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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order makes provision in relation to insurance business transfer schemes by amending provisions of the Corporation Tax Acts.

Article 1 provides for citation, commencement and effect. Authority for the Order having effect in relation to periods of account current when it is made is contained in paragraph 16(4) of Schedule 9 to the [Finance Act 2007 \(c. 11: “FA 2007”\)](#).

Article 2 introduces the amendments to the [Income and Corporation Taxes Act 1988 \(c. 1: ICTA\)](#) contained in articles 3 to 23.

Article 3 amends section 12 (basis of, and periods of, assessment). The purpose of the amendment, taken with that made by article 10, is to reduce the number of occasions which give rise to the end of an accounting period or period of account.

Article 4 amends the definition of “insurance business transfer scheme” in section 431(2). The amendment is to reflect amendments made to the Financial Services and Market Act [2000 \(c. 8\)](#) in consequence of the implementation of the Reinsurance Directive ([2005/68/EC](#)).

Articles 5 amends section 432YA (long-term business other than life assurance business – adjustment consequent on changes to the Insurance Prudential Sourcebook). The amendment is in consequence of the amendments made by article 10.

Article 6 amends section 432E (apportionments: participating funds). The amendments are in consequence of the amendments made by articles 15 and 22.

Article 7 amends section 440B (modifications where tax charged under Case I of Schedule D). The amendment clarifies the operation of subsection (4B) of that section by limiting its application explicitly to life assurance business.

Article 8 amends section 444A (transfers of business). The amendments are in consequence of the amendment made by article 5 and, more generally, simplify the operation of the section.

Article 9 inserts new sections 444AZA and 444AZB. The purpose of the new sections is to enable the transferee, in certain circumstances, to utilise losses which would have been available to set off against the profits of the transferor but which would not otherwise be available to set off against the profits of the transferee.

Article 10 substitutes section 444AA (transfers of business: deemed periodical returns). The purpose of the substitution, taken together with the amendment made by article 5, is to reduce the number of occasions which give rise to the end of a period of account.

Article 11 amends section 444AB (transfer schemes transferring whole of business: transferor). The amendments provide for the application of the section, in certain circumstances, in the case of a transfer of part of business, as well as more generally clarifying the operation of the section and taking into account the amendment made by article 10.

Article 12 amends section 444ABA (relevant non-transferred assets) which makes provision for the purposes of section 444AB. The amendments simplify the operation of section 444ABA by rewriting substantially subsection (1) and omitting subsections (2) to (6).

Article 13 amends section 444ABB (retained asserts). The amendments make changes of a technical nature, in particular to the formula for calculating the relevant amount for the purposes of section 444AB.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

Article 14 inserts a new section 444ABBA. The purpose of the new section is to enable the transferor and transferee to elect, in certain circumstances, that the transferee will bear additional corporation tax to which the transferor would otherwise be chargeable.

Article 15 omits section 444ABC (transfer scheme transferring part of business: transferor). This amendment is in consequence of the amendments made by article 11 providing for the application of section 444ABA, in certain circumstances, in the case of both transfers of the whole of business and transfers of part of business.

Article 16 amends section 444ABD (transferor's period of account including transfer). The amendments amplify how profits to which subsection (1) of the section applies are to be taken into account as profits of the transferor. They also make it clear that no loss arises where the amount given by subsection (1)(b) exceeds that given by subsection (1)(a) of the section.

Article 17 amends section 444AC (transfer schemes transferring whole of business: reduction in income of transferee) so that its application is no longer limited to transfers of the whole or substantially the whole of business. Article 18 omits section 444ACZA (transfer schemes transferring part of business: reduction in income of transferee) in consequence.

Articles 19 to 21 amend sections 444AEA to 444AEC (transfer schemes: anti-avoidance rule). The main purpose of the amendments is to provide that the sections apply in relation only to the whole of transfer scheme arrangements. Article 22 inserts new sections 444AECA to 444AECC to make similar provision applying in relation to separate parts of transfer scheme arrangements. Article 23 amends section 444AED (clearance: no avoidance or group advantage) in consequence.

Article 24 introduces the amendments to the Finance Act 1989 (c. 26) contained in articles 25 and 26. Article 25 makes an amendment to section 82D (treatment of profits: life assurance – adjustment consequent on change in Insurance Prudential Sourcebook) which is consequential on the amendment made by article 10. Article 26 makes amendments of a technical nature to section 83YA (changes in value of assets brought into account: non-profit companies).

Article 27 introduces the amendments to the Taxation of Chargeable Gains Act 1992 (c. 12) contained in articles 28 and 29. The purpose of these amendments, which are in consequence of the amendment made by article 3, is to ensure that section 211ZA (transfers of business: transfer of unused losses) and section 213 (spreading of gains and losses under section 212) of that Act continue to work as intended. In addition, article 29 amends section 213 so as to allow, in certain circumstances, losses to be carried back to a pre-transfer period of account of the transferor even though the transferee immediately before the transfer was carrying on long-term business.

Article 30 amends Part 2 of Schedule 7 to FA 2007 (insurance business: transitional provisions). The purpose of the amendments is to make transitional provisions for cases where section 444AZA or 444AZB of ICTA (inserted by article 9) applies.

Article 31 and the Schedule make consequential repeals and revocations.

This Order, together with the relevant legislation in FA 2007, is part of the outcome of a continuing consultation process. A draft regulatory impact assessment was included as part of a consultation document, "Life Assurance Company Taxation – A Technical Consultative Document", which was published by Her Majesty's Revenue and Customs in May 2006. This is available at [www.hmrc.gov.uk/life-assurance/consultation.htm](http://www.hmrc.gov.uk/life-assurance/consultation.htm).