

Status: Point in time view as at 20/05/1995.

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SCHEDULES

SCHEDULE 1

Section 6.

VEHICLES EXCISE DUTY: RATES

^{F1}PART I

Textual Amendments

F1 Sch. 1 Pt. I repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1), **Sch. 5 Pt. I** (with s. 57(4))

PART II ^{F2}

Textual Amendments

F2 S. 6(3)(4), Sch. 1 Pt. II, Sch. 2 para. 3 repealed by Finance Act 1990 (c. 29, SIF 58), s. 132, **Sch. 19 Pt. II** Note 3

SCHEDULE 2

Section 8.

VEHICLES EXCISE DUTY: SPECIAL MACHINES

^{F3}1

Textual Amendments

F3 Sch. 2 paras. 1, 2, 4 repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1), **Sch. 5 Pt. I** (with s. 57(4))

^{F4}2

Textual Amendments

F4 Sch. 2 paras. 1, 2, 4 repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1), **Sch. 5 Pt. I** (with s. 57(4))

³F5

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Textual Amendments

F5 S. 6(3)(4), Sch. 1 Pt. II, Sch. 2 para. 3 repealed by Finance Act 1990 (c. 29, SIF 58), s. 132, **Sch. 19 Pt. II** Note 3

F64

Textual Amendments

F6 Sch. 2 paras. 1, 2, 4 repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1), **Sch. 5 Pt. I** (with s. 57(4))

F7 SCHEDULE 3

Textual Amendments

F7 Sch. 3 repealed (1.9.1994) by 1994 c. 23, ss. 100(2), 101(1), **Sch. 15**

SCHEDULE 4

Section 61.

PROFIT-RELATED PAY

1 The Taxes Act 1988 shall be amended in accordance with the following provisions of this Schedule.

- 2 (1) In section 171(4) (limit on pay of which half may be exempt from tax) for “£3,000” there shall be substituted “£4,000”.
- (2) This paragraph shall have effect in relation to profit-related pay paid by reference to profit periods beginning on or after 1st April 1989.

3 After section 177 there shall be inserted—

“177A Death of scheme employer.

- (1) Where a scheme employer has died, his personal representatives may make a written application to the Board under this section for the amendment of the registration of the scheme.
- (2) If on receiving an application under this section the Board are satisfied that, apart from the death of the scheme employer, there would be no grounds for cancelling the registration of the scheme, the Board shall amend

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theregistration of the scheme by substituting the personal representatives forthe deceased scheme employer.

- (3) An application under this section shall be made before the end of theperiod of one month beginning with the date of the grant of probate or lettersof administration or, in Scotland, confirmation of executors.
- (4) Where the Board amend the registration of a scheme under this section,this Chapter shall (subject to any necessary modifications) have effect as ifthe personal representatives had been the scheme employer throughout.
- (5) The Board shall give notice to the personal representatives if they refusean application under this section.

177B Alteration of scheme’s terms.

- (1) The alteration of the terms of a registered scheme shall not of itselfinvalidate the registration of the scheme.
- (2) Subsection (1) above is without prejudice to the power of cancellationconferred on the Board by section 178(3A); but the power conferred by section178(3A) shall not be exercisable by virtue of an alteration registered inaccordance with this section.
- (3) Where the terms of a registered scheme have been altered, the schemeemployer may apply to the Board for the registration of the alteration.
- (4) An application under subsection (3) above—
 - (a) shall be in such form as the Board may prescribe;
 - (b) shall be made within the period of one month beginning with the day onwhich the alteration is made;
 - (c) shall contain a declaration by the applicant that the alteration is withinsubsection (8) below and that the scheme as altered complies with therequirements of Schedule 8 (either as that Schedule had effect when the schemewas registered, or as it then had effect but subject to one or more subsequentamendments specified in the declaration);
 - (d) shall be accompanied by a report by an independent accountant, in a formprescribed by the Board, to the effect that in his opinion the alteration iswithin subsection (8) below and the scheme as altered complies with therequirements of Schedule 8 (either as that Schedule had effect when the schemewas registered, or as it then had effect but subject to one or more subsequentamendments specified in the report).
- (5) The Board shall not more than three months after the day on which theyreceive an application under subsection (3) above either register thealteration or refuse the application; and in either case they shall givencnotice of their decision to the applicant.
- (6) Subject to subsection (7) below, the Board shall register an alterationon an application under subsection (3) above.
- (7) The Board may refuse an application under subsection (3) above if they arenotsatisfied—

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- (a) that the application complies with the requirements of subsection (4) above, or
 - (b) that the declaration referred to in subsection (4)(c) above is true.
- (8) An alteration is within this subsection if—
- (a) it relates to a term which is not relevant to the question whether the scheme complies with the requirements of Schedule 8; or
 - (b) it relates to a term identifying any person (other than the scheme employer) who pays the emoluments of employees to whom the scheme relates; or
 - (c) it consists of the addition of a term making provision for an abbreviated profit period of the kind referred to in paragraph 10(3) of Schedule 8; or
 - (d) it amends the provisions by reference to which the employees to whom the scheme relates may be identified, and does so only for the purposes of profit periods which begin after the date on which the alteration is made; or
 - (e) it relates to a provision of a kind referred to in paragraph 13(4) or (5) or 14(3), (4) or (5) of Schedule 8 (as those provisions have effect at the time of the application for registration of the alteration), and has effect only for the purposes of profit periods beginning after the date on which the alteration is made; or
 - (f) it amends the provisions as to when payments will be made to employees, and does so only for the purposes of profit periods beginning after the date on which the alteration is made; or
 - (g) the scheme did not comply with the requirements of Schedule 8 when it was registered, and the alteration—
 - (i) is made in order to bring the scheme into compliance with the requirements of that Schedule (either as it had effect when the scheme was registered or as it has effect at the time of the application for registration of the alteration), and
 - (ii) is made for the purposes of the first and any subsequent profit period to which the scheme relates, and
 - (iii) is made within two years of the beginning of the first profit period, and
 - (iv) does not invalidate (in whole or in part) any payment of profit-related pay already made under the scheme.”
- 4 (1) Section 178 (cancellation of registration) shall be amended as follows.
- (2) In subsection (1) for the words “subsection (5)” there shall be substituted the words “subsections (5) and (5A)”.
- (3) After subsection (3) there shall be inserted—
- “(3A) Where the terms of a registered scheme have been altered, then, subject to section 177B(2), the Board may cancel the registration of the scheme with effect from the beginning of the profit period during which the alteration took effect or with effect from the beginning of any later profit period.

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(3B) If after an alteration of the terms of a scheme has been registered under section 177B it appears to the Board—

- (a) that the application for registration of the alteration did not comply with the requirements of subsection (4) of that section, or
- (b) that the declaration referred to in subsection (4)(c) of that section was false,

the Board may cancel the registration of the scheme with effect from the beginning of the profit period during which the alteration took effect or with effect from the beginning of any later profit period.”

(4) After subsection (5) there shall be inserted—

“(5A) Where—

- (a) the scheme employer has died, and
- (b) his personal representatives by notice request the Board to cancel the registration of the scheme with effect from the date of death,

then, if the notice is given before the end of the period of one month beginning with the date of the grant of probate or letters of administration or, in Scotland, confirmation of executors, the Board shall comply with the request.”

5 At the end of section 179 (recovery of tax) there shall be added—

“(3) Where—

- (a) the scheme employer has died, but
- (b) his personal representatives have not been substituted for him as the scheme employer by virtue of section 177A,

the reference in subsection (2) above to the scheme employer shall be construed as a reference to the personal representatives.

(4) Where—

- (a) a payment to which this section applies was made by a person other than the scheme employer, and
- (b) the scheme employer is not resident in the United Kingdom,

then in relation to that payment the reference in subsection (2) above to the scheme employer shall include a reference to the person by whom the payment was made.”

6 At the end of section 180 (annual returns) there shall be added—

“(5) Where—

- (a) the scheme employer has died, but
- (b) his personal representatives have not been substituted for him as the scheme employer by virtue of section 177A,

the reference in subsection (1) above to the scheme employer shall be construed as a reference to the personal representatives.”

7 At the end of section 181 (information) there shall be added—

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“(4) Where the scheme employer has died, his personal representatives shall inform the Board of his death by notice given before the end of the period of one month beginning with the date of the grant of probate or letters of administration or, in Scotland, confirmation of executors.”

- 8 (1) Section 182 (appeals) shall be amended as follows.
- (2) In subsection (1) after paragraph (b) there shall be inserted—
- “(bb) against a refusal by the Board of an application under section 177B(3);”.
- (3) After subsection (1) there shall be inserted—
- “(1A) An appeal to the Special Commissioners may be made by the personal representatives of a scheme employer against a refusal by the Board of an application under section 177A.”
- (4) In subsection (2) for the words “scheme employer” there shall be substituted the word “appellant”.
- 9 (1) Paragraph 7 of Schedule 8 (no payments for employees with material interest in company) shall be amended as follows.
- (2) In sub-paragraph (1), the words “, or is an associate of a person who has,” shall be omitted.
- (3) In sub-paragraph (3), after the words “section 417(3) and (4)” there shall be inserted the words “, but subject to sub-paragraph (4) below”.
- (4) The following sub-paragraphs shall be added at the end—
- “(4) For the purposes of this paragraph, where an employee of a company has an interest in shares or obligations of the company as a beneficiary of an employee benefit trust, the trustees shall not be regarded as associates of his by reason only of that interest unless sub-paragraph (8) below applies in relation to him.
- (5) A trust is an employee benefit trust for the purposes of this paragraph if—
- (a) all or most of the employees of the company are eligible to benefit under it, and
- (b) none of the property subject to it has been disposed of on or after 14th March 1989 (whether by sale, loan or otherwise) except in the ordinary course of management of the trust or in accordance with sub-paragraph (6) below.
- (6) Property is disposed of in accordance with this sub-paragraph if—
- (a) it is applied for the benefit of—
- (i) individual employees or former employees of the company,
- (ii) spouses, former spouses, widows or widowers of employees or former employees of the company,
- (iii) relatives, or spouses of relatives, of persons within sub-paragraph (i) or (ii) above, or

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- (iv) dependants of persons within sub-paragraph (i) above,
- (b) it is applied for charitable purposes, or
- (c) it is transferred to the trustees of an approved profit sharing scheme (within the meaning of section 187), of another employee benefit trust, or of a qualifying employee share ownership trust (within the meaning of Schedule 5 to the Finance Act 1989),
- and the property applied or transferred consists of any of the ordinary share capital of the company or of money paid outright.
- (7) In sub-paragraph (6)(a)(iii) above “relative” means parent or remoter forebear, child or remoter issue, brother, sister, uncle, aunt, nephew or niece.
- (8) This sub-paragraph applies in relation to an employee if at any time on or after 14th March 1989—
- (a) the employee, either on his own or with any one or more of his associates, or
- (b) any associate of his, with or without other such associates,
- has been the beneficial owner of, or able (directly or through the medium of other companies or by any other indirect means) to control, more than 25 per cent. of the ordinary share capital of the company.
- (9) Where—
- (a) on or after 14th March 1989 an employee of a company, or an associate of his, receives a payment (“the relevant payment”) from the trustees of an employee benefit trust, and
- (b) at any time during the period of three years ending with the day on which the relevant payment is received, the property subject to the trust consists of or includes any part of the ordinary share capital of the company,
- the employee or associate shall be treated for the purposes of sub-paragraph (8) above as if he were the beneficial owner of the appropriate percentage of the ordinary share capital of the company on the day on which the relevant payment is received (in addition to any percentage of that share capital of which he is actually the beneficial owner on that day).
- (10) For the purposes of sub-paragraph (9) above, the appropriate percentage is—

$$\frac{A \times 100}{B}$$

where—

A is the smaller of—

- (a) the aggregate of the relevant payment and any other payments received by the employee or associates of his from the trustees of the trust during the period of 12 months ending with the day on which the relevant payment is received, and
- (b) the aggregate of the distributions made to the trustees of the trust by the company in respect of its ordinary share capital during the period of three years ending with the day on which the relevant payment is received; and

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B is the aggregate of—

- (a) any distributions made by the company in respect of its ordinary share capital during the period of 12 months ending with the day on which the relevant payment is received,
- (b) any distributions so made during the period of 12 months immediately preceding that mentioned in paragraph (a) above, and
- (c) any distributions so made during the period of 12 months immediately preceding that mentioned in paragraph (b) above,

divided by the number of the periods mentioned in paragraphs (a) to (c) above in which distributions were so made.

(11) Where—

- (a) an employee or associate is treated by sub-paragraph (9) above as if he were the beneficial owner of a percentage of the ordinary share capital of a company by reason of receiving the relevant payment from the trustees of a trust, and
- (b) that employee, or an associate of his, has, during the period of 12 months ending with the day on which the relevant payment is received, received one or more payments from trustees of another employee benefit trust or trust satisfying the requirement in paragraph (b) of sub-paragraph (9) above,

that sub-paragraph shall have effect in relation to the employee or associate mentioned in paragraph (a) above as if he had received the payment from the trustees of the trust or of each of the trusts mentioned in paragraph (b) above (or where more than one payment has been received from the trustees of a trust, the last of the payments) on the day on which the relevant payment is received.

(12) In sub-paragraphs (8) to (11) above “associate”, in relation to an employee, does not include the trustees of an employee benefit trust by reason only that the employee has an interest in shares or obligations of the trust.”

10 (1) Paragraphs 13(2) and 14(2) of Schedule 8 (which provide for a scheme’s distributable pool to be at least 5 per cent. of the pay of all the employees to whom the scheme relates if profits remain unchanged) shall be omitted.

(2) In consequence of sub-paragraph (1) above—

- (a) the following provisions shall be omitted—
 - section 175(3);
 - in section 176(1), the words “(but not more than six months)”;
 - section 178(2)(b);
 - in paragraph 13(1) of Schedule 8, the word “fixed”;
 - paragraph 13(3) of that Schedule;
 - paragraph 14(7) of that Schedule.
- (b) in paragraph 13 of Schedule 8—
 - (i) after sub-paragraph (1) there shall be inserted—

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- “(1A) That percentage must be a fixed percentage specified in the scheme and, if the scheme relates to more than one period, must be the same for each period.”;
- (ii) in sub-paragraph (4)(a), for the words “the base year referred to in sub-paragraph (3) above” there shall be substituted the words “a base year specified in the scheme”;
- (iii) in sub-paragraph (5), for the words “must be” onwards there shall be substituted the words “must not exceed the profits for a base year specified in the scheme”;
- (iv) for sub-paragraph (6), there shall be substituted—
- “(6) The base year referred to in sub-paragraph (4)(a) and sub-paragraph (5) above must be a period of 12 months ending at a time within the period of two years immediately preceding the profit period, or the first of the profit periods, to which the scheme relates”;
- (c) in paragraph 14(5) of that Schedule, for the words “must be” onwards there shall be substituted the words “must not exceed the profits in the period of 12 months immediately preceding the first or only profit period to which the scheme relates”.
- 11 At the end of paragraph 13 of Schedule 8 (calculation of distributable pool by method A) there shall be added—
- “(7) Any provision included in a scheme by virtue of sub-paragraph (4) or (5) above may take effect either from the scheme’s first profit period or from any later profit period determined in accordance with the scheme.”
- 12 In paragraph 14 of Schedule 8 (calculation of distributable pool by method B), in sub-paragraph (5) the words “specified in, or” shall be omitted.
- 13 At the end of paragraph 14 of Schedule 8 there shall be added—
- “(8) Any provision included in a scheme by virtue of sub-paragraph (3)(b), (4) or (5) above may take effect either from the scheme’s first profit period or from any later profit period determined in accordance with the scheme.”
- 14 (1) Paragraph 19 of Schedule 8 (profit and loss account for purposes of profit-related pay scheme) shall be amended as follows.
- (2) After sub-paragraph (4) (account to make no allowance for remuneration of persons excluded from scheme) there shall be inserted—
- “(4A) In sub-paragraph (4) above “remuneration”, in relation to a person, includes fees and percentages, any sums paid by way of expenses allowance (in so far as those sums are charged to income tax), any contributions paid in respect of him under any pension scheme and the estimated value of any other benefits received by him otherwise than in cash.”

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- (3) In sub-paragraph (6) (items which may be left out of account in arriving at profits or losses) for paragraph (f) there shall be substituted—
- “(f) profit-related pay payable under the scheme, and profit-related pay payable under any other registered scheme if it is one to which paragraph 21 below applies;
 - (ff) secondary Class 1 contributions under Part I of the Social Security Act 1975 or Part I of the Social Security (Northern Ireland) Act 1975 in respect of profit-related pay payable under the scheme;”.
- 15 After paragraph 20 of Schedule 8 there shall be inserted—

Parts of undertakings

- “21 (1) This paragraph shall apply to a scheme if the employment unit is a part of an undertaking, and the scheme states that the profits or losses of the unit are for the purposes of the scheme to be taken to be equivalent to those of the whole undertaking (which must be identified by the scheme).
- (2) Where this paragraph applies to a scheme, this Schedule shall have effect as if any reference to the profits or losses of the employment unit were a reference to the profits or losses of the undertaking of which it forms part.
- “22 (1) Where paragraph 21 above applies to a scheme, the scheme must contain provisions ensuring that no payments are made under it by reference to a profit period unless, at the beginning of that profit period,
-
- (a) there is at least one other registered scheme which relates to employees employed in the same undertaking as that of which the employment unit forms part, and
 - (b) the number of the employees to whom the scheme relates does not exceed 33 per cent. of the number of the employees to whom that other scheme relates (or if there is more than one other scheme, the aggregate number of the employees to whom they relate).
- (2) Another registered scheme shall be disregarded for the purposes of sub-paragraph (1) above—
- (a) if paragraph 21 above applies to it, or
 - (b) if, by virtue of provisions of the kind described in paragraph 6 above, no payments could be made under it by reference to the profit period concerned.
- (3) Where paragraph 21 above applies to two or more schemes relating to employment units which are parts of the same undertaking, an employee to whom another scheme relates shall not be counted for the purposes of sub-paragraph (1)(b) above in connection with more than one of those schemes.”

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SCHEDULE 5

Section 74.

EMPLOYEE SHARE OWNERSHIP TRUSTS

Modifications etc. (not altering text)

- C1** Sch. 5 applied (6.3.1992 with effect as mentioned in s. 289(1)(2) of the applying Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 228(7), 235(8), 289 (with ss. 60, 101(1), 171, 201(3))

Qualifying trusts

- 1 A trust is a qualifying employee share ownership trust at the time it is established if the conditions set out in paragraphs 2 to 11 below are satisfied in relation to the trust at that time.

Modifications etc. (not altering text)

- C2** See Finance Act 1990 (c. 29) ss.31–40—roll-over relief for disposal of shares to employee share ownership trusts

General

- 2 (1) The trust must be established under a deed (the trust deed).
(2) The trust must be established by a company (the founding company) which, at the time the trust is established, is resident in the United Kingdom and not controlled by another company.

Modifications etc. (not altering text)

- C3** See Finance Act 1990 (c. 29) ss.31–40—roll-over relief for disposal of shares to employee share ownership trusts

Trustees

- 3 (1) The trust deed must provide for the establishment of a body of trustees.
(2) The trust deed must—
(a) appoint the initial trustees;
(b) contain rules for the retirement and removal of trustees;
(c) contain rules for the appointment of replacement and additional trustees.
(3) The trust deed must provide that at any time while the trust subsists (the relevant time)—
(a) the number of trustees must not be less than three;
(b) all the trustees must be resident in the United Kingdom;
(c) the trustees must include one person who is a trust corporation, a solicitor, or a member of such other professional body as the Board may from time to time allow for the purposes of this paragraph;

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- (d) most of the trustees must be persons who are not and have never been directors of any company which falls within the founding company's group at the relevant time;
 - (e) most of the trustees must be persons who are employees of companies which fall within the founding company's group at the relevant time, and who do not have and have never had a material interest in any such company;
 - (f) the trustees falling within paragraph (e) above must, before being appointed as trustees, have been selected by a majority of the employees of the companies falling within the founding company's group at the time of their selection or by persons elected to represent those employees.
- (4) For the purposes of sub-paragraph (3) above a company falls within the founding company's group at a particular time if—
- (a) it is the founding company, or
 - (b) it is at that time resident in the United Kingdom and controlled by the founding company.
- [^{F8}(5) This paragraph applies in relation to trusts established on or before the day on which the Finance Act 1994 was passed.]

Textual Amendments

F8 Sch. 5 para. 3(5) inserted (3.5.1994) by 1994 c. 9, s. 102, Sch. 13 para. 2

Modifications etc. (not altering text)

C4 See Finance Act 1990 (c. 29) ss.31–40—roll-over relief for disposal of shares to employee share ownership trusts

C5 Schedule 5 para. 3(3)(c) amended (1.1.1992) by S.I. 1991/2684, arts. 2(1), 4, Sch. 1

- [^{F9}3A Where a trust is established after the day on which the Finance Act 1994 was passed, the trust deed must make provision as mentioned in one of paragraphs (a) to (c) below—
- (a) provision for the establishment of a body of trustees and complying with paragraph 3(2) to (4) above;
 - (b) provision for the establishment of a body of trustees and complying with paragraph 3B(2) to (9) below;
 - (c) provision that at any time while the trust subsists there must be a single trustee.]

Textual Amendments

F9 Sch. 5 paras. 3A-3C inserted (3.5.1994) by 1994 c. 9, s. 102, Sch. 13 para. 3

- [^{F10}3B (1) The following are the provisions that must be complied with under paragraph 3A(b) above.
- (2) The trust deed must—
- (a) appoint the initial trustees;
 - (b) contain rules for the retirement and removal of trustees;
 - (c) contain rules for the appointment of replacement and additional trustees.

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- (3) The trust deed must be so framed that at any time while the trust subsists the conditions set out in sub-paragraph (4) below are fulfilled as regards the persons who are then trustees; and in that sub-paragraph “the relevant time” means that time.
- (4) The conditions are that—
 - (a) the number of trustees is not less than three;
 - (b) all the trustees are resident in the United Kingdom;
 - (c) the trustees include at least one person who is a professional trustee and at least two persons who are non-professional trustees;
 - (d) at least half of the non-professional trustees were, before being appointed as trustees, selected in accordance with sub-paragraph (7) or (8) below;
 - (e) all the trustees so selected are persons who are employees of companies which fall within the founding company’s group at the relevant time, and who do not have and have never had a material interest in any such company.
- (5) For the purposes of this paragraph a trustee is a professional trustee at a particular time if—
 - (a) the trustee is then a trust corporation, a solicitor, or a member of such other professional body as the Board may at that time allow for the purposes of this sub-paragraph,
 - (b) the trustee is not then an employee or director of any company then falling within the founding company’s group, and
 - (c) the trustee meets the requirements of sub-paragraph (6) below;and for the purposes of this paragraph a trustee is a non-professional trustee at a particular time if the trustee is not then a professional trustee for those purposes.
- (6) A trustee meets the requirements of this sub-paragraph if—
 - (a) he was appointed as an initial trustee and, before being appointed as trustee, was selected by (and only by) the persons who later became the non-professional initial trustees, or
 - (b) he was appointed as a replacement or additional trustee and, before being appointed as trustee, was selected by (and only by) the persons who were the non-professional trustees at the time of the selection.
- (7) Trustees are selected in accordance with this sub-paragraph if the process of selection is one under which—
 - (a) all the persons who are employees of the companies which fall within the founding company’s group at the time of the selection, and who do not have and have never had a material interest in any such company, are (so far as is reasonably practicable) given the opportunity to stand for selection,
 - (b) all the employees of the companies falling within the founding company’s group at the time of the selection are (so far as is reasonably practicable) given the opportunity to vote, and
 - (c) persons gaining more votes are preferred to those gaining less.
- (8) Trustees are selected in accordance with this sub-paragraph if they are selected by persons elected to represent the employees of the companies falling within the founding company’s group at the time of the selection.
- (9) For the purposes of this paragraph a company falls within the founding company’s group at a particular time if—
 - (a) it is at that time resident in the United Kingdom, and

Status: Point in time view as at 20/05/1995.

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- (b) it is the founding company or it is at that time controlled by the founding company.

Textual Amendments

F10 Sch. 5 paras. 3A-3C inserted (3.5.1994) by 1994 c. 9, s. 102, Sch. 13 para. 3

- ^{F11}3C (1) This paragraph applies where the trust deed provides that at any time while the trust subsists there must be a single trustee.
- (2) The trust deed must—
- (a) be so framed that at any time while the trust subsists the trustee is a company which at that time is resident in the United Kingdom and controlled by the founding company;
 - (b) appoint the initial trustee;
 - (c) contain rules for the removal of any trustee and for the appointment of a replacement trustee.
- (3) The trust deed must be so framed that at any time while the trust subsists the company which is then the trustee is a company so constituted that the conditions set out in sub-paragraph (4) below are then fulfilled as regards the persons who are then directors of the company; and in that sub-paragraph “the relevant time” is that time and “the trust company” is that company.
- (4) The conditions are that—
- (a) the number of directors is not less than three;
 - (b) all the directors are resident in the United Kingdom;
 - (c) the directors include at least one person who is a professional director and at least two persons who are non-professional directors;
 - (d) at least half of the non-professional directors were, before being appointed as directors, selected in accordance with sub-paragraph (7) or (8) below;
 - (e) all the directors so selected are persons who are employees of companies which fall within the founding company’s group at the relevant time, and who do not have and have never had a material interest in any such company.
- (5) For the purposes of this paragraph a director is a professional director at a particular time if—
- (a) the director is then a solicitor or a member of such other professional body as the Board may at that time allow for the purposes of this sub-paragraph,
 - (b) the director is not then an employee of any company then falling within the founding company’s group,
 - (c) the director is not then a director of any such company (other than the trust company), and
 - (d) the director meets the requirements of sub-paragraph (6) below;
- and for the purposes of this paragraph a director is a non-professional director at a particular time if the director is not then a professional director for those purposes.
- (6) A director meets the requirements of this sub-paragraph if—
- (a) he was appointed as an initial director and, before being appointed as director, was selected by (and only by) the persons who later became the non-professional initial directors, or

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- (b) he was appointed as a replacement or additional director and, before being appointed as director, was selected by (and only by) the persons who were the non-professional directors at the time of the selection.
- (7) Directors are selected in accordance with this sub-paragraph if the process of selection is one under which—
- (a) all the persons who are employees of the companies which fall within the founding company's group at the time of the selection, and who do not have and have never had a material interest in any such company, are (so far as is reasonably practicable) given the opportunity to stand for selection,
 - (b) all the employees of the companies falling within the founding company's group at the time of the selection are (so far as is reasonably practicable) given the opportunity to vote, and
 - (c) persons gaining more votes are preferred to those gaining less.
- (8) Directors are selected in accordance with this sub-paragraph if they are selected by persons elected to represent the employees of the companies falling within the founding company's group at the time of the selection.
- (9) For the purposes of this paragraph a company falls within the founding company's group at a particular time if—
- (a) it is at that time resident in the United Kingdom, and
 - (b) it is the founding company or it is at that time controlled by the founding company.

Textual Amendments

F11 Sch. 5 paras. 3A-3C inserted (3.5.1994) by 1994 c. 9, s. 102, Sch. 13 para. 3

Beneficiaries

- 4 (1) The trust deed must contain provision as to the beneficiaries under the trust, in accordance with the following rules.
- (2) The trust deed must provide that a person is a beneficiary at a particular time (the relevant time) if—
- (a) he is at the relevant time an employee or director of a company which at that time falls within the founding company's group,
 - (b) at each given time in a qualifying period he was an employee or director of a company falling within the founding company's group at that given time, and
 - (c) [^{F12}in the case of a director, at that given time he worked as a] director of the company concerned at the rate of at least 20 hours a week (ignoring such matters as holidays and sickness).
- (3) The trust deed may provide that a person is a beneficiary at a particular time (the relevant time) if—
- (a) he has at each given time in a qualifying period been an employee or director of a company falling within the founding company's group at that given time,
 - (b) he has ceased to be an employee or director of the company or the company has ceased to fall within that group, and

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- (c) at the relevant time a period of not more than eighteen months has elapsed since he so ceased or the company so ceased (as the case may be).
- (4) The trust deed may provide for a person to be a beneficiary if the person is a charity and the circumstances are such that—
- (a) there is no person who is a beneficiary within any rule which is included in the deed and conforms with sub-paragraph (2) or (3) above, and
 - (b) the trust is in consequence being wound up.
- (5) For the purposes of sub-paragraph (2) above a qualifying period is a period—
- (a) whose length is not less than one year and not more than five years,
 - (b) whose length is specified in the trust deed, and
 - (c) which ends with the relevant time (within the meaning of that sub-paragraph).
- (6) For the purposes of sub-paragraph (3) above a qualifying period is a period—
- (a) whose length is equal to that of the period specified in the trust deed for the purposes of a rule which conforms with sub-paragraph (2) above, and
 - (b) which ends when the person or company (as the case may be) ceased as mentioned in sub-paragraph (3)(b) above.
- (7) The trust deed must not provide for a person to be a beneficiary unless she falls within any rule which is included in the deed and conforms with sub-paragraph (2), (3) or (4) above.
- (8) The trust deed must provide that, notwithstanding any other rule which is included in it, a person cannot be a beneficiary at a particular time (the relevant time) if—
- (a) at that time he has a material interest in the founding company, or
 - (b) at any time in the period of one year preceding the relevant time he has had a material interest in that company.
- (9) For the purposes of this paragraph a company falls within the founding company's group at a particular time if—
- (a) it is at that time resident in the United Kingdom, and
 - (b) it is the founding company or it is at that time controlled by the founding company.
- (10) For the purposes of this paragraph a charity is a body of persons established for charitable purposes only.

Textual Amendments

- F12** Words in [Sch. 5 para. 4\(2\)\(c\)](#) substituted (1.5.1995 with effect as mentioned in [s. 137\(9\)](#) of the amending Act) by [1995 c. 4, s. 137\(5\)](#)

Modifications etc. (not altering text)

- C6** See [Finance Act 1990 \(c. 29\)](#) ss.31–40—*roll-over relief for disposal of shares to employee share ownership trusts*

Trustees' functions

- 5 (1) The trust deed must contain provision as to the functions of the trustees.

Status: Point in time view as at 20/05/1995.

Changes to legislation: Finance Act 1989 is up to date with all changes known to be in force on or before 23 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) The functions of the trustees must be so expressed that it is apparent that their general functions are—
- (a) to receive sums from the founding company and other sums (by way of loan or otherwise);
 - (b) to acquire securities;
 - (c) to transfer securities or sums (or both) to persons who are beneficiaries under the terms of the trust deed;
 - (d) to transfer securities to the trustees of profit sharing schemes approved under Schedule 9 to the Taxes Act 1988, for a price not less than the price the securities might reasonably be expected to fetch on a sale in the open market;
 - (e) pending transfer, to retain the securities and to manage them (whether by exercising voting rights or otherwise).

Modifications etc. (not altering text)

C7 See Finance Act 1990 (c. 29) ss.31–40—roll-over relief for disposal of shares to employee share ownership trusts

Sums

- 6 (1) The trust deed must require that any sum received by the trustees—
- (a) must be expended within the relevant period,
 - (b) may be expended only for one or more of the qualifying purposes, and
 - (c) must, while it is retained by them, be kept as cash or be kept in an account with a bank or building society.
- (2) For the purposes of sub-paragraph (1) above the relevant period is the period of nine months beginning with the day found as follows—
- (a) in a case where the sum is received from the founding company, or a company which is controlled by that company at the time the sum is received, the day following the end of the period of account in which the sum is charged as an expense of the company from which it is received;
 - (b) in any other case, the day the sum is received.
- (3) For the purposes of sub-paragraph (1) above each of the following is a qualifying purpose—
- (a) the acquisition of shares in the founding company;
 - (b) the repayment of sums borrowed;
 - (c) the payment of interest on sums borrowed;
 - (d) the payment of any sum to a person who is a beneficiary under the terms of the trust deed;
 - (e) the meeting of expenses.
- (4) The trust deed must provide that, in ascertaining for the purposes of a relevant rule whether a particular sum has been expended, sums received earlier by the trustees shall be treated as expended before sums received by them later; and a relevant rule is one which is included in the trust deed and conforms with sub-paragraph (1) above.
- (5) The trust deed must provide that, where the trustees pay sums to different beneficiaries at the same time, all the sums must be paid on similar terms.

Status: Point in time view as at 20/05/1995.

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- (6) For the purposes of sub-paragraph (5) above, the fact that terms vary according to the levels of remuneration of beneficiaries, the length of their service, or similar factors, shall not be regarded as meaning that the terms are not similar.

Modifications etc. (not altering text)

C8 See Finance Act 1990 (c. 29) ss.31–40—roll-over relief for disposal of shares to employee share ownership trusts

Securities

- 7 (1) Subject to paragraph 8 below, the trust deed must provide that securities acquired by the trustees must be shares in the founding company which—
- (a) form part of the ordinary share capital of the company,
 - (b) are fully paid up,
 - (c) are not redeemable, and
 - (d) are not subject to any restrictions other than restrictions which attach to all shares of the same class or a restriction authorised by sub-paragraph (2) below.
- (2) Subject to sub-paragraph (3) below, a restriction is authorised by this sub-paragraph if—
- (a) it is imposed by the founding company's articles of association,
 - (b) it requires all shares held by directors or employees of the founding company, or of any other company which it controls for the time being, to be disposed of on ceasing to be so held, and
 - (c) it requires all shares acquired, in pursuance of rights or interests obtained by such directors or employees, by persons who are not (or have ceased to be) such directors or employees to be disposed of when they are acquired.
- (3) A restriction is not authorised by sub-paragraph (2) above unless—
- (a) any disposal required by the restriction will be by way of sale for a consideration in money on terms specified in the articles of association, and
 - (b) the articles also contain general provisions by virtue of which any person disposing of shares of the same class (whether or not held or acquired as mentioned in sub-paragraph (2) above) may be required to sell them on terms which are the same as those mentioned in paragraph (a) above.
- (4) The trust deed must provide that shares in the founding company may not be acquired by the trustees at a price exceeding the price they might reasonably be expected to fetch on a sale in the open market.
- (5) The trust deed must provide that shares in the founding company may not be acquired by the trustees at a time when that company is controlled by another company.

Modifications etc. (not altering text)

C9 See Finance Act 1990 (c. 29) ss.31–40—roll-over relief for disposal of shares to employee share ownership trusts

Status: Point in time view as at 20/05/1995.

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- 8 The trust deed may provide that the trustees may acquire securities other than shares in the founding company—
- (a) if they are securities issued to the trustees in exchange in circumstances mentioned in section [F13 135(1) of the M9 Taxation of Chargeable Gains Act 1992], or
 - (b) if they are securities acquired by the trustees as a result of a reorganisation, and the original shares the securities represent are shares in the founding company (construing “reorganisation” and “original shares” in accordance with section [F13 126] of that Act).

Textual Amendments

F13 Words in Sch. 5 para. 8 substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the substituting Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, Sch. 10 para. 19(5) (with s. 60, 101(1), 201(3))

Modifications etc. (not altering text)

C10 See Finance Act 1990 (c. 29) ss. 31–40—roll-over relief for disposal of shares to employee share ownership trusts

Marginal Citations

M9 1992 c. 12.

- 9 (1) The trust deed must provide that—
- (a) where the trustees transfer securities to a beneficiary, they must do so on qualifying terms;
 - (b) the trustees must transfer securities before the expiry of the [F14 qualifying period] beginning with the date on which they acquired them.
- (2) For the purposes of sub-paragraph (1) above a transfer of securities is made on qualifying terms if—
- (a) all the securities transferred at the same time are transferred on similar terms,
 - (b) securities have been offered to all the persons who are beneficiaries under the terms of the trust deed when the transfer is made, and
 - (c) securities are transferred to all such beneficiaries who have accepted.
- [F15(2A) For the purposes of sub-paragraph (1) above the qualifying period is—
- (a) seven years, in the case of trusts established on or before the day on which the Finance Act 1994 was passed;
 - (b) twenty years, in the case of other trusts.]
- (3) For the purposes of sub-paragraph (2) above, the fact that terms vary according to the levels of remuneration of beneficiaries, the length of their service, or similar factors, shall not be regarded as meaning that the terms are not similar.
- (4) The trust deed must provide that, in ascertaining for the purposes of a relevant rule whether particular securities are transferred, securities acquired earlier by the trustees shall be treated as transferred by them before securities acquired by them later; and a relevant rule is one which is included in the trust deed and conforms with sub-paragraph (1) above.

Status: Point in time view as at 20/05/1995.

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Textual Amendments

- F14** Words in Sch. 5 para. 9(1)(b) substituted (3.5.1994) by 1994 c. 9, s. 102, Sch. 13 para. 7(2)
F15 Sch. 5 para. 9(2A) inserted (3.5.1994) by 1994 c. 9, s. 102, Sch. 13 para. 7(3)

Modifications etc. (not altering text)

- C11** See Finance Act 1990 (c. 29) ss.31–40—roll-over relief for disposal of shares to employee share ownership trusts

Other features

- 10 The trust deed must not contain features which are not essential or reasonably incidental to the purpose of acquiring sums and securities, transferring sums and securities to employees and directors, and transferring securities to the trustees of profit sharing schemes approved under Schedule 9 to the Taxes Act 1988.

Modifications etc. (not altering text)

- C12** See Finance Act 1990 (c. 29) ss.31–40—roll-over relief for disposal of shares to employee share ownership trusts

Rules about acquisition etc.

- 11 (1) The trust deed must provide that, for the purposes of the deed, the trustees—
- (a) acquire securities when they become entitled to them;
 - (b) transfer securities to another person when that other becomes entitled to them;
 - (c) retain securities if they remain entitled to them.
- (2) But if the deed provides as mentioned in paragraph 8 above, it must provide for the following exceptions to any rule which is included in it and conforms with sub-paragraph (1)(a) above, namely, that—
- (a) if securities are issued to the trustees in exchange in circumstances mentioned in section [F16]135(1) of the M10 Taxation of Chargeable Gains Act 1992], they shall be treated as having acquired them when they became entitled to the securities for which they are exchanged;
 - (b) if the trustees become entitled to securities as a result of a reorganisation, they shall be treated as having acquired them when they became entitled to the original shares which those securities represent (construing “reorganisation” and “original shares” in accordance with section [F16]126] of that Act).
- (3) The trust deed must provide that—
- (a) if the trustees agree to take a transfer of securities, for the purposes of the deed they become entitled to them when the agreement is made and not on a later transfer made pursuant to the agreement;
 - (b) if the trustees agree to transfer securities to another person, for the purposes of the deed the other person becomes entitled to them when the agreement is made and not on a later transfer made pursuant to the agreement.

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Textual Amendments

F16 Words in [Sch. 5 para. 11](#) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the substituting Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, [Sch. 10 para. 19\(5\)](#) (with s. 60, 101(1), 201(3))

Modifications etc. (not altering text)

C13 See [Finance Act 1990 \(c. 29\)](#) ss.31–40—*roll-over relief for disposal of shares to employee share ownership trusts*

Marginal Citations

M10 [1992 c. 12](#).

Position after trust's establishment

- 12 A trust which was at the time it was established a qualifying employee share ownership trust shall continue to be one, except that it shall not be such a trust at any time when the requirements mentioned in paragraph 3(3)(a) to (f) above are not satisfied. [^{F17}This paragraph applies in relation to trusts established on or before the day on which the Finance Act 1994 was passed.]

Textual Amendments

F17 Words in [Sch. 5 para. 12](#) inserted (3.5.1994) by [1994 c. 9, s. 102](#), [Sch. 13 para. 4](#)

Modifications etc. (not altering text)

C14 See [Finance Act 1990 \(c. 29\)](#) ss.31–40—*roll-over relief for disposal of shares to employee share ownership trusts*

- [^{F18}12A(1) Subject to sub-paragraphs (2) and (3) below, a trust which was at the time it was established a qualifying employee share ownership trust shall continue to be one.
- (2) If the trust deed makes provision under paragraph 3A(a) above, the trust shall not be a qualifying employee share ownership trust at any time when the requirements mentioned in paragraph 3(3)(a) to (f) above are not satisfied.
- (3) If the trust deed makes provision under paragraph 3A(b) above, the trust shall not be a qualifying employee share ownership trust at any time when the conditions mentioned in paragraph 3B(4)(a) to (e) above are not satisfied.
- (4) If the trust deed makes provision under paragraph 3A(c) above, the trust shall not be a qualifying employee share ownership trust at any time when—
- (a) there is not a single trustee,
 - (b) the trustee is not a company which is resident in the United Kingdom and controlled by the founding company, or
 - (c) the conditions mentioned in paragraph 3C(4)(a) to (e) above are not satisfied as regards the directors of the trustee.
- (5) This paragraph applies in relation to trusts established after the day on which the Finance Act 1994 was passed.]

Status: Point in time view as at 20/05/1995.

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Textual Amendments

F18 Sch. 5 para. 12A inserted (3.5.1994) by 1994 c. 9, s. 102, Sch. 13 para. 5

- 13 A trust is an employee share ownership trust at a particular time (the relevant time) if it was a qualifying employee share ownership trust at the time it was established; and it is immaterial whether or not it is a qualifying employee share ownership trust at the relevant time.

Modifications etc. (not altering text)

C15 See Finance Act 1990 (c. 29) ss.31–40—roll-over relief for disposal of shares to employee share ownership trusts

Interpretation

- 14 For the purposes of this Schedule the following are securities—
- (a) shares;
 - (b) debentures.

Modifications etc. (not altering text)

C16 See Finance Act 1990 (c. 29) ss.31–40—roll-over relief for disposal of shares to employee share ownership trusts

- 15 For the purposes of this Schedule, the question whether one company is controlled by another shall be construed in accordance with section 840 of the Taxes Act 1988.

Modifications etc. (not altering text)

C17 See Finance Act 1990 (c. 29) ss.31–40—roll-over relief for disposal of shares to employee share ownership trusts

- 16 (1) For the purposes of this Schedule a person shall be treated as having a material interest in a company if he, either on his own or with one or more of his associates, or if any associate of his with or without other such associates,—
- (a) is the beneficial owner of, or able (directly or through the medium of other companies or by any other indirect means) to control, more than 5 percent. of the ordinary share capital of the company, or
 - (b) possesses, or is entitled to acquire, such rights as would, in the event of the winding-up of the company or in any other circumstances, give an entitlement to receive more than 5 per cent. of the assets which would then be available for distribution among the participators.
- (2) In this paragraph—
- (a) “associate” has the same meaning as in section 417(3) and (4) of the Taxes Act 1988, but subject to sub-paragraph (3) below,
 - (b) “control” has the meaning given by section 840 of that Act, and
 - (c) “participator” has the same meaning as in Part XI of that Act.

Status: Point in time view as at 20/05/1995.

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- (3) Where a person has an interest in shares or obligations of the company as a beneficiary of an employee benefit trust, the trustees shall not be regarded as associates of his by reason only of that interest unless sub-paragraph (5) below applies in relation to him.
- (4) In sub-paragraph (3) above “employee benefit trust” has the same meaning as in paragraph 7 of Schedule 8 to the Taxes Act 1988, except that in its application for this purpose paragraph 7(5)(b) of that Schedule shall have effect as if it referred to the day on which this Act was passed instead of to 14th March 1989.
- (5) This sub-paragraph applies in relation to a person if at any time on or after the day on which this Act was passed—
- (a) he, either on his own or with any one or more of his associates, or
 - (b) any associate of his, with or without other such associates,
- has been the beneficial owner of, or able (directly or through the medium of other companies or by any other indirect means) to control, more than 5 percent. of the ordinary share capital of the company.
- (6) Sub-paragraphs (9) to (12) of paragraph 7 of Schedule 8 to the Taxes Act 1988 shall apply for the purposes of sub-paragraph (5) above as they apply for the purposes of that paragraph.

Modifications etc. (not altering text)

C18 See Finance Act 1990 (c. 29) ss.31–40—roll-over relief for disposal of shares to employee share ownership trusts

[^{F19}17 For the purposes of this Schedule a trust is established when the deed under which it is established is executed.]

Textual Amendments

F19 Sch. 5 para. 17 inserted (3.5.1994) by 1994 c. 9, s. 102, Sch. 13 para. 8

SCHEDULE 6

Section 75.

RETIREMENT BENEFITS SCHEMES

PART I

AMENDMENTS OF TAXES ACT

Preliminary

- 1 The Taxes Act 1988 shall be amended as mentioned in the following provisions of this Part of this Schedule.

Status: Point in time view as at 20/05/1995.

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Amendments

F20₂

Textual Amendments

F20 Sch. 6 para. 2 repealed (1.5.1995 with effect in accordance with Sch. 8 para. 57 of the amending Act) by 1995 c. 4, s. 162, Sch. 29 Pt. VIII(5), note 2

- 3 (1) Section 590 (conditions for approval of schemes) shall be amended as follows.
- (2) In subsection (3)(d) (condition to be satisfied as to lump sum) the words “(disregarding any excess of that remuneration over the permitted maximum)” shall be omitted.
- (3) In subsection (3) for the words from “In paragraph (d) above” to the end there shall be substituted—
- “(e) that, in the case of any employee who is a member of the scheme by virtue of two or more relevant associated employments, the amount payable by way of pension in respect of service in any one of them may not, when aggregated with any amount payable by way of pension in respect of service in the other or others, exceed the relevant amount;
 - (f) that, in the case of any employee who is a member of the scheme by virtue of two or more relevant associated employments, the amount payable by way of commuted pension in respect of service in any one of them may not, when aggregated with any amount payable by way of commuted pension in respect of service in the other or others, exceed the relevant amount;
 - (g) that, in the case of any employee in relation to whom the scheme is connected with another scheme which is (or other schemes each of which is) an approved scheme, the amount payable by way of pension under the scheme may not, when aggregated with any amount payable by way of pension under the other scheme or schemes, exceed the relevant amount;
 - (h) that, in the case of any employee in relation to whom the scheme is connected with another scheme which is (or other schemes each of which is) an approved scheme, the amount payable by way of commuted pension may not, when aggregated with any amount payable by way of commuted pension under the other scheme or schemes, exceed the relevant amount.”
- (4) For subsection (7) there shall be substituted—
- “(7) Subsections (8) to (10) below apply where the Board are considering whether a retirement benefits scheme satisfies or continues to satisfy the prescribed conditions.
- (8) For the purpose of determining whether the scheme, so far as it relates to a particular class or description of employees, satisfies or continues to satisfy the prescribed conditions, that scheme shall be considered in conjunction with—

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- (a) any other retirement benefits scheme (or schemes) which relates (orrelate) to employees of that class or description and which is (or are)approved for the purposes of this Chapter,
 - (b) any other retirement benefits scheme (or schemes) which relates (orrelate) to employees of that class or description and which is (or are) at thesame time before the Board in order for them to decide whether to giveapproval for the purposes of this Chapter,
 - (c) any section 608 scheme or schemes relating to employees of that class ordescription, and
 - (d) any relevant statutory scheme or schemes relating to employees of thatclass or description.
- (9) If those conditions are satisfied in the case of both or all of thoseschemes taken together, they shall be taken to be satisfied in the case of thescheme mentioned in subsection (7) above (as well as the other or others).
- (10) If those conditions are not satisfied in the case of both or all of thoseschemes taken together, they shall not be taken to be satisfied in the caseof the scheme mentioned in subsection (7) above.
- (11) The reference in subsection (8)(c) above to a section 608 scheme is areference to a fund to which section 608 applies.”
- 4 The following sections shall be inserted after section 590—

“590A Section 590: supplementary provisions.

- (1) For the purposes of section 590(3)(e) and (f) two or more employments are relevant associated employments if they are employments in the case of which—
 - (a) there is a period during which the employee has held both or all of them,
 - (b) the period counts under the scheme in the case of both or all of them as a period in respect of which benefits are payable, and
 - (c) the period is one during which both or all of the employers in question are associated.
- (2) For the purposes of section 590(3)(g) and (h) the scheme is connected with another scheme in relation to an employee if—
 - (a) there is a period during which he has been the employee of two persons who are associated employers,
 - (b) the period counts under both schemes as a period in respect of which benefits are payable, and
 - (c) the period counts under one scheme by virtue of service with one employer and under the other scheme by virtue of service with the other employer.
- (3) For the purposes of subsections (1) and (2) above, employers are associated if (directly or indirectly) one is controlled by the other or if both are controlled by a third person.
- (4) In subsection (3) above the reference to control, in relation to a body corporate, shall be construed—

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- (a) where the body corporate is a close company, in accordance with section 416, and
- (b) where it is not, in accordance with section 840.

590B Section 590: further supplementary provisions.

- (1) For the purposes of section 590(3)(e) the relevant amount, in relation to an employee, shall be found by applying the following formula—

$$\frac{A \times C}{60}$$

- (2) For the purposes of section 590(3)(f) the relevant amount, in relation to an employee, shall be found by applying the following formula—

$$\frac{3 \times A \times C}{80}$$

- (3) For the purposes of section 590(3)(g) the relevant amount, in relation to an employee, shall be found by applying the following formula—

$$\frac{B \times C}{60}$$

- (4) For the purposes of section 590(3)(h) the relevant amount, in relation to an employee, shall be found by applying the following formula—

$$\frac{3 \times B \times C}{80}$$

- (5) For the purposes of this section A is the aggregate number of years service (expressing parts of a year as a fraction), subject to a maximum of 40, which, in the case of the employee, count for the purposes of the scheme at the time the benefits in respect of service in the employment become payable.
- (6) But where the same year (or part of a year) counts for the purposes of this scheme by virtue of more than one of the relevant associated employments it shall be counted only once in calculating the aggregate number of years service for the purposes of subsection (5) above.
- (7) For the purposes of this section B is the aggregate number of years service (expressing parts of a year as a fraction), subject to a maximum of 40, which, in the case of the employee, count for the purposes of any of the following—
- (a) the scheme, and
 - (b) the other scheme or schemes with which the scheme is connected in relation to him,

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at the time the benefits become payable.

- (8) But where the same year (or part of a year) counts for the purposes of more than one scheme it shall be counted only once in calculating the aggregate number of years service for the purpose of subsection (7) above.
- (9) For the purposes of this section C is the permitted maximum in relation to the year of assessment in which the benefits in question become payable, that is, the figure found for that year by virtue of subsections (10) and (11) below.
- (10) For the years 1988-89 and 1989-90 the figure is £60,000.
- (11) For any subsequent year of assessment the figure is the figure found for that year, for the purposes of section 590C, by virtue of section 590C(4) and (5).

590C Earnings cap.

- (1) In arriving at an employee's final remuneration for the purposes of section 590(3)(a) or (d), any excess of what would be his final remuneration (apart from this section) over the permitted maximum for the year of assessment in which his participation in the scheme ceases shall be disregarded.
- (2) In subsection (1) above "the permitted maximum", in relation to a year of assessment, means the figure found for that year by virtue of subsections (3) and (4) below.
- (3) For the years 1988-89 and 1989-90 the figure is £60,000.
- (4) For any subsequent year of assessment the figure is also £60,000, subject to subsection (5) below.
- (5) If the retail prices index for the month of December preceding a year of assessment falling within subsection (4) above is higher than it was for the previous December, the figure for that year shall be an amount arrived at by—
 - (a) increasing the figure for the previous year of assessment by the same percentage as the percentage increase in the retail prices index, and
 - (b) if the result is not a multiple of £600, rounding it up to the nearest amount which is such a multiple.
- (6) The Treasury shall in the year of assessment 1989-90, and in each subsequent year of assessment, make an order specifying the figure which is by virtue of this section the figure for the following year of assessment."

- 5 (1) Section 592 (exempt approved schemes) shall be amended as follows.
 - (2) In subsection (8) there shall be inserted at the beginning the words "Subject to subsection (8A) below,".
 - (3) After subsection (8) there shall be inserted—

"(8A) Where an employee's remuneration for a year of assessment includes remuneration in respect of more than one employment, the amount allowed to be deducted by virtue of subsection (7) above in respect of contributions paid by the employee in that year by virtue of any employment

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(whether under a single scheme or under two or more schemes) shall not exceed 15 per cent, or such higher percentage as the Board may in a particular case prescribe, of his remuneration for the year in respect of that employment.”

(4) After subsection (8A) there shall be inserted—

“(8B) In arriving at an employee’s remuneration for a year of assessment for the purposes of subsection (8) or (8A) above, any excess of what would be his remuneration (apart from this subsection) over the permitted maximum for that year shall be disregarded.

(8C) In subsection (8B) above “permitted maximum”, in relation to a year of assessment, means the figure found for that year by virtue of subsections (8D) and (8E) below.

(8D) For the year 1989-90 the figure is £60,000.

(8E) For any subsequent year of assessment the figure is the figure found for that year, for the purposes of section 590C, by virtue of section 590C(4) and (5).”

6 (1) Section 594 (exempt statutory schemes) shall be amended as follows.

(2) In subsection (1) the word “relevant” shall be inserted before the words “statutory scheme”.

(3) In subsection (2) there shall be inserted at the beginning the words “Subject to subsection (3) below,”.

(4) After subsection (2) there shall be inserted—

“(3) Where a person’s remuneration for a year of assessment includes remuneration in respect of more than one office or employment, the amount allowed to be deducted by virtue of subsection (1) above in respect of contributions paid by the person in that year by virtue of any office or employment (whether under a single scheme or under two or more schemes) shall not exceed 15 per cent, or such higher percentage as the Board may in a particular case prescribe, of his remuneration for the year in respect of that office or employment.”

(5) After subsection (3) there shall be inserted—

“(4) In arriving at a person’s remuneration for a year of assessment for the purposes of subsection (2) or (3) above, any excess of what would be his remuneration (apart from this subsection) over the permitted maximum for that year shall be disregarded.

(5) In subsection (4) above “permitted maximum”, in relation to a year of assessment, means the figure found for that year by virtue of subsections (6) and (7) below.

(6) For the year 1989-90 the figure is £60,000.

(7) For any subsequent year of assessment the figure is the figure found for that year, for the purposes of section 590C, by virtue of section 590C(4) and (5).”

7 Section 595(2) and (3) (charge to tax in certain cases) shall be omitted.

8 (1) Section 596 (exceptions from section 595) shall be amended as follows.

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- (2) In subsection (1)—
- (a) for the words “Neither subsection (1) nor subsection (2) of section 595 shall” there shall be substituted the words “Section 595(1) shall not”; and
 - (b) in paragraph (b) the word “relevant” shall be inserted before the words “statutory scheme”.
- (3) In subsection (2) for the words “Neither subsection (1) nor subsection (2) of section 595 shall” there shall be substituted the words “Section 595(1) shall not”.
- (4) In subsection (3)(a) the words “either” and “or subsection (2)” shall be omitted.

9 The following section shall be inserted after section 596—

“596A Charge to tax: benefits under non-approved schemes.

- (1) Where in any year of assessment a person receives a benefit provided under a retirement benefits scheme which is not of a description mentioned in section 596(1) (a), (b) or (c), tax shall be charged in accordance with the provisions of this section.
- (2) Where the benefit is received by an individual, he shall be charged to tax under Schedule E for that year.
- (3) Where the benefit is received by a person other than an individual, the administrator of the scheme shall be charged to tax under Case VI of Schedule D for that year.
- (4) The amount to be charged to tax is—
 - (a) in the case of a cash benefit, the amount received, and
 - (b) in the case of a benefit in kind, an amount equal to whatever is the cash equivalent of the benefit.
- (5) In the case of the charge under Case VI of Schedule D, the rate of tax is 40 per cent. or such other rate (whether higher or lower) as may for the time being be specified by the Treasury by order.
- (6) Tax shall not be charged under this section in the case of a benefit which is chargeable to tax under Schedule E by virtue of section 19(1)1.
- (7) But where the amount chargeable to tax by virtue of section 19(1)1 is less than the amount which would be chargeable to tax under this section—
 - (a) subsection (6) above shall not apply, and
 - (b) the amount chargeable to tax under this section shall be reduced by the amount chargeable to tax by virtue of section 19(1)1.
- (8) Tax shall not be charged under this section to the extent that the benefit received is attributable to the payment of a sum—
 - (a) which is deemed to be the income of a person by virtue of section 595(1), and
 - (b) in respect of which that person has been assessed to tax.
- (9) For the purpose of subsection (8) above the provision of a benefit shall be presumed not to be attributable to the payment of such a sum as is mentioned in that subsection unless the contrary is shown.

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596B Section 596A: supplementary provisions.

- (1) For the purposes of section 596A the cash equivalent of a benefit in kind is—
 - (a) in the case of a benefit other than living accommodation, the amount which would be the cash equivalent of the benefit under Chapter II of Part V if it were chargeable under the appropriate provision of that Chapter (treating any sum made good by the recipient as made good by the employee), and
 - (b) in the case of living accommodation, an amount equal to the value of the accommodation to the recipient determined in accordance with the following provisions of this section less so much of any sum made good by him to those at whose cost the accommodation is provided as is properly attributable to the provision of the accommodation.
- (2) Where the cost of providing the accommodation does not exceed £75,000, the value of the accommodation to the recipient in any period is the rent which would have been payable for the period if the premises had been let to him at an annual rent equal to their annual value as ascertained under section 837.
- (3) But for a period in which those at whose cost the accommodation is provided pay rent at an annual rate greater than the annual value as so ascertained, the value of the accommodation to the recipient is an amount equal to the rent payable by them for the period.
- (4) Where the cost of providing the accommodation does exceed £75,000, the value of the accommodation to the recipient shall be taken to be the aggregate of the value of the accommodation to him determined in accordance with subsections (2) and (3) above and the additional value of the accommodation to him determined in accordance with subsections (5) and (6) below.
- (5) The additional value of the accommodation to the recipient in any period is the rent which would have been payable for that period if the premises had been let to him at an annual rent equal to the appropriate percentage of the amount by which the cost of providing the accommodation exceeds £75,000.
- (6) Where throughout the period of six years ending with the date when the recipient first occupied the property any estate or interest in the property was held by a relevant person (whether or not it was the same estate, interest or person throughout), the additional value shall be calculated as if in subsection (7) below—
 - (a) the amount referred to in paragraph (a) were the market value of that property as at that date, and
 - (b) the amount referred to in paragraph (b) did not include expenditure on improvements made before that date.
- (7) For the purposes of this section, the cost of providing any living accommodation shall be taken to be the aggregate of—
 - (a) the amount of any expenditure incurred in acquiring the estate or interest in the property held by a relevant person, and
 - (b) the amount of any expenditure incurred by a relevant person before the year of assessment in question on improvements to the property.

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- (8) The aggregate amount mentioned in subsection (7) above shall be reduced by the amount of any payment made by the recipient to a relevant person, so far as that amount represents a reimbursement of any such expenditure as is mentioned in paragraph (a) or (b) of that subsection or represents consideration for the grant to the recipient of a tenancy of the property.
- (9) For the purposes of this section, any of the following persons is a relevant person—
- (a) the person providing the accommodation;
 - (b) any person, other than the recipient, who is connected with a person falling within paragraph (a) above.
- (10) In this section—
- “the appropriate percentage” means the rate applicable for the purposes of section 160 as at the beginning of the year of assessment in question;
- “market value”, in relation to any property, means the price which that property might reasonably be expected to fetch on a sale in the open market with vacant possession, no reduction being made, in estimating the market value, on account of any option in respect of the property held by the recipient, or a person connected with him, or by any of the persons mentioned in subsection (9) above;
- “property”, in relation to any living accommodation, means the property consisting of that living accommodation;
- “tenancy” includes a sub-tenancy;
- and section 839 shall apply for the purposes of this section.”
- 10 In section 598(1)(b) (charge to tax: repayment of employee’s contributions) the word “relevant” shall be inserted before the words “statutory scheme”.
- 11 (1) Section 599 (charge to tax: commutation of entire pension in special circumstances) shall be amended as follows.
- (2) In subsection (2)(b) the word “relevant” shall be inserted before the words “statutory scheme”.
 - (3) After subsection (9) there shall be inserted—
- “(10) In subsection (1)(a) above “the permitted maximum” means, as regards a charge to tax arising under this section in a particular year of assessment, the figure found for that year by virtue of subsections (11) and (12) below.
- (11) For the years 1988-89 and 1989-90 the figure is £60,000.
- (12) For any subsequent year of assessment the figure is the figure found for that year, for the purposes of section 590C, by virtue of section 590C(4) and (5).”
- 12 (1) The following section shall be inserted after section 599—
- “599A Charge to tax: payments out of surplus funds.**
- (1) This subsection applies to any payment which is made to or for the benefit of an employee or to his personal representatives out of funds which are or have been held for the purposes of—

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- (a) a scheme which is or has at any time been an exempt approved scheme, or
 - (b) a relevant statutory scheme established under a public general Act, and which is made in pursuance of a duty to return surplus funds.
- (2) On the making of a payment to which subsection (1) above applies, the administrator of the scheme shall be charged to income tax under Case VI of Schedule D at the relevant rate on such amount as, after deduction of tax at that rate, would equal the amount of the payment.
 - (3) Subject to subsection (4) below, the relevant rate shall be 35 per cent.
 - (4) The Treasury may by order from time to time increase or decrease the relevant rate.
 - (5) Where a payment made to or for the benefit of an employee is one to which subsection (1) above applies, it shall be treated in computing the total income of the employee for the year in which it is made as income for that year which is—
 - (a) received by him after deduction of income tax at the basic rate from a corresponding gross amount, and
 - (b) chargeable to income tax under Case VI of Schedule D.
 - (6) But, subject to subsection (7) below, no assessment to income tax shall be made on, and no repayment of income tax shall be made to, the employee.
 - (7) Subsection (6) above shall not prevent an assessment in respect of income tax at a rate other than the basic rate.
 - (8) Subsection (5) above applies whether or not the employee is the recipient of the payment.
 - (9) Any payment chargeable to tax under this section shall not be chargeable to tax under section 598, 599 or 600 or under the Regulations mentioned in paragraph 8 of Schedule 3 to the Finance Act 1971.
 - (10) In this section—

“employee”, in relation to a relevant statutory scheme, includes any officer;

references to any payment include references to any transfer of assets or other transfer of money’s worth.”
- 13 (1) Section 600 (charge to tax: unauthorised payments to or for employees) shall be amended as follows.
- (2) In subsection (1) the words “or have been” and “or has at any time been” shall be omitted.
 - (3) In subsection (2) for paragraphs (a) and (b) there shall be substituted the words “is not expressly authorised by the rules of the scheme or by virtue of paragraph 33 of Schedule 6 to the Finance Act 1989.”
- 14 In section 605 (information) the word “relevant” shall be inserted before the words “statutory scheme” in subsections (2), (3)(a) and (b)(i) and (4).
- 15 The following section shall be inserted after section 611—

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“611A Definition of relevant statutory scheme.

- (1) In this Chapter any reference to a relevant statutory scheme is a reference to a statutory scheme—
 - (a) established before 14th March 1989, or
 - (b) established on or after that date and entered in the register maintained by the Board for the purposes of this section.
- (2) The Board shall maintain a register for the purposes of this section and shall enter in it the relevant particulars of any statutory scheme established on or after 14th March 1989 which is reported to the Board by the authority responsible for establishing it as a scheme the provisions of which correspond with those of an approved scheme.
- (3) The reference in subsection (2) above to the relevant particulars, in relation to a scheme, is a reference to—
 - (a) the identity of the scheme,
 - (b) the date on which it was established,
 - (c) the authority responsible for establishing it, and
 - (d) the date on which that authority reported the scheme to the Board.
- (4) Where the Board enter the relevant particulars of a scheme in the register maintained by them for the purposes of this section, they shall inform the authority responsible for establishing the scheme of the date of the entry.”

16 In section 828(4) (orders) after “377(8)” there shall be inserted “590C(6)”.

17 Paragraph 8 of Schedule 23 (benefits under scheme for additional voluntary contributions causing benefits under main scheme to abate if aggregate benefits exceed limits) shall be omitted.

Effect of amendments

- 18 (1) Paragraphs 2, 6(2), 8(2)(b), 10, 11(2), 14 and 15 above shall be deemed to have come into force on 14th March 1989.
- (2) Paragraphs 3(2) and (3) and 4 above shall have effect in relation to a scheme not approved by the Board before the day on which this Act is passed; but if the scheme came into existence before 14th March 1989 those provisions shall not have effect as regards an employee who became a member of the scheme before 1st June 1989.
- (3) Paragraph 3(4) above shall have effect where a determination is made on or after the day on which this Act is passed.
- (4) Paragraphs 5 and 6(3), (4) and (5) above shall have effect for the year 1989-90 and subsequent years of assessment, but paragraphs 5(4) and 6(5) above shall not have effect as regards a person’s remuneration in respect of an office or employment in such circumstances as the Board may by regulations prescribe for the purposes of this sub-paragraph.
- (5) Paragraphs 7 and 8(2)(a) and (3) above shall have effect for the year 1988-89 and subsequent years of assessment.

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- (6) Paragraph 8(4) above shall not have effect where a sum has been deemed to be income of a person by virtue of section 595(2) before 6th April 1988.
- (7) Paragraph 9 above shall have effect in relation to payments made and benefits provided on or after the day on which this Act is passed.
- (8) Paragraph 11(3) above shall have effect where the charge to tax under section 599 arises on or after 14th March 1989, but not where the scheme came into existence before that date and the employee became a member of it before 1st June 1989.
- (9) Paragraphs 12 and 13 above shall have effect in relation to payments made on or after the day on which this Act is passed.
- (10) Paragraph 17 above shall have effect in relation to benefits provided on or after the day on which this Act is passed.

Modifications etc. (not altering text)

C19 For regulations see Part III Vol. 5 (under “Retirement benefit schemes: tax relief on contributions”)

PART II

APPROVED SCHEMES: GENERAL

Preliminary

- 19 (1) This Part of this Schedule shall be deemed to have come into force on 14th March 1989 and, subject to sub-paragraphs (2) to (4) below, applies in relation to any retirement benefits scheme (within the meaning of Chapter I of Part XIV of the Taxes Act 1988) approved by the Board before the day on which this Act is passed.
- (2) The Board may by regulations provide that, in circumstances prescribed in the regulations, this Part of this Schedule or any provision of it shall not apply or shall apply with such modifications as may be so prescribed.
- (3) Regulations under sub-paragraph (2) above—
 - (a) may include provision authorising the Board to direct that this Part of this Schedule or any provision of it shall not apply in any particular case where in the opinion of the Board the facts are such that its application would not be appropriate;
 - (b) may take effect (and may authorise any direction given under them to take effect) as from 14th March 1989 or any later date;
 - (c) may make such supplementary provision as appears to the Board to be necessary or expedient.
- (4) This Part of this Schedule shall not apply to a scheme if, before the end of 1989, the administrator of the scheme gives written notice to the Board that it is not to apply.
- (5) Where a notice is given to the Board under sub-paragraph (4) above, the scheme shall cease to be approved—
 - (a) if it came into existence before 14th March 1989, with effect from 1st June 1989 or (if later) the date with effect from which it was approved;

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- (b) if it came into existence on or after 14th March 1989, with effect from the date with effect from which it was approved.

Modifications etc. (not altering text)

C20 For regulations see Part III Vol. 5 (under “Retirement benefit schemes: tax relief on contributions”)

Remuneration

- 20 (1) This paragraph applies—
- (a) where the scheme came into existence before 14th March 1989, as regards an employee who became a member of the scheme on or after 1st June 1989;
 - (b) where the scheme came into existence on or after 14th March 1989, as regards any employee who is a member of the scheme (whenever he became a member).
- (2) The rules of the scheme shall have effect (notwithstanding anything in them to the contrary and notwithstanding the effect of anything in Schedule 23 to the Taxes Act 1988) as if, in arriving at the employee’s relevant annual remuneration for the purposes of calculating benefits, any excess of what would be his relevant annual remuneration (apart from this paragraph) over the permitted maximum for the year of assessment in which his participation in the scheme ceases shall be disregarded.
- (3) The rules of the scheme shall have effect (notwithstanding anything in them to the contrary) as if, in arriving at the employee’s remuneration for the year 1988-89 or any subsequent year of assessment for the purposes of any restriction on the aggregate amount of contributions payable under the scheme by the employee and the employer, there were disregarded any excess of what would be his remuneration for the year (apart from this paragraph) over the permitted maximum for the year.
- (4) In this paragraph “the permitted maximum”, in relation to a year of assessment, means the figure found for that year by virtue of sub-paragraphs (5) and (6) below.
- (5) For the years 1988-89 and 1989-90 the figure is £60,000.
- (6) For any subsequent year of assessment the figure is the figure found for that year, for the purposes of section 590C of the Taxes Act 1988, by virtue of section 590C(4) and (5).

Modifications etc. (not altering text)

C21 See The Retirement Benefits Schemes (Continuation of Rights of Members of Approved Schemes) Regs. 1990 (S.I. 1990/2101—in Part III Vol. 5) for circumstances when para. 20 is *disapplied or modified*; when para. 21 is *modified*; or when para. 22 is *disapplied*

- 21 (1) The rules of the scheme shall have effect (notwithstanding anything in them to the contrary) as if the amount of contributions payable under the scheme by an employee in the year 1989-90 or any subsequent year of assessment were limited to 15 per cent. of his remuneration for the year in respect of the employment.
- (2) Where in relation to any year of assessment a percentage higher than 15 per cent. applies for the purposes of section 592(8) or (8A) of the Taxes Act 1988 (relief in respect of contributions) as regards any employee, sub-paragraph (1) above, as

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regards him, shall have effect in relation to that year with the substitution for 15 per cent. of that higher percentage.

Modifications etc. (not altering text)

C22 See The Retirement Benefits Schemes (Continuation of Rights of Members of Approved Schemes) Regs. 1990 (S.I.1990/2101—in Part III Vol. 5) for circumstances when para. 20 is disapplied or modified; when para. 21 is modified; or when para. 22 is disapplied

- 22 (1) This paragraph applies—
- (a) where the scheme came into existence before 14th March 1989, as regards an employee who became a member of the scheme on or after 1st June 1989;
 - (b) where the scheme came into existence on or after 14th March 1989, as regards any employee who is a member of the scheme (whenever he became a member).
- (2) For the purposes of paragraph 21(1) above, in arriving at the employee's remuneration for the year any excess of what would be his remuneration for the year (apart from this sub-paragraph) over the permitted maximum for the year shall be disregarded.
- (3) In sub-paragraph (2) above “the permitted maximum”, in relation to a year of assessment, means the figure found for that year by virtue of sub-paragraphs (4) and (5) below.
- (4) For the year 1989-90 the figure is £60,000.
- (5) For any subsequent year of assessment the figure is the figure found for that year, for the purposes of section 590C of the Taxes Act 1988, by virtue of section 590C(4) and (5).

Modifications etc. (not altering text)

C23 See The Retirement Benefits Schemes (Continuation of Rights of Members of Approved Schemes) Regs. 1990 (S.I.1990/2101—in Part III Vol. 5) for circumstances when para. 20 is disapplied or modified; when para. 21 is modified; or when para. 22 is disapplied

Accelerated accrual

- 23 (1) This paragraph applies where the scheme allows a member to commute his pension or part of it for a lump sum or sums and—
- (a) where the scheme came into existence before 14th March 1989, applies as regards an employee who became a member of the scheme on or after 1st June 1989, and
 - (b) where the scheme came into existence on or after 14th March 1989, applies as regards any employee who is a member of the scheme (whenever he became a member).
- (2) The rules of the scheme shall have effect (notwithstanding anything in them to the contrary and notwithstanding the effect of paragraph 3 of Schedule 23 to the Taxes Act 1988) as if they did not allow the employee to obtain by way of commutation a lump sum or sums exceeding in all the greater of the following sums—

Status: Point in time view as at 20/05/1995.

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- (a) a sum of three-eightieths of his relevant annual remuneration for each year of service up to a maximum of 40;
 - (b) a sum of the pension payable under the scheme to the employee for the first year in which it is payable multiplied by 2.25.
- (3) The following rules shall apply in calculating, for the purposes of sub-paragraph (2) above, the pension payable under the scheme to the employee for the first year in which it is payable—
- (a) if the pension payable for the year changes, the initial pension payable shall be taken;
 - (b) it shall be assumed that the employee will survive for the year;
 - (c) the effect of commutation, and of any allocation of pension to provide benefits for survivors, shall be ignored.

Modifications etc. (not altering text)

C24 See The Retirement Benefits Schemes (Continuation of Rights of Members of Approved Schemes) Regs. 1990 (S.I.1990/2101—in Part III Vol. 5) for circumstances when para. 23 is disapplied or modified

- 24 (1) This paragraph applies where the scheme provides a lump sum or sums for a member otherwise than by commutation of his pension or part of it and—
- (a) where the scheme came into existence before 14th March 1989, applies as regards an employee who became a member of the scheme on or after 1st June 1989, and
 - (b) where the scheme came into existence on or after 14th March 1989, applies as regards any employee who is a member of the scheme (whenever he became a member).
- (2) The rules of the scheme shall have effect (notwithstanding anything in them to the contrary and notwithstanding the effect of paragraph 4 of Schedule 23 to the Taxes Act 1988) as if they did not allow the payment to the employee, otherwise than by way of commutation, of a lump sum or sum exceeding in all the greater of the following sums—
- (a) a sum of three-eightieths of his relevant annual remuneration for each year of service up to a maximum of 40;
 - (b) a sum of the relevant number of eightieths of his relevant annual remuneration.
- (3) For the purposes of sub-paragraph (2) above the relevant number shall be found by taking the number of eightieths (of relevant annual remuneration) by reference to which the pension payable under the scheme to the employee is calculated, multiplying that number by three, and treating the resulting number as 120 if it would otherwise exceed 120.

Modifications etc. (not altering text)

C25 See The Retirement Benefits Schemes (Continuation of Rights of Members of Approved Schemes) Regs. 1990 (S.I.1990/2101—in Part III Vol. 5) for circumstances when para. 24 is disapplied

Status: Point in time view as at 20/05/1995.

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Associated employments

- 25 (1) This paragraph applies—
- (a) where the scheme came into existence before 14th March 1989, as regards an employee who became a member of the scheme on or after 1st June 1989;
 - (b) where the scheme came into existence on or after 14th March 1989, as regards any employee who is a member of the scheme (whenever he became a member).
- (2) Where the employee is a member of the scheme by virtue of two or more relevant associated employments, the rules of the scheme shall have effect as mentioned in sub-paragraph (3) below.
- (3) The rules of the scheme shall have effect (notwithstanding anything in them to the contrary) as if they prohibited the amount payable by way of pension in respect of service in any of the relevant associated employments, when aggregated with any amount payable by way of pension in respect of service in the other such employment or employments, from exceeding the relevant amount.
- (4) For the purposes of sub-paragraph (3) above the relevant amount, in relation to the employee, shall be found by applying the following formula—

$$\frac{A \times C}{30}$$

- (5) For the purposes of this paragraph—
- (a) section 590B(5) and (6) of the Taxes Act 1988 shall apply for the purpose of defining A, and
 - (b) section 590B(9) to (11) of that Act shall apply for the purpose of defining C, as they apply for the purposes of section 590B of that Act, except that for the purposes of this paragraph A shall not exceed 20.
- (6) The reference to two or more relevant associated employments shall be construed in accordance with section 590A of the Taxes Act 1988.

Modifications etc. (not altering text)

C26 See The Retirement Benefits Schemes (Continuation of Rights of Members of Approved Schemes) Regs. 1990 (S.I.1990/2101—in Part III Vol. 5) for circumstances when paras. 25 or 26 disapply

Connected schemes

- 26 (1) This paragraph applies—
- (a) where the scheme came into existence before 14th March 1989, as regards an employee who became a member of the scheme on or after 1st June 1989;
 - (b) where the scheme came into existence on or after 14th March 1989, as regards any employee who is a member of the scheme (whenever he became a member).

Status: Point in time view as at 20/05/1995.

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- (2) Where in relation to the employee the scheme is connected with another scheme which is (or other schemes each of which is) an approved scheme, the rules of the scheme shall have effect as mentioned in sub-paragraph (3) below.
- (3) The rules of the scheme shall have effect (notwithstanding anything in them to the contrary) as if they prohibited the amount payable by way of pension under the scheme, when aggregated with any amount payable by way of pension under the other scheme or schemes, from exceeding the relevant amount.
- (4) For the purposes of sub-paragraph (3) above the relevant amount, in relation to the employee, shall be found by applying the following formula—

$$\frac{B \times C}{30}$$

- (5) For the purposes of this paragraph—
 - (a) section 590B(7) and (8) of the Taxes Act 1988 shall apply for the purpose of defining B, and
 - (b) section 590B(9) to (11) of that Act shall apply for the purpose of defining C, as they apply for the purposes of section 590B of that Act, except that for the purposes of this paragraph B shall not exceed 20.
- (6) References in this paragraph to the scheme being connected with another scheme in relation to the employee shall be construed in accordance with section 590A of the Taxes Act 1988.

Modifications etc. (not altering text)

C27 See The Retirement Benefits Schemes (Continuation of Rights of Members of Approved Schemes) Regs. 1990 (S.I.1990/2101—in Part III Vol. 5) for circumstances when paras. 25 or 26 *disapplied*

Augmentation

- 27 (1) This paragraph applies—
 - (a) where the scheme came into existence before 14th March 1989, as regards an employee who became a member of the scheme on or after 1st June 1989;
 - (b) where the scheme came into existence on or after 14th March 1989, as regards any employee who is a member of the scheme (whenever he became a member).
- (2) Where in addition to being a member of the scheme (the main scheme) the employee is also a member of an approved scheme (the voluntary scheme) which provides additional benefits to supplement those provided by the main scheme and to which no contributions are made by any employer of his, sub-paragraph (3) below shall apply in relation to any augmentation of the benefits provided for him by the main scheme after he has ceased to participate in it.
- (3) Any rules of the main scheme imposing a limit on the amount of a benefit provided for the employee shall have effect (notwithstanding anything in them to the contrary) as if they provided for the limit to be reduced by the amount of any like benefit provided for the employee by the voluntary scheme.

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Centralised schemes

- 28 (1) Where the scheme is a centralised scheme, sub-paragraph (1)(a) and (b) of each of paragraphs 20 and 22 to 27 above shall have effect with the substitution for the reference to the coming into existence of the scheme of a reference to the commencement of the employer's participation in the scheme.
- (2) For the purposes of this paragraph a centralised scheme is a retirement benefits scheme (within the meaning of Chapter I of Part XIV of the Taxes Act 1988) established for the purpose of enabling any employer, other than an employer associated with the person by whom the scheme is established, to participate in it as regards his employees.
- (3) For the purposes of sub-paragraph (2) above one person is associated with another if (directly or indirectly) one is controlled by the other or if both are controlled by a third person.
- (4) In sub-paragraph (3) above the reference to control, in relation to a body corporate, shall be construed—
- (a) where the body corporate is a close company, in accordance with section 416 of the Taxes Act 1988, and
 - (b) where it is not, in accordance with section 840 of that Act.

Election

- 29 (1) In a case where—
- (a) an employee became a member of the scheme on or after 17th March 1987 and before 1st June 1989, and
 - (b) he gives written notice to the administrator of the scheme that this Part of this Schedule is to apply in his case,
- he shall be deemed for the purposes of this Part of this Schedule to have become a member of the scheme on 1st June 1989.
- (2) A notice under this paragraph shall be given in such form as the Board may prescribe.

Supplementary

- 30 In this Part of this Schedule “relevant annual remuneration” means final remuneration or, if the scheme provides for benefits to be calculated by reference to some other annual remuneration, that other annual remuneration.

PART III

APPROVED SCHEMES: ADDITIONAL VOLUNTARY CONTRIBUTIONS

Preliminary

- 31 (1) Subject to sub-paragraphs (2) to (4) below, this Part of this Schedule applies in relation to any retirement benefits scheme which was approved by the Board before the day on which this Act is passed and which makes provision for the payment by an employee of voluntary contributions.
- (2) Paragraph 32 below only applies where—

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- (a) the provision for the payment of voluntary contributions is freestanding, and
 - (b) the scheme is not one to which contributions are made by any employer of the employee.
- (3) The Board may by regulations provide that, in circumstances prescribed in the regulations, this Part of this Schedule or any provision of it shall not apply or shall apply with such modifications as may be so prescribed.
- (4) Regulations under sub-paragraph (3) above—
- (a) may include provision authorising the Board to direct that this Part of this Schedule or any provision of it shall not apply in any particular case where in the opinion of the Board the facts are such that its application would not be appropriate;
 - (b) may make such supplementary provision as appears to the Board to be necessary or expedient.

Abatement of benefits

- 32 (1) The scheme shall have effect (notwithstanding anything in it to the contrary) as if its rules included a rule imposing, in the case of each benefit provided for the employee, such a limit on the amount of the benefit as is mentioned in sub-paragraph (2) below.
- (2) The limit referred to above is a limit of such an amount as is found by—
- (a) taking the amount of the limit imposed by the main scheme on the provision of any like benefit for the employee by that scheme, and
 - (b) subtracting from that amount an amount equal to the relevant amount.
- (3) For the purposes of sub-paragraph (2) above the relevant amount is—
- (a) where the employee is not a member of any other relevant scheme, the amount of any like benefit provided for the employee by the main scheme, and
 - (b) where the employee is a member of another relevant scheme or schemes, an amount equal to the aggregate of the amount mentioned in paragraph (a) above and the amount of any like benefit provided for the employee by the other relevant scheme or schemes.
- (4) In sub-paragraph (3) above, references to the employee being a member of another relevant scheme are references to his being a member of any approved scheme, other than the scheme, which provides additional benefits for him to supplement those provided by the main scheme.
- (5) This paragraph shall have effect in relation to benefits provided on or after the day on which this Act is passed.

Return of surplus funds

- 33 (1) The scheme shall have effect (notwithstanding anything in it to the contrary) as if its rules included a rule requiring the administrator, in the circumstances mentioned in sub-paragraph (2) or (3) below, as the case may be, to make to the employee or his personal representatives a payment of an amount equal to the prescribed amount out of funds which are or have been held for the purposes of the scheme.
- (2) Where the provision for the payment of voluntary contributions is freestanding, the circumstances referred to above are that the amount of any benefit provided for the

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employee by the scheme would have been greater had the amount of any like benefit provided for him by the main scheme, or any other relevant scheme of which he is a member, been less.

- (3) Where the provision for the payment of voluntary contributions is not freestanding, the circumstances referred to above are that the amount of any benefit provided for the employee by virtue of the voluntary contributions would have been greater had the amount of any like benefit provided for him by the principal provisions of the scheme, or any other relevant scheme of which he is a member, been less.
- (4) In sub-paragraph (1) above, the reference to the prescribed amount is to an amount calculated in accordance with the method for the time being specified in regulations made for the purposes of section 591 of the Taxes Act 1988 as the method to be used for calculating the amount of any surplus funds.
- (5) In sub-paragraph (2) above, the reference to the employee being a member of another relevant scheme is a reference to his being a member of any approved scheme, other than the scheme, which provides additional benefits for him to supplement those provided by the main scheme.
- (6) In sub-paragraph (3) above, the reference to the employee being a member of another relevant scheme is a reference to his being a member of any approved scheme, other than the scheme, which provides additional benefits for him to supplement those provided by the principal provisions of the scheme.

34 The scheme shall have effect (notwithstanding anything in it to the contrary) as if its rules included a rule enabling the administrator, before making any payment by virtue of paragraph 33 above, to deduct the amount of any tax to which he is charged by section 599A of the Taxes Act 1988 by virtue of making the payment.

Supplementary

35 In this Part of this Schedule—

- (a) “administrator”, “approved scheme”, “employee” and “retirement benefits scheme” have the same meanings as in Chapter I of Part XIV of the Taxes Act 1988,
- (b) “freestanding”, in relation to provision for the payment of voluntary contributions, means provision which is contained in a retirement benefits scheme other than the one which provides the benefits which the voluntary contributions are intended to supplement,
- (c) “the main scheme”, in relation to provision for the payment of voluntary contributions which is freestanding, means the retirement benefits scheme which provides the benefits which the voluntary contributions are intended to supplement,
- (d) “principal provisions”, in relation to a retirement benefits scheme which makes provision for the payment of voluntary contributions which is not freestanding, means the provisions of the scheme concerning the provision of the benefits which the voluntary contributions are intended to supplement,
- (e) references to the provision of a benefit for an employee shall, in relation to a deceased employee, be construed as references to the provision of a benefit in respect of him, and
- (f) references to an employee being (or not being) a member of a scheme shall, in relation to a deceased employee, be construed as references to his

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having been (or not having been) a member of a scheme immediately before the time of his death.

SCHEDULE 7

Section 77.

PERSONAL PENSION SCHEMES

PART I

AMENDMENTS OF TAXES ACT

- 1 Chapter IV of Part XIV of the Taxes Act 1988 (personal pension schemes) shall be amended as mentioned in the following provisions of this Part of this Schedule.
- 2 (1) Section 635 (lump sum to member) shall be amended as follows.
- (2) The following subsection shall be substituted for subsection (3) (lump sum not to exceed one quarter of value of benefits for member)—
- “(3) The lump sum must not exceed one quarter of the difference between—
- (a) the total value, at the time when the lump sum is paid, of the benefits provided for by the arrangements made by the member in accordance with the scheme, and
- (b) the value, at that time, of such of the member’s rights under the scheme as are protected rights for the purposes of the Social Security Act 1986 or the Social Security (Northern Ireland) Order 1986.”
- (3) Subsection (4) (lump sum not to exceed £150,000 or sum specified by Treasury by order) shall cease to have effect.
- (4) This paragraph shall have effect in relation to the approval of a scheme on or after the day on which this Act is passed; but if the scheme came into existence before that day sub-paragraph (2) above shall not have effect as regards arrangements made by a member in accordance with the scheme before that day.
- 3 (1) In section 640 (maximum amount of deductions) the following table shall be substituted for the table in subsection (2) (maximum amount by reference to age)—
- | | |
|------------|--------------|
| 36 to 45 | 20 per cent. |
| 46 to 50 | 25 per cent. |
| 51 to 55 | 30 per cent. |
| 56 to 60 | 35 per cent. |
| 61 or more | 40 per cent. |
- (2) This paragraph shall have effect for the year 1989-90 and subsequent years of assessment.
- 4 (1) The following section shall be inserted after section 640—

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“640A Earnings cap.

- (1) In arriving at an individual’s net relevant earnings for a year of assessment for the purposes of section 640 above, any excess of what would be his net relevant earnings for the year (apart from this subsection) over the allowable maximum for the year shall be disregarded.
 - (2) In subsection (1) above “the allowable maximum” means, as regards a particular year of assessment, the figure found for that year by virtue of subsections (3) and (4) below.
 - (3) For the year of assessment 1989-90 the figure is £60,000.
 - (4) For the year of assessment 1990-91 and any subsequent year of assessment the figure is the figure found for that year, for the purposes of section 590C, by virtue of section 590C(4) and (5).”
- (2) This paragraph shall have effect for the year 1989-90 and subsequent years of assessment.
- 5 (1) Section 644 (meaning of relevant earnings) shall be amended as follows.
- (2) In subsection (2) for “(5)” there shall be substituted “(6F)”.
 - (3) The following subsections shall be inserted after subsection (6)—
 - “(6A) Emoluments of an individual as an employee of a company are not income within subsection (2) above if—
 - (a) he is a controlling director of the company at any time in the year of assessment in question or has been a controlling director of the company at any time in the ten years immediately preceding that year of assessment, and
 - (b) any of subsections (6B) to (6E) below applies in his case.
 - (6B) This subsection applies in the case of the individual if—
 - (a) at any time in the year of assessment in question he is in receipt of benefits under a relevant superannuation scheme, and
 - (b) the benefits are payable in respect of past service with the company.
 - (6C) This subsection applies in the case of the individual if—
 - (a) at any time in the year of assessment in question he is in receipt of benefits under a personal pension scheme,
 - (b) the scheme has received a transfer payment relating to him from a relevant superannuation scheme, and
 - (c) the transfer payment is in respect of past service with the company.
 - (6D) This subsection applies in the case of the individual if—
 - (a) at any time in the year of assessment in question he is in receipt of benefits under a relevant superannuation scheme,
 - (b) the benefits are payable in respect of past service with another company,
 - (c) the emoluments are for a period during which the company mentioned in subsection (6A) above has carried on a trade or business previously carried on by the other company, and

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- (d) the other company carried on the trade or business at any time during the period of service in respect of which the benefits are payable.
- (6E) This subsection applies in the case of the individual if—
- (a) at any time in the year of assessment in question he is in receipt of benefits under a personal pension scheme,
 - (b) the scheme has received a transfer payment relating to him from a relevant superannuation scheme,
 - (c) the transfer payment is in respect of past service with another company,
 - (d) the emoluments are for a period during which the company mentioned in subsection (6A) above has carried on a trade or business previously carried on by the other company, and
 - (e) the other company carried on the trade or business at any time during the period of service in respect of which the transfer payment was made.
- (6F) For the purposes of subsections (6A) to (6E) above—
- (a) a person is a controlling director of a company if he is a director (as defined by section 612(1)), and he is within paragraph (b) of section 417(5), in relation to the company;
 - (b) “relevant superannuation scheme” has the same meaning as in section 645(1);
 - (c) references to benefits payable in respect of past service with a company include references to benefits payable partly in respect of past service with the company; and
 - (d) references to a transfer payment in respect of past service with a company include references to a transfer payment partly in respect of past service with the company.”
- (4) This paragraph shall be deemed to have come into force on 6th April 1989.
- 6 (1) Section 645 (earnings from pensionable employment) shall be amended as follows.
- (2) In subsection (1)(c) for the words “neither subsection (4) nor subsection (5) below applies” there shall be substituted the words “subsection (4) below does not apply”.
 - (3) In subsection (3) the word “and” following paragraph (a) shall be omitted and after paragraph (b) there shall be inserted “and
 - (c) which is of a description mentioned in section 596(1)(a), (b) or (c).”
 - (4) After subsection (4) there shall be inserted—
 - “(4A) Where the emoluments from an office or employment held by an individual are foreign emoluments within the meaning of section 192, this section shall have effect with the substitution of the following for paragraph (c) of subsection (3) above—
 - (c) which corresponds to a scheme of a description mentioned in section 596(1)(a), (b) or (c).”
 - (5) Subsection (5) shall cease to have effect.
 - (6) This paragraph shall be deemed to have come into force on 6th April 1989.

Status: Point in time view as at 20/05/1995.

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- 7 (1) In section 646 (“net relevant earnings”) in subsection (1) after the words “(7) below” there shall be inserted the words “and section 646A”.
- (2) This paragraph shall have effect for the year 1989-90 and subsequent years of assessment.
- 8 (1) The following section shall be inserted after section 646—

“646A Earnings from associated employments.

- (1) This section applies where in the year of assessment in question—
- (a) an individual holds two or more offices or employments which are associated in that year,
 - (b) one or more of them is an office or employment to which section 645 applies (“pensionable job”), and
 - (c) one or more of them is an office or employment to which that section does not apply (“non-pensionable job”).
- (2) Where the emoluments for that year from the pensionable job (or jobs) are equal to or exceed the allowable maximum for that year, section 646(1) shall have effect in the case of the individual as if the references to relevant earnings were references to relevant earnings not attributable to the non-pensionable job (or jobs).
- (3) Where the allowable maximum for that year exceeds the emoluments for that year from the pensionable job (or jobs), the individual’s net relevant earnings, so far as attributable to the non-pensionable job (or jobs), shall not be greater than the amount of the excess.
- (4) For the purposes of this section two or more offices or employments held by an individual in a year of assessment are associated in that year if the employers in question are associated at any time during it.
- (5) For the purposes of subsection (4) above, employers are associated if (directly or indirectly) one is controlled by the other or if both are controlled by a third person.
- (6) In subsection (5) above the reference to control, in relation to a body corporate, shall be construed—
- (a) where the body corporate is a close company, in accordance with section 416, and
 - (b) where it is not, in accordance with section 840.
- (7) In this section “the allowable maximum” has the same meaning as in section 640A(1).”
- (2) This paragraph shall have effect for the year 1989-90 and subsequent years of assessment.
- 9 In section 655(5) (provisional approval in the case of applications made before 1st February 1990) the words “in cases where the applications are made before 1st February 1990” shall be omitted.

Status: Point in time view as at 20/05/1995.

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PART II

SCHEMES APPROVED BEFORE PASSING OF THIS ACT

Interpretation

- 10 In this Part of this Schedule—
- (a) “personal pension scheme” has the same meaning as in Chapter IV of Part XIV of the Taxes Act 1988, and
 - (b) references to approval of such a scheme do not include references to provisional approval under regulations made under section 655(5) of that Act.

Lump sum to member

- 11 (1) This paragraph applies as regards arrangements made by a member of a personal pension scheme approved by the Board before the day on which this Act is passed, if the arrangements are made by the member in accordance with the scheme on or after that day.
- (2) The rules of the scheme shall have effect (notwithstanding anything in them to the contrary) as if any limitation imposed on the maximum amount payable to the member by way of lump sum, and imposed by reference to a fraction of the total value of the benefits for him provided for by the arrangements, were imposed by reference to the same fraction of the difference between—
- (a) the total value, at the time when the lump sum is paid, of the benefits provided for by the arrangements, and
 - (b) the value, at that time, of such of his rights under the scheme as are protected rights for the purposes of the [F²¹Pension Schemes Act 1993] or the [F²²Pension Schemes (Northern Ireland) Act 1993].

Textual Amendments

F21 Words in Sch. 7 para. 11(2)(b) substituted (7.2.1994) by 1993 c. 48, s. 190, Sch. 8 para. 22 (with ss. 6(8), 164); S.I. 1994/86, art. 2

F22 Words in Sch. 7 para. 11(2)(b) substituted (7.2.1994) by 1993 c. 49, s. 184, Sch. 7 para. 24; S.R. 1994/17, art. 2

- 12 (1) This paragraph applies where on or after the day on which this Act is passed a lump sum becomes payable under a personal pension scheme approved by the Board before that day.
- (2) The rules of the scheme shall have effect (notwithstanding anything in them to the contrary) as if any limitation imposed on the maximum amount payable to a member by way of lump sum, and imposed by reference to a figure, did not apply.
- (3) The reference in sub-paragraph (2) above to a limitation imposed on the maximum amount payable to a member by way of lump sum does not include a reference to a limitation imposed on the maximum amount so payable out of a transfer payment.

Status: Point in time view as at 20/05/1995.

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SCHEDULE 8

Section 84.

AMENDMENTS OF CHAPTER I OF PART XII OF TAXES ACT 1988 (INSURANCE COMPANIES)

1 F23

Textual Amendments
F23 Sch. 8 paras. 1, 3(3), 7 repealed by Finance Act 1990 (c.29), s. 132, Sch. 19 Pt. IV, Notes 6, 14

2 Section 433 (profits reserved for policy holders or annuitants) shall cease to have effect.

3 (1) In section 434 (franked investment income etc.), for subsection (3) there shall be substituted the following subsections—

“(3) Subject to sections 437 and 438, the policy holders’ fraction of the franked investment income from investments held in connection with a company’s life assurance business shall not be used under Chapter V of Part VI to frank distributions made by the company and, accordingly, for the purposes of that Chapter (other than the application of franked investment income under section 241), in relation to any unrelieved income of a company falling within subsection (1) above, the surplus of franked investment income for any accounting period means the aggregate of—

- (a) the policy holders’ fraction of that franked investment income; and
- (b) the amount determined under section 241(3) on the basis that the reference therein to franked investment income is a reference only to the shareholders’ fraction of that income.

(3A) The policy holders’ fraction of the franked investment income from investments held in connection with a company’s life assurance business shall be left out of account in determining, under subsection (7) of section 13, the franked investment income forming part of the company’s profits for the purposes of that section.”

(2) Subsections (4) and (5) of that section shall be omitted.

(3)

F24 (4) In subsection (7) of that section for “(4)” there shall be substituted “(3)” and after the words “against which” there shall be inserted “disregarding relief under section 242”.

Textual Amendments
F24 Sch. 8 paras. 1, 3(3), 7 repealed by Finance Act 1990 (c.29), s. 132, Sch. 19 Pt. IV, Notes 6, 14

F25 4

Textual Amendments
F25 Sch. 8 para. 4 repealed (1.5.1995 with effect in accordance with Sch. 8 para. 57 of the amending Act) by 1995 c. 4, s. 162, Sch. 29 Pt. VIII(5), note

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- 5 Section 435 (taxation of gains reserved for policy holders and annuitants) shall cease to have effect.
- 6 In section 436 (annuity and pension business: separate charge on profits) in subsection (3)(a) for the words “section 433” there shall be substituted “sections 82 and 83 of the Finance Act 1989”.
- 7 F26

Textual Amendments

F26 Sch. 8 paras. 1, 3(3), 7 repealed by Finance Act 1990 (c.29), s. 132, Sch. 19 Pt. IV, Notes 6, 14

[F27] SCHEDULE 8A

Section 89A.]

MODIFICATION OF SECTIONS 83 AND 89 IN RELATION TO OVERSEAS LIFE INSURANCE COMPANIES

Textual Amendments

F27 Sch. 8A inserted (27.7.1993) by 1993 c. 34, s. 101(2), Sch.10

- [F28] (1) In their application to an overseas life insurance company sections 83 and 83A of this Act shall have effect with the modifications specified in paragraphs 1A to 1C below.
- (2) In those paragraphs—
- (a) any reference to the Taxes Act 1988 is a reference to that Act as it has effect in relation to such a company by virtue of Schedule 19AC to that Act; and
 - (b) any expression to which a meaning is given by section 11A of that Act has that meaning.]

Textual Amendments

F28 Sch. 8A paras. 1, 1A-1C substituted for para. 1 (1.5.1995) by 1995 c. 4, s. 51, Sch. 8 Pt. II para. 49(2) (with Sch. 8 paras. 55(2), 57(1))

- ^{F29}1A (1) The reference in section 83(2)(a) to investment income shall be construed as a reference to such of the income concerned as is attributable to the branch or agency in the United Kingdom through which the company carries on life assurance business.
- (2) The reference to assets in section 83(2)(b) (as it applies apart from subsection (3) of that section) shall be construed as a reference to such of the assets concerned—
- (a) as are—
 - (i) section 11(2)(b) assets;
 - (ii) section 11(2)(c) assets; or
 - (iii) assets which by virtue of section 11B of the Taxes Act 1988 are attributed to the branch or agency; or

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- (b) as are assets—
- (i) (in a case where section 11C of that Act (other than subsection (9)) applies) of the relevant fund, or
 - (ii) (in a case where that section including that subsection applies) of the relevant funds,
- other than assets which fall within paragraph (a) above.
- (3) In determining for the purposes of section 83(2) (as it applies apart from subsection (3) of that section) whether there has been any increase or reduction in the value (whether realised or not) of assets—
- (a) no regard shall be had to any period of time during which an asset held by the company does not fall within paragraph (a) or (b) of sub-paragraph (2) above; and
 - (b) in the case of an asset which falls within paragraph (b) of that sub-paragraph, only the specified portion of any increase or reduction in the value of the asset shall be taken into account.

For the purposes of paragraph (b) above the specified portion of any increase or reduction in the value of an asset is found by applying to that increase or reduction the same fraction as would, by virtue of section 11C of the Taxes Act 1988, be applied to any relevant gain accruing to the company on the disposal of the asset.

- (4) For the reference in section 83(3) to any amount being transferred into the company's long term business fund from other assets of the company, or otherwise added to that fund, there shall be substituted a reference to assets becoming assets of the long term business fund used or held for the purposes of the company's United Kingdom branch or agency, having immediately previously been held by the company otherwise than as assets of that fund or used or held otherwise than for those purposes.

The amount of the increase in value under section 83(2)(b), as it applies in relation to such a transfer, shall be taken to be an amount equal to the value of the assets transferred.

Textual Amendments

- F29** Sch. 8A paras. 1, 1A-1C substituted for para. 1 (1.5.1995) by 1995 c. 4, s. 51, Sch. 8 Pt. II para. 49(2) (with Sch. 8 paras. 55(2), 57(1))

- ^{F30}1B The references in section 83A to the company's long term business shall be construed as references to the whole of that business or to the whole of that business other than business in respect of which preparation of a revenue account for the purposes of the Insurance Companies Act 1982 is not required.

Textual Amendments

- F30** Sch. 8A paras. 1, 1A-1C substituted for para. 1 (1.5.1995) by 1995 c. 4, s. 51, Sch. 8 Pt. II para. 49(2) (with Sch. 8 paras. 55(2), 57(1))

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- ^{F31}1C (1) Where for a period of account any investment income referred to in section 83(2)(a) is not otherwise brought into account within the meaning of that section, it shall be treated as brought into account for the period if it arises in the period.
- (2) Where for a period of account any increase in value referred to in section 83(2)(b) (as it applies apart from subsection (3) of that section) is not otherwise brought into account within the meaning of that section, it shall be treated as brought into account for the period if it is shown in the company's records as available to fund one or both of the following for the period, namely, bonuses to policy holders and dividends to shareholders.
- (3) Where for a period of account any reduction in value referred to in section 83(2) (as it applies apart from subsection (3) of that section) is not otherwise brought into account within the meaning of that section, it shall be treated as brought into account for the period if it is shown in the company's records as reducing sums available to fund one or both of the following for the period, namely, bonuses to policy holders and dividends to shareholders.
- (4) Where in any period of account any such transfer is made as is mentioned in section 83(3) which is not otherwise brought into account within the meaning of that section, it shall be treated as brought into account for the period in which it is made.

Textual Amendments

F31 Sch. 8A paras. 1, 1A-1C substituted for para. 1 (1.5.1995) by 1995 c. 4, s. 51, Sch. 8 Pt. II para. 49(2) (with Sch. 8 paras. 55(2), 57(1))

- ^{F32F33}2(1) In its application to an overseas life insurance company section 89 of this Act shall have effect with the following modifications; and in those modifications any reference to the Taxes Act 1988 is a reference to that Act as it has effect in relation to such a company by virtue of Schedule 19AC to that Act.
- (2) Any reference to franked investment income shall be treated as a reference to UK distribution income (as defined by ^{F34}paragraph 5B(4) of that Schedule).
- (3) Any reference in subsection (5)(a) to income shall be construed as a reference to such of the income concerned as is attributable to the branch or agency in the United Kingdom through which the company carries on life assurance business.
- (4) The reference in subsection (5)(b) to assets shall be construed as a reference to such of the assets concerned—
- (a) as are—
- (i) section 11(2)(b) assets;
 - (ii) section 11(2)(c) assets; or
 - (iii) assets which by virtue of section 11B of the Taxes Act 1988 are attributed to the branch or agency; or
- (b) as are assets—
- (i) (in a case where section 11C of that Act (other than subsection (9)) applies) of the relevant fund, or
 - (ii) (in a case where that section including that subsection applies) of the relevant funds,
- other than assets which fall within paragraph (a) above.

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- (5) In subsection (5)(c) the reference to expenses shall be construed as a reference to such of the expenses concerned as are attributable to the branch or agency.
- (6) In subsection (5)(d) the reference to interest shall be construed as a reference to such of the interest concerned as is so attributable.
- (7) In determining for the purposes of subsection (5) whether there has been any increase or reduction in the value (whether realised or not) of assets—
 - (a) no regard shall be had to any period of time during which an asset does not fall within paragraph (a) or (b) of sub-paragraph (4) above; and
 - (b) in the case of an asset which falls within paragraph (b) of that sub-paragraph, only the specified portion of any increase or reduction in the value of the asset shall be taken into account;

[^{F35}and in paragraph (b) above the “specified portion” has the same meaning as in paragraph 1A(3)(b) above.]

[For the purposes of this paragraph any expression to which a meaning is given by ^{F36}(7A) section 11A of the Taxes Act 1988 has that meaning.]

- (8) Where for a period of account any item consisting of income, expenses or interest referred to in subsection (5) is not brought into account within the meaning given by subsection (6) it shall be treated as brought into account for the period if it arises in the period.
- (9) Where for a period of account any increase in value referred to in subsection (5) is not brought into account within the meaning given by subsection (6) it shall be treated as brought into account for the period if it is shown in the company’s records as available to fund one or both of the following for the period, namely, bonuses to policy holders and dividends to shareholders.
- (10) Where for a period of account any reduction in value referred to in subsection (5) is not brought into account within the meaning given by subsection (6) it shall be treated as brought into account for the period if it is shown in the company’s records as reducing sums available to fund one or both of the following for the period, namely, bonuses to policy holders and dividends to shareholders.

^{F37}(11)]

Textual Amendments

F32 Sch. 8A inserted (27.7.1993) by 1993 c. 34, s. 101(2), **Sch. 10**

F33 Sch. 8A inserted (27.7.1993) by 1993 c. 34, s. 101(2), **Sch. 10**

F34 Words in Sch. 8A para. 2(2) substituted (1.5.1995) by 1995 c. 4, s. 51, **Sch. 8 Pt. II para. 35(5)** (with Sch. 8 paras. 55(2), 57(1))

F35 Words in Sch. 8A para. 2(7) substituted (1.5.1995) by 1995 c. 4, s. 51, **Sch. 8 Pt. II para. 49(3)** (with Sch. 8 paras. 55(2), 57(1))

F36 Sch. 8A para. 2(7A) inserted (1.5.1995) by 1995 c. 4, s. 51, **Sch. 8 Pt. II para. 49(4)** (with Sch. 8 paras. 55(2), 57(1))

F37 Sch. 8A para. 2(11) repealed (1.5.1995 with effect in accordance with Sch. 8 para. 57 of the amending Act) by 1995 c. 4, s. 162, **Sch. 29 Pt. VIII(5)**, note 2

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SCHEDULE 9

Section 90.

LIFE POLICIES ETC. HELD BY COMPANIES

- 1 Chapter II of Part XIII of the Taxes Act 1988 shall be amended as follows.
- 2 At the end of section 539 there shall be added—
 - “(9) A policy of life insurance issued in respect of an insurance made before 14th March 1989 shall be treated for the purposes of sections 540(5A), 547(8) and 548(3A) as issued in respect of one made on or after that date if it is varied on or after that date so as to increase the benefits secured or to extend the term of the insurance; and any exercise of rights conferred by the policy shall be regarded for this purpose as a variation.”
- 3 (1) Section 540 shall be amended as follows.
 - (2) In subsection (4), for the words “this section” there shall be substituted the words “subsections (1) and (3) above”.
 - (3) After subsection (5) there shall be inserted—
 - “(5A) Sub-paragraphs (i) and (ii) of subsection (1)(b) above shall not apply in relation to a policy issued in respect of an insurance made on or after 14th March 1989 if, immediately before the happening of the event, the rights conferred by the policy were in the beneficial ownership of a company, or were held on trusts created, or as security for a debt owed, by a company.”
- 4 (1) Section 541 shall be amended as follows.
 - (2) After subsection (4) there shall be inserted—
 - “(4A) Where, immediately before the happening of the chargeable event, the rights conferred by a qualifying endowment policy are held as security for a debt owed by a company, then, if—
 - (a) the conditions in subsection (4B) below are satisfied,
 - (b) the amount of the debt exceeds the total amount previously paid under the policy by way of premiums, and
 - (c) the company makes a claim for the purpose within two years after the end of the accounting period in which the chargeable event happens,this section shall have effect as if the references in subsection (1)(a) and (b) to that total amount were references to the amount of the debt.
 - (4B) The conditions referred to in subsection (4A) above are—
 - (a) that, throughout the period beginning with the making of the insurance and ending immediately before the happening of the chargeable event, the rights conferred by the policy have been held as security for a debt owed by the company;
 - (b) that the capital sum payable under the policy in the event of death during the term of the policy is not less than the amount of the debt when the insurance was made;
 - (c) that any sum payable under the policy by reason of the chargeable event is applied in repayment of the debt (except to the extent that its amount exceeds the amount of the debt);
 - (d) that the debt was incurred to defray money applied—

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- (i) in purchasing an estate or interest in land to be occupied by the company for the purposes of a trade carried on by it, or
 - (ii) for the purpose of the construction, extension or improvement (but not the repair or maintenance) of buildings which are or are to be so occupied.
- (4C) If the amount of the debt is higher immediately before the happening of the chargeable event than it was at some earlier time during the period mentioned in subsection (4B)(a) above, the amount to be taken into account for the purposes of subsection (1) above shall be the lowest amount at which it stood during that period.
- (4D) If during the period mentioned in subsection (4B)(a) above the company incurs a debt by borrowing in order to repay another debt, subsections (4B) and (4C) above shall have effect as if, where appropriate, references to either debt included references to the other.”
- (3) In subsection (5), after paragraph (b) there shall be inserted “and
- (c) “qualifying endowment policy” means a policy which is a qualifying policy by virtue of paragraph 2 of Schedule 15;”.
- 5 (1) Section 547 shall be amended as follows.
- (2) In subsection (1), for paragraph (b) there shall be substituted—
- “(b) if, immediately before the happening of that event, those rights were in the beneficial ownership of a company, or were held on trusts created, or as security for a debt owed, by a company, the amount of the gain shall be deemed to form part of the company’s income (chargeable under Case VI of Schedule D) for the accounting period in which the event happened;”.
- (3) After subsection (7) there shall be inserted—
- “(8) Subsection (1)(b) above shall not have effect as respects—
 - (a) a policy of life insurance issued in respect of an insurance made before 14th March 1989,
 - (b) a contract for a life annuity made before that date, or
 - (c) a capital redemption policy issued in respect of an insurance made before that date, or issued by a company resident in the United Kingdom in respect of an insurance made on or after that date.”
- 6 (1) Section 548 shall be amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (a), after the words “an individual’s total income” there shall be inserted the words “or the income of a company”;
 - (b) in paragraph (c), after the words “that individual” there shall be inserted the words “or company”;
 - (c) for the words “subsection (3)” there shall be substituted the words “subsections (3) and (3A)”.
- (3) After subsection (3) there shall be inserted—
- “(3A) Subsections (1) and (2) do not apply where the rights conferred by the policy or contract are in the beneficial ownership of a company, or are held on trusts

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created, or as security for a debt owed, by a company, if the policy was issued in respect of an insurance made before 14th March 1989 or the contract was made before that date.”

- 7 In section 552, in subsection (2), after paragraph (b) there shall be inserted “or
(c) the event is a chargeable event only because of section 540(5A).”
- 8 Paragraph 5 above shall have effect in relation to chargeable events happening in any accounting period of the company concerned which begins after 31st March 1989; but subject to that this Schedule shall have effect as from 14th March 1989.

SCHEDULE 10

Section 93.

DEEP DISCOUNT SECURITIES: AMENDMENTS

- 1 Schedule 4 to the Taxes Act 1988 (deep discount securities) shall be amended as mentioned in the following provisions of this Schedule.
- 2 (1) Paragraph 1 shall be amended as follows.
- (2) The following paragraph shall be inserted after sub-paragraph (1)(d)—
- “(dd) “a deep discount security” also means any redeemable security which has been issued by a public body (at whatever time) at a deep discount, other than—
- (i) a security such as is mentioned in paragraph (d)(ii) above;
- (ii) a security falling within sub-paragraph (5), (6) or (7) below;”.
- (3) In sub-paragraph (1)(g) after the words “the company” there shall be inserted the words “or the public body”.
- (4) The following shall be inserted at the end of sub-paragraph (2)— “ This sub-paragraph applies only in the case of securities issued by a company. ”
- (5) The following sub-paragraphs shall be inserted after sub-paragraph (3)—
- “(4) For the purposes of this Schedule a public body is any of the following which is not a company—
- (a) a government, whether of the United Kingdom or elsewhere;
- (b) a public or local authority, whether in the United Kingdom or elsewhere.
- (5) A security falls within this sub-paragraph if it is a gilt-edged security and—
- (a) it was issued before 14th March 1989, or
- (b) it was issued on or after that date but was issued under the same prospectus as any gilt-edged security issued before that date.
- (6) A security falls within this sub-paragraph if it is a gilt-edged security and—
- (a) it was issued under a prospectus under which no securities were issued before 14th March 1989,

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- (b) it was issued otherwise than on the occasion of the original issue under the prospectus, and
 - (c) all the securities issued on the occasion of the original issue under the prospectus are gilt-edged securities which are not deep discount securities.
- (7) A security falls within this sub-paragraph if it is not a gilt-edged security and was issued (at whatever time) under the same prospectus as any other security which was issued before the security in question and which is not a deep discount security.
- (8) For the purposes of this Schedule “gilt-edged security” has the same meaning as it has for the purposes of the 1979 Act.”
- 3 The following sub-paragraph shall be inserted after paragraph 4(7)—
- “(8) In the case of a deep discount security issued by a public body, this paragraph applies where a disposal is made on or after 14th March 1989 (whatever the date of acquisition).”
- 4 In paragraph 11(1) after the words “deep discount security” there shall be inserted the words “issued by a company”.
- 5 The following paragraph shall be inserted after paragraph 11—
- “11A Where any deep discount security issued by a public body is redeemed before the redemption date by the body which issued it, paragraph 4 above shall have effect subject to paragraph 11(2) above (ignoring the words following paragraph (b)).”
- 6 The following sub-paragraph shall be inserted after paragraph 13(2)—
- “(3) Every public body which issues deep discount securities on or after 1st August 1989 shall cause to be shown on the certificate of each such security the income element for each income period between the date of issue of the security and the redemption date.”
- 7 The following shall be inserted after paragraph 14—

Retirement benefit schemes

- “15 (1) In a case where—
- (a) paragraph 4 above would apply (apart from this paragraph) to a disposal of a security, and
 - (b) immediately before the disposal was made the security was held for the purposes of an exempt approved scheme (within the meaning of Chapter I of Part XIV),

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that paragraph shall not apply to the disposal.

- (2) Sub-paragraph (1) above shall not apply unless the disposal is made on or after 14th March 1989.

Stock lending

16 (1) In a case where—

- (a) a security is the subject of a transfer which falls within section 129(3), and
(b) the transfer constitutes a disposal to which (apart from this paragraph) paragraph 4 above would apply,

that paragraph shall not apply to the disposal.

- (2) Sub-paragraph (1) above shall not apply unless the disposal is made on or after 14th March 1989.

Trustees

17 (1) Where on the disposal by trustees of a deep discount security an amount is treated as income chargeable to tax by virtue of paragraph 4(1) above, the rate at which it is chargeable shall be a rate equal to the sum of the basic rate and the additional rate for the year of assessment in which the disposal is made.

- (2) Where the trustees are trustees of a scheme to which section 469 applies, sub-paragraph (1) above shall not apply if or to the extent that the amount is treated as income in the accounts of the scheme.

- (3) Sub-paragraph (1) above shall not apply unless the disposal is made on or after 14th March 1989.

Underwriters

18 (1) An underwriting member of Lloyd's shall be treated for the purposes of this Schedule as absolutely entitled as against the trustees to the securities forming part of his premiums trust fund, his special reserve fund (if any) and any other trust fund required or authorised by the rules of Lloyd's, or required by the underwriting agent through whom his business or any part of it is carried on, to be kept in connection with the business.

- (2) Sub-paragraph (1) above applies where a disposal is made on or after 14th March 1989 (whatever the date of acquisition).

(3) Where a security forms part of a premiums trust fund at the end of 31st December of any relevant year, for the purposes of this Schedule the trustees of the fund shall be deemed to dispose of the security at that time; and for this purpose relevant years are 1989 and subsequent years.

(4) Where a security forms part of a premiums trust fund at the beginning of 1st January of any relevant year, for the purposes of this Schedule the trustees of the fund shall be deemed to acquire the security at that time; and for this purpose relevant years are 1990 and subsequent years.

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- (5) Sub-paragraph (6) below applies where the following state of affairs exists at the beginning of 1st January of any year or the end of 31st December of any year—
- (a) securities have been transferred by the trustees of a premiums trust fund in pursuance of an arrangement mentioned in section 129(1) or (2),
 - (b) the transfer was made to enable another person to fulfil a contract or to make a transfer,
 - (c) securities have not been transferred in return, and
 - (d) section 129(3) applies to the transfer made by the trustees.
- (6) The securities transferred by the trustees shall be treated for the purposes of sub-paragraphs (3) and (4) above as if they formed part of the premiums trust fund at the beginning of 1st January concerned or the end of 31st December concerned (as the case may be).
- (7) Paragraph 7 above shall have effect subject to sub-paragraph (3) above.
- (8) Paragraph 7(2) above shall not apply where—
- (a) the deceased was an underwriting member of Lloyd’s who died on or after 14th March 1989, and
 - (b) immediately before his death the security concerned formed part of a premiums trust fund, a special reserve fund or any other trust fund required or authorised by the rules of Lloyd’s, or required by the underwriting agent through whom the deceased’s business or any part of it was carried on, to be kept in connection with the business.
- (9) In a case where an amount treated as income chargeable to tax by virtue of paragraph 4(1) above constitutes profits or gains mentioned in section 450(1)—
- (a) section 450(1)(b) shall apply; and
 - (b) paragraph 4(1)(b) above shall not apply.
- (10) For the purpose of computing income tax for the year 1987–88 sub-paragraph (9) above shall have effect as if—
- (a) the reference to section 450(1) were to paragraph 2 of Schedule 16 to the Finance Act 1973, and
 - (b) the reference to section 450(1)(b) were to paragraph 2(b) of that Schedule.
- (11) In this paragraph “business” and “premiums trust fund” have the meanings given by section 457.

Gilts: special rules

- 19 (1) In a case where—
- (a) securities have been issued by a public body under a prospectus under which no securities were issued before 14th March 1989,
 - (b) some of the securities issued under the prospectus are gilt-edged securities which are would-be deep discount securities,

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- (c) some of the securities issued under the prospectus are gilt-edged securities which are not would-be deep discount securities, and
 - (d) there is a time when the aggregate nominal value of the securities falling within paragraph (b) above (at that time) exceeds the aggregate nominal value of the securities falling within paragraph (c) above (at that time),
- sub-paragraph (2) below shall apply in relation to any gilt-edged security which has been or is issued under the prospectus at any time (whether before, at or after the time mentioned in paragraph (d) above).
- (2) As regards any event occurring in relation to the security after the time mentioned in sub-paragraph (1)(d) above, paragraphs 4, 7, 8, 11A, 12 and 14 to 18 above shall have effect as if—
 - (a) the security were a deep discount security,
 - (b) it had been issued as such (whatever the time it was issued), and
 - (c) it had been acquired as such (whatever the time it was acquired).
 - (3) For the purposes of sub-paragraph (1) above a would-be deep discount security is a security which would be a deep discount security apart from paragraph 1(6) above.
 - (4) For the purposes of sub-paragraph (2) above events, in relation to a security, include anything constituting a disposal for the purposes of the 1979 Act, the death of a person competent to dispose of the security, a disposal mentioned in paragraph 18(3) above, and an acquisition mentioned in paragraph 18(4) above.

Non-gilts: special rules

- 20 (1) In a case where—
- (a) all the securities issued by a public body on the occasion of the original issue under a particular prospectus (whatever the time of the issue) are neither gilt-edged securities nor deep discount securities,
 - (b) some of the securities issued under the prospectus are not gilt-edged securities but are new would-be deep discount securities, and
 - (c) there is a time when the aggregate nominal value of the securities falling within paragraph (b) above (at that time) exceeds the aggregate nominal value of the securities which (looking at the state of affairs at that time) have been issued under the prospectus and are neither gilt-edged securities nor new would-be deep discount securities,
- sub-paragraph (2) below shall apply in relation to any security which is not a gilt-edged security but which has been or is issued under the prospectus at any time (whether before, at or after the time mentioned in paragraph (c) above).
- (2) As regards any event occurring in relation to the security after the time mentioned in sub-paragraph (1)(c) above, paragraphs 4, 7, 8, 11A, 12 and 14 to 18 above shall have effect as if—
 - (a) the security were a deep discount security,
 - (b) it had been issued as such (whatever the time it was issued), and
 - (c) it had been acquired as such (whatever the time it was acquired).

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- (3) For the purposes of sub-paragraph (1) above a new would-be deep discount security is a security which—
- (a) would be a deep discount security apart from paragraph 1(7) above, and
 - (b) was issued on or after 14th March 1989.
- (4) For the purposes of sub-paragraph (2) above events, in relation to a security, include anything constituting a disposal for the purposes of the 1979 Act, the death of a person competent to dispose of the security, a disposal mentioned in paragraph 18(3) above, and an acquisition mentioned in paragraph 18(4) above.”

SCHEDULE 11

Section 94.

DEEP GAIN SECURITIES

Modifications etc. (not altering text)

- C28** Sch. 11 modified (27.7.1993) by 1993 c. 34, ss. 65(2)(4)(7)(8), 66(1)
Sch. 11 applied (27.7.1993) by 1993 c. 34, ss. 164(12), (with s. 165)

Deep gain securities

- 1 (1) For the purposes of this Schedule a deep gain security is a redeemable security (whenever issued) which fulfils the first and second conditions.
- (2) The first condition is that, taking the security at the time it is issued and assuming redemption, the amount payable on redemption might constitute a deep gain; and if the security is capable of redemption on one of a number of occasions, this condition is fulfilled if it is fulfilled as regards any one of them.
- (3) For the purposes of sub-paragraph (2) above “redemption” does not include any redemption which may be made before maturity only at the option of the person who issued the security (and no other person).
- [^{F38}(3A) In the case of a security issued before 13th November 1991, for the purposes of sub-paragraph (2) above “redemption” does not include any redemption which may be made before maturity otherwise than in pursuance of the exercise by the person who holds the security for the time being of an option exercisable only on the effluxion of time or the happening of an event which (judged at the time of the security’s issue) is certain or likely to occur.
- (3B) In the case of a security issued on or after 13th November 1991, for the purposes of sub-paragraph (2) above “redemption” does not include any redemption which may be made before maturity otherwise than at the option of the person who holds the security for the time being and as regards which the following conditions are fulfilled (judged at the time of the security’s issue)—

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- (a) the event occasioning redemption is such that, if it occurred and there was no provision for redemption, the interests of the person holding the security at the time of the occurrence might be adversely affected,
 - (b) the event occasioning redemption is neither certain nor likely to occur,
 - (c) the event occasioning redemption is not one of a number of events occasioning or allowing redemption before maturity at least one of which is certain or likely to occur, and
 - (d) the obtaining of a tax advantage by any person is not the main benefit, or one of the main benefits, that might be expected to accrue from the provision for redemption.
- (3C) The condition set out in sub-paragraph (3B)(a) above is fulfilled if it is fulfilled by reference to any one potential holder, whether or not it is fulfilled by reference to other potential holders.
- (3D) In a case where—
- (a) the security is one which under the terms of issue can be converted into or exchanged for a security of a different kind, and
 - (b) it falls to be decided whether the condition set out in paragraph (b) or (c) of sub-paragraph (3B) above is fulfilled,
- the condition concerned shall not be treated as fulfilled unless it is fulfilled having regard only to circumstances in which (judged at the time of the security's issue) the right to convert or exchange cannot be or is unlikely to be exercised.
- (3E) In the case of a security issued on or after 13th November 1991, for the purposes of sub-paragraph (2) above “redemption” does not include any redemption which may be made before maturity at the option of the person who holds the security for the time being and as regards which the following conditions are fulfilled (judged at the time of the security's issue)—
- (a) the event allowing the option to be exercised is such that, if it occurred and there was no provision for redemption, the interests of the person holding the security at the time of the occurrence might be adversely affected,
 - (b) the event allowing the option to be exercised is neither certain nor likely to occur,
 - (c) the event allowing the option to be exercised is not one of a number of events occasioning or allowing redemption before maturity at least one of which is certain or likely to occur, and
 - (d) the obtaining of a tax advantage by any person is not the main benefit, or one of the main benefits, that might be expected to accrue from the provision for redemption.
- (3F) The condition set out in sub-paragraph (3E)(a) above is fulfilled if it is fulfilled by reference to any one potential holder, whether or not it is fulfilled by reference to other potential holders.
- (3G) In a case where—
- (a) the security is one which under the terms of issue can be converted into or exchanged for a security of a different kind, and
 - (b) it falls to be decided whether the condition set out in paragraph (b) or (c) of sub-paragraph (3E) above is fulfilled,

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the condition concerned shall not be treated as fulfilled unless it is fulfilled having regard only to circumstances in which (judged at the time of the security's issue) the right to convert or exchange cannot be or is unlikely to be exercised.]

- (4) The second condition is that the security—
- (a) is not a deep discount security (either because the amount payable on redemption is not known at issue or for some other reason),
 - (b) is not a share in a company,
 - (c) is not a qualifying indexed security,
 - (d) is not a convertible security, and
 - (e) does not fall within sub-paragraph (5), (6) or (7) below.
- (5) A security falls within this sub-paragraph if it is a gilt-edged security and—
- (a) it was issued before 14th March 1989, or
 - (b) it was issued on or after that date but was issued under the same prospectus as any gilt-edged security issued before that date.
- (6) A security falls within this sub-paragraph if it is a gilt-edged security and—
- (a) it was issued under a prospectus under which no securities were issued before 14th March 1989,
 - (b) it was issued otherwise than on the occasion of the original issue under the prospectus, and
 - (c) all the securities issued on the occasion of the original issue under the prospectus are gilt-edged securities which are not deep gain securities.
- (7) A security falls within this sub-paragraph if it is not a gilt-edged security and was issued (at whatever time) under the same prospectus as any other security which was issued before the security in question and which is not a deep gain security.
- (8) For the purposes of this paragraph—
- (a) a deep discount security is a security which is a deep discount security for the purposes of Schedule 4 to the Taxes Act 1988,
 - (b) “qualifying indexed security” has the meaning given by paragraph 2 below, and
 - (c) a gilt-edged security is a security which is a gilt-edged security for the purposes of the ^{M11}[^{F39}Taxation of Chargeable Gains Act 1992] .
- (9) For the purposes of this paragraph the amount payable on redemption of a security constitutes a deep gain if the issue price is less than the amount so payable, and the amount by which it is less represents more than—
- (a) 15 per cent. of the amount so payable, or
 - (b) half Y per cent. of the amount so payable, where Y is the number of complete years between the date of issue and the redemption date.
- (10) For the purposes of this paragraph the amount payable on redemption does not include any amount payable by way of interest.

Textual Amendments

F38 Sch. 11 para. 1(3A)-(3G) substituted (*retrospectively and deemed always to have had effect*) for para. 1(3A) by Finance (No. 2) Act 1992 (c. 48), s. 33, Sch. 7 paras. 2, 7, 8

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F39 Words in Sch. 11 para. 1(8)(c) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the substituting Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, Sch. 10 para. 19(6) (a) (with s. 60, 101(1), 201(3))

Modifications etc. (not altering text)

C29 See Finance Act 1990 (c. 29), s. 56, Sch. 10 para. 11(4)—definition employed for purposes of Finance Act 1990 (c. 29), Sch. 10—convertible securities

Marginal Citations

M11 1992 c. 12.

Qualifying indexed securities

- 2 (1) For the purposes of paragraph 1 above a qualifying indexed security is a security which fulfils each of the conditions set out below.
- (2) The first condition is that—
- (a) the security is denominated in sterling and under the terms of issue the amount payable on redemption is determined by reference to the movement of the retail prices index,
 - (b) the security is denominated in a currency other than sterling and under the terms of issue the amount payable on redemption is determined by reference to any similar general index of prices which is published by the government, or by an agent of the government, of the territory in whose currency the security is denominated, or
 - (c) [^{F40}the security was quoted in the official list of a recognised stock exchange at the time it was issued], and under the terms of issue the amount payable on redemption is determined by reference to the movement of a published index of prices of shares quoted in the official list of a recognised stock exchange.
- (3) The second condition is that the terms of issue make no provision for conversion into, or redemption in, a currency other than that in which the security is denominated on issue.
- (4) The third condition is that under the terms of issue—
- (a) interest is payable on the security,
 - (b) not more than one year can elapse between the day of issue and the first day on which interest becomes payable, or between any day on which interest becomes payable and the next day on which it becomes payable,
 - (c) the interest payable is determined by reference to a rate which is not less than a reasonable commercial rate (judged by reference to the date of issue and by reference to securities of a similar nature to the one in question), and
 - (d) the interest payable is also determined by reference to the movement of the index by reference to which the amount payable on redemption is determined.
- (5) The fourth condition is that where that index is applied to determine the amount payable on redemption or to determine interest it must, under the terms of issue, be applied precisely and without restriction.
- (6) The fifth condition is that—

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- (a) the security is expressed to be issued for a definite period stated on the face of the security, and
 - (b) the period so stated commences with the day of issue and is five years or more.
- (7) The sixth condition is that the terms of issue contain no provision enabling the person who holds the security for the time being to require any of the following before the expiry of a period which commences with the day of issue and which is five years or more—
- (a) the security to be repurchased by the person who issued it;
 - (b) the security to be purchased by a person other than the person who issued it;
 - (c) the security to be converted into another kind of security;
 - (d) the security to be redeemed in circumstances other than any of the qualifying circumstances (set out in sub-paragraph (13) below).
- (8) The seventh condition is that, where the issue is handled by an agent for the person making the issue or by an underwriter, the terms on which the agent or underwriter offers the security—
- (a) contain no provision for the security to be repurchased by the person who issued it, converted into another kind of security, or redeemed, before the expiry of a period which commences with the day of issue and which is five years or more, and
 - (b) contain no provision enabling the person who holds the security for the time being to require the security to be purchased, by a person other than the person who issued it, before the expiry of a period which commences with the day of issue and which is five years or more.
- [^{F41}(8A) If a security was issued before 9th June 1989, was not quoted in the official list of a recognised stock exchange at the time it was issued, but was quoted in such a list on 8th June 1989, for the purposes of subparagraph(2)(c) above it shall be deemed to have been quoted in that list at the time it was issued.
- (8B) If a security was issued on or after 9th June 1989, and was quoted in the official list of a recognised stock exchange at a time after it was issued but before the end of the qualifying period, for the purposes of sub-paragraph(2)(c) above it shall be deemed to have been quoted in that list at the time it was issued; and the qualifying period is the period of one month beginning with the day on which the security was issued]
- (9) For the purposes of sub-paragraph (5) above “redemption” does not include any redemption which may be made before maturity only at the option of the person who issued the security (and no other person).
- (10) In a case where the amount payable on redemption, or the amount of interest, is under the terms of issue determined by reference to the movement of the index for a period (a notional period) in place of a later actual period (a process commonly known as lagging) the fourth condition shall be treated as fulfilled if the following rules are fulfilled—
- (a) under the terms of issue the notional period must start not more than eight months before the actual period starts and must end not more than eight months before the actual period ends, and
 - (b) where the index is applied for the notional period it must, under the terms of issue, be applied precisely and without restriction.

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- (11) In a case where the terms of issue contain provision for the amount payable on redemption to be not less than an amount stated in the terms, the provision shall not prevent the fourth condition being fulfilled if—
- (a) the security was issued before 9th June 1989, and
 - (b) the amount stated does not constitute a deep gain (within the meaning given by paragraph 1(9) above).
- [^{F41}(11A) In a case where the terms of issue contain provision for the amount payable on redemption to be not less than a specified percentage of the issue price, the provision shall not prevent the fourth condition being fulfilled if the specified percentage is not greater than 10.]
- (12) In a case where—
- (a) the terms of issue contain provision for the amount payable on redemption in any of the qualifying circumstances (set out in sub-paragraph (13) below) to be not less than an amount stated in the terms, and
 - (b) the security was issued before 9th June 1989,
- the provision shall not prevent the fourth condition being fulfilled.
- [^{F42}(12A) In a case where—
- (a) the terms of issue contain provision for the amount payable on redemption in any of the qualifying circumstances (set out in sub-paragraph (13) below) to be not more than the issue price, and
 - (b) the security was issued on or after 9th June 1989,
- the provision shall not prevent the fourth condition being fulfilled.]
- (13) For the purposes of sub-paragraphs (7) [^{F43}, (12) and (12A)] above the following are qualifying circumstances—
- (a) there is a fundamental change in the rules governing the index and the change would be detrimental to the interests of the person who holds the security for the time being;
 - (b) the index ceases to be published without being replaced by a comparable index;
 - [^{F44}(c) in the case of a security issued before 13th November 1991, any circumstances except circumstances in which the person who holds the security for the time being exercises an option exercisable only on the effluxion of time or the happening of an event which (judged at the time of the security's issue) is certain or likely to occur;
 - (d) in the case of a security issued on or after 13th November 1991, any circumstances for redemption which may be made before maturity otherwise than at the option of the person who holds the security for the time being and as regards which the conditions set out in paragraph 1(3B) above are fulfilled (judged at the time of the security's issue and read subject to paragraph 1(3C) and (3D) above);
 - (e) in the case of a security issued on or after 13th November 1991, any circumstances for redemption which may be made before maturity at the option of the person who holds the security for the time being and as regards which the conditions set out in paragraph 1(3E) above are fulfilled (judged at the time of the security's issue and read subject to paragraph 1(3F) and (3G) above).]

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- (14) In a case where an issue is handled by an agent for the person making the issue, or by an underwriter, for the purposes of sub-paragraphs (2) to (5) and (10) above the terms of issue shall be taken to include any terms on which the agent or underwriter offers the security.
- (15) For the purposes of this paragraph the amount payable on redemption does not include any amount payable by way of interest.
- (16) For the purposes of this paragraph “control” (in relation to a company) shall be construed in accordance with section 840 of the Taxes Act 1988.

Textual Amendments

- F40** Finance Act 1990 (c. 29), s. 58(2)(7) – deemed always to have had effect. Previously “the security was issued before 9th June 1989 and was quoted in the official list of a recognised stock exchange on 8th June 1989”
- F41** Finance Act 1990 (c. 29), s. 58(3)(4) respectively – deemed always to have had effect (subs. (7))
- F42** Finance Act 1990 (c. 29), s. 58(5)(7) – deemed always to have had effect
- F43** Finance Act 1990 (c. 29), s. 58(6)(a)(7) – deemed always to have had effect. Previously “and (12)”
- F44** Sch. 11 para. 2(13)(c)-(e) substituted (retrospectively and deemed always to have had effect) for sub-para. (13)(c)(d) by Finance (No. 2) Act 1992 (c. 48), s. 33, Sch. 7 paras. 3, 7, 8

Convertible securities

- 3 (1) For the purposes of paragraph 1 above a security is a convertible security if—
- it was issued by a company before 9th June 1989,
 - under the terms of issue it can be converted into or exchanged for share capital in a company (whether or not the company is the one which issued the security), and
 - the condition set out in sub-paragraph (2) below is fulfilled.
- (2) The condition is that—
- at some time in the qualifying period the security was quoted in the official list of a recognised stock exchange,
 - at some time in that period relevant share capital was so quoted, or
 - each of paragraphs (a) and (b) above is satisfied (though not necessarily as regards the same time).
- (3) For the purposes of sub-paragraph (2) above the qualifying period is the period of one month beginning with the day on which the security was issued.
- (4) For the purposes of sub-paragraph (2) above relevant share capital is share capital in the company into whose share capital the security can be converted or for whose share capital the security can be exchanged; and relevant share capital need not be share capital into or for which the security can be converted or exchanged.
- (5) References in this paragraph to share capital are to share capital by whatever name called.

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[^{F45}Issue price]

Textual Amendments

F45 Sch. 11 para. 3A inserted by Finance Act 1991 (c. 31, SIF 63:1), s. 54, Sch. 12 para.4.

- [3A (1) This paragraph applies where—
- (a) securities (old securities) of a particular kind are issued by way of the original issue of securities of that kind,
 - (b) on a later occasion securities (new securities) of the same kind are issued,
 - (c) a sum (the extra return) is payable in respect of each new security, by the person issuing it, to reflect the fact that interest is accruing on the old securities,
 - (d) the issue price of each new security includes an element (whether or not separately identified) representing payment for the extra return, and
 - (e) the extra return is equal to the amount of interest payable for the relevant period on each old security.
- (2) In such a case, the issue price of each new security shall be deemed for the purposes of paragraph 1(9) above to be its actual issue price less an amount equal to the extra return payable in respect of the security.
- (3) For the purposes of this paragraph securities are of the same kind if they are treated as being of the same kind by the practice of a recognised stock exchange or would be so treated if dealt with on such a stock exchange.
- (4) For the purposes of this paragraph the relevant period is the period beginning with the day following the relevant day and ending with the day on which the new securities are issued.
- (5) For the purposes of this paragraph the relevant day is—
- (a) the last (or only) interest payment day to fall in respect of the old securities before the day on which the new securities are issued, or
 - (b) the day on which the old securities were issued, in a case where no interest payment day fell in respect of them before the day on which the new securities are issued;
- and an interest payment day, in relation to the old securities, is a day on which interest is payable under them.]

Meaning of transfer etc.

- 4 (1) This paragraph has effect for the purposes of this Schedule.
- (2) “Transfer”, in relation to a security, means transfer by way of sale, exchange, gift or otherwise.
- [^{F46}(2A) But (notwithstanding sub-paragraph (2) above) “transfer” does not include a transfer made on a conversion of a security into share capital in a company.]

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- (3) Where an agreement for the transfer of a security is made, it is transferred, and the person to whom it is agreed to be transferred becomes entitled to it, when the agreement is made and not on a later transfer made pursuant to the agreement; and “entitled”, “transfer” and cognate expressions shall be construed accordingly.
- (4) A person holds a security at a particular time if he is entitled to it at the time.
- (5) A person acquires a security when he becomes entitled to it; and “acquisition” shall be construed accordingly.
- (6) If an agreement is conditional (whether on the exercise of an option or otherwise) for the purposes of sub-paragraph (3) above it is made when the condition is exercised.

Textual Amendments

F46 Finance Act 1990 (c. 29), s. 56, **Sch. 10 para. 27(2)**, 29(1)—deemed always to have had effect

Charge to tax on transfer

- 5 (1) This paragraph applies if—
 - (a) there is a transfer of a deep gain security on or after 14th March 1989 (irrespective of when the person making the transfer acquired it), and
 - (b) the amount obtained on transfer exceeds the amount paid on acquisition.
- (2) In such a case—
 - (a) an amount equal to the difference between those two amounts, less the amount of any costs, shall be treated as income of the person making the transfer,
 - (b) the income shall be chargeable to tax under Case III or Case IV (as the case may be) of Schedule D,
 - (c) the income shall be treated as arising in the year of assessment in which the transfer takes place, and
 - (d) notwithstanding anything in sections 64 to 67 of the Taxes Act 1988, the tax shall be computed on the income arising in the year of assessment for which the computation is made.
- (3) For the purposes of this paragraph—
 - (a) the amount obtained on transfer is the amount obtained, in respect of the transfer, by the person making it,
 - (b) the amount paid on acquisition is the amount paid by that person in respect of his acquisition of the security (or his last acquisition of it before the transfer), and
 - (c) costs are the costs incurred by that person in connection with the transfer and with his acquisition of the security (or his last acquisition of it before the transfer).
- (4) For the purposes of sub-paragraph (3)(a) above the person making the transfer shall be treated as obtaining in respect of it—
 - (a) any amount he actually obtains in respect of it, and
 - (b) any amount he is entitled to obtain, but does not obtain, in respect of it.

Status: Point in time view as at 20/05/1995.

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(5) Sub-paragraph (4) above shall not apply where paragraph 7, 8 or 9 below applies.

[^{F47} Exchange gains and losses]

Textual Amendments

F47 Sch. 11 para. 5A and crossheading inserted (27.7.1993) by 1993 c. 34, s. 170, Sch. 18 para.7

^{F48}5A (1) This paragraph applies where—

- (a) there is a transfer or redemption of a deep gain security, and
- (b) the person making the transfer or (as the case may be) the person who was entitled to the security immediately before redemption is a qualifying company.

(2) For the purposes of paragraph 5 above the amount treated as income—

- (a) shall be increased by the amount of any non-trading exchange loss, or the aggregate of the amounts of any non-trading exchange losses, accruing to the company as regards the underlying right for any accrual period or periods constituting or falling within the holding period;
- (b) shall (after taking account of paragraph (a) above) be reduced by the amount of any non-trading exchange gain, or the aggregate of the amounts of any non-trading exchange gains, accruing to the company as regards the underlying right for any accrual period or periods constituting or falling within the holding period.

(3) For the purposes of this paragraph—

- (a) the underlying right is the right to settlement under the debt on the security;
- (b) “accrual period” and “qualifying company” have the same meanings as in Chapter II of Part II of the Finance Act 1993;
- (c) the question whether a non-trading exchange gain or loss accrues to the company as regards the underlying right for an accrual period shall be decided in accordance with that Chapter.

(4) For the purposes of this paragraph the holding period is the period which—

- (a) begins when the company acquired (or last acquired) the security before the transfer or redemption, and
- (b) ends when the transfer or redemption is made.

Textual Amendments

F48 Sch. 11 para. 5A inserted (27.7.1993) by 1993 c. 34, s. 170, Sch. 18 para.7

Redemption

6 (1) Paragraph 5 above applies where there is a redemption of a deep gain security as well as where there is a transfer.

Status: Point in time view as at 20/05/1995.

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- (2) In its application by virtue of sub-paragraph (1) above, paragraph 5 above shall have effect as if—
- (a) references to the person making the transfer were to the person who was entitled to the security immediately before redemption, and
 - (b) other references to transfer were to redemption.

Death

- 7 (1) Where an individual who is entitled to a security dies, for the purposes of this Schedule—
- (a) he shall be treated as transferring it to his personal representatives immediately before his death, and
 - (b) he shall be treated as obtaining in respect of the transfer an amount equal to the market value of the security at the time of the transfer.
- (2) Where a security is transferred by personal representatives to a legatee, for the purposes of paragraph 5 above they shall be treated as obtaining in respect of the transfer an amount equal to the market value of the security at the time of the transfer.
- (3) In sub-paragraph (2) above “legatee” includes any person taking (whether beneficially or as trustee) under a testamentary disposition or on an intestacy or partial intestacy, including any person taking by virtue of an appropriation by the personal representatives in or towards satisfaction of a legacy or other interest or share in the deceased’s property.

Modifications etc. (not altering text)

C30 Sch. 11 para. 7(1) excluded (27.7.1993 with effect for the year 1992-93 and subsequent years of assessment) by 1993 c. 34, ss. 176(3)(c), 184(3)

Connected persons

- 8 (1) This paragraph applies where a security is transferred from one person to another (whether or not on or after 14th March 1989) and they are connected with each other.
- (2) For the purposes of paragraph 5 above—
- (a) the person making the transfer shall be treated as obtaining in respect of it an amount equal to the market value of the security at the time of the transfer, and
 - (b) the person to whom the transfer is made shall be treated as paying in respect of his acquisition of the security an amount equal to that market value.
- (3) Section 839 of the Taxes Act 1988 (connected persons) shall apply for the purposes of this paragraph.

Status: Point in time view as at 20/05/1995.

Changes to legislation: Finance Act 1989 is up to date with all changes known to be in force on or before 23 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Market value

- 9 (1) This paragraph applies where a security is transferred from one person to another (whether or not on or after 14th March 1989) and—
- (a) the transfer is made for a consideration which consists of or includes consideration not in money or money's worth, or
 - (b) the transfer is made otherwise than by way of a bargain made at arm's length.
- (2) For the purposes of paragraph 5 above—
- (a) the person making the transfer shall be treated as obtaining in respect of it an amount equal to the market value of the security at the time of the transfer, and
 - (b) the person to whom the transfer is made shall be treated as paying in respect of his acquisition of the security an amount equal to that market value.

Underwriters

.....
F49 10

Textual Amendments

F49 Sch. 11 para. 10 repealed (27.7.1993 with effect for the year 1994 and subsequent underwriting years) by 1993 c. 34, s. 213, Sch. 23 Pt. III(12) Note 2

Trustees

- 11 (1) Where on a transfer or redemption of a security by trustees an amount is treated as income chargeable to tax by virtue of paragraph 5 above, the rate at which it is chargeable shall be ^{F50}the rate applicable to trusts] for the year of assessment in which the transfer is made.
- (2) Where the trustees are trustees of a scheme to which section 469 of the Taxes Act 1988 applies, sub-paragraph (1) above shall not apply if or to the extent that the amount is treated as income in the accounts of the scheme.

Textual Amendments

F50 Words in Sch. 11 para. 11(1) substituted (27.7.1993 with effect for the year 1993-94 and subsequent years of assessment) by 1993 c. 34, s. 79, Sch. 6 paras. 20, 25(1)

Foreign currency

- 12 (1) Where, for the purposes of paragraph 5 above and apart from this paragraph, the amount obtained on transfer would be an amount expressed in a currency other than

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sterling, it shall be treated for those purposes as the sterling equivalent on the day of the transfer of the amount so expressed.

- (2) Where, for the purposes of paragraph 5 above and apart from this paragraph, the amount paid on acquisition would be an amount expressed in a currency other than sterling, it shall be treated for those purposes as the sterling equivalent on the day of the acquisition of the amount so expressed.
- (3) Where, for the purposes of paragraph 5 above and apart from this paragraph, the amount of the costs incurred by a person in connection with a transfer would be an amount expressed in a currency other than sterling, it shall be treated for those purposes as the sterling equivalent on the day of the transfer of the amount so expressed.
- (4) Where, for the purposes of paragraph 5 above and apart from this paragraph, the amount of the costs incurred by a person in connection with an acquisition would be an amount expressed in a currency other than sterling, it shall be treated for those purposes as the sterling equivalent on the day of the acquisition of the amount so expressed.
- (5) In sub-paragraphs (1) and (3) above “transfer” includes “redemption”.
- (6) For the purposes of this paragraph the sterling equivalent of an amount on a particular day is the sterling equivalent calculated by reference to the London closing rate of exchange for that day.

Receipts in United Kingdom

- 13 (1) Sub-paragraph (2) below applies where—
 - (a) by virtue of paragraph 5(2) above an amount is treated as income of a person and as chargeable to tax under Case IV of Schedule D, and
 - (b) the person satisfies the Board, on a claim in that behalf, that he is not domiciled in the United Kingdom, or that (being a Commonwealth citizen or a citizen of the Republic of Ireland) he is not ordinarily resident in the United Kingdom.
- (2) In such a case—
 - (a) any amounts received in the United Kingdom in respect of the amount treated as income shall be treated as income arising in the year of assessment in which they are so received, and
 - (b) paragraph 5(2) above shall have effect with the substitution of paragraph (a) above for paragraph 5(2)(c).
- (3) For the purposes of sub-paragraph (2) above—
 - (a) there shall be treated as received in the United Kingdom all amounts paid, used or enjoyed in, or in any manner or form transmitted or brought to, the United Kingdom, and
 - (b) subsections (6) to (9) of section 65 of the Taxes Act 1988 shall apply as they apply for the purposes of subsection (5) of that section.

Status: Point in time view as at 20/05/1995.

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Retirement benefit schemes

- 14 In a case where—
- (a) paragraph 5 above would apply (apart from this paragraph) to a transferor redemption of a security, and
 - (b) immediately before the transfer or redemption was made the security was held for the purposes of an exempt approved scheme (within the meaning of Chapter I of Part XIV of the Taxes Act 1988),
- that paragraph shall not apply to the transfer or redemption.

Charities

- 15 (1) In a case where—
- (a) paragraph 5 above would apply (apart from this paragraph) to a transferor redemption of a security,
 - (b) immediately before the transfer or redemption was made the security was held by a charity, and
 - (c) the amount which would (apart from this paragraph) be treated as income by virtue of paragraph 5 above is applicable and applied for charitable purposes,
- that paragraph shall not apply to the transfer or redemption.
- (2) In this paragraph “charity” has the same meaning as in section 506 of the Taxes Act 1988.

Stock lending

- 16 In a case where—
- (a) a security is the subject of a transfer which falls within section 129(3) of the Taxes Act 1988, and
 - (b) paragraph 5 above would apply to the transfer (apart from this paragraph),
- that paragraph shall not apply to the transfer.

Accrued income scheme

- 17 In a case where—
- (a) a security is the subject of a transfer to which paragraph 5 above applies, and
 - (b) apart from this paragraph, the transfer would be a transfer for the purposes of sections 710 to 728 of the Taxes Act 1988,
- the transfer shall not be a transfer for those purposes.

Status: Point in time view as at 20/05/1995.

Changes to legislation: Finance Act 1989 is up to date with all changes known to be in force on or before 23 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Other provisions excluded

- 18 In a case where paragraph 5 above applies to the redemption of a security, sections 123 and 348 to 350 of the Taxes Act 1988 shall not apply to any proceeds of the redemption.

Identification of securities

- 19 Section [F51 108 of the M12 Taxation of Chargeable Gains Act 1992] shall apply to the identification, for the purposes of this Schedule, of deep gain securities transferred or redeemed as it applies to the identification, for the purposes of capital gains tax, of deep discount securities disposed of.

Textual Amendments

F51 Words in Sch. 11 para. 19 substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, Sch. 10 para. 19(6)(b) (with ss. 60, 101(1), 201(3))

Marginal Citations

M12 1992 c. 12.

[F52 Early redemption: special rules]

Textual Amendments

F52 Sch. 11 para 19A and cross heading inserted (*retrospectively and deemed always to have had effect*) by Finance (No. 2) Act 1992 (c. 48), s. 33, Sch. 7 paras 4, 7, 8

- F53 19A(1) Sub-paragraph (2) below applies where—
- (a) a security is issued on or after 13th November 1991,
 - (b) it would be a deep gain security apart from paragraph 1(3B) or (3E) above,
 - (c) it is redeemed before maturity, and
 - (d) immediately before redemption it was held by a person connected with the person who issued it.
- (2) As regards the redemption, paragraphs 5 to 19 above shall have effect as if—
- (a) the security were a deep gain security, and
 - (b) it had been acquired as such (whatever the time it was acquired).
- (3) Sub-paragraph (4) below applies where—
- (a) the conditions set out in sub-paragraph (1)(a) to (c) above are fulfilled,
 - (b) the security was transferred in the period ending with redemption and beginning with the day falling one year before the day of redemption, and
 - (c) the transfer was by a person connected with the person who issued the security.

Status: Point in time view as at 20/05/1995.

Changes to legislation: Finance Act 1989 is up to date with all changes known to be in force on or before 23 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (4) As regards the transfer, paragraphs 5 to 19 above shall have effect as if—
 - (a) the security were a deep gain security, and
 - (b) it had been acquired as such (whatever the time it was acquired).
- (5) Section 839 of the Taxes Act 1988 (connected persons) shall apply for the purposes of this paragraph.

Textual Amendments

F53 Sch. 11 para 19A and cross heading inserted (*retrospectively and deemed always to have had effect*) by Finance (No. 2) Act 1992 (c. 48), s. 33, Sch. 7 paras 4, 7, 8

Gilts: special rules

- 20 (1) In a case where—
 - (a) securities have been issued under a prospectus under which no securities were issued before 14th March 1989,
 - (b) some of the securities issued under the prospectus are gilt-edged securities which are would-be deep gain securities,
 - (c) some of the securities issued under the prospectus are gilt-edged securities which are not would-be deep gain securities, and
 - (d) there is a time when the aggregate nominal value of the securities falling within paragraph (b) above (at that time) exceeds the aggregate nominal value of the securities falling within paragraph (c) above (at that time),sub-paragraph (2) below shall apply in relation to any gilt-edged security which has been or is issued under the prospectus at any time (whether before, at or after the time mentioned in paragraph (d) above).
- (2) As regards any event occurring in relation to the security after the time mentioned in sub-paragraph (1)(d) above, paragraphs 5 to 19 above shall have effect as if—
 - (a) the security were a deep gain security, and
 - (b) it had been acquired as such (whatever the time it was acquired).
- (3) For the purposes of sub-paragraph (1) above a would-be deep gain security is a security which would be a deep gain security apart from paragraph 1(6) above.
- (4) In sub-paragraph (1) above “gilt-edged security” has the same meaning as in paragraph 1 above.
- (5) For the purposes of sub-paragraph (2) above events, in relation to a security, include anything constituting a transfer or acquisition for the purposes of this Schedule.

Non-gilts: special rules

- 21 (1) In a case where—

Status: Point in time view as at 20/05/1995.

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- (a) all the securities issued on the occasion of the original issue under a particular prospectus (whatever the time of the issue) are neither gilt-edged securities nor deep gain securities,
- (b) some of the securities issued under the prospectus are not gilt-edged securities but are new would-be deep gain securities, and
- (c) there is a time when the aggregate nominal value of the securities falling within paragraph (b) above (at that time) exceeds the aggregate nominal value of the securities which (looking at the state of affairs at that time) have been issued under the prospectus and are neither gilt-edged securities nor new would-be deep gain securities,

sub-paragraph (2) below shall apply in relation to any security which is not a gilt-edged security but which has been or is issued under the prospectus at any time (whether before, at or after the time mentioned in paragraph (c) above).

- (2) As regards any event occurring in relation to the security after the time mentioned in sub-paragraph (1)(c) above, paragraphs 5 to 19 above shall have effect as if—
 - (a) the security were a deep gain security, and
 - (b) it had been acquired as such (whatever the time it was acquired).
- (3) For the purposes of sub-paragraph (1) above [^{F54}, and subject to paragraph 21A below,] a new would-be deep gain security is a security which—
 - (a) would be a deep gain security apart from paragraph 1(7) above, and
 - (b) was issued on or after 14th March 1989.
- (4) In sub-paragraph (1) above “gilt-edged security” has the same meaning as in paragraph 1 above.
- (5) For the purposes of sub-paragraph (2) above events, in relation to a security, include anything constituting a transfer or acquisition for the purposes of this Schedule.

Textual Amendments

F54 Words in Sch. 11 para. 21(3) inserted (*retrospectively and deemed always to have had effect*) by Finance (No. 2) Act 1992 (c. 48), s. 33, Sch. 7 paras. 5(1), 7, 8

[^{F55}21A(1) A security which (apart from this paragraph) would be a new would-be deep gain security for the purposes of paragraph 21(1) above is not such a security if the following three conditions are fulfilled.

- (2) The first condition is that all the securities issued on the occasion of the original issue were issued before 13th November 1991.
- (3) The second condition is that the security is issued on or after 13th November 1991.
- (4) The third condition is that, even if paragraph 1(7) above did not prevent the security being a deep gain security, it would nevertheless not be a deep gain security if for the purposes of paragraph 1(2) above “redemption” did not include any redemption which may be made before maturity otherwise than in pursuance of the exercise by the person who holds the security for the time being of an option exercisable only on the effluxion of time or the happening of an event which (judged at the time of the security’s issue) is certain or likely to occur.]

Status: Point in time view as at 20/05/1995.

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Textual Amendments

F55 Sch. 11 para. 21A inserted (*retrospectively and deemed always to have had effect*) by Finance (No. 2) Act 1992 (c. 48), s. 33, Sch. 7 paras. 5(2), 7, 8

Indexed securities: special rules

- 22 (1) Sub-paragraph (2) below applies where—
- (a) a qualifying indexed security has been issued,
 - (b) the person by whom it was issued and the person for the time being holding it make an agreement, on or after 14th March 1989, varying the terms under which it is held, and
 - (c) the terms as varied are such that, had the security been issued on those terms, it would be a deep gain security.
- (2) As regards any event occurring in relation to the security after the agreement is made, paragraphs 5 to 19 above shall have effect as if—
- (a) the security were a deep gain security, and
 - (b) it had been acquired as such (whatever the time it was acquired).
- (3) For the purposes of sub-paragraph (2) above events, in relation to a security, include anything constituting a transfer or acquisition for the purposes of this Schedule.
- (4) In this paragraph “qualifying indexed security” has the meaning given by paragraph 2 above.

[^{F56} Convertible securities: special rules (1)]

Textual Amendments

F56 Finance Act 1990 (c. 29), s. 56, Sch. 10 paras. 27(3), 29(4) on and after 9 June 1989

- 22A (1) Sub-paragraph (2) below applies where—
- (a) a security is a qualifying convertible security, for the purposes of Schedule 10 to the Finance Act 1990, at the time of its issue,
 - (b) apart from paragraph 21 of Schedule 4 to the Taxes Act 1988, it would be a deep discount security at that time, and
 - (c) at a later time it ceases to be a qualifying convertible security for the purposes of Schedule 10 to the Finance Act 1990.
- (2) As regards any event occurring in relation to the security after the time mentioned in sub-paragraph (1)(c) above, paragraphs 5 to 19 above shall have effect as if—
- (a) the security were a deep gain security, and
 - (b) it had been acquired as such (whatever the time it was acquired).
- (3) For the purposes of sub-paragraph (2) above events, in relation to a security, include anything constituting a transfer or acquisition for the purposes of this Schedule.

Status: Point in time view as at 20/05/1995.

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Convertible securities: special rules (2)

- 22B (1) In a case where—
- (a) a security is a qualifying convertible security, for the purposes of Schedule 10 to the Finance Act 1990, at the time of its issue, and
 - (b) apart from this sub-paragraph it would be a deep gain security at that time, then (subject to sub-paragraph (3) below) the security shall be treated, at the time of its issue and at all subsequent times, as not being a deep gain security.
- (2) Sub-paragraph (3) below applies where—
- (a) sub-paragraph (1) above applies in the case of a security, and
 - (b) at a time after its issue it ceases to be a qualifying convertible security for the purposes of Schedule 10 to the Finance Act 1990.
- (3) As regards any event occurring in relation to the security after the time mentioned in sub-paragraph (2)(b) above, paragraphs 5 to 19 above shall have effect as if—
- (a) the security were a deep gain security, and
 - (b) it had been acquired as such (whatever the time it was acquired).
- (4) For the purposes of sub-paragraph (3) above events, in relation to a security, include anything constituting a transfer or acquisition for the purposes of this Schedule.

[^{F57}No particular redemption date: special rule]

Textual Amendments

F57 Sch. 11 para 22C and cross heading inserted (*retrospectively and deemed always to have had effect*) by Finance (No. 2) Act 1992 (c. 48), s. 33, Sch. 7 paras 6, 7, 8

- ^{F58}22C(1) This paragraph applies to a security whose terms contain no particular date by which it is to be redeemed.
- (2) In the case of such a security the following expressions, wherever they appear in this Schedule, shall be construed as if the words “before maturity” were omitted—
- (a) the expression “redemption which may be made before maturity”;
 - (b) the expression “redemption before maturity”;
 - (c) the expression “redeemed before maturity”.

Textual Amendments

F58 Sch. 11 para 22C and cross heading inserted (*retrospectively and deemed always to have had effect*) by Finance (No. 2) Act 1992 (c. 48), s. 33, Sch. 7 paras 6, 7, 8

Power to modify

- 23 (1) The Treasury may make regulations amending paragraph 2 above so as to do one or more of the following—

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- (a) vary any condition for the time being set out in that paragraph;
 - (b) omit any condition for the time being so set out;
 - (c) add a new condition to any for the time being so set out;
 - (d) substitute a condition or conditions for any condition or conditions for the time being so set out.
- (2) Regulations under sub-paragraph (1) above—
- (a) shall be made by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons,
 - (b) shall apply where there is a transfer within the meaning of this Schedule, or a redemption, on or after such day as may be specified in the regulations, and
 - (c) may include such supplementary, incidental, consequential or transitional provisions as appear to the Treasury to be necessary or expedient.

SCHEDULE 12

Section 107.

CLOSE COMPANIES

PART I

ADMINISTRATIVE PROVISIONS

Interpretation

- 1 In this Part of this Schedule “the relevant provisions” means—
- (a) sections 13A, 231 and 419 to 422 of the Taxes Act 1988, and
 - (b) Chapter III of Part XI of that Act (as it has effect in relation to accounting periods beginning before 1st April 1989).

Provision of information by company

- 2 The inspector may, by notice, require any company which is, or appears to him to be, a close company to furnish him within such time (not being less than 30 days) as may be specified in the notice with such particulars as he thinks necessary for the purposes of the relevant provisions.

Provision of information by shareholders

- 3 (1) If for the purposes of the relevant provisions any person in whose name any shares are registered is so required by notice by the inspector, he shall state whether or not he is the beneficial owner of the shares and, if not the beneficial owner of the shares, shall furnish the name and address of the person or persons on whose behalf the shares are registered in his name.
- (2) This paragraph shall apply in relation to loan capital as it applies in relation to shares.

Status: Point in time view as at 20/05/1995.

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Information about bearer securities

- 4 (1) The inspector may, for the purposes of the relevant provisions, by notice require—
- (a) any company which appears to him to be a close company to furnish him with particulars of any bearer securities issued by the company, and the names and addresses of the persons to whom the securities were issued and the respective amounts issued to each person, and
 - (b) any person to whom bearer securities were issued by the company, or to or through whom such securities were subsequently sold or transferred, to furnish him with such further information as he may require with a view to enabling him to ascertain the names and addresses of the persons beneficially interested in the securities.
- (2) In this paragraph—
- “loan creditor” has the same meaning as in Part XI of the Taxes Act 1988, and
- “securities” includes shares, stock, bonds, debentures and debenture stock and also any promissory note or other instrument evidencing indebtedness to a loan creditor of the company.

PART II

AMENDMENTS CONNECTED WITH REPEAL OF CHAPTER III OF PART XI OF TAXES ACT 1988

The Taxes Management Act 1970 (c.9)

- 5 In the first column of the Table in section 98 of the Taxes Management Act 1970 (penalty for failure to give particulars etc.) there shall be added at the end— “Paragraphs 2 to 4 of Schedule 12 to the Finance Act 1989.”

The Capital Gains Tax Act 1979 (c.14)

F59 6

Textual Amendments

F59 Sch. 12 para. 6 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, Sch.12 (with ss. 201(3), Sch. 11 paras. 22, 26(2), 27)

The Income and Corporation Taxes Act 1988 (c.1)

- 7 In section 13 of the Taxes Act 1988 (small companies’ rate) in subsection (9) for the words “paragraph 17 of Schedule 19” there shall be substituted the words “paragraphs 2 to 4 of Schedule 12 to the Finance Act 1989”.
- 8 (1) In section 168(11) of the Taxes Act 1988 (cases in which a person has a material interest in a company for the purposes of Chapter II of Part V of that Act) for the words from “in a company” to the end of paragraph (b) there shall be substituted—

Status: Point in time view as at 20/05/1995.

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- “in a company if he, either on his own or with one or more associates, or if any associate of his with or without such other associates,—
- (a) is the beneficial owner of, or able, directly or through the medium of other companies, or by any other indirect means to control, more than 5 percent. of the ordinary share capital of the company, or
 - (b) in the case of a close company, possesses, or is entitled to acquire, such rights as would, in the event of the winding-up of the company or in any other circumstances, give an entitlement to receive more than 5 per cent. of the assets which would then be available for distribution among the participators.” and at the end there shall be added the words “, and “participator” has the meaning given by section 417(1) ”.
- (2) This paragraph shall have effect in relation to accounting periods beginning after 31st March 1989.
- 9 (1) In section 187(3) of the Taxes Act 1988 (cases in which a person has a material interest in a company for the purposes of sections 185 to 187 of, and Schedules 9 and 10 to, that Act) for the words from “in a company” to the end of paragraph (b) there shall be substituted—
- “in a company if he, either on his own or with one or more associates, or if any associate of his with or without such other associates,—
- (a) is the beneficial owner of, or able, directly or through the medium of other companies, or by any other indirect means to control, more than 25 percent., or in the case of a share option scheme which is not a savings-related share option scheme more than 10 per cent., of the ordinary share capital of the company, or
 - (b) where the company is a close company, possesses, or is entitled to acquire, such rights as would, in the event of the winding-up of the company or in any other circumstances, give an entitlement to receive more than 25 percent., or in the case of a share option scheme which is not a savings-related share option scheme more than 10 per cent., of the assets which would then be available for distribution among the participators.” and at the end there shall be added the words “ and “participator” has the meaning given by section 417(1) ”.
- (2) This paragraph shall have effect in relation to accounting periods beginning after 31st March 1989.
- 10 (1) In section 214 of the Taxes Act 1988 (chargeable payments connected with exempt distributions) in subsection (1)(c) for the words from “338(2)(a)” to “Schedule 19” there shall be substituted the words “and 338(2)(a)”.
- (2) This paragraph shall have effect in relation to accounting periods beginning after 31st March 1989, except in any case where section 427(4) of the Taxes Act 1988 has effect by virtue of section 103(2) of this Act.
- 11 In section 234 of the Taxes Act 1988 (information relating to distributions) in subsection (9) for the words from “paragraph 17” to “that Schedule” there shall be substituted the words “paragraphs 2 to 4 of Schedule 12 to the Finance Act 1989 for the purposes of the relevant provisions (as defined in paragraph 1 of that Schedule)”.

Status: Point in time view as at 20/05/1995.

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- 12 (1) Section 360 of the Taxes Act 1988 (loan to buy interest in a close company) shall be amended in accordance with this paragraph.
- (2) In subsection (1)(a) for the words from “satisfying” to “424(4)” there shall be substituted the words “complying with section 13A(2)”.
- (3) In subsections (2)(a) and (3)(a) for the words “satisfy any of the conditions of section 424(4)” there shall be substituted the words “comply with section 13A(2)”.
- (4) This paragraph shall have effect in relation to interest paid on or after the day on which this Act is passed (and, accordingly, the conditions of section 424(4) of the Taxes Act 1988 shall continue to have effect for the purposes of section 360 of that Act in relation to interest paid before that day).
- 13 (1) Section 360A of the Taxes Act 1988 (cases in which a person has a material interest in a company for the purposes of section 360(2)(a)) shall be amended in accordance with this paragraph.
- (2) In subsection (1) for the words from “in a company” onwards there shall be substituted—
- “in a company if he, either on his own or with one or more associates, or if any associate of his with or without such other associates,—
- (a) is the beneficial owner of, or able, directly or through the medium of other companies, or by any other indirect means to control, more than 5 percent. of the ordinary share capital of the company, or
- (b) possesses, or is entitled to acquire, such rights as would, in the event of the winding-up of the company or in any other circumstances, give an entitlement to receive more than 5 per cent. of the assets which would then be available for distribution among the participators.”
- (3) In subsection (10) after the word “section” there shall be inserted the words “participator” has the meaning given by section 417(1) and”.
- (4) This paragraph shall have effect in relation to accounting periods beginning after 31st March 1989.
- 14 (1) In section 576 of the Taxes Act 1988 (which relates to relief for losses on certain unquoted shares) in subsection (5), for paragraph (a) of the definition of “trading company” there shall be substituted—
- “(a) a company whose business consists wholly or mainly of the carrying on of a trade or trades”.
- (2) This paragraph shall have effect in relation to disposals made after 31st March 1989.
- 15 (1) In section 623 of the Taxes Act 1988 (meaning of “relevant earnings” for the purposes of Chapter III of Part XIV of that Act) in subsection (2) for the words “(construed in accordance with paragraph 7 of Schedule 19)” there shall be substituted the words “(that is to say, income which, if the company were an individual, would not be earned income)”.
- (2) This paragraph shall have effect in relation to accounting periods beginning after 31st March 1989.

Status: Point in time view as at 20/05/1995.

Changes to legislation: Finance Act 1989 is up to date with all changes known to be in force on or before 23 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- 16 (1) In section 644 of the Taxes Act 1988 (meaning of “relevant earnings” for the purposes of Chapter IV of Part XIV of that Act) in subsection (6) for the definition of “investment income” there shall be substituted—
- ““investment income” means income which, if the company were an individual, would not be earned income.”
- (2) This paragraph shall have effect in relation to accounting periods beginning after 31st March 1989.
- 17 In section 745 of the Taxes Act 1988 (power to obtain information for the purposes of Chapter III of Part XVII of that Act) in subsection (4) for the words from “trading” onwards there shall be substituted the words “companies whose business consists wholly or mainly of the carrying on of a trade or trades.”
- 18 (1) Paragraph 7 of Schedule 8 to the Taxes Act 1988 (cases in which a person has a material interest in a company for the purposes of a profit-related pay scheme) shall be amended in accordance with this paragraph.
- (2) In sub-paragraph (2) for the words from “in a company” onwards there shall be substituted—
- “in a company if he, either on his own or with one or more associates, or if any associate of his with or without such other associates,—
- (a) is the beneficial owner of, or able, directly or through the medium of other companies, or by any other indirect means to control, more than 25 per cent. of the ordinary share capital of the company, or
- (b) in the case of a close company, possesses, or is entitled to acquire, such rights as would, in the event of the winding-up of the company or in any other circumstances, give an entitlement to receive more than 25 per cent. of the assets which would then be available for distribution among the participators”.
- (3) In sub-paragraph (3) the second “and” shall be omitted and after the definition of “control” there shall be inserted “and
- “participator” has the meaning given by section 417(1)”.
- (4) This paragraph shall have effect in relation to accounting periods beginning after 31st March 1989.

SCHEDULE 13

Section 121.

CAPITAL ALLOWANCES: MISCELLANEOUS AMENDMENTS

1–26 F60

Textual Amendments

F60 Sch. 13 paras. 1–26, 28–30 repealed by Capital Allowance Act 1990 (c. 1), s. 164(4)(5), Sch. 2

Status: Point in time view as at 20/05/1995.

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Patent rights

- 27 (1) Section 521 of the Taxes Act 1988 shall be amended as follows.
- (2) In subsection (5) (which limits allowable expenditure in the case of certain sales entered into between connected persons or for the purpose of obtaining an allowance) —
 - (a) the words “within the terms of section 839” shall be omitted, and
 - (b) for the words “the disposal value” onwards there shall be substituted the words “the relevant amount determined in accordance with subsection (6) below”.
- (3) After subsection (5) there shall be added—
 - “(6) The relevant amount referred to in subsection (5) above is—
 - (a) in a case in which, by virtue of subsections (2) to (4) above, a disposal value falls to be brought into account by reason of the sale, an amount equal to that disposal value,
 - (b) in a case in which no disposal value falls to be brought into account as mentioned in paragraph (a) above, but the seller receives on the sale a capital sum in respect of which he is chargeable to tax in accordance with section 524, an amount equal to that sum,
 - (c) in any other case, an amount equal to whichever of the following is the smallest—
 - (i) the price which the rights would have fetched if sold in the open market,
 - (ii) where capital expenditure was incurred by the seller on acquiring the rights, the amount of that expenditure,
 - (iii) where capital expenditure was incurred by any person connected with the seller on acquiring the rights, the amount of the expenditure incurred by that person.
 - (7) Section 839 (connected persons) shall apply for the purposes of this section.”
- (4) This paragraph shall have effect in relation to expenditure incurred on or after the day on which this Act is passed.

28–30 F61

Textual Amendments
F61 Sch. 13 paras. 1–26, 28–30 repealed by Capital Allowance Act 1990 (c. 1), s. 164(4)(5), Sch. 2

Status: Point in time view as at 20/05/1995.

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F62 SCHEDULE 14

Textual Amendments

F62 Sch. 14 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, [Sch. 12](#) (with s. 201(3), [Sch. 11 paras. 22, 26\(2\), 27](#))

Gifts of business assets

F63₁

Textual Amendments

F63 Sch. 14 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, [Sch. 12](#) (with s. 201(3), [Sch. 11 paras. 22, 26\(2\), 27](#))

F64₂

Textual Amendments

F64 Sch. 14 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, [Sch. 12](#) (with s. 201(3), [Sch. 11 paras. 22, 26\(2\), 27](#))

F65₃

Textual Amendments

F65 Sch. 14 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, [Sch. 12](#) (with s. 201(3), [Sch. 11 paras. 22, 26\(2\), 27](#))

Gifts on which inheritance tax is chargeable etc.

F66₄

Textual Amendments

F66 Sch. 14 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, [Sch. 12](#) (with s. 201(3), [Sch. 11 paras. 22, 26\(2\), 27](#))

Payment of tax by instalments

F67₅

Textual Amendments

F67 Sch. 14 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, [Sch. 12](#) (with s. 201(3), [Sch. 11 paras. 22, 26\(2\), 27](#))

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Minor and consequential amendments

F68 6

Textual Amendments
F68 Sch. 14 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, [Sch.12](#) (with s. 201(3), Sch. 11 paras. 22, 26(2), 27)

F69 SCHEDULE 15

Textual Amendments
F69 Sch. 15 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, [Sch.12](#) (with s. 201(3), Sch. 11 paras. 22, 26(2), 27)

Postponed charges etc.: pre-1st April 1982 events

F70 1

Textual Amendments
F70 Sch. 15 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, [Sch. 12](#) (with s. 201(3), Sch. 11 paras. 22, 26(2), 27)

F71 2

Textual Amendments
F71 Sch. 15 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, [Sch.12](#) (with s. 201(3), Sch. 11 paras. 22, 26(2), 27)

Reduction of 1982 value in certain cases

F72 3

Textual Amendments
F72 Sch. 15 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, [Sch.12](#) (with s. 201(3), Sch. 11 paras. 22, 26(2), 27)

No gain/no loss disposals

F73 4

Status: Point in time view as at 20/05/1995.

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Textual Amendments

F73 Sch. 15 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, Sch.12 (with s. 201(3), Sch. 11 paras. 22, 26(2), 27)

Elections

F745

Textual Amendments

F74 Sch. 15 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, Sch.12 (with s. 201(3), Sch. 11 paras. 22, 26(2), 27)

[^{F75}SCHEDULE 16

Section 181.

BROADCASTING: ADDITIONAL PAYMENTS BY PROGRAMME CONTRACTORS

Textual Amendments

F75 S. 181, Sch. 16 repealed (prosp. as mentioned in S.I. 1990/2347, art. 3(3)) by Broadcasting Act 1990 (c. 42, SIF 96), ss. 127-129, 134, 203(3), 204(2), Schs. 9-12, Sch. 21

PART I

AMENDMENTS OF THE PRINCIPAL SECTIONS

- 1 (1) Section 32 of the ^{M13}Broadcasting Act 1981 (rental payments by programme contractors) shall be amended as follows.
- (2) In subsection (1)(b), after the word “amounts” there shall be inserted the words “in respect of profits and in respect of advertising revenue”.
- (3) In subsection (2)(b), after the word “amounts” there shall be inserted the words “in respect of profits”.
- (4) In subsection (4), for the word “Table”, where it first occurs, there shall be substituted the word “Tables” and the following Tables shall be substituted for the Table in that subsection—

“TABLE A

RATES OF ADDITIONAL PAYMENTS IN
RESPECT OF ADVERTISING REVENUE

*Rate for determining amount of
additional payments*

Status: Point in time view as at 20/05/1995.

Changes to legislation: Finance Act 1989 is up to date with all changes known to be in force on or before 23 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

For so much of the advertising revenue for the accounting period as does not exceed the free slice for advertising revenue.	Nil
For so much of the advertising revenue for the accounting period as exceeds the free slice for advertising revenue.	The relevant revenue rate except where the rate is nil

For the purposes of this Table—

- (a) a nil rate, instead of the relevant revenue rate, is applicable in the case of persons who are DBS programme contractors or DBS teletext contractors;
- (b) the relevant revenue rate is 10 per cent; and
- (c) the free slice for advertising revenue is £15 million or, in the case of a TV programme contractor, that amount with the addition of the payments payable by him in pursuance of section 13(2).

TABLE B

RATES OF ADDITIONAL PAYMENTS IN RESPECT OF PROFITS

For so much of the profits for the accounting period after deducting any amount payable under Table A as does not exceed the free slice for profits.	Nil
For so much of the profits for the accounting period after deducting any amount payable under Table A as exceeds the free slice for profits.	The relevant profits rate except where the rate is nil.

For the purposes of this Table—

- (a) a nil rate, instead of the relevant profits rate, is applicable in the case of—
 - (i) programme contractors who provide local sound broadcasts, and
 - (ii) DBS programme contractors or DBS teletext contractors;
- (b) the relevant profits rate is 25 per cent; and
- (c) the free slice for profits is £2 million.”

(5) Subsection (4A) shall be omitted.

(6) In subsection (5), for the words “relevant sum mentioned in subsection(4A)” there shall be substituted the words “relevant sum mentioned in the Tables above”.

(7) In subsection (7), after the words “additional payments” there shall be inserted the words “in respect of profits”.

(8) In subsection (8), for the words “any of the provisions of subsections(4), (4A)” there shall be substituted the words “any of the provisions of subsections (4)”.

Status: Point in time view as at 20/05/1995.

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(9) For subsection (9) there shall be substituted the following subsections—

“(9) The power of the Secretary of State under subsection (8) shall include power to amend the provisions in question as there mentioned—

- (a) only in their application in relation to the additional payments mentioned in subsection (1)(b); or
- (b) only in their application in relation to the additional payments mentioned in subsection (2)(b); or
- (c) differently in their application as mentioned in paragraphs (a) and (b) respectively; or
- (d) only in their application in relation to additional payments in respect of advertising revenue; or
- (e) only in their application in relation to additional payments in respect of profits; or
- (f) differently in their application as mentioned in paragraphs (d) and (e) respectively.

(9A) In the application of the provisions mentioned in subsection (8) in relation to the additional payments mentioned in subsection (1)(b), the power of the Secretary of State under subsection (8) shall also include power to amend those provisions as mentioned in subsection (8)—

- (a) only in relation to persons who are TV programme contractors (including persons who are both TV programme contractors and teletext contractors); or
- (b) only in relation to persons who are DBS programme contractors (including persons who are both DBS programme contractors and teletext contractors); or
- (c) only in relation to persons who are teletext contractors (other than DBS teletext contractors) but are not TV or DBS programme contractors; or
- (d) only in relation to persons who are DBS teletext contractors but are not TV or DBS programme contractors; or
- (e) differently in relation to persons within paragraphs (a), (b), (c) and (d) respectively.”

Marginal Citations

M13 1981 c. 68.

- 2 (1) Section 33 of the ^{M14}Broadcasting Act 1981 (supplemental provisions) shall be amended as follows.
- (2) In subsection (1), for the words “advertising receipts” there shall be substituted the words “advertising revenue”.
- (3) In subsection (2), for the words “advertising receipts” there shall be substituted the words “advertising revenue” and for the words “those receipts derive” there shall be substituted the words “the revenue derives”.

Status: Point in time view as at 20/05/1995.

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- (4) In subsection (3)(c), for the words “advertising receipts” there shall be substituted the words “advertising revenue” and for the word “derive” there shall be substituted the word “derives”.

Marginal Citations

M14 1981 c. 68.

- 3 (1) Section 34 of the Broadcasting Act 1981 (instalments payable on account by programme contractors for their accounting periods) shall be amended as follows.
- (2) In subsection (3)(c), for the words “receipts are” there shall be substituted the words “revenue is”.
- 4 (1) Section 35 of the ^{M15}Broadcasting Act 1981 (provision for supplementing additional payments) shall be amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (a), after the words “additional payments” there shall be inserted the words “in respect of profits”;
 - (b) in paragraph (b)(ii), the words “in the case of second category profits,” shall be omitted; and
 - (c) at the end, there shall be added the words “in respect of profits of his for that period”.

Marginal Citations

M15 1981 c. 68.

PART II

PROVISIONS INSERTED AS SCHEDULE 4 TO THE BROADCASTING ACT 1981

“SCHEDULE 4

RENTAL PAYMENTS

Advertising revenue

- 1 (1) The advertising revenue of a programme contractor for an accounting period shall be computed in accordance with this paragraph.
- (2) Advertising revenue shall consist of the payments received or to be received by the programme contractor in consideration of the insertion of advertisements in programmes provided by the programme contractor and broadcast in the United Kingdom by the Authority.
- (3) In the application of this Schedule in relation to the additional payments mentioned in section 32(1)(b), the advertising revenue of a programme contractor other than a teletext contractor who is not a TV programme contractor includes payments received or to be received by him in consideration of the insertion of programmes consisting

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of advertisements provided by him for broadcasting on the Fourth Channel and so broadcast.

- (4) If, in connection with the insertion of advertisements which are paid for by payments constituting advertising revenue, any payments are made to the programme contractor to meet any additional payments, those payments shall be regarded as made in consideration of the insertion of the advertisements in question.
- (5) In the case of an advertisement inserted in a programme under arrangements made between a programme contractor and a person acting as advertising agent, the amount of any receipt by the programme contractor which represents a payment by the advertiser from which the advertising agent has deducted any amount by way of commission shall, except in a case falling within sub-paragraph (6), be the amount of the payment by the advertiser after the deduction of the commission.
- (6) If the amount deducted by way of commission as mentioned in sub-paragraph (5) exceeds 15 per cent. of the payment by the advertiser, the amount of the receipt shall be the amount of that payment less 15 per cent.
- (7) Any contract shall provide that where for any insertion of an advertisement a programme contractor receives or is entitled to an entire consideration not solely referable to that insertion, the advertising revenue shall be calculated by reference to so much only of the consideration as is referable to that insertion according to an apportionment made in such manner as the contract may provide.

Profits

- 2 (1) The profits of a programme contractor for an accounting period shall be computed in accordance with this paragraph.
- (2) The profits shall consist of the excess of relevant income over relevant expenditure.
- (3) “Relevant income” means—
 - (a) in relation to a programme contractor other than a DBS programme contractor or a DBS teletext contractor, income which accrues to the contractor in connection (directly or indirectly) with—
 - (i) the provision by the contractor of programmes for broadcasting on ITV, the Fourth Channel or a local sound broadcasting service, or
 - (ii) the provision by the contractor, for broadcasting, distribution or showing in the United Kingdom, of programmes provided by him for broadcasting on ITV, the Fourth Channel or a local sound broadcasting service;
 - (b) in relation to a DBS programme contractor or DBS teletext contractor, income which accrues to the contractor in connection (directly or indirectly) with—
 - (i) the provision by the contractor to the Authority, in accordance with the terms of his contract as a DBS programme contractor or (as the case may be) DBS teletext contractor, of programmes for broadcasting in the Authority’s DBS service to which his contract with the Authority relates, or
 - (ii) the provision by the contractor, for broadcasting, distribution or showing in the United Kingdom, of programmes broadcast in the Authority’s DBS service.
- (4) Without prejudice to the generality of sub-paragraph (3), “relevant income” includes—

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- (a) all revenue which is advertising revenue for the purposes of this paragraph; and
 - (b) such part of any income which—
 - (i) accrues to any subsidiary of or company related to the programme contractor or to the contractor’s holding company, and
 - (ii) would be relevant income of that contractor if he and the subsidiary or related company or his holding company were a single programme contractor,
 as, in the opinion of the Authority, should be attributed to the contractor as reflecting his financial interest in the subsidiary or the respective financial interests of the holding company in the contractor and the company related to the contractor or the financial interest of the holding company in the contractor, as the case may be.
- (5) For the purposes of this paragraph advertising revenue includes—
- (a) in relation to a DBS programme contractor, payments received or to be received by him in respect of charges made for the reception of programmes provided by him and broadcast in a DBS service;
 - (b) in relation to a teletext contractor, payments received or to be received by him in respect of charges made for the reception of programmes provided by him and broadcast in a DBS or additional teletext service.
- (6) “Relevant expenditure” means any expenditure of the programme contractor which is properly chargeable to revenue account and which is incurred in connection with the provision by him of programmes of a kind mentioned in sub-paragraph (3).
- (7) Without prejudice to the generality of sub-paragraph (6), “relevant expenditure” includes—
- (a) expenditure in connection with the sale of rights to insert advertisements in programmes; and
 - (b) such part of any expenditure which—
 - (i) is incurred by any subsidiary of or company related to the programme contractor or by the contractor’s holding company, and
 - (ii) would be relevant expenditure of that contractor if he and the subsidiary or related company or his holding company were a single programme contractor,
 as, in the opinion of the Authority, should be attributed to the contractor as reflecting his financial interest in the subsidiary or the respective financial interests of the holding company in the contractor and the company related to the contractor or the financial interest of the holding company in the contractor, as the case may be;
 - (c) in the case of a DBS programme contractor or a teletext contractor, any expenditure incurred in connection with the collection of charges for the reception of programmes provided by him and broadcast in a DBS service or in a DBS or additional teletext service, as the case may be; and
 - (d) in the case of a DBS programme or DBS teletext contractor, any expenditure incurred in connection with the provision of the satellite transponder.
- (8) In ascertaining relevant income or relevant expenditure no account shall be taken of interest on any loan.

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- (9) Items of relevant income and items of relevant expenditure shall be attributed to accounting periods in accordance with the foregoing provisions of this Schedule.
- (10) In this paragraph “programme” means—
- (a) in the application of this Schedule in relation to the additional payments mentioned in section 32(1)(b), a television programme; and
 - (b) in the application of this Schedule in relation to the additional payments mentioned in section 32(2)(b), a local sound broadcast.

Carry forward of losses

- 3 (1) Where, in any accounting period, the relevant expenditure of a programme contractor exceeds his relevant income, the excess shall be carried forward to the following accounting period and treated as relevant expenditure for that period for the purpose of computing his profits for that period.
- (2) When a programme contractor’s contract with the Authority comes to an end, no losses incurred at any time during the currency of that contract may be carried forward under this paragraph and set against income attributable to any subsequent contract between him and the Authority.

Computation of profits of programme contractors

- 4 (1) It shall be the duty of the Authority—
- (a) to draw up, and from time to time review, a statement setting out the principles to be followed in ascertaining, for any accounting period, a programme contractor’s—
 - (i) advertising revenue, and
 - (ii) relevant income and relevant expenditure for the purpose of computing his profits;
 - (b) in computing the advertising revenue and the profits of a programme contractor for any accounting period, to take account of that statement (including any revision thereof which has taken effect before the end of that period).
- (2) A statement under this paragraph may set out different principles for TV programme contractors, DBS programme contractors, programme contractors for the provision of local sound broadcasting and teletext contractors.
- (3) Before drawing up or revising a statement under this paragraph the Authority shall consult the Secretary of State and the Treasury.
- (4) The Authority shall—
- (a) publish the statement drawn up under this paragraph and every revision of that statement; and
 - (b) transmit a copy of the statement, and of every revision of it, to the Secretary of State;
- and the Secretary of State shall lay copies of the statement and of every such revision before each House of Parliament.
- (5) The principles relating to advertising revenue and to profits may be set out in separate statements under this paragraph; and where this is done its provisions apply to each statement.

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Disputes

- 5 (1) For the purposes of the principal sections and this Schedule—
- (a) the amount of any advertising revenue, or
 - (b) the amount of any profits, or
 - (c) the amount of any additional payments, or of an instalment of additional payments,
- shall, in the event of a disagreement between the Authority and the programme contractor, be the amount determined by the Authority.
- (2) No determination of the Authority under this paragraph shall be called in question in any court of law, or be the subject of any arbitration; but nothing in this sub-paragraph shall prevent the bringing of proceedings for judicial review.

Accounting periods

- 6 (1) Subject to the provisions of this Schedule, each period for which a body corporate which is a programme contractor makes up a profit and loss account which is laid before the body corporate in general meeting shall be an accounting period, whether that period is a year or not.
- (2) If part of the said period for which a profit and loss account is made up falls before, and part after—
- (a) the commencement of a relevant order under section 32, or
 - (b) the time when the programme contractor begins or ceases to provide programmes for broadcasting by the Authority,
- the two parts shall be treated as separate accounting periods.
- In paragraph (a) “relevant order” means, in the application of this Schedule in relation to the additional payments mentioned in subsection (1)(b) or (as the case may be) subsection (2)(b) of section 32, an order having effect in relation to those payments.
- (3) Where two parts of such a period as is mentioned in sub-paragraph (1) fall to be divided from each other under sub-paragraph (2)(a), section 32(4) shall have effect as if the profits and advertising revenue for each part were the profits and advertising revenue for the whole multiplied by—

$$\frac{X}{X+Y}$$

where X and Y are respectively the number of weeks in that part and the number of weeks in the other part, counting (in each case) an odd four days or more as a week.

- (4) If sub-paragraph (2)(b) would produce an accounting period of three months or less, that period shall be added on to the accounting period (if any) which precedes or succeeds it (and which does not fall to be divided from it under sub-paragraph (2)(b)).
- (5) A contract which varies another contract may modify the preceding provisions of this paragraph.
- (6) Nothing in this paragraph shall create an accounting period during which the programme contractor is not providing programmes for broadcasting by the Authority.

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- 7 If a programme contractor is not a body corporate the contractor's accounting periods shall be such as the Authority may direct, or as may be provided in the contract.

Information

- 8 (1) Every contract shall impose on the contractor such requirements with respect to the furnishing of information to the Authority as appear to the Authority, after consultation with the Secretary of State, to be requisite—
- (a) for enabling the Authority to perform their functions under the provisions of the principal sections and this Schedule, and
 - (b) for enabling the Authority to furnish to the Secretary of State such information as he may require for the purpose of determining whether, and in what manner, to exercise his powers of making orders under the said provisions.
- (2) Without prejudice to the generality of sub-paragraph (1), the duty imposed on the Authority by that sub-paragraph includes the duty to impose, so far as is reasonably practicable, such requirements as will enable the Authority to determine the amounts (if any) which, in relation to any programme contractor, are to be treated as advertising revenue and relevant income and relevant expenditure for the computation of profits by virtue, respectively, of paragraphs 1 and 2.
- (3) It shall be the duty of the Authority to furnish to the Secretary of State such information (whether obtained from contractors or otherwise) as is in their possession and is required by the Secretary of State for the purpose of determining whether, and in what manner, to exercise his powers of making orders under the said provisions.
- 9 It shall be the duty of the Authority in framing any contract to include terms ensuring that the Authority will have the right to inspect accounts and records—
- (a) of the programme contractor, and
 - (b) of any subsidiary of the programme contractor,
- for the purpose of discharging their functions under the principal sections and this Schedule.

Interpretation

- 10 (1) In this Schedule, and in the principal sections, except where the context otherwise requires—
- “accounting period” shall be construed in accordance with paragraph 6;
 - “additional payments” and “contract”—
- (a) in the application of this Schedule and the principal sections in relation to the additional payments mentioned in section 32(1)(b), mean respectively additional payments payable by virtue of that paragraph and a contract between the Authority and a programme contractor under which television programmes are to be provided by the programme contractor, and
 - (b) in their application in relation to the additional payments mentioned in section 32(2)(b), mean respectively additional payments payable by virtue of that paragraph and a contract between the Authority and a programme contractor under which local sound broadcasts are to be provided by the programme contractor;
- “related”, in relation to a company and a programme contractor, means that another person (whether alone or jointly with one or more persons and whether directly or indirectly) holds, or is beneficially entitled to, 50 per cent or more of

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the equity share capital, or possesses 50 per cent or more of the voting power, in the company and in the programme contractor and “holding company” means that other person; and

“subsidiary”, in relation to any person, means a company in which that person (whether alone or jointly with one or more persons and whether directly or indirectly) holds, or is beneficially entitled to, 10 per cent or more of the equity share capital, or possesses 10 per cent or more of the voting power.

- (2) In this Schedule “payment” includes any valuable consideration, and references to revenue and receipts and expenditure shall be construed accordingly.”

PART III

TRANSITIONAL PROVISIONS

- 1 (1) In this paragraph—

“new statutory provisions” means the provisions of the ^{M16}Broadcasting Act 1981 as amended by this Act; and

“existing statutory provisions” means the provisions of that Act as they had effect immediately before the coming into force of section 181.

- (2) Any contract between the Authority and a programme contractor which is in force immediately before the day on which section 181 of this Act comes into force shall, until it is varied or superseded by a further contract between them or expires or is otherwise terminated (whichever first occurs), be deemed to be modified by virtue of this Schedule so as—

- (a) to substitute provisions in conformity with the new statutory provisions for so much of the contract as is in accordance with the existing statutory provisions and is not in conformity with the new statutory provisions, and
- (b) to incorporate in the contract such additional provisions as a contract between the Authority and a programme contractor is required to include in accordance with the new statutory provisions;

and (subject to paragraph 5 of Schedule 4 to the 1981 Act) any provisions of the contract which provide for arbitration as to any matters contained in the contract in accordance with the existing statutory provisions shall be construed as making the like provision for arbitration in relation to matters deemed to be included in the contract by virtue of this sub-paragraph.

- (3) Where it appears to the Authority that the new statutory provisions call for the inclusion of additional terms in any such contract, but do not afford sufficient particulars of what those terms should be, the Authority may, after consulting the programme contractor, decide what those terms are to be.
- (4) This paragraph shall not be taken to have effect in relation to any contract entered into by a programme contractor and any person other than the Authority before the day on which section 181 of this Act comes into force.

Marginal Citations

M16 1981 c. 68.

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2 Where any accounting period of a programme contractor begins before 1st January 1990 and ends after 31st December 1989, the additional payments payable by the programme contractor in relation to that accounting period under section 32 of the ^{M17}Broadcasting Act 1981 shall be the aggregate of—

- (a) the amounts payable by him on the assumption that section 181 of this Act was not in force at any time during the accounting period, multiplied by—

$$\frac{X}{X + Y},$$

and

- (b) the amounts payable by him on the assumption that that section was in force throughout the accounting period, multiplied by—

$$\frac{Y}{X + Y};$$

where (taking any odd four days or more as a week)—

X is the number of weeks in the accounting period falling before 1st January 1990, and

Y is the number of weeks in the accounting period falling after 31st December 1989.

Marginal Citations

M17 1981 c. 68.

3 Where, under the existing statutory provisions, any excess of first category expenditure over first category income of a programme contractor would have been carried forward and treated as relevant first category expenditure of his for an accounting period ending after 31st December 1989 if those provisions had applied in relation to that period then the excess shall be carried forward and treated, under the new statutory provisions, as relevant expenditure of the contractor for any accounting period which ends after that date.

4 In this Part of this Schedule, references to programme contractors shall be read as including references to teletext contractors.]

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SCHEDULE 17

Section 187.

REPEALS

PART I

CUSTOMS AND EXCISE

1979 c. 2.	The Customs and Excise Management Act 1979.	Section 17(5)(a).Section 147(1).
1979 c. 4.	The Alcoholic Liquor Duties Act 1979.	Section 73.
1988 c. 39.	The Finance Act 1988.	Section 11(2).

The repeals of section 147(1) of the Customs and Excise Management Act 1979 and section 11(2) of the Finance Act 1988 have effect in relation to offences committed on or after the day on which this Act is passed.

PART II

VEHICLES EXCISE DUTY

1971 c. 10.	The Vehicles (Excise) Act 1971.	In Part I of Schedule 3, paragraph 5A, and in paragraph 8(2)(d) the words “any load other than”. In Part I of Schedule 4, paragraphs 12 and 13, and in paragraph 15(1) the definitions of “agricultural machine”, “fisherman’s tractor”, “mobile crane”, “recovery vehicle” and “works truck” and the word “and” preceding the last of those definitions.
1971 c. 68.	The Finance Act 1971.	Section 6(1).
1972 c. 10 (N.I.).	The Vehicles (Excise) Act (Northern Ireland) 1972.	In Part I of Schedule 3, paragraph 5A, and in paragraph 8(2)(d) the words “any load other than”. In Part I of Schedule 4, paragraphs 12 and 13, and in paragraph 15(1) the definitions of “agricultural machine”, “fisherman’s tractor”, “mobile crane”, “recovery vehicle” and “workstruck” and the

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		word “and” preceding the last of those definitions.
1976 c. 40.	The Finance Act 1976.	Section 14.
1982 c. 39.	The Finance Act 1982.	In Schedule 5, paragraph 16(6).
1987 c. 16.	The Finance Act 1987.	In Part II of Schedule 1, paragraph 4.
1988 c. 39.	The Finance Act 1988.	Section 4(3)(a). In Part II of Schedule 2, paragraph 3.

- 1 The repeals in paragraph 8 of Part I of Schedule 3 to the Vehicles(Excise) Act 1971 and paragraph 8 of Part I of Schedule 3 to the Vehicles(Excise) Act (Northern Ireland) 1972 come into force on the day on which this Act is passed.
- 2 The remaining repeals have effect in relation to licences taken out after 14th March 1989.

PART III

VALUE ADDED TAX

1983 c. 55.	The Value Added Tax Act 1983.	In Schedule 5, Group 6 and, in Group 8A, Note (5).
1984 c. 43.	The Finance Act 1984.	In Schedule 6, Part II.
S.I. 1986/704.	The Value Added Tax (Land) Order 1986.	The whole Order.
S.I. 1986/716.	The Value Added Tax (Land) (No.2) Order 1986.	The whole Order.
S.I. 1987 /1072.	The Value Added Tax (Construction of Buildings) (No.2) Order 1987.	Article 2.

- 1 The repeal of Group 6 of Schedule 5 to the Value Added Tax Act 1983 has effect in relation to supplies made on or after 1st April 1989.
- 2 The remaining repeals have effect in accordance with Schedule 3 to this Act.

PART IV

INCOME AND CORPORATION TAX: GENERAL

1970 c. 9.	The Taxes Management Act 1970.	In section 15(11), paragraph (b) and the word “and” preceding it.
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1988 c. 1.

The Income and Corporation
Taxes Act 1988.

In section 131(2), the words “for the same or another chargeable period”. In section 149(1), the words “for that period” and the words “for that or any other period”. Section 170. Section 175(3). In section 176(1), the words “(but not more than six months)”. In section 178(2), paragraph (b) and the word “or” preceding it. Section 203(4). In section 231, in subsection (4) the words “and where” onwards, and subsection (5). Section 433. Section 434(4) and (5). Section 435. Section 436(3)(b). Section 507(2). In section 590(3)(d), the words “(disregarding any excess of that remuneration over the permitted maximum)”. Section 595(2) and (3). In section 596(3)(a), the word “either” and the words “or subsection (2)”. In section 600(1), the words “or have been” and the words “or has at any time been”. Section 635(4). In section 645, in subsection (3), the word “and” following paragraph (a) and subsection (5). In section 655(5), the words “in cases where the applications are made before 1st February 1990”. Section 769(7)(b) and (c). In section 824(10), the definition of “United Kingdom estate”. In Schedule 8, in paragraph 7(1), the words “, or is an associate of a person who has,”; in paragraph 13, in subparagraph (1) the word “fixed” and subparagraphs (2) and (3); and, in paragraph 14, subparagraph (2), in subparagraph (5) the words “specified in, or” and sub-

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		paragraph (7). In Schedule 9, in paragraph 10, paragraph (ii) of subparagraph (c) and the word “and” preceding it. In Schedule 23, paragraph 8.
1988 c. 39.	The Finance Act 1988.	In section 68(1), the words from “at the fixed price” to “tendered”.
1	The repeals in sections 131 and 149 and of section 170 of the Income and Corporation Taxes Act 1988 have effect in accordance with section 42 of this Act.	
2	The repeals in sections 231 and 824 of the Income and Corporation Taxes Act 1988 have effect in accordance with sections 110 and 111 of this Act.	
3	The repeals in sections 433 to 435 of the Income and Corporation Taxes Act 1988 have effect in accordance with section 84(5) of this Act and the repeal of section 436(3)(b) of that Act has effect in accordance with section 87(5) of this Act.	
4	The repeals in sections 590, 595, 596 and 600 of, and in Schedule 23 to, the Income and Corporation Taxes Act 1988 have effect in accordance with Schedule 6 to this Act.	
5	The repeals in sections 635, 645 and 655 of the Income and Corporation Taxes Act 1988 have effect in accordance with Schedule 7 to this Act.	
6	The repeal of section 769(7)(b) and (c) of the Income and Corporation Taxes Act 1988 has effect in accordance with section 100 of this Act.	
7	The repeal in the Finance Act 1988 has effect in relation to offers made on or after 11th October 1988.	

PART V

CLOSE COMPANIES

Modifications etc. (not altering text)

C31 Sch. 17 Pt. V restricted (*retrospectively*) by 1993 c. 34, s. 79(2)(a)

1970 c. 9.	The Taxes Management Act 1970.	Section 29(2). In section 31(3)(b), the words “426.” In the Table in section 98, in the first column, the reference to paragraph 17 of Schedule 19 to the principal Act. In Schedule 3, in rule 8, the words from “or relating” to “Schedule 19 to the principal Act”.
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1972 c. 41.	The Finance Act 1972.	In Schedule 24, paragraph 6.
1979 c. 14.	The Capital Gains Tax Act 1979.	In section 89(1), paragraph (b) and the word “or” preceding it.
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 127(3), paragraph (b) and the word “or” preceding it. In section 230, the word “either”, the words from “or to” to “Schedule 19” and the words “in either case”. In section 239(7), the words “subsections (5) to (7) of section 430 and”. In section 249(3), the words “and paragraph 12(1) to (3) of Schedule 19”. In section 250(7), the words “and paragraph 12 of Schedule 19”. Section 414(3). In section 416(1), the words from “except” to “Schedule 19”. Sections 423 to 430. In section 539(1), the words “including tax under section 426”. In section 681, in subsection (1), paragraph (b) and the word “and” preceding it and subsections (2) and (3). Section 686(3) and (4). Section 687(3)(b) and (c). In section 701(8), the words “426(3)”. Section 742(9)(d) and (10). In section 825(1)(a), the words from “and any” to “430(7) (a)”. In Schedule 4, paragraph 10(3). In Schedule 8, in paragraph 7(3), the second “and”. Schedule 19. In Schedule 29, in the Table in paragraph 32, the entries relating to section 29(2) of the Taxes Management Act 1970 and sections 89(1)(b) and 136(10)(b) of the Capital Gains Tax Act 1979.
1988 c. 39.	The Finance Act 1988.	Section 102(2)(a).

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- 1 The repeal in section 98 of the Taxes Management Act 1970 and the repeal of paragraph 17 of Schedule 19 to the Income and Corporation Taxes Act 1988 have effect on and after the day on which this Act is passed.
- 2 The repeal in section 89 of the Capital Gains Tax Act 1979 (and the corresponding repeal in Schedule 29 to the Income and Corporation Taxes Act 1988) have effect where the due date of issue of the share capital issued to a close company falls in an accounting period of the company beginning after 31st March 1989.
- 3 The repeal of section 414(3) of the Income and Corporation Taxes Act 1988 has effect from 1st April 1989.
- 4 The repeal of sections 423 to 430 of, and Schedule 19 to, the Income and Corporation Taxes Act 1988 has effect in accordance with section 103 of this Act.
- 5 The repeals in section 681 of the Income and Corporation Taxes Act 1988 have effect in relation to the income of bodies corporate for accounting periods beginning after 31st March 1989.
- 6 The remaining repeals have effect in relation to accounting periods beginning after 31st March 1989.

PART VI

CAPITAL ALLOWANCES

1968 c. 3.	The Capital Allowances Act 1968.	Section 9(b). Section 14. Section 50. Section 67(11). In section 68, in subsections (1) and (3), the words “or forestry”, in each place where they occur, and in subsection (2), the words “and forestry income”. Section 80. In section 87(4), the words “or forestry”, in both places where they occur. In section 92(5), the words “allowed or” and the words “balancing allowance or”. Section 93(1) and (2). Schedule 8.
1971 c. 68.	The Finance Act 1971.	In Schedule 8, paragraph 2 and, in paragraph 7, in sub-paragraph (1) the words “Subject to sub-paragraph (2) below” and the words from “by reason of” to the end of paragraph (b) and sub-paragraph (2).
1978 c. 42.	The Finance Act 1978.	In Schedule 6, paragraph 8.

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1980 c. 48.	The Finance Act 1980.	In section 74(6), the words from the beginning to “and”. In section 75(6), the words from the beginning to “and”.
1982 c. 39.	The Finance Act 1982.	In Schedule 12, paragraph 11.
1986 c. 41.	The Finance Act 1986.	Section 56(5). In Schedule 15, in paragraphs 1 to 3, the words “or forestry”, in each place where they occur, in paragraph 7(3), the words “subject to paragraph 9 below”, and in paragraph 11, the words “and forestry income” and the words “or forestry income”.
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 521(5), the words “within the terms of section 839”.
1	The repeal in paragraph 7(1)(b) of Schedule 8 to the Finance Act 1971 has effect in cases where machinery or plant is brought into use on or after the day on which this Act is passed.	
2	The repeals in sections 68 and 87(4) of the Capital Allowances Act 1968 and in paragraphs 1 to 3 and 11 of Schedule 15 to the Finance Act 1986 have effect in relation to chargeable periods beginning on or after 6th April 1993.	
3	The repeal in section 521(5) of the Income and Corporation Taxes Act 1988 has effect in accordance with paragraph 27 of Schedule 13 to this Act.	
4	The repeals of the provisions listed in sub-paragraph (5) of paragraph 28 of Schedule 13 to this Act have effect in accordance with that paragraph.	

PART VII

CAPITAL GAINS

1973 c. 51.	The Finance Act 1973.	In section 38(3B)(a), the words “within the period of two years ending at the date of the disposal”.
1979 c. 14.	The Capital Gains Tax Act 1979.	Section 126(7)(b). Section 142A(5)(c). In Schedule 4, in paragraph 1(2), the words “at the rate of 50 per cent.”, in paragraph 3(1), the words from “by virtue” to “(settled property)”, in paragraph 3(2), the words “at the rate of 50 per cent.” and in paragraph

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		4(4), the words “(taking account” onwards.
1980 c. 48.	The Finance Act 1980.	Section 79.
1981 c. 35.	The Finance Act 1981.	Section 78. Section 96(3)(e) and (4).
1982 c. 39.	The Finance Act 1982.	Sections 81 and 82.
1984 c. 43.	The Finance Act 1984.	Section 64(2)(a).
1984 c. 51.	The Inheritance Tax Act 1984.	In section 97(2), the words from “and in this section” to the end.
1985 c. 54.	The Finance Act 1985.	In section 70(10), paragraph (a) and the word “and” following it.
1986 c. 41.	The Finance Act 1986.	In section 58(2), paragraph (b) and the word “and” preceding it. Section 101(2).
1987 c. 51.	The Finance (No.2) Act 1987.	Section 78.
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In Schedule 29, in the Table in paragraph 32, the entry relating to section 126(7) of the Capital Gains Tax Act 1979.

- 1 The repeal in the Finance Act 1973 has effect in accordance with section 130 of this Act.
- 2 The repeal in section 142A of the Capital Gains Tax Act 1979 has effect in accordance with section 92 of this Act.
- 3 The repeal of section 81 of the Finance Act 1982 has effect in relation to disposals on or after 6th April 1989 or, in the case of section 81(1)(b), assets acquired on or after that date.
- 4 The repeal of section 64(2)(a) of the Finance Act 1984 has effect in accordance with section 139(1) of this Act.
- 5 The repeal in section 97(2) of the Inheritance Tax Act 1984 has effect in accordance with section 138(7) of this Act.
- 6 The repeal in the Finance (No.2) Act 1987 has effect in accordance with section 140 of this Act.
- 7 The remaining repeals have effect in relation to disposals on or after 14th March 1989 (except that they shall not have effect in relation to such a disposal in a case where the enactment in question operates in consequence of relief having been given under section 79 of the Finance Act 1980 in respect of a disposal made before that date).

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PART VIII

MANAGEMENT

1970 c. 9.	The Taxes Management Act 1970.	Section 16(6). In section 20, subsections (4) and (5) and, in subsection(6), the words “and in relation” onwards. In section 20B(7), the words from “to a person” to “daughter”. Sections 37 to 39. In section 40(2), the words “Subject to section 41 below,”. Section 41. In section 53(1), the words “and the reference” onwards. In section 61(5), the words “within the said five days” and the words from “The costs” to “the collector, and”. Section 62(3), so far as unrepealed. Section 64(3), so far as unrepealed. Section 70(5). Section 86(6). Section 87(4) and (5). In section 98, in the Table, in column 1, in the entry relating to Part III of the Taxes Management Act 1970, the words “, except sections 16 and 24(2)” and the entry relating to section 481(5)(k) of the Income and Corporation Taxes Act 1988. In section 118(1), the definition of “neglect”.
1973 c. 51.	The Finance Act 1973.	In Schedule 16A, paragraph 10.
1975 c. 45.	The Finance (No.2) Act 1975.	In section 47(1), the words “of not less than £25”.
1976 c. 24.	The Development Land Tax Act 1976.	In Schedule 8, paragraphs 17 and 18, so far as unrepealed.
1980 c. 48.	The Finance Act 1980.	Section 62.
1982 c. 39.	The Finance Act 1982.	Section 69.
1987 c. 51.	The Finance (No.2) Act 1987.	In section 84, subsections (1) to (3) and (5) to (8).
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 824, in subsections (1)(a) and (b), the words “of not less than £25”

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		and, in subsection (5), the words “of not less than £25” and paragraph (b) and the word “and” preceding it. In section 825(2), the words “of not less than £100”. In Schedule 19A, paragraph 10.
1988 c. 39.	The Finance Act 1988.	In section 126, subsection (1) and, in subsection (4)(b), the words “and(9)”. In Schedule 3, paragraph 29.
1989 c. 26.	The Finance Act 1989.	Section 165(2).

- 1 The repeals in sections 16, 53 and 98 of the Taxes Management Act 1970 have effect in accordance with section 164 of this Act.
- 2 The repeals in sections 20 and 20B of the Taxes Management Act 1970 and section 126 of the Finance Act 1988 have effect with respect to notices given, or warrants issued, on or after the day on which this Act is passed.
- 3 The repeals of sections 37 to 39, in section 40, of section 41 and in section 118 of the Taxes Management Act 1970 and in Schedule 3 to the Finance Act 1988 have effect in accordance with section 149 of this Act.
- 4 The repeals in section 61 of the Taxes Management Act 1970 come into force on the day appointed under section 152(7) of this Act.
- 5 The repeals in sections 86 and 87 of the Taxes Management Act 1970, the Finance (No.2) Act 1975, the Finance Act 1980 and sections 824 and 825 of the Income and Corporation Taxes Act 1988 have effect in accordance with section 158 of this Act.
- 6 The repeal in the Finance Act 1982 has effect in accordance with section 156(4) of this Act.
- 7 The repeal of subsection (2) of section 165 of this Act has effect in relation to failures beginning on or after the day appointed under that subsection.

PART IX

STAMP DUTY: INSURANCE

54 & 55 Vict. c. 39.	The Stamp Act 1891.	Section 91. Section 98(1). Section 100. Section 118. In Schedule 1, paragraph (3) of the heading beginning “Bond, Covenant, or Instrument of any kind whatsoever”, the whole of the heading beginning “Insurance”, and the whole of the heading beginning “Policy of Life Insurance”.
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4 & 5 Eliz. 2 c. 54.	The Finance Act 1956.	Section 38.
4 & 5 Eliz. 2 c. 11 (N.I.).	The Finance Act (Northern Ireland) 1956.	Section 6.
7 & 8 Eliz. 2 c. 58.	The Finance Act 1959.	In section 30(4), the words preceding paragraph (a) and the words following paragraph (c).
7 & 8 Eliz. 2 c. 9 (N.I.).	The Finance Act (Northern Ireland) 1959.	In section 5(4), the words preceding paragraph (a) and the words following paragraph (c).
1966 c. 18.	The Finance Act 1966.	Section 47.
1966 c. 21 (N.I.).	The Finance Act (Northern Ireland) 1966.	Section 5.
1970 c. 24.	The Finance Act 1970.	In Schedule 7, paragraphs 7(4) and 17.
1970 c. 21 (N.I.).	The Finance Act (Northern Ireland) 1970.	In Schedule 2, paragraphs 7(4) and 17.
1982 c. 39.	The Finance Act 1982.	Section 130.
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In Schedule 14, in paragraph 3(4) the words from “and section 100” to the end.

These repeals have effect in accordance with section 173 of this Act.

PART X

RATES OF INTEREST

1970 c. 9.	The Taxes Management Act 1970.	Section 89.
1970 c. 24.	The Finance Act 1970.	Section 30.
1970 c. 21 (N.I.).	The Finance Act (Northern Ireland) 1970.	Section 1(1) and (2).
1973 c. 51.	The Finance Act 1973.	In Schedule 16A, in paragraph 3(4), paragraph (a) and the word “and” following it and the words “they apply”.
1975 c. 22.	The Oil Taxation Act 1975.	In Schedule 2, in the Table in paragraph 1, the entry relating to section 89 of the Taxes Management Act 1970.

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1975 c. 45.	The Finance (No.2) Act 1975.	Section 47(2).
1980 c. 1.	The Petroleum Revenue Tax Act 1980.	Section 2(3).
1984 c. 51.	The Inheritance Tax Act 1984.	Section 233(2) and (4).
1986 c. 41.	The Finance Act 1986.	Section 92(4) and (5).In Schedule 19, paragraph 32.
1987 c. 51.	The Finance (No.2) Act 1987.	Section 89.
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 824, subsection (1A), in subsection (2) the words “and(1A)” and in subsection (6) the words “Without prejudice to subsection(1A) above”.In section 825, subsection (2A) and in subsection (5) the words “Without prejudice to subsection (2A) above”.In Schedule 19A, in paragraph 3(4), paragraph (a) and the word “and” following it and the words “they apply”.
1988 c. 39.	The Finance Act 1988.	In Schedule 13, paragraphs 7(b) and (f) and 8.

These repeals have effect in accordance with section 178(7) of this Act.

PART XI

BROADCASTING

1981 c. 68.	The Broadcasting Act 1981.	Section 32(4A).In section 35(1)(b)(ii), the words “in the case of secondcategory profits,”.
1982 c. 39.	The Finance Act 1982.	In section 144, subsections (1), (2), (4) and (5).
1984 c. 46.	The Cable and Broadcasting Act 1984.	Section 40(2).In Schedule 5, in paragraph 40, sub-paragraphs (7), (8) and(9).
1986 c. 41.	The Finance Act 1986.	In Schedule 22, paragraph 1, and paragraphs 4 to 8.

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These repeals have effect on 1st January 1990.

PART XII

GOVERNMENT STOCK: REDEMPTION

11 and 12 Geo. 5 c. 32.	The Finance Act 1921.	Sections 50 and 51. Schedule 3.
5 and 6 Geo. 6 c. 21.	The Finance Act 1942.	In Schedule 11, in Part II, the amendments of the Finance Act 1921.
9 and 10 Geo. 6 c. 64.	The Finance Act 1946.	Section 66.
1969 c. 48.	The Post Office Act 1969.	Section 108(1)(c).
1982 c. 41.	The Stock Transfer Act 1982.	Section 4.

So far as relating to stock registered in the National Savings Stock Register these repeals have effect on the coming into force of the first regulations made by virtue of section 3(1)(bb) of the National Debt Act 1972 and so far as relating to other stock and bonds they have effect on the coming into force of the first regulations made by virtue of section 47(1)(bb) of the Finance Act 1942.

PART XIII

NATIONAL SAVINGS

1971 c. 29.	The National Savings Bank Act 1971.	Section 5(2), (5), (6) and (7). In section 26(2), paragraph (b) and the word “or” preceding it.
1982 c. 39.	The Finance Act 1982.	In Schedule 20, paragraph 4(2).

These repeals, apart from the repeal of section 5(2), (5) and (6) of the National Savings Bank Act 1971, come into force on 1st October 1989.

PART XIV

TITHE REDEMPTION

26 Geo. 5 & 1 Edw. 8 c. 43.	The Tithe Act 1936.	Section 2(1). In section 4(2), in paragraph (a) the words “the amount” onwards. Section 7. Part II. Section 31(7). In section 47(1), the definition of “interest date”. In section 47(4), the words “of
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Status: Point in time view as at 20/05/1995.

Changes to legislation: Finance Act 1989 is up to date with all changes known to be in force on or before 23 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

		any stock, or”.InSchedule 7, paragraph 3(a) of Part I, Part II, and paragraph 2 of Part III.
5 & 6 Geo. 6 c. 21.	The Finance Act 1942.	In Schedule 11, in Part I the entry relating to Redemption Stock and inPart II the amendment of the Tithe Act 1936.
14 & 15 Geo. 6 c. 62.	The Tithe Act 1951.	In section 8(2), the words from “which” to “Act”, and the words “and appended” onwards.
6 & 7 Eliz. 2 c. 55.	The Local Government Act 1958.	In Schedule 8, paragraph 15.
1968 c. 13.	The National Loans Act 1968.	In section 16(7), the words “Part II of the Tithe Act 1936”.Section16(9)(a).In section 22(3), the words “Part II of the Tithe Act 1936”.InSchedule 1, the entries relating to section 26 of the Tithe Act 1936.
1972 c. 65.	The National Debt Act 1972.	In section 15(1), the words “section 24 of the Tithe Act 1936”.
1979 c. 14.	The Capital Gains Tax Act 1979.	In Schedule 2, in Part II, the entry relating to securities issued underPart II of the Tithe Act 1936.

These repeals have effect from the day appointed under section 187(2)of this Act.

Status:

Point in time view as at 20/05/1995.

Changes to legislation:

Finance Act 1989 is up to date with all changes known to be in force on or before 23 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.