



# Value Added Tax Act 1994

## 1994 CHAPTER 23

### PART VI

#### SUPPLEMENTARY PROVISIONS

##### *Change in rate of VAT etc. and disclosure of information*

#### **88 Supplies spanning change of rate etc.**

- (1) This section applies where there is a change in the rate of VAT in force under section 2<sup>[F1]</sup> or 29A] or in the descriptions of exempt<sup>[F2]</sup>, zero-rated or reduced-rate] supplies or exempt<sup>[F2]</sup>, zero-rated or reduced-rate] acquisitions.
- (2) Where—
- a supply affected by the change would, apart from section 6(4), (5), (6) or (10), be treated under section 6(2) or (3) as made wholly or partly at a time when it would not have been affected by the change; or
  - a supply not so affected would apart from section 6(4), (5), (6) or (10) be treated under section 6(2) or (3) as made wholly or partly at a time when it would have been so affected,
- the rate at which VAT is chargeable on the supply, or any question whether it is zero-rated or exempt<sup>[F3]</sup> or a reduced-rate supply], shall if the person making it so elects be determined without regard to section 6(4), (5), (6) or (10).
- (3) Any power to make regulations under this Act with respect to the time when a supply is to be treated as taking place shall include power to provide for this section to apply as if the references in subsection (2) above to section 6(4), (5), (6) or (10) included references to specified provisions of the regulations.
- (4) Where—
- any acquisition of goods from another member State which is affected by the change would not have been affected (in whole or in part) if it had been treated as taking place at the time of the event which, in relation to that acquisition, is the first relevant event for the purposes of taxing the acquisition; or

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- (b) any acquisition of goods from another member State which is not so affected would have been affected (in whole or in part) if it had been treated as taking place at the time of that event,
- the rate at which VAT is chargeable on the acquisition, or any question whether it is zero-rated or exempt<sup>F4</sup> or a reduced-rate acquisition], shall, if the person making the acquisition so elects, be determined as at the time of that event.
- (5) Regulations under <sup>F5</sup>paragraph 2A] of Schedule 11 may make provision for the replacement or correction of any VAT invoice which—
- (a) relates to a supply in respect of which an election is made under this section, but
- (b) was issued before the election was made.
- (6) No election may be made under this section in respect of a supply to which <sup>F6</sup>paragraph 7 of Schedule 4 or paragraph 2B(4) of Schedule 11] applies.
- (7) References in this section to an acquisition being zero-rated are references to an acquisition of goods from another member State being one in relation to which section 30(3) provides for no VAT to be chargeable.
- <sup>F7</sup>(8) References in this section—
- (a) to a supply being a reduced-rate supply, or
- (b) to an acquisition being a reduced-rate acquisition,
- are references to a supply, or (as the case may be) an acquisition, being one on which VAT is charged at the rate in force under section 29A.

#### Textual Amendments

- F1** Words in s. 88(1) inserted (11.5.2001) by 2001 c. 9, s. 99, **Sch. 31 para. 4(2)(a)**
- F2** Words in s. 88(1) substituted (11.5.2001) by 2001 c. 9, s. 99, **Sch. 31 para. 4(2)(b)**
- F3** Words in s. 88(2) inserted (11.5.2001) by 2001 c. 9, s. 99, **Sch. 31 para. 4(3)**
- F4** Words in s. 88(4) inserted (11.5.2001) by 2001 c. 9, s. 99, **Sch. 31 para. 4(4)**
- F5** Words in s. 88(5) substituted (1.12.2003) by Finance Act 2002 (c. 23), s. 24(4)(c)(i)(5); S.I. 2003/3043, art. 2
- F6** Words in s. 88(6) substituted (1.12.2003) by Finance Act 2002 (c. 23), s. 24(4)(c)(ii)(5); S.I. 2003/3043, art. 2
- F7** S. 88(8) inserted (11.5.2001) by 2001 c. 9, s. 99, **Sch. 31 para. 4(5)**

#### Modifications etc. (not altering text)

- C1** S. 88(2) modified (20.10.1995) by S.I. 1995/2518, **reg. 95**

## 89 Adjustments of contracts on changes in VAT.

- (1) Where, after the making of a contract for the supply of goods or services and before the goods or services are supplied, there is a change in the VAT charged on the supply, then, unless the contract otherwise provided, there shall be added to or deducted from the consideration for the supply an amount equal to the change.
- (2) 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 specifically to VAT or this section.

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- (3) References in this section to a change in the VAT charged on a supply include references to a change to or from no VAT being charged on the supply (including a change attributable to the making of an <sup>F8</sup>option to tax any land under Part 1 of Schedule 10J).

#### Textual Amendments

- F8** Words in s. 89(3) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Value Added Tax \(Buildings and Land\) Order 2008 \(S.I. 2008/1146\)](#), art. 1(1), **Sch. 1 para. 2** (with Sch. 2)

## 90 Failure of resolution under Provisional Collection of Taxes Act 1968.

### (1) Where—

- (a) by virtue of a resolution having effect under the <sup>M1</sup>Provisional Collection of Taxes Act 1968 VAT has been paid at a rate specified in the resolution on the supply of any goods or services by reference to a value determined under section 19(2) or on the acquisition of goods from another member State by reference to a value determined under section 20(3), and
- (b) by virtue of section 1(6) or (7) or 5(3) of that Act any of that VAT is repayable in consequence of the restoration in relation to that supply or acquisition of a lower rate,

the amount repayable shall be the difference between the VAT paid by reference to that value at the rate specified in the resolution and the VAT that would have been payable by reference to that value at the lower rate.

### (2) Where—

- (a) by virtue of such a resolution VAT is chargeable at a rate specified in the resolution on the supply of any goods or services by reference to a value determined under section 19(2) or on the acquisition of goods from another member State by reference to a value determined under section 20(3), but
- (b) before the VAT is paid it ceases to be chargeable at that rate in consequence of the restoration in relation to that supply or acquisition of a lower rate,

the VAT chargeable at the lower rate shall be charged by reference to the same value as that by reference to which VAT would have been chargeable at the rate specified in the resolution.

- (3) The VAT that may be credited as input tax under section 25 or refunded under section 33, <sup>F9</sup>33A, <sup>F10</sup>33B, <sup>F11</sup>33C,] 35 or 40 does not include VAT that has been repaid by virtue of any of the provisions mentioned in subsection (1)(b) above or that would be repayable by virtue of any of those provisions if it had been paid.

#### Textual Amendments

- F9** Word in s. 90(3) inserted (11.5.2001 for specified purposes, 1.9.2001 in so far as not already in force) by [2001 c. 9](#), s. 98(8)(10)(11)
- F10** Word in s. 90(3) inserted (with effect in accordance with s. 76(5) of the amending Act) by [Finance Act 2011 \(c. 11\)](#), s. **76(3)**
- F11** Word in s. 90(3) inserted (with effect in accordance with s. 66(5) of the amending Act) by [Finance Act 2015 \(c. 11\)](#), s. **66(3)**

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### Marginal Citations

M1 1968 c. 2.

## 91 Disclosure of information for statistical purposes.

- (1) For the purpose of the compilation or maintenance by the Department of Trade and Industry or the [<sup>F12</sup>Statistics Board] of a central register of businesses, or for the purpose of any statistical survey conducted or to be conducted by that Department [<sup>F13</sup>or Board], the Commissioners or an authorised officer of the Commissioners may disclose to an authorised officer of that Department [<sup>F13</sup>or Board] particulars of the following descriptions obtained or recorded by them in pursuance of this Act—
  - (a) numbers allocated by the Commissioners on the registration of persons under this Act and reference numbers for members of a group;
  - (b) names, trading styles and addresses of persons so registered or of members of groups and status and trade classifications of businesses; and
  - (c) actual or estimated value of supplies.
- (2) Subject to subsection (3) below, no information obtained by virtue of this section by an officer of the Department of Trade and Industry or the [<sup>F14</sup>Statistics Board] may be disclosed except to an officer of a Government department (including a Northern Ireland department) [<sup>F15</sup>or to a member of the staff of the Scottish Administration] for the purpose for which the information was obtained, or for a like purpose.
- (3) Subsection (2) above does not prevent the disclosure—
  - (a) of any information in the form of a summary so framed as not to enable particulars to be identified as particulars relating to a particular person or to the business carried on by a particular person; or
  - (b) with the consent of any person, of any information enabling particulars to be identified as particulars relating only to him or to a business carried on by him.
- (4) If any person who has obtained any information by virtue of this section discloses it in contravention of this section he shall be liable—
  - (a) on summary conviction to a fine not exceeding the statutory maximum; and
  - (b) on conviction on indictment to imprisonment for a term not exceeding 2 years or to a fine of any amount or to both.
- (5) In this section, references to the Department of Trade and Industry or the [<sup>F16</sup>Statistics Board] include references to any Northern Ireland department [<sup>F17</sup>or to any part of the Scottish Administration] carrying out similar functions.

### Textual Amendments

- F12** Words in s. 91(1) substituted (1.4.2008) by [Statistics and Registration Service Act 2007 \(c. 18\)](#), s. 74(1), [Sch. 2 para. 6\(2\)\(a\)](#); S.I. 2008/839, art. 2
- F13** Words in s. 91(1) substituted (1.4.2008) by [Statistics and Registration Service Act 2007 \(c. 18\)](#), s. 74(1), [Sch. 2 para. 6\(2\)\(b\)](#); S.I. 2008/839, art. 2
- F14** Words in s. 91(2) substituted (1.4.2008) by [Statistics and Registration Service Act 2007 \(c. 18\)](#), s. 74(1), [Sch. 2 para. 6\(3\)](#); S.I. 2008/839, art. 2
- F15** Words in s. 91(2) inserted (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, [Sch. 2 Pt. I para. 114\(2\)\(a\)](#); S.I. 1998/3178, art. 3

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- F16** Words in s. 91(5) substituted (1.4.2008) by [Statistics and Registration Service Act 2007 \(c. 18\)](#), s. 74(1), [Sch. 2 para. 6\(3\)](#); [S.I. 2008/839](#), art. 2
- F17** Words in s. 91(5) inserted (1.7.1999) by [S.I. 1999/1820](#), arts. 1(2), 4, [Sch. 2 Pt. I para. 114\(2\)\(b\)](#); [S.I. 1998/3178](#), [art. 3](#)

### *Interpretative provisions*

## **92 Taxation under the laws of other member States etc.**

- (1) Subject to the following provisions of this section, references in this Act, in relation to another member State, to the law of that member State shall be construed as confined to so much of the law of that member State as for the time being has effect for the purposes of any [<sup>F18</sup>EU] instrument relating to VAT.
- (2) Subject to the following provisions of this section—
  - (a) references in this Act to a person being taxable in another member State are references to that person being taxable under so much of the law of that member State as makes provision for purposes corresponding, in relation to that member State, to the purposes of so much of this Act as makes provision as to whether a person is a taxable person; and
  - (b) references in this Act to goods being acquired by a person in another member State are references to goods being treated as so acquired in accordance with provisions of the law of that member State corresponding, in relation to that member State, to so much of this Act as makes provision for treating goods as acquired in the United Kingdom from another member State.
- (3) Without prejudice to subsection (5) below, the Commissioners may by regulations make provision for the manner in which any of the following are to be or may be proved for any of the purposes of this Act, that is to say—
  - (a) the effect of any provisions of the law of any other member State;
  - (b) that provisions of any such law correspond or have a purpose corresponding, in relation to any member State, to or to the purpose of any provision of this Act.
- (4) The Commissioners may by regulations provide—
  - (a) for a person to be treated for prescribed purposes of this Act as taxable in another member State only where he has given such notification, and furnished such other information, to the Commissioners as may be prescribed;
  - (b) for the form and manner in which any notification or information is to be given or furnished under the regulations and the particulars which it is to contain;
  - (c) for the proportion of any consideration for any transaction which is to be taken for the purposes of this Act as representing a liability, under the law of another member State, for VAT to be conclusively determined by reference to such invoices or in such other manner as may be prescribed.
- (5) In any proceedings (whether civil or criminal), a certificate of the Commissioners—
  - (a) that a person was or was not, at any date, taxable in another member State; or
  - (b) that any VAT payable under the law of another member State has or has not been paid,

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shall be sufficient evidence of that fact until the contrary is proved, and any document purporting to be a certificate under this subsection shall be deemed to be such a certificate until the contrary is proved.

- (6) Without prejudice to the generality of any of the powers of the Commissioners under the relevant information provisions, those powers shall, for the purpose of facilitating compliance with any [<sup>F18</sup>EU] obligations, be exercisable with respect to matters that are relevant to a charge to VAT under the law of another member State, as they are exercisable with respect to matters that are relevant for any of the purposes of this Act.
- (7) The reference in subsection (6) above to the relevant information provisions is a reference to the provisions of section 73(7) and Schedule 11 relating to—
- (a) the keeping of accounts;
  - (b) the making of returns and the submission of other documents to the Commissioners;
  - (c) the production, use and contents of invoices;
  - (d) the keeping and preservation of records; and
  - (e) the furnishing of information and the production of documents.

#### Textual Amendments

**F18** Word in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, 3, 6 (with arts. 3(2)(3), 4(2), 6(4)(5))

### 93 Territories included in references to other member States etc.

- (1) The Commissioners may by regulations provide for the territory of the [<sup>F19</sup>European Union], or for the member States, to be treated for any of the purposes of this Act as including or excluding such territories as may be prescribed.
- (2) Without prejudice to the generality of the powers conferred by subsection (1) and section 16, the Commissioners may, for any of the purposes of this Act, by regulations provide for prescribed provisions of any customs and excise legislation to apply in relation to cases where any territory is treated under subsection (1) above as excluded from the territory of the [<sup>F19</sup>European Union], with such exceptions and adaptations as may be prescribed.
- (3) In subsection (2) above the reference to customs and excise legislation is a reference to any enactment or subordinate or [<sup>F18</sup>EU] legislation (whenever passed, made or adopted) which has effect in relation to, or to any assigned matter connected with, the importation or exportation of goods.
- (4) In subsection (3) above “assigned matter” has the same meaning as in the Management Act.

#### Textual Amendments

**F18** Word in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, 3, 6 (with arts. 3(2)(3), 4(2), 6(4)(5))

**F19** Words in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, 3, 4 (with arts. 3(2)(3), 4(2), 6(4)(5))

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## 94 Meaning of “business” etc.

- (1) In this Act “business” includes any trade, profession or vocation.
- (2) Without prejudice to the generality of anything else in this Act, the following are deemed to be the carrying on of a business—
  - (a) the provision by a club, association or organisation (for a subscription or other consideration) of the facilities or advantages available to its members; and
  - (b) the admission, for a consideration, of persons to any premises.

<sup>F20</sup>(3) . . . . .

- (4) Where a person, in the course or furtherance of a trade, profession or vocation, accepts any office, services supplied by him as the holder of that office are treated as supplied in the course or furtherance of the trade, profession or vocation.
- (5) Anything done in connection with the termination or intended termination of a business is treated as being done in the course or furtherance of that business.
- (6) The disposition of a business [<sup>F21</sup>, or part of a business,] as a going concern, or of [<sup>F22</sup>the assets or liabilities of the business or part of the business] (whether or not in connection with its reorganisation or winding up), is a supply made in the course or furtherance of the business.

### Textual Amendments

- F20** S. 94(3) repealed (1.12.1999) by 1999 c. 16, ss. 20, 139, **Sch. 20 Pt. II(2)**, Note; S.I. 1999/2769, **art. 2**
- F21** Words in s. 94(6) inserted (with effect in accordance with s. 100(10) of the amending Act) by **Finance Act 2007 (c. 11), s. 100(7)(a)**
- F22** Words in s. 94(6) substituted (with effect in accordance with s. 100(10) of the amending Act) by **Finance Act 2007 (c. 11), s. 100(7)(b)**

## 95 Meaning of “new means of transport”.

- (1) In this Act “means of transport” in the expression “new means of transport” means, subject to subsection (2) below, any of the following, that is to say—
  - (a) any ship exceeding 7.5 metres in length;
  - (b) any aircraft the take-off weight of which exceeds 1550 kilograms;
  - (c) any motorized land vehicle which—
    - (i) has an engine with a displacement or cylinder capacity exceeding 48 cubic centimetres; or
    - (ii) is constructed or adapted to be electrically propelled using more than 7.2 kilowatts.

- (2) A ship, aircraft or motorized land vehicle does not fall within subsection (1) above unless it is intended for the transport of persons or goods.

<sup>F23</sup>(3) For the purposes of this Act a means of transport shall be treated as new, in relation to any supply or any acquisition from another member State, at any time unless at that time—

- (a) the period that has elapsed since its first entry into service is—
  - (i) in the case of a ship or aircraft, a period of more than 3 months; and
  - (ii) in the case of a land vehicle, a period of more than 6 months;

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- and]
- (b) it has, since its first entry into service, travelled under its own power—
- (i) in the case of a ship, for more than 100 hours;
  - (ii) in the case of an aircraft, for more than 40 hours; and
  - (iii) in the case of a land vehicle, for more than [<sup>F24</sup>6000 kilometres].
- (4) The Treasury may by order vary this section—
- (a) by adding or deleting any ship, aircraft or vehicle of a description specified in the order to or from those which are for the time being specified in subsection (1) above; and
  - (b) by altering, omitting or adding to the provisions of subsection (3) above for determining whether a means of transport is new.
- (5) The Commissioners may by regulations make provision specifying the circumstances in which a means of transport is to be treated for the purposes of this section as having first entered into service.

#### Textual Amendments

**F23** Words in s. 95(3) substituted (1.1.1995 with effect as mentioned in art. 2(4) of the amending S.I.) by S.I. 1995/3128, art. 2(2)

**F24** Words in s. 95(3)(b)(iii) substituted (1.1.1995 with effect as mentioned in art. 2(4) of the amending S.I.) by S.I. 1994/3128, art. 2(3)

#### [<sup>F25</sup>95A Meaning of “online marketplace” and “operator” etc

- (1) In this Act—
- “online marketplace” means a website, or any other means by which information is made available over the internet, which facilitates the sale of goods through the website or other means by persons other than the operator (whether or not the operator also sells goods through the marketplace);
- “operator”, in relation to an online marketplace, means the person who controls access to, and the contents of, the online marketplace provided that the person is involved in—
- (a) determining any terms or conditions applicable to the sale of goods,
  - (b) processing, or facilitating the processing, of payment for the goods, and
  - (c) the ordering or delivery, or facilitating the ordering or delivery, of the goods.
- (2) For the purposes of subsection (1), an online marketplace facilitates the sale of goods if it allows a person to—
- (a) offer goods for sale, and
  - (b) enter into a contract for the sale of those goods.
- (3) The Treasury may by regulations amend this section so as to alter the meaning of—
- “online marketplace”, and
- “operator”.]



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### Textual Amendments

**F25** S. 95A inserted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\)](#), s. 11(1)(e), [Sch. 3 para. 14](#) (with [Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642](#), [reg. 9](#)

## 96 Other interpretative provisions.

(1) In this Act—

“the 1983 Act” means the <sup>M2</sup>Value Added Tax Act 1983;

“another member State” means, subject to section 93(1), any member State other than the United Kingdom, and “other member States” shall be construed accordingly;

“assignment”, in relation to Scotland, means assignment;

“authorised person” means any person acting under the authority of the Commissioners;

“the Commissioners” means the Commissioners of Customs and Excise;

[<sup>F26</sup> “copy”, in relation to a document, means anything onto anything onto which information recorded in the document has been copied, by whatever means and whether directly or indirectly.]

[<sup>F27</sup> “document” means anything in which information of any description is recorded; and]

“fee simple”—

(a) in relation to Scotland, means the <sup>F28</sup>... interest of the owner;

(b) in relation to Northern Ireland, includes the estate of a person who holds land under a fee farm grant;

[<sup>F29</sup> “HMRC” means Her Majesty’s Revenue and Customs;]

“invoice” includes any document similar to an invoice;

“input tax” has the meaning given by section 24;

<sup>F30</sup>  
...

“local authority” has the meaning given by subsection (4) below;

“major interest”, in relation to land, means the fee simple or a tenancy for a term certain exceeding 21 years, and in relation to Scotland means [<sup>F31</sup>the] interest of the owner, or the lessee’s interest under a lease for a period [<sup>F32</sup>of not less than 20 years];

“the Management Act” means the <sup>M3</sup>Customs and Excise Management Act 1979;

“money” includes currencies other than sterling;

“output tax” has the meaning given by section 24;

<sup>F30</sup>  
...

<sup>F33</sup>  
...

[<sup>F34</sup> “postal operator” means a person who provides—

((a) the service of conveying postal packets from one place to another by post, or

((b) any of the incidental services of receiving, collecting, sorting and delivering postal packets;]

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[<sup>F34</sup>“postal packet” means a letter, parcel, packet or other article transmissible by post;]

“prescribed” means prescribed by regulations:

“prescribed accounting period” has the meaning given by section 25(1);

“quarter” means a period of 3 months ending at the end of March, June, September or December;

“regulations” means regulations made by the Commissioners under this Act;

[<sup>F35</sup>“relevant business person” has the meaning given by section 7A(4);]

“ship” includes hovercraft;

“subordinate legislation” has the same meaning as in the <sup>M4</sup>Interpretation Act 1978;

“tax” means VAT;

“taxable acquisition” has the meaning given by section 10(2);

“taxable person” means a person who is a taxable person under section 3;

“taxable supply” has the meaning given by section 4(2);

“the Taxes Act” means the <sup>M5</sup>Income and Corporation Taxes Act 1988;

“tribunal” has the meaning given by section 82;

[<sup>F36</sup>“trustee in sequestration” means a trustee (or interim trustee) in a sequestration under the Bankruptcy (Scotland) Act 2016]

“VAT” means value added tax charged in accordance with this Act or, where the context requires, with the law of another member State;

“VAT credit” has the meaning given by section 25(3);

“VAT invoice” has the meaning given by section 6(15);

“VAT representative” has the meaning given by section 48;

and any reference to a particular section, Part or Schedule is a reference to that section or Part of, or Schedule to, this Act.

(2) Any reference in this Act to being registered shall be construed in accordance with section 3(3).

(3) Subject to section 93—

(a) the question whether or not goods have entered the territory of the [<sup>F19</sup>European Union];

(b) the time when any [<sup>F18</sup>EU] customs debt in respect of duty on the entry of any goods into the territory of the [<sup>F19</sup>European Union] would be incurred; and

(c) the person by whom any such debt would fall to be discharged,

shall for the purposes of this Act be determined (whether or not the goods in question are themselves subject to any such duties) according to the [<sup>F18</sup>EU] legislation applicable to goods which are in fact subject to such duties.

(4) In this Act “local authority” means the council of a county, [<sup>F37</sup>county borough,] district, London borough, parish or group of parishes (or, in Wales, community or group of communities), the Common Council of the City of London, the Council of the Isles of Scilly, and any joint committee or joint board established by two or more of the foregoing and, in relation to Scotland, a [<sup>F38</sup>council constituted under section 2 of the Local Government etc. (Scotland) Act 1994, any two or more such councils and any joint committee or joint board within the meaning of section 235(1) of the Local Government (Scotland) Act 1973].

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(5) Any reference in this Act to the amount of any duty of excise on any goods shall be taken to be a reference to the amount of duty charged on those goods with any addition or deduction falling to be made under section 1 of the <sup>M6</sup>Excise Duties (Surcharges or Rebates) Act 1979.

<sup>F39</sup>(6) .....

<sup>F39</sup>(7) .....

(8) The question whether, in relation to any supply of services, the supplier or the recipient of the supply belongs in one country or another shall be determined <sup>F40</sup>... in accordance with section 9.

(9) Schedules [<sup>F41</sup>7A,] 8 and 9 shall be interpreted in accordance with the notes contained in those Schedules; and accordingly the powers conferred by this Act to vary those Schedules include a power to add to, delete or vary those notes.

(10) The descriptions of Groups in those Schedules are for ease of reference only and shall not affect the interpretation of the descriptions of items in those Groups.

[<sup>F42</sup>(10A) Where—

- (a) the grant of any interest, right, licence or facilities gives rise for the purposes of this Act to supplies made at different times after the making of the grant, and
- (b) a question whether any of those supplies is zero-rated or exempt falls to be determined according to whether or not the grant is a grant of a description specified in Schedule 8 or 9 or [<sup>F43</sup>any of paragraphs 5 to 11 of Schedule 10], that question shall be determined according to whether the description is applicable as at the time of supply, rather than by reference to the time of the grant.]

[<sup>F44</sup>(10B) Notwithstanding subsection (10A) above—

- (a) item 1 of Group 1 of Schedule 9 does not make exempt any supply that arises for the purposes of this Act from the prior grant of a fee simple falling within paragraph (a) of that item; and
- (b) that paragraph does not prevent the exemption of a supply that arises for the purposes of this Act from the prior grant of a fee simple not falling within that paragraph.]

(11) References in this Act to the United Kingdom include the territorial sea of the United Kingdom.

#### Extent Information

**E1** S. 96(6) does not extend to Scotland see s. 96(6).

#### Textual Amendments

**F18** Word in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, 3, 6 (with arts. 3(2)(3), 4(2), 6(4)(5))

**F19** Words in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, 3, 4 (with arts. 3(2)(3), 4(2), 6(4)(5))

**F26** S. 96(1): definition of “copy” inserted (31.1.1997) by 1995 c. 38, s. 15(1), [Sch. 1 para. 20](#) (with ss. 1(3), 6(4)(5), 14); S.I. 1996/3217, [art. 2](#)

**F27** S. 96(1): definition of “document” inserted (31.1.1997) by 1995 c. 38, s. 15(1), [Sch. 1 para. 20](#) (with ss. 1(3), 6(4)(5), 14); S.I. 1996/3217, [art. 2](#)

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- F28** Words in s. 96(1) repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000](#) (asp 5), ss. 71, 77(2), sch. 12 para. 57(a), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2
- F29** Definition in s. 96(1) inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009](#) (S.I. 2009/56), art. 1(2), **Sch. 1 para. 225**
- F30** Words in s. 96(1) omitted (30.11.2016) by virtue of [The Bankruptcy \(Scotland\) Act 2016 \(Consequential Provisions and Modifications\) Order 2016](#) (S.I. 2016/1034), art. 1, **Sch. 1 para. 12(7)(a)**
- F31** Words in s. 96(1) substituted (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000](#) (asp 5), ss. 71, 77(2), **sch. 12 para. 57(b)** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2
- F32** S. 96(1): words in para. (b) of the definition of “major interest” substituted (31.7.1998) by 1998 c. 36, s. 24
- F33** Words in s. 96(1) omitted (with effect in accordance with s. 22(4) of the amending Act) by virtue of [Finance \(No. 3\) Act 2010](#) (c. 33), s. 22(3)(a)
- F34** Words in s. 96(1) inserted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by [Taxation \(Post-transition Period\) Act 2020](#) (c. 26), s. 11(1)(e), **Sch. 3 para. 15** (with Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 9
- F35** Definition in s. 96(1) inserted (with effect in accordance with Sch. 36 para. 14(3) of the amending Act) by [Finance Act 2009](#) (c. 10), **Sch. 36 para. 8(2)** (with Sch. 36 para. 19)
- F36** Words in s. 96(1) inserted (30.11.2016) by [The Bankruptcy \(Scotland\) Act 2016 \(Consequential Provisions and Modifications\) Order 2016](#) (S.I. 2016/1034), art. 1, **Sch. 1 para. 12(7)(b)**
- F37** S. 96(4): words in definition of “local authority” inserted (16.6.1995) by S.I. 1995/1510, **art. 2**
- F38** S. 96(4): words in definition of “local authority” substituted (1.4.1996) by S.I. 1996/739, art. 7(1), **Sch. 1 Pt. 1 para. 8**
- F39** S. 96(6)(7) repealed (31.1.1997) by 1995 c. 38, s. 15(2), **Sch. 2** (with ss. 1(3), 6(4)(5), 14); S.I. 1996/3217, **art. 2**
- F40** Words in s. 96(8) omitted (with effect in accordance with Sch. 36 para. 14(3) of the amending Act) by virtue of [Finance Act 2009](#) (c. 10), **Sch. 36 para. 8(3)** (with Sch. 36 para. 19)
- F41** Word in s. 96(9) inserted (11.5.2001) by 2001 c. 9, s. 99, Sch. 31 para. 5
- F42** S. 96(10A) inserted (retrospectively) by 1997 c. 16, s. 35(1)(4)
- F43** Words in s. 96(10A)(b) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Value Added Tax \(Buildings and Land\) Order 2008](#) (S.I. 2008/1146), art. 1(1), **Sch. 1 para. 3** (with Sch. 2)
- F44** S. 96(10B) inserted (with application in accordance with s. 20(2) of the amending Act) by [Finance Act 2003](#) (c. 14), s. 20(1)

#### Marginal Citations

- M2** 1983 c. 55.  
**M3** 1979 c. 2.  
**M4** 1978 c. 30.  
**M5** 1988 c. 1.  
**M6** 1979 c. 8.

### Supplementary provisions

#### 97 Orders, rules and regulations.

(1) Any order made by the Treasury <sup>F45</sup>... under this Act and any regulations or rules under this Act shall be made by statutory instrument.

<sup>F46</sup>(2) .....

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- (3) An order to which this subsection applies shall be laid before the House of Commons; and unless it is approved by that House before the expiration of a period of 28 days beginning with the date on which it was made, it shall cease to have effect on the expiration of that period, but without prejudice to anything previously done thereunder or to the making of a new order.

In reckoning any such period no account shall be taken of any time during which Parliament is dissolved or prorogued or during which the House of Commons is adjourned for more than 4 days.

- (4) Subject to section 53(4), subsection (3) above applies to—
- <sup>F47</sup>(aa) .....
  - (a) an order under section 5(4) [<sup>F48</sup>, 7A(6)][<sup>F49</sup> or 28][<sup>F49</sup>, 28 or 40A];
  - <sup>F50</sup>(ab) an order under paragraph 5(7) of Schedule 4 substituting a lesser sum for the sum for the time being specified in paragraph 5(2)(a) of that Schedule;
  - (b) .....
  - (c) an order under this Act making provision—
    - (i) for increasing the rate of VAT in force [<sup>F51</sup> under section 2] at the time of the making of the order;
    - (ii) for excluding any VAT from credit under section 25;
    - <sup>F52</sup>(ia) for varying Schedule 7A so as to cause VAT to be charged on a supply at the rate in force under section 2 instead of that in force under section 29A;
    - (iii) for varying Schedule 8 or 9 so as to abolish the zero-rating of a supply or to abolish the exemption of a supply without zero-rating it;
  - <sup>F53</sup>(ca) an order under section 43AA(1) if as a result of the order any [<sup>F54</sup> persons] would cease to be eligible to be treated as members of a group;
  - (d) an order under section 51, 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 [<sup>F55</sup> 7A,] 8 or 9; but
    - (ii) are not within paragraph (c) above;
  - (e) an order under section 54(4) or (8).
  - <sup>F56</sup>(ea) an order under section 55A(13);
  - <sup>F57</sup>(eb) an order under section 77A(9) or (9A);
  - <sup>F58</sup>(f) an order under paragraph [<sup>F59</sup> B1, C1(4),] 1A(7)[<sup>F60</sup>, 2A(4)][<sup>F61</sup> or 8A(7)] of Schedule 6;
  - <sup>F62</sup>(fa) an order under paragraph 3(4) of Schedule 10A;
  - <sup>F63</sup>(g) an order under paragraph 3 or 4 of Schedule 11A.]
- <sup>F64</sup>(4A) Where an order under section 2(2) is in force, the reference in subsection (4)(c)(i) of this section to the rate of VAT in force under section 2 at the time of the making of an order is a reference to the rate which would be in force at that time if no such order had been made.]
- (5) A statutory instrument made under any provision of this Act except—
- (a) an order made under section 79, or
  - (b) an instrument as respects which any other Parliamentary procedure is expressly provided, or

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- (c) an instrument containing an order appointing a day for the purposes of any provision of this Act, being a day as from which the provision will have effect, with or without amendments, or will cease to have effect, shall be subject to annulment in pursuance of a resolution of the House of Commons.

#### Textual Amendments

- F45** Words in s. 97(1) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 226\(2\)](#)
- F46** S. 97(2) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 226\(3\)](#)
- F47** S. 97(4)(aa) repealed (1.11.2001) by 2001 c. 9, s. 110, [Sch. 33 Pt. III\(1\)](#) note 1
- F48** Word in s. 97(4)(a) inserted (with effect in accordance with Sch. 36 para. 14(3) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 36 para. 9](#) (with Sch. 36 para. 19)
- F49** Words in s. 97(4)(a) substituted (17.12.2020 for specified purposes) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\)](#), s. 11(1)(e), [Sch. 2 para. 7\(3\)](#) (with Sch. 2 para. 7(7)-(9))
- F50** S. 97(4)(ab) inserted (29.4.1996) by 1996 c. 8, [s. 33\(3\)](#)
- F51** Words in s. 97(4)(c)(i) inserted (11.5.2001 with effect as mentioned in s. 99(9)(a) of the amending Act) by 2001 c. 9, s. 99, [Sch. 31 para. 6\(2\)](#)
- F52** S. 97(4)(c)(iia) inserted (11.5.2001) by 2001 c. 9, s. 99, [Sch. 31 para. 6\(3\)](#)
- F53** S. 97(4)(ca) inserted (22.7.2004) by [Finance Act 2004 \(c. 12\)](#), [s. 20\(5\)](#)
- F54** Word in s. 97(4)(ca) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\)](#), s. 53(2), [Sch. 18 para. 12](#); [S.I. 2019/1348](#), reg. 2
- F55** Words in s. 97(4)(d)(i) inserted (11.5.2001) by 2001 c. 9, s. 99, [Sch. 31 para. 6\(4\)](#)
- F56** S. 97(4)(ea) inserted (1.6.2007) by [Finance Act 2006 \(c. 25\)](#), [s. 19\(6\)\(8\)](#); [S.I. 2007/1419](#), art. 2
- F57** S. 97(4)(eb) inserted (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [s. 98\(2\)](#)
- F58** S. 97(4)(f) inserted (22.7.2004) by [Finance Act 2004 \(c. 12\)](#), [s. 22\(4\)](#)
- F59** Words in s. 97(4)(f) inserted (with effect in accordance with Sch. 38 para. 7(1) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 38 para. 5\(a\)](#)
- F60** Words in s. 97(4)(f) inserted (with effect in accordance with Sch. 38 para. 7(1) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 38 para. 5\(b\)](#)
- F61** Words in s. 97(4)(f) inserted (with effect in accordance with s. 200(8) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [s. 200\(4\)](#)
- F62** S. 97(4)(fa) inserted (19.7.2006) by [Finance Act 2006 \(c. 25\)](#), [s. 22\(2\)](#)
- F63** S. 97(4)(g) inserted (22.7.2004 for specified purposes, 1.8.2004 in so far as not already in force) by [Finance Act 2004 \(c. 12\)](#), s. 19(2), [Sch. 2 para. 6](#); [S.I. 2004/1934](#), art. 2
- F64** S. 97(4A) inserted (with effect in accordance with Sch. 3 para. 11 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 3 para. 25\(3\)](#)

#### Modifications etc. (not altering text)

- C2** S. 97 extended (27.7.1999) by 1999 c. 16, [s. 13\(6\)](#)

#### [<sup>F65</sup>97A Place of supply orders: transitional provision.

- (1) This section shall have effect for the purpose of giving effect to any order made [<sup>F66</sup>under section 7A(6)], if—
- the order provides for services of a description specified in the order to be treated as supplied in the United Kingdom;
  - the services would not have fallen to be so treated apart from the order;
  - the services are not services that would have fallen to be so treated under any provision re-enacted in the order; and

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- (d) the order is expressed to come into force in relation to services supplied on or after a date specified in the order (“the commencement date”).
- (2) Invoices and other documents provided to any person before the commencement date shall be disregarded in determining the time of the supply of any services which, if their time of supply were on or after the commencement date, would be treated by virtue of the order as supplied in the United Kingdom.
- (3) If there is a payment in respect of any services of the specified description that was received by the supplier before the commencement date, so much (if any) of that payment as relates to times on or after that date shall be treated as if it were a payment received on the commencement date.
- (4) If there is a payment in respect of services of the specified description that is or has been received by the supplier on or after the commencement date, so much (if any) of that payment as relates to times before that date shall be treated as if it were a payment received before that date.
- (5) Subject to subsection (6) below, a payment in respect of any services shall be taken for the purposes of this section to relate to the time of the performance of those services.
- (6) Where a payment is received in respect of any services the performance of which takes place over a period a part of which falls before the commencement date and a part of which does not—
- an apportionment shall be made, on a just and reasonable basis, of the extent to which the payment is attributable to so much of the performance of those services as took place before that date;
  - the payment shall, to that extent, be taken for the purposes of this section to relate to a time before that date; and
  - the remainder, if any, of the payment shall be taken for those purposes to relate to times on or after that date.]

#### **Textual Amendments**

**F65** S. 97A inserted (retrospective to 17.3.1998) by [1998 c. 36, s. 22\(1\)\(3\)](#)

**F66** Words in [s. 97A\(1\)](#) substituted (with effect in accordance with Sch. 36 para. 14(3) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 36 para. 10](#) (with [Sch. 36 para. 19](#))

#### **Modifications etc. (not altering text)**

**C3** [S. 97A](#) excluded (with application in accordance with s. 105(3) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [s. 105\(1\)](#)

## **98 Service of notices.**

Any notice, notification, requirement or demand to be served on, given to or made of any person for the purposes of this Act may be served, given or made by sending it by post in a letter addressed to that person or his VAT representative at the last or usual residence or place of business of that person or representative.

## **99 Refund of VAT to Government of Northern Ireland.**

The Commissioners shall refund to the Government of Northern Ireland the amount of the VAT charged on the supply of goods or services to that Government, on the

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acquisition of any goods by that Government from another member State or on the importation of any goods by that Government from a place outside the member States, after deducting therefrom so much of that amount as may be agreed between them and the Department of Finance and Personnel for Northern Ireland as attributable to supplies, acquisitions and importations for the purpose of a business carried on by the Government of Northern Ireland.

#### **100 Savings and transitional provisions, consequential amendments and repeals.**

- (1) Schedule 13 (savings and transitional provisions) and Schedule 14 (consequential amendments) shall have effect.
- (2) The enactments and Orders specified in Schedule 15 are hereby repealed to the extent mentioned in the third column of that Schedule.
- (3) This section is without prejudice to the operation of sections 15 to 17 of the <sup>M7</sup>Interpretation Act 1978 (which relate to the effect of repeals).

##### **Marginal Citations**

**M7** 1978 c. 30.

#### **101 Commencement and extent.**

- (1) This Act shall come into force on 1st September 1994 and Part I shall have effect in relation to the charge to VAT on supplies, acquisitions and importations in prescribed accounting periods ending on or after that date.
- (2) Without prejudice to section 16 of the <sup>M8</sup>Interpretation Act 1978 (continuation of proceedings under repealed enactments) except in so far as it enables proceedings to be continued under repealed enactments, section 72 shall have effect on the commencement of this Act to the exclusion of section 39 of the 1983 Act.
- (3) This Act extends to Northern Ireland.
- (4) Paragraph 23 of Schedule 13 and paragraph 7 of Schedule 14 shall extend to the Isle of Man but no other provision of this Act shall extend there.

##### **Marginal Citations**

**M8** 1978 c. 30.

#### **102 Short title.**

This Act may be cited as the Value Added Tax Act 1994.



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**Changes to legislation:**

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