

Status: Point in time view as at 02/07/1997.

Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1997. (See end of Document for details)

SCHEDULES

VALID FROM 31/07/1997

SCHEDULE 1

Section 1.

QUANTIFICATION OF A PRIVATISATION WINDFALL

The basic rule

- 1 (1) Subject to paragraph 7 below, where a company was benefitting on 2nd July 1997 from a windfall from the flotation of an undertaking whose privatisation involved the imposition of economic regulation, the amount of that windfall shall be taken for the purposes of this Part to be the excess (if any) of the amount specified in sub-paragraph (2)(a) below over the amount specified in sub-paragraph (2)(b) below.
- (2) Those amounts are the following amounts (determined in accordance with paragraphs 2 to 6 below), that is to say—
- (a) the value in profit-making terms of the disposal made on the occasion of the company's flotation; and
 - (b) the value which for privatisation purposes was put on that disposal.

Value of a disposal in profit-making terms

- 2 (1) Subject to paragraph 4 below, the value in profit-making terms of the disposal made on the occasion of a company's flotation is the amount produced by multiplying the average annual profit for the company's initial period by the applicable price-to-earnings ratio.
- (2) For the purposes of this paragraph the average annual profit for a company's initial period is the amount produced by the following formula—

$$A = 365 \times \frac{P}{D}$$

Where—

A is the average annual profit for the company's initial period;

P is the amount, ascertained in accordance with paragraph 5 below, of the total profits for the company's initial period; and

D is the number of days in the company's initial period.

- (3) For the purposes of this paragraph the applicable price-to-earnings ratio is 9.

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Value put on a disposal for privatisation purposes

- 3
- (1) Subject to paragraph 4 below, the value which for privatisation purposes was put on the disposal made on the occasion of a company's flotation is the amount produced by multiplying the institutional price by the number of shares comprised in the ordinary share capital of the company at the time of its flotation.
 - (2) In this paragraph "the institutional price", in relation to a company, means the highest fixed price per share at which publicly-owned shares in the company were offered for disposal on the occasion of the company's flotation.
 - (3) Subject to sub-paragraph (4) below, where publicly-owned shares in a company were offered for disposal in accordance with any arrangements for the payment of the price in two or more instalments, the price per share at which those shares were offered shall be ascertained by aggregating the instalments.
 - (4) Where the arrangements under which any publicly-owned shares in a company were offered for disposal provided for any discount on the payment of the whole or any part of the price for those shares, that discount shall be disregarded for the purposes of this paragraph in determining the price per share at which those shares were offered.

Cases where company privatised in stages

- 4
- (1) For the purposes of this Schedule, where the disposal percentage in the case of any company was 85 per cent. or less—
 - (a) the value in profit-making terms of the disposal made on the occasion of the company's flotation, and
 - (b) the value which for privatisation purposes was put on that disposal,
 shall each be taken to be the disposal percentage of the amount which, under paragraph 2 or 3 above, would be the amount of that value but for this paragraph.
 - (2) For the purposes of this paragraph "the disposal percentage", in relation to any company, means the percentage which expresses (in terms of nominal value) how much of the ordinary share capital of the company at the time of its flotation was represented by the publicly-owned shares in the company offered for disposal on the occasion of the company's flotation.

Total profits for the initial period

- 5
- (1) For the purposes of paragraph 2 above the amount of the total profits for a company's initial period is the sum of the amounts falling within sub-paragraph (2) below.
 - (2) Subject to sub-paragraph (3) and paragraph 6(3) below, those amounts are every amount which, for a financial year of the company ending in or at the end of its initial period, is shown in the relevant accounts for that year—
 - (a) where those accounts are prepared in accordance with section 227 of the ^{M1}Companies Act 1985 (group accounts), as the profit of that company and its subsidiary undertakings for that year; and
 - (b) in any other case, as the profit of that company for that year.
 - (3) Where—

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- (a) any profit shown in the relevant accounts of a company for any financial year has been computed using a current cost accounting method, but
 - (b) the information which was contained in those accounts, or which was provided to the registrar together with those accounts, included information from which it can be ascertained what that profit would have been if an historical cost accounting method had been used,
- the amount shown as that profit in those accounts shall be deemed to be the amount (as ascertained from that information) which would have been so shown if that historical cost accounting method had been used.

(4) In this paragraph references, in relation to any financial year of a company, to the relevant accounts are references to any such accounts for that year as have been or are delivered to the registrar under section 242 of the Companies Act 1985 and consist—

- (a) in the case of a financial year at the end of which the company was a parent undertaking, in consolidated group accounts prepared in accordance with section 227 of that Act (group accounts); and
- (b) in any other case, in accounts prepared in accordance with section 226 of that Act (individual accounts).

(5) Subject to sub-paragraph (6) below, references in this paragraph to the amount shown in any accounts as the profit for any financial year are references to the amount of the profit (if any) for that year which is set out in the profit and loss account comprised in those accounts as the item which is, or is the equivalent of, the final item of the statutory format which for that year was used for that profit and loss account.

(6) Where any amount shown in any accounts is less than it would have been if no provision or other deduction had been made—

- (a) in relation to the windfall tax, or
- (b) in anticipation of the imposition of a charge with characteristics similar to those of the windfall tax,

this Schedule shall have effect as if the amount shown were the amount it would have been if that provision or deduction had not been made.

(7) Nothing in this paragraph shall, in the case of any company—

- (a) prevent any charge to windfall tax from being treated as having arisen on 2nd July 1997 by reference to accounts delivered to the registrar after that date; or
- (b) prevent any requirement to pay an instalment of windfall tax, or any other liability under Schedule 2 to this Act, from arising before the delivery to the registrar of the accounts by reference to which the amount of that charge is computed;

and any power of the Board under that Schedule to make an assessment shall include power to make an assessment on the basis that accounts will be delivered to the registrar showing such amounts as may, to the best of their judgement, be determined by the Board.

(8) Subject to sub-paragraph (9) below, this paragraph shall have effect in relation to any time at which the ^{M2}Companies Act 1985 had effect without the amendments made by the ^{M3}Companies Act 1989—

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- (a) as if the references in sub-paragraphs (2) and (4) above to sections 226, 227 and 242 of the Companies Act 1985 were references, respectively, to sections 227, 229 and 241 of that Act, as it had effect without those amendments;
 - (b) as if the reference in sub-paragraph (2) above to a company’s subsidiary undertakings were a reference to its subsidiaries (within the meaning of that Act as it so had effect); and
 - (c) as if the reference in sub-paragraph (4)(a) above to a company’s being a parent undertaking were a reference to its having such subsidiaries.
- (9) In relation to a company formed and registered in Northern Ireland, this paragraph shall have effect as if the references in sub-paragraphs (2) and (4) above to sections 226, 227 and 242 of the Companies Act 1985 were references, respectively, to Articles 234, 235 and 250 of the ^{M4}Companies (Northern Ireland) Order 1986.
- (10) In this paragraph—
- “the registrar” means—
 - (a) except in relation to a company formed and registered in Northern Ireland, the registrar within the meaning of the Companies Act 1985; and
 - (b) in relation to a company so formed and registered, the registrar within the meaning of the Companies (Northern Ireland) Order 1986;
- and
- “statutory format”, in relation to a profit and loss account, means a format set out in the provisions (as they had effect in relation to that account) of Schedule 4 to the Companies Act 1985 or Schedule 4 to the Companies (Northern Ireland) Order 1986.

Marginal Citations

- M1** 1985 c. 6.
- M2** 1985 c. 6.
- M3** 1989 c. 40.
- M4** S.I. 1986/1032 (N.I. 6).

Meaning of the initial period etc

- 6 (1) In this Schedule “initial period”, in relation to a company privatised by means of a flotation, means (subject to sub-paragraph (2) below) the period which—
- (a) begins with the first day of the first financial year of the company to begin after the time of its flotation; and
 - (b) ends with the end of the fourth financial year of the company to begin after the time of its flotation.
- (2) Where the initial period of a company privatised by means of a flotation would (but for this sub-paragraph) include any time on or after 1st April 1997, sub-paragraph (1) above shall not apply and the initial period of that company shall be taken, instead, to be the period which—
- (a) begins with the day on which the time of its flotation falls; and

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(b) ends with the end of the last financial year of the company to end before 1st April 1997.

(3) Where—

(a) sub-paragraph (2) above applies for determining a company’s initial period, and

(b) there is a financial year of that company beginning before but ending after the beginning of that initial period,

the amount which for that year is shown as mentioned in paragraph 5(2) above shall be included in the sums added together for the purposes of paragraph 5(1) above to the extent only that that amount is attributable, on an apportionment made in accordance with the following provisions of this paragraph, to the part of that year falling within the company’s initial period.

(4) Except in a case where sub-paragraph (5) below applies, an apportionment for the purposes of sub-paragraph (3) above shall be made on a time basis according to the respective lengths of—

(a) the part of the financial year falling before the beginning of the company’s initial period; and

(b) the remainder of that financial year.

(5) Where the circumstances of a particular case are such that—

(a) the making of an apportionment on the basis mentioned in sub-paragraph (4) above would work in a manner that would be unjust or unreasonable, but

(b) it would be just and reasonable to make the apportionment on the alternative basis,

the apportionment shall be made, instead, on the alternative basis.

(6) For the purposes of this paragraph an apportionment in the case of any company of the amount shown for any financial year as a profit for that year is made on the alternative basis where it is made according to how much of that profit accrued in each of the two parts of that financial year that are mentioned in sub-paragraph (4) above.

Apportionment between demerged successors and predecessors

7 (1) This paragraph applies where—

(a) a company (“the predecessor company”) was benefitting on 2nd July 1997 from a windfall from the flotation of an undertaking whose privatisation involved the imposition of economic regulation; and

(b) another company which on that date was a demerged successor of the predecessor company is also taken for the purposes of this Part to have been benefitting from such a windfall on that date.

(2) Where this paragraph applies—

(a) the amount of the windfall from which the predecessor company was benefitting on 2nd July 1997 shall be equal to only the appropriate fraction of the amount (“the total windfall”) which (but for this paragraph) would have been the amount of that windfall under paragraphs 1 to 6 above; and

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- (b) the amount of the windfall from which the demerged successor shall be taken to have been benefitting on that date shall be equal to the remainder of the total windfall.

- (3) In this paragraph “the appropriate fraction” means the following fraction—

$$\frac{P}{P+S}$$

Where—

P is the amount produced by multiplying the number of shares comprised at the end of the relevant day in the ordinary share capital of the predecessor company by the market price on that day of an ordinary share in that company; and

S is the amount produced by multiplying the number of shares comprised at the end of the relevant day in the ordinary share capital of the demerged successor by the market price on that day of an ordinary share in the demerged successor.

- (4) For the purposes of this paragraph references to the market price of shares on any day are references to the sum of—
- (a) the lower of the two prices shown in the Stock Exchange Daily Official List for that day as the closing prices for the shares on that day; and
 - (b) one half of the difference between those two prices.
- (5) In this paragraph “the relevant day” means the day on which shares in the demerged successor were first listed on the Official List of the Stock Exchange.

General interpretation of the Schedule

- 8 (1) In this Schedule “financial year”, in relation to a company, means (subject to sub-paragraph (2) below)—
- (a) a financial year of that company within the meaning of Part VII of the ^{M5}Companies Act 1985; or
 - (b) any period which—
 - (i) began before the coming into force of section 3 of the ^{M6}Companies Act 1989 (new definition of financial year); and
 - (ii) was a financial year of that company for the purposes of that Part, as it had effect without the amendments made by that section.
- (2) Sub-paragraph (1) above does not apply to a company formed and registered in Northern Ireland; and in relation to such a company, references in this Schedule to a financial year are references to a financial year within the meaning of Part VIII of the ^{M7}Companies (Northern Ireland) Order 1986.
- (3) In this Schedule references, in relation to a company privatised by means of a flotation, to the shares offered for disposal on the occasion of the company’s flotation are references to the following shares in that company, that is to say—
- (a) those that were the subject-matter of the offer to the public in respect of which that company is regarded for the purposes of this Part as having been so privatised; and

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- (b) any publicly-owned shares not falling within paragraph (a) above that were the subject-matter of an offer for disposal made on the same occasion as the offer mentioned in that paragraph.
- (4) References in this Schedule to an offer for the disposal of shares in a company include references to any offer to transfer or confer an immediate or contingent right to or interest in any such shares, whether or not for a consideration; and (subject to sub-paragraph (5) below) references to the shares that are the subject-matter of such an offer shall be construed accordingly.
- (5) For the purposes of sub-paragraph (3) above where—
- (a) an offer for the disposal of publicly-owned shares in a company contained provision for a person to become entitled to further shares in that company if he satisfied conditions specified in the offer, and
- (b) those conditions included a condition as to the period for which shares in that company continued to be held by that person,
- shares which (apart from this sub-paragraph) would fall to be treated as the subject-matter of the offer by virtue only of that provision shall be treated as the subject-matter of the offer to the extent only that persons did in fact become entitled to them before 2nd July 1997 as a result of having satisfied the conditions in question.
- (6) In this Schedule a reference, in relation to any time, to the ordinary share capital of a company is a reference to the following, taken together, that is to say—
- (a) the shares comprised in the ordinary share capital of the company (within the meaning of the Tax Acts); and
- (b) any shares that would have been so comprised at that time if the issued share capital of the company at that time had included any shares in the company that had been allotted but not issued.

Marginal Citations

- M5** 1985 c. 6.
M6 1989 c. 40.
M7 S.I. 1986/1032 (N.I. 6).

VALID FROM 31/07/1997

SCHEDULE 2

Section 3.

ADMINISTRATION AND COLLECTION OF WINDFALL TAX

Returns

- 1 (1) The Board may by notice require any company which in their opinion is or may be a chargeable company to deliver to the Board a return complying with this paragraph.
- (2) A company which has been required under this paragraph to deliver a return to the Board shall do so—

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- (a) except in a case where the Board's notice requiring the return is given after 1st November 1997, on or before 1st December 1997; and
 - (b) in the excepted case, before the end of the period of 30 days beginning with the day after that on which that notice is given.
- (3) A return delivered to the Board under this paragraph must—
- (a) set out the amount of windfall tax (if any) with which the company is charged;
 - (b) contain all such information about the matters mentioned in subparagraph (4) below as the Board may reasonably require; and
 - (c) be accompanied by all such accounts, statements and other records as the Board may reasonably require.
- (4) Those matters are—
- (a) the method used for the computation of any amount set out in the return as the amount of windfall tax with which the company is charged;
 - (b) the accounts, statements and other records by reference to which the computation of any amount so set out has been made;
 - (c) any group of companies of which that company is or has at any time been a member; and
 - (d) any other matters relevant to the extent of any liability of the company under this Part.
- (5) A return delivered to the Board under this paragraph—
- (a) shall be in such form as the Board may require; and
 - (b) shall contain a declaration by the person making the return that it is correct and complete.
- (6) Where—
- (a) a company has delivered a return to the Board under this paragraph, and
 - (b) that return sets out any amount as the amount of windfall tax with which the company is charged,
- that amount shall be taken, except in so far as any other amount is assessed or otherwise determined under the following provisions of this Schedule, to be the amount of windfall tax with which that company is charged.
- (7) Where—
- (a) the Board have, at any time before the passing of this Act, given notice to any company requiring it to deliver a return, and
 - (b) that notice stated that it was given in anticipation of the passing of this Act and that, in the opinion of the Board, the company is likely to be a chargeable company,
- that notice shall have effect on and after the day on which this Act is passed as if it were a notice given on that day in exercise of the power conferred by subparagraph (1) above.

Notification of liability and failure to make return

- 2 (1) If a chargeable company has not, before 1st December 1997, either—
- (a) given notice to the Board that it is a chargeable company, or

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(b) been required by a notice under paragraph 1(1) above to deliver a return to the Board,
that company shall be liable to a penalty of an amount not exceeding the amount of the windfall tax with which it is charged.

(2) A company which—

(a) has been required by a notice under sub-paragraph (1) of paragraph 1 above to deliver a return to the Board, and

(b) fails to deliver the required return in accordance with that paragraph,
shall be liable to the penalties set out in sub-paragraph (3) below.

(3) Those penalties are—

(a) a penalty of £3,000;

(b) in a case where the required return has not been delivered by the end of three months from the relevant time, a penalty (in addition to the penalty under paragraph (a) above) of an amount not exceeding 10 per cent. of the amount of windfall tax with which that company is charged; and

(c) in a case where the required return has not been delivered by the end of six months from the relevant time, a penalty (in addition to the penalties under paragraphs (a) and (b) above) of an amount not exceeding 20 per cent. of the amount of windfall tax with which that company is charged.

(4) In sub-paragraph (3) above “the relevant time”, in relation to the delivery of a return, means the time by which that return should under paragraph 1(2) above have been delivered.

Payment of windfall tax

3 (1) The amount of windfall tax with which a chargeable company is charged shall be paid by that company in two instalments as follows—

(a) one half of the amount charged shall be paid on or before 1st December 1997; and

(b) the rest shall be paid on or before 1st December 1998.

(2) The Board, if requested to do so, shall give a receipt for any windfall tax paid.

(3) The application by this Schedule of any enactment referring to the time at which an amount of tax becomes due and payable shall have effect, in relation to an amount of windfall tax, as if it referred to the time by which that amount is required to be paid under this paragraph.

General power to make assessments

4 (1) Subject to the following provisions of this Schedule, the amount of windfall tax with which a company is charged may be assessed on that company by the Board.

(2) An assessment of the amount of windfall tax with which a company is charged may be made whether or not any amount has been paid by that company in respect of that tax when the assessment is made.

(3) Subject to sub-paragraph (4) below, where—

(a) a company has delivered a return to the Board in pursuance of paragraph 1 above, and

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(b) the Board are satisfied that the return is correct and complete, the Board shall make an assessment in accordance with the return.

- (4) The Board shall not be required to make an assessment under sub-paragraph (3) above in the case of a company whose return shows that it is not charged with windfall tax.
- (5) Where the Board make an assessment under this paragraph in a case in which the assessment is not one which the Board are required to make under sub-paragraph (3) above in accordance with a return, the Board's assessment shall be made to the best of their judgement.

Power to make assessments on discovery of unassessed liabilities

- 5 (1) If the Board discover that any company which—
- (a) has made a return in relation to which paragraph 4(4) above applied, or
- (b) has been assessed to an amount of windfall tax,
- has not been assessed to as much windfall tax as it should have been, they may make an assessment or further assessment of the amount which, in their opinion, is windfall tax with which that company is charged but to which it has not been assessed.
- (2) Where—
- (a) the Board discover that an amount of windfall tax has been repaid which ought not to have been repaid, and
- (b) that amount is not assessable under sub-paragraph (1) above,
- that amount may be assessed by the Board, and recovered under this Schedule from the company to which it was repaid, as if it were an amount of windfall tax which that company is liable to pay.
- (3) Where the amount of any assessment to windfall tax is reduced, the company assessed shall not for the purposes of this paragraph be treated, at any time after the reduction, as having been already assessed to the amount of windfall tax comprised in the reduction.

Supplemental provisions about assessments

- 6 (1) An assessment shall not be made under this Schedule at any time on or after 1st December 2003.
- (2) Where an assessment is made under this Schedule, notice of that assessment shall be served on the company assessed.
- (3) The notice of any assessment under this Schedule must state—
- (a) the date on which it is issued; and
- (b) the time within which any appeal against the assessment may be made.
- (4) After the notice of any assessment under this Schedule has been served on the company assessed—
- (a) the assessment shall not be withdrawn;
- (b) the assessment shall not be amended, except in accordance with provision made or applied by this Schedule; and

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- (c) the company shall not, except in accordance with any provision so made or applied, be entitled to the repayment of any amount on the grounds that the amounts of windfall tax assessed on that company are excessive.
- (5) Where notice of any assessment under this Schedule has been served on the company assessed, the amount of the assessment—
 - (a) shall be deemed (subject to the provisions of this Schedule) to be an amount of windfall tax with which that company is charged; and
 - (b) subject to the provisions of this Part about the payment of windfall tax in instalments, may be recovered accordingly.
- (6) Liability to pay an instalment of windfall tax does not depend on the making of an assessment; and nothing in the provisions of this Schedule about the making of assessments shall affect the times which are taken for the purposes of this Part to be the times by which companies are required under paragraph 3 above to pay instalments of windfall tax.

Claims to relieve double assessment

- 7
- (1) If, on a claim made to the Board, it appears to their satisfaction that a company has been assessed to the same amount of windfall tax more than once, the Board shall direct that so much of any assessment made on that company under this Schedule as appears to them to be excessive is to be vacated.
 - (2) A claim under sub-paragraph (1) above—
 - (a) must be made in such form as the Board may require; and
 - (b) shall not be made after the end of the period of six years beginning with the day of the service on the claimant of the notice of the most recent assessment to which the claim relates.
 - (3) On the giving of a direction under this paragraph with respect to any assessment, that assessment shall be vacated to the extent specified in the direction.

Claims to correct errors or mistakes in returns etc.

- 8
- (1) If any company which has paid an amount of windfall tax assessed under this Schedule alleges that it has been, or continues to be, assessed to too much windfall tax by reason of—
 - (a) some error or mistake in a return under paragraph 1 above, or
 - (b) some error or mistake discovered by the claimant in a previous claim made by the claimant under paragraph 7 above or this paragraph,the company may make a claim for relief under this paragraph in respect of that error or mistake.
 - (2) A claim under this paragraph—
 - (a) must be made in such form as the Board may require; and
 - (b) shall not be made—
 - (i) if it relates to an error or mistake in a return, at any time on or after 1st December 2003; or
 - (ii) if it relates to an error or mistake in a claim, at any time after the latest time at which that claim could have been made.
 - (3) On receiving a claim under this paragraph, the Board shall—

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- (a) inquire into the matter; and
- (b) give, by way of repayment to the claimant, such relief (if any) as, having regard to all the relevant circumstances, they consider just and reasonable in respect of the error or mistake in question.

Appeals against assessments and decisions on claims

- 9 (1) An appeal to the Special Commissioners shall lie against each of the following, that is to say—
- (a) an assessment under this Schedule;
 - (b) a decision by the Board on a claim under paragraph 7 or 8 above.
- (2) An appeal under sub-paragraph (1) above shall be made by notice to the Board.
- (3) Subject to the following provisions of this paragraph, a notice of appeal under sub-paragraph (2) above—
- (a) shall not be given more than 30 days after the day on which notice of the assessment or decision appealed against was given to the appellant; and
 - (b) must specify the grounds of appeal.
- (4) An appeal under this paragraph may be brought out of time if, on an application made for the purpose by the appellant, the Board are satisfied—
- (a) that the appellant has a reasonable excuse for not having brought the appeal within the time allowed by sub-paragraph (3) above; and
 - (b) that there was no unreasonable delay in the making of that application;
- and, where the Board are not so satisfied, they shall refer the application to the Special Commissioners, who (if they are so satisfied) may themselves allow the appeal to be brought out of time.
- (5) The Special Commissioners—
- (a) may allow grounds in addition to those specified in the notice of appeal to be put forward on an appeal under this paragraph; and
 - (b) may take the additional grounds into consideration if they are satisfied that their omission from the notice was neither wilful nor unreasonable.
- (6) Section 55 of the Management Act (postponement of tax to which an appeal relates) shall apply to an appeal under this paragraph against an assessment under this Schedule as it applies to an appeal against an assessment mentioned in subsection (1) of that section but as if, in that section—
- (a) references to tax were references to windfall tax;
 - (b) references to the inspector were references to the Board; and
 - (c) subsections (6)(a) and (b)(i), (6A) and (9)(a) were omitted.

Powers of Special Commissioners on an appeal

- 10 (1) Where there is an appeal to the Special Commissioners against an assessment under this Schedule—
- (a) the Commissioners may, if it appears to them that the amount of the assessment is too much or too little, reduce or increase the amount of the assessment accordingly; and
 - (b) the assessment shall stand good if it is not reduced or increased under paragraph (a) above.

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- (2) Where an appeal is brought under paragraph 9 above against a decision of the Board on a claim under paragraph 7 or 8 above, the Special Commissioners shall hear and determine that appeal in accordance with the principles to be followed by the Board in determining claims under that paragraph.
- (3) On an appeal to the Special Commissioners against a decision of the Board on a claim under paragraph 7 or 8 above, the powers of the Special Commissioners shall include power, if they think fit, to modify or cancel any decision made by the Board on that claim, including one made in favour of the appellant.

Procedures on appeal

- 11 (1) Subject to the following provisions of this paragraph, the following provisions of the Management Act shall apply for the purposes of and in relation to appeals to the Special Commissioners under paragraph 9 above as they apply for the purposes of or in relation to appeals to the Special Commissioners under the Tax Acts, that is to say—
 - (a) section 46A (regulations about the jurisdiction of the Special Commissioners);
 - (b) section 54 (settling appeals by agreement);
 - (c) section 56A (appeals from the Special Commissioners);
 - (d) sections 56B to 56D (regulations about practice and procedure etc.).
- (2) The ^{M8}Special Commissioners (Jurisdiction and Procedure) Regulations 1994 shall have effect, with the necessary modifications, in relation to appeals to the Special Commissioners under this Schedule as they have effect in relation to appeals to the Special Commissioners under the Tax Acts; but this sub-paragraph shall be without prejudice to the power of the Lord Chancellor, by virtue of sub-paragraph (1) above, to modify those regulations as applied by this sub-paragraph.
- (3) Subject to paragraph 5 above and the provisions applied by sub-paragraphs (1) and (2) above, the determination of the Special Commissioners on an appeal under this Schedule shall be final and conclusive.
- (4) Where an appeal has been made to the Special Commissioners against a decision of the Board on a claim under paragraph 8 above, neither the appellant nor the Board shall be entitled, by virtue of anything in sub-paragraph (1) above, to appeal except against so much (if any) of the decision of the Special Commissioners as relates to a point of law arising in connection with the computation in accordance with Schedule 1 to this Act of the amount of the windfall from which any company was benefitting on 2nd July 1997.
- (5) Section 53 of the Management Act (appeal against the summary determination of a penalty) shall apply in relation to any summary determination of a penalty pursuant to—
 - (a) the regulations applied by sub-paragraph (2) above, or
 - (b) any modification of those regulations made by virtue of this Schedule, as it applies in relation to any other such summary determination as is mentioned in that section.
- (6) Subsections (2B) and (2C) of section 58 of the Management Act (Northern Ireland modifications) shall apply as if the reference to the Taxes Acts included a reference

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to this Schedule and, accordingly, as if the reference to section 56A of that Act included a reference to that section as applied by this paragraph.

- (7) In the application for the purposes of this Schedule of—
- (a) section 58(2B) and (2C) of the Management Act, and
 - (b) the regulations mentioned in sub-paragraph (2) above,
- references to proceedings in Northern Ireland shall have effect as references to proceedings on an appeal to the Special Commissioners by a company whose head office or principal place of business is in Northern Ireland.
- (8) Sections 21 and 22 of the ^{M9}Interpretation Act Northern Ireland) 1954 (rules of court and powers of appellate courts) shall apply as if references in those sections to an enactment included a reference to sub-paragraphs (6) and (7) above.

Marginal Citations

M8 S.I. 1994/1811.

M9 1954 c. 33 (N.I.).

Interest

- 12 (1) Where any amount of windfall tax with which a company is charged is not paid before the time by which it is required to be paid under paragraph 3 above, that amount of that tax shall carry interest from that time until payment.
- (2) Sub-paragraph (1) above applies to an amount whether or not the payment of that amount is postponed under section 55 of the Management Act (as applied by paragraph 9(6) above).
- (3) Any amount paid by way of windfall tax which is repayable shall carry interest from whichever is the later of—
- (a) the time by which that amount was required to be paid under paragraph 3 above, and
 - (b) the time when that amount was in fact paid,
- until the time when that amount is repaid.
- (4) The rate of interest under this paragraph for any period shall be—
- (a) in the case of interest under sub-paragraph (1) above, the rate applicable under section 178 of the ^{M10}Finance Act 1989 for the purposes of section 87A of the Management Act (interest on unpaid corporation tax); and
 - (b) in the case of interest under sub-paragraph (3) above, the rate applicable under section 178 of the Finance Act 1989 for the purposes of section 826 of the Taxes Act 1988 (interest on overpaid corporation tax).
- (5) Where any amount paid by way of windfall tax is repayable to a person who has paid interest under sub-paragraph (1) above, that person shall be entitled to a repayment of so much of that interest as would represent the interest paid on that amount if, after—
- (a) making an appropriate apportionment of the payments made to the Board between the instalments due from the person making them, and
 - (b) taking account of any previous repayment,

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it is assumed that the amount repayable is to be equated with the most recent payment or payments made to the Board.

- (6) Interest under sub-paragraph (1) above—
- (a) shall be paid without any deduction of income tax; and
 - (b) shall not be allowed as a deduction in computing income, profits or losses for any of the purposes of the Tax Acts;
- and interest paid under sub-paragraph (3) above shall be disregarded in computing income, profits or losses for any such purposes.

Marginal Citations

M10 1989 c. 26.

Collection of information

- 13 (1) For the purposes of this Part, section 20 of the Management Act (power to call for documents of taxpayer and others), together with sections 20B, 20BB and 20D(3) of that Act so far as they relate to section 20, shall be deemed to apply with the modifications set out in sub-paragraph (2) below.
- (2) Those modifications are as follows—
- (a) references to a tax liability shall be deemed to be references to a liability to pay an amount of windfall tax;
 - (b) references to an inspector shall be deemed to be references to any officer of the Board and references to the Taxes Acts shall be deemed to be references to this Part;
 - (c) in sections 20(7) and (8H) and 20B(1B) and (6)(b), the words “General or” shall be deemed to be omitted.
- (3) For the purposes of this Part subsection (1) of section 98 of the Management Act (failure to comply with notice) shall apply as if this paragraph were included in the reference in column 1 of the Table in that section to Part III of that Act.

Penalties for furnishing false information

- 14 (1) Where a chargeable company fraudulently or negligently delivers an incorrect return in response to a requirement under paragraph 1 above, that company shall be liable to a penalty of an amount not exceeding the understated amount.
- (2) In sub-paragraph (1) above “the understated amount”, in relation to a return delivered by a chargeable company, means the amount (if any) by which the amount of windfall tax with which that company is charged exceeds the amount set out in the return as the amount with which it is charged.
- (3) For the purposes of this Part—
- (a) subsection (2) of section 98 of the Management Act (penalties for furnishing incorrect information etc.) shall apply as if the provisions of this Schedule (except paragraph 1) were specified in one of the columns of the Table in that section; and

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(b) section 99 of that Act (penalty for assisting in preparation of incorrect return) shall apply as if the reference in paragraph (a) of that section to tax included a reference to windfall tax.

(4) Section 97(1) of the Management Act (obligation to correct incorrect return) shall apply for the purposes of this paragraph in relation to a return delivered in response to a requirement under paragraph 1 above as it applies for the purposes of section 96 of that Act in relation to such a return as is mentioned in that section.

Recovery of tax

15 (1) The provisions of the Management Act which are set out in sub-paragraph (2) below (which all relate to the recovery of tax) shall apply, subject to the modifications set out in sub-paragraph (3) below, in relation to—

- (a) amounts of windfall tax due from any company,
- (b) any penalty under this Schedule, or
- (c) any interest for which a company is liable under paragraph 12 above or 17(5)(g) below,

as they apply in relation to sums charged by way of tax; and, in the case of amounts falling within paragraph (b) or (c) above, those provisions shall so apply as if those amounts were amounts of tax due and payable under an assessment.

(2) The provisions applied by sub-paragraph (1) above are—

- (a) section 61 (distrain);
- (b) sections 63 and 63A (recovery in Scotland);
- (c) sections 66 to 68 (court proceedings for the recovery of tax);
- (d) section 70(1) (certificate of non-payment); and
- (e) section 70A (payment by cheque).

(3) The modifications mentioned in that sub-paragraph are as follows—

- (a) in all those provisions references to the collector shall be deemed to include references to any other officer of the Board;
- (b) in section 63, the words “under section 60 of this Act” in subsection (1)(b) shall be deemed to be omitted and so shall subsections (3) and (4); and
- (c) in section 70A—
 - (i) the reference in subsection (1) to the purposes of the Management Act and the provisions mentioned in subsection (2) of that section shall be deemed to be a reference to the purposes of this Part; and
 - (ii) subsection (2) shall be deemed to be omitted.

Recovery against other group members

16 (1) Subject to sub-paragraph (3) below, where any amount of windfall tax with which a company is charged is not paid before the end of the period of six months beginning with the time by which it was required to be paid under paragraph 3 above (“the six month period”), any company falling within sub-paragraph (2) below may be assessed (in the name of the chargeable company) to all or any part of the unpaid windfall tax with which the chargeable company is charged.

(2) A company falls within this sub-paragraph if it is one or other or both of the following, that is to say—

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- (a) a member of the same group as the chargeable company at the end of the six month period; or
 - (b) a company which has been a member of the same group as the chargeable company at some time on or after 2nd July 1997 and before the end of the six month period.
- (3) A company shall not be assessed under sub-paragraph (1) above to any amount of windfall tax at any time more than two years after that company first became assessable to that amount under that sub-paragraph.
- (4) This Schedule shall have effect for the purposes of, and in relation to, an assessment under sub-paragraph (1) above as if the amount to which a company is assessable under this paragraph were an amount of windfall tax with which that company is charged.
- (5) Where, by virtue of this paragraph, any company (“the group member”) pays any amount of windfall tax with which another company (“the charged company”) is charged—
- (a) that payment shall discharge the liability of the charged company to pay that amount of windfall tax; but
 - (b) the group member shall be entitled to recover from the charged company the whole amount paid, together with any interest paid by the group member on that amount by virtue of paragraph 12 above.

General provisions about penalties etc.

- 17 (1) Where a company which has become liable to a tax-geared penalty subsequently becomes liable to another such penalty, the amount or, as the case may be, maximum amount of the subsequent penalty shall be treated as reduced so that the aggregate of the tax-geared penalties to which the company has become liable does not exceed the greater or greatest of them.
- (2) In sub-paragraph (1) above “tax-geared penalty” means (subject to sub-paragraph (3) below)—
- (a) a penalty under paragraph 2(1) or 14(1) above, or
 - (b) a penalty under paragraph 2(2) above falling within paragraph 2(3)(b) or (c) above.
- (3) Where a company has become liable to both—
- (a) a penalty falling within paragraph 2(3)(b) above, and
 - (b) a penalty falling within paragraph 2(3)(c) above,
- the aggregate of those penalties shall be treated as only one tax-geared penalty for the purposes of sub-paragraph (1) above.
- (4) The provisions of the Management Act set out in sub-paragraph (5) below shall apply, subject to the modifications set out in sub-paragraph (6) below, in relation to penalties under this Schedule as they apply in relation to the penalties mentioned in those provisions.
- (5) The provisions applied by sub-paragraph (4) above are—
- (a) section 100 (determination of penalties);
 - (b) section 100A(2) and (3) (provision supplementary to section 100);
 - (c) section 100C (penalty proceedings before Commissioners);

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- (d) section 100D (penalty proceedings before courts);
 - (e) section 102 (mitigation of penalties);
 - (f) section 103 (time limit for penalty proceedings); and
 - (g) section 103A (interest on penalties).
- (6) The modifications mentioned in that sub-paragraph are—
- (a) in section 100(2), for the words from “a penalty” onwards there shall be deemed to be substituted a reference to a penalty by virtue of paragraph 13(3) above;
 - (b) subsection (6) of section 100 shall be deemed to be omitted;
 - (c) in section 100A(3), the reference to tax shall be deemed to be a reference to windfall tax;
 - (d) in section 100C(1), the words “General or” shall be deemed to be omitted; and
 - (e) in section 103, the references to tax in subsection (1) shall be deemed to be references to windfall tax, and subsection (2) shall be deemed to be omitted.
- (7) An appeal may be brought against any determination under section 100 of the Management Act of a penalty under this Schedule.
- (8) Subject to sub-paragraph (9) below, the provisions of this Schedule relating to an appeal against an assessment to windfall tax shall apply (with the necessary modifications) in relation to any appeal under sub-paragraph (7) above.
- (9) Paragraph 10 above shall not apply to an appeal under sub-paragraph (7) above and the powers of the Special Commissioners on an appeal under that sub-paragraph shall be those set out in section 100B(2)(a) and (b) of the Management Act.
- (10) Subsection (3) of section 100B of the Management Act (further appeals) shall apply where there has been an appeal under sub-paragraph (7) above as it applies where there has been an appeal under subsection (1) of that section.
- (11) The liabilities of any person under this Part shall be without prejudice to any criminal liability arising in relation to the same matter.

Miscellaneous applications

- 18 (1) The provisions of the Management Act which are set out in sub-paragraph (2) below shall apply for the purposes of this Schedule—
- (a) as they apply for the purposes of the enactments for the purposes of which they have effect apart from this paragraph; but
 - (b) as if any reference in those provisions to a tax included a reference to windfall tax.
- (2) Those provisions are—
- (a) section 75 (receivers);
 - (b) section 105 (evidence in cases of fraudulent conduct);
 - (c) section 108 (company officers);
 - (d) section 112 (lost documents etc.);
 - (e) section 113(3) (prescription of form of assessments, penalty determinations);
 - (f) section 114 (provision for errors not to invalidate an assessment);

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- (g) section 115 (delivery and service of documents) and the regulations made under that section; and
- (h) section 118(2) and (4) (extensions of time, reasonable excuse for delay and finality of assessments).

Interpretation

PROSPECTIVE

- 19 (1) In this Schedule—
- “the Board” means the Commissioners of Inland Revenue;
 - “chargeable company” means a company which, on 2nd July 1997, was benefitting from a windfall from the flotation of an undertaking whose privatisation involved the imposition of economic regulation;
 - “group” means a parent undertaking (within the meaning of the ^{M11}Companies Act 1985 or the ^{M12}Companies (Northern Ireland) Order 1986), together with all of its subsidiary undertakings;
 - “the Management Act” means the ^{M13}Taxes Management Act 1970;
 - “notice” means notice in writing;
 - “Special Commissioners” has the same meaning as in the Tax Acts.
- (2) In this Schedule references to the repayment of an amount of windfall tax include references to making an allowance by way of set-off of an amount of windfall tax against any liability.
- (3) References in this Schedule to a penalty under this Schedule include references to a penalty under a provision of the Management Act as applied by this Schedule.

Marginal Citations

- M11** 1985 c. 6.
- M12** S.I. 1986/1032 (N.I. 6).
- M13** 1970 c. 9.

SCHEDULE 3

Section 23.

INSURANCE COMPANIES AND FRIENDLY SOCIETIES

VALID FROM 31/07/1997

Section 76 of the Taxes Act 1988

- 1 (1) Section 76 of the Taxes Act 1988 (expenses of management: insurance companies) shall be amended as follows.

Status: Point in time view as at 02/07/1997.

Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1997. (See end of Document for details)

(2) In subsection (2B) (relevant income from life assurance business to be sum of items in paragraphs (a) and (b)) for paragraph (b) (relevant franked investment income) there shall be substituted—

“(b) the franked investment income of, and foreign income dividends arising to, the company which are referable to its basic life assurance and general annuity business.”

(3) In subsection (8) (interpretation) the definition of “relevant franked investment income” shall cease to have effect.

(4) This paragraph has effect in relation to distributions made on or after 2nd July 1997.

VALID FROM 31/07/1997

Section 432E of the Taxes Act 1988

2 (1) In section 432E of the Taxes Act 1988 (section 432B apportionment: participating funds) paragraph (b) of subsection (6) (which provides for the adjustment of the net amount referable to overseas life assurance business) shall cease to have effect.

(2) This paragraph has effect in relation to distributions made on or after 2nd July 1997.

VALID FROM 31/07/1997

Section 434 of the Taxes Act 1988

3 (1) Section 434 of the Taxes Act 1988 (franked investment income etc) shall be amended as follows.

(2) For subsection (1) (nothing in section 208 prevents franked investment income or foreign income dividends from being taken into account in computations made for the purposes of section 89(7) of the ^{M14}Finance Act 1989 or section 76(2)) there shall be substituted—

“(1) Section 208 shall not apply in relation to—

- (a) the charge to corporation tax on the life assurance profits of an insurance company computed in accordance with the provisions of this Act applicable to Case I of Schedule D; or
- (b) any computation of such profits in accordance with those provisions.

(1A) Paragraph 2 of Schedule F shall not have effect for the purposes of subsection (1)(a) or (b) above, but this subsection shall not apply in relation to distributions in respect of which an insurance company is entitled to a tax credit under section 441A.

(1B) The reference in subsection (1) above to the life assurance profits of an insurance company is a reference to the profits of the company—

- (a) in respect of its life assurance business; or

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(b) in respect of any category of life assurance business which it carries on.”

- (3) In subsection (3) (certain franked investment income not to be used to frank distributions but may be the subject of claim under section 242) the words from “but it may be the subject of a claim” onwards shall cease to have effect.
- (4) In subsection (8) (which provides amongst other things for the payment of tax credit) the words from “or by payment of tax credit” onwards shall cease to have effect.
- (5) Sub-paragraph (2) above has effect in relation to distributions made on or after 2nd July 1997.
- (6) Sub-paragraph (3) above has effect for accounting periods beginning on or after 2nd July 1997.
- (7) Sub-paragraph (4) above has effect for accounting periods beginning on or after 1st January 1998.
- (8) In determining, for the purposes of any claim under section 242 of the Taxes Act 1988 made by virtue of section 434(3) of that Act for an accounting period beginning before 2nd July 1997 and ending on or after that date, the policy holders’ share of the franked investment income from investments held in connection with an insurance company’s life assurance business, there shall be left out of account any distributions which are made on or after 2nd July 1997.
- (9) Any amount which, by virtue of sub-paragraph (8) above, is treated as a surplus of franked investment income for the purposes of any such claim as is mentioned in that sub-paragraph shall be disregarded for the purposes of section 20(4) of this Act.

Marginal Citations

M14 1989 c. 26.

VALID FROM 31/07/1997

Section 434A of the Taxes Act 1988

- 4 (1) In section 434A of the Taxes Act 1988 (computation of losses and limitation on relief) subsection (1) (which falls as a result of new section 434(1) to (1B)) shall cease to have effect.
- (2) This paragraph has effect for accounting periods beginning on or after 2nd July 1997.

Status: Point in time view as at 02/07/1997.

*Changes to legislation: There are currently no known outstanding effects
for the Finance (No. 2) Act 1997. (See end of Document for details)*

PROSPECTIVE

Section 436 of the Taxes Act 1988

- 5 (1) In section 436 of the Taxes Act 1988 (pension business: separate charge on profits) in subsection (3), paragraphs (d) and (e) (which make provision, for the purposes of the computation of profits arising from pension business, for group income and non-qualifying distributions to be left out of account) shall cease to have effect.
- (2) This paragraph has effect in relation to distributions made on or after 2nd July 1997.

VALID FROM 31/07/1997

Section 438 of the Taxes Act 1988

- 6 (1) Section 438 of the Taxes Act 1988 (pension business: exemption from tax) shall be amended as follows.
- (2) Subsections (3) and (3AA) (which fall as a result of new section 434(1) to (1B)) shall cease to have effect.
- (3) For subsection (4) (which makes provision in relation to the payment of tax credits) there shall be substituted—
- “(4) This section shall be disregarded in determining, in relation to an insurance company which is entitled to a tax credit in respect of a distribution, whether the condition in paragraph (a) or (b) of section 231(2) is satisfied.”
- (4) Subsection (5) (which falls with the substitution of subsection (4)) shall cease to have effect.
- (5) Subsections (6) to (7) (which fall with the repeal of subsections (3), (3AA) and (5) and the substitution of subsection (4)) shall cease to have effect.
- (6) Subsection (9) (which falls with the repeal of subsections (6), (6B) and (6E) and the repeal of section 440B(2)) shall cease to have effect.
- (7) Sub-paragraphs (2) to (4) above have effect in relation to distributions made on or after 2nd July 1997.
- (8) Sub-paragraphs (5) and (6) above have effect for accounting periods beginning on or after 2nd July 1997.
- (9) In determining, for the purposes of subsections (6) to (7) of section 438 of the Taxes Act 1988, the franked investment income of, or foreign income dividends arising to, an insurance company for an accounting period beginning before 2nd July 1997 and ending on or after that date, there shall be left out of account any distributions which are made on or after 2nd July 1997.

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VALID FROM 31/07/1997

Section 439B of the Taxes Act 1988

- 7 (1) In section 439B of the Taxes Act 1988 (life reinsurance business: separate charge on profits) subsection (7) (which falls as a result of new section 434(1) to (1B)) shall cease to have effect.
- (2) This paragraph has effect in relation to distributions made on or after 2nd July 1997.

VALID FROM 31/07/1997

Section 440B of the Taxes Act 1988

- 8 (1) Section 440B of the Taxes Act 1988 (modifications where tax charged under Case I of Schedule D) shall be amended as follows.
- (2) Subsection (1A) (which falls as a result of new section 434(1) to (1B)) shall cease to have effect.
- (3) Subsection (2) (which falls with the repeal of section 438(6), (6B) and (6E)) shall cease to have effect.
- (4) Sub-paragraph (2) above has effect in relation to distributions made on or after 2nd July 1997.
- (5) Sub-paragraph (3) above has effect for accounting periods beginning on or after 2nd July 1997.

PROSPECTIVE

Section 441A of the Taxes Act 1988

F19

Textual Amendments

- F1** Sch. 3 para. 9 repealed (31.1.2013) by Statute Law (Repeals) Act 2013 (c. 2), s. 3(2), Sch. 1 Pt. 10 Group 1

VALID FROM 31/07/1997

Schedule 19AB to the Taxes Act 1988

- 10 (1) Schedule 19AB to the Taxes Act 1988 (payments on account of tax credits and deducted tax) shall be amended as follows.

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- (2) In paragraph 1 (entitlement to certain payments on account) in sub-paragraph (1)—
 - (a) the words “the aggregate of” shall cease to have effect; and
 - (b) paragraph (b) (which confers entitlement to payments in respect of tax credits) shall cease to have effect.
- (3) In sub-paragraph (7) of that paragraph, as that sub-paragraph has effect apart from the provisions of paragraph 1(6) of Schedule 34 to the ^{M15}Finance Act 1996—
 - (a) the words “paid or” shall cease to have effect;
 - (b) paragraph (b) shall cease to have effect; and
 - (c) in the words following paragraph (b), the words “or in section 42(5A) of the Management Act” shall cease to have effect.
- (4) Sub-paragraph (8) (which falls with the repeal of section 438(6)) shall cease to have effect.
- (5) In sub-paragraph (10) (which defines “pension business repayments”)—
 - (a) the words “and payments of tax credits”, and
 - (b) the words “or in section 42(5A) of the Management Act”,
 shall cease to have effect.
- (6) Sub-paragraph (2) above has effect in relation to distributions made on or after 2nd July 1997.
- (7) Sub-paragraphs (3) to (5) above have effect for accounting periods beginning on or after 2nd July 1997.

Marginal Citations

M15 1996 c. 8.

- 11 (1) Schedule 19AB to the Taxes Act 1988, as it has effect in relation to provisional repayment periods falling in accounting periods ending on or after the day appointed under section 199 of the ^{M16}Finance Act 1994 for the purposes of Chapter III of Part IV of that Act, shall be amended as follows.
 - (2) In paragraph 1, in sub-paragraph (7)—
 - (a) the words “paid or” shall cease to have effect;
 - (b) paragraph (b) shall cease to have effect; and
 - (c) in the words following paragraph (b), the words “or section 42(4) of the Management Act” shall cease to have effect.
 - (3) In paragraph 3 (repayment with interest of excessive provisional repayments) in sub-paragraph (1A)—
 - (a) the words “paid or” shall cease to have effect;
 - (b) the words “or section 42(4) of the Management Act” shall cease to have effect; and
 - (c) paragraph (b) shall cease to have effect.
 - (4) In sub-paragraph (1B) of that paragraph—
 - (a) the words “payments or” shall cease to have effect; and

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(b) paragraph (b) shall cease to have effect.

(5) In sub-paragraph (8) of that paragraph—

(a) the words “paid or” shall cease to have effect; and

(b) paragraph (b) shall cease to have effect.

Marginal Citations

M16 1994 c. 9.

12 (1) For the purposes of section 121 of the ^{M17}Finance Act 1993 (repayments and payments to friendly societies), Schedule 19AB to the Taxes Act 1988 shall be deemed to have effect without the amendments made by this Schedule.

(2) In relation to distributions made on or after 6th April 1999, sub-paragraph (1) above shall not prevent Schedule 19AB to the Taxes Act 1988 having effect for the purposes of section 121 of the Finance Act 1993 with the amendments made by this Schedule.

Marginal Citations

M17 1993 c. 34.

VALID FROM 31/07/1997

Schedule 19AC to the Taxes Act 1988

13 (1) Schedule 19AC to the Taxes Act 1988 (modification of Taxes Act 1988 in relation to overseas life insurance companies) shall be amended as follows.

(2) Paragraph 2 (which falls with the repeal of paragraph 5B(1) to (3)) shall cease to have effect.

(3) In paragraph 5(1) (which notionally inserts subsections (6A) and (6B) into section 76) the notionally inserted subsection (6B) shall cease to have effect.

(4) In paragraph 5A (which confers entitlement to tax credits on overseas life insurance companies) after sub-paragraph (2) there shall be inserted—

“(3) Nothing in this paragraph shall be taken to confer on an overseas life insurance company any entitlement to make a claim under section 231(3).”

(5) In paragraph 5B (which makes provision similar to section 242) sub-paragraphs (1) to (3) shall cease to have effect.

(6) For sub-paragraph (1) of paragraph 9 (which makes provision similar to section 434(1)) there shall be substituted—

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“(1) In section 434, the following subsections shall be treated as inserted after subsection (1B)—

(“) The exclusion from section 11(2)(a), (aa) or (ab) of distributions received from companies resident in the United Kingdom shall not apply in relation to—

- (a) the charge to corporation tax on the life assurance profits of an overseas life insurance company computed in accordance with the provisions of this Act applicable to Case I of Schedule D; or
- (b) any computation of such profits in accordance with those provisions.

(1D) Paragraph 2 of Schedule F shall not have effect for the purposes of subsection (1C)(a) or (b) above, but this subsection shall not apply in relation to distributions in respect of which an overseas life insurance company is entitled to a tax credit under section 441A.

(1E) The reference in subsection (1C) above to the life assurance profits of an overseas life insurance company is a reference to the profits of the company—

- (a) in respect of its life assurance business; or
- (b) in respect of any category of life assurance business which it carries on.””

- (7) Paragraph 9A (which falls with the repeal of section 434A(1)) shall cease to have effect.
- (8) Sub-paragraph (1) of paragraph 10 (which notionally inserts into section 438 a provision similar to section 438(3) and (3AA)) shall cease to have effect.
- (9) Sub-paragraph (2) of paragraph 10 (which notionally modifies subsections (6), (6A), (6D) and (6E) of section 438) shall cease to have effect.
- (10) Paragraph 10A (which notionally inserts into section 439B a provision similar to section 439B(7)) shall cease to have effect.
- (11) In paragraph 11A, sub-paragraph (1) (which notionally inserts into section 441A a provision similar to section 441A(1)) shall cease to have effect.
- (12) Paragraph 12(1) (which falls with the repeal of paragraph 5B(1) to (3)) shall cease to have effect.
- (13) In paragraph 15, sub-paragraph (1) (which falls with the repeal of paragraph 1(8) of Schedule 19AB) shall cease to have effect.
- (14) Sub-paragraphs (2), (3), (5), (7), (9), (12) and (13) above have effect for accounting periods beginning on or after 2nd July 1997.
- (15) Sub-paragraphs (4), (6), (8), (10) and (11) above have effect in relation to distributions made on or after 2nd July 1997.
- (16) In determining, for the purposes of paragraph 5B(1) to (3) of Schedule 19AC to the Taxes Act 1988, the UK distribution income of an overseas life insurance company for an accounting period beginning before 2nd July 1997 and ending on or after that date, there shall be left out of account any distributions which are made on or after 2nd July 1997.

Status: Point in time view as at 02/07/1997.

Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1997. (See end of Document for details)

- (17) In determining, for the purposes of subsections (6) to (7) of section 438 of the Taxes Act 1988 (as notionally amended by paragraph 10(2) of Schedule 19AC to that Act), the UK distribution income of, or foreign income dividends arising to, an overseas life insurance company for an accounting period beginning before 2nd July 1997 and ending on or after that date, there shall be left out of account any distributions which are made on or after 2nd July 1997.

VALID FROM 31/07/1997

Section 89 of the Finance Act 1989

- 14 (1) Section 89 of the ^{M18}Finance Act 1989 (policy holders' share of profits) shall be amended as follows.
- (2) In subsection (2)—
- (a) paragraph (a) (which provides for Case I profits to be reduced by unrelieved franked investment income in respect of which an election under section 438(6) has been made) shall cease to have effect;
 - (b) in paragraph (b) (which provides for Case I profits to be reduced by the shareholders' share of any other unrelieved franked investment income from investments held in connection with life assurance business)—
 - (i) the words “other unrelieved” shall cease to have effect; and
 - (ii) for “from investments held in connection with the company's life assurance business” there shall be substituted “ which is referable to the company's basic life assurance and general annuity business ”; and
 - (c) in paragraph (c) (which provides for Case I profits to be reduced by the shareholders' share of foreign income dividends in respect of such investments) for “in respect of investments held in connection with the company's life assurance business” there shall be substituted “ which are referable to the company's basic life assurance and general annuity business ”.
- (3) Subsection (8) (meaning of “unrelieved” franked investment income) shall cease to have effect.
- (4) This paragraph has effect in relation to distributions made on or after 2nd July 1997.

Marginal Citations

M18 1989 c. 26.

Status: Point in time view as at 02/07/1997.

Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1997. (See end of Document for details)

VALID FROM 31/07/1997

Section 65 of the Finance (No.2) Act 1992

15 In section 65 of the ^{M19}Finance (No.2) Act 1992 (life assurance business: I minus E) in subsection (2) (meaning of relevant provisions) before paragraph (a) there shall be inserted—

- “(aa) section 434(1) and (1A) of the Taxes Act 1988 (section 208 not to apply in relation to life assurance profits computed in accordance with Case I of Schedule D etc);
- (ab) section 434(1C) and (1D) of the Taxes Act 1988 (which makes corresponding provision in relation to overseas life insurance companies and is notionally inserted by paragraph 9(1) of Schedule 19AC to that Act);”.

Marginal Citations

M19 [1992 c. 48.](#)

VALID FROM 31/07/1997

SCHEDULE 4

Section 34.

TAX CREDITS, TAXATION OF DISTRIBUTIONS ETC

Modifications etc. (not altering text)

C1 [Sch. 4](#) applied (with modifications) (temp. from 6.4.1999 to 6.4.2004) by [S.I. 1998/1871](#), [reg. 4](#)

VALID FROM 31/07/1997

SCHEDULE 5

Section 35.

LIMITATION OF ENTITLEMENT TO RELIEF UNDER SECTION 35

Status: Point in time view as at 02/07/1997.

Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1997. (See end of Document for details)

VALID FROM 31/07/1997

SCHEDULE 6

Section 36.

FOREIGN INCOME DIVIDENDS

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VALID FROM 31/07/1997

SCHEDULE 7

Section 41.

RESTRICTIONS ON GROUP RELIEF

Modifications etc. (not altering text)

C3 Sch. 7 amended (retrospective to 31.7.1997) by 1998 c. 36, s. 81(5)

.....

VALID FROM 31/07/1997

SCHEDULE 8

Section 52.

REPEALS

Modifications etc. (not altering text)

C4 Sch. 8 restricted (31.7.1998 with effect as mentioned in s. 76(1) of the amending Act) by 1998 c. 36, s. 76(5)

Sch. 8 restricted (31.7.1998) by 1998 c. 36, s. 90(4)

PART I

VEHICLE LICENSING: PAYMENTS WHERE
INFORMATION TO BE TRANSMITTED ELECTRONICALLY

Chapter	Short title	Extent of repeal
1994 c. 22.	The Vehicle Excise and Registration Act 1994.	Sections 22(3).

Status: Point in time view as at 02/07/1997.

Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1997. (See end of Document for details)

PART II

INCOME TAX AND CORPORATION TAX

(1) Relief for mortgage interest payments

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 353(1G), the words after paragraph (b). In section 369(1A), the words after paragraph (b).

These repeals have effect in accordance with section 15 of this Act.

(2) Medical insurance relief

Chapter	Short title	Extent of repeal
1989 c. 26.	The Finance Act 1989.	Sections 54 to 57.
1994 c. 9.	The Finance Act 1994.	Section 83. Schedule 10.
1996 c. 8.	The Finance Act 1996.	In section 129— (a) paragraph (a) of subsection (1); (b) in subsection (2), the words “section 54(6)(b) of the 1989 Act and”; and (c) subsections (3) and (5). In Schedule 18— (a) paragraph 12; and (b) in paragraph 17, the words “12(2)(a) and (b)” and “12(2)(c) and (3)” wherever occurring and the words “12(2)(d)” in subparagraph (8).

These repeals have effect for the year 1997-98 and subsequent years of assessment except in relation to the cases in which the relief that has been or may be given under section 54 of the Finance Act 1989 in respect of any payment is unaffected by the provisions of section 17(1) of this Act.

(3) Corporation tax rates

Chapter	Short title	Extent of repeal
1997 c. 16.	The Finance Act 1997.	Section 58. Section 59(a).

Status: Point in time view as at 02/07/1997.

Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1997. (See end of Document for details)

(4) Taxation of distributions: surplus franked investment income

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 6(4), the words “242, 243”. In section 75(5), the words “or against a decision on a claim under section 242”. Sections 242 to 244. In section 704, in paragraph A, sub-paragraph (e). Section 825(4)(d). Section 826(7B).
1990 c. 1.	The Capital Allowances Act 1990.	In Schedule 1, paragraph 8(11).
1991 c. 31.	The Finance Act 1991.	In Schedule 15, paragraphs 5 and 6.
1993 c. 34.	The Finance Act 1993.	In section 78, subsections (8) to (10), and in subsection (11) the words from “but this subsection” to the end.
1995 c. 4.	The Finance Act 1995.	In Schedule 8, in paragraph 18, sub-paragraphs (7) and (8).
1996 c. 8.	The Finance Act 1996.	In Schedule 14, paragraph 12.
1997 c. 16.	The Finance Act 1997.	Section 71.

These repeals have effect in accordance with section 20 of this Act (and, accordingly, the repeal of subsection (7B) of section 826 of the Income and Corporation Taxes Act 1988 has effect only where the earlier period mentioned in that subsection begins on or after 2nd July 1997).

(5) Lloyd’s underwriters

Chapter	Short title	Extent of repeal
1993 c. 34.	The Finance Act 1993.	In paragraph 13 of Schedule 19— (a) in sub-paragraph (1), paragraph (b) and the word “or” immediately preceding it; (b) in sub-paragraph (3), the words “or paid” and, in paragraph (a), the words “or (as the case may be) that

Status: Point in time view as at 02/07/1997.

Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1997. (See end of Document for details)

1994 c. 9.	The Finance Act 1994.	<p>part of that income which includes the “qualifying distribution”;</p> <p>(c) sub-paragraph (3A); and</p> <p>(d) sub-paragraph (4A).</p> <p>In section 219(4), the words “(and any associated tax credits)”.</p> <p>In section 221(2), paragraph (b), and paragraph (d) and the word “and” immediately preceding it.</p> <p>In Schedule 21, paragraph 11.</p>
<p>These repeals have effect in relation to distributions made on or after 2nd July 1997.</p>		
<p>(6) Insurance companies and friendly societies: repeals other than those relating to self-assessment</p>		
Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	<p>In section 76(8), the definition of “relevant franked investment income”.</p> <p>In section 432E(6), paragraph (b) and the word “and” immediately preceding it.</p> <p>In section 434, in subsection (3), the words from “but it may be the subject of a claim” onwards, and, in subsection (8), the words from “or by payment of tax credit” onwards.</p> <p>Section 434A(1).</p> <p>In section 436(3), paragraphs (d) and (e).</p> <p>In section 438, subsections (3), (3AA), (5) to (7) and (9).</p> <p>Section 439B(7).</p> <p>Section 440B(1A) and (2).</p> <p>Section 441A(1).</p>

Status: Point in time view as at 02/07/1997.

Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1997. (See end of Document for details)

		<p>In paragraph 1 of Schedule 19AB—</p> <p>(a) in sub-paragraph (1), the words “the aggregate of”, and paragraph (b) and the word “and” immediately preceding it;</p> <p>(b) in sub-paragraph (7), the words “paid or”, paragraph (b) and the word “and” immediately preceding it, and the words “or in section 42(5A) of the Management Act”;</p> <p>(c) sub-paragraph (8); and</p> <p>(d) in sub-paragraph (10), the words “and payments of tax credits” and “or in section 42(5A) of the Management Act”.</p> <p>In Schedule 19AC, paragraph 2, in paragraph 5(1), the notionally inserted section 76(6B), in paragraph 5B, sub-paragraphs (1) to (3), and paragraphs 9A, 10, 10A, 11A(1), 12(1) and 15(1).</p>
1989 c. 26.	The Finance Act 1989.	In section 89, in subsection (2), paragraph (a) and, in paragraph (b), the words “other unrelieved”, and subsection (8).
1990 c. 29.	The Finance Act 1990.	Section 45(9).
1994 c. 9.	The Finance Act 1994.	In Schedule 6, paragraph 5.
1995 c. 4.	The Finance Act 1995.	In Schedule 16, paragraph 6.
		In Schedule 8, paragraphs 19(2), 28(2), 29, 35(2), 36, 41, 43 and 47.
1996 c. 8.	The Finance Act 1996.	Section 164(2)(b) and (3)(a).
		In Schedule 14, paragraph 51.
		In Schedule 27, paragraph 5.
		In Schedule 34, paragraphs 1(7) and 5(2).

Status: Point in time view as at 02/07/1997.

Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1997. (See end of Document for details)

Except for the repeals in Schedule 34 to the Finance Act 1996, these repeals have effect in accordance with the provisions of Schedule 3 to this Act, other than paragraph 11.

(7) Insurance companies and friendly societies: repeals relating to self-assessment

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	<p>In paragraph 1 of Schedule 19AB, in sub-paragraph (7), the words “paid or”, paragraph (b) and the word “and” immediately preceding it, and the words “or section 42(4) of the Management Act”.</p> <p>In paragraph 3 of Schedule 19AB—</p> <p>(a) in sub-paragraph (1A), the words “paid or” and “or section 42(4) of the Management Act”, and paragraph (b) and the word “and” immediately preceding it;</p> <p>(b) in sub-paragraph (1B), the words “payments or” and paragraph (b) and the word “or” immediately preceding it; and</p> <p>(c) in sub-paragraph (8), the words “paid or” and paragraph (b) and the word “or” immediately preceding it.</p>

These repeals have effect in accordance with paragraphs 11 and 12 of Schedule 3 to this Act.

(8) Taxation of dealers in respect of distributions etc.

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	<p>In section 95, in subsection (1A), paragraphs (b) and (d), subsection (1B), in subsection (2), the word “qualifying” in both places where it occurs, and subsections (4) and (5).</p> <p>In section 234(1), the words “but subject to section 95(1A)(c)”.</p>

Status: Point in time view as at 02/07/1997.

Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1997. (See end of Document for details)

		from “and subject to” onwards and subsections (3A) to (3D). Section 231A. Section 232(2) and (3). Sections 235 to 237. In section 246(6)(a)(ii) the words “section 231(1) and”.
		In section 709(2A), the words “and to a repayment of tax”, “respectively” and “and to a payment of any amount in respect of a tax credit”.
1989 c. 26.	The Finance Act 1989.	Section 106.
1990 c. 29.	The Finance Act 1990.	Section 97.
1993 c. 34.	The Finance Act 1993.	In Schedule 6, paragraph 3.
1994 c. 9.	The Finance Act 1994.	In Schedule 9, paragraph 2.
1995 c. 4.	The Finance Act 1995.	Section 107(5) and (6).
1997 c. 16.	The Finance Act 1997.	Section 70. In Schedule 7, paragraph 3.
1997 c. 58.	The Finance (No. 2) Act 1997.	Section 19.

- (1) The repeals in section 42 of the Taxes Management Act 1970 (and the related repeals of section 97 of the Finance Act 1990 and in section 107 of the Finance Act 1995) have effect in accordance with paragraphs 2 and 3 of Schedule 4 to this Act.
- (2) The repeal in section 709 of the Income and Corporation Taxes Act 1988 has effect for the year 1999-00 and subsequent years of assessment.
- (3) The other repeals have effect in relation to distributions made on or after 6th April 1999.

(10) Tax credits etc: insurance companies and Lloyd’s underwriters

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 231B, in subsection (4)(b), the words “or 441A(7)”.

Status: Point in time view as at 02/07/1997.

Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1997. (See end of Document for details)

		In section 434(1A), the words from “but this subsection” onwards. Section 441A(2) to (8). In Schedule 19AC, in paragraph 9(1), in the notionally inserted section 434(1D), the words from “but this subsection” onwards and paragraph 11A(2).
1993 c. 34.	The Finance Act 1993.	In Schedule 20, paragraph 9(3) and, in paragraph 11(3)(c), the words “or tax credit received” and “or (3)”.
1995 c. 4.	The Finance Act 1995.	In Schedule 8, paragraph 31.

These repeals have effect in relation to distributions made on or after 6th April 1999.

(11) Foreign income dividends

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 13, in subsection (7), the words “and with the addition of foreign income dividends arising to the company”, and subsection (8A). In section 75, in subsection (2), the words “foreign income dividends”, and subsection (6). Sections 246A to 246Y. Section 247(5A) to (5D). In section 431(2), the definition of “foreign income dividends”. In section 434, subsections (3B) to (3D) and, in subsection (6A), paragraphs (aa) to (ac). In section 458(2), the words “and foreign income dividends arising to”. Section 468H(5).

Status: Point in time view as at 02/07/1997.

Changes to legislation: *There are currently no known outstanding effects for the Finance (No. 2) Act 1997. (See end of Document for details)*

In section 468I, in subsection (2), the words “which are not foreign income dividends”, and subsections (3), (5), (5A) and (7).

In section 468J, in subsection (1), the words “or a part of the total amount” and “which are not foreign income dividends”, in subsection (2), the words “or, as the case may be, the part”, and subsection (3).

Section 468K.

Section 468M(5)(c).

In section 468Q, in subsection (2)(a), the words “a foreign income distribution”, in subsection (3), the definition of “B”, and subsection (4).

Section 468R.

In section 490, in subsection (1), the words “or out of foreign income dividends”, in subsection (4), the words “or foreign income dividends”, and subsection (5).

In section 687(3), paragraph (aaa).

In section 689B(2)(b), the words “246D(4) or”.

In section 699A, in subsections (1)(a) and (4)(a), the word “246D(3)”.

In section 701(8), the word “246D(3)”.

In section 731, in subsection (9A), the words “other than a foreign income dividend”, and subsections (9B) to (9D).

In section 802, in subsection (2), the words

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Changes to legislation: *There are currently no known outstanding effects for the Finance (No. 2) Act 1997. (See end of Document for details)*

“foreign income dividends”,
and subsection (4).

In paragraph 1 of
Schedule 13—

(a) in sub-paragraph (1),
paragraph (b), in
paragraph (c) the words
“and foreign income
dividends paid”, and
the words following
paragraph (c); and

(b) in sub-paragraph (4),
the word “4A(2),” and
paragraph (b) and the
word “and” immediately
preceding it.

In paragraph 2 of
Schedule 13, sub-paragraphs
(1)(d) to (f) and (5) and (6).

In paragraph 3 of
Schedule 13, in sub-
paragraph (1), the words
“and foreign income
dividends”, and in sub-
paragraph (3), the words “or
foreign income dividend”.

In Schedule 13, paragraphs
3A and 3B.

In paragraph 4(2) of
Schedule 13, the words “or
paid any foreign income
dividends”.

In Schedule 13, paragraphs
4A and 6A.

In paragraph 7(3) of
Schedule 13, the words “and
no foreign income dividend
is paid”.

In Schedule 13, paragraph
9A.

In Schedule 23A, in
paragraph 1(1), the
definition of “foreign
income dividend”, in
paragraph 2(6), the words
“Subject to paragraph 2B(2)

Status: Point in time view as at 02/07/1997.

Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1997. (See end of Document for details)

1989 c. 26.	The Finance Act 1989.	(b) below”, and paragraph 2B. In section 88A(3), paragraph (d)(ii) and the word “or” immediately preceding it, and the words “(or by that subsection as applied by section 468R(2) of that Act)”. In section 89, in subsection (2), paragraph (c) and the word “and” immediately preceding it, and subsection (2A).
1993 c. 34.	The Finance Act 1993.	Section 171(2A).
1994 c. 9.	The Finance Act 1994.	In Schedule 16, paragraph 1, in paragraph 3, sub-paragraphs (5) to (10) and (12), and paragraphs 4, 5(4) and (5), 7 to 9 and 11 to 16. In Schedule 21, paragraph 1(1) and (3)(a).
1995 c. 4.	The Finance Act 1995.	Section 76(1).
1996 c. 8.	The Finance Act 1996.	Section 122(5)(a). In Schedule 6, paragraph 5. In Schedule 23, paragraphs 4 and 6. In Schedule 27, paragraphs 1 to 4 and 6. In Schedule 38, in paragraph 6, sub-paragraph (2)(c) and, in sub-paragraph (5), the words “(2)(c) and”.
1997 c. 16.	The Finance Act 1997.	Section 72. In Schedule 7, paragraphs 2, 4 to 6 and 9 to 11. In Schedule 10, paragraphs 9 and 10(2) and (3).
These repeals have effect in accordance with section 36 of, and Schedule 6 to, this Act.		
(12) Distributions: consequential repeals		
Chapter	Short title	Extent of repeal
1997 c. 16.	The Finance Act 1997.	In Schedule 7, paragraphs 1 and 7.

Status: Point in time view as at 02/07/1997.

Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1997. (See end of Document for details)

- (1) The repeal of paragraph 1 of Schedule 7 to the Finance Act 1997 has effect in relation to distributions made on or after 6th April 1999.
- (2) The repeal of paragraph 7 of that Schedule has effect in relation to payments which are representative of distributions made on or after 6th April 1999.

(13) Interest on gilt-edged securities, etc.

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 50(1), paragraphs (a), (c) and (d). Section 51A. In section 118G— (a) in subsection (3), paragraphs (b) and (d) to (f); (b) subsections (8) and (10); and (c) in subsection (9), the words “or (8)”, “or subject to deduction of tax at a reduced rate” and “subsection (10) below and to”. In section 118H— (a) in subsection (2), the words from “or (8), or” to the words “case may be” in the first place where they occur and the words “or (8)” in the second place where they occur; and (b) in subsections (3) and (4), the words “or (8)”, wherever they occur.
1995 c. 4.	The Finance Act 1995.	Section 77.

These repeals have effect in relation to payments falling due on or after 6th April 1998.

(14) Group Relief

Chapter	Short title	Extent of repeal
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Status: Point in time view as at 02/07/1997.

Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1997. (See end of Document for details)

1988 c. 1.	The Income and Corporation Taxes Act 1988.	Section 403(9). Sections 408 and 409. Section 411(2) to (9).
1990 c. 29.	The Finance Act 1990.	Section 96(11).

These repeals have effect, subject to the provisions of paragraph 9 of Schedule 7 to this Act, for accounting periods ending on or after 2nd July 1997.

PART III

STATUTORY EFFECT OF RESOLUTIONS ETC

Chapter	Short title	Extent of repeal
1993 c. 34.	The Finance Act 1993.	Section 206(3).

Status:

Point in time view as at 02/07/1997.

Changes to legislation:

There are currently no known outstanding effects for the Finance (No. 2) Act 1997.