

SCHEDULES

SCHEDULE 4

TAXATION PROVISIONS

PART I

CORPORATION TAX

Transfers of property in coal and lease back etc.

- 24 (1) Subject to the following provisions of this paragraph—
- (a) this Part of this Schedule shall have effect as if the transfer made by section 7(3) of this Act were made in accordance with a restructuring scheme coming into force on the restructuring date; and
 - (b) any provisions of this Part of this Schedule by virtue of which provision may be contained in the restructuring scheme in accordance with which a relevant transfer is made shall have effect, in relation to the transfer made by section 7(3) of this Act, as if they authorised the inclusion of that provision in any restructuring scheme which is to take effect on the restructuring date.
- (2) Subject to sub-paragraph (3) below, where any interests or rights are created, in accordance with any restructuring scheme, in or in relation to any property which—
- (a) is property to which section 7(3) of this Act applies,
 - (b) is retained, subject to those interests and rights, by the Corporation or any of its wholly-owned subsidiaries, or
 - (c) in accordance with a restructuring scheme is transferred, with effect from the time at or immediately before which the creation of the interests or rights takes effect, from the Corporation or one of its wholly-owned subsidiaries to any other person,
- those interests or rights, so far as they are created in favour of a public sector body shall be treated for the purposes of the Corporation Tax Acts and this Part of this Schedule as transferred from the Corporation or, as the case may be, its subsidiary to that body but not, except for the purposes of paragraphs 2, 4, 10, 15 and 18(1) above, as transferred by virtue of a relevant transfer.
- (3) Sub-paragraph (2) above shall not apply in relation to the creation in favour of the Corporation or any of its wholly-owned subsidiaries, in accordance with any restructuring scheme, of any interest or right in or in relation to—
- (a) property to which section 7(3) of this Act applies; or
 - (b) any other property in or in relation to which the Corporation or, as the case may be, that subsidiary owned some other interest or right immediately before the created interest or right comes into existence.

Status: This is the original version (as it was originally enacted).

- (4) Where any restructuring scheme contains provision for the creation in favour of the Corporation or any of its wholly-owned subsidiaries of any interest or right in or in relation to any such property as is mentioned in sub-paragraph (3)(a) or (b) above, the only transfer which shall be deemed for the purposes of the Corporation Tax Acts and this Part of this Schedule to have taken place in accordance with that provision shall be a transfer (subject to the retention of the created interest or right) from the Corporation or that subsidiary of—
- (a) any interest or right in or in relation to that property which, by virtue of that scheme, is to be retained by the Authority; and
 - (b) the interest or right in or in relation to that property which in accordance with the scheme is transferred to any other person, together with any interest or right which in accordance with that scheme is created in favour of another person.
- (5) Where—
- (a) any interest or right is created in accordance with a restructuring scheme in or in relation to any property which has vested in any person (“the intermediary”) by virtue of a relevant transfer,
 - (b) the intermediary and the person in favour of whom the right or interest is created are both public-sector bodies at the time when the interest or right is created, and
 - (c) neither sub-paragraph (2) nor sub-paragraph (4) above applies to the creation of that interest or right,
- the creation of that interest or right shall be treated for the purposes of the Corporation Tax Acts and this Schedule as a transfer in accordance with a restructuring scheme of the interest or right from the intermediary to the person in favour of whom it is created but not, except for the purposes of paragraphs 2, 4, 10, 15 and 18(1) above and this sub-paragraph, as a relevant transfer.
- (6) Where paragraph 10 above applies in the case of any transaction which by virtue of sub-paragraph (5) above is treated for the purposes of that paragraph as a relevant transfer, that paragraph shall have effect in relation to that transaction as if references to the predecessor were references to the person who is the predecessor in relation to the relevant transfer by virtue of which the property in question vested in the intermediary or, where there has been more than one such transaction, the person who by virtue of this sub-paragraph is deemed for the purposes of that paragraph to be the predecessor in the case of the earliest such transaction.
- (7) The creation in accordance with a restructuring scheme of any interest or right in any property in which different interests or rights subsist shall not be treated for the purposes of this Schedule as a transfer in accordance with that scheme of the created interest or right except so far as it falls to be so treated by virtue of the preceding provisions of this paragraph.
- (8) Subsections (1) and (2) of section 779 of the 1988 Act (sale and lease back) shall not apply where the liability of the transferor (within the meaning of that section) or of the person associated with that transferor is as a result of either—
- (a) the creation in accordance with any restructuring scheme of any interest or right; or
 - (b) any other transaction or series of transactions for which such a scheme provides.

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

- (9) Section 28 of the 1992 Act and paragraph 2(2) above shall apply for determining for the purposes of this paragraph the time as from which the creation of any interest or right takes effect as they apply for the purpose of determining the time of the disposal and acquisition of any asset.