



# Value Added Tax Act 1994

## 1994 CHAPTER 23

An Act to consolidate the enactments relating to value added tax, including certain enactments relating to VAT tribunals. [5th July 1994]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### Modifications etc. (not altering text)

C1 Act extended (27.7.1999) by 1999 c. 16, s. 13(6)

C2 Act: Crown status for the purposes of the Act extended (6.5.1999) by S.I. 1999/677, art. 6

## PART I

### THE CHARGE TO TAX

#### *Imposition and rate of VAT*

### 1 Value added tax.

- (1) Value added tax shall be charged, in accordance with the provisions of this Act—
- (a) on the supply of goods or services in the United Kingdom (including anything treated as such a supply),
  - (b) on the acquisition in the United Kingdom from other member States of any goods, and
  - (c) on the importation of goods from places outside the member States,
- and references in this Act to VAT are references to value added tax.

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- (2) VAT on any supply of goods or services is a liability of the person making the supply and (subject to provisions about accounting and payment) becomes due at the time of supply.
- (3) VAT on any acquisition of goods from another member State is a liability of the person who acquires the goods and (subject to provisions about accounting and payment) becomes due at the time of acquisition.
- (4) VAT on the importation of goods from places outside the member States shall be charged and payable as if it were a duty of customs.

## 2 Rate of VAT.

- (1) Subject to the following provisions of this section <sup>F1</sup> . . . , VAT shall be charged at the rate of 17.5 per cent. and shall be charged—
  - (a) on the supply of goods or services, by reference to the value of the supply as determined under this Act; and
  - (b) on the acquisition of goods from another member State, by reference to the value of the acquisition as determined under this Act; and
  - (c) on the importation of goods from a place outside the member States, by reference to the value of the goods as determined under this Act.

[<sup>F2</sup>(1A) VAT charged on—

- (a) any supply for the time being falling within paragraph 1 of Schedule A1; or
- (b) any equivalent acquisition or importation,

shall be charged at the rate of [<sup>F3</sup>5 per cent].

(1B) The reference in subsection (1A) above to an equivalent acquisition or importation, in relation to any supply for the time being falling within paragraph 1 of Schedule A1, is a reference (as the case may be) to—

- (a) any acquisition from another member State of goods the supply of which would be such a supply; or
- (b) any importation from a place outside the member States of any such goods.

(1C) The Treasury may by order vary Schedule A1 by adding to or deleting from it any description of supply for the time being specified in it or by varying any other provision for the time being contained in it.]

- (2) The Treasury may by order increase or decrease the rate of VAT for the time being in force by such percentage thereof not exceeding 25 per cent. as may be specified in the order, but any such order shall cease to be in force at the expiration of a period of one year from the date on which it takes effect, unless continued in force by a further order under this subsection.
- (3) In relation to an order made under subsection (2) above to continue, vary or replace a previous order, the reference in that subsection to the rate for the time being in force is a reference to the rate which would be in force if no order under that subsection had been made.

### Textual Amendments

- F1** Words in s. 2(1) omitted (1.5.1995 with application as mentioned in s. 21(6) of the amending Act) by virtue of 1995 c. 4, s. 21(2)

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- F2** S. 2(1A)(1B)(1C) inserted (1.5.1995 with application as mentioned in s. 21(6) of the amending Act) by 1995 c. 4, s. 21(2)
- F3** Words in s. 2(1A) substituted (31.7.1997 with effect as mentioned in s. 6(2) of the amending Act) by 1997 c. 58, s. 6(1) (with s. 3(3))

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

- C3** S. 2(1C) extended (28.7.2000) by 2000 c. 17, s. 30, Sch. 6 para. 9(4)

### 3 Taxable persons and registration.

- (1) A person is a taxable person for the purposes of this Act while he is, or is required to be, registered under this Act.
- (2) Schedules 1 to 3 shall have effect with respect to registration.
- (3) Persons registered under any of those Schedules shall be registered in a single register kept by the Commissioners for the purposes of this Act; and, accordingly, references in this Act to being registered under this Act are references to being registered under any of those Schedules.
- (4) The Commissioners may by regulations make provision as to the inclusion and correction of information in that register with respect to the Schedule under which any person is registered.

#### *Supply of goods or services in the United Kingdom*

### 4 Scope of VAT on taxable supplies.

- (1) VAT shall be charged on any supply of goods or services made in the United Kingdom, where it is a taxable supply made by a taxable person in the course or furtherance of any business carried on by him.
- (2) A taxable supply is a supply of goods or services made in the United Kingdom other than an exempt supply.

### 5 Meaning of supply: alteration by Treasury order.

- (1) Schedule 4 shall apply for determining what is, or is to be treated as, a supply of goods or a supply of services.
- (2) Subject to any provision made by that Schedule and to Treasury orders under subsections (3) to (6) below—
  - (a) “supply” in this Act includes all forms of supply, but not anything done otherwise than for a consideration;
  - (b) anything which is not a supply of goods but is done for a consideration (including, if so done, the granting, assignment or surrender of any right) is a supply of services.
- (3) The Treasury may by order provide with respect to any description of transaction—
  - (a) that it is to be treated as a supply of goods and not as a supply of services; or
  - (b) that it is to be treated as a supply of services and not as a supply of goods; or
  - (c) that it is to be treated as neither a supply of goods nor a supply of services;

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and without prejudice to the foregoing, such an order may provide that paragraph 5(4) of Schedule 4 is not to apply, in relation to goods of any prescribed description used or made available for use in prescribed circumstances, so as to make that a supply of services under that paragraph and may provide that paragraph 6 of that Schedule shall not apply, in such circumstances as may be described in the order, so as to make a removal of assets a supply of goods under that paragraph.

- (4) Without prejudice to subsection (3) above, the Treasury may by order make provision for securing, with respect to services of any description specified in the order, that where—
- (a) a person carrying on a business does anything which is not a supply of services but would, if done for a consideration, be a supply of services of a description specified in the order; and
  - (b) such other conditions as may be specified in the order are satisfied,
- such services are treated for the purposes of this Act as being supplied by him in the course or furtherance of that business.
- (5) The Treasury may by order make provision for securing, subject to any exceptions provided for by or under the order, that where in such circumstances as may be specified in the order goods of a description so specified are taken possession of or produced by a person in the course or furtherance of a business carried on by him and—
- (a) are neither supplied to another person nor incorporated in other goods produced in the course or furtherance of that business; but
  - (b) are used by him for the purpose of a business carried on by him,
- the goods are treated for the purposes of this Act as being both supplied to him for the purpose of that business and supplied by him in the course or furtherance of it.
- (6) The Treasury may by order make provision for securing, with respect to services of any description specified in the order, that where—
- (a) a person, in the course or furtherance of a business carried on by him, does anything for the purpose of that business which is not a supply of services but would, if done for a consideration, be a supply of services of a description specified in the order; and
  - (b) such other conditions as may be specified in the order are satisfied,
- such services are treated for the purposes of this Act as being both supplied to him for the purpose of that business and supplied by him in the course or furtherance of it.
- (7) For the purposes of this section, where goods are manufactured or produced from any other goods, those other goods shall be treated as incorporated in the first-mentioned goods.
- (8) An order under subsection (4) or (6) above may provide for the method by which the value of any supply of services which is treated as taking place by virtue of the order is to be calculated.

## 6 Time of supply.

- (1) The provisions of this section shall apply, subject to [F4sections 18, 18B and 18C]for determining the time when a supply of goods or services is to be treated as taking place for the purposes of the charge to VAT.

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- (2) Subject to subsections (4) to (14) below, a supply of goods shall be treated as taking place—
  - (a) if the goods are to be removed, at the time of the removal;
  - (b) if the goods are not to be removed, at the time when they are made available to the person to whom they are supplied;
  - (c) if the goods (being sent or taken on approval or sale or return or similar terms) are removed before it is known whether a supply will take place, at the time when it becomes certain that the supply has taken place or, if sooner, 12 months after the removal.
- (3) Subject to subsections (4) to (14) below, a supply of services shall be treated as taking place at the time when the services are performed.
- (4) If, before the time applicable under subsection (2) or (3) above, the person making the supply issues a VAT invoice in respect of it or if, before the time applicable under subsection (2)(a) or (b) or (3) above, he receives a payment in respect of it, the supply shall, to the extent covered by the invoice or payment, be treated as taking place at the time the invoice is issued or the payment is received.
- (5) If, within 14 days after the time applicable under subsection (2) or (3) above, the person making the supply issues a VAT invoice in respect of it, then, unless he has notified the Commissioners in writing that he elects not to avail himself of this subsection, the supply shall (to the extent that it is not treated as taking place at the time mentioned in subsection (4) above) be treated as taking place at the time the invoice is issued.
- (6) The Commissioners may, at the request of a taxable person, direct that subsection (5) above shall apply in relation to supplies made by him (or such supplies made by him as may be specified in the direction) as if for the period of 14 days there were substituted such longer period as may be specified in the direction.
- (7) Where any supply of goods involves both—
  - (a) the removal of the goods from the United Kingdom; and
  - (b) their acquisition in another member State by a person who is liable for VAT on the acquisition in accordance with provisions of the law of that member State corresponding, in relation to that member State, to the provisions of section 10,subsections (2), (4) to (6) and (10) to (12) of this section shall not apply and the supply shall be treated for the purposes of this Act as taking place on whichever is the earlier of the days specified in subsection (8) below.
- (8) The days mentioned in subsection (7) above are—
  - (a) the 15th day of the month following that in which the removal in question takes place; and
  - (b) the day of the issue, in respect of the supply, of a VAT invoice or of an invoice of such other description as the Commissioners may by regulations prescribe.
- (9) Where a taxable person provides a document to himself which—
  - (a) purports to be a VAT invoice in respect of a supply of goods or services to him by another taxable person; and
  - (b) is in accordance with regulations under paragraph 2 of Schedule 11 treated as the VAT invoice required by the regulations to be provided by the supplier,subsections (5) and (6) above shall have effect in relation to that supply as if—

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- (i) the provision of the document to himself by the first-mentioned taxable person were the issue by the supplier of a VAT invoice in respect of the supply; and
  - (ii) any notice of election given or request made by the first-mentioned taxable person for the purposes of those provisions had been given or made by the supplier.
- (10) The Commissioners may, at the request of a taxable person, by direction alter the time at which supplies made by him (or such supplies made by him as may be specified in the direction) are to be treated as taking place, either—
- (a) by directing those supplies to be treated as taking place—
    - (i) at times or on dates determined by or by reference to the occurrence of some event described in the direction; or
    - (ii) at times or on dates determined by or by reference to the time when some event so described would in the ordinary course of events occur, the resulting times or dates being in every case earlier than would otherwise apply; or
  - (b) by directing that, notwithstanding subsections (5) and (6) above, those supplies shall (to the extent that they are not treated as taking place at the time mentioned in subsection (4) above) be treated as taking place—
    - (i) at the beginning of the relevant working period (as defined in his case in and for the purposes of the direction); or
    - (ii) at the end of the relevant working period (as so defined).
- (11) Where goods are treated as supplied by an order under section 5(5), the supply is treated as taking place when they are appropriated to the use mentioned in that section.
- (12) Where there is a supply of goods by virtue only of paragraph 5(1) of Schedule 4, the supply is treated as taking place when the goods are transferred or disposed of as mentioned in that paragraph.
- (13) Where there is a supply of services by virtue only of paragraph 5(4) of Schedule 4, the supply is treated as taking place when the goods are appropriated to the use mentioned in that paragraph.
- (14) The Commissioners may by regulations make provision with respect to the time at which (notwithstanding subsections (2) to (8) and (11) to (13) above or section 55(4)) a supply is to be treated as taking place in cases where—
- (a) it is a supply of goods or services for a consideration the whole or part of which is determined or payable periodically, or from time to time, or at the end of any period, or
  - (b) it is a supply of goods for a consideration the whole or part of which is determined at the time when the goods are appropriated for any purpose, or
  - (c) there is a supply to which section 55 applies, or
  - (d) there is a supply of services by virtue of paragraph 5(4) of Schedule 4 or an order under section 5(4);
- and for any such case as is mentioned in this subsection the regulations may provide for goods or services to be treated as separately and successively supplied at prescribed times or intervals.

[<sup>F5</sup>(14A) In relation to any services of a description specified in an order under section 7(11), this section and any regulations under this section or section 8(4) shall have effect subject to section 97A.]

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- (15) In this Act “VAT invoice” means such an invoice as is required under paragraph 2(1) of Schedule 11, or would be so required if the person to whom the supply is made were a person to whom such an invoice should be issued.

#### Textual Amendments

- F4** Words in s. 6(1) substituted (1.6.1996 with application to any acquisition of goods from another member State and any supply taking place on or after that day) by 1996 c. 8, ss. 25, 26, **Sch. 3 para. 1**; S.I. 1996/1249, **art. 2**
- F5** S. 6(14A) inserted (retrospective to 17.3.1998) by 1998 c. 36, **s. 22(2)(3)**

## 7 Place of supply.

- (1) This section shall apply (subject to [F6sections 14 , 18 and 18B]) for determining, for the purposes of this Act, whether goods or services are supplied in the United Kingdom.
- (2) Subject to the following provisions of this section, if the supply of any goods does not involve their removal from or to the United Kingdom they shall be treated as supplied in the United Kingdom if they are in the United Kingdom and otherwise shall be treated as supplied outside the United Kingdom.
- (3) Goods shall be treated—
- as supplied in the United Kingdom where their supply involves their installation or assembly at a place in the United Kingdom to which they are removed; and
  - as supplied outside the United Kingdom where their supply involves their installation or assembly at a place outside the United Kingdom to which they are removed.
- (4) Goods whose place of supply is not determined under any of the preceding provisions of this section shall be treated as supplied in the United Kingdom where—
- the supply involves the removal of the goods to the United Kingdom by or under the directions of the person who supplies them;
  - the supply is a transaction in pursuance of which the goods are acquired in the United Kingdom from another member State by a person who is not a taxable person;
  - the supplier—
    - is liable to be registered under Schedule 2; or
    - would be so liable if he were not already registered under this Act or liable to be registered under Schedule 1; and
  - the supply is neither a supply of goods consisting in a new means of transport nor anything which is treated as a supply for the purposes of this Act by virtue only of paragraph 5(1) or 6 of Schedule 4.
- (5) Goods whose place of supply is not determined under any of the preceding provisions of this section and which do not consist in a new means of transport shall be treated as supplied outside the United Kingdom where—
- the supply involves the removal of the goods, by or under the directions of the person who supplies them, to another member State;
  - the person who makes the supply is taxable in another member State; and

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- (c) provisions of the law of that member State corresponding, in relation to that member State, to the provisions made by subsection (4) above make that person liable to VAT on the supply;
- but this subsection shall not apply in relation to any supply in a case where the liability mentioned in paragraph (c) above depends on the exercise by any person of an option in the United Kingdom corresponding to such an option as is mentioned in paragraph 1(2) of Schedule 2 unless that person has given, and has not withdrawn, a notification to the Commissioners that he wishes his supplies to be treated as taking place outside the United Kingdom where they are supplies in relation to which the other requirements of this subsection are satisfied.
- (6) Goods whose place of supply is not determined under any of the preceding provisions of this section shall be treated as supplied in the United Kingdom where—
- (a) their supply involves their being imported from a place outside the member States; and
  - (b) the person who supplies them is the person by whom, or under whose directions, they are so imported.
- (7) Goods whose place of supply is not determined under any of the preceding provisions of this section but whose supply involves their removal to or from the United Kingdom shall be treated—
- (a) as supplied in the United Kingdom where their supply involves their removal from the United Kingdom without also involving their previous removal to the United Kingdom; and
  - (b) as supplied outside the United Kingdom in any other case.
- (8) For the purposes of the preceding provisions of this section, where goods, in the course of their removal from a place in the United Kingdom to another place in the United Kingdom, leave and re-enter the United Kingdom the removal shall not be treated as a removal from or to the United Kingdom.
- (9) The Commissioners may by regulations provide that a notification for the purposes of subsection (5) above is not to be given or withdrawn except in such circumstances, and in such form and manner, as may be prescribed.
- (10) A supply of services shall be treated as made—
- (a) in the United Kingdom if the supplier belongs in the United Kingdom; and
  - (b) in another country (and not in the United Kingdom) if the supplier belongs in that other country.
- (11) The Treasury may by order provide, in relation to goods or services generally or to particular goods or services specified in the order, for varying the rules for determining where a supply of goods or services is made.

#### Textual Amendments

- F6** Words in s. 7(1) substituted (1.6.1996 with application to any acquisition of goods from another member State and any supply taking place on or after that day) by 1996 c. 8, ss. 25, 26, [Sch. 3 para. 2](#); [S.I. 1996/1249, art. 2](#)



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## 8 Reverse charge on supplies received from abroad.

- (1) Subject to subsection (3) below, where relevant services are—
  - (a) supplied by a person who belongs in a country other than the United Kingdom, and
  - (b) received by a person (“the recipient”) who belongs in the United Kingdom for the purposes of any business carried on by him,then all the same consequences shall follow under this Act (and particularly so much as charges VAT on a supply and entitles a taxable person to credit for input tax) as if the recipient had himself supplied the services in the United Kingdom in the course or furtherance of his business, and that supply were a taxable supply.
- (2) In this section “relevant services” means services of any of the descriptions specified in Schedule 5, not being services within any of the descriptions specified in Schedule 9.
- (3) Supplies which are treated as made by the recipient under subsection (1) above are not to be taken into account as supplies made by him when determining any allowance of input tax in his case under section 26(1).
- (4) In applying subsection (1) above, the supply of services treated as made by the recipient shall be assumed to have been made at a time to be determined in accordance with regulations prescribing rules for attributing a time of supply in cases within that subsection.
- (5) The Treasury may by order add to, or vary, Schedule 5.
- (6) The power of the Treasury by order to add to or vary Schedule 5 shall include power, where any services whose place of supply is determined by an order under section 7(11) are added to that Schedule, to provide that subsection (1) above shall have effect in relation to those services as if a person belongs in the United Kingdom for the purposes of paragraph (b) of that subsection if, and only if, he is a taxable person.
- [<sup>F7</sup>(7) The power of the Treasury by order to add to or vary Schedule 5 shall include power to make such incidental, supplemental, consequential and transitional provision in connection with any addition to or variation of that Schedule as they think fit.
- (8) Without prejudice to the generality of subsection (7) above, the provision that may be made under that subsection includes—
  - (a) provision making such modifications of section 43(2A) to (2E) as the Treasury may think fit in connection with any addition to or variation of that Schedule; and
  - (b) provision modifying the effect of any regulations under subsection (4) above in relation to any services added to the Schedule.]

### Textual Amendments

F7 S. 8(7)(8) inserted (19.3.1997) by 1997 c. 16, s. 42

## 9 Place where supplier or recipient of services belongs.

- (1) Subsection (2) below shall apply for determining, in relation to any supply of services, whether the supplier belongs in one country or another and subsections (3) and (4) below shall apply (subject to any provision made under section 8(6)) for determining,

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in relation to any supply of services, whether the recipient belongs in one country or another.

- (2) The supplier of services shall be treated as belonging in a country if—
  - (a) he has there a business establishment or some other fixed establishment and no such establishment elsewhere; or
  - (b) he has no such establishment (there or elsewhere) but his usual place of residence is there; or
  - (c) he has such establishments both in that country and elsewhere and the establishment of his which is most directly concerned with the supply is there.
- (3) If the supply of services is made to an individual and received by him otherwise than for the purposes of any business carried on by him, he shall be treated as belonging in whatever country he has his usual place of residence.
- (4) Where subsection (3) above does not apply, the person to whom the supply is made shall be treated as belonging in a country if—
  - (a) either of the conditions mentioned in paragraphs (a) and (b) of subsection (2) above is satisfied; or
  - (b) he has such establishments as are mentioned in subsection (2) above both in that country and elsewhere and the establishment of his at which, or for the purposes of which, the services are most directly used or to be used is in that country.
- (5) For the purposes of this section (but not for any other purposes)—
  - (a) a person carrying on a business through a branch or agency in any country shall be treated as having a business establishment there; and
  - (b) “usual place of residence”, in relation to a body corporate, means the place where it is legally constituted.

#### *Acquisition of goods from member States*

### **10 Scope of VAT on acquisitions from member States.**

- (1) VAT shall be charged on any acquisition from another member State of any goods where—
  - (a) the acquisition is a taxable acquisition and takes place in the United Kingdom;
  - (b) the acquisition is otherwise than in pursuance of a taxable supply; and
  - (c) the person who makes the acquisition is a taxable person or the goods are subject to a duty of excise or consist in a new means of transport.
- (2) An acquisition of goods from another member State is a taxable acquisition if—
  - (a) it falls within subsection (3) below or the goods consist in a new means of transport; and
  - (b) it is not an exempt acquisition.
- (3) An acquisition of goods from another member State falls within this subsection if—
  - (a) the goods are acquired in the course or furtherance of—
    - (i) any business carried on by any person; or
    - (ii) any activities carried on otherwise than by way of business by any body corporate or by any club, association, organisation or other unincorporated body;

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- (b) it is the person who carries on that business or, as the case may be, those activities who acquires the goods; and
- (c) the supplier—
  - (i) is taxable in another member State at the time of the transaction in pursuance of which the goods are acquired; and
  - (ii) in participating in that transaction, acts in the course or furtherance of a business carried on by him.

## **11 Meaning of acquisition of goods from another member State.**

- (1) Subject to the following provisions of this section, references in this Act to the acquisition of goods from another member State shall be construed as references to any acquisition of goods in pursuance of a transaction in relation to which the following conditions are satisfied, that is to say—
  - (a) the transaction is a supply of goods (including anything treated for the purposes of this Act as a supply of goods); and
  - (b) the transaction involves the removal of the goods from another member State; and references in this Act, in relation to such an acquisition, to the supplier shall be construed accordingly.
- (2) It shall be immaterial for the purposes of subsection (1) above whether the removal of the goods from the other member State is by or under the directions of the supplier or by or under the directions of the person who acquires them or any other person.
- (3) Where the person with the property in any goods does not change in consequence of anything which is treated for the purposes of this Act as a supply of goods, that supply shall be treated for the purposes of this Act as a transaction in pursuance of which there is an acquisition of goods by the person making it.
- (4) The Treasury may by order provide with respect to any description of transaction that the acquisition of goods in pursuance of a transaction of that description is not to be treated for the purposes of this Act as the acquisition of goods from another member State.

## **12 Time of acquisition.**

- (1) Subject to <sup>[F8]</sup>sections 18 and 18B and any regulations under subsection (3) below, where goods are acquired from another member State, the acquisition shall be treated for the purposes of this Act as taking place on whichever is the earlier of—
  - (a) the 15th day of the month following that in which the event occurs which, in relation to that acquisition, is the first relevant event for the purposes of taxing the acquisition; and
  - (b) the day of the issue, in respect of the transaction in pursuance of which the goods are acquired, of an invoice of such a description as the Commissioners may by regulations prescribe.
- (2) For the purposes of this Act the event which, in relation to any acquisition of goods from another member State, is the first relevant event for the purposes of taxing the acquisition is the first removal of the goods which is involved in the transaction in pursuance of which they are acquired.
- (3) The Commissioners may by regulations make provision with respect to the time at which an acquisition is to be treated as taking place in prescribed cases where the

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whole or part of any consideration comprised in the transaction in pursuance of which the goods are acquired is determined or payable periodically, or from time to time, or at the end of a period; and any such regulations may provide, in relation to any case to which they apply, for goods to be treated as separately and successively acquired at prescribed times or intervals.

#### Textual Amendments

- F8** Words in s. 12(1) substituted (1.6.1996 with application to any acquisition of goods from another member State and any supply taking place on or after that day) by 1996 c. 8, ss. 25, 26, **Sch. 3 para. 3**; S.I. 1996/1249, **art. 2**

### 13 Place of acquisition.

- (1) This section shall apply (subject to <sup>F9</sup>sections 18 and 18B) for determining for the purposes of this Act whether goods acquired from another member State are acquired in the United Kingdom.
- (2) The goods shall be treated as acquired in the United Kingdom if they are acquired in pursuance of a transaction which involves their removal to the United Kingdom and does not involve their removal from the United Kingdom, and (subject to the following provisions of this section) shall otherwise be treated as acquired outside the United Kingdom.
- (3) Subject to subsection (4) below, the goods shall be treated as acquired in the United Kingdom if they are acquired by a person who, for the purposes of their acquisition, makes use of a number assigned to him for the purposes of VAT in the United Kingdom.
- (4) Subsection (3) above shall not require any goods to be treated as acquired in the United Kingdom where it is established, in accordance with regulations made by the Commissioners for the purposes of this section that VAT—
  - (a) has been paid in another member State on the acquisition of those goods; and
  - (b) fell to be paid by virtue of provisions of the law of that member State corresponding, in relation to that member State, to the provision made by subsection (2) above.
- (5) The Commissioners may by regulations make provision for the purposes of this section—
  - (a) for the circumstances in which a person is to be treated as having been assigned a number for the purposes of VAT in the United Kingdom;
  - (b) for the circumstances in which a person is to be treated as having made use of such a number for the purposes of the acquisition of any goods; and
  - (c) for the refund, in prescribed circumstances, of VAT paid in the United Kingdom on acquisitions of goods in relation to which the conditions specified in subsection (4)(a) and (b) above are satisfied.

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### Textual Amendments

- F9** Words in s. 13(1) substituted (1.6.1996 with application to any acquisition of goods from another member State and any supply taking place on or after that day) by 1996 c. 8, ss. 25, 26, **Sch. 3 para. 4**; S.I. 1996/1249, **art. 2**

## 14 Acquisitions from persons belonging in other member States.

(1) Subject to subsection (3) below, where—

- (a) a person (“the original supplier”) makes a supply of goods to a person who belongs in another member State (“the intermediate supplier”);
- (b) that supply involves the removal of the goods from another member State and their removal to the United Kingdom but does not involve the removal of the goods from the United Kingdom;
- (c) both that supply and the removal of the goods to the United Kingdom are for the purposes of the making of a supply by the intermediate supplier to another person (“the customer”) who is registered under this Act;
- (d) neither of those supplies involves the removal of the goods from a member State in which the intermediate supplier is taxable at the time of the removal without also involving the previous removal of the goods to that member State; and
- (e) there would be a taxable acquisition by the customer if the supply to him involved the removal of goods from another member State to the United Kingdom,

the supply by the original supplier to the intermediate supplier shall be disregarded for the purposes of this Act and the supply by the intermediate supplier to the customer shall be treated for the purposes of this Act, other than Schedule 3, as if it did involve the removal of the goods from another member State to the United Kingdom.

(2) Subject to subsection (3) below, where—

- (a) a person belonging in another member State makes such a supply of goods to a person who is registered under this Act as involves their installation or assembly at a place in the United Kingdom to which they are removed; and
- (b) there would be a taxable acquisition by the registered person if that supply were treated as not being a taxable supply but as involving the removal of the goods from another member State to the United Kingdom,

that supply shall be so treated except for the purposes of Schedule 3.

(3) Neither subsection (1) nor subsection (2) above shall apply in relation to any supply unless the intermediate supplier or, as the case may be, the person making the supply complies with such requirements as to the furnishing (whether before or after the supply is made) of invoices and other documents, and of information, to—

- (a) the Commissioners, and
- (b) the person supplied,

as the Commissioners may by regulations prescribe; and regulations under this subsection may provide for the times at which, and the form and manner in which, any document or information is to be furnished and for the particulars which it is to contain.

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- (4) Where this section has the effect of treating a taxable acquisition as having been made, section 12(1) shall apply in relation to that acquisition with the omission of the words from “whichever” to “acquisition; and” at the end of paragraph (a).
- (5) For the purposes of this section a person belongs in another member State if—
- (a) he does not have any business establishment or other fixed establishment in the United Kingdom and does not have his usual place of residence in the United Kingdom;
  - (b) he is neither registered under this Act nor required to be so registered;
  - (c) he does not have a VAT representative and is not for the time being required to appoint one; and
  - (d) he is taxable in another member State;
- but, in determining for the purposes of paragraph (b) above whether a person is required to be registered under this Act, there shall be disregarded any supplies which, if he did belong in another member State and complied with the requirements prescribed under subsection (3) above, would fall to be disregarded by virtue of this section.
- (6) Without prejudice to section 13(4), where—
- (a) any goods are acquired from another member State in a case which corresponds, in relation to another member State, to the case specified in relation to the United Kingdom in subsection (1) above; and
  - (b) the person who acquires the goods is registered under this Act and would be the intermediate supplier in relation to that corresponding case,
- the supply to him of those goods and the supply by him of those goods to the person who would be the customer in that corresponding case shall both be disregarded for the purposes of this Act, other than the purposes of the information provisions referred to in section 92(7).
- (7) References in this section to a person being taxable in another member State shall not include references to a person who is so taxable by virtue only of provisions of the law of another member State corresponding to the provisions of this Act by virtue of which a person who is not registered under this Act is a taxable person if he is required to be so registered.
- (8) This section does not apply in relation to any supply of goods by an intermediate supplier to whom the goods were supplied before 1st August 1993.

#### *Importation of goods from outside the member States*

### **15 General provisions relating to imported goods.**

- (1) For the purposes of this Act goods are imported from a place outside the member States where—
- (a) having been removed from a place outside the member States, they enter the territory of the Community;
  - (b) they enter that territory by being removed to the United Kingdom or are removed to the United Kingdom after entering that territory; and
  - (c) the circumstances are such that it is on their removal to the United Kingdom or subsequently while they are in the United Kingdom that any Community

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customs debt in respect of duty on their entry into the territory of the Community would be incurred.

- (2) Accordingly—
- (a) goods shall not be treated for the purposes of this Act as imported at any time before a Community customs debt in respect of duty on their entry into the territory of the Community would be incurred, and
  - (b) the person who is to be treated for the purposes of this Act as importing any goods from a place outside the member States is the person who would be liable to discharge any such Community customs debt.
- (3) Subsections (1) and (2) above shall not apply, except in so far as the context otherwise requires or provision to the contrary is contained in regulations under section 16(1), for construing any references to importation or to an importer in any enactment or subordinate legislation applied for the purposes of this Act by section 16(1).

## 16 Application of customs enactments.

- (1) Subject to such exceptions and adaptations as the Commissioners may by regulations prescribe and except where the contrary intention appears—
- (a) the provision made by or under the Customs and Excise Acts 1979 and the other enactments and subordinate legislation for the time being having effect generally in relation to duties of customs and excise charged on the importation of goods into the United Kingdom; and
  - (b) the Community legislation for the time being having effect in relation to Community customs duties charged on goods entering the territory of the Community,
- shall apply (so far as relevant) in relation to any VAT chargeable on the importation of goods from places outside the member States as they apply in relation to any such duty of customs or excise or, as the case may be, Community customs duties.
- (2) Regulations under section 16 of the <sup>M1</sup>Post Office Act 1953 (which provides for the application of customs enactments to postal packets) may make special provision in relation to VAT.

### Marginal Citations

M1 1953 c. 36.

## 17 Free zone regulations.

- (1) This section applies in relation to VAT chargeable on the importation of goods from places outside the member States; and in this section “free zone” has the meaning given by section 100A(2) of the Management Act.
- (2) Subject to any contrary provision made by any directly applicable Community provision, goods which are chargeable with VAT may be moved into a free zone and may remain as free zone goods without payment of VAT.
- (3) The Commissioners may by regulations (“free zone regulations”) make provision with respect to the movement of goods into, and the removal of goods from, any free zone and the keeping, securing and treatment of goods which are within a free zone, and

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subject to any provision of the regulations, “free zone goods” means goods which are within a free zone.

- (4) Without prejudice to the generality of subsection (3), free zone regulations may make provision—
- (a) for enabling the Commissioners to allow goods to be removed from a free zone without payment of VAT in such circumstances and subject to such conditions as they may determine;
  - (b) for determining where any VAT becomes payable in respect of goods which cease to be free zone goods—
    - (i) the rates of any VAT applicable; and
    - (ii) the time at which those goods cease to be free zone goods;
  - (c) for determining for the purpose of enabling VAT to be charged in respect of free zone goods in a case where a person wishes to pay that VAT notwithstanding that the goods will continue to be free zone goods, the rate of VAT to be applied; and
  - (d) permitting free zone goods to be destroyed without payment of VAT in such circumstances and subject to such conditions as the Commissioners may determine.
- (5) The Commissioners, with respect to free zone goods or the movement of goods into any free zone, may by regulations make provision—
- (a) for relief from the whole or part of any VAT chargeable on the importation of goods into the United Kingdom in such circumstances as they may determine;
  - (b) in place of, or in addition to, any provision made by section 6 or any other enactment, for determining the time when a supply of goods which are or have been free zone goods is to be treated as taking place for the purposes of the charge to VAT; and
  - (c) as to the treatment, for the purposes of VAT, of goods which are manufactured or produced within a free zone from other goods or which have other goods incorporated in them while they are free zone goods.

#### *Goods subject to a warehousing regime*

### **18 Place and time of acquisition or supply.**

- (1) Where—
- (a) any goods have been removed from a place outside the member States and have entered the territory of the Community;
  - (b) the material time for any acquisition of those goods from another member State or for any supply of those goods is while they are subject to a warehousing regime and before the duty point; and
  - (c) those goods are not mixed with any dutiable goods which were produced or manufactured in the United Kingdom or acquired from another member State,
- then the acquisition or supply mentioned in paragraph (b) above shall be treated for the purposes of this Act as taking place outside the United Kingdom.
- (2) Subsection (3) below applies where—
- (a) any dutiable goods are acquired from another member State; or
  - (b) any person makes a supply of—



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- (i) any dutiable goods which were produced or manufactured in the United Kingdom or acquired from another member State; or
  - (ii) any goods comprising a mixture of goods falling within subparagraph (i) above and other goods.
- (3) Where this subsection applies and the material time for the acquisition or supply mentioned in subsection (2) above is while the goods in question are subject to a warehousing regime and before the duty point, that acquisition or supply shall be treated for the purposes of this Act as taking place outside the United Kingdom if the material time for any subsequent supply of those goods is also while the goods are subject to the warehousing regime and before the duty point.
- (4) Where the material time for any acquisition or supply of any goods in relation to which subsection (3) above applies is while the goods are subject to a warehousing regime and before the duty point but the acquisition or supply nevertheless falls, for the purposes of this Act, to be treated as taking place in the United Kingdom—
  - (a) that acquisition or supply shall be treated for the purposes of this Act as taking place at the earlier of the following times, that is to say, the time when the goods are removed from the warehousing regime and the duty point; and
  - (b) in the case of a supply, any VAT payable on the supply shall be paid (subject to any regulations under subsection (5) below)—
    - (i) at the time when the supply is treated as taking place under paragraph (a) above; and
    - (ii) by the person by whom the goods are so removed or, as the case may be, together with the duty or agricultural levy, by the person who is required to pay the duty or levy.
- [<sup>F10</sup>(5) The Commissioners may by regulations make provision for enabling a taxable person to pay the VAT he is required to pay by virtue of paragraph (b) of subsection (4) above at a time later than that provided for by that paragraph.
- (5A) Regulations under subsection (5) above may in particular make provision for either or both of the following—
  - (a) for the taxable person to pay the VAT together with the VAT chargeable on other supplies by him of goods and services;
  - (b) for the taxable person to pay the VAT together with any duty of excise deferment of which has been granted to him under section 127A of the <sup>M2</sup>Customs and Excise Management Act 1979;and they may make different provision for different descriptions of taxable person and for different descriptions of goods.]
- (6) In this section—
  - “dutiable goods” means any goods which are subject—
    - (a) to a duty of excise; or
    - (b) in accordance with any provision for the time being having effect for transitional purposes in connection with the accession of any State to the European Communities, to any Community customs duty or agricultural levy of the European Community;
  - “the duty point”, in relation to any goods, means—
    - (a) in the case of goods which are subject to a duty of excise, the time when the requirement to pay the duty on those goods takes effect; and

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(b) in the case of goods which are not so subject, the time when any Community customs debt in respect of duty on the entry of the goods into the territory of the Community would be incurred or, as the case may be, the corresponding time in relation to any such duty or levy as is mentioned in paragraph (b) of the definition of dutiable goods;

“material time”—

(a) in relation to any acquisition or supply the time of which is determined in accordance with regulations under section 6(14) or 12(3), means such time as may be prescribed for the purpose of this section by those regulations;

(b) in relation to any other acquisition, means the time of the event which, in relation to the acquisition, is the first relevant event for the purposes of taxing it; and

(c) in relation to any other supply, means the time when the supply would be treated as taking place in accordance with subsection (2) of section 6 if paragraph (c) of that subsection were omitted;

“warehouse” means any warehouse where goods may be stored in any member State without payment of any one or more of the following, that is to say—

(a) Community customs duty;

(b) any agricultural levy of the European Community;

(c) VAT on the importation of the goods into any member State;

(d) any duty of excise or any duty which is equivalent in another member State to a duty of excise.

(7) References in this section to goods being subject to a warehousing regime is a reference to goods being kept in a warehouse or being transported between warehouses (whether in the same or different member States) without the payment in a member State of any duty, levy or VAT; and references to the removal of goods from a warehousing regime shall be construed accordingly.

#### Textual Amendments

**F10** S. 18(5)(5A) substituted (1.5.1995) for s. 18(5) by 1995 c. 4, s. 29

#### Marginal Citations

**M2** 1979 c. 2.

### [<sup>F11</sup>18A Fiscal warehousing.

(1) The Commissioners may, if it appears to them proper, upon application approve any registered person as a fiscal warehousekeeper; and such approval shall be subject to such conditions as they shall impose.

(2) Subject to those conditions and to regulations made under section 18F such a person shall be entitled to keep a fiscal warehouse.

(3) “Fiscal warehouse” means such place in the United Kingdom in the occupation or under the control of the fiscal warehousekeeper, not being retail premises, as he shall notify to the Commissioners in writing; and such a place shall become a fiscal warehouse on receipt by the Commissioners of that notification or on the date stated

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in it as the date from which it is to have effect, whichever is the later, and, subject to subsection (6) below, shall remain a fiscal warehouse so long as it is in the occupation or under the control of the fiscal warehousekeeper or until he shall notify the Commissioners in writing that it is to cease to be a fiscal warehouse.

(4) The Commissioners may in considering an application by a person to be a fiscal warehousekeeper take into account any matter which they consider relevant, and may without prejudice to the generality of that provision take into account all or any one or more of the following—

- (a) his record of compliance and ability to comply with the requirements of this Act and regulations made hereunder;
- (b) his record of compliance and ability to comply with the requirements of the customs and excise Acts (as defined in the Management Act) and regulations made thereunder;
- (c) his record of compliance and ability to comply with Community customs provisions;
- (d) his record of compliance and ability to comply with the requirements of other member States relating to VAT and duties equivalent to duties of excise;
- (e) if the applicant is a company the records of compliance and ability to comply with the matters set out at (a) to (d) above of its directors, persons connected with its directors, its managing officers, any shadow directors or any of those persons, and, if it is a close company, the records of compliance and ability to comply with the matters set out at (a) to (d) above of the beneficial owners of the shares of the company or any of them; and
- (f) if the applicant is an individual the records of compliance and ability to comply with the matters set out at (a) to (d) above of any company of which he is or has been a director, managing officer or shadow director or, in the case of a close company, a shareholder or the beneficial owner of shares,

and for the purposes of paragraphs (e) and (f) “connected” shall have the meaning given by section 24(7), “managing officer” the meaning given by section 61(6), “shadow director” the meaning given by section 741(2) of the <sup>M3</sup>Companies Act 1985 and “close company” the meaning given by the Taxes Act.

(5) Subject to subsection (6) below, a person approved under subsection (1) shall remain a fiscal warehousekeeper until he ceases to be a registered person or until he shall notify the Commissioners in writing that he is to cease to be a fiscal warehousekeeper.

(6) The Commissioners may if they consider it appropriate from time to time—

- (a) impose conditions on a fiscal warehousekeeper in addition to those conditions, if any, which they imposed under subsection (1), and vary or revoke any conditions previously imposed;
- (b) withdraw approval of any person as a fiscal warehousekeeper, and
- (c) withdraw fiscal warehouse status from any premises.

(7) Any application by or on behalf of a person to be a fiscal warehousekeeper shall be in writing in such form as the Commissioners may direct and shall be accompanied by such information as they shall require.

(8) Any approval by the Commissioners under subsection (1) above, and any withdrawal of approval or other act by them under subsection (6) above, shall be notified by them to the fiscal warehousekeeper in writing and shall take effect on such notification being made or on any later date specified for the purpose in the notification.

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- (9) Without prejudice to the provisions of section 43 concerning liability for VAT, in subsections (1) and (2) above “registered person” includes any body corporate which under that section is for the time being treated as a member of a group.]

#### Textual Amendments

- F11** S. 18A inserted (1.6.1996 with application to any acquisition of goods from another member State and any supply taking place on or after that day) by 1996 c. 8, ss. 25, 26, **Sch. 3 para. 5**; S.I. 1996/1249, **art. 2**

#### Marginal Citations

- M3** 1985 c. 6.

### [<sup>F12</sup>18B Fiscally warehoused goods: relief.

- (1) Subsections (3) and (4) below apply where—
- (a) there is an acquisition of goods from another member State;
  - (b) those goods are eligible goods;
  - (c) either—
    - (i) the acquisition takes place while the goods are subject to a fiscal warehousing regime; or
    - (ii) after the acquisition but before the supply, if any, of those goods which next occurs, the acquirer causes the goods to be placed in a fiscal warehousing regime; and
  - (d) the acquirer, not later than the time of the acquisition, prepares and keeps a certificate that the goods are subject to a fiscal warehousing regime, or (as the case may be) that he will cause paragraph (c)(ii) above to be satisfied; and the certificate shall be in such form and be kept for such period as the Commissioners may by regulations specify.
- (2) Subsections (3) and (4) below also apply where—
- (a) there is a supply of goods;
  - (b) those goods are eligible goods;
  - (c) either—
    - (i) that supply takes place while the goods are subject to a fiscal warehousing regime; or
    - (ii) after that supply but before the supply, if any, of those goods which next occurs, the person to whom the former supply is made causes the goods to be placed in a fiscal warehousing regime;
  - (d) in a case falling within paragraph (c)(ii) above, the person to whom the supply is made gives the supplier, not later than the time of the supply, a certificate in such form as the Commissioners may by regulations specify that he will cause paragraph (c)(ii) to be satisfied; and
  - (e) the supply is not a retail transaction.
- (3) The acquisition or supply in question shall be treated for the purposes of this Act as taking place outside the United Kingdom if any subsequent supply of those goods is while they are subject to the fiscal warehousing regime.

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- (4) Where subsection (3) does not apply and the acquisition or supply in question falls, for the purposes of this Act, to be treated as taking place in the United Kingdom, that acquisition or supply shall be treated for the purposes of this Act as taking place when the goods are removed from the fiscal warehousing regime.
- (5) Where—
- (a) subsection (4) above applies to an acquisition or a supply,
  - (b) the acquisition or supply is taxable and not zero-rated, and
  - (c) the acquirer or supplier is not a taxable person but would be were it not for paragraph 1(9) of Schedule 1, paragraph 1(7) of Schedule 2 and paragraph 1(6) of Schedule 3, or any of those provisions,
- VAT shall be chargeable on that acquisition or supply notwithstanding that the acquirer or the supplier is not a taxable person.
- (6) In this section “eligible goods” means goods—
- (a) of a description falling within Schedule 5A;
  - (b) upon which any import duties, as defined in article 4(10) of the Community Customs Code of 12th October 1992 (Council Regulation (EEC) No.2913/92), either have been paid or have been deferred under article 224 of that Code or regulations made under section 45 of the Management Act;
  - (c) (in the case of goods imported from a place outside the member States) upon which any VAT chargeable under section 1(1)(c) has been either paid or deferred in accordance with Community customs provisions, and
  - (d) (in the case of goods subject to a duty of excise) upon which that duty has been either paid or deferred under section 127A of the Management Act.
- (7) For the purposes of this section, apart from subsection (4), an acquisition or supply shall be treated as taking place at the material time for the acquisition or supply.
- (8) The Treasury may by order vary Schedule 5A by adding to or deleting from it any goods or varying any description of any goods.]

#### Textual Amendments

- F12** S. 18B inserted (29.4.1996 for certain purposes and 1.6.1996 otherwise with application to any acquisition of goods from another member State and any supply taking place on or after 1.6.1996) by 1996 c. 8, ss. 25, 26, **Sch. 3 para. 5**; S.I. 1996/1249, **art. 2**

### 18C <sup>F13</sup> Warehouses and fiscal warehouses: services.

- (1) Where—
- (a) a taxable person makes a supply of specified services;
  - (b) those services are wholly performed on or in relation to goods while those goods are subject to a warehousing or fiscal warehousing regime;
  - (c) (except where the services are the supply by an occupier of a warehouse or a fiscal warehousekeeper of warehousing or fiscally warehousing the goods) the person to whom the supply is made gives the supplier a certificate, in such a form as the Commissioners may by regulations specify, that the services are so performed;

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- (d) the supply of services would (apart from this section) be taxable and not zero-rated; and
  - (e) the supplier issues to the person to whom the supply is made an invoice of such a description as the Commissioners may by regulations prescribe, his supply shall be zero-rated.
- (2) If a supply of services is zero-rated under subsection (1) above (“the zero-rated supply of services”) then, unless there is a supply of the goods in question the material time for which is—
- (a) while the goods are subject to a warehousing or fiscal warehousing regime, and
  - (b) after the material time for the zero-rated supply of services, subsection (3) below shall apply.
- (3) Where this subsection applies—
- (a) a supply of services identical to the zero-rated supply of services shall be treated for the purposes of this Act as being, at the time the goods are removed from the warehousing or fiscal warehousing regime or (if earlier) at the duty point, both made (for the purposes of his business) to the person to whom the zero-rated supply of services was actually made and made by him in the course or furtherance of his business,
  - (b) that supply shall have the same value as the zero-rated supply of services,
  - (c) that supply shall be a taxable (and not a zero-rated) supply, and
  - (d) VAT shall be charged on that supply even if the person treated as making it is not a taxable person.
- (4) In this section “specified services” means—
- (a) services of an occupier of a warehouse or a fiscal warehousekeeper of keeping the goods in question in a warehousing or fiscal warehousing regime;
  - (b) in relation to goods subject to a warehousing regime, services of carrying out on the goods operations which are permitted to be carried out under Community customs provisions or warehousing regulations as the case may be; and
  - (c) in relation to goods subject to a fiscal warehousing regime, services of carrying out on the goods any physical operations (other than any prohibited by regulations made under section 18F), for example, and without prejudice to the generality of the foregoing words, preservation and repacking operations.

#### Textual Amendments

**F13** S. 18C inserted (29.4.1996 for certain purposes and 1.6.1996 otherwise with application to any acquisition of goods from another member State and any supply taking place on or after that day) by 1996 c. 8, ss. 25, 26, **Sch. 3 para. 5**; S.I. 1996/1249, **art. 2**

#### [<sup>F14</sup>18D Removal from warehousing: accountability.

- (1) This section applies to any supply to which section 18B(4) or section 18C(3) applies (supply treated as taking place on removal or duty point) and any acquisition to which section 18B(5) applies (acquisition treated as taking place on removal where acquirer not a taxable person).

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- (2) Any VAT payable on the supply or acquisition shall (subject to any regulations under subsection (3) below) be paid—
  - (a) at the time when the supply or acquisition is treated as taking place under the section in question; and
  - (b) by the person by whom the goods are removed or, as the case may be, together with the excise duty, by the person who is required to pay that duty.
- (3) The Commissioners may by regulations make provision for enabling a taxable person to pay the VAT he is required to pay by virtue of subsection (2) above at a time later than that provided by that subsection; and they may make different provisions for different descriptions of taxable persons and for different descriptions of goods and services.]

#### Textual Amendments

**F14** S. 18D inserted (29.4.1996 for specified purposes otherwise 1.6.1996 with application to any acquisition of goods from another member State and any supply taking place on or after 1.6.1996) by 1996 c. 8, ss. 25, 26, **Sch. 3 para. 5**; S.I. 1996/1249, **art. 2**

#### [<sup>F15</sup>18E Deficiency in fiscally warehoused goods.

- (1) This section applies where goods have been subject to a fiscal warehousing regime and, before being lawfully removed from the fiscal warehouse, they are found to be missing or deficient.
- (2) In any case where this section applies, unless it is shown to the satisfaction of the Commissioners that the absence of or deficiency in the goods can be accounted for by natural waste or other legitimate cause, the Commissioners may require the fiscal warehousekeeper to pay immediately in respect of the missing goods or of the whole or any part of the deficiency, as they see fit, the VAT that would have been chargeable.
- (3) In subsection (2) “VAT that would have been chargeable” means VAT that would have been chargeable on a supply of the missing goods, or the amount of goods by which the goods are deficient, taking place at the time immediately before the absence arose or the deficiency occurred, if the value of that supply were the open market value; but where that time cannot be ascertained to the Commissioners’ satisfaction, that VAT shall be the greater of the amounts of VAT which would have been chargeable on a supply of those goods—
  - (a) if the value of that supply were the highest open market value during the period (the relevant period) commencing when the goods were placed in the fiscal warehousing regime and ending when the absence or deficiency came to the notice of the Commissioners, or
  - (b) if the rate of VAT chargeable on that supply were the highest rate chargeable on a supply of such goods during the relevant period and the value of that supply were the highest open market value while that rate prevailed.
- (4) This section has effect without prejudice to any penalty incurred under any other provision of this Act or regulations made under it.]

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### Textual Amendments

**F15** S. 18E inserted (1.6.1996 with application to any acquisition of goods from another member State and any supply taking place on or after that day) by 1996 c. 8, ss. 25, 26, **Sch. 3 para. 5**; S.I. 1996/1249, **art. 2**

### [<sup>F16</sup>18F Sections 18A to 18E: supplementary.

(1) In sections 18A to 18E and this section—

“duty point” has the meaning given by section 18(6);

“eligible goods” has the meaning given by section 18B(6);

“fiscal warehouse” means a place notified to the Commissioners under section 18A(3) and from which such status has not been withdrawn;

“fiscal warehousekeeper” means a person approved under section 18A(1);

“material time”—

(a) in relation to any acquisition or supply the time of which is determined in accordance with regulations under section 6(14) or 12(3), means such time as may be prescribed for the purpose of this section by those regulations;

(b) in relation to any other acquisition, means the time when the goods reach the destination to which they are despatched from the member State in question;

(c) in relation to any other supply of goods, means the time when the supply would be treated as taking place in accordance with subsection (2) of section 6 if paragraph (c) of that subsection were omitted; and

(d) in relation to any other supply of services, means the time when the services are performed;

“warehouse”, except in the expression “fiscal warehouse”, has the meaning given by section 18(6);

“warehousing regulations” has the same meaning as in the Management Act.

(2) Any reference in sections 18A to 18E or this section to goods being subject to a fiscal warehousing regime is, subject to any regulations made under subsection (8)(e) below, a reference to eligible goods being kept in a fiscal warehouse or being transferred between fiscal warehouses in accordance with such regulations; and any reference to the removal of goods from a fiscal warehousing regime shall be construed accordingly.

(3) Subject to subsection (2) above, any reference in sections 18C and 18D to goods being subject to a warehousing regime or to the removal of goods from a warehousing regime shall have the same meaning as in section 18(7).

(4) Where as a result of an operation on eligible goods subject to a fiscal warehousing regime they change their nature but the resulting goods are also eligible goods, the provisions of sections 18B to 18E and this section shall apply as if the resulting goods were the original goods.



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- (5) Where as a result of an operation on eligible goods subject to a fiscal warehousing regime they cease to be eligible goods, on their ceasing to be so sections 18B to 18E shall apply as if they had at that time been removed from the fiscal warehousing regime; and for that purpose the proprietor of the goods shall be treated as if he were the person removing them.
- (6) Where—
- (a) any person ceases to be a fiscal warehousekeeper; or
  - (b) any premises cease to have fiscal warehouse status,
- sections 18B to 18E and this section shall apply as if the goods of which he is the fiscal warehousekeeper, or the goods in the fiscal warehouse, as the case may be, had at that time been removed from the fiscal warehousing regime; and for that purpose the proprietor of the goods shall be treated as if he were the person removing them.
- (7) The Commissioners may make regulations governing the deposit, keeping, securing and treatment of goods in a fiscal warehouse, and the removal of goods from a fiscal warehouse.
- (8) Regulations may, without prejudice to the generality of subsection (7) above, include provisions—
- (a) in relation to—
    - (i) goods which are, have been or are to be subject to a fiscal warehousing regime,
    - (ii) other goods which are, have been or are to be kept in fiscal warehouses,
    - (iii) fiscal warehouse premises, and
    - (iv) fiscal warehousekeepers and their businesses,as to the keeping, preservation and production of records and the furnishing of returns and information by fiscal warehousekeepers and any other persons;
  - (b) requiring goods deposited in a fiscal warehouse to be produced to or made available for inspection by an authorised person on request by him;
  - (c) prohibiting the carrying out on fiscally warehoused goods of such operations as they may prescribe;
  - (d) regulating the transfer of goods from one fiscal warehouse to another;
  - (e) concerning goods which, though kept in a fiscal warehouse, are not eligible goods or are not intended by a relevant person to be goods in respect of which reliefs are to be enjoyed under sections 18A to 18E and this section;
  - (f) prohibiting the fiscal warehousekeeper from allowing goods to be removed from the fiscal warehousing regime without payment of any VAT payable under section 18D on or by reference to that removal and, if in breach of that prohibition he allows goods to be so removed, making him liable for the VAT jointly and severally with the remover,
- and may contain such incidental or supplementary provisions as the Commissioners think necessary or expedient.
- (9) Regulations may make different provision for different cases, including different provision for different fiscal warehousekeepers or descriptions of fiscal warehousekeeper, for fiscal warehouses of different descriptions or for goods of different classes or descriptions or of the same class or description in different circumstances.]

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### Textual Amendments

- F16** S. 18F inserted (29.4.1996 for specified purposes otherwise 1.6.1996 with application to any acquisition of goods from another member State and any supply taking place on or after 1.6.1996) by 1996 c. 8, ss. 25, 26, **Sch. 3 para. 5**; S.I. 1996/1249, **art. 2**

### Determination of value

## 19 Value of supply of goods or services.

- (1) For the purposes of this Act the value of any supply of goods or services shall, except as otherwise provided by or under this Act, be determined in accordance with this section and Schedule 6, and for those purposes subsections (2) to (4) below have effect subject to that Schedule.
- (2) If the supply is for a consideration in money its value shall be taken to be such amount as, with the addition of the VAT chargeable, is equal to the consideration.
- (3) If the supply is for a consideration not consisting or not wholly consisting of money, its value shall be taken to be such amount in money as, with the addition of the VAT chargeable, is equivalent to the consideration.
- (4) Where a supply of any goods or services is not the only matter to which a consideration in money relates, the supply shall be deemed to be for such part of the consideration as is properly attributable to it.
- (5) For the purposes of this Act the open market value of a supply of goods or services shall be taken to be the amount that would fall to be taken as its value under subsection (2) above if the supply were for such consideration in money as would be payable by a person standing in no such relationship with any person as would affect that consideration.

### Modifications etc. (not altering text)

- C4** S. 19(5) modified (20.10.1995) by S.I. 1995/2518, **reg. 77**

## 20 Valuation of acquisitions from other member States.

- (1) [<sup>F17</sup>Subject to section 18C,]for the purposes of this Act the value of any acquisition of goods from another member State shall be taken to be the value of the transaction in pursuance of which they are acquired.
- (2) Where goods are acquired from another member State otherwise than in pursuance of a taxable supply, the value of the transaction in pursuance of which they are acquired shall be determined for the purposes of subsection (1) above in accordance with this section and Schedule 7, and for those purposes—
  - (a) subsections (3) to (5) below have effect subject to that Schedule; and
  - (b) section 19 and Schedule 6 shall not apply in relation to the transaction.
- (3) If the transaction is for a consideration in money, its value shall be taken to be such amount as is equal to the consideration.

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- (4) If the transaction is for a consideration not consisting or not wholly consisting of money, its value shall be taken to be such amount in money as is equivalent to the consideration.
- (5) Where a transaction in pursuance of which goods are acquired from another member State is not the only matter to which a consideration in money relates, the transaction shall be deemed to be for such part of the consideration as is properly attributable to it.

#### Textual Amendments

**F17** Words in s. 20(1) inserted (1.6.1996 with application to any acquisition of goods from another member State and any supply taking place on or after that day) by 1996 c. 8, ss. 25, 26, Sch. 3 para. 6; S.I. 1996/1249, art. 2

## 21 Value of imported goods.

- (1) For the purposes of this Act, the value of goods imported from a place outside the member States shall (subject to subsections (2) [<sup>F18</sup>to (4)] below) be determined according to the rules applicable in the case of Community customs duties, whether or not the goods in question are subject to any such duties.
- (2) For the purposes of this Act the value of any goods imported from a place outside the member States shall be taken to include the following so far as they are not already included in that value in accordance with the rules mentioned in subsection (1) above, that is to say—
  - (a) all taxes, duties and other charges levied either outside or, by reason of importation, within the United Kingdom (except VAT); <sup>F19</sup> . . .
  - [<sup>F20</sup>(b) all incidental expenses, such as commission, packing, transport and insurance costs, up to the goods' first destination in the United Kingdom; and
  - (c) if at the time of the importation of the goods from a place outside the member States a further destination for the goods is known, and that destination is within the United Kingdom or another member State, all such incidental expenses in so far as they result from the transport of the goods to that other destination;and in this subsection “the goods' first destination” means the place mentioned on the consignment note or any other document by means of which the goods are imported into the United Kingdom, or in the absence of such documentation it means the place of the first transfer of cargo in the United Kingdom.]
- (3) Subject to subsection (2) above, where—
  - (a) goods are imported from a place outside the member States for a consideration which is or includes a price in money payable as on the transfer of property;
  - (b) the terms on which those goods are so imported allow a discount for prompt payment of that price;
  - (c) those terms do not include provision for payment of that price by instalments; and
  - (d) payment of that price is made in accordance with those terms so that the discount falls to be allowed,

the value of the goods shall be taken for the purposes of this Act to be reduced by the amount of the discount.

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[<sup>F21</sup>(4) [<sup>F22</sup>Subject to subsection (6D) below,]For the purposes of this Act, the value of any goods falling within subsection (5) below which are imported from a place outside the member States shall be taken to be an amount equal to [<sup>F23</sup>28.58 per cent.] of the amount which, apart from this subsection, would be their value for those purposes.

[ The goods that fall within this subsection are—

- <sup>F24</sup>(5) (a) any work of art;
- (b) any antique, not falling within paragraph (a) above or (c) below, that is more than one hundred years old;
- (c) any collection or collector’s piece that is of zoological, botanical, mineralogical, anatomical, historical, archaeological, palaeontological, ethnographic, numismatic or philatelic interest.
- (6) In this section “work of art” means, subject to subsections (6A) and (6B) below—
- (a) any mounted or unmounted painting, drawing, collage, decorative plaque or similar picture that was executed by hand;
- (b) any original engraving, lithograph or other print which—
- (i) was produced from one or more plates executed by hand by an individual who executed them without using any mechanical or photomechanical process; and
- (ii) either is the only one produced from the plate or plates or is comprised in a limited edition;
- (c) any original sculpture or statuary, in any material;
- (d) any sculpture cast which—
- (i) was produced by or under the supervision of the individual who made the mould or became entitled to it by succession on the death of that individual; and
- (ii) either is the only cast produced from the mould or is comprised in a limited edition;
- (e) any tapestry or other hanging which—
- (i) was made by hand from an original design; and
- (ii) either is the only one made from the design or is comprised in a limited edition;
- (f) any ceramic executed by an individual and signed by him;
- (g) any enamel on copper which—
- (i) was executed by hand;
- (ii) is signed either by the person who executed it or by someone on behalf of the studio where it was executed;
- (iii) either is the only one made from the design in question or is comprised in a limited edition; and
- (iv) is not comprised in an article of jewellery or an article of a kind produced by goldsmiths or silversmiths;
- (h) any mounted or unmounted photograph which—
- (i) was printed by or under the supervision of the photographer;
- (ii) is signed by him; and
- (iii) either is the only print made from the exposure in question or is comprised in a limited edition;

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- (6A) The following do not fall within subsection (5) above by virtue of subsection (6)(a) above, that is to say—
- (a) any technical drawing, map or plan;
  - (b) any picture comprised in a manufactured article that has been hand-decorated;  
or
  - (c) anything in the nature of scenery, including a backcloth.
- (6B) An item comprised in a limited edition shall be taken to be so comprised for the purposes of subsection (6)(d) to (h) above only if—
- (a) in the case of sculpture casts—
    - (i) the edition is limited so that the number produced from the same mould does not exceed eight; or
    - (ii) the edition comprises a limited edition of nine or more casts made before 1st January 1989 which the Commissioners have directed should be treated, in the exceptional circumstances of the case, as a limited edition for the purposes of subsection (6)(d) above;
  - (b) in the case of tapestries and hangings, the edition is limited so that the number produced from the same design does not exceed eight;
  - (c) in the case of enamels on copper—
    - (i) the edition is limited so that the number produced from the same design does not exceed eight; and
    - (ii) each of the enamels in the edition is numbered and is signed as mentioned in subsection (6)(g)(ii) above;
  - (d) in the case of photographs—
    - (i) the edition is limited so that the number produced from the same exposure does not exceed thirty; and
    - (ii) each of the prints in the edition is numbered and is signed as mentioned in subsection (6)(h)(ii) above.
- (6C) For the purposes of this section a collector's piece is of philatelic interest if—
- (a) it is a postage or revenue stamp, a postmark, a first-day cover or an item of pre-stamped stationery; and
  - (b) it is franked or (if unfranked) it is not legal tender and is not intended for use as such.
- (6D) Subsection (4) above does not apply in the case of any goods imported from outside the member States if—
- (a) the whole of the VAT chargeable on their importation falls to be relieved by virtue of an order under section 37(1); or
  - (b) they were exported from the United Kingdom during the period of twelve months ending with the date of their importation.]
- (7) An order under section 2(2) may contain provision making such alteration of the percentage for the time being specified in subsection (4) above as the Treasury consider appropriate in consequence of any increase or decrease by that order of the rate of VAT.]

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### Textual Amendments

- F18** Words in s. 21(1) substituted (1.5.1995 with effect as mentioned in s. 22(2) of the amending Act) by 1995 c. 4, s. 22(1)
- F19** Word in s. 21(2)(a) repealed (29.4.1996 with effect in relation to goods imported on or after 1.1.1996) by 1996 c. 8, ss. 27(2)(4), 205, Sch. 41 Pt. IV(3) Note
- F20** S. 21(2)(b)(c) substituted (29.4.1996 with effect in relation to goods imported on or after 1.1.1996) for s. 21(2)(b) by 1996 c. 8, s. 27(3)(4)
- F21** S. 21(4)-(7) inserted (1.5.1995 with effect as mentioned in s. 22(2) of the amending Act) by 1995 c. 4, s. 22(1)
- F22** Words in s.21(4) inserted (27.7.1999 with effect as mentioned in s. 12(3) of the amending Act) by 1999 c. 16, s. 12(1)(a)
- F23** Words in s. 21(4) substituted (27.7.1999 with effect as mentioned in s. 12(3) of the amending Act) by 1999 c. 16, s. 12(1)(b)
- F24** S. 21(5)-(6D) substituted (27.7.1999 with effect as mentioned in s. 12(3) of the amending Act) for s. 21(5)(6) by 1999 c. 16, s. 12(2)

**F25** 22 .....

### Textual Amendments

- F25** S. 22 repealed (29.4.1996 with application in relation to supplies made on or after 1.1.1996) by 1996 c. 8, ss. 28, 205, Sch. 41 Pt. IV(2)

## 23 Gaming machines.

- (1) Where a person plays a game of chance by means of a gaming machine, then for the purposes of VAT (but without prejudice to subsection (2) below) the amount paid by him to play shall be treated as the consideration for a supply of services to him.
- (2) The value to be taken as the value of supplies made in the circumstances mentioned in subsection (1) above in any period shall be determined as if the consideration for the supplies were reduced by an amount equal to the amount (if any) received in that period by persons (other than the person making the supply and persons acting on his behalf) playing successfully.
- (3) The insertion of a token into a machine shall be treated for the purposes of subsection (1) above as the payment of an amount equal to that for which the token can be obtained; and the receipt of a token by a person playing successfully shall be treated for the purposes of subsection (2) above—
  - (a) if the token is of a kind used to play the machine, as the receipt of an amount equal to that for which such a token can be obtained;
  - (b) if the token is not of such a kind but can be exchanged for money, as the receipt of an amount equal to that for which it can be exchanged.
- (4) In this section—
 

“game of chance” has the same meaning as in the <sup>M4</sup>Gaming Act 1968; and

“gaming machine” means a machine in respect of which the following conditions are satisfied, namely—

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- (a) it is constructed or adapted for playing a game of chance by means of it; and
- (b) a player pays to play the machine (except where he has an opportunity to play payment-free as the result of having previously played successfully), either by inserting a coin or token into the machine or in some other way; and
- (c) the element of chance in the game is provided by means of the machine.

#### Marginal Citations

M4 1968 c. 65.

### *Payment of VAT by taxable persons*

#### **24 Input tax and output tax.**

- (1) Subject to the following provisions of this section, “input tax”, in relation to a taxable person, means the following tax, that is to say—
  - (a) VAT on the supply to him of any goods or services;
  - (b) VAT on the acquisition by him from another member State of any goods; and
  - (c) VAT paid or payable by him on the importation of any goods from a place outside the member States,being (in each case) goods or services used or to be used for the purpose of any business carried on or to be carried on by him.
- (2) Subject to the following provisions of this section, “output tax”, in relation to a taxable person, means VAT on supplies which he makes or on the acquisition by him from another member State of goods (including VAT which is also to be counted as input tax by virtue of subsection (1)(b) above).
- (3) For the purposes of subsections (1) and (2) above, where goods or services are supplied to a company, goods are acquired by a company from another member State or goods are imported by a company from a place outside the member States and the goods or services which are so supplied, acquired or imported are used or to be used in connection with the provision of accommodation by the company, they shall not be treated as used or to be used for the purposes of any business carried on by the company to the extent that the accommodation is used or to be used for domestic purposes by—
  - (a) a director of the company, or
  - (b) a person connected with a director of the company.
- (4) The Treasury may by order provide with respect to any description of goods or services that, where goods or services of that description are supplied to a person who is not a taxable person, they shall, in such circumstances as may be specified in the order, be treated for the purposes of subsections (1) and (2) above as supplied to such other person as may be determined in accordance with the order.
- (5) Where goods or services supplied to a taxable person, goods acquired by a taxable person from another member State or goods imported by a taxable person from a place outside the member States are used or to be used partly for the purposes of a business carried on or to be carried on by him and partly for other purposes, VAT on supplies,

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acquisitions and importations shall be apportioned so that only so much as is referable to his business purposes is counted as his input tax.

(6) Regulations may provide—

- (a) for VAT on the supply of goods or services to a taxable person, VAT on the acquisition of goods by a taxable person from other member States and VAT paid or payable by a taxable person on the importation of goods from places outside the member States to be treated as his input tax only if and to the extent that the charge to VAT is evidenced and quantified by reference to such documents as may be specified in the regulations or the Commissioners may direct either generally or in particular cases or classes of cases;
- (b) for a taxable person to count as his input tax, in such circumstances, to such extent and subject to such conditions as may be prescribed, VAT on the supply to him of goods or services or on the acquisition of goods by him from another member State or paid by him on the importation of goods from places outside the member States notwithstanding that he was not a taxable person at the time of the supply, acquisition or payment;
- (c) for a taxable person that is a body corporate to count as its input tax, in such circumstances, to such extent and subject to such conditions as may be prescribed, VAT on the supply, acquisition or importation of goods before the company's incorporation for appropriation to the company or its business or on the supply of services before that time for its benefit or in connection with its incorporation;
- (d) in the case of a person who has been, but is no longer, a taxable person, for him to be paid by the Commissioners the amount of any VAT on a supply of services made to him for the purposes of the business carried on by him when he was a taxable person.

(7) For the purposes of this section “director” means—

- (a) in relation to a company whose affairs are managed by a board of directors or similar body, a member of that board or similar body;
- (b) in relation to a company whose affairs are managed by a single director or similar person, that director or person;
- (c) in relation to a company whose affairs are managed by the members themselves, a member of the company,

and a person is connected with a director if that person is the director's wife or husband, or is a relative, or the wife or husband of a relative, of the director or of the director's wife or husband.

## **25 Payment by reference to accounting periods and credit for input tax against output tax.**

(1) A taxable person shall—

- (a) in respect of supplies made by him, and
  - (b) in respect of the acquisition by him from other member States of any goods,
- account for and pay VAT by reference to such periods (in this Act referred to as “prescribed accounting periods”) at such time and in such manner as may be determined by or under regulations and regulations may make different provision for different circumstances.



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- (2) Subject to the provisions of this section, he is entitled at the end of each prescribed accounting period to credit for so much of his input tax as is allowable under section 26, and then to deduct that amount from any output tax that is due from him.
- (3) If either no output tax is due at the end of the period, or the amount of the credit exceeds that of the output tax then, subject to subsections (4) and (5) below, the amount of the credit or, as the case may be, the amount of the excess shall be paid to the taxable person by the Commissioners; and an amount which is due under this subsection is referred to in this Act as a “VAT credit”.
- (4) The whole or any part of the credit may, subject to and in accordance with regulations, be held over to be credited in and for a subsequent period; and the regulations may allow for it to be so held over either on the taxable person’s own application or in accordance with general or special directions given by the Commissioners from time to time.
- (5) Where at the end of any period a VAT credit is due to a taxable person who has failed to submit returns for any earlier period as required by this Act, the Commissioners may withhold payment of the credit until he has complied with that requirement.
- (6) A deduction under subsection (2) above and payment of a VAT credit shall not be made or paid except on a claim made in such manner and at such time as may be determined by or under regulations; and, in the case of a person who has made no taxable supplies in the period concerned or any previous period, payment of a VAT credit shall be made subject to such conditions (if any) as the Commissioners think fit to impose, including conditions as to repayment in specified circumstances.
- (7) The Treasury may by order provide, in relation to such supplies, acquisitions and importations as the order may specify, that VAT charged on them is to be excluded from any credit under this section; and—
  - (a) any such provision may be framed by reference to the description of goods or services supplied or goods acquired or imported, the person by whom they are supplied, acquired or imported or to whom they are supplied, the purposes for which they are supplied, acquired or imported, or any circumstances whatsoever; and
  - (b) such an order may contain provision for consequential relief from output tax.

## **26 Input tax allowable under section 25.**

- (1) The amount of input tax for which a taxable person is entitled to credit at the end of any period shall be so much of the input tax for the period (that is input tax on supplies, acquisitions and importations in the period) as is allowable by or under regulations as being attributable to supplies within subsection (2) below.
- (2) The supplies within this subsection are the following supplies made or to be made by the taxable person in the course or furtherance of his business—
  - (a) taxable supplies;
  - (b) supplies outside the United Kingdom which would be taxable supplies if made in the United Kingdom;
  - (c) such other supplies outside the United Kingdom and such exempt supplies as the Treasury may by order specify for the purposes of this subsection.

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- (3) The Commissioners shall make regulations for securing a fair and reasonable attribution of input tax to supplies within subsection (2) above, and any such regulations may provide for—
- (a) determining a proportion by reference to which input tax for any prescribed accounting period is to be provisionally attributed to those supplies;
  - (b) adjusting, in accordance with a proportion determined in like manner for any longer period comprising two or more prescribed accounting periods or parts thereof, the provisional attribution for any of those periods;
  - (c) the making of payments in respect of input tax, by the Commissioners to a taxable person (or a person who has been a taxable person) or by a taxable person (or a person who has been a taxable person) to the Commissioners, in cases where events prove inaccurate an estimate on the basis of which an attribution was made; and
  - (d) preventing input tax on a supply which, under or by virtue of any provision of this Act, a person makes to himself from being allowable as attributable to that supply.
- (4) Regulations under subsection (3) above may make different provision for different circumstances and, in particular (but without prejudice to the generality of that subsection) for different descriptions of goods or services; and may contain such incidental and supplementary provisions as appear to the Commissioners necessary or expedient.

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

C5 S. 26 excluded (27.7.1999) by 1999 c. 16, s. 13(1)

VALID FROM 24/07/2002

**[<sup>F26</sup>26A Disallowance of input tax where consideration not paid**

- (1) Where—
- (a) a person has become entitled to credit for any input tax, and
  - (b) the consideration for the supply to which that input tax relates, or any part of it, is unpaid at the end of the period of 6 months following the relevant date,
- he shall be taken, as from the end of that period, not to have been entitled to credit for input tax in respect of the VAT that is referable to the unpaid consideration or part.
- (2) For the purposes of subsection (1) above “the relevant date”, in relation to any sum representing consideration for a supply, is—
- (a) the date of the supply, or
  - (b) if later, the date on which the sum became payable.
- (3) Regulations may make such supplementary, incidental, consequential or transitional provisions as appear to the Commissioners to be necessary or expedient for the purposes of this section.
- (4) Regulations under this section may in particular—

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- (a) make provision for restoring the whole or any part of an entitlement to credit for input tax where there is a payment after the end of the period mentioned in subsection (1) above;
  - (b) make rules for ascertaining whether anything paid is to be taken as paid by way of consideration for a particular supply;
  - (c) make rules dealing with particular cases, such as those involving payment of part of the consideration or mutual debts.
- (5) Regulations under this section may make different provision for different circumstances.
- (6) Section 6 shall apply for determining the time when a supply is to be treated as taking place for the purposes of construing this section.]

#### Textual Amendments

**F26** S. 26A inserted (with effect as mentioned in s. 22(3) of the amending Act) by Finance Act 2002 (c. 23), s. 22(1); S.I. 2002/3028, art. 2

VALID FROM 24/04/2002

#### [<sup>F27</sup>26B Flat-rate scheme

- (1) The Commissioners may by regulations make provision under which, where a taxable person so elects, the amount of his liability to VAT in respect of his relevant supplies in any prescribed accounting period shall be the appropriate percentage of his relevant turnover for that period.

A person whose liability to VAT is to any extent determined as mentioned above is referred to in this section as participating in the flat-rate scheme.

- (2) For the purposes of this section—
- (a) a person’s “relevant supplies” are all supplies made by him except supplies made at such times or of such descriptions as may be specified in the regulations;
  - (b) the “appropriate percentage” is the percentage so specified for the category of business carried on by the person in question;
  - (c) a person’s “relevant turnover” is the total of—
    - (i) the value of those of his relevant supplies that are taxable supplies, together with the VAT chargeable on them, and
    - (ii) the value of those of his relevant supplies that are exempt supplies.
- (3) The regulations may designate certain categories of business as categories in relation to which the references in subsection (1) above to liability to VAT are to be read as references to entitlement to credit for VAT.
- (4) The regulations may provide for persons to be eligible to participate in the flat-rate scheme only in such cases and subject to such conditions and exceptions as may be specified in, or determined by or under, the regulations.

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- (5) Subject to such exceptions as the regulations may provide for, a participant in the flat-rate scheme shall not be entitled to credit for input tax.

This is without prejudice to subsection (3) above.

- (6) The regulations may—
- (a) provide for the appropriate percentage to be determined by reference to the category of business that a person is expected, on reasonable grounds, to carry on in a particular period;
  - (b) provide, in such circumstances as may be prescribed, for different percentages to apply in relation to different parts of the same prescribed accounting period;
  - (c) make provision for determining the category of business to be regarded as carried on by a person carrying on businesses in more than one category.
- (7) The regulations may provide for the following matters to be determined in accordance with notices published by the Commissioners—
- (a) when supplies are to be treated as taking place for the purposes of ascertaining a person's relevant turnover for a particular period;
  - (b) the method of calculating any adjustments that fall to be made in accordance with the regulations in a case where a person begins or ceases to participate in the flat-rate scheme.

- (8) The regulations may make provision enabling the Commissioners—
- (a) to authorise a person to participate in the flat-rate scheme with effect from—
    - (i) a day before the date of his election to participate, or
    - (ii) a day that is not earlier than that date but is before the date of the authorisation;
  - (b) to direct that a person shall cease to be a participant in the scheme with effect from a day before the date of the direction.

The day mentioned in paragraph (a)(i) above may be a day before the date on which the regulations come into force.

- (9) Regulations under this section—
- (a) may make different provision for different circumstances;
  - (b) may make such incidental, supplemental, consequential or transitional provision as the Commissioners think fit, including provision disapplying or applying with modifications any provision contained in or made under this Act.]

#### Textual Amendments

F27 S. 26B inserted (retropective to 24.4.2002) by Finance Act 2002 (c. 23), s. 23(1)(4)

## 27 Goods imported for private purposes.

- (1) Where goods are imported by a taxable person from a place outside the member States and—
- (a) at the time of importation they belong wholly or partly to another person; and

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- (b) the purposes for which they are to be used include private purposes either of himself or of the other,
- VAT paid or payable by the taxable person on the importation of the goods shall not be regarded as input tax to be deducted or credited under section 25; but he may make a separate claim to the Commissioners for it to be repaid.
- (2) The Commissioners shall allow the claim if they are satisfied that to disallow it would result, in effect, in a double charge to VAT; and where they allow it they shall do so only to the extent necessary to avoid the double charge.
- (3) In considering a claim under this section, the Commissioners shall have regard to the circumstances of the importation and, so far as appearing to them to be relevant, things done with, or occurring in relation to, the goods at any subsequent time.
- (4) Any amount allowed by the Commissioners on the claim shall be paid by them to the taxable person.
- (5) The reference above to a person's private purposes is to purposes which are not those of any business carried on by him.

## **28 Payments on account of VAT.**

- (1) The Treasury may make an order under this section if they consider it desirable to do so in the interests of the national economy.
- (2) An order under this section may provide that a taxable person of a description specified in the order shall be under a duty—
- (a) to pay, on account of any VAT he may become liable to pay in respect of a prescribed accounting period, amounts determined in accordance with the order, and
- (b) to do so at such times as are so determined.
- [<sup>F28</sup>(2AA) An order under this section may provide for the matters with respect to which an appeal under section 83 lies to a tribunal to include such decisions of the Commissioners under that or any other order under this section as may be specified in the order.]
- [<sup>F29</sup>(2A) The Commissioners may give directions, to persons who are or may become liable by virtue of any order under this section to make payments on account of VAT, about the manner in which they are to make such payments; and where such a direction has been given to any person and has not subsequently been withdrawn, any duty of that person by virtue of such an order to make such a payment shall have effect as if it included a requirement for the payment to be made in the manner directed.]
- (3) Where an order is made under this section, the Commissioners may make regulations containing such supplementary, incidental or consequential provisions as appear to the Commissioners to be necessary or expedient.
- (4) A provision of an order or regulations under this section may be made in such way as the Treasury or, as the case may be, the Commissioners think fit (whether by amending provisions of or made under the enactments relating to VAT or otherwise).
- (5) An order or regulations under this section may make different provision for different circumstances.

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### Textual Amendments

**F28** S. 28(2AA) inserted (29.4.1996) by 1997 c. 16, s. 43

**F29** S. 28(2A) inserted (29.4.1996) by 1996 c. 8, s. 34

## 29 Invoices provided by recipients of goods or services.

Where—

- (a) a taxable person (“the recipient”) provides a document to himself which purports to be an invoice in respect of a taxable supply of goods or services to him by another taxable person; and
  - (b) that document understates the VAT chargeable on the supply,
- the Commissioners may, by notice served on the recipient and on the supplier, elect that the amount of VAT understated by the document shall be regarded for all purposes as VAT due from the recipient and not from the supplier.

## PART II

### RELIEFS, EXEMPTIONS AND REPAYMENTS

*Reliefs etc. generally available*

VALID FROM 11/05/2001

### [<sup>F30</sup>29A Reduced rate

- (1) VAT charged on—
  - (a) any supply that is of a description for the time being specified in Schedule 7A, or
  - (b) any equivalent acquisition or importation,
 shall be charged at the rate of 5 per cent.
- (2) The reference in subsection (1) above to an equivalent acquisition or importation, in relation to any supply that is of a description for the time being specified in Schedule 7A, is a reference (as the case may be) to—
  - (a) any acquisition from another member State of goods the supply of which would be such a supply; or
  - (b) any importation from a place outside the member States of any such goods.
- (3) The Treasury may by order vary Schedule 7A by adding to or deleting from it any description of supply or by varying any description of supply for the time being specified in it.
- (4) The power to vary Schedule 7A conferred by subsection (3) above may be exercised so as to describe a supply of goods or services by reference to matters unrelated to the characteristics of the goods or services themselves. In the case of a supply of goods, those matters include, in particular, the use that has been made of the goods.]

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### Textual Amendments

**F30** S. 29A inserted (11.5.2001 with effect as mentioned in s. 99(7)(c) of the amending Act) by 2001 c. 9, s. 99(4)

## 30 Zero-rating.

- (1) Where a taxable person supplies goods or services and the supply is zero-rated, then, whether or not VAT would be chargeable on the supply apart from this section—
  - (a) no VAT shall be charged on the supply; but
  - (b) it shall in all other respects be treated as a taxable supply;and accordingly the rate at which VAT is treated as charged on the supply shall be nil.
- (2) A supply of goods or services is zero-rated by virtue of this subsection if the goods or services are of a description for the time being specified in Schedule 8 or the supply is of a description for the time being so specified.
- [<sup>F31</sup>(2A) A supply by a person of services which consist of applying a treatment or process to another person's goods is zero-rated by virtue of this subsection if by doing so he produces goods, and either—
  - (a) those goods are of a description for the time being specified in Schedule 8; or
  - (b) a supply by him of those goods to the person to whom he supplies the services would be of a description so specified.]
  - (3) Where goods of a description for the time being specified in that Schedule, or of a description forming part of a description of supply for the time being so specified, are acquired in the United Kingdom from another member State or imported from a place outside the member States, no VAT shall be chargeable on their acquisition or importation, except as otherwise provided in that Schedule.
  - (4) The Treasury may by order vary Schedule 8 by adding to or deleting from it any description or by varying any description for the time being specified in it.
  - [<sup>F32</sup>(5) The export of any goods by a charity to a place outside the member States shall for the purposes of this Act be treated as a supply made by the charity—
    - (a) in the United Kingdom, and
    - (b) in the course or furtherance of a business carried on by the charity.]
    - (6) A supply of goods is zero-rated by virtue of this subsection if the Commissioners are satisfied that the person supplying the goods—
      - (a) has exported them to a place outside the member States; or
      - (b) has shipped them for use as stores on a voyage or flight to an eventual destination outside the United Kingdom, or as merchandise for sale by retail to persons carried on such a voyage or flight in a ship or aircraft,and in either case if such other conditions, if any, as may be specified in regulations or the Commissioners may impose are fulfilled.
    - (7) Subsection (6)(b) above shall not apply in the case of goods shipped for use as stores on a voyage or flight to be made by the person to whom the goods were supplied and to be made for a purpose which is private.

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- (8) Regulations may provide for the zero-rating of supplies of goods, or of such goods as may be specified in the regulations, in cases where—
- (a) the Commissioners are satisfied that the goods have been or are to be exported to a place outside the member States or that the supply in question involves both—
    - (i) the removal of the goods from the United Kingdom; and
    - (ii) their acquisition in another member State by a person who is liable for VAT on the acquisition in accordance with provisions of the law of that member State corresponding, in relation to that member State, to the provisions of section 10; and
  - (b) such other conditions, if any, as may be specified in the regulations or the Commissioners may impose are fulfilled.

[<sup>F33</sup>(8A) Regulations may provide for the zero-rating of supplies of goods, or of such goods as may be specified in regulations, in cases where—

- (a) the Commissioners are satisfied that the supply in question involves both—
  - (i) the removal of the goods from a fiscal warehousing regime within the meaning of section 18F(2); and
  - (ii) their being placed in a warehousing regime in another member State, or in such member State or States as may be prescribed, where that regime is established by provisions of the law of that member State corresponding, in relation to that member State, to the provisions of sections 18A and 18B; and
- (b) such other conditions, if any, as may be specified in the regulations or the Commissioners may impose are fulfilled.]

(9) Regulations may provide for the zero-rating of a supply of services which is made where goods are let on hire and the Commissioners are satisfied that the goods have been or are to be removed from the United Kingdom during the period of the letting, and such other conditions, if any, as may be specified in the regulations or the Commissioners may impose are fulfilled.

(10) Where the supply of any goods has been zero-rated by virtue of subsection (6) above or in pursuance of regulations made under [<sup>F34</sup>subsection (8), (8A) or (9)] above and—

- (a) the goods are found in the United Kingdom after the date on which they were alleged to have been or were to be exported or shipped or otherwise removed from the United Kingdom; or
- (b) any condition specified in the relevant regulations under [<sup>F34</sup>subsection (6), (8), (8A) or (9)] above or imposed by the Commissioners is not complied with,

and the presence of the goods in the United Kingdom after that date or the non-observance of the condition has not been authorised for the purposes of this subsection by the Commissioners, the goods shall be liable to forfeiture under the Management Act and the VAT that would have been chargeable on the supply but for the zero-rating shall become payable forthwith by the person to whom the goods were supplied or by any person in whose possession the goods are found in the United Kingdom; but the Commissioners may, if they think fit, waive payment of the whole or part of that VAT.

#### Textual Amendments

**F31** S. 30(2A) inserted (29.4.1996 with effect as mentioned in s. 29(5) of the amending Act) by 1996 c. 8, s. 29(2)(5)



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- F32** S. 30(5) substituted (1.5.1995 with effect as mentioned in s. 28(2) of the amending Act) by 1995 c. 4, s. 28(1)
- F33** S. 30(8A) inserted (29.4.1996 for specified purposes and otherwise 1.6.1996 with application to any acquisition of goods from another member State and any supply taking place on or after 1.6.1996) by 1996 c. 8, ss. 25, 26, **Sch. 3 para. 7**; S.I. 1996/1249, **art. 2**
- F34** Words in s. 30(10) substituted (1.6.1996 with application to any acquisition of goods from another member State and any supply taking place on or after that day) by 1996 c. 8, ss. 25, 26, **Sch. 3 para. 7**; S.I. 1996/1249, **art. 2**

### 31 Exempt supplies and acquisitions.

- (1) A supply of goods or services is an exempt supply if it is of a description for the time being specified in Schedule 9 and an acquisition of goods from another member State is an exempt acquisition if the goods are acquired in pursuance of an exempt supply.
- (2) The Treasury may by order vary that Schedule by adding to or deleting from it any description of supply or by varying any description of supply for the time being specified in it, and the Schedule may be varied so as to describe a supply of goods by reference to the use which has been made of them or to other matters unrelated to the characteristics of the goods themselves.

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

- C6** S. 31(2) extended (27.7.1999) by 1999 c. 16, s. 13(2)

<sup>F35</sup>**32** .....

#### Textual Amendments

- F35** S. 32 repealed (1.6.1995) by 1995 c. 4, ss. 24(2), 162, **Sch. 29 Pt. VI(3)** Note; S.I. 1995/1374, **art. 2**

### 33 Refunds of VAT in certain cases.

- (1) Subject to the following provisions of this section, where—
  - (a) VAT is chargeable on the supply of goods or services to a body to which this section applies, on the acquisition of any goods by such a body from another member State or on the importation of any goods by such a body from a place outside the member States, and
  - (b) the supply, acquisition or importation is not for the purpose of any business carried on by the body,the Commissioners shall, on a claim made by the body at such time and in such form and manner as the Commissioners may determine, refund to it the amount of the VAT so chargeable.
- (2) Where goods or services so supplied to or acquired or imported by the body cannot be conveniently distinguished from goods or services supplied to or acquired or imported by it for the purpose of a business carried on by it, the amount to be refunded under this section shall be such amount as remains after deducting from the whole of the VAT chargeable on any supply to or acquisition or importation by the body such proportion

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thereof as appears to the Commissioners to be attributable to the carrying on of the business; but where—

- (a) the VAT so attributable is or includes VAT attributable, in accordance with regulations under section 26, to exempt supplies by the body, and
- (b) the VAT attributable to the exempt supplies is in the opinion of the Commissioners an insignificant proportion of the VAT so chargeable,

they may include it in the VAT refunded under this section.

(3) The bodies to which this section applies are—

- (a) a local authority;
- (b) a river purification board established under section 135 of the <sup>M5</sup>Local Government (Scotland) Act 1973, and a water development board within the meaning of section 109 of the <sup>M6</sup>Water (Scotland) Act 1980;
- (c) an internal drainage board;
- (d) a passenger transport authority or executive within the meaning of Part II of the <sup>M7</sup>Transport Act 1968;
- (e) a port health authority within the meaning of the <sup>M8</sup>Public Health (Control of Disease) Act 1984, and a port local authority and joint port local authority constituted under Part X of the <sup>M9</sup>Public Health (Scotland) Act 1897;
- (f) a police authority and the Receiver for the Metropolitan Police District;
- (g) a development corporation within the meaning of the <sup>M10</sup>New Towns Act 1981 or the <sup>M11</sup>New Towns (Scotland) Act 1968, a new town commission within the meaning of the <sup>M12</sup>New Towns Act (Northern Ireland) 1965 and the Commission for the New Towns;
- (h) a general lighthouse authority within the meaning of [<sup>F36</sup>Part VIII of the <sup>M13</sup>Merchant Shipping Act 1995];
- (i) the British Broadcasting Corporation;
- (j) a nominated news provider, as defined by section 31(3) of the <sup>M14</sup>Broadcasting Act 1990; and
- (k) any body specified for the purposes of this section by an order made by the Treasury.

(4) No VAT shall be refunded under this section to a general lighthouse authority which in the opinion of the Commissioners is attributable to activities other than those concerned with the provision, maintenance or management of lights or other navigational aids.

(5) No VAT shall be refunded under this section to a nominated news provider which in the opinion of the Commissioners is attributable to activities other than the provision of news programmes for broadcasting by holders of regional Channel 3 licences (within the meaning of Part I of the <sup>M15</sup>Broadcasting Act 1990).

(6) References in this section to VAT chargeable do not include any VAT which, by virtue of any order under section 25(7), is excluded from credit under that section.

#### Textual Amendments

**F36** Words in s. 33(3)(h) substituted (1.1.1996) by 1995 c. 21, ss. 314(2), 316(2), **Sch. 13 para. 95** (with s. 312(1))

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

C7 S. 33 applied (15.8.1995) (temp. until 1.4.1996) by S.I. 1995/1878, art. 4

#### Marginal Citations

M5 1973 c. 65.

M6 1980 c. 45.

M7 1968 c. 73.

M8 1984 c. 22.

M9 1897 c. 38.

M10 1981 c. 64.

M11 1968 c. 16.

M12 1965 c. 60.

M13 1995 c. 21.

M14 1990 c. 42.

M15 1990 c. 42.

VALID FROM 11/05/2001

### 33A <sup>F37</sup> Refunds of VAT to museums and galleries

- (1) Subsections (2) to (5) below apply where—
  - (a) VAT is chargeable on—
    - (i) the supply of goods or services to a body to which this section applies,
    - (ii) the acquisition of any goods by such a body from another member State, or
    - (iii) the importation of any goods by such a body from a place outside the member States,
  - (b) the supply, acquisition or importation is attributable to the provision by the body of free rights of admission to a relevant museum or gallery, and
  - (c) the supply is made, or the acquisition or importation takes place, on or after 1st April 2001.
- (2) The Commissioners shall, on a claim made by the body in such form and manner as the Commissioners may determine, refund to the body the amount of VAT so chargeable.
- (3) The claim must be made before the end of the claim period.
- (4) Subject to subsection (5) below, “the claim period” is the period of 3 years beginning with the day on which the supply is made or the acquisition or importation takes place.
- (5) If the Commissioners so determine, the claim period is such shorter period beginning with that day as the Commissioners may determine.
- (6) Subsection (7) below applies where goods or services supplied to, or acquired or imported by, a body to which this section applies that are attributable to free admissions cannot conveniently be distinguished from goods or services supplied to, or acquired or imported by, the body that are not attributable to free admissions.

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- (7) The amount to be refunded on a claim by the body under this section shall be such amount as remains after deducting from the VAT related to the claim such proportion of that VAT as appears to the Commissioners to be attributable otherwise than to free admissions.
- (8) For the purposes of subsections (6) and (7) above—
- (a) goods or services are, and VAT is, attributable to free admissions if they are, or it is, attributable to the provision by the body of free rights of admission to a relevant museum or gallery;
  - (b) the VAT related to a claim is the whole of the VAT chargeable on—
    - (i) the supplies to the body, and
    - (ii) the acquisitions and importations by the body, to which the claim relates.
- (9) The Treasury may by order—
- (a) specify a body as being a body to which this section applies;
  - (b) when specifying a body under paragraph (a), specify any museum or gallery that, for the purposes of this section, is a “relevant” museum or gallery in relation to the body;
  - (c) specify an additional museum or gallery as being, for the purposes of this section, a “relevant” museum or gallery in relation to a body to which this section applies;
  - (d) when specifying a museum or gallery under paragraph (b) or (c), provide that this section shall have effect in the case of the museum or gallery as if in subsection (1)(c) there were substituted for 1st April 2001 a later date specified in the order.
- (10) References in this section to VAT do not include any VAT which, by virtue of any order under section 25(7), is excluded from credit under that section.

#### Textual Amendments

**F37** S. 33A inserted (11.5.2001 for specified purposes otherwise 1.9.2001) by 2001 c. 9, s. 98(2)(10)(11)

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

**C8** S. 33A applied (with modifications) (1.9.2001) by S.I. 2001/2879, arts. 2-4, Sch.

## 34 Capital goods.

- (1) The Treasury may by order make provision for the giving of relief, in such cases, to such extent and subject to such exceptions as may be specified in the order, from VAT paid on the supply, acquisition or importation for the purpose of a business carried on by any person of machinery or plant or any specified description of machinery or plant in cases where that VAT or part of that VAT cannot be credited under section 25 and such other conditions are satisfied as may be specified in the order.
- (2) Without prejudice to the generality of subsection (1) above, an order under this section may provide for relief to be given by deduction or refunding of VAT and for aggregating or excluding the aggregation of value where goods of the same description are supplied, acquired or imported together.

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### 35 Refund of VAT to persons constructing certain buildings.

[<sup>F38</sup>(1) Where—

- (a) a person carries out works to which this section applies,
- (b) his carrying out of the works is lawful and otherwise than in the course or furtherance of any business, and
- (c) VAT is chargeable on the supply, acquisition or importation of any goods used by him for the purposes of the works,

the Commissioners shall, on a claim made in that behalf, refund to that person the amount of VAT so chargeable.

(1A) The works to which this section applies are—

- (a) the construction of a building designed as a dwelling or number of dwellings;
- (b) the construction of a building for use solely for a relevant residential purpose or relevant charitable purpose; and
- (c) a residential conversion.

(1B) For the purposes of this section goods shall be treated as used for the purposes of works to which this section applies by the person carrying out the works in so far only as they are building materials which, in the course of the works, are incorporated in the building in question or its site.

(1C) Where—

- (a) a person (“the relevant person”) carries out a residential conversion by arranging for any of the work of the conversion to be done by another (“a contractor”),
- (b) the relevant person’s carrying out of the conversion is lawful and otherwise than in the course or furtherance of any business,
- (c) the contractor is not acting as an architect, surveyor or consultant or in a supervisory capacity, and
- (d) VAT is chargeable on services consisting in the work done by the contractor,

the Commissioners shall, on a claim made in that behalf, refund to the relevant person the amount of VAT so chargeable.

(1D) For the purposes of this section works constitute a residential conversion to the extent that they consist in the conversion of a non-residential building, or a non-residential part of a building, into—

- (a) a building designed as a dwelling or a number of dwellings;
- (b) a building intended for use solely for a relevant residential purpose; or
- (c) anything which would fall within paragraph (a) or (b) above if different parts of a building were treated as separate buildings.]

(2) The Commissioners shall not be required to entertain a claim for a refund of VAT under this section unless the claim—

- (a) is made within such time and in such form and manner, and
- (b) contains such information, and
- (c) is accompanied by such documents, whether by way of evidence or otherwise, as the Commissioners may by regulations prescribe [<sup>F39</sup>or, in the case of documents, as the Commissioners may determine in accordance with the regulations].

(3) This section shall have effect—

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- (a) as if the reference in subsection (1) above to the VAT chargeable on the supply of any goods included a reference to VAT chargeable on the supply in accordance with the law of another member State; and
- (b) in relation to VAT chargeable in accordance with the law of another member State, as if references to refunding VAT to any person were references to paying that person an amount equal to the VAT chargeable in accordance with the law of that member State;

and the provisions of this Act and of any other enactment or subordinate legislation (whenever passed or made) so far as they relate to a refund under this section shall be construed accordingly.

[<sup>F40</sup>(4) The notes to Group 5 of Schedule 8 shall apply for construing this section as they apply for construing that Group.

- (5) The power of the Treasury by order under section 30 to vary Schedule 8 shall include—
  - (a) power to apply any variation made by the order for the purposes of this section; and
  - (b) power to make such consequential modifications of this section as they may think fit.]

#### Textual Amendments

- F38** S. 35(1)(1A)-(1D) substituted (29.4.1996 with application as mentioned in s. 30(4) of the amending Act) for s. 35(1) by 1996 c. 8, s. 30(1)
- F39** Words in s. 35(2) inserted (29.4.1996 with application as mentioned in s. 30(4) of the amending Act) by 1996 c. 8, s. 30(2)
- F40** S. 35(4)(5) inserted (29.4.1996 with application as mentioned in s. 30(4) of the amending Act) by 1996 c. 8, s. 30(3)

## 36 Bad debts.

- (1) Subsection (2) below applies where—
  - (a) a person has supplied goods or services <sup>F41</sup> . . . and has accounted for and paid VAT on the supply,
  - (b) the whole or any part of the consideration for the supply has been written off in his accounts as a bad debt, and
  - (c) a period of 6 months (beginning with the date of the supply) has elapsed.
- (2) Subject to the following provisions of this section and to regulations under it the person shall be entitled, on making a claim to the Commissioners, to a refund of the amount of VAT chargeable by reference to the outstanding amount.

[<sup>F42</sup>(3) In subsection (2) above “the outstanding amount” means—

- (a) if at the time of the claim no part of the consideration written off in the claimant’s accounts as a bad debt has been received, an amount equal to the amount of the consideration so written off;
- (b) if at that time any part of the consideration so written off has been received, an amount by which that part is exceeded by the amount of the consideration written off;

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and in this subsection “received” means received either by the claimant or by a person to whom has been assigned a right to receive the whole or any part of the consideration written off.]

[<sup>F43</sup>(3A) For the purposes of this section, where the whole or any part of the consideration for the supply does not consist of money, the amount in money that shall be taken to represent any non-monetary part of the consideration shall be so much of the amount made up of—

- (a) the value of the supply, and
- (b) the VAT charged on the supply,

as is attributable to the non-monetary consideration in question.]

(4) A person shall not be entitled to a refund under subsection (2) above unless—

- (a) the value of the supply is equal to or less than its open market value, <sup>F44</sup> . . .
- <sup>F44</sup>(b) . . . . .

[<sup>F45</sup>(4A) Where—

- (a) a person is entitled under subsection (2) above to be refunded an amount of VAT, and
- (b) that VAT has at any time been included in the input tax of another person, that other person shall be taken, as from the time when the claim for the refund is made, not to have been entitled to any credit for input tax in respect of the VAT that has to be refunded on that claim.]

(5) Regulations under this section may—

- (a) require a claim to be made at such time and in such form and manner as may be specified by or under the regulations;
- (b) require a claim to be evidenced and quantified by reference to such records and other documents as may be so specified;
- (c) require the claimant to keep, for such period and in such form and manner as may be so specified, those records and documents and a record of such information relating to the claim and to [<sup>F46</sup>anything subsequently received] by way of consideration as may be so specified;
- (d) require the repayment of a refund allowed under this section where any requirement of the regulations is not complied with;
- (e) require the repayment of the whole or, as the case may be, an appropriate part of a refund allowed under this section [<sup>F47</sup>where any part (or further part) of the consideration written off in the claimant’s accounts as a bad debt is subsequently received either by the claimant or, except in such circumstances as may be prescribed, by a person to whom has been assigned a right to receive the whole or any part of that consideration;]

[<sup>F48</sup>(ea) make provision, where there is a repayment by virtue of paragraph (e) above, for restoring the whole or any part of an entitlement to credit for input tax;]

- (f) include such supplementary, incidental, consequential or transitional provisions as appear to the Commissioners to be necessary or expedient for the purposes of this section;
- (g) make different provision for different circumstances.

(6) The provisions which may be included in regulations by virtue of subsection (5)(f) above may include rules for ascertaining—

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- (a) whether, when and to what extent consideration is to be taken to have been written off in accounts as a bad debt;
  - (b) whether [<sup>F49</sup>anything received] is to be taken as received by way of consideration for a particular supply;
  - (c) whether, and to what extent, [<sup>F49</sup>anything received] is to be taken as received by way of consideration written off in accounts as a bad debt.
- (7) The provisions which may be included in regulations by virtue of subsection (5) (f) above may include rules dealing with particular cases, such as those involving [<sup>F50</sup>receipt of part of the consideration] or mutual debts; and in particular such rules may vary the way in which the following amounts are to be calculated—
- (a) the outstanding amount mentioned in subsection (2) above, and
  - (b) the amount of any repayment where a refund has been allowed under this section.
- (8) Section 6 shall apply for determining the time when a supply is to be treated as taking place for the purposes of construing this section.

#### Textual Amendments

- F41** Words in s. 36(1)(a) repealed (31.7.1998 with effect as mentioned in s. 23(7) of the amending Act) by 1998 c. 36, ss. 23(1)(7), 165, **Sch. 27 Pt. II** Note
- F42** S. 36(3) substituted (27.7.1999 with effect as mentioned in s. 15(5) of the amending Act) by S.I. 1999 c. 16, s. 15(1)
- F43** S. 36(3A) inserted (31.7.1998 with effect as mentioned in s. 23(7) of the amending Act) by 1998 c. 36, s. 23(3)(7)
- F44** S. 36(4)(b) and word “and” immediately preceding it repealed (19.3.1997 with effect as mentioned in s. 39 of the amending Act) by 1997 c. 16, ss. 39, 113, **Sch. 18 Pt. IV(3)** Note
- F45** S. 36(4A) inserted (19.3.1997 with effect as mentioned in s. 39(3) of the amending Act) by 1997 c. 16, s. 39(2)(3)
- F46** Words in s. 36(5)(c) substituted (31.7.1998) by 1998 c. 36, s. 23(4)(a)
- F47** Words in s. 36(5)(e) substituted (27.7.1999 with effect as mentioned in s. 15(5) of the amending Act) by 1999 c. 16, s. 15(2)
- F48** S. 36(5)(ea) inserted (19.3.1997) by 1997 c. 16, s. 39(4)
- F49** Words in s. 36(6)(b)(c) substituted (31.7.1998) by 1998 c. 36, s. 23(5)
- F50** Words in s. 36(7) substituted (31.7.1998) by 1998 c. 36, s. 23(6)

VALID FROM 24/07/2002

#### [<sup>F51</sup>Acquisitions

#### Textual Amendments

- F51** S. 36A and preceding cross heading inserted (24.7.2002) by **Finance Act 2002 (c.23), s. 25**

#### [<sup>F52</sup>36A Relief from VAT on acquisition if importation would attract relief

- (1) The Treasury may by order make provision for relieving from VAT the acquisition from another member State of any goods if, or to the extent that, relief from VAT



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would be given by an order under section 37 if the acquisition were an importation from a place outside the member States.

- (2) An order under this section may provide for relief to be subject to such conditions as appear to the Treasury to be necessary or expedient.

These may—

- (a) include conditions prohibiting or restricting the disposal of or dealing with the goods concerned;
- (b) be framed by reference to the conditions to which, by virtue of any order under section 37 in force at the time of the acquisition, relief under such an order would be subject in the case of an importation of the goods concerned.
- (3) Where relief from VAT given by an order under this section was subject to a condition that has been breached or not complied with, the VAT shall become payable at the time of the breach or, as the case may be, at the latest time allowed for compliance.]]

#### Textual Amendments

**F52** [S. 36A](#) and preceding cross heading inserted (24.7.2002) by [Finance Act 2002 \(c. 23\), s. 25](#)

### *Imports, overseas businesses etc*

#### **37 Relief from VAT on importation of goods.**

- (1) The Treasury may by order make provision for giving relief from the whole or part of the VAT chargeable on the importation of goods from places outside the member States, subject to such conditions (including conditions prohibiting or restricting the disposal of or dealing with the goods) as may be imposed by or under the order, if and so far as the relief appears to the Treasury to be necessary or expedient, having regard to any international agreement or arrangements.

- (2) In any case where—

- (a) it is proposed that goods which have been imported from a place outside the member States by any person (“the original importer”) with the benefit of relief under subsection (1) above shall be transferred to another person (“the transferee”), and
- (b) on an application made by the transferee, the Commissioners direct that this subsection shall apply,

this Act shall have effect as if, on the date of the transfer of the goods (and in place of the transfer), the goods were exported by the original importer and imported by the transferee and, accordingly, where appropriate, provision made under subsection (1) above shall have effect in relation to the VAT chargeable on the importation of the goods by the transferee.

- (3) The Commissioners may by regulations make provision for remitting or repaying, if they think fit, the whole or part of the VAT chargeable on the importation of any goods from places outside the member States which are shown to their satisfaction to have been previously exported from the United Kingdom or removed from any member State.

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- (4) The Commissioners may by regulations make provision for remitting or repaying the whole or part of the VAT chargeable on the importation of any goods from places outside the member States if they are satisfied that the goods have been or are to be re-exported or otherwise removed from the United Kingdom and they think fit to do so in all the circumstances and having regard—
- (a) to the VAT chargeable on the supply of like goods in the United Kingdom;
  - (b) to any VAT which may have become chargeable in another member State in respect of the goods.

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

C9 S. 37(1) extended (27.7.1999) by 1999 c. 16, s. 13(3)

**38 Importation of goods by taxable persons.**

The Commissioners may by regulations make provision for enabling goods imported from a place outside the member States by a taxable person in the course or furtherance of any business carried on by him to be delivered or removed, subject to such conditions or restrictions as the Commissioners may impose for the protection of the revenue, without payment of the VAT chargeable on the importation, and for that VAT to be accounted for together with the VAT chargeable on the supply of goods or services by him or on the acquisition of goods by him from other member States.

**39 Repayment of VAT to those in business overseas.**

- (1) The Commissioners may, by means of a scheme embodied in regulations, provide for the repayment, to persons to whom this section applies, of VAT on supplies to them in the United Kingdom or on the importation of goods by them from places outside the member States which would be input tax of theirs if they were taxable persons in the United Kingdom.
- (2) This section—
- (a) applies to persons carrying on business in another member State, and
  - (b) shall apply also to persons carrying on business in other countries, if, pursuant to any Community Directive, rules are adopted by the Council of the Communities about refunds of VAT to persons established elsewhere than in the member States,
- but does not apply to persons carrying on business in the United Kingdom.
- (3) Repayment shall be made in such cases only, and subject to such conditions, as the scheme may prescribe (being conditions specified in the regulations or imposed by the Commissioners either generally or in particular cases); and the scheme may provide—
- (a) for claims and repayments to be made only through agents in the United Kingdom;
  - (b) either generally or for specified purposes—
    - (i) for the agents to be treated under this Act as if they were taxable persons; and
    - (ii) for treating claims as if they were returns under this Act and repayments as if they were repayments of input tax; and

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- (c) for generally regulating the methods by which the amount of any repayment is to be determined and the repayment is to be made.

#### **40 Refunds in relation to new means of transport supplied to other member States.**

- (1) Subject to subsection (2) below, where a person who is not a taxable person makes such a supply of goods consisting in a new means of transport as involves the removal of the goods to another member State, the Commissioners shall, on a claim made in that behalf, refund to that person, as the case may be—
  - (a) the amount of any VAT on the supply of that means of transport to that person, or
  - (b) the amount of any VAT paid by that person on the acquisition of that means of transport from another member State or on its importation from a place outside the member States.
- (2) The amount of VAT refunded under this section shall not exceed the amount that would have been payable on the supply involving the removal if it had been a taxable supply by a taxable person and had not been zero-rated.
- (3) The Commissioners shall not be entitled to entertain a claim for refund of VAT under this section unless the claim—
  - (a) is made within such time and in such form and manner;
  - (b) contains such information; and
  - (c) is accompanied by such documents, whether by way of evidence or otherwise, as the Commissioners may by regulations prescribe.

### **PART III**

#### **APPLICATION OF ACT IN PARTICULAR CASES**

#### **41 Application to the Crown.**

- (1) This Act shall apply in relation to taxable supplies by the Crown as it applies in relation to taxable supplies by taxable persons.
- (2) Where the supply by a Government department of any goods or services does not amount to the carrying on of a business but it appears to the Treasury that similar goods or services are or might be supplied by taxable persons in the course or furtherance of any business, then, if and to the extent that the Treasury so direct, the supply of those goods or services by that department shall be treated for the purposes of this Act as a supply in the course or furtherance of any business carried on by it.
- (3) Where VAT is chargeable on the supply of goods or services to a Government department, on the acquisition of any goods by a Government department from another member State or on the importation of any goods by a Government department from a place outside the member States and the supply, acquisition or importation is not for the purpose—
  - (a) of any business carried on by the department, or
  - (b) of a supply by the department which, by virtue of a direction under subsection (2) above, is treated as a supply in the course or furtherance of a business,

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then, if and to the extent that the Treasury so direct and subject to subsection (4) below, the Commissioners shall, on a claim made by the department at such time and in such form and manner as the Commissioners may determine, refund to it the amount of the VAT so chargeable.

- (4) The Commissioners may make the refunding of any amount due under subsection (3) above conditional upon compliance by the claimant with requirements with respect to the keeping, preservation and production of records relating to the supply, acquisition or importation in question.
- (5) For the purposes of this section goods or services obtained by one Government department from another Government department shall be treated, if and to the extent that the Treasury so direct, as supplied by that other department and similarly as regards goods or services obtained by or from the Crown Estate Commissioners.
- (6) In this section “Government department” includes [<sup>F53</sup>the Scottish Administration][<sup>F54</sup>the National Assembly for Wales,]a Northern Ireland department, a Northern Ireland health and social services body, any body of persons exercising functions on behalf of a Minister of the Crown, including <sup>F55</sup>. . . any part of a Government department (as defined in the foregoing) designated for the purposes of this subsection by a direction of the Treasury.
- (7) For the purposes of subsection (6) above, [<sup>F56</sup>a health service body as defined in section 60(7) of the National Health Service and Community Care Act 1990, and a National Health Service trust established under Part I of that Act] or the <sup>M16</sup>National Health Service (Scotland) Act 1978 shall be regarded as a body of persons exercising functions on behalf of a Minister of the Crown.
- (8) In subsection (6) “a Northern Ireland health and social services body” means—
- (a) a health and social services body as defined in Article 7(6) of the <sup>M17</sup>Health and Personal Social Services (Northern Ireland) Order 1991; and
  - (b) a Health and Social Services trust established under that Order.

#### Textual Amendments

- F53** Words in s. 41(6) inserted (6.5.1999) by 1998 c. 46, s. 125, **Sch. 8 para. 30** (with s. 126(3)); S.I. 1998/3178, art. 2(2), **Sch. 3**
- F54** Words in s. 41(6) inserted (1.4.1999) by 1998 c. 38, s. 125, **Sch. 12 para. 35** (with ss. 139(2), 143(2)); S.I. 1999/782, **art. 2**
- F55** Words in s. 41(6) omitted (8.2.2000) by virtue of S.I. 2000/90, art. 3(1), **Sch. 1 para. 29(a)** (with art. 2(5))
- F56** Words in s. 41(7) substituted (8.2.2000) by S.I. 2000/90, art. 3(1), **Sch. 1 para. 29(b)** (with art. 2(5))

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

- C10** S. 41 modified (2.12.1999) by S.I. 1999/3145, **art. 8**; S.I. 1999/3208, **art. 2**

#### Marginal Citations

- M16** 1978 c. 29.
- M17** S.I.1991/194.

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**42 Local authorities.**

A local authority which makes taxable supplies is liable to be registered under this Act, whatever the value of the supplies; and accordingly Schedule 1 shall apply, in a case where the value of the taxable supplies made by a local authority in any period of one year does not exceed the sum for the time being specified in paragraph 1(1)(a) of that Schedule, as if that value exceeded that sum.

**43 Groups of companies.**

- (1) Where under [<sup>F57</sup>sections 43A to 43C] any bodies corporate are treated as members of a group, any business carried on by a member of the group shall be treated as carried on by the representative member, and—
- (a) any supply of goods or services by a member of the group to another member of the group shall be disregarded; and
  - (b) any [<sup>F58</sup>supply which is a supply to which paragraph (a) above does not apply and is a supply] of goods or services by or to a member of the group shall be treated as a supply by or to the representative member; and
  - (c) any VAT paid or payable by a member of the group on the acquisition of goods from another member State or on the importation of goods from a place outside the member States shall be treated as paid or payable by the representative member and the goods shall be treated—
    - (i) in the case of goods acquired from another member State, for the purposes of section 73(7); and
    - (ii) in the case of goods imported from a place outside the member States, for those purposes and the purposes of section 38,as acquired or, as the case may be, imported by the representative member; and all members of the group shall be liable jointly and severally for any VAT due from the representative member.

[<sup>F59</sup>(1AA) Where—

- (a) it is material, for the purposes of any provision made by or under this Act (“the relevant provision”), whether the person by or to whom a supply is made, or the person by whom goods are acquired or imported, is a person of a particular description,
- (b) paragraph (b) or (c) of subsection (1) above applies to any supply, acquisition or importation, and
- (c) there is a difference that would be material for the purposes of the relevant provision between—
  - (i) the description applicable to the representative member, and
  - (ii) the description applicable to the body which (apart from this section) would be regarded for the purposes of this Act as making the supply, acquisition or importation or, as the case may be, as being the person to whom the supply is made,

the relevant provision shall have effect in relation to that supply, acquisition or importation as if the only description applicable to the representative member were the description in fact applicable to that body.

(1AB) Subsection (1AA) above does not apply to the extent that what is material for the purposes of the relevant provision is whether a person is a taxable person.]

(1A) .....

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- (2) An order under section 5(5) or (6) may make provision for securing that any goods or services which, if all the members of the group were one person, would fall to be treated under that section as supplied to and by that person, are treated as supplied to and by the representative member <sup>[F60]</sup> and may provide for that purpose that the representative member is to be treated as a person of such description as may be determined under the order.]
- <sup>[F61]</sup>(2A) A supply made by a member of a group (“the supplier”) to another member of the group (“the UK member”) shall not be disregarded under subsection (1)(a) above if—
- (a) it would (if there were no group) be a supply of services falling within Schedule 5 to a person belonging in the United Kingdom;
  - (b) those services are not within any of the descriptions specified in Schedule 9;
  - (c) the supplier has been supplied (whether or not by a person belonging in the United Kingdom) with <sup>[F62]</sup>any services falling within paragraphs 1 to 8 of Schedule 5 which do not fall within any of the descriptions specified in Schedule 9;]
  - (d) the supplier belonged outside the United Kingdom when it was supplied with the services mentioned in paragraph (c) above; and
  - (e) the services so mentioned have been used by the supplier for making the supply to the UK member.
- (2B) Subject to subsection (2C) below, where a supply is excluded by virtue of subsection (2A) above from the supplies that are disregarded in pursuance of subsection (1)(a) above, all the same consequences shall follow under this Act as if that supply—
- (a) were a taxable supply in the United Kingdom by the representative member to itself, and
  - (b) without prejudice to that, were made by the representative member in the course or furtherance of its business.
- (2C) <sup>[F63]</sup>Except in so far as the Commissioners may by regulations otherwise provide,]a supply which is deemed by virtue of subsection (2B) above to be a supply by the representative member to itself—
- (a) shall not be taken into account as a supply made by the representative member when determining any allowance of input tax under section 26(1) in the case of the representative member;
  - (b) shall be deemed for the purposes of paragraph 1 of Schedule 6 to be a supply in the case of which the person making the supply and the person supplied are connected within the meaning of section 839 of the Taxes Act (connected persons); and
  - (c) subject to paragraph (b) above, shall be taken to be a supply the value and time of which are determined as if it were a supply of services which is treated by virtue of section 8 as made by the person by whom the services are received.
- (2D) For the purposes of subsection (2A) above where—
- (a) there has been a supply of the assets of a business of a person (“the transferor”) to a person to whom the whole or any part of that business was transferred as a going concern (“the transferee”),
  - (b) that supply is either—

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- (i) a supply falling to be treated, in accordance with an order under section 5(3), as being neither a supply of goods nor a supply of services, or
- (ii) a supply that would have fallen to be so treated if it had taken place in the United Kingdom,

and

- (c) the transferor was supplied with services falling within paragraphs 1 to 8 of Schedule 5 at a time before the transfer when the transferor belonged outside the United Kingdom,

those services, so far as they are used by the transferee for making any supply falling within that Schedule, shall be deemed to have been supplied to the transferee at a time when the transferee belonged outside the United Kingdom.

(2E) Where, in the case of a supply of assets falling within paragraphs (a) and (b) of subsection (2D) above—

- (a) the transferor himself acquired any of the assets in question by way of a previous supply of assets falling within those paragraphs, and
- (b) there are services falling within paragraphs 1 to 8 of Schedule 5 which, if used by the transferor for making supplies falling within that Schedule, would be deemed by virtue of that subsection to have been supplied to the transferor at a time when he belonged outside the United Kingdom,

that subsection shall have effect, notwithstanding that the services have not been so used by the transferor, as if the transferor were a person to whom those services were supplied and as if he were a person belonging outside the United Kingdom at the time of their deemed supply to him; and this subsection shall apply accordingly through any number of successive supplies of assets falling within paragraphs (a) and (b) of that subsection.]

<sup>F64</sup>(3) .....

(4) .....

(5) .....

<sup>F65</sup>(5A) .....

(6) .....

(7) .....

(8) .....

[<sup>F66</sup>(9) Schedule 9A (which makes provision for ensuring that this section is not used for tax avoidance) shall have effect.]

#### Textual Amendments

**F57** Words in s. 43(1) substituted (27.7.1999) by 1999 c. 16, s. 16, Sch. 2 para. 1(2)

**F58** Words in s. 43(1)(b) substituted (1.5.1995 with effect as mentioned in s. 25(5) of the amending Act) by 1995 c. 4, s. 25(2)(5)

**F59** S. 43(1AA)(1AB) inserted (with effect in relation to any supply made after 26.11.1996 and in relation to any acquisition or importation taking place after that date) by 1997 c. 16, s. 40(1)(3)

**F60** Words in s. 43(2) inserted (19.3.1997) by 1997 c. 16, s. 40(2)

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- F61** S. 43(2A)-(2E) inserted (with effect in relation to supplies made on or after 26.11.1996) by 1997 c. 16, s. 41(1)(2)
- F62** Words in s. 43(2A) substituted (19.3.1997) by 1997 c. 16, s. 41(3)(4)
- F63** Words in s. 43(2C) inserted (19.3.1997) by 1997 c. 16, s. 41(3)(5)
- F64** S 43(3)-(8) repealed (27.7.1999 with effect as mentioned in Sch. 2 para. 6 of the amending Act) by 1999 c. 16, ss. 16, 139, Sch. 2 para. 1(3), Sch. 20 Pt. II(1)
- F65** S. 43(5A) inserted (1.5.1995 with effect as mentioned in s. 25(5) of the amending Act) by 1995 c. 4, s. 25(4)(5)
- F66** S. 43(9) inserted (29.4.1996) by 1996 c. 8, s. 31(1)

#### [43A] <sup>F67</sup>Groups: eligibility.

- (1) Two or more bodies corporate are eligible to be treated as members of a group if each is established or has a fixed establishment in the United Kingdom and—
  - (a) one of them controls each of the others,
  - (b) one person (whether a body corporate or an individual) controls all of them, or
  - (c) two or more individuals carrying on a business in partnership control all of them.
- (2) For the purposes of this section a body corporate shall be taken to control another body corporate if it is empowered by statute to control that body's activities or if it is that body's holding company within the meaning of section 736 of the <sup>M18</sup>Companies Act 1985.
- (3) For the purposes of this section an individual or individuals shall be taken to control a body corporate if he or they, were he or they a company, would be that body's holding company within the meaning of that section.]

#### Textual Amendments

- F67** Ss. 43A-43C inserted (27.7.1999) by 1999 c. 16, s. 16, Sch. 2 para. 2

#### Marginal Citations

- M18** 1985 c.6.

#### [<sup>F68</sup>43B] Groups: applications.

- (1) This section applies where an application is made to the Commissioners for two or more bodies corporate, which are eligible under section 43A(1), to be treated as members of a group.
- (2) This section also applies where two or more bodies corporate are treated as members of a group and an application is made to the Commissioners—
  - (a) for another body corporate, which is eligible under section 43A(1) to be treated as a member of the group, to be treated as a member of the group,
  - (b) for a body corporate to cease to be treated as a member of the group,
  - (c) for a member to be substituted as the group's representative member, or
  - (d) for the bodies corporate no longer to be treated as members of a group.
- (3) An application with respect to any bodies corporate—
  - (a) must be made by one of them or by the person controlling them, and



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- (b) in the case of an application for the bodies to be treated as a group, must appoint one of them as the representative member.
- (4) Where this section applies in relation to an application it shall, subject to subsection (6) below, be taken to be granted with effect from—
  - (a) the day on which the application is received by the Commissioners, or
  - (b) such earlier or later time as the Commissioners may allow.
- (5) The Commissioners may refuse an application, within the period of 90 days starting with the day on which it was received by them, if it appears to them—
  - (a) in the case of an application such as is mentioned in subsection (1) above, that the bodies corporate are not eligible under section 43A(1) to be treated as members of a group,
  - (b) in the case of an application such as is mentioned in subsection (2)(a) above, that the body corporate is not eligible under section 43A(1) to be treated as a member of the group, or
  - (c) in any case, that refusal of the application is necessary for the protection of the revenue.
- (6) If the Commissioners refuse an application it shall be taken never to have been granted.]

#### Textual Amendments

**F68** Ss. 43A-43C inserted (27.7.1999) by 1999 c. 16, s. 16, Sch. 2 para. 2

#### [<sup>F69</sup>43C Groups: termination of membership.

- (1) The Commissioners may, by notice given to a body corporate, terminate its treatment as a member of a group from a date—
  - (a) which is specified in the notice, and
  - (b) which is, or falls after, the date on which the notice is given.
- (2) The Commissioners may give a notice under subsection (1) above only if it appears to them to be necessary for the protection of the revenue.
- (3) Where—
  - (a) a body is treated as a member of a group, and
  - (b) it appears to the Commissioners that the body is not, or is no longer, eligible under section 43A(1) to be treated as a member of the group,the Commissioners shall, by notice given to the body, terminate its treatment as a member of the group from a date specified in the notice.
- (4) The date specified in a notice under subsection (3) above may be earlier than the date on which the notice is given but shall not be earlier than—
  - (a) the first date on which, in the opinion of the Commissioners, the body was not eligible to be treated as a member of the group, or
  - (b) the date on which, in the opinion of the Commissioners, the body ceased to be eligible to be treated as a member of the group.]

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### Textual Amendments

**F69** Ss. 43A-43C inserted (27.7.1999) by 1999 c. 16, s. 16, Sch. 2 para. 2

## 44 Supplies to groups.

- (1) Subject to subsections (2) to (4) below, subsection (5) below applies where—
  - (a) a business, or part of a business, carried on by a taxable person is transferred as a going concern to a body corporate treated as a member of a group under section 43;
  - (b) on the transfer of the business or part, chargeable assets of the business are transferred to the body corporate; and
  - (c) the transfer of the assets is treated by virtue of section 5(3)(c) as neither a supply of goods nor a supply of services.
- (2) Subsection (5) below shall not apply if the representative member of the group is entitled to credit for the whole of the input tax on supplies to it and acquisitions and importations by it—
  - (a) during the prescribed accounting period in which the assets are transferred, and
  - (b) during any longer period to which regulations under section 26(3)(b) relate and in which the assets are transferred.
- (3) Subsection (5) below shall not apply if the Commissioners are satisfied that the assets were assets of the taxable person transferring them more than 3 years before the day on which they are transferred.
- (4) Subsection (5) below shall not apply to the extent that the chargeable assets consist of capital items in respect of which regulations made under section 26(3) and (4), and in force when the assets are transferred, provide for adjustment to the deduction of input tax.
- (5) The chargeable assets shall be treated for the purposes of this Act as being, on the day on which they are transferred, both supplied to the representative member of the group for the purpose of its business and supplied by that member in the course or furtherance of its business.
- (6) A supply treated under subsection (5) above as made by a representative member shall not be taken into account as a supply made by him when determining the allowance of input tax in his case under section 26.
- (7) The value of a supply treated under subsection (5) above as made to or by a representative member shall be taken to be the open market value of the chargeable assets.
- (8) For the purposes of this section, the open market value of any chargeable assets shall be taken to be the price that would be paid on a sale (on which no VAT is payable) between a buyer and a seller who are not in such a relationship as to affect the price.
- (9) The Commissioners may reduce the VAT chargeable by virtue of subsection (5) above in a case where they are satisfied that the person by whom the chargeable assets are transferred has not received credit for the full amount of input tax arising on the supply to or acquisition or importation by him of the chargeable assets.

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- (10) For the purposes of this section, assets are chargeable assets if their supply in the United Kingdom by a taxable person in the course or furtherance of his business would be a taxable supply (and not a zero-rated supply).

#### 45 Partnerships.

- (1) The registration under this Act of persons—
- (a) carrying on a business in partnership, or
  - (b) carrying on in partnership any other activities in the course or furtherance of which they acquire goods from other member States,
- may be in the name of the firm; and no account shall be taken, in determining for any purpose of this Act whether goods or services are supplied to or by such persons or are acquired by such persons from another member State, of any change in the partnership.
- (2) Without prejudice to section 36 of the <sup>M19</sup>Partnership Act 1890 (rights of persons dealing with firm against apparent members of firm), until the date on which a change in the partnership is notified to the Commissioners a person who has ceased to be a member of a partnership shall be regarded as continuing to be a partner for the purposes of this Act and, in particular, for the purpose of any liability for VAT on the supply of goods or services by the partnership or on the acquisition of goods by the partnership from another member State.
- (3) Where a person ceases to be a member of a partnership during a prescribed accounting period (or is treated as so doing by virtue of subsection (2) above) any notice, whether of assessment or otherwise, which is served on the partnership and relates to, or to any matter arising in, that period or any earlier period during the whole or part of which he was a member of the partnership shall be treated as served also on him.
- (4) Without prejudice to section 16 of the <sup>M20</sup>Partnership Act 1890 (notice to acting partner to be notice to the firm) any notice, whether of assessment or otherwise, which is addressed to a partnership by the name in which it is registered by virtue of subsection (1) above and is served in accordance with this Act shall be treated for the purposes of this Act as served on the partnership and, accordingly, where subsection (3) above applies, as served also on the former partner.
- (5) Subsections (1) and (3) above shall not affect the extent to which, under section 9 of the <sup>M21</sup>Partnership Act 1890, a partner is liable for VAT owed by the firm; but where a person is a partner in a firm during part only of a prescribed accounting period, his liability for VAT on the supply by the firm of goods or services during that accounting period or on the acquisition during that period by the firm of any goods from another member State shall be such proportion of the firm's liability as may be just.

#### Marginal Citations

**M19** 1890 c. 39.

**M20** 1890 c. 39.

**M21** 1890 c. 39.

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#### **46 Business carried on in divisions or by unincorporated bodies, personal representatives etc.**

- (1) The registration under this Act of a body corporate carrying on a business in several divisions may, if the body corporate so requests and the Commissioners see fit, be in the names of those divisions.
- (2) The Commissioners may by regulations make provision for determining by what persons anything required by or under this Act to be done by a person carrying on a business is to be done where a business is carried on in partnership or by a club, association or organisation the affairs of which are managed by its members or a committee or committees of its members.
- (3) The registration under this Act of any such club, association or organisation may be in the name of the club, association or organisation; and in determining whether goods or services are supplied to or by such a club, association or organisation or whether goods are acquired by such a club, association or organisation from another member State, no account shall be taken of any change in its members.
- (4) The Commissioners may by regulations make provision for persons who carry on a business of a taxable person who has died or become bankrupt or has had his estate sequestrated or has become incapacitated to be treated for a limited time as taxable persons, and for securing continuity in the application of this Act in cases where persons are so treated.
- (5) In relation to a company which is a taxable person, the reference in subsection (4) above to the taxable person having become bankrupt or having had his estate sequestrated or having become incapacitated shall be construed as a reference to its being in liquidation or receivership or to an administration order being in force in relation to it.
- (6) References in this section to a business include references to any other activities in the course or furtherance of which any body corporate or any club, association, organisation or other unincorporated body acquires goods from another member State.

#### **47 Agents etc.**

- (1) Where—
  - (a) goods are acquired from another member State by a person who is not a taxable person and a taxable person acts in relation to the acquisition, and then supplies the goods as agent for the person by whom they are so acquired; or
  - (b) goods are imported from a place outside the member States by a taxable person who supplies them as agent for a person who is not a taxable person,

[<sup>F70</sup>then, if the taxable person acts in relation to the supply in his own name, the goods shall] be treated for the purposes of this Act as acquired and supplied or, as the case may be, imported and supplied by the taxable person as principal.

- (2) For the purposes of subsection (1) above a person who is not resident in the United Kingdom and whose place or principal place of business is outside the United Kingdom may be treated as not being a taxable person if as a result he will not be required to be registered under this Act.

[<sup>F71</sup>(2A) Where, in the case of any supply of goods to which subsection (1) above does not apply, goods are supplied through an agent who acts in his own name, the supply shall be treated both as a supply to the agent and as a supply by the agent.]

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- (3) Where <sup>F72</sup> . . . services are supplied through an agent who acts in his own name the Commissioners may, if they think fit, treat the supply both as a supply to the agent and as a supply by the agent.

#### Textual Amendments

- F70** Words in s. 47(1) substituted (1.5.1995 with effect as mentioned in s. 23(4)(a) of the amending Act) by 1995 c. 4, s. 23(1)
- F71** S. 47(2A) inserted (1.5.1995 with effect as mentioned in s. 23(4)(b) of the amending Act) by 1995 c. 4, s. 23(2)
- F72** Words in s. 47(3) repealed (1.5.1995 with effect as mentioned in s. 23(4)(b) of the amending Act) by 1995 c. 4, ss. 23(3), 162, Sch. 29 Pt. VI(2) Note

## 48 VAT representatives.

- (1) Where any person—
- (a) is a taxable person for the purposes of this Act or, without being a taxable person, is a person who makes taxable supplies or who acquires goods in the United Kingdom from one or more other member States;
  - (b) does not have any business establishment or other fixed establishment in the United Kingdom; and
  - (c) in the case of an individual, does not have his usual place of residence in the United Kingdom,
- the Commissioners may direct that person to appoint another person (in this Act referred to as a “VAT representative”) to act on his behalf in relation to VAT.
- (2) With the agreement of the Commissioners, any person who has not been required to appoint a VAT representative under subsection (1) above may do so if he is a person in relation to whom the conditions specified in paragraphs (a) to (c) of that subsection are satisfied.
- (3) Where any person is appointed by virtue of this section to be the VAT representative of another (“his principal”), then, subject to subsections (4) to (6) below, the VAT representative—
- (a) shall be entitled to act on his principal’s behalf for any of the purposes of this Act, of any other enactment (whenever passed) relating to VAT or of any subordinate legislation made under this Act or any such enactment;
  - (b) shall, subject to such provisions as may be made by the Commissioners by regulations, secure (where appropriate by acting on his principal’s behalf) his principal’s compliance with and discharge of the obligations and liabilities to which his principal is subject by virtue of this Act, any such other enactment or any such subordinate legislation; and
  - (c) shall be personally liable in respect of—
    - (i) any failure to secure his principal’s compliance with or discharge of any such obligation or liability; and
    - (ii) anything done for purposes connected with acting on his principal’s behalf,as if the obligations and liabilities imposed on his principal were imposed jointly and severally on the VAT representative and his principal.

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- (4) A VAT representative shall not be liable by virtue of subsection (3) above himself to be registered under this Act, but regulations made by the Commissioners may—
- (a) require the registration of the names of VAT representatives against the names of their principals in any register kept for the purposes of this Act; and
  - (b) make it the duty of a VAT representative, for the purposes of registration, to notify the Commissioners, within such period as may be prescribed, that his appointment has taken effect or has ceased to have effect.
- (5) A VAT representative shall not by virtue of subsection (3) above be guilty of any offence except in so far as—
- (a) the VAT representative has consented to, or connived in, the commission of the offence by his principal;
  - (b) the commission of the offence by his principal is attributable to any neglect on the part of the VAT representative; or
  - (c) the offence consists in a contravention by the VAT representative of an obligation which, by virtue of that subsection, is imposed both on the VAT representative and on his principal.
- (6) The Commissioners may by regulations make provision as to the manner and circumstances in which a person is to be appointed, or is to be treated as having ceased to be, another's VAT representative; and regulations under this subsection may include such provision as the Commissioners think fit for the purposes of subsection (4) above with respect to the making or deletion of entries in any register.
- (7) Where a person fails to appoint a VAT representative in accordance with any direction under subsection (1) above, the Commissioners may require him to provide such security, or further security, as they may think appropriate for the payment of any VAT which is or may become due from him.
- [<sup>F73</sup>(7A) A sum required by way of security under subsection (7) above shall be deemed for the purposes of—
- (a) section 51 of the Finance Act 1997 (enforcement by distress) and any regulations under that section, and
  - (b) section 52 of that Act (enforcement by diligence),
- to be recoverable as if it were VAT due from the person who is required to provide it.]
- (8) For the purposes of this Act a person shall not be treated as having been directed to appoint a VAT representative, or as having been required to provide security under subsection (7) above, unless the Commissioners have either—
- (a) served notice of the direction or requirement on him; or
  - (b) taken all such other steps as appear to them to be reasonable for bringing the direction or requirement to his attention.

#### Textual Amendments

**F73** S. 48(7A) inserted (1.7.1997) by 1997 c. 16, s. 53(6); S.I. 1997/1432, art. 2

## 49 Transfers of going concerns.

- (1) Where a business carried on by a taxable person is transferred to another person as a going concern, then—

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- (a) for the purpose of determining whether the transferee is liable to be registered under this Act he shall be treated as having carried on the business before as well as after the transfer and supplies by the transferor shall be treated accordingly; and
  - (b) any records relating to the business which, under paragraph 6 of Schedule 11, are required to be preserved for any period after the transfer shall be preserved by the transferee instead of by the transferor, unless the Commissioners, at the request of the transferor, otherwise direct.
- (2) Without prejudice to subsection (1) above, the Commissioners may by regulations make provision for securing continuity in the application of this Act in cases where a business carried on by a taxable person is transferred to another person as a going concern and the transferee is registered under this Act in substitution for the transferor.
- (3) Regulations under subsection (2) above may, in particular, provide—
  - (a) for liabilities and duties under this Act (excluding sections 59 to 70) of the transferor to become, to such extent as may be provided by the regulations, liabilities and duties of the transferee; and
  - (b) for any right of either of them to repayment or credit in respect of VAT to be satisfied by making a repayment or allowing a credit to the other;but no such provision as is mentioned in paragraph (a) or (b) of this subsection shall have effect in relation to any transferor and transferee unless an application in that behalf has been made by them under the regulations.

## 50 Terminal markets.

- (1) The Treasury may by order make provision for modifying the provisions of this Act in their application to dealings on terminal markets and such persons ordinarily engaged in such dealings as may be specified in the order, subject to such conditions as may be so specified.
- (2) Without prejudice to the generality of subsection (1) above, an order under this section may include provision—
  - (a) for zero-rating the supply of any goods or services or for treating the supply of any goods or services as exempt;
  - (b) for the registration under this Act of any body of persons representing persons ordinarily engaged in dealing on a terminal market and for disregarding such dealings by persons so represented in determining liability to be registered under this Act, and for disregarding such dealings between persons so represented for all the purposes of this Act;
  - (c) for refunding, to such persons as may be specified by or under the order, input tax attributable to such dealings on a terminal market as may be so specified, and may contain such incidental and supplementary provisions as appear to the Treasury to be necessary or expedient.
- (3) An order under this section may make different provision with respect to different terminal markets and with respect to different commodities.

## [<sup>F74</sup>50A Margin schemes.

- (1) The Treasury may by order provide, in relation to any such description of supplies to which this section applies as may be specified in the order, for a taxable person to be

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entitled to opt that, where he makes supplies of that description, VAT is to be charged by reference to the profit margin on the supplies, instead of by reference to their value.

- (2) This section applies to the following supplies, that is to say—
  - (a) supplies of works of art, antiques or collectors' items;
  - (b) supplies of motor vehicles;
  - (c) supplies of second-hand goods; and
  - (d) any supply of goods through a person who acts as an agent, but in his own name, in relation to the supply.
- (3) An option for the purposes of an order under this section shall be exercisable, and may be withdrawn, in such manner as may be required by such an order.
- (4) Subject to subsection (7) below, the profit margin on a supply to which this section applies shall be taken, for the purposes of an order under this section, to be equal to the amount (if any) by which the price at which the person making the supply obtained the goods in question is exceeded by the price at which he supplies them.
- (5) For the purposes of this section the price at which a person has obtained any goods and the price at which he supplies them shall each be calculated in accordance with the provisions contained in an order under this section; and such an order may, in particular, make provision stipulating the extent to which any VAT charged on a supply, acquisition or importation of any goods is to be treated as included in the price at which those goods have been obtained or are supplied.
- (6) An order under this section may provide that the consideration for any services supplied in connection with a supply of goods by a person who acts as an agent, but in his own name, in relation to the supply of the goods is to be treated for the purposes of any such order as an amount to be taken into account in computing the profit margin on the supply of the goods, instead of being separately chargeable to VAT as comprised in the value of the services supplied.
- (7) An order under this section may provide for the total profit margin on all the goods of a particular description supplied by a person in any prescribed accounting period to be calculated by—
  - (a) aggregating all the prices at which that person obtained goods of that description in that period together with any amount carried forward to that period in pursuance of paragraph (d) below;
  - (b) aggregating all the prices at which he supplies goods of that description in that period;
  - (c) treating the total profit margin on goods supplied in that period as being equal to the amount (if any) by which, for that period, the aggregate calculated in pursuance of paragraph (a) above is exceeded by the aggregate calculated in pursuance of paragraph (b) above; and
  - (d) treating any amount by which, for that period, the aggregate calculated in pursuance of paragraph (b) above is exceeded by the aggregate calculated in pursuance of paragraph (a) above as an amount to be carried forward to the following prescribed accounting period so as to be included, for the period to which it is carried forward, in any aggregate falling to be calculated in pursuance of paragraph (a) above.
- (8) An order under this section may—
  - (a) make different provision for different cases; and



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- (b) make provisions of the order subject to such general or special directions as may, in accordance with the order, be given by the Commissioners with respect to any matter to which the order relates.]

#### Textual Amendments

**F74** S. 50A inserted (1.5.1995) by 1995 c. 4, s. 24(1)

### 51 Buildings and land.

- (1) Schedule 10 shall have effect with respect to buildings and land.  
(2) The Treasury may by order amend Schedule 10.

### 52 Trading stamp schemes.

The Commissioners may by regulations modify sections 19 and 20 and Schedules 6 and 7 for the purpose of providing (in place of the provision for the time being contained in those sections and Schedules) for the manner of determining for the purposes of this Act the value of—

- (a) a supply of goods, or  
(b) a transaction in pursuance of which goods are acquired from another member State,

in a case where the goods are supplied or acquired under a trading stamp scheme (within the meaning of the <sup>M22</sup>Trading Stamps Act 1964 or the <sup>M23</sup>Trading Stamps Act (Northern Ireland) 1965) or under any scheme of an equivalent description which is in operation in another member State.

#### Marginal Citations

**M22** 1964 c. 71.

**M23** 1965 c. 6 (N.I.).

### 53 Tour operators.

- (1) The Treasury may by order modify the application of this Act in relation to supplies of goods or services by tour operators or in relation to such of those supplies as may be determined by or under the order.  
(2) Without prejudice to the generality of subsection (1) above, an order under this section may make provision—  
(a) for two or more supplies of goods or services by a tour operator to be treated as a single supply of services;  
(b) for the value of that supply to be ascertained, in such manner as may be determined by or under the order, by reference to the difference between sums paid or payable to and sums paid or payable by the tour operator;  
(c) for account to be taken, in determining the VAT chargeable on that supply, of the different rates of VAT that would have been applicable apart from this section;  
(d) excluding any body corporate from the application of section 43;

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(e) as to the time when a supply is to be treated as taking place.

- (3) In this section “tour operator” includes a travel agent acting as principal and any other person providing for the benefit of travellers services of any kind commonly provided by tour operators or travel agents.
- (4) Section 97(3) shall not apply to an order under this section, notwithstanding that it makes provision for excluding any VAT from credit under section 25.

#### **54 Farmers etc.**

- (1) The Commissioners may, in accordance with such provision as may be contained in regulations made by them, certify for the purposes of this section any person who satisfies them—
- (a) that he is carrying on a business involving one or more designated activities;
  - (b) that he is of such a description and has complied with such requirements as may be prescribed; and
  - (c) where an earlier certification of that person has been cancelled, that more than the prescribed period has elapsed since the cancellation or that such other conditions as may be prescribed are satisfied.
- (2) Where a person is for the time being certified under this section, then (whether or not that person is a taxable person) so much of any supply by him of any goods or services as, in accordance with provision contained in regulations, is allocated to the relevant part of his business shall be disregarded for the purpose of determining whether he is, has become or has ceased to be liable or entitled to be registered under Schedule 1.
- (3) The Commissioners may by regulations provide for an amount included in the consideration for any taxable supply which is made—
- (a) in the course or furtherance of the relevant part of his business by a person who is for the time being certified under this section;
  - (b) at a time when that person is not a taxable person; and
  - (c) to a taxable person,
- to be treated, for the purpose of determining the entitlement of the person supplied to credit under sections 25 and 26, as VAT on a supply to that person.
- (4) The amount which, for the purposes of any provision made under subsection (3) above, may be included in the consideration for any supply shall be an amount equal to such percentage as the Treasury may by order specify of the sum which, with the addition of that amount, is equal to the consideration for the supply.
- (5) The Commissioners’ power by regulations under section 39 to provide for the repayment to persons to whom that section applies of VAT which would be input tax of theirs if they were taxable persons in the United Kingdom includes power to provide for the payment to persons to whom that section applies of sums equal to the amounts which, if they were taxable persons in the United Kingdom, would be input tax of theirs by virtue of regulations under this section; and references in that section, or in any other enactment, to a repayment of VAT shall be construed accordingly.
- (6) Regulations under this section may provide—
- (a) for the form and manner in which an application for certification under this section, or for the cancellation of any such certification, is to be made;

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- (b) for the cases and manner in which the Commissioners may cancel a person's certification;
- (c) for entitlement to a credit such as is mentioned in subsection (3) above to depend on the issue of an invoice containing such particulars as may be prescribed, or as may be notified by the Commissioners in accordance with provision contained in regulations; and
- (d) for the imposition on certified persons of obligations with respect to the keeping, preservation and production of such records as may be prescribed and of obligations to comply with such requirements with respect to any of those matters as may be so notified;

and regulations made by virtue of paragraph (b) above may confer on the Commissioners power, if they think fit, to refuse to cancel a person's certification, and to refuse to give effect to any entitlement of that person to be registered, until the end of such period after the grant of certification as may be prescribed.

- (7) In this section references, in relation to any person, to the relevant part of his business are references—
  - (a) where the whole of his business relates to the carrying on of one or more designated activities, to that business; and
  - (b) in any other case, to so much of his business as does so relate.
- (8) In this section “designated activities” means such activities, being activities carried on by a person who, by virtue of carrying them on, falls to be treated as a farmer for the purposes of Article 25 of the directive of the Council of the European Communities dated 17th May 1977 No. [77/388/EEC](#) (common flat-rate scheme for farmers), as the Treasury may by order designate.

## **55 Customers to account for tax on supplies of gold etc.**

- (1) Where any person makes a supply of gold to another person and that supply is a taxable supply but not a zero rated supply, the supply shall be treated for purposes of Schedule 1—

- (a) as a taxable supply of that other person (as well as a taxable supply of the person who makes it); and
- (b) in so far as that other person is supplied in connection with the carrying on by him of any business, as a supply made by him in the course or furtherance of that business;

but nothing in paragraph (b) above shall require any supply to be disregarded for the purposes of that Schedule on the grounds that it is a supply of capital assets of that other person's business.

- (2) Where a taxable person makes a supply of gold to a person who—
  - (a) is himself a taxable person at the time when the supply is made; and
  - (b) is supplied in connection with the carrying on by him of any business,it shall be for the person supplied, on the supplier's behalf, to account for and pay tax on the supply, and not for the supplier.
- (3) So much of this Act and of any other enactment or any subordinate legislation as has effect for the purposes of, or in connection with, the enforcement of any obligation to account for and pay VAT shall apply for the purposes of this section in relation to any person who is required under subsection (2) above to account for and pay any VAT as if that VAT were VAT on a supply made by him.

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- (4) Section 6(4) to (10) shall not apply for determining when any supply of gold is to be treated as taking place.]
- (5) References in this section to a supply of gold are references to—
- [<sup>F75</sup>(a) any supply of goods consisting in fine gold, in gold grain of any purity or in gold coins of any purity; or]. . .
  - (b) any supply of goods containing gold where the consideration for the supply (apart from any VAT) is, or is equivalent to, an amount which does not exceed, or exceeds by no more than a negligible amount, the open market value of the gold contained in the goods [<sup>F76</sup>; or.
  - (c) any supply of services consisting in the application to another person's goods of a treatment or process which produces goods a supply of which would fall within paragraph (a) above.]
- (6) The Treasury may by order provide for this section to apply, as it applies to the supplies specified in subsection (5) above, to such other supplies of—
- (a) goods consisting in or containing any precious or semi-precious metal or stones; or
  - (b) services relating to, or to anything containing, any precious or semi-precious metal or stones,
- as may be specified or described in the order.

#### Textual Amendments

**F75** S. 55(5)(a) substituted (29.4.1996 with application in relation to any supply after 28.11.1995) by 1996 c. 8, s. 32(1)(2)

**F76** S. 55(5)(c) inserted (29.4.1996 with application to supplies made on or after 1.1.1996) by 1996 c. 8, s. 29(3)(5)

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

**C11** S. 55(1)-(4) applied (1.1.2000) by S.I. 1999/3116, art. 4

**C12** S. 55(2) excluded (1.1.2000) by S.I. 1973/173, art. 7 (as added (1.1.2000) by S.I. 1999/3117, art. 8)

## 56 Fuel for private use.

- (1) The provisions of this section apply where, in any prescribed accounting period, fuel which is or has previously been supplied to or imported or manufactured by a taxable person in the course of his business—
- (a) is provided or to be provided by the taxable person to an individual for private use in his own vehicle or a vehicle allocated to him and is so provided by reason of that individual's employment; or
  - (b) where the taxable person is an individual, is appropriated or to be appropriated by him for private use in his own vehicle; or
  - (c) where the taxable person is a partnership, is provided or to be provided to any of the individual partners for private use in his own vehicle.
- (2) For the purposes of this section fuel shall not be regarded as provided to any person for his private use if it is supplied at a price which—
- (a) in the case of fuel supplied to or imported by the taxable person, is not less than the price at which it was so supplied or imported; and

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- (b) in the case of fuel manufactured by the taxable person, is not less than the aggregate of the cost of the raw material and of manufacturing together with any excise duty thereon.
- (3) For the purposes of this section and section 57—
  - (a) “fuel for private use” means fuel which, having been supplied to or imported or manufactured by a taxable person in the course of his business, is or is to be provided or appropriated for private use as mentioned in subsection (1) above;
  - (b) any reference to fuel supplied to a taxable person shall include a reference to fuel acquired by a taxable person from another member State and any reference to fuel imported by a taxable person shall be confined to a reference to fuel imported by that person from a place outside the member States;
  - (c) any reference to an individual’s own vehicle shall be construed as including any vehicle of which for the time being he has the use, other than a vehicle allocated to him;
  - (d) subject to subsection (9) below, a vehicle shall at any time be taken to be allocated to an individual if at that time it is made available (without any transfer of the property in it) either to the individual himself or to any other person, and is so made available by reason of the individual’s employment and for private use; and
  - (e) fuel provided by an employer to an employee and fuel provided to any person for private use in a vehicle which, by virtue of paragraph (d) above, is for the time being taken to be allocated to the employee shall be taken to be provided to the employee by reason of his employment.
- (4) Where under section 43 any bodies corporate are treated as members of a group, any provision of fuel by a member of the group to an individual shall be treated for the purposes of this section as provision by the representative member.
- (5) In relation to the taxable person, tax on the supply, acquisition or importation of fuel for private use shall be treated for the purposes of this Act as input tax, notwithstanding that the fuel is not used or to be used for the purposes of a business carried on by the taxable person (and, accordingly, no apportionment of VAT shall fall to be made under section 24(5) by reference to fuel for private use).
- (6) At the time at which fuel for private use is put into the fuel tank of an individual’s own vehicle or of a vehicle allocated to him, the fuel shall be treated for the purposes of this Act as supplied to him by the taxable person in the course or furtherance of his business for a consideration determined in accordance with subsection (7) below (and, accordingly, where the fuel is appropriated by the taxable person to his own private use, he shall be treated as supplying it to himself in his private capacity).
- (7) In any prescribed accounting period of the taxable person in which, by virtue of subsection (6) above, he is treated as supplying fuel for private use to an individual, the consideration for all the supplies made to that individual in that period in respect of any one vehicle shall be that which, by virtue of section 57, is appropriate to a vehicle of that description, and that consideration shall be taken to be inclusive of VAT.
- (8) In any case where—
  - (a) in any prescribed accounting period, fuel for private use is, by virtue of subsection (6) above, treated as supplied to an individual in respect of one vehicle for a part of the period and in respect of another vehicle for another part of the period; and

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- (b) at the end of that period one of those vehicles neither belongs to him nor is allocated to him,
- subsection (7) above shall have effect as if the supplies made to the individual during those parts of the period were in respect of only one vehicle.
- (9) In any prescribed accounting period a vehicle shall not be regarded as allocated to an individual by reason of his employment if—
- (a) in that period it was made available to, and actually used by, more than one of the employees of one or more employers and, in the case of each of them, it was made available to him by reason of his employment but was not in that period ordinarily used by any one of them to the exclusion of the others; and
  - (b) in the case of each of the employees, any private use of the vehicle made by him in that period was merely incidental to his other use of it in that period; and
  - (c) it was in that period not normally kept overnight on or in the vicinity of any residential premises where any of the employees was residing, except while being kept overnight on premises occupied by the person making the vehicle available to them.
- (10) In this section and section 57—
- “employment” includes any office; and related expressions shall be construed accordingly;
- “vehicle” means a mechanically propelled road vehicle other than—
- (a) a motor cycle as defined in section 185(1) of the <sup>M24</sup>Road Traffic Act 1988 or, for Northern Ireland, in Article 37(1)(f) of the <sup>M25</sup>Road Traffic (Northern Ireland) Order 1981, or
  - (b) an invalid carriage as defined in that section or, for Northern Ireland, in Article 37(1)(g) of that Order.

#### Marginal Citations

**M24** 1988 c. 54.

**M25** S.I.1981/154 (N.I.1).

### 57 Determination of consideration for fuel supplied for private use.

- (1) This section has effect to determine the consideration referred to in section 56(7) in respect of any one vehicle; and in this section—
- “the prescribed accounting period” means that in respect of supplies in which the consideration is to be determined; and
- “the individual” means the individual to whom those supplies are treated as made.

[<sup>F77</sup>(1A) Where the prescribed accounting period is a period of 12 months, the consideration appropriate to any vehicle is that specified in relation to a vehicle of the appropriate description in the second column of Table A below.]

- (2) Where the prescribed accounting period is a period of 3 months, the consideration appropriate to any vehicle is that specified in relation to a vehicle of the appropriate description in the [<sup>F78</sup>third] column of Table A below.

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- (3) Where the prescribed accounting period is a period of one month, the consideration appropriate to any vehicle is that specified in relation to a vehicle of the appropriate description in the [<sup>F79</sup>fourth] column of Table A below.

[<sup>F80</sup>TABLE A

<i>Description of vehicle</i>	<i>12 month period</i>	<i>3 month period</i>	<i>1 month period</i>
	£	£	£
Diesel engine 2000 or less	785.00	196.00	65.00
More than 2000	995.00	248.00	82.00
Any other type of engine 1400 or less	850.00	212.00	70.00
More than 1400 but not more than 2000	1075.00	268.00	89.00
More than 2000	1585.00	396.00	132.00]

- (4) The Treasury may by order taking effect from the beginning of any prescribed accounting period beginning after the order is made substitute a different Table for Table A for the time being set out above.
- (5) Where, by virtue of section 56(8), subsection (7) of that section has effect as if, in the prescribed accounting period, supplies of fuel for private use made in respect of 2 or more vehicles were made in respect of only one vehicle, the consideration appropriate shall be determined as follows—
- if each of the 2 or more vehicles falls within the same description of vehicle specified in Table A above, that Table shall apply as if only one of the vehicles were to be considered throughout the whole period, and
  - if one of those vehicles falls within a description of vehicle specified in that Table which is different from the other or others, the consideration shall be the aggregate of the relevant fractions of the consideration appropriate for each description of vehicle under that Table.
- (6) For the purposes of subsection (5)(b) above, the relevant fraction in relation to any vehicle is that which the part of the prescribed accounting period in which fuel for private use was supplied in respect of that vehicle bears to the whole of that period.
- (7) In the case of a vehicle having an internal combustion engine with one or more reciprocating pistons, its cubic capacity for the purposes of Table A above is the capacity of its engine as calculated for the purposes of the <sup>M26</sup>Vehicle Excise and Registration Act 1994.
- (8) In the case of a vehicle not falling within subsection (7) above, its cubic capacity shall be such as may be determined for the purposes of Table A above by order by the Treasury.

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### Textual Amendments

- F77** S. 57(1A) inserted (with application in relation to prescribed accounting periods beginning on or after 6.4.1995) by 1995 c. 4, s. 30(2)(6)(7)
- F78** Word in s. 57(2) substituted (with application in relation to prescribed accounting periods beginning on or after 6.4.1995) by 1995 c. 4, s. 30(3)(6)(7)
- F79** Word in s. 57(3) substituted (with application in relation to prescribed accounting periods beginning on or after 6.4.1995) by 1995 c. 4, s. 30(4)(6)(7)
- F80** S. 57(3) Table A substituted (5.4.1998 with effect as mentioned in art. 1 of the amending S.I.) by S.I. 1998/788, art. 2

### Marginal Citations

- M26** 1994 c. 22.

## PART IV

### ADMINISTRATION, COLLECTION AND ENFORCEMENT

#### *General administrative provisions*

#### **58 General provisions relating to the administration and collection of VAT.**

Schedule 11 shall have effect, subject to section 92(6), with respect to the administration, collection and enforcement of VAT.

#### *Default surcharges and other penalties and criminal offences*

#### **59 The default surcharge.**

- (1) [<sup>F81</sup>Subject to subsection (1A) below]if, by the last day on which a taxable person is required in accordance with regulations under this Act to furnish a return for a prescribed accounting period—

- (a) the Commissioners have not received that return, or
- (b) the Commissioners have received that return but have not received the amount of VAT shown on the return as payable by him in respect of that period,

then that person shall be regarded for the purposes of this section as being in default in respect of that period.

[<sup>F82</sup>(1A) A person shall not be regarded for the purposes of this section as being in default in respect of any prescribed accounting period if that period is one in respect of which he is required by virtue of any order under section 28 to make any payment on account of VAT.]

- (2) Subject to subsections (9) and (10) below, subsection (4) below applies in any case where—
- (a) a taxable person is in default in respect of a prescribed accounting period; and
  - (b) the Commissioners serve notice on the taxable person (a “surcharge liability notice”) specifying as a surcharge period for the purposes of this section a period ending on the first anniversary of the last day of the period referred



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to in paragraph (a) above and beginning, subject to subsection (3) below, on the date of the notice.

- (3) If a surcharge liability notice is served by reason of a default in respect of a prescribed accounting period and that period ends at or before the expiry of an existing surcharge period already notified to the taxable person concerned, the surcharge period specified in that notice shall be expressed as a continuation of the existing surcharge period and, accordingly, for the purposes of this section, that existing period and its extension shall be regarded as a single surcharge period.
- (4) Subject to subsections (7) to (10) below, if a taxable person on whom a surcharge liability notice has been served—
- (a) is in default in respect of a prescribed accounting period ending within the surcharge period specified in (or extended by) that notice, and
  - (b) has outstanding VAT for that prescribed accounting period,
- he shall be liable to a surcharge equal to whichever is the greater of the following, namely, the specified percentage of his outstanding VAT for that prescribed accounting period and £30.
- (5) Subject to subsections (7) to (10) below, the specified percentage referred to in subsection (4) above shall be determined in relation to a prescribed accounting period by reference to the number of such periods in respect of which the taxable person is in default during the surcharge period and for which he has outstanding VAT, so that—
- (a) in relation to the first such prescribed accounting period, the specified percentage is 2 per cent;
  - (b) in relation to the second such period, the specified percentage is 5 per cent;
  - (c) in relation to the third such period, the specified percentage is 10 per cent; and
  - (d) in relation to each such period after the third, the specified percentage is 15 per cent.
- (6) For the purposes of subsections (4) and (5) above a person has outstanding VAT for a prescribed accounting period if some or all of the VAT for which he is liable in respect of that period has not been paid by the last day on which he is required (as mentioned in subsection (1) above) to make a return for that period; and the reference in subsection (4) above to a person's outstanding VAT for a prescribed accounting period is to so much of the VAT for which he is so liable as has not been paid by that day.
- (7) If a person who, apart from this subsection, would be liable to a surcharge under subsection (4) above satisfies the Commissioners or, on appeal, a tribunal that, in the case of a default which is material to the surcharge—
- (a) the return or, as the case may be, the VAT shown on the return was despatched at such a time and in such a manner that it was reasonable to expect that it would be received by the Commissioners within the appropriate time limit, or
  - (b) there is a reasonable excuse for the return or VAT not having been so despatched,
- he shall not be liable to the surcharge and for the purposes of the preceding provisions of this section he shall be treated as not having been in default in respect of the prescribed accounting period in question (and, accordingly, any surcharge liability notice the service of which depended upon that default shall be deemed not to have been served).
- (8) For the purposes of subsection (7) above, a default is material to a surcharge if—

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- (a) it is the default which, by virtue of subsection (4) above, gives rise to the surcharge; or
  - (b) it is a default which was taken into account in the service of the surcharge liability notice upon which the surcharge depends and the person concerned has not previously been liable to a surcharge in respect of a prescribed accounting period ending within the surcharge period specified in or extended by that notice.
- (9) In any case where—
- (a) the conduct by virtue of which a person is in default in respect of a prescribed accounting period is also conduct falling within section 69(1), and
  - (b) by reason of that conduct, the person concerned is assessed to a penalty under that section,
- the default shall be left out of account for the purposes of subsections (2) to (5) above.
- (10) If the Commissioners, after consultation with the Treasury, so direct, a default in respect of a prescribed accounting period specified in the direction shall be left out of account for the purposes of subsections (2) to (5) above.

[<sup>F83</sup>(11) For the purposes of this section references to a thing's being done by any day include references to its being done on that day.]

#### Textual Amendments

- F81** Words in s. 59(1) inserted (29.4.1996 with effect as mentioned in s. 35(8) of the amending Act) by 1996 c. 8, s. 35(3)
- F82** S. 59(1A) inserted (29.4.1996 with effect as mentioned in s. 35(8) of the amending Act) by 1996 c. 8, s. 35(3)
- F83** S. 59(11) inserted (29.4.1996 with effect as mentioned in s. 35(8) of the amending Act) by 1996 c. 8, s. 35(4)

#### [<sup>F84</sup>59A Default surcharge: payments on account.

- (1) For the purposes of this section a taxable person shall be regarded as in default in respect of any prescribed accounting period if the period is one in respect of which he is required, by virtue of an order under section 28, to make any payment on account of VAT and either—
- (a) a payment which he is so required to make in respect of that period has not been received in full by the Commissioners by the day on which it became due; or
  - (b) he would, but for section 59(1A), be in default in respect of that period for the purposes of section 59.
- (2) Subject to subsections (10) and (11) below, subsection (4) below applies in any case where—
- (a) a taxable person is in default in respect of a prescribed accounting period; and
  - (b) the Commissioners serve notice on the taxable person (a “surcharge liability notice”) specifying as a surcharge period for the purposes of this section a period which—
    - (i) begins, subject to subsection (3) below, on the date of the notice; and

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(ii) ends on the first anniversary of the last day of the period referred to in paragraph (a) above.

(3) If—

- (a) a surcharge liability notice is served by reason of a default in respect of a prescribed accounting period, and
- (b) that period ends at or before the expiry of an existing surcharge period already notified to the taxable person concerned,

the surcharge period specified in that notice shall be expressed as a continuation of the existing surcharge period; and, accordingly, the existing period and its extension shall be regarded as a single surcharge period.

(4) Subject to subsections (7) to (11) below, if—

- (a) a taxable person on whom a surcharge liability notice has been served is in default in respect of a prescribed accounting period,
- (b) that prescribed accounting period is one ending within the surcharge period specified in (or extended by) that notice, and
- (c) the aggregate value of his defaults in respect of that prescribed accounting period is more than nil,

that person shall be liable to a surcharge equal to whichever is the greater of £30 and the specified percentage of the aggregate value of his defaults in respect of that prescribed accounting period.

(5) Subject to subsections (7) to (11) below, the specified percentage referred to in subsection (4) above shall be determined in relation to a prescribed accounting period by reference to the number of such periods during the surcharge period which are periods in respect of which the taxable person is in default and in respect of which the value of his defaults is more than nil, so that—

- (a) in relation to the first such prescribed accounting period, the specified percentage is 2 per cent.;
- (b) in relation to the second such period, the specified percentage is 5 per cent.;
- (c) in relation to the third such period, the specified percentage is 10 per cent.; and
- (d) in relation to each such period after the third, the specified percentage is 15 per cent.

(6) For the purposes of this section the aggregate value of a person's defaults in respect of a prescribed accounting period shall be calculated as follows—

- (a) where the whole or any part of a payment in respect of that period on account of VAT was not received by the Commissioners by the day on which it became due, an amount equal to that payment or, as the case may be, to that part of it shall be taken to be the value of the default relating to that payment;
- (b) if there is more than one default with a value given by paragraph (a) above, those values shall be aggregated;
- (c) the total given by paragraph (b) above, or (where there is only one default) the value of the default under paragraph (a) above, shall be taken to be the value for that period of that person's defaults on payments on account;
- (d) the value of any default by that person which is a default falling within subsection (1)(b) above shall be taken to be equal to the amount of any outstanding VAT less the amount of unpaid payments on account; and
- (e) the aggregate value of a person's defaults in respect of that period shall be taken to be the aggregate of—

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- (i) the value for that period of that person's defaults (if any) on payments on account; and
  - (ii) the value of any default of his in respect of that period that falls within subsection (1)(b) above.
- (7) In the application of subsection (6) above for the calculation of the aggregate value of a person's defaults in respect of a prescribed accounting period—
- (a) the amount of outstanding VAT referred to in paragraph (d) of that subsection is the amount (if any) which would be the amount of that person's outstanding VAT for that period for the purposes of section 59(4); and
  - (b) the amount of unpaid payments on account referred to in that paragraph is the amount (if any) equal to so much of any payments on account of VAT (being payments in respect of that period) as has not been received by the Commissioners by the last day on which that person is required (as mentioned in section 59(1)) to make a return for that period.
- (8) If a person who, apart from this subsection, would be liable to a surcharge under subsection (4) above satisfies the Commissioners or, on appeal, a tribunal—
- (a) in the case of a default that is material for the purposes of the surcharge and falls within subsection (1)(a) above—
    - (i) that the payment on account of VAT was despatched at such a time and in such a manner that it was reasonable to expect that it would be received by the Commissioners by the day on which it became due, or
    - (ii) that there is a reasonable excuse for the payment not having been so despatched,
  - or
  - (b) in the case of a default that is material for the purposes of the surcharge and falls within subsection (1)(b) above, that the condition specified in section 59(7)(a) or (b) is satisfied as respects the default,
- he shall not be liable to the surcharge and for the purposes of the preceding provisions of this section he shall be treated as not having been in default in respect of the prescribed accounting period in question (and, accordingly, any surcharge liability notice the service of which depended upon that default shall be deemed not to have been served).
- (9) For the purposes of subsection (8) above, a default is material to a surcharge if—
- (a) it is the default which, by virtue of subsection (4) above, gives rise to the surcharge; or
  - (b) it is a default which was taken into account in the service of the surcharge liability notice upon which the surcharge depends and the person concerned has not previously been liable to a surcharge in respect of a prescribed accounting period ending within the surcharge period specified in or extended by that notice.
- (10) In any case where—
- (a) the conduct by virtue of which a person is in default in respect of a prescribed accounting period is also conduct falling within section 69(1), and
  - (b) by reason of that conduct, the person concerned is assessed to a penalty under section 69,
- the default shall be left out of account for the purposes of subsections (2) to (5) above.

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- (11) If the Commissioners, after consultation with the Treasury, so direct, a default in respect of a prescribed accounting period specified in the direction shall be left out of account for the purposes of subsections (2) to (5) above.
- (12) For the purposes of this section the Commissioners shall be taken not to receive a payment by the day on which it becomes due unless it is made in such a manner as secures (in a case where the payment is made otherwise than in cash) that, by the last day for the payment of that amount, all the transactions can be completed that need to be completed before the whole amount of the payment becomes available to the Commissioners.
- (13) In determining for the purposes of this section whether any person would, but for section 59(1A), be in default in respect of any period for the purposes of section 59, subsection (12) above shall be deemed to apply for the purposes of section 59 as it applies for the purposes of this section.
- (14) For the purposes of this section references to a thing's being done by any day include references to its being done on that day.]

#### Textual Amendments

**F84** S. 59A inserted (29.4.1996 with application as mentioned in s. 35(8) of the amending Act) by 1996 c. 8, s. 35(2)

#### [<sup>F85</sup> 59B Relationship between sections 59 and 59A.

- (1) This section applies in each of the following cases, namely—
  - (a) where a section 28 accounting period ends within a surcharge period begun or extended by the service on a taxable person (whether before or after the coming into force of section 59A) of a surcharge liability notice under section 59; and
  - (b) where a prescribed accounting period which is not a section 28 accounting period ends within a surcharge period begun or extended by the service on a taxable person of a surcharge liability notice under section 59A.
- (2) In a case falling within subsection (1)(a) above section 59A shall have effect as if—
  - (a) subject to paragraph (b) below, the section 28 accounting period were deemed to be a period ending within a surcharge period begun or, as the case may be, extended by a notice served under section 59A; but
  - (b) any question—
    - (i) whether a surcharge period was begun or extended by the notice, or
    - (ii) whether the taxable person was in default in respect of any prescribed accounting period which was not a section 28 accounting period but ended within the surcharge period begun or extended by that notice, were to be determined as it would be determined for the purposes of section 59.
- (3) In a case falling within subsection (1)(b) above section 59 shall have effect as if—
  - (a) subject to paragraph (b) below, the prescribed accounting period that is not a section 28 accounting period were deemed to be a period ending within a surcharge period begun or, as the case may be, extended by a notice served under section 59;

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- (b) any question—
    - (i) whether a surcharge period was begun or extended by the notice, or
    - (ii) whether the taxable person was in default in respect of any prescribed accounting period which was a section 28 accounting period but ended within the surcharge period begun or extended by that notice,
 were to be determined as it would be determined for the purposes of section 59A; and
  - (c) that person were to be treated as having had outstanding VAT for a section 28 accounting period in any case where the aggregate value of his defaults in respect of that period was, for the purposes of section 59A, more than nil.
- (4) In this section “a section 28 accounting period”, in relation to a taxable person, means any prescribed accounting period ending on or after the day on which the Finance Act 1996 was passed in respect of which that person is liable by virtue of an order under section 28 to make any payment on account of VAT.]

#### Textual Amendments

**F85** S. 59B inserted (29.4.1996 with effect as mentioned in s. 35(8) of the amending Act) by 1996 c. 8, s. 35(5)

#### 60 VAT evasion: conduct involving dishonesty.

- (1) In any case where—
- (a) for the purpose of evading VAT, a person does any act or omits to take any action, and
  - (b) his conduct involves dishonesty (whether or not it is such as to give rise to criminal liability),
- he shall be liable, subject to subsection (6) below, to a penalty equal to the amount of VAT evaded or, as the case may be, sought to be evaded, by his conduct.
- (2) The reference in subsection (1)(a) above to evading VAT includes a reference to obtaining any of the following sums—
- (a) a refund under any regulations made by virtue of section 13(5);
  - (b) a VAT credit;
  - (c) a refund under section 35, 36 or 40 of this Act or section 22 of the 1983 Act; and
  - (d) a repayment under section 39,
- in circumstances where the person concerned is not entitled to that sum.
- (3) The reference in subsection (1) above to the amount of the VAT evaded or sought to be evaded by a person’s conduct shall be construed—
- (a) in relation to VAT itself or a VAT credit as a reference to the aggregate of the amount (if any) falsely claimed by way of credit for input tax and the amount (if any) by which output tax was falsely understated; and
  - (b) in relation to the sums referred to in subsection (2)(a), (c) and (e) above, as a reference to the amount falsely claimed by way of refund or repayment.

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- (4) Statements made or documents produced by or on behalf of a person shall not be inadmissible in any such proceedings as are mentioned in subsection (5) below by reason only that it has been drawn to his attention—
- (a) that, in relation to VAT, the Commissioners may assess an amount due by way of a civil penalty instead of instituting criminal proceedings and, though no undertaking can be given as to whether the Commissioners will make such an assessment in the case of any person, it is their practice to be influenced by the fact that a person has made a full confession of any dishonest conduct to which he has been a party and has given full facilities for investigation, and
  - (b) that the Commissioners or, on appeal, a tribunal have power under section 70 to reduce a penalty under this section,
- and that he was or may have been induced thereby to make the statements or produce the documents.
- (5) The proceedings mentioned in subsection (4) above are—
- (a) any criminal proceedings against the person concerned in respect of any offence in connection with or in relation to VAT, and
  - (b) any proceedings against him for the recovery of any sum due from him in connection with or in relation to VAT.
- (6) Where, by reason of conduct falling within subsection (1) above, a person is convicted of an offence (whether under this Act or otherwise), that conduct shall not also give rise to liability to a penalty under this section.
- (7) On an appeal against an assessment to a penalty under this section, the burden of proof as to the matters specified in subsection (1)(a) and (b) above shall lie upon the Commissioners.

## **61 VAT evasion: liability of directors etc.**

- (1) Where it appears to the Commissioners—
- (a) that a body corporate is liable to a penalty under section 60, and
  - (b) that the conduct giving rise to that penalty is, in whole or in part, attributable to the dishonesty of a person who is, or at the material time was, a director or managing officer of the body corporate (a “named officer”),
- the Commissioners may serve a notice under this section on the body corporate and on the named officer.
- (2) A notice under this section shall state—
- (a) the amount of the penalty referred to in subsection (1)(a) above (“the basic penalty”), and
  - (b) that the Commissioners propose, in accordance with this section, to recover from the named officer such portion (which may be the whole) of the basic penalty as is specified in the notice.
- (3) Where a notice is served under this section, the portion of the basic penalty specified in the notice shall be recoverable from the named officer as if he were personally liable under section 60 to a penalty which corresponds to that portion; and the amount of that penalty may be assessed and notified to him accordingly under section 76.
- (4) Where a notice is served under this section—

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- (a) the amount which, under section 76, may be assessed as the amount due by way of penalty from the body corporate shall be only so much (if any) of the basic penalty as is not assessed on and notified to a named officer by virtue of subsection (3) above; and
  - (b) the body corporate shall be treated as discharged from liability for so much of the basic penalty as is so assessed and notified.
- (5) No appeal shall lie against a notice under this section as such but—
- (a) where a body corporate is assessed as mentioned in subsection (4)(a) above, the body corporate may appeal against the Commissioners' decision as to its liability to a penalty and against the amount of the basic penalty as if it were specified in the assessment; and
  - (b) where an assessment is made on a named officer by virtue of subsection (3) above, the named officer may appeal against the Commissioners' decision that the conduct of the body corporate referred to in subsection (1)(b) above is, in whole or part, attributable to his dishonesty and against their decision as to the portion of the penalty which the Commissioners propose to recover from him.
- (6) In this section a “managing officer”, in relation to a body corporate, means any manager, secretary or other similar officer of the body corporate or any person purporting to act in any such capacity or as a director; and where the affairs of a body corporate are managed by its members, this section shall apply in relation to the conduct of a member in connection with his functions of management as if he were a director of the body corporate.

## 62 Incorrect certificates as to zero-rating etc.

[<sup>F86</sup>(1) Subject to subsections (3) and (4) below, where—

- (a) a person to whom one or more supplies are, or are to be, made—
  - (i) gives to the supplier a certificate that the supply or supplies fall, or will fall, wholly or partly within paragraph 1 of Schedule A1, Group 5 or 6 of Schedule 8 or Group 1 of Schedule 9, or
  - (ii) gives to the supplier a certificate for the purposes of section 18B(2)(d) or 18C(1)(c),

and

- (b) the certificate is incorrect,

the person giving the certificate shall be liable to a penalty.

(1A) Subject to subsections (3) and (4) below, where—

- (a) a person who makes, or is to make, an acquisition of goods from another member State prepares a certificate for the purposes of section 18B(1)(d), and
- (b) the certificate is incorrect,

the person preparing the certificate shall be liable to a penalty.

(2) The amount of the penalty shall be equal to—

- (a) in a case where the penalty is imposed by virtue of subsection (1) above, the difference between—
  - (i) the amount of the VAT which would have been chargeable on the supply or supplies if the certificate had been correct; and
  - (ii) the amount of VAT actually chargeable;



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- (b) in a case where it is imposed by virtue of subsection (1A) above, the amount of VAT actually chargeable on the acquisition.]
- (2) The amount of the penalty shall be equal to the difference between the amount of the VAT which would have been chargeable on the supply or supplies if the certificate had been correct and the amount of VAT actually so chargeable.
- (3) The giving [<sup>F87</sup>or preparing] of a certificate shall not give rise to a penalty under this section if the person who gave [<sup>F88</sup>or prepared] it satisfies the Commissioners or, on appeal, a tribunal that there is a reasonable excuse for his having given [<sup>F88</sup>or prepared]it.
- (4) Where by reason of giving [<sup>F87</sup>or preparing]a certificate a person is convicted of an offence (whether under this Act or otherwise), the giving of the certificate shall not also give rise to a penalty under this section.

#### Textual Amendments

- F86** S. 62(1)(1A)(2) substituted (27.7.1999 with effect as mentioned in s. 17(2) of the amending Act) for s. 62(1)(2) by 1999 c. 16, s. 17(1)
- F87** Words in s. 62(1)(3)(4) inserted (1.6.1996 with application to any acquisition of goods from another member State and any supply taking place on or after that day) by 1996 c. 8, ss. 25, 26, Sch. 3 para. 8(3); S.I. 1996/1249, art. 2
- F88** Words in s. 62(3) inserted (1.6.1996 with application to any acquisition of goods from another member State and any supply taking place on or after that day) by 1996 c. 8, ss. 25, 26, Sch. 3 para. 8(4); S.I. 1996/1249, art. 2

### 63 Penalty for misdeclaration or neglect resulting in VAT loss for one accounting period equalling or exceeding certain amounts.

- (1) In any case where, for a prescribed accounting period—
- (a) a return is made which understates a person’s liability to VAT or overstates his entitlement to a VAT credit, or
- (b) an assessment is made which understates a person’s liability to VAT and, at the end of the period of 30 days beginning on the date of the assessment, he has not taken all such steps as are reasonable to draw the understatement to the attention of the Commissioners,
- and the circumstances are as set out in subsection (2) below, the person concerned shall be liable, subject to subsections (10) and (11) below, to a penalty equal to 15 per cent. of the VAT which would have been lost if the inaccuracy had not been discovered.
- (2) The circumstances referred to in subsection (1) above are that the VAT for the period concerned which would have been lost if the inaccuracy had not been discovered equals or exceeds whichever is the lesser of £1,000,000 and 30 per cent. of the relevant amount for that period.
- (3) Any reference in this section to the VAT for a prescribed accounting period which would have been lost if an inaccuracy had not been discovered is a reference to the amount of the understatement of liability or, as the case may be, overstatement of entitlement referred to, in relation to that period, in subsection (1) above.
- (4) In this section “the relevant amount”, in relation to a prescribed accounting period, means—

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- (a) for the purposes of a case falling within subsection (1)(a) above, the gross amount of VAT for that period; and
  - (b) for the purposes of a case falling within subsection (1)(b) above, the true amount of VAT for that period.
- (5) In this section “the gross amount of tax”, in relation to a prescribed accounting period, means the aggregate of the following amounts, that is to say—
- (a) the amount of credit for input tax which (subject to subsection (8) below) should have been stated on the return for that period, and
  - (b) the amount of output tax which (subject to that subsection) should have been so stated.
- (6) In relation to any return which, in accordance with prescribed requirements, includes a single amount as the aggregate for the prescribed accounting period to which the return relates of—
- (a) the amount representing credit for input tax, and
  - (b) any other amounts representing refunds or repayments of VAT to which there is an entitlement,
- references in this section to the amount of credit for input tax shall have effect (so far as they would not so have effect by virtue of subsection (9) below) as references to the amount of that aggregate.
- (7) In this section “the true amount of VAT”, in relation to a prescribed accounting period, means the amount of VAT which was due from the person concerned for that period or, as the case may be, the amount of the VAT credit (if any) to which he was entitled for that period.
- (8) Where—
- (a) a return for any prescribed accounting period overstates or understates to any extent a person’s liability to VAT or his entitlement to a VAT credit, and
  - (b) that return is corrected, in such circumstances and in accordance with such conditions as may be prescribed, by a return for a later such period which understates or overstates, to the corresponding extent, that liability or entitlement,
- it shall be assumed for the purposes of this section that the statements made by each of those returns (so far as they are not inaccurate in any other respect) are correct statements for the accounting period to which it relates.
- (9) This section shall have effect in relation to a body which is registered and to which section 33 applies as if—
- (a) any reference to a VAT credit included a reference to a refund under that section, and
  - (b) any reference to credit for input tax included a reference to VAT chargeable on supplies, acquisitions or importations which were not for the purposes of any business carried on by the body.
- (10) Conduct falling within subsection (1) above shall not give rise to liability to a penalty under this section if—
- (a) the person concerned satisfies the Commissioners or, on appeal, a tribunal that there is a reasonable excuse for the conduct, or
  - (b) at a time when he had no reason to believe that enquiries were being made by the Commissioners into his affairs, so far as they relate to VAT, the person

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concerned furnished to the Commissioners full information with respect to the inaccuracy concerned.

- (11) Where, by reason of conduct falling within subsection (1) above—
- (a) a person is convicted of an offence (whether under this Act or otherwise), or
  - (b) a person is assessed to a penalty under section 60,
- that conduct shall not also give rise to liability to a penalty under this section.

#### **64 Repeated misdeclarations.**

- (1) In any case where—
- (a) for a prescribed accounting period (including one beginning before the commencement of this section), a return has been made which understates a person's liability to VAT or overstates his entitlement to a VAT credit; and
  - (b) the VAT for that period which would have been lost if the inaccuracy had not been discovered equals or exceeds whichever is the lesser of £500,000 and 10 per cent. of the gross amount of tax for that period,
- the inaccuracy shall be regarded, subject to subsections (5) and (6) below, as material for the purposes of this section.

- (2) Subsection (3) below applies in any case where—
- (a) there is a material inaccuracy in respect of any prescribed accounting period;
  - (b) the Commissioners serve notice on the person concerned (a "penalty liability notice") specifying a penalty period for the purposes of this section;
  - (c) that notice is served before the end of 5 consecutive prescribed accounting periods beginning with the period in respect of which there was the material inaccuracy; and
  - (d) the period specified in the penalty liability notice as the penalty period is the period of 8 consecutive prescribed accounting periods beginning with that in which the date of the notice falls.

- (3) If, where a penalty liability notice has been served on any person, there is a material inaccuracy in respect of any of the prescribed accounting periods falling within the penalty period specified in the notice, that person shall be liable, except in relation to the first of those periods in respect of which there is a material inaccuracy, to a penalty equal to 15 per cent. of the VAT for the prescribed accounting period in question which would have been lost if the inaccuracy had not been discovered.

- (4) Subsections (3), (5), (8) and (9) of section 63 shall apply for the purposes of this section as they apply for the purposes of that section.

- (5) An inaccuracy shall not be regarded as material for the purposes of this section if—
- (a) the person concerned satisfies the Commissioners or, on appeal, a tribunal that there is a reasonable excuse for the inaccuracy; or
  - (b) at a time when he had no reason to believe that enquiries were being made by the Commissioners into his affairs, so far as they relate to VAT, the person concerned furnished to the Commissioners full information with respect to the inaccuracy.

- [<sup>F89</sup>(6) Subject to subsection (6A) below, where by reason of conduct falling within subsection (1) above—

- (a) a person is convicted of an offence (whether under this Act or otherwise), or

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- (b) a person is assessed to a penalty under section 60 or 63,  
the inaccuracy concerned shall not be regarded as material for the purposes of this section.
- (6A) Subsection (6) above shall not prevent an inaccuracy by reason of which a person has been assessed to a penalty under section 63—
- (a) from being regarded as a material inaccuracy in respect of which the Commissioners may serve a penalty liability notice under subsection (2) above; or
  - (b) from being regarded for the purposes of subsection (3) above as a material inaccuracy by reference to which any prescribed accounting period falling within the penalty period is to be treated as the first prescribed accounting period so falling in respect of which there is a material inaccuracy.
- (7) Where subsection (5) or (6) above requires any inaccuracy to be regarded as not material for the purposes of the serving of a penalty liability notice, any such notice served in respect of that inaccuracy shall be deemed not to have been served.]

#### Textual Amendments

**F89** S. 64(6)(6A)(7) substituted (29.4.1996 with effect in relation to inaccuracies contained in returns made on or after 29.4.1996) for s. 64(6)(7) by 1996 c. 8, s. 36

## 65 Inaccuracies in EC sales statements.

- (1) Where—
- (a) an EC sales statement containing a material inaccuracy has been submitted by any person to the Commissioners;
  - (b) the Commissioners have, within 6 months of discovering the inaccuracy, issued that person with a written warning identifying that statement and stating that future inaccuracies might result in the service of a notice for the purposes of this section;
  - (c) another EC sales statement containing a material inaccuracy (“the second inaccurate statement”) has been submitted by that person to the Commissioners;
  - (d) the submission date for the second inaccurate statement fell within the period of 2 years beginning with the day after the warning was issued;
  - (e) the Commissioners have, within 6 months of discovering the inaccuracy in the second inaccurate statement, served that person with a notice identifying that statement and stating that future inaccuracies will attract a penalty under this section;
  - (f) yet another EC sales statement containing a material inaccuracy is submitted by that person to the Commissioners; and
  - (g) the submission date for the statement falling within paragraph (f) above is not more than 2 years after the service of the notice or the date on which any previous statement attracting a penalty was submitted by that person to the Commissioners,
- that person shall be liable to a penalty of £100 in respect of the statement so falling.
- (2) Subject to subsections (3) and (4) below, an EC sales statement shall be regarded for the purposes of this section as containing a material inaccuracy if, having regard to

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the matters required to be included in the statement, the inclusion or omission of any information from the statement is misleading in any material respect.

- (3) An inaccuracy contained in an EC sales statement shall not be regarded as material for the purposes of this section if—
  - (a) the person who submitted the statement satisfies the Commissioners or, on appeal, a tribunal that there is a reasonable excuse for the inaccuracy; or
  - (b) at a time when he had no reason to believe that enquiries were being made by the Commissioners into his affairs, that person furnished the Commissioners with full information with respect to the inaccuracy.
- (4) Where, by reason of the submission of a statement containing a material inaccuracy by any person, that person is convicted of an offence (whether under this Act or otherwise), the inaccuracy to which the conviction relates shall be regarded for the purposes of this section as not being material.
- (5) Where the only statement identified in a warning or notice served for the purposes of subsection (1)(b) or (e) above is one which (whether by virtue of either or both of subsections (3) and (4) above or otherwise) is regarded as containing no material inaccuracies, that warning or notice shall be deemed not to have been issued or served for those purposes.
- (6) In this section—

“EC sales statement” means any statement which is required to be submitted to the Commissioners in accordance with regulations under paragraph 2(3) of Schedule 11; and

“submission date”, in relation to such a statement, means whichever is the earlier of the last day for the submission of the statement to the Commissioners in accordance with those regulations and the day on which it was in fact submitted to the Commissioners.

## **66 Failure to submit EC sales statement.**

- (1) If, by the last day on which a person is required in accordance with regulations under this Act to submit an EC sales statement for any prescribed period to the Commissioners, the Commissioners have not received that statement, that person shall be regarded for the purposes of this section as being in default in relation to that statement until it is submitted.
- (2) Where any person is in default in respect of any EC sales statement the Commissioners may serve notice on him stating—
  - (a) that he is in default in relation to the statement specified in the notice;
  - (b) that (subject to the liability mentioned in paragraph (d) below) no action will be taken if he remedies the default before the end of the period of 14 days beginning with the day after the service of the notice;
  - (c) that if the default is not so remedied, that person will become liable in respect of his default to penalties calculated on a daily basis from the end of that period in accordance with the following provisions of this section; and
  - (d) that that person will become liable, without any further notices being served under this section, to penalties under this section if he commits any more defaults before a period of 12 months has elapsed without his being in default.

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- (3) Where a person has been served with a notice under subsection (2) above, he shall become liable under this section—
- (a) if the statement to which the notice relates is not submitted before the end of the period of 14 days beginning with the day after the service of the notice, to a penalty in respect of that statement; and
  - (b) whether or not that statement is so submitted, to a penalty in respect of any EC sales statement the last day for the submission of which is after the service and before the expiry of the notice and in relation to which he is in default.
- (4) For the purposes of this section a notice served on any person under subsection (2) above shall continue in force—
- (a) except in a case falling within paragraph (b) below, until the end of the period of 12 months beginning with the day after the service of the notice; and
  - (b) where at any time in that period of 12 months that person is in default in relation to any EC sales statement other than one in relation to which he was in default when the notice was served, until a period of 12 months has elapsed without that person becoming liable to a penalty under this section in respect of any EC sales statement.
- (5) The amount of any penalty to which a person who has been served with a notice under subsection (2) above is liable under this section shall be whichever is the greater of £50 and—
- (a) in the case of a liability in respect of the statement to which the notice relates, a penalty of £5 for every day for which the default continues after the end of the period of 14 days mentioned in subsection (3)(a) above, up to a maximum of 100 days; and
  - (b) in the case of a liability in respect of any other statement, a penalty of the relevant amount for every day for which the default continues, up to a maximum of 100 days.
- (6) In subsection (5)(b) above “the relevant amount”, in relation to a person served with a notice under subsection (2) above, means—
- (a) £5, where (that person not having been liable to a penalty under this section in respect of the statement to which the notice relates) the statement in question is the first statement in respect of which that person has become liable to a penalty while the notice has been in force;
  - (b) £10 where the statement in question is the second statement in respect of which he has become so liable while the notice has been in force (counting the statement to which the notice relates where he has become liable in respect of that statement); and
  - (c) £15 in any other case.
- (7) If a person who, apart from this subsection, would be liable to a penalty under this section satisfies the Commissioners or, on appeal a tribunal, that—
- (a) an EC sales statement has been submitted at such a time and in such a manner that it was reasonable to expect that it would be received by the Commissioners within the appropriate time limit; or
  - (b) there is a reasonable excuse for such a statement not having been dispatched,
- he shall be treated for the purposes of this section and sections 59 to 65 and 67 to 71, 73, 75 and 76 as not having been in default in relation to that statement and, accordingly, he shall not be liable to any penalty under this section in respect of that statement and

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any notice served under subsection (2) above exclusively in relation to the failure to submit that statement shall have no effect for the purposes of this section.

- (8) If it appears to the Treasury that there has been a change in the value of money since 1st January 1993 or, as the case may be, the last occasion when the sums specified in subsections (5) and (6) above were varied, they may by order substitute for the sums for the time being specified in those subsections such other sums as appear to them to be justified by the change; but an order under this section shall not apply to any default in relation to a statement the last day for the submission of which was before the order comes into force.
- (9) In this section “EC sales statement” means any statement which is required to be submitted to the Commissioners in accordance with regulations under paragraph 2(3) of Schedule 11.

## **67 Failure to notify and unauthorised issue of invoices.**

- (1) In any case where—
- (a) a person fails to comply with any of paragraphs 5, 6 [F90, 7] and 14(2) and (3) of Schedule 1 with paragraph 3 of Schedule 2 or with paragraph 3 or 8(2) of Schedule 3, or
  - (b) a person fails to comply with a requirement of regulations under paragraph 2(4) of Schedule 11, or
  - (c) an unauthorised person issues one or more invoices showing an amount as being VAT or as including an amount attributable to VAT,
- he shall be liable, subject to subsections (8) and (9) below, to a penalty equal to the specified percentage of the relevant VAT or, if it is greater or the circumstances are such that there is no relevant VAT, to a penalty of £50.
- (2) In subsection (1)(c) above, “an unauthorised person” means anyone other than—
- (a) a person registered under this Act; or
  - (b) a body corporate treated for the purposes of section 43 as a member of a group; or
  - (c) a person treated as a taxable person under regulations made under section 46(4); or
  - (d) a person authorised to issue an invoice under regulations made under paragraph 2(12) of Schedule 11; or
  - (e) a person acting on behalf of the Crown.
- (3) In subsection (1) above “relevant VAT” means (subject to subsections (5) and (6) below)—
- (a) in relation to a person’s failure to comply with paragraph 5 [F91, 6 or 7] of Schedule 1, paragraph 3 of Schedule 2 or paragraph 3 of Schedule 3, the VAT (if any) for which he is liable for the period beginning on the date with effect from which he is, in accordance with that paragraph, required to be registered and ending on the date on which the Commissioners received notification of, or otherwise became fully aware of, his liability to be registered; and
  - (b) in relation to a person’s failure to comply with sub-paragraph (2) or (3) of paragraph 14 of Schedule 1 or with sub-paragraph (2) of paragraph 8 of Schedule 3, the VAT (if any) for which, but for any exemption from registration, he would be liable for the period beginning on the date of the change or alteration referred to in that sub-paragraph and ending on the date

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- on which the Commissioners received notification of, or otherwise became fully aware of, that change or alteration; and
- (c) in relation to a person's failure to comply with a requirement of regulations under paragraph 2(4) of Schedule 11, the VAT on the acquisition to which the failure relates; and
- (d) in relation to the issue of one or more invoices as are referred to in subsection (1)(c) above, the amount which is, or the aggregate of the amounts which are—
- (i) shown on the invoice or invoices as VAT, or
  - (ii) to be taken as representing VAT.
- (4) For the purposes of subsection (1) above the specified percentage is—
- (a) [<sup>F92</sup>5 per cent.] where the relevant VAT is given by subsection (3)(a) or (b) above and the period referred to in that paragraph does not exceed 9 months or where the relevant VAT is given by subsection (3)(c) above and the failure in question did not continue for more than 3 months;
  - (b) [<sup>F93</sup>10 per cent.] where that VAT is given by subsection (3)(a) or (b) above and the period so referred to exceeds 9 months but does not exceed 18 months or where that VAT is given by subsection (3)(c) and the failure in question continued for more than 3 months but did not continue for more than 6 months; and
  - (c) [<sup>F94</sup>15 per cent.] in any other case.
- (5) Where—
- (a) the amount of VAT which (apart from this subsection) would be treated for the purposes of subsection (1) above as the relevant VAT in relation to a failure mentioned in subsection (3)(a) above includes VAT on an acquisition of goods from another member State; and
  - (b) the Commissioners are satisfied that VAT has been paid under the law of another member State on the supply in pursuance of which those goods were acquired,
- then, in the determination of the amount of the relevant VAT in relation to that failure, an allowance shall be made for the VAT paid under the law of that member State; and the amount of the allowance shall not exceed the amount of VAT due on the acquisition but shall otherwise be equal to the amount of VAT which the Commissioners are satisfied has been paid on that supply under the law of that member State.
- (6) Where—
- (a) the amount of VAT which (apart from this subsection) would be treated for the purposes of subsection (1) above as the relevant VAT in relation to a failure mentioned in subsection (3)(a) above includes VAT chargeable by virtue of section 7(4) on any supply; and
  - (b) the Commissioners are satisfied that VAT has been paid under the law of another member State on that supply,
- then, in the determination of the amount of the relevant VAT in relation to that failure, an allowance shall be made for the VAT paid under the law of the other member State; and the amount of the allowance shall not exceed the amount of VAT chargeable by virtue of section 7(4) on that supply but shall otherwise be equal to the amount of VAT which the Commissioners are satisfied has been paid on that supply under the law of that other member State.
- (7) This section shall have effect in relation to any invoice which—



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- (a) for the purposes of any provision made under section 54(3) shows an amount as included in the consideration for any supply, and
  - (b) either—
    - (i) fails to comply with the requirements of any regulations under that section; or
    - (ii) is issued by a person who is not for the time being authorised to do so for the purposes of that section,as if the person issuing the invoice were an unauthorised person and that amount were shown on the invoice as an amount attributable to VAT.
- (8) Conduct falling within subsection (1) above shall not give rise to liability to a penalty under this section if the person concerned satisfies the Commissioners or, on appeal, a tribunal that there is a reasonable excuse for his conduct.
- (9) Where, by reason of conduct falling within subsection (1) above—
- (a) a person is convicted of an offence (whether under this Act or otherwise), or
  - (b) a person is assessed to a penalty under section 60,
- that conduct shall not also give rise to liability to a penalty under this section.
- (10) If it appears to the Treasury that there has been a change in the value of money since 25th July 1985 or, as the case may be, the last occasion when the power conferred by this subsection was exercised, they may by order substitute for the sum for the time being specified in subsection (1) above such other sum as appears to them to be justified by the change.
- (11) An order under subsection (10) above shall not apply in relation to a failure to comply which ended on or before the date on which the order comes into force.

#### Textual Amendments

- F90** Word in s. 67(1)(a) inserted (29.4.1996 with effect as mentioned in s. 37(2)(3) of the amending Act) by 1996 c. 8, s. 37(1)(a)
- F91** Words in s. 67(3)(a) substituted (29.4.1996 with effect as mentioned in s. 37(2)(3) of the amending Act) by 1996 c. 8, s. 37(1)(b)
- F92** Words in s. 67(4)(a) substituted (1.5.1995 with effect as mentioned in s. 32(3)(4) of the amending Act) by 1995 c. 4, s. 32(1)(a)
- F93** Words in s. 67(4)(b) substituted (1.5.1995 with effect as mentioned in s. 32(3)(4) of the amending Act) by 1995 c. 4, s. 32(1)(b)
- F94** Words in s. 67(4)(c) substituted (1.5.1995 with effect as mentioned in s. 32(3)(4) of the amending Act) by 1995 c. 4, s. 32(1)(c)

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

- C13** S. 67 amended (29.4.1996) by 1996 c. 8, s. 37(3)

## 68 Breaches of walking possession agreements.

- (1) This section applies where—
- (a) in accordance with regulations under [F95section 51 of the Finance Act 1997 (enforcement by distress)], a distress is authorised to be levied on the goods and chattels of a person (a “person in default”) who has refused or neglected to pay any VAT due or any amount recoverable as if it were VAT due, and

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- (b) the person levying the distress and the person in default have entered into a walking possession agreement, as defined in subsection (2) below.
- (2) In this section a “walking possession agreement” means an agreement under which, in consideration of the property distrained upon being allowed to remain in the custody of the person in default and of the delaying of its sale, the person in default—
  - (a) acknowledges that the property specified in the agreement is under distraint and held in walking possession; and
  - (b) undertakes that, except with the consent of the Commissioners and subject to such conditions as they may impose, he will not remove or allow the removal of any of the specified property from the premises named in the agreement.
- (3) Subject to subsection (4) below, if the person in default is in breach of the undertaking contained in a walking possession agreement, he shall be liable to a penalty equal to half of the VAT or other amount referred to in subsection (1)(a) above.
- (4) The person in default shall not be liable to a penalty under subsection (3) above if he satisfies the Commissioners or, on appeal, a tribunal that there is a reasonable excuse for the breach in question.
- (5) This section does not extend to Scotland.

#### Textual Amendments

**F95** Words in s. 68(1)(a) substituted (1.7.1997) by 1997 c. 16, s. 53(7)(9); S.I. 1997/1432, art. 2

## 69 Breaches of regulatory provisions.

- (1) If any person fails to comply with a regulatory requirement, that is to say, a requirement imposed under—
  - (a) paragraph 11 or 12 of Schedule 1, paragraph 5 of Schedule 2 or paragraph 5 of Schedule 3; or
  - (b) any regulations made under section 48 requiring a VAT representative, for the purposes of registration, to notify the Commissioners that his appointment has taken effect or has ceased to have effect; or
  - (c) paragraph 6(1) or 7 of Schedule 11; or
  - (d) any regulations or rules made under this Act, other than rules made under paragraph 9 of Schedule 12; or
  - (e) any order made by the Treasury under this Act; or
  - (f) any regulations made under the <sup>M27</sup>European Communities Act 1972 and relating to VAT, [<sup>F96</sup>; or
  - (g) section 18A in the form of a condition imposed by the Commissioners under subsection (1) or (6) of that section,]

he shall be liable, subject to subsections (8) and (9) below and section 76(6), to a penalty equal to the prescribed rate multiplied by the number of days on which the failure continues (up to a maximum of 100) or, if it is greater, to a penalty of £50.
- (2) If any person fails to comply with a requirement to preserve records imposed under paragraph 6(3) of Schedule 11, he shall be liable, subject to the following provisions of this section, to a penalty of £500.

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- (3) Subject to subsection (4) below, in relation to a failure to comply with any regulatory requirement, the prescribed rate shall be determined by reference to the number of occasions in the period of 2 years preceding the beginning of the failure in question on which the person concerned has previously failed to comply with that requirement and, subject to the following provisions of this section, the prescribed rate shall be—
- (a) if there has been no such previous occasion in that period, £5;
  - (b) if there has been only one such occasion in that period, £10; and
  - (c) in any other case, £15.
- (4) For the purposes of subsection (3) above—
- (a) a failure to comply with any regulatory requirement shall be disregarded if, as a result of the failure, the person concerned became liable for a surcharge under section 59 [<sup>F97</sup> or 59A];
  - (b) a continuing failure to comply with any such requirement shall be regarded as one occasion of failure occurring on the date on which the failure began;
  - (c) if the same omission gives rise to a failure to comply with more than one such requirement, it shall nevertheless be regarded as the occasion of only one failure; and
  - (d) in relation to a failure to comply with a requirement imposed by regulations as to the furnishing of a return or as to the payment of VAT, a previous failure to comply with such a requirement as to either of those matters shall be regarded as a previous failure to comply with the requirement in question.
- (5) Where the failure referred to in subsection (1) above consists—
- (a) in not paying the VAT due in respect of any period within the time required by regulations under section 25(1), or
  - (b) in not furnishing a return in respect of any period within the time required by regulations under paragraph 2(1) of Schedule 11,
- the prescribed rate shall be whichever is the greater of that which is appropriate under subsection (3)(a) to (c) above and an amount equal to one-sixth, one-third or one-half of 1 per cent. of the VAT due in respect of that period, the appropriate fraction being determined according to whether subsection (3)(a), (b) or (c) above is applicable.
- (6) For the purposes of subsection (5) above, the VAT due—
- (a) if the person concerned has furnished a return, shall be taken to be the VAT shown in the return as that for which he is accountable in respect of the period in question, and
  - (b) in any other case, shall be taken to be such VAT as has been assessed for that period and notified to him under section 73(1).
- (7) If it appears to the Treasury that there has been a change in the value of money since 25th July 1985 or, as the case may be, the last occasion when the power conferred by this subsection was exercised, they may by order substitute for the sums for the time being specified in subsections (2) and (3)(a) to (c) above such other sums as appear to them to be justified by the change; but an order under this subsection shall not apply to a failure which began before the date on which the order comes into force.
- (8) A failure by any person to comply with any regulatory requirement or the requirement referred to in subsection (2) above shall not give rise to liability to a penalty under this section if the person concerned satisfies the Commissioners or, on appeal, a tribunal that there is a reasonable excuse for the failure; and a failure in respect of which the

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Commissioners or tribunal have been so satisfied shall be disregarded for the purposes of subsection (3) above.

- (9) Where, by reason of conduct falling within subsection (1) or (2) above—
- (a) a person is convicted of an offence (whether under this Act or otherwise), or
  - (b) a person is assessed to a surcharge under section 59 [<sup>F98</sup>or 59A], or
  - (c) a person is assessed to a penalty under section 60 or 63,
- that conduct shall not also give rise to liability to a penalty under this section.
- (10) This section applies in relation to failures occurring before as well as after the commencement of this Act, and for that purpose any reference to any provision of this Act includes a reference to the corresponding provision of the enactments repealed by this Act.

#### Textual Amendments

- F96** S. 69(1)(g) and word preceding it inserted (1.6.1996 with application to any acquisition of goods from another member State and any supply taking place on or after that day) by 1996 c. 8, ss. 25, 26, **Sch. 3 para. 9**; S.I. 1996/1249, **art. 2**
- F97** Words in s. 69(4)(a) inserted (29.4.1996 with effect as mentioned in s. 35(8) of the amending Act) by 1996 c. 8, s. 35(6)(8)
- F98** Words in s. 69(9)(b) inserted (29.4.1996 with effect as mentioned in s. 35(8) of the amending Act) by 1996 c. 8, s. 35(6)(8)

#### Marginal Citations

- M27** 1972 c. 68.

VALID FROM 28/07/2000

#### [<sup>F99</sup>69A Breach of record-keeping requirements etc. in relation to transactions in gold.

- (1) This section applies where a person fails to comply with a requirement of regulations under section 13(5)(a) or (b) of the <sup>M28</sup>Finance Act 1999 (gold: duties to keep records or provide information).
- Where this section applies, the provisions of section 69 do not apply.
- (2) A person who fails to comply with any such requirement is liable to a penalty not exceeding 17.5% of the value of the transactions to which the failure relates.
- (3) For the purposes of assessing the amount of any such penalty, the value of the transactions to which the failure relates shall be determined by the Commissioners to the best of their judgement and notified by them to the person liable.
- (4) No assessment of a penalty under this section shall be made more than 2 years after evidence of facts sufficient in the opinion of the Commissioners to justify the making of the assessment comes to their knowledge.
- (5) The reference in subsection (4) above to facts sufficient to justify the making of the assessment is to facts sufficient—
- (a) to indicate that there had been a failure to comply with any such requirement as is referred to in subsection (1) above, and

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(b) to determine the value of the transactions to which the failure relates.

(6) A failure by any person to comply with any such requirement as is mentioned in subsection (1) above shall not give rise to a liability to a penalty under this section if the person concerned satisfies the Commissioners or, on appeal, a tribunal, that there is a reasonable excuse for the failure.

(7) Where by reason of conduct falling within subsection (1) above a person—

(a) is assessed to a penalty under section 60, or

(b) is convicted of an offence (whether under this Act or otherwise),

that conduct shall not also give rise to a penalty under this section.]

#### Textual Amendments

**F99** S. 69A inserted (28.7.2000) by 2000 c. 17, s. 137(2)

#### Marginal Citations

**M28** 1999 c. 16.

## 70 Mitigation of penalties under sections 60, 63, 64 and 67.

(1) Where a person is liable to a penalty under section 60, 63, 64 or 67, the Commissioners or, on appeal, a tribunal may reduce the penalty to such amount (including nil) as they think proper.

(2) In the case of a penalty reduced by the Commissioners under subsection (1) above, a tribunal, on an appeal relating to the penalty, may cancel the whole or any part of the reduction made by the Commissioners.

(3) None of the matters specified in subsection (4) below shall be matters which the Commissioners or any tribunal shall be entitled to take into account in exercising their powers under this section.

(4) Those matters are—

(a) the insufficiency of the funds available to any person for paying any VAT due or for paying the amount of the penalty;

(b) the fact that there has, in the case in question or in that case taken with any other cases, been no or no significant loss of VAT;

(c) the fact that the person liable to the penalty or a person acting on his behalf has acted in good faith.

## 71 Construction of sections 59 to 70.

(1) For the purpose of any provision of sections 59 to 70 which refers to a reasonable excuse for any conduct—

(a) an insufficiency of funds to pay any VAT due is not a reasonable excuse; and

(b) where reliance is placed on any other person to perform any task, neither the fact of that reliance nor any dilatoriness or inaccuracy on the part of the person relied upon is a reasonable excuse.

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- (2) In relation to a prescribed accounting period, any reference in sections 59 to 69 to credit for input tax includes a reference to any sum which, in a return for that period, is claimed as a deduction from VAT due.

## 72 Offences.

- (1) If any person is knowingly concerned in, or in the taking of steps with a view to, the fraudulent evasion of VAT by him or any other person, he shall be liable—
- (a) on summary conviction, to a penalty of the statutory maximum or of three times the amount of the VAT, whichever is the greater, or to imprisonment for a term not exceeding 6 months or to both; or
  - (b) on conviction on indictment, to a penalty of any amount or to imprisonment for a term not exceeding 7 years or to both.
- (2) Any reference in subsection (1) above or subsection (8) below to the evasion of VAT includes a reference to the obtaining of—
- (a) the payment of a VAT credit; or
  - (b) a refund under section 35, 36 or 40 of this Act or section 22 of the 1983 Act; or
  - (c) a refund under any regulations made by virtue of section 13(5); or
  - (d) a repayment under section 39;
- and any reference in those subsections to the amount of the VAT shall be construed—
- (i) in relation to VAT itself or a VAT credit, as a reference to the aggregate of the amount (if any) falsely claimed by way of credit for input tax and the amount (if any) by which output tax was falsely understated, and
  - (ii) in relation to a refund or repayment falling within paragraph (b), (c) or (d) above, as a reference to the amount falsely claimed by way of refund or repayment.
- (3) If any person—
- (a) with intent to deceive produces, furnishes or sends for the purposes of this Act or otherwise makes use for those purposes of any document which is false in a material particular; or
  - (b) in furnishing any information for the purposes of this Act makes any statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular,
- he shall be liable—
- (i) on summary conviction, to a penalty of the statutory maximum or, where subsection (4) or (5) below applies, to the alternative penalty specified in that subsection if it is greater, or to imprisonment for a term not exceeding 6 months or to both; or
  - (ii) on conviction on indictment, to a penalty of any amount or to imprisonment for a term not exceeding 7 years or to both.
- (4) In any case where—
- (a) the document referred to in subsection (3)(a) above is a return required under this Act, or
  - (b) the information referred to in subsection (3)(b) above is contained in or otherwise relevant to such a return,

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the alternative penalty referred to in subsection (3)(i) above is a penalty equal to three times the aggregate of the amount (if any) falsely claimed by way of credit for input tax and the amount (if any) by which output tax was falsely understated.

(5) In any case where—

- (a) the document referred to in subsection (3)(a) above is a claim for a refund under section 35, 36 or 40 of this Act or section 22 of the 1983 Act, for a refund under any regulations made by virtue of section 13(5) or for a repayment under section 39, or
- (b) the information referred to in subsection (3)(b) above is contained in or otherwise relevant to such a claim,

the alternative penalty referred to in subsection (3)(i) above is a penalty equal to 3 times the amount falsely claimed.

(6) The reference in subsection (3)(a) above to furnishing, sending or otherwise making use of a document which is false in a material particular, with intent to deceive, includes a reference to furnishing, sending or otherwise making use of such a document, with intent to secure that a machine will respond to the document as if it were a true document.

(7) Any reference in subsection (3)(a) or (6) above to producing, furnishing or sending a document includes a reference to causing a document to be produced, furnished or sent.

(8) Where a person's conduct during any specified period must have involved the commission by him of one or more offences under the preceding provisions of this section, then, whether or not the particulars of that offence or those offences are known, he shall, by virtue of this subsection, be guilty of an offence and liable—

- (a) on summary conviction, to a penalty of the statutory maximum or, if greater, 3 times the amount of any VAT that was or was intended to be evaded by his conduct, or to imprisonment for a term not exceeding 6 months or to both, or
- (b) on conviction on indictment to a penalty of any amount or to imprisonment for a term not exceeding 7 years or to both.

(9) Where an authorised person has reasonable grounds for suspecting that an offence has been committed under the preceding provisions of this section, he may arrest anyone whom he has reasonable grounds for suspecting to be guilty of the offence.

(10) If any person acquires possession of or deals with any goods, or accepts the supply of any services, having reason to believe that VAT on the supply of the goods or services, on the acquisition of the goods from another member State or on the importation of the goods from a place outside the member States has been or will be evaded, he shall be liable on summary conviction to a penalty of level 5 on the standard scale or three times the amount of the VAT, whichever is the greater.

(11) If any person supplies goods or services in contravention of paragraph 4(2) of Schedule 11, he shall be liable on summary conviction to a penalty of level 5 on the standard scale.

(12) Subject to subsection (13) below, sections 145 to 155 of the Management Act (proceedings for offences, mitigation of penalties and certain other matters) shall apply in relation to offences under this Act (which include any act or omission in respect of which a penalty is imposed) and penalties imposed under this Act as they apply in relation to offences and penalties under the customs and excise Acts as defined in that

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Act; and accordingly in section 154(2) as it applies by virtue of this subsection the reference to duty shall be construed as a reference to VAT.

- (13) In subsection (12) above the references to penalties do not include references to penalties under sections 60 to 70.

### *Assessments of VAT and other payments due*

## **73 Failure to make returns etc.**

- (1) Where a person has failed to make any returns required under this Act (or under any provision repealed by this Act) or to keep any documents and afford the facilities necessary to verify such returns or where it appears to the Commissioners that such returns are incomplete or incorrect, they may assess the amount of VAT due from him to the best of their judgment and notify it to him.
- (2) In any case where, for any prescribed accounting period, there has been paid or credited to any person—
- (a) as being a repayment or refund of VAT, or
  - (b) as being due to him as a VAT credit,
- an amount which ought not to have been so paid or credited, or which would not have been so paid or credited had the facts been known or been as they later turn out to be, the Commissioners may assess that amount as being VAT due from him for that period and notify it to him accordingly.
- (3) An amount—
- (a) which has been paid to any person as being due to him as a VAT credit, and
  - (b) which, by reason of the cancellation of that person's registration under paragraph 13(2) to (6) of Schedule 1, paragraph 6(2) of Schedule 2 or paragraph 6(2) or (3) of Schedule 3 ought not to have been so paid,
- may be assessed under subsection (2) above notwithstanding that cancellation.
- (4) Where a person is assessed under subsections (1) and (2) above in respect of the same prescribed accounting period the assessments may be combined and notified to him as one assessment.
- (5) Where the person failing to make a return, or making a return which appears to the Commissioners to be incomplete or incorrect, was required to make the return as a personal representative, trustee in bankruptcy, interim or permanent trustee, receiver, liquidator or person otherwise acting in a representative capacity in relation to another person, subsection (1) above shall apply as if the reference to VAT due from him included a reference to VAT due from that other person.
- (6) An assessment under subsection (1), (2) or (3) above of an amount of VAT due for any prescribed accounting period must be made within the time limits provided for in section 77 and shall not be made after the later of the following—
- (a) 2 years after the end of the prescribed accounting period; or
  - (b) one year after evidence of facts, sufficient in the opinion of the Commissioners to justify the making of the assessment, comes to their knowledge,
- but (subject to that section) where further such evidence comes to the Commissioners' knowledge after the making of an assessment under subsection (1), (2) or (3) above,



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another assessment may be made under that subsection, in addition to any earlier assessment.

(7) Where a taxable person—

- (a) has in the course or furtherance of a business carried on by him, been supplied with any goods, acquired any goods from another member State or otherwise obtained possession or control of any goods, or
- (b) has, in the course or furtherance of such a business, imported any goods from a place outside the member States,

the Commissioners may require him from time to time to account for the goods; and if he fails to prove that the goods have been or are available to be supplied by him or have been exported or otherwise removed from the United Kingdom without being exported or so removed by way of supply or have been lost or destroyed, they may assess to the best of their judgment and notify to him the amount of VAT that would have been chargeable in respect of the supply of the goods if they had been supplied by him.

[<sup>F100</sup>(7A) Where a fiscal warehousekeeper has failed to pay VAT required by the Commissioners under section 18E(2), the Commissioners may assess to the best of their judgment the amount of that VAT due from him and notify it to him.

(7B) Where it appears to the Commissioners that goods have been removed from a warehouse or fiscal warehouse without payment of the VAT payable under section 18(4) or section 18D on that removal, they may assess to the best of their judgment the amount of VAT due from the person removing the goods or other person liable and notify it to him.]

(8) In any case where—

- (a) as a result of a person's failure to make a return for a prescribed accounting period, the Commissioners have made an assessment under subsection (1) above for that period,
- (b) the VAT assessed has been paid but no proper return has been made for the period to which the assessment related, and
- (c) as a result of a failure to make a return for a later prescribed accounting period, being a failure by a person referred to in paragraph (a) above or a person acting in a representative capacity in relation to him, as mentioned in subsection (5) above, the Commissioners find it necessary to make another assessment under subsection (1) above,

then, if the Commissioners think fit, having regard to the failure referred to in paragraph (a) above, they may specify in the assessment referred to in paragraph (c) above an amount of VAT greater than that which they would otherwise have considered to be appropriate.

(9) Where an amount has been assessed and notified to any person under subsection (1), (2), (3) [<sup>F101</sup>, (7), (7A) or (7B)] above it shall, subject to the provisions of this Act as to appeals, be deemed to be an amount of VAT due from him and may be recovered accordingly, unless, or except to the extent that, the assessment has subsequently been withdrawn or reduced.

(10) For the purposes of this section notification to a personal representative, trustee in bankruptcy, interim or permanent trustee, receiver, liquidator or person otherwise acting as aforesaid shall be treated as notification to the person in relation to whom he so acts.

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### Textual Amendments

**F100** S. 73(7A)(7B) inserted (1.6.1996 with application to any acquisition of goods from another member State and any supply taking place on or after that day) by 1996 c. 8, ss. 25, 26, **Sch. 3 para. 10**; S.I. 1996/1249, **art. 2**

**F101** Words in s. 73(9) substituted (1.6.1996 with application to any acquisition of goods from another member State and any supply taking place on or after that day) by 1996 c. 8, ss. 25, 26, **Sch. 3 para. 11**; S.I. 1996/1249, **art. 2**

### Modifications etc. (not altering text)

**C14** S. 73 modified (20.10.1995) by S.I. 1995/2518, **regs. 181, 194**

## 74 Interest on VAT recovered or recoverable by assessment.

(1) Subject to section 76(8), where an assessment is made under any provision of section 73 and, in the case of an assessment under section 73(1) at least one of the following conditions is fulfilled, namely—

- (a) the assessment relates to a prescribed accounting period in respect of which either—
  - (i) a return has previously been made, or
  - (ii) an earlier assessment has already been notified to the person concerned,
- (b) the assessment relates to a prescribed accounting period which exceeds 3 months and begins on the date with effect from which the person concerned was, or was required to be, registered,
- (c) the assessment relates to a prescribed accounting period at the beginning of which the person concerned was, but should no longer have been, exempted from registration under paragraph 14(1) of Schedule 1 or under paragraph 8 of Schedule 3,

the whole of the amount assessed shall, subject to subsection (3) below, carry interest at <sup>[F102]</sup>the rate applicable under section 197 of the Finance Act 1996] from the reckonable date until payment.

(2) In any case where—

- (a) the circumstances are such that an assessment falling within subsection (1) above could have been made, but
- (b) before such an assessment was made the VAT due or other amount concerned was paid (so that no such assessment was necessary),

the whole of the amount paid shall, subject to subsection (3) below, carry interest at <sup>[F103]</sup>the rate applicable under section 197 of the Finance Act 1996] from the reckonable date until the date on which it was paid.

(3) Where (apart from this subsection)—

- (a) the period before the assessment in question for which any amount would carry interest under subsection (1) above; or
- (b) the period for which any amount would carry interest under subsection (2) above,

would exceed 3 years, the part of that period for which that amount shall carry interest under that subsection shall be confined to the last 3 years of that period.

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- (4) Where an unauthorised person, as defined in section 67(2), issues an invoice showing an amount as being VAT or as including an amount attributable to VAT, the amount which is shown as VAT or, as the case may be, is to be taken as representing VAT shall carry interest at <sup>F104</sup>the rate applicable under section 197 of the Finance Act 1996] from the date of the invoice until payment.
- (5) The references in subsections (1) and (2) above to the reckonable date shall be construed as follows—
- (a) where the amount assessed or paid is such an amount as is referred to in section 73(2)(a) or (b), the reckonable date is the seventh day after the day on which a written instruction was issued by the Commissioners directing the making of the payment of the amount which ought not to have been repaid or paid to the person concerned; and
  - (b) in all other cases the reckonable date is the latest date on which (in accordance with regulations under this Act) a return is required to be made for the prescribed accounting period to which the amount assessed or paid relates; and
  - (c) in the case of an amount assessed under section 73(7) the sum assessed shall be taken for the purposes of paragraph (b) above to relate to the period for which the assessment was made;

and interest under this section shall run from the reckonable date even if that date is a non-business day, within the meaning of section 92 of the <sup>M29</sup>Bills of Exchange Act 1882.

<sup>F105</sup>(6) .....

- (7) Interest under this section shall be paid without any deduction of income tax.

**Textual Amendments**

**F102** Words in s. 74(1) substituted (1.4.1997 with effect as mentioned in s. 197(7) of the amending Act) by 1996 c. 8, s. 197(6)(d)(i)(7); S.I. 1997/1015, art. 2

**F103** Words in s. 74(2) substituted (1.4.1997 with effect as mentioned in s. 197(7) of the amending Act) by 1996 c. 8, s. 197(6)(d)(i)(7); S.I. 1997/1015, art. 2

**F104** Words in s. 74(4) substituted (1.4.1997 with effect as mentioned in s. 197(7) of the amending Act) by 1996 c. 8, s. 197(6)(d)(i)(7); S.I. 1997/1015, art. 2

**F105** S. 74(6) repealed (1.4.1997 with effect as mentioned in s. 197(7) of the amending Act) by 1996 c. 8, s. 205, Sch. 41 Pt. VIII Note; S.I. 1997/1015, art. 2

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

**C15** S. 74 modified (6.2.1996) by S.I. 1996/165, art. 2

S. 74 power to amend (1.4.1997) by 1996 c. 8, s. 197(2)(c)(7); S.I. 1997/1015, art. 2

**Marginal Citations**

**M29** 1882 c. 61.

**75 Assessments in cases of acquisitions of certain goods by non-taxable persons.**

- (1) Where a person who has, at a time when he was not a taxable person, acquired in the United Kingdom from another member State any goods subject to a duty of excise or consisting in a new means of transport and—

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- (a) notification of that acquisition has not been given to the Commissioners by the person who is required to give one by regulations under paragraph 2(4) of Schedule 11 (whether before or after the commencement of this Act);
  - (b) the Commissioners are not satisfied that the particulars relating to the acquisition in any notification given to them are accurate and complete; or
  - (c) there has been a failure to supply the Commissioners with the information necessary to verify the particulars contained in any such notification,
- they may assess the amount of VAT due on the acquisition to the best of their judgment and notify their assessment to that person.
- (2) An assessment under this section must be made within the time limits provided for in section 77 and shall not be made after whichever is the later of the following—
- (a) 2 years after the time when a notification of the acquisition of the goods in question is given to the Commissioners by the person who is required to give one by regulations under paragraph 2(4) of Schedule 11;
  - (b) one year after evidence of the facts, sufficient in the opinion of the Commissioners to justify the making of the assessment, comes to their knowledge,
- but (subject to section 77) where further such evidence comes to the Commissioners' knowledge after the making of an assessment under this section, another assessment may be made under this section, in addition to any earlier assessment.
- (3) Where an amount has been assessed and notified to any person under this section, it shall, subject to the provisions of this Act as to appeals, be deemed to be an amount of VAT due from him and may be recovered accordingly, unless, or except to the extent that, the assessment has subsequently been withdrawn or reduced.
- (4) For the purposes of this section, notification to a personal representative, trustee in bankruptcy, interim or permanent trustee, receiver, liquidator or person otherwise acting in a representative capacity in relation to the person who made the acquisition in question shall be treated as notification to the person in relation to whom he so acts.

## **76 Assessment of amounts due by way of penalty, interest or surcharge.**

- (1) Where any person is liable—
- (a) to a surcharge under section 59 [<sup>F106</sup>or 59A], or
  - (b) to a penalty under any of sections 60 to 69, or
  - (c) for interest under section 74,
- the Commissioners may, subject to subsection (2) below, assess the amount due by way of penalty, interest or surcharge, as the case may be, and notify it to him accordingly; and the fact that any conduct giving rise to a penalty under any of sections 60 to 69 may have ceased before an assessment is made under this section shall not affect the power of the Commissioners to make such an assessment.
- (2) Where a person is liable to a penalty under section 69 for any failure to comply with such a requirement as is referred to in subsection (1)(c) to (f) of that section, no assessment shall be made under this section of the amount due from him by way of such penalty unless, within the period of 2 years preceding the assessment, the Commissioners have issued him with a written warning of the consequences of a continuing failure to comply with that requirement.

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- (3) In the case of the penalties, interest and surcharge referred to in the following paragraphs, the assessment under this section shall be of an amount due in respect of the prescribed accounting period which in the paragraph concerned is referred to as “the relevant period”—
- (a) in the case of a surcharge under section 59 [<sup>F107</sup>or 59A], the relevant period is the prescribed accounting period in respect of which the taxable person is in default and in respect of which the surcharge arises;
  - (b) in the case of a penalty under section 60 relating to the evasion of VAT, the relevant period is the prescribed accounting period for which the VAT evaded was due;
  - (c) in the case of a penalty under section 60 relating to the obtaining of the payment of a VAT credit, the relevant period is the prescribed accounting period in respect of which the payment was obtained;
  - (d) in the case of a penalty under section 63, the relevant period is the prescribed accounting period for which liability to VAT was understated or, as the case may be, for which entitlement to a VAT credit was overstated; and
  - (e) in the case of interest under section 74, the relevant period is the prescribed accounting period in respect of which the VAT (or amount assessed as VAT) was due.
- (4) In any case where the amount of any penalty, interest or surcharge falls to be calculated by reference to VAT which was not paid at the time it should have been and that VAT (or the supply which gives rise to it) cannot be readily attributed to any one or more prescribed accounting periods, it shall be treated for the purposes of this Act as VAT due for such period or periods as the Commissioners may determine to the best of their judgment and notify to the person liable for the VAT and penalty, interest or surcharge.
- (5) Where a person is assessed under this section to an amount due by way of any penalty, interest or surcharge falling within subsection (3) above and is also assessed under section 73(1), (2) [<sup>F108</sup>, (7), (7A) or (7B)] for the prescribed accounting period which is the relevant period under subsection (3) above, the assessments may be combined and notified to him as one assessment, but the amount of the penalty, interest or surcharge shall be separately identified in the notice.
- (6) An assessment to a penalty under section 67 by virtue of subsection (1)(b) of that section may be combined with an assessment under section 75 and the 2 assessments notified together but the amount of the penalty shall be separately identified in the notice.
- (7) In the case of an amount due by way of penalty under section 66 or 69 or interest under section 74—
- (a) a notice of assessment under this section shall specify a date, being not later than the date of the notice, to which the aggregate amount of the penalty which is assessed or, as the case may be, the amount of interest is calculated; and
  - (b) if the penalty or interest continues to accrue after that date, a further assessment or assessments may be made under this section in respect of amounts which so accrue.
- (8) If, within such period as may be notified by the Commissioners to the person liable to a penalty under section 66 or 69 or for interest under section 74—
- (a) a failure or default falling within section 66(1) or 69(1) is remedied, or
  - (b) the VAT or other amount referred to in section 74(1) is paid,

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it shall be treated for the purposes of section 66 or 69 or, as the case may be, section 74 as paid or remedied on the date specified as mentioned in subsection (7)(a) above.

- (9) If an amount is assessed and notified to any person under this section, then unless, or except to the extent that, the assessment is withdrawn or reduced, that amount shall be recoverable as if it were VAT due from him.
- (10) For the purposes of this section, notification to a personal representative, trustee in bankruptcy, interim or permanent trustee, receiver, liquidator or person otherwise acting in a representative capacity in relation to the person who made the acquisition in question shall be treated as notification to the person in relation to whom he so acts.

#### Textual Amendments

- F106** Words in s. 76(1) inserted (29.4.1996 with effect as mentioned in s. 35(8) of the amending Act) by 1996 c. 8, s. 35(7)(8)
- F107** Words in s. 76(3)(a) substituted (29.4.1996 with effect as mentioned in s. 35(8) of the amending Act) by 1996 c. 8, s. 35(7)(8)
- F108** Words in s. 76(5) inserted (1.6.1996 with application to any acquisition of goods from another member State and any supply taking place on or after that day) by 1996 c. 8, ss. 25, 26, Sch. 3 para. 11; S.I. 1996/1249, art. 2

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

- C16** S. 76(10) amended (retrospectively) by 1997 c. 16, s. 45(6)

## 77 Assessments: time limits and supplementary assessments.

- (1) Subject to the following provisions of this section, an assessment under section 73, 75 or 76, shall not be made—
- more than [<sup>F109</sup>3 years] after the end of the prescribed accounting period or importation or acquisition concerned, or
  - in the case of an assessment under section 76 of an amount due by way of a penalty which is not among those referred to in subsection (3) of that section, [<sup>F109</sup>3 years] after the event giving rise to the penalty.
- [<sup>F110</sup>(2) Subject to subsection (5) below, an assessment under section 76 of an amount due by way of any penalty, interest or surcharge referred to in subsection (3) of that section may be made at any time before the expiry of the period of 2 years beginning with the time when the amount of VAT due for the prescribed accounting period concerned has been finally determined.
- (2A) Subject to subsection (5) below, an assessment under section 76 of a penalty under section 65 or 66 may be made at any time before the expiry of the period of 2 years beginning with the time when facts sufficient in the opinion of the Commissioners to indicate, as the case may be—
- that the statement in question contained a material inaccuracy, or
  - that there had been a default within the meaning of section 66(1), came to the Commissioners' knowledge.]
- (3) In relation to an assessment under section 76, any reference in subsection (1) or (2) above to the prescribed accounting period concerned is a reference to that period

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which, in the case of the penalty, interest or surcharge concerned, is the relevant period referred to in subsection (3) of that section.

- (4) Subject to subsection (5) below, if VAT has been lost—
- (a) as a result of conduct falling within section 60(1) or for which a person has been convicted of fraud, or
  - (b) in circumstances giving rise to liability to a penalty under section 67,
- an assessment may be made as if, in subsection (1) above, each reference to [F1093 years] were a reference to 20 years.
- (5) Where, after a person's death, the Commissioners propose to assess a sum as due by reason of some conduct (howsoever described) of the deceased, including a sum due by way of penalty, interest or surcharge—
- (a) the assessment shall not be made more than 3 years after the death; and
  - (b) if the circumstances are as set out in subsection (4) above, the modification of subsection (1) above contained in that subsection shall not apply but any assessment which (from the point of view of time limits) could have been made immediately after the death may be made at any time within 3 years after it.
- (6) If, otherwise than in circumstances falling within section 73(6)(b) or 75(2)(b), it appears to the Commissioners that the amount which ought to have been assessed in an assessment under that section or under section 76 exceeds the amount which was so assessed, then—
- (a) under the like provision as that assessment was made, and
  - (b) on or before the last day on which that assessment could have been made,
- the Commissioners may make a supplementary assessment of the amount of the excess and shall notify the person concerned accordingly.

#### Textual Amendments

**F109** Words in s. 77(1)(4) substituted (with effect retrospectively as mentioned in s. 47(10) of the amending Act) by 1997 c. 16, s. 47(10)

**F110** S. 77(2)(2A) substituted (27.7.1999 with effect as mentioned in s. 18(2)) for s. 77(2) by 1999 c. 16, s. 18(1)(2)

#### *Interest, repayment supplements etc. payable by Commissioners*

### 78 Interest in certain cases of official error.

- (1) Where, due to an error on the part of the Commissioners, a person has—
- (a) accounted to them for an amount by way of output tax which was not output tax due from him and which they are in consequence liable to repay to him, or
  - (b) failed to claim credit under section 25 for an amount for which he was entitled so to claim credit and which they are in consequence liable to pay to him, or
  - (c) (otherwise than in a case falling within paragraph (a) or (b) above) paid to them by way of VAT an amount that was not VAT due and which they are in consequence liable to repay to him, or
  - (d) suffered delay in receiving payment of an amount due to him from them in connection with VAT,

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then, if and to the extent that they would not be liable to do so apart from this section, they shall pay interest to him on that amount for the applicable period, but subject to the following provisions of this section.

[<sup>F111</sup>(1A) In subsection (1) above—

- (a) references to an amount which the Commissioners are liable in consequence of any matter to pay or repay to any person are references, where a claim for the payment or repayment has to be made, to only so much of that amount as is the subject of a claim that the Commissioners are required to satisfy or have satisfied; and
- (b) the amounts referred to in paragraph (d) do not include any amount payable under this section.]

(2) Nothing in subsection (1) above requires the Commissioners to pay interest—

- (a) on any amount which falls to be increased by a supplement under section 79; or
- (b) where an amount is increased under that section, on so much of the increased amount as represents the supplement.

(3) Interest under this section shall be payable at [<sup>F112</sup>the rate applicable under section 197 of the Finance Act 1996]. and the first such order may prescribe, for cases where interest runs from before the date on which that order is expressed to come into force, rates for periods ending before that date.

(4) The “applicable period” in a case falling within subsection (1)(a) or (b) above is the period—

- (a) beginning with the appropriate commencement date, and
- (b) ending with the date on which the Commissioners authorise payment of the amount on which the interest is payable.

(5) In subsection (4) above, the “appropriate commencement date”—

- (a) in a case where an amount would have been due from the person by way of VAT in connection with the relevant return, had his input tax and output tax been as stated in that return, means the date on which the Commissioners received payment of that amount; and
- (b) in a case where no such payment would have been due from him in connection with that return, means the date on which the Commissioners would, apart from the error, have authorised payment of the amount on which the interest is payable;

and in this subsection “the relevant return” means the return in which the person accounted for, or (as the case may be) ought to have claimed credit for, the amount on which the interest is payable.

(6) The “applicable period” in a case falling within subsection (1)(c) above is the period—

- (a) beginning with the date on which the payment is received by the Commissioners, and
- (b) ending with the date on which they authorise payment of the amount on which the interest is payable.

(7) The “applicable period” in a case falling within subsection (1)(d) above is the period—

- (a) beginning with the date on which, apart from the error, the Commissioners might reasonably have been expected to authorise payment of the amount on which the interest is payable, and



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- (b) ending with the date on which they in fact authorise payment of that amount.
- [<sup>F113</sup>(8) In determining in accordance with subsection (4), (6) or (7) above the applicable period for the purposes of subsection (1) above, there shall be left out of account any period by which the Commissioners' authorisation of the payment of interest is delayed by the conduct of the person who claims the interest.
- (8A) The reference in subsection (8) above to a period by which the Commissioners' authorisation of the payment of interest is delayed by the conduct of the person who claims it includes, in particular, any period which is referable to—
- (a) any unreasonable delay in the making of the claim for interest or in the making of any claim for the payment or repayment of the amount on which interest is claimed;
- (b) any failure by that person or a person acting on his behalf or under his influence to provide the Commissioners—
- (i) at or before the time of the making of a claim, or
- (ii) subsequently in response to a request for information by the Commissioners,
- with all the information required by them to enable the existence and amount of the claimant's entitlement to a payment or repayment, and to interest on that payment or repayment, to be determined; and
- (c) the making, as part of or in association with either—
- (i) the claim for interest, or
- (ii) any claim for the payment or repayment of the amount on which interest is claimed,
- of a claim to anything to which the claimant was not entitled.
- (9) In determining for the purposes of subsection (8A) above whether any period of delay is referable to a failure by any person to provide information in response to a request by the Commissioners, there shall be taken to be so referable, except so far as may be prescribed, any period which—
- (a) begins with the date on which the Commissioners require that person to provide information which they reasonably consider relevant to the matter to be determined; and
- (b) ends with the earliest date on which it would be reasonable for the Commissioners to conclude—
- (i) that they have received a complete answer to their request for information;
- (ii) that they have received all that they need in answer to that request; or
- (iii) that it is unnecessary for them to be provided with any information in answer to that request.]
- (10) The Commissioners shall only be liable to pay interest under this section on a claim made in writing for that purpose.
- [<sup>F114</sup>(11) A claim under this section shall not be made more than three years after the end of the applicable period to which it relates.]
- (12) In this section—
- [<sup>F115</sup>(a) references to the authorisation by the Commissioners of the payment of any amount include references to the discharge by way of set-off (whether under

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section 81(3) or otherwise) of the Commissioners' liability to pay that amount; and]

- (b) any reference to a return is a reference to a return required to be made in accordance with paragraph 2 of Schedule 11.

#### Textual Amendments

**F111** S. 78(1A) inserted (retrospectively) by 1997 c. 16, s. 44(1)

**F112** Words in s. 78(3) substituted (1.4.1997 with effect as mentioned in s. 197(7) of the amending Act) by 1996 c. 8, s. 197(6)(d)(ii)(7); S.I. 1997/1015, art. 2

**F113** S. 78(8)(8A)(9) substituted for s. 78(8)(9) (19.3.1997 with effect as mentioned in s. 44(5) of the amending Act) by 1997 c. 16, s. 44(4)(5)

**F114** S. 78(11) substituted (with effect retrospectively as mentioned in s. 44(2) of the amending Act) by 1997 c. 16, s. 44(2)

**F115** S. 78(12)(a) substituted (with effect retrospectively as mentioned in s. 44(3) of the amending Act) by 1997 c. 16, s. 44(3)

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

**C17** S. 78 amended (with effect retrospectively as mentioned in s. 44(2)(6) of the amending Act) by 1997 c. 16, s. 44(2)(6)

S. 78 power to amend (1.4.1997) by 1996 c. 8, s. 197(2)(c)(7); S.I. 1997/1015, art. 2

#### [<sup>F116</sup>78A Assessment for interest overpayments.

- (1) Where—
  - (a) any amount has been paid to any person by way of interest under section 78, but
  - (b) that person was not entitled to that amount under that section,
 the Commissioners may, to the best of their judgement, assess the amount so paid to which that person was not entitled and notify it to him.
- (2) An assessment made under subsection (1) above shall not be made more than two years after the time when evidence of facts sufficient in the opinion of the Commissioners to justify the making of the assessment comes to the knowledge of the Commissioners.
- (3) Where an amount has been assessed and notified to any person under subsection (1) above, that amount shall be deemed (subject to the provisions of this Act as to appeals) to be an amount of VAT due from him and may be recovered accordingly.
- (4) Subsection (3) above does not have effect if or to the extent that the assessment in question has been withdrawn or reduced.
- (5) An assessment under subsection (1) above shall be a recovery assessment for the purposes of section 84(3A).
- (6) Sections 74 and 77(6) apply in relation to assessments under subsection (1) above as they apply in relation to assessments under section 73 but as if the reference in subsection (1) of section 74 to the reckonable date were a reference to the date on which the assessment is notified.
- (7) Where by virtue of subsection (6) above any person is liable to interest under section 74—

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- (a) section 76 shall have effect in relation to that liability with the omission of subsections (2) to (6); and
- (b) section 77, except subsection (6), shall not apply to an assessment of the amount due by way of interest;

and (without prejudice to the power to make assessments for interest for later periods) the interest to which any assessment made under section 76 by virtue of paragraph (a) above may relate shall be confined to interest for a period of no more than two years ending with the time when the assessment to interest is made.

- (8) For the purposes of this section notification to a personal representative, trustee in bankruptcy, interim or permanent trustee, receiver, liquidator or person otherwise acting in a representative capacity in relation to another shall be treated as notification to the person in relation to whom he so acts.]

#### Textual Amendments

**F116** S. 78A inserted (retrospective to 4.12.1996 and with effect as mentioned in s. 45(4) of the amending Act) by 1997 c. 16, s. 45(1)(4)

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

**C18** S. 78A(2)-(4)(8) applied (1.4.2001) by S.I. 2001/759, reg. 4(3)

**C19** S. 78A(2)-(8) applied (4.12.1996 as mentioned in s. 49(8)(9) of the amending Act) by 1997 c. 16, s. 49(4)(8)

## 79 Repayment supplement in respect of certain delayed payments or refunds.

- (1) In any case where—
  - (a) a person is entitled to a VAT credit, or
  - (b) a body which is registered and to which section 33 applies is entitled to a refund under that section,

and the conditions mentioned in subsection (2) below are satisfied, the amount which, apart from this section, would be due by way of that payment or refund shall be increased by the addition of a supplement equal to 5 per cent. of that amount or £50, whichever is the greater.

- (2) The said conditions are—
  - (a) that the requisite return or claim is received by the Commissioners not later than the last day on which it is required to be furnished or made, and
  - (b) that a written instruction directing the making of the payment or refund is not issued by the Commissioners within [<sup>F117</sup>the relevant period], and
  - (c) that the amount shown on that return or claim as due by way of payment or refund does not exceed the payment or refund which was in fact due by more than 5 per cent. of that payment or refund or £250, whichever is the greater.

[<sup>F118</sup>(2A) The relevant period in relation to a return or claim is the period of 30 days beginning with the later of—

- (a) the day after the last day of the prescribed accounting period to which the return or claim relates, and
- (b) the date of the receipt by the Commissioners of the return or claim.]

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- (3) Regulations may provide that, in computing the period of 30 days referred to in [F119 subsection (2A)] above, there shall be left out of account periods determined in accordance with the regulations and referable to—
- (a) the raising and answering of any reasonable inquiry relating to the requisite return or claim,
  - (b) the correction by the Commissioners of any errors or omissions in that return or claim, and
  - (c) in the case of a payment, the following matters, namely—
    - (i) any such continuing failure to submit returns as is referred to in section 25(5), and
    - (ii) compliance with any such condition as is referred to in paragraph 4(1) of Schedule 11.
- (4) In determining for the purposes of regulations under subsection (3) above whether any period is referable to the raising and answering of such an inquiry as is mentioned in that subsection, there shall be taken to be so referable any period which—
- (a) begins with the date on which the Commissioners first consider it necessary to make such an inquiry, and
  - (b) ends with the date on which the Commissioners—
    - (i) satisfy themselves that they have received a complete answer to the inquiry, or
    - (ii) determine not to make the inquiry or, if they have made it, not to pursue it further,
 but excluding so much of that period as may be prescribed; and it is immaterial whether any inquiry is in fact made or whether it is or might have been made of the person or body making the requisite return or claim or of an authorised person or of some other person.
- (5) Except for the purpose of determining the amount of the supplement—
- (a) a supplement paid to any person under subsection (1)(a) above shall be treated as an amount due to him by way of credit under section 25(3), and
  - (b) a supplement paid to any body under subsection (1)(b) above shall be treated as an amount due to it by way of refund under section 33.
- (6) In this section “requisite return or claim” means—
- (a) in relation to a payment, the return for the prescribed accounting period concerned which is required to be furnished in accordance with regulations under this Act, and
  - (b) in relation to a refund, the claim for that refund which is required to be made in accordance with the Commissioners’ determination under section 33.
- (7) If the Treasury by order so direct, any period specified in the order shall be disregarded for the purpose of calculating the period of 30 days referred to in [F119 subsection (2A)] above.

#### Textual Amendments

**F117** Words in s. 79(2)(b) substituted (27.7.1999 with effect as mentioned in s. 19(5) of the amending Act) by 1999 c. 16, s. 19(2)

**F118** S. 79(2A) inserted (27.7.1999 with effect as mentioned in s. 19(5) of the amending Act) by 1999 c. 16, s. 19(3)

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**F119** Words in s. 79(3)(7) substituted (27.7.1999 with effect as mentioned in s. 19(5) of the amending Act) by 1999 c. 16, s. 19(4)

## 80 Recovery of overpaid VAT.

- (1) Where a person has (whether before or after the commencement of this Act) paid an amount to the Commissioners by way of VAT which was not VAT due to them, they shall be liable to repay the amount to him.
- (2) The Commissioners shall only be liable to repay an amount under this section on a claim being made for the purpose.
- (3) It shall be a defence, in relation to a claim under this section, that repayment of an amount would unjustly enrich the claimant.

[<sup>F120</sup>(3A) Subsection (3B) below applies for the purposes of subsection (3) above where—

- (a) there is an amount paid by way of VAT which (apart from subsection (3) above) would fall to be repaid under this section to any person (“the taxpayer”), and
- (b) the whole or a part of the cost of the payment of that amount to the Commissioners has, for practical purposes, been borne by a person other than the taxpayer.

(3B) Where, in a case to which this subsection applies, loss or damage has been or may be incurred by the taxpayer as a result of mistaken assumptions made in his case about the operation of any VAT provisions, that loss or damage shall be disregarded, except to the extent of the quantified amount, in the making of any determination—

- (a) of whether or to what extent the repayment of an amount to the taxpayer would enrich him; or
- (b) of whether or to what extent any enrichment of the taxpayer would be unjust.

(3C) In subsection (3B) above—

“the quantified amount” means the amount (if any) which is shown by the taxpayer to constitute the amount that would appropriately compensate him for loss or damage shown by him to have resulted, for any business carried on by him, from the making of the mistaken assumptions; and

“VAT provisions” means the provisions of—

- (a) any enactment, subordinate legislation or Community legislation (whether or not still in force) which relates to VAT or to any matter connected with VAT; or
- (b) any notice published by the Commissioners under or for the purposes of any such enactment or subordinate legislation.]

[<sup>F121</sup>(4) The Commissioners shall not be liable, on a claim made under this section, to repay any amount paid to them more than three years before the making of the claim.]

[<sup>F122</sup>(4A) Where—

- (a) any amount has been paid, at any time on or after 18th July 1996, to any person by way of a repayment under this section, and
- (b) the amount paid exceeded the Commissioners’ repayment liability to that person at that time,

the Commissioners may, to the best of their judgement, assess the excess paid to that person and notify it to him.

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- (4B) For the purposes of subsection (4A) above the Commissioners' repayment liability to a person at any time is—
- (a) in a case where any provision affecting the amount which they were liable to repay to that person at that time is subsequently deemed to have been in force at that time, the amount which the Commissioners are to be treated, in accordance with that provision, as having been liable at that time to repay to that person; and
  - (b) in any other case, the amount which they were liable at that time to repay to that person.
- (4C) Subsections (2) to (8) of section 78A apply in the case of an assessment under subsection (4A) above as they apply in the case of an assessment under section 78A(1).]
- (6) A claim under this section shall be made in such form and manner and shall be supported by such documentary evidence as the Commissioners prescribe by regulations; and regulations under this subsection may make different provision for different cases.
- (7) Except as provided by this section, the Commissioners shall not be liable to repay an amount paid to them by way of VAT by virtue of the fact that it was not VAT due to them.

#### Textual Amendments

**F120** S. 80(3A)-(3C) inserted (19.3.1997) 1997 c. 16, s. 46(1)(4)

**F121** S. 80(4) substituted for s. 80(4)(5) (retrospective to 18.7.1996) by 1997 c. 16, s. 47(1)(2)-(5)

**F122** S. 80(4A)-(4C) inserted (retrospective to 4.12.1996) 1997 c. 16, s. 47(6)(9)

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

**C20** S. 80(4) excluded (19.3.1997) by 1997 c. 16, s. 47(4)

S. 80(4) extended (19.3.1997) by 1997 c. 16, s. 47(12)

### [<sup>F123</sup>80A Arrangements for reimbursing customers.

- (1) The Commissioners may by regulations make provision for reimbursement arrangements made by any person to be disregarded for the purposes of section 80(3) except where the arrangements—
- (a) contain such provision as may be required by the regulations; and
  - (b) are supported by such undertakings to comply with the provisions of the arrangements as may be required by the regulations to be given to the Commissioners.
- (2) In this section “reimbursement arrangements” means any arrangements for the purposes of a claim under section 80 which—
- (a) are made by any person for the purpose of securing that he is not unjustly enriched by the repayment of any amount in pursuance of the claim; and
  - (b) provide for the reimbursement of persons who have for practical purposes borne the whole or any part of the cost of the original payment of that amount to the Commissioners.

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- (3) Without prejudice to the generality of subsection (1) above, the provision that may be required by regulations under this section to be contained in reimbursement arrangements includes—
  - (a) provision requiring a reimbursement for which the arrangements provide to be made within such period after the repayment to which it relates as may be specified in the regulations;
  - (b) provision for the repayment of amounts to the Commissioners where those amounts are not reimbursed in accordance with the arrangements;
  - (c) provision requiring interest paid by the Commissioners on any amount repaid by them to be treated in the same way as that amount for the purposes of any requirement under the arrangements to make reimbursement or to repay the Commissioners;
  - (d) provision requiring such records relating to the carrying out of the arrangements as may be described in the regulations to be kept and produced to the Commissioners, or to an officer of theirs.
- (4) Regulations under this section may impose obligations on such persons as may be specified in the regulations—
  - (a) to make the repayments to the Commissioners that they are required to make in pursuance of any provisions contained in any reimbursement arrangements by virtue of subsection (3)(b) or (c) above;
  - (b) to comply with any requirements contained in any such arrangements by virtue of subsection (3)(d) above.
- (5) Regulations under this section may make provision for the form and manner in which, and the times at which, undertakings are to be given to the Commissioners in accordance with the regulations; and any such provision may allow for those matters to be determined by the Commissioners in accordance with the regulations.
- (6) Regulations under this section may—
  - (a) contain any such incidental, supplementary, consequential or transitional provision as appears to the Commissioners to be necessary or expedient; and
  - (b) make different provision for different circumstances.
- (7) Regulations under this section may have effect (irrespective of when the claim for repayment was made) for the purposes of the making of any repayment by the Commissioners after the time when the regulations are made; and, accordingly, such regulations may apply to arrangements made before that time.]

#### Textual Amendments

**F123** Ss. 80A, 80B inserted (19.3.1997) by 1997 c. 16, s. 46(2)

#### [<sup>F124</sup>80B Assessments of amounts due under section 80A arrangements.

- (1) Where any person is liable to pay any amount to the Commissioners in pursuance of an obligation imposed by virtue of section 80A(4)(a), the Commissioners may, to the best of their judgement, assess the amount due from that person and notify it to him.
- (2) Subsections (2) to (8) of section 78A apply in the case of an assessment under subsection (1) above as they apply in the case of an assessment under section 78A(1).]

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### Textual Amendments

**F124** Ss. 80A, 80B inserted (19.3.1997) by 1997 c. 16, s. 46(2)

## 81 Interest given by way of credit and set-off of credits.

- (1) Any interest payable by the Commissioners (whether under an enactment or instrument or otherwise) to a person on a sum due to him under or by virtue of any provision of this Act shall be treated as an amount due by way of credit under section 25(3).
- (2) Subsection (1) above shall be disregarded for the purpose of determining a person's entitlement to interest or the amount of interest to which he is entitled.
- (3) Subject to subsection (1) above, in any case where—
  - (a) an amount is due from the Commissioners to any person under any provision of this Act, and
  - (b) that person is liable to pay a sum by way of VAT, penalty, interest or surcharge, the amount referred to in paragraph (a) above shall be set against the sum referred to in paragraph (b) above and, accordingly, to the extent of the set-off, the obligations of the Commissioners and the person concerned shall be discharged.

[<sup>F125</sup>(3A) Where—

- (a) the Commissioners are liable to pay or repay any amount to any person under this Act,
- (b) that amount falls to be paid or repaid in consequence of a mistake previously made about whether or to what extent amounts were payable under this Act to or by that person, and
- (c) by reason of that mistake a liability of that person to pay a sum by way of VAT, penalty, interest or surcharge was not assessed, was not enforced or was not satisfied,

any limitation on the time within which the Commissioners are entitled to take steps for recovering that sum shall be disregarded in determining whether that sum is required by subsection (3) above to be set against the amount mentioned in paragraph (a) above.]

[<sup>F126</sup>(4A) Subsection (3) above shall not require any such amount as is mentioned in paragraph (a) of that subsection (“the credit”) to be set against any such sum as is mentioned in paragraph (b) of that subsection (“the debit”) in any case where—

- (a) an insolvency procedure has been applied to the person entitled to the credit;
- (b) the credit became due after that procedure was so applied; and
- (c) the liability to pay the debit either arose before that procedure was so applied or (having arisen afterwards) relates to, or to matters occurring in the course of, the carrying on of any business at times before the procedure was so applied.

(4B) Subject to subsection (4C) below, the following are the times when an insolvency procedure is to be taken, for the purposes of this section, to be applied to any person, that is to say—

- (a) when a bankruptcy order, winding-up order, administration order or award of sequestration is made in relation to that person;



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- (b) when that person is put into administrative receivership;
  - (c) when that person, being a corporation, passes a resolution for voluntary winding up;
  - (d) when any voluntary arrangement approved in accordance with Part I or VIII of the Insolvency Act 1986, or Part II or Chapter II of Part VIII of the <sup>M30</sup>Insolvency (Northern Ireland) Order 1989, comes into force in relation to that person;
  - (e) when a deed of arrangement registered in accordance with the <sup>M31</sup>Deeds of Arrangement Act 1914 or Chapter I of Part VIII of that Order of 1989 takes effect in relation to that person;
  - (f) when that person's estate becomes vested in any other person as that person's trustee under a trust deed.
- (4C) In this section references, in relation to any person, to the application of an insolvency procedure to that person shall not include—
- (a) the making of a bankruptcy order, winding-up order, administration order or award of sequestration at a time when any such arrangement or deed as is mentioned in subsection (4B)(d) to (f) above is in force in relation to that person;
  - (b) the making of a winding-up order at any of the following times, that is to say—
    - (i) immediately upon the discharge of an administration order made in relation to that person;
    - (ii) when that person is being wound up voluntarily;
    - (iii) when that person is in administrative receivership;
- or
- (c) the making of an administration order in relation to that person at any time when that person is in administrative receivership.
- (4D) For the purposes of this section a person shall be regarded as being in administrative receivership throughout any continuous period for which (disregarding any temporary vacancy in the office of receiver) there is an administrative receiver of that person, and the reference in subsection (4B) above to a person being put into administrative receivership shall be construed accordingly.]
- (5) In [<sup>F127</sup>this section]—
- (a) “administration order” means an administration order under Part II of the <sup>M32</sup>Insolvency Act 1986 or an administration order within the meaning of Article 5(1) of the <sup>M33</sup>Insolvency (Northern Ireland) Order 1989;
  - (b) “administrative receiver” means an administrative receiver within the meaning of section 251 of that Act of 1986 or Article 5(1) of that Order of 1989; and
  - (c) “trust deed” has the same meaning as in the <sup>M34</sup>Bankruptcy (Scotland) Act 1985.

#### Textual Amendments

**F125** S. 81(3A) inserted (retrospective to 18.7.1996 with effect as mentioned in s. 48(2) of the amending Act) by 1997 c. 16, s. 48(1)(2)

**F126** S. 81(4A)-(4D) substituted for s. 81(4) (1.5.1995 with effect as mentioned in s. 27(4) of the amending Act) by 1995 c. 4, s. 27(2)

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**F127** Words in s. 81(5) substituted (1.5.1995 with effect as mentioned in s. 27(4) of the amending Act) by 1995 c. 4, s. 27(3)

#### Marginal Citations

**M30** 1986 c. 45.

**M31** 1914 c. 47.

**M32** 1986 c. 45.

**M33** S.I.1989/2405 (N.I.19).

**M34** 1985 c. 66.

## PART V

### APPEALS

#### 82 Appeal tribunals.

- (1) Any reference in this Act to a tribunal is a reference to a tribunal constituted in accordance with Schedule 12, and that Schedule shall have effect generally with respect to appointments to and the procedure and administration of the tribunals.
- (2) The tribunals shall continue to have jurisdiction in relation to matters relating to VAT conferred upon them by this Part of this Act and jurisdiction in relation to matters relating to customs and excise conferred by Chapter II of Part I of the <sup>M35</sup>Finance Act 1994.
- (3) Officers and staff may be appointed under section 27 of the <sup>M36</sup>Courts Act 1971 (court staff) for carrying out the administrative work of the tribunals in England and Wales.
- (4) The Secretary of State may make available such officers and staff as he may consider necessary for carrying out the administrative work of the tribunals in Scotland.

#### Marginal Citations

**M35** 1994 c. 9.

**M36** 1971 c. 23.

#### 83 Appeals.

Subject to section 84, an appeal shall lie to a tribunal with respect to any of the following matters—

- (a) the registration or cancellation of registration of any person under this Act;
- (b) the VAT chargeable on the supply of any goods or services, on the acquisition of goods from another member State or, subject to section 84(9), on the importation of goods from a place outside the member States;
- (c) the amount of any input tax which may be credited to a person;
- (d) any claim for a refund under any regulations made by virtue of section 13(5);
- <sup>F128</sup>(da) a decision of the Commissioners under section 18A—
  - (i) as to whether or not a person is to be approved as a fiscal warehousekeeper or the conditions from time to time subject to which he is so approved;

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- (ii) for the withdrawal of any such approval; or
  - (iii) for the withdrawal of fiscal warehouse status from any premises;]
- (e) the proportion of input tax allowable under section 26;
- (f) a claim by a taxable person under section 27;
- [<sup>F129</sup>(fa) a decision contained in a notification under paragraph (4) of article 12A of the Value Added Tax (Payments on Account) Order 1993 that an election under paragraph (1) of that article shall cease to have effect;]
- (g) the amount of any refunds under section 35;
- (h) a claim for a refund under section 36 or section 22 of the 1983 Act;
- (j) the amount of any refunds under section 40;
- [<sup>F130</sup>(k) the refusal of an application such as is mentioned in section 43B(1) or (2);
- (ka) the giving of a notice under section 43C(1) or (3);]
- (l) the requirement of any security under section 48(7) or paragraph 4(2) of Schedule 11;
- (m) any refusal or cancellation of certification under section 54 or any refusal to cancel such certification;
- (n) any liability to a penalty or surcharge by virtue of any of sections 59 to 69;
- (o) a decision of the Commissioners under section 61 (in accordance with section 61(5));
- (p) an assessment—
  - (i) under section 73(1) or (2) in respect of a period for which the appellant has made a return under this Act; or
  - (ii) under [<sup>F131</sup>subsections (7), (7A) or (7B)] of that section; or
  - (iii) under section 75;or the amount of such an assessment;
- (q) the amount of any penalty, interest or surcharge specified in an assessment under section 76;
- (r) the making of an assessment on the basis set out in section 77(4);
- (s) any liability of the Commissioners to pay interest under section 78 or the amount of interest so payable;
- [<sup>F132</sup>(sa) an assessment under section 78A(1) or the amount of such an assessment]
- (t) a claim for the repayment of an amount under section 80 [<sup>F133</sup>an assessment under subsection (4A) of that section or the amount of such an assessment];
- [<sup>F134</sup>(ta) an assessment under section 80B(1) or the amount of such an assessment]
- (u) any direction or supplementary direction made under paragraph 2 of Schedule 1;
- (v) any direction under paragraph 1 or 2 of Schedule 6 or under paragraph 2 of Schedule 4 to the 1983 Act;
- (w) any direction under paragraph 1 of Schedule 7;
- [<sup>F135</sup>(wa) any direction or assessment under Schedule 9A;]
- (x) any refusal to permit the value of supplies to be determined by a method described in a notice published under paragraph 2(6) of Schedule 11;
- (y) any refusal of authorisation or termination of authorisation in connection with the scheme made under paragraph 2(7) of Schedule 11;
- (z) any requirements imposed by the Commissioners in a particular case under paragraph 3(2)(b) of Schedule 11.

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### Textual Amendments

- F128** S. 83(da) inserted (1.6.1996 with application to any acquisition of goods from another member State and any supply taking place on or after that day) by 1996 c. 8, ss. 25, 26, **Sch. 3 para. 12**; S.I. 1996/1249, **art. 2**
- F129** S. 83(fa) inserted (1.12.1997) by S.I. 1997/2542, **art 2**
- F130** S. 83(k)(ka) substituted (27.7.1999) for s. 83(k) by 1999 c. 16, s. 16, **Sch. 2 para. 3**
- F131** Words in s. 83(p)(ii) substituted (1.6.1996 with application to any acquisition of goods from another member State and any supply taking place on or after that day) by 1996 c. 8, ss. 25, 26, **Sch. 3 para. 12**; S.I. 1996/1249, **art. 2**
- F132** S. 83(sa) inserted (retrospective to 4.12.1996) by 1997 c. 16, s. 45(2)(5)
- F133** Words in s. 83(t) inserted (retrospective to 4.12.1996) by 1997 c. 16, s. 47(7)(9)
- F134** S. 83(ta) inserted (19.3.1997) by 1997 c. 16, s. 46(3)
- F135** S. 83(wa) inserted (29.4.1996) by 1996 c. 8, s. 31(3)

### Modifications etc. (not altering text)

- C21** S. 83(c) modified (20.10.1995) by S.I. 1995/2518, **regs. 182, 195**

## 84 Further provisions relating to appeals.

- (1) References in this section to an appeal are references to an appeal under section 83.
- (2) An appeal shall not be entertained unless the appellant has made all the returns which he was required to make under paragraph 2(1) of Schedule 11 and <sup>F136</sup> . . . has paid the amounts shown in those returns as payable by him.
- (3) Where the appeal is against a decision with respect to any of the matters mentioned in section 83(b), (n), (p) or (q) it shall not be entertained unless—
  - (a) the amount which the Commissioners have determined to be payable as VAT has been paid or deposited with them; or
  - (b) on being satisfied that the appellant would otherwise suffer hardship the Commissioners agree or the tribunal decides that it should be entertained notwithstanding that that amount has not been so paid or deposited.
- [<sup>F137</sup>(3A) An appeal against an assessment which is a recovery assessment for the purposes of this subsection, or against the amount of such an assessment, shall not be entertained unless—
  - (a) the amount notified by the assessment has been paid or deposited with the Commissioners; or
  - (b) on being satisfied that the appellant would otherwise suffer hardship, the Commissioners agree, or the tribunal decides, that the appeal should be entertained notwithstanding that that amount has not been so paid or deposited.]
  - (4) Subject to subsection (11) below, where—
    - (a) there is an appeal against a decision of the Commissioners with respect to, or to so much of any assessment as concerns, the amount of input tax that may be credited to any person or the proportion of input tax allowable under section 26, and
    - (b) that appeal relates, in whole or in part, to any determination by the Commissioners—

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- (i) as to the purposes for which any goods or services were or were to be used by any person, or
    - (ii) as to whether or to what extent the matters to which any input tax was attributable were or included matters other than the making of supplies within section 26(2), and
  - (c) VAT for which, in pursuance of that determination, there is no entitlement to a credit is VAT on the supply, acquisition or importation of something in the nature of a luxury, amusement or entertainment,  
the tribunal shall not allow the appeal or, as the case may be, so much of it as relates to that determination unless it considers that the determination is one which it was unreasonable to make or which it would have been unreasonable to make if information brought to the attention of the tribunal that could not have been brought to the attention of the Commissioners had been available to be taken into account when the determination was made.
- [<sup>F138</sup>(4A) Where an appeal is brought against the refusal of an application such as is mentioned in section 43B(1) or (2) on the grounds stated in section 43B(5)(c)—
- (a) the tribunal shall not allow the appeal unless it considers that the Commissioners could not reasonably have been satisfied that there were grounds for refusing the application,
  - (b) the refusal shall have effect pending the determination of the appeal, and
  - (c) if the appeal is allowed, the refusal shall be deemed not to have occurred.
- (4B) Where an appeal is brought against the giving of a notice under section 43C(1) or (3)—
- (a) the notice shall have effect pending the determination of the appeal, and
  - (b) if the appeal is allowed, the notice shall be deemed never to have had effect.
- (4C) Where an appeal is brought against the giving of a notice under section 43C(1), the tribunal shall not allow the appeal unless it considers that the Commissioners could not reasonably have been satisfied that there were grounds for giving the notice.
- (4D) Where—
- (a) an appeal is brought against the giving of a notice under section 43C(3), and
  - (b) the grounds of appeal relate wholly or partly to the date specified in the notice,
- the tribunal shall not allow the appeal in respect of the date unless it considers that the Commissioners could not reasonably have been satisfied that it was appropriate.]
- (5) Where, on an appeal against a decision with respect to any of the matters mentioned in section 83(p)—
- (a) it is found that the amount specified in the assessment is less than it ought to have been, and
  - (b) the tribunal gives a direction specifying the correct amount,
- the assessment shall have effect as an assessment of the amount specified in the direction, and that amount shall be deemed to have been notified to the appellants.
- (6) Without prejudice to section 70, nothing in section 83(q) shall be taken to confer on a tribunal any power to vary an amount assessed by way of penalty, interest or surcharge except in so far as it is necessary to reduce it to the amount which is appropriate under sections 59 to 70; and in this subsection “penalty” includes an amount assessed by virtue of section 61(3) or (4)(a).

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- (7) Where there is an appeal against a decision to make such a direction as is mentioned in section 83(u), the tribunal shall not allow the appeal unless it considers that the Commissioners could not reasonably have been satisfied as to the matters in subparagraph (2)(a) to (d) of paragraph 2 of Schedule 1 or, as the case may be, [<sup>F139</sup>that there were grounds for making the direction.]
- [<sup>F140</sup>(7A) Where there is an appeal against a decision to make such a direction as is mentioned in section 83(wa), the cases in which the tribunal shall allow the appeal shall include (in addition to the case where the conditions for the making of the direction were not fulfilled) the case where the tribunal are satisfied, in relation to the relevant event by reference to which the direction was given, that—
- (a) the change in the treatment of the body corporate, or
  - (b) the transaction in question,
- had as its main purpose or, as the case may be, as each of its main purposes a genuine commercial purpose unconnected with the fulfilment of the condition specified in paragraph 1(3) of Schedule 9A.]
- (8) Where on an appeal it is found—
- (a) that the whole or part of any amount paid or deposited in pursuance of subsection (3) above is not due; or
  - (b) that the whole or part of any VAT credit due to the appellant has not been paid,
- so much of that amount as is found not to be due or not to have been paid shall be repaid (or, as the case may be, paid) with interest at such rate as the tribunal may determine; and where the appeal has been entertained notwithstanding that an amount determined by the Commissioners to be payable as VAT has not been paid or deposited and it is found on the appeal that that amount is due, the tribunal may, if it thinks fit, direct that that amount shall be paid with interest at such rate as may be specified in the direction.
- (9) No appeal shall lie under this section with respect to the subject-matter of any decision which by virtue of section 16 is a decision to which section 14 of the <sup>M37</sup>Finance Act 1994 (decisions subject to review) applies unless the decision—
- (a) relates exclusively to one or both of the following matters, namely whether or not section 30(3) applies in relation to the importation of the goods in question and (if it does not) the rate of tax charged on those goods; and
  - (b) is not one in respect of which notice has been given to the Commissioners under section 14 of that Act requiring them to review it.
- (10) Where an appeal is against a decision of the Commissioners which depended upon a prior decision taken by them in relation to the appellant, the fact that the prior decision is not within section 83 shall not prevent the tribunal from allowing the appeal on the ground that it would have allowed an appeal against the prior decision.
- (11) Subsection (4) above shall not apply in relation to any appeal relating to the input tax that may be credited to any person at the end of a prescribed accounting period beginning before 27th July 1993.

#### Textual Amendments

**F136** Words in s. 84(2) repealed (1.5.1995 with effect as mentioned in s. 31 of the amending Act) by 1995 c. 4, ss. 31, 162, **Sch. 29 Pt. VI(4)** Note

**F137** S. 84(3A) inserted (retrospective to 4.12.1996) by 1997 c. 16, s. 45(3)(5)

**F138** S. 84(4A)-(4D) inserted (27.7.1999) by 1999 c. 16, s. 16, **Sch. 2 para. 4**

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**F139** Words in s. 84(7) substituted (19.3.1997 with effect as mentioned in s. 31(4) of the amending Act) by 1997 c. 16, s. 31(3)(4)

**F140** S. 84(7A) inserted (29.4.1996) by 1996 c. 8, s. 31(4)

#### Marginal Citations

**M37** 1994 c. 9.

## 85 Settling appeals by agreement.

- (1) Subject to the provisions of this section, where a person gives notice of appeal under section 83 and, before the appeal is determined by a tribunal, the Commissioners and the appellant come to an agreement (whether in writing or otherwise) under the terms of which the decision under appeal is to be treated—
  - (a) as upheld without variation, or
  - (b) as varied in a particular manner, or
  - (c) as discharged or cancelled,the like consequences shall ensue for all purposes as would have ensued if, at the time when the agreement was come to, a tribunal had determined the appeal in accordance with the terms of the agreement (including any terms as to costs).
- (2) Subsection (1) above shall not apply where, within 30 days from the date when the agreement was come to, the appellant gives notice in writing to the Commissioners that he desires to repudiate or resile for the agreement.
- (3) Where an agreement is not in writing—
  - (a) the preceding provisions of this section shall not apply unless the fact that an agreement was come to, and the terms agreed, are confirmed by notice in writing given by the Commissioners to the appellant or by the appellant to the Commissioners, and
  - (b) references in those provisions to the time when the agreement was come to shall be construed as references to the time of the giving of that notice of confirmation.
- (4) Where—
  - (a) a person who has given a notice of appeal notifies the Commissioners, whether orally or in writing, that he desires not to proceed with the appeal; and
  - (b) 30 days have elapsed since the giving of the notification without the Commissioners giving to the appellant notice in writing indicating that they are unwilling that the appeal should be treated as withdrawn,the preceding provisions of this section shall have effect as if, at the date of the appellant's notification, the appellant and the Commissioners had come to an agreement, orally or in writing, as the case may be, that the decision under appeal should be upheld without variation.
- (5) References in this section to an agreement being come to with an appellant and the giving of notice or notification to or by an appellant include references to an agreement being come to with, and the giving of notice or notification to or by, a person acting on behalf of the appellant in relation to the appeal.

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

- C22** S. 85 amended (28.7.2000) by 2000 c. 17, s. 30, **Sch. 6 para. 123(7)**  
 S. 85 amended (11.5.2001) by 2001 c. 9, s. 42(7)  
**C23** S. 85 extended (29.4.1996) by 1996 c. 8, s. 57(a)

## 86 Appeals to Court of Appeal.

- (1) The Lord Chancellor may by order provide that—
- (a) in such classes of appeal as may be prescribed by the order, and
  - (b) subject to the consent of the parties and to such other conditions as may be so prescribed,
- an appeal from a tribunal shall lie to the Court of Appeal.
- (2) An order under this section may provide that section 11 of the <sup>M38</sup>Tribunals and Inquiries Act 1992 (which provides for appeals to the High Court from a tribunal) shall have effect, in relation to any appeal to which the order applies, with such modifications as may be specified in the order.
- (3) This section does not extend to Scotland.

#### Marginal Citations

- M38** 1992 c. 53.

## <sup>F141</sup>87 Enforcement of registered or recorded tribunal decisions etc.

- (1) If the decision of a tribunal in England and Wales on an appeal under section 83 is registered by the Commissioners in accordance with rules of court, payment of—
- (a) any amount which, as a result of the decision, is, or is recoverable as, VAT due from any person, and
  - (b) any costs awarded to the Commissioners by the decision,
- may be enforced by the High Court as if that amount or, as the case may be, the amount of those costs were an amount due to the Commissioners in pursuance of a judgment or order of the High Court.
- (2) If the decision of a tribunal in Scotland on an appeal under section 83—
- (a) confirms or varies an amount which is, or is recoverable as, VAT due from any person, or
  - (b) awards costs to the Commissioners,
- the decision may be recorded for execution in the Books of Council and Session and shall be enforceable accordingly.
- (3) Subsection (4) below shall apply in relation to the decision of a tribunal in Northern Ireland on an appeal under section 83 where—
- (a) any amount is, or is recoverable as, VAT due from any person, as a result of the decision, whether with or without an award of costs to the Commissioners; or
  - (b) any costs are awarded to the Commissioners by the decision.
- (4) Where this subsection applies—



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- (a) payment of the amount mentioned in paragraph (a) of subsection (3) above or, as the case may be, the amount of the costs mentioned in paragraph (b) of that subsection may be enforced by the Enforcement of Judgments Office; and
  - (b) a sum equal to any such amount shall be deemed to be payable under a money judgment within the meaning of Article 2(2) of the<sup>M39</sup>Judgments Enforcement (Northern Ireland) Order 1981, and the provisions of that Order shall apply accordingly.
- (5) Any reference in this section to a decision of a tribunal includes a reference to an order (however described) made by a tribunal for giving effect to a decision.

#### Textual Amendments

**F141** S. 87 extended (29.4.1996) by 1996 c. 8, s. 57(b)

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

**C24** S. 87 amended (28.7.2000) by 2000 c. 17, s. 30, Sch. 6 para. 123(7)

S. 87 amended (11.5.2001) by 2001 c. 9, s. 42(7)

#### Marginal Citations

**M39** S.I.1981/226 (N.I.6).

## PART VI

### SUPPLEMENTARY PROVISIONS

#### *Change in rate of VAT etc. and disclosure of information*

#### **88 Supplies spanning change of rate etc.**

- (1) This section applies where there is a change in the rate of VAT in force under section 2 or in the descriptions of exempt or zero-rated supplies or exempt or zero-rated acquisitions.
- (2) Where—
- (a) a supply affected by the change would, apart from section 6(4), (5), (6) or (10), be treated under section 6(2) or (3) as made wholly or partly at a time when it would not have been affected by the change; or
  - (b) a supply not so affected would apart from section 6(4), (5), (6) or (10) be treated under section 6(2) or (3) as made wholly or partly at a time when it would have been so affected,
- the rate at which VAT is chargeable on the supply, or any question whether it is zero-rated or exempt, shall if the person making it so elects be determined without regard to section 6(4), (5), (6) or (10).
- (3) Any power to make regulations under this Act with respect to the time when a supply is to be treated as taking place shall include power to provide for this section to apply as if the references in subsection (2) above to section 6(4), (5), (6) or (10) included references to specified provisions of the regulations.
- (4) Where—

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- (a) any acquisition of goods from another member State which is affected by the change would not have been affected (in whole or in part) if it had been treated as taking place at the time of the event which, in relation to that acquisition, is the first relevant event for the purposes of taxing the acquisition; or
  - (b) any acquisition of goods from another member State which is not so affected would have been affected (in whole or in part) if it had been treated as taking place at the time of that event,
- the rate at which VAT is chargeable on the acquisition, or any question whether it is zero-rated or exempt, shall, if the person making the acquisition so elects, be determined as at the time of that event.
- (5) Regulations under paragraph 2 of Schedule 11 may make provision for the replacement or correction of any VAT invoice which—
    - (a) relates to a supply in respect of which an election is made under this section, but
    - (b) was issued before the election was made.
  - (6) No election may be made under this section in respect of a supply to which section 6(9) or paragraph 7 of Schedule 4 applies.
  - (7) References in this section to an acquisition being zero-rated are references to an acquisition of goods from another member State being one in relation to which section 30(3) provides for no VAT to be chargeable.

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

C25 S. 88(2) modified (20.10.1995) by S.I. 1995/2518, reg. 95

**89 Adjustments of contracts on changes in VAT.**

- (1) Where, after the making of a contract for the supply of goods or services and before the goods or services are supplied, there is a change in the VAT charged on the supply, then, unless the contract otherwise provided, there shall be added to or deducted from the consideration for the supply an amount equal to the change.
- (2) Subsection (1) above shall apply in relation to a tenancy or lease as it applies in relation to a contract except that a term of a tenancy or lease shall not be taken to provide that the rule contained in that subsection is not to apply in the case of the tenancy or lease if the term does not specifically to VAT or this section.
- (3) References in this section to a change in the VAT charged on a supply include references to a change to or from no VAT being charged on the supply (including a change attributable to the making of an election under paragraph 2 of Schedule 10).

**90 Failure of resolution under Provisional Collection of Taxes Act 1968.**

- (1) Where—
  - (a) by virtue of a resolution having effect under the <sup>M40</sup>Provisional Collection of Taxes Act 1968 VAT has been paid at a rate specified in the resolution on the supply of any goods or services by reference to a value determined under section 19(2) or on the acquisition of goods from another member State by reference to a value determined under section 20(3), and

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- (b) by virtue of section 1(6) or (7) or 5(3) of that Act any of that VAT is repayable in consequence of the restoration in relation to that supply or acquisition of a lower rate,

the amount repayable shall be the difference between the VAT paid by reference to that value at the rate specified in the resolution and the VAT that would have been payable by reference to that value at the lower rate.

(2) Where—

- (a) by virtue of such a resolution VAT is chargeable at a rate specified in the resolution on the supply of any goods or services by reference to a value determined under section 19(2) or on the acquisition of goods from another member State by reference to a value determined under section 20(3), but

- (b) before the VAT is paid it ceases to be chargeable at that rate in consequence of the restoration in relation to that supply or acquisition of a lower rate,

the VAT chargeable at the lower rate shall be charged by reference to the same value as that by reference to which VAT would have been chargeable at the rate specified in the resolution.

- (3) The VAT that may be credited as input tax under section 25 or refunded under section 33, 35 or 40 does not include VAT that has been repaid by virtue of any of the provisions mentioned in subsection (1)(b) above or that would be repayable by virtue of any of those provisions if it had been paid.

**Marginal Citations**

M40 1968 c. 2.

**91 Disclosure of information for statistical purposes.**

- (1) For the purpose of the compilation or maintenance by the Department of Trade and Industry or the [<sup>F142</sup>Office for National Statistics] of a central register of businesses, or for the purpose of any statistical survey conducted or to be conducted by that Department or Office, the Commissioners or an authorised officer of the Commissioners may disclose to an authorised officer of that Department or Office particulars of the following descriptions obtained or recorded by them in pursuance of this Act—

- (a) numbers allocated by the Commissioners on the registration of persons under this Act and reference numbers for members of a group;
- (b) names, trading styles and addresses of persons so registered or of members of groups and status and trade classifications of businesses; and
- (c) actual or estimated value of supplies.

- (2) Subject to subsection (3) below, no information obtained by virtue of this section by an officer of the Department of Trade and Industry or the [<sup>F143</sup>Office for National Statistics] may be disclosed except to an officer of a Government department (including a Northern Ireland department) [<sup>F144</sup>or to a member of the staff of the Scottish Administration] for the purpose for which the information was obtained, or for a like purpose.

- (3) Subsection (2) above does not prevent the disclosure—

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- (a) of any information in the form of a summary so framed as not to enable particulars to be identified as particulars relating to a particular person or to the business carried on by a particular person; or
  - (b) with the consent of any person, of any information enabling particulars to be identified as particulars relating only to him or to a business carried on by him.
- (4) If any person who has obtained any information by virtue of this section discloses it in contravention of this section he shall be liable—
- (a) on summary conviction to a fine not exceeding the statutory maximum; and
  - (b) on conviction on indictment to imprisonment for a term not exceeding 2 years or to a fine of any amount or to both.
- (5) In this section, references to the Department of Trade and Industry or the [<sup>F145</sup>Office for National Statistics] include references to any Northern Ireland department [<sup>F146</sup> or to any part of the Scottish Administration] carrying out similar functions.

#### Textual Amendments

**F142** Words in s. 91(1) substituted (1.4.1996) by S.I. 1996/273, art. 5(1), **Sch. 2 para. 27(2)**

**F143** Words in s. 91(2) substituted (1.4.1996) by S.I. 1996/273, art. 5(1), **Sch. 2 para. 27(3)**

**F144** Words in s. 91(2) inserted (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, **Sch. 2 Pt. 1 para. 114(2)(a)**; S.I. 1998/3178, **art. 3**

**F145** Words in s. 91(5) substituted (1.4.1996) by S.I. 1996/273, art. 5(1), **Sch. 2 para. 27(3)**

**F146** Words in s. 91(5) inserted (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, **Sch. 2 Pt. 1 para. 114(2)(b)**; S.I. 1998/3178, **art. 3**

#### Interpretative provisions

### 92 Taxation under the laws of other member States etc.

- (1) Subject to the following provisions of this section, references in this Act, in relation to another member State, to the law of that member State shall be construed as confined to so much of the law of that member State as for the time being has effect for the purposes of any Community instrument relating to VAT.
- (2) Subject to the following provisions of this section—
- (a) references in this Act to a person being taxable in another member State are references to that person being taxable under so much of the law of that member State as makes provision for purposes corresponding, in relation to that member State, to the purposes of so much of this Act as makes provision as to whether a person is a taxable person; and
  - (b) references in this Act to goods being acquired by a person in another member State are references to goods being treated as so acquired in accordance with provisions of the law of that member State corresponding, in relation to that member State, to so much of this Act as makes provision for treating goods as acquired in the United Kingdom from another member State.
- (3) Without prejudice to subsection (5) below, the Commissioners may by regulations make provision for the manner in which any of the following are to be or may be proved for any of the purposes of this Act, that is to say—
- (a) the effect of any provisions of the law of any other member State;

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- (b) that provisions of any such law correspond or have a purpose corresponding, in relation to any member State, to or to the purpose of any provision of this Act.
- (4) The Commissioners may by regulations provide—
- (a) for a person to be treated for prescribed purposes of this Act as taxable in another member State only where he has given such notification, and furnished such other information, to the Commissioners as may be prescribed;
  - (b) for the form and manner in which any notification or information is to be given or furnished under the regulations and the particulars which it is to contain;
  - (c) for the proportion of any consideration for any transaction which is to be taken for the purposes of this Act as representing a liability, under the law of another member State, for VAT to be conclusively determined by reference to such invoices or in such other manner as may be prescribed.
- (5) In any proceedings (whether civil or criminal), a certificate of the Commissioners—
- (a) that a person was or was not, at any date, taxable in another member State; or
  - (b) that any VAT payable under the law of another member State has or has not been paid,
- shall be sufficient evidence of that fact until the contrary is proved, and any document purporting to be a certificate under this subsection shall be deemed to be such a certificate until the contrary is proved.
- (6) Without prejudice to the generality of any of the powers of the Commissioners under the relevant information provisions, those powers shall, for the purpose of facilitating compliance with any Community obligations, be exercisable with respect to matters that are relevant to a charge to VAT under the law of another member State, as they are exercisable with respect to matters that are relevant for any of the purposes of this Act.
- (7) The reference in subsection (6) above to the relevant information provisions is a reference to the provisions of section 73(7) and Schedule 11 relating to—
- (a) the keeping of accounts;
  - (b) the making of returns and the submission of other documents to the Commissioners;
  - (c) the production, use and contents of invoices;
  - (d) the keeping and preservation of records; and
  - (e) the furnishing of information and the production of documents.

### **93 Territories included in references to other member States etc.**

- (1) The Commissioners may by regulations provide for the territory of the Community, or for the member States, to be treated for any of the purposes of this Act as including or excluding such territories as may be prescribed.
- (2) Without prejudice to the generality of the powers conferred by subsection (1) and section 16, the Commissioners may, for any of the purposes of this Act, by regulations provide for prescribed provisions of any customs and excise legislation to apply in relation to cases where any territory is treated under subsection (1) above as excluded from the territory of the Community, with such exceptions and adaptations as may be prescribed.
- (3) In subsection (2) above the reference to customs and excise legislation is a reference to any enactment or subordinate or Community legislation (whenever passed, made

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or adopted) which has effect in relation to, or to any assigned matter connected with, the importation or exportation of goods.

- (4) In subsection (3) above “assigned matter” has the same meaning as in the Management Act.

#### 94 Meaning of “business” etc.

- (1) In this Act “business” includes any trade, profession or vocation.
- (2) Without prejudice to the generality of anything else in this Act, the following are deemed to be the carrying on of a business—
- (a) the provision by a club, association or organisation (for a subscription or other consideration) of the facilities or advantages available to its members; and
  - (b) the admission, for a consideration, of persons to any premises.

<sup>F147</sup>(3) .....

- (4) Where a person, in the course or furtherance of a trade, profession or vocation, accepts any office, services supplied by him as the holder of that office are treated as supplied in the course or furtherance of the trade, profession or vocation.
- (5) Anything done in connection with the termination or intended termination of a business is treated as being done in the course or furtherance of that business.
- (6) The disposition of a business as a going concern, or of its assets or liabilities (whether or not in connection with its reorganisation or winding up), is a supply made in the course or furtherance of the business.

#### Textual Amendments

**F147** S. 94(3) repealed (1.12.1999) by 1999 c. 16, ss. 20, 139, **Sch. 20 Pt. II(2)**, Note; S.I. 1999/2769, **art. 2**

#### 95 Meaning of “new means of transport”.

- (1) In this Act “means of transport” in the expression “new means of transport” means, subject to subsection (2) below, any of the following, that is to say—
- (a) any ship exceeding 7.5 metres in length;
  - (b) any aircraft the take-off weight of which exceeds 1550 kilograms;
  - (c) any motorized land vehicle which—
    - (i) has an engine with a displacement or cylinder capacity exceeding 48 cubic centimetres; or
    - (ii) is constructed or adapted to be electrically propelled using more than 7.2 kilowatts.
- (2) A ship, aircraft or motorized land vehicle does not fall within subsection (1) above unless it is intended for the transport of persons or goods.
- <sup>F148</sup>(3) For the purposes of this Act a means of transport shall be treated as new, in relation to any supply or any acquisition from another member State, at any time unless at that time—
- (a) the period that has elapsed since its first entry into service is—
    - (i) in the case of a ship or aircraft, a period of more than 3 months; and

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- (ii) in the case of a land vehicle, a period of more than 6 months;  
and]
- (b) it has, since its first entry into service, travelled under its own power—
  - (i) in the case of a ship, for more than 100 hours;
  - (ii) in the case of an aircraft, for more than 40 hours; and
  - (iii) in the case of a land vehicle, for more than [<sup>F149</sup>6000 kilometres].
- (4) The Treasury may by order vary this section—
  - (a) by adding or deleting any ship, aircraft or vehicle of a description specified in the order to or from those which are for the time being specified in subsection (1) above; and
  - (b) by altering, omitting or adding to the provisions of subsection (3) above for determining whether a means of transport is new.
- (5) The Commissioners may by regulations make provision specifying the circumstances in which a means of transport is to be treated for the purposes of this section as having first entered into service.

#### Textual Amendments

**F148** Words in s. 95(3) substituted (1.1.1995 with effect as mentioned in art. 2(4) of the amending S.I.) by S.I. 1995/3128, art. 2(2)

**F149** Words in s. 95(3)(b)(iii) substituted (1.1.1995 with effect as mentioned in art. 2(4) of the amending S.I.) by S.I. 1994/3128, art. 2(3)

## 96 Other interpretative provisions.

### (1) In this Act—

“the 1983 Act” means the <sup>M41</sup>Value Added Tax Act 1983;

“another member State” means, subject to section 93(1), any member State other than the United Kingdom, and “other member States” shall be construed accordingly;

“assignment”, in relation to Scotland, means assignment;

“authorised person” means any person acting under the authority of the Commissioners;

“the Commissioners” means the Commissioners of Customs and Excise;

[<sup>F150</sup>“copy”, in relation to a document, means anything onto anything onto which information recorded in the document has been copied, by whatever means and whether directly or indirectly.]

[<sup>F151</sup>“document” means anything in which information of any description is recorded; and]

“fee simple”—

(a) in relation to Scotland, means the estate or interest of the proprietor of the dominium utile or, in the case of land not held on feudal tenure, the estate or interest of the owner;

(b) in relation to Northern Ireland, includes the estate of a person who holds land under a fee farm grant;

“invoice” includes any document similar to an invoice;

“input tax” has the meaning given by section 24;

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“interim trustee” has the same meaning as in the <sup>M42</sup>Bankruptcy (Scotland) Act 1985;

“local authority” has the meaning given by subsection (4) below;

“major interest”, in relation to land, means the fee simple or a tenancy for a term certain exceeding 21 years, and in relation to Scotland means—

- (a) the estate or interest of the proprietor of the dominium utile; or
- (b) in the case of land not held on feudal tenure, the estate or interest of the owner, or the lessee’s interest under a lease for a period [<sup>F152</sup>of not less than 20 years];

“the Management Act” means the <sup>M43</sup>Customs and Excise Management Act 1979;

“money” includes currencies other than sterling;

“output tax” has the meaning given by section 24;

“permanent trustee” has the same meaning as in the <sup>M44</sup>Bankruptcy (Scotland) Act 1985;

“prescribed” means prescribed by regulations;

“prescribed accounting period” has the meaning given by section 25(1);

“quarter” means a period of 3 months ending at the end of March, June, September or December;

“regulations” means regulations made by the Commissioners under this Act;

“ship” includes hovercraft;

“subordinate legislation” has the same meaning as in the <sup>M45</sup>Interpretation Act 1978;

“tax” means VAT;

“taxable acquisition” has the meaning given by section 10(2);

“taxable person” means a person who is a taxable person under section 3;

“taxable supply” has the meaning given by section 4(2);

“the Taxes Act” means the <sup>M46</sup>Income and Corporation Taxes Act 1988;

“tribunal” has the meaning given by section 82;

“VAT” means value added tax charged in accordance with this Act or, where the context requires, with the law of another member State;

“VAT credit” has the meaning given by section 25(3);

“VAT invoice” has the meaning given by section 6(15);

“VAT representative” has the meaning given by section 48;

and any reference to a particular section, Part or Schedule is a reference to that section or Part of, or Schedule to, this Act.

(2) Any reference in this Act to being registered shall be construed in accordance with section 3(3).

(3) Subject to section 93—

- (a) the question whether or not goods have entered the territory of the Community;
- (b) the time when any Community customs debt in respect of duty on the entry of any goods into the territory of the Community would be incurred; and
- (c) the person by whom any such debt would fall to be discharged,



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shall for the purposes of this Act be determined (whether or not the goods in question are themselves subject to any such duties) according to the Community legislation applicable to goods which are in fact subject to such duties.

(4) In this Act “local authority” means the council of a county, [<sup>F153</sup>county borough,]district, London borough, parish or group of parishes (or, in Wales, community or group of communities), the Common Council of the City of London, the Council of the Isles of Scilly, and any joint committee or joint board established by two or more of the foregoing and, in relation to Scotland, a [<sup>F154</sup>council constituted under section 2 of the Local Government etc. (Scotland) Act 1994, any two or more such councils and any joint committee or joint board within the meaning of section 235(1) of the Local Government (Scotland) Act 1973].

(5) Any reference in this Act to the amount of any duty of excise on any goods shall be taken to be a reference to the amount of duty charged on those goods with any addition or deduction falling to be made under section 1 of the <sup>M47</sup>Excise Duties (Surcharges or Rebates) Act 1979.

<sup>F155</sup>(6) .....

<sup>F155</sup>(7) .....

(8) The question whether, in relation to any supply of services, the supplier or the recipient of the supply belongs in one country or another shall be determined (subject to any provision made under section 8(6)) in accordance with section 9.

(9) Schedules 8 and 9 shall be interpreted in accordance with the notes contained in those Schedules; and accordingly the powers conferred by this Act to vary those Schedules include a power to add to, delete or vary those notes.

(10) The descriptions of Groups in those Schedules are for ease of reference only and shall not affect the interpretation of the descriptions of items in those Groups.

[<sup>F156</sup>(10A) Where—

- (a) the grant of any interest, right, licence or facilities gives rise for the purposes of this Act to supplies made at different times after the making of the grant, and
- (b) a question whether any of those supplies is zero-rated or exempt falls to be determined according to whether or not the grant is a grant of a description specified in Schedule 8 or 9 or paragraph 2(2) or (3) of Schedule 10,

that question shall be determined according to whether the description is applicable as at the time of supply, rather than by reference to the time of the grant.]

(11) References in this Act to the United Kingdom include the territorial sea of the United Kingdom.

**Extent Information**

**E1** S. 96(6) does not extend to Scotland see s. 96(6).

**Textual Amendments**

**F150** S. 96(1): definition of “copy”  
inserted (31.1.1997) by 1995 c. 38, s. 15(1), **Sch. 1 para. 20** (with ss. 1(3), 6(4)(5), 14); S.I. 1996/3217, **art. 2**

**F151** S. 96(1): definition of

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“document”

inserted (31.1.1997) by 1995 c. 38, s. 15(1), **Sch. 1 para. 20** (with ss. 1(3), 6(4)(5), 14); S.I. 1996/3217, **art. 2**

**F152** S. 96(1): words in para. (b) of the definition of “major interest” substituted (31.7.1998) by 1998 c. 36, **s. 24**

**F153** S. 96(4): words in definition of “local authority” inserted (16.6.1995) by S.I. 1995/1510, **art. 2**

**F154** S. 96(4): words in definition of “local authority” substituted (1.4.1996) by S.I. 1996/739, **art. 7(1), Sch. 1 Pt. I para. 8**

**F155** S. 96(6)(7) repealed (31.1.1997) by 1995 c. 38, s. 15(2), **Sch. 2** (with ss. 1(3), 6(4)(5), 14); S.I. 1996/3217, **art. 2**

**F156** S. 96(10A) inserted (retrospectively) by 1997 c. 16, **s. 35(1)(4)**

#### Marginal Citations

**M41** 1983 c. 55.

**M42** 1985 c. 66.

**M43** 1979 c. 2.

**M44** 1985 c. 66.

**M45** 1978 c. 30.

**M46** 1988 c. 1.

**M47** 1979 c. 8.

### Supplementary provisions

#### 97 Orders, rules and regulations.

- (1) Any order made by the Treasury or the Lord Chancellor under this Act and any regulations or rules under this Act shall be made by statutory instrument.
- (2) A statutory instrument containing an order under section 86 or rules under paragraph 9 of Schedule 12 shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) An order to which this subsection applies shall be laid before the House of Commons; and unless it is approved by that House before the expiration of a period of 28 days beginning with the date on which it was made, it shall cease to have effect on the expiration of that period, but without prejudice to anything previously done thereunder or to the making of a new order.

In reckoning any such period no account shall be taken of any time during which Parliament is dissolved or prorogued or during which the House of Commons is adjourned for more than 4 days.

- (4) Subject to section 53(4), subsection (3) above applies to—

[<sup>F157</sup>(aa) an order under section 2(1C);]

(a) an order under section 5(4) or 28;

(ab) [<sup>F158</sup>an order under paragraph 5(7) of Schedule 4 substituting a lesser sum for the sum for the time being specified in paragraph 5(2)(a) of that Schedule;]

(b) .....

(c) an order under this Act making provision—

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- (i) for increasing the rate of VAT in force at the time of the making of the order;
  - (ii) for excluding any VAT from credit under section 25;
  - (iii) for varying Schedule 8 or 9 so as to abolish the zero-rating of a supply or to abolish the exemption of a supply without zero-rating it;
  - (d) an order under section 51, except one making only such amendments as are necessary or expedient in consequence of provisions of an order under this Act which—
    - (i) vary Schedule 8 or 9; but
    - (ii) are not within paragraph (c) above;
  - (e) an order under section 54(4) or (8).
- (5) A statutory instrument made under any provision of this Act except—
- (a) an order made under section 79, or
  - (b) an instrument as respects which any other Parliamentary procedure is expressly provided, or
  - (c) an instrument containing an order appointing a day for the purposes of any provision of this Act, being a day as from which the provision will have effect, with or without amendments, or will cease to have effect,
- shall be subject to annulment in pursuance of a resolution of the House of Commons.

#### Textual Amendments

**F157** S. 97(4)(aa) inserted (1.5.1995 with effect as mentioned in s. 21(6) of the amending Act) by 1995 c. 4, s. 21(4)(6)

**F158** S. 97(4)(ab) inserted (29.4.1996) by 1996 c. 8, s. 33(3)

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

**C26** S. 97 extended (27.7.1999) by 1999 c. 16, s. 13(6)

### [<sup>F159</sup>97A Place of supply orders: transitional provision.

- (1) This section shall have effect for the purpose of giving effect to any order made on or after 17th March 1998 under section 7(11), if—
- (a) the order provides for services of a description specified in the order to be treated as supplied in the United Kingdom;
  - (b) the services would not have fallen to be so treated apart from the order;
  - (c) the services are not services that would have fallen to be so treated under any provision re-enacted in the order; and
  - (d) the order is expressed to come into force in relation to services supplied on or after a date specified in the order (“the commencement date”).
- (2) Invoices and other documents provided to any person before the commencement date shall be disregarded in determining the time of the supply of any services which, if their time of supply were on or after the commencement date, would be treated by virtue of the order as supplied in the United Kingdom.
- (3) If there is a payment in respect of any services of the specified description that was received by the supplier before the commencement date, so much (if any) of that

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payment as relates to times on or after that date shall be treated as if it were a payment received on the commencement date.

- (4) If there is a payment in respect of services of the specified description that is or has been received by the supplier on or after the commencement date, so much (if any) of that payment as relates to times before that date shall be treated as if it were a payment received before that date.
- (5) Subject to subsection (6) below, a payment in respect of any services shall be taken for the purposes of this section to relate to the time of the performance of those services.
- (6) Where a payment is received in respect of any services the performance of which takes place over a period a part of which falls before the commencement date and a part of which does not—
  - (a) an apportionment shall be made, on a just and reasonable basis, of the extent to which the payment is attributable to so much of the performance of those services as took place before that date;
  - (b) the payment shall, to that extent, be taken for the purposes of this section to relate to a time before that date; and
  - (c) the remainder, if any, of the payment shall be taken for those purposes to relate to times on or after that date.]

#### Textual Amendments

**F159** S. 97A inserted (retrospective to 17.3.1998) by 1998 c. 36, s. 22(1)(3)

#### 98 Service of notices.

Any notice, notification, requirement or demand to be served on, given to or made of any person for the purposes of this Act may be served, given or made by sending it by post in a letter addressed to that person or his VAT representative at the last or usual residence or place of business of that person or representative.

#### 99 Refund of VAT to Government of Northern Ireland.

The Commissioners shall refund to the Government of Northern Ireland the amount of the VAT charged on the supply of goods or services to that Government, on the acquisition of any goods by that Government from another member State or on the importation of any goods by that Government from a place outside the member States, after deducting therefrom so much of that amount as may be agreed between them and the Department of Finance and Personnel for Northern Ireland as attributable to supplies, acquisitions and importations for the purpose of a business carried on by the Government of Northern Ireland.

#### 100 Savings and transitional provisions, consequential amendments and repeals.

- (1) Schedule 13 (savings and transitional provisions) and Schedule 14 (consequential amendments) shall have effect.
- (2) The enactments and Orders specified in Schedule 15 are hereby repealed to the extent mentioned in the third column of that Schedule.

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- (3) This section is without prejudice to the operation of sections 15 to 17 of the <sup>M48</sup>Interpretation Act 1978 (which relate to the effect of repeals).

**Marginal Citations**

**M48** 1978 c. 30.

**101 Commencement and extent.**

- (1) This Act shall come into force on 1st September 1994 and Part I shall have effect in relation to the charge to VAT on supplies, acquisitions and importations in prescribed accounting periods ending on or after that date.
- (2) Without prejudice to section 16 of the <sup>M49</sup>Interpretation Act 1978 (continuation of proceedings under repealed enactments) except in so far as it enables proceedings to be continued under repealed enactments, section 72 shall have effect on the commencement of this Act to the exclusion of section 39 of the 1983 Act.
- (3) This Act extends to Northern Ireland.
- (4) Paragraph 23 of Schedule 13 and paragraph 7 of Schedule 14 shall extend to the Isle of Man but no other provision of this Act shall extend there.

**Marginal Citations**

**M49** 1978 c. 30.

**102 Short title.**

This Act may be cited as the Value Added Tax Act 1994.

**Status:** Point in time view as at 29/02/2000. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** Value Added Tax Act 1994 is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

## SCHEDULES

### [<sup>F160</sup>SCHEDULE A1

#### CHARGE AT REDUCED RATE]

##### Textual Amendments

**F160** Sch. A1 inserted (1.5.1995 with application as mentioned in s. 21(6) of the amending Act) by 1995 c. 4, s. 21(3)

#### *The supplies*

- 1 [<sup>F161</sup>(1) Subject to the following provisions of this Schedule, the supplies falling within this paragraph are—
- (a) supplies for qualifying use of—
    - (i) coal, coke, or other solid substances held out for sale solely as fuel;
    - (ii) coal gas, water gas, producer gases or similar gases;
    - (iii) petroleum gases, or other gaseous hydrocarbons, whether in a gaseous or liquid state;
    - (iv) fuel oil, gas oil or kerosene; or
    - (v) electricity, heat or air-conditioning;
  - (b) supplies to a qualifying person of any services of installing energy-saving materials in the qualifying person's sole or main residence; and
  - (c) supplies of energy-saving materials made to a qualifying person by a person who installs those materials in the qualifying person's sole or main residence.
- (1A) A supply to which sub-paragraph (1)(b) or (c) above applies is a supply falling within this paragraph only to the extent that the consideration for it is or is to be funded by a grant made under a relevant scheme.
- (1B) Where a grant is made under a relevant scheme in order to fund a supply of a description falling within sub-paragraph (1)(b) or (c) above (“the relevant supply”) and also to fund a supply to which neither of those sub-paragraphs applies (“the non-relevant supply”) then the proportion of the grant that is to be attributed, for the purposes of sub-paragraph (1A) above, to the relevant supply shall be the same proportion as the consideration reasonably attributable to that supply bears to the consideration for that supply and for the non-relevant supply.]
- (2) In this paragraph “qualifying use” means—
- (a) domestic use; or
  - (b) use by a charity otherwise than in the course or furtherance of a business.
- (3) Where there is a supply of goods partly for qualifying use and partly not—

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- (a) if at least 60 per cent. of the goods are supplied for qualifying use, the whole supply shall be treated as a supply for qualifying use; and
- (b) in any other case, an apportionment shall be made to determine the extent to which the supply is a supply for qualifying use.

**Textual Amendments**

**F161** Sch. A1 para. 1(1)(1A)(1B) substituted (1.7.1998) for sub-para. (1) by S.I. 1998/1375, arts. 1, 3

*Interpretation*

2 For the purposes of this Schedule the following supplies are always for domestic use—

- (a) a supply of not more than one tonne of coal or coke held out for sale as domestic fuel;
- (b) a supply of wood, peat or charcoal not intended for sale by the recipient;
- (c) a supply to a person at any premises of piped gas (that is, gas within <sup>[F162]</sup>paragraph 1(1)(a)(ii) above, or petroleum gas in a gaseous state, provided through pipes) where the gas (together with any other piped gas provided to him at the premises by the same supplier) was not provided at a rate exceeding 150 therms a month or, if the supplier charges for the gas by reference to the number of kilowatt hours supplied, 4397 kilowatt hours a month;
- (d) a supply of petroleum gas in a liquid state where the gas is supplied in cylinders the net weight of each of which is less than 50 kilogrammes and either the number of cylinders supplied is 20 or fewer or the gas is not intended for sale by the recipient;
- (e) a supply of petroleum gas in a liquid state, otherwise than in cylinders, to a person at any premises at which he is not able to store more than two tonnes of such gas;
- (f) a supply of not more than 2,300 litres of fuel oil, gas oil or kerosene;
- (g) a supply of electricity to a person at any premises where the electricity (together with any other electricity provided to him at the premises by the same supplier) was not provided at a rate exceeding 1000 kilowatt hours a month.

**Textual Amendments**

**F162** Words in Sch. A1 para. 2(c) substituted (1.7.1998) by S.I. 1998/1375, arts. 1, 4

3 (1) For the purposes of this Schedule supplies not within paragraph 2 above are for domestic use if and only if the goods supplied are for use in—

- (a) a building, or part of a building, which consists of a dwelling or number of dwellings;
- (b) a building, or part of a building, used for a relevant residential purpose;
- (c) self-catering holiday accommodation;

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- (d) a caravan; or
  - (e) a houseboat.
- (2) For the purposes of this Schedule use for a relevant residential purpose means use as—
- (a) a home or other institution providing residential accommodation for children;
  - (b) a home or other institution providing residential accommodation with personal care for persons in need of personal care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder;
  - (c) a hospice;
  - (d) residential accommodation for students or school pupils;
  - (e) residential accommodation for members of any of the armed forces;
  - (f) a monastery, nunnery or similar establishment; or
  - (g) an institution which is the sole or main residence of at least 90 per cent. of its residents,
- except use as a hospital, a prison or similar institution or an hotel or inn or similar establishment.
- (3) For the purposes of this Schedule self-catering holiday accommodation includes any accommodation advertised or held out as such.
- (4) In this Schedule “houseboat” means a boat or other floating decked structure designed or adapted for use solely as a place of permanent habitation and not having means of, or capable of being readily adapted for, self-propulsion.
- 4 (1) Paragraph 1(1)(a) [F<sup>163</sup>(i)] above shall be deemed to include combustible materials put up for sale for kindling fires but shall not include matches.
- (2) [F<sup>164</sup>Paragraph 1(1)(a)(ii) and (iii)] above shall not include any road fuel gas (within the meaning of the <sup>M50</sup>Hydrocarbon Oil Duties Act 1979) on which a duty of excise has been charged or is chargeable.
- (3) [F<sup>165</sup>Paragraph 1(1)(a)(iv)] above shall not include hydrocarbon oil on which a duty of excise has been or is to be charged without relief from, or rebate of, such duty by virtue of the provisions of the Hydrocarbon Oil Duties Act 1979.
- (4) In this Schedule “fuel oil” means heavy oil which contains in solution an amount of asphaltenes of not less than 0.5 per cent. or which contains less than 0.5 per cent. but not less than 0.1 per cent. of asphaltenes and has a closed flash point not exceeding 150°C.
- (5) In this Schedule “gas oil” means heavy oil of which not more than 50 per cent. by volume distils at a temperature not exceeding 240°C and of which more than 50 per cent. by volume distils at a temperature not exceeding 340°C.
- (6) In this Schedule “kerosene” means heavy oil of which more than 50 per cent. by volume distils at a temperature not exceeding 240°C.
- (7) In this Schedule “heavy oil” shall have the same meaning as in the Hydrocarbon Oil Duties Act 1979.



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### Textual Amendments

- F163** Word in Sch. A1 para. 4(1) inserted (1.7.1998) by S.I. 1998/1375, arts. 1, 5(a)  
**F164** Words in Sch. A1 para. 4(2) substituted (1.7.1998) by S.I. 1998/1375, arts. 1, 5(b)  
**F165** Words in Sch. A1 para. 4(3) substituted (1.7.1998) by S.I. 1998/1375, arts. 1, 5(c)

### Marginal Citations

- M50** 1979 c. 5.

- <sup>F166</sup>5 (1) For the purposes of this paragraph—
- (a) “the Contributions and Benefits Act” means the Social Security Contributions and Benefits Act 1992 <sup>F167</sup>; and
  - (b) “the Northern Ireland Act” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992 <sup>F168</sup>.
- (2) For the purposes of paragraph 1(1) above a person to whom a supply is made is “a qualifying person” if at the time of the supply he—
- (a) is aged 60 or over; or
  - (b) is in receipt of one or more of the benefits mentioned in sub-paragraph (3) below.
- (3) The benefits referred to in sub-paragraph (2) above are as follows—
- (a) council tax benefit under Part VII of the Contributions and Benefits Act;
  - (b) disability living allowance under Part III of the Contributions and Benefits Act or Part III of the Northern Ireland Act;
  - (c) disability working allowance under Part VII of the Contributions and Benefits Act or Part VII of the Northern Ireland Act;
  - (d) family credit under Part VII of the Contributions and Benefits Act or Part VII of the Northern Ireland Act;
  - (e) housing benefit under Part VII of the Contributions and Benefits Act or Part VII of the Northern Ireland Act;
  - (f) an income-based jobseeker’s allowance within the meaning of section 1(4) of the Jobseekers Act 1995 <sup>F169</sup> or Article 3(4) of the Jobseekers (Northern Ireland) Order 1995 <sup>F170</sup>;
  - (g) income support under Part VII of the Contributions and Benefits Act or Part VII of the Northern Ireland Act;
  - (h) disablement pension under Part V of the Contributions and Benefits Act or Part V of the Northern Ireland Act, which is payable at the increased rate provided for under section 104 (constant attendance allowance) of the Act concerned; and
  - (i) war disablement pension under the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983 <sup>F171</sup>, which is payable at the increased rate provided for under article 14 (constant attendance allowance) or article 26A (mobility supplement) of that Order.
- (4) For the purposes of paragraph 1(1)(b) and (c) above “energy-saving materials” means any of the following—
- (a) insulation for walls, floors, ceilings, roofs or lofts or for water tanks, pipes or other plumbing fittings;

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- (b) draught stripping for windows and doors;
  - (c) central heating system controls;
  - (d) hot water system controls.
- (5) For the purposes of paragraph 1(1A) and (1B) above a scheme is a “relevant scheme” if it is one which—
- (a) has as one of its objectives the funding of the installation of energy-saving materials in the homes of any persons who are qualifying persons, and
  - (b) disburses, whether directly or indirectly, its grants in whole or in part out of funds made available to it in order to achieve that objective—
    - (i) by the Secretary of State,
    - (ii) by the European Community,
    - (iii) under an arrangement approved by the Director General of Electricity Supply, the Director General of Electricity Supply for Northern Ireland or the Director General of Gas Supply, or
    - (iv) by a local authority <sup>F172</sup>.]

#### Textual Amendments

**F166** Sch. A1 para. 5 inserted (1.7.1998) by S.I. 1998/1375, arts. 1, 6

**F167** 1992 c. 4.

**F168** 1992 c. 7.

**F169** 1995 c. 18.

**F170** S.I. 1995/2705 (N.I. 15).

**F171** S.I. 1983/883; relevant amending instruments are S.I. 1983/1116, 1983/1521, 1986/592, 1990/1308, 1991/766, 1992/710, 1995/766, 1997/286.

**F172** Local authority is defined in section 96(4) of the Value Added Tax Act 1994 (c. 23) (as amended by article 2 of S.I. 1995/1510 and article 7(1) of, and paragraph 8 of Schedule 1 to, S.I. 1996/739) as the council of a county, county borough, district, London borough, parish or group of parishes (or in Wales, community or group of communities), the Common Council of the City of London, the Council of the Isles of Scilly, and any joint committee or joint board established by two or more of the foregoing and, in relation to Scotland, a council constituted under section 2 of the Local Government (Scotland) Act 1994 (c. 39), any two or more such councils and any joint committee or joint board within the meaning of section 235(1) of the Local Government (Scotland) Act 1973 (c. 65).

VALID FROM 01/01/2001

- [<sup>F173</sup>6 (1) In paragraph 1(4) above “women’s sanitary protection products” means women’s sanitary protection products of any of the following descriptions—
- (a) subject to sub-paragraph (2) below, products that are designed, and marketed, as being solely for use for absorbing, or otherwise collecting, lochia or menstrual flow;
  - (b) panty liners, other than panty liners that are designed as being primarily for use as incontinence products;
  - (c) sanitary belts.
- (2) Sub-paragraph (1)(a) above does not include protective briefs or any other item of clothing.]

**Status:** Point in time view as at 29/02/2000. This version of this Act contains provisions that are not valid for this point in time.

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## Textual Amendments

**F173** Sch. A1 para. 6 inserted (1.1.2001) by S.I. 2000/2954, art. 4

VALID FROM 11/05/2001

### *Interpretation of paragraph 1(5)*

- [<sup>F174</sup>7 (1) Paragraph 1(5) above is interpreted in accordance with the provisions of this paragraph.
- (2) The following are “children’s car seats”—
- (a) a safety seat;
  - (b) the combination of a safety seat and a related wheeled framework;
  - (c) a booster seat;
  - (d) a booster cushion.
- (3) In this paragraph “safety seat” means a seat—
- (a) designed to be sat in by a child in a road vehicle,
  - (b) designed so that, when in use in a road vehicle, it can be restrained—
    - (i) by a seat belt fitted in the vehicle, or
    - (ii) by belts, or anchorages, that form part of the seat being attached to the vehicle, or
    - (iii) in either of those ways, and
  - (c) incorporating an integral harness, or integral impact shield, for restraining a child seated in it.
- (4) For the purposes of this paragraph, a wheeled framework is “related” to a safety seat if the framework and the seat are each designed so that—
- (a) when the seat is not in use in a road vehicle it can be attached to the framework, and
  - (b) when the seat is so attached, the combination of the seat and the framework can be used as a child’s pushchair.
- (5) In this paragraph “booster seat” means a seat designed—
- (a) to be sat in by a child in a road vehicle, and
  - (b) so that, when in use in a road vehicle, it and a child seated in it can be restrained by a seat belt fitted in the vehicle.
- (6) In this paragraph “booster cushion” means a cushion designed—
- (a) to be sat on by a child in a road vehicle, and
  - (b) so that a child seated on it can be restrained by a seat belt fitted in the vehicle.
- (7) In this paragraph “child” means a person aged under 14 years.]

**Status:** Point in time view as at 29/02/2000. This version of this Act contains provisions that are not valid for this point in time.

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### Textual Amendments

**F174** Sch. A1 para. 7 inserted (11.5.2001 with effect as mentioned in s. 96(3) of the amending Act) by 2001 c. 9, s. 96(2)

VALID FROM 11/05/2001

### *Interpretation of paragraph 1(6): introductory*

[<sup>F175</sup>8 (1) Paragraph 1(6) above is interpreted in accordance with paragraphs 9 to 17 and 22 below.

- (2) In paragraphs 10 to 14 below, “single household dwelling” means a dwelling—
- (a) that is designed for occupation by a single household, and
  - (b) in relation to which the conditions set out in sub-paragraph (4) below are satisfied.
- (3) In paragraphs 10 to 14 below “multiple occupancy dwelling” means a dwelling—
- (a) that is designed for occupation by persons not forming a single household, and
  - (b) in relation to which the conditions set out in sub-paragraph (4) below are satisfied.
- (4) The conditions are—
- (a) that the dwelling consists of self-contained living accommodation,
  - (b) that there is no provision for direct internal access from the dwelling to any other dwelling or part of a dwelling,
  - (c) that the separate use of the dwelling is not prohibited by the terms of any covenant, statutory planning consent or similar provision, and
  - (d) that the separate disposal of the dwelling is not prohibited by any such terms.
- (5) For the purposes of this paragraph, a dwelling “is designed” for occupation of a particular kind if it is so designed—
- (a) as a result of having been originally constructed for occupation of that kind and not having been subsequently adapted for occupation of any other kind, or
  - (b) as a result of adaptation.]

### Textual Amendments

**F175** Sch. A1 paras. 8-22 inserted (11.5.2001 with effect as mentioned in s. 97(3) of the amending Act) by 2001 c. 9, s. 97(2)

**Status:** Point in time view as at 29/02/2000. This version of this Act contains provisions that are not valid for this point in time.  
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VALID FROM 11/05/2001

*Interpretation of paragraph 1(6): meaning of “qualifying conversion”*

- <sup>F176</sup>9 (1) A “qualifying conversion” means—
- (a) a changed number of dwellings conversion (see paragraph 10 below);
  - (b) house in multiple occupation conversion (see paragraph 11 below); or
  - (c) a special residential conversion (see paragraph 12 below).
- (2) Sub-paragraph (1) above is subject to paragraphs 14 and 15 below.

**Textual Amendments**

<sup>F176</sup> Sch. A1 paras. 8-22 inserted (11.5.2001 with effect as mentioned in s. 97(3) of the amending Act) by 2001 c. 9, s. 97(2)

VALID FROM 11/05/2001

*Interpretation of paragraph 1(6): meaning of “changed number of dwellings conversion”*

- <sup>F177</sup>10 (1) A “changed number of dwellings conversion” is—
- (a) a conversion of premises consisting of a building where the conditions specified in this paragraph are satisfied, or
  - (b) a conversion of premises consisting of a part of a building where those conditions are satisfied.
- (2) The first condition is that after the conversion the premises being converted contain a number of single household dwellings that is—
- (a) different from the number (if any) that the premises contain before the conversion, and
  - (b) greater than, or equal to, one.
- (3) The second condition is that there is no part of the premises being converted that is a part that after the conversion contains the same number of single household dwellings (whether zero, one or two or more) as before the conversion.

**Textual Amendments**

<sup>F177</sup> Sch. A1 paras. 8-22 inserted (11.5.2001 with effect as mentioned in s. 97(3) of the amending Act) by 2001 c. 9, s. 97(2)

VALID FROM 11/05/2001

*Interpretation of paragraph 1(6): meaning of “house in multiple occupation conversion”*

- <sup>F178</sup>11 (1) A “house in multiple occupation conversion” is—

**Status:** Point in time view as at 29/02/2000. This version of this Act contains provisions that are not valid for this point in time.

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- (a) a conversion of premises consisting of a building where the condition specified in sub-paragraph (2) below is satisfied, or
  - (b) a conversion of premises consisting of a part of a building where that condition is satisfied.
- (2) The condition is that—
- (a) before the conversion the premises being converted contain only a single household dwelling or two or more such dwellings,
  - (b) after the conversion those premises contain only a multiple occupancy dwelling or two or more such dwellings, and
  - (c) the use to which those premises are intended to be put after the conversion is not to any extent use for a qualifying residential purpose (see paragraph 17 below).

#### Textual Amendments

**F178** Sch. A1 paras. 8-22 inserted (11.5.2001 with effect as mentioned in s. 97(3) of the amending Act) by 2001 c. 9, s. 97(2)

VALID FROM 11/05/2001

#### *Interpretation of paragraph 1(6): meaning of “special residential conversion”*

- <sup>F179</sup>12 (1) A “special residential conversion” is a conversion of premises consisting of—
- (a) a building or two or more buildings,
  - (b) a part of a building or two or more parts of buildings, or
  - (c) a combination of—
    - (i) a building or two or more buildings, and
    - (ii) a part of a building or two or more parts of buildings,
 where the conditions specified in this paragraph are satisfied.
- (2) The first condition is that, before the conversion, the premises being converted contain only—
- (a) a dwelling or two or more dwellings, or
  - (b) a dwelling, or two or more dwellings, and—
    - (i) an ancillary outbuilding occupied together with the dwelling or one or more of the dwellings, or
    - (ii) two or more ancillary outbuildings each occupied together with the dwelling or one or more of the dwellings.
- (3) In sub-paragraph (2) above “dwelling” means single household dwelling or multiple occupancy dwelling.
- (4) The second condition is that where before the conversion the premises being converted contain a multiple occupancy dwelling or two or more such dwellings, the use to which that dwelling, or any of those dwellings, was last put before the conversion was not to any extent use for a qualifying residential purpose (see paragraph 17 below).

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- (5) The third condition is that the premises being converted must be intended to be used after the conversion solely for a qualifying residential purpose.
- (6) The fourth condition is that, where the qualifying residential purpose is an institutional purpose, the premises being converted must be intended to form after the conversion the entirety of an institution used for that purpose.
- (7) In sub-paragraph (6) above “institutional purpose” means a purpose within paragraph 17(a) to (c), (f) or (g) below.

#### Textual Amendments

**F179** Sch. A1 paras. 8-22 inserted (11.5.2001 with effect as mentioned in s. 97(3) of the amending Act) by 2001 c. 9, s. 97(2)

VALID FROM 11/05/2001

#### *Special residential conversions: reduced rate only for supplies made to intended user of converted accommodation*

- F180** 13 (1) This paragraph applies where the qualifying conversion concerned is a special residential conversion.
- (2) Paragraph 1(6)(a) or (b) above does not apply to a supply unless—
    - (a) it is made to a person who intends to use the premises being converted for the qualifying residential purpose, and
    - (b) before it is made, the person to whom it is made has given to the person making it a certificate that satisfies the requirements in sub-paragraph (3) below.
  - (3) Those requirements are that the certificate—
    - (a) is in such form as may be specified in a notice published by the Commissioners, and
    - (b) states that the conversion is a special residential conversion.
  - (4) In sub-paragraph (2)(a) above “the qualifying residential purpose” means the purpose within paragraph 17 below for which the premises being converted are intended to be used after the conversion.

#### Textual Amendments

**F180** Sch. A1 paras. 8-22 inserted (11.5.2001 with effect as mentioned in s. 97(3) of the amending Act) by 2001 c. 9, s. 97(2)

**Status:** Point in time view as at 29/02/2000. This version of this Act contains provisions that are not valid for this point in time.

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VALID FROM 11/05/2001

*Interpretation of paragraph 1(6): “qualifying conversion” includes related garage works*

- F181** 14 (1) A qualifying conversion includes any garage works related to the—
- (a) changed number of dwellings conversion,
  - (b) house in multiple occupation conversion, or
  - (c) special residential conversion,
- concerned.
- (2) In this paragraph “garage works” means—
- (a) the construction of a garage, or
  - (b) a conversion of a non-residential building, or of a non-residential part of a building, that results in a garage.
- (3) For the purposes of sub-paragraph (1) above, garage works are “related” to a conversion if—
- (a) they are carried out at the same time as the conversion, and
  - (b) the resulting garage is intended to be occupied with—
    - (i) where the conversion concerned is a changed number of dwellings conversion, a single household dwelling that will after the conversion be contained in the building, or part of a building, being converted,
    - (ii) where the conversion concerned is a house in multiple occupation conversion, a multiple occupancy dwelling that will after the conversion be contained in the building, or part of a building, being converted, or
    - (iii) where the conversion concerned is a special residential conversion, the institution or other accommodation resulting from the conversion.
- (4) In sub-paragraph (2) above “non-residential” means neither designed, nor adapted, for use—
- (a) as a dwelling or two or more dwellings, or
  - (b) for a qualifying residential purpose (see paragraph 17 below).

**Textual Amendments**

**F181** Sch. A1 paras. 8-22 inserted (11.5.2001 with effect as mentioned in s. 97(3) of the amending Act) by 2001 c. 9, s. 97(2)

VALID FROM 11/05/2001

*Interpretation of paragraph 1(6): conversion not “qualifying” if planning consent and building control approval not obtained*

- F182** 15 (1) A conversion is not a qualifying conversion if any statutory planning consent needed for the conversion has not been granted.



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- (2) A conversion is not a qualifying conversion if any statutory building control approval needed for the conversion has not been granted.

#### Textual Amendments

**F182** Sch. A1 paras. 8-22 inserted (11.5.2001 with effect as mentioned in s. 97(3) of the amending Act) by 2001 c. 9, s. 97(2)

VALID FROM 11/05/2001

#### *Interpretation of paragraph 1(6): meaning of “supply of qualifying services”*

- F183** 16 (1) In the case of a conversion of a building, “supply of qualifying services” means a supply of services that consists in—
- (a) the carrying out of works to the fabric of the building, or
  - (b) the carrying out of works within the immediate site of the building that are in connection with—
    - (i) the means of providing water, power, heat or access to the building,
    - (ii) the means of providing drainage or security for the building, or
    - (iii) the provision of means of waste disposal for the building.
- (2) In the case of a conversion of part of a building, “supply of qualifying services” means a supply of services that consists in—
- (a) the carrying out of works to the fabric of the part, or
  - (b) the carrying out of works to the fabric of the building, or within the immediate site of the building, that are in connection with—
    - (i) the means of providing water, power, heat or access to the part,
    - (ii) the means of providing drainage or security for the part, or
    - (iii) the provision of means of waste disposal for the part.
- (3) In this paragraph—
- (a) references to the carrying out of works to the fabric of a building do not include the incorporation, or installation as fittings, in the building of any goods that are not building materials (see paragraph 22 below);
  - (b) references to the carrying out of works to the fabric of a part of a building do not include the incorporation, or installation as fittings, in the part of any goods that are not building materials.

#### Textual Amendments

**F183** Sch. A1 paras. 8-22 inserted (11.5.2001 with effect as mentioned in s. 97(3) of the amending Act) by 2001 c. 9, s. 97(2)

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VALID FROM 11/05/2001

*Interpretation of paragraphs 11 to 14: meaning of “qualifying residential purpose”*

- F184** 17 For the purposes of paragraphs 11 to 14 above, “use for a qualifying residential purpose” means use as—
- (a) a home or other institution providing residential accommodation for children,
  - (b) a home or other institution providing residential accommodation with personal care for persons in need of personal care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder,
  - (c) a hospice,
  - (d) residential accommodation for students or school pupils,
  - (e) residential accommodation for members of any of the armed forces,
  - (f) a monastery, nunnery or similar establishment, or
  - (g) an institution which is the sole or main residence of at least 90 per cent. of its residents,
- except use as a hospital, prison or similar institution or an hotel, inn or similar establishment.

**Textual Amendments**

**F184** Sch. A1 paras. 8-22 inserted (11.5.2001 with effect as mentioned in s. 97(3) of the amending Act) by 2001 c. 9, s. 97(2)

VALID FROM 11/05/2001

*Interpretation of paragraph 1(7): introductory*

- F185** 18 (1) Paragraph 1(7) above is interpreted in accordance with this paragraph and paragraphs 19 to 22 below.
- (2) For the purposes of paragraph 1(7) above (and paragraphs 19 to 21 below)—
- “alteration” includes extension;
  - “single household dwelling” has the meaning given by paragraph 8(2), (4) and (5) above.

**Textual Amendments**

**F185** Sch. A1 paras. 8-22 inserted (11.5.2001 with effect as mentioned in s. 97(3) of the amending Act) by 2001 c. 9, s. 97(2)

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VALID FROM 11/05/2001

*Paragraph 1(7) only applies where dwelling has been empty for at least 3 years*

**F186**19 (1) Paragraph 1(7) above does not apply to a supply unless either of the empty home conditions is satisfied.

(2) The first “empty home condition” is that the dwelling concerned has not been lived in during the period of 3 years ending with the commencement of the relevant works.

(3) The second “empty home condition” is that—

- (a) the dwelling was not lived in during a period of at least 3 years;
- (b) the person, or one of the persons, whose beginning to live in the dwelling brought that period to an end was a person who (whether alone or jointly with another or others) acquired the dwelling at a time—
  - (i) no later than the end of that period, and
  - (ii) when the dwelling had been not lived in for at least 3 years;
- (c) no works by way of renovation or alteration were carried out to the dwelling during the period of 3 years ending with the acquisition;
- (d) the supply is made to a person who is—
  - (i) the person, or one of the persons, whose beginning to live in the property brought to an end the period mentioned in paragraph (a) above, and
  - (ii) the person, or one of the persons, who acquired the dwelling as mentioned in paragraph (b) above; and
- (e) the relevant works are carried out during the period of one year beginning with the day of the acquisition.

(4) In this paragraph “the relevant works” means—

- (a) where the supply is of the description set out in paragraph 1(7)(a) above, the works that constitute the services supplied;
- (b) where the supply is of the description set out in paragraph 1(7)(b) above, the works by which the materials concerned are incorporated in the dwelling concerned or its immediate site.

(5) In sub-paragraph (3) above, references to a person acquiring a dwelling are to that person having a major interest in the dwelling granted, or assigned, to him for a consideration.

#### Textual Amendments

**F186** Sch. A1 paras. 8-22 inserted (11.5.2001 with effect as mentioned in s. 97(3) of the amending Act) by 2001 c. 9, s. 97(2)

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VALID FROM 11/05/2001

*Paragraph 1(7) only applies if planning consent and building control approval obtained*

**F187**<sup>20</sup> (1) Paragraph 1(7) above does not apply to a supply unless any statutory planning consent needed for the renovation or alteration has been granted.

(2) Paragraph 1(7) above does not apply to a supply unless any statutory building control approval needed for the renovation or alteration has been granted.

#### Textual Amendments

**F187** Sch. A1 paras. 8-22 inserted (11.5.2001 with effect as mentioned in s. 97(3) of the amending Act) by 2001 c. 9, s. 97(2)

VALID FROM 11/05/2001

*Interpretation of paragraph 1(7): meaning of “supply of qualifying services”*

**F188**<sup>21</sup> (1) “Supply of qualifying services” means a supply of services that consists in—

- (a) the carrying out of works to the fabric of the dwelling, or
- (b) the carrying out of works within the immediate site of the dwelling that are in connection with—
  - (i) the means of providing water, power, heat or access to the dwelling,
  - (ii) the means of providing drainage or security for the dwelling, or
  - (iii) the provision of means of waste disposal for the dwelling.

(2) In sub-paragraph (1)(a) above, the reference to the carrying out of works to the fabric of the dwelling does not include the incorporation, or installation as fittings, in the dwelling of any goods that are not building materials (see paragraph 22 below).

#### Textual Amendments

**F188** Sch. A1 paras. 8-22 inserted (11.5.2001 with effect as mentioned in s. 97(3) of the amending Act) by 2001 c. 9, s. 97(2)

VALID FROM 11/05/2001

*Interpretation of paragraph 1(6) and (7): meaning of “building materials”*

**F189**<sup>22</sup> “Building materials” has the meaning given by Notes (22) and (23) of Group 5 to Schedule 8 (zero-rating of construction and conversion of buildings).

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### Textual Amendments

**F189** Sch. A1 paras. 8-22 inserted (11.5.2001 with effect as mentioned in s. 97(3) of the amending Act) by 2001 c. 9, s. 97(2)

## SCHEDULE 1

Section 3(2).

### REGISTRATION IN RESPECT OF TAXABLE SUPPLIES

#### *Liability to be registered*

- 1 (1) Subject to sub-paragraphs (3) to (7) below, a person who makes taxable supplies but is not registered under this Act becomes liable to be registered under this Schedule—
  - (a) at the end of any month, if the value of his taxable supplies in the period of one year then ending has exceeded [<sup>F190</sup>£51,000]; or
  - (b) at any time, if there are reasonable grounds for believing that the value of his taxable supplies in the period of 30 days then beginning will exceed [<sup>F190</sup>£51,000].
- (2) Where a business carried on by a taxable person is transferred to another person as a going concern and the transferee is not registered under this Act at the time of the transfer, then, subject to sub-paragraphs (3) to (7) below, the transferee becomes liable to be registered under this Schedule at that time if—
  - (a) the value of his taxable supplies in the period of one year ending at the time of the transfer has exceeded [<sup>F190</sup>£51,000]; or
  - (b) there are reasonable grounds for believing that the value of his taxable supplies in the period of 30 days beginning at the time of the transfer will exceed [<sup>F190</sup>£51,000].
- (3) A person does not become liable to be registered by virtue of sub-paragraph (1) (a) or (2)(a) above if the Commissioners are satisfied that the value of his taxable supplies in the period of one year beginning at the time at which, apart from this sub-paragraph, he would become liable to be registered will not exceed [<sup>F191</sup>£49,000].
- (4) In determining the value of a person's supplies for the purposes of sub-paragraph (1) (a) or (2)(a) above, supplies made at a time when he was previously registered under this Act shall be disregarded if—
  - (a) his registration was cancelled otherwise than under paragraph 13(3) below, paragraph 6(2) of Schedule 2 or paragraph 6(3) of Schedule 3, and
  - (b) the Commissioners are satisfied that before his registration was cancelled he had given them all the information they needed in order to determine whether to cancel the registration.
- (5) A person shall be treated as having become liable to be registered under this Schedule at any time when he would have become so liable under the preceding provisions of this paragraph but for any registration which is subsequently cancelled under paragraph 13(3) below, paragraph 6(2) of Schedule 2 or paragraph 6(3) of Schedule 3.

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- (6) A person shall not cease to be liable to be registered under this Schedule except in accordance with paragraph 2(5), 3 or 4 below.
- (7) In determining the value of a person's supplies for the purposes of sub-paragraph (1) or (2) above, supplies of goods or services that are capital assets of the business in the course or furtherance of which they are supplied and any taxable supplies which would not be taxable supplies apart from section 7(4) shall be disregarded.
- (8) Where, apart from this sub-paragraph, an interest in, right over or licence to occupy any land would under sub-paragraph (7) above be disregarded for the purposes of sub-paragraph (1) or (2) above, it shall not be if it is supplied on a taxable supply which is not zero-rated.
- [<sup>F192</sup>(9) In determining the value of a person's supplies for the purposes of sub-paragraph (1) or (2) above, supplies to which section 18B(4) (last acquisition or supply of goods before removal from fiscal warehousing) applies and supplies treated as made by him under section 18C(3) (self-supply of services on removal of goods from warehousing) shall be disregarded.]

#### Textual Amendments

**F190** Words in *Sch. 1 para. 1(1)(a)(b)(2)(a)(b)* substituted (1.4.1999) by *S.I. 1999/595, art. 2(a)*

**F191** Word in *Sch. 1 para. 1(3)* substituted (1.4.1999) by *S.I. 1999/595, art. 2(b)*

**F192** *Sch. 1 para. 1(9)* added (1.6.1996 with application to any acquisition of goods from another member State and any supply taking place on or after that day) by *1996 c. 8, ss. 25, 26, Sch. 3 para. 13; S.I. 1996/1249, art. 2*

- [<sup>F193</sup>1A(1) Paragraph 2 below is for the purpose of preventing the maintenance or creation of any artificial separation of business activities carried on by two or more persons from resulting in an avoidance of VAT.
- (2) In determining for the purposes of sub-paragraph (1) above whether any separation of business activities is artificial, regard shall be had to the extent to which the different persons carrying on those activities are closely bound to one another by financial, economic and organisational links.]

#### Textual Amendments

**F193** *Sch. 1 para. 1A* inserted (19.3.1997) by *1997 c. 16, s. 31(1)*

- 2 (1) Without prejudice to paragraph 1 above, if the Commissioners make a direction under this paragraph, the persons named in the direction shall be treated as a single taxable person carrying on the activities of a business described in the direction and that taxable person shall be liable to be registered under this Schedule with effect from the date of the direction or, if the direction so provides, from such later date as may be specified therein.
- (2) The Commissioners shall not make a direction under this paragraph naming any person unless they are satisfied—
- (a) that he is making or has made taxable supplies; and
  - (b) that the activities in the course of which he makes or made those taxable supplies form only part of certain activities <sup>F194</sup> . . . , the other activities being

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- carried on concurrently or previously (or both) by one or more other persons;  
and
- (c) that, if all the taxable supplies of [<sup>F195</sup>the business described in the direction] were taken into account, a person carrying on that business would at the time of the direction be liable to be registered by virtue of paragraph 1 above;  
<sup>F196</sup> . . .
- <sup>F196</sup>(d) . . . . .
- (3) A direction made under this paragraph shall be served on each of the persons named in it.
- (4) Where, after a direction has been given under this paragraph specifying a description of business, it appears to the Commissioners that a person who was not named in that direction is making taxable supplies in the course of activities which should <sup>F197</sup> . . . be regarded as part of the activities of that business, the Commissioners may make and serve on him a supplementary direction referring to the earlier direction and the description of business specified in it and adding that person’s name to those of the persons named in the earlier direction with effect from—
- (a) the date on which he began to make those taxable supplies, or
- (b) if it was later, the date with effect from which the single taxable person referred to in the earlier direction became liable to be registered under this Schedule.
- (5) If, immediately before a direction (including a supplementary direction) is made under this paragraph, any person named in the direction is registered in respect of the taxable supplies made by him as mentioned in sub-paragraph (2) or (4) above, he shall cease to be liable to be so registered with effect from whichever is the later of—
- (a) the date with effect from which the single taxable person concerned became liable to be registered; and
- (b) the date of the direction.
- (6) In relation to a business specified in a direction under this paragraph, the persons named in the direction, together with any person named in a supplementary direction relating to that business (being the persons who together are to be treated as the taxable person), are in sub-paragraphs (7) and (8) below referred to as “the constituent members”.
- (7) Where a direction is made under this paragraph then, for the purposes of this Act—
- (a) the taxable person carrying on the business specified in the direction shall be registerable in such name as the persons named in the direction may jointly nominate by notice in writing given to the Commissioners not later than 14 days after the date of the direction or, in default of such a nomination, in such name as may be specified in the direction;
- (b) any supply of goods or services by or to one of the constituent members in the course of the activities of the taxable person shall be treated as a supply by or to that person;
- (c) any acquisition of goods from another member State by one of the constituent members in the course of the activities of the taxable person shall be treated as an acquisition by that person;
- (d) each of the constituent members shall be jointly and severally liable for any VAT due from the taxable person;

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- (e) without prejudice to paragraph (d) above, any failure by the taxable person to comply with any requirement imposed by or under this Act shall be treated as a failure by each of the constituent members severally; and
  - (f) subject to paragraphs (a) to (e) above, the constituent members shall be treated as a partnership carrying on the business of the taxable person and any question as to the scope of the activities of that business at any time shall be determined accordingly.
- (8) If it appears to the Commissioners that any person who is one of the constituent members should no longer be regarded as such for the purposes of paragraphs (d) and (e) of sub-paragraph (7) above and they give notice to that effect, he shall not have any liability by virtue of those paragraphs for anything done after the date specified in that notice and, accordingly, on that date he shall be treated as having ceased to be a member of the partnership referred to in paragraph (f) of that sub-paragraph.

#### Textual Amendments

**F194** Words in Sch. 1 para. 2(2)(b) repealed (19.3.1997 with effect in accordance with s. 39 of the repealing Act) by 1997 c. 16, ss. 31(2)(a)(4), 113, Sch. 18 Pt. IV(1) Note

**F195** Words in Sch. 1 para. 2(c) substituted (19.3.1997) by 1997 c. 16, s. 31(2)(b)(4)

**F196** Sch. 1 para. 2(2)(d) and word “and” immediately preceding it repealed (19.3.1997 with effect in accordance with s. 39 of the repealing Act) by 1997 c. 16, ss. 31(2)(c)(4), 113, Sch. 18 Pt. IV(1) Note

**F197** Word in Sch. 1 para. 2(4) repealed (19.3.1997 with effect in accordance with s. 39 of the repealing Act) by 1997 c. 16, ss. 31(2)(4), 113, Sch. 18 Pt. IV(1) Note

- 3 A person who has become liable to be registered under this Schedule shall cease to be so liable at any time if the Commissioners are satisfied in relation to that time that he—
- (a) has ceased to make taxable supplies; or
  - (b) is not at that time a person in relation to whom any of the conditions specified in paragraphs 1(1)(a) and (b) and (2)(a) and (b) above is satisfied.
- 4 (1) Subject to sub-paragraph (2) below, a person who has become liable to be registered under this Schedule shall cease to be so liable at any time after being registered if the Commissioners are satisfied that the value of his taxable supplies in the period of one year then beginning will not exceed [<sup>F198</sup>£49,000].
- (2) A person shall not cease to be liable to be registered under this Schedule by virtue of sub-paragraph (1) above if the Commissioners are satisfied that the reason the value of his taxable supplies will not exceed [<sup>F198</sup>£49,000] is that in the period in question he will cease making taxable supplies, or will suspend making them for a period of 30 days or more.
- (3) In determining the value of a person’s supplies for the purposes of sub-paragraph (1) above, supplies of goods or services that are capital assets of the business in the course or furtherance of which they are supplied and any taxable supplies which would not be taxable supplies apart from section 7(4) shall be disregarded.
- (4) Where, apart from this sub-paragraph, an interest in, right over or licence to occupy any land would under sub-paragraph (3) above be disregarded for the purposes of sub-paragraph (1) above, it shall not be if it is supplied on a taxable supply which is not zero-rated.



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### Textual Amendments

**F198** Words in Sch. 1 para. 4(1)(2) substituted (1.4.1999) by S.I. 1999/595, art. 2(b)

#### *Notification of liability and registration*

- 5 (1) A person who becomes liable to be registered by virtue of paragraph 1(1)(a) above shall notify the Commissioners of the liability within 30 days of the end of the relevant month.
- (2) The Commissioners shall register any such person (whether or not he so notifies them) with effect from the end of the month following the relevant month or from such earlier date as may be agreed between them and him.
- (3) In this paragraph “the relevant month”, in relation to a person who becomes liable to be registered by virtue of paragraph 1(1)(a) above, means the month at the end of which he becomes liable to be so registered.
- 6 (1) A person who becomes liable to be registered by virtue of paragraph 1(1)(b) above shall notify the Commissioners of the liability before the end of the period by reference to which the liability arises.
- (2) The Commissioners shall register any such person (whether or not he so notifies them) with effect from the beginning of the period by reference to which the liability arises.
- 7 (1) A person who becomes liable to be registered by virtue of paragraph 1(2) above shall notify the Commissioners of the liability within 30 days of the time when the business is transferred.
- (2) The Commissioners shall register any such person (whether or not he so notifies them) with effect from the time when the business is transferred.
- 8 Where a person becomes liable to be registered by virtue of paragraph 1(1)(a) above and by virtue of paragraph 1(1)(b) or 1(2) above at the same time, the Commissioners shall register him in accordance with paragraph 6(2) or 7(2) above, as the case may be, rather than paragraph 5(2) above.

#### *Entitlement to be registered*

- 9 Where a person who is not liable to be registered under this Act and is not already so registered satisfies the Commissioners that he—
- (a) makes taxable supplies; or
- (b) is carrying on a business and intends to make such supplies in the course or furtherance of that business,
- they shall, if he so requests, register him with effect from the day on which the request is made or from such earlier date as may be agreed between them and him.
- 10 (1) Where a person who is not liable to be registered under this Act and is not already so registered satisfies the Commissioners that he—
- (a) makes supplies within sub-paragraph (2) below; or
- (b) is carrying on a business and intends to make such supplies in the course or furtherance of that business,

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and (in either case) is within sub-paragraph (3) below, they shall, if he so requests, register him with effect from the day on which the request is made or from such earlier date as may be agreed between them and him.

- [<sup>F199</sup>(2) A supply is within this sub-paragraph if—
- (a) it is made outside the United Kingdom but would be a taxable supply if made in the United Kingdom; or
  - (b) it is specified for the purposes of subsection (2) of section 26 in an order made under paragraph (c) of that subsection.]
- (3) A person is within this sub-paragraph if—
- (a) he has a business establishment in the United Kingdom or his usual place of residence is in the United Kingdom; and
  - (b) he does not make and does not intend to make taxable supplies.
- (4) For the purposes of this paragraph—
- (a) a person carrying on a business through a branch or agency in the United Kingdom shall be treated as having a business establishment in the United Kingdom, and
  - (b) “usual place of residence”, in relation to a body corporate, means the place where it is legally constituted.

#### Textual Amendments

**F199** Sch. 1 para. 10(2) substituted (19.3.1997) by 1997 c. 16, s. 32

#### *Notification of end of liability or entitlement etc*

- 11 A person registered under paragraph 5, 6 or 9 above who ceases to make or have the intention of making taxable supplies shall notify the Commissioners of that fact within 30 days of the day on which he does so unless he would, when he so ceases, be otherwise liable or entitled to be registered under this Act if his registration and any enactment preventing a person from being liable to be registered under different provisions at the same time were disregarded.
- 12 A person registered under paragraph 10 above who—
- (a) ceases to make or have the intention of making supplies within sub-paragraph (2) of that paragraph; or
  - (b) makes or forms the intention of making taxable supplies,
- shall notify the Commissioners of that fact within 30 days of the day on which he does so unless, in the case of a person ceasing as mentioned in sub-paragraph (a) above, he would, when he so ceases, be otherwise liable or entitled to be registered under this Act if his registration and any enactment preventing a person from being liable to be registered under different provisions at the same time were disregarded.

#### *Cancellation of registration*

- 13 (1) Subject to sub-paragraph (4) below, where a registered person satisfies the Commissioners that he is not liable to be registered under this Schedule, they shall, if he so requests, cancel his registration with effect from the day on which the request is made or from such later date as may be agreed between them and him.

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- (2) Subject to sub-paragraph (5) below, where the Commissioners are satisfied that a registered person has ceased to be registrable, they may cancel his registration with effect from the day on which he so ceased or from such later date as may be agreed between them and him.
- (3) Where the Commissioners are satisfied that on the day on which a registered person was registered he was not registrable, they may cancel his registration with effect from that day.
- (4) The Commissioners shall not under sub-paragraph (1) above cancel a person's registration with effect from any time unless they are satisfied that it is not a time when that person would be subject to a requirement to be registered under this Act.
- (5) The Commissioners shall not under sub-paragraph (2) above cancel a person's registration with effect from any time unless they are satisfied that it is not a time when that person would be subject to a requirement, or entitled, to be registered under this Act.
- (6) In determining for the purposes of sub-paragraph (4) or (5) above whether a person would be subject to a requirement, or entitled, to be registered at any time, so much of any provision of this Act as prevents a person from becoming liable or entitled to be registered when he is already registered or when he is so liable under any other provision shall be disregarded.
- (7) In this paragraph, any reference to a registered person is a reference to a person who is registered under this Schedule.

#### *Exemption from registration*

- 14 (1) Notwithstanding the preceding provisions of this Schedule, where a person who makes or intends to make taxable supplies satisfies the Commissioners that any such supply is zero-rated or would be zero-rated if he were a taxable person, they may, if he so requests and they think fit, exempt him from registration under this Schedule until it appears to them that the request should no longer be acted upon or is withdrawn.
- (2) Where there is a material change in the nature of the supplies made by a person exempted under this paragraph from registration under this Schedule, he shall notify the Commissioners of the change—
  - (a) within 30 days of the date on which it occurred; or
  - (b) if no particular day is identifiable as the day on which it occurred, within 30 days of the end of the quarter in which it occurred.
- (3) Where there is a material alteration in any quarter in the proportion of taxable supplies of such a person that are zero-rated, he shall notify the Commissioners of the alteration within 30 days of the end of the quarter.

#### *Power to vary specified sums by order*

- 15 The Treasury may by order substitute for any of the sums for the time being specified in this Schedule such greater sums as they think fit.

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### *Supplementary*

- 16 The value of a supply of goods or services shall be determined for the purposes of this Schedule on the basis that no VAT is chargeable on the supply.
- 17 Any notification required under this Schedule shall be made in such form and shall contain such particulars as the Commissioners may by regulations prescribe.
- 18 In this Schedule “registrable” means liable or entitled to be registered under this Schedule.
- 19 References in this Schedule to supplies are references to supplies made in the course or furtherance of a business.

## SCHEDULE 2

Section 3(2).

### REGISTRATION IN RESPECT OF SUPPLIES FROM OTHER MEMBER STATES

#### *Liability to be registered*

- 1 (1) A person who—
- (a) is not registered under this Act; and
  - (b) is not liable to be registered under Schedule 1,
- becomes liable to be registered under this Schedule on any day if, in the period beginning with 1st January of the year in which that day falls, that person has made relevant supplies whose value exceeds £70,000.
- (2) A person who is not registered or liable to be registered as mentioned in subparagraph (1)(a) and (b) above becomes liable to be registered under this Schedule where—
- (a) that person has exercised any option, in accordance with the law of any other member State where he is taxable, for treating relevant supplies made by him as taking place outside that member State;
  - (b) the supplies to which the option relates involve the removal of goods from that member State and, apart from the exercise of the option, would be treated, in accordance with the law of that member State, as taking place in that member State; and
  - (c) that person makes a relevant supply at a time when the option is in force in relation to him.
- (3) A person who is not registered or liable to be registered as mentioned in subparagraph (1)(a) and (b) above becomes liable to be registered under this Schedule if he makes a supply in relation to which the following conditions are satisfied, that is to say—
- (a) it is a supply of goods subject to a duty of excise;
  - (b) it involves the removal of the goods to the United Kingdom by or under the directions of the person making the supply;
  - (c) it is a transaction in pursuance of which the goods are acquired in the United Kingdom from another member State by a person who is not a taxable person;

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- (d) it is made on or after 1st January 1993 and in the course or furtherance of a business carried on by the supplier; and
  - (e) it is not anything which is treated as a supply for the purposes of this Act by virtue only of paragraph 5(1) or 6 of Schedule 4.
- (4) A person shall be treated as having become liable to be registered under this Schedule at any time when he would have become so liable under the preceding provisions of this paragraph but for any registration which is subsequently cancelled under paragraph 6(2) below, paragraph 13(3) of Schedule 1 or paragraph 6(3) of Schedule 3.
- (5) A person shall not cease to be liable to be registered under this Schedule except in accordance with paragraph 2 below.
- (6) In determining for the purposes of this paragraph the value of any relevant supplies, so much of the consideration for any supply as represents any liability of the supplier, under the law of another member State, for VAT on that supply shall be disregarded.
- [<sup>F200</sup>(7) For the purposes of sub-paragraphs (1) and (2) above supplies to which section 18B(4) (last acquisition or supply of goods before removal from fiscal warehousing) applies shall be disregarded.]

#### Textual Amendments

**F200** Sch. 2 para. 1(7) added (1.6.1996 with application to any acquisition of goods from another member State and any supply taking place on or after that day) by 1996 c. 8, ss. 25, 26, Sch. 3 para. 14; S.I. 1996/1249, art. 2

- 2 (1) Subject to sub-paragraph (2) below, a person who has become liable to be registered under this Schedule shall cease to be so liable if at any time—
- (a) the relevant supplies made by him in the year ending with 31st December last before that time did not have a value exceeding £70,000 and did not include any supply in relation to which the conditions mentioned in paragraph 1(3) above were satisfied; and
  - (b) the Commissioners are satisfied that the value of his relevant supplies in the year immediately following that year will not exceed £70,000 and that those supplies will not include a supply in relation to which those conditions are satisfied.
- (2) A person shall not cease to be liable to be registered under this Schedule at any time when such an option as is mentioned in paragraph 1(2) above is in force in relation to him.

#### *Notification of liability and registration*

- 3 (1) A person who becomes liable to be registered under this Schedule shall notify the Commissioners of the liability within the period of 30 days after the day on which the liability arises.
- (2) The Commissioners shall register any such person (whether or not he so notifies them) with effect from the day on which the liability arose or from such earlier time as may be agreed between them and him.

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*Request to be registered*

- 4 (1) Where a person who is not liable to be registered under this Act and is not already so registered—
- (a) satisfies the Commissioners that he intends—
    - (i) to exercise an option such as is mentioned in paragraph 1(2) above and, from a specified date, to make relevant supplies to which that option will relate;
    - (ii) from a specified date to make relevant supplies to which any such option that he has exercised will relate; or
    - (iii) from a specified date to make supplies in relation to which the conditions mentioned in paragraph 1(3) above will be satisfied; and
  - (b) requests to be registered under this Schedule,
- the Commissioners may, subject to such conditions as they think fit to impose, register him with effect from such date as may be agreed between them and him.
- (2) Conditions imposed under sub-paragraph (1) above—
- (a) may be so imposed wholly or partly by reference to, or without reference to, any conditions prescribed for the purposes of this paragraph; and
  - (b) may, whenever imposed, be subsequently varied by the Commissioners.
- (3) Where a person who is entitled to be registered under paragraph 9 or 10 of Schedule 1 requests registration under this paragraph, he shall be registered under that Schedule, and not under this Schedule.

*Notification of matters affecting continuance of registration*

- 5 (1) Any person registered under this Schedule who ceases to be registrable under this Act shall notify the Commissioners of that fact within 30 days of the day on which he does so.
- (2) A person registered under paragraph 4 above by reference to any intention of his to exercise any option or to make supplies of any description shall notify the Commissioners within 30 days of exercising that option or, as the case may be, of the first occasion after his registration when he makes such a supply, that he has exercised the option or made such a supply.
- (3) A person who has exercised such an option as is mentioned in paragraph 1(2) above which, as a consequence of its revocation or otherwise, ceases to have effect in relation to any relevant supplies by him shall notify the Commissioners, within 30 days of the option's ceasing so to have effect, that it has done so.
- (4) For the purposes of this paragraph, a person ceases to be registrable under this Act where—
- (a) he ceases to be a person who would be liable or entitled to be registered under this Act if his registration and any enactment preventing a person from being liable to be registered under different provisions at the same time were disregarded; or
  - (b) in the case of a person who (having been registered under paragraph 4 above) has not been such a person during the period of his registration, he ceases to have any such intention as is mentioned in sub-paragraph (1)(a) of that paragraph.

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### *Cancellation of registration*

- 6 (1) Subject to paragraph 7 below, where a person registered under this Schedule satisfies the Commissioners that he is not liable to be so registered, they shall, if he so requests, cancel his registration with effect from the day on which the request is made or from such later date as may be agreed between them and him.
- (2) Where the Commissioners are satisfied that, on the day on which a person was registered under this Schedule, he—
- (a) was not liable to be registered under this Schedule; and
  - (b) in the case of a person registered under paragraph 4 above, did not have the intention by reference to which he was registered,
- they may cancel his registration with effect from that day.
- (3) Subject to paragraph 7 below, where the Commissioners are satisfied that a person who has been registered under paragraph 4 above and is not for the time being liable to be registered under this Schedule—
- (a) has not, by the date specified in his request to be registered, begun to make relevant supplies, exercised the option in question or, as the case may be, begun to make supplies in relation to which the conditions mentioned in paragraph 1(3) above are satisfied; or
  - (b) has contravened any condition of his registration,
- they may cancel his registration with effect from the date so specified or, as the case may be, the date of the contravention or from such later date as may be agreed between them and him.

### *Conditions of cancellation*

- 7 (1) The Commissioners shall not, under paragraph 6(1) above, cancel a person's registration with effect from any time unless they are satisfied that it is not a time when that person would be subject to a requirement to be registered under this Act.
- (2) The Commissioners shall not, under paragraph 6(3) above, cancel a person's registration with effect from any time unless they are satisfied that it is not a time when that person would be subject to a requirement, or entitled, to be registered under this Act.
- (3) The registration of a person who has exercised such an option as is mentioned in paragraph 1(2) above shall not be cancelled with effect from any time before the 1st January which is, or next follows, the second anniversary of the date on which his registration took effect.
- (4) In determining for the purposes of this paragraph whether a person would be subject to a requirement, or entitled, to be registered at any time, so much of any provision of this Act as prevents a person from becoming liable or entitled to be registered when he is already registered or when he is so liable under any other provision shall be disregarded.

### *Power to vary specified sums by order*

- 8 The Treasury may by order substitute for any of the sums for the time being specified in this Schedule such greater sums as they think fit.

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### *Supplementary*

- 9 Any notification required under this Schedule shall be made in such form and shall contain such particulars as the Commissioners may by regulations prescribe.
- 10 For the purposes of this Schedule a supply of goods is a relevant supply where—
- (a) the supply involves the removal of the goods to the United Kingdom by or under the directions of the person making the supply;
  - (b) the supply does not involve the installation or assembly of the goods at a place in the United Kingdom;
  - (c) the supply is a transaction in pursuance of which goods are acquired in the United Kingdom from another member State by a person who is not a taxable person;
  - (d) the supply is made on or after 1st January 1993 and in the course or furtherance of a business carried on by the supplier; and
  - (e) the supply is neither an exempt supply nor a supply of goods which are subject to a duty of excise or consist in a new means of transport and is not anything which is treated as a supply for the purposes of this Act by virtue only of paragraph 5(1) or 6 of Schedule 4.

## SCHEDULE 3

Section 3(2).

### REGISTRATION IN RESPECT OF ACQUISITIONS FROM OTHER MEMBER STATES

#### *Liability to be registered*

- 1 (1) A person who—
- (a) is not registered under this Act; and
  - (b) is not liable to be registered under Schedule 1 or 2,
- becomes liable to be registered under this Schedule at the end of any month if, in the period beginning with 1st January of the year in which that month falls, that person has made relevant acquisitions whose value exceeds [<sup>F201</sup>£51,000].
- (2) A person who is not registered or liable to be registered as mentioned in subparagraph (1)(a) and (b) above becomes liable to be registered under this Schedule at any time if there are reasonable grounds for believing that the value of his relevant acquisitions in the period of 30 days then beginning will exceed [<sup>F201</sup>£51,000].
- (3) A person shall be treated as having become liable to be registered under this Schedule at any time when he would have become so liable under the preceding provisions of this paragraph but for any registration which is subsequently cancelled under paragraph 6(3) below, paragraph 13(3) of Schedule 1 or paragraph 6(2) of Schedule 2.
- (4) A person shall not cease to be liable to be registered under this Schedule except in accordance with paragraph 2 below.
- (5) In determining the value of any person's relevant acquisitions for the purposes of this paragraph, so much of the consideration for any acquisition as represents any liability of the supplier, under the law of another member State, for VAT on the transaction in pursuance of which the acquisition is made, shall be disregarded.



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- [<sup>F202</sup>(6) In determining the value of a person's acquisitions for the purposes of sub-paragraph (1) or (2) above, acquisitions to which section 18(B)(4) (last acquisition or supply of goods before removal from fiscal warehousing) applies shall be disregarded.]

#### Textual Amendments

**F201** Words in Sch. 3 para. 1(1)(2) substituted (1.4.1999) by S.I. 1999/595, art. 3

**F202** Sch. 3 para. 1(6) added (1.6.1996 with application to any acquisition of goods from another member State and any supply taking place on or after that day) by 1996 c. 8, ss. 25, 26, Sch. 3 para. 15; S.I. 1996/1249, art. 2

- 2 (1) Subject to sub-paragraph (2) below, a person who has become liable to be registered under this Schedule shall cease to be so liable if at any time—
- (a) his relevant acquisitions in the year ending with 31st December last before that time did not have a value exceeding [<sup>F203</sup>£51,000]; and
  - (b) the Commissioners are satisfied that the value of his relevant acquisitions in the year immediately following that year will not exceed [<sup>F203</sup> £51,000].
- (2) A person shall not cease to be liable to be registered under this Schedule at any time if there are reasonable grounds for believing that the value of that person's relevant acquisitions in the period of 30 days then beginning will exceed [<sup>F203</sup>£51,000].

#### Textual Amendments

**F203** Words in Sch. 3 para. 2(1)(a)(b)(2) substituted (1.4.1999) by S.I. 1999/595, art. 3

#### *Notification of liability and registration*

- 3 (1) A person who becomes liable to be registered under this Schedule shall notify the Commissioners of the liability—
- (a) in the case of a liability under sub-paragraph (1) of paragraph 1 above, within 30 days of the end of the month when he becomes so liable; and
  - (b) in the case of a liability under sub-paragraph (2) of that paragraph, before the end of the period by reference to which the liability arises.
- (2) The Commissioners shall register any such person (whether or not he so notifies them) with effect from the relevant time or from such earlier time as may be agreed between them and him.
- (3) In this paragraph “the relevant time”—
- (a) in a case falling within sub-paragraph (1)(a) above, means the end of the month following the month at the end of which the liability arose; and
  - (b) in a case falling within sub-paragraph (1)(b), means the beginning of the period by reference to which the liability arose.

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*Entitlement to be registered etc*

- 4 (1) Where a person who is not liable to be registered under this Act and is not already so registered satisfies the Commissioners that he makes relevant acquisitions, they shall, if he so requests, register him with effect from the day on which the request is made or from such earlier date as may be agreed between them and him.
- (2) Where a person who is not liable to be registered under this Act and is not already so registered—
- (a) satisfies the Commissioners that he intends to make relevant acquisitions from a specified date; and
  - (b) requests to be registered under this Schedule,
- the Commissioners may, subject to such conditions as they think fit to impose, register him with effect from such date as may be agreed between them and him.
- (3) Conditions imposed under sub-paragraph (2) above—
- (a) may be so imposed wholly or partly by reference to, or without reference to, any conditions prescribed for the purposes of this paragraph, and
  - (b) may, whenever imposed, be subsequently varied by the Commissioners.
- (4) Where a person who is entitled to be registered under paragraph 9 or 10 of Schedule 1 requests registration under this paragraph, he shall be registered under that Schedule, and not under this Schedule.

*Notification of matters affecting continuance of registration*

- 5 (1) Any person registered under this Schedule who ceases to be registrable under this Act shall notify the Commissioners of that fact within 30 days of the day on which he does so.
- (2) A person registered under paragraph 4(2) above shall notify the Commissioners, within 30 days of the first occasion after his registration when he makes a relevant acquisition, that he has done so.
- (3) For the purposes of this paragraph a person ceases to be registrable under this Act where—
- (a) he ceases to be a person who would be liable or entitled to be registered under this Act if his registration and any enactment preventing a person from being liable to be registered under different provisions at the same time were disregarded; or
  - (b) in the case of a person who (having been registered under paragraph 4(2) above) has not been such a person during the period of his registration, he ceases to have any intention of making relevant acquisitions.

*Cancellation of registration*

- 6 (1) Subject to paragraph 7 below, where a person registered under this Schedule satisfies the Commissioners that he is not liable to be so registered, they shall, if he so requests, cancel his registration with effect from the day on which the request is made or from such later date as may be agreed between them and him.
- (2) Subject to paragraph 7 below, where the Commissioners are satisfied that a person registered under this Schedule has ceased since his registration to be registrable under

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this Schedule, they may cancel his registration with effect from the day on which he so ceased or from such later date as may be agreed between them and him.

- (3) Where the Commissioners are satisfied that, on the day on which a person was registered under this Schedule, he—
  - (a) was not registrable under this Schedule; and
  - (b) in the case of a person registered under paragraph 4(2) above, did not have the intention by reference to which he was registered,they may cancel his registration with effect from that day.
- (4) Subject to paragraph 7 below, where the Commissioners are satisfied that a person who has been registered under paragraph 4(2) above and is not for the time being liable to be registered under this Schedule—
  - (a) has not begun, by the date specified in his request to be registered, to make relevant acquisitions; or
  - (b) has contravened any condition of his registration,they may cancel his registration with effect from the date so specified or, as the case may be, the date of the contravention or from such later date as may be agreed between them and him.
- (5) For the purposes of this paragraph a person is registrable under this Schedule at any time when he is liable to be registered under this Schedule or is a person who makes relevant acquisitions.

#### *Conditions of cancellation*

- 7 (1) The Commissioners shall not, under paragraph 6(1) above, cancel a person's registration with effect from any time unless they are satisfied that it is not a time when that person would be subject to a requirement to be registered under this Act.
- (2) The Commissioners shall not, under paragraph 6(2) or (4) above, cancel a person's registration with effect from any time unless they are satisfied that it is not a time when that person would be subject to a requirement, or entitled, to be registered under this Act.
- (3) Subject to sub-paragraph (4) below, the registration of a person who—
  - (a) is registered under paragraph 4 above; or
  - (b) would not, if he were not registered, be liable or entitled to be registered under any provision of this Act except paragraph 4 above,shall not be cancelled with effect from any time before the 1st January which is, or next follows, the second anniversary of the date on which his registration took effect.
- (4) Sub-paragraph (3) above does not apply to cancellation under paragraph 6(3) or (4) above.
- (5) In determining for the purposes of this paragraph whether a person would be subject to a requirement, or entitled, to be registered at any time, so much of any provision of this Act as prevents a person from becoming liable or entitled to be registered when he is already registered or when he is so liable under any other provision shall be disregarded.

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### *Exemption from registration*

- 8 (1) Notwithstanding the preceding provisions of this Schedule, where a person who makes or intends to make relevant acquisitions satisfies the Commissioners that any such acquisition would be an acquisition in pursuance of a transaction which would be zero-rated if it were a taxable supply by a taxable person, they may, if he so requests and they think fit, exempt him from registration under this Schedule until it appears to them that the request should no longer be acted upon or is withdrawn.
- (2) Where a person who is exempted under this paragraph from registration under this Schedule makes any relevant acquisition in pursuance of any transaction which would, if it were a taxable supply by a taxable person, be chargeable to VAT otherwise than as a zero-rated supply, he shall notify the Commissioners of the change within 30 days of the date on which he made the acquisition.

### *Power to vary specified sums by order*

- 9 The Treasury may by order substitute for any of the sums for the time being specified in this Schedule such greater sums as they think fit.

### *Supplementary*

- 10 Any notification required under this Schedule shall be made in such form and shall contain such particulars as the Commissioners may by regulations prescribe.
- 11 For the purposes of this Schedule an acquisition of goods from another member State is a relevant acquisition where—
- (a) it is a taxable acquisition of goods other than goods which are subject to a duty of excise or consist in a new means of transport;
  - (b) it is an acquisition otherwise than in pursuance of a taxable supply and is treated, for the purposes of this Act, as taking place in the United Kingdom; and
  - (c) the event which, in relation to that acquisition, is the first relevant event for the purposes of taxing that acquisition occurs on or after 1st January 1993.

VALID FROM 28/07/2000

## [<sup>F204</sup>SCHEDULE 3A

### REGISTRATION IN RESPECT OF DISPOSALS OF ASSETS FOR WHICH A VAT REPAYMENT IS CLAIMED

#### **Textual Amendments**

**F204** Sch. 3A paras. 1-9 inserted (28.7.2000 with effect as mentioned in s. 136(10) of the amending Act) by 2000 c. 17, s. 136(8), **Sch. 36**

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SCHEDULE 4

Section 5.

MATTERS TO BE TREATED AS SUPPLY OF GOODS OR SERVICES

- 1 (1) Any transfer of the whole property in goods is a supply of goods; but, subject to sub-paragraph (2) below, the transfer—
- (a) of any undivided share of the property, or
  - (b) of the possession of goods,
- is a supply of services.
- (2) If the possession of goods is transferred—
- (a) under an agreement for the sale of the goods, or
  - (b) under agreements which expressly contemplate that the property also will pass at some time in the future (determined by, or ascertainable from, the agreements but in any case not later than when the goods are fully paid for),
- it is then in either case a supply of the goods.

F205<sup>2</sup> . . . . .

**Textual Amendments**  
F205 Sch. 4 para. 2 repealed (29.4.1996 with application to supplies made on or after 1.1.1996) by 1996 c. 8, ss. 29(4)(5), 205, Sch. 41 Pt. IV(2)

3 The supply of any form of power, heat, refrigeration or ventilation is a supply of goods.

4 The grant, assignment or surrender of a major interest in land is a supply of goods.

5 (1) Subject to sub-paragraph (2) below, where goods forming part of the assets of a business are transferred or disposed of by or under the directions of the person carrying on the business so as no longer to form part of those assets, whether or not for a consideration, that is a supply by him of goods.

- (2) Sub-paragraph (1) above does not apply where the transfer or disposal is—
- (a) a gift of goods made in the course or furtherance of the business (otherwise than as one forming part of a series or succession of gifts made to the same person from time to time) where the cost to the donor [<sup>F206</sup>of acquiring or, as the case may be, producing the goods was] not more than [<sup>F207</sup>£15];
  - (b) subject to sub-paragraph (3) below, a gift to any person of a sample of any goods.

[<sup>F208</sup>(2A) For the purposes of determining the cost to the donor of acquiring or producing goods of which he has made a gift, where—

- (a) the acquisition by the donor of the goods, or anything comprised in the goods, was by means of a transfer of a business, or a part of a business, as a going concern,
- (b) the assets transferred by that transfer included those goods or that thing, and
- (c) the transfer of those assets is one falling by virtue of an order under section 5(3) (or under an enactment re-enacted in section 5(3)) to be treated as neither a supply of goods nor a supply of services,

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the donor and his predecessor or, as the case may be, all of his predecessors shall be treated as if they were the same person.]

(3) Where—

- (a) a person is given a number of samples by the same person (whether all on one occasion or on different occasions), and
- (b) those samples are identical or do not differ in any material respect from each other,

sub-paragraph (1) above shall apply to all except one of those samples or, as the case may be, to all except the first to be given.

(4) Where by or under the directions of a person carrying on a business goods held or used for the purposes of the business are put to any private use or are used, or made available to any person for use, for any purpose other than a purpose of the business, whether or not for a consideration, that is a supply of services.

(5) Neither sub-paragraph (1) nor [<sup>F209</sup>sub-paragraph (4) above] shall require anything which a person carrying on a business does otherwise than for a consideration in relation to any goods to be treated as a supply except in a case where that person [<sup>F210</sup>or any of his predecessors is a person who (disregarding this paragraph) has or will become] entitled under sections 25 and 26 to credit for the whole or any part of the VAT on the supply, acquisition or importation of those goods or of anything comprised in them.

[<sup>F211</sup>(5A) In relation to any goods or anything comprised in any goods, a person is the predecessor of another for the purposes of this paragraph if—

- (a) that other person is a person to whom he has transferred assets of his business by a transfer of that business, or a part of it, as a going concern;
- (b) those assets consisted of or included those goods or that thing; and
- (c) the transfer of the assets is one falling by virtue of an order under section 5(3) (or under an enactment re-enacted in section 5(3)) to be treated as neither a supply of goods nor a supply of services;

and references in this paragraph to a person's predecessors include references to the predecessors of his predecessors through any number of transfers.]

(6) Anything which is a supply of goods or services by virtue of sub-paragraph (1) or (4) above is to be treated as made in the course or furtherance of the business (if it would not otherwise be so treated); and in the case of a business carried on by an individual—

- (a) sub-paragraph (1) above applies to any transfer or disposition of goods in favour of himself personally; and
- (b) [<sup>F209</sup>sub-paragraph (4) above] applies to goods used, or made available for use, by himself personally.

[<sup>F212</sup>(7) The Treasury may by order substitute for the sum for the time being specified in sub-paragraph (2)(a) above such sum, not being less than £10, as they think fit.]

#### Textual Amendments

**F206** Words in Sch. 4 para. 5(2)(a) substituted (31.7.1998 with effect as mentioned in s. 21(6) of the amending Act) by 1998 c. 36, s. 21(2)(6)

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- F207** Words in Sch. 4 para. 5(2)(a) substituted (29.4.1996 with application where a gift is made after 28.11.1995) by 1996 c. 8, s. 33(1)(4)
- F208** Sch. 4 para. 5(2A) inserted (31.7.1998 with effect as mentioned in s. 21(6) of the amending Act) by 1998 c. 36, s. 21(3)(6)
- F209** Words in Sch. 4 para. 5(5)(6)(b) substituted (retrospectively) by 1995 c. 4, s. 33(3)(a)
- F210** Words in Sch. 4 para. 5(5) substituted (31.7.1998 with effect as mentioned in s. 21(6) of the amending Act) by 1998 c. 36, s. 21(4)(6)
- F211** Sch. 4 para. 5A inserted (31.7.1998 with effect as mentioned in s. 21(6) of the amending Act) by 1998 c. 36, s. 21(5)(6)
- F212** Sch. 4 para. 5(7) inserted (29.4.1996) by 1996 c. 8, s. 33(2)
- 6 (1) Where, in a case not falling within paragraph 5(1) above, goods forming part of the assets of any business—
- (a) are removed from any member State by or under the directions of the person carrying on the business; and
  - (b) are so removed in the course or furtherance of that business for the purpose of being taken to a place in a member State other than that from which they are removed,
- then, whether or not the removal is or is connected with a transaction for a consideration, that is a supply of goods by that person.
- (2) Sub-paragraph (1) above does not apply—
- (a) to the removal of goods from any member State in the course of their removal from one part of that member State to another part of the same member State; or
  - (b) to goods which have been removed from a place outside the member States for entry into the territory of the Community and are removed from a member State before the time when any Community customs debt in respect of any Community customs duty on their entry into that territory would be incurred.
- 7 Where in the case of a business carried on by a taxable person goods forming part of the assets of the business are, under any power exercisable by another person, sold by the other in or towards satisfaction of a debt owed by the taxable person, they shall be deemed to be supplied by the taxable person in the course or furtherance of his business.
- 8 (1) Where a person ceases to be a taxable person, any goods then forming part of the assets of a business carried on by him shall be deemed to be supplied by him in the course or furtherance of his business immediately before he ceases to be a taxable person, unless—
- (a) the business is transferred as a going concern to another taxable person; or
  - (b) the business is carried on by another person who, under regulations made under section 46(4), is treated as a taxable person; or
  - (c) the VAT on the deemed supply would not be more than £250.
- (2) This paragraph does not apply to any goods in the case of which the taxable person can show to the satisfaction of the Commissioners—
- (a) that no credit for input tax has been allowed to him in respect of the supply of the goods, their acquisition from another member State or their importation from a place outside the member States;

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- (b) that the goods did not become his as part of the assets of a business which was transferred to him as a going concern by another taxable person; and
  - (c) that he has not obtained relief in respect of the goods under section 4 of the <sup>M51</sup>Finance Act 1973.
- (3) This paragraph does not apply where a person ceases to be a taxable person in consequence of having been certified under section 54.
- (4) The Treasury may by order increase or further increase the sum specified in sub-paragraph (1)(c) above.

#### Marginal Citations

**M51** 1973 c. 51.

- 9 (1) Subject to sub-paragraphs (2) and (3) below, paragraphs 5 to 8 above have effect in relation to land forming part of the assets of, or held or used for the purposes of, a business as if it were goods forming part of the assets of, or held or used for the purposes of, a business.
- (2) In the application of those paragraphs by virtue of sub-paragraph (1) above, references to transfer, disposition or sale shall have effect as references to the grant or assignment of any interest in, right over or licence to occupy the land concerned.
- (3) Except in relation to—
- (a) the grant or assignment of a major interest; or
  - (b) a grant or assignment otherwise than for a consideration,
- in the application of paragraph 5(1) above by virtue of sub-paragraph (1) above the reference to a supply of goods shall have effect as a reference to a supply of services.

## SCHEDULE 5

Section 8.

### SERVICES SUPPLIED WHERE RECEIVED

- 1 Transfers and assignments of copyright, patents, licences, trademarks and similar rights.
- 2 Advertising services.
- 3 Services of consultants, engineers, consultancy bureaux, lawyers, accountants and other similar services; data processing and provision of information (but excluding from this head any services relating to land).
- 4 Acceptance of any obligation to refrain from pursuing or exercising, in whole or part, any business activity or any such rights as are referred to in paragraph 1 above.
- 5 Banking, financial and insurance services (including reinsurance, but not including the provision of safe deposit facilities).
- 6 The supply of staff.
- 7 The letting on hire of goods other than means of transport.
- <sup>F213</sup>7A Telecommunications services, that is to say services relating to the transmission, emission or reception of signals, writing, images and sounds or information of



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any nature by wire, radio, optical or other electromagnetic systems, including the transfer or assignment of the right to use capacity for such transmission, emission or reception.]

**Textual Amendments**

**F213** Sch. 5 para. 7A inserted (30.6.1997 with effect as mentioned in art. 1 of the amending S.I.) by S.I. 1997/1523, arts. 1, 3(2)

8 The services rendered by one person to another in procuring for the other any of the services mentioned in [F214 paragraphs 1 to 7A] above.

**Textual Amendments**

**F214** Words in Sch. 5 para. 8 substituted (30.6.1997 with application as mentioned in art. 1 of the amending S.I.) by S.I. 1997/1523, arts. 1, 3(3)

9 Any services not of a description specified in [F215 paragraphs 1 to 7 and 8] above when supplied to a recipient who is registered under this Act.

**Textual Amendments**

**F215** Words in Sch. 5 para. 9 substituted (30.6.1997 with application as mentioned in art. 1 of the amending S.I.) by S.I. 1997/1523, arts. 1, 3(4)

10 Section 8(1) shall have effect in relation to any service—  
(a) which are of a description specified in paragraph 9 above; and  
(b) whose place of supply is determined by an order under section 7(11) to be in the United Kingdom,  
as if the recipient belonged in the United Kingdom for the purposes of section 8(1) (b).

[F216] SCHEDULE 5A

Section 18B.

GOODS ELIGIBLE TO BE FISCALLY WAREHOUSED

**Textual Amendments**

**F216** Sch. 5A added (1.6.1996 with application to any acquisition of goods from another member State and any supply taking place on or after that day) by 1996 c. 8, ss. 25, 26, Sch. 3 para. 18; S.I. 1996/1249, art. 2

Description of goods	Combined nomenclature code of the European Communities
Tin	8001
Copper	7402
	7403

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	7405
	7408
Zinc	7901
Nickel	7502
Aluminium	7601
Lead	7801
Indium	ex 811291
	ex 811299
Cereals	1001 to 1005
	1006: unprocessed rice only
	1007 to 1008
Oil seeds and oleaginous fruit	1201 to 1207
Coconuts, Brazil nuts and cashew nuts	801
Other nuts	502
Olives	71120
Grains and seeds (including soya beans)	1201 to 1207
Coffee, not roasted	901 11 0
	901 12 0
Tea	902
Cocoa beans, whole or broken, raw or roasted	1801
Raw sugar	1701 11
	1701 12
Rubber, in primary forms or in plates, sheets or strip	4001
	4002
Wool	5101
Chemicals in bulk	Chapters 28 and 29
Mineral oils (including propane and butane; also including crude petroleum oils)	2709
	2710
	2711 12
	2711 13
Silver	7106
Platinum (palladium, rhodium)	7110 11 0
	7110 21 0

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	7110 31 0
Potatoes	701
Vegetable oils and fats and their fractions, whether or not refined, but not chemically modified	1507 to 1515]

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## SCHEDULE 6

Section 19.

### VALUATION: SPECIAL CASES

- 1 (1) Where—
- (a) the value of a supply made by a taxable person for a consideration in money is (apart from this paragraph) less than its open market value, and
  - (b) the person making the supply and the person to whom it is made are connected, and
  - (c) if the supply is a taxable supply, the person to whom the supply is made is not entitled under sections 25 and 26 to credit for all the VAT on the supply,
- the Commissioners may direct that the value of the supply shall be taken to be its open market value.
- (2) A direction under this paragraph shall be given by notice in writing to the person making the supply, but no direction may be given more than 3 years after the time of the supply.
- (3) A direction given to a person under this paragraph in respect of a supply made by him may include a direction that the value of any supply—
- (a) which is made by him after the giving of the notice, or after such later date as may be specified in the notice, and
  - (b) as to which the conditions in paragraphs (a) to (c) of sub-paragraph (1) above are satisfied,
- shall be taken to be its open market value.
- (4) For the purposes of this paragraph any question whether a person is connected with another shall be determined in accordance with section 839 of the Taxes Act.
- (5) This paragraph does not apply to a supply to which paragraph 10 below applies.
- 2 Where—
- (a) the whole or part of a business carried on by a taxable person consists in supplying to a number of persons goods to be sold, whether by them or others, by retail, and
  - (b) those persons are not taxable persons,
- the Commissioners may by notice in writing to the taxable person direct that the value of any such supply by him after the giving of the notice or after such later date as may be specified in the notice shall be taken to be its open market value on a sale by retail.
- 3 (1) Where—
- (a) any goods whose supply involves their removal to the United Kingdom—

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- (i) are charged in connection with their removal to the United Kingdom with a duty of excise; or
  - (ii) on that removal are subject, in accordance with any provision for the time being having effect for transitional purposes in connection with the accession of any State to the European Communities, to any Community customs duty or agricultural levy of the European Community; or
- (b) the time of supply of any dutiable goods, or of any goods which comprise a mixture of dutiable goods and other goods, is determined under section 18(4) to be the duty point,  
then the value of the supply shall be taken for the purposes of this Act to be the sum of its value apart from this paragraph and the amount, so far as not already included in that value, of the duty or, as the case may be, agricultural levy which has been or is to be paid in respect of the goods.
- (2) In this paragraph “dutiable goods” and “duty point” have the same meanings as in section 18.
- 4 (1) Where goods or services are supplied for a consideration in money and on terms allowing a discount for prompt payment, the consideration shall be taken for the purposes of section 19 as reduced by the discount, whether or not payment is made in accordance with those terms.
- (2) This paragraph does not apply where the terms include any provision for payment by instalments.
- 5 Where a right to receive goods or services for an amount stated on any token, stamp or voucher is granted for a consideration, the consideration shall be disregarded for the purposes of this Act except to the extent (if any) that it exceeds that amount.
- 6 (1) Where there is a supply of goods by virtue of—
  - (a) a Treasury order under section 5(5); or
  - (b) paragraph 5(1) or 6 of Schedule 4 but otherwise than for a consideration); or
  - (c) paragraph 8 of that Schedule,
 then, except where paragraph 10 below applies, the value of the supply shall be determined as follows.
- (2) The value of the supply shall be taken to be—
  - (a) such consideration in money as would be payable by the person making the supply if he were, at the time of the supply, to purchase goods identical in every respect (including age and condition) to the goods concerned; or
  - (b) where the value cannot be ascertained in accordance with paragraph (a) above, such consideration in money as would be payable by that person if he were, at that time, to purchase goods similar to, and of the same age and condition as, the goods concerned; or
  - (c) where the value can be ascertained in accordance with neither paragraph (a) nor paragraph (b) above, the cost of producing the goods concerned if they were produced at that time.
- (3) For the purposes of sub-paragraph (2) above the amount of consideration in money that would be payable by any person if he were to purchase any goods shall be taken to be the amount that would be so payable after the deduction of any amount included in the purchase price in respect of VAT on the supply of the goods to that person.

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- 7 Where there is a supply of services by virtue of—
- (a) a Treasury order under section 5(4); or
  - (b) [<sup>F217</sup> paragraph 5(4)] of Schedule 4 (but otherwise than for a consideration), the value of the supply shall be taken to be the full cost to the taxable person of providing the services except where paragraph 10 below applies.

#### Textual Amendments

**F217** Words in Sch. 6 para. 7(b) substituted (retrospectively) by 1995 c. 4, s. 33(3)(b)

- 8 Where any supply of services is treated by virtue of section 8 as made by the person by whom they are received, the value of the supply shall be taken—
- (a) in a case where the consideration for which the services were in fact supplied to him was a consideration in money, to be such amount as is equal to that consideration; and
  - (b) in a case where that consideration did not consist or not wholly consist of money, to be such amount in money as is equivalent to that consideration.

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

**C27** Sch. 6 para. 8 modified (30.6.1997) by S.I. 1997/1523, arts. 7, 8

- 9 (1) This paragraph applies where a supply of services consists in the provision of accommodation falling within paragraph (d) of Item 1 of Group 1 in Schedule 9 and—
- (a) that provision is made to an individual for a period exceeding 4 weeks; and
  - (b) throughout that period the accommodation is provided for the use of the individual either alone or together with one or more other persons who occupy the accommodation with him otherwise than at their own expense (whether incurred directly or indirectly).
- (2) Where this paragraph applies—
- (a) the value of so much of the supply as is in excess of 4 weeks shall be taken to be reduced to such part thereof as is attributable to facilities other than the right to occupy the accommodation; and
  - (b) that part shall be taken to be not less than 20 per cent.
- 10 (1) This paragraph applies to a supply of goods or services, whether or not for a consideration, which is made by an employer and consists of—
- (a) the provision in the course of catering of food or beverages to his employees, or
  - (b) the provision of accommodation for his employees in a hotel, inn, boarding house or similar establishment.
- (2) The value of a supply to which this paragraph applies shall be taken to be nil unless the supply is for a consideration consisting wholly or partly of money, and in that case its value shall be determined without regard to any consideration other than money.
- 11 (1) Subject to the following provisions of this paragraph, where—
- (a) there is a supply of goods or services; and

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- (b) any sum relevant for determining the value of the supply is expressed in a currency other than sterling,  
then, for the purpose of valuing the supply, that sum is to be converted into sterling at the market rate which, on the relevant day, would apply in the United Kingdom to a purchase with sterling by the person to whom they are supplied of that sum in the currency in question.
- (2) Where the Commissioners have published a notice which, for the purposes of this paragraph, specifies—
- (a) rates of exchange; or
  - (b) methods of determining rates of exchange,
- a rate specified in or determined in accordance with the notice, as for the time being in force, shall apply (instead of the rate for which sub-paragraph (1) above provides) in the case of any supply by a person who opts, in such manner as may be allowed by the Commissioners, for the use of that rate in relation to that supply.
- (3) An option for the purposes of sub-paragraph (2) above for the use of a particular rate or method of determining a rate—
- (a) shall not be exercised by any person except in relation to all such supplies by him as are of a particular description or after a particular date; and
  - (b) shall not be withdrawn or varied except with the consent of the Commissioners and in such manner as they may require.
- (4) In specifying a method of determining a rate of exchange a notice published by the Commissioners under sub-paragraph (2) above may allow a person to apply to the Commissioners for the use, for the purpose of valuing some or all of his supplies, of a rate of exchange which is different from any which would otherwise apply.
- (5) On an application made in accordance with provision contained in a notice under sub-paragraph (4) above, the Commissioners may authorise the use with respect to the applicant of such a rate of exchange, in such circumstances, in relation to such supplies and subject to such conditions as they think fit.
- (6) A notice published by the Commissioners for the purposes of this paragraph may be withdrawn or varied by a subsequent notice published by the Commissioners.
- (7) The time by reference to which the appropriate rate of exchange is to be determined for the purpose of valuing any supply is the time when the supply takes place; and, accordingly, the day on which it takes place is the relevant day for the purposes of sub-paragraph (1) above.
- 12 Regulations may require that in prescribed circumstances there is to be taken into account, as constituting part of the consideration for the purposes of section 19(2) (where it would not otherwise be so taken into account), money paid in respect of the supply by persons other than those to whom the supply is made.
- 13 A direction under paragraph 1 or 2 above may be varied or withdrawn by the Commissioners by a further direction given by notice in writing.

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## SCHEDULE 7

Section 20.

### VALUATION OF ACQUISITIONS FROM OTHER MEMBER STATES: SPECIAL CASES

- 1 (1) Where, in the case of the acquisition of any goods from another member State—
- (a) the relevant transaction is for a consideration in money;
  - (b) the value of the relevant transaction is (apart from this paragraph) less than the transaction's open market value;
  - (c) the supplier and the person who acquires the goods are connected; and
  - (d) that person is not entitled under sections 25 and 26 to credit for all the VAT on the acquisition,
- the Commissioners may direct that the value of the relevant transaction shall be taken to be its open market value.
- (2) A direction under this paragraph shall be given by notice in writing to the person by whom the acquisition in question is made; but no direction may be given more than 3 years after the relevant time.
- (3) A direction given to a person under this paragraph in respect of a transaction may include a direction that the value of any transaction—
- (a) in pursuance of which goods are acquired by him from another member State after the giving of the notice, or after such later date as may be specified in the notice; and
  - (b) as to which the conditions in paragraphs (a) to (d) of sub-paragraph (1) above are satisfied,
- shall be taken to be its open market value.
- (4) For the purposes of this paragraph the open market value of a transaction in pursuance of which goods are acquired from another member State shall be taken to be the amount which would fall to be taken as its value under section 20(3) if it were for such consideration in money as would be payable by a person standing in no such relationship with any person as would affect that consideration.
- (5) For the purposes of this paragraph any question whether a person is connected with another shall be determined in accordance with section 839 of the Taxes Act.
- (6) A direction under this paragraph may be varied or withdrawn by the Commissioners by a further direction given by notice in writing.
- 2 (1) Where, in such cases as the Commissioners may by regulations prescribe, goods acquired in the United Kingdom from another member State—
- (a) are charged in connection with their removal to the United Kingdom with a duty of excise; or
  - (b) on that removal are subject, in accordance with any provision for the time being having effect for transitional purposes in connection with the accession of any State to the European Communities, to any Community customs duty or agricultural levy of the European Community,
- then the value of the relevant transaction shall be taken for the purposes of this Act to be the sum of its value apart from this paragraph and the amount, so far as not already included in that value, of the duty or, as the case may be, agricultural levy which has been or is to be paid in respect of those goods.
- (2) Sub-paragraph (1) above shall not require the inclusion of any amount of duty or agricultural levy in the value of a transaction in pursuance of which there is an

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acquisition of goods which, under subsection (4) of section 18, is treated as taking place before the time which is the duty point within the meaning of that section.

- 3 (1) Where goods are acquired from another member State in pursuance of anything which is treated as a supply for the purposes of this Act by virtue of paragraph 5(1) or 6 of Schedule 4, the value of the relevant transaction shall be determined, in a case where there is no consideration, as follows.
- (2) The value of the transaction shall be taken to be—
- (a) such consideration in money as would be payable by the supplier if he were, at the time of the acquisition, to purchase goods identical in every respect (including age and condition) to the goods concerned; or
  - (b) where the value cannot be ascertained in accordance with paragraph (a) above, such consideration in money as would be payable by the supplier if he were, at that time, to purchase goods similar to, and of the same age and condition as, the goods concerned; or
  - (c) where the value can be ascertained in accordance with neither paragraph (a) nor paragraph (b) above, the cost of producing the goods concerned if they were produced at that time.
- (3) For the purposes of sub-paragraph (2) above the amount of consideration in money that would be payable by any person if he were to purchase any goods shall be taken to be the amount that would be so payable after the deduction of any amount included in the purchase price in respect of VAT on the supply of the goods to that person.
- 4 (1) Subject to the following provisions of this paragraph, where—
- (a) goods are acquired from another member State; and
  - (b) any sum relevant for determining the value of the relevant transaction is expressed in a currency other than sterling,
- then, for the purpose of valuing the relevant transaction, that sum is to be converted into sterling at the market rate which, on the relevant day, would apply in the United Kingdom to a purchase with sterling by the person making the acquisition of that sum in the currency in question.
- (2) Where the Commissioners have published a notice which, for the purposes of this paragraph, specifies—
- (a) rates of exchange; or
  - (b) methods of determining rates of exchange,
- a rate specified in or determined in accordance with the notice, as for the time being in force, shall apply (instead of the rate for which sub-paragraph (1) above provides) in the case of any transaction in pursuance of which goods are acquired by a person who opts, in such manner as may be allowed by the Commissioners, for the use of that rate in relation to that transaction.
- (3) An option for the purposes of sub-paragraph (2) above for the use of a particular rate or method of determining a rate—
- (a) shall not be exercised by any person except in relation to all such transactions in pursuance of which goods are acquired by him from another member State as are of a particular description or after a particular date; and
  - (b) shall not be withdrawn or varied except with the consent of the Commissioners and in such manner as they may require.



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- (4) In specifying a method of determining a rate of exchange a notice published by the Commissioners under sub-paragraph (2) above may allow a person to apply to the Commissioners for the use, for the purpose of valuing some or all of the transactions in pursuance of which goods are acquired by him from another member State, of a rate of exchange which is different from any which would otherwise apply.
  - (5) On an application made in accordance with provision contained in a notice under sub-paragraph (4) above, the Commissioners may authorise the use with respect to the applicant of such a rate of exchange, in such circumstances, in relation to such transactions and subject to such conditions as they think fit.
  - (6) A notice published by the Commissioners for the purposes of this paragraph may be withdrawn or varied by a subsequent notice published by the Commissioners.
  - (7) Where goods are acquired from another member State, the appropriate rate of exchange is to be determined for the purpose of valuing the relevant transaction by reference to the relevant time; and, accordingly, the day on which that time falls is the relevant day for the purposes of sub-paragraph (1) above.
- 5 In this Schedule—

“relevant transaction”, in relation to any acquisition of goods from another member State, means the transaction in pursuance of which the goods are acquired;

“the relevant time”, in relation to any such acquisition, means—

- (a) if the person by whom the goods are acquired is not a taxable person and the time of acquisition does not fall to be determined in accordance with regulations made under section 12(3), the time of the event which, in relation to that acquisition, is the first relevant event for the purposes of taxing the acquisition; and
- (b) in any other case, the time of acquisition.

VALID FROM 11/05/2001

<sup>F218</sup>SCHEDULE 7A

CHARGE AT REDUCED RATE

**Textual Amendments**

**F218** Sch. 7A inserted (11.5.2001 with effect as mentioned in s. 99(7)(a) of the amending Act) by 2001 c. 9, s. 99(5)(7)(a), Sch. 31 Pt. 1 para. 1

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## SCHEDULE 8

Section 30.

## ZERO-RATING

## PART I

## INDEX TO ZERO-RATED SUPPLIES OF GOODS AND SERVICES

<b>Subject matter</b>	<b>Group Number</b>	<b>1983 Group Number</b>
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**Textual Amendments**

**F223** [Sch. 8 Pt. I](#): entry relating to “tax-free shops” deleted (1.7.1999) by [S.I. 1999/1642](#), [art. 2\(a\)](#)

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## PART II

### THE GROUPS

#### GROUP 1— FOOD

The supply of anything comprised in the general items set out below, except—

- (a) a supply in the course of catering; and
- (b) a supply of anything comprised in any of the excepted items set out below, unless it is also comprised in any of the items overriding the exceptions set out below which relates to that excepted item.

#### *General items*

*Item No.*

- 1 Food of a kind used for human consumption.
- 2 Animal feeding stuffs.
- 3 Seeds or other means of propagation of plants comprised in item 1 or 2.
- 4 Live animals of a kind generally used as, or yielding or producing, food for human consumption.

#### *Excepted items*

*Item No.*

- 1 Ice cream, ice lollies, frozen yogurt, water ices and similar frozen products, and prepared mixes and powders for making such products.
- 2 Confectionery, not including cakes or biscuits other than biscuits wholly or partly covered with chocolate or some product similar in taste and appearance.
- 3 Beverages chargeable with any duty of excise specifically charged on spirits, beer, wine or made-wine and preparations thereof.
- 4 Other beverages (including fruit juices and bottled waters) and syrups, concentrates, essences, powders, crystals or other products for the preparation of beverages.
- 5 Any of the following when packaged for human consumption without further preparation, namely, potato crisps, potato sticks, potato puffs, and similar products made from the potato, or from potato flour, or from potato starch, and savoury food products obtained by the swelling of cereals or cereal products; and salted or roasted nuts other than nuts in shell.
- 6 Pet foods, canned, packaged or prepared; packaged foods (not being pet foods) for birds other than poultry or game; and biscuits and meal for cats and dogs.
- 7 Goods described in items 1, 2 and 3 of the general items which are canned, bottled, packaged or prepared for use—
  - (a) in the domestic brewing of any beer;
  - (b) in the domestic making of any cider or perry;

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- (c) in the domestic production of any wine or made-wine.

*Items overriding the exceptions*

*Item No.*

- |   |  |
|---|--|
| 1 | Yoghurt unsuitable for immediate consumption when frozen.  |
| 2 | Drained cherries.  |
| 3 | Candied peels.   |
| 4 | Tea, mateg, herbal teas and similar products, and preparations and extracts thereof.                   |
| 5 | Cocoa, coffee and chicory and other roasted coffee substitutes, and preparations and extracts thereof. |
| 6 | Milk and preparations and extracts thereof.  |
| 7 | Preparations and extracts of meat, yeast or egg.   |

*Notes:*

- (1) “Food” includes drink.
- (2) “Animal” includes bird, fish, crustacean and mollusc.
- (3) A supply of anything in the course of catering includes—
  - (a) any supply of it for consumption on the premises on which it is supplied; and
  - (b) any supply of hot food for consumption off those premises;
 and for the purposes of paragraph (b) above “hot food” means food which, or any part of which—
  - (i) has been heated for the purposes of enabling it to be consumed at a temperature above the ambient air temperature; and
  - (ii) is at the time of the supply above that temperature.
- (4) Item 1 of the items overriding the exceptions relates to item 1 of the excepted items.
- (5) Items 2 and 3 of the items overriding the exceptions relate to item 2 of the excepted items; and for the purposes of item 2 of the excepted items “confectionery” includes chocolates, sweets and biscuits; drained, glaceg or crystallised fruits; and any item of sweetened prepared food which is normally eaten with the fingers.
- (6) [<sup>F224</sup>Items 4 to 7] of the items overriding the exceptions relate to item 4 of the excepted items.
- (7) Any supply described in this Group shall include a supply of services described in paragraph 1(1) of Schedule 4.

**Textual Amendments**

**F224** Words in Sch. 8 Pt. II Group 1 Note 6 substituted (*retrospectively*) by 1999 c. 16, s. 14

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### Textual Amendments

**F224** Words in Sch. 8 Pt. II Group 1 Note 6 substituted (*retrospectively*) by 1999 c. 16, s. 14

## GROUP 2— SEWERAGE SERVICES AND WATER

### Item No.

- 1 Services of—
- (a) reception, disposal or treatment of foul water or sewage in bulk, and
  - (b) emptying of cesspools, septic tanks or similar receptacles which are used otherwise than in connection with the carrying on in the course of a business of a relevant industrial activity.
- 2 The supply, for use otherwise than in connection with the carrying on in the course of a business of a relevant industrial activity, of water other than—
- (a) distilled water, deionised water and water of similar purity,<sup>F225</sup> . . .
  - (b) water comprised in any of the excepted items set out in Group 1.
- [<sup>F226</sup>and
- (c) water which has been heated so that it is supplied at a temperature higher than that at which it was before it was heated.]

*Note:* “Relevant industrial activity” means any activity described in any of Divisions 1 to 5 of the 1980 edition of the publication prepared by the Central Statistical Office and known as the Standard Industrial Classification.

### Textual Amendments

**F225** Word in Sch. 8 Pt. II Group 2 item 2 para.(a) omitted (26.6.1996) by virtue of S.I. 1996/1661, arts. 1, 2(a)

**F226** Sch. 8 Pt. II Group 2 item 2 para.(c) inserted (26.6.1996) by S.I. 1996/1661, arts. 1, 2(b)

## GROUP 3— BOOKS, ETC.

### Item No.

- 1 Books, booklets, brochures, pamphlets and leaflets.
- 2 Newspapers, journals and periodicals.
- 3 Children’s picture books and painting books.
- 4 Music (printed, duplicated or manuscript).
- 5 Maps, charts and topographical plans.
- 6 Covers, cases and other articles supplied with items 1 to 5 and not separately accounted for.

### Note:

Items 1 to 6—

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- (a) do not include plans or drawings for industrial, architectural, engineering, commercial or similar purposes; but
- (b) include the supply of the services described in paragraph 1(1) of Schedule 4 in respect of goods comprised in the items.

#### **GROUP 4— TALKING BOOKS FOR THE BLIND AND HANDICAPPED AND WIRELESS SETS FOR THE BLIND**

*Item No.*

- 1 The supply to the Royal National Institute for the Blind, the National Listening Library or other similar charities of—
- (a) magnetic tape specially adapted for the recording and reproduction of speech for the blind or severely handicapped;
  - (b) apparatus designed or specially adapted for the making on a magnetic tape, by way of the transfer of recorded speech from another magnetic tape, of a recording described in paragraph (f) below;
  - (c) apparatus designed or specially adapted for transfer to magnetic tapes of a recording made by apparatus described in paragraph (b) above;
  - (d) apparatus for re-winding magnetic tape described in paragraph (f) below;
  - (e) apparatus designed or specially adapted for the reproduction from recorded magnetic tape of speech for the blind or severely handicapped which is not available for use otherwise than by the blind or severely handicapped;
  - (f) magnetic tape upon which has been recorded speech for the blind or severely handicapped, such recording being suitable for reproduction only in the apparatus mentioned in paragraph (e) above;
  - (g) apparatus solely for the making on a magnetic tape of a sound recording which is for use by the blind or severely handicapped;
  - (h) parts and accessories (other than a magnetic tape for use with apparatus described in paragraph (g) above) for goods comprised in paragraphs (a) to (g) above;
  - (i) the supply of a service of repair or maintenance of any goods comprised in paragraphs (a) to (h) above.
- 2 The supply to a charity of—
- (a) wireless receiving sets; or
  - (b) apparatus solely for the making and reproduction of a sound recording on a magnetic tape permanently contained in a cassette,
- being goods solely for gratuitous loan to the blind.

*Note:* The supply mentioned in items 1 and 2 includes the letting on hire of goods comprised in the items.

#### **[<sup>F227</sup>GROUP 5-CONSTRUCTION OF BUILDINGS, ETC.]**

##### **Textual Amendments**

**F227** Sch. 8 Pt. II Group 5 substituted (1.3.1995) by [S.I. 1995/280](#), [arts. 1, 2](#)

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Item No.

- [<sup>F228</sup>1] The first grant by a person—
- (a) constructing a building—
    - (i) designed as a dwelling or number of dwellings; or
    - (ii) intended for use solely for a relevant residential or a relevant charitable purpose; or
  - (b) converting a non-residential building or a non-residential part of a building into a building designed as a dwelling or number of dwellings or a building intended for use solely for a relevant residential purpose,
- of a major interest in, or in any part of, the building, dwelling or its site.]

**Textual Amendments**

**F228** Sch. 8 Pt. II Group 5 substituted (1.3.1995) by [S.I. 1995/280](#), [arts. 1, 2](#)

- [<sup>F229</sup>2] The supply in the course of the construction of—
- (a) a building designed as a dwelling or number of dwellings or intended for use solely for a relevant residential purpose or a relevant charitable purpose; or
  - (b) any civil engineering work necessary for the development of a permanent park for residential caravans,
- of any services related to the construction other than the services of an architect, surveyor or any person acting as a consultant or in a supervisory capacity.]

**Textual Amendments**

**F229** Sch. 8 Pt. II Group 5 substituted (1.3.1995) by [S.I. 1995/280](#), [arts. 1, 2](#)

- [<sup>F230</sup>3] The supply to a [<sup>F231</sup>relevant housing association] in the course of conversion of a non-residential building or a non-residential part of a building into—
- (a) a building or part of a building designed as a dwelling or number of dwellings; or
  - (b) a building or part of a building intended for use solely for a relevant residential purpose,
- of any services related to the conversion other than the services of an architect, surveyor or any person acting as a consultant or in a supervisory capacity.]

**Textual Amendments**

**F230** Sch. 8 Pt. II Group 5 substituted (1.3.1995) by [S.I. 1995/280](#), [arts. 1, 2](#)

**F231** Words in Sch. 8 Pt. II Group 5 item 3 substituted (1.3.1997) by [S.I. 1997/50](#), [arts. 1, 2](#)

- [<sup>F232</sup>4] The supply of building materials to a person to whom the supplier is supplying services within item 2 or 3 of this Group which include the incorporation of the materials into the building (or its site) in question.]

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### Textual Amendments

**F232** Sch. 8 Pt. II Group 5 substituted (1.3.1995) by **S.I. 1995/280, arts. 1, 2**

<sup>F233</sup> Notes:

- (1) “Grant” includes an assignment or surrender.
- (2) A building is designed as a dwelling or a number of dwellings where in relation to each dwelling the following conditions are satisfied—
  - (a) the dwelling consists of self-contained living accommodation;
  - (b) there is no provision for direct internal access from the dwelling to any other dwelling or part of a dwelling;
  - (c) the separate use, or disposal of the dwelling is not prohibited by the term of any covenant, statutory planning consent or similar provision; and
  - (d) statutory planning consent has been granted in respect of that dwelling and its construction or conversion has been carried out in accordance with that consent.
- (3) The construction of, or conversion of a non-residential building to, a building designed as a dwelling or a number of dwellings includes the construction of, or conversion of a non-residential building to, a garage provided that—
  - (a) the dwelling and the garage are constructed or converted at the same time; and
  - (b) the garage is intended to be occupied with the dwelling or one of the dwellings.
- (4) Use for a relevant residential purpose means use as—
  - (a) a home or other institution providing residential accommodation for children;
  - (b) a home or other institution providing residential accommodation with personal care for persons in need of personal care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder;
  - (c) a hospice;
  - (d) residential accommodation for students or school pupils;
  - (e) residential accommodation for members of any of the armed forces;
  - (f) a monastery, nunnery or similar establishment; or
  - (g) an institution which is the sole or main residence of at least 90 per cent. of its residents,

except use as a hospital, prison or similar institution or an hotel, inn or similar establishment.
- (5) Where a number of buildings are—
  - (a) constructed at the same time and on the same site; and
  - (b) are intended to be used together as a unit solely for a relevant residential purpose;

then each of those buildings, to the extent that they would not be so regarded but for this Note, are to be treated as intended for use solely for a relevant residential purpose.



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- (6) Use for a relevant charitable purpose means use by a charity in either or both the following ways, namely—
- (a) otherwise than in the course or furtherance of a business;
  - (b) as a village hall or similarly in providing social or recreational facilities for a local community.
- (7) Subject to Note (9) below “non-residential” in relation to a building or part of a building, means—
- (a) neither designed nor adapted for use as a dwelling or number of dwellings nor for a relevant residential purpose, or
  - (b) if so designed or adapted, was constructed before, and has not been used as a dwelling or number of dwellings or for a relevant residential purpose since, 1st April 1973.
- (8) References to a non-residential building or a non-residential part of a building do not include a reference to a garage occupied together with a dwelling.
- (9) The conversion, other than to a building designed for a relevant residential purpose, of a non-residential part of a building which already contains a residential part is not included within items 1(b) or 3 unless the result of that conversion is to create an additional dwelling or dwellings.
- (10) Where—
- (a) part of a building that is constructed is designed as a dwelling or number of dwellings or is intended for use solely for a relevant residential purpose or relevant charitable purpose (and part is not); or
  - (b) part of a building that is converted is designed as a dwelling or number of dwellings or is used solely for a relevant residential purpose (and part is not)
- 
- then in the case of—
- (i) a grant or other supply relating only to the part so designed or intended for that use (or its site) shall be treated as relating to a building so designed or intended for such use;
  - (ii) a grant or other supply relating only to the part neither so designed nor intended for such use (or its site) shall not be so treated; and
  - (iii) any other grant or other supply relating to, or to any part of, the building (or its site), an apportionment shall be made to determine the extent to which it is to be so treated.
- (11) Where, a service falling within the description in items 2 or 3 is supplied in part in relation to the construction or conversion of a building and in part for other purposes, an apportionment may be made to determine the extent to which the supply is to be treated as falling within items 2 or 3.
- (12) Where all or part of a building is intended for use solely for a relevant residential purpose or a relevant charitable purpose—
- (a) a supply relating to the building (or any part of it) shall not be taken for the purposes of items 2 and 4 as relating to a building intended for such use unless it is made to a person who intends to use the building (or part) for such a purpose; and
  - (b) a grant or other supply relating to the building (or any part of it) shall not be taken as relating to a building intended for such use unless before it is made the person to whom it is made has given to the person making it a certificate

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in such form as may be specified in a notice published by the Commissioners stating that the grant or other supply (or a specified part of it) so relates.

- (13) The grant of an interest in, or in any part of—
- (a) a building designed as a dwelling or number of dwellings; or
  - (b) the site of such a building,
- is not within item 1 if—
- (i) the interest granted is such that the grantee is not entitled to reside in the building or part, throughout the year; or
  - (ii) residence there throughout the year, or the use of the building or part as the grantee's principal private residence, is prevented by the terms of a covenant, statutory planning consent or similar permission.
- (14) Where the major interest referred to in item 1 is a tenancy or lease—
- (a) if a premium is payable, the grant falls within that item only to the extent that it is made for consideration in the form of the premium; and
  - (b) if a premium is not payable, the grant falls within that item only to the extent that it is made for consideration in the form of the first payment of rent due under the tenancy or lease.
- (15) The reference in item 2(b) of this Group to the construction of a civil engineering work does not include a reference to the conversion, reconstruction, alteration or enlargement of a work.
- (16) For the purpose of this Group, the construction of a building does not include—
- (a) the conversion, reconstruction or alteration of an existing building; or
  - (b) any enlargement of, or extension to, an existing building except to the extent the enlargement or extension creates an additional dwelling or dwellings; or
  - (c) subject to Note (17) below, the construction of an annexe to an existing building.
- (17) Note 16(c) above shall not apply where an annexe is intended for use solely for a relevant charitable purpose and—
- (a) is capable of functioning independently from the existing building; and
  - (b) the only access or where there is more than one means of access, the main access to:
    - (i) the annexe is not via the existing building; and
    - (ii) the existing building is not via the annexe.
- (18) A building only ceases to be an existing building when:
- (a) demolished completely to ground level; or
  - (b) the part remaining above ground level consists of no more than a single facade or where a corner site, a double facade, the retention of which is a condition or requirement of statutory planning consent or similar permission.
- (19) A caravan is not a residential caravan if residence in it throughout the year is prevented by the terms of a covenant, statutory planning consent or similar permission.
- (20) Item 2 and Item 3 do not include the supply of services described in paragraph 1(1) or 5(4) of Schedule 4.
- [ In item 3 “relevant housing association” means—

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- <sup>F234</sup>(21) (a) a registered social landlord within the meaning of Part I of the Housing Act 1996 <sup>F235</sup>,
- (b) a registered housing association within the meaning of the Housing Associations Act 1985 <sup>F236</sup> (Scottish registered housing associations), or
- (c) a registered housing association within the meaning of Part II of the Housing (Northern Ireland) Order 1992 <sup>F237</sup> (Northern Irish registered housing associations).]

(22)

“Building materials”, in relation to any description of building, means goods of a description ordinarily incorporated by builders in a building of that description, (or its site), but does not include—

- (a) finished or prefabricated furniture, other than furniture designed to be fitted in kitchens;
- (b) materials for the construction of fitted furniture, other than kitchen furniture;
- (c) electrical or gas appliances, unless the appliance is an appliance which is—
- (i) designed to heat space or water (or both) or to provide ventilation, air cooling, air purification, or dust extraction; or
- (ii) intended for use in a building designed as a number of dwellings and is a door-entry system, a waste disposal unit or a machine for compacting waste; or
- (iii) a burglar alarm, a fire alarm, or fire safety equipment or designed solely for the purpose of enabling aid to be summoned in an emergency; or
- (iv) a lift or hoist;
- (d) carpets or carpeting material.

(23) For the purposes of Note (22) above the incorporation of goods in a building includes their installation as fittings.

(24) Section 30(3) does not apply to goods forming part of a description of supply in this Group.]

#### Textual Amendments

**F234** Sch. 8 Group 5 Note (21) substituted (1.3.1997) by S.I. 1997/50, arts. 1, 2

**F235** 1996 c.52.

**F236** 1985 c.69.

**F237** S.I. 1992/1725 (N.I.15).

#### Textual Amendments

**F233** Sch. 8 Group 5 substituted (1.3.1995) by S.I. 1995/280, arts. 1, 2

**F234** Sch. 8 Group 5 Note (21) substituted (1.3.1997) by S.I. 1997/50, arts. 1, 2

**F235** 1996 c.52.

**F236** 1985 c.69.

**F237** S.I. 1992/1725 (N.I.15).

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## [<sup>F238</sup>GROUP 6—PROTECTED BUILDINGS]

### Textual Amendments

**F238** Sch. 8 Pt. II Group 6 substituted (1.3.1995) by [S.I. 1995/283](#), [arts. 1, 2](#)

### Item No.

[<sup>F239</sup>1 The first grant by a person substantially reconstructing a protected building, of a major interest in, or in any part of, the building or its site.]

### Textual Amendments

**F239** Sch. 8 Pt. II Group 6 substituted (1.3.1995) by [S.I. 1995/283](#), [arts. 1, 2](#)

[<sup>F240</sup>2 The supply, in the course of an approved alteration of a protected building, of any services other than the services of an architect, surveyor or any person acting as consultant or in a supervisory capacity.]

### Textual Amendments

**F240** Sch. 8 Pt. II Group 6 substituted (1.3.1995) by [S.I. 1995/283](#), [arts. 1, 2](#)

[<sup>F241</sup>3 The supply of building materials to a person to whom the supplier is supplying services within item 2 of this Group which include the incorporation of the materials into the building (or its site) in question.]

### Textual Amendments

**F241** Sch. 8 Pt. II Group 6 substituted (1.3.1995) by [S.I. 1995/283](#), [arts. 1, 2](#)

### [<sup>F242</sup>Notes:

- (1) “Protected building” means a building which is designed to remain as or become a dwelling or number of dwellings (as defined in Note (2) below) or is intended for use solely for a relevant residential purpose or a relevant charitable purpose after the reconstruction or alteration and which, in either case, is—
- (a) a listed building within the meaning of—
    - (i) the Planning (Listed Buildings and Conservation Areas) Act 1990 <sup>F243</sup>; or
    - (ii) [<sup>F244</sup>the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997]; or
    - (iii) the Planning (Northern Ireland) Order 1991 <sup>F245</sup>; or
  - (b) a scheduled monument, within the meaning of—
    - (i) the Ancient Monuments and Archaeological Areas Act 1979; or
    - (ii) [<sup>F246</sup>the Historic Monuments and Archaeological Objects (Northern Ireland) Order 1995].

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- (2) A building is designed to remain as or become a dwelling or number of dwellings where in relation to each dwelling the following conditions are satisfied—
- (a) the dwelling consists of self-contained living accommodation;
  - (b) there is no provision for direct internal access from the dwelling to any other dwelling or part of a dwelling;
  - (c) the separate use, or disposal of the dwelling is not prohibited by the terms of any covenants, statutory planning consent or similar provision,
- and includes a garage (occupied together with a dwelling) either constructed at the same time as the building or where the building has been substantially reconstructed at the same time as that reconstruction.
- (3) Notes (1), (4), (6), (12) to (14) and (22) to (24) of Group 5 apply in relation to this Group as they apply in relation to that Group but subject to any appropriate modifications.
- <sup>F247</sup>(4) For the purposes of item 1, a protected building shall not be regarded as substantially reconstructed unless the reconstruction is such that at least one of the following conditions is fulfilled when the reconstruction is completed—
- (a) that, of the works carried out to effect the reconstruction, at least three-fifths, measured by reference to cost, are of such a nature that the supply of services (other than excluded services), materials and other items to carry out the works, would, if supplied by a taxable person, be within either item 2 or item 3 of this Group; and
  - <sup>F248</sup>(b) [ that the reconstructed building incorporates no more of the original building (that is to say, the building as it was before the reconstruction began) than the external walls, together with other external features of architectural or historic interest;]
- and in paragraph (a) above “excluded services” means the services of an architect, surveyor or other person acting as consultant or in a supervisory capacity.
- (5) Where part of a protected building that is substantially reconstructed is designed to remain as or become a dwelling or a number of dwellings or is intended for use solely for a relevant residential or relevant charitable purpose (and part is not)—
- (a) a grant or other supply relating only to the part so designed or intended for such use (or its site) shall be treated as relating to a building so designed or intended for such use;
  - (b) a grant or other supply relating only to the part neither so designed nor intended for such use (or its site) shall not be so treated; and
  - (c) in the case of any other grant or other supply relating to, or to any part of, the building (or its site), an apportionment shall be made to determine the extent to which it is to be so treated.
- (6) “Approved alteration” means—
- (a) in the case of a protected building which is an ecclesiastical building to which section 60 of the Planning (Listed Buildings and Conservation Areas) Act 1990 applies, any works of alteration; and
  - (b) in the case of a protected building which is a scheduled monument within the meaning of the Historic Monuments Act (Northern Ireland) 1971 and in respect of which a protection order, within the meaning of that Act, is in force, works of alteration for which consent has been given under section 10 of that Act; and

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- (c) in any other case, works of alteration which may not, or but for the existence of a Crown interest or Duchy interest could not, be carried out unless authorised under, or under any provision of—
- (i) Part I of the Planning (Listed Buildings and Conservation Areas) Act 1990,
  - (ii) Part IV of the Town and Country Planning (Scotland) Act 1972,
  - (iii) Part V of the Planning (Northern Ireland) Order 1991,
  - (iv) Part I of the Ancient Monuments and Archaeological Areas Act 1979,
- and for which, except in the case of a Crown interest or Duchy interest, consent has been obtained under any provision of that Part,
- but does not include any works of repair or maintenance, or any incidental alteration to the fabric of a building which results from the carrying out of repairs, or maintenance work.
- (7) For the purposes of paragraph (a) of Note (6), a building used or available for use by a minister of religion wholly or mainly as a residence from which to perform the duties of his office shall be treated as not being an ecclesiastical building.
- (8) For the purposes of paragraph (c) of Note (6) “Crown interest” and “Duchy interest” have the same meaning as in section 50 of the Ancient Monuments and Archaeological Areas Act 1979.
- (9) Where a service is supplied in part in relation to an approved alteration of a building, and in part for other purposes, an apportionment may be made to determine the extent to which the supply is to be treated as falling within item 2.
- (10) For the purposes of item 2 the construction of a building separate from, but in the curtilage of, a protected building does not constitute an alteration of the protected building.
- (11) Item 2 does not include the supply of services described in paragraph 1(1) or 5(4) of Schedule 4.]

### Textual Amendments

**F243** 1990 c. 9

**F244** Words in Sch. 8 Pt. II Group 6 Note (1)(a)(ii) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 57(a)**

**F245** S.I. 1991/1220 (N.I.11).

**F246** Words in Sch. 8 Pt. II Group 6 Note (1)(b)(ii) substituted (N.I.) (29.8.1995) by S.I. 1995/1625 (N.I. 9), arts. 1(2), 45(1), **Sch. 3 para. 4(1)**

**F247** Sch. 8 Pt. II Group 6 Note (4)(c): by S.I. 1995/1625 (N.I. 9), arts. 1(2), 45(1), **Sch. 3 para. 4(2)(b)** it is provided that Sch. 8 Group 6 Note (4)(c)(v) and the word preceding it shall be inserted (N.I.) (29.8.1995) Sch. 8 Pt. II Group 6 Note (4)(c): by S.I. 1995/1625 (N.I. 9), arts. 1(2), 45(2), **Sch. 4** it is provided that the word “or” at the end of Sch. 8 Group 6 Note (4)(c)(iii) shall be repealed (N.I.) (29.8.1995)

Words in Sch. 8 Pt. II Group 6 Note (4)(c)(ii): by 1997 c. 11, **Sch. 2 para. 57(b)** it is provided that for “Part IV of the Town and Country Planning (Scotland) Act 1972” there be substituted “Part I of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997”

**F248** Sch. 8 Pt. II Group 6 Note (4)(b) repealed (N.I.) (29.8.1995) by S.I. 1995/1625 (N.I. 9), arts. 1(2), 45(1) (2), **Sch. 3 para. 4(2)(a)**, **Sch. 4**

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#### Textual Amendments

- F242** Sch. 8 Pt. II Group 6 substituted (1.3.1995) by S.I. 1995/283, arts. 1, 2
- F243** 1990 c. 9
- F244** Words in Sch. 8 Pt. II Group 6 Note (1)(a)(ii) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), Sch. 2 para. 57(a)
- F245** S.I. 1991/1220 (N.I.11).
- F246** Words in Sch. 8 Pt. II Group 6 Note (1)(b)(ii) substituted (N.I.) (29.8.1995) by S.I. 1995/1625 (N.I. 9), arts. 1(2), 45(1), Sch. 3 para. 4(1)
- F247** Sch. 8 Pt. II Group 6 Note (4)(c): by S.I. 1995/1625 (N.I. 9), arts. 1(2), 45(1), Sch. 3 para. 4(2)(b) it is provided that Sch. 8 Group 6 Note (4)(c)(v) and the word preceding it shall be inserted (N.I.) (29.8.1995) Sch. 8 Pt. II Group 6 Note (4)(c): by S.I. 1995/1625 (N.I. 9), arts. 1(2), 45(2), Sch. 4 it is provided that the word “or” at the end of Sch. 8 Group 6 Note (4)(c)(iii) shall be repealed (N.I.) (29.8.1995) Words in Sch. 8 Pt. II Group 6 Note (4)(c)(ii): by 1997 c. 11, Sch. 2 para. 57(b) it is provided that for “Part IV of the Town and Country Planning (Scotland) Act 1972” there be substituted “Part I of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997”
- F248** Sch. 8 Pt. II Group 6 Note (4)(b) repealed (N.I.) (29.8.1995) by S.I. 1995/1625 (N.I. 9), arts. 1(2), 45(1) (2), Sch. 3 para. 4(2)(a), Sch. 4

### GROUP 7— INTERNATIONAL SERVICES

#### Item No.

- 1 The supply of services of work carried out on goods which, for that purpose, have been obtained or acquired in, or imported into, any of the member States and which are intended to be, and in fact are, subsequently exported to a place outside the member States—
- by or on behalf of the supplier; or
  - where the recipient of the services belongs in a place outside the member States, by or on behalf of the recipient.
- 2 The supply of services consisting of the making of arrangements for—
- the export of any goods to a place outside the member States;
  - a supply of services of the description specified in item 1 of this Group; or
  - any supply of services which is made outside the member States.

*Note:* This Group does not include any services of a description specified in Group 2 or Group 5 of Schedule 9.

### GROUP 8— TRANSPORT

- [<sup>F249</sup>1 The supply, repair or maintenance of a qualifying ship or the modification or conversion of any such ship provided that when so modified or converted it will remain a qualifying ship.]

#### Textual Amendments

- F249** Sch. 8 Pt. II Group 8 item 1 substituted (1.1.1996) by S.I. 1995/3039, arts. 1, 2(a)

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- [<sup>F250</sup>2 The supply, repair or maintenance of a qualifying aircraft or the modification or conversion of any such aircraft provided that when so modified or converted it will remain a qualifying aircraft.]

**Textual Amendments**

**F250** Sch. 8 Pt. II Group 8 item 2 substituted (1.1.1996) by [S.I. 1995/3039](#), [arts. 1, 2\(b\)](#)

- [<sup>F251</sup>2A The supply of parts and equipment, of a kind ordinarily installed or incorporated in, and to be installed, or incorporated in,—
- (a) the propulsion, navigation or communication systems; or
  - (b) the general structure,
- of a qualifying ship or, as the case may be, aircraft.]

**Textual Amendments**

**F251** Sch. 8 Pt. II Group 8 item 2A inserted (1.1.1996) by [S.I. 1995/3039](#), [arts. 1, 2\(c\)](#)

- [<sup>F252</sup>2B The supply of life jackets, life rafts, smoke hoods and similar safety equipment for use in a qualifying ship or, as the case may be, aircraft.]

**Textual Amendments**

**F252** Sch. 8 Pt. II Group 8 item 2B inserted (1.1.1996) by [S.I. 1995/3039](#), [arts. 1, 2\(c\)](#)

- 3
- (a) The supply to and repair or maintenance for a charity providing rescue or assistance at sea of—
    - (i) any lifeboat;
    - (ii) carriage equipment designed solely for the launching and recovery of lifeboats;
    - (iii) tractors for the sole use of the launching and recovery of lifeboats;
    - (iv) winches and hauling equipment for the sole use of the recovery of lifeboats.
  - (b) The construction, modification, repair or maintenance for a charity providing rescue or assistance at sea of slipways used solely for the launching and recovery of lifeboats.
  - (c) The supply of spare parts or accessories to a charity providing rescue or assistance at sea for use in or with goods comprised in paragraph (a) above or slipways comprised in paragraph (b) above.
- 4
- Transport of passengers—
- (a) in any vehicle, ship or aircraft designed or adapted to carry not less than 12 passengers;
  - (b) by the Post Office;
  - (c) on any scheduled flight; or
  - (d) from a place within to a place outside the United Kingdom or vice versa, to the extent that those services are supplied in the United Kingdom.



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5 The transport of goods from a place within to a place outside the member States or vice versa, to the extent that those services are supplied within the United Kingdom.

6 Any services provided for—

- (a) the handling of ships or aircraft in a port, customs and excise airport or outside the United Kingdom; or
- (b) the handling or storage, in a port or customs and excise airport or on land adjacent to a port, of goods carried in a ship or aircraft.

[<sup>F253</sup>6A Air navigation services.]

#### Textual Amendments

**F253** Sch. 8 Pt. II Group 8 item 6A inserted (1.4.1995) by S.I. 1995/653, arts. 1, 3

7 Pilotage services.

8 Salvage or towage services.

9 Any services supplied for or in connection with the surveying of any ship or aircraft or the classification of any ship or aircraft for the purposes of any register.

10 The making of arrangements for—

- (a) the supply of, or of space in, any ship or aircraft; <sup>F254</sup> . . .
- (b) the supply of any service included in [<sup>F255</sup>items 1 and 2, 3 to 9 and 11].
- [<sup>F256</sup>(c) the supply of any goods of a description falling within items 2A or 2B.]

#### Textual Amendments

**F254** Word in Sch. 8 Pt. II Group 8 item 10(a) deleted (1.1.1996) by S.I. 1995/3039, arts. 1, 2(d)(i)

**F255** Words in Sch. 8 Pt. II Group 8 item 10(b) substituted (1.1.1996) by S.I. 1995/3039, arts. 1, 2(d)(ii)

**F256** Sch. 8 Pt. II Group 8 item 10(c) inserted (1.1.1996) by S.I. 1995/3039, arts. 1, 2(d)(iii)

11 The supply—

- (a) of services consisting of
  - (i) the handling or storage of goods at, or their transport to or from, a place at which they are to be exported to or have been imported from a place outside the member States; or
  - (ii) the handling or storage of such goods in connection with such transport; or
- (b) to a person who receives the supply for the purpose of a business carried on by him and who belongs outside the United Kingdom, of services of a description specified in paragraph (a) of item 6, [<sup>F257</sup>item 6A,] item 9 or paragraph (a) of item 10 of this Group.

#### Textual Amendments

**F257** Words in Sch. 8 Pt. II Group 8 item 11(b) inserted (1.4.1995) by S.I. 1995/653, arts. 1, 4

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- 12 The supply of a designated travel service to be enjoyed outside the European Community, to the extent to which the supply is so enjoyed.
- 13 Intra-Community transport services supplied in connection with the transport of goods to or from the Azores or Madeira or between those places, to the extent that the services are treated as supplied in the United Kingdom.

Notes:

[<sup>F258</sup>(A1) In this Group—

- (a) a “qualifying ship” is any ship of a gross tonnage of not less than 15 tons which is neither designed nor adapted for use for recreation or pleasure; and
- (b) a “qualifying aircraft” is any aircraft of a weight of not less than 8,000 kilogrammes which is neither designed nor adapted for use for recreation or pleasure.]

(1) In items 1 and 2 the supply of a [<sup>F259</sup>qualifying]ship or, as the case may be, aircraft includes the supply of services under a charter of that ship or aircraft except where the services supplied under such a charter consist wholly of any one or more of the following—

- (a) transport of passengers;
- (b) accommodation;
- (c) entertainment;
- (d) education;

being services wholly performed in the United Kingdom.

(2) Items 1, 2 [<sup>F260</sup>, 2A, 2B] and 3 include the letting on hire of the goods specified in the items.

[<sup>F261</sup>(2A) Items 2A and 2B do not include the supply of parts and equipment to a Government department [<sup>F262</sup>or any part of the Scottish Administration] unless—

- (a) they are installed or incorporated in the course of a supply which is treated as being made in the course or furtherance of a business carried on by the department; or
- (b) the parts and equipment are to be installed or incorporated in ships or aircraft used for the purpose of providing rescue or assistance at sea.]

(3) Item 3 shall not apply unless, before the supply is made, the recipient of the supply gives to the person making the supply a certificate stating—

- (a) the name and address of the recipient;
- (b) that the supply is of a description specified in item 3 of this Group.

(4) “Lifeboat” means any vessel used or to be used solely for rescue or assistance at sea.

[<sup>F263</sup>(4A) Item 4 does not include the transport of passengers—

- (a) in any vehicle to, from or within—
  - (i) a place of entertainment, recreation or amusement; or
  - (ii) a place of cultural, scientific, historical or similar interest,
 by the person, or a person connected with him, who supplies a right of admission to, or a right to use facilities at, such a place;
- (b) in any motor vehicle between a car park (or land adjacent thereto) and an airport passenger terminal (or land adjacent thereto) by the person, or a

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- person connected with him, who supplies facilities for the parking of vehicles in that car park; or
- (c) in an aircraft where the flight is advertised or held out to be for the purpose of—
- (i) providing entertainment, recreation or amusement; or
  - (ii) the experience of flying, or the experience of flying in that particular aircraft,
- and not primarily for the purpose of transporting passengers from one place to another.
- (4B) For the purposes of Note (4A) any question whether a person is connected with another shall be determined in accordance with section 839 of the Taxes Act <sup>F264</sup>.
- (4C) In Note (4A)(b) “motor vehicle” means a mechanically propelled vehicle intended or adapted for use on the roads.]
- (5) Item 6 does not include the letting on hire of goods.
- (6) “Port” and “customs and excise airport” have the same meanings as in the Management Act.
- <sup>F265</sup>(6A) “Air navigation services” has the same meaning as in the Civil Aviation Act 1982 <sup>F266</sup>.]
- (7) Except for the purposes of item 11, paragraph (a) of item 6, [<sup>F267</sup>item 6A,] item 9 and paragraph (a) of item 10 [<sup>F268</sup>only include supplies of services where the ships or aircraft referred to in those paragraphs are qualifying ships or, as the case may be, aircraft.].
- (8) “Designated travel service” has the same meaning as in the <sup>M52</sup>Value Added Tax (Tour Operators) Order 1987.
- (9) “Intra-Community transport services” means—
- (a) the intra-Community transport of goods within the meaning of the <sup>M53</sup>Value Added Tax (Place of Supply of Services) Order 1992;
  - (b) ancillary transport services within the meaning of the <sup>M54</sup>Value Added Tax (Place of Supply of Services) Order 1992 which are provided in connection with the intra-Community transport of goods; or
  - (c) the making of arrangements for the supply by or to another person of a supply within (a) or (b) above or any other activity which is intended to facilitate the making of such a supply,
- and, for the purpose of this Note only, the Azores and Madeira shall each be treated as a separate member State.

#### Textual Amendments

**F258** Sch. 8 Group 8 Note (A1) inserted (1.1.1996) by S.I. 1995/3039, arts. 1, 2(e)

**F259** Word in Sch. 8 Group 8 Note (1) inserted (1.1.1996) by S.I. 1995/3039, arts. 1, 2(f)

**F260** WOrds in Sch. 8 Group 8 Note (2) inserted (1.1.1996) by S.I. 1995/3039, arts. 1, 2(g)

**F261** Sch. 8 Group 8 Note (2A) inserted (1.1.1996) by S.I. 1995/3039, arts. 1, 2(h)

**F262** Words in Sch. 8 Group 8 Note (2A) inserted (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, Sch. 2 Pt. I para. 114(3); S.I. 1998/3178, art. 3

**F263** Sch. 8 Group 8 Notes (4A)-(4C) inserted (1.4.1995) by S.I. 1994/3014, arts. 1, 3

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- F264** See Section 96 Value Added Tax Act 1994 c.23.  
**F265** Sch. 8 Group 8 Note (6A) inserted (1.4.1995) by S.I. 1995/653, arts. 1, 5  
**F266** 1982 c.16. Air navigation services are defined in section 105(1).  
**F267** Words in Sch. 8 Group 8 Note (7) inserted (1.4.1995) by S.I. 1995/653, arts. 1, 6  
**F268** Words in Sch. 8 Group 8 Note (7) substituted (1.1.1996) by S.I. 1995/3039, arts. 1, 2(i)

#### Marginal Citations

- M52** S.I.1987/1086  
**M53** S.I.1992/3121  
**M54** S.I.1992/3121

#### Textual Amendments

- F258** Sch. 8 Group 8 Note (A1) inserted (1.1.1996) by S.I. 1995/3039, arts. 1, 2(e)  
**F259** Word in Sch. 8 Group 8 Note (1) inserted (1.1.1996) by S.I. 1995/3039, arts. 1, 2(f)  
**F260** Words in Sch. 8 Group 8 Note (2) inserted (1.1.1996) by S.I. 1995/3039, arts. 1, 2(g)  
**F261** Sch. 8 Group 8 Note (2A) inserted (1.1.1996) by S.I. 1995/3039, arts. 1, 2(h)  
**F262** Words in Sch. 8 Group 8 Note (2A) inserted (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, Sch. 2 Pt. I para. 114(3); S.I. 1998/3178, art. 3  
**F263** Sch. 8 Group 8 Notes (4A)-(4C) inserted (1.4.1995) by S.I. 1994/3014, arts. 1, 3  
**F264** See Section 96 Value Added Tax Act 1994 c.23.  
**F265** Sch. 8 Group 8 Note (6A) inserted (1.4.1995) by S.I. 1995/653, arts. 1, 5  
**F266** 1982 c.16. Air navigation services are defined in section 105(1).  
**F267** Words in Sch. 8 Group 8 Note (7) inserted (1.4.1995) by S.I. 1995/653, arts. 1, 6  
**F268** Words in Sch. 8 Group 8 Note (7) substituted (1.1.1996) by S.I. 1995/3039, arts. 1, 2(i)

#### Marginal Citations

- M52** S.I.1987/1086  
**M53** S.I.1992/3121  
**M54** S.I.1992/3121

## GROUP 9— CARAVANS AND HOUSEBOATS

### Item No.

- 1 Caravans exceeding the limits of size for the time being permitted for the use on roads of a trailer drawn by a motor vehicle having an unladen weight of less than 2,030 kilogrammes.
- 2 Houseboats being boats or other floating decked structures designed or adapted for use solely as places of permanent habitation and not having means of, or capable of being readily adapted for, self-propulsion.
- 3 The supply of such services as are described in paragraph 1(1) or 5(3) of Schedule 4 in respect of a caravan comprised in item 1 or a houseboat comprised in item 2.

### Note:

This Group does not include—

- (a) removable contents other than goods of a kind mentioned in item 3 of Group 5; or
- (b) the supply of accommodation in a caravan or houseboat.

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## GROUP 10— GOLD

### Item No.

- 1 The supply, by a Central Bank to another Central Bank or a member of the London Gold Market, of gold held in the United Kingdom.
- 2 The supply, by a member of the London Gold Market to a Central Bank, of gold held in the United Kingdom.

### Notes:

- (1) “Gold” includes gold coins.
- (2) Section 30(3) does not apply to goods forming part of a description of supply in this Group.
- (3) Items 1 and 2 include—
  - (a) the granting of a right to acquire a quantity of gold; and
  - (b) any supply described in those items which by virtue of paragraph 1 of Schedule 4 is a supply of services.

## GROUP 11— BANK NOTES

### Item No.

- 1 The issue by a bank of a note payable to bearer on demand.

## GROUP 12— DRUGS, MEDICINES, AIDS FOR THE HANDICAPPED, ETC.

### Item No.

- 1 The [<sup>F269</sup>supply of any qualifying goods dispensed to an individual for his personal use where the dispensing is] by a person registered in the register of pharmaceutical chemists kept under the <sup>M55</sup>Pharmacy Act 1954 or the <sup>M56</sup>Pharmacy (Northern Ireland) Order 1976, on the prescription of a person registered in the register of medical practitioners, the register of medical practitioners with limited registration or the dentists’ register.

#### Textual Amendments

**F269** Words in Sch. 8 group 12 item 1 substituted (1.1.1998) by S.I. 1997/2744, art. 3

#### Marginal Citations

**M55** 1954 c. 61.

**M56** S.I.1976/1213

- <sup>F270</sup>1A The supply of any [<sup>F271</sup>qualifying]goods in accordance with a requirement or authorisation under—

- (a) regulation 20 of the National Health Service (Pharmaceutical Services) Regulations 1992 <sup>F272</sup>;

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- (b) regulation 34 of the National Health Service (General Medical Services) (Scotland) Regulations 1995 <sup>F273</sup>; or
- (c) [<sup>F274</sup>regulation 12 of the Pharmaceutical Services Regulations (Northern Ireland) 1997],

by a person registered in the register of medical practitioners or the register of medical practitioners with limited registration.]

#### Textual Amendments

**F270** Sch. 8 group 12 item 1A inserted (1.5.1995) by [S.I. 1995/652, art. 3](#)

**F271** Word in Sch. 8 group 12 item 1A inserted (1.1.1998) by [S.I. 1998/2744, art. 4](#)

**F272** [S.I. 1992/662](#).

**F273** [S.I. 1995/416](#).

**F274** Words in Sch. 8 group 12 item 1A substituted (1.1.1998) by [S.I. 1998/2744, art. 4](#)

- 2 The supply to a handicapped person for domestic or his personal use, or to a charity for making available to handicapped persons by sale or otherwise, for domestic or their personal use, of—
  - (a) medical or surgical appliances designed solely for the relief of a severe abnormality or severe injury;
  - (b) electrically or mechanically adjustable beds designed for invalids;
  - (c) commode chairs, commode stools, devices incorporating a bidet jet and warm air drier and frames or other devices for sitting over or rising from a sanitary appliance;
  - (d) chair lifts or stair lifts designed for use in connection with invalid wheelchairs;
  - (e) hoists and lifters designed for use by invalids;
  - (f) motor vehicles designed or substantially and permanently adapted for the carriage of a person in a wheelchair or on a stretcher and of no more than 5 other persons;
  - (g) equipment and appliances not included in paragraphs (a) to (f) above designed solely for use by a handicapped person;
  - (h) parts and accessories designed solely for use in or with goods described in paragraphs (a) to (g) above;
  - (i) boats designed or substantially and permanently adapted for use by handicapped persons.
- 3 The supply to a handicapped person of services of adapting goods to suit his condition.
- 4 The supply to a charity of services of adapting goods to suit the condition of a handicapped person to whom the goods are to be made available, by sale or otherwise, by the charity.
- 5 The supply to a handicapped person or to a charity of a service of repair or maintenance of any goods specified in item 2, 6, 18 or 19 and supplied as described in that item.
- 6 The supply of goods in connection with a supply described in item 3, 4 or 5.

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- 7 The supply to a handicapped person or to a charity of services necessarily performed in the installation of equipment or appliances (including parts and accessories therefor) specified in item 2 and supplied as described in that item.
- 8 The supply to a handicapped person of a service of constructing ramps or widening doorways or passages for the purpose of facilitating his entry to or movement within his private residence.
- 9 The supply to a charity of a service described in item 8 for the purpose of facilitating a handicapped person's entry to or movement within any building.
- 10 The supply to a handicapped person of a service of providing, extending or adapting a bathroom, washroom or lavatory in his private residence where such provision, extension or adaptation is necessary by reason of his condition.
- 11 The supply to a charity of a service of providing, extending or adapting a bathroom, washroom or lavatory for use by handicapped persons in a residential home where such provision, extension or adaptation is necessary by reason of the condition of the handicapped persons.
- 12 The supply to a charity of a service of providing, extending or adapting a washroom or lavatory for use by handicapped persons in a building, or any part of a building, used principally by a charity for charitable purposes where such provision, extension or adaptation is necessary to facilitate the use of the washroom or lavatory by handicapped persons.
- 13 The supply of goods in connection with a supply described in items 8, 9, 10 or 11.
- 14 The letting on hire of a motor vehicle for a period of not less than 3 years to a handicapped person in receipt of a disability living allowance by virtue of entitlement to the mobility component or of mobility supplement where the lessor's business consists predominantly of the provision of motor vehicles to such persons.
- 15 The sale of a motor vehicle which had been let on hire in the circumstances described in item 14, where such sale constitutes the first supply of the vehicle after the end of the period of such letting.
- 16 The supply to a handicapped person of services necessarily performed in the installation of a lift for the purpose of facilitating his movement between floors within his private residence.
- 17 The supply to a charity providing a permanent or temporary residence or day-centre for handicapped persons of services necessarily performed in the installation of a lift for the purpose of facilitating the movement of handicapped persons between floors within that building.
- 18 The supply of goods in connection with a supply described in item 16 or 17.
- 19 The supply to a handicapped person for domestic or his personal use, or to a charity for making available to handicapped persons by sale or otherwise for domestic or their personal use, of an alarm system designed to be capable of operation by a handicapped person, and to enable him to alert directly a specified person or a control centre.
- 20 The supply of services necessarily performed by a control centre in receiving and responding to calls from an alarm system specified in item 19.

Notes:

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- (1) Section 30(3) does not apply to goods forming part of a description of supply in item 1 [<sup>F275</sup>or item 1A], nor to other goods forming part of a description of supply in this Group, except where those other goods are acquired from another member State or imported from a place outside the member States by a handicapped person for domestic or his personal use, or by a charity for making available to handicapped persons, by sale or otherwise, for domestic or their personal use.
- (2) For the purposes of item 1 a person who is not registered in the visiting EEC practitioners list in the register of medical practitioners at the time he performs services in an urgent case as mentioned in subsection (3) of section 18 of the <sup>M57</sup>Medical Act 1983 is to be treated as being registered in that list where he is entitled to be registered in accordance with that section.
- [<sup>F276</sup>(2A) In items 1 and 1A, “qualifying goods” means any goods designed or adapted for use in connection with any medical or surgical treatment except—
- (a) hearing aids;
  - (b) dentures; and
  - (c) spectacles and contact lenses.]
- (3) “Handicapped” means chronically sick or disabled.
- (4) Item 2 shall not include hearing aids (except hearing aids designed for the auditory training of deaf children), dentures, spectacles and contact lenses but shall be deemed to include—
- (a) clothing, footwear and wigs;
  - (b) invalid wheelchairs, and invalid carriages <sup>F277</sup>. . . ; and
  - (c) renal haemodialysis units, oxygen concentrators, artificial respirators and other similar apparatus.
- (5) The supplies described in items 1 [<sup>F278</sup>,1A] and 2 include supplies of services of letting on hire of the goods respectively comprised in those items.
- [<sup>F279</sup>(5A) In item 1 the reference to personal use does not include any use which is, or involves, a use by or in relation to an individual while that individual, for the purposes of being provided (whether or not by the person making the supply) with medical or surgical treatment, or with any form of care—
- (a) is an in-patient or resident in a relevant institution which is a hospital or nursing home; or
  - (b) is attending at the premises of a relevant institution which is a hospital or nursing home.
- (5B) Subject to Notes (5C) and (5D), in item 2 the reference to domestic or personal use does not include any use which is, or involves, a use by or in relation to a handicapped person while that person, for the purposes of being provided (whether or not by the person making the supply) with medical or surgical treatment, or with any form of care—
- (a) is an in-patient or resident in a relevant institution; or
  - (b) is attending at the premises of a relevant institution.
- (5C) Note (5B) does not apply for the purpose of determining whether any of the following supplies falls within item 2, that is to say—
- (a) a supply to a charity;



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- (b) a supply by a person mentioned in any of paragraphs (a) to (g) of Note (5H) of an invalid wheelchair or invalid carriage;
  - (c) a supply by a person so mentioned of any parts or accessories designed solely for use in or with an invalid wheelchair or invalid carriage.
- (5D) Note (5B) applies for the purpose of determining whether a supply of goods by a person not mentioned in any of paragraphs (a) to (g) of Note (5H) falls within item 2 only if those goods are—
  - (a) goods falling within paragraph (a) of that item;
  - (b) incontinence products and wound dressings; or
  - (c) parts and accessories designed solely for use in or with goods falling within paragraph (a) of this Note.
- (5E) Subject to Note (5F), item 2 does not include—
  - (a) a supply made in accordance with any agreement, arrangement or understanding (whether or not legally enforceable) to which any of the persons mentioned in paragraphs (a) to (g) of Note (5H) is or has been a party otherwise than as the supplier; or
  - (b) any supply the whole or any part of the consideration for which is provided (whether directly or indirectly) by a person so mentioned.
- (5F) A supply to a handicapped person of an invalid wheelchair or invalid carriage is excluded from item 2 by Note (5E) only if—
  - (a) that Note applies in relation to that supply by reference to a person falling within paragraph (g) of Note (5H); or
  - (b) the whole of the consideration for the supply is provided (whether directly or indirectly) by a person falling within any of paragraphs (a) to (f) of Note (5H).
- (5G) In Notes (4), (5C) and (5F), the references to an invalid wheelchair and to an invalid carriage do not include references to any mechanically propelled vehicle which is intended or adapted for use on roads.
- (5H) The persons referred to in Notes (5C) to (5F) are—
  - (a) a Health Authority or Special Health Authority in England and Wales;
  - (b) a Health Board or Special Health Board in Scotland;
  - (c) a Health and Social Services Board in Northern Ireland;
  - (d) the Common Services Agency for the Scottish Health Service, the Northern Ireland Central Services Agency for Health and Social Services and the Isle of Man Health Services Board;
  - (e) a National Health Service trust established under Part I of the National Health Service and Community Care Act 1990 <sup>F280</sup> or the National Health Service (Scotland) Act 1978 <sup>F281</sup>;
  - (f) a Health and Social Services trust established under Article 10 of the Health and Personal Social Services (Northern Ireland) Order 1991 <sup>F282</sup>; or
  - (g) any person not falling within any of paragraphs (a) to (f) above who is engaged in the carrying on of any activity in respect of which a relevant institution is required to be approved, licensed or registered or as the case may be, would be so required if not exempt.

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- (5I) In Notes (5A), (5B) and (5H), “relevant institution” means any institution (whether a hospital, nursing home or other institution) which provides care or medical or surgical treatment and is either—
- (a) approved, licensed or registered in accordance with the provisions of any enactment or Northern Ireland legislation; or
  - (b) exempted by or under the provisions of any enactment or Northern Ireland legislation from any requirement to be approved, licensed or registered;
- and in this Note the references to the provisions of any enactment or Northern Ireland legislation include references only to provisions which, so far as relating to England, Wales, Scotland or Northern Ireland, have the same effect in every locality within that part of the United Kingdom.]
- (6) Item 14 applies only—
- (a) where the vehicle is unused at the commencement of the period of letting; and
  - (b) where the consideration for the letting consists wholly or partly of sums paid to the lessor by the Department of Social Security or the Ministry of Defence on behalf of the lessee in respect of the mobility component of the disability living allowance or mobility supplement to which he is entitled.
- (7) In item 14—
- (a) “disability living allowance” is a disability living allowance within the meaning of section 71 of the <sup>M58</sup>Social Security Contributions and Benefits Act 1992, or section 71 of the <sup>M59</sup>Social Security Contributions and Benefits (Northern Ireland) Act 1992; and
  - (b) “mobility supplement” is a mobility supplement within the meaning of Article 26A of the <sup>M60</sup>Naval, Military and Air Forces etc. (Disablement and Death Service Pensions Order 1983, Article 25A of the <sup>M61</sup>Personal Injuries (Civilians) Scheme 1983, Article 3 of the <sup>M62</sup>Motor Vehicles (Exemption from Vehicles Excise Duty) Order 1985 or Article 3 of the <sup>M63</sup>Motor Vehicles (Exemption from Vehicles Excise Duty) (Northern Ireland) Order 1985.
- (8) Where in item 3 or 4 the goods are adapted in accordance with that item prior to their supply to the handicapped person or the charity, an apportionment shall be made to determine the supply of services which falls within item 3 or 4.
- (9) In item 19 or 20, a specified person or control centre is a person or centre who or which—
- (a) is appointed to receive directly calls activated by an alarm system described in that item, and
  - (b) retains information about the handicapped person to assist him in the event of illness, injury or similar emergency.

#### Textual Amendments

- F275** Words in Sch. 8 Group 12 Note (1) inserted (1.4.1995) by S.I. 1995/652, art. 4
- F276** Sch. 8 Group 12 Note (2A) inserted (1.1.1998) by S.I. 1998/2744, art. 5
- F277** Words in Sch. 8 Group 12 Note (4)(b) deleted (1.1.1998) by S.I. 1997/2744, arts. 1, 6
- F278** Words in Sch. 8 Group 12 Note (5) inserted (1.4.1995) by S.I. 1995/652, art. 5
- F279** Sch. 8 Group 12 Notes (5A)-(5I) inserted (1.1.1998) by S.I. 1997/2744, arts. 1, 7
- F280** 1990 c.19.

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**F281** 1978 c.29.

**F282** S.I. 1991/194 (N.I.1).

#### Marginal Citations

**M57** 1983 c. 54.

**M58** 1992 c. 4.

**M59** 1992 c. 7.

**M60** S.I.1983/883.

**M61** S.I.1983/686.

**M62** S.I.1985/722.

**M63** S.I.1985/723.

#### Textual Amendments

**F275** Words in Sch. 8 Group 12 Note (1) inserted (1.4.1995) by S.I. 1995/652, art. 4

**F276** Sch. 8 Group 12 Note (2A) inserted (1.1.1998) by S.I. 1998/2744, art. 5

**F277** Words in Sch. 8 Group 12 Note (4)(b) deleted (1.1.1998) by S.I. 1997/2744, arts. 1, 6

**F278** Words in Sch. 8 Group 12 Note (5) inserted (1.4.1995) by S.I. 1995/652, art. 5

**F279** Sch. 8 Group 12 Notes (5A)-(5I) inserted (1.1.1998) by S.I. 1997/2744, arts. 1, 7

**F280** 1990 c.19.

**F281** 1978 c.29.

**F282** S.I. 1991/194 (N.I.1).

#### Marginal Citations

**M57** 1983 c. 54.

**M58** 1992 c. 4.

**M59** 1992 c. 7.

**M60** S.I.1983/883.

**M61** S.I.1983/686.

**M62** S.I.1985/722.

**M63** S.I.1985/723.

## GROUP 13— IMPORTS, EXPORTS ETC.

### Item No.

- 1 The supply before the delivery of an entry (within the meaning of regulation 5 of the <sup>M64</sup>Customs Controls on Importation of Goods Regulations 1991)) under an agreement requiring the purchaser to make such entry of goods imported from a place outside the member States.

#### Marginal Citations

**M64** S.I. 1991/2724.

- 2 The supply to or by an overseas authority, overseas body or overseas trader, charged with the management of any defence project which is the subject of an international collaboration arrangement or under direct contract with any government or government-sponsored international body participating in a defence

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project under such an arrangement, of goods or services in the course of giving effect to that arrangement.

- 3 The supply to an overseas authority, overseas body or overseas trader of jigs, patterns, templates, dies, punches and similar machine tools used in the United Kingdom solely for the manufacture of goods for export to places outside the member States.

*Notes:*

- (1) An “international collaboration arrangement” means any arrangement which—
  - (a) is made between the United Kingdom Government and the government of one or more other countries, or any government-sponsored international body for collaboration in a joint project of research, development or production; and
  - (b) includes provision for participating governments to relieve the cost of the project from taxation.
- (2) “Overseas authority” means any country other than the United Kingdom or any part of or place in such a country or the government of any such country, part or place.
- (3) “Overseas body” means a body established outside the United Kingdom.
- (4) “Overseas trader” means a person who carries on a business and has his principal place of business outside the United Kingdom.
- (5) Item 3 does not apply where the overseas authority, overseas body or overseas trader is a taxable person, another member State, any part of or place in another member State, the government of any such member State, part or place, a body established in another member State or a person who carries on business, or has a place of business, in another member State.

<sup>F283</sup> **GROUP 14— TAX-FREE SHOPS**

**Textual Amendments**  
**F283** Sch. 8 Pt. II Group 14 deleted (1.7.1999) by S.I. 1999/1642, art. 2(b)

**GROUP 15— CHARITIES ETC.**

*Item No.*

- 1 The supply by a charity of any goods which have been donated for sale or the supply of such goods by a taxable person who has covenanted by deed to give all the profits of that supply to a charity.
- 2 The donation of any goods for sale or export by a charity described in item 1 or by a taxable person described in that item.
- 3 The export of any goods by a charity to a place outside the member States.

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- 4 The supply of any relevant goods for donation to a nominated eligible body where the goods are purchased with funds provided by a charity or from voluntary contributions.
- 5 The supply of any relevant goods to an eligible body which pays for them with funds provided by a charity or from voluntary contributions or to an eligible body which is a charitable institution providing care or medical or surgical treatment for handicapped persons.
- 6 Repair and maintenance of relevant goods owned by an eligible body.
- 7 The supply of goods in connection with the supply described in item 6.
- 8 The supply to a charity, for the purpose of raising money for, or making known the objects or reasons for the objects of, the charity, of—
  - (a) the broadcast on television or radio or screening in a cinema of an advertisement; or
  - (b) the publication of an advertisement in any newspaper, journal, poster, programme, annual, leaflet, brochure, pamphlet, periodical or similar publication; or
  - (c) any goods or services in connection with the preparation of an advertisement within (b) above.

VALID FROM 01/04/2000

F285 8A A supply to a charity that consists in the promulgation of an advertisement by means of such a medium.

**Textual Amendments**

F285 Sch. 8 Pt. II Group 15 items 8-8C substituted for item 8 (1.4.2000) by [S.I. 2000/805, art. 7](#)

VALID FROM 01/04/2000

F286 8B The supply to a charity of services of design or production of an advertisement that is, or was intended to be, promulgated by means of such a medium.

**Textual Amendments**

F286 Sch. 8 Pt. II Group 15 items 8-8C substituted for item 8 (1.4.2000) by [S.I. 2000/805, art. 7](#)

VALID FROM 01/04/2000

F287 8C The supply to a charity of goods closely related to a supply within item 8B.

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### Textual Amendments

**F287** Sch. 8 Pt. II Group 15 items 8-8C substituted for item 8 (1.4.2000) by **S.I. 2000/805, art. 7**

- 9 The supply to a charity, providing care or medical or surgical treatment for human beings or animals, or engaging in medical or veterinary research, of a medicinal product where the supply is solely for use by the charity in such care, treatment or research.
- 10 The supply to a charity of a substance directly used for synthesis or testing in the course of medical or veterinary research.

Notes:

- [<sup>F288</sup>(1) Item 1 shall apply only if—
- (a) the supply is a sale of goods donated to that charity or taxable person;
  - (b) the sale takes place as a result of the goods having been made available to the general public for purchase (whether in a shop or elsewhere); and
  - (c) the sale does not take place as a result of any arrangements (whether legally binding or not) which related to the goods and were entered into by each of the parties to the sale before the goods were made available to the general public.]
- (2) “Animals” includes any species of the animal kingdom.
- (3) “Relevant goods” means—
- (a) medical, scientific, computer, video, sterilising, laboratory or refrigeration equipment for use in medical or veterinary research, training, diagnosis or treatment;
  - (b) ambulances;
  - (c) parts or accessories for use in or with goods described in paragraph (a) or (b) above;
  - (d) goods of a kind described in item 2 of Group 12 of this Schedule;
  - (e) motor vehicles (other than vehicles with more than 50 seats) designed or substantially and permanently adapted for the safe carriage of a handicapped person in a wheelchair provided that—
    - (i) in the case of vehicles with more than 16 but fewer than 27 seats, the number of persons for which such provision shall exist shall be at least 2;
    - (ii) in the case of vehicles with more than 26 but fewer than 37 seats, the number of persons for which such provision shall exist shall be at least 3;
    - (iii) in the case of vehicles with more than 36 but fewer than 47 seats, the number of persons for which such provision shall exist shall be at least 4;
    - (iv) in the case of vehicles with more than 46 seats, the number of persons for which such provision shall exist shall be at least 5;
    - (v) there is either a fitted electrically or hydraulically operated lift or, in the case of vehicles with fewer than 17 seats, a fitted ramp to provide access for a passenger in a wheelchair;

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- (f) motor vehicles (with more than 6 but fewer than 51 seats) for use by an eligible body providing care for blind, deaf, mentally handicapped or terminally sick persons mainly to transport such persons;
- (g) telecommunication, aural, visual, light enhancing or heat detecting equipment (not being equipment ordinarily supplied for private or recreational use) solely for use for the purpose of rescue or first aid services undertaken by a charitable institution providing such services.

(4) “Eligible body” means—

- (a) a [<sup>F289</sup>Health Authority or Special Health Authority] in England and Wales;
- (b) a Health Board in Scotland;
- (c) a Health and Social Services Board in Northern Ireland;
- (d) a hospital whose activities are not carried on for profit;
- (e) a research institution whose activities are not carried on for profit;
- (f) a charitable institution providing care or medical or surgical treatment for handicapped persons;
- (g) the Common Services Agency for the Scottish Health Service, the Northern Ireland Central Services Agency for Health and Social Services or the Isle of Man Health Services Board;
- (h) a charitable institution providing rescue or first-aid services;
- (i) a National Health Service trust established under Part I of the <sup>M67</sup>National Health Service and Community Care Act 1990 or the <sup>M68</sup>National Health Service (Scotland) Act 1978.

[<sup>F290</sup>(4A) Subject to Note (5B), a charitable institution shall not be regarded as providing care or medical or surgical treatment for handicapped persons unless—

- (a) it provides care or medical or surgical treatment in a relevant establishment; and
- (b) the majority of the persons who receive care or medical or surgical treatment in that establishment are handicapped persons.

(4B) “Relevant establishment” means—

- (a) a day-centre, other than a day-centre which exists primarily as a place for activities that are social or recreational or both; or
- (b) an institution which is—
  - (i) approved, licensed or registered in accordance with the provisions of any enactment or Northern Ireland legislation; or
  - (ii) exempted by or under the provisions of any enactment or Northern Ireland legislation from any requirement to be approved, licensed or registered;

and in paragraph (b) above the references to the provisions of any enactment or Northern Ireland legislation are references only to provisions which, so far as relating to England, Wales, Scotland or Northern Ireland, have the same effect in every locality within that part of the United Kingdom.]

(5) “Handicapped” means chronically sick or disabled.

[<sup>F291</sup>(5A) Subject to Note (5B), items 4 to 7 do not apply where the eligible body falls within Note (4)(f) unless the relevant goods are or are to be used in a relevant establishment in which that body provides care or medical or surgical treatment to persons the majority of whom are handicapped.

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- (5B) Nothing in Note (4A) or (5A) shall prevent a supply from falling within items 4 to 7 where—
- (a) the eligible body provides medical care to handicapped persons in their own homes;
  - (b) the relevant goods fall within Note (3)(a) or are parts or accessories for use in or with goods described in Note (3)(a); and
  - (c) those goods are or are to be used in or in connection with the provision of that care.]
- (6) Item 4 does not apply where the donee of the goods is not a charity and has contributed in whole or in part to the funds for the purchase of the goods.
- (7) Item 5 does not apply where the body to whom the goods are supplied is not a charity and has contributed in whole or in part to the funds for the purchase of the goods.
- (8) Items 6 and 7 do not apply unless—
- (a) the supply is paid for with funds which have been provided by a charity or from voluntary contributions, and
  - (b) in a case where the owner of the goods repaired or maintained is not a charity, it has not contributed in whole or in part to those funds.
- (9) Items 4 and 5 include the letting on hire of relevant goods; accordingly in items 4, 5 and 6 and the notes relating thereto, references to the purchase or ownership of goods shall be deemed to include references respectively to their hiring and possession.
- (10) Item 5 includes computer services by way of the provision of computer software solely for use in medical research, diagnosis or treatment.
- (11) In item 9—
- (a) a “medicinal product” means any substance or article (not being an instrument, apparatus or appliance) which is for use wholly or mainly in either or both of the following ways—
    - (i) by being administered to one or more human beings or animals for a medicinal purpose;
    - (ii) as an ingredient in the preparation of a substance or article which is to be administered to one or more human beings or animals for a medicinal purpose;
  - (b) a “medicinal purpose” has the meaning assigned to it by section 130(2) of the <sup>M69</sup>Medicines Act 1968;
  - (c) “administer” has the meaning assigned to it by section 130(9) of the Medicines Act 1968;
- (12) In items 9 and 10 “substance” and “ingredient” have the meanings assigned to them by section 132 of the Medicines Act 1968.

#### Textual Amendments

**F288** Sch. 8 Group 15 Note (1) substituted (19.3.1997 with effect as mentioned in s. 33(2) of the amending Act) by S.I. 1997 c. 16, s. 33(1)(2)

**F289** Words in Sch. 8 Group 15 Note (4)(a) substituted (28.6.1995 for certain purposes otherwise 1.4.1996) by 1995 c. 17, ss. 2(1), 4(2), 8(1), Sch. 1 Pt. III para. 127

**F290** Sch. 8 Group 15 Notes (4A)(4B) inserted (19.3.1997 with effect as mentioned in s. 34(3) of the amending Act) by S.I. 1997 c. 16, s. 34(1)(3)



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**F291** Sch. 8 Group 15 Note (5A)(5B) inserted (19.3.1997 with effect as mentioned in s. 34(3) of the amending Act) by S.I. 1997 c. 16, s. 34(2)(3)

#### Marginal Citations

**M67** 1990 c. 19.

**M68** 1978 c. 29.

**M69** 1968 c. 67.

#### Textual Amendments

**F288** Sch. 8 Group 15 Note (1) substituted (19.3.1997 with effect as mentioned in s. 33(2) of the amending Act) by S.I. 1997 c. 16, s. 33(1)(2)

**F289** Words in Sch. 8 Group 15 Note (4)(a) substituted (28.6.1995 for certain purposes otherwise 1.4.1996) by 1995 c. 17, ss. 2(1), 4(2), 8(1), Sch. 1 Pt. III para. 127

**F290** Sch. 8 Group 15 Notes (4A)(4B) inserted (19.3.1997 with effect as mentioned in s. 34(3) of the amending Act) by S.I. 1997 c. 16, s. 34(1)(3)

**F291** Sch. 8 Group 15 Note (5A)(5B) inserted (19.3.1997 with effect as mentioned in s. 34(3) of the amending Act) by S.I. 1997 c. 16, s. 34(2)(3)

#### Marginal Citations

**M67** 1990 c. 19.

**M68** 1978 c. 29.

**M69** 1968 c. 67.

## GROUP 16— CLOTHING AND FOOTWEAR

### Item No.

- 1 Articles designed as clothing or footwear for young children and not suitable for older persons.
- 2 The supply to a person for use otherwise than by employees of his of protective boots and helmets for industrial use.
- 3 Protective helmets for wear by a person driving or riding a motor bicycle.

### Notes:

- (1) “Clothing” includes hats and other headgear.
- (2) Item 1 does not include articles of clothing made wholly or partly of fur skin, except—
  - (a) headgear;
  - (b) gloves;
  - (c) buttons, belts and buckles;
  - (d) any garment merely trimmed with fur skin unless the trimming has an area greater than one-fifth of the area of the outside material or, in the case of a new garment, represents a cost to the manufacturer greater than the cost to him of the other components.

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- (3) “Fur skin” means any skin with fur, hair or wool attached except—
- (a) rabbit skin;
  - (b) woolled sheep or lamb skin; and
  - (c) the skin, if neither tanned nor dressed, of bovine cattle (including buffalo), equine animals, goats or kids (other than Yemen, Mongolian and Tibetan goats or kids), swine (including peccary), chamois, gazelles, deer or dogs.
- (4) Items 2 and 3 apply only where the goods to which they refer are—
- (a) goods which—
    - (i) are manufactured to standards approved by the British Standards Institution; and
    - (ii) bear a marking indicating compliance with the specification relating to such goods; or
  - (b) goods which—
    - (i) are manufactured to standards which satisfy requirements imposed (whether under the law of the United Kingdom or the law of any other member State) for giving effect to the directive of the Council of the European Communities dated 21st December 1989 No.89/686/EEC; and
    - (ii) bear any mark of conformity provided for by virtue of that directive in relation to those goods.
- (5) Items 1, 2 and 3 include the supply of the services described in paragraphs 1(1) and 5(3) of Schedule 4 in respect of goods comprised in the items, but, in the case of goods comprised in item 2, only if the goods are for use otherwise than by employees of the person to whom the services are supplied.

## SCHEDULE 9

Sections 8 and 31.

## EXEMPTIONS

VALID FROM 01/03/2000

## PART I

## INDEX TO EXEMPT SUPPLIES OF GOODS AND SERVICES

Betting, gaming and lotteries	Group 4
Burial and cremation	Group 8
[ <sup>F292</sup> Cultural services etc]	[ <sup>F292</sup> Group 13]
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Fund raising events by charities and other qualifying bodies	Group 12

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Health and welfare	Group 7
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[ <sup>F293</sup> Investment gold]	[ <sup>F293</sup> Group 15]
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[ <sup>F294</sup> Supplies of goods where input tax cannot be recovered]	[ <sup>F294</sup> Group 14]
[ <sup>F295</sup> Subscriptions to trade unions, professional and other public interest bodies]	[ <sup>F295</sup> Group 9]
Works of art etc	Group 11

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**Textual Amendments**

**F292** Sch. 9 Pt. I: entry inserted (1.12.1999) by S.I. 1999/2834, art. 3(b)  
**F293** Sch. 9 Pt. I: entry inserted (1.1.2000) by S.I. 1999/3116, art. 2(2)  
**F294** Sch. 9 Pt. I: entry inserted (1.3.2000) by S.I. 1999/2833, art. 2(2)  
**F295** Sch. 9 Pt. I: entry substituted (1.12.1999) by S.I. 1999/2834, art. 3(a)

## PART II

### THE GROUPS

#### GROUP 1— LAND

*Item No.*

- 1 The grant of any interest in or right over land or of any licence to occupy land, or, in relation to land in Scotland, any personal right to call for or be granted any such interest or right, other than—
- (a) the grant of the fee simple in—
    - (i) a building which has not been completed and which is neither designed as a dwelling or number of dwellings nor intended for use solely for a relevant residential purpose or a relevant charitable purpose;
    - (ii) a new building which is neither designed as a dwelling or number of dwellings nor intended for use solely for a relevant residential purpose or a relevant charitable purpose after the grant;
    - (iii) a civil engineering work which has not been completed;
    - (iv) a new civil engineering work;
  - (b) a supply made pursuant to a developmental tenancy, developmental lease or developmental licence;

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- (c) the grant of any interest, right or licence consisting of a right to take game or fish unless at the time of the grant the grantor grants to the grantee the fee simple of the land over which the right to take game or fish is exercisable;
- (d) the provision in an hotel, inn, boarding house or similar establishment of sleeping accommodation or of accommodation in rooms which are provided in conjunction with sleeping accommodation or for the purpose of a supply of catering;
- (e) the grant of any interest in, right over or licence to occupy holiday accommodation;
- (f) the provision of seasonal pitches for caravans, and the grant of facilities at caravan parks to persons for whom such pitches are provided;
- (g) the provision of pitches for tents or of camping facilities;
- (h) the grant of facilities for parking a vehicle;
- (j) the grant of any right to fell and remove standing timber;
- (k) the grant of facilities for housing, or storage of, an aircraft or for mooring, or storage of, a ship, boat or other vessel;
- (l) the grant of any right to occupy a box, seat or other accommodation at a sports ground, theatre, concert hall or other place of entertainment;
- (m) the grant of facilities for playing any sport or participating in any physical recreation; and
- (n) the grant of any right, including—
  - (i) an equitable right,
  - (ii) a right under an option or right of pre-emption, or
  - (iii) in relation to land in Scotland, a personal right,
 to call for or be granted an interest or right which would fall within any of paragraphs (a) or (c) to (m) above.

Notes:

[<sup>F296</sup>(1) “Grant” includes an assignment or surrender and the supply made by the person to whom an interest is surrendered when there is a reverse surrender.]

[<sup>F297</sup>(1A) A “reverse surrender” is one in which the person to whom the interest is surrendered is paid by the person by whom the interest is being surrendered to accept the surrender.]

- (2) A building shall be taken to be completed when an architect issues a certificate of practical completion in relation to it or it is first fully occupied, whichever happens first; and a civil engineering work shall be taken to be completed when an engineer issues a certificate of completion in relation to it or it is first fully used, whichever happens first.
- (3) [<sup>F298</sup>Notes (2) to (10) and (12)] to Group 5 of Schedule 8 apply in relation to this Group as they apply in relation to that Group.
- (4) A building or civil engineering work is new if it was completed less than three years before the grant.
- (5) Subject to Note (6), the grant of the fee simple in a building or work completed before 1st April 1989 is not excluded from this Group by paragraph (a)(ii) or (iv).

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- (6) Note (5) does not apply where the grant is the first grant of the fee simple made on or after 1st April 1989 and the building was not fully occupied, or the work not fully used, before that date.
- (7) A tenancy of, lease of or licence to occupy a building or work is treated as becoming a developmental tenancy, developmental lease or developmental licence (as the case may be) when a tenancy of, lease of or licence to occupy a building or work, whose construction, reconstruction, enlargement or extension commenced on or after 1st January 1992, is treated as being supplied to and by the developer under paragraph 6(1) of Schedule 10 [<sup>F299</sup>(except where that paragraph applies by virtue of paragraph 5(1)(b) of that Schedule)].
- (8) Where a grant of an interest in, right over or licence to occupy land includes a valuable right to take game or fish, an apportionment shall be made to determine the supply falling outside this Group by virtue of paragraph (c).
- (9) “Similar establishment” includes premises in which there is provided furnished sleeping accommodation, whether with or without the provision of board or facilities for the preparation of food, which are used by or held out as being suitable for use by visitors or travellers.
- (10) “Houseboat” includes a houseboat within the meaning of Group 9 of Schedule 8.
- (11) Paragraph (e) includes—
  - (a) any grant excluded from item 1 of Group 5 of Schedule 8 by [<sup>F300</sup>Note (13)] in that Group;
  - (b) any supply made pursuant to a tenancy, lease or licence under which the grantee is or has been permitted to erect and occupy holiday accommodation.
- (12) Paragraph (e) does not include a grant in respect of a building or part which is not a new building of—
  - (a) the fee simple, or
  - (b) a tenancy, lease or licence to the extent that the grant is made for a consideration in the form of a premium.
- (13) “Holiday accommodation” includes any accommodation in a building, hut (including a beach hut or chalet), caravan, houseboat or tent which is advertised or held out as holiday accommodation or as suitable for holiday or leisure use, but excludes any accommodation within paragraph (d).
- (14) A seasonal pitch is a pitch—
  - (a) which is provided for a period of less than a year, or
  - (b) which is provided for a year or a period longer than a year but which the person to whom it is provided is prevented by the terms of any covenant, statutory planning consent or similar permission from occupying by living in a caravan at all times throughout the period for which the pitch is provided.
- (15) “Mooring” includes anchoring or berthing.
- (16) Paragraph (m) shall not apply where the grant of the facilities is for—
  - (a) a continuous period of use exceeding 24 hours; or
  - (b) a series of 10 or more periods, whether or not exceeding 24 hours in total, where the following conditions are satisfied—

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- (i) each period is in respect of the same activity carried on at the same place;
- (ii) the interval between each period is not less than one day and not more than 14 days;
- (iii) consideration is payable by reference to the whole series and is evidenced by written agreement;
- (iv) the grantee has exclusive use of the facilities; and
- (v) the grantee is a school, a club, an association or an organisation representing affiliated clubs or constituent associations.

#### Textual Amendments

- F296** Sch. 9 Pt. II Group 1 Note (1) substituted (1.3.1995) by S.I. 1995/282, arts. 1, 3
- F297** Sch. 9 Pt. II Group 1 Note (1A) inserted (1.3.1995) by S.I. 1995/282, arts. 1, 4
- F298** Words in Sch. 9 Pt. II Group 1 Note (3) substituted (1.3.1995) by S.I. 1995/282, arts. 1, 5
- F299** Words in Sch. 9 Pt. II Group 1 Note (7) inserted (1.3.1995) by S.I. 1995/282, arts. 1, 6
- F300** Words in Sch. 9 Pt. II Group 1 Note (11)(a) substituted (1.3.1995) by S.I. 1995/282, arts. 1, 7

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

- C28** Sch. 9 Pt. 2 Group 1 Note (2)(4) applied (28.11.2002) by S.I. 1995/2518, reg. 84(6) (as inserted by The Value Added Tax (Amendment) (No. 3) Regulations 2002 (S.I. 2002/2918), reg. 4)

#### Textual Amendments

- F296** Sch. 9 Pt. II Group 1 Note (1) substituted (1.3.1995) by S.I. 1995/282, arts. 1, 3
- F297** Sch. 9 Pt. II Group 1 Note (1A) inserted (1.3.1995) by S.I. 1995/282, arts. 1, 4
- F298** Words in Sch. 9 Pt. II Group 1 Note (3) substituted (1.3.1995) by S.I. 1995/282, arts. 1, 5
- F299** Words in Sch. 9 Pt. II Group 1 Note (7) inserted (1.3.1995) by S.I. 1995/282, arts. 1, 6
- F300** Words in Sch. 9 Pt. II Group 1 Note (11)(a) substituted (1.3.1995) by S.I. 1995/282, arts. 1, 7

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

- C28** Sch. 9 Pt. 2 Group 1 Note (2)(4) applied (28.11.2002) by S.I. 1995/2518, reg. 84(6) (as inserted by The Value Added Tax (Amendment) (No. 3) Regulations 2002 (S.I. 2002/2918), reg. 4)

## [<sup>F301</sup>GROUP 2 — INSURANCE]

#### Textual Amendments

- F301** Sch. 9 Pt. II group 2 substituted (19.3.1997 with effect as mentioned in s. 38(2) of the amending Act) by 1997 c. 16, s. 38(1)(2)

#### Item No.

- <sup>F302</sup><sub>1</sub> The provision of insurance or reinsurance by a person who provides it in the course of—
- (a) any insurance business which he is authorised under section 3 or 4 of the <sup>M70</sup>Insurance Companies Act 1982 to carry on, or

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- (b) any business in respect of which he is exempted under section 2 of that Act from the requirement to be so authorised.

**Textual Amendments**

**F302** Sch. 9 Pt. II group 2 substituted (19.3.1997 with effect as mentioned in s. 38(2) of the amending Act) by 1997 c. 16, s. 38(1)(2)

**Marginal Citations**

**M70** 1982 c. 50.

- F303**<sup>2</sup> The provision by an insurer or reinsurer who belongs outside the United Kingdom of—
- (a) insurance against any of the risks or other things described in Schedules 1 and 2 to the Insurance Companies Act 1982, or
- (b) reinsurance relating to any of those risks or other things.

**Textual Amendments**

**F303** Sch. 9 Pt. II group 2 substituted (19.3.1997 with effect as mentioned in s. 38(2) of the amending Act) by 1997 c. 16, s. 38(1)(2)

- F304**<sup>3</sup> The provision of insurance or reinsurance by the Export Credits Guarantee Department.

**Textual Amendments**

**F304** Sch. 9 Pt. II group 2 substituted (19.3.1997 with effect as mentioned in s. 38(2) of the amending Act) by 1997 c. 16, s. 38(1)(2)

- F305**<sup>4</sup> The provision by an insurance broker or insurance agent of any of the services of an insurance intermediary in a case in which those services—
- (a) are related (whether or not a contract of insurance or reinsurance is finally concluded) to any such provision of insurance or reinsurance as falls, or would fall, within item 1, 2 or 3; and
- (b) are provided by that broker or agent in the course of his acting in an intermediary capacity.

**Textual Amendments**

**F305** Sch. 9 Pt. II Group 2 substituted (19.3.1997 with effect as mentioned in s. 38(2) of the amending Act) by 1997 c. 16, s. 38(1)(2)

**F306** Notes:

- (1) For the purposes of item 4 services are services of an insurance intermediary if they fall within any of the following paragraphs—

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- (a) the bringing together, with a view to the insurance or reinsurance of risks, of—
    - (i) persons who are or may be seeking insurance or reinsurance, and
    - (ii) persons who provide insurance or reinsurance;
  - (b) the carrying out of work preparatory to the conclusion of contracts of insurance or reinsurance;
  - (c) the provision of assistance in the administration and performance of such contracts, including the handling of claims;
  - (d) the collection of premiums.
- (2) For the purposes of item 4 an insurance broker or insurance agent is acting “in an intermediary capacity” wherever he is acting as an intermediary, or one of the intermediaries, between—
- (a) a person who provides any insurance or reinsurance the provision of which falls within item 1, 2 or 3, and
  - (b) a person who is or may be seeking insurance or reinsurance or is an insured person.
- (3) Where—
- (a) a person (“the supplier”) makes a supply of goods or services to another (“the customer”),
  - (b) the supply of the goods or services is a taxable supply and is not a zero-rated supply,
  - (c) a transaction under which insurance is to be or may be arranged for the customer is entered into in connection with the supply of the goods or services,
  - (d) a supply of services which are related (whether or not a contract of insurance is finally concluded) to the provision of insurance in pursuance of that transaction is made by—
    - (i) the person by whom the supply of the goods or services is made, or
    - (ii) a person who is connected with that person and, in connection with the provision of that insurance, deals directly with the customer,
 and
  - (e) the related services do not consist in the handling of claims under the contract for that insurance,
- those related services do not fall within item 4 unless the relevant requirements are fulfilled.
- (4) For the purposes of Note (3) the relevant requirements are—
- (a) that a document containing the statements specified in Note (5) is prepared;
  - (b) that the matters that must be stated in the document have been disclosed to the customer at or before the time when the transaction mentioned in Note (3)(c) is entered into; and
  - (c) that there is compliance with all such requirements (if any) as to—
    - (i) the preparation and form of the document,
    - (ii) the manner of disclosing to the customer the matters that must be stated in the document, and
    - (iii) the delivery of a copy of the document to the customer,
 as may be set out in a notice that has been published by the Commissioners and has not been withdrawn.



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- (5) The statements referred to in Note (4) are—
- (a) a statement setting out the amount of the premium under any contract of insurance that is to be or may be entered into in pursuance of the transaction in question; and
  - (b) a statement setting out every amount that the customer is, is to be or has been required to pay, otherwise than by way of such a premium, in connection with that transaction or anything that is to be, may be or has been done in pursuance of that transaction.
- (6) For the purposes of Note (3) any question whether a person is connected with another shall be determined in accordance with section 839 of the Taxes Act.
- (7) Item 4 does not include—
- (a) the supply of any market research, product design, advertising, promotional or similar services; or
  - (b) the collection, collation and provision of information for use in connection with market research, product design, advertising, promotional or similar activities.
- (8) Item 4 does not include the supply of any valuation or inspection services.
- (9) Item 4 does not include the supply of any services by loss adjusters, average adjusters, motor assessors, surveyors or other experts except where—
- (a) the services consist in the handling of a claim under a contract of insurance or reinsurance;
  - (b) the person handling the claim is authorised when doing so to act on behalf of the insurer or reinsurer; and
  - (c) that person's authority so to act includes written authority to determine whether to accept or reject the claim and, where accepting it in whole or in part, to settle the amount to be paid on the claim.
- (10) Item 4 does not include the supply of any services which—
- (a) are supplied in pursuance of a contract of insurance or reinsurance or of any arrangements made in connection with such a contract; and
  - (b) are so supplied either—
    - (i) instead of the payment of the whole or any part of any indemnity for which the contract provides, or
    - (ii) for the purpose, in any other manner, of satisfying any claim under that contract, whether in whole or in part.

#### Textual Amendments

**F306** Sch. 9 Pt. II group 2 substituted (19.3.1997 with effect as mentioned in s. 38(2) of the amending Act) by 1997 c. 16, s. 38(1)(2)

### GROUP 3— POSTAL SERVICES

Item No.

- 1 The conveyance of postal packets by the Post Office.

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- 2 The supply by the Post Office of any services in connection with the conveyance of postal packets.

Notes:

- (1) “Postal packet” has the same meaning as in the <sup>M71</sup>Post Office Act 1953, except that it does not include a telegram.
- (2) Item 2 does not include the letting on hire of goods.

**Marginal Citations**

**M71** 1953 c. 36.

**Marginal Citations**

**M71** 1953 c. 36.

#### GROUP 4— BETTING, GAMING AND LOTTERIES

Item No.

- 1 The provision of any facilities for the placing of bets or the playing of any games of chance.
- 2 The granting of a right to take part in a lottery.

Notes:

- (1) Item 1 does not include—
- (a) admission to any premises; or
  - (b) the granting of a right to take part in a game in respect of which a charge may be made by virtue of regulations under section 14 of the <sup>M72</sup>Gaming Act 1968 or regulations under Article 76 of the <sup>M73</sup>Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985; or
  - (c) the provision by a club of such facilities to its members as are available to them on payment of their subscription but without further charge; or
  - (d) the provision of a gaming machine.
- (2) “Game of chance” has the same meaning as in the Gaming Act 1968 or in the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985.
- (3) “Gaming machine” means a machine in respect of which the following conditions are satisfied, namely—
- (a) it is constructed or adapted for playing a game of chance by means of it; and
  - (b) a player pays to play the machine (except where he has an opportunity to play payment free as the result of having previously played successfully) either by inserting a coin or token into the machine or in some other way; and
  - (c) the element of chance in the game is provided by means of the machine.

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#### Marginal Citations

**M72** 1968 c. 65.

**M73** S.I.1985/1204 (N.I.11).

#### Marginal Citations

**M72** 1968 c. 65.

**M73** S.I.1985/1204 (N.I.11).

## GROUP 5— FINANCE

### Item No.

- 1 The issue, transfer or receipt of, or any dealing with, money, any security for money or any note or order for the payment of money.
- 2 The making of any advance or the granting of any credit.
- 3 The provision of the facility of instalment credit finance in a hire-purchase, conditional sale or credit sale agreement for which facility a separate charge is made and disclosed to the recipient of the supply of goods.
- 4 The provision of administrative arrangements and documentation and the transfer of title to the goods in connection with the supply described in item 3 if the total consideration therefor is specified in the agreement and does not exceed £10.
- [<sup>F307</sup>5 The provision of intermediary services in relation to any transaction comprised in item 1, 2, 3, 4 or 6 (whether or not any such transaction is finally concluded) by a person acting in an intermediary capacity.]

#### Textual Amendments

**F307** Sch. 9 Pt. II Group 5 Item 5, 5A substituted (10.3.1999) for Item 5 by S.I. 1999/594, art. 3

- <sup>F308</sup>5A The underwriting of an issue within item 1 or any transaction within item 6..

#### Textual Amendments

**F308** Sch. 9 Pt. II Group 5 Item 5, 5A substituted (10.3.1999) for Item 5 by S.I. 1999/594, art. 3

- 6 The issue, transfer or receipt of, or any dealing with, any security or secondary security being—
  - (a) shares, stocks, bonds, notes (other than promissory notes), debentures, debenture stock or shares in an oil royalty; or
  - (b) any document relating to money, in any currency, which has been deposited with the issuer or some other person, being a document which recognises an obligation to pay a stated amount to bearer or to order, with or without interest, and being a document by the delivery of which, with or without endorsement, the right to receive that stated amount, with or without interest, is transferable; or

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- (c) any bill, note or other obligation of the Treasury or of a Government in any part of the world, being a document by the delivery of which, with or without endorsement, title is transferable, and not being an obligation which is or has been legal tender in any part of the world; or
- (d) any letter of allotment or rights, any warrant conferring an option to acquire a security included in this item, any renounceable or scrip certificates, rights coupons, coupons representing dividends or interest on such a security, bond mandates or other documents conferring or containing evidence of title to or rights in respect of such a security; or
- (e) units or other documents conferring rights under any trust established for the purpose, or having the effect of providing, for persons having funds available for investment, facilities for the participation by them as beneficiaries under the trust, in any profits or income arising from the acquisition, holding, management or disposal of any property whatsoever.

F3097

#### Textual Amendments

**F309** Sch. 9 Pt. II Group 5 Item 7 omitted (10.3.1999) by virtue of [S.I. 1999/594](#), [art. 4](#)

- 8 The operation of any current, deposit or savings account.
- 9 The management of an authorised unit trust scheme or of a trust based scheme by the operator of the scheme.
- [<sup>F310</sup>10 The services of the authorised corporate director of an open-ended investment company so far as they consist in managing the company’s scheme property.]

#### Textual Amendments

**F310** Sch. 9 Pt. II Group 5 item 10 added (24.3.1997) by [S.I. 1997/510](#), [arts. 1, 2\(a\)](#)

Notes:

- (1) Item 1 does not include anything included in item 6.
- [<sup>F311</sup>(1A) Item 1 does not include a supply of services which is preparatory to the carrying out of a transaction falling within that item.]
- (2) This Group does not include the supply of a coin or a banknote as a collectors’ piece or as an investment article.
- [<sup>F312</sup>(2A) This Group does not include a supply of services comprising the management of credit, other than such a supply made by the person granting the credit.
- (2B) For the purposes of this Group a person makes “a supply of services comprising the management of credit” if he performs any one or more of the following in relation to a credit, a credit card, a chargecard or a similar payment card, operation—
  - (a) credit checking;
  - (b) valuation;
  - (c) authorisation services;
  - (d) taking decisions relating to a grant or an application for a grant of credit;

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- (e) creating and maintaining records relating to a grant or an application for a grant of credit on behalf of the credit provider; and
  - (f) monitoring a creditor's payment record or dealing with overdue payments.]
- (3) Item 2 includes the supply of credit by a person, in connection with a supply of goods or services by him, for which a separate charge is made and disclosed to the recipient of the supply of goods or services.
- (4) This Group includes any supply by a person carrying on a credit card, charge card or similar payment card operation made in connection with that operation to a person who accepts the card used in the operation when presented to him in payment for goods or services.
- [<sup>F313</sup>(5) For the purposes of item 5 “intermediary services” consist of bringing together, with a view to the provision of financial services—
  - (a) persons who are or may be seeking to receive financial services, and
  - (b) persons who provide financial services,together with (in the case of financial services falling within item 1, 2, 3 or 4) the performance of work preparatory to the conclusion of contracts for the provision of those financial services, but do not include the supply of any market research, product design, advertising, promotional or similar services or the collection, collation and provision of information in connection with such activities.
- (5A) For the purposes of item 5 a person is “acting in an intermediary capacity” wherever he is acting as an intermediary, or one of the intermediaries, between—
  - (a) a person who provides financial services, and
  - (b) a person who is or may be seeking to receive financial services,unless the financial service in question is the grant of credit and he is also making supplies of services comprising the management of credit to the grantor, or prospective grantor, of the credit.
- (5B) For the purposes of notes 5 and 5A “financial services” means the carrying out of any transaction falling within item 1, 2, 3, 4 or 6.]
- (6) In item 9—
  - (a) “authorised unit trust scheme” and “operator” have the same meanings as in section 207(1) of the <sup>M74</sup>Financial Services Act 1986;
  - (b) “trust based scheme” has the same meaning as in regulation 2(1)(b) of the <sup>M75</sup>Financial Services Act 1986 (Single Property Schemes) (Exemption) Regulations 1989.
- [<sup>F314</sup>(7) For the purposes of item 10, a person is an authorised corporate director of an open-ended investment company if for the time being that person—
  - (a) is a director of the company, and
  - (b) has responsibility for the management of, and is managing, the company's scheme property.
- (8) For the purposes of item 10 and Note (7), an open-ended investment company's scheme property is the property subject to the collective investment scheme constituted by that company.
- (9) In Note (7) “director”, in relation to an open-ended investment company, includes a person occupying in relation to it the position of director (by whatever name called).

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**Changes to legislation:** Value Added Tax Act 1994 is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (10) For the purposes of this Group, “collective investment scheme” and “open-ended investment company” have the meanings given by section 75 of the Financial Services Act 1986<sup>F315</sup>.]

#### Textual Amendments

- F311** Sch. 9 Pt. II Group 5 Note (1A) inserted (10.3.1999) by S.I. 1999/594, art. 5  
**F312** Sch. 9 Pt. II Group 5 Notes (2A)(2B) inserted (10.3.1999) by S.I. 1999/594, art. 6  
**F313** Sch. 9 Pt. II Group 5 Notes (5)(5A)(5B) substituted (10.3.1999) for Note (5) by S.I. 1999/594, art. 7  
**F314** Sch. 9 Pt. II Group 5 Notes (7)-(10) added (24.3.1997) by S.I. 1997/510, arts. 1, 2(b)  
**F315** 1986 c.60; section 75 was amended by S.I. 1988/803 and S.I. 1990/349.

#### Marginal Citations

- M74** 1986 c. 60.  
**M75** S.I.1989/28.

#### Textual Amendments

- F311** Sch. 9 Pt. II Group 5 Note (1A) inserted (10.3.1999) by S.I. 1999/594, art. 5  
**F312** Sch. 9 Pt. II Group 5 Notes (2A)(2B) inserted (10.3.1999) by S.I. 1999/594, art. 6  
**F313** Sch. 9 Pt. II Group 5 Notes (5)(5A)(5B) substituted (10.3.1999) for Note (5) by S.I. 1999/594, art. 7  
**F314** Sch. 9 Pt. II Group 5 Notes (7)-(10) added (24.3.1997) by S.I. 1997/510, arts. 1, 2(b)  
**F315** 1986 c.60; section 75 was amended by S.I. 1988/803 and S.I. 1990/349.

#### Marginal Citations

- M74** 1986 c. 60.  
**M75** S.I.1989/28.

## GROUP 6— EDUCATION

### Item No.

- 1 The provision by an eligible body of—
  - (a) education;
  - (b) research, where supplied to an eligible body; or
  - (c) vocational training.
- 2 The supply of private tuition, in a subject ordinarily taught in a school or university, by an individual teacher acting independently of an employer.
- 3 The provision of examination services—
  - (a) by or to an eligible body; or
  - (b) to a person receiving education or vocational training which is—
    - (i) exempt by virtue of items 1, 2 or 5; or
    - (ii) provided otherwise than in the course or furtherance of a business.
- 4 The supply of any goods or services (other than examination services) which are closely related to a supply of a description falling within item 1 (the principal supply) by or to the eligible body making the principal supply provided—

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- (a) the goods or services are for the direct use of the pupil, student or trainee (as the case may be) receiving the principal supply; and
  - (b) where the supply is to the eligible body making the principal supply, it is made by another eligible body.
- 5 The provision of vocational training, and the supply of any goods or services essential thereto by the person providing the vocational training, to the extent that the consideration payable is ultimately a charge to funds provided pursuant to arrangements made under section 2 of the <sup>M76</sup>Employment and Training Act 1973, section 1A of the <sup>M77</sup>Employment and Training Act (Northern Ireland) 1950 or section 2 of the <sup>M78</sup>Enterprise and New Towns (Scotland) Act 1990.

**Marginal Citations**

- M76** 1973 c.50.
- M77** 1950 c. 29 (N.I).
- M78** 1990 c. 35.

- 6 The provision of facilities by—
- (a) a youth club or an association of youth clubs to its members; or
  - (b) an association of youth clubs to members of a youth club which is a member of that association.

*Notes:*

- (1) For the purposes of this Group an “eligible body” is—
- (a) a school within the meaning of [<sup>F316</sup>the Education Act 1996], the <sup>M79</sup>Education (Scotland) Act 1980, the <sup>M80</sup>Education and Libraries (Northern Ireland) Order 1986 or the <sup>M81</sup>Education Reform (Northern Ireland) Order 1989, which is—
    - (i) provisionally or finally registered or deemed to be registered as a school within the meaning of the aforesaid legislation in a register of independent schools; or
    - (ii) a school in respect of which grants are made by the Secretary of State to the proprietor or managers; or
    - (iii) [<sup>F317</sup>a community, foundation or voluntary school within the meaning of the school Standards and Framework Act 1998, a special school within the meaning of section 337 of the Education Act 1996][<sup>F318</sup>or a maintained school within the meaning of] the <sup>M82</sup>Education and Libraries (Northern Ireland) Order 1986; or
    - (iv) a public school within the meaning of section 135(1) of the Education (Scotland) Act 1980; or
    - <sup>F319</sup>(v) . . . . .
    - (vi) a self-governing school within the meaning of section 1(3) of the <sup>M83</sup>Self-Governing Schools (Scotland) Act 1989; or
    - <sup>F320</sup>(vii) . . . . .
    - (viii) a grant-maintained integrated school within the meaning of Article 65 of the Education Reform (Northern Ireland) Order 1989 ;
  - (b) a United Kingdom university, and any college, institution, school or hall of such a university;

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- (c) an institution—
- (i) falling within section 91(3)(a) or (b) or section 91(5)(b) or (c) of the <sup>M84</sup>Further and Higher Education Act 1992; or
  - (ii) which is a designated institution as defined in section 44(2) of the <sup>M85</sup>Further and Higher Education (Scotland) Act 1992; or
  - (iii) managed by a board of management as defined in section 36(1) of the Further and Higher Education (Scotland) Act 1992; or
  - (iv) to which grants are paid by the Department of Education for Northern Ireland under Article 66(2) of the <sup>M86</sup>Education and Libraries (Northern Ireland) Order 1986; [<sup>F321</sup>or
  - (v) managed by a governing body established under the Further Education (Northern Ireland) Order 1997;]
- (d) a public body of a description in Note (5) to Group 7 below;
- [<sup>F322</sup>(e) a body which—
- (i) is precluded from distributing and does not distribute any profit it makes; and
  - (ii) applies any profits made from supplies of a description within this Group to the continuance or improvement of such supplies;]
- [<sup>F323</sup>(f) a body not falling within paragraphs (a) to (e) above which provides the teaching of English as a foreign language.]
- (2) A supply by a body, which is an eligible body only by virtue of falling within Note [<sup>F324</sup>1(f)], shall not fall within this Group insofar as it consists of the provision of anything other than the teaching of English as a foreign language.
- [<sup>F325</sup>(3) “Vocational training” means—
- training, re-training or the provision of work experience for—
- (a) any trade, profession or employment; or
  - (b) any voluntary work connected with—
    - (i) education, health, safety, or welfare; or
    - (ii) the carrying out of activities of a charitable nature.]
- (4) “Examination services” include the setting and marking of examinations, the setting of educational or training standards, the making of assessments and other services provided with a view to ensuring educational and training standards are maintained.
- (5) For the purposes of item 5 a supply of any goods or services shall not be taken to be essential to the provision of vocational training unless the goods or services in question are provided directly to the trainee.
- (6) For the purposes of item 6 a club is a “youth club” if—
- (a) it is established to promote the social, physical, educational or spiritual development of its members;
  - (b) its members are mainly under 21 years of age; and
  - (c) it satisfies the requirements of Note (1)(f)(i) and (ii).

#### Textual Amendments

**F316** Words in [Sch. 9](#) Group 6 Note (1)(a) substituted (1.11.1996) by [1996 c. 56, ss. 582\(1\), 583\(2\)](#), [Sch. 37 Pt. I para. 125\(a\)](#)



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- F317** Words in Sch. 9 Group 6 Note (1)(a)(iii) substituted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para. 51(a)** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**
- F318** Words in Sch. 9 Group 6 Note (1)(a)(iii) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 125(b)**
- F319** Sch. 9 Group 6 Note (1)(a)(v) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 51(b), **Sch. 31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**
- F320** Sch. 9 Group 6 Note (1)(a)(vii) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 51(b), **Sch. 31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**
- F321** Sch. 9 Group 6 Note 1(c)(v) and preceding word inserted (1.4.1998) by S.I. 1997/ 1772 (N.I. 15), art. 25, Sch. 4; S.R. 1998/82, **art. 2**
- F322** Sch. 9 Group 6 Note (1)(e) substituted (1.1.1995) by S.I. 1994/2969, **arts. 1, 3**
- F323** Sch. 9 Group 6 Note (1)(f) substituted (1.1.1995) by S.I. 1994/2969, **arts. 1, 4**
- F324** Words in Sch. 9 Group 6 Note (2) substituted (1.1.1995) by S.I. 1994/2969, **arts. 1, 5**
- F325** Words in Sch. 9 Group 6 Note (3) substituted (1.1.1995) by S.I. 1994/2969, **arts. 1, 6**

#### Marginal Citations

- M79** 1980 c. 44.  
**M80** S.I.1986/594 (N.I.3).  
**M81** S.I.1989/2406 (N.I.20).  
**M82** S.I.1986/594 (N.I.3).  
**M83** 1989 c. 39.  
**M84** 1992 c. 13.  
**M85** 1992 c. 37.  
**M86** S.I.1986/594 (N.I.3).

#### Textual Amendments

- F316** Words in Sch. 9 Group 6 Note (1)(a) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 125(a)**
- F317** Words in Sch. 9 Group 6 Note (1)(a)(iii) substituted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para. 51(a)** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**
- F318** Words in Sch. 9 Group 6 Note (1)(a)(iii) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 125(b)**
- F319** Sch. 9 Group 6 Note (1)(a)(v) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 51(b), **Sch. 31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**
- F320** Sch. 9 Group 6 Note (1)(a)(vii) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 51(b), **Sch. 31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**
- F321** Sch. 9 Group 6 Note 1(c)(v) and preceding word inserted (1.4.1998) by S.I. 1997/ 1772 (N.I. 15), art. 25, Sch. 4; S.R. 1998/82, **art. 2**
- F322** Sch. 9 Group 6 Note (1)(e) substituted (1.1.1995) by S.I. 1994/2969, **arts. 1, 3**
- F323** Sch. 9 Group 6 Note (1)(f) substituted (1.1.1995) by S.I. 1994/2969, **arts. 1, 4**
- F324** Words in Sch. 9 Group 6 Note (2) substituted (1.1.1995) by S.I. 1994/2969, **arts. 1, 5**
- F325** Words in Sch. 9 Group 6 Note (3) substituted (1.1.1995) by S.I. 1994/2969, **arts. 1, 6**

#### Marginal Citations

- M79** 1980 c. 44.  
**M80** S.I.1986/594 (N.I.3).  
**M81** S.I.1989/2406 (N.I.20).  
**M82** S.I.1986/594 (N.I.3).  
**M83** 1989 c. 39.  
**M84** 1992 c. 13.  
**M85** 1992 c. 37.

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**M86** S.I.1986/594 (N.I.3).

## GROUP 7— HEALTH AND WELFARE

### Item No.

- 1 The supply of services by a person registered or enrolled in any of the following—
- (a) the register of medical practitioners or the register of medical practitioners with limited registration;
  - (b) either of the registers of ophthalmic opticians or the register of dispensing opticians kept under the <sup>M87</sup>Opticians Act 1989 or either of the lists kept under section 9 of that Act of bodies corporate carrying on business as ophthalmic opticians or as dispensing opticians;
  - (c) any register kept under the <sup>M88</sup>Professions Supplementary to Medicine Act 1960;
  - <sup>[F326]</sup>(ca) the register of osteopaths maintained in accordance with the provisions of the Osteopaths Act 1993 <sup>F327</sup>;
  - <sup>[F328]</sup>(cb) the register of chiropractors maintained in accordance with the provisions of the Chiropractors Act 1994 <sup>M89</sup>;
  - (d) the register of qualified nurses, midwives and health visitors kept under <sup>[F329]</sup>section 7 of the Nurses, Midwives and Health Visitors Act 1997];
  - (e) the register of dispensers of hearing aids or the register of persons employing such dispensers maintained under section 2 of the <sup>M90</sup>Hearing Aid Council Act 1968.

#### Textual Amendments

**F326** Sch. 9 Group 7 item 1(ca) inserted (12.6.1998) by S.I. 1998/1294, arts. 1, 2

**F327** 1993 c.21; this Act was amended by Schedule 2 to the Chiropractors Act 1994 (c.17).

**F328** Sch. 9 Pt. 2 Group 7 item 1 (cb) inserted (29.6.1999) by S.I. 1999/1575, art. 2

**F329** Words in Sch. 9 group 7 item 1(d) substituted (19.6.1997) by 1997 c. 24, ss. 23(1), 24(2), Sch. 4 para. 6

#### Marginal Citations

**M87** 1989 c. 44.

**M88** 1960 c. 66.

**M89** 1994 c. 17.

**M90** 1968 c. 50.

- 2 The supply of any services or dental prostheses by—
- (a) a person registered in the dentists' register;
  - (b) a person enrolled in any roll of dental auxiliaries having effect under section 45 of the <sup>M91</sup>Dentists Act 1984; or
  - (c) a dental technician.

#### Marginal Citations

**M91** 1984 c. 24.

**Status:** Point in time view as at 29/02/2000. This version of this Act contains provisions that are not valid for this point in time.

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- 3 The supply of any services by a person registered in the register of pharmaceutical chemists kept under the <sup>M92</sup>Pharmacy Act 1954 or the <sup>M93</sup>Pharmacy (Northern Ireland) Order 1976.

**Marginal Citations**

**M92** 1954 c. 61.

**M93** S.I.1976/1213 (N.I. 22)9.

- 4 The provision of care or medical or surgical treatment and, in connection with it, the supply of any goods, in any hospital or other institution approved, licensed, registered or exempted from registration by any Minister or other authority pursuant to a provision of a public general Act of Parliament or of the Northern Ireland Parliament or of a public general Measure of the Northern Ireland Assembly or Order in Council under Schedule 1 to the <sup>M94</sup>Northern Ireland Act 1974, not being a provision which is capable of being brought into effect at different times in relation to different local authority areas.

**Marginal Citations**

**M94** 1974 c. 28.

- 5 The provision of a deputy for a person registered in the register of medical practitioners or the register of medical practitioners with limited registration.
- 6 Human blood.
- 7 Products for therapeutic purposes, derived from human blood.
- 8 Human (including foetal) organs or tissue for diagnostic or therapeutic purposes or medical research.
- 9 The supply, otherwise than for profit, by a charity or public body of welfare services and of goods supplied in connection therewith.
- 10 The supply, otherwise than for profit, of goods and services incidental to the provision of spiritual welfare by a religious community to a resident member of that community in return for a subscription or other consideration paid as a condition of membership.
- 11 The supply of transport services for sick or injured persons in vehicles specially designed for that purpose.

**Notes:**

- (1) Item 1 does not include the letting on hire of goods except where the letting is in connection with a supply of other services comprised in the item.
- (2) Paragraphs (a) to (d) of item 1 and paragraphs (a) and (b) of item 2 include supplies of services made by a person who is not registered or enrolled in any of the registers or rolls specified in those paragraphs where the services are wholly performed or directly supervised by a person who is so registered or enrolled.

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- [<sup>F330</sup>(2A) Item 3 includes supplies of services made by a person who is not registered in either of the registers specified in that item where the services are wholly performed by a person who is so registered.]
- (3) Item 3 does not include the letting on hire of goods.
- (4) For the purposes of this Group a person who is not registered in the visiting EEC practitioners list in the register of medical practitioners at the time he performs services in an urgent case as mentioned in subsection (3) of section 18 of the <sup>M95</sup>Medical Act 1983 is to be treated as being registered in that list where he is entitled to be registered in accordance with that section.
- (5) In item 9 “public body” means—
- a Government department within the meaning of section 41(6);
  - a local authority;
  - a body which acts under any enactment or instrument for public purposes and not for its own profit and which performs functions similar to those of a Government department or local authority.
- (6) In item 9 “welfare services” means services which are directly connected with—
- the provision of care, treatment or instruction designed to promote the physical or mental welfare of elderly, sick, distressed or disabled persons;
  - the protection of children and young persons; or
  - the provision of spiritual welfare by a religious institution as part of a course of instruction or a retreat, not being a course or a retreat designed primarily to provide recreation or a holiday.
- (7) Item 9 does not include the supply of accommodation or catering except where it is ancillary to the provision of care, treatment or instruction.

#### Textual Amendments

**F330** Sch. 9 group 7 Note (2A) inserted (1.1.1997) by [S.I. 1996/2949](#), [arts. 1, 2](#)

#### Marginal Citations

**M95** 1983 c. 54.

#### Textual Amendments

**F330** Sch. 9 group 7 Note (2A) inserted (1.1.1997) by [S.I. 1996/2949](#), [arts. 1, 2](#)

#### Marginal Citations

**M95** 1983 c. 54.

## GROUP 8— BURIAL AND CREMATION

### Item No.

- 1 The disposal of the remains of the dead.

**Status:** Point in time view as at 29/02/2000. This version of this Act contains provisions that are not valid for this point in time.

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- 2 The making of arrangements for or in connection with the disposal of the remains of the dead.

**[<sup>F331</sup>GROUP 9— SUBSCRIPTIONS TO TRADE UNIONS,  
PROFESSIONAL AND OTHER PUBLIC INTEREST BODIES]**

**Textual Amendments**

**F331** Sch. 9 Pt. II Group 9: heading substituted (1.12.1999) by S.I. 1999/2834, art. 4(a)

*Item No.*

- 1 The supply to its members of such services and, in connection with those services, of such goods as are both referable only to its aims and available without payment other than a membership subscription by any of the following non-profit-making organisations—
- (a) a trade union or other organisation of persons having as its main object the negotiation on behalf of its members of the terms and conditions of their employment;
  - (b) a professional association, membership of which is wholly or mainly restricted to individuals who have or are seeking a qualification appropriate to the practice of the profession concerned;
  - (c) an association, the primary purpose of which is the advancement of a particular branch of knowledge, or the fostering of professional expertise, connected with the past or present professions or employments of its members;
  - (d) an association, the primary purpose of which is to make representations to the Government on legislation and other public matters which affect the business or professional interests of its members.
  - [<sup>F332</sup>(e) a body which has objects which are in the public domain and are of a political, religious, patriotic, philosophical, philanthropic or civic nature.]

**Textual Amendments**

**F332** Sch. 9 Pt. II Group 9 Item 1(e) added (1.12.1999) by S.I. 1999/2834, art. 4(b)

*Note:*

- (1) Item 1 does not include any right of admission to any premises, event or performance, to which non-members are admitted for a consideration.
- (2) “Trade union” has the meaning assigned to it by section 1 of the <sup>M96</sup>Trade Union and Labour Relations (Consolidation) Act 1992.
- (3) Item 1 shall include organisations and associations the membership of which consists wholly or mainly of constituent or affiliated associations which as individual associations would be comprised in the item; and “member” shall be construed as including such an association and “membership subscription” shall include an affiliation fee or similar levy.

**Status:** Point in time view as at 29/02/2000. This version of this Act contains provisions that are not valid for this point in time.

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- (4) Paragraph (c) does not apply unless the association restricts its membership wholly or mainly to individuals whose present or previous professions or employments are directly connected with the purposes of the association.
- (5) Paragraph (d) does not apply unless the association restricts its membership wholly or mainly to individuals or corporate bodies whose business or professional interests are directly connected with the purposes of the association.

#### Marginal Citations

M96 1992 c. 52.

#### Marginal Citations

M96 1992 c. 52.

### GROUP 10— SPORT, SPORTS COMPETITIONS AND PHYSICAL EDUCATION

#### Item No.

- 1 The grant of a right to enter a competition in sport or physical recreation where the consideration for the grant consists in money which is to be allocated wholly towards the provision of a prize or prizes awarded in that competition.
- 2 The grant, by [<sup>F333</sup>an eligible body] established for the purposes of sport or physical recreation, of a right to enter a competition in such an activity.

#### Textual Amendments

F333 Words in Sch. 9 Pt. II Group 10 Item 2 substituted (1.1.2000) by S.I. 1999/1994, art. 3

- 3 The supply by [<sup>F334</sup>an eligible body] to an individual, except, where the body operates a membership scheme, an individual who is not a member, of services closely linked with and essential to sport or physical education in which the individual is taking part.

#### Textual Amendments

F334 Words in Sch. 9 Pt. II Group 10 Item 3 substituted (1.1.2000) by S.I. 1999/1994, art. 3

#### Notes:

- (1) Item 3 does not include the supply of any services by [<sup>F335</sup>an eligible body] of residential accommodation, catering or transport.
- (2) An individual shall only be considered to be a member of [<sup>F335</sup>an eligible body] for the purpose of Item 3 where he is granted membership for a period of three months or more.

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- [<sup>F336</sup>(2A) Subject to Notes (2C) and (3), in this Group “eligible body” means [<sup>F335</sup>an eligible body] which–
- (a) is precluded from distributing any profit it makes, or is allowed to distribute any such profit by means only of distributions to a non-profit making body;
  - (b) applies in accordance with Note (2B) any profits it makes from supplies of a description within Item 2 or 3; and
  - (c) is not subject to commercial influence.
- (2B) For the purposes of Note (2A)(b) the application of profits made by any body from supplies of a description within Item 2 or 3 is in accordance with this Note only if those profits are applied for one or more of the following purposes, namely–
- (a) the continuance or improvement of any facilities made available in or in connection with the making of the supplies of those descriptions made by that body;
  - (b) the purposes of a non-profit making body.
- (2C) In determining whether the requirements of Note (2A) for being an eligible body are satisfied in the case of any body, there shall be disregarded any distribution of amounts representing unapplied or undistributed profits that falls to be made to the body’s members on its winding-up or dissolution.]
- (3) In Item 3 a “non-profit making body” does not include—
- (a) a local authority;
  - (b) a Government department within the meaning of section 41(6); or
  - (c) a non-departmental public body which is listed in the 1993 edition of the publication prepared by the Office of Public Service and Science and known as Public Bodies.
- [<sup>F337</sup>(4) For the purposes of this Group a body shall be taken, in relation to a sports supply, to be subject to commercial influence if, and only if, there is a time in the relevant period when–
- (a) a relevant supply was made to that body by a person associated with it at that time;
  - (b) an emolument was paid by that body to such a person;
  - (c) an agreement existed for either or both of the following to take place after the end of that period, namely–
    - (i) the making of a relevant supply to that body by such a person; or
    - (ii) the payment by that body to such a person of any emoluments.
- (5) In this Group “the relevant period”, in relation to a sports supply, means–
- (a) where that supply is one made before 1st January 2003, the period beginning with 14th January 1999 and ending with the making of that sports supply; and
  - (b) where that supply is one made on or after 1st January 2003, the period of three years ending with the making of that sports supply.
- (6) Subject to Note (7), in this Group “relevant supply”, in relation to any body, means a supply falling within any of the following paragraphs–
- (a) the grant of any interest in or right over land which at any time in the relevant period was or was expected to become sports land;
  - (b) the grant of any licence to occupy any land which at any such time was or was expected to become sports land;

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- (c) the grant, in the case of land in Scotland, of any personal right to call for or be granted any such interest or right as is mentioned in paragraph (a) above;
  - (d) a supply arising from a grant falling within paragraph (a), (b) or (c) above, other than a grant made before 1st April 1996;
  - (e) the supply of any services consisting in the management or administration of any facilities provided by that body;
  - (f) the supply of any goods or services for a consideration in excess of what would have been agreed between parties entering into a commercial transaction at arm's length.
- (7) A supply which has been, or is to be or may be, made by any person shall not be taken, in relation to a sports supply made by any body, to be a relevant supply for the purposes of this Group if–
- (a) the principal purpose of that body is confined, at the time when the sports supply is made, to the provision for employees of that person of facilities for use for or in connection with sport or physical recreation, or both;
  - (b) the supply in question is one made by a charity or local authority or one which (if it is made) will be made by a person who is a charity or local authority at the time when the sports supply is made;
  - (c) the supply in question is a grant falling within Note (6)(a) to (c) which has been made, or (if it is made) will be made, for a nominal consideration;
  - (d) the supply in question is one arising from such a grant as is mentioned in paragraph (c) above and is not itself a supply the consideration for which was, or will or may be, more than a nominal consideration; or
  - (e) the supply in question–
    - (i) is a grant falling within Note (6)(a) to (c) which is made for no consideration; but
    - (ii) falls to be treated as a supply of goods or services, or (if it is made) will fall to be so treated, by reason only of the application, in accordance with paragraph 9 of Schedule 4, of paragraph 5 of that Schedule.
- (8) Subject to Note (10), a person shall be taken, for the purposes of this Group, to have been associated with a body at any of the following times, that is to say–
- (a) the time when a supply was made to that body by that person;
  - (b) the time when an emolument was paid by that body to that person; or
  - (c) the time when an agreement was in existence for the making of a relevant supply or the payment of emoluments,
- if, at that time, or at another time (whether before or after that time) in the relevant period, that person was an officer or shadow officer of that body or an intermediary for supplies to that body.
- (9) Subject to Note (10), a person shall also be taken, for the purposes of this Group, to have been associated with a body at a time mentioned in paragraph (a), (b) or (c) of Note (8) if, at that time, he was connected with another person who in accordance with that Note–
- (a) is to be taken to have been so associated at that time; or
  - (b) would be taken to have been so associated were that time the time of a supply by the other person to that body.



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- (10) Subject to Note (11), a person shall not be taken for the purposes of this Group to have been associated with a body at a time mentioned in paragraph (a), (b) or (c) of Note (8) if the only times in the relevant period when that person or the person connected with him was an officer or shadow officer of the body are times before 1st January 2000.
- (11) Note (10) does not apply where (but for that Note) the body would be treated as subject to commercial influence at any time in the relevant period by virtue of—
- (a) the existence of any agreement entered into on or after 14th January 1999 and before 1st January 2000; or
  - (b) anything done in pursuance of any such agreement.
- (12) For the purposes of this Group a person shall be taken, in relation to a sports supply, to have been at all times in the relevant period an intermediary for supplies to the body making that supply if—
- (a) at any time in that period either a supply was made to him by another person or an agreement for the making of a supply to him by another was in existence; and
  - (b) the circumstances were such that, if—
    - (i) that body had been the person to whom the supply was made or (in the case of an agreement) the person to whom it was to be or might be made; and
    - (ii) Note (7) above were to be disregarded to the extent (if at all) that it would prevent the supply from being a relevant supply, the body would have fallen to be regarded in relation to the sports supply as subject to commercial influence.
- (13) In determining for the purposes of Note (12) or this Note whether there are such circumstances as are mentioned in paragraph (b) of that Note in the case of any supply, that Note and this Note shall be applied first for determining whether the person by whom the supply was made, or was to be or might be made, was himself an intermediary for supplies to the body in question, and so on through any number of other supplies or agreements.
- (14) In determining for the purposes of this Group whether a supply made by any person was made by an intermediary for supplies to a body, it shall be immaterial that the supply by that person was made before the making of the supply or agreement by reference to which that person falls to be regarded as such an intermediary.
- (15) Without prejudice to the generality of subsection (1AA) of section 43, for the purpose of determining—
- (a) whether a relevant supply has at any time been made to any person;
  - (b) whether there has at any time been an agreement for the making of a relevant supply to any person; and
  - (c) whether a person falls to be treated as an intermediary for the supplies to any body by reference to supplies that have been, were to be or might have been made to him,
- references in the preceding Notes to a supply shall be deemed to include references to a supply falling for other purposes to be disregarded in accordance with section 43(1) (a).
- (16) In this Group—

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“agreement” includes any arrangement or understanding (whether or not legally enforceable);

“emolument” means any emolument (within the meaning of the Income Tax Acts) the amount of which falls or may fall, in accordance with the agreement under which it is payable, to be determined or varied wholly or partly by reference–

(i) to the profits from some or all of the activities of the body paying the emolument;  
or

(ii) to the level of that body’s gross income from some or all of its activities;

“employees”, in relation to a person, includes retired employees of that person;

“grant” includes an assignment or surrender;

“officer”, in relation to a body, includes–

(i) a director of a body corporate; and

(ii) any committee member or trustee concerned in the general control and management of the administration of the body;

“shadow officer”, in relation to a body, means a person in accordance with whose directions or instructions the members or officers of the body are accustomed to act;

“sports land”, in relation to any body, means any land used or held for use for or in connection with the provision by that body of facilities for use for or in connection with sport or physical recreation, or both;

“sports supply” means a supply which, if made by an eligible body, would fall within Item 2 or 3.

(17) For the purposes of this Group any question whether a person is connected with another shall be determined in accordance with section 839 of the Taxes Act (connected persons) <sup>F338</sup>.]

#### Textual Amendments

**F335** Words in Sch. 9 Pt. II Group 10 Notes (1)-(3) substituted (1.1.2000) by [S.I. 1999/1994, art. 3](#)

**F336** Sch. 9 Pt. II Group 10 Notes (2A)(2B)(2C) inserted (1.1.2000) by [S.I. 1999/1994, art. 4](#)

**F337** Sch. 9 Pt. II Group 10 Notes (4)-(17) inserted (1.1.2000) by [S.I. 1999/1994, art. 5](#)

**F338** Section 96(1) of the Value Added Tax Act 1994 defines "the Taxes Act" to mean the [Income and Corporation Taxes Act 1988 \(c. 1\)](#).

#### Textual Amendments

**F335** Words in Sch. 9 Pt. II Group 10 Notes (1)-(3) substituted (1.1.2000) by [S.I. 1999/1994, art. 3](#)

**F336** Sch. 9 Pt. II Group 10 Notes (2A)(2B)(2C) inserted (1.1.2000) by [S.I. 1999/1994, art. 4](#)

**F337** Sch. 9 Pt. II Group 10 Notes (4)-(17) inserted (1.1.2000) by [S.I. 1999/1994, art. 5](#)

**F338** Section 96(1) of the Value Added Tax Act 1994 defines "the Taxes Act" to mean the [Income and Corporation Taxes Act 1988 \(c. 1\)](#).

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## GROUP 11— WORKS OF ART ETC

### Item No.

- 1 The disposal of an object with respect to which estate duty is not chargeable by virtue of section 30(3) of the <sup>M97</sup>Finance Act 1953, section 34(1) of the <sup>M98</sup>Finance Act 1956 or the proviso to section 40(2) of the <sup>M99</sup>Finance Act 1930.

#### Marginal Citations

**M97** 1953 c.34.

**M98** 1956 c.54.

**M99** 1930 c.28.

- 2 The disposal of an object with respect to which inheritance tax is not chargeable by virtue of paragraph 1(3)(a) or (4), paragraph 3(4)(a), or the words following paragraph 3(4), of Schedule 5 to the <sup>M100</sup>Inheritance Tax Act 1984.

#### Marginal Citations

**M100** 1984 c.51.

- 3 The disposal of property with respect to which inheritance tax is not chargeable by virtue of section 32(4) or 32A(5) or (7) of the <sup>M101</sup>Inheritance Tax Act 1984.

#### Marginal Citations

**M101** 1984 c.51.

- 4 The disposal of an asset in a case in which any gain accruing on that disposal is not a chargeable gain by virtue of section 258(2) of the <sup>M102</sup>Taxation of Chargeable Gains Act 1992.

#### Marginal Citations

**M102** 1992 c.12.

## GROUP 12— FUND-RAISING EVENTS BY CHARITIES AND OTHER QUALIFYING BODIES

VALID FROM 01/04/2000

### Notes:

(1) For the purposes of this Group “event” includes an event accessed (wholly or partly) by means of electronic communications.

For this purpose “electronic communications” includes any communications by means of a telecommunications system (within the meaning of the Telecommunications Act 1984).

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- <sup>F339</sup>(2) For the purposes of this Group “charity” includes a body corporate that is wholly owned by a charity if—
- (a) the body has agreed in writing (whether or not contained in a deed) to transfer its profits (from whatever source) to a charity, or
  - (b) the body’s profits (from whatever source) are otherwise payable to a charity.
- (3) For the purposes of this Group “qualifying body” means—
- (a) any non-profit making organisation mentioned in item 1 of Group 9;
  - (b) any body that is an eligible body for the purposes of Group 10 and whose principal purpose is the provision of facilities for persons to take part in sport or physical education; or
  - (c) any body that is an eligible body for the purposes of item 2 of Group 13.
- (4) Where in a financial year of a charity or qualifying body there are held at the same location more than 15 events involving the charity or body that are of the same kind, items 1 to 3 do not apply (or shall be treated as having not applied) to a supply in connection with any event involving the charity or body that is of that kind and is held in that financial year at that location.
- (5) In determining whether the limit of 15 events mentioned in Note (4) has been exceeded in the case of events of any one kind held at the same location, disregard any event of that kind held at that location in a week during which the aggregate gross takings from events involving the charity or body that are of that kind and are held in that location do not exceed £1,000.
- (6) In the case of a financial year that is longer or shorter than a year, Notes (4) and (5) have effect as if for “15” there were substituted the whole number nearest to the number obtained by—
- (a) first multiplying the number of days in the financial year by 15, and
  - (b) then dividing the result by 365.
- (7) For the purposes of Notes (4) and (5)—
- (a) an event involves a charity if the event is organised by the charity or a connected charity;
  - (b) an event involves a qualifying body if the event is organised by the body.

#### Textual Amendments

**F339** Sch. 9 Group 12 items 1-3, Notes (1)-(11) substituted for Sch. 9 Group 12 items 1-2, Notes (1)-(3) (1.4.2000) by [S.I. 2000/802](#), [art. 3](#)

#### Textual Amendments

**F339** Sch. 9 Group 12 items 1-3, Notes (1)-(11) substituted for Sch. 9 Group 12 items 1-2, Notes (1)-(3) (1.4.2000) by [S.I. 2000/802](#), [art. 3](#)

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*Item No.*

- 1 The supply of goods and services by a charity in connection with a fund-raising event organised for charitable purposes by a charity or jointly by more than one charity.
- 2 The supply of goods and services by a qualifying body in connection with a fundraising event organised exclusively for its own benefit.

*Notes:*

- (1) For the purposes of items 1 and 2 “fund-raising event” means a fête, ball, bazaar, gala show, performance or similar event, which is separate from and not forming any part of a series or regular run of like or similar events.
- (2) For the purposes of item 1 “charity” includes a body corporate which is wholly owned by a charity and whose profits (from whatever source) are payable to a charity by virtue of a deed of covenant or trust or otherwise.
- [<sup>F340</sup>(3) For the purposes of item 2 “qualifying body” means—
  - <sup>F341</sup>(a) .....
  - (b) any non-profit making organisation mentioned in item 1 of Group 9;
  - (c) any non-profit making body whose principal purpose is the provision of facilities for persons to take part in sport or physical education; or
  - (d) any body which is an eligible body for the purposes of item 2 of Group 13.]

**Textual Amendments**  
**F340** Sch. 9 Pt. 2 Group 12 Note (3) substituted (1.6.1996) by [S.I. 1996/1256, arts. 1, 2\(a\)](#)  
**F341** Sch. 9 Pt. 2 Group 12 Note (3)(a) omitted (1.12.1999) by [S.I. 1999/2834, art. 5](#)

**Textual Amendments**  
**F340** Sch. 9 Pt. 2 Group 12 Note (3) substituted (1.6.1996) by [S.I. 1996/1256, arts. 1, 2\(a\)](#)  
**F341** Sch. 9 Pt. 2 Group 12 Note (3)(a) omitted (1.12.1999) by [S.I. 1999/2834, art. 5](#)

[<sup>F342</sup>**GROUP 13— CULTURAL SERVICES ETC**

**Textual Amendments**  
**F342** Sch. 9 Pt. 2 Group 13 inserted (1.6.1996) by [S.I. 1996/1256, arts. 1, 2\(b\)](#)

*Item No.*

- 1 The supply by a public body of a right of admission to—
  - (a) a museum, gallery, art exhibition or zoo; or
  - (b) a theatrical, musical or choreographic performance of a cultural nature.
- 2 The supply by an eligible body of a right of admission to—

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- (a) a museum, gallery, art exhibition or zoo; or
- (b) a theatrical, musical or choreographic performance of a cultural nature.

Notes:

- (1) For the purposes of this Group “public body” means—
  - (a) a local authority;
  - (b) a government department within the meaning of section 41(6); or
  - (c) a non-departmental public body which is listed in the 1995 edition of the publication prepared by the Office of Public Service and known as “Public Bodies”.
- (2) For the purposes of item 2 “eligible body” means any body (other than a public body) which—
  - (a) is precluded from distributing, and does not distribute, any profit it makes;
  - (b) applies any profits made from supplies of a description falling within item 2 to the continuance or improvement of the facilities made available by means of the supplies; and
  - (c) is managed and administered on a voluntary basis by persons who have no direct or indirect financial interest in its activities.
- (3) Item 1 does not include any supply the exemption of which would be likely to create distortions of competition such as to place a commercial enterprise carried on by a taxable person at a disadvantage.
- (4) Item 1(b) includes the supply of a right of admission to a performance only if the performance is provided exclusively by one or more public bodies, one or more eligible bodies or any combination of public bodies and eligible bodies.]

### [<sup>F343</sup> GROUP 15—INVESTMENT GOLD

#### Textual Amendments

**F343** Sch. 9 Pt. 2 Group 15 added (1.1.2000) by [S.I. 1999/3116, art. 2\(3\)](#)

Item No.

<sup>F344</sup><sub>1</sub> The supply of investment gold.

#### Textual Amendments

**F344** Sch. 9 Pt. 2 Group 15 Item 1 added (1.1.2000) by [S.I. 1999/3116, art. 2\(3\)](#)

<sup>F345</sup><sub>2</sub> The grant, assignment or surrender of any right, interest, or claim in, over or to investment gold if the right, interest or claim is or confers a right to the transfer of the possession of investment gold.

#### Textual Amendments

**F345** Sch. 9 Pt. 2 Group 15 Item 2 added (1.1.2000) by [S.I. 1999/3116, art. 2\(3\)](#)

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- F346**3 The supply, by a person acting as agent for a disclosed principal, of services consisting of—
- (a) the effecting of a supply falling within item 1 or 2 that is made by or to his principal, or
  - (b) attempting to effect a supply falling within item 1 or 2 that is intended to be made by or to his principal but is not in fact made.

**Textual Amendments**

**F346** Sch. 9 Pt. 2 Group 15 Item 3 added (1.1.2000) by [S.I. 1999/3116](#), [art. 2\(3\)](#)

**F347**Notes:

- (1) For the purposes of this Group “investment gold” means—
  - (a) gold of a purity not less than 995 thousandths that is in the form of a bar, or a wafer, of a weight accepted by the bullion markets;
  - (b) a gold coin minted after 1800 that—
    - (i) is of a purity of not less than 900 thousandths,
    - (ii) is, or has been, legal tender in its country of origin, and
    - (iii) is of a description of coin that is normally sold at a price that does not exceed 180% of the open market value of the gold contained in the coin; or
  - (c) a gold coin of a description specified in a notice that has been published by the Commissioners for the purposes of this Group and has not been withdrawn.
- (2) A notice under Note (1)(c) may provide that a description specified in the notice has effect only for the purposes of supplies made at times falling within a period specified in the notice.
- (3) Item 2 does not include—
  - (a) the grant of an option, or
  - (b) the assignment or surrender of a right under an option at a time before the option is exercised.
- (4) This Group does not include a supply—
  - (a) between members of the London Bullion Market Association, or
  - (b) by a member of that Association to a taxable person who is not a member or by such a person to a member.]

**Textual Amendments**

**F347** Sch. 9 Pt. 2 Group 15 Notes added (1.1.2000) by [S.I. 1999/3116](#), [art. 2\(3\)](#)

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## [<sup>F348</sup>SCHEDULE 9A

### ANTI-AVOIDANCE PROVISIONS: GROUPS

#### Textual Amendments

**F348** Sch. 9A inserted (29.4.1996) by 1996 c. 8, s. 31, Sch. 4

#### *Power to give directions*

- 1 (1) Subject to paragraph 2 below, the Commissioners may give a direction under this Schedule if, in any case—
- (a) a relevant event has occurred;
  - (b) the condition specified in sub-paragraph (3) below is fulfilled;
  - (c) that condition would not be fulfilled apart from the occurrence of that event; and
  - (d) in the case of an event falling within sub-paragraph (2)(b) below, the transaction in question is not a supply which is the only supply by reference to which the case falls within paragraphs (a) to (c) above.
- (2) For the purposes of this Schedule, a relevant event occurs when a body corporate—
- (a) begins to be, or ceases to be, treated as a member of a group; or
  - (b) enters into any transaction.
- (3) The condition mentioned in sub-paragraph (1) above is that—
- (a) there has been, or will or may be, a taxable supply on which VAT has been, or will or may be, charged otherwise than by reference to the supply's full value;
  - (b) there is at least a part of the supply which is not or, as the case may be, would not be zero-rated; and
  - (c) the charging of VAT on the supply otherwise than by reference to its full value gives rise or, as the case may be, would give rise to a tax advantage.
- (4) For the purposes of this paragraph the charging of VAT on a supply ("the undercharged supply") otherwise than by reference to its full value shall be taken to give rise to a tax advantage if, and only if, a person has become entitled—
- (a) to credit for input tax allowable as attributable to that supply or any part of it, or
  - (b) in accordance with regulations under section 39, to any repayment in respect of that supply or any part of it.
- (5) The cases where a person shall be taken for the purposes of sub-paragraph (4) above to have become entitled to a credit for input tax allowable as attributable to the undercharged supply, or to a part of it, shall include any case where—
- (a) a person has become entitled to a credit for any input tax on the supply to him, or the acquisition or importation by him, of any goods or services; and
  - (b) whatever the supplies to which the credit was treated as attributable when the entitlement to it arose, those goods or services are used by him in making the undercharged supply, or a part of it.
- (6) For the purposes of sub-paragraphs (4) and (5) above where—



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- (a) there is a supply of any of the assets of a business of a person (“the transferor”) to a person to whom the whole or any part of that business is transferred as a going concern (“the transferee”), and
- (b) that supply is treated, in accordance with an order under section 5(3), as being neither a supply of goods nor a supply of services,

the question, so far as it falls to be determined by reference to those assets, whether a credit for input tax to which any person has become entitled is one allowable as attributable to the whole or any part of a supply shall be determined as if the transferor and the transferee were the same person.

(7) Where, in a case to which sub-paragraph (6) above applies, the transferor himself acquired any of the assets in question by way of a supply falling within paragraphs (a) and (b) of that sub-paragraph, that sub-paragraph shall have the effect, as respects the assets so acquired, of requiring the person from whom those assets were acquired to be treated for the purposes of sub-paragraphs (4) and (5) above as the same person as the transferor and the transferee, and so on in the case of any number of successive supplies falling within those paragraphs.

(8) For the purposes of this paragraph any question—

- (a) whether any credit for input tax to which a person has become entitled was, or is to be taken to have been, a credit allowable as attributable to the whole or any part of a supply, or
- (b) whether any repayment is a repayment in respect of the whole or any part of a supply,

shall be determined, in relation to a supply of a right to goods or services or to a supply of goods or services by virtue of such a right, as if the supply of the right and supplies made by virtue of the right were a single supply of which the supply of the right and each of those supplies constituted different parts.

(9) References in this paragraph to the full value of a supply are references to the amount which (having regard to any direction under paragraph 1 of Schedule 6) would be the full value of that supply for the purposes of the charge to VAT if that supply were not a supply falling to be disregarded, to any extent, in pursuance of section 43(1)(a).

(10) References in this paragraph to the supply of a right to goods or services include references to the supply of any right, option or priority with respect to the supply of goods or services, and to the supply of an interest deriving from any right to goods or services.

#### *Restrictions on giving directions*

2 [ The Commissioners shall not give a direction under this Schedule by reference to a <sup>F349</sup>(1)] relevant event if they are satisfied that—

- (a) the change in the treatment of the body corporate, or
- (b) the transaction in question,

had as its main purpose or, as the case may be, as each of its main purposes a genuine commercial purpose unconnected with the fulfilment of the condition specified in paragraph 1(3) above.

[ This paragraph shall not apply where the relevant event is the termination of a body <sup>F350</sup>(2) corporate’s treatment as a member of a group by a notice under section 43C(1) or (3).]

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### Textual Amendments

**F349** Sch. 9A para. 2(1) renumbered (27.7.1999) by 1999 c. 16, s. 16, **Sch. 2 para. 5(2)**

**F350** Sch. 9A para. 2(2) inserted (27.7.1999) by 1999 c. 16, s. 16, **Sch. 2 para. 5(2)**

### *Form of directions under Schedule*

- 3 (1) The directions that may be given by the Commissioners under this Schedule are either—
- (a) a direction relating to any supply of goods or services that has been made, in whole or in part, by one body corporate to another; or
  - (b) a direction relating to a particular body corporate.
- (2) A direction under this Schedule relating to a supply shall require it to be assumed (where it would not otherwise be the case) that, to the extent described in the direction, the supply was not a supply falling to be disregarded in pursuance of section 43(1)(a).
- (3) A direction under this Schedule relating to a body corporate shall require it to be assumed (where it would not otherwise be the case) that, for such period (comprising times before the giving of the direction or times afterwards or both) as may be described in the direction, the body corporate—
- (a) did not fall to be treated, or is not to be treated, as a member of a group, or of a particular group so described; or
  - (b) fell to be treated, or is to be treated, as a member of any group so described of which, for that period, it was or is eligible to be a member.
- (4) Where a direction under this Schedule requires any assumptions to be made, then—
- (a) so far as the assumptions relate to times on or after the day on which the direction is given, this Act shall have effect in relation to such times in accordance with those assumptions; and
  - (b) paragraph 6 below shall apply for giving effect to those assumptions in so far as they relate to earlier times.
- (5) A direction falling within sub-paragraph (3)(b) above may identify in relation to any times or period the body corporate which is to be assumed to have been, or to be, the representative member of the group at those times or for that period.
- (6) A direction under this Schedule may vary the effect of a previous direction under this Schedule.
- (7) The Commissioners may at any time, by notice in writing to the person to whom it was given, withdraw a direction under this Schedule.
- (8) The refusal or non-refusal by the Commissioners of an application [<sup>F351</sup>such as is mentioned in section 43B] shall not prejudice the power of the Commissioners to give a direction under this Schedule requiring any case to be assumed to be what it would have been had the application not been refused or, as the case may be, had it been refused.

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### Textual Amendments

**F351** Words in [Sch. 9A para. 3\(8\)](#) substituted (27.7.1999) by 1999 c. 16, s. 16, [Sch. 2 para. 5\(3\)](#)

#### *Time limit on directions*

- 4 (1) A direction under this Schedule shall not be given more than six years after whichever is the later of—
- (a) the occurrence of the relevant event by reference to which it is given; and
  - (b) the time when the relevant entitlement arose.
- (2) A direction under this Schedule shall not be given by reference to a relevant event occurring on or before 28th November 1995.
- (3) Subject to sub-paragraphs (1) and (2) above, a direction under this Schedule—
- (a) may be given by reference to a relevant event occurring before the coming into force of this Schedule; and
  - (b) may require assumptions to be made in relation to times (including times before 29th November 1995) falling before the occurrence of the relevant event by reference to which the direction is given, or before the relevant entitlement arose.
- (4) For the purposes of this paragraph the reference, in relation to the giving of a direction, to the relevant entitlement is a reference to the entitlement by reference to which the requirements of paragraph 1(4) above are taken to be satisfied for the purposes of that direction.

#### *Manner of giving directions*

- 5 (1) A direction under this Schedule relating to a supply may be given to—
- (a) the person who made the supply to which the direction relates; or
  - (b) any body corporate which, at the time when the direction is given, is the representative member of a group of which that person was treated as being a member at the time of the supply.
- (2) A direction under this Schedule relating to a body corporate (“the relevant body”) may be given to that body or to any body corporate which at the time when the direction is given is, or in pursuance of the direction is to be treated as, the representative member of a group of which the relevant body—
- (a) is treated as being a member;
  - (b) was treated as being a member at a time to which the direction relates; or
  - (c) is to be treated as being, or having been, a member at any such time.
- (3) A direction given to any person under this Schedule shall be given to him by notice in writing.
- (4) A direction under this Schedule must specify the relevant event by reference to which it is given.

#### *Assessment in consequence of a direction*

- 6 (1) Subject to sub-paragraph (3) below, where—

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- (a) a direction is given under this Schedule, and
  - (b) there is an amount of VAT (“the unpaid tax”) for which a relevant person would have been liable before the giving of the direction if the facts had accorded with the assumptions specified in the direction,
- the Commissioners may, to the best of their judgement, assess the amount of unpaid tax as tax due from the person to whom the direction was given or another relevant person and notify their assessment to that person.
- (2) In sub-paragraph (1) above the reference to an amount of VAT for which a person would, on particular assumptions, have been liable before the giving of a direction under this Schedule is a reference to the aggregate of the following—
- (a) any amount of output tax which, on those assumptions but not otherwise, would have been due from a relevant person at the end of a prescribed accounting period ending before the giving of the direction;
  - (b) the amount of any credit for input tax to which a relevant person is treated as having been entitled at the end of such an accounting period but to which he would not have been entitled on those assumptions; and
  - (c) the amount of any repayment of tax made to a relevant person in accordance with regulations under section 39 but to which he would not have been entitled on those assumptions.
- (3) Where any assessment falls to be made under this paragraph in a case in which the Commissioners are satisfied that the actual revenue loss is less than the unpaid tax, the total amount to be assessed under this paragraph shall not exceed what appears to them, to the best of their judgement, to be the amount of that loss.
- (4) For the purposes of the making of an assessment under this paragraph in relation to any direction, the actual revenue loss shall be taken to be equal to the amount of the unpaid tax less the amount given by aggregating the amounts of every entitlement—
- (a) to credit for input tax, or
  - (b) to a repayment in accordance with regulations under section 39,
- which (whether as an entitlement of the person in relation to whom the assessment is made or as an entitlement of any other person) would have arisen on the assumptions contained in the direction, but not otherwise.
- (5) An assessment under this paragraph relating to a direction may be notified to the person to whom that direction is given by being incorporated in the same notice as that direction.
- (6) An assessment under this paragraph shall not be made—
- (a) more than one year after the day on which the direction to which it relates was given, or
  - (b) in the case of any direction that has been withdrawn.
- (7) Where an amount has been assessed on any person under this paragraph and notified to him—
- (a) that amount shall be deemed (subject to the provisions of this Act as to appeals) to be an amount of VAT due from him;
  - (b) that amount may be recovered accordingly, either from that person or, in the case of a body corporate that is for the time being treated as a member of a group, from the representative member of that group; and

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- (c) to the extent that more than one person is liable by virtue of any assessment under this paragraph in respect of the same amount of unpaid tax, those persons shall be treated as jointly and severally liable for that amount.
- (8) Sub-paragraph (7) above does not have effect if or to the extent that the assessment in question has been withdrawn or reduced.
- (9) Sections 74 and 77(6) apply in relation to assessments under this paragraph as they apply in relation to assessments under section 73 but as if the reference in subsection (1) of section 74 to the reckonable date were a reference to the date on which the assessment is notified.
- (10) Where by virtue of sub-paragraph (9) above any person is liable to interest under section 74—
- (a) section 76 shall have effect in relation to that liability with the omission of subsections (2) to (6); and
  - (b) section 77, except subsection (6), shall not apply to an assessment of the amount due by way of interest;
- and (without prejudice to the power to make assessments for interest for later periods) the interest to which any assessment made under section 76 by virtue of paragraph (a) above may relate shall be confined to interest for a period of no more than two years ending with the time when the assessment to interest is made.
- (11) In this paragraph “a relevant person”, in relation to a direction, means—
- (a) the person to whom the direction is given;
  - (b) the body corporate which was the representative member of any group of which that person was treated as being, or in pursuance of the direction is to be treated as having been, a member at a time to which the assumption specified in the direction relates; or
  - (c) any body corporate which, in pursuance of the direction, is to be treated as having been the representative member of such a group.

*Interpretation of Schedule etc.*

- 7 (1) References in this Schedule to being treated as a member of a group and to being eligible to be treated as a member of a group shall be construed in accordance with [F352section 43 to 43C].
- (2) For the purposes of this Schedule the giving of any notice or notification to any receiver, liquidator or person otherwise acting in a representative capacity in relation to another shall be treated as the giving of a notice or, as the case may be, notification to the person in relation to whom he so acts.]

**Textual Amendments**

F352 Words in Sch. 9A para. 7(1) substituted (27.7.1999) by 1999 c. 16, s. 16, Sch. 2 para. 5(4)

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## SCHEDULE 10

Section 51.

## BUILDINGS AND LAND

*Residential and charitable buildings: change of use etc*

- 1 (1) In this paragraph “relevant zero-rated supply” means a grant or other supply taking place on or after 1st April 1989 which—
- (a) relates to a building intended for use solely for a relevant residential purpose or a relevant charitable purpose or part of such a building; and
  - (b) is zero-rated, in whole or in part, by virtue of Group 5 of Schedule 8.
- (2) Sub-paragraph (3) below applies where—
- (a) one or more relevant zero-rated supplies relating to a building (or part of a building) have been made to any person,
  - (b) within the period of 10 years beginning with the day on which the building is completed, the person grants an interest in, right over or licence to occupy the building or any part of it (or the building or any part of it including, consisting of or forming part of the part to which the relevant zero-rated supply or supplies related), and
  - (c) after the grant the whole or any part of the building, or of the part to which the grant relates, (or the whole of the building or of the part to which the grant relates, or any part of it including, consisting of or forming part of the part to which the relevant zero-rated supply or supplies related) is not intended for use solely for a relevant residential purpose or a relevant charitable purpose.
- (3) Where this sub-paragraph applies, to the extent that the grant relates to so much of the building as—
- (a) by reason of its intended use gave rise to the relevant zero-rated supply or supplies; and
  - (b) is not intended for use solely for a relevant residential purpose or a relevant charitable purpose after the grant,
- it shall be taken to be a taxable supply in the course or furtherance of a business which is not zero-rated by virtue of Group 5 of Schedule 8 (if it would not otherwise be such a supply).
- (4) Sub-paragraph (5) below applies where—
- (a) one or more relevant zero-rated supplies relating to a building (or part of a building) have been made to any person; and
  - (b) within the period of 10 years beginning with the day on which the building is completed, the person uses the building or any part of it (or the building or any part of it including, consisting of or forming part of the part to which the relevant zero-rated supply or supplies related) for a purpose which is neither a relevant residential purpose nor a relevant charitable purpose.
- (5) Where this sub-paragraph applies, his interest in, right over or licence to occupy so much of the building as—
- (a) by reason of its intended use gave rise to the relevant zero-rated supply or supplies, and
  - (b) is used otherwise than for a relevant residential purpose or a relevant charitable purpose,

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shall be treated for the purposes of this Act as supplied to him for the purpose of a business carried on by him and supplied by him in the course or furtherance of the business when he first uses it for a purpose which is neither a relevant residential purpose nor a relevant charitable purpose.

- (6) Where sub-paragraph (5) applies—
- (a) the supply shall be taken to be a taxable supply which is not zero-rated by virtue of Group 5 of Schedule 8 (if it would not otherwise be such a supply); and
  - (b) the value of the supply shall be such that the amount of VAT chargeable on it is equal to the amount of the VAT which would have been chargeable on the relevant zero-rated supply (or, where there was more than one such supply, the aggregate amount which would have been chargeable on them) had so much of the building as is mentioned in sub-paragraph (5) above not been intended for use solely for a relevant residential purpose or a relevant charitable purpose.

*Election to waive exemption*

- 2 (1) Subject to sub-paragraphs [<sup>F353</sup>(2), (3) and (3A)] and paragraph 3 below, where an election under this paragraph has effect in relation to any land, if and to the extent that any grant made in relation to it at a time when the election has effect by the person who made the election, or where that person is a body corporate by that person or a relevant associate, would (apart from this sub-paragraph) fall within Group 1 of Schedule 9, the grant shall not fall within that Group.
- (2) Sub-paragraph (1) above shall not apply in relation to a grant if the grant is made in relation to—
- (a) a building or part of a building intended for use as a dwelling or number of dwellings or solely for a relevant residential purpose; or
  - (b) a building or part of a building intended for use solely for a relevant charitable purpose, other than as an office.
- [<sup>F354</sup>(c) a pitch for a residential caravan;
- <sup>F354</sup>(d) facilities for the mooring of a residential houseboat.]
- [<sup>F355</sup>(2A) Subject to the following provisions of this paragraph, where—
- (a) an election has been made for the purposes of this paragraph in relation to any land, and
  - (b) a supply is made that would fall, but for sub-paragraph (2)(a) above, to be treated as excluded by virtue of that election from Group 1 of Schedule 9,
- then, notwithstanding sub-paragraph (2)(a) above, that supply shall be treated as so excluded if the conditions in sub-paragraph (2B) below are satisfied.
- (2B) The conditions mentioned in sub-paragraph (2A) above are—
- (a) that an agreement in writing made, at or before the time of the grant, between—
    - (i) the person making the grant, and
    - (ii) the person to whom it is made,declares that the election is to apply in relation to the grant; and

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- (b) that the person to whom the supply is made intends, at the time when it is made, to use the land for the purpose only of making a supply which is zero-rated by virtue of paragraph (b) of item 1 of Group 5 of Schedule 8.]

(3) Sub-paragraph (1) above shall not apply in relation to a grant if—

- (a) the grant is made to a [<sup>F356</sup>relevant housing association] and the association has given to the grantor a certificate stating that the land is to be used (after any necessary demolition work) for the construction of a building or buildings intended for use as a dwelling or number of dwellings or solely for a relevant residential purpose; or
- (b) the grant is made to an individual and the land is to be used for the construction, otherwise than in the course or furtherance of a business carried on by him, of a building intended for use by him as a dwelling.

[<sup>F357</sup>(3AA) Where an election has been made under this paragraph in relation to any land, a supply shall not be taken by virtue of that election to be a taxable supply if—

- (a) the grant giving rise to the supply was made by a person (“the grantor”) who was a developer of the land; and
- (b) at the time of the grant [<sup>F358</sup>or at the time it was treated as made by virtue of sub-paragraph (3AAA) below], it was the intention or expectation of—
  - (i) the grantor, or
  - (ii) a person responsible for financing the grantor’s development of the land for exempt use,

that the land would become exempt land (whether immediately or eventually and whether or not by virtue of the grant) or, as the case may be, would continue, for a period at least, to be such land.]

[<sup>F359</sup>(3AAA) For the purposes of sub-paragraph (3AA) above a grant (the original grant) in relation to land made on or after 19th March 1997 and before 10th March 1999 shall be treated as being made on 10th March 1999 if at the time of the original grant—

- (a) the grantor or a person responsible for financing the grantor’s development of the land for exempt use, intended or expected that the land or a building or part of a building on, or to be constructed on, that land would become an asset falling in relation to—
  - (i) the grantor, or
  - (ii) any person to whom that land, building or part of a building was to be transferred either in the course of a supply or in the course of a transfer of a business or part of a business as a going concern,
 to be treated as a capital item for the purposes of any regulations made under section 26(3) and (4) providing for adjustments relating to the deduction of input tax to be made as respects that item, and
- (b) the land or a building or part of a building on, or to be constructed on, that land had not become such an asset.]

(3A) .....

(4) Subject to the following provisions of this paragraph, no input tax on any supply or importation which, apart from this sub-paragraph, would be allowable by virtue of the operation of this paragraph shall be allowed if the supply or importation took place before the first day for which the election in question has effect.



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- (5) Subject to sub-paragraph (6) below, sub-paragraph (4) above shall not apply where the person by whom the election was made—
- (a) has not, before the first day for which the election has effect, made in relation to the land in relation to which the election has effect any grant falling within Group 1 of Schedule 9; or
  - (b) has before that day made in relation to that land a grant or grants so falling but the grant, or all the grants—
    - (i) were made in the period beginning with 1st April 1989 and ending with 31st July 1989; and
    - (ii) would have been taxable supplies but for the amendments made by Schedule 3 to the <sup>M103</sup>Finance Act 1989.
- (6) Sub-paragraph (5) above does not make allowable any input tax on supplies or importations taking place before 1st August 1989 unless—
- (a) it is attributable by or under regulations to grants made by the person on or after 1st April 1989 which would have been taxable supplies but for the amendments made by Schedule 3 to the Finance Act 1989, and
  - (b) the election has effect from 1st August 1989.
- (7) Sub-paragraph (4) above shall not apply in relation to input tax on grants or other supplies which are made in the period beginning with 1st April 1989 and ending with 31st July 1989 [<sup>F360</sup>if]—
- (a) they would have been zero-rated by virtue of item 1 or 2 of Group 5 of Schedule 8 or exempt by virtue of item 1 of Group 1 of Schedule 9 but for the amendments made by Schedule 3 to the Finance Act 1989; and
  - (b) the election has effect from 1st August 1989.
- (8) Sub-paragraph (4) above shall not apply in relation to any election having effect from any day on or after 1st January 1992, except in respect of the input tax on a supply or importation which took place before 1st August 1989.
- (9) Where a person has made an exempt grant in relation to any land and has made an election in relation to that land which has effect from any day before 1st January 1992, he may apply to the Commissioners for sub-paragraph (4) above to be disapplied in respect of any input tax on a supply or importation which took place on or after 1st August 1989, but the Commissioners shall only permit the disapplication of that sub-paragraph if they are satisfied, having regard to all the circumstances of the case, and in particular to—
- (a) the total value of—
    - (i) exempt grants made;
    - (ii) taxable grants made or expected to be made, in relation to the land; and
  - (b) the total amount of input tax in relation to the land which had been incurred before the day from which the election had effect,
- that a fair and reasonable attribution of the input tax mentioned in paragraph (b) above will be secured.

#### Textual Amendments

**F353** Words in Sch. 10 para. 2(1) substituted (30.11.1994) by [S.I. 1994/3013](#), [arts. 1, 2\(a\)\(i\)](#)

**F354** Sch. 10 para. 2(c)(d) inserted (1.3.1995) by [S.I. 1995/279](#), [arts. 1, 3\(a\)](#)

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**F355** Sch. 10 para. 2(2A)(2B) inserted (19.3.1997 with effect as mentioned in s. 36(2) of the amending Act) by 1997 c. 16, s. 36(1)(2)

**F356** Words in Sch. 10 para. 2(3)(a) substituted (1.3.1997) by S.I. 1997/51, arts. 1, 2(a)

**F357** Sch. 10 para. 2(3AA) inserted (19.3.1997 with effect as mentioned in s. 37(4)-(6) of the amending Act) by 1997 c. 16, s. 37(2)(4)(6)

**F358** Words in Sch. 10 para. 2(3AA)(b) inserted (10.3.1999) by S.I. 1999/593, art. 3

**F359** Sch. 10 para. 2(3AAA) inserted (10.3.1999) by S.I. 1999/593, art. 4

**F360** Word in Sch. 10 para. 2(7) inserted (1.3.1995) by S.I. 1995/279, arts. 1, 3(b)

#### Marginal Citations

**M103** 1989 c. 26.

- 3 (1) An election under paragraph 2 above shall have effect—
- (a) subject to the following provisions of this paragraph, from the beginning of the day on which the election is made or of any later day specified in the election; or
  - (b) where the election was made before 1st November 1989, from the beginning of 1st August 1989 or of any later day so specified.
- (2) An election under paragraph 2 above shall have effect in relation to any land specified, or of a description specified, in the election.
- (3) Where such an election is made in relation to, or to part of, a building (or planned building), it shall have effect in relation to the whole of the building and all the land within its curtilage and for the purposes of this sub-paragraph buildings linked internally or by a covered walkway, and [<sup>F361</sup>complexes consisting of a number of units grouped around a fully enclosed concourse], shall be taken to be a single building (if they otherwise would not be).
- [<sup>F362</sup>(4) Subject to sub-paragraph (5) below, an election under paragraph 2 above shall be irrevocable.
- (5) Where—
- (a) the time that has elapsed since the day on which an election had effect is—
    - (i) less than 3 months; or
    - (ii) more than 20 years;
  - (b) in a case to which paragraph (a)(i) above applies—
    - (i) no tax has become chargeable and no credit for input tax has been claimed by virtue of the election; and
    - (ii) no grant in relation to the land which is the subject of the election has been made which, by virtue of being a supply of the assets of a business to a person to whom the business (or part of it) is being transferred as a going concern, has been treated as neither a supply of goods nor a supply of services; and
  - (c) the person making the election obtains the written consent of the Commissioners;
- the election shall be revoked, in a case to which paragraph (a)(i) above applies, from the date on which it was made, and in a case to which paragraph (a)(ii) above applies, from the date on which the written consent of the Commissioners is given or such later date as they may specify in their written consent.]

[<sup>F363</sup>(5A) Where—

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- (a) an election under paragraph 2 above is made in relation to any land, and
- (b) apart from this sub-paragraph, a grant in relation to that land would be taken to have been made (whether in whole or in part) before the time when the election takes effect,

that paragraph shall have effect, in relation to any supplies to which the grant gives rise which are treated for the purposes of this Act as taking place after that time, as if the grant had been made after that time.

(5B) Accordingly, the references in paragraph 2(9) above and sub-paragraph (9) below to grants being exempt or taxable shall be construed as references to supplies to which a grant gives rise being exempt or, as the case may be, taxable.]

[<sup>F362</sup>(6) An election under paragraph 2 above shall have effect after 1st March 1995 only if—

- (a) in the case of an election made before that date—
  - (i) it also had effect before that date; or
  - (ii) written notification of the election is given to the Commissioners not later than the end of the period of 30 days beginning with the day on which the election was made, or not later than the end of such longer period beginning with that day as the Commissioners may in any particular case allow, together with such information as the Commissioners may require;
- (b) in the case of an election made on or after that date—
  - (i) written notification of the election is given to the Commissioners not later than the end of the period of 30 days beginning with the day on which the election is made, or not later than the end of such longer period beginning with that day as the Commissioners may in any particular case allow, together with such information as the Commissioners may require; and
  - (ii) in a case in which sub-paragraph (9) below requires the prior written permission of the Commissioners to be obtained, that permission has been given.]

(7) In paragraph 2 above and this paragraph “relevant associate”, in relation to a body corporate by which an election under paragraph 2 above has been made in relation to any building or land, means a body corporate which under section 43—

- (a) was treated as a member of the same group as the body corporate by which the election was made at the time when the election first had effect;
- (b) has been so treated at any later time when the body corporate by which the election was made had an interest in, right over or licence to occupy the building or land (or any part of it); or
- (c) has been treated as a member of the same group as a body corporate within paragraph (a) or (b) above or this paragraph at a time when that body corporate had an interest in, right over or licence to occupy the building or land (or any part of it).

[<sup>F364</sup>(7A) In paragraph 2 above—

- (a) “houseboat” means a houseboat within the meaning of Group 9 of Schedule 8; and
- (b) a houseboat is not a residential houseboat if residence in it throughout the year is prevented by the terms of a covenant, statutory planning consent or similar permission.]

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- [<sup>F365</sup>(8) In paragraph 2 above “relevant housing association” means—
- (a) a registered social landlord within the meaning of Part I of the Housing Act 1996 <sup>F366</sup>,
  - (b) a registered housing association within the meaning of the Housing Associations Act 1985 <sup>F367</sup> (Scottish registered housing associations), or
  - (c) a registered housing association within the meaning of Part II of the Housing (Northern Ireland) Order 1992 <sup>F368</sup> (Northern Irish registered housing associations).]

(8A) .....

- (9) Where a person who wishes to make an election in relation to any land (the relevant land) to have effect on or after 1st January 1992, has made, makes or intends to make, an exempt grant in relation to the relevant land at any time between 1st August 1989 and before the beginning of the day from which he wishes an election in relation to the relevant land to have effect, he shall not make an election in relation to the relevant land unless [<sup>F369</sup>the conditions for automatic permission specified in a notice published by the Commissioners are met or] he obtains the prior written permission of the Commissioners, who shall only give such permission if they are satisfied having regard to all the circumstances of the case and in particular to—
- (a) the total value of exempt grants in relation to the relevant land made or to be made before the day from which the person wishes his election to have effect;
  - (b) the expected total value of grants relating to the relevant land that would be taxable if the election were to have effect; and
  - (c) the total amount of input tax which has been incurred on or after 1st August 1989 or is likely to be incurred in relation to the relevant land,

that there would be secured a fair and reasonable attribution of the input tax mentioned in paragraph (c) above to grants in relation to the relevant land which, if the election were to have effect, would be taxable.

#### Textual Amendments

- F361** Words in Sch. 10 para. 3(3) substituted (1.3.1995) by S.I. 1995/279, arts. 1, 4(a)  
**F362** Sch. 10 para. 3(4)(5)(6) substituted (1.3.1995) by S.I. 1995/279, arts. 1, 4(b)  
**F363** Sch. 10 para. 3(5A)(5B) inserted (retrospectively) by 1997 c. 16, s. 35(2)(4)  
**F364** Sch. 10 para. 3(7A) inserted (1.3.1995) by S.I. 1995/279, arts. 1, 4(c)  
**F365** Sch. 10 para. 3(8) substituted (1.3.1997) by S.I. 1997/51, arts. 1, 2(b)  
**F366** 1996 c.52.  
**F367** 1985 c.69.  
**F368** S.I. 1992/1725 (N.I.15).  
**F369** Words in Sch. 10 para. 3(9) substituted (1.3.1995) by S.I. 1995/279, arts. 1, 4(d)

[<sup>F370</sup>3A(1) This paragraph shall have effect for the construction of paragraph 2(3AA) [<sup>F371</sup>and (3AAA)] above.

[ For the purposes of paragraph 2(3AA) and (3AAA) above, a grant made by any <sup>F372</sup>(2) person in relation to any land is a grant made by a developer of that land if—

- (a) the land or building or part of a building on that land is an asset falling in relation to that person to be treated as a capital item for the purposes of any

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regulations under section 26(3) and (4) providing for adjustments relating to the deduction of input tax; or

- (b) that person or a person financing his development of the land for exempt use intended or expected that the land or a building or part of a building on, or to be constructed on, that land would become an asset falling in relation to—

(i) the grantor, or

- (ii) any person to whom it was to be transferred either in the course of a supply or in the course of a transfer of a business or part of a business as a going concern,

to be treated as a capital item for the purposes of the regulations referred to in sub-paragraph (a) above,

unless the grant was made at a time falling after the expiry of the period over which such regulations require or allow adjustments relating to the deduction of input tax to be made as respects that item.]

- (3) In paragraph 2(3AA) [<sup>F373</sup>and (3AAA)] above and this paragraph the references to a person's being responsible for financing the grantor's development of the land for exempt use are references to his being a person who, with the intention or in the expectation that the land will become, or continue (for a period at least) to be, exempt land—

(a) has provided finance for the grantor's development of the land; or

- (b) has entered into any agreement, arrangement or understanding (whether or not legally enforceable) to provide finance for the grantor's development of the land.

- (4) In sub-paragraph (3)(a) and (b) above the references to providing finance for the grantor's development of the land are references to doing any one or more of the following, that is to say—

(a) directly or indirectly providing funds for meeting the whole or any part of the cost of the grantor's development of the land;

(b) directly or indirectly procuring the provision of such funds by another;

(c) directly or indirectly providing funds for discharging, in whole or in part, any liability that has been or may be incurred by any person for or in connection with the raising of funds to meet the cost of the grantor's development of the land;

(d) directly or indirectly procuring that any such liability is or will be discharged, in whole or in part, by another.

- (5) The references in sub-paragraph (4) above to the provision of funds for a purpose referred to in that sub-paragraph include references to—

(a) the making of a loan of funds that are or are to be used for that purpose;

(b) the provision of any guarantee or other security in relation to such a loan;

(c) the provision of any of the consideration for the issue of any shares or other securities issued wholly or partly for raising such funds; or

(d) any other transfer of assets or value as a consequence of which any such funds are made available for that purpose.

[ In sub-paragraph (4) above the references to the grantor's development of the land <sup>F374</sup>(6) are references to the acquisition by the grantor of the asset which—

- (a) consists in the land or a building or part of a building on the land, and

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- (b) in relation to the grantor falls or, as the case may be, is intended or expected to fall to be treated for the purposes mentioned in sub-paragraph (2)(a) or (b) above as a capital item;

and for the purposes of this sub-paragraph the acquisition of an asset shall be taken to include its construction or reconstruction and the carrying out in relation to that asset of any other works by reference to which it falls or, as the case may be, is intended or expected to fall, to be treated for the purposes mentioned in sub-paragraph (2)(a) or (b) above as a capital item.]

- (7) For the purposes of paragraph 2(3AA) [<sup>F375</sup>and (3AAA)]above and this paragraph land is exempt land if, [<sup>F376</sup>at a time falling before the expiry of the period provided in regulations made under section 26(3) and (4) for the making of adjustments relating to the deduction of input tax as respects that land]—

- (a) the grantor,  
(b) a person responsible for financing the grantor's development of the land for exempt use, or  
(c) a person connected with the grantor or with a person responsible for financing the grantor's development of the land for exempt use,

is in occupation of the land without being in occupation of it wholly or mainly for eligible purposes.

- (8) For the purposes of this paragraph, but subject to sub-paragraphs (10) and (12) below, a person's occupation at any time of any land is not capable of being occupation for eligible purposes unless he is a taxable person at that time.

- (9) Subject to sub-paragraphs (10) to (12) below, a taxable person in occupation of any land shall be taken for the purposes of this paragraph to be in occupation of that land for eligible purposes to the extent only that his occupation of that land is for the purpose of making supplies which—

- (a) are or are to be made in the course or furtherance of a business carried on by him; and  
(b) are supplies of such a description that any input tax of his which was wholly attributable to those supplies would be input tax for which he would be entitled to a credit.

- (10) For the purposes of this paragraph—

- (a) occupation of land by a body to which section 33 applies is occupation of the land for eligible purposes to the extent that the body occupies the land for purposes other than those of a business carried on by that body; and  
(b) any occupation of land by a Government department (within the meaning of section 41) is occupation of the land for eligible purposes.

- (11) For the purposes of this paragraph, where land of which any person is in occupation—

- (a) is being held by that person in order to be put to use by him for particular purposes, and  
(b) is not land of which he is in occupation for any other purpose,

that person shall be deemed, for so long as the conditions in paragraphs (a) and (b) above are satisfied, to be in occupation of that land for the purposes for which he proposes to use it.

- (12) Sub-paragraphs (8) to (11) above shall have effect where land is in the occupation of a person who—

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- (a) is not a taxable person, but
  - (b) is a person whose supplies are treated for the purposes of this Act as supplies made by another person who is a taxable person,
- as if the person in occupation of the land and that other person were a single taxable person.
- (13) For the purposes of this paragraph a person shall be taken to be in occupation of any land whether he occupies it alone or together with one or more other persons and whether he occupies all of that land or only part of it.
- (14) Any question for the purposes of this paragraph whether one person is connected with another shall be determined in accordance with section 839 of the Taxes Act.]

**Textual Amendments**

- F370** Sch. 10 para. 3A inserted (19.3.1997 with effect as mentioned in s. 37(4)-(6) of the amending Act) by 1997 c. 16, s. 37(3)-(6)
- F371** Words in Sch. 10 para. 3A(1) inserted (10.3.1999) by S.I. 1999/593, art. 5(a)
- F372** Sch. 10 para. 3A(2) substituted (10.3.1999) by S.I. 1999/593, art. 5(b)
- F373** Words in Sch. 10 para. 3A(3) inserted (10.3.1999) by S.I. 1999/593, art. 5(c)
- F374** Sch. 10 para. 3A(6) substituted (10.3.1999) by S.I. 1999/593, art. 5(d)
- F375** Words in Sch. 10 para. 3A(7) inserted (10.3.1999) by S.I. 1999/593, art. 5(e)(i)
- F376** Words in Sch. 10 para. 3A(7) substituted (10.3.1999) by S.I. 1999/593, art. 5(e)(ii)

F377<sup>4</sup>

**Textual Amendments**

- F377** Sch. 10 para. 4 deleted (1.3.1995) by S.I. 1995/279, arts. 1, 5

*Developers of certain non-residential buildings etc.*

- 5 [F378(1) Paragraph 6 below shall apply—
- (a) on the first occasion during the period beginning with the day when the construction of a building or work within sub-paragraph (2) below is first planned and ending 10 years after the completion of the building or work on which a person who is a developer in relation to the building or work—
    - (i) grants an interest in, right over or licence to occupy the building or work (or any part of it) which is an exempt supply; or
    - (ii) is in occupation of the building, or uses the work (or any part of it) when not a fully taxable person (or, if a person treated under section 43 as a member of a group when the representative member is not a fully taxable person); or
  - (b) if construction commenced before 1st March 1995 and the period referred to in paragraph (a) above has not then expired, on 1st March 1997;
- whichever is the earlier.]
- (2) Subject to sub-paragraph (3) [F379 and (3A)] below, the buildings and works within this sub-paragraph are—

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- (a) any building neither designed as a dwelling or number of dwellings nor intended for use solely for a relevant residential purpose or a relevant charitable purpose; and
  - (b) any civil engineering work, other than a work necessary for the development of a permanent park for residential caravans.
- (3) A building or work is not within sub-paragraph (2) above if—
- (a) construction of it was commenced before 1st August 1989 [<sup>F380</sup>or after 28th February 1995]; or
  - (b) a grant of the fee simple in it which falls within paragraph (a)(ii) or (iv) of item 1 of Group 1 of Schedule 9 has been made before the occasion concerned.
- [<sup>F381</sup>(3A) A building or work which would, apart from this sub-paragraph, fall within sub-paragraph (2) above is not within that sub-paragraph if—
- (a) construction of it was commenced before 1st March 1995 but had not been completed by that date; and
  - (b) the developer—
    - (i) makes no claim after that date to credit for input tax, entitlement to which is dependent upon his being treated in due course as having made a supply by virtue of paragraph 6 below; and
    - (ii) has made no such claim prior to that date; or
    - (iii) accounts to the Commissioners for a sum equal to any such credit that has previously been claimed.]
- (4) For the purposes of this paragraph a taxable person is, in relation to any building or work, a fully taxable person throughout a prescribed accounting period if—
- (a) at the end of that period he is entitled to credit for input tax on all supplies to, and [<sup>F382</sup>acquisitions and] importations by, him in the period (apart from any on which input tax is excluded from credit by virtue of section 25(7)); or
  - (b) the building or work is not used by him at any time during the period in, or in connection with, making any exempt supplies of goods or services.
- (5) Subject to sub-paragraph (6) below, in this paragraph and paragraph 6 below “developer”, in relation to a building or work, means any person who—
- (a) constructs it;
  - (b) order it to be constructed; or
  - (c) finances its construction,
- with a view to granting an interest in, right over or licence to occupy it (or any part of it) or to occupying or using it (or any part of it) for his own purposes.
- (6) Where—
- (a) a body corporate treated under section 43 as a member of a group is a developer in relation to a building or work; and
  - (b) it grants an interest in, right over or licence to occupy the building or work (or any part of it) to another body corporate which is treated under that section as a member of the group,
- then, for the purposes of this paragraph and paragraph 6 below, as from the time of the grant any body corporate such as is mentioned in sub-paragraph (7) below shall be treated as also being a developer in relation to the building or work.



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- (7) The bodies corporate referred to in sub-paragraph (6) above are any which under section 43—
- (a) was treated as a member of the same group as the body corporate making the grant at the time of the grant; or
  - (b) has been so treated at any later time when the body corporate by which the grant was made had an interest in, right over or licence to occupy the building or work (or any part of it); or
  - (c) has been treated as a member of the same group as a body corporate within paragraph (a) or (b) above or this paragraph at a time when that body corporate had an interest in, right over or licence to occupy the building or work (or any part of it).
- (8) Subject to sub-paragraph (10) below, [<sup>F383</sup>sub-paragraphs (1), (2) and (3A) to (7)]above shall apply in relation to any of the following reconstructions, enlargements or extensions—
- (a) a reconstruction, enlargement or extension of an existing building which is commenced on or after 1st January 1992 [<sup>F384</sup>and before 1st March 1995] and—
    - (i) which is carried out wholly or partly on land (hereafter referred to as new building land) adjoining the curtilage of the existing building, or
    - (ii) as a result of which the gross external floor area of the reconstructed, enlarged or extended building (excluding any floor area on new building land) exceeds the gross external floor area of the existing building by not less than 20 per cent. of the gross external floor area of the existing building;
  - (b) a reconstruction of an existing building which is commenced on or after 1st January 1992 [<sup>F384</sup>and before 1st March 1995] and in the course of which at least 80 per cent. of the area of the floor structures of the existing building are removed;
  - (c) a reconstruction, enlargement or extension of a civil engineering work which is commenced on or after 1st January 1992 [<sup>F384</sup>and before 1st March 1995]and which is carried out wholly or partly on land (hereafter referred to as new land) adjoining the land on or in which the existing work is situated, as if references to the building or work were references to the reconstructed, enlarged or extended building or work and as if references to construction were references to reconstruction, enlargement or extension.
- (9) For the purposes of sub-paragraph (8)(a) above, extensions to an existing building shall include the provision of any annex having internal access to the existing building.
- (10) Sub-paragraphs (1) and (2) and [<sup>F385</sup>sub-paragraphs (3A) to (7)] above shall not apply to a reconstruction, enlargement or extension—
- (a) falling within sub-paragraph (8)(a)(i) or (ii) or (c) above where the developer has held an interest in at least 75 per cent. of all of the land on which the reconstructed, enlarged or extended building or work stands, or is constructed, throughout the period of 10 years ending with the last day of the prescribed accounting period during which the reconstructed, enlarged or extended building or work becomes substantially ready for occupation or use; or

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- (b) to the extent that it falls within sub-paragraph (8)(a)(ii) above or falling within sub-paragraph (8)(b) above, where the interest in, right over or licence to occupy the building concerned (or any part of it) has already been treated as supplied to and by the developer under paragraph 6(1) below.

#### Textual Amendments

- F378** Sch. 10 para. 5(1) substituted (1.3.1995) by S.I. 1995/279, arts. 1, 6(a)  
**F379** Words in Sch. 10 para. 5(2) inserted (1.3.1995) by S.I. 1995/279, arts. 1, 6(b)  
**F380** Words in Sch. 10 para. 5(3)(a) inserted (1.3.1995) by S.I. 1995/279, arts. 1, 6(c)  
**F381** Sch. 10 para. 5(3A) inserted (1.3.1995) by S.I. 1995/279, arts. 1, 6(d)  
**F382** Sch. 10 para. 5(4)(a) inserted (1.3.1995) by S.I. 1995/279, arts. 1, 6(e)  
**F383** Words in Sch. 10 para. 5(8) substituted (1.3.1995) by S.I. 1995/279, arts. 1, 6(f)(i)  
**F384** Words in Sch. 10 para. 5(8) inserted (1.3.1995) by S.I. 1995/279, arts. 1, 6(f)(ii)  
**F385** Words in Sch. 10 para. 5(10) substituted (1.3.1995) by S.I. 1995/279, arts. 1, 6(g)

- 6 (1) Where this paragraph applies the interest in, right over or licence to occupy the buildings or work (or any part of it) held by the developer shall be treated for the purposes of this Act as supplied to the developer for the purpose of a business carried on by him and supplied by him in the course or furtherance of the business on the last day of the prescribed accounting period during which it applies, or, if later, of the prescribed accounting period during which the building or work becomes substantially ready for occupation or use.
- (2) The supply treated as made by sub-paragraph (1) above shall be taken to be a taxable supply and the value of the supply shall be the aggregate of—
- (a) the value of grants relating to the land on which the building or work is constructed made or to be made to the developer, but excluding, in a case where construction of the building or work in question commenced before 1st January 1992, the value of any grants to be made for consideration in the form of rent the amount of which cannot be ascertained by the developer when the supply is treated as made, and in any other case excluding the value of any—
- (i) grants made before the relevant day to the extent that consideration for such grants was in the form of rent, and to the extent that such rent was properly attributable to a building which has been demolished,
- (ii) grants made before the relevant day in respect of a building which has been reconstructed, enlarged or extended so that the reconstruction, enlargement or extension falls within paragraph 5(8)(a)(ii) above, and does not fall also within paragraph 5(8)(b) above, to the extent that consideration for such grants was in the form of rent, and to the extent that such rent was properly attributable to the building as it existed before the commencement of the reconstruction, enlargement or extension,
- (iii) grants made before the relevant day in respect of a building which has been so reconstructed that the reconstruction falls within paragraph 5(8)(b) above, to the extent that consideration for such grants was in the form of rent, and to the extent that such rent was properly attributable to the building before the reconstruction commenced,
- (iv) grants falling within paragraph (b) of item 1 of Group 1 of Schedule 9, and

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- (b) the value of all the taxable supplies of goods and services, other than any that are zero-rated, made or to be made for or in connection with the construction of the building or work.
- (3) Where the rate of VAT (the lower rate) chargeable on a supply (the construction supply) falling within sub-paragraph (2)(b) above, the value of which is included in the value of a supply (the self-supply) treated as made by sub-paragraph (1) above, is lower than the rate of VAT (the current rate) chargeable on that self-supply, then VAT on the self-supply shall be charged—
- (a) on so much of its value as is comprised of the relevant part of the value of the construction supply, at the lower rate; and
  - (b) on the remainder of its value at the current rate.
- (4) For the purposes of sub-paragraph (3)(a) above, the relevant part of the value of the construction supply means—
- (a) where the construction supply is a supply of goods, the value of such of those goods as have actually been delivered by the supplier;
  - (b) where the construction supply is a supply of services, the value of such of those services as have actually been performed by the supplier,
- on or before the last day upon which the lower rate is in force.
- (5) Where the value of a supply which, apart from this sub-paragraph, would be treated as made by sub-paragraph (1) above would be less than £100,000, no supply shall be treated as made by that sub-paragraph.
- (6) For the purposes of sub-paragraph (2)(a)(i) above, the relevant day is the day on which the demolition of the building in question commenced and, for the purposes of sub-paragraph (2)(a)(ii) and (iii) above, the relevant day is the day on which the reconstruction, enlargement or extension in question commenced.
- (7) In the application of sub-paragraphs (1) to (6) above to a reconstruction, enlargement or extension to which sub-paragraphs (1) and (2) and <sup>F386</sup>sub-paragraphs (3A) to (7)] of paragraph 5 above apply by virtue of paragraph 5(8) above—
- (a) references to the building or work shall be construed as references to the reconstructed enlarged or extended building or work, and references to construction shall be construed as references to reconstruction, enlargement or extension;
  - (b) the reference in paragraph (a) of sub-paragraph (2) to the value of grants relating to the land on which the building or work is constructed shall be construed as a reference—
    - (i) in relation to a reconstruction, enlargement or extension of an existing building to the extent that it falls within paragraph 5(8)(a) (i) above and does not fall also within paragraph 5(8)(b) above, to the value of grants relating to the new building land;
    - (ii) in relation to a reconstruction, enlargement or extension of an existing building, to the extent that it falls within paragraph 5(8)(a) (ii) above and does not fall also within paragraph 5(8)(b) above, to the value of grants relating to the land on which the existing building stands multiplied by the appropriate fraction;
    - (iii) in relation to a reconstruction, enlargement or extension to a work falling within paragraph 5(8)(c) above, to the value of grants relating to the new land.

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- (8) For the purposes of sub-paragraph (7)(b)(ii) above the appropriate fraction shall be calculated by dividing the additional gross external floor area resulting from the reconstruction, enlargement or extension (excluding any floor area on new building land) by the gross external floor area of the reconstructed, enlarged or extended building (excluding any floor area on new building land).
- [<sup>F387</sup>(9) Where this paragraph applies by virtue of paragraph 5(1)(b) above it shall have effect as if—
- (a) in sub-paragraph (1)—
- (i) the words “(or any part of it)” were omitted; and
- (ii) for the words “the last day” to “ready for occupation or use” there were substituted “ 1st March 1997 ”]

#### Textual Amendments

**F386** Words in Sch. 10 para. 6(7) substituted (1.3.1995) by S.I. 1995/279, arts. 1, 7(a)

**F387** Sch. 10 para. 6(9) added (1.3.1995) by S.I. 1995/279, arts. 1, 7(b)

- 7 (1) Where a developer is a tenant, lessee or licensee and becomes liable to a charge to VAT under paragraph 6(1) above [<sup>F388</sup>(except where that paragraph applies by virtue of paragraph 5(1)(b))] in respect of his tenancy, lease or licence he shall notify forthwith in writing his landlord, lessor or licensor (as the case may be)—
- (a) of the date from which the tenancy, lease or licence becomes a developmental tenancy, developmental lease or developmental licence for the purposes of paragraph (b) of item 1 of Group 1 of Schedule 9;
- (b) in a case falling within paragraph 5(8)(a)(ii) above, of the appropriate fraction determined in accordance with paragraph 6(8) above.
- (2) Where the appropriate fraction has been notified in accordance with sub-paragraph (1)(b) above, any supply made pursuant to the tenancy, lease or licence in question shall be treated as made pursuant to a developmental tenancy, developmental lease or developmental licence (a developmental supply) as if, and only to the extent that, the consideration for the developmental supply is for an amount equal to the whole of the consideration for the supply made pursuant to the tenancy, lease or licence, multiplied by the appropriate fraction.

#### Textual Amendments

**F388** Words in Sch. 10 para. 7 inserted (1.3.1995) by S.I. 1995/279, arts. 1, 8

#### General

- 8 Where the benefit of the consideration for the grant of an interest in, right over or licence to occupy land accrues to a person but that person is not the person making the grant—
- (a) the person to whom the benefit accrues shall for the purposes of this Act be treated as the person making the grant; and
- (b) to the extent that any input tax of the person actually making the grant is attributable to the grant it shall be treated as input tax of the person to whom the benefit accrues.

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- 9 [F389]Notes (1) to (6), (10), (12) and (19)] to Group 5 of Schedule 8 and [F389]Notes (1), (1A), (2) and (15)] to Group 1 of Schedule 9 apply in relation to this Schedule as they apply in relation to their respective Groups but subject to any appropriate modifications.

#### Textual Amendments

**F389** Words in Sch. 10 para. 9 substituted (1.3.1995) by S.I. 1995/279, arts. 1, 9

## SCHEDULE 11

Section 58.

### ADMINISTRATION, COLLECTION AND ENFORCEMENT

#### *General*

- 1 (1) VAT shall be under the care and management of the Commissioners.
- (2) All money and securities for money collected or received for or on account of VAT shall—
- (a) if collected or received in Great Britain, be placed to the general account of the Commissioners kept at the Bank of England under section 17 of the Management Act;
  - (b) if collected or received in Northern Ireland, be paid into the Consolidated Fund of the United Kingdom in such manner as the Treasury may direct.

#### *Accounting for VAT, VAT invoices and payment of VAT*

- 2 (1) Regulations under this paragraph may require the keeping of accounts and the making of returns in such form and manner as may be specified in the regulations and may require taxable persons supplying goods or services in such cases, or to persons of such descriptions, as may be so specified to provide the persons supplied with invoices (to be known as “VAT invoices”) containing statements of such particulars as may be so specified of the supply, and of the persons by and to whom the goods or services are supplied and containing such an indication as may be required by the regulations of whether VAT is chargeable on the supply under this Act or the law of another member State and such particulars of any VAT which is so chargeable as may be so specified.
- (2) The regulations may, where they require a VAT invoice to be provided in connection with any description of supply, require it to be provided within a prescribed time after the supply is treated as taking place, or at such time before the supply is treated as taking place as may be required by the regulations, and may allow for an invoice to be issued later than required by the regulations where it is issued in accordance with general or special directions given by the Commissioners.
- [F390](2A) Regulations under this paragraph may confer power on the Commissioners to allow the requirements of any regulations as to the statements and other matters to be contained in a VAT invoice to be relaxed or dispensed with.]

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- (3) Regulations under this paragraph may require the submission to the Commissioners by taxable persons, at such times and intervals, in such cases and in such form and manner as may be—
- (a) specified in the regulations; or
  - (b) determined by the Commissioners in accordance with powers conferred by the regulations,
- of statements containing such particulars of transactions in which the taxable persons are concerned and which involve the movement of goods between member States, and of the persons concerned in those transactions, as may be prescribed.
- (4) Regulations under this paragraph may make provision in relation to cases where—
- (a) any goods which are subject to a duty of excise or consist in a new means of transport are acquired in the United Kingdom from another member State by any person;
  - (b) the acquisition of the goods is a taxable acquisition and is not in pursuance of a taxable supply; and
  - (c) that person is not a taxable person at the time of the acquisition,
- for requiring the person who acquires the goods to give to the Commissioners such notification of the acquisition, and for requiring any VAT on the acquisition to be paid, at such time and in such form or manner as may be specified in the regulations.
- (5) Regulations under this paragraph may provide for a notification required by virtue of sub-paragraph (4) above—
- (a) to contain such particulars relating to the notified acquisition and any VAT chargeable thereon as may be specified in the regulations; and
  - (b) to be given, in prescribed cases, by the personal representative, trustee in bankruptcy, interim or permanent trustee, receiver, liquidator or person otherwise acting in a representative capacity in relation to the person who makes that acquisition.
- (6) Regulations under this paragraph may make special provision for such taxable supplies by retailers of any goods or of any description of goods or of services or any description of services as may be determined by or under the regulations and, in particular—
- (a) for permitting the value which is to be taken as the value of the supplies in any prescribed accounting period or part thereof to be determined, subject to any limitations or restrictions, by such method or one of such methods as may have been described in any notice published by the Commissioners in pursuance of the regulations and not withdrawn by a further notice or as may be agreed with the Commissioners; and
  - (b) for determining the proportion of the value of the supplies which is to be attributed to any description of supplies; and
  - (c) for adjusting that value and proportion for periods comprising two or more prescribed accounting periods or parts thereof.
- (7) Regulations under this paragraph may make provision whereby, in such cases and subject to such conditions as may be determined by or under the regulations, VAT in respect of a supply may be accounted for and paid by reference to the time when consideration for the supply is received; and any such regulations may make such modifications of the provisions of this Act (including in particular, but without prejudice to the generality of the power, the provisions as to the time when, and

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the circumstances in which, credit for input tax is to be allowed) as appear to the Commissioners necessary or expedient.

- (8) Regulations under this paragraph may make provision whereby, in such cases and subject to such conditions as may be determined by or under the regulations—
- (a) VAT in respect of any supply by a taxable person of dutiable goods, or
  - (b) VAT in respect of an acquisition by any person from another member State of dutiable goods,

may be accounted for and paid, and any question as to the inclusion of any duty or agricultural levy in the value of the supply or acquisition determined, by reference to the duty point or by reference to such later time as the Commissioners may allow.

In this sub-paragraph “dutiable goods” and “duty point” have the same meanings as in section 18.

- (9) Regulations under this paragraph may provide for the time when any invoice described in regulations made for the purposes of section 6(8)(b) or 12(1)(b) is to be treated as having been issued and provide for VAT accounted for and paid by reference to the date of issue of such an invoice to be confined to VAT on so much of the value of the supply or acquisition as is shown on the invoice.
- (10) Regulations under this paragraph may make provision—
- (a) for treating VAT chargeable in one prescribed accounting period as chargeable in another such period; and
  - (b) with respect to the making of entries in accounts for the purpose of making adjustments, whether for the correction of errors or otherwise; and
  - (c) for the making of financial adjustments in connection with the making of entries in accounts for the purpose mentioned in paragraph (b) above [<sup>F391</sup>and
  - (d) for a person, for purposes connected with the making of any such entry or financial adjustment, to be required to provide to any prescribed person, or to retain, a document in the prescribed form containing prescribed particulars of the matters to which the entry or adjustment relates; and
  - (e) for enabling the Commissioners, in such cases as they may think fit, to dispense with or relax a requirement imposed by regulations made by virtue of paragraph (d) above.]
- (11) Regulations under this paragraph may make different provision for different circumstances and may provide for different dates as the commencement of prescribed accounting periods applicable to different persons.
- (12) The provisions made by regulations under this paragraph for cases where goods are treated as supplied by a taxable person by virtue of paragraph 7 of Schedule 4 may require VAT chargeable on the supply to be accounted for and paid, and particulars thereof to be provided, by such other person and in such manner as may be specified by the regulations.
- (13) Where, at the end of a prescribed accounting period, the amount of VAT due from any person or the amount of any VAT credit would be less than £1, that amount shall be treated as nil.

#### Textual Amendments

**F390** Sch. 11 para. 2(2A) inserted (29.4.1996) by 1996 c. 8, s. 38(2)

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**F391** Sch. 11 para. 2(10)(d)(e) and word preceding it inserted (29.4.1996) by 1996 c. 8, s. 38(3)

*Production of VAT invoices by computer*

- 3
- (1) For the purposes of any provision contained in or having effect under this Act which relates to VAT invoices a person shall be treated as issuing, or as providing another person with, a VAT invoice if the requisite particulars are recorded in a computer and transmitted by electronic means and without the delivery of any document.
  - (2) No provision relating to VAT invoices shall be treated as complied with by the production by means of a computer of any material other than a document in writing, by delivering any such material so produced or by making any such transmission as is mentioned in sub-paragraph (1) above unless the person producing or delivering the material or making the transmission and, in the case of delivered material or a transmission, the person receiving it—
    - (a) has given the Commissioners at least one month's notice in writing that he proposes to produce or deliver such material or make such transmissions or, as the case may be, receive such material or transmissions; and
    - (b) complies with such requirements as may be specified in regulations or as the Commissioners may from time to time impose in his case.
  - (3) Without prejudice to the generality of the powers conferred by virtue of sub-paragraph (9) of paragraph 2 above, regulations made by virtue of that sub-paragraph may provide for the preceding provisions of this paragraph to apply, subject to such exceptions and adaptations as may be prescribed, in relation to any invoice which is described in regulations made for the purposes of section 6(8)(b) or 12(1)(b), as they apply in relation to VAT invoices.

*Power to require security and production of evidence*

- 4
- (1) The Commissioners may, as a condition of allowing or repaying any input tax to any person, require the production of such documents relating to VAT as may have been supplied to him and may, if they think it necessary for the protection of the revenue, require, as a condition of making any VAT credit, the giving of such security for the amount of the payment as appears to them appropriate.
  - (2) Without prejudice to their power under section 48(7), where it appears to the Commissioners requisite to do so for the protection of the revenue they may require a taxable person, as a condition of his supplying goods or services under a taxable supply, to give security, or further security, of such amount and in such manner as they may determine, for the payment of any VAT which is or may become due from him.

*Recovery of VAT, etc*

- 5
- (1) VAT due from any person shall be recoverable as a debt due to the Crown.
  - (2) Where an invoice shows a supply of goods or services as taking place with VAT chargeable on it, there shall be recoverable from the person who issued the invoice an amount equal to that which is shown on the invoice as VAT or, if VAT is not separately shown, to so much of the total amount shown as payable as is to be taken as representing VAT on the supply.
  - (3) Sub-paragraph (2) above applies whether or not—



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- (a) the invoice is a VAT invoice issued in pursuance of paragraph 2(1) above; or
  - (b) the supply shown on the invoice actually takes or has taken place, or the amount shown as VAT, or any amount of VAT, is or was chargeable on the supply; or
  - (c) the person issuing the invoice is a taxable person;
- and any sum recoverable from a person under the sub-paragraph shall, if it is in any case VAT be recoverable as such and shall otherwise be recoverable as a debt due to the Crown.

- F392(4) .....
- F392(5) .....
- F392(6) .....
- F392(7) .....
- F392(8) .....
- F392(9) .....
- F392(10) .....

**Textual Amendments**

**F392** Sch. 11 para. 5(4)-(10) repealed (1.7.1997) by 1997 c. 16, 113, Sch. 18 Pt. V(2), Note; S.I. 1997/1433, art. 2

*Duty to keep records*

- 6
- (1) Every taxable person shall keep such records as the Commissioners may by regulations require, and every person who, at a time when he is not a taxable person, acquires in the United Kingdom from another member State any goods which are subject to a duty of excise or consist in a new means of transport shall keep such records with respect to the acquisition (if it is a taxable acquisition and is not in pursuance of a taxable supply) as the Commissioners may so require.
  - (2) Regulations under sub-paragraph (1) above may make different provision for different cases and may be framed by reference to such records as may be specified in any notice published by the Commissioners in pursuance of the regulations and not withdrawn by a further notice.
  - (3) The Commissioners may require any records kept in pursuance of this paragraph to be preserved for such period not exceeding 6 years as they may require.
  - (4) The duty under this paragraph to preserve records may be discharged by the preservation of the information contained therein by such means as the Commissioners may approve; and where that information is so preserved a copy of any document forming part of the records shall, subject to the following provisions of this paragraph, be admissible in evidence in any proceedings, whether civil or criminal, to the same extent as the records themselves.

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- (5) The Commissioners may, as a condition of approving under sub-paragraph (4) above any means of preserving information contained in any records, impose such reasonable requirements as appear to them necessary for securing that the information will be as readily available to them as if the records themselves had been preserved.
- (6) A statement contained in a document produced by a computer shall not by virtue of sub-paragraph (4) above be admissible in evidence—
- <sup>F393</sup>(a) . . . . .
- (b) in criminal proceedings in England and Wales except in accordance with sections 69 and 70 of the <sup>M104</sup>Police and Criminal Evidence Act 1984 and Part II of the <sup>M105</sup>Criminal Justice Act 1988;
- <sup>[F394]</sup>(c) in civil proceedings in Northern Ireland, except in accordance with sections 2 and 3 of the <sup>M106</sup>Civil Evidence Act (Northern Ireland) 1971; and]
- (d) in criminal proceedings in Northern Ireland, except in accordance with Article 68 of the <sup>M107</sup>Police and Criminal Evidence (Northern Ireland) Order 1989 and Part II of the <sup>M108</sup>Criminal Justice (Evidence, Etc.) (Northern Ireland) Order 1988.

This sub-paragraph does not apply in relation to Scotland.

#### Extent Information

**E2** Sch. 11 para. 6(6) does not apply to Scotland see Sch. 11 para. 6.

#### Textual Amendments

**F393** Sch. 11 para. 6(6)(a) repealed (31.1.1997) by 1995 c. 38, s. 15(2), Sch. 2 (with ss. 1(3), 6(4)(5), 14); S.I. 1996/3217, art. 2

**F394** Sch. 11 para. 6(6)(c) repealed (N.I.) (6.9.1999) by S.I. 1997/2983 (N.I. 21), art. 13(2), Sch. 2; S.R. 1999/339, art. 2

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

**C29** Sch. 11 para. 6(2)-(6) extended (27.7.1999) by 1999 c. 16, s. 13(6)

#### Marginal Citations

**M104** 1984 c. 60.

**M105** 1988 c. 33.

**M106** 1971 c. 36 (N.I.).

**M107** S.I.1989/1341 (N.I.12).

**M108** S.I.1988/1847 (N.I.17).

#### *Furnishing of information and production of documents*

- 7 (1) The Commissioners may by regulations make provision for requiring taxable persons to notify to the Commissioners such particulars of changes in circumstances relating to those persons or any business carried on by them as appear to the Commissioners required for the purpose of keeping the register kept under this Act up to date.
- (2) Every person who is concerned (in whatever capacity) in the supply of goods or services in the course or furtherance of a business or to whom such a supply is made, every person who is concerned (in whatever capacity) in the acquisition of

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goods from another member State and every person who is concerned (in whatever capacity) in the importation of goods from a place outside the member States in the course or furtherance of a business shall—

- (a) furnish to the Commissioners, within such time and in such form as they may reasonably require, such information relating to the goods or services or to the supply, acquisition or importation as the Commissioners may reasonably specify; and
- (b) upon demand made by an authorised person, produce or cause to be produced for inspection by that person—
  - (i) at the principal place of business of the person upon whom the demand is made or at such other place as the authorised person may reasonably require, and
  - (ii) at such time as the authorised person may reasonably require,

any documents relating to the goods or services or to the supply, acquisition or importation.

- (3) Where, by virtue of sub-paragraph (2) above, an authorised person has power to require the production of any documents from any such person as is referred to in that sub-paragraph, he shall have the like power to require production of the documents concerned from any other person who appears to the authorised person to be in possession of them; but where any such other person claims a lien on any document produced by him, the production shall be without prejudice to the lien.
- (4) For the purposes of this paragraph, the documents relating to the supply of goods or services, to the acquisition of goods from another member State or to the importation of goods from a place outside the member States shall be taken to include any profit and loss account and balance sheet relating to the business in the course of which the goods or services are supplied or the goods are imported or (in the case of an acquisition from another member State) relating to any business or other activities of the person by whom the goods are acquired.
- (5) An authorised person may take copies of, or make extracts from, any document produced under sub-paragraph (2) or (3) above.
- (6) If it appears to him to be necessary to do so, an authorised person may, at a reasonable time and for a reasonable period, remove any document produced under sub-paragraph (2) or (3) above and shall, on request, provide a receipt for any document so removed; and where a lien is claimed on a document produced under sub-paragraph (3) above the removal of the document under this sub-paragraph shall not be regarded as breaking the lien.
- (7) Where a document removed by an authorised person under sub-paragraph (6) above is reasonably required for the proper conduct of a business he shall, as soon as practicable, provide a copy of the document, free of charge, to the person by whom it was produced or caused to be produced.
- (8) Where any documents removed under the powers conferred by this paragraph are lost or damaged the Commissioners shall be liable to compensate their owner for any expenses reasonably incurred by him in replacing or repairing the documents.
- <sup>F395</sup>(9) For the purposes of this paragraph a person to whom has been assigned a right to receive the whole or any part of the consideration for a supply of goods or services shall be treated as a person concerned in the supply.]

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### Textual Amendments

**F395** Sch. 11 para. 7(9) added (27.7.1999) by 1999 c. 16, s. 15(3)

#### *Power to take samples*

- 8 (1) An authorised person, if it appears to him necessary for the protection of the revenue against mistake or fraud, may at any time take, from the goods in the possession of any person who supplies goods or acquires goods from another member State [<sup>F396</sup>, or in the possession of a fiscal warehousekeeper,] such samples as the authorised person may require with a view to determining how the goods or the materials of which they are made ought to be or to have been treated for the purposes of VAT.
- (2) Any sample taken under this paragraph shall be disposed of and accounted for in such manner as the Commissioners may direct.
- (3) Where a sample is taken under this paragraph from the goods in any person's possession and is not returned to him within a reasonable time and in good condition the Commissioners shall pay him by way of compensation a sum equal to the cost of the sample to him or such larger sum as they may determine.

### Textual Amendments

**F396** Words in Sch. 11 para. 8(1) inserted (1.6.1996 with application to any acquisition of goods from another member State and any supply taking place on or after that day) by 1996 c. 8, ss. 25, 26, Sch. 3 para. 16; S.I. 1996/1249, art. 2

#### *Power to require opening of gaming machines*

- 9 An authorised person may at any reasonable time require a person making such a supply as is referred to in section 23(1) or any person acting on his behalf—
- (a) to open any gaming machine, within the meaning of that section; and
  - (b) to carry out any other operation which may be necessary to enable the authorised person to ascertain the amount which, in accordance with subsection (2) of that section, is to be taken as the value of supplies made in the circumstances mentioned in subsection (1) of that section in any period.

#### *Entry and search of premises and persons*

- 10 (1) For the purpose of exercising any powers under this Act an authorised person may at any reasonable time enter premises used in connection with the carrying on of a business.
- (2) Where an authorised person has reasonable cause to believe that any premises are used in connection with the supply of goods under taxable supplies or with the acquisition of goods under taxable acquisitions from other member States and that goods to be so supplied or acquired are on those premises [<sup>F397</sup>, or that any premises are used as a fiscal warehouse], he may at any reasonable time enter and inspect those premises and inspect any goods found on them.

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- (3) If a justice of the peace or in Scotland a justice (within the meaning of [F398 section 308 of the Criminal Procedure (Scotland) Act 1995]) is satisfied on information on oath that there is reasonable ground for suspecting that a fraud offence which appears to be of a serious nature is being, has been or is about to be committed on any premises or that evidence of the commission of such an offence is to be found there, he may issue a warrant in writing authorising, subject to sub-paragraphs (5) and (6) below, any authorised person to enter those premises, if necessary by force, at any time within one month from the time of the issue of the warrant and search them; and any person who enters the premises under the authority of the warrant may—
- (a) take with him such other persons as appear to him to be necessary;
  - (b) seize and remove any documents or other things whatsoever found on the premises which he has reasonable cause to believe may be required as evidence for the purposes of proceedings in respect of a fraud offence which appears to him to be of a serious nature; and
  - (c) search or cause to be searched any person found on the premises whom he has reasonable cause to believe to be in possession of any such documents or other things;
- but no woman or girl shall be searched except by a woman.
- (4) In sub-paragraph (3) above “a fraud offence” means an offence under any provision of section 72(1) to (8).
- (5) The powers conferred by a warrant under this paragraph shall not be exercisable—
- (a) by more than such number of authorised persons as may be specified in the warrant; nor
  - (b) outside such times of day as may be so specified; nor
  - (c) if the warrant so provides, otherwise than in the presence of a constable in uniform.
- (6) An authorised person seeking to exercise the powers conferred by a warrant under this paragraph or, if there is more than one such authorised person, that one of them who is in charge of the search shall provide a copy of the warrant endorsed with his name as follows—
- (a) if the occupier of the premises concerned is present at the time the search is to begin, the copy shall be supplied to the occupier;
  - (b) if at that time the occupier is not present but a person who appears to the authorised person to be in charge of the premises is present, the copy shall be supplied to that person; and
  - (c) if neither paragraph (a) nor paragraph (b) above applies, the copy shall be left in a prominent place on the premises.

#### Textual Amendments

**F397** Words in Sch. 11 para. 10(2) inserted (1.6.1996 with application to any acquisition of goods from another member State and any supply taking place on or after that day) by 1996 c. 8, ss. 25, 26, Sch. 3 para. 17; S.I. 1996/1249, art. 2

**F398** Words in Sch. 11 para. 10(3) substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), Sch. 4 para. 91(a)

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

**C30** Sch. 11 para. 10(3): power of seizure extended (*prosp.*) by 2001 c. 16, ss. 50, 52-54, 68, 138(2)-(4), **Sch. 1 Pt. 1 para. 58**

#### *Order for access to recorded information etc.*

- 11 (1) Where, on an application by an authorised person, a justice of the peace or, in Scotland, a justice (within the meaning of [F399]section 308 of the Criminal Procedure (Scotland) Act 1995] is satisfied that there are reasonable grounds for believing—
- (a) that an offence in connection with VAT is being, has been or is about to be committed, and
  - (b) that any recorded information (including any document of any nature whatsoever) which may be required as evidence for the purpose of any proceedings in respect of such an offence is in the possession of any person,
- he may make an order under this paragraph.
- (2) An order under this paragraph is an order that the person who appears to the justice to be in possession of the recorded information to which the application relates shall—
- (a) give an authorised person access to it, and
  - (b) permit an authorised person to remove and take away any of it which he reasonably considers necessary,
- not later than the end of the period of 7 days beginning on the date of the order or the end of such longer period as the order may specify.
- (3) The reference in sub-paragraph (2)(a) above to giving an authorised person access to the recorded information to which the application relates includes a reference to permitting the authorised person to take copies of it or to make extracts from it.
- (4) Where the recorded information consists of information contained in a computer, an order under this paragraph shall have effect as an order to produce the information in a form in which it is visible and legible and, if the authorised person wishes to remove it, in a form in which it can be removed.
- (5) This paragraph is without prejudice to paragraphs 7 and 10 above.

#### Textual Amendments

**F399** Words in Sch. 11 para. 11(1) substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), **Sch. 4 para. 91(b)**

#### *Procedure where documents etc. are removed*

- 12 (1) An authorised person who removes anything in the exercise of a power conferred by or under paragraph 10 or 11 above shall, if so requested by a person showing himself—
- (a) to be the occupier of premises from which it was removed, or
  - (b) to have had custody or control of it immediately before the removal,
- provide that person with a record of what he removed.
- (2) The authorised person shall provide the record within a reasonable time from the making of the request for it.

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- (3) Subject to sub-paragraph (7) below, if a request for permission to be granted access to anything which—
- (a) has been removed by an authorised person, and
  - (b) is retained by the Commissioners for the purposes of investigating an offence,
- is made to the officer in overall charge of the investigation by a person who had custody or control of the thing immediately before it was so removed or by someone acting on behalf of such a person, the officer shall allow the person who made the request access to it under the supervision of an authorised person.
- (4) Subject to sub-paragraph (7) below, if a request for a photograph or copy of any such thing is made to the officer in overall charge of the investigation by a person who had custody or control of the thing immediately before it was so removed, or by someone acting on behalf of such a person, the officer shall—
- (a) allow the person who made the request access to it under the supervision of an authorised person for the purpose of photographing it or copying it, or
  - (b) photograph or copy it, or cause it to be photographed or copied.
- (5) Where anything is photographed or copied under sub-paragraph (4)(b) above the photograph or copy shall be supplied to the person who made the request.
- (6) The photograph or copy shall be supplied within a reasonable time from the making of the request.
- (7) There is no duty under this paragraph to grant access to, or to supply a photograph or copy of, anything if the officer in overall charge of the investigation for the purposes of which it was removed has reasonable grounds for believing that to do so would prejudice—
- (a) that investigation;
  - (b) the investigation of an offence other than the offence for the purposes of the investigation of which the thing was removed; or
  - (c) any criminal proceedings which may be brought as a result of—
    - (i) the investigation of which he is in charge, or
    - (ii) any such investigation as is mentioned in paragraph (b) above.
- (8) Any reference in this paragraph to the officer in overall charge of the investigation is a reference to the person whose name and address are endorsed on the warrant or order concerned as being the officer so in charge.
- 13 (1) Where, on an application made as mentioned in sub-paragraph (2) below, the appropriate judicial authority is satisfied that a person has failed to comply with a requirement imposed by paragraph 12 above, the authority may order that person to comply with the requirement within such time and in such manner as may be specified in the order.
- (2) An application under sub-paragraph (1) above shall be made—
- (a) in the case of a failure to comply with any of the requirements imposed by paragraph 12(1) and (2) above, by the occupier of the premises from which the thing in question was removed or by the person who had custody or control of it immediately before it was so removed, and
  - (b) in any other case, by the person who had such custody or control.
- (3) In this paragraph “the appropriate judicial authority” means—

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- (a) in England and Wales, a magistrates' court;
  - (b) in Scotland, the sheriff; and
  - (c) in Northern Ireland, a court of summary jurisdiction.
- (4) In England and Wales and Northern Ireland, an application for an order under this paragraph shall be made by way of complaint; and sections 21 and 42(2) of the <sup>M109</sup>Interpretation Act (Northern Ireland) 1954 shall apply as if any reference in those provisions to any enactment included a reference to this paragraph.

#### Marginal Citations

**M109** 1954 c. 33(N.I.)

#### *Evidence by certificate, etc*

- 14 (1) A certificate of the Commissioners—
- (a) that a person was or was not, at any date, registered under this Act; or
  - (b) that any return required by or under this Act has not been made or had not been made at any date; or
  - (c) that any statement or notification required to be submitted or given to the Commissioners in accordance with any regulations under paragraph 2(3) or (4) above has not been submitted or given or had not been submitted or given at any date; or
  - (d) that any VAT shown as due in any return or assessment made in pursuance of this Act has not been paid;
- shall be sufficient evidence of that fact until the contrary is proved.
- (2) A photograph of any document furnished to the Commissioners for the purposes of this Act and certified by them to be such a photograph shall be admissible in any proceedings, whether civil or criminal, to the same extent as the document itself.
- (3) Any document purporting to be a certificate under sub-paragraph (1) or (2) above shall be deemed to be such a certificate until the contrary is proved.

## SCHEDULE 12

Section 61.

### CONSTITUTION AND PROCEDURE OF TRIBUNALS

#### *Establishment of tribunals*

- 1 (1) There shall continue to be tribunals for England and Wales, Scotland and Northern Ireland respectively known as VAT tribunals.
- (2) If section 7(1) and (2) of the <sup>M110</sup>Finance Act 1994 have come into force before this Schedule comes into force then for any reference in this Schedule to VAT tribunals there shall, as from the commencement of this Schedule, be substituted a reference to VAT and duties tribunals.
- (3) If sub-paragraph (2) above does not apply, then, as from a day to be appointed by order made by the Commissioners by statutory instrument for the purposes of



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this paragraph, for any reference in this Schedule to VAT tribunals there shall be substituted a reference to VAT and duties tribunals.

- (4) Any reference in any enactment or any subordinate legislation to a value added tax tribunal (or to a VAT tribunal) shall be construed in accordance with paragraphs (1) to (3) above, and cognate expressions shall be construed similarly.

#### Marginal Citations

M110 1994 c. 9.

#### The President

- 2 (1) There shall continue to be a President of VAT tribunals, who shall perform the functions conferred on him by the following provisions of this Schedule in relation to VAT tribunals in any part of the United Kingdom.
- (2) The President shall be appointed by the Lord Chancellor after consultation with the Lord Advocate and shall be—
- (a) a person who has a 10 year general qualification, within the meaning of section 71 of the <sup>M111</sup>Courts and Legal Services Act 1990;
  - (b) an advocate or solicitor in Scotland of at least 10 years' standing; or
  - (c) a member of the Bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland of at least 10 years' standing.
- (3) Subject to paragraph 3 below, the appointment of the President shall be for such term and subject to such conditions as may be determined by the Lord Chancellor, after consultation with the Lord Advocate, and a person who ceases to hold the office of President shall be eligible for re-appointment thereto.

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

**C31** Sch. 12 para. 2: functions of the Lord Advocate transferred to the Secretary of State, and all property, rights and liabilities to which the Lord Advocate is entitled or subject in connection with any such function transferred to the Secretary of State for Scotland (19.5.1999) by S.I. 1999/678, arts. 2, 3, Sch. (with art. 7)

Sch. 12 para. 2: transfer of certain functions (1.7.1999) by S.I. 1999/1750, arts. 1, 2, Sch. 1 (with art. 7); S.I. 1998/3178, art. 3

Sch. 12 para. 2 modified (30.6.1999) by S.I. 1999/1748, art. 3, Sch. 1 para. 16

#### Marginal Citations

M111 1990 c. 41.

- 3 (1) The President may resign his office at any time and shall vacate his office—
- (a) at the end of the completed year of service in which he attains the age of 72, or
  - (b) if sub-paragraph (2) below applies, on the date on which he attains the age of 75.

This sub-paragraph shall cease to have effect on the day appointed under section 31 of the <sup>M112</sup>Judicial Pensions and Retirement Act 1993 (“the 1993 Act”) for the coming into force of section 26 of that Act.

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- (2) If the Lord Chancellor, after consultation with the Lord Advocate, considers it desirable in the public interest to do so he may authorise the President to continue in office after the end of the completed year of service mentioned in sub-paragraph (1) (a) above.
- (3) The President—
- (a) may resign his office at any time; and
  - (b) shall vacate his office on the day on which he attains the age of 70;
- but sub-paragraph (b) above is subject to section 26(4) to (6) of the 1993 Act (power to authorise continuance in office up to the age of 75).
- This sub-paragraph shall come into force on the day appointed under section 31 of the 1993 Act for the coming into force of section 26 of that Act.
- (4) The Lord Chancellor may, if he thinks fit and after consultation with the Lord Advocate, remove the President from office on the ground of incapacity or misbehaviour.
- (5) The functions of the President may, if he is for any reason unable to act or his office is vacant, be discharged by a person nominated for the purpose by the Lord Chancellor after consultation with the Lord Advocate.
- (6) There shall be paid to the President such salary or fees and there may be paid to or in respect of a former President such pension, allowance or gratuity as the Lord Chancellor may with the approval of the Treasury determine.
- (7) Sub-paragraph (6) above, so far as relating to pensions allowances and gratuities, shall not have effect in relation to a person to whom Part I of the 1993 Act applies, except to the extent provided under or by that Act.
- (8) If a person ceases to be President of VAT tribunals and it appears to the Lord Chancellor that there are special circumstances which make it right that he should receive compensation, there may be paid to that person a sum of such amount as the Lord Chancellor may with the approval of the Treasury determine.

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

- C32** Sch. 12 para. 3: functions of the Lord Advocate transferred to the Secretary of State, and all property, rights and liabilities to which the Lord Advocate is entitled or subject in connection with any such function transferred to the Secretary of State for Scotland (19.5.1999) by S.I. 1999/678, arts. 2, 3, **Sch.** (with art. 7)  
Sch. 12 para. 3 modified (30.6.1999) by S.I. 1999/1748, art. 3, **Sch. 1 para. 16**
- C33** Sch. 12 para. 3(2)(4)(5): transfer of certain functions (1.7.1999) by S.I. 1999/1750, arts. 1, 2, **Sch. 1** (with art. 7); S.I. 1998/3178, **art. 3**

**Marginal Citations**

M112 1993 c. 8.

*Sittings of tribunals*

- 4 Such number of VAT tribunals shall be established as the Lord Chancellor or, in relation to Scotland, the Secretary of State may from time to time determine, and

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they shall sit at such times and at such places as the Lord Chancellor or, as the case may be, the Secretary of State may from time to time determine.

#### *Composition of tribunals*

- 5 (1) A VAT tribunal shall consist of a chairman sitting either with two other members or with one other member or alone.
- (2) If the tribunal does not consist of the chairman sitting alone, its decisions may be taken by a majority of votes and the chairman, if sitting with one other member, shall have a casting vote.

#### *Membership of tribunals*

- 6 For each sitting of a VAT tribunal the chairman shall be either the President or if so authorised by the President, a member of the appropriate panel of chairmen constituted in accordance with paragraph 7 below; and any other member of the tribunal shall be a person selected from the appropriate panel of other members so constituted, the selection being made either by the President or by a member of the panel of chairmen, authorised by the President to make it.
- 7 (1) There shall be a panel of chairmen and a panel of other members of VAT tribunals for England and Wales, Scotland and Northern Ireland respectively.
- (2) One member of each panel of chairmen shall be known as Vice-President of VAT tribunals.
- (3) Appointments to a panel of chairmen shall be made by the appropriate authority, that is to say—
- (a) for England and Wales, the Lord Chancellor;
  - (b) for Scotland, the Lord President of the Court of Session; and
  - (c) for Northern Ireland, the Lord Chief Justice of Northern Ireland;
- and appointments to a panel of other members shall be made by the Treasury.
- (4) No person may be appointed to a panel of chairmen of tribunals for England and Wales or Northern Ireland unless he is—
- (a) a person who has a 7 year general qualification, within the meaning of section 71 of the <sup>M113</sup>Courts and Legal Services Act 1990; or
  - (b) a member of the Bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland of at least 7 years' standing,
- and no person may be appointed to a panel of chairmen of tribunals for Scotland unless he is an advocate or solicitor of not less than 7 years' standing.
- (5) Subject to the following provisions of this paragraph, the appointment of a chairman of VAT tribunals shall be for such term and subject to such conditions as may be determined by the appropriate authority, and a person who ceases to hold the office of chairman shall be eligible for re-appointment thereto.
- (6) A chairman of VAT tribunals—
- (a) may resign his office at any time; and
  - (b) shall vacate his office on the day on which he attains the age of 70 years;

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- but paragraph (b) above is subject to section 26(4) to (6) of the <sup>M114</sup>Judicial Pensions and Retirement Act 1993 (power to authorise continuance in office up to the age of 75).
- (7) The appropriate authority may, if he thinks fit, remove a chairman of VAT tribunals from office on the ground of incapacity or misbehaviour.
- (8) There shall be paid to a chairman of VAT tribunals such salary or fees, and to other members such fees, as the Lord Chancellor may with the approval of the Treasury determine; and there may be paid to or in respect of a former chairman of VAT tribunals such pension, allowance or gratuity as the Lord Chancellor may with the approval of the Treasury determine.
- (9) Sub-paragraph (8) above, so far as relating to pensions allowances and gratuities, shall not have effect in relation to a person to whom Part I of the <sup>M115</sup>Judicial Pensions and Retirement Act 1993 applies, except to the extent provided under or by that Act.
- (10) If a person ceases to be a chairman of VAT tribunals and it appears to the Lord Chancellor that there are special circumstances which make it right that he should receive compensation, there may be paid to that person a sum of such amount as the Lord Chancellor may with the approval of the Treasury determine.

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

**C34** Sch. 12 para. 7(8): transfer of certain functions (1.7.1999) by S.I. 1999/1750, arts. 1, 2, **Sch. 1** (with art. 7): S.I. 1998/3178, **art. 3**

#### Marginal Citations

**M113** 1990 c. 41.

**M114** 1993 c. 8.

**M115** 1993 c. 8.

#### *Exemption from jury service*

- 8 No member of a VAT tribunal shall be compelled to serve on any jury in Scotland or Northern Ireland.

#### *Rules of procedure*

- 9 The Lord Chancellor after consultation with the Lord Advocate may make rules with respect to the procedure to be followed on appeals to and in other proceedings before VAT tribunals and such rules may include provisions—
- (a) for limiting the time within which appeals may be brought;
  - (b) for enabling hearings to be held in private in such circumstances as may be determined by or under the rules;
  - (c) for parties to proceedings to be represented by such persons as may be determined by or under the rules;
  - (d) for requiring persons to attend to give evidence;
  - (e) for discovery and for requiring persons to produce documents;
  - (f) for the payment of expenses and allowances to persons attending as witnesses or producing documents;
  - (g) for the award and recovery of costs;

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- (h) for authorising the administration of oaths to witnesses; and
- (j) with respect to the joinder of appeals brought by different persons where a notice is served under section 61 and the appeals relate to, or to different portions of, the basic penalty referred to in the notice.

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

**C35** Sch. 12 para. 9: functions of the Lord Advocate transferred to the Secretary of State, and all property, rights and liabilities to which the Lord Advocate is entitled or subject in connection with any such function transferred to the Secretary of State for Scotland (19.5.1999) by S.I. 1999/678, arts. 2, 3, Sch. (with art. 7)

Sch. 12 para. 9: transfer of certain functions (1.7.1999) by S.I. 1999/1750, arts. 1, 2, Sch. 1 (with art. 7); S.I. 1998/3178, art. 3

Sch. 12 para. 9 modified (30.6.1999) by S.I. 1999/1748, art. 3, Sch. 1 para. 16

- 10 (1) A person who fails to comply with a direction or summons issued by a VAT tribunal under rules made under paragraph 9 above shall be liable to a penalty not exceeding £1,000.
- (2) A penalty for which a person is liable by virtue of sub-paragraph (1) above may be awarded summarily by a tribunal notwithstanding that no proceedings for its recovery have been commenced.
- (3) An appeal shall lie to the High Court or, in Scotland, the Court of Session as the Court of Exchequer in Scotland, from the award of a penalty under this paragraph, and on such an appeal the court may either confirm or reverse the decision of the tribunal or reduce or increase the sum awarded.
- (4) A penalty awarded by virtue of this paragraph shall be recoverable as if it were VAT due from the person liable for the penalty.

SCHEDULE 13

Section 100.

TRANSITIONAL PROVISIONS AND SAVINGS

**Extent Information**

**E3** Sch. 13 para. 23 extends to the Isle of Man.

*General provisions*

- 1 (1) The continuity of the law relating to VAT shall not be affected by the substitution of this Act for the enactments repealed by this Act and earlier enactments repealed by and corresponding to any of those enactments (“the repealed enactments”).
- (2) Any reference, whether express or implied, in any enactment, instrument or document (including this Act or any Act amended by this Act) to, or to things done or falling to be done under or for the purposes of, any provision of this Act shall, if and so far as the nature of the reference permits, be construed as including, in relation to the times, years or periods, circumstances or purposes in relation to which the

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corresponding provision in the repealed enactments has or had effect, a reference to, or as the case may be, to things done or falling to be done under or for the purposes of, that corresponding provision.

- (3) Any reference, whether express or implied, in any enactment, instrument or document (including the repealed enactments and enactments, instruments and documents passed or made or otherwise coming into existence after the commencement of this Act) to, or to things done or falling to be done under or for the purposes of, any of the repealed enactments shall, if and so far as the nature of the reference permits, be construed as including, in relation to the times, years or periods, circumstances or purposes in relation to which the corresponding provision of this Act has effect, a reference to, or as the case may be to things done or falling to be done under or for the purposes of, that corresponding provision.
- (4) Without prejudice to paragraphs (1) to (3) above, in any case where as respects the charge to VAT on any supply, acquisition or importation made at a time before 1st September 1994 but falling in a prescribed accounting period to which Part I applies
- (a) an enactment applicable to that charge to VAT is not re-enacted in this Act or is re-enacted with amendments which came into force after that time, or
  - (b) a repealed enactment corresponding to an enactment in this Act did not apply to that charge to VAT,

any question arising under Part I and relating to that charge to VAT shall continue to be determined in accordance with the law in force at that time.

#### *Validity of subordinate legislation*

- 2 So far as this Act re-enacts any provision contained in a statutory instrument made in exercise of powers conferred by any Act, it shall be without prejudice to the validity of that provision, and any question as to its validity shall be determined as if the re-enacted provision were contained in a statutory instrument made under those powers.

#### *Provisions related to the introduction of VAT*

- 3 Where a vehicle in respect of which purchase tax was remitted under section 23 of the <sup>M116</sup>Purchase Tax Act 1963 (vehicles for use outside the United Kingdom) is brought back to the United Kingdom the vehicle shall not, when brought back, be treated as imported for the purpose of VAT chargeable on the importation of goods.

#### **Marginal Citations**

**M116** 1963 c. 9.

#### *Supply in accordance with pre-21.4.75 arrangements*

- 4 Where there were in force immediately before 21st April 1975 arrangements between the Commissioners and any taxable person for supplies made by him (or such supplies made by him as were specified in the arrangements) to be treated as taking place at times or on dates which, had section 6(10) been in force when the arrangements were made, could have been provided for by a direction under that section, he shall be treated for the purposes of that section as having requested the Commissioners to give a direction thereunder to the like effect, and

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the Commissioners may give a direction (or a general direction applying to cases of any class or description specified in the direction) accordingly.

*President, chairmen etc of tribunals*

- 5 (1) Any appointment to a panel of chairmen of the tribunals current at the commencement of this Act and made by the Treasury before the passing of the 1983 Act shall not be affected by the repeal by this Act of paragraph 8 of Schedule 10 to that Act.
- (2) The terms of appointment of any person who was appointed to the office of President of the tribunal or chairman or other member of the tribunals before 1st April 1986 and holds that office on the coming into force of this Act shall continue to have effect notwithstanding the re-enactment, as Schedule 12 to this Act, of Schedule 8 to the 1983 Act as amended by Schedule 8 to the <sup>M117</sup>Finance Act 1985.

**Marginal Citations**  
M117 1985 c. 54.

*Overseas suppliers accounting through their customers*

- 6 Notwithstanding the repeal by this Act of section 32B of the 1983 Act, that section shall continue to apply in relation to any supply in relation to which section 14 does not apply by virtue of section 14(8), and for the purposes to this paragraph section 32B shall have effect as if it were included in Part III of this Act, any reference in section 32B to any enactment repealed by this Act being read as a reference to the corresponding provision of this Act.

*Supplies of fuel and power for domestic or charity use*

F4007 .....

**Textual Amendments**  
F400 Sch. 13 para. 7 repealed (1.5.1995 with application as mentioned in s. 21(6) of the amending Act) by 1995 c. 4, ss. 21(5), 162, Sch. 29 Pt. VI Note

**GROUP 4A**

FUEL AND POWER FOR DOMESTIC OR CHARITY USE

Item No.

- 1 Supplies for qualifying use of—
- (a) coal, coke or other solid substances held out for sale solely as fuel;
  - (b) coal gas, water gas, producer gases or similar gases;
  - (c) petroleum gases, or other gaseous hydrocarbons, whether in a gaseous or liquid state;

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- (d) fuel oil, gas oil or kerosene; or
- (e) electricity, heat or air-conditioning.

Notes:

- (1) “Qualifying use” means—
  - (a) domestic use; or
  - (b) use by a charity otherwise than in the course or furtherance of a business.
- (2) The following supplies are always for domestic use—
  - (a) a supply of not more than one tonne of coal or coke held out for sale as domestic fuel;
  - (b) a supply of wood, peat or charcoal not intended for sale by the recipient;
  - (c) a supply to a person at any premises of piped gas (that is, gas within paragraph (b) of item 1, or of petroleum gas in a gaseous state, provided through pipes) where the gas (together with any other piped gas provided to him at the premises by the same supplier) was not provided at a rate exceeding 150 therms a month or, if the supplier charges for the gas by reference to the number of kilowatt hours supplied, 4397 kilowatt hours a month;
  - (d) a supply of petroleum gas in a liquid state where the gas is supplied in cylinders the net weight of each of which is less than 50 kilogrammes and either the number of cylinders supplied is 20 or fewer or the gas is not intended for sale by the recipient;
  - (e) a supply of petroleum gas in a liquid state, otherwise than in cylinders, to a person at any premises at which he is not able to store more than two tonnes of such gas;
  - (f) a supply of not more than 2,300 litres of fuel oil, gas oil or kerosene;
  - (g) a supply of electricity to a person at any premises where the electricity (together with any other electricity provided to him at the premises by the same supplier) was not provided at a rate exceeding 1000 kilowatt hours a month.
- (3) Supplies not within Note (2) are for domestic use if and only if the goods supplied are for use in—
  - (a) a building, or part of a building, which consists of a dwelling or number of dwellings;
  - (b) a building, or part of a building, used for a relevant residential purpose;
  - (c) self-catering holiday accommodation;
  - (d) a caravan; or
  - (e) a houseboat.
- (4) Use for a relevant residential purpose means use as—
  - (a) a home or other institution providing residential accommodation for children;
  - (b) a home or other institution providing residential accommodation with personal care for persons in need of personal care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder;
  - (c) a hospice;
  - (d) residential accommodation for students or school pupils;



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- (e) residential accommodation for members of any of the armed forces;
  - (f) a monastery, nunnery or similar establishment; or
  - (g) an institution which is the sole or main residence of at least 90 per cent. of its residents,  
except use as a hospital, a prison or similar institution or an hotel or inn or similar establishment.
- (5) Self-catering holiday accommodation includes any accommodation advertised or held out as such.
- (6) “Houseboat” means a boat or other floating decked structure designed or adapted for use solely as a place of permanent habitation and not having means of, or capable of being readily adapted for, self-propulsion.
- (7) Where there is a supply of goods partly for qualifying use and partly not—
- (a) if at least 60 per cent. of the goods are supplied for qualifying use, the whole supply shall be treated as a supply for qualifying use; and
  - (b) in any other case, an apportionment shall be made to determine the extent to which the supply is a supply for qualifying use.
- (8) Paragraph (a) of item 1 shall be deemed to include combustible materials put up for sale for kindling fires but shall not include matches.
- (9) Paragraphs (b) and (c) of item 1 do not include any road fuel gas (within the meaning of the Hydrocarbon Oil Duties Act 1979) on which a duty of excise has been charged or is chargeable.
- (10) Paragraph (d) of item 1 does not include hydrocarbon oil on which a duty of excise has been or is to be charged without relief from, or rebate of, such duty by virtue of the provisions of the Hydrocarbon Oil Duties Act 1979.
- (11) “Fuel oil” means heavy oil which contains in solution an amount of asphaltenes of not less than 0.5 per cent. or which contains less than 0.5 per cent. but not less than 0.1 per cent. of asphaltenes and has a closed flash point not exceeding 150°C.
- (12) “Gas oil” means heavy oil of which not more than 50 per cent. by volume distils at a temperature not exceeding 240°C and of which more than 50 per cent. by volume distils at a temperature not exceeding 340°C.
- (13) “Kerosene” means heavy oil of which more than 50 per cent. by volume distils at a temperature not exceeding 240°C.
- (14) “Heavy oil” shall have the same meaning as in the Hydrocarbon Oil Duties Act 1979.

#### *Zero-rated supplies of goods and services*

- 8 (1) A supply of services made after the commencement of this Act in pursuance of a legally binding obligation incurred before 21st June 1988 shall if—
- (a) the supply fell within item 2 of Group 8A of Schedule 5 to the 1983 Act immediately before 1st April 1989, and
  - (b) it was by virtue of paragraph 13(1) of Schedule 3 to the <sup>M118</sup>Finance Act 1989 a zero-rated supply,
- be a zero-rated supply for the purposes of this Act.

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- (2) Where a grant, assignment or other supply is zero-rated by virtue of this paragraph, it is not a relevant zero-rated supply for the purposes of paragraph 1 of Schedule 10.

#### Marginal Citations

M118 1989 c. 26.

#### *Bad debt relief*

9 <sup>F401</sup>(1) . . . . .

[<sup>F402</sup>(2) Claims for refunds of VAT shall not be made in accordance with section 36 of this Act in relation to—

- (a) any supply made before 1st April 1989; or
- (b) any supply as respects which a claim is or has been made under section 22 of the 1983 Act.]

#### Textual Amendments

**F401** Sch. 13 para. 9(1) repealed (19.3.1997 with effect as mentioned in s. 39 of the amending Act) by 1997 c. 16, ss. 39, 113, Sch. 18 Pt. IV(3), Note

**F402** Sch. 13 para. 9(2) substituted (retrospectively) by 1995 c. 4, s. 33(4)

#### *Supplies during construction of buildings and works*

- 10 (1) Nothing in paragraphs 5 and 6 of Schedule 10 shall apply—
- (a) in relation to a person who has constructed a building if he incurred before 21st June 1988 a legally binding obligation to make a grant or assignment of a major interest in, or in any part of, the building or its site;
  - (b) in relation to a building or work if there was incurred before that date a legally binding obligation to make in relation to the building or work a supply within item 2 of Group 8 of Schedule 5 to the 1983 Act;
  - (c) in relation to a person who has constructed a building if—
    - (i) he incurred before that date a legally binding obligation to construct the building or any development of which it forms part, and
    - (ii) planning permission for the construction of the building was granted before that date, and
    - (iii) he has made a grant or assignment of a major interest in, or in any part of, the building or its site before 21st June 1993.
- (2) Sub-paragraph (1) above shall not apply in any case where the Commissioners required proof of any of the matters specified in paragraph (a), (b) or (c)(i) above to be given to their satisfaction by the production of documents made before 21st June 1988 and that requirement was not complied with.

#### *Offences and Penalties*

- 11 Where an offence for the continuation of which a penalty was provided has been committed under an enactment repealed by this Act, proceedings may be taken under this Act in respect of the continuance of the offence after the commencement

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- of this Act in the same manner as if the offence had been committed under the corresponding provision of this Act.
- 12 Part IV of this Act, except section 72, shall not apply in relation to any act done or omitted to be done before 25th July 1985, and the following provision of this Schedule shall have effect accordingly.
- 13 (1) Section 72 shall have effect in relation to any offence committed or alleged to have been committed at any time (“the relevant time”) before the commencement of this Act subject to the following provisions of this paragraph.
- (2) Where the relevant time falls between 25th July 1983 and 26th July 1985 (the dates of passing of the 1983 and 1985 Finance Acts respectively), section 72 shall apply—
- (a) with the substitution in subsection (1)(b), (3)(ii) and (8)(b) of “2 years” for “7 years”;
- (b) with the omission of subsections (2) and (4) to (7).
- 14 (1) The provisions of this paragraph have effect in relation to section 59.
- (2) Section 59 shall apply in any case where a person is in default in respect of a prescribed accounting period which has ended before the commencement of this Act, but shall have effect in any case where the last day referred to in subsection (1) of that section falls before 1st October 1993 subject to the following modifications—
- (a) for the words “a prescribed accounting period” in subsection (2)(a) there shall be substituted “any two prescribed accounting periods”;
- (b) with the addition of the following paragraph in subsection (2)—
- “(aa) the last day of the later one of those periods falls on or before the first anniversary of the last day of the earlier one; and”;
- (c) for the words “period referred to in paragraph (a)” in subsection (2)(b) there shall be substituted “later period referred to in paragraph (aa)”;
- (d) for the words “a default in respect of a prescribed accounting period and that period” in subsection (3) there shall be substituted “defaults in respect of two prescribed accounting periods and the second of those periods”.
- (3) Section 59 shall have effect, in any case where a person has been served with a surcharge liability notice and that person is in default in respect of a prescribed accounting period because of a failure of the Commissioners to receive a return or an amount of VAT on or before a day falling before 30th September 1993 with the omission of—
- (a) subsection (4)(b);
- (b) the words in subsection (5) “and for which he has outstanding VAT”; and
- (c) subsection (6).
- 15 (1) Section 63 does not apply in relation to returns and assessments made for prescribed accounting periods beginning before 1st April 1990 but subject to that shall have effect in relation to the cases referred to in the following sub-paragraphs subject to the modifications there specified.
- (2) Subsection (1) shall have effect in a case falling within paragraph (b) of that subsection where the assessment was made on or before 10th March 1992 with the substitution of “20 per cent.” for “15 per cent.”.
- (3) In relation to any prescribed accounting period beginning before 1st December 1993 section 63 shall have effect with the substitution—

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- (a) for the words in subsection (2) following “exceeds” of “ either 30 per cent. of the true amount of the VAT for that period or whichever is the greater of £10,000 and 5 per cent. of the true amount of VAT for that period. ” and with the omission of subsections (4) to (6); and
  - (b) for the words in subsection (8) from “subsections” to “statements” of “ subsection (7) that the statement by each of those returns is a correct statement ”.
- (4) In relation to any prescribed accounting period beginning before 1st June 1994 section 63 shall have effect with the substitution for subsection (3) of the following subsection—
- “(3) Any reference in this section to the VAT for a prescribed accounting period which would have been lost if an inaccuracy had not been discovered is a reference to the aggregate of—
- (a) the amount (if any) by which credit for input tax for that period was overstated; and
  - (b) the amount (if any) by which output tax for that period was understated;
- but if for any period there is an understatement of credit for input tax or an overstatement of output tax, allowance shall be made for that error in determining the VAT for that period which would have been so lost.”and in subsection (8) for “this section” there shall be substituted “ subsections (5) and (7) above ”.
- 16 (1) In relation to any prescribed accounting period beginning before 1st December 1993 section 64 shall have effect subject to the following modifications—
- (a) in subsection (1)(b) for the words from “whichever” to “period” there shall be substituted “ whichever is the greater of £100 and 1 per cent. of the true amount of VAT for that period ”;
  - (b) for subsections (2) and (3) there shall be substituted—
 

“(2) Subsection (3) below applies in any case where—

    - (a) there is a material inaccuracy in respect of any two prescribed accounting periods, and
    - (b) the last day of the later one of those periods falls on or before the second anniversary of the last day of the earlier one, and
    - (c) after 29th July 1988 the Commissioners serve notice on the person concerned (“a penalty liability notice”) specifying as a penalty period for the purposes of this section a period beginning on the date of the notice and ending on the second anniversary of that date.

(3) If there is a material inaccuracy in respect of a prescribed accounting period ending within the penalty period specified in a penalty liability notice served on the person concerned that person shall be liable to a penalty equal to 15 per cent. of the VAT for that period which would have been lost if the inaccuracy had not been discovered.”;
  - (c) in subsection (4) for “(5)” there shall be substituted “ (7) ”; and
  - (d) in subsection (6) the words from “except” to the end shall be omitted.

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- (2) A penalty liability notice shall not be served under section 64 by reference to any material inaccuracy in respect of a prescribed accounting period beginning before 1st December 1993, and the penalty period specified in any penalty liability notice served before that day shall be deemed to end with the day before that day.
- 17 Section 70 shall not apply in relation to any penalty to which a person has been assessed before 27th July 1993 and in the case of any penalty in relation to which that section does not apply by virtue of this paragraph, section 60 shall have effect subject to the following modifications—
- (a) in subsection (1) for “subsection (6)” there shall be substituted “subsections (3A) and (6)”;
  - (b) after subsection (3) there shall be inserted—

“(3A) If a person liable to a penalty under this section has co-operated with the Commissioners in the investigation of his true liability to tax or, as the case may be, of his true entitlement to any payment, refund or repayment, the Commissioners or, on appeal, a tribunal may reduce the penalty to an amount which is not less than half what it would have been apart from this subsection; and in determining the extent of any reduction under this subsection, the Commissioners or tribunal shall have regard to the extent of the co-operation which the person concerned has given to the Commissioners in their investigation.”;
  - (c) in subsection (4)(b) for the words from “under” to “this section” there shall be substituted “to reduce a penalty under this section, as provided in subsection (4) above, and, in determining the extent of such a reduction in the case of any person, the Commissioners or tribunal will have regard to the extent of the co-operation which he has given to the Commissioners in their investigation”;
- and in section 61(6) for “70” there shall be substituted “60(3A)”.
- 18 Section 74 shall not apply in relation to prescribed accounting periods beginning before 1st April 1990 and subsection (3) of that section shall not apply in relation to interest on amounts assessed or, as the case may be, paid before 1st October 1993.

#### *Importation of goods*

- 19 Nothing in this Act shall prejudice the effect of the <sup>M119</sup>Finance (No.2) Act 1992 (Commencement No.4 and Transitional Provisions) Order 1992 and accordingly—
- (a) where Article 4 of that Order applies immediately before the commencement of this Act in relation to any importation of goods, that Article and the legislation repealed by this Act shall continue to apply in relation to that importation as if this Act had not been enacted, and
  - (b) where Article 5 of that Order applies in relation to any goods, this Act shall apply in relation to those goods in accordance with that Article and Article 6 of that Order.

#### **Marginal Citations**

M119 S.I.1992/3261 (C.102).

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### Assessments

- 20 An assessment may be made under section 73 in relation to amounts paid or credited before the commencement of this Act but—
- (a) in relation to an amount paid or credited before 30th July 1990 section 73(2) shall have effect with the omission of the words from “or which” to “out to be”, and
  - (b) in relation to amounts repaid or paid to any person before the passing of the <sup>M120</sup>Finance Act 1982 section 73 shall have effect with the omission of subsection (2).

#### Marginal Citations

M120 1982 c.39.

### Set-off of credits

- 21 Section 81 shall have effect in relation to amounts becoming due before 10th May 1994 with the omission of subsections (4) and (5).

### VAT tribunals

- 22 (1) Without prejudice to paragraph 1 above, section 83 applies to things done or omitted to be done before the coming into force of this Act and accordingly references in Part V to any provision of this Act includes a reference to the corresponding provision of the enactments repealed by this Act or by any enactment repealed by such an enactment.
- (2) Section 84 shall have effect before such day as may be appointed for the purposes of section 18(3) of the <sup>M121</sup>Finance Act 1994 with the substitution for subsection (5) of the following subsection—
- “(5) No appeal shall lie with respect to any matter that has been or could have been referred to arbitration under section 127 of the Management Act as applied by section 16.”

#### Marginal Citations

M121 1994 c. 9.

### Isle of Man

- 23 Nothing in paragraph 7 of Schedule 14 shall affect the validity of any Order made under section 6 of the <sup>M122</sup>Isle of Man Act 1979 and, without prejudice to section 17 of the <sup>M123</sup>Interpretation Act 1978, for any reference in any such Order to any enactment repealed by this Act there shall be substituted a reference to the corresponding provision of this Act.

#### Marginal Citations

M122 1979 c. 58

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M123 1978 c. 30.

## SCHEDULE 14

### CONSEQUENTIAL AMENDMENTS

#### Extent Information

**E4** Sch. 14 para. 7 extends to the Isle of Man.

#### *Diplomatic Privileges Act 1964 c.81*

- 1 In section 2(5A) of the Diplomatic Privileges Act 1964 for “2A or 2B of the Value Added Tax Act 1983” there shall be substituted “ 10 or 15 of the Value Added Tax Act 1994 ”.

#### *Commonwealth Secretariat Act 1966 c.10*

- 2 In paragraph 10(1A) of the Commonwealth Secretariat Act 1966 for “2A or 2B of the Value Added Tax Act 1983” there shall be substituted “ 10 or 15 of the Value Added Tax Act 1994 ”.

#### *Consular Relations Act 1968 c.18*

- 3 In section 1(8A) of the Consular Relations Act 1968 for “2A or 2B of the Value Added Tax Act 1983” there shall be substituted “ 10 or 15 of the Value Added Tax Act 1994 ”.

#### *International Organisations Act 1968 c.48*

- 4 In paragraph 19(c) of Schedule 1 to the International Organisations Act 1968 for “2A or 2B of the Value Added Tax Act 1983” there shall be substituted “ 10 or 15 of the Value Added Tax Act 1994 ”.

#### *Diplomatic and other Privileges Act 1971 c.64*

- 5 In section 1(5) of the Diplomatic and other Privileges Act 1971 for “2A or 2B of the Value Added Tax Act 1983” there shall be substituted “ 10 or 15 of the Value Added Tax Act 1994 ”.

#### *Customs and Excise Management Act 1979 c.2*

- 6 In section 1(1) of the Customs and Excise Management Act 1979 for the definition of “free zone goods” there shall be substituted—

““free zone goods” are goods which are within a free zone;”.

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*Isle of Man Act 1979 c.58*

- 7 (1) In section 1(1)(d) of the Isle of Man Act for “13 of the Value Added Tax Act 1983” there shall be substituted “ 23 of the Value Added Tax Act 1994 ”.
- (2) In section 6 of that Act—
- (a) for “1983” in each place where it occurs there shall be substituted “ 1994 ”;
  - (b) in subsection (2)(f) for “29” there shall be substituted “ 43 ”;
  - (c) in subsection (4)(a) for “16(9)” there shall be substituted “ 30(10) ”;
  - (d) in subsection (4)(b) for “Schedule 7” there shall be substituted “ Schedule 11 ”; and
  - (e) in subsection (4)(c) for “39(3)” there shall be substituted “ 72(8) ”.
- (3) In section 14(4)(b) for “section 33(2A) of the Finance Act 1972” there shall be substituted “ paragraph 5(3) of Schedule 11 to the Value Added Tax Act 1994 ”.

*Insolvency Act 1986 c.45*

- 8 In Schedule 6 to the Insolvency Act 1986 in paragraph 3 for “1983” there shall be substituted “ 1994 ”.

*Bankruptcy (Scotland) Act 1985 c.66*

- 9 In paragraph 8(2) of Schedule 3 to the Bankruptcy (Scotland) Act 1985 for “Value Added Tax Act 1983” there shall be substituted “ Value Added Tax Act 1994 ”.

*Income and Corporation Taxes Act 1988 c.1*

- 10 (1) The Income and Corporation Taxes Act 1988 shall be subject to the following amendments.
- (2) In section 827 for—
- (a) “Chapter II of Part I of the Finance Act 1985” there shall be substituted “ Part IV of the Value Added Tax Act 1994 ”;
  - (b) “13 to 17A” there shall be substituted “ 60 to 70 ”;
  - (c) “18” and “19” there shall be substituted respectively “ 74 ” and “ 59 ”;
  - (d) “20 of the Finance Act 1985” there shall be substituted “ 79 of that Act ”.

*Capital Allowances Act 1990 c.1*

- 11 In section 159A of the Capital Allowances Act 1990—
- (a) in subsection (6) for “1983” and “(2)” there shall be substituted “ 1994 ” and “ 4(2) ”; and
  - (b) in subsection (7) for “14” and “1983” there shall be substituted “ 24 ” and “ 1994 ”.

*Tribunals and Inquiries Act 1992 c.53*

- 12 In Parts I and II of Schedule 1 to the Tribunals and Inquiries Act 1992 for “8 to the Value Added Tax Act 1983” there shall be substituted “ 12 to the Value Added Tax Act 1994 ”.



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*Finance Act 1994 c.9*

- 13 In section 7 of the Finance Act 1994—
- [<sup>F403</sup>(a) in subsection (4) for “25 and 29 of the Finance Act 1985” and “40 of the Value Added Tax Act 1983” there shall be substituted, respectively, “ 85 and 87 of the Value Added Tax Act 1994 ” and “ 83 of that Act ”;]
- (b) in subsection (5) for “8 to the Value Added Tax Act 1983” there shall be substituted “ 12 to the Value Added Tax Act 1994 ”.

**Textual Amendments**

**F403** Sch. 14 para. 13(a) substituted (retrospectively) by 1995 c. 4, s. 33(5)

*Vehicle Excise and Registration Act 1994 c.22*

- 14 In paragraph 23 of Schedule 2 to the Vehicle Excise and Registration Act 1994—
- (a) for “2C of the Value Added Tax Act 1983” there shall be substituted “ 3 of the Value Added Tax Act 1994 ”;
- (b) for “(7) of section 16” there shall be substituted “ (8) of section 30 ”; and
- (c) for “subsection (9)” there shall be substituted “ subsection (10) ”.

SCHEDULE 15

REPEALS

*Acts of Parliament*

Chapter	Short title	Extent of repeal
1979 c.2.	Customs and Excise Management Act 1979	Sections 100B and 100C.
1983 c.55.	Value Added Tax Act 1983	The whole Act.
1984 c.24.	Dentists Act 1984	In Schedule 5, paragraph 16.
1984 c.43.	Finance Act 1984	Sections 10 to 13. Schedule 6.
1984 c.51.	Inheritance Tax Act 1984	In Schedule 8, paragraph 24.
1984 c.60.	Police and Criminal Evidence Act 1984	In Schedule 6, paragraph 41.
1985 c.54.	Finance Act 1985	Sections 11 to 33. Schedules 6, 7 and 8. In Schedule 26, paragraph 14.
1986 c.41.	Finance Act 1986	Sections 9 to 15. Schedule 6.

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1987 c.16.	Finance Act 1987	Sections 11 to 19. Schedule 2.
1987 c.18.	Debtors (Scotland) Act 1987	In Schedule 4, paragraph 4.
1988 c.39.	Finance Act 1988	Sections 13 to 22.
1988 c.54.	Road Traffic (Consequential Provisions) Act 1988	In Schedule 3, paragraph 32.
1989 c.26.	Finance Act 1989	Sections 18 to 26. Schedule 3.
1989 c.40.	Companies Act 1989	In Schedule 18, paragraph 27.
1989 c.44.	Opticians Act 1989	Section 37(3).
1990 c.11.	Planning (Consequential Provisions) Act 1990	In Schedule 2, paragraph 61.
1990 c.19.	National Health Service and Community Care Act 1990	Section 61(4).  In Schedule 8, paragraph 9.
1990 c.29.	Finance Act 1990	Sections 10 to 16.
1990 c.41.	Courts and Legal Services Act 1990	In Schedule 10, paragraph 52.
1990 c.42.	Broadcasting Act 1990	In Schedule 20, paragraph 37.
1991 c.21.	Disability Living Allowance and Disability Working Allowance Act 1991	In Schedule 2, paragraph 13.
1991 c.31.	Finance Act 1991	Sections 13 to 18.
1992 c.12.	Taxation of Chargeable Gains Act 1992	In Schedule 10, paragraph 6.
1992 c.20.	Finance Act 1992	Sections 6 and 7.
1992 c.48.	Finance (No.2) Act 1992	Sections 14(1) and (3) to (6). Sections 15 to 17. Schedule 3, Parts I and II.
1992 c.52.	Trade Union and Labour Relations (Consolidation) Act 1992	In Schedule 2, paragraph 32.
1992 c.53.	Tribunals and Inquiries Act 1992	In Schedule 3, paragraph 17.
1993 c.8.	Judicial Pensions and Retirement Act 1993	In Schedule 6, paragraph 35.  In Schedule 8, paragraph 16.
1993 c.34.	Finance Act 1993	Sections 42 to 50. Schedule 2.

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1994 c.9	Finance Act 1994	Section 7(1) and (2). In section 18(3) the words from “and for” to the end. Sections 45 and 47.
1994 c.22	Vehicle Excise and Registration Act 1994	In Schedule 3, paragraph 21.

*Statutory Instruments*

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
S.I.1980/440	Value Added Tax (Fuel and Power) Order 1980	The whole Order.
S.I.1983/1717	Value Added Tax (Charities Etc.) Order 1983	The whole Order.
S.I.1984/489	Value Added Tax (Handicapped Persons) Order 1984	The whole Order.
S.I.1984/631	Value Added Tax (Lifeboats) Order 1984	The whole Order.
S.I.1984/766	Value Added Tax (Charities Etc.) Order 1984	The whole Order.
S.I.1984/767	Value Added Tax (Marine etc. Insurance) Order 1984	The whole Order.
S.I.1984/959	Value Added Tax (Handicapped Persons) (No.2) Order 1984	The whole Order.
S.I.1984/1784	Value Added Tax (Optical Appliances) Order 1984	The whole Order.
S.I.1985/18	Value Added Tax (Protected Buildings) Order 1985	The whole Order.
S.I.1985/431	Value Added Tax (Charities Etc.) Order 1985	The whole Order.
S.I.1985/432	Value Added Tax (Finance) Order 1985	The whole Order.
S.I.1985/799	Value Added Tax (Hiring of Goods) Order 1985	The whole Order.
S.I.1985/919	Value Added Tax (Handicapped Persons) Order 1985	Article 3.
S.I.1985/1900	Value Added Tax (Welfare) Order 1985	The whole Order.

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S.I.1986/530	Value Added Tax (Handicapped Persons and Charities) Order 1986	The whole Order.
S.I.1987/437	Value Added Tax (Charities) Order 1987	The whole Order.
S.I.1987/517	Value Added Tax (Betting, Gaming and Lotteries) Order 1987	The whole Order.
S.I.1987/518	Value Added Tax (International Services) Order 1987	The whole Order.
S.I.1987/1072	Value Added Tax (Construction of Buildings) (No.2) Order 1987	Article 2.
S.I.1987/860	Value Added Tax (Finance) Order 1987	The whole Order.
S.I.1987/1259	Value Added Tax (Education) Order 1987	The whole Order.
S.I.1987/1806	Value Added Tax (Tour Operators) Order 1987	Article 11.
S.I.1988/507	Value Added Tax (Confectionery) Order 1988	The whole Order.
S.I.1988/1282	Value Added Tax (Training) Order 1988	The whole Order.
S.I.1989/267	Value Added Tax (Education) Order 1989	The whole Order.
S.I.1989/470	Value Added Tax (Fund- Raising Events and Charities) Order 1989	The whole Order.
S.I.1989/2272	Value Added Tax (Finance, Health and Welfare) Order 1989	The whole Order.
S.I.1990/682	Value Added Tax (Increase of Registration Limits) Order 1990	The whole Order.
S.I.1990/750	Value Added Tax (Charities) Order 1990	The whole Order.
S.I.1990/752	Value Added Tax (Transport) Order 1990	The whole Order.
S.I.1990/2037	Value Added Tax (Insurance) Order 1990	The whole Order.
S.I.1990/2129	Value Added Tax (Charities) (No.2) Order 1990	The whole Order.

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S.I.1990/2553	Value Added Tax (Construction of Dwellings and Land) Order 1990	The whole Order.
S.I.1991/737	Value Added Tax (Charities) Order 1991	The whole Order.
S.I.1991/738	Value Added Tax (Increase of Registration Limits) Order 1991	The whole Order.
S.I.1991/2534	Value Added Tax (Piped Gas) (Metrication) Order 1991	The whole Order.
S.I.1991/2569	Value Added Tax (Buildings and Land) Order 1991	The whole Order.
S.I.1992/628	Value Added Tax (Charities and Aids for Handicapped Persons) Order 1992	The whole Order.
S.I.1992/629	Value Added Tax (Increase of Registration Limits) Order 1992	The whole Order.
S.I.1992/733	Value Added Tax (Increase for Consideration for Fuel) Order 1992	The whole Order.
S.I.1992/3065	Value Added Tax (Motor Vehicles for the Handicapped) Order 1992	The whole Order.
S.I.1992/3126	Value Added Tax (Transport) Order 1992	The whole Order.
S.I.1992/3127	Value Added Tax (Means of Transport) Order 1992	The whole Order.
S.I.1992/3131	Value Added Tax (Tax Free Shops) Order 1992	The whole Order.
S.I.1992/3223	Value Added Tax (International Services and Transport) Order 1992	The whole Order.
S.I.1993/765	Value Added Tax (Increase for Consideration for Fuel) Order 1993	The whole Order.
S.I.1993/766	Value Added Tax (Increase of Registration Limits) Order 1993	The whole Order.
S.I.1993/767	Value Added Tax (Protective Boots and Helmets) Order 1993	The whole Order.
S.I.1993/1124	Value Added Tax (Education) (No.2) Order 1993	The whole Order.

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S.I.1993/2214	Finance Act 1993 (Appointed Day) Order 1993	The whole Order.
S.I.1993/2328	Value Added Tax (Reverse Charge) Order 1993	The whole Order.
S.I.1993/2498	Value Added Tax (Beverages) Order 1993	The whole Order.
S.I.1993/2498	Value Added Tax (Beverages) Order 1983	The whole Order.
S.I.1993/2952	Value Added Tax (Increase of Consideration for Fuel) (No.2) Order 1993	The whole Order.
S.I.1993/2953	Value Added Tax (Increase of Registration Limits) (No.2) Order 1993	The whole Order.
S.I.1994/686	Value Added Tax (Tax Free Shops) Order 1994	The whole Order.
S.I.1994/687	Value Added Tax (Sport, Physical Education and Fund-Raising Events) 1994	The whole Order.
S.I.1994/1188	Value Added Tax (Education) Order 1994	The whole Order.

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## TABLE OF DERIVATIONS

### Notes:

- 1 This Table shows the derivation of the provisions of the Bill.
- 2 The following abbreviations are used in the Table:—

### *Acts of Parliament*

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CEMA	= Customs and Excise Management Act 1979 c.2
1984	= Finance Act 1984 c.43
PACE	= Police and Criminal Evidence Act 1984 c.60
1985	= Finance Act 1985 c.54
1986	= Finance Act 1986 c.41
1987	= Finance Act 1987 c.16
1988	= Finance Act 1988 c.39

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1989	= Finance Act 1989 c.26
1990	= Finance Act 1990 c.29
CLSA	= Courts and Legal Services Act 1990 c.41
DLA	= Disability Living Allowance and Disability Working Allowance Act 1991 c.21
1991	= Finance Act 1991 c.31
1992	= Finance Act 1992 c.20
1992(2)	= Finance (No.2) Act 1992 c.48
JPRA	= Judicial Pensions and Retirement Act 1993 c.8
1993	= Finance Act 1993 c.34
1994	= Finance Act 1994 c.9

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*Subordinate legislation*

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S.I.1983/1717	= The Value Added Tax (Charities Etc.) Order 1983
S.I.1984/489	= The Value Added Tax (Handicapped Persons) Order 1984
S.I.1984/631	= The Value Added Tax (Lifeboats) Order 1984
S.I.1984/766	= The Value Added Tax (Charities Etc.) Order 1984
S.I.1984/767	= The Value Added Tax (Marine etc. Insurance) Order 1984
S.I.1984/959	= The Value Added Tax (Handicapped Persons) (No.2) Order 1984
S.I.1985/18	= The Value Added Tax (Protected Buildings) Order 1985
S.I.1985/431	= The Value Added Tax (Charities Etc.) Order 1985
S.I.1985/432	= The Value Added Tax (Finance) Order 1985
S.I.1985/799	= The Value Added Tax (Hiring of Goods) Order 1985
S.I. 1985/919	= The Value Added Tax (Handicapped Persons) Order 1985
S.I.1985/1900	= The Value Added Tax (Welfare) Order 1985
S.I.1986/530	= The Value Added Tax (Handicapped Persons and Charities) Order 1986

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S.I.1987/437	= The Value Added Tax (Charities) Order 1987
S.I.1987/517	= The Value Added Tax (Betting, Gaming and Lotteries) Order 1987
S.I. 1987/860	= The Value Added Tax (Finance) Order 1987
S.I.1987/1806	= The Value Added Tax (Tour Operators) Order 1987
S.I.1987/1427	= Value Added Tax (Cash Accounting) Regulations 1987
S.I.1988/507	= The Value Added Tax (Confectionary) Regulations 1988
S.I.1989/470	= The Value Added Tax (Fund-Raising Events and Charities) Order 1989
S.I.1989/2272	= The Value Added Tax (Finance, Health and Welfare) Order 1989
S.I.1990/750	= The Value Added Tax (Charities) Order 1990
S.I.1990/752	= The Value Added Tax (Transport) Order 1990
S.I.1990/2037	= The Value Added Tax (Insurance) Order 1990
S.I.1990/2129	= The Value Added Tax (Charities) (No.2) Order 1990
S.I.1990/2553	= The Value Added Tax (Construction of Dwellings and Land) Order 1990
S.I.1991/737	= The Value Added Tax (Charities) Order 1991
S.I.1991/2534	= The Value Added Tax (Piped Gas) (Metrication) Order 1991
S.I.1991/2569	= The Value Added Tax (Buildings and Land) Order 1991
S.I.1991/2727	= Free Zone Regulations 1991
S.I.1992/628	= The Value Added Tax (Charities and Aids for Handicapped Persons) Order 1992
S.I.1992/3065	= The Value Added Tax (Motor Vehicles for the Handicapped) Order 1992
S.I.1992/3095	= Customs and Excise (Single Market etc.) Regulations 1992
S.I.1992/3126	= The Value Added Tax (Transport) Order 1992



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S.I.1992/3127	= The Value Added Tax (Means of Transport) Order 1992
S.I.1992/3128	= The Value Added Tax (Reverse Charge) Order 1992
S.I.1992/3131	= The Value Added Tax (Tax Free Shops) Order 1992
S.I.1992/3223	= The Value Added Tax (International Services and Transport) Order 1992
S.I.1993/765	= The Value Added Tax (Increase for Consideration for Fuel) Order 1993
S.I.1993/766	= The Value Added Tax (Increase of Registration Limits) Order 1993
S.I.1993/767	= The Value Added Tax (Protective Boots and Helmets) Order 1993
S.I.1993/2328	= The Value Added Tax (Reverse Charge) Order 1993
S.I.1993/2498	= The Value Added Tax (Beverages) Order 1993
S.I.1993/2952	= Value Added Tax (Increase of Consideration for Fuel) (No.2) Order 1993
S.I.1993/2953	= Value Added Tax (Increase of Registration Limits) (No.2) Order 1993
S.I.1994/686	= Value Added Tax (Tax Free Shops) Order 1994
S.I.1994/687	= Value Added Tax (Sport, Physical Education and Fund-raising Events) Order 1994
S.I.1994/1188	= Value Added Tax (Education) Order 1994

<b>Provision</b>	<b>Derivation</b>
1(1)	1983 s.1; amended 1992(2) Sch.3 para.2.
(2)	1983 s.2(3).
(3)	1983 s.2A(4); added 1992(2) Sch.3 para.3.
(4)	1983 s.2B(1); added 1992(2) Sch.3 para.3.
2	1983 s.9; amended 1991 s.13; 1992(2) Sch.3 para.11; 1993 s.42(2).
3	1983 s.2C; added 1992(2) Sch.3 para.3.
4	1983 s.2(1), (2).
5	1983 s.3; amended 1992(2) Sch.3 para.4.
6(1) to (3)	1983 s.4

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(4) to (6)	1983 s.5(1) to (3)
(7), (8)	1983 s.5(3A), (3B); added 1992(2) Sch.3 para.6(1).
(9) to (13)	1983 s.5(4) to (8).
(14)	1983 s.5(9); amended 1993 s.45(2).
(15)	1983 s.5(10); amended 1992(2) Sch.3 para.6(3).
7(1), (2)	1983 s.6(1), (2); 1987 s.12(2); 1992(2) Sch.3 para.7(1), (2); 1993 s.44(3).
(3) to (7)	1983 s.6(2A), (2B), (2C), (2D), (3); 1992(2) Sch.3 para.7(3).
(8)	1983 s.6(4); 1992(2) Sch.3 para.7(4).
(9)	1983 s.6(4A); 1992(2) Sch.3 para.7(5).
(10)	1983 s.6(5).
(11)	1983 s.6(6); 1992(2) Sch.3 para.7(6).
8(1) to (5)	1983 s.7(1) to (5); 1987 Sch.2 para.1.
(6)	1983 s.7(6); 1992(2) Sch.3 para.8.
9	1983 s.8.
10	1983 s.2A(1) to (3); added 1992(2) Sch.3 para.3.
11	1983 s.8A; added 1992(2) Sch.3 para.10.
12	1983 s.8B; added 1992(2) Sch.3 para.10.
13	1983 s.8C; added 1992(2) Sch.3 para.10; amended 1993 s.44(3)(b).
14	1983 s.8D; added 1993 s.44.
15	1983 s.2B(2) to (4); added 1992(2) Sch.3 para.3.
16(1)	1983 s.24(1); substituted 1992(2) Sch.3 para.25.
(2)	1983 s.24(2).
17(1)	1983 s.24(1); substituted 1992(2) Sch.3 para.25.
(2)	CEMA s.100C(1); 1984 Sch.4 Pt.I; S.I.1991/2727.
(3)	CEMA s.100B; 1984 Sch.4 Pt.I; S.I.1991/2727.
(4)	CEMA s.100C(3), (4); 1984 Sch.4 Pt.I; S.I.1991/2727.
18	1983 s.35; substituted 1992(2) Sch.3 para.35.

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19	1983 s.10; amended 1992(2) Sch.3 para.12.
20	1983 s.10A; added 1992(2) Sch.3 para.13.
21(1), (2)	1983 s.11(1), (2); amended 1992(2) Sch.3 para.14.
(3)	1983 s.11(2A); added 1992(2) Sch.3 para.14.
22	1983 s.12.
23	1983 s.13.
24(1), (2)	1983 s.14(3); amended and para.(aa) added 1992(2) Sch.3 para.15(2).
(3)	1983 s.14(3A); added 1990 s.12(2); amended 1992(2) Sch.3 para.15(3).
(4)	1983 s.14(3B); added 1991 s.14.
(5)	1983 s.14(4); amended 1992(2) Sch.3 para.15(4).
(6)	1983 s.14(9); amended 1992(2) Sch.3 para.15(5), (6).
(7)	1983 s.14(11); added 1990 s.12(3).
25(1), (2)	1983 s.14(1), (2); amended 1992(2) Sch.3 para.15(1).
(3) to (6)	1983 s.14(5) to (8).
(7)	1983 s.14(10); amended 1992(2) Sch.3 para.15(5), (6).
26(1) to (3)	1983 s.15(1) to (3); substituted 1987 s.12(1); subs.(3)(d) added 1989 s.26; amended and subs.(2)(ba) added 1992(2) Sch.3 para.16.
(4)	1983 s.15(4)
27	1983 s.26; amended 1992(2) Sch.3 para.27.
28	1983 s.38C; added 1992 s.6.
29	1988 s.22.
30(1), (2)	1983 s.16(1), (2).
(3)	1983 s.16(3); amended 1992(2) Sch.3 para.17(1).
(4)	1983 s.16(4).
(5)	1983 s.16(5).
(6)	1983 s.16(6); amended 1986 s.12(1); 1992(2) Sch.3 para.17(2).
(7)	1983 s.16(6A); added 1990 s.13.
(8), (9)	1983 s.16(7), (8); amended 1992(2) Sch.3 para.17(3).

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(10)	1983 s.16(9); amended 1986 s.12(2).
31	1983 s.17; amended 1992(2) Sch.3 para.18.
32	1983 s.18; amended 1992(2) Sch.3 para.19.
33(1), (2)	1983 s.20(1), (2); amended 1992(2) Sch.3 para.21.
(3)	1983 s.20(3); para.(j) substituted Broadcasting Act 1990 c.42 Sch.20 para.37.
(4)	1983 s.20(4).
(5)	1983 s.20(4A); added Broadcasting Act 1990 c.42 Sch.20 para.37.
(6)	1983 s.20(5).
34	1983 s.36; amended 1992(2) Sch.3 para.36.
35(1), (2)	1983 s.21(1), (2); substituted 1989 Sch.3 para.5; amended 1992(2) Sch.3 para.23(1).
(3)	1983 s.21(2A); added 1992(2) Sch.3 para.23(2).
36	1990 s.11; amended 1991 s.15; 1993 s.48.
37(1)	1983 s.19(1); amended 1992(2) Sch.3 para.20(1).
(2)	1983 s.19(1A); added 1986 s.13; amended 1992(2) Sch.3 para.20(2).
(3), (4)	1983 s.19(2); amended 1992(2) Sch.3 para.20(3), (4).
38	1983 s.25; amended 1992(2) Sch.3 para.26.
39	1983 s.23; amended 1987 Sch.2 para.2; 1992(2) Sch.3 para.24.
40	1983 s.20A; added 1992(2) Sch.3 para.22.
41(1), (2)	1983 s.27(1), (2).
(3), (4)	1983 s.27(2A), (2B); added 1984 s.11; amended 1992(2) Sch.3 para.28.
(5)	1983 s.27(3).
(6)	1983 s.27(4); amended National Health Service and Community Care Act 1990 (c.19) Sch.8 para.9; Health and Personal Social Services (Northern Ireland Consequential Amendments) Order 1991 S.I.195 Art.5.
(7)	1983 s.27(5); added National Health Service and Community Care Act 1990 (c.19) s.61(4).

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(8)	1983 s.27(6); added Health and Personal Social Services (Northern Ireland Consequential Amendments) Order 1991 S.I.195 Art.5.
42	1983 s.28; amended 1990 s.10(8).
43(1)	1983 s.29(1); amended 1992(2) Sch.3 para.29.
(2)	1983 s.29(2)
(3)	1983 s.29(3), (3A); added 1991 s.16.
(4) to (8)	1983 s.29(4) to (8); amended Companies Consolidation (Consequential Provisions) Act 1985 (c.9) Sch.2; Companies Act 1989 (c.40) Sch.18 para.27.
44(1), (2), (3)	Section 29A added 1987 s.15; s.29A(1), (2) amended 1990 s.14(2); 1992(2) Sch.3 para.30(1), (2).
(4)	1983 s.29A(3A); added 1990 s.14(3).
(5) to (10)	1983 s.29A(4) to (9); amended 1992(2) Sch.3 para.30(3).
45	1983 s.30; amended 1992(2) Sch.3 para.31.
46(1) to (4)	1983 s.31(1) to (4); amended 1992(2) Sch.3 para.32(1).
(5)	1983 s.31(5); added 1985 s.31.
(6)	1983 s.31(6); added 1992(2) Sch.3 para.32(2).
47(1)	1983 s.32(2); substituted 1992(2) Sch.3 para.33.
(2), (3)	1983 s.32(3), (4).
48	1983 s.32A; added 1992(2) Sch.3 para.34.
49	1983 s.33.
50	1983 s.34.
51	1983 s.35A; added 1989 Sch.3 para.6.
52	1983 s.37; substituted 1992(2) Sch.3 para.37.
53	1983 s.37A; added 1987 s.16.
54	1983 s.37B; added 1992(2) s.16.
55	1983 s.37C; added 1993 s.45.
56(1), (2)	1986 s.9(1), (2).
(3)(a)	1986 s.9(3)(a).
(b)	1986 s.9(3)(aa); added 1992(2) Sch.3 para.94.

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(c) to (e)	1986 s.9(3)(b) to (d).
(4)	1986 s.9(4).
(5)	1986 s.9(5); amended 1992(2) Sch.3 para.94.
(6) to (10)	1986 s.9(6) to (10); amended Road Traffic (Consequential Provisions) Act 1988 (c.54) Sch.3 para.32.
57(1)	1986 Sch.6 para.1.
(2), (3)	1986 Sch.6 para.2; Table A substituted S.I.1993/765; amended S.I.1993/2952.
(4)	1986 Sch.6 para.4; amended 1993 s.43(3).
(5)	1986 Sch.6 para.5(1); amended 1993 s.43(2) (a), (b).
(6)	1986 Sch.6 para.5(2).
(7)	1986 Sch.6 para.6(1); amended 1993 s.43(2) (c).
(8)	1986 Sch.6 para.6(2); amended 1993 s.43(2) (d).
58	1983 s.38; amended 1992(2) Sch.3 para.38.
59(1)	1985 s.19(1).
(2)	1985 s.19(2)(a), (c); amended 1993 Sch.2 para.5(1).
(3)	1985 s.19(3); amended 1993 Sch.2 para.5(2).
(4)	1985 s.19(4); substituted 1993 Sch.2 para.6(1).
(5)	1985 s.19(5); amended 1993 Sch.2 para.6(2),7.
(6)	1985 s.19(5A); added 1993 Sch.2 para.6(3).
(7) to (10)	1985 s.19(6) to (9).
(11)	1993 Sch.2 para.5(3),7(2), (4).
60(1)	1985 s.13(1); amended 1993 Sch.2 para.3(2) (a).
(2)(a)	1985 s.13(2)(ba); added 1992(2) Sch.3 para.77(1)(b).
(b)	1985 s.13(2)(a).
(c)	1985 s.13(2)(b); amended 1992(2) Sch.3 para.77(1)(a).
(d)	1985 s.13(2)(d); added 1990 s.11(12).
(e)	1985 s.13(2)(c).
(3)	1985 s.13(3).

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(4) to (6)	1985 s.13(5) to (7).
(7)	1985 s.27(1).
61(1) to (5)	1986 s.14(1) to (5).
(6)	1986 s.14(8).
62	1985 s.13A; added 1989 s.23.
63(1)	1985 s.14(1); amended 1992 s.7(1).
(2)	1985 s.14(2); substituted 1988 s.16(2); amended 1993 Sch.2 para.1.
(3)	1985 s.14(4); amended 1988 s.16(3); 1994 s.45.
(4) to (6)	1985 s.14(4A), (4B), (4C); added 1993 Sch.2 para.1(2).
(7)	1985 s.14(5); amended 1988 s.16(4).
(8), (9)	1985 s.14(5A), (5B); added 1988 s.16(5); amended 1992(2) Sch.3 para.78; 1993 Sch.2 para.1(3); 1994 s.45.
(10), (11)	1985 s.14(6), (7).
64	1985 s.14A; added 1988 s.17.
(1)	1985 s.14A(1); amended 1993 Sch.2 para.2(1).
(2), (3)	1985 s.14A(2), (3); substituted 1993 Sch.2 para.2(2).
(4)	1985 s.14A(4); amended 1993 Sch.2 para.2(3).
(5)	1985 s.14A(5).
(6)	1985 s.14A(6); amended 1993 Sch.2 para.2(4).
(7)	1985 s.14A(7).
65	1985 s.14B; added 1992(2) Sch.3 para.79.
66	1985 s.17A(1) to (8), (10); added 1992(2) Sch.3 para.82.
67(1)	1985 s.15(1)(a), (aa), (b); amended 1988 s.18(1); 1992(2) Sch.3 para.80(1).
(2)	1985 s.15(2).
(3)	1985 s.15(3); amended 1988 s.18(2); 1992(2) Sch.3 para.80(2).
(4)	1985 s.15(3A); added 1988 s.18(3); amended 1992(2) Sch.3 para.80(3).
(5), (6)	1985 s.15(3B), (3C); added 1992(2) Sch.3 para.80(4).

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(7)	1985 s.15(3D); added 1992(2) s.16(5).
(8) to (11)	1985 s.15(4) to (7).
68	1985 s.16.
69(1)	1985 s.17(1); amended 1988 s.19(1)(b).
(a)	1985 s.17(1)(a); amended 1988 s.19(1)(a); 1992(2) Sch.3 para.81(a).
(b)	1985 s.17(1)(aa); added 1992(2) Sch.3 para.81(b).
(c), (d),	1985 s.17(1)(b), (c).
(e), (f)	1985 s.17(1)(d), (e); added 1986 s.15(1).
(2)	1985 s.17(2).
(3)	1985 s.17(3); amended 1988 s.19(2).
(4)	1985 s.17(4)(a), (c) to (e).
(5) to (9)	1985 s.17(5) to (7), (9), (10).
(10)	
70	1985 s.15A; added 1993 Sch.2 para.3(1).
71	1985 s.33(2), (3).
72(1)	1983 s.39(1); amended 1985 s.12(2).
(2)	1983 s.39(1A); added 1985 s.12(3); para.(ba) added 1992(2) Sch.3 para.39(1)(b); amended 1990 s.11(11)(a); 1992(2) Sch.3 para.39(1)(a).
(3)	1983 s.39(2); amended 1985 s.12(2), (4).
(4) to (7)	1983 s.39(2A), (2B), (2C), (2D); added 1985 s.12(5); amended 1992(2) Sch.3 para.39(2).
(8)	1983 s.39(3); amended 1985 s.12(2).
(9)	1983 s.39(3A); added 1985 s.12(6).
(10)	1983 s.39(4); amended 1992(2) Sch.3 para.39(3).
(11)	1983 s.39(5).
(12)	1983 s.39(9); 1985 s.33(5)(a).
(13)	1985 s.33(5)(a); amended 1992(2) Sch.3 para.86.
73(1)	1983 Sch.7 para.4(1).
(2), (3)	1983 Sch.7 para.4(2), (2A); substituted 1988 s.15(2); amended 1990 s.15(1); 1992(2) Sch.3 para.66(1).
(4), (5)	1983 Sch.7 para.4(3), (4); Bankruptcy (Scotland) Act 1985 (c.66) s.75(11).



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|--------------|---|
| (6)          | 1983 Sch.7 para.4(5); amended 1988 s.15(3); 1992(2) Sch.3 para.66(2).                                       |
| (7)          | 1983 Sch.7 para.4(6); amended 1985 Sch.7 para.1(2); 1992(2) Sch.3 para.66(3).                               |
| (8)          | 1983 Sch.7 para.4(6A); added 1985 Sch.7 para.1(3).  |
| (9), (10)    | 1983 Sch.7 para.4(9), (10); amended 1988 s.15(4); Bankruptcy (Scotland) Act 1985 (c.66) s.75(11).           |
| 74(1)        | 1985 s.18(1); amended 1988 s.14(8)(b); 1990 s.16(2); 1992(2) Sch.3 para.83; 1993 Sch.2 para.4(1).           |
| (2)          | 1985 s.18(3); amended 1990 s.16(3); 1993 Sch.2 para.4(1).   |
| (3)          | 1985 s.18(3A); added 1993 Sch.2 para.4(2), (3).   |
| (4) to (7)   | 1985 s.18(6), (7), (8)(a), (b), (9); amended 1990 s.16(5).  |
| (8)          | 1993 Sch.2 para.4(3).   |
| 75           | 1983 Sch.7 para.4A; added 1992(2) Sch.3 para.67; amended Bankruptcy (Scotland) Act 1985 (c.66) s.75(11).    |
| 76(1)        | 1985 s.21(1); amended 1988 s.19(3); 1992(2) Sch.3 para.84(1).   |
| (2)          | 1985 s.21(1A); added 1988 s.19(3);.   |
| (3) to (5)   | 1985 s.21(2) to (4).  |
| (6)          | 1985 s.21(4A); added 1992(2) Sch.3 para.84(2).  |
| (7) to (10)  | 1985 s.21(5) to (8); amended 1992(2) Sch.3 para.84(3), (4); Bankruptcy (Scotland) Act 1985 (c.66) s.75(11). |
| 77           | 1985 s.22(1) to (5), (6); amended 1992(2) Sch.3 para.85.  |
| 78           | 1983 s.38A; added 1991 s.17   |
| (1) to (8)   | 1983 s.38A(1) to (8).   |
| (9)          | 1983 s.38A(8A); added 1992(2) s.15(2).  |
| (10) to (12) | 1983 s.38A(9) to (11).  |
| (13)         | 1983 s.38A(12); 1992(2) s.15(4).  |
| 79(1) to (3) | 1985 s.20(1) to (3); substituted 1988 s.20; 1994 s.46.  |
| (4)          | 1985 s.20(3A); added 1992(2) s.15(1).   |

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(5) to (7)	1985 s.20(4), (5), (7); substituted 1988 s.20.
80	1989 s.24; S.I.1989/2271.
81(1), (2)	1983 s.38B; added 1991 s.17.
(3) to (5)	1988 s.21; amended 1994 s.45.
82(1)	1983 s.40(1), Sch.8 para.1; 1985 s.30(1).
(2)	1983 s.40; 1994 s.7(1)
(3), (4)	1985 Sch.8 para.6.
83(a)	1983 s.40(1)(a).
(b)	1983 s.40(1)(b); amended 1992(2) Sch.3 para.40(a).
(c)	1983 s.40(1)(c).
(d)	1983 s.40(1)(fa); added 1992(2) Sch.3 para.40(c).
(e)	1983 s.40(1)(d); substituted 1987 Sch.2 para.4.
(f)	1983 s.40(1)(g).
(g)	1983 s.40(1)(e).
(h)	1983 s.40(1)(f); amended 1990 s.11(11)(b).
(j)	1983 s.40(1)(da); added 1992(2) Sch.3 para.40(b).
(k)	1983 s.40(1)(h).
(l)	1983 s.40(1)(n); amended 1992(2) Sch.3 para.40(f).
(m)	1983 s.40(1)(hza); added 1992(2) s.16(2).
(n)	1983 s.40(1)(o); added 1985 s.24(1); amended 1992(2) Sch.3 para.40(g).
(o)	1986 s.14(6).
(p)	1983 s.40(1)(m); amended 1992(2) Sch.3 para.40(e).
(q), (r)	1983 s.40(1)(p), (q); added 1985 s.24(1).
(s)	1983 s.40(1)(ha); added 1991 s.17(1).
(t)	1983 s.40(1)(s); added 1989 s.24(9).
(u)	1983 s.40(1)(hh); added 1986 s.10(2).
(v)	1983 s.40(1)(j).
(w)	1983 s.40(1)(ja); added 1992(2) Sch.3 para.40(d).
(x)	1983 s.40(1)(k).
(y)	1983 s.40(1)(r); added S.I.1987/1427 reg.11.

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(z)	1983 s.40(1)(1).
84(1)	
(2)	1983 s.40(2); amended 1985 s.24(3).
(3)	1983 s.40(3); amended 1985 s.24(4).
(4)	1983 s.40(3ZA); added 1993 s.46(1).
(5)	1983 s.40(3B); added (as (3A)) 1985 s.24(5); amended 1986 s.10(3).
(6)	1983 s.40(1A); added 1985 s.24(2) and amended 1993 Sch.2 para.3(2)(b); 1986 s.14(6).
(7)	1983 s.40(3A); added 1986 s.10(3).
(8) to (10)	1983 s.40(4) to (6); amended 1994 s.18(3).
(11)	1993 s.46(2).
85	1985 s.25.
86	1985 s.26(1), (2)(a), (3); amended Tribunals and Inquiries Act 1992 (c.53) Sch.3 para.17.
87	1985 s.29.
88(1)	1983 s.41(1); amended 1992(2) Sch.3 para.41(1).
(2), (3)	1983 s.41(2), (3).
(4)	1983 s.41(3A); added 1992(2) Sch.3 para.41(2).
(5), (6)	1983 s.41(4), (5).
(7)	1983 s.41(6); added 1992(2) Sch.3 para.41(3).
89(1)	1983 s.42(1).
(2)	1983 s.42(1A); added 1989 Sch.3 para.7(1).
(3)	1983 s.42(2); amended 1989 Sch.3 para.7(2).
90	1983 s.43; amended 1992(2) Sch.3 para.42.
91	1983 s.44; amended Transfer of Functions (Economic Statistics) Order 1989 S.I.1989/992.
92	1983 s.46A; amended 1992(2) Sch.3 para.44.
93	1983 s.46B; amended 1992(2) Sch.3 para.44.
94	1983 s.47.
95(1)	1983 s.47A(1); added 1992(2) Sch.3 para.45.
(2)	1983 s.47A(1A); added S.I. 1992/3127.

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(3) to (5)	1983 s.47A(2) to (4); added 1992(2) Sch.3 para.45.
96(1)	1983 s.48(1); amended 1987 s.13; 1989 Sch.3 para.9; 1992(2) Sch.3 para.46(1).
(2)	1983 s.48(9); added 1992(2) Sch.3 para.46(4).
(3)	1983 s.48(1A); added 1992(2) Sch.3 para.46(2).
(4)	1983 s.20(6).
(5)	1983 s.48(1B); added 1992(2) Sch.3 para.46(2).
(6), (7)	1983 s.48(4)
(8) to (11)	1983 s.48(5) to (8); amended 1992(2) Sch.3 para.46.
97(1)	1983 s.45(1).
(2)	1985 s.26(2)(b), 27(3)(c).
(3), (4)	1983 s.45(3), (4); amended 1987 s.16(2); 1992 s.6(2); para.(d) added 1989 Sch.3 para.8; para.(e) added 1992(2) s.16(3).
(5)	1983 s.45(2); 1985 s.15(8), 17(8), 17A(9), 18(8).
98	1983 s.46; amended 1992(2) Sch.3 para.43.
99	1983 s.49; amended 1992(2) Sch.3 para.47.
100	
101	
102	
Schedule 1	
para.1(1) to (4)	1983 Sch.1 para.1(1) to (4); substituted 1987 s.14(2); 1990 s.10(2), (3); amended 1992(2) Sch.3 para.48; S.I.1993/766; S.I.1993/2953.
(5), (6)	1983 Sch.1 para.1(4A), (4B); added 1992(2) Sch.3 para.48.
(7)	1983 Sch.1 para.1(5); substituted 1987 s.14(2); amended 1988 s.14(2); 1990 s.10(4); 1992(2) Sch.3 para.48.
(8)	1983 Sch.1 para.1(6); added 1989 Sch.3 para.10(a); amended 1990 s.10(5).
para.2(1) to (6)	1983 Sch.1 para.1A(1) to (6); added 1986 s.10(1); amended 1992(2) Sch.3 para.49(1).
(7)(a), (b)	1983 Sch.1 para.1A(7)(a), (b); added 1986 s.10(1).

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(c)	1983 Sch.1 para.1A(7)(ba); added 1992(2) Sch.3 para.49(2).
(d) to (f)	1983 Sch.1 para.1A(7)(c) to (e); added 1986 s.10(1).
(8)	1983 Sch.1 para.1A(8); added 1986 s.10(1).
para.3	1983 Sch.1 para.1B; added 1992(2) Sch.3 para.50.
para.4	1983 Sch.1 para.2; substituted 1987 s.14(3); amended 1988 s.14(2); 1989 Sch.3 para.10(b); 1992(2) Sch.3 para.51; S.I.1993/766; S.I.1993/2953.
para.5 to 8	1983 Sch.1 para.3, 4, 4A, 4B; substituted 1990 s.10(6); amended 1992(2) Sch.3 para.52.
para.9, 10	1983 Sch.1 para.5, 5A; substituted 1988 s.14(4); amended 1992(2) Sch.3 para.53; repealed in part 1992(2) Sch.18 Pt.V.
para.11, 12	1983 Sch.1 para.7, 7A; substituted 1988 s.14(5); amended 1992(2) Sch.3 para.54, 55.
para.13(1)	1983 Sch.1 para.8A(1); substituted 1988 s.14(6); amended 1992(2) Sch.3 para.56.
(2)	1983 Sch.1 para.9(1); amended 1992(2) Sch.3 para.57.
(3)	1983 Sch.1 para.10; substituted 1988 s.14(6).
(4)	1983 Sch.1 para.8A(1A), 9(1A); added 1992(2) Sch.3 para.56, 57.
(5)	1983 Sch.1 para.8A(1B), 9(1B); added 1992(2) Sch.3 para.56, 57.
(6)	1983 Sch.1 para.8A(2); substituted 1988 s.14(6); amended 1992(2) Sch.3 para.56.
para.14, 15	1983 Sch.1 para.11, 12; substituted 1988 s.14(7); amended 1992(2) Sch.3 para.58.
para.16	1983 Sch.1 para.13; substituted 1987 s.14(10).
para.17	1983 Sch.1 para.14.
para.18	1983 Sch.1 para.9(2); substituted 1988 s.14(6); amended 1992(2) Sch.3 para.57.
para.19	1983 Sch.1 para.15.
Schedule 2	1983 Sch.1A; added 1992(2) Sch.3 para.59.
Schedule 3	1983 Sch.1B; added 1992(2) Sch.3 para.59; amended S.I.1993/766; S.I.1993/2953.
Schedule 4	

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para.1 to 4	1983 Sch.2 para.1 to 4; amended 1989 Sch.3 para.11.
para.5(1), (2)	1983 Sch.2 para.5(1), (2); amended 1989 Sch.3 para.11; 1993 s.47(2).
(3)	1983 Sch.2 para.5(2A); added 1993 s.47(3).
(4)	1983 Sch.2 para.5(3).
(5)	1983 Sch.2 para.5(3A); added 1993 s.47(4).
(6)	1983 Sch.2 para.5(4).
para.6	1983 Sch.2 para.5A; added 1992(2) Sch.3 para.60.
para.7	1983 Sch.2 para.6
para.8(1), (2)	1983 Sch.2 para.7(1), (2); amended 1992(2) Sch.3 para.60.
(3)	1983 Sch.2 para.7(2A); added 1992(2) s.16(4).
(4)	1983 Sch.2 para.7(3)
para.9	1983 Sch.2 para.8; added 1989 Sch.3 para.11.
Schedule 5	
para.1 to 6	1983 Sch.3 para.1 to 6
para.7	1983 Sch.3 para.6A; added S.I.1985/799.
para.8	1983 Sch.3 para.7; amended S.I.1985/799.
para.9	1983 Sch.3 para.8; added S.I.1992/3128; substituted S.I.1993/2328.
para.10	S.I.1993/2328 para.4.
Schedule 6	
para.1	1983 Sch.4 para.1; amended 1987 s.17(1); Income and Corporation Taxes Act 1988 (c.1) Sch.29.
para.2	1983 Sch.4 para.3.
para.3	1983 Sch.4 para.3A; added 1992(2) Sch.3 para.61.
para.4	1983 Sch.4 para.4
para.5, 6, 7	1983 Sch.4 para.6, 7, 8; amended 1992(2) Sch.3 para.61.
para.8	1983 Sch.4 para.8A; added 1992(2) Sch.3 para.61.
para.9	1983 Sch.4 para.9; amended 1986 s.11; 1989 Sch.3 para.4(2).
para.10	1983 Sch.4 para.10.

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para.11	1983 Sch.4 para.11; substituted 1992(2) Sch.3 para.61.
para.12, 13	1983 Sch.4 para.12, 13.
Schedule 7	1983 Schedule 4A; added 1992(2) Sch.3 para.62.
Schedule 8	1983 Schedule 5
Group 1 to 4	Group 1 to 4; amended 1984 Sch.6 para.1; S.I.1988/507; 1989 s.19; S.I.1986/530; S.I.1992/628.
Group 5	Group 8; substituted 1989 Sch.3 para.1; amended S.I.1990/2553.
Group 6	Group 8A; added 1984 Sch.6 para.8.
Item 1, 2	Group 8A Item 1, 2; amended 1989 Sch.3 para.2.
Notes (1) to (8)	Group 8A Notes (1), (1A), (2), (3), (4), (6), (6A), (7); amended S.I.1985/18; 1989 Sch.3 para.2; Planning (Consequential Provisions) Act 1990 c.11 Sch.2 para.61; Planning (Northern Ireland) Order 1991 S.I.1220 (N.I. 11).
Group 7	Group 9; substituted S.I.1992/3223.
Group 8 Item 1 to 13	Group 10 Item 1 to 10, 12 to 14; amended S.I.1984/631; S.I.1987/1806; S.I.1990/752; S.I.1992/628; S.I.1992/3126; S.I.1992/3223.
Notes (1) to (9)	Group 10 Notes (1), (2), (2A), (3) to (8); amended S.I.1987/1806; S.I.1990/752; S.I.1992/3126.
Group 9	Group 11; amended 1989 Sch.3 para.3.
Group 10	Group 12.
Group 11	Group 13.
Group 12 Item 1 to 20	Group 14 Item 1 to 10, 10A, 10B, 11, 12, 12A, 13 to 17; amended DLA Sch.2 para.13; S.I.1984/489; S.I.1984/959; S.I.1986/530; S.I.1987/437; S.I.1992/628; S.I.1992/3065.
Notes (1) to (9)	Group 14 Notes (1) to (9); amended DLA Sch.2 para.13; S.I.1984/959; S.I.1985/919; S.I.1986/530.
Group 13	Group 15 Item 1, 3, 4, Notes (2) to (6); amended 1992(2) Sch.3 para.63; S.I.1992/3095 Sch.1 para.8.
Group 14	Group 15A; added S.I.1992/3131; S.I.1994/686.

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Group 15 Item 1 to 10	Group 16 Item 1 to 10; amended S.I.1986/530; S.I.1987/437; S.I.1990/750; S.I.1991/737.
Notes (1) to (12)	Group 16 Notes (1), (3) to (13); amended S.I.1983/1717; S.I.1984/766; S.I.1985/431; S.I.1986/530; S.I.1987/437; S.I.1989/470; S.I.1990/750; S.I.1990/2129; S.I.1991/737.
Group 16 Schedule 9	Group 17; amended 1989 s.22; S.I.1993/767. Schedule 6
Group 1 Item 1(a) to (n)	Group 1 Item 1(a), (aa), (b) to (l); substituted 1989 Sch.3 para.4; amended S.I.1990/2553; S.I.1991/2569.
Notes (1) to (16)	Group 1 Notes (1) to (6), (6A), (7) to (10), (10A), (10B), (11) to (13); amended S.I.1990/2553; S.I.1991/2569.
Group 2	Group 2; amended S.I.1990/2037.
Group 3	Group 3.
Group 4	Group 4 Item 1, 2, Notes (1), (2), (4); amended S.I.1987/517.
Group 5 Item 1 to 9	Group 5 Item 1 to 6, 6A, 7, 8; 1987 s.18(1); S.I.1987/860; S.I.1989/2272.
Notes (1) to (6)	Group 5 Notes (1) to (6); amended S.I.1985/432; S.I.1989/2272.
Group 6	Substituted S.I.1994/1188.
Group 7 Item 1 to 11	Group 7 Item (1) to (11); amended Opticians Act 1989 (c.44) s.37(3); S.I.1985/1900; 1988 s.13; S.I.1989/2272.
Notes (1) to (7)	Group 7 Notes (1) to (7); amended S.I.1985/1900; 1988 s.13.
Group 8	Group 8.
Group 9	Group 9.
Group 10	Group 10; amended S.I.1994/687.
Group 11	Group 11; amended Inheritance Tax 1984 (c.51) Sch.8 para.24; 1985 Sch.26 para.26; 1986 s.100.
Group 12	Group 12 Item 1, 2, Notes (1), (1A), (2); added S.I.1989/470; amended S.I.1991/737; S.I.1994/687.
Schedule 10 para.1, 2	1983 Schedule 6A; added 1989 Sch.3 para.6. 1983 Sch.6A para.1,2; amended S.I.1991/2569.



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para.3(1) to (6)	1983 Sch.6A para.3(1) to (6); amended S.I.1991/2569.
(7), (8)	1983 Sch.6A para.3(8), (9).
(9)	1983 Sch.6A para.3(10); added S.I.1991/2569.
para.4, 5	1983 Sch.6A para.4, 5; amended S.I.1991/2569.
para.6(1), (2)	1983 Sch.6A para.6(1),(2); amended S.I.1991/2569.
(3), (4)	1983 Sch.6A para.6(2A), (2B); added S.I.1991/2569.
(5)	1983 Sch.6A para.6(3).
(6) to (8)	1983 Sch.6A para.6(4) to (6); added S.I.1991/2569.
para.7	1983 Sch.6A para.6A; added S.I.1991/2569.
para.8, 9	1983 Sch.6A para.7, 8; amended S.I.1991/2569.
Schedule 11	
para.1	1983 Sch.7 para.1.
para.2(1), (2)	1983 Sch.7 para.2(1), (2); amended 1992(2) Sch.3 para.64.
(3) to (5)	1983 Sch.7 para.2(2A), (2B), (2C); added 1992(2) Sch.3 para.64.
(6)	1983 Sch.7 para.2(3).
(7)	1983 Sch.7 para.2(3A); added 1987 s.11(2).
(8), (9)	1983 Sch.7 para.2(3B), (3C); added 1992(2) Sch.3 para.64; amended 1993 s.50(4)
(10) to (13)	1983 Sch.7 para.2(4) to (7); amended 1989 s.25(2).
para.3(1), (2)	1983 Sch.7 para.3(1), (2)
(3)	1983 Sch.7 para.3(2A); amended 1992(2) Sch.3 para.65.
para.4	1983 Sch.7 para.5; amended 1992(2) Sch.3 para.68.
para.5	1983 Sch.7 para.6; amended 1984 s.16; Debtors (Scotland) Act (c.18) Sch.4 para.4; 1992(2) Sch.3 para.69.
para.6(1)	1983 Sch.7 para.7(1); amended 1992(2) Sch.3 para.70.
(2)	1983 Sch.7 para.7(1A); added 1989 s.25.

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(3) to (6)	1983 Sch.7 para.7(2) to (5); amended 1985 Sch.7 para.2; PACE Sch.6 para.41.
para.7(1) to (4)	1983 Sch.7 para.8(1) to (4); amended 1985 Sch.7 para.3; 1992(2) Sch.3 para.71.
(5) to (7)	1983 Sch.7 para.8(4A), (4B), (4C); amended 1985 Sch.7 para.3.
(8)	1983 Sch.7 para.8(5).
para.8	1983 Sch.7 para.9; amended 1992(2) Sch.3 para.72.
para.9	1983 Sch.7 para.9A; added 1985 Sch.7 para.4.
para.10	1983 Sch.7 para.10; amended PACE Sch.6 para.41; 1985 Sch.7 para.5; 1992(2) Sch.3 para.73.
para.11 to 13	1983 Sch.7 para.10A, 10B, 10C; added 1985 Sch.7 para.6.
para.14	1983 Sch.7 para.11; amended 1992(2) Sch.3 para.74.
Schedule 12	
para.1	1983 Sch.8 para.1; 1994 s.7.
para.2	1983 Sch.8 para.2; amended 1985 Sch.8 para.2; CLSA Sch.10 para.52.
para.3(1)	1983 Sch.8 para.3(1); substituted JPRA Sch.6 para.35.
(2) to (4)	1983 Sch.8 para.3(2) to (4); amended 1985 Sch.8 para.3.
(5)	1983 Sch.8 para.3(4A); added JPRA Sch.8 para.16.
(6)	1983 Sch.8 para.3(5); amended 1985 Sch.8 para.3.
para.4	1983 Sch.8 para.4; amended 1985 Sch.8 para.4.
para.5, 6	1983 Sch.8 para.5, 6.
para.7(1) to (3)	1983 Sch.8 para.7(1) to (3).
(4) to (7)	1983 Sch.8 para.7(3A), (3B), (3C), (3E); added 1985 Sch.8 para.5; amended CLSA Sch.10 para.52; JPRA Sch.6 para.35.
(8)	1983 Sch.8 para.7(4); amended 1985 Sch.8 para.5.
(9)	1983 Sch.8 para.7(4A); added JPRA 1993 Sch.8 para.16.

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**Changes to legislation:** Value Added Tax Act 1994 is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

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(10)	1983 Sch.8 para.7(5); amended 1985 Sch.8 para.5.
para.8	1983 Sch.8 para.8
para.9	1983 Sch.8 para.9; 1985 s.27(3).
(a) to (d)	1983 Sch.8 para.9(a) to (d).
(e)	1983 Sch.8 para.9(dd); added 1985 s.27(2).
(f) to (h)	1983 Sch.8 para.9(e) to (g); amended 1985 s.27(2).
(j)	1986 s.14(7)
para.10	1983 Sch.8 para.10; added 1985 s.28.

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