



# Finance Act 1989

## 1989 CHAPTER 26

### PART III

#### MISCELLANEOUS AND GENERAL

##### *Interest etc.*

#### **178 Setting of rates of interest.**

- (1) The rate of interest applicable for the purposes of an enactment to which this section applies shall be the rate which for the purposes of that enactment is provided for by regulations made by the Treasury under this section.
- (2) This section applies to—
  - [<sup>F1</sup>(aa) section 15A of the Stamp Act 1891;]
  - (a) section 8(9) of the <sup>M1</sup>Finance Act 1894,
  - (b) section 18 of the <sup>M2</sup>Finance Act 1896,
  - (c) section 61(5) of the <sup>M3</sup>Finance (1909-10) Act 1910,
  - (d) section 17(3) of the <sup>M4</sup>Law of Property Act 1925,
  - (e) section 73(6) of the <sup>M5</sup>Land Registration Act 1925,
  - (f) [<sup>F2</sup>sections 59C, 86, 86A, 87, 87A, [<sup>F3</sup>88], 103A] of the <sup>M6</sup>Taxes Management Act 1970,
  - (g) paragraph 3 of Schedule 16A to the <sup>M7</sup>Finance Act 1973,
  - [<sup>F4</sup>(gg) [<sup>F5</sup>paragraph 6 of Schedule 1 to the Social Security Contributions and Benefits Act 1992],]
  - [<sup>F6</sup>(gh) section 71(8A) of the <sup>M8</sup>Social Security Administration Act 1992, and section 69(8A) of the <sup>M9</sup>Social Security Administration (Northern Ireland) Act 1992, as they have effect in any case where the overpayment was made in respect of working families' tax credit or disabled person's tax credit;]
  - (h) paragraphs 15 and 16 of Schedule 2, and paragraph 8 of Schedule 5, to the <sup>M10</sup>Oil Taxation Act 1975,
  - [<sup>F7</sup>(i) section 283 of the <sup>M11</sup>Taxation of Chargeable Gains Act 1992;]

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- (j) paragraph 59 of Schedule 8 to the <sup>M12</sup>Development Land Tax Act 1976,
  - (k) sections 233 and 236(3) and (4) of the <sup>M13</sup>Inheritance Tax Act 1984,
  - (l) section 92 of the Finance Act 1986, and
  - (m) sections <sup>F8</sup>... <sup>F9</sup>... 824, 825 and 826 of, [<sup>F10</sup>and paragraph 6B of Schedule 3 to] and paragraph 3 of Schedule 19A to, the <sup>M14</sup>Taxes Act 1988 [<sup>F11</sup>and]
  - <sup>F12</sup>(n) ..... <sup>F13</sup>[and
  - (o) section 14(4) of the Ports Act 1991.]
  - [<sup>F14</sup>(p) paragraph 8 of Schedule 4 to the Tax Credits Act 1999., <sup>F15</sup>...]
  - [<sup>F16</sup>[<sup>F17</sup>(q)] section 110 of the Finance Act 1999.]
  - [<sup>F18</sup>(q) paragraph 8 of Schedule 1 to the Employment Act 2002.]
  - [<sup>F19</sup>(r) paragraph 8 of Schedule I to the Employment (Northern Ireland) Order 2002][<sup>F20</sup>, and
  - (s) Chapter 7 of Part 3 of the Income Tax (Earnings and Pensions) Act 2003.]
- (3) Regulations under this section may—
- (a) make different provision for different enactments or for different purposes of the same enactment,
  - (b) either themselves specify a rate of interest for the purposes of an enactment or make provision for any such rate to be determined by reference to such rate or the average of such rates as may be referred to in the regulations,
  - (c) provide for rates to be reduced below, or increased above, what they otherwise would be by specified amounts or by reference to specified formulae,
  - (d) provide for rates arrived at by reference to averages to be rounded up or down,
  - (e) provide for circumstances in which alteration of a rate of interest is or is not to take place, and
  - (f) provide that alterations of rates are to have effect for periods beginning on or after a day determined in accordance with the regulations in relation to interest running from before that day as well as from or from after that day.
- (4) The power to make regulations under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of the House of Commons.
- (5) Where—
- (a) the rate provided for by regulations under this section as the rate applicable for the purposes of any enactment is changed, and
  - (b) the new rate is not specified in the regulations,
- the Board shall by order specify the new rate and the day from which it has effect.
- (6) In section 828(2) of the Taxes Act 1988 (powers to make orders which are not exercisable by statutory instrument) the words “or section 178(5) of the Finance Act 1989” shall be added at the end.
- (7) Subsection (1) shall have effect for periods beginning on or after such day as the Treasury may by order made by statutory instrument appoint and shall have effect in relation to interest running from before that day as well as from or from after that day; and different days may be appointed for different enactments.

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### Textual Amendments

- F1** S. 178(2)(aa) inserted (27.7.1999 with application to instruments executed on or after 1.10.1999) by 1999 c. 16, **ss. 109(2)(4)**, 123(4)
- F2** Words in s. 178(2)(f) substituted (1.9.1994 with effect as mentioned in s. 199 of the amending Act) by 1994 c. 9, s. 196, **Sch. 19 Pt. III para. 44**; S.I. 1998/3173, **art. 2**
- F3** Words in s. 178(2)(f) repealed (29.4.1996 with effect as specified in **Sch. 18 para. 17** of the amending Act) by 1996 c. 8, ss. 132, 205, **Sch. 18 para. 13**, **Sch. 41 Pt. V(8)**, note
- F4** S. 178(2)(gg) inserted (6.4.1992) (E.W.S.) by **Social Security Act 1990 (c. 27, SIF 113:1)** s. 17(10); S.I. 1992/632, **art. 2**
- F5** Words in s. 178(2)(gg) substituted (1.7.1992) by **Social Security (Consequential Provisions) Act 1992 (c. 6)**, ss. 4, 7(2), **Sch. 2 para. 107**
- F6** s. 178(2)(gh) inserted (5.10.1999) by 1999 c. 10, ss. 2, 20(2), **Sch. 2 Pt. IV para. 10(2)**
- F7** s. 178(2)(i) substituted (in relation to tax for the year 1992-1993 and subsequent years subject as mentioned in s. 289 of the substituting Act) by **Taxation of Chargeable Gains Act 1992 (c. 12)**, ss. 289, 290, **Sch. 10 para. 19(4)** (with ss. 60, 101(1), 171, 201(3))
- F8** Words in s. 178(2)(m) repealed (28.7.2000 with effect as mentioned in s. 11(6) of the amending Act) by 2000 c. 17, s. 156, **Sch. 40 Pt. II(17)**, Note 1
- F9** Words in s. 178(2)(m) repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by **Income Tax (Earnings and Pensions) Act 2003 (c. 1)**, s. 723, **Sch. 6 para. 162(a)**, **Sch. 8 Pt. 1** (with **Sch. 7**)
- F10** Words in s. 178(2)(m) repealed (29.4.1996 with effect as mentioned in **Sch. 7 paras. 32-35** of the amending Act) by 1996 c. 8, ss. 79(2), 205, **Sch. 7 para. 30**, **Sch. 41 Pt. V(2)**, note
- F11** “and” inserted by **Finance Act 1990 (c. 29, SIF 58)**, **s.118(8)**
- F12** S. 178(2)(n) repealed (1.5.1995) by 1995 c. 4, s. 162, **Sch. 29 Pt. XII**
- F13** S. 178(2)(o) and word immediately preceding it inserted (G.B.) by **Ports Act 1991 (c. 52, SIF 58)**, **s. 14(5)**.
- F14** It is provided that s. 178(2)(p) shall be inserted (5.10.1999) by 1999 c. 10, ss. 10(4), 20(2), **Sch. 4 para. 8(1)**
- F15** Word in s. 178(2)(p) repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by **Income Tax (Earnings and Pensions) Act 2003 (c. 1)**, s. 723, **Sch. 6 para. 162(b)**, **Sch. 8 Pt. 1** (with **Sch. 7**)
- F16** S. 178(2)(p) and word “and” preceding inserted (27.7.1999 with application in relation to instruments executed on or after 1.10.1999) by 1999 c. 16, **ss. 110(9)(10)**, 123(4)
- F17** S. 178(2)(q) renumbered (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by **Income Tax (Earnings and Pensions) Act 2003 (c. 1)**, s. 723, **Sch. 6 para. 162(c)** (with **Sch. 7**)
- F18** S. 178(2)(q) inserted (E.W.S.) (8.12.2002) by 2002 c. 22, ss. 11, 12, **Sch. 1 para. 8(1)(2)**; S.I. 2002/2866, **art. 2(2)**, **Sch. 1 Pt. 2**
- F19** S. 178(2)(r) inserted (8.12.2002) by S.I. 2002/2836 (N.I. 2), **art. 13(6)**, **Sch. 1 para. 8(1)** (with **art. 16**); S.R. 2002/356, **art. 2(2)**, **Sch. 1 Pt. II**
- F20** S. 178(2)(s) and preceding word inserted (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by **Income Tax (Earnings and Pensions) Act 2003 (c. 1)**, s. 723, **Sch. 6 para. 162(d)** (with **Sch. 7**)

### Modifications etc. (not altering text)

- C1** S. 178 applied by **Ports Act 1991 (c. 52, SIF 58)**, **s. 14(4)**.  
S. 178 applied (27.7.1993) by 1993 c. 34, s. 173, **Sch. 19 Pt. II para. 11(4)**  
S. 178 applied (1.9.1994 with effect as mentioned in s. 199 of 1994 c. 9) by 1970 c. 9, **s. 59C** (as inserted by 1994 c. 9, **s. 194**); S.I. 1998/3173, **art. 2**  
S. 178 applied (1.5.1995) by 1995 c. 4, **s. 157(6)**  
S. 178 extended (1.5.1995) by 1995 c. 4, **s. 157(6)**  
S. 178 applied (31.7.1997) by 1997 c. 58, s. 3, **Sch. 2 para. 12(4)**

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- S. 178 applied (27.7.1999 with application to instruments executed on or after 1.10.1999) by 1891 c. 39, s. 15A(3) (as substituted (27.7.1999 with application to instruments executed on or after 1.10.1999) by 1999 c. 16, s. 109(1)(4))
- S. 178 applied (27.7.1999 with application in relation to instruments executed on or after 1.10.1999) by ss. 110(1)-(5)(10), 123(4)
- S. 178 applied (5.10.1999) by 1999 c. 10, ss. 10(4), 20(2), Sch. 4 para. 8(2)
- S. 178 applied (1.4.2000) by S.I. 2000/944, art. 25
- S. 178 applied (1.4.2000) by s.I. 2000/944, art. 41(1)
- S. 178 applied (1.4.2000) by S.I. 2000/944, art. 46(1)
- S. 178 applied (1.3.2003) by S.I. 2002/2172, reg. 8(13)

**C2** For regulations see S.I. 1989/1297 (in Part III Vol. 5). And see Tables I and O Vol. 1

**C3** Power of appointment conferred by s. 178(7) partly exercised: 18.8.1989 appointed by S.I. 1989/1298 for all the enactments specified in s. 178(2) other than s. 87A of the 1970 Act and s. 826 of the 1988 Act

### Marginal Citations

- M1** 1894 c. 30.  
**M2** 1896 c. 28.  
**M3** 1910 c. 8.  
**M4** 1925 c. 20.  
**M5** 1925 c. 21.  
**M6** 1970 c. 9.  
**M7** 1973 c. 51.  
**M8** 1992 c.5.  
**M9** 1992 c.8.  
**M10** 1975 c. 22.  
**M11** 1992 c. 12.  
**M12** 1976 c. 24.  
**M13** 1984 c. 51.  
**M14** 1986 c. 41.

## 179 Provisions consequential on section 178.

- (1) The words “rate applicable under section 178 of the Finance Act 1989” shall be substituted—
- (a) for the words from “rate” to “annum” in—
- (i) section 18(1) of the <sup>M15</sup> Finance Act 1896,
  - (ii) section 61(5) of the <sup>M16</sup> Finance (1909-10) Act 1910,
  - (iii) section 17(3) of the <sup>M17</sup> Law of Property Act 1925,
  - (iv) section 73(6) of the <sup>M18</sup> Land Registration Act 1925,
  - (v) paragraphs 15(1) and 16 of Schedule 2, and paragraph 8(4) of Schedule 5, to the <sup>M19</sup> Oil Taxation Act 1975,
  - <sup>F21</sup>(vi) . . . . .
  - (vii) sections 824(1) and 825(2) of the Taxes Act 1988,
- (b) for the words “prescribed rate” in—
- (i) sections 86(1), 86A(1), 87(1), 87A(1) and (5) [<sup>F22</sup>and 88(1)] of the <sup>M20</sup> Taxes Management Act 1970,
  - (ii) paragraph 3(4) of Schedule 16A to the <sup>M21</sup> Finance Act 1973, and
  - (iii) paragraph 3(4) of Schedule 19A to the Taxes Act 1988,
- (c) for the words “rate which” onwards in—

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- (i) paragraph 59(1) of Schedule 8 to the <sup>M22</sup> Development Land Tax Act 1976, and
  - (ii) section 826(1) of the Taxes Act 1988,
  - (d) for the words “rate applicable under subsection (2) below” in section 233(1) of the <sup>M23</sup> Inheritance Tax Act 1984,
  - (e) for the words “rate for the time being applicable under section 233(2)(b) above” in subsection (3), and the words “rate for the time being applicable under section 233(2)(a) above” in subsection (4), of section 236 of that Act,
  - (f) for the words “appropriate rate” in section 92(2) of the <sup>M24</sup> Finance Act 1986, and
  - <sup>F23</sup>(g) .....
- (2) In section 8(9) of the <sup>M25</sup> Finance Act 1894, for the words from “such interest” to “per cent.” there shall be substituted the words “interest at such rate not exceeding that applicable under section 178 of the Finance Act 1989”.
- (3) In section 236(4) of the Inheritance Tax Act 1984, for the words “as if section 233(1)(b) above had applied” there shall be substituted the words “from the end of the period mentioned in section 233(1)(b) above”.
- (4) Any amendment made by subsection (1), (2) or (3) above shall have effect in relation to any period for which section 178(1) above has effect for the purposes of the enactment concerned.
- <sup>F24</sup>(5) .....

#### Textual Amendments

- F21** S. 179(1)(a)(vi) repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, **Sch. 12** (with ss. 201(3), [Sch. 11 paras. 22, 26\(2\), 27](#))
- F22** Words in s. 179(1)(b)(i) repealed (29.4.1996 with effect in accordance with [Sch. 18 para. 17](#) of the amending Act) by [1996 c. 8](#), s. 205, **Sch. 41 Pt. V**
- F23** S. 179(1)(g) repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, **Sch. 8 Pt. 1** (with [Sch. 7](#))
- F24** S. 179(5) repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, **Sch. 8 Pt. 1** (with [Sch. 7](#))

#### Marginal Citations

- M15** 1896 c. 28.
- M16** 1910 c. 8.
- M17** 1925 c. 20.
- M18** 1925 c. 21.
- M19** 1975 c. 22.
- M20** 1970c. 9.
- M21** 1973 c. 51.
- M22** 1976 c. 24.
- M23** 1984 c. 51.
- M24** 1986 c.41.
- M25** 1894 c. 30.

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## **180 Repayment interest: period of accrual.**

- (1) In section 48(1) of the <sup>M26</sup> Finance Act 1975, after the words “carry interest” there shall be inserted the words “from the date on which the sums were paid until the order for repayment is issued”.
- (2) In—
  - (a) paragraph 16 of Schedule 2 to the <sup>M27</sup> Oil Taxation Act 1975,
  - (b) section 105(7) of the <sup>M28</sup> Finance Act 1980,
  - (c) paragraph 13(4) and (5) of Schedule 16 to the <sup>M29</sup> Finance Act 1981, and
  - (d) paragraph 10(4) of Schedule 19 to the <sup>M30</sup> Finance Act 1982,
 for the word “repayment” there shall be substituted the words “the order for repayment is issued”.
- (3) In paragraph 59(1) of Schedule 8 to the <sup>M31</sup> Development Land Tax Act 1976, after the word “later,” there shall be inserted the words “until the order for repayment is issued”.
- (4) In section 235(1) of the <sup>M32</sup> Inheritance Tax Act 1984 (and paragraph 19(3) of Schedule 4 to the <sup>M33</sup> Finance Act 1975), after the word “made” there shall be inserted the words “until the order for repayment is issued”.
- (5) In section 92(2) of the <sup>M34</sup> Finance Act 1986, for the words “the time it was paid” there shall be substituted the words “the date on which the payment was made until the order for repayment is issued”.
- (6) In section 826(1) of the Taxes Act 1988, for the words “that repayment or payment is made” there shall be substituted the words “the order for repayment or payment is issued”.
- (7) The amendments made by this section shall be deemed always to have had effect.

### **Marginal Citations**

- M26** 1975 c. 7.  
**M27** 1975 c. 22.  
**M28** 1980 c. 48.  
**M29** 1981 c. 35.  
**M30** 1982 c. 39.  
**M31** 1976 c. 24.  
**M32** 1984 c. 51.  
**M33** 1975 c. 7.  
**M34** 1986 c. 41.

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