

Draft Regulations laid before the House of Commons under section 103 of the Finance Act 2005, for approval by resolution of the House of Commons.

D R A F T S T A T U T O R Y I N S T R U M E N T S

2005 No.

CAPITAL GAINS TAX

CORPORATION TAX

INCOME TAX

INHERITANCE TAX

PETROLEUM REVENUE TAX

STAMP DUTY

STAMP DUTY LAND TAX

The Tax and Civil Partnership Regulations 2005

Made - - - -

2005

Coming into force - *2005*

A draft of this instrument was laid before the House of Commons in accordance with section 103 of the Finance Act 2005(a) and approved by resolution of that House;

Now, therefore, the Treasury, in exercise of the powers conferred upon them by section 103 of the Finance Act 2005, make the following Regulations:

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Tax and Civil Partnership Regulations 2005 and, subject to paragraphs (2) to (7), shall come into force on 5th December 2005.

(2) Regulation 4(3)(a)(ii) (paragraph (b) of the definition of “dependent relative” in section 11(6) of the Inheritance Tax Act 1984) shall have effect in relation to dispositions made on or after 5th December 2005.

(a) 2005 (c. 7).

(3) In regulation 8, paragraphs (5), (6) and (7) (subsections (4), (4A) and (5) of section 22 of the Inheritance Tax Act 1984) shall have effect in relation to dispositions made on or after 5th December 2005.

(4) Regulations 51 to 55, 56(6) and 104 (sections 257A, 257AB, 257BA, 257BB, 257C and 265(6) of the Income and Corporation Taxes Act 1988 and section 25 of the Finance Act 1990) shall have effect for the year 2005-06 and subsequent years.

(5) Regulation 67 (section 347B of the Income and Corporation Taxes Act 1988) shall have effect in relation to any payment falling due on or after 5th December 2005.

(6) In regulation 114, paragraphs (5) and (6) (subsections (5) and (5A) of section 169F of the Taxation of Chargeable Gains Act 1992) shall have effect in relation to disposals made on or after 5th December 2005.

(7) Regulations 176 (section 189 of the Finance Act 2004), 177 (section 192 of the Finance Act 2004), 178 (section 203 of the Finance Act 2004), 180 (paragraph 15 of Schedule 28 to Finance Act 2004) and 181 (paragraph 10 of Schedule 35 to Finance Act 2004) shall have effect on and after 6th April 2006.

Finance Act 1984

2. In Schedule 14 to the Finance Act 1984(a) (beneficiary's liability for tax on gains of non-resident trustees), in paragraph 1(1), in the definition of "close relative", after "spouse" insert "or civil partner".

Inheritance Tax Act 1984

3. The Inheritance Tax Act 1984(b) is amended as follows.

4.—(1) Section 11 (dispositions for maintenance of family) is amended as follows.

(2) In subsection (1), after "marriage" insert "or civil partnership".

(3) In subsection (6) —

(a) in the definition of "dependent relative" —

(i) in paragraph (a), after "spouse" insert "or civil partner", and

(ii) for paragraph (b) substitute —

"(b) his mother or father or his spouse's or civil partner's mother or father;"; and

(b) at the appropriate place insert —

"civil partnership", in relation to a disposition made on the occasion of the dissolution or annulment of a civil partnership, and in relation to a disposition varying a disposition so made, includes a former civil partnership;".

5. In section 12 (dispositions allowable for income tax or conferring retirement benefits), in subsection (2)(b)(ii), after "widow" insert "or surviving civil partner".

6. In section 17 (changes in distribution of deceased's estate, etc) —

(a) in paragraph (c), after "spouse" insert "or civil partner", and

(b) in paragraph (d), after "legitim" insert "or rights under section 131 of the Civil Partnership Act 2004".

7.—(1) Section 18 (transfers between spouses) is amended as follows.

(2) In subsection (1), after "spouse" insert "or civil partner".

(a) 1984 (c. 43). Schedule 14 was repealed by section 290 of, and Schedule 12 to, the Taxation of Chargeable Gains Act 1992 (c.12) subject to a savings provision in paragraph 18(b) of Schedule 11 to that Act which gives continuing effect to Schedule 14 in relation to amounts of tax postponed under that Schedule.

(b) 1984 (c. 51).

- (3) In subsection (2), after “spouse” insert “or civil partner”.
- (4) In subsection (3), in the words following paragraph (b), after “spouse”, in both places, insert “or civil partner”.
- (5) In the heading, after “spouses” insert “or civil partners”.
- 8.**—(1) Section 22 (gifts in consideration of marriage) is amended as follows.
- (2) In subsection (1), after “marriage”, in each place, insert “or civil partnership”.
- (3) In subsection (2), after “marriage”, in each place, insert “or civil partnership”.
- (4) In subsection (3), after “marriage”, in both places, insert “or civil partnership”.
- (5) In subsection (4) —
- (a) in the opening words, after “marriage” insert “or civil partnership”,
- (b) for paragraph (a) substitute —
- “(a) the parties to the marriage or civil partnership, any child of the family of the parties to the marriage or civil partnership, or a spouse or civil partner of any such child;”,
- (c) in paragraph (b), for “issue” substitute “child”,
- (d) for paragraph (c) substitute —
- “(c) a subsequent spouse or civil partner of a party to the marriage or civil partnership, any child of the family of the parties to any such subsequent marriage or civil partnership, or a spouse or civil partner of any such child;”, and
- (e) in paragraph (d), for “issue” substitute “child”.
- (6) After subsection (4) insert —
- “(4A) In subsection (4) “child of the family”, in relation to parties to a marriage or civil partnership, means a child of one or both of them.”.
- (7) Omit subsection (5).
- (8) In the heading, after “marriage” insert “or civil partnership”.
- 9.** In section 23 (gifts to charities), in subsection (4)(a), after “spouse” insert “or civil partner”.
- 10.** In section 29A(6)(a) (abatement of exemption where claim settled out of beneficiary’s own resources), in paragraph (a) of the definition of “the exempt beneficiary”, after “spouse” insert “or civil partner”.
- 11.** In section 30 (conditionally exempt transfers), in subsection (3)(a), after “spouse”, in both places, insert “or civil partner”.
- 12.** In section 48 (excluded property), in subsection (1)(b), after “spouse” insert “or civil partner”.
- 13.**—(1) Section 53 (exceptions from charge on termination of interest in possession) is amended as follows.
- (2) In subsection (4) —
- (a) in paragraph (a), after “spouse” insert “or civil partner”, and
- (b) in paragraph (b), after “widower” insert “or surviving civil partner”.
- (3) In subsection (5)(a) —
- (a) after “spouse” insert “or civil partner”, and
- (b) after “widower” insert “or surviving civil partner”.
- (4) In subsection (7), after “spouse” insert “or civil partner”.

(a) Section 29A was inserted by section 172 of the Finance Act 1989 (c. 26).

- 14.** In section 54 (exceptions from charge on death), in subsection (2) —
- (a) in paragraph (a), after “spouse” insert “or civil partner”, and
 - (b) in paragraph (b), after “widower” insert “or surviving civil partner”.
- 15.** In section 57 (application of certain exemptions), in subsection (2)(a), after “marriage”, in both places, insert “or civil partnership”.
- 16.** In section 71 (accumulation and maintenance trusts), in subsection (2)(b)(ii), after “widowers” insert “or surviving civil partners”.
- 17.**—(1) Section 80 (initial interest of settlor or spouse) is amended as follows.
- (2) In subsection (1), after “spouse” insert “or civil partner”.
 - (3) In subsection (2) —
 - (a) after “spouse” insert “or civil partner”, and
 - (b) after “widower” insert “or surviving civil partner”.
 - (4) In the heading, after “spouse” insert “or civil partner”.
- 18.** In section 86 (trusts for benefit of employees), in subsection (1)(b), after “marriage” insert “to or civil partnership with,”.
- 19.** In section 108 (business property: successions), in paragraph (b), after “spouse”, in both places, insert “or civil partner”.
- 20.** In section 109 (business property: successive transfers), in subsection (1)(b), after “spouse” insert “or civil partner”.
- 21.** In section 112 (business property: exclusion of value of excepted assets), in subsection (3), in the words following paragraph (b), after “spouse” insert “or civil partner”.
- 22.** In section 120 (agricultural property: successions), in subsections (1)(b) and (2), after “spouse”, in each place, insert “or civil partner”.
- 23.** In section 121 (agricultural property: successive transfers), in subsection (1)(b), after “spouse” insert “or civil partner”.
- 24.** In section 126 (charge to tax on disposal of trees or underwood), in subsection (2), after “spouse” insert “or civil partner”.
- 25.** In section 131 (transfers within 7 years before death: the relief), in subsection (1), after “spouse”, in both places, insert “or civil partner”.
- 26.** In section 133 (shares - capital receipts), in subsections (1) and (2), after “spouse” insert “or civil partner”.
- 27.** In section 134 (payments of calls), after “spouse” insert “or civil partner”.
- 28.** In section 135 (reorganisation of share capital, etc), in subsection (4), after “spouse” insert “or civil partner”.
- 29.** In section 136 (transactions of close companies), in subsection (3), after “spouse”, in both places, insert “or civil partner”.
- 30.** In section 137 (interests in land), in the opening words of subsection (3), after “spouse” insert “or civil partner”.
- 31.**—(1) Section 145 (redemption of surviving spouse’s life interest) is amended as follows.
- (2) After “spouse”, in both places, insert “or civil partner”.
 - (3) In the heading, after “spouse’s” insert “or civil partner’s”.
- 32.**—(1) Section 147 (Scotland: legitim) is amended as follows.

- (2) In subsection (1) —
- (a) after “spouse”, in both places, insert “or civil partner”,
 - (b) after “claim legitim” insert “or rights under section 131 of the Civil Partnership Act 2004 (“section 131 rights”)”, and
 - (c) after “in respect of legitim” insert “or to section 131 rights”.
- (3) In subsection (2) —
- (a) after “spouse”, in both places, insert “or civil partner”, and
 - (b) after “legitim”, in both places, insert “or section 131 rights”.
- (4) In subsection (4) —
- (a) after “spouse” insert “or civil partner”,
 - (b) after “claim legitim”, in both places, insert “or section 131 rights”, and
 - (c) after “claim has been made)” insert “or on the basis that all section 131 rights had been claimed in full at the testator’s death (excluding any rights renounced before any claim has been made)”.
- (5) In subsection (6), after “legitim” insert “or section 131 rights”.
- (6) In subsection (7), after “legitim” insert “or section 131 rights”.
- (7) In the heading, after “legitim” insert “etc.”.

33. In section 152 (cash options), in the words following paragraph (b), after “widower” insert “, surviving civil partner”.

34. In section 161 (valuation: related property), in subsection (2), after “spouse”, in both places, insert “or civil partner”.

35. In section 191 (sale of land from deceased’s estate: the relief), in subsection (3)(a)(ii), after “spouse” insert “or civil partner”.

36. In section 203 (liability of spouse) —

- (a) in subsections (1), (2) and (4), after “spouse”, in each place, insert “or civil partner”, and
- (b) in the heading, after “spouse” insert “or civil partner”.

37. In section 209 (succession in Scotland), in subsections (2) and (3), after “legitim” insert “or rights under section 131 of the Civil Partnership Act 2004”.

38. In section 272 (general interpretation), insert at the appropriate place —

““step-child”, in relation to a civil partner, shall be construed in accordance with section 246 of the Civil Partnership Act 2004;”(a).

39.—(1) Part 2 of Schedule 4 (maintenance funds for historic buildings, etc: property leaving the funds) is amended as follows.

(2) In paragraph 10(1) —

- (a) in paragraph (a), after “spouse” insert “or civil partner”, and
- (b) in paragraph (b), after “widower” insert “or surviving civil partner”.

(3) In paragraph 15A(4)(b), in the words substituted in paragraph 10(1) —

- (a) in paragraph (b)(i), after “spouse” insert “or civil partner”,
- (b) in paragraph (b)(ii), after “widower” insert “or surviving civil partner”, and
- (c) in the words following paragraph (b), for “spouse, widow or widower” substitute “spouse or civil partner, or widow or widower or surviving civil partner,”.

(a) 2004 (c. 33).

(b) Paragraph 15A was inserted by section 59 of, and paragraphs 3 and 6 of Schedule 9 to, the Finance Act 1987 (c. 16).

Finance Act 1985

40. The Finance Act 1985 (a) is amended as follows.

41.—(1) Section 83 (stamp duty: transfers in connection with divorce etc) is amended as follows.

(2) After subsection (1) insert —

“(1A) Stamp duty under Part 1 of Schedule 13 to the Finance Act 1999 shall not be chargeable on an instrument by which property is conveyed or transferred from one party to a civil partnership to the other if the instrument —

- (a) is executed in pursuance of an order of a court made on granting in respect of the parties an order or decree for the dissolution or annulment of the civil partnership or their judicial separation;
- (b) is executed in pursuance of an order of a court which is made in connection with the dissolution or annulment of the civil partnership or the parties’ judicial separation and which is made at any time after the granting of such an order or decree for dissolution, annulment or judicial separation as mentioned in paragraph (a);
- (c) is executed in pursuance of an order of a court which is made at any time under any provision of Schedule 5 to the Civil Partnership Act 2004 that corresponds to section 22A, 23A or 24A of the Matrimonial Causes Act 1973; or
- (d) is executed at any time in pursuance of an agreement of the parties made in contemplation of or otherwise in connection with the dissolution or annulment of the civil partnership, their judicial separation or the making of a separation order in respect of them.”.

(3) In subsection (2), after “(1)” insert “or (1A)”.

(4) In the heading, after “divorce” insert “, dissolution of civil partnership,”.

42.—(1) Section 84 (stamp duty: death: varying dispositions, and appropriations) is amended as follows.

(2) In subsection (5), for “husband or wife” substitute “spouse or civil partner”.

(3) In subsection (6)(a), for “husband or wife” substitute “spouse or civil partner”.

(4) In subsection (7), for “relictæ or of issue to legitim” substitute “relictæ, of issue to legitim or rights under section 131 of the Civil Partnership Act 2004, or of a civil partner to rights under section 131 of that Act”.

Finance Act 1986

43. The Finance Act 1986 (b) is amended as follows.

44.—(1) Section 102 (gifts with reservation) is amended as follows.

(2) In subsection (5) —

- (a) in paragraph (a), after “spouses” insert “or civil partners”, and
- (b) in paragraph (c), after “marriage” insert “or civil partnership”.

(3) In subsection (5A)(c), in paragraph (b), after “spouse” insert “or civil partner”.

45. In section 102A(d) (gifts with reservation: interest in land), in the opening words of subsection (2), after “spouse” insert “or civil partner”.

(a) 1985 (c. 54).

(b) 1986 (c. 41).

(c) Subsection (5A) was inserted by section 185 of the Finance Act 2003 (c. 14).

(d) Section 102A was inserted by section 104 of the Finance Act 1999 (c. 16).

46. In Schedule 20 (gifts with reservation), in paragraphs 6(1)(b)(iv) and 7(1) and (2), after “spouse”, in each place, insert “or civil partner”.

Income and Corporation Taxes Act 1988

47. The Income and Corporation Taxes Act 1988 (a) is amended as follows.

48. In section 13A(b) (close investment-holding companies), in subsection (2)(b)(ii) —

- (a) for “wife or husband”, in both places, substitute “spouse or civil partner”, and
- (b) for “husband or wife” substitute “spouse or civil partner”.

49. In section 220 (purchase of own shares: conditions as to residence and period of ownership), in subsection (6), after “spouse”, in both places, insert “or civil partner”.

50. In section 227 (purchase of own shares: associated persons), in subsection (2), after “together” insert “, or civil partners of each other living together,”.

51.—(1) Section 257A (married couple’s allowance) is amended as follows.

(2) In subsection (2) —

- (a) after “living with him” insert “and whose marriage was entered into before 5th December 2005”, and
- (b) after “he shall” insert “(subject to subsection (3A) below)”.

(3) In subsection (3) —

- (a) after “living with him” insert “and whose marriage was entered into before 5th December 2005”, and
- (b) after “he shall” insert “(subject to subsection (3A) below)”.

(4) After that subsection insert —

“(3A) Subsections (2) and (3) above shall not apply in relation to the claimant for any year of assessment if an election made by the claimant and his wife under section 257AB(1)(c) has effect for that year.”.

(5) In the heading, at the end insert “(pre-5th December 2005 marriages)”.

52.—(1) After section 257A insert —

“Married couple’s allowance (post-5th December 2005 marriages and civil partnerships etc.)

257AB.—(1) This section applies if —

- (a) the claimant is, for the whole or any part of the year of assessment, living with his spouse or civil partner,
- (b) either the claimant or his spouse or civil partner was born before 6th April 1935,
- (c) the marriage or civil partnership was entered into on or after 5th December 2005 or, if the marriage was entered into before that date, an election for this section to apply has effect for that year, and
- (d) the claimant’s total income for that year exceeds that of his spouse or civil partner or, if they have the same amount of total income for that year, the claimant is specified in an election as the person to be entitled to relief under this section for that year.

(2) The claimant shall be entitled for that year to an income tax reduction —

(a) 1988 (c. 1).

(b) Section 13A was inserted by section 105 of the Finance Act 1989 (c. 26).

- (a) calculated by reference to £5,975 (if either the claimant or his spouse or civil partner is at any time within that year of the age of 75 or upwards), or
- (b) calculated by reference to £5,905 (in any other case).

(3) For the purposes of subsection (2)(a) above an individual who would have been of or over the age of 75 within the year of assessment if he had not died in the course of it shall be treated as having been of that age within that year.

(4) In relation to a claimant whose total income for the year of assessment exceeds £19,500, subsection (2) above applies as if the amounts specified in it were reduced by—

- (a) one half of the excess, less
- (b) any reduction made in his allowance under section 257 by virtue of subsection (5) of that section.

(5) The amounts specified in subsection (2) above shall not by virtue of subsection (4) above be treated as reduced below £2,280.

(6) An individual shall not be entitled by virtue of this section to more than one income tax reduction for any year of assessment.

(7) In relation to a claim by an individual who —

- (a) becomes a spouse or civil partner in the year of assessment, and
- (b) has not previously in the year been entitled to relief under this section,

this section shall have effect as if the amounts specified in subsection (2) above were reduced by one twelfth for each month of the year ending before the date of the marriage or civil partnership.

In this subsection “month” means a month beginning with the 6th day of a month of the calendar year.

(8) An election under subsection (1)(c) —

- (a) shall be made jointly by the parties to the marriage,
- (b) shall be made before the first year of assessment for which it is to have effect,
- (c) shall have effect for that and each succeeding year of assessment for which any party to the marriage is entitled to relief under this section, and
- (d) shall be irrevocable.

(9) An election under subsection (1)(d) —

- (a) shall be made jointly by the parties to the marriage or civil partnership, and
- (b) shall be made on or before the 5th anniversary of the 31st January next following the end of the year of assessment to which the election relates.”.

53.—(1) Section 257BA (elections as to transfer of relief under section 257A) is amended as follows.

(2) In subsection (1) —

- (a) for “A woman” to “relief under section 257A—” substitute “An individual may elect that for any year of assessment for which the individual’s spouse or civil partner is entitled to relief under section 257A or 257AB—”,
- (b) in paragraph (a) —
 - (i) for “she” substitute “the individual”, and
 - (ii) after “257A(5A)” insert “or 257AB(5)”, and
- (c) in paragraph (b) —
 - (i) for “he” substitute “the individual’s spouse or civil partner”, and
 - (ii) after “257A” insert “or 257AB”.

(3) In subsection (2) —

- (a) for “A husband” to “relief under section 257A—” substitute “An individual and the individual’s spouse or civil partner may jointly elect that for any year of assessment for which the individual is entitled to relief under section 257A or 257AB—”,
- (b) in paragraph (a) —
 - (i) for “she” substitute “the individual’s spouse or civil partner”, and
 - (ii) after “257A(5A)” insert “or 257AB(5)”, and
- (c) in paragraph (b) —
 - (i) for “he” substitute “the individual”, and
 - (ii) after “257A” insert “or 257AB”.
- (4) In subsection (3) —
 - (a) for “A man” to “his wife” substitute “An individual may elect that for any year of assessment for which the individual’s spouse or civil partner”,
 - (b) in paragraph (a) —
 - (i) for “he”, in both places, substitute “the individual”,
 - (ii) after “257A(5A)” insert “or 257AB(5)”, and
 - (iii) after “257A” insert “or 257AB”, and
 - (c) in paragraph (b) for “she” substitute “the individual’s spouse or civil partner”.
- (5) In subsection (4)(b) —
 - (a) for “the husband” substitute “the individual concerned”, and
 - (b) after “257A” insert “or 257AB”.
- (6) In subsection (5), after “marriage” insert “or civil partnership”.
- (7) In subsection (6) —
 - (a) after “257A(5A)” insert “or 257AB(5)”, and
 - (b) after “257A(6)” insert “or (as the case may be) 257AB(7)”.
- (8) In subsection (9), for “A woman” substitute “An individual”.
- (9) In the heading, at the end insert “or 257AB”.

54.—(1) Amend section 257BB (transfer of relief under section 257A where relief exceeds income) as follows.

- (2) In subsection (1) —
 - (a) in paragraph (a) —
 - (i) for “a man” substitute “an individual”, and
 - (ii) after “257A” insert “or 257AB”,
 - (b) in paragraph (b) —
 - (i) for “he” substitute “the individual”, and
 - (ii) for “his” substitute “the individual’s”, and
 - (c) in the words following paragraph (b) —
 - (i) for “his wife” substitute “the individual’s spouse or civil partner”,
 - (ii) for “she” substitute “that spouse or civil partner”,
 - (iii) for “her husband’s” substitute “the individual’s”, and
 - (iv) after “257A” insert “or 257AB”.
- (3) In subsection (2), for “husband” substitute “spouse or civil partner”.
- (4) In subsection (3) —
 - (a) in paragraph (a), for “a woman” substitute “an individual”,
 - (b) in paragraph (b) —

- (i) for “she” substitute “the individual”, and
- (ii) for “her” substitute “the individual’s”, and
- (c) in the words following paragraph (b) —
 - (i) for “her husband” substitute “the individual’s spouse or civil partner”,
 - (ii) for “he” substitute “that spouse or civil partner”,
 - (iii) after “257A” insert “or 257AB”, and
 - (iv) for “his wife’s” substitute “the individual’s”.

(5) In subsection (4), for “wife” substitute “spouse or civil partner”.

(6) In the heading, after “257A” insert “or 257AB”.

55. In section 257C(a) (indexation of amounts in sections 257 and 257A) —

- (a) in the opening words of subsection (1), for “and 257A” substitute “, 257A and 257AB”,
- (b) in subsection (1)(a), for “and 257A(5)” substitute “, 257A(5) and 257AB(4)”,
- (c) in subsection (3), for “and 257A” substitute “, 257A and 257AB”, and
- (d) in the heading, for “and 257A” substitute “, 257A and 257AB”.

56.—(1) Section 265 (blind person’s allowance) is amended as follows.

(2) In subsection (2)(a), for “married man whose wife” substitute “person whose spouse or civil partner”.

(3) In the words following paragraph (b) of subsection (2) —

- (a) for “wife” substitute “spouse or civil partner”, and
- (b) omit “her”.

(4) Omit subsection (4).

(5) In subsection (5), for “(2) to (4)” substitute “(2) and (3)”.

(6) In subsection (6), for “a husband” substitute “a spouse or civil partner”.

57.—(1) Section 266 (life assurance premiums) is amended as follows.

(2) In subsection (2)(b) and (c), after “spouse” insert “or civil partner”.

(3) In subsection (9), after “spouse” insert “or civil partner”.

(4) In subsection (11)(a) —

- (a) after “spouse,” insert “civil partner,”, and
- (b) after “widower” insert “, surviving civil partner”.

58. In section 266A(b) (life assurance premiums paid by employer), in subsection (3)(b), after “spouse” insert “or civil partner” and after “widower” insert “or surviving civil partner”.

59. In section 273 (payments securing annuities), in subsection (1), after “widower” insert “or surviving civil partner”.

60.—(1) In section 278 (personal reliefs: non-residents), in subsection (2)(e), for “, or a widower whose late wife,” substitute “, a widower whose late wife or a surviving civil partner whose late civil partner,”.

(2) In consequence of paragraph (1), omit section 31(2) of the Finance Act 1988(c).

61. In the Chapter heading before section 279, after “SPOUSES” insert “AND CIVIL PARTNERS”.

(a) Section 257C was inserted by section 33 of the Finance Act 1988.

(b) Section 266A was inserted by section 722 of, and paragraph 36 of Schedule 6 to, the Income Tax (Earnings and Pensions) Act 2003 (c. 1). It will be amended by section 281(1) of, and paragraph 10 of Schedule 35 to, the Finance Act 2004 (c. 12) with effect from 6th April 2006⁹ see regulation [123] below.

(c) 1988 (c. 39).

62. In section 282 (construction of references to husband and wife living together) —

- (a) for “A husband and wife” substitute “Individuals who are married to, or are civil partners of, each other”, and
- (b) in the heading, for “husband and wife” substitute “spouses or civil partners”.

63.—(1) Section 282A(a) (taxation of income of spouses: jointly held property) is amended as follows.

- (2) In subsection (1), after “wife” insert “, or in the names of civil partners of each other,”.
- (3) In subsection (2), after “wife” insert “, or neither of the civil partners,”.
- (4) In subsection (3)(a), after “wife” insert “, or one of the civil partners,”.
- (5) In subsection (4A)(a)(b), after “wife” insert “, or one of the civil partners,”.
- (6) In subsection (5), after “wife” insert “, or one of the civil partners,”.
- (7) In subsection (6), after “together” insert “, and references in this section to civil partners of each other are references to civil partners of each other living together”.

64.—(1) Section 282B (jointly held property: declarations) is amended as follows.

- (2) In subsection (1), after “wife” insert “, or both the civil partners,”.
- (3) In subsection (4), after “wife” insert “, or of the civil partners,”.
- (4) In subsection (5), after “wife” insert “, or of the civil partners,”.

65. In section 304 (husband and wife) —

- (a) in subsection (5), as that section applies to shares issued on or before 31st December 1993 (business expansion scheme), and
- (b) in subsection (1), as that section applies to shares issued after 31st December 1993 (enterprise investment scheme),

for “a married man to his wife or a married woman to her husband” substitute “an individual to his spouse or civil partner”, and

- (c) in the heading, for “Husband and wife” substitute “Spouses and civil partners”.

66. In section 344 (taxation of income: company reconstructions), in subsection (4), after “wife,” insert “civil partner,”.

67.—(1) Section 347B(c) (qualifying maintenance payments) is amended as follows.

(2) In subsection (1) —

- (a) for paragraph (b) substitute —

“(b) is made —

- (i) by one of the parties to a marriage or civil partnership (including a marriage or civil partnership which has been dissolved or annulled) to or for the benefit of the other party and for the maintenance of the other party, or
- (ii) by one parent of a child to the child’s other parent for the maintenance of the child by the other parent or by one person to another for the maintenance by the other of a relevant child of theirs,” and

- (b) in paragraph (c) —

(i) for sub-paragraphs (i) and (ii) substitute —

“(i) in a case falling within paragraph (b)(i) above, the two parties are not a married couple, or civil partners of each other, living together and the party to

(a) Sections 282A and 282B were inserted by section 34 of the Finance Act 1988.

(b) Subsection 4A was inserted by section 91 of the Finance Act 2004.

(c) Section 347B was inserted by the Finance Act 1988.

whom or for whose benefit the payment is made has not subsequently entered into a marriage or civil partnership, and

(ii) in a case falling within paragraph (b)(ii) above, the person making the payment is not living together with the person to whom the payment is made, and”.

(3) In subsection (1A)(a), for the words from “either” to the end substitute

“—

(a) in a case falling within subsection (1)(b)(i) above, either of the parties to the marriage or civil partnership was born before 6th April 1935, or

(b) in a case falling within subsection (1)(b)(ii) above, either the person by whom the payment is made, or the person to whom it is made, was born before that date.”.

(4) In subsection (7) —

(a) omit the definition of “child of the family”,

(b) insert at the appropriate place —

““child” means a person under 21 years of age;”, and

(c) insert at the appropriate place —

““relevant child”, in relation to any two persons, means a child who (not being a child who has been boarded out with them by a public authority or voluntary organisation) has been treated by both of them as a child of their family.”.

(5) In subsection (9) —

(a) in paragraph (a), for “one of the parties to a marriage (including a marriage which has been dissolved or annulled)” substitute “any person”,

(b) in paragraph (b), for “the other party to the marriage” substitute “another person”, and

(c) in the words following paragraph (d), for “party”, in both places, substitute “person”.

(6) In subsection (12) —

(a) in paragraph (a), for “one of the parties to a marriage (including a marriage which has been dissolved or annulled)” substitute “any person”,

(b) in paragraph (b)(i) and (ii), for “the other party to the marriage” substitute “any other person”, and

(c) in the words following paragraph (b)(ii), for “the other party to the marriage” substitute “that other person” and for “that other party”, in both places, substitute “that other person”.

68. In section 360 (loan to buy interest in close company), in subsection (3A)(b), for “husband or wife” substitute “spouse or civil partner”.

69. In section 360A(c) (meaning of “material interest” in section 360), in subsection (10), for “husband or wife” substitute “spouse or civil partner”.

70. In section 381 (further relief for individuals for losses in early years of trade), in subsection (5)(a), for “and living with another individual” substitute “, or a civil partner of, another individual with whom he is living together and”.

71.—(1) Section 397 (restriction of relief from income tax or corporation tax in case of farming and market gardening) is amended as follows.

(2) In subsection (10) —

(a) omit the “and” at the end of paragraph (a) and after that paragraph insert —

(a) Subsection (1A) was inserted by section 36 of the Finance Act 1999 (c. 16).

(b) Subsection (3A) was inserted by section 47 of the Finance Act 1989 (c. 26).

(c) Section 360A was inserted by section 48(2) of the Finance Act 1989.

“(ab) two civil partners of each other were the same person,” and

(b) at the end of paragraph (b) insert —

“and

(c) a civil partner of another were the same person as any company of which either of the civil partners has control, or of which the two of them have control;”.

72. In section 417 (meaning of “participator”, “associate”, “director” and “loan creditor”), in subsection (4), for “husband or wife” substitute “spouse or civil partner”.

73. In section 418 (“distribution” to include certain expenses of close companies), in subsection (3)(c), after “spouse” insert “or civil partner”.

74. In section 467 (exemption for trade unions and employers’ associations), in subsection (2), after “spouse” insert “or civil partner”.

75. In section 540 (life policies: chargeable events), in subsection (4), at the end insert “or between civil partners living together”.

76. In section 544 (second and subsequent assignment of life policies and contracts), in subsection (4), at the end insert “or between civil partners living together”.

77. In section 574 (losses on unlisted shares in trading companies: relief for individuals), in subsection (3)(b), after “spouse” insert “or civil partner”.

78. In section 576 (losses on unlisted shares in trading companies: supplementary provisions), in subsection (5) —

(a) in the definition of “spouse”, for “288(3) of the 1992 Act” substitute “282”; and

(b) at the appropriate place insert —

““civil partner” refers to one of two civil partners who are living together (construed in accordance with section 282);”.

79. In section 590 (conditions for approval of retirement benefit schemes) —

(a) in subsections (2)(aa), (3)(ba) and (d), (3A), (4B), (4C) and (4F), after “ex-spouse”, in each place, insert “or former civil partner”,

(b) in subsection (2)(aa)(ii), after “widower,” insert “surviving civil partner,” and

(c) in subsections (3)(b) and (ba), (3A), (4B), (4C) and (4F), after “widower”, in each place, insert “or surviving civil partner”.

80. In section 591 (discretionary approval), in subsection (2) —

(a) in paragraph (b), after “widowers” insert “and surviving civil partners”, and

(b) in paragraph (ba) —

(i) after “widowers” insert “and surviving civil partners”, and

(ii) after “ex-spouses”, in both places, insert “or former civil partners”.

81. In section 599 (charge to tax: commutation of entire pension in special circumstances), in subsections (1B), (1C) and (1D), after “ex-spouse” insert “or former civil partner”.

82. In section 612 (retirement benefit schemes: interpretative provisions), in subsection (2) —

(a) after “ex-spouses” insert “or former civil partners”, and

(b) after “ex-spouse” insert “or former civil partner”.

83.—(1) Section 620 (retirement annuities: qualifying premiums) is amended as follows.

(2) In subsection (2) —

(a) in paragraph (c), after “widower”, in both places, insert “or surviving civil partner”, and

(b) in paragraph (d), after “widower” insert “or surviving civil partner”.

- (3) In subsection (4) —
- (a) in paragraph (a), after “widower” insert “or surviving civil partner”, and
 - (b) in paragraph (d), after “(or re-marriage)” insert “or on the formation of a civil partnership (or another civil partnership)”.

84.—(1) Section 621 (other approved contracts) is amended as follows.

(2) In subsection (1)(a), for “wife or husband” substitute “spouse or civil partner”.

(3) In subsection (3) —

- (a) in paragraph (a), for “wife or husband” substitute “spouse or civil partner”, and
- (b) in paragraph (c), for “wife or husband” substitute “spouse or civil partner”.

(4) In subsection (5), for “wives, husbands” substitute “spouses, civil partners”.

85. In section 622 (substituted retirement annuity contracts), in subsection (2), after “widower” insert “, surviving civil partner”.

86. In section 628 (partnership retirement annuities), in subsection (1), in the words following paragraph (c), after “widower” insert “, surviving civil partner”.

87. In section 632A (personal pension schemes: eligibility to make contributions), in subsection (9), after “spouse” insert “or civil partner”.

88. In section 634 (annuity to member), in subsection (5)(a), for “marriage of the annuitant” substitute “annuitant marrying or forming a civil partnership”.

89.—(1) Section 636 (annuity after death of member) is amended as follows.

(2) In subsection (2), after “spouse” insert “or civil partner”.

(3) In subsection (5), after “spouse”, in each place, insert “or civil partner”.

(4) In subsection (6), for “marriage of the annuitant” substitute “annuitant marrying or forming a civil partnership”.

(5) In subsection (7), after “spouse”, in each place, insert “or civil partner”.

(6) In subsection (9)(a), omit “the marriage of” and at the end insert “marrying or forming a civil partnership”.

90. In section 644 (meaning of “relevant earnings”), in subsection (6F)(c), after “ex-spouse” insert “or former civil partner”.

91. In section 645 (earnings from pensionable employment), in subsection (4)(a), after “spouse” insert “or civil partner”.

92. In section 659D (interpretation of provisions about pension sharing) —

(a) in subsection (1), for ““ex-spouse”” substitute ““ex-spouse””, and

(b) after subsection (1) insert —

“(1A) In this Part “former civil partner” means a party to a civil partnership that has been dissolved or annulled and, in relation to any person, means the other party to a civil partnership with that person that has been dissolved or annulled.”.

93. In section 660C (nature of charge on settlor), in subsection (3)(a), for “unmarried minor” substitute “relevant”.

94. In section 687 (payments under discretionary trusts), in subsection (1)(b)(a), for “unmarried minor” substitute “relevant”.

(a) Section 660C was inserted by section 74 of, and paragraph 1 of Schedule 17 to, the Finance Act 1995 (c. 4). Subsection (3) was amended by section 882 of, and paragraph 272 of Schedule 1 to, the Income Tax (Trading and Other Income) Act 2005 (c. 5).

95. In section 694 (trustees chargeable to income tax in certain cases at higher rate reduced by rate applicable to trusts), in subsection (3)(b), for “unmarried minor” substitute “relevant”.

96. In section 702 (estates of deceased persons in course of administration: application to Scotland), in paragraphs (a) and (d), after “spouse”, in each place, insert “or civil partner”.

97. In section 742 (interpretation: transfer of assets abroad), in subsection (9)(a), for “wife or husband” substitute “spouse or civil partner”.

98. In section 783 (leased assets: definition of “associate”), in subsection (10)(a), for “husband or wife”, in each place, substitute “spouse or civil partner”.

99. In section 832 (interpretation of the Tax Acts), in subsection (1) insert at the appropriate place —

““step-child”, in relation to a civil partner, shall be construed in accordance with section 246 of the Civil Partnership Act 2004;”.

100. In section 839 (connected persons), in subsections (2) and (4), for “wife or husband”, in each place, substitute “spouse or civil partner”.

101.—(1) Schedule 14 (provisions ancillary to section 266) is amended as follows.

(2) In paragraph 1(1) —

(a) for “The references in section 266” substitute —

“In section 266 —

(a) references”, and

(b) at the end insert —

“(b) references to an individual’s civil partner shall include any person who was that individual’s civil partner at the time the insurance or contract was made.”.

(3) In the heading before paragraph 1, for “*Husband and wife*” substitute “*Spouses and civil partners*”.

102. In Schedule 15B(c) (venture capital trusts: relief from income tax), in paragraph 3 —

(a) in sub-paragraph (5), for “married man to his wife or by a married woman to her husband if it is made, in either case,” substitute “person to his spouse or civil partner”, and

(b) in sub-paragraph (6), after “spouse” insert “or civil partner”.

103. In Schedule 28AA(d) (provision not at arm’s length), in paragraph 4(11)(a), after “spouse”, in each place, insert “or civil partner”.

Finance Act 1990

104. In section 25 of the Finance Act 1990 (e) (donations to charity by individuals), in subsection (9A)(f), for “and 257A(5)” substitute “, 257A(5) and 257AB(4)”.

Taxation of Chargeable Gains Act 1992

105. The Taxation of Chargeable Gains Act 1992 (g) is amended as follows.

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- (a) Subsection (1)(b) was amended by section 882 of, and paragraph 278 of Schedule 1 to, the Income Tax (Trading and Other Income) Act 2005.
- (b) Subsection (3) was amended by section 882 of, and paragraph 283 of Schedule 1 to, the Income Tax (Trading and Other Income) Act 2005.
- (c) Schedule 15B was inserted by section 332A of the Income and Corporation Taxes Act 1988. Section 332A was inserted by section 71 of the Finance Act 1995 (c. 4).
- (d) Schedule 28AA was inserted by section 108 of, and Schedule 16 to, the Finance Act 1998 (c. 36).
- (e) 1990 (c. 29).
- (f) Subsection (9A) was inserted by section 39 of the Finance Act 2000 (c. 17).
- (g) 1992 (c. 12).

106. In section 3A(a) (reporting limits), in subsection (3)(b), for “(husband and wife)” substitute “(spouses and civil partners)”.

107.—(1) Section 58 (husband and wife) is amended as follows.

(2) In subsection (1), for the words from the beginning to “both” substitute —

“If, in any year of assessment, —

(a) an individual is living with his spouse or civil partner, and

(b) one of them disposes of an asset to the other,

both”.

(3) In the heading, for “Husband and wife” substitute “Spouses and civil partners”.

108.—(1) Section 77 (charge on settlor with interest in settlement) is amended as follows.

(2) In subsection (2) —

(a) in paragraph (a), after “spouse” insert “or civil partner”, and

(b) in paragraph (b), after “spouse” insert “or civil partner”.

(3) In subsection (3) —

(a) in the opening words, after “spouse” insert “or civil partner”,

(b) after paragraph (a) insert —

“(ab) a person of whom the settlor is not for the time being a civil partner but of whom he may later be a civil partner, or”,

(c) in paragraph (b), after “spouse” insert “or civil partner”, and

(d) in paragraph (c), after “widower” insert “or surviving civil partner”.

(4) In subsection (4), for paragraph (c) substitute —

“(c) in the case of a marriage settlement or civil partnership settlement, the death of both parties to the marriage or civil partnership and of all or any of the children of the family of the parties to the marriage or civil partnership, or”.

(5) After subsection (4) insert —

“(4A) In subsection (4) “child of the family”, in relation to parties to a marriage or civil partnership, means a child of one or both of them.”.

(6) In subsection (6)(b) —

(a) after “spouse”, in each place, insert “or civil partner”, and

(b) after “married” insert “or to be civil partners of each other”.

109. In section 150 (business expansion schemes), in subsection (7), after “spouse” insert “or civil partner”.

110. In section 150A(b) (enterprise investment schemes), in subsection (3)(a), for “husband and wife” substitute “spouses and civil partners”.

111. In section 162A(c) (transfer of business to a company: elections), in subsection (5)(a), for “husband and wife” substitute “spouses and civil partners”.

112. In section 168 (gifts of business assets: emigration of donee), in subsection (3), after “spouse” insert “or civil partner”.

113. In section 169D(d) (gifts to settlor-interested settlements: exceptions), in subsection (5), after “spouse” insert “or civil partner”.

(a) Section 3A was inserted by section 159 of, and paragraph 1 of Schedule 28 to, the Finance Act 2003 (c. 14).

(b) Section 150A was inserted by section 137 of, and paragraph 30 of Schedule 15 to, the Finance Act 1994 (c.9).

(c) Section 162A was inserted by section 49 of the Finance Act 2002 (c. 23).

(d) Sections 169D, 169F and 169G were inserted by section 116 of, and paragraphs 4 and 10(4) of Schedule 21 to, the Finance Act 2004.

114.—(1) Section 169F (meaning of “interest in a settlement”) is amended as follows.

(2) In subsection (2), after “spouse” insert “or civil partner”.

(3) In subsection (3), after “spouse” insert “or civil partner”.

(4) In subsection (4) —

(a) in the opening words, after “spouse” insert “or civil partner”,

(b) in paragraph (a), after “spouse” insert “or civil partner”, and

(c) in paragraph (b), after “widower” insert “or surviving civil partner”.

(5) In subsection (5), for paragraph (a) substitute —

“(a) in the case of a marriage settlement or civil partnership settlement, the death of both parties to the marriage or civil partnership and of all or any of the children of the family of the parties to the marriage or civil partnership, or”.

(6) After subsection (5) insert —

“(5A) In subsection (5) “child of the family”, in relation to parties to a marriage or civil partnership, means a child of one or both of them.”.

115. In section 169G (meaning of “arrangement” and information power), in subsection (4), in paragraphs (a) and (b), after “spouse” insert “or civil partner”.

116.—(1) Section 210 (life insurance and deferred annuities) is amended as follows.

(2) In subsection (5)(a) —

(a) after “spouse” insert “or civil partner”, and

(b) after “approved post-marriage disposal” insert “or an approved post-civil partnership disposal”.

(3) In subsection (6) —

(a) in the opening words, after “approved post-marriage disposal” insert “or an approved post-civil partnership disposal”,

(b) in paragraph (a), after “marriage”, in both places, insert “or civil partnership”, and

(c) in paragraph (c), after “marriage” insert “or civil partnership”.

117.—(1) Section 222 (relief on disposal of private residence) is amended as follows.

(2) In subsection (6) —

(a) for “a man and his wife living with him” substitute “an individual living with his spouse or civil partner”, and

(b) in paragraph (a), for “the husband and the wife” substitute “the individual and his spouse or civil partner”.

(3) In subsection (7), for “a man and his wife living with him” substitute “an individual living with his spouse or civil partner”.

(4) In subsection (8A)(a) —

(a) after “spouse”, in each place, insert “or civil partner”, and

(b) in the opening words of paragraph (a), for “her” substitute “the spouse’s or civil partner’s”.

(5) In subsection (8C), after “spouse”, in both places, insert “or civil partner”.

118. In section 226 (private residence occupied by dependent relative before 6th April 1988), in subsection (4) —

(a) for “a man and his wife living with him” substitute “an individual and his spouse or civil partner living with him”; and

(a) Subsections 8A and 8C were inserted by section 38(8) of, and paragraph 17 of Schedule 4 to, the Finance Act 1999 (c. 16).

(b) for “husband or wife” substitute “spouse or civil partner”.

119. In section 230 (employee share ownership trusts: dwelling-houses: special provision), in subsections (1)(d), (3)(c), (5)(e) and (7)(d), after “spouse” insert “or civil partner”.

120.—(1) Section 253 (relief for loans to traders) is amended as follows.

(2) In subsection (3)(c), after “spouses” insert “or civil partners”.

(3) In subsection (4)(d), after “spouses”, in both places, insert “or civil partners”.

(4) In subsection (14), after paragraph (a) insert —

“(aa) “civil partners” means civil partners who are living together (construed in accordance with section 288(3)),”.

121. In section 286 (connected persons: interpretation), in subsections (2) and (4), for “husband or wife”, in each place, substitute “spouse or civil partner”.

122. In section 288 (interpretation) —

(a) in subsection (1), insert at the appropriate place —

““stepchild”, in relation to a civil partner, shall be construed in accordance with section 246 of the Civil Partnership Act 2004;”, and

(b) in subsection (3), for “a married woman living with her husband” substitute “an individual living with his spouse or civil partner”.

123. In Schedule A1(a) (application of taper relief), in paragraph 15 —

(a) in sub-paragraph (1), for “spouse””, in both places, substitute “spouse or civil partner””,

(b) in sub-paragraphs (2), (3), (4) and (5), after “spouse”, in each place, insert “or civil partner”,

(c) in sub-paragraph (5), after “spouse’s” insert “or civil partner’s”, and

(d) in the cross-heading before that paragraph, at the end insert “*or civil partners*”.

124. In Schedule 2 (computation of gains: assets held on 6th April 1965) —

(a) in paragraph 4(9), for “wife or husband” substitute “spouse or civil partner”, and

(b) in paragraph 22 —

(i) for “a man to his wife, or by a man’s wife to him” substitute “an individual to his spouse or civil partner”, and

(ii) in the cross-heading before that paragraph, for “*Husbands and wives*” substitute “*Spouses and civil partners*”.

125. In Schedule 4A(b) (disposal of interest in settled property: deemed disposal of underlying assets), in paragraph 7(5)(b) —

(a) after “spouse”, in each place, insert “or civil partner”, and

(b) after “married” insert “or to be civil partners of each other”.

126.—(1) Schedule 5 (attribution of gains to settlors with interest in non-resident or dual resident settlements) is amended as follows.

(2) In paragraph 2 —

(a) in sub-paragraph (3), after “spouse”, in each place, insert “or civil partner”,

(b) in sub-paragraph (4), for paragraph (c) substitute —

(a) Schedule A1 is introduced by section 2A(7) of the Taxation of Chargeable Gains Act 1992. Section 2A and Schedule A1 were inserted by section 121 of the Finance Act 1998 (c. 36).

(b) Schedule 4A is introduced by section 76A of the Taxation of Chargeable Gains Act 1992. Section 76A and Schedule 4A were inserted by section 91 of the Finance Act 2000 (c. 17).

“(c) in the case of a marriage settlement or civil partnership settlement, the death of both parties to the marriage or civil partnership and of all or any of the children of the family of the parties to the marriage or civil partnership, or”, and

(c) after sub-paragraph (4) insert —

“(4A) In sub-paragraph (4) “child of the family”, in relation to parties to a marriage or civil partner, means a child of one or both of them.”.

(3) In paragraph 2A(7)(a), after “spouse”, in both places, insert “or civil partner”.

(4) In paragraph 4(4), in the words following paragraph (b), after “married to” insert “, or a civil partner of,”.

(5) In paragraph 9 —

(a) in sub-paragraph (7), after “spouse”, in each place, insert “or civil partner”, and

(b) in sub-paragraph (10A) —

(i) after “spouse”, in each place, insert “or civil partner”, and

(ii) in paragraph (c), after “spouses” insert “or civil partners”.

127. In Schedule 5B(b) (enterprise investment scheme: re-investment), in paragraphs 3, 4, 5, 8, 12, 16 and 19, after “marriage”, in each place, insert “or civil partnership”.

128. In Schedule 5C(c) (venture capital trusts: deferred charge on re-investment), in paragraphs 3, 5 and 6, after “marriage”, in each place, insert “or civil partnership”.

129. In Schedule 7C(d) (relief for transfers to approved share plans), in paragraph 6, in sub-paragraphs (1)(d), (3)(c), (5)(e) and (7)(d), after “spouse” insert “or civil partner”.

Finance Act 1996

130. In Schedule 15 to the Finance Act 1996(e) (loan relationships: savings and transitional provisions), in paragraphs 26(3) and 27(2), after “marriage”, in each place, insert “or civil partnership”.

Finance Act 2000

131. The Finance Act 2000 is amended as follows.

132. In Schedule 15 (the corporate venturing scheme), in paragraphs 8(5), 18(2) and 99(2), for “husband or wife” substitute “spouse or civil partner”.

133. In Schedule 22 (tonnage tax), in paragraph 144(2), for “husband or wife” substitute “spouse or civil partner”.

Finance Act 2002

134. The Finance Act 2002 is amended as follows.

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- (a) Paragraph 2A was inserted by section 131 of, and paragraph 2 of Schedule 22 to, the Finance Act 1998 (c. 36).
- (b) Schedule 5B is introduced by section 150C of the Taxation of Chargeable Gains Act 1992. Section 150C and Schedule 5B were inserted by section 67 of, and paragraph 4 of Schedule 13 to, the Finance Act 1995 (c.4).
- (c) Schedule 5C is introduced by section 151A(3) of the Taxation of Chargeable Gains Act 1992. Section 151A and Schedule 5C were inserted by section 72 of the Finance Act 1995 (c. 4). By virtue of section 94(3) of, and paragraphs 5 and 7 of Schedule 19 to, the Finance Act 2004 (c. 12) Schedule 5C ceases to have effect in relation to shares issued on or after 6th April 2004 which are shares by reference to which an individual is given relief under Part 1 of Schedule 15B to the Income and Corporation Taxes Act 1988 (c. 1) but it does continue to have effect for the purposes of section 151B(8)(b)(ii) of the Taxation of Chargeable Gains Act 1992.
- (d) Schedule 7C is introduced by section 236A of the Taxation of Chargeable Gains Act 1992. Section 236A and Schedule 7C were inserted by section 48 of the Finance Act 2000 (c. 17).
- (e) 1996 (c. 8).

135. In Schedule 16 (community investment tax relief), in paragraph 50(2), for “husband or wife” substitute “spouse or civil partner”.

136. In Schedule 29 (gains and losses of a company from intangible fixed assets), in paragraph 101(2), for “wife or husband”, in each place, substitute “spouse or civil partner”.

Income Tax (Earnings and Pensions) Act 2003

137. The Income Tax (Earnings and Pensions) Act 2003 (a) is amended as follows.

138. In section 52 (conditions of liability where intermediary is a partnership), in subsection (2), for “husband or wife” substitute “spouse or civil partner”.

139. In section 61 (interpretation), after subsection (4) insert —

“(5) For the purposes of this Chapter two people of the same sex living together as if they were civil partners of each other are treated as if they were civil partners of each other.

For the purposes of this Chapter, two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex.”.

140. In section 68 (meaning of “material interest” in a company), in subsection (5), after “spouse”, in each place, insert “or civil partner”.

141. In section 174 (employment-related loans), in subsection (6), after “spouse”, in each place, insert “or civil partner”.

142. In section 218 (calculation of earnings rate for a tax year), in subsection (4), after “spouse’s”, in both places, insert “, civil partner’s”.

143. In section 240 (incidental overnight expenses and benefits), in subsection (7)(a) and (b), after “spouse’s” insert “, civil partner’s”.

144. In section 318C(b) (childcare: meaning of “qualifying child care”), in subsection (8) —

(a) in the definition of “partner”, for “married or unmarried couple” substitute “couple (within the meaning given by section 137(1) of SSCBA 1992 or section 133(1) of SSCB(NI)A 1992)”, and

(b) in the definition of “relative”, after “marriage” insert “or civil partnership”.

145. In section 325A(c) (health and employment insurance payments), in subsection (2)(b), for “husband or wife” substitute “spouse or civil partner”.

146.—(1) Section 371 (travel costs and expenses where duties performed abroad: visiting spouse’s or child’s travel) is amended as follows.

(2) In subsections (1)(a)(i) and (5), after “spouse” insert “, civil partner”.

(3) In the heading, after “spouse’s” insert “, civil partner’s”.

147. In section 372 (where seafarers’ duties are performed), in paragraph (b), after “spouse’s” insert “, civil partner’s”.

148.—(1) Section 374 (non-domiciled employee’s spouse’s or child’s travel costs and expenses where duties performed in UK) is amended as follows.

(2) In subsections (1)(b)(i) and (5), after “spouse” insert “, civil partner”.

(3) In the heading, after “spouse’s” insert “, civil partner’s”.

(a) 2003 (c. 1).

(b) Section 318C was inserted by section 78 of, and paragraph 1 of Schedule 13 to, the Finance Act 2004.

(c) Section 325A was inserted by section 882 of, and paragraph 592 of Schedule 1 to, the Income Tax (Trading and Other Income) Act 2005 (c. 5).

149. In section 386 (charge on payments to non-approved retirement benefits schemes), in subsection (6) —

- (a) after “spouse” insert “or civil partner”, and
- (b) after “widower” insert “or surviving civil partner”.

150. In section 396 (certain lump sums not taxed), in subsection (1)(b)(iv), after “ex-spouse” insert “or former civil partner”.

151. In section 400 (interpretation), in subsection (1) —

- (a) after the definition of “ex-spouse” insert —
 - ““former civil partner” means a member of a civil partnership that has been dissolved or annulled and, in relation to any person, means the other member of a civil partnership with that person that has been dissolved or annulled;”, and
- (b) in the definition of “relative” —
 - (i) in paragraph (a), for “wife or husband” substitute “spouse or civil partner”, and
 - (ii) in paragraph (b), after “widower” insert “or surviving civil partner”.

152. In section 401 (payments and benefits on termination of employment etc: preliminary), in subsection (1), after “spouse” insert “or civil partner”.

153. In section 551 (meaning of “qualifying disposals”), in subsection (2) —

- (a) in paragraph (b) —
 - (i) after “spouses”, in both places, insert “or civil partners”, and
 - (ii) after “widowers” insert “or surviving civil partners”, and
- (b) in paragraph (d), after “spouses” insert “or civil partners”.

154. In section 574 (“pension”: interpretation), in subsection (2)(b), after “widower” insert “or surviving civil partner”.

155. In section 583 (unauthorised payments), in subsection (5)(b), after “ex-spouse” insert “or former civil partner”.

156. In section 586 (meaning of “retirement benefits scheme” etc), in subsection (2)(b)(iii), after “ex-spouse” insert “or former civil partner”.

157.—(1) Section 588 (meaning of “employee” and “ex-spouse”) is amended as follows.

(2) In subsection (1), after the definition of “ex-spouse” insert —

““former civil partner” means a member of a civil partnership which has been dissolved or annulled and, in relation to any person, means the other member of a civil partnership with that person which has been dissolved or annulled;”.

(3) In the heading, after ““employee”” insert “, “former civil partner””.

158. In section 615 (certain overseas government pensions paid in the United Kingdom), in subsection (2)(a)(ii), after “widower,” insert “surviving civil partner,”.

159. In section 633 (voluntary annual payments), in subsection (2)(b), after “widower” insert “or surviving civil partner”.

160. In section 643 (Malawi, Trinidad and Tobago and Zambia government pensions), in subsection (2)(b), after “widower” insert “or surviving civil partner”.

161. In section 644A(a) (health and employment insurance payments), in subsection (2)(b), for “husband or wife” substitute “spouse or civil partner”.

(a) Section 644A was inserted by section 882 of, and paragraph 610 of Schedule 1 to, the Income Tax (Trading and Other Income) Act 2005.

162. In section 646 (former miners etc: coal and allowances in lieu of coal), in subsection (1)(a)(ii), after “widower” insert “or surviving civil partner”.

163. In section 665 (income support: exempt unless payable to member of couple involved in trade dispute) —

- (a) in subsection (1)(a), omit “married or unmarried”, and
- (b) in subsection (2), for ““married couple” and “unmarried couple” have” substitute ““couple” has”(a).

164. In section 669 (interpretation) —

- (a) in subsection (1), for the definitions of “married couple” and “unmarried couple” substitute —
““couple” has the same meaning as in section 137(1) of SSCBA 1992”,
- (b) in subsection (2), for the definitions of “married couple” and “unmarried couple” substitute —
““couple” has the same meaning as in section 133(1) of SSCB(NI)A 1992”, and
- (c) in subsection (3), omit “married or unmarried”.

165. In section 673 (taxable maximum: income-based jobseeker’s allowance), in subsections (2), (3) and (4)(a), omit “married or unmarried”.

166. In section 674 (taxable maximum: contribution-based jobseeker’s allowance), in subsections (2) and (3), omit “married or unmarried”.

167. In section 675 (interpretation) —

- (a) in subsection (1), for the definitions of “married couple” and “unmarried couple” substitute —
““couple” has the same meaning as in section 35(1) of JSA 1995”(b), and
- (b) in subsection (2), for the definitions of “married couple” and “unmarried couple” substitute —
““couple” has the same meaning as in Article 2(2) of JS(NI)O 1995”(c).

168. In section 721 (other definitions), in subsection (4) —

- (a) in paragraph (a), after “spouse” insert “or civil partner”, and
- (b) in paragraph (b), after “spouses” insert “or civil partners”.

169. In Part 2 of Schedule 1 (index of expressions defined in the Act or ICTA), insert at the appropriate places —

“former civil partner (in Chapter 2 of Part 6)	section 400(1)
former civil partner (in Chapter 6 of Part 9)	section 588(1)
stepchild (in Parts 4 and 5	section 832(1) of ICTA”.

170. In Schedule 2 (approved share incentive plans), in paragraph 22(3), in the definition of “relative”, in paragraph (a), after “spouse” insert “or civil partner”.

171. In Schedule 3 (approved SAYE option schemes), in paragraph 14(3), in the definition of “relative”, in paragraph (a), after “spouse” insert “or civil partner”.

-
- (a) The definition of “couple” was inserted into section 137(1) of SSCBA 1992 (c. 4) by clause 244 of, and paragraph 42(3) of Schedule [23] to, the Civil Partnership Act 2005 (c.). This definition was also inserted into section 133(1) of SSCB(NI)A 1992 (c. 7) by clause 244 of, and paragraph 92(3) of Schedule [23] to, the Civil Partnership Act.
 - (b) The definition of “couple” was inserted into section 35(1) of JSA 1995 (c. 18) by clause 244 of, and paragraph 112(2) of Schedule [23] to, the Civil Partnership Act 2005.
 - (c) The definition of “couple” was inserted into Article 2(2) of JS(NI)O 1995 (S.I. 1995/2705) by clause 244 of, and paragraph 117(2) of Schedule [23] to, the Civil Partnership Act 2005.

172. In Schedule 4 (approved CSOP schemes), in paragraph 12(3), in the definition of “relative”, in paragraph (a), after “spouse” insert “or civil partner”.

173. In Schedule 5 (enterprise management incentives), in paragraph 31(3), in the definition of “relative”, in paragraph (a), after “spouse” insert “or civil partner”.

Finance Act 2003

174. In Schedule 3 to the Finance Act 2003 (stamp duty land tax: transactions exempt from charge), after paragraph 3 insert —

“Transactions in connection with dissolution of civil partnership etc

3A. A transaction between one party to a civil partnership and the other is exempt from charge if it is effected —

- (a) in pursuance of an order of a court made on granting in respect of the parties an order or decree for the dissolution or annulment of the civil partnership or their judicial separation;
- (b) in pursuance of an order of a court made in connection with the dissolution or annulment of the civil partnership, or the parties’ judicial separation, at any time after the granting of such an order or decree for dissolution, annulment or judicial separation as mentioned in paragraph (a);
- (c) in pursuance of —
 - (i) an order of a court made at any time under any provision of Schedule 5 to the Civil Partnership Act 2004 that corresponds to section 22A, 23A or 24A of the Matrimonial Causes Act 1973, or
 - (ii) an incidental order of a court made under any provision of the Civil Partnership Act 2004 that corresponds to section 8(2) of the Family Law (Scotland) Act 1985 by virtue of section 14(1) of that Act of 1985;
- (d) at any time in pursuance of an agreement of the parties made in contemplation of or otherwise in connection with the dissolution or annulment of the civil partnership, their judicial separation or the making of a separation order in respect of them.”.

Finance Act 2004

175. The Finance Act 2004 is amended as follows.

176. In section 189 (relevant UK individual), in subsection (1)(d), after “spouse” insert “or civil partner”.

177. In section 192 (relief at source), in subsection (5), for “and 257A(5)” substitute “, 257A(5) and 257AB(4)”.

178. In section 203 (inheritance tax exemptions: amendments of the Inheritance Tax Act 1984), in subsection (5), in the words inserted into section 152 of the Inheritance Tax Act 1984, after “widower” insert “, surviving civil partner”.

179. In Schedule 15 (charge to income tax on benefits received by former owner of property) —

- (a) in paragraph 8(1)(b), after “spouse” insert “or civil partner”, and
- (b) in paragraph 10(1)(b) and (c), (2)(a) and (b) and (3), after “spouse”, in each place, insert “or civil partner”.

180. In Part 2 of Schedule 28 (pension death benefit rules: defined benefits and money purchase arrangements), in paragraph 15 —

- (a) in sub-paragraph (1), after “married to” insert “, or a civil partner of,”,

- (b) in sub-paragraph (1A)(a), after “married to” insert “, or a civil partner of,” and
- (c) in the opening words of sub-paragraph (3), after “married to” insert “, or a civil partner of,”.

181. In Schedule 35 (pension schemes etc: minor and consequential amendments), in paragraph 10(3), in the subsection (3) inserted into section 266A of the Income and Corporation Taxes Act 1988 —

- (a) after “spouse” insert “or civil partner”, and
- (b) after “widower” insert “or surviving civil partner”(b).

182. In Schedule 36 (pension schemes etc: transitional provisions and savings), in paragraph 54—

- (a) in sub-paragraph (1)(a), after “ex-spouse” insert “or former civil partner”, and
- (b) in sub-paragraph (5) —
 - (i) after the definition of “ex-spouse” insert —
 - ““former civil partner”, in relation to an employee, means the other party to a civil partnership with the employee that has been dissolved or annulled,”, and
 - (ii) in the definition of “relative” —
 - (aa) in paragraph (a), for “wife or husband” substitute “spouse or civil partner”, and
 - (bb) in paragraph (b), after “widower” insert “or surviving civil partner”.

Income Tax (Trading and Other Income) Act 2005

183. The Income Tax (Trading and Other Income) Act 2005(c) is amended as follows.

184. In section 94 (family expenses), in the opening words of subsection (1), after “spouse” insert “or civil partner”.

185. In section 487 (disregard of certain assignments), in paragraph (c), after “spouses” insert “or civil partners”.

186. In section 619 (settlements: amounts treated as income of settlor: charge to tax under Chapter 5), in subsection(1)(b), for “unmarried minor” substitute “relevant”.

187. In section 624 (income where settlor retains an interest), in subsection (3), after “spouses” insert “or civil partners”.

188.—(1) Section 625 (settlor’s retained interest) is amended as follows.

(2) In subsection (1), after “spouse”, in both places, insert “or civil partner”.

(3) In subsection (2), for paragraph (d) substitute —

“(d) in the case of a marriage settlement or civil partnership settlement, the death of both parties to the marriage or civil partnership and of all or any of the children of the family of the parties to the marriage or civil partnership, and”.

(4) After subsection (2) insert —

“(2A) In subsection (2) “child of the family”, in relation to parties to a marriage or civil partnership, means a child of one or both of them.”.

(5) In subsection (4) —

- (a) in the opening words and paragraphs (a) and (b), after “spouse” insert “or civil partner”,

(a) Sub-paragraph (1A) was inserted by section 101 of, and paragraph 26 of Schedule 10 to, the Finance Act 2005.
 (b) Under section 284(1) of the Finance Act 2004 these provisions do not come into force until 6th April 2006.
 (c) 2005 (c. 5).

- (b) in paragraph (c), after “widower” insert “or surviving civil partner”, and
- (c) in paragraph (d), after “marry” insert “ or a person of whom the settlor is not a civil partner but of whom the settlor may later be a civil partner”.

189.—(1) Section 626 (exception for outright gifts between spouses) is amended as follows.

- (2) In subsection (1)(b), after “other” insert “or one civil partner to the other”.
- (3) In the heading, after “spouses” insert “or civil partners”.

190. In section 627 (exceptions for certain types of income), in subsection (1)(a), after “marriage”, in both places, insert “or civil partnership”.

191. In section 628 (exception for gifts to charities), in subsection (3)(b), for “unmarried minor” substitute “relevant”.

192.—(1) Section 629 (income paid to unmarried minor children of settlor) is amended as follows.

- (2) In subsection (1), in paragraphs (a) and (b), for “an unmarried minor” substitute “a relevant”.
- (3) In subsection (7) —
 - (a) omit “and” at the end of paragraph (b),
 - (b) at the end of paragraph (c) insert “, and”, and
 - (c) after paragraph (c) insert —
 - “(d) “relevant child” means a minor child who is unmarried or not in a civil partnership.

(4) In the heading, for “unmarried minor” substitute “relevant”.

(5) In the cross-heading before section 629, for “*unmarried*” substitute “*relevant*”.

193.—(1) Section 631 (retained and accumulated income) is amended as follows.

(2) In subsection (1)(b), for “an unmarried child of the settlor” substitute “a child of the settlor who is unmarried or not in a civil partnership”.

(3) In subsection (5)(b), for “an unmarried minor” substitute “a relevant”.

194. In section 634 (meaning of “capital sum” and “sums paid to settlor”), in subsection (7), after “spouse”, in both places, insert “or civil partner”.

195.—(1) Section 637 (qualifications to section 636: calculation of undistributed income) is amended as follows.

- (2) In subsection (3), after “spouse” insert “or civil partner”.
- (3) In subsection (5), in the description of B, after “spouse” insert “or civil partner”.
- (4) In subsection (6)(b), after “spouse” insert “or civil partner”.

196. In section 729 (payments for non-taxable consideration), in subsection (3), for “divorce” substitute “dissolution”.

197.—(1) Section 730 (foreign maintenance payments) is amended as follows.

- (2) In subsection (4)(a), after “marriage” insert “or civil partnership”.
- (3) In subsection (5), after “annulled” insert “, and “civil partnership” includes a civil partnership that has been dissolved or annulled”.

198. In section 742 (meaning of “the insured”), after “spouse”, in each place, insert “or civil partner”.

199. In Schedule 2 (transitionals and savings etc), in paragraph 86(2), in the substituted section 479, in subsection (2)(b), after “spouses” insert “and surviving civil partners”.

200. In Part 2 of Schedule 4 (index of expressions defined in this Act etc), insert at the appropriate place —

“stepchild section 832(1) of ICTA”.

2005 Two of the Lords Commissioners of Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend primary tax legislation to provide for civil partnerships.

The Civil Partnership Act 2004 (c. 33) comes into force on 5 December 2005. The Act enables same-sex couples to obtain legal recognition of their relationship by forming a civil partnership. A civil partnership may be formed by persons registering as civil partners of each other. In addition persons may be treated as having formed a civil partnership as a result of having registered an overseas relationship which is recognised by the Civil Partnership Act.

These Regulations provide the same or similar tax treatment for persons who are, have been or may in the future be civil partners of each other as is given to persons who are, have been or may in the future be married to each other. These Regulations also provide the same or similar tax treatment for the formation of a civil partnership as is given to marriage. For some legislation the tax consequences are determined in part by whether persons are not married to each other but are living together as husband or wife, whether persons are not married to each other or whether a person is not married. These Regulations provide that the same or similar tax consequences apply where persons are not civil partners of each other but are living together as if they were, where persons are not civil partners of each other or where a person is not a civil partner, as the case may be.

These Regulations also make provision for the purpose of removing inequalities of treatment based on gender and, in the case of a parent, marital status. The provisions affected are section 11 (dispositions for maintenance of family) of the Inheritance Tax Act 1984 (c.51) and sections 257A, 257BA, 257BB (married couple's allowance) and 347B (qualifying maintenance payments) of the Income and Corporation Taxes Act 1988 (c. 1). These Regulations also make more generous provision in relation to the children that can be provided for under a marriage settlement. The provisions affected are section 22 (gifts in consideration of marriage) of the Inheritance Tax Act, sections 77 (charge on settlor with interest in settlement) and 169F (meaning of "interest in a settlement") of, and paragraph 2 of Schedule 5 (attribution of gains to settlors with interest in non-resident or dual resident settlements) to, the Taxation of Chargeable Gains Act 1992 (c. 12), and section 625 of the Income Tax (Trading and Other Income) Act 2005 (c. 5).

*Draft Regulations laid before the House of Commons under section 103 of the Finance Act 2005,
for approval by resolution of the House of Commons.*

DRAFT STATUTORY INSTRUMENTS

2005 No.

CAPITAL GAINS TAX

CORPORATION TAX

INCOME TAX

INHERITANCE TAX

PETROLEUM REVENUE TAX

STAMP DUTY

STAMP DUTY LAND TAX

The Tax and Civil Partnership Regulations 2005

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