# Finance Act 1993

CHAPTER 34

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# Finance Act 1993

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# Finance Act 1993

## 1993 CHAPTER 34

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

[27th July 1993]

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 Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### PART I

### CUSTOMS AND EXCISE AND VALUE ADDED TAX

### CHAPTER I

### GENERAL

*Alcoholic liquor duties*

Rates of duty. 1979 c. 4. 1991 c. 31.

**1.**—(1) In section 36 of the Alcoholic Liquor Duties Act 1979 (beer), as that section has effect apart from section 7(1) of the Finance Act 1991, for "£1.108" there shall be substituted "£1.163".

(2) For the Table of rates of duty in Schedule 1 to that Act (wine and made-wine) there shall be substituted the Table in Schedule 1 to this Act.

(3) In section 62(1) of that Act (cider) for "£21.32" there shall be substituted "£22.39".

(4) This section shall be deemed to have come into force at 6 o'clock in the evening of 16th March 1993.

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Beer duty: rate for new regime.
1979 c. 4.
1991 c. 31.

**2.**—(1) In section 36(1) of the Alcoholic Liquor Duties Act 1979 (beer duty), as substituted by section 7(1) of the Finance Act 1991, for "£10.60" there shall be substituted "£10.45".

(2) This section shall be deemed to have come into force on 1st June 1993.

Low strength beer.

**3.**—(1) In section 1 of the Alcoholic Liquor Duties Act 1979 (alcoholic liquors dutiable under that Act) in subsection (3) (beer) for "1.2 per cent." there shall be substituted "0.5 per cent.".

(2) In section 36 of that Act (beer duty), as substituted by section 7(1) of the Finance Act 1991, after subsection (1) there shall be inserted the following subsection—

> "(1A) No duty shall be chargeable under subsection (1) above on beer which is of a strength of 1.2 per cent. or less; but any such beer shall in all other respects be treated as if it were chargeable with a duty of excise."

(3) This section shall apply in relation to liquor which is produced in or imported into the United Kingdom, or removed into the United Kingdom from the Isle of Man, on or after the day on which this Act is passed.

Beer duty: abolition of certain reliefs, etc.

**4.**—(1) The Alcoholic Liquor Duties Act 1979 shall be amended as follows.

(2) In subsection (2) of section 42 (drawback on exportation etc. of beer)—

- (a) paragraph (a) (drawback on removal to excise warehouse) shall be omitted,
- (b) in paragraph (b) the words "or removal to the Isle of Man" shall be omitted,
- (c) also in paragraph (b) for "any such beer" there shall be substituted "any beer to which this section applies", and
- (d) for "exported, removed or shipped" there shall be substituted "exported or shipped".

(3) In subsections (3) and (4) of that section the word "remove,", in each place where it occurs, shall be omitted.

(4) Section 43 (warehousing of beer for exportation, etc.) shall cease to have effect.

(5) In section 45(1) (repayment of duty on beer used in the production or manufacture of other beverages etc.)—

- (a) at the end of paragraph (a) there shall be inserted "or", and
- (b) paragraph (b) shall be omitted.

(6) Section 51 (power to require production of books by brewers for sale) shall cease to have effect.

(7) Subsections (2)(a) and (c) and (4) to (6) above shall come into force on 1st September 1993.

(8) Subsections (2)(b) and (d) and (3) above shall come into force on such day as the Commissioners of Customs and Excise may by order made by statutory instrument appoint.

Blending of alcoholic liquors. 1979 c. 4.

**5.**—(1) In Part VI of the Alcoholic Liquor Duties Act 1979 the following section shall be inserted before section 67—

"Blending of alcoholic liquors.

66A.—(1) Subject to subsections (4) to (6) below, a person shall not blend two or more alcoholic liquors—

(a) each of which is of a kind mentioned in paragraphs (a) to (e) of section 1(1) above, but

(b) not all of which fall within the same one of those paragraphs,

except in an excise warehouse or on premises which, in relation to the liquors blended, are for the time being permitted premises.

(2) Subject to subsections (4) to (6) below, a person shall not blend two or more alcoholic liquors which—

(a) fall within the same paragraph of section 1(1) above, but

(b) are not all of the same alcoholic strength,

except in an excise warehouse or on premises which, in relation to the liquors blended, are for the time being permitted premises.

(3) In relation to the blending of particular alcoholic liquors—

(a) if the liquor which is the product of the blending is beer, permitted premises are premises which are registered under section 41A above and premises in respect of which a person is registered under section 47 above;

(b) if the liquor which is the product of the blending is wine, permitted premises are premises in respect of which a licence under section 54(2) above is held;

(c) if the liquor which is the product of the blending is made-wine, permitted premises are premises in respect of which a licence under section 55(2) above is held;

(d) if the liquor which is the product of the blending is cider, permitted premises are premises in respect of which a person is registered under section 62 above.

(4) Subsections (1) and (2) above do not apply unless the blending is done with a view to offering for sale the liquor which is the product of the blending.

(5) Subsections (1) and (2) above do not apply where the liquor which is the product of the blending is intended for consumption on the premises on which the blending takes place.

(6) The Commissioners may direct that subsections (1) and (2) above shall not apply to the blending of alcoholic liquors in such circumstances as are specified in the direction.

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(7) Where a person contravenes subsection (1) or (2) above, the following shall be liable to forfeiture—

(a) the liquor which is the product of the blending;

(b) all such vessels, utensils and materials for the blending of alcoholic liquors as are found in his possession.

(8) In this section any reference to blending liquors includes a reference to otherwise mixing them."

(2) In subsection (5) of section 55 of that Act (exemption for certain producers of made-wine from requirement to hold excise licence) before paragraph (a) there shall be inserted the following paragraph—

"(aa) he does not blend or otherwise mix two or more alcoholic liquors to which paragraphs (a) and (b) of section 66A(1) below or paragraphs (a) and (b) of section 66A(2) below apply;".

(3) In that section—

(a) paragraph (e) of subsection (5) and the word "and" immediately preceding that paragraph shall be omitted, and

(b) subsection (5A) shall be omitted.

(4) This section shall apply in relation to the blending or other mixing of alcoholic liquors on or after the day on which this Act is passed.

Mixing of wine and spirits in excise warehouse. 1979 c. 4.

**6.**—(1) In subsection (1) of section 58 of the Alcoholic Liquor Duties Act 1979 (mixing of wine and spirits in excise warehouse)—

(a) for "6 litres" there shall be substituted "12 litres",

(b) for "except as provided by subsection (2) below" there shall be substituted "by virtue of this section", and

(c) for "23 per cent." there shall be substituted "22 per cent.".

(2) Subsection (2) of that section shall be omitted.

(3) This section shall apply in relation to mixing done on or after the day on which this Act is passed.

Sparkling wine or made-wine.

**7.**—(1) In Schedule 1 to the Alcoholic Liquor Duties Act 1979 (rates of duty on wine and made-wine), for paragraphs 1 and 2 there shall be substituted the following paragraphs—

"1. Paragraphs 2 and 3 below apply for the purposes of this Act.

2.—(1) Wine or made-wine which is for the time being in a closed container is sparkling if, due to the presence of carbon dioxide or any other gas, the pressure in the container, measured at a temperature of 20°C, is not less than 3 bars in excess of atmospheric pressure.

(2) Wine or made-wine which is for the time being in a closed container is sparkling regardless of the pressure in the container if the container has a mushroom-shaped stopper (whether solid or hollow) held in place by a tie or fastening.

(3) Wine or made-wine which is not for the time being in a closed container is sparkling if it has characteristics similar to those of wine or made-wine which has been removed from a closed container and which, before removal, fell within sub-paragraph (1) above.

3.—(1) Wine or made-wine shall be regarded as having been rendered sparkling if, as a result of aeration, fermentation or any other process, it either falls within paragraph 2(1) above or takes on such characteristics as are referred to in paragraph 2(3) above.

(2) Wine or made-wine which has not previously been rendered sparkling by virtue of sub-paragraph (1) above shall be regarded as having been rendered sparkling if it is transferred into a closed container which has a mushroom-shaped stopper (whether solid or hollow) held in place by a tie or fastening.

(3) Wine or made-wine which is in a closed container and has not previously been rendered sparkling by virtue of sub-paragraph (1) or (2) above shall be regarded as having been rendered sparkling if the stopper of its container is exchanged for a stopper of a kind mentioned in sub-paragraph (2) above."

(2) This section shall apply in relation to wine and made-wine which is produced in or imported into the United Kingdom, or removed into the United Kingdom from the Isle of Man, on or after the day on which this Act is passed.

Denatured alcohol.

**8.**—(1) Denatured alcohol of such a description as may be specified in regulations made by the Commissioners of Customs and Excise shall not, if it would otherwise be so charged, be charged with any duty of excise under section 5 of the Alcoholic Liquor Duties Act 1979 (charge on spirits) on its importation into the United Kingdom from another member State.

1979 c. 4.

(2) The following references, namely—

(a) the references in sections 75, 77, 79 and 80 of that Act (regulation of methylated spirits) to methylated spirits;

(b) the reference in section 77(1)(e) of that Act to spirits for methylation; and

(c) the references in section 78 of that Act to methylated spirits or spirits (other than in the expression "duty payable on spirits"),

shall each be construed as including a reference to denatured alcohol of any description from time to time specified in regulations made for the purposes of subsection (1) above.

(3) In this section "denatured alcohol" means any substance appearing to the Commissioners of Customs and Excise to fall within Article 27.1.(a) of the Directive of the Council of the European Communities dated 19th October 1992 No. 92/83/EEC (directive on the harmonisation of the structures of excise duties on alcohol and alcoholic beverages).

(4) Any description of denatured alcohol specified in regulations under this section may be framed by reference to such circumstances or other factors, or to the approval or opinion of such persons (including the authorities in any member State), as may be so specified.

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(5) The power of the Commissioners of Customs and Excise 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; and any such regulations may contain such transitional, supplemental and incidental provision as those Commissioners think fit.

*Hydrocarbon oil duties*

Rates of duty. 1979 c. 5.

**9.**—(1) In section 6(1) of the Hydrocarbon Oil Duties Act 1979 for "£0.2779" (duty on light oil) and "£0.2285" (duty on heavy oil) there shall be substituted "£0.3058" and "£0.2514" respectively.

(2) In section 11(1) of that Act (rebate on heavy oil) for "£0.0095" (fuel oil) and "£0.0135" (gas oil) there shall be substituted "£0.0105" and "£0.0149" respectively.

(3) In section 13A(1) of that Act (rebate on unleaded petrol) for "£0.0437" there shall be substituted "£0.0482".

(4) In section 14(1) of that Act (rebate on light oil for use as furnace fuel) for "£0.0095" there shall be substituted "£0.0105".

(5) This section shall be deemed to have come into force at 6 o'clock in the evening of 16th March 1993.

Mineral oil fuel substitutes.

**10.**—(1) The Hydrocarbon Oil Duties Act 1979 ("the 1979 Act") shall have effect in relation to such cases as may be specified in an order made by the Treasury as if references in that Act to hydrocarbon oil or to road fuel gas included references to any mineral oil which is designated by that order as a substance which is to be treated for the purposes of that Act as the equivalent of hydrocarbon oil or, as the case may be, of road fuel gas.

(2) The Treasury may by order provide, in relation to any substance which by virtue of this section is to be treated for the purposes of the 1979 Act as the equivalent of hydrocarbon oil, for that substance to be treated for the purposes of such of the provisions of that Act as may be specified in the order as if it fell within the description of such one or more of the following as may be so specified, that is to say—

(a) heavy oil or light oil, as defined in section 1 of that Act;

(b) aviation gasoline, as defined in section 6(4) of that Act;

(c) fuel oil or gas oil, as defined in section 11(2) of that Act; and

(d) unleaded petrol, as defined in section 13A(2) of that Act.

(3) In exercising their powers under this section, the Treasury shall so far as practicable secure that a mineral oil which is intended for, or capable of being put to, a particular use is treated for the purposes of the 1979 Act as if it were the substance falling within the descriptions specified in subsection (2) above to which, when put to that use, it is most closely equivalent.

(4) In this section "mineral oil" means any substance which—

(a) falls within the definition of mineral oil in Article 2.1 of the Directive of the Council of the European Communities dated 19th October 1992 No. 92/81/EEC (directive on the harmonisation of the structures of excise duties on mineral oils), as amended by the Directive of the Council dated 14th December 1992 No. 92/108/EEC; and

(b) is not, apart from this section, hydrocarbon oil or road fuel gas within the meaning of the 1979 Act.

(5) The power of the Treasury to make an order under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons; and any such order may make different provision for different cases and different substances.

(6) No duty of excise shall be charged by virtue of section 7 of the 1979 Act (duty on petrol substitutes and power methylated spirits) on any substance on which duty is charged under that Act by virtue of an order under this section.

Other fuel substitutes. 1979 c. 5.

**11.**—(1) After section 6 of the Hydrocarbon Oil Duties Act 1979 there shall be inserted the following section—

"Fuel substitutes.

6A.—(1) A duty of excise shall be charged on the setting aside for a chargeable use by any person, or (where it has not already been charged under this section) on the chargeable use by any person, of any liquid which is not hydrocarbon oil.

(2) In this section 'chargeable use' in relation to any substance means the use of that substance—

(a) as fuel for any engine, motor or other machinery; or

(b) as an additive or extender in—

(i) any substance on which duty is charged by virtue of paragraph (a) above; or

(ii) any hydrocarbon oil which is or is to be used as mentioned in that paragraph.

(3) The rate of the duty under this section shall be prescribed by order made by the Treasury.

(4) In the following provisions of this Act references to hydrocarbon oil shall be construed as including references to any substance on which duty is charged under this section; and, accordingly, references to duty on hydrocarbon oil shall be construed, where a substance is to be treated as such oil, as including references to duty under this section.

(5) The Treasury may by order provide for any substance on which duty is charged under this section to be treated for the purposes of such of the following provisions of this Act as may be specified in the order as if it fell within the description of such one or more of the following as may be so specified, that is to say—

(a) heavy oil or light oil;

(b) aviation gasoline;

(c) fuel oil or gas oil, as defined in section 11(2) below; and

(d) unleaded petrol, as defined in section 13A(2) below.

PART I

(6) In exercising their powers under this section, the Treasury shall so far as practicable secure—

(a) that a substance set aside for use or used as mentioned in subsection (2)(a) above is—

(i) charged with duty at the same rate as, and

(ii) otherwise treated for the purposes of the following provisions of this Act as if it were,

the substance falling within the descriptions specified in subsection (5) above to which, when put to that use, it is most closely equivalent; and

(b) that a substance set aside for use or used as an additive or extender in any substance is—

(i) charged with duty at the same rate as, and

(ii) otherwise treated for the purposes of the following provisions of this Act as if it were,

the substance in which it is an additive or extender.

(7) For the purposes of this section 'liquid' does not include any substance which is gaseous at a temperature of 15°C and under a pressure of 1013.25 millibars.

(8) The power of the Treasury to make an order under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.

(9) An order under this section—

(a) may make different provision for different cases and for different substances;

(b) may prescribe the rate of duty under this section in respect of any substance by reference to the rate of duty under this Act in respect of any other substance; and

(c) in making different provision for different substances, may define a substance by reference to the use for which it is set aside or the use to which it is put."

(2) Sections 4, 7 and 16 of that Act (petrol substitutes and power methylated spirits) shall cease to have effect.

(3) In section 22(1) of that Act (offence of using petrol substitutes on which duty has not been paid), for the words from the beginning to the word "shall", in the first place where it occurs, there shall be substituted—

"A person who—

(a) puts to a chargeable use (within the meaning of section 6A above) any liquid which is not hydrocarbon oil; and

(b) knows or has reasonable cause to believe that there is duty charged under section 6A above on that liquid which has not been paid and is not lawfully deferred,

shall".

(4) In section 1(1)(b) of the Excise Duties (Surcharges or Rebates) Act 1979 (surcharges or rebates in respect of excise duties on hydrocarbon oil etc.), for paragraph (b) there shall be substituted the following paragraph—

1979 c. 8.

"(b) those chargeable by virtue of the Hydrocarbon Oil Duties Act 1979;".

(5) This section shall come into force on such day as the Treasury may by order made by statutory instrument appoint, and different days may be appointed under this subsection for different provisions and for different purposes.

Measurement of volume.
1979 c. 5.

**12.**—(1) In ascertaining for the purposes of the Hydrocarbon Oil Duties Act 1979—

(a) the amount of any duty of excise chargeable on any liquid by virtue of that Act; or

(b) the amount of any rebate allowable on any such liquid by virtue of that Act,

the volume of that liquid shall be taken (if it would not otherwise be so taken) to be what would be its volume, calculated in accordance with regulations under subsection (2) below, at a temperature of 15°C.

(2) The Commissioners of Customs and Excise may by regulations make such provision as they think fit as to the method by which, in ascertaining any amount mentioned in subsection (1) above—

(a) the volume of any liquid is to be measured; or

(b) the volume as at a temperature of 15°C of any amount of a liquid is to be determined;

and that provision may include provision made by reference to any internationally recognised conversion tables.

(3) Any reference in sections 15 and 17 to 19A of that Act (drawback and relief) to the amount of any duty of excise which has been paid in respect of any substance, or to the amount of any rebate that has been allowed in respect of any substance, shall be construed as a reference—

(a) to such amount as is shown to the satisfaction of the Commissioners of Customs and Excise to have been paid or, as the case may be, allowed in respect of that substance; or

(b) where regulations made by those Commissioners so provide, to such amount as is calculated on such assumptions as to the volume of the substance in question as may be determined in accordance with any such regulations.

(4) The power of the Commissioners of Customs and Excise to make regulations under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament; and any such regulations—

(a) may make different provision for different cases and for different substances; and

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(b) may contain such transitional, supplemental and incidental provision as those Commissioners think fit.

(5) Provision made under this section by any regulations may provide for any determination or measurement under the regulations to be made, or any description of a case or substance to be framed, by reference to such circumstances or other factors, or to the opinion of such persons, as the Commissioners think fit.

(6) For the purposes of this section "liquid" does not include any substance which is gaseous at a temperature of 15°C and under a pressure of 1013.25 millibars.

(7) In consequence of this section—

(a) section 2(5) of that Act (measurement of heavy oil having a temperature exceeding 15°C) shall cease to have effect; and

(b) the words "shown to the satisfaction of the Commissioners to have been" in section 15(1) of that Act (drawback) shall be omitted.

(8) This section shall come into force on such day as the Commissioners of Customs and Excise may by order made by statutory instrument appoint, and different days may be appointed under this subsection for different provisions and for different purposes.

*Tobacco products duty*

Rates of duty.
1979 c. 7.

**13.**—(1) For the Table in Schedule 1 to the Tobacco Products Duty Act 1979 there shall be substituted—

"TABLE

| | |
|---|---|
| 1. Cigarettes ... ... ... | An amount equal to 20 per cent. of the retail price plus £48.75 per thousand cigarettes. |
| 2. Cigars ... ... ... ... | £72.30 per kilogram. |
| 3. Hand-rolling tobacco | £76.29 per kilogram. |
| 4. Other smoking tobacco and chewing tobacco ... | £31.93 per kilogram." |

(2) This section shall be deemed to have come into force at 6 o'clock in the evening of 16th March 1993.

Hand-rolling tobacco.

**14.**—(1) In the Tobacco Products Duty Act 1979, section 1 (definition of tobacco products) shall be amended as follows.

(2) In subsection (2) (definition of hand-rolling tobacco) after paragraph (a) there shall be inserted—

"(aa) which is of a kind used for making into cigarettes; or".

(3) In paragraph (b) of subsection (2) (more than 25 per cent. by weight of the tobacco particles have a width of less than 0.6 mm) for "0.6" there shall be substituted "1".

(4) The following subsection shall be inserted after subsection (2)—

"(2A) For the purposes of subsection (2)(aa) above the use for making into cigarettes must amount to more than occasional use but need not amount to common use."

(5) In subsection (3) (power to amend definitions) after "(2)" there shall be inserted "or (2A)".

*Gaming machine licence duty*

Rates of duty. 1981 c. 63.

**15.**—(1) The Tables set out in section 23(1) of the Betting and Gaming Duties Act 1981 shall be amended as follows—

(a) in Table A for "£375" there shall be substituted "£450";

(b) in Table B for "£375" there shall be substituted "£450" and for "£960" there shall be substituted "£1,150".

(2) This section shall apply in relation to licences for any period beginning on or after 1st May 1993.

Small-prize machines.

**16.**—(1) The Betting and Gaming Duties Act 1981 shall be amended as follows.

(2) In section 21 (gaming machine licences) in subsection (1) (licence required for machine other than a two-penny machine) for "a two-penny machine" there shall be substituted "an excepted machine".

(3) In that section the following subsection shall be inserted after subsection (3)—

"(3A) For the purposes of this section an excepted machine is—

(a) a two-penny machine, or

(b) a five-penny machine which is a small-prize machine."

(4) In section 22 (charge to duty)—

(a) in subsection (1) for the words from "by reference" to the end of the subsection there shall be substituted "in accordance with section 23 below";

(b) in subsection (5) after "gaming machine licence" there shall be inserted "falling within section 23(1B) below".

(5) In section 23 (amount of duty) the following subsections shall be substituted for subsection (1) (as amended by section 15 above)—

"(1) The duty on a whole-year gaming machine licence shall be determined as mentioned in subsection (1A) or (1B) below (as the case may be).

(1A) In the case of a special licence, or an ordinary licence which authorises the provision only of small-prize machines, the duty shall be £450 per machine authorised by the licence.

(1B) In any other case the duty shall be determined in accordance with the following Table, by reference to the number of machines which the licence authorises and to whether the licence authorises the provision of machines chargeable at the lower or higher rate—

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TABLE

| *Description of machines authorised by the licence* | *Duty on whole-year licence* |
|---|---|
| Chargeable at the lower rate | £450 per machine |
| Chargeable at the higher rate | £1,150 per machine." |

(6) For subsection (4) of section 25 (meaning of "gaming machine") there shall be substituted the following subsections—

"(4) Subject to subsection (5) below, for the purposes of determining whether a machine is a gaming machine it is immaterial whether it is capable of being played by only one person at a time, or is capable of being played by more than one person.

(5) For the purposes of sections 21 to 24 above a machine (the actual machine) which two or more persons can play simultaneously (whether or not participating with one another in the same game) shall, instead of being treated as one machine, be treated as if it were a number of machines (accountable machines) equal to the number of persons who can play the actual machine simultaneously.

(6) Subsection (5) above does not apply to a machine which is a two-penny machine, or is both a small-prize machine and a five-penny machine.

(7) If the actual machine is a small-prize machine but not a five-penny machine, the accountable machines shall be taken to be small-prize machines which are not five-penny machines.

(8) If the actual machine is not a small-prize machine, the accountable machines shall be taken not to be small-prize machines, and in such a case—

(a) if the actual machine is a five-penny machine, the accountable machines shall be taken to be five-penny machines;

(b) if the actual machine is not a five-penny machine, the accountable machines shall be taken not to be five-penny machines.

(9) For the purposes of subsection (5) above the number of persons who can play a particular machine simultaneously shall be determined by reference to the number of individual playing positions provided on the machine."

(7) In section 26(2) (interpretation) the following definition shall be inserted after the definition of "two-penny machine"—

"“five-penny machine” means a gaming machine which can only be played by the insertion into the machine of a coin or coins of a denomination, or aggregate denomination, not exceeding 5p;".

(8) In Schedule 4 (gaming machine licence duty: supplementary provisions) for paragraph 13 there shall be substituted the following paragraph—

"13.—(1) Regulations may make provision with respect to the labelling or marking of—

(a) gaming machines provided on any premises in respect of which an ordinary licence is in force, and

(b) gaming machines in respect of which special licences are in force,

with a view to enabling any such machine to be identified as falling within one of the categories mentioned in sub-paragraph (2) below.

(2) The categories referred to in sub-paragraph (1) above are—

(a) two-penny machines;

(b) machines which are both small-prize machines and five-penny machines;

(c) machines which are small-prize machines but not five-penny machines;

(d) machines which are not small-prize machines but are five-penny machines;

(e) machines which are not small-prize machines and are not five-penny machines.

(3) The regulations may include provision as to the size and description of labels or marks to be applied to machines, as to the cases in which they are required to be, or are prohibited from being, applied and as to the manner of the application."

(9) This section shall apply in relation to licences for any period beginning on or after 1st November 1993.

*Vehicles excise duty*

Rates of duty: general.
1971 c. 10.

**17.**—(1) The Vehicles (Excise) Act 1971 shall be amended as follows.

(2) In Schedule 1 (annual rate of duty on certain vehicles not exceeding 450 kilograms in weight unladen) in the Table set out in Part II—

(a) in the second column of paragraph 2 (bicycles exceeding 150 cc but not exceeding 250 cc) for "30.00" there shall be substituted "35.00";

(b) in the second column of paragraph 3 (bicycles exceeding 250 cc) for "50.00" there shall be substituted "55.00";

(c) in the second column of paragraph 5 (tricycles exceeding 150 cc) for "50.00" there shall be substituted "55.00".

(3) In Schedule 2 (annual rate of duty on hackney carriages) in the Table set out in Part II—

(a) in the second column of the first entry (hackney carriages with seating capacity under nine) for "110" there shall be substituted "125";

(b) in the second column of the second entry (hackney carriages with seating capacity of nine to sixteen) for "130" there shall be substituted "150".

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(4) In Schedule 3 (annual rate of duty on tractors etc.) in the Table set out in Part II—

(a) in the second column of paragraph 1 (special machines) for "30.00" there shall be substituted "35.00";

(b) in the second column of paragraph 2 (showmen's haulage vehicles) for "90.00" there shall be substituted "100.00";

(c) in the second column of paragraph 4 (recovery vehicles) for "75.00" there shall be substituted "85.00".

(5) In Schedule 4 (annual rate of duty on goods vehicles) in paragraph 1(1) of Part I (vehicles chargeable at the basic rate of duty) for "£130" there shall be substituted "£150".

(6) In Schedule 4, in paragraph 6 of Part I (farmers' and showmen's goods vehicles)—

(a) in sub-paragraph (1) for "£75" there shall be substituted "£85";

(b) in sub-paragraphs (2)(a), (2)(b) and (4) for "£90" (in each place) there shall be substituted "£100".

(7) In Schedule 5 (annual rate of duty on vehicles not falling within Schedules 1 to 4) in the Table set out in Part II—

(a) in the second column of paragraph 1 (vehicles constructed before 1947) for "60.00" there shall be substituted "70.00";

(b) in the second column of paragraph 2 (other vehicles) for "110.00" there shall be substituted "125.00".

(8) This section shall apply in relation to licences taken out after 16th March 1993.

Exceptional loads. 1971 c. 10.

**18.**—(1) The Vehicles (Excise) Act 1971 shall be amended as follows.

(2) In paragraph 2 of Schedule 4A (annual rates of duty on vehicles used for carrying or drawing exceptional loads) for "£3,250" there shall be substituted—

(a) "£4,250" in relation to licences taken out after 16th March 1993 and before the appointed day;

(b) "£5,000" in relation to licences taken out on or after the appointed day.

(3) In this section "the appointed day" means such day as the Secretary of State may appoint by order made by statutory instrument.

Trade licences.

**19.**—(1) The Vehicles (Excise) Act 1971 shall be amended as follows.

(2) In subsection (5) of section 16 (rates of duty for trade licences) including that subsection as set out in paragraph 12 of Part I of Schedule 7—

(a) for "£100" there shall be substituted "the rate mentioned in subsection (5A)(a) below", and

(b) for "£20" there shall be substituted "the rate mentioned in subsection (5A)(b) below".

(3) In that section the following subsection shall be inserted after subsection (5)—

"(5A) The rates referred to in subsection (5) above are—

(a) the annual rate applicable to a vehicle falling within paragraph 2 of Part II of Schedule 5 to this Act in relation to a licence taken out when the trade licence is taken out;

(b) the annual rate applicable to a vehicle falling within paragraph 3 of Part II of Schedule 1 to this Act in relation to a licence taken out when the trade licence is taken out."

(4) This section shall apply in relation to licences taken out after 16th March 1993.

Old bicycles.
1971 c. 10.

**20.**—(1) The Vehicles (Excise) Act 1971 shall be amended as follows.

(2) In Schedule 1 (annual rate of duty on motor bicycles etc.) for paragraph 2 (concession for certain old bicycles) there shall be substituted—

"2. Where a bicycle the cylinder capacity of whose engine exceeds 150 cubic centimetres is one constructed before 1933 it shall be treated for the purposes of this Schedule as having an engine of cylinder capacity not exceeding 150 cubic centimetres."

(3) In paragraph 4(a) of that Schedule (substitution of 1935 for 1933 in Northern Ireland) for "2(a)" there shall be substituted "2".

(4) This section shall apply in relation to licences taken out after 16th March 1993.

Simplification of duty on goods vehicles.

**21.**—(1) The Secretary of State may by order make such modifications of Schedule 4 to the Vehicles (Excise) Act 1971 (annual rates of duty on goods vehicles) as he thinks fit for the purpose of securing—

(a) that the annual rates of duty applicable in accordance with that Schedule are expressed by reference to fewer tables; and

(b) that the tables which in pursuance of any order under this section are set out in that Schedule have effect in different cases subject to the operation of such multipliers as may be appropriate.

(2) An order under this section—

(a) shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament; and

(b) may contain such incidental and consequential provision (including provision modifying any enactment) as the Secretary of State thinks fit.

(3) Nothing in this section shall authorise any increase by order of the annual rate of duty chargeable in respect of any vehicle.

*Miscellaneous*

Mutual recovery and disclosure of information.
1980 c. 48.

**22.**—(1) In subsection (1) of section 17 of the Finance Act 1980 (extension of mutual recovery provisions to VAT), at the end there shall be inserted "and to excise duties by the Directive of the Council of the European Communities dated 14th December 1992 No. 92/108/EEC."

(2) In subsection (2)(a) of that section (extension of mutual disclosure provisions to VAT), after "No. 79/1070/EEC" there shall be inserted "and to excise duties by the Directive of the Council of the European Communities dated 25th February 1992 No. 92/12/EEC."

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(3) After subsection (2) of that section there shall be inserted the following subsection—

"(2A) The references in subsections (1) and (2) above to excise duties are references to any duty on mineral oils, on alcohol and alcoholic beverages or on manufactured tobacco."

(4) Subsection (1) above shall have effect as respects a request for the recovery of a sum only if it is a sum becoming due on or after the day on which this Act is passed.

VAT and customs duty on vehicles subject to VED.
1971 c.10.

**23.**—(1) Where an application is made for a licence under the Vehicles (Excise) Act 1971 for a vehicle which—

(a) appears to the Secretary of State to have been removed into the United Kingdom from a place outside the United Kingdom; and

(b) is not already registered under that Act,

he may refuse to issue the licence unless subsection (2) below applies to the vehicle.

(2) This subsection applies to a vehicle if the Secretary of State is satisfied in relation to the removal of that vehicle into the United Kingdom—

(a) that any value added tax charged on the acquisition of that vehicle from another member State, or on any supply involving its removal into the United Kingdom, has been or will be paid or remitted;

(b) that any value added tax or customs duty charged on the importation of the vehicle from a place outside the member States has been or will be paid or remitted; or

(c) that no such tax or duty has been charged on the acquisition or importation of the vehicle or on any supply involving its removal into the United Kingdom.

(3) This section shall have effect in relation to any application made on or after the day on which this Act is passed.

## CHAPTER II

## LOTTERY DUTY

### *The duty*

Lottery duty.

**24.**—(1) Subject to subsections (3) and (4) below, a duty of excise called "lottery duty" is chargeable—

(a) on the taking in the United Kingdom of a ticket or chance in a lottery, and

(b) in such cases as may be determined by regulations, on the taking outside the United Kingdom of a ticket or chance in a lottery promoted in the United Kingdom.

(2) Regulations may make provision for determining when and where the taking of a ticket or chance in a lottery is to be treated as occurring for the purposes of this Chapter.

(3) Lottery duty is not chargeable in respect of a lottery that constitutes a game of bingo (or any version of bingo, by whatever name called).

(4) Lottery duty is not chargeable in respect—

(a) of a lottery promoted as an incident of an exempt entertainment within the meaning of the Lotteries and Amusements Act 1976 or the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985;

1976 c. 32. S.I. 1985/1204 (N.I. 11).

(b) of a private lottery within the meaning of that Act or Order;

(c) of a society's lottery within the meaning of that Act or Order in respect of which the conditions set out in section 5(3) of that Act or Article 135(1) of that Order are satisfied;

(d) of a local lottery within the meaning of that Act in respect of which the conditions set out in section 6(2) of that Act are satisfied;

(e) of a lottery promoted in accordance with the Art Unions Act 1846.

1846 c. 48.

(5) The Treasury may by order amend subsection (4) above so as to add to the descriptions of lottery for the time being mentioned in that subsection, so as to omit any of them or so as to substitute a different description of lottery for any of them.

Amount of duty.

**25.**—(1) The amount of the lottery duty chargeable on the taking of a ticket or chance in a lottery is equal to 12 per cent. of the value of the consideration given for the ticket or chance.

(2) Subject to subsection (3) below, the aggregate of everything paid or given by (or debited to the account of) the person taking the ticket or chance for, on account of, or in connection with, the ticket or chance shall be taken to be the consideration given for it.

(3) If a price is shown on a lottery ticket or any other document providing evidence of the taking of a ticket or chance in a lottery and—

(a) the consideration given for the ticket or chance is of lesser value than the price shown (or is of no value), or

(b) no consideration is given for the ticket or chance,

consideration to the value of the price shown shall be taken to be given for the ticket or chance.

Time for payment.

**26.**—(1) The lottery duty chargeable on the taking of a ticket or chance in a lottery becomes due and (subject to any regulations under subsection (2) below) payable at the time the ticket or chance is taken.

(2) Regulations may provide for the payment of any lottery duty due in respect of a lottery of a description specified in the regulations to be deferred, subject to any conditions or requirements that may be imposed by or under the regulations.

(3) Regulations may require payments (of amounts determined by or under the regulations) to be made on account of any lottery duty that may become due in respect of a lottery of a description specified in the regulations that is being or is to be promoted.

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Persons liable for duty.

**27.**—(1) Any lottery duty or payment on account of lottery duty that under section 26 above or regulations under that section is payable in respect of a lottery shall be paid (subject to any regulations under subsection (2) below) by the promoter of the lottery.

(2) Regulations may require any lottery duty or payment on account of lottery duty that is payable in respect of a lottery of a description specified in the regulations to be paid by a person specified in the regulations (being a person who occupies or has occupied a position of responsibility in relation to the lottery) instead of by the promoter.

(3) Any lottery duty that is payable in respect of a lottery may be recovered jointly and severally from—

(a) the promoter of the lottery,

(b) any other person who occupies or has occupied a position of responsibility in relation to the lottery or who has or has had any degree of control over any of its proceeds, and

(c) where the promoter or a person within paragraph (b) above is a body corporate, any director of that body corporate.

(4) A person who does not make a payment that he is required to make by subsection (1) above or regulations under subsection (2) above at the time the payment becomes payable is guilty of an offence and liable on summary conviction to a penalty of level 5 on the standard scale or, if greater, treble the amount of the unpaid duty or payment on account of duty.

*Administration and enforcement*

General.

**28.**—(1) Lottery duty shall be under the care and management of the Commissioners.

(2) Regulations may provide for any matter for which provision appears to the Commissioners to be necessary or expedient for the administration or enforcement of lottery duty or for the protection of the revenue derived from lottery duty.

(3) A person who contravenes or does not comply with any regulations under subsection (2) above is guilty of an offence and liable on summary conviction to a penalty of level 5 on the standard scale.

Registration of promoters etc.

**29.**—(1) A lottery in respect of which lottery duty is chargeable (or, on the taking of a ticket or chance, will be chargeable) shall not be promoted in the United Kingdom unless the chargeable person is registered with the Commissioners under this section.

(2) In this section "the chargeable person", in relation to a lottery, means—

(a) subject to paragraph (b) below, the promoter of the lottery;

(b) in the case of a lottery of a description specified in regulations under section 27(2) above, the other person referred to in that subsection.

(3) Regulations may make provision—

(a) as to the time at which an application for registration is to be made, as to the form and manner of such an application and as to the information to be contained in or provided with it,

(b) as to the requirements that must be satisfied as a condition of a person's registration or continued registration, and

(c) as to other requirements that must be observed by a person while he remains registered.

(4) The requirements imposed by virtue of subsection (3)(b) above may include requirements as to the giving of security or further security (by means of a deposit or otherwise) for any lottery duty that may become due.

(5) Subject to regulations under subsection (3)(a) and (b) above, the Commissioners—

(a) shall register any person applying to them for registration who satisfies them that he will be the chargeable person in relation to a lottery that is to be promoted, and

(b) shall not remove any person from the register unless it appears to them that no lottery is being or is to be promoted in relation to which he is or will be the chargeable person.

(6) Where—

(a) the Commissioners determine that a person should be removed from the register because any requirement imposed by regulations under subsection (3)(b) above is not (or is no longer) satisfied in relation to him, and

(b) a lottery in relation to which he is the chargeable person is being promoted at the time they make that determination,

they shall not remove him from the register until the promotion of that lottery has come to an end.

(7) If subsection (1) above is contravened in relation to a lottery at any time during its promotion, the chargeable person is guilty of an offence and liable—

(a) on summary conviction, to a penalty of the statutory maximum or to imprisonment for a term not exceeding six months, or to both, or

(b) on conviction on indictment, to a penalty of any amount or to imprisonment for a term not exceeding two years, or to both.

(8) A person who contravenes or fails to comply with any requirements imposed by regulations under subsection (3)(c) above is guilty of an offence and liable on summary conviction to a penalty of level 5 on the standard scale.

Application of revenue trade provisions of CEMA 1979.
1979 c. 2.

**30.**—(1) Section 1(1) of the Customs and Excise Management Act 1979 (interpretation) shall be amended in accordance with subsections (2) and (3) below.

(2) In the definition of "the revenue trade provisions of the customs and excise Acts"—

(a) the word "and" at the end of paragraph (b) shall be omitted, and

(b) at the end there shall be added "; and

"(d) the provisions of Chapter II of Part I of the Finance Act 1993;".

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(3) In paragraph (a) of the definition of "revenue trader"—

(a) the word "or" at the end of sub-paragraph (i) shall be omitted,

(b) after sub-paragraph (i) there shall be inserted—

"(ia) the buying, selling, importation, exportation, dealing in or handling of tickets or chances on the taking of which lottery duty is or will be chargeable; or", and

(c) in sub-paragraph (ii) after "activities" there shall be inserted "as are mentioned in sub-paragraph (i) or (ia) above".

1979 c. 2.

(4) In section 117 of the Customs and Excise Management Act 1979 (execution and distress against revenue traders) after subsection (1) there shall be inserted—

"(1A) In subsection (1) above as it applies in relation to a sum owing by a revenue trader in respect of lottery duty or of a relevant penalty—

(a) references to goods liable to any excise duty include lottery tickets on the taking of which lottery duty will be chargeable, and

(b) "the trade in respect of which the duty is imposed" includes any trade or business carried on by the revenue trader that consists of or includes the buying, selling, importation, exportation, dealing in or handling of tickets or chances on the taking of which lottery duty is or will be chargeable."

General offences.

**31.**—(1) A person who is knowingly concerned—

(a) in the fraudulent evasion (by him or another person) of lottery duty, or

(b) in taking steps with a view to such fraudulent evasion,

is guilty of an offence.

(2) A person guilty of an offence under subsection (1) above is liable—

(a) on summary conviction, to a penalty of the statutory maximum or, if greater, treble the amount of the duty evaded or sought to be evaded or to imprisonment for a term not exceeding six months, or to both, or

(b) on conviction on indictment, to a penalty of any amount or to imprisonment for a term not exceeding seven years, or to both.

(3) A person who in connection with lottery duty—

(a) makes a statement that he knows to be false in a material particular or recklessly makes a statement that is false in a material particular, or

(b) with intent to deceive, produces or makes use of a book, account, return or other document that is false in a material particular,

is guilty of an offence.

(4) A person guilty of an offence under subsection (3) above is liable—

(a) on summary conviction, to a penalty of the statutory maximum or to imprisonment for a term not exceeding six months, or to both, or

(b) on conviction on indictment, to a penalty of any amount or to imprisonment for a term not exceeding two years, or to both.

Offences by bodies corporate.

**32.** Where an offence under this Chapter is committed by a body corporate, every person who at the date of the commission of the offence is a director, manager, secretary or other similar officer of the body corporate (or is purporting to act in such a capacity) is also guilty of the offence unless—

(a) the offence is committed without his consent or connivance, and

(b) he has exercised all such diligence to prevent its commission as he ought to have exercised, having regard to the nature of his functions in that capacity and to all the circumstances.

Forfeiture.

**33.**—(1) Where a person has committed an offence under section 31(1) or (3) above, any goods used in the promotion of, or in any other way related to, a relevant lottery are liable to forfeiture.

(2) In subsection (1) above "relevant lottery"—

(a) in relation to an offence under section 31(1) above, means a lottery in respect of which lottery duty was fraudulently evaded or (as the case may be) in respect of which the fraudulent evasion of lottery duty was sought, and

(b) in relation to an offence under section 31(3) above, means a lottery to which the false statement or (as the case may be) false document related.

Protection of officers etc.

**34.** Where a person takes an action in pursuance of instructions of the Commissioners given in connection with the enforcement of this Chapter or of regulations under it and, apart from this section, the person would in taking that action be committing an offence under any enactment relating to lotteries, he shall not be guilty of that offence.

Evidence by certificate etc.

**35.**—(1) A certificate of the Commissioners—

(a) that a person was or was not, at any date, registered under section 29 above,

(b) that any return required by regulations under this Chapter had not been made at any date, or

(c) that any lottery duty shown as due in a return made in pursuance of such regulations or in an estimate made under section 116A of the Customs and Excise Management Act 1979 had not been paid at any date,

1979 c. 2.

is sufficient evidence of that fact until the contrary is proved.

(2) A photograph of any document furnished to the Commissioners for the purposes of this Chapter and certified by them to be such a photograph is admissible in any proceedings, whether civil or criminal, to the same extent as the document itself.

(3) Any document purporting to be a certificate under subsection (1) or (2) above shall be taken to be such a certificate until the contrary is proved.

Duty a preferential debt in insolvency.
1986 c. 45.

**36.**—(1) In section 386(1) of the Insolvency Act 1986 (preferential debts) after "beer duty" there shall be inserted ", lottery duty".

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(2) In Schedule 6 to that Act (categories of preferential debts) in Category 2 (debts due to Customs and Excise) after paragraph 5A there shall be inserted—

"5B. Any amount which is due by way of lottery duty from the debtor at the relevant date and which became due within the period of 12 months next before that date."

1985 c. 66.

(3) In Schedule 3 to the Bankruptcy (Scotland) Act 1985 (list of preferred debts) at the end of paragraph 2 (debts due to Customs and Excise) there shall be added—

"(5) Any amount which is due by way of lottery duty from the debtor at the relevant date and which became due within the period of 12 months next before that date."

S.I. 1989/2405 (N.I.19).

(4) In Article 346(1) of the Insolvency (Northern Ireland) Order 1989 (preferential debts) after "beer duty" there shall be inserted ", lottery duty".

(5) In Schedule 4 to that Order (categories of preferential debts) in Category 2 (debts due to Customs and Excise) after paragraph 5A there shall be inserted—

"5B. Any amount which is due by way of lottery duty from the debtor at the relevant date and which became due within the period of 12 months next before that date."

Disclosure of information.

**37.**—(1) Notwithstanding any obligation not to disclose information that would otherwise apply, the Commissioners may disclose information—

(a) to the Secretary of State,

(b) to the Gaming Board for Great Britain, or

(c) to an authorised officer of the Secretary of State or Gaming Board,

for the purpose of assisting the Secretary of State or Gaming Board (as the case may be) in the performance of duties imposed by or under any enactment in relation to lotteries.

(2) Notwithstanding any such obligation as is mentioned in subsection (1) above—

(a) the Secretary of State,

(b) the Gaming Board for Great Britain, or

(c) an authorised officer of the Secretary of State or Gaming Board,

may disclose information to the Commissioners or to an authorised officer of the Commissioners for the purpose of assisting the Commissioners in the performance of duties in relation to lottery duty.

(3) Information that has been disclosed to a person by virtue of this section shall not be disclosed by him except—

(a) to another person to whom (instead of him) disclosure could by virtue of this section have been made, or

(b) for the purpose of any proceedings connected with the operation of any enactment in relation to lotteries or lottery duty.

(4) References above in this section to the Secretary of State include any person who has been designated by the Secretary of State as a person to and by whom information may be disclosed under this section.

(5) The Secretary of State shall notify the Commissioners in writing if he designates a person under subsection (4) above.

*Supplementary*

Regulations and orders.

**38.**—(1) Any regulations under this Chapter may make—

(a) different provision for different cases or circumstances, and

(b) incidental, supplemental or consequential provision.

(2) Any power to make regulations or orders under this Chapter is exercisable by statutory instrument.

(3) Subject to subsection (4) below, a statutory instrument containing such regulations or an order under section 24(5) above is subject to annulment in pursuance of a resolution of the House of Commons.

(4) An order under section 24(5) above that will result in lottery duty becoming chargeable in respect of any description of lottery shall not be made unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, the House of Commons.

Disapplication of pool betting duty. 1981 c. 63.

**39.** In section 6 of the Betting and Gaming Duties Act 1981 (pool betting duty)—

(a) for subsection (3)(b) there shall be substituted—

"(b) "bet" does not include the taking of a ticket or chance in a lottery.", and

(b) subsection (4) shall cease to have effect.

Interpretation etc.

**40.**—(1) In this Chapter—

"the Commissioners" means the Commissioners of Customs and Excise,

"document" includes a document of any kind whatsoever and, in particular, a record kept by means of a computer,

"promotion", in relation to a lottery, includes the conduct of the lottery (and "promoted" is to be read accordingly), and

"regulations" means regulations made by the Commissioners.

(2) This Chapter applies in relation to lotteries promoted on behalf of the Crown in pursuance of any enactment as it applies in relation to lotteries not so promoted.

(3) The imposition by this Chapter of lottery duty does not make lawful anything that is unlawful apart from this Chapter.

Commencement.

**41.** This Chapter shall come into force on such day as the Commissioners may by order appoint, and different days may be appointed for different provisions or for different purposes.

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## CHAPTER III

## VALUE ADDED TAX

Fuel and power for domestic or charity use. 1983 c. 55.

**42.**—(1) The supplies of the descriptions specified in Group 7 of Schedule 5 to the Value Added Tax Act 1983 (supplies of fuel and power for domestic or charity use) shall cease to be zero-rated for the purposes of charging value added tax on any supply, acquisition or importation made or taking place on or after 1st April 1994.

(2) Section 9 of the Value Added Tax Act 1983 (rate of tax) shall have effect—

(a) in relation to so much of any supply made on or after 1st April 1994 and before 1st April 1995 as (but for subsection (1) above) would be zero-rated by virtue of Group 7 of Schedule 5 to that Act; and

(b) in relation to any equivalent acquisition or importation taking place on or after 1st April 1994 and before 1st April 1995,

as if a rate of 8 per cent. were substituted for the rate specified in subsection (1) of that section.

(3) The reference in subsection (2) above to an equivalent acquisition or importation, in relation to any supply which would be zero-rated but for subsection (1) above, is a reference, as the case may be, to—

(a) any acquisition from another member State of goods the supply of which would be such a supply; or

(b) any importation from a place outside the member States of any such goods.

(4) This section shall be construed as one with the Value Added Tax Act 1983.

Vehicle fuel for private use. 1986 c. 41.

**43.**—(1) Paragraph 3 of Schedule 6 to the Finance Act 1986 and the Table B set out after that paragraph (consideration for fuel for private use where business use not less than specified amount) shall not have effect in relation to any case where the prescribed accounting period begins after 5th April 1993.

(2) Accordingly, that Schedule shall have effect in relation to any such case with the following amendments, namely—

(a) in paragraph 5(1)(a), for the words from "cubic capacity" to "in question" there shall be substituted "vehicle specified in Table A above, that Table";

(b) in paragraph 5(1)(b), for "cubic capacity specified in those Tables" and "the Table in question" there shall be substituted, respectively, "vehicle specified in that Table" and "that Table";

(c) in paragraph 6(1), for the words from "Tables" onwards there shall be substituted "Table A above is the capacity of its engine as calculated for the purposes of the Vehicles (Excise) Act 1971"; and

(d) in paragraph 6(2), for "Tables A and B" there shall be substituted "Table A".

(3) Paragraph 4 of that Schedule (power of Treasury to substitute Tables) shall have effect for the purposes of the making of any order after 5th April 1993 with the substitution of "the Table A for the time being" for "either of the Tables".

Acquisitions from persons belonging in other member States.
1983 c. 55.

**44.**—(1) After section 8C of the Value Added Tax Act 1983 there shall be inserted the following section—

"Acquisitions from persons belonging in other member States.

8D.—(1) Subject to subsection (3) below, where—

(a) a person ('the original supplier') makes a supply of goods to a person who belongs in another member State ('the intermediate supplier');

(b) that supply involves the removal of the goods from another member State and their removal to the United Kingdom but does not involve the removal of the goods from the United Kingdom;

(c) both that supply and the removal of the goods to the United Kingdom are for the purposes of the making of a supply by the intermediate supplier to another person ('the customer') who is registered under this Act;

(d) neither of those supplies involves the removal of the goods from a member State in which the intermediate supplier is taxable at the time of the removal without also involving the previous removal of the goods to that member State; and

(e) there would be a taxable acquisition by the customer if the supply to him involved the removal of goods from another member State to the United Kingdom,

the supply by the original supplier to the intermediate supplier shall be disregarded for the purposes of this Act and the supply by the intermediate supplier to the customer shall be treated for the purposes of this Act, other than Schedule 1B, as if it did involve the removal of the goods from another member State to the United Kingdom.

(2) Subject to subsection (3) below, where—

(a) a person belonging in another member State makes such a supply of goods to a person who is registered under this Act as involves their installation or assembly at a place in the United Kingdom to which they are removed; and

(b) there would be a taxable acquisition by the registered person if that supply were treated as not being a taxable supply but as involving the removal of the goods from another member State to the United Kingdom,

that supply shall be so treated except for the purposes of Schedule 1B to this Act.

(3) Neither subsection (1) nor subsection (2) above shall apply in relation to any supply unless the intermediate supplier or, as the case may be, the person making the supply complies with such requirements as to the furnishing (whether before or after the supply is made) of invoices and other documents, and of information, to—

(a) the Commissioners, and

(b) the person supplied,

as the Commissioners may by regulations prescribe; and regulations under this subsection may provide for the times at which, and the form and manner in which, any document or information is to be furnished and for the particulars which it is to contain.

(4) Where this section has the effect of treating a taxable acquisition as having been made, section 8B(1) above shall apply in relation to that acquisition with the omission of the words from 'whichever' to 'acquisition; and' at the end of paragraph (a).

(5) For the purposes of this section a person belongs in another member State if—

(a) he does not have any business establishment or other fixed establishment in the United Kingdom and does not have his usual place of residence in the United Kingdom;

(b) he is neither registered under this Act nor required to be so registered;

(c) he does not have a tax representative and is not for the time being required to appoint one; and

(d) he is taxable in another member State;

but, in determining for the purposes of paragraph (b) above whether a person is required to be registered under this Act, there shall be disregarded any supplies which, if he did belong in another member State and complied with the requirements prescribed under subsection (3) above, would fall to be disregarded by virtue of this section.

(6) Without prejudice to section 8C(4) above, where—

(a) any goods are acquired from another member State in a case which corresponds, in relation to another member State, to the case specified in relation to the United Kingdom in subsection (1) above; and

(b) the person who acquires the goods is registered under this Act and would be the intermediate supplier in relation to that corresponding case,

the supply to him of those goods and the supply by him of those goods to the person who would be the customer in that corresponding case shall both be disregarded for the purposes of this Act, other than the purposes of the information provisions referred to in section 46A(7) below.

(7) References in this section to a person being taxable in another member State shall not include references to a person who is so taxable by virtue only of provisions of the law of another member State corresponding to the provisions of this Act by virtue of which a person who is not registered under this Act is a taxable person if he is required to be so registered."

(2) Section 32B of that Act (overseas suppliers accounting through their customers) shall cease to have effect.

(3) As a consequence of the preceding provisions of this section—

(a) in section 6(1) of that Act (place of supply), for "section 35" there shall be substituted "sections 8D and 35"; and

(b) in section 8C(1) of that Act (place of acquisition), for "sections 32B(5) and 35" there shall be substituted "section 35".

(4) This section shall have effect in relation to supplies of goods made on or after 1st August 1993 other than a supply of goods by an intermediate supplier to whom the goods were supplied before that date.

Customers to account for tax on supplies of gold etc.
1983 c. 55.

**45.**—(1) After section 37B of the Value Added Tax Act 1983 there shall be inserted the following section—

"Customers to account for tax on supplies of gold etc.

37C.—(1) Where any person makes a supply of gold to another person and that supply is a taxable supply but not a zero-rated supply, the supply shall be treated for the purposes of Schedule 1 to this Act—

(a) as a taxable supply of that other person (as well as a taxable supply of the person who makes it); and

(b) in so far as that other person is supplied in connection with the carrying on by him of any business, as a supply made by him in the course or furtherance of that business;

but nothing in paragraph (b) above shall require any supply to be disregarded for the purposes of that Schedule on the grounds that it is a supply of capital assets of that other person's business.

(2) Where a taxable person makes a supply of gold to a person who—

(a) is himself a taxable person at the time when the supply is made; and

(b) is supplied in connection with the carrying on by him of any business,

it shall be for the person supplied, on the supplier's behalf, to account for and pay tax on the supply, and not for the supplier.

(3) So much of this Act and of any other enactment or any subordinate legislation as has effect for the purposes of, or in connection with, the enforcement of any obligation to account for and pay value added tax shall apply for the purposes of this section in relation to any

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person who is required under subsection (2) above to account for and pay any tax as if that tax were tax on a supply made by him.

(4) Section 5(1) to (5) above shall not apply for determining when any supply of gold is to be treated as taking place.

(5) References in this section to a supply of gold are references to—

(a) any supply of goods consisting in gold, including gold coins, or

(b) any supply of goods containing gold where the consideration for the supply (apart from any tax) is, or is equivalent to, an amount which does not exceed, or exceeds by no more than a negligible amount, the open market value of the gold contained in the goods.

(6) The Treasury may by order provide for this section to apply, as it applies to the supplies specified in subsection (5) above, to such other supplies of—

(a) goods consisting in or containing any precious or semi-precious metal or stones; or

(b) services relating to, or to anything containing, any precious or semi-precious metal or stones,

as may be specified or described in the order."

(2) In section 5(9) of that Act (power to modify time of supply)—

(a) in the words before paragraph (a), after "4 above" there shall be inserted "or 37C(4) below"; and

(b) in the words after paragraph (b), before "a supply of services" there shall be inserted "a supply to which section 37C below applies or there is".

(3) Subsection (1) above, so far as it makes provision in relation to supplies of gold, shall have effect in relation to supplies made on or after 1st April 1993, but section 5 of that Act shall be disregarded in determining the time of any supply for the purposes of this subsection.

Appeals in respect of input tax. 1983 c. 55.

**46.**—(1) In section 40 of the Value Added Tax Act 1983 (appeals), after subsection (3) there shall be inserted the following subsection—

"(3ZA) Where—

(a) there is an appeal against a decision of the Commissioners with respect to, or to so much of any assessment as concerns, the amount of input tax that may be credited to any person or the proportion of input tax allowable under section 15 above,

(b) that appeal relates, in whole or in part, to any determination by the Commissioners—

(i) as to the purposes for which any goods or services were or were to be used by any person, or

(ii) as to whether or to what extent the matters to which any input tax was attributable were or included matters other than the making of supplies within section 15(2) above, and

(c) tax for which, in pursuance of that determination, there is no entitlement to a credit is tax on the supply, acquisition or importation of something in the nature of a luxury, amusement or entertainment,

the tribunal shall not allow the appeal or, as the case may be, so much of it as relates to that determination unless it considers that the determination is one which it was unreasonable to make or which it would have been unreasonable to make if information brought to the attention of the tribunal that could not have been brought to the attention of the Commissioners had been available to be taken into account when the determination was made."

(2) This section shall apply in relation to any appeal relating to the input tax that may be credited to any person at the end of a prescribed accounting period beginning on or after the day on which this Act is passed.

Deemed supplies.
1983 c. 55.

**47.**—(1) Paragraph 5 of Schedule 2 to the Value Added Tax Act 1983 (matters to be treated as supplies) shall be amended as follows.

(2) In sub-paragraph (2) (gifts which are not to be treated as supplies), for paragraph (b) there shall be substituted the following paragraph—

"(b) subject to sub-paragraph (2A) below, a gift to any person of a sample of any goods."

(3) After that sub-paragraph there shall be inserted the following sub-paragraph—

"(2A) Where—

(a) a person is given a number of samples by the same person (whether all on one occasion or on different occasions), and

(b) those samples are identical or do not differ in any material respect from each other,

sub-paragraph (1) above shall apply to all except one of those samples or, as the case may be, to all except the first to be given."

(4) After sub-paragraph (3) there shall be inserted the following sub-paragraph—

"(3A) Neither sub-paragraph (1) nor sub-paragraph (3) above shall require anything which a person carrying on a business does otherwise than for a consideration in relation to any goods to be treated as a supply except in a case where that person is entitled under sections 14 and 15 of this Act to credit for the whole or any part of the tax on the supply, acquisition or importation of those goods or of anything comprised in them."

Bad debts.
1990 c. 29.

**48.**—(1) In section 11 of the Finance Act 1990 (bad debts) in subsection (1)(c) (period of one year beginning with date of supply must elapse) for "one year" there shall be substituted "six months".

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(2) This section shall be deemed to have come into force on 1st April 1993 and shall apply in relation to supplies made on or after 1st April 1992.

Penalties etc. 1985 c. 54.

**49.** Schedule 2 to this Act (which contains amendments of the provisions of Chapter II of Part I of the Finance Act 1985 relating to penalties etc.) shall have effect.

Amendments in connection with abolition of car tax. 1983 c. 55.

**50.**—(1) The Value Added Tax Act 1983 shall be amended as follows.

(2) In Schedule 4 (valuation: special cases) in paragraph 3A(1)—

(a) the words "or with car tax", and

(b) the word "tax" in the second place where it occurs,

shall be omitted.

(3) In Schedule 4A (valuation of acquisitions from other member states: special cases) in paragraph 2(1)—

(a) the words "or with car tax", and

(b) the word "tax" in the second place where it occurs,

shall be omitted.

(4) In Schedule 7 (administration, collection and enforcement) in paragraph 2(3B)—

(a) the words "or of a chargeable vehicle within the meaning of the Car Tax Act 1983" shall be omitted,

(b) the words "or of such a vehicle" shall be omitted, and

(c) for the words from "any duty" to "may allow" there shall be substituted the words "any duty or agricultural levy in the value of the supply or acquisition determined, by reference to the duty point or by reference to such later time as the Commissioners may allow."

## PART II

## INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

### CHAPTER I

### GENERAL

*Income tax: charge, rates and allowances*

Charge and rates of income tax for 1993-94.

**51.**—(1) Income tax shall be charged for the year 1993-94, and for that year—

(a) the lower rate shall be 20 per cent.,

(b) the basic rate shall be 25 per cent., and

(c) the higher rate shall be 40 per cent.

(2) For the year 1993-94 section 1(2) of the Taxes Act 1988 shall apply as if—

(a) the amount specified in paragraph (aa) were £2,500 (the lower rate limit), and

(b) the amount specified in paragraph (b) were £23,700 (the basic rate limit);

and accordingly section 1(4) of that Act (indexation) shall not apply for the year 1993-94.

Personal and married couple's allowances.

**52.** Sections 257 and 257A of the Taxes Act 1988 (personal and married couple's allowances) shall apply for the year 1993-94 as if the amounts specified in them were the same as the amounts specified in them as they apply for the year 1992-93, and accordingly section 257C(1) of that Act (indexation) shall not apply for the year 1993-94.

*Corporation tax charge and rate*

Charge and rate of corporation tax for 1993.

**53.** Corporation tax shall be charged for the financial year 1993 at the rate of 33 per cent.

Small companies.

**54.** For the financial year 1993—

(a) the small companies' rate shall be 25 per cent., and

(b) the fraction mentioned in section 13(2) of the Taxes Act 1988 (marginal relief for small companies) shall be one fiftieth.

*Interest: general*

Relief for interest.

**55.** For the year 1993-94 the qualifying maximum defined in section 367(5) of the Taxes Act 1988 (limit on relief for interest on certain loans) shall be £30,000.

Interest relief: substitution of security.

**56.** The following sections shall be inserted after section 357 of the Taxes Act 1988—

"Substitution of security.

357A.—(1) Subject to subsection (9) below, this section applies where—

(a) on or after 16th March 1993 a person purchases an estate or interest in land or the property in a caravan or house-boat (the new estate, interest or property), and

(b) a security substitution arrangement takes effect on or after that date in connection with the purchase.

(2) Subsection (3) below applies where—

(a) the arrangement mentioned in subsection (1) above relates to one existing loan only, and

(b) no other security substitution arrangement takes effect at the same time in connection with the purchase of the new estate, interest or property.

(3) As regards interest paid on the loan after the time the new estate, interest or property became security for the loan, the loan shall be treated for the purposes of sections 353 to 379 (other than this section and sections 357B and 357C) as if—

(a) it had been made at that time, and

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(b) so much of it as was then outstanding and did not exceed the relevant amount had been used at that time to defray money applied in purchasing the new estate, interest or property.

(4) Subsection (5) below applies where either—

(a) the arrangement mentioned in subsection (1) above relates to two or more existing loans, or

(b) two or more security substitution arrangements take effect at the same time in connection with the purchase of the new estate, interest or property.

(5) As regards interest paid on the loans after the time the new estate, interest or property became security for the loans, the loans shall be treated for the purposes of sections 353 to 379 (other than this section and sections 357B and 357C) as if—

(a) they had been made at that time, and

(b) they had been used at that time to defray money applied in purchasing the new estate, interest or property;

but in any case where at that time the aggregate of the amounts of the loans outstanding exceeded the relevant amount, the loans shall be treated as mentioned in paragraph (b) above only to the extent that the aggregate did not exceed the relevant amount.

(6) For the purposes of this section the relevant amount is—

(a) where there is no loan falling within subsection (7) below, an amount equal to the purchase price of the new estate, interest or property;

(b) where there is one loan falling within that subsection, an amount equal to the difference between the purchase price of the new estate, interest or property and the amount of that loan;

(c) where there are two or more loans falling within that subsection, an amount equal to the difference between the purchase price of the new estate, interest or property and the total of the amounts of those loans.

(7) A loan falls within this subsection if—

(a) it is at the relevant time, or was before the relevant time, actually used to any extent to defray money applied in purchasing the new estate, interest or property, or

(b) by virtue of an earlier security substitution arrangement, it is treated to any extent as if before the relevant time it had been used to defray money so applied;

but a loan does not fall within this subsection unless interest on the loan is eligible for relief under section 353 by virtue of section 355(1)(a) or 356(1).

(8) For the purposes of subsection (7) above the relevant time is the time when under the arrangement mentioned in subsection (1) above the new estate, interest or property becomes security for the existing loan or loans.

(9) This section does not apply in relation to a security substitution arrangement if, as regards the new estate, interest or property—

(a) there is at least one loan falling within subsection (7) above, and

(b) the amount of that loan or (if there is more than one) the total of the amounts of those loans is the same as the purchase price of the new estate, interest or property.

(10) For the purposes of subsections (6) and (9) above the amount of a loan is its amount when made, except that where—

(a) a loan falls within subsection (7) above by virtue of the fact that it is or was partly used to defray money applied in purchasing the new estate, interest or property, or

(b) a loan falls within that subsection by virtue of the fact that it is treated as if it had been partly so used,

the amount of the loan shall be taken for the purposes of subsections (6) and (9) above to be the amount of the part so used or (as the case may be) treated as so used.

Treatment of loans following security substitution.

357B.—(1) This section applies where—

(a) by virtue of section 357A a loan is treated to any extent as having been used at a particular time to defray money applied in purchasing the new estate, interest or property,

(b) after that time a loan (a new loan) is actually used to any extent to defray money applied in purchasing the new estate, interest or property, and

(c) interest on the new loan is (or would be apart from this section) eligible for relief under section 353 by virtue of section 355(1)(a) or 356(1).

(2) Subject to subsection (4) below, as regards interest paid on the new loan after the time it is used as mentioned in subsection (1)(b) above (the material time), such part of the loan as was actually used to defray money applied in

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purchasing the new estate, interest or property shall be treated for the purposes of sections 353 to 379 as having been so used only to the extent that the amount of that part does not exceed the applicable amount.

(3) Subsection (4) below applies in a case where—

(a) two or more new loans are simultaneously used to any extent as mentioned in subsection (1)(b) above, and

(b) interest on each of them is or would be eligible for relief as mentioned in subsection (1)(c) above.

(4) As regards interest paid on the new loans after the material time, such parts of the loans as were actually used to defray money applied in purchasing the new estate, interest or property shall be treated for the purposes of sections 353 to 379 as having been so used only to the extent that the aggregate of the amounts of those parts does not exceed the applicable amount.

(5) For the purposes of this section the applicable amount is the difference between—

(a) the purchase price of the new estate, interest or property, and

(b) the amount of any relevant loan or, if there is more than one, the total amounts of the relevant loans.

(6) For the purposes of subsection (5) above a relevant loan is a loan which—

(a) before the material time was actually used to any extent to defray money applied in purchasing the new estate, interest or property, or

(b) by virtue of section 357A, is treated to any extent as if before the material time it had been used to defray money so applied;

but a loan is not a relevant loan unless interest on it is eligible for relief under section 353 by virtue of section 355(1)(a) or 356(1).

(7) For the purposes of subsection (5) above the amount of a relevant loan is its amount when made, except that where—

(a) a loan is a relevant loan by virtue of the fact that it was partly used to defray money applied in purchasing the new estate, interest or property, or

(b) a loan is a relevant loan by virtue of the fact that it is treated as if it had been partly so used,

the amount of the loan shall be taken for the purposes of that subsection to be the amount of the part so used or (as the case may be) treated as so used.

Substitution of security: supplemental.

357C.—(1) An arrangement is a security substitution arrangement for the purposes of section 357A if—

(a) under the arrangement the new estate, interest or property becomes security for an existing loan or existing loans,

(b) under the arrangement an estate or interest in land, or the property in a caravan or house-boat, ceases to be security for the loan or loans,

(c) the estate, interest or property mentioned in paragraph (b) above was not absorbed into, or given up to obtain, the new estate, interest or property,

(d) the loan or (as the case may be) at least one of the loans is a qualifying loan, and

(e) the circumstances are such that, had the loan or loans been used to defray money applied in purchasing the new estate, interest or property, interest on the loan or (as the case may be) on each of the loans would have been eligible for relief under section 353 by virtue of section 355(1)(a) or 356(1).

(2) For the purposes of subsection (1) above a loan is a qualifying loan if, immediately before the arrangement took effect, interest on the loan was eligible for relief under section 353 by virtue of section 355(1)(a) or section 356(1).

(3) In a case where—

(a) paragraphs (a) to (d) of subsection (1) above apply in relation to an arrangement,

(b) the arrangement relates to two or more loans, and

(c) one or more of the loans is not a qualifying loan for the purposes of subsection (1) above,

any loan which is not a qualifying loan shall be ignored in applying subsection (1)(e) above.

(4) Where a security substitution arrangement relates to two or more loans and one or more of them is not a qualifying loan for the purposes of subsection (1) above, any loan which is not a qualifying loan—

(a) shall be left out of account in determining for the purposes of section 357A the number of existing loans to which the arrangement relates;

(b) shall not be treated as mentioned in section 357A(3) or (5);

(c) shall be left out of account in calculating for the purposes of section 357A(5) the aggregate of the amounts of the loans outstanding at the time the new estate, interest or property became security for them.

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(5) Subsection (6) below applies where—

(a) the purchase mentioned in subsection (1) of section 357A is made jointly by the person mentioned in that subsection (the relevant person) and another person or other persons, and

(b) any of the money applied in the purchase is attributable to the relevant person and not to the other person or, as the case may be, attributable to the relevant person and not to all the other persons.

(6) In relation to the relevant person—

(a) the references in sections 357A and 357B to the new estate, interest or property shall be treated as references to his share of the new estate, interest or property, and

(b) the references in sections 357A and 357B to the purchase price of the new estate, interest or property shall be treated as references to so much of the money applied in purchasing the estate, interest or property as is attributable to him.

(7) In determining for the purposes of this section and sections 357A and 357B whether interest is, was or would have been eligible for relief under section 353, section 353(2) shall be disregarded."

Temporary relief for interest payments.

**57.**—(1) In section 355 of the Taxes Act 1988 (conditions of relief on interest on loans to buy land), after subsection (1) there shall be inserted the following subsections—

"(1A) Where, in the case of any loan—

(a) the condition specified in subsection (1)(a) above would not (apart from this subsection) be fulfilled with respect to any land, caravan or house-boat by reason of its having ceased at any time to be used by a particular person as his only or main residence; and

(b) the borrower's intention at that time was to take steps, before the end of the period of 12 months after the day on which it ceased to be so used, with a view to the disposal of that land, caravan or house-boat,

that condition shall be treated in relation to interest on that loan as continuing to be fulfilled with respect to that land, caravan or house-boat (as well as with respect to any other land, caravan or house-boat with respect to which it is in fact fulfilled) from that time until the end of that period or (if sooner) the abandonment by the borrower of his intention to dispose of the land, caravan or house-boat in question.

(1B) Where—

(a) subsection (1A) above has effect in the case of any loan ('the first loan') so that the condition specified in subsection (1)(a) above is treated in relation to any person as fulfilled with respect to any land, caravan or house-boat, and

(b) there is another loan raised by the borrower to defray money to be applied as mentioned in section 354(1) with a view to the use of any other land, caravan or house-boat as the borrower's only or main residence,

interest on the other loan shall be treated as eligible for relief to the same extent (if any) as if no interest were payable on the first loan."

(2) In subsection (2) of that section (extension of 12 month period in subsection (1)), after "subsection (1)" there shall be inserted "or (1A)".

(3) In section 365 of that Act (relief on interest on loans to buy a life annuity), after subsection (1) there shall be inserted the following subsections—

"(1A) Where, in the case of any loan—

(a) the condition specified in subsection (1)(d) above would not (apart from this subsection) be fulfilled with respect to any land by reason of its having ceased at any time to be used by a particular person as his only or main residence; and

(b) the intention at that time of the person to whom the loan was made, or of each of the annuitants owning an estate or interest in that land, was to take steps, before the end of the period of 12 months after the day on which it ceased to be so used, with a view to the disposal of his estate or interest,

that condition shall be treated in relation to interest on that loan as continuing to be fulfilled with respect to the land from that time until the end of that period or (if sooner) the abandonment by that person or any of those annuitants of his intention to dispose of his estate or interest.

(1B) If it appears to the Board reasonable to do so, having regard to all the circumstances of a particular case, they may direct that in relation to that case subsection (1A) above shall have effect as if for the reference to 12 months there were substituted a reference to such longer period as meets the circumstances of that case."

(4) In consequence of subsections (1) to (3) above, that Act shall have effect with the following amendments—

(a) in section 354(1), for "to (6)" there shall be substituted "to (4)";

(b) sections 354(5) and (6), 356D(9), 357(4) and 371 (second loans) shall cease to have effect;

(c) in section 370(1), for "371" there shall be substituted "372";

(d) in section 370(6), after paragraph (b) there shall be inserted—

"and section 355(1A) shall have effect as if after the word 'used' in paragraph (a) there were inserted the words 'wholly or to a substantial extent'.";

(e) in section 370(7), after paragraph (a) there shall be inserted the following paragraph—

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"(aa) subsections (1A) and (1B) of that section shall have effect as if—

(i) after the word 'used' in paragraph (a) of subsection (1A) there were inserted the words 'wholly or partly';

(ii) for the words 'subsection (1)(a)', wherever they occur, there were substituted the words 'subsection (1)';

(iii) for the words 'land, caravan or house-boat', wherever they occur without being immediately preceded by the word 'other', there were substituted the word 'dwelling'; and

(iv) for the words 'other land, caravan or house-boat', wherever they occur, there were substituted the words 'land, caravan or house-boat'; and".

(5) This section shall have effect in relation to payments of interest made on or after 16th March 1993 (whenever falling due).

(6) Where this section applies by virtue of subsection (5) above in a case where the condition specified in section 355(1)(a) or 365(1)(d) of the Taxes Act 1988 ceased to be fulfilled before 16th March 1993, the power of the Board by virtue of this section to extend the period specified in section 355(1A) or 365(1A) of that Act—

(a) shall be exercisable in any case in relation to that period irrespective of when that period began in that case; and

(b) in so far as it is exercisable in relation to the period specified in section 355(1A) of that Act where an equivalent period has been extended in any case under section 354(6) or 371(2) or (3) of that Act, shall be deemed to have been exercised so that (subject to any further extensions) the period in question ends when that equivalent period would have ended.

(7) In any case where—

(a) section 355(1A) of the Taxes Act 1988 has effect in the case of any loan so that the condition specified in section 355(1)(a) of that Act is treated in relation to any person as fulfilled with respect to any land, caravan or house-boat, and

1991 c. 31.

(b) apart from the provisions of this section, section 27(3) or (4) of the Finance Act 1991 would have had effect in relation to any interest on that loan, or would have so had effect if any extension of the period which applies for the purposes of section 355(1A) of the Taxes Act 1988 were treated as an equivalent extension of the period which applied for the purposes of section 354(5) or 371(1) of that Act,

the amendments made by section 27(1) and (2) of that Act of 1991 shall not apply in relation to that interest.

Overclaims in respect of deductions of mortgage interest.

**58.**—(1) After subsection (6) of section 369 of the Taxes Act 1988 (recovery of amount treated as paid by recipient of interest paid subject to a deduction under that section) there shall be inserted the following subsection—

"(7) The following provisions of the Management Act, namely—

(a) section 29(3)(c) (excessive relief),

(b) section 30 (tax repaid in error etc.);

(c) section 88 (interest), and

(d) section 95 (incorrect return or accounts),

shall apply in relation to an amount which is paid to any person by the Board as an amount recoverable in accordance with regulations made by virtue of subsection (6) above but to which that person is not entitled as if it were income tax which ought not to have been repaid and, where that amount was claimed by that person, as if it had been repaid as a relief which was not due."

(2) This section shall not apply in relation to any payment if the payment, or the claim on which it is made, was made before the day on which this Act is passed.

Interest payments to persons not ordinarily resident in UK.

**59.** In section 349 of the Taxes Act 1988 (annual interest etc.) in subsection (3) (exceptions from requirement to deduct tax from interest payments) at the end of paragraph (g) there shall be inserted "or" and after that paragraph there shall be inserted the following paragraph—

"(h) to any payment in respect of which a liability to deduct income tax would, but for section 481(5)(k), be imposed by section 480A(1)."

Certain interest not allowed as a deduction.

**60.**—(1) This section applies where—

(a) a qualifying company becomes subject to a qualifying debt, and

(b) the interest payable exceeds a commercial return on the capital repayable, expressing that capital in the settlement currency of the debt.

(2) In computing the corporation tax chargeable for an accounting period of the company, so much of the excess interest as is paid in the accounting period shall not be allowed as a deduction against the total profits for the period (if it would be allowed apart from this section).

(3) In this section—

"qualifying company" has the meaning given by section 152 below;

"qualifying debt" has the meaning given by section 153(10) below;

"settlement currency", in relation to a debt, shall be construed in accordance with section 161 below.

(4) This section applies where the company becomes subject to the debt (whether as the original debtor or otherwise) on or after the day which is its commencement day for the purposes of section 165 below.

*Interest etc. on debts between associated companies*

Qualifying debts for purposes of sections 63 to 66.

**61.**—(1) A debt is a qualifying debt for the purposes of sections 63 to 66 below at any time if, at that time—

(a) the person entitled to the debt is a company which is resident in the United Kingdom ("the resident company");

(b) the person liable for the debt is either a qualifying company or a qualifying third party; and

(c) the debt is not an exempted debt for those purposes.

PART II

(2) A company is a qualifying company for the purposes of this section and section 62 below at any time if, at that time, the company—

(a) is an associated company of the resident company, and

(b) is resident outside the United Kingdom.

(3) For the purposes of subsection (2)(b) above, any company which, though resident in the United Kingdom, is regarded for the purposes of any double taxation arrangements as resident in a territory outside the United Kingdom shall be treated as if it were resident outside the United Kingdom.

(4) A third party, that is to say, a person who is not an associated company of the resident company, is a qualifying third party for the purposes of this section and section 62 below at any time if, at that time, each of the two conditions mentioned below is fulfilled.

(5) The first condition is that, in pursuance of any arrangements made with the third party, that party has at any earlier time been put in funds (directly or indirectly)—

(a) by the resident company or by a company which was at that earlier time an associated company of the resident company, or

(b) by a person from whom the resident company has (directly or indirectly) acquired the debt or by a company which was at that earlier time an associated company of that person.

(6) The second condition is that, in pursuance of those arrangements, a company which is a qualifying company has at any earlier time been put in funds (directly or indirectly) by the third party or by a company which was at that earlier time an associated company of that party.

(7) In this section—

"associated company" shall be construed in accordance with section 416 of the Taxes Act 1988;

"double taxation arrangements" means double taxation arrangements having effect by virtue of section 788 of that Act.

Exempted debts for those purposes.

**62.**—(1) A debt is an exempted debt for the purposes of sections 63 to 66 below at any time if each of the first, second and third conditions mentioned below—

(a) is fulfilled at that time;

(b) has been fulfilled throughout so much of the period of the debt as falls before that time; and

(c) is likely to be fulfilled throughout so much of that period as falls after that time.

(2) The first condition is that the terms of the debt provide that any interest carried by it shall be at a rate which falls into one, and one only, of the following categories—

(a) a fixed rate which is the same throughout the period of the debt;

(b) a rate which bears to a standard published rate the same fixed relationship throughout that period; and

(c) a rate which bears to a published index of prices the same fixed relationship throughout that period.

(3) The second condition is that those terms provide for any such interest to be payable as it accrues at intervals of 12 months or less.

(4) The third condition is that those terms are such that—

(a) the amount payable on the debt's redemption cannot exceed the amount of the consideration given for it, or

(b) the debt must be redeemed within 12 months of its creation.

(5) For the purposes of subsection (4) above the amount payable on a debt's redemption does not include any amount payable by way of interest.

(6) A debt is an exempted debt for the purposes of sections 63 to 66 below at any time if the inspector is satisfied that the fourth condition mentioned below is fulfilled and either—

(a) he is also so satisfied with respect to the fifth condition so mentioned, or

(b) the sixth condition so mentioned is fulfilled.

(7) The fourth condition is that the possibility of returns on the debt being chargeable to tax as they arise rather than as they accrue was not the main reason, or one of the main reasons, why the resident company created the debt on the qualifying terms, acquired the debt on those terms or (as the case may be) agreed to the subsequent inclusion of those terms.

(8) The fifth condition is that, even if the person liable for the debt were none of the following, namely—

(a) a qualifying company;

(b) a qualifying third party; and

(c) a person who would be such a company or party if paragraph (b) of section 61(2) above were omitted,

the resident company would have still created the debt on the qualifying terms, acquired the debt on those terms or (as the case may be) agreed to the subsequent inclusion of those terms.

(9) Where it is not the resident company's business to make loans generally, that fact shall be disregarded in applying subsection (8) above.

(10) The sixth condition is that the terms of the debt—

(a) are such that the debt must be redeemed before the end of the relevant period, or

(b) provide for any interest accruing during that period to be payable no later than immediately after the end of that period and for any interest subsequently accruing to be payable as it accrues at intervals of 12 months or less.

(11) In subsection (10) above "the relevant period" means the period of 24 months beginning with the date when the resident company created the debt on the qualifying terms, acquired the debt on those terms or (as the case may be) agreed to the subsequent inclusion of those terms.

(12) A debt is an exempted debt for the purposes of sections 63 to 66 below at any time if the inspector is satisfied that, at that time, the seventh condition mentioned below was fulfilled.

(13) The seventh condition is that, by reason of its inability to pay its debts, the principal debtor—

(a) has been, is in the course of being or is likely to be wound up, or

(b) has been or is likely to be dissolved,

under or by virtue of the laws of the territory in which it is or was incorporated.

(14) Any reference in subsection (13) above to the principal debtor having been or being likely to be dissolved includes a reference to its otherwise having ceased or being likely to cease to exist as a company.

(15) Where there is an appeal arising under subsection (6) or (12) above, that subsection shall be construed as if the reference to the inspector being satisfied were a reference to the Commissioners concerned being satisfied.

(16) In this section—

"the principal debtor" means the qualifying company liable for the debt or, as the case may be, the qualifying company mentioned in section 61(6) above;

"published index of prices" means the retail prices index or any similar general index of prices which is published by, or by an agent of, the government of any territory outside the United Kingdom;

"qualifying terms", in relation to a debt, means such of the terms of the debt as preclude it from being an exempted debt by virtue of subsection (1) above.

Accrued income securities.

**63.**—(1) Subsection (2) below applies where the debt on an accrued income security—

(a) is a qualifying debt at the end of the day immediately preceding the commencement date;

(b) becomes such a debt on any day after that date;

(c) ceases to be such a debt on any such day; or

(d) is such a debt at the end of the last day of any accounting period of the resident company ending after that date;

and in that subsection "the relevant day" means the day mentioned in whichever of paragraphs (a) to (d) above is applicable.

(2) For the purposes of sections 710 to 728 of the Taxes Act 1988 (accrued income scheme) the security—

(a) except in a case falling within paragraph (b) of subsection (1) above, shall be treated as transferred by the resident company with accrued interest on the relevant day;

(b) in a case falling within that paragraph where the resident company was the holder of the security on the day immediately preceding the relevant day, shall be treated as transferred by that company with accrued interest on that preceding day; and

(c) in a case falling within paragraph (c) of that subsection where the security is not a variable interest rate security, shall cease to be treated as such a security as from the end of the relevant day;

and, in relation to such a transfer, the settlement day is the day of the transfer (notwithstanding section 712).

(3) Subsection (4) below applies where the debt on an accrued income security—

(a) is a qualifying debt at the beginning of the commencement date;

(b) becomes such a debt on any day after that date;

(c) ceases to be such a debt on any such day; or

(d) is such a debt at the beginning of the first day of any accounting period of the resident company beginning after that date;

and in that subsection "the relevant day" means the day mentioned in whichever of paragraphs (a) to (d) above is applicable.

(4) For the purposes of sections 710 to 728 the security—

(a) except in a case falling within paragraph (c) of subsection (3) above, shall be treated as transferred to the resident company with accrued interest on the relevant day;

(b) in a case falling within that paragraph where the resident company is the holder of the security on the day immediately following the relevant day, shall be treated as transferred to that company with accrued interest on that following day; and

(c) in a case falling within paragraph (a) or (b) of that subsection where the security is not a variable interest rate security, shall be treated as such a security as from the beginning of the relevant day;

and, in relation to such a transfer, the settlement day is the day of the transfer (notwithstanding section 712).

(5) Any income which, apart from this subsection, would be treated as arising on any day by virtue of subsection (1)(a) or (b) above shall be treated as not arising until whichever of the following is the earliest, namely—

(a) the earliest day on which, under the terms on which the security is issued, the resident company is entitled to require it to be redeemed;

(b) the day on which the security is redeemed; and

(c) the day (if any) on which it is transferred by the resident company.

(6) Subsection (7) below applies where, in the case of a debt which is not a debt on a security, the terms of the debt are such that, if it were such a debt, the security would be an accrued income security.

(7) For the purposes of this section and sections 710 to 728, at any time when the debt is a qualifying debt—

(a) an accrued income security incorporating the terms of the debt shall be deemed to be held by the resident company, and

(b) the debt shall be deemed to be a debt on that security.

PART II

(8) Subsections (9) and (10) below shall apply where an accrued income security (including one deemed to be held by virtue of subsection (7) above) is treated by virtue of subsection (1)(c) or (d) above as transferred on any day by the resident company.

(9) In subsection (10) below "straddling period" means a period which would (by virtue of section 711(3) and (4) and apart from subsection (10) below) be in relation to the security an interest period beginning on or before and ending after the day of the transfer.

(10) For the purposes of sections 710 to 728 a straddling period is not an interest period but—

(a) the period beginning with the day on which the straddling period begins and ending with the day of the transfer is an interest period; and

(b) the period beginning with the day immediately following the day of the transfer and ending with the day on which the straddling period ends is an interest period.

(11) In this section—

"accrued income security" has the same meaning as "security" has for the purposes of sections 710 to 728;

"variable interest rate security" means a security to which section 717 (variable interest rate) applies;

and other expressions to which meanings are assigned for the purposes of those sections have the same meanings as in sections 710 to 728.

(12) In this section and sections 64 and 65 below "the commencement date" means 1st April 1993.

Deep discount securities.

**64.**—(1) Subsection (2) below applies where the debt on a deep discount security—

(a) is a qualifying debt at the end of the day immediately preceding the commencement date;

(b) becomes such a debt at any time after that date;

(c) ceases to be such a debt at any such time; or

(d) is such a debt at the end of the last day of any accounting period of the resident company ending after that date;

and in that subsection "the relevant time" means the time mentioned in whichever of paragraphs (a) to (d) above is applicable.

(2) For the purposes of Schedule 4 to the Taxes Act 1988 (deep discount securities) the resident company shall be deemed—

(a) except in a case falling within paragraph (b) of subsection (1) above, to dispose of the security at the relevant time; and

(b) in a case falling within that paragraph where that company was the holder of the security at a time immediately preceding the relevant time, to dispose of the security at that preceding time.

(3) Subsection (4) below applies where the debt on a deep discount security—

(a) is a qualifying debt at the beginning of the commencement date;

(b) becomes such a debt at any time after that date;

(c) ceases to be such a debt at any such time; or

(d) is such a debt at the beginning of the first day of any accounting period of the resident company beginning after that date;

and in that subsection "the relevant time" means the time mentioned in whichever of paragraphs (a) to (d) above is applicable.

(4) For the purposes of Schedule 4 the resident company shall be deemed—

(a) except in a case falling within paragraph (c) of subsection (3) above, to acquire the security at the relevant time; and

(b) in a case falling within that paragraph where that company is the holder of the security at a time immediately following the relevant time, to acquire the security at that following time.

(5) Any income which, apart from this subsection, would be treated as arising at any time by virtue of subsection (1)(a) or (b) above shall be treated as not arising until whichever of the following is the earliest, namely—

(a) the earliest time at which, under the terms on which the security is issued, the resident company is entitled to require it to be redeemed;

(b) the time at which the security is redeemed; and

(c) the time (if any) at which it is transferred by the resident company.

(6) Subsection (7) below applies where, in the case of a debt which is not a debt on a security, the terms of the debt are such that, if it were such a debt, the security would be a deep discount security.

(7) For the purposes of this section and Schedule 4, at any time when the debt is a qualifying debt—

(a) a deep discount security incorporating the terms of the debt shall be deemed to be held by the resident company, and

(b) the debt shall be deemed to be a debt on that security.

(8) In this section expressions to which meanings are assigned for the purposes of Schedule 4 have the same meanings as in that Schedule.

Deep gain securities.

**65.**—(1) Subsection (2) below applies where the debt on a deep gain security—

(a) is a qualifying debt at the end of the day immediately preceding the commencement date;

(b) becomes such a debt on any day after that date;

(c) ceases to be such a debt on any such day; or

(d) is such a debt at the end of the last day of any accounting period of the resident company ending after that date;

and in that subsection "the relevant day" means the day mentioned in whichever of paragraphs (a) to (d) above is applicable.

(2) For the purposes of Schedule 11 to the Finance Act 1989 (deep gain securities) the resident company shall be treated— 1989 c. 26.

(a) except in a case falling within paragraph (b) of subsection (1) above, as transferring the security on the relevant day;

PART II

(b) in a case falling within that paragraph where the resident company was the holder of the security on the day immediately preceding the relevant day, as transferring the security on that preceding day; and

(c) (in either case) as obtaining in respect of the transfer an amount equal to the market value of the security at the time of the transfer.

(3) Subsection (4) below applies where the debt on a deep gain security—

(a) is a qualifying debt at the beginning of the commencement date;

(b) becomes such a debt on any day after that date;

(c) ceases to be such a debt on any such day; or

(d) is such a debt at the beginning of the first day of any accounting period of the resident company beginning after that date;

and in that subsection "the relevant day" means the day mentioned in whichever of paragraphs (a) to (d) above is applicable.

(4) For the purposes of Schedule 11 the resident company shall be treated—

(a) except in a case falling within paragraph (c) of subsection (3) above, as acquiring the security on the relevant day;

(b) in a case falling within that paragraph where the resident company is the holder of the security on the day immediately following the relevant day, as acquiring the security on that following day; and

(c) (in either case) as paying in respect of the acquisition an amount equal to the market value of the security at the time of the acquisition.

(5) Any income which, apart from this subsection, would be treated as arising on any day by virtue of subsection (1)(a) or (b) above shall be treated as not arising until whichever of the following is the earliest, namely—

(a) the earliest day on which, under the terms on which the security is issued, the resident company is entitled to require it to be redeemed;

(b) the day on which the security is redeemed; and

(c) the day (if any) on which it is transferred by the resident company.

(6) Subsection (7) below applies where, in the case of a debt which is not a debt on a security, the terms of the debt are such that, if it were such a debt, the security would be a deep gain security.

(7) For the purposes of this section and Schedule 11, at any time when the debt is a qualifying debt—

(a) a deep gain security incorporating the terms of the debt shall be deemed to be held by the resident company, and

(b) the debt shall be deemed to be a debt on that security.

(8) Any reference in this section to Schedule 11 is a reference to that Schedule as it would have effect if paragraphs 1(4)(c) and 22 (exclusion of qualifying indexed securities and special rules for such securities) were omitted; but no income accruing before the commencement date in respect of the debt on a qualifying indexed security shall be chargeable to tax by virtue of this section.

(9) In this section expressions to which meanings are assigned for the purposes of Schedule 11 have the same meanings as in that Schedule.

Avoidance of double charging.

**66.**—(1) In any case where—

(a) by virtue of sections 63(2) and 65(2) above, a single security is treated as transferred both for the purposes of sections 710 to 728 of the Taxes Act 1988 and for the purposes of Schedule 11 to the Finance Act 1989; and

1989 c. 26.

(b) the transfer for the purposes of that Schedule is one to which paragraph 5 of that Schedule applies,

the resident company shall not be chargeable to tax in respect of any income treated as arising by virtue of the transfer for the purposes of sections 710 to 728.

(2) In any case where, by virtue of sections 63(7) and 65(7) above, the same qualifying debt is deemed to be a debt on two separate securities, those securities shall be treated as a single security for the purposes of subsection (1) above.

(3) In any case where, by virtue of subsection (7) of section 63, 64 or 65 above, a qualifying debt is deemed to be a debt on a security, any income which is chargeable to tax as income treated as arising to the resident company by virtue of that section shall not also be chargeable to tax as income actually arising.

*Charitable donations*

Donations from companies and individuals.

**67.**—(1) In section 339 of the Taxes Act 1988 (charges on income: donations to charity) in subsection (3A) (payment by close company not a qualifying donation if less than £400 after deducting income tax) for "£400" there shall be substituted "£250".

1990 c. 29.

(2) In section 25 of the Finance Act 1990 (donations to charity by individuals) in subsection (2)(g) (gift must be not less than £400 to be a qualifying donation) for "£400" there shall be substituted "£250".

(3) Subsection (1) above shall apply in relation to payments made on or after 16th March 1993.

(4) Subsection (2) above shall apply in relation to gifts made on or after 16th March 1993.

Payroll deduction schemes.

**68.**—(1) In section 202(7) of the Taxes Act 1988 (which limits to £600 the deductions attracting relief) for "£600" there shall be substituted "£900".

(2) This section shall have effect for the year 1993-94 and subsequent years of assessment.

PART II

Contributions to agent's expenses.

**69.** The following section shall be inserted after section 86 of the Taxes Act 1988—

"Charitable donations: contributions to agent's expenses.

86A.—(1) This section applies where—

(a) a person (the employer) is liable to make to any individual payments from which income tax falls to be deducted by virtue of section 203 and regulations under that section, and

(b) the employer withholds sums from those payments in accordance with a scheme falling within subsection (3) of section 202 and pays the sums to an agent (within the meaning of subsection (4)(a) of that section).

(2) Any relevant expenditure incurred by the employer on or after 16th March 1993—

(a) shall be deducted in computing for the purposes of Schedule D the profits or gains of a trade, profession or vocation carried on by the employer, or

(b) if the employer is an investment company or a company in the case of which section 75 applies by virtue of section 76, shall be treated as expenses of management.

(3) Relevant expenditure is expenditure incurred in making to the agent any payment in respect of expenses which have been or are to be incurred by the agent in connection with his functions under the scheme."

*Benefits in kind*

Car benefits: 1993-94.

**70.**—(1) In Schedule 6 to the Taxes Act 1988 (taxation of directors and others in respect of cars) for Part I (tables of flat rate cash equivalents) there shall be substituted—

"PART I

TABLES OF FLAT RATE CASH EQUIVALENTS

TABLE A

*Cars with an original market value up to £19,250 and having a cylinder capacity*

| *Cylinder capacity of car in cubic centimetres* | *Age of car at end of relevant year of assessment* | |
|---|---|---|
| | Under 4 years | 4 years or more |
| 1,400 or less | £2,310 | £1,580 |
| More than 1,400 but not more than 2,000 | £2,990 | £2,030 |
| More than 2,000 | £4,800 | £3,220 |

TABLE B

*Cars with an original market value up to £19,250 and not having a cylinder capacity*

| *Original market value of car* | *Age of car at end of relevant year of assessment* | |
|---|---|---|
| | Under 4 years | 4 years or more |
| Less than £6,000 | £2,310 | £1,580 |
| £6,000 or more but less than £8,500 | £2,990 | £2,030 |
| £8,500 or more but not more than £19,250 | £4,800 | £3,220 |

TABLE C

*Cars with an original market value of more than £19,250*

| *Original market value of car* | *Age of car at end of relevant year of assessment* | |
|---|---|---|
| | Under 4 years | 4 years or more |
| More than £19,250 but not more than £29,000 | £6,210 | £4,180 |
| More than £29,000 | £10,040 | £6,660" |

(2) This section shall have effect for the year 1993-94.

Car fuel: 1993-94.

**71.**—(1) In section 158 of the Taxes Act 1988 (car fuel) for the Tables in subsection (2) (tables of cash equivalents) there shall be substituted—

"TABLE A

| *Cylinder capacity of car in cubic centimetres* | *Cash equivalent* |
|---|---|
| 1,400 or less ... ... ... ... ... ... | £600 |
| More than 1,400 but not more than 2,000 | £760 |
| More than 2,000 ... ... ... ... ... | £1,130 |

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TABLE AB

| *Cylinder capacity of car in cubic centimetres* | *Cash equivalent* |
|---|---|
| 2,000 or less ... ... ... ... ... ... | £550 |
| More than 2,000 ... ... ... ... ... | £710 |

TABLE B

| *Original market value of car* | *Cash equivalent* |
|---|---|
| Less than £6,000 ... ... ... ... ... | £600 |
| £6,000 or more but less than £8,500 ... | £760 |
| £8,500 or more... ... ... ... ... ... | £1,130" |

(2) In subsection (5) of that section (reductions in cash equivalents) the words "or 3" shall be omitted.

(3) This section shall have effect for the year 1993-94.

Car and car fuel benefits; 1994-95 onwards.

**72.** Schedule 3 to this Act (which contains provisions, having effect for the year 1994-95 and subsequent years of assessment, about cars available for private use and car fuel) shall have effect.

Vans.

**73.** Schedule 4 to this Act (which contains provisions about vans available for private use) shall have effect.

Heavier commercial vehicles.

**74.**—(1) In the Taxes Act 1988, after section 159AB (inserted by Schedule 4 to this Act) there shall be inserted the following section—

"Heavier commercial vehicles available for private use.

159AC.—(1) This section applies where in any year—

(a) a heavier commercial vehicle is made available to an employee in circumstances such that, had that vehicle been a van, the benefit so provided would have been chargeable to tax under section 159AA, and

(b) the employee's use of the vehicle is not wholly or mainly private use.

(2) Section 154 shall not apply to—

(a) the benefit so provided, or

(b) any benefit in connection with the vehicle other than a benefit in connection with the provision of a driver for the vehicle.

(3) The employee shall not be taxable—

(a) under Schedule E in respect of the discharge of any liability of his in connection with the vehicle;

(b) under section 141 or 142 in respect of any non-cash voucher or credit-token to the extent that it is used by him—

(i) for obtaining money which is spent on goods or services in connection with the vehicle, or

(ii) for obtaining such goods or services;

(c) under section 153 in respect of any payment made to him in respect of expenses incurred by him in connection with the vehicle.

(4) In this section "heavier commercial vehicle" means a mechanically propelled road vehicle which is—

(a) of a construction primarily suited for the conveyance of goods or burden of any description, and

(b) of a design weight exceeding 3,500 kilograms;

and "design weight" here means the weight which the vehicle is designed or adapted not to exceed when in normal use and travelling on a road laden.

(5) In this section—

(a) "private use", in relation to a vehicle made available to an employee, means any use other than for his business travel, and

(b) "business travel" means travelling which the employee is necessarily obliged to do in the performance of the duties of his employment."

(2) In section 159A of that Act (mobile telephones) in subsection (8)(a) (meaning of "mobile telephone"), as amended by Schedule 4 to this Act—

(a) the word "but" at the end of sub-paragraph (i) shall be omitted,

(b) after that sub-paragraph there shall be inserted the following sub-paragraph—

"(ia) includes any such apparatus provided in connection with a heavier commercial vehicle (within the meaning given by section 159AC) notwithstanding that the vehicle is made available as mentioned in that section;", and

(c) at the end of sub-paragraph (ii) there shall be inserted "or heavier commercial vehicle".

(3) This section shall have effect for the year 1993-94 and subsequent years of assessment.

Sporting and recreational facilities.

**75.**—(1) After section 197F of the Taxes Act 1988 there shall be inserted the following section—

*"Sporting and recreational facilities*

Sporting and recreational facilities.

197G.—(1) No charge to tax under Schedule E shall arise in respect of the provision to any person in employment with any employer, or to any member of the family or household of such a person, of—

(a) any benefit to which this section applies; or

(b) any non-cash voucher which is capable of being exchanged only for a benefit to which this section applies.

(2) This section applies, subject to subsections (3) to (5) below, to any benefit consisting in, or in a right or opportunity to make use of, any sporting or other recreational facilities provided so as to be available generally to, or for use by, the employees of the employer in question.

(3) Except in such cases as may be prescribed, this section does not apply to any benefit consisting in—

(a) an interest in, or the use of, any mechanically propelled vehicle;

(b) an interest in, or the use of, any holiday or other overnight accommodation or any facilities which include, or are provided in association with, a right or opportunity to make use of any such accommodation;

(c) a facility provided on domestic premises;

(d) a facility provided so as to be available to, or for use by, members of the public generally;

(e) a facility which is used neither wholly nor mainly by persons whose right or opportunity to use it derives from employment (whether with the same employer or with different employers); or

(f) a right or opportunity to make use of any facility falling within any of the preceding paragraphs.

(4) For the purposes of subsection (3)(e) above a person's right or opportunity to use any facility shall be taken to derive from employment if, and only if—

(a) it derives from his being or having been an employee of a particular employer or a member of the family or household of a person who is or has been such an employee; and

(b) the facility is one which is provided so as to be available generally to the employees of that employer.

(5) The Treasury may by regulations provide—

(a) that such benefits as may be prescribed shall not be benefits to which this section applies; and

(b) that such other benefits as may be prescribed shall be benefits to which this section applies only where such conditions as may be prescribed are satisfied in relation to the terms on which, and the persons to whom, they are provided.

(6) In this section—

'domestic premises' means any premises used wholly or mainly as a private dwelling or any land or other premises belonging to, or enjoyed with, any premises so used;

'non-cash voucher' has the same meaning as in section 141;

'prescribed' means prescribed by regulations made by the Treasury;

'vehicle' includes any ship, boat or other vessel, any aircraft and any hovercraft;

and section 168(2) and (4) shall apply for the purposes of this section as it applies for the purposes of Chapter II of this Part."

(2) This section shall apply for the year 1993-94 and subsequent years of assessment.

Removal expenses and benefits.

**76.** Schedule 5 to this Act (which relates to the payment of expenses, and the provision of benefits, in respect of removals) shall have effect.

*Taxation of distributions etc.*

Application of lower rate.

**77.**—(1) In Chapter I of Part VI of the Taxes Act 1988 (taxation of company distributions), before section 208 there shall be inserted the following section—

"Application of lower rate to company distributions.

207A.—(1) Subject to section 686, so much of any person's total income in any year of assessment as—

(a) comprises income which is chargeable under Schedule F; and

(b) in the case of an individual, is not income falling within section 1(2)(b),

shall by virtue of this section be charged for that year at the lower rate, instead of at the rate otherwise applicable to it in accordance with section 1(2)(aa) and (a).

(2) So much of any person's income as comprises income chargeable under Schedule F shall be treated for the purposes of subsection (1)(b) above and any other provisions of the Income Tax Acts as the highest part of his income.

(3) Subsection (2) above shall have effect subject to section 833(3) but shall otherwise have effect notwithstanding any provision requiring income of any description to be treated for the purposes of the Income Tax Acts (other than section 550) as the highest part of a person's income."

(2) The section 207A inserted in the Taxes Act 1988 by subsection (1) above shall apply, as it applies to income chargeable under Schedule F, to any income which—

(a) is chargeable to income tax under Case V of Schedule D;

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(b) is such that, being a dividend or other distribution of a company not resident in the United Kingdom, it would be chargeable under Schedule F if the company were so resident; and

(c) is not such that tax is chargeable by virtue of section 65(5)(b) of that Act on the full amount of the actual sums received in the United Kingdom.

(3) In section 249 of that Act (issues of share capital treated as income)—

(a) in subsection (4)—

(i) for the words "basic rate", in each place where they occur, there shall be substituted "lower rate"; and

(ii) in paragraph (c), for "which is not chargeable at the lower rate and" there shall be substituted "to which (without prejudice to paragraph (a) above) section 207A shall be taken to apply as it applies to income chargeable under Schedule F, but shall be treated";

and

(b) in subsection (6)(b), for "basic rate" there shall be substituted "lower rate".

(4) In section 421(1) of that Act (taxation of borrower where loan under section 419 released)—

(a) in paragraph (a), after "tax" there shall be inserted "at the lower rate";

(b) in paragraph (b), for "basic rate" there shall be substituted "lower rate"; and

(c) in paragraph (c), for the words from "which is not" to "that paragraph" there shall be substituted "to which (without prejudice to paragraph (b) above) section 207A shall be taken to apply as it applies to income chargeable under Schedule F, but, notwithstanding the preceding provisions of this subsection".

(5) This section shall apply in relation to the year 1993-94 and subsequent years of assessment.

Rate of advance corporation tax and tax credits.

**78.**—(1) In subsection (3) of section 14 of the Taxes Act 1988 (fraction for the purposes of advance corporation tax), in the words after the formula, for "is the percentage at which income tax at the basic rate" there shall be substituted "for the financial year 1993 is 22.5 and for any subsequent financial year is the percentage at which income tax at the lower rate".

(2) Subsection (1) above shall have effect, subject to section 246(6) of that Act and the following provisions of this section, in relation to the financial year 1993 and subsequent financial years.

(3) Subject to the following provisions of this section, the Tax Acts shall have effect in the case of any distribution in relation to which the rate of advance corporation tax is calculated by reference to the figure fixed by virtue of subsection (1) above for the financial year 1993 as if the amount of the tax credit to which the recipient of the distribution is entitled were to be calculated under section 231(1) of the Taxes Act 1988 on the basis

of a rate of advance corporation tax calculated for that financial year by reference to the lower rate for the year 1993-94, rather than by reference to the figure fixed by virtue of subsection (1) above.

(4) Subject to the following provisions of this section—

(a) subsection (3) above shall not apply in relation to the determination of the amount of any tax credit which under section 238(1) of the Taxes Act 1988 is to be aggregated with the amount or value of any distribution for the purpose of calculating the amount of any franked investment income; but

(b) references in any enactment to the payment of a tax credit comprised in any franked investment income, or to the payment of a tax credit in respect of any such income, shall have effect, in relation to any franked investment income the amount of which is calculated in accordance with paragraph (a) above, as references to the payment of the amount of that credit as determined in accordance with subsection (3) above.

(5) Subsections (6) to (11) below shall have effect for the purposes of references in the Tax Acts to franked investment income so far as those references relate to income consisting of distributions in the case of which there is a difference by virtue of subsections (3) and (4) above between—

(a) the amount of the tax credits determined in respect of the distributions in accordance with subsection (3) above; and

(b) the amount of those tax credits so far as they are comprised for the purposes of section 238(1) of the Taxes Act 1988 in that franked investment income.

(6) Subject to the following provisions of this section, in sections 13(7), 236(5), 434, 438, 458, 490 and 802 of, and paragraph 1(8) of Schedule 19AB to, the Taxes Act 1988 (references to the profits of small companies, exempt funds, mutual businesses and certain insurance businesses), and in section 89 of the Finance Act 1989 (policyholders' share of profits), references to franked investment income shall be construed as references to franked investment income calculated using tax credits of amounts determined in accordance with subsection (3) above, instead of as references to franked investment income calculated in accordance with subsection (4)(a) above.

1989 c. 26.

(7) Sections 241(5), 438(5) and 441A(8) of the Taxes Act 1988 (use of franked investment income) and section 89(8) of the Finance Act 1989 (definition of "unrelieved" franked investment income) shall have effect as if the amounts specified in paragraphs (a) and (b) of subsection (5) above were the same so that, if—

(a) tax credits determined in respect of any distributions in accordance with subsection (3) above have been paid, or

(b) in the case of section 441A(8), tax credits so determined are payable,

there shall be no further amount of tax credits comprised in the franked investment income consisting of those distributions which is available for use for franking distributions or, as the case may be, which is unrelieved.

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(8) Where—

(a) a claim is made under section 242(1) or 243(1) of the Taxes Act 1988 (set-off against franked investment income) for any accounting period in relation to any surplus of franked investment income; and

(b) the surplus to which the claim relates is or contains an amount of franked investment income ('the relevant amount') which represents distributions the tax credits in respect of which are of amounts that would, apart from subsection (4)(a) above, be determined in accordance with subsection (3) above,

that claim shall be treated as confined to what would have been the amount of the surplus if the tax credits comprised in the relevant amount (but no other tax credits comprised in the franked investment income in question) had been of amounts so determined.

(9) Where—

(a) for any accounting period there is a claim under section 242(1) or 243(1) of the Taxes Act 1988 to which subsection (8) above applies, and

(b) apart from this subsection there would, after any reduction in pursuance of the claim, be an amount falling under section 241(3) of that Act to be carried forward as a surplus of franked investment income to any subsequent accounting period,

the amount to be so carried forward shall be further reduced by the amount representing the difference between an amount of franked investment income equal to the reduction in pursuance of the claim and calculated with subsection (3) above applying for determining the amount of tax credits comprised in it and the equivalent amount of franked investment income calculated without regard to that subsection.

(10) Without prejudice to subsection (8) above, the reference in section 243(1) of the Taxes Act 1988 to the amount up to which a surplus of franked investment income may be taken into account under section 393(1) of that Act shall have effect as if franked investment income taken into account by virtue of section 393(8) of that Act were to be calculated using tax credits of amounts determined in accordance with subsection (3) above.

(11) Subsection (6) above shall not apply to the references to franked investment income in section 434(3) of the Taxes Act 1988 (policy-holder's share not to be used for franking); but this subsection shall be without prejudice to the effect of subsections (8) and (9) above in relation to a case in which a surplus of franked investment income for any accounting period is determined in accordance with section 434(3) of that Act.

(12) In section 246 of the Taxes Act 1988 (charge of ACT at previous rate), in subsections (1), (2) and (4), for the words "basic rate", wherever they occur, there shall be substituted "lower rate".

(13) Subsection (12) above shall have effect in relation to the financial year 1994 and subsequent financial years.

Provisions supplemental to sections 77 and 78.

**79.**—(1) Schedule 6 to this Act (which makes further provision for the purposes of and in connection with the provisions of sections 77 and 78 above) shall have effect.

(2) Subject to that Schedule, subsection (3) of section 687 of the Taxes Act 1988 (definition of pool for the purposes of payments under discretionary trusts) shall have effect, and be deemed always to have had effect, as if—

(a) the repeal of paragraph (b) which was made by Part V of Schedule 17 to the Finance Act 1989 in relation to accounting periods beginning after 31st March 1989 had been confined to the following words in that paragraph, that is to say, "under section 462(2) as applied by section 686(4) or"; and

1989 c. 26.

(b) that subsection included the following paragraph—

"(j) the amount of any tax on an amount which is treated as income of the trustees by virtue of paragraph 12 of Schedule 10 to the Finance Act 1990 and is charged to tax at a rate equal to the sum of the basic rate and the additional rate by virtue of paragraph 19 of that Schedule;".

1990 c. 29.

(3) Subject to section 686(2A) of the Taxes Act 1988 but notwithstanding anything in section 207A(2) and (3) of that Act, the expenses of any trustees in any year of assessment, so far as they are properly chargeable to income (or would be so chargeable but for any express provisions of the trust), shall be treated as set against so much (if any) of any income as is chargeable to tax in accordance with section 207A of that Act before being set against any other income.

Transitional relief for charities etc.

**80.**—(1) In any case where—

(a) a qualifying distribution is made on or after 6th April 1993 and before 6th April 1997 by a company resident in the United Kingdom;

(b) the recipient of the distribution is a section 505 body; and

(c) the section 505 body is entitled to the payment of a tax credit in respect of the distribution,

the section 505 body, on a claim made under this section to the Board, shall (in addition to its entitlement to payment of the tax credit) be entitled to be paid by the Board out of money provided by Parliament an amount determined in accordance with subsection (2) below.

(2) The amount referred to in subsection (1) above is an amount equal to—

(a) one-fifteenth of the amount or value of the distribution if the distribution is made on or after 6th April 1993 and before 6th April 1994;

(b) one-twentieth of that amount or value if the distribution is made on or after 6th April 1994 and before 6th April 1995;

(c) one-thirtieth of that amount or value if the distribution is made on or after 6th April 1995 and before 6th April 1996;

(d) one-sixtieth of that amount or value if the distribution is made on or after 6th April 1996 and before 6th April 1997.

(3) For the purposes of this section each of the following is a section 505 body—

(a) any charity (as defined in section 506(1) of the Taxes Act 1988);

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(b) each of the bodies mentioned in section 507 of that Act (heritage bodies);

(c) any Association of a description specified in section 508 of that Act (scientific research organisations).

(4) Any entitlement of a section 505 body to a payment under the preceding provisions of this section shall be subject to a power of the Board to determine (whether before or after any payment is made) that, having regard to the operation in relation to the qualifying distribution in question of section 235, 237 or 703 of the Taxes Act 1988 (distributions of exempt funds, bonus issues and tax avoidance provisions), that body is to be treated as if it had had no entitlement to that payment or to so much of it as they may determine.

(5) No claim may be made under this section later than two years after the end of the chargeable period of the section 505 body in which the distribution is made.

(6) An appeal may be brought against any decision of the Board under this section by giving written notice to the Board within thirty days of receipt of written notice of the decision.

1970 c. 9.

(7) An appeal under this section shall lie to the Special Commissioners, and the provisions of the Taxes Management Act 1970 relating to appeals under the Tax Acts shall apply to an appeal under this section as they apply to those appeals.

(8) Any payment of an amount under this section shall be treated for the purposes of section 252 of the Taxes Act 1988 (rectification of excessive set-off etc. of ACT or tax credit) as a payment of tax credit.

Restriction of set-off of ACT.

**81.** In section 245 of the Taxes Act 1988 (calculation etc. of ACT on change of ownership of company) after subsection (3) there shall be inserted the following subsections—

"(3A) No advance corporation tax paid by the company in respect of distributions made in an accounting period ending after the change of ownership shall be treated under section 239(3) as paid by it in respect of distributions made in an accounting period beginning before the change of ownership; and this subsection shall apply to an accounting period in which the change of ownership occurs as if the part ending with the change of ownership, and the part after, were two separate accounting periods.

(3B) Subsection (3A) above applies in relation to changes in ownership occuring on or after 16th March 1993."

*Chargeable gains*

Annual exempt amount for 1993-94.
1992 c. 12.

**82.** For the year 1993-94 section 3 of the Taxation of Chargeable Gains Act 1992 (annual exempt amount) shall have effect as if the amount specified in subsection (2) were £5,800, and accordingly subsection (3) of that section (indexation) shall not apply for that year.

Annual exempt amount: indexation for 1994-95 onwards.

**83.**—(1) In section 3(3) of the Taxation of Chargeable Gains Act 1992 (indexation of annual exempt amount) for "December" (in each place) there shall be substituted "September".

(2) This section shall have effect for the year 1994-95 and subsequent years of assessment.

Re-organisations etc. involving debentures.

**84.**—(1) In section 117 of the Taxation of Chargeable Gains Act 1992 (meaning of qualifying corporate bond), after subsection (6) there shall be inserted the following subsection—

"(6A) For the purposes of this section 'corporate bond' also includes, except in relation to a person who acquires it on or after a disposal in relation to which section 115 has or has had effect in accordance with section 116(10)(c), any debenture issued on or after 16th March 1993 which is not a security (as defined in section 132) but—

(a) is issued in circumstances such that it would fall by virtue of section 251(6) to be treated for the purposes of section 251 as such a security; and

(b) would be a corporate bond if it were a security as so defined."

(2) In section 251 of that Act (general provisions in relation to debts), after subsection (5) there shall be inserted the following subsection—

"(6) For the purposes of this section a debenture issued by any company on or after 16th March 1993 shall be deemed to be a security (as defined in section 132) if—

(a) it is issued on a reorganisation (as defined in section 126(1)) or in pursuance of its allotment on any such reorganisation;

(b) it is issued in exchange for shares in or debentures of another company and in a case unaffected by section 137 where one or more of the conditions mentioned in paragraphs (a) to (c) of section 135(1) is satisfied in relation to the exchange;

(c) it is issued under any such arrangements as are mentioned in subsection (1)(a) of section 136 and in a case unaffected by section 137 where section 136 requires shares or debentures in another company to be treated as exchanged for, or for anything that includes, that debenture; or

(d) it is issued in pursuance of rights attached to any debenture issued on or after 16th March 1993 and falling within paragraph (a), (b) or (c) above."

(3) This section shall have effect in relation to any chargeable period ending on or after 16th March 1993 but, in relation to any accounting period of a company which began before 6th April 1992, this section shall have effect as if the references in this section, and in the amendments made by this section, to provisions of the Taxation of Chargeable Gains Act 1992 were references to such of the provisions of the Capital Gains Tax Act 1979 and the Finance Act 1984 as correspond to those provisions and have effect in relation to that accounting period.

1979 c. 14.
1984 c. 43.

Personal equity plans.

**85.** After subsection (3) of section 151 of the Taxation of Chargeable Gains Act 1992 (personal equity plans) there shall be inserted the following subsection—

"(4) Regulations under this section may include provision which, for cases where a person subscribes to a plan by transferring or renouncing shares or rights to shares—

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(a) modifies the effect of this Act in relation to their acquisition and their transfer or renunciation; and

(b) makes consequential modifications of the effect of this Act in relation to anything which (apart from the regulations) would have been regarded on or after their acquisition as an indistinguishable part of the same asset."

Roll-over relief. 1992 c. 12.

**86.**—(1) In section 155 of the Taxation of Chargeable Gains Act 1992 (classes of assets for the purposes of roll-over relief), after Class 5 there shall be inserted—

"CLASS 6

Ewe and suckler cow premium quotas (that is, rights in respect of any ewes or suckler cows to receive payments by way of any subsidy entitlement to which is determined by reference to limits contained in a Community instrument)."

(2) The Treasury may by order made by statutory instrument amend that section so as to add one or more further classes of assets to the classes specified in that section.

(3) A statutory instrument containing an order under subsection (2) above shall be subject to annulment in pursuance of a resolution of the House of Commons.

(4) Subsection (1) above shall apply where the disposal of the old assets (or an interest in them) or the acquisition of the new assets (or an interest in them) is on or after 1st January 1993; but, in relation to any accounting period of a company which began before 6th April 1992, subsection (1) above shall have effect as if the inserted class were numbered 5 and were inserted after Class 4 in section 118 of the Capital Gains Tax Act 1979.

1979 c. 14.

Relief on retirement or re-investment.

**87.**—(1) Schedule 7 to this Act (which amends the provisions of the Taxation of Chargeable Gains Act 1992 with respect to retirement relief and makes new provision in relation to relief on the re-investment of certain gains) shall have effect.

(2) This section and that Schedule shall have effect in relation to any disposal made on or after 16th March 1993.

Restriction on set-off of pre-entry losses.

**88.**—(1) After section 177 of the Taxation of Chargeable Gains Act 1992 there shall be inserted the following section—

"Restriction on set-off of pre-entry losses.

177A. Schedule 7A to this Act (which makes provision in relation to losses accruing to a company before the time when it becomes a member of a group of companies and losses accruing on assets held by any company at such a time) shall have effect."

(2) The Schedule set out in Schedule 8 to this Act shall be inserted after Schedule 7 to that Act.

(3) This section and that Schedule—

(a) shall apply for the calculation of the amount to be included in respect of chargeable gains in a company's total profits for any accounting period ending on or after 16th March 1993; but

(b) shall so apply only in relation to the deduction from chargeable gains accruing on or after 16th March 1993 of amounts in respect of, or of amounts carried forward in respect of—

(i) pre-entry losses accruing before it became a member of the relevant group to a company whose membership of that group began or begins at a time on or after 1st April 1987; and

(ii) losses accruing on the disposal of any assets so far as it is by reference to such a company that the assets fall to be treated as being or having been pre-entry assets or assets incorporating a part referable to pre-entry assets.

(4) In relation to accounting periods beginning before 6th April 1992 this section and that Schedule shall have effect as if—

(a) the section and Schedule inserted by subsections (1) and (2) above were inserted in the Capital Gains Tax Act 1979; and

1979 c. 14.

(b) references in the Schedule so inserted to provisions of the Taxation of Chargeable Gains Act 1992 were references to such of the provisions of that Act of 1979 or of any other enactment as correspond to the provisions referred to and have effect in relation to that accounting period.

1992 c. 12.

De-grouping charges.

**89.**—(1) In section 179(4) of the Taxation of Chargeable Gains Act 1992 (time at which de-grouping charges accrue), for the words from "as follows" onwards there shall be substituted "at whichever is the later of the following, that is to say—

(a) the time immediately after the beginning of the accounting period of that company in which or, as the case may be, at the end of which the company ceases to be a member of the group; and

(b) the time when under subsection (3) above it is treated as having reacquired the asset;

and subsection (2) of section 409 of the Taxes Act (group relief) shall require any apportionment under that subsection to be made accordingly but shall not require any reference in this subsection to an accounting period to have effect for any of the purposes specified in subsection (3) of that section as a reference to any accounting period other than a true accounting period."

(2) This section shall have effect in relation to accounting periods ending after the day appointed for the purposes of section 180(1)(b) of that Act.

Insurance: transfers of business.

**90.**—(1) In section 211 of the Taxation of Chargeable Gains Act 1992 (insurance: transfers of business) in subsection (2)(b) for "(c)" there shall be substituted "(b)".

(2) This section shall apply in relation to transfers made on or after 17th July 1992.

Deemed disposals of unit trusts by insurance companies.

**91.**—(1) Section 212 of the Taxation of Chargeable Gains Act 1992 (annual deemed disposal by insurance companies of unit trusts) shall have effect in relation to accounting periods beginning on or after 1st January

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1990 c. 29.

1993; and neither that section nor section 46 of the Finance Act 1990 (which is consolidated in that section) shall have effect in relation to any earlier accounting period in relation to which either of them would have applied apart from this subsection.

(2) In relation to any accounting period beginning on or after 1st January 1993—

(a) section 432A of the Taxes Act 1988 shall have effect with the omission of subsection (10) (which disapplies the apportionment rules in that section in the case of a deemed disposal under section 212 of that Act of 1992); and

(b) that section 212 shall have effect with the omission, in subsection (2), of the words from "and in relation to" onwards and of subsections (3), (4) and (6) (which provide for a different apportionment rule in the case of the deemed disposal).

(3) In subsection (7) of that section 212, in the words after paragraph (b) (application of definitions in the Taxes Act 1988), for "and 214" there shall be substituted "to 214A".

(4) After section 213(1) of that Act of 1992 (spreading of gains and losses), there shall be inserted the following subsection—

"(1A) Subsection (1) above shall not apply to chargeable gains or allowable losses except so far as they are gains or losses which—

(a) are referable to basic life assurance and general annuity business; or

(b) would (apart from that subsection) be taken into account in computing the profits of any business treated as a separate business under section 458 of the Taxes Act;

and that subsection shall apply separately in relation to the gains and losses falling within paragraph (a) above and those falling within paragraph (b) above for the purpose of determining what chargeable gains or allowable losses so referable are to be treated as accruing under that subsection and what chargeable gains or allowable losses to be so taken into account are to be treated as so accruing."

(5) Section 214 of that Act of 1992 shall have effect with the omission of subsections (3) to (5) (run-off relief), and after that section there shall be inserted the following section—

"Further transitional provisions.

214A.—(1) This section applies where within two years after the end of an accounting period beginning on or after 1st January 1993 ('the relevant period')—

(a) an insurance company makes a claim for the purposes of this section in relation to that period; and

(b) that period is one of the company's first eight accounting periods after the end of 1992.

(2) Where this section applies, section 213 shall have effect as if—

(a) the amount of the chargeable gains which—

(i) apart from that section and this section, would be treated as accruing on disposals deemed by virtue of section 212 to have been made at the end of the relevant period, and

(ii) satisfy the condition specified in paragraph (a) of section 213(1A),

were reduced by the protected proportion of that amount; and

(b) an amount equal to the appropriate part of that reduction were (subject to section 213) a chargeable gain satisfying that condition and accruing at the end of each of the accounting periods in which the reduction is to be taken into account.

(3) For the purposes of subsection (2) above the protected proportion, in relation to the relevant period, of the amount mentioned in paragraph (a) of that subsection shall be an amount equal to the amount calculated in accordance with the following formula—

$$\left(A + \frac{B \times C}{D}\right) \times \frac{E}{F} \times \frac{G}{8}$$

(4) In subsection (3) above—

A is so much of the amount mentioned in subsection (2)(a) above as represents chargeable gains on section 212 assets which at the end of the relevant period were linked solely to the basic life assurance and general annuity business of the company in question;

B is so much of the amount so mentioned as represents chargeable gains on linked section 212 assets which at the end of that period were partially linked to that business;

C is the amount of such of the closing liabilities at the end of that period of the company's basic life assurance and general annuity business as were liabilities in respect of benefits to be determined by reference to the value of linked section 212 assets which were then partially linked to that business;

D is the amount of all the closing liabilities of the company at the end of that period which were long term business liabilities in respect of benefits to be so determined;

E is the amount of such of the closing liabilities of the company on the relevant date as were relevant linked liabilities in respect of benefits determined by reference to linked section 212 assets;

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F is the amount of all the closing liabilities on the relevant date of the company's basic life assurance and general annuity business which were liabilities in respect of such benefits; and

G is the number of accounting periods in the first nine accounting periods of the company after the end of 1992 which remain after the end of the relevant period or, as the case may be, which would so remain apart from any cessation of the carrying on of any business of the company;

and for the purposes of this subsection the relevant date is, subject to subsection (7) below, the time of the first disposal which is deemed to have been made by the company in question under section 212.

(5) For the purposes of this section and subject to subsection (6) below—

(a) a reduction made under subsection (2) above in relation to the accounting period of any company shall be taken into account in every succeeding accounting period of that company which is included in the first nine accounting periods of that company after the end of 1992; and

(b) in relation to any accounting period in which a reduction is to be taken into account, the appropriate part of the reduction is—

(i) if that is the only accounting period in which it falls to be taken into account, the whole of the reduction; and

(ii) in any other case, the amount of the reduction divided by the number of the accounting periods after the period in which the reduction is made in which the reduction falls to be taken into account or, as the case may be, would so fall apart from any cessation of the carrying on of any business of the company.

(6) Subject to subsection (7) below, where a company ceases to carry on long term business before the end of the first nine accounting periods after the end of 1992, the appropriate part of any reduction in relation to the accounting period ending with the cessation shall be such as to secure that the whole of the reduction has been taken into account under subsection (2)(b) above.

(7) Where at any time on or after 1st January 1993 there is a transfer of the whole or part of the long term business of an insurance company ('the transferor') to another company ('the transferee') in accordance with a scheme sanctioned by a court under section 49 of the Insurance Companies Act 1982, this section shall have effect so that—

1982 c. 50.

(a) the relevant date for the purposes of subsection (4) above shall be determined in relation to any disposal deemed to have been made after the transfer—

(i) by the transferee, or

(ii) in a case where the transfer is of part of the transferor's long term business, by the transferee or the transferor,

as if there had been no deemed disposals under section 212 before the transfer; and

(b) any reduction which (on the assumption that the transferor had continued to carry on the transferred business) would have fallen to be taken into account under subsection (2)(b) above shall be taken into account instead in relation to the transferee.

(8) Where the transfer is of part only of the transferor's long term business, subsection (7)(b) above shall apply only to such part of any reduction to which it would otherwise apply as is appropriate.

(9) Any question arising as to the operation of subsection (8) above shall be determined by the Special Commissioners who shall determine the question in the same manner as they determine appeals; but both the transferor and transferee shall be entitled to appear and be heard or to make representations in writing.

(10) This section shall have effect in relation to any cases in which there is such a transfer as is mentioned in subsection (7) above as if the accounting periods to be taken into account in any calculation for the purposes of this section of the number of accounting periods of the transferee after the end of 1992, and the only accounting periods in relation to which any reduction is to be taken into account under paragraph (b) of that subsection, were—

(a) the accounting periods of the transferor which began on or after 1st January 1993 and ended on or before the day of the transfer (including any which, by reference to a transfer in relation to which the transferor is a transferee, are taken into account in accordance with this subsection as accounting periods of the transferor); and

(b) the accounting periods of the transferee ending after the day of the transfer,

and this section shall have effect in relation to such a reduction as if the first accounting period of the transferee to end after the day of the transfer began with the day after the transfer.

(11) For the purposes of this section assets shall be taken to be partially linked to a company's basic life assurance and general annuity business if they are not linked solely to that business and are neither—

(a) linked solely to any pension business or long term business of that company other than life assurance business; nor

(b) assets of the company's overseas life assurance fund;

and subsection (1) of section 214 shall apply for the purposes of this section as it applies for the purposes of that section.

(12) Subject to subsection (10) above, the references in this section, in relation to any company, to the first eight accounting periods of a company after the end of 1992 are references to the first accounting period of that company to begin on or after 1st January 1993 and to the succeeding seven accounting periods of that company, and references to the first nine accounting periods of a company after the end of 1992 shall be construed accordingly."

(6) In section 214(6)(a) of that Act of 1992 (replacement relief), after "1989" there shall be inserted "and before the time when it is first deemed under section 212 to have made a disposal of any assets".

*Corporation tax: currency*

The basic rule: sterling to be used.

**92.** Where a company carries on a trade, the profits or losses of the trade for an accounting period shall for the purposes of corporation tax be computed and expressed in sterling; but this is subject to any regulations under section 93 or 94 below.

Currency other than sterling for trades.

**93.**—(1) Regulations may provide that where a company carries on a trade the basic profits or losses of the trade for an accounting period shall for the purposes of corporation tax be computed and expressed in such currency (other than sterling) as is found in accordance with prescribed rules, in a case where—

(a) prescribed conditions are fulfilled, and

(b) an election is made by the company in accordance with the regulations and has effect for the accounting period concerned by virtue of the regulations.

(2) For the purposes of this section the basic profits or losses of a trade for an accounting period are all the profits or losses of the trade for the period, but leaving out of account—

(a) any trading receipt of the trade in the period, and any trading expense of the trade in the period, that arises by virtue of section 144(2) of the Capital Allowances Act 1990 (which makes provision about giving effect to allowances and charges);

1990 c. 1.

(b) any amount mentioned in section 142(4) below and treated as received in respect of the trade and in respect of the period.

(3) Subsections (4) and (5) below apply where the basic profits or losses of a trade for an accounting period are for the purposes of corporation tax to be computed and expressed in a currency other than sterling.

(4) The amount of the basic profits or losses shall be treated for the purposes of corporation tax as the sterling equivalent of their amount expressed in the other currency.

(5) The profits or losses of the trade for the period shall for the purposes of corporation tax be found by taking the amount of the basic profits or losses found in sterling under subsection (4) above and then—

(a) taking account of any trading receipt of the trade in the period, and any trading expense of the trade in the period, that arises by virtue of section 144(2) of the Capital Allowances Act 1990, and

1990 c. 1.

(b) taking account (as provided by section 142 below) of any amount mentioned in section 142(4) and treated as received in respect of the trade and in respect of the period.

(6) For the purposes of subsection (4) above the sterling equivalent of an amount is the sterling equivalent calculated by reference to—

(a) such rate of exchange as is found under prescribed rules, or

(b) if no such rules apply in the case concerned, the London closing exchange rate for the last day of the accounting period concerned.

Parts of trades.

**94.**—(1) Regulations may make provision under this section as regards a case where in an accounting period—

(a) a company carries on part of a trade in the United Kingdom, and carries on a different part of the trade through an overseas branch or different parts through different overseas branches, or

(b) a company carries on different parts of a trade through different overseas branches;

and "overseas branch" means a branch outside the United Kingdom.

(2) Regulations may provide that the basic profits or losses of different parts of the trade for an accounting period shall for the purposes of corporation tax be computed and expressed in such different currencies as are found in accordance with prescribed rules, in a case where—

(a) prescribed conditions are fulfilled, and

(b) an election is made by the company in accordance with the regulations and has effect for the accounting period concerned by virtue of the regulations.

(3) The regulations must be so framed that—

(a) one currency is used for each part;

(b) at least two currencies are used;

(c) subject to paragraph (b) above, the same currency may be used for more than one part;

(d) if no election is made as regards a particular part, sterling is to be used for that part.

(4) For the purposes of this section the basic profits or losses of part of a trade for an accounting period are all the profits or losses of the part for the period; but this is subject to subsections (5) and (6) below.

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(5) No account shall be taken of any trading receipt of the trade in the period, and any trading expense of the trade in the period, that arises by virtue of section 144(2) of the Capital Allowances Act 1990 (which makes provision about giving effect to allowances and charges).

1990 c. 1.

(6) Where the basic profits or losses of the part of the trade for the period are for the purposes of corporation tax to be computed and expressed in a currency other than sterling, no account shall be taken of any amount mentioned in section 142(4) below and treated as received in respect of the part of the trade and in respect of the period.

(7) Where the basic profits or losses of different parts of a trade for an accounting period are for the purposes of corporation tax to be computed and expressed in two or more different currencies, subsections (8) to (10) below have effect for finding the profits or losses of the trade for the period for the purposes of corporation tax.

(8) Where the basic profits or losses of any part are for the purposes of corporation tax to be computed and expressed in a currency other than sterling—

(a) find the sterling equivalent of their amount expressed in the other currency, then

(b) take account (as provided by section 142 below) of any amount mentioned in section 142(4) and treated as received in respect of the part and in respect of the period, then

(c) call the result the accountable profits or losses of the part for the period.

(9) Where the basic profits or losses of any part are for the purposes of corporation tax to be computed and expressed in sterling, take those profits or losses and call them the accountable profits or losses of the part for the period.

(10) The profits or losses of the trade for the period for the purposes of corporation tax shall then be found by—

(a) taking account of the accountable profits or losses of the different parts for the period, and

(b) then taking account of any trading receipt of the trade in the period, and any trading expense of the trade in the period, that arises by virtue of section 144(2) of the Capital Allowances Act 1990.

(11) For the purposes of subsection (8) above the sterling equivalent of an amount is the sterling equivalent calculated by reference to—

(a) such rate of exchange as is found under prescribed rules, or

(b) if no such rules apply in the case concerned, the London closing exchange rate for the last day of the accounting period concerned.

Currency to be used: supplementary.

**95.**—(1) Regulations under section 93 or 94 above may include—

(a) provision that an election may in prescribed circumstances have effect from a time before it is made;

(b) provision that prescribed conditions shall be treated as fulfilled in prescribed circumstances (subject to any provision under paragraph (c) below);

(c) provision that prescribed conditions shall be treated as not having been fulfilled if the inspector notifies the company that he is not satisfied that they are fulfilled;

(d) provision for an appeal from the inspector's notification;

and any provision under paragraph (c) above may allow a notification to be made after the accounting period ends.

(2) The power to make regulations under section 93 or 94 above shall be exercisable by the Treasury by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.

(3) In sections 93 and 94 above "prescribed" means prescribed by regulations made under the section concerned.

(4) Where as regards a trade and for an accounting period—

(a) an election is made under regulations made under section 93 above, or

(b) an election is made under regulations made under section 94 above,

no election may be made as regards the trade for the period under regulations made under the other section.

(5) For the purposes of sections 93 and 94 above the ecu shall be regarded as a currency other than sterling; and the reference here to the ecu is to the European currency unit as defined for the time being in Council Regulation No. 3180/78/EEC or in any Community instrument replacing it.

(6) Sections 92 to 94 above apply in relation to any accounting period beginning on or after the day appointed under section 165(7)(b) below.

Foreign companies: trading currency.

**96.**—(1) In Schedule 24 to the Taxes Act 1988 (assumptions for calculating chargeable profits, creditable tax and corresponding United Kingdom tax of foreign companies) the following paragraph shall be inserted after paragraph 4—

"4A.—(1) Sub-paragraph (2) below applies where—

(a) the company carries on a trade, and

(b) the currency used in the accounts of the company for an accounting period is a currency other than sterling.

(2) It shall be assumed that by virtue of regulations under section 93 of the Finance Act 1993 (corporation tax: currency to be used) the basic profits or losses of the trade for the accounting period are to be computed and expressed for the purposes of corporation tax in the currency used in the accounts of the company for the period.

(3) References in this paragraph to the accounts of a company—

(a) are to the accounts which the company is required by the law of its home State to keep, or

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(b) if the company is not required by the law of its home State to keep accounts, are to the accounts of the company which most closely correspond to the individual accounts which companies formed and registered under the Companies Act 1985 are required by that Act to keep;

1985 c. 6.

and for the purposes of this paragraph the home State of a company is the country or territory under whose law the company is incorporated.

(4) The reference in sub-paragraph (2) above to the basic profits or losses of the trade for the accounting period shall be construed in accordance with section 93 of the Finance Act 1993."

(2) This section applies in relation to any accounting period beginning on or after the day appointed under section 165(7)(b) below.

*Overseas life insurance companies*

Modification of Taxes Act 1988.

**97.**—(1) The following shall be inserted after section 444A of the Taxes Act 1988—

*"Provisions applying in relation to overseas life insurance companies*

Modification of Act in relation to overseas life insurance companies.

444B. Schedule 19AC (which makes modifications of this Act in relation to overseas life insurance companies) shall have effect."

(2) Schedule 9 to this Act (which inserts Schedule 19AC into that Act and makes further provision) shall have effect.

Modification of section 440 of Taxes Act 1988.

**98.**—(1) The following section shall be inserted after section 444B of the Taxes Act 1988—

"Modification of section 440.

444C.—(1) Where the company mentioned in section 440(1) is an overseas life insurance company, section 440 shall have effect with the modifications in subsections (2) and (3) below.

(2) Subsection (4) shall be treated as if—

(a) paragraph (c) were omitted;

(b) in paragraphs (a), (b), (d) and (e), the words "UK assets" were substituted for the word "assets"; and

(c) at the end there were inserted the following paragraphs—

"(f) section 11C assets;

(g) non-UK assets."

(3) The following subsection shall be treated as inserted at the end of the section—

"(6) For the purposes of this section—

(a) UK assets are—

(i) section 11(2)(b) assets;

(ii) section 11(2)(c) assets; or

(iii) assets which by virtue of section 11B are attributed to the branch or agency in the United Kingdom through which the company carries on life assurance business;

(b) section 11C assets are assets—

(i) (in a case where section 11C (other than subsection (9)) applies) of the relevant fund, other than UK assets; or

(ii) (in a case where that section including that subsection applies) of the relevant funds, other than UK assets;

(c) non-UK assets are assets which are not UK assets or section 11C assets;

and any expression used in this subsection to which a meaning is given by section 11A has that meaning."

(4) Where one or each of the companies mentioned in section 440(2) is an overseas life insurance company, section 440(2)(b) and (4) shall have effect as if for "categories", in each place where the word occurs, there were substituted "paragraphs".

(5) Where the transferor company mentioned in section 440(2) is an overseas life insurance company, section 440 shall have effect, as regards the time immediately before the acquisition, with the modifications in subsections (2) and (3) above.

(6) Where the acquiring company mentioned in section 440(2) is an overseas life insurance company, section 440 shall have effect, as regards the time immediately after the acquisition, with the modifications in subsections (2) and (3) above."

(2) This section shall apply—

(a) so far as section 440(1) is concerned, as regards events falling on or after the first day of the relevant accounting period of the company concerned;

(b) so far as section 440(2) is concerned, as regards events falling on or after the first day of the relevant accounting period of the transferor company or on or after the first day of the relevant accounting period of the acquiring company (whichever of those days falls later).

(3) For the purposes of subsection (2) above a company's relevant accounting period is its first accounting period to begin after 31st December 1992.

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Qualifying distributions, tax credits, etc.

**99.**—(1) The following section shall be inserted after section 444C of the Taxes Act 1988—

"Qualifying distributions, tax credits, etc.

444D.—(1) Subsection (2) below applies where—

(a) an overseas life insurance company receives a qualifying distribution made by a company resident in the United Kingdom; and

(b) the distribution (or part of the distribution)—

(i) would fall within paragraph (a), (aa) or (ab) of section 11(2) (as section 11(2) has effect by virtue of Schedule 19AC) but for the exclusion contained in that paragraph; and

(ii) is referable to life assurance business.

(2) Where this subsection applies the recipient shall be treated for the purposes of the Corporation Tax Acts as entitled to such a tax credit in respect of the distribution (or part of the distribution) as it would be entitled to under section 231 if it were resident in the United Kingdom.

(3) Where part only of a qualifying distribution would fall within paragraph (ab) of section 11(2) (as section 11(2) has effect by virtue of Schedule 19AC) but for the exclusion contained in that paragraph, the tax credit to which the recipient shall be treated as entitled by virtue of subsection (2) above is the proportionate part of the tax credit to which the recipient would be so treated as entitled in respect of the whole of the distribution.

(4) In this section "UK distribution income" means income of an overseas life insurance company which consists of a distribution (or part of a distribution) in respect of which the company is entitled to a tax credit (and which accordingly represents income equal to the aggregate of the amount or value of the distribution (or part) and the amount of that credit).

(5) An overseas life insurance company may, on making a claim for the purpose, require that any UK distribution income for an accounting period shall for all or any of the purposes mentioned in subsection (6) below be treated as if it were a like amount of profits chargeable to corporation tax; and where it does so—

(a) the provisions mentioned in subsection (6) below shall apply to reduce the amount of the UK distribution income; and

(b) the company shall be entitled to have paid to it the amount of the tax credits comprised in the amount of UK distribution income which is so reduced.

(6) The purposes for which a claim may be made under subsection (5) above are those of—

(a) the setting of trading losses against total profits under section 393A(1);

(b) the deduction of charges on income under section 338 or paragraph 5 of Schedule 4;

(c) the deduction of expenses of management under section 76;

(d) the setting of certain capital allowances against total profits under section 145(3) of the 1990 Act.

(7) Subsections (3), (4) and (8) of section 242 shall apply for the purposes of a claim under subsection (5) above as they apply for the purposes of a claim under that section."

(2) In section 431(2) of that Act (definitions), the following definition shall be inserted after the definition of "periodical return"—

""UK distribution income" has the meaning given by section 444D(4);".

(3) This section shall apply in relation to accounting periods beginning after 31st December 1992.

Income from investments attributable to BLAGAB, etc.

**100.**—(1) The following section shall be inserted after section 444D of the Taxes Act 1988—

"Income from investments attributable to BLAGAB, etc.

444E.—(1) In computing the income from the investments of an overseas life insurance company attributable to the basic life assurance and general annuity business of the branch or agency in the United Kingdom through which the company carries on life assurance business, any interest, dividends and other payments whatsoever to which section 48 or 123(4) extends shall be included notwithstanding the exemption from tax conferred by those sections.

(2) Where in computing the income referred to in subsection (1) above any interest on any securities issued by the Treasury is excluded by virtue of a condition of the issue of those securities regulating the treatment of the interest on them for tax purposes, the relief under section 76 shall be reduced so that it bears to the amount of relief which would be granted apart from this subsection the same proportion as the amount of that income excluding that interest bears to the amount of that income including that interest."

(2) In section 475 of that Act (tax-free Treasury securities: exclusion of interest on borrowed money), in subsection (6)—

(a) for "445(8)(b)", in each place where it occurs, there shall be substituted "444E(2)";

(b) for the words "of the life assurance fund", in each place where they occur, there shall be substituted the words "attributable to basic life assurance and general annuity business".

(3) This section shall apply in relation to accounting periods beginning after 31st December 1992.

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Modification of Finance Act 1989. 1989 c. 26.

**101.**—(1) The following section shall be inserted after section 89 of the Finance Act 1989—

"Modification of sections 83 and 89 in relation to overseas life insurance companies.

89A. Schedule 8A to this Act (which makes modifications of sections 83 and 89 in relation to overseas life insurance companies) shall have effect."

(2) Schedule 10 to this Act (which inserts Schedule 8A into that Act) shall have effect.

Modification of Taxation of Chargeable Gains Act 1992. 1992 c. 12.

**102.**—(1) The following section shall be inserted after section 214A of the Taxation of Chargeable Gains Act 1992—

"Modification of Act in relation to overseas life insurance companies.

214B. Schedule 7B (which makes modifications of this Act in relation to overseas life insurance companies) shall have effect."

(2) Schedule 11 to this Act (which inserts Schedule 7B into that Act) shall have effect.

Amendment of definition and repeals.

**103.**—(1) In section 431(2) of the Taxes Act 1988 (definitions), in the definition of "overseas life insurance company" for the words "having its head office outside" there shall be substituted the words "not resident in".

(2) The following provisions of that Act shall cease to have effect—

(a) section 445 (charge to tax on investment income of overseas life insurance company);

(b) section 446(1) (qualifying distributions part of profits of pension business of overseas life insurance company);

(c) section 447(1), (2) and (4) (set-off of income tax and tax credits against corporation tax assessed under section 445);

(d) section 448 (qualifying distributions and tax credits);

(e) section 449 (double taxation agreements);

(f) section 724(5) to (8) (special provisions of accrued income scheme for overseas life insurance companies);

(g) section 811(2)(c) (provision about deduction of foreign tax not to affect overseas life insurance company charged under section 445);

(h) paragraph 1(9) of Schedule 19AB (payments on account of tax credits in case of pension business: special provision for overseas life insurance companies).

(3) Subject to subsection (4) below, this section shall apply in relation to accounting periods beginning after 31st December 1992.

(4) Where in the accounting period of an overseas life insurance company ending immediately before its first accounting period to begin after 31st December 1992 there is such an excess as is mentioned in subsection (7) of section 724 of the Taxes Act 1988, then, notwithstanding the preceding provisions of this section, that subsection shall continue to apply to the company but only—

(a) in relation to that excess; and

(b) if it would have so applied apart from this section.

*Approved share option schemes*

Calculation of consideration. 1992 c. 12.

**104.** After section 149 of the Taxation of Chargeable Gains Act 1992 there shall be inserted the following section—

"Approved share option schemes.

149A.—(1) This section applies where—

(a) an option is granted on or after 16th March 1993,

(b) the option consists of a right to acquire shares in a body corporate and is obtained as mentioned in section 185(1) of the Taxes Act (approved share option schemes), and

(c) section 17(1) would (apart from this section) apply for the purposes of calculating the consideration for the grant of the option.

(2) The grantor of the option shall be treated for the purposes of this Act as if section 17(1) did not apply for the purposes of calculating the consideration and, accordingly, as if the amount or value of the consideration was its actual amount or value.

(3) Where the option is granted wholly or partly in recognition of services or past services in any office or employment, the value of those services shall not be taken into account in calculating the actual amount or value of the consideration.

(4) The preceding provisions of this section shall not affect the treatment for the purposes of this Act of the person to whom the option is granted."

Expenditure on shares.

**105.**—(1) In section 120(6) of the Taxation of Chargeable Gains Act 1992 (increase in expenditure by reference to tax charged in relation to shares)—

(a) for the words "section 185(6)" there shall be substituted the words "the applicable provision", and

(b) at the end there shall be inserted "; and in this subsection 'the applicable provision' means—

(a) subsection (6) of section 185 of the Taxes Act (as that subsection had effect before the coming into force of section 39(5) of the Finance Act 1991), or

1991 c. 31.

(b) subsection (6A) of that section."

(2) The amendments made by subsection (1) above shall be deemed always to have had effect.

1979 c. 14.

(3) In section 32A(5) of the Capital Gains Tax Act 1979 (expenditure: amounts to be included as consideration)—

(a) for the words "section 185(6)" there shall be substituted the words "the applicable provision", and

(b) at the end there shall be inserted "; and in this subsection 'the applicable provision' means—

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1991 c. 31.

(a) subsection (6) of section 185 of the Taxes Act (as that subsection had effect before the coming into force of section 39(5) of the Finance Act 1991), or

(b) subsection (6A) of that section."

1992 c. 12.

(4) The amendments made by subsection (3) above shall be deemed to have come into force on 1st January 1992 (but shall have effect subject to the repeals made by the Taxation of Chargeable Gains Act 1992).

*Indexation: miscellaneous*

Earnings cap etc: no indexation in 1993-94.

**106.** The figure £75,000 shall be deemed to be the figure found for the year 1993-94, for the purposes of section 590C of the Taxes Act 1988, by virtue of section 590C(4) and (5) (indexation of earnings cap for retirement benefits schemes and certain other figures).

Indexation of allowances etc. for 1994-95 onwards.

**107.**—(1) The Taxes Act 1988 shall be amended as mentioned in subsections (2) to (6) below.

(2) In section 1—

(a) in subsection (4) (indexation of income tax bands) for "December" (in each place) there shall be substituted "September";

(b) subsection (5) (no change required for PAYE before 18th May) shall be omitted.

(3) In section 257C—

(a) in subsection (1) (indexation of personal allowance and married couple's allowance) for "December" (in each place) there shall be substituted "September";

(b) subsection (2) (no change required for PAYE before 18th May) shall be omitted.

(4) In section 590C (earnings cap for retirement benefits schemes) in subsection (5) (indexation) for "December" (in each place) there shall be substituted "September".

(5) In section 590C the following subsection shall be inserted after subsection (5)—

"(5A) If the retail prices index for the month of September preceding a year of assessment falling within subsection (4) above is not higher than it was for the previous September, the figure for that year shall be the same as the figure for the previous year of assessment.";

and accordingly, in subsection (4) of that section for "subsection (5)" there shall be substituted "subsections (5) and (5A)".

(6) In each of the provisions to which this subsection applies (provisions which refer to section 590C(4) and (5)) for "and (5)" there shall be substituted "to (5A)"; and this subsection applies to sections 590B(11), 592(8E), 594(7), 599(12) and 640A(4).

1989 c. 26.

(7) In Schedule 6 to the Finance Act 1989 (retirement benefits schemes) in paragraphs 20(6) and 22(5) (which refer to section 590C(4) and (5) of the Taxes Act 1988) for "and (5)" there shall be substituted "to (5A)".

(8) This section shall have effect for the year 1994-95 and subsequent years of assessment.

*Miscellaneous provisions about reliefs*

Counselling services for employees.

**108.** In Chapter VI of Part XIII of the Taxes Act 1988, after section 589 there shall be inserted the following sections—

"Counselling services for employees.

589A.—(1) This section applies where—

(a) qualifying counselling services are provided to a person (the employee) in connection with the termination of the holding by him of any office or employment, and

(b) the termination takes place on or after 16th March 1993.

(2) This section also applies where—

(a) subsection (1)(a) above applies, and

(b) the termination takes place before 16th March 1993 but relevant expenditure is incurred on or after that date.

(3) Relevant expenditure is expenditure incurred in—

(a) providing the qualifying counselling services to the employee,

(b) paying or reimbursing fees for the provision to the employee of the qualifying counselling services, or

(c) paying or reimbursing any allowable travelling expenses incurred in connection with the provision of the qualifying counselling services to the employee.

(4) No charge to tax under Schedule E shall arise in respect of—

(a) the provision of the qualifying counselling services to the employee,

(b) the payment or reimbursement of fees for the provision to the employee of the qualifying counselling services, or

(c) the payment or reimbursement of any allowable travelling expenses incurred in connection with the provision of the qualifying counselling services to the employee.

(5) Where this section applies by virtue of subsection (2) above, subsection (4) above shall apply only to the extent that the expenditure incurred in providing the services or paying or reimbursing the fees or expenses is incurred on or after 16th March 1993.

(6) Subsection (4) above shall apply whether or not the person who provides the services or pays or reimburses the fees or expenses is the person under whom the employee holds or held the office or employment mentioned in subsection (1) above.

(7) Subsections (8) to (10) below apply where any relevant expenditure is incurred by the person under whom the employee holds or held the office or employment mentioned in subsection (1) above (the employer).

(8) If and so far as the expenditure would not, apart from this subsection, be so deductible, it shall be deductible in computing for the purposes of Schedule D the profits or gains of the trade, profession or vocation of the employer for the purposes of which the employee is or was employed.

(9) If the employer carries on a business and the expenses of management of the business are eligible for relief under section 75, subsection (8) above shall have effect as if for the words from 'in computing' onwards there were substituted 'as expenses of management for the purposes of section 75'.

(10) Where this section applies by virtue of subsection (2) above, subsections (8) and (9) above shall apply only to the extent that the expenditure is incurred on or after 16th March 1993.

Qualifying counselling services etc.

589B.—(1) Subsections (2) to (4) below apply for the purposes of section 589A.

(2) Subject to subsection (3) below, services are qualifying counselling services if—

(a) the purpose, or main purpose, of their provision is to enable the employee to adjust to the termination of his holding of the office or employment mentioned in section 589A(1) or is to enable him to find other gainful employment (including self-employment) or is to enable him to do both,

(b) the services consist wholly of any or all of the following, namely, giving advice and guidance, imparting or improving skills, and providing or making available the use of office equipment or similar facilities,

(c) the employee has been employed by the employer full-time throughout the period of two years ending at the time when the services begin to be provided to him or, if it is earlier, at the time he ceases to be employed by the employer,

(d) the opportunity to receive the services, on similar terms as to payment or reimbursement of any expenses incurred in connection with their provision, is available either generally to holders or past holders of offices or employment under the employer or to a particular class or classes of such holders or past holders, and

(e) the services are provided in the United Kingdom.

(3) Where paragraphs (a) to (d) of subsection (2) above are satisfied in relation to particular services but the services are provided partly in and partly outside the United Kingdom, the extent to which the services are qualifying counselling services shall be determined on a just and reasonable basis.

(4) In relation to services, allowable travelling expenses are those which would be deductible under section 198—

(a) on the assumption that receipt of the services is one of the duties of the employee's office or employment, and

(b) if the employee has in fact ceased to be employed by the employer, on the assumption that he continues to be employed by him.

(5) Any reference in this section or section 589A to an employee being employed by an employer is a reference to the employee holding office or employment under the employer."

Pre-trading expenditure.

**109.**—(1) In subsection (1) of section 401 of the Taxes Act 1988 (which gives relief for expenditure incurred within the five years before the beginning of any trade, profession or vocation), for "five" there shall be substituted "seven".

(2) After subsection (1) of that section there shall be inserted the following subsection—

"(1A) Where—

(a) a company pays any charge on income at a time before it begins to carry on any trade, and

(b) the payment is made wholly and exclusively for the purposes of that trade,

that payment, to the extent that it is not deducted otherwise than by virtue of this section from any profits, shall be treated for the purposes of corporation tax as paid on the day on which the trade is first carried on by the company."

(3) In section 338(5)(b) of that Act (payments not to be treated as charges on income), after "trade" there shall be inserted "which is or is to be".

(4) Subsections (1) and (2) above shall have effect where the time when the person begins to carry on the trade, profession or vocation falls after 31st March 1993, and subsection (3) above shall have effect in relation to payments made after that date.

Waste disposal expenditure.

**110.**—(1) In section 91A(6) of the Taxes Act 1988 (relevant licence for the purposes of restoration payments), after paragraph (b) there shall be inserted "or

(c) any authorisation under the Radioactive Substances Act 1960 or the Radioactive Substances Act 1993 for the disposal of radioactive waste or any nuclear site licence under the Nuclear Installations Act 1965."

1960 c. 34.
1993 c. 12.
1965 c. 57.

PART II

(2) In section 91B of that Act (preparation expenditure for waste disposal), after subsection (10) there shall be inserted the following subsection—

"(10A) For the purposes of this section any expenditure incurred for the purposes of a trade by a person about to carry it on shall be treated as if it had been incurred by that person on the first day on which he does carry it on and in the course of doing so."

(3) This section shall have effect in relation to any case where the trade in question is begun after 31st March 1993.

Business expansion scheme: loan linked investments.

**111.**—(1) After section 299 of the Taxes Act 1988 there shall be inserted the following section—

"Loan linked investments.

299A.—(1) An individual shall not be entitled to relief in respect of any shares in a company issued on or after 16th March 1993 if—

(a) there is a loan made by any person, at any time in the relevant period, to that individual or any associate of his; and

(b) the loan is one which would not have been made, or would not have been made on the same terms, if that individual had not subscribed for those shares or had not been proposing to do so.

(2) References in this section to the making by any person of a loan to any individual or an associate of his include references—

(a) to the giving by that person of any credit to that individual or any associate of his; and

(b) to the assignment or assignation to that person of any debt due from that individual or any associate of his;

and the references in section 307(6)(ca) to the making of a loan shall be construed accordingly."

(2) In sections 289(12)(a) and 310(1) and (10)(a) of that Act (definition of "the relevant period" and information provisions), after "299,", in each case, there shall be inserted "299A,".

(3) In section 307(6) of that Act (reckonable date for the purposes of interest on relief that is withdrawn), after paragraph (c) there shall be inserted the following paragraph—

"(ca) in the case of relief withdrawn by virtue of section 299A in consequence of the making of any loan after the grant of the relief, the date of the making of the loan;".

(4) This section shall apply in relation to any case in which the claim for relief is made on or after 16th March 1993.

Employers' pension contributions.

**112.**—(1) In section 592(4) of the Taxes Act 1988 (employers' contributions to exempt approved schemes), at the end there shall be inserted "but no other sum shall for those purposes be allowed to be deducted as an expense, or expense of management, in respect of the making, or any provision for the making, of any contributions under the scheme."

(2) Subsection (1) above shall have effect in the case of any employer in relation to, as the case may be—

(a) any accounting period of that employer ending with a day after 5th April 1993; or

(b) any year of assessment the employer's basis period for which ends with a day after that date.

(3) Where—

(a) there is after 5th April 1993 an actual payment by an employer of a contribution under an exempt approved scheme,

(b) that payment would, apart from this subsection, be allowed to be deducted as an expense, or expense of management, of the employer in relation to any chargeable period in relation to which subsection (1) above has effect, and

(c) the total of previously allowed deductions exceeds the relevant maximum,

the amount allowed to be so deducted in respect of the payment mentioned in paragraph (a) above and of any other actual payments of contributions under the scheme which, having been made after 5th April 1993, fall within paragraph (b) above in relation to the same chargeable period shall be reduced by whichever is the smaller of the excess and the amount which reduces the deduction to nil.

(4) In relation to any such actual payment by an employer of a contribution under an exempt approved scheme as would be allowed to be deducted as mentioned in subsection (3) above in relation to any chargeable period-

(a) the reference in that subsection to the total of previously allowed deductions is a reference to the aggregate of every amount in respect of the making, or any provision for the making, of that or any other contributions under the scheme, which has been allowed to be deducted as an expense, or expense of management, of that person in relation to a previous chargeable period; and

(b) the reference to the relevant maximum is a reference to the amount which would have been that aggregate if the restriction on deductions imposed by virtue of subsection (1) above had been applied in relation to every previous chargeable period;

and for the purposes of this subsection an amount the deduction of the whole or any part of which falls to be taken into account as allowed in relation to more than one chargeable period shall be treated as if the amount allowed were a different amount in the case of each of those periods.

(5) For the purposes of this section any payment which is treated under subsection (6) of section 592 of the Taxes Act 1988 as spread over a period of years shall be treated as actually paid at the time when it is treated as paid in accordance with that subsection.

(6) After subsection (6) of section 592 of the Taxes Act 1988 there shall be inserted the following subsection—

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1975 c. 60.

S.I. 1975/1503 (N.I. 15).

"(6A) Where any sum is paid to the trustees of the scheme in or towards the discharge of any liability of an employer under section 58B of the Social Security Pensions Act 1975 or section 144 of the Pension Schemes Act 1993 (deficiencies in the assets of a scheme) or under Article 68B of the Social Security Pensions (Northern Ireland) Order 1975 or section 140 of the Pension Schemes (Northern Ireland) Act 1993 (which contain corresponding provision for Northern Ireland), the payment of that sum—

(a) shall be treated for the purposes of this section as an employer's contribution under the scheme; and

(b) notwithstanding (where it is the case) that the employer's trade, profession, vocation or business is permanently discontinued before the making of the payment, shall be allowed, in accordance with subsection (4) above, to be deducted as such a contribution to the same extent as it would have been allowed but for the discontinuance and as if it had been made on the last day on which the trade, profession, vocation or business was carried on.";

and this subsection shall have effect in relation to any payment made on or after the day on which this Act is passed.

(7) In this section—

"basis period", in relation to any person, means a period on the profits or gains of which income tax for any year of assessment falls to be finally computed under Case I or II of Schedule D in respect of the trade, profession or vocation of that person (being the later period in any case where the profits and gains of an earlier period are taken to be the profits and gains of a later period); and

"exempt approved scheme" has the meaning given by section 592(1) of the Taxes Act 1988.

*Capital allowances*

Initial allowances: industrial buildings and structures. 1990 c. 1.

**113.**—(1) In Chapter I of Part I of the Capital Allowances Act 1990, after section 2 there shall be inserted the following section—

"Initial allowances: contracts entered into between October 1992 and November 1993.

2A.—(1) In relation to expenditure to which this section applies, section 1 shall have effect with the following modifications, that is to say—

(a) so much of that section as relates to the requirement that the site in question is at a material time in an enterprise zone, namely—

(i) paragraph (b) of subsection (1) and the reference to that paragraph in subsection (1A);

(ii) paragraph (b) of subsection (1A); and

(iii) subsection (11),

shall be omitted;

(b) for the reference in subsection (1) to 100 per cent. there shall be substituted a reference to 20 per cent.; and

(c) subsection (2) shall have effect with the omission of the words 'and to a commercial building or structure'.

(2) No initial allowance shall be made under this section in respect of any expenditure on the construction of a building or structure unless it is or is to be first used on or before 31st December 1994; and in a case where—

(a) an initial allowance is granted under this section in respect of any expenditure on the construction of a building or structure; and

(b) by the end of that day that building or structure has not come to be used,

that allowance shall be withdrawn and all such assessments and adjustments of assessments to tax shall be made as may be necessary in consequence of its being withdrawn.

(3) Subject to subsection (5) below, this section applies to any capital expenditure incurred under a contract which—

(a) is entered into either—

(i) in the period beginning with 1st November 1992 and ending with 31st October 1993; or

(ii) for the purpose of securing that obligations under a contract entered into in that period are complied with;

but

(b) is not entered into for the purpose of securing that obligations under a contract entered into before the beginning of that period are complied with.

(4) Subject to subsection (5) below, this section also applies to any additional VAT liability incurred in respect of expenditure falling within subsection (3) above.

(5) This section does not apply to—

(a) any expenditure incurred, or incurred under a contract entered into, at a time when the site of the building or structure is in an enterprise zone, being a time not more than 10 years after the site was first included in the zone;

(b) expenditure falling in relation to expenditure so incurred within section 1(1A); or

(c) expenditure to which section 2 applies.

(6) Subsection (5) above shall have effect subject to sections 10C and 17A."

(2) In section 4(9) of that Act, in the definition of "capital expenditure", for "or 10B" there shall be substituted "10B or 10C".

PART II

(3) In section 10(3A) of that Act (provisions not to apply in cases falling within section 10A)—

(a) after "apply" there shall be inserted "for the purpose of determining whether any expenditure is expenditure to which section 2A applies or"; and

(b) after "10A" there shall be inserted "or 10C".

(4) After section 10B of that Act there shall be inserted the following section—

"Purchases of buildings and structures: allowances under section 2A.

10C.—(1) This section shall apply (subject to subsection (2) below) where—

(a) expenditure is incurred on the construction of a building or structure ('actual expenditure');

(b) some or all of that expenditure is expenditure to which section 2A applies or would be such expenditure if it were capital expenditure; and

(c) before the building or structure is used, the relevant interest in it is sold.

(2) In relation to any case in which the relevant interest is sold in pursuance of a contract entered into in the period beginning with 1st November 1992 and ending with 31st October 1993 by a person who—

(a) carries on a trade which consists, in whole or in part, in the construction of buildings or structures with a view to their sale; and

(b) has been entitled to that interest since before 1st November 1992,

section 2A(3) above shall have effect for the purposes of subsection (1)(b) above and subsections (6) and (11) below as if for the words from 'capital expenditure' onwards there were substituted 'capital expenditure incurred under a contract entered into either before 1st November 1993 or for the purpose of securing that obligations under a contract entered into before that date are complied with.'

(3) Where this section applies—

(a) the actual expenditure shall be left out of account for the purposes of sections 1 to 8; but

(b) subject to subsections (9) to (11) below, the person who buys the relevant interest shall be deemed for those purposes to have incurred, on the date when the purchase price becomes payable, expenditure on the construction of the building or structure ('deemed expenditure') equal to the actual expenditure or to the net price paid by him for that interest, whichever is the less.

(4) The deemed expenditure shall be regarded as comprising a section 2A element and a residual element.

(5) The section 2A element of the deemed expenditure shall be calculated in accordance with the formula—

$$A \times \frac{B}{C}$$

(6) In subsection (5) above—

A is the deemed expenditure;

B is so much of the actual expenditure as is expenditure to which section 2A applies or expenditure that would be such expenditure if it were capital expenditure; and

C is the actual expenditure.

(7) The residual element of the deemed expenditure shall be so much (if any) of the deemed expenditure as does not comprise the section 2A element.

(8) Notwithstanding the provisions of subsection (3)(b) above—

(a) the section 2A element of the deemed expenditure shall be treated for the purpose only of determining entitlement to allowances as expenditure to which that section applies; and

(b) the residual element of the deemed expenditure shall be treated for that purpose as expenditure which is not expenditure to which that section applies.

(9) Where the relevant interest in the building or structure is sold more than once before the building or structure is used, subsections (2) and (3)(b) above shall have effect only in relation to the last of those sales.

(10) Where the actual expenditure was incurred by a person carrying on a trade which consists, in whole or in part, in the construction of buildings or structures with a view to their sale and, before the building or structure is used, he sells the relevant interest in it in the course of that trade or, as the case may be, of that part of that trade, then—

(a) if that sale is the only sale of the relevant interest before the building or structure is used, paragraph (b) of subsection (3) above shall have effect as if the words 'the actual expenditure or to' and 'whichever is the less' were omitted; and

(b) in any other case, that paragraph shall have effect as if the reference to the actual expenditure were a reference to the price paid on that sale.

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(11) Where some of the actual expenditure is expenditure falling within subsection (1)(b) of section 10A and some or all of the remainder is expenditure to which section 2A applies or to which section 2A would apply if it were capital expenditure, section 10A and this section shall both have effect but as if—

(a) subsections (3), (9) and (10) of this section were omitted;

(b) references in this section to the deemed expenditure were references to the expenditure which, in accordance with subsections (2), (8) and (9) of section 10A, is the deemed expenditure for the purposes of that section; and

(c) the section 2A element of the deemed expenditure were comprised in the non-enterprise zone element of that expenditure."

(5) In section 17A of that Act (exclusion of expenditure incurred more than 20 years after a site is included in an enterprise zone), after "sections 1(1)(b)" there shall be inserted "2A(5)(a)".

(6) In section 18(14) of that Act (application of section 18(13) to certain buildings), for "qualifying hotels to which this Part applies by virtue of section 7" there shall be substituted "any qualifying hotel".

(7) This section shall have effect in relation to every chargeable period which, or the basis period for which, ends after 31st October 1992.

Initial allowances: agricultural buildings etc.

**114.**—(1) Schedule 12 to this Act (which makes provision, which broadly corresponds to that made in relation to industrial buildings and structures by section 113 above, for the making of initial allowances in respect of expenditure on the construction of agricultural buildings, fences and other works) shall have effect.

(2) This section and the amendments made by Schedule 12 to this Act shall have effect in relation to every chargeable period which, or the basis period for which, ends after 31st October 1992.

First year allowances: machinery and plant.
1990 c. 1.

**115.**—(1) In subsection (1) of section 22 of the Capital Allowances Act 1990 (first-year allowances), in the words after paragraph (b), after "which" there shall be inserted ", in the case of expenditure to which this section applies by virtue only of subsection (3B) below, shall be of an amount equal to 40 per cent. of that expenditure and, in any other case,".

(2) After subsection (3A) of that section there shall be inserted the following subsection—

"(3B) This section applies to—

(a) any expenditure which, disregarding any effect of section 83(2) on the time at which it is to be treated as incurred, is incurred by any person in the period beginning with 1st November 1992 and ending with 31st October 1993; and

(b) any additional VAT liability incurred in respect of expenditure to which this section applies by virtue of paragraph (a) above."

(3) In subsection (4)(c) of that section (no first-year allowance on the provision of machinery or plant for leasing), after "(6)" there shall be inserted "(6A)"; and after subsection (6) of that section there shall be inserted the following subsection—

"(6A) Paragraph (c) of subsection (4) above does not apply to expenditure to which this section applies by virtue only of subsection (3B) above; but (subject to section 43) no first-year allowance shall be made by virtue of subsection (3B) above in respect of any expenditure on the provision of machinery or plant for leasing if—

(a) it appears that the expenditure is such that section 42 would have effect with respect to it; or

(b) each of the following conditions is satisfied, that is to say—

(i) the expenditure is incurred on or after 14th April 1993;

(ii) the expenditure is expenditure in respect of which paragraph (c) of subsection (4) above would, if it applied, prevent the making of any first year allowance; and

(iii) the person to whom the machinery or plant is to be or is leased, or a person who (within the meaning of section 839 of the principal Act) is connected with that person, used the machinery or plant for any purpose at any time before its provision for leasing."

(4) Schedule 13 to this Act (which makes further amendments of that Act of 1990 in connection with the first-year allowances for which provision is made by this section) shall have effect.

(5) This section and the amendments made by Schedule 13 to this Act shall have effect (subject to paragraph 12(3) of that Schedule) in relation to every chargeable period which, or the basis period for which, ends after 31st October 1992.

Leasing.
1990 c. 1.

**116.**—(1) In the second sentence in section 40(4) of the Capital Allowances Act 1990 (shortening of "requisite period" while assets used for qualifying purpose), after "effect" there shall be inserted "for the purposes of sections 31(2) and 37(6)".

(2) In section 42(1) of that Act (assets leased to non-residents), for paragraph (b) there shall be substituted the following paragraph—

"(b) does not use the machinery or plant exclusively for earning such profits or gains as are chargeable to tax (whether as profits or gains arising from a trade carried on in the United Kingdom or by virtue of section 830(4) of the principal Act),".

(3) In section 50 of that Act (interpretation of Chapter V), after subsection (3) there shall be inserted the following subsection—

"(3A) References in this Chapter to profits or gains chargeable to tax shall not include any of those arising to a person who, under arrangements specified in an Order in Council making any such provisions as are referred to in section 788 of the principal Act (double taxation arrangements), is afforded, or is entitled to claim, any relief from the tax chargeable thereon."

PART II

(4) This section shall have effect in relation to the use of machinery or plant for leasing under leases entered into on or after 16th March 1993.

Transactions between connected persons etc. 1990 c. 1.

**117.**—(1) Section 158 of the Capital Allowances Act 1990 (election exercisable in the case of transactions between connected persons etc.) shall be amended as follows.

(2) In paragraph (a) of subsection (2) (sum at which industrial building or structure is treated as sold)—

(a) after the word "structure,", in the first place where it occurs, there shall be inserted "a qualifying hotel or a commercial building or structure,"; and

(b) for the words "or structure", in the second place where they occur, there shall be substituted "structure or hotel".

(3) After paragraph (c) of that subsection there shall be inserted the following paragraph—

"(d) in the case of an asset representing allowable scientific research expenditure of a capital nature—

(i) if the expenditure is expenditure in respect of which an allowance is made under section 137, nil; and

(ii) in any other case, the amount of the expenditure."

(4) In subsection (3) (cases where election may not be made), for paragraph (a) there shall be substituted the following paragraph—

"(a) if the circumstances of the sale (including those of the parties to it) are such that an allowance or charge under Part I, III, IV, VI or VII which (apart from those circumstances) would or might fall, in consequence of the sale, to be made to or on any of those parties will not be capable of so falling;".

(5) This section shall have effect in relation to sales and other transfers on or after 16th March 1993 other than one which is in pursuance of—

(a) a contract entered into before that date; or

(b) a contract entered into for the purpose of securing that obligations under a contract entered into before that date are complied with.

*Miscellaneous*

Scottish trusts.

**118.**—(1) Where—

(a) any of the income of a trust having effect under the law of Scotland is income to which a beneficiary of the trust would have an equitable right in possession if that trust had effect under the law of England and Wales, and

(b) the trustees of that trust are resident in the United Kingdom,

the rights of that beneficiary shall be deemed for the purposes of the Income Tax Acts to include such a right to that income notwithstanding that no such right is conferred according to the law of Scotland.

(2) This section shall have effect in relation to the income of any trust for the year 1993–94 or any subsequent year of assessment.

Controlled foreign companies.

**119.**—(1) In section 750(1) of the Taxes Act 1988 (meaning of lower level of taxation for purposes of provisions relating to controlled foreign companies) for "one-half" there shall be substituted "three-quarters".

(2) Subsection (1) above shall apply in relation to accounting periods beginning on or after 16th March 1993.

(3) Where a company is by virtue of section 749(1) or (2) of the Taxes Act 1988 regarded as resident in a territory outside the United Kingdom and (apart from this section)—

(a) an accounting period of the company would begin before 16th March 1993 and end on or after that date, and

(b) the company would not be considered to be subject, by virtue of section 750(1) of that Act, to a lower level of taxation in that accounting period in the territory in which it is regarded as resident,

for the purposes of Chapter IV of Part XVII of that Act that accounting period shall be treated as ending on 15th March 1993.

Pay and file: miscellaneous amendments. 1970 c. 9. 1989 c. 26.

**120.** Schedule 14 to this Act (which makes various amendments of the Taxes Management Act 1970, the Taxes Act 1988 and the Finance Act 1989 with a view to, or in connection with, the introduction of "pay and file") shall have effect.

Repayments and payments to friendly societies.

**121.**—(1) The Treasury may by regulations provide, in relation to accounting periods beginning on or after 1st January 1994, for Schedule 19AB of the Taxes Act 1988 (payments on account of exempt pension business) to have effect, with such modifications and exceptions as may be specified in the regulations, in relation to any business to which this section applies as it has effect in relation to the pension business of an insurance company.

(2) This section applies to any business of a friendly society the profits arising from which are exempt from income tax and corporation tax under section 460(1), 461(1) or 461B(1) of the Taxes Act 1988 (life or endowment and other business), not being a business carried on by a friendly society all of whose profits are so exempt.

(3) Regulations under this section may make different provision for different cases.

(4) This section shall be without prejudice to section 463(1) of the Taxes Act 1988 (application of the Corporation Tax Acts to life or endowment business carried on by friendly societies).

Application of Income Tax Acts etc. to public departments.

**122.**—(1) In subsection (2) of section 829 of the Taxes Act 1988 (restriction on application of Income Tax Acts to public departments), at the end there shall be inserted "unless it is tax which would not have been so borne but for a failure by a public office or department of the Crown to make a deduction required by virtue of subsection (1) above."

(2) The provisions of Parts IX and X of the Taxes Management Act 1970 (interest and penalties) shall apply in relation to public offices and departments of the Crown for the purposes, so far as they so apply, of the other provisions of that Act and of the provisions of the Income Tax Acts mentioned in section 829(1) of the Taxes Act 1988.

PART II

(3) This section shall have effect in relation to the year 1993-94 and subsequent years of assessment.

Expenditure involving crime.

**123.**—(1) The following section shall be inserted after section 577 of the Taxes Act 1988—

"Expenditure involving crime.

577A.—(1) In computing profits or gains chargeable to tax under Schedule A or Schedule D, no deduction shall be made for any expenditure incurred in making a payment the making of which constitutes the commission of a criminal offence.

(2) Such expenditure shall not be included in computing any expenses of management in respect of which relief may be given under the Tax Acts."

(2) This section shall apply in relation to expenditure incurred on or after 11th June 1993.

Expenses of Members of Parliament.

**124.**—(1) Section 200 of the Taxes Act 1988 (expenses of Members of Parliament) shall become subsection (1) of that section and the following subsection shall be inserted after that subsection—

"(2) A sum which is paid to a Member of the House of Commons in accordance with any resolution of that House providing for Members of that House to be reimbursed in respect of the cost of, and any additional expenses incurred in, travelling between the United Kingdom and any European Community institution in Brussels, Luxembourg or Strasbourg shall not be regarded as income for any purpose of the Income Tax Acts."

(2) This section shall apply in relation to sums paid on or after 1st January 1992.

(3) Any such adjustment (whether by way of discharge or repayment of tax, the making of an assessment or otherwise) as is appropriate in consequence of this section may be made.

## CHAPTER II

## EXCHANGE GAINS AND LOSSES

### *Accrual of gains and losses*

Accrual on qualifying assets and liabilities.

**125.**—(1) Subsection (2) below applies where a qualifying company holds a qualifying asset and there is a difference between—

(a) the local currency equivalent, at the translation time with which an accrual period as regards the asset begins, of the basic valuation of the asset, and

(b) the local currency equivalent, at the translation time with which the accrual period ends, of the basic valuation of the asset.

(2) There is as regards the asset an exchange difference for the accrual period, and—

(a) if the difference represents an increase over the period, an initial exchange gain of an amount equal to the difference accrues to the company as regards the asset for the period;

(b) if the difference represents a decrease over the period, an initial exchange loss of an amount equal to the difference accrues to the company as regards the asset for the period.

(3) Subsection (4) below applies where a qualifying company owes a qualifying liability and there is a difference between—

(a) the local currency equivalent, at the translation time with which an accrual period as regards the liability begins, of the basic valuation of the liability, and

(b) the local currency equivalent, at the translation time with which the accrual period ends, of the basic valuation of the liability.

(4) There is as regards the liability an exchange difference for the accrual period, and—

(a) if the difference represents a decrease over the period, an initial exchange gain of an amount equal to the difference accrues to the company as regards the liability for the period;

(b) if the difference represents an increase over the period, an initial exchange loss of an amount equal to the difference accrues to the company as regards the liability for the period.

**Accrual on currency contracts.**

**126.**—(1) This section applies where a qualifying company enters into a contract (a currency contract) under which—

(a) it becomes entitled to a right and subject to a duty to receive payment at a specified time of a specified amount of one currency (the first currency), and

(b) it becomes entitled to a right and subject to a duty to pay in exchange and at the same time a specified amount of another currency (the second currency).

(2) Subsection (3) below applies if there is a difference between—

(a) the local currency equivalent, at the translation time with which an accrual period as regards the contract begins, of the amount of the first currency, and

(b) the local currency equivalent, at the translation time with which the accrual period ends, of the amount of the first currency.

(3) There is as regards the contract an exchange difference for the accrual period, and—

(a) if the difference represents an increase over the period, an initial exchange gain of an amount equal to the difference accrues to the company as regards the contract for the period;

(b) if the difference represents a decrease over the period, an initial exchange loss of an amount equal to the difference accrues to the company as regards the contract for the period.

(4) Subsection (5) below applies if there is a difference between—

(a) the local currency equivalent, at the translation time with which an accrual period as regards the contract begins, of the amount of the second currency, and

(b) the local currency equivalent, at the translation time with which the accrual period ends, of the amount of the second currency.

(5) There is as regards the contract an exchange difference for the accrual period, and—

(a) if the difference represents a decrease over the period, an initial exchange gain of an amount equal to the difference accrues to the company as regards the contract for the period;

(b) if the difference represents an increase over the period, an initial exchange loss of an amount equal to the difference accrues to the company as regards the contract for the period.

Accrual on debts whose amounts vary.

**127.**—(1) In a case where—

(a) a qualifying company holds an asset consisting of a right to settlement under a qualifying debt or owes a liability consisting of a duty to settle under such a debt, and

(b) the nominal amount of the debt outstanding varies during an accrual period (whether because of an increase or a decrease or both),

the following provisions of this section shall apply for the period and section 125 above shall not.

(2) In such a case—

(a) take the local currency equivalent, at the translation time with which the accrual period begins, of the nominal amount of the debt then outstanding;

(b) take the local currency equivalent, at each time (if any) immediately after the nominal amount of the debt outstanding increases in the accrual period, of the amount by which it then increases;

(c) take the local currency equivalent, at each time (if any) immediately after the nominal amount of the debt outstanding decreases in the accrual period, of the amount by which it then decreases;

(d) take the figure found under paragraph (a) above, add each figure found under paragraph (b) above, subtract each figure found under paragraph (c) above, and call the resulting figure the first amount;

(e) take the local currency equivalent, at the translation time with which the accrual period ends, of the nominal amount of the debt then outstanding, and call the figure so found the second amount.

(3) Where the qualifying company has a right to settlement under the debt the following provisions apply in relation to the asset consisting of the right—

(a) if the second amount exceeds the first an initial exchange gain of an amount equal to the difference between them accrues to the company as regards the asset for the accrual period;

(b) if the second amount is less than the first an initial exchange loss of an amount equal to the difference between them accrues to the company as regards the asset for the accrual period.

(4) Where the qualifying company has a duty to settle under the debt the following provisions apply in relation to the liability consisting of the duty—

(a) if the second amount is less than the first an initial exchange gain of an amount equal to the difference between them accrues to the company as regards the liability for the accrual period;

(b) if the second amount exceeds the first an initial exchange loss of an amount equal to the difference between them accrues to the company as regards the liability for the accrual period.

(5) If the first amount has a negative value, for the purposes of this section the second amount (however small its value) shall be taken to exceed the first amount (however large its value).

(6) Subsection (7) below modifies the preceding provisions of this section in their application to an asset or liability where there is a difference between—

(a) the basic valuation of the asset or liability, and

(b) the nominal amount of the debt outstanding at the translation time with which the accrual period begins.

(7) In such a case—

(a) the reference in subsection (2)(a) above to the nominal amount of the debt outstanding shall be taken to be a reference to the basic valuation of the asset or liability;

(b) the reference in subsection (2)(c) above to the amount by which the nominal amount of the debt outstanding decreases shall be taken to be a reference to the amount found under subsection (8) below;

(c) the reference in subsection (2)(e) above to the nominal amount of the debt outstanding shall be taken to be a reference to the amount found under subsection (10) below.

(8) The amount referred to in subsection (7)(b) above is the amount given by the formula—

$$A \times \frac{B}{C}$$

(9) For the purposes of subsection (8) above—

A is the basic valuation of the asset or liability;

B is the amount by which, at the time of the decrease mentioned in subsection (2)(c) above, the nominal amount of the debt outstanding then decreases;

C is the nominal amount of the debt outstanding at the translation time with which the accrual period begins.

(10) The amount referred to in subsection (7)(c) above is the amount given by the formula—

$$D + E - F$$

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(11) For the purposes of subsection (10) above—

D is the basic valuation of the asset or liability;

E is the amount (if any) by which the nominal amount of the debt outstanding has at any time increased in the accrual period or, if it has increased more than once, the aggregate of such amounts;

F is the amount (if any) found under subsection (8) above or, if the nominal amount of the debt outstanding has decreased more than once in the accrual period, the aggregate of the amounts so found.

*Trading gains and losses*

Trading gains and losses.

**128.**—(1) Subsections (2) to (4) below apply where—

(a) as regards an asset, liability or contract an initial exchange gain accrues to a qualifying company for an accrual period, and

(b) at any time in the period the asset or contract was held, or the liability was owed, by the company for the purposes of a trade or part of a trade carried on by it.

(2) If throughout the accrual period the asset or contract was held, or the liability was owed, by the company solely for the purposes of the trade or part the whole of the gain is an exchange gain of the trade or part for the period.

(3) In any other case the gain shall be apportioned on a just and reasonable basis and so much as is attributable to the trade or part is an exchange gain of the trade or part for the period.

(4) The company shall be treated for the purposes of the Tax Acts as—

(a) receiving in respect of the trade or part an amount equal to the exchange gain of the trade or part for the accrual period, and

(b) receiving the amount in respect of the accounting period which constitutes the accrual period or in which the accrual period falls.

(5) Subsections (6) to (8) below apply where—

(a) as regards an asset, liability or contract an initial exchange loss accrues to a qualifying company for an accrual period, and

(b) at any time in the period the asset or contract was held, or the liability was owed, by the company for the purposes of a trade or part of a trade carried on by it.

(6) If throughout the accrual period the asset or contract was held, or the liability was owed, by the company solely for the purposes of the trade or part the whole of the loss is an exchange loss of the trade or part for the period.

(7) In any other case the loss shall be apportioned on a just and reasonable basis and so much as is attributable to the trade or part is an exchange loss of the trade or part for the period.

(8) The company shall be treated for the purposes of the Tax Acts as—

(a) incurring in the trade or part a loss of an amount equal to the exchange loss of the trade or part for the accrual period, and

(b) incurring the loss in respect of the accounting period which constitutes the accrual period or in which the accrual period falls.

(9) For the purposes of this section a part of a trade is any part of a trade whose basic profits or losses for the relevant accounting period are by virtue of regulations under section 94 above to be computed and expressed in a particular currency for the purposes of corporation tax; and the relevant accounting period is the accounting period which constitutes the accrual period concerned or in which that accrual period falls.

(10) The preceding provisions of this section apply—

(a) whether the asset or contract is at any time held, or the liability is at any time owed, on revenue account or capital account, and

(b) notwithstanding anything in section 74 of the Taxes Act 1988 (general rules as to deductions not allowable).

(11) In a case where—

(a) an accounting period of a qualifying company begins on or after its commencement day, and

(b) but for this subsection, a gain or loss falling within subsection (12) below would be taken into account in calculating for the purposes of corporation tax the profits or losses for the period of a trade carried on by the company,

the gain or loss shall be left out of account in calculating the profits or losses.

(12) A gain or loss falls within this subsection if it—

(a) accrues to the company, otherwise than by virtue of this Chapter, as regards a qualifying asset or liability or a currency contract, and

(b) is attributable to fluctuations in currency exchange rates;

and it is immaterial whether the gain or loss is realised.

*Non-trading gains and losses*

Non-trading gains and losses: general.

**129.**—(1) In a case where—

(a) as regards an asset, liability or contract an initial exchange gain accrues to a qualifying company for an accrual period, and

(b) the whole or part of the gain is not an exchange gain of a trade or part of a trade for the period,

the whole or part (as the case may be) is a non-trading exchange gain for the period.

(2) The company shall be treated as—

(a) receiving in respect of the asset, liability or contract an amount equal to the non-trading exchange gain for the accrual period, and

(b) receiving the amount in the accounting period which constitutes the accrual period or in which the accrual period falls;

and (subject to subsection (6) below) the rules in sections 130 to 133 below shall apply.

(3) In a case where—

(a) as regards an asset, liability or contract an initial exchange loss accrues to a qualifying company for an accrual period, and

(b) the whole or part of the loss is not an exchange loss of a trade or part of a trade for the period,

the whole or part (as the case may be) is a non-trading exchange loss for the period.

(4) The company shall be treated as—

(a) incurring in respect of the asset, liability or contract a loss of an amount equal to the non-trading exchange loss for the accrual period, and

(b) incurring the loss in the accounting period which constitutes the accrual period or in which the accrual period falls;

and (subject to subsection (6) below) the rules in sections 130 to 133 below shall apply.

(5) For the purposes of subsection (6) below and sections 130 to 133 below, in relation to an accounting period—

(a) amount A is the amount a company is treated as receiving in the accounting period by virtue of this section or (if it is treated as so receiving two or more amounts) the aggregate of those amounts;

(b) amount B is the amount of the loss a company is treated as incurring in the accounting period by virtue of this section or (if it is treated as so incurring two or more losses) the aggregate of the amounts of those losses.

(6) In a case where—

(a) a company is treated as receiving in an accounting period an amount or amounts by virtue of this section,

(b) it is treated as incurring in the accounting period a loss or losses by virtue of this section, and

(c) amount A is equal to amount B,

the rules in sections 130 to 133 below shall not apply.

(7) In a case where—

(a) a non-trading exchange gain or loss would (apart from this subsection) accrue as regards an asset consisting of a right to settlement under a qualifying debt, and

(b) the right is a right to receive income (whether interest, dividend or otherwise),

the non-trading exchange gain or loss shall be treated as not accruing.

(8) In a case where—

(a) a non-trading exchange gain or loss would (apart from this subsection) accrue to a company as regards a liability consisting of a duty to settle under a qualifying debt, and

(b) a charge is allowed to the company in respect of the debt under section 338 of the Taxes Act 1988 (allowance of charges on income and capital) or the circumstances are such that a charge would be so allowed if the duty were settled,

the non-trading exchange gain or loss shall be treated as not accruing.

(9) Section 396 of the Taxes Act 1988 (Case VI losses) shall not be taken to apply to a loss which a company is treated as incurring by virtue of this section; and an amount which a company is treated as receiving by virtue of this section shall not be regarded, for the purposes of subsection (1) of section 396, as income arising as mentioned in that subsection.

Non-trading gains and losses: charge to tax.

**130.**—(1) Subsection (2) below applies where—

(a) a company is treated as receiving in an accounting period an amount or amounts by virtue of section 129 above, and

(b) it is not treated as incurring in the accounting period any loss by virtue of that section.

(2) The company shall be treated as receiving in the accounting period annual profits or gains of an amount equal to amount A, and the profits or gains shall be chargeable to tax under Case VI of Schedule D for the accounting period.

(3) Subsection (4) below applies where—

(a) a company is treated as receiving in an accounting period an amount or amounts by virtue of section 129 above,

(b) it is treated as incurring in the accounting period a loss or losses by virtue of that section, and

(c) amount A exceeds amount B.

(4) The company shall be treated as receiving in the accounting period annual profits or gains of an amount equal to amount A minus amount B, and the profits or gains shall be chargeable to tax under Case VI of Schedule D for the accounting period.

Non-trading gains and losses: relief.

**131.**—(1) This section applies where—

(a) a company is treated as incurring in an accounting period a loss or losses by virtue of section 129 above, and

(b) it is not treated as receiving in the accounting period any amount by virtue of that section;

and where this section applies by virtue of this subsection references to the relievable amount for the accounting period are to an amount equal to amount B.

(2) This section also applies where—

(a) a company is treated as incurring in an accounting period a loss or losses by virtue of section 129 above,

(b) it is treated as receiving in the accounting period an amount or amounts by virtue of that section, and

(c) amount B exceeds amount A;

and where this section applies by virtue of this subsection references to the relievable amount for the accounting period are to an amount equal to amount B minus amount A.

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(3) The company may claim under this subsection that the whole or part of the relievable amount for an accounting period shall be treated for the purposes of section 403(1) of the Taxes Act 1988 (group relief) as if it were a loss incurred by the company in the period in carrying on a trade, and in such a case section 403(2) (exclusions) shall not apply.

(4) The company may claim under this subsection that the whole or part of the relievable amount for an accounting period shall be set off for the purposes of corporation tax against profits (of whatever description) of that accounting period; and in such a case, subject to any relief for a loss incurred in a trade in an earlier accounting period, those profits shall then be treated as reduced accordingly.

(5) Where a company has made no claim under subsection (3) or (4) above as regards the relievable amount for an accounting period, the company may claim under this subsection that—

(a) the whole of the relievable amount, or

(b) where the relievable amount exceeds the relevant exchange profits, so much of the relievable amount as is equal to those profits,

shall be treated as mentioned in subsection (7) below.

(6) Where a company has made a claim under subsection (3) or (4) above as regards the relievable amount for an accounting period, the company may claim under this subsection that—

(a) such part of the relievable amount as is not the subject of any such claim, or

(b) where that part exceeds the relevant exchange profits, so much of that part as is equal to those profits,

shall be treated as mentioned in subsection (7) below.

(7) Where a company claims under subsection (5) or (6) above as regards the whole or part of the relievable amount for an accounting period, the whole or part concerned shall be set off for the purposes of corporation tax against the exchange profits of preceding accounting periods falling wholly or partly within the permitted period; and (subject to any relief for an earlier loss) the exchange profits of any of those accounting periods shall then be treated as reduced by the whole or part concerned or by so much of it as cannot be set off under this subsection against the exchange profits of a later accounting period.

(8) For the purposes of subsections (5) and (6) above "the relevant exchange profits" means the total of the following—

(a) the exchange profits, as reduced by any reliefs for earlier losses and any reliefs falling within subsection (9) below, of all those accounting periods falling wholly within the permitted period, and

(b) such part of the exchange profits, as so reduced, of any accounting period falling partly before the beginning of the permitted period as is proportionate to the part of the accounting period falling within the permitted period.

(9) The reliefs falling within this subsection are—

(a) any relief under section 338 of the Taxes Act 1988 (charges on income) in respect of payments made wholly and exclusively for the purposes of a trade;

(b) where the company is an investment company for the purposes of Part IV of the Taxes Act 1988, any relief under that section in respect of payments made wholly and exclusively for the purposes of its business.

(10) For the purposes of subsections (7) and (8) above—

(a) the exchange profits of an accounting period are the annual profits or gains the company is treated as receiving in that period under section 130 above,

(b) the permitted period is the period of three years immediately preceding the accounting period first mentioned in subsection (7) above, and

(c) an earlier loss is a loss incurred, or treated as incurred, in an accounting period earlier than that first mentioned in subsection (7) above.

(11) The amount of the reduction that may be made under subsection (7) above in the exchange profits of an accounting period falling partly before the beginning of the permitted period shall not exceed a part of those profits proportionate to the part of the accounting period falling within the permitted period.

(12) If the whole or part of the relievable amount for an accounting period is not dealt with under a claim under this section—

(a) the company shall be treated as incurring by virtue of section 129 above a loss of an amount equal to the whole or part (as the case may be),

(b) the company shall be treated as incurring the loss in the next succeeding accounting period, and

(c) in relation to that accounting period references to amount B shall be construed accordingly.

(13) A company—

(a) may not claim under more than one of subsections (3) and (4) above as regards the same part of a relievable amount, and

(b) where it has claimed under subsection (5)(b) or (6) above as regards part of a relievable amount, may not later claim under subsection (3) or (4) above as regards any part of the relievable amount.

(14) A claim under any of subsections (3) to (6) above must be made within the period of two years immediately following the accounting period to which the relievable amount relates or within such further period as the Board may allow.

Modifications where loss carried forward.

**132.**—(1) This section applies where section 131(12) above treats a company as incurring a loss in an accounting period by virtue of section 129 above.

(2) In this section references to amount C are to so much of amount B as the company is treated as incurring in the accounting period otherwise than by virtue of section 131(12).

(3) Where section 131 above applies by virtue of section 131(1) and this section applies, then, as regards the accounting period—

(a) if amount C is nil section 131(3) to (6) shall not apply;

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(b) if amount C exceeds nil the references to the relievable amount in section 131(3) to (7), (13) and (14) shall be construed as references to so much of that amount as equals amount C.

(4) Where section 131 above applies by virtue of section 131(2) and this section applies, then, as regards the accounting period—

(a) if amount C does not exceed amount A section 131(3) to (6) shall not apply;

(b) if amount C exceeds amount A the references to the relievable amount in section 131(3) to (7), (13) and (14) shall be construed as references to so much of that amount as equals amount C minus amount A.

Interaction with ICTA.

**133.**—(1) Section 131(4) above shall apply before section 393A(1) of the Taxes Act 1988 in relation to profits of the accounting period first mentioned in section 131(4) above.

(2) Relief shall not be given under section 131(4) above against any ring fence profits of the company; and in this subsection "ring fence profits" has the same meaning as in Chapter V of Part XII of the Taxes Act 1988.

(3) Where the company incurs a loss in a trade in the accounting period first mentioned in subsection (7) of section 131 above, that subsection shall apply after section 393A(1) of the Taxes Act 1988 in relation to exchange profits of a particular accounting period.

(4) Relief shall not be given by virtue of section 131(7) above so as to interfere with—

(a) any relief under section 338 of the Taxes Act 1988 (charges on income) in respect of payments made wholly and exclusively for the purposes of a trade, or

(b) where the company is an investment company for the purposes of Part IV of the Taxes Act 1988, any relief under that section in respect of payments made wholly and exclusively for the purposes of its business.

(5) The reference in subsection (3) above to exchange profits of an accounting period shall be construed in accordance with section 131(10) above.

*Alternative calculation*

Alternative calculation.

**134.** Schedule 15 to this Act (which provides for the amount of an initial exchange gain or loss to be found in accordance with an alternative method of calculation in certain cases) shall have effect.

*Main benefit test*

Loss disregarded if the main benefit.

**135.**—(1) In a case where—

(a) an exchange loss would (apart from this section) accrue to a company for an accrual period,

(b) the loss would accrue as regards an asset or liability falling within section 153(1)(a) or (2)(a) below,

(c) the nominal currency of the asset or liability is such that the main benefit or one of the main benefits that might be expected to arise from the company's holding the asset or owing the liability is the accrual of the loss, and

(d) the Board direct that this subsection shall apply,

the loss shall be treated as not accruing.

(2) References in subsection (1) above to an exchange loss are to an exchange loss of a trade or an exchange loss of part of a trade or a non-trading exchange loss.

*Arm's length test*

**Arm's length test: assets and liabilities.**

**136.**—(1) Subject to the following provisions of this section, subsection (2) below applies where—

(a) a qualifying company becomes entitled to a qualifying asset falling within section 153(1)(a) below or subject to a qualifying liability falling within section 153(2)(a) below,

(b) the transaction as a result of which the company becomes entitled or subject to the asset or liability would not have been entered into at all if the parties to the transaction had been dealing at arm's length, or the transaction's terms would have been different if they had been so dealing,

(c) as regards the asset or liability an exchange loss accrues to the company for an accrual period (or would so accrue apart from this section), and

(d) the Board direct that subsection (2) below shall apply;

and any reference in this section to an exchange loss is to an exchange loss of a trade or an exchange loss of part of a trade or a non-trading exchange loss.

(2) The exchange loss shall be treated as not accruing to the company for the accrual period.

(3) Where subsection (2) above applies and the accrual period is not the last to occur as regards the asset or liability while it is held or owed by the company—

(a) an amount equal to the amount of the loss shall be set off against appropriate exchange gains accruing to the company as regards the asset or liability for subsequent accrual periods, and

(b) any such gain shall then be treated as reduced by that amount or by so much of it as cannot be set off under this subsection against any such gain accruing for an earlier accrual period;

and an appropriate exchange gain is an exchange gain of the trade concerned (if the exchange loss is an exchange loss of a trade) or an exchange gain of the part of the trade concerned (if the exchange loss is an exchange loss of part of a trade) or a non-trading exchange gain (if the exchange loss is a non-trading exchange loss).

(4) Subsection (5) below applies where the circumstances are such that, had the parties to the transaction been dealing at arm's length, its terms would have been the same except that the amount of the debt would have been an amount (the adjusted amount) greater than nil but less than its actual amount.

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(5) In such a case—

(a) subsection (2) above shall not apply, and

(b) the exchange loss accruing to the company for the accrual period shall be treated as reduced to the amount it would have been if the amount of the debt had been the adjusted amount;

but paragraph (b) above shall only apply if the Board so direct.

(6) Where subsection (5)(b) above applies and the accrual period is not the last to occur as regards the asset or liability while it is held or owed by the company—

(a) an amount equal to the amount by which the loss is treated as reduced shall be set off against appropriate exchange gains accruing to the company as regards the asset or liability for subsequent accrual periods, and

(b) any such gain shall then be treated as reduced by that amount or by so much of it as cannot be set off under this subsection against any such gain accruing for an earlier accrual period;

and an appropriate exchange gain is an exchange gain of the trade concerned (if the exchange loss is an exchange loss of a trade) or an exchange gain of the part of the trade concerned (if the exchange loss is an exchange loss of part of a trade) or a non-trading exchange gain (if the exchange loss is a non-trading exchange loss).

(7) Subsection (2) above shall not apply in a case where—

(a) the right constituting the asset mentioned in subsection (1) above arises under a loan made by the company,

(b) the circumstances are such that, had the parties to the transaction been dealing at arm's length, its terms would have been the same except that interest would have been charged on the loan or, as the case may be, charged at a higher rate, and

(c) in computing for tax purposes the profits or losses of the company for the accounting period which constitutes the accrual period or in which the accrual period falls the whole of the loan has been treated under section 770 of the Taxes Act 1988 (undervalue or overvalue) as if interest had been charged on it or, as the case may be, charged at a higher rate.

(8) Subsection (9) below applies where—

(a) paragraphs (a) and (b) of subsection (7) above apply, and

(b) in computing for tax purposes the profits or losses of the company for the accounting period which constitutes the accrual period or in which the accrual period falls part of the loan has been treated under section 770 of the Taxes Act 1988 as if interest had been charged on it or, as the case may be, charged at a higher rate;

and in subsection (9) below the reference to the adjusted amount is to an amount equal to the part of the loan that has been so treated.

(9) In such a case—

(a) subsection (2) above shall not apply, and

(b) the exchange loss accruing to the company for the accrual period shall be treated as reduced to the amount it would have been if the amount of the loan had been the adjusted amount;

but paragraph (b) above shall only apply if the Board so direct.

(10) Where subsection (9)(b) above applies and the accrual period is not the last to occur as regards the asset while it is held by the company—

(a) an amount equal to the amount by which the loss is treated as reduced shall be set off against appropriate exchange gains accruing to the company as regards the asset for subsequent accrual periods, and

(b) any such gain shall then be treated as reduced by that amount or by so much of it as cannot be set off under this subsection against any such gain accruing for an earlier accrual period;

and an appropriate exchange gain is an exchange gain of the trade concerned (if the exchange loss is an exchange loss of a trade) or an exchange gain of the part of the trade concerned (if the exchange loss is an exchange loss of part of a trade) or a non-trading exchange gain (if the exchange loss is a non-trading exchange loss).

(11) Subsections (2) to (10) above shall not apply where—

(a) the transaction is entered into by the company mentioned in subsection (1) above (company A) and another company (company B),

(b) the companies are members of the same group when the transaction is entered into and throughout the accounting period which constitutes the accrual period mentioned in subsection (1) above or in which the accrual period falls,

(c) as a result of the transaction, not only does company A become entitled or subject to the asset or liability falling within section 153(1)(a) or (2)(a) below but company B also becomes subject or entitled to the corresponding liability or asset (as the case may be) falling within section 153(2)(a) or (1)(a) below,

(d) as regards that liability or asset an appropriate exchange gain accrues to company B for an accrual period coterminous with that mentioned in subsection (1) above,

(e) throughout the accrual period concerned company A holds or owes the asset or liability either for the purposes of one trade or for non-trading purposes,

(f) throughout the accrual period concerned company B owes or holds the liability or asset either for the purposes of one trade or for non-trading purposes, and

(g) amount X is the same as amount Y.

(12) For the purposes of subsection (11) above—

(a) an appropriate exchange gain is an exchange gain of a trade or a non-trading exchange gain found (in either case) in the currency in which the exchange loss mentioned in subsection (1) above is found;

(b) amount X is the amount of the exchange loss mentioned in subsection (1) above;

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(c) amount Y is the amount of the exchange gain mentioned in subsection (11)(d) above, found without regard to section 139 below;

1992 c.12.

(d) companies are members of the same group if by virtue of section 170 of the Taxation of Chargeable Gains Act 1992 they are members of the same group for the purposes of sections 171 to 181 of that Act.

(13) Where the exchange loss mentioned in subsection (1) above represents the whole or part of an initial exchange loss accruing under section 127 above, this section shall have effect as if subsections (4) to (12) were omitted.

(14) Regulations may make provision designed to supplement this section in its application to a case where the exchange loss mentioned in subsection (1) above represents the whole or part of an initial exchange loss accruing under section 127 above; and the regulations may in particular contain provision based on subsections (4) to (12) above but differing from those subsections to such extent as the Treasury think fit.

(15) In applying subsections (1)(b), (4) and (7)(b) above all factors shall be taken into account including any interest or other sums that would have been payable, any currency that would have been involved, and the amount that any loan would have been.

Arm's length test: currency contracts.

**137.**—(1) Subsection (2) below applies where—

(a) a qualifying company enters into a currency contract,

(b) the contract would not have been entered into at all if the parties to it had been dealing at arm's length, or the contract's terms would have been different if they had been so dealing,

(c) as regards the contract an exchange loss accrues to the company for an accrual period (or would so accrue apart from this section), and

(d) the Board direct that subsection (2) below shall apply;

and any reference in this section to an exchange loss is to an exchange loss of a trade or an exchange loss of part of a trade or a non-trading exchange loss.

(2) The exchange loss shall be treated as not accruing to the company for the accrual period.

(3) Where subsection (2) above applies and the accrual period is not the last to occur as regards the contract while it is held by the company—

(a) an amount equal to the amount of the loss shall be set off against appropriate exchange gains accruing to the company as regards the contract for subsequent accrual periods, and

(b) any such gain shall then be treated as reduced by that amount or by so much of it as cannot be set off under this subsection against any such gain accruing for an earlier accrual period;

and an appropriate exchange gain is an exchange gain of the trade concerned (if the exchange loss is an exchange loss of a trade) or an exchange gain of the part of the trade concerned (if the exchange loss is an exchange loss of part of a trade) or a non-trading exchange gain (if the exchange loss is a non-trading exchange loss).

(4) In applying subsection (1)(b) above all factors shall be taken into account including any currency that would have been involved and any amounts that would have been involved.

Arm's length test: non-sterling trades.

**138.**—(1) Subsection (2) below applies where—

(a) an exchange gain of a trade, or of part of a trade, accruing to a company for an accrual period falls to be reduced by virtue of section 136(3), (6) or (10) or 137(3) above, and

(b) the amount falling to be set off is expressed in a currency (the first currency) different from the currency in which the gain is expressed (the second currency).

(2) For the purposes of section 136(3), (6) or (10) or 137(3) the amount falling to be set off shall be treated as the equivalent, expressed in the second currency, of the amount expressed in the first currency.

(3) The translation required by subsection (2) above shall be made by reference to the London closing exchange rate for the two currencies concerned for the first day of the accounting period which constitutes the relevant accrual period or in which that accrual period falls; and the relevant accrual period is the accrual period mentioned in subsection (1)(a) above.

(4) Subsection (2) above shall have effect subject to the application for succeeding accrual periods of this section as regards an amount falling to be set off.

(5) References in subsections (1) and (2) above to the amount falling to be set off include references to so much of that amount as remains after any application of section 136(3), (6) or (10) or 137(3) for earlier accrual periods.

*Deferral of unrealised gains*

Claim to defer unrealised gains.

**139.**—(1) This section applies where (apart from a claim under this section as regards an accounting period) an unrealised exchange gain would accrue to a company—

(a) for an accrual period constituting or falling within the accounting period, and

(b) as regards a long-term capital asset or a long-term capital liability;

and the reference here to an exchange gain is to an exchange gain of a trade or an exchange gain of part of a trade or a non-trading exchange gain.

(2) This section does not apply unless an amount is available for relief under this section for the accounting period.

(3) The company may claim that—

(a) the gain, or part of it, shall be treated in accordance with section 140(3) below, and

(b) an amount shall be treated in accordance with section 140(4) to (10) below as regards the asset or liability.

(4) The claim must—

(a) stipulate the amount of the gain or part to be treated as mentioned in subsection (3)(a) above;

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(b) stipulate the amount to be treated as mentioned in subsection (3)(b) above;

(c) identify the asset or liability concerned.

(5) The following rules apply to a claim—

(a) only one claim may be made as regards an accounting period, but where this section applies in relation to two or more gains which would accrue to a company for an accrual period or accrual periods constituting or falling within the accounting period the claim may be made in relation to more than one of the gains;

(b) the amount stipulated under subsection (4)(b) above as regards an asset or liability must be the same as, and must be expressed in the same currency as, the amount of the gain or part stipulated under subsection (4)(a) above as regards the asset or liability;

(c) the amount (or total of the amounts) stipulated under subsection (4)(a) above as regards an accounting period must not exceed the amount available for relief under this section for the accounting period.

(6) A claim may not be made or withdrawn as regards an accounting period if—

(a) the company has been assessed to corporation tax for the period, and

(b) the assessment has become final and conclusive;

but the preceding provisions of this subsection do not apply if the claim or withdrawal is made before the expiry of the period of two years beginning with the end of the accounting period.

(7) In a case where—

(a) the period of six years beginning with the end of an accounting period expires, and

(b) no assessment of the company to corporation tax for the accounting period has become final and conclusive,

a claim may not be made or withdrawn as regards that accounting period.

(8) In a case where—

(a) subsection (6) or (7) above would otherwise prevent a claim being made in a particular case, and

(b) the Board make a determination under this subsection,

a claim may be made on or before such day as the Board allow.

Deferral of unrealised gains.

**140.**—(1) This section applies where a claim is made under section 139 above as regards an asset or liability.

(2) For the purposes of this section—

(a) the first accrual period is the accrual period mentioned in section 139(1) above, and

(b) the second accrual period is the accrual period next occurring as regards the asset or liability while it is held or owed by the company.

(3) Any gain or part whose amount is stipulated under section 139(4)(a) above as regards the asset or liability shall be treated as not accruing as regards the asset or liability for the first accrual period.

(4) If throughout the second accrual period the asset is held, or the liability is owed, by the company solely for the purposes of a trade or part of a trade—

(a) an exchange gain of the trade or part for the accrual period shall be treated as accruing to the company as regards the asset or liability,

(b) the amount of the gain shall be the amount stipulated under section 139(4)(b) above as regards the asset or liability, and

(c) section 128(4) above shall apply.

(5) If throughout the second accrual period the asset is held, or the liability is owed, by the company solely for purposes other than trading purposes—

(a) a non-trading exchange gain for the accrual period shall be treated as accruing to the company as regards the asset or liability,

(b) the amount of the gain shall be the amount stipulated under section 139(4)(b) above as regards the asset or liability, and

(c) section 129(2) above shall apply.

(6) Where as regards the second accrual period neither subsection (4) nor subsection (5) above applies—

(a) the amount stipulated under section 139(4)(b) above as regards the asset or liability shall be apportioned for the period on a just and reasonable basis, and

(b) subsections (7) and (8) below shall apply.

(7) Where for the second accrual period part of an amount is attributed to a trade or part of a trade under subsection (6) above—

(a) an exchange gain of the trade or part for the accrual period shall be treated as accruing to the company as regards the asset or liability,

(b) the amount of the gain shall be the amount of the part so attributed, and

(c) section 128(4) above shall apply.

(8) Where for the second accrual period part of an amount is attributed to purposes other than trading purposes under subsection (6) above—

(a) a non-trading exchange gain for the accrual period shall be treated as accruing to the company as regards the asset or liability,

(b) the amount of the gain shall be the amount of the part so attributed, and

(c) section 129(2) above shall apply.

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(9) In a case where—

(a) an exchange gain of a trade or of part of a trade for the second accrual period is treated as accruing to a company by virtue of the preceding provisions of this section (or would be so treated apart from this subsection), and

(b) in that period the asset or liability is to any extent held or owed by the company in exempt circumstances,

to that extent the gain shall be treated as a non-trading exchange gain (and not as a gain of the trade or part) and section 129(2) above shall apply.

(10) Any apportionment required by subsection (9) above shall be made on a just and reasonable basis.

(11) Subsections (4) to (10) above shall have effect subject to any further application of section 139 above as regards the asset or liability.

(12) For the purposes of this section a part of a trade is any part of a trade whose basic profits or losses for the relevant accounting period are by virtue of regulations under section 94 above to be computed and expressed in a particular currency for the purposes of corporation tax; and the relevant accounting period is the accounting period which constitutes the second accrual period or in which that accrual period falls.

Deferral: amount available for relief.

**141.**—(1) An amount is available for relief under section 139 above for an accounting period if amount A is exceeded by amount B or (if amount C is lower than amount B) amount A is exceeded by amount C; and the amount available for relief for the period is the amount of the difference between amount A and amount B or (as the case may be) between amount A and amount C.

(2) Amount A is one tenth of the amount falling within subsection (3) below.

(3) The amount falling within this subsection is an amount equal to the amount of the company's profits for the accounting period on which corporation tax would fall finally to be borne apart from—

(a) a claim under section 139 above as regards the accounting period, and

(b) section 402 of the Taxes Act 1988 (group relief);

and section 238(4) of the Taxes Act 1988 (amount of profits on which corporation tax falls finally to be borne) shall apply for the purposes of this subsection.

(4) Amount B is the amount found by deducting amount B(2) from amount B(1) where—

(a) amount B(1) is the total amount of unrealised exchange gains which accrue or would (apart from a claim under section 139 above as regards the accounting period) accrue to the company, in an accrual period or accrual periods constituting or falling within the accounting period, as regards long-term capital assets or long-term capital liabilities or both;

(b) amount B(2) is the total amount of unrealised exchange losses accruing to the company in such an accrual period or accrual periods as regards such assets or liabilities or both.

(5) Amount C is the amount found by deducting amount C(2) from amount C(1) where—

(a) amount C(1) is the total amount of exchange gains which accrue or would (apart from a claim under section 139 above as regards the accounting period) accrue to the company, in an accrual period or accrual periods falling within the accounting period, as regards relevant items;

(b) amount C(2) is the total amount of exchange losses accruing to the company in such an accrual period or periods as regards relevant items.

(6) In subsections (4) and (5) above the references to exchange gains and losses are to exchange gains and losses of a trade and exchange gains and losses of part of a trade and non-trading exchange gains and losses.

(7) For the purposes of subsection (5) above relevant items are—

(a) assets falling within section 153(1)(a) below;

(b) liabilities falling within section 153(2)(a) below;

(c) currency contracts.

Deferral: non-sterling trades.

**142.**—(1) Where apart from this subsection—

(a) a gain falling within section 139(1) above would be expressed in a currency other than sterling, or

(b) a gain or loss falling within section 141(4) or (5) above would be expressed in a currency other than sterling,

the amount of the gain or loss shall be treated for the purposes of sections 139 to 141 above as the sterling equivalent of its amount expressed in the other currency.

(2) For the purposes of subsection (1) above the sterling equivalent of an amount is—

(a) the sterling equivalent calculated by reference to such rate of exchange as applies by virtue of section 93(6) above in the case of the basic profits or losses for the accounting period concerned of the trade of which the gain or loss is a gain or loss (or would be apart from section 139 above), or

(b) the sterling equivalent calculated by reference to such rate of exchange as applies by virtue of section 94(11) above in the case of the basic profits or losses for the accounting period concerned of the part of the trade of which the gain or loss is a gain or loss (or would be apart from section 139 above).

(3) Subsection (4) below applies where—

(a) part of an exchange gain of a trade, or part of an exchange gain of part of a trade, is treated as not accruing to a company for an accrual period by virtue of section 140(3) above, and

(b) the local currency of the trade or part for the accounting period which constitutes the accrual period or in which it falls is a currency other than sterling.

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(4) The amount the company is treated as receiving under section 128(4) above in respect of the accounting period and by virtue of the gain (as reduced) shall be taken into account after the basic profits or losses of the trade or part for the accounting period are found in sterling for the purposes of corporation tax.

(5) In a case where—

(a) an exchange gain of a trade, or of part of a trade, for an accrual period is treated as accruing to a company under section 140 above, and

(b) the local currency of the trade or part for the accounting period which constitutes the accrual period or in which it falls is a currency other than sterling,

the amount of the gain shall be treated as the local currency equivalent of its amount expressed in sterling.

(6) The translation required by subsection (5) above shall be made by reference to the London closing exchange rate for the two currencies concerned—

(a) for the last day of the accrual period mentioned in subsection (5) above, or

(b) if that accrual period does not end with the end of a day, for the day on which that accrual period ends.

Deferral: supplementary.

**143.**—(1) For the purposes of sections 139 and 141 above and this section an exchange gain or loss is unrealised if the accrual period concerned is one which ends solely by virtue of an accounting period of the company coming to an end.

(2) In a case where—

(a) an unrealised exchange gain would accrue as mentioned in section 139(1) above,

(b) the gain represents the whole or part of an initial exchange gain accruing under section 127 above, and

(c) the whole or part of the unrealised exchange gain is attributable to any part by which the nominal amount of the debt has decreased,

the company may not claim under section 139 above as regards so much of the unrealised exchange gain as is so attributable.

(3) In applying subsection (2)(c) above the gain shall be apportioned on a just and reasonable basis.

(4) For the purposes of sections 139 and 141 above an asset or liability is a long-term capital asset or liability if the following conditions are fulfilled—

(a) the asset or liability falls within section 153(1)(a) or (2)(a) below,

(b) the debt under which it subsists is such that, under the terms as originally entered into, the time for settlement is not less than one year from the time when the debt was created, and

(c) the asset or liability represents capital throughout the accounting period mentioned in section 139(1) above;

and the time for settlement is the earliest time at which the creditor can require settlement if he exercises all available options and rights.

(5) For the purposes of section 140 above an asset is held, or a liability is owed, in exempt circumstances at a given time if it is then held or owed—

(a) for the purposes of long term insurance business;

(b) for the purposes of mutual insurance business;

(c) for the purposes of the occupation of commercial woodlands;

(d) by a housing association approved at that time for the purposes of section 488 of the Taxes Act 1988;

(e) by a self-build society approved at that time for the purposes of section 489 of that Act.

(6) In subsection (5) above—

"long term insurance business" means insurance business of any of the classes specified in Schedule 1 to the Insurance Companies Act 1982;

1982 c. 50.

"commercial woodlands" means woodlands in the United Kingdom which are managed on a commercial basis and with a view to the realisation of profits.

(7) Regulations may—

(a) make provision modifying the effect of sections 139 to 142 above and the preceding provisions of this section in a case where the debt under which a long-term capital asset or liability subsists is settled and replaced to any extent by another debt under which (or other debts under each of which) such an asset or liability subsists;

(b) make provision modifying the effect of sections 139 to 142 above and the preceding provisions of this section in a case where a group of companies is involved;

(c) provide that the amount falling within section 141(3) above shall be treated as reduced in accordance with prescribed rules;

and any provision under paragraph (a) above may include provision that realised gains or losses are to be treated as wholly or partly unrealised.

*Irrecoverable debts*

Irrecoverable debts.

**144.**—(1) In a case where—

(a) a qualifying company holds an asset consisting of a right to settlement under a qualifying debt or owes a liability consisting of a duty to settle under such a debt, and

(b) the inspector is satisfied, as regards any accounting period of the company, that all of the debt outstanding immediately before the end of the period could at that time reasonably have been regarded as irrecoverable,

the company shall be treated for the purposes of this Chapter as if immediately before the end of that accounting period it ceased to be entitled to the asset or subject to the liability.

(2) Subsection (3) below applies in a case where—

(a) paragraph (a) of subsection (1) above applies, and

(b) the inspector is satisfied, as regards any accounting period of the company, that part of the debt outstanding immediately before the end of the period could at that time reasonably have been regarded as irrecoverable.

(3) The company shall be treated for the purposes of this Chapter as if—

(a) immediately after the beginning of the accounting period next following the accounting period mentioned in subsection (2) above there were a decrease in the nominal amount of the debt outstanding, and

(b) the decrease were of an amount equal to so much of the debt, expressed in its settlement currency, as was outstanding immediately before the end of the accounting period mentioned in subsection (2) above and in the opinion of the inspector could at that time reasonably have been regarded as irrecoverable.

(4) Where there is an appeal, this section shall be construed as if—

(a) "inspector is satisfied" (in each place) read "Commissioners concerned are satisfied", and

(b) "opinion of the inspector" read "opinion of the Commissioners concerned".

Irrecoverable debts that become recoverable.

**145.**—(1) Subsection (2) below applies where—

(a) a company has been treated as mentioned in section 144(1) above as regards a debt,

(b) at a time (the later time) falling after the end of the accounting period mentioned in section 144(1)(b) above all or part of the debt is actually outstanding, and

(c) the inspector is satisfied that all or part of the amount actually outstanding at the later time could at that time reasonably have been regarded as recoverable.

(2) The company shall be treated for the purposes of this Chapter as if—

(a) immediately after the later time it had become entitled to an asset consisting of a right to settlement under the debt or (as the case may be) subject to a liability consisting of a duty to settle under the debt, and

(b) the nominal amount of the debt outstanding, at the time the company became entitled or subject to the asset or liability, were an amount equal to so much of the debt, expressed in its settlement currency, as was actually outstanding at the later time and in the opinion of the inspector could at that time reasonably have been regarded as recoverable.

(3) Subsections (4) and (5) below apply where—

(a) a company has been treated as mentioned in section 144(3) above as regards a debt, or

(b) a company has been treated as mentioned in subsection (2) above as regards a debt by virtue of the fact that in the opinion of the inspector part of the debt could, at the later time, reasonably have been regarded as recoverable.

(4) In a case where—

(a) at a time (the relevant time) falling after the end of the accounting period mentioned in section 144(2)(b) above or (as the case may be) falling after the later time all or part of the debt is actually outstanding,

(b) the inspector is satisfied that all or part of the amount actually outstanding at the relevant time could at that time reasonably have been regarded as recoverable, and

(c) the recoverable amount exceeds the amount which (taking into account section 144(3) above, subsection (2) above and any previous application of this subsection) is the nominal amount of the debt outstanding at the relevant time,

the company shall be treated for the purposes of this Chapter as if, immediately after the relevant time, there were an increase in the nominal amount of the debt outstanding and the increase were of an amount equal to the excess mentioned in paragraph (c) above.

(5) For the purposes of subsection (4) above the recoverable amount is an amount equal to so much of the debt, expressed in its settlement currency, as was actually outstanding at the relevant time and in the opinion of the inspector could at that time reasonably have been regarded as recoverable.

(6) Where there is an appeal, this section shall be construed as if—

(a) "inspector is satisfied" (in each place) read "Commissioners concerned are satisfied", and

(b) "opinion of the inspector" (in each place) read "opinion of the Commissioners concerned".

*Currency contracts: special cases*

Early termination of currency contract.

**146.**—(1) This section applies where—

(a) a qualifying company ceases to be entitled to rights and subject to duties under a currency contract, and

(b) at the time it so ceases it has neither received nor made payment of any currency in pursuance of the contract.

(2) If the company has a net contractual gain of a trade it shall be treated for the purposes of the Tax Acts as—

(a) incurring in the trade a loss of an amount equal to that gain, and

(b) incurring the loss in respect of the last relevant accounting period.

(3) If the company has a net contractual loss of a trade it shall be treated for the purposes of the Tax Acts as—

(a) receiving in respect of the trade an amount equal to that loss, and

(b) receiving the amount in respect of the last relevant accounting period.

(4) If the company has a net contractual non-trading gain—

(a) it shall be treated as incurring by virtue of section 129 above a loss of an amount equal to the amount of that gain,

(b) it shall be treated as incurring the loss in the last relevant accounting period, and

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(c) in relation to that accounting period references to amount B shall be construed accordingly.

(5) If the company has a net contractual non-trading loss—

(a) it shall be treated as receiving by virtue of section 129 above an amount equal to the amount of that loss,

(b) it shall be treated as receiving the amount in the last relevant accounting period, and

(c) in relation to that accounting period references to amount A shall be construed accordingly.

(6) For the purposes of this section—

(a) the termination time is the time mentioned in subsection (1)(b) above;

(b) the last relevant accounting period is the company's accounting period in which the termination time falls;

(c) the relevant accounting periods are that accounting period and the company's accounting periods preceding it.

(7) This is how to find out whether the company has a net contractual gain or loss of a trade and (if it has) its amount—

(a) take the aggregate of the amounts (if any) the company is treated as receiving under section 128(4) above in respect of the trade and the contract and the relevant accounting periods;

(b) take the aggregate of the amounts (if any) of the losses the company is treated as incurring under section 128(8) above in the trade and in respect of the contract and the relevant accounting periods;

(c) if the amount found under paragraph (a) above exceeds that found under paragraph (b) above the company has a net contractual gain of the trade of an amount equal to the excess;

(d) if the amount found under paragraph (b) above exceeds that found under paragraph (a) above the company has a net contractual loss of the trade of an amount equal to the excess;

and in applying paragraphs (a) and (b) above ignore the effect of subsections (2) and (3) above.

(8) This is how to find out whether the company has a net contractual non-trading gain or loss and (if it has) its amount—

(a) take the aggregate of the amounts (if any) the company is treated as receiving under section 129(2) above in respect of the contract in the relevant accounting periods;

(b) take the aggregate of the amounts (if any) of the losses the company is treated as incurring under section 129(4) above in respect of the contract in the relevant accounting periods;

(c) if the amount found under paragraph (a) above exceeds that found under paragraph (b) above the company has a net contractual non-trading gain of an amount equal to the excess;

(d) if the amount found under paragraph (b) above exceeds that found under paragraph (a) above the company has a net contractual non-trading loss of an amount equal to the excess;

and in applying paragraphs (a) and (b) above ignore the effect of subsections (4) and (5) above.

(9) For the purposes of subsection (7) above—

(a) an amount the company is treated as receiving under section 128(4) above in respect of part of the trade concerned shall be treated as received in respect of the trade;

(b) a loss the company is treated as incurring under section 128(8) above in part of the trade shall be treated as incurred in the trade.

(10) Where any amount or loss the company is treated as receiving or incurring as mentioned in subsection (7)(a) or (b) above would (apart from this subsection) be expressed in a currency other than the local currency of the trade for the last relevant accounting period, it shall be treated for the purposes of this section as being the local currency equivalent of the amount or loss expressed in that other currency.

(11) For the purposes of subsection (10) above the local currency equivalent of an amount is the equivalent—

(a) expressed in the local currency of the trade for the last relevant accounting period, and

(b) calculated by reference to the London closing exchange rate for the day in which the termination time falls.

(12) Subsection (13) below applies where the company has (apart from that subsection) a net contractual gain or loss of a trade and—

(a) the trade concerned has ceased before the termination time, or

(b) the company carries on exempt activities immediately before the termination time.

(13) In such a case the company shall be treated for the purposes of this section as if—

(a) it did not have the net contractual gain or loss of the trade, and

(b) it had a net contractual non-trading gain or loss (as the case may be) equal to the amount which would have been the amount of the net contractual gain or loss of the trade apart from paragraph (a) above.

(14) Where any amount found under subsection (13)(b) above would (apart from this subsection) be expressed in a currency other than sterling, it shall be treated for the purposes of this section as being the sterling equivalent of the amount expressed in that other currency; and any translation required by this subsection shall be made by reference to the London closing exchange rate for the currencies concerned for the day in which the termination time falls.

(15) For the purposes of this section a company carries on exempt activities at a given time if—

(a) the activities it then carries on are or include any of the activities mentioned in subsection (16) below,

(b) it is a housing association approved at that time for the purposes of section 488 of the Taxes Act 1988, or

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(c) it is a self-build society approved at that time for the purposes of section 489 of that Act.

(16) The activities referred to in subsection (15)(a) above are—

(a) the activity of long term insurance business;

(b) the activity of mutual insurance business;

(c) the activity of the occupation of commercial woodlands;

and section 143(6) above applies for the purposes of this subsection.

Reciprocal currency contracts.

**147.**—(1) This section applies where—

(a) a qualifying company enters into a currency contract (the first contract), and

(b) the company closes out that contract by entering into another currency contract (the second contract) with rights and duties which are reciprocal to those under the first contract.

(2) For the purposes of this Chapter the company shall be treated as ceasing, at the time it enters into the second contract, to be entitled to rights and subject to duties under the first contract without having received or made payment of any currency in pursuance of the first contract.

(3) For the purposes of this Chapter the second contract shall be ignored (except in applying the preceding provisions of this section).

*Excess gains or losses*

Excess gains or losses.

**148.**—(1) Regulations may provide that where prescribed conditions are fulfilled as regards an asset or liability relief from tax shall be afforded in respect of it; and subsections (2) to (4) below shall apply for the purposes of the regulations.

(2) The prescribed conditions must be or include ones that are met where it can reasonably be said that—

(a) a loss other than an exchange loss has accrued to a qualifying company as regards the asset or liability and no relief from tax is available under the Tax Acts in respect of the loss, and

(b) exchange gains have accrued to the company as regards the asset or liability without being matched (or fully matched) by exchange losses accruing to the company as regards the asset or liability.

(3) The relief shall take such form as is prescribed and shall be such that the amount relieved does not exceed the amount of the unmatched gains.

(4) The regulations may provide that if the loss mentioned in subsection (2)(a) above is made good to any extent the relief afforded by the regulations shall be cancelled (to the extent prescribed) by an assessment to tax.

(5) Regulations may provide that where prescribed conditions are fulfilled as regards an asset or liability a charge to tax shall be imposed in respect of it; and subsections (6) and (7) below shall apply for the purposes of the regulations.

(6) The prescribed conditions must be or include ones that are met where it can reasonably be said that—

(a) a gain other than an exchange gain has accrued to a qualifying company as regards the asset or liability and no charge to tax is imposed under the Tax Acts in respect of the gain, and

(b) exchange losses have accrued to the company as regards the asset or liability without being matched (or fully matched) by exchange gains accruing to the company as regards the asset or liability.

(7) The charge shall take such form as is prescribed and shall be such that the amount charged does not exceed the amount of the unmatched losses.

(8) Regulations under this section may include provision that the relief—

(a) is subject to a claim being made;

(b) is not available in prescribed circumstances.

(9) Where (apart from this subsection) an exchange gain or loss would be expressed in a currency other than sterling, the amount of the gain or loss shall be treated for the purposes of this section as the sterling equivalent of its amount expressed in the other currency.

(10) The translation required by subsection (9) above shall be made by reference to the London closing exchange rate for the two currencies concerned—

(a) for the last day of the accrual period for which the gain or loss accrues, or

(b) if that accrual period does not end with the end of a day, for the day on which that accrual period ends.

(11) In this section—

(a) references to an exchange gain are to an exchange gain of a trade or an exchange gain of part of a trade or a non-trading exchange gain;

(b) references to an exchange loss are to an exchange loss of a trade or an exchange loss of part of a trade or a non-trading exchange loss.

*Local currency to be used*

Local currency to be used.

**149.**—(1) Subject to the following provisions of this section, the local currency for the purposes of sections 125 to 127 above is sterling.

(2) Subsections (4) to (6) below apply where—

(a) at any time in an accrual period an asset or contract was held, or a liability was owed, by a qualifying company for the purposes of a trade or trades carried on by it or of part or parts of a trade or trades carried on by it, and

(b) the local currency of any such trade or part for the relevant accounting period is a currency other than sterling.

(3) References in this section to the relevant accounting period are to the accounting period which constitutes the accrual period or in which the accrual period falls.

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(4) If throughout the accrual period the asset or contract was held, or the liability was owed, by the company solely for trading purposes and only one local currency is involved, sections 125 to 128 above shall be applied by reference to that currency.

(5) If throughout the accrual period the asset or contract was held, or the liability was owed, by the company solely for trading purposes and more than one local currency is involved, sections 125 to 128 above shall be applied separately by reference to each local currency involved and any exchange gain or loss of a trade or part shall be ignored unless found in the currency which is the local currency of the trade or part for the relevant accounting period.

(6) In any other case—

(a) sections 125 to 128 above shall be applied by reference to sterling and sections 129 to 133 above shall be applied to any non-trading exchange gain or loss;

(b) sections 125 to 128 above shall then be applied separately by reference to each local currency involved (other than sterling);

(c) any exchange gain or loss of a trade or part shall be ignored unless found in the currency which is the local currency of the trade or part for the relevant accounting period (whether sterling or otherwise).

(7) For the purposes of this section a part of a trade is any part of a trade whose basic profits or losses for the relevant accounting period are by virtue of regulations under section 94 above to be computed and expressed in a particular currency for the purposes of corporation tax.

*Exchange rate to be used*

Exchange rate at translation times.

**150.**—(1) This section has effect to determine the exchange rate to be used in finding for the purposes of this Chapter the local currency equivalent at a translation time of—

(a) the basic valuation of an asset or liability,

(b) the nominal amount of a debt outstanding, or

(c) an amount of currency.

(2) References in this section to the two currencies are to—

(a) the local currency and the nominal currency of the asset or liability concerned (where this section applies by virtue of subsection (1)(a) or (1)(b) above), or

(b) the local currency and the currency mentioned in subsection (1)(c) above (where this section applies by virtue of subsection (1)(c) above).

(3) References in this section to an arm's length rate are to such exchange rate for the two currencies as might reasonably be expected to be agreed between persons dealing at arm's length.

(4) Subsections (5) to (7) below apply where the translation time is a translation time solely by virtue of an accounting period of the company coming to an end.

(5) In a case where—

(a) an exchange rate for the two currencies is used (as regards the asset, liability or currency contract concerned) in the accounts of the company for the last day of the accounting period, and

(b) the rate is an arm's length rate,

that is the exchange rate to be used as regards the asset, liability or contract.

(6) In a case where—

(a) the provision for whose purposes the local currency equivalent falls to be found is section 126 above,

(b) an exchange rate for the two currencies is not used (as regards the currency contract concerned) in the accounts of the company for the last day of the accounting period,

(c) the fact that such an exchange rate is not so used conforms with normal accountancy practice, and

(d) the exchange rate for the two currencies that is implied by the currency contract concerned is an arm's length rate,

the exchange rate mentioned in paragraph (d) above is the exchange rate to be used as regards the contract.

(7) In a case where neither subsection (5) nor subsection (6) above applies, the London closing exchange rate for the two currencies for the last day of the accounting period is the exchange rate to be used.

(8) Subsections (9) to (14) below apply where the translation time is a translation time otherwise than solely by virtue of an accounting period of the company coming to an end.

(9) In a case where—

(a) an exchange rate for the two currencies is used (as regards the asset, liability or currency contract concerned) in the accounts of the company at the translation time,

(b) the rate represents the average of arm's length rates for all the days falling within a period, and

(c) the arm's length rate for any given day (other than the first) falling within the period is not significantly different from the arm's length rate for the day preceding the given day,

that is the exchange rate to be used as regards the asset, liability or contract.

(10) In a case where—

(a) subsection (9) above does not apply,

(b) an exchange rate for the two currencies is used (as regards the asset, liability or currency contract concerned) in the accounts of the company at the translation time, and

(c) the rate is an arm's length rate,

that is the exchange rate to be used as regards the asset, liability or contract.

(11) In a case where—

(a) the provision for whose purposes the local currency equivalent falls to be found is section 126 above,

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(b) an exchange rate for the two currencies is not used (as regards the currency contract concerned) in the accounts of the company at the translation time,

(c) the fact that such an exchange rate is not so used conforms with normal accountancy practice, and

(d) the exchange rate for the two currencies that is implied by the currency contract concerned is an arm's length rate,

the exchange rate mentioned in paragraph (d) above is the exchange rate to be used as regards the contract.

(12) In a case where—

(a) none of subsections (9) to (11) above applies,

(b) it is the company's normal practice, when using an exchange rate in its accounts, to use a rate which represents an average of exchange rates obtaining for a period, and

(c) the London closing exchange rate for the two currencies for any given day (other than the first) falling within the relevant period is not significantly different from the London closing exchange rate for the two currencies for the day preceding the given day,

the rate which represents the average of the London closing exchange rates for the currencies for all the days falling within the relevant period is the exchange rate to be used.

(13) In a case where none of subsections (9) to (12) above applies, the London closing exchange rate for the day in which the translation time falls is the exchange rate to be used.

(14) References in subsection (12) above to the relevant period are to the period which—

(a) begins when the relevant accounting period begins, and

(b) ends at the end of the day in which the translation time falls;

and the relevant accounting period is the accounting period in which the translation time falls.

Exchange rate for debts whose amounts vary.

**151.**—(1) Subsection (2) below has effect to determine the exchange rate to be used in finding for the purposes of this Chapter the local currency equivalent, at a time immediately after the nominal amount of a debt outstanding increases or decreases, of any amount.

(2) Subsections (9) to (14) of section 150 above (ignoring subsection (11)) shall apply for that purpose, but in so applying them—

(a) references to the translation time shall be construed as references to the time mentioned in subsection (1) above;

(b) references to the two currencies shall be construed as references to the local currency and the settlement currency of the debt.

*Interpretation: companies*

Qualifying companies.

**152.**—(1) Subject to the following provisions of this section, any company is a qualifying company.

(2) A company established for charitable purposes only is not a qualifying company.

(3) Where a unit trust scheme is an authorised unit trust as respects an accounting period the trustees (who are deemed to be a company for certain purposes by section 468(1) of the Taxes Act 1988) are not a qualifying company as regards that period.

(4) A company which is approved for the purposes of section 842 of the Taxes Act 1988 (investment trusts) for an accounting period is not a qualifying company as regards that period.

(5) In this section —

"unit trust scheme" has the same meaning as in section 469 of the Taxes Act 1988;

"authorised unit trust" has the same meaning as in section 468 of that Act.

*Interpretation: assets, liabilities and contracts*

Qualifying assets and liabilities.

**153.**—(1) As regards a qualifying company, each of the following is a qualifying asset—

(a) a right to settlement under a qualifying debt (whether or not the debt is a debt on a security);

(b) a unit of currency;

(c) a share held in qualifying circumstances;

but paragraph (a) above shall have effect subject to subsections (3) and (4) below.

(2) As regards a qualifying company, each of the following is a qualifying liability—

(a) a duty to settle under a qualifying debt (whether or not the debt is a debt on a security);

(b) a liability that takes the form of a provision made by the company in respect of a duty to which it may become subject and which (if it were to become subject to it) would be a duty to settle under a qualifying debt;

(c) a duty to transfer a right to settlement under a qualifying debt on a security, where the duty subsists under a contract and the company is not entitled to the right;

(d) a duty to transfer a share or shares, where the duty subsists under a contract and the company is not entitled to the share or shares;

but paragraphs (a) to (d) above shall have effect subject to subsections (5) to (9) below.

(3) A right to settlement under a qualifying debt is not a qualifying asset if it is a right under a currency contract.

(4) A right to settlement under a qualifying debt is not a qualifying asset if the debt is a debt on a security which under the terms of issue can be converted into or exchanged for a share or shares; but the preceding provisions of this subsection do not apply if the security is a deep gain security or the right is held in qualifying circumstances.

(5) A duty to settle under a qualifying debt is not a qualifying liability if it is a duty under a currency contract.

(6) A duty to settle under a qualifying debt is not a qualifying liability if the debt is a debt on a security which under the terms of issue can be converted into or exchanged for a share or shares; but the preceding provisions of this subsection do not apply if the security is a deep gain security.

(7) A liability falling within subsection (2)(b) above is not a qualifying liability unless—

(a) the duty to settle would (if the company were to become subject to it) be owed for the purposes of a trade, and

(b) the provision falls to be taken into account (apart from this Chapter) in computing the profits or losses of the trade for corporation tax purposes.

(8) A duty falling within subsection (2)(c) above is not a qualifying liability unless the right would be a qualifying asset if the company were entitled to it.

(9) A duty falling within subsection (2)(d) above is not a qualifying liability unless the share (or each of the shares) would be a qualifying asset if the company were entitled to it.

(10) For the purposes of this section each of the following is a qualifying debt—

(a) a debt falling to be settled by the payment of money;

(b) a debt falling to be settled by the transfer of a right to settlement under another debt, itself falling to be settled by the payment of money;

and for the purposes of this subsection an ecu shall be regarded as money.

(11) For the purposes of subsections (1)(c) and (4) above qualifying circumstances, in relation to an asset consisting of a share or a right to settlement, are circumstances where the qualifying company carries on a trade and—

(a) if the company were to transfer the asset, the transfer would fall to be taken into account (apart from this Chapter) in computing the profits or losses of the trade for corporation tax purposes, and

(b) if the asset were held by the company at the end of an accounting period, the valuation of the asset to be shown in the company's accounts for that time would fall to be found by taking the local currency equivalent at that time of the valuation put on the asset by the company (whether at that time or earlier) expressed in the nominal currency of the asset;

and the reference here to the local currency is to the local currency of the trade for the accounting period.

(12) Interest accrued in respect of a debt shall not be treated as part of the debt.

Definitions connected with assets.

**154.**—(1) Subject to the following provisions of this section, a company becomes entitled to an asset when it becomes unconditionally entitled to it.

(2) In determining whether or not a company is unconditionally entitled to an asset, any transfer by way of security of the asset or of any interest or right in or over the asset shall be ignored.

(3) Where a company agrees to acquire an asset by transfer it becomes entitled to it when the contract is made and not on a later transfer made pursuant to the contract; but the preceding provisions of this subsection do not apply where the agreement is by way of a currency contract.

(4) Where a company agrees to dispose of an asset by transfer it ceases to be entitled to it when the contract is made and not on a later transfer made pursuant to the contract.

(5) If a contract is conditional (whether on the exercise of an option or otherwise) for the purposes of subsections (3) and (4) above it is made when the condition is satisfied.

(6) Where a company ceases to be entitled to an asset and at a later time becomes entitled to the same asset, with effect from the later time the asset shall be treated as if it were a different asset.

(7) In a case where—

(a) at different times a company becomes entitled to rights to settlement under debts on securities, and

(b) the rights are of the same kind,

the rights shall be treated as different assets and not part of the same asset.

(8) Whether a transaction involves a company becoming entitled to—

(a) one asset consisting of a right to settlement under a debt on a security, or

(b) a number of such assets,

shall be determined according to the facts of the case concerned.

(9) For the purpose of deciding whether rights to settlement under debts on securities of a particular kind are held by a company, rights of that kind acquired earlier shall be treated as disposed of before rights of that kind acquired later; and references here to acquisition and disposal are references to becoming entitled and ceasing to be entitled.

(10) For the purpose of deciding whether shares of a particular kind are held by a company, shares of that kind acquired earlier shall be treated as disposed of before shares of that kind acquired later; and references here to acquisition and disposal are references to becoming entitled and ceasing to be entitled.

(11) In a case where—

(a) a rule is used for the purpose mentioned in subsection (9) or (10) above when the company's accounts are prepared,

(b) the rule differs from that contained in the subsection, and

(c) the accounts are prepared in accordance with normal accountancy practice,

the rule used when the accounts are prepared (and not the rule in the subsection) shall be used for the purpose.

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(12) In a case where—

(a) a company would (apart from this subsection) become entitled to an asset at a particular time (the later time) by virtue of the preceding provisions of this section,

(b) the asset falls within section 153(1)(a) above,

(c) the time at which the company, in drawing up its accounts, regards itself as becoming entitled to the asset is a time (the earlier time) earlier than the later time, and

(d) the accounts are drawn up in accordance with normal accountancy practice,

the company shall be taken to have become entitled to the asset at the earlier time and not at the later time.

(13) Where subsection (12) above applies, as regards any time beginning with the earlier time and ending immediately before the later time the nominal amount of the debt shall be taken to be—

(a) such amount as the company treats as the nominal amount in its accounts, or

(b) such amount as it would so treat in accordance with normal accountancy practice (if that amount is different from the amount found under paragraph (a) above).

(14) A company holds an asset at a particular time if it is entitled to it at that time.

Definitions connected with liabilities.

**155.**—(1) Subject to the following provisions of this section, a company becomes subject to a liability falling within section 153(2)(a) above when it becomes unconditionally subject to it.

(2) Where a company agrees to acquire a liability falling within section 153(2)(a) above by transfer it becomes subject to it when the contract is made and not on a later transfer made pursuant to the contract.

(3) Where a company agrees to dispose of a liability falling within section 153(2)(a) above by transfer it ceases to be subject to it when the contract is made and not on a later transfer made pursuant to the contract.

(4) If a contract is conditional (whether on the exercise of an option or otherwise) for the purposes of subsections (2) and (3) above it is made when the condition is satisfied.

(5) Where a company ceases to be subject to a liability falling within section 153(2)(a) above and at a later time becomes subject to the same liability, with effect from the later time the liability shall be treated as if it were a different liability.

(6) A company becomes subject to a liability falling within section 153(2)(b) above at the time with effect from which it makes the provision.

(7) A company ceases to be subject to a liability falling within section 153(2)(b) above at the time with effect from which it deletes the provision or (if different) the time with effect from which it would delete the provision under normal accountancy practice.

(8) Where a company makes a provision falling within section 153(2)(b) above and later changes the amount, the company shall be treated as—

(a) deleting (with effect from the time when the change becomes effective) the provision representing the amount before the change, and

(b) making (with effect from that time) a new provision representing the amount as changed;

and so on for further changes.

(9) A company ceases to be subject to a liability falling within section 153(2)(c) above when it becomes entitled to the right concerned, unless it ceases to be subject to the liability earlier apart from this subsection.

(10) A company ceases to be subject to a liability falling within section 153(2)(d) above when it becomes entitled to the share or shares, unless it ceases to be subject to the liability earlier apart from this subsection.

(11) In a case where—

(a) a company would (apart from this subsection) become subject to a liability at a particular time (the later time) by virtue of the preceding provisions of this section,

(b) the liability falls within section 153(2)(a) above,

(c) the time at which the company, in drawing up its accounts, regards itself as becoming subject to the liability is a time (the earlier time) earlier than the later time, and

(d) the accounts are drawn up in accordance with normal accountancy practice,

the company shall be taken to have become subject to the liability at the earlier time and not at the later time.

(12) Where subsection (11) above applies, as regards any time beginning with the earlier time and ending immediately before the later time the nominal amount of the debt shall be taken to be—

(a) such amount as the company treats as the nominal amount in its accounts, or

(b) such amount as it would so treat in accordance with normal accountancy practice (if that amount is different from the amount found under paragraph (a) above).

(13) A company owes a liability at a particular time if it is subject to it at that time.

Assets and liabilities: other matters.

**156.**—(1) Each of the following questions shall be determined according to the facts of the case concerned—

(a) whether a transaction (or series of transactions) involves the creation of one asset consisting of a right to settlement under a debt or a number of assets consisting of a number of such rights;

(b) whether a transaction (or series of transactions) involves the creation of one liability consisting of a duty to settle under a debt or a number of liabilities consisting of a number of such duties;

(c) whether a transaction (or series of transactions) involves the creation of both an asset (or assets) held and a liability (or liabilities) owed by the same company.

(2) Subsection (3) below applies where—

(a) a company, in drawing up its accounts, regards itself as becoming entitled or subject to an asset or liability at a particular time,

(b) the company, in drawing up its accounts, regards itself as ceasing to be entitled or subject to the asset or liability at a later time,

(c) at the time mentioned in paragraph (a) above it could reasonably be expected that the company would become entitled or subject to such an asset or liability,

(d) the asset or liability does not in fact come into existence before the later time but (if it did) it would fall within section 153(1)(a) or (2)(a) above, and

(e) the accounts are drawn up in accordance with normal accountancy practice.

(3) The company shall be taken to—

(a) become entitled or subject to such an asset or liability at the time it regards itself as becoming so entitled or subject, and

(b) cease to be entitled or subject to such an asset or liability at the time it regards itself as ceasing to be so entitled or subject.

(4) Where subsection (3) above applies, as regards any time beginning with the time mentioned in subsection (3)(a) and ending with the time mentioned in subsection (3)(b) the nominal amount of the debt shall be taken to be—

(a) such amount as the company treats as the nominal amount in its accounts, or

(b) such amount as it would so treat in accordance with normal accountancy practice (if that amount is different from the amount found under paragraph (a) above).

Definitions connected with currency contracts.

**157.**—(1) A company becomes entitled to rights and subject to duties under a currency contract when it enters into the contract.

(2) A company holds a currency contract at a particular time if it is then entitled to rights and subject to duties under the contract; and it is immaterial when the rights and duties fall to be exercised and performed.

*Interpretation: other provisions*

Translation times and accrual periods.

**158.**—(1) Where a qualifying company holds a qualifying asset the following are translation times as regards the asset—

(a) the time immediately after the company becomes entitled to the asset;

(b) the time immediately before the company ceases to be entitled to the asset;

(c) any time which is a time when an accounting period of the company ends and which falls after the time mentioned in paragraph (a) above and before the time mentioned in paragraph (b) above.

(2) Where a qualifying company owes a qualifying liability the following are translation times as regards the liability—

(a) the time immediately after the company becomes subject to the liability;

(b) the time immediately before the company ceases to be subject to the liability;

(c) any time which is a time when an accounting period of the company ends and which falls after the time mentioned in paragraph (a) above and before the time mentioned in paragraph (b) above.

(3) Where a qualifying company enters into a currency contract the following are translation times as regards the contract—

(a) the time immediately after the company becomes entitled to rights and subject to duties under the contract;

(b) the time immediately before the company ceases to be entitled to those rights and subject to those duties;

(c) any time which is a time when an accounting period of the company ends and which falls after the time mentioned in paragraph (a) above and before the time mentioned in paragraph (b) above.

(4) As regards a qualifying asset, a qualifying liability or a currency contract an accrual period is a period which—

(a) begins with a time which is a translation time (other than the last to fall) as regards the asset, liability or contract, and

(b) ends with the time which is the next translation time to fall as regards the asset, liability or contract.

Basic valuation.

**159.**—(1) Subject to the following provisions of this section, the basic valuation of an asset or liability is—

(a) such valuation as the company puts on it with regard to the time immediately after the company becomes entitled or subject to it, or

(b) such valuation as the company would put on it with regard to that time under normal accountancy practice, if that valuation is different from that found under paragraph (a) above.

(2) Where (apart from this subsection) the valuation under subsection (1) above would be in a currency (the actual currency) other than the nominal currency, it shall be taken to be the equivalent, expressed in terms of the nominal currency, of the valuation in the actual currency; and the translation required by this subsection shall be made by reference to the London closing exchange rate for the two currencies concerned for the day in which the time mentioned in subsection (1) above falls.

(3) The basic valuation of a liability falling within section 153(2)(c) or (d) above is the consideration for the company becoming subject to the liability; and any consideration or part that is not pecuniary shall be taken to be equal to its open market value—

(a) found at the time when the company becomes subject to the liability, and

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(b) if part of the consideration is pecuniary, expressed in the same currency as that part.

(4) Where (apart from this subsection) the valuation under subsection (3) above would be in a currency (the actual currency) other than the nominal currency, it shall be taken to be the equivalent, expressed in terms of the nominal currency, of the valuation in the actual currency; and the translation required by this subsection shall be made by reference to the London closing exchange rate for the two currencies concerned for the day on which the company becomes subject to the liability.

(5) Subsections (6) to (9) below apply where—

(a) the company becomes entitled to a right to settlement under a qualifying debt on a security, and

(b) the circumstances are such that section 713(2)(b) or (3)(b) of the Taxes Act 1988 applies (transferee treated as entitled under accrued income scheme to relief or a sum found in sterling).

(6) In such a case the basic valuation of the right shall be found by taking the consideration for the company becoming entitled to the right and—

(a) subtracting such of the amount found under section 713(2)(b) as is attributable to the right, or

(b) adding such of the amount found under section 713(3)(b) as is attributable to the right;

and any apportionment of consideration or of the amount found under section 713(2)(b) or (3)(b) shall be made on a just and reasonable basis.

(7) The following rules apply for the purposes of subsection (6) above—

(a) any consideration or part that is pecuniary shall be expressed in sterling (if not otherwise so expressed);

(b) any consideration or part that is not pecuniary shall be taken to be equal to its open market value, found at the time when the company becomes entitled to the right and expressed in sterling.

(8) Where the nominal currency of the right mentioned in subsection (5) above is not sterling, the valuation found in sterling under subsection (6) above shall be taken to be its equivalent expressed in terms of the nominal currency.

(9) Any translation required by subsection (7) or (8) above shall be made by reference to the London closing exchange rate for the currencies concerned for the day on which the company becomes entitled to the right.

(10) Subsections (11) and (12) below apply where—

(a) section 127 above applies as regards an asset or liability for an accrual period (the earlier period), and

(b) section 125 or 127 above applies as regards the asset or liability for the next accrual period (the later period).

(11) As regards the later period the basic valuation of the asset or liability shall be taken to be—

(a) the nominal amount of the debt outstanding immediately before the beginning of the later period, or

(b) if section 127(7) above also applies as regards the earlier period, the amount found under section 127(10) for that period.

(12) As regards an accrual period which falls after the later period the basic valuation of the asset or liability shall be the amount found under subsection (11) above, subject to any subsequent application of that subsection.

Nominal currency of assets and liabilities.

**160.**—(1) As regards an asset mentioned in section 153(1)(a) above, or a liability mentioned in section 153(2)(a) or (b) or (c) above, the nominal currency is the settlement currency of the debt mentioned in the paragraph concerned.

(2) As regards an asset mentioned in section 153(1)(b) above, the nominal currency is the currency concerned.

(3) As regards an asset mentioned in section 153(1)(c) above, the nominal currency is the currency in which the share is denominated.

(4) As regards a liability mentioned in section 153(2)(d) above, the nominal currency is the currency in which the share is (or shares are) denominated.

Settlement currency of a debt.

**161.**—(1) Subject to the following provisions of this section, the settlement currency of a debt is the currency in which ultimate settlement of the debt falls to be made.

(2) In a case where—

(a) ultimate settlement of a debt falls to be made in a particular currency, but

(b) the amount of the currency falls to be determined by reference to the value at any time of an asset consisting of or denominated in another currency,

the settlement currency of the debt is the other currency.

(3) As regards a debt mentioned in section 153(2)(b) above, and as regards a case where section 156(3) above applies, in subsections (1) and (2) above "falls" (in each place) shall be read as "would fall".

(4) Where the settlement currency of a debt cannot be determined under subsections (1) to (3) above, the settlement currency of the debt is the currency that can reasonably be regarded as the most appropriate—

(a) deeming the state of affairs at settlement to be the same as the state of affairs at the material time, and

(b) having regard to subsections (1) to (3) above;

and the material time is the time immediately after the company becomes entitled to the asset mentioned in section 153(1)(a) above or subject to the liability mentioned in section 153(2)(a) or (b) or (c) above.

(5) For the purposes of this section the ecu shall be regarded as a currency.

Nominal amount of a debt.

**162.**—(1) The nominal amount of a debt outstanding at any time is the amount of the debt outstanding at that time, expressed in terms of the settlement currency of the debt.

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(2) In a case where—

(a) a payment or repayment is made at any time in a currency other than the settlement currency of a debt, and

(b) it falls to be decided whether there is in consequence an increase or decrease in the nominal amount of the debt outstanding,

the amount of the payment or repayment shall be taken to be its equivalent expressed in terms of the settlement currency of the debt.

(3) Any translation required by this section shall be made by reference to the London closing exchange rate for the currencies concerned for the day in which the time concerned falls.

Local currency of a trade.

**163.**—(1) Subject to subsection (2) below, the local currency of a trade for an accounting period is sterling.

(2) Where by virtue of regulations under section 93 above the basic profits or losses of a trade for an accounting period are to be computed and expressed in a currency other than sterling for the purposes of corporation tax, that other currency is the local currency of the trade for the period.

(3) Where by virtue of regulations under section 94 above the basic profits or losses of part of a trade for an accounting period are to be computed and expressed in a particular currency for the purposes of corporation tax, that currency is the local currency of the part for the period.

(4) For the purposes of this section the ecu shall be regarded as a currency other than sterling; and references in this Chapter to a currency other than sterling shall be construed accordingly.

Interpretation: miscellaneous.

**164.**—(1) References to—

(a) initial exchange gains and losses,

(b) exchange gains and losses of a trade or of part of a trade,

(c) non-trading exchange gains and losses, and

(d) the accrual of gains and losses mentioned in paragraphs (a) to (c) above,

shall be construed in accordance with sections 125 to 129 above and Schedule 15 to this Act.

(2) References to a currency contract shall be construed in accordance with section 126(1) above.

(3) References to a qualifying debt shall be construed in accordance with section 153(10) above.

(4) References to a company's commencement day shall be construed in accordance with section 165(7) below.

(5) The local currency equivalent of a valuation of an asset or liability, or of an amount, is that valuation or amount expressed in terms of the local currency (a process sometimes known as translation).

(6) References to the basic profits or losses of a trade for an accounting period shall be construed in accordance with section 93(2) above.

(7) References to the basic profits or losses of part of a trade for an accounting period shall be construed in accordance with section 94(4) above.

(8) References to a share are to a share in a company (whether or not the qualifying company).

(9) Shares are of the same kind if they are treated as being of the same kind by the practice of a recognised stock exchange or would be so treated if dealt with on such a stock exchange.

(10) Rights to settlement under debts on securities are of the same kind if the securities are treated as being of the same kind by the practice of a recognised stock exchange or would be so treated if dealt with on such a stock exchange.

(11) "Security", in the expression "debt on a security", has the meaning given by section 132 of the Taxation of Chargeable Gains Act 1992.

1992 c. 12.

(12) References to deep gain securities shall be construed in accordance with Schedule 11 to the Finance Act 1989.

1989 c. 26.

(13) References to the ecu are to the European currency unit as defined for the time being in Council Regulation No. 3180/78/EEC or in any Community instrument replacing it.

(14) "Prescribed" means prescribed by regulations made under this Chapter.

(15) A reference to this Chapter includes a reference to regulations made under it and a reference to a provision of this Chapter includes a reference to regulations made under the provision, unless otherwise required by the context or regulations.

(16) Sections 152 to 163 above, and the preceding provisions of this section, apply for the purposes of this Chapter.

*Miscellaneous*

Commencement and transitionals.

**165.**—(1) This Chapter applies where—

(a) a qualifying asset is one to which the company becomes entitled on or after the company's commencement day;

(b) a qualifying liability is one to which the company becomes subject on or after that day;

(c) the rights and duties under a currency contract are ones to which the company becomes entitled and subject on or after that day.

(2) Where a qualifying asset or liability is held or owed by a qualifying company both immediately before and at the beginning of its commencement day, for the purposes of this Chapter the company shall be treated as becoming entitled or subject to the asset or liability at the beginning of its commencement day.

(3) Where both immediately before and at the beginning of its commencement day a qualifying company is entitled to rights and subject to duties under a currency contract, for the purposes of this Chapter the company shall be treated as becoming entitled and subject to them at the beginning of its commencement day.

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(4) Regulations may provide that where—

(a) a qualifying asset or liability is held or owed by a qualifying company both immediately before and at the beginning of its commencement day, and

(b) the asset or liability is of a prescribed description,

subsection (2) above shall not apply and for the purposes of this Chapter the company shall be treated as becoming entitled or subject to the asset or liability at such time (falling after its commencement day) as is found in accordance with prescribed rules.

(5) Regulations may provide that any rule made under subsection (4) above shall not apply, and that subsection (2) above shall accordingly apply, in a case where the company so elects in accordance with prescribed rules.

(6) Schedule 16 to this Act (which contains transitional provisions) shall have effect.

(7) For the purposes of this section—

(a) a company's commencement day is the first day of its first accounting period to begin after the day preceding the appointed day;

(b) the appointed day is such day as may be appointed by order.

(8) Subsections (1) to (6) above do not apply for the purposes of construing Schedule 17 to this Act (which contains its own commencement provisions).

Anti-avoidance: change of accounting period.

**166.**—(1) This section applies where—

(a) a company changes the date on which any accounting period is to begin,

(b) if the change had not been made an exchange gain or gains not accruing to the company would have accrued or an exchange loss or losses accruing to the company would not have accrued or an exchange gain or gains accruing would have been bigger or an exchange loss or losses accruing would have been smaller, and

(c) the change mentioned in paragraph (a) above was made for the purpose, or for purposes which include the purpose, of securing the non-accrual or reduction of the gain or gains or the accrual or increase of the loss or losses.

(2) In such a case the inspector or on appeal the Commissioners concerned—

(a) may in arriving at the exchange gains and losses accruing to the company assume that there had been no such change as is mentioned in subsection (1)(a) above, and

(b) may accordingly make, with regard to the accounting period mentioned in subsection (1)(a) above, such adjustment to the company's corporation tax liability as is just and reasonable.

(3) For the purposes of this section—

(a) an exchange gain is an exchange gain of a trade or an exchange gain of part of a trade or a non-trading exchange gain;

(b) an exchange loss is an exchange loss of a trade or an exchange loss of part of a trade or a non-trading exchange loss.

Orders and regulations.

**167.**—(1) Any power to make an order or regulations under this Chapter shall be exercisable by the Treasury.

(2) Any power to make an order under this Chapter shall be exercisable by statutory instrument.

(3) Any power to make regulations under this Chapter shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.

(4) Any power to make regulations under this Chapter—

(a) may be exercised as regards prescribed cases or descriptions of case;

(b) may be exercised differently in relation to different cases or descriptions of case.

(5) Regulations under this Chapter may make provision in such way as the Treasury think fit, and in particular may amend or modify the effect of any enactment (whether or not contained in this Chapter).

(6) Regulations under this Chapter may include such supplementary, incidental, consequential or transitional provisions as appear to the Treasury to be necessary or expedient.

(7) No specific provision of this Chapter about regulations shall prejudice the generality of subsections (4) to (6) above.

Insurance companies.

**168.**—(1) Subject to the following provisions of this section, this Chapter shall apply in relation to insurance companies as it applies in relation to other qualifying companies.

(2) Regulations may make provision about the treatment for corporation tax purposes of exchange differences arising as regards assets and liabilities held or owed by insurance companies.

(3) Any such provision may be made—

(a) about exchange differences arising as regards assets or liabilities (or both) generally or about a proportion of such differences;

(b) about exchange differences arising as regards prescribed descriptions of assets or liabilities (or both) or about a proportion of such differences;

(c) about exchange differences arising as regards individual assets or liabilities.

(4) Any such provision may be made about assets or liabilities that are qualifying assets or liabilities, or about those that are not, or about both.

(5) Regulations under this section may—

(a) contain exceptions (whether by reference to categories of insurance business or otherwise);

(b) contain provision about the circumstances in which a charge or relief is to arise, its amount, and other matters relating to it;

(c) provide for consequential adjustments in a company's corporation tax liability;

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(d) exclude or modify the effect of any of the provisions of this Chapter.

(6) References in this section to exchange differences are to gains and losses attributable to fluctuations in currency exchange rates.

(7) For the purposes of this section an insurance company is a company to which Part II of the Insurance Companies Act 1982 applies.

1982 c.50.

Chargeable gains.

**169.** Schedule 17 to this Act (provisions which relate to the taxation of chargeable gains and are connected with other provisions of this Chapter) shall have effect.

Amendments.

**170.** Schedule 18 to this Act (which contains amendments) shall have effect.

## CHAPTER III

## LLOYD'S UNDERWRITERS ETC.

### *Main provisions*

Taxation of profits and allowance of losses.

**171.**—(1) Income tax for any year of assessment on the profits arising from a member's underwriting business shall be computed on the profits of that year of assessment.

(2) As respects the profits arising to a member from his underwriting business for any year of assessment—

(a) the aggregate of those profits shall be chargeable to tax under Case I of Schedule D; and

(b) accordingly, no part of those profits shall be chargeable to tax under any other Schedule or any other Case of Schedule D;

but nothing in this subsection shall affect the manner in which the amount of any profits arising from assets forming part of an ancillary trust fund is to be computed.

(3) Relief under section 380 of the Taxes Act 1988 (set-off against general income) in respect of a loss sustained by a member in his underwriting business in any year of assessment—

(a) shall not be given under subsection (2) of that section; but

(b) may, if the member so claims and he was a member in the preceding year of assessment, be given against his income for that preceding year, so far as it cannot be given against the income for the year in which the loss was sustained and can be given after any relief for a loss sustained in that preceding year.

(4) Subsection (2) above does not apply in relation to any profits arising before 6th April 1993 from assets forming part of an ancillary trust fund.

Year of assessment in which profits or losses arise.

**172.**—(1) Subject to the provisions of this Chapter, for the purposes of section 171 above and all other purposes of the Income Tax Acts the profits or losses in any year of assessment of a member's underwriting business shall be taken to be—

(a) in the case of profits or losses arising directly from his membership of one or more syndicates, those arising in respect of the corresponding underwriting year;

(b) in the case of profits or losses arising from assets forming part of a premiums trust fund, those allocated under the rules or practice of Lloyd's to the corresponding underwriting year; and

(c) in the case of other profits or losses, those derived from payments received or made in the corresponding underwriting year.

(2) Subsection (1)(c) above does not apply in relation to payments received or made before 6th April 1993.

Assessment and collection of tax.

**173.**—(1) Schedule 19 to this Act (assessment and collection of tax) shall have effect.

(2) Schedule 19A to the Taxes Act 1988 (which is superseded by Schedule 19 to this Act for the year 1992-93 and subsequent years of assessment) shall have effect as if for sub-paragraph (3) of paragraph 1 there were substituted the following sub-paragraph—

"(3) Regulations under this paragraph may make provision with respect to any year or years of assessment; and the year (or any of the years) may be the year next but one preceding the year in which the regulations are made or any year following that earlier year."

(3) Subsection (2) above applies in relation to regulations made after the passing of this Act.

*Members' trust funds*

Premiums trust funds.

**174.**—(1) A member shall be treated for the purposes of the Income Tax Acts and the Gains Tax Acts as absolutely entitled as against the trustees to the assets forming part of a premiums trust fund of his.

(2) Where an asset forms part of a premiums trust fund at the beginning of any underwriting year, for the purposes of the Income Tax Acts—

(a) the trustees of the fund shall be treated as acquiring it on that day, and

(b) they shall be treated as paying in respect of the acquisition an amount equal to the value of the asset at the time of the acquisition.

(3) Where an asset forms part of a premiums trust fund at the end of any underwriting year, for the purposes of the Income Tax Acts—

(a) the trustees of the fund shall be treated as disposing of it on that day, and

(b) they shall be treated as obtaining in respect of the disposal an amount equal to the value of the asset at the time of the disposal.

(4) Subsection (5) below applies where the following state of affairs exists at the beginning of any underwriting year or the end of any such year—

(a) securities have been transferred by the trustees of a premiums trust fund in pursuance of an arrangement mentioned in section 129(1), (2) or (2A) of the Taxes Act 1988,

(b) the transfer was made to enable another person to fulfil a contract or to make a transfer,

(c) securities have not been transferred in return, and

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(d) section 129(3) of that Act applies to the transfer made by the trustees.

(5) The securities transferred by the trustees shall be treated for the purposes of subsections (2) and (3) above as if they formed part of the premiums trust fund at the beginning or (as the case may be) the end of the underwriting year concerned.

(6) Subsections (2) to (5) above do not apply to FOTRA securities forming part of a member's premiums trust fund at the beginning or end of any underwriting year if—

(a) the member is not domiciled in the United Kingdom at any time in the year, and

(b) he is either not ordinarily resident in the United Kingdom during the year or a non-resident United Kingdom trader in the year.

(7) In this section—

"FOTRA securities" has the same meaning as in section 715 of the Taxes Act 1988 (exceptions from accrued income scheme);

"non-resident United Kingdom trader" shall be construed in accordance with subsection (5) of that section;

"underwriting year" does not include the year 1993 or any earlier underwriting year.

Special reserve funds.

**175.**—(1) If arrangements are made by the Council of Lloyd's which—

(a) enable such a special reserve fund as is referred to in Part I of Schedule 20 to this Act to be set up in relation to each member; and

(b) comply with the requirements of that Part and are approved by the Board,

the provisions of that Part relating to taxation shall have effect in relation to any special reserve fund of a member set up under the arrangements.

(2) The arrangements may from time to time be varied with the consent of the Board.

(3) If, after giving notice of their intention to do so to the Council of Lloyd's, the Board cancel the approval which they have given with respect to the arrangements, paragraph 3 of Schedule 20 to this Act shall not apply, in the case of any member, to any year of assessment after the year of assessment in which the approval is cancelled.

(4) The provisions of Part II of Schedule 20 to this Act shall have effect as respects the winding up of any special reserve fund which—

(a) was set up under the arrangements mentioned in section 452(1) of the Taxes Act 1988; and

(b) belongs to a member for whom a special reserve fund may be set up under the arrangements mentioned in subsection (1) above.

Ancillary trust funds.

**176.**—(1) A member shall be treated for the purposes of the Income Tax Acts and the Gains Tax Acts as absolutely entitled as against the trustees to the assets forming part of an ancillary trust fund of his.

(2) The cost of acquisition and the consideration for the disposal of assets forming part of an ancillary trust fund—

(a) shall be left out of account in computing for the purposes of income tax the profits or losses of the member's underwriting business; and

(b) accordingly, shall not be excluded for the purposes of capital gains tax under section 37 or 39 of the Gains Tax Act.

(3) None of the following provisions (which apply where an individual entitled to securities dies), namely—

(a) subsections (1) to (4) of section 721 of the Taxes Act 1988 (accrued income scheme);

(b) paragraph 7(2) of Schedule 4 to that Act (deep discount securities);

(c) paragraph 7(1) of Schedule 11 to the Finance Act 1989 (deep gain securities); and
1989 c. 26.

(d) paragraph 16(1) of Schedule 10 to the Finance Act 1990 (convertible securities),
1990 c. 29.

shall apply where the individual concerned is a member and the security concerned forms part of an ancillary trust fund of his.

(4) In a case where subsection (3)(a) above applies, the deceased's personal representatives shall be treated for the purposes of sections 710 to 728 of the Taxes Act 1988 as the transferor or transferee in relation to transfers of securities as to which the deceased was the transferor or transferee (as the case may be) in the interest period in which he died.

*Other special cases*

Reinsurance to close.

**177.**—(1) This section applies where—

(a) in accordance with the rules or practice of Lloyd's and in consideration of the payment of a premium, one member agrees with another to meet liabilities arising from the latter's underwriting business for an underwriting year so that the accounts of the business for that year may be closed; and

(b) the member by whom the premium is payable is a continuing member, that is, a member not only of the syndicate as a member of which he is liable to pay the premium ("the reinsured syndicate") but also of the syndicate as a member of which the other member is entitled to receive it ("the reinsurer syndicate").

(2) In computing for the purposes of income tax the profits of the continuing member's underwriting business as a member of the reinsured syndicate, the amount of the premium shall be deductible as an expense of his only to the extent that it is shown not to exceed a fair and reasonable assessment of the value of the liabilities in respect of which it is payable.

(3) In computing for those purposes the profits of the continuing member's underwriting business as a member of the reinsurer syndicate, those profits shall be reduced by an amount equal to any part of a premium which, by virtue of subsection (2) above, is not deductible as an expense of his as a member of the reinsured syndicate.

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(4) The assessment referred to in subsection (2) above shall be taken to be fair and reasonable only if it is arrived at with a view to producing the result that a profit does not accrue to the member to whom the premium is payable but that he does not suffer a loss.

Stop-loss and quota share insurance.

**178.**—(1) In computing for the purposes of income tax the profits of a member's underwriting business, each of the following shall be deductible as an expense, namely—

(a) any premium payable by him under a stop-loss insurance, and any repayment of insurance money paid to him under such an insurance;

(b) any amount payable by him into the High Level Stop Loss Fund, and any repayment of an amount paid to him out of that Fund; and

(c) any amount payable by him under a quota share contract, irrespective of the purpose for which the contract was entered into.

(2) Subject to subsection (3) below, each of the following, namely—

(a) any insurance money payable to him under a stop-loss insurance in respect of a loss in his underwriting business; and

(b) any amount payable to a member out of the High Level Stop Loss Fund in respect of such a loss,

shall be treated as a trading receipt in computing the profits arising from that business for the year of assessment which corresponds to the underwriting year in which the loss arose.

(3) Where, as respects the payment of any such insurance money or amount as is mentioned in subsection (2) above—

(a) the inspector is not notified of the payment at least 30 days before the time after which any assessment or further assessment of profits for the year of assessment is precluded by section 34 of the Management Act (ordinary time limit of six years), and

(b) the inspector is not entitled, after that time, to make any such assessment or further assessment by virtue of section 36 (fraudulent or negligent conduct) or 40(2) (assessment on personal representatives) of that Act,

that subsection shall have effect in relation to that insurance money or amount as if it referred instead to the year of assessment which corresponds to the underwriting year in which the payment is made.

(4) In this section "quota share contract" means any contract between a member and another person which—

(a) is made in accordance with the rules or practice of Lloyd's; and

(b) provides for that other person to take over any rights and liabilities of the member under any of the syndicates of which he is a member.

*Miscellaneous*

Cessation: final year of assessment.

**179.**—(1) Subject to subsection (5) below, this section applies where a member ceases to carry on his underwriting business, whether by reason of death or otherwise.

(2) Subject to subsection (3) below and to the provisions of any regulations made by the Board, the member's final year of assessment shall be that which corresponds to the underwriting year in which his deposit at Lloyd's is paid over to him or his personal representatives or assigns.

(3) In any case where the member dies not later than the end of the underwriting year mentioned in subsection (2) above, his final year of assessment shall be that in which he dies.

(4) For the purposes of section 171 above and all other purposes of the Income Tax Acts, any profits or losses arising to the member from his underwriting business which are not taken (by virtue of the provisions of this Chapter) to be profits or losses of an earlier year of assessment shall be taken to be profits or losses of his final year of assessment.

(5) This section does not apply in any case where the member's deposit at Lloyd's is paid over to him or his personal representatives or assigns before 1st January 1993.

Underwriting profits to be earned income.

**180.**—(1) In relation to any member, all profits arising to him from his underwriting business—

(a) shall be treated for the purposes of the Income Tax Acts as immediately derived from the carrying on by him of that business, and

(b) accordingly, shall constitute earned income for those purposes.

(2) This section does not apply in relation to profits of the year 1992-93 or earlier years of assessment.

Lloyd's underwriting agents. 1989 c. 26.

**181.** In section 43 of the Finance Act 1989 (Schedule D: computation), subsections (6) and (7) (which extend certain time limits for persons permitted by the Council of Lloyd's to act as underwriting agents at Lloyd's) shall cease to have effect in relation to periods of account ending on or after 30th June 1993.

*Supplemental*

Regulations.

**182.**—(1) The Board may by regulations provide—

(a) for the assessment and collection of tax charged in accordance with section 171 above (so far as not provided for by Schedule 19 to this Act);

(b) for making, in the event of any changes in the rules or practice of Lloyd's, such amendments of this Chapter as appear to the Board to be expedient having regard to those changes;

(c) for modifying the application of this Chapter in cases where a syndicate continues after the end of its closing year or a member dies or otherwise ceases to carry on his underwriting business;

(d) for giving credit for foreign tax.

(2) Subsection (3) below applies in the case of any provision of the Tax Acts, the Gains Tax Acts or the Management Act which imposes a time limit for making a claim or an election or an application.

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(3) The Board may by regulations provide that where the claim or election or application falls to be made by a member or his spouse (or both) the provision shall have effect as if it imposed such longer time limit as is specified in the regulations; and regulations under this subsection may make different provision for different provisions or different purposes.

(4) Regulations under this Chapter may make provision with respect to any year or years of assessment; and the year (or any of the years) may be the year next but one preceding the year in which the regulations are made or any year following that earlier year.

(5) Regulations made, or deemed to have been made, under any of the following enactments (regulations about Lloyd's underwriters), namely—

(a) section 451(1) or (1A) of the Taxes Act 1988,

1989 c. 26.

(b) section 92(5) of the Finance Act 1989, or

(c) section 209(4) of the Gains Tax Act,

which were in force immediately before 6th April 1992 shall continue in force for the year 1992-93 and subsequent years of assessment notwithstanding the repeal of that enactment by this Act, and shall be deemed to have been made under this section.

Consequential amendments.

**183.**—(1) In section 20(2) of the Taxes Act 1988 (Schedule F), for the words "section 450" there shall be substituted the words "section 171 of the Finance Act 1993".

(2) In section 481(5)(f) of that Act (meaning of "relevant deposit"), for the words "section 457) of an underwriting member" there shall be substituted the words "section 184 of the Finance Act 1993) of an underwriting or former underwriting member".

(3) In section 627(5) (retirement annuities: Lloyd's underwriters) and section 641(2) (carry-back of contributions) of that Act, for the words "underwriting member" there shall be substituted the words "underwriting or former underwriting member."

(4) In section 710(14) of that Act (meaning of "business" and "premiums trust fund"), for the words "section 457" there shall be substituted the words "section 184 of the Finance Act 1993".

(5) In the following provisions (which relate to nominees, trustees etc.), namely—

section 720(3) of the Taxes Act 1988,

paragraph 18(1) of Schedule 4 to that Act,

paragraph 10(1) of Schedule 11 to the Finance Act 1989, and

1990 c. 29.

paragraph 18(1) of Schedule 10 to the Finance Act 1990,

the words from "his special reserve fund" to the end shall be omitted.

(6) In the following provisions (which relate to the death of a member), namely—

section 721(5) of the Taxes Act 1988,

paragraph 18(8) of Schedule 4 to that Act,

paragraph 10(6) of Schedule 11 to the Finance Act 1989, and

paragraph 18(6) of Schedule 10 to the Finance Act 1990,

1990 c. 29.

the words from "a special reserve fund" to the end shall be omitted.

(7) In section 206(2) of the Gains Tax Act (Lloyd's underwriters), after the words "subsection (1) above" there shall be inserted the words " and section 174(1) of the Finance Act 1993".

(8) In section 209 of that Act (interpretation, regulations about underwriters etc.)—

(a) in subsection (1), for the words "sections 450 to 456 of the Taxes Act" there shall be substituted the words "Chapter III of Part II of the Finance Act 1993" and for the words "sections 450 to 456", in the second place where they occur, there shall be substituted the words "that Chapter"; and

(b) in subsection (6), the words "or (4)" shall be omitted.

Interpretation and commencement.

**184.**—(1) In this Chapter, unless the context otherwise requires—

"ancillary trust fund", in relation to a member, does not include a premiums trust fund of his or his special reserve fund (if any) but, subject to that, means any trust fund required or authorised by the rules of Lloyd's, or required by a members' agent of his or the managing agent of a syndicate of which he is a member;

"closing year"—

(a) in relation to a year of assessment, means the year of assessment next but one following that year;

(b) in relation to an underwriting year, means the underwriting year next but one following that year; and

(c) in relation to a syndicate, means the closing year of the underwriting year for which it was formed;

"the Gains Tax Act" means the Taxation of Chargeable Gains Act 1992 and "the Gains Tax Acts" means that Act and any other enactments relating to capital gains tax;

1992 c. 12.

"the High Level Stop Loss Fund" means the fund of that name which, under the rules of Lloyd's, has been established for the year 1993 and subsequent underwriting years;

"inspector" includes any officer of the Board;

"the Management Act" means the Taxes Management Act 1970;

1970 c. 9.

"managing agent", in relation to a syndicate and a year of assessment, means—

(a) the person registered as a managing agent at Lloyd's who was acting as such an agent for the syndicate at the end of the corresponding underwriting year, or

(b) such other person as may be determined in accordance with regulations made by the Board;

"member" means a member of Lloyd's who is or has been an underwriting member;

"members' agent", in relation to a member of a syndicate and a year of assessment, means—

(a) the person registered as a members' agent at Lloyd's who was acting as such an agent for the member at the end of the corresponding underwriting year, or

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(b) if two or more such persons were so acting and one of them was appointed by the member to be responsible for complying with the requirements of Part II of Schedule 19 to this Act in relation to all of the syndicates of which he is a member, that person, or

(c) if two or more such persons were so acting and none of them was so appointed, the person who was so acting for the member in his capacity as a member of the syndicate, or

(d) such other person as may be determined in accordance with regulations made by the Board;

"premiums trust fund" means such a trust fund as is referred to in section 83 of the Insurance Companies Act 1982;

1982 c. 50.

"prescribed" means prescribed by regulations made by the Board;

"profits" includes gains;

"special reserve fund", unless the contrary intention appears, means a special reserve fund set up under the arrangements mentioned in section 175(1) above;

"stop-loss insurance" means any insurance taken out by a member against losses in his underwriting business;

"syndicate" means a syndicate of underwriting members of Lloyd's formed for an underwriting year;

"underwriting business", in relation to a member, means his underwriting business as a member of Lloyd's, whether carried on personally or through an underwriting agent, and does not include any other business carried on by him, and in particular, where he is himself an underwriting agent, does not include his business as such an agent;

"underwriting year" means the calendar year.

(2) For the purposes of this Chapter—

(a) an underwriting year and a year of assessment shall be deemed to correspond to each other if the underwriting year ends in the year of assessment;

(b) the profits or losses of a member's underwriting business include profits or losses arising to him from assets forming part of a premiums trust fund or an ancillary trust fund; and

(c) any charge made on a member by the agent of a syndicate of which he is a member, and any expense incurred on his behalf by the agent of such a syndicate, shall be treated as expenses arising directly from his membership of that syndicate.

(3) Subject to any provision to the contrary, the provisions of this Chapter have effect for the year 1992-93 and subsequent years of assessment.

## PART III

## OIL TAXATION

Abolition of PRT for oil fields with development consents on or after 16th March 1993.

**185.**—(1) In this Part of this Act a "non-taxable field" means an oil field—

(a) for no part of which consent for development was granted to a licensee by the Secretary of State before 16th March 1993; and

(b) for no part of which a programme of development was served on a licensee or approved by the Secretary of State before that date;

and in this Part of this Act "taxable field" means an oil field which is not a non-taxable field.

(2) For the purposes of subsection (1) above, no account shall be taken, in relation to an oil field, of a consent for development granted before 16th March 1993 or a programme of development served on a licensee or approved by the Secretary of State before that date if—

(a) in whole or in part that consent or programme related to another oil field for which a determination under Schedule 1 to the principal Act was made before the determination under that Schedule for the field in question; and

(b) on or after 16th March 1993, a consent for development is or was granted or a programme of development is or was served on a licensee or approved by the Secretary of State and that consent or programme relates, in whole or in part, to the field in question.

(3) Petroleum revenue tax shall not be charged in accordance with the Oil Taxation Acts in respect of—

(a) profits from oil won from a non-taxable field under the authority of such a licence as is referred to in section 1(1) of the principal Act; or

(b) any receipts accruing to a participator in a non-taxable field which, in the case of a taxable field, would be tariff receipts or disposal receipts attributable to the field for any period.

(4) Without prejudice to the generality of subsection (3) above—

(a) in section 1(2) of the principal Act (the charge to tax) after the words "oil field" there shall be inserted "which is a taxable field";

(b) in section 3(1D) of the principal Act (apportionment of expenditure between oil field and non-oil field use) for the words "an oil field", in both places where they occur, there shall be substituted "a taxable field";

(c) in section 5B of the principal Act (allowance of research expenditure) in subsection (6) after the words "this Act" there shall be inserted "or for purposes relating to non-taxable fields";

(d) no computation shall be made under the Oil Taxation Acts of the assessable profit or allowable loss accruing to a participator in any period from a non-taxable field; and

(e) no expenditure shall be regarded as allowable (or allowed) for a non-taxable field under the Oil Taxation Acts.

(5) In section 12(1) of the principal Act (interpretation) at the end of the definition of "oil field" there shall be added the words "and "taxable field" and "non-taxable field" have the same meaning as in Part III of the Finance Act 1993".

(6) Subject to paragraphs (b) and (c) of subsection (4) above, where, apart from this section, expenditure incurred on or after 16th March 1993 would fall to be apportioned (as being allowable expenditure) between two or more oil fields, at least one of which is a non-taxable field, the

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apportionment shall be made as if all the fields were taxable fields, but subsection (4)(e) above shall then apply to any amount of expenditure apportioned to a non-taxable field.

(7) In subsections (1) and (2) above "development", in relation to an oil field, means—

(a) the erection or carrying out of permanent works for the purpose of getting oil from the field or for the purpose of conveying oil won from the field to a place on land; or

(b) winning oil from the field otherwise than in the course of searching for oil or drilling wells;

and consent for development does not include consent which is limited to the purpose of testing the characteristics of an oil-bearing area and does not relate to the erection or carrying out of permanent works.

(8) In subsection (7) above "permanent works" means any structures or other works whatsoever which are intended by the licensee to be permanent and are neither designed to be moved from place to place without major dismantling nor intended by the licensee to be used only for searching for oil.

Reduction of rates of PRT and interest repayments for taxable oil fields.

**186.**—(1) With respect to chargeable periods ending after 30th June 1993 the rate of petroleum revenue tax (relevant only to taxable fields) shall be 50 per cent. and, accordingly, with respect to such periods, in section 1(2) of the principal Act for "75" there shall be substituted "50".

(2) In paragraph 17 of Schedule 2 to the principal Act (limit on interest in the case of relief for losses carried back) at the end of sub-paragraph (2) there shall be added the words "and, in relation to the appropriate repayment, the chargeable period for which the relevant assessment or amendment is made is referred to as "the repayment period"".

(3) In sub-paragraph (4) of that paragraph—

(a) at the beginning there shall be inserted the words "Subject to sub-paragraph (6) below"; and

(b) in paragraph (a) for the words "85 per cent." there shall be substituted "the relevant percentage of the amount" and after the word "above" there shall be inserted "which is treated as reducing the assessable profit of the repayment period".

(4) At the end of that paragraph there shall be added the following sub-paragraphs—

"(5) For the purposes of sub-paragraph (4)(a) above—

(a) where the repayment period ends on or before 30th June 1993, the relevant percentage, in relation to the amount of the loss or losses which is treated as reducing the assessable profit accruing to the participator for that period is 85 per cent.; and

(b) in relation to the amount of the loss or losses which is treated as reducing the assessable profit accruing to the participator for any later repayment period, the relevant percentage is 60 per cent.

(6) If, in order to give effect to the relief for losses carried back, a repayment of APRT falls, or will on the making of a claim fall, to be made with respect to a chargeable period which is the repayment period in relation to the appropriate repayment, the reference in sub-paragraph (4)(b) above to the appropriate repayment shall be construed as a reference to the aggregate of that repayment and the repayment of APRT.

(7) In sub-paragraph (6) above "APRT" means advance petroleum revenue tax paid under Chapter II of Part VI of the Finance Act 1982."

1982 c. 39.

Returns and information.

1970 c. 9.

**187.**—(1) In Schedule 2 to the principal Act (management and collection of petroleum revenue tax), other than the Table in paragraph 1 (modifications of the Taxes Management Act 1970),—

(a) for the words "an oil field", in each place where they occur, there shall be substituted "a taxable field"; and

(b) for the words "the oil field", in each place where they occur, there shall be substituted "the taxable field";

and paragraph 7 (which is superseded by the following provisions of this section) shall be omitted.

(2) The Board may by notice in writing require a person—

(a) to deliver to a named officer of the Board such documents as are in the person's possession or power and as (in the Board's reasonable opinion) contain, or may contain, information relevant to—

(i) any tax liability to which that person is or may be subject, or

(ii) the amount of any such liability; or

(b) to furnish to a named officer of the Board such particulars as the Board may reasonably require as being relevant to, or to the amount of, any such liability.

(3) The Board may, for the purpose of enquiring into the tax liability of any person ("the taxpayer"), by notice in writing require any other person to deliver to or, if the person to whom the notice is given so elects, to make available for inspection by, a named officer of the Board, such documents—

(a) as are in his possession or power; and

(b) as (in the Board's reasonable opinion) contain, or may contain, information relevant to—

(i) any tax liability to which the taxpayer is or may be or may have been subject; or

(ii) the amount of any such liability.

(4) Subject to subsection (5) below, a notice under subsection (3) above shall name the taxpayer with whose liability the Board is concerned; and (for the avoidance of doubt) a company which has ceased to exist may be so named.

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(5) If, on an application made by the Board, a Special Commissioner gives his consent, the Board may give such a notice as is mentioned in subsection (3) above but without naming the taxpayer to whom the notice relates; but such a consent shall not be given unless the Special Commissioner is satisfied—

(a) that the notice relates to a taxpayer whose identity is not known to the Board or to a class of taxpayers whose individual identities are not so known;

(b) that there are reasonable grounds for believing that the taxpayer or any of the class of taxpayers to whom the notice relates may have failed or may fail to comply with any provision of the Oil Taxation Acts;

(c) that any such failure is likely to have led or to lead to serious prejudice to the proper assessment or collection of tax; and

(d) that the information which is likely to be contained in any documents to which the notice relates is not readily available from another source.

(6) A person to whom a notice is given under subsection (5) above may, by notice in writing given to the Board within thirty days after the date of the notice under that subsection, object to that notice on the ground that it would be onerous for him to comply with it; and, if the matter is not resolved by agreement, it shall be referred to the Special Commissioners who may confirm, vary or cancel that notice.

1970 c. 9.

(7) Subsections (2) to (6) above (which, in relation to petroleum revenue tax, contain provisions similar to those of section 20 of the Taxes Management Act 1970) shall have effect subject to Part I of Schedule 21 to this Act (which contains provisions similar to those of section 20B of that Act); and the provisions of Part II of that Schedule relating to the meaning of "documents" (which are derived from provisions of sections 20 and 20D of that Act) shall have effect.

(8) Section 98 of the Taxes Management Act 1970 (penalties, etc. in relation to special returns) shall have effect as if, in the first column of the Table in that section, there were included a reference to subsections (2) to (6) above.

Exploration and appraisal expenditure.

**188.**—(1) In section 5A of the principal Act (allowance of exploration and appraisal expenditure), in subsection (1) (conditions for expenditure to be allowable) after paragraph (a) there shall be inserted the following paragraph—

"(aa) either is incurred before 16th March 1993 or is incurred within the period of two years beginning on that date and is expenditure to which that person or, if that person is a company, that company or a company associated with it in respect of the expenditure, is committed immediately before that date; and".

(2) After subsection (1) of that section there shall be inserted the following subsections—

"(1A) For the purposes of subsection (1)(aa) above, in respect of expenditure incurred on or after 16th March 1993, a person is to be regarded as committed to that expenditure immediately before that date if—

(a) he has an obligation under an exploration and appraisal contract entered into before that date to incur the expenditure; or

(b) the expenditure is incurred wholly and exclusively for the same purpose as that for which the contract referred to in paragraph (a) above was entered into and is so incurred pursuant to an obligation under an exploration and appraisal contract entered into on or after 16th March 1993 and before 16th June 1993.

(1B) In considering whether a person has at any time such a contractual obligation as is referred to in paragraph (a) or paragraph (b) of subsection (1A) above in respect of any expenditure,

(a) if the contract contains a power (however exercisable) by virtue of which the person concerned, or a company associated with him in respect of the expenditure, is able to bring any contractual obligations to an end, he shall not be regarded as committed to any expenditure which, if the power were to be exercised, would not be incurred; and

(b) if the person concerned (or a company associated with him in respect of the expenditure) has an option (however described) which was not exercised before 16th March 1993 but the exercise of which would increase his expenditure under the contract, he shall not be regarded as committed to any expenditure which would be incurred only as a result of the exercise of the option.

(1C) For the purposes of subsection (1A) above a contract is an exploration and appraisal contract if it is a contract for the provision of any services or other business facilities or assets for any of the purposes specified in subsection (2) below."

(3) In subsection (2) of that section for the words "subsection (1)" there shall be substituted "subsections (1) to (1C)".

Transitional relief for certain exploration and appraisal expenditure.

**189.**—(1) This section applies in any case where—

(a) a participator in an oil field or an associate incurs expenditure on or after 16th March 1993 and before 1st January 1995; and

(b) apart from this section, that expenditure would not be allowable under section 5A of the principal Act (as amended by section 188 above); and

(c) if section 188 above had not been enacted, the expenditure would be allowable in the case of the participator under section 5A of the principal Act; and

(d) on 16th March 1993 the participator or the associate was a licensee in respect of the area to which the expenditure related.

(2) In the following provisions of this section—

(a) expenditure falling within subsection (1) above is referred to as "transitional E and A expenditure"; and

(b) the participator in whose case that expenditure would be allowable as mentioned in paragraph (c) of that subsection is referred to as "the claimant".

(3) Subject to the following provisions of this section, so much of the transitional E and A expenditure incurred by the claimant or an associate as does not in the aggregate exceed £10 million shall be allowable in the case of the claimant under section 5A of the principal Act (as exploration and appraisal expenditure).

(4) In subsections (1) to (3) above any reference to an associate of a participator applies only where the participator is a company and is a reference to another company—

(a) which on 16th March 1993 was a member of the same group of companies as the participator; and

(b) with which the participator is associated in respect of expenditure incurred by the other company;

and subsections (7) and (8) of section 5 of the principal Act (companies and associates etc.) apply for the purposes of this section as they apply for the purposes of that section.

(5) Where—

(a) the claimant is a company, and

(b) on 16th March 1993 the claimant was a member of a group of companies, and

(c) at least one other company which was a member of the group on that date was then a participator in an oil field, and

(d) that other company is also the claimant in relation to an amount of transitional E and A expenditure,

subsection (3) above shall have effect as if references therein to the claimant were references to the aggregate of all those companies which on that date were members of the group and are the claimants in relation to any transitional E and A expenditure.

(6) In this section, a group of companies means a company which is not a 51 per cent. subsidiary of any other company, together with each company which is its 51 per cent. subsidiary; and section 838 of the Taxes Act 1988 (subsidiaries) applies for the purposes of this section as it applies for the purposes of the Tax Acts (within the meaning of that Act).

Allowance of expenditure on certain assets limited by reference to taxable field use.

**190.**—(1) Where, in the case of expenditure incurred as mentioned in section 1(1) of the 1983 Act (expenditure incurred on non-dedicated mobile assets),—

(a) the expenditure would, apart from this subsection, be allowable under section 4 of the principal Act for a claim period of a taxable field, and

(b) during that claim period, the asset becomes dedicated to a non-taxable field,

that proportion of the expenditure which is equal to the proportion of the claim period during which the asset is dedicated to a non-taxable field shall not be allowable as mentioned in paragraph (a) above.

(2) For the purpose of determining whether an asset becomes at any time dedicated to a non-taxable field, it shall be assumed that, in relation to a non-taxable field, any reference in section 2 of the 1983 Act (dedicated mobile assets) to a claim period is a reference to—

(a) the period ending at the end of December following the determination of the field; or

(b) the period of twelve months ending at the end of December in any later year.

(3) In paragraph 7 of Schedule 1 to the 1983 Act (brought-in assets) in sub-paragraph (1)(c) (which requires that during the initial period the asset should have been used otherwise than in connection with an oil field) for the words "an oil field" there shall be substituted "a taxable field".

(4) In paragraph 8 of that Schedule (subsequent use of new asset otherwise than in connection with an oil field) in the heading and in sub-paragraphs (1) to (3) and (6) for the words "an oil field" there shall be substituted "a taxable field".

(5) In paragraph 5 of Schedule 2 to the 1983 Act (acquisition otherwise than at arm's length: limit on tariff and disposal receipts)—

(a) in paragraphs (a) and (c) of sub-paragraph (1) for the words "an oil field" there shall be substituted "a taxable field";

(b) at the end of sub-paragraph (1)(c) there shall be added "and

(d) the asset is to be used wholly in connection with a taxable field";

(c) in sub-paragraph (3)(a) for the words "an oil field" there shall be substituted "a taxable field"; and

(d) in sub-paragraph (3)(b) for the words "an oil field" there shall be substituted "a taxable field or, if it is to a participator in a taxable field, the asset is to be used wholly or partly in connection with a non-taxable field".

Time when expenditure is incurred.

**191.**—(1) Subject to the following provisions of this section, where a claim is made under the principal Act for the allowance of any expenditure and the claim is received by the Board after 16th March 1993, an amount of expenditure is to be taken to be incurred for the purposes of the Oil Taxation Acts on the date on which the obligation to pay that amount becomes unconditional (whether or not there is a later date on or before which the whole or any part of that amount is required to be paid).

(2) Subject to subsection (3) below, where the amount of any expenditure incurred by any person at any time after 16th March 1993 under a contract—

(a) for the acquisition from any other person of, or of an interest in, an asset, or

(b) for the provision by any other person of services or other business facilities of whatever kind (whether in connection with the use of an asset or not), or

(c) for the grant or transfer to that person by any other person of any right, licence or interest (other than an interest in an asset)

is disproportionate to the extent to which that other person has, at or before that time, performed his obligations under the contract then, for the purposes of the Oil Taxation Acts, only so much of the expenditure shall be taken to have been incurred at that time as is proportionate to those obligations which have been so performed.

(3) If, in the case of a contract entered into after 16th March 1993 and falling within paragraph (a) or paragraph (b) of subsection (2) above—

(a) the expenditure referred to in that subsection is incurred before 1st July 1993, and

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(b) the other person referred to in paragraph (a) or paragraph (b) ("the contractor") has performed his obligations by entering into one or more further contracts,

the contractor shall be treated for the purposes of subsection (2) above as having at any time performed his obligations under the contract only to the extent that, at that time, the asset or interest in question has been acquired by, or, as the case may be, the services or other business facilities have been provided to, the person incurring the expenditure.

(4) In paragraph 2 of Schedule 4 to the principal Act (limitation of allowable expenditure on transactions between connected persons or otherwise than at arm's length) for sub-paragraph (1) there shall be substituted the following sub-paragraphs—

"(1) Where, in a transaction to which this paragraph applies, a person has incurred expenditure in acquiring, bringing into existence or enhancing the value of an asset, he shall at any time be treated for the purposes of—

(a) sections 3 and 4 of this Act, and

1983 c. 56.

(b) sections 3 and 4 of and Schedule 1 to the Oil Taxation Act 1983,

as having incurred that expenditure only to the extent that it does not exceed expenditure (other than loan expenditure) incurred up to that time in a transaction to which this paragraph does not apply (or, if there has been more than one such transaction, the later or latest of them) in acquiring, bringing into existence or enhancing the value of, that asset.

(1A) Subsections (1) to (3) of section 191 of the Finance Act 1993 apply to determine for the purposes of this paragraph what expenditure has at any time been incurred under a transaction to which this paragraph does not apply, as they apply in relation to expenditure for the allowance of which a claim is received by the Board after 16th March 1993.

(1B) In sub-paragraph (1) above "loan expenditure" means expenditure in respect of interest or any other pecuniary obligation incurred in obtaining a loan or any other form of credit."

(5) For sub-paragraph (3) of paragraph 2 of Schedule 4 to the principal Act there shall be substituted the following sub-paragraphs—

"(3) The preceding provisions of this section shall, with any necessary modification, apply in relation to expenditure incurred by any person in acquiring an interest in an asset or in bringing into existence an asset in which he is to have an interest, or in enhancing the value of an asset in which he has an interest, as those provisions apply in relation to expenditure incurred by a person in acquiring, bringing into existence, or enhancing the value of an asset, as the case may be.

(4) The provisions of sub-paragraphs (1) to (2) above shall, with any necessary modification, apply in relation to expenditure incurred by any person in respect of—

(a) the use of an asset (including expenditure on renting or hiring), or

(b) the provision of services or other business facilities of whatever kind in connection with the use, otherwise than by that person, of an asset,

as they have effect in relation to expenditure incurred in the acquisition of, or of an interest in, an asset."

(6) The amendments made by subsections (4) and (5) above have effect where the transaction to which paragraph 2 of Schedule 4 to the principal Act applies takes place on or after 16th March 1993.

Chargeable periods in which expenditure may be brought into account.

**192.**—(1) Where a claim which—

(a) is made under Schedule 5 or Schedule 6 to the principal Act for the allowance of any expenditure, and

(b) is received by the Board after 16th March 1993,

has been allowed, the expenditure shall not be brought into account in determining the assessable profit or allowable loss of any chargeable period which ends earlier than the last day of the claim period in which the expenditure was incurred.

(2) Where a claim has been made under Schedule 7 to the principal Act for the allowance of any expenditure incurred after 31st March 1993 and that claim has been allowed, the expenditure shall not be brought into account in determining the assessable profit or allowable loss of any chargeable period which ends before the date on which the expenditure was incurred.

(3) The preceding provisions of this section have effect notwithstanding anything in subsection (9) of section 2 of the principal Act (under which expenditure which had been allowed might in certain cases be taken into account in earlier chargeable periods) and, accordingly, at the beginning of that subsection there shall be inserted "Subject to section 192 of the Finance Act 1993".

Tariff receipts etc.

**193.**—(1) In section 9 of the 1983 Act (tariff receipts allowance) in subsection (5) (definition of "user field") in paragraph (a) after the words "other than the principal field" there shall be inserted "or a non-taxable field", and at the end of that subsection there shall be inserted the following subsection—

"(5A) No order may be made under subsection (5)(b) above on or after 1st July 1993."

(2) Where a participator in a taxable field incurs any expenditure and,—

(a) apart from this subsection, the expenditure would be taken into account in determining the assessable profit or allowable loss accruing to that participator from the taxable field in any chargeable period, and

(b) in the hands of the recipient, the expenditure would, on the relevant assumptions, constitute tariff receipts or disposal receipts of a participator in a non-taxable field attributable to that field for any period, and

(c) at the time the expenditure is incurred, the participator referred to in paragraph (a) above is or is connected with a participator in the non-taxable field referred to in paragraph (b) above,

the expenditure shall be disregarded in determining the assessable profit or allowable loss referred to in paragraph (a) above.

(3) For the purposes of subsection (2) above, the relevant assumptions are—

(a) that the non-taxable field is a taxable field; and

(b) that the asset which gives rise to the expenditure (by virtue of its use, the provision of services or other business facilities in connection with its use or its disposal) is a qualifying asset in relation to the participator in question.

(4) In section 12 of the 1983 Act (charge of receipts attributable to United Kingdom use of foreign field asset), in subsection (3) after the words "oil field", in the first place where they occur, there shall be inserted "which is a taxable field and".

(5) After subsection (3) of section 12 of the 1983 Act there shall be inserted the following subsection—

"(3A) No order may be made under subsection (2)(a) above on or after 1st July 1993."

(6) In this section "disposal receipts", "qualifying asset" and "tariff receipts" have the same meaning as in the 1983 Act; and section 839 of the Taxes Act 1988 (connected persons) applies for the purposes of subsection (2)(c) above.

Double taxation relief in relation to petroleum revenue tax.

**194.**—(1) For the purpose of giving relief from double taxation in relation to petroleum revenue tax in respect of the amount or value of consideration which is brought into charge to tax under section 12 of the 1983 Act (charge of receipts attributable to United Kingdom use of foreign field assets), section 788 of the Taxes Act 1988 (relief by agreement with other countries) shall have effect as if—

(a) references therein to income tax included references to petroleum revenue tax; and

(b) references therein to income included references to any such consideration.

(2) Section 788 of the Taxes Act 1988, as it has effect in accordance with subsection (1) above, shall apply with respect to any arrangements which—

(a) are set out in an Order in Council made, or having effect as if made, under that section before as well as after the passing of this Act; and

(b) include petroleum revenue tax as a tax to which the arrangements apply.

(3) In the application of section 788 of the Taxes Act 1988 in accordance with the preceding provisions of this section—

(a) paragraphs (b) to (d) of subsection (3),

(b) subsections (4), (5) and (7), and

(c) in subsection (6) the words from "Except" to "this Part",

shall be omitted.

(4) In relation to a claim for relief under section 788 of the Taxes Act 1988 which is made by virtue of this section, sections 42 and 43 of the Taxes Management Act 1970 shall have effect with the following modifications—

1970 c. 9.

(a) for any reference to income tax there shall be substituted a reference to petroleum revenue tax;

(b) any reference to income shall be construed as a reference to such consideration as is referred to in subsection (1) above;

(c) for any reference to a year of assessment there shall be substituted a reference to a chargeable period within the meaning of the principal Act; and

(d) any reference to a chargeable period shall be construed as a reference to a chargeable period within the meaning of the principal Act.

(5) Section 816 of the Taxes Act 1988 (disclosure of information) shall apply in relation to petroleum revenue tax as it applies in relation to income tax.

Interpretation of Part III and consequential amendments of assessments etc.

1975 c. 22.
1983 c. 56.

**195.**—(1) In this Part—

(a) "the principal Act" means the Oil Taxation Act 1975 ;

(b) "the 1983 Act" means the Oil Taxation Act 1983 ;

(c) "the Oil Taxation Acts" means Parts I and III of the principal Act, the 1983 Act and any other enactment relating to petroleum revenue tax; and

(d) "taxable field" and "non-taxable field" shall be construed in accordance with section 185 above.

(2) The Board may make all such amendments of assessments or determinations or of decisions on claims as may be necessary in consequence of the provisions of this Part.

(3) This Part, other than section 194, shall be construed as one with Part I of the principal Act.

## PART IV

## INHERITANCE TAX

Rate bands: no indexation in 1993.

1992 c. 48.
1984 c. 51.

**196.** The Table substituted by section 72(1) of the Finance (No.2) Act 1992 shall apply to chargeable transfers made in the year beginning 6th April 1993, and accordingly section 8(1) of the Inheritance Tax Act 1984 (indexation of rate bands) shall not apply to such transfers.

Rate bands: indexation for 1994 onwards.

**197.**—(1) In section 8 of the Inheritance Tax Act 1984 (indexation of rate bands)—

(a) in subsection (1) for "December in 1984" there shall be substituted "September in 1993" and for "previous December" there shall be substituted "previous September";

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(b) in subsection (3) for "December" there shall be substituted "September";

(c) in subsection (4) for "1985" there shall be substituted "1994".

(2) This section shall apply in relation to chargeable transfers made on or after 6th April 1994.

Fall in value relief: qualifying investments. 1984 c. 51.

**198.**—(1) In the Inheritance Tax Act 1984, in Part VI (valuation) in Chapter III (sale of shares etc. from deceased's estate) there shall be inserted after section 186—

"Cancelled investments.

186A.—(1) Where any qualifying investments comprised in a person's estate immediately before his death are—

(a) cancelled within the period of twelve months immediately following the date of the death without being replaced by other shares or securities, and

(b) held, immediately before cancellation, by the appropriate person,

they shall be treated for the purposes of this Chapter as having been sold by the appropriate person for a nominal consideration (one pound) immediately before cancellation.

(2) Where any qualifying investments are included in the calculation under section 179(1) above by virtue of this section, paragraph (b) of that subsection shall have effect, so far as relating to those investments, with the omission of the words from "or" to the end.

Suspended investments.

186B.—(1) This section applies to any qualifying investments comprised in a person's estate immediately before his death in respect of which quotation on a recognised stock exchange or dealing on the Unlisted Securities Market is suspended at the end of the period of twelve months immediately following the date of the death ("the relevant period").

(2) Where—

(a) any qualifying investments to which this section applies are, at the end of the relevant period, held by the appropriate person, and

(b) the value on death of those investments exceeds their value at the end of that period,

they shall be treated for the purposes of this Chapter as having been sold by the appropriate person immediately before the end of that period for a price equal to their value at that time.

(3) Where any qualifying investments are included in the calculation under section 179(1) above by virtue of this section, paragraph (b) of that subsection shall have effect, so far as relating to those investments, with the omission of the words from "or" to the end."

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(2) This section shall have effect in relation to deaths occurring on or after 16th March 1992.

Fall in value relief: interests in land.
1984 c. 51.

**199.**—(1) In the Inheritance Tax Act 1984, in Part VI, in Chapter IV (sale of land from deceased's estate) after section 197 there shall be inserted—

"Sales in fourth year after death.

197A.—(1) Where an interest in land—

(a) is comprised in a person's estate immediately before his death, and

(b) is sold by the appropriate person in the fourth year immediately following the date of the death, otherwise than in circumstances in which section 197(1) above has effect,

the interest shall be treated, for the purposes of section 191(1) above, as having been sold within the period of three years immediately following the date of the death.

(2) Subsection (1) above shall not have effect in relation to an interest if its sale value would exceed its value on death.

(3) In determining the period referred to in section 192(1) above, no account shall be taken of the sale of an interest in relation to which subsection (1) above has effect; and if the claim relates only to such interests, section 192 shall not apply in relation to the claim.

(4) In applying section 196(1) above, no account shall be taken, for the purposes of paragraph (a) of that subsection, of an interest in relation to which subsection (1) above has effect."

(2) This section shall have effect in relation to deaths occurring on or after 16th March 1990.

Appeals: questions as to value of land.

**200.**—(1) In section 222 of the Inheritance Tax Act 1984 (appeals against determinations) for subsection (4) there shall be substituted the following subsections—

"(4) An appeal on any question as to the value of land in the United Kingdom may be to the appropriate tribunal.

(4A) If and so far as the question in dispute on any appeal under this section to the Special Commissioners or the High Court is a question as to the value of land in the United Kingdom, the question shall be determined on a reference to the appropriate tribunal.

(4B) In this section 'the appropriate tribunal' means—

(a) where the land is in England or Wales, the Lands Tribunal;

(b) where the land is in Scotland, the Lands Tribunal for Scotland;

(c) where the land is in Northern Ireland, the Lands Tribunal for Northern Ireland."

(2) In section 242 of that Act (recovery of tax) in subsection (3) for the words "subsection (4)" there shall be substituted the words "subsections (4) to (4B)".

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(3) This section shall apply in relation to any appeal which—

(a) is made on or after the day on which this Act is passed, or

(b) is made, but has not begun to be heard, before that day.

## PART V

## STAMP DUTY

Increase in stamp duty threshold.
1963 c. 25.
1963 c. 22 (N.I.).

**201.**—(1) Section 55 of the Finance Act 1963 (stamp duty under or by reference to conveyance or transfer on sale heading) and section 4 of the Finance Act (Northern Ireland) 1963 (equivalent provision for Northern Ireland) shall be amended as follows—

(a) in subsection (1) of each section for "£30,000" (in each place) there shall be substituted "£60,000";

(b) in subsection (2) of each section for "£300" there shall be substituted "£600".

(2) This section applies to—

(a) instruments executed on or after 16th March 1993 and before 23rd March 1993 and not stamped before 23rd March 1993;

(b) instruments executed on or after 23rd March 1993.

1891 c. 39.

(3) 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 (2)(a) above shall be deemed to be that as varied in accordance with subsection (1) above.

(4) This section shall be deemed to have come into force on 23rd March 1993.

Rent to mortgage: England and Wales.
1985 c. 68.

**202.**—(1) Subsection (2) below applies where—

(a) a person exercises the right to acquire on rent to mortgage terms under Part V of the Housing Act 1985, and

(b) in pursuance of the exercise of that right a conveyance of the freehold is executed in his favour as regards the dwelling-house concerned.

(2) For the purposes of the enactments relating to stamp duty chargeable under the heading "Conveyance or Transfer on Sale" in Schedule 1 to the Stamp Act 1891, the consideration for the sale shall be taken to be equal to the price which, by virtue of section 126 of the Housing Act 1985, would be payable for the dwelling-house on a conveyance if the person were exercising the right to buy under Part V of that Act.

(3) Subsection (4) below applies where—

(a) a person exercises the right to acquire on rent to mortgage terms under Part V of the Housing Act 1985, and

(b) in pursuance of the exercise of that right a lease is executed in his favour as regards the dwelling-house concerned.

(4) In such a case—

(a) the lease shall not be chargeable with stamp duty under the heading "Lease or Tack" in Schedule 1 to the Stamp Act 1891 but shall be chargeable with stamp duty under the heading "Conveyance or Transfer on Sale" in that Schedule as if it were a conveyance on sale;

1891 c. 39.

(b) for the purposes of the enactments relating to stamp duty chargeable under the heading "Conveyance or Transfer on Sale" the consideration for the sale mentioned in paragraph (a) above shall be taken to be equal to the price which, by virtue of section 126 of the Housing Act 1985, would be payable for the dwelling-house on a grant if the person were exercising the right to buy under Part V of that Act.

1985 c. 68.

(5) This section shall apply where the conveyance or lease is executed after the day on which this Act is passed.

Rent to loan: Scotland.

**203.**—(1) Subsection (2) below applies where—

(a) a person exercises the right to purchase a house by way of the rent to loan scheme under Part III of the Housing (Scotland) Act 1987, and

1987 c. 26.

(b) in pursuance of the exercise of that right a heritable disposition of the house is executed in favour of him.

(2) For the purposes of the enactments relating to stamp duty chargeable under the heading "Conveyance or Transfer on Sale" in Schedule 1 to the Stamp Act 1891, the consideration for the sale shall be taken to be equal to the price which, by virtue of section 62 of the Housing (Scotland) Act 1987, would be payable for the house if the person were exercising the right to purchase under section 61 of that Act.

(3) This section shall apply where the disposition is executed after the day on which this Act is passed.

Method of denoting stamp duty.

**204.**—(1) The Treasury may make regulations as to the method by which stamp duty is to be denoted.

(2) In particular, regulations under this section may—

(a) provide for duty to be denoted by impressed stamps or adhesive stamps or by a record printed or made by a machine or implement or by such other method as may be prescribed;

(b) provide for one method only to be used, whether generally or in prescribed cases;

(c) provide for alternative methods to be available, whether generally or in prescribed cases;

(d) make different provision for different cases;

and cases may be designated by reference to the type of instrument concerned, the geographical area involved, or such other factors as the Treasury think fit.

(3) Regulations under this section may provide that where stamp duty is denoted by a method which (in the case of the instrument concerned) is required or permitted by the law in force at the time it is stamped, 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

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at the time of first execution) the method shall be treated as being in accordance with the law in force at the time when the instrument was first executed.

(4) Regulations under this section may include such supplementary, incidental, consequential or transitional provisions as appear to the Treasury to be necessary or expedient.

(5) Regulations under this section may make provision in such way as the Treasury think fit, and in particular may amend or repeal or modify the effect of any provision of any Act.

(6) In this section "prescribed" means prescribed by regulations under this section.

(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.

## PART VI

## MISCELLANEOUS AND GENERAL

### *Statutory effect of resolutions etc.*

The 1968 Act.
1968 c. 2.

**205.**—(1) The Provisional Collection of Taxes Act 1968 shall be amended as follows.

(2) In section 1(1) (taxes to which section 1 applies)—

(a) after "income tax," there shall be inserted "corporation tax (including advance corporation tax)";

(b) the words "car tax" shall be omitted.

(3) Section 1(1A) (reference to income tax to include reference to amounts representing income tax) shall be omitted.

(4) In section 1(3)(a) (resolution passed in March or April to have statutory effect for period expiring with 5th August) for "March or April" there shall be substituted "November or December" and for "5th August in the same calendar year" there shall be substituted "5th May in the next calendar year".

(5) In section 1(4) (resolution to cease to have statutory effect unless Bill read a second time within twenty-five sitting days) for "twenty-five" there shall be substituted "thirty".

(6) In section 5 (resolution giving provisional effect to motions)—

(a) in subsection (1), paragraph (c) and the word "or" immediately preceding it shall be omitted;

(b) in subsection (2) for ", sections 8(5) and 822 of the 1988 Act" there shall be substituted "and section 822 of the Income and Corporation Taxes Act 1988".

(7) This section shall apply in relation to resolutions passed after the day on which this Act is passed.

Corporation tax.

**206.**—(1) In section 8 of the Taxes Act 1988 (general scheme of corporation tax) subsections (4) to (6) (assessments where tax not charged for year etc.) shall be omitted.

(2) The following section shall be inserted after section 8 of the Taxes Act 1988—

"Resolutions to reduce corporation tax.

8A.—(1) In a case where—

(a) an Act of Parliament charges corporation tax for the financial year 1993 or a subsequent financial year,

(b) the House of Commons passes a resolution that the rate at which corporation tax for the financial year concerned is charged shall be a rate which is set out in the resolution and is lower than that fixed by the Act of Parliament, and

(c) the resolution is passed in the financial year concerned,

any assessment to corporation tax made in the prescribed period may be made in accordance with the resolution.

(2) Unless an Act of Parliament—

(a) is passed within the prescribed period, and

(b) contains a provision that the rate at which corporation tax for the financial year concerned is charged shall be the rate set out in the resolution passed under subsection (1) above,

any assessment made under that subsection in accordance with the resolution shall be subject to adjustment, whether by the making of a further assessment or otherwise.

(3) Subsection (4) below applies where an Act of Parliament fixes the small companies' rate, and the fraction mentioned in section 13(2), for the financial year 1993 or a subsequent financial year.

(4) If the House of Commons passes a resolution in the financial year concerned that—

(a) the rate shall be a rate which is set out in the resolution and is lower than that fixed by the Act of Parliament,

(b) the fraction shall be a fraction which is set out in the resolution and is different from that fixed by the Act of Parliament, or

(c) the rate shall be as mentioned in paragraph (a) above and the fraction shall be as mentioned in paragraph (b) above,

any assessment to corporation tax made in the prescribed period may be made in accordance with the resolution.

(5) Unless an Act of Parliament—

(a) is passed within the prescribed period, and

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(b) contains a provision to the same effect as the resolution passed under subsection (4) above,

any assessment made under that subsection in accordance with the resolution shall be subject to adjustment, whether by the making of a further assessment or otherwise.

(6) For the purposes of this section the prescribed period is the period of six months beginning with the day after that on which the resolution concerned is passed."

(3) In section 246(2)(b) of the Taxes Act 1988 (charge of advance corporation tax at previous rate not to apply to distributions made after 5th August) for "August" there shall be substituted "May".

Stamp duty. 1973 c. 51.

**207.**—(1) In section 50(2) of the Finance Act 1973 (period of temporary statutory effect of resolution affecting stamp duties)—

(a) in paragraph (a) (period by reference to twenty-fifth day of Commons sitting) for "twenty-fifth" there shall be substituted "thirtieth";

(b) in paragraph (d) (period by reference to five months beginning with day resolution takes effect) for "five" there shall be substituted "six".

(2) This section shall apply in relation to resolutions passed after the day on which this Act is passed.

*Miscellaneous*

Residence: available accommodation.

**208.**—(1) In section 336 of the Taxes Act 1988 (temporary residents in the United Kingdom) the following subsection shall be inserted after subsection (2)—

"(3) The question whether—

(a) a person falls within subsection (1)(a) above, or

(b) for the purposes of subsection (2) above a person is in the United Kingdom for some temporary purpose only and not with the intention of establishing his residence there,

shall be decided without regard to any living accommodation available in the United Kingdom for his use."

1992 c. 12.

(2) In section 9 of the Taxation of Chargeable Gains Act 1992 (residence, including temporary residence) the following subsection shall be inserted after subsection (3)—

"(4) The question whether for the purposes of subsection (3) above an individual is in the United Kingdom for some temporary purpose only and not with any view or intent to establish his residence there shall be decided without regard to any living accommodation available in the United Kingdom for his use."

1984 c. 51.

(3) In consequence of subsection (1) above, in section 267(4) of the Inheritance Tax Act 1984 (residence in United Kingdom determined as for purposes of income tax) the words "but without regard to any dwelling-house available in the United Kingdom for his use" shall be omitted.

(4) Subsections (1) and (2) above shall have effect for the year 1993-94 and subsequent years of assessment.

(5) Subsection (3) above shall have effect where the year of assessment concerned is 1993-94 or a subsequent year of assessment.

Gas levy. 1990 c. 29.

**209.**—(1) In section 123 of the Finance Act 1990 (gas levy) in subsection (3) (future variation or termination of rights and liabilities under tax-exempt contracts etc. to be disregarded, except in certain cases) at the end of paragraph (b) there shall be added the words "or pursuant to a term in a contract or document which is certified for the purposes of this paragraph by the Secretary of State with the approval of the Treasury".

(2) After subsection (3) of that section there shall be inserted the following subsections—

"(3A) The Secretary of State shall not certify a term for the purposes of paragraph (b) of subsection (3) above except on the application of the person winning the gas and unless the Secretary of State is satisfied—

(a) that the term (however expressed) provides for termination on the ground that the winning of gas in accordance with the contract or document has ceased to be commercially viable; and

(b) that the term was in the contract or document immediately before 16th March 1993; and

(c) that the termination purports to be in pursuance of the term; and

(d) that the term has been properly invoked.

(3B) For the purpose of determining whether a term is properly invoked the Secretary of State—

(a) may require the person winning the gas to supply him with any expert assessment provided under the contract or document;

(b) if no such assessment has been made, or if the Secretary of State considers it desirable for a further expert assessment to be obtained, may require the person winning the gas to obtain and supply him with an expert assessment;

and in this subsection "assessment" means an assessment as to whether winning gas in accordance with the contract or document has ceased to be commercially viable."

(3) Where a person ceases to be liable to pay gas levy in respect of any gas won by him by virtue of the fact that winning the gas, in accordance with a contract or document, has ceased to be commercially viable, then, with respect to any chargeable period which ends—

(a) after that cessation of liability to pay gas levy, and

(b) after 30th June 1993,

any oil (whether or not consisting of gas) won and saved from the field from which the gas is won shall cease to be disregarded under section 10(1)(b) of the Oil Taxation Act 1975 (PRT disregard of up to 5 per cent of oil production incidental to the production of gas sold to the British Gas Corporation).

1975 c. 22.

PART VI

Trading funds.

**210.** Schedule 22 to this Act (which contains provisions about trading funds) shall have effect.

National Debt Commissioners: securities.

1968 c. 13.

**211.**—(1) With a view to facilitating the raising of money by means of the issue of securities under section 12 of the National Loans Act 1968 (power of Treasury to borrow) the National Debt Commissioners may—

(a) acquire securities issued under that section, and

(b) transfer such securities.

(2) Subject to subsection (8) below, the sums required by the Commissioners for or for purposes connected with the acquisition of securities under this section shall be issued to the Commissioners out of the National Loans Fund.

(3) Except so far as directions by the Treasury authorise the application of the sums for any purpose for which sums may be issued under subsection (2) above, the Commissioners shall pay into the National Loans Fund—

(a) any sums received by them by way of dividend or other return on securities acquired under this section;

(b) any sums received by them in respect of the redemption of such securities;

(c) any sums received by them in respect of the transfer of such securities.

(4) The Commissioners shall prepare accounts relating to securities acquired under this section and shall send the accounts to the Comptroller and Auditor General.

(5) The Comptroller and Auditor General shall examine, certify and report on accounts sent to him under subsection (4) above and lay a copy of them and of his report on them before each House of Parliament.

(6) For the purpose of facilitating either the proper management by the Commissioners of their investments and other holdings or the carrying out of any of their other functions—

(a) sums may be advanced to the Commissioners out of the National Loans Fund against securities for the time being held by them for any purpose other than those for which they may be acquired under this section; and

(b) the Commissioners' powers shall include power to treat securities acquired under this section as appropriated to any such other purpose.

(7) This section shall have effect, and the appropriate sums shall be charged on or payable into the National Loans Fund, as if—

(a) any making by virtue of subsection (6)(a) above of an advance against any securities involved an acquisition of the securities for the purposes for which they may be acquired under this section; and

(b) any exercise of the power mentioned in subsection (6)(b) above involved the exercise of the power to transfer securities acquired under this section.

(8) The following rules shall apply for the purposes of this section—

(a) sums issued out of or paid into the National Loans Fund under this section shall be of such amount, and shall be so issued or paid at such times and in such manner, as the Treasury may direct;

(b) accounts prepared under subsection (4) above shall be in such form, shall be prepared in respect of such periods, and shall be sent to the Comptroller and Auditor General at such times, as the Treasury may direct.

(9) This section shall come into force on such day as the Treasury may appoint by order made by statutory instrument.

*General*

Interpretation. 1988 c. 1.

**212.** In this Act "the Taxes Act 1988" means the Income and Corporation Taxes Act 1988.

Repeals.

**213.** The enactments specified in Schedule 23 to this Act (which include provisions which are already spent) are hereby repealed to the extent specified in the third column of that Schedule, but subject to any provision of that Schedule.

Short title.

**214.** This Act may be cited as the Finance Act 1993.

# Finance Act 1993

CHAPTER 34

Volume 2 of 2

LONDON: HMSO

# SCHEDULES

Section 1.

## SCHEDULE 1

TABLE OF RATES OF DUTY ON WINE AND MADE-WINE

### PART I

WINE OR MADE-WINE OF A STRENGTH NOT EXCEEDING 22 PER CENT.

| *Description of wine or made-wine* | *Rates of duty per hectolitre* |
|---|---|
| | £ |
| Wine or made-wine of a strength not exceeding 2 per cent. | 13.23 |
| Wine or made-wine of a strength exceeding 2 per cent. but not exceeding 3 per cent. | 22.04 |
| Wine or made-wine of a strength exceeding 3 per cent. but not exceeding 4 per cent. | 30.86 |
| Wine or made-wine of a strength exceeding 4 per cent. but not exceeding 5 per cent. | 39.69 |
| Wine or made-wine of a strength exceeding 5 per cent. but not exceeding 5.5 per cent. | 48.50 |
| Wine or made-wine of a strength exceeding 5.5 per cent. but not exceeding 15 per cent. and not being sparkling | 132.26 |
| Sparkling wine or sparkling made-wine of a strength exceeding 5.5 per cent. but not exceeding 15 per cent. | 218.40 |
| Wine or made-wine of a strength exceeding 15 per cent. but not exceeding 22 per cent. | 220.43 |

### PART II

WINE OR MADE-WINE OF A STRENGTH EXCEEDING 22 PER CENT.

| *Description of wine or made-wine* | *Rates of duty per litre of alcohol in the wine or made-wine* |
|---|---|
| | £ |
| Wine or made-wine of a strength exceeding 22 per cent. | 19.81 |

## SCHEDULE 2

Section 49.

### VALUE ADDED TAX: PENALTIES ETC.

*Misdeclaration penalty under section 14 of the 1985 Act*

1.—(1) In subsection (2) of section 14 of the 1985 Act (penalty for misdeclaration or neglect imposed where the tax lost equals or exceeds certain amounts), for paragraphs (a) and (b) there shall be substituted "equals or exceeds whichever is the lesser of £1,000,000 and 30 per cent. of the relevant amount for that period."

(2) After subsection (4) of that section there shall be inserted the following subsections—

"(4A) In this section 'the relevant amount', in relation to a prescribed accounting period, means—

(a) for the purposes of a case falling within subsection (1)(a) above, the gross amount of tax for that period; and

(b) for the purposes of a case falling within subsection (1)(b) above, the true amount of tax for that period.

(4B) In this section 'the gross amount of tax', in relation to a prescribed accounting period, means the aggregate of the following amounts, that is to say-

(a) the amount of credit for input tax which (subject to subsection (5A) below) should have been stated on the return for that period, and

(b) the amount of output tax which (subject to that subsection) should have been so stated.

(4C) In relation to any return which, in accordance with prescribed requirements, includes a single amount as the aggregate for the prescribed accounting period to which the return relates of—

(a) the amount representing credit for input tax, and

(b) any other amounts representing refunds or repayments of tax to which there is an entitlement,

references in this section to the amount of credit for input tax shall have effect (so far as they would not so have effect by virtue of subsection (5B) below) as references to the amount of that aggregate."

(3) In subsection (5A) of that section (account to be taken of corrections), for "subsection (5) above that the statement made by each of those returns is a correct statement" there shall be substituted "subsections (4B) and (5) above that the statements made by each of those returns (so far as they are not inaccurate in any other respect) are correct statements".

(4) This paragraph shall have effect in relation to any prescribed accounting period beginning on or after such day as the Treasury may by order made by statutory instrument appoint, but an order under this sub-paragraph may appoint different days for the purposes of different provisions of this paragraph or for different purposes.

*Misdeclaration penalty under section 14A of the 1985 Act*

2.—(1) In subsection (1)(b) of section 14A of the 1985 Act (misdeclaration resulting in understatements or overclaims), for the words from "whichever" to "period" there shall be substituted "whichever is the lesser of £500,000 and 10 per cent. of the gross amount of tax for that period".

(2) For subsections (2) and (3) of that section (liability for penalty where there are misdeclarations on three or more occasions) there shall be substituted the following subsections—

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"(2) Subsection (3) below applies in any case where—

(a) there is a material inaccuracy in respect of any prescribed accounting period;

(b) the Commissioners serve notice on the person concerned (in this section referred to as a 'penalty liability notice') specifying a penalty period for the purposes of this section;

(c) that notice is served before the end of five consecutive prescribed accounting periods beginning with the period in respect of which there was the material inaccuracy; and

(d) the period specified in the penalty liability notice as the penalty period is the period of eight consecutive prescribed accounting periods beginning with that in which the date of the notice falls.

(3) If, where a penalty liability notice has been served on any person, there is a material inaccuracy in respect of any of the prescribed accounting periods falling within the penalty period specified in the notice, that person shall be liable, except in relation to the first of those periods in respect of which there is a material inaccuracy, to a penalty equal to 15 per cent. of the tax for the prescribed accounting period in question which would have been lost if the inaccuracy had not been discovered."

(3) In subsection (4) of that section, for "subsections (4) to (5B)" there shall be substituted "subsections (4), (4B), (5A) and (5B)".

(4) In subsection (6) of that section (material inaccuracies not to be material in cases to which other sections apply), at the end there shall be inserted "except, in the case of an inaccuracy by reason of which a person is assessed to a penalty under section 14 above, for the purposes of subsection (2)(a) above."

(5) Subject to sub-paragraph (6) below, this paragraph shall have effect in relation to any prescribed accounting period beginning on or after such day as the Treasury may by order made by statutory instrument appoint.

(6) No penalty liability notice shall be served on or after the day appointed under sub-paragraph (5) above by reference to any material inaccuracy in respect of a prescribed accounting period beginning before that day, and the penalty period specified in any penalty liability notice served before that day shall be deemed to end with the day before that day.

*Mitigation of penalties*

3.—(1) After section 15 of the 1985 Act there shall be inserted the following section—

"Mitigation of penalties under sections 13, 14, 14A and 15.

15A.—(1) Where a person is liable to a penalty under any of sections 13, 14, 14A and 15 above, the Commissioners or, on appeal, a value added tax tribunal may reduce the penalty to such amount (including nil) as they think proper.

(2) In the case of a penalty reduced by the Commissioners under subsection (1) above, a value added tax tribunal, on an appeal relating to the penalty, may cancel the whole or any part of the reduction made by the Commissioners.

(3) None of the matters specified in subsection (4) below shall be matters which the Commissioners or any value added tax tribunal shall be entitled to take into account in exercising their powers under this section.

(4) Those matters are—

(a) the insufficiency of the funds available to any person for paying any tax due or for paying the amount of the penalty;

(b) the fact that there has, in the case in question or in that case taken with any other cases, been no or no significant loss of tax;

(c) the fact that the person liable to the penalty or a person acting on his behalf has acted in good faith."

(2) Subsection (4) of section 13 of the 1985 Act (mitigation of penalty under section 13) shall cease to have effect; and—

(a) in subsection (1) of that section, for "subsections (4) and (7)" there shall be substituted "subsection (7)";

(b) in paragraph (b) of subsection (5) of that section, for the words from "have power" to the end of that paragraph there shall be substituted "have power under section 15A below to reduce a penalty under this section,"; and

(c) in section 40(1A) of the Value Added Tax Act 1983 (tribunal not to modify penalties under the 1985 Act), for "section 13(4)" there shall be substituted "section 15A".

1983 c. 55.

(3) This paragraph shall have effect in relation to any penalty under section 13, 14, 14A or 15 of the 1985 Act, other than one to which any person was assessed before the day on which this Act is passed.

*Interest on tax etc. recovered or recoverable by assessment*

4.—(1) In subsections (1) and (3) of section 18 of the 1985 Act (interest on tax etc. recovered or recoverable by assessment), after the word "shall", in each subsection, there shall be inserted "(subject to subsection (3A) below)".

(2) After subsection (3) of that section there shall be inserted the following subsection—

"(3A) Where (apart from this subsection)—

(a) the period before the assessment in question for which any amount would carry interest under subsection (1) above; or

(b) the period for which any amount would carry interest under subsection (3) above,

would exceed three years, the part of that period for which that amount shall carry interest under that subsection shall be confined to the last three years of that period."

(3) This paragraph shall apply in relation to interest on amounts assessed or, as the case may be, paid on or after such day as the Treasury may by order made by statutory instrument appoint.

*Default surcharge*

5.—(1) In section 19 of the 1985 Act, in subsection (2) (surcharge liability notice if default for two accounting periods)—

(a) in paragraph (a) for "any two prescribed accounting periods" there shall be substituted "a prescribed accounting period",

(b) paragraph (b) shall be omitted, and

(c) in paragraph (c) for "later period referred to in paragraph (b)" there shall be substituted "period referred to in paragraph (a)".

(2) In subsection (3) of that section for "defaults in respect of two prescribed accounting periods and the second of those periods" there shall be substituted "a default in respect of a prescribed accounting period and that period".

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(3) This paragraph shall apply in relation to any case where a person is in default for the purposes of section 19 of the 1985 Act and is so in default because of a failure of the Commissioners of Customs and Excise to receive a return, or an amount of tax, on or before a day falling on or after 1st October 1993; and in the case of sub-paragraph (2) above it is immaterial when the existing surcharge period began.

6.—(1) For subsection (4) of section 19 of the 1985 Act (amount of surcharge) there shall be substituted the following subsection—

"(4) Subject to subsections (6) to (9) below, if a taxable person on whom a surcharge liability notice has been served—

(a) is in default in respect of a prescribed accounting period ending within the surcharge period specified in (or extended by) that notice, and

(b) has outstanding tax for that prescribed accounting period,

he shall be liable to a surcharge equal to whichever is the greater of the following, namely, the specified percentage of his outstanding tax for that prescribed accounting period and £30."

(2) In subsection (5) of that section (specified percentages for default surcharge)—

(a) for "subsection (4)(a) above" there shall be substituted "subsection (4) above", and

(b) after "surcharge period" there shall be inserted "and for which he has outstanding tax".

(3) After subsection (5) of that section there shall be inserted the following subsection—

"(5A) For the purposes of subsections (4) and (5) above a person has outstanding tax for a prescribed accounting period if some or all of the tax for which he is liable in respect of that period has not been paid by the last day on which he is required (as mentioned in subsection (1) above) to make a return for that period; and the reference in subsection (4) above to a person's outstanding tax for a prescribed accounting period is to so much of the tax for which he is so liable as has not been paid by that day."

(4) This paragraph shall apply in relation to any case where a person—

(a) is in default for the purposes of section 19 of the 1985 Act in respect of a prescribed accounting period ending within a surcharge period, and

(b) is so in default because of a failure of the Commissioners of Customs and Excise to receive a return, or an amount of tax, on or before a day falling on or after 30th September 1993.

7.—(1) In subsection (5) of section 19 of the 1985 Act (specified percentages for default surcharge)—

(a) at the end of paragraph (b) there shall be inserted "and", and

(b) for paragraphs (c) and (d) there shall be substituted the following paragraph—

"(c) in relation to each such period after the second, the specified percentage is 15 per cent."

(2) Sub-paragraph (1) above shall apply in relation to any liability to a surcharge arising on or after 1st April 1993.

(3) In section 19(5) of the 1985 Act (as amended by sub-paragraph (1) above), for paragraphs (a) to (c) there shall be substituted the following paragraphs—

"(a) in relation to the first such prescribed accounting period, the specified percentage is 2 per cent.;

(b) in relation to the second such period, the specified percentage is 5 per cent.;

(c) in relation to the third such period, the specified percentage is 10 per cent.;

(d) in relation to each such period after the third, the specified percentage is 15 per cent."

(4) Sub-paragraph (3) above shall apply in relation to any liability to a surcharge arising on or after 1st October 1993.

*Meaning of "the 1985 Act"*

8. In this Schedule "the 1985 Act" means the Finance Act 1985.

1985 c. 54.

## SCHEDULE 3

Section 72.

### Car and car fuel benefits: 1994-95 onwards

*Introductory*

1. The Taxes Act 1988 shall be amended as follows.

*Car benefits*

2.—(1) In section 157 (cars available for private use) for subsection (2) there shall be substituted the following subsection—

"(2) The cash equivalent of the benefit in the year concerned shall be ascertained in accordance with Schedule 6."

(2) Subsections (4) and (5) of that section shall be omitted.

3.—(1) In subsection (5) of section 168 (interpretation of provisions relating to cars) for paragraph (d) there shall be substituted the following paragraph—

"(d) the date of a car's first registration is the date on which it was first registered under the Vehicles (Excise) Act 1971 or under corresponding legislation of any country or territory;".

1971 c. 10.

(2) For paragraph (e) of that subsection there shall be substituted the following paragraph—

"(e) the price of a car as regards a year shall be determined in accordance with the provisions contained in or made under sections 168A to 168G; and".

4. The following sections shall be inserted after section 168—

"Price of a car as regards a year.

168A.—(1) Subject to the provisions contained in or made under sections 168B to 168G, for the purposes of this Chapter the price of a car as regards a year is—

(a) its list price, if it has one, or

(b) its notional price, if it has no list price;

and in this section any reference to the relevant car is to the particular car whose price as regards a year is being determined.

(2) The relevant car has a list price if a price was published by the car's manufacturer, importer or distributor (as the case may be) as the inclusive price appropriate for a car of that kind if sold in the United Kingdom singly in a retail sale in the open market on the relevant day.

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(3) In a case where—

(a) subsection (2) above applies, and

(b) at the time when the relevant car was first made available to the employee the only qualifying accessories available with it were standard accessories,

the list price of the car is the price published as mentioned in subsection (2) above.

(4) In a case where—

(a) subsection (2) above applies,

(b) at the time when the relevant car was first made available to the employee a qualifying accessory which was an optional accessory was available with it, and

(c) in relation to each such accessory then available with the car a price was published by the car's manufacturer, importer or distributor (as the case may be) as the inclusive price appropriate for an equivalent accessory if sold with a car of the same kind as the relevant car in the United Kingdom singly in a retail sale in the open market on the relevant day,

the list price of the car is the price found under subsection (5) below.

(5) The price referred to in subsection (4) above is the total of—

(a) the price published as mentioned in subsection (2) above, and

(b) the price, or the sum of the prices, published as mentioned in subsection (4) above in relation to the optional accessory or (as the case may be) the optional accessories.

(6) In a case where—

(a) subsection (2) above applies, and

(b) at the time when the relevant car was first made available to the employee a qualifying accessory falling within subsection (7) below was available with the car,

the list price of the car is the price which would have been its list price under subsection (3) or (4) above (as the case may be) if no such accessory had been available with it at that time.

(7) An accessory falls within this subsection if—

(a) it is an optional accessory, and

(b) no price was published by the relevant car's manufacturer, importer or distributor (as the case may be) as the inclusive price appropriate for an equivalent accessory if sold with a car of the same kind as the relevant car in the United Kingdom singly in a retail sale in the open market on the relevant day.

(8) The notional price of a car is the price which might reasonably have been expected to be its list price if its manufacturer, importer or distributor (as the case may be) had published a price as the inclusive price appropriate for an

equivalent car if sold in the United Kingdom singly in a retail sale in the open market on the relevant day; and "equivalent car" here means a car—

(a) of the same kind as the relevant car, and

(b) with accessories equivalent to the qualifying accessories available with the relevant car at the time when it was first made available to the employee.

(9) For the purposes of this section—

(a) the inclusive price is the price inclusive of any charge for delivery by the manufacturer, importer or distributor to the seller's place of business and of any relevant tax and, in the case of an accessory, of any charge for fitting it,

(b) the relevant day is the day immediately before the date of the relevant car's first registration,

(c) a standard accessory is an accessory equivalent to an accessory which, in arriving at the price published as mentioned in subsection (2) above, is assumed to be available with cars of the same kind as the relevant car, and

(d) an optional accessory is an accessory other than a standard accessory;

and "relevant tax" here means any customs or excise duty, any tax chargeable as if it were a duty of customs, any value added tax and any car tax.

(10) For the purposes of this section a qualifying accessory is an accessory which—

(a) is made available for use with the car without any transfer of the property in it,

(b) is made available by reason of the employee's employment,

(c) is attached to the car (whether or not permanently), and

(d) is not an accessory necessarily provided for use in the performance of the duties of the employee's employment.

(11) For the purposes of this section "accessory" includes any kind of equipment, but does not include a mobile telephone within the meaning given by section 159A(8)(a).

(12) For the purposes of this section the time when a car is first made available to an employee is the earliest time when the car is made available, by reason of his employment and without any transfer of the property in it, either to him or to others being members of his family or household.

Price of a car: accessories not included in list price.

168B.—(1) This section applies where a car has a list price and in any year there are available with the car qualifying accessories which—

(a) fall within section 168A(7), and

(b) were available with the car at the time when it was first made available to the employee.

(2) As regards that year the price of the car shall be treated as the price found under section 168A, increased by the price of the accessories.

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(3) For the purposes of this section the price of an accessory is—

(a) its list price, if it has one, or

(b) its notional price, if it has no list price.

(4) The list price of an accessory is the price published by or on behalf of its manufacturer, importer or distributor (as the case may be) as the inclusive price appropriate for such an accessory if sold in the United Kingdom singly in a retail sale in the open market at the relevant time; and the relevant time is the time immediately before the accessory concerned is first made available for use with the car (which may be before the car is first made available to the employee).

(5) The notional price of an accessory is the inclusive price which it might reasonably have been expected to fetch if sold in the United Kingdom singly in a retail sale in the open market immediately before it is first made available for use with the car (which may be before the car is first made available to the employee).

(6) Where the accessory is permanently attached to the car the sale assumed by subsection (4) or (5) above is one under which the seller is to attach it.

(7) For the purposes of this section the inclusive price is the price inclusive of—

(a) any charge for delivery by the manufacturer, importer or distributor to the seller's place of business, and

(b) any customs or excise duty, any tax chargeable as if it were a duty of customs and any value added tax.

(8) Subsections (10) to (12) of section 168A apply for the purposes of this section as they apply for the purposes of that.

Price of a car: accessories available after car first made available.

168C.—(1) This section applies where in any year there are available with a car qualifying accessories which—

(a) were not available with the car at the time when it was first made available to the employee, and

(b) were not made available with the car before 1st August 1993,

but any accessory whose price is less than £100 shall be ignored for the purposes of this section.

(2) As regards that year the price of the car shall be treated as the price found under sections 168A and 168B, increased by the price of the accessories.

(3) Subsections (10) to (12) of section 168A apply for the purposes of this section as they apply for the purposes of that.

(4) Subsections (3) to (6) of section 168B apply for the purposes of this section as they apply for the purposes of that, but ignoring for the purposes of this section the words "(which may be before the car is first made available to the employee)".

(5) The Treasury may by order substitute for the sum for the time being specified in subsection (1) above a sum of a greater amount; and any such substitution shall have effect as regards such years as are specified in the order.

Price of a car: capital contributions.

168D.—(1) This section applies where the employee contributes a capital sum to expenditure on the provision of—

(a) the car, or

(b) any qualifying accessories which are taken into account under sections 168A to 168C in determining the price of the car as regards a year.

(2) As regards each relevant year the price of the car shall be treated as the price found under sections 168A to 168C, reduced by the appropriate amount; and relevant years are the year in which the capital sum is contributed and all subsequent years in which section 157 applies in the case of the car and the employee.

(3) As regards a relevant year the appropriate amount is whichever is the smaller of—

(a) the amount found under subsection (4) below as regards the year, and

(b) £5,000.

(4) As regards a relevant year the amount referred to in subsection (3) above is the amount of the capital sum, or the total amount of all the capital sums, which the employee has contributed (whether in the year in question or earlier) to expenditure on the provision of—

(a) the car, or

(b) any qualifying accessories which are taken into account under sections 168A to 168C in determining the price of the car as regards the year in question.

(5) Subsections (10) and (11) of section 168A apply for the purposes of this section as they apply for the purposes of that.

(6) The Treasury may by order substitute for the sum for the time being specified in subsection (3)(b) above a sum of a greater amount; and any such substitution shall have effect as regards such years as are specified in the order.

Price of a car: replacement accessories.

168E.—(1) The Treasury may make regulations under this section as regards any case where—

(a) a qualifying accessory is available with a car in any year, and

(b) the accessory (the replacing accessory) replaces another accessory (the replaced accessory).

(2) Regulations under this section may provide that as regards the year—

(a) the price of the car shall be found as if the replacement had not been made and the replacing accessory were a continuation of the replaced accessory, or

(b) sections 168A to 168D shall apply to the car with such modifications to take account of the fact that the replacement has been made as are prescribed by the regulations.

(3) The regulations may—

(a) provide as mentioned in subsection (2)(a) above as regards some cases and as mentioned in subsection (2)(b) above as regards others;

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(b) provide under subsection (2)(b) above that sections 168A to 168D shall apply with different modifications in different cases.

Price of a car: classic cars.

168F.—(1) This section applies where—

(a) the price of a car as regards a year, found under the provisions contained in or made under sections 168A to 168E, is less than the market value of the car for the year,

(b) the age of the car at the end of the year is 15 years or more, and

(c) the market value of the car for the year is £15,000 or more.

(2) In such a case—

(a) the price of the car as regards the year is not the amount found under the provisions contained in or made under sections 168A to 168E;

(b) the price of the car as regards the year is the market value of the car for the year;

but paragraph (b) above is subject to subsection (5) below.

(3) The market value of a car for a year is the price which the car might reasonably have been expected to fetch on a sale in the open market on the material day, on the assumption that any qualifying accessories available with the car on the material day are included in the sale.

(4) For the purposes of subsection (3) above the material day is—

(a) the last day of the year concerned, or

(b) if earlier, the last day in the year on which the car is available to the employee.

(5) Where the employee contributes a capital sum to expenditure on the provision of—

(a) the car, or

(b) any qualifying accessories which are taken into account under subsection (3) above in determining the price of the car as regards a year,

as regards each relevant year the price of the car shall be treated as the market value of the car for the year, reduced by the appropriate amount.

(6) For the purposes of subsection (5) above relevant years are the year in which the capital sum is contributed and all subsequent years in which section 157 applies in the case of the car and the employee.

(7) For the purposes of subsection (5) above the appropriate amount, in relation to a relevant year, is whichever is the smaller of—

(a) the amount found under subsection (8) below as regards the year, and

(b) £5,000.

(8) As regards a particular year the amount referred to in subsection (7) above is the amount of the capital sum, or the total amounts of all the capital sums, which the employee has contributed (whether in the year or earlier) to expenditure—

(a) on the provision of the car, or

(b) on the provision of any qualifying accessories which are taken into account in determining the price of the car as regards the year.

(9) Subsections (10) and (11) of section 168A apply for the purposes of this section as they apply for the purposes of that.

(10) For the purposes of this section the last day in a year on which a car is available to an employee is the last day in the year on which the car is made available, by reason of his employment and without any transfer of the property in it, either to him or to others being members of his family or household.

(11) The Treasury may by order—

(a) substitute for the sum for the time being specified in subsection (1)(c) above a sum of a greater amount;

(b) substitute for the sum for the time being specified in subsection (7)(b) above a sum of a greater amount;

and any such substitution shall have effect as regards such years as are specified in the order.

Price of a car: cap for expensive car.

168G.—(1) Where the price of a car as regards a year (as found under the provisions contained in or made under sections 168A to 168F) exceeds £80,000, the price of the car as regards the year is £80,000 and not the price as so found.

(2) The Treasury may by order substitute for the sum for the time being specified in subsection (1) above a sum of a greater amount; and any such substitution shall have effect as regards such years as are specified in the order."

5. For Schedule 6 there shall be substituted the following Schedule—

"SCHEDULE 6

Section 157.

TAXATION OF DIRECTORS AND OTHERS IN RESPECT OF CARS

*Cash equivalent*

1. Subject to paragraphs 2 to 7 below, the cash equivalent of the benefit is 35 per cent. of the price of the car as regards the year.

*Reduction for business travel*

2.—(1) Subject to paragraphs 3 to 7 below, where it is shown to the inspector's satisfaction that the employee was required by the nature of his employment to use, and did use, the car for at least 18,000 miles of business travel in the year concerned, the cash equivalent of the benefit is the amount ascertained under paragraph 1 above, reduced by two thirds.

(2) Subject to paragraphs 3 to 7 below, where it is shown to the inspector's satisfaction that the employee was required by the nature of his employment to use, and did use, the car for at least 2,500 but less than 18,000 miles of business travel in the year concerned, the cash equivalent of the benefit is the amount ascertained under paragraph 1 above, reduced by one third.

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3. In relation to a car which for part of the year concerned was unavailable—

(a) paragraph 2 above shall have effect as if the figure of 18,000, in each place where it occurs, were reduced by a number which bears to 18,000 the same proportion as the number of days in the year on which the car was unavailable bears to 365;

(b) paragraph 2(2) above shall have effect as if the figure of 2,500 were reduced by a number which bears to 2,500 the same proportion as the number of days in the year on which the car was unavailable bears to 365;

but this is subject to paragraph 4(b) below.

4. Where in any year an employee is taxable under section 157 in respect of two or more cars which are available to him concurrently, in relation to each of those cars other than the one which, in the period for which they are concurrently available, is used to the greatest extent for the employee's business travel—

(a) paragraph 2(1) above shall have effect as if for "two thirds" there were substituted "one third", and

(b) paragraph 2(2) above shall not have effect.

*Reduction for age of car*

5. Subject to paragraphs 6 and 7 below, where at the end of the year concerned the age of the car is 4 years or more, the cash equivalent of the benefit is the amount ascertained under the preceding provisions of this Schedule, reduced by one third.

*Reduction for periods when car unavailable*

6. Subject to paragraph 7 below, where for any part of the year concerned the car is unavailable, the cash equivalent of the benefit is the amount ascertained under the preceding provisions of this Schedule ("the full amount") reduced by an amount which bears to the full amount the same proportion as the number of days in the year on which the car is unavailable bears to 365.

*Reduction for payments for use of car*

7.—(1) Where in the year concerned the employee is required, as a condition of the car being available for his private use, to pay any amount of money (whether by way of deduction from his emoluments or otherwise) for that use, then—

(a) if the amount ascertained under the preceding provisions of this Schedule exceeds the relevant sum, the cash equivalent of the benefit is an amount equal to the excess;

(b) if the relevant sum exceeds or is equal to the amount ascertained under the preceding provisions of this Schedule, the cash equivalent of the benefit is nil.

(2) In sub-paragraph (1) above—

(a) "the relevant sum" means the amount paid by the employee, as there mentioned, in respect of the year concerned;

(b) the reference to the car being available for the employee's private use includes a reference to the car being available for the private use of others being members of his family or household.

*Replacement cars*

8. The Treasury may by regulations provide that where—

(a) a car is normally available to the employee but for a period of less than 30 days it is not available to him,

(b) another car is made available to the employee in order to replace the car mentioned in paragraph (a) above for the whole or part of the period, and

(c) such other conditions as may be prescribed by the regulations are fulfilled,

this Schedule shall have effect in relation to the cars concerned subject to such modifications as are prescribed by the regulations.

*Meaning of "unavailable"*

9. For the purposes of this Schedule a car is to be treated as being unavailable on any day if—

(a) the day falls before the first day on which the car is available to the employee,

(b) the day falls after the last day on which the car is available to the employee, or

(c) the day falls within a period, of 30 days or more, throughout which the car is not available to the employee.

*General*

10. For the purposes of this Schedule a car is available to an employee at a particular time if it is then made available, by reason of his employment and without any transfer of the property in it, either to him or to others being members of his family or household."

*Car fuel benefits*

6.—(1) In section 158 (car fuel) for the Tables in subsection (2) (tables of cash equivalents) there shall be substituted—

"TABLE A

| *Cylinder capacity of car in cubic centimetres* | *Cash equivalent* |
|---|---|
| 1,400 or less ... ... ... ... ... | £600 |
| More than 1,400 but not more than 2,000 ... ... ... ... ... ... | £760 |
| More than 2,000 ... ... ... ... | £1,130 |

TABLE AB

| *Cylinder capacity of car in cubic centimetres* | *Cash equivalent* |
|---|---|
| 2,000 or less ... ... ... ... ... | £550 |
| More than 2,000 ... ... ... ... | £710 |

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TABLE B

| *Description of car* | *Cash equivalent* |
| --- | --- |
| Any car ... ... ... ... ... ... | £1,130" |

(2) In subsection (5) of that section (reductions in cash equivalent of car fuel benefit) for the words from "paragraph 2" to "Part II" there shall be substituted "paragraph 6".

*General*

7. This Schedule shall have effect for the year 1994-95 and subsequent years of assessment.

Section 73.

## SCHEDULE 4

### VANS

1. The Taxes Act 1988 shall be amended as follows.

2. In section 154(2), in paragraph (b) (which excludes from the general charge on benefits in kind any benefits under the provisions there specified) after "section 157, 158," there shall be inserted "159AA,".

3. In section 155(1) (exclusion from charge of certain other benefits provided in connection with cars taxable under section 157)—

(a) after "car", in each place where it occurs, there shall be inserted "or van", and

(b) after "section 157" there shall be inserted "or 159AA".

4. After section 159 there shall be inserted the following sections—

"Vans available for private use.

159AA.—(1) Where in any year, in the case of a person employed in employment to which this Chapter applies, a van is made available (without any transfer of the property in it) either to himself or to others being members of his family or household, and—

(a) it is so made available by reason of his employment and it is in that year available for his or their private use, and

(b) the benefit of the van is not (apart from this section) chargeable to tax as the employee's income,

there is to be treated as emoluments of the employment, and accordingly chargeable to income tax under Schedule E, an amount equal to whatever is the cash equivalent of that benefit in that year.

(2) The cash equivalent of the benefit in the year concerned shall be ascertained in accordance with Schedule 6A.

(3) Where in any year the benefit of a van is chargeable to tax under this section as the employee's income, he shall not be taxable—

(a) under Schedule E in respect of the discharge of any liability of his in connection with the van;

(b) under section 141 or 142 in respect of any non-cash voucher or credit-token to the extent that it is used by him—

(i) for obtaining money which is spent on goods or services in connection with the van, or

(ii) for obtaining such goods or services;

(c) under section 153 in respect of any payment made to him in respect of expenses incurred by him in connection with the van.

Pooled vans.

159AB. Section 159 shall apply in relation to vans as it applies in relation to cars, and for the purposes of the application of that section to vans—

(a) any reference in that section to a car shall be construed as a reference to a van,

(b) the reference in subsection (1) of that section to a car pool shall be construed as a reference to a van pool, and

(c) the reference in subsection (3) of that section to section 157 shall be construed as a reference to section 159AA."

5. In section 159A (mobile telephones) in subsection (8)(a) (meaning of "mobile telephone")—

(a) after "car", in each place where it occurs, there shall be inserted "or van", and

(b) after "section 157" there shall be inserted "or 159AA".

6.—(1) In section 168 (interpretation) after subsection (5) there shall be inserted the following subsection—

"(5A) As respects vans, the following definitions apply—

(a) "van" means a mechanically propelled road vehicle which is—

(i) of a construction primarily suited for the conveyance of goods or burden of any description, and

(ii) of a design weight not exceeding 3,500 kilograms,

and which is not a motor cycle as defined in section 185(1) of the Road Traffic Act 1988;

1988 c. 52.

(b) the age of a van at any time is the interval between the date of its first registration and that time;

(c) "business travel" means travelling which a person is necessarily obliged to do in the performance of the duties of his employment;

(d) the date of a van's first registration is the date on which it was first registered under the Vehicles (Excise) Act 1971 or under corresponding legislation of any country or territory;

1971 c. 10.

(e) "design weight" means the weight which a vehicle is designed or adapted not to exceed when in normal use and travelling on a road laden; and

(f) "private use", in relation to a van made available to any person, or to others being members of his family or household, means any use otherwise than for his business travel."

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(2) In subsection (6) of that section (meaning of availability for private use by reason of employment) there shall be added at the end—

"(c) a van made available in any year to an employee, or to others being members of his family or household, by reason of his employment is deemed to be available in that year for his or their private use unless the terms on which the van is made available prohibit such use and no such use is made of the van in that year;

(d) a van made available to an employee, or to others being members of his family or household, by his employer is deemed to be made available to him or them by reason of his employment (unless the employer is an individual and it can be shown that the van was made so available in the normal course of his domestic, family or personal relationships)."

7. After Schedule 6 there shall be inserted the following Schedule—

"Section 159AA.

SCHEDULE 6A

TAXATION OF DIRECTORS AND OTHERS IN RESPECT OF VANS

PART I

BASIC CASE

*Cash equivalent*

1.—(1) This paragraph applies where the van mentioned in section 159AA(1)—

(a) is not a van to which Part II of this Schedule applies for the year concerned, or

(b) is a van to which that Part applies for the year concerned but is a shared van (within the meaning there given) for part only of the year.

(2) Subject to paragraphs 2 and 3 below, the cash equivalent of the benefit is—

(a) £500, if the van is aged less than 4 years at the end of the year concerned;

(b) £350, if the van is aged 4 years or more at the end of the year concerned.

*Reductions for periods where van unavailable*

2.—(1) Subject to paragraph 3 below, where paragraph 1 above applies and for any part of the year concerned—

(a) the van is unavailable, or

(b) the van is a shared van (within the meaning given by Part II of this Schedule),

the cash equivalent of the benefit is the amount ascertained under paragraph 1 above (the full amount) reduced by an amount which bears to the full amount the same proportion as the number of excluded days in the year bears to 365.

(2) For the purposes of sub-paragraph (1) above a van is to be treated as being unavailable on any day if—

(a) the day falls before the first day on which the van is available to the employee,

(b) the day falls after the last day on which the van is available to the employee, or

(c) the day falls within a period, of 30 days or more, throughout which the van is not available to the employee.

(3) For the purposes of sub-paragraph (1) above an excluded day is a day on which the van falls within paragraph (a) or (b) of that sub-paragraph.

*Reduction for payments for use of van*

3.—(1) Where paragraph 1 above applies and in the year concerned the employee is required, as a condition of the van being available for his private use, to pay any amount of money (whether by way of deduction from his emoluments or otherwise) for that use, then—

(a) if the amount ascertained under paragraphs 1 and 2 above exceeds the relevant sum, the cash equivalent of the benefit is an amount equal to the excess;

(b) if the relevant sum exceeds or is equal to the amount ascertained under paragraphs 1 and 2 above, the cash equivalent of the benefit is nil.

(2) In sub-paragraph (1) above—

(a) "the relevant sum" means the amount paid by the employee, as there mentioned, in respect of the year concerned, and

(b) the reference to the van being available for the employee's private use includes a reference to the van being available for the private use of others being members of his family or household.

(3) If the van is a shared van (within the meaning given by Part II of this Schedule) for part of the year concerned, the reference in sub-paragraph (2) above to the year shall be construed as a reference to the part of the year when the van is not a shared van.

## Part II

## Shared Vans

*Introduction*

4.—(1) This Part of this Schedule applies to a van for a year if it is a shared van for any period in the year.

(2) A van is a shared van for a period if the period is one throughout which the van is available concurrently to more than one employee of the same employer.

(3) A van is also a shared van for a period if—

(a) the period is one throughout which the van is available to different employees of the same employer, but

(b) the circumstances are such that the employee or employees to whom the van is available at any given time in the period are not necessarily the same as the employee or employees to whom it is available at any other given time in the period.

(4) But if the van is available to one employee only for a period exceeding 30 days (an exclusive period)—

(a) the exclusive period shall not count towards any period that would otherwise fall within sub-paragraph (3) above;

(b) any period falling within sub-paragraph (3) above shall be treated as ending when the exclusive period begins (without prejudice to the start after the exclusive period of a further period falling within sub-paragraph (3) above).

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(5) If a van would (apart from this sub-paragraph) be treated as shared during part of a day it shall be treated as shared throughout the day.

*Benefit to employee*

5.—(1) This paragraph applies where for any year this Part of this Schedule—

(a) applies to a van, or

(b) applies to each of two or more vans made available by the same employer.

(2) For the purposes of this paragraph a participating employee is an employee to whom—

(a) the van is available for his private use while it is a shared van (where only one van is involved),

(b) one of the vans is available for his private use while it is a shared van (where more than one van is involved), or

(c) some or all of the vans are available for his private use while they are shared vans (where more than one van is involved);

but an employee is not a participating employee unless he makes private use of the van, or (if more than one is involved) he makes private use of at least one of them, at least once while it is a shared van.

(3) In sub-paragraph (2) above—

(a) any reference to a van being available for an employee's private use includes a reference to the van being available for the private use of others being members of his family or household, and

(b) any reference to an employee making private use of a van includes a reference to a member of his family or household making private use of it.

(4) This paragraph shall apply to each participating employee in the same way, irrespective of—

(a) the number available to a particular employee of the vans involved;

(b) the fact that a particular van involved is or is not available to him or used by him;

(c) the extent to which a particular van involved is available to him or used by him.

(5) Where this paragraph applies—

(a) find the basic value of the van for the year or (as the case may be) the basic value for the year of each van involved;

(b) take that basic value or (as the case may be) the aggregate of those basic values;

(c) find for each participating employee a portion of the figure taken under paragraph (b) above by dividing it equally among the participating employees.

(6) The figure found for a participating employee shall be taken to be the cash equivalent of the benefit to him in the year of—

(a) the van available to him while it is a shared van (where only one van is involved or only one of the vans involved is available to him), or

(b) the vans available to him while they are shared vans (where more than one van is involved and more than one of them is available to him).

*Basic value*

6.—(1) Subject to sub-paragraph (2) below, the basic value of a van for a year is—

(a) £500, if the van is aged less than 4 years at the end of the year concerned;

(b) £350, if the van is aged 4 years or more at the end of the year concerned.

(2) Where for any part of the year—

(a) the van is not a shared van, or

(b) the van is incapable of use,

its basic value is the amount ascertained under sub-paragraph (1) above (the full value) reduced by an amount which bears to the full value the same proportion as the number of excluded days in the year bears to 365.

(3) For the purposes of sub-paragraph (2) above a van is to be treated as being incapable of use on any day if the day falls within a period, of 30 days or more, throughout which the van is incapable of being used at all.

(4) For the purposes of sub-paragraph (2) above an excluded day is a day on which the van falls within paragraph (a) or (b) of that sub-paragraph.

*Limit of benefit*

7. Where (apart from this paragraph) the figure found under paragraph 5 above for a participating employee for a year would exceed £500, the figure for the employee for the year shall be taken to be £500.

*Alternative calculation*

8.—(1) In a case where—

(a) a figure is found under paragraph 5 or 7 above for a participating employee for a year, and

(b) the employee makes a claim for this paragraph to be applied,

the figure found for the employee for the year shall be taken to be the alternative figure found under this paragraph.

(2) The alternative figure is a figure found by—

(a) taking for each van involved the number of relevant days;

(b) aggregating the numbers found under paragraph (a) above where more than one van is involved;

(c) multiplying the number found under paragraph (a) (or paragraphs (a) and (b)) above by £5.

(3) For the purposes of sub-paragraph (2)(a) above a relevant day is a day which falls in the year and during which (or part of which) the employee, or a member of his family or household, makes private use of the van concerned while it is a shared van.

(4) For the purposes of section 95 of the Taxes Management Act 1970 (incorrect return etc.) a claim under this paragraph shall be taken to be a claim for relief.

1970 c. 9.

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*Reduction for payments for use*

9.—(1) Where this Part of this Schedule applies and in the year concerned a participating employee is required, as a condition of the van or vans being available for his private use, to pay any amount of money (whether by way of deduction from his emoluments or otherwise) for that use, then—

(a) if the figure found for the employee for the year under paragraph 5 or 7 or 8 above exceeds the relevant sum, the figure shall be taken to be a figure equal to the excess;

(b) if the relevant sum exceeds or is equal to the figure found for the employee for the year under paragraph 5 or 7 or 8 above, the figure shall be taken to be nil.

(2) For the purposes of this paragraph the relevant sum shall be found by—

(a) taking for any van involved the amount paid by the employee, as a condition of it being available for his private use, in respect of the period when the van is a shared van in the year concerned, and

(b) where more than one van is involved, aggregating the amounts found under paragraph (a) above.

(3) Any reference in this paragraph to a van being available for the employee's private use includes a reference to the van being available for the private use of others being members of his family or household.

PART III

GENERAL

*Interaction of Parts I and II*

10.—(1) This paragraph applies where—

(a) a cash equivalent of the benefit of a van to an employee in a year is found under Part I of this Schedule, and

(b) a cash equivalent of the benefit of the same van (or of vans including the same van) to the employee in the year is found under Part II of this Schedule.

(2) Once the different cash equivalents are so found, the employee shall be charged to tax as if the van concerned were different vans, one having a cash equivalent found under Part I of this Schedule and the other having (or counting towards) a cash equivalent found under Part II of this Schedule.

*Limit of cash equivalent*

11. In a case where—

(a) the cash equivalent of the benefit of vans to an employee in a year would (apart from this paragraph) total more than £500, and

(b) no more than one of the vans is available to him for his private use, or the private use of others being members of his family or household, at any one time in the year,

the cash equivalent of the benefit of the vans to him in the year shall be £500.

*Interpretation*

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12. For the purposes of this Schedule a van is available to an employee at a particular time if it is then made available, by reason of his employment and without any transfer of the property in it, either to him or to others being members of his family or household."

8. This Schedule shall have effect for the year 1993-94 and subsequent years of assessment.

## SCHEDULE 5

Section 76.

### REMOVAL EXPENSES AND BENEFITS

1. The following shall be inserted after section 191 of the Taxes Act 1988—

*"Removal expenses and benefits*

Removal expenses and benefits.

191A. Schedule 11A to this Act (which relates to the payment of expenses, and the provision of benefits, in respect of removals) shall have effect.

Removal benefits: beneficial loan arrangements.

191B.—(1) This section applies where—

(a) there is a change in the residence of an employee,

(b) the conditions mentioned in paragraph 5(1) to (3) of Schedule 11A are fulfilled in relation to the change (construing the reference in paragraph 5(1) to paragraphs 3(2) and 4(2) of that Schedule as a reference to this subsection),

(c) a qualifying loan is raised by the employee in connection with the change and is made before the relevant day, and

(d) section 160(1) applies (or would apply apart from this section) in respect of the employee and the loan.

(2) For the purposes of this section a loan is a qualifying loan if (and only if)—

(a) the employee has an interest in his former residence,

(b) he disposes of that interest in consequence of the change of residence,

(c) he acquires an interest in his new residence, and

(d) the reason, or one of the reasons, for the loan being raised is that a period elapses between the date when expenditure is incurred in connection with the acquisition of the employee's interest in his new residence and the date when the proceeds of the disposal of the employee's interest in his former residence are available.

(3) The reference in subsection (1) above to a loan raised by the employee includes a reference to a loan raised by one or more members of the employee's family or household or by the employee and one or more members of his family or household.

(4) References in subsection (2) above to the employee having, disposing of or acquiring an interest in a residence include references to—

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(a) one or more members of the employee's family or household having, disposing of or acquiring such an interest;

(b) the employee and one or more members of his family or household having, disposing of or acquiring such an interest;

and references to the employee's interest shall be construed accordingly.

(5) This section does not apply unless the total of the amounts mentioned in subsection (6) below is less than the qualifying limit for the time being specified in paragraph 24(9) of Schedule 11A.

(6) The amounts referred to in subsection (5) above are—

(a) the aggregate of the amounts of any sums which, by reason of the employee's employment and in connection with the change of residence, are paid to him, or to another person on his behalf, in respect of qualifying removal expenses, and

(b) the aggregate of any amounts represented by qualifying removal benefits which, by reason of the employee's employment and in connection with the change of residence, are provided for him or for others being members of his family or household.

(7) For the purposes of subsection (6) above—

(a) references to qualifying removal expenses and qualifying removal benefits shall be construed in accordance with Schedule 11A, and

(b) the reference to any amounts represented by qualifying removal benefits shall be construed in accordance with paragraph 24 of that Schedule.

(8) Where this section applies, for the purposes of section 160 and Schedule 7 the loan mentioned in subsection (1)(c) above shall be treated as if it had been made on the day after the day on which the relevant period expires; and the relevant period is a period, of the appropriate number of days, beginning with the day on which the loan is actually made.

(9) Where the loan is discharged on or before the day on which the relevant period expires subsection (8) above shall not apply; and in such a case the loan shall be ignored for the purposes of section 160 and Schedule 7.

(10) For the purposes of subsection (8) above the appropriate number is the number given by the following formula—

$$\frac{A \times B}{C \times D}$$

(11) For the purposes of subsection (10) above—

A is the amount by which the qualifying limit for the time being specified in paragraph 24(9) of Schedule 11A exceeds the total mentioned in subsection (5) above;

B is 365;

C is the maximum amount of the loan outstanding in the period beginning with the time when the loan is actually made and ending with the end of the relevant day;

D is the official rate of interest, within the meaning given by section 160(5), in force at the time when the loan is actually made.

(12) Where the number given by the formula set out in subsection (10) above is not a whole number, it shall be rounded up to the nearest whole number.

(13) An assessment in respect of the loan for a year of assessment ending before the relevant day may be made or determined on the assumption that the condition mentioned in subsection (5) above will not be fulfilled in relation to the change of residence; but where an assessment has been made or determined on that assumption and that condition is fulfilled in relation to the change, on a claim in that behalf the assessment shall be adjusted accordingly.

(14) Nothing in subsection (8) above shall affect the operation of paragraph 10 of Schedule 7 in relation to the priority given by that paragraph to a loan falling within sub-paragraph (1)(b) of that paragraph.

(15) Any reference in this section to the relevant day is to the day which, by virtue of paragraph 6 of Schedule 11A, is the relevant day in relation to the change of residence concerned.

(16) Paragraphs 25 to 27 of Schedule 11A apply for the purposes of this section as they apply for the purposes of that Schedule."

2. The following Schedule shall be inserted after Schedule 11 to the Taxes Act 1988—

"SCHEDULE 11A

Section 191A.

Removal Expenses and Benefits

Part I

Tax Relief

1.—(1) Where by reason of a person's employment—

(a) any sums are paid to that person (the employee) in respect of qualifying removal expenses,

(b) any sums are paid on behalf of the employee to another person in respect of qualifying removal expenses, or

(c) any qualifying removal benefit is provided for the employee or for others being members of his family or household,

the employee shall not thereby be regarded as receiving emoluments of the employment for any purpose of Case I or Case II of Schedule E.

(2) Sub-paragraph (1) above shall have effect subject to Part V of this Schedule.

2.—(1) This paragraph applies where—

(a) any payment or benefit would (apart from paragraph 1 above) constitute emoluments of an employment for any purpose of Case I or Case II of Schedule E, and

(b) by virtue of that paragraph it is treated as not being such emoluments.

(2) The payment or benefit shall be treated as not being emoluments of the employment for any purpose of Case III of Schedule E.

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## PART II

### QUALIFYING EXPENSES AND QUALIFYING BENEFITS

*Qualifying removal expenses*

3.—(1) Expenses are not qualifying removal expenses unless they are eligible removal expenses and the conditions set out in this paragraph and paragraph 5 below are fulfilled.

(2) The expenses must be reasonably incurred by the employee in connection with a change of his residence.

(3) The expenses must be incurred on or before the relevant day.

*Qualifying removal benefits*

4.—(1) A benefit is not a qualifying removal benefit unless it is an eligible removal benefit and the conditions set out in this paragraph and paragraph 5 below are fulfilled.

(2) The benefit must be reasonably provided in connection with a change of the employee's residence.

(3) The benefit must be provided on or before the relevant day.

*Connection with employment*

5.—(1) The change of residence mentioned in paragraphs 3(2) and 4(2) above must result from—

(a) the employee becoming employed by an employer,

(b) an alteration of the duties of the employee's employment (where his employer remains the same), or

(c) an alteration of the place where the employee is normally to perform the duties of his employment (where both his employer and the duties of his employment remain the same).

(2) The change must be made wholly or mainly to allow the employee to have his residence within a reasonable daily travelling distance of—

(a) the place where he performs, or is to perform, the duties of his employment (where sub-paragraph (1)(a) above applies);

(b) the place where he performs, or is to perform, the new duties of his employment (where sub-paragraph (1)(b) above applies);

(c) the new place where he performs, or is to perform, the duties of his employment (where sub-paragraph (1)(c) above applies);

and any reference in this sub-paragraph to the place where the employee performs, or is to perform, duties of his employment is to the place where he normally performs, or is normally to perform, those duties.

(3) The employee's former residence must not be within a reasonable daily travelling distance of the place mentioned in sub-paragraph (2) above.

*The relevant day*

6.—(1) Subject to sub-paragraph (2) below, the relevant day, in relation to a particular change of residence, is the day on which the relevant year ends; and for the purposes of this sub-paragraph the relevant year is the year of assessment next following the year of assessment in which—

(a) the employee begins to perform the duties of his employment (where paragraph 5(1)(a) above applies);

(b) the employee begins to perform the new duties of his employment (where paragraph 5(1)(b) above applies);

(c) the employee begins to perform the duties of his employment at the new place (where paragraph 5(1)(c) above applies).

(2) If it appears reasonable to the Board to do so, having regard to all the circumstances of a particular change of residence, they may direct that in relation to that change the relevant day is a day which—

(a) falls after the day mentioned in sub-paragraph (1) above, and

(b) is a day on which a year of assessment ends.

## PART III

## ELIGIBLE REMOVAL EXPENSES

### *Introduction*

7. Expenses are eligible removal expenses if they fall into one of the following categories—

(a) expenses of disposal,

(b) expenses of acquisition,

(c) expenses of abortive acquisition,

(d) expenses of transporting belongings,

(e) travelling and subsistence expenses,

(f) bridging loan expenses, and

(g) duplicate expenses;

and paragraphs 8 to 14 below apply for the purpose of interpreting the preceding provisions of this paragraph.

### *Expenses of disposal*

8.—(1) Expenses fall within paragraph 7(a) above if (and only if)—

(a) the employee has an interest in his former residence,

(b) that interest is disposed of, or is intended to be disposed of, in consequence of the change of residence, and

(c) the expenses fall within sub-paragraph (2) below.

(2) Expenses fall within this sub-paragraph if they consist of one of the following—

(a) legal expenses connected with the disposal or intended disposal of the employee's interest in his former residence (including legal expenses connected with the redemption of any loan relating to the residence),

(b) any penalty for redeeming, for the purpose of the disposal or intended disposal, any loan relating to the residence,

(c) fees of any estate agent or auctioneer engaged in the disposal or intended disposal,

(d) expenses of advertising the disposal or intended disposal,

(e) charges for disconnecting, for the purpose of the disposal or intended disposal, public utilities serving the residence,

(f) expenses of maintaining, insuring, or preserving the security of the residence at any time when unoccupied pending the disposal or intended disposal, and

(g) any rent paid in respect of the residence at any such time.

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(3) The reference in this paragraph to the employee having an interest in his former residence includes a reference to—

(a) one or more members of the employee's family or household having such an interest;

(b) the employee and one or more members of his family or household having such an interest;

and references to the disposal or intended disposal of the employee's interest in his former residence shall be construed accordingly.

(4) For the purposes of this paragraph a loan relates to a residence if the loan was raised to obtain an interest in the residence, or an interest in the residence forms security for the loan, or both.

*Expenses of acquisition*

9.—(1) Expenses fall within paragraph 7(b) above if (and only if) the employee acquires an interest in his new residence and the expenses consist of one of the following—

(a) legal expenses connected with the acquisition by the employee of the interest (including legal expenses connected with any loan raised to acquire the interest),

(b) any procurement fees connected with any such loan,

(c) the costs of any insurance effected to cover risks which are incurred by the maker of any such loan and which arise because the amount of the loan is equal to the whole, or a substantial part, of the value of the interest,

(d) fees relating to any survey or inspection of the residence undertaken in connection with the acquisition by the employee of the interest,

(e) fees payable to an appropriate registry or appropriate register in connection with the acquisition by the employee of the interest,

(f) stamp duty charged on the acquisition, and

(g) charges for connecting any public utility for use by the employee, if the utility serves the residence.

(2) References in this paragraph to the employee acquiring an interest in his new residence include references to—

(a) one or more members of the employee's family or household acquiring such an interest;

(b) the employee and one or more members of his family or household acquiring such an interest.

(3) References in this paragraph to a loan are to a loan raised by the employee, by one or more members of the employee's family or household or by the employee and one or more members of his family or household.

(4) The reference in this paragraph to a utility for use by the employee includes a reference to a utility for use by the employee and one or more members of his family or household.

(5) For the purposes of this paragraph an appropriate registry is any of the following—

(a) Her Majesty's Land Registry;

(b) the Land Registry in Northern Ireland;

(c) the Registry of Deeds for Northern Ireland;

and an appropriate register is any register under the management and control of the Keeper of the Registers of Scotland.

*Expenses of abortive acquisition*

10. Expenses fall within paragraph 7(c) above if (and only if)—

(a) they are incurred with a view to the acquisition of an interest in a residence, the interest is not acquired, but (if it were) the residence would be the employee's new residence,

(b) they would fall within paragraph 7(b) above if the interest were acquired, and

(c) the interest is not acquired because of circumstances outside the control of the person seeking to acquire the interest, or because that person reasonably declines to proceed.

*Expenses of transporting belongings*

11.—(1) Expenses fall within paragraph 7(d) above if (and only if) they consist of one of the following—

(a) expenses connected with transporting domestic belongings from the employee's former residence to his new residence, and

(b) the costs of any insurance effected to cover such transporting.

(2) For the purposes of this paragraph transporting includes—

(a) packing and unpacking belongings,

(b) temporarily storing them if a direct move from the former to the new residence is not made,

(c) detaching domestic fittings from the former residence if they are to be taken to the new residence, and

(d) attaching domestic fittings to the new residence, and adapting them, if they are brought from the old residence.

(3) For the purposes of this paragraph domestic belongings are those of the employee and of members of his family or household.

*Travelling and subsistence expenses*

12.—(1) Expenses fall within paragraph 7(e) above if (and only if) they consist of one of the following—

(a) the costs of travelling and subsistence of the employee and members of his family or household while making temporary visits to the new area for purposes connected with the change,

(b) the employee's costs of travelling between his former residence and the place where he normally performs his new duties or (where paragraph 5(1)(c) above applies) between his former residence and the new place where he normally performs the duties of his employment,

(c) where paragraph 5(1)(b) or (c) above applies, the employee's costs of travelling, before the alteration mentioned in paragraph 5(1)(b) or (c), between his new residence and his original place of work,

(d) costs of the employee's subsistence (other than costs falling within paragraph (a) above),

(e) the employee's costs of travelling between his former residence and any temporary living accommodation of the employee,

(f) where paragraph 5(1)(b) or (c) above applies, the employee's costs of travelling, before the alteration mentioned in paragraph 5(1)(b) or (c), between his new residence and any temporary living accommodation of the employee,

(g) the costs of travelling of the employee and members of his family or household from the employee's former residence to his new residence in connection with the change,

(h) a relevant child's costs of subsistence while staying, for the purposes of securing the continuity of his education, in living accommodation in the old area after the change,

(i) a relevant child's costs of travelling between the accommodation mentioned in paragraph (h) above and the employee's new residence,

(j) a relevant child's costs of subsistence while staying, for the purposes of securing the continuity of his education, in living accommodation in the new area before the change, and

(k) a relevant child's costs of travelling between the accommodation mentioned in paragraph (j) above and the employee's former residence.

(2) For the purposes of this paragraph—

(a) the employee's new duties are the duties of his employment (where paragraph 5(1)(a) above applies) or the new duties of his employment (where paragraph 5(1)(b) above applies),

(b) the new area is the area round or near the place where the employee's new duties are, or are to be, normally performed, or (where paragraph 5(1)(c) above applies) the area round or near the new place where the duties of the employee's employment are, or are to be, normally performed,

(c) the employee's original place of work is the place where, before the alteration mentioned in paragraph 5(1)(b) or (c) above, the employee normally performs the duties of his employment,

(d) a relevant child is a person who is a member of the employee's family or household and who is aged under 19 at the material time, and

(e) the old area is the area round or near the former residence of the employee.

(3) For the purposes of this paragraph the material time is the beginning of the year of assessment in which—

(a) the employee becomes employed by an employer,

(b) the alteration of the duties of the employee's employment becomes effective, or

(c) the alteration of the place where the employee is normally to perform the duties of his employment becomes effective.

(4) In a case where—

(a) expenses are incurred by the employee,

(b) the expenses would, apart from this sub-paragraph, fall within paragraph 7(e) above, and

(c) a deduction is allowable under any of sections 193 to 195 in respect of the whole or part of the expenses,

the expenses or, as the case may be, the part of them in respect of which the deduction is allowable shall be treated as not falling within paragraph 7(e) above.

*Bridging loan expenses*

13.—(1) Expenses fall within paragraph 7(f) above if (and only if)—

(a) the employee has an interest in his former residence,

(b) he disposes of that interest in consequence of the change of residence,

(c) he acquires an interest in his new residence, and

(d) the expenses consist of interest falling within sub-paragraph (2) below.

(2) Interest falls within this sub-paragraph if it is payable by the employee in respect of a loan raised by him and the reason, or one of the reasons, for the loan being raised is that a period elapses between—

(a) the date when expenditure is incurred in connection with the acquisition of the employee's interest in his new residence, and

(b) the date when the proceeds of the disposal of the employee's interest in his former residence are available.

(3) Interest on so much of the loan as exceeds the market value of the employee's interest in his former residence (taken at the time his interest in his new residence is acquired) shall be regarded as not falling within sub-paragraph (2) above.

(4) Interest on so much of the loan as is not used for any of the following purposes shall also be regarded as not falling within sub-paragraph (2) above—

(a) the purpose of redeeming any loan relating to the employee's former residence and raised by him;

(b) the purpose of acquiring the employee's interest in his new residence.

(5) For the purposes of this paragraph a loan relates to a residence if the loan was raised to obtain an interest in the residence, or an interest in the residence forms security for the loan, or both.

(6) References in this paragraph to the employee having, disposing of or acquiring an interest in a residence include references to—

(a) one or more members of the employee's family or household having, disposing of or acquiring such an interest;

(b) the employee and one or more members of his family or household having, disposing of or acquiring such an interest;

and references to the employee's interest shall be construed accordingly.

(7) The reference in this paragraph to interest payable by the employee includes a reference to interest payable by one or more members of the employee's family or household or by the employee and one or more members of his family or household.

(8) References in this paragraph to a loan raised by the employee include references to a loan raised by one or more members of the employee's family or household or by the employee and one or more members of his family or household.

*Duplicate expenses*

14.—(1) Expenses fall within paragraph 7(g) above if (and only if)—

(a) the employee has an interest in his former residence,

(b) he disposes of that interest in consequence of the change of residence,

(c) he acquires an interest in his new residence,

(d) the expenses are incurred by the employee as a result of the change, and

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(e) the expenses are incurred on the purchase of domestic goods intended to replace goods which were used at the employee's former residence but which are not suitable for use at his new residence.

(2) In arriving at the total of the expenses any amount mentioned in sub-paragraph (3) below shall be deducted from what would be the total apart from this sub-paragraph; and accordingly an amount equal to the aggregate of such amounts shall not be treated as eligible removal expenses.

(3) The amount is any amount obtained in respect of the sale of the replaced goods.

(4) References in this paragraph to the employee having, disposing of or acquiring an interest in a residence include references to—

(a) one or more members of the employee's family or household having, disposing of or acquiring such an interest;

(b) the employee and one or more members of his family or household having, disposing of or acquiring such an interest.

*Power to amend*

15.—(1) The Treasury may make regulations amending the preceding provisions of this Part of this Schedule so as to secure that expenses that would not be eligible removal expenses (apart from the regulations) are such expenses.

(2) Any such regulations may include such supplementary, incidental or consequential provisions as appear to the Treasury to be necessary or expedient; and such provisions may be made by way of amendment to other Parts of this Schedule, or otherwise.

(3) Any such regulations shall have effect as regards any change of an employee's residence which results from—

(a) the employee becoming employed by an employer on or after the specified day;

(b) an alteration, with effect from a time falling on or after the specified day, of the duties of the employee's employment;

(c) an alteration, with effect from a time falling on or after the specified day, of the place where the employee is normally to perform the duties of his employment;

and in this sub-paragraph "the specified day" means the day specified in the regulations for the purposes of this sub-paragraph.

PART IV

ELIGIBLE REMOVAL BENEFITS

*Introduction*

16. Benefits are eligible removal benefits if they fall into one of the following categories—

(a) benefits in respect of disposal,

(b) benefits in respect of acquisition,

(c) benefits in respect of abortive acquisition,

(d) benefits in respect of the transporting of belongings,

(e) travelling and subsistence benefits, and

(f) benefits in respect of the new residence;

and paragraphs 17 to 22 below apply for the purpose of interpreting the preceding provisions of this paragraph.

*Benefits in respect of disposal*

17.—(1) A benefit falls within paragraph 16(a) above if (and only if)—

(a) the employee has an interest in his former residence,

(b) that interest is disposed of, or is intended to be disposed of, in consequence of the change of residence, and

(c) the benefit falls within sub-paragraph (2) below.

(2) A benefit falls within this sub-paragraph if it consists of one of the following—

(a) legal services connected with the disposal or intended disposal of the employee's interest in his former residence (including legal services connected with the redemption of any loan relating to the residence),

(b) the waiving of any penalty for redeeming, for the purpose of the disposal or intended disposal, any loan relating to the residence,

(c) the services of an estate agent or auctioneer engaged in the disposal or intended disposal,

(d) services connected with the advertisement of the disposal or intended disposal,

(e) the disconnection, for the purpose of the disposal or intended disposal, of public utilities serving the residence, and

(f) services connected with the maintenance or insurance, or the preservation of the security, of the residence at any time when unoccupied pending the disposal or intended disposal.

(3) Sub-paragraphs (3) and (4) of paragraph 8 above apply for the purposes of this paragraph as they apply for the purposes of that.

*Benefits in respect of acquisition*

18.—(1) A benefit falls within paragraph 16(b) above if (and only if) the employee acquires an interest in his new residence and the benefit consists of one of the following—

(a) legal services connected with the acquisition by the employee of the interest (including legal services connected with any loan raised to acquire the interest),

(b) the waiving of any procurement fees connected with any such loan,

(c) the waiving of any amount payable in respect of insurance effected to cover risks which are incurred by the maker of any such loan and which arise because the amount of the loan is equal to the whole, or a substantial part, of the value of the interest,

(d) any survey or inspection of the residence undertaken in connection with the acquisition by the employee of the interest, and

(e) the connection of any public utility for use by the employee, if the utility serves the residence.

(2) Sub-paragraphs (2) to (4) of paragraph 9 above apply for the purposes of this paragraph as they apply for the purposes of that.

*Benefits in respect of abortive acquisition*

19. A benefit falls within paragraph 16(c) above if (and only if)—

(a) it is provided with a view to the acquisition of an interest in a residence, the interest is not acquired, but (if it were) the residence would be the employee's new residence,

(b) it would fall within paragraph 16(b) above if the interest were acquired, and

(c) the interest is not acquired because of circumstances outside the control of the person seeking to acquire the interest, or because that person reasonably declines to proceed.

*Benefits in respect of the transporting of belongings*

20.—(1) A benefit falls within paragraph 16(d) above if (and only if) it consists of one of the following—

(a) the transporting of domestic belongings from the employee's former residence to his new residence, and

(b) the effecting of insurance to cover such transporting.

(2) Sub-paragraphs (2) and (3) of paragraph 11 above apply for the purposes of this paragraph as they apply for the purposes of that.

*Travelling and subsistence benefits*

21.—(1) A benefit falls within paragraph 16(e) above if (and only if) it consists of one of the following—

(a) subsistence, and facilities for travel, provided for the employee and members of his family or household while making temporary visits to the new area for purposes connected with the change,

(b) facilities provided for the employee for travel between his former residence and the place where he normally performs his new duties or (where paragraph 5(1)(c) above applies) between his former residence and the new place where he normally performs the duties of his employment,

(c) where paragraph 5(1)(b) or (c) above applies, facilities provided for the employee for travel, before the alteration mentioned in paragraph 5(1)(b) or (c), between his new residence and his original place of work,

(d) subsistence provided for the employee (other than subsistence falling within paragraph (a) above),

(e) facilities provided for the employee for travel between his former residence and any temporary living accommodation of the employee,

(f) where paragraph 5(1)(b) or (c) above applies, facilities provided for the employee for travel, before the alteration mentioned in paragraph 5(1)(b) or (c), between his new residence and any temporary living accommodation of the employee,

(g) facilities provided for the employee and members of his family or household for travel from the employee's former residence to his new residence in connection with the change,

(h) subsistence provided for a relevant child while staying, for the purposes of securing the continuity of his education, in living accommodation in the old area after the change,

(i) facilities provided for a relevant child for travel between the accommodation mentioned in paragraph (h) above and the employee's new residence,

(j) subsistence provided for a relevant child while staying, for the purposes of securing the continuity of his education, in living accommodation in the new area before the change, and

(k) facilities provided for a relevant child for travel between the accommodation mentioned in paragraph (j) above and the employee's former residence.

(2) Where (apart from this sub-paragraph) a car or van would constitute a facility for the purposes of sub-paragraph (1) above, it shall not do so if the car or van—

(a) is provided as mentioned in that sub-paragraph,

(b) is also available at any relevant time to the employee, or to others being members of his family or household, for his or their private use not falling within that sub-paragraph, and

(c) is so available by reason of the employee's employment and without any transfer of the property in it.

(3) Sub-paragraphs (2) and (3) of paragraph 12 above apply for the purposes of this paragraph as they apply for the purposes of that.

(4) In this paragraph "car", "van" and "private use" have the same meanings as in Chapter II of this Part of this Act.

(5) Section 168(6) applies for the purposes of this paragraph as it applies for the purposes of Chapter II of this Part of this Act.

(6) For the purposes of this paragraph a relevant time is any time falling on or before the day which is the relevant day (within the meaning given by paragraph 6 above) in relation to the change of residence concerned.

(7) In a case where—

(a) a benefit is provided for the employee or a member of his family or household,

(b) the benefit would, apart from this sub-paragraph, fall within paragraph 16(e) above, and

(c) a deduction is allowable under any of sections 193 to 195 in respect of the whole or part of the cost of the benefit,

the benefit shall, subject to sub-paragraph (8) below, be treated as not falling within paragraph 16(e) above.

(8) Where a deduction is allowed as mentioned in sub-paragraph (7) above in respect of part only of the cost of the benefit, the extent to which the benefit is treated as falling within paragraph 16(e) above shall be determined on a just and reasonable basis.

*Benefits in respect of new residence*

22.—(1) A benefit falls within paragraph 16(f) above if (and only if)—

(a) the employee has an interest in his former residence,

(b) he disposes of that interest in consequence of the change of residence,

(c) he acquires an interest in his new residence,

(d) the benefit is provided as a result of the change, and

(e) the benefit consists of domestic goods provided to replace goods which were used at the employee's former residence but which are not suitable for use at his new residence.

(2) Sub-paragraph (4) of paragraph 14 above applies for the purposes of this paragraph as it applies for the purposes of that.

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*Power to amend*

23.—(1) The Treasury may make regulations amending the preceding provisions of this Part of this Schedule so as to secure that a benefit that would not be an eligible removal benefit (apart from the regulations) is such a benefit.

(2) Any such regulations may include such supplementary, incidental or consequential provisions as appear to the Treasury to be necessary or expedient; and such provisions may be made by way of amendment to other Parts of this Schedule, or otherwise.

(3) Sub-paragraph (3) of paragraph 15 above applies to regulations made under this paragraph as it applies to regulations made under that.

PART V

THE QUALIFYING LIMIT

24.—(1) In a case where, by reason of the employee's employment and in connection with a particular change of residence—

(a) any sums are paid as mentioned in paragraph 1(1)(a) or (b) above, or

(b) any qualifying removal benefit is provided as mentioned in paragraph 1(1)(c) above,

paragraph 1(1) above shall apply only to the extent that the total value to the employee, found under sub-paragraph (2) below, does not exceed the qualifying limit.

(2) The total value to the employee is the total of the following—

(a) the aggregate of the amounts of any sums paid as mentioned in paragraph 1(1)(a) or (b) above in connection with the change of residence;

(b) the aggregate of any amounts represented by qualifying removal benefits which are provided as mentioned in paragraph 1(1)(c) above in connection with the change.

(3) Subject to sub-paragraphs (4) to (8) below, for the purposes of sub-paragraph (2)(b) above the amount represented by a benefit is the amount which would be the cash equivalent of the benefit under Chapter II of this Part of this Act if the benefit were chargeable under the appropriate provision of that Chapter.

(4) In the case of a benefit which—

(a) consists of living accommodation provided for a person, and

(b) is, or would be apart from this Schedule, chargeable under section 145 and not under section 146,

for the purposes of sub-paragraph (2)(b) above the amount represented by the benefit is the amount which, if the benefit were so chargeable, would be the value to the employee of the accommodation for the period in which the accommodation is provided, less the appropriate sum.

(5) For the purposes of sub-paragraph (4) above the value to the employee of accommodation in any period shall be determined in accordance with section 145, and the reference in that sub-paragraph to the appropriate sum is to the total of—

(a) so much of any sum made good by the employee to those at whose cost the accommodation is provided as is properly attributable to the provision of the accommodation, and

(b) any amounts which, if the benefit were chargeable under section 145, would be deductible by virtue of section 145(3) from the amount to be treated as emoluments under section 145(1) as regards the benefit.

(6) In the case of a benefit which—

(a) consists of living accommodation provided for a person, and

(b) is, or would be apart from this Schedule, chargeable under both section 145 and section 146,

for the purposes of sub-paragraph (2)(b) above the amount represented by the benefit is the total of the amounts mentioned in sub-paragraph (7) below.

(7) The amounts referred to in sub-paragraph (6) above are—

(a) the amount which would be found under sub-paragraph (4) above if the benefit were chargeable under section 145 and not under section 146, and

(b) the amount which, if the benefit were chargeable under section 146, would be the additional value to the employee of the accommodation for the period in which the accommodation is provided, less the appropriate sum.

(8) For the purposes of sub-paragraph (7) above the additional value to the employee of accommodation in any period shall be determined in accordance with section 146, and the reference in that sub-paragraph to the appropriate sum is to the total of—

(a) so much of any rent paid by the employee in respect of the accommodation to the person providing it as exceeds the value to the employee of the accommodation for the period (determined in accordance with section 145), and

(b) any amounts which, if the benefit were chargeable under section 146, would be deductible by virtue of subsection (9) of that section from the amount to be treated as emoluments under that section as regards the benefit.

(9) The qualifying limit, as regards any change of residence, is £8,000.

(10) The Treasury may by order substitute for the sum for the time being specified in sub-paragraph (9) above a sum of a greater amount.

(11) Any such substitution shall have effect as regards any change of an employee's residence which results from—

(a) the employee becoming employed by an employer on or after the specified day;

(b) an alteration, with effect from a time falling on or after the specified day, of the duties of the employee's employment;

(c) an alteration, with effect from a time falling on or after the specified day, of the place where the employee is normally to perform the duties of his employment;

and in this sub-paragraph "the specified day" means the day specified in the order for the purposes of this sub-paragraph.

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PART VI

GENERAL

*Interpretation*

25. In this Schedule—

(a) references to the residence of the employee are to his sole or main residence,

(b) references to the former residence of the employee are to his sole or main residence before the change,

(c) references to the new residence of the employee are to his sole or main residence after the change, and

(d) references to an interest in a residence are, in the case of a building, references to an estate or interest in the land concerned.

26. For the purposes of this Schedule a person is not a member of another person's family or household unless the former is—

(a) the latter's spouse, son, daughter, parent, servant, dependant or guest, or

(b) the spouse of a son or daughter of the latter.

27. In this Schedule references to employment include references to any office, and related expressions shall be construed accordingly.

28. References in this Schedule to subsistence are to food, drink and temporary living accommodation.

*Commencement*

29. This Schedule applies to any payment made, or any benefit provided, in connection with a change of an employee's residence which results from—

(a) the employee becoming employed by an employer on or after 6th April 1993,

(b) an alteration, with effect from a time falling on or after 6th April 1993, of the duties of the employee's employment, or

(c) an alteration, with effect from a time falling on or after 6th April 1993, of the place where the employee is normally to perform the duties of his employment."

Section 79.

SCHEDULE 6

TAXATION OF DISTRIBUTIONS: SUPPLEMENTAL PROVISIONS

*The Taxes Act 1988*

1. In each of sections 167(2A), 353(5), 369(3B), 683(2), 684(2) and 819(2) of the Taxes Act 1988 (definitions of excess liability), and in the definition of "excess liability" in paragraph 19(1) of Schedule 7 to that Act, for "were charged at the basic rate" there shall be substituted "by virtue of section 1(2)(aa) were charged at the basic rate, or (so far as applicable in accordance with section 207A) the lower rate,".

2.—(1) In subsection (1) of section 233 of that Act (taxation of certain recipients and in respect of non-qualifying distributions)—

(a) for the words "basic rate", in each place where they occur, there shall be substituted "lower rate"; and

(b) in paragraph (c), the words "as income which is not chargeable at the lower rate and" shall be omitted.

(2) After that subsection there shall be inserted the following subsections—

"(1A) Where in any year of assessment the income of any person who is not a company includes a qualifying distribution in respect of which that person, not being resident in the United Kingdom, is not entitled to a tax credit—

(a) the amount or value of the distribution so far as it is comprised in—

(i) income to which an assessment such as is mentioned in paragraph (b) of subsection (1) above relates, or

(ii) income chargeable to tax in accordance with section 686 at the rate applicable to trusts,

shall be deemed for the purposes of that assessment or, as the case may be, that section to be the sum which if reduced by an amount equal to income tax on that sum at the lower rate would be equal to the amount or value of the distribution actually made; and

(b) that person shall be treated for the purposes of section 686 as having paid tax at the lower rate on any amount which under paragraph (a) above is deemed to be the amount or value of the distribution for the purpose of that section;

but no repayment shall be made of any income tax treated by virtue of this subsection as having been paid.

(1B) Where in any year of assessment the income of any trustees which is chargeable to income tax in accordance with section 686 includes any non-qualifying distribution (within the meaning of subsection (2) below), the trustees' liability under any assessment made in respect of income tax at the rate applicable to trusts on the amount or value of the distribution, or on any part of the distribution, shall be reduced by a sum equal to income tax at the lower rate on so much of the distribution as is assessed at the rate applicable to trusts."

(3) In subsection (2) of that section, in the definition of "excess liability"—

(a) for the words from "not chargeable" to "basic rate" there shall be substituted "were charged at the lower rate"; and

(b) for "any higher rate" there shall be substituted "the higher rate or, as the case may be, the rate applicable to trusts".

3. In each of sections 235(4) and 237(3) of that Act (taxation on distributions at the additional rate), for the words from "the additional rate" to "is made" there shall be substituted "the difference according to the rates in force at the time the distribution is made between the lower rate and the rate applicable to trusts".

4. In section 468E(2) of that Act (deemed rate of corporation tax in relation to authorised unit trusts), for "for a financial year shall be deemed to be the rate at which income tax at the basic rate" there shall be substituted "shall be deemed to be 22.5 per cent. for the financial year 1993 and for subsequent financial years shall be deemed to be the rate at which income tax at the lower rate".

5.—(1) In subsection (2) of section 468F of that Act (distributions by authorised unit trusts to persons chargeable to corporation tax)—

(a) for "the payment" there shall be substituted "the unfranked portion of the payment"; and

(b) in paragraph (b), for "basic rate" there shall be substituted "lower rate".

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(2) After that subsection there shall be inserted the following subsections—

"(2A) For the purposes of subsection (2) above the unfranked portion of the payment shall be calculated according to the following formula—

$$U = P \times \frac{I - D}{I}$$

(2B) For the purposes of the formula in subsection (2A) above—

U is the unfranked portion of the payment;

P is the payment;

I is the gross amount of the income arising to the trustees in respect of the distribution period in question which has been brought into account in ascertaining the amount of income available for distribution to unit holders in respect of that period; and

D is so much of I as represents franked investment income from the investments subject to the trusts."

6. In each of sections 549(2), 689(2) and 699(2) of that Act (definitions of excess liability), for "were chargeable at the basic rate" there shall be substituted "by virtue of section 1(2)(aa) were chargeable at the basic rate, or (so far as applicable in accordance with section 207A) the lower rate,".

7.—(1) In each of subsections (2)(h) and (7)(a) of section 677 of that Act (sums paid to settlor), for the words from "the sum" to "additional rate" there shall be substituted "tax at the rate applicable to trusts".

(2) In subsection (6) of that section, for "both tax at the basic rate and tax at the additional rate" there shall be substituted "tax at the rate applicable to trusts".

(3) In subsection (7)(b) of that section, for "that sum" there shall be substituted "the amount of tax at that rate".

8.—(1) In subsection (1) of section 686 of that Act (income of discretionary trusts subject to additional rate tax), for the words from "in addition" onwards there shall be substituted "be chargeable to income tax at the rate applicable to trusts, instead of at the basic rate or, in accordance with section 207A, at the lower rate."

(2) After that subsection there shall be inserted the following subsection—

"(1A) The rate applicable to trusts for any year of assessment shall be the rate equal to the sum of the basic rate and the additional rate in force for that year; and, for the purposes of assessments for the year 1993-94 and in relation to years of assessment for which tax at the basic rate and the additional rate was separately chargeable, references to the charging of income with tax at the rate applicable to trusts shall be taken to include references to the charging of income with tax both at the basic rate and at the additional rate."

(3) After subsection (2) of that section there shall be inserted the following subsection—

"(2A) For the purposes of this section where—

(a) any trustees have expenses in any year of assessment ('management expenses') which are properly chargeable to income or would be so chargeable but for any express provisions of the trust, and

(b) there is income arising to them in that year ('the untaxed income') which does not bear income tax for that year by reason wholly or partly of the trustees not having been resident in the United Kingdom or being deemed under any arrangements under section 788, or any arrangements having effect by virtue of that section, to have been resident in a territory outside the United Kingdom,

there shall be disregarded for the purposes of subsection (2)(d) above such part of the management expenses as bears the same proportion to all those expenses as the untaxed income bears to all the income arising to the trustees in that year."

(4) In subsection (6) of that section (payments by personal representatives to trustees), for "basic rate" there shall be substituted "applicable rate".

9.—(1) In subsection (2) of section 687 of that Act (deemed deduction from payment under discretionary trust), for the words from "a rate" to "in force" there shall be substituted "the rate applicable to trusts".

(2) In subsection (3) of that section—

(a) in paragraph (a), for "and charged at the additional as well as at the basic rate" there shall be substituted "which (not being income the tax on which falls within paragraph (aa) or (b) below) is charged at the rate applicable to trusts";

(b) after that paragraph there shall be inserted the following paragraph—

"(aa) the amount of tax which, by virtue of section 233(1B), is charged, at a rate equal to the difference between the lower rate and the rate applicable to trusts, on the amount or value of the whole or any part of any non-qualifying distribution included in the income arising to the trustees;"

(c) in paragraph (b), as it has effect by virtue of section 79(2) of this Act, for "the additional rate" there shall be substituted "a rate equal to the difference between the lower rate and the rate applicable to trusts";

(d) in each of paragraphs (e) to (i) (except paragraph (g)), and in paragraph (j) as it so has effect, for the words from "at a rate" to "additional rate" there shall be substituted "at the rate applicable to trusts".

10. In section 694(2A) of that Act (special charge for trustees in certain cases), for "sum of the basic and additional rates" there shall be substituted "amount of the rate applicable to trusts".

11.—(1) In each of sections 695(4)(a), 696(3) to (5) and 698(2) of that Act (deemed payments out of the residue of a deceased's estate), for the words "basic rate", wherever they occur, there shall be substituted "applicable rate".

(2) After section 698 of that Act there shall be inserted the following section—

"Taxation at the lower rate of the income of beneficiaries.

698A.—(1) Subject to subsection (2) below, in so far as the income of any person is treated under this Part as having borne income tax at the lower rate, section 207A shall apply to that income as it applies to income chargeable under Schedule F.

(2) Subsection (1) above shall not apply to income paid indirectly through a trustee and treated as having borne income tax at the lower rate by virtue of section 698(3); but (subject to section 686(1)) section 207A shall apply as if the payment made to the trustee were income of the trustee chargeable under Schedule F."

(3) In section 701 of that Act (interpretation of provisions relating to deemed payments), after subsection (3) there shall be inserted the following subsection—

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"(3A) 'Applicable rate', in relation to any amount which a person is deemed by virtue of this Part to receive or to have a right to receive, means the basic rate or the lower rate according as the income of the residue of the estate out of which that amount is or would be paid bears tax at the basic rate or the lower rate; and in determining for the purposes of this Part whether or how much of any payment is or would be deemed to be made out of income that bears tax at one rate rather than another—

(a) such apportionments of the amounts bearing tax at different rates shall be made between different persons with interests in the residue of the estate as are just and reasonable in relation to their different interests; and

(b) subject to paragraph (a) above, it shall be assumed that payments are to be made out of income bearing tax at the basic rate before they are made out of income bearing tax at the lower rate."

12. In section 703(5)(b) of that Act (cancellation of tax advantage), for "basic rate" there shall be substituted "lower rate".

13. In each of sections 720(5) and 764 of that Act (taxation of other income of trustees), for the words from "at a rate" to "additional rate" there shall be substituted "at the rate applicable to trusts".

14. In section 737 of that Act (manufactured dividends), after subsection (1) there shall be inserted the following subsection—

"(1A) In the case of any payment which under Schedule 23A is such that, in relation to a recipient chargeable to income tax, it would be chargeable under Schedule F, the deduction of tax which (apart from this subsection) would be deemed by virtue of subsection (1) above to have been made at the basic rate shall be deemed to have been made—

(a) at a rate of 22.5 per cent., if the payment is made on or after 6th April 1993 and before 6th April 1994; and

(b) at the lower rate, if the payment is made on or after 6th April 1994;

and, accordingly, section 350(1) shall have effect by virtue of that subsection in relation to any such payment so as to make the dividend manufacturer assessable and chargeable with income tax on the gross amount of the payment at the rate specified in paragraph (a) or, as the case may be, paragraph (b) above, instead of at the basic rate."

15. In section 832(1) of that Act (interpretation), after the definition of "qualifying policy" there shall be inserted the following definition—

"'the rate applicable to trusts' shall be construed in accordance with section 686(1A);".

16. In section 835(6)(a) of that Act (year for which income included in total income), after "an amount" there shall be inserted "which is or (apart from section 78(3) of the Finance Act 1993) would be".

17.—(1) In Schedule 3 to that Act (machinery provisions), in sub-paragraph (1) of paragraph 6A, for "basic rate" there shall be substituted "applicable rate".

(2) After sub-paragraph (2) of that paragraph there shall be inserted the following sub-paragraph—

"(2A) Payments of tax made on any person's behalf under this paragraph shall be treated as made for the purpose only of being applied in the discharge of that person's liability to tax charged (otherwise than by virtue of this paragraph) on the dividends or proceeds to which the payments relate."

(3) After sub-paragraph (3) of that paragraph there shall be inserted the following sub-paragraph—

"(4) For the purposes of sub-paragraph (1) above the applicable rate shall be—

(a) the lower rate, in the case of a foreign dividend which is neither interest nor any other annual payment which is made otherwise than by way of dividend; and

(b) the basic rate in any other case."

18. In paragraph 17(1) of Schedule 4 to that Act (taxation of trustees in respect of deep discount securities), for the words from "a rate" to "additional rate" there shall be substituted "the rate applicable to trusts".

19. In paragraph 2 of Schedule 23A to that Act (manufactured dividends and interest), after sub-paragraph (4) there shall be inserted the following sub-paragraph—

"(5) Sub-paragraph (3)(c) above shall be without prejudice to the operation of subsection (3) of section 78 of the Finance Act 1993, where that subsection has effect by virtue of sub-paragraph (3)(a) above for determining the amount of any tax credit to which any person is entitled in respect of any manufactured dividend."

*The Finance Act 1989 (c. 26)*

20. In each of sections 68(2)(c) and 71(4)(c) of the Finance Act 1989 and in paragraph 11(1) of Schedule 11 to that Act (which contain references to a rate equal to the sum of the basic rate and the additional rate), for the words from "a rate" to "additional rate" there shall be substituted "the rate applicable to trusts".

*The Finance Act 1990 (c. 29)*

21. In paragraph 19(1) of Schedule 10 to the Finance Act 1990 (taxation of trustees in respect of convertible securities), for the words from "a rate" to "additional rate" there shall be substituted "the rate applicable to trusts".

*The Taxation of Chargeable Gains Act 1992 (c. 12)*

22.—(1) In section 4 of the Taxation of Chargeable Gains Act 1992 (rates of capital gains tax), after subsection (3) there shall be inserted the following subsections—

"(3A) Income chargeable to income tax at the lower rate in accordance with section 207A of the Taxes Act, and any income which would be chargeable in accordance with that section if it were not chargeable at the higher rate, shall be disregarded in determining for the purposes of subsections (1A) and (1B) above—

(a) whether any individual has income for any year of assessment; or

(b) an individual's total income for any year of assessment.

(3B) Where any amount on which an individual is chargeable for a year of assessment to capital gains tax at a rate equivalent to the lower rate is or includes an amount ('the amount of the lower rate gains') on which he is so chargeable by virtue only of subsection (3A) above then—

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(a) for the purposes of the Income Tax Acts and this section, the amount (if any) of income comprised in the individual's total income which is chargeable to income tax at the higher rate shall be determined as if the basic rate limit for that year were reduced in relation to that individual by the amount of the lower rate gains; and

(b) the amount (if any) on which, but for this paragraph, the individual would be chargeable under subsection (2) above to capital gains tax at a rate equivalent to the higher rate shall be treated as reduced by the amount of the lower rate gains or, if the amount to be reduced is not more than the amount of those gains, to nil."

(2) In subsection (4) of that section (definition of "unused part of an individual's basic rate band"), after "by which" there shall be inserted "(disregarding subsection (3B)(a) above)".

23. In section 5(1) of that Act (rate of tax in respect of capital gains accruing to trustees of an accumulation or discretionary settlement), for the words from "the sum" onwards there shall be substituted "the rate which for that year is applicable to trusts under section 686(1) of the Taxes Act."

24. In section 6(1) of that Act (which contains a definition of "excess liability"), for "were charged at the basic rate" there shall be substituted "by virtue of section 1(2)(aa) of the Taxes Act were charged at the basic rate, or (so far as applicable in accordance with section 207A of that Act) the lower rate,".

*Commencement*

25.—(1) This Schedule, except the provisions to which sub-paragraphs (2) to (5) below apply, shall have effect for the year 1993-94 and subsequent years of assessment.

(2) Paragraph 4 above shall have effect for the financial year 1993 and subsequent financial years.

(3) Paragraph 5(1)(a) and (2) above shall have effect where the date of payment is on or after 1st April 1993.

(4) Paragraphs 14 and 19 above shall have effect in relation to any payment of a manufactured dividend made on or after 6th April 1993.

(5) Paragraph 17 above shall have effect in relation to transactions effected on or after 6th April 1993.

Section 87.

## SCHEDULE 7

### RELIEF ON RETIREMENT OR RE-INVESTMENT

### PART I

### RETIREMENT RELIEF ETC.

*Extension of references to "family company"*

1992 c. 12.

1.—(1) In sections 157 and 163 to 165 of the Taxation of Chargeable Gains Act 1992 and in paragraph 12(2) of Schedule 6 and paragraph 7(1) of Schedule 7 to that Act (which contain provisions relating to retirement relief and provisions which apply the definition of "family company" in Schedule 6 for other purposes), for the words "family company", wherever they occur, there shall be substituted "personal company".

(2) In paragraph 1(2) of Schedule 6 to that Act (definitions), after the definition of "permitted period" there shall be inserted the following definition—

"'personal company', in relation to an individual, means any company the voting rights in which are exercisable, as to not less than 5 per cent., by that individual;".

*Extension of references to full-time working directors etc.*

2.—(1) Subject to sub-paragraph (4) below, in sections 163 and 164 of that Act and in Schedule 6 to that Act (retirement relief), for the words "full-time working director", wherever they occur, there shall be substituted "full-time working officer or employee".

(2) In section 163(7)(b) of that Act, for "a director" there shall be substituted "an officer or employee".

(3) In section 164(2)(b) of that Act, for "director" there shall be substituted "officer or employee".

(4) In paragraph 1(2) of Schedule 6 to that Act, for the definition of "full-time working director" there shall be substituted—

"'full-time working officer or employee', in relation to one or more companies, means any officer or employee who is required to devote substantially the whole of his time to the service of that company, or those companies taken together, in a managerial or technical capacity;".

PART II

ROLL-OVER RELIEF ON RE-INVESTMENT

3. After Chapter I of Part V of that Act there shall be inserted the following Chapter—

"CHAPTER IA

ROLL-OVER RELIEF ON RE-INVESTMENT

Relief on re-investment for individuals.

164A.—(1) Subject to the following provisions of this Chapter, roll-over relief under this section shall be available where—

(a) a chargeable gain would (apart from this section) accrue to any individual ('the re-investor') on any material disposal by him of shares in or other securities of any company ('the initial holding'); and

(b) that individual acquires a qualifying investment at any time in the qualifying period.

(2) Subject to section 164C, where roll-over relief under this section is available, the re-investor shall, on making a claim as respects the qualifying investment, be treated—

(a) as if the consideration for the disposal of the initial holding were reduced by whichever is the smallest of the following, that is to say—

(i) the amount of the chargeable gain which apart from this subsection would accrue on the disposal of the initial holding, so far as that amount has not already been held over by way of reductions under this subsection,

(ii) the actual amount or value of the consideration for the acquisition of the qualifying investment,

(iii) in the case of a qualifying investment acquired otherwise than by a transaction at arm's length, the market value of that investment at the time of its acquisition, and

(iv) the amount specified for the purposes of this subsection in the claim;

and

(b) as if the amount or value of the consideration for the acquisition of the qualifying investment were reduced by the amount of the reduction made under paragraph (a) above,

but neither paragraph (a) nor paragraph (b) above shall affect the treatment for the purposes of this Act of the other party to the transaction involving the initial holding or of the other party to the transaction involving the qualifying investment.

(3) Subject to subsections (5) and (6) below, the disposal of shares in or other securities of a company is a material disposal for the purposes of this section if the conditions specified in subsection (4) below are satisfied in relation to a period of one year ending with—

(a) the date of the disposal; or

(b) if the company ceased at any time in the permitted period before the disposal to be a trading company or the holding company of a trading group, that time.

(4) The conditions mentioned in subsection (3) above are satisfied in relation to any period if throughout that period-

(a) the company has been a trading company or the holding company of a trading group;

(b) the company has been an unquoted company;

(c) the company has been the re-investor's personal company; and

(d) the re-investor has been a full-time working officer or employee of the company or, if that company is a member of a group or commercial association of companies, of one or more companies which are members of the group or association.

(5) Where, throughout a period ending at the same time as the period mentioned in subsection (3) above and beginning at a time ('the time of partial retirement') when the re-investor ceased to be such a full-time working officer or employee as is mentioned in subsection (4)(d) above—

(a) the conditions specified in subsection (4)(a) to (c) above were satisfied in relation to any company,

(b) the re-investor was an officer or employee of that company or, as the case may be, of one or more members of the group or association in question, and

(c) in that capacity, the re-investor devoted at least 10 hours per week (averaged over the period) to the service of the company or companies in a technical or managerial capacity,

the disposal of shares in or other securities of that company is a material disposal for the purposes of this section if the conditions specified in subsection (4) above were satisfied in relation to the period of one year ending with the time of partial retirement.

(6) Where—

(a) any company has ceased to be an unquoted company, and

(b) in the case of that company, all the conditions specified in subsection (4) above were satisfied in relation to the period of one year ending with the time when the company so ceased,

this section shall have effect in relation to an initial holding acquired by the re-investor at a time when the company in question was an unquoted company as if the company continued to be an unquoted company after that time until the disposal of that holding and as if the period mentioned in subsection (3) above included all such time (if any) as falls after the company's ceasing to be an unquoted company and before what would, apart from this subsection, have been the beginning of that period.

(7) Any question for the purposes of subsection (6) above as to when the shares or other securities comprised in the initial holding were acquired shall be determined by assuming, in relation to any disposals of shares or other securities regarded as forming part of a single asset, that shares or other securities acquired later are disposed of before those acquired earlier.

(8) For the purposes of this section a person shall be regarded as acquiring a qualifying investment where he acquires any eligible shares in a qualifying company if—

(a) he holds 5 per cent. or more of the eligible shares in that company—

(i) at any time after making the acquisition and in the period of 3 years after the disposal of the initial holding, or

(ii) at such time after the end of that period as the Board may by notice allow;

(b) that company has not ceased to be a qualifying company between the acquisition of those shares and that time; and

(c) that company is neither the company in which the initial holding has subsisted nor a company that was a member of the same group of companies as that company at the time of the disposal of the initial holding or of the acquisition of the qualifying investment.

(9) For the purposes of this section the acquisition of a qualifying investment shall be taken to be in the qualifying period if, and only if, it takes place—

(a) at any time in the period beginning 12 months before and ending 3 years after the disposal of the initial holding, or

(b) at such time before the beginning of that period or after it ends as the Board may by notice allow.

(10) The provisions of this Act fixing the amount of the consideration deemed to be given for the acquisition or disposal of assets shall be applied before this section is applied; and, without prejudice to the generality of this subsection, section 42(5) shall apply in relation to an adjustment under this section

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of the consideration for the acquisition of any shares as it applies in relation to an adjustment under any enactment to secure that neither a gain nor a loss accrues on a disposal.

(11) The provisions of this section for making any reduction shall apply before any provisions for calculating the amount of, or giving effect to, any relief under section 163 of 164, and references in this section to chargeable gains shall be construed accordingly.

(12) Without prejudice to section 52(4), where consideration is given for the acquisition or disposal of any assets some of which are shares or other securities to the acquisition or disposal of which a claim under this section relates and some of which are not, the consideration shall be apportioned in such manner as is just and reasonable.

Roll-over relief on re-investment by trustees.

164B.—(1) Subject to the following provisions of this section, section 164A shall apply, as it applies in such a case as is mentioned in subsection (1) of that section, where there is—

(a) a disposal by the trustees of a settlement of any shares in or other securities of a company which are part of the settled property; and

(b) such an acquisition by those trustees of eligible shares in a qualifying company as would for the purposes of that section be an acquisition of a qualifying investment at a time in the qualifying period,

but as if the disposal were a material disposal if, and only if, the conditions specified in subsection (2) below are satisfied in relation to the period of one year mentioned in section 164A(3).

(2) The conditions mentioned in subsection (1) above are satisfied in relation to any period if—

(a) the company has been a trading company or the holding company of a trading group throughout that period;

(b) the company has been an unquoted company throughout that period;

(c) throughout that period the company has been a personal company of a relevant beneficiary; and

(d) that relevant beneficiary has throughout that period been a full-time working officer or employee of the company or, if that company is a member of a group or commercial association of companies, of one or more companies which are members of the group or association.

(3) References in this section, in relation to the disposal of any shares or other securities by the trustees of any settlement, to a relevant beneficiary are references to any beneficiary who, under the settlement, has an interest in possession in the whole of the settled property or, as the case may be, in a part of it which consists of or includes the shares or securities, but excluding, for this purpose, an interest for a fixed term.

(4) If, in the case of a disposal by any trustees of any shares or other securities, there is, in addition to the beneficiary in relation to whom the requirements of subsection (2)(d) above are satisfied ('the qualifying beneficiary'), at least one other beneficiary who, at the relevant time, has an interest in

possession in, the whole of the settled property or, as the case may be, in a part of it which consists of or includes the shares or securities—

(a) only the relevant proportion of the gain which would accrue to the trustees on the disposal shall be taken into account for the purposes of section 164A(2)(a)(i); and

(b) no reduction under section 164A(2) shall be made in respect of the whole or any part of the balance of the gain.

(5) For the purposes of subsection (4) above the relevant proportion is the proportion which the interest specified in paragraph (a) below bears to the interests specified in paragraph (b) below, that is to say—

(a) the qualifying beneficiary's interest at the relevant time in the income of the part of the settled property comprising the shares or other securities in question; and

(b) the interests at that time in that income of all the beneficiaries (including the qualifying beneficiary) who at that time have interests in possession in that part.

(6) The reference in subsection (5) above to the qualifying beneficiary's interest is a reference to the interest by virtue of which he is the qualifying beneficiary and not to any other interest he may hold.

(7) Section 164A shall not apply by virtue of this section unless immediately after the acquisition mentioned in subsection (1)(b) above the qualifying beneficiary has an interest in possession in the whole of the settled property, or in the part of it in which the acquired shares are comprised, which is the same as or, as the case may be, is equivalent to the interest at the relevant time by virtue of which he is the qualifying beneficiary.

(8) In this section 'the relevant time', in relation to a disposal of any shares or other securities, means the time of the disposal or if, by virtue of paragraph (b) of subsection (3) of section 164A, the period mentioned in that subsection is treated in relation to that disposal as ending at any earlier time, that earlier time.

Restriction applying to retirement relief and roll-over relief on re-investment.

164C—(1) Subject to the following provisions of this section, in the case of any disposal of shares in or other securities of any company in relation to which a claim is made under section 164A—

(a) the gains which (apart from sections 163 to 164B) would on the disposal accrue to the individual or, as the case may be, the trustees shall be aggregated,

(b) the amount available in respect of the disposal for relief under sections 163 and 164 and for the making of deductions under section 164A(2) above shall be deemed to be confined to the appropriate proportion of the aggregated gains, and

(c) so much of the aggregated gains as exceeds the amount so available shall be disregarded for the purposes of sections 163 to 164B and, accordingly, shall constitute chargeable gains.

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(2) Subject to subsection (4) below, in this section 'the appropriate proportion', in relation to gains accruing on the disposal of shares in or other securities of a company that is not a holding company of a trading group, means the proportion which the amount specified in paragraph (a) below bears to the amount specified in paragraph (b) below, that is to say—

(a) that part of the value of the company's chargeable assets at the relevant time which is attributable to the value of the company's chargeable business assets; and

(b) the whole of the value of the company's chargeable assets at that time.

(3) Subject to subsection (4) below, in this section 'the appropriate proportion', in relation to gains accruing on the disposal of shares in or other securities of a holding company of a trading group, means the proportion which the amount specified in paragraph (a) below bears to the amount specified in paragraph (b) below, that is to say—

(a) that part of the value of the trading group's chargeable assets at the relevant time which is attributable to the value of the trading group's chargeable business assets; and

(b) the whole of the value of the trading group's chargeable assets at that time.

(4) Where a company or trading group has no chargeable assets, 'the appropriate proportion', in relation to the gains accruing on the disposal of shares in or other securities of that company or, as the case may be, of the holding company of that group, means the whole of those gains.

(5) Subject to subsection (6)(b) below, every asset of a company is for the purposes of this section a chargeable asset of that company except one, on the disposal of which by the company at the relevant time, no gain accruing to the company would be a chargeable gain.

(6) For the purposes of this section—

(a) any reference, in relation to a trading group, to the trading group's chargeable assets or chargeable business assets is a reference to the chargeable assets or, as the case may be, chargeable business assets of every member of the trading group; and

(b) a holding by one member of the trading group of the ordinary share capital of another member of the group is not a chargeable asset.

(7) Where the whole of the ordinary share capital of a 51 per cent. subsidiary of a holding company is not owned directly or indirectly by that company, then, for the purposes of this section, the value of the chargeable assets and of the chargeable business assets of that subsidiary shall be taken to be reduced according to the formula-

$$A \quad x \frac{B}{C}$$

(8) In subsection (7) above—

A is the value falling to be reduced of the chargeable assets or chargeable business assets of the subsidiary;

B is the amount of the ordinary share capital of the subsidiary owned, directly or indirectly, by the holding company;

C is the whole of the ordinary share capital of the subsidiary;

and section 838 of the Taxes Act (definition of expressions in relation to subsidiaries) shall apply for construing that subsection and this subsection.

(9) In this section 'chargeable business asset', in relation to any company, means a chargeable asset (including goodwill but not including any shares or other securities or any assets held as investments) which is, or is an interest in, an asset used for the purposes of a trade, profession, vocation, office or employment carried on by—

(a) the individual concerned,

(b) any personal company of that individual,

(c) a member of a trading group of which the holding company is a personal company of that individual, or

(d) a partnership of which that individual is a member.

(10) For the purposes of the application of this section to a case in which trustees dispose of any shares or other securities, the references in subsection (9) above to the individual concerned are references to the qualifying beneficiary.

(11) In this section 'the relevant time' has the same meaning as in section 164B.

(12) This section shall be without prejudice to the provisions of paragraphs 7 to 11 of Schedule 6.

Relief carried forward into replacement shares.

164D.—(1) This section shall apply where a person has acquired any eligible shares in a qualifying company ('the acquired holding') for a consideration which is treated as reduced, under section 164A or the following provisions of this section, by any amount ('the held-over gain').

(2) If—

(a) the person who acquired the acquired holding disposes of eligible shares in the company in question ('the acquired shares'),

(b) that person at any time in the relevant period acquires other eligible shares ('the replacement shares') in a qualifying company which is not a relevant company;

(c) the acquisition of the replacement shares would, in relation to the disposal of the acquired shares, be treated (were the disposal a material disposal) as an acquisition of a qualifying investment for the purposes of section 164A, and

(d) roll-over relief is not available under section 164A in relation to the acquisition of the replacement shares,

that person shall, on making a claim as respects the acquisition of the replacement shares, be treated in relation to that acquisition in accordance with subsection (3) below.

(3) Where a person falls to be treated in accordance with this subsection in relation to the acquisition of the replacement shares, he shall be treated—

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(a) as if the consideration for the disposal of the acquired shares were reduced by whichever is the smallest of the following, that is to say—

(i) the amount of the held-over gain on the acquisition of the acquired holding, so far as that amount has not already been carried forward under this section from any disposal of eligible shares in the company in question or been charged on a disposal or under section 164F,

(ii) the actual amount or value of the consideration for the acquisition of the replacement shares,

(iii) in the case of replacement shares acquired otherwise than by a transaction at arm's length, the market value of the replacement shares at the time of their acquisition, and

(iv) the amount specified for the purposes of this subsection in the claim;

and

(b) as if the amount or value of the consideration for the acquisition of the replacement shares were reduced by the amount of the reduction made under paragraph (a) above,

but neither paragraph (a) nor paragraph (b) above shall affect the treatment for the purposes of this Act of the other party to the transaction involving the acquired shares or of the other party to the transaction involving the replacement shares.

(4) For the purposes of this section the whole or a part of any held-over gain on the acquisition of the acquired holding shall be treated—

(a) in accordance with subsection (5) below as charged on any disposal in relation to which the whole or any part of the held-over gain falls to be taken into account in determining the chargeable gain or allowable loss accruing on the disposal; and

(b) as charged under section 164F so far as it falls to be disregarded in accordance with subsection (11) of that section.

(5) In the case of any such disposal as is mentioned in subsection (4)(a) above, the amount of the held-over gain charged on that disposal—

(a) shall, except in the case of a part disposal, be so much of the amount taken into account as so mentioned as is not carried forward under this section from the disposal in question; and

(b) in the case of a part disposal, shall be calculated by multiplying the following, that is to say—

(i) so much of the amount of the held-over gain as is not carried forward under this section from the disposal in question and has not already been either charged on a previous disposal or carried forward under this section from a previous disposal; and

(ii) the fraction used in accordance with section 42(2) for determining, subject to any deductions in pursuance of this Chapter, the amount allowable as a deduction in the computation of the gain accruing on the disposal in question.

(6) Where section 58 applies to any disposal of the whole or any part of the acquired holding to any individual—

(a) that individual shall not be treated for the purposes of subsection (1) above as a person who has acquired eligible shares for a consideration which is treated as reduced under section 164A or this section; and

(b) the amount of the held-over gain which for the purposes of this section shall be treated as charged on the disposal shall be the amount that would have been charged on the disposal if it had been a disposal at market value.

(7) References in this section to an amount being carried forward from a disposal are references, in relation to the disposal of any shares, to the reduction by that amount, in accordance with subsection (3)(a) above, of the amount of the consideration for the disposal of those shares.

(8) Subsections (10) to (12) of section 164A shall apply in the case of any claim under this section as they apply in the case of a claim under that section.

(9) For the purposes of this section a company is a relevant company if it is—

(a) the company in which the acquired holding has subsisted or a company which was a member of the same group of companies as that company at the time of the disposal of the acquired holding or of the acquisition of the replacement shares;

(b) a company in relation to the disposal of any shares in which there has been a claim under this Chapter such that without that or an equivalent claim there would be no held-over gain in relation to the acquired holding; or

(c) a company which, at the time of the disposal or acquisition to which the claim relates, was a member of the same group of companies as a company falling within paragraph (b) above.

(10) In this section 'the relevant period' means the period (not including any period before the acquisition of the acquired holding) which begins 12 months before and ends 3 years after the disposal of the acquired shares, together with any such further period after the disposal as the Board may by notice allow.

Application of Chapter in cases of an exchange of shares.

164E.—(1) Where—

(a) there is a transaction involving the issue of any shares in or debentures of any company in exchange for any shares in or debentures of another company ('the exchanged securities'),

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(b) but for this section, section 127 would have effect in pursuance of section 135 for requiring the transaction to be treated for the purposes of this Act as one that does not involve a disposal of the exchanged securities,

(c) any person would be entitled, if the transaction were treated as involving such a disposal, to make a claim for relief under this Chapter by reference to that disposal and an acquisition of eligible shares in a qualifying company, and

(d) that person makes an election under this section for the transaction to be treated as involving the disposal of the exchanged securities and claims that relief,

this Chapter and the other provisions of this Act shall have effect as if section 127 did not apply in the case of that transaction and, accordingly, as if that transaction did involve such a disposal, together with an acquisition of the shares or debentures that are issued in exchange.

(2) An election under this section shall be made by notice given to the Board not more than 2 years after the end of, as the case may be—

(a) the qualifying period mentioned in section 164A; or

(b) the relevant period, within the meaning of section 164D;

and an election made under this section in connection with a claim for relief under section 164B shall be made jointly by the trustees of the settlement and the qualifying beneficiary.

(3) Where, in order to give effect (in pursuance of an election under this section) to subsection (1) above, it is necessary to make any adjustment by way of an assessment on any person, the assessment shall not be out of time if it is made within one year of the final determination of the claim for relief in connection with which the election is made.

(4) For the purposes of subsection (3) above a claim for relief shall not be deemed to be finally determined until the amount of the relief allowed by virtue of the claim can no longer be varied, whether on appeal or by the order of any court or otherwise.

Failure of conditions of relief.

164F.—(1) This section shall apply in any such case as is mentioned in section 164D(1), and references in this section to the acquired holding and the held-over gain shall be construed accordingly.

(2) Subject to the following provisions of this section, if at any time in the relevant period—

(a) the shares comprised in the acquired holding cease to be eligible shares,

(b) the company in which the acquired holding subsists ceases to be a qualifying company,

(c) the person who acquired the acquired holding becomes neither resident nor ordinarily resident in the United Kingdom, or

(d) any of the shares comprised in the acquired holding are included in the original shares (within the meaning of sections 127 to 130) in the case of any transaction with respect to which section 116 has effect,

a chargeable gain equal to the appropriate proportion of the held-over gain shall be treated as accruing to that person immediately before that time or, in a case falling within paragraph (d) above, immediately before the disposal assumed for the purposes of section 116(10)(a).

(3) For the purposes of this section the appropriate proportion of the held-over gain is so much, if any, of that gain as has not already been either—

(a) charged on any disposal or under this section; or

(b) carried forward under section 164D from any disposal;

or, in a case to which subsection (2) above applies by virtue of paragraph (d) of that subsection or in accordance with subsection (7) below, such part of that proportion of that gain as is just and reasonable having regard to the extent to which the acquired holding comprises the original shares.

(4) Subject to subsection (5) below, subsections (4), (5) and (7) of section 164D shall apply for the purposes of this section as they apply for the purposes of that section.

(5) Where the acquired holding or any asset treated as comprised in a single asset with the whole or any part of that holding has been disposed of under section 58 by the individual who acquired that holding to another person ('the spouse')—

(a) the spouse shall not (subject to the following provisions of this subsection) be treated for the purposes of this section as a person who has acquired eligible shares for a consideration which is treated as reduced under section 164A or 164D;

(b) the disposal shall not be included in the disposals on which the whole or any part of the held-over gain may be treated as charged for the purposes of this section;

(c) disposals by the spouse, as well as disposals by that individual, shall be taken into account for the purposes of section 164D(4) and (5) above, as applied for the purpose of this section;

(d) any charge under subsection (2) above (other than one by virtue paragraph (c) of that subsection) shall be apportioned between that individual and the spouse according to the extent to which the appropriate proportion of the held-over gain would be charged on the disposal by each of them of their respective holdings (if any);

(e) paragraph (c) of that subsection shall have effect as if the reference in that paragraph to that individual included a reference to the spouse;

(f) a charge by virtue of that paragraph shall be imposed only on a person who becomes neither resident nor ordinarily resident in the United Kingdom; and

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(g) the amount of the charge imposed on any person by virtue of that paragraph shall be that part of the charge on the appropriate proportion of the held-over gain which would be apportioned to that person in a case to which paragraph (d) above applies.

(6) Subject to subsection (7) below, where the qualifying company in which the acquired holding subsists ceases to be an unquoted company this section shall have effect as if the relevant period ended immediately before it so ceased.

(7) Where there is a transaction by virtue of which any shares in a company are to be regarded under section 127 as the same asset as the acquired holding or the whole or any part of an asset comprising that holding, this section shall not apply by virtue of subsection (2)(a) or (b) above except where—

(a) those shares are not, or cease to be, eligible shares in that company;

(b) neither that company nor (if different) the company in which the acquired holding subsisted —

(i) is or continues to be a qualifying company; or

(ii) would be or continue to be a qualifying company if it were an unquoted company;

(c) the transaction is one by virtue of which the shares comprised in the acquired holding cease to be eligible shares in pursuance of section 164L; or

(d) there is a transaction by virtue of which any shares at any time comprised in the acquired holding would have so ceased in pursuance of that section.

(8) This section shall not apply by virtue of subsection (2)(a) or (b) above where the company in which the acquired holding subsists is wound up or dissolved without winding up and—

(a) it is shown that the winding up or dissolution is for bona fide commercial reasons and not part of a scheme or arrangement the main purpose of which, or one of the main purposes of which, is the avoidance of tax; and

(b) the company's net assets (if any) are distributed to its members or dealt with as bona vacantia before the end of the period of 3 years from the commencement of the winding up or, as the case may be, from the dissolution.

(9) This section shall not apply by virtue of subsection (2)(c) above in relation to any person if—

(a) the reason for his becoming neither resident nor ordinarily resident in the United Kingdom is that he works in an employment or office all the duties of which are performed outside the United Kingdom, and

(b) he again becomes resident or ordinarily resident in the United Kingdom within the period of 3 years from the time when he ceases to be so, without having meanwhile disposed of any eligible shares in the company in question;

and, accordingly, no assessment shall be made by virtue of subsection (2)(c) above before the end of that period in any case where the condition in paragraph (a) above is satisfied and the condition in paragraph (b) above may be satisfied.

(10) For the purposes of subsection (9) above a person shall be taken to have disposed of an asset if there has been such a disposal as would, if the person making the disposal had been resident in the United Kingdom, have been a disposal on which (within the meaning of section 164D) the whole or any part of the held-over gain would have been charged.

(11) Gains on disposals made after a chargeable gain has under this section been deemed to accrue in respect of the acquired holding to any person shall be computed as if so much of the held-over gain as is equal to the amount of the chargeable gain were to be disregarded.

(12) In this section 'the relevant period' means (subject to subsection (6) above) the period of 3 years after the acquisition of the acquired holding.

Meaning of 'qualifying company'.

164G.—(1) Subject to section 164H, a company is a qualifying company for the purposes of this Chapter if it complies with this section.

(2) Subject to the following provisions of this section, a company complies with this section if it is—

(a) an unquoted company which exists wholly for the purpose of carrying on one or more qualifying trades or which so exists apart from purposes capable of having no significant effect (other than in relation to incidental matters) on the extent of the company's activities;

(b) an unquoted company whose business consists entirely in the holding of shares in or other securities of, or the making of loans to, one or more qualifying subsidiaries of the company; or

(c) an unquoted company whose business consists entirely in—

(i) the holding of such shares or securities, or the making of such loans; and

(ii) the carrying on of one or more qualifying trades.

(3) A company does not comply with this section if—

(a) it controls (whether on its own or together with any person connected with it) any company which is not a qualifying subsidiary or, without controlling it, has a 51 per cent. subsidiary which is not a qualifying subsidiary;

(b) it is under the control of another company (or of another company and a person connected with the other company) or, without being controlled by it, is a 51 per cent. subsidiary of another company; or

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(c) arrangements are in existence by virtue of which the company could fall within paragraph (a) or (b) above;

and in this subsection '51 per cent. subsidiary' has the meaning given by section 838 of the Taxes Act.

(4) In this section 'qualifying subsidiary', in relation to a company ('the holding company'), means any company which is a member of a group of companies of which the holding company is the principal company, and of which each of the members, or each of the members other than the holding company, is a company falling within subsection (5) below.

(5) A company falls within this subsection if—

(a) it is such a company as is mentioned in subsection (2)(a) above;

(b) it exists wholly for the purpose of holding and managing property used by the holding company or any of the holding company's other subsidiaries for the purposes of—

(i) research and development from which it is intended that a qualifying trade to be carried on by the holding company or any of those other subsidiaries will be derived, or

(ii) one or more qualifying trades so carried on;

(c) it would exist wholly for such a purpose apart from purposes capable of having no significant effect (other than in relation to incidental matters) on the extent of the company's activities; or

(d) it has no profits for the purposes of corporation tax and no part of its business consists in the making of investments.

(6) Without prejudice to the generality of subsection (2) above or to section 164F(8), a company ceases to comply with this section if—

(a) a resolution is passed, or an order is made, for the winding up of the company;

1986 c. 45.
S.I. 1989/2405 (N.I. 19).

(b) in the case of a winding up otherwise than under the Insolvency Act 1986 or the Insolvency (Northern Ireland) Order 1989, any other act is done for the like purpose; or

(c) the company is dissolved without winding up.

Property companies etc. not to be qualifying companies.

164H.—(1) For the purposes of this Chapter a company is not a qualifying company at any time when the value of the interests in land held by the company is greater than half the value of the company's chargeable assets within the meaning of section 164C.

(2) For the purposes of this section the value of the interests in land held by a company at any time shall be arrived at by first aggregating the market value at that time of each of those interests and then deducting—

(a) the amount of any debts of the company which are secured on any of those interests (including any debt secured by a floating charge on property which comprises any of those interests);

(b) the amount of any unsecured debts of the company which do not fall due for payment before the end of the period of 12 months beginning with that time; and

(c) the amount paid up in respect of those shares of the company (if any) which carry a present or future preferential right to the company's assets on its winding up.

(3) In this section 'interest in land' means any estate or interest in land, any right in or over land or affecting the use or disposition of land, and any right to obtain such an estate, interest or right from another which is conditional on that other's ability to grant the estate, interest or right in question, except that it does not include—

(a) the interest of a creditor (other than a creditor in respect of a rentcharge) whose debt is secured by way of a mortgage, an agreement for a mortgage or a charge of any kind over land; or

(b) in the case of land in Scotland, the interest of a creditor in a charge or security of any kind over land.

(4) For the purposes of this section, the value of an interest in any building or other land shall be adjusted by deducting the market value of any machinery or plant which is so installed or otherwise fixed in or to the building or other land as, in law, to become part of it.

(5) In arriving at the value of any interest in land for the purposes of this section—

(a) it shall be assumed that there is no source of mineral deposits in the land of a kind which it would be practicable to exploit by extracting them from underground otherwise than by means of opencast mining or quarrying; and

(b) any borehole on the land shall be disregarded if it was made in the course of oil exploration.

(6) Where a company is a member of a partnership which holds any interest in land—

(a) that interest shall, for the purposes of this section, be treated as an interest in land held by the company; but

(b) its value at any time shall, for those purposes, be taken to be such fraction of its value (apart from this subsection) as is equal to the fraction of the assets of the partnership to which the company would be entitled if the partnership were dissolved at that time.

(7) Where a company is a member of a group of companies all the members of the group shall be treated as a single company for the purposes of this section; but any debt owed by, or liability of, one member of the group to another shall be disregarded for those purposes.

Qualifying trades.

164I.—(1) For the purposes of this Chapter—

(a) a trade is a qualifying trade if it complies with the requirements of this section; and

(b) the carrying on of any activities of research and development from which it is intended that a trade complying with those requirements will be derived shall be treated as the carrying on of a qualifying trade.

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(2) Subject to the following provisions of this section, a trade complies with this section if neither that trade nor a substantial part of it consists in one or more of the following activities, that is to say—

(a) dealing in land, in commodities or futures or in shares, securities or other financial instruments;

(b) dealing in goods otherwise than in the course of an ordinary trade of wholesale or retail distribution;

(c) banking, insurance, money-lending, debt-factoring, hire-purchase financing or other financial activities;

(d) leasing (including letting ships on charter or other assets on hire) or receiving royalties or licence fees;

(e) providing legal or accountancy services;

(f) providing services or facilities for any such trade carried on by another person as—

(i) consists, to a substantial extent, in activities within any of paragraphs (a) to (e) above; and

(ii) is a trade in which a controlling interest is held by a person who also has a controlling interest in the trade carried on by the company providing the services or facilities;

(g) property development;

(h) farming;

but this subsection shall have effect in relation to a qualifying trade carried on by a member of a group of companies, as if the reference in paragraph (f) above to another person did not include a reference to the principal company of the group.

(3) For the purposes of subsection (2)(b) above—

(a) a trade of wholesale distribution is one in which the goods are offered for sale and sold to persons for resale by them, or for processing and resale by them, to members of the general public for their use or consumption;

(b) a trade of retail distribution is one in which the goods are offered for sale and sold to members of the general public for their use or consumption; and

(c) a trade is not an ordinary trade of wholesale or retail distribution if—

(i) it consists, to a substantial extent, in dealing in goods of a kind which are collected or held as an investment, or of that activity and any other activity of a kind falling within subsection (2) above, taken together; and

(ii) a substantial proportion of those goods are held by the company for a period which is significantly longer than the period for which a vendor would reasonably be expected to hold them while endeavouring to dispose of them at their market value.

(4) In determining for the purposes of this Chapter whether a trade carried on by any person is an ordinary trade of wholesale or retail distribution, regard shall be had to the extent to which it has the following features, that is to say—

(a) the goods are bought by that person in quantities larger than those in which he sells them;

(b) the goods are bought and sold by that person in different markets;

(c) that person employs staff and incurs expenses in the trade in addition to the cost of the goods and, in the case of a trade carried on by a company, to any remuneration paid to any person connected with it;

(d) there are purchases or sales from or to persons who are connected with that person;

(e) purchases are matched with forward sales or vice versa;

(f) the goods are held by that person for longer than is normal for goods of the kind in question;

(g) the trade is carried on otherwise than at a place or places commonly used for wholesale or retail trade;

(h) that person does not take physical possession of the goods;

and for the purposes of this subsection the features specified in paragraphs (a) to (c) above shall be regarded as indications that the trade is such an ordinary trade and those in paragraphs (d) to (h) above shall be regarded as indications of the contrary.

(5) A trade shall not be treated as failing to comply with this section by reason only of its consisting, to a substantial extent, in receiving royalties or licence fees if—

(a) the company carrying on the trade is engaged in—

(i) the production of films; or

(ii) the production of films and the distribution of films produced by it within the period of 3 years before their distribution;

and

(b) all royalties and licence fees received by it are in respect of films produced by it within the preceding 3 years or sound recordings in relation to such films or other products arising from such films.

(6) A trade shall not be treated as failing to comply with this section by reason only of its consisting, to a substantial extent, in receiving royalties or licence fees if—

(a) the company carrying on the trade is engaged in research and development; and

(b) all royalties and licence fees received by it are attributable to research and development which it has carried out.

(7) A trade shall not be treated as failing to comply with this section by reason only of its consisting in letting ships, other than oil rigs or pleasure craft, on charter if—

(a) every ship let on charter by the company carrying on the trade is beneficially owned by the company;

(b) every ship beneficially owned by the company is registered in the United Kingdom;

(c) the company is solely responsible for arranging the marketing of the services of its ships; and

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(d) the conditions mentioned in subsection (8) below are satisfied in relation to every letting of a ship on charter by the company;

but where any of the requirements mentioned in paragraphs (a) to (d) above are not satisfied in relation to any lettings, the trade shall not thereby be treated as failing to comply with this section if those lettings and any other activity of a kind falling within subsection (2) above do not, when taken together, amount to a substantial part of the trade.

(8) The conditions are that—

(a) the letting is for a period not exceeding 12 months and no provision is made at any time (whether in the charterparty or otherwise) for extending it beyond that period otherwise than at the option of the charterer;

(b) during the period of the letting there is no provision in force (whether by virtue of being contained in the charterparty or otherwise) for the grant of a new letting to end, otherwise than at the option of the charterer, more than 12 months after that provision is made;

(c) the letting is by way of a bargain made at arm's length between the company and a person who is not connected with it;

(d) under the terms of the charter the company is responsible as principal—

(i) for taking, throughout the period of the charter, management decisions in relation to the ship, other than those of a kind generally regarded by persons engaged in trade of the kind in question as matters of husbandry; and

(ii) for defraying all expenses in connection with the ship throughout that period, or substantially all such expenses, other than those directly incidental to a particular voyage or to the employment of the ship during that period;

and

(e) no arrangements exist by virtue of which a person other than the company may be appointed to be responsible for the matters mentioned in paragraph (d) above on behalf of the company;

but this subsection shall have effect, in relation to any letting between a company and another company which is a member of the same group of companies as that company, as if paragraph (c) were omitted.

(9) A trade shall not comply with this section unless it is conducted on a commercial basis and with a view to the realisation of profits.

Provisions supplementary to section 164I.

164J.—(1) For the purposes of section 164I, in the case of a trade carried on by a company, a person has a controlling interest in that trade if—

(a) he controls the company;

(b) the company is a close company and he or an associate of his is a director of the company and either—

(i) the beneficial owner of, or

(ii) able, directly or through the medium of other companies or by any other indirect means, to control,

more than 30 per cent. of the ordinary share capital of the company; or

(c) not less than half of the trade could in accordance with section 344(2) of the Taxes Act be regarded as belonging to him;

and, in any other case, a person has a controlling interest in a trade if he is entitled to not less than half of the assets used for, or of the income arising from, the trade.

(2) For the purposes of subsection (1) above, there shall be attributed to any person any rights or powers of any other person who is an associate of his.

(3) References in section 164I(2)(f) or subsection (1) above to a trade carried on by a person other than the company in question shall be construed as including references to any business, profession or vocation.

(4) In this section 'director' shall be construed in accordance with section 417(5) of the Taxes Act.

Foreign residents.

164K.—(1) This Chapter shall not apply in relation to any person in respect of his acquisition of any eligible shares in a qualifying company if at the time when he acquires them he is neither resident nor ordinarily resident in the United Kingdom.

(2) This Chapter shall not apply in relation to any person in respect of his acquisition of any eligible shares in a qualifying company if—

(a) though resident or ordinarily resident in the United Kingdom at the time when he acquires them, he is regarded for the purposes of any double taxation relief arrangements as resident in a territory outside the United Kingdom; and

(b) by virtue of the arrangements, he would not be liable in the United Kingdom to tax on a gain arising on a disposal of those shares immediately after their acquisition.

Anti-avoidance provisions.

164L.—(1) For the purposes of this Chapter an acquisition of shares in a qualifying company shall not be treated as an acquisition of eligible shares if the arrangements for the acquisition of those shares, or any arrangements made before their acquisition in relation to or in connection with the acquisition, include—

(a) arrangements with a view to the subsequent re-acquisition, exchange or other disposal of the shares;

(b) arrangements for or with a view to the cessation of the company's trade or the disposal of, or of a substantial amount of, its chargeable business assets; or

(c) arrangements for the return of the whole or any part of the value of his investment to the individual acquiring the shares.

(2) If, after any eligible shares in a qualifying company have been acquired by any individual, the whole or any part of the value of that individual's investment is returned to him, those shares shall be treated for the purposes of this Chapter as ceasing to be eligible shares.

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(3) For the purposes of this section there shall be treated as being a return of the whole or a part of the value of the investment of an individual who is to acquire or has acquired any shares in a company if the company—

(a) repays, redeems or repurchases any of its share capital or other securities which belong to that individual or makes any payment to him for giving up his right to any of the company's share capital or any security on its cancellation or extinguishment;

(b) repays any debt owed to that individual, other than a debt which was incurred by the company—

(i) on or after the acquisition of the shares; and

(ii) otherwise than in consideration of the extinguishment of a debt incurred before the acquisition of the shares;

(c) makes to that individual any payment for giving up his right to any debt on its extinguishment;

(d) releases or waives any liability of that individual to the company or discharges, or undertakes to discharge, any liability of his to a third person;

(e) provides a benefit or facility for that individual;

(f) disposes of an asset to that individual for no consideration or for a consideration which is or the value of which is less than the market value of the asset;

(g) acquires an asset from that individual for a consideration which is or the value of which is more than the market value of the asset; or

(h) makes any payment to that individual other than a qualifying payment.

(4) For the purposes of this section there shall also be treated as being a return of the whole or a part of the value of the investment of an individual who is to acquire or has acquired any shares in a company if—

(a) there is a loan made by any person to that individual; and

(b) the loan is one which would not have been made, or would not have been made on the same terms, if that individual had not acquired those shares or had not been proposing to do so.

(5) For the purposes of this section a company shall be treated as having released or waived a liability if the liability is not discharged within 12 months of the time when it ought to have been discharged.

(6) References in this section to a debt or liability do not, in relation to a company, include references to any debt or liability which would be discharged by the making by that company of a qualifying payment, and references to a benefit or facility do not include references to any benefit or facility provided in circumstances such that, if a payment had been made of an amount equal to its value, that payment would be a qualifying payment.

(7) References in this section to the making by any person of a loan to an individual include references—

(a) to the giving by that person of any credit to that individual; and

(b) to the assignment or assignation to that person of any debt due from that individual.

(8) In this section 'qualifying payment' means—

(a) the payment by any company of such remuneration for service as an officer or employee of that company as may be reasonable in relation to the duties of that office or employment;

(b) any payment or reimbursement by any company of travelling or other expenses wholly, exclusively and necessarily incurred by the individual to whom the payment is made in the performance of duties as an officer or employee of that company;

(c) the payment by any company of any interest which represents no more than a reasonable commercial return on money lent to that company;

(d) the payment by any company of any dividend or other distribution which does not exceed a normal return on any investment in shares in or other securities of that company;

(e) any payment for the supply of goods which does not exceed their market value;

(f) the payment by any company, as rent for any property occupied by the company, of an amount not exceeding a reasonable and commercial rent for the property;

(g) any reasonable and necessary remuneration which—

(i) is paid by any company for services rendered to that company in the course of a trade or profession; and

(ii) is taken into account in computing the profits or gains of the trade or profession under Case I or II of Schedule D or would be so taken into account if it fell in a period on the basis of which those profits or gains are assessed under that Schedule;

(h) a payment in discharge of an ordinary trade debt.

(9) In this section—

(a) any reference to a payment or disposal to an individual includes a reference to a payment or disposal made to him indirectly or to his order or for his benefit; and

(b) any reference to an individual includes a reference to an associate of his and any reference to a company includes a reference to a person connected with the company.

(10) This section shall have effect in relation to the acquisition of shares by the trustees of a settlement as if references to the individual acquiring the shares were references to those trustees or the individual who is the qualifying beneficiary by reference to whom this Chapter has or, as the case may be, would have effect in relation to that acquisition.

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(11) In this section—

'arrangements' includes any scheme, agreement or understanding, whether or not legally enforceable;

'chargeable business assets' has the same meaning as in section 164C; and

'ordinary trade debt' means any debt for goods or services supplied in the ordinary course of a trade or business where any credit given does not exceed six months and is not longer than that normally given to customers of the person carrying on the trade or business.

Exclusion of double relief.

164M. Where a person acquires any shares in a company those shares shall not be eligible shares or, as the case may be, shall cease to be eligible shares if that person or any person connected with him has made or makes a claim for relief in relation to those shares under Chapter III of Part VII of the Taxes Act (business expansion scheme).

Interpretation of Chapter IA.

164N.—(1) In this Chapter—

'associate' has the meaning given in subsections (3) and (4) of section 417 of the Taxes Act, except that in those subsections, as applied for the purposes of this Chapter, 'relative' shall not include a brother or sister;

'eligible shares' means (subject to sections 164L and 164M) any ordinary shares in a company which do not carry—

(a) any present or future preferential rights to dividends or to that company's assets on its winding up; or

(b) any present or future preferential right to be redeemed;

'farming' has the same meaning as in the Taxes Act;

'film' means an original master negative of a film, an original master film disc or an original master film tape;

'oil exploration' means searching for oil (within the meaning of Chapter V of Part XII of the Taxes Act);

1971 c. 61.

'oil rig' means any ship which is an offshore installation for the purposes of the Mineral Workings (Offshore Installations) Act 1971;

'ordinary share capital' has the meaning given by section 832(1) of the Taxes Act;

'ordinary shares' means shares forming part of a company's ordinary share capital;

'pleasure craft' means any ship of a kind primarily used for sport or recreation;

'property development' means the development of land, by a company which has, or at any time has had, an interest in the land (within the meaning of section 164H), with the sole or main object of realising a gain from disposing of the land when developed;

1977 c. 37.

'research and development' means any activity which is intended to result in a patentable invention (within the meaning of the Patents Act 1977) or in a computer program;

'sound recording' in relation to a film, means its sound track, original master audio disc or original master audio tape; and

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'unquoted company' means a company none of the shares in or other securities of which are quoted on any recognised stock exchange or are dealt in on the Unlisted Securities Market.

(2) Section 170 shall apply for the interpretation of sections 164G and 164I as it applies for the interpretation of sections 171 to 181.

(3) Subject to subsection (2) above, paragraph 1 of Schedule 6 shall have effect for the purposes of this Chapter as it has effect for the purposes of sections 163 and 164 and that Schedule.

(4) References in this Chapter to the reduction of an amount include references to its reduction to nil."

## SCHEDULE 8

Section 88.

### RESTRICTION ON SET-OFF OF PRE-ENTRY LOSSES

The following is the Schedule to be inserted after Schedule 7 to the Taxation of Chargeable Gains Act 1992.

1992 c. 12.

"SCHEDULE 7A

Section 177A.

RESTRICTION ON SET-OFF OF PRE-ENTRY LOSSES

*Application and construction of Schedule*

1.—(1) This Schedule shall have effect, in the case of a company which is or has been a member of a group of companies ('the relevant group'), in relation to any pre-entry losses of that company.

(2) In this Schedule 'pre-entry loss', in relation to any company, means—

(a) any allowable loss that accrued to that company at a time before it became a member of the relevant group; or

(b) the pre-entry proportion of any allowable loss accruing to that company on the disposal of any pre-entry asset;

and for the purposes of this Schedule the pre-entry proportion of any loss shall be calculated in accordance with paragraphs 2 to 5 below.

(3) In this Schedule 'pre-entry asset', in relation to any disposal, means (subject to sub-paragraph (4) below) any asset which was held, at the time immediately before it became a member of the relevant group, by any company (whether or not the one which makes the disposal) which is or has at any time been a member of that group.

(4) Subject to paragraph 3 below, an asset is not a pre-entry asset if—

(a) the company which held the asset at the time it became a member of the relevant group is not the company which makes the disposal; and

(b) since that time that asset has been disposed of otherwise than by a disposal to which section 171 applies;

but (without prejudice to sub-paragraph (8) below) where, on a disposal to which section 171 does not apply, any asset would cease to be a pre-entry asset by virtue of this sub-paragraph but the company making the disposal retains any interest in or over the asset in question, that interest shall be a pre-entry asset for the purposes of this Schedule.

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(5) References in this Schedule, in relation to a pre-entry asset, to the relevant time are references to the time when the company by reference to which that asset is a pre-entry asset became a member of the relevant group; and for the purposes of this Schedule—

(a) where a company has become a member of the relevant group on more than one occasion, an asset is a pre-entry asset by reference to that company if it would be a pre-entry asset by reference to that company in respect of any one of those occasions; but

(b) references in the following provisions of this Schedule to the time when a company became a member of the relevant group, in relation to assets held on more than one such occasion as is mentioned in paragraph (a) above, are references to the later or latest of those occasions.

(6) Subject to so much of sub-paragraph (6) of paragraph 9 below as requires groups of companies to be treated as separate groups for the purposes of that paragraph, if—

(a) the principal company of a group of companies ('the first group') has at any time become a member of another group ('the second group') so that the two groups are treated as the same by virtue of subsection (10) of section 170, and

(b) the second group, together in pursuance of that subsection with the first group, is the relevant group,

then, except where sub-paragraph (7) below applies, the members of the first group shall be treated for the purposes of this Schedule as having become members of the relevant group at that time, and not by virtue of that subsection at the times when they became members of the first group.

(7) This sub-paragraph applies where—

(a) the persons who immediately before the time when the principal company of the first group became a member of the second group owned the shares comprised in the issued share capital of the principal company of the first group are the same as the persons who, immediately after that time, owned the shares comprised in the issued share capital of the principal company of the relevant group; and

(b) the company which is the principal company of the relevant group immediately after that time—

(i) was not the principal company of any group immediately before that time; and

(ii) immediately after that time had assets consisting entirely, or almost entirely, of shares comprised in the issued share capital of the principal company of the first group.

(8) For the purposes of this Schedule, but subject to paragraph 3 below—

(a) an asset acquired or held by a company at any time and an asset held at a later time by that company, or by any company which is or has been a member of the same group of companies as that company, shall be treated as the same asset if the value of the second asset is derived in whole or in part from the first asset; and

(b) if—

(i) any asset is treated (whether by virtue of paragraph (a) above or otherwise) as the same as an asset held by a company at a later time, and

(ii) the first asset would have been a pre-entry asset in relation to that company,

the second asset shall also be treated as a pre-entry asset in relation to that company;

and paragraph (a) above shall apply, in particular, where the second asset is a freehold and the first asset is a leasehold the lessee of which acquires the reversion.

(9) In determining for the purposes of this Schedule whether any allowable loss accruing to a company under section 116(10)(b) is a loss that accrued before the company became a member of the relevant group, any loss so accruing shall be deemed to have accrued at the time of the relevant transaction within the meaning of section 116(2).

(10) In determining for the purposes of this Schedule whether any allowable loss accruing to a company on a disposal under section 212 is a loss that accrued before the company became a member of the relevant group, the provisions of section 213 shall be disregarded.

*Pre-entry proportion of losses on pre-entry assets*

2.—(1) Subject to paragraphs 3 to 5 below, the pre-entry proportion of an allowable loss accruing on the disposal of a pre-entry asset shall be whatever would be the allowable loss accruing on that disposal if that loss were the sum of the amounts determined, for every item of relevant allowable expenditure, according to the following formula—

$$A \times \frac{B}{C} \times \frac{D}{E}$$

(2) In sub-paragraph (1) above, in relation to any disposal of a pre-entry asset—

A is the total amount of the allowable loss;

B is the sum of the amount of the item of relevant allowable expenditure for which an amount falls to be determined under this paragraph and the indexed rise in that item;

C is the sum of the total amount of all the relevant allowable expenditure and the indexed rises in each of the items comprised in that expenditure;

D is the length of the period beginning with the relevant pre-entry date and ending with the relevant time or, if that date is after that time, nil; and

E is the length of the period beginning with the relevant pre-entry date and ending with the day of the disposal.

(3) In sub-paragraph (2) above 'the relevant pre-entry date', in relation to any item of relevant allowable expenditure, means whichever is the later of—

(a) the date on which that item of expenditure is, or (on the assumption applying by virtue of sub-paragraphs (4) and (5) below) would be, treated for the purposes of section 54 as having been incurred; and

(b) 1st April 1982.

(4) Where any asset ('the second asset') is treated by virtue of section 127 as the same as another asset ('the first asset') previously held by any company, this paragraph and (so far as applicable) paragraph 3 below shall have effect, except in relation to the calculation of any indexed rise—

(a) as if any item of relevant allowable expenditure consisting in consideration given for the acquisition of the second asset had been incurred at the same time as the expenditure consisting in the consideration for the acquisition of the first asset; and

(b) where there is more than one such time as if that item were incurred at those different times in the same proportions as the consideration for the acquisition of the first asset.

(5) Without prejudice to sub-paragraph (4) above, this paragraph shall have effect in relation to any asset which—

(a) was held by a company at the time when it became a member of the relevant group, and

(b) is treated as having been acquired by that company for such a consideration as secured that on the disposal in pursuance of which it was acquired neither a gain nor a loss accrued,

as if that company and every person who acquired that asset or the equivalent asset at a material time had been the same person and, accordingly, as if the asset had been acquired by that company when it or the equivalent asset was acquired by the first of those persons to have acquired it at a material time and the time at which any expenditure had been incurred were to be determined accordingly.

(6) In sub-paragraph (5) above, the reference, in relation to any asset, to a material time is a reference to any time which—

(a) is before the occasion on which the company in question is treated as having acquired the asset for such a consideration as is mentioned in that sub-paragraph; and

(b) is or is after the last occasion before that occasion on which any person acquired that asset or the equivalent asset otherwise than by virtue of an acquisition which—

(i) is treated as an acquisition for such a consideration; or

(ii) is the acquisition by virtue of which any asset is treated as the equivalent asset;

and this paragraph shall have effect in relation to any asset to which that sub-paragraph applies without regard to the provisions of section 56(2).

(7) In sub-paragraphs (5) and (6) above, the reference in relation to the acquisition of any asset by any company, to the equivalent asset is a reference to any asset which (whether by virtue of paragraph 1(8) above or otherwise) would be treated in relation to that company as the same as the asset in question.

(8) The preceding provisions of this paragraph and (so far as applicable) paragraph 3 below shall have effect where—

(a) a loss accrues to any company under section 116(10)(b), and

(b) the old asset consists in or is treated for the purposes of that paragraph as including pre-entry assets,

as if the disposal on which the loss accrues were that disposal of the old asset which is assumed to have been made for the purposes of the calculation required by section 116(10)(a).

(9) In this paragraph—

'indexed rise' shall be construed in accordance with section 54 and, where the formula set out in sub-paragraph (1) above is applied for the purposes of paragraph 3 below, without regard to section 110; and

'relevant allowable expenditure', in relation to any allowable loss, means the expenditure which falls by virtue of section 38(1)(a) or (b) to be taken into account in the computation of that loss.

*Disposals of pooled assets*

3.—(1) This paragraph shall apply (subject to paragraphs 4 and 5 below) where any assets acquired by any company fall to be treated with other assets as indistinguishable parts of the same asset ('a pooled asset') and the whole or any part of that asset is referable to pre-entry assets.

(2) For the purposes of this Schedule, where a pooled asset has at any time contained a pre-entry asset—

(a) the pooled asset shall be treated, until all the pre-entry assets included in that asset have (on the assumptions for which this paragraph provides) been disposed of, as incorporating a part which is referable to pre-entry assets; and

(b) the size of that part shall be determined in accordance with the following provisions of this paragraph.

(3) Where there is a disposal of any part of a pooled asset and the proportion of the asset which is disposed of does not exceed the proportion of that asset which is represented by any part of it which is not, at the time of the disposal, referable to pre-entry assets, that disposal shall be deemed for the purposes of this Schedule to be confined to assets which are not pre-entry assets so that—

(a) except where paragraph 4(2) below applies, no part of any loss accruing on that disposal shall be deemed to be a pre-entry loss, and

(b) the part of the pooled asset which after the disposal is to be treated as referable to pre-entry assets shall be correspondingly increased.

(4) Where there is a disposal of any part of a pooled asset and the proportion of the asset which is disposed of does exceed the proportion of that asset mentioned in sub-paragraph (3) above, that disposal shall be deemed for the purposes of this Schedule to relate to pre-entry assets only so far as required for the purposes of the excess, so that—

(a) any loss accruing on that disposal shall be deemed for the purposes of this Schedule to be an allowable loss on the disposal of a pre-entry asset;

(b) the pre-entry proportion of that loss shall be deemed (except where paragraph 4(3) below applies) to be the amount (so far as it does not exceed the amount of the loss actually accruing) which would have been the pre-entry proportion under paragraph 2 above of any loss accruing on the disposal of the excess if the excess were a separate asset; and

(c) the pooled asset shall be treated after the disposal as referable entirely to pre-entry assets.

(5) Where there is a disposal of the whole of a pooled asset or of any part of a pooled asset which, at the time of the disposal, is referable entirely to pre-entry assets, paragraphs (a) and (b) of sub-paragraph (4) above shall apply to the disposal of the asset or the part as they apply in relation to the assumed disposal of the excess mentioned in that sub-paragraph but, in the case of the disposal of the whole of a pooled asset only a part of which is referable to pre-entry assets, as if the reference in paragraph (b) of that sub-paragraph to the excess were a reference to that part.

(6) For the purpose of determining, under sub-paragraph (4) or (5) above, what would have been the pre-entry proportion of any loss accruing on the disposal of any assets as a separate asset it shall be assumed that none of the assets treated as comprised in that asset has ever been comprised in a pooled asset with any assets other than those which are taken to constitute that separate asset for the purposes of the determination.

(7) The assets which are comprised in any asset which is treated for any of the purposes of this paragraph as a separate asset shall be identified on the following assumptions, that is to say—

(a) that assets are disposed of in the order of the dates which for the purposes of paragraph 2 above are the relevant pre-entry dates in relation to the consideration for their acquisition;

(b) subject to that, that assets with earlier relevant times are disposed of before those with later relevant times;

(c) that disposals made when a company was not a member of the relevant group are made in accordance with the preceding provisions of this paragraph, as they have effect in relation to the group of companies of which the company was a member at the time of the disposal or, as the case may be, of which it had most recently been a member before that time; and

(d) subject to paragraphs (a) to (c) above, that a company disposes of assets in the order in which it acquired them.

(8) Where in the case of any asset there is more than one date which is the relevant pre-entry date in relation to the consideration for its acquisition, the date taken into account for the purposes of sub-paragraph (7)(a) above shall be the date which is the earlier or earliest of those dates if any date which is the relevant pre-entry date in relation to the acquisition of an option to acquire that asset is disregarded.

(9) In applying the formula set out in paragraph 2(1) above in relation to the disposal of an asset which is treated for any of the purposes of this paragraph as comprised in a separate asset—

(a) the amount or value of any consideration for the acquisition or disposal of that asset; and

(b) the incidental costs of the acquisition or disposal of that asset,

shall be determined (to the exclusion of any apportionment under section 129 or 130) by apportioning any consideration or costs relating to both that asset and other assets acquired or disposed of at the same time according to the proportion that is borne by that asset to all the assets to which the consideration or costs related.

(10) Where—

(a) any asset ('the latest asset') falls (whether by virtue of paragraph 1(8) above or otherwise) to be treated as acquired at the same time as another asset ('the original asset') which was acquired before the latest asset, and

(b) the latest asset is either comprised in a pooled asset a part of which is referable to pre-entry assets or is or includes an asset which is to be treated as so comprised,

sub-paragraph (7) above shall apply not only in relation to the latest asset as if it were the original asset but also, in the first place, for identifying the asset which is to be treated as the original asset for the purposes of this paragraph.

(11) Sub-paragraphs (3)(b) and (4)(c) above shall have effect in relation to any disposal without prejudice to the effect of any subsequent acquisition of assets falling to be treated as part of a pooled asset on the determination of whether, and to what extent, any part of that pooled asset is to be treated as referable to pre-entry assets.

*Rule to prevent pre-entry losses on pooled assets being treated as post-entry losses*

4.—(1) This paragraph shall apply if—

(a) there is a disposal of any part of a pooled asset which for the purposes of paragraph 3 above is treated as incorporating a part which is referable to pre-entry assets;

(b) the assets disposed of are or include assets ('the post-entry element of the disposal') which for the purposes of that paragraph are treated as having been incorporated in the part of the pooled asset which is not referable to pre-entry assets;

(c) an allowable loss ('the actual loss') accrues on the disposal; and

(d) the amount which in computing the allowable loss is allowed as a deduction of relevant allowable expenditure ('the expenditure actually allowed') exceeds the relevant allowable expenditure attributable to the post-entry element of the disposal.

(2) Subject to sub-paragraph (6) below, where the post-entry element of the disposal comprises all of the assets disposed of—

(a) the actual loss shall be treated for the purposes of this Schedule as a loss accruing on the disposal of a pre-entry asset; and

(b) the pre-entry proportion of that loss shall be treated as being the amount (so far as it does not exceed the amount of the actual loss) by which the expenditure actually allowed exceeds the relevant allowable expenditure attributable to the post-entry element of the disposal.

(3) Subject to sub-paragraph (6) below, where—

(a) the actual loss is treated by virtue of paragraph 3 above as a loss accruing on the disposal of a pre-entry asset, and

(b) the expenditure actually allowed exceeds the actual cost of the assets to which the disposal is treated as relating,

the pre-entry proportion of the loss shall be treated as being the amount which (so far as it does not exceed the amount of the actual loss) is equal to the sum of that excess and what would, apart from this paragraph and paragraph 5 below, be the pre-entry proportion of the loss accruing on the disposal.

(4) For the purposes of sub-paragraph (3) above the actual cost of the assets to which the disposal is treated as relating shall be taken to be the sum of—

(a) the relevant allowable expenditure attributable to the post-entry element of the disposal; and

(b) the amount which, in computing the pre-entry proportion of the loss in accordance with paragraph 3(4)(b) and (6) above, would be treated for the purposes of C in the formula in paragraph 2(1) above as the total amount allowable as a deduction of relevant allowable expenditure in respect of such of the assets disposed of as are treated as having been incorporated in the part of the pooled asset which is referable to pre-entry assets.

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(5) Without prejudice to sub-paragraph (6) below, where sub-paragraph (2) or (3) above applies for the purpose of determining the pre-entry proportion of any loss, no election shall be capable of being made under paragraph 5 below for the purpose of enabling a different amount to be taken as the pre-entry proportion of that loss.

(6) Where—

(a) the pre-entry proportion of the loss accruing to any company on the disposal of any part of a pooled asset falls to be determined under sub-paragraph (2) or (3) above,

(b) the amount determined under that sub-paragraph exceeds the amount determined under sub-paragraph (7) below ('the alternative pre-entry loss'), and

(c) the company makes an election for the purposes of this sub-paragraph,

the pre-entry proportion of the loss determined under sub-paragraph (2) or (3) above shall be reduced to the amount of the alternative pre-entry loss.

(7) For the purposes of sub-paragraph (6) above the alternative pre-entry loss is whatever apart from this paragraph would have been the pre-entry proportion of the loss on the disposal in question, if for the purposes of this Schedule the identification of the assets disposed of were to be made disregarding the part of the pooled asset which was not referable to pre-entry assets, except to the extent (if any) by which the part referable to pre-entry assets fell short of what was disposed of.

(8) An election for the purposes of sub-paragraph (6) above with respect to any loss shall be made by the company to which the loss accrued by notice to the inspector given within—

(a) the period of two years beginning with the end of the accounting period of that company in which the disposal is made on which the loss accrues; or

(b) such longer period as the Board may by notice allow;

and paragraph 5 below may be taken into account under sub-paragraph (7) above in determining the amount of the alternative pre-entry loss as if an election had been made under that paragraph but shall be so taken into account only if the election for the purposes of sub-paragraph (6) above contains an election corresponding to the election that, apart from this paragraph, might have been made under that paragraph.

(9) For the purposes of this paragraph the relevant allowable expenditure attributable to the post-entry element of the disposal shall be the amount which, in computing any allowable loss accruing on a disposal of that element as a separate asset, would have been allowed as a deduction of relevant allowable expenditure if none of the assets comprised in that element had ever been comprised in a pooled asset with any assets other than those which are taken to constitute that separate asset for the purposes of this sub-paragraph.

(10) For the purpose of identifying the assets which are to be treated for the purposes of sub-paragraph (9) above as comprised in the post-entry element of the disposal, a company shall be taken to dispose of assets in the order in which it acquired them.

(11) Paragraph 3(9) above shall apply for the purposes of sub-paragraph (9) above as it applies for the purposes of the application as mentioned in paragraph 3(9) above of the formula so mentioned; and paragraph 3(10) above shall apply for the purposes of this paragraph in relation to sub-paragraph (10) above as it applies for the purposes of paragraph 3 above in relation to sub-paragraph (7) of that paragraph.

(12) In this paragraph references to an amount allowed as a deduction of relevant allowable expenditure are references to the amount falling to be so allowed in accordance with section 38(1)(a) and (b) and (so far as applicable) section 42, together with the indexed rises in the items comprised in that expenditure or, as the case may be, in the appropriate portions of those items.

(13) In sub-paragraph (12) above 'indexed rise' has the same meaning as it has by virtue of paragraph 2(9) above in relation to the application for the purposes of paragraph 3 above of the formula set out in paragraph 2(1) above.

(14) Nothing in this paragraph shall affect the operation of the rules contained in paragraph 3 above for determining, for any purposes other than those of sub-paragraph (7) above, how much of any pooled asset at any time consists of a part which is referable to pre-entry assets.

*Alternative calculation by reference to market value*

5.—(1) Subject to paragraph 4(5) above and the following provisions of this paragraph, if—

(a) an allowable loss accrues on the disposal by any company of any pre-entry asset; and

(b) that company makes an election for the purposes of this paragraph in relation to that loss,

the pre-entry proportion of that loss (instead of being the amount determined under the preceding provisions of this Schedule) shall be whichever is the smaller of the amounts mentioned in sub-paragraph (2) below.

(2) Those amounts are—

(a) the amount of any loss which would have accrued if that asset had been disposed of at the relevant time at its market value at that time; and

(b) the amount of the loss accruing on the disposal mentioned in sub-paragraph (1)(a) above.

(3) Where no loss would have accrued on the disposal assumed for the purposes of sub-paragraph (2)(a) above, the loss accruing on the disposal mentioned in sub-paragraph (1)(a) above shall be deemed not to have a pre-entry proportion.

(4) Sub-paragraph (5) below shall apply where—

(a) an election is made for the purposes of this paragraph in relation to any loss accruing on the disposal ('the real disposal') of the whole or any part of a pooled asset; and

(b) the case is one in which (but for the election) paragraph 3 above would apply for determining the pre-entry proportion of a loss accruing on the real disposal.

(5) In a case falling within sub-paragraph (4) above, this paragraph shall have effect as if the amount specified in sub-paragraph (2)(a) above were to be calculated—

(a) on the basis that the disposal which is assumed to have taken place was a disposal of all the assets falling within sub-paragraph (6) below; and

(b) by apportioning any loss that would have accrued on that disposal between—

(i) such of the assets falling within paragraph (6) below as are assets to which the real disposal is treated as relating, and

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(ii) the remainder of the assets so falling,

according to the proportions of any pooled asset whose disposal is assumed which would have been, respectively, represented by assets mentioned in sub-paragraph (i) above and by assets mentioned in sub-paragraph (ii) above,

and where assets falling within sub-paragraph (6) below have different relevant times there shall be assumed to have been a different disposal at each of those times.

(6) Assets fall within this sub-paragraph if—

(a) immediately before the time which is the relevant time in relation to those assets, they were comprised in a pooled asset which consisted of or included assets which fall to be treated for the purposes of paragraph 3 above as—

(i) comprised in the part of the pooled asset referable to pre-entry assets; and

(ii) disposed of on the real disposal;

(b) they were also comprised in such a pooled asset immediately after that time; and

(c) the pooled asset in which they were so comprised immediately after that time was held by a member of the relevant group.

(7) Where—

(a) an election is made under paragraph 4(6) above requiring the determination by reference to this paragraph of the alternative pre-entry loss accruing on the disposal of any assets comprised in a pooled asset, and

(b) in pursuance of that election any amount of the loss that would have accrued on an assumed disposal is apportioned in accordance with sub-paragraph (5) above to assets ('the relevant assets') which—

(i) are treated for the purposes of that determination as assets to which the disposal related, but

(ii) otherwise continue after the disposal to be treated as incorporated in the part of that pooled asset which is referable to pre-entry assets,

then, on any further application of this paragraph for the purpose of determining the pre-entry proportion of the loss accruing on a subsequent disposal of assets comprised in that pooled asset, that amount (without being apportioned elsewhere) shall be deducted from so much of the loss accruing on the same assumed disposal as, apart from the deduction, would be apportioned to the relevant assets on that further application of this paragraph.

(8) An election under this paragraph with respect to any loss shall be made by the company in question by notice to the inspector given within—

(a) the period of two years beginning with the end of the accounting period of that company in which the disposal is made on which the loss accrues; or

(b) such longer period as the Board may by notice allow.

*Restrictions on the deduction of pre-entry losses*

6.—(1) In the calculation of the amount to be included in respect of chargeable gains in any company's total profits for any accounting period—

(a) if in that period there is any chargeable gain from which the whole or any part of any pre-entry loss accruing in that period is deductible in accordance with paragraph 7 below, the loss or, as the case may be, that part of it shall be deducted from that gain;

(b) if, after all such deductions as may be made under paragraph (a) above have been made, there is in that period any chargeable gain from which the whole or any part of any pre-entry loss carried forward from a previous accounting period is deductible in accordance with paragraph 7 below, the loss or, as the case may be, that part of it shall be deducted from that gain;

(c) the total chargeable gains (if any) remaining after the making of all such deductions as may be made under paragraph (a) or (b) above shall be subject to deductions in accordance with section 8(1) in respect of any allowable losses that are not pre-entry losses; and

(d) any pre-entry loss which has not been the subject of a deduction under paragraph (a) or (b) above (as well as any other losses falling to be carried forward under section 8(1)) shall be carried forward to the following accounting period of that company.

(2) Subject to sub-paragraph (1) above, any question as to which or what part of any pre-entry loss has been deducted from any particular chargeable gain shall be decided—

(a) where it falls to be decided in respect of the setting of losses against gains in any accounting period ending before 16th March 1993 as if—

(i) pre-entry losses accruing in any such period had been set against chargeable gains before any other allowable losses accruing in that period were set against those gains;

(ii) pre-entry losses carried forward to any such period had been set against chargeable gains before any other allowable losses carried forward to that period were set against those gains; and

(iii) subject to sub-paragraphs (i) and (ii) above, the pre-entry losses carried forward to any accounting period ending on or after 16th March 1993 were identified with such losses as may be determined in accordance with such elections as may be made by the company to which they accrued;

and

(b) in any other case, in accordance with such elections as may be made by the company to which the loss accrued;

and any question as to which or what part of any pre-entry loss has been carried forward from one accounting period to another shall be decided accordingly.

(3) An election by any company under this paragraph shall be made by notice to the inspector given—

(a) in the case of an election under sub-paragraph (2)(a)(iii) above, before the end of the period of two years beginning with the end of the accounting period of that company which was current on 16th March 1993; and

(b) in the case of an election under sub-paragraph (2)(b) above, before the end of the period of two years beginning with the end of the accounting period of that company in which the gain in question accrued.

(4) For the purposes of this Schedule where any matter falls to be determined under this paragraph by reference to an election but no election is made, it shall be assumed, so far as consistent with any elections that have been made—

(a) that losses are set against gains in the order in which the losses accrued; and

(b) that the gains against which they are set are also determined according to the order in which they accrued with losses being set against earlier gains before they are set against later ones.

*Gains from which pre-entry losses are to be deductible*

7.—(1) A pre-entry loss that accrued to a company before it became a member of the relevant group shall be deductible from a chargeable gain accruing to that company if the gain is one accruing—

(a) on a disposal made by that company before the date on which it became a member of the relevant group ('the entry date');

(b) on the disposal of an asset which was held by that company immediately before the entry date; or

(c) on the disposal of any asset which—

(i) was acquired by that company on or after the entry date from a person who was not a member of the relevant group at the time of the acquisition; and

(ii) since its acquisition from that person has not been used or held for any purposes other than those of a trade which was being carried on by that company at the time immediately before the entry date and which continued to be carried on by that company until the disposal.

(2) The pre-entry proportion of an allowable loss accruing to any company on the disposal of a pre-entry asset shall be deductible from a chargeable gain accruing to that company if—

(a) the gain is one accruing on a disposal made, before the date on which it became a member of the relevant group, by that company and that company is the one ('the initial company') by reference to which the asset on the disposal of which the loss accrues is a pre-entry asset;

(b) the pre-entry asset and the asset on the disposal of which the gain accrues were each held by the same company at a time immediately before it became a member of the relevant group; or

(c) the gain is one accruing on the disposal of an asset which—

(i) was acquired by the initial company (whether before or after it became a member of the relevant group) from a person who, at the time of the acquisition, was not a member of that group; and

(ii) since its acquisition from that person has not been used or held for any purposes other than those of a trade which was being carried on, immediately before it became a member of the relevant group, by the initial company and which continued to be carried on by the initial company until the disposal.

(3) Where two or more companies become members of the relevant group at the same time and those companies were all members of the same group of companies immediately before they became members of the relevant group, then, without prejudice to paragraph 9 below—

(a) an asset shall be treated for the purposes of sub-paragraph (1)(b) above as held, immediately before it became a member of the relevant group, by the company to which the pre-entry loss in question accrued if that company is one of those companies and the asset was in fact so held by another of those companies;

(b) two or more assets shall be treated for the purposes of sub-paragraph (2)(b) above as assets held by the same company immediately before it became a member of the relevant group wherever they would be so treated if all those companies were treated as a single company; and

(c) the acquisition of an asset shall be treated for the purposes of sub-paragraphs (1)(c) and (2)(c) above as an acquisition by the company to which the pre-entry loss in question accrued if that company is one of those companies and the assset was in fact acquired (whether before or after they became members of the relevant group) by another of those companies.

(4) Paragraph 1(4) above shall apply for determining for the purposes of this paragraph whether an asset on the disposal of which a chargeable gain accrues was held at the time when a company became a member of the relevant group as it applies for determining whether that asset is a pre-entry asset in relation to that group by reference to that company.

(5) Subject to sub-paragraph (6) below, where a gain accrues on the disposal of the whole or any part of—

(a) any asset treated as a single asset but comprising assets only some of which were held at the time mentioned in paragraph (b) of sub-paragraph (1) or (2) above, or

(b) an asset which is treated as held at that time by virtue of a provision requiring an asset which was not held at that time to be treated as the same as an asset which was so held,

a pre-entry loss shall be deductible by virtue of paragraph (b) of sub-paragraph (1) or (2) above from the amount of that gain to the extent only of such proportion of that gain as is attributable to assets held at that time or, as the case may be, represents the gain that would have accrued on the asset so held.

(6) Where—

(a) a chargeable gain accrues by virtue of subsection (10) of section 116 on the disposal of a qualifying corporate bond,

(b) that bond was not held as required by paragraph (b) of sub-paragraph (1) or (2) above at the time mentioned in that paragraph, and

(c) the whole or any part of the asset which is the old asset for the purposes of that section was so held,

the question whether that gain is one accruing on the disposal of an asset the whole or any part of which was held by a particular company at that time shall be determined for the purposes of this paragraph as if the bond were deemed to have been so held to the same extent as the old asset.

*Change of a company's nature*

8.—(1) If—

(a) within any period of three years, a company becomes a member of a group of companies and there is (either earlier or later in that period, or at the same time) a major change in the nature or conduct of a trade carried on by that company, or

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(b) at any time after the scale of the activities in a trade carried on by a company has become small or negligible, and before any considerable revival of the trade, that company becomes a member of a group of companies,

the trade carried on before that change, or which has become small or negligible, shall be disregarded for the purposes of paragraph 7(1)(c) and (2)(c) above in relation to any time before the company became a member of the group in question.

(2) In sub-paragraph (1) above the reference to a major change in the nature or conduct of a trade includes a reference to—

(a) a major change in the type of property dealt in, or services or facilities provided, in the trade; or

(b) a major change in customers, markets or outlets of the trade;

and this paragraph shall apply even if the change is the result of a gradual process which began outside the period of three years mentioned in sub-paragraph (1)(a) above.

(3) Where the operation of this paragraph depends on circumstances or events at a time after the company becomes a member of any group of companies (but not more than three years after), an assessment to give effect to this paragraph shall not be out of time if made within six years from that time or the latest such time.

*Identification of "the relevant group" and application of Schedule to every connected group*

9.—(1) This paragraph shall apply where there is more than one group of companies which would be the relevant group in relation to any company.

(2) Where any loss has accrued on the disposal by any company of any asset, this Schedule shall not apply by reference to any group of companies in relation to any loss accruing on that disposal unless—

(a) that group is a group in relation to which that loss is a pre-entry loss by virtue of paragraph 1(2)(a) above or, if there is more than one such group, the one of which that company most recently became a member;

(b) that group, in a case where there is no group falling within paragraph (a) above, is either—

(i) the group of which that company is a member at the time of the disposal, or

(ii) if it is not a member of a group of companies at that time, the group of which that company was last a member before that time;

(c) that group, in a case where there is a group falling within paragraph (a) above, is a group of which that company was a member at any time in the accounting period of that company in which it became a member of the group falling within that paragraph;

(d) that group is a group the principal company of which is or has been, or has been under the control of—

(i) the company by which the disposal is made, or

(ii) another company which is or has been a member of a group by reference to which this Schedule applies in relation to the loss in question by virtue of paragraph (a), (b) or (c) above;

or

(e) that group is a group of which either—

(i) the principal company of a group by reference to which this Schedule so applies, or

(ii) a company which has had that principal company under its control,

is or has been a member;

and sub-paragraphs (3) to (5) below shall apply in the case of any loss accruing on the disposal of any asset where, by virtue of this sub-paragraph, there are two or more groups ('connected groups') by reference to which this Schedule applies.

(3) This Schedule shall apply separately in relation to each of the connected groups (so far as they are not groups in relation to which the loss is a pre-entry loss by virtue of paragraph 1(2)(a) above) for the purpose of—

(a) determining whether the loss on the disposal of any asset is a loss on the disposal of a pre-entry asset; and

(b) calculating the pre-entry proportion of that loss.

(4) Subject to sub-paragraph (5) below, paragraph 6 above shall have effect—

(a) as if the pre-entry proportion of any loss accruing on the disposal of an asset which is a pre-entry asset in the case of more than one of the connected groups were the largest pre-entry proportion of that loss calculated in accordance with sub-paragraph (3) above; and

(b) so that, where the loss accruing on the disposal of any asset is a pre-entry loss by virtue of paragraph 1(2)(a) above in the case of any of the connected groups, that loss shall be the pre-entry loss for the purposes of paragraph 6 above, and not any amount which is the pre-entry proportion of that loss in relation to any of the other groups.

(5) Where, on the separate application of this Schedule in the case of each of the groups by reference to which this Schedule applies, there is, in the case of the disposal of any asset, a pre-entry loss by reference to each of two or more of the connected groups, no amount in respect of the loss accruing on the disposal shall be deductible under paragraph 7 above from any chargeable gain if any of the connected groups is a group in the case of which, on separate applications of that paragraph in relation to each group, the amount deductible from that gain in respect of that loss is nil.

(6) Notwithstanding that the principal company of one group ('the first group') has become a member of another ('the second group'), those two groups shall not by virtue of section 170(10) be treated for the purposes of this paragraph as the same group if the principal company of the first group was under the control, immediately before it became a member of the second group, of a company which at that time was already a member of the second group.

(7) Where, in the case of the disposal of any asset—

(a) two or more groups which but for sub-paragraph (6) above would be treated as the same group are treated as separate groups by virtue of that sub-paragraph; and

(b) one of those groups is a group of which either—

(i) the principal company of a group by reference to which this Schedule applies by virtue of sub-paragraph (2)(a), (b) or (c) above in relation to any loss accruing on the disposal, or

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(ii) a company which has had that principal company under its control,

is or has been a member,

this paragraph shall have effect as if that principal company had been a member of each of the groups mentioned in paragraph (a) above.

*Appropriations to stock in trade*

10. Where, but for an election under subsection (3) of section 161, there would be deemed to have been a disposal at any time by any company of any asset—

(a) the amount by which the market value of the asset may be treated as increased in pursuance of that election shall not include the amount of any pre-entry loss that would have accrued on that disposal; and

(b) this Schedule shall have effect as if the pre-entry loss of the last mentioned amount had accrued to that company at that time.

*Continuity provisions*

11.—(1) This paragraph applies where provision has been made by or under any enactment ('the transfer legislation') for the transfer of property, rights and liabilities to any person from—

(a) a body established by or under any enactment for the purpose, in the exercise of statutory functions, of carrying on any undertaking or industrial or other activity in the public sector or of exercising any other statutory functions;

(b) a subsidiary of such a body; or

(c) a company wholly owned by the Crown.

(2) A loss shall not be a pre-entry loss for the purposes of this Schedule in relation to any company to whom a transfer has been made by or under the transfer legislation if that loss—

(a) accrued to the person from whom the transfer has been made; and

(b) falls to be treated, in accordance with any enactment made in relation to transfers by or under that legislation, as a loss accruing to that company.

(3) For the purposes of this Schedule where a company became a member of the relevant group by virtue of the transfer by or under the transfer legislation of any shares in or other securities of that company or any other company—

(a) a loss that accrued to that company before it so became a member of that group shall not be a pre-entry loss in relation to that group; and

(b) no asset held by that company when it so became a member of that group shall by virtue of that fact be a pre-entry asset.

(4) For the purposes of this paragraph a company shall be regarded as wholly owned by the Crown if it is—

(a) a company limited by shares in which there are no issued shares held otherwise than by, or by a nominee of, the Treasury, a Minister of the Crown, a Northern Ireland department or another company wholly owned by the Crown; or

(b) a company limited by guarantee of which no person other than the Treasury, a Minister of the Crown or a Northern Ireland department, or a nominee of the Treasury, a Minister of the Crown or a Northern Ireland department, is a member.

(5) In this paragraph—

'enactment' includes any provision of any Northern Ireland legislation, within the meaning of section 24 of the Interpretation Act 1978; and

1978 c. 30.

'statutory functions' means functions under any enactment, under any subordinate legislation, within the meaning of the Interpretation Act 1978, or under any statutory rules, within the meaning of the Statutory Rules (Northern Ireland) Order 1979.

S.I. 1979/1573 (N.I. 13).

*Companies changing groups on certain transfers of shares etc.*

12. For the purposes of this Schedule, and without prejudice to paragraph 11 above, where—

(a) a company which is a member of a group of companies becomes at any time a member of another group of companies as the result of a disposal of shares in or other securities of that company or any other company; and

(b) that disposal is one on which, by virtue of any enactment specified in section 35(3)(d), neither a gain nor a loss would accrue,

this Schedule shall have effect in relation to the losses that accrued to that company before that time and the assets held by that company at that time as if any time when it was a member of the first group were included in the period during which it is treated as having been a member of the second group."

## SCHEDULE 9

Section 97.

### Overseas life insurance companies: amendment of Taxes Act 1988 etc

*Insertion of Schedule 19AC into the Taxes Act 1988*

1. The following Schedule shall be inserted after Schedule 19AB to the Taxes Act 1988—

### "SCHEDULE 19AC

Section 444B.

### Modification of Act in relation to overseas life insurance companies

1. In its application to an overseas life insurance company this Act shall have effect with the following modifications.

2.—(1) In section 6(4), the words "and section 444D" shall be treated as inserted after the words "Part XI".

(2) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

3.—(1) In subsection (2) of section 11, the following paragraphs shall be treated as inserted after paragraph (a)—

"(aa) where section 11B applies for an accounting period, any trading or other income arising in that period from assets which by virtue of that section are attributed to the branch or agency at the time the income arises (but so that this paragraph shall not include distributions received from companies resident in the United Kingdom); and

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(ab) where section 11C applies for an accounting period, any trading or other income falling within section 11C(2) in that period (but so that this paragraph shall not include distributions received from companies resident in the United Kingdom); and".

(2) The following shall be treated as inserted after paragraph (b) of that subsection "and

(c) chargeable gains accruing to the company on the disposal of assets of the company's long term business fund situated outside the United Kingdom and used or held for the purposes of the branch or agency immediately before the disposal; and

(d) where section 11B applies for an accounting period, chargeable gains accruing to the company in that period on the disposal of assets which by virtue of that section are attributed to the branch or agency immediately before the disposal; and

(e) where section 11C applies for an accounting period, chargeable gains accruing to the company in that period by virtue of section 11C(3)."

(3) The following subsection shall be treated as inserted after that subsection—

"(2A) For the purposes of subsection (2)(c) above—

(a) section 275 of the 1992 Act (location of assets) shall apply as it applies for the purposes of that Act;

(b) "long term business fund" has the meaning given by section 431(2)."

(4) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

4.—(1) The following sections shall be treated as inserted after section 11—

"Overseas life insurance companies: interpretation of sections 11B and 11C.

11A.—(1) For the purposes of this section and sections 11B and 11C—

(a) an asset is at any time a section 11(2)(b) asset if, were it to be disposed of at that time, any chargeable gains accruing to the company on the disposal would form part of its chargeable profits for corporation tax purposes by virtue of section 11(2)(b);

(b) an asset is at any time a section 11(2)(c) asset if, were it to be disposed of at that time, any chargeable gains accruing to the company on the disposal would form part of its chargeable profits for corporation tax purposes by virtue of section 11(2)(c);

(c) relevant contracts and policies are contracts and policies the effecting of which constitutes the carrying on of life assurance business;

and in this section and those sections any expression to which a meaning is given by section 431(2) has that meaning.

(2) For the purposes only of subsection (1)(a) and (b) above any enactment which—

(a) limits any chargeable gain on the disposal of an asset;

(b) treats any gain on the disposal of an asset as not being a chargeable gain; or

(c) treats any disposal of an asset as not giving rise to a chargeable gain,

shall be disregarded.

(3) For the purposes of sections 11B and 11C—

(a) the notional value at any time is the value at that time of the assets which the branch or agency would reasonably be expected to hold at that time in consequence of any relevant contracts, and any relevant policies, which at that time are carried out at the branch or agency;

(b) the section 11B value at any time is the value at that time of such of the section 11(2)(b) and section 11(2)(c) assets as are assets held at that time in consequence of any relevant contracts, and any relevant policies, which at that time are carried out at the branch or agency;

(c) the section 11C value at any time is the value at that time of—

(i) such of the section 11(2)(b) and section 11(2)(c) assets as are assets held at that time in consequence of any relevant contracts, and any relevant policies, which at that time are carried out at the branch or agency; and

(ii) the assets which by virtue of section 11B are attributed to the branch or agency at that time;

(d) a relevant fund is a fund of assets of the company (wherever those assets may be situated) any part of which is held in consequence of any relevant contracts, and any relevant policies, which at any time in the accounting period concerned are carried out at the branch or agency.

(4) In applying subsection (3)(a) above as regards a particular time, it shall be assumed that—

(a) at that time the branch or agency is a company resident in the United Kingdom, undertaking the activities it then actually undertakes;

(b) the terms of any dealings between the branch or agency and another part of the company are not (or not necessarily) their actual terms but are such as would be the terms if the branch or agency and the other part of the company were independent persons dealing at arm's length.

Overseas life insurance companies: attribution of assets.

11B.—(1) This section applies for an accounting period where the mean of the notional value at the beginning and end of the accounting period exceeds the mean of the section 11B value at those times.

(2) Where this section applies for an accounting period, assets shall be attributed to the branch or agency in that period in accordance with the following provisions of this section.

(3) There shall be attributed to the branch or agency in the accounting period such of the qualifying assets of the company as (having regard to the excess mentioned in subsection (1) above) it is just and reasonable to attribute to the branch or agency.

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(4) For the purposes of subsection (3) above—

(a) where an asset is a qualifying asset for the whole of the accounting period it may, subject to paragraphs (c) and (d) below, be attributed to the branch or the agency for the whole or any part or parts of that period;

(b) where an asset is a qualifying asset for any portion of the accounting period it may, subject to paragraphs (c) and (d) below, be attributed to the branch or agency for the whole or any part or parts of that portion;

(c) an asset shall not be attributed to the branch or agency for any period of time during which it is a section 11(2)(b) or section 11(2)(c) asset;

(d) an asset shall not be attributed to the branch or agency at any particular time unless it is held in consequence of any relevant contracts, and any relevant policies, which at that time are carried out at the branch or agency.

(5) An asset of the company is a qualifying asset at any time if it is an asset of one or more of the following descriptions, that is to say—

(a) an asset which, in relation to any relevant contracts and any relevant policies which at that time are carried out at the branch or agency, is a linked asset within the meaning given by section 431(2);

(b) an asset which at that time is maintained in the United Kingdom as a result of a requirement imposed under section 39 of the Insurance Companies Act 1982, other than an asset not treated as so maintained by virtue of a direction under subsection (2) of that section;

1982 c. 50.

(c) an asset which at that time is treated for the purposes of any such requirement as is mentioned in paragraph (b) above as maintained in the United Kingdom by virtue of a direction under subsection (2) of that section;

(d) an asset which at that time is held in respect of the business carried on by the branch or agency as a result of a condition of an order under section 68 of the Insurance Companies Act 1982;

(e) an asset which at that time is held in a fund which the company is required to maintain under the prudential legislation of a territory outside the United Kingdom in respect of the business carried on by the branch or agency;

(f) an asset which is identified in tax returns submitted to a taxing authority of a territory outside the United Kingdom as an asset which at that time is wholly referable to the business carried on by the branch or agency.

Overseas life insurance companies: additional income and gains.

11C.—(1) This section applies for an accounting period where the mean of the notional value at the beginning and end of the accounting period exceeds the mean of the section 11C value at those times.

(2) Where this section applies for an accounting period, the income which falls within this subsection in that period shall be the specified amount of each item of relevant income arising in that period from any assets of the relevant fund.

(3) Where this section applies for an accounting period, the chargeable gains accruing to the company in that period by virtue of this subsection shall be the specified amount of each relevant gain accruing to the company in that period on the disposal of any assets of the relevant fund.

(4) For the purposes of this section—

(a) relevant income is income other than income which falls within section 11(2)(a) or (aa);

(b) a relevant gain is a gain (other than a chargeable gain which falls within section 11(2)(b), (c) or (d)) which would be a chargeable gain if the company were resident in the United Kingdom.

(5) For the purposes of this section the specified amount of an item of relevant income arising in the accounting period from any assets of the relevant fund shall be determined by the formula—

$$SI = I \times \frac{(NV - CV)}{RF}$$

(6) For the purposes of this section the specified amount of a relevant gain accruing to the company in the accounting period on the disposal of any assets of the relevant fund shall be determined by the formula—

$$SG = G \times \frac{(NV - CV)}{RF}$$

(7) In subsections (5) and (6) above—

SI is the specified amount of an item of relevant income arising in the accounting period from any assets of the relevant fund;

I is an item of relevant income arising in that period from any assets of the relevant fund;

NV is the mean of the notional value at the beginning and end of that period;

CV is the mean of the section 11C value at the beginning and end of that period;

RF (subject to subsection (8) below) is the mean of the value of the relevant fund at the beginning and end of that period;

SG is the specified amount of a relevant gain accruing to the company in that period on the disposal of any assets of the relevant fund;

G is a relevant gain accruing to the company in that period on the disposal of any assets of the relevant fund.

(8) Where the assets of the relevant fund at the beginning or end of the accounting period include—

(a) section 11(2)(b) or section 11(2)(c) assets; or

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(b) assets which by virtue of section 11B are attributed to the branch or agency,

the value at that time of the relevant fund for the purposes of the definition of RF in subsection (7) above shall be reduced by the value at that time of those assets.

(9) Where in the accounting period the company has more than one relevant fund—

(a) in the definition of RF in subsection (7) above, the reference to the value of the relevant fund shall be treated as a reference to the value of the relevant funds; and

(b) any other reference in this section to the relevant fund shall be treated as a reference to the relevant funds."

(2) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

5.—(1) In section 76, the following subsections shall be treated as inserted after subsection (6)—

"(6A) In its application to an overseas life insurance company this section shall have effect as if—

(a) the reference in subsection (1)(ca) to any reinsurance commission were to any such reinsurance commission concerned as is attributable to the branch or agency in the United Kingdom through which the company carries on life assurance business;

(b) the references in subsection (1) to income and gains were to such income and gains concerned as are so attributable.

(6B) In their application to an overseas life insurance company section 75(5) and subsections (2) and (3)(b) above shall have effect as if for "242" there were substituted "444D"."

(2) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

6.—(1) In subsection (2) of section 431, the following definition shall be treated as substituted for the definition of "investment reserve"—

""investment reserve", in relation to an overseas life insurance company, means the excess of the value of the relevant assets over the relevant liabilities, and for the purposes of this definition—

(a) relevant assets are such assets of the company's long term business fund as are—

(i) section 11(2)(b) assets;

(ii) section 11(2)(c) assets; or

(iii) assets which by virtue of section 11B are attributed to the branch or agency in the United Kingdom through which the company carries on life assurance business; and

(b) relevant liabilities are such liabilities of the long term business as are attributable to the branch or agency;

and in a case where section 11C applies, the value of the relevant assets shall be increased by the amount by which the notional value exceeds the section 11C value; and any expression used in this definition to which a meaning is given by section 11A has that meaning;".

(2) In that subsection, the following definition shall be treated as substituted for the definition of "liabilities"—

""liabilities", where the company concerned is an overseas life insurance company, does not include excluded liabilities and (subject to that) means—

(a) liabilities as estimated for the purposes of the company's periodical return, or

(b) in the case of liabilities not estimated for the purposes of such a periodical return, liabilities as estimated for the purposes of any return equivalent to a periodical return and required to be made by the company under the law of the territory in which the company is resident, or

(c) in the case of liabilities not estimated for the purposes of such a periodical return or equivalent return, liabilities as found from the company's records;

and excluded liabilities are any liabilities that have fallen due or been reinsured and any not arising under or in connection with policies or contracts effected as part of the company's insurance business;".

(3) In that subsection, the following words shall be treated as inserted after paragraph (b) of the definition of "overseas life assurance business"—

"but none of the life assurance business of an overseas life insurance company shall be treated as overseas life assurance business;".

(4) In that subsection, at the end of the definition of "overseas life assurance fund" the following words shall be treated as inserted ", but that Schedule shall not apply in the case of an overseas life insurance company".

(5) In that subsection, the following definition shall be treated as substituted for the definition of "value"—

""value", in relation to assets and where the company concerned is an overseas life insurance company, means—

(a) their value as taken into account for the purposes of the company's periodical return, or

(b) where their value is not taken into account for the purposes of such a periodical return, their value as taken into account for the purposes of any return equivalent to a periodical return and required to be made by the company under the law of the territory in which the company is resident, or

(c) where their value is not taken into account for the purposes of such a periodical return or equivalent return, their value as found from the company's records;

and the reference in paragraph (c) above to the value of assets as found from the company's records is a reference to the market value as so found or, where applicable, the current value (within the meaning of the Directive of the Council of the European Communities dated 19th December 1991 No. 91/674/EEC (directive on the annual accounts and consolidated accounts of insurance undertakings)) as so found;".

(6) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

7.—(1) In section 432A, the following subsection shall be treated as inserted after subsection (2)—

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"(2A) In the case of an overseas life insurance company—

(a) any income which falls within section 11(2)(aa) or (ab); and

(b) any chargeable gains or allowable losses which fall within section 11(2)(d) or (e),

shall be referable to life assurance business."

(2) The following subsection shall be treated as inserted after subsection (9) of that section—

"(9A) In its application to an overseas life insurance company this section shall have effect as if—

(a) the references in subsections (3), (6) and (8) to assets were to such of the assets concerned as are—

(i) section 11(2)(b) assets;

(ii) section 11(2)(c) assets; or

(iii) assets which by virtue of section 11B are attributed to the branch or agency in the United Kingdom through which the company carries on life assurance business;

(b) the references in subsections (6) and (8) to liabilities were to such of the liabilities concerned as are attributable to the branch or agency;

and any expression used in this subsection to which a meaning is given by section 11A has that meaning."

(3) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

8.—(1) In subsection (1) of section 432B, the words "or treated as brought into account by virtue of paragraph 1 of Schedule 8A to the Finance Act 1989" shall be treated as inserted after the word "1982".

(2) The following words shall be treated as inserted at the end of subsection (2) of that section "; but this subsection shall not apply for a period of account in relation to which paragraph 1(6), (7) or (8) of Schedule 8A to the Finance Act 1989 applies."

(3) The following subsection shall be treated as inserted after subsection (3) of that section—

"(4) In their application to an overseas life insurance company—

(a) subsection (3) above shall have effect as if after "with which an account is concerned" there were inserted "or in respect of which items are treated as brought into account by virtue of paragraph 1 of Schedule 8A to the Finance Act 1989"; and

(b) that subsection and sections 432C to 432E shall have effect as if the reference to relevant business were to relevant business of the branch or agency in the United Kingdom through which the company carries on life assurance business."

(4) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

9.—(1) In section 434, the following subsection shall be treated as inserted after subsection (1)—

"(1A) Nothing in paragraph (a), (aa) or (ab) of section 11(2) shall prevent UK distribution income of an overseas life insurance company from being taken into account as part of the profits in computing trading income in accordance with the provisions applicable to Case I of Schedule D."

(2) In subsection (2) of that section, the words "UK distribution income of an overseas life insurance company" shall be treated as substituted for the words "franked investment income of a company so resident".

(3) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

10.—(1) In section 438, the following subsection shall be treated as inserted after subsection (3)—

"(3A) Subject to subsection (6) below, nothing in paragraph (a), (aa) or (ab) of section 11(2) shall prevent UK distribution income of an overseas life insurance company from being taken into account as part of the profits in computing under section 436 income from pension business."

(2) In subsections (6) and (6A) of that section, the words "UK distribution income" shall be treated as substituted for the words "franked investment income" in each place where they occur.

(3) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

11.—(1) In subsection (2) of section 440A, in paragraphs (a) and (b) the words "UK securities" shall be treated as substituted for the word "securities" in the first place where it occurs in each paragraph.

(2) Paragraph (c) of that subsection shall be treated as omitted.

(3) In paragraphs (d) and (e) of that subsection, the words "UK securities" shall be treated as substituted for the word "securities".

(4) The following paragraphs shall be treated as inserted at the end of that subsection—

"(f) the section 11C securities shall be treated for those purposes as a separate holding which is not of any of the descriptions mentioned in the preceding paragraphs; and

(g) the non-UK securities shall be treated for those purposes as a separate holding which is not of any of the descriptions mentioned in the preceding paragraphs."

(5) The following subsection shall be treated as inserted after subsection (6) of that section—

"(7) For the purposes of this section—

(a) UK securities are such securities as are—

(i) section 11(2)(b) assets;

(ii) section 11(2)(c) assets; or

(iii) assets which by virtue of section 11B are attributed to the branch or agency in the United Kingdom through which the company carries on life assurance business;

(b) section 11C securities are securities—

(i) (in a case where section 11C (other than subsection (9)) applies) which are assets of the relevant fund, other than UK securities; or

(ii) (in a case where that section including that subsection applies) which are assets of the relevant funds, other than UK securities;

(c) non-UK securities are securities which are not UK securities or section 11C securities;

and any expression used in this subsection to which a meaning is given by section 11A has that meaning."

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(6) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

12.—(1) In paragraph A of section 704, in sub-paragraph (e) the words "UK distribution income under section 444D" shall be treated as substituted for the words "a surplus of franked investment income under section 242 or 243".

(2) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

13.—(1) In subsection (2) of section 794, the following shall be treated as inserted after paragraph (c) "and

(d) for tax paid under the law of any territory in respect of the UK branch income or UK branch gains of an overseas life insurance company for the chargeable period in question but only where the following conditions are fulfilled, namely—

(i) that the territory under whose law the tax was paid is not one in which the company is liable to tax by reason of domicile, residence or place of management; and

(ii) that the amount of relief claimed does not exceed (or is by the claim expressly limited to) that which would have been available if the branch or agency concerned had been an insurance company resident in the United Kingdom and the income or gains in question had been income or gains of that company."

(2) The following subsections shall be treated as inserted after that subsection—

"(3) For the purposes of subsection (2)(d) above—

(a) "UK branch income", in relation to an overseas life insurance company, means such of its income falling within section 11(2)(a), (aa) or (ab) as arises from assets of its long term business fund;

(b) "UK branch gains", in relation to an overseas life insurance company, means such of its chargeable gains falling within section 11(2)(b), (c), (d) or (e) as accrue on the disposal of assets of its long term business fund;

(c) "long term business fund" has the meaning given by section 431(2).

(4) In relation to any item of income falling within section 11(2)(ab), or any chargeable gain falling within section 11(2)(e), the reference in subsection (2)(d) above to tax paid shall be construed as a reference to that part of the tax paid which bears to the whole of the tax paid the same proportion as that item of income, or that chargeable gain, bears to the relevant income, or relevant gain, by reference to which that item of income, or that chargeable gain, is, by virtue of section 11C, calculated; and, in relation to any such item of income or any such chargeable gain, the reference in section 790(4) to tax paid shall be construed accordingly."

(3) This paragraph shall apply in relation to chargeable periods beginning after 31st December 1992.

14.—(1) In subsection (1) of section 811, the words "subsections (1A) and (2)" shall be treated as substituted for the words "subsection (2)".

(2) The following subsection shall be treated as inserted after that subsection—

"(1A) In relation to any item of income falling within section 11(2)(ab), the reference in subsection (1) above to any sum which has been paid in respect of tax on that income shall be construed as a reference to the part of that sum which bears to the whole of that sum the same proportion as that item of income bears to the relevant income by reference to which that item of income is, by virtue of section 11C, calculated."

(3) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

15.—(1) In paragraph 1(8) of Schedule 19AB, the words "UK distribution income" shall be treated as substituted for the words "franked investment income" in each place where they occur.

(2) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992."

*Deemed disposal and reacquisition*

2.—(1) Where immediately before the relevant day the company referred to in section 11(2) of the Taxes Act 1988 is an overseas life insurance company, then, subject to sub-paragraph (4) below, it shall be deemed for the purposes of corporation tax on chargeable gains—

(a) to have disposed immediately before the relevant day of every asset to which sub-paragraph (2) below applies, and

(b) immediately to have reacquired every such asset,

at its market value at the time of the deemed disposal.

(2) This sub-paragraph applies to any asset which—

(a) was held by the company immediately before the relevant day, and

(b) at the beginning of that day is a chargeable asset in relation to the company.

(3) For the purposes of sub-paragraph (2) above an asset is at the beginning of the relevant day a chargeable asset in relation to the company if, were it to be disposed of at that time, any chargeable gains accruing to the company on the disposal would form part of its chargeable profits by virtue of paragraph (c), (d) or (e) of section 11(2) of the Taxes Act 1988 (as that paragraph has effect by virtue of Schedule 19AC to that Act).

(4) Sub-paragraph (1) above shall not have effect in applying paragraph 2(2) of Schedule 28 to that Act in the case of a disposal by the company.

(5) For the purposes of this paragraph the relevant day is the first day of the company's first accounting period to begin after 31st December 1992.

## SCHEDULE 10

Section 101.

### Overseas life insurance companies: amendment of Finance Act 1989

The following Schedule shall be inserted after Schedule 8 to the Finance Act 1989—

1989 c.26.

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"SCHEDULE 8A

Section 89A.

MODIFICATION OF SECTIONS 83 AND 89 IN RELATION TO OVERSEAS LIFE INSURANCE COMPANIES

1.—(1) In its application to an overseas life insurance company (as defined in section 431(2) of the Taxes Act 1988) section 83 of this Act shall have effect with the following modifications; and in those modifications any reference to the Taxes Act 1988 is a reference to that Act as it has effect in relation to such a company by virtue of Schedule 19AC to that Act.

(2) The reference in subsection (1)(a) to investment income shall be construed as a reference to such of the income concerned as is attributable to the branch or agency in the United Kingdom through which the company carries on life assurance business.

(3) The reference in subsection (1)(b) to assets shall be construed as a reference to such of the assets concerned—

(a) as are—

(i) section 11(2)(b) assets;

(ii) section 11(2)(c) assets; or

(iii) assets which by virtue of section 11B of the Taxes Act 1988 are attributed to the branch or agency; or

(b) as are assets—

(i) (in a case where section 11C of that Act (other than subsection (9)) applies) of the relevant fund, or

(ii) (in a case where that section including that subsection applies) of the relevant funds,

other than assets which fall within paragraph (a) above.

(4) In determining for the purposes of subsection (1) whether there has been any increase or reduction in the value (whether realised or not) of assets—

(a) no regard shall be had to any period of time during which an asset held by the company does not fall within paragraph (a) or (b) of sub-paragraph (3) above; and

(b) in the case of an asset which falls within paragraph (b) of that sub-paragraph, only the specified portion of any increase or reduction in the value of the asset shall be taken into account.

(5) For the purposes of this paragraph—

(a) the specified portion of any increase or reduction in the value of an asset is found by applying to that increase or reduction the same fraction as would, by virtue of section 11C of the Taxes Act 1988, be applied to any relevant gain accruing to the company on the disposal of the asset; and

(b) any expression to which a meaning is given by section 11A of that Act has that meaning.

(6) Where for a period of account any investment income referred to in subsection (1) is not brought into account within the meaning given by subsection (2) it shall be treated as brought into account for the period if it arises in the period.

(7) Where for a period of account any increase in value referred to in subsection (1) is not brought into account within the meaning given by subsection (2) it shall be treated as brought into account for the period if it is shown in the company's records as available to fund one or both of the following for the period, namely, bonuses to policy holders and dividends to shareholders.

(8) Where for a period of account any reduction in value referred to in subsection (1) is not brought into account within the meaning given by subsection (2) it shall be treated as brought into account for the period if it is shown in the company's records as reducing sums available to fund one or both of the following for the period, namely, bonuses to policy holders and dividends to shareholders.

(9) This paragraph shall apply in relation to periods of account beginning after 31st December 1992.

2.—(1) In its application to an overseas life insurance company section 89 of this Act shall have effect with the following modifications; and in those modifications any reference to the Taxes Act 1988 is a reference to that Act as it has effect in relation to such a company by virtue of Schedule 19AC to that Act.

(2) Any reference to franked investment income shall be treated as a reference to UK distribution income (as defined by section 444D(4) of the Taxes Act 1988).

(3) Any reference in subsection (5)(a) to income shall be construed as a reference to such of the income concerned as is attributable to the branch or agency in the United Kingdom through which the company carries on life assurance business.

(4) The reference in subsection (5)(b) to assets shall be construed as a reference to such of the assets concerned—

(a) as are—

(i) section 11(2)(b) assets;

(ii) section 11(2)(c) assets; or

(iii) assets which by virtue of section 11B of the Taxes Act 1988 are attributed to the branch or agency; or

(b) as are assets—

(i) (in a case where section 11C of that Act (other than subsection (9)) applies) of the relevant fund, or

(ii) (in a case where that section including that subsection applies) of the relevant funds,

other than assets which fall within paragraph (a) above.

(5) In subsection (5)(c) the reference to expenses shall be construed as a reference to such of the expenses concerned as are attributable to the branch or agency.

(6) In subsection (5)(d) the reference to interest shall be construed as a reference to such of the interest concerned as is so attributable.

(7) In determining for the purposes of subsection (5) whether there has been any increase or reduction in the value (whether realised or not) of assets—

(a) no regard shall be had to any period of time during which an asset does not fall within paragraph (a) or (b) of sub-paragraph (4) above; and

(b) in the case of an asset which falls within paragraph (b) of that sub-paragraph, only the specified portion of any increase or reduction in the value of the asset shall be taken into account;

and sub-paragraph (5) of paragraph 1 above shall apply for the purposes of this paragraph as it applies for the purposes of that paragraph.

(8) Where for a period of account any item consisting of income, expenses or interest referred to in subsection (5) is not brought into account within the meaning given by subsection (6) it shall be treated as brought into account for the period if it arises in the period.

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(9) Where for a period of account any increase in value referred to in subsection (5) is not brought into account within the meaning given by subsection (6) it shall be treated as brought into account for the period if it is shown in the company's records as available to fund one or both of the following for the period, namely, bonuses to policy holders and dividends to shareholders.

(10) Where for a period of account any reduction in value referred to in subsection (5) is not brought into account within the meaning given by subsection (6) it shall be treated as brought into account for the period if it is shown in the company's records as reducing sums available to fund one or both of the following for the period, namely, bonuses to policy holders and dividends to shareholders.

(11) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992."

Section 102.

## SCHEDULE 11

### OVERSEAS LIFE INSURANCE COMPANIES: AMENDMENT OF TAXATION OF CHARGEABLE GAINS ACT 1992

1992 c. 12.

The following Schedule shall be inserted after Schedule 7A to the Taxation of Chargeable Gains Act 1992—

"Section 214B.

## SCHEDULE 7B

### MODIFICATION OF ACT IN RELATION TO OVERSEAS LIFE INSURANCE COMPANIES

1. In its application to an overseas life insurance company (as defined in section 431(2) of the Taxes Act) this Act shall have effect with the following modifications; and in those modifications any reference to the Taxes Act is a reference to that Act as it has effect in relation to such a company by virtue of Schedule 19AC to that Act.

2.—(1) In section 13(5)(d), the words "section 11(2)(b), (c), (d) or (e) of the Taxes Act" shall be treated as substituted for the words "section 10(3)".

(2) This paragraph shall apply in relation to chargeable gains accruing to companies in accounting periods beginning after 31st December 1992.

3.—(1) In section 16(3), the words "under section 11(2)(b), (c), (d) or (e) of the Taxes Act" shall be treated as substituted for the words "under section 10".

(2) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

4.—(1) In section 25, the following subsection shall be treated as substituted for subsection (7)—

"(7) For the purposes of this section an asset is at any time a chargeable asset in relation to an overseas life insurance company if, were it to be disposed of at that time, any chargeable gains accruing to the company on the disposal would form part of its chargeable profits for corporation tax purposes by virtue of section 11(2)(b), (c), (d) or (e) of the Taxes Act."

(2) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

5.—(1) In section 140A(2), the words "section 11(2)(b), (c) or (d) of the Taxes Act" shall be treated as substituted for the words "section 10(3)".

(2) This paragraph shall apply in relation to transfers taking place in accounting periods of company B beginning after 31st December 1992.

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6.—(1) In section 159(4)(b), the words "section 11(2)(b), (c) or (d) of the Taxes Act" shall be treated as substituted for the words "section 10(3)".

(2) This paragraph shall apply in relation to disposals or acquisitions made in accounting periods beginning after 31st December 1992.

7.—(1) In section 172(4), the words "section 11(2)(b), (c), (d) or (e) of the Taxes Act" shall be treated as substituted for the words "section 10(3)".

(2) This paragraph shall apply in relation to disposals made or assumed to have been made in accounting periods beginning after 31st December 1992.

8.—(1) In subsections (2)(a) and (3) of section 185, the words "or (4A)" shall be treated as inserted after the words "subsection (4)".

(2) The following subsections shall be treated as inserted after subsection (4) of that section—

"(4A) Subject to subsection (4B) below, if at any time after the relevant time the company is an overseas life insurance company—

(a) any assets of its long term business fund which, immediately after the relevant time—

(i) are situated outside the United Kingdom and are used or held for the purposes of the branch or agency in the United Kingdom through which the company carries on life assurance business; or

(ii) are attributed to the branch or agency by virtue of section 11B of the Taxes Act,

shall be excepted from subsection (2) above; and

(b) any new assets of its long term business fund which, after that time—

(i) are so situated and are so used or held; or

(ii) are so attributed,

shall be excepted from subsection (3) above.

(4B) Subsection (4A) above shall not apply if the relevant time falls before the relevant day; and for the purposes of this subsection the relevant day is the first day of the company's first accounting period to begin after 31st December 1992."

(3) In subsection (5) of that section, the following paragraph shall be treated as inserted after paragraph (b)—

"(ba) "life assurance business" and "long term business fund" have the meanings given by section 431(2) of the Taxes Act;".

9.—(1) In section 191(1)(b), the words "section 11(2)(b), (c), (d) or (e) of the Taxes Act" shall be treated as substituted for the words "section 10(3)".

(2) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

10.—(1) In section 212, the following subsection shall be treated as inserted after subsection (5)—

"(5A) In its application to an overseas life insurance company this section shall have effect as if the references in subsections (1) and (2) to assets were to such of the assets concerned as are—

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(a) section 11(2)(b) assets;

(b) section 11(2)(c) assets; or

(c) assets which by virtue of section 11B of the Taxes Act are attributed to the branch or agency in the United Kingdom through which the company carries on life assurance business;

and any expression used in this subsection to which a meaning is given by section 11A of the Taxes Act has that meaning."

(2) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

11.—(1) In section 213(4), the words "in the United Kingdom through a branch or agency" shall be treated as inserted after the words "long term business".

(2) This paragraph shall apply in relation to events occurring in accounting periods beginning after 31st December 1992.

12.—(1) In section 214, the following subsection shall be treated as inserted after subsection (11)—

"(12) In its application to an overseas life insurance company this section shall have effect as if—

(a) the references in subsections (1), (2) and (6) to (10) to assets were to such of the assets concerned as are—

(i) section 11(2)(b) assets; or

(ii) section 11(2)(c) assets;

(b) the references in subsections (1), (7) and (8) to liabilities were to such of the liabilities concerned as are attributable to the branch or agency in the United Kingdom through which the company carries on life assurance business;

and any expression used in this subsection to which a meaning is given by section 11A of the Taxes Act has that meaning."

(2) This paragraph shall apply where the accounting period mentioned in section 214(6)(d) begins after 31st December 1992.

13.—(1) In subsection (4) of section 214A, in item G the words "in the United Kingdom through a branch or agency" shall be treated as inserted after the words "cessation of the carrying on".

(2) In subsection (6) of that section, the words "in the United Kingdom through a branch or agency" shall be treated as inserted after the words "long term business".

(3) In subsection (11) of that section, the following words shall be treated as inserted at the end "; and, as it applies for the purposes of this section, the words "(with the modifications set out in subsection (12) of that section)" shall be treated as inserted after the words "section 214"."

14.—(1) In section 228(6)(b), the words "section 11(2)(b), (c) or (d) of the Taxes Act" shall be treated as substituted for the words "section 10(3)".

(2) This paragraph shall apply in relation to acquisitions made in chargeable periods beginning after 31st December 1992."

## SCHEDULE 12

Section 114.

### INITIAL ALLOWANCES FOR AGRICULTURAL BUILDINGS

1. The Capital Allowances Act 1990 shall be amended as follows.

1990 c. 1.

2.—(1) In subsection (1) of section 124 (expenditure qualifying for allowances)—

(a) for "this Part, including" there shall be substituted "writing-down allowances or"; and

(b) in paragraph (b), for "this Part" there shall be substituted "writing-down allowances or, as the case may be, section 122".

(2) In subsection (2) of that section, for "this Part" there shall be substituted "writing-down allowances".

3. After section 124 there shall be inserted the following sections—

"Initial allowances: contracts entered into between October 1992 and November 1993.

124A.—(1) Subject to the following provisions of this Part, if a person having a major interest in any agricultural land incurs any expenditure to which this section applies, there shall be made to him, for the chargeable period which is that related to the incurring of the expenditure, an allowance ('an initial allowance') equal to 20 per cent. of the amount of that expenditure.

(2) This section applies to any expenditure falling within section 123 which is incurred under a contract which—

(a) is entered into either—

(i) in the period beginning with 1st November 1992 and ending with 31st October 1993; or

(ii) for the purpose of securing that obligations under a contract entered into in that period are complied with;

but

(b) is not entered into for the purpose of securing that obligations under a contract entered into before the beginning of that period are complied with.

(3) No expenditure on the construction of any building, fence or other works shall be taken into account for the purposes of any initial allowance under this Part unless it is incurred for the purposes of husbandry on the agricultural land in question; and no initial allowance shall be made under this Part in respect of expenditure on the construction of any building, fence or other works unless the building, fence or other works is or is to be first used for the purposes of husbandry on or before 31st December 1994.

(4) Where expenditure is incurred on a farmhouse or any asset (other than a farmhouse) which is to serve partly the purposes of husbandry and partly other purposes, the same apportionment of that expenditure shall be made for the purposes of any initial allowance under this Part as is required by section 124(1)(a) or (b) to be made for the purposes of writing-down allowances.

(5) In a case where—

(a) any expenditure to which this section applies is incurred on the construction of any building, fence or other works; and

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(b) either—

(i) when the building, fence or other works comes to be used it is not used for the purposes of husbandry; or

(ii) it has not come to be so used by the end of 31st December 1994,

the expenditure shall be left out of account for the purposes of initial allowances under this Part and, accordingly, any initial allowance made in respect of the expenditure under this section shall be withdrawn and all such assessments and adjustments of assessments shall be made as may be necessary to give effect to that withdrawal.

(6) Subject to subsection (7) below, a person making a claim by virtue of this section as it applies for income tax purposes may require the initial allowance to be reduced to a specified amount; and a company may by notice given to the inspector not later than two years after the end of the chargeable period for which the allowance falls to be made disclaim the initial allowance or require it to be reduced to a specified amount.

(7) Subsection (6) above shall have effect as respects allowances falling to be made for accounting periods ending after the day appointed for the purposes of section 10 of the principal Act (pay and file) with the omission of the words 'as it applies for income tax purposes' and the words from 'and a company' onwards.

Restriction on writing-down allowance where initial allowance made.

124B. Where an initial allowance under this Part is made for any chargeable period in respect of any expenditure on the construction of a building, fence or other works, a writing-down allowance in respect of that expenditure shall be made under this Part for the same chargeable period only if the building, fence or other works has come to be used for the purposes of husbandry before the end of that period."

4.—(1) In subsection (1) of section 126 (transfers of relevant interest), for "a writing-down allowance" there shall be substituted "an allowance under this Part".

(2) For subsection (2) of that section there shall be substituted the following subsection—

"(2) If, in a case falling within subsection (1) above, the date of the acquisition occurs during a chargeable period of the former owner or its basis period, the former owner shall be entitled—

(a) to the whole of any initial allowance for the chargeable period related to the acquisition; but

(b) only to an appropriate proportion of any writing-down allowance for the chargeable period so related;

and, similarly, if the date of the acquisition occurs during a chargeable period of the new owner or its basis period, the new owner shall be entitled only to an appropriate proportion of any writing-down allowance for the chargeable period (of his) related to the acquisition."

(3) In subsection (6) of that section (balancing increase of last writing-down allowance in respect of allowance lost on transfers), after "total allowances" there shall be inserted "(including any initial allowance)".

5.—(1) After subsection (3) of section 127 (buildings etc. bought unused) there shall be inserted the following subsections—

"(3A) The expenditure referred to in subsection (1) above includes neither—

(a) expenditure which falls to be disregarded for the purposes of writing-down allowances by virtue of section 124(1); nor

(b) expenditure some or all of which is expenditure to which section 124A applies.

(3B) Accordingly, any expenditure which is treated as incurred under subsection (2)(c) above shall be treated (without prejudice to section 124(2)) as incurred for the purposes mentioned in section 124(1)."

(2) In subsection (4) of that section, for "and (3)" there shall be substituted "(3) and (3B)".

6. After section 127 there shall be inserted the following section—

"Purchases of buildings and structures: cases involving initial allowances.

127A.—(1) This section shall apply (subject to subsection (2) below) where—

(a) there is expenditure on the construction of any building, fence or other works ('the actual expenditure') which—

(i) is expenditure falling within section 123; and

(ii) is not expenditure which would fall to be disregarded for the purposes of writing-down allowances by virtue of section 124(1);

(b) some or all of the actual expenditure is expenditure to which section 124A applies or would be such expenditure if it were capital expenditure; and

(c) before the building, fence or other works comes to be used, the relevant interest is sold.

(2) In relation to any case in which the relevant interest is sold in pursuance of a contract entered into in the period beginning with 1st November 1992 and ending with 31st October 1993 by a person who—

(a) carries on a trade which consists, in whole or in part, in the construction of buildings or structures with a view to their sale; and

(b) has been entitled to that interest since before 1st November 1992,

section 124A(2) above shall have effect for the purposes of subsection (1)(b) above and subsection (6) below as if for the words from 'contract which' onwards there were substituted 'contract entered into either before 1st November 1993 or for the purpose of securing that obligations under a contract entered into before that date are complied with.'

(3) Where this section applies—

(a) the actual expenditure shall be left out of account for the purposes of this Part and, accordingly—

(i) any initial allowance or writing-down allowance made in respect of the actual expenditure shall be withdrawn; and

(ii) all such assessments and adjustments of assessments shall be made as may be necessary to give effect to that withdrawal;

(b) section 126 shall not apply;

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(c) the person who buys the relevant interest shall be treated for the purposes of this Part as having incurred, on the date when the purchase price becomes payable, expenditure falling within section 123 on the construction of the building, fence or other works ('the deemed expenditure'); and

(d) the deemed expenditure shall be treated (without prejudice to section 124(2) and 124A(5)) as incurred for the purposes of husbandry on the agricultural land in question.

(4) The deemed expenditure—

(a) shall be whichever is the lesser of the net price paid by the person concerned for the purchase of the relevant interest and the actual expenditure; and

(b) shall be regarded as comprising a section 124A element and a residual element.

(5) The section 124A element of the deemed expenditure shall be calculated in accordance with the formula—

$$A \times \frac{B}{C}$$

(6) In subsection (5) above—

A is the deemed expenditure;

B is so much of the actual expenditure as is expenditure to which section 124A applies or expenditure that would be such expenditure if it were capital expenditure; and

C is the actual expenditure.

(7) The residual element of the deemed expenditure shall be so much (if any) of the deemed expenditure as does not comprise the section 124A element.

(8) Notwithstanding the provisions of subsection (3)(c) above—

(a) the section 124A element of the deemed expenditure shall be treated for the purpose only of determining entitlement to allowances as expenditure to which that section applies; and

(b) the residual element of the deemed expenditure shall be treated for that purpose as expenditure which is not expenditure to which that section applies.

(9) Where the relevant interest is sold more than once before the building, fence or other works is used, subsections (2) and (3)(c) and (d) above shall have effect only in relation to the last of those sales."

7.—(1) In subsection (1) of section 128 (balancing allowances and charges), for "a writing-down allowance" there shall be substituted "an allowance under this Part".

(2) In subsection (2) of that section, for "this Part less the aggregate of any writing-down allowances" there shall be substituted "any allowances under this Part less the aggregate of any such allowances".

(3) In subsection (3) of that section, after "purposes of" there shall be inserted "allowances under".

(4) In subsection (6) of that section, for "writing-down allowances" there shall be substituted "allowances under this Part".

8. In section 129(1) (balancing events), for "a writing-down allowance" there shall be substituted "an allowance under this Part".

9. In section 131(2) (application of Chapter I of Part V to forestry buildings etc.), in the words after paragraph (b), before "subject" there shall be inserted "with the omission of sections 124A, 127(3A)(b) and 127A and".

10. In section 146(3) (allowances under Parts V and VI not to exceed expenditure), after "made under" there shall be inserted "Part V or".

## SCHEDULE 13

Section 115.

### First-year allowances for machinery and plant

1. The Capital Allowances Act 1990 shall be amended as follows.

1990 c. 1.

2. In section 23(6) (interpretation of information provisions relating to first-year allowances), at the end there shall be inserted "and references in this section to a first-year allowance shall not include references to a first-year allowance in respect of expenditure to which section 22 applies by virtue only of subsection (3B) of that section."

3. In section 30(2)(c) (special provision for ships), for "section" there shall be substituted "sections 46(8)(e) and".

4. In section 38(m) (assets attracting first-year allowances not to be treated as short-life assets), after "section 22" there shall be inserted "(2), (3) or (3A)".

5.—(1) In subsection (2)(a) of section 39 (definition of a qualifying purpose), for "subsections (2) and (3)" there shall be substituted "subsections (2) to (3B)".

(2) In subsection (8)(b) of that section (anti-avoidance provision in respect of chartering), after "new expenditure," there shall be inserted "a first-year allowance by virtue of section 22(3B) or".

6. After subsection (8) of section 42 (modifications in relation to "old expenditure" of provisions relating to overseas leasing) there shall be inserted the following subsection—

> "(9) For the purposes of the application of this section to any expenditure to which section 22 applies by virtue only of subsection (3B) of that section, this section shall have effect—
>
> (a) as if subsection (4) above included a reference to a first-year allowance made in respect of that expenditure; and
>
> (b) for the purposes of paragraph (a) above, as if the reference in that subsection to an event occurring such that there is no right to that allowance included a reference to an event occurring such that, if subsection (3) included a reference to first-year allowances, there would be no such right."

7.—(1) In subsection (1) of section 43 (cases where section applies), for "This section" there shall be substituted "Subsections (2) and (3) below".

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(2) After subsection (3) of that section there shall be inserted the following subsection—

"(4) Section 22(6A)(a) shall not prevent a first-year allowance being made in respect of expenditure incurred by any person on the provision of machinery or plant for leasing where it appears that—

(a) the machinery or plant will be leased as mentioned in subsection (1) above; and

(b) the circumstances are such that subsection (2) above will require the whole or any part of the expenditure to be treated as not falling within section 42(1);

and any first-year allowance made by virtue of this subsection in respect of that expenditure shall be made on the same assumptions and subject to the same apportionments (if any) as it appears would, by virtue of subsection (3) above, be applicable in the case of a writing-down allowance."

8. In section 44 (further provisions in relation to joint lessees in cases involving new expenditure), after subsection (4) there shall be inserted the following subsection—

"(5) For the purposes of the application of this section to any expenditure to which section 22 applies by virtue of subsection (3B) of that section, this section shall have effect as if—

(a) references to section 43(2) included references to section 43(4);

(b) references to a normal writing-down allowance included references to a first-year allowance; and

(c) the reference in subsection (2) above to the separate item of machinery or plant referred to in section 43(3)(a) were, in relation to a first-year allowance, a reference to the machinery or plant in respect of which, in accordance with section 43(4), that allowance is or is treated as made."

9. In section 46 (recovery of allowances made in respect of plant and machinery subsequently let to a foreign resident), after subsection (7) there shall be inserted the following subsection—

"(8) For the purposes of the application of this section to any expenditure to which section 22 applies by virtue of subsection (3B) of that section, this section shall have effect as if—

(a) in subsection (1) above, after 'qualified for a' there were inserted 'first-year allowance or any';

(b) in subsection (2) above—

(i) in paragraph (a), at the beginning there were inserted 'the aggregate of any first-year allowance and'; and

(ii) in paragraph (b), after the word 'no' there were inserted 'first-year allowance or';

(c) in subsection (5) above—

(i) after 'and a' there were inserted 'first-year allowance or'; and

(ii) in paragraph (a), for the words from 'it referred' to the end of the paragraph there were substituted 'that allowance were such a first-year allowance or, as the case may be, normal writing-down allowance as is referred to in paragraph (a) of that subsection and the references to the expenditure in respect of which an allowance is made were construed accordingly;'

(d) in subsection (6) above—

(i) in paragraph (a), after 'for a' there were inserted 'first-year allowance or'; and

(ii) in the words after paragraph (b), for 'a normal writing-down allowance has been made' there were substituted 'the allowance that has been made is a first-year allowance or normal writing-down allowance';

and

(e) in subsection (7) above—

(i) in paragraph (a), after 'section' there were inserted '30(2)(c) or'; and

(ii) for 'section 31' there were substituted 'section 30 or 31'."

10. In section 48 (information provisions in relation to joint lessees in cases involving new expenditure), after subsection (6) there shall be inserted the following subsection—

"(7) For the purposes of the application of this section to any expenditure to which section 22 applies by virtue of subsection (3B) of that section, this section shall have effect as if the references in subsections (1) and (2) above to a normal writing-down allowance included references to a first-year allowance; but nothing in this subsection shall prevent subsection (1) above from continuing to apply where the use for permitted leasing is after the expenditure has qualified for one allowance and before it qualifies for another."

11.—(1) In subsection (3) of section 50, in paragraph (i) of the definition of "old expenditure" (old expenditure to include expenditure falling within section 22) after "22" there shall be inserted "other than expenditure to which that section applies by virtue only of subsection (3B) of that section".

(2) After subsection (4) of that section there shall be inserted the following subsection—

"(4A) In the case of expenditure to which section 22 applies by virtue only of subsection (3B) of that section, any reference in this Chapter to the expenditure having qualified for a first-year allowance is a reference to such an allowance having fallen to be made in respect of the whole or any part of that expenditure."

12.—(1) In section 81 (assets used for purposes not attracting capital allowances and assets received by way of gift), after subsection (1) there shall be inserted the following subsection—

"(1A) Subject to section 63, in a case falling within subsection (1)(a) or (b) above, the assumptions applied by that subsection in relation to sections 24 to 26—

(a) shall apply in relation to section 22 as they apply in relation to those sections but only for the purposes of first-year allowances by virtue of section 22(3B); and

(b) where those assumptions require any person to be treated as having incurred expenditure in a chargeable period related to any event, shall apply for those purposes as if they required that person to be treated as having incurred that expenditure on the date of that event."

(2) After subsection (2) of that section there shall be inserted the following subsection—

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"(2A) Where a person is treated as having incurred capital expenditure on the provision of machinery or plant by virtue of subsection (1)(a) above, he shall be treated for the purposes of section 75(1), as it has effect in relation to first-year allowances by virtue of section 22(3B), as having done so by way of purchase from a person connected with him."

(3) Sub-paragraph (2) above shall have effect in cases where machinery or plant is brought into use on or after 14th April 1993.

13.—(1) In subsection (1)(a) of section 147 (exclusion of double allowances), after "those Parts" there shall be inserted "or section 22".

(2) In subsection (2) of that section, after "any person" there shall be inserted "an allowance is made under section 22 in respect of any capital expenditure or".

Section 120.

## SCHEDULE 14

### PAY AND FILE: MISCELLANEOUS AMENDMENTS

*Failure to give notice of liability for corporation tax*

1970 c. 9.

1. In section 10(3) of the Taxes Management Act 1970 (penalty for failure to give notice of liability for corporation tax for accounting periods ending after appointed day), for the words from "borne" onwards there shall be substituted "which, under section 7(2) or 11(3) of the principal Act, is to be set off against the corporation tax so chargeable".

*Further claims etc. where assessment made*

2. In section 43A(1)(a) of that Act of 1970 (section to apply where assessment made by virtue of section 29(3) of that Act), after "section 29(3) of this Act" there shall be inserted "or section 412(3) of the principal Act".

*Interest on overdue corporation tax: transitional cases*

3.—(1) Section 86 of that Act of 1970 (interest on overdue tax) shall be amended as follows.

(2) In subsection (3)(b), for "subject to subsection (3A)" there shall be substituted "subject to subsections (3A) and (4A)".

(3) In subsection (3A), at the beginning there shall be inserted "Subject to subsection (4A) below,".

(4) After subsection (4) there shall be inserted the following subsections—

"(4A) For the purposes of this section where—

1987 c. 51.

(a) a notice served under section 11 above at any time after the appointed day for the purposes of section 82 of the Finance (No. 2) Act 1987 (amendment of section 11 for the purposes of pay and file) is to be taken as requiring a company to make a return for any accounting period ending on or before the day appointed for the purposes of section 10 of the principal Act; and

(b) the tax charged by any assessment to corporation tax for that accounting period does not become due and payable until after the date nine months from the end of that accounting period,

the reckonable date, in relation to tax charged for that accounting period by that assessment, is the date mentioned in paragraph (b) above (instead of the date which would otherwise be determined under subsection (3) or (3A) above).

(4B) The Board may at their discretion mitigate (whether before or after judgment) any interest due under this section in a case where the reckonable date is determined under subsection (4A) above and may stay or compound any proceedings for the recovery thereof."

*Interest on overdue corporation tax: pay and file cases*

4. —(1) In subsection (4) of section 87A of that Act of 1970 (which is set out in section 85 of the Finance (No. 2) Act 1987 and makes provision from an appointed day for interest on overdue corporation tax), at the beginning there shall be inserted the words "Subject to subsection (7) below".

1987 c. 51.

(2) For subsection (6) of that section there shall be substituted the following subsections—

"(6) In any case where—

(a) on a claim under section 393A(1) of the principal Act, the whole or any part of a loss incurred in an accounting period ('the later period') has been set off for the purposes of corporation tax against profits of a preceding accounting period ('the earlier period');

(b) the earlier period does not fall wholly within the period of twelve months immediately preceding the later period; and

(c) if the claim had not been made, there would be an amount or, as the case may be, an additional amount of corporation tax for the earlier period which would carry interest in accordance with this section,

then, for the purposes of the determination at any time of whether any interest is payable under this section or of the amount of interest so payable, the amount mentioned in paragraph (c) above shall be taken to be an amount of unpaid corporation tax for the earlier period except so far as concerns interest for any time after the date on which any corporation tax for the later period became (or, as the case may be, would have become) due and payable as mentioned in subsection (1) above.

(7) Where, in a case falling within subsection (6)(a) and (b) above—

(a) there is in the earlier period, as a result of the claim under section 393A(1) of the principal Act, an amount of surplus advance corporation tax, as defined in subsection (3) of section 239 of that Act; and

(b) pursuant to a claim under the said subsection (3), the whole or any part of that amount is to be treated for the purposes of the said section 239 as discharging liability for an amount of corporation tax for an accounting period before the earlier period,

the claim under the said subsection (3) shall be disregarded for the purposes of subsection (6) above but subsection (4) above shall have effect in relation to that claim as if the reference in the words after paragraph (c) to the later period within the meaning of subsection (4) above were a reference to the period which, in relation to the claim under the said section 393A(1), would be the later period for the purposes of subsection (6) above."

*Effect on interest of reliefs*

5. In section 91(1B) of that Act of 1970 (subsection (1A) subject to section 87A(4)), after "section 87A(4)" there shall be inserted "(6) and (7)".

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*Failure to make return for corporation tax*

6.—(1) In subsection (6) of section 94 of that Act of 1970 (penalty for failure to make return for corporation tax within eighteen months of end of return period), as it is to apply with respect to the failures mentioned in section 83 of the Finance (No. 2) Act 1987 (failures after appointed day), after the word "before", in the first place where it occurs, there shall be inserted "whichever is the later of the end of the final day for the delivery of the return and".

1987 c. 51.

(2) In subsection (7) of that section, as it is so to apply, (calculation of unpaid tax for the purposes of penalty), for the words from "borne" onwards there shall be substituted "which, under section 7(2) or 11(3) of the principal Act, is to be set off against the corporation tax so chargeable".

*Things to be done by companies*

7. In section 108(1) of that Act of 1970 (which includes provision requiring companies to act for the purposes of the Taxes Acts through their proper officers), after "proper officer of the company" there shall be inserted "or, except where a liquidator has been appointed for the company, through such other person as may for the time being have the express, implied or apparent authority of the company to act on its behalf for the purpose".

*Relief under section 393 of the Taxes Act 1988*

1990 c. 29.

8.—(1) In relation to any case in which by virtue of section 99 of the Finance Act 1990 losses may be set off under subsection (1) of section 393 or of section 396 of the Taxes Act 1988 without the making of a claim, the Taxes Act 1988 shall have effect with the following amendments.

(2) In section 343(3) (company reconstructions without change of ownership), the word "claim", in the second place where it occurs, shall be omitted.

(3) In section 395 (leasing contracts and company reconstructions)—

(a) in subsection (1)(b), for the words "to claim relief under section 393(1) or 393A(1)" there shall be substituted "under section 393(1) or in pursuance of a claim under section 393A(1) to relief"; and

(b) in the words after paragraph (c) of subsection (1) and in subsection (4), the words "to claim relief" shall be omitted.

(4) In section 398 (transactions in deposits), for the words from "he may" onwards there shall be substituted "the amount of his loss may be set off in pursuance of a claim under section 392 or, as the case may be, against which the amount of his loss may be set off under section 396".

(5) In section 400(2)(a) (write-off of government investments), the words "or, if a claim had been made under that subsection, would be" shall be omitted.

1992 c. 48.

9. In section 65(6) of the Finance (No. 2) Act 1992 (I minus E basis for life assurance business not to be affected by certain claims), after paragraph (b) there shall be inserted the words—

> "but, in relation to any case in which by virtue of section 99 of the Finance Act 1990 losses may be set off under subsection (1) of section 393 of the Taxes Act 1988 without the making of a claim, this section shall have effect as if references to the making of a claim under that subsection were references to the setting off of any loss under that subsection."

*Interest on tax overpaid*

10.—(1) In subsection (7) of section 826 of the Taxes Act 1988 (interest on overpaid tax)—

(a) at the beginning, there shall be inserted the words "Subject to subsection (7AA) below,";

(b) in paragraph (c), for "made for the earlier period" there shall be substituted "paid for the earlier period or of income tax in respect of a payment received by the company in that accounting period"; and

(c) in the words after paragraph (c), for the words from "of corporation tax" to "resulting from" there shall be substituted "referred to in paragraph (c) above, no account shall be taken of so much of the amount of the repayment as falls to be made as a result of the claim under".

(2) In subsection (7A) of that section, for "any increase in the amount of that repayment" there shall be substituted "so much of the amount of that repayment as falls to be made".

(3) After subsection (7A) of that section there shall be inserted the following subsection—

"(7AA) Where, in a case falling within subsection (7A)(a) and (b) above—

(a) there is in the earlier period, as a result of the claim under section 393A(1), an amount of surplus advance corporation tax, as defined in section 239(3); and

(b) pursuant to a claim under section 239(3) the whole or any part of that amount is to be treated for the purposes of section 239 as discharging liability for an amount of corporation tax for an accounting period before the earlier period,

then subsection (7) above shall have effect in relation to the claim under the said subsection (3) as if the reference in the words after paragraph (c) to the later period within the meaning of subsection (7) above were a reference to the period which, in relation to the claim under section 393A(1), would be the later period for the purposes of subsection (7A) above."

(4) In subsection (7B) of that section, for "any increase in the amount of that payment" there shall be substituted "so much of the amount of that payment as falls to be made".

(5) Sub-paragraph (3) above shall have effect, subject to sub-paragraph (6) below, in relation to any claim under section 393A(1) of the Taxes Act 1988 as a result of which there is an amount of surplus advance corporation tax in an accounting period ending after the day appointed for the purposes of section 826 of that Act.

(6) Where in the case of any claim in relation to which sub-paragraph (3) above has effect—

(a) the case is one falling within subsection (7AA)(a) and (b) of section 826 of the Taxes Act 1988; but

(b) the period mentioned in subsection (7AA)(b) ended on or before the appointed day for the purposes of that section,

subsection (7AA) of that section shall not apply but section 825(4)(a) of that Act shall have effect as if the reference to the accounting period in the case of which the amount of surplus advance corporation tax arose were a reference to the period which, in relation to the claim, would be the later period for the purposes of subsection (7A) of section 826 of that Act.

*Surrender of refunds*

11. In section 102 of the Finance Act 1989 (surrender of company tax refund etc. within group), after subsection (4) there shall be inserted the following subsection—

1989 c. 26.

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"(4A) Where subsection (4) above has effect in relation to any amount and there is, by virtue of any of subsections (7) to (7C) of section 826 of the Taxes Act 1988, a period for which the whole or any part of that amount would not, had the refund been made to the surrendering company, have carried interest under that section, that period shall be treated as excluded—

(a) from any period for which any refund made by virtue of subsection (4) above to the recipient company in respect of some or all of that amount or, as the case may be, that part of it is to carry interest under that section; and

(b) from any period for which a sum representing some or all of that amount or part would (apart from this subsection) be treated by virtue of subsection (4) above as not carrying interest under section 87A of the Taxes Management Act 1970;

1970 c. 9.

and in determining for the purposes of this subsection which part of any amount is applied in discharging a liability of the recipient company to pay any corporation tax and which part is represented by a refund to the recipient company, it shall be assumed that the part in relation to which there is a period which would not have carried interest under section 826 of the Taxes Act 1988 is applied in preference to any other part of that amount in or towards discharging the liability."

Section 134.

## SCHEDULE 15

### EXCHANGE GAINS AND LOSSES: ALTERNATIVE CALCULATION

*Introduction*

1.—(1) This paragraph applies where regulations under this Schedule provide that the amount of an initial exchange gain or initial exchange loss accruing to a company as regards an asset, liability or contract for an accrual period shall be found in accordance with the alternative method of calculation.

(2) In such a case the amount shall not be found in accordance with section 125(2) or (4) of this Act or section 126(3) or (5) or section 127(3) or (4) (as the case may be) but shall be found by—

(a) taking the accrued amount for each day in the accrual period, and

(b) adding the amounts found under paragraph (a) above.

(3) Subject to regulations under this Schedule, the accrued amount for a day in the accrual period shall be found by—

(a) taking the amount of the initial exchange gain or initial exchange loss found in accordance with section 125(2) or (4) of this Act or section 126(3) or (5) or section 127(3) or (4) (as the case may be), and

(b) dividing it by the number of days in the period.

(4) Where an accrual period does not begin at the beginning of a day, the part of the day that falls within the accrual period shall be treated for the purposes of this Schedule as a complete day.

(5) Where an accrual period does not end at the end of a day, the part of the day that falls within the accrual period shall be treated for the purposes of this Schedule as a complete day.

*Exempt circumstances*

2.—(1) Regulations may provide that where—

(a) as regards an asset, liability or contract an initial exchange gain or initial exchange loss accrues to a company for an accrual period under section 125, 126 or 127 of this Act or would so accrue apart from regulations under this Schedule,

(b) at any time on a day in the period the asset or contract was held, or the liability was owed, by the company in exempt circumstances, and

(c) such other conditions as may be prescribed are fulfilled,

the amount of the gain or loss shall be found in accordance with the alternative method of calculation.

(2) Regulations may also provide that as regards any such day as is mentioned in sub-paragraph (1) above the accrued amount shall be ascertained in accordance with prescribed rules.

(3) Regulations may be so framed that the accrued amount as regards a day depends on the extent to which an asset or contract is held, or a liability is owed, in exempt circumstances.

(4) For the purposes of this paragraph an asset or contract is held, or a liability is owed, in exempt circumstances at a given time if it is then held or owed—

(a) for the purposes of long term insurance business;

(b) for the purposes of mutual insurance business;

(c) for the purposes of the occupation of commercial woodlands;

(d) by a housing association approved at that time for the purposes of section 488 of the Taxes Act 1988;

(e) by a self-build society approved at that time for the purposes of section 489 of that Act.

(5) In this paragraph—

"long term insurance business" means insurance business of any of the classes specified in Schedule 1 to the Insurance Companies Act 1982;

1982 c. 50.

"commercial woodlands" means woodlands in the United Kingdom which are managed on a commercial basis and with a view to the realisation of profits.

*Unremittable income*

3.—(1) Regulations may provide that where—

(a) as regards an asset falling within section 153(1)(a) or (b) of this Act an initial exchange gain or initial exchange loss accrues to a company for an accrual period under section 125 or 127 of this Act or would so accrue apart from regulations under this Schedule,

(b) at any time on a day in the period income represented by the asset was unremittable, and

(c) such other conditions as may be prescribed are fulfilled,

the amount of the gain or loss shall be found in accordance with the alternative method of calculation.

(2) Regulations may also provide that as regards any such day as is mentioned in sub-paragraph (1) above the accrued amount shall be ascertained in accordance with prescribed rules.

(3) Regulations may be so framed that the accrued amount as regards a day depends on the extent to which the income represented by an asset is unremittable.

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(4) For the purposes of this paragraph income is unremittable if—

(a) in relation to the income, a notice under subsection (2) of section 584 of the Taxes Act 1988 (relief for unremittable overseas income) has been delivered to the inspector in accordance with subsection (6) of that section,

(b) it has been shown to the satisfaction of the Board that the conditions mentioned in paragraphs (a) and (b) of section 584(2) are satisfied with respect to the income, and

(c) those conditions have not ceased to be satisfied with respect to it.

*Matched liabilities*

4.—(1) Regulations may provide that where—

(a) as regards a liability an initial exchange gain or initial exchange loss accrues to a company for an accrual period under section 125 or 127 of this Act or would so accrue apart from regulations under this Schedule,

(b) the liability falls within section 153(2)(a) of this Act,

(c) the liability is eligible to be matched on any day in the accrual period with an asset held by the company, and such other conditions as may be prescribed are fulfilled, and

(d) an election is made in accordance with the regulations to match the liability with the asset on any such day and the election has effect by virtue of the regulations,

the amount of the gain or loss shall be found in accordance with the alternative method of calculation.

(2) Regulations may also provide that as regards any day in respect of which an election has effect the accrued amount shall be ascertained in accordance with prescribed rules.

(3) The question whether a liability is eligible to be matched with an asset shall be determined in accordance with prescribed rules, and in particular regulations may include provision that—

(a) only liabilities of a prescribed description are eligible to be matched with assets;

(b) only assets of a prescribed description are eligible to be matched with liabilities;

(c) liabilities of a prescribed description are eligible to be matched only with assets of a prescribed description.

(4) Regulations may include provision that on any day—

(a) a liability may be partially matched;

(b) an asset may be partially matched;

(c) one asset may be matched with two or more liabilities (wholly or partially);

(d) one liability may be matched with two or more assets (wholly or partially).

(5) Regulations may include provision that an election relating to an asset or assets shall be treated as made in relation to another asset or other assets (as where assets are replaced by others).

(6) Regulations may include provision—

(a) that an election may in prescribed circumstances have effect from a time before it is made;

(b) that an election may be varied;

(c) that an election may not be revoked;

(d) that an election must be made by the company (subject to any provision under sub-paragraph (7) below).

(7) Regulations may provide that where the company is a relevant controlled foreign company an election may be made by a United Kingdom resident company which has (or may be made jointly by United Kingdom resident companies which together have) a majority interest in the company; and—

(a) a company is a relevant controlled foreign company if Chapter IV of Part XVII of the Taxes Act 1988 applies in relation to the accounting period of the company which constitutes the accrual period or in which the accrual period falls;

(b) paragraph 4(3) of Schedule 24 to that Act (majority interest) applies for the purposes of this sub-paragraph.

(8) Regulations may include provision—

(a) that prescribed conditions shall be treated as fulfilled in prescribed circumstances (subject to any provision under paragraph (b) below);

(b) that prescribed conditions shall be treated as not having been fulfilled if the inspector gives notification that he is not satisfied that they are fulfilled;

(c) for an appeal from the inspector's notification;

(d) for a notification to be given to the company or companies making the election.

(9) Regulations may be so framed that the accrued amount as regards a day depends on the extent to which a liability is matched.

(10) Regulations may also provide as mentioned in one or more of the following paragraphs—

(a) that a chargeable gain (or chargeable gains) shall be treated as accruing to a relevant person for the purposes of the Taxation of Chargeable Gains Act 1992; 1992 c.12.

(b) that an allowable loss (or allowable losses) shall be treated as accruing to a relevant person for the purposes of that Act;

(c) that the operation of that Act as regards a relevant person shall be otherwise adjusted in accordance with prescribed rules (whether the adjustment results in the incidence of tax on the person being greater or smaller).

(11) For the purposes of sub-paragraph (10) above each of the following is a relevant person—

(a) the company mentioned in sub-paragraph (1) above;

(b) any person who has at any time acquired a matched asset (or part of a matched asset) since the company acquired it;

and a matched asset is an asset which has at any time been to any extent matched with a liability in pursuance of an election.

(12) Regulations may make provision—

(a) as to the occasion on which a chargeable gain or allowable loss mentioned in sub-paragraph (10) above is to be treated as accruing, as to the amount to be treated as the amount of the gain or loss, and as to other matters relating to the gain or loss;

(b) as to the timing and extent of any adjustment mentioned in sub-paragraph (10)(c) above and as to other matters relating to the adjustment.

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*Combination of circumstances*

5.—(1) This paragraph applies where regulations under more than one of paragraphs 2 to 4 above apply—

(a) as regards the same asset or liability, and

(b) for the same accrual period.

(2) Regulations may provide that, as regards any day falling within the period and identified in accordance with prescribed rules, the accrued amount shall be ascertained in accordance with rules prescribed under this paragraph (rather than provisions made under any of those paragraphs).

*Arm's length test*

6. Where regulations make provision under any of paragraphs 2 to 5 above, they may provide that for the purposes of section 136(11) of this Act amounts X and Y shall be found without regard to matters which are prescribed and would otherwise have had to be taken into account under the regulations.

*Local currency*

7. Where regulations make provision under any of paragraphs 2 to 5 above, section 149 of this Act shall have effect as if the references to sections 125 to 127 included references to this Schedule and the provisions of the regulations.

*General*

8. Regulations may be so framed that the accrued amount as regards a day is nil (so that, depending on the circumstances, an initial exchange gain or initial exchange loss may be extinguished).

9. Regulations may make different provision about exchange gains (on the one hand) and exchange losses (on the other).

Section 165.

## SCHEDULE 16

### EXCHANGE GAINS AND LOSSES: TRANSITIONALS

*Introduction*

1. For the purposes of this Schedule an existing asset, liability or contract is an asset, liability or contract to which this Chapter applies by virtue of section 165(2) or (3) of this Act or by virtue of regulations under section 165(4) of this Act.

*General provision*

2.—(1) Regulations may make such provision as the Treasury think fit with regard to the application of this Chapter to an existing asset, liability or contract (such as provision for finding the basic valuation of an asset or liability).

(2) Nothing in the following provisions of this Schedule shall prejudice the generality of sub-paragraph (1) above.

*Attributed gain or loss*

3.—(1) Regulations may provide that—

(a) an amount found in accordance with prescribed rules shall be attributed to an existing asset or liability, and

(b) the amount shall be characterised as a gain or loss in accordance with prescribed rules.

(2) The regulations may provide that an attributed gain or loss shall be set off against exchange losses or exchange gains accruing as regards the asset or liability; and for this purpose—

(a) an exchange gain is an exchange gain of a trade or an exchange gain of part of a trade or a non-trading exchange gain;

(b) an exchange loss is an exchange loss of a trade or an exchange loss of part of a trade or a non-trading exchange loss.

(3) The regulations may provide that if an event of a prescribed description occurs as regards the asset or liability at a time falling on or after the commencement day of the company concerned and at a time when all or part of an attributed gain or loss is outstanding—

(a) an initial exchange gain or initial exchange loss of an amount found in accordance with prescribed rules shall be treated as accruing to the company as regards the asset or liability, or

(b) a chargeable gain or allowable loss of an amount found in accordance with prescribed rules shall be treated as accruing to the company as regards the asset or liability for the purposes of the Taxation of Chargeable Gains Act 1992.

1992 c. 12.

(4) The regulations may provide that where—

(a) apart from provision under this sub-paragraph, an allowable loss would be treated as accruing by virtue of provision made under sub-paragraph (3)(b) above, and

(b) the company concerned makes an election in accordance with prescribed rules,

the loss shall not be treated as accruing and relief of an amount equal to it shall be given to the company in such form and manner as may be prescribed.

(5) The regulations may provide that where provision under this paragraph has effect the outstanding attributed gain or loss shall be treated as reduced or extinguished.

(6) The regulations may make provision—

(a) as to the time when an initial exchange gain or initial exchange loss is to be treated as accruing and as to the extent to which it is to be treated as an exchange gain or loss of a trade or of part of a trade or as a non-trading exchange gain or loss;

(b) as to the occasion on which a chargeable gain or allowable loss is to be treated as accruing;

(c) as to other matters relating to setting off against, or the accrual of, gains or losses as mentioned in this paragraph.

*Adjustment of exchange gain or loss*

4.—(1) Regulations may provide that where an exchange gain or exchange loss accrues to a company as regards an existing asset or liability (or would so accrue apart from the regulations)—

(a) the amount of the gain or loss shall be deemed to be increased in accordance with prescribed rules,

(b) the amount of the gain or loss shall be deemed to be reduced in accordance with prescribed rules, or

(c) the gain or loss shall be deemed not to accrue.

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(2) For the purposes of this paragraph—

(a) an exchange gain is an exchange gain of a trade or an exchange gain of part of a trade or a non-trading exchange gain;

(b) an exchange loss is an exchange loss of a trade or an exchange loss of part of a trade or a non-trading exchange loss.

(3) The regulations may be framed by reference to—

(a) exchange differences arising as regards the asset or liability at any time while the company actually holds or owes it (whether any such time falls before, on or after the company's commencement day);

(b) such other factors as the Treasury think fit;

and for this purpose exchange differences are gains and losses attributable to fluctuations in currency exchange rates.

(4) The regulations may include provision designed to prevent provision under them being avoided by the replacement (or partial replacement) of assets or liabilities by other assets or liabilities.

*Allowable losses*

5.—(1) Regulations may provide that where—

(a) an allowable loss of a prescribed description has accrued to a qualifying company for the purposes of the Taxation of Chargeable Gains Act 1992,

1992 c. 12.

(b) the loss has accrued before the company's commencement day,

(c) all or part of the loss has not been allowed as a deduction under that Act, and

(d) prescribed conditions (whether relating to the making of a claim or otherwise) are fulfilled,

the loss shall be set off against exchange gains accruing to the company.

(2) For the purposes of this paragraph an exchange gain is an exchange gain of a trade or an exchange gain of part of a trade or a non-trading exchange gain.

(3) The regulations may provide that the loss may only be set off—

(a) to the extent that it has not been allowed as a deduction under the Taxation of Chargeable Gains Act 1992;

(b) against exchange gains accruing as regards assets or liabilities of a prescribed description.

(4) The regulations may include rules for ascertaining whether an allowable loss of a prescribed description has or has not been allowed as a deduction under the Taxation of Chargeable Gains Act 1992.

*Miscellaneous*

6.—(1) Regulations may provide—

(a) that provision under paragraph 3 above or provision under paragraph 4 above or provision under neither of them shall apply in the case of an asset or liability according to the circumstances of the case;

(b) that provision under paragraph 3(3)(a) above or provision under paragraph 3(3)(b) above shall apply in the case of an asset or liability according to the circumstances of the case.

(2) The circumstances may be framed by reference to—

(a) whether, and how, exchange differences arising as regards the asset or liability would be taken into account for tax purposes apart from this Chapter;

(b) such other factors as the Treasury think fit;

and for this purpose exchange differences are gains and losses attributable to fluctuations in currency exchange rates.

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## SCHEDULE 17

Section 169.

### EXCHANGE GAINS AND LOSSES: CHARGEABLE GAINS

*Introduction*

1. In this Schedule "the 1992 Act" means the Taxation of Chargeable Gains Act 1992.

1992 c. 12.

*Currency*

2.—(1) In a case where—

(a) there is for the purposes of the 1992 Act a disposal of currency other than sterling by a qualifying company, and

(b) immediately before the disposal the company did not hold the currency in exempt circumstances (within the meaning given by paragraph 3 below),

for the purposes of that Act no chargeable gain or allowable loss shall accrue on the disposal.

(2) This paragraph applies to disposals on or after the company's commencement day.

3.—(1) For the purposes of paragraph 2 above a company holds currency in exempt circumstances at a given time if—

(a) the purposes for which it then holds the currency are or include any of the purposes mentioned in sub-paragraph (2) below,

(b) it is a housing association approved at that time for the purposes of section 488 of the Taxes Act 1988, or

(c) it is a self-build society approved at that time for the purposes of section 489 of that Act.

(2) The purposes referred to in sub-paragraph (1)(a) above are—

(a) the purposes of long term insurance business;

(b) the purposes of mutual insurance business;

(c) the purposes of the occupation of commercial woodlands.

(3) In this paragraph—

"long term insurance business" means insurance business of any of the classes specified in Schedule 1 to the Insurance Companies Act 1982;

1982 c. 50.

"commercial woodlands" means woodlands in the United Kingdom which are managed on a commercial basis and with a view to the realisation of profits.

*Debts other than securities*

4.—(1) In a case where—

(a) there is for the purposes of the 1992 Act a disposal of a debt by a qualifying company,

(b) the right to settlement under the debt is a qualifying asset,

(c) the settlement currency of the debt is a currency other than sterling,

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(d) immediately before the disposal the company did not hold the debt in exempt circumstances, and

(e) the debt is not a debt on a security,

for the purposes of that Act no chargeable gain or allowable loss shall accrue on the disposal.

(2) Paragraph 3 above applies for the purposes of this paragraph as if references to currency were references to a debt.

(3) This paragraph applies to disposals on or after the company's commencement day.

*Debts on securities: disposals*

5.—(1) In a case where—

(a) a right to settlement under a debt on a security is a qualifying asset,

(b) there is for the purposes of the 1992 Act a disposal of the security by a qualifying company, and

(c) immediately before the disposal the company did not hold the security in exempt circumstances,

in applying section 117 of that Act (qualifying corporate bonds) in relation to the disposal, subsection (1)(b) (corporate bond must be in sterling) shall be ignored.

(2) Sub-paragraph (3) below applies where—

(a) the conditions in sub-paragraph (1)(a) to (c) above are fulfilled, and

(b) the settlement currency of the debt is a currency other than sterling.

(3) In applying section 117 of the 1992 Act in relation to the disposal—

(a) the definition of normal commercial loan for the purposes of subsection (1)(a) shall have effect as if paragraphs (b) and (c) of paragraph 1(5) of Schedule 18 to the Taxes Act 1988 were omitted;

(b) subsection (10) (securities issued within group) shall be ignored.

(4) Paragraph 3 above applies for the purposes of this paragraph as if references to currency were references to a security.

(5) This paragraph applies to disposals on or after the company's commencement day.

*Debts on securities: relief*

6.—(1) This paragraph applies where—

(a) a qualifying company has made a loan,

(b) the debt is a debt on a security, and

(c) the right to settlement under the debt is a qualifying asset.

(2) In applying section 117 of the 1992 Act (qualifying corporate bonds) for the purposes of section 254 of that Act (relief for debts on qualifying corporate bonds) section 117(1)(b) (corporate bond must be in sterling) shall be ignored.

(3) If the settlement currency of the debt is a currency other than sterling, in applying section 117 of that Act for the purposes of section 254 of that Act—

(a) the definition of normal commercial loan for the purposes of section 117(1)(a) shall have effect as if paragraphs (b) and (c) of paragraph 1(5) of Schedule 18 to the Taxes Act 1988 were omitted;

(b) section 117(10) (securities issued within group) shall be ignored.

(4) In applying section 254(6) of that Act in the case of a security which would not be a qualifying corporate bond apart from sub-paragraph (2) or (3) above, the allowable amount shall be found by taking what that amount would be apart from this sub-paragraph and deducting an amount equal to the amount of any exchange loss (or the aggregate amount of any exchange losses) accruing to the company as regards the asset for a period or periods ending on or before the relevant date.

(5) For the purposes of sub-paragraph (4) above—

(a) an exchange loss is an exchange loss of a trade or an exchange loss of part of a trade or a non-trading exchange loss;

(b) the relevant date is the date when the security's value became negligible or the outstanding amount of the principal of the loan was irrecoverable or proved to be irrecoverable (as the case may be).

(6) Where apart from this sub-paragraph the amount of an exchange loss would be an amount expressed in a currency other than the basic currency, it shall be treated for the purposes of this paragraph as the basic currency equivalent on the day the claim is made of the amount so expressed; and the basic currency is the currency in which the allowable amount is expressed.

(7) For the purposes of sub-paragraph (6) above the basic currency equivalent of an amount on a particular day is the basic currency equivalent calculated by reference to the London closing exchange rate for that day.

(8) This paragraph applies to claims made on or after the company's commencement day (whenever the loan was made).

*Reconstructions, groups etc.*

7.—(1) This paragraph applies where there is for the purposes of the 1992 Act a disposal or acquisition of an asset which is—

(a) currency,

(b) a debt which is not a debt on a security and the right to settlement under which is a qualifying asset,

(c) a security (as defined in section 132 of the 1992 Act) where the right to settlement under the debt on the security is a qualifying asset, or

(d) an obligation which by virtue of section 143 of the 1992 Act (futures and options) is regarded as an asset to the disposal of which that Act applies and which is a duty under a currency contract.

(2) In a case where—

(a) the condition mentioned in sub-paragraph (3) below is fulfilled, and

(b) section 139, 171 or 172 of the 1992 Act (reconstructions, groups etc.) would, apart from this paragraph, apply as regards the disposal or acquisition,

the section concerned shall not apply as regards the disposal and the corresponding acquisition or (as the case may be) shall not apply as regards the acquisition and the corresponding disposal.

(3) The condition is that stated in paragraph (a) or (b) below (as the case may be)—

(a) the disposal is by a qualifying company and immediately before the disposal the asset is held wholly for qualifying purposes;

(b) the acquisition is by a qualifying company and immediately after the acquisition the asset is held wholly for qualifying purposes.

(4) For the purposes of this paragraph qualifying purposes are purposes which constitute one or both of the following—

(a) purposes of long term insurance business;

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(b) purposes of mutual insurance business;

and "long term insurance business" means insurance business of any of the classes specified in Schedule 1 to the Insurance Companies Act 1982.

1982 c. 50.

(5) This paragraph applies where the disposal or acquisition (as the case may be) is made on or after the commencement day of the company mentioned in sub-paragraph (3)(a) or (b) above (as the case may be).

*Indexation allowance*

8. In construing section 103(7) of the 1992 Act (restriction on availability of indexation allowance: non-chargeable assets) the effect of paragraphs 2 and 4 above shall be ignored.

Section 170.

## SCHEDULE 18

### Exchange gains and losses: amendments

*Taxes Management Act 1970 (c. 9)*

1. In section 87A of the Taxes Management Act 1970 (interest on overdue tax for accounting periods ending after appointed day) the following subsection shall be inserted after subsection (4)—

"(4A) In a case where—

(a) there is for an accounting period of a company ("the later period") a relievable amount within the meaning of section 131 of the Finance Act 1993 (non-trading exchange gains and losses),

(b) as a result of a claim under subsection (5) or (6) of that section the whole or part of the relievable amount for the later period is set off against the exchange profits (as defined in subsection (10) of that section) of an earlier accounting period ("the earlier period"), and

(c) disregarding the effect of subsection (5) or (6) (as the case may be) of that section, an amount of corporation tax for the earlier period would carry interest in accordance with this section,

then, in determining the amount of interest payable under this section on corporation tax unpaid for the earlier period, no account shall be taken of any reduction in the amount of that tax resulting from the claim under subsection (5) or (6) of that section except so far as concerns interest for any time after the date on which any corporation tax for the later period became due and payable, as mentioned in subsection (1) above."

*Income and Corporation Taxes Act 1988 (c. 1)*

2. In section 56 of the Taxes Act 1988 (transactions in deposits or debts) the following subsections shall be inserted after subsection (3)—

"(3A) Subsection (3B) below applies where—

(a) profits or gains arise from the disposal of a right to which subsection (2) above applies and fall to be charged to tax under Case VI of Schedule D by virtue of that subsection, and

(b) the profits or gains arise to a qualifying company.

(3B) For the purposes of the charge under Case VI the profits or gains—

(a) shall be increased by the amount of any non-trading exchange loss, or the aggregate of the amounts of any non-trading exchange losses, accruing to the company as regards the right for any accrual period or periods constituting or falling within the holding period;

(b) shall (after taking account of paragraph (a) above) be reduced by the amount of any non-trading exchange gain, or the aggregate of the amounts of any non-trading exchange gains, accruing to the company as regards the right for any accrual period or periods constituting or falling within the holding period.

(3C) For the purposes of subsections (3A) and (3B) above—

(a) "accrual period" and "qualifying company" have the same meanings as in Chapter II of Part II of the Finance Act 1993;

(b) the question whether a non-trading exchange gain or loss accrues to the company as regards the right for an accrual period shall be decided in accordance with that Chapter.

(3D) For the purposes of subsection (3B) above the holding period is the period which—

(a) begins when the company acquired (or last acquired) the right before the disposal, and

(b) ends when the disposal is made."

3.—(1) Section 242 of the Taxes Act 1988 (set-off of losses etc. against surplus of franked investment income) shall be amended as mentioned in sub-paragraphs (2) and (3) below.

(2) In subsection (2) after paragraph (e) there shall be inserted—

"(f) the setting of amounts against profits under section 131(4) of the Finance Act 1993."

(3) In subsection (8) after paragraph (d) there shall be inserted—

"(e) if and so far as the purpose for which the claim is made is the setting of an amount against profits under subsection (4) of section 131 of the Finance Act 1993, the time limit that would, by virtue of subsection (14) of that section, be applicable in the case of a claim under subsection (4) of that section."

4. In section 407 of the Taxes Act 1988 (relationship between group relief and other relief) in subsection (2) at the end of paragraph (b) there shall be inserted "and", and after that paragraph there shall be inserted—

"(c) relief under section 131(7) of the Finance Act 1993 in respect of the whole or part of a relievable amount for an accounting period after the accounting period the profits of which are being computed;

and the reference in paragraph (c) above to a relievable amount shall be construed in accordance with section 131 of the Finance Act 1993."

5. In section 826 of the Taxes Act 1988 (interest on tax overpaid) the following subsection shall be inserted after subsection (7B)—

"(7C) In a case where—

(a) there is for an accounting period of a company ("the later period") a relievable amount within the meaning of section 131 of the Finance Act 1993 (non-trading exchange gains and losses),

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(b) as a result of a claim under subsection (5) or (6) of that section the whole or part of the relievable amount for the later period is set off against the exchange profits (as defined in subsection (10) of that section) of an earlier accounting period ("the earlier period"), and

(c) a repayment falls to be made of corporation tax for the earlier period,

then, in determining the amount of interest (if any) payable under this section on the repayment of corporation tax for the earlier period, no account shall be taken of any increase in the amount of the repayment resulting from the claim under subsection (5) or (6) (as the case may be) of that section except so far as concerns interest for any time after the date on which any corporation tax for the later period became (or, as the case may be, would have become) due and payable, as mentioned in subsection (2) above."

6. In Schedule 27 to the Taxes Act 1988 (distributing funds) in paragraph 5 (United Kingdom equivalent profits) the following sub-paragraph shall be inserted after sub-paragraph (2)—

"(2A) In applying sub-paragraph (1) above the effect of sections 125 to 133 of the Finance Act 1993 (exchange gains and losses) shall be ignored."

*Finance Act 1989 (c. 26)*

7. In Schedule 11 to the Finance Act 1989 (deep gain securities) the following shall be inserted after paragraph 5—

*"Exchange gains and losses*

5A.—(1) This paragraph applies where—

(a) there is a transfer or redemption of a deep gain security, and

(b) the person making the transfer or (as the case may be) the person who was entitled to the security immediately before redemption is a qualifying company.

(2) For the purposes of paragraph 5 above the amount treated as income—

(a) shall be increased by the amount of any non-trading exchange loss, or the aggregate of the amounts of any non-trading exchange losses, accruing to the company as regards the underlying right for any accrual period or periods constituting or falling within the holding period;

(b) shall (after taking account of paragraph (a) above) be reduced by the amount of any non-trading exchange gain, or the aggregate of the amounts of any non-trading exchange gains, accruing to the company as regards the underlying right for any accrual period or periods constituting or falling within the holding period.

(3) For the purposes of this paragraph—

(a) the underlying right is the right to settlement under the debt on the security;

(b) "accrual period" and "qualifying company" have the same meanings as in Chapter II of Part II of the Finance Act 1993;

(c) the question whether a non-trading exchange gain or loss accrues to the company as regards the underlying right for an accrual period shall be decided in accordance with that Chapter.

(4) For the purposes of this paragraph the holding period is the period which—

(a) begins when the company acquired (or last acquired) the security before the transfer or redemption, and

(b) ends when the transfer or redemption is made."

## SCHEDULE 19

Section 173.

### LLOYD'S UNDERWRITERS: ASSESSMENT AND COLLECTION OF TAX

### PART I

### DETERMINATION OF A SYNDICATE'S PROFIT OR LOSS

*Preliminary*

1. In this Part of this Schedule "profit or loss", in relation to a syndicate, means the aggregate amount of such of the profits or losses of all the members of the syndicate (taken together) as arise—

(a) directly from their membership of the syndicate, or

(b) from assets forming part of premiums trust funds,

and "profits" and "losses" shall be construed accordingly.

*Returns by managing agent*

2.—(1) An inspector may, at any time after the end of the closing year for a year of assessment, by notice in writing to a syndicate's managing agent require him to deliver to the inspector, on or before the final day determined under sub-paragraph (2) below, a return of the syndicate's profit or loss for the year of assessment—

(a) containing such information as may be required in pursuance of the notice; and

(b) accompanied by such accounts, statements and reports as may be so required.

(2) The final day for the delivery of any return required by a notice under sub-paragraph (1) above is whichever is the later of—

(a) the 1st September next following the end of the closing year for the year of assessment; and

(b) the end of the period of three months beginning on the day following that on which the notice was served.

(3) If a syndicate's managing agent, having been required by a notice under sub-paragraph (1) above to deliver a return, fails to deliver the return on or before the final date for its delivery, he shall be liable to a penalty equal to the prescribed amount multiplied by the number of days on which the failure continues.

(4) In sub-paragraph (3) above "the prescribed amount" means £60 for each fifty members of the syndicate (counting any number of members less than fifty, and any number left over, as fifty).

(5) If a syndicate's managing agent fraudulently or negligently delivers an incorrect return under sub-paragraph (1) above, he shall be liable to a penalty not exceeding £3,000 multiplied by the number of members of the syndicate.

(6) In relation to a return required by a notice under sub-paragraph (1) above—

(a) any reference in sub-paragraph (2) or (3) above to the delivery of the return is a reference to its delivery together with the accompanying documents referred to in sub-paragraph (1) above; and

(b) the reference in sub-paragraph (5) above to the return being incorrect includes a reference to any of those documents being incorrect.

*Determinations by inspector*

3.—(1) If the inspector is satisfied that a return under paragraph 2(1) above affords correct and complete information concerning the syndicate's profit or loss for a year of assessment, he shall determine that profit or loss accordingly.

(2) If for a year of assessment the inspector is dissatisfied with a return under paragraph 2(1) above, or there is no such return, the inspector shall determine the syndicate's profit or loss for that year to the best of his judgment.

(3) If the inspector discovers that a determination under sub-paragraph (1) or (2) above—

(a) understates the syndicate's profits for the year of assessment; or

(b) overstates the syndicate's losses for that year,

he may, by a determination under this sub-paragraph, vary the first-mentioned determination accordingly.

(4) Notice of a determination under this paragraph shall be served on the syndicate's managing agent and shall state the time within which any appeal against the determination may be made under paragraph 4 below.

(5) After notice of a determination under this paragraph has been served on the syndicate's managing agent, the determination shall not be altered except in accordance with the express provisions of the Taxes Acts.

*Appeals*

4.—(1) A syndicate's managing agent may appeal against a determination under paragraph 3 above by a notice of appeal in writing given to the inspector within thirty days after the date of the notice of determination.

(2) An appeal under this paragraph shall be to the General Commissioners, except that the agent may elect (in accordance with section 46(1) of the Management Act) to bring the appeal before the Special Commissioners instead of the General Commissioners.

(3) Subsections (5) to (5E) of section 31 of the Management Act shall apply for the purposes of an election under sub-paragraph (2) above as they apply for the purposes of an election under subsection (4) of that section.

*Modification of determinations pending appeal*

5.—(1) Where a syndicate's managing agent appeals against a determination under paragraph 3 above, then, for the purpose of establishing, in the event of a member of the syndicate appealing against an assessment made on him, the amount of tax the payment of which should, pending the determination of that appeal, be postponed under section 55 of the Management Act, that section shall apply to the first-mentioned appeal with the modifications specified in sub-paragraph (2) below.

(2) The modifications are as follows—

(a) any reference to the notice of assessment shall be construed as a reference to the notice of determination;

(b) any reference to the appellant believing that he is overcharged to tax by the assessment shall be construed as a reference to him believing that the determination overstates the syndicate's profits, or understates the syndicate's losses, for the year of assessment;

(c) any reference to the appellant having grounds for so believing, or there being reasonable grounds for so believing, shall be construed in accordance with paragraph (b) above;

(d) any reference to a determination of the amount of tax the payment of which should be postponed pending the determination of the appeal shall be construed as a reference to a direction that the determination shall, pending the determination of the appeal, have effect for the purpose stated in sub-paragraph (1) above as if the syndicate's profits there stated were reduced, or the syndicate's losses there stated were increased, by such amount as may be specified in the direction;

(e) any reference to an amount of tax so determined, or to the amount of tax which should be so postponed, shall be construed in accordance with paragraph (d) above; and

(f) subsections (2) and (9) and, in subsection (6), paragraphs (a) and (b) and the word "and" immediately preceding paragraph (a) shall be omitted.

*Apportionments of syndicate's profit or loss*

6.—(1) Where a determination of a syndicate's profit or loss for a year of assessment is made, varied or modified (whether under the foregoing provisions of this Schedule or on appeal), the inspector may, by notice in writing to the syndicate's managing agent, require him to make to the inspector, within the specified period, a return apportioning, between the members of the syndicate, the syndicate's profit or loss as stated in the determination as so made, varied or modified.

(2) If a syndicate's managing agent, having been required by a notice under sub-paragraph (1) above to deliver a return within the specified period, fails to deliver the return within that period, he shall be liable to a penalty equal to the prescribed amount multiplied by the number of days on which the failure continues.

(3) In sub-paragraph (2) above "the prescribed amount" means £5 for each fifty members of the syndicate (counting any number of members less than fifty, and any number left over, as fifty).

(4) In this paragraph "the specified period" means such period, not being less than thirty days and beginning with the day following the date of the notice under sub-paragraph (1) above, as may be specified in that notice.

*Individual members: effect of determinations*

7.—(1) A determination of a syndicate's profit or loss for a year of assessment (whether as originally made or as varied or modified) shall, for the purpose of determining the liability to tax of each member of the syndicate, be conclusive against that member that the syndicate's profit or loss for that year is as there stated.

(2) Where a determination of a syndicate's profit or loss for a year of assessment is varied or modified at any time after the issue of a notice of assessment assessing any member of the syndicate to tax—

(a) section 31 of the Management Act (right of appeal) and section 55 of that Act (postponement of tax) shall have effect, in relation to that member, as if any reference to the date of the notice of assessment, or the date of the issue of the notice of assessment, were a reference to the date of the variation or modification; and

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(b) in the case of a variation, an assessment which gives effect to the determination as varied shall not be out of time if it is made within one year of the date of the variation.

(3) Sub-paragraph (2)(b) above shall not apply in the case of a variation under paragraph 3(3) above which is made later than six years after the end of the closing year.

*Assessment of individual members: time limits*

8. For the purposes of sections 36 and 40 of the Management Act (extension of time in cases of fraudulent or negligent conduct) anything done or omitted to be done by a syndicate's managing agent shall be deemed to have been done or omitted to be done by each member of the syndicate.

PART II

PAYMENTS ON ACCOUNT OF TAX

*Preliminary*

9. In this Part of this Schedule "profit or loss", in relation to a member and any person who is his members' agent, means the aggregate amount of the profits or losses which, in the accounts of the syndicates of which he is a member and in relation to which that person is his members' agent, are shown as arising to him, and "profit" and "loss" shall be construed accordingly.

*Returns by members' agent*

10.—(1) An inspector may, at any time after the end of the closing year for a year of assessment, by notice in writing to a members' agent require him to deliver to the inspector, on or before the final day determined under sub-paragraph (4) below and as respects each member for whom he acts, a return of the member's profit or loss for the year of assessment—

(a) containing such information as may be required in pursuance of the notice, and

(b) accompanied by such statements and reports as may be so required, and

(c) in the case of a profit, containing a statement of the amount of tax which would be payable on that profit if income tax were payable on the whole of it at the basic rate in force for the year of assessment.

(2) For the purposes of a return under sub-paragraph (1) above of a member's profit, there shall be added to that profit—

(a) any amount which in respect of the year of assessment is paid out of his special reserve fund;

(b) in the case of the year 1992-93, 40 per cent. of any relevant depreciation for the underwriting year 1992; and

(c) in the case of the year 1993-94, 15 per cent. of any relevant depreciation for the underwriting year 1993.

(3) For the purposes of a return under sub-paragraph (1) above of a member's profit, there may be deducted from that profit—

(a) any amount which in respect of the year of assessment is paid into his special reserve fund;

(b) any of the following which is or is intended to be claimed in his return for the year as being deductible from his profit, namely—

(i) any amount in respect of disbursements and expenses wholly and exclusively laid out for the purposes of his underwriting business, and

(ii) any amount which is so deductible by virtue of section 178(1) of this Act;

(c) in the case of the year 1992-93, 40 per cent. of any relevant appreciation for the underwriting year 1992; and

(d) in the case of the year 1993-94, 15 per cent. of any relevant appreciation for the underwriting year 1993.

(4) In sub-paragraph (2) above "relevant depreciation", in relation to the underwriting year 1992 or 1993, means any amount representing the depreciation in value for that year of assets forming part of a premiums trust fund of the member; and in sub-paragraph (3) above "relevant appreciation" shall be construed accordingly.

(5) The final day for the delivery of any return required by a notice under sub-paragraph (1) above is whichever is the later of—

(a) 1st October in the year of assessment following the closing year for the year of assessment; and

(b) the end of the period of three months beginning on the day following that on which the notice was served.

(6) If a members' agent, having been required by a notice under sub-paragraph (1) above to deliver a return, fails to deliver the return on or before the final day for its delivery, he shall be liable to a penalty equal to the prescribed amount multiplied by the number of days on which the failure continues.

(7) In sub-paragraph (6) above "the prescribed amount" means £60 for each fifty members for whom he acts and in respect of whom there is such a failure (counting any number of such members less than fifty, and any number left over, as fifty).

(8) If a members' agent fraudulently or negligently delivers an incorrect return under sub-paragraph (1) above, he shall be liable to a penalty not exceeding £3,000 multiplied by the number of members for whom he acts and in respect of whose returns there is such fraud or negligence.

(9) In relation to a return required by a notice under sub-paragraph (1) above—

(a) any reference in sub-paragraph (1) or (5) above to the delivery of the return is a reference to its delivery together with the accompanying documents referred to in sub-paragraph (1) above; and

(b) the reference in sub-paragraph (8) above to the return being incorrect includes a reference to any of those documents being incorrect.

*Payments on account of tax*

11.—(1) In the case of a member's profit for a year of assessment, his members' agent shall, on or before the 1st January next following the end of the closing year for that year, pay to the collector, on account of the member's liability to tax, the amount stated in his return for that year under paragraph 10(1)(c) above.

(2) Where an amount is paid to the collector under sub-paragraph (1) above for a year of assessment, the following provisions shall apply as between the member and his members' agent—

(a) where the amount so paid exceeds the amount deducted by the agent in accounting to the member for the member's profit, the amount of the excess shall be paid by the member to the agent; and

(b) where the amount so paid is less than the amount deducted by the agent in accounting to the member for the member's profit, the amount of the excess shall be paid by the agent to the member.

(3) Where an amount is paid to the collector under sub-paragraph (1) above for a year of assessment, the following provisions shall apply as respects the member's liability to tax for that year—

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(a) where the amount in which the member is charged to tax exceeds the amount so paid, the amount of the excess shall be the amount of tax due and payable; and

(b) where that amount exceeds the amount in which the member is so charged, the amount of the excess shall be treated as tax overpaid.

(4) Any amount which is payable under sub-paragraph (1) above shall carry interest at the rate applicable under section 178 of the Finance Act 1989 from the date when it becomes payable until payment, whether or not that date is a non-business day within the meaning of the Bills of Exchange Act 1882.

1989 c. 26.
1882 c. 61.

(5) Section 90 of the Management Act shall apply for the purposes of this paragraph as it applies for the purposes of any provision of Part IX of that Act.

*Assessment on members' agent*

12.—(1) If a members' agent delivers a return in accordance with paragraph 10 above but does not pay to the collector in accordance with paragraph 11 above the amount of tax stated in the return, the inspector may make an assessment on the agent in that amount whether or not it has been paid when the assessment is made.

(2) If for a year of assessment the inspector is dissatisfied with a return under paragraph 10 above, or there is no such return, he may make an assessment on the members' agent to the best of his judgment.

(3) Any income tax due under an assessment made by virtue of sub-paragraph (1) or (2) above shall be treated for the purposes of interest on unpaid tax as having been payable at the time when it would have been payable if a correct return had been made.

## PART III

### REPAYMENT OF TAX DEDUCTED ETC. FROM INVESTMENT INCOME

13.—(1) In relation to an underwriting year, a syndicate's managing agent may, by notice in writing at any time during the period of six years beginning with the 1st March next following the end of the closing year for that year, make a claim to the inspector—

(a) for the repayment of tax suffered by way of deduction on such of the syndicate's investment income as is allocated to that year in accordance with the rules or practice of Lloyd's; or

(b) for the payment of the tax credit in respect of any qualifying distribution forming part of such of that income as is so allocated.

(2) The syndicate's managing agent shall provide such information in support of the claim as the inspector may reasonably require.

(3) Where an amount is repaid or paid to a syndicate's managing agent under this paragraph, he shall—

(a) apportion that amount between the members of the syndicate in proportion to their interests in that part of the syndicate's investment income which has suffered tax by way of deduction or (as the case may be) that part of that income which includes the qualifying distribution; and

(b) except in so far as it is required to meet a share of a loss of the syndicate, pay the amount so apportioned to each member, within 90 days of the repayment, to the members' agent of that member.

(4) The provisions of section 824 of the Taxes Act 1988 (repayment supplements: individuals and others) shall not apply to any repayment of tax made under this paragraph.

(5) In this paragraph "investment income", in relation a syndicate, means the aggregate amount of the profits arising to all the members of the syndicate (taken together) from assets forming part of premiums trust funds.

## SCHEDULE 20

Section 175.

### Lloyd's underwriters: special reserve funds

### Part I

### Requirements for and tax consequences of new-style funds

*Preliminary*

1.—(1) In this Part of this Schedule—

"the arrangements" means the arrangements mentioned in section 175(1) of this Act;

"cash call" means a request for funds which, in pursuance of a contract made in accordance with the rules and practices of Lloyd's, is made to a member by the agent of a syndicate of which he is a member;

"overall premium limit", in relation to a member and an underwriting year, means the maximum amount which, under the rules of Lloyd's, the member may accept by way of premiums in that year;

"stop-loss payment" means a payment of insurance money under a stop-loss insurance or a payment out of the High Level Stop Loss Fund;

"syndicate profit", in relation to a member and an underwriting year, means the amount by which the aggregate of his profits exceeds the aggregate of his losses for the year, and "syndicate loss" shall be construed accordingly.

(2) For the purposes of the definitions of "syndicate profit" and "syndicate loss" in sub-paragraph (1) above—

(a) any reference to profits or losses of a member is a reference to profits or losses which, in the accounts of the syndicates of which he is a member, are shown as arising to him, and

(b) any payments under paragraph 3(1), 4(1), (2), (3) or (6), 5(1), (4) or (7) or 6(2) below shall be disregarded.

*General requirements*

2.—(1) The arrangements must provide—

(a) for the setting up, in relation to any member, of a special reserve fund vested in one or more trustees who have control over it, and

(b) for the appointment of an authorised fund manager (who may be the trustees or one of the trustees) to invest the capital of the fund and to vary the investments;

and in this sub-paragraph "authorised" means authorised under the rules of Lloyd's.

(2) The arrangements must provide for the income arising from the assets of the member's special reserve fund being held on trust for the member or his personal representatives or assigns.

(3) The arrangements must be such as to secure that, except as required or permitted (whether expressly or by necessary implication) by this Part or Part II of this Schedule, no payments shall be made into or out of the member's special reserve fund.

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*Payments into fund out of syndicate profits*

3.—(1) The arrangements must be such as to secure that, if the member has made a syndicate profit for an underwriting year, he has the right to make, into his special reserve fund, payments the amount of which is not in the aggregate greater than whichever of the following is the less, namely—

(a) 50 per cent. of that profit; and

(b) the amount (if any) by which 50 per cent. of the member's overall premium limit for the closing year exceeds the value of the fund as at the end of that year.

(2) Any payments which a member is entitled to make by virtue of sub-paragraph (1) above must be made before the end of such period as may be prescribed.

(3) Where the member did not accept premiums in the closing year, the reference in sub-paragraph (1)(b) above to the member's overall premium limit for that year shall be construed as a reference to that limit for the latest underwriting year in which he did so.

*Payments out of fund to cover cash calls*

4.—(1) The arrangements must be such as to secure that, if a cash call is made on the member in respect of an underwriting year, there shall be made into a premiums trust fund of his, out of his special reserve fund, payments the amount of which is equal in the aggregate to the amount of the call, or the amount of his special reserve fund, whichever is the less.

(2) Where the aggregate amount of any payments made under sub-paragraph (1) above in respect of any year is found to exceed the amount of the member's syndicate loss for the year, there shall be made into his special reserve fund, out of a premiums trust fund or ancillary trust fund of his, payments the amount of which is equal in the aggregate to the amount of the excess.

(3) Where a stop-loss payment is made to the member in respect of his syndicate loss for any year, so much of the stop-loss payment as does not exceed the requisite amount shall be paid into his special reserve fund.

(4) In sub-paragraph (3) above "the requisite amount" means so much of the amount (if any) given by sub-paragraph (5) below as does not exceed the aggregate amount mentioned in paragraph (b) of that sub-paragraph.

(5) The amount given by this sub-paragraph is the amount by which—

(a) the amount of the stop-loss payment, and

(b) the aggregate amount of the payments under sub-paragraph (1) above as reduced by the aggregate amount of any payments under sub-paragraph (2) above,

exceeds in the aggregate the amount of the member's syndicate loss.

(6) Where the whole or any part of a stop-loss payment made to a member is repaid, there shall be made to the member or his personal representatives or assigns, out of his special reserve fund, payments the amount of which is equal in the aggregate to the amount (if any) to which sub-paragraph (7) below applies or the amount of his special reserve fund, whichever is the less.

(7) This sub-paragraph applies to any amount which—

(a) has been paid into the member's special reserve fund under sub-paragraph (2) or (3) above, but

(b) would not have been so paid but for the stop-loss payment or (as the case may be) the part repaid.

(8) Any payments required by sub-paragraph (1), (2), (3) or (6) above shall be made before the end of such period as may be prescribed.

*Payments out of fund to cover syndicate losses*

5.—(1) The arrangements must be such as to secure that, if the member has sustained a syndicate loss for an underwriting year, there shall be made into a premiums trust fund of his, out of his special reserve fund, payments the amount of which is equal in the aggregate to the net amount of the loss or the amount of his special reserve fund, whichever is the less.

(2) Sub-paragraphs (3) and (4) below apply where a stop-loss payment is made to the member in respect of his syndicate loss for any year.

(3) If any payments are subsequently made for the year under sub-paragraph (1) above, the aggregate amount of those payments shall be determined as if the net amount of the syndicate loss were reduced by the amount of the stop-loss payment.

(4) If any payments have previously been made for the year under sub-paragraph (1) above, so much of the stop-loss payment as does not exceed the requisite amount shall be paid into his special reserve fund.

(5) In sub-paragraph (4) above "the requisite amount" means so much of the amount (if any) given by sub-paragraph (6) below as does not exceed the amount mentioned in paragraph (b) of that sub-paragraph.

(6) The amount given by this sub-paragraph is the amount by which—

(a) the amount of the stop-loss payment, and

(b) the aggregate amount of the payments made under sub-paragraph (1) above,

exceeds in the aggregate the net amount of the member's syndicate loss.

(7) Where the whole or any part of a stop-loss payment made to a member is repaid, there shall be made to the member or his personal representatives or assigns, out of his special reserve fund, payments the amount of which is equal in the aggregate to the aggregate of the amounts (if any) to which sub-paragraphs (8) and (9) below apply or the amount of his special reserve fund, whichever is the less.

(8) This sub-paragraph applies to any amount which—

(a) has not been paid out of the member's special reserve fund under sub-paragraph (1) above, but

(b) would have been so paid but for the stop-loss payment or (as the case may be) the part repaid.

(9) This sub-paragraph applies to any amount which—

(a) has been paid into the member's special reserve fund under sub-paragraph (4) above, but

(b) would not have been so paid but for the stop-loss payment or (as the case may be) the part repaid.

(10) Any payments required by sub-paragraph (1), (4) or (7) above shall be made before the end of such period as may be prescribed.

(11) In this paragraph "net amount", in relation to a member's syndicate loss for any year, means the amount of the loss as reduced by the amount of any payments made under paragraph 4(1) above for the year.

*Valuation and payments out of fund of excess amounts*

6.—(1) The arrangements must be such as to secure that the fund manager of a member's special reserve fund—

(a) shall determine in the prescribed manner the value of the fund as at the end of the year 1994 and each subsequent underwriting year; and

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(b) shall report the value so determined to the member;

and the report shall also state such other matters as may be prescribed.

(2) If the value of the fund as so determined in respect of any underwriting year exceeds 50 per cent. of—

(a) the member's overall premium limit for that year; or

(b) where he did not accept premiums in that year, his overall premium limit for the last underwriting year in which he did so,

there shall be made to the member or his personal representatives or assigns, out of his special reserve fund, payments the amount of which is equal in the aggregate to the excess.

(3) The payments required by sub-paragraph (2) above shall be made before the end of such period as may be prescribed.

*Payments out of fund on cessation*

7.—(1) The arrangements must provide that, on the member ceasing to carry on his underwriting business, whether by reason of death or otherwise, the amount of his special reserve fund, so far as not required for giving effect to the requirements of paragraph 4 or 5 above, shall be paid over to the member or his personal representatives or assigns.

(2) For the purposes of sub-paragraph (1) above, a payment of an amount shall be in money or money's worth or both, as the member or his personal representatives or assigns may direct.

*Entitlement of member for tax purposes*

8. A member shall be treated for the purposes of the Income Tax Acts and the Gains Tax Acts as absolutely entitled as against the trustees to the assets forming part of his special reserve fund.

*Tax exemption for profits arising from assets of fund*

9.—(1) Profits or losses arising from assets forming part of a special reserve fund shall be excluded for the purposes of income tax under the Income Tax Acts, and for the purposes of capital gains tax under the Gains Tax Acts.

(2) Where for any underwriting year income tax has been deducted from any profits arising from assets forming part of a special reserve fund, the fund manager may, at any time after the end of that year, claim repayment of that tax.

(3) Where for any underwriting year the income arising from assets forming part of a special reserve fund includes a qualifying distribution, the fund manager may, at any time after the end of that year, claim to have any tax credit in respect of that distribution paid to him.

*Tax consequences of payments into and out of fund*

10.—(1) In computing for the purposes of income tax the profits of a member's underwriting business for any year of assessment, the aggregate amount of any payments which, in respect of the corresponding underwriting year, are made into his special reserve fund under paragraph 3(1) above shall be deducted as an expense.

(2) In computing for the purposes of income tax the profits of a member's underwriting business for any year of assessment—

(a) the aggregate amount of any payments which, in respect of the corresponding underwriting year, are made out of his special reserve fund under paragraph 4(1) or 5(1) above shall be treated as a trading receipt; and

(b) the aggregate amount of any payments which, in respect of that year, are made into that fund under paragraph 4(2) or (3) or 5(4) above shall be deducted as an expense.

(3) In computing for the purposes of income tax the profits of a member's underwriting business for any year of assessment, the aggregate amount of any payments which, as a result of the repayment of stop-loss payments in the corresponding underwriting year, are made out of his special reserve fund under paragraph 4(6) or 5(7) above shall be treated as a trading receipt.

(4) In computing for the purposes of income tax the profits of a member's underwriting business for any year of assessment, the aggregate amount of any payments which, in respect of the corresponding underwriting year's closing year, are made out of his special reserve fund under paragraph 6(2) above shall be treated as a trading receipt.

*Tax consequences of cessation*

11.—(1) This paragraph applies where a member ceases to carry on his underwriting business, whether by reason of death or otherwise.

(2) In computing for the purposes of income tax the profits of the member's underwriting business for the final year of assessment, any payment under paragraph 7(1) above which is made to him or his personal representatives or assigns out of his special reserve fund shall be treated—

(a) as made immediately after the end of the relevant year; and

(b) as being a trading receipt of an amount equal to that mentioned in sub-paragraph (3) below.

(3) The amount referred to in sub-paragraph (2) above is the value of the fund, as determined under paragraph 6(1) above for the relevant year and—

(a) as reduced by the aggregate amount of any payments under paragraph 4(1) or (6) or 5(1) or (7) above made after the end of that year;

(b) as increased by the aggregate amount of any payments under paragraph 4(2) or (3) or 5(4) above so made; and

(c) as increased by the amount of any tax repayment or tax credit received under paragraph 9(2) or (3) above after the end of that year.

(4) Where an asset is transferred to the member or his personal representatives or assigns under paragraph 7(1) above, the transfer shall be treated, for the purposes of the Gains Tax Acts, to be an acquisition of the asset by the member or his personal representatives or assigns for a consideration equal to its market value as at the end of the relevant year.

(5) In this paragraph "the relevant year" means, subject to the provisions of any regulations made by the Board, the underwriting year immediately preceding that in which the member's deposit at Lloyd's is paid over to him or his personal representatives or assigns.

## PART II

### WINDING UP OF OLD-STYLE FUNDS

*Preliminary*

12.—(1) In this Part of this Schedule—

"new-style fund" means a special reserve fund set up under the arrangements mentioned in section 175(1) of this Act;

"old-style fund" means a special reserve fund set up under the arrangements mentioned in section 452(1) of the Taxes Act 1988;

"the relevant period", in relation to an old-style fund, means the period of three months beginning with the closing date.

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(2) For the purposes of sub-paragraph (1) above, the closing date for an old-style fund shall be the earliest date on which each of the following has occurred as respects the year 1991-92 and earlier years of assessments, namely—

(a) the time for making any payments into the fund under section 452(5) of the Taxes Act 1988 has expired, or the member has given notice to the inspector that he will not be making any (or any further) such payments; and

(b) any payments required by section 453(1) of that Act to be made out of the fund have been so made.

*Winding up of old-style funds*

13.—(1) A member may, at any time before the end of the relevant period, direct that so much of the capital of any old-style fund of his as represents sums paid into it under section 452(5) of the Taxes Act 1988 shall be transferred, at the end of that period, into his new-style fund; and a transfer of an amount of capital under this sub-paragraph shall be in money or money's worth or both, as the member may direct.

(2) Where an amount of capital is transferred into a member's new-style fund under sub-paragraph (1) above, there shall be paid into that fund by the Board an amount equal to the amount of tax which, if the amount transferred were a net amount corresponding to a gross amount from which income tax had been duly deducted at the basic rate for the year 1992-93, would have been so deducted.

(3) If a member does not give a direction under sub-paragraph (1) above in relation to any old-style fund of his, so much of the capital of that fund as represents sums paid into it under section 452(5) of the Taxes Act 1988 shall be paid over, at the end of the relevant period, to the member or his personal representatives or assigns.

(4) In either event, the remaining capital of any old-style fund of a member shall be paid over, at the end of the relevant period, to the member or his personal representatives or assigns.

(5) For the purposes of sub-paragraphs (1) and (3) above, any payments made out of an old-style fund under section 453(1) of the Taxes Act 1988 shall be treated as having been met, so far as possible, out of payments made into the fund under section 452(5) of that Act.

*Tax consequences of winding up*

14.—(1) Where an asset is transferred into a member's new-style fund under paragraph 13(1) above, the transfer shall be treated, for the purposes of the Gains Tax Acts, to be a disposal of the asset by the member for a consideration equal to its market value.

(2) Sub-paragraph (3) below applies where an amount is paid over to the member or his personal representatives or assigns under paragraph 13(3) above.

(3) In computing for the purposes of income tax the profits of the member's underwriting business for the year 1992-93, it shall be assumed—

(a) that the amount paid were a net amount corresponding to a gross amount from which income tax had been duly deducted at the basic rate for that year; and

(b) that the corresponding gross amount were a trading receipt for that year.

## SCHEDULE 21

Section 187.

### OIL TAXATION: SUPPLEMENTARY PROVISIONS ABOUT INFORMATION

### PART I

### RESTRICTIONS ON POWERS UNDER SECTION 187

1. References in this Part of this Schedule to subsection (2), subsection (3) or subsection (5) are references to those subsections of section 187 of this Act.

2. Before a notice is given to a person by the Board under subsection (2), subsection (3) or subsection (5), the person must have been given a reasonable opportunity to deliver (or, in the case of subsection (3), to deliver or make available) the documents in question or to furnish the particulars in question; and the Board must not apply for consent under subsection (5) until the person has been given that opportunity.

3.—(1) Subject to sub-paragraph (2) below, where a notice is given to any person under subsection (3), the Board shall give a copy of the notice to the taxpayer to whom it relates.

(2) If, on an application by the Board, a Special Commissioner so directs, a copy of a notice under subsection (3) need not be given to the taxpayer to whom it relates; but such a direction shall not be given unless the Commissioner is satisfied that the Board has reasonable grounds for suspecting the taxpayer of fraud.

4.—(1) A notice under subsection (2) does not oblige a person to deliver documents or furnish particulars relating to the conduct of any pending appeal by him.

(2) A notice under subsection (3) or subsection (5) does not oblige a person to deliver or make available documents relating to the conduct of a pending appeal by the taxpayer.

(3) In this paragraph, "appeal" means appeal relating to tax.

5. To comply with a notice under subsection (2), and as an alternative to delivering documents to comply with a notice under subsection (3) or subsection (5), copies of documents may be delivered instead of the originals; but—

(a) the copies must be photographic or otherwise by way of facsimile; and

(b) if so required by the Board in the case of any documents specified in the requirement, the originals must be made available for inspection by a named officer of the Board (failure to comply with this requirement counting as failure to comply with the notice).

6.—(1) A notice under subsection (3) does not oblige a person to deliver or make available any document the whole of which originates more than six years before the date of the notice.

(2) Sub-paragraph (1) above does not apply where the notice is so expressed as to exclude the restrictions of that sub-paragraph; and it can only be so expressed where the Board has applied to a Special Commissioner for, and obtained, his approval.

(3) For the purpose of sub-paragraph (2) above, the Commissioner shall give approval only if satisfied, on the Board's application, that there is reasonable ground for believing that tax has, or may have been, lost to the Crown owing to the fraud of the taxpayer.

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7. A notice under subsection (3) or subsection (5) does not oblige a barrister, advocate or a solicitor to deliver or make available, without his client's consent, any document with respect to which a claim to professional privilege could be maintained.

8.—(1) Subject to paragraphs 9 and 10 below, a notice under subsection (3) or subsection (5)—

(a) does not oblige a person who has been appointed as an auditor for the purposes of any enactment to deliver or make available documents which are his property and were created by him or on his behalf for or in connection with the performance of his functions under that enactment; and

(b) does not oblige a tax adviser to deliver or make available documents which are his property and consist of relevant communications.

(2) In sub-paragraph (1) above "relevant communications" means communications between the tax adviser and—

(a) a person in relation to whose tax affairs he has been appointed, or

(b) any other tax adviser of such a person,

the purpose of which is the giving or obtaining of advice about any of those tax affairs; and in this paragraph "tax adviser" means a person appointed to give advice about the tax affairs of another person (whether appointed directly by that other person or by another tax adviser of his).

9.—(1) Subject to paragraph 11 below, paragraph 8 above shall not have effect in relation to any document which contains information explaining any information, return, accounts or other document which the person to whom the notice is given has, as tax accountant, assisted any client of his in preparing for, or delivering to, the Board.

(2) For the purposes of this paragraph, a person stands in relation to another as a tax accountant at any time when he assists the other in the preparation or delivery of any information, return, accounts or other document which he knows will be, or is or are likely to be, used for any purpose of tax; and his clients are those to whom he stands or has stood in that relationship.

10. Subject to paragraph 11 below, in the case of a notice under subsection (5), paragraph 8 above shall not have effect in relation to any document which contains information giving the identity or address of any taxpayer to whom the notice relates or of any person who has acted on behalf of any such person.

11. Paragraph 8 above is not disapplied by paragraph 9 or paragraph 10 above in the case of any document if—

(a) the information within paragraph 9 or paragraph 10 is contained in some other document; and

(b) either—

(i) that other document, or a copy of it, has been delivered to the Board, or

(ii) that other document has been inspected by an officer of the Board.

12. Where paragraph 8 above is disapplied by paragraph 9 or paragraph 10 above in the case of a document, the person to whom the notice is given either shall deliver the document to the Board or make it available for inspection by an officer of the Board or shall—

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(a) deliver to the Board a copy (which is photographic or otherwise by way of facsimile) of any parts of the document which contain the information within paragraph 9 or paragraph 10; and

(b) if so required by the Board, make available for inspection by a named officer of the Board such parts of the document as contain that information;

and failure to comply with any requirement under sub-paragraph (b) above shall constitute a failure to comply with the notice.

PART II

MEANING OF "DOCUMENTS"

13. In this Part of this Schedule "the relevant provisions" means subsections (2) to (5) of section 187 of this Act and Part I above.

14.—(1) Subject to sub-paragraph (2) below, in the relevant provisions "document" has the same meaning as it has—

(a) in relation to England and Wales, in Part I of the Civil Evidence Act 1968; 1968 c. 64.

(b) in relation to Scotland, in Part III of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1968; and 1968 c. 70.

(c) in relation to Northern Ireland, in Part I of the Civil Evidence Act (Northern Ireland) 1971. 1971 c. 36 (N.I.).

(2) In the relevant provisions references to documents do not include—

(a) personal records, as defined in section 12 of the Police and Criminal Evidence Act 1984 or, as respects Northern Ireland, in Article 14 of the Police and Criminal Evidence (Northern Ireland) Order 1989, or 1984 c. 60. S.I. 1989/1341 (N.I. 12)

(b) journalistic material, as defined in section 13 of that Act or, as respects Northern Ireland, in Article 15 of that Order,

and references to particulars do not include particulars contained in such personal records or journalistic material.

(3) Subject to sub-paragraph (2) above, references in the relevant provisions to documents and particulars are to those specified or described in the notice in question, and—

(a) the notice shall require documents to be delivered or made available or particulars to be furnished within such period, being a period of not less than thirty days after the date of the notice, as may be specified in the notice; and

(b) the person to whom they are delivered or made available or furnished may take copies of them or of extracts from them.

SCHEDULE 22

Section 210.

TRADING FUNDS

*Introduction*

1. The Government Trading Funds Act 1973 shall be amended as follows. 1973 c. 63.

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*Reserves*

2.—(1) The following section shall be inserted after section 2—

"Initial reserves. 2AA.—(1) An order providing for any assets and liabilities to be appropriated as assets and liabilities of a trading fund may make—

(a) provision for any part of the amount by which the values of the assets exceed the amounts of the liabilities to be treated as reserves in the accounts of the trading fund, and

(b) provision about the maintenance of such reserves.

(2) For the purposes of subsection (1) above "reserves" means reserves whether general, capital or otherwise; and an order may provide for different kinds of reserves.

(3) Nothing in subsection (1) above shall prejudice the operation of section 4(2) of this Act in relation to a trading fund; and nothing in section 4(2) of this Act shall prejudice the operation of subsection (1) above in relation to a trading fund.

(4) This section applies in relation to an order made after the day on which the Finance Act 1993 was passed."

(2) In section 2(3) (originating debt where fund established) in paragraph (b) after "capital" there shall be inserted "or any amount treated by virtue of the order as reserves or (where the order provides for both public dividend capital and reserves) the aggregate of those amounts".

(3) In section 2(4) (addition to originating debt where additional assets and liabilities appropriated to fund) in paragraph (b) after "capital" there shall be inserted "or any amount treated by virtue of the order as reserves or (where the order provides for both public dividend capital and reserves) the aggregate of those amounts".

*Public dividend capital etc.*

3. In section 2A (public dividend capital) the following subsection shall be inserted after subsection (2) (limited power of Minister to issue public dividend capital to fund)—

"(2A) If the responsible Minister considers it appropriate to do so, he may with Treasury concurrence issue out of money provided by Parliament an amount to the fund as public dividend capital; and this subsection shall have effect instead of subsection (2) above after the day on which the Finance Act 1993 was passed."

*Maximum borrowing etc.*

4.—(1) The following section shall be inserted after section 2B—

"Maximum borrowing etc. 2C.—(1) Where an order made after the day on which the Finance Act 1993 was passed establishes a trading fund, the order shall provide that the aggregate of the following shall not exceed the maximum specified in the order—

(a) the total outstanding at any given time in respect of amounts issued to the fund under section 2B of this Act (other than as originating debt), and

(b) the total at that time constituting public dividend capital issued to the fund under section 2A(2A) of this Act;

and that maximum (or that maximum as varied by a subsequent order) shall be observed accordingly.

(2) Where an order made on or before the day on which the Finance Act 1993 was passed establishes a trading fund, and the order specifies the maximum amount that may be issued to the fund under section 2B of this Act, the order shall be taken to provide that the aggregate of the following shall not exceed that maximum—

(a) the total outstanding at any given time in respect of amounts issued to the fund under section 2B of this Act (other than as originating debt), and

(b) the total at that time constituting public dividend capital issued to the fund under section 2A(2A) of this Act;

and that maximum (or that maximum as varied by a subsequent order) shall be observed accordingly.

(3) The sum of the maxima in force in respect of all trading funds at any time shall not exceed £2,000 million.

(4) The Treasury may by order made by statutory instrument increase or further increase the limit in subsection (3) above by any amount, not exceeding £1,000 million, specified in the order but not so as to make the limit exceed £4,000 million.

(5) No order under subsection (4) above shall be made unless a draft of a statutory instrument containing it has been laid before the House of Commons and approved by a resolution of that House."

(2) In section 2B (borrowing by funds) subsections (6) to (9) (which are superseded by the new section 2C) shall be omitted.

Section 213.

# SCHEDULE 23

## REPEALS

## PART I

## EXCISE DUTIES

### (1) BEER DUTY

| Chapter | Short title | Extent of repeal |
|---|---|---|
| 1979 c. 4. | The Alcoholic Liquor Duties Act 1979. | In section 42, in subsection (2) paragraph (a) and in paragraph (b) the words "or removal to the Isle of Man", and in subsections (3) and (4) the word "remove," in each place where it occurs.<br>Section 43.<br>Section 45(1)(b).<br>Section 51. |
| 1979 c. 58. | The Isle of Man Act 1979. | In Schedule 1, paragraph 30. |
| 1991 c. 31. | The Finance Act 1991. | In Schedule 2, paragraph 10. |

These repeals have effect in accordance with section 4 of this Act.

### (2) BLENDING OF ALCOHOLIC LIQUORS

| Chapter | Short title | Extent of repeal |
|---|---|---|
| 1979 c. 4. | The Alcoholic Liquor Duties Act 1979. | In section 55, paragraph (e) of subsection (5) and the word "and" immediately preceding that paragraph, and subsection (5A). |

These repeals have effect in accordance with section 5 of this Act.

### (3) MIXING OF WINE AND SPIRITS

| Chapter | Short title | Extent of repeal |
|---|---|---|
| 1979 c. 4. | The Alcoholic Liquor Duties Act 1979. | Section 58(2). |

This repeal has effect in accordance with section 6 of this Act.

(4) HYDROCARBON OIL DUTY: FUEL SUBSTITUTES

| Chapter | Short title | Extent of repeal |
|---|---|---|
| 1979 c. 5. | The Hydrocarbon Oil Duties Act 1979. | Section 4.<br>Section 7.<br>Section 16.<br>Section 19(6).<br>In section 20AA(1)(a), the words "petrol substitute, spirits used for making power methylated spirits".<br>Section 21(1)(b).<br>In section 27(1), the definitions of "petrol substitute" and "power methylated spirits".<br>Part II of Schedule 3. |
| 1979 c. 8. | The Excise Duties (Surcharges or Rebates) Act 1979. | In section 1(1)(a), the words "(other than power methylated spirits)". |
| 1986 c. 41. | The Finance Act 1986. | In paragraph 4 of Schedule 5, "13". |

The power in section 11(5) of this Act applies to these repeals as it applies to that section.

(5) HYDROCARBON OIL DUTY: FUEL MEASUREMENT

| Chapter | Short title | Extent of repeal |
|---|---|---|
| 1979 c. 5. | The Hydrocarbon Oil Duties Act 1979. | Section 2(5).<br>In section 15(1), the words "shown to the satisfaction of the Commissioners to have been". |

The power in section 12(8) of this Act applies to these repeals as it applies to that section.

(6) VEHICLES EXCISE DUTY

| Chapter | Short title | Extent of repeal |
|---|---|---|
| 1985 c. 54. | The Finance Act 1985. | In Schedule 2, paragraph 6. |
| 1988 c. 39. | The Finance Act 1988. | Section 4(2). |
| 1989 c. 26. | The Finance Act 1989. | Section 6(6). |
| 1990 c. 29. | The Finance Act 1990. | Section 5(7). |
| 1991 c. 31. | The Finance Act 1991. | Section 4(4). |
| 1992 c. 20. | The Finance Act 1992. | Section 4(3) and (4). |

These repeals have effect in relation to licences taken out after 16th March 1993.

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(7) REPEALS CONNECTED WITH LOTTERY DUTY

| Chapter | Short title | Extent of repeal |
|---|---|---|
| 1979 c. 2. | The Customs and Excise Management Act 1979. | In section 1(1), in the definition of "the revenue trade provisions of the customs and excise Acts", the word "and" at the end of paragraph (b) and, in the definition of "revenue trader", the word "or" at the end of paragraph (a)(i). |
| 1981 c. 63. | The Betting and Gaming Duties Act 1981. | Section 6(4). |
| 1986 c. 41. | The Finance Act 1986. | In Schedule 4, paragraph 2(2). |

These repeals come into force in accordance with section 41 of this Act.

PART II

VALUE ADDED TAX

(1) FUEL AND POWER

| Chapter | Short title | Extent of repeal |
|---|---|---|
| 1983 c. 55. | The Value Added Tax Act 1983. | In Schedule 5, Group 7. |

This repeal comes into force in accordance with section 42 of this Act.

(2) FUEL SCALES

| Chapter | Short title | Extent of repeal |
|---|---|---|
| 1986 c. 41. | The Finance Act 1986. | In Schedule 6—<br>(a) in paragraph 2(1) and (2), the words "Subject to paragraph 3 below,", in each place where they occur; and<br>(b) paragraph 3 and the Table B set out after that paragraph. |

These repeals have effect in relation to any case where the prescribed accounting period begins after 5th April 1993.

(3) ACQUISITIONS

| Chapter | Short title | Extent of repeal |
|---|---|---|
| 1983 c. 55. | The Value Added Tax Act 1983. | In section 5(9), in the words after paragraph (b), the words from "a supply of goods" to "below or there is".<br>Section 32B.<br>In section 48(1), in the definition of "taxable person", the words "(subject to section 32B(3) above)". |
| 1992 c. 48. | The Finance (No. 2) Act 1992. | In paragraph 6(2) of Schedule 3, paragraph (b) and the word "and" immediately preceding it. |

These repeals come into force in accordance with section 44(4) of this Act.

(4) PENALTIES

| Chapter | Short title | Extent of repeal |
|---|---|---|
| 1985 c. 54. | The Finance Act 1985. | Section 13(4).<br>Section 19(2)(b). |

The repeal of section 13(4) of the Finance Act 1985 has effect in accordance with paragraph 3(3) of Schedule 2 to this Act and the repeal of section 19(2)(b) of that Act has effect in accordance with paragraph 5(3) of that Schedule.

(5) REPEALS CONNECTED WITH ABOLITION OF CAR TAX

| Chapter | Short title | Extent of repeal |
|---|---|---|
| 1983 c. 55. | The Value Added Tax Act 1983. | In Schedule 4, in paragraph 3A(1) the words "or with car tax" and the word "tax" in the second place where it occurs.<br>In Schedule 4A, in paragraph 2(1) the words "or with car tax" and the word "tax" in the second place where it occurs.<br>In Schedule 7, in paragraph 2(3B) the words "or of a chargeable vehicle within the meaning of the Car Tax Act 1983" and the words "or of such a vehicle". |

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## PART III

### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

#### (1) TEMPORARY RELIEF FOR INTEREST PAYMENTS

| Chapter | Short title | Extent of repeal |
|---|---|---|
| 1988 c. 1. | The Income and Corporation Taxes Act 1988. | Section 354(5) and (6).<br>Section 356D(9).<br>Section 357(4).<br>Section 371.<br>In paragraph 10(1) and (2) of Schedule 7, the words "354(5) and (6)", in each place. |

These repeals come into force in accordance with section 57 of this Act.

#### (2) CHARITIES

| Chapter | Short title | Extent of repeal |
|---|---|---|
| 1990 c. 29. | The Finance Act 1990. | Section 24. |
| 1992 c. 48. | The Finance (No. 2) Act 1992. | Section 26. |

1. The repeal of section 24 of the Finance Act 1990 has effect for the year 1993-94 and subsequent years of assessment.

2. The repeal of section 26 of the Finance (No. 2) Act 1992 has effect in accordance with section 67 of this Act.

#### (3) CAR BENEFITS

| Chapter | Short title | Extent of repeal |
|---|---|---|
| 1988 c. 1. | The Income and Corporation Taxes Act 1988. | Section 157(4) and (5). |

These repeals have effect for the year 1994-95 and subsequent years of assessment.

#### (4) CAR FUEL

| Chapter | Short title | Extent of repeal |
|---|---|---|
| 1988 c. 1. | The Income and Corporation Taxes Act 1988. | In section 158(5), the words "or 3". |

This repeal has effect for the year 1993-94.

(5) HEAVIER COMMERCIAL VEHICLES (CONSEQUENTIAL REPEAL)

| Chapter | Short title | Extent of repeal |
|---|---|---|
| 1988 c. 1. | The Income and Corporation Taxes Act 1988. | In section 159A(8)(a), the word "but" at the end of sub-paragraph (i). |

This repeal has effect for the year 1993-94 and subsequent years of assessment.

(6) TAXATION OF DISTRIBUTIONS

| Chapter | Short title | Extent of repeal |
|---|---|---|
| 1988 c. 1. | The Income and Corporation Taxes Act 1988. | In section 233(1)(c), the words "as income which is not chargeable at the lower rate and". |
| 1992 c. 12. | The Taxation of Chargeable Gains Act 1992. | In section 5(2)(a), the words "(liability to income tax at the additional rate)". |
| 1992 c. 48. | The Finance (No. 2) Act 1992. | In section 19, in subsection (3), the words "233(2)" and, in subsection (4), the words "233(1)(c)". |

These repeals have effect for the year 1993-94 and subsequent years of assessment.

(7) RETIREMENT RELIEF ETC.

| Chapter | Short title | Extent of repeal |
|---|---|---|
| 1992 c. 12. | The Taxation of Chargeable Gains Act 1992. | In paragraph 1 of Schedule 6, in sub-paragraph (2), the definitions of "family company", "family" and "relative", and sub-paragraphs (3) and (4). |

These repeals come into force in accordance with section 87(2) of this Act.

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(8) INSURANCE COMPANIES

| Chapter | Short title | Extent of repeal |
|---|---|---|
| 1988 c. 1. | The Income and Corporation Taxes Act 1988. | Section 432A(10). |
| 1992 c. 12. | The Taxation of Chargeable Gains Act 1992. | In section 212— (a) in subsection (2), the words from "and in relation to" onwards; (b) subsections (3), (4), (6) and (8). Section 213(9). Section 214(3) to (5). |

The repeal of section 212(8) of the Taxation of Chargeable Gains Act 1992 has effect, in accordance with section 91(1) of this Act, in relation to the accounting periods mentioned in section 212(8), and the other repeals have effect in relation to accounting periods beginning on or after 1st January 1993.

(9) OVERSEAS LIFE INSURANCE COMPANIES

| Chapter | Short title | Extent of repeal |
|---|---|---|
| 1970 c. 9. | The Taxes Management Act 1970. | In section 31(3), the word "445". |
| 1988 c. 1. | The Income and Corporation Taxes Act 1988. | In section 11(3), the words "Subject to section 447,". Section 445. Section 446(1). Section 447(1), (2) and (4). Section 448. Section 449. Section 724(5) to (8). In section 811(2), paragraph (c) and the word "and" immediately preceding it. In Schedule 19AB, paragraph 1(9). |
| 1991 c. 31. | The Finance Act 1991. | In Schedule 7, paragraph 7(1)(a), (2), (4) and (5). |

These repeals have effect in accordance with section 103 of this Act.

(10) INDEXATION

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| Chapter | Short title | Extent of repeal |
|---|---|---|
| 1988 c. 1. | The Income and Corporation Taxes Act 1988. | Section 1(5).<br>Section 257C(2). |
| 1990 c. 29. | The Finance Act 1990. | Section 17(2). |

These repeals have effect in accordance with section 107 of this Act.

(11) PAY AND FILE

| Chapter | Short title | Extent of repeal |
|---|---|---|
| 1988 c. 1. | The Income and Corporation Taxes Act 1988. | In section 343(3), the word "claim", in the second place where it occurs.<br>In section 395, in the words after paragraph (c) of subsection (1) and in subsection (4), the words "to claim relief".<br>In section 400(2)(a), the words "or, if a claim had been made under that subsection, would be". |
| 1991 c. 31. | The Finance Act 1991. | In Schedule 15, paragraphs 2 and 9. |

The repeals in the Income and Corporation Taxes Act 1988 and the repeal of paragraph 9 of Schedule 15 to the Finance Act 1991 have effect in relation to accounting periods ending after the day appointed for the purposes of section 10 of the Income and Corporation Taxes Act 1988.

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(12) LLOYD'S UNDERWRITERS ETC.

| Chapter | Short title | Extent of repeal |
|---|---|---|
| 1988 c. 1. | The Income and Corporation Taxes Act 1988. | Sections 450 to 457.<br>Section 710(14).<br>In section 711(8), the words "or section 725(9)" and the words "or straddling", in both places where they occur.<br>Section 720(3).<br>In section 721, subsections (5) and (6).<br>Section 725.<br>In Schedule 4, paragraph 18.<br>Schedule 19A. |
| 1989 c. 26. | The Finance Act 1989. | In section 43, subsections (6) and (7).<br>In section 92, subsections (4) to (7).<br>In Schedule 11, paragraph 10. |
| 1990 c. 29. | The Finance Act 1990. | In Schedule 10, paragraph 18. |
| 1992 c. 12. | The Taxation of Chargeable Gains Act 1992. | Sections 206 to 209. |
| 1993 c. 34. | The Finance Act 1993. | In section 183, subsections (4) to (8). |

1. The repeal of section 450(6) of the Income and Corporation Taxes Act 1988 has effect in relation to acquisitions or disposals made, or treated as made, after 31st December 1993.

2. The following repeals, namely—

the repeals in sections 710, 711, 720 and 721 of and Schedule 4 to the Income and Corporation Taxes Act 1988 and the repeal of section 725 of that Act;

the repeal in Schedule 11 to the Finance Act 1989;

the repeal in Schedule 10 to the Finance Act 1990;

the repeals of sections 207 and 208 of the Taxation of Chargeable Gains Act 1992; and

the repeals of subsections (4) to (6) of section 183 of this Act,

have effect for the year 1994 and subsequent underwriting years.

3. The repeals in section 43 of the Finance Act 1989 have effect in relation to periods of account ending on or after 30th June 1993.

4. The following repeals, namely—

the repeals of subsections (2) to (5) of section 206 and subsections (1), (2) and (6) of section 209 of the Taxation of Chargeable Gains Act 1992; and

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the repeals of subsections (7) and (8) of section 183 of this Act,

have effect for the year of assessment 1994-95 and subsequent years of assessment.

5. The other repeals have effect for the year 1992-93 and subsequent years of assessment.

## Part IV

### Oil taxation

| Chapter | Short title | Extent of repeal |
|---|---|---|
| 1975 c. 22. | The Oil Taxation Act 1975. | In Schedule 2, in the Table in paragraph 1, in the modification relating to section 98 of the Taxes Management Act 1970, the words "or to paragraph 7 of this Schedule"; and paragraph 7. |

## Part V

### Inheritance tax

| Chapter | Short title | Extent of repeal |
|---|---|---|
| 1984 c. 51. | The Inheritance Tax Act 1984. | In section 267(4), the words "but without regard to any dwelling-house available in the United Kingdom for his use". |

This repeal has effect in accordance with section 208 of this Act.

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PART VI

STATUTORY EFFECT OF RESOLUTIONS ETC.

| Chapter | Short title | Extent of repeal |
|---|---|---|
| 1968 c. 2. | The Provisional Collection of Taxes Act 1968. | In section 1, in subsection (1) the words "car tax" and subsection (1A). In section 5(1), paragraph (c) and the word "or" immediately preceding it. |
| 1988 c. 1. | The Income and Corporation Taxes Act 1988. | In section 8, subsections (4) to (6). |

The repeals in the Provisional Collection of Taxes Act 1968 have effect in accordance with section 205 of this Act.

PART VII

TRADING FUNDS

| Chapter | Short title | Extent of repeal |
|---|---|---|
| 1973 c. 63. | The Government Trading Funds Act 1973. | In section 2B, subsections (6) to (9). |

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