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*Changes to legislation: There are currently no known outstanding effects for the Companies Act 1985, CHAPTER IV. (See end of Document for details)*

## SCHEDULES

### <sup>F1</sup>SCHEDULE 9

#### [<sup>F1</sup>SPECIAL PROVISIONS FOR BANKING COMPANIES AND GROUPS]

##### Textual Amendments

- F1** Sch. 9 Pts. I-V (paras. 2-36) renumbered as Part I by Companies Act 1989 (c. 40, SIF 27), ss. 18(3)(4), 213(2), Sch. 7 (subject to the transitional and saving provisions mentioned in S.I. 1990/355, arts. 6-9)
- F1** Sch. 9: heading substituted (2.12.1991) by virtue of S.I. 1991/2705, regs. 5(3), 9

##### Modifications etc. (not altering text)

- C1** Sch. 9 (except para. 2(a)-(d), para. 3(c)-(e) and para. 10(1)(c)) applied with modifications by S.I. 1985/680, regs. 4-6, Sch.

### [<sup>F1</sup>PART I

#### INDIVIDUAL ACCOUNTS]

##### Textual Amendments

- F1** Sch. 9 Pt. I paras. 1-87 inserted (2.12.1991) by S.I. 1991/2705, regs. 5(4), 9, Sch. 1

##### Modifications etc. (not altering text)

- C1** Sch. 9 Pt. I modified (coming into force in accordance with s. 3 of the amending Act) by 1999 c. iv, ss. 3, 7(6)
- C1** Sch. 9 Pt. 1 extended (24.6.2003) by The Uncertificated Securities (Amendment) (Eligible Debt Securities) Regulations 2003 (S.I. 2003/1633), reg. 15, Sch. 2 para. 2(e)

## CHAPTER IV

### INTERPRETATION OF PART I

#### General

- 82 The following definitions apply for the purposes of this Part of this Schedule and its interpretation:

**F1** . . .

**F2** . . .

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“Financial fixed assets” means loans and advances and securities held as fixed assets; participating interests and shareholdings in group undertakings shall be regarded as financial fixed assets;

“Fungible assets” means assets of any description which are substantially indistinguishable one from another;

[<sup>F3</sup>“Investment property” means land held to earn rent or for capital appreciation.]

“Lease” includes an agreement for a lease;

“Listed security” means a security listed on a recognised stock exchange, or on any stock exchange of repute outside Great Britain and the expression “unlisted security” shall be construed accordingly;

“Long lease” means a lease in the case of which the portion of the term for which it was granted remaining unexpired at the end of the financial year is not less than 50 years;

“Repayable on demand”, in connection with deposits, loans or advances, means those amounts which can at any time be withdrawn or demanded without notice or for which a maturity or period of notice of not more than 24 hours or one working day has been agreed;

“Sale and repurchase transaction” means a transaction which involves the transfer by a credit institution or customer (“the transferor”) to another credit institution or customer (“the transferee”) of assets subject to an agreement that the same assets, or (in the case of fungible assets) equivalent assets, will subsequently be transferred back to the transferor at a specified price on a date specified or to be specified by the transferor; but the following shall not be regarded as sale and repurchase transactions: forward exchange transactions, options, transactions involving the issue of debt securities with a commitment to repurchase all or part of the issue before maturity or any similar transactions;

“Sale and option to resell transaction” means a transaction which involves the transfer by a credit institution or customer (“the transferor”) to another credit institution or customer (“the transferee”) of assets subject to an agreement that the transferee is entitled to require the subsequent transfer of the same assets, or (in the case of fungible assets) equivalent assets, back to the transferor at the purchase price or another price agreed in advance on a date specified or to be specified; and

“Short lease” means a lease which is not a long lease.

#### Textual Amendments

- F1** Definition of "Banking activities" in s. 82 repealed (11.2.1994) by [S.I. 1994/233, reg. 4\(1\)](#)
- F2** Definition of "Banking transactions" in s. 82 repealed (11.2.1994) by [S.I. 1994/233, reg. 4\(1\)](#)
- F3** [Sch. 9 Pt. 1 para. 82](#): definition of "investment property" inserted (12.11.2004 with effect as mentioned in reg. 1(2) of the amending S.I.) by [The Companies Act 1985 \(International Accounting Standards and Other Accounting Amendments\) Regulations 2004 \(S.I. 2004/2947\)](#), reg. 14(4), [Sch. 5 para. 10](#)

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### *Financial instruments*

- 82A For the purposes of this Part of this Schedule, references to “derivatives” include commodity-based contracts that give either contracting party the right to settle in cash or in some other financial instrument, except when such contracts—
- (a) were entered into for the purpose of, and continue to meet, the company’s expected purchase, sale or usage requirements,
  - (b) were designated for such purpose at their inception, and
  - (c) are expected to be settled by delivery of the commodity.
- 82B (1) The expressions listed in sub-paragraph (2) have the same meaning in paragraphs 44A to 44F, 58A to 58C and 82A of this Part of this Schedule as they have in Council Directives [78/660/EEC](#) on the annual accounts of certain types of companies and [86/635/EEC](#) on the annual accounts and consolidated accounts of banks and other financial institutions, as amended. <sup>F4</sup>
- (2) Those expressions are “available for sale financial asset”, “business combination”, “commodity-based contracts”, “derivative”, “equity instrument”, “exchange difference”, “fair value hedge accounting system”, “financial fixed asset”, “financial instrument”, “foreign entity”, “hedge accounting”, “hedge accounting system”, “hedged items”, “hedging instrument”, “held for trading purposes”, “held to maturity”, “monetary item”, “receivables”, “reliable market” and “trading portfolio”.

#### **Textual Amendments**

- F4** O.J. L222 of 14.8.1978, page 11, and O.J. L372 of 31.12.1986, page 1, as amended in particular by Directive 2001/65/EEC (O.J. L238 of 27.12.2001, page 28).

### *Loans*

- 83 For the purposes of this Part of this Schedule a loan or advance (including a liability comprising a loan or advance) is treated as falling due for repayment, and an instalment of a loan or advance is treated as falling due for payment, on the earliest date on which the lender could require repayment or (as the case may be) payment, if he exercised all options and rights available to him.

### *Materiality*

- 84 For the purposes of this Part of this Schedule amounts which in the particular context of any provision of this Part are not material may be disregarded for the purposes of that provision.

### *Provisions*

- 85 For the purposes of this Part of this Schedule and its interpretation:
- (a) references in this Part to provisions for depreciation or diminution in value of assets are to any amount written off by way of providing for depreciation or diminution in value of assets;
  - (b) any reference in the profit and loss account formats or the notes thereto set out in Section B of this Part to the depreciation of, or amounts written off,

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assets of any description is to any provision for depreciation or diminution in value of assets of that description; and

- (c) references in this Part to [<sup>F5</sup>provisions for liabilities] are to any amount retained as reasonably necessary for the purpose of providing for any liability [<sup>F6</sup>the nature of which is clearly defined and] which is either likely to be incurred, or certain to be incurred but uncertain as to amount or as to the date on which it will arise.

#### Textual Amendments

- F5** Words in [Sch. 9 Pt. 1 para. 85\(c\)](#) substituted (12.11.2004 with effect as mentioned in reg. 1(2) of the amending S.I.) by [The Companies Act 1985 \(International Accounting Standards and Other Accounting Amendments\) Regulations 2004 \(S.I. 2004/2947\)](#), reg. 14(4), [Sch. 5 para. 12\(a\)](#)
- F6** Words in [Sch. 9 Pt. 1 para. 85\(c\)](#) substituted (12.11.2004 with effect as mentioned in reg. 1(2) of the amending S.I.) by [The Companies Act 1985 \(International Accounting Standards and Other Accounting Amendments\) Regulations 2004 \(S.I. 2004/2947\)](#), reg. 14(4), [Sch. 5 para. 12\(b\)](#)

#### Scots land tenure

- 86 In the application of this Part of this Schedule to Scotland, “land of freehold tenure” means land in respect of which the company [<sup>F7</sup>is the proprietor of the dominium utile or, in the case of land not held on feudal tenure,] is the owner; “land of leasehold tenure” means land of which the company is the tenant under a lease [<sup>F7</sup>; and the reference to ground-rents, rates and other outgoings includes feu-duty and ground annual.]

#### Textual Amendments

- F7** Words in [Sch. 9 para. 86](#) repealed (S.) (28.11.2004) by [2000 asp 5, ss. 76, 77\(2\)](#), [Sch. 12 Pt. I para. 46\(6\)](#), [Sch. 13 Pt. 1 \(with ss. 58, 62, 75\)](#); [S.S.I. 2003/456](#), [art. 2](#)

#### Staff costs

- 87 For the purposes of this Part of this Schedule and its interpretation:
- (a) “Social security costs” means any contributions by the company to any state social security or pension scheme, fund or arrangement;
- [<sup>F8</sup>(b) “Pension costs” includes any costs incurred by the company in respect of any pension scheme established for the purpose of providing pensions for persons currently or formerly employed by the company, any sums set aside for the future payment of pensions directly by the company to current or former employees and any pensions paid directly to such persons without having first been set aside; and]
- (c) any amount stated in respect of [<sup>F9</sup>the item “social security costs”] or in respect of the item “wages and salaries” in the company’s profit and loss account shall be determined by reference to payments made or costs incurred in respect of all persons employed by the company during the financial year who are taken into account in determining the relevant annual number for the purposes of [<sup>F10</sup>section 231A(1)(a)] .

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**Textual Amendments**

- F8** Sch. 9 Pt. I para. 87(b) substituted (2.2.1996) by S.I. 1996/189, reg. 14(6), Sch. 4 paras. 1, **13(1)(2)** (with reg. 16)
- F9** Words in Sch. 9 Pt. I para. 87(c) substituted (2.2.1996) by S.I. 1996/189, reg. 14(6), Sch. 4 paras. 1, **13(1)(3)** (with reg. 16)
- F10** Words in Sch. 9 Pt. I para. 87(c) substituted (12.11.2004 with effect as mentioned in reg. 1(2) of the amending S.I.) by The Companies Act 1985 (International Accounting Standards and Other Accounting Amendments) Regulations 2004 (S.I. 2004/2947), reg. 3, **Sch. 1 para. 34(b)**

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