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SCHEDULES

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.
- (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-

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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 ;
 - (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;

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- (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 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 "

- 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.