Finance Act 2003

2003 CHAPTER 14

PART 7

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX: GENERAL

Chargeable gains

157 Life insurance policies and deferred annuity contracts

(1) For section 210 of the Taxation of Chargeable Gains Act 1992 (c. 12) substitute—

"**210 Life insurance and deferred annuities**

(1) This section has effect in relation to any policy of insurance or contract for a deferred annuity on the life of any person.

(2) A gain accruing on a disposal of, or of an interest in, the rights conferred by the policy of insurance or contract for a deferred annuity is not a chargeable gain unless subsection (3) below applies.

(3) This subsection applies if—

(a) (in the case of a disposal of the rights) the rights or any interest in the rights, or

(b) (in the case of a disposal of an interest in the rights) the rights, the interest or any interest from which the interest directly or indirectly derives (in whole or in part),

have or has at any time been acquired by any person for actual consideration (as opposed to consideration deemed to be given by any enactment relating to the taxation of chargeable gains).

(4) For the purposes of subsection (3) above —

(a) (in the case of a policy of insurance) amounts paid under the policy by way of premiums, and

(b) (in the case of a contract for a deferred annuity) amounts paid under the contract, whether by way of premiums or as lump sum consideration,

do not constitute actual consideration.

(5) And for those purposes actual consideration for—

(a) a disposal which is made by one spouse to the other or is an approved post-marriage disposal, or

(b) a disposal to which section 171(1) applies,

is to be treated as not constituting actual consideration.

(6) For the purposes of subsection (5)(a) above a disposal is an approved post-marriage disposal if—

(a) it is made in consequence of the dissolution or annulment of a marriage by one person who was a party to the marriage to the other,

(b) it is made with the approval, agreement or authority of a court (or other person or body) having jurisdiction under the law of any country or territory or pursuant to an order of such a court (or other person or body), and

(c) the rights disposed of were, or the interest disposed of was, held by the person by whom the disposal is made immediately before the marriage was dissolved or annulled.

(7) Subsection (8) below applies for the purposes of tax on chargeable gains where—

(a) (if that subsection did not apply) a loss would accrue on a disposal of, or of an interest in, the rights conferred by the policy of insurance or contract for a deferred annuity, but

(b) if sections 37 and 39 were disregarded, there would accrue on the disposal a loss of a smaller amount, a gain or neither a loss nor a gain.

(8) If (disregarding those sections) a loss of a smaller amount would accrue, that smaller amount is to be taken to be the amount of the loss accruing on the disposal; and in any other case, neither a loss nor a gain is to be taken to accrue on the disposal.

(9) But subsection (8) above does not affect the treatment for the purposes of tax on chargeable gains of the person who acquired rights, or an interest in rights, on the disposal.

(10) The occasion of—

(a) the receipt of the sum or sums assured by the policy of insurance,

(b) the transfer of investments or other assets to the owner of the policy of insurance in accordance with the policy, or

(c) the surrender of the policy of insurance,

is for the purposes of tax on chargeable gains an occasion of a disposal of the rights (or of all of the interests in the rights) conferred by the policy of insurance.

(11) The occasion of—

(a) the receipt of the first instalment of the annuity under the contract for a deferred annuity, or

(b) the surrender of the rights conferred by the contract for a deferred annuity,

is for the purposes of tax on chargeable gains an occasion of a disposal of the rights (or of all of the interests in the rights) conferred by the contract for a deferred annuity.

(12) Where there is a disposal on the occasion of the receipt of the first instalment of the annuity under the contract for a deferred annuity—

(a) in the case of a disposal of the rights conferred by the contract, the consideration for the disposal is the aggregate of the amount or value of the first instalment and the market value at the time of the disposal of the right to receive the further instalments of the annuity, and

(b) in the case of a disposal of an interest in the rights, the consideration for the disposal is such proportion of that aggregate as is just and reasonable;

and no gain accruing on any subsequent disposal of, or of any interest in, the rights is a chargeable gain (even if subsection (3) above applies).

(13) In this section "interest", in relation to rights conferred by a policy of insurance or contract for a deferred annuity, means an interest as a co-owner of the rights (whether the rights are owned jointly or in common and whether or not the interests of the co-owners are equal).".

(2) This section has effect in relation to disposals on or after 9th April 2003.

158 Application of market value rule in case of exercise of option

(1) In Chapter 3 of Part 4 of the Taxation of Chargeable Gains Act 1992 (c. 12) (miscellaneous provisions relating to options and other matters), after section 144 insert—

"**144ZA Application of market value rule in case of exercise of option**

(1) This section applies where—

(a) an option is exercised, so that by virtue of section 144(2) or (3) the grant or acquisition of the option and the transaction resulting from its exercise are treated as a single transaction, and

(b) section 17(1) ("the market value rule") applies, or would apply but for this section, in relation to—

(i) the grant of the option,

(ii) the acquisition of the option (whether directly from the grantor or not) by the person exercising it, or

(iii) the transaction resulting from its exercise.

(2) If the option binds the grantor to sell—

(a) the market value rule does not apply for determining the consideration for the sale, except, where the rule applies for determining the consideration for the option, to that extent (in accordance with section 144(2)(a));

(b) the market value rule does not apply for determining the cost to the person exercising the option of acquiring what is sold, except, where

the rule applies for determining the cost of acquiring the option, to that extent (in accordance with section 144(3)(a)).

(3) If the option binds the grantor to buy—

(a) the market value rule does not apply for determining the cost of acquisition incurred by the grantor, but without prejudice to its application (in accordance with section 144(2)(b)) where the rule applies for determining the consideration for the option;

(b) the market value rule does not apply for determining the consideration for the disposal of what is bought, but without prejudice to its application (in accordance with section 144(3)(b)) where the rule applies for determining the cost of the option.

(4) To the extent that, by virtue of this section, the market value rule does not apply for determining an amount or value, the amount or value to be taken into account is (subject to section 120) the actual amount or value.

(5) In this section "option" has the same meaning as in section 144.".

(2) This section applies in relation to the exercise of an option on or after 10th April 2003.

159 Reporting limits and annual exempt amount

(1) The Taxation of Chargeable Gains Act 1992 (c. 12) is amended in accordance with Schedule 28 to this Act.

(2) In that Schedule—

Part 1 makes provision as to the cases in which a return of information about chargeable gains is required,

Part 2 contains minor and consequential amendments of the provisions relating to the annual exempt amount, and

Part 3 provides for commencement.

160 Taper relief: assets qualifying as business assets

(1) In Schedule A1 to the Taxation of Chargeable Gains Act 1992 (taper relief), paragraph 5 (conditions for assets other than shares to qualify as business assets) is amended as follows.

(2) In sub-paragraph (1) (application of paragraph), after "in the case of the disposal of any asset" insert "by an individual, the trustees of a settlement or an individual's personal representatives".

(3) For sub-paragraphs (2) to (5) substitute—

"(1A) The asset was a business asset at that time if at that time it was being used, wholly or partly, for the purposes of a trade carried on by—

(a) an individual or a partnership of which an individual was at that time a member, or

(b) the trustees of a settlement or a partnership whose members at that time included—

(i) the trustees of a settlement, or

(ii) any one or more of the persons who at that time were the trustees of a settlement (so far as acting in their capacity as trustees), or

(c) the personal representatives of a deceased person or a partnership whose members at that time included—

(i) the personal representatives of a deceased person, or

(ii) any one or more of the persons who at that time were the personal representatives of a deceased person (so far as acting in their capacity as personal representatives).

(2) Where the disposal is made by an individual, the asset was a business asset at that time if at that time it was being used, wholly or partly, for the purposes of a trade carried on by—

(a) a company which at that time was a qualifying company by reference to that individual,

(b) a company which at that time was a member of a trading group the holding company of which was at that time a qualifying company by reference to that individual, or

(c) a partnership whose members at that time included a company within paragraph (a) or (b),

or for the purposes of any office or employment held by that individual with a person carrying on a trade.

(3) Where the disposal is made by the trustees of a settlement, the asset was a business asset at that time if at that time it was being used, wholly or partly, for the purposes of a trade carried on by—

(a) a company which at that time was a qualifying company by reference to the trustees of the settlement or an eligible beneficiary,

(b) a company which at that time was a member of a trading group the holding company of which was at that time a qualifying company by reference to the trustees of the settlement or an eligible beneficiary, or

(c) a partnership whose members at that time included a company within paragraph (a) or (b),

or for the purposes of any office or employment held by an eligible beneficiary with a person carrying on a trade.

(4) Where the disposal is made by an individual's personal representatives, the asset was a business asset at that time if at that time it was being used, wholly or partly, for the purposes of a trade carried on by—

(a) a company which at that time was a qualifying company by reference to the deceased's personal representatives,

(b) a company which at that time was a member of a trading group the holding company of which was at that time a qualifying company by reference to the deceased's personal representatives, or

(c) a partnership whose members at that time included a company within paragraph (a) or (b).

(5) Where the disposal is made by an individual who acquired the asset as legatee (as defined in section 64), the asset shall be taken to have been a business asset at that time if at that time it was—

(a) being held by the personal representatives of the deceased, and

(b) being used, wholly or partly, for the purposes of a trade carried on by—

(i) a company which at that time was a qualifying company by reference to the deceased's personal representatives,

(ii) a company which at that time was a member of a trading group the holding company of which was at that time a qualifying company by reference to the deceased's personal representatives, or

(iii) a partnership whose members at that time included a company within sub-paragraph (i) or (ii).".

(4) The following amendments in Schedule A1 to the Taxation of Chargeable Gains Act 1992 (c. 12) are consequential on those above—

(a) in paragraphs 9(1)(a) and 19(1) for "paragraph 5(2) to (5)" substitute "any provision of paragraph 5";

(b) in paragraph 15(4)(a) for "paragraph 5(2)" substitute "paragraph 5(1) and (2)".

(5) The amendments in this section apply to disposals on or after 6th April 2004 and as they so apply have effect in relation to periods of ownership on or after that date.

161 Earn-out rights to be treated as securities unless contrary election

(1) Section 138A of the Taxation of Chargeable Gains Act 1992 (c. 12) (use of earn-out rights for exchange of securities) is amended as follows.

(2) In subsection (2) (seller's right to elect for earn-out right to be treated as security of new company)—

(a) at the end of paragraph (a) insert "and"; and

(b) omit paragraph (c) (the seller's right of election) and the word "and" immediately preceding it.

(3) After subsection (2) insert—

"(2A) Subsection (2) above does not have effect if the seller elects under this section for the earn-out right not to be treated as a security of the new company.".

(4) In subsection (4) (election for corresponding treatment where old right extinguished in consideration of new right)—

(a) at the end of paragraph (c) insert "and";

(b) omit paragraph (e) (right of election of person on whom the new right is conferred) and the word "and" immediately preceding it; and

(c) in the closing words, for "that person" substitute "the person on whom the new right is conferred".

(5) After subsection (4) insert—

"(4A) Subsection (4) above does not have effect if the person on whom the new right is conferred elects under this section for it not to be treated as a security of the new company.".

(6) The amendments made by this section have effect in relation to rights conferred on or after 10th April 2003.

162 Deferred unascertainable consideration: election for treatment of loss

(1) After section 279 of the Taxation of Chargeable Gains Act 1992 insert—

"**279A Deferred unascertainable consideration: election for treatment of loss**

(1) Where—

(a) a person ("the taxpayer") makes a disposal of a right to which this section applies (see subsection (2) below),

(b) on that disposal an allowable loss ("the relevant loss") would, apart from section 279C, accrue to him in any year ("the year of the loss"), and

(c) the year of the loss is a year in which the taxpayer is within the charge to capital gains tax (see section 279B(1)),

the taxpayer may make an election under this section for the relevant loss to be treated as accruing in an earlier year in accordance with section 279C if condition 1 in subsection (3) below and condition 2 in subsection (5) below are satisfied.

(2) This section applies to a right if each of the following conditions is satisfied—

(a) the right was, in whole or in part, acquired by the taxpayer as the whole or part of the consideration for a disposal (the "original disposal") by him of another asset (the "original asset"),

(b) the original disposal was made in a year ("the year of the original disposal") earlier than the year in which the disposal mentioned in subsection (1)(a) above is made ("the year of the right's disposal"),

(c) where the right was acquired by the taxpayer as the whole or part of the consideration for two or more disposals (each of which is accordingly an "original disposal"), the condition in paragraph (b) above is satisfied with respect to each of those disposals (the "original disposals"),

(d) on the taxpayer's acquisition of the right, there was no corresponding disposal of it,

(e) the right is a right to unascertainable consideration (see section 279B(2) to (6)).

(3) Condition 1 for making an election in relation to the relevant loss is that a chargeable gain accrued to the taxpayer on any one or more of the following events—

(a) the original disposal,

(b) an earlier disposal of the original asset by the taxpayer in the year of the original disposal,

(c) a later disposal of the original asset by the taxpayer in a year earlier than the year of the right's disposal,

or would have so accrued but for paragraph 2(2)(a) of Schedule 5B or 5C (postponement of original gain).

This subsection is subject to subsection (4) below.

(4) If the right to which this section applies was acquired by the taxpayer as the whole or part of the consideration for two or more original disposals

(including cases where there are two or more original assets (the "original assets"))—

(a) any reference in subsection (3) above to the original disposal is a reference to any of the original disposals,

(b) any reference in that subsection to the original asset is a reference to the asset which is the original asset in relation to that original disposal, and

(c) any reference in that subsection to the year of the original disposal shall be construed accordingly.

(5) Condition 2 for making an election in relation to the relevant loss is that there is a year (an "eligible year")—

(a) which is earlier than the year of the loss but not earlier than the year 1992-93,

(b) in which a chargeable gain falling within subsection (3) above or subsection (6) below accrued to the taxpayer, and

(c) for which, immediately before the election, there remains a relevant amount on which capital gains tax is chargeable (see subsection (7) below).

(6) A chargeable gain falling within this subsection accrues to the taxpayer in a year if—

(a) in that year a chargeable gain (the "revived gain") is treated as accruing to the taxpayer in accordance with paragraphs 4 and 5 of Schedule 5B or 5C (chargeable gain accruing to person on chargeable event), and

(b) the gain which, in determining the amount of the revived gain in accordance with those paragraphs, is the original gain consists of or represents the whole or some part of a gain that would have accrued as mentioned in subsection (3) above but for paragraph 2(2)(a) of Schedule 5B or 5C.

(7) For the purposes of subsection (5)(c) above, a year is one for which, immediately before an election, there remains a relevant amount on which capital gains tax is chargeable if, immediately before the making of that election, there remains an amount in respect of which the taxpayer is chargeable to capital gains tax for the year—

(a) after taking account of any previous elections made by the taxpayer under this section,

(b) after excluding any amounts that fall to be brought into account for that year under section 2(4)(b) by virtue of section 2(5)(b), and

(c) on the assumption that no part of the relevant loss (or of any other loss in respect of which an election under this section may be, but has not been, made) falls to be deducted in consequence of an election under this section from the chargeable gains accruing to the taxpayer in that year.

(8) In this section "year" means year of assessment.

(9) This section and sections 279B to 279D are to be construed as one.

279B Provisions supplementary to section 279A

(1) For the purposes of section 279A(1)(c) a person is within the charge to capital gains tax in any year if—

(a) he is chargeable to capital gains tax in respect of chargeable gains accruing to him in that year, or

(b) on the assumption that there accrue to him in that year any chargeable gains (excluding amounts in relation to which section 2(4)(a) applies), he would be so chargeable apart from—

(i) any deductions that fall to be made from the total amount referred to in section 2(2), and

(ii) section 3 (annual exempt amount).

(2) Subsections (3) to (6) below have effect for the purposes of section 279A(2)(e) (right to unascertainable consideration).

(3) A right is a right to unascertainable consideration if, and only if,—

(a) it is a right to consideration the amount or value of which is unascertainable at the time when the right is conferred, and

(b) that amount or value is unascertainable at that time on account of its being referable, in whole or in part, to matters which are uncertain at that time because they have not yet occurred.

This subsection is subject to subsections (4) to (6) below.

(4) The amount or value of any consideration is not to be regarded as being unascertainable by reason only—

(a) that the right to receive the whole or any part of the consideration is postponed or contingent, if the consideration or, as the case may be, that part of it is, in accordance with section 48, brought into account in the computation of the gain accruing to the taxpayer on the disposal of an asset, or

(b) in a case where the right to receive the whole or any part of the consideration is postponed and is to be, or may be, to any extent satisfied by the receipt of property of one description or property of some other description, that some person has a right to select the property, or the description of property, that is to be received.

(5) A right is not to be taken to be a right to unascertainable consideration by reason only that either the amount or the value of the consideration has not been fixed, if—

(a) the amount will be fixed by reference to the value, and the value is ascertainable, or

(b) the value will be fixed by reference to the amount, and the amount is ascertainable.

(6) A right which is by virtue of subsection (2) or (4) of section 138A (use of earn-out rights for exchange of securities) assumed in accordance with subsection (3)(a) of that section to be a security, within the definition in section 132, is not to be regarded as a right to unascertainable consideration.

(7) For the purposes of section 279A, any question as to—

(a) whether a chargeable gain or a loss is one that accrues (or would, apart from any particular provision, accrue) on a particular disposal or a disposal of any particular description, or

(b) the time at which, or year in which, any particular disposal takes place,

is to be determined without regard to section 10A(2) (chargeable gains and losses accruing during temporary non-residence to be treated as accruing in year of return).

This subsection is subject to subsection (8) below.

(8) Subsection (7) above does not affect the determination of any question—

(a) as to the year in which the chargeable gain or loss is, by virtue of section 10A(2), to be treated as accruing (apart from section 279C), or

(b) where (apart from section 279C) a loss is to be treated by virtue of section 10A(2) as accruing in a particular year, whether the loss is an allowable loss.

279C Effect of election under section 279A

(1) This section applies where an election is made under section 279A by the taxpayer for the relevant loss to be treated as accruing in an earlier year in accordance with this section.

(2) Where this section applies, the relevant loss shall be treated for the purposes of capital gains tax as if it were a loss accruing to the taxpayer in the earliest year which is an eligible year (the "first eligible year"), instead of in the year of the loss (but subject to, and in accordance with, the following provisions of this section).

(3) The amount of the relevant loss that falls to be deducted from chargeable gains of the first eligible year in accordance with section 2(2)(a) is limited to the amount (the "first year limit") found by taking the following steps—

Step 1: take the total amount of chargeable gains accruing to the taxpayer in the first eligible year,

Step 2: exclude from that amount any amounts that fall to be disregarded in accordance with section 2(4)(a) for that year,

Step 3: deduct from the amount remaining any amounts in respect of allowable losses (other than the relevant loss or any part of it) that fall to be deducted from that amount in accordance with section 2(2) otherwise than by virtue of section 2(5)(aa)(i) (taking account of any previous elections under section 279A).

The amount so found is the first year limit, unless the first eligible year is a year in relation to which section 2(5)(aa) has effect, in which case the further steps in subsection (4) below must also be taken.

(4) Those further steps are—

Step 4: add to the amount found by taking steps 1 to 3 in subsection (3) above every amount which is treated by virtue of section 77 or 86 as an amount of chargeable gains accruing to the taxpayer for the first eligible year (the "attributed amounts"),

Step 5: deduct from the resulting amount any amounts (other than the relevant loss or any part of it) that fall to be deducted from the attributed

amounts in accordance with section 2(5)(aa)(i) (taking account of any previous elections under section 279A).

The amount so found is the first year limit in a case where section 2(5)(aa) applies in relation to the first eligible year.

(5) As respects any later year before the year of the loss, the relevant loss (so far as not previously allowed as a deduction from chargeable gains accruing in any previous year) falls to be deducted in accordance with section 2(2)(b) only if that later year is an eligible year.

(6) The amount of the relevant loss that falls to be deducted from chargeable gains of that later eligible year in accordance with section 2(2)(b) is limited to the amount (the "later year limit") in respect of which the taxpayer would be chargeable to capital gains tax for that later year—

(a) on the assumption in subsection (7) below,

(b) taking account of any previous elections under section 279A, and

(c) apart from the provisions specified in subsection (8) below.

(7) The assumption is that no part of—

(a) the relevant loss, or

(b) any loss in respect of which an election under section 279A may be, but has not been, made,

falls to be deducted, in consequence of an election under section 279A, from any chargeable gains accruing to the taxpayer in that later eligible year.

The assumption falls to be made immediately after the making of the election in respect of the relevant loss.

(8) The provisions are—

(a) section 2(5)(a)(ii) (taper relief),

(b) section 2(5)(aa)(ii) (taper relief),

(c) section 2(5)(b) (addition of certain amounts treated as amounts of chargeable gains), and

(d) section 2A (taper relief),

except that paragraphs (b) and (d) above are not to affect the operation of section 2(7) for the purposes of subsection (6) above.

(9) All such adjustments shall be made, whether by discharge or repayment of tax, the making of assessments or otherwise, as are required to give effect to the election under section 279A made by the taxpayer for the relevant loss to be treated as accruing in an earlier year in accordance with this section.

(10) Any reference in this section or section 279D to deduction in accordance with section 2(2)(a), section 2(2)(b) or section 2(2) includes a reference to such deduction by virtue of section 2(5)(a)(i) or (aa)(i).

279D Elections under section 279A

(1) An election under section 279A is irrevocable.

(2) Any election under that section must be made by giving a notice in accordance with this section.

(3) The notice must be given to an officer of the Board.

(4) Subsections (5) to (8) below have effect in relation to the notice given by the taxpayer in respect of the relevant loss.

(5) The notice must specify each of the following—

(a) the amount of the relevant loss;

(b) the right disposed of;

(c) the year of the right's disposal;

(d) the year of the loss (if different from the year of the right's disposal);

(e) the year in which the right was acquired;

(f) the original asset or assets.

(6) The notice must also specify each of the following—

(a) the eligible year in which the relevant loss is to be treated in accordance with section 279C(2) as accruing to the taxpayer;

(b) the first year limit (see section 279C(3) and (4));

(c) how much of the relevant loss falls to be deducted in accordance with section 2(2)(a) from chargeable gains accruing to the taxpayer in that year.

(7) If, in accordance with section 279C, any part of the relevant loss falls to be deducted in accordance with section 2(2)(b) from chargeable gains accruing to the taxpayer in any later eligible year, the notice must also specify—

(a) each such year;

(b) in the case of each such year, the later year limit (see section 279C(6));

(c) how much of the relevant loss falls to be deducted in accordance with section 2(2)(b) in each such year from chargeable gains accruing to the taxpayer in that year.

(8) The notice must be given on or before the first anniversary of the 31st January next following the year of the loss.

(9) An election under section 279A is made on the date on which the notice of the election is given.

(10) Different notices must be given in respect of different losses.

(11) Where a person makes two or more elections under section 279A on the same day, the notices must specify the order in which the elections are made.

(12) For the purposes of any provisions of sections 279A to 279C whose operation is affected by the order in which any elections under section 279A are made, elections made by a person on the same day shall be treated as made at different times and in the order specified in accordance with subsection (11) above.".

(2) Where—

(a) on the disposal of a right to which section 279A of the Taxation of Chargeable Gains Act 1992 (c. 12) applies, an allowable loss would, apart from section 279C of that Act, accrue to a person in any year of assessment,

(b) an election is made under section 279A of that Act for the loss to be treated as accruing in an earlier year in accordance with section 279C, and

(c) the right is an earn-out right, within the meaning of section 138A of that Act, which was conferred before 10th April 2003,

no election may be made under section 138A of that Act (election for earn-out right to be treated as security etc) in respect of the right, whether at the same time as the election under section 279A or subsequently.

(3) The amendment made by subsection (1) has effect in relation to allowable losses that would, apart from that amendment, accrue on or after 10th April 2003.

For this purpose, losses that would, apart from that amendment, be treated by virtue of section 10A of the Taxation of Chargeable Gains Act 1992 as accruing in the year 2003-04 shall be treated as so accruing on or after 10th April 2003.

(4) Subsection (2) shall be deemed to have come into force on 10th April 2003.

163 Transfers of value: attribution of gains to beneficiaries

(1) For section 85A of the Taxation of Chargeable Gains Act 1992 (c. 12) substitute—

"**85A Transfers of value: attribution of gains to beneficiaries and treatment of losses**

(1) Schedule 4C to this Act has effect with respect to the attribution of gains to beneficiaries where there has been a transfer of value to which Schedule 4B applies.

(2) Sections 86A to 95 have effect subject to the provisions of Schedule 4C.

(3) No account shall be taken of any chargeable gains or allowable losses accruing by virtue of Schedule 4B in computing the trust gains for a year of assessment in accordance with sections 87 to 89, except in computing for the purposes of paragraph 7A(2) of Schedule 4C the amount on which the trustees would have been chargeable to tax under section 2(2) if they had been resident or ordinarily resident in the United Kingdom.

(4) No account shall be taken of any chargeable gains or allowable losses to which sections 87 to 89 apply in computing the gains or losses accruing by virtue of Schedule 4B.".

(2) Schedule 4C to that Act (transfers of value: attribution of gains to beneficiaries) is amended in accordance with Schedule 29 to this Act.

(3) In section 90 of that Act (transfers between settlements), for subsection (5) substitute—

"(5) This section does not apply—

(a) to a transfer to which Schedule 4B applies, or

(b) to gains to which Schedule 4C applies (that is, to "Schedule 4C gains" within the meaning of that Schedule).".

(4) The following provisions have effect with respect to the coming into force of the amendments made by this section and Schedule 29—

(a) the amendments apply where the trustees of a settlement have made a transfer to which Schedule 4B applies at any time on or after 21st March 2000;

(b) where there has been a transfer of value to which Schedule 4B applies before 9th April 2003, the transferor settlement shall be treated as having a Schedule 4C pool as from that date containing such Schedule 4C gains as would fall to be included in the pool if—

(i) a year of assessment had ended with 8th April 2003, and

(ii) the reference in paragraph 1(2)(b) of Schedule 4C as amended to the end of the year of assessment in which the transfer of value was made were to that date;

(c) where a transferor settlement ceased to exist on or after 21st March 2000 and before 9th April 2003, Schedule 4C as amended applies as if it had ceased to exist on 8th April 2003 (so that paragraph (b) above applies);

(d) so much of Schedule 4C as amended as provides—

(i) that gains treated as accruing to beneficiaries who are not chargeable to tax are treated as outstanding section 87/89 gains, or

(ii) that gains in a settlement's Schedule 4C pool are not to be treated as accruing to such beneficiaries,

applies only in relation to capital payments made on or after 9th April 2003;

(e) gains included in a settlement's Schedule 4C pool by virtue of paragraph 1(2)(b) of that Schedule as amended shall only be attributed in accordance with the provisions of that Schedule to beneficiaries who receive capital payments on or after 9th April 2003.

(5) Paragraph 8A(3) and (4) of Schedule 4C, inserted by paragraph 4 of Schedule 29 to this Act, applies only where the transfer referred to in that provision occurs on or after 9th April 2003.

(6) Expressions used in subsection (4) that are defined for the purposes of Schedule 4C to the Taxation of Chargeable Gains Act 1992 (c. 12) as amended by Schedule 29 to this Act have the same meaning as in that Schedule.