



Finance Act 1985

1985 CHAPTER 54

PART III

STAMP DUTY

78 Takeovers

- (1) Subsection (2) below applies where a company (company A) issues relevant securities (but issues or transfers no other property) in exchange for shares in another company (company B) and company A—
 - (a) has control of company B, or
 - (b) will have such control in consequence of the exchange or of a general offer as a result of which the exchange is made.
- (2) Stamp duty under the heading " Conveyance or Transfer on Sale " in Schedule 1 to the Stamp Act 1891 shall not be chargeable on an instrument transferring the shares in company B by way of the exchange.
- (3) Where subsection (2) above would apply but for the fact that company A not only issues relevant securities but also issues or transfers other property (whether or not it is or includes money) by way of the exchange, the value of the relevant securities shall be ignored in calculating stamp duty under the heading mentioned in that subsection on an instrument transferring the shares in company B by way of the exchange.
- (4) In this section " securities " includes shares, and " relevant securities " means securities which may be registered in a register kept by or on behalf of company A and in relation to which the terms of the general offer or other arrangement providing for the exchange make no provision for partial or total conversion directly or indirectly into money (whether by way of redemption, sale or otherwise) at a time which falls or may fall before the expiry of the period of three years commencing with the day on which the exchange is completed.
- (5) For the purposes of this section relevant securities shall not be taken to have been issued unless they are registered, in a register kept by or on behalf of company A, in the name of the person transferring the shares in company B by way of the exchange.

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- (6) References in this section to shares in company B include references to convertible loan capital of the company ; and " convertible loan capital" means loan capital mentioned in section 126(2) of the Finance Act 1976.
- (7) For the purposes of this section company A has control of company B if company A has power to control company B's affairs by virtue of holding shares in, or possessing voting power in relation to, company B or any other body corporate.
- (8) In this section " general offer " means an offer made to the members of company B or any class of them, and—
- (a) includes an offer made with exceptions for persons connected with company A, but
 - (b) excludes an offer made with exceptions for persons who are not connected with company A,
- and a person is connected with a company if he would be so connected for the purposes of the Capital Gains Tax Act 1979.
- (9) An instrument in respect of which stamp duty is not chargeable by virtue only of subsection (2) above shall not be taken to be duly stamped unless it is stamped with the duty to which it would be liable but for that subsection or it has, in accordance with section 12 of the Stamp Act 1891, been stamped with a particular stamp denoting that it is not chargeable with any duty.
- (10) An instrument in respect of which reduced stamp duty Part III is chargeable by virtue of subsection (3) above shall not be taken to be duly stamped unless it is stamped with the duty to which it would be liable but for that subsection or it has, in accordance with section 12 of the Stamp Act 1891, been stamped with a particular stamp denoting that it is duly stamped.
- (11) The preceding provisions of this section apply to—
- (a) instruments executed on or after 26th March 1985, and
 - (b) instruments executed on or after 19th March 1985 which are stamped on or after 26th March 1985.
- (12) For the purposes of section 14(4) of the Stamp Act 1891 (instruments not to be given in evidence etc. unless stamped in accordance with the law in force at the time of first execution), the law in force at the time of execution of an instrument falling within subsection (11)(b) above shall be deemed to be that as varied in accordance with this section.
- (13) An instrument to which this subsection applies shall be taken to be duly stamped in accordance with the law in force at the time when it was executed—
- (a) if it is treated by the Commissioners as if stamp duty were not chargeable on it and if, had it been executed on or after 26th March 1985, stamp duty under the heading mentioned in subsection (2) above would by virtue of that subsection not have been chargeable on it, or
 - (b) if it is stamped with duty of an amount no less than the reduced duty with which, had it been so executed, it would have been chargeable under that heading by virtue of subsection (3) above ;
- and the instruments to which this subsection applies are instruments executed on or after 28th July 1984 and before 26th March 1985, other than instruments executed on or after 19th March 1985 which are stamped on or after 26th March 1985.

(14) This section shall be deemed to have come into operation on 26th March 1985.

79 Voluntary winding-up: transfer of shares

- (1) Subsection (2) below applies where a company is Voluntary being wound up altogether voluntarily and there is an arrangement under section 287 of the Companies Act 1948, section 582 of the Companies Act 1985 or section 257 of the Companies Act (Northern Ireland) 1960 whereby—
 - (a) its liquidator transfers to another company (company A) shares in a company (company B) which is a subsidiary of the company being wound up,
 - (b) company A issues relevant securities (but issues or transfers no other property) to the liquidator or a member or members of the company being wound up, and
 - (c) company A acquires control of company B in consequence of the transfer of shares in company B.
- (2) Stamp duty under the heading " Conveyance or Transfer on Sale" in Schedule 1 to the Stamp Act 1891 shall not be chargeable on an instrument transferring the shares in company B to company A.
- (3) Where subsection (2) above would apply but for the fact that company A not only issues relevant securities but also issues or transfers other property (whether or not it is or includes money) the value of the relevant securities shall be ignored in calculating stamp duty under the heading mentioned in that subsection on an instrument transferring the shares in company B to company A.
- (4) In this section " securities " includes shares, and " relevant securities " means securities which may be registered in a register kept by or on behalf of company A and in relation to which the terms of the arrangement make no provision for partial or total conversion directly or indirectly into money (whether by way of redemption, sale or otherwise) at a time which falls or may fall before the expiry of the period of three years commencing with the day on which the arrangement is completed.
- (5) For the purposes of this section relevant securities shall not be taken to have been issued unless they are registered, in a register kept by or on behalf of company A, in the name of the liquidator or member concerned of the company being wound up.
- (6) References in this section to shares in company B include references to convertible loan capital of the company; and " convertible loan capital" means loan capital mentioned in section 126(2) of the Finance Act 1976.
- (7) For the purposes of this section company A has control of company B if company A has power to control company B's affairs by virtue of holding shares in, or possessing voting power in relation to, company B or any other body corporate.
- (8) In this section " subsidiary" has the same meaning as in the Companies Act 1948, the Companies Act 1985 or the Companies Act (Northern Ireland) 1960 (as the case may be).
- (9) An instrument in respect of which stamp duty is not chargeable by virtue only of subsection (2) above shall not be taken to be duly stamped unless it is stamped with the duty to which it would be liable but for that subsection or it has, in accordance with section 12 of the Stamp Act 1891, been stamped with a particular stamp denoting that it is not chargeable with any duty. ;

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- (10) An instrument in respect of which reduced stamp duty is chargeable by virtue of subsection (3) above shall not be taken to be duly stamped unless it is stamped with the duty to which it would be liable but for that subsection or it has, in accordance with section 12 of the Stamp Act 1891, been stamped with a particular stamp denoting that it is duly stamped.
- (11) This section applies to—
- (a) instruments executed on or after 26th March 1985, and
 - (b) instruments executed on or after 19th March 1985 which are stamped on or after 26th March 1985.
- (12) For the purposes of section 14(4) of the Stamp Act 1891 (instruments not to be given in evidence etc. unless stamped in accordance with the law in force at the time of first execution), the law in force at the time of execution of an instrument falling within subsection (11)(b) above shall be deemed to be that as varied in accordance with this section.
- (13) This section shall be deemed to have come into operation on 26th March 1985.

80 Takeovers and winding-up: modifications

- (1) This section modifies the operation of sections 78 and 79 above as they apply to instruments executed on or after 1st August 1985.
- (2) In sections 78 and 79 " shares " includes stock.
- (3) References in sections 78 and 79 to shares in company B include references to excessive return capital of the company; and " excessive return capital" means loan capital to which section 126(1) of the Finance Act 1976 does not apply by virtue of section 126(3).
- (4) The terms of a general offer or other arrangement shall be disregarded for the purposes of sections 78(4) and 79(4) to the extent that they provide for the sale of securities to a person other than company A.
- (5) Section 78(5) shall have effect as if for the words from " unless " to the end there were substituted " unless—

 - (a) they are registered, in a register kept by or on behalf of company A, in the name of the person transferring the shares in company B by way of the exchange, or
 - (b) they are registered, in such a register, in the name of company B and are held on trust for the person so transferring."

- (6) In section 78(8) the reference to members of company B includes a reference to persons entitled to the company's convertible loan capital (within the meaning of section 78(6)) or to its excessive return capital (within the meaning of subsection (3) above).

81 Renounceable letters of allotment etc.

- (1) Subsection (2) below applies where there is an arrangement whereby—

 - (a) rights under an instrument are renounced in favour of a person (A).
 - (b) the rights are rights to shares in a company (company B), and

- (c) A, or a person connected with A, or A and such a person together, has or have control of company B or will have such control in consequence of the arrangement.
- (2) The instrument shall not be exempt by virtue of section 65(1) of the Finance Act 1963 (renounceable letters of allotment etc.) or section 14(1) of the Finance Act (Northern Ireland) 1963 (corresponding provision for Northern Ireland) from stamp duty under or by reference to the heading " Conveyance or Transfer on Sale " in Schedule 1 to the Stamp Act 1891.
- (3) References in this section to shares in company B include references to its loan capital to which section 126(1) of the Finance Act 1976 does not apply by virtue of section 126(2) or (3) (convertible loan capital and excessive return capital).
- (4) In this section " shares " includes stock.
- (5) For the purposes of this section a person has control of company B if he has power to control company B's affairs by virtue of holding shares in, or possessing voting power in relation to, company B or any other body corporate.
- (6) For the purposes of this section one person is connected with another if he would be so connected for the purposes of the Capital Gains Tax Act 1979.
- (7) This section applies to instruments if rights are renounced under them on or after 1st August 1985, except where the arrangement concerned includes an offer for the rights and on or before 27th June 1985 the offer became unconditional as to acceptances.

82 Gifts inter vivos

- (1) The stamp duty chargeable by virtue of section 74 of the Finance (1909-10) Act 1910 (gifts inter vivos) is abolished.
- (2) In section 58(7) of the Stamp Act 1891 (valuation by reference to value for purposes of section 74 of 1910 Act) for the words from " the value " to the end there shall be substituted " the value at any time of any property, that value shall be taken to be the price which the property might reasonably be expected to fetch on a sale at that time in the open market. "
- (3) In section 90(5) of the Finance Act 1965 (which relates to valuation for the purposes of subsection (1) of that section and of section 74 of the 1910 Act) for " either of those provisions " there shall be substituted " that subsection";
and in section 4(5) of the Finance Act (Northern Ireland) 1965 (which makes similar provision) for " either of those provisions " there shall be substituted " that subsection".
- (4) In section 15(1) of the Finance (No. 2) Act 1983 (relief from duty under section 74 of the 1910 Act for local constituency associations) for the words from " 7 above " to the end there shall be substituted " 7 above, section 57 of the Stamp Act 1891 shall not apply in relation to a conveyance or transfer by which the disposal or, in the case of paragraph (b), either of the disposals referred to in that paragraph is effected. "
- (5) An instrument—
 - (a) in respect of which stamp duty would be chargeable by virtue of section 74 of the 1910 Act apart from this section, and
 - (b) on which stamp duty is not chargeable under the heading " Conveyance or Transfer on Sale " in Schedule 1 to the Stamp Act 1891,

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shall not be deemed to be duly stamped unless it has, in accordance with section 12 of the 1891 Act, been stamped with a particular stamp denoting that it is duly stamped or that it is not chargeable with any duty.

- (6) This section applies to—
- (a) instruments executed on or after 26th March 1985, and
 - (b) instruments executed on or after 19th March 1985 which are stamped on or after 26th March 1985.
- (7) For the purposes of section 14(4) of the Stamp Act 1891 (instruments not to be given in evidence etc. unless stamped in accordance with the law in force at the time of first execution), the law in force at the time of execution of an instrument falling within subsection (6) (b) above shall be deemed to be that as varied in accordance with this section.
- (8) The preceding provisions of this section shall be deemed to have come into operation on 26th March 1985.
- (9) Subsection (5) above does not apply to an instrument which is required by regulations under section 87(1) or (2) below to be certified.

83 Transfers in connection with divorce etc.

- (1) Stamp duty under the heading "Conveyance or Transfer on Sale " in Schedule 1 to the Stamp Act 1891 shall not be chargeable on an instrument by which property is conveyed or transferred from one party to a marriage to the other if the instrument—
- (a) is executed in pursuance of an order of a court made on granting in respect of the parties a decree of divorce, nullity of marriage or judicial separation, or
 - (b) is executed in pursuance of an order of a court which is made in connection with the dissolution or annulment of the marriage or the parties' judicial separation and which is made at any time after the granting of such a decree, or
 - (c) is executed at any time in pursuance of an agreement of the parties made in contemplation of or otherwise in connection with the dissolution or annulment of the marriage or their judicial separation.
- (2) An instrument in respect of which stamp duty is not chargeable under the heading mentioned in subsection (1) above by virtue only of that subsection shall be chargeable under this subsection with stamp duty of 50p.
- (3) This section applies to instruments executed on or after 26th March 1985 and shall be deemed to have come into operation on that date.

84 Death: varying dispositions, and appropriations

- (1) Where, within the period of two years after a person's death, any of the dispositions (whether effected by will, under the law relating to intestacy or otherwise) of the property of which he was competent to dispose are varied by an instrument executed by the persons or any of the persons who benefit or would benefit under the dispositions, stamp duty under the heading " Conveyance or Transfer on Sale " in Schedule 1 to the Stamp Act 1891 shall not be chargeable on the instrument.
- (2) Subsection (1) above does not apply where the variation is made for any consideration in money or money's worth other than consideration consisting of the making of a variation in respect of another of the dispositions.

- (3) Subsection (1) above applies whether or not the administration of the estate is complete or the property has been distributed in accordance with the original dispositions.
- (4) Where property is appropriated by a personal representative in or towards satisfaction of a general legacy of money, stamp duty under the heading mentioned in subsection (1) above shall not be chargeable on an instrument giving effect to the appropriation.
- (5) Where on an intestacy property is appropriated by a personal representative in or towards satisfaction of any interest of a surviving husband or wife in the intestate's estate, stamp duty under the heading mentioned in subsection (1) above shall not be chargeable on an instrument giving effect to the appropriation.
- (6) The reference in subsection (5) above to an interest in the intestate's estate—
 - (a) includes a reference to the capital value of a life interest which the surviving husband or wife has under the Intestates' Estates Act 1952 elected to have redeemed, and
 - (b) in Scotland, includes a reference to prior rights (within the meaning of the Succession (Scotland) Act 1964) but, without prejudice to subsection (7) below, not to such rights as are mentioned in that subsection.
- (7) Where in Scotland, on an intestacy or otherwise, property is appropriated by a personal representative in or towards satisfaction of the right of a husband to *jus relictii*, of a wife to *jus relictæ* or of issue to *legitim*, stamp duty under the heading mentioned in subsection (1) above shall not be chargeable on an instrument giving effect to the appropriation.
- (8) An instrument in respect of which stamp duty is not chargeable under the heading mentioned in subsection (1) above by virtue only of subsection (1), (4), (5) or (7) above shall be chargeable under this subsection with stamp duty of 50p.
- (9) But an instrument which is chargeable under subsection (8) above shall not be treated as duly stamped unless it has, in accordance with section 12 of the Stamp Act 1891, been stamped with a particular stamp denoting that it is duly stamped.
- (10) Subject to subsection (11) below, this section applies to instruments executed on or after 26th March 1985 and shall be deemed to have come into operation on that date.
- (11) Subsections (5) to (7) above and, so far as it relates to subsection (5) or (7), subsection (8) above apply to instruments executed on or after 1st August 1985.

85 Repeal of certain fixed duties

- (1) The headings which are specified in Schedule 1 to the Stamp Act 1891 and are mentioned in Schedule 24 to this Act shall be omitted.
- (2) In section 7 of the Finance Act 1907 (stamping of hire-purchase agreements) for the words from "shall only be charged" to the end there shall be substituted " shall not be charged with any stamp duty. "
- (3) This section and that Schedule apply to—
 - (a) instruments executed on or after 26th March 1985, and
 - (b) instruments executed on or after 19th March 1985 which are not stamped before 26th March 1985.

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- (4) For the purposes of section 14(4) of the Stamp Act 1891 (instruments not to be given in evidence etc. unless stamped in accordance with the law in force at the time of first execution), the law in force at the time of execution of an instrument falling within subsection (3)(b) above shall be deemed to be that as varied in accordance with this section.
- (5) This section and that Schedule shall be deemed to have come into operation on 26th March 1985.

86 Abolition of duty on contract notes

- (1) Subsections (1) and (2) of section 77 of the Finance (1909-10) Act 1910 (duty on contract notes) shall cease to have effect.
- (2) This section applies to contract notes made and executed on or after 26th March 1985, and shall be deemed to have come into operation on that date.

87 Certificates

- (1) The Commissioners may make regulations providing that an instrument which is of a kind specified in them—
 - (a) shall be certified to be an instrument of that kind, and
 - (b) shall not be treated as duly stamped if it is not so certified.
- (2) The Treasury may make regulations providing that an instrument which is of a kind specified in them, and which would apart from this subsection be chargeable with stamp duty of a fixed amount under any provision so specified, shall not be charged with such duty under that provision if it is certified to be an instrument of that kind.
- (3) Certification under this section shall be by such method as the regulations may specify, and in particular they may provide for a certificate to be borne by or attached to or otherwise associated with an instrument in such manner as they may specify.
- (4) A certificate under this section shall be in such form and signed by such person as the regulations may specify.
- (5) Regulations under this section may contain such incidental or consequential provisions as the Commissioners or Treasury (as the case may be) think fit.
- (6) Regulations under this section may make different provision for different cases or descriptions of case.
- (7) The power to make regulations under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.

88 Exchange rates

Section 12 of the Finance Act 1899 (fixed exchange rate for foreign currency) shall not apply to instruments executed on or after 1st August 1985, and section 6 of the Stamp Act 1891 (exchange rate at date of instrument) shall apply to instruments to which section 12 of the 1899 Act would apply if this Act had not been passed.

89 Exemption from section 28 of Finance Act 1931

- (1) Section 28 of the Finance Act 1931 (production to Commissioners of instruments transferring land and furnishing of particulars) shall not apply in relation to any instrument (an " exempt instrument") which falls within any class prescribed for the purposes of this section by regulations made by the Commissioners.
- (2) Regulations under this section may—
 - (a) provide that the particulars mentioned in Schedule 2 to the 1931 Act shall be furnished to the Commissioners, in accordance with the requirements of the regulations, in respect of exempt instruments or such descriptions of exempt instruments as may be prescribed by the regulations;
 - (b) make different provision in relation to different cases or kinds of case and in respect of different parts of Great Britain.
- (3) Any person who fails to comply with any requirement imposed by regulations made under this section shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale (as defined in section 75 of the Criminal Justice Act 1982).
- (4) The power to make regulations under this section shall be exercisable by statutory instrument; and a statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of the House of Commons.
- (5) Section 35 (x) of the 1931 Act (which gives power by regulations to exempt certain instruments in Scotland where particulars are obtained through the General Register of Sasines and which is superseded by the power given by this section) shall cease to have effect.
- (6) Regulations made under section 35(x) shall have effect after the commencement of this section as if they were made under this section and as if they imposed on the Keeper of the Registers of Scotland the duty mentioned in section 35 (x).