

*Status: Point in time view as at 31/07/1998.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1995, SCHEDULE 9. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 9

Section 53.

#### TRANSFER OF LIFE INSURANCE BUSINESS

##### *Consequential amendment of references to sanctioned transfers*

- 1 (1) In the enactments specified in sub-paragraph (2) below, for the words “section 49 of the <sup>M1</sup>Insurance Companies Act 1982”, in each place where they occur, there shall be substituted “ Part I of Schedule 2C to the Insurance Companies Act 1982 ”.
- (2) The enactments mentioned in sub-paragraph (1) above are—
  - (a) section 12(7A) of the Taxes Act 1988 (accounting periods);
  - (b) sections 440(2)(a) and 444A(1) of that Act (transfer of assets or business of insurance company);
  - (c) section 460(10A) of that Act (transfer of business to friendly society); and
  - (d) sections 211(1), 213(5), 214(11) and 214A(7) of the <sup>M2</sup>Taxation of Chargeable Gains Act 1992 (transfers of business).
- (3) In section 444A(3)(b) of the Taxes Act 1988 (losses treated as losses of transferee)—
  - (a) after “where” there shall be inserted “ the transfer relates to any overseas life assurance business or ”; and
  - (b) for “overseas life assurance” there shall be substituted “ such ”.

#### **Marginal Citations**

**M1** 1982 c. 50.

**M2** 1992 c. 12.

##### *Modification of the Taxes Act 1988 in relation to overseas life insurance companies*

- 2 (1) Schedule 19AC to the Taxes Act 1988 (modification of Act in relation to overseas life insurance company) shall be amended as follows.
- (2) After paragraph 4 there shall be inserted the following paragraph—
  - “4A (1) In section 12(7A), the reference to a transfer of the whole or part of a company’s long term business in accordance with a scheme sanctioned by a court under Part I of Schedule 2C to the <sup>M3</sup>Insurance Companies Act 1982 shall be treated as including a reference to a qualifying overseas transfer.
  - (2) In this paragraph “a qualifying overseas transfer” means so much of any transfer of the whole or any part of the business of an overseas life insurance company carried on through a branch or agency in the United Kingdom as takes place in accordance with any authorisation granted outside the United

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Kingdom for the purposes of Article 11 of the third long term insurance Directive.

- (3) In sub-paragraph (2) above “the third long term insurance Directive” has the same meaning as in that Act of 1982.”
- (3) After the paragraph 10A inserted by Schedule 8 to this Act there shall be inserted the following paragraph—
- “10AA In section 440(2)(a), the reference to a transfer of the whole or part of a company’s long term business in accordance with a scheme sanctioned by a court under Part I of Schedule 2C to the <sup>M4</sup>Insurance Companies Act 1982 shall be treated as including a reference to a qualifying overseas transfer (within the meaning of paragraph 4A above).”
- (4) Before paragraph 12 there shall be inserted the following paragraph—
- “11C In sections 444A(1) and 460(10A), the references to a transfer of the whole or part of a company’s long term business in accordance with a scheme sanctioned by a court under Part I of Schedule 2C to the <sup>M5</sup>Insurance Companies Act 1982 shall be treated as including references to a qualifying overseas transfer (within the meaning of paragraph 4A above).”

**Marginal Citations**

- M3** 1982 c. 50.  
**M4** 1982 c. 50.  
**M5** 1982 c. 50.

*Modification of the Capital Allowances Act 1990*

- 3 For subsection (1) of section 152A of the <sup>M6</sup>Capital Allowances Act 1990 (transfer of insurance company business), there shall be substituted the following subsections—
- “(1) Subject to subsection (1A) below, this section applies where assets are transferred as part of, or in connection with, the transfer (“a relevant transfer”) of the whole or part of the business of an insurance company (“the transferor”) to another company (“the transferee”) if the relevant transfer is—
- (a) a transfer, in accordance with a scheme sanctioned by a court under Part I of Schedule 2C to the <sup>M7</sup>Insurance Companies Act 1982, of the whole or part of any long term business of the transferor; or
  - (b) a qualifying overseas transfer (within the meaning of paragraph 4A of Schedule 19AC to the principal Act).
- (1A) This section does not apply in relation to any asset transferred to a company resident outside the United Kingdom unless the asset would fall to be treated, immediately after the relevant transfer, as either—
- (a) an asset held for use for the purposes of the management of the whole or any part of so much of any business carried on by that

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company as is carried on through a branch or agency in the United Kingdom; or

- (b) an asset which is otherwise held for the purposes of the whole or any part of so much of any business carried on by that company as is carried on through such a branch or agency.

(1B) In subsection (1) above “insurance company” has the same meaning as in Chapter I of Part XII of the principal Act; and in subsection (1A) above, the reference to the purposes of the management of any business is to be taken as a reference to those purposes expenditure on which falls, in relation to that business, to be treated for the purposes of sections 75 and 76 of the principal Act as expenses of management.”

**Marginal Citations**

**M6** 1990 c. 1.

**M7** 1982 c. 50.

*Modification of the Taxation of Chargeable Gains Act 1992*

- 4 In subsection (5) of section 213 of the <sup>M8</sup>Taxation of Chargeable Gains Act 1992 (spreading of gains and losses under section 212 where there is a transfer of long term business), at the beginning there shall be inserted “Subject to subsections (5A) to (7) below”; and after that subsection there shall be inserted the following subsection—

“(5A) Subsection (5) above shall not apply where the transferee is resident outside the United Kingdom unless the business to which the transfer relates is carried on by the transferee, for a period beginning with the time when the transfer takes effect, through a branch or agency in the United Kingdom.”

**Marginal Citations**

**M8** 1992 c. 12.

- 5 In subsection (7) of section 214A of that Act of 1992 (application of transitional provisions where there is a transfer of long term business), at the beginning there shall be inserted “ Subject to subsections (7A) and (8) below ”; and after that subsection there shall be inserted the following subsection—

“(7A) Paragraph (b) of subsection (7) above shall not apply where the transferee is resident outside the United Kingdom unless the business to which the transfer relates is carried on by the transferee, for a period beginning with the time when the transfer takes effect, through a branch or agency in the United Kingdom.”

- 6 (1) Schedule 7B to that Act of 1992 (modification of Act in application to overseas life insurance companies) shall be amended as follows.

(2) After paragraph 9 there shall be inserted the following paragraph—

“9A In section 211(1), the reference to a transfer of the whole or part of a company’s long term business in accordance with a scheme sanctioned by a

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court under Part I of Schedule 2C to the <sup>M9</sup>Insurance Companies Act 1982 shall be treated as including a reference to any qualifying overseas transfer (within the meaning of paragraph 4A of Schedule 19AC to the Taxes Act).”

- (3) In paragraph 11, after sub-paragraph (1) there shall be inserted the following sub-paragraph—

“(1A) In section 213(5), the reference to a transfer of the whole or part of a company’s long term business in accordance with a scheme sanctioned by a court under Part I of Schedule 2C to the <sup>M10</sup>Insurance Companies Act 1982 shall be treated as including a reference to any qualifying overseas transfer (within the meaning of paragraph 4A of Schedule 19AC to the Taxes Act).”

- (4) In sub-paragraph (1) of paragraph 12, after paragraph (b) of the subsection (12) which, for the purpose of modifying section 214, is set out in that sub-paragraph, there shall be inserted the following paragraph—

“(c) the reference in subsection (11) to a transfer of the whole or part of a company’s long term business in accordance with a scheme sanctioned by a court under Part I of Schedule 2C to the <sup>M11</sup>Insurance Companies Act 1982 were to be treated as including a reference to any qualifying overseas transfer (within the meaning of paragraph 4A of Schedule 19AC to the Taxes Act), and the references in that subsection to the business to which the transfer relates were to be construed accordingly;”.

- (5) In paragraph 13, after sub-paragraph (2) there shall be inserted the following sub-paragraph—

“(2A) In subsection (7) of that section, the reference to a transfer of the whole or part of a company’s long term business in accordance with a scheme sanctioned by a court under Part I of Schedule 2C to the <sup>M12</sup>Insurance Companies Act 1982 shall be treated as including a reference to any qualifying overseas transfer (within the meaning of paragraph 4A of Schedule 19AC to the Taxes Act); and the references in that subsection and in subsection (8) of that section to the business to which the transfer relates shall be construed accordingly.”

**Marginal Citations**

**M9** 1982 c. 50.

**M10** 1982 c. 50.

**M11** 1982 c. 50.

**M12** 1982 c. 50.

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