



# Finance Act 1990

## 1990 CHAPTER 29

### PART IV

#### MISCELLANEOUS AND GENERAL

##### *Ports levy*

**<sup>F1</sup>115** .....

**Textual Amendments**

**F1** Ss. 115-120 repealed (1.5.1995) by 1995 c. 4, ss. 159(2), 162, **Sch. 29 Pt. XII**

**<sup>F2</sup>116** .....

**Textual Amendments**

**F2** Ss. 115-120 repealed (1.5.1995) by 1995 c. 4, ss. 159(2), 162, **Sch. 29 Pt. XII**

**<sup>F3</sup>117** .....

**Textual Amendments**

**F3** Ss. 115-120 repealed (1.5.1995) by 1995 c. 4, ss. 159(2), 162, **Sch. 29 Pt. XII**

**<sup>F4</sup>118** .....

*Status: Point in time view as at 01/05/1995.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1990, Part IV. (See end of Document for details)*

**Textual Amendments**

**F4** Ss. 115-120 repealed (1.5.1995) by 1995 c. 4, ss. 159(2), 162, **Sch. 29 Pt. XII**

<sup>F5</sup>**119** .....

**Textual Amendments**

**F5** Ss. 115-120 repealed (1.5.1995) by 1995 c. 4, ss. 159(2), 162, **Sch. 29 Pt. XII**

<sup>F6</sup>**120** .....

**Textual Amendments**

**F6** Ss. 115-120 repealed (1.5.1995) by 1995 c. 4, ss. 159(2), 162, **Sch. 29 Pt. XII**

*Petroleum revenue tax*

**121 Limit on PRT repayment interest where loss carried back.**

- (1) Schedule 2 to the <sup>M1</sup>Oil Taxation Act 1975 (management and collection of PRT) shall be amended as follows.
- (2) At the beginning of paragraph 16 (interest on repayments) there shall be inserted the words “ Subject to paragraph 17 below ”.
- (3) After that paragraph there shall be inserted the following paragraph—

“<sup>17</sup> (1) This paragraph applies where—

- (a) an assessment made on a participator for a chargeable period or an amendment of such an assessment (in this paragraph referred to as “the relevant assessment or amendment”) gives effect to relief under subsection (2) or subsection (3) of section 7 of this Act for one or more allowable losses accruing in a later chargeable period (in this paragraph referred to, in relation to the relevant assessment or amendment, as “the relief for losses carried back”); and
- (b) the later chargeable period referred to in paragraph (a) above ends after 30th June 1991; and
- (c) an amount of tax becomes repayable to the participator by virtue of the relevant assessment or amendment (whether wholly or partly by reason of giving effect to the relief for losses carried back).

- (2) In the following provisions of this paragraph, so much of the repayment of tax referred to in sub-paragraph (1)(c) above as is attributable to giving effect to the relief for losses carried back is referred to as “the appropriate repayment”.

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- (3) For the purpose of determining the amount of the appropriate repayment in a case where the relevant assessment or amendment not only gives effect to the relief for losses carried back but also takes account of any other matter (whether a relief or not) which goes to reduce the assessable profit of the period in question or otherwise to reduce the tax payable for that period, the amount of the repayment which is attributable to the relief for losses carried back is the difference between—
- (a) the total amount of tax repayable by virtue of the relevant assessment or amendment; and
  - (b) the amount of tax (if any) which would have been so repayable if no account had been taken of the relief for losses carried back.
- (4) Where this paragraph applies, the amount of interest which, by virtue of paragraph 16 above, is carried by the appropriate repayment shall not exceed the difference between—
- (a) 85 per cent. of the allowable loss or losses referred to in sub-paragraph (1)(a) above; and
  - (b) the amount of the appropriate repayment.”

#### Marginal Citations

M1 1975 c. 22.

## 122 Variation, on account of fraudulent or negligent conduct, of decision on expenditure claim etc.

- (1) In the <sup>M2</sup>Oil Taxation Act 1975, in Schedule 5 (allowance of certain expenditure on a claim by the responsible person) paragraph 9 (variation of decision on a claim where the amount of expenditure allowed etc. was incorrectly stated in the notice of the decision) shall be amended in accordance with subsections (2) to (4) below.
- (2) After sub-paragraph (1) there shall be inserted the following sub-paragraphs—
- “(1A) In any case falling within sub-paragraph (1B)
- below, sub-paragraph (1) above shall have effect—
- (a) with the substitution for the words “within the period of three years commencing with” of the words “at any time after”; and
  - (b) with the omission of the words “before the expiry of that period”.
- (1B) The cases referred to in sub-paragraph (1A)
- above are those where—
- (a) the incorrect statement of the relevant amount in the notice of the decision mentioned in sub-paragraph (1) above was an over-statement of that amount; and
  - (b) that over-statement was, in whole or in part, referable to an error in a statement or declaration made in connection with the claim; and
  - (c) at least one of the conditions in sub-paragraph (1C) below is fulfilled with respect to that error.
- (1C) The conditions referred to in sub-paragraph (1B)(c)

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above are—

- (a) that the error was attributable, in whole or in part, to the fraudulent or negligent conduct of the responsible person or a person acting on his behalf;
- (b) that paragraph (a) above does not apply but, on the error coming to the notice of the person by whom the statement or declaration was made or a person acting on his behalf, the error was not remedied without unreasonable delay; and
- (c) that paragraph (a) above does not apply but, on the error coming to the notice of any person who subsequently becomes the responsible person, the error was not remedied without unreasonable delay.”

(3) After sub-paragraph (2) there shall be inserted the following sub-paragraph—

“(2A) In any case where—

- (a) the relevant amount which was incorrectly stated is a part of any expenditure falling within paragraph (c) of sub-paragraph (2) above (in this sub-paragraph referred to as a “paragraph (c) amount”), and
- (b) under sub-paragraph (1B)(a) above the question arises whether the incorrect statement was an over-statement,

that question shall be determined by comparing the total amount which, in accordance with the notice of decision containing the incorrect statement, was brought into account under section 2(9)(b)(ii) of this Act with the total amount which would have been so brought into account if the paragraph (c) amounts stated in that notice had been correct”.

(4) For sub-paragraph (11) there shall be substituted the following sub-paragraph—

“(11) In a case falling within sub-paragraph (1B) above, this paragraph has effect in relation to notices of decisions of the Board under paragraph 3 above whenever given; and, in any other case, this paragraph has effect in relation to such notices given after 15th March 1983.”

(5) In the Table set out in paragraph 2 of Schedule 6 to the <sup>M3</sup>Oil Taxation Act 1975 (which modifies Schedule 5 in its application to a claim under Schedule 6) in the second column relating to paragraph 9 of Schedule 5 there shall be inserted— “ Omit sub-paragraph (1C)(c). ”

(6) In the Table set out in paragraph 1(3) of Schedule 7 to the <sup>M4</sup>Oil Taxation Act 1975 (which modifies Schedule 5 in its application to Schedules 7 and 8), in the entry in the second column relating to paragraph 9 of Schedule 5,—

- (a) at the beginning insert “ In sub-paragraph (1C) omit paragraph (c) ”; and
- (b) after “(b) and (c)” insert “ omit sub-paragraph (2A) ”.

#### Marginal Citations

- M2** 1975 c. 22.
- M3** 1975 c. 22.
- M4** 1975 c. 22.

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### *Miscellaneous*

#### **123 Gas levy.**

- (1) Gas levy shall not be payable by any person in respect of any gas unless—
  - (a) the gas is purchased by that person under a tax-exempt contract or under terms comprised in an excluded oil document; or
  - (b) the gas is won by that person, and not sold by him under such a contract or under terms so comprised, and is gas to which subsection (2) below applies.
- (2) This subsection applies to gas which the British Gas Corporation was on 23rd August 1986 obliged or entitled to purchase (whether immediately or at some future date) under a tax-exempt contract or under terms comprised in an excluded oil document.
- (3) In determining whether any gas which is won at any time is gas to which subsection (2) above applies, no account shall be taken of—
  - (a) any future variation of rights and liabilities under a tax-exempt contract, or under terms comprised in an excluded oil document, other than one effected by the exercise of an existing option; or
  - (b) any future termination of such rights and liabilities other than one occurring before 5th March 1990 [<sup>F7</sup>or by effluxion of time, pursuant to a term in the contract or document, being a term in existence on 27th November 1991][<sup>F8</sup>or pursuant to a term in a contract or document which is certified for the purposes of this paragraph by the Secretary of State with the approval of the Treasury].

[<sup>F9</sup>(3A) The Secretary of State shall not certify a term for the purposes of paragraph (b) of subsection (3) above except on the application of the person winning the gas and unless the Secretary of State is satisfied—

- (a) that the term (however expressed) provides for termination on the ground that the winning of gas in accordance with the contract or document has ceased to be commercially viable; and
- (b) that the term was in the contract or document immediately before 16th March 1993; and
- (c) that the termination purports to be in pursuance of the term; and
- (d) that the term has been properly invoked.

(3B) For the purpose of determining whether a term is properly invoked the Secretary of State—

- (a) may require the person winning the gas to supply him with any expert assessment provided under the contract or document;
  - (b) if no such assessment has been made, or if the Secretary of State considers it desirable for a further expert assessment to be obtained, may require the person winning the gas to obtain and supply him with an expert assessment;
- and in this subsection “assessment” means an assessment as to whether winning gas in accordance with the contract or document has ceased to be commercially viable.]

(4) In this section—

“excluded oil document” means a document which on 1st April 1980 was treated for the purposes of paragraph (a) of subsection (1) of section 10 of the Oil Taxation Act 1975 as containing the whole or part of a contract for the sale of excluded oil as defined in that subsection;

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“existing option” means an option granted before the commencement of this section;

“future”, in relation to a variation or termination, means effected or occurring after that commencement;

“tax-exempt contract” has the same meaning as the <sup>M5</sup>Gas Levy Act 1981;

“termination” means any termination, whether occurring by effluxion of time, by the exercise of an existing option or otherwise.

(5) This section shall be deemed to have come into force on 24th August 1986.

#### Textual Amendments

- F7** Words in s. 123(3)(b) added (16.7.1992) by Finance (No. 2) Act 1992 (c. 48), s. 78.  
**F8** Words in s. 123(3)(b) inserted (27.07.1993) by 1993 c. 34, s. 209(1).  
**F9** S. 123(3A)(3B) inserted (27.07.1993) by 1993 c. 34, s. 209(2).

#### Marginal Citations

- M5** 1981 c. 3.

### 124 Inheritance tax: restriction on power to require information.

(1) In section 219 of the <sup>M6</sup>Inheritance Tax Act 1984 (power to require information), after subsection (1) there shall be inserted—

“(1A) A notice under this section is not to be given except with the consent of a Special Commissioner and the Commissioner is to give his consent only on being satisfied that in all the circumstances the Board are justified in proceeding under this section.”

(2) This section shall apply with respect to notices given on or after the day on which this Act is passed.

#### Marginal Citations

- M6** 1984 c. 51.

### 125 Information for tax authorities in other member States.

(1) Subsections (1) to (8) and (8C) to (9) of section 20 of the <sup>M7</sup>Taxes Management Act 1970 (powers to call for information relevant to liability to income tax, corporation tax or capital gains tax) shall have effect as if the references in those provisions to tax liability included a reference to liability to a tax of a member State other than the United Kingdom which is a tax on income or on capital for the purposes of the <sup>M8</sup>Directive of the Council of the European Communities dated 19th December 1977 No. 77/799/EEC.

(2) In their application by virtue of subsection (1) above those provisions shall have effect as if—

- (a) the reference in section 20(7A) to any provision of the Taxes Acts were a reference to any provision of the law of the member State in accordance with which the tax in question is charged,

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- (b) the references in subsection (2) of section 20B to an appeal relating to tax were references to an appeal, review or similar proceedings under the law of the member State relating to the tax in question, and
  - (c) the reference in subsection (6) of that section to believing that tax has or may have been lost to the Crown were a reference to believing that the tax in question has or may have been lost to the member State.
- (3) Section 219 of the Inheritance Tax Act 1984 (power to require information for purposes of that Act) shall have effect as if the reference to that Act in subsection (1) of that section included a reference to any provision of the law of a member State other than the United Kingdom in accordance with which there is charged any tax—
- (a) which is of a character similar to that of inheritance tax or is chargeable on or by reference to death or gifts inter vivos, and
  - (b) in relation to which the Directive mentioned in subsection (1) above has effect by virtue of any other Directive of the Council (whether adopted before or after the passing of this Act) extending that Directive.
- (4) In its application by virtue of subsection (3) above section 219 shall have effect as if the reference to income tax in subsection (2) of that section included a reference to any tax of a member State other than the United Kingdom such as is mentioned in subsection (1) above.
- (5) In section 77 of the <sup>M9</sup>Finance Act 1978 (disclosure of information to tax authorities of member States: obligation of secrecy) references to the Directive mentioned in subsection (1) above shall include a reference to that Directive as extended by any other Directive of the Council (whether adopted before or after the passing of this Act) to any taxes of a character similar to that of inheritance tax or chargeable on or by reference to death or gifts inter vivos.
- (6) Subsections (1) and (2) above shall apply with respect to notices given on or after the day on which this Act is passed, subsections (3) and (4) above shall apply with respect to notices given on or after such day as the Treasury may by order made by statutory instrument appoint and subsection (5) above shall come into force on that day.

#### **Marginal Citations**

**M7** 1970 c. 9.

**M8** O.J. No. L366/15.

**M9** 1978 c. 42.

## **126 Pools payments for football ground improvements.**

- (1) This section applies to any payment (including a payment made before the passing of this Act) which, in consequence of the reduction in pool betting duty effected by section 4 above, is made by a person liable to pay that duty in order to meet, directly or indirectly, capital expenditure incurred (whether by the person to whom it is made or any other person) in improving the safety or comfort of spectators at a ground to be used for the playing of association football.
- (2) Where a person carrying on a trade makes a payment to which this section applies, the payment may be deducted in computing for tax purposes the profits or gains of the trade.

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- (3) A payment to which this section applies shall not be regarded as an annual payment.
- (4) Section 153 of the <sup>M10</sup>Capital Allowances Act 1990 shall not apply to expenditure of the kind mentioned in subsection (1) above in so far as it has been or is to be met, directly or indirectly, out of a payment to which this section applies.
- (5) Where a payment to which this section applies is made to trustees, the sum received by them and any assets representing it (but not any income or gains arising from them) shall not be relevant property for the purposes of Chapter III of Part III of the <sup>M11</sup>Inheritance Tax Act 1984.

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**Marginal Citations**

**M10** 1990 c. 1.

**M11** 1984 c. 51.

**127 Definition of “local authority” for certain tax purposes.**

- (1) In the Taxes Act 1988 the following section shall be inserted after section 842—

**“842A Local authorities.**

- (1) Except so far as the context otherwise requires, in the Tax Acts “local authority” means—
- (a) in relation to England and Wales, an authority of a description specified for the purposes of this paragraph,
  - (b) in relation to Scotland, an authority of a description specified for the purposes of this paragraph, and
  - (c) in relation to Northern Ireland, an authority of a description specified for the purposes of this paragraph.
- (2) The following are the descriptions of authority specified for the purposes of paragraph (a) of subsection (1) above—
- (a) a charging authority for the purposes of the Local Government Finance Act 1988;
  - (b) a precepting authority for the purposes of that Act;
  - (c) a body having power by virtue of regulations under section 74 of that Act to issue a levy;
  - (d) a body having power by virtue of regulations under section 75 of that Act to issue a special levy;
  - (e) a combined police authority established by an amalgamation scheme under the Police Act 1964;
  - (f) a fire authority constituted by a combination scheme under the Fire Services Act 1947;
  - (g) an authority having power to make or determine a rate.
- (3) The following are the descriptions of authority specified for the purposes of paragraph (b) of subsection (1) above—
- (a) a regional council;
  - (b) an islands council;



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- (c) a district council;
  - (d) a joint board or committee within the meaning of the Local Government (Scotland) Act 1973;
  - (e) an authority having power to requisition any sum from an authority falling within any of paragraphs (a) to (c) above.
- (4) The following are the descriptions of authority specified for the purposes of paragraph (c) of subsection (1) above—
- (a) an authority having power to make or determine a rate;
  - (b) an authority having power to issue a precept, requisition or other demand for the payment of money to be raised out of a rate.
- (5) In this section “rate” means a rate the proceeds of which are applicable for public local purposes and which is leviable by reference to the value of land or other property.”

<sup>F10</sup>(2) .....

- (3) Schedule 18 to this Act (consequential amendments) shall have effect.
- (4) This section shall be deemed to have come into force on 1st April 1990.

#### **Textual Amendments**

**F10** S. 127(2) repealed (6.3.1992 with effect as mentioned in s. 289 (1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, [Sch. 12](#) (with ss.60, 101(1), 201(3), Sch. 11 paras. 20, 22, 26(2), 27).

### **128 Repayment of fees and charges.**

- (1) This section applies where at the beginning of the day on which this Act is passed—
- (a) an enactment confers power to make provision for payment of a fee or charge (however described), and
  - (b) sums paid in pursuance of provision made in exercise of the power are payable into the Consolidated Fund.
- (2) Subject to subsection (3) below, the enactment shall be treated as also conferring power to make provision about repayment of sums paid, or purported to be paid, in pursuance of provision made in exercise of the power.
- (3) Subsection (2) above shall not apply if the fee or charge is one—
- (a) repayment of which is prohibited or regulated by an enactment, or
  - (b) power to make provision about repayment of which is expressly conferred, or expressly negated, to any extent.
- (4) Without prejudice to the generality of the power conferred by virtue of subsection (2) above, the provision which may be made by virtue of that subsection includes provision—
- (a) that repayment shall be made only if a specified person is satisfied that specified conditions are met or in other specified circumstances;
  - (b) that repayment shall be made in part only;

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- (c) that, in the case of partial repayment, the amount repaid shall be a specified sum or determined in a specified manner; and
  - (d) for repayment of different amounts in different circumstances.
- (5) In subsection (4) above “specified” means specified in the instrument exercising the power.
- (6) In determining for the purposes of this section whether sums are payable into the Consolidated Fund, section 3 of the <sup>M12</sup>Government Trading Funds Act 1973 (payments into a trading fund) shall be disregarded.
- (7) In this section “enactment” includes Northern Ireland legislation as defined in section 24(5) of the <sup>M13</sup>Interpretation Act 1978.
- (8) An Order in Council under paragraph 1(1)(b) of Schedule 1 to the <sup>M14</sup>Northern Ireland Act 1974 (legislation for Northern Ireland in the interim period) which states that it is made only for purposes corresponding to those of this section—
- (a) shall not be subject to sub-paragraphs (4) and (5) of paragraph 1 of that Schedule (affirmative resolution of both Houses of Parliament); but
  - (b) shall be subject to annulment in pursuance of a resolution of either House.

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

- C1** S. 128 extended (16.7.1992) by Finance (No. 2) Act 1992 (c. 48), s. 13(3)  
S. 128 extended (3.5.1994) by 1994 c. 9, s. 5, Sch. 2 para. 28  
S. 128 amended (1.9.1994) by 1994 c. 22, ss. 58(2), 66(1) (with s. 57(4))

**Marginal Citations**

- M12** 1973 c. 63.  
**M13** 1978 c. 30.  
**M14** 1974 c. 28.

**129 Settlement of stock disputes by deputy registrars.**

In section 5 of the <sup>M15</sup>National Debt Act 1972 (settlement by Chief Registrar of friendly societies of disputes as to holdings on National Savings Stock Register)—

- (a) in subsection (1), after the words “Chief Registrar of friendly societies” there shall be inserted the words “ or a deputy appointed by him ”,
- (b) in subsection (2), after the words “Chief Registrar” there shall be inserted the words “ or deputy ”,
- (c) in subsection (3)(a), after the words “Chief Registrar of friendly societies” there shall be inserted the words “ or a deputy appointed by him ”, and
- (d) subsection (3)(b) shall cease to have effect.

**Marginal Citations**

- M15** 1972 c. 65.

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### 130 Limit for local loans.

In section 4(1) of the <sup>M16</sup>National Loans Act 1968 (which provides that the aggregate of any commitments of the Public Works Loan Commissioners in respect of undertakings to grant local loans and any amount outstanding in respect of the principal of such loans shall not exceed £42,000 million or such other sum not exceeding £50,000 million as the Treasury may specify by order) for the words “£42,000 million” and “£50,000 million” there shall be substituted respectively “ £55,000 million ” and “ £70,000 million ”.

#### Marginal Citations

**M16** 1968 c. 13.

#### General

### 131 Interpretation etc.

- (1) In this Act “the Taxes Act 1970” means the <sup>M17</sup>Income and Corporation Taxes Act 1970 and “the Taxes Act 1988” means the <sup>M18</sup>Income and Corporation Taxes Act 1988.
- (2) Chapter II of Part I of this Act shall be construed as one with the <sup>M19</sup>Value Added Tax Act 1983.
- (3) Part II of this Act, so far as it relates to capital gains tax, shall be construed as one with the <sup>M20</sup>Capital Gains Tax Act 1979.

#### Marginal Citations

**M17** 1970 c. 10.

**M18** 1988 c. 1.

**M19** 1983 c. 55.

**M20** 1979 c. 14.

### 132 Repeals.

The enactments specified in Schedule 19 to this Act (which include spent or unnecessary enactments) 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.

### 133 Short title.

This Act may be cited as the Finance Act 1990.

**Status:**

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**Changes to legislation:**

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