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SCHEDULES

SCHEDULE 1

Section 6.

VEHICLES EXCISE DUTY: RATES

PART I

TABLE SUBSTITUTED IN PART II OF SCHEDULE 2 TO THE 1971 AND 1972 ACTS

<i>Seating capacity</i>	<i>Rate of duty</i>
	£
Under 9	100
9 to 16	130
17 to 35	200
36 to 60	300
Over 60	450

PART II

TABLES SUBSTITUTED IN PART II OF SCHEDULE 4 TO THE 1971 AND 1972 ACTS

TABLE A

RATES OF DUTY ON RIGID GOODS VEHICLES
EXCEEDING 12 TONNES PLATED GROSS WEIGHT

GENERAL RATES

<i>Plated gross weight of vehicle</i>		<i>Rate of duty</i>		
<i>(1) Exceeding</i>	<i>(2) Not exceeding</i>	<i>(3) Two axle vehicle</i>	<i>(4) Three axle vehicle</i>	<i>(5) Four or more axle vehicle</i>
tonnes	tonnes	£	£	£
12	13	450	340	340
13	14	630	340	340
14	15	810	340	340
15	17	1,230	340	340

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<i>Plated gross weight of vehicle</i>		<i>Rate of duty</i>		
<i>(1) Exceeding</i>	<i>(2) Not exceeding</i>	<i>(3) Two axle vehicle</i>	<i>(4) Three axle vehicle</i>	<i>(5) Four or more axle vehicle</i>
17	19		600	340
19	21		800	340
21	23		1,100	490
23	25		1,980	760
25	27			1,220
27	29			1,790
29	30.49			2,780

TABLE A(1)RATES OF DUTY ON RIGID GOODS VEHICLES
EXCEEDING 12 TONNES PLATED GROSS WEIGHT

RATES FOR FARMERS' GOODS VEHICLES

<i>Plated gross weight of vehicle</i>		<i>Rate of duty</i>		
<i>(1) Exceeding</i>	<i>(2) Not exceeding</i>	<i>(3) Two axle vehicle</i>	<i>(4) Three axle vehicle</i>	<i>(5) Four or more axle vehicle</i>
tonnes		£	£	£
12	13	270	205	205
13	14	380	205	205
14	15	490	205	205
15	17	740	205	205
17	19		360	205
19	21		480	205
21	23		660	295
23	25		1,190	460
25	27			735
27	29			1,075
29	30.49			1,670

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TABLE A(2)

RATES OF DUTY ON RIGID GOODS VEHICLES
EXCEEDING 12 TONNES PLATED GROSS WEIGHT

RATES FOR SHOWMEN'S GOODS VEHICLES

<i>Plated gross weight of vehicle</i>		<i>Rate of duty</i>		
<i>(1) Exceeding</i>	<i>(2) Not exceeding</i>	<i>(3) Two axle vehicle</i>	<i>(4) Three axle vehicle</i>	<i>(5) Four or more axle vehicle</i>
tonnes	tonnes	£	£	£
12	13	115	90	90
13	14	160	90	90
14	15	205	90	90
15	17	310	90	90
17	19		150	90
19	21		200	90
21	23		275	125
23	25		495	190
25	27			305
27	29			450
29	30.49			695

SCHEDULE 2

Section 8.

VEHICLES EXCISE DUTY: SPECIAL MACHINES

1 The Vehicles (Excise) Act 1971 and the Vehicles (Excise) Act (Northern Ireland) 1972 shall be amended as follows.

2 In Part I of Schedule 3 to each Act (annual rates of duty on tractors etc.)—

(a) after paragraph 1 there shall be inserted—

“1A. In this Schedule “special machine” means—

- (a) a tractor;
- (b) an agricultural engine;
- (c) a digging machine;
- (d) a mobile crane;
- (e) a works truck; or
- (f) a mowing machine.”;

(b) for paragraph 2 there shall be substituted—

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- “(2) In this Schedule “tractor” means a vehicle which is either—
- (a) an agricultural tractor, or
 - (b) a tractor (other than an agricultural tractor) that is—
 - (i) designed and constructed primarily for use otherwise than on roads, and
 - (ii) incapable by reason of its construction of exceeding a speed of twenty-five miles per hour on the level under its own power.”;
 - (c) in paragraph 3(b), for the words “neither carries nor hauls any load than” there shall be substituted the words “does not carry any load except”;
 - (d) in paragraph 4(b), for the words “neither carries nor hauls any load than” there shall be substituted the words “does not carry any load except”;
 - (e) paragraph 5A shall be omitted; and
 - (f) in paragraph 6, for the words from “(other than” to “8 below)” there shall be substituted the words “(other than a special machine, a recovery vehicle or a vehicle to which Schedule 4A to this Act applies)”.
- 3 In Part II of Schedule 3 to each Act, in column 1, for paragraph 1 there shall be substituted—
- “1. Special machines.”
- 4 In Part I of Schedule 4 to each Act (annual rates of duty on goods vehicles)—
- (a) in paragraph 11, for sub-paragraphs (b) and (c) there shall be substituted—
 - “(b) a special machine within the meaning of Schedule 3 to this Act;
 - (c) a recovery vehicle within the meaning of that Schedule; or”;
 - (b) paragraphs 12 and 13 shall be omitted; and
 - (c) in paragraph 15(1), the definitions of “agricultural machine”, “fisherman’s tractor”, “mobile crane”, “recovery vehicle” and “works truck” shall be omitted.

SCHEDULE 3

Section 18.

VALUE ADDED TAX: BUILDINGS AND LAND

Zero-rating

- 1 For Group 8 (construction of buildings etc.) of Schedule 5 (zero-rating) to the Value Added Tax Act 1983 there shall be substituted—

“GROUP 8—CONSTRUCTION OF DWELLINGS, ETC.

Item No.

- 1 The grant by a person constructing a building—
 - (a) designed as a dwelling or number of dwellings; or
 - (b) intended for use solely for a relevant residential purpose or a relevant charitable purpose,

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- of a major interest in, or in any part of, the building or its site.
- 2 The supply in the course of the construction of—
- (a) a building designed as a dwelling or number of dwellings or intended for use solely for a relevant residential purpose or a relevant charitable purpose; or
 - (b) any civil engineering work necessary for the development of a permanent park for residential caravans,
- of any services other than the services of an architect, surveyor or any person acting as consultant or in a supervisory capacity.
- 3 The supply to a person of—
- (a) materials; or
 - (b) builders' hardware, sanitary ware or other articles of a kind ordinarily installed by builders as fixtures,
- by a supplier who also makes to the same person supplies within item 2 of this Group or Group 8A below of services which include the use of the materials or the installation of the articles.

Notes:

- (1) “Grant” includes assignment.
- (2) “Dwelling” includes a garage constructed at the same time as a dwelling for occupation together with it.
- (3) Use for a relevant residential purpose means use as—
 - (a) a home or other institution providing residential accommodation for children;
 - (b) a home or other institution providing residential accommodation with personal care for persons in need of personal care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder;
 - (c) a hospice;
 - (d) residential accommodation for students or school pupils;
 - (e) residential accommodation for members of any of the armed forces;
 - (f) a monastery, nunnery or similar establishment; or
 - (g) an institution which is the sole or main residence of at least 90 per cent. of its residents,except use as a hospital, a prison or similar institution or an hotel, inn or similar establishment.
- (4) Use for a relevant charitable purpose means use by a charity in either or both of the following ways, namely—
 - (a) otherwise than in the course or furtherance of a business;
 - (b) as a village hall or similarly in providing social or recreational facilities for a local community.
- (5) Where part of a building is designed as a dwelling or number of dwellings or intended for use solely for a relevant residential purpose or a relevant charitable purpose (and part is not)—

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- (a) a grant or other supply relating only to the part so designed or intended for such use (or its site) shall be treated as relating to a building so designed or intended for such use;
 - (b) a grant or other supply relating only to the part neither so designed nor intended for such use (or its site) shall not be so treated; and
 - (c) in the case of any other grant or other supply relating to, or to any part of, the building (or its site), an apportionment shall be made to determine the extent to which it is to be so treated.
- (6) Where all or part of a building is intended for use solely for a relevant residential purpose or a relevant charitable purpose—
 - (a) a supply relating to the building (or any part of it) shall not be taken for the purposes of item 2 or 3 as relating to a building intended for such use unless it is made to a person who intends to use the building (or part) for such a purpose; and
 - (b) a grant or other supply relating to the building (or any part of it) shall not be taken as relating to a building intended for such use unless before it is made the person to whom it is made has given to the person making it a certificate in such form as may be specified in a notice published by the Commissioners stating that the grant or other supply (or a specified part of it) so relates.
- (7) The grant of an interest in, or in part of, a building designed as a dwelling or number of dwellings is not within item 1 if—
 - (a) the interest granted is such that the grantee will not be entitled to reside in the building, or part, throughout the year; or
 - (b) residence there throughout the year will be prevented by the terms of a covenant, statutory planning consent or similar permission.
- (8) Where the major interest referred to in item 1 is a tenancy or lease—
 - (a) if a premium is payable, the grant falls within that item only to the extent that it is made for consideration in the form of the premium; and
 - (b) if a premium is not payable, the grant falls within that item only to the extent that it is made for consideration in the form of the first payment of rent due under the tenancy or lease.
- (9) The reference in item 2 to the construction of a building or work does not include a reference to—
 - (a) the conversion, reconstruction, alteration or enlargement of an existing building or work; or
 - (b) any extension or annexation to an existing building which provides for internal access to the existing building or of which the separate use, letting or disposal is prevented by the terms of any covenant, statutory planning consent or similar permission;and the reference in item 1 to a person constructing a building shall be construed accordingly.

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- (10) A caravan is not a residential caravan if residence in it throughout the year is prevented by the terms of a covenant, statutory planning consent or similar permission.
- (11) Item 2 does not include the supply of services described in paragraph 1(1) or 5(3) of Schedule 2 to this Act.
- (12) The goods referred to in item 3 do not include—
- (a) finished or prefabricated furniture, other than furniture designed to be fitted in kitchens;
 - (b) materials for the construction of fitted furniture, other than kitchen furniture;
 - (c) domestic electrical or gas appliances, other than those designed to provide space heating or water heating or both; or
 - (d) carpets or carpeting material.
- (13) Section 16(3) of this Act does not apply to goods forming part of a description of supply in this Group.”
- 2 (1) Group 8A (protected buildings) of that Schedule shall be amended as follows.
- (2) In item 1, for the word “granting” there shall be substituted the word “grant”.
- (3) In Note (1), for the words “a building which” there shall be substituted the words “a building which is designed to remain as or become a dwelling or number of dwellings or is intended for use solely for a relevant residential purpose or a relevant charitable purpose after the reconstruction or alteration and which, in either case,”.
- (4) After that Note there shall be inserted—
- “(1A) Notes (1) to (8) to Group 8 above apply in relation to this Group as they apply in relation to that Group.”
- (5) Note (5) shall be omitted.
- (6) After Note (6) there shall be inserted—
- “(6A) For the purposes of item 2 the construction of a building separate from, but in the curtilage of, a protected building does not constitute an alteration of the protected building.”
- (7) The following Note shall be substituted for Note (7)—
- “(7) Item 2 does not include the supply of services described in paragraph 1(1) or 5(3) of Schedule 2 to this Act.”
- 3 In Group 11 (caravans and houseboats) of that Schedule, for paragraph (b) of the Note there shall be substituted—
- “(b) the supply of accommodation in a caravan or houseboat.”

Exemptions

- 4 (1) For Group 1 (land) of Schedule 6 (exemptions) to the Value Added Tax Act 1983 there shall be substituted—

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“GROUP 1 – LAND

Item No.

- 1 The grant of any interest in or right over land or of any licence to occupy land, other than—
- (a) the grant of the fee simple in—
 - (i) a building which has not been completed and which is neither designed as a dwelling or number of dwellings nor intended for use solely for a relevant residential purpose or a relevant charitable purpose;
 - (ii) a new building which is neither designed as a dwelling or number of dwellings nor intended for use solely for a relevant residential purpose or a relevant charitable purpose after the grant;
 - (iii) a civil engineering work which has not been completed;
 - (iv) a new civil engineering work;
 - (b) the grant of any interest, right or licence consisting of a right to take game or fish;
 - (c) the provision in an hotel, inn, boarding house or similar establishment of sleeping accommodation or of accommodation in rooms which are provided in conjunction with sleeping accommodation or for the purpose of a supply of catering;
 - (d) the provision of holiday accommodation in a house, flat, caravan, houseboat or tent;
 - (e) the provision of seasonal pitches for caravans, and the grant of facilities at caravan parks to persons for whom such pitches are provided;
 - (f) the provision of pitches for tents or of camping facilities;
 - (g) the grant of facilities for parking a vehicle;
 - (h) the grant of any right to fell and remove standing timber;
 - (i) the grant of facilities for housing, or storage of, an aircraft or for mooring, or storage of, a ship, boat or other vessel;
 - (j) the grant of any right to occupy a box, seat or other accommodation at a sports ground, theatre, concert hall or other place of entertainment; and
 - (k) the grant of facilities for playing any sport or participating in any physical recreation.

Notes:

- (1) “Grant” includes an assignment, other than an assignment of an interest made to the person to whom a surrender of the interest could be made.
- (2) A building shall be taken to be completed when an architect issues a certificate of practical completion in relation to it or it is first fully occupied, whichever happens first; and a civil engineering work shall be taken to be completed when an engineer issues a certificate of completion in relation to it or it is first fully used, whichever happens first.

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- (3) Notes (2) to (6) to Group 8 of Schedule 5 to this Act apply in relation to this Group as they apply in relation to that Group.
- (4) A building or civil engineering work is new if it was completed less than three years before the grant.
- (5) Subject to Note (6), the grant of the fee simple in a building or work completed before 1st April 1989 is not excluded from this Group by paragraph (a)(ii) or (iv).
- (6) Note (5) does not apply where the grant is the first grant of the fee simple made on or after 1st April 1989 and the building was not fully occupied, or the work not fully used, before that date.
- (7) Where a grant of an interest in, right over or licence to occupy land includes a valuable right to take game or fish, an apportionment shall be made to determine the supply falling outside this Group by virtue of paragraph (b).
- (8) “Similar establishment” includes premises in which there is provided furnished sleeping accommodation, whether with or without the provision of board or facilities for the preparation of food, which are used by or held out as being suitable for use by visitors or travellers.
- (9) “Houseboat” includes a houseboat within the meaning of Group 11 of Schedule 5 to this Act.
- (10) “Holiday accommodation” includes any accommodation advertised or held out as such.
- (11) A seasonal pitch is a pitch—
 - (a) which is provided for a period of less than a year; or
 - (b) which is provided for a year or a period longer than a year but which the person to whom it is provided is prevented by the terms of any covenant, statutory planning consent or similar permission from occupying by living in a caravan at all times throughout the period for which the pitch is provided.
- (12) “Mooring” includes anchoring or berthing.
- (13) Paragraph (k) shall not apply where the grant of the facilities is for—
 - (a) a continuous period of use exceeding twenty-four hours; or
 - (b) a series of ten or more periods, whether or not exceeding twenty-four hours in total, where the following conditions are satisfied—
 - (i) each period is in respect of the same activity carried on at the same place;
 - (ii) the interval between each period is not less than one day and not more than fourteen days;
 - (iii) consideration is payable by reference to the whole series and is evidenced by written agreement;
 - (iv) the grantee has exclusive use of the facilities; and

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(v) the grantee is a school, a club, an association or an organisation representing affiliated clubs or constituent associations.”

(2) In consequence of the amendment made by sub-paragraph (1) above, in paragraph 9(1) of Schedule 4 to the Value Added Tax Act 1983 for “(a)” there shall be substituted “(c)”.

Other provisions

5 The following section shall be substituted for section 21 (refund of tax to person constructing dwelling) of the Value Added Tax Act 1983—

“21 Refund of tax to persons constructing certain buildings

(1) Subject to subsection (2) below, where tax is chargeable on the supply of goods to, or the importation of goods by, a person constructing a building lawfully and otherwise than in the course or furtherance of any business, and—

- (a) the goods are incorporated in the building or its site; and
- (b) the supply of the goods would have been zero-rated by virtue of item 3 of Group 8 of Schedule 5 to this Act if they had been supplied by a supplier making to the same person supplies within item 2 of that Group of services including their use or installation, and any required certificate had been given,

the Commissioners shall, on a claim made in that behalf, refund to the person the amount of the tax so chargeable.

(2) The Commissioners shall not be required to entertain a claim for a refund of tax under this section unless the claim—

- (a) is made within such time and in such form and manner;
- (b) contains such information; and
- (c) is accompanied by such documents, whether by way of evidence or otherwise,

as the Commissioners may by regulations prescribe.”

6 (1) The following section shall be inserted in the Value Added Tax Act 1983 after section 35—

“35A Buildings and land

(1) Schedule 6A to this Act shall have effect with respect to buildings and land.

(2) The Treasury may by order amend Schedule 6A to this Act.”

(2) The following Schedule shall be inserted in the Value Added Tax Act 1983 after Schedule 6—

“SCHEDULE 6A

Section 35A.

BUILDINGS AND LAND

Residential and charitable buildings: change of use etc.

- 1 (1) In this paragraph “relevant zero-rated supply” means a grant or other supply taking place on or after 1st April 1989 which—
- (a) relates to a building intended for use solely for a relevant residential purpose or a relevant charitable purpose or part of such a building; and
 - (b) is zero-rated, in whole or in part, by virtue of Group 8 of Schedule 5 to this Act.
- (2) Sub-paragraph (3) below applies where—
- (a) one or more relevant zero-rated supplies relating to a building (or part of a building) have been made to any person;
 - (b) within the period of ten years beginning with the day on which the building is completed, the person grants an interest in, right over or licence to occupy the building or any part of it (or the building or any part of it including, consisting of or forming part of the part to which the relevant zero-rated supply or supplies related); and
 - (c) after the grant the whole or any part of the building, or of the part to which the grant relates, (or the whole of the building or of the part to which the grant relates, or any part of it including, consisting of or forming part of the part to which the relevant zero-rated supply or supplies related) is not intended for use solely for a relevant residential purpose or a relevant charitable purpose.
- (3) Where this sub-paragraph applies, to the extent that the grant relates to so much of the building as—
- (a) by reason of its intended use gave rise to the relevant zero-rated supply or supplies; and
 - (b) is not intended for use solely for a relevant residential purpose or a relevant charitable purpose after the grant,
- it shall be taken to be a taxable supply in the course or furtherance of a business which is not zero-rated by virtue of Group 8 of Schedule 5 to this Act (if it would not otherwise be such a supply).
- (4) Sub-paragraph (5) below applies where—
- (a) one or more relevant zero-rated supplies relating to a building (or part of a building) have been made to any person; and
 - (b) within the period of ten years beginning with the day on which the building is completed, the person uses the building or any part of it (or the building or any part of it including, consisting of or forming part of the part to which the relevant zero-rated supply or supplies related) for a purpose which is neither a relevant residential purpose nor a relevant charitable purpose.

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- (5) Where this sub-paragraph applies, his interest in, right over or licence to occupy so much of the building as—
- (a) by reason of its intended use gave rise to the relevant zero-rated supply or supplies; and
 - (b) is used otherwise than for a relevant residential purpose or a relevant charitable purpose,
- shall be treated for the purposes of this Act as supplied to him for the purpose of a business carried on by him and supplied by him in the course or furtherance of the business when he first uses it for a purpose which is neither a relevant residential purpose nor a relevant charitable purpose.
- (6) Where sub-paragraph (5) above applies—
- (a) the supply shall be taken to be a taxable supply which is not zero-rated by virtue of Group 8 of Schedule 5 to this Act (if it would not otherwise be such a supply); and
 - (b) the value of the supply shall be such that the amount of tax chargeable on it is equal to the amount of the tax which would have been chargeable on the relevant zero-rated supply (or, where there was more than one such supply, the aggregate amount which would have been chargeable on them) had so much of the building as is mentioned in sub-paragraph (5) above not been intended for use solely for a relevant residential purpose or a relevant charitable purpose.

Election to waive exemption

- 2 (1) Subject to sub-paragraphs (2) and (3) and paragraph 3 below, where an election under this paragraph has effect in relation to any land, if and to the extent that any grant made in relation to it at a time when the election has effect by the person who made the election, or where that person is a body corporate by that person or a relevant associate, would (apart from this sub-paragraph) fall within Group 1 of Schedule 6 to this Act, the grant shall not fall within that Group.
- (2) Sub-paragraph (1) above shall not apply in relation to a grant if the grant is made in relation to—
- (a) a building or part of a building intended for use as a dwelling or number of dwellings or solely for a relevant residential purpose; or
 - (b) a building or part of a building intended for use solely for a relevant charitable purpose, other than as an office.
- (3) Sub-paragraph (1) above shall not apply in relation to a grant if—
- (a) the grant is made to a registered housing association and the association has given to the grantor a certificate stating that the land is to be used (after any necessary demolition work) for the construction of a building or buildings intended for use as a dwelling or number of dwellings or solely for a relevant residential purpose; or
 - (b) the grant is made to an individual and the land is to be used for the construction, otherwise than in the course or furtherance of

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a business carried on by him, of a building intended for use by him as a dwelling.

- (4) Subject to the following provisions of this paragraph, no input tax on any supply or importation which, apart from this sub-paragraph, would be allowable by virtue of the operation of this paragraph shall be allowed if the supply or importation took place before the first day for which the election in question has effect.
- (5) Subject to sub-paragraph (6) below, sub-paragraph (4) above shall not apply where the person by whom the election was made—
- (a) has not, before the first day for which the election has effect, made in relation to the land in relation to which the election has effect any grant falling within Group 1 of Schedule 6 to this Act; or
 - (b) has before that day made in relation to that land a grant or grants so falling but the grant, or all the grants,—
 - (i) were made in the period beginning with 1st April 1989 and ending with 31st July 1989; and
 - (ii) would have been taxable supplies but for the amendments made by Schedule 3 to the Finance Act 1989.
- (6) Sub-paragraph (5) above does not make allowable any input tax on supplies or importations taking place before 1st August 1989 unless—
- (a) it is attributable by or under regulations to grants made by the person on or after 1st April 1989 which would have been taxable supplies but for the amendments made by Schedule 3 to the Finance Act 1989; and
 - (b) the election has effect from 1st August 1989.
- (7) Sub-paragraph (4) above shall not apply in relation to input tax on grants or other supplies which are made in the period beginning with 1st April 1989 and ending with 31st July 1989 if—
- (a) they would have been zero-rated by virtue of item 1 or 2 of Group 8 of Schedule 5 to this Act or exempt by virtue of item 1 of Group 1 of Schedule 6 to this Act but for the amendments made by Schedule 3 to the Finance Act 1989; and
 - (b) the election has effect from 1st August 1989.
- 3 (1) An election under paragraph 2 above shall have effect—
- (a) from the beginning of the day on which the election is made or of any later day specified in the election; or
 - (b) where the election is made before 1st November 1989, from the beginning of 1st August 1989 or of any later day so specified.
- (2) An election under paragraph 2 above shall have effect in relation to any land specified, or of a description specified, in the election.
- (3) Where such an election is made in relation to, or to part of, a building (or planned building), it shall have effect in relation to the whole of the building and all the land within its curtilage; and for the purposes of this sub-paragraph buildings linked internally or by a covered walkway, and

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parades, precincts and complexes divided into separate units, shall be taken to be a single building (if they otherwise would not be).

- (4) Where such an election is made in relation to agricultural land (including a building on agricultural land), it shall have effect in relation to any other agricultural land if that other land is not separated from it by—
- (a) land which is not agricultural land; or
 - (b) agricultural land in separate ownership.
- (5) For the purposes of sub-paragraph (4) above—
- (a) land shall be taken not to be separated from other land if it is separated from it only by a road, railway, river or something similar; and
 - (b) land is in separate ownership from land in relation to which an election is made if the person by whom the election is made has no interest in, right over or licence to occupy it and, where that person is a body corporate, no relevant associate has any such interest, right or licence.
- (6) An election under paragraph 2 above shall be irrevocable and, except where it is an election of a description specified in a notice published by the Commissioners, shall not have effect unless written notification of it is given to the Commissioners together with such information as the Commissioners may require.
- (7) Except where the Commissioners otherwise allow, a notification required under sub-paragraph (6) above shall be given not later than the end of the period of thirty days beginning with the day on which the election is made.
- (8) In paragraph 2 above and this paragraph “relevant associate”, in relation to a body corporate by which an election under paragraph 2 above has been made in relation to any building or land, means a body corporate which under section 29 of this Act—
- (a) was treated as a member of the same group as the body corporate by which the election was made at the time when the election first had effect;
 - (b) has been so treated at any later time when the body corporate by which the election was made had an interest in, right over or licence to occupy the building or land (or any part of it); or
 - (c) has been treated as a member of the same group as a body corporate within paragraph (a) or (b) above or this paragraph at a time when that body corporate had an interest in, right over or licence to occupy the building or land (or any part of it).
- (9) In paragraph 2 above “registered housing association” means a registered housing association within the meaning of the Housing Associations Act 1985 or Part VII of the Housing (Northern Ireland) Order 1981.
- 4 (1) This paragraph has effect where rent is payable in consideration of the grant of an interest in, right over, or licence to occupy any building or land to which an election under paragraph 2 above relates (or any part of any such building or land).

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- (2) If—
- (a) the rent relates to a period beginning before and ending on or after the first day for which the election has effect; and
 - (b) the grant for which the rent is consideration would, apart from this sub-paragraph, take place before that day,
- the grant shall be treated as taking place on that day to the extent that it is made for rent relating to the part of the period falling on or after that day.
- (3) If—
- (a) the rent relates to a period beginning on or after the first day for which the election has effect; and
 - (b) the grant for which the rent is consideration would, apart from this sub-paragraph, take place before that day,
- the grant shall be treated as taking place on the first day of the period to which the rent relates.
- (4) If—
- (a) the rent relates to a period beginning before the first day for which the election has effect; and
 - (b) the grant for which the rent is consideration takes place on or after that day,
- tax shall not be chargeable on the grant by virtue of paragraph 2 above to the extent that it is made for rent relating to any time before that day.
- (5) Where the rent is payable by a person in relation to a period when he is in occupation of a building completed before 1st August 1989 (or part of such a building) or land of which he was in occupation immediately before that date, any tax which would be chargeable by virtue of paragraph 2 above on the grant for which the rent is consideration—
- (a) except in the case of a charity, shall be chargeable as if the consideration were reduced by 50 per cent. if and to the extent that the rent relates to or to any part of the year beginning on 1st August 1989 and ending on 31st July 1990; and
 - (b) in the case of a charity—
 - (i) shall be chargeable as if the consideration were reduced by 80 per cent. if and to the extent that the rent relates to or to any part of the year beginning on 1st August 1989 and ending on 31st July 1990;
 - (ii) shall be chargeable as if the consideration were reduced by 60 per cent. if and to the extent that the rent relates to or to any part of the year beginning on 1st August 1990 and ending on 31st July 1991;
 - (iii) shall be chargeable as if the consideration were reduced by 40 per cent. if and to the extent that the rent relates to or to any part of the year beginning on 1st August 1991 and ending on 31st July 1992; and
 - (iv) shall be chargeable as if the consideration were reduced by 20 per cent. if and to the extent that the rent relates to or to any part of the year beginning on 1st August 1992 and ending on 31st July 1993.

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Developers of certain non-residential buildings etc.

- 5 (1) Paragraph 6 below shall apply on the first occasion during the period beginning with the day when the construction of a building or work within sub-paragraph (2) below is first planned and ending ten years after the completion of the building or work on which a person who is a developer in relation to the building or work—
- (a) grants an interest in, right over or licence to occupy the building or work (or any part of it) which is an exempt supply; or
 - (b) is in occupation of the building, or uses the work, (or any part of it) when not a fully taxable person (or, if a person treated under section 29 of this Act as a member of a group, when the representative member is not a fully taxable person).
- (2) Subject to sub-paragraph (3) below, the buildings and works within this sub-paragraph are—
- (a) any building neither designed as a dwelling or number of dwellings nor intended for use solely for a relevant residential purpose or a relevant charitable purpose; and
 - (b) any civil engineering work, other than a work necessary for the development of a permanent park for residential caravans.
- (3) A building or work is not within sub-paragraph (2) above if—
- (a) construction of it was commenced before 1st August 1989; or
 - (b) a grant of the fee simple in it which falls within paragraph (a) (ii) or (iv) of item 1 of Group 1 of Schedule 6 to this Act has been made before the occasion concerned.
- (4) For the purposes of this paragraph a taxable person is, in relation to any building or work, a fully taxable person throughout a prescribed accounting period if—
- (a) at the end of that period he is entitled to credit for input tax on all supplies to, and importations by, him in the period (apart from any on which input tax is excluded from credit by virtue of section 14(10) of this Act); or
 - (b) the building or work is not used by him at any time during the period in, or in connection with, making any exempt supplies of goods or services.
- (5) Subject to sub-paragraph (6) below, in this paragraph and paragraph 6 below “developer”, in relation to a building or work, means any person who—
- (a) constructs it;
 - (b) orders it to be constructed; or
 - (c) finances its construction,
- with a view to granting an interest in, right over or licence to occupy it (or any part of it) or to occupying or using it (or any part of it) for his own purposes.
- (6) Where—

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- (a) a body corporate treated under section 29 of this Act as a member of a group is a developer in relation to a building or work; and
 - (b) it grants an interest in, right over or licence to occupy the building or work (or any part of it) to another body corporate which is treated under that section as a member of the group,then, for the purposes of this paragraph and paragraph 6 below, as from the time of the grant any body corporate such as is mentioned in sub-paragraph (7) below shall be treated as also being a developer in relation to the building or work.
- (7) The bodies corporate referred to in sub-paragraph (6) above are any which under section 29 of this Act—
 - (a) was treated as a member of the same group as the body corporate making the grant at the time of the grant;
 - (b) has been so treated at any later time when the body corporate by which the grant was made had an interest in, right over or licence to occupy the building or work (or any part of it); or
 - (c) has been treated as a member of the same group as a body corporate within paragraph (a) or (b) above or this paragraph at a time when that body corporate had an interest in, right over or licence to occupy the building or work (or any part of it).
- 6 (1) Where this paragraph applies the interest in, right over or licence to occupy the building or work (or any part of it) held by the developer shall be treated for the purposes of this Act as supplied to the developer for the purpose of a business carried on by him and supplied by him in the course or furtherance of the business on the last day of the prescribed accounting period during which it applies or, if later, of the prescribed accounting period during which the building or work becomes substantially ready for occupation or use.
- (2) The supply treated as made by sub-paragraph (1) above shall be taken to be a taxable supply and the value of the supply shall be the aggregate of—
 - (a) the value of grants relating to the land on which the building or work is constructed made or to be made to the developer, other than any grants to be made for consideration in the form of rent the value of which cannot be ascertained by the developer when the supply is treated as made; and
 - (b) the value of all the taxable supplies of goods and services, other than any that are zero-rated, made or to be made for or in connection with the construction of the building or work.
- (3) Where the value of a supply which, apart from this sub-paragraph, would be treated as made by sub-paragraph (1) above would be less than £100,000, no supply shall be treated as made by that sub-paragraph.

General

- 7 Where the benefit of the consideration for the grant of an interest in, right over or licence to occupy land accrues to a person but that person is not the person making the grant—

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- (a) the person to whom the benefit accrues shall for the purposes of this Act be treated as the person making the grant; and
 - (b) to the extent that any input tax of the person actually making the grant is attributable to the grant it shall be treated as input tax of the person to whom the benefit accrues.
- 8 The Notes to Group 8 of Schedule 5 to this Act and Group 1 of Schedule 6 to this Act apply in relation to this Schedule as they apply in relation to their respective Groups but subject to any appropriate modifications.”
- 7 In section 42 (adjustment of consideration on changes in tax) of the Value Added Tax Act 1983—
- (a) the following subsection shall be inserted after subsection (1)—
 - “(1A) Subsection (1) above shall apply in relation to a tenancy or lease as it applies in relation to a contract except that a term of a tenancy or lease shall not be taken to provide that the rule contained in that subsection is not to apply in the case of the tenancy or lease if the term does not refer specifically to value added tax or this section.”,
 - and
 - (b) in subsection (2), the words “(including a change attributable to the making of an election under paragraph 2 of Schedule 6A to this Act)” shall be added at the end.
- 8 In section 45(4) (orders etc.) of the Value Added Tax Act 1983, there shall be added after paragraph (c)—
- “(d) an order under section 35A above, except one making only such amendments as are necessary or expedient in consequence of provisions of an order under this Act which—
 - (i) vary Schedule 5 or Schedule 6 to this Act; but
 - (ii) are not within paragraph (c) above.”
- 9 In section 48 (interpretation) of the Value Added Tax Act 1983, after the definition of “Commissioners” there shall be inserted—
- ““fee simple”—
- (a) in relation to Scotland, means the estate or interest of the proprietor of the dominium utile or, in the case of land not held on feudal tenure, the estate or interest of the owner;
 - (b) in relation to Northern Ireland, includes the estate of a person who holds land under a fee farm grant;”.
- 10 In Schedule 1 (registration) to the Value Added Tax Act 1983—
- (a) in paragraph 1 there shall be added at the end—
 - “(6) Where, apart from this sub-paragraph, an interest in, right over or licence to occupy any land would under sub-paragraph (5) above be disregarded for the purposes of sub-paragraph (1) above, it shall not be if it is supplied on a taxable supply which is not zero-rated.”, and
 - (b) in paragraph 2 there shall be added at the end—
 - “(4) Where, apart from this sub-paragraph, an interest in, right over or licence to occupy any land would under sub-paragraph (3)

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above be disregarded for the purposes of sub-paragraph (1) above, it shall not be if it is supplied on a taxable supply which is not zero-rated.”

11 In Schedule 2 (supplies of goods and services) to the Value Added Tax Act 1983—

- (a) in paragraph 4, for the word “granting” there shall be substituted the word “grant”,
- (b) in paragraph 5(1), for the words “the goods” there shall be substituted the word “goods”, and
- (c) there shall be added at the end—

“8 (1) Subject to sub-paragraphs (2) and (3) below, paragraphs 5 to 7 above have effect in relation to land forming part of the assets of, or held or used for the purposes of, a business as if it were goods forming part of the assets of, or held or used for the purposes of, a business.

(2) In the application of those paragraphs by virtue of sub-paragraph (1) above, references to transfer, disposition or sale shall have effect as references to the grant or assignment of any interest in, right over or licence to occupy the land concerned.

(3) Except in relation to—

- (a) the grant or assignment of a major interest; or
- (b) a grant or assignment otherwise than for a consideration,

in the application of paragraph 5(1) above by virtue of sub-paragraph (1) above the reference to a supply of goods shall have effect as a reference to a supply of services.”

Commencement

12 (1) Subject to sub-paragraphs (2) and (3) and paragraph 13 below, the amendments made by paragraphs 1 to 4 of this Schedule shall have effect in relation to grants, assignments and other supplies made on or after 1st April 1989.

(2) Note 4(b) to Group 8 of Schedule 5 to the Value Added Tax Act 1983 shall have effect in relation to grants, assignments and other supplies made on or after 1st August 1989.

(3) In relation to grants and assignments made on or after 1st April 1989 but before 1st August 1989—

- (a) that Group shall have effect as if the Notes to it included a Note in the same terms as Note (1) to that Group as it had effect before the substitution made by paragraph 1 above, and
- (b) Group 8A of that Schedule shall have effect as if the Notes to it included a Note in the same terms as Note (5) to that Group as it had effect before the amendments made by paragraph 2 above.

(4) Paragraphs 5, 7, 8, 11 and 13(6) and (7) of this Schedule and paragraph 6, so far as relating to section 35A(2) of, and paragraphs 2 to 7 of Schedule 6A to, the Value Added Tax Act 1983, shall come into force on 1st August 1989.

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- (5) Subject to the preceding provisions of this paragraph, this Schedule shall come into force on 1st April 1989.
- 13 (1) Subject to sub-paragraph (3) below, the amendments made by paragraphs 1 and 2 of this Schedule shall not have effect in relation to a grant, assignment or other supply where—
- (a) it is made in pursuance of a legally binding obligation to make it which was incurred before 21st June 1988, and
 - (b) if the Commissioners so require (whether before or after it is made), it is proved to their satisfaction by the production of documents made before that date that it is so made.
- (2) Subject to sub-paragraph (3) below, the amendments made by paragraphs 1 and 2 of this Schedule shall not have effect in relation to a grant or assignment of an interest in, or in any part of, a building or its site where—
- (a) the grant or assignment takes place before 21st June 1993,
 - (b) the person making the grant or assignment was under a legally binding obligation incurred before 21st June 1988 to construct (or reconstruct) the building or to construct any development of which it forms part (other than an obligation to receive services or goods in the course of the construction or reconstruction),
 - (c) if the Commissioners so require (whether before or after the grant or assignment is made), it is proved to their satisfaction by the production of documents made before that date that he was under that obligation, and
 - (d) planning permission for the construction (or reconstruction) of the building was granted before 21st June 1988.
- (3) Where the grant or assignment is of a tenancy or lease—
- (a) if a premium is payable, sub-paragraph (1) or (2) above shall apply only to the extent that it is made for consideration in the form of the premium; and
 - (b) if a premium is not payable, sub-paragraph (1) or (2) above shall apply only to the extent that it is made for consideration in the form of the first payment of rent due under the tenancy or lease.
- (4) The amendments made by paragraphs 1 and 2 of this Schedule shall not have effect in relation to a supply relating to a building or civil engineering work where—
- (a) the supply takes place before 21st June 1993,
 - (b) the supply is made to the person constructing the building or work (or reconstructing the building),
 - (c) that person was under a legally binding obligation incurred before 21st June 1988 to construct the building or work (or to reconstruct the building) or to construct any development of which it forms part (other than an obligation to receive services or goods in the course of the construction or reconstruction),
 - (d) if the Commissioners so require (whether before or after the supply is made), it is proved to their satisfaction by the production of documents made before that date that he was under that obligation,
 - (e) planning permission for the construction of the building or work (or the reconstruction of the building) was granted before 21st June 1988, and
 - (f) before the supply takes place the person constructing the building or work (or reconstructing the building) has given to the person making the supply a certificate in such form as may be specified in a notice published by the

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Commissioners stating that the supply is zero-rated (in whole or to the extent specified in the certificate) by virtue of this sub-paragraph.

- (5) Where a grant, assignment or other supply is zero-rated by virtue of this paragraph, it is not a relevant zero-rated supply for the purposes of paragraph 1 of Schedule 6A to the Value Added Tax Act 1983.
- (6) Nothing in paragraphs 5 and 6 of that Schedule shall apply—
- (a) in relation to a person who has constructed a building if he incurred before 21st June 1988 a legally binding obligation to make a grant or assignment of a major interest in, or in any part of, the building or its site;
 - (b) in relation to a building or work if there was incurred before that date a legally binding obligation to make in relation to the building or work a supply within item 2 of Group 8 of Schedule 5 to the Value Added Tax Act 1983;
 - (c) in relation to a person who has constructed a building if—
 - (i) he incurred before that date a legally binding obligation to construct the building or any development of which it forms part, and
 - (ii) planning permission for the construction of the building was granted before that date,except where that person does not make a grant or assignment of a major interest in, or in any part of, the building or its site before 21st June 1993.
- (7) If the Commissioners so require, proof of any of the matters specified in sub-paragraph (6)(a), (b) or (c)(i) above shall be given to their satisfaction by the production of documents made before 21st June 1988.

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 the registration of the scheme by substituting the personal representatives for the deceased scheme employer.

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- (3) An application under this section shall be made 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.
- (4) Where the Board amend the registration of a scheme under this section, this Chapter shall (subject to any necessary modifications) have effect as if the personal representatives had been the scheme employer throughout.
- (5) The Board shall give notice to the personal representatives if they refuse an application under this section.

177B Alteration of scheme's terms

- (1) The alteration of the terms of a registered scheme shall not of itself invalidate the registration of the scheme.
- (2) Subsection (1) above is without prejudice to the power of cancellation conferred on the Board by section 178(3A); but the power conferred by section 178(3A) shall not be exercisable by virtue of an alteration registered in accordance with this section.
- (3) Where the terms of a registered scheme have been altered, the scheme employer 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 on which the alteration is made;
 - (c) shall contain a declaration by the applicant that the alteration is within subsection (8) below and that the scheme as altered complies with the requirements of Schedule 8 (either as that Schedule had effect when the scheme was registered, or as it then had effect but subject to one or more subsequent amendments specified in the declaration);
 - (d) shall be accompanied by a report by an independent accountant, in a form prescribed by the Board, to the effect that in his opinion the alteration is within subsection (8) below and the scheme as altered complies with the requirements of Schedule 8 (either as that Schedule had effect when the scheme was registered, or as it then had effect but subject to one or more subsequent amendments specified in the report).
- (5) The Board shall not more than three months after the day on which they receive an application under subsection (3) above either register the alteration or refuse the application; and in either case they shall give notice of their decision to the applicant.
- (6) Subject to subsection (7) below, the Board shall register an alteration on an application under subsection (3) above.
- (7) The Board may refuse an application under subsection (3) above if they are not satisfied—
 - (a) that the application complies with the requirements of subsection (4) above, or

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- (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.
- (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

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- (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—

“(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—

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“(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
 - (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.

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- (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

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

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(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 trusts 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—

“(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”;

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- (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 (insofar 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.”
- (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—

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“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.”

SCHEDULE 5

Section 74.

EMPLOYEE SHARE OWNERSHIP TRUSTS

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.

General

- 2 (1) The trust must be established under a deed (the trust deed).

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- (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.

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;
 - (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 the 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.

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) at that given time he worked as an employee or director of the company concerned at the rate of at least 20 hours a week (ignoring such matters as holidays and sickness).

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- (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
 - (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 he 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.

Trustees' functions

- 5 (1) The trust deed must contain provision as to the functions of the trustees.
- (2) The functions of the trustees must be so expressed that it is apparent that their general functions are—

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- (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).

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.
- (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.

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—

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- (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.
- 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 85(1) of the Capital Gains Tax Act 1979, 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 77 of that Act).
- 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 period of seven years 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.

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- (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.

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.

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 85(1) of the Capital Gains Tax Act 1979, 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 77 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.

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.

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- 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.

Interpretation

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

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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.

Amendments

2 In section 431(4) (pension business of insurance companies) for paragraph (d)(ii) there shall be substituted—

“(ii) a scheme which is a relevant statutory scheme for the purposes of Chapter I of Part XIV;”.

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.”

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(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—

- (a) any other retirement benefits scheme (or schemes) which relates (or relate) 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 (or relate) to employees of that class or description and which is (or are) at the same time before the Board in order for them to decide whether to give approval for the purposes of this Chapter,
- (c) any section 608 scheme or schemes relating to employees of that class or description, and
- (d) any relevant statutory scheme or schemes relating to employees of that class or description.

(9) If those conditions are satisfied in the case of both or all of those schemes taken together, they shall be taken to be satisfied in the case of the scheme 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 those schemes taken together, they shall not be taken to be satisfied in the case of the scheme mentioned in subsection (7) above.

(11) The reference in subsection (8)(c) above to a section 608 scheme is a reference 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

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- (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—
- (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 the 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 (whether under a single scheme or under two or more schemes) shall not exceed 15

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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.

(2) In subsection (1)—

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- (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.

Status: This is the original version (as it was originally enacted).

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—

Status: This is the original version (as it was originally enacted).

- (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.

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

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

Status: This is the original version (as it was originally enacted).

- (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).

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—
 - (a) a sum of three-eighths 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.
- 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 sums exceeding in all the greater of the following sums—

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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 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.

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.

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).

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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.

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.

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.

Status: This is the original version (as it was originally enacted).

- (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—
- (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.

Status: This is the original version (as it was originally enacted).

- (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 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.

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

Status: This is the original version (as it was originally enacted).

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—

“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.

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- (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
- (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,

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- (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.
- 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.

PART II

SCHEMES APPROVED BEFORE PASSING OF THIS ACT

Interpretation

- 10 In this Part of this Schedule—

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- (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 Social Security Act 1986 or the Social Security (Northern Ireland) Order 1986.
- 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.

SCHEDULE 8

Section 84.

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

- 1 In section 431 (interpretative provisions relating to insurance companies), at the end of subsection (2) there shall be added—
- “policy holders' fraction” and “shareholders' fraction” shall be construed in accordance with section 89 of the Finance Act 1989.
- 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) In subsection (6) of that section for the words from “such fraction” onwards there shall be substituted “the policy holders' fraction thereof”.

(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”.

4 After section 434 there shall be inserted the following section—

“434A Limitations on loss relief and group relief

(1) In the case of a company carrying on life assurance business, no relief shall be allowable under Chapter II (loss relief) or Chapter IV (group relief) of Part X against the policy holders' fraction of the relevant profits for any accounting period.

(2) For the purposes of subsection (1) above, the relevant profits of a company for an accounting period are the total profits of its life assurance business, less any deduction due under section 76, but before allowing any relief under Chapter II or Chapter IV of Part X.”

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 In section 441 (foreign life assurance funds) in subsection (5)(b) after “which” there shall be inserted “in respect of its general annuity business only”.

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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),

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—

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- (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.
- (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),

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- (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,
 - (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),

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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).
- (3) For the purposes of sub-paragraph (1) above a new would-be deep discount security is a security which—

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- (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

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).
- (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.

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- (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 Capital Gains Tax Act 1979.
- (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.

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) the security was issued before 9th June 1989 and was quoted in the official list of a recognised stock exchange on 8th June 1989, 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,

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- (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—
 - (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.
- (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).
- (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.
- (13) For the purposes of sub-paragraphs (7) and (12) 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;
 - (c) the person who issued the security fails to comply with the duties imposed on him by the terms of issue;
 - (d) the security was issued by a company before 9th June 1989 and a person gains control of the company in pursuance of the acceptance of an offer made by that person to acquire shares in the company.
- (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.

Convertible securities

- 3 (1) For the purposes of paragraph 1 above a security is a convertible security if—
- (a) it was issued by a company before 9th June 1989,
 - (b) 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
 - (c) the condition set out in sub-paragraph (2) below is fulfilled.
- (2) The condition is that—
- (a) at some time in the qualifying period the security was quoted in the official list of a recognised stock exchange,
 - (b) at some time in that period relevant share capital was so quoted, or

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- (c) 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.

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.
- (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.

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—

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

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.
- (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.

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—

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- (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.

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

- 10 (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) 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—
- (a) the trustees of the fund shall be treated as transferring it on that day, and
 - (b) 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;
- and for this purpose relevant years are 1989 and subsequent years.
- (3) 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—
- (a) the trustees of the fund shall be treated as acquiring it on that day, and
 - (b) they shall be treated as paying in respect of the acquisition an amount equal to the market value of the security at the time of the acquisition;
- and for this purpose relevant years are 1990 and subsequent years.
- (4) Sub-paragraph (5) 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) of the Taxes Act 1988,

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- (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) of that Act applies to the transfer made by the trustees.
- (5) The securities transferred by the trustees shall be treated for the purposes of sub-paragraphs (2) and (3) 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).
- (6) Paragraph 7(1) above shall not apply where the individual concerned is an underwriting member of Lloyd's and the security concerned forms 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 individual's business or any part of it is carried on, to be kept in connection with the business.
- (7) In a case where an amount treated as income chargeable to tax by virtue of paragraph 5(2) above constitutes profits or gains mentioned in section 450(1) of the Taxes Act 1988—
- (a) section 450(1)(b) shall apply, and
 - (b) paragraph 5(2)(c) above shall not apply.
- (8) For the purpose of computing income tax for the year 1987-88 sub-paragraph (7) above shall have effect as if—
- (a) the reference to section 450(1) of the Taxes Act 1988 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.
- (9) In this paragraph “business” and “premiums trust fund” have the meanings given by section 457 of the Taxes Act 1988.

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 a rate equal to the sum of the basic rate and the additional rate 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.

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 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.

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- (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.

Retirement benefit schemes

- 14 In a case where—
- (a) paragraph 5 above would apply (apart from this paragraph) to a transfer or 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.

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Charities

- 15 (1) In a case where—
- (a) paragraph 5 above would apply (apart from this paragraph) to a transfer or 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.

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 88 of the Finance Act 1982 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.

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,

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- (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—
- (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 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.

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- (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.

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.

Power to modify

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

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.

Status: This is the original version (as it was originally enacted).

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)

- 6 (1) In section 136 of the Capital Gains Tax Act 1979 (relief in respect of loans to traders) in subsection (10)(b) for the words “paragraph 7 of Schedule 19 to the Taxes Act 1988” there shall be substituted the words “paragraph 1 of Schedule 20 to the Finance Act 1985”.
- (2) This paragraph shall have effect where the claim under section 136 is made after 31st March 1989.

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—
- “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 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 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,—

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- (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., 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 per cent., 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)”.
- 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,—

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- (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 per cent. 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.
- 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

Buildings etc. bought after use

- 1 (1) In the Capital Allowances Act 1968 (“the 1968 Act”) after section 5 (buildings and structures bought unused) there shall be inserted—

“5A Buildings and structures bought after use

- (1) This section applies where—
 - (a) expenditure is incurred on the construction of a building or structure by a person carrying on a trade which consists, in whole or part, in the construction of buildings or structures with a view to their sale, and
 - (b) after the building or structure has been used, he sells the relevant interest in it in the course of that trade or, as the case may be, of that part of that trade.
- (2) Where this section applies, this Chapter shall have effect in relation to the person who buys the interest as if—
 - (a) the original expenditure had been capital expenditure,
 - (b) all appropriate writing-down allowances had been made to the person incurring it, and
 - (c) all appropriate balancing allowances or charges had been made on the occasion of the sale.”
- (2) This paragraph shall have effect in any case where the purchase price payable on any sale becomes payable on or after the day on which this Act is passed.

Roads on industrial estates

- 2 (1) In section 7 of the 1968 Act (definition of “industrial building or structure”), after subsection (3A) there shall be inserted—

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“(3B) A road on an industrial estate shall be treated as used for the purposes of a trade which falls within subsection (1) above if the buildings and structures on the estate are used wholly or mainly for such purposes.”

- (2) This paragraph shall have effect in relation to any chargeable period or its basis period ending on or after the day on which this Act is passed.

Contributions to expenditure

- 3 (1) Section 84 of the 1968 Act (under which certain contributions etc. reduce allowable expenditure) shall be amended as follows.

(2) At the end of paragraph (b) of subsection (2) there shall be added the words “and not being expenditure which is allowed to be deducted in computing the profits or gains of a trade, profession or vocation carried on by that person”.

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

“(2A) In determining for the purposes of subsection (2)(b) above whether an allowance could be made under the provisions of section 85 below, it shall be assumed that the person by whom expenditure has been or is to be met is within the charge to tax, whether or not that is in fact the case.”

(4) This paragraph shall have effect in relation to expenditure incurred on or after the day on which this Act is passed except in so far as a contribution to the expenditure was made before that day.

- 4 (1) In section 85 of the 1968 Act (which gives allowances in respect of certain contributions), after subsection (3) there shall be inserted—

“(3A) References in this section, and in Schedule 9 to this Act, to a trade shall be construed as including references to a profession or vocation.”

(2) This paragraph shall have effect in relation to contributions made on or after the day on which this Act is passed.

- 5 (1) This paragraph applies where allowances are made in respect of a contribution to capital expenditure by virtue of section 85 of the 1968 Act as applied by paragraph 15(6) of Schedule 8 to the Finance Act 1971.

(2) Where this paragraph applies in relation to a contribution made for the purposes of a trade carried on or to be carried on by the contributor, it shall be assumed for the purposes of section 44 of the Finance Act 1971—

(a) that the contribution was made for the purposes of a trade carried on by the contributor separately from any trade actually carried on by him, and

(b) that the separate trade is discontinued or transferred (in whole or in part) when the trade actually carried on is discontinued or transferred (in whole or in part);

and any allowance or charge which would on those assumptions fall to be made for any chargeable period in the case of the separate trade shall be made for that period in the case of the trade for the purposes of which the contribution was actually made.

(3) References in sub-paragraph (2) above to a trade shall be construed as including references to a profession or vocation.

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- (4) This paragraph shall have effect in relation to contributions made on or after the day on which this Act is passed.
- 6 (1) In its application in relation to allowances under Schedule 15 to the Finance Act 1986 (agricultural land and buildings), Schedule 9 to the 1968 Act shall have effect—
- (a) with the omission of paragraph 4, and
 - (b) as if, in paragraph 3, the references to section 11 of the 1968 Act and to expenditure incurred on the construction of a building or structure were references to paragraph 3 of Schedule 15 to the Finance Act 1986 and to expenditure falling within paragraph 1(1) of that Schedule.
- (2) This paragraph shall have effect in relation to contributions made on or after the day on which this Act is passed.

Scientific research

- 7 (1) In section 91 of the 1968 Act (allowances for expenditure on scientific research), after subsection (1B) there shall be inserted—
- “(1C) Subject to subsections (1A) and (1B) above, where a person incurs capital expenditure which is partly within subsection (1) above and partly not, such apportionment of the expenditure shall be made for the purposes of this Part of this Act as may be just.”
- (2) This paragraph shall have effect in relation to expenditure incurred on or after the day on which this Act is passed.
- 8 The amendments made in section 92 of the 1968 Act (assets ceasing to be used for scientific research) by section 63 of the Finance Act 1985 shall have effect in relation to any case where the relevant event (within the meaning given in section 92(1)) occurs on or after 1st April 1989 (as well as in the cases provided for by section 63(7) where it occurs before that date).
- 9 (1) In section 94 of the 1968 Act (interpretation of Part II), after subsection (4) there shall be added—
- “(4A) Any reference in this Part of this Act to the time when an asset ceases to belong to a person shall, in the case of a sale, be construed as a reference to the time of completion or the time when possession is given, whichever is the earlier.”
- (2) This paragraph shall have effect in any case where the sale is effected, or the contract for sale entered into, on or after the day on which this Act is passed.

Hire-purchase, leases etc.

- 10 (1) In section 45(1) of the Finance Act 1971 (machinery or plant held by a person under a hire-purchase or similar agreement to be treated as belonging to him), in paragraph (a), after the words “to him” there shall be inserted the words “(and not to any other person)”.
- (2) This paragraph shall have effect in relation to capital expenditure incurred under contracts entered into on or after the day on which this Act is passed.
- 11 In section 46 of the Finance Act 1971 (machinery and plant on lease) after subsection (2) there shall be inserted—

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“(2A) In this section “lease” includes an agreement for a lease where the term to be covered by the lease has begun, and any tenancy, but does not include a mortgage, and “lessee” and other cognate expressions shall be construed accordingly.”

- 12 (1) In section 48 of the Finance Act 1971, after subsection (4) (which provides for the manner of making capital allowances and imposes restrictions in certain cases where the machinery or plant is on lease), there shall be inserted—

“(4A) Section 403(3) of the Taxes Act (group relief) shall not apply to an allowance if or to the extent that, by virtue of the proviso to subsection (4) above, subsection (3) of the said section 74 does not apply to it.”

- (2) This paragraph shall have effect in any case where the accounting period of the surrendering company (within the meaning of Chapter IV of Part X of the Taxes Act 1988) ends on or after the day on which this Act is passed.

Gifts of machinery or plant

- 13 (1) Paragraph 7 of Schedule 8 to the Finance Act 1971 (effect of use after user not attracting capital allowances, or after receipt by way of gift) shall be amended as follows.

- (2) 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) shall cease to have effect.

- (3) After sub-paragraph (1A) there shall be inserted—

“(1B) Where a person is treated as having incurred capital expenditure on the provision of machinery or plant by virtue of sub-paragraph (1)(b) above, he shall for the purposes of paragraph 3 above be treated as having done so by way of purchase from the donor.”

- (4) This paragraph shall have effect in cases where machinery or plant is brought into use on or after the day on which this Act is passed.

Allowances for ships

- 14 (1) In paragraph 8A of Schedule 8 to the Finance Act 1971 (which enables shipowners to elect to defer allowances in certain cases), in sub-paragraph (1)(b), for the words from “the expenditure” to “falling” there shall be substituted the words “the ship is not provided for leasing or letting on charter otherwise than by way of lease, or is so provided but it appears that the ship will be used in the requisite period (within the meaning of section 64 of the Finance Act 1980) for a qualifying purpose (within the meaning of that section) and will not at any time in that period be used for any other purpose, and the expenditure does not fall”.

- (2) This paragraph shall have effect in relation to expenditure incurred on or after the day on which this Act is passed.

- 15 (1) In section 58 of the Finance Act 1985 (extension of first-year allowances to ships which are not new), after subsection (2) there shall be added—

“(3) In consequence of subsection (1) above—

- (a) no disclaimer or claim under section 41(3) of the Finance Act 1971 may be made in respect of any ship,

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- (b) section 66(7) of the Finance Act 1980 and paragraph 3 of Schedule 11 to the Finance Act 1982 shall have effect with the omission of the word “new” in each place where it occurs, and
 - (c) section 59(4)(c) and (6)(c) of the Finance Act 1984 shall have effect with the omission of the word “new”.
- (2) Paragraph (a) of section 58(3) of the Finance Act 1985 shall have effect in relation to disclaimers and claims made on or after the day on which this Act is passed, paragraph (b) of that subsection shall have effect in any case where the requisite period begins on or after that day and paragraph (c) of that subsection shall come into force on that day.

Sales etc. and succession to trades between connected persons

- 16 (1) In paragraph 13 of Schedule 8 to the Finance Act 1971 (successions to trades between connected persons), after sub-paragraph (3) there shall be inserted—
- “(3A) Section 48(1) of the Capital Allowances Act 1968 and section 65(5) of the Finance Act 1980 shall not apply in any case where an election is made under this paragraph.”
- (2) This paragraph shall have effect in relation to successions occurring on or after the day on which this Act is passed.
- 17 In section 68(4) of the Finance Act 1972 (which modifies the restrictions on allowances imposed by paragraph 3 of Schedule 8 to the Finance Act 1971 in the case of sales etc. between connected persons) for paragraphs (b) and (c) there shall be substituted—
- “(b) where capital expenditure was incurred by the seller on the provision of the machinery or plant, the amount of that expenditure;
 - (c) where capital expenditure was incurred by any person connected with the seller on the provision of the machinery or plant, the amount of the expenditure incurred by that person.”

Leased assets

- 18 In section 73(5) of the Finance Act 1980 (application of sections 64 to 72 to activities other than trades), for the words “first-year” there shall be substituted the words “writing-down”.
- 19 In Schedule 11 to the Finance Act 1982, in paragraph 4(3), for the reference to section 243(2) of the Taxes Act 1988 there shall be substituted a reference to section 343(2).

Dwelling-houses

- 20 (1) In paragraph 4(5)(c) of Schedule 12 to the Finance Act 1982 (application of section 78 of and Schedule 7 to the 1968 Act to certain sales of dwelling-houses), for the words “are at the time of the sale” there shall be substituted the words “at the time of the sale are or at any earlier time were”.
- (2) This paragraph shall have effect in any case where the time of the sale referred to in paragraph 4(5)(c) is after 14th January 1989.

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Short-life assets

- 21 (1) In section 57(6) of the Finance Act 1985 (election for certain machinery or plant to be treated as short-life assets)—
- (a) for the words “the short-life asset” there shall be substituted the words “a short-life asset provided for leasing”, and
 - (b) in paragraph (b)—
 - (i) after the word “expenditure”, where it first appears, there shall be inserted the words “in respect of the notional trade”,
 - (ii) for the words following “1980” there shall be substituted the words “be, or be added to, the trader’s qualifying expenditure for that chargeable period.”
- (2) The amendment made by sub-paragraph (1)(b)(i) above is to section 57(6) of the Finance Act 1985 as it has effect as amended by section 57(6) of the Finance Act 1986 and as it has effect by virtue of section 57(7) of that Act and the amendment made by sub-paragraph (1)(b)(ii) above is to section 57(6) of the Finance Act 1985 as it has effect by virtue of section 57(7) of the Finance Act 1986.
- (3) This paragraph shall have effect in relation to any chargeable period or its basis period ending on or after the day on which this Act is passed.
- 22 (1) In Schedule 15 to the Finance Act 1985 (machinery and plant excluded from treatment as short-life assets), for paragraph 8 (leased assets) there shall be substituted—
- “8. Machinery or plant provided for leasing, except—
- (a) machinery or plant which it appears will be used in the requisite period (within the meaning of section 64 of the Finance Act 1980) for a qualifying purpose (within the meaning of that section) and will not at any time in that period be used for any other purpose,
 - (b) vehicles of the kind mentioned in subsection (12) of that section.”
- (2) In paragraph 9 of that Schedule (leased assets) for the words from “1980” to the end there shall be substituted the word “applies”.
- (3) This paragraph shall have effect in relation to expenditure incurred on or after the day on which this Act is passed.

Machinery and plant which are fixtures

- 23 (1) In Schedule 17 to the Finance Act 1985, in paragraph 9 (disposal value of fixtures) in sub-paragraph (10), for the words “another person” onwards there shall be substituted the words “—
- (a) another person incurs expenditure on the provision of the fixture, and
 - (b) the former owner brings a disposal value into account in accordance with section 44 of the Finance Act 1971,
- there shall be disregarded for material purposes so much (if any) of that expenditure as exceeds that disposal value”.

- (2) This paragraph shall have effect in relation to expenditure incurred on or after the day on which this Act is passed.

Mineral extraction

- 24 (1) In Schedule 13 to the Finance Act 1986 (new code for minerals), in paragraph 16(5) (unrelieved value for the purposes of qualifying expenditure), for the reference to section 55 of that Act there shall be substituted a reference to Schedule 15.
- (2) This paragraph shall have effect in cases where buildings or structures cease, on or after the day on which this Act is passed, permanently to be used for any purpose.

Agricultural land and buildings

- 25 At the end of section 56(3) of the Finance Act 1986 (interpretation of new provisions relating to agriculture), there shall be added the words “and section 4(11) of and Chapter VI of Part I of the Capital Allowances Act 1968 shall apply in relation to Schedule 15 as they apply in relation to section 68 of that Act”.
- 26 In paragraph 7(3) of Schedule 15 to the Finance Act 1986 (amount of writing-down allowances after a balancing event) the words “subject to paragraph 9 below” shall be omitted.

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,

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(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.

Exclusion of double allowances

- 28 (1) Where an allowance is made to any person in respect of capital expenditure under one of the provisions specified in sub-paragraph (4) below—
- (a) no allowance shall be made to him under any other of those provisions—
 - (i) in respect of that expenditure, or
 - (ii) in relation to the construction, provision or acquisition of any asset to the construction, provision or acquisition of which the first-mentioned allowance relates, and
 - (b) that expenditure and any expenditure relating to the provision of any asset to the provision of which the first-mentioned allowance relates shall not be taken into account in determining his qualifying expenditure for the purpose of any allowance or charge under section 44 of the Finance Act 1971.
- (2) Where in the case of any person an allowance or charge under that section is made by reference to an amount of qualifying expenditure which took account of a particular amount of capital expenditure, no allowance shall be made to him under any of the provisions specified in sub-paragraph (4) below—
- (a) in respect of that capital expenditure, or
 - (b) in relation to the provision of any asset if that capital expenditure related to the provision of that asset.
- (3) In this paragraph—
 “asset” means asset of any kind, including a building or structure, and
 “capital expenditure” includes any contribution to capital expenditure,
 and references to the provision of an asset include references to its construction or acquisition.
- (4) The provisions referred to in sub-paragraphs (1) and (2) above are—
- (a) Chapter I of Part I of the 1968 Act (industrial buildings and structures),
 - (b) Chapter IV of Part I of that Act (dredging),
 - (c) Chapter V of Part I of that Act (agricultural land and buildings),
 - (d) Part II of that Act (scientific research),
 - (e) Schedule 12 to the Finance Act 1982 (certain let dwelling-houses),
 - (f) Schedule 13 to the Finance Act 1986 (mineral extraction),
 - (g) Schedule 15 to the Finance Act 1986 (agricultural land and buildings).
- (5) The following provisions (which are superseded by sub-paragraphs (1) to (4) above) shall cease to have effect—
- (a) sections 9(b), 14, 50(2), 67(11) and 93(1) and (2) of the 1968 Act,
 - (b) paragraph 2 of Schedule 8 to the Finance Act 1971,
 - (c) paragraph 8 of Schedule 6 to the Finance Act 1978,

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- (d) in sections 74(6) and 75(6) of the Finance Act 1980, the words from the beginning to “and”,
 - (e) paragraph 11 of Schedule 12 to the Finance Act 1982, and
 - (f) section 56(5) of the Finance Act 1986,
- and in section 92(5) of the 1968 Act the words “allowed or” and “balancing allowance or” shall cease to have effect.
- (6) This paragraph shall have effect in relation to any chargeable period or its basis period ending on or after the day on which this Act is passed.

Time when expenditure incurred

- 29 (1) In section 56 of the Finance Act 1985 (time when capital expenditure is incurred) at the end of subsection (1) there shall be added “and
- (g) sections 117 and 118 of the Finance Act 1989.”
- (2) This paragraph shall have effect in relation to expenditure incurred on or after 6th April 1989.
- 30 (1) In section 56(8) of the Finance Act 1985 (preservation of certain provisions under which expenditure is taken to have been incurred later than section 56 provides), for the words “or the Finance Act 1971” there shall be substituted the words “the Finance Act 1971, Schedule 12 to the Finance Act 1982 or Schedules 13 and 15 to the Finance Act 1986”.
- (2) This paragraph shall have effect in relation to any chargeable period or its basis period ending on or after the day on which this Act is passed.

SCHEDULE 14

Section 124.

CAPITAL GAINS TAX: GIFTS ETC.

Gifts of business assets

- 1 (1) Section 126 of the Capital Gains Tax Act 1979 shall be amended as follows.
- (2) For subsection (1) there shall be substituted—
- “(1) If—
- (a) an individual (in this section referred to as “the transferor”) makes a disposal otherwise than under a bargain at arm’s length of an asset within subsection (1A) below, and
 - (b) a claim for relief under this section is made by the transferor and the person who acquires the asset (in this section referred to as “the transferee”) or, where the trustees of a settlement are the transferee, by the transferor alone,
- then, subject to subsection (2) and sections 126A and 126B below, subsection (3) below shall apply in relation to the disposal.
- (1A) An asset is within this subsection if—
- (a) it is, or is an interest in, an asset used for the purposes of a trade, profession or vocation carried on by—

Status: This is the original version (as it was originally enacted).

- (i) the transferor, or
 - (ii) his family company, or
 - (iii) a member of a trading group of which the holding company is his family company, or
 - (b) it consists of shares or securities of a trading company, or of the holding company of a trading group, where—
 - (i) the shares or securities are neither quoted on a recognised stock exchange nor dealt in on the Unlisted Securities Market, or
 - (ii) the trading company or holding company is the transferor's family company."
- (3) At the end of subsection (2) there shall be added the words "or
- (c) in the case of a disposal of qualifying corporate bonds within the meaning of section 64 of the Finance Act 1984, a gain is deemed to accrue by virtue of paragraph 10(1)(b) of Schedule 13 to that Act, or
 - (d) subsection (3) of section 147A below applies in relation to the disposal (or would apply if a claim for relief were duly made under that section)."
- (4) In subsection (7)—
- (a) in paragraph (a), for the words "has the meaning" there shall be substituted the words " , "holding company", "trading company" and "trading group" have the meanings", and
 - (b) paragraph (b) shall be omitted.
- (5) After subsection (8) there shall be added—
- "(9) Where a disposal in respect of which a claim is made under this section is (or proves to be) a chargeable transfer for inheritance tax purposes, there shall be allowed as a deduction in computing (for capital gains tax purposes) the chargeable gain accruing to the transferee on the disposal of the asset in question an amount equal to whichever is the lesser of—
- (a) the inheritance tax attributable to the value of the asset, and
 - (b) the amount of the chargeable gain as computed apart from this subsection,
- and, in the case of a disposal which, being a potentially exempt transfer, proves to be a chargeable transfer, all necessary adjustments shall be made, whether by the discharge or repayment of capital gains tax or otherwise.
- (10) Where an amount of inheritance tax—
- (a) falls to be redetermined in consequence of the transferor's death within seven years of making the chargeable transfer in question, or
 - (b) is otherwise varied,
- after it has been taken into account under subsection (9) above, all necessary adjustments shall be made, whether by the making of an assessment to capital gains tax or by the discharge or repayment of such tax."

Status: This is the original version (as it was originally enacted).

“126A Section 126 relief: gifts to non-residents

- (1) Section 126(3) above shall not apply where the transferee is neither resident nor ordinarily resident in the United Kingdom.
- (2) Section 126(3) above shall not apply where the transferee is an individual or a company if that individual or company—
 - (a) though resident or ordinarily resident in the United Kingdom, is regarded for the purposes of any double taxation arrangements having effect by virtue of section 788 of the Taxes Act 1988 as resident in a territory outside the United Kingdom, and
 - (b) by virtue of the arrangements would not be liable in the United Kingdom to tax on a gain arising on a disposal of the asset occurring immediately after its acquisition.

126B Section 126 relief: gifts to foreign-controlled companies

- (1) Section 126(3) above shall not apply where the transferee is a company which is within subsection (2) below.
- (2) A company is within this subsection if it is controlled by a person who, or by persons each of whom,—
 - (a) is neither resident nor ordinarily resident in the United Kingdom, and
 - (b) is connected with the person making the disposal.
- (3) For the purposes of subsection (2) above, a person who (either alone or with others) controls a company by virtue of holding assets relating to that or any other company and who is resident or ordinarily resident in the United Kingdom shall be regarded as neither resident nor ordinarily resident there if—
 - (a) he is regarded for the purposes of any double taxation arrangements having effect by virtue of section 788 of the Taxes Act 1988 as resident in a territory outside the United Kingdom, and
 - (b) by virtue of the arrangements he would not be liable in the United Kingdom to tax on a gain arising on a disposal of the assets.

126C Section 126 relief: emigration of controlling trustees

- (1) Subsection (2) below applies where—
 - (a) relief under section 126 above is given in respect of a disposal of an asset to a company which is controlled by the trustees of a settlement (“the relevant disposal”),
 - (b) at the time of the relevant disposal the person making it is connected with the trustees, and
 - (c) at a time when the company has not disposed of the asset and the trustees have not ceased to control the company, they become neither resident nor ordinarily resident in the United Kingdom.
- (2) Where this subsection applies then, subject to the following provisions of this section, a chargeable gain shall be deemed to have accrued to the trustees immediately before the time mentioned in subsection (1)(c) above,

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and its amount shall be equal to the held-over gain (within the meaning of section 126 above) on the relevant disposal.

- (3) For the purposes of paragraph (c) of subsection (1) above, the company shall be taken to have disposed of an asset before the time referred to in that paragraph only if it has made a disposal or disposals in connection with which the whole of the held-over gain on the relevant disposal was represented by reductions made in accordance with section 126(3)(b) above; and where the company has made a disposal in connection with which part of that gain was so represented, the amount of chargeable gain deemed by virtue of this section to accrue to the trustees shall be correspondingly reduced.
- (4) The disposals by the company that are to be taken into account under subsection (3) above shall not include any disposal to which section 273 of the Taxes Act 1970 (transfers within a group) applies; but where the company disposes of an asset by a disposal to which that section applies, the first subsequent disposal of the asset by another member of the group which is a disposal to which that section does not apply shall be taken into account under subsection (3) above as if it had been made by the company.
- (5) Where an amount of tax assessed on trustees by virtue of this section is not paid within the period of twelve months beginning with the date when the tax becomes payable then, subject to subsection (6) below, the transferor may be assessed and charged (in the name of the trustees) to all or any part of that tax.
- (6) No assessment shall be made under subsection (5) above more than six years after the end of the year in which the relevant disposal was made.
- (7) Where the transferor pays an amount of tax in pursuance of subsection (5) above, he shall be entitled to recover a corresponding sum from the trustees.
- (8) Gains on disposals made after a chargeable gain has under this section been deemed to accrue by reference to a held-over gain shall be computed without any reduction under section 126(3)(b) above in respect of that held-over gain.
- (9) Section 126B(3) above shall apply for the purposes of subsection (1)(c) above as it applies for the purposes of section 126B(2).”

- 3 (1) Schedule 4 to the Capital Gains Tax Act 1979 shall be amended as follows.
 - (2) In paragraph 1—
 - (a) in sub-paragraph (1)(b), for the words “section 126(1)(a)” there shall be substituted the words “section 126(1)” and for the words “that paragraph” there shall be substituted the words “section 126(1A)(a)”; and
 - (b) in sub-paragraph (2), the words “at the rate of 50 per cent.” shall be omitted, and at the end of paragraph (b) there shall be added the words “; or
 - (c) would be so made but for section 124A of that Act (assuming, where there is no chargeable transfer on that occasion, that there were).”
 - (3) For paragraph 2 there shall be substituted—
 - “2 (1) If—

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- (a) the trustees of a settlement make a disposal otherwise than under a bargain at arm's length of an asset within sub-paragraph (2) below, and
- (b) a claim for relief under section 126 of this Act is made by the trustees and the person who acquires the asset (in this Schedule referred to as "the transferee") or, where the trustees of a settlement are also the transferee, by the trustees making the disposal alone,

then, subject to subsection (2) of section 126 and to sections 126A and 126B, subsection (3) of section 126 shall apply in relation to the disposal.

- (2) An asset is within this sub-paragraph if—
 - (a) it is, or is an interest in, an asset used for the purposes of a trade, profession or vocation carried on by—
 - (i) the trustees making the disposal, or
 - (ii) a beneficiary who had an interest in possession in the settled property immediately before the disposal, or
 - (b) it consists of shares or securities of a trading company, or of the holding company of a trading group, where—
 - (i) the shares or securities are neither quoted on a recognised stock exchange nor dealt in on the Unlisted Securities Market, or
 - (ii) not less than 25 per cent. of the voting rights exercisable by shareholders of the company in general meeting are exercisable by the trustees at the time of the disposal.

- (3) Where section 126(3) applies by virtue of this paragraph, references to the trustees shall be substituted for the references in sections 126(3)(a) and 126C to the transferor; and where it applies in relation to a disposal which is deemed to occur by virtue of section 54(1) or 55(1) of this Act, section 126(6) shall not apply."

- (4) In paragraph 3—
 - (a) in sub-paragraph (1)—
 - (i) the words from "by virtue" to "(settled property)" shall be omitted,
 - (ii) for the words "(a) of paragraph 2(1)" there shall be substituted "2(1)(a)", and
 - (iii) for the words "the said paragraph (a)" there shall be substituted the words "paragraph 2(2)(a) above", and
 - (b) in sub-paragraph (2), the words "at the rate of 50 per cent." shall be omitted, and at the end of paragraph (b) there shall be added the words " , or
 - (c) would be so made but for section 124A of that Act (assuming, where there is no chargeable transfer on that occasion, that there were)."

- (5) In paragraph 4—
 - (a) in sub-paragraph (2)(a), for the words "section 126(1)" there shall be substituted the words "section 126(1A)", and for the words "sub-paragraph (1)" there shall be substituted the words "sub-paragraph (2)";
 - (b) for sub-paragraph (2)(c) there shall be substituted—

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- “(c) “the transferor” has the same meaning as in section 126 of this Act except that, in a case where paragraph 2 above applies, it refers to the trustees mentioned in that paragraph.”;
- (c) for sub-paragraph (3) there shall be substituted—
- “(3) In this Part of this Schedule—
- (a) any reference to a disposal of an asset is a reference to a disposal which falls within subsection (1) of section 126 of this Act by virtue of subsection (1A)(a) of that section or, as the case may be, falls within sub-paragraph (1) of paragraph 2 above by virtue of sub-paragraph (2)(a) of that paragraph, and
- (b) any reference to a disposal of shares is a reference to a disposal which falls within subsection (1) of section 126 of this Act by virtue of subsection (1A)(b) of that section or, as the case may be, falls within sub-paragraph (1) of paragraph 2 above by virtue of sub-paragraph (2)(b) of that paragraph.”; and
- (d) in sub-paragraph (4), for the words “as the case may be” there shall be substituted the words “where it applies”, and the words “(taking account” onwards shall be omitted.
- (6) At the end of each of paragraph 5 and paragraph 6 there shall be added—
- “(2) This paragraph shall not apply where the circumstances are such that a reduction in respect of the asset—
- (a) is made under Chapter II of Part V of the Inheritance Tax Act 1984 in relation to a chargeable transfer taking place on the occasion of the disposal, or
- (b) would be so made if there were a chargeable transfer on that occasion, or
- (c) would be so made but for section 124A of that Act (assuming, where there is no chargeable transfer on that occasion, that there were).”
- (7) For paragraph 7 there shall be substituted—
- “7 (1) If in the case of a disposal of shares assets which are not business assets are included in the chargeable assets of the company whose shares are disposed of, or, where that company is the holding company of a trading group, in the group’s chargeable assets, and either—
- (a) at any time within the period of twelve months before the disposal not less than 25 per cent. of the voting rights exercisable by shareholders of the company in general meeting are exercisable by the transferor, or
- (b) the transferor is an individual and, at any time within that period, the company is his family company,
- the amount of the held-over gain shall be reduced by multiplying it by the fraction defined in sub-paragraph (2) below.
- (2) The fraction referred to in sub-paragraph (1) above is that of which—

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- (a) the denominator is the market value on the date of the disposal of all the chargeable assets of the company, or as the case may be of the group, and
 - (b) the numerator is the market value on that date of those chargeable assets of the company or of the group which are business assets.
- (3) For the purposes of this paragraph—
- (a) an asset is a business asset in relation to a company or a group if it is or is an interest in an asset used for the purposes of a trade, profession or vocation carried on by the company, or as the case may be by a member of the group; and
 - (b) an asset is a chargeable asset in relation to a company or a group at any time if, on a disposal at that time, a gain accruing to the company, or as the case may be to a member of the group, would be a chargeable gain.
- (4) Where the shares disposed of are shares of the holding company of a trading group, then for the purposes of this paragraph—
- (a) the holding by one member of the group of the ordinary share capital of another member shall not count as a chargeable asset, and
 - (b) if the whole of the ordinary share capital of a 51 per cent. subsidiary of the holding company is not owned directly or indirectly by that company, the value of the chargeable assets of the subsidiary shall be taken to be reduced by multiplying it by the fraction of which the denominator is the whole of the ordinary share capital of the subsidiary and the numerator is the amount of that share capital owned directly or indirectly by the holding company.
- (5) Expressions used in sub-paragraph (4) above have the same meanings as in section 838 of the Taxes Act 1988.”

Gifts on which inheritance tax is chargeable etc.

4 The following sections shall be inserted after section 147 of the Capital Gains Tax Act 1979—

“147A Gifts on which inheritance tax is chargeable etc

- (1) If—
- (a) an individual or the trustees of a settlement (in this section referred to as “the transferor”) make a disposal within subsection (2) below of an asset,
 - (b) the asset is acquired by an individual or the trustees of a settlement (in this section referred to as “the transferee”), and
 - (c) a claim for relief under this section is made by the transferor and the transferee or, where the trustees of a settlement are the transferee, by the transferor alone,

then, subject to subsection (6) and section 147B below, subsection (3) below shall apply in relation to the disposal.

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- (2) A disposal is within this subsection if it is made otherwise than under a bargain at arm's length and—
- (a) is a chargeable transfer within the meaning of the Inheritance Tax Act 1984 (or would be but for section 19 of that Act) and is not a potentially exempt transfer (within the meaning of that Act),
 - (b) is an exempt transfer by virtue of—
 - (i) section 24 of that Act (transfers to political parties),
 - (ii) section 26 of that Act (transfers for public benefit),
 - (iii) section 27 of that Act (transfers to maintenance funds for historic buildings etc.), or
 - (iv) section 30 of that Act (transfers of designated property),
 - (c) is a disposition to which section 57A of that Act applies and by which the property disposed of becomes held on trusts of the kind referred to in subsection (1)(b) of that section (maintenance funds for historic buildings etc.),
 - (d) by virtue of subsection (4) of section 71 of that Act (accumulation and maintenance trusts) does not constitute an occasion on which inheritance tax is chargeable under that section,
 - (e) by virtue of section 78(1) of that Act (transfers of works of art etc.) does not constitute an occasion on which tax is chargeable under Chapter III of Part III of that Act, or
 - (f) is a disposal of an asset comprised in a settlement where, as a result of the asset or part of it becoming comprised in another settlement, there is no charge, or a reduced charge, to inheritance tax by virtue of paragraph 9, 16 or 17 of Schedule 4 to that Act (transfers to maintenance funds for historic buildings etc.).
- (3) Where this subsection applies in relation to a disposal—
- (a) the amount of any chargeable gain which, apart from this section, would accrue to the transferor on the disposal, and
 - (b) the amount of the consideration for which, apart from this section, the transferee would be regarded for the purposes of capital gains tax as having acquired the asset in question,
- shall each be reduced by an amount equal to the held-over gain on the disposal.
- (4) Subject to subsection (5) below, the reference in subsection (3) above to the held-over gain on a disposal is a reference to the chargeable gain which would have accrued on that disposal apart from this section.
- (5) In any case where—
- (a) there is actual consideration (as opposed to the consideration equal to the market value which is deemed to be given by virtue of any provision of this Act) for a disposal in respect of which a claim for relief is made under this section, and
 - (b) that actual consideration exceeds the sums allowable as a deduction under section 32 above,
- the held-over gain on the disposal shall be reduced by the excess referred to in paragraph (b) above or, if part of the gain on the disposal is relieved under

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Schedule 20 to the Finance Act 1985 (retirement relief), by so much, if any, of that excess as exceeds the part so relieved.

- (6) Subsection (3) above does not apply in relation to a disposal of assets within section 67(1) above on which a gain is deemed to accrue by virtue of paragraph 10(1)(b) of Schedule 13 to the Finance Act 1984.
- (7) In the case of a disposal within subsection (2)(a) above there shall be allowed as a deduction in computing the chargeable gain accruing to the transferee on the disposal of the asset in question an amount equal to whichever is the lesser of—
 - (a) the inheritance tax attributable to the value of the asset, and
 - (b) the amount of the chargeable gain as computed apart from this subsection.
- (8) Where an amount of inheritance tax is varied after it has been taken into account under subsection (7) above, all necessary adjustments shall be made, whether by the making of an assessment to capital gains tax or by the discharge or repayment of such tax.
- (9) Where subsection (3) above applies in relation to a disposal which is deemed to occur by virtue of section 54(1) or 55(1) above, subsection (5) above shall not apply.
- (10) Where a disposal is partly within subsection (2) above, or is a disposal within paragraph (f) of that subsection on which there is a reduced charge such as is mentioned in that paragraph, the preceding provisions of this section shall have effect in relation to an appropriate part of the disposal.

147B Section 147A relief: gifts to non-residents

- (1) Section 147A(3) above shall not apply where the transferee is neither resident nor ordinarily resident in the United Kingdom.
- (2) Section 147A(3) above shall not apply where the transferee is an individual who—
 - (a) though resident or ordinarily resident in the United Kingdom, is regarded for the purposes of any double taxation arrangements having effect by virtue of section 788 of the Taxes Act 1988 as resident in a territory outside the United Kingdom, and
 - (b) by virtue of the arrangements would not be liable in the United Kingdom to tax on a gain arising on a disposal of the asset occurring immediately after its acquisition.”

Payment of tax by instalments

5 The following section shall be inserted after section 7 of the Capital Gains Tax Act 1979—

“7A Payment by instalments of tax on gifts

- (1) Subsection (2) below applies where—

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- (a) the whole or any part of any assets to which this section applies is disposed of by way of gift or is deemed to be disposed of under section 54(1) or 55(1) below, and
 - (b) the disposal is one—
 - (i) to which neither section 126(3) nor section 147A(3) below applies (or would apply if a claim were duly made), or
 - (ii) to which either of those sections does apply but on which the held-over gain (within the meaning of the section applying) is less than the chargeable gain which would have accrued on that disposal apart from that section.
- (2) Where this subsection applies, the capital gains tax chargeable on a gain accruing on the disposal may, if the person paying it by notice in writing to the inspector so elects, be paid by ten equal yearly instalments.
- (3) The assets to which this section applies are—
- (a) land or an estate or interest in land,
 - (b) any shares or securities of a company which, immediately before the disposal, gave control of the company to the person by whom the disposal was made or deemed to be made, and
 - (c) any shares or securities of a company not falling under paragraph (b) above and not quoted on a recognised stock exchange nor dealt in on the Unlisted Securities Market.
- (4) Where tax is payable by instalments by virtue of this section, the first instalment shall be due on the day on which the tax would be payable apart from this section.
- (5) Subject to the following provisions of this section—
- (a) tax payable by instalments by virtue of this section shall carry interest in accordance with Part IX (except section 88) of the Taxes Management Act 1970, and
 - (b) the interest on the unpaid portion of the tax shall be added to each instalment and paid accordingly.
- (6) Tax payable by instalments by virtue of this section which is for the time being unpaid, with interest to the date of payment, may be paid at any time.
- (7) Tax which apart from this subsection would be payable by instalments by virtue of this section and which is for the time being unpaid, with interest to the date of payment, shall become due and payable immediately if—
- (a) the disposal was by way of gift to a person connected with the donor or was deemed to be made under section 54(1) or 55(1) below, and
 - (b) the assets are disposed of for valuable consideration under a subsequent disposal (whether or not the subsequent disposal is made by the person who acquired them under the first disposal)."

Minor and consequential amendments

- 6 (1) In section 56A of the Capital Gains Tax Act 1979 (gifts relief in cases within section 55 or 56)—
- (a) in subsection (1), for the words “79 of the Finance Act 1980” there shall be substituted the words “126 or 147A below”, and

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- (b) in subsection (4), for the words “79(1) of the Finance Act 1980” there shall be substituted the words “126 or, as the case may be, 147A below”.
- (2) In section 155(1) of that Act, the following definition shall be inserted after the definition of “quoted”—
- ““recognised stock exchange” has the meaning given by section 841 of the Taxes Act 1988.”.
- (3) In section 79 of the Finance Act 1981 (emigration of donee)—
- (a) in subsection (1), for paragraph (a) there shall be substituted—
- “(a) relief is given under section 126 of the Capital Gains Tax Act 1979 in respect of a disposal to an individual or the trustees of a settlement or under section 147A of that Act in respect of any disposal (“the relevant disposal”);”,
- and for the words “the said section 79” there shall be substituted the words “section 126 or 147A”, and
- (b) for the words “subsection (1)(b) of the said section 79” in subsection (2) and for the words “section 79(1)(b) of the Finance Act 1980” in subsections (6) and (10) there shall be substituted the words “section 126(3)(b) or 147A(3)(b) of the Capital Gains Tax Act 1979”.
- (4) In section 64(5)(b) of the Finance Act 1984 (qualifying corporate bonds), for the words “of that Act or section 79 of the Finance Act 1980” there shall be substituted the words “or 147A of that Act”.
- (5) In section 58 of the Finance Act 1986 (gifts into dual resident trusts)—
- (a) in subsection (1), for the words “79 of the Finance Act 1980 (general relief)” there shall be substituted the words “126 or 147A of the Capital Gains Tax Act 1979 (relief”, and for the words “subsection (1)” there shall be substituted the words “subsection (3)”,
- (b) subsection (2)(b) shall be omitted, and
- (c) in subsections (3) and (5), for the words “the 1980 provision” in each place where they occur there shall be substituted the words “section 126 or 147A of the Capital Gains Tax Act 1979”.
- (6) In paragraph 3(3) of Schedule 28 to the Taxes Act 1988 (offshore income gains), for the words “79 of the Finance Act 1980 (relief for gifts), that section” there shall be substituted the words “126 or 147A of the Capital Gains Tax Act 1979 (relief for gifts), the claim”.

SCHEDULE 15

Section 141.

CAPITAL GAINS: RE-BASING TO 1982 ETC.

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

- 1 (1) None of the enactments specified in sub-paragraph (2) below shall apply in consequence of an event occurring on or after 6th April 1988 if its application would be directly attributable to the disposal of an asset on or before 31st March 1982.
- (2) The enactments referred to in sub-paragraph (1) above are—

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- (a) section 268A(4) of the Taxes Act 1970 (postponement of charge where securities acquired in exchange for business acquired by non-resident company);
 - (b) section 84 of the Capital Gains Tax Act 1979 (postponement of charge or loss where gilts acquired on compulsory acquisition of shares);
 - (c) section 111B(3) of that Act (postponement of charge where depreciating asset acquired on compulsory acquisition of land); and
 - (d) section 117(2) of that Act (postponement of charge where depreciating asset acquired as replacement for business asset).
- 2 Paragraph 3(1) of Schedule 9 to the Finance Act 1988 (halving of charges deferred from before 6th April 1988) shall have effect, and shall be deemed always to have had effect, with the insertion of the words “and to paragraph 1 of Schedule 15 to the Finance Act 1989” after the words “sub-paragraph (3) below”.

Reduction of 1982 value in certain cases

- 3 (1) Sub-paragraph (2) below applies where—
- (a) subsection (2) of section 96 of the Finance Act 1988 applies in relation to the disposal of an asset,
 - (b) if that subsection did not apply, any of the enactments specified in sub-paragraph (3) below would operate to disallow expenditure as a deduction in computing a gain accruing on the disposal, and
 - (c) the disallowance would be attributable to the reduction of the amount of the consideration for a disposal made after 31st March 1982 but before 6th April 1988.
- (2) Where this sub-paragraph applies the amount allowable as a deduction on the disposal shall be reduced by the amount which would be disallowed if section 96(2) did not apply.
- (3) The enactments referred to in sub-paragraph (1) above are—
- (a) section 21(2) of the Capital Gains Tax Act 1979 (disallowance of allowable expenditure where allowance already given against receipts of compensation or insurance money);
 - (b) section 72(4) of that Act (disallowance where allowance already given against capital distribution);
 - (c) section 83(4) of that Act (disallowance where allowance already given against premium on conversion of securities); and
 - (d) section 109 of that Act (disallowance where allowance already given against gain from small part disposal).
- (4) This paragraph shall apply to disposals on or after 6th April 1989.

No gain/no loss disposals

- 4 (1) Section 68(7A) of the Finance Act 1985 shall have effect, and shall be deemed always to have had effect—
- (a) as if in paragraph (a) for “146(3)” there were substituted “146(2) or (3), 146A(2)”, and
 - (b) as if after paragraph (e) there were inserted—
“(ee) section 130(3) of the Transport Act 1985;”.

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- (2) Paragraph 1(3) of Schedule 8 to the Finance Act 1988 shall have effect, and shall be deemed always to have had effect, as if after paragraph (e) there were inserted—
“(ee) section 130(3) of the Transport Act 1985;”.

Elections

- 5 Paragraph 13(5) of Schedule 8 to the Finance Act 1988 shall have effect, and shall be deemed always to have had effect, as if for the words “subsection (5)” there were substituted the words “subsection (6)”.

SCHEDULE 16

Section 181.

BROADCASTING: ADDITIONAL PAYMENTS BY PROGRAMME CONTRACTORS

PART I

AMENDMENTS OF THE PRINCIPAL SECTIONS

- 1 (1) Section 32 of the 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

	<i>Rate for determining amount of additional payments</i>
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).

Status: This is the original version (as it was originally enacted).

TABLE B

RATES OF ADDITIONAL PAYMENTS IN RESPECT OF PROFITS

	<i>Rate for determining amount of additional payments</i>
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)”.

(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)—

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- (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.”
- 2 (1) Section 33 of the 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”.
 - (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”.
- 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 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”.

Status: This is the original version (as it was originally enacted).

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 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—

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- (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—
- (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—

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- (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.
- (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.

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.

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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.
- 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

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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 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 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.

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- (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.
- 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 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—

$$\frac{\mathbf{X}}{\mathbf{X} + \mathbf{Y}},$$
 ,and
 - (b) the amounts payable by him on the assumption that that section was in force throughout the accounting period, multiplied by—

$$\frac{\mathbf{Y}}{\mathbf{X} + \mathbf{Y}};$$
- ;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.
- 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,

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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.

SCHEDULE 17

Section 187.

REPEALS

PART I

CUSTOMS AND EXCISE

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
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

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
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

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.

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<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
		“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 “works truck” and the 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.
<hr/> <ol style="list-style-type: none"> 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. The remaining repeals have effect in relation to licences taken out after 14th March 1989. <hr/>		

PART III

VALUE ADDED TAX

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
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.
<hr/> <ol style="list-style-type: none"> 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. The remaining repeals have effect in accordance with Schedule 3 to this Act. <hr/>		

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<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
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

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1970 c. 9.	The Taxes Management Act 1970.	In section 15(11), paragraph (b) and the word “and” preceding it.
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).

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<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
		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 sub-paragraph (1) the word “fixed” and sub-paragraphs (2) and (3); and, in paragraph 14, sub-paragraph (2), in sub-paragraph (5) the words “specified in, or” and sub-paragraph (7).
		In Schedule 9, in paragraph 10, paragraph (ii) of sub-paragraph (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”.

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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

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
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”.
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”.

Status: This is the original version (as it was originally enacted).

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
		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).
<p>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.</p> <p>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</p>		

Status: This is the original version (as it was originally enacted).

- 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

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1968 c. 3.	The Capital Allowances Act 1968.	<p>Section 9(b).</p> <p>Section 14.</p> <p>Section 50.</p> <p>Section 67(11).</p> <p>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”.</p> <p>Section 80.</p> <p>In section 87(4), the words “or forestry”, in both places where they occur.</p> <p>In section 92(5), the words “allowed or” and the words “balancing allowance or”.</p> <p>Section 93(1) and (2).</p> <p>Schedule 8.</p>
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)
<ol style="list-style-type: none"> 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. 		

Status: This is the original version (as it was originally enacted).

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
		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.
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”.
<hr/> <ol style="list-style-type: none"> 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. <hr/>		

PART VII

CAPITAL GAINS

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
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).

Status: This is the original version (as it was originally enacted).

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
		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 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.
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).

Status: This is the original version (as it was originally enacted).

PART VIII

MANAGEMENT

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1970 c. 9.	The Taxes Management Act 1970.	<p>Section 16(6).</p> <p>In section 20, subsections (4) and (5) and, in subsection (6), the words “and in relation” onwards.</p> <p>In section 20B(7), the words from “to a person” to “daughter”.</p> <p>Sections 37 to 39.</p> <p>In section 40(2), the words “Subject to section 41 below,”.</p> <p>Section 41.</p> <p>In section 53(1), the words “and the reference” onwards.</p> <p>In section 61(5), the words “within the said five days” and the words from “The costs” to “the collector, and”.</p> <p>Section 62(3), so far as unrepealed.</p> <p>Section 64(3), so far as unrepealed.</p> <p>Section 70(5).</p> <p>Section 86(6).</p> <p>Section 87(4) and (5).</p> <p>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.</p> <p>In section 118(1), the definition of “neglect”.</p>
1973 c. 51.	The Finance Act 1973.	In Schedule 16A, paragraph 10.

Status: This is the original version (as it was originally enacted).

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
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” 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.

Status: This is the original version (as it was originally enacted).

PART IX

STAMP DUTY: INSURANCE

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
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”.
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.

Status: This is the original version (as it was originally enacted).

PART X

RATES OF INTEREST

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
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.
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”

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

Status: This is the original version (as it was originally enacted).

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
		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

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1981 c. 68.	The Broadcasting Act 1981.	Section 32(4A). In section 35(1)(b)(ii), the words “in the case of second category 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.

These repeals have effect on 1st January 1990.

PART XII

GOVERNMENT STOCK: REDEMPTION

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
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).

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.

Status: This is the original version (as it was originally enacted).

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
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

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
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

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
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 any stock, or”. In Schedule 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

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

Status: This is the original version (as it was originally enacted).

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
		Stock and in Part 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”. Section 16(9)(a). In section 22(3), the words “Part II of the Tithe Act 1936”. In Schedule 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 under Part II of the Tithe Act 1936.

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