

# **TAXATION (INTERNATIONAL AND OTHER PROVISIONS) ACT 2010**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part 4: Transfer pricing**

##### **Overview**

301. This Part provides the rules on transfer pricing. The transfer pricing provisions apply where “provision” is made between two persons by means of a transaction and, broadly, one of the persons controls the other or both are controlled by the same person or persons. The actual provision is compared to the arm’s length provision (that is to say the provision that would have been made between independent enterprises) and, if the actual provision confers a potential United Kingdom tax advantage, the taxable profits of the person receiving that tax advantage are adjusted to what they would have been if the persons had been at arm’s length.
302. This basic rule is also applied where “provision” is made between the ring-fence trade of an oil company and other activities carried on by the same company.
303. The Part also provides for claims and adjustments to be made between a person whose profits are increased as a result of a non-arm’s length transaction and a person whose profits have been reduced. These either eliminate double counting of profits or restore the cash position of the companies involved to its original state.
304. The Part rewrites Schedule 28AA to ICTA (provision not at arm’s length) and sections 110 and 111 of FA 1998 (notice to potential claimants, and determinations requiring the sanction of the Commissioners for HMRC).
305. Schedule 28AA was inserted into ICTA by section 108 of and Schedule 16 to FA 1998, replacing the transfer pricing legislation in sections 770 to 773 of ICTA. Schedule 28AA was then substantially amended by FA 2004 and F(No 2)A 2005.
306. [Chapter 1](#) gives the basic transfer-pricing rule and [Chapter 2](#) gives the meaning of important terms used in that Chapter.
307. [Chapter 3](#) gives the exemptions from the basic rule.
308. [Chapters 4](#) and [5](#) deal with claims to prevent double taxation following an uplift in profits and [Chapter 6](#) with balancing payments made by the disadvantaged to the advantaged person.
309. [Chapter 7](#) deals with oil-related matters and finally [Chapter 8](#) contains supplementary provisions and definitions.