Finance Act 1991

1991 CHAPTER 31

PART III

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER I

GENERAL

Income tax rates and allowances

21 Charge and rates of income tax for 1991-92

(1) Income tax shall be charged for the year 1991-92, and—

(a) the basic rate shall be 25 per cent.,

(b) the basic rate limit shall be £23,700, and

(c) the higher rate shall be 40 per cent.

(2) In accordance with subsection (1)(b) above, section 1(4) of the Taxes Act 1988 (indexation) shall not apply for the year 1991-92.

22 Married couple's allowance

(1) Section 257C(1) of the Taxes Act 1988 (indexation), so far as relating to section 257A(1) of that Act (married couple's allowance), shall not apply for the year 1991-92.

(2) Section 257A(1) of that Act shall apply for the year 1991-92 as if the amount specified in it were "£1,720".

Corporation tax rates

23 Rate of corporation tax for 1990

(1) The rate at which corporation tax is charged for the financial year 1990 shall be 34 per cent. (and not 35 per cent. as provided by section 19 of the Finance Act 1990).

(2) For the financial year 1990 the fraction mentioned in section 13(2) of the Taxes Act 1988 (marginal relief for small companies) shall be nine four-hundredths (and not one fortieth as provided by section 20 of the Finance Act 1990).

(3) All such adjustments shall be made, whether by way of discharge or repayment of tax or otherwise, as may be required in consequence of the provisions of this section.

24 Charge and rate of corporation tax for 1991

Corporation tax shall be charged for the financial year 1991 at the rate of 33 per cent.

25 Small companies

(1) For the financial year 1991—

(a) the small companies' rate shall be 25 per cent., and

(b) the fraction mentioned in section 13(2) of the Taxes Act 1988 (marginal relief for small companies) shall be one fiftieth.

(2) In section 13(3) of that Act (limits of marginal relief), in paragraphs (a) and (b)—

(a) for "£200,000" there shall be substituted "£250,000", and

(b) for "£1,000,000" there shall be substituted "£1,250,000".

(3) Subsection (2) above shall have effect for the financial year 1991 and subsequent financial years; and where by virtue of that subsection section 13 of the Taxes Act 1988 has effect with different relevant maximum amounts in relation to different parts of a company's accounting period, then for the purposes of that section those parts shall be treated as if they were separate accounting periods and the profits and basic profits of the company for that period shall be apportioned between those parts.

Interest

26 Relief for interest

For the year 1991-92 the qualifying maximum defined in section 367(5) of the Taxes Act 1988 (limit on relief for interest on certain loans) shall be £30,000.

27 Abolition of higher rate relief on certain mortgage interest etc

(1) At the end of section 353 of the Taxes Act 1988 (certain interest payments to be deducted from or set off against income) there shall be added—

"(4) In computing for the purposes of excess liability the total income of a person for any year of assessment, no deduction shall be allowed in respect of any amount of interest which falls to be deducted or set off under subsection (1) above by virtue of section 355(1)(a), 356(1) or 365.

(5) In subsection (4) above, "excess liability" means the excess of liability to income tax over what it would be if all income tax were charged at the basic rate, to the exclusion of any higher rate."

(2) In section 369 of that Act (mortgage interest relief at source) in subsection (3) (charge to tax at basic rate on an amount equal to that which falls to be deducted in computing total income) after the words "in computing his total income" there shall be inserted the words "(otherwise than for the purposes of excess liability)"; and after that subsection there shall be inserted—

"(3A) In computing for the purposes of excess liability the total income of a person for any year of assessment, no deduction shall be allowed in respect of any amount of relevant loan interest to which this section applies.

(3B) In this section "excess liability" means the excess of liability to income tax over what it would be if all income tax were charged at the basic rate, to the exclusion of any higher rate."

(3) The amendment made by subsection (1) above shall not apply in relation to interest which falls to be deducted or set off under section 353(1) of that Act by virtue of paragraph (a) of subsection (5) of section 354 of that Act (relief for bridging loans etc) in any case where—

(a) the loan on which the interest is payable is the loan referred to in that paragraph as "the first-mentioned loan"; and

(b) the loan referred to in paragraph (b) of that subsection as "the other loan" was made before 6th April 1991.

(4) The amendments made by subsection (2) above shall not apply in relation to an amount of interest which is relevant loan interest (within the meaning of section 369 of that Act) by virtue of section 371 of that Act (second loans) in any case where—

(a) the loan on which the interest is payable is the loan referred to in subsection (1) of that section as "the first loan"; and

(b) the loan which is, for the purposes of that subsection, "the other loan" was made before 6th April 1991.

(5) Where the loan mentioned in paragraph (b) of subsection (3) above or, as the case may be, of subsection (4) above was made on or after 6th April 1991, it shall be treated for the purposes of the subsection in question as made before that date if it is proved by written evidence—

(a) that the loan was made in pursuance of an offer made before that date and that the offer either was in writing or was evidenced by a note or memorandum made by the lender before that date, and

(b) that the loan was used to defray money applied in pursuance of a binding contract entered into before that date.

(6) The enactments mentioned in Schedule 6 to this Act shall have effect for the year 1991-92 and subsequent years of assessment with the amendments there specified.

(7) Subsections (1) to (5) above shall have effect in relation to payments of interest made on or after 6th April 1991 (whenever falling due).

28 Mortgage interest relief: caravans

(1) Section 354(3) of the Taxes Act 1988 (interest eligible for relief in the case of a caravan only if the caravan is large or certain conditions presupposing domestic rating are met) shall cease to have effect.

(2) This section shall have effect for the year 1991-92 and subsequent years of assessment.

Benefits in kind

29 Car benefits

(1) In Schedule 6 to the Taxes Act 1988 (taxation of directors and others in respect of cars) for Part I (tables of flat rate cash equivalents) there shall be substituted—

"**PART I**

TABLES OF FLAT RATE CASH EQUIVALENTS

TABLE ACars with an original market value up to £19,250 and having a cylinder capacity

Cylinder capacity of car in cubic centimetres	*Age of car at end of relevant year of assessment*	
	Under 4 years	*4 years or more*
1400 or less	£2,050	£1,400
More than 1400 but not more than 2000	£2,650	£1,800
More than 2000	£4,250	£2,850

TABLE BCars with an original market value up to £19,250 and not having a cylinder capacity

	Under 4 years	*4 years or more*
Less than £6,000	£2,050	£1,400
£6,000 or more but less than £8,500	£2,650	£1,800
£8,500 or more but not more than £19,250	£4,250	£2,850

TABLE CCars with an original market value of more than £19,250

	Under 4 years	*4 years or more*
More than £19,250 but not more than £29,000	£5,500	£3,700

	Under 4 years	*4 years or more*
More than £29,000	£8,900	£5,900”

(2) This section shall have effect for the year 1991-92 and subsequent years of assessment.

30 Mobile telephones

(1) In section 154(2) of the Taxes Act 1988, in paragraph (b) (which excludes from the general charge on benefits in kind any benefits chargeable under the provisions there specified) after the words “section 157, 158,” there shall be inserted “159A,”.

(2) After section 159 of that Act there shall be inserted—

“**159A Mobile telephones**

(1) Where in any year in the case of a person employed in employment to which this Chapter applies a mobile telephone is made available (without any transfer of the property in it) either to that person or to others who are members of his family or household, and—

(a) it is so made available by reason of his employment and it is in that year available for his or their private use, and

(b) the benefit of the mobile telephone is not (apart from this section) chargeable to tax as the employee’s income,

there is to be treated as emoluments of the employment, and accordingly chargeable to income tax under Schedule E, an amount equal to whatever is the cash equivalent of that benefit in that year.

(2) The cash equivalent of a benefit taxable under this section in any year shall be £200 for each mobile telephone made available in that year, but subject to the following provisions of this section.

(3) If for any year—

(a) there is no private use of the mobile telephone, or

(b) the employee is required to, and does, make good to the person providing the benefit the full cost of any private use of the mobile telephone,

then the cash equivalent of the benefit for that year is nil.

(4) If the mobile telephone is unavailable for any part of a year, the cash equivalent of the benefit for that year shall be reduced by an amount which bears to that specified in subsection (2) above for that year the proportion which the number of days in the year on which the mobile telephone is unavailable bears to 365.

(5) For the purposes of subsection (4) above, a mobile telephone is to be regarded as “unavailable” on any day if, and only if—

(a) it is not made available as mentioned in subsection (1) above until after that day, or

(b) it ceases to be so available before that day, or

(c) it is incapable of being used at all throughout a period of not less than 30 consecutive days of which that day is one.

(6) Where different mobile telephones are made available on different days in a year, the employee shall be treated for the purposes of this section as if the same mobile telephone (or, in a case where two or more mobile telephones are made available concurrently, the same mobile telephones) had been made available on each of those days.

(7) The Treasury may by order taking effect from the beginning of any year commencing after the making of the order increase or further increase the amount specified in subsection (2) above.

(8) For the purposes of this section—

(a) "mobile telephone" means wireless telegraphy apparatus designed or adapted for the purpose of transmitting and receiving spoken messages so as to provide a telephone which is connected to a public telecommunication system (within the meaning of the Telecommunications Act 1984) but which is not physically connected to a land-line and—

(i) includes any such apparatus provided in connection with a car, notwithstanding that the car is made available as mentioned in section 157, but

(ii) does not include a cordless telephone or a telepoint telephone, whether or not provided in connection with a car;

(b) "cordless telephone" means wireless telegraphy apparatus—

(i) designed or adapted for the purpose of transmitting and receiving spoken messages so as to provide a wireless extension to a telephone, and

(ii) used only as such an extension to a telephone that is physically connected to a land-line;

(c) "telepoint telephone" means wireless telegraphy apparatus used for the purpose of a short-range radio communications service utilising frequencies between 864 and 868 megahertz (inclusive);

(d) "private use", in relation to a mobile telephone, means any use of the telephone to make calls, other than calls made wholly, exclusively and necessarily in the performance of the duties of the employment;

(e) "full cost", in relation to any private use of a mobile telephone, means the aggregate of—

(i) the cost of any telephone calls which constitute private use of the mobile telephone; and

(ii) any other cost of the benefit provided, determined in accordance with the provisions of section 156(2) and (5) to (7) as they would apply if the benefit were chargeable to tax under section 154;

(f) an employee who accepts a call on the footing that the cost of the call will be charged to the person providing the benefit shall be treated as if the employee had made the call."

(3) The amendments made by this section shall have effect for the year 1991-92 and subsequent years of assessment.

31 Beneficial loans: increase of de minimis limit

(1) In section 161(1) of the Taxes Act 1988 (no charge for beneficial loan if cash equivalent does not exceed £200) for "£200" there shall be substituted "£300".

(2) This section shall have effect for the year 1991-92 and subsequent years of assessment.

Vocational training

32 Relief

(1) This section applies where—

(a) on or after 6th April 1992 an individual resident in the United Kingdom makes a payment in respect of a qualifying course of vocational training,

(b) the payment is made in respect of an allowable expense,

(c) the payment is made in connection with the individual's own training,

(d) at the time the payment is made, the individual has not received in relation to the course, and is not entitled to receive in relation to it, any public financial assistance of a description specified in regulations made by the Treasury for the purposes of this paragraph, and

(e) the individual is not entitled to claim any relief or deduction in respect of the payment under any other provision of the Income Tax Acts.

(2) The payment shall be deducted from or set-off against the income of the individual for the year of assessment in which it is made; but relief under this subsection shall be given only on a claim made for the purpose, except where subsections (3) to (5) below apply.

(3) In such cases and subject to such conditions as the Board may specify in regulations, relief under subsection (2) above shall be given in accordance with subsections (4) and (5) below.

(4) An individual who is entitled to such relief in respect of a payment may deduct and retain out of it an amount equal to income tax on it at the basic rate for the year of assessment in which it is made.

(5) The person to whom the payment is made—

(a) shall accept the amount paid after deduction in discharge of the individual's liability to the same extent as if the deduction had not been made, and

(b) may, on making a claim, recover from the Board an amount equal to the amount deducted.

(6) The Treasury may make regulations providing that in circumstances prescribed in the regulations—

(a) an individual who makes, in respect of a qualifying course of vocational training, a payment in respect of an allowable expense shall cease to be and be treated as not having been entitled to relief under subsection (2) above in respect of the payment or such part of it as may be determined in accordance with the regulations; and

(b) he or the person to whom the payment was made (depending on the terms of the regulations) shall account to the Board for tax from which relief has been given on the basis that the individual was so entitled.

(7) Regulations under subsection (6) above may include provision adapting or modifying the effect of any enactment relating to income tax in order to secure the performance of any obligation imposed under paragraph (b) of that subsection.

(8) In subsection (1)(a) above, the reference to an individual resident in the United Kingdom includes an individual performing duties which are treated by virtue of section 132(4)(a) of the Taxes Act 1988 as performed in the United Kingdom.

(9) For the purposes of this section, a payment made in respect of a qualifying course of vocational training is made in respect of an allowable expense if—

(a) it is made in respect of fees payable in connection with undertaking the course, including fees payable for assessment purposes, or

(b) it is made in respect of fees payable in connection with the making, as a result of having undertaken the course, of any entry in an official register or any award.

(10) In this section, "qualifying course of vocational training" means any programme of activity capable of counting towards a qualification—

(a) accredited as a National Vocational Qualification by the National Council for Vocational Qualifications, or

(b) accredited as a Scottish Vocational Qualification by the Scottish Vocational Education Council,

except a qualification at the highest of the levels defined by the Council referred to in paragraph (a) or (b) above (as the case may be).

33 Section 32: supplementary

(1) The Board may by regulations—

(a) provide that a claim under section 32(2) or (5)(b) above shall be made in such form and manner, shall be made at such time, and shall be accompanied by such documents, as may be prescribed;

(b) make provision, in relation to payments in respect of which a person is entitled to relief under section 32 above, for persons who provide vocational training courses to give, in such circumstances as may be prescribed, certificates of payment in such form as may be prescribed to such persons as may be prescribed;

(c) provide that a person who provides (or has at any time provided) training courses which are (or were) qualifying courses of vocational training for the purposes of section 32 above shall comply with any notice which is served on him by the Board and which requires him within a prescribed period to make available for the Board's inspection documents (of a prescribed kind) relating to such courses;

(d) provide that persons of such description as may be prescribed shall, within a prescribed period of being required to do so by the Board, furnish to the Board information (of a prescribed kind) about training courses which are qualifying courses of vocational training for the purposes of section 32 above;

(e) make provision generally as to administration in connection with section 32 above.

(2) The words "Regulations under section 33 of the Finance Act 1991" shall be added at the end of each column in the Table in section 98 of the Taxes Management Act 1970 (penalties for failure to furnish information etc.).

(3) The following provisions of the Taxes Management Act 1970, namely—

(a) section 29(3)(c) (excessive relief),

(b) section 30 (tax repaid in error etc.),

(c) section 88 (interest), and

(d) section 95 (incorrect return or accounts),

shall apply in relation to the payment of an amount claimed under section 32(5)(b) above to which the claimant was not entitled as if it had been income tax repaid as a relief which was not due.

(4) In sections 257B(2), 257D(8) and 265(3) of the Taxes Act 1988, after paragraph (d) there shall be inserted ", or

(e) on account of any payments to which section 32(4) of the Finance Act 1991 applies."

(5) In subsection (1) above, "prescribed" means prescribed by or, in relation to form, under the regulations.

Retirement benefits schemes

34 Conditions for approval: amendments

(1) Section 590 of the Taxes Act 1988 (conditions for approval of retirement benefits schemes) shall be amended as follows.

(2) In subsection (3)(a) for the words "or, if the employee is a woman, 55, and not later than 70" there shall be substituted the words "and not later than 75".

(3) The following subsection shall be inserted after subsection (4)—

"(4A) In subsection (3)(c) above "benefits" does not include any benefits for whose payment the scheme makes provision in pursuance of any obligation imposed by legislation relating to social security."

(4) This section shall have effect in relation to a scheme not approved by the Board before the day on which this Act is passed.

35 Cessation of approval

The following section shall be inserted after section 591 of the Taxes Act 1988—

"**591A Effect on approved schemes of regulations under section 591**

(1) Subsection (2) below applies where on or after 17th April 1991 regulations are made for the purposes of section 591 ("section 591 regulations") which contain provisions restricting the Board's discretion to approve a retirement benefits scheme by reference to any circumstances other than the benefits provided by the scheme ("relevant provisions").

(2) Any retirement benefits scheme approved by the Board by virtue of section 591 before the day on which the section 591 regulations come into force shall cease to be approved by virtue of that section at the end of the period of 36 months beginning with that day if at the end of that period the scheme—

(a) contains a provision of a prohibited description, or

(b) does not contain a provision of a required description,

unless the description of provision is specified in regulations made by the Board for the purposes of this subsection.

(3) For the purposes of this section, a provision contained in a scheme shall not be treated as being of a prohibited description by reason only of the fact that it authorises the retention of an investment held immediately before the day on which the section 591 regulations are made.

(4) In determining for the purposes of this section whether any provision contained in a scheme is of a required description, the fact that it is framed so as not to require the disposal of an investment held immediately before the day on which the section 591 regulations are made shall be disregarded.

(5) In this section—

(a) references to a provision of a prohibited description are to a provision of a description specified in the relevant provisions of the section 591 regulations as a description of provision which, if contained in a retirement benefits scheme, would prevent the Board from approving the scheme by virtue of section 591;

(b) references to a provision of a required description are to a provision of a description specified in the relevant provisions of the section 591 regulations as a description of provision which must be contained in a retirement benefits scheme before the Board may approve the scheme by virtue of section 591."

36 Cessation of approval: general provisions

(1) The following section shall be inserted after section 591A of the Taxes Act 1988—

"**591B Cessation of approval: general provisions**

(1) If in the opinion of the Board the facts concerning any approved scheme or its administration cease to warrant the continuance of their approval of the scheme, they may at any time by notice to the administrator, withdraw their approval on such grounds, and from such date (which shall not be earlier than the date when those facts first ceased to warrant the continuance of their approval or 17th March 1987, whichever is the later), as may be specified in the notice.

(2) Where an alteration has been made in a retirement benefits scheme, no approval given by the Board as regards the scheme before the alteration shall apply after the date of the alteration unless—

(a) the alteration has been approved by the Board, or

(b) the scheme is of a class specified in regulations made by the Board for the purposes of this paragraph and the alteration is of a description so specified in relation to schemes of that class."

(2) Accordingly, in section 590 of the Taxes Act 1988 subsections (5) and (6) shall be omitted.

(3) The amendments made by subsections (1) and (2) above shall be deemed always to have had effect.

(4) The Finance Act 1970 shall be deemed always to have had effect—

(a) with the omission of section 19(3) and (4), and

(b) with the insertion after section 20 of a section 20A in the same form as section 591B of the Taxes Act 1988 (with the omission before 17th March 1987 of the words from "(which shall not" to "whichever is the later)").

Profit-related pay, share schemes etc.

37 Profit-related pay: increased relief

(1) In section 171(1) of the Taxes Act 1988 (one half of certain profit-related pay exempt from income tax) for "One half" there shall be substituted "The whole".

(2) This section shall have effect in relation to profit-related pay paid by reference to profit periods beginning on or after 1st April 1991.

38 Employee share schemes: non-discrimination

(1) The Taxes Act 1988 shall be amended as follows.

(2) In Part III of Schedule 9 (requirements applicable to savings-related share option schemes) in paragraphs 19(b) and 20 for "pensionable age" there shall be substituted "the specified age".

(3) In Schedule 10 (further provisions relating to profit sharing schemes) in sub-paragraph (b) of paragraph 2 and in sub-paragraph (c)(ii) of paragraph 3 for "pensionable age" there shall be substituted "the relevant age", and at the end of each of those paragraphs there shall be inserted—

"In this paragraph, the reference to the relevant age is a reference, in the case of a scheme approved before the day on which the Finance Act 1991 was passed, to pensionable age and, in the case of a scheme approved on or after that day, to the specified age."

(4) In section 187(2) (definitions for the purposes of provisions relating to employee share schemes) after the definition of "shares" there shall be inserted—

""specified age", in relation to a scheme, means the age specified in pursuance of paragraph 8A of Schedule 9 as the specified age for the purposes of the scheme;".

(5) In Part II of Schedule 9 (requirements generally applicable to employee share schemes) after paragraph 8 there shall be inserted—

"8A (1) In the case of a savings-related share option scheme or a profit sharing scheme, the scheme must specify what age is to be the specified age for the purposes of the scheme.

(2) The age specified—

(a) must be the same for men and women, and

(b) must be not less than 60 and not more than 75."

(6) Subsections (2) and (5) above shall have effect in relation to a scheme not approved before the day on which this Act is passed.

39 Approved share option schemes: price at which shares may be acquired

(1) In Schedule 9 to the Taxes Act 1988 (requirements by reference to which share option schemes approved) for paragraph 29 there shall be substituted—

"29 (1) The price at which scheme shares may be acquired by the exercise of a right obtained under the scheme—

(a) must be stated at the time the right is obtained, and

(b) except where stated under provision included in the scheme pursuant to sub-paragraph (2) below, must not be manifestly less than the market value of shares of the same class at the material time.

(2) The scheme may provide that, if sub-paragraph (3) below applies, scheme shares may be acquired by the exercise of a right obtained under the scheme at a price which is not manifestly less than 85 per cent. of the market value of shares of the same class at the material time.

(3) This sub-paragraph applies if the conditions specified in sub-paragraph (4)(a) and, as the case may be, (b) or (c) below, are met—

(a) where at the time the right is obtained the scheme is not a group scheme, as respects the grantor;

(b) where at the time the right is obtained the scheme is a group scheme, as respects each company to which the scheme is expressed to extend at that time.

(4) The conditions are—

(a) that the company has established, or is at the time the right is obtained a participating company in relation to, a scheme which is at that time an approved savings-related share option scheme or an approved profit sharing scheme (a "qualifying scheme");

(b) where there is only one qualifying scheme, that every employee eligible to participate in that scheme at the time the right is obtained has, in the twelve months immediately preceding that time, been informed by an appropriate person of the scheme's existence;

(c) where there is more than one qualifying scheme, that, in the case of each of those schemes, every employee eligible to participate in that scheme at the time the right is obtained has, in the twelve months immediately preceding that time, been informed by an appropriate person of the scheme's existence.

(5) In determining whether the condition specified in sub-paragraph (4)(a) above is met, the withdrawal of approval under paragraph 3 above with effect from a time before the right is obtained shall be disregarded if the withdrawal takes place retrospectively from a time after the right is obtained.

(6) For the purposes of sub-paragraph (4)(b) and (c) above, an employee has been informed of the existence of a scheme by an appropriate person if he has been informed by one or more of the following—

(a) a company by virtue of employment with which the employee is eligible to participate in the scheme,

(b) the grantor, and

(c) where the scheme under which the right to acquire the shares is obtained is a group scheme, any other company which is a participating company in relation to that scheme.

(7) The scheme may provide for such variation of the price at which scheme shares may be acquired as may be necessary to take account of any variation in the share capital of which the scheme shares form part.

(8) In this paragraph, references to the material time are to the time the right to acquire the scheme shares is obtained or, if the Board and the grantor agree in writing, such earlier time or times as may be provided in the agreement."

(2) Section 185 of that Act (tax reliefs for approved share option schemes) shall be amended as mentioned in subsections (3) to (6) below.

(3) In subsection (2) (exemption from tax in respect of receipt under approved scheme of right to acquire shares) for "Subject to subsections (4) and (6) below" there shall be substituted "Subject to subsections (6) to (6B) below".

(4) In subsection (4) (which relates to certain rights to acquire shares obtained under a savings-related share option scheme) for "Subsections (2) and (3) above" there shall be substituted "Subsection (3) above".

(5) For subsection (6) there shall be substituted—

"(6) Subsection (6A) below applies where—

(a) a person obtains a right to acquire shares under a scheme which is not a savings-related share option scheme, and

(b) the price at which he may acquire shares by exercising the right is not applicable by virtue of provision included in the scheme pursuant to paragraph 29(2) of Schedule 9.

(6A) Where the aggregate of—

(a) the amount or value of any consideration given by him for obtaining the right, and

(b) the price at which he may acquire the shares by exercising the right,

is less than the market value, at the time he obtains the right, of the same quantity of issued shares of the same class, he shall be chargeable to tax under Schedule E for the year of assessment in which he obtains the right on the amount of the difference; and the amount so chargeable shall be treated as earned income, whether or not it would otherwise fall to be so treated.

(6B) Subsection (6A) above shall also apply where—

(a) a person obtains a right to acquire shares under a scheme which is not a savings-related share option scheme, and

(b) the price at which he may acquire shares by exercising the right is applicable by virtue of provision included in the scheme pursuant to paragraph 29(2) of Schedule 9;

but with the substitution for "the market value" of "85 per cent. of the market value"."

(6) In subsections (7) and (8), for "(6)" there shall be substituted "(6A)".

(7) Subsections (1), (5) and (6) above shall come into force on 1st January 1992.

(8) Subsections (3) and (4) above shall apply in relation to rights obtained on or after 1st January 1992.

40 Savings-related share option schemes

(1) In Part III of Schedule 9 to the Taxes Act 1988 (requirements applicable to savings-related share option schemes) in paragraph 24(2)(a) (scheme not to permit monthly amount of contributions linked to schemes to exceed £150) for "£150" there shall be substituted "£250".

(2) This section shall come into force on such day as the Treasury may by order made by statutory instrument appoint.

41 Profit sharing schemes

(1) In section 187(2) of the Taxes Act 1988, in the definition of "relevant amount" (limit on the value of shares that may be appropriated to a participant in a year of assessment) for "not less than £2,000 and not more than £6,000" there shall be substituted "not less than £3,000 and not more than £8,000".

(2) This section shall apply for the year 1991-92 and subsequent years of assessment.

42 Costs of establishing share option or profit sharing schemes: relief

The following section shall be inserted after section 84 of the Taxes Act 1988—

"**84A Costs of establishing share option or profit sharing schemes: relief**

(1) Subsection (2) below applies where—

(a) a company incurs expenditure on establishing a share option scheme which the Board approve and under which no employee or director obtains rights before such approval is given, or

(b) a company incurs expenditure on establishing a profit sharing scheme which the Board approve and under which the trustees acquire no shares before such approval is given.

(2) In such a case the expenditure—

(a) shall be deducted in computing for the purposes of Schedule D the profits or gains of a trade carried on by the company, or

(b) if the company is an investment company or a company in the case of which section 75 applies by virtue of section 76, shall be treated as expenses of management.

(3) In a case where—

(a) subsection (2) above applies, and

(b) the approval is given after the end of the period of nine months beginning with the day following the end of the period of account in which the expenditure is incurred,

for the purpose of applying subsection (2) above the expenditure shall be treated as incurred in the period of account in which the approval is given (and not the period of account mentioned in paragraph (b) above).

(4) References in this section to approving are to approving under Schedule 9.

(5) This section applies where the expenditure is incurred on or after 1st April 1991."

43 Costs of establishing employee share ownership trusts: relief

The following section shall be inserted after section 85 of the Taxes Act 1988—

"**85A Costs of establishing employee share ownership trusts: relief**

(1) Subsection (2) below applies where a company incurs expenditure on establishing a qualifying employee share ownership trust.

(2) In such a case the expenditure—

(a) shall be deducted in computing for the purposes of Schedule D the profits or gains of a trade carried on by the company, or

(b) if the company is an investment company or a company in the case of which section 75 applies by virtue of section 76, shall be treated as expenses of management.

(3) In a case where—

(a) subsection (2) above applies, and

(b) the trust is established after the end of the period of nine months beginning with the day following the end of the period of account in which the expenditure is incurred,

for the purpose of applying subsection (2) above the expenditure shall be treated as incurred in the period of account in which the trust is established (and not the period of account mentioned in paragraph (b) above).

(4) In this section "qualifying employee share ownership trust" shall be construed in accordance with Schedule 5 to the Finance Act 1989.

(5) For the purposes of this section the trust is established when the deed under which it is established is executed.

(6) This section applies where the expenditure is incurred on or after 1st April 1991."

44 Priority share allocations for employees etc

(1) In relation to offers made on or after 16th January 1991, section 68 of the Finance Act 1988 (which provides for the benefits derived from priority rights in share offers to be

disregarded in certain circumstances) shall have effect, and be deemed at all times on and after that date to have had effect, with the amendments specified in subsections (2) to (8) below.

(2) In paragraph (a) of subsection (1), for the words "an offer" there shall be substituted the words "a bona fide offer".

(3) After that subsection there shall be inserted—

"(1ZA) A case falls within this subsection if—

(a) there is a bona fide offer to the public of a combination of shares in two or more companies at a fixed price or by tender ("the public offer");

(b) there is at the same time an offer ("the employee offer") of shares, or of a combination of shares, in any one or more, but not all, of those companies—

(i) to directors or employees, or

(ii) to directors or employees and to other persons,

(whether the directors or employees are directors or employees of any of those companies, or of any other company or person); and

(c) any of those directors or employees is entitled, by reason of his office or employment, to an allocation of shares under the employee offer in priority to any allocation to members of the public under the public offer.

(1ZB) In any case falling within subsection (1ZA) above—

(a) the public offer and the employee offer shall be regarded for the purposes of subsection (1) above as together constituting a single offer of shares to the public, notwithstanding the difference in the shares to which each offer relates;

(b) the reference to "the shares" in paragraph (b) of that subsection shall be taken as a reference to any of the shares which, in consequence of paragraph (a) above, are to be regarded as subject to that single offer; and

(c) in the following provisions of this section references to the offer or to shares subject to the offer shall be construed accordingly."

(4) For subsection (1A) there shall be substituted—

"(1A) Where, disregarding the amount or value of any registrant discount made to the director or employee in respect of the shares of the company (or, in a case falling within subsection (1ZA) above, of the company in question), the price payable by him for the shares of that company which are allocated to him under the offer—

(a) in a case not falling within subsection (1ZA) above, is less than the fixed price or the lowest price successfully tendered, or

(b) in a case falling within that subsection, is not the same as, or as near as reasonably practicable to, the appropriate notional price for the shares of that company,

subsection (1) above shall not apply to the benefit (if any) represented by the difference in price."

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

"(2C) In a case falling within subsection (1ZA) above, the condition in paragraph (a) of subsection (2) above shall be taken to be satisfied in relation to the offer if, and only if, it is separately satisfied with respect to the shares in each one of the companies which are subject to that offer; and for this purpose only, any reference in that paragraph or in subsection (2A) or (2B) above to shares is a reference to shares in the particular company in question."

(6) In subsection (3A) (saving where the allocations of directors or employees are larger than those of other persons) after the words "the company", where first occurring, there shall be inserted the words "(or, in a case falling within subsection (1ZA) above, any one or more of the companies to which the offer relates)".

(7) At the end of subsection (5) (definitions) there shall be added—

""the public offer" and "the employee offer" have the meaning given by paragraphs (a) and (b) of subsection (1ZA) above."

(8) After that subsection there shall be inserted—

"(5A) For the purposes of this section, there is a "registrant discount" in respect of the shares of a company in any case where—

(a) in connection with the offer, members of the public who comply with such requirements as may be imposed in that behalf are, or may become, entitled to a discount in respect of the whole or some part of the shares of that company which are allocated to them; and

(b) at least 40 per cent. of the shares of that company which are allocated to members of the public other than employees and directors are allocated to individuals who are or become entitled either to that discount or to some other benefit of similar value for which they may elect as an alternative to the discount; and

(c) directors or employees who either—

(i) subscribe for shares under the offer (or, in a case falling within subsection (1ZA) above, under the public offer) as members of the public, or

(ii) subscribe for shares under the employee offer, as directors or employees,

and who comply (or, in the case of a requirement to register, are taken under the terms of the offer to comply) with the same requirements as are mentioned in paragraph (a) above, are, or may become, entitled to the same discount in respect of the shares of the company as any other members of the public to whom shares of that company are allocated under the offer;

and any reference in this section to the amount or value of the registrant discount made to a director or employee is a reference to the amount of any such discount made to him as is mentioned in paragraph (c) above or, as the case may be, the value of any such other benefit as is mentioned in paragraph (b) above which is conferred upon him as an alternative to the discount.

(5B) For the purposes of this section, in a case falling within subsection (1ZA) above "the appropriate notional price" for the shares of any of the companies subject to the offer is such price as—

(a) had the shares of that company, and of each of the other companies, instead of being subject to the offer, been subject to separate offers to the public in respect of each company at fixed prices, and

(b) had those separate offers been made at the time at which the public offer was in fact made,

might reasonably have been expected to be the fixed price for the shares of that company under the separate offer of those shares; but where subsection (5C) below applies, the amount determined in accordance with this subsection as the notional price for the shares of any company shall be varied in accordance with that subsection.

(5C) If the amounts determined in accordance with subsection (5B) above as the appropriate notional prices for the shares of each of the companies subject to the public offer are such that, had the price for the combination of shares subject to the public offer been determined by aggregating the appropriate notional price (as so determined) for each one of the shares comprised in the combination, the price for the combination would have been different from the actual fixed price or (as the case may be) lowest successfully tendered price, then those amounts shall each be varied by multiplying them by the fraction of which—

(a) the numerator is the actual fixed or lowest successfully tendered price for the combination of shares subject to the public offer; and

(b) the denominator is the different price mentioned above;

and those amounts, as so varied, shall be the appropriate notional prices for the purposes of this section."

(9) In section 77 of that Act (scope of provisions about unapproved employee share schemes) in subsection (1), for the words "Subject to subsections (2) and (3) below" there shall be substituted the words "Subject to subsections (2) to (4) below", and after subsection (3) (exemption where the acquisition is made in pursuance of an offer to the public) there shall be added—

"(4) Where, in a case falling within subsection (1ZA) of section 68 above, subsection (1) of that section—

(a) applies or applied in relation to such a benefit as is there mentioned, or

(b) would so apply or have applied, had there been any such benefit,

any acquisition made on or after 16th January 1991 in pursuance of any of the offers which, in that case, fall to be regarded by virtue of subsection (1ZB) of that section as together constituting a single offer of shares to the public for the purposes of subsection (1) of that section shall be regarded for the purposes of subsection (3) above as an acquisition made in pursuance of an offer to the public."

(10) The amendments made by subsection (9) above shall be deemed to have come into force on 16th January 1991.

Foreign earnings

45 Seafarers

(1) In Schedule 12 to the Taxes Act 1988 (foreign earnings) in paragraph 3(2A) (seafarers) for "90" there shall be substituted "183" and for "one quarter" there shall be substituted "one half".

(2) Subject to subsection (3) below, this section shall apply for the purpose of deciding whether the relevant period and the earlier qualifying period referred to in paragraph 3(2) of Schedule 12 to the Taxes Act 1988 are to be treated as a single period in a case where at least one of the intervening days falls after 5th April 1991.

(3) This section shall apply for the purpose of charging tax for the year 1991-92 or any later year of assessment.

46 Workers in Kuwait or Iraq

(1) This section applies if—

(a) a person was in Kuwait or Iraq at any time in the period of 62 days ending with 2nd August 1990,

(b) he was at that time engaged in performing the duties of an office or employment which were to be performed to a substantial extent in Kuwait or Iraq,

(c) he returned to the United Kingdom after that time,

(d) the period of absence from the United Kingdom which ends with his return is not, and is not part of, a qualifying period consisting of at least 365 days, and

(e) he satisfies the Board (or the Commissioners on appeal) that, having regard to the circumstances, it is likely that that period of absence would have been part of such a qualifying period but for events leading up to or arising from the invasion of Kuwait on 2nd August 1990.

(2) In such a case, so much of the period before the day of his return to the United Kingdom as the Board are satisfied would have been part of a qualifying period consisting of at least 365 days (but for those events) shall be treated as a qualifying period consisting of at least 365 days.

(3) All such adjustments shall be made, whether by way of discharge or repayment of tax or otherwise, as may be required in consequence of the provisions of this section.

(4) In the case of employment as a seafarer, this section shall have effect as if "62 days" read "90 days".

(5) In this section—

(a) "qualifying period" means a qualifying period for the purposes of section 193(1) of the Taxes Act 1988 (foreign earnings);

(b) "employment as a seafarer" has the same meaning as in paragraph 3(2A) of Schedule 12 to that Act (further provisions about foreign earnings).

Insurance companies and friendly societies

47 Investor protection schemes

(1) In section 76 of the Taxes Act 1988, in subsection (7) (which treats certain levies as expenses of management of insurance companies) after the word "under" there shall be inserted "(a)" and after the words "Policyholders Protection Act 1975" there shall be inserted the words "or

(b) a levy imposed in pursuance of a scheme established by rules under section 54 of the 1986 Act (compensation fund for unsatisfied claims),".

(2) After that subsection there shall be inserted—

"(7A) The Treasury may by regulations make provision for any sums paid by a company under a prescribed levy imposed under a prescribed investor protection scheme established under the rules of a prescribed recognised self-regulating organisation to be treated for the purposes of this section as part of the company's expenses of management; and, without prejudice to the generality of the foregoing, regulations under this subsection may, in particular—

(a) provide for only a prescribed part of any sums so paid to be so treated;

(b) provide for sums paid before, as well as after, the coming into force of the regulations to be so treated; and

(c) make different provision for different cases or in relation to different levies, schemes or organisations."

(3) For subsection (8) of that section (definitions) there shall be substituted—

"(8) In this section—

"the 1986 Act" means the Financial Services Act 1986;

"acquisition expenses" means expenses falling within paragraphs (a) to (c) of subsection (1) of section 86 of the Finance Act 1989;

"authorised person" has the same meaning as it has in the 1986 Act by virtue of section 207(1) of that Act;

"investment business" has the same meaning as it has in the 1986 Act by virtue of section 1(2) of that Act;

"investor" includes a person who is an investor for the purposes of the 1986 Act;

"investor protection scheme" means a scheme established under the rules of a recognised self-regulating organisation for purposes which consist of or include the compensating of investors in cases where persons, or persons of some class or description, who are or have been authorised persons, are, or are likely to be, unable to satisfy claims in respect of any description of civil liability incurred by them in connection with their investment businesses;

"prescribed" means specified in regulations made by the Treasury under subsection (7A) above;

"recognised self-regulating organisation" has the same meaning as it has in the 1986 Act;

and other expressions have the same meaning as in Chapter I of Part XII."

(4) The amendments made by subsection (1) above shall have effect in relation to levies imposed, and sums paid, before or after the coming into force of that subsection.

48 Assimilation of basic life assurance business and general annuity business

Schedule 7 to this Act shall have effect.

49 Pension business: payments on account of tax credits and deducted tax

(1) After section 438 of the Taxes Act 1988 (pension business: exemption from tax) there shall be inserted—

> "**438A Pension business: payments on account of tax credits and deducted tax**
>
> Schedule 19AB shall have effect."

(2) Schedule 8 to this Act (which makes provision for and in connection with the making of payments to insurance companies on account of tax borne by deduction and tax credits in respect of income from assets referable to their pension business) shall have effect.

(3) This section shall have effect in relation to accounting periods beginning on or after such day as the Treasury may by order made by statutory instrument appoint.

50 Friendly societies

Schedule 9 to this Act (which makes provision about friendly societies) shall have effect.

Building societies

51 Qualifying shares

Schedule 10 to this Act (which makes provision about certain kinds of building society share) shall have effect.

52 Marketable securities

(1) Schedule 11 to this Act (which makes provision about the deduction of income tax in the case of marketable securities issued by building societies) shall have effect.

(2) In section 477A of the Taxes Act 1988 (corporation tax treatment of payments by building societies) after subsection (3) there shall be inserted—

> "(3A) Subsection (3B) below applies in the case of a dividend or interest payable in respect of any security (other than a qualifying certificate of deposit) which is quoted, or capable of being quoted, on a recognised stock exchange at the time the dividend or interest becomes payable.
>
> (3B) Where the amount payable by way of dividend or interest represents more than a reasonable commercial return for the use of the principal to which the

security relates, the amount deductible in respect of the dividend or interest under subsection (3)(a) above shall not exceed an amount equal to the amount which would have represented a reasonable commercial return for the use of that principal.

(3C) For the purposes of subsection (3B) above, no amount shall be regarded as representing the principal to which a security relates in so far as it exceeds any new consideration which has been received by the society for the issue of the security."

(3) Subsection (2) above shall apply in relation to dividends or interest becoming payable on or after the day on which this Act is passed.

53 Income Tax (Building Societies) Regulations 1986

(1) Section 343(1A) of the Income and Corporation Taxes Act 1970 (building societies) shall be deemed to have conferred power to make all the provisions in fact contained in the Income Tax (Building Societies) Regulations 1986 (the regulations).

(2) Where a provision of the regulations requires a building society to pay to the Board a sum calculated by reference to the reduced rate and the basic rate, subsection (3) below shall apply to the extent that the sum is one in respect of payments or credits made in the period beginning with 1st March in any year and ending with 5th April in the same year.

(3) The provision shall be deemed always to have had effect as if the reduced and basic rates concerned were those for the year of assessment in which the period falls.

(4) In relation to a building society which commenced proceedings to challenge the validity of the regulations before 18th July 1986, this section shall not have effect to the extent that the regulations apply (or purport to apply) to payments or credits made before 6th April 1986.

Securities

54 New issues

Schedule 12 to this Act (which contains provisions about securities issued after an issue of securities of the same kind) shall have effect.

55 Purchase and sale of securities: options

(1) In section 731 of the Taxes Act 1988 (scope of bondwashing provisions) the following subsections shall be inserted after subsection (4)—

"(4A) For the purposes of subsection (3) above, where a purchase or sale is effected as a direct result of the exercise of a qualifying option, it shall be treated as effected at the current market price if the terms under which the first buyer acquired the option, or, as the case may be, became subject to it, were arm's length terms.

(4B) For the purposes of subsection (4A) above an option is a "qualifying option" if it would be a traded option or financial option as defined in subsection (9) of section 137 of the 1979 Act were the reference in paragraph (b) of that

subsection to the time of the abandonment or other disposal a reference to the time of exercise.

(4C) In subsection (4A) above the reference to arm's length terms is to terms—

(a) agreed between persons dealing at arm's length, or

(b) not so agreed, but nonetheless such as might reasonably be expected to have been agreed between persons so dealing."

(2) This section shall apply where the subsequent sale by the first buyer takes place on or after the day on which this Act is passed.

56 Bondwashing

(1) In section 732 of the Taxes Act 1988, after subsection (2) (exemption for market makers) there shall be inserted—

"(2A) Subsection (1) above shall not apply in prescribed circumstances if—

(a) the first buyer is—

(i) a prescribed recognised clearing house, or

(ii) a member, of a prescribed class or description, of a prescribed recognised investment exchange, and

(b) the subsequent sale is carried out by the first buyer after a prescribed date and in the ordinary course of his business."

(2) At the end of that section there shall be added—

"(7) For the purposes of subsection (2A) above—

"prescribed" means prescribed in regulations made by the Treasury;

"recognised clearing house" means a recognised clearing house within the meaning of the Financial Services Act 1986;

"recognised investment exchange" means a recognised investment exchange within the meaning of that Act."

57 Stock lending

(1) Section 129 of the Taxes Act 1988 (stock lending) shall be amended as mentioned in subsections (2) and (3) below.

(2) The following subsection shall be inserted after subsection (2)—

"(2A) Subject to subsection (4) below—

(a) this section also applies where an arrangement in addition to those mentioned in subsections (1) and (2) above, and similar to that mentioned in subsection (2) above, is entered into as part of a chain of arrangements all having the effect of enabling A to fulfil his contract, and

(b) it is immaterial how many separate arrangements there are in the chain."

(3) In subsection (3) after "(2)" there shall be inserted "or (2A)".

(4) In section 149B(9) of the Capital Gains Tax Act 1979 (which refers to section 129 of the Taxes Act 1988) after "(2)" there shall be inserted "or (2A)".

(5) This section shall apply to transfers made after such date as is specified for this purpose by regulations under section 129 of the Taxes Act 1988.

58 Manufactured dividends and interest

(1) After section 736 of the Taxes Act 1988 there shall be inserted—

> "**736A Manufactured dividends and interest**
>
> Schedule 23A to this Act shall have effect in relation to certain cases where under a contract or other arrangements for the transfer of shares or other securities a person is required to pay to the other party an amount representative of a dividend or payment of interest on the securities."

(2) The enactments mentioned in Schedule 13 to this Act shall have effect with the amendments there specified.

(3) This section shall have effect in relation to payments made on or after such day as the Treasury may specify for this purpose by regulations made by statutory instrument and different days may be so appointed for different provisions or different purposes.

Capital allowances

59 Interaction with VAT capital goods scheme

(1) The Capital Allowances Act 1990 shall have effect with the amendments specified in Schedule 14 to this Act.

(2) The amendments made by that Schedule shall have effect in relation to any chargeable period or its basis period ending on or after 6th April 1990.

60 Toll roads

(1) The Capital Allowances Act 1990 shall be amended as follows.

(2) Part I (industrial buildings and structures) shall be amended as mentioned in subsections (3) to (6) below.

(3) In section 3 (writing-down allowances) there shall be inserted at the end—

> "(5) For the purposes of this section, a person entitled to charge tolls in respect of a road shall be treated as having an interest in the road."

(4) In section 18 (definition of "industrial structure") in subsection (1), after paragraph (d) there shall be inserted—

> "(da) for the purposes of a toll road undertaking; or".

(5) In section 20 (meaning of "relevant interest") after subsection (4) there shall be inserted—

> "(5) For the purposes of subsections (1) and (2) above, in their application to expenditure incurred on the construction of a toll road, the right to charge tolls in respect of the road shall not be treated as an interest in the road.

(6) Where, in the case of expenditure incurred on the construction of a toll road, the person who incurred the expenditure—

(a) was not for the purposes of subsections (1) and (2) above entitled to an interest in the road when he incurred the expenditure, but

(b) was at that time entitled to charge tolls in respect of the road,

"the relevant interest" means, in relation to that expenditure, the right to charge tolls in respect of the road."

(6) In section 21 (interpretation) after subsection (5) there shall be inserted—

"(5A) For the purposes of this Part, the carrying on of a toll road undertaking shall be treated as the carrying on of an undertaking by way of trade; and accordingly, references in this Part (except sections 17 and 18) to a trade shall be treated as including references to an undertaking treated by virtue of this subsection as carried on by way of trade.

(5B) For the purposes of this Part, a person carrying on a toll road undertaking shall be treated as occupying for the purposes of the undertaking any toll road comprised in it."

(7) Part VIII (supplementary provisions) shall be amended as mentioned in subsections (8) and (9) below.

(8) In section 140 (income tax allowances and charges in taxing a trade etc.) at the end there shall be inserted—

"(11) In the application of this section to allowances and charges which fall to be made under the provisions of Part I, references to a trade shall be treated as including references to an undertaking treated by virtue of section 21(5A) as carried on by way of trade."

(9) In section 144 (corporation tax allowances and charges in taxing a trade) at the end there shall be inserted—

"(4) In the application of subsection (2) above to allowances and charges which fall to be made under the provisions of Part I, references to a trade shall be treated as including references to an undertaking treated by virtue of section 21(5A) as carried on by way of trade."

(10) This section shall have effect in relation to any chargeable period or its basis period ending on or after 6th April 1991.

61 Hiring motor cars

(1) Section 35 of the Capital Allowances Act 1990 (motor cars) shall be amended as mentioned in subsections (2) and (3) below.

(2) In subsection (2) (reduction of allowance for hiring cars whose retail price when new exceeds £8,000) at the end there shall be inserted the words "; but this subsection shall have effect subject to subsection (3) below."

(3) The following subsections shall be inserted after subsection (2)—

"(3) Subsection (2) above shall not apply where the hiring is under a hire-purchase agreement under which there is an option to purchase exercisable on the

payment of a sum equal to not more than 1 per cent. of the retail price of the motor car when new.

(4) In subsection (3) above "hire-purchase agreement" has the meaning given by section 784(6) of the principal Act."

(4) This section shall have effect in relation to any chargeable period or its basis period ending on or after the day on which this Act is passed.

Oil industry

62 Expenditure on and under abandonment guarantees

(1) To the extent that, by virtue of paragraph (hh) of subsection (1) of section 3 of the Oil Taxation Act 1975 (as set out in section 103(2) of this Act), expenditure incurred on or after 19th March 1991 by a participator in an oil field is allowable for the purposes of petroleum revenue tax under the said section 3, that expenditure shall be allowed as a deduction in computing the participator's ring fence income.

(2) Expressions used in subsection (1) above and the following provisions of this section have the same meaning as in Chapter V of Part XII of the Taxes Act 1988 (petroleum extraction activities).

(3) If, under an abandonment guarantee, a payment is made by the guarantor on or after 19th March 1991, then, to the extent that any expenditure for which the relevant participator is liable is met, directly or indirectly, out of the payment, that expenditure shall not be regarded for any purposes of tax as having been incurred by the relevant participator or any other participator in the oil field concerned.

(4) In any case where—

(a) a payment made by the guarantor under the abandonment guarantee is not immediately applied in meeting any expenditure, and

(b) the payment is for any period invested (either specifically or together with payments made by persons other than the guarantor) so as to be represented by, or by part of, the assets of a fund or account, and

(c) at a subsequent time, any expenditure for which the relevant participator is liable is met out of the assets of the fund or account,

any reference in subsection (3) above or section 63 below to expenditure which is met, directly or indirectly, out of the payment shall be construed as a reference to so much of the expenditure for which the relevant participator is liable as is met out of those assets of the fund or account which, at the subsequent time referred to in paragraph (c) above, it is just and reasonable to attribute to the payment.

(5) In subsections (3) and (4) above—

(a) "abandonment guarantee" has the same meaning as, by virtue of section 104 of this Act, it has for the purposes of section 105 of this Act; and

(b) "the guarantor" and "the relevant participator" have the same meaning as in subsection (1) of section 104 of this Act.

63 Relief for reimbursement expenditure under abandonment guarantees

(1) This section applies in any case where—

(a) on or after 19th March 1991 a payment (in this section referred to as "the guarantee payment") is made by the guarantor under an abandonment guarantee; and

(b) by virtue of the making of the guarantee payment, the relevant participator becomes liable under the terms of the abandonment guarantee to pay any sum or sums to the guarantor; and

(c) expenditure is incurred, or consideration in money's worth is given, by the relevant participator in or towards meeting that liability.

(2) In any case where the whole of the guarantee payment or, as the case may require, of the assets which, under section 62(4) above, are attributed to the guarantee payment is not applied in meeting liabilities of the relevant participator which fall within paragraphs (a) and (b) of subsection (1) of section 104 of this Act and a sum representing the unapplied part of the guarantee payment or of those assets is repaid, directly or indirectly, to the guarantor,—

(a) any liability of the relevant participator to repay that sum shall be excluded in determining the total liability of the relevant participator which falls within subsection (1)(b) above; and

(b) the repayment to the guarantor of that sum shall not be regarded as expenditure incurred by the relevant participator as mentioned in subsection (1)(c) above.

(3) In the following provisions of this section "reimbursement expenditure" means expenditure incurred as mentioned in subsection (1)(c) above or consideration (or, as the case may require, the value of consideration) given as so mentioned; and any reference to the incurring of reimbursement expenditure shall be construed accordingly.

(4) So much of any reimbursement expenditure as, in accordance with subsection (5) below, is qualifying expenditure shall, by virtue of this section, be allowed as a deduction in computing the relevant participator's ring fence income; and no part of the expenditure which is so allowed shall be otherwise deductible or allowable by way of relief for any purposes of tax.

(5) Subject to subsection (6) below, of the reimbursement expenditure incurred in any accounting period by the relevant participator, the amount which constitutes qualifying expenditure shall be determined by the formula—

$$A \times \frac{B}{C}$$

where—

"A" is the reimbursement expenditure incurred in the accounting period;

"B" is so much of the expenditure represented by the guarantee payment as, if it had been incurred by the relevant participator, would have been taken into account (by way of capital allowance or a deduction) in computing his ring fence income; and

"C" is the total of the sums which, at or before the end of the accounting period, the relevant participator is or has become liable to pay to the guarantor as mentioned in subsection (1)(b) above.

(6) In relation to the guarantee payment, the total of the reimbursement expenditure (whenever incurred) which constitutes qualifying expenditure shall not exceed whichever is the less of "B" and "C" in the formula in subsection (5) above; and

any limitation on qualifying expenditure arising by virtue of this subsection shall be applied to the expenditure of a later in preference to an earlier accounting period.

(7) For the purposes of this section, the expenditure represented by the guarantee payment is any expenditure—

(a) for which the relevant participator is liable; and

(b) which is met, directly or indirectly, out of the guarantee payment (and which, accordingly, by virtue of section 62(3) above is not to be regarded as expenditure incurred by the relevant participator).

(8) In this section—

(a) "abandonment guarantee" has the same meaning as, by virtue of section 104 of this Act, it has for the purposes of section 3 of the 1975 Act;

(b) "the guarantor" and "the relevant participator" have the same meaning as in subsection (1) of section 104 of this Act; and

(c) other expressions have the same meaning as in Chapter V of Part XII of the Taxes Act 1988 (petroleum extraction activities).

64 Relief for expenditure incurred by a participator in meeting defaulter's abandonment expenditure

(1) This section applies in any case where—

(a) paragraph 2A of Schedule 5 to the 1975 Act (as set out in section 107 of this Act) applies or would apply if a claim were made as mentioned in sub-paragraph (1)(a) of that paragraph; and

(b) under sub-paragraph (4) of that paragraph the default payment falls, in whole or in part, to be attributed to the qualifying participator (as an addition to his share of the abandonment expenditure).

(2) In this section "default payment", "the defaulter" and "qualifying participator" have the same meaning as in paragraph 2A of Schedule 5 to the 1975 Act and other expressions have the same meaning as in Chapter V of Part XII of the Taxes Act 1988 (petroleum extraction activities).

(3) In this section, the amount which is attributed to the qualifying participator as mentioned in subsection (1)(b) above (whether representing the whole or only a part of the default payment) is referred to as the additional abandonment expenditure.

(4) Relief by way of capital allowance or, as the case may be, a deduction in computing ring fence income shall be available to the qualifying participator by virtue of this section in respect of the additional abandonment expenditure in any case where any such relief or deduction would have been available to the defaulter if—

(a) the defaulter had incurred the additional abandonment expenditure; and

(b) at the time that that expenditure was incurred the defaulter continued to carry on a ring fence trade.

(5) The basis of qualification for or entitlement to any relief or deduction which is available to the qualifying participator by virtue of this section shall be determined on the assumption that the conditions in paragraphs (a) and (b) of subsection (4) above are fulfilled but, subject to that, any such relief or deduction shall be available in like manner as if the additional abandonment expenditure had been incurred by the qualifying participator for the purposes of the ring fence trade carried on by him.

65 Reimbursement by defaulter in respect of certain abandonment expenditure

(1) This section applies in any case where—

(a) paragraph 2A of Schedule 5 to the 1975 Act (as set out in section 107 of this Act) applies or would apply if a claim were made as mentioned in sub-paragraph (1)(a) of that paragraph; and

(b) under sub-paragraph (4) of that paragraph the default payment falls, in whole or in part, to be attributed to the qualifying participator (as an addition to his share of the abandonment expenditure); and

(c) expenditure is incurred, or consideration in money's worth is given, by the defaulter in reimbursing the qualifying participator in respect of, or otherwise making good to him, the whole or any part of the default payment;

and in this section "default payment", "the defaulter" and "qualifying participator" have the same meaning as in the said paragraph 2A and other expressions have the same meaning as in Chapter V of Part XII of the Taxes Act 1988 (petroleum extraction activities).

(2) In the following provisions of this section "reimbursement expenditure" means expenditure incurred as mentioned in subsection (1)(c) above or consideration (or, as the case may require, the value of consideration) given as so mentioned; and any reference to the incurring of reimbursement expenditure shall be construed accordingly.

(3) Subject to subsection (7) below, reimbursement expenditure shall be allowed as a deduction in computing the defaulter's ring fence income.

(4) Subject to subsection (7) below, reimbursement expenditure received by the qualifying participator shall be treated as a receipt (in the nature of income) of his ring fence trade for the relevant accounting period.

(5) For the purposes of subsection (4) above, the relevant accounting period is the accounting period in which the reimbursement expenditure is received by the qualifying participator or, if the qualifying participator's ring fence trade is permanently discontinued before the receipt of the reimbursement expenditure, the last accounting period of that trade.

(6) Any additional assessment to corporation tax required in order to take account of the receipt of reimbursement expenditure by the qualifying participator may be made at any time not later than six years after the end of the calendar year in which the reimbursement expenditure is so received.

(7) In relation to a particular default payment, reimbursement expenditure incurred at any time—

(a) shall be allowed as mentioned in subsection (3) above, and

(b) shall be taken into account in computing the qualifying participator's ring fence income by virtue of subsection (4) above,

only to the extent that, when aggregated with any reimbursement expenditure previously incurred in respect of that default payment, it does not exceed so much of the default payment as falls to be attributed to the qualifying participator as mentioned in subsection (1)(b) above.

(8) The incurring of reimbursement expenditure shall not be regarded, by virtue of section 153 of the Capital Allowances Act 1990 (subsidies, contributions etc.), as

the meeting of the expenditure of the qualifying participator in making the default payment.

66 Restriction on setting ACT against liability to corporation tax on profits from oil extraction activities etc

(1) In section 497 of the Taxes Act 1988 (restriction on setting ACT against liability to corporation tax on profits from oil extraction activities etc.), in subsection (2) after the words "resident in the United Kingdom" there shall be inserted the words "or in respect of any distribution which, in accordance with subsections (2A) and (2B) below, is made pursuant to a substitution scheme".

(2) After subsection (2) of that section there shall be inserted the following subsections—

"(2A) For the purposes of subsection (2) above, a distribution ("the relevant distribution") is made pursuant to a substitution scheme if—

(a) it is made on or after 2nd May 1991 in respect of shares or securities issued or transferred pursuant to or otherwise for the purposes of a scheme or arrangements; and

(b) by virtue of the scheme or arrangements a person's entitlement to, or to any rights in, the relevant distribution arises, directly or indirectly, by way of substitution for or addition to any entitlement of his to, or any prospect of his of, a distribution in respect of shares in or securities of another company; and

(c) at the time of the relevant distribution that other company is associated with the distributing company and is resident in the United Kingdom.

(2B) Where a distribution is made in respect of shares the issue or transfer of which constituted or formed part of an exempt distribution, within the meaning of section 213 (demergers), the distribution in respect of the shares shall not be regarded for the purposes of subsection (2) above as made pursuant to a substitution scheme by reason only that the transfer or issue of the shares was carried out as part of a transaction falling within subsection (1) of that section."

67 Oil licences

(1) In section 64(6)(c) of the Finance Act 1988 (definition of the expression "the appropriate legislation relating to capital allowances" for the purposes of section 62 of that Act, which relates to disposals of oil licences) for "Part IV of the Capital Allowances Act 1990" there shall be substituted "Parts IV and VII of the Capital Allowances Act 1990".

(2) This section shall have effect in relation to disposals on or after the day on which this Act is passed.

Miscellaneous

68 Gifts to educational establishments

(1) For section 84 of the Taxes Act 1988 (payments for technical education) there shall be substituted the following—

"**84 Gifts to educational establishments**

(1) This section applies where a person carrying on a trade, profession or vocation ("the donor") makes a gift for the purposes of a designated educational establishment of—

(a) an article manufactured, or of a class or description sold, by the donor in the course of his trade which qualifies as machinery or plant in the hands of the educational establishment; or

(b) an article used by the donor in the course of his trade, profession or vocation—

(i) which, for the purposes of Part II of the 1990 Act (capital allowances for machinery and plant), constitutes machinery or plant used by him wholly or partly in the course of that trade, profession or vocation; and

(ii) in respect of which he has claimed an allowance under that Part of that Act.

(2) For the purposes of this section, an article "qualifies as machinery or plant in the hands of an educational establishment" if, and only if, it is an article such that—

(a) were the activities carried on by the educational establishment regarded as a trade carried on by a body of persons, and

(b) had that body, at the time of the gift, incurred capital expenditure wholly and exclusively on the provision of an identical article for the purposes of those activities, and

(c) had the identical article belonged to that body in consequence of the incurring of that expenditure,

the identical article would be regarded for the purposes of Part II of the 1990 Act as machinery or plant provided by the body for the purposes of that trade.

(3) Where this section applies—

(a) if the gift is of an article falling within paragraph (a) of subsection (1) above, then, for the purposes of the Tax Acts, no amount shall be required to be brought into account as a trading receipt of the donor in consequence of his disposal of that article from trading stock; and

(b) if the gift is of an article falling within paragraph (b) of that subsection, subsection (6) of section 24 of the 1990 Act shall not require the donor to bring into account any disposal value in respect of the article for the purposes of that section;

but this subsection shall not apply unless, within two years of making the gift, the donor makes a claim for relief under this subsection, specifying the article given and the name of the educational establishment in question.

(4) In any case where—

(a) relief is given under subsection (3) above in respect of the gift of an article, and

(b) any benefit received in any chargeable period by the donor or any person connected with him is in any way attributable to the making of that gift,

the donor shall in respect of that chargeable period be charged to tax under Case I or Case II of Schedule D or, if he is not chargeable to tax under either of those Cases for that period, under Case VI of Schedule D on an amount equal to the value of that benefit.

(5) In this section "designated educational establishment" means any educational establishment designated, or of a category designated,—

(a) as respects Great Britain, in regulations made by the Secretary of State; or

(b) as respects Northern Ireland, in regulations made by the Department of Education for Northern Ireland;

and any such regulations may make different provision for different areas.

(6) If any question arises as to whether a particular establishment falls within a category designated in regulations under subsection (5) above, the Board shall refer the question for decision—

(a) in the case of an establishment in Great Britain, to the Secretary of State, or

(b) in the case of an establishment in Northern Ireland, to the Department of Education for Northern Ireland.

(7) The power of the Secretary of State to make regulations under subsection (5) above shall be exercisable by statutory instrument; and a statutory instrument containing any such regulations shall be subject to annulment in pursuance of a resolution of the House of Commons.

(8) Regulations made under subsection (5) above for Northern Ireland—

(a) shall be a statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979; and

(b) shall be subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954.

(9) Section 839 applies for the purposes of subsection (4) above."

(2) The amendment made by subsection (1) above shall have effect with respect to gifts made on or after 19th March 1991.

69 Expenses of entertainers

(1) Section 201A of the Taxes Act 1988 (deduction of fees paid by entertainer to employment agency) shall be amended as follows.

(2) In subsection (1)(a) after "subsection (2)" there shall be inserted "or (2A)".

(3) The following subsection shall be inserted after subsection (2)—

"(2A) Fees fall within this subsection if—

(a) they are paid by the employee in pursuance of an arrangement under which a bona fide co-operative society agrees, or the members of such a society agree, to act as agent of the employee in connection with the employment,

(b) they are calculated as a percentage of the emoluments of the employment or as a percentage of part of those emoluments, and

(c) they are defrayed out of the emoluments of the employment falling to be charged to tax for the year concerned."

(4) The following subsection shall be inserted after subsection (3)—

"(3A) Subsection (3) of section 1 of the Industrial and Provident Societies Act 1965 (co-operative society does not include profit-making society) shall apply for the purposes of subsection (2A)(a) above as it applies for the purposes of that section."

(5) The following subsection shall be inserted after subsection (4)—

"(4A) Subject to subsection (4) above, a deduction by virtue of this section as regards a particular employment and a particular year of assessment may be based on fees falling within subsection (2) above or fees falling within subsection (2A) above, or both."

(6) The amendments made by this section shall apply for the year 1990–91 and subsequent years of assessment.

(7) Any such adjustment (whether by way of discharge or repayment of tax, the making of an assessment or otherwise) as is appropriate in consequence of this section may be made.

70 Personal equity plans

In section 333 of the Taxes Act 1988 (personal equity plans) in subsection (3) (regulations) the following paragraphs shall be inserted after paragraph (f)—

"(g) provide for plans to be treated as being of different kinds, according to criteria set out in the regulations;

(h) provide that the Board may register a plan as being of a particular kind;

(i) make different provision as to different kinds of plan;

(j) provide for investment by an individual under more than one plan in the same year of assessment."

71 Donations to charity

(1) Section 339A of the Taxes Act 1988 (maximum qualifying donations in the case of companies) shall cease to have effect.

(2) In consequence of subsection (1) above, in section 338(2) of that Act, for "to sections 339 and 339A" there shall be substituted "to section 339".

(3) Subsections (1) and (2) above shall apply in relation to accounting periods beginning on or after 19th March 1991.

(4) In its application to accounting periods beginning before 19th March 1991 and ending on or after that date, section 339A of the Taxes Act 1988 shall have effect as if—

(a) in subsections (1) and (2), after the words "in that period", in the first place where they occur, there were inserted "and before 19th March 1991"; and

(b) in subsection (3)(b), after "that section" there were inserted "in respect of payments made before 19th March 1991".

(5) In section 25 of the Finance Act 1990 (donations to charity by individuals) subsection (2)(h) (maximum qualifying donations) shall cease to have effect.

(6) Subsection (5) above shall apply in relation to gifts made on or after 19th March 1991.

72 Deduction of trading losses

(1) Where under section 380 of the Taxes Act 1988 (set-off of trading losses against general income) a person makes a claim for relief for a year of assessment in respect of an amount ("the trading loss") which is available for relief under that section, he may in the notice by which the claim is made make a claim under this subsection for the relevant amount for the year to be determined.

(2) The relevant amount for the year is so much of the trading loss as—

(a) cannot be set off against the claimant's income for the year, and

(b) has not already been taken into account for the purpose of giving relief (under section 380 or this section or otherwise) for any other year.

(3) Where the claim under subsection (1) above is finally determined, the relevant amount for the year shall be treated for the purposes of capital gains tax as an allowable loss accruing to the claimant in the year; but the preceding provisions of this subsection shall not apply to so much of the relevant amount as exceeds the maximum amount.

(4) The maximum amount is the amount on which the claimant would be chargeable to capital gains tax for the year, disregarding section 5(1) of the Capital Gains Tax Act 1979 and the effect of this section.

(5) In ascertaining the maximum amount, no account shall be taken of any event—

(a) occurring after the date on which the claim under subsection (1) above is finally determined, and

(b) in consequence of which the amount referred to in subsection (4) above is reduced by virtue of any enactment relating to capital gains tax.

(6) An amount treated as an allowable loss by virtue of this section shall not be allowed as a deduction from chargeable gains accruing to a person in any year of assessment beginning after he has ceased to carry on the trade, profession, vocation or employment in which the relevant trading loss was sustained.

(7) For the purposes of this section, the claim under subsection (1) above shall not be deemed to be finally determined until the relevant amount for the year can no longer be varied, whether by the Commissioners on appeal or on the order of any court.

(8) References in sections 382(3), 383(6), (7) and (8) and 385(1) of the Taxes Act 1988 to relief under section 380 of that Act shall be construed as including references to relief under this section.

(9) This section shall apply in relation to losses sustained in the year 1991-92 and subsequent years of assessment.

73 Relief for company trading losses

(1) After section 393 of the Taxes Act 1988 (losses other than terminal losses) there shall be inserted—

"**393A Losses: set off against profits of the same, or an earlier, accounting period**

(1) Subject to section 492(3), where in any accounting period ending on or after 1st April 1991 a company carrying on a trade incurs a loss in the trade, then, subject to subsection (3) below, the company may make a claim requiring that the loss be set off for the purposes of corporation tax against profits (of whatever description)—

(a) of that accounting period, and

(b) if the company was then carrying on the trade and the claim so requires, of preceding accounting periods falling wholly or partly within the period specified in subsection (2) below;

and, subject to that subsection and to any relief for an earlier loss, the profits of any of those accounting periods shall then be treated as reduced by the amount of the loss, or by so much of that amount as cannot be relieved under this subsection against profits of a later accounting period.

(2) The period referred to in paragraph (b) of subsection (1) above is the period of three years immediately preceding the accounting period in which the loss is incurred; but the amount of the reduction that may be made under that subsection in the profits of an accounting period falling partly before the beginning of that period shall not exceed a part of those profits proportionate to the part of the accounting period falling within that period.

(3) Subsection (1) above shall not apply to trades falling within Case V of Schedule D; and a loss incurred in a trade in any accounting period shall not be relieved under that subsection unless—

(a) the trade is one carried on in the exercise of functions conferred by or under any enactment (including an enactment contained in a local or private Act), or

(b) it is shown that for that accounting period the trade was being carried on on a commercial basis and with a view to the realisation of gain in the trade or in any larger undertaking of which the trade formed part;

but this subsection is without prejudice to section 397.

(4) For the purposes of subsection (3) above—

(a) the fact that a trade was being carried on at any time so as to afford a reasonable expectation of gain shall be conclusive evidence that it was then being carried on with a view to the realisation of gain; and

(b) where in an accounting period there is a change in the manner in which a trade is being carried on, it shall be treated as having throughout the accounting period been carried on in the way in which it was being carried on by the end of that period.

(5) A claim under subsection (1) above may require that capital allowances in respect of the trade, being allowances that fall—

(a) to be made to the company by way of discharge or repayment of tax, and

(b) to be so made for an accounting period ending on or after 1st April 1991,

shall (so far as they cannot be otherwise taken into account so as to reduce or relieve any charge to corporation tax in respect of that, or any earlier, accounting period) be added to the loss incurred by the company in that accounting period or, if the company has not incurred a loss in the period, shall be treated as a loss so incurred.

(6) For the purposes of subsection (5) above, the allowances for any period shall not be treated as including amounts carried forward from an earlier period.

(7) Where a company ceases to carry on a trade, subsection (9) of section 393 shall apply in computing for the purposes of this section a loss in the trade in the accounting period in which the cessation occurs as it applies in computing a loss in an accounting period for the purposes of subsection (1) of that section.

(8) Relief shall not be given by virtue of subsection (1)(b) above in respect of a loss incurred in a trade so as to interfere with any relief under section 338 in respect of payments made wholly and exclusively for the purposes of that trade.

(9) For the purposes of this section—

(a) the amount of a loss incurred in a trade in an accounting period shall be computed in the same way as trading income from the trade in that period would have been computed;

(b) "trading income" means, in relation to any trade, the income which falls or would fall to be included in respect of the trade in the total profits of the company; and

(c) references to a company carrying on a trade refer to the company carrying it on so as to be within the charge to corporation tax in respect of it.

(10) A claim under subsection (1) above may only be made within the period of two years immediately following the accounting period in which the loss is incurred or within such further period as the Board may allow.

(11) In any case where—

(a) by virtue of section 62B of the 1990 Act (post-cessation abandonment expenditure related to offshore machinery or plant) the qualifying expenditure of the company for the chargeable period related to the cessation of its ring fence trade is treated as increased by any amount, or

(b) by virtue of section 109 of that Act (restoration expenditure incurred after cessation of trade of mineral extraction) any expenditure is treated as qualifying expenditure incurred by the company on the last day on which it carried on the trade,

then, in relation to any claim under subsection (1) above to the extent that it relates to an increase falling within paragraph (a) above or to expenditure falling within paragraph (b) above, subsection (10) above shall have effect with the substitution of "five years" for "two years"."

(2) Sections 393(2) to (6) and 394 of the Taxes Act 1988 (which are superseded by this section) shall cease to have effect.

(3) Schedule 15 to this Act shall have effect.

(4) This section shall have effect only in relation to losses incurred in accounting periods ending on or after 1st April 1991.

(5) Any enactment amended by this section or that Schedule shall, in its application in relation to losses so incurred, be deemed to have had effect at all times with that amendment; and where any such enactment is the re-enactment of a repealed enactment, the repealed enactment shall, in its application in relation to losses so incurred, be deemed to have had effect at all times with a corresponding amendment.

74 Trade unions and employers' associations

(1) Section 467 of the Taxes Act 1988 (trade unions and employers' associations) shall be amended as follows.

(2) In subsection (1) (exemption for certain income and gains of a trade union precluded by Act or rules from assuring to any person a sum exceeding £3,000 by way of gross sum or £625 by way of annuity)—

(a) for "£3,000" there shall be substituted "£4,000", and

(b) for "£625" there shall be substituted "£825".

(3) In subsection (3) (matters to be disregarded in applying subsection (1)) for "£625" there shall be substituted "£825".

(4) After subsection (3) there shall be inserted—

"(3A) The Treasury may by order substitute for any figure for the time being specified in this section such greater figure as may be specified in the order; and any amendment made in exercise of the power conferred by this subsection shall have effect in relation to such income or gains as may be specified in the order."

(5) In subsection (4) (definition of "trade union")—

(a) in paragraphs (a) and (b), for "Registrar of Friendly Societies" there shall be substituted "Certification Officer"; and

(b) for "and" at the end of paragraph (b) there shall be substituted—

"(ba) any trade union within the meaning of the Trade Union Act 1871 registered in Northern Ireland under section 6 of that Act; and".

(6) Subsections (2) and (3) above shall have effect in relation to income or gains which are applicable and applied as mentioned in section 467 of the Taxes Act 1988 on or after 1st April 1991.

(7) Subsection (5) above shall be deemed always to have had effect.

75 Audit powers in relation to non-residents

The following section shall be inserted after section 482 of the Taxes Act 1988—

"**482A Audit powers in relation to non-residents**

(1) The Board may make regulations with respect to the exclusion, in relation to investments of persons who are not ordinarily resident in the United Kingdom,

of powers conferred by regulations made by virtue of section 477A(2)(a) or 482(11)(aa) ("audit powers").

(2) Regulations under subsection (1) above may in particular—

(a) make provision for the exclusion of audit powers in the case of any building society or deposit-taker to be dependent on whether the society or deposit-taker is approved by the Board for the purposes of the regulations and on the scope of that approval;

(b) make provision with respect to the approval of building societies and deposit-takers by the Board for the purposes of the regulations;

(c) make provision with respect to, and with respect to alteration of, the scope of approval by the Board for the purposes of the regulations;

(d) make provision with respect to the termination of approval by the Board for the purposes of the regulations; and

(e) make provision with respect to appeals against decisions of the Board with respect to approval for the purposes of the regulations, including decisions with respect to the scope of such approval.

(3) Regulations under subsection (1) above may—

(a) make different provision for different cases; and

(b) contain such supplementary, incidental, consequential or transitional provision as appears to the Board to be appropriate.

(4) In this section "deposit-taker" has the meaning given by section 481(2)."

76 Capital element in annuities

(1) Section 656 of the Taxes Act 1988 (purchased life annuities other than retirement annuities) shall have effect, and be deemed always to have had effect, with the addition of the following subsections—

"(7) In using the prescribed tables of mortality to determine—

(a) the expected term of an annuity for the purposes of subsection (2)(a) above, or

(b) the actuarial value of any annuity payments for the purposes of subsection (4)(c) above,

the age, as at the date when the first of the annuity payments begins to accrue, of a person during whose life the annuity is payable shall be taken to be the number of years of his age at his last birthday preceding that date.

(8) In any case where it is not possible to determine the expected term of an annuity for the purposes of subsection (2)(a) above by reference to the prescribed tables of mortality, that term shall for those purposes be such period as may be certified by the Government Actuary or the Deputy Government Actuary.

(9) In any case where it is not possible to determine the actuarial value of any annuity payments for the purposes of subsection (4)(c) above by reference to the prescribed tables of mortality, that value shall for those purposes be such amount as may be certified by the Government Actuary or the Deputy Government Actuary."

(2) Section 230 of the Income and Corporation Taxes Act 1970 (from which section 656 of the Taxes Act 1988 is derived) shall be deemed always to have had effect as if the subsections (7) to (9) set out in subsection (1) above had been contained in that section as subsections (8) to (10) respectively, but with the substitution for "(2)(a)" and "(4)(c)", in each place where they occur, of "(2A)(a)" and "(3)(c)" respectively.

(3) Section 27 of the Finance Act 1956 (from which section 230 of the Income and Corporation Taxes Act 1970 was derived) shall be deemed always to have had effect as if the subsections (7) and (9) set out in subsection (1) above had been contained in that section as subsections (8A) and (8B) respectively, but with the omission in subsection (7) of paragraph (a) and with the substitution of "(3)(c)" for "(4)(c)" in both places where it occurs.

77 Definition of "normal commercial loan"

(1) In paragraph 1 of Schedule 18 to the Taxes Act 1988 (under which a person who is a loan creditor of a company in respect of a non-commercial loan is an equity holder of the company) after sub-paragraph (5D) there shall be inserted—

"(5E) For the purposes of sub-paragraph (5)(b) above, the amount to which the loan creditor is entitled by way of interest—

(a) shall not be treated as depending to any extent on the results of the company's business or any part of it by reason only of the fact that the terms of the loan provide for the rate of interest to be reduced in the event of the results of the company's business or any part of it improving, and

(b) shall not be treated as depending to any extent on the value of any of the company's assets by reason only of the fact that the terms of the loan provide for the rate of interest to be reduced in the event of the value of any of the company's assets increasing.

(5F) Sub-paragraph (5H) below applies where—

(a) a person makes a loan to a company on the basis mentioned in sub-paragraph (5G) below for the purpose of facilitating the acquisition of land, and

(b) none of the land which the loan is used to acquire is acquired with a view to resale at a profit.

(5G) The basis referred to above is that—

(a) the whole of the loan is to be applied in the acquisition of land by the company or in meeting the incidental costs of obtaining the loan,

(b) the payment of any amount due in connection with the loan to the person making it is to be secured on the land which the loan is to be used to acquire, and

(c) no other security is to be required for the payment of any such amount.

(5H) For the purposes of sub-paragraph (5)(b) above, the amount to which the loan creditor is entitled by way of interest shall not be treated as depending to any extent on the value of any of the company's assets by reason only of the fact that the terms of the loan are such that the only way the loan creditor

can enforce payment of an amount due is by exercising rights granted by way of security over the land which the loan is used to acquire.

(5I) In sub-paragraph (5G)(a) above the reference to the incidental costs of obtaining the loan is to any expenditure on fees, commissions, advertising, printing or other incidental matters wholly and exclusively incurred for the purpose of obtaining the loan or of providing security for it."

(2) In relation to the application of paragraph 1(5) of that Schedule (definition of "normal commercial loan") for the purposes of section 64(2) of the Finance Act 1984 (definition of "corporate bond"), this section shall have effect—

(a) so far as concerns the application of section 64(2) for the purposes of section 136A of the Capital Gains Tax Act 1979, in relation to claims on or after 1st April 1991, and

(b) so far as concerns any other application of section 64(2), in relation to disposals on or after that date (and, in relation to such disposals, shall be regarded as always having had effect).

(3) Except as provided by subsection (2) above, this section shall be deemed to have come into force on 1st April 1991.

78 Sharing of transmission facilities

(1) This section applies to any agreement relating to the sharing of transmission facilities—

(a) to which the parties are national broadcasting companies,

(b) which is entered into on or after the day on which this Act is passed and before 1st January 1992 or such later date as may be specified for the purposes of this paragraph by the Secretary of State, and

(c) in relation to which the Secretary of State has certified that it is expedient that this section should apply.

(2) Where under an agreement to which this section applies one party to the agreement disposes of an asset to another party to the agreement, both parties shall be treated for the purposes of corporation tax on chargeable gains as if the asset acquired by the party to whom the disposal is made were acquired for a consideration of such amount as would secure that on the other's disposal neither a gain nor a loss would accrue to that other.

(3) Where under an agreement to which this section applies one party to the agreement disposes of an asset to another party to the agreement and the asset is one which the party making the disposal acquired on a part disposal by the party to whom the disposal under the agreement is made, then in applying subsection (2) above—

(a) section 35 of the Capital Gains Tax Act 1979 shall be deemed to have had effect in relation to the part disposal with the omission of subsection (4),

(b) the amount or value of the consideration for the part disposal shall be taken to have been nil, and

(c) if the disposal under the agreement is one to which section 96(2) of the Finance Act 1988 applies, the market value of the asset on 31st March 1982 shall be taken to have been nil.

(4) Where under an agreement to which this section applies one party to the agreement disposes of machinery or plant to another party to the agreement, the Capital Allowances Act 1990 shall apply—

(a) in the case of the party making the disposal, as if the disposal value of the machinery or plant for the purposes of section 24 of that Act were equal to the capital expenditure incurred by that party on its provision, and

(b) in the case of the party to whom the disposal is made, as if the amount expended by that party in acquiring the machinery or plant were equal to the capital expenditure so incurred.

(5) In subsection (4) above, references to machinery or plant include a share in machinery or plant.

(6) In section 68 of the Finance Act 1985 (modification of indexation allowance) in subsection (7A) (list of no gain/no loss provisions) the word "and" at the end of paragraph (f) shall be omitted and after paragraph (g) there shall be inserted—

"(h) section 78(2) of the Finance Act 1991."

(7) In Schedule 8 to the Finance Act 1988 (rebasing to 1982) in paragraph 1(3) (list of no gain/no loss provisions) the word "and" at the end of paragraph (g) shall be omitted and after paragraph (h) there shall be inserted "and

(i) section 78(2) of the Finance Act 1991."

(8) In this section, "national broadcasting company" means a body corporate engaged in the broadcasting for general reception by means of wireless telegraphy of radio or television services or both on a national basis.

79 Abolition of CRT: consequential amendment

(1) In Schedule 12 to the Finance Act 1988 (building societies: change of status) in paragraph 6(1)(b) for "section 476" there shall be substituted "section 477A".

(2) This section shall apply where qualifying benefits are conferred on or after 6th April 1991.

80 Interest on certain debentures

Paragraph 8(2) of Schedule 11 to the Electricity Act 1989 (treatment of certain debentures for the purposes of the Corporation Tax Acts) shall have effect, and be deemed always to have had effect, with the addition after paragraph (b) of the words—

"and if any such debenture includes provision for the payment of a sum expressed as interest in respect of a period which falls wholly or partly before the issue of the debenture, any payment made in pursuance of that provision in respect of that period shall be treated for the purposes of the Corporation Tax Acts as if the debenture had been issued at the commencement of that period and, accordingly, as interest on the principal sum payable under the debenture."

81 Agents acting for non-residents

(1) Section 78 of the Taxes Management Act 1970 (method of charging non-residents) shall be amended as mentioned in subsections (2) to (4) below.

(2) In subsection (3) (meaning of investment transactions) the following paragraph shall be substituted for paragraph (a)—

"(a) transactions in shares, stock, futures contracts, options contracts or securities of any description not mentioned in this paragraph, but excluding futures contracts or options contracts relating to land,".

(3) The following subsection shall be inserted after subsection (3)—

"(3A) For the purposes of subsection (3) above a contract is not prevented from being a futures contract or an options contract by the fact that any party is or may be entitled to receive or liable to make, or entitled to receive and liable to make, only a payment of a sum (as opposed to a transfer of assets other than money) in full settlement of all obligations."

(4) Subsection (4) (provision about investment transactions does not apply to profits or gains which constitute income of an offshore fund) shall be omitted.

(5) This section shall apply—

(a) for the year 1991-92 and subsequent years of assessment, in the case of profits or gains chargeable to income tax, and

(b) for accounting periods ending on or after 1st April 1991, in the case of profits or gains chargeable to corporation tax.

82 Certificates of non-liability to tax

(1) In the Taxes Management Act 1970, the following section shall be inserted after section 99—

"**99A Certificates of non-liability to income tax**

If a person who gives a certificate of non-liability to income tax in pursuance of regulations under section 477A of the principal Act (building societies) or section 480B of that Act (deposit-takers)—

(a) gives the certificate fraudulently or negligently, or

(b) fails to comply with any undertaking contained in the certificate in pursuance of the regulations,

he shall be liable to a penalty not exceeding £3,000."

(2) So far as relating to the giving of a certificate, this section shall apply in relation to certificates given on or after the day on which this Act is passed.

(3) So far as relating to failure to comply with an undertaking contained in a certificate, this section shall apply in relation to certificates whenever given, but not so as to impose liability for a failure occurring before the day on which this Act is passed.