
<b><i>Rates on Vehicles not Electrically Propelled.</i></b>			
—	12 cwt.	£10	—
12 cwt.	1 ton	£15	—
1 ton	2 tons	£15	£2 10S.
2 tons	2 ½ tons	£25	£1 10S.
2 ½ tons	3 tons	£28	£2
3 tons	4 tons	£32	£1 12S.
4 tons	5 tons	£38 8S.	£1 4S.
5 tons	—	£48	—
With an additional duty, in any case if used for drawing a trailer, of £6.			

## THIRD SCHEDULE

Sections 9 and 11.

### SPIRITS.

#### PART I

##### PROVISIONS OF THE SPIRITS ACT, 1880, REPLACEABLE BY REGULATIONS.

Sections thirteen to forty-five; sections fifty-six to fifty-eight ; subsection (1) of section sixty-six ; section sixty-seven ; sections seventy-one and seventy-two ; subsection (1) of section one hundred and five ; and the First Schedule.

#### PART II

##### MODIFICATIONS OF PROVISIONS RELATING TO CHARGE OF EXCISE DUTY ON SPIRITS.

- 1 The excise duty on spirits made in a distillery shall not be charged by reference to the low wines made therein, and accordingly in subsection (1) of section forty-six of the Spirits Act, 1880, the words " the low wines " and the whole of subsection (3) of that section shall cease to have effect.
- 2 Subsection (5) of the said section forty-six (which relates to wastage in the spirit store) shall cease to have effect.
- 3 Where the excise duty on spirits made in a distillery is charged in respect of the wort or wash, the degree of attenuation may be ascertained by reference to the lowest gravity of the wash as declared by the distiller as if that gravity had been found by the officer before its distillation, and accordingly subsection (2) of the said section forty-six shall have effect as if after the words " the lowest gravity of the wash " there were inserted the words " as declared by the distiller or. "

#### PART III

##### ENACTMENTS AS TO ALLOWANCES REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
48 & 49 Vict. c. 51.	The Customs and Inland Revenue Act, 1885.	In subsection (1) of section three, the words " In respect of plain British spirits, and spirits of the nature of spirits of wine, an allowance of two-pence, and."
52 & 53 Vict. c. 42.	The Revenue Act, 1889.	In section twenty-one, the words " and spirits of the nature of spirits of wine."
58 & 59 Vict. c. 16.	The Finance Act, 1895	In section six the words from " and where " to the end of the section, and in section seven the words " and to an allowance in respect of

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Session and Chapter.	Short Title.	Extent of Repeal.
		methyated spirits exported which is payable under this Act."
2 Edw. 7. c. 7.	The Finance Act, 1902.	In subsection (1) of section five, the words " twopence and," the words " and section six of the Finance Act, 1895," and the words " respectively threepence and."
6 Edw. 7. c. 20.	The Revenue Act, 1906.	Subsection (1) of section one.
5 & 6 Geo. 5. c. 62.	The Finance Act, 1915.	Subsection (4) of section eight.
10 & 11 Geo. 5. c. 18.	The Finance Act, 1920.	Section eleven.
11 & 12 Geo. 5. c. 32.	The Finance Act, 1921.	Subsection (2) of section fifteen.
17 & 18 Geo. 5. c. 10.	The Finance Act, 1927.	Subsections (1) and (3) of section fifteen.

#### FOURTH SCHEDULE

Sections 24, 25 and 26.

#### INCOME TAX RELIEFS IN CONNECTION WITH REDUNDANCY SCHEMES.

#### PART I

#### PRELIMINARY.

#### 1 (1) In this Schedule—

- (a) the expression " scheme " means a scheme which is for the time being certified or has at any time been certified by the Board of Trade under section twenty-five of the Finance Act, 1935 ;
- (b) the expression " payment " means a payment made under a scheme on or after the sixth day of April, nineteen hundred and forty-five, being a payment made to a person carrying on a trade to which the scheme relates ;
- (c) the expression " the person chargeable " means, in relation to any such payment, the person liable to pay any income tax which may fall to be paid by reason of the receipt of the payment;
- (d) the expression " damage " includes any loss, liability, expense or other burden, and references to the amount of any damage are references to the sum which would be fair compensation for that damage ;
- (e) the expression " contribution " includes part of a contribution, but does not include any contribution made before the sixth day of April, nineteen hundred and forty-five, and the expression " deductible contribution " means a contribution allowed to be deducted under the said section twenty-five, any reduction thereof under Part III of this Schedule being left out of account; and



(f) the expression " asset " includes a part of an asset.

(2) Subsection (5) of the said section twenty-five (which relates to the order in which contributions are to be deemed to be repaid) shall have effect for the purposes of this Schedule as it has effect for the purposes of that section.

## PART II

### RELIEF IN RESPECT OF CERTAIN PAYMENTS.

- 2 The question whether any, and, if so, what, relief is to be given shall be determined separately in relation to each payment made under the scheme in respect of the trade, but for the purpose of determining that question regard shall be had, as hereinafter provided, to the sum (hereafter in this Schedule referred to as " the total payment,") produced by adding the amount of the payment to the amount of any payments previously so made.
- 3 No relief shall be given in respect of the payment unless the person chargeable shows—
  - (a) the amount of the damage in respect of which the total payment has been made; and
  - (b) how much of that amount is referable to damage in respect of which no relief may be given under the Income Tax Acts.
- 4 No relief shall be given in respect of the payment unless the total payment, or the amount of the damage in respect of which the total payment has been made, whichever is the smaller, exceeds the aggregate amount of the deductible contributions which have been paid in furtherance of the scheme in respect of the trade in question before the payment is made, exclusive of any contributions which have been repaid before the payment is made.
- 5 The amount of the reduction to be made in respect of the payment shall be arrived at by—
  - (a) ascertaining the sum which bears to the excess mentioned in paragraph 4 of this Schedule the same proportion that the amount mentioned in subparagraph (b) of paragraph 3 thereof bears to the amount mentioned in subparagraph (a) of the said paragraph 3 ; and
  - (b) deducting from the said sum the total amount of any reductions which have been or fall to be made under this Schedule in respect of payments previously made under the scheme in respect of the trade.
- 6 (1) For the purposes of this Schedule, damage shall be deemed to be damage in respect of which relief may be given under the Income Tax Acts if and only if—
  - (a) the damage is attributable to any of the following events, that is to say, the demolition, destruction or putting out of use of any asset, or the disposition or termination of an interest in any asset, and, by reason of that event, an allowance falls to be made under Part I or Part II of the Income Tax Act, 1945, in charging the profits or gains of the trade ; or
  - (b) the damage consists of any loss, liability, expense or other burden in respect of which an allowance may be made in computing the profits or gains of the trade for the purposes of the Income Tax Acts :

Provided that where an allowance under Part I of the Income Tax Act, 1945, in respect of any damage falls to be reduced by the fraction specified in subsection (4) of section

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three of that Act, the same fraction, and the same fraction only, of the amount of the damage shall be treated as being referable to damage in respect of which relief may be given under the Income Tax Acts.

- (2) Where any event occurs which would give rise to an allowance under the Income Tax Acts in respect of any asset in charging or computing the profits or gains of a trade but for any of the following matters, that is to say—

- (a) that there are no profits or gains against which the allowance could be made ; or
- (b) that account is required to be taken of allowances previously made or deemed to have been made in respect of the asset; or
- (c) that account is required to be taken of any sum which falls to be written off the expenditure incurred on the asset for the purpose of determining whether any and if so what allowance may be given by reason of the event; or
- (d) that account is required to be taken of any sum falling to be taken into account as sale, insurance, salvage or compensation moneys,

the like consequences shall ensue under this Schedule as if an allowance had fallen to be made by reason of that event.

- (3) Where any damage is attributable to a permanent change in the purposes for which an asset is used, or the temporary or permanent putting out of use of an asset, the question whether the damage is damage in respect of which relief may be given under the Income Tax Acts shall be determined as if the damage had been attributable to a sale of the asset on the date upon which the change or putting out of use took place.

### PART III

#### EXCLUSION OF RELIEF IN RESPECT OF CONTRIBUTIONS PAID AFTER RELIEF HAS BEEN GIVEN UNDER PART II OF THIS SCHEDULE.

- 7      The provisions of this Part of this Schedule shall have effect where—
- (a) a contribution is paid under a scheme in respect of a trade ; and
  - (b) before the contribution is paid, payments have been made under the scheme to the person carrying on the trade ; and
  - (c) reductions have been made, under the preceding provisions of this Schedule, in the amounts which, by reason of those payments, are to be treated as trading receipts of the trade.
- 8      There shall be ascertained—
- (a) the total amount of the said reductions ; and
  - (b) the sum by which that total would have been decreased if the contribution, and any previous contributions to which this Part of this Schedule applies, had been paid before any of the payments were made.
- 9      For the purpose of determining what deduction is to be made in respect of the contribution under section twenty-five of the Finance Act, 1935, the contribution shall be deemed to be reduced by the sum specified in sub-paragraph (b) of the last preceding paragraph, but—
- (a) for the purpose of the application of that paragraph in relation to contributions subsequently paid under the scheme in respect of the trade, the total amount of the reductions referred to in that paragraph shall be treated as decreased by that sum ; and

- (b) for the purpose of the application of paragraph 5 of this Schedule, in relation to payments subsequently made under the scheme in respect of the trade, the total amount of the reductions referred to in the said paragraph 5 shall be treated as decreased by the said sum.
- 10 When two or more contributions are paid at the same time, the provisions of this Part of this Schedule shall have effect as if they were a single contribution.

## FIFTH SCHEDULE

Section 35.

## SECTION 24 OF THE FINANCE ACT, 1923, AS APPLIED WITH ADAPTATIONS TO EXCESS PROFITS TAX AND THE NATIONAL DEFENCE CONTRIBUTION.

- “(1) If any person who has paid tax charged under an assessment to excess profits tax or to the national defence contribution alleges that the assessment was excessive by reason of some error or mistake in a return or statement made by him for the purposes of the assessment, he may, at any time before such date as Parliament may hereafter determine, make an application in writing to the Commissioners of Inland Revenue for relief.
- (2) On receiving any such application the Commissioners of Inland Revenue shall inquire into the matter and shall, subject to the provisions of this section, give by way of repayment such relief in respect of the error or mistake as is reasonable and just :
- Provided that no relief shall be given under this section in respect of an error or mistake as to the basis on which the liability of the applicant ought to have been computed where the return or statement was in fact made on the basis or in accordance with the practice generally prevailing at the time when the return or statement was made.
- (4) Any person who is aggrieved by the determination of the Commissioners of Inland Revenue on an application made by him under this section may, on giving notice in writing to those Commissioners within twenty-one days after the notification to him of their determination, appeal to the Special Commissioners.
- (5) The Special Commissioners shall thereupon hear and determine the appeal in like manner as in the case of an appeal to them against an assessment under Schedule D, and the provisions of the Income Tax Acts relating to such an appeal (including the provisions relating to the statement of a case for the opinion of the High Court on a point of law) shall apply accordingly with any necessary modifications :

Provided that neither the appellant nor the Commissioners of Inland Revenue shall be entitled to require a case to be stated for the opinion of the High Court otherwise than on a point of law arising in connection with the computation of profits or the computation of capital.”

## SIXTH SCHEDULE

Sections 49 and 50.

### POST-WAR REFUNDS IN THE CASE OF PARTNERSHIPS, GROUPS OF COMPANIES, ETC.

#### PART I

##### PARTNERSHIPS.

- 1 Where the original trade or business was carried on in the relevant chargeable accounting periods by persons in partnership, the following provisions shall have effect—
- (a) the relevant chargeable accounting periods to which the refund is referable shall first be ascertained ;
  - (b) the amounts of refund referable to each of those periods shall then be ascertained ;
  - (c) each of those amounts shall then be apportioned among the partners by reference to their respective shares in the profits of the trade or business for the period in question ;
  - (d) instead of one refund being made, a separate refund shall be made in the case of each partner equal to the total of the amounts apportioned under the last preceding sub-paragraph to that partner ;
  - (e) any reference in the provisions of Part IV of this Act relating to income tax to the amount of refund referable to any of the relevant chargeable accounting periods shall be construed, in relation to each of the separate refunds, as a reference to the amount apportioned under sub-paragraph (c) of this paragraph to the partner in question in the case of that period :

Provided that where, in the case of a payment of, or on account of, a post-war refund, all the partners who were carrying on the original trade or business in the relevant chargeable accounting periods are still engaged in carrying it on when the payment falls to be made and are still then carrying it on alone and not in partnership with any other person, one joint payment may be made for all the partners, but the provisions of Part IV of this Act relating to income tax shall nevertheless have effect as though separate payments had been made as aforesaid in the case of each partner.

#### PART II

##### GROUPS OF COMPANIES.

- 2 For the purposes of this Part of this Schedule, 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 ; and references in this Part of this Schedule, in relation to a member of a group of companies, to relevant chargeable accounting periods shall be construed as not including references to any chargeable accounting period during which it was not a member of the group.
- 3 All sums paid or payable by way of excess profits tax or the national defence contribution for any relevant chargeable accounting period in respect of any trade or business carried on by any member of a group of companies shall, for the purpose of ascertaining whether any, and if so what, post-war refund is due to any person, be deemed to have been paid or to be payable by the principal company of the group

and not by any other member thereof ; and for the purposes of Part IV of this Act, the trade or business of the principal company shall be deemed to be the original trade or business.

- 4 Where any sum is paid to the principal company for, or on account of, a post-war refund, the undertakings and authorities required by Part IV of this Act in relation to the payment shall not require the approval of the advisory panel by reason of the fact that the trade or business specified in those undertakings and authorities is not the original trade or business if the trade or business so specified is being or is to be carried on by a subsidiary member of the group.

- 5 Where it is finally determined that any post-war refund is payable in respect of all or any of the trades or businesses carried on by members of a group of companies during any relevant chargeable accounting period, there shall be ascertained, in the case of each subsidiary member of the group—

- (a) the total amount of excess profits tax and the national defence contribution for the relevant chargeable accounting periods which has been borne directly or indirectly by the subsidiary member ;
- (b) the total amount of the national defence contribution paid for the relevant chargeable accounting periods in respect of the trade or business of the subsidiary member ;
- (c) the total sum which could, under sub-paragraph (2) of paragraph 8 of Part IV of the Fifth Schedule to the Finance Act, 1940, have been required to be paid on account of excess profits tax for the relevant chargeable accounting periods by the subsidiary member on the assumption that excess profits tax had been chargeable for all those periods at eighty per cent., less the amount which would, on that assumption, have been payable to the subsidiary member under sub-paragraph (3) of the said paragraph 8,

and, if the amount mentioned in sub-paragraph (a) of this paragraph exceeds the sum of the amounts mentioned in sub-paragraphs (b) and (c) thereof, an amount equal to the difference shall be paid by the principal company to the subsidiary member :

Provided that—

- (i) if the total of the amounts so payable by the principal company to the subsidiary members of the group of companies exceeds the total amount paid in respect of the post-war refund, the sums so payable shall be proportionately reduced so as together to amount to the said total amount so paid ; and
- (ii) on the payment of any sum payable by the principal company to a subsidiary member under this paragraph, the principal company shall be entitled to deduct and retain out of the payment tax at the standard rate for the year 1946-47 as if that payment were an annual payment to which Rule 19 of the General Rules applied paid in that year out of profits and gains brought into charge to tax.

- 6 Where an amount is paid to a subsidiary member under the last preceding paragraph, so much of the provisions of Part IV of this Act relating to income tax as confers a right of election that a post-war refund shall be charged to income tax for the year 1947-48 shall have effect as if the said payment were a payment of refund to the subsidiary member which was to be used for the purposes of its trade or business, as if the tax deducted therefrom under Rule 19 of the General Rules as applied by the last preceding paragraph had been deducted therefrom under the provisions of Part IV of this Act relating to the deduction of tax from payments of refund, and as

if the gross amount of the refund paid to the principal company were diminished by the gross amount of the said payment.

- 7 So much of the provisions of Part IV of this Act relating, to income tax on sums paid as or on account of post-war refunds as provides that the right to elect that sums so paid shall be chargeable as profits and gains of a trade for the year 1947-48 in lieu of being chargeable to tax for the year 1946-47 shall be restricted to cases where the person to whom the sum is paid is carrying on the trade during the whole or some part of the year 1947-48 shall not apply where, during the whole or part of the year 1947-48, the trade is being carried on by a subsidiary member of a group of companies of which the person to whom the sum was paid is then the principal, company.

### PART III

#### TAX PAID UNDER FINANCE ACT, 1943, S. 24.

- 8 Where, under section twenty-four of the Finance Act, 1943, a joint and several liability is imposed on any persons, the rights of those persons respectively to a post-war refund shall be based on the amounts of tax ultimately borne by them respectively by reason of the imposition of the liability and not on the amounts of tax paid by them respectively to the Crown, and no sum shall be paid as or on account of a post-war refund in the case of any of those persons unless the Commissioners are satisfied as to the amounts so borne by all those persons and are further satisfied that any liability of any of those persons to make a payment to any other of those persons which arises by virtue of subsection (3) of the said section twenty-four has been extinguished.
- 9 Any reference in Part IV of this Act to the original trade or business shall, in relation to any post-war refund made in respect of tax paid under the said section twenty-four, be construed as a reference, to the trade or business carried on by the company whose stock in trade was disposed of at the time of the disposal thereof, and any reference in section thirty-nine of this Act to the person who carried on the original trade or business shall, in relation to any post-war refund in respect of tax paid under the said section twenty-four, be deemed to include a reference to the person who bore that tax.

### SEVENTH SCHEDULE

Section 51.

#### PROVISIONS AS TO RELIEF FROM INCOME TAX, EXCESS PROFITS TAX AND THE NATIONAL DEFENCE CONTRIBUTION BY WAY OF CREDIT IN RESPECT OF FOREIGN TAX.

##### *Interpretation.*

- 1 (1) In this Schedule, except where the context otherwise requires—
- " the United Kingdom taxes " means income tax and excess profits tax ;
  - " excess profits tax " includes the national defence contribution ;
  - " foreign income tax " means, in relation to any territory arrangements with the Government of which have effect by virtue of Part V of this Act, any tax chargeable under the laws of that territory which corresponds to income tax, being a tax for which credit may be given under the arrangements ;

" foreign excess profits tax " means, in relation to any territory arrangements with the Government of which have effect by virtue of Part V of this Act, any tax chargeable under the laws of that territory which corresponds to excess profits tax, being a tax for which credit may be given under the arrangements.

- (2) Where arrangements having effect by virtue of Part V of this Act provide for any tax chargeable under the laws of the territory concerned being treated as income tax or excess profits tax, that tax shall, notwithstanding anything in the preceding provisions of this paragraph, be treated as foreign income tax or foreign excess profits tax, as the case may be.
- (3) Any reference in this Schedule to foreign income tax or foreign excess profits tax shall be construed, in relation to credit to be given under any arrangements, as a reference only to the tax chargeable under the laws of the territory with the Government of which the arrangements were made.

*General.*

- 2 Subject to the provisions of this Schedule, where, under the arrangements, credit is to be allowed against any of the United Kingdom taxes chargeable in respect of any income or profits, the amount of the United Kingdom taxes so chargeable shall be reduced by the amount of the credit :

Provided that foreign income tax shall be allowed as a credit only against income tax and foreign excess profits tax shall be allowed as a credit only against excess profits tax.

*Requirement as to residence.*

- 3 Credit shall not be allowed against income tax for any year of assessment or against excess profits tax for any chargeable accounting period unless the person in respect of whose income or profits the tax is chargeable is resident in the United Kingdom for that year or period :

Provided that, except in so far as it relates to income tax and the national defence contribution, this paragraph shall not apply to tax in respect of the profits of a body corporate which is a subsidiary member of a group of companies for the purposes of the Fifth Schedule to the Finance Act, 1940.

*Limits on total credit—income tax.*

- 4 (1) The amount of the credit to be allowed for foreign income tax in respect of any income shall not exceed the sum which would be produced by computing the amount of that income in accordance with the Income Tax Acts, and then charging it to income tax for the year of assessment for which the credit is to be allowed, but at the following rate, that is to say—
  - (a) in the case of a person whose income is chargeable to income tax at the standard rate only, a rate ascertained by dividing the income tax payable by him for the year by the amount of his total income for the year ;
  - (b) in the case of a person part of whose total income is chargeable to income tax at a rate or rates in excess of the standard rate, the sum of the following rates—

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

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- (i) the rate which would have been the appropriate rate in his case if his income had been chargeable at the standard rate only ; and
- (ii) the rate ascertained by dividing the surtax payable by him for the year by the amount of his total income for the year :

Provided that where, under the arrangements, credit is not to be allowed against surtax for the year, the rate shall be calculated in all cases as in the case of persons whose incomes are chargeable to income tax at the standard rate only, and where, under the arrangements, credit is not to be allowed except against surtax for the year, the rate shall be that ascertained by dividing the surtax payable by the person in question for the year by the amount of his total income for the year.

- (2) For the purpose of determining the said rate, the tax payable by any person for any year shall be computed without regard to any relief in respect of life assurance premiums and without any reduction thereof for any credit allowed or to be allowed under any arrangements having effect by virtue of Part V of this Act, but shall be deemed to be reduced by any tax which, otherwise than under Rule 20 of the General Rules, he is entitled to charge against any other person, and the total income of any person shall be deemed to be reduced by the amount of any income the income tax upon which he is entitled to charge as aforesaid.
- 5 Without prejudice to the provisions of the last preceding paragraph, the total credit to be allowed to a person for any year of assessment for foreign income tax under all arrangements having effect by virtue of Part V of this Act shall not exceed the total income tax payable by him for that year of assessment, less any tax which, otherwise than under Rule 20 of the General Rules, he is entitled to charge against any other person.

*Limit on total credit—excess profits tax.*

- 6 The amount of the credit to be allowed against excess profits tax for foreign excess profits tax on any profits shall not exceed the excess profits tax attributable to those profits.

*Effect on computation of income of allowance of credit.*

- 7 (1) Where credit falls to be given against income tax on any income for foreign income tax, the following provisions of this paragraph shall have effect as respects the computation, for the purposes of the United Kingdom taxes, of the amount of that income.
- (2) Where the income tax payable depends on the amount received in the United Kingdom, the said amount shall be deemed to be increased by the amount of the credit.
- (3) Where the last preceding sub-paragraph does not apply—
- (a) no deduction shall be made in respect of foreign income tax (Whether in respect of the same or any other income) ; and
  - (b) where the income includes a dividend and under the arrangements foreign income tax not chargeable directly or by deduction in respect of the dividend is to be taken into account in considering whether any, and if so what, credit is to be given against income tax in respect of the dividend, the amount of the income shall be increased by the amount of the foreign income tax not



so chargeable which falls to be taken into account in computing the amount of the credit; but

- (c) notwithstanding anything in the preceding provisions of this sub-paragraph, where the amount of the credit is reduced by the operation of paragraph 4 of this Schedule, the amount of the income shall be reduced by the same amount.

(4) In relation to the computation of the total income of a person for the purpose of determining the rate mentioned in paragraph 4 of this Schedule, the preceding provisions of this paragraph shall have effect subject to the following modifications—

- (a) for the reference in sub-paragraph (2) to the amount of the credit there shall be substituted a reference to the amount of the foreign income tax in respect of the income (in the case of a dividend, foreign income tax not chargeable directly or by deduction in respect of the dividend being left out of account) ; and

- (b) paragraphs (b) and (c) of sub-paragraph (3) shall not apply,

and subject to those modifications, shall have effect in relation to all income in the case of which credit falls to be given for foreign income tax under any arrangements for the time being in force by virtue of Part V. of this Act.

- 8 Where credit for foreign excess profits tax falls to be given against excess profits tax in respect of any profits, no deduction for foreign excess profits tax (whether in respect of the same or any other profits) shall be made in computing the amount of the profits for the purposes of excess profits tax :

Provided that this paragraph shall not apply to so much of any foreign excess profits tax as is, by virtue of paragraph 6 of this Schedule, not to be allowed as a credit.

*Special provisions as to dividends.*

- 9 Where, in the case of any dividend, foreign income tax not chargeable directly or by deduction in respect of the dividend is, under the arrangements, to be taken into account in considering whether any, and if so what, credit is to be given against income tax in respect of the dividend, the foreign income tax not so chargeable which is to be taken into account shall be that borne by the body corporate paying the dividend upon the relevant profits insofar as it is properly attributable to the proportion of the relevant profits which is represented by the dividend.

The relevant profits are—

- (a) if the dividend is paid for a specified period, the profits of that period ;
- (b) if the dividend is not paid for a specified period but is paid out of specified profits, those profits ;
- (c) if the dividend is paid neither for a specified period nor out of specified profits, the profits of the last period for which accounts of the body corporate were made up which ended before the dividend became payable :

Provided that if, in a case falling under sub-paragraph (a) or sub-paragraph (c) of this paragraph, the total dividend exceeds the profits available for distribution of the period mentioned in the said sub-paragraph (a) or the said sub-paragraph (c), as the case may be, the relevant profits shall be the profits of that period plus so much of the profits available for distribution of preceding periods (other than profits previously distributed or previously treated as relevant for the purposes of

this paragraph) as is equal to the excess ; and for the purposes of this proviso the profits of the most recent preceding period shall first be taken into account, then the profits of the next most recent preceding period, and so on.

10      Where—

- (a) the arrangements provide, in relation to dividends of some classes, but not in relation to dividends of other classes, that foreign income tax not chargeable directly or by deduction in respect of dividends is to be taken into account in considering whether any, and if so what, credit is to be given against income tax in respect of the dividends ; and
- (b) a dividend is paid which is not of a class in relation to which the arrangements so provide,

then, if the dividend is paid to a company which controls, directly or indirectly, not less than one half of the voting power in the company paying the dividend, credit shall be allowed as if the dividend were a dividend of a class in relation to which the arrangements so provide.

#### *Miscellaneous.*

11      Credit shall not be allowed under the arrangements against the income tax or excess profits tax chargeable in respect of the income or profits of any person for any year of assessment or chargeable accounting period if he elects that credit shall not be allowed in the case of his income or profits for that year or period.

12      Subject to the provisions of the next following paragraph, any claim for an allowance by way of credit shall be made to the Surveyor not later than six years from the end of the year of assessment or chargeable accounting period, as the case may be, and, if the surveyor objects to any such claim, it shall be heard and determined by the Special Commissioners as if it were an appeal to them against an assessment under Schedule D, and the provisions of the Income Tax Acts relating to the statement of a case for the opinion of the High Court on a point of law shall, with the necessary modifications, apply accordingly.

13      Where the amount of any credit given under the arrangements is rendered excessive or insufficient by reason of any adjustment of the amount of any tax payable either in the United Kingdom or under the laws of any other territory, nothing in the Income Tax Acts or in the enactments relating to excess profits tax limiting the time for the making of assessments or claims for relief shall apply to any assessment or claim to which the adjustment gives rise, being an assessment or claim made not later than six years from the time when all such assessments, adjustments and other determinations have been made, whether in the United Kingdom or elsewhere, as are material in determining whether any and if so what credit falls to be given.

## EIGHTH SCHEDULE

Section 58.

## AMENDMENTS AS TO EXCEPTIONAL DEPRECIATION ALLOWANCES.

## PART I

PROVISIONS APPLICABLE TO EXCESS PROFITS TAX  
AND THE NATIONAL DEFENCE CONTRIBUTION.

1 In this Part of this Schedule the expression " exceptional depreciation allowance " means any allowance—

- (a) under paragraph 3 of Part I of the Seventh Schedule to the Finance (No. 2) Act, 1939 (hereinafter referred to as " the principal paragraph ") and subsection (1) of section thirty-three of the Finance Act, 1940 ; or
- (b) under the principal paragraph and the said subsection (1) as applied in relation to the national defence contribution by subsection (2) of section forty-three of the Finance Act, 1941,

and any reference in this Part of this Schedule to the principal paragraph shall be construed as including a reference to that paragraph as extended by the said subsection (1) and as applied in relation to the national defence contribution.

2 An exceptional depreciation allowance shall be given notwithstanding that on the date determined by Parliament for the purposes of sub-paragraph (1) of the principal paragraph the buildings, plant or machinery have not become obsolete or ceased to be required, and accordingly, in the said sub-paragraph (1), for the words " the buildings, plant or machinery, have, wholly or partially, become obsolete or ceased to be required and the value thereof is less than the net cost thereof " there shall be substituted the words " the value of the buildings, plant or machinery, or, where the buildings, plant or machinery have ceased to exist as such, the value of the remains thereof, is less than the net cost thereof ".

3 (1) Where it is material for the purposes of sub-paragraph (1) of the principal paragraph to ascertain the value of any buildings, plant or machinery on the date determined by Parliament for the purposes of that sub-paragraph, that value shall be ascertained as if the buildings, plant or machinery were in a proper state of repair.

(2) Where an allowance under the said sub-paragraph (1) is, or, but for the provisions of this paragraph, would be, made in respect of any buildings, plant or machinery by reference to the value thereof on the date determined by Parliament, and—

- (a) on that date the buildings, plant or machinery are not in a proper state of repair ; and
- (b) not later than six years after that date, the buildings, plant or machinery are sold by the person who is or would be entitled to the allowance before all the repairs have been made which are necessary to make good the disrepair existing on that date ; and
- (c) the net proceeds of the sale are less than the value as ascertained for the purposes of the said sub-paragraph (1),

he may claim that the said value shall for those purposes be deemed to be reduced by such amount as may be just, having regard to the extent to which the said repairs have not been made good at the time of the sale :

Provided that the said value shall not be treated for the said purposes as having been reduced below the actual value of the buildings, plant or machinery in their actual

state at the date determined by Parliament, or the net proceeds of the sale, whichever is the greater, plus any sums paid or payable to or for the benefit of the said person, under Part I or Part II of the War Damage Act, 1943, in respect of damage to the buildings, plant or machinery, being damage which has not been made good before the date determined by Parliament or, as the case may be, the date of the sale.

- (3) In this paragraph and in the said sub-paragraph (1), any reference to the value of buildings, plant or machinery shall be construed as a reference to the value thereof to the person carrying on the trade or business, or to the amount which could be obtained therefor in the open market, whichever is the higher.
  - (4) Nothing in this paragraph shall apply in relation to any buildings, plant or machinery which, on the date determined by Parliament, are no longer in existence as such.
- 4 Paragraph (ii) of sub-paragraph (1) of the principal paragraph (which directs war damage payments to be taken into account in determining whether an exceptional depreciation allowance may be made, and, if so, the amount thereof) shall not apply in relation to any payments under Part I or Part II of the War Damage Act, 1943, in respect of any buildings, plant or machinery, unless—
- (a) the buildings, plant or machinery have been sold before the date determined by Parliament for the purposes of that sub-paragraph, or are at that date no longer in existence as such and
  - (b) the said payments have been or are to be made to or for the benefit of the person who is entitled to the allowance or would be entitled to the allowance if an allowance fell to be made.
- 5 (1) Any excess in respect of which an exceptional depreciation allowance falls to be made shall be deemed to have begun to accrue on the first day of April, nineteen hundred and thirty-nine, or on the date when the buildings, plant or machinery were provided, whichever is the later, and to have continued to accrue at an even rate until the date determined by Parliament, the date on which the buildings, plant or machinery were sold or the date on which the buildings, plant or machinery finally ceased to be used by the person to whom the allowance falls to be made, whichever is the earliest date, and the proportion of the excess properly attributable to any accounting period shall be determined accordingly:
- Provided that, in relation to a person to whom the buildings, plant, or machinery have been transferred in such circumstances that they are deemed by virtue of subsection (1) of section thirty-three of the Finance Act, 1940, to have been provided by him, the reference in this paragraph to the date when the buildings, plant or machinery were provided shall be construed as a reference to the date of the transfer.
- (2) Where under the enactments relating to excess profits tax or the national defence contribution it is necessary to make any apportionment of the profits or losses of any accounting period which falls partly but not wholly after the thirty-first day of March, nineteen hundred . and thirty-nine, then, notwithstanding any enactment relating to the principles upon which such apportionments are to be made, any exceptional depreciation allowance which falls to be taken into account in computing those profits or losses shall be attributed to that part only of that accounting period which falls after the said thirty-first day of March.
- 6 (1) The provisions of this paragraph shall have effect where—
- (a) any buildings, plant or machinery are sold before, on, or not later than six years after, the date determined by Parliament for the purposes of sub-paragraph (1) of the principal paragraph ; and

- (b) the seller is a person to whom an exceptional depreciation allowance, or an allowance under section nineteen of the Finance Act, 1941, falls to be made in respect of the buildings, plant or machinery, whether by reason of the sale or otherwise ; and
  - (c) at the time of the sale and, where the event giving rise to the allowance is not the sale, also at the time of the event, the buildings, plant or machinery are not in a proper state of repair; and
  - (d) the buyer is a body of persons over whom the seller has control, or the seller is a body of persons over whom the buyer has control, or both the seller and the buyer are bodies of persons and some other person has control over both of them.
- (2) In computing, for the purposes of excess profits tax or the national defence contribution, the profits of any trade or business carried on by the buyer,—
- (a) no deduction shall be allowed in respect of any expenditure incurred in making good the disrepair existing at the time of the event giving rise to the allowance ;' and
  - (b) where, in the case of plant or machinery, the said disrepair is such as to require the provision of new plant or machinery, no deduction shall be allowed in respect of the wear and tear of the new plant or machinery or in respect of the replacement of the new plant or machinery.
- (3) Where—
- (a) the buyer under such a sale as is mentioned in sub-paragraph (1) of this paragraph again sells the buildings, plant or machinery, or any part of them ; and
  - (b) the second sale takes place before, on, or not later than six years after, the date determined by Parliament; and
  - (c) the second buyer is a body of persons over whom the first buyer has control, or the first buyer is a body of persons over whom the second buyer has control, or both the first buyer and the second buyer are bodies of persons and some other person has control over both of them,
- the provisions of the last preceding sub-paragraph shall, in relation to the computation of the profits of any trade or business carried on by the second buyer, have effect as if the second sale had been a sale by the first seller direct to the second buyer, and so on for any subsequent sales.
- (4) In this paragraph, references to the event giving rise to an exceptional depreciation allowance are references—
- (a) if the allowance is made because, on the date determined by Parliament, the value of the buildings, plant or machinery is less than the net cost thereof, to the occurrence of that date ; and
  - (b) if the allowance is made because the buildings, plant or machinery are sold before the said date at a price which is less than the net cost thereof, to the sale.

## PART II

### PROVISIONS APPLICABLE TO INCOME TAX, EXCESS PROFITS TAX AND THE NATIONAL DEFENCE CONTRIBUTION.

- 7 In this Part of this Schedule, the expression " exceptional depreciation allowance " means an allowance under section nineteen of the Finance Act, 1941, or an exceptional depreciation allowance as defined in paragraph 1 of Part I of this Schedule, and the expression " the principal provisions " means the provisions of section nineteen of the Finance Act, 1941, and any enactments amending that section, and the principal paragraph as defined in paragraph 1 of Part I of this . Schedule.
- 8 (1) This paragraph shall have effect in relation to the sale of buildings, machinery or plant where either—
- (a) the buyer is a body of persons over whom the seller has control, or the seller is a body of persons over whom the buyer has control, or both the seller and the buyer are bodies of persons and some other person has control over both of them ; or
  - (b) it appears with respect to the sale, or with respect to transactions of which the sale is one, that the sole or main benefit which, apart from the provisions of this Schedule, might have been expected to accrue to the parties or any of them was the obtaining of any allowance or deduction for any of the purposes of the Income Tax Acts or of the enactments relating to excess profits tax or the national defence contribution.
- (2) Where the buildings, machinery or plant are sold at a price other than the relevant price (as defined for the purposes of this paragraph), the like consequences shall ensue for the purposes of the principal provisions, in their application to all persons concerned, as would have ensued if the buildings, machinery or plant had been sold at the relevant price.
- (3) In this paragraph the expression " the relevant price " means, in relation to any sale of buildings, machinery or plant, a price equal to—
- (a) the price which they would have fetched if sold in the open market ; or
  - (b) the net cost of the buildings, machinery or plant to the seller,
- whichever is the less.

For the purposes of this sub-paragraph, the said net cost shall be treated as reduced by the aggregate amount of any deductions for wear and tear or depreciation, other than exceptional depreciation allowances, allowed to the seller in respect of the buildings, machinery or plant for the purposes of income tax, excess profits tax or the national defence contribution, as the case may be :

Provided that the reference in this sub-paragraph to deductions for wear and tear or depreciation shall, in relation to income tax, be deemed to include a reference to any allowance made under Part I or Part II of the Income Tax Act, 1945, and shall, in relation to excess profits tax and the national defence contribution, be deemed to include a reference to the additional percentage for which provision is made by paragraph 2 of Part I of the Seventh Schedule to the Finance (No. 2) Act, 1939, and to the appropriate proportion of any deduction for wear and tear or depreciation given for income tax purposes for the year 1938-39 or any previous year of assessment.

- 9 Any reference in the provisions of this Schedule or in the principal provisions to the sale of any property includes a reference to the exchange of any property, and, in

the case of a leasehold interest, to the surrender thereof for valuable consideration, and all the said provisions shall be construed accordingly with the necessary adaptations, and, in particular, with the adaptation that references to the net proceeds of the sale and to the price shall be construed as including references to the amount of the consideration for the exchange or surrender.

- 10 (1) Any reference in the provisions of this Schedule or of the principal provisions to the sale of any buildings, plant or machinery includes a reference to the sale thereof together with any other property, and, where the buildings, plant or machinery are sold together with other property, so much of the price of the whole of the property sold as, on a just apportionment, is properly attributable to the buildings, plant or machinery in question, shall be deemed to be the price of the buildings, plant or machinery for the purposes of those provisions, and references to the cost of the provision of buildings, plant or machinery shall be construed accordingly.

For the purposes of this sub-paragraph, all the property which is sold in pursuance of one bargain shall be deemed to be sold together, notwithstanding that separate prices are or purport to be agreed for separate items of that property or that there are or purport to be separate sales of separate items of that property.

- (2) Where it is material, for the purposes of the principal provisions, to take account of any payment made or to be made in respect of buildings, plant or machinery under the War Damage Act, 1943, and any payment made or to be made under that Act is properly attributable partly to the buildings, plant or machinery in question and partly to other property, so much only of the payment as... is properly attributable to the buildings, plant or machinery in question shall be taken into account for those purposes.
- 11 For the purposes of the principal provisions and the provisions of this Schedule, the sale of any buildings, plant or machinery shall be deemed to take place at the time of completion or the time when possession is given, whichever is the earlier.
- 12 References in this Schedule to a body of persons include references to a partnership.
- 13 In this Schedule, the expression " control ", in relation to a body corporate, means the power of a person to secure, by means of the holding of shares or the possession of voting power in or in relation to that or any other body corporate, or by virtue of any powers conferred by the articles of association or other document regulating that or tiny other body corporate, that the affairs of the first mentioned body corporate are conducted in accordance with the wishes of that person, and, in relation to a partnership, means the right to a share of more than one half of the assets, or of more than one half of the income, of the partnership.
- 14 In this Schedule, the expression " leasehold interest " includes the interest conferred by an agreement for a lease where, the term to be covered by the lease has begun, and the interest conferred by any tenancy, but not the interest conferred by a mortgage :

Provided that, in the application of this Schedule to Scotland, the said expression means the interest of a tenant in property subject to a lease.

## NINTH SCHEDULE

Section 60.

MODIFICATION OF ENACTMENTS RELATING TO THE  
COLLECTION OF INCOME TAX AND LAND TAX.

- 1 Subsection (3) of section thirty-seven of the Finance Act, 1931 (which relates to the delivery of warrants to collectors) shall, subject to the provisions of the Tenth Schedule to the Finance Act, 1942, apply in relation to collectors in and for the division of the City of London as it applies to collectors in the rest of England.
- 2 The enactments set out in Part II of the Third Schedule to the Finance Act, 1931, shall, from the passing of this Act, be repealed as well with respect to the division of the City of London as with respect to other parts of the United Kingdom and accordingly, in subsection (6) of section forty-four of that Act, the words " except so far as relates to the division of the City of London " are hereby repealed.
- 3 In Part I of the Tenth Schedule to the Finance Act, 1942—
  - (a) the proviso to sub-paragraph (3) of paragraph 7 ; and
  - (b) in paragraph 8, in sub-paragraph (1), the words " outside the division of the City of London " and the words " outside that division," the proviso to sub-paragraph (2), and the Whole of sub-paragraph, (3) ; and
  - (c) as respects collectors appointed after the passing of this Act, in paragraph 10, in sub-paragraph (1), the words " outside the division of the City of London " and the whole of sub-paragraph (3),
 are hereby repealed.
- 4 In Part II of the said Tenth Schedule, in paragraph 5, the, words " outside the division of the City of London " and the words " outside that division ", and, as respects collectors appointed after the passing of this Act, the words in sub-paragraph (1) of paragraph 7 " outside the division of the City of London " and the whole of sub-paragraph (3) of that paragraph, are hereby repealed.

## TENTH SCHEDULE

Section 62.

ENACTMENTS RELATING TO MECHANICALLY PROPELLED  
VEHICLES REPEALED AS FROM ' 1ST JANUARY, 1946.

Session and Chapter.	Short Title.	Extent of Repeal.
51 & 52 Vict. c. 8.	The Customs and Inland Revenue Act, 1888.	Section four.
18 & 19 Geo. 5. c. 17.	The Finance Act, 1928.	Section twelve, and the Third Schedule.
20 & 21 Geo. 5. c. 28.	The Finance Act, 1930.	Subsection (2) of section six.
23 & 24 Geo. 5. c. 19.	The Finance Act, 1933	In section twenty-five, the figures " I " and " 3 ", and the proviso.  Part I of the Seventh Schedule.



Session and Chapter.	Short Title.	Extent of Repeal.
3 & 4 Geo. 6. c. 6.	The Gas and Steam Vehicles (Excise Duties) Act, 1940.	<p>In the paragraph substituted by Part III of the Seventh Schedule, the words " and the expressions pneumatic tyres ' and ' coal gas ' have respectively the same meanings as in paragraph 3 of this Schedule ".</p> <p>Subsection (5) of section one.</p>