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## SCHEDULES

### SCHEDULE 1

Section 2.

#### TABLE OF RATES OF DUTY ON WINE AND MADE-WINE

##### “PART I

WINE OR MADE-WINE OF A STRENGTH NOT EXCEEDING 22 PER CENT.

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<i>Description of wine or made-wine</i>	<i>Rates of duty per hectolitre</i>
	£
Wine or made-wine of a strength not exceeding 4 per cent.	23.41
Wine or made-wine of a strength exceeding 4 per cent. but not exceeding 5.5 per cent.	42.14
Wine or made-wine of a strength exceeding 5.5 per cent. but not exceeding 15 per cent. and not being sparkling	140.44
Sparkling wine or sparkling made-wine of a strength exceeding 5.5 per cent. but not exceeding 15 per cent.	200.64
Wine or made-wine of a strength exceeding 15 per cent. but not exceeding 22 per cent.	200.64”

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##### “PART II

WINE OR MADE-WINE OF A STRENGTH EXCEEDING 22 PER CENT.

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<i>Description of wine or made-wine</i>	<i>Rates of duty per litre of alcohol in the wine or made-wine</i>
	£
Wine or made-wine of a strength exceeding 22 per cent.	20.60”

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VALID FROM 01/07/2005

## SCHEDULE 2

Section 5.

DENATURED ALCOHOL  
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## SCHEDULE 3

Section 14.

## AMUSEMENT MACHINE LICENCE DUTY

*Introductory*

- 1 The <sup>M4</sup>Betting and Gaming Duties Act 1981 shall be amended in accordance with paragraphs 2 to 11 below.

**Marginal Citations**

**M4** 1981 c. 63.

*Amusement machine licences*

- 2 (1) In section 21 (gaming machine licences)—
- (a) in subsection (1), for the words “gaming machine” and “for gaming” there shall be substituted, respectively, “amusement machine” and “for play”;
  - (b) in subsection (2), for “a gaming machine licence” there shall be substituted “an amusement machine licence”; and
  - (c) in subsection (3), for “A gaming machine licence” there shall be substituted “An amusement machine licence”.
- (2) In subsection (3A) of that section (excepted machines), for paragraph (b) there shall be substituted the following paragraphs—
- “(b) a five-penny machine which is a prize machine without being a gaming machine or which (if it is a gaming machine) is a small-prize machine, or
  - (c) a thirty-five-penny machine which is not a prize machine.”

*Amusement machine licence duty*

- 3 (1) In subsection (1) of section 22 (duty on gaming machine licences), for “gaming machine” there shall be substituted “amusement machine”.
- (2) In subsection (2) of that section (meaning of “small-prize machine”), for “a gaming machine is a small-prize machine if” there shall be substituted “an amusement machine is a small-prize machine if it is a prize machine and”.

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*Rate of duty*

- 4 (1) In subsection (1) of section 23 (determination of rate of duty by reference to Table), for “a gaming machine licence” there shall be substituted “an amusement machine licence”.
- (2) In subsection (2) of that section—
- (a) in paragraph (b), for “or column 3” there shall be substituted “, column 3 or column 4”; and
- (b) in the words after that paragraph, for the words “gaming” and “or the rate in column 3” there shall be substituted, respectively, “amusement” and “, the rate in column 3 or the rate in column 4”.
- (3) For the Table in that subsection (as substituted by section 13 of this Act) there shall be substituted the following Table—

“TABLE

<b>(1) Period (in months) for which licence granted</b>	<b>(2) Machines that are not gaming machines</b>	<b>(3) Gaming machines that are small-prize machines or are five-penny machines without being small-prize machines</b>	<b>(4) Other machines</b>
	<b>£</b>	<b>£</b>	<b>£</b>
1	30	60	150
2	50	105	275
3	75	155	400
4	95	205	520
5	120	250	645
6	140	295	755
7	160	340	880
8	185	390	1,005
9	205	435	1,115
10	225	480	1,235
11	240	510	1,305
12	250	535	1,375”

*Restrictions on provision of machines*

- 5 In section 24 (restrictions on provision of gaming machines)—
- (a) for the words “Gaming machines”, “gaming machines” and “gaming machine”, wherever they occur, there shall be substituted, respectively,

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- “ Amusement machines ”, “ amusement machines ” and “ amusement machine ”;
- (b) for the word “a”, where it occurs before “gaming machine” in subsection (5)(f), there shall be substituted “ an ”; and
- (c) for the words “for gaming”, wherever they occur, there shall be substituted “ for play ”.

*Meaning of “amusement machine”*

- 6 (1) For subsections (1) to (3) of section 25 (meaning of “gaming machine”) there shall be substituted the following subsections—

- “(1) A machine is an amusement machine for the purposes of this Act if—
- (a) the machine is constructed or adapted for the playing of any game (whether a game of chance, a game of skill or a game of chance and skill combined);
  - (b) the game is one played by means of the machine (whether automatically or by the operation of the machine by the player or players);
  - (c) a player pays to play the game (except where he has an opportunity to play without payment as a result of having previously played successfully) either by inserting a coin or token into the machine or in some other way;
  - (d) the machine automatically—
    - (i) applies some or all of the rules of the game or displays or records scores in the game; and
    - (ii) determines when a player who has paid to play a game by means of the machine can no longer play without paying again;
- and
- (e) the machine is a gaming machine, a video machine or a pinball machine.

- (1A) A machine constructed or adapted for the playing of a game is a gaming machine for the purposes of this Act if—

- (a) it is a prize machine;
- (b) the game which is played by means of the machine is a game of chance, a game of chance and skill combined or a pretended game of chance or of chance and skill combined; and
- (c) the outcome of the game is determined by the chances inherent in the action of the machine, whether or not provision is made for manipulation of the machine by a player;

and for the purposes of this subsection a game in which the elements of chance can be overcome by skill shall be treated as a game of chance and skill combined if there is an element of chance in the game that cannot be overcome except by superlative skill.

- (1B) A machine constructed or adapted for the playing of a game is a video machine for the purposes of this Act if—

- (a) a micro-processor is used to control some or all of the machine’s functions; and

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- (b) the playing of the game involves information or images being communicated or displayed to the player or players by means of any description of screen, other than one consisting only in a blank surface onto which light is projected.
- (1C) For the purposes of this Act an amusement machine is a prize machine unless it is constructed or adapted so that a person playing it once and successfully either receives nothing or receives only—
- (a) an opportunity, afforded by the automatic action of the machine, to play again (once or more often) without paying, or
  - (b) a prize, determined by the automatic action of the machine and consisting in either—
    - (i) money of an amount not exceeding the sum payable to play the machine once, or
    - (ii) a token which is, or two or more tokens which in the aggregate are, exchangeable for money of an amount not exceeding that sum.”
- (2) In subsection (4) of that section (machines playable by more than one person), for “a gaming machine” there shall be substituted “a machine of any description”.
- (3) For subsections (5) to (9) of that section there shall be substituted the following subsections—
- “(5) For the purposes of sections 21 to 24 above a machine (the actual machine) in relation to which the number determined in accordance with subsection (5A) below is more than one shall be treated (instead of as one machine) as if it were a number of machines (accountable machines) equal to the number so determined.
- (5A) That number is—
- (a) except where paragraph (b) below applies, the number of individual playing positions provided on the machine for persons to play simultaneously (whether or not while participating in the same game); and
  - (b) where—
    - (i) that machine is a video machine but not a gaming machine, and
    - (ii) the number of such playing positions is more than the number of different screens used for the communication or display of information or images to any person or persons playing a game by means of the machine,the number of such screens.
- (6) Subsection (5) above does not apply in the case of any machine which is an excepted machine for the purposes of section 21 above or in the case of a pinball machine.
- (7) Any question whether the accountable machines are, or are not, machines falling within any of the following descriptions, that is to say—
- (a) gaming machines,
  - (b) prize machines,
  - (c) small-prize machines, or

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(d) five-penny machines,

shall be determined according to whether or not the actual machine is a machine of that description, with the accountable machines being taken to be machines of the same description as the actual machine.”

7 After section 25 there shall be inserted the following section—

**“25A Power to modify definition of “amusement machine”.**

- (1) The Treasury may by order modify the provisions of section 25 above—
- (a) by adding to the machines for the time being specified in subsection (1)(e) of that section any description of machines which it appears to them, having regard to the use to which the machines are put, to be appropriate for the protection of the revenue so to add to those machines; or
  - (b) by deleting any description of machines for the time being so specified.
- (2) An order under this section may make such incidental, consequential or transitional provision as the Treasury think fit, including provision modifying section 21 or section 25(5A) above for the purpose of—
- (a) specifying the circumstances (if any) in which a machine added to section 25(1)(e) above is to be an excepted machine for the purposes of section 21 above; or
  - (b) determining the number which, in the case of a machine so added, is to be taken into account for the purposes of section 25(5) above.”

*Supplementary provisions*

- 8 (1) In section 26 (supplementary provisions)—
- (a) for the words “gaming machine licence duty” in subsection (1) there shall be substituted “amusement machine licence duty”;
  - (b) for the words “a gaming machine” and “gaming machines”, wherever they occur, there shall be substituted, respectively, “an amusement machine” and “amusement machines”; and
  - (c) for the words “for gaming”, wherever they occur, there shall be substituted “for play”.
- (2) In subsection (2) of that section—
- (a) after the definition of “United Kingdom” there shall be inserted the following definitions—
    - ““video machine” has the meaning given by section 25(1B) above;
    - “prize machine” has the meaning given by section 25(1C) above;”
    - and
  - (b) after the definition of a “five-penny machine” there shall be inserted the following definition—
    - ““thirty-five-penny machine” means an amusement machine which can only be played by the insertion into the machine of coins of an aggregate denomination not exceeding 35p;”.

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- (3) After subsection (2) of that section there shall be inserted the following subsection—
- “(2A) References in sections 21 to 25 above and in this section and Schedule 4 to this Act to a game, in relation to any machine, include references to a game in the nature of a quiz or puzzle and to a game which is played solely by way of a pastime or against the machine, as well as one played wholly or partly against one or more contemporaneous or previous players.”
- 9 (1) In sections 31 and 33(2) (protection of officers and savings for prohibitions of gaming etc.), for the words “gaming machine licences”, in each case, there shall be substituted “amusement machine licences”.
- (2) In section 32(3) (orders subject to affirmative procedure), for “or 14(3)” there shall be substituted “, 14(3) or 25A”.
- (3) In section 33(1) (interpretation), in the definition of “gaming”, the words “(except where it refers to a machine provided for gaming)” shall be omitted.
- 10 In Schedule 3 (bingo duty)—
- (a) in paragraph 5(1)(b), for “a gaming machine licence” there shall be substituted “an amusement machine licence”; and
- (b) in paragraph 6, for “a gaming machine” there shall be substituted “an amusement machine”.
- 11 (1) In Schedule 4 (supplementary provisions in relation to gaming machine licence duty)—
- (a) for the words “gaming machine” and “gaming machines”, wherever they occur, there shall be substituted, respectively, “amusement machine” and “amusement machines”; and
- (b) for the indefinite article, wherever it occurs before an expression amended by paragraph (a) above, there shall be substituted “An” or “an”, as the case may require.
- (2) In paragraph 1(2) of that Schedule (conditions of exemption for charitable entertainments etc.)—
- (a) in paragraph (a), for “of gaming by means of any machine” there shall be substituted “from any amusement machines”; and
- (b) in paragraph (b), for “and any other provided for gaming” there shall be substituted “and any other amusement machines provided”.
- (3) In paragraph 2(2)(c) of that Schedule (conditions of exemption for pleasure fairs), for “and any other provided for gaming” there shall be substituted “and any other amusement machines provided”.
- (4) In paragraph 4 of that Schedule—
- (a) for the words “small-prize machines”, wherever they occur, there shall be substituted “relevant machines”; and
- (b) after sub-paragraph (7) there shall be inserted the following sub-paragraph—
- “(7A) An amusement machine is a relevant machine for the purposes of this paragraph unless it is a gaming machine which is not a small-prize machine.”;

and in relation to the winter period beginning with November 1995, sub-paragraph(4) of that paragraph shall have effect as if the references by virtue of

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this paragraph to an amusement machine licence included references to a gaming machine licence.

(5) After paragraph 7 of that Schedule there shall be inserted the following paragraph—

*“ Payment of duty by instalments*

- 7A (1) The Commissioners may make and publish arrangements setting out the circumstances in which, and the conditions subject to which, a person to whom an amusement machine licence is granted for a period of twelve months may, at his request and if the Commissioners think fit, be permitted to pay the duty on that licence by regular instalments during the period of the licence, instead of at the time when it is granted.
- (2) Arrangements under this paragraph shall provide for the amount of each instalment to be such that the aggregate amount of all the instalments to be paid in respect of any licence is an amount equal to 105 per cent. of what would have been the duty on that licence apart from this paragraph.
- (3) Sub-paragraph (4) below applies if a person who has been permitted, in accordance with arrangements under this paragraph, to pay the duty on any amusement machine licence by instalments—
- (a) fails to pay any instalment at the time when it becomes due in accordance with the arrangements; and
  - (b) does not make good that failure within seven days of being required to do so by notice given by the Commissioners.
- (4) Where this sub-paragraph applies—
- (a) the licence shall be treated as having ceased to be in force as from the time when the instalment became due;
  - (b) the person to whom the licence was granted shall become liable to any unpaid duty to which he would have been liable under paragraph 11(1C) below if he had surrendered the licence at that time; and
  - (c) any amusement machines found on the premises to which the licence related shall be liable to forfeiture.
- (5) Sections 14 to 16 of the <sup>M5</sup>Finance Act 1994 (review and appeals) shall have effect in relation to any decision of the Commissioners refusing an application for permission to pay duty by instalments in accordance with arrangements under this paragraph as if that decision were a decision of a description specified in Schedule 5 to that Act.”

(6) In paragraph 11 of that Schedule (surrender), after sub-paragraph (1B) there shall be inserted the following sub-paragraph—

“(1C) Where, in a case where duty is being paid in accordance with arrangements made under paragraph 7A above, the amount of duty actually paid on a licence that is surrendered is less than the amount which would have been paid on that licence if the period for which it was granted had been reduced by the number of complete months in that period which have not expired when the licence is surrendered, the difference between those amounts shall be treated as unpaid duty.”



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- (7) Paragraph 13 of that Schedule (labelling and marking of machines) shall cease to have effect.
- (8) In paragraph 14 of that Schedule (power to enter premises), for the words “for gaming” there shall be substituted “for play”.
- (9) In paragraph 16 of that Schedule (enforcement), after sub-paragraph (1) there shall be inserted the following sub-paragraph—
- “(1A) This paragraph does not apply to any contravention or failure to comply with arrangements under paragraph 7A above or to any failure or refusal to comply with a requirement made under or for the purposes of any such arrangements.”
- (10) In paragraph 17 of that Schedule (warrants etc.)—
- (a) in sub-paragraph (1), for the words “for gaming” there shall be substituted “for play”; and
- (b) in sub-paragraph (2)(a), for the words from “(including” to “by means of it)” there shall be substituted “(including any machine appearing to the officer to be an amusement machine or to be capable of being used as such)”.

**Marginal Citations**

M5 1994 c. 9.

*Consequential amendment of the Customs and Excise Management Act 1979*

- 12 In section 102(3)(a) of the <sup>M6</sup>Customs and Excise Management Act 1979 (penalty for failure to deliver up a licence), for “a gaming machine licence” there shall be substituted “an amusement machine licence”.

**Marginal Citations**

M6 1979 c. 2.

SCHEDULE 4

Section 19.

VEHICLE EXCISE AND REGISTRATION

**PART I**

INTRODUCTION

- 1 In this Schedule “the 1994 Act” means the <sup>M7</sup>Vehicle Excise and Registration Act 1994.

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### Marginal Citations

M7 1994 c. 22.

## PART II

### EXEMPTIONS

### Commencement Information

II Sch. 4, Pt. II in force on 1.7.1995: see Sch. 4, Pt. II, para. 5.

#### *Abolition of certain exemptions*

- 2 The following paragraphs of Schedule 2 to the 1994 Act (exempt vehicles) shall be omitted—
- (a) paragraph 1 (electrically propelled vehicles);
  - (b) paragraph 12 (road construction vehicles);
  - (c) paragraph 13 (road rollers);
  - (d) paragraph 14 (snow clearing vehicles);
  - (e) paragraph 15 (gritting vehicles);
  - (f) paragraph 16 (street cleansing vehicles);
  - (g) paragraph 17 (tower wagons used solely in connection with street lighting);
  - (h) paragraph 21 (vehicles used for short journeys between different parts of person's land).

#### *Exemption for police vehicles*

- 3 In Schedule 2 to the 1994 Act the following shall be inserted after paragraph 3—

#### *“ Police vehicles*

- 3A A vehicle is an exempt vehicle when it is being used for police purposes.”

#### *Exemption for vehicles used between different parts of land*

- 4 In Schedule 2 to the 1994 Act the following shall be inserted after paragraph 20—

#### *“ Vehicles used between different parts of land*

- 20A A vehicle is an exempt vehicle if—
- (a) it is used only for purposes relating to agriculture, horticulture or forestry,
  - (b) it is used on public roads only in passing between different areas of land occupied by the same person, and
  - (c) the distance it travels on public roads in passing between any two such areas does not exceed 1.5 kilometres.”

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### Commencement

- 5 This Part of this Schedule shall come into force on 1st July 1995.

## PART III

### RATES

#### General

- 6 (1) In Schedule 1 to the 1994 Act (annual rates of duty) the following paragraph shall be substituted for paragraph 1 (annual rate of duty where no other rate specified)—

“1 (1) The annual rate of vehicle excise duty applicable to a vehicle in respect of which no other annual rate is specified by this Schedule is—

- (a) if it was constructed after 1946, the general rate;
- (b) if it was constructed before 1947, the reduced rate.

(2) The general rate is £135.

(3) The reduced rate is 50 per cent. of the general rate.

(4) Where an amount arrived at in accordance with sub-paragraph (3) is an amount—

- (a) which is not a multiple of £5, and
- (b) which on division by five does not produce a remainder of £2.50, the rate is the amount arrived at rounded (either up or down) to the nearest amount which is a multiple of £5.

(5) Where an amount arrived at in accordance with sub-paragraph (3) is an amount which on division by five produces a remainder of £2.50, the rate is the amount arrived at increased by £2.50.”

<sup>F1</sup>(2) .....

#### Textual Amendments

- F1** Sch. 4 para. 6(2) repealed (29.4.1996 with effect as mentioned in s. 18(5) of the amending Act) by 1996 c. 8, s. 205, Sch. 41 Pt. II(3)

### Motorcycles

- 7 (1) Paragraph 2 of Schedule 1 to the 1994 Act (motorcycles) shall be amended as follows.

(2) In sub-paragraph (1) (rate for motorcycles not exceeding 450 kilograms) the following shall be substituted for paragraphs (a) to (c)—

“(a) if the cylinder capacity of the engine does not exceed 150 cubic centimetres, 10 per cent. of the general rate specified in paragraph 1(2);

(b) if the vehicle is a motorbicycle and the cylinder capacity of the engine exceeds 150 cubic centimetres but does not exceed 250 cubic

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centimetres, 25 per cent. of the general rate specified in paragraph 1(2);

(c) in any other case, 40 per cent. of the general rate specified in paragraph 1(2).”

(3) The following sub-paragraphs shall be inserted after sub-paragraph (1)—

“(1A) Where an amount arrived at in accordance with sub-paragraph (1)(a), (b) or (c) is an amount—

(a) which is not a multiple of £5, and

(b) which on division by five does not produce a remainder of £2.50,

the rate is the amount arrived at rounded (either up or down) to the nearest amount which is a multiple of £5.

(1B) Where an amount arrived at in accordance with sub-paragraph (1)(a), (b) or (c) is an amount which on division by five produces a remainder of £2.50, the rate is the amount arrived at increased by £2.50.”

*Buses etc.*

8 In Schedule 1 to the 1994 Act the following shall be substituted for Part III (hackney carriages)—

### “PART III

#### BUSES

- 3 (1) The annual rate of vehicle excise duty applicable to a bus is—
- (a) if its seating capacity is nine to sixteen, the same as the basic goods vehicle rate;
  - (b) if its seating capacity is seventeen to thirty-five, 133 per cent. of the basic goods vehicle rate;
  - (c) if its seating capacity is thirty-six to sixty, 200 per cent. of the basic goods vehicle rate;
  - (d) if its seating capacity is over sixty, 300 per cent. of the basic goods vehicle rate.
- (2) In this paragraph “bus” means a vehicle which—
- (a) is a public service vehicle (within the meaning given by section 1 of the <sup>M8</sup>Public Passenger Vehicles Act 1981), and
  - (b) is not an excepted vehicle.
- (3) For the purposes of this paragraph an excepted vehicle is—
- (a) a vehicle which has a seating capacity under nine,
  - (b) a vehicle which is a community bus,
  - (c) a vehicle used under a permit granted under section 19 of the <sup>M9</sup>Transport Act 1985 (educational and other bodies) and used in circumstances where the requirements mentioned in subsection (2) of that section are met, or
  - (d) a vehicle used under a permit granted under section 10B of the <sup>M10</sup>Transport Act (Northern Ireland) 1967 (educational and

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other bodies) and used in circumstances where the requirements mentioned in subsection (2) of that section are met.

- (4) In sub-paragraph (3)(b) “community bus” means a vehicle—
- (a) used on public roads solely in accordance with a community bus permit (within the meaning given by section 22 of the <sup>M11</sup>Transport Act 1985), and
  - (b) not used for providing a service under an agreement providing for service subsidies (within the meaning given by section 63(10)(b) of that Act).
- (5) For the purposes of this paragraph the seating capacity of a vehicle shall be determined in accordance with regulations made by the Secretary of State.
- (6) In sub-paragraph (1) references to the basic goods vehicle rate are to the rate applicable, by virtue of sub-paragraph (1) of paragraph 9, to a rigid goods vehicle which falls within column (3) of the table in that sub-paragraph and has a revenue weight exceeding 3,500 kilograms and not exceeding 7,500 kilograms.
- (7) Where an amount arrived at in accordance with sub-paragraph (1)(b), (c) or (d) is an amount—
- (a) which is not a multiple of £10, and
  - (b) which on division by ten does not produce a remainder of £5,
- the rate is the amount arrived at rounded (either up or down) to the nearest amount which is a multiple of £10.
- (8) Where an amount arrived at in accordance with sub-paragraph (1)(b), (c) or (d) is an amount which on division by ten produces a remainder of £5, the rate is the amount arrived at increased by £5.”

#### Marginal Citations

- M8** 1981 c. 14.  
**M9** 1985 c. 67.  
**M10** 1967 c. 37 (N.I.).  
**M11** 1985 c. 67.

#### *Special vehicles*

- 9 (1) Part IV of Schedule 1 to the 1994 Act (special machines) shall be amended as follows.
- (2) For the heading “SPECIAL MACHINES” there shall be substituted “ SPECIAL VEHICLES ”.
- (3) In paragraph 4(1) (annual rate of £35) for the words “special machine is £35” there shall be substituted “ special vehicle is the same as the basic goods vehicle rate ”.
- (4) In paragraph 4(2) (definition of “special machine”)—
- (a) for the words “ “special machine” means” there shall be substituted “ “special vehicle” means a vehicle which has a revenue weight exceeding 3,500 kilograms and is ”;

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- (b) paragraphs (a), (b) and (f) (tractors, agricultural engines and mowing machines) shall be omitted;
  - (c) after paragraph (e) there shall be inserted—  
“(ee) a road roller.”
- (5) Paragraph 4(3) (definition of “tractor”) shall be omitted.
- (6) The following sub-paragraph shall be inserted after sub-paragraph (6) of paragraph 4—  
“ (7) In sub-paragraph (1) the reference to the basic goods vehicle rate is to the rate applicable, by virtue of sub-paragraph (1) of paragraph 9, to a rigid goods vehicle which falls within column (3) of the table in that sub-paragraph and has a revenue weight exceeding 3,500 kilograms and not exceeding 7,500 kilograms.”

*Special concessionary vehicles*

- 10 In Schedule 1 to the 1994 Act the following shall be inserted after Part IV—

**“PART IVA**

**SPECIAL CONCESSIONARY VEHICLES**

- 4A (1) The annual rate of vehicle excise duty applicable to a special concessionary vehicle is 25 per cent. of the general rate specified in paragraph 1(2).
- (2) Where an amount arrived at in accordance with sub-paragraph (1) is an amount—
- (a) which is not a multiple of £5, and
  - (b) which on division by five does not produce a remainder of £2.50, the rate is the amount arrived at rounded (either up or down) to the nearest amount which is a multiple of £5.
- (3) Where an amount arrived at in accordance with sub-paragraph (1) is an amount which on division by five produces a remainder of £2.50, the rate is the amount arrived at increased by £2.50.
- 4B (1) A vehicle is a special concessionary vehicle if it is—
- (a) an agricultural tractor, or
  - (b) an off-road tractor.
- (2) In sub-paragraph (1) “agricultural tractor” means a tractor used on public roads solely for purposes relating to agriculture, horticulture, forestry or activities falling within sub-paragraph (3).
- (3) The activities falling within this sub-paragraph are—
- (a) cutting verges bordering public roads;

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- (b) cutting hedges or trees bordering public roads or bordering verges which border public roads.
- (4) In sub-paragraph (1) “off-road tractor” means a tractor which is not an agricultural tractor (within the meaning given by sub-paragraph (2)) and which is—
  - (a) designed and constructed primarily for use otherwise than on roads, and
  - (b) incapable by reason of its construction of exceeding a speed of twenty-five miles per hour on the level under its own power.
- 4C (1) A vehicle is a special concessionary vehicle if it is a light agricultural vehicle.
- (2) In sub-paragraph (1) “light agricultural vehicle” means a vehicle which—
  - (a) has a revenue weight not exceeding 1,000 kilograms,
  - (b) is designed and constructed so as to seat only the driver,
  - (c) is designed and constructed primarily for use otherwise than on roads, and
  - (d) is used solely for purposes relating to agriculture, horticulture or forestry.
- 4D An agricultural engine is a special concessionary vehicle.
- 4E A mowing machine is a special concessionary vehicle.
- 4F (1) An electrically propelled vehicle is a special concessionary vehicle.
- (2) A vehicle is not an electrically propelled vehicle for the purposes of sub-paragraph (1) unless the electrical motive power is derived from—
  - (a) a source external to the vehicle, or
  - (b) an electrical storage battery which is not connected to any source of power when the vehicle is in motion.
- 4G A vehicle is a special concessionary vehicle when it is—
  - (a) being used,
  - (b) going to or from the place where it is to be or has been used, or
  - (c) being kept for use,for the purpose of clearing snow from public roads by means of a snow plough or similar device (whether or not forming part of the vehicle).
- 4H A vehicle is a special concessionary vehicle if it is constructed or adapted, and used, solely for the conveyance of machinery for spreading material on roads to deal with frost, ice or snow (with or without articles or material used for the purposes of the machinery).”

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### *Recovery vehicles*

- 11 (1) Paragraph 5 of Schedule 1 to the 1994 Act (recovery vehicles) shall be amended as follows.
- (2) In sub-paragraph (1) (annual rate of duty of £85) for the words “is £85” there shall be substituted “is—
- (a) if it has a revenue weight exceeding 3,500 kilograms and not exceeding 12,000 kilograms, the same as the basic goods vehicle rate;
  - (b) if it has a revenue weight exceeding 12,000 kilograms and not exceeding 25,000 kilograms, 300 per cent. of the basic goods vehicle rate;
  - (c) if it has a revenue weight exceeding 25,000 kilograms, 500 per cent. of the basic goods vehicle rate.”
- (3) The following sub-paragraphs shall be inserted after sub-paragraph (5)—
- “(6) In sub-paragraph (1) references to the basic goods vehicle rate are to the rate applicable, by virtue of sub-paragraph (1) of paragraph 9, to a rigid goods vehicle which falls within column (3) of the table in that sub-paragraph and has a revenue weight exceeding 3,500 kilograms and not exceeding 7,500 kilograms.
- (7) Where an amount arrived at in accordance with sub-paragraph (1)(b) or (c) is an amount—
- (a) which is not a multiple of £10, and
  - (b) which on division by ten does not produce a remainder of £5,
- the rate is the amount arrived at rounded (either up or down) to the nearest amount which is a multiple of £10.
- (8) Where an amount arrived at in accordance with sub-paragraph (1)(b) or (c) is an amount which on division by ten produces a remainder of £5, the rate is the amount arrived at increased by £5.”

### *Vehicles used for exceptional loads*

- 12 (1) Paragraph 6 of Schedule 1 to the 1994 Act (vehicles used for exceptional loads) shall be amended as follows.
- (2) In sub-paragraph (2) (annual rate of duty) for “£5,000” there shall be substituted “the heavy tractive unit rate”.
- (3) The following sub-paragraph shall be inserted after sub-paragraph (3)—
- “(3A) In sub-paragraph (2) the reference to the heavy tractive unit rate is to the rate applicable, by virtue of sub-paragraph (1) of paragraph 11, to a tractive unit which falls within column (3) of the table in that sub-paragraph and has a revenue weight exceeding 38,000 kilograms and not exceeding 44,000 kilograms.”



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### *Haulage vehicles*

- 13 (1) Paragraph 7 of Schedule 1 to the 1994 Act (haulage vehicles) shall be amended as follows.
- (2) In sub-paragraph (1) for paragraphs (a) and (b) (rate of £100 for showmen’s vehicles and of £330 for other haulage vehicles) there shall be substituted—
- “*(a) if it is a showman’s vehicle, the same as the basic goods vehicle rate;*  
*(b) in any other case, the general haulage vehicle rate.*”
- (3) The following sub-paragraphs shall be inserted after sub-paragraph (2)—
- “*(3) In sub-paragraph (1) the reference to the basic goods vehicle rate is to the rate applicable, by virtue of sub-paragraph (1) of paragraph 9, to a rigid goods vehicle which falls within column (3) of the table in that sub-paragraph and has a revenue weight exceeding 3,500 kilograms and not exceeding 7,500 kilograms.*
- (4) In sub-paragraph (1) the reference to the general haulage vehicle rate is to 75 per cent. of the rate applicable, by virtue of sub-paragraph (1) of paragraph 11, to a tractive unit which falls within column (3) of the table in that sub-paragraph and has a revenue weight exceeding 12,000 kilograms and not exceeding 16,000 kilograms.*
- (5) Where an amount arrived at in accordance with sub-paragraph (4) is an amount—*
- (a) which is not a multiple of £10, and*  
*(b) which on division by ten does not produce a remainder of £5,*  
*the rate is the amount arrived at rounded (either up or down) to the nearest amount which is a multiple of £10.*
- (6) Where an amount arrived at in accordance with sub-paragraph (4) is an amount which on division by ten produces a remainder of £5, the rate is the amount arrived at increased by £5.*”

### *Goods vehicles*

- 14 (1) Part VIII of Schedule 1 to the 1994 Act (goods vehicles) shall be amended as follows.
- (2) Paragraph 8 (basic rate) shall be omitted.
- (3) In paragraph 9(1) (rates of duty for rigid goods vehicles)—
- (a) at the beginning there shall be inserted “ Subject to sub-paragraphs (2) and (3), ”;
- (b) for the words “a plated gross weight (or, in Northern Ireland, a relevant maximum weight) exceeding 7,500 kilograms” there shall be substituted “ a revenue weight exceeding 3,500 kilograms ”;
- (c) in paragraph (a) for the words “plated gross weight (or relevant maximum weight)” there shall be substituted “ revenue weight ”.
- (4) The following table shall be substituted for the table in paragraph 9(1)—

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“Revenue weight of vehicle		Rate		
(1)	(2)	(3)	(4)	(5)

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<b>Exceeding</b>	<b>Not Exceeding</b>	<b>Two axle vehicle</b>	<b>Three axle vehicle</b>	<b>Four or more axle vehicle</b>
kgs	kgs	£	£	£
3,500	7,500	150	150	150
7,500	12,000	290	290	290
12,000	13,000	450	470	340
13,000	14,000	630	470	340
14,000	15,000	810	470	340
15,000	17,000	1,280	470	340
17,000	19,000	1,280	820	340
19,000	21,000	1,280	990	340
21,000	23,000	1,280	1,420	490
23,000	25,000	1,280	2,160	800
25,000	27,000	1,280	2,260	1,420
27,000	29,000	1,280	2,260	2,240
29,000	31,000	1,280	2,260	3,250
31,000	44,000	1,280	2,260	4,250”

(5) For sub-paragraph (2) of paragraph 9 there shall be substituted the following sub-paragraphs—

“(2) The annual rate of vehicle excise duty applicable—

- (a) to any rigid goods vehicle which is a showman’s goods vehicle with a revenue weight exceeding 3,500 kilograms but not exceeding 44,000 kilograms, and
- (b) to any rigid goods vehicle which is an island goods vehicle with a revenue weight exceeding 3,500 kilograms,

shall be the basic goods vehicle rate.

(3) The annual rate of vehicle excise duty applicable to a rigid goods vehicle which has a revenue weight exceeding 44,000 kilograms and is not an island goods vehicle shall be the heavy tractive unit rate.

(4) In sub-paragraph (2) the reference to the basic goods vehicle rate is to the rate applicable, by virtue of sub-paragraph (1), to a rigid goods vehicle which falls within column (3) of the table in that sub-paragraph and has a revenue weight exceeding 3,500 kilograms and not exceeding 7,500 kilograms.

(5) In sub-paragraph (3) the reference to the heavy tractive unit rate is to the rate applicable, by virtue of sub-paragraph (1) of paragraph 11, to a tractive unit which falls within column (3) of the table in that sub-paragraph and has a revenue weight exceeding 38,000 kilograms and not exceeding 44,000 kilograms.”

(6) In paragraph 10(1) (trailer supplement) for the words “plated gross weight (or relevant maximum weight)”—

- (a) in the first place where they occur, there shall be substituted “revenue weight”; and
- (b) in the second and third places where they occur, there shall be substituted “plated gross weight”.

(7) In paragraph 10(2) (lower rate of trailer supplement)—

- (a) the words “(or relevant maximum weight)” shall be omitted; and

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- (b) for “£135” there shall be substituted “ an amount equal to the amount of the general rate specified in paragraph 1(2) ”.
- (8) In paragraph 10(3) (higher rate of trailer supplement)—
- (a) the words “(or relevant maximum weight)” shall be omitted; and
- (b) for “£370” there shall be substituted “ an amount equal to 275 per cent. of the amount of the general rate specified in paragraph 1(2) ”.
- (9) In paragraph 10 the following sub-paragraphs shall be inserted after sub-paragraph (3)—
- “(3A) Where an amount arrived at in accordance with sub-paragraph (3) is an amount—
- (a) which is not a multiple of £10, and
- (b) which on division by ten does not produce a remainder of £5,
- the amount of the trailer supplement is the amount arrived at rounded (either up or down) to the nearest amount which is a multiple of £10.
- (3B) Where an amount arrived at in accordance with sub-paragraph (3) is an amount which on division by ten produces a remainder of £5, the amount of the trailer supplement is the amount arrived at increased by £5.”
- (10) Paragraph 10(4) (reference to paragraph 12) shall be omitted.
- (11) In paragraph 11(1) (rates of duty for tractive units)—
- (a) at the beginning there shall be inserted “ Subject to sub-paragraphs (2) and (3), ”;
- (b) for the words “a plated train weight (or, in Northern Ireland, a relevant maximum train weight) exceeding 7,500 kilograms” there shall be substituted “ a revenue weight exceeding 3,500 kilograms ”;
- (c) in paragraph (a) for the words “plated train weight (or relevant maximum train weight)” there shall be substituted “ revenue weight ”.
- (12) The following table shall be substituted for the table in paragraph 11(1)—

“Revenue weight of tractive unit		Rate for tractive unit with two axles			Rate for tractive unit with three or more axles		
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Exceeding	Not exceeding	Any no. of semi-trailer axles	2 or more semi-trailer axles	3 or more semi-trailer axles	Any no. of semi-trailer axles	2 or more semi-trailer axles	3 or more semi-trailer axles
kgs	kgs	£	£	£	£	£	£
3,500	7,500	150	150	150	150	150	150
7,500	12,000	290	290	290	290	290	290
12,000	16,000	440	440	440	440	440	440
16,000	20,000	500	440	440	440	440	440
20,000	23,000	780	440	440	440	440	440
23,000	26,000	1,150	570	440	570	440	440
26,000	28,000	1,150	1,090	440	1,090	440	440
28,000	31,000	1,680	1,680	1,050	1,680	640	440

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31,000	33,000	2,450	2,450	1,680	2,450	970	440
33,000	34,000	5,000	5,000	1,680	2,450	1,420	550
34,000	36,000	5,000	5,000	2,750	2,450	2,030	830
36,000	38,000	5,000	5,000	3,100	2,730	2,730	1,240
38,000	44,000	5,000	5,000	3,100	2,730	2,730	1,240”

(13) For sub-paragraph (2) of paragraph 11 there shall be substituted the following sub-paragraphs—

“(2) The annual rate of vehicle excise duty applicable—

- (a) to any tractive unit which is a showman’s goods vehicle with a revenue weight exceeding 3,500 kilograms but not exceeding 44,000 kilograms, and
- (b) to any tractive unit which is an island goods vehicle with a revenue weight exceeding 3,500 kilograms,

shall be the basic goods vehicle rate.

(3) The annual rate of vehicle excise duty applicable to a tractive unit which has a revenue weight exceeding 44,000 kilograms and is not an island goods vehicle shall be the heavy tractive unit rate.

(4) In sub-paragraph (2) the reference to the basic goods vehicle rate is to the rate applicable, by virtue of sub-paragraph (1) of paragraph 9, to a rigid goods vehicle which falls within column (3) of the table in that sub-paragraph and has a revenue weight exceeding 3,500 kilograms and not exceeding 7,500 kilograms.

(5) In sub-paragraph (3) the reference to the heavy tractive unit rate is to the rate applicable, by virtue of sub-paragraph (1), to a tractive unit which falls within column (3) of the table in that sub-paragraph and has a revenue weight exceeding 38,000 kilograms and not exceeding 44,000 kilograms.”

(14) Paragraph 12 (farmers’ goods vehicles and showmen’s goods vehicles) shall be omitted.

(15) In paragraph 13(1) (regulations for reducing plated weights) for the words from “its plated gross weight” to “weight specified” there shall be substituted “ its revenue weight were such lower weight as may be specified ”.

(16) In paragraph 14 (vehicles for conveying machines) sub-paragraphs (b) and (c) shall be omitted.

(17) In paragraph 17(1) (meaning of “trailer”)—

- (a) at the end of paragraph (a) there shall be inserted “ or ”;
- (b) paragraphs (c) to (e) (road construction vehicles, certain farming implements drawn by farmer’s goods vehicle, and certain trailers used to carry gas for propulsion, excluded from meaning of “trailer”) shall be omitted.

(18) Paragraph 17(2) (interpretation of paragraph 17(1)(e)) shall be omitted.

(19) The following shall be inserted after paragraph 17—

*“ Meaning of “island goods vehicle”*

18 (1) In this Part “island goods vehicle” means any goods vehicle which—

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- (a) is kept for use wholly or partly on the roads of one or more small islands; and
  - (b) is not kept or used on any mainland road, except in a manner authorised by sub-paragraph (2) or (3).
- (2) The keeping or use of a goods vehicle on a mainland road is authorised by this sub-paragraph if—
  - (a) the road is one used for travel between a landing place and premises where vehicles disembarked at that place are loaded or unloaded, or both;
  - (b) the length of the journey, using that road, from that landing place to those premises is not more than five kilometres;
  - (c) the vehicle in question is one which was disembarked at that landing place after a journey by sea which began on a small island; and
  - (d) the loading or unloading of that vehicle is to take place, or has taken place, at those premises.
- (3) The keeping or use of a goods vehicle on a mainland road is authorised by this sub-paragraph if—
  - (a) that vehicle has a revenue weight not exceeding 17,000 kilograms;
  - (b) that vehicle is normally kept at a base or centre on a small island; and
  - (c) the only journeys for which that vehicle is used are ones that begin or end at that base or centre.
- (4) References in this paragraph to a small island are references to any such island falling within sub-paragraph (5) as may be designated as a small island by an order made by the Secretary of State.
- (5) An island falls within this sub-paragraph if—
  - (a) it has an area of 230,000 hectares or less; and
  - (b) the absence of a bridge, causeway, tunnel, ford or other way makes it at all times impracticable for road vehicles to be driven under their own power from that island as far as the mainland.
- (6) The reference in sub-paragraph (5) to driving a road vehicle as far as the mainland is a reference to driving it as far as any public road in the United Kingdom which is not on an island with an area of 230,000 hectares or less and is not a road connecting two such islands.
- (7) In this paragraph—
  - “island” includes anything that is an island only when the tide reaches a certain height;
  - “landing place” means any place at which vehicles are disembarked after sea journeys;
  - “mainland road” means any public road in the United Kingdom, other than one which is on a small island or which connects two such islands; and
  - “road vehicles” means vehicles which are designed or adapted primarily for being driven on roads and which do not have any special features for facilitating their being driven elsewhere;and references in this paragraph to the loading or unloading of a vehicle include references to the loading or unloading of its trailer or semi-trailer.”

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#### *Charge at higher rate*

- 15 In section 17 of the 1994 Act (exceptions from charge at higher rate) the following provisions shall be omitted—
- (a) subsections (3) to (5) (provisions about farmers' goods vehicles);
  - (b) subsections (6) and (7) (agricultural tractors and farmers' goods vehicles in Northern Ireland).

#### *Commencement*

- 16 (1) This Part of this Schedule shall apply in relation to licences taken out on or after 1st July 1995.
- (2) This Part of this Schedule shall also apply in relation to any use after 30th June 1995 of a vehicle which—
- (a) had a plated gross weight or plated train weight (or, in Northern Ireland, a relevant maximum weight or relevant maximum train weight) on that date, and
  - (b) at the time when it is used has a confirmed maximum weight which, if that had been its plated gross weight or plated train weight (or relevant maximum weight or relevant maximum train weight) on that date, would have brought it within a description of vehicle to which a higher rate of duty was applicable on that date.

### **PART IV**

#### **RATES: SUPPLEMENTARY**

#### *Introduction*

- 17 This Part of this Schedule (which supplements provisions of Part III of this Schedule) makes—
- (a) provision for determining the revenue weight of a vehicle, and
  - (b) consequential amendments.

#### *Issue of vehicle licences*

- 18 In section 7(3) of the 1994 Act (matters that may be contained in declarations and particulars to be made or furnished by applicants for licences) for paragraph (b) there shall be substituted—
- “(b) the vehicle's revenue weight,
  - (ba) the place where the vehicle has been or is normally kept, and”.

#### *Exchange of licences*

- 19 In section 15(4) of the 1994 Act (exchange of licences where higher rate becomes chargeable) at the beginning there shall be inserted “ Subject to section 7(5), ”.

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*Exceptions from charge at higher rate*

- 20 In section 16 of the 1994 Act (exceptions from charge at higher rate) in each of subsections (2)(b)(i), (4)(b)(i) and (6)(b)(i) for the words “a plated train weight (or, in Northern Ireland, a relevant maximum train weight)” there shall be substituted “a revenue weight”.

*Combined road and rail transport*

- 21 In section 20 of the 1994 Act (combined road and rail transport) for subsection (3) there shall be substituted the following subsection—
- “(3) In this section “relevant goods vehicle” means any vehicle the rate of duty applicable to which is provided for in Part VIII of Schedule 1 or which would be such a vehicle if Part VI of that Schedule did not apply to the vehicle.”

*Relevant higher rate used in calculating penalty*

- 22 In section 39 of the 1994 Act (relevant higher rate used in calculating penalty)—
- (a) in subsection (2)(a) for the words “plated gross weight or plated train weight (or, in Northern Ireland, a relevant maximum weight or relevant maximum train weight)” there shall be substituted “revenue weight”;
  - (b) in each of subsections (4)(a) and (5)(a) for the words “plated gross weight or plated train weight (or, in Northern Ireland, relevant maximum weight or relevant maximum train weight)” there shall be substituted “revenue weight”;
  - (c) in the words after paragraph (b) of each of subsections (4) and (5) for the words “plated gross weight or plated train weight (or relevant maximum weight or relevant maximum train weight)” there shall be substituted “revenue weight”.

*Relevant period used in calculating penalty*

- 23 In section 40(2) of the 1994 Act (relevant period used in calculating penalty)—
- (a) for the words “plated gross weight or a plated train weight (or, in Northern Ireland, a relevant maximum weight or relevant maximum train weight)” there shall be substituted “revenue weight”;
  - (b) for the words “was plated with (or rated at) the higher weight” there shall be substituted “became a vehicle with a higher revenue weight”.

*False or misleading information etc.*

- 24 In section 45 of the 1994 Act (false or misleading information) after subsection (3) there shall be inserted the following subsections—
- “(3A) A person who, in supplying information or producing documents for the purposes of any regulations made under section 61A—
- (a) makes a statement which to his knowledge is false or in any material respect misleading or recklessly makes a statement which is false or in any material respect misleading, or
  - (b) produces or otherwise makes use of a document which to his knowledge is false or in any material respect misleading,
- is guilty of an offence.

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- (3B) A person who—
- (a) with intent to deceive, forges, alters or uses a certificate issued by virtue of section 61A;
  - (b) knowing or believing that it will be used for deception lends such a certificate to another or allows another to alter or use it; or
  - (c) without reasonable excuse makes or has in his possession any document so closely resembling such a certificate as to be calculated to deceive,
- is guilty of an offence.”

- 25 In section 60(2) of the 1994 Act (orders subject to annulment), after “section 3(3)” there shall be inserted “, paragraph 18(4) of Schedule 1 ”.

*Meaning of “revenue weight”*

- 26 Immediately before section 61 of the 1994 Act there shall be inserted the following section—

**“60A Meaning of “revenue weight”.**

- (1) Any reference in this Act to the revenue weight of a vehicle is a reference—
  - (a) where it has a confirmed maximum weight, to that weight; and
  - (b) in any other case, to the weight determined in accordance with the following provisions of this section.
- (2) For the purposes of this Act a vehicle which does not have a confirmed maximum weight shall have a revenue weight which, subject to the following provisions of this section, is equal to its design weight.
- (3) Subject to subsection (4), the design weight of a vehicle is, for the purposes of this section—
  - (a) in the case of a tractive unit, the weight which is required, by the design and any subsequent adaptations of that vehicle, not to be exceeded by an articulated vehicle which—
    - (i) consists of the vehicle and any semi-trailer capable of being drawn by it, and
    - (ii) is in normal use and travelling on a road laden;
 and
  - (b) in the case of any other vehicle, the weight which the vehicle itself is designed or adapted not to exceed when in normal use and travelling on a road laden.
- (4) Where, at any time, a vehicle—
  - (a) does not have a confirmed maximum weight,
  - (b) has previously had such a weight, and
  - (c) has not acquired a different design weight by reason of any adaptation made since the most recent occasion on which it had a confirmed maximum weight,
 the vehicle’s design weight at that time shall be equal to its confirmed maximum weight on that occasion.



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- (5) An adaptation reducing the design weight of a vehicle shall be disregarded for the purposes of this section unless it is a permanent adaptation.
- (6) For the purposes of this Act where—
- (a) a vehicle which does not have a confirmed maximum weight is used on a public road in the United Kingdom, and
  - (b) at the time when it is so used—
    - (i) the weight of the vehicle, or
    - (ii) in the case of a tractive unit used as part of an articulated vehicle consisting of the vehicle and a semi-trailer, the weight of the articulated vehicle,exceeds what, apart from this subsection, would be the vehicle's design weight,

it shall be conclusively presumed, as against the person using the vehicle, that the vehicle has been temporarily adapted so as to have a design weight while being so used equal to the actual weight of the vehicle or articulated vehicle at that time.

(7) For the purposes of this Act limitations on the space available on a vehicle for carrying a load shall be disregarded in determining the weight which the vehicle is designed or adapted not to exceed when in normal use and travelling on a road laden.

(8) A vehicle which does not have a confirmed maximum weight shall not at any time be taken to have a revenue weight which is greater than the maximum laden weight at which that vehicle or, as the case may be, an articulated vehicle consisting of that vehicle and a semi-trailer may lawfully be used in Great Britain.

(9) A vehicle has a confirmed maximum weight at any time if at that time—

    - (a) it has a plated gross weight or a plated train weight; and
    - (b) that weight is the maximum laden weight at which that vehicle or, as the case may be, an articulated vehicle consisting of that vehicle and a semi-trailer may lawfully be used in Great Britain;

and the confirmed maximum weight of a vehicle with such a weight shall be taken to be the weight referred to in paragraph (a).

(10) Where any vehicle has a special maximum weight in Northern Ireland which is greater than the maximum laden weight at which that vehicle or, as the case may be, an articulated vehicle consisting of that vehicle and a semi-trailer may lawfully be used in Great Britain, this section shall have effect, in relation to that vehicle, as if the references to Great Britain in subsections (8) and (9) were references to Northern Ireland.

(11) For the purposes of this section a vehicle has a special maximum weight in Northern Ireland if an order under Article 29(3) of the <sup>M12</sup>Road Traffic (Northern Ireland) Order 1981 (authorisation of use on roads of vehicles and trailers not complying with regulations) has effect in relation to that vehicle for determining the maximum laden weight at which it may lawfully be used in Northern Ireland or, as the case may be, for determining the maximum laden weight at which an articulated vehicle consisting of that vehicle and a semi-trailer may lawfully be used there.”

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#### Marginal Citations

M12 S.I. 1981/154 (N.I. 1).

#### Interpretation

- 27 (1) In subsection (3) of section 61 of the 1994 Act (meaning of “appropriate plate”)—
- (a) the word “ and ” shall be inserted at the end of paragraph (a); and
  - (b) paragraph (c) (plated weight determined by reference to section 41 of the <sup>M13</sup>Road Traffic Act 1988) and the word “and” immediately preceding it shall be omitted.
- (2) After subsection (3) of that section there shall be inserted the following subsection—
- “(3A) Where it appears to the Secretary of State that there is a description of document which—
- (a) falls to be treated for some or all of the purposes of the <sup>M14</sup>Road Traffic Act 1988 as if it were a plating certificate, or
  - (b) is issued under the law of any state in the European Economic Area for purposes which are or include purposes corresponding to those for which such a certificate is issued,
- he may by regulations provide for references in this section to a plating certificate to have effect as if they included references to a document of that description.”
- (3) Subsections (4), (5) and (7) of that section (relevant weights in Northern Ireland and definition of “design weight”) shall be omitted.

#### Marginal Citations

M13 1988 c. 52.

M14 1988 c. 52.

#### Certificates as to vehicle weight

- 28 After section 61 of the 1994 Act there shall be inserted the following section—

##### “61A Certificates etc. as to vehicle weight.

- (1) The Secretary of State may by regulations make provision—
  - (a) for the making of an application to the Secretary of State for the issue of a certificate stating the design weight of a vehicle;
  - (b) for the manner in which any determination of the design weight of any vehicle is to be made on such an application and for the issue of a certificate on the making of such a determination;
  - (c) for the examination, for the purposes of the determination of the design weight of a vehicle, of that vehicle by such persons, and in such manner, as may be prescribed by the regulations;

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- (d) for a certificate issued on the making of such a determination to be treated as having conclusive effect for the purposes of this Act as to such matters as may be prescribed by the regulations;
  - (e) for the Secretary of State to be entitled, in cases prescribed by the regulations, to require the production of such a certificate before making a determination for the purposes of section 7(5); and
  - (f) for appeals against determinations made in accordance with the regulations.
- (2) Regulations under this section may provide for an adaptation of a vehicle—
- (a) to be taken into account in determining the design weight of a vehicle in a case to which section 60A(6) does not apply, or
  - (b) to be treated as permanent for the purposes of section 60A(5),
- if, and only if, it is an adaptation with respect to which a certificate has been issued under the regulations.
- (3) Regulations under this section may provide that such documents purporting to be plating certificates (within the meaning of Part II of the <sup>M15</sup>Road Traffic Act 1988) as satisfy requirements prescribed by the regulations are to have effect, for some or all of the purposes of this Act, as if they were certificates issued under such regulations.
- (4) Without prejudice to the generality of the preceding provisions of this section, regulations under this section may, in relation to—
- (a) the examination of a vehicle on an application under the regulations, or
  - (b) any appeals against determinations made for the purposes of the issue of a certificate in accordance with the regulations,
- make provision corresponding to, or applying (with or without modifications), any of the provisions having effect by virtue of so much of sections 49 to 51 of the <sup>M16</sup>Road Traffic Act 1988 as relates to examinations authorised by virtue of, or appeals under, any of those sections.
- (5) In this section “design weight” has the same meaning as in section 60A.”

**Marginal Citations**

**M15** 1988 c. 52.

**M16** 1988 c. 52.

*Commencement*

- 29 Paragraph 16 above shall apply for the purposes of this Part of this Schedule as it applies for the purposes of Part III of this Schedule.

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*Status: Point in time view as at 01/07/1997.*

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

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## PART V

### LICENCES

#### *Applications for licences*

- 30 (1) In section 7 of the 1994 Act (issue of vehicle licences)—
- (a) in subsection (1) (regulations about applications) for “prescribed by regulations made” there shall be substituted “specified”;
  - (b) in subsection (2) for “prescribed” there shall be substituted “specified”.
- (2) In section 11 of the 1994 Act (issue of trade licences) in subsection (1) (regulations about applications)—
- (a) for “prescribed by regulations made” there shall be substituted “specified”;
  - (b) for “so prescribed” there shall be substituted “prescribed by regulations made by the Secretary of State”.
- (3) This paragraph shall apply in relation to applications made after the day on which this Act is passed.

#### *Duration of trade licences*

- 31 (1) In section 13 of the 1994 Act (duration of trade licences) in subsection (1) at the end of paragraph (c) there shall be inserted “and ending no later than the relevant date.”
- (2) After subsection (1) of that section there shall be inserted—
- “(1A) In subsection (1)(c) “the relevant date” means—
- (a) in relation to a licence taken out for a period beginning with the first day of any of the months February to June in any year, 31st December of that year;
  - (b) in relation to a licence taken out for a period beginning with the first day of any of the months August to December in any year, 30th June of the following year.”
- (3) This paragraph shall apply in relation to licences taken out after the day on which this Act is passed.

#### *Payment for licences by cheque*

- 32 (1) The following section shall be inserted after section 19 of the 1994 Act—

#### **“19A Payment for licences by cheque.**

- (1) The Secretary of State may, if he thinks fit, issue a vehicle licence or a trade licence on receipt of a cheque for the amount of the duty payable on it.
- (2) In a case where—
  - (a) a vehicle licence or a trade licence is issued to a person on receipt of a cheque which is subsequently dishonoured, and
  - (b) the Secretary of State sends a notice by post to the person informing him that the licence is void as from the time when it was granted,
 the licence shall be void as from the time when it was granted.

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

- (3) In a case where—
- (a) a vehicle licence or a trade licence is issued to a person on receipt of a cheque which is subsequently dishonoured,
  - (b) the Secretary of State sends a notice by post to the person requiring him to secure that the duty payable on the licence is paid within such reasonable period as is specified in the notice,
  - (c) the requirement in the notice is not complied with, and
  - (d) the Secretary of State sends a further notice by post to the person informing him that the licence is void as from the time when it was granted,
- the licence shall be void as from the time when it was granted.
- (4) Section 102 of the <sup>M17</sup>Customs and Excise Management Act 1979 (payment for excise licences by cheque) shall not apply in relation to a vehicle licence or a trade licence.”

- (2) The following section shall be inserted after section 35 of the 1994 Act—

**“35A Dishonoured cheques.**

- (1) In a case where—
- (a) a notice sent as mentioned in section 19A(2)(b) or a further notice sent as mentioned in section 19A(3)(d) requires the person to deliver up the licence within such reasonable period as is specified in the notice, and
  - (b) the person fails to comply with the requirement within that period,
- he shall be liable on summary conviction to a penalty of an amount found under subsection (2).
- (2) The amount is whichever is the greater of—
- (a) level 3 on the standard scale;
  - (b) an amount equal to five times the annual rate of duty that was payable on the grant of the licence or would have been so payable if it had been taken out for a period of twelve months.”
- (3) In section 36 of the 1994 Act (dishonoured cheques: additional liability) in subsection (1) for the words from “102” to “cheque)” there shall be substituted “35A ”.
- (4) This paragraph shall apply in relation to licences taken out after the day on which this Act is passed.

**Marginal Citations**

M17 1979 c. 2.

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*Status: Point in time view as at 01/07/1997.*

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

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## PART VI

### REGISTRATION

- 33 In section 21 of the 1994 Act (registration of vehicles) at the beginning of subsections (1) and (2) there shall be inserted “ Subject to subsection (3) ” and after subsection (2) there shall be inserted—
- “(3) The Secretary of State may by regulations provide that in such circumstances as may be prescribed by the regulations a vehicle shall not be registered under this section until a fee of such amount as may be so prescribed is paid.
- (4) The Secretary of State may by regulations make provision about repayment of any sum paid by way of a fee mentioned in subsection (3), and the regulations may in particular include provision—
- (a) that repayment shall be made only if a specified person is satisfied that specified conditions are met or in other specified circumstances;
  - (b) that repayment shall be made in part only;
  - (c) that, in the case of partial repayment, the amount repaid shall be a specified sum or determined in a specified manner;
  - (d) for repayment of different amounts in different circumstances;
- and “specified” here means specified in the regulations.”
- 34 (1) Section 22 of the 1994 Act (registration regulations) shall be amended as follows.
- (2) In subsection (1) the following paragraph shall be inserted after paragraph (d)—
- “(dd) require a person by whom any vehicle is sold or disposed of to furnish the person to whom it is sold or disposed of with such document relating to the vehicle’s registration as may be prescribed by the regulations, and to do so at such time as may be so prescribed.”
- (3) The following subsections shall be inserted after subsection (1)—
- “(1A) The Secretary of State may make regulations providing for the sale of information derived from particulars contained in the register—
- (a) to such persons as the Secretary of State thinks fit, and
  - (b) for such price and on such other terms, and subject to such restrictions, as he thinks fit,
- if the information does not identify any person or contain anything enabling any person to be identified.
- (1B) Without prejudice to the generality of paragraph (d) of subsection (1) above, regulations under that paragraph may require—
- (a) any person there mentioned to furnish particulars to the other person there mentioned or to the Secretary of State or to both;
  - (b) any person there mentioned who is furnished with particulars in pursuance of the regulations to furnish them to the Secretary of State.”

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## PART VII

### OFFENCES

- 35 (1) In section 31 of the 1994 Act (relevant period for purposes of additional liability) in subsection (5)(b) (case where duty or amount equal to duty has been paid) the words “(or an amount equal to the duty due)” shall be omitted.
- (2) This paragraph shall apply in relation to offences committed after the day on which this Act is passed.
- 36 (1) The following section shall be inserted after section 32 of the 1994 Act—

#### **“32A Immobilisation, removal and disposal of vehicles.**

Schedule 2A (which relates to the immobilisation of vehicles as regards which it appears that an offence under section 29(1) is being committed and to their removal and disposal) shall have effect.”

- (2) The following Schedule shall be inserted after Schedule 2 to the 1994 Act—

#### “SCHEDULE 2A

##### IMMOBILISATION, REMOVAL AND DISPOSAL OF VEHICLES

###### *Immobilisation*

- 1 (1) The Secretary of State may make regulations under this Schedule with respect to any case where an authorised person has reason to believe that, on or after such date as may be prescribed, an offence under section 29(1) is being committed as regards a vehicle which is stationary on a public road.
- (2) The regulations may provide that the authorised person or a person acting under his direction may—
- fix an immobilisation device to the vehicle while it remains in the place where it is stationary, or
  - move it from that place to another place on the same or another public road and fix an immobilisation device to it in that other place.
- (3) The regulations may provide that on any occasion when an immobilisation device is fixed to a vehicle in accordance with the regulations the person fixing the device shall also fix to the vehicle a notice—
- indicating that the device has been fixed to the vehicle and warning that no attempt should be made to drive it or otherwise put it in motion until it has been released from the device;
  - specifying the steps to be taken to secure its release;
  - giving such other information as may be prescribed.
- (4) The regulations may provide that—
- a vehicle to which an immobilisation device has been fixed in accordance with the regulations may only be released from the device by or under the direction of an authorised person;

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- (b) subject to that, such a vehicle shall be released from the device if the first and second requirements specified below are met.
- (5) The first requirement is that such charge in respect of the release as may be prescribed is paid in any manner specified in the immobilisation notice.
- (6) The second requirement is that—
  - (a) a vehicle licence is produced in accordance with instructions specified in the immobilisation notice, and the licence is one which is in force for the vehicle concerned at the time the licence is produced, or
  - (b) where such a licence is not produced, such sum as may be prescribed is paid in any manner specified in the immobilisation notice.
- (7) The regulations may provide that they shall not apply in relation to a vehicle if—
  - (a) a current disabled person’s badge is displayed on the vehicle, or
  - (b) such other conditions as may be prescribed are fulfilled;
 and “disabled person’s badge” here means a badge issued, or having effect as if issued, under any regulations for the time being in force under section 21 of the Chronically Sick and Disabled Persons Act 1970 or any regulations for the <sup>M18</sup>time being in force under section 14 of the <sup>M19</sup>Chronically Sick and Disabled Persons (Northern Ireland) Act 1978.
- (8) The regulations may provide that an immobilisation notice shall not be removed or interfered with except by or on the authority of a person falling within a prescribed description.

*Offences connected with immobilisation*

- 2 (1) The regulations may provide that a person contravening provision made under paragraph 1(8) is guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (2) The regulations may provide that a person who, without being authorised to do so in accordance with provision made under paragraph 1, removes or attempts to remove an immobilisation device fixed to a vehicle in accordance with the regulations is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (3) The regulations may provide that where they would apply in relation to a vehicle but for provision made under paragraph 1(7)(a) and the vehicle was not, at the time it was stationary, being used—
  - (a) in accordance with regulations under section 21 of the <sup>M20</sup>Chronically Sick and Disabled Persons Act 1970 or regulations under section 14 of the <sup>M21</sup>Chronically Sick and Disabled Persons (Northern Ireland) Act 1978, and
  - (b) in circumstances falling within section 117(1)(b) of the <sup>M22</sup>Road Traffic Regulation Act 1984 or Article 174A(2)(b) of the <sup>M23</sup>Road Traffic (Northern Ireland) Order 1981 (use where a disabled person’s concession would be available),



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the person in charge of the vehicle at that time is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

- (4) The regulations may provide that where—
- (a) a person makes a declaration with a view to securing the release of a vehicle from an immobilisation device purported to have been fixed in accordance with the regulations,
  - (b) the declaration is that the vehicle is or was an exempt vehicle, and
  - (c) the declaration is to the person's knowledge either false or in any material respect misleading,
- he is guilty of an offence.
- (5) The regulations may provide that a person guilty of an offence by virtue of provision made under sub-paragraph (4) is 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 two years or to a fine or (except in Scotland) to both.

#### *Removal and disposal of vehicles*

- 3 (1) The regulations may make provision as regards a case where—
- (a) an immobilisation device is fixed to a vehicle in accordance with the regulations, and
  - (b) such conditions as may be prescribed are fulfilled.
- (2) The regulations may provide that an authorised person, or a person acting under the direction of an authorised person, may remove the vehicle and deliver it into the custody of a person—
- (a) who is identified in accordance with prescribed rules, and
  - (b) who agrees to accept delivery in accordance with arrangements agreed between that person and the Secretary of State;
- and the arrangements may include provision as to the payment of a sum to the person into whose custody the vehicle is delivered.
- (3) The regulations may provide that the person into whose custody the vehicle is delivered may dispose of it, and in particular provision may be made as to—
- (a) the time at which the vehicle may be disposed of;
  - (b) the manner in which it may be disposed of.
- (4) The regulations may make provision allowing a person to take possession of the vehicle if—
- (a) he claims it before it is disposed of, and
  - (b) any prescribed conditions are fulfilled.
- (5) The regulations may provide for a sum of an amount arrived at under prescribed rules to be paid to a person if—
- (a) he claims after the vehicle's disposal to be or to have been its owner,
  - (b) the claim is made within a prescribed time of the disposal, and

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- (c) any other prescribed conditions are fulfilled.
- (6) The regulations may provide that—
- (a) the Secretary of State, or
  - (b) a person into whose custody the vehicle is delivered under the regulations,
- may recover from the vehicle's owner (whether or not a claim is made under provision made under sub-paragraph (4) or (5)) such charges as may be prescribed in respect of all or any of the following, namely, its release, removal, custody and disposal; and "owner" here means the person who was the owner when the immobilisation device was fixed.
- (7) The conditions prescribed under sub-paragraph (4) may include conditions as to—
- (a) satisfying the person with custody that the claimant is the vehicle's owner;
  - (b) the payment of prescribed charges in respect of the vehicle's release, removal and custody;
  - (c) the production of a vehicle licence;
  - (d) payment of a prescribed sum where a vehicle licence is not produced.
- (8) Without prejudice to anything in the preceding provisions of this paragraph, the regulations may include provision for purposes corresponding to those of sections 101 and 102 of the <sup>M24</sup>Road Traffic Regulation Act 1984 (disposal and charges) subject to such additions, omissions or other modifications as the Secretary of State thinks fit.

*Offences as to securing possession of vehicles*

- 4 (1) The regulations may provide that where—
- (a) a person makes a declaration with a view to securing possession of a vehicle purported to have been delivered into the custody of a person in accordance with provision made under paragraph 3,
  - (b) the declaration is that the vehicle is or was an exempt vehicle, and
  - (c) the declaration is to the person's knowledge either false or in any material respect misleading,
- he is guilty of an offence.
- (2) The regulations may provide that a person guilty of such an offence is 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 two years or to a fine or (except in Scotland) to both.

*Payment of sum where licence not produced*

- 5 (1) The regulations may make provision as regards a case where a person pays a prescribed sum in pursuance of provision made under—
- (a) paragraph 1(6)(b), or

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- (b) paragraph 3(7)(d).
- (2) The regulations may—
  - (a) provide for a voucher to be issued in respect of the sum;
  - (b) provide for setting the sum against the amount of any vehicle excise duty payable in respect of the vehicle concerned;
  - (c) provide for the refund of any sum;
  - (d) provide that where a voucher has been issued section 29(1) and any other prescribed provision of this Act shall not apply, as regards the vehicle concerned, in relation to events occurring in a prescribed period.
- (3) The regulations may make provision—
  - (a) as to the information to be provided before a voucher is issued;
  - (b) as to the contents of vouchers;
  - (c) specifying conditions subject to which any provision under sub-paragraph (2)(b) to (d) is to have effect.
- (4) The regulations may make provision as to any case where a voucher is issued on receipt of a cheque which is subsequently dishonoured, and in particular the regulations may—
  - (a) provide for a voucher to be void;
  - (b) provide that, where the sum concerned is set against the amount of any vehicle excise duty, the licence concerned shall be void;
  - (c) make provision under which a person is required to deliver up a void voucher or void licence.

#### *Offences relating to vouchers*

- 6 (1) The regulations may provide that—
  - (a) a person is guilty of an offence if within such reasonable period as is found in accordance with prescribed rules he fails to deliver up a voucher that is void by virtue of provision made under paragraph 5(4);
  - (b) a person guilty of such an offence shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (2) The regulations may provide that a person is guilty of an offence if within such reasonable period as is found in accordance with prescribed rules he fails to deliver up a licence that is void by virtue of provision made under paragraph 5(4), and that a person guilty of such an offence shall be liable on summary conviction to a penalty of whichever is the greater of—
  - (a) level 3 on the standard scale;
  - (b) an amount equal to five times the annual rate of duty that was payable on the grant of the licence or would have been so payable if it had been taken out for a period of twelve months.
- (3) The regulations may provide that where a person is convicted of an offence under provision made by virtue of sub-paragraph (2) he must pay, in addition to any penalty, an amount found in accordance with prescribed rules.
- (4) The regulations may provide that if—

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- (a) a voucher is void by virtue of provision made under paragraph 5(4),
  - (b) a person seeks to set the sum concerned against the amount of any vehicle excise duty, and
  - (c) he knows the voucher is void,
- he is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (5) The regulations may provide that a person who in connection with—
- (a) obtaining a voucher for which provision is made under paragraph 5, or
  - (b) obtaining a refund of any sum in respect of which such a voucher is issued,
- makes a declaration which to his knowledge is either false or in any material respect misleading is guilty of an offence.
- (6) The regulations may provide that a person is guilty of an offence if he forges, fraudulently alters, fraudulently uses, fraudulently lends or fraudulently allows to be used by another person a voucher for which provision is made under paragraph 5.
- (7) The regulations may provide that a person guilty of an offence under provision made under sub-paragraph (5) or (6) is 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 two years or to a fine or (except in Scotland) to both.

#### *Vouchers: general*

- 7 Without prejudice to anything in paragraphs 5(4) and 6 the regulations may include provision for purposes corresponding to those of sections 19A and 36 subject to such additions, omissions or other modifications as the Secretary of State thinks fit.

#### *Disputes*

- 8 The regulations may make provision about the proceedings to be followed where a dispute occurs as a result of the regulations, and in particular provision may be made—
- (a) for an application to be made to a magistrates' court or (in Northern Ireland) a court of summary jurisdiction;
  - (b) for a court to order a sum to be paid by the Secretary of State.

#### *Authorised persons*

- 9 As regards anything falling to be done under the regulations (such as receiving payment of a charge or other sum or issuing a voucher) the regulations may provide that it may be done—
- (a) by an authorised person, or
  - (b) by an authorised person or a person acting under his direction.

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#### *Application of provisions*

- 10 (1) The regulations may provide that they shall only apply where the authorised person has reason to believe that the offence mentioned in paragraph 1(1) is being committed before such date as may be prescribed.
- (2) The regulations may provide that they shall only apply where the vehicle mentioned in paragraph 1(1) is in a prescribed area.
- (3) Different dates may be prescribed under paragraph 1(1) or sub-paragraph (1) above in relation to different areas prescribed under sub-paragraph (2) above.

#### *Interpretation*

- 11 (1) The regulations may make provision as to the meaning for the purposes of the regulations of “owner” as regards a vehicle.
- (2) In particular, the regulations may provide that for the purposes of the regulations—
  - (a) the owner of a vehicle at a particular time shall be taken to be the person by whom it is then kept;
  - (b) the person by whom a vehicle is kept at a particular time shall be taken to be the person in whose name it is then registered by virtue of this Act.
- 12 (1) The regulations may make provision as to the meaning in the regulations of “authorised person”.
- (2) In particular, the regulations may provide that—
  - (a) references to an authorised person are to a person authorised by the Secretary of State for the purposes of the regulations;
  - (b) an authorised person may be a local authority or an employee of a local authority or a member of a police force or some other person;
  - (c) different persons may be authorised for the purposes of different provisions of the regulations.
- 13 In this Schedule—
  - (a) references to an immobilisation device are to a device or appliance which is an immobilisation device for the purposes of section 104 of the <sup>M25</sup>Road Traffic Regulation Act 1984 (immobilisation of vehicles illegally parked);
  - (b) references to an immobilisation notice are to a notice fixed to a vehicle in accordance with the regulations;
  - (c) “prescribed” means prescribed by regulations made under this Schedule.”

#### **Marginal Citations**

**M18** 1970 c. 44.

**M19** 1978 c. 53.

**M20** 1970 c. 44.

**M21** 1978 c. 53.

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- M22** 1984 c. 27.
- M23** S.I. 1981/154 (N.I.1).
- M24** 1984 c. 27.
- M25** 1984 c. 27.

- 37 (1) In section 37(2) of the 1994 Act (penalty where duty at higher rate is not paid) the following shall be omitted—
- (a) the words “(or, in Scotland, on indictment or on summary conviction)”, and
  - (b) the words “(or, in Scotland, the statutory maximum)”.
- (2) In section 41(1)(b) of the 1994 Act (order in Scotland in case of offence under section 37) the words “182 or” and “183 or” shall be omitted.
- (3) This paragraph shall apply in relation to proceedings begun after the day on which this Act is passed.

**PART VIII**

PROCEEDINGS

<sup>F2</sup>38 .....

**Textual Amendments**

**F2** Sch. 4 para. 38 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

**PART IX**

TRANSITIONALS

*Higher rate not to apply*

- 39 (1) This paragraph applies where a vehicle licence is taken out—
- (a) before 1st July 1995, and
  - (b) at the rate applicable (at the time it is taken out) under Schedule 1 to the 1994 Act or any provision re-enacted in that Schedule.
- (2) While the licence is in force duty shall not, by virtue of any provision contained in Part III or IV of this Schedule other than paragraph 16(2) above, become chargeable under section 15 of the 1994 Act (vehicle used in manner attracting higher rate).

*Regulations*

- 40 (1) This paragraph applies where regulations to determine the seating capacity of a hackney carriage are made, or have effect as if made, under sub-paragraph (2) of paragraph 3 of Schedule 1 to the 1994 Act (as that paragraph has effect apart from the substitution made by paragraph 8 above).

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- (2) The regulations shall have effect as if made under sub-paragraph (5) of paragraph 3 of that Schedule (as substituted by paragraph 8 above) to determine the seating capacity of a vehicle.
- (3) This paragraph shall apply in relation to licences taken out on or after 1st July 1995.

## PART X

### SPECIAL RELIEFS

#### *Relief where exemption abolished*

- 41 (1) This paragraph applies where—
  - (a) a vehicle licence is taken out for a vehicle on or after 1st July 1995 and before 1st July 1996,
  - (b) the licence is the first vehicle licence to be taken out for the vehicle on or after 1st July 1995,
  - (c) the vehicle would be an exempt vehicle apart from paragraph 2 above, and
  - (d) the amount of vehicle excise duty to be paid on the licence would (apart from this paragraph) exceed £1,000.
- (2) In such a case the amount of vehicle excise duty to be paid on the licence shall be £1,000.
- (3) This paragraph shall be construed in accordance with the 1994 Act.

#### *Relief where vehicle changes category*

- 42 (1) This paragraph applies where paragraph 41 above does not apply and—
  - (a) a vehicle licence is taken out for a vehicle on or after 1st July 1995 and before 1st July 1996,
  - (b) the licence is the first vehicle licence to be taken out for the vehicle on or after 1st July 1995,
  - (c) apart from Part III of this Schedule, the annual rate of vehicle excise duty applicable to the vehicle would be found under any of the provisions falling within sub-paragraph (3) below, and
  - (d) the new amount of duty exceeds the old amount of duty by more than £1,000.
- (2) In such a case the amount of vehicle excise duty to be paid on the licence shall be an amount equal to £1,000 plus the old amount of duty.
- (3) The provisions falling within this sub-paragraph are—
  - (a) paragraph 8(1) and (2)(b) of Schedule 1 to the 1994 Act;
  - (b) paragraph 8(1) and (2)(c) of that Schedule;
  - (c) paragraph 8(1) and (2)(d) of that Schedule;
  - (d) paragraph 12(2) of that Schedule;
  - (e) paragraph 12(3) to (5) of that Schedule.
- (4) For the purposes of this paragraph—
  - (a) the new amount of duty is the amount of vehicle excise duty payable on the licence apart from this paragraph;

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(b) the old amount of duty is the amount of vehicle excise duty that would be payable on the licence if Part III of this Schedule had not been enacted.

(5) This paragraph shall be construed in accordance with the 1994 Act.

## SCHEDULE 5

Section 34.

### INSURANCE PREMIUM TAX

1 Part III of the <sup>M26</sup>Finance Act 1994 (insurance premium tax) shall be amended as provided by this Schedule.

#### Marginal Citations

M26 1994 c. 9.

2 (1) Section 53 (registration of insurers) shall be amended as follows.

(2) In subsection (5) (Commissioners to cancel registration of person who ceases to receive premiums)—

- (a) the word “ and ” shall be inserted after paragraph (a);
- (b) paragraph (c) (person to satisfy Commissioners that no tax is unpaid) and the word “and” immediately preceding it shall be omitted.

(3) The following subsection shall be inserted after subsection (5)—

“(5A) In a case where—

- (a) the Commissioners are satisfied that a person has ceased to receive, as insurer, premiums in the course of any taxable business, but
  - (b) he has not notified them under subsection (3) above,
- they may cancel his registration with effect from the earliest practicable time after he so ceased.”

(4) Sub-paragraph (2) above shall apply in relation to notifications made under section 53(3) on or after the day on which this Act is passed.

3 Section 53 shall be further amended by inserting the following subsection after subsection (1)—

“(1A) The register kept under this section may contain such information as the Commissioners think is required for the purposes of the care and management of the tax.”

4 The following section shall be inserted after section 53—

#### “53A Information required to keep register up to date.

(1) Regulations may make provision requiring a registrable person to notify the Commissioners of particulars which—

- (a) are of changes in circumstances relating to the registrable person or any business carried on by him,



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- (b) appear to the Commissioners to be required for the purpose of keeping the register kept under section 53 above up to date, and
    - (c) are of a prescribed description.
  - (2) Regulations may make provision—
    - (a) as to the time within which a notification is to be made;
    - (b) as to the form and manner in which a notification is to be made;
    - (c) requiring a person who has made a notification to notify the Commissioners if any information contained in it is inaccurate.”
- 5 (1) Section 59 (review of Commissioners’ decisions) shall be amended as follows.
  - (2) In subsection (1)(d) (review of decision with respect to assessment) for the words “under section 56 above” there shall be substituted “ falling within subsection (1A) below ”.
  - (3) The following subsection shall be inserted after subsection (1)—
    - “(1A) An assessment falls within this subsection if it is an assessment under section 56 above in respect of an accounting period in relation to which a return required to be made by virtue of regulations under section 54 above has been made.”
  - (4) This paragraph shall apply in relation to assessments made on or after the day on which this Act is passed.
- 6 In section 73(1) (interpretation) after the entry relating to “conduct” there shall be inserted—
  - ““insurance business” means a business which consists of or includes the provision of insurance;”.
- 7 (1) In Schedule 7 (information, powers, etc.) paragraphs 2(1) to (3) and 3(1) to (3) (duty to furnish information and produce documents) shall be amended as follows—
  - (a) for the words “a taxable business” (in each place where they occur) there shall be substituted “ an insurance business ”;
  - (b) for the words “taxable insurance contracts” (in each place where they occur) there shall be substituted “ contracts of insurance ”;
  - (c) for the words “taxable insurance contract” (in each place where they occur) there shall be substituted “ contract of insurance. ”.
- (2) This paragraph shall apply in relation to contracts whether entered into before or after the passing of this Act.
- 8 (1) In Schedule 7 the following shall be inserted after paragraph 4—

*“ Order for access to recorded information etc.*

- 4A (1) Where, on an application by an authorised person, a justice of the peace or, in Scotland, a justice (within the meaning of section 462 of the <sup>M27</sup>Criminal Procedure (Scotland) Act 1975) is satisfied that there are reasonable grounds for believing—
  - (a) that an offence in connection with tax is being, has been or is about to be committed, and

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- (b) that any recorded information (including any document of any nature whatsoever) which may be required as evidence for the purpose of any proceedings in respect of such an offence is in the possession of any person,  
he may make an order under this paragraph.
- (2) An order under this paragraph is an order that the person who appears to the justice to be in possession of the recorded information to which the application relates shall—
- (a) give an authorised person access to it, and
- (b) permit an authorised person to remove and take away any of it which he reasonably considers necessary,  
not later than the end of the period of 7 days beginning on the date of the order or the end of such longer period as the order may specify.
- (3) The reference in sub-paragraph (2)(a) above to giving an authorised person access to the recorded information to which the application relates includes a reference to permitting the authorised person to take copies of it or to make extracts from it.
- (4) Where the recorded information consists of information contained in a computer, an order under this paragraph shall have effect as an order to produce the information in a form in which it is visible and legible and, if the authorised person wishes to remove it, in a form in which it can be removed.
- (5) This paragraph is without prejudice to paragraphs 3 and 4 above.”
- (2) In paragraph 5(1) of Schedule 7 (duty to provide record of anything removed in exercise of power) after the words “paragraph 4” there shall be inserted “ or 4A ”.

#### Marginal Citations

M27 1975 c. 21.

F39

#### Textual Amendments

F3 Sch. 5 para. 9 repealed (1.7.1997) by 1997 c. 16, s. 113, Sch. 18 Pt. V(2) Note; S.I. 1997/1433, art. 2

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## SCHEDULE 6

Section 39.

### AMENDMENTS IN CONNECTION WITH CHARGE UNDER SCHEDULE A

#### *The Taxes Act 1988*

- 1 Subsection (2) of section 15 of the Taxes Act 1988 (election under paragraph 4 of Schedule A) shall cease to have effect except for the purpose of being applied by virtue of section 9 of that Act for the purposes of corporation tax.
- 2 In section 18(3) of that Act (Cases under Schedule D), in Case I, at the end there shall be inserted “ but not contained in Schedule A ”.
- 3 Sections 22 and 23 of that Act (assessments to income tax under Schedule A and collection from lessees and agents) shall cease to have effect.
- 4 The following provisions of Part II of that Act shall cease to have effect except for the purpose of being applied by virtue of section 9 of that Act for the purposes of corporation tax, that is to say—
  - (a) sections 25 and 28(deductions from rent);
  - (b) section 29(sporting rights);
  - (c) section 31(supplementary provisions);
  - (d) section 33 (allowance for excess expenditure in relation to agricultural land);
  - (e) sections 33A and 33B(rents and receipts received by connected persons and payments made by connected persons);
  - (f) subsection (5) of section 40 (application of Schedule A rules as to receipts and outgoings on sale of land); and
  - (g) section 41(relief for rent not paid).
- 5 (1) Section 26 of that Act (land managed as one estate), except where it is applied for the purposes of corporation tax, shall have effect with the following modifications.
  - (2) Subsection (1) shall have effect as if—
    - (a) in paragraph (a), the words “at a full rent (not being a tenant’s repairing lease)” were omitted; and
    - (b) for the words from “not being” in paragraph (b) to the end of the subsection there were substituted “ as if the rent, so far as it relates to that part and would otherwise be treated as being at a lower rate, were at a rate per annum equal to the relevant annual value. ”
  - (3) Subsection (2) shall have effect as if paragraph (a) were omitted.
  - (4) The following subsection shall be deemed to be inserted after subsection (2)—

“(2A) Where subsection (1) above applies, the following rules shall apply in computing the profits or gains on which the owner is charged under Schedule A—

    - (a) disbursements and expenses relating to any of that part of the estate which comprises land the rent in respect of which is determined

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- under that subsection (“the relevant part of the estate”) shall not be deductible from any receipts which are not so determined except to the extent that—
- (i) the amount of the disbursements and expenses exceeds the amount of the rent so determined; and
  - (ii) the receipts against which the remainder is set are receipts in respect of land comprised in the estate;
- (b) any excess for any chargeable period of the disbursements and expenses relating to the relevant part of the estate (including any excess carried forward under this paragraph) over the receipts for that period from which they are deductible in accordance with paragraph (a) above—
- (i) shall be disregarded in computing any loss in respect of which relief may be given under section 379A, but
  - (ii) may be carried forward to the following chargeable period and treated in relation to the later period as if it were a disbursement or expense relating to the relevant part of the estate;
- (c) disbursements and expenses relating to any land not comprised in the relevant part of the estate shall be deductible from the deemed receipts in respect of the land which is so comprised to the extent only that the deemed receipts exceed the aggregate of—
- (i) the actual disbursements and expenses for that period relating to the relevant part of the estate, and
  - (ii) any amounts carried forward to that period under paragraph (b) above;
- and
- (d) any excess of the disbursements and expenses for that period relating to land not comprised in the relevant part of the estate over the amounts from which they are deductible shall be treated for the purposes of section 379A as a loss for that period in the Schedule A business in question.”
- 6 (1) Subsection (3)(a) of section 27 of that Act (maintenance funds for historic buildings), except where it is applied for the purposes of corporation tax, shall be construed subject to subsection (2A) of section 26 (as deemed to be inserted by paragraph 5 above) and shall have effect as if—
- (a) in the words before sub-paragraph (i), for “rents” there were substituted “receipts”;
  - (b) in sub-paragraph (i), for the words from “payments” to “section 25” there were substituted “disbursements or expenses of the trustees of the settlement which relate to the other part of the estate and which would be so deductible”; and
  - (c) for sub-paragraph (ii) there were substituted the following sub-paragraph—
    - “(ii) any disbursements or expenses of the owner of the other part of the estate to the extent to which they cannot be deducted by him in the chargeable period in which they are incurred because of an insufficiency of any receipts for that period from

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which they are deductible apart from this sub-paragraph.”

- (2) Subsection (3)(b) of that section shall have effect, except where it is so applied, as if for “under section 33” there were substituted “ by virtue of section 379A(2)(b) ”.

7 Section 30(1) of that Act (expenditure on sea walls), except where it is applied for the purposes of corporation tax, shall have effect as if—

- (a) for “for the purposes of sections 25, 28 and 31” there were substituted “ for the purpose of computing the profits or gains, or losses, of any Schedule A business carried on in relation to those premises ”; and  
(b) for “in respect of dilapidation attributable to the year” there were substituted “ as an expense of the business for that year ”.

F48 .....

**Textual Amendments**

**F4** Sch. 6 para. 8 repealed (19.3.1997 with effect as mentioned in s. 85, Sch. 15 para. 9(1) of the amending Act) by 1997 c. 16, s. 113, Sch. 18 Pt. VI(11) Note

9 (1) Section 34 of that Act (premiums), except where it is applied for the purposes of corporation tax, shall have effect with the following modifications.

- (2) Subsection (3) shall have effect as if for the words from “from the rent” onwards there were substituted “ as an expense of any Schedule A business carried on by the landlord ”.  
(3) Subsection (4) shall have effect as if in paragraph (a), for the words from “in computing” to “in lieu of rent” there were substituted “ in computing the profits or gains, or losses, of the Schedule A business of which the sum payable in lieu of rent is by virtue of this subsection to be treated as a receipt ”.  
(4) Subsection (5) shall have effect as if in paragraph (a), for “tax chargeable by virtue of this subsection” there were substituted “ the profits or gains, or losses, of the Schedule A business of which that sum is by virtue of this subsection to be treated as a receipt ”.  
(5) Subsection (6) shall have effect as if for the words from “no charge” onwards there were substituted “ no amount shall fall under that subsection to be treated as a receipt of any Schedule A business carried on by the landlord; but that other person shall be taken to have received as income an amount equal to the amount which would otherwise fall to be treated as rent and to be chargeable to tax as if he had received it in consequence of having, on his own account, entered into a transaction falling to be treated as mentioned in paragraph 1(2) of Schedule A. ”

10 Section 35(2) of that Act (charge on assignment of lease granted at an undervalue), except where it is applied for the purposes of corporation tax, shall have effect as if for the words from “treated as profits or gains” onwards there were substituted “ deemed to have been received as income by the assignor and to have been received

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by him in consequence of his having entered into a transaction falling to be treated as mentioned in paragraph 1(2) of Schedule A. ”

- 11 Section 36(1) of that Act (charge on sale of land with a right to a reconveyance), except where it is applied for the purposes of corporation tax, shall have effect as if—
- (a) for “the vendor shall be chargeable to tax under Case VI of Schedule D on” there were substituted “ the following amount shall be deemed to have been received as income by the vendor and to have been received by him in consequence of his having entered into a transaction falling to be treated as mentioned in paragraph 1(2) of Schedule A, that is to say ”; and
  - (b) for “on that excess” there were substituted “ the amount of the excess ”.
- 12 (1) Section 37 of that Act (deductions from premiums and rents received), except where it is applied for the purposes of corporation tax, shall have effect with the following modifications.
- (2) Subsection (1) shall have effect as if for paragraphs (a) and (b) there were substituted the following paragraphs—
- “(a) any amount falls to be treated as a receipt of a Schedule A business by virtue of section 34 or 35; or
  - (b) any amount would fall to be so treated but for the operation of subsection (2) or (3) below;”.
- (3) Subsection (2) shall have effect as if—
- (a) in paragraph (b), for the words from “be” to “any amount” there were substituted “ be treated by virtue of section 34 or 35 as receiving any amount as income in the course of carrying on a Schedule A business ”; and
  - (b) for “on which he is so chargeable” there were substituted “ which he shall be treated as having so received ”.
- (4) Subsection (3) shall have effect as if—
- (a) for “chargeable under section 34 or 35” there were substituted “ treated by virtue of section 34 or 35 as having received any amount as income in the course of carrying on a Schedule A business and falls to be so treated ”; and
  - (b) for “on which he is so chargeable” there were substituted “ which he shall be treated as having so received ”.
- (5) Subsection (4) shall have effect as if for the words from “purposes” to “other premises” there were substituted “ purpose, in computing the profits or gains, or losses, of a Schedule A business, of making deductions in respect of the disbursements and expenses of that business ”.
- 13 In subsection (6) of section 82 of that Act (rules as to interest paid to non-residents not to apply for the purposes of corporation tax), at the end there shall be inserted “ and shall be treated as excluded from the provisions that have effect by virtue of section 21(3) for the computation of the profits or gains, or losses, of a Schedule A business. ”

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- 14 (1) Subsection (1) of section 87 of that Act (taxable premiums), except where it is applied for the purposes of corporation tax, shall have effect as if for paragraphs (a) and (b) there were substituted the following paragraphs—
- “(a) any amount falls to be treated as a receipt of a Schedule A business by virtue of section 34 or 35; or
  - (b) any amount would fall to be so treated but for the operation of section 37(2) or (3);”.

- (2) After subsection (9) of that section there shall be inserted the following subsection—

“(10) This section shall not apply for the computation in accordance with section 21(3) of the amount of any profits or gains to be charged to tax under Schedule A.”

- 15 In section 96(11) of that Act (relief for fluctuating profits of farming or market gardening not to apply for corporation tax purposes), after “corporation tax” there shall be inserted “ or to any profits or gains chargeable to income tax under Schedule A. ”

- 16 (1) In subsection (5) of section 98 of that Act (tied premises)—
- (a) in paragraph (a), for “in respect of the rent” there shall be substituted “ to tax chargeable under that Schedule ”; and
  - (b) in paragraph (b), for “his total liability (so computed) in respect of the rent” there shall be substituted “ the liability so computed ”.

- (2) After subsection (8) of that section there shall be inserted the following subsection—

“(9) The references in this section to a trade shall not by virtue of section 21(3) have effect, for the purposes of the computation of profits or gains chargeable to tax under Schedule A, as including a Schedule A business.”

- 17 In section 368(3) and (4) of that Act (exclusion of double relief for interest), after “for the purposes of”, in each case, there shall be inserted “ Schedule A or ”.

- 18 After section 375 of that Act there shall be inserted the following section—

**“375A Option to deduct interest for the purposes of Schedule A.**

- (1) If an individual who is a qualifying borrower with respect to any interest on a loan which is relevant loan interest—
- (a) is carrying on or proposing to carry on a Schedule A business, and
  - (b) gives notice to the Board that deductions are to be made in respect of payments of interest on that loan in computing the profits or gains of that business,

then (subject to the following provisions of this section) section 369 shall not apply to any payment of interest on that loan which becomes due or is made on or after such date as may be specified for the purposes of this subsection in the notice.

- (2) A notice specifying a date for the purposes of subsection (1) above—

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- (a) may be given at any time before the end of the period of twenty-two months beginning with the end of the year of assessment in which that date falls, but
  - (b) once given, shall not be withdrawn.
- (3) Where notice is given to the Board under subsection (1) above, the Board shall give notice to the lender and the borrower specifying a date, not being a date before either—
- (a) the date specified for the purposes of that subsection, or
  - (b) the date on which the notice under this subsection is given to the lender,
- as the date on or after which payments of interest on the loan are to be treated in relation to the lender as payments of interest to which section 369 does not apply.
- (4) Subsections (2) and (3) of section 375 shall have effect in relation to any period between—
- (a) the beginning of any date specified for the purposes of subsection (1) above, and
  - (b) the date specified in that case in the notice given under subsection (3) above,
- as they apply, in the case of any relevant loan interest, in relation to the period between the time when the borrower ceases to be a qualifying borrower and the date on which he gives notice of that fact to the lender.
- (5) Where a notice under subsection (1) above has taken effect in relation to payments of interest on any loan, section 369 shall not again apply to payments of interest on that loan except where they become due after such time as may be specified in a further notice given by the Board for the purposes of this subsection to the lender and the borrower.
- (6) A notice under subsection (5) above shall not specify a time for the purposes of that subsection which falls before the time when the Schedule A business in question is permanently discontinued or, as the case may be, when the proposal to carry it on is finally abandoned.”
- 19 (1) In Chapter I of Part X of that Act (loss relief for the purposes of income tax), before section 380, there shall be inserted the following section—

*“ Schedule A losses*

**379A Schedule A losses.**

- (1) Subject to the following provisions of this section, where for any year of assessment any person sustains any loss in a Schedule A business carried on by him either solely or in partnership—
- (a) the loss shall be carried forward to the following year of assessment and, to the extent that it does not exceed them, set against any profits or gains of that business for the year to which it is carried forward; and
  - (b) where there are no profits or gains for the following year or the profits or gains for that year are exceeded by the amount of the loss,



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the loss or, as the case may be, the remainder of it shall be so carried forward to the next following year, and so on.

(2) Subsection (3) below shall apply where a loss is sustained in a Schedule A business for any year of assessment (“the year of the loss”) and one or both of the following conditions is satisfied, that is to say—

- (a) the amount of the relevant capital allowances treated as expenses of that business in computing that loss exceeds, by any amount (“the net capital allowances”), the amount of any charges under the 1990 Act which are treated as receipts of that business in computing that loss;
- (b) the Schedule A business has been carried on in relation to land that consists of or includes an agricultural estate to which allowable agricultural expenses deducted in computing that loss are attributable;

and the relevant capital allowances for the purposes of this subsection are allowances under the 1990 Act other than the whole or, as the case may be, a proportionate part of any allowances made in accordance with section 32(1B) of this Act in respect of expenditure on the provision of machinery or plant which is let, for the whole or a part of the year in question, to a person who does not use it or uses it for purposes other than those of a trade.

(3) Where the person carrying on the Schedule A business in a case to which this subsection applies makes a claim, in relation to the year of the loss or the year following that year, for relief under this subsection in respect of the loss—

- (a) relief from income tax may be given, for the year to which the claim relates, on an amount of that person’s income for that year which is equal to the amount of relief available for that year in respect of the loss; and
- (b) the loss which is to be or has been carried forward under subsection (1) above shall be treated as reduced (if necessary to nil) by an amount equal to the amount on which relief is given;

but a claim for relief under this subsection shall not be made after the end of twelve months from the 31st January next following the end of the year to which it relates and shall be accompanied by all such amendments as may be required by virtue of paragraph (b) above of any self-assessment previously made by the claimant under section 9 of the Management Act.

(4) Subject to subsection (5) below, the reference in subsection (3) above to the amount of the relief available for any year in respect of a loss is a reference to whichever is the smallest of the following amounts, that is to say—

- (a) the amount of the relievable income for the year to which the claim relates;
- (b) the loss sustained in the Schedule A business in the year of the loss; and
- (c) the amount which, according to whether one or both of the conditions mentioned in subsection (2) above is satisfied in relation to the year of the loss, is equal—
  - (i) to the net capital allowances,
  - (ii) to the amount of the allowable agricultural expenses for the year of the loss, or

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- (iii) to the sum of the net capital allowances and the amount of those expenses.
- (5) Where relief under subsection (3) above is given in respect of a loss in relation to either of the years in relation to which relief may be claimed in respect of that loss, relief shall not be available in respect of the same loss for the other year except, in a case where the relief already given is of an amount determined in accordance with subsection (4)(a) above, to the extent that the smaller of the amounts applicable by virtue of subsection (4)(b) and (c) above exceeds the amount of relief already given.
- (6) For the purposes of subsection (4)(a) above the amount of relievable income for any year, in relation to any person, shall be equal to the amount of his income for that year—
- (a) after effect has been given to subsection (1) above in relation to any amount carried forward to that year in respect of a loss sustained in any year before the year of the loss, and
  - (b) in the case of a claim under subsection (3) above in relation to the year of the loss, after effect has been given to any claim under that subsection in respect of a loss sustained in the preceding year.
- (7) For the purposes of this section the loss sustained in any Schedule A business shall be computed in like manner as the profits or gains arising or accruing from such a business are computed under the provisions of the Income Tax Acts applicable to Schedule A.
- (8) In this section “allowable agricultural expenses”, in relation to an agricultural estate, means any disbursements or expenses attributable to the estate which are deductible in respect of maintenance, repairs, insurance or management of the estate and otherwise than in respect of the interest payable on any loan.
- (9) For the purposes of this section the amount of any disbursements or expenses attributable to an agricultural estate shall be determined as if—
- (a) disbursements and expenses were to be disregarded to the extent that they would not have been attributable to the estate if it did not include the parts of it used wholly for purposes other than purposes of husbandry, and
  - (b) disbursements and expenses in respect of parts of the estate used partly for purposes of husbandry and partly for other purposes were to be reduced to an extent corresponding to the extent to which those parts were used for other purposes.
- (10) In this section—
- “agricultural estate” means any land (including any houses or other buildings) which is managed as one estate and which consists of or includes any agricultural land; and
- “agricultural land” means land, houses or other buildings in the United Kingdom occupied wholly or mainly for the purposes of husbandry.”
- (2) Where apart from this Act any person who carries on a Schedule A business in the year 1995-96 would have been entitled—

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- (a) by virtue of Part II of the Taxes Act 1988, to deduct any amount that became due before the beginning of that year from rent received in that year, being rent which is in fact brought into account in computing the profits or gains of that business, or
- (b) by virtue of section 392 of that Act, to carry forward to that year the amount of any portion of a loss sustained in any transaction, being a transaction of such a nature that if it occurred in that year it would be treated as a transaction in the course of that Schedule A business,

that amount shall be treated for the purposes of income tax as if it were a loss falling, in accordance with section 379A(1) of that Act, to be carried forward from the previous year to the year 1995-96 and (in so far as not used in giving relief for that year) to subsequent years.

(3) Where—

- (a) any person carrying on a Schedule A business in the year 1995-96 would, by virtue of section 355(4) of the Taxes Act 1988 (power to carry forward excess interest), have been entitled, in respect of an amount of interest representing an excess of interest over the income against which relief was available for any previous year, to be given relief against an equivalent amount of income for the year 1995-96 from the letting of any land, caravan or house-boat, and
- (b) that business relates to any land, caravan or house-boat in relation to which the condition specified in section 355(1)(b) of that Act would have been fulfilled for the year 1995-96,

that amount shall be treated for the purposes of income tax as if it were a loss falling, in accordance with section 379A(1) of that Act, to be carried forward from the previous year to the year 1995-96 and (in so far as not used in giving relief for that year) to subsequent years.

- (4) Section 379A(3) of that Act shall have effect for the purposes of the making of a claim in a case where the year to which the claim relates is the year 1995-96 as if the period for making such a claim ended two years after the end of that year.

20 In section 401 of that Act (relief for pre-trading expenditure), after subsection (1A) there shall be inserted the following subsection—

“(1B) Except for the purposes of corporation tax, subsection (1) above shall apply in relation to expenditure for the purposes of a Schedule A business as it applies in relation to expenditure for the purposes of a trade; and, accordingly, that subsection shall have effect in relation to expenditure for the purposes of a Schedule A business as if the reference to the computation of the profits or gains for the purposes of Case I or II of Schedule D were a reference to the computation of profits or gains for the purposes of Schedule A.”

21 (1) Section 503 of that Act (letting of furnished holiday accommodation), except so far as it applies for the purposes of corporation tax, shall have effect with the following modifications.

- (2) Subsection (1) shall have effect as if for “380 to 390, 393, 393A(1), 401” there were substituted “ 379A to 390 ” and as if the following paragraph were substituted for paragraph (a)—

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

- “(a) any Schedule A business, so far as it consists in the commercial letting of furnished holiday accommodation in the United Kingdom, shall be treated as a trade the profits or gains of which are chargeable to tax under Case I of Schedule D; and”.
- (3) The following subsection shall be deemed to be substituted for subsection (2)—
- “(2) In its application by virtue of subsection (1) above section 390 shall have effect as if the reference to the trade the profits of which are chargeable to tax under Case I or II of Schedule D were a reference to the Schedule A business so far as it is treated as a trade.”
- (4) Subsection (5) shall be deemed to be omitted.
- 22 In section 577(9) of that Act (exception in relation to business entertaining expenses for gifts to bodies established for charitable purposes), after “under” there shall be inserted “ Schedule A or ”.
- 23 Section 579 of that Act (statutory redundancy payments), except so far as it applies for the purposes of corporation tax, shall have effect as if the following subsection were substituted for subsection (4)—
- “(4) Where a redundancy payment or other employer’s payment is made in respect of employment wholly in a Schedule A business carried on by the employer—
- (a) the amount of the redundancy payment or the corresponding amount of the other employer’s payment shall (if not otherwise so allowable) be allowable as a deduction in computing for the purposes of Schedule A the profits or gains or losses of the business; but
- (b) if the employer’s payment was made after the discontinuance of the business, the net amount so deductible shall be treated as if it were a payment made on the last day on which the business was carried on.”
- 24 Section 588 of that Act (training courses for employees), except so far as it applies for the purposes of corporation tax, shall have effect as if the following subsection were inserted after subsection (4)—
- “(4A) Subsection (3) above shall have effect where the employee is or was employed for the purposes of a Schedule A business carried on by the employer as if the references to computing for the purposes of Schedule D the profits or gains of a trade, profession or vocation mentioned in that subsection were references to computing for the purposes of Schedule A the profits or gains of that business.”
- 25 Section 589A of that Act (counselling services for employees), except so far as it applies for the purposes of corporation tax, shall have effect as if the following subsection were inserted after subsection (9)—
- “(9A) Subsection (8) above shall have effect where the employee is or was employed for the purposes of a Schedule A business carried on by the

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employer as if the references to computing for the purposes of Schedule D the profits or gains of the trade, profession or vocation mentioned in that subsection were references to computing for the purposes of Schedule A the profits or gains of that business.”

26 In section 692(1) of that Act (reimbursement of settlor), for the words from “the profits” onwards there shall be substituted “ either the profits of a trade carried on by the settlor or the profits of a Schedule A business so carried on ”.

27 In section 779(13)(a) of that Act (definition of relevant tax relief for the purposes of anti-avoidance provisions), the words “allowable by virtue of sections 25, 26 and 28 to 31 and Schedule 1” shall be omitted.

28 In section 832(1) of that Act (interpretation of the Tax Acts), after the definition of “recognised clearing system” there shall be inserted the following definition—

““Schedule A business” means any business the profits or gains of which are chargeable to income tax under Schedule A, including the business in the course of which any transaction is by virtue of paragraph 1(2) of that Schedule to be treated as entered into;”.

*The Capital Allowances Act 1990 (c. 1)*

29 (1) In section 9 of the Capital Allowances Act 1990 (manner of making industrial buildings allowance), in subsection (1), for “mentioned in subsections (2) to (7) below” there shall be substituted “ where subsections (2) to (7) below apply ”.

(2) After that subsection there shall be inserted the following subsections—

“(1A) In the case of an allowance or charge made to or on a person whose interest in the building or structure is subject to a lease at the relevant time, subsection (1) above shall have effect for the purposes of income tax—

(a) as if any Schedule A business carried on by that person at any time in the chargeable period for which the allowance or charge is made were the trade in the taxing of which the allowance or charge were to be made; or

(b) where that person is not carrying on such a business at any time in that period, as if he were carrying on such a business and the business were the trade in the taxing of which the allowance or charge is to be made;

and this Act shall have effect in each case as if the Schedule A business which is deemed to be a trade for the purposes of this subsection were a trade set up and commenced on or after 6th April 1995.

(1B) In subsection (1A) above “the relevant time”—

(a) in relation to an initial allowance, means the time when the expenditure is incurred or any subsequent time before the building or structure is used for any purpose;

(b) in relation to a writing-down allowance, means the end of the chargeable period for which the allowance is made; and

(c) in relation to a balancing allowance or charge, means the time immediately before the event giving rise to the allowance or charge.”

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

(3) At the beginning of subsections (2), (3), (4) and (6) of that section there shall be inserted, in each case, the words “ For the purposes of corporation tax ”; and in subsection (6), paragraph (a) and, in paragraph (b), the words “ if it is a charge to corporation tax ” shall be omitted.

30 In subsection (2) of section 15 of that Act of 1990 (method of making allowances and charges in the case of buildings falling temporarily out of use), at the beginning there shall be inserted “For the purposes of corporation tax” and after that subsection there shall be inserted the following subsection—

“(2A) For the purposes of income tax any allowance or charge falling to be made to any person in respect of a building or structure during a period while the building or structure—

(a) is temporarily out of use, but

(b) is deemed by virtue of subsection (1) above still to be an industrial building or structure,

shall be made, in a case falling within subsection (2)(a) or (b) above, in accordance with section 9(1A) as if (where section 9(1A) does not otherwise apply) the building or structure were subject to a lease at the relevant time.”

F531 .....

**Textual Amendments**  
F5 Sch. 6 para. 31 repealed (19.3.1997 with effect as mentioned in s. 85, Sch. 15 para. 9(1) of the amending Act) by 1997 c. 16, s. 113, Sch. 18 Pt. VI(11) Note

32 In section 67(3) of that Act of 1990 (manner of making allowance in certain cases in respect of expenditure on thermal insulation), for “shall (notwithstanding section 73(2)), be available” there shall be substituted “ shall be made to any person for the purposes of income tax in accordance with section 32(1B) and (1C) of the principal Act and, for the purposes of corporation tax, shall be available (notwithstanding section 73(2)) ”.

F633 .....

**Textual Amendments**  
F6 Sch. 6 para. 33 repealed (19.3.1997 with effect as mentioned in s. 85, Sch. 15 para. 9(1) of the amending Act) by 1997 c. 16, s. 113, Sch. 18 Pt. VI(11) Note

34 (1) In section 92 of that Act of 1990 (manner of making assured tenancy allowances and related charges), at the beginning there shall be inserted the following subsection—

“(A1) For the purposes of income tax any allowance or charge made to or on any person under this Part shall be made to or on him in taxing his trade—

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- (a) as if any Schedule A business carried on by that person were the trade in the taxing of which the allowance or charge were to be made; or
- (b) where that person is not carrying on such a business, as if he were carrying on such a business and that business were the trade in the taxing of which the allowance or charge is to be made;

and this Act shall have effect in each case as if the Schedule A business which is deemed to be a trade for the purposes of this subsection were a trade set up and commenced on or after 6th April 1995. ”

- (2) In subsections (1) and (2) of that section, at the beginning there shall be inserted, in each case, the words “ For the purposes of corporation tax ”; and in subsection (2), paragraph (a) and, in paragraph (b), the words “if it is a charge to corporation tax” shall be omitted.
- 35 (1) After subsection (2) of section 132 of that Act of 1990 (manner of making agricultural buildings allowances and related charges), there shall be inserted the following subsection—
- “(2A) In the case of an allowance or charge which falls to be made to a person for a chargeable period in which he is not carrying on a trade, subsection (2) above shall have effect for the purposes of income tax—
    - (a) as if any Schedule A business carried on by that person at that time were the trade in the taxing of which the allowance or charge were to be made; or
    - (b) where that person is not carrying on such a business at that time, as if he were carrying on such a business and the business were the trade in the taxing of which the allowance or charge is to be made;and this Act shall have effect in each case as if the Schedule A business which is deemed to be a trade for the purposes of this subsection were a trade set up and commenced on or after 6th April 1995.”
  - (2) In subsections (3) and (4) of that section, at the beginning there shall be inserted, in each case, the words “ For the purposes of corporation tax ”; and in subsection (4), paragraph (a) and, in paragraph (b), the words “if it is a charge to corporation tax” shall be omitted.

*The Taxation of Chargeable Gains Act 1992 (c. 12)*

- 36 Section 241(3) of the <sup>M28</sup>Taxation of Chargeable Gains Act 1992 (commercial letting of furnished holiday accommodation to be treated as trade for certain purposes), except so far as it applies for the purposes of corporation tax, shall have effect as if the following paragraph were substituted for paragraph (a)—
- “(a) any Schedule A business (within the meaning of the Taxes Act) which consists in the commercial letting of furnished holiday accommodation in the United Kingdom shall be treated as a trade; and”.

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

**Marginal Citations**

M28 1992 c. 12.

- 37 (1) Schedule 8 to that Act of 1992 (which includes provision excluding from the charge to capital gains tax premiums taxed under Schedule A), except so far as it applies in accordance with section 8 of that Act for the purposes of corporation tax, shall have effect as follows.
- (2) In paragraph 5—
- (a) in sub-paragraphs (1) and (2), for the words “income tax has become chargeable under section 34 of the Taxes Act on any amount” there shall, in each case, be deemed to be substituted “any amount is brought into account by virtue of section 34 of the Taxes Act as a receipt of a Schedule A business (within the meaning of that Act)”; and
- (b) in sub-paragraph (3), for “income tax has become chargeable under section 36 of the Taxes Act (sale of land with right of re-conveyance) on any amount” there shall be deemed to be substituted “any amount is brought into account by virtue of section 36 of the Taxes Act (sale of land with right of re-conveyance) as a receipt of a Schedule A business (within the meaning of that Act)”.
- (3) In paragraph 6(2), for the words from “on which tax is paid” onwards there shall be deemed to be substituted “brought into account by virtue of section 35 of the Taxes Act (charge on assignment of a lease granted at an undervalue) as a receipt of a Schedule A business (within the meaning of that Act)”.
- (4) In paragraph 7, for the words from “income tax” to “so chargeable” there shall be deemed to be substituted “any amount is brought into account by virtue of section 34(2) and (3) of the Taxes Act as a receipt of a Schedule A business (within the meaning of that Act) which is or is treated as carried on by any person, that person”.

*The Finance (No. 2) Act 1992 (c. 48)*

- 38 In paragraph 2(1) of Schedule 10 to the <sup>M29</sup>Finance (No. 2) Act 1992 (furnished accommodation), for “under Case I or Case VI of Schedule D (or both those Cases)” there shall be substituted “under Schedule A or Case I of Schedule D (or under both together)”.

**Marginal Citations**

M29 1992 c. 48.



*Status: Point in time view as at 01/07/1997.*

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

### Textual Amendments

- F7 Sch. 7 repealed (29.4.1996 with effect as mentioned in ss. 80-105 of the amending Act) by 1996 c. 8, s. 205, Sch. 41 Pt. V(3) Note

## SCHEDULE 8

Section 51.

### LIFE ASSURANCE BUSINESS

#### PART I

##### GENERAL AMENDMENTS

##### *Classes of life assurance business*

- 1 In section 431(2) of the Taxes Act 1988 (interpretative provisions relating to insurance companies), insert the following at the appropriate places in alphabetical order—
- “pension business” has the meaning given by section 431B;
  - “life reinsurance business” has the meaning given by section 431C;
  - “overseas life assurance business” has the meaning given by section 431D;
  - “basic life assurance and general annuity business” has the meaning given by section 431F;
  - “reinsurance business” includes retrocession business.
- 2 After section 431A of the Taxes Act 1988 insert—

##### *“ Classes of life assurance business*

#### **431B Meaning of “pension business”.**

- (1) In this Chapter “pension business” means so much of a company’s life assurance business as is referable to contracts of the following descriptions or to the reinsurance of liabilities under such contracts.
- (2) The descriptions of contracts are—
- (a) any contract with an individual who is, or would but for an insufficiency of profits or gains be, chargeable to income tax in respect of relevant earnings (as defined in section 623(1) and (2)) from a trade, profession, vocation, office or employment carried on or held by him, being a contract approved by the Board under section 620 or a substituted contract within the meaning of section 622(3);
  - (b) any contract (including a contract of insurance) entered into for the purposes of, and made with the persons having the management of, an exempt approved scheme as defined in Chapter I of Part XIV, being a contract so framed that the liabilities undertaken by the

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- insurance company under the contract correspond with liabilities against which the contract is intended to secure the scheme;
- (c) any contract made under approved personal pension arrangements within the meaning of Chapter IV of Part XIV;
- (d) any annuity contract entered into for the purposes of—
- (i) a scheme which is approved or is being considered for approval under Chapter I of Part XIV;
  - (ii) a scheme which is a relevant statutory scheme for the purposes of Chapter I of Part XIV; or
  - (iii) a fund to which section 608 applies,
- being a contract which is made with the persons having the management of the scheme or fund, or those persons and a member of or contributor to the scheme or fund, and by means of which relevant benefits (see subsections (3) and (4) below), and no other benefits, are secured;
- (e) any annuity contract which is entered into in substitution for a contract within paragraph (d) above and by means of which relevant benefits (see subsections (3) and (4) below), and no other benefits, are secured;
- (f) any contract with the trustees or other persons having the management of a scheme approved under section 620 or, subject to subsection (5) below, of a superannuation fund which was approved under section 208 of the 1970 Act, being a contract which—
- (i) was entered into for the purposes only of that scheme or fund or, in the case of a fund part only of which was approved under section 208, for the purposes only of that part of that fund, and
  - (ii) (in the case of a contract entered into or varied after 1st August 1956) is so framed that the liabilities undertaken by the insurance company under the contract correspond with liabilities against which the contract is intended to secure the scheme or fund (or the relevant part of the fund).
- (3) For the purposes of subsection (2)(d) and (e) above “relevant benefits” means relevant benefits as defined by section 612(1) which correspond—
- (a) where subsection (2)(d)(i) above applies, or subsection (2)(e) above applies and the contract within subsection (2)(d) was entered into for the purposes of a scheme falling within subsection (2)(d)(i), with benefits that could be provided by a scheme approved under Chapter I of Part XIV;
  - (b) where subsection (2)(d)(ii) above applies, or subsection (2)(e) above applies and the contract within subsection (2)(d) was entered into for the purposes of a scheme falling within subsection (2)(d)(ii), with benefits that could be provided by a scheme which is a relevant statutory scheme for the purposes of Chapter I of Part XIV;
  - (c) where subsection (2)(d)(iii) above applies, or subsection (2)(e) above applies and the contract within subsection (2)(d) was entered into for the purposes of a fund falling within subsection (2)(d)(iii), with benefits that could be provided by a fund to which section 608 applies.

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- (4) For the purposes of subsection (3)(a), (b) or (c) above a hypothetical scheme or fund (rather than any particular scheme or fund), and benefits provided by a scheme or fund directly (rather than by means of an annuity contract), shall be taken.
- (5) Subsection (2)(f) above shall not apply to a contract where the fund in question was approved under section 208 of the 1970 Act unless—
  - (a) immediately before 6th April 1980 premiums paid under the contract with the trustees or other persons having the management of the fund fell within section 323(4) of that Act (premiums referable to pension business); and
  - (b) the terms on which benefits are payable from the fund have not been altered since that time; and
  - (c) section 608 applies to the fund.
- (6) In subsection (5) above “premium” includes any consideration for an annuity.

#### **431C Meaning of “life reinsurance business”.**

- (1) In this Chapter “life reinsurance business” means reinsurance of life assurance business other than pension business or business of any description excluded from this section by regulations made by the Board.
- (2) Regulations under subsection (1) above may describe the excluded business by reference to any circumstances appearing to the Board to be relevant.

#### **431D Meaning of “overseas life assurance business”.**

- (1) In this Chapter “overseas life assurance business” means life assurance business, other than pension business or life reinsurance business, which—
  - (a) in the case of life assurance business other than reinsurance business, is business with a policy holder or annuitant not residing in the United Kingdom, and
  - (b) in the case of reinsurance business, is—
    - (i) reinsurance of life assurance business with a policy holder or annuitant not residing in the United Kingdom, or
    - (ii) reinsurance of business within sub-paragraph (i) above or this sub-paragraph.
- (2) Subject to subsections (5) and (7) below, in subsection (1) above the references to life assurance business with a policy holder or annuitant do not include life assurance business with a person who is an individual if—
  - (a) the policy holder or annuitant is not beneficially entitled to the rights conferred by the policy or contract for the business, or
  - (b) any benefits under the policy or contract for the business are or will be payable to a person other than the policy holder or annuitant (or his personal representatives) or to a number of persons not including him (or them).

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- (3) For the purposes of subsection (2) above any nomination by a policy holder or annuitant of an individual or individuals as the recipient or recipients of benefits payable on death shall be disregarded.
- (4) Subject to subsections (5) and (7) below, in subsection (1) above the references to life assurance business with a policy holder or annuitant do not include life assurance business with a person who is not an individual.
- (5) Subsections (2) and (4) above do not apply if—
- (a) the rights conferred by the policy or contract for the business are held subject to a trust,
  - (b) the settlor does not reside in the United Kingdom, and
  - (c) each beneficiary is either an individual not residing in the United Kingdom or a charity.
- (6) In subsection (5) above—
- (a) “settlor” means the person, or (where more than one) each of the persons, by whom the trust was directly or indirectly created (and for this purpose a person shall, in particular, be regarded as having created the trust if he provided or undertook to provide funds directly or indirectly for the purposes of the trust or made with any other person a reciprocal arrangement for that other person to create the trust),
  - (b) “beneficiary” means any person who is, or will or may become, entitled to any benefit under the trust (including any person who may become so entitled on the exercise of a discretion by the trustees of the trust), and
  - (c) “charity” means a person or body of persons established for charitable purposes only;
- and for the purpose of that subsection an individual who is a trustee (of any trust) shall not be regarded as an individual.
- (7) Subsections (2) and (4) above do not apply if the policy or contract for the business was effected solely to provide benefits for or in respect of—
- (a) persons all, or all but an insignificant number, of whom are relevant overseas employees, or
  - (b) spouses, widows, widowers, children or dependants of such persons.
- (8) In subsection (7) above “relevant overseas employees” means persons who are not residing in the United Kingdom and are—
- (a) employees of the policy holder or annuitant,
  - (b) employees of a person connected with the policy holder or annuitant, or
  - (c) employees in respect of whose employment there is established a superannuation fund to which section 615(3) applies;
- and section 839 applies for the purposes of this subsection.

#### **431E Overseas life assurance business: regulations.**

- (1) The Board may by regulations make provision for giving effect to section 431D.

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- (2) Such regulations may, in particular—
- (a) provide that, in such circumstances as may be prescribed, any prescribed issue as to whether business is or is not overseas life assurance business (or overseas life assurance business of a particular kind) shall be determined by reference to such matters (including the giving of certificates or undertakings, the giving or possession of information or the making of declarations) as may be prescribed,
  - (b) require companies to obtain certificates, undertakings, information or declarations from policy holders or annuitants, or from trustees or other companies, for the purposes of the regulations,
  - (c) make provision for dealing with cases where any issue such as is mentioned in paragraph (a) above is (for any reason) wrongly determined, including provision allowing for the imposition of charges to tax (with or without limits on time) on the insurance company concerned or on the policy holders or annuitants concerned,
  - (d) require companies to supply information and make available books, documents and other records for inspection on behalf of the Board, and
  - (e) make provision (including provision imposing penalties) for contravention of, or non-compliance with, the regulations.
- (3) The regulations may—
- (a) make different provision for different cases, and
  - (b) contain such supplementary, incidental, consequential or transitional provision as appears to the Board to be appropriate.

#### **431F Meaning of “basic life assurance and general annuity business”.**

In this Chapter “basic life assurance and general annuity business” means life assurance business (including reinsurance business) other than pension business, life reinsurance business or overseas life assurance business.”.

- 3 In section 432C(2) of the Taxes Act 1988 after “assets of the overseas life assurance fund” insert “ or land in the United Kingdom linked to overseas life assurance business ”.
- 4 (1) Section 438 of the Taxes Act 1988 is amended as follows.
- (2) In subsection (1) for “life assurance fund and separate annuity fund, if any” substitute “ long term business fund ”.
- (3) In subsection (8) for “431(4)(c)” substitute “ 431B(2)(c) ”.
- 5 (1) Section 440 of the Taxes Act 1988 is amended as follows.
- (2) In subsection (3) for “paragraphs (a) to (d)” substitute “ paragraphs (a) to (e) ”.
- (3) For subsection (4) substitute—
- “(4) The categories referred to in subsections (1) to (3) above are—
- (a) assets linked solely to pension business;
  - (b) assets linked solely to life reinsurance business;

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- (c) assets of the overseas life assurance fund;
- (d) assets linked solely to basic life assurance and general annuity business;
- (e) assets of the long term business fund not within any of the preceding paragraphs;
- (f) other assets.”.
- 6 In section 440A of the Taxes Act 1988, in subsection (2) for paragraphs (a) and (b) substitute—
- “(a) so many of the securities as are identified in the company’s records as securities by reference to the value of which there are to be determined benefits provided for under policies or contracts the effecting of all (or all but an insignificant proportion) of which constitutes the carrying on of—
- (i) pension business, or
- (ii) life reinsurance business, or
- (iii) basic life assurance and general annuity business,
- shall be treated for the purposes of corporation tax as a separate holding linked solely to that business.”.
- 7 In section 76(1)(d) of the Taxes Act 1988 after “pension business” insert “ , life reinsurance business ”.
- 8 In Schedule 19AA to the Taxes Act 1988, in the closing words of paragraph 5(5) for “pension business or basic life assurance business” substitute “ pension business, life reinsurance business or basic life assurance and general annuity business ”.
- 9 (1) The <sup>M30</sup>Taxation of Chargeable Gains Act 1992 is amended as follows.
- (2) In section 212(2) after “pension business” insert “ or life reinsurance business ”.
- (3) In section 214A(11)(a) for “any pension business or” substitute “ any pension business or life reinsurance business of that company or to ”.

#### Marginal Citations

**M30** 1992 c. 12.

<sup>F8</sup>10 .....

#### Textual Amendments

**F8** Sch. 8 para. 10 repealed (29.4.1996 with effect as mentioned in ss. 80-105 of the amending Act) by 1996 c. 8, s. 205, Sch. 41 Pt. V(3) Note

#### Linked assets

- 11 (1) In section 431(2) of the Taxes Act 1988, for the definition of “linked assets” substitute—
- ““linked assets”, and related expressions, shall be construed in accordance with section 432ZA;”.

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(2) After section 432 of the Taxes Act 1988 insert—

**“432ZA Linked assets.**

- (1) In this Chapter “linked assets” means assets of an insurance company which are identified in its records as assets by reference to the value of which benefits provided for under a policy or contract are to be determined.
- (2) Linked assets shall be taken—
  - (a) to be linked to long term business of a particular category if the policies or contracts providing for the benefits concerned are policies or contracts the effecting of which constitutes the carrying on of business of that category; and
  - (b) to be linked solely to long term business of a particular category if all (or all but an insignificant proportion) of the policies or contracts providing for the benefits concerned are policies or contracts the effecting of which constitutes the carrying on of business of that category.
- (3) Where an asset is linked to more than one category of long term business, a part of the asset shall be taken to be linked to each category; and references in this Chapter to assets linked (but not solely linked) to any category of business shall be construed accordingly.
- (4) Where subsection (3) above applies, the part of the asset linked to any category of business shall be a proportion determined as follows—
  - (a) where in the records of the company values are shown for the asset in funds referable to particular categories of business, the proportion shall be determined by reference to those values;
  - (b) in any other case the proportion shall be equal to the proportion which the total of the linked liabilities of the company referable to that category of business bears to the total of the linked liabilities of the company referable to all the categories of business to which the asset is linked.
- (5) For the purposes of sections 432A to 432F—
  - (a) income arising in any period from assets linked but not solely linked to a category of business,
  - (b) gains arising in any period from the disposal of such assets, and
  - (c) increases and decreases in the value of such assets,shall be treated as arising to that category of business in the proportion which is the mean of the proportions determined under subsection (4) above at the beginning and end of the period.
- (6) In this section “linked liabilities” means liabilities in respect of benefits to be determined by reference to the value of linked assets.
- (7) In the case of a policy or contract the effecting of which constitutes a class of life assurance business the fact that it also constitutes long term business other than life assurance business shall be disregarded for the purposes of this section unless the benefits to be provided which constitute long term business other than life assurance business are to be determined by reference to the value of assets.”.

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- 12 (1) In the following provisions for “linked solely” substitute “ linked ”
- (a) section 432C(1), section 432D(1) (twice) and section 432E(3)(a) and (b) and (6)(a) of the Taxes Act 1988;
  - (b) paragraph 1(5)(b)(i) of Schedule 19AB to the Taxes Act 1988;
  - <sup>F9</sup>(c) .....
- (2) The amendments made by paragraph 11 above do not affect the meaning of “linked assets”, and related expressions, in sections 214 and 214A of the <sup>M31</sup>Taxation of Chargeable Gains Act 1992 (transitional provisions relating to changes made in 1990 and 1991).
- (3) In section 432 of the Taxes Act 1988 for “class” in each place where it occurs substitute “ category ”.

#### Textual Amendments

**F9** Sch. 8 para. 12(1)(c) repealed (29.4.1996 with effect as mentioned in ss. 80-105 of the amending Act) by 1996 c. 8, s. 205, Sch. 41 Pt. V(3) Note

#### Marginal Citations

**M31** 1992 c. 12.

- 13 (1) Section 432A of the Taxes Act 1988 is amended as follows.
- (2) For subsections (1) to (3) substitute—
- “(1) This section has effect where in any period an insurance company carries on more than one category of business and it is necessary for the purposes of the Corporation Tax Acts to determine in relation to the period what parts of—
- (a) income arising from the assets of the company’s long term business fund, or
  - (b) gains or losses accruing on the disposal of such assets,
- are referable to any category of business.
- (2) The categories of business referred to in subsection (1) above are—
- (a) pension business;
  - (b) life reinsurance business;
  - (c) overseas life assurance business;
  - (d) basic life assurance and general annuity business which is ordinary life assurance business;
  - (e) basic life assurance and general annuity business which is industrial assurance business; and
  - (f) long term business other than life assurance business.
- (3) Income arising from, and gains or losses accruing on the disposal of, assets linked to any category of business (apart from overseas life assurance business) shall be referable to that category of business.”.
- (3) In subsections (5) and (6)(b)(i) for “any of the appropriate categories” substitute “ any category ”.
- (4) For subsection (7) substitute—



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“(7) For the purposes of subsections (5) and (6) above—

- (a) income, gains or losses are directly referable to a category of business if referable to that category by virtue of subsection (3) or (4) above, and
- (b) assets are directly referable to a category of business if income arising from the assets is, and gains or losses accruing on the disposal of the assets are, so referable by virtue of subsection (3) above.”.

(5) For subsection (9) substitute—

“(9) Where a company carries on overseas life assurance business—

- (a) references in this section to liabilities do not include liabilities of that business, and
- (b) the appropriate part of the investment reserve as defined by paragraph 4(2)(a) of Schedule 19AA shall be left out of account in determining that reserve for the purposes of this section.”.

14 (1) Section 432C of the Taxes Act 1988 is amended as follows.

(2) In subsection (1) for the words from “life assurance business” to “general annuity business” substitute “pension business, life reinsurance business, basic life assurance and general annuity business or long term business other than life assurance business”.

(3) In subsection (3) for “any of the appropriate categories of business” substitute “any category of business”.

(4) In subsection (4)(b) for “any of the appropriate categories of business” substitute “any category of business”.

(5) In subsection (5), omit paragraph (a).

(6) For subsection (6) substitute—

“(6) For the purposes of this section, where a company carries on overseas life assurance business “liabilities” does not include liabilities of that business.”.

15 (1) Section 432D of the Taxes Act 1988 is amended as follows.

(2) In subsection (1) for the words from “life assurance business” to “general annuity business” substitute “pension business, life reinsurance business, basic life assurance and general annuity business or long term business other than life assurance business”.

(3) In subsection (2) for “any of the appropriate categories of business” substitute “any category of business”.

(4) For subsection (3) substitute—

“(3) For the purposes of subsection (2) above “the relevant fraction”, in relation to a category of business, is the fraction of which—

- (a) the numerator is the mean of the opening and closing liabilities of the relevant business so far as referable to the category, reduced by the mean of the opening and closing values of any assets of the relevant business directly referable to the category; and

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- (b) the denominator is the mean of the opening and closing liabilities of the relevant business, reduced by the mean of the opening and closing values of any assets of the relevant business directly referable to any category of business.
- (4) For the purposes of subsections (2) and (3) above, the part of the amount brought into account as the increase or decrease in the value of assets which is directly referable to a category of business is the part referable to the category by virtue of subsection (1) above and assets are directly referable to a category of business if such part of the amount brought into account as the increase or decrease in the value of assets as is attributable to them is so referable.”.

*Receipts to be brought into account*

- 16 (1) For section 83 of the <sup>M32</sup>Finance Act 1989 substitute—

**“83 Receipts to be brought into account.**

- (1) The following provisions of this section have effect where the profits of an insurance company in respect of its life assurance business are, for the purposes of the Taxes Act 1988, computed in accordance with the provisions of that Act applicable to Case I of Schedule D.
- (2) So far as referable to that business, the following items, as brought into account for a period of account (and not otherwise), shall be taken into account as receipts of the period—
- (a) the company’s investment income from the assets of its long term business fund, and
- (b) any increase in value (whether realised or not) of those assets.

If for any period of account there is a reduction in the value referred to in paragraph (b) above (as brought into account for the period), that reduction shall be taken into account as an expense of that period.

- (3) In ascertaining whether or to what extent a company has incurred a loss in respect of that business any amount transferred into the company’s long term business fund from other assets of the company, or otherwise added to that fund, shall be taken into account, in the period in which it is brought into account, as an increase in value of the assets of that fund within subsection (2)(b) above.

This subsection does not apply where, or to the extent that, the amount concerned—

- (a) would fall to be taken into account as a receipt apart from this section,
- (b) is otherwise taken into account under subsection (2) above, or
- (c) is specifically exempted from tax.

**83A Meaning of “brought into account”.**

- (1) In section 83 “brought into account” means brought into account in an account which is recognised for the purposes of that section.

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- (2) Subject to the following provisions of this section and to any regulations made by the Treasury, the accounts recognised for the purposes of that section are—
- (a) a revenue account prepared for the purposes of the Insurance Companies Act 1982 in respect of the whole of the company’s long term business;
  - (b) any separate revenue account required to be prepared under that Act in respect of a part of that business.

Paragraph (b) above does not include accounts required in respect of internal linked funds.

- (3) Where there are prepared any such separate accounts as are mentioned in subsection (2)(b) above, reference shall be made to those accounts rather than to the account for the whole of the business.
- (4) If in any such case the total of the items brought into account in the separate accounts is not equal to the total amount brought into account in the account prepared for the whole business, there shall be treated as having been required and prepared a further separate revenue account covering the balance.
- (5) Where a company carries on both ordinary long term business and industrial assurance business, the references above to the company’s long term business shall be construed as references to either or both of those businesses, as the case may require.”.

(2) In section 432B of the Taxes Act 1988—

- (a) in subsection (1) for the words from “brought into account” to “1982” substitute “ brought into account, within the meaning of that section, ”; and
- (b) for subsection (2) substitute—

“(2) Where for that purpose reference falls to be made to more than one account recognised for the purposes of that section, the provisions of sections 432C to 432F apply separately in relation to each account.”.

(3) In section 432E(1) of the Taxes Act 1988 for the words from “of the items referred to in subsection (1)” to “paragraph (b))” substitute “ to be taken into account in accordance with section 83(2) of the <sup>M33</sup>Finance Act 1989 (that is to say, the aggregate amount to be taken into account as receipts reduced by the aggregate amount to be taken into account as expenses) ”.

<sup>F10</sup>(4) .....

<sup>F10</sup>(5) .....

(6) In section 65(2) of the Finance (No.2) Act 1992 for paragraph (d) substitute—

“(d) section 83(2) of the Finance Act 1989 (amounts to be taken into account as receipts or expenses);”.

#### Textual Amendments

**F10** Sch. 8 para. 16(4)(5) repealed (29.4.1996 with effect as mentioned in s. 163, Sch. 31 para. 10(2) of the amending Act) by 1996 c. 8, s. 205, Sch. 41 Pt. V(23) Note

*Status: Point in time view as at 01/07/1997.*

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

**Marginal Citations**

**M32** 1989 c. 26.

**M33** 1989 c. 26.

*Supplementary provisions as to apportionment*

- 17 (1) In section 432B of the Taxes Act 1988 (apportionment of receipts brought into account)—
- (a) in subsections (1) and (2) for “sections 432C to 432E” substitute “ sections 432C to 432F ”, and
  - (b) in subsection (3) for “section 432E applies” substitute “ sections 432E and 432F apply ”.
- (2) In section 432E of the Taxes Act 1988 (section 432B apportionment: participating funds)—
- (a) in subsection (1), for the words from “shall be” to the end substitute “ shall be the amount determined in accordance with subsection (2) below or, if greater, the amount determined in accordance with subsection (3) below. ”; and
  - (b) in subsection (5) at the end insert—
 

“References in this subsection to the amount determined in accordance with subsection (3) above are to that amount after making any deduction required by section 432F.”
- (3) After section 432E of the Taxes Act 1988 insert—

**“432F Section 432B apportionment: supplementary provisions.**

- (1) The provisions of this section provide for the reduction of the amount determined in accordance with section 432E(3) (“the subsection (3) figure”) for an accounting period in which that amount exceeds, or would otherwise exceed, the amount determined in accordance with section 432E(2) (“the subsection (2) figure”).
  - (2) For each category of business in relation to which section 432E falls to be applied there shall be determined for each accounting period the amount (if any) by which the subsection (2) figure, after making any reduction required by section 432E(5), exceeds the subsection (3) figure (“the subsection (2) excess”).
  - (3) Where there is a subsection (2) excess, the amount shall be carried forward and if in any subsequent accounting period the subsection (3) figure exceeds, or would otherwise exceed, the subsection (2) figure, it shall be reduced by the amount or cumulative amount of subsection (2) excesses so far as not previously used under this subsection.
  - (4) Where in an accounting period that amount is greater than is required to bring the subsection (3) figure down to the subsection (2) figure, the balance shall be carried forward and aggregated with any subsequent subsection (2) excess for use in subsequent accounting periods.”
- (4) In section 444A of the Taxes Act 1988 (transfers of business) after subsection (3) insert—

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“(3A) Any subsection (2) excess (within the meaning of section 432F(2)) which (assuming the transferor had continued to carry on the business transferred after the transfer) would have been available under section 432F(3) or (4) to reduce a subsection (3) figure (within the meaning of section 432F(1)) of the transferor in an accounting period following that which ends with the day on which transfer takes place—

(a) shall, instead, be treated as a subsection (2) excess of the transferee, and

(b) shall be taken into account in the first accounting period of the transferee ending after the date of the transfer (to reduce the subsection (3) figure or, as the case may be, to produce or increase a subsection (2) excess for that period),

in relation to the revenue account of the transferee dealing with or including the business transferred.”.

(5) In section 444A(5) of the Taxes Act 1988 for “subsection (2) or (3)” substitute “subsection (2), (3) or (3A) ”.

*Franked investment income: supplementary provisions*

18 (1) Chapter V of Part VI of the Taxes Act 1988 is amended as follows.

(2) In section 238(1) for the definition of “surplus of franked investment income” substitute—

““surplus of franked investment income” shall be construed in accordance with subsection (1A) below;”.

(3) After that subsection insert—

“(1A) For the purposes of this Chapter, a company has a surplus of franked investment income in an accounting period if the amount of the franked investment income of the company in that period exceeds the amount of the franked payments made by it in that period.

For the purposes of determining whether a company has such a surplus, or the amount of the surplus, franked investment income that cannot be used to frank distributions of the company shall be disregarded.”.

(4) For section 238(3) substitute—

“(3) References in this Chapter to using franked investment income to frank distributions of a company are to using the income in accordance with section 241(1) and Schedule 13 so as to relieve the company from, or obtain repayment of, advance corporation tax for which the company would otherwise be liable.”.

(5) In section 241(3) for the words from the beginning to “the excess” substitute “ Where a company has a surplus of franked investment income for any accounting period, the surplus ”.

(6) In section 241(5) omit the words from “(that is to say,” to “otherwise be liable)”.

(7) In section 242(1)(b) omit “for purposes of section 241(3)”.

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- (8) In section 242(9)—
- (a) omit “by virtue of section 241(5)”, and
  - (b) for “a company” substitute “ the company ”.
- 19 (1) Section 434 of the Taxes Act 1988 is amended as follows.
- (2) For subsection (1) substitute—
- “(1) Nothing in section 208 shall prevent franked investment income or foreign income dividends from being taken into account—
- (a) in any computation of profits for the purposes of section 89(7) of the Finance Act 1989, or
  - (b) in any computation for the purposes of section 76(2) of the tax that would have been paid if the company had been charged to tax under Case I of Schedule D in respect of its life assurance business.”.

(3) For subsection (3) substitute—

“(3) The policy holders’ share 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; but it may be the subject of a claim under section 242 and shall be treated for that purpose as a surplus of franked investment income additional to any surplus under section 238(1A).

For the purpose of ascertaining whether any surplus or what amount of surplus franked investment income falls to be carried forward under section 241(3), relief under section 242 shall be treated as given against the policy holders’ share before other franked investment income.”.

#### *Computation of losses*

- 20 (1) For section 434A of the Taxes Act 1988 substitute—
- “434A Computation of losses and limitation on relief.**
- (1) In ascertaining whether or to what extent a company has incurred a loss on its life assurance business profits derived from investments held for the purposes of that business (including franked investment income of, and foreign income dividends arising to, a company resident in the United Kingdom) shall be treated as part of the profits of that business.
  - (2) Where for any accounting period the loss arising to an insurance company from its life assurance business falls to be computed in accordance with the provisions of this Act applicable to Case I of Schedule D, any loss resulting from the computation shall be reduced (but not below nil) by the aggregate of—
    - (a) any losses for that period under section 436, 441 or 439B, and
    - (b) the amount of interest and annuities treated as charges on income in computing for the period otherwise than in accordance with the provisions of this Act applicable to Case I of Schedule D the profits or losses of the company’s life assurance business.

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- (3) In the case of a company carrying on life assurance business, no relief shall be allowable under—
- (a) Chapter II (loss relief) or Chapter IV (group relief) of Part X, or
  - (b) Chapter II of Part II of the Finance Act 1993 so far as it has effect in relation to losses treated as non-trading losses for the purposes of section 160 of the Finance Act 1994,
- against the policy holders' share of the relevant profits for any accounting period.

For the purposes of this subsection “the policy holders' share of the relevant profits” has the same meaning as in section 88 of the Finance Act 1989.”.

- (2) In section 65(2) of the Finance (No. 2) Act 1992, for paragraph (a) substitute—
- “(a) section 434A(1) of the Taxes Act 1988 (profits derived from investments held for purposes of life assurance business treated as profits of that business in ascertaining loss);”.

#### *Treatment of interest and annuities*

21 [F11(1) After section 434A of the Taxes Act 1988 insert—

#### “ **Treatment of interest and annuities.**

- (1) Where the profits or losses arising to an insurance company from its life assurance business, or any class of life assurance business, fall to be computed for any purpose in accordance with the provisions of this Act applicable to Case I of Schedule D, section 337(2)(b) shall not prevent the deduction of any interest or annuity payable by the company under a liability of its long term business so far as referable to its life assurance business or any class of that business.
- (2) Nothing in subsection (1) above or in section 338(2) shall be construed as preventing any such interest or annuity as is mentioned in subsection (1) above, so far as referable to the company's basic life assurance and general annuity business, from being treated as a charge on income for the purposes of the computation of the profits or losses of that business otherwise than in accordance with Case I of Schedule D.”.]

(2) In section 88 of the Finance Act 1989, for subsection (3) substitute—

- “(3) For the purposes of subsection (1) above, the relevant profits of a company for an accounting period are the income and gains of the company's life assurance business reduced by the aggregate amount of—
- (a) expenses of management falling to be deducted under section 76 of the Taxes Act 1988, and
  - (b) charges on income,
- so far as referable to the company's life assurance business.”.

#### **Textual Amendments**

**F11** Sch. 8 para. 21(1) repealed (19.3.1997 with effect in relation to accounting periods beginning after 5.3.1997) by 1997 c. 16, s. 113, Sch. 18 Pt. VI(6) Note

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*Status: Point in time view as at 01/07/1997.*

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*Interest on repayment of advance corporation tax*

22 After section 434B of the Taxes Act 1988 (inserted by paragraph 21 above) insert—

**“434C Interest on repayment of advance corporation tax.**

Section 826(1) applies in a case where a repayment falls to be made of advance corporation tax paid by a company carrying on life assurance business in respect of distributions made by it.

In relation to such a case the material date for the purposes of that section is that specified in subsection (2A) of that section.”.

*Capital allowances*

23 (1) After section 434C of the Taxes Act 1988 (inserted by paragraph 22 above) insert—

**“434D Capital allowances: management assets.**

- (1) This section has effect with respect to the allowances and charges to be made under the 1990 Act in respect of “management assets”, that is, assets provided for use or used for the management of life assurance business carried on by a company.
- (2) No allowances or charges shall be made under that Act in respect of expenditure on management assets except under Part II (machinery and plant).
- (3) Where the company is charged to tax under section 441 in respect of the profits of its overseas life assurance business for an accounting period—
  - (a) any allowance falling to be made under Part II of the 1990 Act in respect of expenditure on the provision outside the United Kingdom of machinery or plant for use for the management of that business shall be given effect by treating it as an expense of the business for that period; and
  - (b) any charge in respect of such expenditure falling to be so made shall be given effect by treating it as a receipt of the business for that period;
 and sections 73, 144 and 145 of the 1990 Act do not apply.
- (4) Allowances and charges falling to be made under Part II of the 1990 Act in respect of expenditure in respect of management assets not falling within subsection (3) above shall be apportioned between the different classes of life assurance business carried on by the company.

The amount referable to any class of life assurance business shall be the relevant fraction of the amount of the allowance or charge, that is, the fraction of which—

- (a) the numerator is the mean of the opening and closing liabilities of the class of life assurance concerned, and



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- (b) the denominator is the mean of the opening and closing liabilities of all the classes of life assurance business carried on by the company.
- (5) Where the company is charged to tax under section 436, 439B or 441 in respect of the profits of its pension business, life reinsurance business or overseas life assurance business for an accounting period—
  - (a) any allowance falling to be made under Part II of the 1990 Act in respect of expenditure on the provision of machinery or plant for use for the management of that business shall be given effect by treating the relevant proportion of the allowance as an expense of that business for the purpose of calculating the Case VI profit for that period; and
  - (b) any charge in respect of such expenditure falling to be so made shall be given effect by treating the relevant proportion of the charge as a receipt of that business for that purpose.
- (6) Where a company carries on basic life assurance and general annuity business and the profits arising from that business do not fall to be charged to tax in accordance with the provisions applicable to Case I of Schedule D—
  - (a) allowances falling to be given under Part II of the 1990 Act in respect of expenditure on management assets shall be treated as additional expenses of management within section 76; and
  - (b) any charge falling to be made under that Part in respect of such assets shall be chargeable to tax under Case VI of Schedule D.
- (7) For the purposes of this section the purposes of the management of a business shall be taken to be those purposes expenditure on which would be treated as expenses of management within section 76.
- (8) Expenditure to which this section applies shall not be taken into account otherwise than in accordance with this section.

This shall not be construed as preventing any allowance under Part II of the 1990 Act which falls to be given by virtue of this section from being taken into account—

- (a) in any computation of profits for the purposes of section 89(7) of the Finance Act 1989, or
- (b) in any computation for the purposes of section 76(2) of the tax that would have been paid if the company had been charged to tax under Case I of Schedule D in respect of its life assurance business.

#### **434E Capital allowances: investment assets.**

- (1) In this section “investment asset” means an asset held by a company for the purposes of its life assurance business otherwise than for the management of that business.
- (2) The letting by a company of an investment asset shall be treated for the purposes of section 61 of the 1990 Act (machinery and plant on lease) as a letting otherwise than in the course of a trade.
- (3) Any allowance under Part V of the 1990 Act (agricultural buildings, &c.) in respect of an investment asset shall be made by way of discharge or

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repayment of tax and shall be available primarily against agricultural income and income which is the subject of a balancing charge.

Effect shall be given to any balancing charge under that Part in respect of an investment asset by treating the amount on which the charge is to be made as agricultural income.

(4) Any allowance under the 1990 Act in respect of an investment asset shall be treated as referable to the category or categories of business to which income arising from the asset is or would be referable and shall be apportioned in accordance with section 432A in the same way as such income.

(5) No allowance under the 1990 Act in respect of an investment asset shall be taken into account—

- (a) in computing the profits of any class of life assurance business under section 436, 439B or 441, or
- (b) where the company is charged to tax in respect of its life assurance business under Case I of Schedule D, in computing the profits of that business.

(6) Where any allowance under the 1990 Act in respect of an investment asset falls to be taken into account (having regard to subsection (5) above), only such allowances as are referable to the company's basic life assurance and general annuity business shall be given effect under section 145(1) of that Act, and then only against income referable to that business; and section 145(3) shall not apply.”

(2) In section 75(4) of the Taxes Act 1988 omit the words “and insurance”.

(3) In section 86 of the Finance Act 1989 (spreading of relief for acquisition expenses), after subsection (5) insert—

“(5A) References in this section to expenses of management do not include any amounts treated as additional expenses of management by virtue of section 434D(6)(a) of the Taxes Act 1988 (capital allowances in respect of expenditure on management assets).”.

24 In Chapter I of Part II of the Capital Allowances Act 1990 (machinery and plant), for section 28 (investment companies and life assurance companies) substitute—

**“28 Investment companies.**

(1) This Part and the other provisions of the Corporation Tax Acts relating to allowances or charges under this Part apply with the necessary adaptations in relation to machinery and plant provided for use or used for the purposes of the management of the business of an investment company (as defined in section 130 of the principal Act) as they apply in relation to machinery and plant provided for use or used for the purposes of a trade.

(2) Effect shall be given to allowances and charges falling to be made by virtue of this section as follows—

- (a) any allowance falling to be made for any accounting period shall, as far as may be, be given effect by deducting the amount of the allowance from any income for the period of the business, and in so

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far as effect cannot be so given section 75(4) of the principal Act shall apply; and

- (b) effect shall be given to any charge falling to be made under this section by treating the amount on which the charge is to be made as income of the business;

and sections 73, 144 and 145 do not apply.

- (3) Except as provided by subsection (2) above, the Corporation Tax Acts apply in relation to allowances or charges falling to be made by virtue of this section as if they were to be made in taxing a trade.
- (4) For the purposes of this section the purposes of the management of a business shall be taken to be those purposes expenditure on which would be treated as expenses of management within section 75 of the principal Act.
- (5) Corresponding allowances or charges in the case of the same machinery or plant shall not be made under this Part both under this section and in some other way.
- (6) Expenditure to which this section applies shall not be taken into account otherwise than under this Part or as provided by section 75(4) of the principal Act.”.

#### *Treatment of tax-free income*

- 25 (1) In the Taxes Act 1988 omit—
- (a) section 474(1)(b); and
- (b) in section 475(2)(a), the words from “or,” to “life assurance business”.
- (2) In section 474 of the Taxes Act 1988, at the end insert—
- “(3) In this section any reference to insurance business includes a reference to insurance business of any category.”.

#### *Taxation of pure reinsurance business*

- 26 After section 439 of the Taxes Act 1988 insert—

##### **“439A Taxation of pure reinsurance business.**

If a company does not carry on life assurance business other than reinsurance business, and none of that business is of a type excluded from this section by regulations made by the Board, the profits of that business shall be charged to tax in accordance with Case I of Schedule D and not otherwise.”.

#### *Life reinsurance business: separate charge on profits*

- 27 (1) After section 439A of the Taxes Act 1988 (inserted by paragraph 26 above) insert—

##### **“439B Life reinsurance business: separate charge on profits.**

- (1) Where a company carries on life reinsurance business and the profits arising from that business are not charged to tax in accordance with the provisions applicable to Case I of Schedule D, then, subject as follows, those profits

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shall be treated as income within Schedule D and be chargeable to tax under Case VI of that Schedule, and for that purpose—

- (a) that business shall be treated separately, and
- (b) subject to paragraph (a) above, the profits from it shall be computed in accordance with the provisions of this Act applicable to Case I of Schedule D.

- (2) Subsection (1) above does not apply to so much of reinsurance business of any description excluded from that subsection by regulations made by the Board.

Regulations under this subsection may describe the excluded business by reference to any circumstances appearing to the Board to be relevant.

- (3) In making the computation referred to in subsection (1) above—
- (a) sections 82(1), (2) and (4) and 83 of the Finance Act 1989 shall apply with the necessary modifications and in particular with the omission of the words “tax or” in section 82(1)(a),
  - (b) section 83(3) of that Act shall not apply, and
  - (c) there may be set off against the profits any loss, to be computed on the same basis as the profits, which has arisen from life reinsurance business in any previous accounting period beginning on or after 1st January 1995.
- (4) Section 396 shall not be taken to apply to a loss incurred by a company on life reinsurance business.
- (5) Nothing in section 128 or 399(1) shall affect the operation of this section.
- (6) Gains accruing to a company which are referable to its life reinsurance business shall not be chargeable gains.
- (7) In ascertaining whether or to what extent a company has incurred a loss on its life reinsurance business, franked investment income and foreign income dividends shall be taken into account (notwithstanding anything in section 208) as part of the profits of that business.”.

- (2) In section 444A(3)(a) of the Taxes Act 1988 after “section 436(3)(c)” insert “ or 439B(3)(c) ”.

- (3) In section 724(3) and (4) of the Taxes Act 1988 after “section 436” insert “, 439B ”.

*Provisions applicable to charge under Case I of Schedule D*

- 28 (1) After section 440A of the Taxes Act 1988 insert—

**“440B Modifications where tax charged under Case I of Schedule D.**

- (1) The following provisions apply where the profits of a company’s life assurance business are charged to tax in accordance with Case I of Schedule D.
- (2) Section 438 applies as if in subsections (6), (6B) and (6E) for the reference to any profit arising to the company and computed under section 436 there

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were substituted a reference to the profit that would arise on a computation under section 436 if the profits of the company's life assurance business were not charged to tax under Case I of Schedule D.

(3) Section 440(1) and (2) apply as if the only categories set out in subsection (4) of that section were—

- (a) assets of the long term business fund, and
- (b) other assets.

(4) Section 440A applies as if for paragraphs (a) to (e) of subsection (2) there were substituted—

- (a) so many of the securities as are identified in the company's records as securities by reference to the value of which there are to be determined benefits provided for under policies or contracts the effecting of all (or all but an insignificant proportion) of which constitutes the carrying on of long term business, shall be treated for the purposes of corporation tax as a separate holding linked solely to that business, and
- (b) any remaining securities shall be treated for those purposes as a separate holding which is not of the description mentioned in the preceding paragraph.”.

(5) Section 212(1) of the 1992 Act does not apply, but without prejudice to the bringing into account of any amounts deferred under section 213(1) or 214A(2) of that Act from any accounting period beginning before 1st January 1995.”.

(2) In section 438 of the Taxes Act 1988, after subsection (8) insert—

“(9) In a case where the profits of a company's life assurance business are charged to tax in accordance with Case I of Schedule D this section has effect with the modification specified in section 440B(2).”.

(3) In section 440 of the Taxes Act 1988, after subsection (5) insert—

“(6) In a case where the profits of a company's life assurance business are charged to tax in accordance with Case I of Schedule D this section has effect with the modification specified in section 440B(3).”.

(4) In section 440A of the Taxes Act 1988, after subsection (6) insert—

“(7) In a case where the profits of a company's life assurance business are charged to tax in accordance with Case I of Schedule D this section has effect with the modification specified in section 440B(4).”.

(5) In section 212 of the Taxation of Chargeable Gains Act 1992, after subsection (7) insert—

“(7A) In a case where the profits of a company's life assurance business are charged to tax in accordance with Case I of Schedule D subsection (1) above has effect subject to section 440B(5) of the Taxes Act.”.

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“, or

- (b) where the company is charged to tax in respect of its life assurance business under Case I of Schedule D, in computing the profits of that business.”.

*Overseas life assurance business*

30 In section 441(1) of the Taxes Act 1988 omit the words “resident in the United Kingdom”.

31 In section 441A of the Taxes Act 1988 for subsections (3) to (6) substitute—

“(3) A company shall be entitled to such a tax credit if and to the extent that regulations made by the Board so provide.

(4) Regulations under subsection (3) above may, in particular, provide for the entitlement of a company to a tax credit, and the amount to which the company is entitled, to be determined by reference to—

- (a) the residence of any description of policy holders or annuitants prescribed by the regulations, or
- (b) the location of any branch or agency at or through which the policy or contract for any business is effected.

(5) Subsections (2) and (3) of section 431E apply in relation to regulations under subsection (3) above as they apply in relation to regulations under subsection (1) of that section but as if any issue which falls to be decided for the purposes of the regulations under subsection (3) above were an issue such as is mentioned in subsection (2)(a) of that section.”.

32 After section 441A of the Taxes Act 1988 insert—

**“441B Treatment of UK land.**

(1) This section applies to land in the United Kingdom which—

- (a) is held by a company as an asset linked to the company’s overseas life assurance business, or
- (b) is held by a company which is charged to tax under Case I of Schedule D in respect of its life assurance business as an asset by reference to the value of which benefits under any policy or contract are to be determined, where the policy or contract (or, in the case of a reinsurance contract, the underlying policy or contract) is held by a person not residing in the United Kingdom.

(2) Income arising from land to which this section applies shall be treated for the purposes of this Chapter as referable to basic life assurance and general annuity business.

(3) Where (apart from this subsection) an insurance company would not be carrying on basic life assurance and general annuity business it shall be treated as carrying on such business if any income of the company is treated as referable to such business by subsection (2) above.

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- (4) A company may be charged to tax by virtue of this section—
- (a) notwithstanding section 439A, and
  - (b) whether or not the income to which subsection (2) above relates is taken into account in computing the profits of the company for the purposes of any charge to tax in accordance with Case I of Schedule D.

(5) In this section “land” has the same meaning as in Schedule 19AA.”.

- 33 In paragraph 1(2) of Schedule 19AA to the Taxes Act 1988, at the end insert “ (including any modification of any of those provisions made by paragraph 14A of Schedule 19AC) ”.

*Taxation of investment return where risk reinsured*

- 34 After section 442 of the Taxes Act 1988 insert—

**“442A Taxation of investment return where risk reinsured.**

- (1) Where an insurance company reinsures any risk in respect of a policy or contract attributable to its basic life assurance and general annuity business, the investment return on the policy or contract shall be treated as accruing to the company over the period of the reinsurance arrangement and shall be charged to tax under Case VI of Schedule D.
- (2) The Board may make provision by regulations as to the amount of investment return to be treated as accruing in each accounting period during which the reinsurance arrangement is in force.
- (3) The regulations may, in particular, provide that the investment return to be treated as accruing to the company in respect of a policy or contract in any accounting period shall be calculated by reference to—
  - (a) the aggregate of the sums paid by the company to the reinsurer during that accounting period and any earlier accounting periods by way of premium or otherwise;
  - (b) the aggregate of the sums paid by the reinsurer to the company during that accounting period and any earlier accounting periods by way of commission or otherwise;
  - (c) the aggregate amount of the net investment return treated as accruing to the company in any earlier accounting periods, that is to say, net of tax at such rate as may be prescribed; and
  - (d) such percentage rate of return as may be prescribed.
- (4) The regulations shall provide that the amount of investment return to be treated as accruing to the company in respect of a policy or contract in the final accounting period during which the policy or contract is in force is the amount, ascertained in accordance with regulations, by which the profit over the whole period during which the policy or contract, and the reinsurance arrangement, were in force exceeds the aggregate of the amounts treated as accruing in earlier accounting periods.

If that profit is less than the aggregate of the amounts treated as accruing in earlier accounting periods, the difference shall go to reduce the amounts

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treated by virtue of this section as arising in that accounting period from other policies or contracts, and if not fully so relieved may be carried forward and set against any such amounts in subsequent accounting periods.

- (5) Regulations under this section—
- (a) may exclude from the operation of this section such descriptions of insurance company, such descriptions of policies or contracts and such descriptions of reinsurance arrangements as may be prescribed;
  - (b) may make such supplementary provision as to the ascertainment of the investment return to be treated as accruing to the company as appears to the Board to be appropriate, including provision requiring payments made during an accounting period to be treated as made on such date or dates as may be prescribed; and
  - (c) may make different provision for different cases or descriptions of case.
- (6) In this section “prescribed” means prescribed by regulations under this section.”.

## PART II

### APPLICATION OF PROVISIONS TO OVERSEAS LIFE INSURANCE COMPANIES

- 35 (1) After paragraph 5 of Schedule 19AC to the Taxes Act 1988 insert—
- “5A (1) Where an overseas life insurance company receives a qualifying distribution made by a company resident in the United Kingdom and the distribution (or part of the distribution)—
- (a) would fall within paragraph (a), (aa) or (ab) of section 11(2) but for the exclusion contained in that paragraph, and
  - (b) is referable to life assurance business, but not to overseas life assurance business,
- then the recipient shall be treated for the purposes of the Corporation Tax Acts as entitled to such a tax credit in respect of the distribution (or part of the distribution) as it would be entitled to under section 231 if it were resident in the United Kingdom.
- (2) Where part only of a qualifying distribution would fall within paragraph (ab) of section 11(2) but for the exclusion contained in that paragraph, the tax credit to which the recipient shall be treated as entitled by virtue of sub-paragraph (1) above is the proportionate part of the tax credit to which the recipient would be so treated as entitled in respect of the whole of the distribution.
- 5B (1) An overseas life insurance company may, on making a claim for the purpose, require that any UK distribution income for an accounting period shall for all or any of the purposes mentioned in sub-paragraph (2) below be treated as if it were a like amount of profits chargeable to corporation tax; and where it does so—



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- (a) the provisions mentioned in that sub-paragraph shall apply to reduce the amount of the UK distribution income, and
    - (b) the company shall be entitled to have paid to it the amount of the tax credits comprised in the amount of UK distribution income which is so reduced.
  - (2) The purposes for which a claim may be made under this paragraph are those of—
    - (a) the setting of trading losses against total profits under section 393A(1);
    - (b) the deduction of charges on income under section 338 or paragraph 5 of Schedule 4;
    - (c) the deduction of expenses of management under section 76;
    - (d) the setting of certain capital allowances against total profits under section 145(3) of the 1990 Act.
  - (3) Subsections (3), (4) and (8) of section 242 shall apply for the purposes of a claim under this paragraph as they apply for the purposes of a claim under that section.
  - (4) In this paragraph “UK distribution income” means income of an overseas life insurance company which consists of a distribution (or part of a distribution) in respect of which the company is entitled to a tax credit (and which accordingly represents income equal to the aggregate of the amount or value of the distribution (or part) and the amount of that credit).
- 5C
- (1) This paragraph applies to income from the investments of an overseas life insurance company attributable to the basic life assurance and general annuity business of the branch or agency in the United Kingdom through which the company carries on life assurance business.
  - (2) Where, in computing the income to which this paragraph applies, any interest on any securities issued by the Treasury is excluded by virtue of a condition of the issue of those securities regulating the treatment of the interest on them for tax purposes, the relief under section 76 shall be reduced so that it bears to the amount of relief which would be granted apart from this sub-paragraph the same proportion as the amount of that income excluding that interest bears to the amount of that income including that interest.”.
- (2) In paragraph 2(1) of Schedule 19AC to the Taxes Act 1988, for “section 444D” substitute “ paragraph 5B of Schedule 19AC ”.
  - (3) After paragraph 6(4) of that Schedule insert—
    - “(4A) In that subsection the following definition shall be inserted at the appropriate place—
      - “UK distribution income” has the meaning given by paragraph 5B(4) of Schedule 19AC;”.
  - (4) In section 475(6) of the Taxes Act 1988 for “section 444E(2)” (twice) substitute “ paragraph 5C(2) of Schedule 19AC ”.

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- (5) In paragraph 2(2) of Schedule 8A to the Finance Act 1989 for “section 444D(4) of the Taxes Act 1988” substitute “ paragraph 5B(4) of that Schedule ”.
- 36 In paragraph 5(1) of Schedule 19AC to the Taxes Act 1988, in the notionally inserted subsection (6B)—
- (a) for “242” substitute “ section 242 ”, and
  - (b) for “444D” substitute “ paragraph 5B of Schedule 19AC ”.
- 37 In paragraph 6 of Schedule 19AC to the Taxes Act 1988, omit sub-paragraphs (3) and (4).
- 38 After paragraph 6 of Schedule 19AC to the Taxes Act 1988 insert—
- “6A In section 431D(1), the words “carried on through a branch or agency in the United Kingdom by an overseas life insurance company” shall be treated as inserted after the words “means life assurance business”.”.
- 39 For paragraph 7 of Schedule 19AC to the Taxes Act 1988 substitute—
- “7 (1) Section 432A has effect as if the references in subsections (3), (6) and (8) to assets were to such of the assets concerned as are—
- (a) section 11(2)(b) assets,
  - (b) section 11(2)(c) assets, or
  - (c) assets which by virtue of section 11B are attributed to the branch or agency in the United Kingdom through which the company carries on life assurance business;
- and as if the references in subsections (6) and (8) to liabilities were to such of the liabilities concerned as are attributable to the branch or agency.
- Expressions used in this sub-paragraph to which a meaning is given by section 11A have that meaning.
- (2) For the purposes of section 432A as it applies in relation to an overseas life insurance company, income which falls within section 11(2)(aa) or (ab), and chargeable gains or allowable losses which fall within section 11(2)(d) or (e)—
- (a) shall not be referable to long term business other than life assurance business; and
  - (b) shall be apportioned under subsections (5) and (6) of that section separately from other income, gains and losses.
- (3) For the purposes of the application of section 432A(6) in relation to such income, gains or losses as are mentioned in sub-paragraph (2) above—
- (a) “liabilities” does not includes liabilities of the long term business other than life assurance business;
  - (b) the value of assets directly referable to any category of business does not include assets directly referable to long term business other than life assurance business; and
  - (c) the reference in section 432A(6)(b)(ii) to the investment reserve shall be construed as a reference to so much of the investment reserve as is not referable to long term business other than life assurance business.”.

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- 40 (1) Paragraph 8 of Schedule 19AC to the Taxes Act 1988 is amended as follows.
- (2) In sub-paragraph (1)—
- (a) for “paragraph 1” substitute “ paragraph 1C ”; and
  - (b) for “the word ’1982’” substitute “ the words ’brought into account, within the meaning of that section,’ ”.
- (3) In sub-paragraph (2) for “paragraph 1(6), (7) or (8)” substitute “ any provision of paragraph 1C ”.
- (4) For sub-paragraph (3) substitute—
- “(3) Subsection (3) of section 432B shall have effect as if after the words “with which an account is concerned” there were inserted the words “or in respect of which items are treated as brought into account by virtue of paragraph 1C of Schedule 8A to the Finance Act 1989”; and that subsection and sections 432C to 432E shall have effect as if the reference to relevant business were to relevant business of the branch or agency in the United Kingdom through which the company carries on life assurance business.”.
- 41 In paragraph 9(1) of Schedule 19AC to the Taxes Act 1988 in the notionally inserted section 434(1A)—
- (a) after “UK distribution income of” insert “ , or foreign income dividends arising to, ”; and
  - (b) for the words from “as part of the profit” to the end substitute—
    - “(a) in any computation of profits for the purposes of section 89(7) of the Finance Act 1989, or
    - (b) in any computation for the purposes of section 76(2) of the tax that would have been paid if the company had been charged to tax under Case I of Schedule D in respect of its life assurance business.”.
- 42 After paragraph 9 of Schedule 19AC to the Taxes Act 1988 insert—
- “9A In section 434A(1)—
- (a) the words “UK distribution income” shall be treated as substituted for “franked investment income”, and
  - (b) the words “an overseas life insurance company” shall be treated as substituted for “a company resident in the United Kingdom”.
- 9B In section 434B the following subsection shall be treated as inserted after subsection (2)—
- (?) An overseas life insurance company shall not be entitled to treat as paid out of profits or gains brought into charge to income tax any part of the annuities paid by the company which is referable to its life assurance business.”.
- 9C In its application to an overseas life insurance company section 434D(4) shall have effect as if the references to liabilities were only to such liabilities as are attributable to the branch or agency in the United Kingdom through which the company carries on the business concerned.”.

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- 43 (1) In paragraph 10(1) of Schedule 19AC to the Taxes Act 1988, in the notionally inserted section 438(3A)—
- (a) for “subsection (6)” substitute “ subsections (6) and (6B) ”;
  - (b) after “UK distribution income of” insert “ , or foreign income dividends arising to, ”;
  - (c) after “taken into account” insert “ —(a) ”; and
  - (d) after “pension business” insert—
    - “, or
    - (b) where the company is charged to tax in respect of its life assurance business under Case I of Schedule D, in computing the profits of that business.”.
- (2) In paragraph 10(2) for “subsections (6) and (6A)” substitute “ subsections (6), (6A), (6D) and (6E) ”.
- 44 After paragraph 10 of Schedule 19AC to the Taxes Act 1988 insert—
- “10A In section 439B the following subsection shall be treated as inserted after subsection (7) of that section—
- (”) In ascertaining whether or to what extent the company has incurred a loss on its life reinsurance business, UK distribution income of an overseas life insurance company shall be taken into account (notwithstanding anything in paragraph (a), (aa) or (ab) of section 11(2)) as part of the profits of that business.”.
- 10B (1) Where the company mentioned in section 440(1) is an overseas life insurance company, section 440 has effect with the following modifications.
- (2) Subsection (4) shall be treated as if—
    - (a) in paragraphs (a), (b), (d), (e) and (f) the words “UK assets” were substituted for the words “assets”; and
    - (b) at the end there were inserted—
      - (”) section 11C assets;
      - (h) non-UK assets.”.
  - (3) The following subsection shall be treated as inserted at the end of the section—
    - (”) For the purposes of this section—
      - (a) UK assets are—
        - (i) section 11(2)(b) assets;
        - (ii) section 11(2)(c) assets; or
        - (iii) assets which by virtue of section 11B are attributed to the branch or agency in the United Kingdom through which the company carries on life assurance business;
      - (b) section 11C assets are assets—
        - (i) (in a case where section 11C (other than subsection (9)) applies) of the relevant fund, other than UK assets; or
        - (ii) (in a case where that section including that subsection applies) of the relevant funds, other than UK assets;

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- (c) non-UK assets are assets which are not UK assets or section 11C assets;  
and any expression used in this subsection to which a meaning is given by section 11A has that meaning.”.
- (4) Where one of the companies mentioned in section 440(2) is an overseas life insurance company, section 440(2)(b) shall have effect as if for the words “is within another of those categories” there were substituted “is not within the corresponding category”.
- (5) Where the transferor company mentioned in section 440(2) is an overseas life insurance company, section 440 shall have effect, as regards the time immediately before the acquisition, with the modifications in sub-paragraphs (2) and (3) above.
- (6) Where the acquiring company mentioned in section 440(2) is an overseas life insurance company, section 440 shall have effect, as regards the time immediately after the acquisition, with the modifications in sub-paragraphs (2) and (3) above.
- 10C (1) In section 440B the following subsection shall be treated as substituted for subsection (3)—
- (”) Section 440(1) and (2) have effect as if the only categories specified in subsection (4) of that section were—
- (a) UK assets of the long term business fund,
  - (b) other UK assets,
  - (c) section 11C assets, and
  - (d) non-UK assets,
- (those expressions having the meanings given by section 440(7)).”.
- (2) The following subsection shall be treated as substituted for subsection (4) of that section—
- (”) Section 440A applies as if for paragraphs (a) to (e) of subsection (2) there were substituted—
- (”) so many of the UK securities as are identified in the company’s records as securities by reference to the value of which there are to be determined benefits provided for under policies or contracts the effecting of all (or all but an insignificant proportion) of which constitutes the carrying on of long term business, shall be treated for the purposes of corporation tax as a separate holding linked solely to that business,
  - (b) any remaining UK securities shall be treated for those purposes as a separate holding which is not of the description mentioned in the preceding paragraph,
  - (c) the section 11C securities shall be treated for those purposes as a separate holding which is not of any of the descriptions mentioned in the preceding paragraphs, and
  - (d) the non-UK securities shall be treated for those purposes as a separate holding which is not of any of the descriptions mentioned in the preceding paragraphs.”.”.

- 45 (1) Paragraph 11 of Schedule 19AC to the Taxes Act 1988 is amended as follows.

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- (2) For sub-paragraph (1) substitute—
- “(1) In section 440A(2), in paragraph (a) the words “UK securities” shall be treated as substituted for the word “securities” in the first place where it occurs.”.
- (3) Omit sub-paragraph (2).
- (4) In sub-paragraph (5) renumber the notionally inserted subsection as (6A).
- 46 After paragraph 11 of Schedule 19AC to the Taxes Act 1988 insert—
- “11A (1) In section 441A, the following subsection shall be treated as inserted after subsection (1)—
- (”) The exclusion from section 11(2)(a), (aa) and (ab) of distributions received from companies resident in the United Kingdom shall not apply in relation to a distribution in respect of any asset of the overseas life assurance fund of an overseas life insurance company.”.
- (2) The following subsection shall be treated as substituted for subsections (2) and (3) of that section—
- (”) An overseas life insurance company shall be entitled to a tax credit in respect of a distribution which—
- (a) is a distribution in respect of an asset of the company’s overseas life assurance fund, and
- (b) is received from a company resident in the United Kingdom, if and to the extent that regulations made by the Board so provide.”.
- 11B In section 442A the following subsection shall be treated as inserted after subsection (6)—
- (”) In the case of an overseas life insurance company, the investment return treated as accruing under this section in any accounting period in relation to a policy or contract shall be treated as chargeable profits within section 11(2) of the Taxes Act 1988 where the policy or contract is one which in that accounting period gives rise, or but for the reinsurance arrangement would give rise, to such profits.”.
- 47 In paragraph 12(1) of Schedule 19AC to the Taxes Act 1988, for “section 444D” substitute “ paragraph 5B of Schedule 19AC ”.
- 48 After paragraph 14 of Schedule 19AC to the Taxes Act 1988 insert—
- “14A (1) In Schedule 19AA, paragraph 5(5)(c) (and the reference to it in paragraph 2(3) of that Schedule) shall be treated as omitted.
- (2) The following paragraph shall be treated as inserted at the end of that Schedule—
- ”6 In its application to an overseas life insurance company this Schedule shall have effect as if—
- (a) the references in paragraphs 2 and 3 to assets of the long term business fund were to such of the assets as are—
- (i) section 11(2)(b) assets;

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- (ii) section 11(2)(c) assets; or
      - (iii) assets which by virtue of section 11B are attributed to the branch or agency in the United Kingdom through which the company carries on life assurance business;
    - and
    - (b) the references in paragraphs 2 and 4 to the liabilities of the company's long term business were to such of those liabilities as are attributable to the branch or agency;
  - and any expression used in this paragraph to which a meaning is given by section 11A has that meaning."."
- 49 (1) Schedule 8A to the <sup>M34</sup>Finance Act 1989 is amended as follows.
- (2) For paragraph 1 substitute—
  - "1 (1) In their application to an overseas life insurance company sections 83 and 83A of this Act shall have effect with the modifications specified in paragraphs 1A to 1C below.
  - (2) In those paragraphs—
    - (a) any reference to the Taxes Act 1988 is a reference to that Act as it has effect in relation to such a company by virtue of Schedule 19AC to that Act; and
    - (b) any expression to which a meaning is given by section 11A of that Act has that meaning.
- 1A (1) The reference in section 83(2)(a) to investment income shall be construed as a reference to such of the income concerned as is attributable to the branch or agency in the United Kingdom through which the company carries on life assurance business.
- (2) The reference to assets in section 83(2)(b) (as it applies apart from subsection (3) of that section) shall be construed as a reference to such of the assets concerned—
  - (a) as are—
    - (i) section 11(2)(b) assets;
    - (ii) section 11(2)(c) assets; or
    - (iii) assets which by virtue of section 11B of the Taxes Act 1988 are attributed to the branch or agency; or
  - (b) as are assets—
    - (i) (in a case where section 11C of that Act (other than subsection (9)) applies) of the relevant fund, or
    - (ii) (in a case where that section including that subsection applies) of the relevant funds,other than assets which fall within paragraph (a) above.
- (3) In determining for the purposes of section 83(2) (as it applies apart from subsection (3) of that section) whether there has been any increase or reduction in the value (whether realised or not) of assets—
  - (a) no regard shall be had to any period of time during which an asset held by the company does not fall within paragraph (a) or (b) of subparagraph (2) above; and

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- (b) in the case of an asset which falls within paragraph (b) of that subparagraph, only the specified portion of any increase or reduction in the value of the asset shall be taken into account.

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

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

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

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

- 1C (1) Where for a period of account any investment income referred to in section 83(2)(a) is not otherwise brought into account within the meaning of that section, it shall be treated as brought into account for the period if it arises in the period.

- (2) Where for a period of account any increase in value referred to in section 83(2)(b) (as it applies apart from subsection (3) of that section) is not otherwise brought into account within the meaning of that section, it shall be treated as brought into account for the period if it is shown in the company's records as available to fund one or both of the following for the period, namely, bonuses to policy holders and dividends to shareholders.

- (3) Where for a period of account any reduction in value referred to in section 83(2) (as it applies apart from subsection (3) of that section) is not otherwise brought into account within the meaning of that section, it shall be treated as brought into account for the period if it is shown in the company's records as reducing sums available to fund one or both of the following for the period, namely, bonuses to policy holders and dividends to shareholders.

- (4) Where in any period of account any such transfer is made as is mentioned in section 83(3) which is not otherwise brought into account within the meaning of that section, it shall be treated as brought into account for the period in which it is made."

- (3) In paragraph 2(7) for the words following paragraph (b) substitute—

"and in paragraph (b) above "the specified portion" has the same meaning as in paragraph 1A(3)(b) above."



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

(4) After paragraph 2(7) insert—

“(7A) For the purposes of this paragraph any expression to which a meaning is given by section 11A of the Taxes Act 1988 has that meaning.”.

**Marginal Citations**

**M34** 1989 c. 26.

**PART III**

SUPPLEMENTARY PROVISIONS

*Penalties*

50 In the Table in section 98 of the <sup>M35</sup>Taxes Management Act 1970 (penalties for failure to comply with notice or to furnish information etc.), the entry “ regulations under section 431E(1) or 441A(3); ” shall be inserted—

- (a) in the first column after the entry relating to regulations under section 333 of the Taxes Act 1988, and
- (b) in the second column after the entry relating to section 375(5) of that Act.

**Marginal Citations**

**M35** 1970 c. 9.

*Miscellaneous*

- 51 (1) The Taxes Act 1988 is amended as follows.
- (2) Before section 432 insert the heading “ *Separation of different categories of business* ”.
  - (3) In the sidenote to section 432 for “classes” substitute “ categories ”.
  - (4) Before section 434 insert the heading “ *Miscellaneous provisions relating to life assurance business* ”.
  - (5) In the sidenote to section 436 for “Annuity business and pension business” substitute “ Pension business ”.

*Commencement*

- 52 The amendment made by paragraph 43(2) above shall be deemed always to have had effect.
- 53 (1) The amendments made by paragraph 17 above have effect in relation to accounting periods ending on or after 1st January 1994.
- (2) In the first accounting period of a company ending on or after 1st January 1994 in which the subsection (3) figure for any category of business exceeds the

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subsection (2) figure, the subsection (2) figure shall be treated as increased by an amount not exceeding the amount or aggregate amount of any subsection (2) excesses in relation to that category of business for accounting periods beginning on or after 1st January 1990 and ending before 1st January 1994, but not so as to produce a subsection (2) excess for that period.

For this purpose the subsection (2) excess for an accounting period beginning on or after 1st January 1990 and ending before 1st January 1994 shall be determined without regard to the fact that in any other such accounting period the subsection (3) figure exceeded the subsection (2) figure.

Expressions used in this sub-paragraph have the same meaning as in section 432F of the Taxes Act 1988.

- (3) Where a transfer mentioned in section 444A of the Taxes Act 1988 took place at the end of an accounting period of the transferor beginning on or after 1st January 1990 and ending before 1st January 1994, section 444A(3A) shall have effect in relation to the transfer as if it read—

“(3A) Any subsection (2) excess (within the meaning of section 432F(2)) of the transferor for an accounting period beginning on or after 1st January 1990 and ending before 1st January 1994 which (assuming the transferor had continued to carry on the business transferred after the transfer) would have been available to increase the subsection (2) figure (within the meaning of section 432F(1)) of the transferor in the first accounting period ending on or after 1st January 1994 in which the subsection (3) figure exceeded the subsection (2) figure—

- (a) shall, instead, be treated as a subsection (2) excess of the transferee, and
- (b) shall be taken into account to increase the subsection (2) figure of the transferee in its first accounting period ending on or after 1st January 1994 in which the subsection (3) figure exceeds the subsection (2) figure, but not so as to produce a subsection (2) excess for that period,

in relation to the revenue account of the transferee dealing with or including the business transferred.

For this purpose the subsection (2) excess for an accounting period beginning on or after 1st January 1990 and ending before 1st January 1994 shall be determined without regard to the fact that in any other such accounting period the subsection (3) figure exceeded the subsection (2) figure.”.

- 54 The amendment made by paragraph 22 above applies in relation to distributions made by an insurance company in any accounting period ending after 30th September 1993.

- 55 (1) Subject to sub-paragraphs (2) and (3) below, the amendments made by the following provisions of this Schedule have effect in relation to accounting periods beginning on or after 1st November 1994—

paragraph 1 so far as relating to the definition of “overseas life assurance business”,

paragraph 2 so far as relating to sections 431D and 431E of the Taxes Act 1988, paragraphs 3, 25, 30 to 33, 37, 38 and 45(1) and (3),

paragraph 46 so far as relating to paragraph 11A of Schedule 19AC to the Taxes Act 1988, and

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paragraphs 48 and 50.

- (2) Where the policy or contract for any life assurance business was made before 1st November 1994, the amendments made by this Schedule (and the repeals consequential on those amendments) shall not have effect for determining whether the business is overseas life assurance business.
- (3) Where the policy or contract for any life assurance business effected by a company resident in the United Kingdom at or through a branch or agency outside the United Kingdom was made before 29th November 1994, subsections (2) to (8) of section 431D of the Taxes Act 1988 shall not have effect for determining whether the business is overseas life assurance business.
- 56 The amendments made by paragraphs 41(a) and 43(1) above have effect in relation to foreign income dividends paid after 29th November 1994.
- 57 (1) Except as provided by paragraphs 52 to 56 above, and subject to sub-paragraph (2) below, the amendments made by provisions of this Schedule have effect in relation to accounting periods beginning on or after 1st January 1995.
- (2) Section 442A of the Taxes Act 1988 does not apply in relation to the reinsurance of a policy or contract where the policy or contract was made, and the reinsurance arrangement effected, before 29th November 1994.
- 58 Any power to make regulations exercisable by virtue of an amendment made by any provision of this Schedule may be exercised so as to make provision having effect in relation to any accounting period in relation to which that provision has effect in accordance with paragraph 55 or 57 above.

## 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>M36</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>M37</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 ”.

*Status: Point in time view as at 01/07/1997.*

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#### Marginal Citations

**M36** 1982 c. 50.

**M37** 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>M38</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 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>M39</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>M40</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

**M38** 1982 c. 50.

**M39** 1982 c. 50.

**M40** 1982 c. 50.

*Status: Point in time view as at 01/07/1997.*

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

### *Modification of the Capital Allowances Act 1990*

3 For subsection (1) of section 152A of the <sup>M41</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>M42</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 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**

**M41** 1990 c. 1.

**M42** 1982 c. 50.

### *Modification of the Taxation of Chargeable Gains Act 1992*

4 In subsection (5) of section 213 of the <sup>M43</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

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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

M43 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 court under Part I of Schedule 2C to the <sup>M44</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>M45</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>M46</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

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sanctioned by a court under Part I of Schedule 2C to the <sup>M47</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**

- M44 1982 c. 50.
- M45 1982 c. 50.
- M46 1982 c. 50.
- M47 1982 c. 50.

SCHEDULE 10

Section 54.

FRIENDLY SOCIETIES

*Tax exempt life or endowment business*

- 1 (1) Section 460 of the Taxes Act 1988 (exemption from tax in respect of life or endowment business) shall be amended as follows.
- (2) In paragraph (c) of subsection (2), before sub-paragraph (ai) there shall be inserted the following sub-paragraph—
- “(zai) where the profits relate to contracts made on or after the day on which the Finance Act 1995 was passed, of the assurance of gross sums under contracts under which the total premiums payable in any period of 12 months exceed £270 or of the granting of annuities of annual amounts exceeding £156;”.
- (3) In sub-paragraph (ai) of that paragraph, after “passed” there shall be inserted “ but before the day on which the Finance Act 1995 was passed ”.
- (4) In subsection (3), for the words “subsection (2)(c)(ai),” in each place where they occur, there shall be substituted “ subsection (2)(c)(zai), (ai), ”.
- (5) In subsection (4A), for “the Finance Act 1991” there shall be substituted “ the Finance Act 1995 ”.
- (6) In subsection (4B), for the words from “variation made” onwards there shall be substituted “variation made—
- (a) in the period beginning with 25th July 1991 and ending with 31st July 1992, or
  - (b) in the period beginning with the day on which the Finance Act 1995 was passed and ending with 31st March 1996,

the contract shall, for the purposes of subsection (2)(c) above, be treated, in relation to any profits relating to it as varied, as made at the time of the variation. ”

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*Maximum benefits payable to members*

- 2 (1) Section 464 of that Act (maximum benefits payable to members) shall be amended as follows.
- (2) In subsection (3), before paragraph (za) there shall be inserted the following paragraph—
- “(zza) contracts under which the total premiums payable in any period of 12 months exceed £270; or”.
- (3) In paragraph (za) of that subsection, after “contracts” there shall be inserted “ made before the day on which the Finance Act 1995 was passed and ”.
- (4) In subsection (4A), for “the Finance Act 1991” there shall be substituted “ the Finance Act 1995 ”.
- (5) In subsection (4B), for the words from “variation made” onwards there shall be substituted “variation made—
- (a) in the period beginning with 25th July 1991 and ending with 31st July 1992, or
- (b) in the period beginning with the day on which the Finance Act 1995 was passed and ending with 31st March 1996,

the contract shall, for the purposes of subsection (3) above, be treated, in relation to times when the contract has effect as varied, as made at the time of the variation. ”

*Qualifying policies*

- 3 In paragraph 3 of Schedule 15 to that Act (friendly society policies that are qualifying policies), sub-paragraph (2)(c) (condition limiting consideration for early surrender) shall cease to have effect.
- 4 (1) This paragraph applies to any policy which—
- (a) was issued by a friendly society, or a branch of a friendly society, in the course of tax exempt life or endowment business (as defined in section 466 of the Taxes Act 1988); and
- (b) was effected by a contract made after 31st August 1987 and before the day on which this Act is passed.
- (2) Where—
- (a) the amount payable by way of premium under a policy to which this paragraph applies is increased by virtue of a variation made in the period beginning with the day on which this Act is passed and ending with 31st March 1996, and
- (b) the variation is not such as to cause a person to become in breach of the limits in section 464 of the Taxes Act 1988,

Schedule 15 to that Act, in its application to the policy, shall have effect, in relation to that variation, with the omission of paragraph 4(3)(a) and the insertion at the end of paragraph 18(2) of the words set out in sub-paragraph (3) below.

- (3) Those words are as follows, that is to say, “ and as if for paragraph 3(2)(b) above there were substituted— ”



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- “(b) subject to sub-paragraph (4) below, the premiums payable under the policy shall be premiums of equal or rateable amounts payable at yearly or shorter intervals—
- (i) over the whole of the term of the policy as from the variation, or
  - (ii) where premiums are not payable for any period after the person liable to pay them or whose life is insured has attained a specified age, being an age attained at a time not less than ten years after the beginning of the term of the policy, over the whole of the remainder of the period for which premiums are payable.””

## SCHEDULE 11

Section 58.

### PERSONAL PENSIONS: INCOME WITHDRAWALS

#### *Introductory*

- 1 (1) Chapter IV of Part XIV of the Taxes Act 1988 (personal pension schemes) is amended as follows.
- (2) The amendments have effect in relation to approvals, of schemes or amendments, given under that Chapter after the passing of this Act.
- (3) They do not affect any approval previously given.

#### *Interpretation*

- 2 (1) Section 630 (interpretation) is amended as follows.
- (2) Make the present provision subsection (1) and insert the following definitions at the appropriate places—
- “income withdrawal” means a payment of income, under arrangements made in accordance with a personal pension scheme, otherwise than by way of an annuity;
- “pension date”, in relation to any personal pension arrangements, means the date determined in accordance with the arrangements on which—
- (a) an annuity such as is mentioned in section 634 is first payable, or
  - (b) the member elects to defer the purchase of such an annuity and to make income withdrawals in accordance with section 634A;
- and in the definition of “personal pension scheme” after “annuities” insert “, income withdrawals”.
- (3) After that subsection insert—
- “(2) For the purposes of this Chapter the annual amount of the annuity which would have been purchasable by a person on any date shall be calculated by reference to—
- (a) the value on that date, determined by or on behalf of the scheme administrator, of the fund from which income withdrawals are to be or have been made by him under the arrangements in question, and

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- (b) the current published tables of rates of annuities prepared for the purposes of this Chapter by the Government Actuary.
- (3) The reference in subsection (2)(a) above to the value of the fund from which income withdrawals are to be or have been made under any personal pension arrangements is to the value of the accrued rights to which the person concerned is entitled conferring prospective entitlement to benefits under those arrangements.

Where a lump sum falls to be paid on the date in question, the reference is to the value of the fund after allowing for that payment.

- (4) The Board may make provision by regulations as to the basis on which the tables mentioned in subsection (2)(b) above are to be prepared and the manner in which they are to be applied.”.

*Conditions of approval: benefits that may be provided*

- 3 (1) Section 633(1) (conditions of approval: benefits that may be provided) is amended as follows.
- (2) In paragraph (a) (annuity to member) after “section 634” insert “ or income withdrawals with respect to which the conditions in section 634A are satisfied ”.
- (3) In paragraph (c) (annuity after death of member) after “section 636” insert “ or income withdrawals with respect to which the conditions in section 636A are satisfied ”.
- (4) In paragraph (d) (lump sum on death of member) for the words from “either” to the end substitute “ the conditions in section 637 (death benefit); ”.
- (5) After that paragraph insert—
- “ (e) the payment on or after the death of a member of a lump sum satisfying the conditions in section 637A (return of contributions). ”.

*Income withdrawals*

- 4 After section 634 (annuity to member) insert—

**“634A Income withdrawals by member.**

- (1) Where a member elects to defer the purchase of an annuity such as is mentioned in section 634, income withdrawals may be made by him during the period of deferral, subject as follows.
- (2) Income withdrawals must not be made before the member attains the age of 50, unless—
- (a) they are available on his becoming incapable through infirmity of body or mind of carrying on his own occupation or any occupation of a similar nature for which he is trained or fitted, or
- (b) the Board are satisfied that his occupation is one in which persons customarily retire before that age.
- (3) Income withdrawals must not be made after the member attains the age of 75.

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- (4) The aggregate amount of income withdrawals by a member in each successive period of twelve months beginning with his pension date must be not less than 35 per cent. or more than 100 per cent. of the annual amount of the annuity which would have been purchasable by him on the relevant reference date.
- (5) For the purposes of this section the relevant reference date for the first three years is the member's pension date, and for each succeeding period of three years is the first day of that period.
- (6) The right to income withdrawals must not be capable of assignment or surrender."

*Lump sum to member*

- 5 (1) Section 635 (lump sum to member) is amended as follows.
  - (2) In subsection (1) (date of election for lump sum), for the words from "the date on which" to the end substitute "his pension date under the arrangements in question".
  - (3) In subsection (2) (date of payment of lump sum), for the words "when that annuity is first payable" substitute "on the date which is his pension date under the arrangements in question".
  - (4) In subsection (3) (limit on amount of lump sum)—
    - (a) in paragraph (a) for "the arrangements made by the member in accordance with the scheme" substitute "the arrangements in question"; and
    - (b) in paragraph (b) for "under the scheme" substitute "under those arrangements".

*Annuity after death of member*

- 6 In section 636 (annuity after death of member), in subsection (3) (limit on aggregate annual amount), for "vested" substitute "been purchased".

*Income withdrawals after death of member*

- 7 After section 636 (annuity after death of member) insert—

**"636A Income withdrawals after death of member.**

- (1) Where a person entitled to such an annuity as is mentioned in section 636 elects to defer the purchase of the annuity, income withdrawals may be made by him during the period of deferral, subject as follows.
- (2) No such deferral may be made, and accordingly income withdrawals may not be made, if the person concerned elects in accordance with section 636(5)
  - (a) to defer the purchase of an annuity.
- (3) Income withdrawals must not be made after the person concerned if he had purchased such an annuity as is mentioned in section 636 would have ceased to be entitled to payments under it.

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- (4) Income withdrawals must not in any event be made after the member would have attained the age of 75 or, if earlier, after the person concerned attains the age of 75.
- (5) The aggregate amount of income withdrawals by a person in each successive period of twelve months beginning with the date of the member's death must be not less than 35 per cent. or more than 100 per cent. of the annual amount of the annuity which would have been purchasable by him on the relevant reference date.
- (6) For the purposes of this section the relevant reference date for the first three years is the date of the member's death, and for each succeeding period of three years is the first day of that period.
- (7) The right to income withdrawals must not be capable of assignment or surrender."

*Lump sum on death of member*

8 For section 637 (lump sum on death of member) substitute—

**“637 Death benefit.**

The lump sum—

- (a) must be payable on the death of the member before he attains the age of 75, and
- (b) must be payable by an authorised insurance company.

**637A Return of contributions on or after death of member.**

- (1) The lump sum must be payable on or after the death of the member and represent no more than the return of contributions together with reasonable interest on contributions or bonuses out of profits, after allowing for any income withdrawals.

To the extent that contributions are invested in units under a unit trust scheme, the lump sum may represent the sale or redemption price of the units.

- (2) The lump sum must be payable only if—
  - (a) no annuity has been purchased by the member under the arrangements in question,
  - (b) no such annuity as is mentioned in section 636 has been purchased by the person to whom the payment is made, and
  - (c) the person to whom the payment is made has not elected in accordance with subsection (5)(a) of section 636 to defer the purchase of such an annuity as is mentioned in that section.
- (3) Where the member's death occurs after the date which is his pension date in relation to the arrangements in question, the lump sum must be payable not later than two years after the death."

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*Other restrictions on approval*

- 9 In section 638 (other restrictions on approval), after subsection (7) insert—
- “(7A) The Board shall not approve a personal pension scheme unless it prohibits, except in such cases as may be prescribed by regulations made by the Board—
- (a) the acceptance of further contributions, and
  - (b) the making of transfer payments,
- after the date which is the member’s pension date in relation to the arrangements in question.”.

*Maximum amount of deductions*

- 10 In section 640 (maximum amount of deductions), in subsection (3) (maximum amount to secure death benefit) for “section 637(1)” substitute “ section 637 ”.

*Treatment of personal pension income*

- 11 In section 643 (employer’s contributions and personal pension income, &c.), after subsection (4) insert—
- “(5) Income withdrawals under approved personal pension arrangements shall be assessable to tax under Schedule E (and section 203 shall apply accordingly) and shall be treated as earned income of the recipient.”.

*Tax charge on return of contributions after pension date*

- 12 Omit the heading before section 648A and after that section insert—

**“648B Return of contributions after pension date.**

- (1) Tax shall be charged under this section on any payment to a person under approved personal pension arrangements of such a lump sum as is mentioned in section 637A in a case where the member’s death occurred after his pension date in relation to the arrangement in question.
- (2) Where a payment is chargeable to tax under this section, the scheme administrator shall be charged to income tax under Case VI of Schedule D and, subject to subsection (3) below, the rate of tax shall be 35 per cent.
- (3) The Treasury may by order from time to time increase or decrease the rate of tax under subsection (2) above.
- (4) The tax shall be charged on the amount paid or, if the rules of the scheme permit the scheme administrator to deduct the tax before payment, on the amount before deduction of tax; and the amount so charged to tax shall not be treated as income for any other purpose of the Tax Acts.”.

*Status: Point in time view as at 01/07/1997.*

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

## SCHEDULE 12

Section 65.

## CONTRACTUAL SAVINGS SCHEMES

*Introduction*

- 1 In this Schedule references to section 326 are to section 326 of the Taxes Act 1988 (contractual savings schemes).

*Curtailment of schemes*

- 2 (1) The <sup>M48M49</sup>following provisions of section 326, namely—
- (a) subsection (2) (schemes governed by regulations made under section 11 of National Debt Act 1972),
  - (b) subsection (3) (schemes with building societies), and
  - (c) subsection (4) (schemes with institutions authorised under Banking Act 1987),
- shall be amended as mentioned in sub-paragraph (2) below.
- (2) In each subsection for the <sup>M50</sup>words “a scheme” (where they first occur) there shall be substituted “ a share option linked scheme ”.
- (3) This paragraph shall apply in relation to schemes not certified as mentioned in section 326(2)(c), (3)(b) or (4)(b) before 1st December 1994.

**Marginal Citations**

**M48** 1987 c. 22.

**M49** 1972 c. 65.

**M50** 1987 c. 22.

*European institutions*

- 3 (1) Section 326 shall be further amended as follows.
- (2) In subsection (1) (relief for sums payable in respect of bank deposits etc.) after paragraph (c) there shall be inserted “or
- (d) in respect of money paid to a relevant European institution,”.
- (3) In subsection (2) (meaning of certified scheme except in relation to institutions authorised under Banking Act 1987 etc.) after “1987” there shall be inserted “ or a relevant European institution ”.
- (4) The following subsection shall be inserted after subsection (4)—
- “(5) In this section “certified contractual savings scheme” means, in relation to a relevant European institution, a share option linked scheme—
- (a) providing for periodical contributions by individuals for a specified period, and
  - (b) certified by the Treasury as corresponding to a scheme certified under subsection (2) above, and as qualifying for exemption under this section.”

*Status: Point in time view as at 01/07/1997.*

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

- (5) Sub-paragraph (2) above shall apply in relation to schemes established after the day on which this Act is passed.

*Certification: Treasury specifications*

- 4 (1) Section 326 shall be further amended as follows.
- (2) In each of the <sup>M51</sup>following provisions, namely—
- (a) subsection (3)(b) (Treasury certification of schemes with building societies),
  - (b) subsection (4)(b) (Treasury certification of schemes with institutions authorised under Banking Act 1987), and
  - (c) subsection (5)(b) (inserted by paragraph 3 above),
- for the words “corresponding to a scheme certified under subsection (2) above” there shall be substituted “ fulfilling such requirements as the Treasury may specify for the purposes of this section ”.
- (3) This paragraph shall apply in relation to schemes not certified as mentioned in section 326(3)(b), (4)(b) or (5)(b) before such day as the Treasury may by order made by statutory instrument appoint.

**Commencement Information**

**I2** Sch. 12 para. 4 in force at Royal Assent, but with effect from 31.7.1995 by S.I. 1995/1778, art. 2

**Marginal Citations**

**M51** 1987 c. 22.

*Treasury authorisation*

- 5 (1) Section 326 shall be further amended by inserting the following subsections after subsection (5) (inserted by paragraph 3 above)—
- “(6) Any terminal bonus, interest or other sum payable under a scheme shall not be treated as payable under a certified contractual savings scheme for the purposes of this section if—
- (a) the contract under which the sum is payable provides for contributions to be made by way of investment in a building society or to be made to an institution authorised under the Banking Act 1987 or to a relevant European institution, and
  - (b) neither the requirement under subsection (7) below nor that under subsection (8) below is fulfilled.
- (7) The requirement under this subsection is that—
- (a) when the contract is entered into there is Treasury authorisation for the society or institution concerned to enter into contracts under the scheme, and
  - (b) the authorisation was given without any conditions being imposed.
- (8) The requirement under this subsection is that—

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

- (a) when the contract is entered into there is Treasury authorisation for the society or institution concerned to enter into contracts under the scheme,
  - (b) the authorisation was given subject to conditions being met, and
  - (c) the conditions are met when the contract is entered into.”
- (2) This paragraph shall apply in relation to schemes not certified as mentioned in section 326(3)(b), (4)(b) or (5)(b) before the day appointed under paragraph 4(3) above.

*Section 326: supplementary*

- 6 (1) Section 326 shall be further amended by inserting the following subsection after subsection (8) (inserted by paragraph 5 above)—
- “(9) Schedule 15A to this Act (which contains provisions supplementing this section) shall have effect.”
- (2) The following Schedule shall be inserted after Schedule 15 to the Taxes Act 1988—

“SCHEDULE  
15A

CONTRACTUAL SAVINGS SCHEMES

*Introduction*

- 1 This Schedule shall have effect for the purposes of section 326.

*Share option linked schemes*

- 2 (1) A share option linked scheme is a scheme under which periodical contributions are to be made by an individual—
- (a) who is eligible to participate in (that is, to obtain and exercise rights under) an approved savings-related share option scheme, and
  - (b) who is to make the contributions for the purpose of enabling him to participate in that approved scheme.
- (2) In sub-paragraph (1) above—
- (a) “savings-related share option scheme” has the meaning given by paragraph 1 of Schedule 9, and
  - (b) “approved” means approved under that Schedule.

*Relevant European institutions*

- 3 A relevant European institution is an institution which—
- (a) is a European authorised institution within the meaning of the <sup>M52</sup>Banking Co-ordination (Second Council Directive) Regulations 1992, and
  - (b) may accept deposits in the United Kingdom in accordance with those regulations.



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*Status: Point in time view as at 01/07/1997.*

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

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*Treasury specifications*

- 4 (1) The requirements which may be specified under section 326(3)(b), (4)(b) or (5)(b) are such requirements as the Treasury think fit.
- (2) In particular, the requirements may relate to—
  - (a) the descriptions of individuals who may enter into contracts under a scheme;
  - (b) the contributions to be paid by individuals;
  - (c) the sums to be paid or repaid to individuals.
- (3) The requirements which may be specified under any of the relevant provisions may be different from those specified under any of the other relevant provisions; and the relevant provisions are section 326(3)(b), (4)(b) and (5)(b).
- 5 (1) Where a specification has been made under section 326(3)(b), (4)(b) or (5)(b) the Treasury may—
  - (a) withdraw the specification and any certification made by reference to the specification, and
  - (b) stipulate the date on which the withdrawal is to become effective.
- (2) No withdrawal under this paragraph shall affect—
  - (a) the operation of the scheme before the stipulated date, or
  - (b) any contract entered into before that date.
- (3) No withdrawal under this paragraph shall be effective unless the Treasury—
  - (a) send a notice by post to each relevant body informing it of the withdrawal, and
  - (b) do so not less than 28 days before the stipulated date;and a relevant body is a society or institution authorised (whether unconditionally or subject to conditions being met) to enter into contracts under the scheme concerned.
- 6 (1) Where a specification has been made under section 326(3)(b), (4)(b) or (5)(b) the Treasury may—
  - (a) vary the specification,
  - (b) withdraw any certification made by reference to the specification obtaining before the variation, and
  - (c) stipulate the date on which the variation and withdrawal are to become effective;and the Treasury may at any time certify a scheme as fulfilling the requirements obtaining after the variation.
- (2) No variation and withdrawal under this paragraph shall affect—
  - (a) the operation of the scheme before the stipulated date, or
  - (b) any contract entered into before that date.
- (3) No variation and withdrawal under this paragraph shall be effective unless the Treasury—
  - (a) send a notice by post to each relevant body informing it of the variation and withdrawal, and

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(b) do so not less than 28 days before the stipulated date;  
and a relevant body is a society or institution authorised (whether unconditionally or subject to conditions being met) to enter into contracts under the scheme concerned.

*Treasury authorisation*

- 7 (1) The Treasury may authorise a society or institution under section 326(7) or (8) as regards schemes generally or as regards a particular scheme or particular schemes.
- (2) More than one authorisation may be given to the same society or institution.
- 8 (1) Where an authorisation has been given under section 326(7) or (8) the Treasury may withdraw the authorisation and stipulate the date on which the withdrawal is to become effective; and the withdrawal shall have effect as regards any contract not entered into before the stipulated date.
- (2) No withdrawal under this paragraph shall be effective unless the Treasury—
- (a) send a notice by post to the society or institution concerned informing it of the withdrawal, and
- (b) do so not less than 28 days before the stipulated date.
- (3) A withdrawal of an authorisation shall not affect the Treasury's power to give another authorisation or other authorisations.
- 9 (1) Where an authorisation has been given under section 326(7) the Treasury may—
- (a) stipulate that the authorisation is to be varied by being treated as given subject to specified conditions being met, and
- (b) stipulate the date on which the variation is to become effective.
- (2) As regards any contract entered into on or after the stipulated date the authorisation shall be treated as having been given under section 326(8) subject to the conditions being met.
- (3) No variation under this paragraph shall be effective unless the Treasury—
- (a) send a notice by post to the society or institution concerned informing it of the variation, and
- (b) do so not less than 28 days before the stipulated date.
- 10 (1) Where an authorisation has been given under section 326(8) the Treasury may withdraw the conditions and stipulate the date on which the withdrawal is to become effective.
- (2) As regards any contract entered into on or after the stipulated date the authorisation shall be treated as having been given under section 326(7) without any conditions being imposed.
- 11 (1) Where an authorisation has been given under section 326(8) the Treasury may vary the conditions and stipulate the date on which the variation is to become effective; and the variation shall have effect as regards any contract entered into on or after the stipulated date.
- (2) No variation under this paragraph shall be effective unless the Treasury—

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- (a) send a notice by post to the society or institution concerned informing it of the variation, and
  - (b) do so not less than 28 days before the stipulated date.
- 12 (1) If the Treasury act as regards an authorisation under a relevant paragraph, the paragraph concerned shall have effect subject to their power to act later, as regards the same authorisation, under the same or (as the case may be) another relevant paragraph.
- (2) If the Treasury act later as mentioned in sub-paragraph (1) above that sub-paragraph shall apply again, and so on however many times they act as regards an authorisation.
- (3) If the Treasury act as regards an authorisation under a relevant paragraph the paragraph concerned shall have effect subject to their power to act later, as regards the same authorisation, under paragraph 8 above.
- (4) For the purposes of this paragraph the relevant paragraphs are paragraphs 9 to 11 above.”

**Marginal Citations**

**M52** [S.I. 1992/3218](#).

*Payments under certain contracts*

- 7 (1) Any terminal bonus, interest or other sum payable under a scheme shall not be treated as payable under a certified contractual savings scheme for the purposes of section 326 if—
- (a) the scheme is not a share option linked scheme, and
  - (b) the contract under which the sum is payable is not entered into before 1st December 1994.
- (2) Any terminal bonus, interest or other sum payable under a scheme shall not be treated as payable under a certified contractual savings scheme for the purposes of section 326 if—
- (a) the contract under which the sum is payable provides for contributions to be made by way of investment in a building society or to be made to an institution authorised under the <sup>M53</sup>Banking Act 1987 or to a relevant European institution,
  - (b) the scheme is certified as mentioned in section 326(3)(b), (4)(b) or (5)(b) before the day appointed under paragraph 4(3) above, and
  - (c) the contract is not entered into before that day.
- (3) In this paragraph “share option linked scheme” and “relevant European institution” have the same meanings as in section 326.

**Marginal Citations**

**M53** [1987 c. 22](#).

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### *Transitional*

- 8 (1) The Treasury may by regulations provide that at the beginning of the day appointed under paragraph 4(3) above Treasury authorisation shall be treated as given under section 326(7) to any specified relevant body without any conditions being imposed.
- (2) The Treasury may by regulations provide that—
- (a) at the beginning of the day appointed under paragraph 4(3) above Treasury authorisation shall be treated as given under section 326(8) to any specified relevant body subject to conditions being met;
  - (b) the conditions as regards a body shall be such as are specified in, or identified by provision contained in, the regulations as regards that body.
- (3) Any authorisation treated as given as mentioned in sub-paragraph (1) or (2) above shall be treated as given as regards schemes generally; but this is subject to any provision to the contrary in the regulations.
- (4) For the purposes of this paragraph the following are relevant bodies—
- (a) any building society;
  - (b) any institution authorised under the <sup>M54</sup>Banking Act 1987;
  - (c) any relevant European institution.
- (5) In this paragraph—
- (a) “relevant European institution” has the same meaning as in section 326;
  - (b) “specified” means specified in the regulations.
- (6) Regulations under this paragraph shall be made by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.

#### **Marginal Citations**

**M54** 1987 c. 22.

## SCHEDULE 13

Section 67.

### ENTERPRISE INVESTMENT SCHEME

#### *Introduction*

- 1 The <sup>M55</sup>Taxation of Chargeable Gains Act 1992 shall be amended as mentioned in this Schedule.

#### **Marginal Citations**

**M55** 1992 c. 12.

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*Status: Point in time view as at 01/07/1997.*

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

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*Amendments of section 150A*

- 2 (1) Section 150A (enterprise investment scheme) shall be amended as mentioned in sub-paragraphs (2) to (4) below; and the amendments made by sub-paragraphs (2) and (3) below shall apply in relation to shares issued on or after 1st January 1994.
- (2) The following subsection shall be inserted after subsection (2)—
- “(2A) Notwithstanding anything in section 16(2), subsection (2) above shall not apply to a disposal on which a loss accrues.”
- (3) In subsection (3) (reduction of relief) the following paragraph shall be inserted after paragraph (a)—
- “(aa) the amount of the reduction is not found under section 289A(2)(b) of that Act, and”.
- (4) The following subsections shall be inserted after subsection (8) (which disapplies provisions about exchanges, reconstructions or amalgamations in certain circumstances)—
- “(8A) Subsection (8) above shall not have effect to disapply section 135 or 136 where—
- (a) the new holding consists of new ordinary shares carrying no present or future preferential right to dividends or to a company’s assets on its winding up and no present or future preferential right to be redeemed,
- (b) the new shares are issued on or after 29th November 1994 and after the end of the relevant period, and
- (c) the condition in subsection (8B) below is satisfied.
- (8B) The condition is that at some time before the issue of the new shares—
- (a) the company issuing them issued eligible shares, and
- (b) a certificate in relation to those eligible shares was issued by the company for the purposes of subsection (2) of section 306 of the Taxes Act and in accordance with that section.
- (8C) In subsection (8A) above—
- (a) “new holding” shall be construed in accordance with sections 126, 127, 135 and 136;
- (b) “relevant period” means the period found by applying section 312(1A)(a) of the Taxes Act by reference to the company issuing the shares referred to in subsection (8) above and by reference to those shares.”

*Reduction of relief*

- 3 The following section shall be inserted after section 150A—

**“150B Enterprise investment scheme: reduction of relief.**

- (1) This section has effect where section 150A(2) applies on a disposal of eligible shares, and before the disposal but on or after 29th November 1994—

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- (a) value is received in circumstances where relief attributable to the shares is reduced by an amount under section 300(1A)(a) of the Taxes Act,
  - (b) there is a repayment, redemption, repurchase or payment in circumstances where relief attributable to the shares is reduced by an amount under section 303(1A)(a) of that Act, or
  - (c) paragraphs (a) and (b) above apply.
- (2) If section 150A(2) applies on the disposal but section 150A(3) does not, section 150A(2) shall apply only to so much of the gain as remains after deducting so much of it as is found by multiplying it by the fraction—
- (a) whose numerator is equal to the amount by which the relief attributable to the shares is reduced as mentioned in subsection (1) above, and
  - (b) whose denominator is equal to the amount of the relief attributable to the shares.
- (3) If section 150A(2) and (3) apply on the disposal, section 150A(2) shall apply only to so much of the gain as is found by—
- (a) taking the part of the gain found under section 150A(3), and
  - (b) deducting from that part so much of it as is found by multiplying it by the fraction mentioned in subsection (2) above.
- (4) Where the relief attributable to the shares is reduced as mentioned in subsection (1) above by more than one amount, the numerator mentioned in subsection (2) above shall be taken to be equal to the aggregate of the amounts.
- (5) The denominator mentioned in subsection (2) above shall be found without regard to any reduction mentioned in subsection (1) above.
- (6) Subsections (11) and (12) of section 150A apply for the purposes of this section as they apply for the purposes of that section.”

*Re-investment*

- 4 (1) The following section shall be inserted after section 150B—

**“150C Enterprise investment scheme: re-investment.**

Schedule 5B to this Act (which provides relief in respect of re-investment under the enterprise investment scheme) shall have effect.”

- (2) In section 260, after subsection (6) (no reduction in the case of certain disposals in respect of held-over gains), there shall be inserted the following subsection—
- “(6A) Subsection (3) above does not apply, so far as any gain accruing in accordance with paragraphs 4 and 5 of Schedule 5B is concerned, in relation to the disposal which constitutes the chargeable event by virtue of which that gain accrues.”
- (3) The following Schedule shall be inserted after Schedule 5A—

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## “SCHEDULE 5B

### ENTERPRISE INVESTMENT SCHEME: RE-INVESTMENT

#### *Application of Schedule*

- 1 (1) This Schedule applies where—
  - (a) there would (apart from paragraph 2(2)(a) below) be a chargeable gain (“the original gain”) accruing to an individual (“the investor”) at any time (“the accrual time”) on or after 29th November 1994;
  - (b) the gain is one accruing either on the disposal by the investor of any asset or in accordance with paragraphs 4 and 5 below or paragraphs 4 and 5 of Schedule 5C;
  - (c) the investor makes a qualifying investment; and
  - (d) the investor is resident or ordinarily resident in the United Kingdom at the accrual time and the time when he makes the qualifying investment and is not, in relation to the qualifying investment, a person to whom sub-paragraph (4) below applies.
- (2) The investor makes a qualifying investment for the purposes of this Schedule if—
  - (a) he subscribes for any shares to which any relief given to him under Chapter III of Part VII of the Taxes Act is attributable;
  - (b) those shares are issued at a qualifying time; and
  - (c) where that time is before the accrual time, those shares are still held by the investor at the accrual time;and in this Schedule “relevant shares”, in relation to a case to which this Schedule applies, means any of the shares which are acquired by the investor in making the qualifying investment.
- (3) In this Schedule “a qualifying time”, in relation to any shares subscribed for by the investor, means—
  - (a) any time in the period beginning one year before and ending three years after the accrual time, or
  - (b) any such time before the beginning of that period or after it ends as the Board may by notice allow.
- (4) This sub-paragraph applies to the investor in relation to a qualifying investment if—
  - (a) though resident or ordinarily resident in the United Kingdom at the time when he makes the investment, he is regarded for the purposes of any double taxation relief arrangements as resident in a territory outside the United Kingdom, and
  - (b) were section 150A to be disregarded, the arrangements would have the effect that he would not be liable in the United Kingdom to tax on a gain arising on a disposal, immediately after their acquisition, of the shares acquired in making that investment.

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

*Postponement of original gain*

- 2 (1) On the making of a claim by the investor for the purposes of this Schedule, so much of the investor's unused qualifying expenditure on relevant shares as—
- (a) is specified in the claim, and
  - (b) does not exceed so much of the original gain as is unmatched,
- shall be set against a corresponding amount of the original gain.
- (2) Where an amount of qualifying expenditure on any relevant shares is set under this Schedule against the whole or part of the original gain—
- (a) so much of that gain as is equal to that amount shall be treated as not having accrued at the accrual time; but
  - (b) paragraphs 4 and 5 below shall apply for determining the gain that is to be treated as accruing on the occurrence of any chargeable event in relation to any of those relevant shares.
- (3) For the purposes of this Schedule—
- (a) the investor's qualifying expenditure on any relevant shares is so much of the amount subscribed by him for the shares as represents the amount in respect of which there is given the relief under section 289A of the Taxes Act which is attributable to those shares; and
  - (b) that expenditure is unused to the extent that it has not already been set under this Schedule against the whole or any part of a chargeable gain.
- (4) For the purposes of this paragraph the original gain is unmatched, in relation to any qualifying expenditure on relevant shares, to the extent that it has not had any other expenditure set against it under this Schedule or Schedule 5C.

*Chargeable events*

- 3 (1) Subject to the following provisions of this paragraph, there is for the purposes of this Schedule a chargeable event in relation to any relevant shares if, after the making of the qualifying investment—
- (a) the investor disposes of those shares otherwise than by way of a disposal within marriage;
  - (b) those shares are disposed of, otherwise than by way of a disposal to the investor, by a person who acquired them on a disposal made by the investor within marriage;
  - (c) the investor becomes a non-resident while holding those shares and within the first relevant period;
  - (d) a person who acquired those shares on a disposal within marriage becomes a non-resident while holding those shares and within the first relevant period;
  - (e) the company that issued those shares ceases to be a qualifying company within the second relevant period; or
  - (f) the relief given under section 289A of the Taxes Act in respect of the amount subscribed for those shares is withdrawn or reduced in circumstances not falling within any of paragraphs (a) to (e) above.



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- (2) For the purposes of sub-paragraph (1) above—
- (a) the first relevant period in the case of any relevant shares is the period found by applying section 312(1A)(a) of the Taxes Act by reference to the company that issued the shares and by reference to the shares;
  - (b) the second relevant period in the case of any shares is the period found by applying section 312(1A)(b) of that Act by reference to the company that issued the shares and by reference to the shares; and
  - (c) whether a company is a qualifying company at any given time shall be determined in accordance with section 293 of that Act.
- (3) For the purposes of this Schedule there shall not be a chargeable event by virtue of sub-paragraph (1)(c) or (d) above in relation to any shares if—
- (a) the reason why the person in question becomes a non-resident is that he works in an employment or office all the duties of which are performed outside the United Kingdom, and
  - (b) he again becomes resident or ordinarily resident in the United Kingdom within the period of three years from the time when he became a non-resident, without having meanwhile disposed of any of those shares;
- and accordingly no assessment shall be made by virtue of sub-paragraph (1) (c) or (d) above before the end of that period in a case where the condition in paragraph (a) above is satisfied and the condition in paragraph (b) above may be satisfied.
- (4) For the purposes of sub-paragraph (3) above a person shall be taken to have disposed of any shares if and only if there has been such a disposal as would have been a chargeable event in relation to those shares if the person making the disposal had been resident in the United Kingdom.
- (5) Where in any case—
- (a) the investor or a person who has acquired any relevant shares on a disposal within marriage dies, and
  - (b) an event occurs at or after the time of the death which (apart from this sub-paragraph) would be a chargeable event in relation to any relevant shares held by the deceased immediately before his death,
- that event shall not be a chargeable event in relation to the shares so held.

*Gain accruing on chargeable event*

- 4 (1) On the occurrence of a chargeable event in relation to any relevant shares in relation to which there has not been a previous chargeable event—
- (a) a chargeable gain shall be treated as accruing at the time of the event; and
  - (b) the amount of the gain shall be equal to so much of the original gain as is an amount against which there has under this Schedule been set any expenditure on those shares.
- (2) Any question for the purposes of this Schedule as to whether any relevant shares to which a chargeable event relates are shares the expenditure on which has under this Schedule been set against the whole or any part of any

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gain shall be determined in accordance with the assumptions for which sub-paragraph (3) below provides.

- (3) For the purposes of sub-paragraph (2) above it shall be assumed, in relation to any disposal of shares (including a disposal within marriage) that—
- (a) as between qualifying shares acquired by the same person on different days, those acquired on an earlier day are disposed of by that person before those acquired on a later day; and
  - (b) as between qualifying shares acquired by the same person on the same day, those the expenditure on which has been set under this Schedule against the whole or any part of any gain are disposed of by that person only after he has disposed of any other qualifying shares acquired by him on that day.
- (4) In sub-paragraph (3) above “qualifying shares” means any shares which—
- (a) were subscribed for by a person eligible for relief in respect of those shares under Chapter III of Part VII of the Taxes Act (the enterprise investment scheme), and
  - (b) are shares in respect of which relief is given under section 289A of that Act in respect of the whole or any part of the amount subscribed.
- (5) Where at the time of a chargeable event any relevant shares are treated for the purposes of this Act as represented by assets which consist of or include assets other than those shares—
- (a) the expenditure on those shares which was set against the gain in question shall be treated, in determining for the purposes of this paragraph the amount of expenditure on each of those assets which is to be treated as having been set against that gain, as apportioned in such manner as may be just and reasonable between those assets; and
  - (b) as between different assets treated as representing the same relevant shares, the assumptions for which sub-paragraph (3) above provides shall apply with the necessary modifications in relation to those assets as they would apply in relation to the shares.

*Person to whom gain accrues*

- 5 (1) The chargeable gain which accrues, in accordance with paragraph 4 above, on the occurrence in relation to any relevant shares of a chargeable event shall be treated as accruing, as the case may be—
- (a) to the person who makes the disposal,
  - (b) to the person who becomes a non-resident,
  - (c) to the person who holds the shares in question when the company ceases to be a qualifying company, or
  - (d) to the person who holds the shares in question when the circumstances arise in respect of which the relief is withdrawn or reduced.
- (2) Where—
- (a) sub-paragraph (1) above provides for the holding of shares at a particular time to be what identifies the person to whom any chargeable gain accrues, and

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- (b) at that time, some of those shares are held by the investor and others are held by a person to whom the investor has transferred them by a disposal within marriage,  
the amount of the chargeable gain accruing by virtue of paragraph 4 above shall be computed separately in relation to the investor and that person without reference to the shares held by the other.

#### *Interpretation*

- 6 (1) In this Schedule “non-resident” means a person who is neither resident nor ordinarily resident in the United Kingdom.
- (2) In this Schedule references to a disposal within marriage are references to any disposal to which section 58 applies.
- (3) Notwithstanding anything in section 288(5), shares shall not for the purposes of this Schedule be treated as issued by reason only of being comprised in a letter of allotment or similar instrument.
- (4) Chapter III of Part VII of the Taxes Act shall apply for the purposes of this Schedule to determine whether and to what extent any relief under that Chapter is attributable to any shares.
- (5) References in this Schedule to Chapter III of Part VII of the Taxes Act or any provision of that Chapter are to that Chapter or provision as it applies in relation to shares issued on or after 1st January 1994.”
- (4) This paragraph has effect in relation to gains accruing and events occurring on or after 29th November 1994.

#### SCHEDULE 14

Section 70.

#### VENTURE CAPITAL TRUSTS: MEANING OF “QUALIFYING HOLDINGS”

#### SCHEDULE 15

Section 71.

#### VENTURE CAPITAL TRUSTS: RELIEF FROM INCOME TAX

#### SCHEDULE 16

Section 72.

#### VENTURE CAPITAL TRUSTS: DEFERRED CHARGE ON RE-INVESTMENT

#### *Application of Schedule*

- 1 (1) This Schedule applies where—

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- (a) there would (apart from paragraph 2(2)(a) below) be a chargeable gain (“the original gain”) accruing to an individual (“the investor”) at any time (“the accrual time”) on or after 6th April 1995;
  - (b) that gain is one accruing on the disposal by the investor of any asset or in accordance with paragraphs 4 and 5 of Schedule 5B or paragraphs 4 and 5 below;
  - (c) the investor makes a qualifying investment; and
  - (d) the investor is resident or ordinarily resident in the United Kingdom at the accrual time and the time when he makes the qualifying investment and is not, in relation to the qualifying investment, a person to whom sub-paragraph (4) below applies.
- (2) The investor makes a qualifying investment for the purposes of this Schedule if—
- (a) he subscribes for any shares by reference to which he is given relief under Part I of Schedule 15B to the Taxes Act on any amount;
  - (b) those shares are issued at a qualifying time; and
  - (c) where that time is before the accrual time, those shares are still held by the investor at the accrual time;
- and in this Schedule “relevant shares”, in relation to a case to which this Schedule applies, means any of the shares in a venture capital trust which are acquired by the investor in making the qualifying investment.
- (3) In this Schedule “a qualifying time”, in relation to any shares subscribed for by the investor, means—
- (a) any time in the period beginning twelve months before the accrual time and ending twelve months after the accrual time, or
  - (b) any such time before the beginning of that period or after it ends as the Board may by notice allow.
- (4) This sub-paragraph applies to an individual in relation to a qualifying investment if—
- (a) though resident or ordinarily resident in the United Kingdom at the time when he makes the investment, he is regarded for the purposes of any double taxation relief arrangements as resident in a territory outside the United Kingdom; and
  - (b) were section 151A(1) to be disregarded, the arrangements would have the effect that he would not be liable in the United Kingdom to tax on a gain arising on a disposal, immediately after their acquisition, of the shares acquired in making that investment.

*The postponement of the original gain*

- 2 (1) On the making of a claim by the investor for the purposes of this Schedule, so much of the investor’s unused qualifying expenditure on relevant shares as—
- (a) is specified in the claim, and
  - (b) does not exceed so much of the original gain as is unmatched,
- shall be set against a corresponding amount of the original gain.
- (2) Where the amount of any qualifying expenditure on any relevant shares is set under this Schedule against the whole or any part of the original gain—
- (a) so much of that gain as is equal to that amount shall be treated as not having accrued at the accrual time; but

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- (b) paragraphs 4 and 5 below shall apply for determining the gain that is to be treated as accruing on the occurrence of any chargeable event in relation to any of those relevant shares.
- (3) For the purposes of this Schedule, but subject to the following provisions of this paragraph—
  - (a) the investor’s qualifying expenditure on any relevant shares is the sum equal to the amount on which he is given relief under Part I of Schedule 15B to the Taxes Act by reference to those shares; and
  - (b) that expenditure is unused to the extent that it has not already been set under this Schedule against the whole or any part of a chargeable gain.
- (4) For the purposes of this paragraph the original gain is unmatched, in relation to any qualifying expenditure on relevant shares, to the extent that it has not had any other amount set against it under this Schedule or Schedule 5B.

#### *Chargeable events*

- 3 (1) Subject to the following provisions of this paragraph, there is for the purposes of this Schedule a chargeable event in relation to any relevant shares if, after the making of the qualifying investment—
  - (a) the investor disposes of those shares otherwise than by way of a disposal within marriage;
  - (b) those shares are disposed of, otherwise than by way of a disposal to the investor, by a person who acquired them on a disposal made by the investor within marriage;
  - (c) there is, in a case where those shares fall within section 151B(3)(c), such an actual or deemed exchange of those shares for any non-qualifying holdings as, under section 135 or 136, requires, or but for section 116 would require, those holdings to be treated for the purposes of this Act as the same assets as those shares;
  - (d) the investor becomes a non-resident while holding those shares and within the relevant period;
  - (e) a person who acquired those shares on a disposal within marriage becomes a non-resident while holding those shares and within the relevant period;
  - (f) the company in which those shares are shares has its approval as a venture capital trust withdrawn in a case to which section 842AA(8) of the Taxes Act does not apply; or
  - (g) the relief given under Part I of Schedule 15B to the Taxes Act by reference to those shares is withdrawn or reduced in circumstances not falling within any of paragraphs (a) to (f) above.
- (2) In sub-paragraph (1) above—
  - “non-qualifying holdings” means any shares or securities other than any ordinary shares (within the meaning of section 151A) in a venture capital trust; and
  - “the relevant period”, in relation to any relevant shares, means the period of five years beginning with the time when the investor made the qualifying investment by virtue of which he acquired those shares.
- (3) For the purposes of sub-paragraph (1) above there shall not be a chargeable event by virtue of sub-paragraph (1)(d) or (e) above in relation to any shares if—

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- (a) the reason why the person in question becomes a non-resident is that he works in an employment or office all the duties of which are performed outside the United Kingdom, and
  - (b) he again becomes resident or ordinarily resident in the United Kingdom within the period of three years from the time when he became a non-resident, without having meanwhile disposed of any of those shares;
- and, accordingly, no assessment shall be made by virtue of sub-paragraph (1)(d) or (e) above before the end of that period in any case where the condition in paragraph (a) above is satisfied and the condition in paragraph (b) above may be satisfied.
- (4) For the purposes of sub-paragraph (3) above a person shall be taken to have disposed of any shares if and only if there has been such a disposal as would, if the person making the disposal had been resident in the United Kingdom, have been a chargeable event in relation to those shares.
- (5) Where in any case—
- (a) the investor or a person who has acquired any relevant shares on a disposal within marriage dies, and
  - (b) an event occurs at or after the time of the death which (apart from this sub-paragraph) would be a chargeable event in relation to any relevant shares held by the deceased immediately before his death,
- that event shall not be a chargeable event in relation to the shares so held.
- (6) Without prejudice to the operation of paragraphs 4 and 5 below in a case falling within sub-paragraph (1)(f) above, the references in this paragraph to a disposal shall not include references to the disposal which by virtue of section 151B(6) is deemed to take place in such a case.

*Gain accruing on chargeable event*

- 4 (1) On the occurrence of a chargeable event in relation to any relevant shares in relation to which there has not been a previous chargeable event—
- (a) a chargeable gain shall be treated as accruing at the time of the event; and
  - (b) the amount of the gain shall be equal to so much of the original gain as is an amount against which there has under this Schedule been set any expenditure on those shares.
- (2) In determining for the purposes of this Schedule any question whether any shares to which a chargeable event relates are shares the expenditure on which has under this Schedule been set against the whole or any part of any gain, the assumptions in sub-paragraph (3) below shall apply and, in a case where the shares are not (within the meaning of section 151B) eligible for relief under section 151A(1), shall apply notwithstanding anything in any of sections 104, 105 and 107.
- (3) Those assumptions are that—
- (a) as between shares acquired by the same person on different days, those acquired on an earlier day are disposed of by that person before those acquired on a later day; and
  - (b) as between shares in a company that were acquired on the same day, those the expenditure on which has been set under this Schedule against the whole or any part of any gain are disposed of by that person only after he has disposed of any other shares in that company that were acquired by him on that day.

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- (4) Where at the time of a chargeable event any relevant shares are treated for the purposes of this Act as represented by assets which consist of or include assets other than the relevant shares—
- (a) the expenditure on those shares which was set against the gain in question shall be treated, in determining for the purposes of this paragraph the amount of expenditure on each of those assets which is to be treated as having been set against that gain, as apportioned in such manner as may be just and reasonable between those assets; and
  - (b) as between different assets treated as representing the same relevant shares, the assumptions mentioned in sub-paragraph (3) above shall apply with the necessary modifications in relation to those assets as they would apply in relation to the shares.

*Persons to whom gain accrues*

- 5 (1) The chargeable gain which accrues in accordance with paragraph 4 above on the occurrence in relation to any relevant shares of a chargeable event shall be treated as accruing, as the case may be—
- (a) to the person who makes the disposal,
  - (b) to the person who holds the shares in question at the time of the exchange or deemed exchange,
  - (c) to the person who becomes a non-resident,
  - (d) to the person who holds the shares in question when the withdrawal of the approval takes effect, or
  - (e) to the person who holds the shares in question when the circumstances arise in respect of which the relief is withdrawn or reduced.
- (2) Where—
- (a) sub-paragraph (1) above provides for the holding of shares at a particular time to be what identifies the person to whom any chargeable gain accrues, and
  - (b) at that time, some of those shares are held by the investor and others are held by a person to whom the investor has transferred them by a disposal within marriage,

the amount of the chargeable gain accruing by virtue of paragraph 4 above shall be computed separately in relation to the investor and that person without reference to the shares held by the other.

*Interpretation*

- 6 (1) In this Schedule “non-resident” means a person who is neither resident nor ordinarily resident in the United Kingdom.
- (2) In this Schedule references to a disposal within marriage are references to any disposal to which section 58 applies.
- (3) Notwithstanding anything in section 288(5), shares shall not for the purposes of this Schedule be treated as issued by reason only of being comprised in a letter of allotment or similar instrument.

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## SCHEDULE 17

Section 74.

## SETTLEMENTS: LIABILITY OF SETTLOR

## PART I

## THE NEW PROVISIONS

- 1 In Part XV of the Taxes Act 1988 (settlements) the following provisions are inserted (in place of sections 660 to 676 and 683 to 685) as Chapter IA—

## “CHAPTER IA

## LIABILITY OF SETTLOR

*Main provisions***660A Income arising under settlement where settlor retains an interest.**

- (1) Income arising under a settlement during the life of the settlor shall be treated for all purposes of the Income Tax Acts as the income of the settlor and not as the income of any other person unless the income arises from property in which the settlor has no interest.
- (2) Subject to the following provisions of this section, a settlor shall be regarded as having an interest in property if that property or any derived property is, or will or may become, payable to or applicable for the benefit of the settlor or his spouse in any circumstances whatsoever.
- (3) The reference in subsection (2) above to the spouse of the settlor does not include—
  - (a) a person to whom the settlor is not for the time being married but may later marry, or
  - (b) a spouse from whom the settlor is separated under an order of a court, or under a separation agreement or in such circumstances that the separation is likely to be permanent, or
  - (c) the widow or widower of the settlor.
- (4) A settlor shall not be regarded as having an interest in property by virtue of subsection (2) above if and so long as none of that property, and no derived property, can become payable or applicable as mentioned in that subsection except in the event of—
  - (a) the bankruptcy of some person who is or may become beneficially entitled to the property or any derived property, or
  - (b) an assignment of or charge on the property or any derived property being made or given by some such person, or
  - (c) in the case of a marriage settlement, the death of both parties to the marriage and of all or any of the children of the marriage, or
  - (d) the death of a child of the settlor who had become beneficially entitled to the property or any derived property at an age not exceeding 25.



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- (5) A settlor shall not be regarded as having an interest in property by virtue of subsection (2) above if and so long as some person is alive and under the age of 25 during whose life that property, or any derived property, cannot become payable or applicable as mentioned in that subsection except in the event of that person becoming bankrupt or assigning or charging his interest in the property or any derived property.
- (6) The reference in subsection (1) above to a settlement does not include an outright gift by one spouse to the other of property from which income arises, unless—
- (a) the gift does not carry a right to the whole of that income, or
  - (b) the property given is wholly or substantially a right to income.
- For this purpose a gift is not an outright gift if it is subject to conditions, or if the property given or any derived property is or will or may become, in any circumstances whatsoever, payable to or applicable for the benefit of the donor.
- (7) The reference in subsection (1) above to a settlement does not include an irrevocable allocation of pension rights by one spouse to the other in accordance with the terms of a relevant statutory scheme (within the meaning of Chapter I of Part XIV).
- (8) Subsection (1) above does not apply to income arising under a settlement made by one party to a marriage by way of provision for the other—
- (a) after the dissolution or annulment of the marriage, or
  - (b) while they are separated under an order of a court, or under a separation agreement or in such circumstances that the separation is likely to be permanent,
- being income payable to or applicable for the benefit of that other party.
- (9) Subsection (1) above does not apply to income consisting of—
- (a) annual payments made by an individual for bona fide commercial reasons in connection with his trade, profession or vocation; or
  - (b) covenanted payments to charity (as defined by section 347A(7)).
- (10) In this section “derived property”, in relation to any property, means income from that property or any other property directly or indirectly representing proceeds of, or of income from, that property or income therefrom.

#### **660B Payments to unmarried minor children of settlor.**

- (1) Income arising under a settlement which does not fall to be treated as income of the settlor under section 660A but which during the life of the settlor is paid to or for the benefit of an unmarried minor child of the settlor in any year of assessment shall be treated for all the purposes of the Income Tax Acts as the income of the settlor for that year and not as the income of any other person.
- (2) Where income arising under a settlement is retained or accumulated by the trustees, any payment whatsoever made thereafter by virtue or in consequence of the settlement, or any enactment relating thereto, to or for the benefit of an unmarried minor child of the settlor shall be deemed for

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the purposes of subsection (1) above to be a payment of income if or to the extent that there is available retained or accumulated income.

- (3) There shall be taken to be available retained or accumulated income at any time when the aggregate amount of the income which has arisen under the settlement since it was made or entered into exceeds the aggregate amount of income so arising which has been—
  - (a) treated as income of the settlor or a beneficiary, or
  - (b) paid (whether as income or capital) to or for the benefit of a beneficiary other than an unmarried minor child of the settlor, or
  - (c) applied in defraying expenses of the trustees which were properly chargeable to income (or would have been so chargeable but for any express provisions of the trust).
- (4) Where an offshore income gain (within the meaning of Chapter V of Part XVII) accrues in respect of a disposal of assets made by a trustee holding them for a person who would be absolutely entitled as against the trustee but for being a minor, the income which by virtue of section 761(1) is treated as arising by reference to that gain shall for the purposes of this section be deemed to be paid to that person.
- (5) Income paid to or for the benefit of a child of a settlor shall not be treated as provided in subsection (1) above for a year of assessment in which the aggregate amount paid to or for the benefit of that child which but for this subsection would be so treated does not exceed £100.
- (6) In this section—
  - (a) “child” includes a stepchild and an illegitimate child;
  - (b) “minor” means a person under the age of 18 years, and “minor child” shall be construed accordingly; and
  - (c) references to payments include payments in money or money’s worth.

#### **660C Nature of charge on settlor.**

- (1) Tax chargeable by virtue of this Chapter shall be charged under Case VI of Schedule D.
- (2) In computing the liability to income tax of a settlor chargeable by virtue of this Chapter the same deductions and reliefs shall be allowed as would have been allowed if the income treated as his by virtue of this Chapter had been received by him.
- (3) Subject to section 833(3), income which is treated by virtue of this Chapter as income of a settlor shall be deemed for the purposes of this section to be the highest part of his income.

#### **660D Adjustments between settlor and trustees, &c.**

- (1) Where by virtue of this Chapter income tax becomes chargeable on and is paid by a settlor, he is entitled—
  - (a) to recover from any trustee, or any other person to whom the income is payable by virtue or in consequence of the settlement, the amount of the tax so paid; and

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- (b) for that purpose to require an officer of the Board to furnish to him a certificate specifying the amount of income in respect of which he has so paid tax and the amount of tax so paid.

A certificate so furnished is conclusive evidence of the facts stated therein.

- (2) Where a person obtains, in respect of an allowance or relief, a repayment of income tax in excess of the amount of the repayment to which he would, but for this Chapter, have been entitled, an amount equal to the excess shall be paid by him to the trustee, or other person to whom the income is payable by virtue or in consequence of the settlement, or, where there are two or more such persons, shall be apportioned among those persons as the case may require.

If any question arises as to the amount of a payment or as to an apportionment to be made under this subsection, that question shall be decided by the General Commissioners whose decision shall be final.

- (3) Nothing in this Chapter shall be construed as excluding a charge to tax on the trustees as persons by whom any income is received.

#### *Supplementary provisions*

#### **660E Application to settlements by two or more settlors.**

- (1) In the case of a settlement where there is more than one settlor, this Chapter shall have effect in relation to each settlor as if he were the only settlor, as follows.
- (2) In this Chapter, in relation to a settlor—
  - (a) references to the property comprised in a settlement include only property originating from that settlor, and
  - (b) references to income arising under the settlement include only income originating from that settlor.
- (3) For the purposes of section 660B there shall be taken into account, in relation to a settlor, as income paid to or for the benefit of a child of the settlor only—
  - (a) income originating from that settlor, and
  - (b) in a case in which section 660B(2) applies, payments which are under that provision (as adapted by subsection (4) below) to be deemed to be payments of income.
- (4) In applying section 660B(2) to a settlor—
  - (a) the reference to income arising under the settlement includes only income originating from that settlor; and
  - (b) the reference to any payment made by virtue or in consequence of the settlement or any enactment relating thereto includes only a payment made out of property originating from that settlor or income originating from that settlor.
- (5) References in this section to property originating from a settlor are references to—
  - (a) property which that settlor has provided directly or indirectly for the purposes of the settlement; and

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- (b) property representing that property; and
  - (c) so much of any property which represents both property so provided and other property as, on a just apportionment, represents the property so provided.
- (6) References in this section to income originating from a settlor are references to—
- (a) income from property originating from that settlor; and
  - (b) income provided directly or indirectly by that settlor.
- (7) In subsections (5) and (6) above—
- (a) references to property or income which a settlor has provided directly or indirectly include references to property or income which has been provided directly or indirectly by another person in pursuance of reciprocal arrangements with that settlor, but do not include references to property or income which that settlor has provided directly or indirectly in pursuance of reciprocal arrangements with another person; and
  - (b) references to property which represents other property include references to property which represents accumulated income from that other property.

#### **660F Power to obtain information.**

An officer of the Board may by notice require any party to a settlement to furnish him within such time as he may direct (not being less than 28 days) with such particulars as he thinks necessary for the purposes of this Chapter.

#### **660G Meaning of “settlement” and related expressions.**

- (1) In this Chapter—
- “settlement” includes any disposition, trust, covenant, agreement, arrangement or transfer of assets, and
  - “settlor”, in relation to a settlement, means any person by whom the settlement was made.
- (2) A person shall be deemed for the purposes of this Chapter to have made a settlement if he has made or entered into the settlement directly or indirectly, and, in particular, but without prejudice to the generality of the preceding words, if he has provided or undertaken to provide funds directly or indirectly for the purpose of the settlement, or has made with any other person a reciprocal arrangement for that other person to make or enter into the settlement.
- (3) References in this Chapter to income arising under a settlement include, subject to subsection (4) below, any income chargeable to income tax by deduction or otherwise, and any income which would have been so chargeable if it had been received in the United Kingdom by a person domiciled, resident and ordinarily resident in the United Kingdom.
- (4) Where the settlor is not domiciled, or not resident, or not ordinarily resident, in the United Kingdom in a year of assessment, references in this Chapter to income arising under a settlement do not include income arising under

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the settlement in that year in respect of which the settlor, if he were actually entitled thereto, would not be chargeable to income tax by deduction or otherwise by reason of his not being so domiciled, resident or ordinarily resident.

But where such income is remitted to the United Kingdom in circumstances such that, if the settlor were actually entitled to that income when remitted, he would be chargeable to income tax by reason of his residence in the United Kingdom, it shall be treated for the purposes of this Chapter as arising under the settlement in the year in which it is remitted.”

## PART II

### MINOR AND CONSEQUENTIAL AMENDMENTS OF THE TAXES ACT 1988

- 2 In section 125(3)(a) of the Taxes Act 1988, for the words from “subsection (1)(a)” to the end substitute “ section 660A(8) or (9)(a) ”.
- 3 In section 339(1)(a) of the Taxes Act 1988, for “section 660(3)” substitute “ section 347A(7) ”.
- 4 (1) Section 347A of the Taxes Act 1988 (annual payments not a charge on the income of the payer) applies to a payment which is treated by virtue of Chapter IA of Part XV of the Taxes Act 1988 as income of the payer notwithstanding that it is made in pursuance of an obligation which is an existing obligation within the meaning of section 36(3) of the <sup>M56</sup>Finance Act 1988.
- (2) In section 347A of the Taxes Act 1988, after subsection (6) add—
- “(7) In subsection (2)(b) above “a covenanted payment to charity” means a payment made under a covenant made otherwise than for consideration in money or money’s worth in favour of a body of persons or trust established for charitable purposes only whereby the like annual payments (of which the payment in question is one) become payable for a period which may exceed three years and is not capable of earlier termination under any power exercisable without the consent of the persons for the time being entitled to the payments.
- (8) For the purposes of subsection (7) above the bodies mentioned in section 507 shall each be treated as a body of persons established for charitable purposes only.”

#### Marginal Citations

M56 1988 c. 39.

- 5 In section 360A(2)(b) of the Taxes Act 1988, for “section 681(4)” substitute “ Chapter IA of Part XV (see section 660G(1) and (2)) ”.
- 6 In section 417(3)(b) of the Taxes Act 1988, for “section 681(4)” substitute “ Chapter IA of Part XV (see section 660G(1) and (2)) ”.
- 7 In section 505(6) of the Taxes Act 1988, for “section 660(3)” substitute “ section 347A(7) ”.

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8 Before section 677 of the Taxes Act 1988 insert the heading—

**“CHAPTER IB**

PROVISIONS AS TO CAPITAL SUMS PAID TO SETTLOR”.

- 9 (1) Section 677 of the Taxes Act 1988 is amended as follows.
- (2) In subsection (2)(b) after “the amount of” insert “ that income taken into account under that subsection in relation to ”.
- (3) After subsection (2)(f) insert—
- “(fa) any income arising under the settlement in that year or any previous year which has been treated as income of the settlor by virtue of section 660A or 660B; and”.
- (4) In subsection (9) after “one of the events specified in section 673(3)” insert “ or, in the case of a sum paid on or after 6th April 1995, in one of the events specified in section 660A(4) or on the death under the age of 25 of any such person as is mentioned in section 660A(5) ”.
- 10 In section 678 of the Taxes Act 1988, omit subsection (7).
- 11 After section 682 of the Taxes Act 1988 insert—

**“682A Supplementary provisions.**

- (1) The provisions of sections 660E to 660G apply for the purposes of this Chapter as they apply for the purposes of Chapter IA.
- (2) For the purposes of this Chapter, a body corporate shall be deemed to be connected with a settlement in any year of assessment if at any time in that year—
- (a) it is a close company (or only not a close company because it is not resident in the United Kingdom) and the participators then include the trustees of the settlement; or
- (b) it is controlled (within the meaning of section 840) by a company falling within paragraph (a) above.”
- 12 For the heading before section 686 of the Taxes Act 1988 substitute—

**“CHAPTER IC**

LIABILITY OF TRUSTEES”.

- 13 In section 686 of the Taxes Act 1988 (liability to income tax at rate applicable to trusts), in subsection (2) (income to which the section applies) for paragraph (b) substitute—
- “(b) is not, before being distributed, either—
- (i) the income of any person other than the trustees, or
- (ii) treated for any of the purposes of the Income Tax Acts as the income of a settlor; and”.

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

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- 14 (1) Section 687 of the Taxes Act 1988 (payments under discretionary trusts) is amended as follows.
- (2) For subsection (1) (cases in which the section applies) substitute—
- “(1) Where in any year of assessment trustees make a payment to any person in the exercise of a discretion, whether a discretion exercisable by them or by any other person, then if the payment—
- (a) is for all the purposes of the Income Tax Acts income of the person to whom it is made (but would not be his income if it were not made to him), or
- (b) is treated for those purposes as the income of the settlor by virtue of section 660B,
- the following provisions of this section apply with respect to the payment in lieu of section 348 or 349(1).”.
- (3) In subsection (2)(a) (person credited with having paid tax) after “to whom the payment is made” insert “ or, as the case may be, the settlor ”.
- (4) After subsection (4) add—
- “(5) References in this section to payments include payments in money or money’s worth.”.
- 15 Omit section 689 of the Taxes Act 1988 (recovery from trustees of discretionary trusts of higher rate tax due from beneficiaries).
- 16 In section 694(3) of the Taxes Act 1988, for “Chapters I to IV” substitute “ Chapter IA ”.
- 17 (1) Section 720 of the Taxes Act 1988 is amended as follows.
- (2) In subsection (6)—
- (a) for “Chapters II to IV” substitute “ Chapters IA, IB and IC ”; and
- (b) for the words from “(within Chapter II)” to the end substitute “ arising under the settlement ”.
- (3) In subsection (7) for “Chapters II to IV” substitute “ Chapters IA, IB and IC ”.
- (4) In subsection (8)(a) for “Chapter II, III or IV of Part XV (as the case may be)” substitute “ Chapter IA of Part XV (see section 660G(1) and (2)) ”.
- 18 In section 745(6) of the Taxes Act 1988, for “section 681(4)” substitute “ section 660G(1) and (2) ”.
- 19 In section 783(10)(b) of the Taxes Act 1988, for “section 670(2)” substitute “ section 660G(1) and (2) ”.
- 20 In section 839(3) of the Taxes Act 1988, for subsection (3) substitute—
- “(3) A person, in his capacity as trustee of a settlement, is connected with—
- (a) any individual who in relation to the settlement is a settlor,
- (b) any person who is connected with such an individual, and
- (c) any body corporate which is connected with that settlement.
- In this subsection “settlement” and “settlor” have the same meaning as in Chapter IA of Part XV (see section 660G(1) and (2)).

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

(3A) For the purpose of subsection (3) above a body corporate is connected with a settlement if—

- (a) it is a close company (or only not a close company because it is not resident in the United Kingdom) and the participators include the trustees of the settlement; or
- (b) it is controlled (within the meaning of section 840) by a company falling within paragraph (a) above.”.

### PART III

#### CONSEQUENTIAL AMENDMENTS OF OTHER ENACTMENTS

##### *Taxes Management Act 1970 (c.9)*

- 21 In section 27(2) of the Taxes Management Act 1970, for “section 681(4)” substitute “ section 660G(1) and (2) ”.
- 22 In section 31(3) of the Taxes Management Act 1970 [<sup>F12</sup>(including that provision as proposed to be substituted by paragraph 7 of Schedule 19 to the <sup>M57</sup>Finance Act 1994)], for “sections 660 to 685” substitute “ sections 660A to 660G or 677 to 682A ”.

#### Textual Amendments

**F12** Words in [Sch. 17 para. 22](#) repealed (29.4.1996 with effect as mentioned in [Sch. 22](#) of the amending Act) by 1996 c. 8, s. 205, [Sch. 41 Pt. V\(12\)](#) Note

#### Marginal Citations

**M57** 1994 c. 9.

- 23 In column 1 of the Table in section 98 of the Taxes Management Act 1970, for the references to section 669 and 680 of the Taxes Act 1988 substitute “ section 660F ”.

##### *Finance Act 1989 (c.26)*

- 24 In section 59(1)(c) of the Finance Act 1989, for “section 660(3)” substitute “ section 347A(7) ”.
- 25 In section 60 of the Finance Act 1989, omit subsection (3) and in subsection (4) for “subsections (2) and (3)” substitute “ subsection (2) ”.

##### *Finance Act 1990 (c.29)*

- 26 In section 25(12)(b) of the <sup>M58</sup>Finance Act 1990, for “section 660(3)” substitute “ section 347A(7) ”.

#### Marginal Citations

**M58** 1990 c. 29.



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*Status: Point in time view as at 01/07/1997.*

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

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*Taxation of Chargeable Gains Act 1992 (c.12)*

27 For section 77 of the Taxation of Chargeable Gains Act 1992 (charge on settlor with interest in settlement), substitute—

**“77 Charge on settlor with interest in settlement.**

- (1) Where in a year of assessment—
- (a) chargeable gains accrue to the trustees of a settlement from the disposal of any or all of the settled property,
  - (b) after making any deduction provided for by section 2(2) in respect of disposals of the settled property there remains an amount on which the trustees would, disregarding section 3, be chargeable to tax for the year in respect of those gains, and
  - (c) at any time during the year the settlor has an interest in the settlement,
- the trustees shall not be chargeable to tax in respect of those but instead chargeable gains of an amount equal to that referred to in paragraph (b) shall be treated as accruing to the settlor in that year.
- (2) Subject to the following provisions of this section, a settlor shall be regarded as having an interest in a settlement if—
- (a) any property which may at any time be comprised in the settlement, or any derived property is, or will or may become, payable to or applicable for the benefit of the settlor or his spouse in any circumstances whatsoever, or
  - (b) the settlor or his spouse enjoys a benefit deriving directly or indirectly from any property which is comprised in the settlement or any derived property.
- (3) The references in subsection (2)(a) and (b) above to the spouse of the settlor do not include—
- (a) a person to whom the settlor is not for the time being married but may later marry, or
  - (b) a spouse from whom the settlor is separated under an order of a court, or under a separation agreement or in such circumstances that the separation is likely to be permanent, or
  - (c) the widow or widower of the settlor.
- (4) A settlor shall not be regarded as having an interest in a settlement by virtue of subsection (2)(a) above if and so long as none of the property which may at any time be comprised in the settlement, and no derived property, can become payable or applicable as mentioned in that provision except in the event of—
- (a) the bankruptcy of some person who is or may become beneficially entitled to the property or any derived property, or
  - (b) an assignment of or charge on the property or any derived property being made or given by some such person, or
  - (c) in the case of a marriage settlement, the death of both parties to the marriage and of all or any of the children of the marriage, or

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- (d) the death of a child of the settlor who had become beneficially entitled to the property or any derived property at an age not exceeding 25.
- (5) A settlor shall not be regarded as having an interest in a settlement by virtue of subsection (2)(a) above if and so long as some person is alive and under the age of 25 during whose life the property or any derived property cannot become payable or applicable as mentioned in that provision except in the event of that person becoming bankrupt or assigning or charging his interest in that property.
- (6) This section does not apply—
- (a) where the settlor dies during the year; or
  - (b) in a case where the settlor is regarded as having an interest in the settlement by reason only of—
    - (i) the fact that property is, or will or may become, payable to or applicable for the benefit of his spouse, or
    - (ii) the fact that a benefit is enjoyed by his spouse,
 where the spouse dies, or the settlor and the spouse cease to be married, during the year.
- (7) This section does not apply unless the settlor is, and the trustees are, either resident in the United Kingdom during any part of the year or ordinarily resident in the United Kingdom during the year.
- (8) In this section “derived property”, in relation to any property, means income from that property or any other property directly or indirectly representing proceeds of, or of income from, that property or income therefrom.”
- 28 In section 78 of the Taxation of Chargeable Gains Act 1992, in subsections (1), (2) and (3), for “section 77(2)” substitute “ section 77 ”.
- 29 (1) Section 79 of the Taxation of Chargeable Gains Act 1992 is amended as follows.
- (2) In subsection (2) omit paragraph (b) and the word “and” preceding it.
  - (3) Omit subsection (4).
  - (4) In subsection (5)—
    - (a) for “subsections (3) and (4)” substitute “ subsection (3) ”; and
    - (b) in paragraph (a), omit the words “or income” wherever occurring.
- 30 In section 97 of the Taxation of Chargeable Gains Act 1992, in subsection (7) for “section 681(4)” substitute “ section 660G(1) and (2) ”.
- 31 In section 286 of the Taxation of Chargeable Gains Act 1992, for subsection (3) substitute—
- “(3) A person, in his capacity as trustee of a settlement, is connected with—
- (a) any individual who in relation to the settlement is a settlor,
  - (b) any person who is connected with such an individual, and
  - (c) any body corporate which is connected with that settlement.
- In this subsection “settlement” and “settlor” have the same meaning as in Chapter IA of Part XV of the Taxes Act (see section 660G(1) and (2) of that Act).

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

- (3A) For the purpose of subsection (3) above a body corporate is connected with a settlement if—
- (a) it is a close company (or only not a close company because it is not resident in the United Kingdom) and the participators include the trustees of the settlement; or
  - (b) it is controlled (within the meaning of section 840 of the Taxes Act) by a company falling within paragraph (a) above.”.
- 32 In Schedule 1 to the Taxation of Chargeable Gains Act 1992, in paragraph 2(7), for “section 681(4)” substitute “ section 660G(1) and (2) ”.

## SCHEDULE 18

Section 75.

### DECEASED PERSONS' ESTATES

#### *Introductory*

- 1 Part XVI of the Taxes Act 1988 shall be amended as follows.

#### *Limited interests in residue*

- 2 (1) In section 695 (limited interests in residue), the words “subject to subsection (3) below” in subsection (2) shall be omitted, and the following subsection shall be substituted for subsection (3)—
- “(3) Where, on the completion of the administration of the estate, there is an amount which remains payable in respect of that limited interest, that amount shall be deemed for all tax purposes to have been paid to that person as income for the year of assessment in which the administration period ends or, in the case of a sum which is deemed to be paid in respect of an interest that ceased before the end of that period, for the last year of assessment in which that interest was subsisting.”
- (2) This paragraph has effect in relation to any estate the administration of which is completed on or after 6th April 1995.

#### *Absolute interests in residue*

- 3 (1) In section 696 (absolute interests in residue), for subsection (3) there shall be substituted the following subsections—
- “(3) When any sum has been paid during the administration period in respect of that absolute interest, that sum, except so far as it is excluded from the operation of this subsection, shall be deemed for all tax purposes to have been paid to that person as income for the year of assessment in which it was actually paid.
- (3A) A payment shall be excluded from the operation of subsection (3) above to the extent (if any) that the aggregate of that sum and all the sums which—
- (a) have been paid previously during the administration period in respect of that absolute interest, and

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- (b) fall under this section to be treated as paid to that person as income, exceeds the aggregated income entitlement of that person for the year of assessment in which the sum is paid.
- (3B) For the purposes of this section the aggregated income entitlement of that person for any year of assessment is the amount which would be the aggregate of the amounts received for that year of assessment and all previous years of assessment in respect of the interest if that person had a right in each year to receive, and had received—
- (a) in the case of a United Kingdom estate, his residuary income for that year less income tax at the applicable rate for that year; and
- (b) in the case of a foreign estate, his residuary income for that year.”
- (2) For subsection (5) of that section there shall be substituted the following subsection—
- “(5) Where, on the completion of the administration of the estate, the aggregate of all the sums which, apart from this subsection—
- (a) have been paid during the administration period in respect of that absolute interest, and
- (b) fall under this section to be treated as paid to that person as income, is exceeded by the aggregated income entitlement of that person for the year of assessment in which the administration of the estate is completed, then an amount equal to the amount of the excess shall be treated for the purposes of subsections (3) to (4) above as having been actually paid, immediately before the end of the administration period, in respect of that interest.”
- (3) Sub-paragraph (1) above has effect, subject to sub-paragraph (4) below, in relation to any payment made on or after 6th April 1995; and sub-paragraph (2) above shall have effect in relation to any estate the administration of which is completed on or after 6th April 1995.
- (4) Where any sum is deemed by virtue of subsection (3) of section 696 of the Taxes Act 1988 (as it has effect apart from this Schedule) to have been paid to any person as income for the year 1994-95 or any previous year of assessment, that sum shall be treated for the purposes of subsections (3A) and (5) of that section (as they have effect by virtue of this Schedule) as a sum actually paid in respect of that person's absolute interest in that year of assessment.

*Supplemental provisions relating to section 696*

- 4 (1) After subsection (1) of section 697 (calculation of residuary income) there shall be inserted the following subsection—
- “(1A) For the purpose of ascertaining under subsection (1) above the residuary income of an estate for any year, where the amount of the deductions falling to be made from the aggregate income of the estate for that year (including any falling to be made by virtue of this subsection) exceeds the amount of that income, the excess shall be carried forward and treated for that purpose as an amount falling to be deducted from the aggregate income of the estate for the following year.”
- (2) In subsection (2) of that section (reduction of residuary income where benefits received are less than aggregate of residuary income), for the words from “his

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residuary income for” onwards there shall be substituted “ section 696 shall have effect as if the amount of the deficiency were to be applied in reducing the amount taken to be his residuary income for the year in which the administration of the estate is completed and, in so far as the deficiency exceeds that income, in reducing the amount taken to be his residuary income for the previous year, and so on. ”

- (3) Sub-paragraph (1) above has effect for ascertaining the residuary income of an estate for the year 1995-96 or any subsequent year of assessment; and sub-paragraph (2) above has effect in relation to any estate the administration of which is completed on or after 6th April 1995.

*Special provisions as to successive interests in residue*

- 5 (1) For subsection (2) of section 698 (special provisions as to successive interests in residue) there shall be substituted the following subsections—

“(1A) Subsection (1B) below applies where—

- (a) successively during the administration period there are different persons with interests in the residue of the estate of a deceased person or in parts of such a residue;
- (b) the later interest or, as the case may be, each of the later interests arises or is created on the cessation otherwise than by death of the interest that precedes it; and
- (c) the earlier or, as the case may be, earliest interest is a limited interest.

(1B) Where this subsection applies, this Part shall have effect in relation to any payment made in respect of any of the interests referred to in subsection (1A) above—

- (a) as if all those interests were the same interest so that none of them is to be treated as having ceased on being succeeded by any of the others;
- (b) as if (subject to paragraph (c) below) the interest which is deemed to exist by virtue of paragraph (a) above (“the deemed single interest”) were an interest of—
  - (i) except in a case to which sub-paragraph (ii) below applies, the person in respect of whose interest or previous interest the payment is made;
  - (ii) in a case where the person entitled to receive the payment is any other person who has or has had an interest which is deemed to be comprised in the deemed single interest, that other person;

and

- (c) in so far as any of the later interests is an absolute interest as if, for the purposes of section 696(3A) to (5)—
  - (i) the earlier interest or interests had never existed and the absolute interest had always existed;
  - (ii) the sums (if any) which were deemed in relation to the earlier interest or interests to have been paid as income for any year of assessment to any of the persons entitled thereto were sums previously paid during the administration period in respect of the absolute interest; and

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(iii) those sums were sums falling to be treated as sums paid as income to the person entitled to the absolute interest.

(2) Where successively during the administration period there are different persons with absolute interests in the residue of the estate of a deceased person or in parts of such a residue, the aggregate payments and aggregated income entitlement referred to in subsections (3A) and (3B) of section 696 shall be computed for the purposes of that section in relation to an absolute interest subsisting at any time (“the subsequent interest”)—

- (a) as if the subsequent interest and any previous absolute interest corresponding to the subsequent interest, or relating to any part of the residue to which the subsequent interest relates, were the same interest; and
- (b) as if the residuary income for any year of the person entitled to the previous interest were residuary income of the person entitled to the subsequent interest and any amount deemed to be paid as income to the person entitled to the previous interest were an amount deemed to have been paid to the person entitled to the subsequent interest.”

(2) This paragraph has effect in relation to any payment made on or after 6th April 1995 and, so far as it relates to the operation of section 695(3) or 696(5) of the Taxes Act 1988, in relation to any estate the administration of which is completed on or after that date.

#### *Adjustments and information*

6 After subsection (4) of section 700 (adjustments and information) there shall be inserted the following subsections—

“(5) It shall be the duty of a personal representative of a deceased person, if a request to do so is made in writing by a person who has, or has had, an absolute or limited interest in the residue of the estate of the deceased or by a person to whom any of the income of the residue of that estate has been paid in the exercise of any discretion, to furnish the person making the request with a statement in writing setting out—

- (a) in respect of every amount which has been, or is treated as having been, actually paid to that person in respect of that interest or in the exercise of that discretion, the amount (if any) deemed under this Part to have been paid to him as income for a year of assessment; and
- (b) the amount of any tax at the applicable rate which any amount falling within paragraph (a) above is deemed to have borne;

and, where an amount deemed to have been paid as income to any person for any year of assessment is deemed for any of the purposes of this Part to have borne tax on different parts of it at different applicable rates, the matters to be set out in pursuance of paragraphs (a) and (b) above shall be set out separately as respects each part of that amount.

(6) The duty imposed by subsection (5) above shall be enforceable at the suit or instance of the person making the request.”

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

### *Interpretation*

- 7 Subsection (14) of section 701 (cases where residuary income has borne income tax at the additional rate) shall cease to have effect.

## F<sup>13</sup>SCHEDULE 19

### **Textual Amendments**

- F13** Sch. 19 repealed (19.3.1997 with effect as mentioned in Sch. 10 para. 7(1) of the amending Act) by 1997 c. 16, ss. 76, 113, Sch. 18 Pt. VI(10) Note 1; S.I. 1997/991, art. 2

## SCHEDULE 20

Section 107(11).

### CLAIMS ETC. NOT INCLUDED IN RETURNS

#### *Making of claims*

- 1 In Schedule 1A to the Management Act (claims etc. not included in returns), in subparagraph (5) of paragraph 2 (making of claims), for paragraph (b) there shall be substituted the following paragraphs—
- “(b) such information as is reasonably required for the purpose of determining whether and, if so, the extent to which the claim is correct;
  - (bb) the delivery with the claim of such accounts, statements and documents, relating to information contained in the claim, as are reasonably required for the purpose mentioned in paragraph (b) above;”.

#### *Keeping and preserving of records*

- 2 After paragraph 2 of that Schedule there shall be inserted the following paragraph—

#### *“ Keeping and preserving of records*

- 2A (1) Any person who may wish to make a claim in relation to a year of assessment or other period shall—
- (a) keep all such records as may be requisite for the purpose of enabling him to make a correct and complete claim; and
  - (b) shall preserve those records until the end of the relevant day.
- (2) In relation to a claim, the relevant day for the purposes of subparagraph (1) above is whichever of the following is the latest, namely—
- (a) where enquiries into the claim or any amendment of the claim are made by an officer of the Board, the day on which, by virtue of paragraph 7(4) below, those enquiries are treated as completed; and

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- (b) where no enquiries into the claim or any amendment of the claim are so made, the day on which such an officer no longer has power to make such enquiries.
- (3) The duty under sub-paragraph (1) above to preserve records may be discharged by the preservation of the information contained in them; and where the information is so preserved a copy of any document forming part of the records shall be admissible in evidence in any proceedings before the Commissioners to the same extent as the records themselves.
- (4) Any person who fails to comply with sub-paragraph (1) above in relation to any claim which is made for a year of assessment or accounting period shall be liable to a penalty not exceeding £3,000.”

*Amendments of claims*

- 3 In paragraph 3 of that Schedule (amendments of claims), in sub-paragraph (1)(a), for the word “return” there shall be substituted the word “claim”.

*Giving effect to claims and amendments*

- 4 (1) At the beginning of sub-paragraph (1) of paragraph 4 of that Schedule (giving effect to claims and amendments) there shall be inserted the words “ Subject to sub-paragraphs (1A) and (3) below and to any other provision in the Taxes Acts which otherwise provides, ”.
- (2) After that sub-paragraph there shall be inserted the following sub-paragraph—
- “(1A) In relation to a claim which would otherwise fall to be taken into account in the making of deductions or repayments of tax under section 203 of the principal Act, sub-paragraph (1) above shall apply as if for the word “shall” there were substituted the word “may”.”
- (3) At the beginning of sub-paragraph (2) of that paragraph there shall be inserted the words “ Subject to sub-paragraph (3) below, ”.
- (4) After the said sub-paragraph (2) there shall be inserted the following sub-paragraph—
- “(3) Where any such claim or amendment as is mentioned in sub-paragraph (1) or (2) above is enquired into by an officer of the Board—
- (a) that sub-paragraph shall not apply until the day on which, by virtue of paragraph 7(4) below, the officer’s enquiries are treated as completed; but
  - (b) the officer may at any time before that day give effect to the claim or amendment, on a provisional basis, to such extent as he thinks fit.”

*Power to enquire into claims*

- 5 In paragraph 5 of that Schedule (power to enquire into claims), for sub-paragraphs (2) and (3) there shall be substituted the following sub-paragraphs—
- “(2) The period referred to in sub-paragraph (1) above is whichever of the following ends the latest, namely—



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- (a) the period ending with the quarter day next following the first anniversary of the day on which the claim or amendment was made;
  - (b) where the claim or amendment relates to a year of assessment, the period ending with the first anniversary of the 31st January next following that year; and
  - (c) where the claim or amendment relates to a period other than a year of assessment, the period ending with the first anniversary of the end of that period;
- and the quarter days for the purposes of this sub-paragraph are 31st January, 30th April, 31st July and 31st October.
- (3) A claim or amendment which has been enquired into under sub-paragraph (1) above shall not be the subject of—
- (a) a further notice under that sub-paragraph; or
  - (b) if it is subsequently included in a return, a notice under section 9A(1), 11AB(1) or 12AC(1) of this Act.”

## SCHEDULE 21

Section 116(1).

### SELF-ASSESSMENT ETC: TRANSITIONAL PROVISIONS

#### *Notice of liability*

- 1 Section 7 of the Management Act (notice of liability) shall have effect as respects the year 1995-96 as if the reference in subsection (7) to a self-assessment made under section 9 of that Act in respect of that year were a reference to assessments made more than six months after the end of that year.

#### *Payments on account of income tax*

- 2 (1) Section 59A of that Act (payments on account of income tax) shall have effect as respects the year 1996-97 with the modifications made by sub-paragraphs (2) to (7) below.
- (2) The references in subsections (1)(a) and (4A) to a person being assessed to income tax under section 9 of that Act shall be construed as references to his being assessed to income tax under section 29 of that Act.
- (3) The reference in subsection (1)(b) to the assessed amount shall be construed as a reference to the difference between that amount and the aggregate of the following, namely—
- (a) so much of any income tax charged at a higher rate on any income—
    - (i) from which tax has been deducted otherwise than under section 203 of the Taxes Act 1988, or
    - (ii) from or on which income tax is treated as having been deducted or paid,
- as is attributable to the difference between that rate and the basic rate; and

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- (b) so much of any income tax charged at a higher rate on any income chargeable under Schedule F as is attributable to the difference between that rate and the lower rate.
- (4) The reference in subsection (1)(c) to the relevant amount shall be construed as a reference to the difference between that amount and the amount of any income tax charged under Schedule E which—
- (a) has not been deducted under section 203 of the Taxes Act 1988; and
  - (b) is not charged by an assessment made under regulation 103 of the <sup>M59</sup>Income Tax (Employments) Regulations 1993.
- (5) Subsection (2) shall have effect as if it required—
- (a) the first payment on account to be of an amount equal to the aggregate of—
    - (i) such part of the relevant amount as represents tax charged under Schedule A or any of Cases III to VI of Schedule D; and
    - (ii) 50 per cent. of the remaining part of the relevant amount, and
  - (b) the second payment on account to be of an amount equal to 50 per cent. of that remaining part.
- (6) Subsection (4) shall have effect as if it provided that, in the circumstances there mentioned—
- (a) the amount of the first payment on account should be, and should be deemed always to have been, equal to the aggregate of—
    - (i) such part of the stated amount as represents tax charged under Schedule A or any of Cases III to VI of Schedule D; and
    - (ii) 50 per cent. of the remaining part of the stated amount, and
  - (b) the amount of the second payment on account should be, and should be deemed always to have been, equal to 50 per cent. of that remaining part.
- (7) Subsection (4A) shall have effect as if it provided that, in the circumstances and subject as there mentioned—
- (a) the amount of the first payment on account should be, and should be deemed always to have been, equal to the aggregate of—
    - (i) such part of the relevant amount (as determined on the basis of the assessment or, as the case may be, the assessment as amended) as represents tax charged under Schedule A or any of Cases III to VI of Schedule D; and
    - (ii) 50 per cent. of the remaining part of the relevant amount, as so determined, and
  - (b) the amount of the second payment on account should be, and should be deemed always to have been, equal to 50 per cent. of that remaining part.
- (8) In this paragraph “higher rate” means a rate other than the basic rate or the lower rate.

**Marginal Citations**

**M59** [S.I. 1993/744](#).

*Status: Point in time view as at 01/07/1997.*

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

### *Partnerships*

- 3
- (1) This paragraph applies in the case of a partnership whose trade, profession or business is set up and commenced before 6th April 1994.
  - (2) Section 32 of the Management Act (relief for double assessments to tax) shall have effect, as respects each partner and the year 1996-97, as if the partnership had not been assessed to income tax for that year.
  - (3) Section 59B of that Act (payment of income tax and capital gains tax) shall have effect, as respects each partner and that year, as if his share of any income tax to which the partnership is assessed for that year were income tax which in respect of that year had been deducted at source.

## SCHEDULE 22

Section 123.

### PREVENTION OF EXPLOITATION OF SCHEDULE 20 TO FINANCE ACT 1994

#### PART I

##### CASES I AND II OF SCHEDULE D

#### *Increase of profits or gains of transitional period*

- 1
- (1) This paragraph applies where, in the case of a trade, profession or vocation carried on by any person—
    - (a) paragraph 2(2) of Schedule 20 to the <sup>M60</sup>Finance Act 1994 applies without the modification made by paragraph 2(3) of that Schedule; and
    - (b) any amount which is included in the profits or gains of the transitional period would not have been so included if—
      - (i) any relevant change made by that person had not been made; or
      - (ii) any relevant transaction entered into by that person had not been entered into.
  - (2) Subject to sub-paragraph (3) below, the said paragraph 2(2) shall have effect as if the reference to the appropriate percentage of the aggregate of the amounts there mentioned were a reference to the aggregate of—
    - (a) that percentage of each of those amounts; and
    - (b) 1.25 times the complementary percentage of each of the amounts falling within sub-paragraph (1)(b) above.
  - (3) Sub-paragraph (2) above does not apply where—
    - (a) the aggregate of the amounts falling within sub-paragraph (1)(b) above is less than such amount as may be prescribed by regulations made by the Board;
    - (b) the proportion which the aggregate of those amounts bears to the aggregate of the amounts mentioned in the said paragraph 2(2) is less than such proportion as may be so prescribed; or
    - (c) the appropriate percentage of the turnover for the transitional period is less than such amount as may be so prescribed;

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

and regulations under this sub-paragraph may make as respects trades or professions carried on by persons in partnership provision different from that made as respects trades, professions or vocations carried on by individuals.

(4) In this paragraph—

“the appropriate percentage” means the following expressed as a percentage, that is, 365 divided by the number of days in the transitional period;

“the complementary percentage” means the difference between 100 per cent. and the appropriate percentage;

“the transitional period” means the basis period for the year 1996-97 and the relevant period (within the meaning of paragraph 2 of Schedule 20 to the <sup>M61</sup>Finance Act 1994) taken together.

#### Marginal Citations

**M60** 1994 c. 9.

**M61** 1994 c. 9.

- 2 (1) This paragraph applies where, in the case of a trade or profession carried on by persons in partnership—
- (a) paragraph 2(2) of Schedule 20 to the Finance Act 1994 applies without the modification made by paragraph 2(3) of that Schedule;
  - (b) a claim is made under section 353 of the Taxes Act 1988 (relief for interest: general provision) in respect of interest on a loan to defray money contributed or advanced by a partner to the partnership; and
  - (c) sub-paragraph (2) below applies to any of the money so contributed or advanced.
- (2) This sub-paragraph applies to money so contributed or advanced unless it was contributed or advanced wholly or mainly—
- (a) for bona fide commercial reasons; or
  - (b) for a purpose other than the reduction of the partnership’s borrowings for a relevant period.
- (3) Subject to sub-paragraph (4) below, the amount eligible for relief under the said section 353 in respect of interest paid by the partner in respect of the transitional period on money to which sub-paragraph (2) above applies shall not exceed the appropriate percentage of that interest.
- (4) Sub-paragraph (3) above does not apply where—
- (a) the loan was made before 1st April 1994; or
  - (b) the aggregate amount of interest paid as mentioned in that sub-paragraph is less than such amount as may be prescribed by regulations made by the Board.
- (5) Where relief under the said section 353 in respect of interest on any loan (“the original loan”) is restricted by sub-paragraph (3) above, relief under that section in respect of interest on any other loan used to defray money applied in paying off the original loan shall be restricted to the same extent as if that other loan were the original loan.
- (6) In this paragraph—

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“the appropriate percentage” and “the transitional period” have the same meanings as in paragraph 1 above;

“relevant period” means a period the whole or part of which falls within the transitional period.

*Increase of profits or gains of transitional overlap period*

- 3 (1) This paragraph applies where, in the case of a trade, profession or vocation carried on by any person—
- (a) paragraph 2(4) of Schedule 20 to the <sup>M62</sup>Finance Act 1994 applies; and
  - (b) any amount which is included in the transitional overlap profit would not have been so included if—
    - (i) any relevant change made by that person had not been made; or
    - (ii) any relevant transaction entered into by that person had not been entered into.
- (2) Subject to sub-paragraph (3) below, the said paragraph 2(4) shall have effect as if the reference to the transitional overlap profit were a reference to the amount (if any) by which that profit exceeds 1.25 times the aggregate of the amounts falling within sub-paragraph (1)(b) above.
- (3) Sub-paragraph (3) of paragraph 1 above shall apply for the purposes of this paragraph as it applies for the purposes of that paragraph but subject to the following modifications, namely—
- (a) the reference to the aggregate of the amounts mentioned in the said paragraph 2(2) shall have effect as a reference to the transitional overlap profit; and
  - (b) the reference to the appropriate percentage of the turnover for the transitional period shall have effect as a reference to the appropriate percentage of the turnover for the transitional overlap period.
- (4) In this paragraph—
- “the appropriate percentage” means the following expressed as a percentage, that is, 365 divided by the number of days in the transitional overlap period;
- “the transitional overlap period” means the period beginning immediately after the end of—
- (a) the basis period for the year 1996-97; or
  - (b) in the case of a trade or profession carried on by any person in partnership with other persons, the basis period of the partnership for that year,
- and (in either case) ending with 5th April 1997;
- “the transitional overlap profit” means the amount mentioned in the said paragraph 2(4).

**Marginal Citations**

**M62** 1994 c. 9.

- 4 (1) This paragraph applies where, in the case of a trade or profession carried on by any person in partnership with other persons—

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

- (a) that person (“the retiring partner”) ceases to carry on the trade or profession at any time in the transitional overlap period; and
- (b) if he had not so ceased, paragraph 3(2) above would have applied in relation to him.
- (2) The retiring partner shall for the year 1996-97 be chargeable to income tax under Case I or II of Schedule D on 1.25 times the aggregate of the amounts which would have fallen within paragraph 3(1)(b) above.
- (3) In this paragraph “the transitional overlap period” has the same meaning as in paragraph 3 above.
- 5 (1) This paragraph applies where, in the case of a trade or profession carried on by any person in partnership with other persons—
- (a) paragraph 2(4) of Schedule 20 to the <sup>M63</sup>Finance Act 1994 applies with or without the modification made by paragraph 3(2) above;
- (b) a claim is made under section 353 of the Taxes Act 1988 (relief for interest: general provision) in respect of interest on a loan to defray money contributed or advanced by him (“the partner”) to the partnership; and
- (c) sub-paragraph (2) below applies to any of the money so contributed or advanced.
- (2) This sub-paragraph applies to money so contributed or advanced unless it was contributed or advanced wholly or mainly—
- (a) for bona fide commercial reasons; or
- (b) for a purpose other than the reduction of the partnership’s borrowings for a relevant period.
- (3) Subject to sub-paragraph (4) below, the said paragraph 2(4) shall have effect as if the reference to the transitional overlap profit were a reference to the difference between that profit and the amount of interest paid by the partner in respect of the transitional overlap period on money to which sub-paragraph (2) above applies.
- (4) Sub-paragraph (3) above does not apply where—
- (a) the loan was made before 1st April 1994; or
- (b) the aggregate amount of interest paid as mentioned in that sub-paragraph is less than such amount as may be prescribed by regulations made by the Board.
- (5) In this paragraph—
- “relevant period” means a period the whole or part of which falls within the transitional overlap period;
- “the transitional overlap period” has the same meaning as in paragraph 3 above;
- “the transitional overlap profit” means the amount mentioned in the said paragraph 2(4) (whether having effect with or without the modification made by paragraph 3(2) above).

**Marginal Citations**

**M63** 1994 c. 9.

*Status: Point in time view as at 01/07/1997.*

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

## PART II

### CASES III, IV AND V OF SCHEDULE D

#### *Increase of trade etc. profits or gains arising in 1995-96 and 1996-97*

- 6 (1) This paragraph applies where, in the case of any income derived by any person from the carrying on by him of a trade, profession or vocation—
- (a) paragraph 6(2)(a) of Schedule 20 to the <sup>M64</sup>Finance Act 1994 applies; and
  - (b) any amount which is included in the income arising within the years 1995-96 and 1996-97 would not have been so included if—
    - (i) any relevant change made by that person had not been made; or
    - (ii) any relevant transaction entered into by that person had not been entered into.
- (2) Subject to sub-paragraph (3) below, the said paragraph 6(2)(a) shall have effect as if the reference to 50 per cent. of the aggregate of the amounts there mentioned were a reference to the aggregate of—
- (a) 50 per cent. of each of those amounts; and
  - (b) 62.5 per cent. of each of the amounts falling within sub-paragraph (1)(b) above.
- (3) Sub-paragraph (3) of paragraph 1 above shall apply for the purposes of this paragraph as it applies for the purposes of that paragraph but subject to the following modifications, namely—
- (a) the reference to the said paragraph 2(2) shall have effect as a reference to the said paragraph 6(2)(a); and
  - (b) the reference to the appropriate percentage of the turnover of the transitional period shall have effect as a reference to 50 per cent. of the turnover of the years 1995-96 and 1996-97.

#### **Marginal Citations**

**M64** 1994 c. 9.

#### *Increase of trade etc. profits or gains arising in transitional overlap period*

- 7 (1) This paragraph applies where, in the case of any income derived by any person from the carrying on by him of a trade, profession or vocation—
- (a) paragraph 6(4) of Schedule 20 to the <sup>M65</sup>Finance Act 1994 applies; and
  - (b) any amount which is included in the transitional overlap profit would not have been so included if—
    - (i) any relevant change made by that person had not been made; or
    - (ii) any relevant transaction entered into by that person had not been entered into.
- (2) Subject to sub-paragraph (3) below, the said paragraph 6(4) shall have effect as if the reference to the transitional overlap profit were a reference to the amount (if any) by which that profit exceeds 1.25 times the aggregate of the amounts falling within sub-paragraph (1)(b) above.

*Status: Point in time view as at 01/07/1997.*

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

- (3) Sub-paragraph (3) of paragraph 1 above shall apply for the purposes of this paragraph as it applies for the purposes of that paragraph but subject to the following modifications, namely—
- (a) the reference to the aggregate of the amounts mentioned in the said paragraph 2(2) shall have effect as a reference to the transitional overlap profit; and
  - (b) the reference to the appropriate percentage of the turnover for the transitional period shall have effect as a reference to the appropriate percentage of the turnover for the transitional overlap period.
- (4) In this paragraph—
- “the appropriate percentage” means the following expressed as a percentage, that is, 365 divided by the number of days in the transitional overlap period;
- “the transitional overlap period” means the period beginning immediately after the end of—
- (a) the basis period for the year 1996-97; or
  - (b) in the case of any income derived by any person from the carrying on by him of a trade or profession in partnership with other persons, the basis period of the partnership for that year,
- and (in either case) ending with 5th April 1997;
- “the transitional overlap profit” means the amount mentioned in the said paragraph 6(4).

**Marginal Citations**

**M65** 1994 c. 9.

- 8 (1) This paragraph applies where, in the case of any income derived by any person from the carrying on by him of a trade or profession in partnership with other persons—
- (a) that person (“the retiring partner”) ceases to carry on the trade or profession at any time in the transitional overlap period; and
  - (b) if he had not so ceased, paragraph 7(2) above would have applied in relation to him.
- (2) The retiring partner shall for the year 1996-97 be chargeable to income tax under Case IV or V of Schedule D on 1.25 times the aggregate of the amounts which would have fallen within paragraph 7(1)(b) above.
- (3) In this paragraph “the transitional overlap period” has the same meaning as in paragraph 7 above.

*Increase of interest arising in 1995-96 and 1996-97*

- 9 (1) This paragraph applies where, in the case of any interest arising to any person from any source—
- (a) paragraph 4(2) or 6(2)(a) of Schedule 20 to the <sup>M66</sup>Finance Act 1994 applies; and
  - (b) any amount which is included in the interest arising within the years 1995-96 and 1996-97 would not have been so included if any relevant arrangements made between that person and another had not been made.



*Status: Point in time view as at 01/07/1997.*

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

- (2) Subject to sub-paragraph (3) below, the said paragraph 4(2) or 6(2)(a) shall have effect as if the reference to 50 per cent. of the aggregate of the amounts there mentioned were a reference to the aggregate of—
- (a) 50 per cent. of each of those amounts; and
  - (b) 62.5 per cent. of each of the amounts falling within sub-paragraph (1)(b) above.
- (3) Sub-paragraph (2) above does not apply where—
- (a) the aggregate of the amounts falling within sub-paragraph (1)(b) above is less than such amount as may be prescribed by regulations made by the Board; or
  - (b) the proportion which the aggregate of those amounts bears to the aggregate of the amounts mentioned in the said paragraph 4(2) or 6(2)(a) is less than such proportion as may be so prescribed.

**Marginal Citations**

**M66** 1994 c. 9.

*Increase of other income arising in 1995-96 and 1996-97*

- 10 (1) This paragraph applies where, in the case of any income (other than income falling within paragraph 6 or 9 above) arising to any person from any source—
- (a) paragraph 4(2) or 6(2)(a) of Schedule 20 to the <sup>M67</sup>Finance Act 1994 applies; and
  - (b) any amount which is included in the income arising within the years 1995-96 and 1996-97 would not have been so included if—
    - (i) any relevant arrangements made between that person and another had not been made; or
    - (ii) any relevant transaction entered into by that person had not been entered into.
- (2) Subject to sub-paragraph (3) below, the said paragraph 4(2) or 6(2)(a) shall have effect as if the reference to 50 per cent. of the aggregate of the amounts there mentioned were a reference to the aggregate of—
- (a) 50 per cent. of each of those amounts; and
  - (b) 62.5 per cent. of each of the amounts falling within sub-paragraph (1)(b) above.
- (3) Sub-paragraph (3) of paragraph 9 above shall apply for the purposes of this paragraph as it applies for the purposes of that paragraph.

**Marginal Citations**

**M67** 1994 c. 9.

*Status: Point in time view as at 01/07/1997.*

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

### PART III

#### PROCEDURAL AND OTHER PROVISIONS

##### *Time limits for purposes of paragraphs 1, 2, 4, 6 and 8 to 10*

- 11 (1) Nothing in subsection (2) or (3) of section 29 of the Management Act (as substituted by section 191 of the <sup>M68</sup>Finance Act 1994) shall prevent an assessment being made under subsection (1) of that section in any case where—
- (a) the loss of tax there mentioned is attributable to any failure to give effect to any of paragraphs 1, 2, 4, 6 and 8 to 10 above; and
  - (b) at the time when the assessment is made, the condition mentioned in sub-paragraph (3) below is fulfilled.
- (2) Nothing in subsection (3) or (4) of section 30B of the Management Act (amendment of partnership statement where loss of tax discovered) shall prevent an amendment being made under subsection (1) of that section in any case where—
- (a) the omission, deficiency or excess there mentioned is attributable to any failure to give effect to any of paragraphs 1, 2, 4, 6 and 8 to 10 above; and
  - (b) at the time when the amendment is made, the condition mentioned in sub-paragraph (3) below is fulfilled.
- (3) The condition referred to in sub-paragraphs (1) and (2) above is that either—
- (a) an assessment under section 9 of the Management Act or, as the case may require, a partnership statement under section 12AB of that Act has been made for the year 1997-98 and that assessment or statement is still capable of being amended; or
  - (b) no such assessment or, as the case may require, statement has been so made.

#### **Marginal Citations**

**M68** 1994 c. 9.

##### *Advance notice for purposes of paragraphs 3, 5 and 7*

- 12 (1) An officer of the Board shall not so amend an assessment made under section 9 of the Management Act (returns to include self-assessment) as to give effect to paragraph 3, 5 or 7 above unless a notice stating—
- (a) in the case of paragraph 3 or 7 above, the aggregate of the amounts falling within sub-paragraph (1)(b) of that paragraph; and
  - (b) in the case of paragraph 5 above, the aggregate amount of interest paid as mentioned in sub-paragraph (3) of that paragraph,
- is given by such an officer at a time when the condition mentioned in sub-paragraph (2) below is fulfilled.
- (2) The condition referred to in sub-paragraph (1) above is that either—
- (a) an assessment under section 9 of the Management Act has been made for the year 1998-99 and that assessment is still capable of being amended; or

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*Status: Point in time view as at 01/07/1997.*

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- (b) no such assessment has been so made.
- (3) Subject to sub-paragraph (4) below, a notice under sub-paragraph (1) above shall be conclusive of the matters stated in it.
- (4) An appeal may be brought against a notice under sub-paragraph (1) above at any time within the period of 30 days beginning with the date on which the notice is given.
- (5) Subject to sub-paragraph (6) below, the provisions of the Management Act relating to appeals shall have effect in relation to an appeal under sub-paragraph (4) above as they have effect in relation to an appeal against an assessment to tax.
- (6) On an appeal under sub-paragraph (4) above, section 50(6) to (8) of the Management Act (procedure on appeals) shall not apply but the Commissioners may—
  - (a) if it appears to them that the matters stated in the notice under sub-paragraph (1) above are correct, confirm the notice; or
  - (b) if it does not so appear to them, set aside or modify the notice accordingly.

*Penalties not to apply in certain cases*

- 13 (1) Where a relevant return (as originally made) states—
- (a) that paragraph 1, 3 or 4 above applies in the case of a trade, profession or vocation carried on by any person; or
  - (b) that paragraph 7 or 8 above applies in the case of any income derived by any person from the carrying on by him of a trade, profession or vocation,
- sub-paragraph (2) of that paragraph shall have effect, in its application to any amounts stated in the return (as so made) to fall within sub-paragraph (1)(b) of that paragraph or, in the case of paragraph 4 or 8 above, to be amounts which would have fallen within sub-paragraph (1)(b) of the preceding paragraph, as if the words “1.25 times” were omitted.
- (2) Where a relevant return (as originally made) states—
- (a) that paragraph 6 above applies in the case of any income derived by any person from the carrying on by him of a trade, profession or vocation; or
  - (b) that paragraph 9 or 10 above applies in the case of any income arising to any person from any source,
- sub-paragraph (2) of that paragraph shall have effect, in its application to any amounts stated in the return (as so made) to fall within sub-paragraph (1)(b) of that paragraph, as if for the words “62.5 per cent.” there were substituted the words “50 per cent”.
- (3) In this paragraph—
- “relevant return” means a return which, for the relevant year, is made under section 8, 8A or 12AA of the Management Act in respect of the trade, profession or vocation or, as the case may be, the source of the income;
- “the relevant year” means—
- (a) in relation to paragraph 1, 6, 9 or 10 above, the year 1996–97;
  - (b) in relation to paragraph 3, 4, 7 or 8 above, the year 1997–98.

*Status: Point in time view as at 01/07/1997.*

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

## PART IV

### INTERPRETATION

#### *Relevant changes for purposes of paragraphs 1, 3, 6 and 7*

- 14 (1) Any accounting change or change of business practice is a relevant change for the purposes of paragraphs 1, 3, 6 and 7 above unless—
- (a) the change is made exclusively for bona fide commercial reasons; or
  - (b) the obtaining of a tax advantage is not the main benefit that could reasonably be expected to arise from the making of the change.
- (2) In this paragraph “accounting change”—
- (a) does not include any change of accounting date which brings the end of the basis period for the year 1996-97 closer to 5th April 1997; but
  - (b) subject to that, means any change of accounting date or other modification of an accounting policy or any substitution of one such policy for another.
- (3) In this paragraph “change of business practice” means any change in an established practice of trade, profession or vocation carried on by any person—
- (a) as to the timing of any of the following, namely—
    - (i) the supply of goods or services, the invoicing of customers or clients and the collection of outstanding debts; and
    - (ii) the obtaining of goods or services, the incurring of business expenses and the settlement of outstanding debts; or
  - (b) as to the obtaining or making of payments in advance or payments on account.

#### *Relevant transactions for purposes of paragraphs 1, 3, 6 and 7*

- 15 Any self-cancelling transaction or transaction with a connected person is a relevant transaction for the purposes of paragraphs 1, 3, 6 and 7 above unless—
- (a) the transaction is entered into exclusively for bona fide commercial reasons; or
  - (b) the obtaining of a tax advantage is not the main benefit that could reasonably be expected to arise from the entering into of the transaction.
- 16 (1) An agreement by which the person by whom a trade, profession or vocation is carried on agrees to sell or transfer trading stock or work in progress is a self-cancelling transaction for the purposes of paragraph 15 above if by the same or any collateral agreement that person—
- (a) agrees to buy back or re-acquire the trading stock or work in progress; or
  - (b) acquires or grants an option, which is subsequently exercised, for him to buy back or re-acquire the trading stock or work in progress.
- (2) In sub-paragraph (1) above—
- “trading stock” has the same meaning as in section 100 of the Taxes Act 1988;
- “work in progress”, in relation to a profession or vocation, means—
- (a) any services performed in the ordinary course of the profession or vocation, the performance of which is wholly or partly completed at the time of the sale or transfer and for which it would be reasonable to

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*Status: Point in time view as at 01/07/1997.*

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expect that a charge would have been made on their completion if the sale or transfer had not been effected; and

(b) any article produced, and any such material as is used, in the performance of any such services,

and references in that sub-paragraph to the sale or transfer of work in progress shall include references to the sale or transfer of any benefits and rights which accrue, or might reasonably be expected to accrue, from the carrying out of the work.

- 17 (1) For the purposes of paragraph 15 above, any question whether the person by whom a trade, profession or vocation is carried on is connected with another person shall be determined in accordance with sub-paragraphs (2) to (5) below.
- (2) An individual carrying on a trade, profession or vocation is connected with another person if they are connected with each other within the meaning of section 839 of the Taxes Act 1988 (disregarding for this purpose the exception in subsection (4) of that section).
- (3) Persons carrying on a trade or profession in partnership are connected with an individual if he controls the partnership.
- (4) Persons carrying on a trade or profession in partnership are connected with a company if the company controls the partnership or the same person controls both the company and the partnership.
- (5) Persons carrying on a trade or profession in partnership are connected with persons carrying on another trade or profession in partnership if the same person controls both partnerships.
- (6) In this paragraph—
- (a) “control” shall be construed—
- (i) in relation to a company, in accordance with section 416 of the Taxes Act 1988;
- (ii) in relation to a partnership, in accordance with section 840 of that Act; and
- (b) any reference to a person controlling a company or partnership is a reference to his doing so either alone or with one or more persons connected with him.

*Relevant arrangements for purposes of paragraph 9*

- 18 (1) Any arrangements under which—
- (a) interest arises at irregular intervals during the years 1994-95 to 1997-98, or
- (b) there are artificial variations in the rate of interest applicable during those years,
- are relevant arrangements for the purposes of paragraph 9 above unless the obtaining of a tax advantage is not the main benefit that could reasonably be expected to arise from the making of the arrangements.
- (2) Any variations in the rate of interest applicable during the years 1994-95 to 1997-98 are artificial variations for the purposes of this paragraph unless they are based on variations in a variable rate of interest the values of which from time to time are regularly published.

*Status: Point in time view as at 01/07/1997.*

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

*Relevant arrangements for purposes of paragraph 10*

- 19 Any arrangements under which income arises at irregular intervals during the years 1994-95 to 1997-98 are relevant arrangements for the purposes of paragraph 10 above unless—
- (a) the arrangements are made exclusively for bona fide commercial reasons; or
  - (b) the obtaining of a tax advantage is not the main benefit that could reasonably be expected to arise from the making of the arrangements.

*Relevant transactions for purposes of paragraph 10*

- 20 (1) Any transaction with a connected person is a relevant transaction for the purposes of paragraph 10 above unless—
- (a) the transaction is entered into exclusively for bona fide commercial reasons; or
  - (b) the obtaining of a tax advantage is not the main benefit that could reasonably be expected to arise from the entering into of the transaction.
- (2) A person is connected with another person for the purposes of this paragraph if they are connected with each other within the meaning of section 839 of the Taxes Act 1988.

*General*

- 21 (1) In this Schedule “turnover”, in relation to a trade, profession or vocation, means the amounts derived from the provision of goods or services falling within its ordinary activities, after deduction of trade discounts and value added tax.
- (2) Obtaining a tax advantage shall not be regarded as a bona fide commercial reason for the purposes of this Schedule.

SCHEDULE 23

Section 126.

OBLIGATIONS ETC. IMPOSED ON UK REPRESENTATIVES

*General imposition of obligations etc.*

- 1 (1) Subject to the following provisions of this Schedule, the provisions of the Tax Acts, of the <sup>M69</sup>Taxation of Chargeable Gains Act 1992 and of any subordinate legislation made under the Tax Acts or that Act of 1992, so far as they—
- (a) make provision for or in connection with the assessment, collection and recovery of tax, or of interest on any tax, and
  - (b) apply in any case for purposes connected with the taxation of any amounts in relation to which the non-resident has a UK representative,
- shall have effect in that case with respect to tax chargeable on, and interest payable by, the non-resident as if the obligations and liabilities of the non-resident by virtue of those provisions were also obligations and liabilities of the UK representative.
- (2) In this paragraph “subordinate legislation” has the same meaning as in the <sup>M70</sup>Interpretation Act 1978.

*Status: Point in time view as at 01/07/1997.*

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

#### **Marginal Citations**

**M69** 1992 c. 12.

**M70** 1978 c. 30.

#### *Discharge of obligations and liabilities*

- 2 Subject to the following provisions of this Schedule—
- (a) the discharge by the non-resident’s UK representative or by the non-resident himself of an obligation or liability which is or corresponds to one to which that representative is subject under this Schedule shall be treated as discharging the corresponding obligation or liability to which the other is subject; and
  - (b) the non-resident shall be bound, as if they were his own, by any acts or omissions of his UK representative in the discharge of the obligations and liabilities imposed on that representative by this Schedule.

#### *Obligations and liabilities requiring notice*

- 3 Where any obligation or liability such as is mentioned in paragraph 2 above arises only if the person on whom it is imposed has been given or served with a notice or other document or has received a request or demand, that obligation or liability shall not by virtue of this Schedule be treated as having been imposed on the non-resident’s UK representative unless the notice or document, or a copy of it, was given to or served on that representative, or he was notified of the request or demand.

#### *Information requirements*

- 4 (1) The obligations relating to the furnishing of information which are imposed by this Schedule on the non-resident’s UK representative in a case where that representative is his independent agent shall not require that representative to do anything except so far as it is practicable for the representative to do so by acting to the best of his knowledge and belief after having taken all reasonable steps to obtain the necessary information.
- (2) Paragraph 2 above shall not have the effect—
- (a) of discharging the non-resident from any obligation to furnish information in a case where that obligation has been discharged by his UK representative by virtue only of sub-paragraph (1) above; or
  - (b) of requiring the non-resident to be bound by any error or mistake contained, otherwise than as a result of—
    - (i) any act or omission of the non-resident himself, or
    - (ii) any act or omission to which he consented or in which he connived, in information furnished by his UK representative in compliance, so far as required by sub-paragraph (1) above, with any obligation imposed by virtue of this Schedule on that representative.
- (3) In this paragraph “information” includes anything contained in any return, self-assessment, account, statement or report that is required to be provided to the

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Board or any officer of the Board, and references to furnishing information shall be construed accordingly.

*Criminal offences and penalties etc*

- 5 (1) A person shall not by virtue of this Schedule be guilty of a criminal offence except where he committed the offence himself or consented to, or connived in, its commission.
- (2) An independent agent of the non-resident shall not by virtue of this Schedule be liable, in respect of any act or omission, to any civil penalty or surcharge if—
- (a) the act or omission is neither an act or omission of the agent himself nor an act or omission to which he consented or in which he connived, and
  - (b) he is able to show that he will not, after being indemnified for his other liabilities by virtue of this Schedule, be able to recover the amount of the penalty or surcharge out of any such sums as are mentioned in paragraph 6 below.

*Indemnities*

- 6 An independent agent of the non-resident shall be entitled—
- (a) to be indemnified in respect of the amount of any liability of the non-resident which is discharged by that agent by virtue of paragraph 2 above; and
  - (b) to retain, out of any sums otherwise due from that agent to the non-resident, or received by that agent on behalf of the non-resident, amounts sufficient for meeting any liabilities by virtue of that paragraph which have been discharged by the agent, or to which he is subject.

*Meaning of “independent agent”*

- 7 (1) In this Schedule “independent agent”, in relation to the non-resident, means any person who is the non-resident’s UK representative in respect of any agency from the non-resident in which he was acting on the non-resident’s behalf in an independent capacity.
- (2) For the purposes of this paragraph a person shall not be regarded as acting in an independent capacity on behalf of the non-resident unless, having regard to its legal, financial and commercial characteristics, the relationship between them is a relationship between persons carrying on independent businesses that deal with each other at arm’s length.



*Status: Point in time view as at 01/07/1997.*

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

## SCHEDULE 24

Section 130.

### EXCHANGE GAINS AND LOSSES

#### PART I

#### AMENDMENTS OF FINANCE ACT 1993

##### *Introduction*

- 1 Chapter II of Part II of the <sup>M71</sup>Finance Act 1993 (exchange gains and losses) shall be deemed to have been enacted with the modifications set out in paragraphs 2 to 6 below.

##### **Marginal Citations**

**M71** 1993 c. 34.

##### *Trading gains and losses*

- 2 In section 128 (trading gains and losses) the following subsections shall be inserted after subsection (10)—

“(10A) In a case where—

- (a) an exchange gain of a trade or part of a trade or an exchange loss of a trade or part of a trade would (apart from this subsection) accrue to a company as regards a liability consisting of a duty to settle under a qualifying debt, and
- (b) a charge is allowed to the company in respect of the debt under section 338 of the Taxes Act 1988 (allowance of charges on income and capital),

the exchange gain or loss shall be treated as not accruing.

(10B) A charge shall be treated as allowed as mentioned in subsection (10A) above if—

- (a) it would be so allowed if the company’s total profits were sufficient,
- (b) it would be so allowed if the duty mentioned in that subsection were settled, and if in settling it payment were made out of the company’s profits brought into charge to corporation tax, or
- (c) it would be so allowed if the facts were as mentioned in both paragraph (a) and paragraph (b) above.”

##### *Non-trading gains and losses*

- 3 (1) Section 129 (non-trading gains and losses) shall be amended as follows.

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

(2) In subsection (8) (no non-trading exchange gain or loss where a charge is allowed) in paragraph (b) the words “or the circumstances are such that a charge would be so allowed if the duty were settled” shall be omitted.

(3) The following subsection shall be inserted after subsection (8)—

“(8A) A charge shall be treated as allowed as mentioned in subsection (8) above if—

- (a) it would be so allowed if the company’s total profits were sufficient,
- (b) it would be so allowed if the duty mentioned in that subsection were settled, and if in settling it payment were made out of the company’s profits brought into charge to corporation tax, or
- (c) it would be so allowed if the facts were as mentioned in both paragraph (a) and paragraph (b) above.”

*Assets and liabilities*

F14<sub>4</sub> .....

**Textual Amendments**  
**F14** Sch. 24 para. 4 repealed (29.4.1996 with effect as mentioned in ss. 80-105 of the amending Act) by 1996 c. 8, s. 205, Sch. 41 Pt. V(3) Note

*Chargeable gains*

F15<sub>5</sub> .....

**Textual Amendments**  
**F15** Sch. 24 para. 5 repealed (29.4.1996 with effect as mentioned in ss. 80-105 of the amending Act) by 1996 c. 8, s. 205, Sch. 41 Pt. V(3) Note

F16<sub>6</sub> .....

**Textual Amendments**  
**F16** Sch. 24 para. 6 repealed (29.4.1996 with effect as mentioned in ss. 80-105 of the amending Act) by 1996 c. 8, s. 205, Sch. 41 Pt. V(3) Note

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

## PART II

### AMENDMENTS OF OTHER PROVISIONS

#### *Introduction*

- 7 Paragraphs 8 to 12 below shall be deemed to have come into force on the day appointed under section 165(7)(b) of the <sup>M72</sup>Finance Act 1993 (which relates to exchange gains and losses).

#### **Marginal Citations**

**M72** 1993 c. 34.

#### *Interest on overdue tax*

- 8 In section 87A of the Taxes Management Act 1970 (interest on overdue tax) in subsection (4A) (claims under section 131(5) or (6) of the <sup>M73</sup>Finance Act 1993)—
- (a) for paragraph (c) there shall be substituted—
- “(c) if the claim had not been made, there would be an amount or, as the case may be, an additional amount of corporation tax for the earlier period which would carry interest in accordance with this section,” and
- (b) for the words from “then” to the end there shall be substituted “ then, for the purposes of the determination at any time of whether any interest is payable under this section or of the amount of interest so payable, the amount mentioned in paragraph (c) above shall be taken to be an amount of unpaid corporation tax for the earlier period except so far as concerns interest for any time after the date on which any corporation tax for the later period became (or, as the case may be, would have become) due and payable as mentioned in subsection (1) above. ”

#### **Marginal Citations**

**M73** 1970 c. 9.

- 9 (1) In subsection (4) of that section (amounts of surplus advance corporation tax) for the words “subsection (7)” there shall be substituted “ subsections (4B) and (7) ”.
- (2) After subsection (4A) of that section there shall be inserted—
- “(4B) Where, in a case falling within subsection (4A)(a) and (b) above—
- (a) there is in the earlier period, as a result of the claim under section 131(5) or (6) of the <sup>M74</sup>Finance Act 1993, an amount of surplus advance corporation tax, as defined in section 239(3) of the principal Act, and
- (b) pursuant to a claim under the said section 239(3), the whole or any part of that amount is to be treated for the purposes of section 239

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of the principal Act as discharging liability for an amount of corporation tax for an accounting period before the earlier period, the claim under the said section 239(3) shall be disregarded for the purposes of subsection (4A) above but subsection (4) above shall have effect in relation to that claim as if the reference in the words after paragraph (c) to the later period within the meaning of subsection (4) above were a reference to the period which, in relation to the claim under section 131(5) or (6) of the <sup>M75</sup>Finance Act 1993, would be the later period for the purposes of subsection (4A) above.”

**Marginal Citations**

**M74** 1993 c. 34.

**M75** 1993 c. 34.

- 10 In section 91 of the <sup>M76</sup>Taxes Management Act 1970 (effect on interest of reliefs) in subsection (1B) (provisions to which section 91(1A) is subject) after the words “section 87A(4)” there shall be inserted “ , (4A), (4B), ”.

**Marginal Citations**

**M76** 1970 c. 9.

*Interest on tax overpaid*

- 11 In section 826 of the Taxes Act 1988 (interest on tax overpaid) in subsection (7C) (claims under section 131(5) or (6) of the <sup>M77</sup>Finance Act 1993)—
- (a) at the end of paragraph (c) there shall be inserted “ or of income tax in respect of a payment received by the company in that accounting period ”, and
  - (b) for the words from “repayment of corporation tax” to “resulting from” there shall be substituted “ repayment referred to in paragraph (c) above, no account shall be taken of so much of the amount of the repayment as falls to be made as a result of ”.

**Marginal Citations**

**M77** 1993 c. 34.

- 12 (1) In subsection (7) of that section (amounts of surplus advance corporation tax) for the words “subsection (7AA)” there shall be substituted “ subsections (7AA) and (7CA) ”.
- (2) After subsection (7C) of that section there shall be inserted—
- “(7CA) Where, in a case falling within subsection (7C)(a) and (b) above—
- (a) there is in the earlier period, as a result of the claim under section 131(5) or (6) of the <sup>M78</sup>Finance Act 1993, an amount of surplus advance corporation tax, as defined in section 239(3), and

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- (b) pursuant to a claim under section 239(3), the whole or any part of that amount is to be treated for the purposes of section 239 as discharging liability for an amount of corporation tax for an accounting period before the earlier period,  
then subsection (7) above shall have effect in relation to the claim under section 239(3) as if the reference in the words after paragraph (c) to the later period within the meaning of subsection (7) above were a reference to the period which, in relation to the claim under section 131(5) or (6) of the <sup>M79</sup>Finance Act 1993, would be the later period for the purposes of subsection (7C) above.”
- (3) In section 102 of the Finance Act 1989 (surrender of company tax refund etc. within group) in subsection (4A) (cases where any of subsections (7) to (7C) of section 826 of the <sup>M80</sup>Taxes Act 1988 applies) for “(7C)” there shall be substituted “ (7CA) ”.
- (4) Subject to sub-paragraph (5) below, section 826(7CA) of the Taxes Act 1988 (inserted by sub-paragraph (2) above) shall apply in relation to any claim under section 131(5) or (6) of the <sup>M81</sup>Finance Act 1993 as a result of which there is an amount of surplus advance corporation tax in an accounting period ending after 30th September 1993.
- (5) Where there is a claim in relation to which section 826(7CA) would, but for this sub-paragraph, apply, and—
- (a) the case is one falling within section 826(7CA)(a) and (b), but
  - (b) the period mentioned in section 826(7CA)(b) ended on or before 30th September 1993,
- section 826(7CA) shall not apply but section 825(4)(a) of the Taxes Act 1988 shall have effect as if the reference to the accounting period in the case of which the amount of surplus advance corporation tax arose were a reference to the period which, in relation to the claim, would be the later period for the purposes of section 826(7C) of that Act.

#### Marginal Citations

**M78** 1993 c. 34.

**M79** 1993 c. 34.

**M80** 1989 c. 26.

**M81** 1993 c. 34.

## SCHEDULE 25

Section 133.

### CONTROLLED FOREIGN COMPANIES

#### *Introduction*

- 1 In this Schedule—
- (a) paragraph 2 contains an amendment designed to secure that in certain cases the chargeable profits of a company resident outside the United Kingdom are to be computed and expressed in the currency used in its accounts;

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- (b) the other paragraphs contain amendments connected with that amendment.

*The principal amendment*

2 The following section shall be inserted after section 747 of the Taxes Act 1988—

**“747A Special rule for computing chargeable profits.**

- (1) Subsection (2) below applies where for the purposes of this Chapter a company’s chargeable profits fall to be determined for—
  - (a) the first relevant accounting period of the company, or
  - (b) any subsequent accounting period of the company.
- (2) Notwithstanding any other rule (whether statutory or otherwise) the chargeable profits for any such period shall be computed and expressed in the currency used in the accounts of the company for its first relevant accounting period.
- (3) Subsection (4) below applies where for the purposes of this Chapter a company’s chargeable profits fall to be determined for any accounting period of the company which—
  - (a) begins on or after the appointed day, and
  - (b) falls before the company’s first relevant accounting period.
- (4) Notwithstanding any other rule (whether statutory or otherwise) the chargeable profits for any such period shall be computed and expressed in the currency used in the accounts of the company for the accounting period concerned.
- (5) For the purposes of this section the first relevant accounting period of the company shall be found in accordance with subsections (6) to (8) below.
- (6) Where a direction has been given under section 747 as regards an accounting period of the company which begins before its commencement day, its first relevant accounting period is its accounting period which begins on its commencement day.
- (7) Where the company is a trading company and subsection (6) above does not apply, its first relevant accounting period is its first accounting period which begins on or after its commencement day and as regards which a direction has been given under section 747.
- (8) Where the company is not a trading company and subsection (6) above does not apply, its first relevant accounting period is its first accounting period which begins on or after its commencement day and as regards which—
  - (a) a direction has been given under section 747, or
  - (b) it can reasonably be assumed that a direction would have been given under section 747 but for the fact that it pursued, within the meaning of Part I of Schedule 25, an acceptable distribution policy.
- (9) For the purposes of this section—
  - (a) a company’s commencement day is the first day of its first accounting period to begin after the day preceding the appointed day;

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- (b) the appointed day is such day as may be appointed under section 165(7)(b) of the <sup>M82</sup>Finance Act 1993 (which relates to exchange gains and losses).
- (10) References in this section to the accounts of a company—
- (a) are to the accounts which the company is required by the law of its home State to keep, or
- (b) if the company is not required by the law of its home State to keep accounts, are to the accounts of the company which most closely correspond to the individual accounts which companies formed and registered under the <sup>M83</sup>Companies Act 1985 are required by that Act to keep;
- and for the purposes of this subsection the home State of a company is the country or territory under whose law the company is incorporated or formed.”

#### Marginal Citations

**M82** 1993 c. 34.

**M83** 1985 c. 6.

#### Connected amendments

- 3 In section 747 of the Taxes Act 1988 (imputation of chargeable profits and creditable tax of controlled foreign companies) the following subsections shall be inserted after subsection (4)—
- “(4A) Where by virtue of section 747A a company’s chargeable profits for an accounting period are to be computed and expressed in a currency other than sterling, for the purposes of subsection (4)(a) above the apportioned amount shall be taken to be the sterling equivalent of the apportioned amount found in the currency other than sterling.
- (4B) The translation required by subsection (4A) above shall be made by reference to the London closing exchange rate for the two currencies concerned for the last day of the accounting period concerned.”
- 4 In section 748 of the Taxes Act 1988 (limitations on direction-making power) the following subsections shall be inserted after subsection (3)—
- “(4) Where by virtue of section 747A a company’s chargeable profits for an accounting period are to be computed and expressed in a currency other than sterling, for the purposes of subsection (1)(d) above its chargeable profits for the period shall be taken to be the sterling equivalent of its chargeable profits found in the currency other than sterling.
- (5) The translation required by subsection (4) above shall be made by reference to the London closing exchange rate for the two currencies concerned for the last day of the accounting period concerned.”
- 5 In section 750 of the Taxes Act 1988 (territories with a lower level of taxation) the following subsections shall be inserted after subsection (4)—

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- “(5) Subsections (6) and (7) below apply where by virtue of section 747A a company’s chargeable profits for an accounting period are to be computed and expressed in a currency other than sterling.
- (6) For the purposes of subsection (2) above the company’s chargeable profits for the period shall be taken to be the sterling equivalent of its chargeable profits found in the currency other than sterling.
- (7) In applying section 13 for the purposes of making the determination mentioned in subsection (3) above, any reference in section 13 to the amount of the company’s profits for the period on which corporation tax falls finally to be borne shall be construed as a reference to the sterling sum found under subsection (6) above.
- (8) Any translation required by subsection (6) above shall be made by reference to the London closing exchange rate for the two currencies concerned for the last day of the accounting period concerned.”
- 6 (1) Schedule 24 to the Taxes Act 1988 (assumptions for calculating chargeable profits etc.) shall be amended as mentioned in sub-paragraphs (2) to (5) below; and—
- (a) the amendment made by sub-paragraph (2) below shall be deemed always to have had effect, and
- (b) paragraph 1(4) of Schedule 16 to the <sup>M84</sup>Finance Act 1984 shall be deemed always to have had effect subject to the same amendment.
- (2) In paragraph 1 (general assumptions for calculating chargeable profits etc.) in sub-paragraph (4) (assumption for certain purposes that a direction has been given) before the words “it shall be assumed” there shall be inserted “ in determining the chargeable profits of the company for the accounting period mentioned in paragraph (a) above ”.
- (3) Paragraph 4A (computation of basic profits or losses of a trade) shall be deemed never to have been inserted.
- (4) The following paragraph shall be inserted after paragraph 11—
- “11A(1) This paragraph applies where by virtue of section 747A the company’s chargeable profits for an accounting period (the period in question) are to be computed and expressed in a currency (the relevant foreign currency) other than sterling.
- (2) For the purposes of making in relation to the period in question any calculation which—
- (a) falls to be made under the enactments relating to capital allowances, and
- (b) takes account of amounts arrived at under those enactments in relation to accounting periods falling before the company’s commencement day (within the meaning given by section 747A(9)), it shall be assumed that any such amount is the equivalent, expressed in the relevant foreign currency, of the amount expressed in sterling.
- (3) For the purposes of the application in relation to the period in question of paragraph 11(1)(c) above, it shall be assumed that the company’s chargeable



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profits for the period are the sterling equivalent of its chargeable profits found in the relevant foreign currency.

- (4) For the purposes of the application of section 34, 35 or 96 of the 1990 Act (motor cars and dwelling-houses) in relation to expenditure incurred in the period in question, it shall be assumed that any sterling sum mentioned in any of those sections is the equivalent, expressed in the relevant foreign currency, of the amount expressed in sterling.
  - (5) The translation required by sub-paragraph (2) above shall be made by reference to the London closing exchange rate for the two currencies concerned for the first day of the period in question.
  - (6) The translation required by sub-paragraph (3) above shall be made by reference to the London closing exchange rate for the two currencies concerned for the last day of the period in question.
  - (7) The translation required by sub-paragraph (4) above shall be made by reference to the London closing exchange rate for the two currencies concerned for the day on which the expenditure concerned was incurred.”
- (5) The following shall be inserted after paragraph 12—

#### **Exchange gains and losses**

“13 Paragraphs 14 to 19 below apply for the purposes of the application of Chapter II of Part II of the <sup>M85</sup>Finance Act 1993.

“14 (1) This paragraph applies where—

- (a) by virtue of section 747A the company’s chargeable profits for an accounting period are to be computed and expressed in a particular currency (the relevant currency),
- (b) in an accrual period an asset or contract was held, or a liability was owed, by the company, and
- (c) the accrual period falls within or constitutes the accounting period concerned.

(2) It shall be assumed that—

- (a) the local currency for the purposes of sections 125 to 127 of the <sup>M86</sup>Finance Act 1993 is the relevant currency, and
- (b) section 149 of that Act (local currency to be used) does not apply as regards the accrual period concerned.

“15 Where the accounting period mentioned in section 139(1) of the <sup>M87</sup>Finance Act 1993 is one for which, by virtue of section 747A, the company’s chargeable profits are to be computed and expressed in a currency other than sterling—

- (a) section 142(1) to (4) of that Act shall be assumed not to apply as regards that period;
- (b) section 142(5) and (6) of that Act shall be assumed not to apply as regards the next accounting period of the company.

“16 (1) This paragraph applies where the last relevant accounting period for the purposes of section 146 of the <sup>M88</sup>Finance Act 1993 is one for which by virtue

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

of section 747A the company's chargeable profits are to be computed and expressed in a particular currency (the relevant currency).

- (2) Subsections (10), (11) and (14) of section 146 of the <sup>M89</sup>Finance Act 1993 shall be assumed not to apply.
- “17 Where by virtue of section 747A the company's chargeable profits for an accounting period are to be computed and expressed in a particular currency, the references in section 148(9) of the <sup>M90</sup>Finance Act 1993 to sterling shall be assumed to be references to that particular currency.
- “18 (1) This paragraph applies where the accounting period mentioned in paragraph (b) of subsection (11) of section 153 of the <sup>M91</sup>Finance Act 1993 is one for which, by virtue of section 747A, the company's chargeable profits are to be computed and expressed in a particular currency (the relevant currency).
- (2) That subsection shall have effect as if the reference to the local currency of the trade for the accounting period were a reference to the relevant currency.
- “19 (1) This paragraph applies where—
- (a) Chapter II of Part II of the <sup>M92</sup>Finance Act 1993 falls to be applied as regards an accounting period of the company;
  - (b) under that Chapter, an exchange gain or an exchange loss accrued to the company for an accrual period constituting or falling within an earlier accounting period of the company, and
  - (c) the accounting period mentioned in paragraph (b) above falls before the company's first relevant accounting period.
- (2) It shall be assumed, for the purposes of applying Chapter II of Part II of the <sup>M93</sup>Finance Act 1993 as respects the accounting period mentioned in sub-paragraph (1)(a) above, that the exchange gain or loss mentioned in sub-paragraph (1)(b) above never existed.
- (3) In sub-paragraph (1) above—
- (a) references to an exchange gain are to an exchange gain of a trade or an exchange gain of part of a trade or a non-trading exchange gain;
  - (b) references to an exchange loss are to an exchange loss of a trade or an exchange loss of part of a trade or a non-trading exchange loss;
  - (c) the reference in sub-paragraph (1)(b) to an exchange gain or an exchange loss accruing is to the gain or loss accruing before the application of any of sections 131, 136, 137 and 140 of the <sup>M94</sup>Finance Act 1993 in relation to the accounting period mentioned in sub-paragraph (1)(b);
  - (d) references to the first relevant accounting period of the company shall be construed in accordance with section 747A.”

#### Marginal Citations

**M84** 1984 c. 43.

**M85** 1993 c. 34.

**M86** 1993 c. 34.

**M87** 1993 c. 34.

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

**M88** 1993 c. 34.  
**M89** 1993 c. 34.  
**M90** 1993 c. 34.  
**M91** 1993 c. 34.  
**M92** 1993 c. 34.  
**M93** 1993 c. 34.  
**M94** 1993 c. 34.

7 The following section shall be inserted after section 168 of the <sup>M95</sup>Finance Act 1993—

**“168A Application of Chapter to certain companies becoming resident in the United Kingdom.**

- (1) In a case where—
- (a) by virtue of section 751 of the Taxes Act 1988, an exchange gain or an exchange loss accrues to a company for an accrual period constituting or falling within an accounting period during which the company is resident outside the United Kingdom, and
  - (b) the company subsequently becomes resident in the United Kingdom, the company shall be treated, for the purposes of applying this Chapter to accounting periods beginning on or after the date when the company becomes resident in the United Kingdom, as if the exchange gain or loss mentioned in paragraph (a) above never existed.
- (2) In this section—
- (a) references to an exchange gain are to an exchange gain of a trade or an exchange gain of part of a trade or a non-trading exchange gain;
  - (b) references to an exchange loss are to an exchange loss of a trade or an exchange loss of part of a trade or a non-trading exchange loss;
  - (c) the reference in paragraph (a) of subsection (1) above to an exchange gain or an exchange loss accruing is to the gain or loss accruing before the application of any of sections 131, 136, 137 and 140 above in relation to the accounting period mentioned in that paragraph.”

**Marginal Citations**

**M95** 1993 c. 34.

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

## SCHEDULE 26

Section 135.

### CHANGE IN OWNERSHIP OF INVESTMENT COMPANY: DEDUCTIONS

#### *Introductory*

- 1 The Taxes Act 1988 shall have effect subject to the amendments in paragraphs 2 to 4 below.

#### *Main provisions*

- 2 After section 768A there shall be inserted the following sections—

**“768B Change in ownership of investment company: deductions generally.**

- (1) This section applies where there is a change in the ownership of an investment company and—
  - (a) after the change there is a significant increase in the amount of the company’s capital; or
  - (b) within the period of six years beginning three years before the change there is a major change in the nature or conduct of the business carried on by the company; or
  - (c) the change in the ownership occurs at any time after the scale of the activities in the business carried on by the company has become small or negligible and before any considerable revival of the business.
- (2) For the purposes of subsection (1)(a) above, whether there is a significant increase in the amount of a company’s capital after a change in the ownership of the company shall be determined in accordance with the provisions of Part I of Schedule 28A.
- (3) In paragraph (b) of subsection (1) above “major change in the nature or conduct of a business” includes a major change in the nature of the investments held by the company, even if the change is the result of a gradual process which began before the period of six years mentioned in that paragraph.
- (4) For the purposes of this section—
  - (a) the accounting period of the company in which the change in the ownership occurs shall be divided into two parts, the first the part ending with the change, the second the part after;
  - (b) those parts shall be treated as two separate accounting periods; and
  - (c) the amounts in issue for the accounting period being divided shall be apportioned to those parts.
- (5) In Schedule 28A—
  - (a) Part II shall have effect for identifying the amounts in issue for the accounting period being divided; and
  - (b) Part III shall have effect for the purpose of apportioning those amounts to the parts of that accounting period.
- (6) Any sums which—

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- (a) are disbursed or treated as disbursed as expenses of management in the accounting period being divided, and
  - (b) under Part III of Schedule 28A are apportioned to either part of that period,
- shall be treated for the purposes of section 75 as disbursed in that part.
- (7) Any charges which under Part III of Schedule 28A are apportioned to either part of the accounting period being divided shall be treated for the purposes of sections 338 and 75 as paid in that part.
  - (8) Any allowances which under Part III of Schedule 28A are apportioned to either part of the accounting period being divided shall be treated for the purposes of section 28 of the 1990 Act and section 75(4) as falling to be made in that part.
  - (9) In computing the total profits of the company for an accounting period ending after the change in the ownership, no deduction shall be made under section 75 by reference to—
    - (a) sums disbursed or allowances falling to be made for an accounting period beginning before the change; or
    - (b) charges paid in such an accounting period.
  - (10) To the extent that a payment of interest made by the company represents excess overdue interest, the payment shall not be deductible under section 338(1) from the total profits for the accounting period in which it is made.
  - (11) Whether a payment of interest made by the company represents excess overdue interest, and if so to what extent, shall be determined in accordance with the provisions of Part IV of Schedule 28A.
  - (12) Subject to the modification in subsection (13) below, subsections (6) to (9) of section 768 shall apply for the purposes of this section as they apply for the purposes of that section.
  - (13) The modification is that in subsection (6) of section 768 for the words “relief in respect of a company’s losses has been restricted” there shall be substituted “deductions from a company’s total profits have been restricted”.
  - (14) In this section “investment company” has the same meaning as in Part IV.

#### **768C Deductions: asset transferred within group.**

- (1) This section applies where—
  - (a) there is a change in the ownership of an investment company (“the relevant company”);
  - (b) none of paragraphs (a) to (c) of section 768B(1) applies;
  - (c) after the change in the ownership the relevant company acquires an asset from another company in circumstances such that section 171(1) of the 1992 Act applies to the acquisition; and
  - (d) a chargeable gain (“a relevant gain”) accrues to the relevant company on a disposal of the asset within the period of three years beginning with the change in the ownership.

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- (2) For the purposes of subsection (1)(d) above an asset acquired by the relevant company as mentioned in subsection (1)(c) above shall be treated as the same as an asset owned at a later time by that company if the value of the second asset is derived in whole or in part from the first asset, and in particular where the second asset is a freehold and the first asset was a leasehold and the lessee has acquired the reversion.
- (3) For the purposes of this section—
- (a) the accounting period of the relevant company in which the change in the ownership occurs shall be divided into two parts, the first the part ending with the change, the second the part after;
  - (b) those parts shall be treated as two separate accounting periods; and
  - (c) the amounts in issue for the accounting period being divided shall be apportioned to those parts.
- (4) In Schedule 28A—
- (a) Part V shall have effect for identifying the amounts in issue for the accounting period being divided; and
  - (b) Part VI shall have effect for the purpose of apportioning those amounts to the parts of that accounting period.
- (5) Subsections (6) to (8) of section 768B shall apply in relation to the relevant company as they apply in relation to the company mentioned in subsection (1) of that section except that any reference in those subsections to Part III of Schedule 28A shall be read as a reference to Part VI of that Schedule.
- (6) Subsections (7) and (9) below apply only where, in accordance with the relevant provisions of the 1992 Act and Part VI of Schedule 28A, an amount is included in respect of chargeable gains in the total profits for the accounting period of the relevant company in which the relevant gain accrues.
- (7) In computing the total profits of the relevant company for the accounting period in which the relevant gain accrues, no deduction shall be made under section 75 by reference to—
- (a) sums disbursed or allowances falling to be made for an accounting period of the relevant company beginning before the change in ownership, or
  - (b) charges paid in such an accounting period,
- from an amount of the total profits equal to the amount which represents the relevant gain.
- (8) For the purposes of this section, the amount of the total profits for an accounting period which represents the relevant gain is—
- (a) where the amount of the relevant gain does not exceed the amount which is included in respect of chargeable gains for that period, an amount equal to the amount of the relevant gain;
  - (b) where the amount of the relevant gain exceeds the amount which is included in respect of chargeable gains for that period, the amount so included.

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- (9) To the extent that a payment of interest made by the relevant company in the accounting period in which the relevant gain accrues represents excess overdue interest, the payment shall not be deductible under section 338(1) from such part of the total profits for that accounting period as represents the relevant gain.
- (10) Whether a payment of interest made by the relevant company represents excess overdue interest, and if so to what extent, shall be determined in accordance with the provisions of Part IV of Schedule 28A.
- (11) Subsections (8) and (9) of section 768 shall apply for the purposes of this section as they apply for the purposes of that section.
- (12) In this section—  
“the relevant provisions of the 1992 Act” means section 8(1) of and Schedule 7A to that Act; and  
“investment company” has the same meaning as in Part IV.”

#### *Supplementary provisions*

3 After Schedule 28 there shall be inserted—

#### “SCHEDULE 28A

#### CHANGE IN OWNERSHIP OF INVESTMENT COMPANY: DEDUCTIONS

#### **PART I**

#### SIGNIFICANT INCREASE IN COMPANY CAPITAL

#### *General*

- 1 The provisions referred to in section 768B(2) for determining whether there is a significant increase in the amount of a company’s capital after a change in the ownership of the company are as follows.

#### *The basic rule*

- 2 There is a significant increase in the amount of a company’s capital if amount B—
- (a) exceeds amount A by at least £1 million; or
  - (b) is at least twice amount A.

#### *Amount A*

- 3 (1) Amount A is the lower of—
- (a) the amount of the company’s capital immediately before the change in the ownership; and
  - (b) the highest 60 day minimum amount for the pre-change year, found in accordance with sub-paragraphs (2) to (6) below.

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- (2) Find the daily amounts of the company’s capital over the pre-change year.
- (3) Take the highest of the daily amounts.
- (4) Find out whether there was in the pre-change year a period of 60 days or more in which there was no daily amount lower than the amount taken.
- (5) If there was, the amount taken is the highest 60 day minimum amount for the pre-change year.
- (6) If there was not, take the next highest of the daily amounts and repeat the process in sub-paragraph (4) above; and so on, until the highest 60 day minimum amount for the pre-change year is found.
- (7) In this Part of this Schedule “the pre-change year” means the period of one year ending immediately before the change in the ownership of the company in question.

*Amount B*

- 4 (1) Amount B is the highest 60 day minimum amount for the post-change period (finding that amount for that period in the same way as the highest 60 day minimum amount for the pre-change year is found).
- (2) In this paragraph “the post-change period” means the period of three years beginning with the change in the ownership of the company in question.

*Capital and amounts of capital*

- 5 (1) The capital of a company consists of the aggregate of—
  - (a) the amount of the paid up share capital of the company;
  - (b) the amount outstanding of any debts incurred by the company which are of a description mentioned in any of paragraphs (a) to (c) of section 417(7); and
  - (c) the amount outstanding of any redeemable loan capital issued by the company.
- (2) For the purposes of sub-paragraph (1) above—
  - (a) the amount of the paid up share capital includes any amount in the share premium account of the company (construing “share premium account” in the same way as in section 130 of the <sup>M96</sup>Companies Act 1985); and
  - (b) the amount outstanding of any debts includes any interest due on the debts.
- (3) Amounts of capital shall be expressed in sterling and rounded up to the nearest pound.

**PART II**

AMOUNTS IN ISSUE FOR PURPOSES OF SECTION 768B

- 6 The amounts in issue referred to in section 768B(4)(c) are—



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- (a) the amount of any sums (including commissions) actually disbursed as expenses of management for the accounting period being divided, except any such expenses as would (apart from section 768B) be deductible in computing profits otherwise than under section 75;
- (b) the amount of any charges which are paid in that accounting period wholly and exclusively for the purposes of the company's business;
- (c) the amount of any excess carried forward under section 75(3) to the accounting period being divided;
- (d) the amount of any allowances falling to be made for that accounting period by virtue of section 28 of the 1990 Act which would (apart from section 768B) be added to the expenses of management for that accounting period by virtue of section 75(4);
- (e) any other amounts by reference to which the profits or losses of that accounting period would (apart from section 768B) be calculated.

### PART III

#### APPORTIONMENT FOR PURPOSES OF SECTION 768B

- 7 (1) Subject to paragraph 8 below, the apportionment required by section 768B(4) (c) shall be made—
- (a) in the case of the sums and charges mentioned in paragraph 6(a) and (b) above, by reference to the time when the sum or charge is due to be paid;
  - (b) in the case of the excess mentioned in paragraph 6(c) above, by apportioning the whole amount of the excess to the first part of the accounting period being divided;
  - (c) in the case of the amounts mentioned in paragraph 6(d) and (e) above, by reference to the respective lengths of the parts of the accounting period being divided.
- (2) For the purposes of sub-paragraph (1)(a) above, in the case of any charge consisting of interest, the interest shall be assumed to become due on a day to day basis as it arises.
- 8 If it appears that any method of apportionment given by paragraph 7 above would work unreasonably or unjustly for any case for which it is given, such other method shall be used for that case as appears just and reasonable.

### PART IV

#### EXCESS OVERDUE INTEREST

##### *Introductory*

- 9 (1) The provisions referred to in sections 768B(11) and 768C(10) for determining whether a payment of interest made by the company or, as the case may be, the relevant company represents excess overdue interest, and if so to what extent, are set out in paragraphs 10 to 12 below.
- (2) In those paragraphs—

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- (a) “overdue interest” means interest due to be paid by the company or, as the case may be, the relevant company before the change in the ownership and still unpaid at the end of the actual accounting period in which the change occurs;
  - (b) “amount C” means the amount of all the overdue interest; and
  - (c) “amount P” means the amount of the profits for the accounting period ending with the change in the ownership.
- (3) For the purposes of sub-paragraph (2) above—
- (a) interest shall be assumed to become due on a day to day basis as it arises;
  - (b) the reference to the profits is a reference to the profits after making all deductions and giving all reliefs that for the purposes of corporation tax are made or given against the profits, including deductions and reliefs which under any provision are treated as reducing them for those purposes.

#### *The rules*

- 10 (1) A payment of interest does not represent excess overdue interest except to the extent that it discharges a liability to pay overdue interest.
- (2) For the purposes of this Part of this Schedule, a payment of interest on a debt shall be treated as discharging any liability to pay overdue interest before it is treated to any extent as discharging a liability to pay interest which is not overdue interest.
- 11 Where amount C does not exceed amount P, no payment of interest represents excess overdue interest.
- 12 (1) Where amount C exceeds amount P—
- (a) find the amount by which amount C exceeds amount P (amount X);
  - (b) take all the payments and parts of payments which discharge any liability to pay overdue interest;
  - (c) treat those payments and parts of payments as cancelling out amount X before any other part of amount C.
- (2) A payment of interest represents excess overdue interest to the extent that, in accordance with sub-paragraph (1) above, it is treated as cancelling out amount X.

### PART V

#### AMOUNTS IN ISSUE FOR PURPOSES OF SECTION 768C

- 13 (1) The amounts in issue referred to in section 768C(3)(c) are—
- (a) the amount which would in accordance with the relevant provisions of the 1992 Act (and apart from section 768C) be included in respect of chargeable gains in the total profits for the accounting period being divided;
  - (b) the amount of any sums (including commissions) actually disbursed as expenses of management for the accounting period being divided except any such expenses as would (apart from section 768C)

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- be deductible in computing total profits otherwise than under section 75;
- (c) the amount of any charges which are paid in that accounting period wholly and exclusively for the purposes of the company's business;
  - (d) the amount of any excess carried forward under section 75(3) to the accounting period being divided;
  - (e) the amount of any allowances falling to be made for that accounting period by virtue of section 28 of the 1990 Act which would (apart from section 768C) be added to the expenses of management for that accounting period by virtue of section 75(4); and
  - (f) any other amounts by reference to which the profits or losses of the accounting period being divided would (apart from section 768C) be calculated.
- (2) In sub-paragraph (1)(a) above “the relevant provisions of the 1992 Act” means section 8(1) of and Schedule 7A to that Act.

## PART VI

### APPORTIONMENT FOR PURPOSES OF SECTION 768C

- 14 The apportionment required by section 768C(3)(c) shall be made as follows.
- 15 In the case of the amount mentioned in paragraph 13(1)(a) above—
- (a) if it does not exceed the amount of the relevant gain, the whole of it shall be apportioned to the second part of the accounting period being divided;
  - (b) if it exceeds the amount of the relevant gain, the excess shall be apportioned to the first part of the accounting period being divided and the relevant gain shall be apportioned to the second part.
- 16 (1) Subject to paragraph 17 below, the apportionment shall be made—
- (a) in the case of the sums and charges mentioned in paragraph 13(1)(b) and (c) above, by reference to the time when the sum or charge is due to be paid;
  - (b) in the case of the excess mentioned in paragraph 13(1)(d) above, by apportioning the whole amount of the excess to the first part of the accounting period being divided;
  - (c) in the case of the amounts mentioned in paragraph 13(1)(e) and (f) above, by reference to the respective lengths of the parts of the accounting period being divided.
- (2) For the purposes of sub-paragraph (1)(a) above, in the case of any charge consisting of interest, the interest shall be assumed to become due on a day to day basis as it arises.
- 17 If it appears that any method of apportionment given by paragraph 16 above would work unreasonably or unjustly for any case for which it is given, such other method shall be used for that case as appears just and reasonable.”

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#### Marginal Citations

M96 1985 c. 6.

#### *Consequential amendments*

- 4 (1) Section 769 (rules for ascertaining change in ownership of company) shall be amended in accordance with sub-paragraphs (2) to (4) below.
- (2) In subsections (1), (2)(d) and (5) for “sections 767A, 768 and 768A” there shall in each case be substituted “ sections 767A, 768, 768A, 768B and 768C ”.
- (3) After subsection (3) there shall be inserted—
- “ (3A) Subsection (3) above shall apply for the purposes of sections 768B and 768C as if the reference to the benefit of losses were a reference to the benefit of deductions.”
- (4) In subsection (4) for “section 768 or 768A” there shall be substituted “ section 768, 768A, 768B or 768C ”.

#### *Application of Schedule*

- 5 This Schedule shall apply in relation to a change in ownership occurring on or after 29th November 1994 other than a change occurring in pursuance of a contract entered into before that date.

### SCHEDULE 27

Section 139.

#### SUB-CONTRACTORS IN THE CONSTRUCTION INDUSTRY

#### *Payments to which provision for deductions applies*

- 1 (1) In subsection (1) of section 559 of the Taxes Act 1988 (payments from which deductions are made), for “subsection (2) below” there shall be substituted “ subsections (2) and (3A) below ”.
- (2) Subsection (3) of that section (limit on payments exempted where a guarantee has been given or the recipient is a school leaver) shall not apply in relation to payments made to a person in any case where that person’s certificate under section 561 of that Act is one issued or renewed with respect to a period beginning on or after the appointed day.
- (3) Before subsection (4) of that section there shall be inserted the following subsection—
- “ (3A) Subsection (1) above shall not apply to a payment made under any contract if such conditions as may be prescribed in regulations made by the Board are satisfied in relation to the payment and the person making it.”

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- (4) Sub-paragraphs (1) and (3) above shall have effect in relation to payments made on or after the appointed day.

#### Commencement Information

**I3** Sch. 27 para. 1 in force at Royal Assent but with *prosp.* application see s. 139(3)

#### *Persons who are contractors and sub-contractors*

- 2 (1) In subsection (2) of section 560 of that Act (persons who are contractors)—
- (a) after paragraph (a) there shall be inserted the following paragraph—
- “(aa) any public office or department of the Crown (including any Northern Ireland department);”;
- (b) after paragraph (e) there shall be inserted the following paragraph—
- “(ea) any such body, being a body (in addition to those falling within paragraphs (aa) to (e) above) which has been established for the purpose of carrying out functions conferred on it by or under any enactment, as may be designated as a body to which this subsection applies in regulations made by the Board;”.
- (2) In paragraph (f) of that subsection and in subsection (3) of that section (persons to be contractors where average annual expenditure on construction exceeds £250,000), for “£250,000”, wherever it occurs, there shall be substituted “£1,000,000”.
- (3) This paragraph applies in relation to any payments made on or after the appointed day.

#### Commencement Information

**I4** Sch. 27 para. 2 in force at Royal Assent but shall have effect from 1.8.1999 by S.I. 1998/2620, art. 3 (see s. 139(3))

#### *Individual partners and liabilities for certain contraventions*

- 3 (1) In subsection (2)(b) of section 561 of that Act (condition of certificate for a member of a firm), for “563” there shall be substituted “562”.
- (2) In subsection (10) of that section (offence in connection with obtaining certificate), for “on summary conviction to a fine not exceeding £5,000” there shall be substituted “to a penalty not exceeding £3,000”.
- (3) In subsection (11) of that section (offences in connection with certificates, vouchers etc.)—
- (a) after “section 566(2)(j)” there shall be inserted “or who is in possession of any form or other document supplied to him by the Board for use in connection with any regulations under this Chapter”; and
- (b) for “on summary conviction to a fine not exceeding £5,000” there shall be substituted “to a penalty not exceeding £3,000”.

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#### Commencement Information

- I5** Sch. 27 para. 3 in force at Royal Assent but shall have effect for the purposes of para. 3(2)(3)(b) on 23.11.1998 and para. 3(1) on 1.8.1999 by S.I. 1998/2620, arts. 2, 3 (see s. 139(3))

#### *Turnover test etc.*

- 4 (1) Section 562 of that Act (conditions for grant of exemption certificate to be satisfied by individuals) shall be amended as follows.
- (2) In subsection (1) (applications to which section applies)—
- (a) the words “(otherwise than as a partner in a firm)” shall be omitted; and
  - (b) at the end there shall be inserted “except that, where the application is for the issue of that certificate to that individual as a partner in a firm, this section shall have effect with the omission of subsections (2) to (2B).”
- (3) After subsection (2) there shall be inserted the following subsections—
- “(2A) The applicant must satisfy the Board, by such evidence as may be prescribed in regulations made by the Board, that the carrying on of the business mentioned in subsection (2) above is likely to involve the receipt, annually in the period to which the certificate would relate, of an aggregate amount by way of relevant payments which is not less than the amount specified in regulations made by the Board as the minimum turnover for the purposes of this subsection.
- (2B) In subsection (2A) above “relevant payments” means the following payments, other than so much of them as would fall, as representing the direct cost to any person of any materials, to be disregarded in calculating the amount of any deductions under subsection (4) of section 559, that is to say—
- (a) payments from which such deductions would fall to be made if the certificate is not granted; and
  - (b) payments which would be such payments but for any regulations under subsection (3A) of that section.”
- (4) Subsections (3) to (7) (which relate to the period for which an individual has carried on his business) shall cease to have effect.
- (5) In subsection (9) (compliance by companies of which the applicant has had control), for “has the meaning given by section 840” there shall be substituted “shall be construed in accordance with section 416(2) to (6)”.
- (6) In subsection (11) (persons who have been out of the United Kingdom), for the words from the beginning to the word “Board”, in the second place where it occurs, there shall be substituted—
- “(11) Where the applicant states, for the purpose of showing that he has complied with all obligations imposed on him as mentioned in subsection (8) above, that he was not subject to any of one or more obligations in respect of any period ending within the qualifying period—
- (a) he must satisfy the Board of that fact by such evidence as may be prescribed in regulations made by the Board; and

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- (b) if for that purpose he states that he has been outside the United Kingdom for the whole or any part of the qualifying period, he must also satisfy them, by such evidence as may be so prescribed.”
- (7) For subsection (14) (meaning of “qualifying period”) there shall be substituted the following subsections—
- “(13A) Subject to subsection (10) above, a person shall not be taken for the purposes of this section to have complied with any such obligation or request as is referred to in subsections (8) to (11) above if there has been a contravention of a requirement as to the time at which, or the period within which, the obligation or request was to be complied with.
- (14) In this section “the qualifying period”, in relation to an application for the issue of a certificate under section 561, means the period of three years ending with the date of the application.”

**Commencement Information**

**I6** Sch. 27 para. 4 in force at Royal Assent but shall have effect from 1.8.1999 by [S.I. 1998/2620](#), [art. 3](#) (see [s. 139\(3\)](#))

- 5 Section 563 of that Act (conditions to be satisfied by individuals who are partners) shall cease to have effect.

**Commencement Information**

**I7** Sch. 27 para. 5 in force at Royal Assent but shall have effect from 1.8.1999 by [S.I. 1998/2620](#), [art. 3](#) (see [s. 139\(3\)](#))

- 6 For subsections (3) to (5) of section 564 of that Act there shall be substituted the following subsections—
- “(2A) The partners must satisfy the Board, by such evidence as may be prescribed in regulations made by the Board, that the carrying on of the firm’s business is likely to involve the receipt, annually in the period to which the certificate would relate, of an aggregate amount by way of relevant payments which is not less than whichever is the smaller of—
- (a) the sum specified in subsection (2B) below; and
  - (b) the amount specified for the purposes of this paragraph in regulations made by the Board;
- and in this subsection “relevant payments” has the meaning given by section 562(2B).
- (2B) The sum referred to in subsection (2A)(a) above is the sum of the following amounts, that is to say—
- (a) the amount obtained by multiplying the number of partners in the firm who are individuals by the amount specified in regulations as the minimum turnover for the purposes of section 562(2A); and
  - (b) in respect of each partner in the firm who is a company (other than one to which section 565(2A)(b) would apply), the amount equal to what would have been the minimum turnover for the purposes

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of section 565(2A) if the application had been for the issue of a certificate to that company.

- (3) Subject to subsection (4) below, each of the persons who are partners at the time of the application must have complied, so far as any such charge to income tax or corporation tax is concerned as falls to be computed by reference to the profits or gains of the firm's business—
- (a) with all obligations imposed on him by or under the Tax Acts or the Management Act in respect of periods ending within the qualifying period; and
  - (b) with all requests to him as such a partner to supply to an inspector accounts of, or other information about, the firm's business or his share of the profits or gains of that business.
- (4) Where a person has failed to comply with such an obligation or request as is referred to in subsection (3) above the firm shall nevertheless be treated, in relation to that partner, as satisfying that condition as regards that obligation or request if the Board are of the opinion that the failure is minor and technical and does not give reason to doubt that the condition mentioned in subsection (5) below will be satisfied.
- (5) There must be reason to expect that each of the persons who are from time to time partners in the firm will, in respect of periods ending after the end of the qualifying period, comply with such obligations and requests as are referred to in subsection (3) above.
- (6) Subject to subsection (4) above, a person shall not be taken for the purposes of this section to have complied with any such obligation or request as is referred to in subsection (3) above if there has been a contravention of a requirement as to the time at which, or the period within which, the obligation or request was to be complied with.
- (7) In this section “the qualifying period”, in relation to an application for the issue of a certificate under section 561, means the period of three years ending with the date of the application.”

#### Commencement Information

**18** Sch. 27 para. 6 in force at Royal Assent but shall have effect from 1.8.1999 by [S.I. 1998/2620](#), [art. 3](#) (see. [s. 139\(3\)](#))

- 7 (1) After subsection (2) of section 565 of that Act there shall be inserted the following subsections—

“(2A) The company must either—

- (a) satisfy the Board, by such evidence as may be prescribed in regulations made by them, that the carrying on of its business is likely to involve the receipt, annually in the period to which the certificate would relate, of an aggregate amount by way of relevant payments which is not less than the amount which is the minimum turnover for the purposes of this subsection; or
- (b) satisfy the Board that the only persons with shares in the company are companies which are limited by shares and themselves excepted



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from section 559 by virtue of a certificate which is in force under section 561;

and in this subsection “relevant payments” has the meaning given by section 562(2B).

(2B) The minimum turnover for the purposes of subsection (2A) above is whichever is the smaller of—

- (a) the amount obtained by multiplying the amount specified in regulations as the minimum turnover for the purposes of section 562(2A) by the number of persons who are relevant persons in relation to the company; and
- (b) the amount specified for the purposes of this paragraph in regulations made by the Board.

(2C) For the purposes of subsection (2B) above a person is a relevant person in relation to the company—

- (a) where the company is a close company, if he is a director of the company (within the meaning of Chapter II of Part V) or a beneficial owner of shares in the company; and
- (b) in any other case, if he is such a director of the company.”

(2) After subsection (8) of that section there shall be inserted the following subsection—

“(8A) Subject to subsection (4) above, a company shall not be taken for the purposes of this section to have complied with any such obligation or request as is referred to in subsections (3) to (7) above if there has been a contravention of a requirement as to the time at which, or the period within which, the obligation or request was to be complied with.”

#### **Commencement Information**

- 19** Sch. 27 para. 7 in force at Royal Assent but shall have effect from 1.8.1999 by [S.I. 1998/2620](#), [art. 3](#) (see [s. 139\(3\)](#))

#### *Commencement of paragraphs 3 to 7*

- 8 (1) Except in the case of paragraph 3(2) and (3) above, paragraphs 3 to 7 above shall have effect in relation to any application for the issue or renewal of a certificate under section 561 of the Taxes Act 1988 which is made with respect to any period beginning on or after the appointed day.
- (2) Paragraph 3(2) and (3)(b) above shall have effect in relation to contraventions of section 561(10) or (11) occurring on or after the appointed day; and paragraph 3(3) (a) above shall have effect in relation to forms and other documents in a person’s possession at any time after the passing of this Act.

#### *Powers to make regulations*

- 9 In section 566 of that Act (general powers to make regulations), after subsection (2) there shall be inserted the following subsection—

“(3) Any power under this Chapter to make regulations prescribing the evidence required for establishing what is likely to happen at any time shall include

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power to provide for such matters to be presumed (whether conclusively or unless the contrary is shown in the manner provided for in the regulations) from evidence of what has previously happened.”

## SCHEDULE 28

Section 153.

### ELECTRONIC LODGEMENT OF TAX RETURNS, ETC.

1 In the <sup>M97</sup>Taxes Management Act 1970 after section 115 there shall be inserted—

**“115A Electronic lodgement of tax returns, etc.**

Schedule 3A to this Act (which makes provision with respect to the electronic lodgement of tax returns and documents required in connection with tax returns) shall have effect.”

**Marginal Citations**

**M97** 1970 c. 9.

2 After Schedule 3 to that Act there shall be inserted—

“SCHEDULE 3A

ELECTRONIC LODGEMENT OF TAX RETURNS, ETC.

**PART I**

TAX RETURNS: GENERAL

*The basic rule*

- 1 (1) Sub-paragraph (2) below applies where a person is—
- (a) required by a notice to which this Schedule applies, or
  - (b) subject to any other requirement to which this Schedule applies, to deliver or make a return to an officer of the Board or to the Board.
- (2) The requirement to deliver or make the return shall be treated as fulfilled by the person subject to the requirement if—
- (a) information is transmitted electronically in response to that requirement; and
  - (b) each of the conditions in Part III of this Schedule is met with respect to that transmission.
- (3) Sub-paragraphs (4) and (5) below apply where the requirement to deliver or make the return is fulfilled by virtue of sub-paragraph (2) above.

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- (4) Any requirement—
- (a) under any provision of Part II of this Act that the return include a declaration by the person making the return to the effect that the return is to the best of his knowledge correct and complete, or
  - (b) under or by virtue of any other provision of the Taxes Acts that the return be signed or include any description of declaration or certificate,
- shall not apply.
- (5) The time at which the requirement to deliver or make the return is fulfilled is the end of the day during which the last of the conditions in Part III of this Schedule to be met with respect to the transmission is met.
- (6) In sub-paragraph (2)(a) above “information” includes any self-assessment, partnership statement, particulars or claim.

*Returns to which Schedule applies*

- 2 (1) This Schedule applies to a notice requiring a return to be delivered or made if—
- (a) the notice is given under any provision of the Taxes Acts or of regulations made under the Taxes Acts;
  - (b) the provision is specified for the purposes of this Schedule by an order made by the Treasury; and
  - (c) the notice is given after the day appointed by the order in relation to notices under the provision so specified.
- (2) This Schedule applies to any other requirement to deliver or make a return if—
- (a) the requirement is imposed by any provision of the Taxes Acts or of regulations made under the Taxes Acts;
  - (b) the provision is specified for the purposes of this Schedule by an order made by the Treasury; and
  - (c) the requirement is required to be fulfilled within a period beginning after the day appointed by the order in relation to the specified provision.
- (3) The power to make an order under this paragraph shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of the House of Commons.
- (4) For the purposes of this Schedule, any reference to a requirement to deliver a return includes, in relation to regulations made under the principal Act, a reference to a requirement to render a return.

**PART II**

DOCUMENTS SUPPORTING CERTAIN TAX RETURNS

- 3 (1) This paragraph applies where—
- (a) a person is required by a notice to which this Schedule applies to deliver a return to an officer of the Board;

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- (b) the notice also requires any document other than the return (“a supporting document”) to be delivered;
  - (c) the provision under which the notice is given requires the supporting document to be delivered with the return;
  - (d) the notice states that the supporting document may be transmitted electronically; and
  - (e) the requirement to deliver the return is fulfilled by virtue of paragraph 1(2) of this Schedule.
- (2) The requirement to deliver the supporting document shall be treated as fulfilled by the person subject to the requirement if—
- (a) information is transmitted electronically in response to that requirement; and
  - (b) each of the conditions in Part III of this Schedule is met with respect to that transmission.
- (3) If information is not transmitted electronically in response to the requirement to deliver the supporting document, that requirement shall have effect as a requirement to deliver the document on or before the day which is the last day for the delivery of the return.
- (4) For the purposes of sub-paragraph (1)(b) above the reference to a document includes in particular a reference to any accounts, statements or reports.
- (5) Where the requirement to deliver the supporting document is fulfilled by virtue of sub-paragraph (2) above, the time at which it is fulfilled is the end of the day during which the last of the conditions in Part III of this Schedule to be met with respect to the transmission is met.

### PART III

#### THE CONDITIONS

##### *Approved persons*

- 4 (1) The first condition is that the transmission must be made by a person approved by the Board.
- (2) A person seeking approval under this paragraph shall be given notice of the grant or refusal of approval.
- (3) A person may be approved for the purpose of transmitting the information—
- (a) on behalf of another person or other persons; or
  - (b) on his own behalf.
- (4) An approval under this paragraph may be withdrawn by notice with effect from such date as may be specified in the notice.
- (5) A notice refusing or withdrawing an approval shall state the grounds for the refusal or withdrawal.
- (6) A person who is refused approval or whose approval is withdrawn may appeal to the Special Commissioners against the refusal or withdrawal.

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- (7) The appeal shall be made by notice given to the Board before the end of the period of 30 days beginning with the day on which notice of the refusal or withdrawal was given to the appellant.
- (8) The Special Commissioners shall not allow the appeal unless it appears to them that, having regard to all the circumstances, it is unreasonable for the approval to be refused or (as the case may be) withdrawn.
- (9) If the Special Commissioners allow an appeal by a person who has been refused approval, they shall specify the date from which the approval is to have effect.

*Approved manner of transmission*

- 5 (1) The second condition applies if the person who makes the transmission is notified by the Board of any requirements for the time being applicable to him as to the manner in which transmissions are to be made by him or as to the manner in which any description of transmission is to be made by him.
- (2) The second condition is that the transmission must comply with the requirements so notified.
- (3) The requirements referred to include in particular requirements as to—
  - (a) the hardware or type of hardware, or
  - (b) the software or type of software,to be used to make transmissions or a description of transmissions.

*Content of transmission*

- 6 The third condition is that the transmission must signify, in a manner approved by the Board, that before the transmission was made a hard copy of the information proposed to be transmitted was made and authenticated in accordance with Part IV of this Schedule.

*Procedure for accepting electronic transmissions*

- 7 (1) The fourth condition is that the information transmitted must be accepted for electronic lodgement.
- (2) For the purposes of this Schedule, information is accepted for electronic lodgement if it is accepted under a procedure selected by the Board for the purposes of this Schedule.
- (3) The selected procedure may in particular consist of or include the use of specially designed software.

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## PART IV

### HARD COPIES OF INFORMATION TRANSMITTED

#### *Provisions about making of hard copies*

- 8 (1) A hard copy is made in accordance with this Part of this Schedule if it is made under arrangements designed to ensure that the information contained in the hard copy is the information in fact transmitted.
- (2) A hard copy is authenticated in accordance with this Part of this Schedule if—
- (a) where the transmission is made in response to a requirement imposed by a notice under Part II of this Act to deliver a return, the hard copy is endorsed with a declaration by the relevant person that the hard copy is to the best of his knowledge correct and complete; and
  - (b) in any other case, if the hard copy is signed by the relevant person.
- (3) In sub-paragraph (2) above “the relevant person” means—
- (a) where the transmission is made as mentioned in sub-paragraph (2) (a) above, the person who, but for paragraph 1(4)(a) of this Schedule, would have been required to make the declaration there mentioned;
  - (b) in any other case, the person subject to the requirement to deliver or make the return or, in the case of a document other than a return, deliver the document.

#### *Meaning of “hard copy”*

- 9 In this Part of this Schedule “hard copy”, in relation to information held electronically, means a printed out version of that information.

## PART V

### STATUS OF INFORMATION

#### *Exercise of powers*

- 10 (1) Sub-paragraphs (2) to (5) below apply where information transmitted in response to a requirement to deliver or make a return is accepted for electronic lodgement.
- (2) An officer of the Board shall have all the powers that he would have had if the information accepted had been contained in a return delivered by post.
  - (3) The Board shall have all the powers that they would have had if the information accepted had been contained in a return delivered by post.
  - (4) Where the information is transmitted in response to a notice given under any provision of Part II of this Act, any power which, if the information had been

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contained in a return delivered by post, a person would have had under this Act to amend the return—

- (a) by delivering a document, or
- (b) by notifying amendments,

to an officer of the Board, shall have effect as if the power enabled that person to deliver a statement of amended information to the officer.

- (5) Any right that a person would have had, if the information transmitted had been contained in a return delivered by post, to claim that tax charged under an assessment was excessive by reason of some mistake or error in the return shall have effect as far as the claimant is concerned as if the information transmitted had been contained in a return delivered by post.
- (6) Where information transmitted in response to a requirement to deliver a document other than a return is accepted for electronic lodgement, an officer of the Board shall have all the powers that he would have had if the information had been contained in a document delivered by post.
- (7) This paragraph is subject to paragraph 11 of this Schedule.

#### *Proceedings*

- 11 (1) Sub-paragraphs (2) to (4) below apply where—
  - (a) a person is required by a notice to which this Schedule applies, or subject to any other requirement to which this Schedule applies, to deliver or make a return; and
  - (b) that requirement is fulfilled by virtue of paragraph 1(2) of this Schedule.
- (2) A hard copy shown to have been made and authenticated in accordance with Part IV of this Schedule for the purposes of the transmission in question shall be treated for the purposes of any proceedings as if it were a return delivered or made in response to the requirement.
- (3) Sub-paragraph (4) below applies if no hard copy is shown to have been made and authenticated in accordance with Part IV of this Schedule for the purposes of the transmission in question.
- (4) A hard copy certified by an officer of the Board to be a true copy of the information transmitted shall be treated for the purposes of any proceedings in relation to which the certificate is given as if it—
  - (a) were a return delivered or made in response to the requirement in question, and
  - (b) contained any declaration or signature which would have appeared on a hard copy made and authenticated in accordance with Part IV of this Schedule for the purposes of the transmission.
- (5) Where—
  - (a) a person is required by a notice to which this Schedule applies to deliver any document other than a return, and
  - (b) that requirement is fulfilled by virtue of paragraph 3(2) of this Schedule,

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sub-paragraphs (2) to (4) above shall apply as if any reference to a return delivered in response to the requirement were a reference to a document delivered in response to the requirement.

(6) In this paragraph—

“hard copy” has the same meaning as in Part IV of this Schedule;  
and

“proceedings” includes proceedings before the General or Special Commissioners or any tribunal having jurisdiction by virtue of any provision of the Taxes Acts.”

## SCHEDULE 29

Section 162.

### REPEALS

#### PART I

##### ALCOHOLIC LIQUOR

##### (1) LOW-STRENGTH LIQUOR

Chapter	Short title	Extent of repeal
1979 c. 4.	The Alcoholic Liquor Duties Act 1979.	In section 55A(1), the words “exceeding 1.2 per cent, but”. Section 60(1A). Section 63(2).
1988 c. 39.	The Finance Act 1988.	In Schedule 1, in Part II, paragraph 8 and in paragraph 9 the words from “and after” to the end.

These repeals have effect in accordance with section 1 of this Act.

##### (2) ALCOHOLIC INGREDIENTS RELIEF

Chapter or Number	Citation	Extent of repeal
1979 c. 4.	The Alcoholic Liquor Duties Act 1979.	Section 6A. Section 45. Section 60(1) and (2). Section 63(1).
1988 c. 39.	The Finance Act 1988.	In Schedule 1, paragraph 2.
1991 c. 31.	The Finance Act 1991.	In Schedule 2, paragraph 12.
SI 1992/3158.	The Excise Duty (Amendment of the Alcoholic Liquor Duties Act 1979 and	Regulation 2(4).



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the Hydrocarbon Oil Duties  
Act 1979) Regulations 1992.

(3) DENATURED ALCOHOL

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1979 c. 4.	The Alcoholic Liquor Duties Act 1979.	In section 1(2), the words “but does not include methylated spirits”. In section 2— (a) in subsection (1), the words “methylated spirits”; (b) in subsection (7), the words “or in any methylated spirits” and the words “or methylated spirits”; and (c) in subsection (8), the words “or methylated spirits”. In section 4(1), the definition of “methylated spirits”. Section 9. Section 77(1)(b).
1979 c. 5.	The Hydrocarbon Oil Duties Act 1979.	In section 27(3), in the Table, the words “ “methylated spirits””.
1990 c. 29.	The Finance Act 1990.	Section 8.
1993 c. 34.	The Finance Act 1993.	Section 8.
1994 c. 9.	The Finance Act 1994.	In Schedule 4, paragraph 47. In Schedule 5, in paragraph 3— (a) in sub-paragraph (1)(o), the words “methylated spirits and”; and (b) in sub-paragraph (2), the words “methylated spirits”.

The powers in section 5(6) and (7) of this Act shall apply in relation to these repeals as they apply in relation to the provisions of that section and Schedule 2 to this Act.

**PART II**

ROAD FUEL GAS

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1979 c. 5.	The Hydrocarbon Oil Duties Act 1979.	Section 8(7).

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

### PART III

#### BETTING AND GAMING ETC.

Chapter	Short title	Extent of repeal
1981 c. 63.	The Betting and Gaming Duties Act 1981.	Sections 28(4) and 29(4). In section 33(1), in the definition of “gaming”, the words “(except where it refers to a machine provided for gaming)”. In Schedule 4, paragraph 13.
1993 c. 34.	The Finance Act 1993.	Section 16(8).
1994 c. 9.	The Finance Act 1994.	In Schedule 3, paragraph 3(8).

1. These repeals, except the repeals of sections 28(4) and 29(4) of the Betting and Gaming Duties Act 1981, have effect in accordance with section 14 of this Act.

2. The repeals of sections 28(4) and 29(4) of that Act come into force with the passing of this Act.

### PART IV

#### AIR PASSENGER DUTY

Chapter	Short title	Extent of repeal
1994 c. 9.	The Finance Act 1994.	In Schedule 5, in paragraph 9, the word “and” immediately preceding sub-paragraph (d).

This repeal has effect in accordance with section 16 of this Act.

### PART V

#### VEHICLE EXCISE AND REGISTRATION

##### Commencement Information

**I10** Sch. 29, Pt. V(1) in force on 1.7.1995.

#### (1) EXEMPTIONS

Chapter	Short title	Extent of repeal
1994 c. 22.	The Vehicle Excise and Registration Act 1994.	In Schedule 2, paragraphs 1, 12, 13, 14, 15, 16, 17 and 21.

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1968 c. xxxii.	The Port of London Act 1968.	In section 199, paragraph (a) of the proviso to each of subsections (3) and (5).
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These repeals come into force on 1st July 1995.

## (2) RATES

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<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1994 c. 22.	The Vehicle Excise and Registration Act 1994.	Section 17(3) to (7). In section 61, in subsection (3), paragraph (c) and the word “and” immediately preceding it, and subsections (4), (5) and (7). In section 62(1) the definitions of “built-in road construction machinery”, “farmer’s goods vehicle”, “road construction machinery” and “road construction vehicle” In Schedule 1— (a) paragraph 4(2)(a), (b) and (f) and (3); (b) paragraph 8; (c) in paragraph 10, in each of sub-paragraphs (2) and (3), the words “(or relevant maximum weight)”, and sub-paragraph (4); (d) paragraphs 12, 14(b) and (c) and 17(1)(c) to (e) and (2).

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These repeals have effect in accordance with Parts III, IV and IX of Schedule 4 to this Act.

## (3) OTHER REPEALS

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<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1994 c. 22.	The Vehicle Excise and Registration Act 1994.	In section 31(5)(b) the words “(or an amount equal to the duty due)”. In section 37(2) the words “(or, in Scotland, on indictment or on summary conviction)” and “(or, in Scotland, the statutory maximum)”.

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In section 41(1)(b) the words  
“182 or” and “183 or”.

1. The repeal in section 31(5)(b) applies in relation to offences committed after the day on which this Act is passed.

2. The repeals in sections 37(2) and 41(1)(b) apply in relation to proceedings begun after the day on which this Act is passed.

## PART VI

### VALUE ADDED TAX

#### (1) FUEL AND POWER

Chapter	Short title	Extent of repeal
1994 c. 23.	The Value Added Tax Act 1994.	In Schedule 13, paragraph 7.

This repeal has effect in accordance with section 21 of this Act.

#### (2) AGENTS

Chapter	Short title	Extent of repeal
1994 c. 23.	The Value Added Tax Act 1994.	In section 47(3), the words “goods or”.

This repeal has effect in accordance with section 23(4)(b) of this Act.

#### (3) MARGIN SCHEMES

Chapter	Short title	Extent of repeal
1994 c. 23.	The Value Added Tax Act 1994.	Section 32.

This repeal comes into force on the day appointed by an order under section 24(2) of this Act.

#### (4) APPEALS

Chapter	Short title	Extent of repeal
1994 c. 23.	The Value Added Tax Act 1994.	In section 84(2) the words “, except in the case of an appeal against a decision with respect to the matter mentioned in section 83(1),”.

This repeal has effect in accordance with section 31 of this Act.

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

## PART VII

### INSURANCE PREMIUM TAX

Chapter	Short title	Extent of repeal
1994 c. 9.	The Finance Act 1994.	In section 53(5), paragraph (c) and the word “and” immediately preceding it.

This repeal has effect in accordance with paragraph 2 of Schedule 5 to this Act.

## PART VIII

### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

#### (1) SCHEDULE A

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Sections 22 and 23. Section 34(9). In section 354(2)(a), the words “or any of the other payments mentioned in section 25(1)”. In section 779(13)(a), the words “allowable by virtue of sections 25, 26 and 28 to 31 and Schedule 1”.
1989 c. 26.	The Finance Act 1989.	Section 170(1).
1990 c. 1.	The Capital Allowances Act 1990.	In section 9(6), paragraph (a) and, in paragraph (b), the words “if it is a charge to corporation tax”. In section 92(2), paragraph (a) and, in paragraph (b), the words “if it is a charge to corporation tax”. In section 132(4), paragraph (a) and, in paragraph (b), the words “if it is a charge to corporation tax”.
1991 c. 31.	The Finance Act 1991.	In Schedule 15, paragraph 18.

These repeals come into force in accordance with section 39(4) and (5) of this Act.

*Status: Point in time view as at 01/07/1997.*

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

## (2) INTEREST RELIEF FOR COMMERCIALY LET PROPERTY

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1988 c. 1.	The Income and Corporation Taxes Act 1988.	<p>In section 353—</p> <p>(a) in subsection (1A), paragraph (b) and the word “and” immediately preceding that paragraph;</p> <p>(b) in subsection (1B), paragraph (b) and the word “or” immediately preceding that paragraph;</p> <p>(c) subsections (1C) and (1D); and</p> <p>(d) in subsection (1E), the words “the following factors, that is to say”, and paragraph (b) and the word “and” immediately preceding that paragraph.</p> <p>Section 354(4).</p> <p>In section 355—</p> <p>(a) in subsection (1), the words from “or” at the end of paragraph (a) to the end of the subsection; and</p> <p>(b) subsection (4).</p> <p>In section 356A(3), the words “or but for section 353(1C)(a) would be”.</p> <p>In section 356D(1), the words from “in a case” to “358”.</p> <p>In section 357(1), the words from “in a case” to “358”.</p> <p>Section 358(4A).</p> <p>In section 366(1)(c), the words “355(4) or”.</p> <p>In section 370—</p> <p>(a) in subsection (6), in paragraph (a), the words “in paragraph (a)”, and paragraph (b) and the word “and” immediately preceding it;</p> <p>(b) subsection (6A); and</p> <p>(c) in subsection (7), in paragraph (a), the words from “and paragraph (b)” to “omitted”, and in paragraph (aa), subparagraph (ii).</p>

*Status: Point in time view as at 01/07/1997.*

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

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1994 c. 9.	The Finance Act 1994.	In Schedule 9, paragraphs 4 to 6, 7(2) to (4) and 8.
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These repeals come into force in accordance with section 42(3) to (5) of this Act.

### (3) BENEFICIAL LOANS: REPLACEMENT LOANS

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<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Section 160(5)(b).

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This repeal has effect in accordance with section 45(5) of this Act.

### (4) ROLL-OVER RELIEF: GROUPS

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<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1992 c. 12.	The Taxation of Chargeable Gains Act 1992.	In section 175(1), the words from “(unless” to the end.

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This repeal has effect where the acquisition of, or of the interest in, the new assets is on or after 29th November 1994.

### (5) LIFE ASSURANCE BUSINESS

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<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 75(4), the words “and insurance”. In section 241(5), the words from “(that is to say,” to “otherwise be liable”. In section 242(1)(b), the words “for purposes of section 241(3)”. In section 242(9), the words “by virtue of section 241(5)”. In section 431(2), the definitions of “general annuity business” and “pension business”, “annuity fund”, “basic life assurance business”, “basic life assurance and general annuity business”, “offshore income gain” and “overseas life assurance business”, the word “and” following the definition of “overseas life insurance company” and the

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*Status: Point in time view as at 01/07/1997.*

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

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		<p>definition of “UK distribution income”.</p> <p>Section 431(2A) to (6).</p> <p>Section 431AA.</p> <p>Section 432C(5)(a).</p> <p>Section 434(2) and (7).</p> <p>In section 436(3)(d), from the word “and” following subparagraph (i) to the end of the paragraph.</p> <p>Section 437(6).</p> <p>In section 441, in subsection (1), the words “resident in the United Kingdom” and subsection (7).</p> <p>Sections 444C to 444E.</p> <p>In section 474(1), paragraph (b) and the word “and” immediately preceding it.</p> <p>In section 475(2)(a), the words from “or,” to “life assurance business”.</p> <p>In Schedule 19AC, paragraphs 2(2), 3(4), 4(2), 5(2), 6(3), (4) and (6), 7(3), 8(4), 9(2) and (3), 10(3), 11(2) and (6), 12(2), 13(3), 14(3) and 15(2).</p> <p>In Schedule 28, in Part I, paragraph 3(4).</p>
1989 c. 26.	The Finance Act 1989.	<p>In Schedule 6, paragraph 2.</p> <p>In Schedule 8, paragraph 4.</p> <p>In Schedule 8A, paragraph 2(11).</p>
1990 c. 29.	The Finance Act 1990.	<p>Section 45(8).</p> <p>In Schedule 6—</p> <p>(a) paragraph 1(2)(a);</p> <p>(b) in paragraph 1(2)(b), the definitions of “basic life assurance business”, “linked assets” and “overseas life assurance business”; and</p> <p>(c) paragraph 1(3) and (4).</p> <p>In Schedule 7, paragraph 7.</p>
1991 c. 31.	The Finance Act 1991.	<p>In Schedule 7, paragraphs 2, 3, 6 and 10.</p>
1992 c. 12.	The Taxation of Chargeable Gains Act 1992.	<p>In Schedule 10, paragraph 14(63)(b)(iv).</p>



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1993 c. 34.	The Finance Act 1993.	Section 99. Section 100(1) and (2)(a).
1994 c. 9.	The Finance Act 1994.	Section 143. Section 176(1). In Schedule 16, paragraph 5(2) and (3). In Schedule 17, paragraph 4.

1. The following repeals have effect in accordance with paragraph 55 of Schedule 8 to this Act—  
 the repeal of the definitions of “offshore income gain” and “overseas life assurance business”  
 in section 431(2) of the Taxes Act 1988,

the repeal in section 441(1) of that Act,

the repeal of section 444C of that Act so far as it relates to subsection (2)(a) of that section,

the repeals in sections 474 and 475 of that Act,

the repeals of paragraphs 6(3) and (4) and 11(2) of Schedule 19AC to that Act,

the repeal in Schedule 28 to that Act,

the repeal of the definition of “overseas life assurance business” in paragraph 1(2)(b) of  
 Schedule 6 to the Finance Act 1990 and the repeal in Schedule 7 to that Act,

the repeal of paragraph 10 of Schedule 7 to the Finance Act 1991, and

the repeal in the Taxation of Chargeable Gains Act 1992.

2. The repeals other than those listed above have effect in accordance with paragraph 57 of  
 Schedule 8 to this Act.

3. The repeal of the definitions of “general annuity business” and “basic life assurance business”  
 in Chapter I of Part XII of the Taxes Act 1988 does not affect the meaning of those expressions  
 in paragraph 16 or 17 of Schedule 7 to the Finance Act 1991 or section 214 of the Taxation of  
 Chargeable Gains Act 1992 (transitional provisions relating to changes in 1991).

#### (6) FRIENDLY SOCIETIES

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In Schedule 15, paragraph 3(2)(c).
1992 c. 48.	The Finance (No. 2) Act 1992.	In Schedule 9, paragraph 19(3).

#### (7) QUALIFYING LIFE INSURANCE POLICIES

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In Schedule 14, in paragraph 7(1), the words “and paragraphs 9 and 10 of Schedule 15”.



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(b) in paragraph 6, the word  
“689(2)”;  
(c) paragraph 24.

These repeals have effect for the year 1995-96 and subsequent years of assessment.

#### (9) STOCK LENDING

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 129(1), the words “has contracted to sell securities, and to enable him to fulfil the contract, he”.

#### (10) DECEASED PERSONS’ ESTATES

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 695, in subsection (2), the words “subject to subsection (3) below”. In section 701, subsection (14).

#### (11) DEDUCTION OF TAX FROM INTEREST ON DEPOSITS

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 481(5)(k), the word “that” before subparagraph (i).

This repeal comes into force in accordance with section 86 of this Act.

#### (12) MEANING OF “DISTRIBUTION”

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 209(2)(e), subparagraphs (iv) and (v).

These repeals come into force in accordance with section 87(7) and (8) of this Act.

#### (13) GENERALISATION OF SS.63 TO 66 OF FINANCE ACT 1993

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1993 c. 34.	The Finance Act 1993.	Section 63(12).

This repeal has effect in accordance with section 88(4) and (5) of this Act.

*Status: Point in time view as at 01/07/1997.*

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

(14) MANAGEMENT: SELF-ASSESSMENT ETC.

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1970 c. 9.	The Taxes Management Act 1970.	In section 9(3), the words “the following provisions of”. Section 11A. In section 12B(2), the words from “or, where a return” to the end. In section 42(11), paragraph (b) and the word “and” immediately preceding that paragraph.
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Section 73. In section 206, the words “under Schedule E”. In section 536, in subsection (2), the words “are shown on a claim to” and, in subsection (4), the words from “and in that case” to the end. In section 537B, in subsection (2), the words “are shown on a claim to” and, in subsection (4), the words from “and in that case” to the end. In Schedule 3, in paragraph 6E, sub-paragraphs (1) and (3).
1992 c. 12.	The Taxation of Chargeable Gains Act 1992.	Section 7.
1994 c. 9.	The Finance Act 1994.	Section 198.

1. The repeal of section 11A of the Taxes Management Act 1970 has effect in accordance with section 115(13) of this Act.

2. The other repeals, except that in the Finance Act 1994, have effect in accordance with section 103(7) of this Act.

(15) CHANGES FOR FACILITATING SELF-ASSESSMENT

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Section 114(3). Section 401(2).

1. The repeal of section 114(3) has effect in accordance with section 218(1) of the Finance Act 1994.

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

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2. The other repeal has effect in accordance with section 120(2) of this Act.

(16) NON-RESIDENTS

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<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1970 c. 9.	The Taxes Management Act 1970.	Sections 78 to 85.
1985 c. 54.	The Finance Act 1985.	Section 50.
1987 c. 51.	The Finance (No. 2) Act 1987.	In Schedule 6, paragraph 7.
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Section 43. In section 115(7), the words “this section and”. In section 510A, in subsection (6), the words “Subject to subsection (7) below”, and subsections (7) and (8). In Schedule 29, in the Table in paragraph 32, the entries relating to section 78(1) and (5) of the Taxes Management Act 1970.
1989 c. 26.	The Finance Act 1989.	In section 182(3)(c), the words “for the purposes of section 80(3) of the Taxes Management Act 1970 or”.
1991 c. 31.	The Finance Act 1991.	Section 81.
1992 c. 12.	The Taxation of Chargeable Gains Act 1992.	In section 59, paragraph (c) and the word “and” immediately preceding it. In Schedule 10, paragraph 2(2), the words “78(3)(b)”.
1994 c. 9.	The Finance Act 1994.	In section 215(5), paragraph (b), and the word “and” immediately preceding it.

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1. The repeal of section 43 of the Taxes Act 1988 comes into force in accordance with section 40(3) of this Act.

2. The repeals in sections 115(7) of the Taxes Act 1988 and of section 59(c) of the Taxation of Chargeable Gains Act 1992 shall have effect in relation to any cases in relation to which section 112 of the Taxes Act 1988 has effect as amended by section 125 of this Act.

3. The repeals in section 510A of the Taxes Act 1988 have effect as respects the year 1997-98 and subsequent years of assessment and also, in relation to groupings whose trades or professions were set up and commenced on or after 6th April 1994, as respects the years 1995-96 and 1996-97.

*Status: Point in time view as at 01/07/1997.*

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

4. The repeal of section 215(5)(b) of the Finance Act 1994 has effect in accordance with section 125(1) of this Act for the year 1995-96 and subsequent years of assessment.

5. The other repeals come into force—

(a) for the purposes of income tax and capital gains tax, in relation to the year 1996-97 and subsequent years of assessment, and

(b) for the purposes of corporation tax, in relation to accounting periods beginning after 31st March 1996.

#### (17) EXCHANGE GAINS AND LOSSES

Chapter	Short title	Extent of repeal
1993 c. 34.	The Finance Act 1993.	In section 129(8)(b) the words “or the circumstances are such that a charge would be so allowed if the duty were settled”.

This repeal has effect in accordance with Schedule 24 to this Act.

#### (18) CONTROLLED FOREIGN COMPANIES

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In Schedule 24, paragraph 4A.
1993 c. 34.	The Finance Act 1993.	Section 96.

Paragraph 4A of Schedule 24 to the Taxes Act 1988 is deemed never to have been inserted, and section 96 of the Finance Act 1993 is deemed never to have been enacted.

#### (19) PROFIT-RELATED PAY

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In Schedule 8, in paragraph 19(6), paragraphs (g) to (k).

This repeal has effect in accordance with section 136 of this Act.

#### (20) PART-TIME WORKERS

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In Schedule 8, paragraph 8(a). In Schedule 9, in paragraph 27(4) the words from “who is required” to the end.

These repeals have effect in accordance with section 137 of this Act.

*Status: Point in time view as at 01/07/1997.*

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

## (21) SUB-CONTRACTORS IN THE CONSTRUCTION INDUSTRY

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Section 559(3). In section 561— (a) in subsection (1), the words “subsection (5) below or”; (b) in subsection (3), the words “563”; (c) subsections (4) and (5); (d) in subsection (6), the words from “(not being” to “apply).”; and (e) subsection (12). In section 562— (a) in subsection (1), the words “(otherwise than as a partner in a firm)”; and (b) subsections (3) to (7). Section 563.
1988 c. 39.	The Finance Act 1988.	Section 28.

1. The repeal of sections 559(3) and 561(4) and (5) of the Taxes Act 1988, and the repeal in section 561(1) of that Act, have effect in relation to payments made to a person in any case where that person’s certificate under section 561 of that Act is one issued or renewed with respect to a period beginning on or after the appointed day.

2. The repeal of section 561(12) of the Taxes Act 1988 comes into force in accordance with paragraph 8(2) of Schedule 27 to this Act.

3. The other repeals in the Taxes Act 1988 have effect in relation to any application for the issue or renewal of a certificate under section 561 of that Act which is made with respect to a period beginning on or after the appointed day.

4. The repeal of section 28 of the Finance Act 1988 has effect in relation to payments made on or after the appointed day.

5. In Notes 1, 3 and 4 above, “the appointed day” has the same meaning as in section 139 of this Act.

## (22) PAYMENT OF RENT, &C UNDER DEDUCTION OF TAX

Chapter	Short title	Extent of repeal
1988 c. 1.	Income and Corporation Taxes Act 1988.	In section 3(1)(c), the words “119 or”. In section 74(1)(q), the words “119 or”. In section 119(1), the words from “and, subject to subsection (2) below, shall

These repeals have effect in relation to payments made after the passing of this Act.

*Status: Point in time view as at 01/07/1997.*

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

1992 c. 12.	Taxation of Chargeable Gains Act 1992.	<p>be subject to deduction of income tax” to the end.</p> <p>In section 119(2), the words from “instead of” to “subsection (1) above”.</p> <p>In section 122(1), the words from “but without prejudice” to the end.</p> <p>In section 348(2)(b), the words “119 or”.</p> <p>In section 349(1)(c), the words “119 or”.</p> <p>In section 821(3)(c), the words “119 or”.</p> <p>In section 201(2), the words from “but without prejudice” to the end.</p>
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These repeals have effect in relation to payments made after the passing of this Act.

## PART IX

### PETROLEUM REVENUE TAX

Chapter	Short title	Extent of repeal
1975 c. 22.	The Oil Taxation Act 1975.	In Schedule 8, in paragraph 4, in sub-paragraph (1), the words from “and the date” to the end of the sub-paragraph and, in sub-paragraph (2), the words “within the time allowed for making the original claim”.

These repeals have effect in accordance with section 147 of this Act.

## PART X

### STAMP DUTY

Chapter	Short title	Extent of repeal
1930 c. 28.	The Finance Act 1930.	In section 42(3) the words from “with the substitution” to the end.
1954 c. 23 (N.I.).	The Finance Act (Northern Ireland) 1954.	In section 11(3A) the words from “with the substitution” to the end.

These repeals have effect in accordance with sections 149 and 150 of this Act.



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*Status: Point in time view as at 01/07/1997.*

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

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## PART XI

### INHERITANCE TAX: AGRICULTURAL PROPERTY

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<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1984 c. 51.	The Inheritance Tax Act 1984.	In section 116(2) the word “either”.

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This repeal has effect in accordance with section 155 of this Act.

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## PART XII

### PORTS LEVY

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<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1989 c. 26.	The Finance Act 1989.	Section 178(2)(n).
1990 c. 29.	The Finance Act 1990.	Sections 115 to 120.
1991 c. 52.	The Ports Act 1991.	Section 41(3).

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**Status:**

Point in time view as at 01/07/1997.

**Changes to legislation:**

There are currently no known outstanding effects for the Finance Act 1995.