



# Finance Act 1981

## 1981 CHAPTER 35

An Act to grant certain duties, to alter other duties, and to amend the law relating to the National Debt and the Public Revenue, and to make further provision in connection with Finance. [27th July 1981]

Most Gracious Sovereign

WE, Your Majesty's most dutiful and loyal subjects, the Commons of the United Kingdom in Parliament assembled, towards raising the necessary supplies to defray Your Majesty's public expenses, and making an addition to the public revenue, have freely and voluntarily resolved to give and to grant unto your Majesty the several duties hereinafter mentioned; and do therefore most humbly beseech Your Majesty that it may be enacted, and be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### PART I

#### CUSTOMS AND EXCISE

##### **1 Spirits, beer, wine, made-wine and cider**

- (1) In the Table in section 5 of the Alcoholic Liquor Duties Act 1979 (excise duty on spirits) for "11.87" and "11.90" there shall be substituted " 13.60 " and " 13.63 " respectively.
- (2) In section 36 of that Act (excise duty on beer) for "£13.05" and " £0.435 " there shall be substituted " £18.00 " and " £0.60 " respectively.
- (3) For the provisions of Schedule 1 to that Act (rates of excise duty on wine) there shall be substituted the provisions of Schedule 1 to this Act.

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- (4) For the provisions of Schedule 2 to that Act (rates of excise duty on made-wine) there shall be substituted the provisions of Schedule 2 to this Act.
- (5) In section 62(1) of that Act (excise duty on cider) for " £6.05 " there shall be substituted " £7.20 ".
- (6) This section shall be deemed to have come into force on 11th March 1981.

## 2 Tobacco products

- (1) For the Table in Schedule 1 to the Tobacco Products Duty Act 1979 there shall be substituted—

“TABLE

1. Cigarettes	An amount equal to 21 per cent, of the retail price plus £19.03 per thousand cigarettes.
2. Cigars	£35.91 per kilogram.
3. Hand-rolling tobacco	£30.96 per kilogram.
4. Other smoking tobacco and chewing tobacco	£22.96 per kilogram.”

- (2) Section 3 of that Act (additional duty on higher tar cigarettes) shall cease to have effect.
- (3) This section shall be deemed to have come into force on 14th March 1981 but as respects the period beginning with that date and ending with 7th July 1981 the Table set out in subsection (1) above shall have effect with the substitution for " £19.03 ", " £35.91 ", " £30.96 " and " £22.96 " of " £18.04 ", " £34.29 ", " £29.56 " and " £21.92 " respectively.

## 3 Matches and mechanical lighters

- (1) In section 1(1) of the Matches and Mechanical Lighters Duties Act 1979 (duty on matches at the rate of £0.49 for every 7,200 matches) for "£0.49 " there shall be substituted " £1.15 ".
- (2) In section 6(1) of that Act (duty on mechanical lighters at the rate of £0.20 for each lighter) for "£0.20 " there shall be substituted " £0.50 ".
- (3) In section 6(3) of that Act (exemption for lighters constructed solely for the purpose of igniting gas for domestic use) after the word " domestic " there shall be inserted the words " or industrial ".
- (4) This section shall be deemed to have come into force on 11th March 1981.

## 4 Increase of duty on hydrocarbon oil etc.

- (1) In section 6(1) of the Hydrocarbon Oil Duties Act 1979 for the words "a duty of excise at the rate of £0.10 a : litre " there shall be substituted the words " a duty of excise; at the rate of £0.1382 a litre in the case of light oil and £0.1191; a litre in the case of heavy oil ".

- (2) In consequence of subsection (1) above—
- (a) in sections 7 and 8(3) and (4)(c) of the said Act of 1979 and Article 3 of the Excise Duties (Gas as Road Fuel) Order 1972 (under which duty is charged by reference to the duty on hydrocarbon oil); and
  - (b) in section 92(2) of the Finance Act 1965 and section 14(2) of the Finance Act (Northern Ireland) 1966 (grants towards duty on bus fuel),
- for the words " hydrocarbon oil" there shall be substituted the words " light oil ".
- (3) This section shall be deemed to have come into force at 6 o'clock in the evening on 10th March 1981 but as respects the period beginning at that time and ending at 6 o'clock in the evening on 2nd July 1981 the rate of the duty of excise charged by section 6(1) of the said Act of 1979 shall, notwithstanding subsection (1) above, be £0.1382 a litre in the case of heavy oil as well as light oil and the provisions mentioned in subsection (2) above shall have effect accordingly.

## **5 Energy for refineries etc.**

- (1) The Hydrocarbon Oil Duties Act 1979 shall have effect with the following amendments, being amendments providing for relief from duty where energy is produced for use in refineries and other premises used for the production of hydrocarbon oil.
- (2) After section 19 there shall be inserted—

### **“19A Fuel for producing energy for refineries etc.**

- (1) If on an application made for the purposes of this section by an approved person it is shown to the satisfaction of the Commissioners—
- (a) that any quantity of rebated hydrocarbon oil has been used by him, otherwise than at a refinery or other premises used for the production of hydrocarbon oil, as fuel for producing energy; and
  - (b) that not less than one-sixth or more than one-third of that energy was used in the treatment of hydrocarbon oil at a refinery or in the production of hydrocarbon oil at other premises used for the production of such oil,
- the applicant shall be entitled to obtain from the Commissioners repayment of one-third of the amount of excise duty which has been paid in respect of the quantity so used less the rebate allowed in respect of the duty.
- (2) In this section " an approved person " means a person for the time being approved in accordance with regulations made for the purposes of this section under section 24(1) below.”
- (3) In section 27(1) for the definition of " refinery " there shall be substituted—
- “refinery' means any premises which—
- (a) are approved by the Commissioners for the treatment of hydrocarbon oil; or
  - (b) are approved by them for the production of energy for use in the treatment of hydrocarbon oil at premises approved under paragraph (a) above or is the production of hydrocarbon oil at other premises used for the production of such oil;

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and the Commissioners may approve any premises under paragraph (b) above if it appears to them that more than one-third of the energy will be produced for such use as is mentioned in that paragraph ;”.

(4) After section 27(1) there shall be inserted—

“(1A) If in the case of any premises which the Commissioners can approve under paragraph (b) of the definition of " refinery " in subsection (1) above it appears to them appropriate to do so, they may direct that the provisions of this Act (other than that definition) shall apply to them as if, instead of being a refinery, they were other premises used for the production of hydrocarbon oil.”

(5) Subsection (2) above has effect in relation to oil used on or after 1st September 1981.

## **6 Repayment of hydrocarbon oil duty**

(1) The Hydrocarbon Oil Duties Act 1979 shall have effect with the amendments in subsections (2) and (3) below, being amendments which enable regulations to be made with respect to applications for repayment of duty under sections 17, 18(1), 19 and 19A of that Act.

(2) In section 24(1) for the words "or section 14(1) above" there shall be substituted the words " , section 14(1), section 17, section 18(1), section 19 or section 19A above ".

(3) For paragraph 3 of Schedule 4 there shall be substituted—

“3 Requiring claims or applications for repayment under section 9(4), 17, 18(1), 19 or 19A of this Act to be made at such times and in respect of such periods as are prescribed ; providing that no such claim or application shall lie where the amount to be paid is less than the prescribed minimum; and preventing, where a claim or application can be made under section 9(4) or 19, the payment of drawback.”

(4) It is hereby declared for the avoidance of doubt that references in sections 17(1), 18(1) and 19(3) of the said Act of 1979 to duty paid in respect of the oil used as mentioned in those provisions are to the duty less any rebate allowed in respect of it and accordingly those provisions shall have effect, and be deemed always to have had effect, with the insertion after the words " so used " of the words " less any rebate allowed in respect of the duty ".

## **7 Vehicles excise duty: Great Britain**

(1) The Vehicles (Excise) Act 1971 shall be amended as follows.

(2) For the provisions of Part II of Schedules 1 to 5 (annual rates of duty) there shall be substituted the provisions set out in Schedule 3 to this Act.

(3) In subsection (5) of section 16 (rates of duty for trade licences), including that subsection as set out in paragraph 12 of Part I of Schedule 7, for " £30 " and " £6 " there shall be substituted respectively " £35 " and " £7 ".

(4) In the heading of Schedule 1 and paragraph 1 of Part I of that Schedule (annual rates of duty on certain vehicles not exceeding 8\$ cwt.) for " 8 ½ CWT. " and " 8J hundredweight" there shall be substituted respectively " 425 KG. " and "425 kilograms ".

(5) This section has effect in relation to licences taken out after 10th March 1981.

## **8 Vehicles excise duty: Northern Ireland**

(1) The Vehicles (Excise) Act (Northern Ireland) 1972 shall be amended as follows.

(2) For the provisions of Part II of Schedules 1 to 5 (annual rates of duty) there shall be substituted the provisions set out in Schedule 4 to this Act.

(3) In subsection (6) of section 16 (rates of duty for trade licences), including that subsection as set out in paragraph 12 of Part I of Schedule 9, for " £30 " and " £6 " there shall be substituted respectively " £35 " and " £7 ".

(4) In the heading of Schedule 1 and paragraph 1 of Part I of that Schedule (annual rates of duty on certain vehicles not exceeding 8£ cwt.) for " 8 ¼ CWT." and "8 ¼ hundredweight" there shall be substituted respectively " 425 KG. " and "425 kilograms ".

(5) This section has effect in relation to licences taken out after 10th March 1981.

## **9 Betting and gaming duties**

(1) In section 1(2) (b) of the Betting and Gaming Duties Act 1972 and section 17(1)(b) of the Miscellaneous Transferred Excise Duties Act (Northern Ireland) 1972 (general betting duty on bets other than on-course bets) for the words " 7½ per cent. " there shall be substituted the words " 8 per cent. ".

(2) In subsection (3)(b)(ii) of section 6 of the Betting and Gaming Duties Act 1972 (exclusion of bets in lotteries within section 5 or 6 of the Lotteries and Amusements Act 1976 in which the relevant monetary limits are not exceeded) the words " (disregarding any variation of those limits made by order under section 18 of that Act)" shall be omitted.

(3) For subsection (4) of that section (definition of " relevant monetary limits ") there shall be substituted—

“(4) In subsection (3) above " relevant monetary limits " means the limits referred to in section 5(3)(d)(i) and subsections (2), (5), (6) and (8) of section 11 of the said Act of 1976 as those sections have effect on 1st July 1981 or such other limits as the Commissioners may by order made by statutory instrument provide ; and an order made under this subsection shall be subject to annulment in pursuance of a resolution of the House of Commons.”.

(4) In section 17(2) of the Betting and Gaming Duties Act 1972 (bingo duty)—

(a) for the words " 7½ per cent.", in both places where they occur, there shall be substituted the words " 10 per cent. "; and

(b) for the words " three thirty-sevenths " there shall be substituted the words " one-ninth ".

(5) In section 23(1) of the Betting and Gaming Duties Act 1972 (rates of gaming machine licence duty)—

(a) in Table A (premises with local authority approval) for " £20 ", "£25 " and " £100 " there shall be substituted " £25 ", " £60 " and " £120 " respectively ;

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- (b) in Table B (premises without local authority approval) for "£50" and "£300" there shall be substituted " £75 " and "£400" respectively, and, as respects machines chargeable at the higher rate, for the entries in the second and third columns there shall be substituted " One or more machines " and " £200 per machine " respectively.
- (6) In the Table in section 44(4) of the Miscellaneous Transferred Excise Duties Act (Northern Ireland) 1972 (rates of gaming machine licence duty in Northern Ireland) for " £50 " and " £300 " there shall be substituted " £75 " and " £400 " respectively, and, as respects machines chargeable at the higher rate, for the entries in the second and third columns there shall be substituted " One or more machines " and " £200 per machine " respectively.
- (7) The enactments specified in Schedule 5 to this Act shall have effect subject to the amendments specified in that Schedule, being amendments designed to facilitate, or otherwise desirable in connection with, the consolidation of the law relating to betting and gaming duties.
- (8) Subsection (1) above shall be deemed to have come into force on 12th July 1981, subsections (2) and (3) above shall be deemed to have come into force on 1st July 1981, subsection (4) above shall be deemed to have come into force on 27th July 1981 and subsections (5) and (6) above shall come into force on 1st October 1981.

## **10 Import and export procedures**

- (1) The Customs and Excise Management Act 1979 shall have effect with the amendments specified in Schedule 6 to this Act, being amendments relating to the control of importation.
- (2) For sections 53 to 58 of that Act (which relate to the control of exportation) there shall be substituted the sections set out in Part I of Schedule 7 to this Act; and the provisions of that Act mentioned in Part II of that Schedule (which also relate to that matter) shall have effect with the amendments there specified.
- (3) Subsection (1) above shall come into force on such day as may be appointed by the Commissioners of Customs and Excise by order made by statutory instrument and different days may be appointed in relation to different paragraphs of the Schedule mentioned in that subsection.
- (4) Subsection (2) above does not affect the operation of the said Act of 1979 in relation to goods exported before 1st October 1981.

## **11 Miscellaneous customs and excise amendments**

- (1) The enactments mentioned in Schedule 8 to this Act (which relate among other things to the administration and regulation of alcoholic liquor duties, warehousing and excise licences) shall have effect with the amendments there specified.
- (2) The following provisions of that Schedule shall come into force on 1st July 1982, namely—
  - (a) paragraph 5, in so far as it affects section 105 of the Customs and Excise Management Act 1979 ;
  - (b) paragraph 20, in so far as it affects sections 65(1) to (7), 70, 86(1)(a) and (2) and 89 of the Alcoholic Liquor Duties Act 1979 ; and

- (c) paragraphs 24 to 28.
- (3) Section 16 of the Customs Duties (Dumping and Subsidies) Act 1969 (which requires the Secretary of State to lay before Parliament for each financial year a report on the anti-dumping and countervailing duties in force under that Act) shall not apply to any financial year ending after 31st March 1981.

## PART II

### VALUE ADDED TAX

#### 12 Registration

- (1) In paragraph 1 of Schedule 1 to the Finance Act 1972 (liability to be registered)—
- (a) for "£4,000" there shall be substituted " £5,000 "; and
  - (b) for " £13,500 ", in each place, there shall be substituted " £15,000 ";
- and in section 20(1) of that Act (registration of local authorities) for "£13,500", in both places, there shall be substituted " £15,000 ".
- (2) In paragraph 2 of the said Schedule 1 (termination of liability to be registered)—
- (a) for "£13,500", in both places, there shall be substituted " £15,000 "; and
  - (b) for " £12,500 " there shall be substituted " £14,000 ".
- (3) For paragraph 7 of the said Schedule 1 (discretionary registration) there shall be substituted—
- “7 (1) Where a person who satisfies the Commissioners that he intends to make taxable supplies from a specified date and will be liable to be registered when he does so requests to be registered the Commissioners may, subject to such conditions as they think fit to impose, register him from such date as may be agreed between them and that person.
- (2) The Commissioners may cancel the registration of a person under this paragraph if he does not begin to make taxable supplies by the date specified in his request or does not become liable to be registered from that date.”
- (4) In sub-paragraph (1)(b) of paragraph 11 of the said Schedule 1 (discretionary registration or exemption from registration) for the words " a person who makes or intends to make taxable supplies " there shall be substituted the words " a person who makes or satisfies the Commissioners that he intends to make taxable supplies " ; and after that sub-paragraph there shall be inserted—
- “(1A) A person exempted from registration under sub-paragraph (1)(a) above shall notify the Commissioners without delay of any material change in the nature of the supplies made by him and of any material alteration in any quarter in the proportion of his taxable supplies that are zero-rated.”
- (5) Subsection (1) above shall be deemed to have come into force on 11th March 1981 and subsection (2) above on 1st June 1981.

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### **13 Goods acquired before incorporation**

In section 3(8) of the Finance Act 1972 (power to make regulations about input tax) after paragraph (b) there shall be inserted—

“(bb) for a taxable person that is a body corporate to count as its input tax, in such circumstances, to such extent and subject to such conditions as may be prescribed, tax under either of those Parts on the supply or importation of goods acquired for it before its incorporation or on the supply of services before that time for its benefit or in connection with its incorporation ;”.

### **14 Valuation: special cases**

(1) In Schedule 3 to the Finance Act 1972, for paragraphs 1 to 3 there shall be substituted—

“1 (1) Where—

- (a) the value of a supply made by a taxable person for a consideration in money is (apart from this paragraph) less than its open market value, and
- (b) the person making the supply and the person to whom it is made are connected, and
- (c) the person to whom the supply is made is not entitled under sections 3 and 4 of this Act to credit for all the tax on the supply,

the Commissioners may direct that the value of the supply shall be taken to be its open market value.

(2) A direction under this paragraph shall be given by notice in writing to the person making the supply, but no direction may be given more than three years after the time of the supply.

(3) A direction given to a person under this paragraph in respect of a supply made by him may include a direction that the value of any supply—

- (a) which is made by him after the giving of the notice, or after such later date as may be specified in the notice, and
- (b) as to which the conditions in paragraphs (a) to (c) of subparagraph (1) above are satisfied,

shall be taken to be its open market value.

(4) For the purposes of this paragraph any question whether a person is connected with another shall be determined in accordance with section 533 of the Income and Corporation Taxes Act 1970.

(5) This paragraph does not apply to a supply to which paragraph 9 A below applies.

2 (1) Where—

- (a) goods are imported at a price in money which (together with all such taxes, duties, charges and costs as are specified in subsection (2)(a) and (b) of section 11 of this Act and not included in the price) is less than their value as determined in accordance with subsection (3) of that section, and



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- (b) the person importing the goods and the person entitled to the price are connected, and
- (c) the person importing the goods is not entitled under sections 3 and 4 of this Act to credit for all the tax paid or payable by him on the importation,

the Commissioners may direct that the value of the goods shall be taken to be their value as determined in accordance with the said subsection (3).

- (2) A direction under this paragraph shall be given by notice in writing to the person importing the goods, but no direction may be given more than three years after the time of importation.
- (3) A direction given to a person under this paragraph in respect of goods imported by him may include a direction that the value of any goods—
  - (a) which are imported by him after the giving of the notice, or after such later date as may be specified in the notice, and
  - (b) as to which the conditions in paragraphs (a) to (c) of subparagraph (1) above are satisfied,shall be taken to be their value as determined in accordance with section 11(3) of this Act.
- (4) For the purposes of this paragraph any question whether a person is connected with another shall be determined in accordance with section 533 of the Income and Corporation Taxes Act 1970.

3 Where—

- (a) the whole or part of a business carried on by a taxable person consists in supplying to a number of persons goods to be sold, whether by them or others, by retail, and
- (b) those persons are not taxable persons,

the Commissioners may by notice in writing to the taxable person direct that the value of any such supply by him after the giving of the notice or after such later date as may be specified therein shall be taken to be its open market value on a sale by retail.”

- (2) In paragraphs 7 and 8 of that Schedule, at the end, there shall be added the words " except where paragraph 9A below applies ".
- (3) After paragraph 9 of that Schedule there shall be inserted—
  - “9A (1) This paragraph applies to a supply of goods or services, whether or not for a consideration, which is made by an employer and consists of—
    - (a) the provision in the course of catering of food or beverages to his employees, or
    - (b) the provision of accommodation for his employees in a hotel, inn, boarding house or similar establishment.
  - (2) The value of a supply to which this paragraph applies shall be taken to be nil unless the supply is for a consideration consisting wholly or partly of money, and in that case its value shall be determined without regard to any consideration other than money.”

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## 15 Appeals

In section 40 of the Finance Act 1972, after subsection (5) there shall be added—

“(6) Where an appeal under this section is against a decision of the Commissioners which depended upon a prior decision taken by them in relation to the appellant, the fact that the prior decision is not within subsection (1) above shall not prevent the tribunal from allowing the appeal on the ground that it would have allowed an appeal against the prior decision.”

## PART III

### CAR TAX

## 16 Extension to motor cycles

- (1) Section 52 of the Finance Act 1972 (car tax) shall have effect with the following amendments, being amendments extending that tax to motor cycles.
- (2) In subsection (3) (definition of " chargeable vehicle ") the words " has three or more wheels " shall be omitted.
- (3) In subsection (4)(a) (excluded vehicles) for the words " vehicles capable of accommodating only one person " there shall be substituted the words " vehicles having three or more wheels and capable of accommodating only one person ".
- (4) This section shall be deemed to have come into force on 1st April 1981 but car tax shall not by virtue of this section be chargeable on any vehicle imported on or after that date if it was exported from the United Kingdom before that date and was before being exported registered under the Vehicles (Excise) Act 1971, the Vehicles (Excise) Act (Northern Ireland) 1972 or any corresponding enactment in force in the Isle of Man.

## 17 Import and export

- (1) For paragraph (b) of section 52(1) of the Finance Act 1972 (charge of car tax on vehicles made or registered in the United Kingdom by person not registered under Schedule 7 to that Act or under the corresponding provisions in force in the Isle of Man) there shall be substituted—
  - “(b) made or registered in, or imported into, the United Kingdom by any other person except a person registered under Schedule 7 to the Value Added Tax and Other Taxes Act 1973 (an Act of Tynwald).”
- (2) In paragraph 3 of Schedule 7 to that Act (persons by whom car tax is payable) after paragraph (a) there shall be inserted the words “and
  - (aa) if the vehicle is imported by a person not registered under this Schedule as if it were a duty of excise chargeable on importation ; and”.
- (3) The provisions of paragraph 3 of the said Schedule 7 as amended by subsection (2) above shall become sub-paragraph (1) and after that sub-paragraph there shall be inserted—
  - “(2) Subject to sub-paragraph (3) below, the Customs and Excise Management Act 1979 and, except where the contrary intention appears, any other

enactments (including provisions of regulations or other instruments having statutory effect) relating generally to excise duties on imported goods, whether passed or made before or after the passing of this Act, shall have effect, with such exceptions and adaptations as the Commissioners may by regulations prescribe, as if chargeable vehicles in respect of which tax is payable in accordance with sub-paragraph (1)(aa) above were liable to a duty of excise on importation and as if the tax were that duty.

(3) The following enactments shall be excepted from those which are to have effect as mentioned in sub-paragraph (2) above—

- (a) sections 43(5), 125, 126 and 127(1) of the said Act of 1979;
- (b) the Customs and Excise Duties (General Reliefs) Act 1979; and
- (c) sections 8 and 9 of the Isle of Man Act 1979.”.

(4) In paragraph 7 of the said Schedule 7 (relief for exported vehicles)—

- (a) there shall be omitted in sub-paragraph (a) the words " and was not registered before it was exported " and in sub-paragraph (b) the words " and is not registered "; and
- (b) after the words " repay it" there shall be inserted the words " subject, in the case of a vehicle registered before exportation, to such conditions as they think fit ".

(5) In paragraph 9(1) of the said Schedule 7 (remission of tax on vehicles used outside the United Kingdom and Isle of Man) after the words " protection of the revenue " there shall be inserted the words " where the vehicle is imported after having been exported and tax was not remitted or repaid under paragraph 7 of this Schedule or ".

(6) Subsections (1) to (4) above shall be deemed to have come into force on 1st April 1981.

## **18 Penalties**

(1) After paragraph 22(4) of Schedule 7 to the Finance Act 1972 (daily penalty of £10 for failure to comply with certain requirements) there shall be inserted—

“(4A) Where the failure referred to in sub-paragraph (4) of this paragraph consists—

- (a) in not paying the tax due in respect of any period within the time required by regulations under paragraph 26 of this Schedule ; or
- (b) in not furnishing a return in respect of any period within the time required by any such regulations,

that sub-paragraph shall have effect as if for £10 there were substituted (if it is greater) an amount equal to  $\frac{1}{2}$  per cent, of the tax due in respect of that period; and for that purpose the tax due shall, if the person concerned has furnished a return, be taken to be the tax shown in the return as that for which he is accountable for that period and, in any other case, be taken to be such tax as has been assessed and notified to him under paragraph 17 of this Schedule.”.

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## PART IV

### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

#### CHAPTER I

##### GENERAL

#### 19 Charge of income tax for 1981-82

- (1) Income tax for the year 1981-82 shall be charged at the basic rate of 30 per cent.; and
- (a) in respect of so much of an individual's total income as exceeds the basic rate limit at such higher rates as are specified in the Table below; and
  - (b) in respect of so much of the investment income included in an individual's total income as exceeds the investment income threshold at the additional rate of 15 per cent.

<i>Higher rate bands</i>	<i>Higher rate</i>
The first	40 per cent.
The second	45 per cent.
The third	50 per cent.
The fourth	55 per cent.
The fifth	60 per cent.

- (2) Section 24(4) of the Finance Act 1980 (increase of basic rate limit, higher rate bands and investment income threshold) shall not apply for the year 1981-82.

#### 20 Charge of corporation tax for financial year 1980

Corporation tax shall be charged for the financial year 1980 at the rate of 52 per cent.

#### 21 Rate of advance corporation tax for financial year 1981

The rate of advance corporation tax for the financial year 1981 shall be three-sevenths.

#### 22 Corporation tax: small companies

- (1) The small companies rate for the financial year 1980 shall be 40 per cent., and for that year the fraction mentioned in subsection (2) of section 95 of the Finance Act 1972 (marginal relief for small companies) shall be two twenty-fifths.
- (2) For the financial year 1980 and subsequent financial years subsection (3) of the said section 95 shall have effect with the substitution for any reference to £70,000 of a reference to £80,000 and with the substitution for any reference to £130,000 of a reference to £200,000.
- (3) Where by virtue of subsection (2) above the said section 95 has effect with different relevant amounts in relation to different parts of the same accounting period, those parts shall be treated for the purposes of that section as if they were separate accounting

periods and the profits and income of the company for that period (as defined in that section) shall be apportioned between those parts.

## **23 Personal reliefs**

- (1) Section 24(5) of the Finance Act 1980 (increase of personal reliefs) shall not apply for the year 1981-82.
- (2) In subsection (1) of section 18 of the Taxes Act (relief for one blind person) for the words following paragraph (b) there shall be substituted the words " he shall be entitled to a deduction of £360 from his total income. "
- (3) In subsection (2) of that section (relief for blind couple)—
  - (a) paragraph (c), together with the word " and " preceding it, shall be omitted;
  - (b) for the words following that paragraph there shall be substituted the words " he shall be entitled to a deduction of £720 from his total income. "
- (4) In subsection (6) of that section the definition of " tax-free disability payment" shall be omitted.

## **24 Relief for interest: limit for 1981-82**

In paragraph 5(1) of Schedule 1 to the Finance Act 1974 (limit on relief for interest on certain loans for the purchase or improvement of land) the references to £25,000 shall have effect for the year 1981-82 as well as for previous years of assessment.

## **25 Relief for interest: money borrowed for investment in partnership or co-operative**

- (1) Schedule 1 to the Finance Act 1974 (conditions for interest relief) shall be amended as follows.
- (2) In paragraph 12(a) (money borrowed for investment in partnership) for the words " the individual has personally acted in the conduct of the trade, profession or vocation carried on by the partnership " there shall be substituted the words " the individual has been a member of the partnership otherwise than as a limited partner ".
- (3) After paragraph 10 there shall be inserted—

### *“Loan applied in acquiring interest in co-operative*

- 10A (1) Subject to the following provisions of this Part of this Schedule, interest is eligible for relief under section 75 of the Finance Act 1972 if it is interest on a loan to an individual to defray money applied—
- (a) in acquiring a share or shares in a body which is a co-operative within the meaning of this paragraph ; or
  - (b) in lending money to any such body which is used wholly and exclusively for the purposes of the business of that body or of a subsidiary of that body; or
  - (c) in paying off another loan interest on which would have been eligible for relief under section 75 of the Finance Act 1972 had the loan not been paid off (on the assumption, if the loan was free of interest, that it carried interest);

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and the conditions stated in paragraph 10B below are satisfied.

- (2) In this paragraph and paragraphs 10B, 13 and 14 below " co-operative " means a common ownership enterprise or a co-operative enterprise as defined in section 2 of the Industrial Common Ownership Act 1976; and in this paragraph and paragraph 10B below "subsidiary" has the same meaning as for the purposes of that section.

10B The conditions referred to in paragraph 10A above are—

- (a) that, when the interest is paid, the body continues to be a co-operative ; and
  - (b) that in the period from the application of the proceeds of the loan to the payment of the interest the individual has worked for the greater part of his time as an employee of the body or of a subsidiary of the body ; and
  - (c) that he shows that in that period he has not recovered any capital from the body, apart from any amount taken into account under paragraph 13 below.”
- (4) In paragraphs 13 and 14 after the words " the close company ", wherever they occur, there shall be inserted the word " co-operative " and in paragraph 14(1)(a) after the words " ordinary share capital of the company " and " that ordinary share capital " there shall be inserted the words " or of his share or shares in the co-operative " .
- (5) In paragraph 15 after the words "as the case may be " there shall be inserted " 10B " and after " 9(c)" there shall be inserted " 10A(c) " .
- (6) Subsection (2) above has effect in relation to interest paid after 10th March 1981 and subsections (3) to (5) above have effect in relation to interest on a loan made after that date.

## **26 Relief for interest: transitional provision for deduction in computing profits of trade**

Paragraph 4 of Schedule 10 to the Finance Act 1972 (which provides that interest in respect of which relief is given under section 75 of that Act is not to be taken into account in the computation of profits or gains or losses for the purposes of Case I or II of Schedule D for any year of assessment) shall not apply where—

- (a) the computation is for the year 1982-83 or a subsequent year of assessment; and
- (b) the relief under section 75 is given by virtue of section 19(4) of the Finance Act 1974.

## **27 Social security benefits**

- (1) In subsection (1)(a) of section 219 of the Taxes Act (social security benefits charged to tax except for unemployment benefit and certain other benefits) for the words " unemployment benefit" there shall be substituted the words " earnings-related supplement of unemployment benefit " .
- (2) In subsection (2) of that section (payments of supplementary benefit not treated as income for purposes of Income Tax Acts) after " 1977 " there shall be inserted the words " (other than payments of supplementary allowance which are taxable by virtue of section 27 of the Finance Act 1981) " .

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- (3) Subject to the following provisions of this section, payments to any person of supplementary allowance under the Supplementary Benefits Act 1976 in respect of any period shall (except so far as made by virtue of section 4 of that Act) be charged to income tax under Schedule E if during that period—
- (a) his right to the allowance is subject to the condition mentioned in section 5 of the said Act of 1976 (registration and availability for employment); or
  - (b) he is within section 8 of the said Act of 1976 (trade disputes) and paragraph 10 of Schedule 2 to the Supplementary Benefit (Requirements) Regulations 1980 applies to him.
- (4) Where the amount of supplementary allowance paid to any person in respect of any week or part of a week exceeds the relevant amount for that period, the excess shall not be taxable.
- (5) For the purposes of subsection (4) above the relevant amount in respect of a week shall be equal—
- (a) in a case where the supplementary allowance is paid to a person to whom subsection (3) (b) above applies, to the amount specified in the said paragraph 10;
  - (b) in a case not falling within paragraph (a) above where Regulation 6 of the said Regulations of 1980 (non-householders) has applied in the calculation of the amount of the supplementary allowance paid to the person concerned, to the amount specified in relation to a person of his description in Schedule 1 of the said Regulations of 1980;
  - (c) in a case not falling within paragraph (a) or (b) above where paragraph 3(1) of Schedule 1 to the said Act of 1976 has applied in the calculation of the amount of supplementary allowance (married and unmarried couples), to the aggregate of the weekly rate specified in paragraph 1 of Part I of Schedule 4 to the Social Security Act 1975 and the increase for an adult dependant specified in paragraph 1(a) of Part IV of that Schedule; and
  - (d) in any other case, to the said weekly rate;
- and the relevant amount in respect of part of a week shall be equal to one-sixth of the relevant amount in respect of a week multiplied by the number of days in the part.
- (6) Where payments of unemployment benefit and payments of supplementary allowance are made to any person in respect of the same week or part of a week, the amount taxable in respect of that period in respect of those payments shall not exceed the relevant amount for that period within the meaning of subsection (4) above.
- (7) If any regulations referred to in this section are revoked or amended by statutory instrument, the Board may by regulations made by statutory instrument make such amendments to this section as they think fit for the purpose of enabling it to operate as it did before the revocation or amendment; and regulations under this section shall be subject to annulment in pursuance of a resolution of the House of Commons.
- (8) In its application in Northern Ireland this section shall have effect as if—
- (a) for the references to paragraph 1 of Part I and paragraph 1(a) of Part IV of Schedule 4 to the Social Security Act 1975 there were substituted respectively references to paragraph 1 of Part I and paragraph 1(a) of Part IV of Schedule 4 to the Social Security (Northern Ireland) Act 1975 ;
  - (b) for the reference to the Supplementary Benefits Act 1976 there were substituted a reference to the Supplementary Benefit (Northern Ireland) Order





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determination by the General Commissioners for the division in which the objector ordinarily resides or, in a case where an appeal has been made against an assessment in respect of income including the amount in question, the General Commissioners or the Special Commissioners having jurisdiction in that appeal.

- (6) Where a benefit officer has notified an amount to a person under subsection (1) above, he may by another notice in writing notify the person of an alteration in the amount previously notified and, if he does so, the original notification shall be cancelled and this section shall apply to such a subsequent notification as it applies to the original notification.
- (7) In this section " benefit officer " means—
- (a) in Great Britain, the appropriate officer of the Department of Employment or of the Department of Health and Social Security, as the case may be; and
  - (b) in Northern Ireland, the appropriate officer of the Department of Health and Social Services.

## **29 Pay as you earn repayments**

Without prejudice to the generality of section 204 of the Taxes Act, regulations under that section may provide that no repayment of income tax shall be made under that section to any person at any time if—

- (a) he has claimed unemployment benefit in respect of a period including that time ; or
- (b) he has claimed a payment of supplementary allowance under the Supplementary Benefits Act 1976 or the Supplementary Benefit (Northern Ireland) Order 1977 in respect of a period including that time and his right to the allowance is subject to the condition mentioned in section 5 of the said Act of 1976 or Article 7 of the said Order (registration and availability for employment); or
- (c) he is disqualified at the time from receiving unemployment benefit by virtue of section 19 of the Social Security Act 1975 or section 19 of the Social Security (Northern Ireland) Act 1975 (loss of employment due to stoppage of work) or would be so disqualified if he otherwise satisfied the conditions for entitlement,

and such regulations may make different provision with respect to persons falling within paragraph (c) above from that made with respect to other persons.

## **30 Sick pay**

- (1) Where a person holding an employment is absent from work for any period by reason of sickness or disability, any sums which—
- (a) are paid to, or to the order or for the benefit of, that person (or a member of his family or household) in respect of his absence from work as aforesaid ; and
  - (b) are, by reason of his employment, paid as a result of any arrangements entered into by his employer,

shall be chargeable to income tax under Schedule E as emoluments of the employment for that period if, apart from this section, they would not be so chargeable for that or any other period.

- (2) Where the funds for making payments under any arrangements are attributable partly to contributions made by the employer and partly to contributions made by the persons

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employed by him subsection (1) above shall apply only to such part of the sums paid as a result of the arrangements as it is just and reasonable to regard as attributable to the employer's contributions.

- (3) Section 61 of the Finance Act 1976 (taxation of benefits in kind) shall not apply to any benefit consisting of the right to receive, or the prospect of receiving, any sums which would be chargeable to tax in accordance with subsection (1) above.
- (4) In this section "employment" means an office or employment whose emoluments fall to be assessed under Schedule E and related expressions shall be construed accordingly; and the reference to a person's family or household is to his spouse, his sons and daughters and their spouses, his parents and his dependants.
- (5) This section has effect—
  - (a) in the case of sums not falling within paragraph (b) below, for the year 1982-83 and subsequent years of assessment;
  - (b) in the case of sums paid as a result of arrangements in force on 4th June 1981 for the year 1983-84 and subsequent years of assessment.

### **31 Payments for loss of employment etc.**

- (1) In section 188(3) of the Taxes Act (tax on excess over £10,000 of payments for loss of employment etc.) for "£10,000", wherever it occurs, there shall be substituted "£25,000".
- (2) Paragraphs 3 to 5 of Schedule 8 to that Act (relief by reference to standard capital superannuation benefit) shall cease to have effect.
- (3) In paragraph 7 of that Schedule (top-slicing relief) for sub-paragraph (c) and the words following it there shall be substituted the words "the amount to be deducted shall be half the difference between the amount ascertained at (a) and the amount ascertained at (b)."
- (4) Paragraph 8 of that Schedule (calculation of tax and income for purposes of relief under paragraph 7) shall cease to have effect.
- (5) In paragraph 12 of that Schedule (definition of payment chargeable under section 187) for the words "section 188(3)" there shall be substituted the words "section 188(2) or (3)".
- (6) Subject to subsection (7) below, subsections (1) to (4) above have effect in relation to any payment which by virtue of section 187(4) of the Taxes Act is treated as income received on or after 6th April 1981; and where under the proviso to section 188(3) of that Act the sum there mentioned falls to be deducted from one or more payments treated as income received before, and one or more payments treated as income received on or after, that date only £10,000 of that sum shall be deducted from the first-mentioned payment or payments.
- (7) Where a payment is made in pursuance of an obligation incurred before 10th March 1981, the person chargeable to tax in respect of it may, by a notice in writing given to the inspector within six years after the year of assessment in which the payment is made, elect that Schedule 8 to the Taxes Act shall have effect in relation to the payment as if this Act had not been passed.
- (8) Subsection (5) above shall be deemed always to have had effect.

### **32 Occupational pension schemes**

- (1) In subsection (2) of section 20 of the Finance Act 1970 (discretionary approval of occupational pension schemes which fall within paragraphs (a) to (f) of that subsection) after paragraph (f) there shall be inserted the words “or
  - (g) which provides in certain contingencies for securing benefits by means of an annuity contract with an insurance company of the employee's choice, being a contract which has for its main object the provision for the employee of a life annuity in old age and is so framed that the liabilities undertaken by the insurance company under the contract correspond with liabilities against which the contract is intended to secure the scheme.”
- (2) After subsection (2) of the said section 20 there shall be inserted—
  - “(2A) In subsection (2)(g) above " insurance company " means a company to which Part II of the Insurance Companies Act 1974 applies.”.

### **33 Police provident benefits**

- (1) In paragraph 12 of Schedule 3 to the Finance Act 1978 (relief for contribution to trade union for provision of provident benefits) after sub-paragraph (2) there shall be inserted—
  - “(2A) Sub-paragraphs (1) and (2) above shall apply also in relation to any payment made to an organisation of persons in police service but only where the annual amount of the part of the payment attributable to the provision of the benefits in question is £20 or more.”
- (2) This section has effect for the year 1981-82 and subsequent years of assessment.

### **34 Savings certificates**

- (1) Subject to the provisions of this section, income arising from savings certificates shall not be liable to tax.
- (2) Subsection (1) above does not apply to any savings certificates which are purchased by Or on behalf of a person in excess of the amount which a person is for the time being authorised to purchase under regulations made by the Treasury or, as respects Ulster Savings Certificates, by the Department of Finance for Northern Ireland.
- (3) Subsection (1) above does not apply to Ulster Savings Certificates unless—
  - (a) the holder is resident and ordinarily resident in Northern Ireland when the certificates are repaid ; or
  - (b) the certificates were purchased by him and he was so resident and ordinarily resident when they were purchased.
- (4) A claim under this section in respect of Ulster Savings Certificates shall be made to the Board.
- (5) In this section " savings certificates " has the same meaning as in section 71 of the Capital Gains Tax Act 1979 and " Ulster Savings Certificates " means savings certificates issued or treated as issued under section 15 of the Exchequer and Financial Provisions Act (Northern Ireland) 1950.

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### **35 Stock relief**

- (1) Schedule 9 to this Act shall have effect instead of Schedule 5 to the Finance Act 1976 (stock relief) in relation to
  - (a) any period of account beginning after 14th November 1980; and
  - (b) subject to the transitional provisions in Schedule 10 to this Act, any period of account which ends on or includes that date.
- (2) Where a period of account which begins before and ends on or after 14th November 1980 is longer than twelve months and at least twelve months of it falls before that date, subsection (1) above and Schedules 9 and 10 to this Act shall have effect as if the part of the period ending with 13th November 1980 and the part of the period beginning with 14th November 1980 were separate periods of account.
- (3) In subsections (1) and (2) above "period of account" means a period for which an account is made up for the trade, profession or vocation in question.
- (4) In relation to any period for which Schedule 9 to this Act has effect—
  - (a) section 227(5)(aa) and (9) of the Taxes Act (retirement annuity relief); and
  - (b) section 28(7)(c) of the Finance Act 1978 (farming and market gardening) and paragraph 2(2)(d) of Schedule 4. to that Act (trade carried on abroad),
 shall have effect with the substitution for the words " Schedule 5 to the Finance Act 1976 " of the words " Schedule 9 or 10 to the Finance Act 1981 ".
- (5) In relation to any period for which Schedule 9 to this Act has effect, section 30 of the said Act of 1978 (relief for losses in early years of trade) shall have effect with the following amendments—
  - (a) after subsection (7)(e) there shall be inserted—
    - (f) paragraph 8 of Schedule 9 to the Finance Act 1981.”;
  - (b) in subsection (9) for the words " paragraph 6 of Schedule 5. to the Finance Act 1976 " there shall be substituted the words " paragraph 8 of Schedule 9 to the Finance Act 1981 ".
- (6) There shall be made all such adjustments, whether by repayment of tax or the making or alteration of assessments, as may be required for giving effect to this section.

### **36 Relief for losses on unquoted shares in trading companies**

- (1) Subsection (2) below has effect where a company which has subscribed for shares in a qualifying trading company incurs an allowable loss (for the purposes of corporation tax on chargeable gains) on the disposal of the shares in any accounting period and the company disposing of the shares—
  - (a) is an investment company on the date of the disposal and either—
    - (i) has been an investment company for a continuous period of six years ending on that date ; or
    - (ii) has been an investment company for a shorter continuous period ending on that date and has not before the beginning of that period been a trading company or an excluded company ; and
  - (b) was not associated with, or a member of the same group as, the qualifying trading company at any time in the period beginning with the date when it subscribed for the shares and ending with the date of the disposal.

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- (2) The company disposing of the shares may, within two years after the end of the accounting period in which the loss was incurred, make a claim requiring that the loss be set off for the purposes of corporation tax against income—
  - (a) of that accounting period ; and
  - (b) if the company was then an investment company and the claim so requires, of preceding accounting periods ending within the time specified in subsection (3) below;and, subject to any relief for an earlier loss, the income of any of those periods shall then be treated as reduced by the amount of the loss or by so much of it as cannot be relieved under this subsection against income of a later accounting period.
- (3) The time referred to in subsection (2) above is the period of twelve months ending immediately before the accounting period in which the loss is incurred; but the amount of the reduction which may be made under that subsection in the income of an accounting period falling partly before that time shall not exceed a part of that income proportionate to the part of the accounting period falling within that time.
- (4) Relief under subsection (2) above shall be given before any deduction for charges on income, expenses of management or other amounts which can be deducted from or set against or treated as reducing profits of any description; and where relief is given under that subsection in respect of the amount of a loss no deduction shall be made in respect of that amount for the purposes of corporation tax on chargeable gains.
- (5) For the purposes of subsection (1)(b) above companies are associated with each other if one controls the other or both are under the control of the same person or persons; and section 302(2) to (6) of the Taxes Act shall apply for the purposes of this subsection.
- (6) Subsections (3) and (5) to (12) of section 37 of the Finance Act 1980 (which gives to individuals a relief corresponding to that given to companies by subsection (2) above) shall have effect in relation to the foregoing provisions of this section as they have effect in relation to that section, taking references to an individual and capital gains tax as references to a company and corporation tax on chargeable gains.
- (7) In subsection (12) of the said section 37—
  - (a) in the definition of " group " and " holding company " for the words " 75 per cent, subsidiaries " there shall be substituted the words " 51 per cent, subsidiaries ";
  - (b) at the end of the definition of " investment company " there shall be inserted the words " except that it does not include the holding company of a trading group " .
- (8) This section has effect in relation to disposals on or after 1st April 1981.

### **37 Set-off of relief under section 36(2) against franked investment income**

- (1) Section 254 of the Taxes Act (set-off against franked investment income) shall be amended as follows.
- (2) In subsection (2) after paragraph (d) there shall be inserted—
  - “(e) the setting of losses against income under section 36(2) of the Finance Act 1981.”
- (3) In subsection (4)—

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- (a) after the words " to section 74(3) of the Capital Allowances Act 1968 " there shall be inserted the words " or to section 36(2) of the Finance Act 1981 ";
  - (b) after the words " by section 74(4) of the Capital Allowances Act 1968 " there shall be inserted the words " or by section 36(3) of the Finance Act 1981 ".
- (4) In subsection (6) after paragraph (b) there shall be inserted the words “and
- (c) in relation to relief given in respect of losses under section 36(2) of the Finance Act 1981;”
- and to the words in brackets there shall be added " and, as respects the relief mentioned in paragraph (c), the reference to the purposes of section 177(1) of this Act being construed as a reference to the purposes of corporation tax on chargeable gains ".
- (5) In subsection (7) after paragraph (c) there shall be inserted—
- “(d) if and so far as the purpose for which the claim is made is the setting of a loss against income under section 36(2) of the Finance Act 1981, two years from the end of the accounting period in which the loss was incurred.”

### **38 Interest charged to capital**

- (1) The interest deductible under section 248 of the Taxes Act (allowance of charges on income) shall include any interest that would be so deductible if it had not been charged to capital.
  - (2) In subsection (5)(a) of that section for the words "the payment is charged to capital" there shall be substituted the words " the payment (not being interest) is charged to capital ".
  - (3) In section 269 of the Taxes Act (interest charged to capital), paragraph (c) together with the word " and " immediately preceding it shall be omitted and for the words following that paragraph there shall be substituted the words “the sums so allowable under the said section 32 shall, subject to subsection (1A) below, include the amount of any interest on that borrowed money which is referable to a period or part of a period ending on or before the disposal.
- (1A) Subsection (1) above has effect subject to section 33 of the said Act of 1979 and does not apply to interest which is a charge on income.”.
- (4) This section has effect in relation to interest paid in any accounting period ending on or after 1st April 1981.

### **39 Exemption for interest on damages for personal injuries**

- (1) In section 375A of the Taxes Act (exemption for interest included in judgment or interlocutor awarding damages for personal injuries) after subsection (1) there shall be inserted—
- “(1A) A payment in satisfaction of a cause of action, including a payment into court, shall not be regarded as income for any income tax purpose to the extent to which it is in respect of interest which would fall within subsection (1) above if included in a sum for which a judgment is given or if decree for payment of it were included in an interlocutor.”
- (2) This section has effect in relation to any payment made on or after 6th April 1981.

#### **40 Group relief in case of consortium**

(1) The Tax Acts shall have effect with the following amendments, being amendments making group relief available under section 258(2) of the Taxes Act where a member of a consortium is the surrendering company.

(2) For the said section 258(2) there shall be substituted—

“(2) Group relief shall also be available in accordance with the said provisions in the case of a surrendering company and a claimant company where either of them is a member of a consortium and the other is—

- (a) a trading company which is owned by the consortium and which is not a 75 per cent, subsidiary of any company ; or
- (b) a trading company—
  - (i) which is a 90 per cent, subsidiary of a holding company which is owned by the consortium ; and
  - (ii) which is not a 75 per cent subsidiary of a company other than the holding company ; or
- (c) a holding company which is owned by the consortium and which is not a 75 per cent, subsidiary of any company:

Provided that a claim shall not be made by virtue of this subsection if the share in the consortium of the member in the relevant accounting period of the surrendering company (or, where that company is a trading company falling within paragraph (b) above, its holding company) is nil or if a profit on a sale of the share capital of the other company or its holding company which the member owns would be treated as a trading receipt of that member.”

(3) For section 259(8) of that Act there shall be substituted—

“(8) In applying any of the preceding subsections in the case of a claim made by virtue of section 258(2) above—

- (a) where the claimant company is a member of a consortium only a fraction of the loss referred to in subsection (1) above, or of the excess referred to in subsection (2), (3) or (6) above, as the case may be, may be set off under the subsection in question ;
- (b) where the surrendering company is a member of a consortium that loss or excess shall not be set off under the subsection in question against more than a fraction of the total profits of the claimant company;

and that fraction shall be equal to that member's share in the consortium in the accounting period referred to in section 258(2) above, subject to any further reduction under section 261(2) below.”

(4) In sections 263(5) and 264(2) of that Act for the words " by a company as a member of a consortium " there shall be substituted the words " by virtue of section 258(2) above ".

(5) In section 28(3)(a), (b) and (c) and (4) of the Finance Act 1973 for the words " the surrendering company" there shall be substituted the words " the surrendering or claimant company ".

(6) In section 29(2) of that Act—

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- (a) in paragraph (a) after the words " trading company " there shall be inserted the words " or a member of the consortium "; and
  - (b) in the words following paragraph (b) for the words " (as the surrendering company) fall within any of paragraphs (a) to (c) of subsection (2) of section 258 " there shall be substituted the words " (as the surrendering company or claimant company) fall within subsection (2) of section 258 " .
- (7) This section has effect in relation to any accounting period of the surrendering company ending after 10th March 1981.

#### **41 Insurance companies: restricted government securities**

- (1) This section applies where for any accounting period any division falls to be made between the pension business and any other kind of long-term business of an insurance company and any of the income or gains or losses of the company for that period relate to restricted government securities ; and where this section applies subsection (3) of section 323 of the Taxes Act shall have effect subject to the provisions of this section.
- (2) All income, gains or losses of the company which relate to restricted government securities shall be referred to its pension business.
- (3) Where the division of the other income, gains or losses of the company is made by reference to the liabilities at any time in the accounting period which are referable to pension business or to two or more kinds of business including pension business, those liabilities shall be treated as reduced by the appropriate amount.
- (4) In subsection (3) above " the appropriate amount " means—
  - (a) in a case in which the total liabilities of the company at the time in question which are referable to long-term business are less than the market value at that time of the investments and deposits held by the company relating to all such business, such proportion of the market value of the restricted government securities held by the company at that time as those liabilities bear to the market value of those investments and deposits; and
  - (b) in any other case, the market value of the restricted government securities at that time.
- (5) In this section—
  - " insurance company " has the same meaning as in the said section 323;
  - " long-term business " has the same meaning as in section 1(1) of the Insurance Companies Act 1981 ;
  - " pension business " has the same meaning as in the said section 323; and
  - " restricted government securities " means government securities issued on the condition that, except in such circumstances as may be specified in the conditions of issue, they are to be held by insurance companies against and applied solely towards meeting pension business liabilities.

#### **42 Sums paid to settlor otherwise than as income**

- (1) Section 451 of the Taxes Act (sums paid to settlor otherwise than as income) shall be amended as follows.
- (2) In subsection (1)—



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- (a) in paragraph (b) for the words " exceeds the amount of income available up to the end of that year but" there shall be substituted the words " is not by virtue of this subsection treated as his income for that year and "; and
  - (b) after the words " and so on " there shall be inserted the words " for each subsequent year, taking the reference in paragraph (b) to the year mentioned in paragraph (a) as a reference to that and any other year before the subsequent year in question. ";
  - (c) in paragraph (b) for the words "the next following year" there shall be inserted the words " the next following eleven years. "
- (3) In subsection (2)—
- (a) before paragraph (a) there shall be inserted—
    - “(aa) the amount of that income taken into account under subsection (1) above in relation to that sum in any previous year or years, and”;
  - (b) in paragraph (b) after " 448 above " there shall be inserted " or section 457 below ";
  - (c) after paragraph (d) there shall be inserted—
    - “(dd) any sums paid by virtue or in consequence of the settlement in that year or any previous year which have been treated as the income of the settlor by virtue of section 438(2)(b) above, and
    - (ddd) any sums included in the income arising under the settlement as amounts which have been or could have been apportioned to a beneficiary as mentioned in section 454(1)(b) below, and”;
  - (d) in paragraph (e)(ii) for " and (d)" there shall be substituted " , (d), (dd) and (ddd) ".
- (4) After subsection (3) there shall be inserted—
- “(3A) Where the capital sum paid to the settlor is a sum paid by way of loan, then—
- (a) if the whole of it is repaid, no part of that sum shall by virtue of subsection (1) above be treated as the settlor's income for any year of assessment after that in which the repayment occurs; and
  - (b) if one or more capital sums have previously been paid to him by way of loan and wholly repaid, the amount of that capital sum shall be treated as equal to its excess (if any) over so much of the sum or sums previously paid as has already fallen to be treated as his income by virtue of that subsection.
- (3B) Where the capital sum paid to the settlor is a sum paid by way of complete repayment of a loan, then, if an amount not less than that sum is thereafter lent by the settlor to the trustees of the settlement, no part of that sum shall by virtue of subsection (1) above be treated as his income for any year of assessment after that in which the further loan is made.”
- (5) At the end of subsection (6) there shall be inserted the words " and there shall be set off against the tax charged on any amount treated by virtue of this section as income of the settlor for any year an amount equal to—
- (a) the sum of tax at the basic rate and tax at the additional rate for that year on the amount so treated as his income; or

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(b) so much of that sum as is equal to the tax charged,  
 whichever is the less.

(6) In subsection (8) (interpretation)—

- (a) for the words "' capital sum' means " there shall be substituted the words "' capital sum ' means, subject to subsection (9) below ";
- (b) at the end there shall be inserted the words " or to the settlor (or the husband or wife of the settlor) jointly with another person ".

(7) After subsection (8) there shall be inserted—

“(9) For the purposes of this section there shall be treated as a capital sum paid to the settlor by the trustees of the settlement any sum which—

- (a) is paid by them to a third party at the settlor's direction or by virtue of the assignment by him of his right to receive it; or
- (b) is otherwise paid or applied by them for the benefit of the settlor,

and which would not apart from this subsection be treated as a capital sum paid to him.”

(8) This section has effect in relation to any capital sum paid to the settlor on or after 6th April 1981 and section 451 (9)(a) as inserted by subsection (7) above shall not apply to any direction or assignment given or made before that date.

#### **43 Sums paid to settlor otherwise than as income: connected companies**

(1) In section 451 of the Taxes Act (sums paid to settlor otherwise than as income) subsection (4) (capital sums paid to settlor by body corporate connected with the settlement) shall be omitted.

(2) After that section there shall be inserted—

##### **“451A Capital sums paid by body connected with settlement.**

(1) Where—

- (a) a capital sum is paid to the settlor in a year of assessment by any body corporate connected with the settlement in that year; and
- (b) an associated payment has been or is made directly or indirectly to that body by the trustees of the settlement,

the capital sum shall, in accordance with subsection (2) below, be treated for the purposes of section 451 above as having been paid to the settlor by the trustees of the settlement.

(2) A capital sum to which subsection (1) above applies shall—

- (a) to the extent to which the amount of that sum falls within the total of the associated payment or payments made up to the end of the year of assessment in which it is paid, be treated as having been paid to the settlor in that year;
- (b) to the extent to which the amount of that sum is not treated as paid to the settlor in that year and falls within the total of the associated payment or payments made up to the end of the next following year (less what was taken into account under this subsection in relation to

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that sum in the previous year), be treated as having been paid to the settlor in the next following year,

and so on for each subsequent year, taking the references in paragraph (b) to the year mentioned in paragraph (a) as references to that and any other year before the subsequent year in question.

(3) In this section " associated payment", in relation to any capital sum paid to the settlor by a body corporate, means—

- (a) any capital sum paid to that body by the trustees of the settlement; and
- (b) any other sum paid or asset transferred to that body by those trustees which is not paid or transferred for full consideration in money or money's worth,

being a sum paid or asset transferred in the five years ending or beginning with the date on which the capital sum is paid to the settlor.

(4) For the purposes of this section any capital sum paid by a body corporate, and any associated payment made to a body corporate, at a time when it is within the meaning of section 302 above associated with another body corporate may be treated as paid by or made to that other body corporate.

(5) In this section " capital sum " has the same meaning as in section 451 above; and any question whether a capital sum has been paid to the settlor by a body corporate or to a body corporate by the trustees shall be determined in the same way as any question under that section whether a capital sum has been paid to the settlor by the trustees.

(6) Subsection (1) above does not apply to any sum paid to the settlor by way of loan or repayment of a loan if—

- (a) the whole of the loan is repaid within twelve months of the date on which it was made; and
- (b) the period for which amounts are outstanding in respect of loans made to the settlor by that or any other body corporate connected with the settlement, or by him to that or any other such body, in any period of five years does not exceed twelve months.

(7) Where a capital sum is paid to the settlor in a year of assessment by a body corporate connected with the settlement in that year it shall be assumed until the contrary is shown that an associated payment of an amount not less than that of the capital sum has been made to that body by the trustees of the settlement.”

(3) This section has effect in relation to any capital sum paid to the settlor on or after 6th April 1981.

#### **44 Revocable settlements etc.**

(1) in paragraph (b) of section 454(1) of the Taxes Act (definition of income arising under a settlement to include income of body corporate that could have been apportioned if it were incorporated in" the United Kingdom) after the word " incorporated " there shall be inserted the words " and resident " and after that subsection there shall be inserted—

“(1A) In subsection (1) above references to income that could have been apportioned to a person if a body corporate were incorporated and resident in any part of the United Kingdom include references to income that could have been

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apportioned to that person indirectly through any other body corporate if that other body had also been so incorporated and resident.”.

- (2) For section 454(4) of the Taxes Act (body corporate deemed to be connected with a settlement if the participators include the trustees of or a beneficiary under the settlement) there shall be substituted—

“(4) For the purposes of this Chapter, a body corporate shall be deemed to be connected with a settlement in any year of assessment if at any time in that year—

- (a) it is a close company (or only not a close company because it is not resident in the United Kingdom) and the participators then include the trustees of the settlement; or
- (b) it is controlled within the meaning of section 534 below by a company falling within paragraph (a) above.”

#### **45 Transfer of assets abroad: liability of non-transferors**

- (1) This section has effect where—

- (a) by virtue or in consequence of a transfer of assets, either alone or in conjunction with associated operations, income becomes payable to a person resident or domiciled outside the United Kingdom ; and
- (b) an individual ordinarily resident in the United Kingdom who is not liable to tax under section 478 of the Taxes Act (prevention of tax avoidance by transfers of assets abroad by reference to the transfer receives a benefit provided out of assets which are available for the purpose by virtue or in consequence of the transfer or of any associated operations.

- (2) Subject to the provisions of this section, the amount or value of any such benefit as is mentioned in subsection (1) above, if not otherwise chargeable to income tax in the hands of the recipient, shall—

- (a) to the extent to which it falls within the amount of relevant income of years of assessment up to and including the year of assessment in which the benefit is received, be treated for all the purposes of the Income Tax Acts as the income of the individual for that year;
- (b) to the extent to which it is not by virtue of this subsection treated as his income for that year and falls within the amount of relevant income of the next following year of assessment, be treated for those purposes as his income for the next following year,

and so on for subsequent years, taking the reference in paragraph (b) to the year mentioned in paragraph (a) as a reference to that and any other year before the subsequent year in question.

- (3) Subject to subsection (9) below and to section 46(1) below, the relevant income of a year of assessment, in relation to an individual, is any income which arises in that year to a person resident or domiciled outside the United Kingdom and which by virtue of or in consequence of the transfer or associated operations referred to in subsection (1) above can directly or indirectly be used for providing a benefit for the individual or for enabling a benefit to be provided for him.

- (4) Income tax chargeable by virtue of this section shall be charged under Case VI of Schedule D.

- (5) An individual who is domiciled outside the United Kingdom shall not, in respect of any benefit not received in the United Kingdom, be chargeable to tax under this section by reference to relevant income which is such that if he had received it he would not, by reason of his being so domiciled, have been chargeable to income tax in respect of it; and subsections (4) to (7) of section 122 of the Taxes Act (income applied outside the United Kingdom treated in certain cases as received in the United Kingdom) shall apply for the purposes of this subsection as they would apply for the purposes of subsection (3) of that section if the benefit were income arising from possessions outside the United Kingdom.
- (6) Where—
- (a) the whole or part of the benefit received by an individual in a year of assessment is a capital payment within the meaning of section 80 or 81(2) below (because not falling within the amount of relevant income referred to in paragraph (a) of subsection (2) above); and
  - (b) chargeable gains are by reason of that payment treated under either of those sections as accruing to him in that or a subsequent year,
- paragraph (b) of that subsection shall apply in relation to any year of assessment ("a year of charge") after one in which chargeable gains have been so treated as accruing to him as if a part of the amount or value of the benefit corresponding to the amount of those gains had been treated under that subsection as his income for a year of assessment before the year of charge.
- (7) Subsection (3) of section 478 of the Taxes Act (exemption from charge where transfer of assets is not for tax avoidance) shall apply in relation to this section as it applies in relation to subsections (1) and (2) of that section; and subsections (4), (7), (8) and (9) of that section shall apply for the interpretation of this section.
- (8) Section 481 of the Taxes Act (information powers) shall have effect as if this section were included in Chapter III of Part XVII of that Act; and in section 31(3) (b) of the Taxes Management Act 1970 (assessments against which appeal lies to the Special Commissioners) after " 1972 " there shall be inserted the words " or under section 45 of the Finance Act 1981 ".
- (9) This section applies irrespective of when the transfer or associated operations referred to in subsection (1) above took place but applies only to benefits received and relevant income arising on or after 10th March 1981.

#### **46 Transfer of assets abroad: other provisions**

- (1) No amount of income shall be taken into account more than once in charging tax under the provisions of section 478 of the Taxes Act (prevention of tax avoidance by transfer of assets abroad) and section 45 above; and where there is a choice as to the persons in relation to whom any amount of income can be so taken into account—
- (a) it shall be so taken into account in relation to such of them, and if more than one in such proportions respectively, as appears to the Board to be just and reasonable; and
  - (b) the jurisdiction of the Special Commissioners on any appeal against an assessment charging tax under those provisions shall include jurisdiction to review any relevant decision taken by the Board under this subsection.
- (2) In subsection (1) above references to an amount of income taken into account in charging tax are—

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- (a) in the case of tax which under section 478 is charged on income, to the amount of that income ;
  - (b) in the case of tax charged under that section by virtue of section 480(4) of the Taxes Act, to an amount of the income out of which the benefit is provided equal to the amount or value of the benefit charged;
  - (c) in the case of tax charged under section 45 above, to the amount of relevant income taken into account under subsection (2) of that section in charging the benefit.
- (3) In subsection (2) of the said section 478 for the words "' capital sum' means" there shall be substituted the words "'capital sum' means, subject to subsection (2A) of this section " and after that subsection there shall be inserted—
- “(2A) For the purposes of subsection (2) of this section there shall be treated as a capital sum which an individual receives or is entitled to receive any sum which a third person receives or is entitled to receive at the individual's direction or by virtue of the assignment by him of his right to receive it.
- (2B) Income shall not by virtue of subsection (2) of this section be deemed to be that of an individual for any year of assessment by reason only of his having received a sum by way of loan if that sum has been wholly repaid before the beginning of that year.”
- (4) Subsection (2A) of the said section 478 as inserted by subsection (3) above shall not apply to any direction or assignment given or made before 6th April 1981.
- (5) In subsection (5) of the said section 478 (definition of power to enjoy) for paragraph (d) there shall be substituted—
- “(d) the individual may, in the event of the exercise or successive exercise of one or more powers, by whomsoever exercisable and whether with or without the consent of any other person, become entitled to the beneficial enjoyment of the income, or”.
- (6) After subsection (8) of the said section 478 there shall be inserted—
- “(9) . Any amount which by virtue of subsection (8)(d) of this section is treated as the income of any person for the purposes of this section shall also be treated for those purposes as payable to that person.”
- (7) After section 480(2) of the Taxes Act there shall be inserted—
- “(2A) An individual who is domiciled outside the United Kingdom shall not be chargeable to tax in respect of any income deemed to be his by virtue of the preceding provisions of this Chapter if he would not, by reason of his being so domiciled, have been chargeable to tax in respect of it if it had in fact been his income.”
- (8) So much of section 27(5) of the Finance Act 1975 (capital transfer tax liability of beneficiaries) as provides for a reduction to be made for income tax borne in respect of income shall apply also to income tax borne by virtue of section 478 of the Taxes Act or section 45 above in respect of property other than income.

#### **47 Transfer of assets of public corporations**

Where by virtue of any enactment a Minister of the Crown or Northern Ireland department has power to give directions to a statutory body as to the disposal of assets belonging to, or to a subsidiary of, that body the existence of that power shall not be regarded as constituting (or as having at any time constituted) an arrangement within the meaning of section 92(9) of the Finance Act 1972 or section 29 of the Finance Act 1973 (which deny relief for advance corporation tax and losses within a group where certain arrangements exist).

#### **48 Write-off of government investment: restriction of tax losses**

- (1) This section has effect where on or after 10th March 1981 any amount of government investment in a body corporate is written-off.
- (2) An amount equal to the amount written-off shall be set off against the body's tax losses as at the end of the accounting period ending last before the write-off date and, to the extent to which that amount exceeds those losses, against the body's tax losses as at the end of the next accounting period and so on.
- (3) For the purposes of subsection (2) above a body's tax losses as at the end of an accounting period are—
  - (a) any losses which under subsection (1) of section 177 of the Taxes Act are or, if a claim had been made under that subsection, would be available for relief against its trading income for the next accounting period;
  - (b) in the case of an investment company, any expenses of management or charges on income which under section 304(2) of that Act are available for carry forward to the next accounting period;
  - (c) any allowances which under section 74(2) of the Capital Allowances Act 1968 are available for carry forward to the next accounting period;
  - (d) any amount paid by way of charges on income so far as it exceeds the company's profit for the period and is not taken into account under section 177(8) or 304(2) of the Taxes Act; and
  - (e) any allowable losses available under section 265 of the Taxes Act so far as not allowed in that or a previous accounting period.
- (4) The set off to be made under subsection (2) above for any accounting period shall be made first against the amounts in paragraphs (a) to (d) of subsection (3) above and, so far as it cannot be so made, against the amount in paragraph (e) of that subsection.
- (5) For the purposes of subsection (2) above there shall be excluded from a body's tax losses as at the end of the accounting period ending last before the write-off date any amounts in respect of which a claim has been made before the write-off date under section 177(2) or 258 of the Taxes Act or section 74(3) of the Capital Allowances Act 1968 but the body's tax losses as at the end of any subsequent accounting period shall be determined as if no such claim had been made on or after that date.
- (6) Any amount that could be set off under subsection (2) above against a body's tax losses as at the end of an accounting period (or could be so set off if that body then had any such losses) may be set off against the tax losses of any other body corporate which at the end of that period is a member of the same group as the first-mentioned body, or partly against the tax losses of one member of that group and partly against those of the other or any of the others, as may be just and reasonable.

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- (7) Expenditure shall not be treated for the purposes of section 84 of the Capital Allowances Act 1968 or section 42 of the Capital Gains Tax Act 1979 as met by the Crown by reason only of the writing-off of any government investment in the body in question and a sum shall not by reason only of any such writing-off be treated as not having been deductible in computing the profits or gains of that body for the purposes of Case I or Case II of Schedule D.
- (8) For the purposes of this section an amount of government investment in a body corporate is written-off—
- (a) if its liability to repay any money lent to it out of public funds by a Minister of the Crown is extinguished ;
  - (b) if any of its shares for which a Minister of the Crown has subscribed out of public funds are cancelled; or
  - (c) if its commencing capital debt is reduced otherwise than by being paid off or its public dividend capital is reduced otherwise than by being repaid (including, in either case, a reduction to nil);
- and the amount written-off and the write-off date are the amount in respect of which the liability is extinguished and the date on which it is extinguished, the amount subscribed for the shares that are cancelled and the date of cancellation or the amount of reduction in the commencing capital debt or public dividend capital and the date of the reduction, as the case may be.
- (9) In subsection (8) above " commencing capital debt" means any debt to a Minister of the Crown assumed as such under an enactment and " public dividend capital " means any amount paid by a Minister of the Crown under an enactment in which that amount is so described or under an enactment corresponding to an enactment in which a payment made on similar terms to another body is so described.
- (10) This section shall not have effect in relation to any amount written-off if and to the extent to which it is replaced by money lent, or a subscription for shares or a payment made, out of public funds by a Minister of the Crown.
- (11) In this section "body corporate" means any body corporate which is a company for the purposes of corporation tax, " group " means a company having one or more 51 per cent, subsidiaries and that or those subsidiaries, and " Minister of the Crown " includes a Northern Ireland department.

#### **49 National Heritage Memorial Fund**

- (1) The Trustees of the National Heritage Memorial Fund shall be treated for the purposes of section 248(9) of the Taxes Act (covenanted donations to charity by companies) as a body of persons established for charitable purposes only.
- (2) This section shall be deemed to have come into force on 1st April 1980.

#### **50 Northern Ireland**

- (1) In section 211(2) of the Taxes Act (tax exemptions for parliamentary pension funds) the word " and " at the end of paragraph (b) shall be omitted and after paragraph (c) there shall be inserted the words “and
- (d) the Assembly Contributory Pension Fund constituted under the Assembly Pensions (Northern Ireland) Order 1976”



- (2) Subsection (1) above shall be deemed to have come into force on 10th November 1976.
- (3) The Corporation Tax Acts shall have effect as if the trade carried on at any time before 1st April 1973 by any predecessor of the Northern Ireland Electricity Service had been carried on by the Service; and for that purpose the Service shall be deemed to have been in existence as from the time when the predecessor began to carry on its trade and anything done by, to or in relation to the predecessor shall be treated as if it had been done by, to or in relation to the Service.
- (4) In subsection (3) above references to a predecessor of the Northern Ireland Electricity Service are references to any body whose functions were transferred to the Service on the said 1st April and references to the trade of a predecessor are references to its activities in the discharge of the functions that were so transferred.

**51 Exemption from interest on overdue tax where sums due to the taxpayer are delayed by civil service industrial action**

- (1) Where an amount due to a person from a government department in connection with a business carried on by him remains unpaid for any period as a result of industrial action taken by civil servants after 8th March 1981 and that person withholds any tax—
  - (a) which became due and payable by him after that date and before 6th April 1982 ; and
  - (b) on which interest would, apart from this section, be chargeable under section 86 or 87 of the Taxes Management Act 1970,he may, for that period and for seven days after the end of it, claim exemption from interest under those sections on a corresponding amount of that tax less any reduction under subsection (2) below.
- (2) Where for the whole or any part of the period mentioned in subsection (1) above the person in question withholds any amount for which he is accountable to the collector after the said 8th March
  - (a) in respect of income tax which he was liable to deduct in pursuance of section 204 of the Taxes Act (pay as you earn); or
  - (b) in respect of Class 1 contributions under the Social Security Act 1975 or the Social Security (Northern Ireland) Act 1975,the amount of tax in respect of which exemption may be claimed under that subsection for that period or that part of it shall be reduced by the amount withheld by him as aforesaid.
- (3) The reference in subsection (1) above to an amount due to a person from a government department in connection with a business carried on by him is to any value added tax due to him from the Commissioners of Customs and Excise, to any grant or subsidy due to him from any other government department in respect of such a business and to any sum due to him from a government department under a contract entered into by him in the course of a business ; and for the purposes of this subsection " business " includes any trade, profession or vocation.
- (4) Any claim under this section shall be made to the Board.

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## CHAPTER II

### RELIEF FOR INVESTMENT IN NEW CORPORATE TRADES

#### 52 The relief

- (1) This Chapter has effect for affording relief from income tax where—
  - (a) an individual who qualifies for the relief subscribes for ordinary shares in a new qualifying company ; and
  - (b) the shares are issued to him for the purpose of raising money for a new qualifying trade which is being carried on by the company or which it intends to carry on within the next twelve months.
- (2) The relief in respect of the amount subscribed by an individual for any shares shall be given as a deduction of that amount from his total income for the year of assessment in which the shares are issued, and references in this Chapter to the amount of the relief are references to the amount of that deduction.
- (3) The relief shall be given on a claim and shall not be allowed—
  - (a) unless and until the company has carried on the new trade for twelve months ; and
  - (b) if the company is not carrying on that trade at the time when the shares are issued, unless the company begins to carry it on within twelve months after that time or within such further period (not exceeding twelve months) as the Board may allow.
- (4) A claim for the relief may be allowed at any time after the end of the year of assessment in which the shares are issued (or, where the period mentioned in subsection (3) (a) above ends later, after the end of that period) if the conditions for the relief are then satisfied but subject, in the case of a claim allowed before the end of the relevant period, to the withdrawal of the relief if by reason of any subsequent event it appears that the claimant was not entitled to the relief allowed.
- (5) In this Chapter " the relevant period ", in relation to relief in respect of any shares issued by a company, means the period beginning with the incorporation of the company (or, if the company was incorporated more than two years before the date on which the shares were issued, beginning two years before that date) and ending—
  - (a) five years ; or
  - (b) as respects sections 55, 56 and 65 below, three years, after the issue of the shares.
- (6) Where by reason of its being wound up, or dissolved without winding up, the company carries on the new trade for a period shorter than twelve months, subsection (3)(a) above shall have effect as if it referred to that shorter period but only if it is shown that the winding up or dissolution was for bona fide commercial reasons and not as part of a scheme or arrangement the main purpose or one of the main purposes of which was the avoidance of tax.
- (7) The relief shall be treated for the purposes of section 34(3) of the Finance Act 1971 (effect of deductions) as a deduction to be made under Chapter II of Part I of the Taxes Act after all other deductions under that Chapter and shall be disregarded for the purposes of section 204(3) of the Taxes Act (pay as you earn) and of calculating relief under section 400(2) of the Taxes Act, paragraph 3 of Schedule 3 to that Act,

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paragraph 7 of Schedule 8 to that Act in a case where an election has effect under section 31(7) above or paragraph 6(2) of Schedule 9 to this Act (top-slicing).

- (8) Where a claim is made in respect of shares issued in any year of assessment and the period mentioned in subsection (3)(a) above ends in a later year, then, if effect is given to the claim by a repayment of tax, section 47 of the Finance (No. 2) Act 1975 (repayment supplement) shall have effect in relation to the repayment as if the time from which the twelve months mentioned in subsections (1)(a) and (4)(a) of that section are to be calculated were the end of that later year.
- (9) This section applies only where the shares are issued in the year 1981-82 or either of the next two years of assessment.

### **53 Limits on relief**

- (1) Subject to section 66 below, the relief shall not be given in respect of any amount subscribed by an individual for shares issued to him by any company in any year of assessment unless the amount or total amount subscribed by him for the ordinary shares issued to him by the company in that year is £500 or more.
- (2) The relief shall not be given to the extent to which the amount or total amount subscribed by an individual for ordinary shares issued to him in any year of assessment (whether or not by the same company) exceeds £10,000.
- (3) The relief shall not be given in respect of shares issued by any company in any year of assessment (whether to one or more individuals) to the extent that the relief would result in more than 50 per cent, of the company's issued ordinary share capital at the end of that year (or, if earlier, at the dissolution of the company) consisting of shares in respect of which relief has been given.
- (4) If subsection (3) above requires a restriction to be placed on the relief given on claims in respect of shares issued to two or more individuals, the available relief shall be divided between them in proportion to the amounts which have been respectively subscribed by them for the shares to which their claims relate and which would, apart from the restriction, be eligible for the relief.
- (5) A claimant who is dissatisfied with the manner in which the available relief is divided under subsection (4) above between him and any other claimant or claimants may apply to the appropriate Commissioners who shall, after giving the other claimant or claimants an opportunity to appear and be heard or to make representations in writing, determine the question for all the claimants in the same way as an appeal.
- (6) In subsection (5) above " the appropriate Commissioners " means—
  - (a) in a case where the same body of General Commissioners has jurisdiction with respect to all the claimants, those Commissioners unless all the claimants agree that the question shall be determined by the Special Commissioners;
  - (b) in a case where different bodies of General Commissioners have jurisdiction with respect to the claimants, such of those bodies as the Board may direct, unless all the claimants agree that the question shall be determined by the Special Commissioners ;
  - (c) in any other case, the Special Commissioners.
- (7) Where relief has been given in respect of any shares in a company and by reason of any event occurring—
  - (a) after the end of the year of assessment in which they were issued; and

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(b) before the end of the relevant period,  
more than 50 per cent, of the company's issued ordinary share capital consists of shares in respect of which relief has been given, so much of that relief shall be withdrawn as is necessary to secure that not more than 50 per cent, of the company's issued ordinary share capital consists of such shares ; and where the relief was given to two or more persons it shall be withdrawn from them in proportion to the amounts of relief respectively given to them.

#### **54 Individuals qualifying for relief**

- (1) An individual qualifies for the relief if he subscribes for the shares on his own behalf, is resident and ordinarily resident in the United Kingdom throughout the year of assessment in which they are issued and is not at any time in the relevant period connected with the company within the meaning of this section.
- (2) An individual is connected with the company if he, or an associate of his, is—
  - (a) an employee of the company or of a partner of the company;
  - (b) a partner of the company ; or
  - (c) subject to subsection (3) below, a director of the company or of another company which is a partner of that company.
- (3) An individual is not connected with a company by reason only that he, or an associate of his, is a director unless he or his associate (or a partnership of which he or his associate is a member) receives a payment from the company during the period of five years beginning with the date on which the shares are issued or is entitled to receive such a payment in respect of that period or any part of it; but for that purpose there shall be disregarded—
  - (a) any payment or reimbursement of travelling or other expenses wholly, exclusively and necessarily incurred by him or his associate in the performance of his duties as a director of the company ;
  - (b) any interest which represents no more than a reasonable commercial return on money lent to the company;
  - (c) any dividend or other distribution which does not exceed a normal return on the investment;
  - (d) any payment for the supply of goods which does not exceed their market value ; and
  - (e) any reasonable and necessary remuneration which—
    - (i) is paid for services rendered to the company in the course of a trade or profession (not being secretarial or managerial services or services of a kind provided by the company itself); and
    - (ii) is taken into account in computing the profits or gains of the trade or profession under Case I or II of Schedule D or would be so taken into account if it fell in a period on the basis of which those profits or gains are assessed under that Schedule.
- (4) An individual is connected with the company if he directly or indirectly possesses or is entitled to acquire more than 30 per cent, of—
  - (a) the issued ordinary share capital of the company; or
  - (b) the loan capital and issued share capital of the company ; or
  - (c) the voting power, in the company.

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- (5) For the purposes of subsection (4)(b) above the loan capital of a company shall be treated as including any debt incurred by the company—
- (a) for any money borrowed or capital assets acquired by the company; or
  - (b) for any right to receive income created in favour of the company ; or
  - (c) for consideration the value of which to the company was (at the time when the debt was incurred) substantially less than the amount of the debt (including any premium thereon).
- (6) An individual is connected with the company if he directly or indirectly possesses or is entitled to acquire such rights as would, in the event of the winding up of the company or in any other circumstances, entitle him to receive more than 30 per cent, of the assets of the company which would then be available for distribution to equity holders of the company, and for the purposes of this subsection—
- (a) the persons who are equity holders of the company; and
  - (b) the percentage of the assets of the company to which the individual would be entitled,
- shall be determined in accordance with paragraphs 1 and 3 of Schedule 12 to the Finance Act 1973, taking references in paragraph 3 to the first company as references to an equity holder and references to a winding up as including references to any other circumstances in which assets of the company are available for distribution to its equity holders.
- (7) An individual is connected with a company if he has control of it within the meaning of section 534 of the Taxes Act.
- (8) For the purposes of this section an individual shall be treated as entitled to acquire anything which he is entitled to acquire at a future date or will at a future date be entitled to acquire; and there shall be attributed to any person any rights or powers of any other person who is an associate of his.
- (9) Where an individual subscribes for shares in a company with which he is not connected within the meaning of the foregoing provisions of this section he shall nevertheless be treated as connected with it if he subscribes for the shares as part of any arrangement which provides for another person to subscribe for shares in another company with which that or any other individual who is a party to the arrangement is connected within the meaning of those provisions.

## **55 New qualifying companies**

- (1) A company is a qualifying company if it is incorporated in the United Kingdom and complies with the requirements of subsections (2) to (8) below and is a new company until the end of the period of five years beginning with the date of its incorporation or, if later, the date on which it commenced business.
- (2) The company must throughout the relevant period be resident in the United Kingdom and not resident elsewhere.
- (3) The company must throughout that period exist wholly, or substantially wholly, for the purpose of carrying on wholly or mainly in the United Kingdom one or more new qualifying trades.
- (4) Without prejudice to the generality of subsection (3) above but subject to subsection (5) below, a company ceases to comply with subsection (3) above if before

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the end of the relevant period a resolution is passed, or an order is made, for the winding up of the company (or, in the case of a winding up otherwise than under the Companies Act 1948 or the Companies Act (Northern Ireland) 1960, any other act is done for the like purpose) or the company is dissolved without winding up.

- (5) A company shall not be regarded as ceasing to comply with subsection (2) or (3) above if it does so by reason of being wound up or dissolved without winding up and—
- (a) it is shown that the winding up or dissolution is for bona fide commercial reasons and not part of a scheme or arrangement the main purpose or one of the main purposes of which is the avoidance of tax ; and
  - (b) the company's net assets, if any, are distributed to its members or dealt with as bona vacantia before the end of the relevant period or, in the case of a winding up, the end (if later) of three years from the commencement of the winding up.
- (6) Where the relevant period begins after the incorporation of the company the requirements of subsection (3) above must have been complied with since its incorporation ; but for the purposes of subsections (2) and (3) above any interval between the incorporation of the company and the time when it commenced business shall be disregarded.
- (7) The company's share capital must not at any time in the relevant period include—
- (a) share capital other than ordinary share capital or fixed-interest preference share capital;
  - (b) classes of ordinary shares with different rights in respect of matters other than voting; or
  - (c) issued shares that are not fully paid up.
- (8) Subject to section 65 below, the company must not at any time in the relevant period—
- (a) control (or together with any person connected with it control) another company or be under the control of another company (or of another company and any person connected with that other company); or
  - (b) be a 51 per cent, subsidiary of another company or itself have a 51 per cent, subsidiary;
- and no arrangements must be in existence at any time in that period by virtue of which the company could fall within paragraph (a) or (b) above.

## **56 New qualifying trades**

- (1) A trade is a qualifying trade if it complies with the requirements of subsections (2) to (4) below and is a new trade if it complies with the other requirements of this section.
- (2) The trade must not at any time in the relevant period consist to any substantial extent of—
- (a) dealing in commodities, shares, securities, land or futures; or
  - (b) dealing in goods otherwise than in the course of an ordinary trade of wholesale or retail distribution ; or
  - (c) banking, insurance, money-lending, debt-factoring, hire purchase financing or other financial activities; or
  - (d) leasing (including letting ships on charter or other assets on hire) or receiving royalties or licence fees ; or
  - (e) providing legal or accountancy services ; or

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- (f) providing services or facilities for any trade carried on by another person which consists to any substantial extent of activities within any of the foregoing paragraphs and in which a controlling interest is held by a person who also has a controlling interest in the trade carried on by the company.
- (3) For the purposes of paragraph (b) of subsection (2) above—
- (a) a trade of wholesale distribution is one in which the goods are offered for sale and sold to persons for resale by them or for processing and resale by them ;
  - (b) a trade of retail distribution is one in which the goods are offered for sale and sold to members of the general public for their use or consumption ;
- and in determining for the purposes of that paragraph whether a trade is an ordinary trade of wholesale or retail distribution regard shall be had to the extent to which it has the features mentioned in Schedule 11 to this Act, those in Part I being regarded as indications that the trade is such an ordinary trade and those in Part II being regarded as indications of the contrary.
- (4) The trade must from the time when it is commenced until the end of the relevant period be conducted on a commercial basis and with a view to the realisation of profits.
- (5) Subject to subsection (6) below, the trade must be a bona fide new venture.
- (6) A trade shall not be treated as not being a bona fide new venture by reason only that it was carried on as, or as part of, a trade by another person at any time in the five years before the issue of the shares in respect of which the relief is claimed.
- (7) Without prejudice to the generality of subsection (5) above, a trade carried on by a company is not a new venture if—
- (a) a person having a controlling interest in that trade at any time in the period of twelve months beginning with the date on which the company begins to carry it on has in that period (or has had in the period of twelve months ending with that date) a controlling interest in another trade—
    - (i) which is being carried on at that date ; or
    - (ii) which was being carried on more than five years before the issue of the shares in respect of which the relief is claimed ; and
  - (b) the trade carried on by the company, or a substantial part of it—
    - (i) is concerned with the same or similar types of property or parts thereof or provides the same or similar services or facilities as the other trade; or
    - (ii) serves substantially the same or similar outlets, or markets as the other trade.
- (8) For the purposes of this section a person has a controlling interest in a trade—
- (a) in the case of a trade carried on by a company if—
    - (i) he controls the company ; or
    - (ii) the company is a close company for the purposes of the Corporation Tax Acts and he or an associate of his is a director of the company and the beneficial owner of, or able directly or through the medium of other companies or by any other indirect means to control, more than 30 per cent, of the ordinary share capital of the company ; or
    - (iii) not less than half of the trade could in accordance with section 253(2) of the Taxes Act be regarded as belonging to him ;

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- (b) in any other case, if he is entitled to not less than half of the assets used for, or the income arising from, the trade.
- (9) For the purposes of subsection (8) above there shall be attributed to any person any rights or powers of any other person who is an associate of his.
- (10) References in this section to a trade shall be construed without regard to so much of the definition of " trade" in section 526(5) of the Taxes Act as relates to adventures or concerns in the nature of trade; but the foregoing provisions do not affect the construction of references in subsections (2)(f) or (6) to (8) to a trade carried on by a person other than the company and those references shall be construed as including references to any business, profession or vocation.

## **57 Disposal of shares**

- (1) Where an individual disposes of any shares before the end of the relevant period, then—
  - (a) if the disposal is otherwise than by way of a bargain made at arm's length, he shall not be entitled to any relief in respect of those shares ; and
  - (b) in any other case, the amount of relief to which he is entitled in respect of those shares shall be reduced by the amount or value of the consideration which he receives for them.
- (2) Where an individual holds ordinary shares in a company and the relief has been given in respect of some but not others, any disposal by him of ordinary shares in the company shall be treated for the purposes of this section as relating to those in respect of which the relief has been given rather than to others.
- (3) Where the relief has been given to an individual in respect of shares in a company which have been issued to him at different times any disposal by him of the shares shall be treated for the purposes of this section as relating to those issued earlier rather than to those issued later.
- (4) Where shares in respect of which the relief was given have by virtue of any such allotment as is mentioned in section 77(2)(a) of the Capital Gains Tax Act 1979 (not being an allotment for payment) fallen to be treated under section 78 of that Act as the same asset as a new holding—
  - (a) a disposal of the whole or part of the new holding shall be treated for the purposes of this section as a disposal of the whole or a corresponding part of those shares; and
  - (b) the new holding shall be treated for the purposes of subsection (2) above as shares in respect of which the relief has been given.

## **58 Value received from company**

- (1) Where an individual who subscribes for shares in a company has received or subsequently before the end of the relevant period receives any value from the company within the meaning of this section the amount of the relief to which he is entitled in respect of the shares shall be reduced by the value received.
- (2) For the purposes of this section an individual receives value from the company if the company—



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- (a) repays, redeems or repurchases any of its share capital or securities which belong to the individual or makes any payment to him for giving up his right to any of the company's share capital or any security on its cancellation or extinguishment;
  - (b) repays any debt owed to the individual other than a debt which was incurred by the company—
    - (i) on or after the date on which he subscribed for the shares in respect of which the relief is claimed; and
    - (ii) otherwise than in consideration of the extinguishment of a debt incurred before that date;
  - (c) makes to the individual any payment for giving up his right to any debt (other than a debt in respect of a payment of the kind mentioned in section 54(3)(a) or (e) above or an ordinary trade debt) on its extinguishment ;
  - (d) releases or waives any liability of the individual to the company or discharges, or undertakes to discharge, any liability of his to a third person ;
  - (e) makes a loan or advance to the individual;
  - (f) provides a benefit or facility for the individual;
  - (g) transfers an asset to the individual for no consideration or for consideration less than its market value or acquires an asset from him for consideration exceeding its market value; or
  - (h) makes to him any other payment except a payment of the kind mentioned in section 54(3)(a), (b), (c), (d) or (e) above or a payment in discharge of an ordinary trade debt.
- (3) For the purposes of this section an individual also receives value from the company if he receives in respect of ordinary shares held by him any payment or asset in a winding up or in connection with a dissolution of the company, being a winding up or dissolution falling within section 55(5) above.
- (4) The value received by an individual is—
- (a) in a case within paragraph (a), (b) or (c) of subsection (2) above, the amount receivable by the individual or, if greater, the market value of the shares, securities or debt in question ;
  - (b) in a case within paragraph (d) of that subsection, the amount of the liability ;
  - (c) in a case within paragraph (e) of that subsection, the amount of the loan or advance ;
  - (d) in a case within paragraph (f) of that subsection, the cost to the company of providing the benefit or facility less any consideration given for it by the individual;
  - (e) in a case within paragraph (g) of that subsection, the difference between the market value of the asset and the consideration (if any) given for it;
  - (f) in a case within paragraph (h) of that subsection, the amount of the payment; and
  - (g) in a case within subsection (3) above, the amount of the payment or, as the case may be, the market value of the asset.
- (5) Where by virtue of this section any relief is withheld or withdrawn in the case of an individual to whom ordinary shares in a company have been issued at different times the relief shall be withheld or withdrawn in respect of shares issued earlier rather than in respect of shares issued later.

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- (6) For the purposes of subsection (2)(d) above a company shall be treated as having released or waived a liability if the liability is not discharged within twelve months of the time when it ought to have been discharged.
- (7) For the purposes of subsection (2)(e) above there shall be treated as if it were a loan made by the company to the individual—
- (a) the amount of any debt (other than an ordinary trade debt) incurred by the individual to the company ; and
  - (b) the amount of any debt due from the individual to a third person which has been assigned to the company.
- (8) In this section " an ordinary trade debt" means any debt for goods supplied in the ordinary course of a trade or business where the credit given does not exceed six months and is not longer than that normally given to the customers of the person carrying on the trade or business.
- (9) In this section—
- (a) any reference to a payment or transfer to an individual includes a reference to a payment or transfer made to him indirectly or to his order or for his benefit; and
  - (b) any reference to an individual includes a reference to an associate of his and any reference to the company includes a reference to any person connected with the company.

## 59 Prevention of misuse

- (1) An individual is not entitled to relief in respect of any shares unless the shares are subscribed for and issued for bona fide commercial purposes and not as part of a scheme or arrangement the main purpose or one of the main purposes of which is the avoidance of tax.
- (2) The relief to which an individual is entitled in respect of any shares in a company shall be reduced in accordance with subsection (3) below if at any time in the relevant period the company repays, redeems or repurchases any of its share capital which belongs to any member other than—
- (a) that individual; or
  - (b) another individual whose relief is thereby reduced by virtue of section 58(2)(a) above,
- or makes any payment to any such member for giving up his right to any of the company's share capital on its cancellation or extinguishment.
- (3) Where subsection (2) above applies the amount of relief to which an individual is entitled shall be reduced by the amount receivable by the member or, if greater, the nominal value of the share capital in question ; and where, apart from this subsection, two or more individuals would be entitled to relief the reduction shall be made in proportion to the amounts of relief to which they would, apart from this subsection, have been entitled.
- (4) Where at any time in the relevant period a member of a company receives or is entitled to receive any value from the company within the meaning of this subsection, then, for the purposes of the provisions of section 53(3) and (7) and section 54(4) above in their application to any subsequent time—
- (a) the amount of the company's issued ordinary share capital; and

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- (b) the amount of the part of that capital which consists of the shares relevant to those provisions and the amount of the part consisting of the remainder, shall each be treated as reduced in accordance with subsection (5) below.
- (5) The amount of each of the parts mentioned in subsection (4)(b) above shall be treated as equal to such proportion of that amount as the amount subscribed for that part less the relevant value bears to the amount subscribed ; and the amount of the issued share capital shall be treated as equal to the sum of the amounts treated under this subsection as the amount of those parts respectively.
- (6) In subsection (4)(b) above the reference to the part of the capital which consists of the shares relevant to the provisions there mentioned is a reference—
- (a) in relation to section 53(3), to the part consisting of shares in respect of which the relief has been given or is claimed;
  - (b) in relation to section 53(7), to the part consisting of shares in respect of which the relief has been given ;
  - (c) in relation to section 54(4), to the part consisting of shares which (within the meaning of that section) the individual directly or indirectly possesses or is entitled to acquire;
- and in subsection (5) above " the relevant value ", in relation to each of the parts there mentioned, means the value received by the member or members entitled to the shares of which that part consists.
- (7) For the purposes of subsection (4) above a member of a company receives or is entitled to receive value from the company in any case in which an individual would receive value from the company by virtue of paragraph (d), (e), (f), (g) or (h) of subsection (2) of section 58 above (but treating as excepted from paragraph (h) all payments made for full consideration) and the value received shall be determined as for the purposes of that section.
- (8) For the purposes of subsection (7) above a person shall be treated as entitled to receive anything which he is entitled to receive at a future date or will at a future date be entitled to receive.

## **60 Husband and wife**

- (1) In the case of any amount subscribed by a married woman for shares issued to her at a time—
- (a) when she is living with her husband ; and
  - (b) which falls in a year of assessment for which his income includes (or, if there were any, would include) any of hers,
- the deduction under section 52(2) above shall, subject to subsection (2) below, be made from his total income, and references in this Chapter to the relief to which an individual is entitled in respect of any shares shall be construed accordingly.
- (2) For the purposes of sections 38(2) and 39 of the Taxes Act (option for separate assessment) the relief shall be treated as a relief under Chapter II of Part I of that Act; and where—
- (a) an application under section 38(1) of the Taxes Act; or
  - (b) an election under section 23 of the Finance Act 1971 (separate taxation of wife's earnings),

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is in force for a year of assessment for which a deduction falls to be made under section 52(2) above in respect of an amount subscribed by the wife, section 39(1)(c) of the Taxes Act and paragraph 4 of Schedule 4 to the said Act of 1971 (allocation of reliefs between husband and wife) shall have effect as if references to relief under section 20 of the Taxes Act and to a payment made by the wife included references to relief under this Chapter and to a payment made by her as a subscription for shares.

- (3) For the purposes of subsection (7) of section 36 of the Finance Act 1976 (allocation of surplus deduction to other spouse in year of non-aggregation) the relief shall be treated as a deduction under a provision to which that subsection applies but, in the case of the wife, only as respects amounts subscribed by her for shares issued in the part of the year of assessment mentioned in that subsection.
- (4) The limits in section 53(1) and (2) above shall apply jointly to a husband and wife as respects amounts subscribed for shares issued at a time—
- (a) when they are married and living together; and
  - (b) which falls in a year of assessment for which his income includes (or, if there were any, would include) any of hers;

but if the husband dies or they are divorced or cease to live together before the end of any such year those limits shall apply to the wife as respects amounts subscribed by her for shares issued in the remainder of the year as if it were a separate year of assessment.

- (5) Where any such application or election as is mentioned in subsection (2) above is in force for a year of assessment in which shares are issued for which amounts have been subscribed both by the husband and the wife, then, if section 53(2) above requires a restriction to be placed on the relief given on a claim or claims in respect of those amounts, the available relief shall be divided between the husband and the wife in proportion to the amounts which have been respectively subscribed by them for the shares to which the claim or claims relate and which would, apart from the restriction, be eligible for the relief.
- (6) Subsection (1) of section 57 above shall not apply to a disposal made by a married woman to her husband at a time when she is living with him or to a disposal made at such a time by him to her; but where shares issued to one of them have been transferred to the other by a transaction *inter vivos*—
- (a) that subsection shall apply on the disposal of the shares by the transferee to a third person ; and
  - (b) if at any time the husband and wife are divorced or cease to live together and any of those shares have not been disposed of by the transferee before that time, any assessment for withdrawing relief in respect of those shares shall be made on the transferee.
- (7) Where a husband and wife are divorced or cease to live together, then, if any relief given in respect of shares for which either of them has subscribed and which were issued while they were married and living together falls to be withdrawn by virtue of a subsequent disposal of those shares by the person who subscribed for them, any assessment for withdrawing that relief shall be made on the person making the disposal and shall be made by reference to the reduction of tax flowing from the amount of the relief regardless of any allocation of that reduction under section 39(1) or (2) of the Taxes Act and of any allocation of the relief under section 36(7) of the Finance Act 1976.

## **61 Claims**

- (1) A claim for the relief in respect of shares issued by a company in any year of assessment shall be made—
  - (a) not earlier than the end of that year or, if later, the end of the period mentioned in section 52(3)(a) above ; and
  - (b) not later than two years after the end of that year or, if that period ends after the end of that year, not later than two years after the end of that period.
- (2) Where in any year of assessment shares are issued by a company to two or more individuals each of whom has subscribed at least £500 for his shares—
  - (a) claims in respect of those shares may be made jointly by all or any of them ; and
  - (b) if they do not all make their claims jointly, a claim made by any of them shall not be allowed unless it is accompanied by a statement by each such individual not claiming jointly that he is aware of the making of the claim.
- (3) Where the relief given on a claim to any individual would by virtue of section 53(3) above require the withdrawal of the whole or part of any relief already given to another individual, the claim shall not be allowed unless it is accompanied by a statement by the other individual that he consents to the making of the claim.
- (4) A claim for relief in respect of shares in a company shall not be allowed unless it is accompanied by a statement by the company that the conditions for the relief, so far as applying to the company and the trade, are satisfied up to the date on which the claim is made.
- (5) Any statement under subsection (4) above shall contain such information as the Board may reasonably require, shall be in such form as the Board may direct and shall contain a declaration that it is correct to the best of the company's knowledge and belief; and if any such statement is made fraudulently or negligently the company shall be liable to a penalty not exceeding £250 or, in the case of fraud, £500.
- (6) No application shall be made under section 55(3) or (4) of the Taxes Management Act 1970 (application for postponement of payment of tax pending appeal) on the ground that the applicant is entitled to the relief unless a claim for the relief has been duly made by him.
- (7) For the purposes of section 86 of the said. Act of 1970 (interest on overdue tax) tax charged by an assessment—
  - (a) shall be regarded as due and payable notwithstanding that relief from the tax (whether by discharge or repayment) is subsequently given on a claim for the relief; but
  - (b) shall, unless paid earlier or due and payable later, be regarded as paid on the date of the making of the claim on which the relief is given;and section 91 of that Act (effect on interest of reliefs) shall not apply in consequence of any discharge or repayment for giving effect to the relief.

## **62 Assessments for withdrawing relief. 63. Information**

- (1) Where any relief has been given which is subsequently found not to have been due it shall be withdrawn by the making of an assessment to tax under Case VI of Schedule D for the year of assessment for which the relief was given.

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- (2) Subject to the following provisions of this section, any assessment for withdrawing relief which is made by reason of an event occurring after the date of the claim may be made within six years after the end of the year of assessment in which that event occurs.
- (3) No assessment for withdrawing relief in respect of shares issued to any person shall be made by reason of any event occurring after his death.
- (4) Where a person has, by a disposal or disposals to which section 57(1)(a) above applies, disposed of all the ordinary shares issued to him by a company, no assessment for withdrawing relief in respect of any of those shares shall be made by reason of any subsequent event unless it occurs at a time when he is connected with the company within the meaning of section 54 above.
- (5) Subsection (2) above is without prejudice to section 36 of the Taxes Management Act 1970 (fraud and wilful default) and section 37 of that Act (neglect).
- (6) In its application to an assessment made by virtue of this section, section 86 of the said Act of 1970 (interest on overdue tax) shall have effect as if the reckonable date were—
  - (a) in the case of relief withdrawn by virtue of section 53(7), 54, 55, 56 or 59(2) in consequence of any event after the grant of the relief, the date of that event;
  - (b) in the case of relief withdrawn by virtue of section 57(1) in consequence of a disposal after the grant of the relief, the date of the disposal;
  - (c) in the case of relief withdrawn by virtue of section 58 in consequence of a receipt of value after the grant of the relief, the date of the receipt;
  - (d) in (the case of relief withdrawn by virtue of section 59(1), the date on which the relief was granted.
- (7) For the purposes of subsection (6) above the date on which the relief is granted is the date on which a repayment of tax for giving effect to the relief was made or, if there was no such repayment, the date on which the inspector issued a notice to the claimant showing the amount of tax payable after giving effect to the relief.

### **63 Information.**

- (1) Where an event occurs by reason of which any relief given to an individual falls to be withdrawn by virtue of section 54, 57, 58 or 60(6) above the individual shall within sixty days of his coming to know of the event give a notice in writing to the inspector containing particulars of the event.
- (2) Where an event occurs by reason of which any relief in respect of any shares in a company falls to be withdrawn by virtue of section 53(7), 55, 56, 58 or 59 above—
  - (a) the company; and
  - (b) any person connected with the company who has knowledge of that matter,shall within sixty days of the event or, in the case of a person within paragraph (b) above of his coming to know of it, give a notice in writing to the inspector containing particulars of the event or payment.
- (3) Where a company is notified by the inspector that relief has been given in respect of any shares issued by the company on a specified date, then, if any shares in the company (whether or not shares in respect of which relief has been given) are transferred at any time in the period of five years beginning with that date, the company shall within sixty days of—

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- (a) coming to know of the transfer ; or
  - (b) receiving the notification from the inspector,
- whichever is the later, give a notice in writing to the inspector containing particulars of the transfer.
- (4) If the inspector has reason to believe that a person has not given a notice which he is required to give under subsection (1), (2) or (3) above in respect of any event, the inspector may by notice in writing require that person to furnish him within such time, not being less than sixty days, as may be specified in the notice with such information relating to the event as the inspector may reasonably require for the purposes of this Chapter.
- (5) Where the relief is claimed in respect of shares in a company and the inspector has reason to believe that it may not be due by reason of any such arrangement or scheme as is mentioned in section 54(9), 55(8) or 59(1) above, he may by notice in writing require any person concerned to furnish him within such time, not being less than sixty days, as may be specified in the notice with—
- (a) a declaration in writing stating whether or not, according to information which that person has or can reasonably obtain, any such arrangement or scheme exists or has existed;
  - (b) such other information as the inspector may reasonably require for the purposes of the provision in question and as that person has or can reasonably obtain.
- (6) References in subsection (5) above to the person concerned are, in relation to section 54(9) and 59(1), the claimant and, in relation to section 55(8) and 59(1), the company and any person controlling the company.
- (7) Where relief has been given in respect of shares in a company—
- (a) any person who receives from the company any payment or asset which may constitute value received (by him or another) for the purposes of section 58 or 59(4) above; and
  - (b) any person on whose behalf such a payment or asset is received,
- shall, if so required by the inspector, state whether the payment or asset received by him or on his behalf is received on behalf of any person other than himself and, if so, the name and address of that person.
- (8) Where relief has been claimed in respect of shares in a company, any person who holds or has held shares in the company and any person on whose behalf any such shares are or were held shall, if so required by the inspector, state whether the shares which are or were held by him or on his behalf are or were held on behalf of any person other than himself and, if so, the name and address of that person.
- (9) No obligation as to secrecy imposed by statute or otherwise shall preclude the inspector from disclosing to a company that relief has been given or claimed in respect of a particular number or proportion of its shares.

## **64 Capital gains tax**

- (1) The sums allowable as deductions from the consideration in the computation for the purposes of capital gains tax of the gain or loss accruing to an individual on the disposal of shares in respect of which any relief has been given and not withdrawn shall be reduced—

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- (a) where paragraph (b) below does not apply, by an amount equal to one-half of the amount of the relief ;
- (b) where those sums exceed the consideration, by an amount equal to—
  - (i) the whole amount of the relief ; or
  - (ii) the excess,
 whichever is the less ;

but the foregoing provisions of this subsection shall not apply to a disposal falling within section 44(1) of the Capital Gains Tax Act 1979 (disposals between husband and wife).

- (2) Section 65 of the said Act of 1979 (pooling of shares etc.) shall not apply to shares in respect of which any relief has been given and not withdrawn; and any question whether a disposal relates to such shares or to other shares shall for the purposes of capital gains tax be determined as for the purposes of section 57 above.
- (3) Where an individual holds ordinary shares in a company and the relief has been given in respect of some but not others, then, if there is within the meaning of section 77 of the said Act of 1979 a reorganisation affecting those shares, section 78 of that Act shall apply separately to the shares in respect of which the relief has been given and to the other shares (so that the shares of each kind are treated as a separate holding of original shares and identified with a separate new holding).
- (4) There shall be made all such adjustments of capital gains tax, whether by way of assessment or by way of discharge or repayment of tax, as may be required in consequence of the relief being given or withdrawn.

## **65 Application to subsidiaries**

- (1) A qualifying company may in the relevant period have one or more subsidiaries if—
  - (a) the conditions in subsection (2) below are satisfied in respect of the subsidiary or each subsidiary and, except as provided in subsection (3) below, continue to be so satisfied until the end of the relevant period ; and
  - (b) the subsidiary or each subsidiary was incorporated in the United Kingdom, did not commence business before the qualifying company did so and complies with the requirements of section 55(2) to (6) above.
- (2) The conditions referred to in subsection (1)(a) above are—
  - (a) that the qualifying company possesses all the issued share capital of, and all the voting power in, the subsidiary; and
  - (b) that no other person has control of the subsidiary within the meaning of section 534 of the Taxes Act; and
  - (c) that no arrangements are in existence by virtue of which the conditions in paragraphs (a) and (b) above could cease to be satisfied.
- (3) The conditions referred to in subsection (1)(a) above shall not be regarded as ceasing to be satisfied by reason only of the subsidiary or the qualifying company being wound up or dissolved without winding up if—
  - (a) it is shown that the winding up or dissolution is for bona fide commercial reasons and not part of a scheme or arrangement the main purpose or one of the main purposes of which is the avoidance of tax ; and
  - (b) the net assets, if any, of the subsidiary or, as the case may be, the qualifying company are distributed to its members or dealt with as bona vacantia before



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the end of the relevant period, or in the case of a winding up, the end (if later) of three years from the commencement of the winding up.

- (4) Where a qualifying company has one or more subsidiaries in the relevant period the foregoing provisions of this Chapter shall have effect subject to Schedule 12 to this Act.

## **66 Nominees and approved investment funds**

- (1) Subject to the provisions of this section, shares subscribed for, issued to, held by or disposed of for an individual by a nominee shall be treated for the purposes of this Chapter as subscribed for, issued to, held by or disposed of by that individual.
- (2) Section 53(1) above shall not apply where the amount is subscribed as nominee for an individual by the person or persons having the management of an investment fund approved for the purposes of this section by the Board ("the managers of an approved fund").
- (3) Any shares issued to the managers of an approved fund as nominee for an individual shall be treated for the purposes of section 53(4) above as shares in respect of which relief has been claimed (whether or not claimed in fact).
- (4) The managers of an approved fund may be treated for the purposes of section 53(5) and (6) above as the claimant in respect of shares issued to them as nominees for an individual.
- (5) Section 63(1) above shall apply to the managers of an approved fund as it would apply to an individual if relief had been given to him in respect of the shares held for him as nominee by the managers (whether or not given in fact).

## **67 Interpretation**

- (1) In this Chapter—
- "associate" has the meaning given in subsection (3) of section 303 of the Taxes Act except that "relative" in that subsection shall not include a brother or sister ;
- "control", except in section 54(7) and section 65(2)(b), shall be construed in accordance with section 302(2) to (6) of that Act;
- "director" shall be construed in accordance with section 303(5) of that Act;
- "fixed-rate preference share capital" means share capital consisting of shares which—
- (a) are issued for consideration which is or includes new consideration; and
- (b) do not carry any right either to conversion into shares or securities of any other description or to the acquisition of any additional shares or securities; and
- (c) do not carry any right to dividends other than dividends which—
- (i) are of a fixed amount or at a fixed rate per cent, of the nominal value of the shares, and
- (ii) represent no more than a reasonable commercial return on the new consideration received by the company in respect of the issue of the shares; and

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- (d) on repayment do not carry any rights to an amount exceeding that new consideration except in so far as those rights are reasonably comparable with those general for fixed dividend shares listed in the Official List of The Stock Exchange ;  
 " market value " shall be construed in accordance with section 150 of the Capital Gains Tax Act 1979 ;  
 " new consideration " has the same meaning as in Part )( of the Taxes Act;  
 " ordinary shares " means shares forming part of a company's ordinary share capital;  
 " the relevant period " has the meaning given in section 52(5) above;  
 "the relief" or "relief" means relief under section 52 above and references to the amount of the relief shall be construed in accordance with subsection (2) of that section.
- (2) Section 533 of the Taxes Act (meaning of connected persons) applies for the purposes of the provisions of this Chapter other than section 54.
- (3) References in this Chapter to a disposal of shares include references to a disposal of an interest or right in or over the shares and an individual shall be treated for the purposes of this Chapter as disposing of any shares which he is treated by virtue of section 86(1) of the Capital Gains Tax Act 1979 as exchanging for other shares.
- (4) References in this Chapter to the reduction of any amount include references to its reduction to nil.

### CHAPTER III

#### BENEFITS IN KIND

#### **68 Cars available for private use**

- (1) Section 64 of the Finance Act 1976 (cars available for private use) shall be amended as follows.
- (2) In subsection (1) for the words following paragraph (b) there shall be substituted the words " then, for the purposes of the Income Tax Acts (and in particular section 204 of the Taxes Act (pay as you earn)) he shall be treated as being paid by his employer in that year an emolument of his employment of an amount equal to whatever is the cash equivalent of that benefit in that year ".
- (3) After subsection (2) there shall be inserted—
  - “(2A) Where in any year a person is taxable in respect of the benefit of a car under this section, he shall not be taxable—
    - (a) under section 181 of the Taxes Act in respect of the discharge of any liability of his in connection with the car;
    - (b) under section 36 or 36A of the Finance (No. 2) Act 1975 in respect of any voucher or credit-token to the extent that it is used by him—
      - (i) for obtaining money which is spent on goods or services in connection with the car, or
      - (ii) for obtaining such goods or services;

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- (c) under section 60 above in respect of any payment made by him in respect of expenses incurred by him in connection with the car.”.
- (4) At the end of subsection (5) there shall be inserted the words " but for the purposes of the said section 204 no adjustment to the cash equivalent shall be made by virtue of sub-paragraph (1) of paragraph 2 of Part II of that Schedule in a case in which sub-paragraph (2)(b) of that paragraph applies or by virtue of paragraphs 3 to 5 of that Part of that Schedule unless the inspector has notified the employer of the adjustment to be made " .
- (5) After subsection (5) there shall be inserted—
- “(6) Regulations under the said section 204 may prescribe the time or times at which the employer is to be treated for the purposes of that section as making payments in respect of the amount referred to in subsection (1) above and, where several times are prescribed, the parts of that amount to be treated as paid at those times.
- (7) Where, by reason of any insufficiency in the payments actually made by an employer to an employee to whom he is treated as paying an amount by virtue of this section, the employer is unable in any year to deduct and cannot otherwise recover from the employee all the income tax in respect of that amount which he is liable to pay to the Board under the said section 204, the employer shall be treated as having provided a benefit in that year for the employee of an amount equal to the amount of tax which he is unable to deduct or otherwise recover which shall be chargeable to tax under section 61 above.”.
- (6) In paragraph 5 of Part II of Schedule 7 to the said Act of 1976 (increase of cash equivalent where use of car for business travel does not amount to more than 1,000 miles) for " 1,000 " there shall be substituted " 2,500 " .
- (7) Subsections (1) to (5) of this section have effect for the year 1982-83 and subsequent years of assessment and subsection (6) of this section has effect for the year 1981-82 and subsequent years of assessment.

## **69 Car fuel**

- (1) After section 64 of the Finance Act 1976 there shall be inserted—

### **“64A Car fuel.**

- (1) Where in any year in the case of a person employed in director's or higher-paid employment fuel is provided by reason of his employment for a car which is made available as mentioned in section 64 above, he shall be treated for the purposes of the Income Tax Acts (and in particular section 204 of the Taxes Act (pay as you earn)) as being paid by his employer in that year an emolument of his employment of an amount equal to whatever is the cash equivalent of that benefit in that year.
- (2) Subject to the following provisions of this section, the cash equivalent of that benefit shall be ascertained from Table A below where the car has an internal combustion engine with one or more reciprocating pistons and from Table B below in the case of other cars; and for the purposes of Table A below a car's cylinder capacity is the capacity of its engine calculated as for the purposes of

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the Vehicles (Excise) Act 1971 or the Vehicles (Excise) Act (Northern Ireland) 1972.

TABLE A

Cylinder capacity of car in cubic centimetres	Cash equivalent
1300 or less	£270
More than 1300, but not more than 1800	£360
More than 1800	£540

TABLE B

Original market value of car	Cash equivalent
Less than £3,600	£270
£3,600 or more, but less than £5,100	£360
£5,100 or more	£540

- (3) Without prejudice to the generality of subsection (1) above, fuel is provided for a car if—
- (a) any liability in respect of the provision of fuel for the car is discharged ;
  - (b) a voucher within the meaning of section 36 of the Finance (No. 2) Act 1975 or a credit-token within the meaning of section 36A of that Act is used to obtain fuel for the car or money which is spent on such fuel; or
  - (c) any sum is paid in respect of expenses incurred in providing fuel for the car.
- (4) The Treasury may by order taking effect from the beginning of any year beginning after it is made (but not of any year earlier than 1983-84) substitute a different Table for either of the Tables in subsection (2) above.
- Orders under this subsection shall be made by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.
- (5) Where paragraph 2 or 3 of Part II of Schedule 7 to this Act applies to reduce the cash equivalent of the benefit of the car for which the fuel is provided, the same reduction shall be made to the cash equivalent of the benefit of the fuel ascertained under subsection (2) above.
- (6) If in the relevant year—
- (a) the employee is required to make good to the person providing the fuel the whole of the expense incurred by him in or in connection with the provision of fuel for his private use and he does so ; or
  - (b) the fuel is made available only for business travel,
- the cash equivalent is nil.
- (7) For the purposes of section 204 of the Taxes Act no alteration of the cash equivalent shall be made by virtue of sub-paragraph (1) of paragraph 2 of Part

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II of Schedule 7 to this Act in a case in which sub-paragraph (2) (b) of that paragraph applies or of paragraph 3 of that Part or of subsection (6)(a) above unless the inspector has notified the employer of the alteration to be made.

(8) Subsections (6) and (7) of section 64 above shall apply in relation to the amount referred to in subsection (1) above as they apply to the amount referred to in subsection (1) of that section.”.

(2) This section has effect for the year 1982-83 and subsequent years of assessment.

## **70 Transport vouchers**

(1) Section 36 of the Finance (No. 2) Act 1975 (benefits in kind: vouchers other than cash vouchers) shall be amended as follows.

(2) After subsection (2) there shall be inserted—

“(2A) The expense incurred as mentioned in subsection (1)(a) above by the person providing the voucher shall be treated as reduced by any part of that expense made good to that person by the employee.”.

(3) At the end of subsection (4) (definition of "voucher") there shall be inserted the words " and includes a transport voucher. ".

(4) After subsection (4) there shall be inserted—

“(4A) In this section " transport voucher " means any ticket, other document or pass intended to enable a person in possession of it to obtain passenger transport services and, in relation to a transport voucher, references in this section to a voucher being exchanged for services shall be construed accordingly.”.

(5) In subsection (5)—

(a) for paragraph (a) there shall be substituted—

“(a) " employee " means the holder of any office or employment the emoluments in respect of which fall to be assessed under Schedule E, and related expressions shall be construed accordingly”; and

(b) in paragraph (d) the words "or family" shall be omitted and at the end there shall be inserted the words " or his parent or child or the spouse of his child or any dependant of the employee's ".

(6) Subsection (2) of this section shall be deemed to have had effect since 6th April 1976 and the remaining provisions of this section have effect for the year 1982-83 and subsequent years of assessment but section 15 of the Taxes Management Act 1970 (returns of employees' emoluments etc.) shall have effect for the year 1981-82 as if all the amendments made by this section were in operation for that year.

## **71 Credit-tokens**

(1) After section 36 of the Finance (No. 2) Act 1975 there shall be inserted—

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**“36A Credit-tokens.**

- (1) Subject to the provisions of this section, where a credit-token is provided for an employee by reason of his employment, then, for the purposes of the Income Tax Acts—
  - (a) if the person providing the credit-token incurs any expense in or in connection with its provision, the employee shall be treated as having received in the year of assessment in which the expense is incurred an emolument from his employment of an amount equal to that expense;
  - (b) on each occasion that the employee uses the credit-token to obtain money, goods or services he shall be treated as having received an emolument from his employment of an amount equal to the expense incurred by the person providing the credit-token in or in connection with the provision of the money, goods or services obtained (including any interest paid in connection therewith); and
  - (c) any money, goods or services obtained by the employee by use of the credit-token shall be disregarded.
- (2) There shall be deductible under section 189, 192 or 194(3) of the Taxes Act (necessary expenses etc.) from the amount taxable under subsection (1) above such amounts if any as would have been so deductible if the cost of the goods or services in question had been incurred by the employee out of his emoluments.
- (3) The expense incurred by the person providing the credit-token as mentioned in paragraphs (a) and (b) of subsection (1) above shall be treated as reduced by any part of that expense made good to that person by the employee.
- (4) In this section " credit-token " does not include a voucher within the meaning of section 36 or a cash voucher within the meaning of section 37 of this Act, but subject to that shall be construed in accordance with section 14 of the Consumer Credit Act 1974 with the substitution for the words " an individual " wherever they occur in that section of the words " a person ".
- (5) Subsection (5) of section 36 of this Act shall apply for the purpose of this section (the references to a voucher being for this purpose read as references to a credit-token).
- (6) If a person furnishes to the inspector a statement of the cases and circumstances in which credit-tokens are provided for any employees (whether his own or those of anyone else) and the inspector is satisfied that no additional tax is payable under this section by reference to the credit-tokens mentioned in the statement, the inspector shall notify the person accordingly and nothing in this section shall apply to the provision of those credit-tokens or their use.
- (7) The inspector may, if in his opinion there is reason to do so, by notice in writing served on the person to whom the notification under subsection (6) above was given, revoke the notification, either as from the date of its making or as from such later date as may be specified in the notice under this subsection; and all such income tax becomes chargeable, and all such returns are to be made by that person and by the employees in question, as would have been chargeable or would have had to be made in the first instance if the

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notification under subsection (6) above had never been given or, as the case may be, it had ceased to have effect on the specified date.”.

- (2) In section 15(7)(a) of the Taxes Management Act 1970 (returns of employees' emoluments) and in section 69(2)(a) of the Finance Act 1976 (amounts included as emoluments for purposes of director's or higher-paid employment) after " 36 " there shall be inserted " , 36A. "
- (3) This section has effect for the year 1982-83 and subsequent years of assessment.

## **72 Medical insurance and treatment**

- (1) At the end of section 62 of the Finance Act 1976 (exceptions from general charge) there shall be inserted—

“(8) Section 61 above does not apply where the benefit consists—

- (a) in providing the employee with medical treatment outside the United Kingdom (including providing for him to be an in-patient) in a case where the need for the treatment arises while the employee is outside the United Kingdom for the purpose of performing the duties of his employment; or
- (b) in providing insurance for the employee against the cost of such (treatment in such a case;

and for the purpose of this subsection, medical treatment includes all forms of treatment for, and all procedures for diagnosing, any physical or mental ailment, infirmity, or defect.”.

- (2) Section 68 of that Act (medical insurance) shall cease to have effect.
- (3) In section 15(7)(a) of the Taxes Management Act 1970 and in section 61(2) of the said Act of 1976 for the words "to 68 " there shall be substituted the words " to 67 ".
- (4) This section has effect for the year 1982-83 and subsequent years of assessment.”.

## **CHAPTER IV**

### **CAPITAL ALLOWANCES**

## **73 Industrial buildings etc.: increase of initial allowances**

- (1) In section 1(2) of the Capital Allowances Act 1968 (rate of initial allowances) for " one-half " there shall be substituted " three-quarters " and the same amendment shall be made in paragraph 1 of Schedule 6 to the Finance Act 1978 and paragraph 1 of Schedule 13 to the Finance Act 1980 (which contain references to the rate specified in the said section 1 (2)).
- (2) A person other than a company may, in making a claim to an initial allowance at the rate applying by virtue of this section, require the initial allowance to be reduced to a specified amount; and a company may, by notice in writing given to the inspector not later than two years after the end of the chargeable period for which an initial allowance at that rate falls to be made, disclaim the allowance or require it to be reduced to a specified amount.

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- (3) This section has effect in relation to expenditure incurred after 10th March 1981 and to expenditure which by virtue of section 5(1) of the said Act of 1968 (purchase of unused buildings or structures) is deemed to have been incurred after that date; but expenditure shall not be treated for the purposes of this section as having been incurred after the date on which it was in fact incurred by reason only of section 1(6) of that Act (expenditure incurred before trade begins).

#### **74 Industrial buildings etc.: sales after cessation of use for qualifying purpose**

- (1) Chapter I of Part I of the Capital Allowances Act 1968 (industrial buildings and structures etc.) shall have effect with the following amendments, being amendments with respect to the calculation of writing-down allowances and the making of balancing allowances and charges where a building or structure has ceased to be an industrial building or structure.
- (2) In section 2(3) of that Act (calculation of writing-down allowance where the relevant interest is sold while the building or structure is an industrial building or structure) for the words " while the building or structure is an industrial building or structure " there shall be substituted the words " and the sale is an event to which section 3(1) of this Act applies ".
- (3) In section 3(1) of that Act (balancing allowance or charge on occurrence of certain events while the building or structure is an industrial building or structure)—
- (a) after the words " while the building or structure is an industrial building or structure " there shall be inserted the words " or after it has ceased to be one ";
  - (b) at the end of the proviso there shall be inserted the words " and where two or more events occur during a period when the building or structure is not an industrial building or structure no balancing allowance or balancing charge shall be made on the occurrence of any of those events except the first. ".
- (4) In section 6 of that Act (manner of making allowances and charges) after subsection (6) there shall be inserted—
- “(7) Where a balancing allowance or balancing charge falls to be made in the case of a building or structure which has ceased to be an industrial building or structure and the circumstances are such as are mentioned in paragraph (a) and (b) of subsection (2) of section 12 of this Act, the allowance or charge shall be made as provided in that subsection.”.
- (5) In section 38 of the Finance Act 1978 (application of the said Chapter I to qualifying hotels) and in section 74 of the Finance Act 1980 (application of that Chapter to commercial buildings and qualifying hotels in enterprise zones) references to that Chapter shall be construed as references to that Chapter as amended by this section.
- (6) This section has effect where the sale referred to in section 2(3) of the said Act of 1968 or, as the case may be, the event referred to in paragraph (a), (b), (c) or (d) of section 3(1) of that Act occurs after 17th December 1980 but not where the sale is pursuant to a contract of sale made on or before that date or the event is a sale pursuant to such a contract.



## **75 Industrial buildings etc.: balancing adjustments in cases of use for non-qualifying purpose**

- (1) Chapter I Of Part I of the Capital Allowances Act 1968 (industrial buildings and structures etc.) shall have effect with the following amendments, being amendments with respect to the calculation of balancing allowances and charges where a building or structure has at any time been used otherwise than as an industrial building or structure or for scientific research.
- (2) For section 3(4) and (5) of that Act (calculation of balancing allowance and charge where no writing-down allowance has been made for part of the relevant period) there shall be substituted—
- “(4) If for any part of the relevant period the building or structure was neither an industrial building or structure nor used for scientific research, subsections (4A) to (5) below shall have effect instead of subsections (2) and (3) above.
- (4A) Subject to subsection (4C) below, where the sale, insurance, salvage or compensation moneys are not less than the capital expenditure, a balancing charge shall be made and the amount on which it is made shall be an amount equal to the allowances given.
- (4B) Subject to subsection (4C) below, where there are no sale, insurance, salvage or compensation moneys or where those moneys are less than the capital expenditure, then—
- (a) if the adjusted net cost of the building or structure exceeds the allowances given, a balancing allowance shall be made and the amount thereof shall be an amount equal to the excess;
- (b) if the adjusted net cost of the building or structure is less than the allowances given, a balancing charge shall be made and the amount on which it is made shall be an amount equal to the shortfall.
- (4C) No balancing charge or allowance shall be made under subsection (4A) or (4B) above on the occasion of a sale if by virtue of paragraph 4 of Schedule 7 to this Act the building or structure is treated as having been sold for a sum equal to the residue of the expenditure on its construction immediately before the sale.
- (5) In subsections (4) to (4B) above and in this subsection—
- “ the relevant period ” means the period beginning at the time when the building or structure was first used for any purpose and ending with the event giving rise to the balancing allowance or balancing charge except that where there has been a sale of the building or structure after that time and before that event the relevant period shall begin on the day following that sale or, if there has been more than one such sale, the last such sale ;
- “ the capital expenditure ” means—
- (a) where paragraph (b) of this definition does not apply, the capital expenditure incurred (or by virtue of section 5 of this Act deemed to have been incurred) on the construction of the building or structure ;
- (b) where the person to or on whom the balancing allowance or balancing charge falls to be made is not the person who incurred

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(or is deemed to have incurred) that expenditure, the residue of that expenditure at the beginning of the relevant period, together (in either case) with any amount to be added to the residue of that expenditure by virtue of section 4(11) of this Act;

" the allowances given " means the allowances referred to in subsection (6) of this section ;

" the adjusted net cost" means—

(a) where there are no sale, insurance, salvage or compensation moneys, the capital expenditure ;

(b) where those moneys are less than that expenditure, the amount by which they are less, reduced (in either case) in the proportion that the part, or the aggregate of the parts, of the relevant period for which the building or structure was an industrial building or structure or used for scientific research bears to the whole of that period ;

" scientific research " has the same meaning as in Part II of this Act”

(3) After section 4(10) of that Act there shall be inserted—

“(10A) Where, on the occasion of a sale, a balancing charge is made under section 3(4B)(b) of this Act in respect of the expenditure and, apart from this subsection, the residue of the expenditure immediately after the sale would by virtue of subsection (10) above be deemed to be greater than the net proceeds of the sale, the residue immediately after the sale shall be deemed for the purposes of this Chapter to be equal to the net proceeds.”

(4) In section 38 of the Finance Act 1978 (application of the said Chapter I to qualifying hotels) and in section 74 of the Finance Act 1980 (application of that Chapter to commercial buildings and qualifying hotels in enterprise zones) references to that Chapter shall be construed as references to that Chapter as amended by this section.

(5) This section has effect where the event referred to in paragraph (a), (b), (c) or (d) of section 3(1) of the said Act of 1968 occurs after 17th December 1980 but not where that event is a sale pursuant to a contract of sale made on or before that date.

## **76 Transfers other than sales and transactions between connected persons**

(1) For the purposes of Chapter I of Part I of the Capital Allowances Act 1968 (industrial buildings and structures etc.) and the other provisions of that Act which are relevant to that Chapter any transfer of the relevant interest in a building or structure otherwise than by way of sale shall be treated as a sale of the interest for a price other than that which it would have fetched if sold on the open market.

(2) If Schedule 7 to the said Act of 1968 (special provisions as to certain sales) would not apart from this subsection have effect in relation to a transfer treated as a sale by virtue of subsection (1) above, that Schedule shall have effect in relation to it as if it were a sale falling within paragraph 1(1)(a) of that Schedule.

(3) In section 78(1) of the said Act of 1968 and paragraph 1(1) of Schedule 7 to that Act—  
 (a) in paragraph (a) after the words " both of them " there shall be inserted the words " or the buyer and the seller are connected with each other within the meaning of section 533 of the principal Act ";

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- (b) in paragraph (b) after the words " the obtaining of an allowance or deduction " there shall be inserted the words " , the obtaining of a greater allowance or deduction or the avoidance or reduction of a charge " .
- (4) In section 38 of the Finance Act 1978 (application of the said Chapter I to qualifying hotels) and in section 74 of the Finance Act 1980 (application of that Chapter to commercial buildings and qualifying hotels in enterprise zones) references to that Chapter shall be construed as references to that Chapter as amended by this section.
- (5) This section has effect where the transfer or sale occurs after 10th March 1981 but not when the transfer or sale is pursuant to a contract for the carrying out of the transaction or sale made on or before that date.

## **77 Carry forward of unused allowances**

- (1) Section 70 of the Capital Allowances Act 1968 (income tax allowances in taxing a trade etc.) shall be amended as follows.
- (2) In subsection (4) for the words following " as the case may be " there shall be substituted the words " shall be carried forward and, so far as may be, made as a deduction in charging the profits or gains of the trade in subsequent years of assessment. "
- (3) After that subsection there shall be inserted—
  - “(4A) Where the allowances in respect of which deductions can be made under this section for any year include allowances carried forward under subsection (4) above from a previous year the allowances shall, subject to paragraph 5 of Schedule 9 to the Finance Act 1981, be deducted in the following order—
    - (a) allowances other than those carried forward under subsection (4) above from an earlier year ;
    - (b) allowances carried forward as aforesaid from years of assessment not earlier than the year for which the basis period ended on or included 14th November 1980;
    - (c) allowances carried forward as aforesaid from years of assessment earlier than those referred to in paragraph (b) above.”
- (4) This section has effect for the year of assessment for which the basis period ended on or included 14th November 1980 and for subsequent years of assessment.

## **CHAPTER V**

### **CAPITAL GAINS**

## **78 Extension of general relief for gifts**

- (1) Section 79 of the Finance Act 1980 (general relief for gifts) shall apply in relation to a disposal to the trustees of a settlement as it applies in relation to a disposal to an individual; but a claim for relief under that section in respect of a disposal to the trustees of a settlement shall be made by the transferor alone (instead of by the transferor and the transferee).

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- (2) In subsection (3)(a) of that section for the words " section 19(3)" there shall be substituted the words " any provision ".
- (3) In subsection (4) of that section, after the words " to an individual" there shall be inserted the words " or by an individual to the trustees of a settlement ".
- (4) This section applies to disposals after 5th April 1981.

## 79 **Emigration of donee**

- (1) If—
  - (a) relief under section 79 of the Finance Act 1980 is given in respect of a disposal made after 5th April 1981 (" the relevant disposal "), and
  - (b) at a time when he has not disposed of the asset in question, the transferee becomes neither resident nor ordinarily resident in the United Kingdom,
 then, subject to the following provisions of this section, a chargeable gain shall be deemed to have accrued to the transferee immediately before that time, and its amount shall be equal to the held-over gain (within the meaning of the said section 79) on the relevant disposal.
- (2) For the purposes of subsection (1) above the transferee shall be taken to have disposed of an asset before the time there referred to only if he has made a disposal or disposals in connection with which the whole of the held-over gain on the relevant disposal was represented by reductions made in accordance with subsection (1)(b) of the said section 79 ; and where he has made a disposal in connection with which part of that gain was so represented, the amount of the chargeable gain deemed by virtue of this section to accrue to him shall be correspondingly reduced.
- (3) The disposals by the transferee that are to be taken into account under subsection (2) above shall not include any disposal to which section 44 of the Capital Gains Tax Act 1979 (disposals between spouses) applies; but where any such disposal is made by the transferee, disposals by his spouse shall be taken into account under subsection (2) above as if they had been made by him.
- (4) Where the relevant disposal was made to an individual, subsection (1) above shall not apply by reason of his becoming neither resident nor ordinarily resident more than six years after the end of the year of assessment in which the relevant disposal was made.
- (5) Subsection (1) above shall not apply where the relevant disposal was made to an individual and—
  - (a) the reason for his becoming neither resident nor ordinarily resident in the United Kingdom is that he works in an employment or office all the duties of which are performed outside the United Kingdom, and
  - (b) he again becomes resident or ordinarily resident in the United Kingdom within the period of three years from the time when he ceases to be so, without having meanwhile disposed of the asset in question;
 and accordingly no assessment shall be made by virtue of subsection (1) above before the end of the said period of three years in any case where the condition in paragraph (a) above is, and the condition of paragraph (b) above may be, satisfied.
- (6) For the purposes of subsection (5) above a person shall be taken to have disposed of an asset if he has made a disposal in connection with which the whole or part of the held-over gain on the relevant disposal would, had he been resident in the United Kingdom,

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have been represented by a reduction made in accordance with section 79(1)(b) of the Finance Act 1980; and subsection (3) above shall have effect for the purposes of this subsection as it has effect for the purposes of subsection (2) above.

- (7) Where an amount of tax assessed on a transferee by virtue of subsection (1) above is not paid within the period of twelve months beginning with the date when the tax becomes payable then, subject to subsection (8) below, the transferor may be assessed and charged (in the name of the transferee) to all or any part of that tax.
- (8) No assessment shall be made under subsection (7) above more than six years after the end of the year of assessment in which the relevant disposal was made.
- (9) Where the transferor pays an amount of tax in pursuance of subsection (7) above, he shall be entitled to recover a corresponding sum from the transferee.
- (10) Gains on disposals made after a chargeable gain has under this section been deemed to accrue by reference to a held-over gain shall be computed without any reduction under section 79(1) of the Finance Act 1980 in respect of that held-over gain.

## **80 Gains of non-resident settlements**

- (1) This section applies to a settlement for any year of assessment (beginning on or after 6th April 1981) during which the trustees are at no time resident or ordinarily resident in the United Kingdom if the settlor or one of the settlors is at any time during that year, or was when he made his settlement, domiciled and either resident or ordinarily resident in the United Kingdom.
- (2) There shall be computed in respect of every year of assessment for which this section applies the amount on which the trustees would have been chargeable to tax under section 4(1) of the Capital Gains Tax Act 1979 if they had been resident or ordinarily resident in the United Kingdom in the year; and that amount, together with the corresponding amount in respect of any earlier such year so far as not already treated under subsection (3) or section 81(2) below as chargeable gains accruing to beneficiaries under the settlement, is in this section and sections 81 and 82 below referred to as the trust gains for the year.
- (3) Subject to the following provisions of this section, the trust gains for a year of assessment shall be treated as chargeable gains accruing in that year to beneficiaries of the settlement who receive capital payments from the trustees in that year or have received such payments in any earlier year.
- (4) The attribution of chargeable gains to beneficiaries under subsection (3) above shall be made in proportion to, but shall not exceed, the amounts of the capital payments received by them.
- (5) A capital payment shall be left out of account for the purposes of subsections (3) and (4) above to the extent that chargeable gains have by reason of the payment been treated as accruing to the recipient in an earlier year.
- (6) A beneficiary shall not be charged to tax on chargeable gains treated by virtue of subsection (3) above as accruing to him in any year unless he is domiciled in the United Kingdom at some time in that year.
- (7) For the purposes of this section a settlement arising under a will or intestacy shall be treated as made by the testator or intestate at the time of his death.

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- (8) Section 17 of the Capital Gains Tax Act 1979 shall not apply as respects chargeable gains accruing to the trustees of a settlement after 5th April 1981; and the references in subsections (3) and (4) above to capital payments received by beneficiaries do not include references to any payment received before 10th March 1981, or any payment received on or after that date so far as it represents a chargeable gain which accrued to the trustees before 6th April 1981.

## **81 Migrant settlements**

- (1) Where a period of one or more years of assessment for which section 80 above applies to a settlement (in this section referred to as a "non-resident period") succeeds a period of one or more years of assessment in each of which the trustees were at some time resident or ordinarily resident in the United Kingdom (in this section referred to as a "resident period"), a capital payment received by a beneficiary in the resident period shall be disregarded for the purposes of section 80 if it was not made in anticipation of a disposal made by the trustees in the non-resident period.
- (2) Where—
- (a) a non-resident period is succeeded by a resident period, and
  - (b) the trust gains for the last year of the non-resident period are not (or not wholly) treated as chargeable gains accruing in that year to beneficiaries,
- then, subject to subsection (3) below, those trust gains (or the outstanding part of them) shall be treated as chargeable gains accruing in the first year of the resident period to beneficiaries of the settlement who receive capital payments from the trustees in that year; and so on for the second and subsequent years until the amount treated as accruing to beneficiaries is equal to the amount of the trust gains for the last year of the nonresident period.
- (3) Subsections (4) and (6) of section 80 above shall apply in relation to subsection (2) above as they apply in relation to subsection (3) of that section.

## **82 Transfers between settlements**

- (1) If in a year of assessment for which section 80 or 81(2) above applies to a settlement ("the transferor settlement") the trustees transfer all or part of the settled property to the trustees of another settlement ("the transferee settlement") then, subject to the following provisions—
- (a) if section 80 applies to the transferee settlement for the year, its trust gains for the year shall be treated as increased by an amount equal to the outstanding trust gains for the year of the transferor settlement or, where part only of the settled property is transferred, to a proportionate part of those trust gains;
  - (b) if section 81(2) applies to the transferee settlement for the year (otherwise than by virtue of paragraph (c) below), the trust gains referred to in section 81(2) shall be treated as increased by the amount mentioned in paragraph (a) above;
  - (c) if (apart from this paragraph) neither section 80 nor section 81(2) above applies to the transferee settlement for the year, section 81(2) shall apply to it as if the year were the first year of a resident period succeeding a non-resident period and the trust gains referred to in section 81(2) were equal to the amount mentioned in paragraph (a) above.
- (2) Subject to subsection (3) below, the reference in subsection (1)(a) above to the outstanding trust gains for the year of the transferor settlement is a reference to the

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amount of its trust gains for the year so far as they are not treated under section 80(3) above as chargeable gains accruing to beneficiaries in that year.

- (3) Where section 81(2) above applies to the transferor settlement for the year, the reference in subsection (1)(a) above to the outstanding trust gains of the settlement is a reference to the trust gains referred to in section 81(2) so far as not treated as chargeable gains accruing to beneficiaries in that or an earlier year.
- (4) This section shall not apply to a transfer so far as it is made for consideration in money or money's worth.

### **83 Provisions supplementary to sections 80 to 82**

- (1) In sections 80 to 82 above " capital payment" means any payment which is not chargeable to income tax on the beneficiary or, in the case of a beneficiary who is neither resident nor ordinarily resident in the United Kingdom, any payment received otherwise than as income.
- (2) In subsection (1) above references to a payment include references to the transfer of an asset and the conferring of any other benefit, and to any occasion on which settled property becomes property to which section 46 of the Capital Gains Tax Act 1979 applies.
- (3) The fact that the whole or part of a benefit is by virtue of section 45 (2) (b) above treated as the recipient's income for a year of assessment after that in which it is received—
  - (a) shall not prevent the benefit or that part of it being treated for the purposes of sections 80 to 82 above as a capital payment in relation to any year of assessment earlier than that in which it is treated as his income; but
  - (b) shall preclude its being treated for those purposes as a capital payment in relation to that or any later year of assessment.
- (4) For the purposes of sections 80 to 82 above the amount of a capital payment made by way of loan, and of any other capital payment which is not an outright payment of money, shall be taken to be equal to the value of the benefit conferred by it.
- (5) For the purposes of sections 80 to 82 above a capital payment shall be regarded as received by a beneficiary from the trustees of a settlement if—
  - (a) he receives it from them directly or indirectly, or
  - (b) it is directly or indirectly applied by them in payment of any debt of his or is otherwise paid or applied for his benefit, or
  - (c) it is received by a third person at the beneficiary's direction.
- (6) Section 29(3) of the Capital Gains Tax Act 1979 (losses accruing to non-residents not to be allowable losses) shall not prevent losses accruing to trustees in a year of assessment for which section 80 above or section 17 of that Act applied to the settlement from being allowed as a deduction from chargeable gains accruing in any later year beginning after 5th April 1981 (so far as they have not previously been set against gains for the purposes of a computation under either of those sections or otherwise).

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#### **84 Power to obtain information for purposes of sections 80 to 82**

- (1) The Board may by notice in writing require any person to furnish them within such time as they may direct, not being less than twenty-eight days, with such particulars as they think necessary for the purposes of sections 80 to 82 above.
- (2) Subsections (2) to (4) of section 481 of the Taxes Act shall have effect in relation to subsection (1) above as they have effect in relation to section 481(1), but in their application by virtue of this subsection—
  - (a) references to Chapter III of Part XVII of the Taxes Act shall be construed as references to sections 80 to 82 above; and
  - (b) the expressions "settlement" and "settlor" have the same meanings as in those sections.

#### **85 Non-resident trustees and non-resident companies**

- (1) The persons treated by section 15 of the Capital Gains Tax Act 1979 as if a part of a chargeable gain accruing to a company had accrued to them shall include trustees owning shares in the company if when the gain accrues to the company the trustees are neither resident nor ordinarily resident in the United Kingdom.
- (2) This section applies to gains accruing to a company on or after 10th March 1981.

#### **86 Transfers into settlement**

- (1) In section 53 of the Capital Gains Tax Act 1979 (which provides that a gift in settlement is a disposal of the entire property settled notwithstanding that the donor is a beneficiary or trustee) for the words "gift in" and "donor" there shall be substituted the words "transfer into" and "transferor" respectively.
- (2) This section shall be deemed to have come into force on 10th March 1981.

#### **87 Appointments to persons under disability**

- (1) In section 54 of the Capital Gains Tax Act 1979 (deemed disposal for market value when a person becomes absolutely entitled to settled property) after subsection (2) there shall be added—
  - “(3) References in this section to the case where a person becomes absolutely entitled to settled property as against the trustee shall be taken to include references to the case where a person would become so entitled but for being an infant or other person under disability.”
- (2) In section 56(1) of that Act (death of life tenant) after the word "becomes" there shall be inserted the words "(or would but for a disability become)".
- (3) This section applies where the occasion concerned occurs on or after 10th March 1981.

#### **88 Disposal of interests in non-resident settlements**

- (1) Subsection (1) of section 58 of the Capital Gains Tax Act 1979 shall not apply to the disposal of an interest in settled property, other than one treated under subsection (2) of that section as made in consideration of obtaining the settled property, if at the time



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of the disposal the trustees are neither resident nor ordinarily resident in the United Kingdom.

- (2) If—
- (a) a gain accrues to a person (" the transferor ") on the disposal by him of an interest in settled property but, by reason of section 58(1) of the Capital Gains Tax Act 1979, it is not a chargeable gain, and
  - (b) at any time after the disposal the trustees of the settlement become neither resident nor ordinarily resident in the United Kingdom,
- then, subject to subsection (3) below, a chargeable gain shall be deemed to have accrued to the trustees immediately before that time, and its amount shall be equal to that of the gain which accrued to the transferor.
- (3) Subsection (2) above shall not apply if, before the end of the year in which they become neither resident nor ordinarily resident, the trustees have disposed of all the assets which, when the transferor disposed of his interest, constituted the settled property in which the interest subsisted; and where under that subsection a chargeable gain is deemed to accrue to the trustees at any time its amount shall not exceed the market value at that time of such of those assets as have not been disposed of by the trustees before the end of that year.
- (4) For the purposes of subsection (3) above the trustees shall be regarded as not having disposed of an asset if and to the extent that they retain part of it, an interest in or right over it, or property derived from it.
- (5) Where an amount of tax assessed on trustees by virtue of this section is not paid within the period of twelve months beginning with the date when the tax becomes payable, the transferor may be assessed and charged (in the name of the trustees) to all or any part of that tax ; but no assessment may be made under this subsection after the end of the period of six years beginning with the date when the transferor disposed of his interest.
- (6) Where the transferor pays an amount of tax in pursuance of subsection (5) above, he shall be entitled to recover a corresponding sum from the trustees.
- (7) This section applies to disposals on or after 10th March 1981.

## **89 Trusts for the disabled**

- (1) Paragraph 5 of Schedule 1 to the Capital Gains Tax Act 1979 (which extends to certain trusts for the disabled the £3,000 exemption given to individuals by section 5) shall be amended as follows.
- (2) In sub-paragraph (1) for the words from "any of the property" to "that person" there shall be substituted the words—
- “(a) not less than half of the property which is applied is applied for the benefit of that person, and
  - (b) that person is entitled to not less than half of the income arising from the property, or no such income may be applied for the benefit of any other person.”
- (3) After sub-paragraph (1) there shall be inserted—
- “(1A) The trusts on which settled property is held shall not be treated as falling outside sub-paragraph (1) above by reason only of the powers conferred

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on the trustees by section 32 of the Trustee Act 1925 or section 33 of the Trustee Act (Northern Ireland) 1958 (powers of advancement) ; and the reference in that sub-paragraph to the lifetime of a person shall, where the income from the settled property is held for his benefit on trusts of the kind described in section 33 of the Trustee Act 1925 (protective trusts), be construed as a reference to the period during which the income is held on trust for him.

(1B) In relation to a settlement which is one of two or more qualifying settlements comprised in a group, this paragraph shall have effect as if for the references in section 5 of this Act to £3,000 there were substituted references to £300 or, if it is more, to such amount as results from dividing £3,000 by the number of settlements in the group.

(1C) For the purposes of sub-paragraph (1B) above—

- (a) a qualifying settlement is any settlement (other than an excluded settlement) which is made on or after 10th March 1981 and to the trustees of which this paragraph applies for the year of assessment; and
- (b) all qualifying settlements in relation to which the same person is the settlor constitute a group.

(1D) If, in consequence of two or more persons being settlors in relation to it, a settlement is comprised in two or more groups comprising different numbers of settlements, sub-paragraph (1B) above shall apply to it as if the number by which the amount of £3,000 is to be divided were the number of settlements in the largest group.”

(4) At the end of sub-paragraph (2) there shall be added the words " ; and " settlor " and " excluded settlement" have the same meanings as in paragraph 6 below ".

(5) After sub-paragraph (2) there shall be added—

“(3) An inspector may by notice in writing require any person, being a party to a settlement, to furnish him within such time as he may direct (not being less than twenty-eight days) with such particulars as he thinks necessary for the purposes of this paragraph.”

(6) This section has effect for the year 1981-82 and subsequent years of assessment.

## 90 Market value

(1) After section 29 of the Capital Gains Tax Act 1979 there shall be inserted—

### “29A Disposals and acquisitions treated as made at market value.

(1) Subject to the provisions of this Act, a person's acquisition or disposal of an asset shall for the purposes of this Act be deemed to be for a consideration equal to the market value of the asset—

- (a) where he acquires or, as the case may be, disposes of the asset otherwise than by way of a bargain made at arm's length, and in particular where he acquires or disposes of it by way of gift or on a transfer into settlement by a settlor or by way of distribution from a company in respect of shares in the company, or

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- (b) where he acquires or, as the case may be, disposes of the asset wholly or partly for a consideration that cannot be valued, or in connection with his own or another's loss of office or employment or diminution of emoluments, or otherwise in consideration for or recognition of his or another's services or past services in any office or employment or of any other service rendered or to be rendered by him or another.
  - (2) Except in the case specified in subsection (4) below, subsection (1) above shall not apply to the acquisition of an asset if—
    - (a) there is no corresponding disposal of it, or the corresponding disposal is made by an excluded person, and
    - (b) there is no consideration in money or money's worth or the consideration is of an amount or value lower than the market value of the asset.
  - (3) Where in the case of an acquisition within subsection (2) above there is a corresponding disposal by an excluded person, subsection (1) above shall not apply to that disposal.
  - (4) The exception referred to in subsection (2) above is the acquisition by an individual of tangible movable property or currency in circumstances where there is a corresponding disposal by an individual who is neither resident nor ordinarily resident in the United Kingdom; and for this purpose "tangible movable property" does not include commodities of a kind dealt with on a terminal market, or a mere right in or over any property.
  - (5) In this section "excluded person" means—
    - (a) a person who is neither resident nor ordinarily resident in the United Kingdom; or
    - (b) a person who is wholly exempt from tax in respect of chargeable gains, or would be so exempt on making a claim for exemption; or
    - (c) a charity; or
    - (d) a registered friendly society; or
    - (e) a person making the disposal for the purposes of—
      - (i) a fund to which section 218 or 226(6) of the Taxes Act or section 36 of the Finance Act 1980 applies, or
      - (ii) an exempt approved scheme or statutory scheme as defined in Chapter II of Part II of the Finance Act 1970."
- (2) In section 32 of the Capital Gains Tax Act 1979 (allowance of expenditure in computation of gains) after subsection (4) there shall be added—
- “(5) Where—
- (a) a person acquires an asset for no consideration in money or money's worth or for a consideration of an amount or value lower than the market value of the asset, and is not treated under any provision of this Act as acquiring it for a consideration other than the actual consideration, and
  - (b) there is a corresponding disposal of the asset by a person who is neither resident nor ordinarily resident in the United Kingdom, and
  - (c) a charge to income tax, corporation tax or capital gains tax arises in respect of the acquisition,

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the sums allowable under this section as a deduction in the computation made on the first-mentioned person's disposal of the asset shall include a sum equal to the amount in respect of which the charge arises.

- (6) The condition in paragraph (c) of subsection (5) above shall be taken to be satisfied where under section 80(3) of the Finance Act 1981 chargeable gains are treated as accruing to a person in any year by reason of his acquisition of an asset in that or an earlier year; and the reference in subsection (5) above to the amount in respect of which the charge arises shall be taken to be a reference to the amount of the gains treated as accruing to him.”.
- (3) Subsection (3) of section 19 of the Capital Gains Tax Act 1979 (which is superseded by this section) shall cease to have effect; and—
- (a) for the references to that subsection (or to a paragraph of it) in sections 49(5), 62(2), 90(3), 126(6), 146(2) and 149(2) of that Act and in section 47(1)(b)(ii) of the Finance Act 1980 there shall be substituted references to section 29A(1) of the said Act of 1979 ; and
  - (b) in section 62(5) of that Act for the words " the amount of the consideration for the acquisition being" there shall be substituted the words " where the amount of the consideration for the acquisition is " .
- (4) This section has effect in relation to acquisitions and disposals on or after 10th March 1981.

## **91 Consideration on reorganisation of share capital etc.**

- (1) In section 79 of the Capital Gains Tax Act 1979 at the end of subsection (1) there shall be added—
- “Provided also that, in the case of a reorganisation on or after 10th March 1981, any consideration given for the new holding or any part of it otherwise than by way of a bargain made at arm's length shall be disregarded to the extent that its amount or value exceeds the relevant increase in value; and for this purpose "the relevant increase in value " means the amount by which the market value of the new holding immediately after the reorganisation exceeds the market value of the original shares immediately before the reorganisation.”.
- (2) In consequence of subsection (1) above—
- (a) in section 89(2) of the Capital Gains Tax Act 1979, for the word " proviso " there shall be substituted the word " provisos "; and
  - (b) in section 37(12) of the Finance Act 1980, in the definition of " new consideration ", for the words " the proviso" there shall be substituted the words " the first proviso " .

## PART V

### CAPITAL TRANSFER TAX

#### 92 Reduction of lifetime rates

- (1) For the second Table in section 37(3) of the Finance Act 1975 there shall be substituted the Table in Schedule 13 to this Act.
- (2) Subsection (1) above applies to chargeable transfers made on or after 10th March 1981.
- (3) Where the rate of tax applicable to a capital distribution made on or after 10th March 1981 falls to be determined under sub-paragraph (2) of paragraph 7 of Schedule 5 to the Finance Act 1975 by reference to a relevant transfer made before that date, the amount of tax referred to in paragraph (a) of that sub-paragraph shall be calculated as if the new Table had applied to that transfer.
- (4) Where tax is chargeable under section 78 of the Finance Act 1976 (works of art etc.) by reason of a chargeable event occurring on or after 10th March 1981 and the rate or rates at which it is charged fall to be determined under the provisions of section 79(1)(b)(ii) or 81(4)(b) of that Act by reference to a death which occurred, or a settlement which ceased to exist, before that date, those provisions shall have effect as if the new Table had been in force at the time of the death or when the settlement ceased to exist.
- (5) Where tax is chargeable under section 89 of the Finance Act 1980 (maintenance funds) on any occasion on or after 10th March 1981 and the rate or rates at which it is charged fall to be determined under the provisions of Schedule 16 to that Act by reference to a death which occurred, or a settlement which ceased to exist, before that date, those provisions shall apply as if the new Table had been in force at the time of the death or when the settlement ceased to exist.
- (6) Any question whether any, and if so what, tax is repayable or ceases to be payable by virtue of subsection (1)(a) of section 87 of the Finance Act 1976 (mutual transfers) in a case where—
  - (a) the donor's transfer was before 10th March 1981, and
  - (b) the donee's transfer is on or after that date,shall be determined as if the new Table had been in force at the time of the donor's transfer; but this subsection shall not be construed as affecting the amount of tax which, under subsection (3) of that section, falls to be taken into account in calculating the cancelled value.
- (7) In subsection (2) above the reference to a chargeable transfer made on or after 10th March 1981 does not include a reference to a chargeable transfer which by virtue of section 114(2) of the Finance Act 1976 as originally enacted (transfers reported la(e)) is treated as made on or after that date but was in fact made before it.

#### 93 Ten-year cumulation period

- (1) In section 37(1)(b) of the Finance Act 1975 (rate of tax on second or subsequent transfer of value to be calculated by reference to the values previously transferred by chargeable transfers made by the same transferor) for the words " previously transferred by chargeable transfers made by that transferor " there shall be substituted the words " transferred by chargeable transfers made by that transferor in the period of ten years ending with the date of the transfer ".

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- (2) In subsection (1)(b) of section 86 of the Finance Act 1976 (mutual transfers: exemption for donee's gift) for the word " subsequently " there shall be substituted the words " , within the period of ten years beginning with the date of the donor's transfer, " .
- (3) In subsection (1)(b) of section 87 of the Finance Act 1976 (mutual transfers: relief for donor's gift) after the words " any chargeable transfer made by the donor after the claim " there shall be inserted the words " and within the period of ten years beginning with the date of the donor's transfer " .
- (4) For subsections (2) and (3) of section 114 of the Finance Act 1976 (transfers reported la(e) there shall be substituted—
- “(2) Where the earlier transfer is made in the period of ten years ending with the date of the later transfer there shall be charged on the value transferred by the earlier transfer, in addition to any tax chargeable on it apart from this section, an amount of tax equal to the difference, if any, between—
- (a) the tax which, having regard to the earlier transfer, was properly chargeable on the value transferred by the later transfer; and
- (b) the payment accepted by the Board in full satisfaction of the tax chargeable on that value;
- and any such difference shall not be chargeable on the value transferred by the later transfer.
- (3) Where in the period mentioned in subsection (2) above there have been two or more earlier transfers the reference in paragraph (a) of that subsection to the earlier transfer shall be construed as a reference to both or all of those transfers, but the amount of tax chargeable under that subsection in respect of each of them shall, subject to subsection (3A) below, be reduced in the proportion which the value transferred by it bears to the aggregate of the values transferred by it and the other or others.
- (3A) Where the earlier transfers mentioned in subsection (3) above include a settled transfer, that is to say, a transfer in the case of which an amount in full satisfaction of the tax chargeable in respect of it under subsection (2) above has been paid to and accepted by the Board before the discovery of one or more of the other earlier transfers—
- (a) no further tax shall be chargeable under subsection (2) above in respect of the settled transfer in consequence of regard being had under paragraph (a) of that subsection to the subsequently discovered transfer or transfers;
- (b) the amount so paid and accepted shall reduce the amount chargeable under subsection (2) above in respect of the subsequently discovered transfer or transfers; and
- (c) if there are two or more subsequently discovered transfers, the value transferred by the settled transfer shall be disregarded in calculating under subsection (3) above the reduction in the amount of tax chargeable in respect of each of them.
- (3B) Where the later transfer referred to in subsection (2) above is itself an earlier transfer in relation to another later transfer the references in paragraphs (a) and (b) of that subsection to tax chargeable on the value transferred by it are references to tax so chargeable apart from this section.”.

- (5) At the end of subsection (6) of the said section 114 there shall be inserted the words " and subsection (2)(b) above shall apply in relation to any such transfer as if the amount of the payment were nil ".

## **94 Exemptions**

- (1) In paragraph 2 of Schedule 6 to the Finance Act 1975 (annual exemption for transfers not exceeding £2,000) for " £2,000" wherever it occurs there shall be substituted " £3,000 ".
- (2) In paragraph 4(1) of that Schedule (exemption for small gifts) for the words " to the extent that" there shall be substituted the word " if ".
- (3) Subject to subsection (5) below, and notwithstanding the provisions of paragraph 8 of that Schedule, references to transfers of value in paragraphs 2 and 6 (exemption for gifts in consideration of marriage) of that Schedule shall be construed as including references to events on the happening of which tax is chargeable under paragraph 4 of Schedule 5 to the Finance Act 1975 (termination of interest in possession in settled property) ; and references to the transferor and (in paragraph 6(3)) to a disposition shall be construed accordingly.
- (4) For the purpose of its application, by virtue of subsection (3) above, to the termination of interests in possession in settled property, the said paragraph 6 shall have effect as if—
- (a) references to transfers of value made by gifts in consideration of marriage were references to the termination of such interests in consideration of marriage;
  - (b) references to outright gifts were references to cases where the property ceases on the termination to be settled property; and
  - (c) references to cases where the property is settled by the gift were references to cases where it remains settled property after the termination.
- (5) Subsection (3) above shall not apply to a transfer of value—
- (a) unless the transferor has in accordance with subsection (6) below given to the trustees of the settlement a notice informing them of the availability of an exemption, and
  - (b) except to the extent specified in that notice.
- (6) A notice under subsection (5) above shall be in such form as may be prescribed by the Board and shall be given before the end of the period of six months beginning with the date of the transfer of value.
- (7) This section applies to any transfer of value made on or after 6th April 1981 ; but subsection (1) above does not affect the amount which under paragraph 2(2) of the said Schedule 6 may be carried forward to the year beginning on that date.

## **95 Interest-free instalments of tax**

- (1) Paragraph 16(5) of Schedule 4 to the Finance Act 1975 (which imposes a limit of £250,000 on the value by reference to which tax may be paid by interest-free instalments) shall cease to have effect.

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- (2) This section has effect in relation to chargeable transfers made on or after 10th March 1981.

## **96 Relief for agricultural property**

- (1) Schedule 14 to this Act shall have effect for reducing, in the cases there mentioned—
- (a) the value transferred by a transfer of value ; and
  - (b) the amount of a distribution payment or capital distribution.
- (2) In sub-paragraph (1)(a) of paragraph 16 of Schedule 4 to the Finance Act 1975 (property in respect of which tax may be paid by interest-free instalments) after the words " to the value of any shares, securities, business or interest in a business " there shall be inserted the words " or to value 'treated as reduced under Schedule 14 to the Finance Act 1981 " ; and in sub-paragraph (2) of that paragraph after the word " below " there shall be inserted the words " (not being tax attributable to value treated as reduced under the said Schedule 14) " .
- (3) Part I of Schedule 8 to the Finance Act 1975 (which is superseded by Schedule 14 to this Act) shall cease to have effect; and—
- (a) in paragraph 1 of Schedule 9 to that Act (relief for woodlands) for the words " Schedule 8 to this Act " there shall be substituted the words " Schedule 14 to the Finance Act 1981 " ;
  - (b) in section 86(6) of the Finance Act 1976 (mutual transfers) for the words " and that Schedule " there shall be substituted the words " or Schedule 14 to the Finance Act 1981 and those Schedules " ;
  - (c) in section 87(5A) of the Finance Act 1976 after the words " Finance Act 1975 " there shall be inserted the words " or Schedule 14 to the Finance Act 1981 " ;
  - (d) in paragraph 10 of Schedule 10 to the Finance Act 1976 (business relief) for the words " Schedule 8 to the Finance Act 1975 " and " paragraph 1(2A) thereof " there shall be substituted respectively the words " Schedule 14 to the Finance Act 1981 " and " paragraph 8(3) thereof " ; and
  - (e) in paragraphs 1 and 3 of Schedule 4 to the Capital Gains Tax Act 1979 (relief for business assets) for the words " Schedule 8 to the Finance Act 1975 " wherever they occur there shall be substituted the words " Schedule 14 to the Finance Act 1981 " and after the word " reduction " there shall be inserted the words " at the rate of 50 per cent. " .
- (4) This section has effect in relation to transfers of value, distribution payments and capital distributions made on or after 10th March 1981, and subsection (3)(e) has effect in relation to disposals on or after that date.

## **97 Grant of tenancies of agricultural property**

- (1) The grant of a tenancy of agricultural property in the United Kingdom, the Channel Islands or the Isle of Man for use for agricultural purposes shall not be a transfer of value by the grantor if he makes it for full consideration in money or money's worth.
- (2) In subsection (1) above " agricultural property " has the same meaning as in Schedule 14 to this Act.
- (3) This section applies to grants before as well as after the passing of this Act.



## **98 Scottish agricultural leases: fixed terms**

Where any part of the value of a person's estate immediately before his death is attributable to the interest of a tenant in an unexpired portion of a lease for a fixed term of agricultural property in Scotland and either he had been tenant of the said property continuously for a period of at least two years immediately preceding his death or he had become tenant of the said property by succession there shall be left out of account in determining the value transferred on the death any value associated with any prospect of renewal of the lease by tacit relocation.

## **99 Scottish agricultural leases: tacit relocation**

- (1) Schedule 15 to this Act shall have effect for giving relief where the value transferred by a chargeable transfer made on death is determined by reference to the value of an agricultural tenancy in Scotland and the conditions mentioned in that Schedule are satisfied.
- (2) The Finance Act 1975 shall be amended as follows—
  - (a) in section 26, after subsection (2), there shall be added the following subsection—

“(2A) No person other than the person referred to in sub-paragraph (2) of paragraph 3 of Schedule 15 to the Finance Act 1981 shall be liable for any tax which is chargeable under that paragraph.”;
  - (b) in Schedule 4, in paragraph 2(7), after " to this Act" there shall be inserted " or paragraph 3 of Schedule 15 to the Finance Act 1981 ; "
  - (c) in Schedule 4, in paragraph 12(4), after " to this Act" there shall be inserted " or paragraph 3 of Schedule 15 to the Finance Act 1981 ";
  - (d) in Schedule 4, in paragraph 19(1)(c), after " to this Act" there shall be inserted " or paragraph 3 of Schedule 15 to the Finance Act 1981 ".
- (3) Schedule 15 to the Finance Act 1980 shall be amended by inserting after paragraph 4 the following new paragraph—

“(4A) Where the value of an interest in an agricultural tenancy has been left out of account under Schedule 15 to the Finance Act 1981 in determining the value transferred by the chargeable transfer made on a death before a reduction and tax is chargeable under paragraph 3 of that Schedule on a disposal of the said interest after that reduction (or after that and one or more subsequent reductions) the rate or rates mentioned in paragraph 4 of that Schedule shall be determined as if the first of the Tables in section 37(3) of the Finance Act 1975 as substituted by that reduction (or by the most recent of those reductions) had applied to that transfer.”.

## **100 Business property used by beneficiary under settlement**

- (1) Schedule 10 to the Finance Act 1976 (relief for business property) shall have effect with the following amendments in relation to transfers of value, distribution payments and capital distributions made on or after 10th March 1981.
- (2) In paragraph 2(1A)(c) (cases attracting relief at 30 per cent.) after the words " paragraph 3(1)(c) " there shall be inserted " or (d) ".

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- (3) In paragraph 3(1) (which describes the property eligible for relief) after paragraph (c) there shall be added “and
- (d) any land or building, machinery or plant which, immediately before the transfer, was used wholly or mainly for the purposes of a business carried on by the transferor and was settled property in which he was then beneficially entitled to an interest in possession”.
- (4) In paragraph 3(6)—
- (a) after the words " sub-paragraph (1)(c)" there shall be inserted " or (d) "; and
- (b) for the words from " transferor's interest" to " may be " there shall be substituted the words " business or the transferor's interest in it is, or ".

## **101 Relief for successive charges**

- (1) Where the value of a person's estate was increased by a chargeable transfer ("the first transfer") made not more than five years before—
- (a) his death, or
- (b) a chargeable transfer which is made by him otherwise than on his death and as to which the conditions specified in subsection (2) below are satisfied,
- the tax chargeable on the value transferred by the transfer made on his death or, as the case may be, referred to in paragraph (b) above (" the later transfer ") shall be reduced by an amount calculated in accordance with subsection (3) below.
- (2) The conditions referred to in subsection (1)(b) above are—
- (a) that the value transferred by the later transfer falls to be determined by reference to the value of settled property in which there subsists an interest in possession to which the transferor is entitled ;
- (b) that the value transferred by the first transfer also fell to be determined by reference to the value of that property; and
- (c) that the first transfer either was or included the making of the settlement or was made after the making of the settlement.
- (3) The amount referred to in subsection (1) above is a percentage of the tax charged on so much of the value transferred by the first transfer as is attributable to the increase mentioned in that subsection ; and the percentage is—
- (a) 100 per cent, if the period beginning with the date of the first transfer and ending with the date of the later does not exceed one year ;
- (b) 80 per cent, if it exceeds one year but does not exceed two years ;
- (c) 60 per cent, if it exceeds two years but does not exceed three years;
- (d) 40 per cent, if it exceeds three years but does not exceed four years; and
- (e) 20 per cent, if it exceeds four years.
- (4) Where in relation to the first transfer there is more than one later transfer, the reduction provided for by this section shall be given only in respect of the earliest of them, unless the reduction represents less than the whole of the tax charged as mentioned in subsection (3) above; and in that case a reduction may be made in respect of subsequent transfers (in chronological order) until reductions representing the whole of that tax have been made.
- (5) For the purposes of subsection (4) above, a reduction made in accordance with paragraph (a) of subsection (3) above represents an equivalent amount of tax, a

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reduction made in accordance with paragraph (b) represents the amount of tax of which it is 80 per cent., and so on.

- (6) In determining for the purposes of this section whether or to what extent the value of the transferor's estate was increased by a chargeable transfer, there shall be disregarded any excluded property consisting of a reversionary interest to which he became entitled on the occasion of or before the chargeable transfer.
- (7) Where—
- (a) the value of the transferor's estate was increased in consequence of—
    - (i) a gift inter vivos, or
    - (ii) a disposition or determination of a beneficial interest in possession in property comprised in a settlement, and
  - (b) tax under section 22(5) of the Finance Act 1975 was by reason of the gift or interest payable on a subsequent death,
- this section shall apply as if the increase had been by the chargeable transfer made on the occasion of the death.
- (8) In the Finance Act 1975, section 30 and paragraph 5 of Schedule 5 (which are superseded by this section) shall cease to have effect.
- (9) This section has effect where the later transfer is made on or after 10th March 1981.

## **102 Settled property: extension of transitional relief**

- (1) For the references to 1st April 1982 (substituted by section 23 of the Finance (No. 2) Act 1979) in
- (a) paragraph 12(6) of Schedule 5 to the Finance Act 1975 (earliest date for ten-year periodic charge on settlements without interests in possession), and
  - (b) paragraph 14(2) of that Schedule (earliest date at which capital distribution bears tax at full rate),
- there shall be substituted references to 1st April 1983.
- (2) Where—
- (a) under paragraph 12(6) of the said Schedule 5 the first relevant anniversary in relation to a settlement would apart from this subsection fall during the year ending with 31st March 1984, and
  - (b) during that year there is a payment or transfer of assets out of the property comprised in the settlement which could not have been made except as the result of some proceedings before a court,
- the first relevant anniversary shall be taken to be 1st April 1984 (but without affecting the dates of later relevant anniversaries or the dates on which capital distributions are treated as made under paragraph 12(2) of that Schedule).
- (3) Where a capital distribution made during the year ending with 31st March 1984 out of the property comprised in a settlement could not have been made except as the result of some proceedings before a court, paragraph 14 of the said Schedule 5 shall have effect in relation to it as if it had been made on 31st March 1983.
- (4) Subsection (1)(a) above does not affect tax chargeable by virtue of sub-paragraph (2) of paragraph 12 of the said Schedule 5 (annual charge where trustees are non-resident) in respect of any year ending before 1st January 1981 ; but where in the case of any settlement tax has been charged by virtue of that sub-paragraph in respect of one or

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more years in a period that would have ended with a relevant anniversary but for that subsection, tax shall not be chargeable by virtue of that sub-paragraph in respect of the first year or years (up to a corresponding number) in respect of which tax would be so chargeable in the period ending with the date that becomes the first relevant anniversary by virtue of that subsection.

### **103 Trusts for the disabled**

In relation to property transferred into settlement on or after 10th March 1981, Schedule 5 to the Finance Act 1975 shall have effect with the substitution for paragraph 19 of the following paragraph—

- “19 (1) This paragraph applies to settled property held on trusts under which, during the life of a disabled person, no interest in possession in the settled property subsists and which secure that not less than half of the settled property which is applied during his life is applied for his benefit.
- (2) For the purposes of capital transfer tax the person mentioned in sub-paragraph (1) above shall be treated as beneficially entitled to an interest in possession in the settled property.
- (3) The trusts on which settled property is held shall not be treated as falling outside sub-paragraph (1) above by reason only of the powers conferred on the trustees by section 32 of the Trustee Act 1925 or section 33 of the Trustee Act (Northern Ireland) 1958 (powers of advancement).
- (4) The reference in sub-paragraph (1) above to a disabled person is, in relation to any settled property, a reference to a person who when the property was transferred into settlement was—
- (c) incapable, by reason of mental disorder within the meaning of the Mental Health Act 1959, of administering his property or managing his affairs ; or
- (b) in receipt of an attendance allowance under section 35 of the Social Security Act 1975 or the Social Security (Northern Ireland) Act 1975.”

### **104 Reversionary interests**

- (1) Subsections (2) and (3) of section 22 of the Finance Act 1975 (relief from charge on death for settled property to which the settlor or his spouse becomes entitled) and sub-paragraphs (5) and (6) of paragraph 4 of Schedule 5 to that Act (corresponding relief on termination of interests in possession) shall not apply in any case where their application depends upon a reversionary interest having been transferred into a settlement on or after 10th March 1981.
- (2) In Schedule 6 to the Finance Act 1975 (exempt transfers) in paragraph 15 (exceptions) after sub-paragraph (2) there shall be inserted—

“(2A) Paragraphs 1 and 10 to 13 above do not apply in relation to property which is given in consideration of the transfer of a reversionary interest if, by virtue of section 23(3) above, that interest does not form part of the estate of the person acquiring it.”

and in section 84(8) of the Finance Act 1976 after "(2)" there shall be inserted "(2A)".

This subsection has effect in relation to transfers of value made on or after 10th March 1981.

- (3) In section 24(3)(aa) of the Finance Act 1975 (reversionary interest not excluded property if the settlor or his spouse is beneficially entitled to it) after the word " is " there shall be inserted the words " or has been ".

This subsection shall be deemed to have come into force on 10th March 1981 but shall not apply in relation to a reversionary interest if the person entitled to it acquired it before that date or if it is an interest under a settlement made before 16th April 1976.

### **105 Related property**

- (1) Paragraph 7(2)(b) of Schedule 10 to the Finance Act 1975 (valuation by reference to property in discretionary settlements made before 27th March 1974) shall cease to have effect.
- (2) This section applies to transfers of value made on or after 10th March 1981.

### **106 Free loans**

- (1) Sections 115 and 116 of the Finance Act 1976 (free loans etc.) shall cease to have effect.
- (2) This section applies where the disposition under subsection (1) of section 115 would in accordance with subsection (2) of that section be treated as made on or after 6th April 1981.

## **PART VI**

### **STAMP DUTY**

### **107 Sale of houses at discount by local authorities etc.**

- (1) Where a conveyance or transfer to which this section applies is subject contingently to the payment of any money (whether by virtue of that conveyance or transfer or otherwise), then, notwithstanding section 57 of the Stamp Act 1891, that money shall not be deemed to be part of the consideration in respect of which the conveyance or transfer is chargeable with ad valorem duty.
- (2) For the purposes of section 74(5) of the Finance (1909-10) Act 1910 the consideration for any conveyance or transfer to which this section applies shall be deemed to be valuable consideration.
- (3) This section applies to any conveyance or transfer on sale of a dwelling-house (including the grant of a lease) at a discount by—
- any Minister of the Crown or Northern Ireland department;
  - a local authority within the meaning of Part V of the Housing Act 1957, a county council, a district council within the meaning of the Local Government Act (Northern Ireland) 1972 or in Scotland a regional, district or islands council, the common good of such a council or any trust under its control;
  - the Housing Corporation ;

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- (d) the Scottish Special Housing Association ;
- (e) the Northern Ireland Housing Executive ;
- (f) a housing association registered under section 13 of the Housing Act 1974 or Article 124 of the Housing (Northern Ireland) Order 1981;
- (g) a development corporation established by an order made or having effect as if made under the New Towns Act 1965 or the New Towns (Scotland) Act 1968 or an urban development corporation established by an order made under section 135 of the Local Government, Planning and Land Act 1980 ;
- (h) the Commission for the New Towns or a new town commission established under section 7 of the New Towns Act (Northern Ireland) 1965 ;
- (i) the Development Board for Rural Wales ;
- (j) the Council of the Isles of Scilly ;
- (k) a police authority within the meaning of section 62(b) of the Police Act 1964 or section 2(1) or 19(9)(b) of the Police (Scotland) Act 1967, or the Police Authority for Northern Ireland;
- (l) an Education and Libraries Board established under the Education and Libraries (Northern Ireland) Order 1972;
- (m) any person mentioned in paragraph (e), (i), (j) or (l) of section 1(10) of the Tenants' Rights, Etc. (Scotland) Act 1980.

(4) This section applies to instruments executed on or after 23rd March 1981 and shall be deemed to have come into force on that date.

### **108 Shared ownership transactions**

- (1) Section 97 of the Finance Act 1980 (shared ownership transactions) shall have effect with the amendments specified in subsections (2) to (4) below.
- (2) In subsection (1) after the word "value" there shall be inserted the words " or sum ".
- (3) In subsection (2)—
  - (a) for paragraph (b) there shall be substituted—
    - “(b) is granted partly in consideration of a premium calculated by reference to—
      - (i) the market value of the dwelling, or
      - (ii) a sum calculated by reference to that value, and partly in consideration of rent”; and
    - (b) in paragraph (d) for the words " paragraph (b) above " there shall be substituted the words " paragraph (b) (i) above or, as the case may be, the sum referred to in paragraph (b) (ii) above " and at the end there shall be added the words " or as the case may be, to that sum ".
- (4) In subsection (3)(b) for the reference to Article 13 of the Housing (Northern Ireland) Order 1976 there shall be substituted a reference to Article 124 of the Housing (Northern Ireland) Order 1981.
- (5) Where a lease is granted by a body mentioned in subsection (3) of the said section 97 which—
  - (a) is of a dwelling for the exclusive use of the lessee or, if there are joint lessees, of those lessees ;

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- (b) provides that the lessee may on payment of a sum require the terms of the lease to be altered so that the rent payable under it is reduced ;
- (c) is granted partly in consideration of rent and partly in consideration of a premium calculated by reference to—
  - (i) the premium obtainable on the open market for the grant of a lease containing the same terms as the lease but with the substitution for the rent payable under the lease of the minimum rent, or
  - (ii) a sum calculated by reference to that premium; and
- (d) contains a statement of the minimum rent and the premium referred to in paragraph (c)(i) above or, as the case may be, the sum referred to in paragraph (c) (ii) above and a statement to the effect that the parties intend duty to be charged in accordance with this section by reference to that rent and that premium or, as the case may be, that sum,

the lease shall be chargeable to stamp duty as if the premium paid by the lessee were equal to the premium or, as the case may be, the sum, stated in the lease in accordance with paragraph (d) above and the rent payable were as so stated.

- (6) In subsection (5) above " minimum rent" in relation to any lease means the lowest rent which could become payable under the lease if it were altered as mentioned in paragraph (b) of that subsection at the date when the lease is granted.
- (7) This section applies to instruments executed on or after 23rd March 1981 and shall be deemed to have come into force on that date.

## **109 Index-linked loan capital**

In section 126 of the Finance Act 1976 (exemption from stamp duty for transfers of loan capital) at the end of subsection (3) (which provides that the exemption shall not apply to loan capital carrying a right to interest exceeding a reasonable commercial return or a right on repayment to an amount not reasonably comparable with what is generally repayable) there shall be inserted " but subsection (1) above shall not be prevented from applying to any loan capital by virtue of paragraph (a)(i) or (b) above by reason only that it carries a right to interest or, as the case may be, to an amount payable on repayment determined to any extent by reference to an index showing changes in the general level of prices payable in the United Kingdom over a period substantially corresponding to the period between the issue or raising of the loan capital and its repayment. ".

## **110 Pooled pension funds**

In Part VII of the Finance Act 1946, Part III of the Finance (No. 2) Act (Northern Ireland) 1946, section 30 of the Finance Act 1962 and section 3 of the Finance Act (Northern Ireland) 1962 the references to unit trust schemes shall be deemed not to include references to common investment arrangements made by the trustees of exempt approved schemes (within the meaning of section 21(1) of the Finance Act 1970) solely for the purposes of the schemes.

## PART VII

### PETROLEUM REVENUE TAX

#### 111 Restriction of expenditure supplement

- (1) Expenditure taken into account under section 2(9) (b)(i) or (c)(i) of the Oil Taxation Act 1975 (" the principal Act ") in computing the assessable profit or allowable loss accruing to a participator in a chargeable period from an oil field shall not qualify for supplement under section 2(9)(b)(ii) or (c)(ii) of that Act if it is incurred after the end of the chargeable period (" the net profit period ") in which a net profit from the field first accrues to the participator.
- (2) Subject to subsections (3) and (4) below, a net profit shall be treated as having accrued to a participator from an oil field in a chargeable period when the total assessable profits (without any reduction under section 7 or 8 of the principal Act) that have accrued to him from the field in chargeable periods up to and including that period exceed the total allowable losses that have so accrued to him.
- (3) In determining for the purposes of subsection (2) above whether any, and if so what, assessable profit or allowable loss has accrued to a participator from an oil field in a chargeable period—
  - (a) there shall be excluded from its computation any expenditure allowed under Schedule 7 and any loss allowed under Schedule 8 to the principal Act (abortive exploration expenditure and unrelievable field losses);
  - (b) any election under paragraph 9(1) of Schedule 3 to that Act (spreading of allowable expenditure) shall be disregarded ; and
  - (c) in the case of the last chargeable period taken into account in deciding what is the net profit period there shall be included in that computation any amount which, by reason of an adjustment under section 4(9) of that Act (long-term assets) for a claim period ending not later than that period, will fall to be taken into account under paragraph 6 of Schedule 4 to that Act for the next chargeable period.
- (4) A net profit shall not by virtue of subsection (2) above be treated as having accrued to a participator from an oil field in a chargeable period if—
  - (a) after an assessment or determination has been made in respect of that period under paragraph 10 of Schedule 2 to the principal Act any expenditure incurred before the end of that period is allowed on a claim under Schedule 5 or Schedule 6 to that Act; and
  - (b) a net profit would not have accrued to the participator from the field in that period if that expenditure (or, as respects expenditure allowed under Schedule 5, his share of it) had been taken into account in the assessment or determination together with any amount falling to be taken into account under section 2(9)(b)(ii) or (c) (ii) of the principal Act by reference to (or, as the case may be, to his share of) that expenditure.
- (5) The expenditure referred to in subsection (4) above does not include expenditure allowed for any claim period beginning after the chargeable period in respect of which the assessment or determination was made.
- (6) In the following provisions, that is to say—



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- (a) paragraphs 2(4)(a) and 3(1)(b) of Schedule 5 to the principal Act (claims for and determination of expenditure qualifying for supplement), including those paragraphs as applied by Schedule 6 to that Act; and
- (b) paragraph 2(4)(b) of the Schedule to the Petroleum Revenue Tax Act 1980 (computation of payment on account),

references to expenditure qualifying for supplement shall include references to expenditure that would so qualify apart from this section; but the responsible person need not make a claim under paragraph 2 (4) (a) of the said Schedule 5 if it appears to him that none of the expenditure is likely to qualify because of this section.

- (7) This section applies whether the net profit period ends before or after the passing of this Act but subsection (1) above shall not disqualify any expenditure which was incurred before 1st January 1981 or which is incurred before 1st January 1983 in pursuance of a contract entered into before 1st January 1981.

## **112 Restriction of expenditure supplement: transfers of interests**

- (1) Section 111 above shall have effect in accordance with this section where a participator in an oil field has acquired the whole or part of his interest in the field as a result of one or more transfers to him within the meaning of Schedule 17 to the Finance Act 1980, and in this section " the new participator " and " the old participator " mean respectively the first-mentioned participator and any participator from whom he has acquired the whole or part of his interest.
- (2) The new participator's net profit period shall be whichever is the earlier of—
  - (a) his own net profit period as determined in accordance with section 111 above and subsections (3) and (4) below; or
  - (b) subject to subsection (5) below, the chargeable period which is the net profit period of the old participator or, if there are two or more old participators, of whichever of them has the earliest net profit period.
- (3) Where the old participator has transferred the whole of his interest in the field to the new participator, the net profit period of the new participator shall be determined by treating as if they were his the total assessable profits and allowable losses of the old participator as determined for the purposes of section 111 above.
- (4) Where the old participator has transferred part of his interest in the field to the new participator, the net profit period of the old and new participators shall be determined by treating as if they were the new participator's and not the old participator's such part of the total assessable profits and allowable losses of the old participator (as determined for the purposes of section 111 above) as may be just and reasonable.
- (5) The net profit period of an old participator shall not be taken into account under subsection (2)(b) above if the new participator's own net profit period, as determined without reference under subsection (3) or (4) above to the old participator's assessable profits or allowable losses, fell before the chargeable period in which the new participator acquired the whole or part of the old participator's interest.

## **113 Restriction of expenditure supplement: loss following net profit period**

- (1) This section has effect where the total allowable losses that have accrued to a participator from an oil field in chargeable periods up to and including a chargeable period ending not more than three years after his net profit period exceed the total

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assessable profits (without any reduction under section 7 or 8 of the principal Act) that have so accrued to him.

- (2) Section 111(1) above shall not disqualify for supplement under section 2(9)(b)(ii) or (c)(ii) of the principal Act expenditure which is incurred up to the end of—
- (a) the last chargeable period in the three years mentioned in subsection (1) above ; or
  - (b) the chargeable period in which a net profit next accrues to the participator from the field after the chargeable period mentioned in that subsection,
- whichever is the earlier.
- (3) Subsection (3) of section 111 above shall apply for the purposes of subsection (1) above as it applies for the purposes of subsection (2) of that section and subsections (3), (4) and (5) of that section shall apply for the purposes of subsection (2)(b) above as they apply for the purposes of subsection (2) of that section.

#### **114 Restriction of limit on amount of tax payable**

- (1) For section 9 of the principal Act (annual limit on amount of tax payable by participator) there shall be substituted—
- (1) The tax payable by a participator in an oil field for any chargeable period to which this subsection applies shall not exceed 80 per cent, of the amount (if any) by which his adjusted profit for that period (as defined in this section) exceeds 15 per cent, of his accumulated capital expenditure at the end of that period (as so defined).
- (1A) Subsection (1) above applies to—
- (a) any chargeable period from the first chargeable period up to and including the period which is the participator's net profit period for the field for the purposes of section 111 of the Finance Act 1981 or where section 113 of that Act applies, up to and including the earlier of the periods mentioned in subsection (2) of that section; and
  - (b) any subsequent chargeable period up to such number of periods as is equal to half the number of chargeable periods included in paragraph (a) above (counting any resulting fraction of a period as a whole period).
- (2) The adjusted profit of a participator in an oil field for any chargeable period shall be determined as follows—
- (a) there shall be ascertained—
    - (i) the assessable profit (without any reduction under section 7 or 8 of this Act) or allowable loss accruing to him in that period ; and
    - (ii) the total amount taken into account under section 2(9)(b), (c), (d) and (e) of this Act in computing that profit or loss, excluding expenditure so taken into account under section 2(9)(b)(i) or (c)(i) which was not allowed as qualifying for supplement under section 2(9)(b)(ii) or (O)(ii);
  - (b) if there is a profit under paragraph (a)(i) above, the sum of that profit and the total ascertained under paragraph (a)(ii) above is his adjusted profit for the period;

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- (c) if there is a loss under paragraph (a)(i) above smaller than the total ascertained under paragraph (a)(ii) above, the difference is his adjusted profit for the period.
  - (3) The accumulated capital expenditure of a participator in an oil field at the end of any chargeable period is the total amount of expenditure taken into account under section 2(9)(b)(i) and (c)(i) of this Act in computing the assessable profit or allowable loss accruing to him in that period and all earlier chargeable periods excluding all expenditure so taken into account which was not allowed as qualifying for supplement under section 2(9)(b)(ii) or (c)(ii).
  - (4) Where a participator has made an election under paragraph 9(1) of Schedule 3 to this Act the amount of any reduction by virtue of this section in the tax payable by him for any chargeable period shall not be greater than it would have been if he had not made any such election and for the purposes of subsection (3) above his accumulated capital expenditure at the end of any chargeable period shall be taken to be what it would have been if he had made no such election.”
- (2) In consequence of subsection (1) above, Schedule 17 to the Finance Act 1980 (transfers of interests in oil fields) shall be amended as follows—
  - (a) in paragraph 1(3) for the words from "the transfer period " onwards there shall be substituted the words " ' the transfer period' means the chargeable period in which the transfer takes place ";
  - (b) in paragraph 8(1) for the words from " the last calendar year" onwards there shall be substituted " the last chargeable period before the transfer period ";
  - (c) in paragraph 8(2) for the words " year " (in both places) and " calendar years " there shall be substituted respectively the words " period " and " chargeable periods ";
  - (d) in paragraph 18 for the word " year", wherever it occurs, there shall be substituted the word " period ".
- (3) This section applies whether the net profit period ends before or after the passing of this Act.

## **115 Contracts with deferred payment**

- (1) Expenditure incurred in pursuance of a contract to which this section applies shall not qualify for supplement under section 2(9)(b)(ii) or (c)(ii) of the principal Act.
- (2) This section applies to any contract which is entered into after 1st July 1980 unless—
  - (a) the amount required to be paid under it by the person incurring the expenditure is less than £10 million; or
  - (b) it is reasonable to expect, at the time when the contract is entered into—
    - (i) that not less than 90 per cent, of that amount will be paid within nine months of the date on which the other party begins to perform the contract; or
    - (ii) that a payment or payments in respect of that amount will be made which comply with subsection (3) below;

and for the purposes of paragraph (a) above there may be disregarded any provision of the contract allowing for variations in the amount payable to take account of changes in costs or design.

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- (3) The payment or payments referred to in subsection (2)(b)(ii) above must be such that the amount to be paid up to any time after the date on which the other party to the contract begins to perform it is equal to not less than 75 per cent, of the amount that would have become payable up to that time if—
- (a) the payments required to be made under the contract were such that the first of them was payable within six months after that date and each subsequent one within six months after the previous one ; and
  - (b) the first of the payments were required to be of an amount proportionate to the extent to which the contract has been performed by that party since that date and each subsequent one to be of an amount proportionate to the extent to which the contract has been so performed since the previous payment was required to be made.
- (4) Where a contract requires a payment in respect of any period or in respect of the completion of any stage in the performance of the contract to be made within three months after the end of that period or within three months after the completion of that stage the amount to be paid up to any time shall be determined for the purposes of subsection (3) above as if the payment were required to be made at the end of that period or on completion of that stage.
- (5) Where a contract provides for payments in respect of the completion of stages in the performance of separate parts of the work specified in the contract, the payments under the contract shall be treated as complying with subsection (3) above if the payments attributable to each part of the contract would have complied with that subsection if that part had been the subject of a separate contract.

## **116 Spreading of capital expenditure**

- (1) For paragraph 9 of Schedule 3 to the principal Act (spreading of capital expenditure) there shall be substituted—
- “9 (1) A participator in an oil field may by notice in writing to the Board elect—
- (a) that the relief for supplemented expenditure to be taken into account in computing the assessable profit or allowable loss accruing to him from the field in the chargeable period specified in the notice shall not exceed such amount as is so specified; and
  - (b) that any excess shall be dealt with in accordance with the following provisions of this paragraph.
- (2) Subject to sub-paragraphs (3) and (4) below, one-twentieth of any excess of the relief over the amount specified for the chargeable period in question shall be taken into account in computing the assessable profit or allowable loss accruing to the participator from the field in each of the next twenty chargeable periods.
- (3) A participator may, in the first notice given by him under sub-paragraph (1) above in respect of a field, elect that sub-paragraph (2) above shall have effect in relation to that and any subsequent notice given by him in respect of that field with the substitution for the denominator of the fraction and the number of chargeable periods of such number, being three, five, ten or fifteen, as is specified in the election.

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- (4) A participator may by a notice in writing given to the Board and applying to any of the chargeable periods referred to in sub-paragraph (2) above before the last elect that so much of the excess as has not been taken into account in a previous chargeable period shall be taken into account in the period specified in the notice instead of partly in that period and partly in the subsequent periods.
  - (5) Any notice under this paragraph shall be in such form as the Board may prescribe and shall be given within three months after the end of the chargeable period to which it relates or, if later, twenty-seven months after the end of the first chargeable period of the field.
  - (6) Any tax charged or repayable in respect of the first four chargeable periods of an oil field in consequence of an election under this paragraph shall not carry interest under paragraph 15 or 16 of Schedule 2 to this Act in respect of any period before the date of the election.
  - (7) In this paragraph 'relief for supplemented expenditure' means the amount attributable to expenditure qualifying for supplement under paragraph (b) (ii) or (c) (ii) of section 2(9) of this Act which would, apart from any election under this paragraph, fall to be taken into account under paragraph (b) or (c) of section 2(9) in computing the assessable profit or allowable loss accruing to the participator from the field in the chargeable period in question ; and the reference in this sub-paragraph to the amount attributable to expenditure qualifying for supplement as aforesaid includes the amount attributable to the expenditure itself as well as to the amount calculated by reference to it under the said paragraph (b) (ii) or (c) (ii)."
- (2) For paragraph 10 of Schedule 3 to the principal Act there shall be substituted—
- “10       Where a participator has made an election under paragraph 9(1) above the reduction to be made in his case under section 8(1) of this Act for any chargeable period (whether or not that to which the election relates) shall not be greater than it would have been if he had made no such election.”
- (3) This section has effect in relation to any chargeable period ending after 31st December 1979.

## **117    Spreading of capital expenditure: transitional provisions**

- (1) Where allowable losses have accrued to a participator from an oil field in chargeable periods ending before 1st January 1980 he may by notice in writing given to the Board elect that so much of those losses as would, apart from this section, be available for set off under section 7 of the principal Act against assessable profits accruing to him from the field in chargeable periods beginning on or after that date shall instead be treated as an amount of relief for supplemented expenditure which, subject to any election under paragraph 9 of Schedule 3 to that Act, falls to be taken into account in computing the assessable profit or allowable loss accruing to him from the field in the chargeable period ending on 30th June 1980.
- (2) The amount to which an election under this section applies shall not exceed the total amount of relief for supplemented expenditure taken into account in computing the

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assessable profits or allowable losses accruing to the participator in chargeable periods ending before 1st January 1980.

- (3) Any notice under this section shall be in such form as the Board may prescribe and shall be given before 1st April 1982; and—
- (a) any notice under paragraph 9 of Schedule 3 to the principal Act in respect of a chargeable period ending before that date shall not be out of time if given before that date;
  - (b) any tax charged or repayable in respect of any such chargeable period in consequence of an election under that paragraph shall not carry interest under paragraph 15 or 16 of Schedule 2 to that Act in respect of any period before the date of the election.
- (4) In section 111(3)(b) above and in section 9(4) of, and paragraph 10 of Schedule 3 to, the principal Act references to an election under paragraph 9(1) of that Schedule shall include references to an election under this section.
- (5) This section shall be construed as one with Part I of the principal Act and paragraph 9(7) of Schedule 3 to that Act shall apply for the interpretation of subsections (1) and (2) above.

## **118 Licence payments other than royalties**

- (1) For the purpose of computing under section 2 of the principal Act the assessable profit or allowable loss accruing to a participator in any chargeable period from an oil field—
- (a) there shall be included as a positive amount any chargeable sum paid to the participator in the period by the Secretary of State; and
  - (b) there shall be included as a negative amount any allowable sum paid by the participator in the period to the Secretary of State.
- (2) In this section "chargeable sum" and "allowable sum" mean any sum which after 31st December 1980 is paid to a participator by the Secretary of State or, as the case may be, by the participator to the Secretary of State by reference to a relevant licence except—
- (a) any sum falling to be taken into account under section 2(6) of the principal Act (licence debit or credit) or section 3(1)(b) of that Act (payment under or for the purpose of obtaining a relevant licence);
  - (b) any sum consisting of interest on a sum payable to or by the Secretary of State;
  - (c) any repayment by the Secretary of State under section 41(3) of the Petroleum and Submarine Pipe-lines Act 1975 (repayment of royalty for facilitating or maintaining the development of United Kingdom petroleum resources); and
  - (d) any payment or repayment of royalty in respect of excluded oil (as defined in section 10 of the principal Act) and any other payment attributable to such oil.
- (3) Where the relevant licence by reference to which a chargeable sum or allowable sum is paid relates to a licensed area comprising the whole or part of two or more oil fields, that sum shall for the purposes of this section be apportioned between all or any of those fields, or attributed wholly to one of them, as may be just and reasonable.
- (4) A return under paragraph 2 of Schedule 2 to the principal Act shall include a statement of the chargeable sums and allowable sums, if any, paid to or by the participator in the chargeable period to which the return relates.

- (5) In considering for the purposes of paragraph 8(1) of Schedule 3 to the principal Act (subsidised expenditure) how far any expenditure has been or is to be met directly or indirectly by the Crown or by any authority or person other than the person incurring the expenditure, any chargeable sum shall be left out of account.
- (6) This section shall be construed as one with Part I of the principal Act.

### **119 Transportation costs for off-shore oil**

- (1) In section 3(4)(c) of the principal Act (buildings and structures eligible for expenditure relief) after paragraph (iii) there shall be inserted—
- “(iv) a building or structure used or to be used for transporting such oil as is mentioned in subsection (1)(f) above from the place where it is first landed in the United Kingdom to the place in the United Kingdom at which the seller in a sale at arm's length could reasonably be expected to deliver it or, if there is more than one place at which he could reasonably be expected to deliver it, the one nearest to the place of extraction ; or”.
- (2) This section shall have effect in relation to any expenditure in respect of which a claim is made after 31st December 1978.

### **120 Deduction of petroleum revenue tax in computing income for corporation tax**

In section 17(1) of the principal Act (deduction of petroleum revenue tax in computing income for corporation tax) for the words from " For the purposes of this subsection " onwards there shall be substituted—

- “For the purposes of this subsection the relevant accounting period, in relation to any petroleum revenue tax paid by a company, is—
- (a) the accounting period of the company in or at the end of which the chargeable period for which that tax was charged ends ; or
- (b) if that chargeable period ends after the accounting period of the company in or at the end of which the trade giving rise to the income referred to above is permanently discontinued, that accounting period.”.

### **121 Gas banking schemes**

Regulations under section 108 of the Finance Act 1980 (gas banking schemes) may provide for the modifications made by them to have effect from a date before the regulations are made and for any election made under that section to have effect from a date before the election is made.

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## PART VIII

### SUPPLEMENTARY PETROLEUM DUTY

#### **122 Charge of supplementary petroleum duty**

- (1) Every participator in an oil field shall, in accordance with this Part of this Act, be chargeable with a tax (to be known as supplementary petroleum duty) on the gross profit accruing to him from the field in any chargeable period to which this section applies.
- (2) The duty shall be charged at the rate of 20 per cent.
- (3) For the purposes of the duty the gross profit shall, except so far as otherwise provided in this Part of this Act, be determined in accordance with section 2(4) and (5) of the Oil Taxation Act 1975 (" the principal Act") as for the purposes of petroleum revenue tax.
- (4) Any other expression used in this Part of this Act which also occurs in Part I of the principal Act shall be construed in the same way as for the purposes of that tax.
- (5) This section applies to the chargeable periods ending on 30th June 1981, 31st December 1981 and 30th June 1982.

#### **123 Increase of gross profit by reference to royalties in kind**

- (1) This section applies where part of a participator's share of the oil won and saved from an oil field is delivered by him in a chargeable period to the Secretary of State pursuant to a requirement imposed under the terms of a licence granted under the Petroleum (Production) Act 1934.
- (2) In determining for the purposes of the duty the gross profit accruing to the participator from the field in the chargeable period the aggregate of the amounts mentioned in section 2(5)(a), (b) and (c) of the principal Act shall be increased by multiplying it by a fraction of which—
  - (a) the numerator is the total of the quantity of oil won from the field which is delivered or relevantly appropriated by him in the period including the oil delivered to the Secretary of State ; and
  - (b) the denominator is that total excluding the oil delivered to the Secretary of State.
- (3) Where oil is delivered pursuant to a requirement which relates to oil of one or more kinds but not to others, subsection (2) above shall apply only in relation to oil of the kind or kinds to which the requirement relates; and where oil is delivered pursuant to a requirement which specifies different proportions in relation to different kinds of oil, that subsection shall apply separately in relation to each of those kinds.
- (4) For the purposes of section 2(5) of the principal Act as applied by this Part of this Act the exclusion by paragraph 4 of Schedule 3 to that Act of oil delivered to the Secretary of State under the terms of a licence granted under the said Act of 1934 shall be deemed to extend to oil which is inadvertently delivered to him in excess of the amount required; and oil so delivered shall be treated for the purposes of this section as delivered pursuant to a requirement imposed under the terms of such a licence.



## **124 Reduction of gross profit by reference to exempt allowance**

- (1) For the purposes of the duty there shall be for each oil field in each chargeable period an exempt allowance of 500,000 metric tonnes of oil divided between the participators in shares proportionate to their shares of the oil won and saved from the field during the period.
- (2) If the gross profit accruing to a participator in a chargeable period from a field exceeds the cash equivalent of his share of the exempt allowance, the gross profit shall be reduced to an amount equal to the excess.
- (3) If the gross profit accruing to a participator in a chargeable period from a field does not exceed the cash equivalent of his share of the exempt allowance, the gross profit shall be reduced to nil.
- (4) Subject to subsection (5) below, the cash equivalent of a participator's share of the exempt allowance for an oil field for a chargeable period shall be equal to such proportion of the gross profit accruing to him from the field in that period (before any reduction under this section) as his share of the exempt allowance bears to his share, exclusive of excluded oil within the meaning of section 10 of the principal Act, of the oil won and saved from the field during the period.
- (5) If a participator in an oil field so elects by notice in writing given to the Board at the time when he makes his return under paragraph 2 of Schedule 2 to the principal Act for a chargeable period, the cash equivalent of his share of the exempt allowance for the field for that period shall be determined under subsection (4) above—
  - (a) to the extent that his share of that exempt allowance does not exceed his share of the oil (other than gas) won and saved from the field in the period, as if in computing the gross profit accruing to him in the period all amounts relating to gas fell to be disregarded ; and
  - (b) to the extent, if any, that his share of that allowance exceeds his share of the oil (other than gas) so won and saved, as if in computing the gross profit so accruing all amounts relating to oil other than gas fell to be disregarded.
- (6) In this section references to a participator's share of the oil won and saved from a field are to his share as expressed in metric tonnes and for that purpose 1,100 cubic metres of oil consisting of gas at a temperature of 15 degrees centigrade and pressure of one atmosphere shall be counted as equivalent to one metric tonne of oil other than gas.

## **125 Repayment of duty in case of field showing net loss on cessation**

- (1) Subject to the provisions of this section, the duty paid by a participator in respect of an oil field shall be repaid to him if—
  - (a) a decision has been made under Schedule 8 to the principal Act (whether by the Board or on appeal) that the winning of oil from the field has permanently ceased ;
  - (b) an unrelievable field loss, within the meaning of section 6 of that Act, has accrued to the participator from the field; and
  - (c) a claim for repayment is made under this section.
- (2) The amount of duty to be repaid shall not exceed the amount of the unrelievable field loss ; and where duty paid by a participator in respect of an oil field is repaid under this section the amount to be taken into account under section 2(9)(e) of the principal

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Act as the unrelievable field loss from that field in computing the assessable profit or allowable loss accruing from another field to—

- (a) the participator ; or
- (b) a company which, within the meaning of the said section 6, is associated with him in respect of the loss,

shall not be greater than the amount (if any) by which it exceeds the amount repaid.

- (3) If a claim for the allowance of the unrelievable field loss is made by the participator under Schedule 8 to the principal Act, the claim under this section shall be included in that claim ; and in any other case the claim under this section shall be made within six years after the date of the decision mentioned in subsection (1)(a) above.
- (4) Sub-paragraphs (2) and (3) of paragraph 4 of the said Schedule 8 shall, with the necessary modifications, apply in relation to a claim for repayment under this section as they apply in relation to a claim under sub-paragraph (1) of that paragraph.
- (5) References in this section to duty paid by a participator are to duty paid by him and not previously repaid.

## **126 Deduction of duty in computing assessable profit or allowable loss for petroleum revenue tax**

- (1) For the purpose of computing under section 2 of the principal Act the assessable profit or allowable loss accruing to a participator in any chargeable period from an oil field—
  - (a) there shall be included as a negative amount his duty debit (if any) for the period ; and
  - (b) there shall be included as a positive amount his duty credit (if any) for the period.
- (2) The participator's duty debit or credit (if any) for the period is the difference (if any) between—
  - (a) the sum of the amounts mentioned in subsection (3) below; and
  - (b) the sum of—
    - (i) the amount taken into account under paragraph (a) of that subsection in computing his duty debit or credit for the preceding chargeable period; and
    - (ii) the amount of any duty repaid to him in the period in respect of the field ;

and their difference (if any) is a duty debit if the sum mentioned in paragraph (a) above is greater than the sum mentioned in paragraph (b) above, and is otherwise a duty credit.
- (3) The amounts referred to in subsection (2)(a) above are—
  - (a) the amount shown in the statement delivered by the participator under sub-paragraph (1)(a) of paragraph 10 of Schedule 16 to this Act as the duty payable by him under that paragraph for the period in respect of the field; and
  - (b) the amount of duty paid in the period in respect of the field for previous chargeable periods.
- (4) For the purposes of subsection (3) (b) above duty for a period which is paid before the end of that period shall be treated as paid in the next chargeable period.

- (5) Where a participator's liability to petroleum revenue tax has been determined by reference to an amount of duty paid by him and there is a repayment of the duty which cannot be taken into account under the foregoing provisions of this section, an additional assessment to that tax may be made at any time not later than six years after the end of the chargeable period in which the duty is repaid.
- (6) Paragraph 12 of Schedule 17 to the Finance Act 1980 (treatment of royalty payments where there is a transfer of an interest in an oil field) shall apply in relation to any duty debit or credit as it applies in relation to a licence debit or credit, taking references to subsection (6) of section 2 of the principal Act and paragraphs (a) and (b) of that subsection as references to subsection (2) above and paragraphs (a) and (b) of that subsection.

## **127 Deduction of duty in computing income for corporation tax**

- (1) Where a participator in an oil field has paid any duty with which he was chargeable for a chargeable period, then, in computing for corporation tax the amount of his income arising in the relevant accounting period from oil extraction activities or oil rights, there shall be deducted an amount equal to that duty; and there shall be made all such adjustments of assessments to corporation tax as are required in order to give effect to this subsection.
- (2) For the purposes of subsection (1) above the relevant accounting period, in relation to any duty paid by a company, is—
  - (a) the accounting period of the company in or at the end of which the chargeable period for which the duty was charged ends; or
  - (b) if that chargeable period ends after the accounting period of the company in or at the end of which the trade giving rise to the income referred to in subsection (1) above is permanently discontinued, that accounting period.
- (3) Subject to subsection (4) below, if some or all of the duty in respect of which a deduction has been made under subsection (1) above is subsequently repaid, that deduction shall be reduced or extinguished accordingly; and any additional assessment to corporation tax required in order to give effect to this subsection may be made at any time not later than six years after the end of the accounting period in which the duty was repaid.
- (4) Subsection (3) above does not apply to any repayment of duty under section 125 above but any amount of duty repaid to a person under that section shall be treated as his income for the purpose of corporation tax.
- (5) Where, because of a deduction made under subsection (1) above in computing for corporation tax the amount of a company's income of any kind, the amount of advance corporation tax which can be set against the company's liability to corporation tax for an accounting period is less than the amount of advance corporation tax which could have been set against that liability if the deduction had not been made, then, if a claim in that behalf is made by the company not later than two years after the end of that accounting period, an amount of advance corporation tax equal to the difference shall be repaid to the company.
- (6) In this section " oil extraction activities " and " oil rights " have the meaning given in section 19(1) of the principal Act.

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## **128 Supplementary provisions**

- (1) Schedule 16 to this Act shall have effect with respect to the management and collection of the duty.
- (2) In section 1(1) of the Provisional Collection of Taxes Act 1968 after the words " petroleum revenue tax " there shall be inserted the words " supplementary petroleum duty ".
- (3) This Part of this Act shall be included in the Oil Taxation Acts for the purposes of section 108 of the Finance Act 1980 (gas banking schemes).

## **PART IX**

### DEVELOPMENT LAND TAX

## **129 Residential development of land held as stock in trade**

- (1) Section 5 of the Development Land Tax Act 1976 (relevant base value) shall have effect with the following amendments.
- (2) In subsection (1)(c) (base C) after the words "115 per cent." there shall be inserted the words " or in a case in which subsection (5A) below applies 150 per cent. ".
- (3) After subsection (5) there shall be inserted—
  - “(5A) This subsection applies where on or after 10th March 1981 there is a deemed disposal of an interest in land held by the chargeable person as stock in trade and the project of material development which gives rise to the deemed disposal consists wholly or mainly of the construction or adaptation of a building or buildings for use as one or more private dwellings; and for the purposes of this subsection an interest in land is held by a chargeable person as stock in trade if, had he sold that interest on the date of the deemed disposal, the proceeds of the sale would have been taken into account in computing the profits or gains of a trade carried on by him.
  - (5B) In subsection (5A) above " dwelling" has, in England and Wales and in Northern Ireland, the meaning assigned to it by subsection (1) of section 129 of the Housing Act 1974 and, in Scotland, means a house within the meaning of section 208(1) of the Housing (Scotland) Act 1966.”
- (4) For paragraph (ii) of subsection (6) there shall be substituted—
  - “(ii) for paragraph (c) there were substituted—
    - “(c) the aggregate of the cost of the chargeable person's acquisition of the interest and 115 per cent, of any expenditure on improvements”.”.
- (5) This section has effect in relation to any disposal after 9th March 1981.

## **130 Exemption for urban development corporations**

In section 11(1) of the Development Land Tax Act 1976 (bodies totally exempt from development land tax) there shall be inserted after paragraph (g)—

“(gg) an urban development corporation established under section 135 of the Local Government, Planning and Land Act 1980”.

### **131 Exemption for projects begun within three years of acquisition of land**

(1) In section 18 of the Development Land Tax Act 1976 (exemption for projects begun within three years of acquisition of land)—

- (a) at the end of paragraph (b) of subsection (2) there shall be inserted the words " assuming that the law at the time of the acquisition of the relevant interest had been the same as it was at the date when the project began "; and
- (b) at the end of subsection (3) there shall be inserted the words " ; and for the purposes of this subsection it shall be assumed that there will be no change in the law between the date of the application and the commencement of the project ".

(2) Paragraph (a) of subsection (1) above has effect in relation to any disposal after 9th March 1981 and paragraph (b) in relation to any application made after that date.

### **132 Development for owner's use**

(1) After section 19 of the Development Land Tax Act 1976 there shall be inserted—

#### **“19A Development for owner's use.**

(1) Subject to section 20 below, where—

- (a) realised development value accrues to a chargeable person on the deemed disposal after 9th March 1981 and before 1st April 1984 of an interest in land (in this section referred to as " the relevant interest");
- (b) the project of material development which gives rise to the deemed disposal relates to a building or other land to be used and occupied in whole or in part by the chargeable person; and
- (c) the development was authorised by planning permission which was in force when the project began,

then, subject to the following provisions of this section, liability for development land tax on such proportion of that realised development value as is properly attributable to property to be so used and occupied shall be deferred until there is a disposal of the relevant interest in that property which does not fall within paragraph (i), (ii) or (iii) of section 19(1) above or subsection (2) below.

(2) A disposal of the relevant interest falls within this subsection if—

- (a) it is a part disposal within the meaning of section 3(1)(a) above;
- (b) the lease or other interest ends not later than twelve months after the date of the disposal ; and
- (c) there is no other such disposal within twelve months after the end of the lease or other interest.

(3) Where on the grant of a lease of any premises the premises become tied premises—

- (a) if the grant of the lease would not otherwise be a disposal falling within subsection (2) above, it shall be deemed to be so;

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- (b) whether or not any other person is actually in occupation of the premises, the lessor shall be treated for the purposes of this section as if he himself occupies the premises during any period during which the premises are tied premises ; and
- (c) if at any time during the lease the premises cease to be tied premises and are not from that time occupied by the lessor, the relevant interest, or if subsection (1)(b) above applies to part only of the building or other land so much of the relevant interest as subsists in that part, shall be treated for the purposes only of subsection (1) above and section 27 below as having been disposed of at that time ;

and for the purposes of this section premises subject to a lease are tied premises if they are tied premises within the meaning of section 140(2) of the Taxes Act in relation to the lessor and to a trade carried on by him.

- (4) In any case where it appears to the Board or, on an appeal, to the Commissioners concerned that a project of material development falling within subsection (1) above relates exclusively to property to be used and occupied by the chargeable person, the proportion of realised development value referred to in that subsection shall be 100 per cent, but in any other case—

- (a) the proportion properly attributable to the property to be so used and occupied, and
- (b) the method of apportionment adopted,

shall be such as appears to the Board or, on an appeal, to the Commissioners concerned to be just and reasonable.

- (5) In determining for the purposes of subsection (1)(c) above whether the development was authorised by planning permission in force when the project began, only such development as at that time—

- (a) was authorised by that permission without any requirement as to subsequent approval, or
- (b) was not so authorised but had been approved in a manner applicable to that planning permission,

shall for those purposes be taken to have been authorised by that permission at that time.

- (6) Subsections (7), (9) and (10) of section 19 above shall apply for the purposes of this section as they apply for the purposes of that section but with the substitution for the references to subsections (1) and (5) (a) of that section of references to subsections (1) and (2) above respectively.

- (7) If after a disposal falling within paragraph (iii) of subsection (1) of section 19 above there is a disposal of the lease referred to in paragraph (c) of subsection (7) of that section, subsection (1) above shall have effect as if at the time of the disposal of the lease there were a disposal of the relevant interest in so much of any building or other land as is the subject-matter of the lease.”.

- (2) In section 20 of that Act (groups of companies) after subsection (5) there shall be inserted—

“(6) For the purposes of section 19A above, where the chargeable person is a member of a group of companies subsection (1)(b) of that section shall have

effect as if the references to the chargeable person were references to any member of the group.”.

- (3) This section has effect in relation to any disposal after 9th March 1981.

### **133 Extensions**

- (1) In paragraph 5(1)(a) of Schedule 4 to the Development Land Tax Act 1976 (exclusion from material development of works whereby cubic content of building is not exceeded by more than one-tenth) for " one-tenth " there shall be substituted " one-third ".
- (2) In paragraph 6(1) of that Schedule for the words " one-tenth " there shall be substituted the words " one-third or as the case may be one-tenth ".
- (3) This section has effect in relation to any disposal after 9th March 1981.

## **PART X**

### MISCELLANEOUS AND SUPPLEMENTARY

### **134 Special tax on banking deposits**

- (1) Every person who on 10th March 1981 was carrying on a banking business in the United Kingdom shall be chargeable for the year beginning on 1st April 1981 with a tax (to be known as the special tax on banking deposits) if the average chargeable deposits held by him in the base period exceeded £15 million.
- (2) The amount of tax chargeable in the case of any person shall be equal to 2 per cent, of the excess referred to in subsection (1) above or, if the excess is more than £200 million, the aggregate of 2 per cent, of the first £200 million and 2 ½ per cent, of the remainder.
- (3) Part I of Schedule 17 to this Act shall have effect for determining the base period and the chargeable deposits held by a person in that period; and Part II of that Schedule shall have effect with respect to the management and collection of the tax.
- (4) The tax paid by a person shall not be deductible in computing his income, profits or losses for the purposes of income tax or corporation tax.
- (5) In this section and Schedule 17 references to a person carrying on a banking business do not include references to the Bank of England or the central bank of any country outside the United Kingdom.

### **135 Chevening Estate**

- (1) The enactments relating to capital gains tax, capital transfer tax and development land tax shall not apply in respect of property held on the trusts of the trust instrument set out in the Schedule to the Chevening Estate Act 1959.
- (2) This section shall be deemed always to have had effect.

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*Status: This is the original version (as it was originally enacted).*

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### **136 Exchange control**

- (1) The provisions of Schedule 18 to this Act shall have effect for supplementing the Exchange Control Act 1947 ; and that Act and those provisions shall have effect as if those provisions were contained in that Act.
- (2) In section 2(1) of the Banking and Financial Dealings Act 1971 (power to suspend financial dealings)—
  - (a) in paragraph (b) for the words " no authorised dealer in foreign currency ", and
  - (b) in paragraph (c) for the words " no authorised dealer in gold ",
 there shall be substituted the words " no person ".
- (3) Schedule 18 to this Act shall not come into force until such day as the Treasury may appoint by order made by statutory instrument.

### **137 Irish Land Acts**

- (1) Any sums required to be paid under—
  - (a) section 47(2) of the Irish Land Act 1903 (sums required for paying dividends on and redeeming guaranteed stock); or
  - (b) section 26(2) of the Government of Ireland Act 1920 (sums equal to amounts payable in respect of purchase annuities),
 shall, instead of being paid out of moneys provided by Parliament, be paid out of the Consolidated Fund.
- (2) So much of section 33 of the said Act of 1903 as requires the accounts of the Irish Land Purchase Fund to be laid before Parliament shall cease to have effect but the National Debt Commissioners shall furnish the Treasury with such information relating to those accounts as the Treasury may require.
- (3) Any sums required to be paid under subsection (7) of section 16 of the National Loans Act 1968 in respect of the management of securities issued under the Northern Ireland Land Act 1925 shall be met out of the National Loans Fund with recourse to the Consolidated Fund.
- (4) This section shall come into force on 1st April 1982.

### **138 Penalties**

- (1) The Table in section 98 of the Taxes Management Act 1970 (penalties) shall be amended as follows.
- (2) At the end of the first column there shall be inserted—
 

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“Section 63(4), (5), (7) and (8) and section 84 of the Finance Act 1981.”

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- (3) At the end of the second column there shall be inserted—
 

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“Section 63(1), (2) and (3) of the Finance Act 1981.”

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### **139 Short title, interpretation, construction and repeals**

- (1) This Act may be cited as the Finance Act 1981.



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*Status: This is the original version (as it was originally enacted).*

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- (2) In this Act "the Taxes Act" means the Income and Corporation Taxes Act 1970.
- (3) Part IV of this Act, so far as it relates to income tax, shall be construed as one with the Income Tax Acts, so far as it relates to corporation tax, shall be construed as one with the Corporation Tax Acts and, so far as it relates to capital gains tax, shall be construed as one with the Capital Gains Tax Act 1979.
- (4) Part V of this Act shall be construed as one with Part III of the Finance Act 1975.
- (5) In Parts VII and VIII of this Act " the principal Act" means the Oil Taxation Act 1975.
- (6) The enactments mentioned in Schedule 19 to this Act are hereby repealed to the extent specified in the third column of that Schedule, but subject to any provision at the end of any Part of that Schedule.

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*Status: This is the original version (as it was originally enacted).*

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## SCHEDULES

## SCHEDULE 1

Section 1(3).

## WINE: RATES OF DUTY

Description of wine	Rates of duty per hectolitre
Wine of a strength—	£
not exceeding 15 per cent.	95.20
exceeding 15 but not exceeding 18 per cent.	122.90
exceeding 18 but not exceeding 22 per cent.	144.70
exceeding 22 per cent.	144.70 plus £13.60 for every 1 per cent, or part of 1 per cent, in excess of 22 per cent.; each of the above rates of duty being, in the case of sparkling wine, increased by £20.90 per hectolitre.

## SCHEDULE 2

Section 1(4).

## MADE-WINE: RATES OF DUTY

Description of made-wine	Rates of duty per hectolitre
Made-wine of a strength—	£
not exceeding 10 per cent.	61.80
exceeding 10 but not exceeding 15 per cent.	92.50
exceeding 15 but not exceeding 18 per cent.	113.90
exceeding 18 per cent.	113.90 plus £13.60 for every 1 per cent, or part of 1 per cent, in excess of 18 per cent.; each of the above rates of duty being, in the case of sparkling made-wine, increased by £9.60 per hectolitre.

SCHEDULE 3

Section 7.

PROVISIONS SUBSTITUTED IN VEHICLES (EXCISE) ACT 1971

**I**

PROVISIONS SUBSTITUTED FOR PART II OF SCHEDULE 1

Description of vehicle	Rate of duty
1. Bicycles and tricycles of which the cylinder capacity of the engine does not exceed 150 cubic centimetres	7.00
2. Bicycles of which the cylinder capacity of the engine exceeds 150 cubic centimetres but does not exceed 250 cubic centimetres; tricycles (other than those in the foregoing paragraph) and vehicles (other than mowing machines) with more than three wheels, being tricycles and vehicles neither constructed nor adapted for use nor used for the carriage of a driver or passenger	14.00
3. Bicycles and tricycles not in the foregoing paragraphs	28.00

**II**

PROVISIONS SUBSTITUTED FOR PART II OF SCHEDULE 2

Description of vehicle	Rate of duty
Hackney carriages	35.00 with an additional 70p for each person above 20 (excluding the driver) for which the vehicle has seating capacity.

*Status: This is the original version (as it was originally enacted).*

### III

#### PROVISIONS SUBSTITUTED FOR PART II OF SCHEDULE 3

1.	Weight unladen of vehicle		Rate of duty	
	2.	3.	4.	5.
Description of vehicle	Exceeding	Not exceeding	Initial	Additional for each ton or part of a ton in excess of the weight in column 2
			£	£
1. Agricultural machines; digging machines; mobile cranes; works trucks; mowing machines; fishermen's tractors.	—	—	12.00	—
2. Haulage vehicles, being showmen's vehicles.	—	7 ¼ tons	116.00	—
	7 ¼ tons	8 tons	139.00	—
	8 tons	10 tons	163.00	—
	10 tons	—	163.00	25.00
3. Haulage vehicles, not being showmen's vehicles.	—	2 tons	138.00	—
	2 tons	4 tons	248.00	—
	4 tons	6 tons	359.00	—
	6 tons	7 ¼ tons	469.00	—
	7 ¼ tons	8 tons	573.00	—
	8 tons	10 tons	573.00	97.00
	10 tons	—	766.00	110.00

*Status: This is the original version (as it was originally enacted).*

IV

PROVISIONS SUBSTITUTED FOR PART II OF SCHEDULE 4

TABLES SHOWING ANNUAL RATES OF DUTY ON GOODS VEHICLES

TABLE A

GENERAL RATES OF DUTY

1.	Weight unladen of vehicle		Rate of duty	
	2.	3.	4.	5.
Description of vehicle	Exceeding	Not exceeding	Initial	Additional for each $\frac{1}{4}$ ton or part of a $\frac{1}{4}$ ton in excess of the weight in column 2
1. Farmer's goods vehicles	—	12 cwt.	£ 41.00	—
	12 cwt.	16 cwt.	44.00	—
	16 cwt.	1 ton	48.00	—
	1 ton	3 tons	48.00	6
	3 tons	5 tons	95.00	4
	5 tons	7 tons	130.00	3
	7 tons	9 tons	156.00	2
	9 tons	—	185.00	5
2. Showmen's goods vehicles ...	—	12 cwt.	41.00	—
	12 cwt.	16 cwt.	44.00	—
	16 cwt.	1 ton	48.00	—
	1 ton	3 tons	48.00	6
	3 tons	5 tons	95.00	4
	5 tons	6 tons	130.00	3
	6 tons	9 tons	140.00	6
	9 tons	—	222.00	8
3. Tower wagons	—	12 cwt.	55.00	—
	12 cwt.	16 cwt.	61.00	—
	16 cwt.	1 ton	69.00	—
	1 ton	4 tons	69.00	7
	4 tons	6 tons	153.00	8

*Status: This is the original version (as it was originally enacted).*

1.	Weight unladen of vehicle		Rate of duty	
	2.	3.	4.	5.
Description of vehicle	Exceeding	Not exceeding	Initial	Additional for each $\frac{1}{4}$ ton or part of a $\frac{1}{4}$ ton in excess of the weight in column 2
4. Goods vehicles not included in any of the foregoing provisions of this Part of this Schedule.	6 tons	9 tons	217.00	7
	9 tons	—	315.00	12
	—	16 cwt.	70.00	—
	16 cwt.	1 ton	76.00	—
	1 ton	4 tons	76.00	20
	4 tons	9 tons	305.00	35
	9 tons	10 tons	1,081.00	38
	10 tons	—	1,230.00	45

TABLE B

RATES OF DUTY ON GOODS VEHICLES USED FOR DRAWING TRAILERS

1.	Weight unladen of vehicle		Rate of duty
	2.	3.	4.
Description of vehicle	Exceeding	Not exceeding	Rate of duty
1. Showmen's goods vehicles	—	—	£ 41.00
2. Other goods vehicles	—	1 $\frac{1}{2}$ tons	41.00
	1 $\frac{1}{2}$ tons	3 tons	55.00
	3 tons	4 tons	92.00
	4 tons	6 tons	124.00
	6 tons	9 tons	154.00
	9 tons	—	168.00

*Status: This is the original version (as it was originally enacted).*

## V

### PROVISIONS SUBSTITUTED FOR PART II OF SCHEDULE 5

Description of vehicle	Rate of duty
	£
1. Vehicles not exceeding seven horse power, if registered under the Roads Act 1920 for the first time before 1st January 1947	50.00
2. Vehicles not included above	70.00

## SCHEDULE 4

Section 8.

### PROVISIONS SUBSTITUTED IN VEHICLES (EXCISE) ACT (NORTHERN IRELAND) 1972

## I

### PROVISIONS SUBSTITUTED FOR PART II OF SCHEDULE 1

Description of vehicle	Rate of duty
	£
1. Bicycles and tricycles of which the cylinder capacity of the engine does not exceed 150 cubic centimetres	7.00
2. Bicycles of which the cylinder capacity of the engine exceeds 150 cubic centimetres but does not exceed 250 cubic centimetres; tricycles (other than those in the foregoing paragraph) and vehicles (other than mowing machines) with more than three wheels, being tricycles and vehicles neither constructed nor adapted for use nor used for the carriage of a driver or passenger	14.00
3. Bicycles and tricycles not in the foregoing paragraphs	28.00

## II

### PROVISIONS SUBSTITUTED FOR PART II OF SCHEDULE 2

Description of vehicle	Rate of duty
	£

*Status: This is the original version (as it was originally enacted).*

Description of vehicle	Rate of duty
Hackney carriages	35.00 with an additional 70p for each person above 20 (excluding the driver) for which the vehicle has seating capacity.

### III

#### PROVISIONS SUBSTITUTED FOR PART II OF SCHEDULE 3

1.	Weight unladen of vehicle		Rate of duty	
	2.	3.	4.	5.
Description of vehicle	Exceeding	Not exceeding	Initial	Additional for each ton or part of a ton in excess of the weight in column 2
1. Agricultural machines; digging machines; mobile cranes; works trucks; mowing machines; fishermen's tractors. ,;	—	—	£ 12.00	£ —
2. Haulage vehicles, being showmen's vehicles.	—	7 ¼ tons	116.00	—
	7 ¼ tons	8 tons	139.00	—
	8 tons	10 tons	163.00	—
	10 tons	—	163.00	25.00
3. Haulage vehicles, not being showmen's vehicles.	—	2 tons	124.00	—
	2 tons	4 tons	221.00	—
	4 tons	6 tons	317.00	—
	6 tons	7 ¼ tons	414.00	—
	7 ¼ tons	8 tons	511.00	—
	8 tons	—	511.00	110.00



## IV

## PROVISIONS SUBSTITUTED FOR PART II OF SCHEDULE 4

## TABLES SHOWING ANNUAL RATES OF DUTY ON GOODS VEHICLES

## TABLE A

## GENERAL RATES OF DUTY

1.	Weight unladen of vehicle		Rate of duty	
	2.	3.	4.	5.
Description of vehicle	Exceeding	Not exceeding	Initial	Additional for each $\frac{1}{4}$ ton or part of a $\frac{1}{4}$ ton in excess of the weight in column 2
1. Farmers' goods vehicles	—	12 cwt.	£ 41.00	—
	12 cwt.	16 cwt.	44.00	—
	16 cwt.	1 ton	48.00	—
	1 ton	3 tons	48.00	6.00
	3 tons	6 tons	97.00	2.00
	6 tons	8 tons	127.00	100
	8 tons	9 tons	140.00	2.00
	9 tons	—	161.00	3.00
2. Showmen's goods vehicles; tower wagons.	—	12 cwt.	53.00	—
	12 cwt.	16 cwt.	55.00	—
	16 cwt.	1 ton	62.00	—
	1 ton	3 tons	64.00	3.00
	3 tons	6 tons	87.00	5.00
	6 tons	9 tons	142.00	6 00'
	9 tons	—	222.00	8 00-
3. Goods vehicles not included in any of the foregoing provisions of this Part.	—	16 cwt.	70.00	—
	16 cwt.	1 ton	76.00	—
	1 ton	3 tons	76.00	14.00
	3 tons	4 tons	187.00	22.00
	4 tons	6 tons	276.00	29.00
	6 tons	9 tons	508.00	33.00

*Status: This is the original version (as it was originally enacted).*

1.	Weight unladen of vehicle		Rate of duty	
	2.	3.	4.	5.
Description of vehicle	Exceeding	Not exceeding	Initial	Additional for each $\frac{1}{4}$ ton or part of a $\frac{1}{4}$ ton in excess of the weight in column 2
	9 tons	—	974.00	40.00

TABLE B

RATES OF DUTY ON GOODS VEHICLES USED FOR DRAWING TRAILERS

1.	Weight unladen of vehicle		Rate of duty
	2.	3.	4.
Description of vehicle	Exceeding	Not exceeding	Rate of duty
			<b>£</b>
1. Showmen's goods vehicles	—	—	41.00
2. Other goods vehicles .....	—	1 $\frac{1}{2}$ tons	41.00
	1 $\frac{1}{2}$ tons	3 tons	55.00
	3 tons	4 tons	92.00
	4 tons	6 tons	124.00
	6 tons	9 tons	154.00
	9 tons	—	168.00

V

PROVISIONS SUBSTITUTED FOR PART II OF SCHEDULE 5

Description of vehicle	Rate of duty
	<b>£</b>
1. Vehicles first registered under the Roads Act 1920 before 1st January 1947, or which, if their first registration for taxation purposes had been effected in Northern Ireland would have been so first registered as aforesaid under the Act as in force in Northern Ireland:	
(i) not exceeding 6 horse power	42.00

*Status: This is the original version (as it was originally enacted).*

Description of vehicle	Rate of duty
(ii) exceeding 6 horse power but not exceeding 9 horse power—for each unit or part of a unit of horse power	7.00
2. Other vehicles	70.00

## SCHEDULE 5

Section 9(7).

### BETTING AND GAMING DUTIES : CONSOLIDATION AMENDMENTS

- 1 (1) At the beginning of sub-paragraph (1) of paragraph 3 of Schedule 2 to the Betting and Gaming Duties Act 1972 there shall be inserted the words " Subject to sub-paragraph (2A) below ".
- (2) For sub-paragraph (2) of that paragraph there shall be substituted—
- “(2) Subject to sub-paragraph (2A) below, a gaming licence shall be expressed to take effect—
- (a) on the first day of the period for which it is granted, or
- (b) on the fourteenth day after the date of the application, whichever is the later.
- (2A) Where a gaming licence would otherwise, by virtue of sub-paragraph (2\ b) above, be expressed to take effect on the fourteenth day after the date of the application, it may, if the Commissioners think fit, be expressed to take effect earlier than that day, but in no case earlier than the day following that date.”
- 2 In paragraph 14 of Schedule 2 and in paragraph 17 of Schedule 4 to that Act for the words from " proves " to " that the offence " there shall be substituted the words " proves that the offence " and the words "the contravention, or as the case may be" shall be omitted.
- 3 In paragraph 21 of Schedule 3 to that Act for the word " gaming " there shall be substituted the words " betting or gaming ".
- 4 (1) In paragraph 4(1) of Schedule 4 to that Act for the words " shall, in the case of a new licence," there shall be substituted the words " shall, subject to paragraph 5(1A) below, " and the words following the word " force " shall cease to have effect.
- (2) For sub-paragraph (1) of paragraph 5 of that Schedule there shall be substituted—
- “(1) Subject to sub-paragraph (1A) below, a licence shall be expressed to take effect—
- (a) on the first day of the period for which it is granted, or
- (b) on the fourteenth day after the date of the application, whichever is the later.
- (1A) Where a licence would otherwise, by virtue of sub-paragraph (1)(b) above, be expressed to take effect on the fourteenth day after the date of the application it may, if the Commissioners think fit, be expressed to take

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effect earlier than that day, but in no case earlier than the day following that date.”

- 5       The maximum penalty which may be imposed on summary conviction in Scotland for an offence under paragraph 15(1)(d) or (c) or 16(1) of Schedule 1, paragraph 13(1)(c) or (d) of Schedule 2 or paragraph 17(1) or (2) of Schedule 3 to that Act shall be the same as the maximum penalty which may be imposed on summary conviction in England or Wales for such an offence.
- 6       Sections 6 and 7(1) of and Schedule 5 and Part I of Schedule 6 to the Finance Act 1980 shall be construed as one with the Customs and Excise Management Act 1979.

## SCHEDULE 6

Section 10(1).

### IMPORT PROCEDURES : AMENDMENTS OF CUSTOMS AND EXCISE MANAGEMENT ACT 1979

#### *Entry of goods on importation*

- 1       (1) Section 37 shall be amended as follows.
- (2) In subsection (1) for the words " and containing such particulars " there shall be substituted the words " , containing such particulars and accompanied by such documents ".
- (3) In subsection (3)(a) after the words " for home use " there shall be inserted the words " or for free circulation ".
- (4) Subsection (5)(a) shall be omitted.
- (5) For subsections (6) and (7) there shall be substituted—
- “(6) Except with the permission of the Commissioners no entry shall be delivered before the goods have been presented at the proper office of customs and excise.
- (7) Where the Commissioners permit an entry to be delivered before presentation of the goods, the goods must be presented at the proper office of customs and excise within such time at the Commissioners may allow; and if the goods are not to presented the entry shall be treated as not having been delivered.
- (8) Goods shall be treated as presented at the proper office of customs and excise if notice is given, in such form and manner as the Commissioners may direct, to the proper officer of the arrival of the goods at that office or at such other place as may be specified by directions given by the Commissioners.
- (9) Acceptance of an entry by the proper officer shall be signified in such manner as the Commissioners may direct.”

#### *Acceptance of incomplete entry*

- 2       For section 38 (entry by bill of sight) there shall be substituted—

**“38 Acceptance of incomplete entry.**

- (1) The proper officer may, if he thinks fit, accept an entry which does not in every respect comply with section 37 above.
- (2) Where an entry is accepted under this section the importer shall, within such time as the Commissioners may allow, deliver to the proper officer such of the particulars or documents as were required to be, but were not, contained in or delivered with the entry or, if the proper officer so permits, deliver to him a substituted entry complying in all respects with section 37 above.”

*Examination of goods for purpose of making entry*

3 After section 38 there shall be inserted—

**“38A Examination of goods for purpose of making entry.**

- (1) For the purpose of enabling entry to be made of any goods which are in customs and excise charge the proper officer shall, on the application of the importer, allow the examination of the goods and the taking of samples of the goods.
- (2) Any such application shall be made in such form and manner and contain such particulars as the Commissioners may direct.
- (3) Any examination or taking of samples under this section shall be carried out in accordance with such directions as may be given by the Commissioners and shall be at the risk and at the expense of the importer.”

*Correction and cancellation of entry*

4 After the section inserted by paragraph 3 above there shall be inserted—

**“38B Correction and cancellation of entry.**

- (1) Where goods have been entered for home use or for free circulation the importer may correct any of the particulars contained in an entry of the goods after it has been accepted if—
  - (a) the goods have not been cleared from customs and excise charge;
  - (b) he has not been notified by an officer that the goods are to be examined ; and
  - (c) the entry has not been found by an officer to be incorrect.
- (2) The proper officer may permit or require any correction allowed by subsection (1) above to be made by the delivery of a substituted entry.
- (3) An entry of goods may at the request of the importer be cancelled at any time before the goods are cleared from customs and excise charge if the importer proves to the satisfaction of the Commissioners that the entry was delivered by mistake or that the goods cannot be cleared for free circulation.”

*Removal of uncleared goods*

- 5 In section 40(1) for paragraph (b) there shall be substituted—
- “(b) at the expiration of 21 clear days from the date when they were presented at the proper office of customs and excise they have not been produced for examination and clearance and the failure to produce them is attributable to an act or omission for which the importer is responsible ; or”.

*Failure to comply with provisions as to entry*

- 6 At the end of section 41 there shall be inserted the words “but this section shall not apply to—
- (a) any failure which has been or may be remedied by virtue of section 38B(1); or
- (b) any failure in respect of an entry which by virtue of section 38(B) (3) has been or may be cancelled at his request.”

*Duties on imported goods*

- 7 (1) Section 43 shall be amended as follows.
- (2) For subsection (2)(a) (time for determining duty where entry is made) there shall be substituted—
- “(a) if entry is made thereof, except where the entry is for warehousing, or if they are declared under section 78 below, shall be those in force with respect to such goods at the time when the entry is accepted or the declaration is made ;”.
- (3) For subsection (2)(c) (time for determining duty where no entry is made) there shall be substituted—
- “(c) if no entry is made thereof and the goods are not declared under section 78 below shall be those in force with respect to such goods at the time of their importation.”
- (4) After subsection (5) there shall be inserted—
- “(6) Where entry of goods is made otherwise than for warehousing and there is a reduction in the rate of duty of customs or excise chargeable on the goods between—
- (a) the time mentioned in subsection (2)(a) above ; and
- (b) the time when the goods are cleared from customs and excise charge,
- the rate of the duty chargeable on the goods shall, if the importer so requests, be that in force at the time mentioned in paragraph (b) above unless clearance of the goods has been delayed by reason of any act or omission for which the importer is responsible.
- (7) Notwithstanding section 6(5) of the European Communities Act 1972 " duty of customs " in subsection (6) above does not include any agricultural levy.
- (8) Where samples are taken of goods under section 38A above and the quantity of the goods covered by the entry which is subsequently delivered does not include the samples the duties of customs and the rates of those duties chargeable on the samples shall be those in force at the time when the

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application under subsection (1) of that section was made and shall be determined by reference to the particulars contained in the application.

(9) Where a substituted entry is delivered under section 38(2) or 38B(2) above the entry referred to in subsection (2)(a) above is the original entry.”

*Delivery of imported goods on giving security for duty*

8 In section 119(1) after the words " for home use " there shall be inserted the words " or for free circulation ".

*Restriction on delivery of goods*

9 In section 128(1) and (2) (power to restrict delivery of goods chargeable with duty of customs or excise) the words "customs or " shall be omitted.

SCHEDULE 7

Section 10(2).

EXPORT PROCEDURES

**PART I**

SECTIONS SUBSTITUTED IN CUSTOMS AND EXCISE MANAGEMENT ACT 1979

**“53 Entry outwards of goods.**

- (1) Subject to the provisions of this Part of this Act, before any goods other than Community transit goods are exported or shipped as stores for use on a voyage or flight to an eventual destination outside the United Kingdom and the Isle of Man there shall be delivered by the exporter to the proper officer an entry outwards of the goods in such form and manner, containing such particulars and accompanied by such documents as the Commissioners may direct
- (2) Except with the permission of the Commissioners no entry shall be delivered before the goods have been presented to the proper officer.
- (3) Where the Commissioners permit an entry to be delivered before presentation of the goods, the goods must be presented to the proper officer within such time as the Commissioners may allow; and if the goods are not so presented the entry shall be treated as not having been delivered.
- (4) Goods may be treated as presented to the proper officer if notice is given, in such form and manner as the Commissioners may direct, to the proper officer of the presence of the goods at a place designated by him.
- (5) An entry in respect of dutiable or restricted goods shall not be accepted unless security is given to the satisfaction of the Commissioners that the goods will, within such time as the Commissioners think reasonable, be exported and discharged at the destination for which they are entered or which is otherwise specified by the exporter or, in the case of goods for use as stores, that they will be duly so used or otherwise accounted for to the satisfaction of the Commissioners.

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*Status: This is the original version (as it was originally enacted).*

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- (6) Acceptance of an entry by the proper officer shall be signified in such manner as the Commissioners may direct; and once acceptance of an entry in respect of any goods has been signified, the goods shall not be removed from the place where they were at the time of acceptance without the permission of the proper officer.
- (7) The Commissioners may relax all or any of the requirements imposed by this section as they think fit in relation to any goods and, if they do so, may impose substituted requirements.
- (8) If any dutiable or restricted goods of which entry is required under this section are shipped for exportation or as stores or are waterborne for such shipment before entry has been delivered and accepted, the goods shall be liable to forfeiture and where the shipping or making waterborne is done with fraudulent intent any person concerned therein with knowledge of that intent shall be guilty of an offence under this subsection and may be detained.
- (9) A person guilty of an offence under subsection (8) above shall be liable—
- (a) on summary conviction, to a penalty of the pre scribed sum or of three times the value of the goods, whichever is the greater, or to imprisonment for a term not exceeding six months, or to both; or
  - (b) on conviction on indictment, to a penalty of any amount, or to imprisonment for a term not exceeding two years or to both.
- (10) If any goods which are not dutiable or restricted goods and of which entry is required under this section are exported or shipped for exportation or as stores before entry has been delivered and accepted, the exporter shall be liable on summary conviction to a penalty of £500.
- (11) Any person who removes any goods in contravention of subsection (6) above or contravenes or fails to comply with any requirement imposed under subsection (7) above shall be liable on summary conviction to a penalty of £500.
- (12) If any dutiable or restricted goods are found not to correspond with any entry in respect of them delivered under this section, they shall be liable to forfeiture.

#### **54 Acceptance of incomplete entry.**

- (1) The proper officer may, if he thinks fit, accept an entry which does not in every respect comply with section 53 above, but he shall not do so in a case in which the goods have not been presented.
- (2) Where an entry is accepted under this section the exporter shall, within such time as the Commissioners may allow, deliver to the proper officer such of the particulars or documents as were required to be, but were not, contained in or delivered with the entry or, if the proper officer so permits, deliver to him a substituted entry complying in all respects with section 53 above.
- (3) If any person fails to comply with subsection (2) above he shall be liable on summary conviction to a penalty of £500.

#### **55 Correction and cancellation of entry.**

- (1) The exporter may correct any of the particulars contained in an entry of goods under section 53 above after it has been accepted if—



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- (a) the appropriate authority has not been given for the removal of the goods; and
  - (b) the exporter has not been notified by an officer that the goods are to be examined; and
  - (c) the entry has not been found by an officer to be incorrect;
- and in paragraph (a) above " the appropriate authority " means—
- (i) in the case of goods which have been presented to the proper officer at a place approved by the Commissioners under section 31(1)(b) above or at a place designated by the proper officer under section 53 above, any authority to remove the goods from the place where they were presented to the proper officer which is required under section 31 above or permission under section 53(6) above, and
  - (ii) in any other case, the authority to load the goods which is required under section 57(4) or section 66 below.
- (2) Particulars in an entry may be corrected after the giving of such authority as is mentioned in subsection (1)(a) above if they relate to a matter which can be established in the absence of the goods.
- (3) The proper officer may permit or require any correction allowed by subsection (1) above to be made by the delivery of a substituted entry.
- (4) Subject to subsection (5) below, an entry which has been accepted may be cancelled at the request of the exporter if he delivers to the proper officer all copies of the entry and such other documents delivered to him on or in connection with the entry as the Commissioners may require and shows to the satisfaction of the Commissioners that—
- (a) the goods are in the United Kingdom and the arrangements for exporting them have been cancelled; and
  - (b) any payment to which he is entitled from the Commissioners or under a Community instrument by virtue of exporting the goods has been repaid or will not be paid.
- (5) An entry shall not be cancelled under subsection (4) above—
- (a) in a case where the exporter is informed by an officer that the goods are to be examined, until the examination has taken place ; and
  - (b) until the exporter has complied with any requirements imposed by the Commissioners as to the movement of the goods in respect of which the entry was made to such places as they may specify.
- (6) Where an entry in respect of goods which are not dutiable or restricted goods is cancelled under subsection (4) above, the exporter shall within such period as may be specified by directions given by the Commissioners furnish them with such information and such documents relating to the goods as may be specified in the directions.
- (7) Any person who contravenes or fails to comply with subsection (6) above shall be liable on summary conviction to a penalty of £500.

## **56 Failure to export.**

- (1) Where any goods in respect of which an entry has been accepted have not been shipped or exported by land, an officer may by notice given to the exporter require the goods to be exported within such time as is specified in the notice ; and if the notice is not complied with the entry shall be treated as cancelled.

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- (2) Where, in the case of any such goods as are mentioned in subsection (1) above which are due to be loaded into a ship or aircraft specified in the entry or by the person having charge of them at the port or customs and excise airport of intended shipment, no notice has been served under that subsection and the goods have not been shipped by the time the ship or aircraft departs from the port or airport at which it has been cleared by the proper officer, then—
- (a) the entry shall be treated as cancelled at that time ; and
  - (b) if the goods are dutiable or restricted goods, they shall be liable to forfeiture unless notice of the failure to export them is given to the proper officer immediately after that time.
- (3) Where an entry in respect of dutiable or restricted goods is treated as cancelled by virtue of this section—
- (a) if the exporter would have been entitled to a payment of any sum from the Commissioners or under a Community instrument by virtue of exporting the goods, he shall take such steps as the Commissioners may direct to ensure that the sum is not paid to him or, if it has already been paid, he shall (unless the Commissioners agree to his retaining it) repay it within seven days or such longer period as the Commissioners may allow;
  - (b) the exporter shall within such period as may be specified by directions given by the Commissioners furnish them with such information and such documents as may be specified in the directions; and
  - (c) if the goods have not been forfeited under subsection (2) above, they shall be warehoused or, if the Commissioners so require, shall be moved to such place as the Commissioners may specify.
- (4) Where an entry in respect of goods which are not dutiable or restricted goods is treated as cancelled by virtue of this section, the exporter shall within such period as may be specified by directions given by the Commissioners furnish them with such information and such documents relating to the goods as may be specified in the directions.
- (5) Any person who contravenes or fails to comply with subsection (3) above shall be liable on summary conviction to a penalty of £1,000 and the goods shall be liable to forfeiture.
- (6) Any person who contravenes or fails to comply with subsection (4) above shall be liable on summary conviction to a penalty of £500.

### **57 Delivery of entry by owner of exporting ship etc.**

- (1) The Commissioners may direct that any entry required to be delivered under section 53 above in respect of any goods which are to be shipped or exported in a ship or aircraft and the documents which are required to accompany it shall, instead of being delivered by the exporter be delivered by the loader (that is to say the owner of the ship or aircraft or a person appointed by him) and such delivery shall be treated as delivery by the exporter for the purposes of this Part of this Act.
- (2) The proper officer shall not accept an entry which is delivered in pursuance of subsection (1) above unless the goods in respect of which the entry is made are under the control of the loader at the time of the delivery.
- (3) Directions under this section may impose on the loader requirements as to—
  - (a) the place, time and manner in which entries and any documents required by virtue of section 31 above are to be delivered ;

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- (b) the production to the proper officer of such documents as may be specified in the directions; and
  - (c) the information to be supplied to the proper officer and the form and manner in which the information is to be supplied.
- (4) Directions under this section may also require that the goods in respect of which the entry is to be made shall not be loaded into the ship or aircraft in which they are to be exported without the authority of the proper officer.
- (5) Directions under this section may authorise an officer to relax all or any of the requirements imposed by the directions and, if he does so, to impose substituted requirements.
- (6) If a person without reasonable excuse fails to comply with any requirement imposed on him under this section he shall be liable on summary conviction to a penalty of £500 or in the case of a failure to comply with a requirement imposed by virtue of subsection (4) above to a penalty of £1,000.
- (7) For the purposes of this section a ship subject to charter by demise shall be treated as owned by the charterer.

### **58 Simplified clearance procedure.**

- (1) If the Commissioners think fit so to direct, goods which are not dutiable or restricted goods may be shipped for exportation without entry under section 53 above if—
- (a) the exporter is registered in a register of exporters maintained by the Commissioners for the purposes of this section ; and
  - (b) before the goods are shipped the conditions mentioned in subsection (3) below are satisfied.
- (2) The Commissioners may for the purposes of this section—
- (a) enter in a register maintained by them any person applying for registration and appearing to them to be concerned in the exportation of goods and to satisfy such requirements for registration as they may think fit to impose ;
  - (b) give directions imposing requirements on registered persons including, in particular, requirements as to the keeping of records and accounts and the giving of access to them ;
  - (c) assign to registered persons numbers for use under this section ; and
  - (d) suspend or cancel the registration of any person if it appears to them that he has failed to comply with any direction under this section or with section 58B(1) or (2) below or that there is other reasonable cause for suspension or cancellation.
- (3) The conditions referred to in subsection (1) above are—
- (a) that the goods are presented to the proper officer;
  - (b) that the exporter delivers to the proper officer and the proper officer accepts such document relating to the goods as the directions may require bearing an endorsement which contains a number assigned to the exporter under this section ; and
  - (c) that the exporter complies with such other requirements as the directions may impose ;

and goods may be treated as presented to the proper officer if notice is given, in such form and manner as the Commissioners may direct, to the proper officer of the presence of the goods at a place designated by him.

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- (4) The document referred to in subsection (3)(b) above shall be delivered in such manner as the directions may require and acceptance of that document by the proper officer shall be signified in such manner as the Commissioners may direct; and once acceptance of a document relating to any goods has been signified, the goods shall not be removed from the place they were at the time of acceptance without the permission of the proper officer.
- (5) Directions under this section may contain provision enabling the Commissioners to exclude shipments of goods from their operation in such cases as the Commissioners think fit by giving notice to that effect in accordance with the directions.
- (6) The Commissioners may relax any requirement imposed under this section as they think fit in relation to any goods and, if they do so, may impose substituted requirements.
- (7) Sections 55 and 57 above and section 58D(3) below shall apply in relation to a document required to be delivered under subsection (3)(b) above as they apply in relation to an entry and section 56 above shall apply in relation to goods in respect of which such a document has been accepted under that subsection as it applies to goods in respect of which an entry has been accepted.

#### **58A Local export control.**

- (1) If the Commissioners think fit so to direct, goods may be shipped for exportation or exported by land without entry under section 53 above if—
  - (a) the exporter is registered in a register maintained by the Commissioners for the purposes of this section; and
  - (b) the conditions mentioned in subsection (3) below are satisfied.
- (2) The Commissioners may for the purposes of this section—
  - (a) maintain a register of exporters whose premises are approved by the Commissioners under section 31 above for the examination of goods intended for export;
  - (b) enter in the register any such persons applying for registration who satisfy such requirements for registration as the Commissioners may think fit to impose ;
  - (c) give directions imposing requirements on registered persons including, in particular, requirements as to the keeping of records and accounts and the giving of access to them ;
  - (d) assign to registered persons numbers for use under this section; and
  - (e) suspend or cancel the registration of any person if it appears to them that he has failed to comply with any direction under this section or with section 58B(1) or (2) below or that there is other reasonable cause for suspension or cancellation.
- (3) The conditions referred to in subsection (1) above are—
  - (a) that before the goods are removed from the approved premises—
    - (i) the exporter delivers to the proper officer, at such time and place as he may require, a notice of the intention to remove the goods, being a notice in such form and containing such particulars as may be required by the directions; and
    - (ii) on such day as the proper officer may appoint (not being earlier than the day that notice is delivered or later than the day the goods are removed) the exporter enters such particulars of the goods and of such other

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- matters as may be required by the directions in a record maintained by him at such place as the proper officer may require ; and
- (b) that before the goods are shipped, the exporter delivers to the proper officer such document relating to the goods as the directions may require bearing an endorsement which contains a number assigned to the exporter under this section and complies with such other requirements as the directions may impose.
- (4) The directions may impose requirements as to—
- (a) the manner in which the notice referred to in paragraph (a)(i) of subsection (3) above shall be delivered and the form it should take ;
- (b) the manner and form in which the record referred to in paragraph (a)(ii) of that subsection should be maintained; and
- (c) the place at which and the manner in which the document referred to in paragraph (b) of that subsection should be delivered ;
- and the conditions mentioned in that subsection shall not be treated as satisfied unless any requirements which are so imposed are complied with.
- (5) The Commissioners may, in addition to any exporter within subsection (2)(a) above, enter in the register any person who applies to them to be registered and satisfies them—
- (a) that the exporter is a company under the applicant's control; or
- (b) that the exporter has agreed to the registration of the applicant in addition to the exporter.
- (6) Where in pursuance of subsection (5) above both an exporter and another person are registered—
- (a) the proper officer shall direct which of them shall do the things mentioned in subsection (3) above and section 58B(1) below ; and
- (b) the registration of both of them may be cancelled or suspended under subsection (2)(e) above if it appears to the Commissioners that either of them has failed as mentioned in that subsection.
- (7) The Commissioners may relax any requirement imposed under this section as they think fit in relation to any goods and, if they do so, may impose substituted requirements.
- (8) Section 56 above shall apply in relation to goods in respect of which particulars have been entered in a record under subsection (3)(a) above as it applies in relation to goods in respect of which an entry has been accepted.

#### **58B Provisions supplementary to ss. 58 and 58A.**

- (1) Where by virtue of section 58 or 58A above goods have been shipped for exportation or exported by land without entry under section 53 above, the exporter shall deliver to the proper officer a specification of the goods containing, as the Commissioners may direct, either the particulars that would have been required to be contained in the entry or such other particulars as may be so directed.
- (2) The specification referred to in subsection (1) above may, if the Commissioners permit, be a single specification relating to the goods exported during a particular period and shall be delivered at such place and in such manner and by such time as the Commissioners may allow.
- (3) If any person fails to deliver a specification in accordance with the foregoing provisions of this section or delivers a specification which is incorrect and does not correct it within

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a period of fourteen days following delivery, he shall be liable on summary conviction to a penalty of £500.

- (4) In connection with any arrangements approved by the Commissioners for recording particulars of exported goods by computer they may relax the requirements of subsections (1) and (2) above by suspending the obligation to deliver the specifications there mentioned on condition that—
- (a) the particulars which should otherwise be contained in the specifications, or such of those particulars as the Commissioners may specify, are recorded by computer in accordance with the arrangements; and
  - (b) the particulars so recorded are subsequently delivered to the proper officer within such time as the Commissioners may specify;
- but subject to such other conditions as they may impose.
- (5) If any person without reasonable excuse fails to comply with a requirement imposed on him by or under section 58 or 58A above he shall be liable on summary conviction to a penalty of £500.
- (6) If any person for the purpose of enabling goods to be shipped in accordance with either of those sections furnishes any document bearing a number assigned under that section which is not one for the time being assigned to him or to another person who has consented to his furnishing the document bearing that number, he shall be liable on summary conviction to a penalty of £500.
- (7) In sections 58 and 58A above references to a person registered under either of those sections do not include references to a person whose registration is for the time being suspended; and for the purposes of subsection (6) above a person whose registration is for the time being suspended shall be regarded as not having any number assigned to him.

#### **58C Pipe-lines and export of ships and aircraft.**

- (1) For the purposes of this Part of this Act goods which are to be exported by means of a pipe-line shall be treated as having been presented to the proper officer when notice of the goods to be exported has been given to the proper officer and accepted by him.
- (2) Notice under subsection (1) above shall be given by such person and in such form and manner and shall contain such particulars as the Commissioners may direct.
- (3) A ship or aircraft departing from the United Kingdom which—
- (a) is within the definition of dutiable or restricted goods in section 52 above ; or
  - (b) is a ship built, or aircraft manufactured, in the United Kingdom departing for the first time for a voyage or flight to a place outside the United Kingdom for the purpose of its delivery to a consignee outside the United Kingdom,
- shall be treated for the purposes of this Part of this Act both as goods shipped for exportation and as the exporting ship or aircraft and, in the case of a ship or aircraft within paragraph (b) above, the owner of the ship or aircraft or, where the owner is outside the United Kingdom, the builder of the ship or the manufacturer of the aircraft shall be deemed to be the exporter.

#### **58D Operative date for Community purposes.**

- (1) Except as provided by any Community regulation or other instrument having the force of law and subject to subsection (3) below; the operative date for determining whether

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any, and if so what, levy or other charge provided for under any Community provision governing the exportation of goods is due in respect of the goods and for applying any other such provision including, in particular, any provision whereby any refund or relief is due in respect of the goods shall be such date as is mentioned in subsection (2) below.

- (2) The date referred to in subsection (1) above is—
- (a) in a case where an entry or a document such as is mentioned in section 58(3) (Z») above is delivered, the date of acceptance of the entry or document;
  - (b) in the case of goods particulars of which are entered in a record in accordance with section 58A(3)(a)(ii) above, the day appointed for that entry;
  - (c) in the case of goods in relation to which substituted requirements are imposed under section 53(7) or 58(6) above, such date as the Commissioners may specify;
  - (d) in any other case, the date on which the goods are shipped or exported by land or, if that date cannot be established to the Commissioners' satisfaction, such date as they may specify.
- (3) At the time when the proper officer accepts an entry delivered in pursuance of section 57(1) above he may direct that the operative date for the purposes of this section shall be the date on which the entry was furnished by the exporter to the loader.
- (4) Where a substituted entry is delivered under section 54(2) or 55(3) above the entry referred to in subsections (2)(a) and (3) above is the original entry.

### **58E Authentication of Community customs documents.**

- (1) In such cases as the Commissioners may direct, an officer shall not authenticate any (immunity customs document unless—
- (a) there is presented with the document—
    - (i) an entry relating to the goods in question and complying with section 53 above ; or
    - (ii) a document relating to the goods and complying with section 58(3)(a) above; or
    - (iii) a document to be used instead of an entry or such a document as aforesaid by virtue of substituted requirements imposed under section 53(7) or 58(6) above; and
  - (b) the officer marks the Community customs document and the entry or other document referred to in paragraph (a) above with a registration number allocated by the Commissioners for that purpose.
- (2) Subject to subsections (3) and (4) below, a person who has obtained an authenticated Community customs document in respect of any goods shall surrender it at the office at which it was obtained, together with the entry or other document marked under subsection (1)(b) above (" the marked export document"), unless—
- (a) the goods are shipped, or cleared by the proper officer for export by land, before the end of such period as may be specified by directions given by the Commissioners ; and
  - (b) the marked export document is delivered to the proper officer as required by or under the provisions mentioned in subsection (1)(fl) above.
- (3) The proper officer may, on an application made to him before the end of the period mentioned in subsection (2) above, permit the retention of the authenticated Community customs document and the marked export document.

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- (4) The proper officer may at any time require a person who has obtained an authenticated Community customs document in respect of any goods to surrender to him that document and the marked export document.
- (5) If a person without reasonable excuse fails to comply with subsection (2) above he shall be liable on summary conviction to a penalty of £500; and if a person without reasonable excuse fails to comply with a requirement imposed under subsection (4) above he shall be liable on summary conviction to a penalty of £1000.
- (6) In this section " Community customs document" means a document which in accordance with any Community instrument or any agreement permitted under such an instrument or in accordance with any arrangements made between the Commissioners and any other customs authority—
- (a) is used to indicate whether or not the goods are Community goods or are subject to duty at a preferential rate in any country with which the Community has an agreement of association; and
  - (b) is required to be authenticated by the customs authorities of the member State from which they are exported.
- (7) In subsection (6) above " Community goods" means—
- (a) goods which satisfy the conditions laid down in Articles 9 and 10 of the E.E.C. Treaty; and
  - (b) goods to which the E.C.S.C. Treaty applies and which under the terms of that Treaty are in free circulation within the European Coal and Steel Community."

## PART II

### AMENDMENTS OF CUSTOMS AND EXCISE MANAGEMENT ACT 1979

#### *Control of movement of goods*

- 1 (1) Section 31 shall be amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (a) after the words " such goods " there shall be inserted the words " or the place of exportation of such goods "; and
  - (b) in paragraph (b) after the words " such goods " there shall be inserted the words " , or a place designated by the proper officer under section 53(4) or 58(3) below, ".
- (3) After subsection (2) there shall be inserted—
- “(2A) Any documents required to be made or produced as a result of regulations made under subsection (1) above shall be made or produced in such form and manner and contain such particulars as the Commissioners may direct; but the Commissioners may relax any requirement imposed under the regulations that any specific document be made or produced and if they do so may impose substituted requirements.”
- (4) In subsection (3) after the words " such regulation " there shall be inserted the words " or a direction made under subsection (2A) above or any requirement imposed under that subsection ".



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*" Dutiable or restricted goods "*

- 2 (1) Section 52 shall be amended as follows.
- (2) After paragraph 00 there shall be inserted—
- “(g) goods incorporating or resulting from the use of inward processing goods or any goods which, following a determination by the Commissioners, are to be treated for customs purposes as inward processing goods in substitution for such goods.”.
- (3) The provisions of that section as amended by sub-paragraph (2) above shall become subsection (1) and after that subsection there shall be inserted—
- “(2) In this section "inward processing goods" means goods imported for the purpose of being worked on, processed or used in any process or repaired and on the importation of which relief from import duty or agricultural levy was given on condition that goods incorporating or resulting from the use of them would be exported outside the Community ; and in this subsection " agricultural levy" means any tax or charge, not being a customs duty, provided for under the common agricultural policy or under any special arrangements which, pursuant to Article 235 of the E.E.C. Treaty are applicable to goods resulting from the processing of agricultural products.”

*Restrictions on putting export goods alongside for loading*

- 3 In section 59(1) for the words " whether under section 53 or section 54 above" there shall be substituted the words " under section 53 above ".

*Provisions as to stores*

- 4 (1) Section 61 shall be amended as follows.
- (2) In subsection (2) (right to ship stores in ship of not less than 40 tons register or aircraft departing for a voyage or flight to some place outside the United Kingdom) for the words "to some place outside the United Kingdom" there shall be substituted the words " to a country outside the United Kingdom ".
- (3) In subsection (3) (power of Commissioners to permit stores to be shipped in ship of less than 40 tons register which is departing for a place or area outside the United Kingdom) for the words from " any ship " onwards there shall be substituted the words—
- “(a) any ship departing from the United Kingdom, being either a ship of not less than 40 tons register departing for a voyage not falling within subsection (2) above or a ship of less than 40 tons register; or
- (b) any aircraft departing from the United Kingdom for a flight not falling within that subsection.”
- (4) For subsection (9) there shall be substituted—
- “(9) References in this section to a country or destination outside the United Kingdom do not include references to, or to a destination in, the Isle of Man; and subsection (5) above applies whether the goods were shipped in the United Kingdom or the Isle of Man.”

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*Power to make regulations as to exportation, etc.*

- 5 In section 66(2) for the words " a penalty of £100 " there shall be substituted the words " a penalty of £500, or in the case of a contravention of or a failure to comply with a regulation made under subsection (i)(b) above a penalty of £1,000, " .

SCHEDULE 8

Section 11(1).

MISCELLANEOUS CUSTOMS AND EXCISE AMENDMENTS

**PART I**

AMENDMENTS OF CUSTOMS AND EXCISE MANAGEMENT ACT 1979

*Definition of " revenue trader "*

- 1 (1) In the definition of "revenue trader" in subsection (1) of section 1—
- (a) after the word " means " there shall be inserted " (a) "; and
  - (b) for the words " and includes a registered club " there shall be substituted the words “; and
    - (b) any person who is a wholesaler or an occupier of an excise warehouse (so far as not included in paragraph (a) above),
 and includes a registered club”.
- (2) In the Table in subsection (3) of that section the word " " wholesaler " shall be inserted after the word " ' spirits ' " .

*Warehousing regulations*

- 2 In section 93—
- (a) in paragraph (a) of subsection (2) after the words " deposited in " there shall be inserted the words " secured in ";
  - (b) after paragraph (f) of that subsection there shall be inserted—
    - “(g) imposing or providing for the imposition under the regulations of requirements on the occupier of a warehouse or the proprietor of goods in a warehouse to keep and preserve records relating to his business as such an occupier or proprietor and to produce them to an officer when required to do so for the purpose of allowing him to inspect them, to copy or take extracts from them or to remove them at a reasonable time and for a reasonable period”;
  - (c) after subsection (2) there shall be inserted—
    - “(2A) Where any documents removed under the powers conferred by subsection (2)(g) above are lost or damaged the Commissioners shall be liable to compensate their owner for any expenses reasonably incurred by him in replacing or repairing the documents.”; and

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- (d) in subsection (6)—
- (i) for the words "or restriction" there shall be substituted the words "restriction or requirement"; and
  - (ii) for "£100" there shall be substituted "£200 together with a penalty of £20 for each day on which the failure continues".

*Deficiency in warehoused goods*

3 Section 94(2) shall cease to have effect.

*Procedure on warehouse ceasing to be approved*

4 In section 98—

- (a) at the end of subsection (1) there shall be inserted the words "and, unless the notice has been withdrawn or extended, the warehouse shall cease to be approved on that date"; and
- (b) for subsection (3) there shall be substituted—

“(3) If after the date on which the warehouse ceases to be approved any goods not duly cleared still remain in the former warehouse—

- (a) they may be taken by an officer to a Queen's warehouse and, without prejudice to section 99(3) below, if they are not cleared from it within one month may be sold; or
- (b) if the Commissioners so allow, they may remain in the former warehouse and if they are not cleared from it within one month may be sold.

(3A) Where in accordance with paragraph (b) above goods remain in the warehouse after the revocation or expiry of the Commissioners' approval—

- (a) subsections (6) and (7) of section 99 below shall apply to them as if they were deposited in a Queen's warehouse under the Customs and Excise Acts 1979; and
- (b) sections 93, 94, 95 and 97 above and section 100 below shall apply and any security given by bond or otherwise and any condition imposed by or under the customs and excise Acts shall continue to have effect, as if the former warehouse were still a warehouse.”

*Excise licences*

5 Sections 105 and 106 shall cease to have effect.

*Powers of entry on premises of revenue traders*

6 In section 112—

- (a) in subsection (1) after the word "machinery" there shall be inserted the word "vehicles"; and
- (b) in subsection (3) for the words "or maker of cider" there shall be substituted the words ", maker of cider or occupier of an excise warehouse".

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*Power to estimate excise duties*

7 After section 116 there shall be inserted—

**“116A Power to estimate excise duties.**

- (1) Where an amount is due on account of any excise duty but the Commissioners are unable to ascertain the amount of the duty properly due because—
- (a) returns, accounts, records or other documents have not been made, kept, preserved or produced by the occupier of an excise warehouse or a distiller as required by or under the provisions of the customs and excise Acts ; or
  - (b) it appears to the Commissioners that any returns, accounts, records or other documents so made, kept, preserved or produced are incomplete or incorrect,
- they may estimate the amount due.
- (2) Without prejudice to the recovery of the full amount due or to the making of a further estimate, the amount estimated shall be recoverable as duty properly due unless in any action relating thereto the person liable proves the amount properly due and that amount is less than the amount estimated.”.

*Execution and distress*

8 After subsection (7) of section 117 there shall be inserted—

“(7A) Where distress is levied under this section for any amount estimated under section 116A above and it is afterwards proved that the amount properly due was less than the amount estimated, that shall not affect the legality of the distress or anything done under this section in connection therewith, but the proceeds of sale shall be applied under subsection (7) above in accordance with the amount properly due and not in accordance with the amount estimated”.

*Proof of documents*

9 In section 153 after subsection (3) there shall be inserted—

“(4) A photograph of any document delivered to the Commissioners for any customs or excise purpose and certified by them to be such a photograph shall be admissible in any proceedings, whether civil or criminal, to the same extent as the document itself.”

**PART II**

AMENDMENTS OF ALCOHOLIC LIQUOR DUTIES ACT 1979

*Ascertainment of volume etc. of alcoholic liquors from labels etc.*

10 After subsection (3) of section 2 there shall be inserted—

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*Status: This is the original version (as it was originally enacted).*

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“(3A) Without prejudice to the generality of subsection (3) above, regulations under that subsection may provide that for the purpose of charging duty on any spirits, wine or made-wine contained in any bottle or other container, the strength, weight or volume of the spirits, wine or made-wine may be ascertained by reference to any information given on the bottle or other container by means of a label or otherwise or to any documents relating to the bottle or other container.”.

*Definitions of "wholesale" and "wholesaler"*

11 For the definitions of "wholesale" and "wholesaler" in section 4(1) there shall be substituted—

“"wholesale", in relation to dealing in dutiable alcoholic liquor, means the sale at any one time to any one person of quantities not less than the following, namely—

- (a) in the case of spirits, wine or made-wine, 9 litres or 1 case ; or
- (b) in the case of beer or cider, 20 litres or 2 cases;

"wholesaler" means a person who deals wholesale in dutiable alcoholic liquor;”.

*Regulations about manufacture of spirits*

12 In section 13—

(a) after subsection (1) there shall be inserted—

“(1A) Without prejudice to the generality of subsection (1) above, regulations under that subsection may—

- (a) provide for the imposition under the regulations of conditions and restrictions relating to the matters mentioned in that subsection ; and
- (b) impose or provide for the imposition of requirements on a manufacturer of spirits to keep and preserve records relating to his business as such a manufacturer and to produce them to an officer when required to do so for the purpose of allowing him to inspect them, to copy or take extracts from them or to remove them at a reasonable time and for a reasonable period.

(1B) Where any documents removed under the powers conferred by subsection (1A)(a) above are lost or damaged the Commissioners shall be liable to compensate their owner for any expenses reasonably incurred by him in replacing or repairing the documents.”;

- (b) in subsection (3) after the words " subsection (1) above " there shall be inserted the words " or with any condition, restriction or requirement imposed under such a regulation " and after the words "£1,000" there shall be inserted the words " together in the case of such a failure with a penalty of £20 for each day on which the failure continues ";
- (c) at the end of subsection (4) there shall be inserted the words " or with any condition, restriction or requirement imposed under that regulation ".

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*Status: This is the original version (as it was originally enacted).*

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*Attenuation charge for distilled spirits*

- 13 In section 14(2) for the words "8.8 degrees" in both places where they occur there shall be substituted the words " 8 degrees "

*Distillers' warehouses*

- 14 In section 15—
- (a) for subsection (2) there shall be substituted—
- “(2) The Commissioners may approve such a place of security for such periods and subject to such conditions as they think fit.”;
- (b) after subsection (6) there shall be inserted—
- “(6A) Without prejudice to the generality of subsection (6) above, regulations under that subsection may—
- (a) provide for the imposition under the regulations of conditions and restrictions relating to the matters mentioned in that subsection ; and
- (b) impose or provide for the imposition under the regulations of requirements on the distiller or the proprietor of any goods in the warehouse to keep and preserve records relating to his business as such a distiller or proprietor and to produce them to an officer when required to do so for the purpose of allowing him to inspect them, to copy or take extracts from them or to remove them at a reasonable time and for a reasonable period.
- (6B) Where any documents removed under the powers conferred by subsection (6A)(b) above are lost or damaged the Commissioners shall be liable to compensate their owner for any expenses reasonably incurred by him in replacing or repairing the documents.”;
- (c) in subsection (7) after the words "subsection (6) above" there shall be inserted the words "or with any condition, restriction or requirement imposed under such a regulation " and after the words "£1,000 " there shall be inserted the words " together in the case of such a failure with a penalty of £20 for each day on which the failure continues " .
- (d) at the end of subsection (8) there shall be inserted the words " or with any condition, restriction or requirement imposed under that regulation " .

*Rectifying and compounding of spirits*

- 15 In section 19—
- (a) after subsection (1) there shall be inserted—
- “(1A) Without prejudice to the generality of subsection (1) above, regulations under that subsection may—
- (a) provide for the imposition under the regulations of conditions and restrictions relating to the matters mentioned in that subsection ; and
- (b) impose or provide for the imposition under the regulations of requirements on rectifiers and compounders of spirits

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*Status: This is the original version (as it was originally enacted).*

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to keep and preserve records relating to their business as such and to produce them to an officer when required to do so for the purpose of allowing him to inspect them, to copy or take extracts from them or to remove them at a reasonable time and for a reasonable period.

- (1B) Where any documents removed under the powers conferred by subsection (1A)(b) above are lost or damaged the Commissioners shall be liable to compensate their owner for any expenses reasonably incurred by him in replacing or repairing the documents.”;
- (b) in subsection (2) after the word "section" there shall be inserted the words " or with any condition, restriction or requirement imposed under any such regulation " and
- (c) at the end of subsection (3) there shall be inserted the words " or with any condition, restriction or requirement imposed under that regulation ".

*Drawback on British compounds and spirits of wine*

- 16 In section 22 after subsection (3) there shall be inserted—
- “(3A) The Commissioners may, subject to such conditions and restrictions as they may by regulations impose, allow drawback to any person on any British compounded spirits or spirits of wine rectified or compounded by him from duty-paid spirits and not containing any methyl alcohol or any wine, made-wine or other fermented liquor if they are exported direct from his premises.”.

*Restrictions on distillers and rectifiers*

- 17 In section 24—
- (a) at the beginning of subsection (1) there shall be inserted the words " Save with the permission of the Commissioners and subject to compliance with such conditions as they see fit to impose " ; and
- (b) in subsection (3) after the word " retailer" there shall be inserted the words " or wholesaler ".

*Spirits consignment and advice notes*

- 18 Sections 27 to 30 shall cease to have effect.

*Transfer of spirit from distillers' warehouses*

- 19 In section 32(1) the words from " and " onwards shall cease to have effect.

*Abolition of wholesalers' licences etc.*

- 20 Sections 65, 68, 70 and 85 to 89 shall cease to have effect.

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*Status: This is the original version (as it was originally enacted).*

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*Restrictions on wholesalers of spirits*

- 21 At the beginning of section 69(1) there shall be inserted the words " Save with the permission of the Commissioners and subject to compliance with such conditions as they see fit to impose. " .

*Methylated spirits*

- 22 Section 76 shall cease to have effect.

- 23 In section 77—

- (a) in subsection (1) in paragraph (d) for the words "the sale without a licence of " there shall be substituted the words " dealing wholesale (within the meaning of section 75 above) without a licence in ";
- (b) at the end of subsection (2) there shall be inserted the words “and, without prejudice to the generality of subsection (1) above, regulations under this section may—
  - (a) provide for the imposition under the regulations of conditions and restrictions relating to the matters mentioned in that subsection; and
  - (b) impose or provide for the imposition by regulations of requirements on authorised or licensed methylators and on retailers of methylated spirits to keep and preserve records relating to their businesses as such and to produce them to an officer when required to do so for the purpose of allowing him to inspect them, to copy or take extracts from them or to remove them at a reasonable time and for a reasonable period.”;
- (c) after that subsection there shall be inserted—
 

“(2A) Where any documents removed under the powers conferred by subsection (2)(b) above are lost or damaged the Commissioners shall be liable to compensate their owner for any expenses reasonably incurred by him in replacing or repairing the documents.”;
- (c) in subsection (3) for the words " he shall be liable " onwards there shall be substituted the words "or with any condition, restriction or requirement imposed under such a regulation, he shall be liable on summary conviction to a penalty of £500 together in the case of such a failure with a penalty of £20 for each day on which the failure continues
- (d) in subsection (4) for the word " sells" there shall be substituted the words " deals wholesale (within the meaning of section 75 above) in " and the words "or 76" shall cease to have effect.

**PART III**

AMENDMENTS OF LICENSING ACTS

*The Licensing Act 1964*

- 24 In section 181 of the Licensing Act 1964—



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- (a) for the words from "the holder" to "his wholesaler's licence extends" there shall be substituted the words " a wholesaler within the meaning of section 4 of the Alcoholic Liquor Duties Act 1979 may, at the premises from which he deals wholesale, sell by retail without a justices' licence any intoxicating liquor other than cider in which he deals wholesale "; and
  - (b) in paragraph (b) (iii) for the words " holder of the wholesaler's licence " there shall be substituted the word " wholesaler ".
- 25 In the definition of " intoxicating liquor " in section 201(1) of that Act for the words from " but" onwards there shall be substituted the words " but does not include—
- (a) any liquor which, whether made on the premises of a brewer for sale or elsewhere, is found on analysis of a sample thereof at any time to be of an original gravity not exceeding 1016° and of a strength not exceeding 1-2 per cent;
  - (b) perfumes;
  - (c) flavouring essences recognised by the Commissioners as not being intended for consumption as or with dutiable alcoholic liquor;
  - (d) spirits, wine or made-wine so medicated as to be, in the opinion of the Commissioners, intended for use as a medicine and not as a beverage;
- and expressions used in paragraphs (a) and (d) above shall have the same meaning as in the Alcoholic Liquor Duties Act 1979."

*The Licensing Act (Northern Ireland) 1971*

- 26 In section 76 of the Licensing Act (Northern Ireland) Act 1971—
- (a) for subsection (1) there shall be substituted—
    - “(1) A wholesaler within the meaning of section 4 of the Alcoholic Liquor Duties Act 1979 shall not sell intoxicating liquor to any person in Northern Ireland other than a person mentioned in subsection (2) unless—
      - (a) the wholesaler is the holder of a licence under this Act for premises which are either of a kind mentioned in section 3(1 )(o) or (b) or an hotel to which section 3(5)(b) (ii) applies ; and
      - (b) the sale is made in those premises during the permitted hours.”;
  - (b) for paragraph (b) of subsection (2) there shall be substituted—
    - “(b) a wholesaler within the meaning of the said section 4”.
- 27 In the definition of "intoxicating liquor" in section 84(1) of that Act for paragraph (b) there shall be substituted—
- “(a) perfumes;
  - (b) flavouring essences recognised by the Commissioners as not being intended for consumption as or with dutiable alcoholic liquor;
  - (c) spirits, wine or made-wine so medicated as to be, in the opinion of the Commissioners, intended for use as a medicine and not as a beverage ;

and expressions used in paragraphs (a) and (d) above shall have the same meaning as in the Alcoholic Liquor Duties Act 1979.”.

- 28 In section 85 of that Act for paragraph (c) there shall be substituted—

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- “(c) prejudice or affect the sale by any manufacturing or wholesale chemist and druggist of spirits of wine wholesale for medicinal purposes to registered medical practitioners, duly registered pharmaceutical chemists, chemists and druggists or persons requiring the spirits for use for scientific purposes in any laboratory ;”.

## SCHEDULE 9

Section 35.

### STOCK RELIEF

#### PART I

##### THE ALL STOCKS INDEX

- 1 The Department of Industry shall for the purposes of this Schedule prepare and publish a monthly index (to be known as " the all stocks index ") reflecting movements in the average price level of stocks held by corporate and unincorporated businesses in the United Kingdom.
- 2 In determining under this Schedule whether there has been an increase in the all stocks index over a period and, if so, the amount of the increase there shall be compared the figure given by the index for the month containing the last day of the period and the figure given by the index for the month containing the last day before the beginning of that period.

#### PART II

##### INCOME TAX

##### *Entitlement to relief*

- 3 (1) Where a person carries on a trade in respect of which he is within the charge to income tax under Case I of Schedule D he shall, subject to the provisions of this Schedule, be entitled to relief under this paragraph in respect of a period of account if—
  - (a) there is an increase in the all stocks index over that period ; and
  - (b) the value of his trading stock at the end of the preceding period of account exceeded £2,000.
- (2) The relief shall be calculated by reference to the amount by which the value of the trading stock referred to in sub-paragraph (1)(b) above exceeded £2,000 and, subject to sub-paragraph (4) below, shall be equal to such percentage of that amount at corresponds to the percentage increase in the all stocks index over the period referred to in sub-paragraph (1)(a) above.
- (3) A person shall not be entitled to relief under this paragraph in respect of any period of account unless a claim for the relief is made within two years after the end of the year of assessment in which that period of account ends.

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- (4) A person may, in making a claim for relief under this paragraph in respect of any period of account, specify an amount of relief less than that available under sub-paragraph (2) above and, if he does so, the relief to which he is entitled under this paragraph in respect of that period shall be the amount specified in the claim.

*Recovery of relief on cessation of trade etc.*

- 4 (1) Where during or at the end of a period of account a person carrying on a trade ceases to do so, or ceases to be within the charge to income tax under Case I of Schedule D in respect of the trade, then, subject to paragraph 20 below—
- (a) he shall not be entitled to relief in respect of that period; and
  - (b) a charge by way of recovery of relief shall be made on him on an amount equal to the unrecovered past relief allowed to him for that trade.
- (2) Sub-paragraph (1) above shall apply also where the scale of the activities of the trade for any period of account is negligible in comparison with their scale for any previous period of account beginning not more than six years before the first-mentioned period.
- (3) Where a charge for a period of account falls to be made under sub-paragraph (1)(b) above in consequence of a person ceasing to be within the charge to income tax in respect of a trade, or would fall to be so made apart from this sub-paragraph—
- (a) the unrecovered past relief allowed to him for that trade shall be treated as reduced by any relief to which he was entitled for that trade in respect of a previous period of account but to which effect cannot be given because of his ceasing to be within the charge to income tax in respect of the trade; and
  - (b) the charge shall be reduced accordingly or, if the amount of the relief is equal to or exceeds the unrecovered past relief, shall not be made.
- (4) Where during or at the end of a period of account a person carrying on a trade ceases (by virtue of ceasing to be resident in the United Kingdom) to be within the charge to income tax under Case I of Schedule D in respect of a part of the trade, he shall be treated for the purposes of this Schedule as if that part were a separate trade carried on by him in that period; and all necessary apportionments between the two parts of the trade (including the apportionment of unrecovered past relief allowed for that trade) shall be made by reference to the respective values of the trading stock of each part immediately after that event.

*Method of giving effect to relief or charge*

- 5 (1) Relief under paragraph 3 above in respect of any period of account shall be given as a deduction in charging the profits or gains of the trade to income tax for the relevant year of assessment.
- (2) Subject to sub-paragraph (3) below, any deduction for capital allowances shall be made before the deduction of the relief.
- (3) Where the deductions for the relevant year of assessment include deductions for relief, capital allowances or losses carried forward from an earlier year under paragraph 9 below, section 70(4) of the Capital Allowances Act 1968 or section 171 of the Taxes Act, the deductions shall be made in the following order—
- (a) capital allowances other than those carried forward under the said section 70(4) from an earlier year ;

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- (b) relief under paragraph 3 above in respect of the period of account in relation to which the year is the relevant year of assessment;
  - (c) capital allowances carried forward as aforesaid from years of assessment not earlier than the year for which the basis period ended on or included 14th November 1980 ;
  - (d) relief under paragraph 3 above carried forward under paragraph 9 below, taking relief in respect of a later period of account before relief in respect of an earlier one ;
  - (e) capital allowances carried forward as aforesaid from years of assessment earlier than those referred to in paragraph (c) above;
  - (f) relief under Schedule 5 to the Finance Act 1976 ;
  - (g) losses carried forward to the year under the said section 171.
- (4) Where the same year is the relevant year of assessment in relation both to—
- (a) a period of account in respect of which relief falls to be allowed under this Part of this Schedule ; and
  - (b) a period of account in respect of which relief fell to be allowed under Schedule 5 to the Finance Act 1976,
- the relief given effect in that year shall be attributed to the latter before the former.
- (5) A charge under paragraph 4 above in respect of any period of account shall be made by means of an assessment to income tax on the profits or gains of the trade—
- (a) in the case of a charge by reason of a person ceasing to carry on the trade or ceasing to be within the charge to income tax in respect of the trade, for the year of assessment in which the cessation occurs; and
  - (b) in the case of a charge in the circumstances mentioned in sub-paragraph (2) of that paragraph, for the relevant year of assessment.

Any such assessment shall be in addition to any other assessment falling to be made on the profits or gains of the trade for the year of assessment in question.

#### *Top-slicing*

- 6 (1) Where a trade has been carried on by a person for more than one year before the discontinuance or other event on which a charge under paragraph 4 above falls to be made on him, then his liability to tax for the year of assessment for which the charge is made shall, on a claim made by him within two years after the end of that year of assessment, be reduced in accordance with the following provisions of this paragraph.
- (2) The reduction is the amount of the difference between—
- (a) the tax on the whole amount on which the charge is made (the "chargeable amount"), calculated on the basis set out in sub-paragraph (4) below ; and
  - (b) the tax (if any) on the appropriate fraction of the chargeable amount, calculated on the same basis, and multiplied by the reciprocal of the appropriate fraction.
- (3) The " appropriate fraction " depends on the period for which the trade has been carried on before the discontinuance or other event and is—
- (a) one-half if the trade has been so carried on for more than one but less than two years ;
  - (b) one-third if it has been so carried on for two years or more.

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- (4) The amounts of tax referred to in sub-paragraph (2) above are to be calculated on the following assumptions—
- (a) that the person's total income does not include any amount in respect of which he is chargeable to tax under section 80, 81 or 82 of the Taxes Act (premiums, etc. treated as rent), section 187 of that Act (payments on retirement or removal from office) or section 399(1)(a) of that Act (gains from life policies etc.);
  - (b) that deductions to be made in computing the tax are so far as possible set against sums other than the chargeable amount (or the fraction of it);
  - (c) that the chargeable amount (or fraction), after any deductions remaining to be made after applying paragraph (b) above, is the highest part of the person's total income (notwithstanding any other provisions of the Income Tax Acts directing any other income to be so treated).
- (5) Where a claim under this paragraph for any year of assessment is made in respect of more than one trade, this paragraph applies to each chargeable amount individually as if there were only one charge in that year.
- (6) For the purposes of section 400 of, and paragraphs 3 and 4 of Schedule 3 to, the Taxes Act (other top-slicing provisions) a person's total income shall not be treated as including any amount as a result of a charge under paragraph 4.

*Meaning of "relevant year of assessment" and "basis period"*

- 7 (1) This paragraph provides for ascertaining the relevant year of assessment in relation to a period of account for the purposes of this Part of this Schedule.
- (2) In this Part of this Schedule—
- (a) the "basis period" for any year of assessment means the period on the profits or gains of which income tax for that year falls to be finally computed under Case I of Schedule D in respect of the trade in question, or, where, by virtue of any provision of section 115 of the Taxes Act, the profits or gains of any other period are to be taken as the profits or gains of the said period, that other period; and
  - (b) references to a period of account entering into a basis period are to the period of account, or any part of it, falling within or coinciding with that basis period.
- (3) Where a period of account enters into the basis period for only one year of assessment, that year is the relevant year of assessment in relation to that period of account.
- (4) Where a period of account enters into the basis period for more than one year of assessment, then—
- (a) if it does so by virtue of section 116 or 117 of the Taxes Act (commencement of trade), the relevant year of assessment in relation to that period of account is the first year of assessment into whose basis period the period of account enters; and
  - (b) in any other case, the relevant year of assessment is the last such year of assessment.

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- (5) Where a period of account does not enter into the basis period for any year of assessment, the relevant year of assessment in relation to that period of account is that following the year of assessment in which the period of account ends.

*Right to set unused relief against general income*

- 8 (1) Subject to the provisions of this paragraph, a claim made under section 168 of the Taxes Act (set-off of losses against general income) for relief in respect of a loss sustained by the claimant in a trade in any year of assessment (the " year of loss ") may require the amount of that loss to be determined as if an amount equal to the relief to which he is entitled under this Part of this Schedule for the year of assessment for which the year of loss is the basis year were to be deducted in computing the profits or gains or losses of the trade in the year of loss.
- (2) Where there are capital allowances that can be the subject of a claim under the said section 168 by virtue of section 169 of the Taxes Act, no claim shall be made under section 168 by reference to relief under this Part of this Schedule unless a claim is also made by reference to those capital allowances; but a claim may be made under section 168 for relief in respect of a loss sustained by the claimant in any trade in any year of assessment notwithstanding that the claimant would not have sustained a loss in that year unless relief under this Part of this Schedule is brought into account.
- (3) Relief for any year of assessment shall be taken into account by virtue of this paragraph only if and so far as it is not required to offset any charge for that year under paragraph 4 above; and for the purposes of this sub-paragraph the relief for a year of assessment shall be treated as required to offset the charge for a year up to the amount on which the charge falls to be made after deducting from it the amount (if any) of relief for earlier years which is carried forward to that year and would, if not set against the charge, be unused in that year.
- (4) Where the relief taken into account by virtue of this paragraph is that for the year of assessment for which the claim is made or for the preceding year (the year of loss being the basis year for that year itself, or the claim being made by way of carry forward of the loss by virtue of section 168(2) of the Taxes Act), effect shall not be given to that relief in respect of an amount greater than the amount unused in the year for which the claim is made, or, in the case of relief for the preceding year, the amount unused in both years.
- (5) For the purposes of this paragraph—
- (a) where the end of the basis period for a year of assessment falls in, or coincides with the end of, any year of assessment, that year is the basis year for the first-mentioned year of assessment, but so that, if a year of assessment would under the foregoing provision be the basis year both for that year itself and for another year of assessment, it shall be the basis year for the year itself and not for the other year;
  - (b) any reference to the relief or charge for a year of assessment shall be construed as a reference to the relief or charge falling to be given effect in that year (excluding, in the case of relief, any part of the relief for an earlier year carried forward under paragraph 9 below);
  - (c) any reference to an amount of relief unused in a year shall be construed as referring to the amount by which, by reason of an insufficiency of profits or gains, effect cannot be given to the relief in that year.

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- (6) Where, on a claim made by virtue of this paragraph, relief is not given under section 168 of the Taxes Act for the full amount of the loss determined as mentioned in sub-paragraph (1) above, the relief under that section shall be attributed—
- (a) to the loss sustained by the claimant in the trade rather than to the capital allowances in respect of the trade brought into account by virtue of section 169 of the Taxes Act; and
  - (b) to those capital allowances rather than to relief under this Part of this Schedule.
- (7) Where a claim is made under the said section 168 by a person who, since the end of the year for which the claim is made, has carried on the trade in question in partnership, then effect shall be given to this paragraph in relation to that claim only with the consent in writing of every other person engaged in carrying on the trade between the end of that year and the making of the claim, except that where the claim is for a loss sustained before an event treated as the permanent discontinuance of the trade, the consent is not required of a person so engaged only since the discontinuance.
- (8) If a person whose consent is required under sub-paragraph (7) has died, the consent in writing of his personal representatives is required instead.

*Carry forward of unused relief*

- 9 (1) Where, in any year of assessment, full effect cannot be given to any relief falling to be allowed under this Part of this Schedule owing to there being no profits or gains of the trade chargeable for that year, or owing to the profits or gains chargeable being less than the amount of the relief, the relief or part of the relief to which effect has not been given, as the case may be, shall be carried forward and given effect in accordance with paragraph 5 above in the following year and, subject to paragraph 10 below, so on for succeeding years.
- (2) There may be carried forward under this paragraph to a year of assessment any relief under Schedule 5 to the Finance Act 1976 to the extent to which effect has not been given to it in a previous year.
- (3) This paragraph has effect subject to paragraph 8 above.

*Restriction on carry forward of unused relief*

- 10 Relief falling to be allowed under this Part of this Schedule in respect of a period of account shall not by virtue of paragraph 9 above be carried forward to a year of assessment if that period ended six years or more before the beginning of the period of account in relation to which that year is the relevant year of assessment.

*Social security contributions*

- 11 In computing for the purposes of Schedule 2 to the Social Security Act 1975 the amount of the profits or gains of a trade in respect of which Class 4 contributions are payable—
- (a) deductions or additions shall be made under paragraph 2 of that Schedule for any relief or charge under this Part of this Schedule which falls to be made in charging profits or gains to income tax under Case I of Schedule D ; and

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- (b) paragraphs 8 and 9 above shall be included among the relief provisions to which paragraph 3(1) of that Schedule applies.

### PART III

#### CORPORATION TAX

##### *Entitlement to relief*

- 12 (1) Where a company carries on a trade in respect of which it is within the charge to corporation tax under Case I of Schedule D it shall, subject to the provisions of this Schedule, be entitled to relief under this paragraph in respect of a period of account if—
- (a) there is an increase in the all stocks index over that period; and
  - (b) the value of its trading stock at the end of the preceding period of account exceeded £2,000.
- (2) The relief shall be calculated by reference to the amount by which the value of the trading stock referred to in sub-paragraph (1)(b) above exceeded £2,000 and, subject to sub-paragraph (4) below, shall be equal to such percentage of that amount as corresponds to the percentage increase in the all stocks index over the period referred to in sub-paragraph (1)(a) above.
- (3) A company shall not be entitled to relief under this paragraph unless a claim for the relief is made within two years after the end of the period of account in respect of which the relief is claimed.
- (4) A company may, in making a claim for relief under this paragraph in respect of any period of account, specify an amount of relief less than that available under sub-paragraph (2) above and, if it does so, the relief to which it is entitled under this paragraph in respect of that period shall be the amount specified in the claim.

##### *Recovery of relief on cessation of trade etc.*

- 13 (1) Where during or at the end of a period of account a company carrying on a trade ceases to do so, or ceases to be within the charge to corporation tax under Case I of Schedule D in respect of the trade, then, subject to paragraph 20 below—
- (a) it shall not be entitled to relief in respect of that period; and
  - (b) a charge by way of recovery of relief shall be made on the company on an amount equal to the unrecovered past relief allowed to it for that trade.
- (2) Sub-paragraph (1) above shall apply also where the scale of the activities of the trade for any period of account is negligible in comparison with their scale for any previous period of account beginning not more than six years before the first-mentioned period.
- (3) Where during or at the end of a period of account a company carrying on a trade ceases (by virtue of ceasing to be resident in the United Kingdom) to be within the charge to corporation tax under Case I of Schedule D in respect of a part of the trade, it shall be treated for the purposes of this Schedule as if that part were a separate trade carried on by it in that period; and all necessary apportionments between the two parts of the trade (including the apportionment of unrecovered past relief allowed for



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that trade) shall be made by reference to the respective values of the trading stock of each part immediately after that event

- 14 (1) Where there is a change of ownership of a company and section 483 of the Taxes Act applies so as to restrict the carrying forward of losses incurred before the change, then relief to which those disallowed losses are attributable shall, although unrecovered in periods of account ending before the change of ownership, nevertheless be disregarded in ascertaining the amount of unrecovered past relief in later periods of account.
- (2) Relief to which disallowed losses are attributable is that which was not given effect in the period of account or base period for which it was allowed or in a subsequent period of account.
- (3) For the purposes of sub-paragraph (2) above—
- (a) relief under Part II of Schedule 5 to the Finance Act 1976 ; and
  - (b) Schedule 10 relief as defined in paragraph 18 of that Schedule,
- is assumed to be given effect before capital allowances and profits or gains are assumed to be set against losses attributable to that relief before other losses; and any question whether effect has been given to relief under this Part of this Schedule shall be determined as for the purposes of paragraph 17(1) below. Section 483(5) of the Taxes Act has effect subject to this sub-paragraph.
- (4) For the purpose of ascertaining the extent to which relief to which disallowed losses are attributable has been recovered in periods of account ending before the change of ownership, it shall be assumed—
- (a) that relief within sub-paragraph (3)(a) or (b) above is re covered from earlier periods before later periods and that effect is given to that relief from earlier periods before later periods;
  - (b) that relief under this Part of this Schedule is recovered from later periods before earlier periods and that effect is given to that relief from later periods before earlier periods.
- 15 (1) Where an amount of government investment in a body corporate is set off under section 48 of this Act against that body's losses as at the end of an accounting period, being losses within subsection (3)(a) of that section, then—
- (a) if the whole amount of those losses is extinguished by the set off sub-paragraph (2) below shall have effect in relation to the relief to which that amount is attributable; and
  - (b) if a lesser amount of those losses is so extinguished, that sub-paragraph shall have effect in relation to the relief to which that lesser amount is attributable.
- (2) The relief referred to in sub-paragraph (1) above shall, although unrecovered in periods of account ending in or before the accounting period there mentioned, nevertheless be disregarded in ascertaining the amount of unrecovered past relief in later periods of account.
- (3) Subject to sub-paragraph (4) below, relief to which any amount of extinguished losses is attributable shall be identified in accordance with paragraph 14(2) to (4) above as in the case of relief to which disallowed losses are attributable.
- (4) For the purposes of sub-paragraph (1)(b) above
- (a) the set off shall be treated as extinguishing the loss of an earlier accounting period before that of a later accounting period; and

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- (b) if the set off extinguishes only part of the loss of an accounting period, the components of that part shall be identified in accordance with paragraph 14(3) above as if that part were profits against which effect could be given to the relief.

*Method of giving effect to relief or charge*

- 16 (1) Relief under paragraph 12 above in respect of any period of account shall, subject to the provisions of this paragraph, be given effect by treating the amount of the relief as a trading expense of the trade in that period.
- (2) A charge under paragraph 13 above in respect of any period of account shall, subject to the provisions of this paragraph, be given effect by treating the amount on which the charge is to be made as a trading receipt of the trade in that period.
- (3) Where a trade is set up and commenced by a company during a period of account, any amount which in accordance with this paragraph falls to be treated as an expense or receipt of the trade in that period, shall be brought into account only in respect of the accounting period, or periods, beginning with or after that commencement.
- (4) Where during a period of account a company carrying on a trade ceases to do so, or ceases in respect of it to be within the charge to corporation tax under Case I of Schedule D, any relief or charge which in accordance with this paragraph falls to be treated as an expense or receipt of the trade in that period, shall be brought into account only in respect of the accounting period, or periods, ending on or before that discontinuance or other event.

*Restriction of carry forward of unused relief*

- 17 (1) Where a company incurs a loss in an accounting period there shall not be carried forward under section 177(1) of the Taxes Act to a subsequent accounting period so much of that loss as consists of relief under this Part of this Schedule for an accounting period which ended six years or more before the beginning of that subsequent accounting period.
- (2) For the purposes of this paragraph the loss incurred by a company in an accounting period shall be taken to consist of—
- (a) the loss, if any, incurred in the trade in that period (calculated without regard to capital allowances or relief under this Part of this Schedule);
  - (b) the capital allowances for the accounting period less the amount of the profit, if any, that accrued from the trade in that period (calculated without regard to capital allowances or relief under this Part of this Schedule); and
  - (c) the relief under this Part of this Schedule for the accounting period less so much of the profit referred to in paragraph (b) above as remains after deducting the capital allowances referred to in that paragraph.
- (3) Subject to sub-paragraph (4) below, where by virtue of section 177(2) of the Taxes Act (set off against profits), section 254 of that Act (set off against franked investment income) or section 258 of that Act (group relief) a loss falls to be set off against an amount of profits or franked investment income of an accounting period but the loss exceeds that amount, the part of the loss that is so set off shall for the purposes of this paragraph be taken to consist—
- (a) first of the loss, if any, referred to in sub-paragraph (22a) above;

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- (b) next of the capital allowances referred to in sub-paragraph (2)(b) above; and
  - (c) lastly of the relief referred to in sub-paragraph (2)(c) above.
- (4) Where subsection (3A) of the said section 177 applies, the part of the loss referred to in sub-paragraph (3) above shall be attributed first to the additional amount allowed by virtue of that subsection under subsections (2) and (3) of that section and then as provided by sub-paragraph (3) above (excluding that amount from paragraph (b)).
- (5) Where by virtue of section 177(1) of the Taxes Act (carry forward of losses) any amount in respect of a loss or losses incurred by a company falls to be set off against the company's trading income in an accounting period but that amount exceeds that income, the part of the amount that is set off shall for the purposes of this paragraph be taken to consist—
- (a) first of capital allowances for previous accounting periods ending not earlier than 14th November 1980 ;
  - (b) next of relief under this Part of this Schedule, taking relief in respect of a later period of account before relief in respect of an earlier one ;
  - (c) next of losses incurred in the trade in previous accounting periods ending not earlier than 14th November 1980 (calculated without regard to capital allowances or relief falling within paragraphs (a) and (b) above) and including any losses treated under section 254(5) of the Taxes Act as incurred in such accounting periods ; and
  - (d) lastly of other losses, capital allowances and reliefs.
- (6) In this paragraph references to relief under this Part of this Schedule for an accounting period are to relief in respect of any period of account falling wholly within the accounting period and to a proportionate part of the relief in respect of any period of account falling partly within it.

## PART IV

### GENERAL RULES

#### *Partnerships*

- 18 (1) Where a trade is carried on by persons in partnership, entitlement to relief or liability to charge under this Schedule is a joint entitlement or liability, and any claim for relief under this Schedule shall be a single claim made in the partnership name.
- (2) Where none of those persons is a company, entitlement to relief and liability to charge under this Schedule shall be ascertained and given effect as if the trade were carried on by an individual.
- (3) Where any of those persons is a company, entitlement to relief and liability to charge under this Schedule shall be ascertained as if the partnership were a company and shall be given effect in accordance with the following provisions of this paragraph.
- (4) A company's share in any such entitlement or liability in any accounting period of the partnership shall be determined according to the interests of the partners during that period, and shall be given effect as if the share derived from a trade carried on by the company alone in its corresponding accounting period or periods.

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In this sub-paragraph " corresponding accounting period or periods " means the accounting period or periods of the company comprising or together comprising the accounting period of the partnership, and any necessary apportionment shall be made between corresponding accounting periods if more than one.

- (5) The share in any such entitlement or liability of the partner or partners other than companies shall be given as if that share derived from a trade carried on by him, or, as the case may be, by them in partnership, otherwise than in partnership with a company.

#### *New businesses*

- 19 (1) A person's entitlement to relief under this Schedule for a trade in respect of a period of account shall be determined in accordance with this paragraph if the trade is set up and commenced at the beginning of that period or in the course of it
- (2) The relief to which the person is entitled for the trade in respect of the period of account shall be determined—
- (a) as if the value of his trading stock at the end of that period, as reduced in accordance with sub-paragraph (3) below, were the value of his trading stock at the end of the preceding period of account; and
  - (b) if the period of account begins before the date on which the trade is set up and commenced, by reference to the increase, if any, in the all stocks index over the part of that period beginning with that date.
- (3) For the purposes of sub-paragraph (2)(a) above the value of the person's trading stock at the end of the period of account in respect of which the relief is given shall be reduced by multiplying it by the fraction of which—
- (a) the numerator is the figure given by the all stocks index for the month containing the last day before the beginning of that period; and
  - (b) the denominator is the figure given by that index for the month containing the last day of that period.
- (4) If the period of account begins before the date on which the trade is set up and commenced the reference in sub-paragraph (3)(a) above to that period of account shall be construed as a reference to the part of it beginning with that date.
- (5) Sub-paragraph (2) has effect subject to paragraph 23 below.

#### *Successions*

- 20 (1) The provisions of this paragraph apply—
- (a) where the whole or part of a trade carried on by one company (" the predecessor ") is transferred to another company (" the successor ") and section 252 of the Taxes Act (company reconstructions) has effect in relation to that event; or
  - (b) where the whole of a trade carried on by an individual or by persons in partnership ("the predecessor") is transferred to a company resident in the United Kingdom ("the successor") and at the date of the transfer not less than three-quarters of the ordinary share capital of the company is held by that individual or those persons,
- and, in either case, the trading stock is transferred at cost or at market value.

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- (2) Where the whole of a trade is transferred and the predecessor and successor so elect—
- (a) paragraphs 4 and 13 above shall not apply to the predecessor's period of account which ends with or includes the date of transfer but, in ascertaining in the successor's period of account which begins with or includes that date and in any later period of account, the amount of unrecovered past relief allowed to a person in respect of the trade, the successor shall be treated as having carried on the trade since the predecessor began (or is himself treated, by virtue of this sub-paragraph or of any other provision of this Schedule or of Schedule 5 to the Finance Act 1976, as having begun) to do so ;
  - (b) the relief to which the predecessor is entitled under this Schedule for that trade in respect of a period of account which begins before and ends after the date of transfer shall be determined by reference to the increase, if any, in the all stocks index over the part of the period before that date;
  - (c) the relief to which the successor is entitled under this Schedule for that trade in respect of a period of account which begins with or includes the date of transfer shall be determined—
    - (i) as if the value at which the trading stock was transferred were the value of his trading stock at the end of the preceding period of account; and
    - (ii) if the period of account begins before the date of the transfer, by reference to the increase, if any, in the all stocks index over the part of that period beginning with that date.
- (3) Where sub-paragraph (2)(a) above has effect in a case within sub-paragraph (1)(b) above the unrecovered past relief shall not include relief to which the predecessor was entitled but to which effect has not been given owing to an insufficiency of profits or gains.
- (4) Sub-paragraph (2)(b) and (c) above has effect subject to paragraph 23 below.
- (5) Where part of a trade is transferred and the predecessor and successor so elect, then, for the purposes of this Schedule the predecessor shall be treated as having carried on in the period of account during or at the end of which the transfer occurred a separate trade consisting of the part transferred; and all necessary apportionments between the two parts of the trade (including the apportionment of unrecovered past relief allowed for the trade) shall be made by reference to the respective values of the trading stock of each part immediately after the transfer.
- (6) An election under this paragraph shall be by notice in writing signed by both the predecessor and the successor and sent to the inspector within two years after the end of the successor's period of account which begins with or includes the date of the transfer.
- 21 (1) Subject to the provisions of this paragraph, where there is a change in the persons engaged in carrying on a trade, this Schedule applies as if the trade had been permanently discontinued at the date of the change and a new trade had been then set up and commenced.

For the purposes of this paragraph, a change in the personal representatives of any person, or in the trustees of any trust, shall not be treated as a change in the persons carrying on any trade carried on by those personal representatives or trustees as such.

- (2) Where there is a change of persons but—

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- (a) a person engaged in carrying on the trade immediately before the change continues to be so engaged immediately after the change; and
- (b) the trading stock of the trade immediately before the change is the trading stock immediately after the change,

an election may be made to the effect that sub-paragraph (1) above shall not apply to the change.

- (3) An election under this paragraph must be made by all the persons engaged in carrying on the trade before the change ("the predecessors") and all those so engaged immediately after the change ("the successors") and be signed by them and sent to the inspector within two years after the end of the successors' period of account which begins with or includes the date of the change.

Where those persons have elected under section 154(2) of the Taxes Act that the trade be treated as continuing for income tax purposes, they shall be treated as having also made an election under this paragraph.

- (4) In ascertaining for the purposes of this Schedule the amount of unrecovered past relief allowed to a person in respect of a trade where at an earlier date a change in the persons carrying on that trade has been the subject of an election under the provisions of this paragraph or paragraph 21 of Schedule 5 to the Finance Act 1976, the successors (in relation to that change) shall be treated as having carried on the trade since the predecessors began (or are themselves treated by virtue of this sub-paragraph or any other provision of this Schedule or of Schedule 5 to the said Act of 1976. as having begun) to do so.
- (5) Where during a period of account there is a change in the persons engaged in carrying on a trade, and—
- (a) an election is made under this paragraph; but
  - (b) no election is made under section 154(2) of the Taxes Act in relation to that change,

any relief or charge under this Schedule in respect of that period of account shall be apportioned between the predecessors and successors according to the respective lengths of the parts of the period falling before and after the change, and for the purpose of giving effect to that relief or charge each of those parts shall be treated as if it were a separate period of account.

#### *Adjustment for special circumstances*

- 22 (1) An adjustment shall be made under this paragraph where any arrangements have been effected by a person carrying on a trade, or by him and other persons acting together, such in particular as those mentioned in sub-paragraph (2) below, and it appears that the sole or main benefit which, but for this paragraph, might have been expected to accrue to that person was—
- (a) the obtaining of relief or the reduction of the amount of a charge under this Schedule; or
  - (b) a reduction in the amount of relief to which effect cannot be given by virtue of paragraph 10 or 17(1) above.
- (2) The arrangements referred to in sub-paragraph (1) above are—
- (a) any acquisition or disposal of trading stock otherwise than in the normal course of the trade in question ; or
  - (b) any change in the normal pattern or method of carrying on the trade; or

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- (c) any change in the date to which the accounts of the trade are made up ; or
  - (d) any increase in the value of a person's trading stock or any acquisition by a person of trading stock, being an increase or acquisition which is associated with a decrease in the trading stock of another person connected with him (within the meaning of section 533(5) or (6) of the Taxes Act).
- (3) In a case within sub-paragraph (1)(a) above the adjustment is to substitute for the purposes of this Schedule, for the value of the trading stock of the person concerned at the end of any period of account which appears to have been affected by the arrangements, the value which it appears that the trading stock would then have had if those arrangements had not been made.
- (4) In a case within sub-paragraph (1)(b) above the adjustment is to determine the amount of relief to which effect cannot be given by virtue of paragraph 10 or 17(1) above as if the arrangements had not been made.

*Long periods of account*

- 23 (1) Where a person's period of account is longer than eighteen months his entitlement to relief under this Schedule in respect of that period shall be determined by—
- (a) calculating the relief for separate parts of the period as if they were separate periods of account; and
  - (b) aggregating the reliefs for those parts.
- (2) Each of the separate parts of the period shall (so far as length of the period permits) consist of twelve months, any remaining months being used to form the last part.

*Valuation of stock at intermediate dates*

- 24 (1) If for the purposes of this Schedule it is necessary to ascertain the value of a person's trading stock at a date other than the end of a period of account and that value has not in fact been ascertained, that person shall be treated as having at that date trading stock of such value as may be attributed in accordance with sub-paragraph (2) below.
- (2) The value to be attributed under sub-paragraph (1) above is such value as is reasonable and just having regard to all the relevant circumstances of the case, and in particular—
- (a) to the values of trading stock of the trade at the beginning and end of the period of account which includes the date in question;
  - (b) to movements during that period of account in the costs of items of a kind comprised in the person's trading stock during the period; and
  - (c) to changes during that period in the volume of the trade carried on by that person.
- (3) In applying this paragraph for the purposes of paragraph 23 above, the period of account referred to in sub-paragraph (2) above is the period of account which by virtue of that paragraph is treated as consisting of separate parts.
- (4) Sub-paragraph (1) above shall apply also where by virtue of the provisions of section 35(2) of this Act it is necessary to ascertain the value of a person's trading stock at 13th November 1980 ; and for that purpose the period of account referred to in sub-paragraph (2) above shall be the period treated by virtue of those provisions as if it were two separate periods.

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*Farm animals*

- 25 (1) Animals treated as trading stock under Schedule 6 to the Taxes Act (farm animals etc.), shall, subject to the provisions of this paragraph, be so treated for the purposes of this Schedule.
- (2) Where a person makes an election for the herd basis under that Schedule which takes effect during a period of account, animals forming part of a herd with respect to which the election has effect shall be treated for the purposes of this Schedule as not having been trading stock of that person at the end of the preceding period of account or at any subsequent time.
- (3) Where a person makes an election for the herd basis under that Schedule, then, at the end of the period of account preceding that in which the election takes effect ("the point of election ") the unrecovered past relief allowed to him for the farming or other trade in question (including the relief in respect of that period of account) shall be apportioned between the herd and the rest of his trading stock by reference to their respective values at the point of election.
- (4) Where a company which has made an election for the herd basis under the said Schedule 6 transfers part of its trade, the part of its unrecovered past relief which represents relief apportioned to the herd under sub-paragraph (3) above or paragraph 25(3) of Schedule 5 to the Finance Act 1976—
- (a) shall not be apportioned in accordance with paragraph 20(5) above; but
  - (b) if all the animals or none of them are included in the transfer, shall be allocated to the part of the trade that is transferred or, as the case may be, the part that is retained and, if some of them are included, shall be apportioned between those parts by reference to the respective values of the animals transferred and the animals retained.
- (5) In this paragraph " herd " has the same meaning as in Schedule 6 to the Taxes Act, and this paragraph applies (as does that Schedule), with the necessary adaptations, to animals or other creatures kept singly as it applies in relation to herds.

**PART V**

INTERPRETATION

*" Period of account "t*

- 26 In this Schedule "period of account" means a period for which an account is made up in relation to the trade in question.

*" Past relief "*

- 27 (1) References in this Schedule to " past relief", in relation to a trade carried on by any person in any period of account, are to the aggregate amount of the following reliefs allowed to him (or treated as allowed to him)—
- (a) Schedule 10 relief (as defined in paragraph 18 of Schedule 5 to the Finance Act 1976) allowed for that trade;
  - (b) relief under Part I or Part II of that Schedule allowed for that trade; and
  - (c) relief under Part II or Part III of this Schedule in respect of earlier periods of account.



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- (2) Subject to sub-paragraphs (3) to (5) below and to paragraphs 4(3), 14, 15 and 20(3) above, the amount of unrecovered past relief in any period of account is that aggregate amount less the aggregate of the amounts on which charges by way of recovery of relief (whether under this Schedule, Schedule 5 to the said Act of 1976 or paragraph 8 of Schedule 7 to the Finance Act 1980) have been made on that person for that trade in respect of earlier periods of account.
- (3) There shall be excluded from the amount of unrecovered past relief in any period of account so much of that amount (if any) as is attributable to relief allowed under Part I or Part II of Schedule 5 to the said Act of 1976 or under Part II or Part III of this Schedule in respect of any period of account which ended six years or more before the beginning of the first-mentioned period.
- (4) There shall be excluded from the amount of unrecovered past relief in any period of account beginning after—
  - (a) the end of the period or the last period of account ending in the financial year 1978 (in the case of a company) or the year 1978-79 (in other cases); or
  - (b) if there is no such period of account, the end of the period of account current at the end of that financial year or year of assessment, as the case may be,so much of that amount (if any) as is attributable to Schedule 10 relief.
- (5) For the purpose of attributing the amount of unrecovered past relief in any period to Schedule 10 relief, to relief allowed under Part I or Part II of Schedule 5 to the said Act of 1976 or to relief allowed under Part II or III of this Schedule in respect of any previous period it shall be assumed that relief is recovered from later periods before earlier periods.

*"Trading stock"*

- 28
- (1) Subject to the provisions of this paragraph and of paragraphs 29 and 30 below, in this Schedule "trading stock" means property of any description, whether real or personal, being either—
    - (a) property such as is sold in the ordinary course of the trade in question, or would be sold if it were mature or if its manufacture, preparation or construction were complete; or
    - (b) materials such as are used in the manufacture, preparation or construction of any such property as is referred to in paragraph (a) above,and includes work in progress.
  - (2) Sub-paragraph (1) above does not apply to—
    - (a) securities (which for this purpose includes stocks and shares); or
    - (b) land, other than such as is ordinarily sold in the course of the trade only—
      - (i) after being developed by the person carrying on the trade, or
      - (ii) in the case of a company which is a member of a group, for the purpose of being developed by another company in that group; or
    - (c) goods which the person carrying on the trade has let on hire or hire-purchase.
  - (3) In sub-paragraph (2) above, references to development are, in relation to land other than a building, references to the construction or substantial reconstruction of buildings on the land and, in relation to a building, references to its construction or substantial reconstruction and "group" shall be construed in accordance with section 272 of the Taxes Act.

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- (4) For the purposes of this Schedule the value of a person's trading stock at any time shall be reduced to the extent to which payments on account have been made at or before that time in respect of that stock.
- (5) References in this Schedule to trading stock are to the trading stock brought into account in computing the profits or gains of a trade in accordance with Case I of Schedule D.
- (6) Where a person not resident in the United Kingdom carries on a trade partly within the United Kingdom and partly abroad, references in this Schedule to his trading stock are to the stock attributable to that part of the trade within the charge to United Kingdom tax.
- 29 (1) For the purpose of determining under this Schedule whether any property is a person's trading stock anything which—
- (a) is used by a person ("the contractor") in carrying out, or results from the carrying out by him of, a contract for the manufacture, preparation or construction of any property ; and
  - (b) by virtue of a provision in the contract or of any rule of law vests in the other party to the contract before the contract has been fully performed by the contractor;
- shall, until the contract has been so performed, be treated as belonging to the contractor, and, subject to sub-paragraph (2) below, as not belonging to the other party.
- (2) Where the value of any property treated as belonging to the contractor by virtue of sub-paragraph (1) above falls to be reduced under paragraph 28(4) above by reference to payments made by the other party, sub-paragraph (1) above shall not preclude the property being treated, at a value equal to the payments, as belonging to the other party.
- (3) For the purpose of determining under this Schedule whether any property is a person's trading stock any goods which—
- (a) have been sold to a person subject to a condition reserving ownership to the seller pending full payment by that person ; but
  - (b) are treated in the accounts of the seller as sold and in the accounts of the person mentioned in paragraph (a) above as bought,
- shall be treated as belonging to that person and not to the seller.
- 30 (1) In relation to relief in respect of any period of account beginning on or before 26th March 1980 "trading stock" shall include any assets which by virtue of paragraph 7 of Schedule 7 to the Finance Act 1980 were disqualified from being trading stock in relation to any period of account beginning after that date.
- (2) In relation to unrecovered past relief attributable to such assets—
- (a) paragraphs 20 and 21 above shall not displace the operation of any charge under paragraph 4 or 13 above ; and
  - (b) references in paragraphs 4(4) and 13(3) above to unrecovered past relief shall apply as in the case of other unrecovered past relief.
- (3) For the purposes of sub-paragraph (2) above the unrecovered past relief at the beginning of the first period of account beginning after 26th March 1980 shall be apportioned between such assets as are mentioned in sub-paragraph (1) above and other stock by reference to their respective values at the beginning of that period.

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*" Work in progress "*

- 31 In this Schedule " work in progress " means—
- (a) any services performed in the ordinary course of the trade, the performance of which was partly completed at the material time and for which it would be reasonable to expect that a charge will subsequently be made ; and
  - (b) any article produced, and any such material as is used, in the performance of any such services.

*Other definitions*

- 32 For the purposes of this Schedule a person is within the charge to income tax or corporation tax in respect of a trade if the profits or gains arising from it are (or if there were any would be) chargeable to that tax, and references to a trade being within the charge to tax shall be similarly construed.
- 33 Any reference in this Schedule to a period ending in another period includes a reference to a period ending on the same day as the other period.

**PART VI**

APPLICATION TO PROFESSIONS AND FOREIGN TRADES

- 34 The foregoing provisions of this Schedule have effect, with the necessary modifications, in relation to professions and vocations chargeable under Case II of Schedule D as they have effect in relation to trades chargeable under Case I of that Schedule.
- 35 The foregoing provisions of this Schedule (including paragraph 34 above) have effect, with the necessary modifications, in relation to trades, professions and vocations carried on outside the United Kingdom and chargeable under Case V of Schedule D otherwise than on a remittance basis as they have effect in relation to trades, professions and vocations chargeable under Case I or Case II of that Schedule, except that where, in charging the income from that trade, profession or vocation, a deduction of one quarter of the amount of that income falls to be allowed under section 23(3) of the Finance Act 1974 (income charged to income tax otherwise than on remittance basis) the amount of relief under this Schedule shall be confined to three-quarters of the amount which would have been applicable had the trade, profession or vocation been chargeable under the said Case I or Case II.

SCHEDULE 10

Section 35.

STOCK RELIEF : TRANSITIONAL PROVISIONS

*Option for old relief*

- 1 Paragraph 2 below has effect in relation to any period of account which ends on or includes 14th November 1980 and in that paragraph " the new relief " means relief under Schedule 9 to this Act. " the old relief " means relief under Schedule 5 to the Finance Act 1976 and any expression which is also used in the said Schedule 5 has the same meaning as in that Schedule.

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- 2 (1) If the new relief to which a person is entitled in respect of the period of account is less than the old relief to which he would have been so entitled as modified by paragraph 3 below, he may elect to receive the old relief as so modified instead of the new relief.
- (2) An election under this paragraph shall be by notice in writing sent to the inspector within two years after the end of the period of account (in the case of a company) or the end of the year of assessment in which the period of account ends (in other cases).
- (3) The relief to which a person is entitled by virtue of an election under this paragraph shall, except as to its amount, be treated for the purposes of Schedule 9 to this Act as if it were relief under paragraph 3 or, as the case may be, paragraph 12 of that Schedule.
- 3 (1) For the purposes of paragraph 2 above the amount of the old relief shall be determined in accordance with this paragraph.
- (2) If the closing stock value is more than the value of the trading stock on 14th November 1980 the increase in stock value shall be calculated by reference to the value of the trading stock on that date instead of the closing stock value.
- (3) Where the increase in stock value falls to be calculated in accordance with sub-paragraph (2) above the deduction to be made by reference to relevant income shall be made by reference to such part of that income as corresponds to the part of the period of account ending with 14th November 1980.
- (4) Where an election is made under paragraph 20 of Schedule 9 to this Act by reference to a transfer which took place before 14th November 1980, sub-paragraph (2) above shall not apply in relation to the predecessor.
- (5) Paragraph 24 of Schedule 9 to this Act shall apply for the purposes of this paragraph.
- (6) There shall be deducted from the amount of the old relief an amount equal to one-quarter of the amount of the new relief or £10,000, whichever is the less.
- (7) Where a charge has been deferred as mentioned in paragraph 4 below, the amount of the old relief shall be equal to—
- (a) the amount of that relief as determined under sub-paragraphs (2) to (6) above ; or
  - (b) so much of the amount of that relief determined without regard to those sub-paragraphs as does not exceed the amount of the charge,
- whichever is the greater.

*Recovery of deferred charge*

- 4 Notwithstanding section 35 of this Act any charge which under Part I of Schedule 7 to the Finance Act 1980 has been deferred to a period of account which ends on or includes 14th November 1980 shall be recoverable as if this Act had not been passed.

*Status: This is the original version (as it was originally enacted).*

## SCHEDULE 11

Section 56(3).

### RELIEF FOR INVESTMENT IN NEW CORPORATE TRADES: WHOLESALE AND RETAIL DISTRIBUTION

#### PART I

- 1 The goods are bought by the trader in quantities larger than those in which he sells them.
- 2 The goods are bought and sold by the trader in different markets.
- 3 The trader employs staff and incurs expenses in the trade in addition to the cost of the goods and, in the case of a trade carried on by a company, in addition to any remuneration paid to any person connected with it.

#### PART II

- 4 There are purchases or sales from or to persons who are connected with the trader.
- 5 Purchases are matched with forward sales or vice versa.
- 6 The goods are held by the trader for longer than is normal for goods of the kind in question.
- 7 The trade is carried on otherwise than at a place or places commonly used for wholesale or retail trade.
- 8 The trader does not take physical possession of the goods.

## SCHEDULE 12

Section 65(4).

### RELIEF FOR INVESTMENT IN NEW CORPORATE TRADES : SUBSIDIARIES

#### *Finance for trade of subsidiary*

- 1 The shares issued by the new qualifying company may, instead of or as well as being issued for the purpose mentioned in subsection (1)(b) of section 52, be issued for the purpose of raising money for a new qualifying trade which is being carried on by a subsidiary or which a subsidiary intends to carry on within the next twelve months ; and where shares are so issued subsections (3) and (6) of that section shall have effect as if references to the company were or, as the case may be, included references to the subsidiary.

#### *Individuals qualifying for relief*

- 2 (1) Subsections (2) and (3) of section 54 shall have effect as if references to the company included references to any subsidiary of the company; and, without prejudice to the provisions of that section, an individual shall be treated as connected with a company if he directly or indirectly possesses or is entitled to acquire any loan capital of a subsidiary of that company.  
  
(2) Section 54(5) and (8) shall apply for the purposes of this paragraph.

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*New qualifying trade*

- 3 In relation to a new qualifying trade carried on by a subsidiary the references in subsections (2)(f) and (6) of section 56 to another person and the reference in subsection (7) of that section to a person having a controlling interest in the trade shall not include references to the company of which it is a subsidiary.

*Value received*

- 4 In sections 58(1) and 59(4) references to the receipt of value from the company shall include references to the receipt of value from a subsidiary of the company, and references to the company in the other provisions of section 58 and in section 59(7) shall be construed accordingly.

*Claims*

- 5 Where a company has one or more subsidiaries, the reference in subsection (4) of section 61 to a statement by the company shall include a reference to a statement by the subsidiary or each subsidiary and the references in subsection (5) of that section to the company shall be construed accordingly.

*Information*

- 6 Where a subsidiary is notified by the inspector that relief has been given in respect of any shares issued by a company of which it is a subsidiary section 63(3) shall apply to the subsidiary as respects any transfer of its shares as it applies to the company as respects any transfer of the shares of the company.
- 7 Subsections (5) and (6) of section 63 shall have effect in relation to any such arrangements as are mentioned in section 65(2)(c) as they have effect in relation to any such arrangement as is mentioned in section 59(1).

SCHEDULE 13

Section 92.

LIFETIME RATES OF CAPITAL TRANSFER TAX

TABLE

Portion of value		Rate of tax
Lower limit	Upper limit	Per cent.
£	£	
0	50,000	Nil
50,000	60,000	15
60,000	70,000	17 ½
70,000	90,000	20
90,000	110,000	22 ½
110,000	130,000	25

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Portion of value		Rate of tax
130,000	160,000	30
160,000	510,000	35
510,000	1,010,000	40
1,010,000	2,010,000	45
Over 2,010,000	—	50

## SCHEDULE 14

Section 96.

### CAPITAL TRANSFER TAX RELIEF FOR AGRICULTURAL PROPERTY

#### *Preliminary*

- 1 (1) In this Schedule " transfer of value " includes a distribution payment and a capital distribution, and references to the value transferred by a transfer of value and to a transferor shall be construed as including respectively the amount of such a payment or distribution and the trustees of the settlement concerned.
- (2) In this Schedule " agricultural property " means agricultural land or pasture and includes woodland and any building used in connection with the intensive rearing of livestock or fish if the woodland or building is occupied with agricultural land or pasture and the occupation is ancillary to that of the agricultural land or pasture ; and also includes such cottages, farm buildings and farm-houses, together with the land occupied with them, as are of a character appropriate to the property.
- (3) For the purposes of this Schedule the agricultural value of any agricultural property shall be taken to be the value which would be the value of the property if the property were subject to a perpetual covenant prohibiting its use otherwise than as agricultural property.
- (4) This Schedule applies to agricultural property only if it is in the United Kingdom, the Channel Islands or the Isle of Man.

#### *Nature of relief*

- 2 (1) Where the whole or part of the value transferred by a transfer of value is attributable to the agricultural value of agricultural property, the whole or that part of the value transferred shall be treated as reduced by the appropriate percentage, but subject to the following provisions of this Schedule.
- (2) The appropriate percentage is 50 per cent, if either—
  - (a) the interest of the transferor in the property immediately before the transfer carries the right to vacant possession or the right to obtain it within the next twelve months, or
  - (b) the transferor has been beneficially entitled to that interest since before 10th March 1981 and the conditions set out in sub-paragraph (3) below are satisfied ;and, subject to sub-paragraph (4) below, it is 20 per cent, in any other case.

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- (3) The conditions referred to in sub-paragraph (2)(b) above are—
- (a) that, if the transferor had disposed of his interest by a transfer of value immediately before 10th March 1981 and duly made a claim under paragraph 1 of Schedule 8 to the Finance Act 1975, the value transferred would have been computed in accordance with paragraph 2 of that Schedule and relief would not have been limited by paragraph 5 of that Schedule (restriction to £250,000 or one thousand acres): and
  - (b) that the transferor's interest did not at any time during the period beginning with 10th March 1981 and ending with the date of the transfer carry a right mentioned in sub-paragraph (2)(a) above, and did not fail to do so by reason of any act or deliberate omission of the transferor during that period.
- (4) Where the appropriate percentage would be 50 per cent, but for a limitation on relief that would have been imposed (as mentioned in sub-paragraph (3)(a) above) by paragraph 5 of Schedule 8 to the Finance Act 1975, the appropriate percentage shall be 50 per cent, in relation to a part of the value transferred equal to the amount which would have attracted relief under that Schedule and 20 per cent, in relation to the remainder.
- (5) In determining for the purposes of sub-paragraphs (3)(a) and (4) above whether or to what extent relief under Schedule 8 to the Finance Act 1975 would have been limited by paragraph 5 of that Schedule, that paragraph shall be construed as if references to relief given under that Schedule in respect of previous chargeable transfers included references to relief given under this Schedule by virtue of sub-paragraph (2)(b) or (4) above in respect of previous chargeable transfers made on or after 10th March 1981.
- (6) For the purposes of this Schedule the interest of one of two or more joint tenants or tenants in common (or, in Scotland, joint owners or owners in common) shall be taken to carry a right referred to in sub-paragraph (2)(a) above if the interests of all of them together carry that right.
- (7) For the purposes of this paragraph, the value transferred by a transfer of value shall be calculated as a value on which no tax is chargeable.

*Minimum period of occupation or ownership*

- 3 Subject to the following provisions of this Schedule, paragraph 2 above does not apply to any agricultural property unless—
- (a) it was occupied by the transferor for the purposes of agriculture throughout the period of two years ending with the date of the transfer ; or
  - (b) it was owned by him throughout the period of seven years ending with that date and was throughout that period occupied (by him or another) for the purposes of agriculture.

*Replacements*

- 4 (1) Where the agricultural property occupied by the transferor on the date of the transfer replaced other agricultural property, the condition stated in paragraph 3(a) above shall be treated as satisfied if it, the other property and any agricultural property directly or indirectly replaced by the other property were occupied by the transferor for the purposes of agriculture for periods which together comprised at least two years falling within the five years ending with that date.



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- (2) Where the agricultural property owned by the transferor on the date of the transfer replaced other agricultural property the condition stated in paragraph 3(b) above shall be treated as satisfied if it, the other property and any agricultural property directly or indirectly replaced by the other property were, for periods which together comprised at least seven years falling within the ten years ending with that date, both owned by the transferor and occupied (by him or another) for the purposes of agriculture.
- (3) Subject to sub-paragraph (4) below, in a case falling within sub-paragraph (1) or (2) above relief under this Schedule shall not exceed what it would have been had the replacement or any one or more of the replacements not been made.
- (4) For the purposes of sub-paragraph (3) above changes resulting from the formation, alteration or dissolution of a partnership shall be disregarded.

*Occupation by company or partnership*

- 5 (1) For the purposes of paragraphs 3 and 4 above, occupation by a company which is controlled by the transferor shall be treated as occupation by the transferor.
- (2) For the purposes of paragraphs 3 and 4 above, occupation of any property by a Scottish partnership shall, notwithstanding section 4(2) of the Partnership Act 1890, be treated as occupation of it by the partners.

*Successions*

- 6 Where the transferor became entitled to his interest on the death of his spouse on or after 10th March 1981—
  - (a) he shall for the purposes of paragraph 2(2)(b) above be deemed to have been beneficially entitled to it for any period for which his spouse was beneficially entitled to it;
  - (b) the condition set out in paragraph 2(3)(a) shall be taken to be satisfied if and only if it is satisfied in relation to his spouse; and
  - (c) the condition set out in paragraph 2(3)(b) shall be taken to be satisfied only if it is satisfied both in relation to him and in relation to his spouse.
- 7 For the purposes of paragraph 3 above, where the transferor became entitled to any property on the death of another person—
  - (a) he shall be deemed to have owned it (and, if he subsequently occupies it, to have occupied it) from the date of the death ; and
  - (b) if that other person was his spouse he shall also be deemed to have occupied it for the purposes of agriculture for any period for which it was so occupied by his spouse, and to have owned it for any period for which his spouse owned it
- 8 (1) Where—
  - (a) the whole or part of the value transferred by a transfer of value (in this paragraph referred to as the earlier transfer) was eligible for relief under this Schedule (or would have been so eligible if such relief had been capable of being given in respect of transfers of value made at that time); and
  - (b) the whole or part of the property which, in relation to the earlier transfer, was or would have been eligible for relief became, through the earlier transfer, the property of the person (or of the spouse of the person) who is the transferor in relation to a subsequent transfer of value and is at the time of the subsequent

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transfer occupied for the purposes of agriculture either by that person or by the personal representative of the transferor in relation to the earlier transfer; and

- (c) that property or part or any property directly or indirectly replacing it would (apart from paragraph 3 above) have been eligible for relief in relation to the subsequent transfer of value; and
- (d) either the earlier transfer was, or the subsequent transfer of value is, a transfer made on the death of the transferor,

the property which would have been eligible for relief but for paragraph 3 above shall be eligible for relief notwithstanding that paragraph.

- (2) Where the property which, by virtue of sub-paragraph (1) above, is eligible for relief replaced the property or part referred to in paragraph (c) of that sub-paragraph, relief under this Schedule shall not exceed what it would have been had the replacement or any one or more of the replacements not been made, but paragraph 4(4) above shall apply for the purposes of this sub-paragraph as it applies for the purposes of paragraph 4(3).
- (3) Where, under the earlier transfer, the amount of the value transferred which was attributable to the property or part referred to in sub-paragraph (1)(c) above was part only of its value, a like part only of the value which (apart from this sub-paragraph) would fall to be reduced under this Schedule by virtue of this paragraph shall be so reduced.

*Shares and securities of companies*

- 9 (1) Where the whole or part of the value transferred is attributable to the value of shares in or securities of a company it shall be taken for the purposes of this Schedule to be attributable (so far as appropriate) to the agricultural value of agricultural property if and only if—
  - (a) the agricultural property forms part of the company's assets and part of the value of the shares or securities can be attributed to the agricultural value of the agricultural property ; and
  - (b) the shares or securities gave the transferor control of the company immediately before the transfer.
- (2) Shares or securities shall not be regarded for the purposes of sub-paragraph (1)(b) above as giving the transferor control of a company if—
  - (a) they would not have been sufficient, without other property, to give him control of the company immediately before the transfer ; and
  - (b) their value is taken by virtue of paragraph 9A of Schedule 10 to the Finance Act 1975 to be less than the value previously determined.
- 10 Where paragraph 9 above applies, the references in paragraph 2(2)(a) and (3)(b) above to the transferor's interest shall be construed as references to the company's interest and paragraph 11 below shall apply instead of paragraph 3 above.
- 11 Subject to the following provisions of this Schedule, paragraph 2 does not apply by virtue of paragraph 9 above unless—
  - (a) the agricultural property—
    - (i) was occupied by the company for the purposes of agriculture throughout the period of two years ending with the date of the transfer ; or

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- (ii) was owned by the company throughout the period of seven years ending with that date and was throughout that period occupied (by the company or another) for the purposes of agriculture ; and
  - (b) the shares or securities were owned by the transferor—
    - (i) in a case within paragraph (a)(i) above, throughout the period there mentioned ;
    - (ii) in a case within paragraph (a)(ii) above, throughout the period there mentioned.
- 12 (1) Sub-paragraphs (1) and (2) of paragraph 4 above shall apply in relation to the conditions stated in paragraph 11 (a) above as they apply in relation to the conditions stated in paragraph 3 above, taking references to the transferor as references to the company.
- (2) Where the shares or securities owned by the transferor on the date of the transfer replaced other eligible property (that is to say, agricultural property or shares or securities the value of which is wholly or partly attributable to the value of such property) the condition stated in paragraph 11(b) above shall be treated as satisfied if the shares or securities, the other eligible property which they replaced and any eligible property directly or indirectly replaced by the other eligible property were owned by the transferor for periods which together comprised, in a case within paragraph 11(a)(i) above, at least two years falling within the five years ending with that date or, in a case within paragraph 11(a)(ii) above, at least seven years falling within the ten years ending with that date.
- (3) Sub-paragraphs (3) and (4) of paragraph 4 above shall have effect in relation to a case falling within the foregoing provisions of this paragraph as they have effect in relation to a case falling within sub-paragraphs (1) and (2) of that paragraph.
- 13 For the purposes of paragraph 11 above, a company shall be treated as having occupied the agricultural property at any time when it was occupied by a person who subsequently controls the company.

#### *Contracts for sale*

- 14 (1) Paragraph 2 above does not apply to agricultural property if at the time of the transfer the transferor has entered into a binding contract for its sale, except where the sale is to a company and is made wholly or mainly in consideration of shares in or securities of the company which will give the transferor control of the company.
- (2) Paragraph 2 above does not apply by virtue of paragraph 9 above if at the time of the transfer the transferor has entered into a binding contract for the sale of the shares or securities concerned, except where the sale is made for the purpose of reconstruction or amalgamation.

#### *Control*

- 15 Paragraph 13(7) of Schedule 4 to the Finance Act 1975 (control of company) applies for the purposes of this Schedule.

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*Saving*

- 16 Nothing in this Schedule shall be taken to apply to the value included under section 22(5) of the Finance Act 1975 in the value of a person's estate immediately before his death.

SCHEDULE 15

Section 99.

CAPITAL TRANSFER TAX SCOTTISH AGRICULTURAL LEASES

- 1 Subject to the following provisions of this Schedule, where any part of the value of a person's estate immediately before his death is attributable to the value of the interest of a tenant in agricultural property in Scotland, being an interest held by virtue of tacit relocation, and either he had been tenant of the said property continuously for a period of at least two years immediately preceding his death or he had become tenant of the said property by succession, and the said interest is acquired on his death by a new tenant, the value of the said interest shall be left out of account in determining the value transferred on the death.
- 2 The value to be left out of account under paragraph 1 above shall not include the value of any rights to compensation in respect of tenant's improvements.
- 3 (1) Subject to the following provisions of this paragraph, where, under paragraph 1 above, the value of an interest has been left out of account in determining the value transferred on the death of a person, and the whole or any part of that interest is disposed of before being transferred on the death of any other person, tax shall be charged in accordance with paragraph 4 below.
- (2) The person liable for the tax chargeable under this paragraph shall be the person who is entitled to the consideration for the disposal or who would be so entitled if any consideration passed on the disposal.
- (3) Sub-paragraph (1) above does not apply to a disposal made by any person to his spouse.
- (4) Where tax has been charged under this paragraph on the disposal of the whole of an interest or of any part thereof, tax shall not again be charged in relation to the same death on a further disposal of the whole or, as the case may be, of the same part, of the said interest.
- 4 (1) Where tax is chargeable under paragraph 3 above it shall be charged on the following amount, namely—
- (a) if the disposal is a sale for full consideration in money or money's worth, on the net proceeds of the sale ;
- (b) in any other case on the value of the interest or of the part disposed of, as the case may be, immediately before the time of the disposal,
- and at the rate or rates at which it would have been chargeable on that death if that amount, and any amount on which tax was previously chargeable under that paragraph in relation to the death, had been included in the value transferred on death and the amount on which the tax is chargeable had formed the highest part of that value.
- (2) The tax chargeable under paragraph 3 above shall not exceed the difference between the tax chargeable on the death and the tax which would have been chargeable on

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the death had paragraph 1 above not applied and had the value of the interest formed the highest part of the value of the estate.

5 Where a disposal on which tax is chargeable under paragraph 3 above is a chargeable transfer, the value transferred by it shall be calculated as if the value of the interest in the tenancy had been reduced by the tax chargeable under that paragraph.

6 In this Schedule—

- (a) references to the value transferred on a death are references to the value transferred by the chargeable transfer made on that death; and
- (b) references to the net proceeds of sale are references to the proceeds of sale after deduction of any expenses of sale.

7 (1) This Schedule applies to deaths on or after 15th November 1976.

(2) Where a person died on or after 15th November 1976 and before the passing of this Act, this Schedule shall apply only if a claim for relief under paragraph 1 above is made within the period of twelve months immediately following the passing of this Act by a person who (apart from the operation of this Schedule) would be liable to pay the whole or part of the tax chargeable on the value transferred on the death and attributable to the said interest.

(3) Where a person died on or after 15th November 1976, paragraph 3 above shall not apply to any disposal before the passing of this Act.

## SCHEDULE 16

Section 128(1).

### SUPPLEMENTARY PETROLEUM DUTY

#### *Management*

1 The duty shall be under the care and management of the Board.

2 (1) The provisions of the Taxes Management Act 1970 which are applied in relation to petroleum revenue tax by paragraph 1 of Schedule 2 to the principal Act shall apply also in relation to the duty.

(2) Those provisions shall apply with the same modifications as are specified in the said paragraph 1, taking references to Part I of the principal Act as including references to Part VIII of this Act.

#### *Returns and information*

3 The particulars contained in returns made under paragraph 2 or 5 of Schedule 2 to the principal Act (returns by participators and by the responsible person for an oil field) shall be treated as furnished, and the powers conferred on the Board by paragraph 7 of that Schedule (production of accounts etc.) shall be exercisable, for the purposes of the duty as well as for the purposes of petroleum revenue tax, and accordingly references to that tax in paragraphs 3(2) and 8(1) and (2) of that Schedule (penalties) shall include references to the duty.

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*Assessments and determinations*

- 4 (1) Where it appears to the Board that, in accordance with Part VIII of this Act, a gross profit has accrued to a participator in a chargeable period from an oil field, they shall make an assessment to the duty on the participator and give him notice of the assessment.
- (2) Where it appears to the Board that, in accordance with Part VIII of this Act, no gross profit has accrued to a participator in a chargeable period from an oil field, they shall make a determination to that effect and give him notice of the determination.
- (3) A notice of assessment shall state that the participator may appeal against the assessment in accordance with paragraph 7 below.
- (4) After the service of the notice of assessment or the notice of determination the assessment or determination, as the case may be, shall not be altered except in accordance with the provisions applied by paragraph 2 above or the subsequent provisions of this Schedule.
- 5 (1) Where a participator has under paragraph 2 of Schedule 2 to the principal Act delivered to the Board a return for a chargeable period and the Board are satisfied that the information given in the return is correct in so far as it is material for the purpose of computing his gross profit (if any) for that period, the Board shall (in so far as the computation falls to be made by reference to the matters dealt with in the return) make the assessment or determination under paragraph 4 above in accordance with the return.
- (2) Where the Board are not so satisfied in relation to a participator's return or a participator fails to deliver to the Board a return for a chargeable period as required by the said paragraph 2, the Board shall, in so far as the computation of his gross profit (if any) for that period falls to be made by reference to the matters which were dealt with in the return or, as the case may be, ought to have been dealt with in a return, make the assessment or determination under paragraph 4 above to the best of their judgment.
- (3) Nothing in sub-paragraph (2) above or in paragraph 5 of Schedule 2 to the principal Act shall be taken, in a case where the participator has delivered a return as to which the Board are not satisfied as mentioned in sub-paragraph (1) above, to prevent the Board from basing their assessment or determination on the participator's having had an interest in oil won and saved from the field different from that on which he based his return.
- 6 (1) Where it appears to the Board—
- (a) that the gross profit charged to the duty by an assessment ought to have been larger or smaller; or
  - (b) that for any period they ought to have made an assessment to the duty instead of a determination under paragraph 4(2) above or such a determination instead of an assessment to the duty,
- the Board may make any such assessment or determination or any such amendment of an assessment as may be necessary.
- (2) Where under this paragraph the Board make an assessment or determination or amend an assessment, they shall give notice thereof to the participator concerned; and sub-paragraphs (3) and (4) of paragraph 4 above shall apply in relation to any such assessment, determination or amendment as they apply in relation to an assessment or determination under that paragraph.

### *Appeals*

- 7 (1) A participator may appeal to the Special Commissioners against an assessment or an amendment of an assessment made on him by notice of appeal in writing given to the Board within thirty days after the date of issue of the notice of assessment or of the amendment.
- (2) The notice of appeal shall specify the grounds of appeal, but on the hearing of the appeal the Commissioners may allow the appellant to put forward any ground not specified in the notice, and may take it into consideration if satisfied that the omission was not wilful or unreasonable.
- (3) The participator may at any time, if the Board do not object, abandon an appeal instituted by him; and for that purpose he shall notify his desire to do so to the Board who may, within thirty days after being so notified, object by notice in writing to the participator.
- (4) Where at any time between—
- (a) the giving of a notice of appeal against the assessment or the amendment of the assessment or from a decision of the Board on a claim under section 33 of the Taxes Management Act 1970 as applied by paragraph 2 above; and
  - (b) the determination of the appeal by the Special Commissioners,
- the Board and the participator agree on how the assessment, amendment or decision should be varied or on what assessment or determination should be substituted in relation to the chargeable period in question, the same consequences shall ensue as if the Commissioners had determined the appeal to that effect.
- (5) If, on the appeal against an assessment or an amendment of an assessment, it appears to the majority of the Commissioners present at the hearing that the assessment or amendment is wrong—
- (a) because no, or a smaller, gross profit has accrued for the chargeable period in question; or
  - (b) because a, or a larger, gross profit has accrued for that period,
- the Commissioners shall vary the assessment or amendment in such manner, or substitute such determination, as may be required; and it shall be for the participator to satisfy the Commissioners as to any matters within paragraph (a) above.
- (6) Save as otherwise provided by this Schedule (including the provisions applied by paragraph 2 above) the determination by the Special Commissioners of any appeal shall be final and conclusive.
- 8 (1) A participator who has given notice of appeal under paragraph 7 above against an assessment charging him with any duty for a chargeable period may, if he delivered a return for that period as required by paragraph 2 of Schedule 2 to the principal Act, withhold, until the determination or abandonment of the appeal, so much of the duty charged in the assessment as is the smaller of—
- (a) the amount of the duty so charged ; and
  - (b) duty on the difference between—
    - (i) the aggregate of the consideration received or receivable for oil as stated in the participator's return in pursuance of sub-paragraph (2) of the said paragraph 2 and, subject to sub-paragraph (2) below, the market value of oil so stated ; and
    - (ii) the aggregate of the corresponding consideration and value as included in the assessment.

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- (2) Subject to sub-paragraph (3) below, where the market value of all the oil for which a market value is stated in the participator's return is, as stated in that return, less than the value which is produced for that oil by applying to it the average price mentioned in sub-paragraph (4) below, sub-paragraph (1) above shall have effect as if, for the reference to the market value of oil as so stated, there were substituted a reference to the value which is so produced for that oil.
- (3) The comparison of values and the substitution required by sub-paragraph (2) above shall, in the case of an appeal by a participator whose return relates both to gas and to other oil, be made separately for the gas and for the other oil.
- (4) The average price referred to in sub-paragraph (2) above is the average price at which all oil included in the relevant returns as oil delivered in the period covered by the returns and disposed of in sales at arm's length was so disposed of.
- (5) The relevant returns for the purposes of sub-paragraph (4) above are all the returns of all the participators in all oil fields which—
  - (a) were made for the chargeable period preceding that to which the appeal relates ; and
  - (b) were delivered before the end of the chargeable period to which the appeal relates.
- (6) Where in determining the gross profit accruing to a participator from a field in a chargeable period the aggregate of the amounts mentioned in section 2(5)(a), (b) and (c) of the principal Act falls to be increased under section 123 of this Act (whether as respects all oil or as respects a particular kind or kinds of oil) the difference mentioned in sub-paragraph (1)(b) above (or, as the case may be, the difference so far as relating to oil of the particular kind or kinds in question) shall be increased by multiplying it by the fraction mentioned in subsection (2) of that section.

#### *Payment*

- 9 Subject to paragraphs 7 and 8 above, the duty charged in an assessment made on a participator for any chargeable period, so far as not paid under paragraphs 10 and 11 below, shall be payable by him four months after the end of that chargeable period or, if later, thirty days after the date of issue of the notice of assessment.
- 10 (1) Every participator in an oil field shall, at the time when he delivers to the Board the return for a chargeable period required by paragraph 2 of Schedule 2 to the principal Act—
  - (a) deliver to the Board a statement showing whether any, and if so what, amount of duty is payable by him under this paragraph for that period in respect of the field; and
  - (b) pay to the Board a sum equal to the amount of duty, if any, shown in the statement
- (2) The statement under sub-paragraph (1)(a) above shall be in such form as the Board may prescribe.
- (3) For the purposes of sub-paragraph (1)(a) above the duty payable by a participator for any chargeable period in respect of an oil field shall be determined by him by—
  - (a) calculating the gross profit accruing to him for that period from the field by reference to the particulars included in the return in pursuance of paragraph



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- 2(2) of Schedule 2 to the principal Act (and without regard to sections 123 and 124 of this Act);
- (b) making any addition required by section 123 of this Act;
  - (c) making the reduction required by section 124 of this Act; and
  - (d) applying to the result the percentage rate at which the duty is chargeable for the period.
- (4) The sum paid under sub-paragraph (1)(b) above shall constitute a payment on account of the duty charged in any assessment made on the participator in respect of the gross profit accruing to him for the chargeable period from the oil field ; and if the payment on account exceeds the duty so charged the excess shall be repaid to the participator.
- (5) Where a participator gives notice of appeal under paragraph 7 above against an assessment charging duty in respect of which he has made a payment on account, the amount, if any, to be repaid under sub-paragraph (4) above shall be calculated as if the duty charged in the assessment were limited to the duty which he would not be entitled to withhold under paragraph 8 above.
- 11 (1) Subject to sub-paragraphs (4) and (6) below, every participator in an oil field shall, in the third month of each chargeable period and in each of the four succeeding months, make to the Board an advance payment of duty in respect of the field for that period.
- (2) The amount of each payment shall be equal to one-fifth of the amount, if any, shown in the statement delivered by the participator under paragraph 10(1)(a) above as payable by him in respect of the field for the last chargeable period.
- (3) The aggregate of the advance payments of duty made by a participator in respect of a field for a chargeable period—
- (a) shall, to the extent to which it does not exceed the sum which sub-paragraph (1)(b) of paragraph 10 above requires him to pay when delivering his return for that period in respect of the field—
    - (i) discharge his liability to pay the whole or a corresponding part of that sum ; and
    - (ii) be treated for the purposes of sub-paragraph (4) of that paragraph as if it were, or were part of, a sum paid by him under sub-paragraph (1)(b) of that paragraph ; and
  - (b) shall, to the extent to which it exceeds the sum required to be paid as aforesaid, be repaid to him.
- (4) If in any month in a chargeable period a participator in an oil field—
- (a) has not delivered (otherwise than to the Secretary of State) any of the oil which has been won from the field and disposed of by him at any time in or before that month ; and
  - (b) has not relevantly appropriated any of the oil which has been so won by him at any such time,
- he shall be entitled to withhold the advance payment of duty (if any) in respect of the field for that period which next falls to be made by him after the end of that month.
- (5) An advance payment shall not be withheld by virtue of the conditions in sub-paragraph (4) above being fulfilled in any month unless a notice to that effect, in such form as the Board may prescribe, is given to the Board before the end of the next month and—

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- (a) where the Board are not satisfied with any such notice the powers conferred by paragraph 7 of Schedule 2 to the principal Act (production of accounts etc.) shall be exercisable as if the notice were a return under paragraph 2 of that Schedule ; and
  - (b) paragraph 8 of that Schedule (penalties) shall apply to an incorrect notice as it applies to an incorrect return under paragraph 2.
- (6) No advance payment of duty shall be made in respect of the first chargeable period to which Part VIII of this Act applies or in respect of the first chargeable period for any oil field.
- 12 Certificates of tax deposit issued by the Treasury under section 12 of the National Loans Act 1968 on terms published on or before 14th May 1979 may be used for making payments of duty; and for that purpose those terms shall have effect with the necessary modifications and as if the duty in or towards the payment of which a certificate is used were due—
- (a) in the case of duty payable under paragraph 9 or 10 above, two months after the end of the chargeable period to which it relates ;
  - (b) in the case of duty payable under paragraph 11 above, at the end of the month in which it is required to be paid.

#### *Interest*

- 13 (1) Duty charged in an assessment for a chargeable period shall carry interest at the rate applying under paragraph 15 of Schedule 2 to the principal Act from two months after the end of the period until payment.
- (2) Any amount payable by a participator as an advance payment of duty in respect of a field for a chargeable period and not paid by him in the month in which it ought to be paid shall carry interest at the rate applying under paragraph 15 of Schedule 2 to the principal Act from the end of that month until—
- (a) payment of the amount; or
  - (b) two months after the end of that period,
- whichever is the earlier.
- (3) Where under paragraph 8 above duty may be withheld until the determination or abandonment of an appeal, the interest on that duty may also be withheld until the determination or abandonment of the appeal.
- (4) Where any amount of duty charged by an assessment or paid on account of duty so charged becomes repayable, that amount shall carry interest at the rate applying under paragraph 15 of Schedule 2 to the principal Act from—
- (a) two months after the end of the chargeable period for which the assessment was made ; or
  - (b) the date on which it was paid,
- whichever is the later, until repayment.
- (5) Where any amount of duty paid as an advance payment becomes repayable under paragraph 11(3)(b) above, that amount shall carry interest at the rate applying under paragraph 15 of Schedule 2 to the principal Act from—
- (a) two months after the end of the chargeable period in respect of which it was paid ; or
  - (b) the date on which it was paid,

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whichever is the later, until repayment.

- (6) For the purposes of sub-paragraph (2) above a payment of overdue duty shall, so far as possible, be attributed to the earliest month for which duty is overdue; and for the purposes of sub-paragraphs (4) and (5) above any amount that becomes repayable shall, so far as possible, be regarded as consisting of the duty most recently paid.
- (7) In its application (by virtue of paragraph 2(1) above) to interest payable under sub-paragraph (2) above, section 69 of the Taxes Management Act 1970 shall have effect with the omission of the words "charged and due and payable under the assessment to which it relates".
- (8) Interest paid to a participator under sub-paragraph (4) or (5) above shall be disregarded in computing his income for the purposes of corporation tax.

*Transfers to associated companies*

- 14 In paragraph 5(2) and (4) of Schedule 3 to the principal Act (liability for petroleum revenue tax and interest in the case of transfers to associated companies) the references to tax and to interest payable under Part I of that Act shall include references to the duty and to interest payable under paragraph 13 above.

SCHEDULE 17

Section 134.

SPECIAL TAX ON BANKING DEPOSITS

**PART I**

THE BASE PERIOD AND CHARGEABLE DEPOSITS

*The base period*

- 1 (1) The base period for the purposes of section 134 of this Act ("the principal section") is the last quarter of 1980; and the average chargeable deposits held by a person in that period shall be determined by—
- (a) aggregating the chargeable deposits held by him at the close of business on 15th October, 19th November and 10th December 1980; and
  - (b) dividing the result by three.
- (2) Where a person regularly prepares statistics of the deposits held by him as at the close of business on a particular day in each month and the day in October, November or December 1980 is not that mentioned in sub-paragraph (1)(a) above, the Board may, on the application of that person, direct that for any of those days there shall be substituted the day in the month in question for which that person has prepared the statistics.
- (3) Any time at which the amount of the chargeable deposits held by a person falls to be ascertained by virtue of this paragraph is in this Schedule referred to as a material time.

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### *Chargeable deposits*

- 2 For the purposes of the principal section and this Schedule a deposit is any sum of money paid to a person carrying on a banking business (" a deposit-taker ") on terms—
- (a) under which it will be repaid either on demand or at a time or in circumstances agreed by or on behalf of the person who paid the sum and the deposit-taker ; and
  - (b) which are not, within the meaning of subsection (6) of section 1 of the Banking Act 1979, referable to the provision of property or services or to the giving of security.
- 3 (1) Subject to the following provisions of this paragraph, a deposit is a chargeable deposit at a material time if it is then held on terms under which it does not carry interest or a premium.
- (2) The following are not chargeable deposits—
- (a) any deposit not denominated in sterling ;
  - (b) any deposit paid to the deposit-taker by a company if at the material time the deposit-taker is a subsidiary of that company, or that company is a subsidiary of the deposit-taker, or both are subsidiaries of another company ;
  - (c) where the deposit-taker is resident in the United Kingdom for the purposes of income or corporation tax, any deposit which at the material time is held at a branch of his situated outside the United Kingdom ;
  - (d) where the deposit-taker is not so resident, any deposit which at that time is held otherwise than at a branch of his situated in the United Kingdom.
- (3) In sub-paragraph (1) above the reference to interest or a premium shall not be construed as including any allowance made by the deposit-taker in calculating whether any, and if so what, bank or other charges are to be made by him to the person making the deposit.
- (4) In sub-paragraph (2)(b) above " subsidiary " shall be construed in accordance with section 154 of the Companies Act 1948 or section 148 of the Companies Act (Northern Ireland) 1960.
- (5) For the purposes of sub-paragraph (2)(c) and (d) above a deposit is held at a branch of a deposit-taker if it is recorded in his books as a liability of that branch.
- 4 (1) Where any amount of the chargeable deposits held by a deposit-taker at a material time consists of the credit balance or balances on one or more accounts which the deposit-taker treats as reducing or extinguishing the amount on which he is entitled to interest in respect of the debit balance or balances on one or more other accounts held with him at that time, that amount of chargeable deposits shall be treated as equal to its excess, if any, over that other amount.
- (2) This paragraph applies only if the other account or accounts are denominated in sterling.
- 5 (1) The amount of chargeable deposits held by a deposit-taker at any material time shall be treated as—
- (a) reduced by an amount equal to 60 per cent, of any sum which has been credited in his books to an account held with him (whether or not an account the balance on which constitutes a chargeable deposit) by reference to a cheque or other authority which is then in course of collection by him ; and

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(b) increased by an amount equal to 60 per cent, of any sum which has been debited in his books to such an account by reference to a standing order or other authority which is then in course of transmission by him.

(2) In this paragraph " sum" means a sum denominated in sterling.

6 Where a person was carrying on a banking business at any time in the last quarter of 1980 but was not carrying on such a business on 10th March 1981, then, if his business was, after the first of the material times and before that date, transferred to another person who was carrying on such a business on that date, the principal section and this Schedule shall have effect as if any chargeable deposits held by the first-mentioned person at any material time had then been held by the other person.

## PART II

### MANAGEMENT AND COLLECTION

#### *Management*

7 The tax shall be under care and management of the Board.

#### *Notice of liability*

8 (1) Every person who is chargeable with the tax shall give notice to the Board that he is so chargeable.

(2) The notice shall be given not later than 1st September 1981.

(3) If any person fails to give the notice which he is required to give under this paragraph he shall be liable to a penalty not exceeding £1,000.

(4) Any application under paragraph 1(2) above shall be included in the notice given under this section.

#### *Returns*

9 (1) Every person who is chargeable with the tax shall on or before 1st October 1981 deliver to the Board a return complying with the following provisions of this paragraph; and the Board may by notice in writing require any person who—

(a) has not given a notice under paragraph 8 above ; but

(b) in the opinion of the Board is or may be chargeable with the tax,

to deliver such a return to the Board within such time (not being less than thirty days) as may be specified in the notice.

(2) Subject to sub-paragraph (3) below, a return delivered under this paragraph by any person shall contain—

(a) a statement, in relation to each material time, of the charge able deposits held by him and of—

(i) any deposits excluded from the chargeable deposits by virtue of paragraph 3(2)(b), (c) or (d) above ;

(ii) any adjustment of the amount of the chargeable deposits made by virtue of paragraph 4 or 5 above ;

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- (b) a computation of the amount by reference to which he is chargeable with the tax, of the total tax chargeable by reference to that amount and of the respective amounts of the tax due and payable by him on or before each of the dates mentioned in paragraph 13(1) below ; and
  - (c) such particulars of the aggregate amounts of the different kinds of deposit held by him in his banking business at each material time as the Board may require for the purposes of the tax.
- (3) In sub-paragraph (2)(c) above the reference to a person's banking business is—
- (a) in the case of a person who is not resident in the United Kingdom for the purposes of income tax or corporation tax, to so much of his banking business as is carried on by his branch or branches situated in the United Kingdom ;
  - (b) in the case of a person who is so resident, to his banking business exclusive of so much of it as is carried on by any branch of his which is situated outside the United Kingdom.
- (4) A return under this paragraph shall be in such form as the Board may prescribe and shall include a declaration that it is correct and complete.
- 10 (1) If a person fails to deliver a return within the time within which he is required to deliver it under paragraph 9 above he shall be liable, subject to sub-paragraph (3) below—
- (a) to a penalty not exceeding, except in the case mentioned in sub-paragraph (2) below, £500 ; and
  - (b) if the failure continues after it has been declared by the court or the Special Commissioners before whom proceedings for the penalty have been commenced, to a further penalty not exceeding £100 for each day on which the failure so continues.
- (2) If the failure continues after the end of six months from the time by which the return ought to have been delivered, the penalty under sub-paragraph (1)(a) above shall be an amount not exceeding the aggregate of £500 and the total amount of the tax with which the person in question is chargeable.
- (3) Except in the case mentioned in sub-paragraph (2) above, a person shall not be liable to any penalty incurred under this paragraph for failure to deliver a return if the failure is remedied before proceedings for the recovery of the penalty are commenced.

#### *Payment of tax*

- 11 (1) The tax chargeable in the case of any person shall be due and payable—
- (a) as to one half, on or before 1st October 1981 ;
  - (b) as to one quarter, on or before 1st December 1981 ; and
  - (c) as to the remainder, on or before 1st February 1982,
- and shall be so due and payable whether or not an assessment to the tax has been made by the date in question.
- (2) Certificates of tax deposit issued by the Treasury under section 12 of the National Loans Act 1968 on terms published on or before 14th May 1979 may be used for paying the tax ; and for that purpose those terms shall have effect with the necessary modifications and as if the tax in or towards the payment of which a certificate is used were due as provided in sub-paragraph (1) above.

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### *Assessments*

- 12 (1) Any tax with which a person is chargeable may be assessed on him whether or not it has been paid (in whole or in part) when the assessment is made.
- (2) The making of an assessment in respect of any tax shall not affect the date when it is due and payable.
- (3) Where a person has under paragraph 9 above delivered to the Board a return and the Board are satisfied that the information given in it with respect to his chargeable deposits is correct and complete, the Board shall make an assessment in accordance with the return.
- (4) Where the Board are not so satisfied in relation to a return, or a person fails to deliver to the Board a return as required under paragraph 9 above, any assessment made by the Board shall be made to the best of their judgment.
- (5) An assessment may be made at any time not later than 30th September 1987 except that where any form of fraud or wilful default or any neglect has been committed by or on behalf of any person in connection with or in relation to the tax, assessments on that person may, for the purpose of making good to the Crown any loss of tax attributable to the fraud, wilful default or neglect, be made at any time.
- (6) An assessment which by virtue of subsection (5) above is made after 30th September 1987 shall require the leave of a Special Commissioner given on being satisfied by an inspector or other officer of the Board that there are reasonable grounds for believing that tax has or may have been lost to the Crown owing to the fraud, wilful default or neglect of any person; and the Special Commissioner giving leave to make such an assessment shall take no part in the proceedings, and shall not be present, when any appeal against the assessment is heard or determined.
- (7) A person who is not resident in the United Kingdom may be assessed and charged with the tax in the name of any branch or agent in the United Kingdom.
- (8) Notice of any assessment shall be served on the person assessed and shall state the date on which it is issued and the time within which any appeal against the assessment may be made.
- (9) After the notice of assessment has been served on the person assessed, the assessment shall not be altered except in accordance with the following provisions of this Schedule.
- 13 (1) Where it appears to the Board that the amount of tax charged by an assessment should have been larger they may make a further assessment; and where it appears to them that the amount charged by an assessment should have been smaller they may amend the assessment accordingly.
- (2) Paragraph 12(8) and (9) above shall apply in relation to any assessment or amendment under this paragraph.

### *Right of appeal*

- 14 (1) An appeal may be brought against an assessment to the tax by a notice of appeal in writing given to the Board within thirty days after the date of the notice of assessment.
- (2) The appeal shall be to the Special Commissioners.

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- (3) The notice of appeal against any assessment shall specify the grounds of appeal, but on the hearing of the appeal the Special Commissioners may allow the appellant to put forward any ground not specified in the notice and take it into consideration if satisfied that the omission was not wilful or unreasonable.
- (4) Subject to section 55 of the Taxes Management Act 1970 as applied by paragraph 18 below, an appeal against an assessment shall not affect the date when any tax is due.

#### *Interest*

- 15 (1) Any tax with which a person is chargeable and which is not paid by the time by which paragraph 11(1) above requires it to be paid shall carry interest from that time until payment.
- (2) Sub-paragraph (1) above applies to any such tax as is there mentioned whether or not payment of it is postponed under section 55 of the Taxes Management Act 1970 as applied by paragraph 18 below.
- (3) Any amount of tax which becomes repayable shall carry interest—
  - (a) in the case of tax in respect of which interest has been paid under sub-paragraph (1) above, from the time by which paragraph 11(1) above requires the tax to be paid until it is repaid ;
  - (b) in any other case, from the time when paragraph 11(1) above requires the tax to be paid (or, if later, the time when it is pa(d) until it is repaid.
- (4) The rate of interest under this paragraph for any period shall be that applying for that period for the purposes of sections 86 and 87 of the said Act of 1970.
- (5) Interest payable under sub-paragraph (1) above shall be paid without any deduction of income tax and shall not be allowed as a deduction in computing income, profits or losses for any tax purposes; and interest paid under sub-paragraph (3) above shall be disregarded in computing income, profits or losses for any such purpose.

#### *Information*

- 16 (1) Where the Board are not satisfied that the information given in a return delivered by any person under paragraph 9 above is correct and complete or a person who the Board believe to be chargeable with the tax has failed to deliver to the Board a return under that paragraph, the Board may by notice in writing require that person—
  - (a) to deliver to the Board, within such time as is specified in the notice (not being less than thirty days), copies of any such accounts, books, records or other documents whatsoever in his possession or power as may be specified or described in the notice ;
  - (b) to make available, within such time as aforesaid, for inspection by an officer authorised by the Board all such accounts, books, records or other documents whatsoever in that person's possession or power as may be so specified or described,
 being, in either case, accounts, books, records or documents which the Board may reasonably require to inspect for the purpose of determining whether a person is chargeable to the tax or the amount of the tax with which a person is chargeable.



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- (2) An authorised officer of the Board may take copies of, or make extracts from, any accounts, books, records or other documents made available for inspection under this paragraph.
- (3) Nothing in this paragraph shall require a person to deliver or make available for inspection any particulars of an account held by any person except the balance at any material time.

*Incorrect returns, accounts, etc.*

- 17 (1) Where a person fraudulently or negligently—
- (a) delivers an incorrect return under paragraph 9 above ; or
  - (b) submits under paragraph 16 above any document that is incorrect,
- he shall be liable to a penalty not exceeding the aggregate of—
- (i) £50, and
  - (ii) the amount or, in the case of fraud, twice the amount, of the difference between the tax payable and the tax that would have been payable if the return or document had been correct.
- (2) Where a return or other document was made or submitted by a person neither fraudulently nor negligently and it comes to his notice that it was incorrect, then, unless the error is remedied without unreasonable delay, the return or document shall be treated for the purpose of this paragraph as having been negligently made or submitted.
- (3) For the purposes of this paragraph any return or document made or submitted on behalf of a person shall be deemed to have been made or submitted by him unless he proves that it was submitted without his consent or connivance.
- (4) In this paragraph " document" includes accounts, books and records.

*Application of Taxes Management Act*

- 18 (1) The provisions of the Taxes Management Act 1970 specified in the first column of the following Table shall apply in relation to the tax as they apply in relation to a tax within the meaning of that Act subject to any modifications specified in the second column of that Table and with the substitution—
- (a) for references to Part IX of that Act, to the Taxes Act or the Income Tax Acts of references to section 134 of this Act and this Schedule ;
  - (b) for references to profits or gains, profits, income or charge able gains of references to amounts chargeable to the tax.

TABLE

<i>Provision applied</i>	<i>Modifications</i>
Section 1(3)	—
4	—
30	Omit the words after " accordingly " .
32	In subsection (1) omit " and for the same chargeable period " .

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<i>Provision applied</i>	<i>Modifications</i>
33(1)	For " six years after the end of the year of assessment (or, if the assessment is to corporation tax, the end of the accounting period) in which the assessment was made" substitute " 30th September 1987 ".
(2)	—
(3)	Omit the words after " profits of the claimant ".
(4)	—
(5)	For the words after " profits " substitute " means amounts chargeable to the tax ".
42(1)	—
(2)	—
(3)	Omit the words after " that decision ".
(4)	Substitute " (4) An appeal under this section shall lie to the Special Commissioners. "
(5)	Omit the words after " such form as the Board may determine ".
(7)	—
(8)	—
(9)	—
43(1)	For the words " within six years from the end of the chargeable period to which it relates" substitute " before 30th September 1987 ".
48	—
49(1)	—
50	Omit the proviso to subsection (5).
51	—
52	—
53	—
54	—
55(1)	Substitute " (1) This section applies to an appeal to the Special Commissioners against an assessment under paragraph 12 of Schedule 17 to the Finance Act 1981 ".
(2)	—
(3)	—
(4)	—

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<i>Provision applied</i>	<i>Modifications</i>
(5)	—
(6)	For paragraphs (a) and (b) substitute: “(a) in the case of a determination made on an application under subsection (3) above, any tax the payment of which is not postponed shall be due and payable forthwith (or, if later, on the date on which it is due and payable under paragraph 11(1) of Schedule 17 to the Finance Act 1981); and (b) in the case of a determination made on an application under subsection (4) above, any tax the payment of which ceases to be postponed shall be due and payable forthwith (or, if later, on the date referred to in paragraph (a) above) or any tax overpaid shall be repaid, as the case may require.”
(7)	—
(8)	—
(9)	For the words from "as if it were tax " to " pending " there shall be substituted the words " forthwith or, if later, on the date referred to in subsection (6)(a) above ".
(10)	Omit the words from the beginning to " was issued ; and ".
56	—
58(2)	—
(3)	Omit the reference to section 59 and for paragraphs (a) and (b) substitute " proceedings in Northern Ireland means proceedings in respect of a person whose principal place of business or head office is in Northern Ireland ".
60	In subsection (1) omit the words after " charged therewith ".
66	—

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<i>Provision applied</i>	<i>Modifications</i>
67	—
68	—
69	In paragraph (a) substitute a reference to sections 66 to 68 as applied by this paragraph.
70(1)	—
(2)	For the reference to section 86 or 87 substitute a reference to paragraph 15 of this Schedule.
71	—
74	—
75	—
83	—
98	Omit the Table and for references to any of the provisions specified in it substitute a reference to section 51 as applied by this Schedule and to paragraph 16 of this Schedule.
99	—
100(1)	Omit the words before " no proceedings ".
(2)	—
(3)	Omit the reference to the General Commissioners.
(5) to (9)	—
101	For the words after "sufficient evidence" substitute the words " of the chargeable deposits stated therein and of the excess over £15 million of the average of such deposits held in the base period ".
102	—
103(1)	—
(2)	—
(3)	Omit the words from " for any chargeable period " to " end of that chargeable period ".
104	—
105	—
107	—
108	In subsection (2) for the words from the beginning to " Acts" substitute " The tax

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<i>Provision applied</i>	<i>Modifications</i>
	chargeable under section 134 of the Finance Act 1981 ".
112	—
113(1A)	—
(1B)	—
(3)	—
114	
115(1) to (3)	—
118(1) to (3)	—

- (2) Any expression to which a meaning is given by the principal section or this Schedule and which is used in a provision of the Taxes Management Act 1970 as applied by this paragraph shall in that provision, as so applied, have the same meaning as in that section and this Schedule.

## SCHEDULE 18

Section 136.

### EXCHANGE CONTROL

#### *Restriction of borrowing etc. from non-residents*

- 1 (1) Except with the permission of the Treasury, no person resident in the United Kingdom shall borrow any money from a person resident outside the scheduled territories.
- (2) Except with the permission of the Treasury, no person resident in the United Kingdom shall—
- (a) issue, negotiate or transfer to a person resident outside the scheduled territories any instrument to which this sub-paragraph applies ;
  - (b) renew any such instrument which is held by a person resident outside the scheduled territories ; or
  - (c) acquire or renew any such instrument on behalf of a person resident outside the scheduled territories ;
- but a contravention of this sub-paragraph shall not affect the validity of any instrument or the rights of the parties to any transaction.
- (3) Sub-paragraph (2) above does not apply to a banknote or certificate of deposit but, with those exceptions, applies to—
- (a) any bill of exchange (including a cheque), promissory note or similar instrument;
  - (b) any other instrument which confers or evidences a right (whether conditional or unconditional) to be paid or to obtain, or to draw on any person for, a sum of money with or without interest, being a right capable of being transferred by delivery of the instrument with or without endorsement; and

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(c) any instrument (not being an instrument within paragraph (a) or (b) above) of a description which is for the time being prescribed for the purposes of that sub-paragraph,  
including any such instrument as aforesaid which is governed by the law of a country outside the United Kingdom.

*Deposits by borrowers from non-residents etc.*

- 2 (1) Where a person resident in the United Kingdom borrows any money from a person resident outside the scheduled territories or any money, being foreign currency, from a person resident in the scheduled territories the Treasury may, subject to the provisions of this paragraph, give him directions requiring him—
- (a) to deposit with the Bank of England, within such time and in such manner as may be specified in the directions, a sum in sterling of such amount as may be so specified; and
  - (b) either so to deposit it free of interest or to pay to the Bank in respect of it a charge or charges at such rate as may be so specified.
- (2) The amount of the sum which directions under this paragraph require a person to deposit in respect of any money borrowed by him shall not exceed the prescribed amount (which may be equal to the amount of the money borrowed or to a proportion of it) and the rate of any charge which the directions require to be paid shall not exceed the prescribed rate.
- (3) Any sum which directions under this paragraph require to be deposited may at any time with the consent of the Treasury be repaid (in whole or in part) by the Bank of England; and any such sum shall, if not previously repaid, be repaid by the Bank of England—
- (a) at the expiration of such period beginning with the date of the deposit as may be specified in the directions; or
  - (b) if no period is so specified, when the Bank is satisfied that the borrowed money has been repaid ;
- and where no period is so specified and the Bank is satisfied that a proportion of the borrowed money has been repaid, a corresponding proportion of the sum deposited, so far as not already repaid, shall be repaid by the Bank.
- (4) The period which directions specify for the purposes of sub-paragraph (3)(a) above shall not exceed such maximum, if any, as may be prescribed.
- (5) Where directions given under this paragraph to any person are revoked any sum then held by the Bank of England pursuant to the directions shall be repaid to him.
- (6) Any charge required to be paid by directions under this paragraph may, if not previously paid, be deducted by the Bank of England in making a repayment to the person liable for the charge.
- (7) For the purposes of sub-paragraph (2) above the sterling equivalent of any amount of currency other than sterling shall be determined by reference to the London market spot selling rate for sterling on the last working day before the borrowed money is received or, if there is no such rate, by reference to such rate as may be specified by the Bank of England.

*Deposits by banks etc.*

- 3
- (1) Without prejudice to paragraph 2 above but subject to sub-paragraph (2) below, the Treasury may give directions under this paragraph to any person resident in the United Kingdom who holds deposits (in this paragraph referred to as " non-resident deposits ") which are denominated in sterling and were accepted by him from a person resident outside the scheduled territories.
  - (2) No directions shall be given under this paragraph to any person other than a recognised bank or licensed institution within the meaning of the Banking Act 1979 unless he is a prescribed person or belongs to a prescribed class.
  - (3) The directions given under this paragraph to any person may require him—
    - (a) to deposit with the Bank of England, at such time or times and in such manner as may be specified in the directions, a sum or sums in sterling of such amount or amounts as may be determined in accordance with the directions ; and
    - (b) either so to deposit the sum or sums free of interest or to pay to the Bank in respect thereof a charge or charges at such rate, not exceeding the prescribed rate, as: may be so specified.
  - (4) The amount of the sum or sums which directions under this paragraph require a person to deposit shall be determined by reference to increases in the level of the non-resident deposits held by that person; and the directions shall provide for repayments to be made to him by the Bank by reference to reductions in that level.
  - (5) The method of determining whether there is any, and if so what, increase or reduction in the level of non-resident deposits held by a person shall be such as may be specified in the directions given to him but the directions shall not without his consent be so framed as to take into account any increase over a level determined by reference to any date which is more than forty-two days before the coming into force of this Schedule.
  - (6) Different methods may be specified under sub-paragraph (5) above in relation to different persons; and the method specified under that sub-paragraph in relation to any person—
    - (a) may make different provision in relation to different deposits, including provision for leaving particular deposits out of account;
    - (b) may provide for disregarding any increase in whole or in part in cases where it appears to the Bank of England that it is reasonable to do so.
  - (7) Any charges which directions under sub-paragraph (3)(b) above require a person to pay to the Bank of England may, if the directions so provide, be deducted by the Bank from the sum for the time being held by it pursuant to the directions, and the directions may require any such deduction to be made good by that person by depositing further sums under sub-paragraph (3)(a) above.
  - (8) Directions given to any person under this paragraph may require him to make such returns or give such information to the Bank of England as may be required for establishing whether any, and if so what, sums are to be deposited by or repaid to him under the directions.
  - (9) Where directions given under this paragraph to any person are revoked any sum then held by the Bank of England pursuant to the directions shall be repaid to him.

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*Status: This is the original version (as it was originally enacted).*

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- (10) In this paragraph " deposits ", where the reference is to nonresident deposits, means any deposit as defined in section 1 of the Banking Act 1979 except that it includes—
- (a) any sum excluded from that definition by subsection (5) of that section; and
  - (b) any sum which is paid by one branch of a business to an other and which would be a deposit if the branches were separate persons ;
- and in paragraph (b) above references to a branch of a business include references to its head office.

#### *Supplementary*

- 4 (1) The Bank of England shall pay to the Treasury sums equivalent to those deposited with it by virtue of paragraphs 2 and 3 above ; and the Treasury shall in respect of the sums paid to it under this sub-paragraph assume a liability to the Bank on such terms as to repayment or otherwise as may be agreed between the Treasury and the Bank but so that no interest on those sums shall accrue to the Bank.
- (2) Any repayment made by the Bank of England to any person by virtue of those paragraphs shall be made in such manner as may be specified in directions given under those paragraphs.
- (3) Any sums received or deducted by the Bank of England as charges payable by virtue of those paragraphs shall be paid over to the Treasury.
- (4) Any sums received by the Treasury under sub-paragraph (1) or (3) above shall be paid into the National Loans Fund ; and any sums required by the Treasury for making payments to the Bank under sub-paragraph (1) above shall be issued out of that Fund.
- (5) Different rates may be prescribed for charges under paragraph 2 above and for charges under paragraph 3 above.
- (6) Without prejudice to any provision made by an Order in Council under section 43(3) of the Exchange Control Act 1947 (Channel Islands), paragraphs 1 to 3 above shall extend to the Channel Islands with the substitution for any reference to the United Kingdom of a reference to the Channel Islands.

### SCHEDULE 19

Section 139.

#### REPEALS

#### PART I

#### IMPORT PROCEDURES

Chapter	Short Title	Extent of Repeal
<a href="#">1979 c. 2.</a>	The Customs and Excise Management Act 1979.	In section 1(1) the definition of " perfect entry ". Section 37(5)(a).

These repeals have effect from such day as may be appointed by the Commissioners of Customs and Excise by order made by statutory instrument and different days may be appointed for different repeals.



*Status: This is the original version (as it was originally enacted).*

Chapter	Short Title	Extent of Repeal
		<p>In section 43, in subsection (2)(b) the words "or, in the case of goods entered by bill of sight, perfect entry" and subsection (4).</p> <p>Section 119(2).</p> <p>In section 128(1) and (2) the words " customs or ".</p>

These repeals have effect from such day as may be appointed by the Commissioners of Customs and Excise by order made by statutory instrument and different days may be appointed for different repeals.

## PART II

### EXPORT PROCEDURES

Chapter	Short Title	Extent of Repeal
<a href="#">1979 c. 2.</a>	The Customs and Excise Management Act 1979.	Section 60(5) to (7). Section 76.
<a href="#">1979 c. 58.</a>	The Isle of Man Act 1979.	In Schedule 1, paragraphs 9, 10 and 11.

These repeals do not affect goods exported before 1st October 1981.

## PART III

### CUSTOMS AND EXCISE: MISCELLANEOUS

Chapter	Short Title	Extent of Repeal
<a href="#">1955 c. 16.</a>	The Food and Drugs Act 1955.	In section 3(4) the words from " but" onwards.
<a href="#">1956 c. 30.</a>	The Food and Drugs (Scotland) Act 1956.	In section 3(4) the words from " but" onwards.
<a href="#">1958 c. 27 (N.I.).</a>	The Food and Drugs (Northern Ireland) Act 1958.	In section 3(4) the words from " but" onwards.

- The repeals in the Food and Drugs Act 1955, the Food and Drugs (Scotland) Act 1956, the Food and Drugs (Northern Ireland) Act 1958, the Licensing (Scotland) Act 1976 and Schedule 3 to the Alcoholic Liquor Duties Act 1979 and the repeals of sections 65(1) to (7), 66, 70, 84, 86(1)(a) and (2) and 89 of the said Act of 1979 have effect from 1st July 1982.
- The repeal in section 6 of the Betting and Gaming Duties Act 1972 has effect from 1st July 1981.
- The repeals in the Finance (No. 2) Act 1975 and the repeals of sections 4(2), (3), 5(2) and (3) of and Schedules 3 and 4 to the Finance Act 1980 do not affect licences taken out before 11th March 1981.
- The repeals in the Hydrocarbon Oil Duties Act 1979 have effect in relation to oil used on or after 1st January 1982.

*Status: This is the original version (as it was originally enacted).*

Chapter	Short Title	Extent of Repeal
1969 c. 16.	The Customs Duties (Dumping and Subsidies) Act 1969.	Section 16.
1972 c. 25.	The Betting and Gaming Duties Act 1972.	In section 6(3)(b)(v) the words from " (disregarding" onwards.  In Schedule 2, in paragraph 14, the words " the contravention, or as the case may be ".  In Schedule 4, in paragraph 4(1) the words following the word " force " and in paragraph 17 the words " the contravention, or as the case may be ".
1974 c. 30.	The Finance Act 1974.	Section 2(1).
1975 c. 45.	The Finance (No. 2) Act 1975.	Section 5(4). Section 6(4).
1976 c. 66.	The Licensing (Scotland) Act 1976.	Section 94.  In section 139(1), in the definition of " alcoholic liquor " the words from "so" onwards and the definition of " wholesaler's excise licence ".
1979 c. 2.	The Customs and Excise Management Act 1979.	In section 94, in subsection (1), the words " Subject to subsection (2) below ", and subsection (2).  Section 95(2)(a).  Sections 105 and 106.  In section 117(6), the words from " subject" to " spirits ".
<ol style="list-style-type: none"> <li>1. The repeals in the Food and Drugs Act 1955, the Food and Drugs (Scotland) Act 1956, the Food and Drugs (Northern Ireland) Act 1958, the Licensing (Scotland) Act 1976 and Schedule 3 to the Alcoholic Liquor Duties Act 1979 and the repeals of sections 65(1) to (7), 66, 70, 84, 86(1)(a) and (2) and 89 of the said Act of 1979 have effect from 1st July 1982.</li> <li>2. The repeal in section 6 of the Betting and Gaming Duties Act 1972 has effect from 1st July 1981.</li> <li>3. The repeals in the Finance (No. 2) Act 1975 and the repeals of sections 4(2), (3), 5(2) and (3) of and Schedules 3 and 4 to the Finance Act 1980 do not affect licences taken out before 11th March 1981.</li> <li>4. The repeals in the Hydrocarbon Oil Duties Act 1979 have effect in relation to oil used on or after 1st January 1982.</li> </ol>		

*Status: This is the original version (as it was originally enacted).*

Chapter	Short Title	Extent of Repeal
1979 c. 4.	The Alcoholic Liquor Duties Act 1979.	<p>In section 4(1), paragraph (b) of the definition of " retailer " and the definitions of " spirits advice note" and " spirits consignment note ".</p> <p>In section 21(2), paragraph (b).</p> <p>Sections 27 to 30.</p> <p>In section 32(1) the words from " and " onwards.</p> <p>Sections 65 and 66.</p> <p>Section 68.</p> <p>Section 70.</p> <p>Section 76.</p> <p>In section 77(4) the words " or 76".</p> <p>Sections 84 to 89.</p> <p>In Schedule 3, paragraphs 1, 2, 5(2), 8(2), (3), (5) and 9(b).</p>
1979 c. 5.	The Hydrocarbon Oil Duties Act 1979.	<p>In section 17, in subsection (1) the words " unless that amount is less than £2.50" and subsection (4).</p> <p>In section 18(1) the words " in such manner as the Commissioners may direct", the words from " at any time " to " allow)" and the words "unless that amount is less than £5 ".</p> <p>In section 19, in subsection (3) the words from</p>

1. The repeals in the Food and Drugs Act 1955, the Food and Drugs (Scotland) Act 1956, the Food and Drugs (Northern Ireland) Act 1958, the Licensing (Scotland) Act 1976 and Schedule 3 to the Alcoholic Liquor Duties Act 1979 and the repeals of sections 65(1) to (7), 66, 70, 84, 86(1)(a) and (2) and 89 of the said Act of 1979 have effect from 1st July 1982.
2. The repeal in section 6 of the Betting and Gaming Duties Act 1972 has effect from 1st July 1981.
3. The repeals in the Finance (No. 2) Act 1975 and the repeals of sections 4(2), (3), 5(2) and (3) of and Schedules 3 and 4 to the Finance Act 1980 do not affect licences taken out before 11th March 1981.
4. The repeals in the Hydrocarbon Oil Duties Act 1979 have effect in relation to oil used on or after 1st January 1982.

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Chapter	Short Title	Extent of Repeal
1979 c. 7.	The Tobacco Products Duty Act 1979.	" at any time " to " allow, " and subsections (4) and (5). In Schedule 4, in the heading to paragraph 1, the words "under sections 9 and 14". In section 2(1) the words " subject to section 3 below " . Section 3. In section 4 the words "and in section 3(1) above " . In section 6(5), paragraph (b) together with the word "and" immediately preceding it.
1980 c. 48.	The Finance Act 1980.	Sections 1 and 2. Section 4(2) and (3). Section 5(2) and (3). Section 8. Schedules 1 to 4.
<ol style="list-style-type: none"> <li>1. The repeals in the Food and Drugs Act 1955, the Food and Drugs (Scotland) Act 1956, the Food and Drugs (Northern Ireland) Act 1958, the Licensing (Scotland) Act 1976 and Schedule 3 to the Alcoholic Liquor Duties Act 1979 and the repeals of sections 65(1) to (7), 66, 70, 84, 86(1)(a) and (2) and 89 of the said Act of 1979 have effect from 1st July 1982.</li> <li>2. The repeal in section 6 of the Betting and Gaming Duties Act 1972 has effect from 1st July 1981.</li> <li>3. The repeals in the Finance (No. 2) Act 1975 and the repeals of sections 4(2), (3), 5(2) and (3) of and Schedules 3 and 4 to the Finance Act 1980 do not affect licences taken out before 11th March 1981.</li> <li>4. The repeals in the Hydrocarbon Oil Duties Act 1979 have effect in relation to oil used on or after 1st January 1982.</li> </ol>		

#### PART IV

##### VALUE ADDED TAX

Chapter	Short Title	Extent of Repeal
1980 c. 48.	The Finance Act 1980.	In section 11, in subsection (1) the figure "(3)", and subsections (3) and (5). Section 12(3).

*Status: This is the original version (as it was originally enacted).*

## PART V

### CAR TAX

Chapter	Short Title	Extent of Repeal
<a href="#">1972 c. 41.</a>	The Finance Act 1972.	In section 52(3) the words " has three or more wheels ".  In Schedule 7, in paragraph 7(a) the words " and was not registered before it was exported " and in paragraph 1(b) the words " and is not registered ".

## PART VI

### INCOME TAX AND CORPORATION TAX: GENERAL

Chapter	Short Title	Extent of Repeal
<a href="#">1970 c. 10.</a>	The Income and Corporation Taxes Act 1970.	In section 8(2)(b)(i) the word " and ".  In section 18, in subsection (2) paragraph (c) together with the word " and " preceding it and in subsection (6) the definition of " tax-free disability payment".  Sections 95 to 97.  In section 188(6) the words "payment of compensation for loss of office ".  In section 269(1), paragraph (c) together with the word " and " immediately preceding it.  Section 451 (4).

1. The repeals in section 188 of and Schedule 8 to the Income and Corporation Taxes Act 1970 and the repeal of section 24 of the Finance Act 1978 do not affect any payment which by virtue of section 187(4) of the said Act of 1970 is treated as income received before 6th April 1981 and have effect subject to section 31(7) of this Act.
2. The repeal in section 269 of the said Act of 1970 has effect in relation to interest paid in any accounting period ending on or after 1st April 1981.
3. The repeals in section 36 of the Finance (No. 2) Act 1975 and in the Finance Act 1976 have effect for the year 1982—83 and subsequent years of assessment.
4. The repeals in Schedule 6 of the Finance Act 1978 and Schedule 13 of the Finance Act 1980 have effect as provided in section 74(6) of this Act.

*Status: This is the original version (as it was originally enacted).*

Chapter	Short Title	Extent of Repeal
		In Schedule 8, paragraphs 3 to 5, in paragraph 6 the words in brackets, paragraphs 8 and 9, in paragraph 10 the proviso, in paragraph 11 the words from "and as if" onwards and paragraph 13.
1971 c. 68.	The Finance Act 1971.	In Schedule 6, paragraph 12.
1973 c. 51.	The Finance Act 1973.	Section 28(6)(a).
1975 c. 7.	The Finance Act 1975.	Section 11.
1975 c. 45.	The Finance (No. 2) Act 1975.	Section 30(3). In section 36(5)((f) the words " or family ".
1976 c. 40.	The Finance Act 1976.	Section 68.
1978 c. 42.	The Finance Act 1978.	Section 24. In Schedule 6, paragraphs 2, 3, 5 and 6.
1980 c. 48.	The Finance Act 1980.	Section 27. Section 119(4). In Schedule 13, in paragraph 4 the words " and (3)" and ", of the proviso to section 3(4)".
<ol style="list-style-type: none"> <li>1. The repeals in section 188 of and Schedule 8 to the Income and Corporation Taxes Act 1970 and the repeal of section 24 of the Finance Act 1978 do not affect any payment which by virtue of section 187(4) of the said Act of 1970 is treated as income received before 6th April 1981 and have effect subject to section 31(7) of this Act.</li> <li>2. The repeal in section 269 of the said Act of 1970 has effect in relation to interest paid in any accounting period ending on or after 1st April 1981.</li> <li>3. The repeals in section 36 of the Finance (No. 2) Act 1975 and in the Finance Act 1976 have effect for the year 1982—83 and subsequent years of assessment.</li> <li>4. The repeals in Schedule 6 of the Finance Act 1978 and Schedule 13 of the Finance Act 1980 have effect as provided in section 74(6) of this Act.</li> </ol>		

## PART VII

### STOCK RELIEF

Chapter	Short Title	Extent of Repeal
1975 c. 7.	The Finance Act 1975.	Section 18. Schedule 3.
1975 c. 45.	The Finance (No. 2) Act 1975.	Section 54.

These repeals do not affect periods of account other than those mentioned in section 35(1) of this Act and have effect subject to Schedule 10 to this Act.

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Chapter	Short Title	Extent of Repeal
1976 c. 40.	The Finance Act 1976.	Schedule 10. Section 37.
1978 c. 42.	The Finance Act 1978.	Schedule 5. In section 28(5)(A) the words "and of computing relevant income under Schedule 5 to the Finance Act 1976 (stock relief)". In section 30, in subsection (7)(e) the words " and paragraph 6 of Schedule 5 to ".
1979 c. 47.	The Finance (No. 2) Act 1979.	In Schedule 4, paragraph 7. Section
1980 c. 48.	The Finance Act 1980.	Schedule 3. Section 40. Schedule 7.

These repeals do not affect periods of account other than those mentioned in section 35(1) of this Act and have effect subject to Schedule 10 to this Act.

## PART VIII

### CAPITAL GAINS

Chapter	Short Title	Extent of Repeal
1979 c. 14.	The Capital Gains Tax Act 1979.	Section 17. Section 19(3). In Schedule 4, in paragraphs 1(2) and 3(2), the words "and a claim" to "that Schedule ".
1980 c. 48.	The Finance Act 1980.	In section 37(3), the words from " and where " onwards.

1. The repeal of section 17 of the Capital Gains Tax Act 1979 has effect only in relation to chargeable gains accruing to trustees after 5th April 1981.
2. The repeals in section 19 of that Act and section 37 of the Finance Act 1980 have effect in relation to acquisitions and disposals on or after 10th March 1981.

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*Status: This is the original version (as it was originally enacted).*

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**PART IX**

## CAPITAL TRANSFER TAX

Chapter	Short Title	Extent of Repeal
1975 c. 7.	The Finance Act 1975.	Section 30. Section 35. In Schedule 4, paragraph 16(5), (6) and (7). In Schedule 5, paragraph 5. Part I of Schedule 8. In Schedule 10, paragraph 7(2)(b).
1976 c. 40.	The Finance Act 1976.	Section 74. Section 93. Section 97. Sections 115 and 116. In section 117(1), paragraph (a) and in paragraph (b) the word "other" where it first occurs. In Schedule 14, paragraph 6.
1977 c. 36.	The Finance Act 1977.	Section 51.
1980 c. 48.	The Finance Act 1980.	In Schedule 15, paragraph 8.
		<ol style="list-style-type: none"> <li>1. The repeals of section 30 of, and in Schedules 4 and 5 to, the Finance Act 1975 and of section 97 of, and in Schedule 14 to, the Finance Act 1976 have effect in relation to chargeable transfers made on or after 10th March 1981.</li> <li>2. The repeals of section 35 of, and Part I of Schedule 8 to, the Finance Act 1975 and section 74 of the Finance Act 1976 have effect in relation to transfers of value, distribution payments and capital distributions made on or after 10th March 1981; but they do not affect the operation of Part II of the said Schedule 8.</li> <li>3. The repeal in Schedule 10 to the Finance Act 1975 has effect in relation to transfers of value made on or after 10th March 1981.</li> <li>4. The repeal of section 93 of the Finance Act 1976 does not affect transfers of value made before 6th April 1981.</li> <li>5. The repeals of sections 115 and 116, and in section 117, of the Finance Act 1976 have effect in accordance with section 106 of this Act.</li> <li>6. The repeal of section 51 of the Finance Act 1977 has effect in relation to property transferred into settlement on or after 10th March 1981.</li> </ol>

**PART X**

## PETROLEUM REVENUE TAX

Chapter	Short Title	Extent of Repeal
1980 c. 1.	The Petroleum Revenue Tax Act 1980.	In the Schedule, in paragraph 4(2) the words " in relation to



*Status: This is the original version (as it was originally enacted).*

Chapter	Short Title	Extent of Repeal
		the later (or only) chargeable period comprised in a calendar year ".

## PART XI

### EXCHANGE CONTROL

Chapter	Short Title	Extent of Repeal
<a href="#">1971 c. 80.</a>	The Banking and Financial Dealings Act 1971.	In section 2(6) the definitions of " authorised dealer in foreign currency" and " authorised dealer in gold ".

## PART XII

### IRISH LAND ACTS

Chapter	Short Title	Extent of Repeal
<a href="#">3 Edw. 7. c. 37.</a>	The Irish Land Act 1903.	In section 33 the words " and the accounts when audited shall be laid before Parliament ".
<a href="#">1968 c. 13.</a>	The National Loans Act 1968.	In section 16(9), paragraph (b) together with the word " and " preceding it.

These repeals have effect from 1st April 1982.