

*Changes to legislation: There are currently no known outstanding effects  
for the Finance Act 2000, Part X. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 22

#### TONNAGE TAX

#### PART X

##### THE RING FENCE: CAPITAL ALLOWANCES: SHIP LEASING

###### *Introduction*

- 89 (1) In the case of a <sup>F1</sup>... lease of a qualifying ship provided, directly or indirectly, to a company within tonnage tax, the provisions of [<sup>F2</sup>Part 2 of the Capital Allowances Act 2001] have effect subject to and in accordance with the provisions of—
- paragraphs 90 and 91 (defeased leasing),
  - [<sup>F3</sup>paragraphs 91A to 91F (long funding leases),]
  - paragraph 92 (sale and lease back arrangements, and
  - paragraphs 94 to 102 (quantitative restrictions on allowances).
- [<sup>F4</sup>This is subject to paragraph 89A (exception for ordinary charters).]
- [<sup>F5</sup>(2) In this Part of this Schedule “lease” means any arrangements that provide for a ship to be leased or otherwise made available by a person (“the lessor”) to another person (“the lessee”).]
- (3) Other expressions used in this Part of this Schedule have the same meaning as in Part IX of this Schedule (the ring fence: capital allowances: general).

#### **Textual Amendments**

- F1** Word in Sch. 22 para. 89(1) repealed (10.7.2003) (with effect in accordance with Sch. 32 para. 3 of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 32 para. 1\(2\)](#), [Sch. 43 Pt. 3\(11\)](#) (with [Sch. 32 para. 4](#))
- F2** Words in Sch. 22 para. 89(1)(2) inserted (23.3.2001 with effect as mentioned in [s. 579\(1\)](#) of the amending Act) by [2001 c. 2, ss. 578, 579](#), [Sch. 2 para. 108\(24\)\(25\)](#)
- F3** Words in Sch. 22 para. 89(1) inserted (with effect in accordance with Sch. 8 para. 15 and Sch. 9 para. 10(5) to the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 9 para. 10\(2\)](#)
- F4** Words in Sch. 22 para. 89(1) inserted (10.7.2003) (with effect in accordance with Sch. 32 para. 3 of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 32 para. 1\(3\)](#) (with [Sch. 32 para. 4](#))
- F5** Sch. 22 para. 89(2) substituted (10.7.2003) (with effect in accordance with Sch. 32 para. 3 of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 32 para. 1\(4\)](#) (with [Sch. 32 para. 4](#))

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*[<sup>F6</sup>Quantitative restrictions not to apply to ordinary charters*

**Textual Amendments**

**F6** Sch. 22 para. 89A and heading inserted (10.7.2003) (with effect in accordance with Sch. 32 para. 3 of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 32 para. 1\(5\)](#) (with [Sch. 32 para. 4](#))

89A (1) Paragraphs 94 to 102, and paragraph 89(1) so far as relating to those paragraphs, do not apply in the following cases.

- (2) The first case is where the ship is chartered out by a person who is responsible—
- (a) for the operation of the ship, including the appointment of the master and those members of the crew engaged in navigation, throughout the period of the charter, and
  - (b) 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.

For the purposes of this sub-paragraph a person is “responsible” if he is responsible as principal or if he appoints another person, other than the lessee or a person connected with the lessee, to be responsible in his place.

- (3) The second case is where—
- (a) the ship is chartered out by a person acting in the course of a trade that consists of, or to a significant extent includes, operating ships, and
  - (b) the conditions in sub-paragraph (4) are met.
- (4) Those conditions are—
- (a) that the period of the charter does not exceed seven years, and there is no provision or agreement under which it could be extended beyond seven years;
  - (b) that the period of the charter, together with any other periods in the same ten years during which the ship is chartered out to the lessee or a person connected with him, does not exceed seven years in total;
  - (c) that there are no arrangements under which the lessee or a person connected with him may acquire the ship, whether directly or indirectly, from the lessor.

In paragraph (b) “the same ten years” means any period of ten years that includes the period of the charter mentioned in that paragraph.

- (5) References in this paragraph to the period of a charter are to the term specified in the lease or, if longer, the actual period during which the ship is chartered.
- (6) [<sup>F7</sup>Section 1122 of the Corporation Tax Act 2010] (connected persons) applies for the purposes of this paragraph.]

**Textual Amendments**

**F7** Words in [Sch. 22 para. 89A\(6\)](#) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 316\(5\)](#) (with [Sch. 2](#))

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*Defeased leasing*

- 90 (1) The lessor under the <sup>F8</sup>... lease is not entitled to capital allowances in respect of expenditure on the provision of the ship if—
- (a) the lease, or
  - (b) any transaction or series of transaction of which the lease forms a part, makes provision the effect of which is to remove the whole, or the greater part of, any non-compliance risk which, apart from that provision, would fall directly or indirectly on the lessor.
- (2) For this purpose a “non-compliance risk” means a risk that a loss will be sustained by any person if payments under the lease are not made in accordance with its terms.
- (3) For the purposes of this paragraph the lessor and any persons connected with him shall be treated as the same person.
- (4) In this paragraph “connected person” has the meaning given by section 839 of the Taxes Act 1988.

**Textual Amendments**

- F8** Word in Sch. 22 para. 90(1) repealed (10.7.2003) (with effect in accordance with Sch. 32 para. 3 of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 32 para. 1\(2\)](#), [Sch. 43 Pt. 3\(11\)](#) (with [Sch. 32 para. 4](#))

*Defeased leasing: excepted forms of security*

- 91 (1) Paragraph 90 (defeased leasing) is subject to the following exceptions.
- (2) It does not apply to the provision of security of any of the following kinds by the lessee, or a person connected with the lessee—
- (a) a mortgage of the ship;
  - (b) security attaching—
    - (i) to the ship’s earnings, or
    - (ii) to the proceeds of insurance policies on the ship;
  - (c) security over rental rebates arising from the arm’s length sale of the ship;
  - (d) any other form of security relating to assets, sums or rights arising directly from the ordinary operation of the ship or from arm’s length transactions involving the ship.

In this sub-paragraph “the ship” means the ship that is the subject of the lease.

- (3) It does not apply to the provision of security by the lessee, or a person connected with the lessee, if the following conditions are met—
- (a) no deposit of money or other property by way of security is obtained by the lessor or any third party;
  - (b) any payments under the security are limited to the amount of any rental payments under the lease in respect of which the lessee is in default.
- (4) It does not apply to the provision of security by a third party where no security other than security of a kind mentioned in sub-paragraph (2)(a) to (d) is held by the third party or any person connected with the third party.

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- (5) It does not apply to the provision of security by a third party if the following conditions are met—
- (a) no deposit of money or other property by way of security is obtained by the lessor or any third party;
  - (b) the security does not involve the assumption of any obligations of the lessee under the lease in return for a payment made (directly or indirectly) by the lessee or a person connected with him;
  - (c) the security does not give rise to any payments to the lessor unless the lessee defaults on the rental payments under the lease;
  - (d) any payments under the security are limited to the amount of the rental payments in default.
- (6) For the purposes of this paragraph the lessor and any persons connected with him shall be treated as the same person.
- (7) In this paragraph—
- “connected person” has the meaning given by section 839 of the Taxes Act 1988; and
- “third party” means a person not connected with either the lessor or the lessee.

*F<sup>9</sup> Long funding leases: conditions for alternative treatment*

**Textual Amendments**

**F9** Sch. 22 paras. 91A-91F and cross-heading inserted (with effect in accordance with Sch. 8 para. 15 and Sch. 9 para. 10(5) to the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 9 para. 10\(3\)](#)

- 91A (1) This paragraph applies if the lease would fall to be regarded as a long funding lease for the purposes of Part 2 of the Capital Allowances Act 2001, apart from this paragraph.
- (2) The lease is to be treated for tax purposes as not being a long funding lease at any time when the lease—
- (a) meets the conditions in sub-paragraph (3), or
  - (b) is expected to meet those conditions when the ship is first brought into use under the lease,
- but this is subject to the qualification in sub-paragraph (4) and the exception in sub-paragraph (5).
- (3) The conditions are—
- (a) that the lease falls within paragraph 91B (lease to tonnage tax company or group),
  - (b) that the lease falls within paragraph 91C (tonnage tax company to operate and manage qualifying ship),
  - (c) that the lease falls within paragraph 91D (period and rate of sublease of qualifying ship).
- (4) The condition in paragraph (c) of sub-paragraph (3) has to be met, or be expected to be met, only at times when the company within tonnage tax is leasing the ship to a company not within tonnage tax.

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- (5) The conditions in paragraphs (b) and (c) of sub-paragraph (3) do not have to be met, or be expected to be met, if the lease was finalised (within the meaning of Part 4 of Schedule 8 to the Finance Act 2006) before 1st April 2006.
- (6) Sub-paragraph (2) is subject to paragraph 91E (anti-avoidance).

*Lease to tonnage tax company or group*

- 91B (1) A lease falls within this paragraph if—
- (a) it is a lease of a qualifying ship provided directly to a company within tonnage tax, or
  - (b) it is a lease of a qualifying ship provided indirectly to a company within tonnage tax (“T”) and sub-paragraph (2) applies.
- (2) This sub-paragraph applies where—
- (a) the owner of the qualifying ship provides it directly to a company (“C”) under a lease,
  - (b) C provides the qualifying ship directly to T under a lease, and
  - (c) C and T are in the same group.

*Tonnage tax company to operate and manage qualifying ship*

- 91C (1) A lease of a qualifying ship provided, directly or indirectly, to a company within tonnage tax (“T”) falls within this paragraph if T is responsible—
- (a) for the operation of the ship, including the appointment of the master and those members of the crew engaged in navigation, and
  - (b) for defraying all expenses in connection with the ship, or substantially all such expenses other than those directly incidental to a particular voyage or to the employment of the ship during any period for which the ship is leased by T to another person.
- (2) For the purposes of this paragraph, T is “responsible” if—
- (a) he is responsible as principal, or
  - (b) he appoints another person (“P”) to be responsible in his place and the condition in sub-paragraph (3) is met.
- (3) The condition is that—
- (a) P is not a person to whom the ship is leased by T and is not connected with such a person, or
  - (b) P is a company within tonnage tax.
- (4) Any reference in this paragraph to a lease by T includes a reference to a contract of affreightment entered into by T that provides for the carriage of goods by the qualifying ship.
- (5) [F10Section 1122 of the Corporation Tax Act 2010] (connected persons) applies for the purposes of this paragraph.

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### Textual Amendments

**F10** Words in [Sch. 22 para. 91C\(5\)](#) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 1 para. 316\(6\)](#) (with [Sch. 2](#))

#### *Period and rate of sublease of qualifying ship*

- 91D (1) A lease of a qualifying ship provided, directly or indirectly, to a company within tonnage tax (“T”) falls within this paragraph if each lease of the ship by T (a “sublease”) to a company not within tonnage tax meets the conditions in sub-paragraph (2).
- (2) The conditions are—
- (a) that the amount payable under the sublease is the market rate, and
  - (b) that the period of the sublease does not exceed 7 years.
- (3) For the purposes of this paragraph the market rate is the rate at which the qualifying ship could reasonably be expected to be leased, taking into account all the circumstances of the lease including the period of the lease, the date at which the lease commences and the size and description of the qualifying ship.
- (4) For the purposes of this paragraph the period of a sublease is the period comprising—
- (a) the term specified in the sublease, and
  - (b) any subsequent periods which meet the conditions in sub-paragraph (5).
- (5) The conditions are that—
- (a) there is an option to continue the sublease for that period, and
  - (b) the amount payable under the sublease for that period is not the market rate applicable at the start of that period.
- (6) Where—
- (a) an option to continue a sublease for a period is exercised, and
  - (b) the amount payable under the sublease for that period is the market rate applicable at the start of that period,
- the parties to the sublease are to be treated for the purposes of this paragraph as if the sublease had terminated immediately before the commencement of the period and a new sublease had immediately been entered into.
- (7) Where a sublease is for an indefinite period, the period of the sublease is to be taken for the purposes of this paragraph to be a period of more than 7 years, unless the condition in sub-paragraph (8) is met.
- (8) The condition is that—
- (a) the amount payable under the sublease must be reviewed at least once every 7 years, and
  - (b) if the amount payable under the sublease is found on such a review not to be the market rate applicable at the time of the review, it must be changed to the market rate applicable at that time.
- (9) Where there is an option to continue a sublease for an indefinite period, the period of the sublease is to be taken for the purposes of this paragraph to be a period of more than 7 years, unless the condition in sub-paragraph (10) is met.

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- (10) The condition is that the amount payable under the sublease for any period for which the option may be exercised is the market rate applicable at the start of that period, except that—
- (a) the amount for the time being payable under the sublease may subsequently be changed at any time to the market rate applicable at that time,
  - (b) the amount payable under the sublease must be reviewed at least once every 7 years, and
  - (c) if the amount payable under the sublease is found on such a review not to be the market rate applicable at the time of the review, it must be changed to the market rate applicable at that time.
- (11) Any reference in this paragraph to a lease by T includes a reference to a contract of affreightment entered into by T that provides for the carriage of goods by the qualifying ship.

*Anti-avoidance*

- 91E Paragraph 91A(2) does not have effect in the case of the lease if the main purpose, or one of the main purposes—
- (a) of the leasing of the ship,
  - (b) of a series of transactions of which the leasing of the ship is one, or
  - (c) of any of the transactions in such a series,
- was to obtain a writing down allowance determined without regard to any of paragraphs 90, 92 and 94 to 102 in respect of expenditure incurred by any person on the provision of the ship.

*Consequences of paragraph 91A(2) ceasing to have effect*

- 91F (1) This paragraph applies if sub-paragraph (2) of paragraph 91A ceases to have effect in relation to a lease (the “existing lease”) because one or more of the conditions in sub-paragraph (3) of that paragraph cease to be met.
- (2) In any such case it is to be assumed for tax purposes that—
- (a) the existing lease terminates at the time of the cessation;
  - (b) another lease (the “new lease”) is entered into immediately after the cessation;
  - (c) the term of the new lease is the portion of the term of the existing lease that remains unexpired at the time of the cessation;
  - (d) the date on which the cessation occurs is the date of both—
    - (i) the inception of the new lease, and
    - (ii) the commencement of the term of the new lease.
- (3) Where this paragraph applies, subsection (4) of section 70X of the Capital Allowances Act 2001 (transfers, assignments etc by lessee) does not.
- (4) For the purposes of this paragraph, the following expressions have the meaning given in Chapter 6A of Part 2 of the Capital Allowances Act 2001 (interpretation of provisions about long funding leases)—
- “commencement”, in relation to the term of a lease;
  - “inception”, in relation to a lease;
  - “term”, in relation to a lease;

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“terminate”.]

*Sale and lease-back arrangements*

92 (1) The lessor under the <sup>F11</sup>... lease is not entitled to capital allowances if the lease is part of sale and lease-back arrangements.

(2) For this purpose “sale and lease-back arrangements” means, [<sup>F12</sup>subject to sub-paragraphs (3) and (3A)], any arrangements that take the following form:

Step One The ship is owned by a tonnage tax company and used for the purposes of its tonnage tax trade.

Step Two A transaction is entered into, as a result of which (apart from this paragraph) capital allowances would become available to the lessor, under which—

- (a) the ship (or an interest in it) is sold, or
- (b) a person enters into a contract on the performance of which he will or may become the owner of the ship (or an interest in it), or
- (c) a person entitled to the benefit of any such contract assigns the benefit of it so far as it relates to the ship (or an interest in it).

Step Three After the time of that transaction the ship is used for the purposes of a tonnage tax trade carried on—

- (a) by the original company, or
- (b) by another tonnage tax company that is a member of the same group, without having been used since that time for the purposes of any other trade (except that of leasing).

(3) This paragraph does not apply if the ship is newly-constructed and the transaction mentioned in Step Two in sub-paragraph (2) is effected not more than four months after the first occasion on which the ship is brought into use by any person for any purpose.

[<sup>F13</sup>(3A) This paragraph does not apply if—

- (a) expenditure is incurred on enhancing the ship or on converting it to another use,
- (b) the amount of that expenditure—
  - (i) is greater than 33% of the market value of the ship immediately after completion of the enhancement or conversion, and
  - (ii) is equal to or greater than the market value of the interest in the ship which is the subject of the transaction mentioned in Step Two in sub-paragraph (2), and
- (c) that transaction is effected not more than four months after the first occasion following completion of the enhancement or conversion on which the ship is brought into use by any person for any purpose.]

(4) A person is regarded for the purposes of this paragraph as owning a ship if it is treated as [<sup>F14</sup>owned by him for the purposes of Part 2 of the Capital Allowances Act 2001].



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#### Textual Amendments

- F11** Word in Sch. 22 para. 92(1) repealed (10.7.2003) (with effect in accordance with Sch. 32 para. 3 of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 32 para. 1\(2\)](#), [Sch. 43 Pt. 3\(11\)](#) (with [Sch. 32 para. 4](#))
- F12** Words in Sch. 22 para. 92(2) substituted (7.4.2005) by [Finance Act 2005 \(c. 7\)](#), [Sch. 7 paras. 14\(2\)](#), [18\(2\)](#)
- F13** Sch. 22 para. 92(3A) inserted (7.4.2005) by [Finance Act 2005 \(c. 7\)](#), [Sch. 7 paras. 14\(3\)](#), [18\(2\)](#)
- F14** Words in Sch. 22 para. 92(4) substituted (22.3.2001) by [2001 c. 2](#),

*Certificates required to support claim by <sup>F15</sup>... lessor*

#### Textual Amendments

- F15** Word in Sch. 22 para. 93 heading repealed (10.7.2003) (with effect in accordance with Sch. 43 Pt. 3(11) Note of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 43 Pt. 3\(11\)](#)

- 93 (1) Any claim by the lessor under a <sup>F16</sup>... lease for capital allowances in respect of expenditure on the provision of a qualifying ship must be accompanied by a certificate by the lessor and the lessee stating <sup>F17</sup>...—
- (a) that the ship is not leased, directly or indirectly, to a company subject to tonnage tax, or
- (b) that neither paragraph 90 (defeased leasing) nor paragraph 92 (sale and lease-back arrangements) applies in relation to the lease [<sup>F18</sup>and, if the lease is one that would (apart from paragraph 91A) fall to be regarded as a long funding lease for the purposes of Part 2 of the Capital Allowances Act 2001, that paragraph 91A(2) has effect in relation to the lease.]
- (2) If any matter so certified ceases to be the case, the lessor must give notice of that fact to the Inland Revenue.
- (3) Any such notice must be given within three months after the end of the chargeable period in which the change takes place.
- (4) In the second column of the Table in section 98 of the <sup>M1</sup>Taxes Management Act 1970 (penalty for failure to provide information etc.), after the final entry insert—

“Paragraph 93(2) of  
Schedule 22 to the Finance  
Act 2000..”

#### Textual Amendments

- F16** Word in Sch. 22 para. 93(1) repealed (10.7.2003) (with effect in accordance with Sch. 32 para. 3 of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 32 para. 1\(2\)](#), [Sch. 43 Pt. 3\(11\)](#) (with [Sch. 32 para. 4](#))
- F17** Words in Sch. 22 para. 93(1) repealed (10.7.2003) (with effect in accordance with Sch. 43 Pt. 3(11) Note of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 43 Pt. 3\(11\)](#)
- F18** Words in Sch. 22 para. 93(1)(b) inserted (with effect in accordance with Sch. 8 para 15 and Sch. 9 para. 10(5) to the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 9 para. 10\(4\)](#)

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### Marginal Citations

**M1** 1970 c. 9.

### *Quantitative restrictions on allowances*

- 94 (1) Where the lessor under the <sup>F19</sup>... lease is entitled to capital allowances in respect of expenditure on the provision of the ship, the following provisions apply.
- (2) There is no entitlement to any [<sup>F20</sup>annual investment allowance or] first-year allowance.
- (3) The lessor is entitled—
- (a) in respect of the first £40 million of the cost of providing the ship, to writing-down allowances at [<sup>F21</sup>the rate determined under sub-paragraph (3A)] on the reducing balance, and
  - (b) in respect of the next £40 million, to writing-down allowances at [<sup>F22</sup>the rate specified in section 104D(1) of the Capital Allowances Act 2001] on the reducing balance.
- [<sup>F23</sup>(3A) The rate mentioned in sub-paragraph (3)(a) is—
- (a) if the rate of the writing down allowance to which the lessor would be entitled in respect of the expenditure apart from this paragraph is that specified in section 56(1) of the Capital Allowances Act 2001, that rate, and
  - (b) otherwise, the rate specified in section 104D(1) of that Act.]
- (4) The expenditure <sup>F24</sup>... shall be allocated to separate pools [<sup>F25</sup>in accordance with sub-paragraph (4A)] and dealt with under [<sup>F26</sup>Part 2 of the Capital Allowances Act 2001] in the same way as expenditure allocated to a class pool.
- <sup>F27</sup>...
- [<sup>F28</sup>(4A) The expenditure is to be allocated to the following pools—
- (a) to the extent that it is expenditure in respect of which the lessor is entitled to writing down allowance at the rate specified in section 56(1) of the Capital Allowances Act 2001, a pool to be known as “the tonnage tax (main rate) pool”, and
  - (b) to the extent that it is expenditure in respect of which the lessor is entitled to writing down allowance at the rate specified in section 104D(1) of that Act, a pool to be known as “the tonnage tax (special rate) pool”.]
- (5) If the cost of providing the ship exceeds £80 million, the lessor is not entitled to capital allowances in respect of the excess.

### Textual Amendments

- F19** Word in Sch. 22 para. 94(1) repealed (10.7.2003) (with effect in accordance with Sch. 32 para. 3 of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 32 para. 1\(2\)](#), [Sch. 43 Pt. 3\(11\)](#) (with [Sch. 32 para. 4](#))
- F20** Words in Sch. 22 para. 94(2) inserted (with effect in accordance with Sch. 24 para. 23 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 24 para. 19\(3\)](#)
- F21** Words in [Sch. 22 para. 94\(3\)\(a\)](#) substituted (with effect in accordance with s. 57(8)-(9) of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [s. 57\(2\)\(a\)](#)

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- F22** Words in Sch. 22 para. 94(3)(b) substituted (with effect in accordance with s. 57(8)-(9) of the amending Act) by Finance Act 2011 (c. 11), s. 57(2)(b)
- F23** Sch. 22 para. 94(3A) inserted (with effect in accordance with s. 57(8)-(9) of the amending Act) by Finance Act 2011 (c. 11), s. 57(2)(c)
- F24** Words in Sch. 22 para. 94(4) omitted (with effect in accordance with s. 57(8)-(9) of the amending Act) by virtue of Finance Act 2011 (c. 11), s. 57(2)(d)(i)
- F25** Words in Sch. 22 para. 94(4) inserted (with effect in accordance with s. 57(8)-(9) of the amending Act) by Finance Act 2011 (c. 11), s. 57(2)(d)(ii)
- F26** Words in Sch. 22 para. 94(4) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579, Sch. 2 para. 108(27)
- F27** Words in Sch. 22 para. 94(4) omitted (with effect in accordance with s. 57(8)-(9) of the amending Act) by virtue of Finance Act 2011 (c. 11), s. 57(2)(d)(iii)
- F28** Sch. 22 para. 94(4A) inserted (with effect in accordance with s. 57(8)-(9) of the amending Act) by Finance Act 2011 (c. 11), s. 57(2)(e)

**Modifications etc. (not altering text)**

- C1** Sch. 22 para. 94(3)(a) modified (with effect in accordance with s. 10(8)-(13) of the amending Act) by Finance Act 2011 (c. 11), s. 10(5)-(7)
- C2** Sch. 22 para. 94(3)(b) modified (with effect in accordance with s. 10(8)-(13) of the amending Act) by Finance Act 2011 (c. 11), s. 10(5)-(7)
- C3** Sch. 22 para. 94(4) modified (with effect in accordance with s. 10(8)-(13) of the amending Act) by Finance Act 2011 (c. 11), s. 10(5)-(7)

*Quantitative restrictions: further provisions as to rate bands, limit and pooling*

- 95 (1) The rate bands and limit in paragraph 94 (quantitative restrictions on allowances) apply separately in relation to each ship.
- (2) The amounts specified in that paragraph apply in relation to the whole cost of providing the ship.
- (3) If—
- (a) the cost is shared by two or more persons, or
  - (b) a person acquires a part share in the ship,
- that paragraph applies as if there were substituted in sub-paragraph (3)(a) and (b) and sub-paragraph (5) in relation to each person the proportion of the figure specified that his share of the cost bears to the whole cost.
- (4) The pools referred to in sub-paragraph [F29(4A)] of that paragraph are class pools of all expenditure of a lessor that falls to be allocated to a [F30tonnage tax (main rate)] or [F30tonnage tax (special rate)] pool in respect of ships leased by him.

**Textual Amendments**

- F29** Word in Sch. 22 para. 95(4) substituted (with effect in accordance with s. 57(8)-(9) of the amending Act) by Finance Act 2011 (c. 11), s. 57(3)(a)
- F30** Words in Sch. 22 para. 95(4) substituted (with effect in accordance with s. 57(8)-(9) of the amending Act) by Finance Act 2011 (c. 11), s. 57(3)(b)

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2000, Part X. (See end of Document for details)*

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**Modifications etc. (not altering text)**

- C4** Sch. 22 para. 95(4) modified (with effect in accordance with s. 10(8)-(13) of the amending Act) by Finance Act 2011 (c. 11), s. 10(5)-(7)

*Quantitative restrictions: meaning of “cost of providing ship”*

- 96 (1) For the purposes of paragraph 94 (quantitative restrictions on allowances) the cost of providing the ship means the total cost of providing it in a state ready to be brought into use for the purposes for which it is normally to be used.

This includes the cost of any accessories or additional equipment, or fitting out, necessary for the operation of the ship for those purposes.

- (2) The cost of providing the ship shall be determined without regard to the provisions of [<sup>F31</sup>the Capital Allowances Act 2001] as to—
- (a) when expenditure is treated as incurred, or
  - (b) when expenditure may be brought into account as qualifying expenditure.
- (3) Further capital expenditure by the lessor on the ship shall be added to the original cost of providing the ship to determine—
- (a) whether the lessor is entitled to capital allowances in respect of the further expenditure, and
  - (b) if he is, the rate of writing-down allowances to which he is entitled.

References to the cost of providing the ship shall accordingly be read as including any such further expenditure.

- (4) The amounts to be taken into account under this paragraph are limited to the amounts that would otherwise have been qualifying expenditure for the purposes of capital allowances.

**Textual Amendments**

- F31** Words in Sch. 22 para. 96(2) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579, Sch. 2 para. 108(28)

*Quantitative restrictions: treatment of disposal proceeds*

- 97 (1) The following provisions apply where—
- (a) there is a disposal of a ship in relation to which paragraph 94 applies to restrict the capital allowances available, and
  - (b) a disposal value falls fall to be brought into account.

The reference in paragraph (a) to a disposal of ship includes a disposal of a part of a ship, or of an interest in a ship or a part of a ship.

- (2) The disposal value is first allocated between the [<sup>F32</sup>tonnage tax (main rate)] pool and the [<sup>F32</sup>tonnage tax (special rate)] pool in the same proportions as the cost of providing the ship was allocated to those pools.

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- (3) If the amount allocated to the [<sup>F33</sup>tonnage tax (main rate)] pool exceeds the amount of qualifying expenditure remaining in that pool, any excess shall be taken to the [<sup>F33</sup>tonnage tax (special rate)] pool.
- (4) A balancing charge arises only if the amount taken to the [<sup>F34</sup>tonnage tax (special rate)] pool exceeds the amount of qualifying expenditure remaining in that pool.

#### Textual Amendments

- F32** Words in Sch. 22 para. 97(2) substituted (with effect in accordance with s. 57(8)-(9) of the amending Act) by [Finance Act 2011 \(c. 11\), s. 57\(4\)\(a\)](#)
- F33** Words in Sch. 22 para. 97(3) substituted (with effect in accordance with s. 57(8)-(9) of the amending Act) by [Finance Act 2011 \(c. 11\), s. 57\(4\)\(a\)](#)
- F34** Words in Sch. 22 para. 97(4) substituted (with effect in accordance with s. 57(8)-(9) of the amending Act) by [Finance Act 2011 \(c. 11\), s. 57\(4\)\(b\)](#)

#### Modifications etc. (not altering text)

- C5** Sch. 22 para. 97(2)-(4) modified (with effect in accordance with s. 10(8)-(13) of the amending Act) by [Finance Act 2011 \(c. 11\), s. 10\(5\)-\(7\)](#)

#### *Quantitative restrictions: change of circumstances bringing case within restrictions*

- 98 (1) The provisions of this paragraph apply where—
- the lessor under a <sup>F35</sup>... lease has been entitled to capital allowances in circumstances in which paragraph 94 (quantitative restrictions on allowances) did not apply, and
  - a change of circumstances brings the case within paragraph 89(1) so that the restrictions in paragraph 94 do apply.
- (2) In this paragraph—
- “the relevant period” means the period beginning—
- with the beginning of the accounting period of the lessor in which there occurs the change of circumstances in relation to which this paragraph applies, or
  - if since the beginning of that period there has been a change of circumstances in relation to which paragraph 99 applied (change taking case out of restrictions), with the time of that change (or if there has been more than one such change, the last of them),
- and ending with the time of the change of circumstances in relation to which this paragraph applies; and
- “the lessor’s normal pool” means the lessor’s pool that contains the qualifying expenditure relating to the ship at the beginning of the relevant period.
- (3) At the beginning of the relevant period an amount (“amount A”) equal to—
- the tax written down value of the ship as at that time, or
  - if less, the amount of unrelieved qualifying expenditure in the lessor’s normal pool at that time,
- shall be brought into account as a disposal value in the lessor’s normal pool.

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- (4) At the same time an amount of qualifying expenditure equal to amount A shall be taken to a separate single-asset pool (“the temporary pool”).
- (5) Any qualifying expenditure or other items relating to the ship that would otherwise have been brought into account in the lessor’s normal pool in the relevant period shall instead be brought into account in the temporary pool.
- (6) At the end of the relevant period, the temporary pool shall be closed as if the ship had been disposed of by the lessor for an amount equal to its tax written down value at that time (“amount B”), and any resulting balancing allowance or balancing charge shall be given effect.
- (7) The lessor shall be treated as if he had incurred qualifying expenditure equal to amount B on the provision of the ship for the purposes of the lessee’s tonnage tax trade immediately after the end of the relevant period.
- (8) There shall be allocated to the lessor’s [<sup>F36</sup>tonnage tax (main rate)] and [<sup>F36</sup>tonnage tax (special rate)] pools the same proportions of amount B as the proportions of the actual cost of providing the ship that would have been so allocated if the case had been within paragraph 89(1) at all material times.

#### Textual Amendments

- F35** Word in Sch. 22 para. 98(1)(a) repealed (10.7.2003) (with effect in accordance with Sch. 32 para. 3 of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 32 para. 1\(2\)](#), [Sch. 43 Pt. 3\(11\)](#) (with [Sch. 32 para. 4](#))
- F36** Words in [Sch. 22 para. 98\(8\)](#) substituted (with effect in accordance with s. 57(8)-(9) of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [s. 57\(5\)](#)

#### Modifications etc. (not altering text)

- C6** Sch. 22 para. 98(8) modified (with effect in accordance with s. 10(8)-(13) of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [s. 10\(5\)-\(7\)](#)

#### *Quantitative restrictions: change of circumstances taking case out of restrictions*

- 99 (1) The provisions of this paragraph apply where—
- (a) the lessor under a <sup>F37</sup>... lease has been entitled to capital allowances in circumstances in which paragraph 94 (quantitative restrictions on allowances) applied, and
  - (b) a change of circumstances takes the case out of paragraph 89(1) so that the restrictions in paragraph 94 no longer apply.
- (2) When the change of circumstances occurs a disposal value shall be brought into account by the lessor equal to the tax written down value of the ship as at that time.
- The provisions of paragraph 97 (treatment of disposal proceeds) apply as regards the allocation of that amount to the lessor’s [<sup>F38</sup>tonnage tax (main rate)] and [<sup>F38</sup>tonnage tax (special rate)] pools.
- (3) The lessor shall be treated as if he had incurred qualifying expenditure on the provision of the ship for the purposes of the lessee’s non-tonnage tax trade immediately after the change of circumstances occurs.

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- (4) The amount of that expenditure shall be taken to be <sup>F39</sup>the amount that the tax written down value of the ship would have been, at the time the change of circumstances occurs, had paragraph 94 never applied.]

<sup>F40</sup>(5) . . . . .

**Textual Amendments**

- F37** Word in Sch. 22 para. 99(1)(a) repealed (10.7.2003) (with effect in accordance with Sch. 32 para. 3 of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 32 para. 1\(2\)](#), [Sch. 43 Pt. 3\(11\)](#) (with [Sch. 32 para. 4](#))
- F38** Words in Sch. 22 para. 99(2) substituted (with effect in accordance with s. 57(8)-(9) of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [s. 57\(6\)\(a\)](#)
- F39** Words in Sch. 22 para. 99(4) substituted (with effect in accordance with s. 57(8)-(9) of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [s. 57\(6\)\(b\)](#)
- F40** Sch. 22 para. 99(5) omitted (with effect in accordance with s. 57(8)-(9) of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), [s. 57\(6\)\(c\)](#)

**Modifications etc. (not altering text)**

- C7** Sch. 22 para. 99(2) modified (with effect in accordance with s. 10(8)-(13) of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [s. 10\(5\)-\(7\)](#)
- C8** [Sch. 22 para. 99\(5\)](#) modified (with effect in accordance with s. 10(8)-(13) of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [s. 10\(5\)-\(7\)](#)

*Determination of tax written down value, etc.*

- 100 (1) This paragraph supplements paragraphs 98 and 99.
- (2) The “tax written down value” of the ship at any time means what would be the amount of unrelieved qualifying expenditure at that time determined on the following assumptions—
- (a) that the qualifying expenditure relating to the ship had been held in a single asset pool, and
  - (b) that there had been made to the lessor—
    - (i) the first-year allowance (if any) that was actually made to him,
    - (ii) any first-year allowance falling to be made to him that was postponed under <sup>F41</sup>section 130 of the Capital Allowances Act 2001], and
    - (iii) the maximum amount of any writing-down allowances that, on the preceding assumptions, could have been made.
- (3) The references in paragraph 98(3)(b) and sub-paragraph (2) above to the amount of “unrelieved qualifying expenditure” are to <sup>F42</sup>the unrelieved qualifying expenditure that would otherwise have been carried forward under Chapter 5 of Part 2 of the Capital Allowances Act 2001].
- (4) For the purpose of determining that amount at a time other than the beginning or end of an accounting period of the lessor, it shall be assumed that an accounting period of the lessor began or ended at that time.

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*Changes to legislation: There are currently no known outstanding effects  
for the Finance Act 2000, Part X. (See end of Document for details)*

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#### **Textual Amendments**

- F41** Words in Sch. 22 para. 100(2)(b)(ii) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579, **Sch. 2 para. 108(29)**
- F42** Words in Sch. 22 para. 100(3) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579, **Sch. 2 para. 108(30)**

#### *Quantitative restrictions: power to alter amounts by regulations*

- 101 (1) The Inland Revenue may by regulations alter the amounts for the time being specified in sub-paragraph (3)(a) and (b) and sub-paragraph (5) of paragraph 94 (quantitative restrictions on allowances).
- (2) The regulations may contain such incidental, supplementary and transitional provisions as appear to the Inland Revenue to be appropriate.

#### *Exclusion of leases entered into on or before 23rd December 1999*

- 102 The provisions of this Part do not apply in relation to a finance lease entered into on or before 23rd December 1999.



**Changes to legislation:**

There are currently no known outstanding effects for the Finance Act 2000, Part X.