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SCHEDULES

SCHEDULE 9

QUALIFYING INSURANCE POLICIES

PART 1

AMENDMENTS OF SCHEDULE 15 TO ICTAETC

- 1 Schedule 15 to ICTA (qualifying insurance policies) is amended as follows.
2 Before Part 1 insert—

“PART A1

PREMIUM LIMIT FOR QUALIFYING POLICIES

Premium limit for qualifying policies to apply from 6 April 2013

- A1 (1) Sub-paragraph (2) applies if—
- (a) an event falling within sub-paragraph (3) occurs,
 - (b) apart from sub-paragraph (2), the policy to which the event relates would be a qualifying policy after the event, and
 - (c) an individual who is a beneficiary under that policy is in breach of the premium limit for qualifying policies.
- (2) That policy is not to be a qualifying policy after the event.
- (3) The events falling within this sub-paragraph are—
- (a) the issue of a policy in respect of an insurance made on or after 6 April 2013;
 - (b) the variation of a policy on or after 6 April 2013 where as a result of the variation—
 - (i) the period over which premiums are payable under the policy is or could be lengthened, or
 - (ii) the total amount of the premiums payable under the policy in any relevant period is or could be increased,or both;
 - (c) the assignment on or after 6 April 2013 of any rights, or any share in any rights, under a policy where the assignment falls within paragraph B2(3)(c) to (g) or (5) below;
 - (d) a deceased beneficiary event on or after 6 April 2013;
 - (e) the conditions in paragraph 24(3) below being fulfilled for the first time in respect of a new non-resident policy where—

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- (i) the conditions are fulfilled for the first time on or after 6 April 2013, and
 - (ii) but for the conditions being fulfilled, the policy could not be a qualifying policy because of paragraph 24(2).
- (4) An event does not fall within sub-paragraph (3) if—
- (a) the policy to which the event relates is—
 - (i) a protected policy,
 - (ii) a restricted relief qualifying policy, or
 - (iii) a pure protection policy,
 - (b) the event is the issue of a policy which is a new policy in relation to an earlier policy where—
 - (i) the new policy is issued in substitution for the earlier policy (and not on its maturity), and
 - (ii) the life assured under the new policy is different to the life assured under the earlier policy but that is the only difference to what the position would have been had the earlier policy continued to run,
 - (c) paragraph 20ZA below applies to a policy and the event is the reinstatement or replacement of the policy as mentioned in paragraph 20ZA(4),
 - (d) the event is the issue or variation of a policy in relation to which paragraph 29 of Schedule 39 to the Finance Act 2012 applies, or
 - (e) the event is an assignment falling within paragraph B2(3)(e) below where the assignment is a mortgage endowment assignment.
- (5) In sub-paragraph (3)(b)(ii) “relevant period” means any period of 12 months beginning at or after the time of the variation.
- (6) A variation is to be ignored for the purposes of sub-paragraph (3)(b) if its effect is nullified before the end of the period of 3 months after the day on which the variation occurs.
- (7) Sub-paragraph (4)(a)(i) does not apply in the case of an event mentioned in sub-paragraph (3)(e).
- (8) Sub-paragraph (4)(a)(ii) does not apply in the case of—
- (a) an event mentioned in sub-paragraph (3)(c) or (d) occurring in relation to a restricted relief qualifying policy (“the assigned policy”),
 - (b) any subsequent event relating to the assigned policy, or
 - (c) any event relating to—
 - (i) a later policy which is a new policy in relation to the assigned policy, or
 - (ii) any policy which is a new policy in relation to the later policy,
- and so on.
- (9) In the case of an event mentioned in sub-paragraph (3)(b), sub-paragraph (4)(a)(iii) applies only if the policy is a pure protection policy both before and after the variation.

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- (10) This paragraph is to be applied after all other provisions of this Schedule relevant to the question of whether a policy is a qualifying policy after an event have been applied.

Restricted relief qualifying policies

- A2 (1) Sub-paragraph (2) applies if—
- (a) an event falling within sub-paragraph (3) occurs,
 - (b) the policy to which the event relates is a qualifying policy after the event, and
 - (c) an individual who is a beneficiary under that policy is in breach of the premium limit for qualifying policies.
- (2) That policy is to be a restricted relief qualifying policy after the event.
- (3) The events falling within this sub-paragraph are—
- (a) a premium limit event in relation to a protected policy on or after 21 March 2012;
 - (b) the issue of a policy as mentioned in paragraph A4(2)(b) below if, assuming that the substitution of the protected policy were instead a variation of that policy, there would be a premium limit event in relation to that policy;
 - (c) the assignment on or after 6 April 2013 of any rights, or any share in any rights, under a protected policy where the assignment falls within paragraph B2(3)(c) to (g) or (5) below;
 - (d) a deceased beneficiary event on or after 6 April 2013 where the policy in question is a protected policy;
 - (e) the issue of a policy in respect of an insurance made on or after 21 March 2012 but before 6 April 2013 otherwise than as mentioned in paragraph A4(2)(b) below;
 - (f) the variation of a policy, other than a protected policy, on or after 21 March 2012 but before 6 April 2013 where as a result of the variation—
 - (i) the period over which premiums are payable under the policy is or could be lengthened, or
 - (ii) the total amount of the premiums payable under the policy in any relevant period is or could be increased,or both;
 - (g) the conditions in either sub-paragraph (3) or sub-paragraph (4) of paragraph 24 below being fulfilled for the first time in respect of a new non-resident policy where—
 - (i) the conditions are fulfilled for the first time on or after 21 March 2012 but before 6 April 2013, and
 - (ii) but for the conditions being fulfilled, the policy could not be a qualifying policy because of sub-paragraph (2) of paragraph 24.
- (4) An event does not fall within sub-paragraph (3) if—
- (a) the policy to which the event relates is a pure protection policy,

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- (b) the event is the issue of a policy which is a new policy in relation to an earlier policy where—
 - (i) the new policy is issued in substitution for the earlier policy (and not on its maturity), and
 - (ii) the life assured under the new policy is different to the life assured under the earlier policy but that is the only difference to what the position would have been had the earlier policy continued to run,
 - (c) paragraph 20ZA below applies to a policy and the event is the reinstatement or replacement of the policy as mentioned in paragraph 20ZA(4),
 - (d) the event is the issue or variation of a policy in relation to which paragraph 29 of Schedule 39 to the Finance Act 2012 applies, or
 - (e) the event is an assignment falling within paragraph B2(3)(e) below where the assignment is a mortgage endowment assignment.
- (5) In sub-paragraph (3)(f)(ii) “relevant period” means any period of 12 months beginning at or after the time of the variation.
- (6) A premium limit event or a variation is to be ignored for the purposes of sub-paragraph (3)(a) or (f) if its effect is nullified before 6 July 2013.
- (7) In the case of a premium limit event which occurs on or after 6 April 2013, in sub-paragraph (6) the reference to 6 July 2013 is to be read as a reference to the end of the period of 3 months after the day on which the premium limit event occurs.
- (8) In the case of an event mentioned in sub-paragraph (3)(a) or (f), sub-paragraph (4)(a) applies only if the policy is a pure protection policy both before and after the premium limit event or variation.
- (9) A “premium limit event” occurs in relation to a protected policy if—
- (a) the policy is varied or a relevant option is exercised so as to change the terms of the policy, and
 - (b) as a result of the variation or exercise of the relevant option—
 - (i) the period over which premiums are payable under the policy is or could be lengthened, or
 - (ii) the total amount of the premiums payable under the policy in any relevant period is or could be increased,
or both.
- (10) A “premium limit event” also occurs in relation to a protected policy if on or after 6 April 2013—
- (a) the policy is varied or a relevant option is exercised so as to change the terms of the policy, and
 - (b) as a result of the variation or exercise of the relevant option—
 - (i) the period over which premiums are payable under the policy is or could be shortened, or
 - (ii) the total amount of the premiums payable under the policy in any relevant period is or could be decreased,
or both.

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- (11) In sub-paragraphs (9)(b)(ii) and (10)(b)(ii) “relevant period” means any period of 12 months beginning at or after the time of the variation or exercise of the relevant option.
- (12) The variation of, or exercise of a relevant option under, a protected policy is not a premium limit event in relation to the policy if—
- (a) the policy secures a capital sum payable either—
 - (i) on survival for a specified term, or
 - (ii) on earlier death or on earlier death or disability,
 - (b) the policy is issued and maintained for the sole purpose of ensuring that the borrower under an interest-only mortgage will have sufficient funds to repay the principal lent under the mortgage, and
 - (c) the policy is varied, or the relevant option is exercised, for that sole purpose.
- (13) In sub-paragraph (3)(g) references to paragraph 24 below are to that paragraph as it has effect before the appointed date for the purposes of section 55 of the Finance Act 1995.
- (14) A qualifying policy which is a new policy in relation to an earlier policy is a restricted relief qualifying policy if the earlier policy is a restricted relief qualifying policy.
- (15) A policy which is a restricted relief qualifying policy remains a restricted relief qualifying policy so long as it is a qualifying policy.
- (16) Paragraph A1 above is to be ignored in determining for the purposes of sub-paragraph (14) or (15) if a policy is a qualifying policy. This is subject to paragraph A1(8).
- (17) For further provision about restricted relief qualifying policies, see sections 463A to 463D of ITTOIA 2005.

The premium limit for qualifying policies

- A3 (1) For the purposes of paragraphs A1(1)(c) and A2(1)(c) above an individual is in breach of the premium limit for qualifying policies if the total amount of the premiums payable under relevant policies in any relevant period—
- (a) exceeds £3,600, or
 - (b) could exceed £3,600 as a result of—
 - (i) the exercise of any one or more relevant options conferred by one or more relevant policies, or
 - (ii) so far as not covered by sub-paragraph (i), the application of one or more terms of one or more relevant policies relating to increases in premiums.
- (2) For the purposes of sub-paragraph (1)—
- (a) so much of a premium payable under a relevant policy as is charged on the grounds that an exceptional risk of death or disability is involved is to be left out of account in determining the premiums payable under the policy,
 - (b) so much of the first premium payable under a relevant policy the liability for the payment of which—

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- (i) is discharged in accordance with paragraph 15(2) below, or
 - (ii) in the case of a policy in relation to which paragraph 3 below applies, is discharged under a provision of the policy falling within paragraph 3(4)(c),
- is to be left out of account in determining the premiums payable under the policy (subject to sub-paragraph (3) below),
- (c) in determining the premiums payable under a relevant policy any provision for the waiver of premiums by reason of a person's disability is to be ignored, and
 - (d) “relevant period” means any period of 12 months beginning at or after the time when the event falling within paragraph A1(3) or A2(3) above (“the relevant event”) occurs.
- (3) The maximum amount that may be left out of account under sub-paragraph (2)(b) in the case of a relevant policy is—

$$£3,600 \times N$$

where N is the number of complete years for which ran—

- a the other policy involved, or
 - b if there is more than one other policy involved, the policy which ran for the most number of complete years.
- (4) For the purposes of this paragraph the following are “relevant policies”—
- (a) the policy to which the relevant event relates, and
 - (b) any other policy—
 - (i) which is a qualifying policy, and
 - (ii) under which the individual is a beneficiary.
- (5) But neither a protected policy nor a pure protection policy is to be a relevant policy by virtue of sub-paragraph (4)(b).
- (6) Sub-paragraph (7) applies if this paragraph is to be applied in the case of an individual in consequence of two or more events occurring at the same time (including where one or more of the events falls within paragraph A1(3) above and one or more of the events falls within paragraph A2(3) above).
- (7) For the purpose of applying this paragraph in the case of the individual in consequence of any of the events, sub-paragraph (4)(a) has effect as if the reference to the policy to which the relevant event relates were a reference to all the policies to which the events, taken together, relate.
- (8) But sub-paragraph (7) does not apply, and sub-paragraph (9) applies instead, if—
- (a) all the policies in question are policies issued by the same issuer, and
 - (b) each of them has an unique identifier in a series of unique identifiers which the issuer gives to policies issued by it.
- (9) For the purpose of applying this paragraph in the case of the individual in consequence of any of the events, an event relating to a policy (“policy A”)

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is treated as occurring before an event relating to another policy (“policy B”) if, in the issuer's series of unique identifiers, policy A's unique identifier comes before policy B's unique identifier.

Protected policies

- A4 (1) This paragraph applies for the purposes of this Part of this Schedule.
- (2) A policy is “protected” if—
- (a) it is issued in respect of an insurance made before 21 March 2012, or
 - (b) it is issued in respect of an insurance made on or after 21 March 2012 where—
 - (i) it is a new policy in relation to an earlier policy,
 - (ii) it is issued in substitution for the earlier policy (and not on its maturity), and
 - (iii) the earlier policy is a protected policy (whether by virtue of paragraph (a) or this paragraph).
- (3) A policy which is protected ceases to be protected if it becomes a restricted relief qualifying policy.
- (4) A policy issued as mentioned in sub-paragraph (2)(b) is not protected if—
- (a) its issue is an event falling within paragraph A2(3) above, and
 - (b) after that event it is a restricted relief qualifying policy.

How to determine if an individual is a beneficiary under a policy

- A5 (1) This paragraph applies for the purposes of this Part of this Schedule in determining if an individual is a beneficiary under a policy.
- (2) An individual is a beneficiary under a policy if the individual beneficially owns—
- (a) any rights under the policy, or
 - (b) any share in any rights under the policy.
- (3) An individual is a beneficiary under a policy if—
- (a) any rights under the policy are, or any share in any rights under the policy is, held on non-charitable trusts created by the individual, and
 - (b) those rights are, or that share is, not beneficially owned by any individual.
- (4) The following provisions of ITTOIA 2005 apply for the purposes of sub-paragraph (3)(a)—
- (a) section 465(6), and
 - (b) the definition of “non-charitable trust” in section 545(1).
- (5) An individual is a beneficiary under a policy if—
- (a) any rights under the policy are, or any share in any rights under the policy is, held as security for a debt of the individual, and
 - (b) those rights are, or that share is, not beneficially owned by any individual.

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Further definitions

- A6 (1) In this Part of this Schedule—
- (a) “new policy” has the meaning given in paragraph 17 below,
 - (b) references to the variation of a policy are to a variation in relation to which paragraph 18 below applies,
 - (c) “pure protection policy” means a policy—
 - (i) which has no surrender value and is not capable of acquiring a surrender value, or
 - (ii) under which the benefits payable cannot exceed the amount of the premiums paid except on death or in respect of disability, and
 - (d) “relevant option”, in relation to a policy, means an option conferred by the policy on the person to whom it is issued to have another policy substituted for it or to have any of its terms changed.

- (2) For the purposes of this Part of this Schedule a “deceased beneficiary event” occurs if, in connection with the death of an individual (“D”) who was a beneficiary under a policy, an individual (“B”) becomes a beneficiary under that policy by reference (wholly or partly) to any rights, or to any share in any rights, by reference to which D was a beneficiary (wholly or partly).

For this purpose, it does not matter if B is already a beneficiary under the policy.

- (3) For the purposes of this Part of this Schedule an assignment is a “mortgage endowment assignment” if—
- (a) the policy to which the assignment relates secures a capital sum payable either—
 - (i) on survival for a specified term, or
 - (ii) on earlier death or on earlier death or disability,
 - (b) the policy is issued and maintained for the sole purpose of ensuring that the borrower under an interest-only mortgage will have sufficient funds to repay the principal lent under the mortgage, and
 - (c) when the assignment occurs, it is intended that the policy will continue to be maintained for that sole purpose.”

- 3 At the beginning of Part 1 (qualifying conditions) insert—

“RULES FOR QUALIFYING POLICIES

Rights to be beneficially owned by individuals only

- B1 (1) Sub-paragraph (2) applies in relation to a policy issued in respect of an insurance made on or after 6 April 2013.
- (2) In order for the policy to be a qualifying policy, when it is issued all the rights under it must be beneficially owned by (and only by)—
- (a) one individual, or
 - (b) two or more individuals taken together.
- (This is the case notwithstanding any other provision of this Schedule.)

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- (3) Sub-paragraph (2) does not apply if the policy is protected.
- (4) A policy is “protected” if it is a new policy (as defined in paragraph 17 below) in relation to—
 - (a) a policy issued in respect of an insurance made before 21 March 2012, or
 - (b) a policy which is protected (whether by virtue of paragraph (a) or this paragraph).

Assignments

- B2 (1) Sub-paragraph (2) applies if any rights under a qualifying policy are, or any share in any rights under a qualifying policy is, assigned on or after 6 April 2013.
- (2) The policy is not to be a qualifying policy after the assignment (notwithstanding any other provision of this Schedule).
 - (3) Sub-paragraph (2) does not apply if—
 - (a) the assignment is from an individual by way of security for a debt of the individual,
 - (b) the assignment is to an individual on the discharge of a debt of the individual secured by the rights or share,
 - (c) the assignment is from an individual to the individual's spouse or civil partner,
 - (d) the assignment is to an individual in pursuance of an order made by a court,
 - (e) the assignment is to an individual in pursuance of a legally enforceable obligation relating to a divorce or the dissolution of a civil partnership,
 - (f) the assignment is from an individual and, as a result of the assignment, the rights assigned are, or the share assigned is, held on trusts created by the individual,
 - (g) the assignment is to an individual and, as a result of the assignment, the rights assigned are, or the share assigned is, no longer held on trusts, or
 - (h) the assignment—
 - (i) is to the personal representatives of a deceased individual, or
 - (ii) is to an individual where, as a result of the assignment, a deceased beneficiary event (see paragraph A6(2) above) occurs.
 - (4) Section 465(6) of ITTOIA 2005 applies for the purposes of sub-paragraph (3)(f).
 - (5) The Commissioners for Her Majesty's Revenue and Customs may by regulations provide that sub-paragraph (2) does not apply if prescribed conditions are met in relation to the assignment.

“Prescribed” means prescribed by the regulations.

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- (6) Regulations under sub-paragraph (5) may—
 - (a) make different provision for different cases or circumstances, and
 - (b) contain incidental, supplementary, consequential, transitional, transitory or saving provision.
- (7) See paragraphs A1 and A2 above which may apply in consequence of an assignment falling within sub-paragraph (3) or (5).

Required statements

- B3 (1) Sub-paragraph (2) applies if any of the following events occurs—
- (a) the issue of a policy in respect of an insurance made on or after 6 April 2013;
 - (b) the variation of a policy on or after 6 April 2013 where paragraph 18 below applies in relation to the variation and as a result of the variation—
 - (i) the period over which premiums are payable under the policy is or could be lengthened, or
 - (ii) the total amount of the premiums payable under the policy in any relevant period is or could be increased,
or both;
 - (c) a premium limit event in relation to a protected policy on or after 6 April 2013 (see paragraph A2(9) to (12) above);
 - (d) an event on or after 6 April 2013 which would be a premium limit event in relation to a protected policy but for paragraph A2(12) above;
 - (e) the assignment on or after 6 April 2013 of any rights, or any share in any rights, under a policy where the assignment falls within paragraph B2(3)(c) to (g) or (5) above;
 - (f) a deceased beneficiary event (see paragraph A6(2) above) on or after 6 April 2013;
 - (g) the conditions in paragraph 24(3) below being fulfilled for the first time in respect of a new non-resident policy where—
 - (i) the conditions are fulfilled for the first time on or after 6 April 2013, and
 - (ii) but for the conditions being fulfilled, the policy could not be a qualifying policy because of paragraph 24(2).
- (2) Each individual who is a beneficiary under the policy must, before the end of the statement period, make to the issuer of the policy a statement dealing with the prescribed matters.
- (3) If an individual does not comply with sub-paragraph (2) the policy is not to be a qualifying policy after the event (notwithstanding any other provision of this Schedule).
- (4) In sub-paragraph (1)(b)(ii) “relevant period” means any period of 12 months beginning at or after the time of the variation.
- (5) Sub-paragraph (2)—

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- (a) does not apply in the case of an event mentioned in sub-paragraph (1)(a), (e), (f) or (g) if the policy is a pure protection policy, and
- (b) does not apply in the case of an event mentioned in sub-paragraph (1)(b), (c) or (d) if the policy is a pure protection policy both before and after the event.

“Pure protection policy” has the meaning given by paragraph A6(1)(c) above.

- (6) Sub-paragraph (2) does not apply in the case of an event mentioned in sub-paragraph (1)(e) where the assignment falls within paragraph B2(3)(e) above and is a mortgage endowment assignment.

“Mortgage endowment assignment” is to be read in accordance with paragraph A6(3) above.

- (7) The Commissioners for Her Majesty's Revenue and Customs may by regulations provide that an individual is not required to comply with sub-paragraph (2) if prescribed conditions are met.

“Prescribed” means prescribed by the regulations.

- (8) Accordingly, if by virtue of regulations under sub-paragraph (7) an individual is not required to comply with sub-paragraph (2), sub-paragraph (3) does not apply because that individual does not comply with sub-paragraph (2).

- (9) In sub-paragraph (2)—

- (a) the reference to an individual who is a beneficiary under the policy is to be read in accordance with paragraph A5 above,
- (b) “the statement period” means—
 - (i) the period of 3 months after the day on which the event occurs, or
 - (ii) if the event occurs before the day on which the first regulations under paragraph (c) below come into force, the period of 3 months after that day,or such longer period as an officer of Revenue and Customs may allow, and
- (c) “prescribed” means prescribed by regulations made by the Commissioners for Her Majesty's Revenue and Customs.

- (10) An officer of Revenue and Customs may allow a longer period for the purposes of sub-paragraph (9)(b) only if—

- (a) the individual in question has made a request in writing to an officer of Revenue and Customs for a longer period to be allowed, and
- (b) such an officer is satisfied—
 - (i) that there is a reasonable excuse for the required statement not having been made within the period mentioned in sub-paragraph (9)(b)(i) or (ii), and
 - (ii) that the request under paragraph (a) was made without unreasonable delay after the reasonable excuse ceased.

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- (11) Sub-paragraph (12) applies in relation to a policy if the obligations under the policy of its issuer are at any time the obligations of another person (“the transferee”) to whom there has been a transfer of the whole or any part of a business previously carried on by the issuer.
- (12) In relation to that time, in sub-paragraph (2) the reference to the issuer of the policy is to be read as a reference to the transferee.
- (13) Regulations under sub-paragraph (7) or (9)(c) may—
- (a) make different provision for different cases or circumstances, and
 - (b) contain incidental, supplementary, consequential, transitional, transitory or saving provision.”
- 4 (1) Paragraph 17 (substitutions) is amended as follows.
- (2) In sub-paragraph (2) before paragraph (a) insert—
- “(za) the new policy cannot be a qualifying policy if the old policy was not a qualifying policy by virtue of—
- (i) paragraph A1(2), B1(2), B2(2) or B3(3) above, or
 - (ii) sub-paragraph (i) above or this sub-paragraph;”.
- (3) In sub-paragraph (2)(a) after the first “not” insert “ and paragraph (za) above does not apply ”.
- (4) In sub-paragraph (4) for “(2)” substitute “ (2)(a) to (c) ”.
- (5) After sub-paragraph (4) insert—
- “(5) In determining under sub-paragraph (2)(a) to (c) above whether the new policy would apart from this paragraph be a qualifying policy, paragraph A1 above is not to be applied in relation to the issue of the new policy; but this does not stop that paragraph being applied in relation to the issue of the new policy after this paragraph has been applied.”
- 5 In paragraph 25 (application of paragraph 17 in cases involving new non-resident policies) after sub-paragraph (2) insert—
- “(2A) In determining for the purposes of sub-paragraph (2)(a) above whether a policy would, apart from paragraph 24, have been a qualifying policy, paragraphs A1 and B1 to B3 above are to be ignored.
- (But this does not affect the application of any of those paragraphs in relation to the new policy.)”.
- 6 (1) In section 55 of FA 1995 (qualifying life insurance policies: disapplication of paragraph 21 of Schedule 15 to ICTA from appointed date) in subsection (3) after “subject” insert “ to paragraphs A1(2), B2(2) and B3(3) of that Schedule and ”.
- (2) The amendment made by this paragraph is treated as having come into force on the appointed date (see section 55(9) of FA 1995).

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