

Status: Point in time view as at 06/03/1992.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1988, SCHEDULE 6. (See end of Document for details)

SCHEDULES

SCHEDULE 6

Section 65.

COMMERCIAL WOODLANDS

Modifications etc. (not altering text)

- C1** Sch. 6 applied (31.7.1998) by 1988 c. 1, s. 21B (as substituted (31.7.1998) by 1998 c. 36, s. 38(1), Sch. 5 Pt. I paras. 4, 73)

Preliminary

- 1 In this Schedule “commercial woodlands” means woodlands in the United Kingdom which are managed on a commercial basis and with a view to the realisation of profits.

Abolition of charge under Schedule B

- 2 (1) The charge to tax under Schedule B in respect of the occupation of commercial woodlands is hereby abolished.
- (2) In any case where, as respects an accounting period of a company which begins before and ends on or after 6th April 1988, the charge to tax under Schedule B has effect in relation to one part of that period but does not have effect in relation to the other part—
- (a) the income deemed to arise to the company for that period from the occupation of the woodlands concerned shall be apportioned between those parts; and
- (b) so much of that income as is apportioned to the part beginning on 6th April 1988 shall not be regarded as income arising to the company for that period.
- (3) This paragraph shall be deemed to have come into force on 6th April 1988.

Abolition of Schedule D election etc.

- 3 (1) Section 54 of the Taxes Act 1988 and section 111 of the Taxes Act 1970 (which confer on a person occupying commercial woodlands the right to elect to be assessed and charged to tax in respect of them under Schedule D instead of under Schedule B) shall cease to have effect.
- (2) Subject to paragraph 5(1) below, profits or gains or losses which arise to a person from the occupation of commercial woodlands on or after 15th March 1988 shall not be regarded for any purposes as profits or gains or losses chargeable under Schedule D.

Status: Point in time view as at 06/03/1992.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1988, SCHEDULE 6. (See end of Document for details)

- (3) Subject to paragraph 5(1) below—
- (a) interest which is paid by a company on or after 15th March 1988 shall not be treated as a charge on income for the purposes of corporation tax; and
 - (b) interest which is paid by any person on or after that date and—
 - (i) is stated in section 360(1), 361(3) or 362 of the Taxes Act 1988 (loans to buy interest in close company, interest in employee-controlled company or into partnership) to be eligible for relief under section 353 of that Act; or
 - (ii) is stated in any of the corresponding enactments repealed by that Act to be eligible for relief under section 75 of the ^{M1}Finance Act 1972, shall not be so eligible,
 if the relevant business consists of the occupation of commercial woodlands.
- (4) Where part only of the relevant business consists of the occupation of commercial woodlands—
- (a) interest falling within paragraph (a) of sub-paragraph (3) above shall not be treated as a charge on income for the purposes of corporation tax; and
 - (b) interest falling within paragraph (b) of that sub-paragraph shall not be eligible for relief under section 353 of the Taxes Act 1988 or section 75 of the ^{M2}Finance Act 1972,
- to such extent as may be just and reasonable having regard to all the circumstances of the case and, in particular, to the proportion which that part of that business bears to the whole.
- (5) In this paragraph “the relevant business” means—
- (a) in relation to interest paid on or after 15th March 1988 by a company which is not a member of a group, the business carried on by the company;
 - (b) in relation to interest paid on or after that date by a company which is a member of a group, the business carried on by the group; and
 - (c) in relation to interest falling within paragraph (b) of sub-paragraph (3) above, the business carried on by the close company, employee-controlled company or partnership concerned;
- and for the purposes of this paragraph two or more businesses carried on by a company, group or partnership shall be regarded as a single business.
- (6) For the purposes of this paragraph a company shall be deemed to be a member of a group with one or more other companies if the relationship between that company and the other company or, as the case may be, each of the other companies is as mentioned in section 341(2) of the Taxes Act 1988 or section 60(2) of the ^{M3}Finance (No. 2) Act 1987 (payments of interest between related companies).
- (7) This paragraph shall be deemed to have come into force on 15th March 1988.

Marginal Citations

- M1** 1972 c. 41.
M2 1972 c. 41.
M3 1987 c. 51.

Status: Point in time view as at 06/03/1992.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1988, SCHEDULE 6. (See end of Document for details)

[Transitional provisions

- ^{F14} (1) Where this paragraph applies in relation to a person's occupation of any commercial woodlands—
- (a) that person; or
 - (b) in the event of his death, any other person who occupies them by virtue of any disposition (whether effected by will, under the law relating to intestacy or otherwise) of property comprised in his estate immediately before his death, may elect to be assessed and charged to tax in respect of them under Schedule D; and the reference in this sub-paragraph to a disposition includes a reference to a disposition as varied under section 142 of the ^{M4}Inheritance Tax Act 1984.
- (2) This paragraph applies in relation to a person's occupation of any commercial woodlands if—
- (a) he had entered into a contract or made arrangements before 15th March 1988 for his occupation of them;
 - (b) he was occupying them on that date; or
 - (c) he is or was occupying them after that date and the requirements of sub-paragraph (3) below are satisfied with respect to the land which comprises them;
- and in this sub-paragraph and sub-paragraph (3) below “arrangements” does not include arrangements which are not evidenced by an instrument or other document made before that date.
- (3) The requirements of this sub-paragraph are satisfied with respect to any land which comprises commercial woodlands if, before 15th March 1988, the person who is or was occupying them after that date—
- (a) had entered into a contract or made arrangements for the afforestation (including the replanting) of the land; or
 - (b) had made an application for a grant under section 1 of the ^{M5}Forestry Act 1979 or section 2(1)(e) of the ^{M6}Forestry Act (Northern Ireland) 1953 with respect to the land;
- and for the purposes of paragraph (b) above an application shall be treated as made when it was received by the Forestry Commissioners or, in Northern Ireland, by the Department of Agriculture.
- (4) Subject to sub-paragraph (5) below, an election under sub-paragraph (1) above—
- (a) shall be made by notice in writing given to the inspector not later than two years after the end of the chargeable period to which the election relates;
 - (b) shall have effect not only in relation to that period but also, so long as the person by whom it is made continues to occupy the woodlands, in relation to subsequent chargeable periods; and
 - (c) shall extend to all woodlands on the same estate.
- (5) An election made under sub-paragraph (1) above in respect of any commercial woodlands shall not have effect in relation to any chargeable period if before the beginning of that period a relevant grant has been made with respect to any land which comprises woodlands on the same estate.
- (6) For the purposes of sub-paragraphs (4) and (5) above, woodlands shall be treated as being on a separate estate if the person occupying them so elects by notice in writing

Status: Point in time view as at 06/03/1992.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1988, SCHEDULE 6. (See end of Document for details)

given to the inspector not later than two years after the time when they are planted or replanted.

- (7) An election under section 111 of the Taxes Act 1970 made before 15th March 1988 in respect of any commercial woodlands by a person who, on that date, was occupying those woodlands shall have effect as if made under sub-paragraph (1) above.
- (8) In this paragraph and paragraph 5 below “relevant grant” means a grant under section 1 of the Forestry Act 1979 or section 2(1)(e) of the Forestry Act (Northern Ireland) 1953 which—
- (a) is made on terms and conditions first published after 15th March 1988; and
 - (b) is not made by way of supplement to a grant made on terms and conditions first published before that date.
- (9) This paragraph shall be deemed to have come into force on 15th March 1988 and shall cease to have effect on 6th April 1993.]

Textual Amendments

F1 Sch. 6 para. 4 repealed (06.04.1993) by Finance Act 1988 (c. 39, SIF 63:1), s. 148, Sch. 14 Pt. V Note 3

Modifications etc. (not altering text)

- C2** Sch. 6 para. 4(4) modified (28.3.1992 but with effect for the year of assessment 1989-90 only) by S.I. 1992/511, regs. 1(1), 9, Sch. 2
- C3** Sch. 6 para. 4(4) applied with modifications (23.3.1993) by S.I. 1993/415, reg. 9, Sch. 2
Sch. 6 para. 4(4) expressed to be modified (5.4.1994 but with effect for the year of assessment 1991-92 only) by S.I. 1994/728, regs. 1(1), 9, Sch. 2
Sch. 6 para. 4(4) expressed to be applied with modifications (9.3.1995 with effect as mentioned in regs. 14(2), 15(2) of the amending S.I.) by S.I. 1995/352, regs. 14, 15, Sch.

Marginal Citations

- M4** 1984 c. 51.
M5 1979 c. 21.
M6 1953 c. 2 (N.I.).

- 5 ^{F2}(1) For any chargeable period in relation to which an election made under paragraph 4(1) above by any person has effect in respect of any commercial woodlands—
- (a) any profits or gains or losses which arise to him before 6th April 1993 from the occupation of those woodlands shall for all purposes be regarded as profits or gains or losses of a trade chargeable under Schedule D;
 - (b) in computing those profits or gains or losses, no account shall be taken of any relevant grant and no deduction shall be made for any expenditure in respect of which any such grant was made; and
 - (c) the occupation of those woodlands shall not be taken into account under paragraph 3(3) or (4) above as respects any interest paid before that date.]
- (2) In any case where, as respects an accounting period of a company which begins before and ends on or after 6th April 1993, sub-paragraph (1) above has effect in relation to one part of that period but does not have effect in relation to the other part—
- (a) the profits or gains or losses arising to the company for that period from the occupation of the woodlands concerned shall be apportioned between those parts; and

Status: Point in time view as at 06/03/1992.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1988, SCHEDULE 6. (See end of Document for details)

(b) such of those profits or gains or losses as are apportioned to the part beginning on 6th April 1993 shall not be regarded as profits or gains or losses arising to the company for that period.

(3) In any case where—

- (a) sub-paragraph (1) above, as it applies for income tax purposes, has effect for a year of assessment as respects a person’s occupation of any commercial woodlands;
- (b) that year of assessment is the final year of assessment for which that sub-paragraph, as it so applies, has effect as respects that person’s occupation of those woodlands; and
- (c) there is an interval between the end of the relevant basis period and the beginning of the next following year of assessment;

then, for the purpose of calculating any capital allowances which fall to be made in taxing his occupation of those woodlands, the interval shall be deemed to form part of that basis period.

(4) In sub-paragraph (3) above—

“basis period” has the meaning given by section 72 of the ^{M7}Capital Allowances Act 1968;

“the relevant basis period”, in relation to a year of assessment, means—

- (a) except where that year of assessment is in relation to the occupation by the person of the woodlands concerned a year of loss within the meaning of section 383 of the Taxes Act 1988, the basis period for that year of assessment;
- (b) in the excepted case, the basis period for the next following year of assessment.

(5) Sub-paragraph (1) above shall be deemed to have come into force on 15th March 1988 and shall cease to have effect on 6th April 1993.

Textual Amendments

F2 Sch. 6 para. 5(1) repealed (06.04.1993) by Finance Act 1988 (c. 39, SIF 63:1), s. 148, Sch. 14 Pt. V Note 3.

Marginal Citations

M7 1968 c. 3.

Consequential amendments

6 ^{F3}(1)

(2) In section 67(1) of the Taxes Act 1970 (Schedule A), in paragraph 3 of Schedule A (exceptions), after paragraph (a) there shall be inserted—

“(aa) to any profits or gains arising from a person’s occupation of any woodlands which are managed on a commercial basis and with a view to the realisation of profits, or”

(3) In section 110 of the Taxes Act 1970 (farming and the commercial occupation of land), in subsection (3), for the proviso there shall be substituted—

Status: Point in time view as at 06/03/1992.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1988, SCHEDULE 6. (See end of Document for details)

Provided that nothing in this subsection shall apply in relation to the occupation of land which comprises woodlands or is being prepared for use for forestry purposes.;

but the amendment made by this sub-paragraph shall not apply in relation to land which is being prepared for use for forestry purposes if the requirements of paragraph 4(3) above are satisfied with respect to it.

- (4) In sections 168(8), 169(10) and 171(5) of the Taxes Act 1970, for the words “section 111 of this Act” there shall be substituted the words “paragraph 4 of Schedule 6 to the Finance Act 1988”.
- ^{F4}(5)
- (6) In section 15(1) of the Taxes Act 1988 (Schedule A), in paragraph 3 of Schedule A (exceptions), after paragraph (a) there shall be inserted—
- “(a) to any profits or gains arising from a person’s occupation of any woodlands which are managed on a commercial basis and with a view to the realisation of profits, or”
- (7) In section 53 of the Taxes Act 1988 (farming and the commercial occupation of land), for subsection (4) there shall be substituted—
- “(4) Subsection (3) above shall not apply in relation to the occupation of land which comprises woodlands or is being prepared for use for forestry purposes.”but the amendment made by this sub-paragraph shall not apply in relation to land which is being prepared for use for forestry purposes if the requirements of paragraph 4(3) above are satisfied with respect to it.
- (8) In sections 380(4), 383(12)(a) and 385(6) of the Taxes Act 1988, for the words “section 54” there shall be substituted the words “paragraph 4 of Schedule 6 to the Finance Act 1988”.
- (9) Sub-paragraphs (1), (4) and (8) above shall be deemed to have come into force on 15th March 1988; and sub-paragraphs (2), (3) and (5) to (7) above shall be deemed to have come into force on 6th April 1988.

Textual Amendments

- F3** Sch. 6 para. 6(1) repealed by Capital Allowances Act 1990 (c. 1, SIF 63:1), s. 164(4), **Sch. 2** (with ss. 82 and 164(5)).
- F4** Sch. 6 para. 6(5) repealed (6.3.1992 with effect as mentioned in s. 289 of the repealing Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch.12** (with ss. 101(1), 201(3), 290, Sch. 11 paras. 22, 26(2), 27)

Status:

Point in time view as at 06/03/1992.

Changes to legislation:

There are currently no known outstanding effects for the Finance Act 1988, SCHEDULE 6.