SCHEDULES

SCHEDULE 15

Section 267.

QUALIFYING POLICIES

PART I

QUALIFYING CONDITIONS

General rules applicable to whole life and term assurances

1 (1) Subject to the following provisions of this Part of this Schedule, if a policy secures a capital sum which is payable only on death, or one payable either on death or on earlier disability, it is a qualifying policy if—

(a) it satisfies the conditions appropriate to it under sub-paragraphs (2) to (5) below, and

(b) except to the extent permitted by sub-paragraph (7) below, it does not secure any other benefits.

(2) If the capital sum referred to in sub-paragraph (1) above is payable whenever the event in question happens, or if it happens at any time during the life of a specified person—

(a) the premiums under the policy must be payable at yearly or shorter intervals, and either—

(i) until the happening of the event or, as the case may require, until the happening of the event or the earlier death of the specified person, or

(ii) until the time referred to in sub-paragraph (i) above or the earlier expiry of a specified period ending not earlier than ten years after the making of the insurance; and

(b) the total premiums payable in any period of 12 months must not exceed—

(i) twice the amount of the total premiums payable in any other such period, or

(ii) one-eighth of the total premiums which would be payable if the policy were to continue in force for a period of ten years from the making of the insurance, or, in a case falling within sub-paragraph (ii) of paragraph (a) above, until the end of the period referred to in that sub-paragraph.

(3) If the capital sum referred to in sub-paragraph (1) above is payable only if the event in question happens before the expiry of a specified term ending more than ten years after the making of the insurance, or only if it happens both before the expiry of such a term and during the life of a specified person—

(a) the premiums under the policy must be payable at yearly or shorter intervals, and either—

(i) until the happening of the event or the earlier expiry of that term or, as the case may require, until the happening of the event or, if earlier, the expiry of the term or the death of the specified person, or

(ii) as in sub-paragraph (i) above, but with the substitution for references to the term of references to a specified shorter period being one ending not earlier than ten years after the making of the insurance or, if sooner, the expiry of three-quarters of that term; and

(b) the total premiums payable in any period of 12 months must not exceed—

(i) twice the amount of the total premiums payable in any other such period, or

(ii) one-eighth of the total premiums which would be payable if the policy were to continue in force for the term referred to in sub-paragraph (i) of paragraph (a) above, or, as the case may require, for the shorter period referred to in sub-paragraph (ii) of that paragraph.

(4) If the capital sum referred to in sub-paragraph (1) above is payable only if the event in question happens before the expiry of a specified term ending not more than ten years after the making of the insurance, or only if it happens both before the expiry of such a term and during the life of a specified person, the policy must provide that any payment made by reason of its surrender during the period is not to exceed the total premiums previously paid under the policy.

(5) Except where—

(a) the capital sum referred to in sub-paragraph (1) above is payable only in the circumstances mentioned in sub-paragraph (3) or (4) above; and

(b) the policy does not provide for any payment on the surrender in whole or in part of the rights conferred by it; and

(c) the specified term mentioned in sub-paragraph (3) or, as the case may be, (4) above ends at or before the time when the person whose life is insured attains the age of 75 years;

the capital sum, so far as payable on death, must not be less than 75 per cent. of the total premiums that would be payable if the death occurred at the age of 75 years, the age being, if the sum is payable on the death of the first to die of two persons, that of the older of them, if on the death of the survivor of them, that of the younger of them, and in any other case, that of the person on whose death it is payable; and if the policy does not secure a capital sum in the event of death occurring before the age of 16 or some lower age, it must not provide for the payment in that event of an amount exceeding the total premiums previously paid under it.

(6) In determining for the purposes of sub-paragraph (5) above whether a capital sum is less than 75 per cent. of the total premiums, any amount included in the premiums by reason of their being payable otherwise than annually shall be disregarded, and if the policy is issued in the course of an industrial assurance business, 10 per cent. of the premiums payable under the policy shall be treated as so included.

(7) Notwithstanding sub-paragraph (1)(b) above, if a policy secures a capital sum payable only on death, it may also secure benefits (including benefits of a capital nature) to be provided in the event of a person's disability; and no policy is to be regarded for the purposes of that provision as securing other benefits by reason only of the fact that—

(a) it confers a right to participate in profits, or

(b) it provides for a payment on the surrender in whole or in part of the rights conferred by the policy, or

(c) it gives an option to receive payments by way of annuity, or

(d) it makes provision for the waiver of premiums by reason of a person's disability, or for the effecting of a further insurance or insurances without the production of evidence of insurability.

(8) In applying sub-paragraph (2) or (3) above to any policy—

(a) no account shall be taken of any provision for the waiver of premiums by reason of a person's disability, and

(b) if the term of the policy runs from a date earlier, but not more than three months earlier, than the making of the insurance, the insurance shall be treated as having been made on that date, and any premium paid in respect of the period before the making of the insurance, or in respect of that period and a subsequent period, as having been payable on that date.

(9) References in this paragraph to a capital sum payable on any event include references to any capital sum, or series of capital sums, payable by reason of that event but where what is so payable is either an amount consisting of one sum or an amount made up of two or more sums, the 75 per cent. mentioned in sub-paragraph (5) above shall be compared with the smaller or smallest amount so payable; and a policy secures a capital sum payable either on death or on disability notwithstanding that the amount payable may vary with the event.

(10) In relation to any policy issued in respect of an insurance made before 1st April 1976 this paragraph shall have effect—

(a) with the omission of sub-paragraphs (5) and (6) and in sub-paragraph (9) the words "but where what is so payable is either an amount consisting of one sum or an amount made up of two or more sums, the 75 per cent. mentioned in sub-paragraph (5) above shall be compared with the smaller or smallest amount so payable"; and

(b) with the substitution, for sub-paragraph (7)(b), of—

"(b) it carries a guaranteed surrender value;".

General rules applicable to endowment assurances

2 (1) Subject to the following provisions of this Part of this Schedule, a policy which secures a capital sum payable either on survival for a specified term or on earlier death, or earlier death or disability, including a policy securing the sum on death only if occurring after the attainment of a specified age not exceeding 16, is a qualifying policy if it satisfies the following conditions—

(a) the term must be one ending not earlier than ten years after the making of the insurance;

(b) premiums must be payable under the policy at yearly or shorter intervals, and—

(i) until the happening of the event in question; or

(ii) until the happening of that event, or the earlier expiry of a specified period shorter than the term but also ending not earlier than ten years after the making of the insurance; or

(iii) if the policy is to lapse on the death of a specified person, until one of those times or the policy's earlier lapse;

(c) the total premiums payable under the policy in any period of 12 months must not exceed—
   (i) twice the amount of the total premiums payable in any other such period, or
   (ii) one-eighth of the total premiums which would be payable if the policy were to run for the specified term;

(d) the policy—
   (i) must guarantee that the capital sum payable on death, or on death occurring after the attainment of a specified age not exceeding 16, will, whenever that event may happen, be equal to 75 per cent. at least of the total premiums which would be payable if the policy were to run for that term, disregarding any amounts included in those premiums by reason of their being payable otherwise than annually, except that if, at the beginning of that term, the age of the person concerned exceeds 55 years, the capital sum so guaranteed may, for each year of the excess, be less by 2 per cent. of that total than 75 per cent. thereof, the person concerned being, if the capital sum is payable on the death of the first to die of two persons, the older of them, if on the death of the survivor of them, the younger of them and in any other case the person on whose death it is payable; and
   (ii) if it is a policy which does not secure a capital sum in the event of death before the attainment of a specified age not exceeding 16, must not provide for the payment in that event of an amount exceeding the total premiums previously paid thereunder; and

(e) the policy must not secure the provision (except by surrender in whole or in part of the rights conferred by the policy) at any time before the happening of the event in question of any benefit of a capital nature other than a payment falling within paragraph (d)(ii) above, or benefits attributable to a right to participate in profits or arising by reason of a person's disability.

(2) For the purposes of sub-paragraph (1)(d)(i) above, 10 per cent. of the premiums payable under any policy issued in the course of industrial assurance business shall be treated as attributable to the fact that they are not paid annually.

(3) Sub-paragraphs (8) and (9) of paragraph 1 above shall, with any necessary modifications, have effect for the purposes of this paragraph as they have effect for the purposes of that paragraph.

(4) In relation to any policy issued in respect of an insurance made before 1st April 1976 this paragraph shall have effect with the omission in sub-paragraph (1)(d)(i) of the words from "except that if" to the end, and in sub-paragraph (1)(e) of the words "in whole or in part of the rights conferred by the policy".

Special types of policy

(i) Friendly Society policies

3 (1) Paragraphs 1 and 2 above do not apply to a policy issued by a registered friendly society in the course of tax exempt life or endowment business in respect of an insurance made or varied on or after 19th March 1985, but such a policy shall not be a qualifying policy unless—

(a) in the case of a policy for the assurance of a gross sum or annuity, the conditions in sub-paragraph (2) are fulfilled with respect to it; and
(b) in the case of a policy for the assurance of a gross sum, the conditions in sub-paragraphs (5) to (11) below are fulfilled with respect to it; and
(c) in the case of a policy issued by a new society, the contract for the insurance was made by a member of the society over the age of 18.

(2) The conditions referred to in sub-paragraph (1) above are as follows—
(a) subject to sub-paragraph (3) below, the period (the "term" of the policy) between—
(i) the making of the insurance or, where the contract provides for the term to begin on a date not more than three months earlier than the making of the insurance, that date, and
(ii) the time when the gross sum assured is payable (or, as the case may be, when the first instalment of the annuity is payable),

shall be not less than ten years, and must not, on any contingency other than the death, or retirement on grounds of ill health, of the person liable to pay the premiums or whose life is insured, become less than ten years;
(b) subject to sub-paragraph (4) below, the premiums payable under the policy shall be premiums of equal or rateable amounts payable at yearly or shorter intervals over the whole term of the policy of assurance, or over the whole term of the policy of assurance apart from any period after the person liable to pay the premiums or whose life is insured attains a specified age, being an age which he will attain at a time not less than ten years after the beginning of the term of the policy of assurance;
(c) until the expiration of three-quarters of the term of the policy of assurance, or of ten years from the beginning of the term, whichever is the shorter, the policy may not be surrendered to the friendly society for consideration exceeding the amount of the premiums paid, except that if a surrender value is prescribed by section 24 of the Industrial Assurance Act 1923 or section 3 of the Industrial Assurance and Friendly Societies Act 1929 or by Article 30 or 35 of and Schedule 7 to the Industrial Assurance (Northern Ireland) Order 1979, the limit on the consideration shall be either that value or the amount of the premiums paid whichever is the greater.

(3) Notwithstanding sub-paragraph (2)(a) above, the policy—
(a) may provide for a payment to a person of an age not exceeding 18 years at any time not less than five years from the beginning of the term of the policy if the premium or premiums payable in any period of 12 months in the term of the policy do not exceed £13;
(b) may provide for a payment at any time not less than five years from the beginning of the term of the policy, if it is one of a series of payments falling due at intervals of not less than five years, and the amount of any payment, other than the final payment, does not exceed four-fifths of the premiums paid in the interval before its payment.

For the purposes of paragraph (a) above, if the term begins on a date earlier than the making of the insurance, any premium paid in respect of a period before the making of the insurance, or in respect of that period and a subsequent period, shall be treated as having been payable on that date.

(4) Notwithstanding sub-paragraph (2)(b) above, the policy—

(a) may allow a payment at any time after the expiration of one-half of the term of the policy of assurance, or of ten years from the beginning of the term, whichever is the earlier, being a payment in commutation of the liability to pay premiums falling due after that time;

(b) may allow the person liable to pay the premiums to commute any liability for premiums where he ceases to reside in the United Kingdom or gives satisfactory proof of intention to emigrate;

(c) may allow any liability for premiums to be discharged in consideration of surrendering a sum which has become payable on the maturity of any other policy of assurance issued by the same friendly society to the person liable to pay the premiums, or to his parent, where that other policy of assurance is issued as part of the friendly society's tax exempt life or endowment business; and

(d) may make provision for the waiver of premiums by reason of a person's disability.

(5) Where the policy secures a capital sum which is payable only on death or only on death occurring after the attainment of a specified age not exceeding 16, that capital sum must be not less than 75 per cent. of the total premiums which would be payable if the death of the relevant beneficiary occurred at the age of 75.

(6) Where the policy secures a capital sum which is payable only on survival for a specified term, that capital sum must be not less than 75 per cent. of the total premiums which would be payable if the policy were to run for that term.

(7) Where the policy secures a capital sum which is payable on survival for a specified term or on earlier death, or on earlier death or disability (including a policy securing the sum on death only if occurring after the attainment of a specified age not exceeding 16), the capital sum payable on death, whenever that event occurs, must be not less than 75 per cent. of the total premiums which would be payable if the policy were to run for that term, except that if, at the beginning of that term, the age of the relevant beneficiary exceeds 55, that capital sum may, for each year of the excess, be less by 2 per cent. of that total than 75 per cent. thereof.

(8) For the purposes of sub-paragraphs (5) to (7) above—

(a) "the relevant beneficiary" means—

(i) if the capital sum concerned is payable on the death of the first to die of two persons, the older of them;

(ii) if that capital sum is payable on the death of the survivor of two persons, the younger of them; and

(iii) in any other case, the person on whose death that capital sum is payable; and

(b) in determining the total premiums payable in any circumstances—

(i) where those premiums are payable otherwise than annually, and the policy is issued by a new society, there shall be disregarded an amount equal to 10 per cent. of those premiums;

(ii) where the policy is issued by a society other than a new society, there shall be disregarded an amount equal to £10 for each year for which account is taken of those premiums; and

(iii) so much of any premium as is charged on the ground that an exceptional risk of death is involved shall be disregarded; and

(c) in determining the capital sum payable on any event, there shall be disregarded any provision of the policy under which, on the ground referred to in paragraph (b)(iii) above, any sum may become chargeable as a debt against that capital sum.

(9) If the policy does not secure a capital sum in the event of death occurring before the age of 16 or some lower age, it must not provide for the payment in that event of an amount exceeding the total premiums previously paid under it.

(10) References in this paragraph to a capital sum payable on any event include references to a capital sum or series of capital sums payable by reason of that event, but where what is so payable is either an amount consisting of one sum or an amount made up of two or more sums, any reference in sub-paragraphs (5) to (7) above to 75 per cent. of the total premiums payable in any circumstances shall be compared with the smaller or smallest amount so payable; and for the purposes of those sub-paragraphs a policy secures a capital sum payable either on death or on disability notwithstanding that the amount may vary with the event.

(11) For the purposes of sub-paragraphs (5) to (7) and (10) above, in the case of a policy which provides for any such payments as are referred to in sub-paragraph (3) above ("interim payments"), the amount of the capital sum which is payable on any event shall be taken to be increased—

(a) in the case of a policy which secures such a capital sum as is referred to in sub-paragraph (5) above, by the total of the interim payments which would be payable if the death of the relevant beneficiary (within the meaning of that sub-paragraph) occurred at the age of 75; and

(b) in the case of a policy which secures such a capital sum as is referred to in sub-paragraph (6) or (7) above, by the total of the interim payments which would be payable if the policy were to run for the specified term referred to in that sub-paragraph.

4 (1) The provisions of this paragraph have effect notwithstanding anything in paragraph 3 above.

(2) In determining whether a policy—

(a) which affords provision for sickness or other infirmity (whether bodily or mental), and

(b) which also affords assurance for a gross sum independent of sickness or other infirmity, and

(c) under which not less than 60 per cent. of the amount of the premiums is attributable to the provision referred to in paragraph (a) above,

is a qualifying policy, the conditions referred to in paragraph 3(1)(b) above shall be deemed to be fulfilled with respect to it.

(3) A policy shall cease to be a qualifying policy—

(a) if it falls within sub-paragraph (1) of paragraph 3 above and there is such a variation of its terms that any of the conditions referred to in that sub-paragraph ceases to be fulfilled; or

(b) if—

(i) for any purpose it falls within paragraph (1) of Schedule 1 to the Friendly Societies Act 1974 or paragraph 1 of Schedule 1 to the Friendly Societies Act (Northern Ireland) 1970,

(ii) it was issued by a new society, and

(iii) the rights conferred by it are surrendered in whole or in part.

5 Section 466 shall apply for the interpretation of paragraphs 3 and 4 above as it applies for the interpretation of sections 460 to 465.

6 (1) A policy which was issued by any friendly society, or branch of a friendly society, in the course of tax exempt life or endowment business (as defined in section 466) in respect of insurances made before 19th March 1985 and which has not been varied on or after that date is a qualifying policy notwithstanding that it does not comply with the conditions specified in paragraph 1 or 2 above.

(2) Notwithstanding paragraphs 3 to 5 or sub-paragraph (1) above, if, on or after 19th March 1985, a person becomes in breach of the limits in section 464, the policy effected by that contract which causes those limits to be exceeded shall not be a qualifying policy; and in any case where—

(a) the limits in that section are exceeded as a result of the aggregation of the sums assured or premiums payable under two or more contracts, and

(b) at a time immediately before one of those contracts was entered into (but not immediately after it was entered into) the sums assured by or, as the case may be, the premiums payable under the contract or contracts which were then in existence did not exceed the limits in that section,

only those policies effected by contracts made after that time shall be treated as causing the limits to be exceeded.

(ii) Industrial assurance policies

7 (1) A policy issued in the course of an industrial assurance business, and not constituting a qualifying policy by virtue of paragraph 1 or 2 above, is nevertheless a qualifying policy if—

(a) the sums guaranteed by the policy, together with those guaranteed at the time the assurance is made by all other policies issued in the course of such a business to the same person and not constituting qualifying policies apart from this paragraph, do not exceed £1,000;

(b) it satisfies the conditions with respect to premiums specified in paragraph 1(2) above;

(c) except by reason of death or surrender, no capital sum other than one falling within paragraph (d) below can become payable under the policy earlier than ten years after the making of the assurance; and

(d) where the policy provides for the making of a series of payments during its term—

(i) the first such payment is due not earlier than five years after the making of the assurance, and the others, except the final payment, at intervals of not less than five years, and

(ii) the amount of any payment, other than the final payment, does not exceed four-fifths of the premiums paid in the interval before its payment; or

(e) the policy was issued before 6th April 1976, or was issued before 6th April 1979 and is in substantially the same form as policies so issued before 6th April 1976.

(2) For the purposes of this paragraph, the sums guaranteed by a policy do not include any bonuses, or in the case of a policy providing for a series of payments during its term, any of those payments except the first, or any sum payable on death during

the term by reference to one or more of those payments except so far as that sum is referable to the first such payment.

8 Where a policy issued in respect of an insurance made after 1st April 1976 in the course of an industrial assurance business is not a qualifying policy by virtue of paragraph 1 or 2 above but is a policy with respect to which the conditions in paragraph 7(1)(b) and (c) above are satisfied, it shall be a qualifying policy whether or not the condition in paragraph 7(1)(a) above is satisfied with respect to it; but where that condition is not satisfied, relief under section 266 in respect of premiums paid under the policy shall be given only on such amount (if any) as would have been the amount of those premiums had that condition been satisfied.

(iii) Family income policies and mortgage protection policies

9 (1) The following provisions apply to any policy which is not a qualifying policy apart from those provisions, and the benefits secured by which consist of or include the payment on or after a person's death of—

(a) one capital sum which does not vary according to the date of death, plus a series of capital sums payable if the death occurs during a specified period, or

(b) a capital sum, the amount of which is less if the death occurs in a later part of a specified period than if it occurs in an earlier part of that period.

(2) A policy falling within sub-paragraph (1)(a) above is a qualifying policy if—

(a) it would be one if it did not secure the series of capital sums there referred to, and the premiums payable under the policy were such as would be chargeable if that were in fact the case, and

(b) it would also be one if it secured only that series of sums, and the premiums thereunder were the balance of those actually so payable.

(3) A policy falling within sub-paragraph (1)(b) above is a qualifying policy if—

(a) it would be one if the amount of the capital sum there referred to were equal throughout the period to its smallest amount, and the premiums payable under the policy were such as would be chargeable if that were in fact the case, and

(b) it would also be one if it secured only that capital sum so far as it from time to time exceeds its smallest amount, and the premiums payable thereunder were the balance of those actually so payable.

Other special provisions

(i) Short-term assurances

10 A policy which secures a capital sum payable only on death or payable either on death or on earlier disability shall not be a qualifying policy if the capital sum is payable only if the event in question happens before the expiry of a specified term ending less than one year after the making of the insurance.

(ii) Personal accident insurance

11 (1) A policy which evidences a contract of insurance to which sub-paragraph (3) below applies shall not be a qualifying policy unless it also evidences a contract falling within Class I or Class III in Schedule 1 to the Insurance Companies Act 1982.

(2) A policy which evidences a contract of insurance to which sub-paragraph (4) below applies shall not be a qualifying policy unless it also evidences a contract falling within section 83(2)(a) of the Insurance Companies Act 1974.

(3) This sub-paragraph applies to contracts of insurance issued in respect of insurances made on or after 25th March 1982 against risks of persons dying as a result of an accident or an accident of a specified class, not being contracts which—

(a) are expressed to be in effect for a period of not less than five years or without limit of time; and

(b) either are not expressed to be terminable by the insurer before the expiration of five years from their taking effect or are expressed to be so terminable before the expiration of that period only in special circumstances therein mentioned.

(4) This sub-paragraph applies to contracts of insurance issued in respect of insurances made before 25th March 1982 against risks of persons dying as a result of an accident or an accident of a specified class, not being contracts falling within section 83(2)(b) of the Insurance Companies Act 1974.

(iii) Exceptional mortality risk

12 For the purpose of determining whether any policy is a qualifying policy, there shall be disregarded—

(a) so much of any premium thereunder as is charged on the grounds that an exceptional risk of death is involved; and

(b) any provision under which, on those grounds, any sum may become chargeable as a debt against the capital sum guaranteed by the policy on death.

(iv) Connected policies

13 Subject to paragraph 14 below, where the terms of any policy provide that it is to continue in force only so long as another policy does so, neither policy is a qualifying policy unless, if they had constituted together a single policy issued in respect of an insurance made at the time of the insurance in respect of which the first-mentioned policy was issued, that single policy would have been a qualifying policy.

14 (1) A policy shall not be a qualifying policy if the policy is connected with another policy and the terms of either policy provide benefits which are greater than would reasonably be expected if any policy connected with it were disregarded.

(2) For the purposes of this paragraph a policy is connected with another policy if they are at any time simultaneously in force and either of them is issued with reference to the other, or with a view to enabling the other to be issued on particular terms or facilitating its being issued on those terms.

(3) In this paragraph "policy" means a policy effected in the course of long term business, as defined in section 1 of the Insurance Companies Act 1982, and includes any such policy issued outside the United Kingdom.

(4) Where any person issues a policy—

(a) which by virtue of this paragraph is not a qualifying policy, or

(b) the issue of which causes another policy to cease by virtue of this paragraph to be a qualifying policy,

he shall within three months of issuing the policy give notice of that fact to the Board.

(5) The Board may, by notice, require any person who is, or appears to them to be, concerned in the issue of any such policy as is mentioned in sub-paragraph (4) above, to furnish them within such time (not being less than 30 days) as may be specified in the notice with such particulars as they think necessary for the purposes of this paragraph and as the person to whom the notice is addressed has or can reasonably obtain; but no solicitor shall be deemed for the purposes of this sub-paragraph to have been concerned in the issue of a policy by reason only that he has given professional advice to a client in connection with that policy.

(6) This paragraph shall apply to policies issued in respect of insurances made before 23rd August 1983 in accordance with sub-paragraphs (7) and (8) below.

(7) Where—

(a) a policy is issued in respect of an insurance made before 23rd August 1983, and

(b) a policy is issued in respect of an insurance made on or after that date which is connected with it within the meaning of this paragraph,

sub-paragraphs (1) to (6) above shall apply to the policy issued in respect of an insurance made before that date.

(8) Sub-paragraphs (1) to (7) above shall apply to policies issued in respect of insurances made before 23rd August 1983 (other than policies which, disregarding this paragraph, fall within sub-paragraph (7)) with the substitution—

(a) in sub-paragraph (1) for the words "and the terms of either policy" of the words "the terms of which";

(b) in sub-paragraph (3) for the words from "long term business" to "1982" of the words "ordinary long-term insurance business within the meaning of section 83(2) of the Insurance Companies Act 1974 (as enacted) or, in relation to a policy made after 25th March 1982, section 96(1) of the Insurance Companies Act 1982"; and

(c) in sub-paragraphs (6) and (7) for the words "23rd August 1983" of the words "26th March 1980".

(9) In any case where payments made—

(a) after 22nd August 1983, and

(b) by way of premium or other consideration in respect of a policy issued in respect of an insurance made before that date,

exceed £5 in any period of 12 months, the policy shall be treated for the purposes of this paragraph as if it were issued in respect of an insurance made after 22nd August 1983; but nothing in this paragraph shall apply with respect to any premium paid in respect of it before that date.

(10) Sub-paragraphs (8) and (9) above do not apply in relation to policies issued in the course of industrial assurance business.

(v) Premiums paid out of sums due under previous policies

15 (1) Where, in the case of a policy under which a single premium only is payable, liability for the payment of that premium is discharged in accordance with sub-paragraph (2)

below, the policy is a qualifying policy notwithstanding anything in paragraph 1(2) or (3) or paragraph 2(1)(b) or (c) above; and where, in the case of any other policy, liability for the payment of the first premium thereunder, or of any part of that premium, is so discharged, the premium or part shall be disregarded for the purposes of paragraphs 1(2)(b) and (3)(b) and 2(1)(c) above.

(2) Liability for the payment of a premium is discharged in accordance with this sub-paragraph if it is discharged by the retention by the company with which the insurance is made of the whole or a part of any sum which has become payable on the maturity of, or on the surrender more than ten years after its issue of the rights conferred by, a policy—

(a) previously issued by the company to the person making the insurance, or, if it is made by trustees, to them or any predecessors in office; or

(b) issued by the company when the person making the insurance was an infant, and securing a capital sum payable either on a specified date falling not more than one month after his attaining 25, or on the anniversary of the policy immediately following his attainment of that age,

being, unless it is a policy falling within paragraph (b) above and the premium in question is a first premium only, a policy which was itself a qualifying policy, or which would have been a qualifying policy had it been issued in respect of an insurance made after 19th March 1968.

(iv) Additional premiums under section 72(9) of the Finance Act 1984

16 In determining whether a policy is a qualifying policy, no account shall be taken of any amount recovered, as if it were an additional premium, in pursuance of section 72(9) of the Finance Act 1984.

(vii) Substitutions and variations

17 (1) Subject to paragraph 19 below, where one policy ("the new policy") is issued in substitution for, or on the maturity of and in consequence of an option conferred by, another policy ("the old policy"), the question whether the new policy is a qualifying policy shall, to the extent provided by the rules in sub-paragraph (2) below, be determined by reference to both policies.

(2) The rules (for the purposes of which, the question whether the old policy was a qualifying policy shall be determined in accordance with this Part of this Schedule, whatever the date of the insurance in respect of which it was issued), are as follows—

(a) if the new policy would apart from this paragraph be a qualifying policy but the old policy was, the new policy is not a qualifying policy unless the person making the insurance in respect of which it is issued was an infant when the old policy was issued, and the old policy was one securing a capital sum payable either on a specified date falling not later than one month after his attaining 25 or on the anniversary of the policy immediately following his attainment of that age;

(b) if the new policy would apart from this paragraph be a qualifying policy, and the old policy was also a qualifying policy, the new policy is a qualifying policy unless—

(i) it takes effect before the expiry of ten years from the making of the insurance in respect of which the old policy was issued, and

(ii) subject to sub-paragraph (4) below, the highest total of premiums payable thereunder for any period of 12 months expiring before that time is less than one half of the highest total paid for any period of 12 months under the old policy, or under any related policy issued less than ten years before the issue of the new policy ("related policy" meaning any policy in relation to which the old policy was a new policy within the meaning of this paragraph, any policy in relation to which that policy was such a policy, and so on);

(c) if the new policy would not apart from this paragraph be a qualifying policy, and would fail to be so by reason only of paragraph 1(2) or (3) or 2(1)(a), (b) or (c) above, it is nevertheless a qualifying policy if the old policy was a qualifying policy and—

(i) the old policy was issued in respect of an insurance made more than ten years before the taking effect of the new policy, and, subject to sub-paragraph (4) below, the premiums payable for any period of 12 months under the new policy do not exceed the smallest total paid for any such period under the old policy; or

(ii) the old policy was issued outside the United Kingdom, and the circumstances are as specified in sub-paragraph (3) below.

(3) The circumstances are—

(a) where the new policy referred to in sub-paragraph (2)(c) above is issued after 22nd February 1984, that the policy holder under the new policy became resident in the United Kingdom during the 12 months ending with the date of its issue;

(b) where paragraph (a) above does not apply, that the person in respect of whom the new insurance is made became resident in the United Kingdom during the 12 months ending with the date of its issue;

(c) that the issuing company certify that the new policy is in substitution for the old, and that the old was issued either by a branch or agency of theirs outside the United Kingdom or by a company outside the United Kingdom with whom they have arrangements for the issue of policies in substitution for ones held by persons coming to the United Kingdom; and

(d) that the new policy confers on the holder benefits which are substantially equivalent to those which he would have enjoyed if the old policy had continued in force.

(4) Where the new policy is one issued on or after 1st April 1976 then, in determining under sub-paragraph (2) above whether that policy would or would not (apart from sub-paragraphs (1) to (3) above) be a qualifying policy, there shall be left out of account so much of the first premium payable thereunder as is accounted for by the value of the old policy.

18 (1) Subject to paragraph 19 below and to the provisions of this paragraph, where the terms of a policy are varied, the question whether the policy after the variation is a qualifying policy shall be determined in accordance with the rules in paragraph 17 above, with references in those rules to the new policy and the old policy construed for that purpose as references respectively to the policy after the variation and the policy before the variation, and with any other necessary modifications.

(2) In applying any of those rules by virtue of this paragraph, the question whether a policy after a variation would be a qualifying policy apart from the rule shall be determined as if any reference in paragraphs 1 to 9, 12 and 13 above to the making

of an insurance, or to a policy's term, were a reference to the taking effect of the variation or, as the case may be, to the term of the policy as from the variation.

(3) This paragraph does not apply by reason of—

(a) any variation which, whether or not of a purely formal character, does not affect the terms of a policy in any significant respect, or

(b) any variation effected before the end of the year 1968 for the sole purpose of converting into a qualifying policy any policy issued (but not one treated, by virtue of paragraph 8(1) and (2) of Schedule 14, as issued) in respect of an insurance made after 19th March 1968.

19 (1) The following provisions of this paragraph shall have effect for determining for the purposes of this Schedule whether a policy has been varied or whether a policy which confers on the person to whom it is issued an option to have another policy substituted for it or to have any of its terms changed is a qualifying policy.

(2) If the policy is one issued in respect of an insurance made before 1st April 1976—

(a) any such option shall, until it is exercised, be disregarded in determining whether the policy is a qualifying policy; and

(b) any change in the terms of the policy which is made in pursuance of such an option shall be deemed to be a variation of the policy.

(3) If the policy is one issued in respect of an insurance made on or after 1st April 1976, the policy shall not be a qualifying policy unless it satisfies the conditions applicable to it under this Schedule before any such option is exercised and—

(a) each policy that might be substituted for it in pursuance of such an option would satisfy those conditions under the rules of paragraph 17 above; and

(b) the policy would continue to satisfy those conditions under the rules of that paragraph as applied by paragraph 18 above if each or any of the changes capable of being made in pursuance of such an option had been made and were treated as a variation;

and it shall not be treated as being varied by reason only of any change made in pursuance of such an option.

20 (1) Where, as a result of a variation in the life or lives for the time being assured, a qualifying policy ("the earlier policy") is replaced by a new policy ("the later policy") which in accordance with the rules in paragraph 17 above is also a qualifying policy, then, subject to sub-paragraph (2) below, for the purposes of—

(a) sections 268 to 270 and 540 and 541; and

(b) any second or subsequent application of this paragraph;

the later policy and the earlier policy shall be treated as a single policy issued in respect of an insurance made at the time of the making of the insurance in respect of which the earlier policy was issued; and, accordingly, so long as the later policy continues to be a qualifying policy, the single policy shall also be treated as a qualifying policy for those purposes.

(2) Sub-paragraph (1) above does not apply unless—

(a) any sum which would otherwise become payable by the insurer on or in connection with the coming to an end of the earlier policy is retained by the insurer and applied in the discharge of some or all of the liability for any premium becoming due under the later policy; and

(b) no consideration in money or money's worth (other than the benefits for which provision is made by the later policy) is receivable by any person on or in connection with the coming to an end of the earlier policy or the coming into existence of the later policy.

(3) Any sum which is applied as mentioned in sub-paragraph (2)(a) above—

(a) shall be left out of account in determining, for the purposes of sections 268 to 270 and 540 and 541, the total amount which at any time has been paid by way of premiums under the single policy referred to in sub-paragraph (1) above; and

(b) shall not be regarded, in relation to that single policy, as a relevant capital payment, within the meaning of section 541.

(4) This paragraph applies where the later policy comes into existence on or after 25th March 1982.

PART II

CERTIFICATION OF QUALIFYING POLICIES

Policies issued in respect of insurances made on or after 1st April 1976 or varied on or after that date

21 (1) A policy of life insurance issued in respect of an insurance made on or after 1st April 1976 or varied on or after that date (other than one to which paragraph 22(2)(c) below applies) shall not be a qualifying policy unless—

(a) it is certified by the Board as being a qualifying policy; or

(b) it conforms with a form which at the time the policy is issued or varied is either—

(i) a standard form certified by the Board as a standard form of qualifying policy; or

(ii) a form varying from a standard form so certified in no other respect than by making such additions thereto as are, at the time the policy is issued, certified by the Board as compatible with a qualifying policy when made to that standard form and satisfy any conditions subject to which they are so certified;

and any certificate issued in pursuance of paragraph (a) above shall be conclusive evidence that the policy is a qualifying policy.

(2) In issuing a certificate in pursuance of sub-paragraph (1) above the Board may disregard any provision of the policy, standard form or addition which appears to them insignificant.

(3) Where the Board refuse to certify a policy as being a qualifying policy, the person to whom it is issued may appeal to the General Commissioners or, if he so elects, to the Special Commissioners.

(4) Sub-paragraphs (1) to (3) above do not apply in relation to such a policy as is mentioned in paragraphs 3 to 6 above.

22 (1) A body which issues or which, after 5th April 1979, has issued any policy of life insurance (other than one to which sub-paragraph (2)(c) below applies)—

(a) which is certified by the Board as being a qualifying policy; or

(b) which conforms with such a form as is mentioned in paragraph 21(1)(b) above, and is in the opinion of the body issuing it a qualifying policy,

shall, within three months of receipt of a request in writing by the policy holder, give to the policy holder a duly authenticated certificate to that effect, specifying in the certificate the name of the policy holder, the name of the person whose life is assured, the reference number or other means of identification allocated to the policy, the reference number of the relevant Inland Revenue certificate (if any), the capital sum or sums assured and the amounts and dates for payment of the premiums.

(2) Subject to sub-paragraph (3) below, where a policy of life insurance is varied after 5th April 1979, and, after the variation—

(a) it is certified by the Board as a qualifying policy, or

(b) it conforms with such a form as is referred to in sub-paragraph (1) above and is in the opinion of the body by whom it was issued a qualifying policy, or

(c) in the case of a policy issued in respect of an insurance made before 1st April 1976, it is in the opinion of the body by whom it was issued a qualifying policy,

that body shall, within three months of receipt of a request in writing by the policy holder, give to the policy holder a like certificate with respect to the policy as varied.

(3) Sub-paragraph (2) above shall not apply by reason of—

(a) any variation which, whether or not of a purely formal character, does not affect the terms of a policy in any significant respect; or

(b) any variation of a policy issued in respect of an insurance made on or before 19th March 1968, other than a variation by virtue of which the policy falls, under paragraph 8(1) and (2) of Schedule 14, to be treated as issued in respect of an insurance made after that date.

PART III

POLICIES ISSUED BY NON-RESIDENT COMPANIES

23 In this Part—

(a) any reference to a paragraph is a reference to that paragraph of this Schedule; and

(b) "the old policy" and "the new policy" have the same meanings as in paragraph 17.

24 (1) This paragraph applies to a policy of life insurance—

(a) which is issued in respect of an insurance made after 17th November 1983; and

(b) which is so issued by a company resident outside the United Kingdom;

and in the following provisions of this paragraph such a policy is referred to as "a new non-resident policy" and the company by which it is issued is referred to as "the issuing company".

(2) Notwithstanding anything in paragraph 21—

(a) a new non-resident policy shall not be certified under sub-paragraph (1)(a) of that paragraph, and

(b) a new non-resident policy which conforms with such a form as is mentioned in sub-paragraph (1)(b) of that paragraph shall not be a qualifying policy, until such time as the conditions in either sub-paragraph (3) or sub-paragraph (4) below are fulfilled with respect to it.

(3) The conditions first referred to in sub-paragraph (2) above are—

(a) that the issuing company is lawfully carrying on in the United Kingdom life assurance business (as defined in section 431(2)); and

(b) that the premiums under the policy are payable to a branch in the United Kingdom of the issuing company, being a branch through which the issuing company carries on its life assurance business; and

(c) the premiums under the policy form part of those business receipts of the issuing company which arise through that branch.

(4) The conditions secondly referred to in sub-paragraph (2) above are—

(a) that the policy holder is resident in the United Kingdom; and

(b) that the income of the issuing company from the investments of its life assurance fund is, by virtue of section 445, charged to corporation tax under Case III of Schedule D;

and expressions used in paragraph (b) above have the same meaning as in section 445(1).

25 (1) In the application of paragraph 17 in any case where—

(a) the old policy was issued in respect of an insurance made after 17th November 1983 and could not be a qualifying policy by virtue of paragraph 24, and

(b) the new policy is not a new non-resident policy as defined in that paragraph,

the rules for the determination of the question whether the new policy is a qualifying policy shall apply with the modifications in sub-paragraph (2) below.

(2) The modifications are the following—

(a) if, apart from paragraph 24, the old policy and any related policy (within the meaning of paragraph 17(2)(b)) of which account falls to be taken would have been, or would have been capable of being certified as, a qualifying policy under paragraph 21, that policy shall be assumed to have been a qualifying policy for the purposes of paragraph 17(2); and

(b) if, apart from this paragraph, the new policy would be, or would be capable of being certified as, a qualifying policy, it shall not be such a policy or, as the case may be, be capable of being so certified unless the circumstances are as specified in paragraph 17(3); and

(c) in paragraph 17(3)(b) the words "either by a branch or agency of theirs outside the United Kingdom or" shall be omitted.

(3) In the application of paragraph 17 in any case where—

(a) the old policy is a qualifying policy which was issued in respect of an insurance made on or before 17th November 1983 but, if the insurance had been made after that date, the policy could not have been a qualifying policy by virtue of paragraph 24, and

(b) the new policy is issued after that date and is not a new non-resident policy, as defined in paragraph 24,

the rules for the determination of the question whether the new policy is a qualifying policy shall apply with the modification in sub-paragraph (2)(c) above.

26 If, in the case of a substitution of policies falling within paragraph 25(1) or (3), the new policy confers such an option as results in the application to it of paragraph 19(3), the new policy shall be treated for the purposes of paragraph 19(3) as having been issued in respect of an insurance made on the same day as that on which was made the insurance in respect of which the old policy was issued.

27 (1) For the purposes of Part I and paragraphs 21 and 24, a policy of life insurance which was issued—

(a) in respect of an insurance made on or before 17th November 1983, and

(b) by a company resident outside the United Kingdom,

shall be treated as issued in respect of an insurance made after that date if the policy is varied after that date so as to increase the benefits secured or to extend the term of the insurance.

(2) If a policy of life insurance which was issued as mentioned in sub-paragraph (1)(a) and (b) above confers on the person to whom it is issued an option to have another policy substituted for it or to have any of its terms changed, then for the purposes of that sub-paragraph any change in the terms of the policy which is made in pursuance of the option shall be deemed to be a variation of the policy.