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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2000, SCHEDULE 33. (See end of Document for details)*

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## SCHEDULES

### SCHEDULE 33

Section 117.

#### POWER TO VARY STAMP DUTIES

##### *Power of Treasury to make provision by regulations*

- 1 (1) The Treasury may if they consider it expedient in the public interest make provision by regulations for the variation of an existing stamp duty.
- (2) The power conferred by this paragraph includes, in particular, power to alter the descriptions of document in respect of which an existing stamp duty, or an existing rate or amount of duty, is chargeable.
- (3) The power to make regulations under this paragraph is exercisable by statutory instrument.

##### *Power only to be used for cases involving land or shares etc.*

- 2 (1) The power conferred by paragraph 1 does not include power—
- (a) to vary the amount chargeable by way of stamp duty on an excepted instrument, or
  - (b) to cause stamp duty to become chargeable on an excepted instrument.
- (2) For the purposes of this paragraph—
- (a) an “excepted instrument” is any document that is not a relevant property instrument, and
  - (b) a “relevant property instrument” is a document that (whether or not it also relates to any other transaction) relates to a transaction that to any extent involves—
    - (i) land, stock or marketable securities, or
    - (ii) any estate or interest in land, stock or marketable securities.

##### *Power not to be used to vary rates or thresholds*

- 3 The power conferred by paragraph 1 does not, except as mentioned in paragraph 1(2), include power to vary—
- (a) the rate, or rates, of an existing *ad valorem* stamp duty,
  - (b) the amount of an existing fixed stamp duty,
  - (c) any threshold specified in paragraph 4 of Schedule 13 to the <sup>M1</sup>Finance Act 1999 (rate bands for conveyance or transfer on sale), or
  - (d) any threshold specified in paragraph 11 or 12 of that Schedule (duty on leases) in respect of rent or the term of a lease.

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**Marginal Citations**

**M1** 1999 c. 16.

*Approval of regulations by House of Commons*

- 4 (1) An instrument containing regulations under paragraph 1 shall be laid before the House of Commons after being made.
- (2) If the regulations are not approved by the House of Commons before the end of the period of 28 days beginning with the day on which they are made, they shall cease to have effect at the end of that period if they have not already ceased to have effect under sub-paragraph (3).
- (3) If on any day during that period of 28 days the House of Commons, in proceedings on a motion that (or to the effect that) the regulations be approved, comes to a decision rejecting the regulations, they shall cease to have effect at the end of that day.
- (4) Where regulations cease to have effect under sub-paragraph (2) or (3), their ceasing to have effect is without prejudice to anything done in reliance on them.
- (5) In reckoning any such period of 28 days take no account of any time during which—
- (a) Parliament is prorogued or dissolved, or
  - (b) the House of Commons is adjourned for more than four days.

*Claim for repayment if regulations not approved*

- 5 (1) Where regulations cease to have effect under paragraph 4(2) or (3), any amount paid by way of stamp duty, or interest or penalty on late stamping, that would not have been payable but for the regulations shall, on a claim, be repaid by the Commissioners.
- (2) Section 110 of the <sup>M2</sup>Finance Act 1999 (interest on repayment of duty overpaid etc.) applies to a repayment under this paragraph of any amount paid by way of stamp duty or penalty on late stamping.
- In the case of a repayment under this paragraph, the relevant time for the purposes of that section is 30 days after the day on which the instrument in question was executed or, if later, the date on which the payment of duty or penalty was made.
- (3) A claim for repayment must be made within two years after the date of the instrument in question or, if it is not dated, within two years after its execution.
- (4) No repayment shall be made on a claim until the instrument in question has been produced to the Commissioners for such cancelling of stamps, and such stamping to denote the making of the repayment or the producing of the instrument under this paragraph, as the Commissioners consider appropriate.
- (5) Any repayment shall, subject to any regulations under sub-paragraph (6)(d), be made to such person as the Commissioners consider appropriate.
- (6) The Commissioners may make provision by regulations—
- (a) for varying the time limit having effect under sub-paragraph (3);
  - (b) for varying or repealing the condition having effect under sub-paragraph (4);

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- (c) as to any other conditions that must be met before repayment is made;
- (d) as to the person to whom repayment is to be made.

(7) Regulations under this paragraph shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the House of Commons.

**Marginal Citations**

M2 1999 c. 16.

*Use in evidence, etc. of instruments affected by regulations ceasing to have effect*

- 6 (1) Where regulations cease to have effect under paragraph 4(2) or (3), the following provisions apply to an instrument that—
- (a) was executed at a time when the regulations were in force, and
  - (b) was at that time chargeable with any amount of stamp duty with which it would not have been chargeable apart from the regulations.
- (2) If the instrument was stamped while the regulations were in force, nothing done in pursuance of paragraph 5 (repayment of duty etc.) prevents it being treated for any purpose as duly stamped in accordance with the law in force at the time when it was executed.
- (3) If the instrument was not stamped while the regulations were in force, the law in force at the time when it was executed shall be deemed to have been what the law would have been apart from the regulations.

*Temporary effect of regulations*

- 7 (1) Regulations under paragraph 1 shall not apply in relation to instruments executed after the end of—
- (a) the period of 18 months beginning with the day on which the regulations were made, or
  - (b) such shorter period as may be specified in the regulations.
- (2) This does not affect the power to make further provision by regulations under paragraph 1 to the same or similar effect.

*Power to make transitional etc. provision*

- 8 Any power to make regulations under this Schedule includes power to make such transitional, supplementary and incidental provision as appears to the authority making the regulations to be necessary or expedient.

*Interpretation*

- 9 [F1(1) In relation to a bearer instrument (as defined in paragraph 3 of Schedule 15 to the M3Finance Act 1999), references in this Schedule to the execution of the instrument shall be read as references to its issue.]
- (2) This Schedule shall be construed as one with the M4Stamp Act 1891.

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**Textual Amendments**

**F1** Sch. 33 para. 9(1) repealed (with effect as mentioned in Sch. 40 Pt. III Note 4 of the amending Act) by 2000 c. 17, s. 156, **Sch. 40 Pt. III**

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**Marginal Citations**

**M3** 1999 c. 16.

**M4** 1891 c. 39.

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