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## SCHEDULES

### SCHEDULE 1 **U.K.**

Section 1.

#### TABLE OF RATES OF DUTY ON WINE AND MADE-WINE

#### “PART I **U.K.**

WINE OR MADE-WINE OF A STRENGTH NOT EXCEEDING 22 PER CENT.

<i>Description of wine or made-wine</i>	<i>Rates of duty per hectolitre</i>
	£
Wine or made-wine of a strength not exceeding 2 per cent.	13.48
Wine or made-wine of a strength exceeding 2 per cent. but not exceeding 3 per cent.	22.46
Wine or made-wine of a strength exceeding 3 per cent. but not exceeding 4 per cent.	31.45
Wine or made-wine of a strength exceeding 4 per cent. but not exceeding 5 per cent.	40.44
Wine or made-wine of a strength exceeding 5 per cent. but not exceeding 5.5 per cent.	49.42
Wine or made-wine of a strength exceeding 5.5 per cent. but not exceeding 15 per cent. and not being sparkling	134.77
Sparkling wine or sparkling made-wine of a strength exceeding 5.5 per cent. but not exceeding 15 per cent.	222.55
Wine or made-wine of a strength exceeding 15 per cent. but not exceeding 22 per cent.	207.33

#### PART II **U.K.**

WINE OR MADE-WINE OF A STRENGTH EXCEEDING 22 PER CENT.

<i>Description of wine or made-wine</i>	<i>Rates of duty per litre of alcohol in the wine or made-wine</i>
	£

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Wine or made-wine of a strength exceeding 19.81”  
22 per cent.

SCHEDULE 2 **U.K.**

Section 5.

VEHICLES EXCISE DUTY: MISCELLANEOUS PROVISIONS

F1<sub>1</sub> .....

**Textual Amendments**

F1 Sch. 2 para. 1 repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1)(2), Sch. 5 Pt. I (with s. 57(4))

F2<sub>2</sub> .....

**Textual Amendments**

F2 Sch. 2 para. 2 repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1)(2), Sch. 5 Pt. I (with s. 57(4))

F3<sub>3</sub> .....

**Textual Amendments**

F3 Sch. 2 para. 3 repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1)(2), Sch. 5 Pt. I (with s. 57(4))

F4<sub>4</sub> .....

**Textual Amendments**

F4 Sch. 2 para. 4 repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1)(2), Sch. 5 Pt. I (with s. 57(4))

F5<sub>5</sub> .....

**Textual Amendments**

F5 Sch. 2 para. 5 repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1)(2), Sch. 5 Pt. I (with s. 57(4))

F6<sub>6</sub> .....

**Textual Amendments**

F6 Sch. 2 para. 6 repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1)(2), Sch. 5 Pt. I (with s. 57(4))

F7<sub>7</sub> .....

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**Textual Amendments**

**F7** Sch. 2 para. 7 repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1)(2), **Sch. 5 Pt. I** (with s. 57(4))

**F8** .....

**Textual Amendments**

**F8** Sch. 2 para. 8 repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1)(2), **Sch. 5 Pt. I** (with s. 57(4))

**F9** .....

**Textual Amendments**

**F9** Sch. 2 para. 9 repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1)(2), **Sch. 5 Pt. I** (with s. 57(4))

**F10**10 .....

**Textual Amendments**

**F10** Sch. 2 para. 10 repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1)(2), **Sch. 5 Pt. I** (with s. 57(4))

**F11**11 .....

**Textual Amendments**

**F11** Sch. 2 para. 11 repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1)(2), **Sch. 5 Pt. I** (with s. 57(4))

**F12**12 .....

**Textual Amendments**

**F12** Sch. 2 para. 12 repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1)(2), **Sch. 5 Pt. I** (with s. 57(4))

**F13**13 .....

**Textual Amendments**

**F13** Sch. 2 para. 13 repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1)(2), **Sch. 5 Pt. I** (with s. 57(4))

**F14**14 .....

**Textual Amendments**

**F14** Sch. 2 para. 14 repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1)(2), **Sch. 5 Pt. I** (with s. 57(4))

**F15**15 .....

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**Textual Amendments**

**F15** Sch. 2 para. 15 repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1)(2), **Sch. 5 Pt. I** (with s. 57(4))

<sup>F16</sup>16 .....

**Textual Amendments**

**F16** Sch. 2 para. 16 repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1)(2), **Sch. 5 Pt. I** (with s. 57(4))

<sup>F17</sup>17 .....

**Textual Amendments**

**F17** Sch. 2 para. 17 repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1)(2), **Sch. 5 Pt. I** (with s. 57(4))

<sup>F18</sup>18 .....

**Textual Amendments**

**F18** Sch. 2 para. 18 repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1)(2), **Sch. 5 Pt. I** (with s. 57(4))

<sup>F19</sup>19 .....

**Textual Amendments**

**F19** Sch. 2 para. 19 repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1)(2), **Sch. 5 Pt. I** (with s. 57(4))

<sup>F20</sup>20 .....

**Textual Amendments**

**F20** Sch. 2 para. 20 repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1)(2), **Sch. 5 Pt. I** (with s. 57(4))

<sup>F21</sup>21 .....

**Textual Amendments**

**F21** Sch. 2 para. 21 repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1)(2), **Sch. 5 Pt. I** (with s. 57(4))

<sup>F22</sup>22 .....

**Textual Amendments**

**F22** Sch. 2 para. 22 repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1)(2), **Sch. 5 Pt. I** (with s. 57(4))

<sup>F23</sup>23 .....

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**Textual Amendments**

**F23** Sch. 2 para. 23 repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1)(2), **Sch. 5 Pt. I** (with s. 57(4))

24 In Article 34 of the <sup>M1</sup>Road Traffic (Northern Ireland) Order 1981 (obligatory vehicle test certificates), the following paragraph shall be substituted for paragraph (3)—

“(3) For the purposes of paragraph (2)(b) there shall be disregarded—  
(a) the use of a vehicle before it is sold or supplied by retail; and  
(b) the use of a vehicle to which a motor dealer has assigned a mark under section 20 of the Vehicles (Excise) Act 1971 before it is registered by the Secretary of State under section 19(1)(b) of that Act.”

**Marginal Citations**

**M1** S.I. 1981/154 (N.I.1).

25 In section 47 of the <sup>M2</sup>Road Traffic Act 1988 (obligatory test certificates), the following subsection shall be substituted for subsection (4)—

“(4) For the purposes of subsection (2)(b) above there shall be disregarded—  
(a) the use of a vehicle before it is sold or supplied by retail, and  
(b) the use of a vehicle to which a motor dealer has assigned a mark under section 20 of the Vehicles (Excise) Act 1971 before it is registered by the Secretary of State under section 19(1)(b) of that Act.”

**Marginal Citations**

**M2** 1988 c. 52.

<sup>F24</sup>26 .....

**Textual Amendments**

**F24** Sch. 2 para. 26 repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1)(2), **Sch. 5 Pt. I** (with s. 57(4))

<sup>F25</sup>27 .....

**Textual Amendments**

**F25** Sch. 2 para. 27 repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1)(2), **Sch. 5 Pt. I** (with s. 57(4))

<sup>F26</sup>28 .....

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#### Textual Amendments

**F26** Sch. 2 para. 28 repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1)(2), Sch. 5 Pt. I (with s. 57(4))

29 Paragraphs <sup>F27</sup> . . . , 24 and 25 shall come into force on 1st June 1994.

#### Textual Amendments

**F27** Words in Sch. 2 para. 29 repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1), Sch. 5 Pt. I (with s. 57(4))

## SCHEDULE 3 U.K.

Section 6.

### AMENDMENTS ABOUT GAMING MACHINE LICENCE DUTY

#### *Licences for periods beginning on or after 1st May 1994*

- 1 (1) The <sup>M3</sup>Betting and Gaming Duties Act 1981 shall be amended as follows.
- (2) For section 21(3) (period of gaming machine licences) there is substituted—
- “(3) A gaming machine licence may be granted for a period of a month, or of any number of months not exceeding twelve, beginning on any day of any month”.
- (3) Section 22(5) (rates of duty) is omitted.
- (4) For section 23 (amount of duty) there is substituted—

#### “23 Amount of duty.

- (1) The amount of duty payable on a gaming machine licence shall be—
- the appropriate amount for the machine which it authorises, or
  - if it authorises two or more machines, the aggregate of the appropriate amounts for each of those machines.
- (2) The appropriate amount for each machine shall be determined in accordance with the following Table by reference to—
- the period for which the licence is granted, and
  - whether the machine falls within column 2 or column 3 of the Table, and references in this Part to a rate of gaming machine licence duty are references to the rate in column 2 or the rate in column 3.

TABLE

<i>(1) Period (in months) for which licence granted</i>	<i>(2) Small prize or five-penny machines</i>	<i>(3) Other machines</i>
1	50	125

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2	90	230
3	130	335
4	170	435
5	210	540
6	245	630
7	290	735
8	330	840
9	365	930
10	405	1,035
11	425	1,090
12	450	1,150”

- (5) In section 24 (restrictions on number of licences)—
- (a) subsection (2),
  - (b) in subsections (3) and (4), “such”, and
  - (c) in subsection (6)(a), the words from “or” at the end of sub-paragraph (i) to “greater”,
- are omitted.
- (6) In section 26 (supplementary provisions), in subsection (4)—
- (a) “section 22(5) or” is omitted, and
  - (b) for “those provisions” there is substituted “ that provision ”.
- (7) In Part II of Schedule 4 (supplementary provisions) for paragraphs 6 and 7 (applications and duration of licences) there is substituted—
- “6 An application for a gaming machine licence shall be made to the Commissioners in such form and manner as they may require.
- 7 The period for which a gaming machine licence is granted shall begin with the day on which application for the licence is received by the Commissioners or, if a later day is specified for that purpose in the application, with that day; and the licence shall expire at the end of that period.”
- (8) Paragraphs 9 to 11A of that Schedule (amendment, etc.) shall not apply at any time before 1st May 1994 to any licence in relation to which this paragraph has effect.
- (9) This paragraph shall have effect in relation to gaming machine licences granted for any period beginning on or after 1st May 1994.

**Marginal Citations**

M3 1981 c. 63.

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### *Special licences*

- 2 No special licence (as defined in section 21(2) of the <sup>M4</sup>Betting and Gaming Duties Act 1981) may be granted for any period beginning on or after 1st May 1994.

#### **Marginal Citations**

**M4** 1981 c. 63.

- 3 (1) Accordingly, that Act shall be amended as follows.
- (2) In section 21, for the words following “force” in subsection (1) to the end of subsection (2) there is substituted—
- “a licence granted under this Part of this Act with respect to the premises.
- (2) Such a licence shall be known as a gaming machine licence”.
- (3) Section 21A (special licences) is omitted.
- (4) In section 24—
- (a) in subsection (3), the words from “but” to the end are omitted, and
- (b) in subsection (4), the words “or there are special licences in force with respect to those machines” are omitted.
- (5) In paragraph 8 of Schedule 4 (transfer of licences), in sub-paragraph (1), for paragraphs (a) and (b) there is substituted “transfer a gaming machine licence in respect of any premises to a successor in title to the interest in those premises of the person to whom the licence was granted”.
- (6) Paragraph 11(2) of that Schedule is omitted.
- (7) In paragraph 12 of that Schedule (display of licence), for “an ordinary licence” there is substituted “a gaming machine licence”.
- <sup>F28</sup>(8) .....
- (9) In paragraph 18 of that Schedule (forfeiture), for paragraphs (a) and (b) there is substituted “those machines which are authorised by the gaming machine licence or licences produced to him”.
- (10) Paragraph 4(2) below shall cease to have effect.
- (11) This paragraph shall come into force on 1st May 1995.

#### **Textual Amendments**

**F28** Sch. 3 para. 3(8) repealed (1.5.1995 with effect as mentioned in s. 14(2)(3) of the repealing Act) by 1995 c. 4, ss. 14, 162, **Sch. 29 Pt. III**, Note 1

### *Seasonal licences*

- 4 (1) In Part I of Schedule 4 to that Act (exemptions), for paragraph 4 (and the cross-heading preceding it) there shall be substituted—



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*“ Seasonal licences*

- 4
- (1) If at any time during March of any year there has previously been granted a seasonal licence for that year authorising the provision of any number of small-prize machines on any premises and that licence has not been surrendered, it shall be treated for the purposes of this Act as authorising the provision at that time of that number of small-prize machines on the premises.
  - (2) Where a seasonal licence is granted for any year authorising the provision of any number of small-prize machines on any premises, and the licence is not surrendered, it shall be treated for the purposes of this Act as authorising during October of that year the provision of that number of small-prize machines on the premises.
  - (3) Subject to sub-paragraph (4) below, in this Schedule “seasonal licence”, in relation to any year, means a gaming machine licence expressed to authorise only the provision of small-prize machines on any premises for the period of six months beginning with 1st April in that year.
  - (4) A licence in respect of any premises is not a seasonal licence in relation to any year if any gaming machine licence has been granted in respect of those premises for any period which includes the whole or any part of the preceding winter period.
  - (5) If in relation to any year—
    - (a) a seasonal licence is granted in respect of any premises, and
    - (b) another gaming machine licence is granted (whether before or after the grant of the seasonal licence or after the surrender of the seasonal licence) in respect of those premises for any period which includes the whole or any part of the following winter period (and does not include the whole or any part of the preceding winter period),there shall (unless an amount has already become payable under this sub-paragraph in respect of the seasonal licence) be payable on the seasonal licence on the relevant date an additional amount of duty.
  - (6) The additional amount is the difference between the duty payable (apart from this paragraph) on that licence at the time it was granted and the amount that would have been so payable if the licence had been granted for a period of eight months or, in a case where the seasonal licence has been surrendered before the beginning of September, seven months.
  - (7) In sub-paragraph (5) above, the “relevant date” means—
    - (a) the date on which the seasonal licence is granted, or
    - (b) the date on which the other licence is granted,whichever is the later.
  - (8) In this paragraph “winter period” means November to February.”

<sup>F29</sup>(2) .....

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- (3) Sections 21(3) and 23 of that Act (as inserted by this Schedule) shall have effect for the purposes of paragraph 4(6) of that Schedule (as so inserted) in relation to gaming machine licences granted for the period of six months beginning with 1st April 1994.
- (4) This paragraph shall have effect in relation to gaming machine licences granted for any period beginning on or after 1st April 1994.

#### Textual Amendments

**F29** Sch. 3 para. 4(2) ceased to have effect (1.5.1995) by virtue of 1994 c. 9, s. 6, **Sch. 3 para. 3(10)(11)**

#### *Amendment and surrender of licences*

- 5 (1) Part II of Schedule 4 to that Act shall be amended as follows.
- (2) Paragraphs 9 and 10 (amendment of licences) are omitted.
- (3) In paragraph 11 (surrender of licence), for sub-paragraph (1) there is substituted—
- “(1) The holder of a gaming machine licence may surrender it to the proper officer at any time.
- (1A) On the surrender of the licence the holder shall be entitled to repayment of duty of the following amount.
- (1B) That amount is the difference between—
- (a) the amount of duty actually paid on the licence, and
- (b) the amount (if less) that would have been paid if the period for which the licence was granted had been reduced by the number of complete months in that period which have not expired,
- and for the purposes of this paragraph a seasonal licence is to be treated as granted for the period of eight months beginning with 1st March”.
- (4) Paragraph 11A (reduction of duty in certain cases) is omitted.
- (5) Sub-paragraph (3) above shall not apply to special licences; and sections 21(3) and 23 of that Act (as inserted by this Schedule) shall have effect for the purposes of paragraph 11(1B)(b) of that Schedule (as so inserted) in relation to gaming machine licences granted for any period beginning before 1st May 1994.
- (6) This paragraph shall come into force on 1st May 1994.

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## SCHEDULE 4 **U.K.**

Section 9.

### PENALTIES FOR STATUTORY CONTRAVENTIONS

#### PART I **U.K.**

##### CONTRAVENTIONS UNDER THE MANAGEMENT ACT

- 1 The Management Act shall be amended in accordance with the following provisions of this Part of this Schedule.
- 2 (1) In subsection (6) of section 92 (offence of making alteration in or addition to approved warehouse), for the words from “he shall be liable” onwards there shall be substituted “ the making of the alteration or addition shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties). ”  
(2) For subsection (8) of that section (offence of contravening condition or direction given in connection with the approval of a warehouse) there shall be substituted the following subsection—

“(8) Where any person contravenes or fails to comply with any condition imposed or direction given by the Commissioners under this section, his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties).”
- 3 In section 93(6) (offence of failing to comply with any warehousing regulations or with any condition, restriction or requirement imposed under any warehousing regulations), for the words from “he shall be liable” onwards there shall be substituted “ his failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties). ”
- 4 In section 100J (offence and forfeiture in the case of a contravention of REDS regulations), for the words from “he shall be liable” onwards there shall be substituted “ his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties), and any goods in respect of which any person contravenes any provision of any such regulations, or fails to comply with any such condition or restriction, shall be liable to forfeiture. ”
- 5 In section 101(4) (offence of failing to produce licence after being requested to do so)—
  - (a) for “a reasonable time” there shall be substituted “ one month ”; and
  - (b) for the words from “he shall be liable” onwards there shall be substituted “ his failure shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties). ”
- 6 (1) In subsection (2) of section 107 (offence of failing to display notice or comply with directions as to the form and manner of a notice), for the words from “he shall be liable” onwards there shall be substituted “ his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties). ”  
(2) In subsection (3) of that section (offence of affixing misleading notice), for the words from “he shall be liable” onwards there shall be substituted “ his doing so shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties). ”
- 7 In section 108(4) (offence of contravening directions in relation to premises etc. entered under the revenue trade provisions), for the words from “he shall be

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- liable” onwards there shall be substituted “ his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties). ”
- 8 (1) In subsection (1) of section 111 (using premises or article without having entered them), for the words from “he shall be liable” to the words “and any”, in the first place where they occur, there shall be substituted “ his use of the premises or article shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties), and any ”.
- (2) Subsection (2) of that section (fraudulent use of entered premises or article) shall cease to have effect.
- 9 In section 114(2) (offence of using prohibited substance or liquor), for the words from “he shall be liable” onwards there shall be substituted “ his use of that substance or liquor in that manner shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties); but section 10 of that Act (exception for cases of reasonable excuse) shall not apply in relation to conduct attracting a penalty by virtue of this subsection. ”
- 10 (1) In subsection (4) of section 115 (offence of tampering etc. with specimen)—
- (a) for “any person other than an officer” there shall be substituted “ the revenue trader ”; and
- (b) for the words from “he shall be liable” onwards there shall be substituted “ his doing so shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties). ”
- (2) After that subsection there shall be inserted the following subsection—
- “(5) For the purposes of subsection (4) above and without prejudice to section 10(1) of the Finance Act 1994 (exception for cases of reasonable excuse), conduct by an employee of the revenue trader or by any other person entitled to act on the trader’s behalf in connection with his trade shall be deemed to be conduct by that trader except in so far as he took all reasonable steps to prevent it.”
- 11 In section 116(3) (offence of failing to pay duty on demand), for the words from “the trader shall” onwards there shall be substituted “ the trader’s failure to pay the duty on demand shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties) which shall be calculated by reference to the amount of the duty demanded and shall also attract daily penalties. ”
- 12 In section 118G (offences in connection with record keeping etc. by revenue traders), for the words from “he shall be liable” onwards there shall be substituted “ his failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties) and, in the case of any failure to keep records, shall also attract daily penalties. ”

F30 13 .....

#### Textual Amendments

**F30** Sch. 4 para. 13 omitted (1.4.2010) (with effect in accordance with art. 3 of the commencing S.I.) by virtue of Finance Act 2008 (c. 9), s. 123(2), Sch. 41 para. 25(e)(ii); S.I. 2009/511, art. 2 (with art. 4)

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## PART II U.K.

### CONTRAVENTIONS UNDER THE ALCOHOLIC LIQUOR DUTIES ACT 1979

- 14 The <sup>M5</sup>Alcoholic Liquor Duties Act 1979 shall be amended in accordance with the following provisions of this Part of this Schedule.

#### Marginal Citations

M5 1979 c. 4.

- 15 In section 8(2) (offence of contravening condition of remission of duty on spirits used for medical or scientific purposes), for the words from “then” onwards there shall be substituted “ his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties). ”
- 16 In section 10(2) (offence of contravening condition of remission of duty on spirits used in art or manufacture), for the words from “then” onwards there shall be substituted “ his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties). ”
- 17 (1) In subsection (3) of section 13 (offence and forfeiture in the case of a contravention of regulations etc. applying to the manufacture of spirits)—
- (a) for the words from “he shall” to “continues” there shall be substituted “ his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties) ”; and
  - (b) for the words from “in respect of which” onwards there shall be substituted “ in respect of which any person contravenes any such regulation, or fails to comply with any such regulation, condition, restriction or requirement, shall be liable to forfeiture. ”
- (2) Subsection (4) of that section (power to vary penalty under subsection (3)) shall cease to have effect.
- (3) In subsection (5) of that section (offence and forfeiture in the case of a contravention of any condition imposed with respect to any process of manufacture involving spirits), for the words from “he shall be liable” onwards there shall be substituted “ his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties), and any spirits in respect of which any person contravenes or fails to comply with any such condition shall be liable to forfeiture. ”
- 18 (1) In subsection (4) of section 15 <sup>F31</sup>....
- (2) For subsection (5) of that section there shall be substituted the following subsection—
- “(5) Where, after the approval of a distiller’s warehouse, the distiller by whom it is provided makes, without the previous consent of the Commissioners, an alteration in or addition to that warehouse, the making of the alteration or addition shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties).”
- (3) In subsection (7) of that section (offence and forfeiture in the case of a contravention of regulations relating to a distiller’s warehouse), for the words from “he shall” onwards there shall be substituted “ his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties), and any

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spirits in respect of which any person contravenes any such regulation, or fails to comply with any such regulation or condition, shall be liable to forfeiture. ”

(4) Subsection (8) of that section (power to vary penalty under subsection (7)) shall cease to have effect.

**Textual Amendments**

**F31** Words in Sch. 4 para. 18(1) repealed (19.7.2006) by [Finance Act 2006 \(c. 25\)](#), [Sch. 26 Pt. 1\(1\)](#)

19 (1) In subsection (2) of section 16 (offence and forfeiture in the case of a contravention of regulations relating to racking at a distillery), for the words from “he shall be liable” onwards there shall be substituted “ his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties), and any spirits in respect of which any person contravenes or fails to comply with any such regulation shall be liable to forfeiture. ”

(2) In subsection (3) of that section (forfeiture and offence in the case of an excess of stock), for the words from “the distiller shall be liable” onwards there shall be substituted “ there shall be deemed to have been conduct by the distiller attracting a penalty under section 9 of the Finance Act 1994 (civil penalties). ”

20 In section 18(6) (rectifying or compounding spirits in contravention of an excise licence), for the words from “he shall be liable” onwards there shall be substituted “ his doing so shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties). ”

21 (1) In subsection (2) of section 19 (offence and forfeiture in the case of contraventions of obligations imposed by or under regulations relating to the rectifying etc. of spirits), for the words from “he shall” onwards there shall be substituted “ his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties), and any spirits and any other article in respect of which any person contravenes any such regulation, or fails to comply with any such regulation, condition, requirement or restriction, shall be liable to forfeiture. ”

(2) Subsection (3) of that section (power to vary penalty under subsection (2)) shall cease to have effect.

22 In each of subsections (1) and (2) of section 20 (forfeiture and offences in the case of an excess or deficiency of stock), for the words from “the rectifier shall be liable” onwards there shall be substituted “ there shall be deemed to have been conduct by the rectifier attracting a penalty under section 9 of the Finance Act 1994 (civil penalties). ”

<sup>F32</sup>23 .....

**Textual Amendments**

**F32** Sch. 4 para. 23 repealed (19.7.2006) by [Finance Act 2006 \(c. 25\)](#), [Sch. 26 Pt. 1\(1\)](#)

<sup>F33</sup>24 .....

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**Textual Amendments**

**F33** Sch. 4 para. 24 omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [s. 187\(2\)\(c\)](#)

<sup>F34</sup>25 .....

**Textual Amendments**

**F34** Sch. 4 para. 25 repealed (19.7.2006) by [Finance Act 2006 \(c. 25\)](#), [Sch. 26 Pt. 1\(1\)](#)

26 (1) In subsection (1) of section 33 (offence and forfeiture in the case of the use of spirits relieved from spirits duty), in the words after paragraph (c), for the words from “he shall” to “greater” there shall be substituted “ his doing so shall, unless he has complied with the requirements specified in subsection (2) below, attract a penalty under section 9 of the Finance Act 1994 (civil penalties) ”.

(2) In subsection (5) of that section (contravention of enforcement regulations), for the words from “he shall be liable” onwards there shall be substituted “ his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties). ”

27 For subsection (2) of section 34 (offence of contravening prohibition on grogging) there shall be substituted the following subsection—

“(2) A contravention of this section shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties).”

<sup>F35</sup>28 .....

**Textual Amendments**

**F35** Sch. 4 para. 28 repealed (19.7.2006) by [Finance Act 2006 \(c. 25\)](#), [Sch. 26 Pt. 1\(1\)](#)

29 In section 41A(8) (offence and forfeiture in the case of a contravention of a condition of registration), for the words from “he shall be liable” onwards there shall be substituted “ his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties), and any beer in respect of which any person contravenes or fails to comply with any such condition shall be liable to forfeiture. ”

30 In section 44(2) (offence of contravening condition imposed in connection with remission of duty on beer used for the purposes of research or experiment), for the words from “then” onwards there shall be substituted “ his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties). ”

31 In section 46(2) (offence of contravening regulations relating to the remission of duty on spoilt beer), for the words from “he shall be liable” onwards there shall be substituted “ his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties). ”

32 (1) In subsection (4) of section 47 (offence of failing to apply for registration as a brewer), for the words from “he shall be liable” to “scale;” there shall be substituted

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“ his failure shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties) ”.

(2) In subsection (5) of that section (offence and forfeiture in the case of the production of beer by an unregistered person), for the words from “he shall be liable” onwards there shall be substituted “ his doing so shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties) which shall be calculated by reference to the amount of duty charged on the beer produced, and the beer produced and any worts found on those premises shall be liable to forfeiture. ”

33 For subsection (3) of section 49 (offence and forfeiture in the case of a contravention of beer regulations) there shall be substituted the following subsection—

“(3) Where any person contravenes or fails to comply with any regulation made under this section, his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties), and any article or substance in respect of which any person contravenes or fails to comply with any such regulation shall be liable to forfeiture.”

34 In section 54(5) (offence of producing wine on unlicensed premises), for the words from “he shall” to “and the wine” there shall be substituted “ his doing so shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties) which shall be calculated by reference to the amount of duty charged on the wine produced, and the wine ”.

35 In section 55(6) (offence of producing made-wine on unlicensed premises), for the words from “he shall” to “and the made-wine” there shall be substituted “ his doing so shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties) which shall be calculated by reference to the amount of duty charged on the made-wine produced, and the made-wine ”.

F36 36 .....

**Textual Amendments**  
F36 Sch. 4 para. 36 repealed (19.7.2006) by [Finance Act 2006 \(c. 25\)](#), [Sch. 26 Pt. 1\(1\)](#)

37 In section 56(2) (offence and forfeiture in the case of a contravention of regulations relating to wine and made-wine), for the words from “he shall be liable” onwards there shall be substituted “ his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties), and any article in respect of which any person contravenes or fails to comply with any such regulation shall be liable to forfeiture. ”

38 For subsection (2) of section 59 (offence of rendering wine or made-wine sparkling) there shall be substituted the following subsection—

“(2) Where any person contravenes subsection (1) above or is concerned in such a contravention, his contravention or, as the case may be, his being so concerned shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties).”

39 In section 61(2) (offence of contravening regulations relating to the remission of duty on spoilt wine or made-wine), for the words from “he shall be liable” onwards there shall be substituted “ his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties). ”



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40 (1) In subsection (4) of section 62 (offence of producing cider on unlicensed premises), for the words from “he shall” to “and the cider” there shall be substituted “ his doing so shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties) which shall be calculated by reference to the amount of duty charged on the cider made, and the cider ”.

(2) In subsection (6) of that section (offence and forfeiture in the case of a contravention of regulations made for the purposes of managing the duty on cider), for the words from “he shall be liable” onwards there shall be substituted “ his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties), and any article in respect of which any person contravenes or fails to comply with any such regulation shall be liable to forfeiture. ”

41 In section 64(2) (offence of contravening regulations relating to the remission of duty on spoilt cider), for the words from “he shall be liable” onwards there shall be substituted “ his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties). ”

F37 42 .....

**Textual Amendments**

F37 Sch. 4 paras. 42-44 repealed (19.7.2006) by [Finance Act 2006 \(c. 25\)](#), [Sch. 26 Pt. 1\(1\)](#)

F37 43 .....

**Textual Amendments**

F37 Sch. 4 paras. 42-44 repealed (19.7.2006) by [Finance Act 2006 \(c. 25\)](#), [Sch. 26 Pt. 1\(1\)](#)

F37 44 .....

**Textual Amendments**

F37 Sch. 4 paras. 42-44 repealed (19.7.2006) by [Finance Act 2006 \(c. 25\)](#), [Sch. 26 Pt. 1\(1\)](#)

45 In section 75(5) (offence of unlicensed methylation of spirits)—  
(a) for “Any person who” there shall be substituted “ Where any person ”; and  
(b) for the words from “shall be liable” onwards there shall be substituted “ his doing so shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties). ”

46 (1) In subsection (3) of section 77 (offence of contravening regulations relating to methylated spirits or any condition, restriction or requirement imposed under any such regulations), for the words from “he shall be liable” onwards there shall be substituted “ his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties). ”

(2) In subsection (4) of that section (offence of unlicensed dealing in methylated spirits), for the words from “he shall be liable” onwards there shall be substituted “ his doing so shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties). ”

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- (3) In subsection (5) of that section (forfeiture), for “an offence under subsection (3) or (4) above is committed” there shall be substituted “ there is such a contravention or failure to comply as is mentioned in subsection (3) above or any such dealing as is mentioned in subsection (4) above ”.

F38 47 .....

#### Textual Amendments

**F38** Sch. 4 para. 47 repealed (1.7.2005) by [Finance Act 1995 \(c. 4\)](#), s. 5(6), [Sch. 29 Pt. I\(3\)](#); S.I. 2005/1523, art. 2 (with art. 3)

F39 48 .....

#### Textual Amendments

**F39** Sch. 4 para. 48 repealed (19.7.2006) by [Finance Act 2006 \(c. 25\)](#), [Sch. 26 Pt. 1\(1\)](#)

### PART III U.K.

#### CONTRAVENTIONS UNDER THE HYDROCARBON OIL DUTIES ACT 1979

- 49 The <sup>M6</sup>Hydrocarbon Oil Duties Act 1979 shall be amended in accordance with the following provisions of this Part of this Schedule.

#### Marginal Citations

**M6** 1979 c. 5.

- 50 (1) In subsection (3) of section 10 (offences in connection with use etc. of oil that has been relieved of duty for a purpose which does not qualify for relief)—
- (a) for “A person who” there shall be substituted “ Where any person ”; and
  - (b) for the words from “shall be liable” to “greater” there shall be substituted “ his use or acquisition of the oil or, as the case may be, his becoming so liable shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties) ”.
- (2) In subsection (4) of that section (offence of supplying for a use that does not qualify for relief)—
- (a) for “A person who” there shall be substituted “ Where any person ”;
  - (b) for the words from “shall be liable” to “greater, if” there shall be substituted “ and ”; and
  - (c) at the end there shall be inserted “ his supplying the oil shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties) ”.
- 51 (1) In subsection (1) of section 13 (offences in connection with use etc. of heavy oil)—
- (a) for “A person who” there shall be substituted “ Where any person ”; and
  - (b) for the words from “shall be liable” to “greater” there shall be substituted “ his use of the oil or, as the case may be, his becoming so liable shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties) ”.

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- (2) In subsection (2) of that section (offence of supplying heavy oil for a use in contravention of section 12(2))—
- (a) for “A person who” there shall be substituted “Where any person”;
  - (b) for the words from “shall be liable” to “greater, where” there shall be substituted “and”; and
  - (c) at the end there shall be inserted “his supplying the oil shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties).”
- 52 (1) In subsection (4) of section 14 (offences in connection with use etc. of oil in the case of which rebate has been allowed)—
- (a) for “A person who” there shall be substituted “Where any person”; and
  - (b) for the words from “shall be liable” to “greater” there shall be substituted “his use or acquisition of the oil or, as the case may be, his becoming so liable shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties).”
- (2) In subsection (5) of that section (offence of supplying for a use for which no rebate is allowed)—
- (a) for “A person who” there shall be substituted “Where any person”;
  - (b) for the words from “shall be liable” to “greater, if” there shall be substituted “and”; and
  - (c) at the end there shall be inserted “his supplying the oil shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties).”

F40 53 .....

#### Textual Amendments

**F40** Sch. 4 para. 53 repealed (1.11.1996) by 1996 c. 8, s. 205, [Sch. 41 Pt. I](#), Note; [S.I. 1996/2536, art. 2](#)

- 54 In section 20AA(4) (offence and forfeiture in the case of a contravention of the regulations relating to reliefs), for paragraph (a) there shall be substituted the following paragraph—
- “(a) his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties); and”.
- 55 In section 21(3) (offence and forfeiture in the case of a contravention of regulations relating to administration or enforcement)—
- (a) for “A person who” there shall be substituted “Where any person”; and
  - (b) for the words from “shall be liable on” onwards there shall be substituted “his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties), and any goods in respect of which any person contravenes or fails to comply with any such regulation shall be liable to forfeiture.”
- 56 (1) In subsection (1) of section 22 (offence and forfeiture in the case of the use of fuel substitute for a chargeable purpose without duty having been paid)—
- (a) for “A person who” there shall be substituted “Where any person”; and
  - (b) for the words from “shall be liable on” onwards there shall be substituted “his putting the liquid to that use shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties), and any goods in respect of which any person contravenes this subsection shall be liable to forfeiture.”

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- (2) After that subsection there shall be inserted the following subsection—
- “(1A) Section 10 of the Finance Act 1994 (exception for cases of reasonable excuse) shall not apply in relation to conduct attracting a penalty by virtue of subsection (1) above.”
- 57 (1) In subsection (1) of section 23 (offence and forfeiture in the case of the use etc. of road fuel gas without duty having been paid)—
- (a) for “A person who” there shall be substituted “Where any person”; and
- (b) for the words from “shall be liable on” onwards there shall be substituted “his use of the road fuel gas or, as the case may be, his taking it as fuel into that vehicle shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties), and any goods in respect of which a person contravenes this subsection shall be liable to forfeiture.”
- (2) After that subsection there shall be inserted the following subsection—
- “(1A) Section 10 of the Finance Act 1994 (exception for cases of reasonable excuse) shall not apply in relation to conduct attracting a penalty by virtue of subsection (1) above.”
- 58 In section 24(4) (offence and forfeiture in the case of a contravention of regulations relating to incidental matters)—
- (a) for “A person who” there shall be substituted “Where any person”; and
- (b) for the words from “shall be liable on” onwards there shall be substituted “his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties), and any goods in respect of which any person contravenes or fails to comply with any such regulation shall be liable to forfeiture.”

#### PART IV U.K.

##### CONTRAVENTIONS UNDER THE TOBACCO PRODUCTS DUTY ACT 1979

- 59 In section 7(2) of the <sup>M7</sup>Tobacco Products Duty Act 1979 (offence and forfeiture in the case of a contravention of regulations for the management of the duty etc.), for the words from “he shall be liable” onwards there shall be substituted “his failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties), and any article in respect of which any person fails to comply with any such regulation, or which is found on premises in respect of which any person has failed to comply with any such regulation, shall be liable to forfeiture.”

#### Marginal Citations

M7 1979 c. 7.

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## PART V U.K.

### CONTRAVENTIONS UNDER THE BETTING AND GAMING DUTIES ACT 1981

- 60 The <sup>M8</sup>Betting and Gaming Duties Act 1981 shall be amended in accordance with the following provisions of this Part of this Schedule.

#### Marginal Citations

M8 1981 c. 63.

- 61 In section 24(5) (offence where gaming machine provided without there being a licence in force)—
- (a) for “any person who at the time when it is so provided” there shall be substituted “ the provision of the machine shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties) and, for the purposes of the application of that section to the conduct attracting the penalty, the provision of the machine shall be treated as the conduct of each of the persons who, at the time when the gaming machine is provided ”; and
  - (b) the words after paragraph (f) shall be omitted.
- 62 (1) In paragraph 13 of Schedule 1 (enforcement), for sub-paragraphs (1) and (2) there shall be substituted—
- “(1) Where any person—
- (a) fails to pay any general betting duty or pool betting duty payable by him, or
  - (b) contravenes or fails to comply with any of the provisions of, or of any regulations made under, any of paragraphs 2, 4 and 6 to 10 above,
- his failure to pay, contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties) which, in the case of a failure to pay, shall be calculated by reference to the amount of duty payable.
- (2) Any such failure to pay as is mentioned in sub-paragraph (1)(a) above shall also attract daily penalties.
- (2A) Any person who obstructs any officer in the exercise of his functions in relation to general betting duty or pool betting duty shall be guilty of an offence and liable on summary conviction to a penalty of level 4 on the standard scale.”
- (2) In paragraph 14(3) of that Schedule (offence of failing to produce permit within period reasonably required)—
- (a) the word “reasonably” shall be omitted; and
  - (b) for the words from “he shall be guilty” onwards there shall be substituted “ his failure shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties). ”
- (3) In paragraph 15 of that Schedule (forfeiture and cancellation of licence on second or subsequent conviction),—

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- (a) in sub-paragraph (1), for “paragraph 13(1) or (3) above” there shall be substituted “paragraph 13(3) above” and the words from “(not being” to “9 above)” shall be omitted; and
- (b) in paragraph (a) of that sub-paragraph, for the words from “the conviction” to “other person)” there shall be substituted “there has been at least one previous occasion on which that or another person has been either—
  - (i) convicted of an offence under paragraph 13(3) above; or
  - (ii) assessed to a penalty to which he was liable under section 8 of the Finance Act 1994 (penalty for evasion),

in respect of conduct taking place”.

F41 63 .....

#### Textual Amendments

**F41** Sch. 4 para. 63 repealed (19.3.1997 with effect as mentioned in Note 2 to Sch. 18 Pt. II of the repealing Act) by 1997 c. 16, s. 113, **Sch. 18 Pt. II**

- 64 (1) In sub-paragraph (3) of paragraph 16 of Schedule 3 (offence of contravening provision made by or under that Schedule)—
- (a) for “Any person who” there shall be substituted “Where any person”; and
  - (b) for the words after paragraph (b) there shall be substituted—
- “his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties).”
- (2) Sub-paragraph (4) of that paragraph (continuing offences) shall cease to have effect.
- 65 (1) In sub-paragraph (1) of paragraph 16 of Schedule 4 (offence of contravening provision made by or under that Schedule), for the words from “he shall be guilty” onwards there shall be substituted “his contravention, failure to comply or refusal shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties).”
- (2) Sub-paragraph (2) of that paragraph (continuing offences) shall cease to have effect.

## PART VI U.K.

### CONTRAVENTIONS RELATING TO LOTTERY DUTY

- 66 Chapter II of Part I of the <sup>M9</sup>Finance Act 1993 shall be amended in accordance with the following provisions of this Part of this Schedule.

#### Marginal Citations

**M9** 1993 c. 34.

- 67 In section 27(4) (offence of failing to pay duty)—
- (a) for “A person who” there shall be substituted “Where a person”; and

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- (b) for the words from “is guilty” onwards there shall be substituted “ his failure so to make the payment shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties) which shall be calculated by reference to the amount which has not been paid and shall also attract daily penalties. ”
- 68 In each of sections 28(3) and 29(8) (offences of contravening regulations made for the purposes of lottery duty)—
- (a) for “A person who” there shall be substituted “ Where a person ”; and
- (b) for the words from “is guilty” onwards there shall be substituted “ his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties). ”

## SCHEDULE 5 U.K.

Section 14.

### DECISIONS SUBJECT TO REVIEW AND APPEAL

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

- C1** Sch. 5 applied (1.6.1995) by [S.I. 1995/1046, reg. 7\(3\)](#)
- C2** Sch. 5 modified (1.4.2018) by [The Tobacco Products Manufacturing Machinery \(Licensing Scheme\) Regulations 2018 \(S.I. 2018/75\), regs. 1\(2\), 18\(2\)](#)

### *[<sup>F42</sup>Taxation (Cross-border Trade) Act 2018 ]*

#### Textual Amendments

- F42** Sch. 5 para. 1 cross-heading substituted (13.9.2018 for specified purposes, 31.12.2020 in so far as not already in force) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(1\)\(a\), Sch. 7 para. 145\(2\)](#) (with savings and transitional provisions in [S.I. 2020/1449, reg. 3](#) and [2020 c. 26, Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642, reg. 4\(a\)](#)

- <sup>F42</sup>1 The following decisions [<sup>F43</sup>so far as they are made under any provision made by or under Part 1 of the [Taxation \(Cross-border Trade\) Act 2018](#),] that is to say—
- (a) any decision in relation to any goods as to whether or not the entry, unloading or [<sup>F44</sup>transit] of the goods, or their release by or to any person or for any purpose, is to be allowed or otherwise permitted;
- [<sup>F45</sup>(aa) any decision as to whether or not consent to the amendment or withdrawal of any Customs or other declaration is to be given;]
- (b) any decision as to whether or not permission for the examination of, or the taking of samples from, any goods presented to the Commissioners is to be granted;
- (c) any decision as to the route to be used for the movement of any goods;
- (d) any other decision as to whether or not the requirements of any procedure for goods which are to be or have been presented to the Commissioners, or any other formalities in relation to any such goods, have been satisfied or complied with or are to be waived, or as to the measures to be taken, including any requirements to be imposed, in consequence of the inability or other failure of any person to comply with the required procedure;

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- [<sup>F46</sup>(e) any decision, in any particular case, as to whether or not any licence, authorisation or approval is to be granted to any person (whether in respect of any premises, place or area or anything else);]
- (f) any decision, in any particular case, as to whether or not the carrying out of any processing or other operations or the use of any procedure is to be, or to continue to be, authorised or approved;
- (g) any decision in relation to—
- (i) the establishment or operation of any warehouse or other facility, or
  - (ii) the construction of any building,
- as to whether or not its establishment, operation or construction or the person by whom it is to be established, operated or constructed, is to be, or to continue to be, authorised or approved for any purpose;
- (h) any decision consisting in the imposition of a requirement to supply information or assistance, or to furnish any document or other evidence, to the Commissioners or any officer or of a requirement to be present or represented when anything is done in relation to any goods;
- (i) any decision to take or retain samples of any goods or as to the examination or analysis to which any goods or samples are to be subjected;
- [<sup>F47</sup>(j) any decision, in any particular case, as to whether or not a fee is to be charged to any person under regulations made under section 27 of the Taxation (Cross-border Trade) Act 2018 or as to the amount of any such fee;]
- [<sup>F48</sup>(k) any decision as to whether or not collection of interest on arrears of customs duty or agricultural levy is to be waived;]
- (l) any decision, in relation to a decision mentioned in any of the preceding sub-paragraphs, as to the conditions subject to which the decision so mentioned is made or, as the case may be, the matters to which that decision relates have effect;
- (m) any decision as to whether or not any person is to be required to give any [<sup>F49</sup>security or other guarantee] for the fulfilment, in whole or in part, of—
- (i) any obligation to pay any customs duty or any agricultural levy of the [<sup>F50</sup>European Union]; or
  - (ii) any obligation to comply with a condition of any permission, designation, approval, authorisation or requirement mentioned in any of the preceding sub-paragraphs or with any provision for the purposes of which any decision falling within any of those sub-paragraphs is made,
- or as to the form or amount of, or the conditions of, any such [<sup>F49</sup>security or other guarantee];
- (n) any decision as to the time at which or the period within which any obligation to pay any <sup>F51</sup>... agricultural levy of the [<sup>F50</sup>European Union]<sup>F52</sup>...;
- [<sup>F53</sup>(na) any decision as to the time at which or the period within which any obligation to pay any customs duty or to do any other thing required or authorised as a result of provision made by or under Part 1 of the Taxation (Cross-border Trade) Act 2018 is to be complied with;]
- (o) any decision as to whether or not a decision falling within this paragraph is to be [<sup>F54</sup>varied, suspended or revoked], including a decision as to whether or not the time at which any such decision is to take effect is to be deferred [<sup>F55</sup>, and a decision as to whether or not a licence, authorisation or approval



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is to be suspended or revoked or the terms of a licence, authorisation or approval are to be varied].

### Textual Amendments

- F43** Words in Sch. 5 para. 1 substituted (13.9.2018 for specified purposes, 31.12.2020 in so far as not already in force) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(1)(a), **Sch. 7 para. 145(3)(a)** (with savings and transitional provisions in [S.I. 2020/1449](#), reg. 3 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); [S.I. 2020/1642](#), reg. 4(a)
- F44** Word in Sch. 5 para. 1(a) substituted (13.9.2018 for specified purposes, 31.12.2020 in so far as not already in force) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(1)(a), **Sch. 7 para. 145(3)(b)** (with savings and transitional provisions in [S.I. 2020/1449](#), reg. 3 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); [S.I. 2020/1642](#), reg. 4(a)
- F45** Sch. 5 para. 1(aa) inserted (13.9.2018 for specified purposes, 31.12.2020 in so far as not already in force) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(1)(a), **Sch. 7 para. 145(3)(c)** (with savings and transitional provisions in [S.I. 2020/1449](#), reg. 3 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); [S.I. 2020/1642](#), reg. 4(a)
- F46** Sch. 5 para. 1(e) substituted (13.9.2018 for specified purposes, 31.12.2020 in so far as not already in force) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(1)(a), **Sch. 7 para. 145(3)(d)** (with savings and transitional provisions in [S.I. 2020/1449](#), reg. 3 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); [S.I. 2020/1642](#), reg. 4(a)
- F47** Sch. 5 para. 1(j) substituted (13.9.2018 for specified purposes, 31.12.2020 in so far as not already in force) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(1)(a), **Sch. 7 para. 145(3)(e)** (with savings and transitional provisions in [S.I. 2020/1449](#), reg. 3 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); [S.I. 2020/1642](#), reg. 4(a)
- F48** Sch. 5 para. 1(k) substituted (27.7.1999 with effect as mentioned in s. 130(4) of the amending Act) by [1999 c. 16](#), s. **130(2)(4)**
- F49** Words in Sch. 5 para. 1(m) substituted (13.9.2018 for specified purposes, 31.12.2020 in so far as not already in force) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(1)(a), **Sch. 7 para. 145(3)(f)** (with savings and transitional provisions in [S.I. 2020/1449](#), reg. 3 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); [S.I. 2020/1642](#), reg. 4(a)
- F50** Words in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, 3, 4 (with art. 3(2)(3), 4(2), 6(4)(5))
- F51** Words in Sch. 5 para. 1(n) omitted (13.9.2018 for specified purposes, 31.12.2020 in so far as not already in force) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(1)(a), **Sch. 7 para. 145(3)(g)(i)** (with savings and transitional provisions in [S.I. 2020/1449](#), reg. 3 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); [S.I. 2020/1642](#), reg. 4(a)
- F52** Words in Sch. 5 para. 1(n) omitted (13.9.2018 for specified purposes, 31.12.2020 in so far as not already in force) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(1)(a), **Sch. 7 para. 145(3)(g)(ii)** (with savings and transitional provisions in [S.I. 2020/1449](#), reg. 3 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); [S.I. 2020/1642](#), reg. 4(a)
- F53** Sch. 5 para. 1(na) inserted (13.9.2018 for specified purposes, 31.12.2020 in so far as not already in force) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(1)(a), **Sch. 7 para. 145(3)(h)** (with savings and transitional provisions in [S.I. 2020/1449](#), reg. 3 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); [S.I. 2020/1642](#), reg. 4(a)
- F54** Words in Sch. 5 para. 1(o) substituted (13.9.2018 for specified purposes, 31.12.2020 in so far as not already in force) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(1)(a), **Sch. 7 para. 145(3)(i)** (with savings and transitional provisions in [S.I. 2020/1449](#), reg. 3 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); [S.I. 2020/1642](#), reg. 4(a)
- F55** Words in Sch. 5 para. 1(o) inserted (13.9.2018 for specified purposes, 31.12.2020 in so far as not already in force) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(1)(a), **Sch. 7 para. 145(3)(i)(ii)** (with

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savings and transitional provisions in [S.I. 2020/1449, reg. 3](#) and [2020 c. 26, Sch. 2 para. 7\(7\)-\(9\)](#); [S.I. 2020/1642, reg. 4\(a\)](#)

*The Management Act*

2 (1) The following decisions under or for the purposes of the Management Act, that is to say—

- [<sup>F56</sup>(a) any decision made under any regulations under section 20, 22 or 25 (approved wharf, examination station or temporary storage facility)—
  - (i) as to whether or not a mandatory condition is met; or
  - (ii) as to whether or not a discretionary condition is to be imposed, the terms of a discretionary condition or whether or not a discretionary condition is met;

and any reference to a mandatory condition is to a condition within subsection (1A)(a) of section 20, 22 or 25 and any reference to a discretionary condition is to a condition within subsection (1A)(b) of that section;]

- (b) any decision as to whether or not any permission for any of the purposes of section 21 (control of movement of aircraft) is to be given or withdrawn or as to the conditions subject to which any such permission is given;
- (c) any decision as to whether or not approval of a pipe-line for the purposes of section 24 (control of movement of goods by pipe-line) is to be given or withdrawn or as to the conditions subject to which any such approval is given;
- (d) any decision as to whether or not expenses incurred by the Commissioners are to be borne by any person by virtue of section 29(3) (expenses of detention etc. of ships, aircraft and vehicles) or as to the amount of the expenses to be so borne;
- (e) any decision consisting in the giving of a direction under section 30(1) (control of uncleared goods);
- (f) any decision by virtue of subsection (2A) of section 31 (control of movement of goods) as to whether or not the requirements of any regulations under subsection (1) of that section are to be relaxed, as to whether or not substituted requirements are to be imposed or as to the terms of any such substituted requirements;
- (g) any decision consisting in the imposition of a requirement by virtue of subsection (3) of section 33 (requirements as to record keeping) on a person in control of an aerodrome who is not licensed under any enactment relating to air navigation or as to what is or is not to be approved (whether or not in relation to such a requirement) for the purposes of paragraph (a) of that subsection;
- [<sup>F57</sup>(ga) any decision consisting in the imposition of a requirement by virtue of subsection (3A) of section 33 or as to what is or is not to be approved for the purposes of paragraph (a) of that subsection;]
- (h) any decision as to whether or not permission is to be given to any person for the purposes of section 39 (entry of surplus stores);
- (i) any decision for the purposes of section 40 that any goods are to be deposited in a Queen’s warehouse;

[<sup>F58</sup>(j) .....

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- <sup>F58</sup>(k) . . . . .
- (l) any decision for the purposes of section 63 (entry outwards) as to whether or not entry outwards is to be made of any ship or goods or as to the conditions subject to which any such entry outwards is to be made;
  - (m) any decision consisting in the imposition of a requirement under section 77, 79 or 80 to produce or furnish any document or other evidence or information;
  - (n) any decision for the purposes of section 92 (approval of warehouses)—
    - (i) as to whether or not any approval is to be given to any place as a warehouse or any consent is to be given to any alteration in or addition to any warehouse;
    - (ii) as to the conditions subject to which any approval or consent is given for the purposes of that section; or
    - (iii) for the withdrawal of any such approval or consent;
  - (o) any decision as to whether or not any amount is payable to the Commissioners in pursuance of section 99 (provision as to deposit in Queen’s warehouse) or as to the amount to be so paid by any person;
  - (p) any decision for the purposes of section 100G (registered excise dealers and shippers) as to whether or not, and in which respects, any person is to be, or to continue to be, approved and registered or as to the conditions subject to which any person is approved and registered;
  - (q) any decision as to the conditions subject to which any drawback is allowed or payable under section 132 or 134;
  - (r) any decision under section 152(b) as to whether or not anything forfeited or seized under the customs and excise Acts is to be restored to any person or as to the conditions subject to which any such thing is so restored;
  - (s) any decision under section 157 as to whether or not any person is to be required to give any security [<sup>F59</sup>(or further security) ] for the observance of any condition, as to the form or amount of, or the conditions of, any such security or as to the cancellation of any bond [<sup>F60</sup>, guarantee or other security] ;
  - (t) any decision consisting in the giving or imposition of a direction or requirement for the purposes of section 158 (power to require the provision of facilities) or any decision as to whether or not an approval is to be given for the purposes of any such direction.
- (2) Any decision which is made under or for the purposes of any regulations under any of sections 3, 31 or 93 of the Management Act (application to pipe-lines, control of movement of goods and warehousing regulations) and is-
- (a) a decision in relation to any goods as to whether or not they may be moved, deposited, kept, secured, treated in any manner, removed or made available to any person or as to the conditions subject to which they are moved, deposited, kept, secured, treated in any manner, removed or made available to any person;
  - (b) a decision as to whether or not any person or place is to be, or to continue to be, authorised or approved in any respect for any purpose or as to the conditions subject to which any person or place is so authorised or approved; or

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- (c) a decision as to whether or not any person is to be required to give any security for the fulfilment of any obligation or as to the form or amount of, or the conditions of, any such security.
- (3) Any decision which is made under or for the purposes of any regulations under section 35(4), 42 or 66 of the Management Act (report inwards, procedure in relation to goods on arrival etc. or in relation to goods for exportation) and is—
- (a) a decision as to whether or not any permission is to be given for the purpose of dispensing with any of the requirements of any such regulations;
  - (b) a decision consisting in the imposition or variation of any requirement in exercise of any power conferred by any such regulations; or
  - (c) a decision as to whether or not any approval, authority or permission is to be given or granted for the purpose of determining the manner in which any requirement imposed by or under any such regulations is to be performed.
- [<sup>F61</sup>(3A) Any decision which is made under or for the purposes of any regulations under section 60A of the Management Act (power to make regulations about stores) and is a decision about granting or withdrawing authorisation for goods to be shipped or carried as stores without payment of duty or on drawback.]
- (4) Any decision which is made under or for the purposes of any regulations under section 127A of the Management Act (deferment of duty) and is—
- (a) a decision as to whether or not any person or place is to be, or to continue to be, approved for any purpose connected with the deferment of duty or as to the conditions subject to which any person or place is so approved;
  - (b) a decision as to the amount of duty that may be deferred in any case; or
  - (c) a decision as to whether or not any person is to be required to give any security for the fulfilment of any obligation or as to the form or amount of, or the conditions of, any such security.

#### Textual Amendments

- F56** Sch. 5 para. 2(1)(a) substituted (13.9.2018 for specified purposes, 31.12.2020 in so far as not already in force) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(1)(a), [Sch. 7 para. 145\(4\)\(a\)](#) (with savings and transitional provisions in S.I. 2020/1449, [reg. 3](#) and 2020 c. 26, [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, [reg. 4\(a\)](#)
- F57** Sch. 5 para. 2(1)(ga) inserted (13.9.2018 for specified purposes, 31.12.2020 in so far as not already in force) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(1)(a), [Sch. 7 para. 145\(4\)\(b\)](#) (with savings and transitional provisions in S.I. 2020/1449, [reg. 3](#) and 2020 c. 26, [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, [reg. 4\(a\)](#)
- F58** Sch. 5 para. 2(1)(j)(k) omitted (13.9.2018 for specified purposes, 31.12.2020 in so far as not already in force) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(1)(a), [Sch. 7 para. 145\(4\)\(c\)](#) (with savings and transitional provisions in S.I. 2020/1449, [reg. 3](#) and 2020 c. 26, [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, [reg. 4\(a\)](#)
- F59** Words in Sch. 5 para. 2(1)(s) inserted (21.7.2008 with effect in accordance with s. 126(2) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), s. [126\(1\)\(a\)](#)
- F60** Words in Sch. 5 para. 2(1)(s) inserted (21.7.2008 with effect in accordance with s. 126(2) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), s. [126\(1\)\(b\)](#)
- F61** Sch. 5 para. 2(3A) inserted (1.4.2015) by [Finance Act 2014 \(c. 26\)](#), [Sch. 21 paras. 9, 10](#); S.I. 2015/812, [art. 2](#)

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*The Alcoholic Liquor Duties Act 1979*

- 3 (1) The following decisions under or for the purposes of the<sup>M10</sup> Alcoholic Liquor Duties Act 1979, that is to say—
- <sup>F62</sup>(a) .....
  - (b) any decision for the purposes of section 7 (exemption of spirits used for medical purposes) as to whether or not to recognise any article as used for medical purposes;
  - (c) any decision for the purposes of section 8 (remission of duty on spirits used for medical purposes etc.)—
    - (i) as to the use to which any article is or is to be put or as to the purposes for which it is or is to be used; or
    - (ii) as to the conditions subject to which the receipt and delivery of any spirits is permitted as mentioned in that section;
  - (d) any decision for the purposes of [<sup>F63</sup>section 10 (remission of duty on spirits] for use in art or manufacture) as to whether or not permission or authorisation for any person to receive, or for the delivery of, any spirits without payment of duty is to be granted or withdrawn or as to the conditions subject to which any such permission or authorisation is granted;
  - (e) any decision as to whether or not any goods are to be directed under section 11 (goods not for human consumption) to be treated as not containing spirits or as to the conditions subject to which any goods are directed to be so treated;
  - (f) any decision for the purposes of section 12 (licences to manufacture spirits) as to whether or not a licence under that section is to be granted or as to the suspension or revocation of such a licence or as to the conditions subject to which such a licence is granted;
  - (g) any decision for the purposes of section 15 (distillers' warehouses)—
    - (i) as to whether or not any approval is to be given to any place as a warehouse or any consent is to be given to any alteration in or addition to any warehouse;
    - (ii) as to the conditions subject to which any approval or consent is given for the purposes of that section; or
    - (iii) for the withdrawal of any such approval or consent;
  - (h) any decision for the purposes of section 18 (licences for rectifiers and compounders)—
    - (i) as to whether or not any person is to be granted a licence as a rectifier or compounder or permission to compound spirits without a licence;
    - (ii) as to the conditions subject to which any such licence or permission is granted; or
    - (iii) as to the revocation or withdrawal of any such licence or permission;
  - <sup>F64</sup> [<sup>F65</sup>(ha)] .....
  - <sup>F66</sup>(i) .....
  - (j) any decision as to whether or not drawback is to be allowed in any case under section 42 (drawback on exportation etc.) or as to the conditions subject to which drawback is so allowed;
  - (k) any decision as to whether or not any duty is to be remitted or repaid under section 44 (remission or repayment of duty on beer used for the purposes of

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- research or experiment) or as to the conditions subject to which any duty is so remitted or repaid;
- [<sup>F67</sup>(ka) any decision by the Commissioners as to whether or not to remit or repay duty under section 46 of the Alcoholic Liquor Duties Act 1979 (remission or repayment of duty on spoilt beer) or the amount of duty to be so remitted or repaid;]
- (l) any decision for the purposes of section 49A as to whether or not any drawback is to be set against an amount chargeable in respect of excise duty on beer or as to the conditions subject to which any drawback is set against any such amount;
- (m) any decision as to whether or not any permission for the purposes of section 57 or 58 (mixing of made-wine or wine with spirits) is to be given or withdrawn or as to the conditions subject to which any such permission is given;
- [<sup>F68</sup>(ma) any decision by the Commissioners as to whether or not to remit or repay duty under section 61 of the Alcoholic Liquor Duties Act 1979 (remission or repayment of duty on spoilt wine or made-wine) or the amount of duty to be so remitted or repaid;
- (mb) any decision by the Commissioners as to whether or not to remit or repay duty under section 64 of the Alcoholic Liquor Duties Act 1979 (remission or repayment of duty on spoilt cider) or the amount of duty to be so remitted or repaid;]
- <sup>F69</sup>(n) . . . . .
- (o) any decision as to whether or not an authorisation or licence for the purposes of section 75 (<sup>F70</sup>... denatured alcohol) is to be granted to any person or as to the revocation or suspension of any such authorisation or licence.
- [<sup>F71</sup>(p) any decision for the purposes of Part 6A (wholesaling of controlled liquor) as to whether or not, and in which respects, any person is to be, or to continue to be, approved and registered or as to the conditions or restrictions subject to which any person is approved and registered.]
- (2) Any decision which is made under or for the purposes of any regulations under section 13 or 77 of the <sup>M11</sup>Alcoholic Liquor Duties Act 1979 (regulation of the manufacture of spirits, <sup>F72</sup>... and denatured alcohol) and is a decision [<sup>F73</sup>—
- (a)] as to whether or not any premises, plant or process is to be, or to continue to be, approved for any purpose or as to the conditions subject to which any premises, plant or process is so approved.[<sup>F74</sup>; or
- (b) as to whether or not a person is to be required to give security for the fulfilment of an obligation or as to the form or amount of, or the conditions of, any such security.]
- [<sup>F75</sup>(2A) Any decision which is made under or for the purposes of any regulations under section 15 of the Alcoholic Liquor Duties Act 1979 (distillers' warehouses) and is a decision as to whether or not a person is to be required to give security for the fulfilment of an obligation or as to the form or amount of, or the conditions of, any such security.
- (2B) Any decision which is made under or for the purposes of section 41A or 47, or any regulations under section 49, of the Alcoholic Liquor Duties Act 1979 (regulation of the making of beer) and is a decision—
- (a) as to whether or not to register a person or premises under section 41A or 47;

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- (b) as to the conditions subject to which a person is, or premises are, so registered;
  - (c) as to the revocation of such a registration;
  - (d) as to whether or not a person is to be required to give security for the fulfilment of an obligation or as to the form or amount of, or the conditions of, any such security; or
  - (e) as to whether or not to restrict or prohibit the movement of beer from one place to another without payment of duty.]
- (3) Any decision which is made under or for the purposes of [<sup>F76</sup>section 54 or 55] , or any regulations under section 56, of the <sup>M12</sup>Alcoholic Liquor Duties Act 1979 (regulation of the making of wine and made-wine) and is a decision [<sup>F77</sup>—
- (a)] as to whether or not a licence under [<sup>F78</sup>section 54 or 55] is to be granted or cancelled.
  - [<sup>F79</sup>(b) as to whether or not a person is to be required to give security for the fulfilment of an obligation or as to the form or amount of, or the conditions of, any such security; or
  - (c) as to the conditions subject to which, or the purposes for which, wine or made-wine may be moved from one place to another without payment of duty.]
- [<sup>F80</sup>(3A) Any decision which is made under or for the purposes of section 62 of the Alcoholic Liquor Duties Act 1979 (regulation of the making of cider), or any regulations under that section, and is a decision—
- (a) as to whether or not to register, or to cancel the registration of, a maker of cider;
  - (b) as to whether or not a person is to be required to give security for the fulfilment of an obligation or as to the form or amount of, or the conditions of, any such security; or
  - (c) as to the conditions subject to which, or the purposes for which, cider may be moved from one place to another without payment of duty.]
- [<sup>F81</sup>(4) Any decision which—
- (a) is made under paragraph 1 of Schedule 3 to the Finance Act 2001, and
  - (b) relates to the Alcoholic Liquor Duties Act 1979.]

#### Textual Amendments

- F62** Sch. 5 para. 3(1)(a) omitted (1.4.2013) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 39 para. 52\(2\)\(3\)](#)
- F63** Words in Sch. 5 para. 3(1)(d) substituted (1.7.2005) by [Finance Act 1995 \(c. 4\)](#), s. 5(6), [Sch. 2 para. 8](#); [S.I. 2005/1523](#), [art. 2](#) (with [art. 3](#))
- F64** Sch. 5 para. 3(1)(ha) omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [s. 187\(2\)\(d\)](#)
- F65** Sch. 5 para. 3(1)(ha) inserted (21.7.2008 with effect in accordance with s. 125(2) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 42 para. 2\(2\)](#)
- F66** Sch. 5 para. 3(1)(i) repealed (19.7.2006) by [Finance Act 2006 \(c. 25\)](#), [Sch. 26 Pt. 1\(1\)](#)
- F67** Sch. 5 para. 3(1)(ka) inserted (21.7.2008 with effect in accordance with s. 125(2) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 42 para. 2\(3\)](#)
- F68** Sch. 5 para. 3(1)(ma), (mb) inserted (21.7.2008 with effect in accordance with s. 125(2) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 42 para. 2\(4\)](#)
- F69** Sch. 5 para. 3(1)(n) repealed (19.7.2006) by [Finance Act 2006 \(c. 25\)](#), [Sch. 26 Pt. 1\(1\)](#)

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*Changes to legislation: Finance Act 1994 is up to date with all changes known to be in force on or before 03 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)*

- F70** Words in Sch. 5 para. 3(1)(o) repealed (1.7.2005) by Finance Act 1995 (c. 4), s. 5(6), **Sch. 29 Pt. 1(3)**; S.I. 2005/1523, art. 2 (with art. 3)
- F71** Sch. 5 para. 3(1)(p) inserted (26.3.2015) by Finance Act 2015 (c. 11), s. 54(7)(8)
- F72** Words in Sch. 5 para. 3(2) repealed (1.7.2005) by Finance Act 1995 (c. 4), s. 5(6), **Sch. 29 Pt. 1(3)**; S.I. 2005/1523, art. 2 (with art. 3)
- F73** Word in Sch. 5 para. 3(2) inserted (21.7.2008 with effect in accordance with s. 125(2) of the amending Act) by Finance Act 2008 (c. 9), **Sch. 42 para. 3(2)**
- F74** Sch. 5 para. 3(2)(b) and word inserted (21.7.2008 with effect in accordance with s. 125(2) of the amending Act) by Finance Act 2008 (c. 9), **Sch. 42 para. 3(3)**
- F75** Sch. 5 para. 3(2A)(2B) inserted (21.7.2008 with effect in accordance with s. 125(2) of the amending Act) by Finance Act 2008 (c. 9), **Sch. 42 para. 4**
- F76** Words in Sch. 5 para. 3(3) substituted (21.7.2008 with effect in accordance with s. 125(2) of the amending Act) by Finance Act 2008 (c. 9), **Sch. 42 para. 5(2)**
- F77** Word in Sch. 5 para. 3(3) inserted (21.7.2008 with effect in accordance with s. 125(2) of the amending Act) by Finance Act 2008 (c. 9), **Sch. 42 para. 5(3)**
- F78** Words in Sch. 5 para. 3(3) substituted (21.7.2008 with effect in accordance with s. 125(2) of the amending Act) by Finance Act 2008 (c. 9), **Sch. 42 para. 5(4)**
- F79** Sch. 5 para. 3(3)(b)(c) inserted (21.7.2008 with effect in accordance with s. 125(2) of the amending Act) by Finance Act 2008 (c. 9), **Sch. 42 para. 5(5)**
- F80** Sch. 5 para. 3(3A) inserted (21.7.2008 with effect in accordance with s. 125(2) of the amending Act) by Finance Act 2008 (c. 9), **Sch. 42 para. 6**
- F81** Sch. 5 para. 3(4) inserted (1.11.2001) by 2001 c. 9, s. 15, **Sch. 3 para. 17(2)**; S.I. 2001/3300, art. 2

#### Marginal Citations

- M10** 1979 c. 4.  
**M11** 1979 c. 4.  
**M12** 1979 c. 4.

#### *The Hydrocarbon Oil Duties Act 1979*

- 4 (1) The following decisions under or for the purposes of the <sup>M13</sup>Hydrocarbon Oil Duties Act 1979—
- (a) any decision under section 9 (delivery of oil for home use etc.) as to whether or not permission is to be given for the delivery of anything without payment of duty or as to the conditions subject to which any such permission is given;
  - (b) any decision as to whether or not a consent is to be given for the purposes of section 10(1) (consent to certain uses of oil delivered for home use) or as to the conditions subject to which any such consent is given;
  - (c) any decision as to whether or not a consent is to be given for the purposes of section 14(2) (consent to certain uses of rebated oil) or as to the conditions subject to which any such consent is given;
  - (d) any decision consisting in a determination for the purposes of section 17(3) (determination of use of oil etc. for different purposes);
  - (e) any decision as to the conditions subject to which any payment is to be made to any person in accordance with section 20(3) (payments in respect of contaminated or mixed substances).
- [<sup>F82</sup>(1A) Any decision which is made under or for the purposes of any regulations made under section 20AA of the <sup>M14</sup>Hydrocarbon Oil Duties Act 1979 and is a decision as to whether or not relief is to be allowed.]



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(2) Any decision which is made under or for the purposes of any regulations made or having effect as if made under section 21 or 24 of the <sup>M15</sup>Hydrocarbon Oil Duties Act 1979 and is—

- (a) a decision as to whether or not any person is to be required to give any security for any duty which is or may become due, or as to the form or amount of, or the conditions of, any such security; or
- (b) a decision as to whether or not any person is to be, or to continue to be, approved for the purposes of section 9(1) or (4), 14(1) or 19A(1) of that Act or as to the conditions subject to which any person is so approved.

[<sup>F83</sup>(3) Any decision which—

- (a) is made under paragraph 1 or 2 of Schedule 3 to the Finance Act 2001, and
- (b) relates to the Hydrocarbon Oil Duties Act 1979.]

#### Textual Amendments

**F82** Sch. 5 para. 4(1A) inserted (28.7.2000) by 2000 c. 17, s. 10(5)

**F83** Sch. 5 para. 4(3) inserted (1.11.2001) by 2001 c. 9, s. 15, Sch. 3 para. 17(3); S.I. 2001/3300, art. 2

#### Marginal Citations

**M13** 1979 c. 5.

**M14** 1979 c. 5.

**M15** 1979 c. 5.

#### *The Tobacco Products Duty Act 1979*

5 Any decision which is made under or for the purposes of any regulations made under section 2 or 7 of the <sup>M16</sup>Tobacco Products Duty Act 1979 and is—

- (a) a decision as to whether or not any duty is remitted or repaid or as to the conditions subject to which it is remitted or repaid; or
- (b) a decision as to whether or not any premises are to be, or to continue to be, registered for any purpose or as to the conditions subject to which any premises are so registered.

#### Marginal Citations

**M16** 1979 c. 7.

[<sup>F84</sup>5A Any decision—

- (a) to refuse an approval under section 8L of the Tobacco Products Duty Act 1979 (raw tobacco: approval to carry on a controlled activity);
- (b) to impose a condition or restriction on, or to revoke or vary the terms of, an approval under that section.]

#### Textual Amendments

**F84** Sch. 5 para. 5A inserted (6.12.2016) by Finance Act 2016 (c. 24), s. 179(4)(5); S.I. 2016/1171, reg. 2(2)

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*The Betting and Gaming Duties Act 1981*

- 6 (1) The following decisions under or for the purposes of the <sup>M17</sup>Betting and Gaming Duties Act 1981, that is to say—
- <sup>F85</sup>(a) . . . . .
- (b) any decision under paragraph 10(2) of Schedule 3 (registration of bingo promoters) as to the conditions subject to which any person is to be, or to continue to be, registered as a bingo-promoter.
- (2) Any decision which is made under or for the purposes of—
- <sup>F86</sup>(a) . . . . .
- (b) paragraph 10(2) of Schedule 3 to [<sup>F87</sup>the Betting and Gaming Duties Act 1981] ,
- and is a decision as to whether or not any person is to be required to give any security for any duty which is or may become due, or as to the form or amount of, or the conditions of, any such security.
- <sup>F88</sup>[<sup>F89</sup>(3)] . . . . .

**Textual Amendments**

- F85** Sch. 5 para. 6(1)(a) omitted (1.12.2014) by virtue of [Finance Act 2014 \(c. 26\)](#), s. 198(2)(c), **Sch. 28 para. 18(2)** (with [Sch. 29](#))
- F86** Sch. 5 para. 6(2)(a) omitted (1.12.2014) by virtue of [Finance Act 2014 \(c. 26\)](#), s. 198(2)(c), **Sch. 28 para. 18(3)(a)** (with [Sch. 29](#))
- F87** Words in Sch. 5 para. 6(2)(b) substituted (1.12.2014) by [Finance Act 2014 \(c. 26\)](#), s. 198(2)(c), **Sch. 28 para. 18(3)(b)** (with [Sch. 29](#))
- F88** Sch. 5 para. 6(3) omitted (1.12.2014) by virtue of [Finance Act 2014 \(c. 26\)](#), s. 198(2)(c), **Sch. 28 para. 18(4)** (with [Sch. 29](#))
- F89** Sch. 5 para. 6(3) inserted (retrospective to 24.4.2002) by [Finance Act 2002 \(c. 23\)](#), s. 12(1)(6), **Sch. 4 para. 12(3)**

**Marginal Citations**

**M17** 1981 c. 63.

*The Finance Act 1993*

- 7 Any decision as to whether or not any person is to be or to continue to be registered under section 29 of the <sup>M18</sup>Finance Act 1993 (registration for the purposes of lottery duty) and any decision which is made under or for the purposes of any regulations under that section and is a decision as to whether or not any person is to be required to give any security for the payment of any lottery duty that may become due, or as to the form or amount of, or the conditions of, any such security.

**Marginal Citations**

**M18** 1993 c. 34.

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### *Chapter III of Part I of this Act*

- 8 (1) Any decision made under or for the purposes of any regulations under section 21 of this Act or for the purposes of subsection (2) of that section which is—
- (a) a decision consisting in the imposition or variation of any requirement as to the records which are to be kept by any person;
  - (b) a decision as to the manner in which any record or information is to be preserved or is to be made available to the Commissioners; or
  - (c) a decision as to the period for which any record or information is to be preserved.
- (2) Any decision for the purposes of section 23 of this Act which is—
- (a) a decision consisting in the imposition or variation of any requirement as to the information or documents which are to be furnished or produced by any person, including any decision as to the time or place at which, period within which or form in which anything is to be furnished or produced in pursuance of that section; or
  - (b) a decision as to the removal of any document produced under that section or as to the period for which such a document may be removed.

### *Chapter IV of Part I of this Act*

- 9 The following decisions under or for the purposes of Chapter IV of Part I of this Act, that is to say—
- (a) any decision under regulations made by virtue of section 33 to register, or not to register, any person as an aircraft operator in the register kept under that section or to remove a person so registered from the register;
  - (b) any decision under such regulations to show, or not to show, the name of any person as a fiscal representative in that register or to remove a name from the register;
  - (c) any decision under section 36 to require a person to provide security, including any decision as to the form or amount of the security; <sup>F90</sup> . . .
  - (d) any decision to give a person a notice under section 37.
  - [<sup>F91</sup>(e) any decision with respect to the amount of any interest specified in an assessment under paragraph 11A of Schedule 6;]

#### **Textual Amendments**

**F90** Word in Sch. 5 immediately preceding para. 9(d) repealed (1.5.1995 with effect as mentioned in s. 16(4) of the repealing Act) by 1995 c. 4, ss. 16(2), 162, **Sch. 29 Pt. IV**, Note

**F91** Sch. 5 para. 9(e) inserted (1.5.1995 with effect as mentioned in s. 16(4) of the amending Act) by 1995 c. 4, s. 16(2)

#### **Commencement Information**

**II** Sch. 5 para. 9 wholly in force at 1.1.1995; Sch. 5 para. 9 not in force at Royal Assent see s. 19(1); Sch. 5 para. 9 in force for certain purposes at 1.11.1994 by **S.I. 1994/2679**, art. 2, **Sch.**; Sch. 5 para. 9 in force at 1.1.1995 insofar as not already in force by **S.I. 1994/2679**, art. 3

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### <sup>F92</sup>The Finance Act 1995

#### Textual Amendments

**F92** Sch. 5 para. 9ZA and cross-heading inserted (21.7.2008 with effect in accordance with s. 125(2) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 42 para. 7](#)

- 9ZA Any decision by the Commissioners—
- (a) on a claim under section 4 of the Finance Act 1995 for repayment of duty (alcoholic ingredients relief); or
  - (b) as to whether or not to remit duty under that section.]

### *The Finance Act 2001*

- <sup>F93</sup>9A Any decision under or for the purposes of Part 2 of Schedule 3 to the Finance Act 2001 (interest).]

#### Textual Amendments

**F93** Sch. 5 para. 9A inserted (1.11.2001) by [2001 c. 9, s. 15](#), [Sch. 3 paras. 17\(4\)](#); [S.I. 2001/3300, art. 2](#)

### <sup>F94</sup>The Finance (No. 2) Act 2017

#### Textual Amendments

**F94** Sch. 5 para. 9B and cross-heading inserted (16.11.2017 for specified purposes, 1.4.2018 in so far as not already in force) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [ss. 56\(3\), 59\(1\)](#); [S.I. 2018/298, reg. 2\(2\)](#)

- 9B Any decision for the purposes of Part 3 of the Finance (No. 2) Act 2017 (<sup>F95</sup>imported goods] fulfilment businesses) as to—
- (a) whether or not, and in which respects, any person is to be, or to continue to be, approved and registered, or
  - (b) the conditions or restrictions subject to which any person is approved and registered.]

#### Textual Amendments

**F95** Words in Sch. 5 para. 9B substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), [s. 57\(3\)](#), [Sch. 8 para. 106](#) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495, regs. 1\(2\), 21](#)), [S.I. 2020/1545, Pt. 4](#) and [2020 c. 26, Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642, reg. 4\(b\)](#) (with [reg. 7](#))

### *Interpretation of Schedule*

- 10 (1) In this Schedule references to any decision as to the conditions subject to which any other decision (whether or not specified in this Schedule) is made include references to—
- (a) any decision as to whether the other decision should be made subject to or to the imposition of any conditions, limitations, restrictions, prohibitions or

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other requirements, either from the time when the other decision takes effect or in exercise of any power to impose them subsequently;

- (b) any decision as to the terms of any conditions, limitations, restrictions, prohibitions or other requirements imposed or applied in relation to that other decision;
- (c) any decision as to the period for which any licence, approval, permission or other authorisation to which the other decision relates is to have effect or as to any variation of that period; and
- (d) any decision as to whether any conditions, limitations, restrictions, prohibitions or other requirements so imposed or applied are to be revoked, suspended or cancelled or as to whether or in what respect their terms are at any time to be varied;

but those references do not include references to any decision as to the enforcement of any condition, restriction or prohibition in criminal proceedings, by the seizure or forfeiture of goods or, for purposes connected with any duty of excise, by any other means.

- (2) References in this Schedule to decisions as to the exercise of any power to require security for the fulfilment of any obligation, the observance of any conditions or the payment of any duty shall be without prejudice to any reference to decisions as to the exercise of any general power in the case in question to impose conditions in connection with the making of any other decision and shall include references to the exercise of any power to require further security for the fulfilment of that obligation, the observance of those conditions or, as the case may be, the payment of that duty.

#### Commencement Information

- I2** Sch. 5 para. 10 wholly in force at 1.1.1995; Sch. 5 para. 10 not in force at Royal Assent see s. 19(1); Sch. 5 para. 10 in force for certain purposes at 1.11.1994 by [S.I. 1994/2679](#), [art. 2](#), [Sch.](#); Sch. 5 para. 10 in force at 1.1.1995 insofar as not already in force by [S.I. 1994/2679](#), [art. 3](#)

## [<sup>F96</sup>SCHEDULE 5A U.K.]

### AIR PASSENGER DUTY: TERRITORIES ETC

#### Textual Amendments

- F96** Sch. 5A inserted (21.7.2009) (with effect in accordance with Sch. 5 para. 8(2) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 5 para. 5](#)

## PART 1 U.K.

### PART 1 TERRITORIES

Albania

Finland

Latvia

Portugal (including Madeira)

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Algeria	France (including Corsica)	Libya	Romania
Andorra	Germany	Liechtenstein	Russian Federation, west of the Urals
Austria	Gibraltar	Lithuania	San Marino
Azores	Greece	Luxembourg	Serbia
Belarus	Greenland	[ <sup>F97</sup> North] Macedonia	Slovak Republic
Belgium	Guernsey	Malta	Slovenia
Bosnia and Herzegovina	Hungary	Moldova	Spain (including the Balearic Islands and the Canary Islands)
Bulgaria	Iceland	Monaco	Sweden
Croatia	Republic of Ireland	Montenegro	Switzerland
Cyprus	Isle of Man	Morocco	Tunisia
[ <sup>F98</sup> Czechia]	Italy (including Sicily and Sardinia)	Netherlands	Turkey
Denmark (including the Faroe Islands)	Jersey	Norway (including Svalbard)	Ukraine
Estonia	Republic of Kosovo	Poland	Western Sahara]

**Textual Amendments**

- F97** Word in [Sch. 5A Pt. 1](#) substituted (1.4.2023 in relation to the carriage of passengers beginning on or after that date) by [Finance \(No. 2\) Act 2023 \(c. 30\)](#), [s. 322\(8\)\(a\)\(ii\)\(10\)](#)
- F98** Word in [Sch. 5A Pt. 1](#) substituted (1.4.2023 in relation to the carriage of passengers beginning on or after that date) by [Finance \(No. 2\) Act 2023 \(c. 30\)](#), [s. 322\(8\)\(a\)\(i\)\(10\)](#)

**[<sup>F99</sup>PART 1A U.K.]**

## PART 1A TERRITORIES

**Textual Amendments**

- F99** [Sch. 5A Pt. 1A](#) inserted (1.4.2023 in relation to the carriage of passengers beginning on or after that date) by [Finance \(No. 2\) Act 2023 \(c. 30\)](#), [s. 322\(8\)\(b\)\(10\)](#)

Afghanistan	Cuba	Kyrgyzstan	Senegal
Angola	Curacao	Lebanon	Seychelles
Anguilla	Djibouti	Liberia	Sierra Leone
Antigua and Barbuda	Dominica	Macau	Sint Eustatius

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Armenia	Dominican Republic	Malawi	Sint Maarten
Aruba	Egypt	Maldives	Somalia
Azerbaijan	El Salvador	Mali	South Korea
Bahrain	Equatorial Guinea	Martinique	South Sudan
Bangladesh	Eritrea	Mauritania	Sri Lanka
Barbados	Ethiopia	Mayotte	St Helena, Ascension and Tristan da Cunha
Belize	French Guiana	Mongolia	St Kitts and Nevis
Benin	Gabon	Montserrat	Sudan
Bermuda	Georgia	Namibia	Suriname
Bhutan	Ghana	Nepal	Syria
Bonaire	Grenada	Nicaragua	Tajikistan
Botswana	Guadeloupe	Niger	Tanzania
Brazil	Guatemala	Nigeria	The Bahamas
British Virgin Islands	Guinea	North Korea	The Gambia
Burkina Faso	Guinea-Bissau	Oman	Togo
Burundi	Guyana	Pakistan	Trinidad and Tobago
Cameroon	Haiti	Panama	Turkmenistan
Canada	Honduras	Qatar	Turks and Caicos Islands
Cape Verde	India	Russian Federation, east of the Ural Mountains	Uganda
Cayman Islands	Iran	Rwanda	United Arab Emirates
Central African Republic	Iraq	Saba	United States (including Puerto Rico and U.S. Virgin Islands)
Chad	Israel	Saint Barthélemy	Uzbekistan
China	Ivory Coast	Saint Lucia	Venezuela
Colombia	Jamaica	Saint Martin	Yemen
Comoros	Jordan	Saint Pierre and Miquelon	Zambia
Congo	Kazakhstan	Saint Vincent and the Grenadines	Zimbabwe
Congo (Democratic Republic)	Kenya	Sao Tome and Principe	
Costa Rica	Kuwait	Saudi Arabia]	

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**F100** PART 2 **U.K.**

PART 2 TERRITORIES

**Textual Amendments**

**F100** Sch. 5A Pt. 2 omitted (with effect in accordance with s. 79(12) of the amending Act) by virtue of Finance Act 2014 (c. 26), s. 79(10)

**F101** PART 3 **U.K.**

PART 3 TERRITORIES

**Textual Amendments**

**F101** Sch. 5A Pt. 3 omitted (with effect in accordance with s. 79(12) of the amending Act) by virtue of Finance Act 2014 (c. 26), s. 79(10)

SCHEDULE 6 **U.K.**

Section 40.

AIR PASSENGER DUTY: ADMINISTRATION AND ENFORCEMENT

*Application of excise enactments*

- 1 (1) The <sup>M19</sup>Customs and Excise Management Act 1979 shall have effect for the purposes of Chapter IV of Part I of this Act in relation to—
- (a) any person who is or is liable to be registered,
  - (b) any fiscal representative, and
  - (c) any handling agent where a notice given to him under section 37 of this Act is effective,
- as it has effect in relation to revenue traders, but with the modifications mentioned in sub-paragraph (2), and paragraphs 3 and 4, below.
- (2) That Act shall have effect, in relation to any person to whom sub-paragraph (1) above applies, as if—
- (a) the reference in section 112(1) (power of entry) to vehicles included aircraft,
  - (b) section 116 (payment of duty) were omitted,
  - (c) in section 117 (execution and distress)—
    - (i) the references to goods liable to any excise duty included tickets, and
    - (ii) the references to the trade in respect of which duty is imposed were to the trade or business by virtue of which sub-paragraph (1) above applies to him, and



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- (d) any power under section 118B(1)(b) to require any person who is or is liable to be registered to produce or cause to be produced any such documents as are referred to in that subsection included power to require his fiscal representative to produce them.

#### Marginal Citations

M19 1979 c. 2.

- 2 Section 118B of that Act shall have effect for the purposes of Chapter IV of Part I of this Act in relation to any person who, in the course of a trade or business carried on by him, issues or arranges for the issue of tickets as if—
- (a) he were a revenue trader, and
- (b) the references to services supplied by or to him in the course or furtherance of a business were to services supplied by or to him in the course of issuing or arranging for the issue of tickets.
- 3 (1) A notice may require any person to whom paragraph 1 above applies to furnish, at specified times and in the specified form, any such information to the Commissioners as he could be required by the Commissioners to furnish under subsection (1) of section 118B; and any such requirement shall have effect as a requirement under that subsection.
- (2) A notice may require any person to whom paragraph 1 or 2 above applies to produce or cause to be produced for inspection by an officer, at specified places and times, any such documents as he could be required by the officer to produce under that subsection; and any such requirement shall have effect as a requirement under that subsection.
- (3) In this paragraph—
- “notice” means a notice published, and not withdrawn, by the Commissioners, and
- “specified” means specified in such a notice.
- 4 In relation to any person to whom paragraph 1 or 2 above applies—
- (a) that Act shall have effect as if “document” had the same meaning as in Chapter IV of Part I of this Act, and
- (b) that Act and this Schedule shall have effect as if any reference to the production of any document, in the case of information recorded otherwise than in legible form, were to producing a copy of the information in legible form.

#### Information

- 5 (1) Any person having the management of an airport shall, if required to do so by the Commissioners—
- (a) give notice to the Commissioners, within such time and in such form as they may reasonably require, stating whether or not he holds or has at any time held any information relating to the matters mentioned in subparagraph (3) below and, if he does or has done, stating the general nature of the information, and

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- (b) furnish to the Commissioners, within such time and in such form as they may reasonably require, such information relating to such matters as they may reasonably specify.
- (2) Any such person shall, if required to do so by an officer, produce any documents relating to those matters, or cause them to be produced, for inspection by that officer.
- (3) The matters referred to in sub-paragraphs (1) and (2) above are—
  - (a) whether or not any aircraft is a chargeable aircraft,
  - (b) who is the operator of any aircraft,
  - (c) whether or not any person is a handling agent of the operator of any aircraft, and
  - (d) whether or not any duty is payable on the carriage of any person and, if so, the amount of duty.
- (4) Documents produced under sub-paragraph (2) above shall be produced, at such time as the officer may reasonably require, at the principal place of business of the person required to produce them or cause them to be produced or at such other place as the officer may reasonably require.
- (5) An officer may take copies of, or make extracts from, any document produced under this paragraph.
- (6) If it appears to an officer to be necessary to do so, he may, at a reasonable time and for a reasonable period, remove any document produced under this paragraph.
- (7) Where an officer removes a document under sub-paragraph (6) above, then—
  - (a) if the person from whom it is removed so requests, the officer shall give him a receipt for the document,
  - (b) if the document is reasonably required for the proper conduct of any business, the officer 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, and
  - (c) if the document is lost or damaged, the Commissioners shall be liable to compensate the owner for any expenses reasonably incurred by him in replacing or repairing it.
- (8) Any reference in this paragraph to the production of a document, in the case of information recorded otherwise than in legible form, is to producing a copy of the information in legible form.
- (9) Any failure by a person having the management of an airport to comply with a requirement imposed under this paragraph shall attract a penalty under section 9 of this Act.

#### *Application of Chapter II*

- 6 An appeal which relates to duty shall not be entertained under section 16 of this Act at any time if any return [<sup>F102</sup>for an accounting period to which the appeal relates] which the appellant is required by regulations made by virtue of section 38 of this Act to make has not at that time been made.

*Status: Point in time view as at 01/04/2023.*

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### Textual Amendments

**F102** Words in Sch. 6 para. 6 inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 209\(2\)](#)

### *Interest payable to Commissioners*

- 7 (1) Where an assessment of duty due from any person (“the person assessed”) is made under section 12 of this Act and any of the conditions in sub-paragraph (2) below is fulfilled, the whole of the amount assessed shall, subject to paragraph 8 below, carry interest at [<sup>F103</sup>the rate applicable under section section 197 of the Finance Act 1996] from the reckonable date until payment.
- (2) The conditions are—
- that the assessment relates to an accounting period in respect of which either a return has previously been made or an earlier assessment has already been notified to the person assessed, or
  - that the assessment relates to an accounting period which exceeds one month and begins on the date on which the person assessed was, or became liable to be, registered.
- (3) In a case where—
- the circumstances are such that an assessment of duty due from any person could have been made and, if it had been made, the conditions in sub-paragraph (2) above would have been fulfilled, but
  - before such an assessment was made the duty was paid (so that no such assessment was necessary),
- the whole of the amount paid shall 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.
- (4) In this paragraph and paragraph 8 below the “reckonable date” means the latest date on which a return is required to be made under Chapter IV of Part I of this Act for the accounting period to which the amount assessed or paid relates; and interest under this paragraph shall run from the reckonable date even if that date is a non-business day, within the meaning of section 92 of the <sup>M20</sup>Bills of Exchange Act 1882.
- (5) Interest under this paragraph shall be paid without any deduction of income tax.

### Textual Amendments

**F103** Words in Sch. 6 para. 7(1)(3) substituted (29.4.1996 with effect as mentioned in [s. 197\(7\)](#) of the amending Act) by [1996 c. 8, s. 197\(6\)\(a\)](#); [S.I. 1997/1015](#), [art. 2](#)

### Modifications etc. (not altering text)

**C3** Sch. 6 para. 7: power to amend conferred (29.4.1996 with effect as mentioned in [s. 197\(7\)](#) of the amending Act) by [1996 c. 8, s. 197\(1\)\(2\)](#); [S.I. 1997/1015](#), [art. 2](#)

### Marginal Citations

**M20** 1882 c. 61.

*Status: Point in time view as at 01/04/2023.*

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- 8 (1) Where on an appeal by any person (“the appellant”) to a tribunal under section 16 of this Act against an assessment of duty—
- (a) it is found that the whole or any part of the duty was due from him, and
  - (b) the amount due, or any part of that amount, has not been paid and no cash security has been given for it,
- that amount or, as the case may be, that part of it shall carry interest [<sup>F104</sup>at the rate applicable under section 197 of the Finance Act 1996] from the reckonable date until payment.
- (2) In sub-paragraph (1) above, “cash security” means such adequate security as enables the Commissioners to place the amount in question on deposit.
- (3) Interest under this paragraph shall be paid without any deduction of income tax.

**Textual Amendments**  
**F104** Words in Sch. 6 para. 8(1) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 209(3)** (with Sch. 3 para. 9(2)(c))

*Interest payable by the Commissioners*

F1059 . . . . .

**Textual Amendments**  
**F105** Sch. 6 para. 9 repealed (1.11.2001) by [2001 c. 9, ss. 15, 110, Sch. 3 para. 20, Sch. 33 Pt. I\(4\)](#), Note; [S.I. 2001/3300](#), **art. 2** (with art. 3)

F10610 . . . . .

**Textual Amendments**  
**F106** Sch. 5 para. 10 repealed (1.11.2001) by [2001 c. 9, ss. 15, 110, Sch. 3 para. 20, Sch. 33 Pt. I\(4\)](#), Note; [S.I. 2001/3300](#), **art. 2** (with art. 3)

*Interest: specified rate*

F10711 . . . . .

**Textual Amendments**  
**F107** Sch. 6 para. 11 repealed (29.4.1996 with effect as mentioned in s. 197(7) of the repealing Act) by [1996 c. 8, s. 205, Sch. 41 Pt. VIII\(1\)](#), Note; [S.I. 1997/1015](#), **art. 2**

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### [<sup>F108</sup> Assessment of interest]

#### Textual Amendments

**F108** Sch. 6: Cross-heading and para. 11A inserted (1.5.1995 with application as mentioned in s. 16(4) of the amending Act) by 1995 c. 4, s. 16(1)

- [<sup>F109</sup>11(A)] Where by virtue of paragraph 7 above duty due from any person for an accounting period carries interest, the Commissioners may assess that person to an amount of interest in accordance with this paragraph.
- (2) Notice of the assessment shall be given to the person liable for the interest or a representative of his.
  - (3) The amount of the interest shall be calculated by reference to a period ending on a date (“the due date”) no later than the date of the notice.
  - (4) The notice shall specify—
    - (a) the amount of the duty which carries the interest assessed (“the specified duty”);
    - (b) the amount of the interest assessed (“the specified interest”);
    - (c) the due date; and
    - (d) a date by which that amount is required to be paid (“the payment date”).
  - (5) Sub-paragraphs (6) and (7) below apply where the specified duty or any part of it is unpaid on the date of the notice.
  - (6) If the unpaid amount or any part of it is paid by the payment date, the payment shall be treated for the purposes of paragraph 7 above as made on the due date.
  - (7) To the extent that the unpaid amount is not paid by the payment date, an assessment may be made under this paragraph in respect of any interest on the unpaid amount which accrues after the due date.
  - (8) For the purposes of sub-paragraphs (6) and (7) above, a payment—
    - (a) which purports to be a payment of the unpaid amount or any part of it, but
    - (b) which is insufficient to discharge both the liability to pay the unpaid amount and the liability to pay the specified interest,shall be treated as made in discharge (or partial discharge) of the liability to pay the specified interest before it is treated as discharging to any extent the liability to pay the unpaid amount.
  - (9) A notice of interest assessed under this paragraph may be combined in one document with notification of an assessment under section 12 of this Act which relates to the specified duty.
  - (10) A notice which is so combined must comply with the requirements of this paragraph which relate to a notice which is not so combined.
  - (11) The specified interest shall be recoverable as if it were duty due from the person assessed to that interest.
  - (12) For the purposes of this paragraph a person is a representative of another if—
    - (a) he is that other’s personal representative;

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- (b) he is that other’s trustee in bankruptcy or is a receiver or liquidator appointed in relation to that other or in relation to any of his property; or
- (c) he is a person acting in some other representative capacity in relation to that other.]

#### Textual Amendments

**F109** Sch. 6: Cross-heading and para. 11A inserted (1.5.1995 with application as mentioned in s. 16(4) of the amending Act) by 1995 c. 4, s. 16(1) (with Sch. 8 paras. 55(2) 57(1))

#### *Evidence by certificate*

- 12 (1) A certificate of the Commissioners—
- (a) that a person was or was not, on any date specified in the certificate, registered or liable to be registered under section 33 of this Act,
  - (b) that the name of any person was or was not, on any date so specified, shown as the fiscal representative of any person in the register kept under that section,
  - (c) that any aircraft was or was not, on any date so specified, a chargeable aircraft,
  - (d) that any return required to be made under regulations made by virtue of section 38 of this Act had not, on any date so specified, been made, or
  - (e) that any duty shown as due in such a return, or in an assessment under section 12 of this Act, had not, on any date so specified, 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 Chapter IV of Part I 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 taken to be such a certificate until the contrary is proved.

#### *Preferential debt*

- 13 <sup>F110</sup>(1) . . . . .
- <sup>F110</sup>(2) . . . . .
- (3) [<sup>F111</sup>In Schedule 4 to the <sup>M21</sup>Insolvency (Northern Ireland) Order 1989 (categories of preferential debts) in Category 2 (debts due to Customs and Excise) after paragraph 5B there shall be inserted—
- “5C Any amount which is due by way of air passenger duty from the debtor at the relevant date and which became due within the period of six months next before that date.”]

#### Textual Amendments

**F110** Sch. 6 para. 13(1)(2) repealed (15.9.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 26; S.I. 2003/2093, art. 2(1), Sch. 2 (with art. 4)

*Status: Point in time view as at 01/04/2023.*

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**F111** Sch. 6 para. 13(3) repealed (N.I.) (27.3.2006) by [The Insolvency \(Northern Ireland\) Order 2005 \(S.I. 2005/1455\)](#), art. 1(3), [Sch. 9](#); S.R. 2006/21, art. 2 (subject to S.R. 2006/22, arts. 2-7)

#### Marginal Citations

**M21** [S.I. 1989/2405 \(N.I. 19\)](#)

## [<sup>F112</sup>SCHEDULE 6A U.K.]

Section 51A.

### PREMIUMS LIABLE TO TAX AT THE HIGHER RATE

#### Textual Amendments

**F112** Sch. 6A inserted (19.3.1997 with effect as mentioned in s. 24 of the amending Act) by [1997 c. 16, s. 22\(3\)](#), [Sch. 4](#)

## PART I U.K.

### INTERPRETATION

- 1 (1) In this Schedule—
- “insurance-related service” means any service which is related to, or connected with, insurance;
  - “supply” includes all forms of supply; and “supplier” shall be construed accordingly.
- (2) For the purposes of this Schedule, any question whether a person is connected with another shall be determined in accordance with [<sup>F113</sup>section 1122 of the Corporation Tax Act 2010].

#### Textual Amendments

**F113** Words in Sch. 6A para. 1(2) substituted (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 284](#) (with [Sch. 2](#))

## PART II U.K.

### DESCRIPTIONS OF PREMIUM

#### *Insurance relating to motor cars or motor cycles*

- 2 (1) [<sup>F114</sup>Subject to paragraph 5, a premium] under a taxable insurance contract relating to a motor car or motor cycle falls within this paragraph if—
- (a) the contract is arranged through a person falling within sub-paragraph (2) below, or
  - (b) the insurer under the contract is a person falling within that sub-paragraph, unless the insurance is provided to the insured free of charge.

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- (2) A person falls within this sub-paragraph if—
- (a) he is a supplier of motor cars or motor cycles;
  - (b) he is connected with a supplier of motor cars or motor cycles; or
  - (c) he pays—
    - (i) the whole or any part of the premium received under the taxable insurance contract, or
    - (ii) a fee connected with the arranging of that contract,
 to a supplier of motor cars or motor cycles or to a person who is connected with a supplier of motor cars or motor cycles.
- [ A premium does not fall within this paragraph if it is—
- <sup>F115</sup>(2A) (a) payable under a taxable insurance contract relating to a motor car or motor cycle which is supplied by way of sale, and
- (b) attributable to cover of the kind generally known as—
    - (i) fully comprehensive,
    - (ii) third party, fire and theft, or
    - (iii) third party.]
- (3) Where a taxable insurance contract relating to a motor car or motor cycle is arranged through a person who is connected with a supplier of motor cars or motor cycles, the premium does not fall within this paragraph by virtue only of sub-paragraph (2)(b) above except to the extent that the premium is attributable to cover for a risk which relates to a motor car or motor cycle supplied by a supplier of motor cars or motor cycles with whom that person is connected.
- (4) Where the insurer under a taxable insurance contract relating to a motor car or motor cycle is connected with a supplier of motor cars or motor cycles, the premium does not fall within this paragraph by virtue only of sub-paragraph (2)(b) above except to the extent that the premium is attributable to cover for a risk which relates to a motor car or motor cycle supplied by a supplier of motor cars or motor cycles with whom the insurer is connected.
- (5) For the purposes of this paragraph, the cases where insurance is provided to the insured free of charge are those cases where no charge (whether by way of premium or otherwise) is made—
- (a) in respect of the taxable insurance contract, or
  - (b) at or about the time when the taxable insurance contract is made and in connection with that contract, in respect of any insurance-related service,
- by any person falling within sub-paragraph (2) above to any person who is or becomes the insured (or one of the insured) under the contract or to any person who acts, otherwise than in the course of a business, for or on behalf of such a person.
- (6) In this paragraph—
- “motor car” and “motor cycle” have the meaning given—
- (a) by section 185(1) of the <sup>M22</sup>Road Traffic Act 1988; or
  - (b) in Northern Ireland, by Article 3(1) of the <sup>M23</sup>Road Traffic (Northern Ireland) Order 1995;
- [<sup>F116</sup>“sale”, in relation to a motor car or motor cycle, means—
- (a) a sale under which title to the motor car or motor cycle passes to the purchaser immediately on purchase, or



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- (b) a sale pursuant to a hire purchase agreement (within the meaning of the Consumer Credit Act 1974) under which it is intended at the outset of the agreement that the title to the motor car or motor cycle is to pass to the purchaser, whether on conclusion of the agreement or at the end of a period specified in the agreement.]

“supplier” does not include an insurer who supplies a car or motor cycle as a means of discharging liabilities arising by reason of a claim under an insurance contract.

#### Textual Amendments

- F114** Words in Sch. 6A para. 2(1) substituted (1.4.2011) (with effect in accordance with art. 1(2) of the amending S.I.) by [The Insurance Premium Tax \(Discounted Insurance Premiums: Higher Rate\) Order 2011 \(S.I. 2011/661\)](#), arts. 1(1), **3**
- F115** Sch. 6A para. 2(2A) inserted (1.4.2009) (with effect in accordance with art. 1(2) of the amending S.I.) by [The Insurance Premium Tax \(Amendment of Schedule 6A to the Finance Act 1994\) Order 2009 \(S.I. 2009/219\)](#), arts. 1(1), **2(2)**
- F116** Words in Sch. 6A para. 2(6) inserted (1.4.2009) (with effect in accordance with art. 1(2) of the amending S.I.) by [The Insurance Premium Tax \(Amendment of Schedule 6A to the Finance Act 1994\) Order 2009 \(S.I. 2009/219\)](#), arts. 1(1), **2(3)**

#### Marginal Citations

- M22** 1988 c. 52.  
**M23** S.I. 1995/2994 (N.I. 18).

#### *Insurance relating to domestic appliances etc.*

- 3 (1) [<sup>F117</sup>Subject to paragraph 5, a premium] under a taxable insurance contract relating to relevant goods falls within this paragraph if—
- (a) the contract is arranged through a person falling within sub-paragraph (2) below, or
- (b) the insurer under the contract is a person falling within that sub-paragraph, unless the insurance is provided to the insured free of charge.
- (2) A person falls within this sub-paragraph if—
- (a) he is a supplier of relevant goods;
- (b) he is connected with a supplier of relevant goods; or
- (c) he pays—
- (i) the whole or any part of the premium received under the taxable insurance contract, or
- (ii) a fee connected with the arranging of that contract,
- to a supplier of relevant goods or to a person who is connected with a supplier of relevant goods.
- (3) Where a taxable insurance contract relating to relevant goods is arranged through a person who is connected with a supplier of relevant goods, the premium does not fall within this paragraph by virtue only of sub-paragraph (2)(b) above except to the extent that the premium is attributable to cover for a risk which relates to relevant goods supplied by a supplier of relevant goods with whom that person is connected.

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- (4) Where the insurer under a taxable insurance contract relating to relevant goods is connected with a supplier of relevant goods, the premium does not fall within this paragraph by virtue only of sub-paragraph (2)(b) above except to the extent that the premium is attributable to cover for a risk which relates to relevant goods supplied by a supplier of relevant goods with whom the insurer is connected.
- (5) For the purposes of this paragraph, the cases where insurance is provided to the insured free of charge are those cases where no charge (whether by way of premium or otherwise) is made—
- (a) in respect of the taxable insurance contract, or
  - (b) at or about the time when the taxable insurance contract is made and in connection with that contract, in respect of any insurance-related service,
- by any person falling within sub-paragraph (2) above to any person who is or becomes the insured (or one of the insured) under the contract or to any person who acts, otherwise than in the course of a business, for or on behalf of such a person.
- (6) In this paragraph—
- “relevant goods” means any electrical or mechanical appliance of a kind—
- (a) which is ordinarily used in or about the home; or
  - (b) which is ordinarily owned by private individuals and used by them for the purposes of leisure, amusement or entertainment;
- “supplier” does not include an insurer who supplies relevant goods as a means of discharging liabilities arising by reason of a claim under an insurance contract.
- (7) In sub-paragraph (6) above—
- “appliance” includes any device, equipment or apparatus;
- “the home” includes any private garden and any private garage or private workshop appurtenant to a dwelling.

#### Textual Amendments

**F117** Words in [Sch. 6A para. 3\(1\)](#) substituted (1.4.2011) (with effect in accordance with art. 1(2) of the amending S.I.) by [The Insurance Premium Tax \(Discounted Insurance Premiums: Higher Rate\) Order 2011 \(S.I. 2011/661\)](#), arts. 1(1), [3](#)

#### *F<sup>F118</sup> Insurance provided by divided company*

#### Textual Amendments

**F118** [Sch. 6A para. 3A](#) and cross-heading inserted (10.7.2003) by [Finance Act 2003 \(c. 14\)](#), [s. 194\(1\)](#) (with [s. 194\(2\)](#))

- 3A (1) A premium under a taxable insurance contract relating to a motor car or motor cycle also falls within paragraph 2 above if—
- (a) the insurance to be provided under the contract is provided by a divided company, and

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- (b) any division of that company would, if it were a separate company, be a person connected with a supplier of motor cars or motor cycles.
- (2) A premium under a taxable insurance contract relating to relevant goods also falls within paragraph 3 above if—
  - (a) the insurance to be provided under the contract is provided by a divided company, and
  - (b) any division of that company would, if it were a separate company, be a person connected with a supplier of relevant goods.
- (3) Sub-paragraph (1) or (2) above does not apply if the insurance is provided to the insured free of charge.
- (4) A premium falls within paragraph 2 above by virtue of this paragraph only to the extent that it is attributable to cover for a risk which relates to a motor car or motor cycle supplied by a supplier of motor cars or motor cycles with whom the division in question would, if it were a separate company, be connected.
- (5) A premium falls within paragraph 3 above by virtue of this paragraph only to the extent that it is attributable to cover for a risk which relates to relevant goods supplied by a supplier of relevant goods with whom the division would, if it were a separate company, be connected.
- (6) For the purposes of this paragraph—
  - (a) a company is a “divided company” if under the law under which the company is formed, under the company’s constitution or under arrangements entered into by or in relation to the company—
    - (i) some or all of the assets of the company are available primarily, or only, to meet particular liabilities of the company, and
    - (ii) some or all of the members of the company, and some or all of its creditors, have rights primarily, or only, in relation to particular assets of the company;
  - (b) a “division” of such a company means an identifiable part of it (by whatever name known) that carries on distinct business activities and to which particular assets and liabilities of the company are primarily or wholly attributable.
- (7) In this paragraph “provided to the insured free of charge” has the meaning given by sub-paragraph (5) of paragraph 2 or 3 above.

In determining for this purpose whether a divided company by whom insurance is provided is a person falling within sub-paragraph (2) of paragraph 2 or 3 above, the company shall be treated as connected with any person with whom a division of that company would be connected if it were a separate company.

- (8) Other expressions defined for the purposes of paragraph 2 or 3 above have the same meaning in this paragraph.]

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### *F<sup>F119</sup> Travel insurance*

#### **Textual Amendments**

**F119** Sch. 6A para. 4 and the preceding cross-heading substituted (31.7.1998 with effect as mentioned in s. 146(3)(4) of the amending Act) by 1998 c. 36, s. 146(2) (with Sch. 18 para. 6(3))

- F120**<sup>4</sup> (1) A premium under a taxable insurance contract falls within this paragraph if it is in respect of the provision of cover against travel risks for a person travelling.
- (2) Where—
- (a) a contract of insurance provides cover against both travel risks and risks other than travel risks,
  - (b) the premium attributable to the cover against travel risks does not exceed 10 per cent. of the total premium payable under the contract, and
  - (c) the contract does not provide cover for a person travelling against travel risks falling within two or more of the paragraphs of sub-paragraph (3) below,
- the premium, so far as attributable to the cover against travel risks, does not fall within this paragraph by virtue of sub-paragraph (1) above.
- (3) The travel risks mentioned in sub-paragraph (2)(c) above are—
- (a) liability in respect of cancellation of travel or of accommodation arranged in connection with travel;
  - (b) delayed or missed departure;
  - (c) curtailment of travel or of the use of accommodation arranged in connection with travel;
  - (d) loss or delayed arrival of baggage;
  - (e) personal injury or illness or expenses of repatriation.
- (4) A premium does not fall within this paragraph by virtue of sub-paragraph (1) above if it is payable under a taxable insurance contract relating to a motor vehicle and is attributable to cover of the kind generally known as—
- (a) fully comprehensive,
  - (b) third party, fire and theft,
  - (c) third party, or
  - (d) roadside assistance,
- or if it is payable under a taxable insurance contract relating to a caravan, boat or aircraft and is attributable to cover of a description broadly corresponding to any of those set out in paragraphs (a) to (d) above (so far as applicable) provided in respect of the caravan, boat or aircraft for a period of at least one month for the person travelling.
- (5) In this paragraph—
- “person travelling” includes a person intending to travel;
- “travel risks” means risks associated with, or related to, travel or intended travel—
- (a) outside the United Kingdom,
  - (b) by air within the United Kingdom,
  - (c) within the United Kingdom in connection with travel falling within paragraph (a) or (b) above, or

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- (d) which involves absence from home for at least one night,  
or risks to which a person travelling may be exposed during, or at any place at which he may be in the course of, any such travel.]]

#### Textual Amendments

**F120** Sch. 6A para. 4 substituted (31.7.1998 with effect as mentioned in s. 146(3) of the amending Act) by 1998 c. 36, s. 146(2) (with Sch. 18, para. 6(3))

*[<sup>F121</sup>Insurance relating to motor cars, motor cycles,  
domestic appliances, etc provided at a discount*

#### Textual Amendments

**F121** Sch. 6A para. 5 inserted (1.4.2011) (with effect in accordance with art. 1(2) of the amending S.I.) by The Insurance Premium Tax (Discounted Insurance Premiums: Higher Rate) Order 2011 (S.I. 2011/661), arts. 1(1), 4

5. (1) This paragraph applies where (apart from this paragraph) a premium would fall within paragraph 2 or 3 but the insurance is provided to the insured at less than its full cost.
- (2) For the purposes of this paragraph the cases where the insurance is provided to the insured at less than its full cost are those cases where the amount charged in respect of the taxable insurance contract by any person falling within sub-paragraph (2) of paragraph 2 or 3 to any person who is or becomes the insured under the contract is less than the premium.
- (3) Only so much of the premium as does not exceed the amount charged falls within paragraph 2 or 3.]

SCHEDULE 7 **U.K.**

Section 64.

INSURANCE PREMIUM TAX

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

**C4** Sch. 7 extended (19.3.1997) by 1997 c. 16, s. 50, Sch. 5 Pt. I paras. 1, 4(2)

**PART I** **U.K.**

INFORMATION

*Records*

- 1 (1) Regulations may require registrable persons to keep records.

*Status: Point in time view as at 01/04/2023.*

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- (2) Regulations under sub-paragraph (1) above 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) Regulations may <sup>[F122]</sup>—
  - (a) require any records kept in pursuance of the regulations to be preserved for such period not exceeding six years as may be specified in the regulations.
  - <sup>[F123]</sup>(b) authorise the Commissioners to direct that any such records need only be preserved for a shorter period than that specified in the regulations, and
  - (c) authorise a direction to be made so as to apply generally or in such cases as the Commissioners may stipulate.]
- <sup>[F124]</sup>(4) A duty under the regulations to preserve records may be discharged—
  - (a) by preserving them in any form and by any means, or
  - (b) by preserving the information contained in them in any form and by any means,
 subject to any conditions or exceptions specified in writing by the Commissioners.]

**Textual Amendments**

**F122** Words in Sch. 7 para. 1(3) renumbered as Sch. 7 para. 1(3)(a) (1.4.2010) by [Finance Act 2009 \(c. 10\)](#), s. 98(2), **Sch. 50 para. 1(2)(a)**; S.I. 2010/815, art. 2

**F123** Sch. 7 para. 1(3)(b)(c) inserted (1.4.2010) by [Finance Act 2009 \(c. 10\)](#), s. 98(2), **Sch. 50 para. 1(2)(b)**; S.I. 2010/815, art. 2

**F124** Sch. 7 para. 1(4) substituted for Sch. 7 para. 1(4)-(6) (1.4.2010) by [Finance Act 2009 \(c. 10\)](#), s. 98(2), **Sch. 50 para. 1(3)**; S.I. 2010/815, art. 2

*Other provisions*

<sup>F125</sup>2 . . . . .

**Textual Amendments**

**F125** Sch. 7 para. 2 omitted (1.4.2010) by virtue of [The Finance Act 2009, Section 96 and Schedule 48 \(Appointed Day, Savings and Consequential Amendments\) Order 2009 \(S.I. 2009/3054\)](#), art. 1, **Sch. para. 6(a)**

<sup>F126</sup>3 . . . . .

**Textual Amendments**

**F126** Sch. 7 para. 3 omitted (1.4.2010) by virtue of [The Finance Act 2009, Section 96 and Schedule 48 \(Appointed Day, Savings and Consequential Amendments\) Order 2009 \(S.I. 2009/3054\)](#), art. 1, **Sch. para. 6(a)**

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## PART II U.K.

### POWERS

#### *Entry, arrest, etc.*

- 4 F127(1) .....
- F128(2) .....
- F128(3) .....
- F128(4) .....
- F128(5) .....
- F129(6) .....
- F129(7) .....

#### Textual Amendments

- F127** Sch. 7 para. 4(1) omitted (1.4.2010) by virtue of [The Finance Act 2009, Section 96 and Schedule 48 \(Appointed Day, Savings and Consequential Amendments\) Order 2009 \(S.I. 2009/3054\)](#), art. 1, [Sch. para. 6\(a\)](#)
- F128** Sch. 7 para. 4(2)-(5) repealed (8.11.2007) by [Finance Act 2007 \(c. 11\)](#), s. 84(4)(5)(5), Sch. 22 para. 9(a), [Sch. 27 Pt. 5\(1\)](#); S.I. 2007/3166, art. 2(c)
- F129** Sch. 7 para. 4(6) (7) repealed (8.11.2007) by [Finance Act 2007 \(c. 11\)](#), s. 84(4)(5)(5), Sch. 22 para. 9(b), [Sch. 27 Pt. 5\(1\)](#); S.I. 2007/3166, art. 2(c)

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

- C5** Sch. 7 para. 4(3): power of seizure extended (*prosp.*) by [2001 c. 16](#), ss. 50-55, 68, 138(2), [Sch. 1 Pt. I para. 57](#)
- C6** Sch. 7 para. 4(3) powers of seizure extended (1.4.2003) by [Criminal Justice and Police Act 2001 \(c. 16\)](#), ss. 50, 138(2), [Sch. 1 para. 57](#) (with ss. 52-54, 68); S.I. 2003/708, art. 2(a)

*[<sup>F130</sup> Order for access to recorded information etc.]*

#### Textual Amendments

- F130** Sch. 7 para. 4A and the preceding cross-heading inserted (1.5.1995) by [1995 c. 4](#), s. 34, [Sch. 5 para. 8\(1\)](#)

- <sup>F131</sup>4A (1) Where, on an application by an authorised person, a justice of the peace or, in Scotland, a justice (within the meaning of section 462 of the <sup>M24</sup>Criminal Procedure (Scotland) Act 1975) is satisfied that there are reasonable grounds for believing—
- that an offence in connection with tax is being, has been or is about to be committed, and
  - 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.

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- (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 [<sup>F132</sup>stored in any electronic form] , 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 [<sup>F133</sup>or from which it can readily be produced in a visible and legible form ] 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 3 and 4 above.

#### Textual Amendments

**F131** Sch. 7 para. 4A and the preceding cross-heading inserted (1.5.1995) by 1995 c. 4, s. 34, **Sch. 5 para. 8(1)**

**F132** Words in Sch. 7 para. 4A(4) substituted (1.4.2003) by **Criminal Justice and Police Act 2001 (c. 16)**, para. 13(2)(g)s. 138(2), **Sch. 2 para. 13(1)(a)**; S.I. 2003/708, art. 2(k)

**F133** Words in Sch. 7 para. 4A(4) inserted (1.4.2003) by **Criminal Justice and Police Act 2001 (c. 16)**, para. 13(2)(g)s. 138(2), **Sch. 2 para. 13(1)(b)**; S.I. 2003/708, art. 2(k)

#### Marginal Citations

**M24** 1975 c. 21.

#### *Removal of documents etc.*

- 5 (1) An authorised person who removes anything in the exercise of a power conferred by or under paragraph 4 [<sup>F134</sup>or 4A] 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.
- (3) Subject to sub-paragraph (7) below, if a request for permission to be allowed 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



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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) Subject to sub-paragraph (7) below, where anything is photographed or copied under sub-paragraph (4)(b) above the officer shall supply the photograph or copy, or cause it to 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 allow 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 the investigation of which he is in charge or 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 concerned as being the officer so in charge.

#### Textual Amendments

**F134** Words in Sch. 7 para. 5(1) inserted (1.5.1995) by 1995 c. 4, s. 34, Sch. 5 para. 8(2)

- 6 (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 5 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 sub-paragraphs (1) and (2) of paragraph 5 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—
  - (a) in England and Wales, a magistrates’ court;
  - (b) in Scotland, the sheriff;

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- (c) in Northern Ireland, a court of summary jurisdiction, as defined in Article 2(2)(a) of the <sup>M25</sup>Magistrates’ Court (Northern Ireland) Order 1981.
- (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>M26</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**  
**M25** S.I. 1981/1675 (N.I.26).  
**M26** 1954 c. 33 (N.I).

**PART III U.K.**

RECOVERY

*Recovery of tax etc.*

- 7 (1) Tax due from any person shall be recoverable as a debt due to the Crown.
  - <sup>F135</sup>(2) .....
  - <sup>F136</sup>(3) .....
  - <sup>F136</sup>(4) .....
  - <sup>F136</sup>(5) .....
  - (6) [<sup>F137</sup>In the <sup>M27</sup>Insolvency (Northern Ireland) Order 1989, in Article 346(1) (preferential debts) the words “ insurance premium tax ” shall be inserted after “VAT” and in Schedule 4 (categories of preferential debts) the following paragraph shall be inserted after paragraph 3—
    - “3A Any insurance premium tax which is referable to the period of 6 months next before the relevant date (which period is referred to below as “the 6-month period”).
    - For the purposes of this paragraph—
      - (a) where the whole of the accounting period to which any insurance premium tax is attributable falls within the 6-month period, the whole amount of that tax is referable to that period; and
      - (b) in any other case the amount of any insurance premium tax which is referable to the 6-month period is the proportion of the tax which is equal to such proportion (if any) of the accounting period in question as falls within the 6-month period;
    - and references here to accounting periods shall be construed in accordance with Part III of the Finance Act 1994.”]
  - <sup>F138</sup>(7) .....

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- F138(8) .....
- F138(9) .....
- F138(10) .....
- F138(11) .....
- F138(12) .....

#### Textual Amendments

- F135** Sch. 7 para. 7(2) repealed (15.9.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, **Sch. 26**; S.I. 2003/2093, art. 2(1), **Sch. 2** (with art. 4)
- F136** Sch. 7 para. 7(3)-(5) repealed (30.11.2016) by [The Bankruptcy \(Scotland\) Act 2016 \(Consequential Provisions and Modifications\) Order 2016 \(S.I. 2016/1034\)](#), art. 1, **Sch. 2 Pt. 1**
- F137** Sch. 7 para. 7(6) repealed (N.I.) (27.3.2006) by [The Insolvency \(Northern Ireland\) Order 2005 \(S.I. 2005/1455\)](#), art. 1(3), **Sch. 9**; S.R. 2006/21, art. 2 (subject to S.R. 2006/22, arts. 2-7)
- F138** Sch. 7 para. 7(7)-(12) repealed (1.7.1997) by [1997 c. 16](#), s. 113, **Sch. 18 Pt. V(2)**; S.I. 1997/1433, **art. 2**

#### Marginal Citations

- M27** [S.I. 1989/2405 \(N.I. 19\)](#).

#### *Recovery of overpaid tax*

- 8 (1) Where a person has paid an amount to the Commissioners by way of tax which was not tax 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 paragraph on a claim being made for the purpose.
- (3) It shall be a defence, in relation to a claim under this paragraph, that repayment of an amount would unjustly enrich the claimant.
- [<sup>F139</sup>(4) The Commissioners shall not be liable, on a claim made under this paragraph, to repay any amount paid to them more than [<sup>F140</sup>4 years] before the making of the claim.]
- (6) A claim under this paragraph shall be made in such form and manner and shall be supported by such documentary evidence as may be prescribed by regulations.
- (7) Except as provided by this paragraph, the Commissioners shall not be liable to repay an amount paid to them by way of tax by virtue of the fact that it was not tax due to them.

#### Textual Amendments

- F139** Sch. 7 para. 8(4) substituted for para. 8(4)(5) (19.3.1997) by [1997 c. 16](#), s. 50(1), **Sch. 5 Pt. II para. 5(2)**
- F140** Words in [Sch. 7 para. 8\(4\)](#) substituted (1.4.2010) by [Finance Act 2009 \(c. 10\)](#), s. 99(2), **Sch. 51 para. 2**; S.I. 2010/867, art. 2(1) (with art. 3)

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

- C7** Sch. 7 para. 8(3): power to modify conferred (19.3.1997) by [1997 c. 16, s. 50\(1\)](#), [Sch. 5 Pt. I paras. 1\(1\)\(b\), 3](#)
- C8** Sch. 7 para. 8(3) amended (19.3.1997) by [1997 c. 16, Sch. 5 Pt. I](#)

**PART IV U.K.**

PENALTIES

*Criminal offences*

- 9 (1) A person is guilty of an offence if—
- (a) being a registrable person, he is knowingly concerned in, or in the taking of steps with a view to, the fraudulent evasion of tax by him or another registrable person, or
  - (b) not being a registrable person, he is knowingly concerned in, or in the taking of steps with a view to, the fraudulent evasion of tax by a registrable person.
- (2) Any reference in sub-paragraph (1) above to the evasion of tax includes a reference to the obtaining of a payment under regulations under section 55(3)(c) or (d) or (f) of this Act.
- (3) A person is guilty of an offence if with the requisite intent—
- (a) he produces, furnishes or sends, or causes to be produced, furnished or sent, for the purposes of this Part of this Act any document which is false in a material particular, or
  - (b) he otherwise makes use for those purposes of such a document;
- and the requisite intent is intent to deceive or to secure that a machine will respond to the document as if it were a true document.
- (4) A person is guilty of an offence if in furnishing any information for the purposes of this Part of this Act he makes a statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular.
- (5) A person is guilty of an offence by virtue of this sub-paragraph if his conduct during any specified period must have involved the commission by him of one or more offences under the preceding provisions of this paragraph; and the preceding provisions of this sub-paragraph apply whether or not the particulars of that offence or those offences are known.
- (6) A person is guilty of an offence if—
- (a) he enters into a taxable insurance contract, or
  - (b) he makes arrangements for other persons to enter into a taxable insurance contract,
- with reason to believe that tax in respect of the contract will be evaded.
- (7) A person is guilty of an offence if he enters into taxable insurance contracts without giving security (or further security) he has been required to give under paragraph 24 below.

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### *Criminal penalties*

- 10 (1) A person guilty of an offence under paragraph 9(1) above shall be liable—
- (a) on summary conviction, to a penalty of [<sup>F141</sup>£20,000] or of three times the amount of the tax, whichever is the greater, or to imprisonment for a term not exceeding six months or to both;
  - (b) on conviction on indictment, to a penalty of any amount or to imprisonment for a term not exceeding seven years or to both.
- (2) The reference in sub-paragraph (1) above to the amount of the tax shall be construed, in relation to tax itself or a payment falling within paragraph 9(2) above, as a reference to the aggregate of—
- (a) the amount (if any) falsely claimed by way of credit, and
  - (b) the amount (if any) by which the gross amount of tax was falsely understated.
- (3) A person guilty of an offence under paragraph 9(3) or (4) above shall be liable—
- (a) on summary conviction, to a penalty of [<sup>F142</sup>£20,000] or, where sub-paragraph (4) below applies, to the alternative penalty there specified if it is greater, or to imprisonment for a term not exceeding six months or to both;
  - (b) on conviction on indictment, to a penalty of any amount or to imprisonment for a term not exceeding seven years or to both.
- (4) In a case where—
- (a) the document referred to in paragraph 9(3) above is a return required under this Part of this Act, or
  - (b) the information referred to in paragraph 9(4) above is contained in or otherwise relevant to such a return,
- the alternative penalty is a penalty equal to three times the aggregate of the amount (if any) falsely claimed by way of credit and the amount (if any) by which the gross amount of tax was understated.
- (5) A person guilty of an offence under paragraph 9(5) above shall be liable—
- (a) on summary conviction, to a penalty of [<sup>F143</sup>£20,000] or (if greater) three times the amount of any tax that was or was intended to be evaded by his conduct, or to imprisonment for a term not exceeding six months or to both;
  - (b) on conviction on indictment, to a penalty of any amount or to imprisonment for a term not exceeding seven years or to both;
- and paragraph 9(2) and sub-paragraph (2) above shall apply for the purposes of this sub-paragraph as they apply respectively for the purposes of paragraph 9(1) and sub-paragraph (1) above.
- (6) A person guilty of an offence under paragraph 9(6) above shall be liable on summary conviction to a penalty of [<sup>F144</sup>£20,000] or three times the amount of the tax, whichever is the greater.
- (7) A person guilty of an offence under paragraph 9(7) above shall be liable on summary conviction to a penalty of [<sup>F145</sup>£20,000].
- (8) In this paragraph—
- (a) “credit” means credit for which provision is made by regulations under section 55 of this Act;

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- (b) “the gross amount of tax” means the total amount of tax due before taking into account any deduction for which provision is made by regulations under section 55(3) of this Act.

**Textual Amendments**

**F141** Sum in Sch. 7 para. 10(1)(a) substituted (12.3.2015) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), reg. 1(1), **Sch. 2 para. 7(3)(a)** (with reg. 5(1))

**F142** Sum in Sch. 7 para. 10(3)(a) substituted (12.3.2015) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), reg. 1(1), **Sch. 2 para. 7(3)(b)** (with reg. 5(1))

**F143** Sum in Sch. 7 para. 10(5)(a) substituted (12.3.2015) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), reg. 1(1), **Sch. 2 para. 7(3)(c)** (with reg. 5(1))

**F144** Sum in Sch. 7 para. 10(6) substituted (12.3.2015) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), reg. 1(1), **Sch. 2 para. 7(3)(d)** (with reg. 5(1))

**F145** Sum in Sch. 7 para. 10(7) substituted (12.3.2015) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), reg. 1(1), **Sch. 2 para. 7(3)(e)** (with reg. 5(1))

*Criminal proceedings etc.*

- 11 Sections 145 to 155 of the <sup>M28</sup>Customs and Excise Management Act 1979 (proceedings for offences, mitigation of penalties and certain other matters) shall apply in relation to offences under paragraph 9 above and penalties imposed under paragraph 10 above as they apply in relation to offences and penalties under the customs and excise Acts as defined in that Act.

**Marginal Citations**

**M28** 1979 c. 2.

*Civil penalties*

F146<sup>12</sup> .....

**Textual Amendments**

**F146** Sch. 7 para. 12 omitted (1.4.2009) by virtue of [Finance Act 2008 \(c. 9\)](#), s. 122(2), **Sch. 40 para. 21(d)(ii)**; [S.I. 2009/571](#), art. 2 (with art. 6)

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

**C9** Sch. 7 para. 12: savings for effects of 2008 c. 40, Sch. 40 para. 21 (5.3.2009) by [The Finance Act 2008, Schedule 41 \(Appointed Day and Transitional Provisions\) Order 2009 \(S.I. 2009/511\)](#), **art. 4(b)(ii)**

F147<sup>13</sup> .....

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#### Textual Amendments

**F147** Sch. 7 para. 13 omitted (1.4.2009) by virtue of [Finance Act 2008 \(c. 9\)](#), s. 122(2), [Sch. 40 para. 21\(d\)\(ii\)](#); [S.I. 2009/571](#), art. 2 (with art. 6)

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

**C10** Sch. 7 para. 13: savings for effects of 2008 c. 40, Sch. 40 para. 21 (5.3.2009) by [The Finance Act 2008](#), [Schedule 41 \(Appointed Day and Transitional Provisions\) Order 2009 \(S.I. 2009/511\)](#), [art. 4\(b\)\(ii\)](#)

**F148** 14 . . . . .

#### Textual Amendments

**F148** Sch. 7 para. 14 omitted (1.4.2010) (with effect in accordance with art. 3 of the commencing S.I.) by virtue of [Finance Act 2008 \(c. 9\)](#), s. 123(2), [Sch. 41 para. 25\(e\)\(iii\)](#); [S.I. 2009/511](#), art. 2 (with art. 4)

- 15 (1) This paragraph applies if a person fails to comply with—
- (a) a requirement imposed by regulations made under section 54 of this Act to pay the tax due in respect of any period within the time required by the regulations, or
  - (b) a requirement imposed by regulations made under that section to furnish a return in respect of any period within the time required by the regulations;
- and sub-paragraphs (2) and (3) below shall have effect subject to sub-paragraphs (5) and (6) below and paragraph 25(7) below.
- (2) The person shall be liable to a penalty equal to 5 per cent. of the tax due or, if it is greater, to a penalty of £250.
- (3) The person—
- (a) shall be liable, in addition to an initial penalty under sub-paragraph (2) above, to a penalty of £20 for every relevant day when he fails to pay the tax or furnish the return, but
  - (b) shall not in respect of the continuation of the failure be liable to further penalties under sub-paragraph (2) above;
- and a relevant day is any day falling after the time within which the tax is required to be paid or the return is required to be furnished.
- (4) For the purposes of sub-paragraph (2) above the tax due—
- (a) shall, if the person concerned has furnished a return, be taken to be the tax shown in the return as that for which he is accountable in respect of the period in question, and
  - (b) shall, in any other case, be taken to be such tax as has been assessed for that period and notified to him under section 56(1) of this Act.
- (5) A failure falling within sub-paragraph (1) or (3) above shall not give rise to liability to a penalty under this paragraph if the person concerned satisfies the Commissioners or, on appeal, an appeal tribunal that there is a reasonable excuse for the failure.
- (6) Where, by reason of a failure falling within sub-paragraph (1) or (3) above—
- (a) a person is convicted of an offence (whether under this Part of this Act or otherwise), or

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- (b) a person is assessed to a penalty under paragraph 12 above [<sup>F149</sup>or to a penalty for a deliberate inaccuracy under Schedule 24 to the Finance Act 2007 (penalties for errors)] ,  
 that failure shall not also give rise to liability to a penalty under this paragraph.
- (7) If it appears to the Treasury that there has been a change in the value of money since the passing of this Act or, as the case may be, the last occasion when the power conferred by this sub-paragraph was exercised, they may by order substitute for the sums for the time being specified in sub-paragraphs (2) and (3) above such other sums as appear to them to be justified by the change.
- (8) An order under sub-paragraph (7) above shall not apply in relation to a failure which began before the date on which the order comes into force.

#### Textual Amendments

**F149** Words in Sch. 7 para. 15(6)(b) inserted (1.4.2009) by [The Finance Act 2008, Schedule 40 \(Appointed Day, Transitional Provisions and Consequential Amendments\) Order 2009 \(S.I. 2009/571\)](#), art. 1(1), [Sch. 1 para. 11\(3\)](#)

- 16 (1) This paragraph applies where—
- (a) by virtue of regulations made under section 65 of this Act a liability notice (within the meaning of that section) is served on an insured person,
  - (b) by virtue of such regulations that person is liable to pay an amount of tax which has been assessed in accordance with the regulations, and
  - (c) that tax is not paid within the time required by the regulations;
- and sub-paragraphs (2) and (3) below shall have effect subject to sub-paragraphs (4) and (5) below and paragraph 25(7) below.
- (2) The person shall be liable to a penalty equal to 5 per cent. of the tax assessed as mentioned in sub-paragraph (1) above or, if it is greater, to a penalty of £250.
- (3) The person—
- (a) shall be liable, in addition to an initial penalty under sub-paragraph (2) above, to a penalty of £20 for every relevant day when the tax is unpaid, but
  - (b) shall not in respect of the continuation of the non-payment of the tax be liable to further penalties under sub-paragraph (2) above;
- and a relevant day is any day falling after the time within which the tax is required to be paid.
- (4) A person shall not be liable to a penalty by virtue of this paragraph if he satisfies the Commissioners or, on appeal, an appeal tribunal that he took all reasonable steps to ensure that the tax mentioned in sub-paragraph (1)(b) above was paid within the time required by the regulations.
- (5) Where, by reason of a failure to pay tax, a person is convicted of an offence (whether under this Part of this Act or otherwise), that failure shall not also give rise to liability to a penalty under this paragraph.
- (6) If it appears to the Treasury that there has been a change in the value of money since the passing of this Act or, as the case may be, the last occasion when the power conferred by this sub-paragraph was exercised, they may by order substitute for the



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sums for the time being specified in sub-paragraphs (2) and (3) above such other sums as appear to them to be justified by the change.

- (7) An order under sub-paragraph (6) above shall not apply in relation to any failure to pay tax that was required to be paid before the date on which the order comes into force.
- 17 (1) If a person fails to comply with—
- (a) section 53(3) of this Act,
  - (b) <sup>F150</sup>...or
  - (c) a requirement imposed by any regulations made under this Part of this Act, other than a requirement falling within sub-paragraph (2) below,
- he shall be liable to a penalty of £250; but this is subject to sub-paragraphs (3) and (4) below.
- (2) A requirement falls within this sub-paragraph if it is—
- (a) a requirement imposed by regulations made under section 54 of this Act to pay the tax due in respect of any period within the time required by the regulations,
  - (b) a requirement imposed by regulations made under that section to furnish a return in respect of any period within the time required by the regulations,
  - (c) a requirement imposed by regulations made under section 65 of this Act to pay tax within the time required by the regulations, or
  - (d) a requirement specified for the purposes of this sub-paragraph by regulations.
- (3) A failure falling within sub-paragraph (1) above shall not give rise to liability to a penalty under this paragraph if the person concerned satisfies the Commissioners or, on appeal, an appeal tribunal that there is a reasonable excuse for the failure.
- (4) Where by reason of a failure falling within sub-paragraph (1) above—
- (a) a person is convicted of an offence (whether under this Part of this Act or otherwise), or
  - (b) a person is assessed to a penalty under paragraph 12 above [<sup>F151</sup>or to a penalty for a deliberate inaccuracy under Schedule 24 to the Finance Act 2007 (penalties for errors)] ,
- that failure shall not also give rise to liability to a penalty under this paragraph.
- (5) If it appears to the Treasury that there has been a change in the value of money since the passing of this Act or, as the case may be, the last occasion when the power conferred by this sub-paragraph was exercised, they may by order substitute for the sum for the time being specified in sub-paragraph (1) above such other sum as appears to them to be justified by the change.
- (6) An order under sub-paragraph (5) above shall not apply in relation to a failure which began before the date on which the order comes into force.

#### Textual Amendments

**F150** Sch. 7 para. 17(1)(b) omitted (1.4.2010) by virtue of [The Finance Act 2009, Section 96 and Schedule 48 \(Appointed Day, Savings and Consequential Amendments\) Order 2009 \(S.I. 2009/3054\)](#), art. 1, [Sch. para. 6\(b\)](#) (with art. 6)

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**F151** Words in Sch. 7 para. 17(4)(b) inserted (1.4.2009) by [The Finance Act 2008, Schedule 40 \(Appointed Day, Transitional Provisions and Consequential Amendments\) Order 2009 \(S.I. 2009/571\)](#), art. 1(1), [Sch. 1 para. 11\(4\)](#)

- 18 (1) A person who—
  - (a) by virtue of subsection (3), (7) or (9) of section 57 of this Act becomes subject to a duty to take action as mentioned in subsection (4) of that section, and
  - (b) fails to take action as so mentioned,
 shall be liable to a penalty of £10,000; but this is subject to sub-paragraph (2) below.
- (2) A failure falling within sub-paragraph (1) above shall not give rise to liability to a penalty under this paragraph if the person concerned satisfies the Commissioners or, on appeal, an appeal tribunal that there is a reasonable excuse for the failure.
- (3) If it appears to the Treasury that there has been a change in the value of money since the passing of this Act or, as the case may be, the last occasion when the power conferred by this sub-paragraph was exercised, they may by order substitute for the sum for the time being specified in sub-paragraph (1) above such other sum as appears to them to be justified by the change.
- (4) An order under sub-paragraph (3) above shall not apply in relation to a case where the duty mentioned in sub-paragraph (1) above was imposed before the date on which the order comes into force.

<sup>F152</sup> [<sup>F153</sup> 18A] . . . . .

**Textual Amendments**

**F152** Sch. 7 para. 18A omitted (6.4.2014) by virtue of [Finance Act 2008 \(c. 9\)](#), s. 129(4), [Sch. 43 para. 3\(3\)](#); [S.I. 2014/906](#), art. 2

**F153** Sch. 7 para. 18A inserted (E.W.) (6.4.2014) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, [Sch. 13 para. 116\(2\)](#) (with s. 89); [S.I. 2014/768](#), art. 2(1)(b)

- 19 (1) This paragraph applies where—
  - (a) in accordance with regulations under [<sup>F154</sup>section 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 tax due from him or any amount recoverable as if it were tax due from him, and
  - (b) the person levying the distress and the person in default have entered into a walking possession agreement.
- (2) For the purposes of this paragraph a walking possession agreement is 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.

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- (3) Subject to sub-paragraph (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 tax or other amount referred to in sub-paragraph (1)(a) above.
- (4) The person in default shall not be liable to a penalty under sub-paragraph (3) above if he satisfies the Commissioners or, on appeal, an appeal tribunal that there is a reasonable excuse for the breach in question.

[<sup>F155</sup>(5) This paragraph extends only to Northern Ireland.]

#### Textual Amendments

- F154** Words in Sch. 7 para. 19(1)(a) substituted (1.7.1997) by 1997 c. 16, s. 53(5)(9); S.I. 1997/1432, art. 2
- F155** Sch. 7 para. 19(5) substituted (6.4.2014) by Tribunals, Courts and Enforcement Act 2007 (c. 15), s. 148, Sch. 13 para. 116(3) (with s. 89); S.I. 2014/768, art. 2(1)(b)

- 20 For the purposes of paragraphs <sup>F156</sup>... 15(5), 17(3)<sup>F157</sup>... and 19(4) above—
- (a) an insufficiency of funds available for paying any amount 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 conduct of the person relied upon is a reasonable excuse.

#### Textual Amendments

- F156** Word in Sch. 7 para. 20 omitted (1.4.2010) by virtue of The Finance Act 2008 (Penalties for Errors and Failure to Notify etc) (Consequential Amendments) Order 2010 (S.I. 2010/530), art. 1, Sch. para. 4
- F157** Word in Sch. 7 para. 20 omitted (21.7.2008) by virtue of Finance Act 2008 (c. 9), s. 142(1)(d)

## PART V U.K.

### INTEREST

#### *Interest on tax etc.*

- 21 (1) Where an assessment is made under any provision of section 56 of this Act, the whole of the amount assessed shall carry interest at [<sup>F158</sup>the rate applicable under section 197 of the Finance Act 1996] from the reckonable date until payment; but this is subject to sub-paragraph (2) and paragraph 25(7) below.
- (2) Sub-paragraph (1) above shall not apply in relation to an assessment under section 56(1) of this Act unless at least one of the following conditions is fulfilled, namely—
- (a) that the assessment relates to an accounting period in respect of which either a return has previously been made, or an earlier assessment has already been notified to the person concerned;
- (b) that the assessment relates to an accounting period which exceeds three months and begins on the date with effect from which the person was, or was required to be, registered under this Part of this Act.

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- (3) In a case where—
- (a) the circumstances are such that a relevant assessment could have been made, but
  - (b) before such an assessment was made the tax due or other amount concerned was paid (so that no such assessment was necessary),
- the whole of the amount paid shall carry interest at [<sup>F158</sup>the rate applicable under section 197 of the Finance Act 1996] from the reckonable date until the date on which it was paid; and for the purposes of this sub-paragraph a relevant assessment is an assessment in relation to which sub-paragraph (1) above would have applied if the assessment had been made.
- (4) The references in sub-paragraphs (1) and (3) 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 subsection (2) of section 56 of this Act, 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 paid to the person concerned;
  - (b) in all other cases the reckonable date is the latest date on which (in accordance with regulations under this Part of this Act) a return is required to be made for the accounting period to which the amount assessed or paid relates;
- and interest under this paragraph 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>F159</sup>(5) . . . . .
- (6) Interest under this paragraph shall be paid without any deduction of income tax.

#### Textual Amendments

**F158** Words in Sch. 7 para. 21(1)(3) substituted (29.4.1996 with effect as mentioned in s. 197(7) of the amending Act) by 1996 c. 8, s. 197(6)(7); S.I. 1997/1015, art. 2

**F159** Sch. 7 para. 21(5) repealed (29.4.1996 with effect as mentioned in s. 197(7) of the repealing Act) by 1996 c. 8, s. ss. 197, 205, Sch. 41 Pt. VIII(1), Note; S.I. 1997/1015, art. 2

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

**C11** Sch. 7 para. 21: power to amend conferred (29.4.1996) by 1996 c. 8, s. 197(2)(b)

#### Marginal Citations

**M29** 1882 c. 61.

#### *Interest payable by Commissioners*

- 22 (1) Where, due to an error on the part of the Commissioners, a person—
- (a) has paid to them by way of tax an amount which was not tax due and which they are in consequence liable to repay to him,

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- (b) has failed to claim payment of an amount to the payment of which he was entitled in pursuance of provision made under section 55(3)(c), (d) or (f) of this Act, or
- (c) has suffered delay in receiving payment of an amount due to him from them in connection with tax,

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

[<sup>F160</sup>(1A) In sub-paragraph (1) above—

- (a) the reference in paragraph (a) to an amount which the Commissioners are liable to repay in consequence of the making of a payment that was not due is a reference 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 (c) do not include any amount payable under this paragraph.]

(2) Interest under this paragraph shall be payable at [<sup>F161</sup>the rate applicable under section 197 of the Finance Act 1996]

(3) The applicable period, in a case falling within sub-paragraph (1)(a) 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.

(4) The applicable period, in a case falling within sub-paragraph (1)(b) or (c) 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
- (b) ending with the date on which they in fact authorise payment of that amount.

[<sup>F162</sup>(5) In determining the applicable period for the purposes of this paragraph 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.

(5A) The reference in sub-paragraph (5) 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

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- (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.
- (6) In determining for the purposes of sub-paragraph (5A) 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 provided for by regulations, 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.]
- (8) The Commissioners shall only be liable to pay interest under this paragraph on a claim made in writing for that purpose.
- [<sup>F163</sup>(9) A claim under this paragraph shall not be made more than [<sup>F164</sup>4 years] after the end of the applicable period to which it relates.]
- [<sup>F165</sup>(10) References in this paragraph to the authorisation by the Commissioners of the payment of any amount include references to the discharge by way of set-off of the Commissioners' liability to pay that amount.]

#### Textual Amendments

- F160** Sch. 7 para. 22(1A) inserted (*retrospectively*) by 1997 c. 16, s. 50(1), **Sch. 5**, para. 9(1)(2)
- F161** Words in Sch. 7 para. 22(2) substituted (29.4.1996 with effect as mentioned in s. 197(7) of the amending Act) by 1996 c. 8, s. 197(6)(c)(7); S.I. 1997/1015, art. 2
- F162** Sch. 7 para. 22(5)-(6) substituted for para. 22(5)-(7) (19.3.1997 with effect as mentioned in Sch. 5 para. 10(2) of the amending Act) by 1997 c. 16, s. 50(1), **Sch. 5 para. 10(1)(2)**
- F163** Sch. 7 para. 22(9) substituted (*retrospectively*) by 1997 c. 16, s. 50(1), **Sch. 5**, para. 9(1)(3)
- F164** Words in Sch. 7 para. 22(9) substituted (1.4.2010) by Finance Act 2009 (c. 10), s. 99(2), **Sch. 51 para. 3**; S.I. 2010/867, art. 2(1) (with art. 4)
- F165** Sch. 7 para. 22(10) substituted (*retrospectively*) by 1997 c. 16, s. 50(1), **Sch. 5**, para. 9(1)(4)

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

- C12** Sch. 7 para. 22: power to amend conferred (29.4.1996) by 1996 c. 8, s. 197(2)(b)

- 23 (1) In a case where—
- (a) any interest is payable by the Commissioners to a person on a sum due to him under this Part of this Act, and
  - (b) he is a person to whom regulations under section 55 of this Act apply,

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the interest shall be treated as an amount to which he is entitled by way of credit in pursuance of the regulations.

- (2) Sub-paragraph (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.

## PART VI U.K.

### MISCELLANEOUS

#### *Security for tax*

- 24 Where it appears to the Commissioners requisite to do so for the protection of the revenue they may require a registrable person, as a condition of his entering into taxable insurance contracts, to give security (or further security) of such amount and in such manner as they may determine for the payment of any tax which is or may become due from him.

#### *Assessments to penalties etc.*

- 25 (1) Where a person is liable—
- (a) to a penalty under any of paragraphs 12 to 19 above, or
  - (b) for interest under paragraph 21 above,
- the Commissioners may, subject to sub-paragraph (2) below, assess the amount due by way of penalty or interest (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 paragraphs 12 to 19 above may have ceased before an assessment is made under this paragraph shall not affect the power of the Commissioners to make such an assessment.
- (2) In the case of the penalties and interest referred to in the following paragraphs of this sub-paragraph, the assessment under this paragraph shall be of an amount due in respect of the accounting period which in the paragraph concerned is referred to as the relevant period—
- (a) in the case of a penalty under paragraph 12 above relating to the evasion of tax, the relevant period is the accounting period for which the tax evaded was due;
  - (b) in the case of a penalty under paragraph 12 above relating to the obtaining of a payment under regulations under section 55(3)(c) or (d) or (f) of this Act, the relevant period is the accounting period in respect of which the payment was obtained;
  - (c) in the case of interest under paragraph 21 above, the relevant period is the accounting period in respect of which the tax (or amount assessed as tax) was due.
- (3) In a case where the amount of any penalty or interest falls to be calculated by reference to tax which was not paid at the time it should have been and that tax cannot be readily attributed to any one or more accounting periods, it shall be treated for the purposes of this Part of this Act as tax 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 tax and penalty or interest.

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- (4) Where a person is assessed under this paragraph to an amount due by way of any penalty or interest falling within sub-paragraph (2) above and is also assessed under subsection (1) or (2) of section 56 of this Act for the accounting period which is the relevant period under sub-paragraph (2) above, the assessments may be combined and notified to him as one assessment, but the amount of the penalty or interest shall be separately identified in the notice.
- (5) Sub-paragraph (6) below applies in the case of—
- (a) an amount due by way of penalty under paragraph 15 or 16 above;
  - (b) an amount due by way of interest under paragraph 21 above.
- (6) Where this sub-paragraph applies in the case of an amount—
- (a) a notice of assessment under this paragraph shall specify a date, being not later than the date of the notice, to which the aggregate amount of the penalty or, as the case may be, the amount of interest which is assessed is calculated, and
  - (b) if the penalty or interest continues to accrue after that date, a further assessment or further assessments may be made under this paragraph in respect of amounts which so accrue.
- (7) If, within such period as may be notified by the Commissioners to the person liable to the penalty under paragraph 15 or 16 above or for the interest under paragraph 21 above—
- (a) a failure falling within paragraph 15(3) above is remedied,
  - (b) the tax referred to in paragraph 16(1) above is paid, or
  - (c) the amount referred to in paragraph 21(1) above is paid,
- it shall be treated for the purposes of paragraph 15, 16 or 21 above (as the case may be) as remedied or paid on the date specified as mentioned in sub-paragraph (6)(a) above.
- (8) Where an amount has been assessed and notified to any person under this paragraph it shall be recoverable as if it were tax due from him unless, or except to the extent that, the assessment has subsequently been withdrawn or reduced.
- (9) Subsection (8) of section 56 of this Act shall apply for the purposes of this paragraph as it applies for the purposes of that section.

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

- C13** Sch. 7 para. 25(1)-(7) excluded (1.4.2004) by [The Recovery of Duties and Taxes Etc. Due in Other Member States \(Corresponding UK Claims, Procedure and Supplementary\) Regulations 2004 \(S.I. 2004/674\)](#), reg. 1, **Sch. 2 para. 4(1)**
- C14** Sch. 7 para. 25(8) applied (with modifications) (1.4.2004) by [The Recovery of Duties and Taxes Etc. Due in Other Member States \(Corresponding UK Claims, Procedure and Supplementary\) Regulations 2004 \(S.I. 2004/674\)](#), reg. 1, **Sch. 2 para. 4(2)**
- C15** Sch. 7 para. 25(8) restricted (1.4.2004) by [The Recovery of Duties and Taxes Etc. Due in Other Member States \(Corresponding UK Claims, Procedure and Supplementary\) Regulations 2004 \(S.I. 2004/674\)](#), reg. 1, **Sch. 2 para. 4(1)**
- C16** Sch. 7 para. 25(9) excluded (1.4.2004) by [The Recovery of Duties and Taxes Etc. Due in Other Member States \(Corresponding UK Claims, Procedure and Supplementary\) Regulations 2004 \(S.I. 2004/674\)](#), reg. 1, **Sch. 2 para. 4(1)**



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*Assessments: time limits*

- 26 (1) Subject to the following provisions of this paragraph, an assessment under—
- (a) any provision of section 56 of this Act, or
  - (b) paragraph 25 above,
- shall not be made more than [<sup>F166</sup>4 years after the relevant event] .
- [<sup>F167</sup>(1A) In this paragraph “the relevant event”, in relation to an assessment, means—
- (a) the end of the accounting period concerned, or
  - (b) in the case of an assessment under paragraph 25 of an amount due by way of a penalty other than a penalty referred to in paragraph 25(2), the event giving rise to the penalty.]
- (2) An assessment under paragraph 25 above of—
- (a) an amount due by way of any penalty referred to in sub-paragraph (2) of that paragraph, or
  - (b) an amount due by way of interest,
- may be made at any time before the expiry of the period of two years beginning with the time when the amount of tax due for the accounting period concerned has been finally determined.
- (3) In relation to an assessment under paragraph 25 above, any reference in [<sup>F168</sup>sub-paragraph (1A) ]or (2) above to the accounting period concerned is a reference to that period which, in the case of the penalty or interest concerned, is the relevant period referred to in sub-paragraph (2) of that paragraph.
- [<sup>F169</sup>(4) An assessment of an amount due from a person in a case involving a loss of tax—
- (a) brought about deliberately by the person (or by another person acting on that person's behalf), or
  - (b) attributable to a failure by the person to comply with an obligation under section 53(1) or (2) or 53AA(1) or (3),
- may be made at any time not more than 20 years after the relevant event.
- (5) In sub-paragraph (4)(a) the reference to a loss brought about deliberately by the person includes a loss brought about as a result of a deliberate inaccuracy in a document given to Her Majesty's Revenue and Customs by or on behalf of that person.]

**Textual Amendments**

- F166** Words in Sch. 7 para. 26(1) substituted (1.4.2010) by [Finance Act 2009 \(c. 10\), s. 99\(2\), Sch. 51 para. 4\(2\)](#); [S.I. 2010/867, art. 2\(1\)](#) (with art. 5)
- F167** Sch. 7 para. 26(1A) inserted (1.4.2010) by [Finance Act 2009 \(c. 10\), s. 99\(2\), Sch. 51 para. 4\(3\)](#); [S.I. 2010/867, art. 2\(1\)](#) (with art. 5)
- F168** Sch. 7 para. 26(4)(5) substituted (1.4.2010) for Sch. 7 para. 26(4) by [Finance Act 2009 \(c. 10\), s. 99\(2\), Sch. 51 para. 4\(5\)](#); [S.I. 2010/867, art. 2\(1\)](#) (with art. 5)
- F169** Words in Sch. 7 para. 26(3) substituted (1.4.2010) by [Finance Act 2009 \(c. 10\), s. 99\(2\), Sch. 51 para. 4\(4\)](#); [S.I. 2010/867, art. 2\(1\)](#) (with art. 5)

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### *Supplementary assessments*

- 27 If, otherwise than in circumstances falling within subsection (5)(b) of section 56 of this Act, it appears to the Commissioners that the amount which ought to have been assessed in an assessment under any provision of that section or under paragraph 25 above 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.

### *Disclosure of information*

- 28 (1) Notwithstanding any obligation not to disclose information that would otherwise apply, the Commissioners may disclose information—
- (a) to the Secretary of State, or
  - (b) to an authorised officer of the Secretary of State,
- for the purpose of assisting the Secretary of State in the performance of his duties.
- (2) Notwithstanding any such obligation as is mentioned in sub-paragraph (1) above—
- (a) the Secretary of State, or
  - (b) an authorised officer of the Secretary of State,
- may disclose information to the Commissioners or to an authorised officer of the Commissioners for the purpose of assisting the Commissioners in the performance of duties in relation to tax.
- (3) Information that has been disclosed to a person by virtue of this paragraph shall not be disclosed by him except—
- (a) to another person to whom (instead of him) disclosure could by virtue of this paragraph have been made, or
  - (b) for the purpose of any proceedings connected with the operation of any provision of, or made under, any enactment in relation to insurance or to tax.
- (4) References in the preceding provisions of this paragraph to an authorised officer of the Secretary of State are to any person who has been designated by the Secretary of State as a person to and by whom information may be disclosed under this paragraph.
- (5) The Secretary of State shall notify the Commissioners in writing of the name of any person designated under sub-paragraph (4) above.

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

**C17** Sch. 7 para. 28: certain functions of the Secretary of State made exercisable concurrently with the Treasury (5.1.1998) by [S.I. 1997/2781](#), [arts. 4\(3\)](#) (with [art. 7](#))

- [<sup>F170</sup>28(A)] Notwithstanding any obligation not to disclose information that would otherwise apply, the Commissioners may disclose information—
- (a) to the Treasury, or
  - (b) to an authorised officer of the Treasury,
- for the purpose of assisting the Treasury in the performance of their duties.
- (2) Notwithstanding any such obligation as is mentioned in sub-paragraph (1) above—

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- (a) the Treasury, or
  - (b) an authorised officer of the Treasury,
- may disclose information to the Commissioners or to an authorised officer of the Commissioners for the purpose of assisting the Commissioners in the performance of duties in relation to tax.
- (3) Information that has been disclosed to a person by virtue of this paragraph shall not be disclosed by him except—
    - (a) to another person to whom (instead of him) disclosure could by virtue of this paragraph have been made, or
    - (b) for the purpose of any proceedings connected with the operation of any provision of, or made under, any enactment in relation to insurance or to tax.
  - (4) References in the preceding provisions of this paragraph to an authorised officer of the Treasury are to any person who has been designated by the Treasury as a person to and by whom information may be disclosed under this paragraph.
  - (5) The Treasury shall notify the Commissioners in writing of the name of any person designated under sub-paragraph (4) above.]

#### Textual Amendments

**F170** Sch. 7 para. 28A inserted (5.1.1998) by S.I. 1997/2781, art. 8(1), **Sch. Pt. II para. 124** (with art. 7)

- [<sup>F171</sup>28B] Notwithstanding any obligation not to disclose information that would otherwise apply, the Commissioners may disclose information to [<sup>F172</sup>a regulator] for the purpose of [<sup>F173</sup>assisting the regulator] in the performance of its functions.
- (2) Information that has been disclosed to [<sup>F174</sup>a regulator] pursuant to this paragraph shall not be disclosed by [<sup>F175</sup>the regulator] except for the purpose of any proceedings connected with the operation of any provision of, or made under, any enactment in relation to insurance or to tax.]
  - [<sup>F176</sup>(3) In this paragraph “regulator” means—
    - (a) the Financial Conduct Authority;
    - (b) the Prudential Regulation Authority.]

#### Textual Amendments

- F171** Sch. 7 para. 28B inserted (4.3.2004) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) Order 2004 \(S.I. 2004/355\)](#), arts. 1(1), **4**
- F172** Words in Sch. 7 para. 28B(1) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 18 para. 79(2)(a)(i)** (with [Sch. 20](#)); S.I. 2013/423, art. 3, [Sch.](#)
- F173** Words in Sch. 7 para. 28B(1) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 18 para. 79(2)(a)(ii)** (with [Sch. 20](#)); S.I. 2013/423, art. 3, [Sch.](#)
- F174** Words in Sch. 7 para. 28B(2) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 18 para. 79(2)(b)(i)** (with [Sch. 20](#)); S.I. 2013/423, art. 3, [Sch.](#)
- F175** Words in Sch. 7 para. 28B(2) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 18 para. 79(2)(b)(ii)** (with [Sch. 20](#)); S.I. 2013/423, art. 3, [Sch.](#)
- F176** Sch. 7 para. 28B(3) inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 18 para. 79(2)(c)** (with [Sch. 20](#)); S.I. 2013/423, art. 3, [Sch.](#)

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*Evidence by certificate*

- 29 (1) A certificate of the Commissioners—
- (a) that a person was or was not at any time registered under section 53 of this Act, [<sup>F177</sup> or]
  - (b) that any return required by regulations under section 54 of this Act has not been made or had not been made at any time, <sup>F178</sup> ...
- <sup>F178</sup> .....
- shall be sufficient evidence of that fact until the contrary is proved.
- (2) Any document purporting to be a certificate under sub-paragraph (1) above shall be taken to be such a certificate until the contrary is proved.

**Textual Amendments**

**F177** Word in Sch. 7 para. 29(1)(a) inserted (21.7.2008) by [Finance Act 2008 \(c. 9\)](#), [Sch. 44 para. 5\(a\)](#)

**F178** Sch. 7 para. 29(1)(c) and word omitted (21.7.2008) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 44 para. 5\(b\)](#)

*Service of notices etc.*

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

*No deduction of penalties or interest*

- 31 In section 827 of the Taxes Act 1988 (no deduction for penalties etc.) the following subsection shall be inserted after subsection (1A)—
- “(1B) Where a person is liable to make a payment by way of—
- (a) penalty under any of paragraphs 12 to 19 of Schedule 7 to the Finance Act 1994 (insurance premium tax), or
  - (b) interest under paragraph 21 of that Schedule,
- the payment shall not be allowed as a deduction in computing any income, profits or losses for any tax purposes.”

*Destination of receipts*

<sup>F179</sup>32 .....

**Textual Amendments**

**F179** Sch. 7 para. 32 repealed (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 53](#), [Sch. 5](#); S.I. 2005/1126, art. 2(2)(h)(i)

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### *Provisional collection of tax*

- 33 In section 1(1) of the <sup>M30</sup>Provisional Collection of Taxes Act 1968 after “value added tax,” there shall be inserted “ insurance premium tax, ”.

#### **Marginal Citations**

**M30** 1968 c. 2.

- 34 (1) In a case where—
- (a) by virtue of a resolution having effect under the Provisional Collection of Taxes Act 1968 tax has been paid at a rate specified in the resolution, and
  - (b) by virtue of section 1(6) or (7) or 5(3) of that Act any of that tax is repayable in consequence of the restoration in relation to the premium concerned of a lower rate,
- the amount repayable shall be the difference between the tax paid by reference to the actual chargeable amount at the rate specified in the resolution and the tax that would have been payable by reference to the actual chargeable amount at the lower rate.
- (2) In sub-paragraph (1) above the “actual chargeable amount” means the chargeable amount by reference to which tax was paid.
- (3) In a case where—
- (a) by virtue of a resolution having effect under the <sup>M31</sup>Provisional Collection of Taxes Act 1968 tax is chargeable at a rate specified in the resolution, but
  - (b) before the tax is paid it ceases to be chargeable at that rate in consequence of the restoration in relation to the premium concerned of a lower rate,
- the tax chargeable at the lower rate shall be charged by reference to the same chargeable amount as that by reference to which tax would have been chargeable at the rate specified in the resolution.

#### **Marginal Citations**

**M31** 1968 c. 2.

### *Adjustment of contracts*

- 35 (1) Where, after the making of a contract of insurance and before a given premium is received by the insurer under the contract, there is a change in the tax chargeable on the receipt of the premium, then, unless the contract otherwise provided, there shall be added to or deducted from the amount payable as the premium an amount equal to the difference between—
- (a) the tax chargeable had the change not been made, and
  - (b) the tax in fact chargeable.
- (2) References in sub-paragraph (1) above to a change in the tax chargeable include references to a change to or from no tax being chargeable.
- (3) Where this paragraph applies, the amount of the premium shall not be treated as altered for the purposes of calculating tax.

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## [<sup>F180</sup>SCHEDULE 7A U.K.]

### INSURANCE PREMIUM TAX: CONTRACTS THAT ARE NOT TAXABLE

#### Textual Amendments

**F180** Sch. 7A inserted (1.10.1994) by S.I. 1994/1698, art. 5

## PART I U.K.

### DESCRIPTIONS OF CONTRACT

#### *Contracts of reinsurance*

1 A contract falls within this paragraph if it is a contract of reinsurance.

#### *Contracts constituting long term business*

2 (1) [<sup>F181</sup>Subject to sub-paragraph (3) below, a contract falls]] within this paragraph [<sup>F182</sup>if it is exclusively a contract of long-term insurance.]

[<sup>F183</sup>(2) In deciding whether a contract is exclusively a contract of long-term insurance, as is mentioned in sub-paragraph (1) above, where—

- (a) the contract includes cover for risks relating to accident or sickness;
  - (b) the contract contains related and subsidiary provisions such that it might also be regarded as a contract of general insurance, but is treated as a contract of long-term insurance for the purposes of any relevant order made under section 22 of the Financial Services and Markets Act 2000; and
  - (c) the contract was not entered into after 30th November 1993,
- the inclusion of such cover shall be ignored.]

[<sup>F184</sup>(3) A contract which would otherwise fall within this paragraph does not do so if it is for medical insurance.

(4) Subject to sub-paragraph (5) below, for the purposes of this paragraph a contract is a contract for medical insurance if it provides one or more of the following benefits, whether or not their provision is subject to conditions or limitations—

- (a) medical, dental or optical, consultation, diagnosis or treatment;
- (b) alternative or complementary medical treatment or therapy;
- (c) convalescent care;
- (d) goods or services related to any of the above;
- (e) payment or reimbursement of, or a grant towards, the whole or part of the cost of any of the above;
- (f) payment of a specified sum for optical, dental or medical appointments;
- (g) payment of a specified sum for each specified period of treatment as a hospital in-patient;
- (h) payment of a specified sum for each specified period of convalescent care; or

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- (i) payment of a specified sum, except one to which sub-paragraph (6) below applies, when a person is diagnosed as requiring or has undergone a specified medical procedure.
- (5) A benefit which would apart from this sub-paragraph fall within sub-paragraph (4) above shall not do so if, before he can become entitled to the benefit, the insured is required—
- (a) to be suffering from a disability which so impairs his ability to carry out normal activities of daily living that he requires long term care, supervision or assistance; and
  - (b) to have been suffering from the disability for a continuous period of not less than 4 weeks.
- (6) This sub-paragraph applies to a payment of a specified sum if the contract under which it is payable provides that only one such payment in relation to each specified medical procedure will be made in respect of each person in relation to whom benefit is payable under the contract.]

#### Textual Amendments

- F181** Words in Sch. 7A para. 2(1) substituted (1.10.1997) by S.I. 1997/1627, art. 2(a)
- F182** Words in Sch. 7A para. 2(1) substituted (1.12.2001) by S.I. 2001/3649, arts. 1, 346(2)
- F183** Sch. 7A, para. 2(2) substituted (1.12.2001) by S.I. 2001/3649, arts. 1, 346(3)
- F184** Sch. 7A para. 2(3)-(6) inserted (1.10.1997) by S.I. 1997/1627, art. 2(b)

#### *Contracts relating to motor vehicles for use by handicapped persons*

- 3 (1) A contract falls within this paragraph if it relates only to a motor vehicle and the conditions mentioned in sub-paragraph (2) below are satisfied.
- (2) The conditions referred to in sub-paragraph (1) above are that—
- (a) the vehicle is used, or intended for use, by a handicapped person in receipt of a disability living allowance [<sup>F185</sup>, or personal independence payment,] by virtue of entitlement to the mobility component [<sup>F186</sup>, or of an armed forces independence payment [<sup>F187</sup>, or of a mobility supplement or of disability assistance for children and young people [<sup>F188</sup>, or disability assistance for working age people,] by virtue of entitlement to the mobility component];
  - (b) the insured lets such vehicles on hire to such persons in the course of a business consisting predominantly of the provision of motor vehicles to such persons; and
  - (c) the insured does not in the course of the business let such vehicles on hire to such persons on terms other than qualifying terms.
- (3) For the purposes of sub-paragraph (2)(c) above a vehicle is let on qualifying terms to a person (the lessee) if the consideration for the letting consists wholly or partly of sums paid to the insured by—
- [<sup>F189</sup>(a) the Department for Work and Pensions;]
  - (b) the Department of Health and Social Services for Northern Ireland; <sup>F190</sup>...
  - (c) the Ministry of Defence [<sup>F191</sup>; or
  - (d) the Scottish Ministers,]

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on behalf of the lessee in respect of the disability living allowance [<sup>F192</sup>, personal independence payment, armed forces independence payment ][<sup>F193</sup>, mobility [<sup>F194</sup>supplement,] disability assistance for children and young people][<sup>F195</sup> or of disability assistance for working age people] to which the lessee is entitled.

- (4) For the purposes of this paragraph—
- (a) “handicapped” means chronically sick or disabled;
  - (b) “disability living allowance” means a disability living allowance within the meaning of section 71 of the Social Security Contributions and Benefits Act 1992 <sup>M32</sup> or section 71 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 <sup>M33</sup>;
  - [<sup>F196</sup>(ba) personal independence payment” means a personal independence payment under Part 4 of the Welfare Reform Act 2012 or the corresponding provision having effect in Northern Ireland;
  - (bb) “armed forces independence payment” means an armed forces independence payment under a scheme established under section 1 of the Armed Forces (Pensions and Contributions) Act 2004;]
  - (c) “mobility supplement” means a mobility supplement within the meaning of article 26A of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983 <sup>M34</sup>, article 25A of the Personal Injuries (Civilians) Scheme 1983 <sup>M35</sup>, article 3 of the Motor Vehicles (Exemption from Vehicles Excise Duty) Order 1985 <sup>M36</sup> or article 3 of the Motor Vehicles (Exemption from Vehicles Excise Duty) (Northern Ireland) Order 1985 <sup>M37</sup> [<sup>F197</sup>;
  - [<sup>F198</sup>(d) “disability assistance for children and young people” means a category of disability assistance specifically for children and young people given in accordance with regulations made under section 31 of the Social Security (Scotland) Act 2018 [<sup>F199</sup>;
  - [<sup>F200</sup>(e) “disability assistance for working age people” means a category of disability assistance specifically for working age people given in accordance with regulations made under section 31 of the Social Security (Scotland) Act 2018.]

#### Textual Amendments

- F185** Words in Sch. 7A para. 3(2)(a) inserted (retrospective to 8.4.2013) by Finance Act 2013 (c. 29), s. 201(2)(a)(5)
- F186** Words in Sch. 7A para. 3(2)(a) inserted (retrospective to 8.4.2013) by Finance Act 2013 (c. 29), s. 201(2)(b)(5)
- F187** Words in Sch. 7A para. 3(2)(a) substituted (26.7.2021) by The Social Security (Scotland) Act 2018 (Disability Assistance, Young Carer Grants, Short-term Assistance and Winter Heating Assistance) (Consequential Provision and Modifications) Order 2021 (S.I. 2021/886), arts. 1(2), 7(2)(a)
- F188** Words in Sch. 7A para. 3(2)(a) inserted (21.3.2022) by The Social Security (Scotland) Act 2018 (Disability Assistance and Information-Sharing) (Consequential Provision and Modifications) Order 2022 (S.I. 2022/332), arts. 1(2), 5(2)(a)
- F189** Sch. 7A para. 3(3)(a) substituted (27.6.2002) by The Secretaries of State for Education and Skills and for Work and Pensions Order 2002 (S.I. 2002/1397), art. 12, Sch. para. 10
- F190** Word in Sch. 7A para. 3(3)(b) omitted (26.7.2021) by virtue of The Social Security (Scotland) Act 2018 (Disability Assistance, Young Carer Grants, Short-term Assistance and Winter Heating Assistance) (Consequential Provision and Modifications) Order 2021 (S.I. 2021/886), arts. 1(2), 7(2)(b)(i)



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- F191** Sch. 7A para. 3(3)(d) and word inserted (26.7.2021) by The Social Security (Scotland) Act 2018 (Disability Assistance, Young Carer Grants, Short-term Assistance and Winter Heating Assistance) (Consequential Provision and Modifications) Order 2021 (S.I. 2021/886), arts. 1(2), **7(2)(b)(ii)**
- F192** Words in Sch. 7A para. 3(3) inserted (retrospective to 8.4.2013) by Finance Act 2013 (c. 29), s. **201(3)(5)**
- F193** Words in Sch. 7A para. 3(3) substituted (26.7.2021) by The Social Security (Scotland) Act 2018 (Disability Assistance, Young Carer Grants, Short-term Assistance and Winter Heating Assistance) (Consequential Provision and Modifications) Order 2021 (S.I. 2021/886), arts. 1(2), **7(2)(b)(iii)**
- F194** Word in Sch. 7A para. 3(3) substituted (21.3.2022) by The Social Security (Scotland) Act 2018 (Disability Assistance and Information-Sharing) (Consequential Provision and Modifications) Order 2022 (S.I. 2022/332), arts. 1(2), **5(2)(b)(i)**
- F195** Words in Sch. 7A para. 3(3) inserted (21.3.2022) by The Social Security (Scotland) Act 2018 (Disability Assistance and Information-Sharing) (Consequential Provision and Modifications) Order 2022 (S.I. 2022/332), arts. 1(2), **5(2)(b)(ii)**
- F196** Sch. 7A para. 3(4)(ba)(bb) inserted (retrospective to 8.4.2013) by Finance Act 2013 (c. 29), s. **201(4)(5)**
- F197** Semi-colon at the end of Sch. 7A para. 3(4)(c) substituted for full stop (26.7.2021) by The Social Security (Scotland) Act 2018 (Disability Assistance, Young Carer Grants, Short-term Assistance and Winter Heating Assistance) (Consequential Provision and Modifications) Order 2021 (S.I. 2021/886), arts. 1(2), **7(2)(c)**
- F198** Sch. 7A para. 3(4)(d) inserted (26.7.2021) by The Social Security (Scotland) Act 2018 (Disability Assistance, Young Carer Grants, Short-term Assistance and Winter Heating Assistance) (Consequential Provision and Modifications) Order 2021 (S.I. 2021/886), arts. 1(2), **7(2)(d)**
- F199** Sch. 7A para. 3(4)(d): semicolon substituted for full stop (21.3.2022) by The Social Security (Scotland) Act 2018 (Disability Assistance and Information-Sharing) (Consequential Provision and Modifications) Order 2022 (S.I. 2022/332), arts. 1(2), **5(2)(c)**
- F200** Sch. 7A para. 3(4)(e) inserted (21.3.2022) by The Social Security (Scotland) Act 2018 (Disability Assistance and Information-Sharing) (Consequential Provision and Modifications) Order 2022 (S.I. 2022/332), arts. 1(2), **5(2)(d)**

#### Marginal Citations

- M32** 1992 c.4.
- M33** 1992 c.7.
- M34** S.I. 1983/883; article 26A was inserted by S.I. 1983/1116, and has been amended by S.I. 1983/1521, 1986/592 and 1990/1308.
- M35** S.I. 1983/686; article 25A was inserted by S.I. 1983/1164, and has been amended by S.I. 1983/1540, 1986/628, 1990/1300 and 1992/702.
- M36** S.I. 1985/722.
- M37** S.I. 1985/723.

#### *Contracts relating to commercial ships*

- 4 (1) A contract falls within this paragraph if it relates only to a commercial ship and is <sup>F201</sup>a contract of general insurance of a relevant class.]
- <sup>F202</sup>(2) For the purposes of this paragraph, a contract of general insurance is of a relevant class if it insures against risks arising from or in relation to—
- (a) accidents,
  - (b) ships, or
  - (c) liabilities of ships,
- (and no other risks).]
- (3) For the purposes of this paragraph a commercial ship is a ship which is—
- (a) of a gross tonnage of 15 tons or more; and

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- (b) not designed or adapted for use for recreation or pleasure.

**Textual Amendments**

- F201** Words in Sch. 7A para. 4(1) substituted (1.12.2001) by S.I. 2001/3649, arts. 1, 346(4)(a)  
**F202** Sch. 7A para. 4(2) substituted (1.12.2001) by S.I. 2001/3649, art. 346(4)(b)

*Contracts relating to lifeboats and lifeboat equipment*

- 5 (1) A contract falls within this paragraph if it relates only to a lifeboat and is [<sup>F203</sup>a contract of general insurance of a relevant class.]
- [<sup>F204</sup>(2) For the purposes of this paragraph, a contract of general insurance is of a relevant class if it insures against risks arising from or in relation to—
- (a) accidents,
  - (b) ships, or
  - (c) liabilities of ships,
- (and no other risks).]
- (3) For the purposes of this paragraph a lifeboat is a vessel used or to be used solely for rescue or assistance at sea.

**Textual Amendments**

- F203** Words in Sch. 7A para. 5(1) substituted (1.12.2001) by 2001/3649, art. 346(5)(a)  
**F204** Sch. 7A para. 5(2) substituted (1.12.2001) by S.I. 2001/3649, art. 346(5)(b)

- 6 (1) A contract falls within this paragraph if it relates only to a lifeboat and lifeboat equipment and is such that, if it related only to a lifeboat, it would fall within paragraph 5 above.
- (2) In deciding whether a contract relates to lifeboat equipment the nature of the risks concerned is immaterial, and they may (for example) be risks of dying or sustaining injury or of loss or damage.
- (3) For the purposes of this paragraph—
- (a) “lifeboat” has the meaning given by paragraph 5(3) above; and
  - (b) “lifeboat equipment” means anything used or to be used solely in connection with a lifeboat.

*Contracts relating to commercial aircraft*

- 7 (1) A contract falls within this paragraph if it relates only to a commercial aircraft and is [<sup>F205</sup>a contract of general insurance of a relevant class.]
- [<sup>F206</sup>(2) For the purposes of this paragraph, a contract of general insurance is of a relevant class if it insures against risks arising from or in relation to—
- (a) accidents,
  - (b) aircraft, or
  - (c) aircraft liability,
- (and no other risks).]

*Status: Point in time view as at 01/04/2023.*

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- (3) For the purposes of this paragraph a commercial aircraft is an aircraft which is—
- (a) of a weight of 8,000 kilogrammes or more; and
  - (b) not designed or adapted for use for recreation or pleasure.

**Textual Amendments**

**F205** Words in Sch. 7A para. 7(1) substituted (1.12.2001) by S.I. 2001/3649, art. 346(6)(a)

**F206** Sch. 7A para. 7(2) substituted (1.12.2001) by S.I. 2001/3649, art. 346(6)(b)

*[<sup>F207</sup>Contracts relating to spacecraft*

**Textual Amendments**

**F207** Sch. 7A para. 7A and cross-heading inserted (1.12.2014) by [The Insurance Premium Tax \(Non-taxable Insurance Contracts\) Order 2014 \(S.I. 2014/2856\)](#), arts. 1, 2

- 7A (1) A contract falls within this paragraph if it relates only to the operation of a spacecraft and is a contract of general insurance of a relevant class.
- (2) For the purposes of this paragraph, a contract of general insurance is of a relevant class if it insures against risks arising from or in relation to—
- (a) accidents,
  - (b) goods in transit,
  - (c) fire or natural forces,
  - (d) damage to, or loss or malfunction of, property, or
  - (e) general liability to third parties,
- (and no other risks).
- (3) For the purposes of this paragraph—
- (a) the “operation of a spacecraft” means the launch, flight, orbit or re-entry of a spacecraft, and
  - (b) “spacecraft” includes all component parts of its launch vehicle.]

*Contracts relating to risks outside the United Kingdom*

- 8 (1) A contract falls within this paragraph if it relates only to a risk which is situated outside the United Kingdom.
- [<sup>F208</sup>(2) The question of whether a risk is situated in the United Kingdom shall be determined in accordance with [<sup>F209</sup>the Table in sub-paragraph (3)].]
- [<sup>F210</sup>(3) This is the Table referred to in sub-paragraph (2)—

<i>Where—</i>	<i>The risk is situated in—</i>
the contract relates to a building, to some or all of the contents of a building or to a building and some or all of its contents	the country or territory in which the building is situated

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<i>Where—</i>	<i>The risk is situated in—</i>
the contract relates to vehicles of any type	the country or territory in which the vehicle is registered
the contract covers travel or holiday risks and has a duration of four months or less	the country or territory in which the policyholder entered into the contract
the contract does not fall within any of the previous entries and the policyholder is an individual	the country or territory in which the policyholder is habitually resident on the date on which the contract is entered into
the contract does not fall within any of the previous entries	the country or territory in which the establishment of the policyholder to which the contract relates is situated on the date on which the contract is entered into.

- (4) For the purposes of the last entry in the Table, “establishment”, in relation to a policyholder (“P”), means—
- (a) P’s head office or any of P’s agencies or branches, or
  - (b) any permanent presence of P (which need not take the form of a branch or agency and, for example, may consist of an office managed by P’s staff or by a person who is independent of P but who has permanent authority to act for P as if the person were an agency).]

#### Textual Amendments

- F208** Sch. 7A para. 8(2) substituted (1.12.2001) by [S.I. 2001/3649](#), [art. 346\(7\)\(a\)](#)
- F209** Words in Sch. 7A para. 8(2) substituted (24.2.2022 in relation to contracts of insurance entered into on or after that date) by [Finance Act 2022 \(c. 3\)](#), [s. 73\(2\)\(4\)](#)
- F210** Sch. 7A para. 8(3)(4) inserted (24.2.2022 in relation to contracts of insurance entered into on or after that date) by [Finance Act 2022 \(c. 3\)](#), [s. 73\(3\)\(4\)](#)

#### *Contracts relating to foreign or international railway rolling stock*

- 9 (1) A contract falls within this paragraph if it relates only to foreign or international railway rolling stock and is [<sup>F211</sup>a contract of general insurance of a relevant class.]
- [<sup>F212</sup>(2) For the purposes of this paragraph, a contract of general insurance is of a relevant class if it insures against risks arising from or in relation to—
- (a) railway rolling stock, or
  - (b) general liability to third parties,
- (and no other risks).]
- (3) For the purposes of this paragraph foreign or international railway rolling stock is railway rolling stock used principally for journeys taking place wholly or partly outside the United Kingdom.

#### Textual Amendments

- F211** Words in Sch. 7A para. 9(1) substituted (1.12.2001) by [S.I. 2001/3649](#), [arts. 1, 346\(8\)\(a\)](#)
- F212** Sch. 7A para. 9(2) substituted (1.12.2001) by [S.I. 2001/3649](#), [arts. 1, 346\(8\)\(b\)](#)

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*Contracts relating to the Channel tunnel*

- 10 (1) A contract falls within this paragraph if it relates only to the Channel tunnel system and is <sup>F213</sup>a contract of general insurance of a relevant class.]
- <sup>F214</sup>(2) For the purposes of this paragraph, a contract of general insurance is of a relevant class if it insures against risks arising from or in relation to—
- (a) fire or natural forces,
  - (b) damage to property, or
  - (c) general liability to third parties,
- (and no other risks).]
- (3) For the purposes of this paragraph “the Channel tunnel system” means—
- (a) the tunnels described in section 1(7)(a) of the Channel Tunnel Act 1987;
  - (b) the control towers situated in the terminal areas described in section 1(7)(b) of that Act; and
  - (c) the shuttle crossovers, wherever situated.

**Textual Amendments**

**F213** Words in Sch. 7A para. 10(1) substituted (1.12.2001) by *S.I. 2001/3649, arts. 1, 346(9)(a)*

**F214** Sch. 7A para. 10(2) substituted (1.12.2001) by *S.I. 2001/3649, arts. 1, 346(9)(b)*

- 11 (1) A contract falls within this paragraph if it relates only to relevant Channel tunnel equipment and is <sup>F215</sup>a contract of general insurance of a relevant class.]
- <sup>F216</sup>(2) For the purposes of this paragraph, a contract of general insurance is of a relevant class if it insures against risks arising from or in relation to—
- (a) fire or natural forces,
  - (b) damage to property, or
  - (c) general liability to third parties,
- (and no other risks).]
- (3) For the purposes of this paragraph “the Channel tunnel system” has the meaning given by paragraph 10(3) above.
- (4) For the purposes of this paragraph “relevant Channel tunnel equipment” means, subject to sub-paragraph (5) below, the fixed or movable equipment needed for the operation of the Channel tunnel system or for the operation of trains through any tunnel forming part of it and in particular includes—
- (a) any ventilation, cooling or electrical plant used or to be used in connection with any such operation; and
  - (b) any safety, signalling and control equipment which is or is to be so used.
- (5) Equipment which consists of or forms part of—
- (a) roads, bridges, platforms, ticket offices and other facilities for the use of passengers or motor vehicles;
  - (b) administrative buildings and maintenance facilities; and
  - (c) railway track or signalling equipment which is not situated in any part of the Channel tunnel system,
- is not relevant Channel tunnel equipment for the purposes of this paragraph.

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#### Textual Amendments

**F215** Words in Sch. 7A para. 11(1) substituted (1.12.2001) by [S.I. 2001/3649](#), [arts. 1](#), 346(10)(a)

**F216** Sch. 7A para. 11(2) substituted (1.12.2001) by [S.I. 2001/3649](#), [arts. 1](#), 346(10)(b)

#### *Contracts relating to goods in foreign or international transit*

- 12 (1) A contract falls within this paragraph if it relates only to loss of or damage to goods in foreign or international transit and the insured enters into the contract in the course of a business carried on by him.
- (2) For the purposes of this paragraph goods in foreign or international transit are goods in transit, and any container in which they are carried, where their carriage—
- (a) begins and ends outside the United Kingdom;
  - (b) begins outside but ends in the United Kingdom; or
  - (c) ends outside but begins in the United Kingdom.
- (3) For the purposes of sub-paragraph (2) above “container” has the same meaning as in regulation 38(3) of the Value Added Tax (General) Regulations 1985 <sup>M38</sup>.

#### Marginal Citations

**M38** [S.I. 1985/886](#).

#### *Contracts relating to credit*

- 13 (1) A contract falls within this paragraph if it relates only to credit granted in relation to goods or services supplied under a relevant contract by a person carrying on business in the United Kingdom.
- (2) For the purposes of this paragraph a relevant contract is—
- (a) a contract to make a relevant supply of goods, or a supply of services, or both, to an overseas customer;
  - (b) a contract to supply goods to a person who is to—
    - (i) export those goods; or
    - (ii) incorporate those goods in other goods which he is to export, where the condition mentioned in sub-paragraph (3) below is satisfied;
  - (c) a contract to supply to a person who is to export goods services consisting of the valuation or testing of, or other work carried out on, those goods where the condition mentioned in sub-paragraph (3) below is satisfied;
  - (d) a contract to supply services to a person in order that he may comply with a legally binding obligation to make a supply of services to an overseas customer.
- (3) The condition referred to in sub-paragraph (2)(b) and (c) above is that the goods to be exported are to be exported in order that the person exporting them may comply with a legally binding obligation to make a relevant supply of goods to an overseas customer.
- (4) For the purposes of this paragraph—

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- (a) “export” means export from the United Kingdom and cognate expressions shall be construed accordingly; and
  - (b) any reference to a person who is to export goods shall be taken as including a reference to a person at whose direction the insured is to export them and the reference in sub-paragraph (3) above to the person exporting goods shall be construed accordingly.
- (5) Where a contract relates to—
- (a) credit of the description in sub-paragraph (1) above; and
  - (b) loss resulting from the insured or any third party being required to pay the amount of any bond or guarantee against non-performance by the insured of the contract which involves him making the supply,
- the contract shall be treated for the purposes of sub-paragraph (1) above as if it did not relate to loss of the description in paragraph (b) above.

*Contracts relating to exchange losses*

- 14 (1) A contract falls within this paragraph if—
- (a) it relates only to loss resulting from a change in the rate at which the price for a supply which is or may be made by the insured may be exchanged for another currency; and
  - (b) the conditions mentioned in sub-paragraph (2) below are satisfied.
- (2) The conditions referred to in sub-paragraph (1) above are that—
- (a) the insured is a person carrying on business in the United Kingdom;
  - (b) the contract of insurance concerns a contract to make a relevant supply of goods, or a supply of services, or both, to an overseas customer (whether or not the contract to make the supply is one into which the insured has entered, or one for which he has tendered or intends to tender); and
  - (c) the period of cover for the risk expires no later than the date by which the whole of the price for the supply is to be paid or, where the contract has not been entered into, would be required to be paid.
- (3) Where the contract relates to—
- (a) loss of the description in sub-paragraph (1)(a) above; and
  - (b) loss relating from a change in the rate at which the price of goods which the insured imports into the United Kingdom for the purpose of enabling him to make the supply concerned may be exchanged for another currency,
- the contract shall be treated for the purposes of sub-paragraphs (1) and (2) above as if it did not relate to loss of the description in paragraph (b) above.

*Contracts relating to the provision of financial facilities*

- 15 (1) A contract falls within this paragraph if it relates only to the provision of a relevant financial facility and the conditions mentioned in sub-paragraph (2) below are satisfied.
- (2) The conditions referred to in sub-paragraph (1) above are that—
- (a) the person to whom the relevant financial facility is provided is an overseas customer;

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- (b) it is provided in order that he may comply with a legally binding obligation to receive a relevant supply of goods, or a supply of services, or both, from a person carrying on business<sup>F217</sup> . . . ; and
  - [<sup>F218</sup>(c) the contract of insurance insures against risks arising from or in relation to either or both—
    - (i) credit,
    - (ii) suretyship.]
- (3) For the purposes of this paragraph a relevant financial facility is—
- (a) the making of an advance;
  - (b) the issue of a letter of credit or acceptance of a bill of exchange;
  - (c) the giving of a guarantee or bond; or
  - (d) any other similar transaction entered into in order to provide a customer with the means to pay, or a supplier with the right to call upon a third party for, the consideration for goods or services.

#### Textual Amendments

**F217** Words in Sch. 7A para. 15(2)(b) omitted (1.1.1997) by virtue of S.I. 1996/2955, art. 2

**F218** Sch. 7A para. 15(2)(c) substituted (1.12.2001) by S.I. 2001/3649, arts. 1, 346(11)

## PART II U.K.

### INTERPRETATION

- 16 (1) This Part of this Schedule applies for the purposes of Part I of this Schedule.
- (2) A relevant supply of goods is any supply of goods where the supply is to be made outside the United Kingdom or where the goods are to be exported from the United Kingdom.
- (3) An overseas customer, in relation to a supply of goods or services, is a person who—
- (a) does not have any business establishment in the United Kingdom but has such an establishment elsewhere;
  - (b) has such establishments both in the United Kingdom and elsewhere, provided that the establishment at which, or for the purposes of which, the goods or services which are to be supplied to him are most directly to be used is not in the United Kingdom; or
  - (c) has no such establishment in any place and does not have his usual place of residence in the United Kingdom.
- [<sup>F219</sup>16A Paragraphs 2, 4, 5, 7, [<sup>F220</sup>7A,] 8, 9, 10, 11 and 15 must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;
  - (b) any relevant order under that section; and
  - (c) Schedule 2 to that Act.]

#### Textual Amendments

**F219** Sch. 7A para. 16A inserted (1.12.2001) by S.I. 2001/3649, arts. 1, 346(12)



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**F220** Word in Sch. 7A para. 16A inserted (1.12.2014) by The Insurance Premium Tax (Non-taxable Insurance Contracts) Order 2014 (S.I. 2014/2856), arts. 1, 3

## SCHEDULE 8 **U.K.**

Section 77.

### SUPPLEMENTAL PROVISIONS RELATING TO PERSONAL RELIEFS

#### *The Taxes Act 1988*

- 1 In section 257A(6) of the Taxes Act 1988 (relief confined to one deduction), for “deduction” there shall be substituted “ income tax reduction ”.
- 2 (1) In subsections (1) and (2) of section 257BA of that Act (elections as to transfer of relief under section 257A)—
- (a) for the words “to deduct from her total income”, in each place where they occur, there shall be substituted “ to an income tax reduction calculated by reference to ”; and
  - (b) for the words “that he is entitled to deduct under section 257A”, in each place where they occur, there shall be substituted “ by reference to which the calculation of the income tax reduction to which he is entitled under section 257A is to be made ”.
- (2) In subsection (3) of that section—
- (a) for “to deduct from his total income” there shall be substituted “ to an income tax reduction calculated by reference to ”;
  - (b) for “the amount, if any, that he is already entitled to deduct” there shall be substituted “ any income tax reduction to which he is already entitled ”; and
  - (c) for “that she is entitled to deduct by virtue of that election” there shall be substituted “ by reference to which the calculation of the income tax reduction to which she is entitled by virtue of that election is to be made ”.
- (3) Any election made for the purposes of section 257BA of the Taxes Act 1988 which—
- (a) has been made before the coming into force of this paragraph, and
  - (b) apart from this paragraph, would have effect in accordance with that section for the year 1994-95 or any subsequent year,
- shall so have effect as if it were an election for the purposes of that section as amended by this paragraph.
- 3 (1) In subsection (1) of section 257BB of that Act (transfer of relief where it is not all used), for paragraph (b) and the words after that paragraph there shall be substituted—
- “(b) the amount of the reduction to which he is entitled is determined in accordance with section 256(2)(b) or, by virtue of his having no income tax liability to which that reduction is applicable, is nil,
- his wife shall be entitled (in addition to any reduction to which she is entitled by virtue of an election under section 257BA) to an income tax reduction calculated by reference to an amount equal to the unused part of the amount by reference to which her husband’s income tax reduction fell to be calculated in pursuance of section 257A and any election under section 257BA.”

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(2) In subsection (3) of that section, for paragraph (b) and the words after that paragraph there shall be substituted—

“(b) the amount of the reduction to which she is entitled is determined in accordance with section 256(2)(b) or, by virtue of her having no income tax liability to which that reduction is applicable, is nil,

her husband shall be entitled (in addition to any other reduction to which he is entitled by virtue of section 257A) to an income tax reduction calculated by reference to an amount equal to the unused part of the amount by reference to which his wife’s income tax reduction fell to be calculated in pursuance of that election.”

F221(3) . . . . .

(4) Subsection (6) of that section (calculation of amount left after deductions of a person’s total income) shall cease to have effect.

**Textual Amendments**

**F221** Sch. 8 para. 3(3) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

F222<sup>4</sup> . . . . .

**Textual Amendments**

**F222** Sch. 8 para. 4 repealed (27.7.1999 with effect as mentioned in Note 2 to Sch. 20 Pt. III(3) of the repealing Act) by [1999 c. 16, s. 139](#), [Sch. 20 Pt. III\(3\)](#)

F223<sup>5</sup> . . . . .

**Textual Amendments**

**F223** Sch 8 para. 5 repealed (27.7.1999 with effect as mentioned in Note 2 to Sch. 20 Pt. III(3) of the repealing Act) by [1999 c. 16, s. 139](#), [Sch. 20 Pt. III\(3\)](#)

F224<sup>6</sup> . . . . .

**Textual Amendments**

**F224** Sch. 8 para. 6 repealed (27.7.1999 with effect as mentioned in the Note to Sch. 20 Pt. III(4) of the repealing Act) by [1999 c. 16, s. 139](#), [Sch. 20 Pt. III\(4\)](#)

F225<sup>7</sup> . . . . .

**Textual Amendments**

**F225** Sch. 8 para. 7 repealed (27.7.1999 with effect as mentioned in the Note to Sch. 20 Pt. III(4) of the repealing Act) by [1999 c. 16, s. 139](#), [Sch. 20 Pt. III\(4\)](#) Note

F226<sup>8</sup> . . . . .

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**Textual Amendments**

**F226** Sch. 8 para. 8 repealed (27.7.1999 with effect as mentioned in the Note to Sch. 20 Pt. III(4) of the repealing Act) by 1999 c. 16, s. 139, **Sch. 20 Pt. III(4)**

F227<sup>9</sup> .....

**Textual Amendments**

**F227** Sch. 8 para. 9 repealed (27.7.1999 with effect as mentioned in Note 2 to Sch. 20 Pt. III(5) of the repealing Act) by 1999 c. 16, s. 139, **Sch. 20 Pt. III(5)**

F228<sup>10</sup> .....

**Textual Amendments**

**F228** Sch. 8 para. 10 repealed (6.4.2007) by **Income Tax Act 2007 (c. 3)**, s. 1034(1), **Sch. 3 Pt. 1** (with Sch. 2)

F229<sup>11</sup> .....

**Textual Amendments**

**F229** Sch. 8 para. 11 repealed (6.4.2007) by **Income Tax Act 2007 (c. 3)**, s. 1034(1), **Sch. 3 Pt. 1** (with Sch. 2)

F230<sup>12</sup> .....

**Textual Amendments**

**F230** Sch. 8 para. 12 repealed (1.4.2010) (with effect in accordance with s. 381(1) of the amending Act) by **Taxation (International and Other Provisions) Act 2010 (c. 8)**, s. 381(1), **Sch. 10 Pt. 1** (with Sch. 9 paras. 1-9, 22)

*The Taxes Management Act 1970 (c. 9)*

- 13 In section 37A of the Taxes Management Act 1970 (effect of assessment where allowances transferred)—
- (a) after the word “person’s”, in the first place where it occurs, there shall be inserted “ liability to income tax or ”;
  - (b) for the words from “any deduction made” to “spouse” there shall be substituted “ any income tax reduction or deduction from total income made in the case of that person’s spouse ”; and
  - (c) for the words from “and where” onwards there shall be substituted “ and the entitlement in that case of the first-mentioned person for the year in question to any income tax reduction or deduction from total income shall be treated as correspondingly reduced. ”

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SCHEDULE 9 **U.K.**

Section 81.

MORTGAGE INTEREST RELIEF ETC.

*The Taxes Act 1988*

F231<sub>1</sub> .....

**Textual Amendments**

**F231** Sch. 9 para. 1 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 3](#) (with [Sch. 2](#))

F232<sub>2</sub> .....

**Textual Amendments**

**F232** Sch. 9 para. 2 repealed (31.7.1997 with effect as mentioned in Note 3 to Sch. 8 Pt. II(9) of the repealing Act) by [1997 c. 58, s. 52, Sch. 8 Pt. II\(9\)](#) (with [s. 3\(3\)](#))

3 Subsections (4) and (5) of section 353 of the Taxes Act 1988 (restriction of relief to basic rate tax) shall cease to have effect.

F233<sub>4</sub> .....

**Textual Amendments**

**F233** Sch. 9 para. 4 repealed (the repeal coming into force in accordance with s. 42(3)-(5) of the repealing Act) by [1995 c. 4, s. 162, Sch. 29 Pt. VIII\(2\)](#), Note (with Sch. 8 paras. 55(2), 57(1))

F234<sub>5</sub> .....

**Textual Amendments**

**F234** Sch. 9 para. 5 repealed (the repeal coming into force in accordance with s. 42(3)-(5) of the repealing Act) by [1995 c. 4, s. 162, Sch. 29 Pt. VIII\(2\)](#), Note (with Sch. 8 paras. 55(2), 57(1))

F235<sub>6</sub> .....

**Textual Amendments**

**F235** Sch. 9 para. 6 repealed (the repeal coming into force in accordance with s. 42(3)-(5) of the repealing Act) by [1995 c. 4, s. 162, Sch. 29 Pt. VIII\(2\)](#), Note (with Sch. 8 paras. 55(2), 57(1))

7 **F236**(1) .....

**F237**(2) .....

**F237**(3) .....

**F237**(4) .....

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**Textual Amendments**

**F236** Sch. 9 para. 7(1) repealed (27.7.1999 with effect as mentioned in Note 4 to Sch. 20 Pt. III(7) of the repealing Act) by 1999 c. 16, s. 139, **Sch. 20 Pt. III(7)**

**F237** Sch. 9 para. 7(2)-(4) repealed (the repeal coming into force in accordance with s. 42(3)-(5) of the repealing Act) by 1995 c. 4, s. 162, **Sch. 29 Pt. VIII(2)**, Note (with Sch. 8 paras. 55(2), 57(1))

F238 8 . . . . .

**Textual Amendments**

**F238** Sch. 9 para. 8 repealed (the repeal coming into force in accordance with s. 42(3)-(5) of the repealing Act) by 1995 c. 4, s. 162, **Sch. 29 Pt. VIII(2)**, Note (with Sch. 8 paras. 55(2), 57(1))

F239 9 . . . . .

**Textual Amendments**

**F239** Sch. 9 para. 9 repealed (6.4.2007) by **Income Tax Act 2007 (c. 3)**, s. 1034(1), **Sch. 3 Pt. 1** (with Sch. 2)

- 10 (1) In subsection (2) of section 370 of the Taxes Act 1988 (conditions for interest to be treated as relevant loan interest)—
- (a) after “section 353(2)” there shall be inserted “ and any other provision applying to interest falling to be treated as relevant loan interest ”; and
  - (b) for “from section 74(o) and, where applicable,” there shall be substituted “ (where applicable) from ”.

F240 (2) . . . . .

**Textual Amendments**

**F240** Sch. 9 para. 10(2) repealed (27.7.1999 with effect as mentioned in Note 4 to Sch. 20 Pt. III(7) of the repealing Act) by 1999 c. 16, s. 139, **Sch. 20 Pt. III(7)**

- 11 In section 375(3) of the Taxes Act 1988 (liability of borrower for excess where deduction should not have been made), for the words from “entitles” to “been allowed” there shall be substituted “ shall be taken as regards the borrower as entitling him to any deduction or to retain any amount deducted and, accordingly, where any amount that has been deducted exceeds the amount which ought to have been deducted ”.

*The Finance Act 1993 (c. 34)*

- 12 Subsection (7) of section 57 of the Finance Act 1993 (transitional provision for bridging loans made before 6th April 1991) shall cease to have effect.

*Status: Point in time view as at 01/04/2023.**Changes to legislation: Finance Act 1994 is up to date with all changes known to be in force on or before 03 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)*

## F241 SCHEDULE 10 U.K.

Section 83.

**Textual Amendments****F241** Sch. 10 repealed (31.7.1997 with effect as mentioned in the Note to Sch. 8 Pt. II(2) of the repealing Act) by 1997 c. 58, s. 52, **Sch. 8 Pt. II(2)** (with s. 3(3))

## SCHEDULE 11 U.K.

Section 91.

## EXTENSION OF ROLL-OVER RELIEF ON RE-INVESTMENT

- 1 Chapter IA of Part V of the <sup>M40</sup>Taxation of Chargeable Gains Act 1992 shall be amended as follows.

**Marginal Citations****M40** 1992 c. 12.*Disposals on which relief available*

- 2 In section 164A—
- (a) in subsection (1)(a), for the words following “(“the re-investor”)” there is substituted “on any disposal by him of any asset (“the asset disposed of”); and”;
  - (b) in subsection (2), “Subject to section 164C” is omitted and for “initial holding” (in three places) there is substituted “asset disposed of”;
  - (c) subsections (3) to (7) are omitted;
  - (d) in subsection (9), for “initial holding” there is substituted “asset disposed of”, and
  - (e) for subsection (12) there is substituted—

“(12) Without prejudice to section 52(4), where consideration is given for the acquisition of any assets some of which are shares to the acquisition of which a claim under this section relates and some of which are not, the consideration shall be apportioned in such manner as is just and reasonable”.

- 3 For section 164B there is substituted—

**“164B Roll-over relief on re-investment by trustees.**

- (1) Subject to the following provisions of this section, section 164A shall apply, as it applies in such a case as is mentioned in subsection (1) of that section, where there is—
- (a) a disposal by the trustees of a settlement of any asset comprised in any settled property to which this section applies, and

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- (b) such an acquisition by those trustees of eligible shares in a qualifying company as would for the purposes of that section be an acquisition of a qualifying investment at a time in the qualifying period.
- (2) This section applies—
  - (a) to any settled property in which the interests of the beneficiaries are not interests in possession, if all the beneficiaries are individuals, and
  - (b) to any settled property in which the interests of the beneficiaries are interests in possession, if any of the beneficiaries are individuals, and references in this section to individuals include any charity.
- (3) If, at the time of the disposal of the asset mentioned in subsection (1) (a) above, the settled property comprising that asset is property to which this section applies by virtue of subsection (2)(b) above but not all the beneficiaries are individuals, then—
  - (a) only the relevant proportion of the gain which would accrue to the trustees on the disposal shall be taken into account for the purposes of section 164A(2)(a)(i), and
  - (b) no reduction under section 164A(2) shall be made in respect of the whole or any part of the balance of the gain.
- (4) Section 164A shall not apply by virtue of this section in a case where, at the time of the disposal of the asset mentioned in subsection (1)(a) above, the settled property which comprises that asset is property to which this section applies by virtue of subsection (2)(a) above unless, immediately after the acquisition of shares mentioned in subsection (1)(b) above, the settled property comprising the shares is also property to which this section applies by virtue of subsection (2)(a) above.
- (5) Section 164A shall not apply by virtue of this section in a case where, at the time of the disposal of the asset mentioned in subsection (1)(a) above, the settled property which comprises that asset is property to which this section applies by virtue of subsection (2)(b) above unless, immediately after the acquisition of shares mentioned in subsection (1)(b) above—
  - (a) the settled property comprising the shares is also property to which this section applies by virtue of subsection (2)(b) above, and
  - (b) if not all the beneficiaries are individuals, the relevant proportion is not less than the proportion which was the relevant proportion at the time of the disposal of the asset mentioned in subsection (1)(a) above.
- (6) If, at any time, in the case of settled property to which this section applies by virtue of subsection (2)(b) above, both individuals and others have interests in possession, the relevant proportion at that time is the proportion which the amount specified in paragraph (a) below bears to the amount specified in paragraph (b) below, that is—
  - (a) the total amount of the income of the settled property, being income the interests in which are held by beneficiaries who are individuals, and
  - (b) the total amount of all the income of the settled property.

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(7) Where, in the case of any settled property in which any beneficiary holds an interest in possession, one or more beneficiaries (“the relevant beneficiaries”) hold interests not in possession, this section shall apply as if—

- (a) the interests of the relevant beneficiaries were a single interest in possession, and
- (b) that interest were held, where all the relevant beneficiaries are individuals, by an individual and, in any other case, by a person who is not an individual.

(8) In this section references to interests in possession do not include interests for a fixed term.”

4 Sections 164C to 164E are omitted.

5 In section 164H(1), “within the meaning of section 164C” is omitted.

6 In section 164L(10), for the words following “trustees or” there is substituted “any individual or charity by virtue of whose interest, at the time of the acquisition, section 164B applies to the settled property”.

*Acquisitions on which relief available*

7 For section 164A(8) there is substituted—

“(8) For the purposes of this section, a person who acquires any eligible shares in a qualifying company shall be regarded as acquiring a qualifying investment unless, where the asset disposed of consisted of shares in or other securities of any company (“the initial holding”), the qualifying company—

- (a) is the company in which the initial holding subsisted, or
- (b) is a company that was, at the time of the disposal of the initial holding, or is, at the time of the acquisition of the qualifying investment, a member of the same group of companies as the company in which the initial holding subsisted.”

*Retirement relief*

8 Section 164A(11) is omitted and after section 164B there is inserted—

**“164BA Interaction with retirement relief**

(1) The provisions of section 164A for making any reduction shall apply before any provisions for calculating the amount of, or giving effect to, any relief under section 163 or 164; and references in that section and this to a chargeable gain (except the second reference in subsection (4)(a) below) shall be construed accordingly.

(2) Subsection (3) below applies where—

- (a) any claim for relief is made under section 164A in respect of any chargeable gain, and
- (b) apart from this Chapter, the whole or any part of that gain would be relieved under section 163 or 164.



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- (3) For the purpose of giving relief under section 163 or 164, any reduction under section 164A shall be treated as having been made first against the unrelieved part of the chargeable gain; and only the amount (if any) which is equal to the unrelieved part of the chargeable gain after that reduction shall be treated as exceeding the amount available for relief.
- (4) For the purposes of this section—
- (a) the unrelieved part of a chargeable gain is so much of that gain as, apart from this Chapter, would constitute a chargeable gain after the application of the appropriate paragraph of Schedule 6,
  - (b) “amount available for relief” has the same meaning as in the appropriate paragraph of that Schedule, and
  - (c) the “appropriate paragraph” means, as the case may be, paragraph 6, 7(1)(b) or 8(1)(b).”

#### *Clawback*

- 9 (1) In section 164F—
- (a) for subsection (1) there is substituted—

“(1) This section shall apply where a person has acquired any eligible shares in a qualifying company (“the acquired holding”) for a consideration which is treated as reduced, under section 164A or this section, by any amount (“the held-over gain”),
  - (b) in subsection (3), for the words from “either” to the end of paragraph (b) there is substituted “charged on any disposal or under this section”,
  - (c) for subsection (4) there is substituted—

“(4) For the purposes of this section the whole or a part of any held-over gain on the acquisition of the acquired holding shall be treated—

    - (a) in accordance with subsection (4A) below as charged on any disposal in relation to which the whole or any part of the held-over gain falls to be taken into account in determining the chargeable gain or allowable loss accruing on the disposal, and
    - (b) as charged under this section so far as it falls to be disregarded in accordance with subsection (11) below.
- (4A) In the case of any such disposal as is mentioned in subsection (4)(a) above, the amount of the held-over gain charged on that disposal—
- (a) shall, except in the case of a part disposal, be the amount taken into account as so mentioned, and
  - (b) in the case of a part disposal, shall be calculated by multiplying the following, that is to say—
    - (i) so much of the amount of the held-over gain as has not already been charged on a previous disposal, and
    - (ii) the fraction used in accordance with section 42(2) for determining, subject to any deductions in pursuance of this Chapter, the amount allowable as

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a deduction in the computation of the gain accruing on the disposal in question”,

- (d) in subsection (5)—
  - (i) in paragraph (a) “or 164D” is omitted, and
  - (ii) in paragraph (c), for the words from “section 164D(4)” to the end there is substituted “ subsections (4) and (4A) above ”,
- (e) in subsection (10), “(within the meaning of section 164D)” is omitted, and
- (f) after that subsection there is inserted—

“(10A) Where (apart from this subsection) a chargeable gain of any amount would by virtue of subsection (2) above accrue to the person who acquired the acquired holding but, within the period mentioned in subsection (10B) below, that person acquires a qualifying investment (within the meaning of section 164A), that person shall, on making a claim as respects the qualifying investment, be treated—

- (a) as if the amount of the gain were reduced by whichever is the smallest of the following—
  - (i) the actual amount or value of the consideration for the acquisition of the qualifying investment,
  - (ii) in the case of a qualifying investment acquired otherwise than by a transaction at arm’s length, the market value of that investment at the time of its acquisition,
  - (iii) the amount specified for the purposes of this subsection in the claim, and
- (b) as if the amount or value of the consideration for the acquisition of the qualifying investment were reduced by the amount of the reduction made under paragraph (a) above;

but paragraph (b) above shall not affect the treatment for the purposes of this Act of the other party to the transaction involving the qualifying investment.

(10B) The period referred to in subsection (10A) above is the period (not including any period before the acquisition of the acquired holding) which begins 12 months before and ends 3 years after the time when the chargeable gain accrues or would but for that subsection accrue, together with any such further period after the disposal as the Board may by notice allow.”

- (2) Section 164F as amended by sub-paragraph (1) above shall have effect as follows—
  - (a) the reference in subsection (1) to consideration treated as reduced under section 164A includes consideration treated as reduced under section 164D,
  - (b) the reference in subsection (3) to a gain having been charged on any disposal includes any gain having been carried forward from any disposal of shares, and
  - (c) the amounts referred to in subsection (4A)(a) and (b)(i) shall be treated as reduced by any amounts carried forward from any disposal of shares.
- (3) References in sub-paragraph (2) above to an amount being carried forward from a disposal of shares are references to the reduction by that amount, in accordance

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with section 164D(3)(a), of the amount of the consideration for the disposal of those shares.

#### *Anti-avoidance*

10 In section 164L—

(a) after subsection (10) there is inserted—

“(10A) For the purposes of this Chapter, where—

- (a) a person has acquired any eligible shares in a qualifying company (“the acquired holding”) for a consideration which is treated as reduced under this Chapter by any amount (“the held-over gain”), and
- (b) after that acquisition, he acquires eligible shares in a relevant company,

he shall not be regarded in relation to his acquisition of those shares in the relevant company as acquiring a qualifying investment for the purposes of section 164A.

(10B) For the purposes of subsection (10A) above a company is a relevant company if—

- (a) where that person has disposed of any of the acquired holding, it is the company in which the acquired holding has subsisted or a company which was a member of the same group of companies as that company at any time since the acquisition of the acquired holding,
  - (b) it is a company in relation to the disposal of any shares in which there has been a claim under this Chapter such that, without that or an equivalent claim, there would have been no held-over gain in relation to the acquired holding, or
  - (c) it is a company which, at the time of the disposal or acquisition to which the claim relates, was a member of the same group of companies as a company falling within paragraph (b) above”, and
- (b) in subsection (11), for the definition of “chargeable business assets” there is substituted—

““chargeable business asset”, in relation to any company, means a chargeable asset (including goodwill but not including shares or securities or other assets held as investments) which is, or is an interest in, an asset used for the purposes of a trade, profession, vocation, office or employment carried on by—

- (a) the individual acquiring the shares,
- (b) any personal company of that individual,
- (c) a member of a trading group of which the holding company is a personal company of that individual, or
- (d) a partnership of which that individual is a member”.

#### *Miscellaneous*

11 In section 164N, after subsection (1) there is inserted—

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“(1A) Every asset of a company is for the purposes of this Chapter a chargeable asset of that company at any time, except one on the disposal of which by the company at that time no gain accruing to the company would be a chargeable gain”.

## SCHEDULE 12 **U.K.**

Section 93.

### INDEXATION LOSSES: TRANSITIONAL RELIEF

#### *Introductory*

- 1 This Schedule applies in relation to chargeable gains and allowable losses accruing to—
- (a) an individual, or
  - (b) the trustees of a settlement made before 30th November 1993;
- (referred to in this Schedule as “the taxpayer”).
- 2 (1) This paragraph applies for the purposes of this Schedule, and the determinations required by this paragraph to be made shall be made without regard to paragraphs 4 to 7 below.
- (2) If an allowable loss accrues on a disposal made on or after 30th November 1993 and, under the old indexation rules, a greater allowable loss would have accrued, there is an indexation loss in respect of the disposal equal to the amount by which the allowable loss which would have accrued under the old indexation rules exceeds the allowable loss accruing on the disposal.
- (3) If a disposal made on or after 30th November 1993 is one on which neither a gain nor a loss accrues and, under the old indexation rules, an allowable loss would have accrued, there is an indexation loss in respect of the disposal equal to the amount of the allowable loss that would have accrued under the old indexation rules.
- (4) If the total amount of chargeable gains accruing to the taxpayer in any year of assessment for which this Schedule has effect exceeds the allowable losses accruing in that year, there is a relevant gain for that year equal to the amount of the excess.
- 3 (1) The cases in which the appropriation of an asset by the taxpayer is treated under section 161(1) of the 1992 Act (appropriations to and from stock) as a disposal of the asset include cases in which, if he had sold the asset for its market value, an allowable loss would have accrued to him under the old indexation rules.
- (2) Where, but for an election under subsection (3) of section 161 of the 1992 Act—
- (a) an asset appropriated by the taxpayer would have been treated as disposed of as mentioned in subsection (1) of that section, and
  - (b) paragraph 2(2) or (3) above would have applied on the disposal,
- paragraphs 1 and 2 above and 6 and 7 below shall apply, as if the asset had been so treated, to determine for the purposes of subsection (3) of that section any increase to be made in the amount of any allowable loss; and the appropriation of the asset is referred to below as a “relevant appropriation”.
- (3) Sections 574 to 576 of the Taxes Act (relief for individual on disposal of shares in qualifying trading company) shall apply if an individual who has subscribed for

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shares as mentioned in section 574(1) disposes of them in circumstances where paragraph 2(3) above applies as they apply in other cases.

- (4) Where a person makes a claim for relief under subsection (1) of section 574 in the case of a disposal in respect of which there is an indexation loss (referred to below as a “section 574 disposal”)—
  - (a) paragraphs 6 and 7 below shall apply to determine any increase to be made, for the purposes of that subsection, in the amount of the allowable loss, and
  - (b) paragraphs 4 and 5 below shall apply to so much only of the indexation loss as is not relieved under that section.
- (5) References in this paragraph and paragraphs 6 and 7 below to an increase in any loss include, in circumstances where paragraph 2(3) above applies, a reference to the creation of the loss.

#### *Capital gains tax*

- 4 (1) Where in the case of any taxpayer—
    - (a) there is a relevant gain for the year 1993-94,
    - (b) the relevant gain exceeds the exempt amount for that year, and
    - (c) there are indexation losses in respect of any disposals made in that year,then, for the purposes of the 1992 Act, the amount by which the total amount of chargeable gains accruing to the taxpayer in that year exceeds the allowable losses accruing in the year shall be reduced by the amount mentioned in sub-paragraph (2) below, and shall be so reduced before the deduction of any allowable losses carried forward from any previous year or carried back under section 62 from any subsequent year.
  - (2) The amount referred to in sub-paragraph (1) above is so much of the total of indexation losses in respect of disposals made in that year as does not exceed—
    - (a) £10,000, or
    - (b) the amount by which the relevant gain exceeds the exempt amount for the year,whichever is the smaller.
- 5 (1) Where in the case of any taxpayer—
    - (a) there is a relevant gain for the year 1994-95,
    - (b) the relevant gain exceeds the exempt amount for that year, and
    - (c) there are indexation losses in respect of any disposals made in that year or unused indexation losses for the previous year,then, for the purposes of the 1992 Act, the amount by which the total amount of chargeable gains accruing to the taxpayer in the year 1994-95 exceeds the allowable losses accruing in that year shall be reduced by the amount mentioned in sub-paragraph (2) below, and shall be so reduced before the deduction of any allowable losses carried forward from any previous year or carried back under section 62 from any subsequent year.
  - (2) The amount referred to in sub-paragraph (1) above is so much of the total of indexation losses in respect of disposals made in the year 1994-95, plus any unused indexation losses for the previous year, as does not exceed—
    - (a) £10,000 less the aggregate of—

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- (i) the amount of any reduction made under paragraph 4(1) above for the previous year, and
  - (ii) any increase made under paragraph 6(2) below for the previous year, or
  - (b) the amount by which the relevant gain exceeds the exempt amount for the year 1994-95,
- whichever is the smaller.
- (3) For the purposes of this paragraph, if the total amount of indexation losses in respect of disposals made by the taxpayer in the year 1993-94 exceeds the aggregate of—
- (a) the amount of any reduction made under paragraph 4(1) above for that year, and
  - (b) any increase made under paragraph 6(2) below for that year,
- there are unused indexation losses for that year of an amount equal to the excess.

*Income tax*

- 6 (1) This paragraph applies where, at any time in the period beginning with 30th November 1993 and ending with 5th April 1994, the taxpayer makes any relevant appropriation or any section 574 disposal; and for the purposes of this paragraph there shall be determined—
- (a) the amount of any reduction for the year 1993-94 which (disregarding relevant appropriations and section 574 disposals) would be made under paragraph 4(1) above, and
  - (b) the amounts of any indexation losses in respect of relevant appropriations or section 574 disposals made in that period.
- (2) If the aggregate of the amounts referred to in sub-paragraph (1)(a) and (b) above does not exceed £10,000, the amount of any allowable loss referable to such an appropriation or disposal shall be increased by any indexation loss in respect of it.
- (3) In any other case, notwithstanding anything in paragraphs 4 and 5 above—
- (a) the aggregate of—
    - (i) the amount of any reduction for the year 1993-94 to be made under paragraph 4(1) above, and
    - (ii) the amount of any indexation losses in respect of relevant appropriations or section 574 disposals made in the period referred to in sub-paragraph (1) above,
 shall be equal to £10,000 and shall be allocated as the taxpayer may determine between that reduction and increases in allowable losses referable to such appropriations or disposals, and
  - (b) no reduction shall be made under paragraph 5 above or 7 below for the year 1994-95.
- 7 (1) This paragraph applies where, at any time in the year 1994-95, the taxpayer makes any relevant appropriation or any section 574 disposal; and for the purposes of this paragraph there shall be determined—
- (a) the amount of any reduction for that year which (disregarding relevant appropriations and section 574 disposals) would be made under paragraph 5(1) above, and

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- (b) the amounts of any indexation losses in respect of relevant appropriations or section 574 disposals made in that year.
- (2) If the aggregate of the amounts referred to in sub-paragraph (1)(a) and (b) above does not exceed the limit for 1994-95, that is—
- (a) £10,000, less
- (b) the aggregate of the amount of any reduction made under paragraph 4(1) above for the year 1993-94 and of any increases made under paragraph 6(2) above for that year,
- the amount of any allowable loss referable to such an appropriation or disposal shall be increased by any indexation loss in respect of it.
- (3) In any other case, notwithstanding anything in paragraph 5 above, the aggregate of the amount of any reduction for the year 1994-95 to be made under paragraph 5(1) above and of the amount of any indexation losses in respect of relevant appropriations or section 574 disposals made in that year—
- (a) shall be equal to the limit for 1994-95, and
- (b) shall be allocated as the taxpayer may determine between that reduction and increases in allowable losses referable to such appropriations or disposals.

### *Supplementary*

- 8 (1) In this Schedule—
- “the 1992 Act” means the <sup>M41</sup>Taxation of Chargeable Gains Act 1992, and
- “the old indexation rules” means the 1992 Act as it would have effect if—
- (a) the amendments made by subsections (1) to (5) of section 93 of this Act, and
- (b) the repeal of section 103 (collective investment schemes, etc.) and section 111 (building societies) of the 1992 Act by subsection (7) of section 93 of this Act,
- had not come into force.
- (2) Other expressions not defined in this Schedule but used both in it and in the 1992 Act have the same meaning as in that Act.
- (3) References in this Schedule to the reduction of any amount include its reduction to nil.

#### **Marginal Citations**

**M41** 1992 c. 12.

### *Introduction*

- 1 The Finance Act 1989 shall be amended as provided in this Schedule.

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### *Trustees*

- 2 In Schedule 5, in paragraph 3 (trustees) the following sub-paragraph shall be inserted after sub-paragraph (4)—

“(5) This paragraph applies in relation to trusts established on or before the day on which the Finance Act 1994 was passed.”

- 3 In Schedule 5, the following paragraphs shall be inserted after paragraph 3—

“3A Where a trust is established after the day on which the Finance Act 1994 was passed, the trust deed must make provision as mentioned in one of paragraphs (a) to (c) below—

- (a) provision for the establishment of a body of trustees and complying with paragraph 3(2) to (4) above;
- (b) provision for the establishment of a body of trustees and complying with paragraph 3B(2) to (9) below;
- (c) provision that at any time while the trust subsists there must be a single trustee.

3B (1) The following are the provisions that must be complied with under paragraph 3A(b) above.

- (2) The trust deed must—
- (a) appoint the initial trustees;
  - (b) contain rules for the retirement and removal of trustees;
  - (c) contain rules for the appointment of replacement and additional trustees.

(3) The trust deed must be so framed that at any time while the trust subsists the conditions set out in sub-paragraph (4) below are fulfilled as regards the persons who are then trustees; and in that sub-paragraph “the relevant time” means that time.

- (4) The conditions are that—
- (a) the number of trustees is not less than three;
  - (b) all the trustees are resident in the United Kingdom;
  - (c) the trustees include at least one person who is a professional trustee and at least two persons who are non-professional trustees;
  - (d) at least half of the non-professional trustees were, before being appointed as trustees, selected in accordance with sub-paragraph (7) or (8) below;
  - (e) all the trustees so selected are persons who are employees of companies which fall within the founding company’s group at the relevant time, and who do not have and have never had a material interest in any such company.

(5) For the purposes of this paragraph a trustee is a professional trustee at a particular time if—

- (a) the trustee is then a trust corporation, a solicitor, or a member of such other professional body as the Board may at that time allow for the purposes of this sub-paragraph,



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- (b) the trustee is not then an employee or director of any company then falling within the founding company's group, and
    - (c) the trustee meets the requirements of sub-paragraph (6) below;and for the purposes of this paragraph a trustee is a non-professional trustee at a particular time if the trustee is not then a professional trustee for those purposes.
  - (6) A trustee meets the requirements of this sub-paragraph if—
    - (a) he was appointed as an initial trustee and, before being appointed as trustee, was selected by (and only by) the persons who later became the non-professional initial trustees, or
    - (b) he was appointed as a replacement or additional trustee and, before being appointed as trustee, was selected by (and only by) the persons who were the non-professional trustees at the time of the selection.
  - (7) Trustees are selected in accordance with this sub-paragraph if the process of selection is one under which—
    - (a) all the persons who are employees of the companies which fall within the founding company's group at the time of the selection, and who do not have and have never had a material interest in any such company, are (so far as is reasonably practicable) given the opportunity to stand for selection,
    - (b) all the employees of the companies falling within the founding company's group at the time of the selection are (so far as is reasonably practicable) given the opportunity to vote, and
    - (c) persons gaining more votes are preferred to those gaining less.
  - (8) Trustees are selected in accordance with this sub-paragraph if they are selected by persons elected to represent the employees of the companies falling within the founding company's group at the time of the selection.
  - (9) For the purposes of this paragraph a company falls within the founding company's group at a particular time if—
    - (a) it is at that time resident in the United Kingdom, and
    - (b) it is the founding company or it is at that time controlled by the founding company.
- 3C
- (1) This paragraph applies where the trust deed provides that at any time while the trust subsists there must be a single trustee.
  - (2) The trust deed must—
    - (a) be so framed that at any time while the trust subsists the trustee is a company which at that time is resident in the United Kingdom and controlled by the founding company;
    - (b) appoint the initial trustee;
    - (c) contain rules for the removal of any trustee and for the appointment of a replacement trustee.
  - (3) The trust deed must be so framed that at any time while the trust subsists the company which is then the trustee is a company so constituted that the conditions set out in sub-paragraph (4) below are then fulfilled as regards the persons who are then directors of the company; and in that

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sub-paragraph “the relevant time” is that time and “the trust company” is that company.

- (4) The conditions are that—
- (a) the number of directors is not less than three;
  - (b) all the directors are resident in the United Kingdom;
  - (c) the directors include at least one person who is a professional director and at least two persons who are non-professional directors;
  - (d) at least half of the non-professional directors were, before being appointed as directors, selected in accordance with sub-paragraph (7) or (8) below;
  - (e) all the directors so selected are persons who are employees of companies which fall within the founding company’s group at the relevant time, and who do not have and have never had a material interest in any such company.
- (5) For the purposes of this paragraph a director is a professional director at a particular time if—
- (a) the director is then a solicitor or a member of such other professional body as the Board may at that time allow for the purposes of this sub-paragraph,
  - (b) the director is not then an employee of any company then falling within the founding company’s group,
  - (c) the director is not then a director of any such company (other than the trust company), and
  - (d) the director meets the requirements of sub-paragraph (6) below;
- and for the purposes of this paragraph a director is a non-professional director at a particular time if the director is not then a professional director for those purposes.
- (6) A director meets the requirements of this sub-paragraph if—
- (a) he was appointed as an initial director and, before being appointed as director, was selected by (and only by) the persons who later became the non-professional initial directors, or
  - (b) he was appointed as a replacement or additional director and, before being appointed as director, was selected by (and only by) the persons who were the non-professional directors at the time of the selection.
- (7) Directors are selected in accordance with this sub-paragraph if the process of selection is one under which—
- (a) all the persons who are employees of the companies which fall within the founding company’s group at the time of the selection, and who do not have and have never had a material interest in any such company, are (so far as is reasonably practicable) given the opportunity to stand for selection,
  - (b) all the employees of the companies falling within the founding company’s group at the time of the selection are (so far as is reasonably practicable) given the opportunity to vote, and
  - (c) persons gaining more votes are preferred to those gaining less.

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- (8) Directors are selected in accordance with this sub-paragraph if they are selected by persons elected to represent the employees of the companies falling within the founding company’s group at the time of the selection.
- (9) For the purposes of this paragraph a company falls within the founding company’s group at a particular time if—
- (a) it is at that time resident in the United Kingdom, and
  - (b) it is the founding company or it is at that time controlled by the founding company.”
- 4 In Schedule 5, the following shall be inserted at the end of paragraph 12 (position after trust’s establishment)— “ This paragraph applies in relation to trusts established on or before the day on which the Finance Act 1994 was passed. ”
- 5 In Schedule 5, the following paragraph shall be inserted after paragraph 12—
- “12A (1) Subject to sub-paragraphs (2) and (3) below, a trust which was at the time it was established a qualifying employee share ownership trust shall continue to be one.
- (2) If the trust deed makes provision under paragraph 3A(a) above, the trust shall not be a qualifying employee share ownership trust at any time when the requirements mentioned in paragraph 3(3)(a) to (f) above are not satisfied.
- (3) If the trust deed makes provision under paragraph 3A(b) above, the trust shall not be a qualifying employee share ownership trust at any time when the conditions mentioned in paragraph 3B(4)(a) to (e) above are not satisfied.
- (4) If the trust deed makes provision under paragraph 3A(c) above, the trust shall not be a qualifying employee share ownership trust at any time when—
- (a) there is not a single trustee,
  - (b) the trustee is not a company which is resident in the United Kingdom and controlled by the founding company, or
  - (c) the conditions mentioned in paragraph 3C(4)(a) to (e) above are not satisfied as regards the directors of the trustee.
- (5) This paragraph applies in relation to trusts established after the day on which the Finance Act 1994 was passed.”

### *Securities*

- 6 (1) Section 69 (chargeable events) shall be amended as follows.
- (2) In subsection (1)(c) (retention of securities at expiry of seven years from acquisition) for “period of seven years” there shall be substituted “ qualifying period ”.
- (3) After subsection (4) there shall be inserted—
- “(4A) For the purposes of subsection (1)(c) above the qualifying period is—
- (a) seven years, in the case of trusts established on or before the day on which the Finance Act 1994 was passed;
  - (b) twenty years, in the case of other trusts;

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and for this purpose a trust is established when the deed under which it is established is executed.”

- 7 (1) Paragraph 9 of Schedule 5 (transfer of securities) shall be amended as follows.
- (2) In sub-paragraph (1)(b) for “period of seven years” there shall be substituted “qualifying period”.
- (3) After sub-paragraph (2) there shall be inserted—
  - “(2A) For the purposes of sub-paragraph (1) above the qualifying period is—
  - (a) seven years, in the case of trusts established on or before the day on which the Finance Act 1994 was passed;
  - (b) twenty years, in the case of other trusts.”

*Interpretation*

- 8 In Schedule 5, the following paragraph shall be inserted after paragraph 16—
  - “17 For the purposes of this Schedule a trust is established when the deed under which it is established is executed.”

SCHEDULE 14 **U.K.**

Section 112.

DISTRIBUTIONS OF AUTHORISED UNIT TRUSTS

- 1 Chapter III of Part XII of the Taxes Act 1988 shall be amended in accordance with paragraphs 2 to 5 of this Schedule.

*The new sections*

F242<sub>2</sub> .....

**Textual Amendments**

**F242** Sch. 14 para. 2 repealed (31.1.2013) by Statute Law (Repeals) Act 2013 (c. 2), s. 3(2), Sch. 1 Pt. 10 Group 1

*Other amendments*

F243<sub>3</sub> .....

**Textual Amendments**

**F243** Sch. 14 para. 3 repealed (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 3 Pt. 1 (with Sch. 2)

F244<sub>4</sub> .....

*Status: Point in time view as at 01/04/2023.*

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**Textual Amendments**

**F244** Sch. 14 para. 4 repealed (31.1.2013) by [Statute Law \(Repeals\) Act 2013 \(c. 2\), s. 3\(2\)](#), [Sch. 1 Pt. 10](#) Group 1

F245 5 .....

**Textual Amendments**

**F245** Sch. 14 para. 5 repealed (1.4.2009) (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\)](#), [Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))

F246 6 .....

**Textual Amendments**

**F246** Sch. 14 para. 6 repealed (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\)](#), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

*Commencement*

- 7 (1) Subject to sub-paragraph (2) below, this Schedule shall have effect in relation to distribution periods beginning on or after 1st April 1994.
- (2) Nothing in the amendments made by this Schedule shall be taken to permit—
- (a) the total amount shown in the distribution accounts for a distribution period of an authorised unit trust, or
  - (b) a part of that total amount,
- to be shown as available for distribution as foreign income dividends unless the distribution date for that distribution period is 1st July 1994 or a subsequent date.

SCHEDULE 15 **U.K.**

Section 137.

ENTERPRISE INVESTMENT SCHEME

*Amendments of the Taxes Act 1988*

F247 1 .....

**Textual Amendments**

**F247** Sch. 15 paras. 1-19 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\), s. 1034\(1\)](#), [Sch. 3 Pt. 2](#) (with [Sch. 2](#))

F247 2 .....

*Status: Point in time view as at 01/04/2023.*

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**Textual Amendments**

**F247** Sch. 15 paras. 1-19 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 2** (with [Sch. 2](#))

F247<sup>3</sup> .....

**Textual Amendments**

**F247** Sch. 15 paras. 1-19 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 2** (with [Sch. 2](#))

F247<sup>4</sup> .....

**Textual Amendments**

**F247** Sch. 15 paras. 1-19 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 2** (with [Sch. 2](#))

F247<sup>5</sup> .....

**Textual Amendments**

**F247** Sch. 15 paras. 1-19 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 2** (with [Sch. 2](#))

F247<sup>6</sup> .....

**Textual Amendments**

**F247** Sch. 15 paras. 1-19 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 2** (with [Sch. 2](#))

F247<sup>7</sup> .....

**Textual Amendments**

**F247** Sch. 15 paras. 1-19 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 2** (with [Sch. 2](#))

F247<sup>8</sup> .....

**Textual Amendments**

**F247** Sch. 15 paras. 1-19 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 2** (with [Sch. 2](#))

F247<sup>9</sup> .....

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**Textual Amendments**

**F247** Sch. 15 paras. 1-19 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 2** (with [Sch. 2](#))

**F247**10 .....

**Textual Amendments**

**F247** Sch. 15 paras. 1-19 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 2** (with [Sch. 2](#))

**F247**11 .....

**Textual Amendments**

**F247** Sch. 15 paras. 1-19 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 2** (with [Sch. 2](#))

**F247**12 .....

**Textual Amendments**

**F247** Sch. 15 paras. 1-19 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 2** (with [Sch. 2](#))

**F247**13 .....

**Textual Amendments**

**F247** Sch. 15 paras. 1-19 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 2** (with [Sch. 2](#))

**F247**14 .....

**Textual Amendments**

**F247** Sch. 15 paras. 1-19 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 2** (with [Sch. 2](#))

**F247**15 .....

**Textual Amendments**

**F247** Sch. 15 paras. 1-19 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 2** (with [Sch. 2](#))

**F247**16 .....

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**Textual Amendments**

**F247** Sch. 15 paras. 1-19 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 2** (with [Sch. 2](#))

F247 17 .....

**Textual Amendments**

**F247** Sch. 15 paras. 1-19 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 2** (with [Sch. 2](#))

F247 18 .....

**Textual Amendments**

**F247** Sch. 15 paras. 1-19 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 2** (with [Sch. 2](#))

F247 19 .....

**Textual Amendments**

**F247** Sch. 15 paras. 1-19 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 2** (with [Sch. 2](#))

F248 20 .....

**Textual Amendments**

**F248** Sch. 15 para. 20 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 1** (with [Sch. 2](#))

F249 21 .....

**Textual Amendments**

**F249** Sch. 15 paras. 21-27 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 2** (with [Sch. 2](#))

F249 22 .....

**Textual Amendments**

**F249** Sch. 15 paras. 21-27 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 2** (with [Sch. 2](#))

F249 23 .....



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**Textual Amendments**

**F249** Sch. 15 paras. 21-27 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 2** (with [Sch. 2](#))

**F249**24 .....

**Textual Amendments**

**F249** Sch. 15 paras. 21-27 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 2** (with [Sch. 2](#))

**F249**25 .....

**Textual Amendments**

**F249** Sch. 15 paras. 21-27 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 2** (with [Sch. 2](#))

**F249**26 .....

**Textual Amendments**

**F249** Sch. 15 paras. 21-27 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 2** (with [Sch. 2](#))

**F249**27 .....

**Textual Amendments**

**F249** Sch. 15 paras. 21-27 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 2** (with [Sch. 2](#))

*Amendments of the Taxation of Chargeable Gains Act 1992*

28 The <sup>M42</sup>Taxation of Chargeable Gains Act 1992 shall be amended as follows:

**Marginal Citations**

**M42** 1992 c. 12.

29 In section 150 (business expansion schemes), at the end of subsection (1) there is inserted “ and references in this section to Chapter III of Part VII of the Taxes Act or any provision of that Chapter are to that Chapter or provision as it applies in relation to shares issued before 1st January 1994 ”.

30 After that section there is inserted—

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**“150A Enterprise investment scheme.**

(1) For the purpose of determining the gain or loss on any disposal of eligible shares by an individual where—

- (a) an amount of relief is attributable to the shares, and
- (b) apart from this subsection there would be a loss,

the consideration given by him for the shares shall be treated as reduced by the amount of the relief.

(2) Subject to subsection (3) below, if on any disposal of eligible shares by an individual after the end of the period referred to in section 312(1A)(a) of the Taxes Act where an amount of relief is attributable to the shares, there would (apart from this subsection) be a gain, the gain shall not be a chargeable gain.

(3) Where—

- (a) an individual’s liability to income tax has been reduced (or treated by virtue of section 304 of the Taxes Act (husband and wife) as reduced) for any year of assessment under section 289A of that Act in respect of any issue of shares, and
- (b) the amount of the reduction (“A”) is less than the amount (“B”) which is equal to tax at the lower rate for that year on the amount subscribed for the issue,

then, if there is a disposal of the shares on which there is a gain, subsection (2) above shall apply only to so much of the gain as is found by multiplying it by the fraction—

$$\frac{A}{B}$$

(4) Any question as to—

- (a) which of any shares issued to a person at different times a disposal relates, being shares to which relief is attributable, or
- (b) whether a disposal relates to shares to which relief is attributable or to other shares,

shall for the purposes of capital gains tax be determined as for the purposes of section 299 of the Taxes Act; and Chapter I of this Part shall have effect subject to the foregoing provisions of this subsection.

(5) Sections 104, 105 and 107 shall not apply to shares to which relief is attributable.

(6) Where—

- (a) an individual holds shares which form part of the ordinary share capital of a company, and
- (b) relief is attributable to some of the shares but not others,

then, if there is within the meaning of section 126 a reorganisation affecting those shares, section 127 shall apply (subject to the following provisions of this section) separately to the shares to which relief is attributable and to the

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other shares (so that shares of each kind are treated as a separate holding of original shares and identified with a separate new holding).

(7) Where—

- (a) an individual holds shares (“the existing holding”) which form part of the ordinary share capital of a company,
- (b) there is, by virtue of any such allotment for payment as is mentioned in section 126(2)(a), a reorganisation affecting the existing holding, and
- (c) immediately following the reorganisation, relief is attributable to the existing holding or the allotted shares,

sections 127 to 130 shall not apply in relation to the existing holding.

(8) Sections 135 and 136 shall not apply in respect of shares to which relief is attributable.

(9) Where the relief attributable to any shares is reduced by virtue of section 305(2) of the Taxes Act—

- (a) the sums allowable as deductions from the consideration in the computation, for the purposes of capital gains tax, of the gain or loss accruing to an individual on the disposal of any of the allotted shares or debentures shall be taken to include the amount of the reduction apportioned between the allotted shares or (as the case may be) debentures in such a way as appears to the inspector, or on appeal to the Commissioners concerned, to be just and reasonable, and
- (b) the sums so allowable on the disposal (in circumstances in which the preceding provisions of this section do not apply) of any of the shares referred to in section 305(1)(a) shall be taken to be reduced by the amount mentioned in paragraph (a) above, similarly apportioned between those shares.

(10) There shall be made all such adjustments of capital gains tax, whether by way of assessment or by way of discharge or repayment of tax, as may be required in consequence of the relief being given or withdrawn.

(11) Chapter III of Part VII of the Taxes Act (enterprise investment scheme) applies for the purposes of this section to determine whether relief is attributable to any shares and, if so, the amount of relief so attributable; and “eligible shares” has the same meaning as in that Chapter.

(12) References in this section to Chapter III of Part VII of the Taxes Act or any provision of that Chapter are to that Chapter or provision as it applies in relation to shares issued on or after 1st January 1994”.

31 At the end of section 164M of that Act (exclusion of double relief) there is inserted “ but the reference in this section to that Chapter is to that Chapter as it applies in relation to shares issued before 1st January 1994 ”.

32 (1) After that section there is inserted—

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**“164MA Exclusion of double relief**

If a person makes a claim for relief under Chapter III of Part VII of the Taxes Act (enterprise investment scheme) in respect of any shares, those shares shall not be, or be treated as ever having been, eligible shares”.

(2) This paragraph has effect in relation to shares issued on or after 1st January 1994.

33 In section 164N(1), in the definition of “eligible shares”, for “and 164M” there is substituted “ 164M and 164MA ”.

34 In section 231(1)(d), “(business expansion scheme)” is omitted.

SCHEDULE 16 **U.K.**

Section 138.

FOREIGN INCOME DIVIDENDS

**PART I U.K.**

THE NEW CHAPTER

F250<sub>1</sub> .....

**Textual Amendments**

**F250** Sch. 16 para. 1 repealed (31.7.1997 with effect in accordance with s. 36, Sch. 6 of the repealing Act) by 1997 c. 58, s. 52, **Sch. 8 Pt. II(11)**, Note (with s. 3(3))

**PART II U.K.**

LIABILITY FOR AND COLLECTION OF ADVANCE CORPORATION TAX

F251<sub>2</sub> .....

**Textual Amendments**

**F251** Sch. 16 para. 2 repealed (31.7.1998 with effect in accordance with Sch. 3 of the repealing Act) by 1998 c. 36, s. 165, **Sch. 27 Pt. III(2)**, Note

3 F252(1) .....

F252(2) .....

F252(3) .....

F252(4) .....

F253(5) .....

*Status: Point in time view as at 01/04/2023.*

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- F253(6) .....
- F253(7) .....
- F253(8) .....
- F253(9) .....
- F253(10) .....
- F252(11) .....
- F253(12) .....
- F252(13) .....

**Textual Amendments**

**F252** Sch. 16 para. 3(1)-(4)(11)(13) repealed (31.7.1998 with effect in accordance with Sch. 3 of the repealing Act) by 1998 c. 36, s. 165, **Sch. 27 Pt. III(2)**, Note

**F253** Sch. 16 para. 3(5)-(10)(12) repealed (31.7.1997 with effect in accordance with s. 36, Sch. 6 of the repealing Act) by 1997 c. 58, s. 52, **Sch. 8 Pt. II(11)**, Note (with s. 3(3))

**PART III U.K.**

INSURANCE COMPANIES ETC.

- F254<sup>4</sup> .....

**Textual Amendments**

**F254** Sch. 16 para. 4 repealed (31.7.1997 with effect in accordance with s. 36, Sch. 6 of the repealing Act) by 1997 c. 58, s. 52, **Sch. 8 Pt. II(11)**, Note (with s. 3(3))

- 5 F255(1) .....
- F256(2) .....
- F256(3) .....
- F257(4) .....
- F257(5) .....

**Textual Amendments**

**F255** Sch. 16 para. 5(1) repealed (31.1.2013) by Statute Law (Repeals) Act 2013 (c. 2), s. 3(2), **Sch. 1 Pt. 10** Group 1

**F256** Sch. 16 para. 5(2)(3) repealed (1.5.1995 with effect in accordance with Sch. 8 para. 57 of the repealing Act) by 1995 c. 4, s. 162, **Sch. 29 Pt. VIII(5)**, Note 2 (with Sch. 8 paras 55(2), 57(1))

*Status: Point in time view as at 01/04/2023.*

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**F257** Sch. 16 para. 5(4)(5) repealed (31.7.1997 with effect in accordance with s. 36, Sch. 6 of the repealing Act) by 1997 c. 58, s. 52, **Sch. 8 Pt. II(11)**, Note (with s. 3(3))

**F258**<sup>6</sup> .....

**Textual Amendments**

**F258** Sch. 16 para. 6 repealed (31.7.1997 with effect in accordance with Sch. 3, other than para. 11, of the repealing Act) by 1997 c. 58, s. 52, **Sch. 8 Pt. II(6)**, Note (with s. 3(3))

**F259**<sup>7</sup> .....

**Textual Amendments**

**F259** Sch. 16 para. 7 repealed (31.7.1997 with effect in accordance with s. 36, Sch. 6 of the repealing Act) by 1997 c. 58, s. 52, **Sch. 8 Pt. II(11)**, Note (with s. 3(3))

**F260**<sup>8</sup> .....

**Textual Amendments**

**F260** Sch. 16 para. 8 repealed (31.7.1997 with effect in accordance with s. 36, Sch. 6 of the repealing Act) by 1997 c. 58, s. 52, **Sch. 8 Pt. II(11)**, Note (with s. 3(3))

**F261**<sup>9</sup> .....

**Textual Amendments**

**F261** Sch. 16 para. 9 repealed (31.7.1997 with effect in accordance with s. 36, Sch. 6 of the repealing Act) by 1997 c. 58, s. 52, **Sch. 8 Pt. II(11)**, Note (with s. 3(3))

**PART IV U.K.**

OTHER PROVISIONS

*Penalties*

**F262**<sup>10</sup> .....

**Textual Amendments**

**F262** Sch. 16 para. 10 omitted (13.8.2009) by virtue of *The Finance Act 2009, Schedule 47 (Consequential Amendments) Order 2009 (S.I. 2009/2035)*, art. 1, **Sch. para. 60(g)**

*Small companies' relief*

**F263**<sup>11</sup> .....

*Status: Point in time view as at 01/04/2023.*

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**Textual Amendments**

**F263** Sch. 16 para. 11 repealed (31.7.1997 with effect in accordance with s. 36, Sch. 6 of the repealing Act) by 1997 c. 58, s. 52, **Sch. 8 Pt. II(11)**, Note (with s. 3(3))

*Expenses of management*

**F264** 12 .....

**Textual Amendments**

**F264** Sch. 16 para. 12 repealed (31.7.1997 with effect in accordance with s. 36, Sch. 6 of the repealing Act) by 1997 c. 58, s. 52, **Sch. 8 Pt. II(11)**, Note (with s. 3(3))

*Group income*

**F265** 13 .....

**Textual Amendments**

**F265** Sch. 16 para. 13 repealed (31.7.1997 with effect in accordance with s. 36, Sch. 6 of the repealing Act) by 1997 c. 58, s. 52, **Sch. 8 Pt. II(11)**, Note (with s. 3(3))

*Mutual business etc.*

**F266** 14 .....

**Textual Amendments**

**F266** Sch. 16 para. 14 repealed (31.7.1997 with effect in accordance with s. 36, Sch. 6 of the repealing Act) by 1997 c. 58, s. 52, **Sch. 8 Pt. II(11)**, Note (with s. 3(3))

*Discretionary trusts*

**F267** 15 .....

**Textual Amendments**

**F267** Sch. 16 para. 15 repealed (31.7.1997 with effect in accordance with s. 36, Sch. 6 of the repealing Act) by 1997 c. 58, s. 52, **Sch. 8 Pt. II(11)**, Note (with s. 3(3))

*Personal representatives*

**F268** 16 .....

*Status: Point in time view as at 01/04/2023.*

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#### Textual Amendments

**F268** Sch. 16 para. 16 repealed (31.7.1997 with effect in accordance with s. 36, Sch. 6 of the repealing Act) by 1997 c. 58, s. 52, **Sch. 8 Pt. II(11)**, Note (with s. 3(3))

#### *Purchase and sale of securities*

**F269** 17 .....

#### Textual Amendments

**F269** Sch. 16 para. 17 omitted (21.7.2008 with effect in accordance with s. 66(8) of the amending Act) by virtue of **Finance Act 2008 (c. 9), s. 66(4)(e)**

#### *Manufactured dividends*

**F270** 18 .....

#### Textual Amendments

**F270** Sch. 16 para. 18 repealed (19.3.1997 with effect as mentioned in Sch. 10 para. 7(1), Sch. 18 Pt. VI(10), Note 1 of the repealing Act) by 1997 c. 16, s. 113, **Sch. 18 Pt. VI(10)**; S.I. 1997/991, **art. 2**

**F271** 19 .....

#### Textual Amendments

**F271** Sch. 16 para. 19 repealed (19.3.1997 with effect as mentioned in Sch. 10 para. 7(1), Sch. 18 Pt. VI(10), Note 1 of the repealing Act) by 1997 c. 16, s. 113, **Sch. 18 Pt. VI(10)**; S.I. 1997/991, **art. 2**

#### *Interest on tax overpaid*

20 (1) Section 826 of the Taxes Act 1988 shall be amended as follows.

(2) In subsection (1) the following paragraph shall be inserted after paragraph (a)—  
“(aa) a repayment falls to be made under sections 246N and 246Q of advance corporation tax paid by a company in respect of distributions made by it in such an accounting period; or”.

**F272** (3) .....

#### Textual Amendments

**F272** Sch. 16 para. 20(3) repealed (31.7.1998 with effect in accordance with Sch. 3 of the repealing Act) by 1998 c. 36, s. 165, **Sch. 27 Pt. III(2)**, Note



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SCHEDULE 17 **U.K.**

Section 146.

MINOR CORRECTIONS

F273<sup>1</sup> .....

**Textual Amendments**

**F273** Sch. 17 para. 1 repealed (31.1.2013) by Statute Law (Repeals) Act 2013 (c. 2), s. 3(2), **Sch. 1 Pt. 10** Group 1

- 2 (1) Subsection (1) of section 271 of that Act shall have effect, and be deemed always to have had effect, as if—
- (a) the words “or contract”, wherever they occur, were omitted;
  - (b) in paragraph (b), the words “or the contract was made after that date” were omitted; and
  - (c) in paragraph (c), the words “or, as the case may be, the body with which the contract was made” were omitted.
- (2) Subsection (2) of that section shall have effect, and be deemed always to have had effect, as if paragraph (b) and the word “or” immediately preceding it were omitted.

F274<sup>3</sup> .....

**Textual Amendments**

**F274** Sch. 17 para. 3 repealed (27.7.1999 with effect in accordance with Note 4 to the repealing Schedule) by 1999 c. 16, s. 139, **Sch. 20 Pt. III(7)**

F275<sup>4</sup> .....

**Textual Amendments**

**F275** Sch. 17 para. 4 repealed (1.5.1995 with effect in accordance with Sch. 8 para. 57 of the repealing Act) by 1995 c. 4, s. 162, **Sch. 29 Pt. VIII(5)**, Note 2 (with Sch. 8 paras. 55(2), 57(1))

F276<sup>5</sup> .....

**Textual Amendments**

**F276** Sch. 17 para. 5 repealed (22.7.2004) (with effect in accordance with s. 77 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 42 Pt. 2(7)**

F277<sup>6</sup> .....

**Textual Amendments**

**F277** Sch. 17 para. 6 repealed (6.4.2007) by Income Tax Act 2007 (c. 3), s. 1034(1), **Sch. 3 Pt. 1** (with Sch. 2)

F278<sup>7</sup> .....

*Status: Point in time view as at 01/04/2023.*

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#### Textual Amendments

**F278** Sch. 17 para. 7 repealed (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

- 8 Sections <sup>F279</sup>... 843(2) of that Act (in their application as amended by the <sup>M43</sup>Taxation of Chargeable Gains Act 1992) shall have effect, and be deemed always to have had effect, as if, in each case, for “the 1990 Act” there were substituted “the 1992 Act”.

#### Textual Amendments

**F279** Words in Sch. 17 para. 8 repealed (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

#### Marginal Citations

**M43** 1992 c. 12.

- 9 Paragraph 8(b) of Schedule 11 to that Act (in its application as amended by the <sup>M44</sup>Capital Allowances Act 1990) shall have effect, and be deemed always to have had effect, as if the words “Chapter II of Part I of the 1968 Act or” were omitted.

#### Marginal Citations

**M44** 1990 c. 1.

<sup>F280</sup><sup>F280</sup>SCHEDULE 18 **U.K.**

#### Textual Amendments

**F280** Sch. 18 repealed (with effect as mentioned in s. 83(3) of the amending Act) by Finance Act 2002 (c. 23), s. 141, **Sch. 40 Pt. 3(13)**

*Status: Point in time view as at 01/04/2023.*

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## SCHEDULE 19 **U.K.**

Section 196.

### MANAGEMENT: OTHER AMENDMENTS

#### PART I **U.K.**

#### AMENDMENTS OF MANAGEMENT ACT

##### *Notice of liability to income tax and capital gains tax*

- 1 (1) For section 7 of the Management Act there shall be substituted the following section—

##### **“7 Notice of liability to income tax and capital gains tax.**

- (1) Every person who—
- (a) is chargeable to income tax or capital gains tax for any year of assessment, and
  - (b) has not received a notice under section 8 of this Act requiring a return for that year of his total income and chargeable gains,
- shall, subject to subsection (3) below, within six months from the end of that year, give notice to an officer of the Board that he is so chargeable.
- (2) In the case of a person who is chargeable as mentioned in subsection (1) above as a trustee of a settlement, that subsection shall have effect as if the reference to a notice under section 8 of this Act were a reference to a notice under section 8A of this Act.
- (3) A person shall not be required to give notice under subsection (1) above in respect of a year of assessment if for that year his total income consists of income from sources falling within subsections (4) to (7) below and he has no chargeable gains.
- (4) A source of income falls within this subsection in relation to a year of assessment if—
- (a) all payments of, or on account of, income from it during that year, and
  - (b) all income from it for that year which does not consist of payments, have or has been taken into account in the making of deductions or repayments of tax under section 203 of the principal Act.
- (5) A source of income falls within this subsection in relation to any person and any year of assessment if all income from it for that year has been or will be taken into account—
- (a) in determining that person’s liability to tax, or
  - (b) in the making of deductions or repayments of tax under section 203 of the principal Act.
- (6) A source of income falls within this subsection in relation to any person and any year of assessment if all income from it for that year is—
- (a) income from which income tax has been deducted;

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- (b) income from or on which income tax is treated as having been deducted or paid; or
  - (c) income chargeable under Schedule F,
- and that person is not for that year liable to tax at a rate other than the basic rate or the lower rate.
- (7) A source of income falls within this subsection in relation to any person and any year of assessment if all income from it for that year is income from which he could not become liable to tax under a self-assessment made under section 9 of this Act in respect of that year.
- (8) If any person, for any year of assessment, fails to comply with subsection (1) above, he shall be liable to a penalty not exceeding the amount of the tax—
- (a) in which he is assessed under section 9 or 29 of this Act in respect of that year, and
  - (b) which is not paid on or before the 31st January next following that year.”
- (2) This paragraph has effect as respects the year 1995-96 and subsequent years of assessment.

#### *European Economic Interest Groupings*

- 2 In subsection (2) of section 12A of the Management Act (European Economic Interest Groupings), for the words “making assessments to income tax, corporation tax and capital gains tax on members of a grouping” there shall be substituted the words “securing that members of a grouping are assessed to income tax and capital gains tax or (as the case may be) corporation tax”.

#### *Records for purposes of returns*

- 3 After section 12A of the Management Act there shall be inserted the following section—

#### *“ Records*

### **12B Records to be kept for purposes of returns.**

- (1) Any person who may be required by a notice under section 8, 8A, 11 or 12AA of this Act (or under any of those sections as extended by section 12 of this Act) to make and deliver a return for a year of assessment or other period shall—
- (a) keep all such records as may be requisite for the purpose of enabling him to make and deliver a correct and complete return for the year or period; and
  - (b) preserve those records until the end of whichever of the following is the later, namely—
    - (i) the day mentioned in subsection (2) below; and
    - (ii) where a return delivered by him is enquired into by an officer of the Board, the day on which, by virtue of section 28A(5) or 28B(5) of this Act, the officer’s enquiries are treated as completed.

*Status: Point in time view as at 01/04/2023.*

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- (2) The day referred to in subsection (1) above is—
- (a) in the case of a person carrying on a trade, profession or business alone or in partnership or a company, the fifth anniversary of the 31st January next following the year of assessment or (as the case may be) the sixth anniversary of the end of the period;
  - (b) in any other case, the first anniversary of the 31st January next following the year of assessment or, where a return is delivered by the person concerned after that date, the quarter day next following the first anniversary of the day on which the return is delivered;
- and the quarter days for the purposes of this subsection are 31st January, 30th April, 31st July and 31st October.
- (3) In the case of a person carrying on a trade, profession or business alone or in partnership—
- (a) the records required to be kept and preserved under subsection (1) above shall include records of the following, namely—
    - (i) all amounts received and expended in the course of the trade, profession or business and the matters in respect of which the receipts and expenditure take place, and
    - (ii) in the case of a trade involving dealing in goods, all sales and purchases of goods made in the course of the trade; and
  - (b) the duty under that subsection shall include a duty to preserve until the day mentioned in subsection (2) above all supporting documents relating to such items as are mentioned in paragraph (a)(i) or (ii) above.
- (4) The duty under subsection (1) above to preserve records may be discharged by the preservation of the information contained in them; and where information is so preserved a copy of any document forming part of the records shall be admissible in evidence in any proceedings before the Commissioners to the same extent as the records themselves.
- (5) Any person who fails to comply with subsection (1) above in relation to a year of assessment or accounting period shall be liable to a penalty not exceeding £3,000.
- (6) For the purposes of this section—
- (a) a person engaged in the letting of property shall be treated as carrying on a trade; and
  - (b) “supporting documents” includes accounts, books, deeds, contracts, vouchers and receipts.”

*Recovery of overpayment of tax etc.*

- 4 (1) After subsection (1A) of section 30 of the Management Act (recovery of overpayment of tax etc.) there shall be inserted the following subsection—
- “(1B) Subsections (2) to (8) of section 29 of this Act shall apply in relation to an assessment under subsection (1) above as they apply in relation to an assessment under subsection (1) of that section; and subsection (4) of that section as so applied shall have effect as if the reference to the loss of tax

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were a reference to the repayment of the amount of tax which ought not to have been repaid.”

- (2) For subsection (5) of that section there shall be substituted the following subsection—

“(5) An assessment under this section shall not be out of time under section 34 of this Act if it is made before the end of whichever of the following ends the later, namely—

- (a) the chargeable period following that in which the amount assessed was repaid or paid as the case may be, or
- (b) where a return delivered by the person concerned, or an amendment of such a return, is enquired into by an officer of the Board, the period ending with the day on which, by virtue of section 28A(5) of this Act, the officer’s enquiries are treated as completed.”

*Assessing procedure*

- 5 (1) After section 30 of the Management Act there shall be inserted the following section—

**“30A Assessing procedure.**

- (1) Except as otherwise provided, all assessments to tax which are not self-assessments shall be made by an officer of the Board.
  - (2) All income tax which falls to be charged by an assessment which is not a self-assessment may, notwithstanding that it was chargeable under more than one Schedule, be included in one assessment.
  - (3) Notice of any such assessment shall be served on the person assessed and shall state the date on which it is issued and the time within which any appeal against the assessment may be made.
  - (4) After the notice of any such assessment has been served on the person assessed, the assessment shall not be altered except in accordance with the express provisions of the Taxes Acts.
  - (5) Assessments to tax which under any provision in the Taxes Acts are to be made by the Board shall be made in accordance with this section.”
- (2) This paragraph, so far as it relates to partnerships whose trades, professions or businesses are set up and commenced before 6th April 1994, has effect as respects the year 1997-98 and subsequent years of assessment.

*Amendment of partnership statement where loss of tax discovered*

- 6 After section 30A of the Management Act there shall be inserted the following section—

**“30B Amendment of partnership statement where loss of tax discovered.**

- (1) Where an officer of the Board or the Board discover, as regards a partnership statement made by any person (the representative partner) in respect of any period—

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- (a) that any profits which ought to have been included in the statement have not been so included, or
  - (b) that an amount of profits so included is or has become insufficient, or
  - (c) that any relief claimed by the representative partner is or has become excessive,

the officer or, as the case may be, the Board may, subject to subsections (3) and (4) below, by notice to that partner so amend the statement as to make good the omission or deficiency or eliminate the excess.
- (2) Where a partnership statement is amended under subsection (1) above, the officer shall by notice to each of the relevant partners so amend their self-assessments under section 9 or 11AA of this Act as to give effect to the amendments of the partnership statement.
- (3) Where the situation mentioned in subsection (1) above is attributable to an error or mistake as to the basis on which the partnership statement was made, no amendment shall be made under that subsection if that statement was in fact made on the basis or in accordance with the practice generally prevailing at the time when it was made.
- (4) No amendment shall be made under subsection (1) above unless one of the two conditions mentioned below is fulfilled.
- (5) The first condition is that the situation mentioned in subsection (1) above is attributable to fraudulent or negligent conduct on the part of—
  - (a) the representative partner or a person acting on his behalf, or
  - (b) a relevant partner or a person acting on behalf of such a partner.
- (6) The second condition is that at the time when an officer of the Board—
  - (a) ceased to be entitled to give notice of his intention to enquire into the representative partner's return under section 12AA of this Act; or
  - (b) informed that partner that he had completed his enquiries into that return,

the officer could not have been reasonably expected, on the basis of the information made available to him before that time, to be aware of the situation mentioned in subsection (1) above.
- (7) Subsections (6) and (7) of section 29 of this Act apply for the purposes of subsection (6) above as they apply for the purposes of subsection (5) of that section; and those subsections as so applied shall have effect as if—
  - (a) any reference to the taxpayer were a reference to the representative partner;
  - (b) any reference to the taxpayer's return under section 8, 8A or 11 were a reference to the representative partner's return under section 12AA of this Act; and
  - (c) sub-paragraph (ii) of paragraph (a) of subsection (7) were omitted.
- (8) An objection to the making of an amendment under subsection (1) above on the ground that neither of the two conditions mentioned above is fulfilled shall not be made otherwise than on an appeal against the amendment.
- (9) In this section—

“profits” has the same meaning as in section 29 of this Act;

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“relevant partner” means a person who was a partner at any time during the period in respect of which the partnership statement was made.

(10) Any reference in this section to the representative partner includes, unless the context otherwise requires, a reference to any successor of his.”

*Right of appeal*

F2877 .....

**Textual Amendments**  
**F287** Sch. 19 para. 7 repealed (11.5.2001 with effect in accordance with s. 88, Sch. 29 of the repealing Act) by 2001 c. 9, s. 110, **Sch. 33 Pt. 2(13)**, Note

*Error or mistake*

8 <sup>F288</sup>(1) .....

(2) The proviso to subsection (2) of that section shall cease to have effect and after that subsection there shall be inserted the following subsection—

“(2A) No relief shall be given under this section in respect of—

- (a) an error or mistake as to the basis on which the liability of the claimant ought to have been computed where the return was in fact made on the basis or in accordance with the practice generally prevailing at the time when it was made; or
- (b) an error or mistake in a claim which is included in the return.”

**Textual Amendments**  
**F288** Sch. 19 para. 8(1) repealed (31.7.1998 with effect as mentioned in the Note to Sch. 27 Pt. III(28) of the repealing Act) by 1998 c. 38, s. 165, **Sch. 27 Pt. III(28)**

9 After section 33 of the Management Act there shall be inserted the following section—

**“33A Error or mistake in partnership statement.**

- (1) This section applies where, in the case of a trade, profession or business carried on by two or more persons in partnership, those persons allege that the tax charged by self-assessments of theirs under section 9 or 11AA of this Act was excessive by reason of some error or mistake in a partnership statement.
- (2) One of those persons (the representative partner) may, not later than five years after the filing date, by notice in writing make a claim to the Board for relief.



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- (3) On receiving the claim the Board shall inquire into the matter and shall, subject to subsection (5) below, so amend the partnership statement so as to give such relief in respect of the error or mistake as is reasonable or just.
- (4) Where a partnership statement is amended under subsection (3) above, the Board shall by notice to each of the relevant partners so amend their self-assessments under section 9 or 11AA of this Act as to give effect to the amendment of the partnership statement.
- (5) No relief shall be given under this section in respect of an error or mistake as to the basis on which the liability of the partners ought to have been computed where the partnership statement was in fact made on the basis or in accordance with the practice generally prevailing at the time when it was made.
- (6) In determining the claim the Board—
  - (a) shall have regard to all the relevant circumstances of the case, and
  - (b) in particular shall consider whether the granting of relief would result in the exclusion from charge to tax of any part of the profits of any of the partners;and for the purposes of this subsection the Board may take into consideration the liability of the partners and their self-assessments in respect of chargeable periods other than that to which the claim relates.
- (7) If any appeal is brought from the decision of the Board on the claim, the Special Commissioners shall hear and determine the appeal in accordance with the principles to be followed by the Board in determining claims under this section.
- (8) Neither the representative partner nor the Board shall be entitled to require a case to be stated under section 56 of this Act otherwise than on a point of law arising in connection with the computation of profits.
- (9) In this section—

“filing date” has the same meaning as in section 12AC of this Act;  
“profits” has the same meaning as in section 33 of this Act;  
“relevant partner” means a person who was a partner at any time during the period in respect of which the partnership statement was made.
- (10) Any reference in this section to the representative partner includes, unless the context otherwise requires, a reference to any successor of his.”

*Time limits for assessments*

F289 10 .....

**Textual Amendments**

**F289** Sch. 19 para. 10 repealed (31.7.1998 with effect as mentioned in the Note to Sch. 27 Pt. III(28) of the repealing Act) by 1998 c. 36, s. 165, **Sch. 27 Pt. III(28)**

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- 11 (1) In subsection (1) of section 36 of the Management Act (fraudulent or negligent conduct), for the words from “twenty years” to the end there shall be substituted the words—
- “(a) in the case of an assessment to income tax or capital gains tax, twenty years after the 31st January next following the year of assessment to which it relates; and
  - (b) in the case of an assessment to corporation tax, twenty-one years after the end of the accounting period to which it relates.”
- (2) For subsection (2) of that section there shall be substituted the following subsection—
- “(2) Where the person in default carried on a trade, profession or business with one or more other persons at any time in the period for which the assessment is made, an assessment in respect of the profits or gains of the trade, profession or business for the purpose mentioned in subsection (1) above may be made not only on the person in default but also on his partner or any of his partners.”

- 12 In subsections (1) and (2) of section 40 of the Management Act (assessments on personal representatives), for the words “the third year next following the year of assessment” there shall be substituted the words “ the period of three years beginning with the 31st January next following the year of assessment ”.

*Claims etc.*

- 13 For section 42 of the Management Act there shall be substituted the following section—

**“42 Procedure for making claims etc.**

- (1) Where any provision of the Taxes Acts provides for relief to be given, or any other thing to be done, on the making of a claim, this section shall, unless otherwise provided, have effect in relation to the claim.
- (2) Subject to subsection (3) below, where notice has been given under section 8, 8A, 11 or 12AA of this Act, a claim shall not at any time be made otherwise than by being included in a return under that section if it could, at that or any subsequent time, be made by being so included.
- (3) Subsection (2) above shall not apply in relation to any claim which falls to be taken into account in the making of deductions or repayments of tax under section 203 of the principal Act.
- (4) A claim made by a company for payment of a tax credit shall be made by being included in a return under section 11 of this Act.
- (5) The references in subsections (2) and (4) above to a claim being included in a return include references to a claim being so included by virtue of an amendment of the return; and the reference in subsection (4) above to a claim for payment includes a reference to a claim resulting in payment.
- (6) In the case of a trade, profession or business carried on by persons in partnership, a claim under any of the provisions mentioned in subsection (7) below shall be made—

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- (a) where subsection (2) above applies, by being included in a return under section 12AA of this Act, and
  - (b) in any other case, by such one of those persons as may be nominated by them for the purpose.
- (7) The provisions are—
- (a) sections 84, 91B, 101(2), 120(2), 401, 471, 472, 484, 504, 531, 534, 535, 537A, 538, 570, 571(4), 579(4), 723(3), 732(4), 810 of, and paragraphs 2, 6 and 11 of Schedule 5 to, the principal Act;
  - (b) section 43(5) of the Finance Act 1989;
  - (c) sections 1, 11, 17, 22, 23, 24, 25, 30, 31, 33, 37, 48, 49, 53, 55, 68(5), 68(9), 77, 78, 124A, 129(2), 140(3), 141 and 158 of the Capital Allowances Act 1990; and
  - (d) sections 41 and 42 of the Finance (No. 2) Act 1992.
- (8) A claim may be made on behalf of an incapacitated person by his trustee, guardian, tutor or curator; and a person who under Part VIII of this Act has been charged with tax on the profits of another person may make any such claim for relief by discharge or repayment of that tax.
- (9) Where a claim has been made (whether by being included in a return under section 8, 8A, 11 or 12AA of this Act or otherwise) and the claimant subsequently discovers that an error or mistake has been made in the claim, the claimant may make a supplementary claim within the time allowed for making the original claim.
- (10) This section shall apply in relation to any elections and notices as it applies in relation to claims.
- (11) Schedule 1A to this Act shall apply as respects any claim, election or notice which—
- (a) is made otherwise than by being included in a return under section 8, 8A, 11 or 12AA of this Act, and
  - (b) does not fall to be taken into account in the making of deductions or repayments of tax under section 203 of the principal Act.
- (12) Schedule 2 to this Act shall have effect as respects the Commissioners to whom an appeal lies under Schedule 1A to this Act.
- (13) In this section “profits”—
- (a) in relation to income tax, means income,
  - (b) in relation to capital gains tax, means chargeable gains, and
  - (c) in relation to corporation tax, means profits as computed for the purposes of that tax.”

F290 14 .....

**Textual Amendments**

**F290** Sch. 19 para. 14 repealed (31.7.1998 with effect as mentioned in the Note to Sch. 27 Pt. III(28) of the repealing Act) by 1998 c. 36, s. 165, **Sch. 27 Pt. III(28)**

F291 15 .....

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**Textual Amendments**

**F291** Sch. 19 para. 15 repealed (31.7.1998 with effect as mentioned in the Note to Sch. 27 Pt. III(28) of the repealing Act) by 1998 c. 36, s. 165, **Sch. 27 Pt. III(28)**

*Determination of Commissioners*

**F292**<sup>16</sup> .....

**Textual Amendments**

**F292** SCh. 19 para. 16 repealed (31.7.1998 with effect as mentioned in the Note to Sch. 27 Pt. III(28) of the repealing Act) by 1998 c. 36, s. 165, **Sch. 27 Pt. III(28)**

*Procedure on appeal*

17 (1) For subsections (6) and (7) of section 50 of the Management Act (procedure on appeal) there shall be substituted the following subsections—

“(6) If, on an appeal, it appears to the majority of the Commissioners present at the hearing, by examination of the appellant on oath or affirmation, or by other <sup>F293</sup> . . . evidence—

- (a) that, by reason of an amendment under section 28A(2) or (4) of this Act, the appellant is overcharged by a self-assessment;
- (b) that, by reason of an amendment under section 28B(3) or 30B(1) of this Act, any amounts contained in a partnership statement are excessive; or
- (c) that the appellant is overcharged by an assessment other than a self-assessment,

the assessment or amounts shall be reduced accordingly, but otherwise the assessment or statement shall stand good.

(7) If, on an appeal, it appears to the Commissioners—

- (a) that the appellant is undercharged to tax by a self-assessment which has been amended under section 28A(2) or (4) of this Act;
- (b) that any amounts contained in a partnership statement which has been amended under section 28B(3) or 30B(1) of this Act are insufficient; or
- (c) that the appellant is undercharged by an assessment other than a self-assessment,

the assessment or amounts shall be increased accordingly.”

(2) In subsection (8) of that section, after the words “an assessment” there shall be inserted the words “ (other than a self-assessment) ”.

**F294**(3) .....

**Textual Amendments**

**F293** Word in Sch. 19 para. 17(1) repealed (1.9.1994) by S.I. 1994/1813, reg. 2, Sch. 1 para. 25(b), **Sch. 2 Pt. I**

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**F294** Sch. 19 para. 17(3) repealed (31.7.1998 with effect as mentioned in the Note to Sch. 27 Pt. III(28) of the repealing Act) by 1998 c. 36, s. 165, **Sch. 27 Pt. III(28)**

*Postponement of tax pending appeal*

18 (1) For subsection (1) of section 55 of the Management Act there shall be substituted the following subsection—

“(1) This section applies to an appeal to the Commissioners against—

- (a) an amendment made under section 28A(2) or (4) of this Act of a self-assessment,
- (b) an assessment to tax made under section 29 of this Act,
- (c) an assessment to income tax made under Schedule 16 to the principal Act (income tax on company payments) other than an assessment charging tax the time for the payment of which is given by paragraph 4(1) or 9 of that Schedule, or
- (d) a notice under subsection (1) or (3) of section 753 of that Act where, before the appeal is determined, the appellant is assessed to tax under section 747(4)(a) of that Act by reference to an amount of chargeable profits specified in that notice.”

(2) In the following provisions of that section, for the word “assessment”, in each place where it occurs, there shall be substituted the words “ amendment or assessment ”.

*Collection and recovery*

F295 19 .....

**Textual Amendments**

**F295** Sch. 19 para. 19 repealed (31.7.1998 with effect as mentioned in the Note to Sch. 27 Pt. III(28) of the repealing Act) by 1998 c. 36, s. 165, **Sch. 27 Pt. III(28)**

F296 20 .....

**Textual Amendments**

**F296** Sch. 19 para. 20 repealed (11.5.2001 with effect as mentioned in Note 2 to Sch. 33 Pt. 2(14) of the repealing Act) by 2001 c. 9, s. 110, **Sch. 33 Pt. 2(14)**

F297 21 .....

**Textual Amendments**

**F297** Sch. 19 para. 21 omitted (21.7.2008) by virtue of **Finance Act 2008 (c. 9), Sch. 44 para. 11(a)**

22 (1) After section 70 of the Management Act there shall be inserted the following section—

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**“70A Payments by cheque.**

(1) For the purposes of this Act and the provisions mentioned in subsection (2) below, where—

- (a) any payment to an officer of the Board or the Board is made by cheque, and
- (b) the cheque is paid on its first presentation to the banker on whom it is drawn,

the payment shall be treated as made on the day on which the cheque was received by the officer or the Board.

(2) The provisions are—

- (a) sections 824 to 826 of the principal Act (repayment supplements and interest on tax overpaid); and
- (b) section 283 of the 1992 Act (repayment supplements).”

(2) This paragraph has effect as respects cheques received on or after 6th April 1996.

*Interest on overdue tax or tax recovered*

<sup>F298</sup>23 .....

**Textual Amendments**  
**F298** Sch. 19 para. 23 repealed and superseded (29.4.1996 with effect in accordance with s. 121(8) of the repealing Act) by 1996 c. 8, ss. 131(3), 205(1)(2), **Sch. 41 Pt. V(6)**, Note 3

24 In subsection (1) of section 87A of the Management Act (interest on overdue corporation tax etc.), for the words “section 10 of the principal Act” there shall be substituted the words “ section 59D of this Act ”.

*Penalties*

25 For section 93 of the Management Act there shall be substituted the following section—

**“93 Failure to make return for income tax and capital gains tax.**

(1) This section applies where—

- (a) any person (the taxpayer) has been required by a notice served under or for the purposes of section 8 or 8A of this Act (or either of those sections as extended by section 12 of this Act) to deliver any return, and
- (b) he fails to comply with the notice.

(2) The taxpayer shall be liable to a penalty which shall be £100.

(3) If, on an application made to them by an officer of the Board, the General or Special Commissioners so direct, the taxpayer shall be liable to a further penalty or penalties not exceeding £60 for each day on which the failure

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continues after the day on which he is notified of the direction (but excluding any day for which a penalty under this subsection has already been imposed).

- (4) If—
- (a) the failure by the taxpayer to comply with the notice continues after the end of the period of six months beginning with the filing date, and
  - (b) no application is made under subsection (3) above before the end of that period,
- the taxpayer shall be liable to a further penalty which shall be £100.
- (5) Without prejudice to any penalties under subsections (2) to (4) above, if—
- (a) the failure by the taxpayer to comply with the notice continues after the anniversary of the filing date, and
  - (b) there would have been a liability to tax shown in the return,
- the taxpayer shall be liable to a penalty of an amount not exceeding the liability to tax which would have been so shown.
- (6) No penalty shall be imposed under subsection (3) above in respect of a failure at any time after the failure has been remedied.
- (7) If the taxpayer proves that the liability to tax shown in the return would not have exceeded a particular amount, the penalty under subsection (2) above, together with any penalty under subsection (4) above, shall not exceed that amount.
- (8) On an appeal against the determination under section 100 of this Act of a penalty under subsection (2) or (4) above, neither section 50(6) to (8) nor section 100B(2) of this Act shall apply but the Commissioners may—
- (a) if it appears to them that, throughout the period of default, the taxpayer had a reasonable excuse for not delivering the return, set the determination aside; or
  - (b) if it does not so appear to them, confirm the determination.
- (9) References in this section to a liability to tax which would have been shown in the return are references to an amount which, if a proper return had been delivered on the filing date, would have been payable by the taxpayer under section 59B of this Act for the year of assessment.
- (10) In this section—
- “the filing date” means the day mentioned in section 8(1A) or, as the case may be, section 8A(1A) of this Act;
  - “the period of default”, in relation to any failure to deliver a return, means the period beginning with the filing date and ending with the day before that on which the return was delivered.”

26 After section 93 of the Management Act there shall be inserted the following section—

**“93A Failure to make partnership return.**

- (1) This section applies where, in the case of a trade, profession or business carried on by two or more persons in partnership—

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- (a) a partner (the representative partner) has been required by a notice served under or for the purposes of section 12AA(2) or (3) of this Act to deliver any return, and
  - (b) he fails to comply with the notice.
- (2) Each relevant partner shall be liable to a penalty which shall be £100.
- (3) If, on an application made to them by an officer of the Board, the General or Special Commissioners so direct, each relevant partner shall be liable, for each day on which the failure continues after the day on which the representative partner is notified of the direction (but excluding any day for which a penalty under this subsection has already been imposed), to a further penalty or penalties not exceeding £60.
- (4) If—
- (a) the failure by the representative partner to comply with the notice continues after the end of the period of six months beginning with the filing date, and
  - (b) no application is made under subsection (3) above before the end of that period,
- each relevant partner shall be liable to a further penalty which shall be £100.
- (5) No penalty shall be imposed under subsection (3) above in respect of a failure at any time after the failure has been remedied.
- (6) Where, in respect of the same failure to comply, penalties under subsection (2), (3) or (4) above are determined under section 100 of this Act as regards two or more relevant partners—
- (a) no appeal against the determination of any of those penalties shall be brought otherwise than by the representative partner;
  - (b) any appeal by that partner shall be a composite appeal against the determination of each of those penalties; and
  - (c) section 100B(3) of this Act shall apply as if that partner were the person liable to each of those penalties.
- (7) On an appeal against a determination under section 100 of this Act of a penalty under subsection (2) or (4) above, neither section 50(6) to (8) nor section 100B(2) of this Act shall apply but the Commissioners may—
- (a) if it appears to them that, throughout the period of default, the representative partner had a reasonable excuse for not delivering the return, set the determination aside; or
  - (b) if it does not so appear to them, confirm the determination.
- (8) In this section—
- “the filing date” means the day specified in the notice under section 12AA(2) or (3) of this Act;
  - “the period of default”, in relation to any failure to deliver a return, means the period beginning with the filing date and ending with the day before that on which the return was delivered;
  - “relevant partner” means a person who was a partner at any time during the period in respect of which the return was required.”



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(2) In subsection (3) of that section, the words from “and the references” to the end shall cease to have effect.

**Textual Amendments**

**F299** Sch. 19 para. 27(1) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 5\(5\)](#)

F300<sup>28</sup> .....

**Textual Amendments**

**F300** Sch. 19 para. 28 repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 5\(5\)](#)

F301<sup>29</sup> .....

**Textual Amendments**

**F301** Sch. 19 para. 29 omitted (1.4.2009) by virtue of [Finance Act 2008 \(c. 9\)](#), s. 113(2), [Sch. 36 para. 92\(c\)](#) (with [Sch. 36 para. 38](#)); [S.I. 2009/404](#), art. 2 (with art. 12)

30 (1) For subsection (2) of section 98B of the Management Act (European Economic Interest Groupings) there shall be substituted the following subsections—

“(2) Subsections (2A) to (4) below apply where a grouping or member of a grouping required by a notice given under section 12A of this Act to deliver a return or other document fails to comply with the notice.

(2A) The grouping or member shall be liable to a penalty not exceeding £300 multiplied by the number of members of the grouping at the time of the failure to comply.

(2B) If, on an application made to them by an officer of the Board, the General or Special Commissioners so direct, the grouping or member shall be liable, for each day on which the failure continues after the day on which the grouping or member is notified of the direction (but excluding any day for which a penalty under this subsection has already been imposed), to a further penalty or penalties not exceeding £60 multiplied by the number of members of the grouping at the end of that day.”

(2) In subsection (3) of that section, for the words “subsection (2)” there shall be substituted the words “ subsection (2A) or (2B) ”.

(3) In subsection (4) of that section, for the words “subsection (2)” there shall be substituted the words “ subsections (2A) and (2B) ”.

31 (1) In subsection (1) of section 100B of the Management Act (appeals against penalty determinations), after the words “subject to” there shall be inserted the words “ sections 93, 93A and 95A of this Act ”.

(2) At the beginning of subsection (2) of that section there shall be inserted the words “ Subject to sections 93(8) and 93A(7) of this Act ”.

F302<sup>32</sup> .....

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#### Textual Amendments

**F302** Sch. 19 para. 32 repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 5\(5\)](#)

- 33 After section 103 of the Management Act there shall be inserted the following section—

#### “103A Interest on penalties.

A penalty under any of the provisions of Part II or VA or this Part of this Act shall carry interest at the rate applicable under section 178 of the Finance Act 1989 from the date on which it becomes due and payable until payment.”

#### *Interpretation*

- 34 (1) In subsection (1) of section 118 of the Management Act (interpretation), after the definition of [<sup>F303</sup>“the Special Commissioners Regulations”] there shall be inserted the following definitions—
- ““successor”, in relation to a person who has made and delivered a return under section 12AA of this Act, and “predecessor” and “successor”, in relation to the successor of such a person, shall be construed in accordance with section 12AC(6) of this Act;”.
- (2) Subsection (3) of that section (effect of assessments in partnership name) shall cease to have effect.
- (3) Sub-paragraph (2) above, so far as it relates to partnerships whose trades, professions or businesses are set up and commenced before 6th April 1994, has effect as respects the year 1997-98 and subsequent years of assessment.

#### Textual Amendments

**F303** Words in Sch. 19 para.34(1) substituted (1.9.1994) by [S.I. 1994/1813, reg. 2\(1\)](#), [Sch. 1 para. 25\(c\)](#)

#### *Claims etc. not included in returns*

- 35 After Schedule 1 to the Management Act there shall be inserted the following Schedule—

“SCHEDULE 1A **U.K.**

CLAIMS ETC. NOT INCLUDED IN RETURNS

#### *Preliminary*

- 1 In this Schedule—
- “claim” means a claim, election or notice as respects which this Schedule applies;
- “partnership claim” means a claim made in accordance with section 42(6)(b) of this Act;
- “profits” has the same meaning as in section 42 of this Act;

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“relevant partner”, in relation to a partnership claim, means any person who was a partner at any time during the period in respect of which the claim is made;

“successor”, in relation to a person who—

- (a) has made a partnership claim, but
- (b) is no longer a partner or is otherwise no longer available,

means such other partner who may at any time be nominated for the purposes of this paragraph by the majority of the partners at that time, and “predecessor” and “successor”, in relation to a person so nominated, shall be construed accordingly.

#### *Making of claims*

- 2 (1) Subject to any provision in the Taxes Acts for a claim to be made to the Board, every claim shall be made to an officer of the Board.
- (2) No claim requiring the repayment of tax shall be made unless the claimant has documentary proof that the tax has been paid by deduction or otherwise.
- (3) A claim shall be made in such form as the Board may determine.
- (4) The form of claim shall provide for a declaration to the effect that all the particulars given in the form are correctly stated to the best of the information and belief of the person making the claim.
- (5) The form of claim may require—
  - (a) a statement of the amount of tax which will be required to be discharged or repaid in order to give effect to the claim;
  - (b) a return of profits to be made in support of the claim; and
  - (c) any such particulars of assets acquired as may be required in a return by virtue of section 12 of this Act.
- (6) In the case of a claim made by or on behalf of a person who is not resident, or who claims to be not resident or not ordinarily resident or not domiciled, in the United Kingdom, an officer of the Board or the Board may require a statement or declaration in support of the claim to be made by affidavit.

#### *Amendments of claims*

- 3 (1) Subject to sub-paragraph (2) below—
  - (a) at any time before the end of the period of nine months beginning with the day on which a claim is made, an officer of the Board may by notice to the claimant so amend the claim as to correct any obvious errors or mistakes in the return (whether errors of principle, arithmetical mistakes or otherwise); and
  - (b) at any time before the end of the period of twelve months beginning with the day on which the claim is made, the claimant may amend his claim by notice to an officer of the Board.
- (2) No amendment of a claim may be made under sub-paragraph (1) above at any time during the period—

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- (a) beginning with the day on which an officer of the Board gives notice of his intention to enquire into the claim, and
- (b) ending with the day on which the officer's enquiries into the claim are completed.

*Giving effect to claims and amendments*

- 4 (1) An officer of the Board or the Board shall, as soon as practicable after a claim other than a partnership claim is made, or such a claim is amended under paragraph 3 above, give effect to the claim or amendment by discharge or repayment of tax.
- (2) An officer of the Board or the Board shall, as soon as practicable after a partnership claim is made, or such a claim is amended under paragraph 3 above, give effect to the claim or amendment, as respects each of the relevant partners, by discharge or repayment of tax.

*Power to enquire into claims*

- 5 (1) An officer of the Board may enquire into—
  - (a) a claim made by any person, or
  - (b) any amendment made by any person of a claim made by him,
 if, before the end of the period mentioned in sub-paragraph (2) below, he gives notice in writing of his intention to do so to that person or, in the case of a partnership claim, any successor of that person.
- (2) The period referred to in sub-paragraph (1) above is the period ending with the quarter day next following the first anniversary of the day on which the claim or amendment was made; and the quarter days for the purposes of this subsection are 31st January, 30th April, 31st July and 31st October.
- (3) A claim or amendment which has been enquired into under sub-paragraph (1) above shall not be the subject of a further notice under that sub-paragraph.

*Power to call for documents for purposes of enquiries*

- 6 (1) This paragraph applies where an officer of the Board gives notice under paragraph 5 above to any person (the claimant) of his intention to enquire into—
  - (a) a claim made by the claimant, or
  - (b) any amendment made by the claimant of such a claim.
- (2) For the purpose of enquiring into the claim or amendment, the officer may at the same or any subsequent time by notice in writing require the claimant, within such time (which shall not be less than 30 days) as may be specified in the notice—
  - (a) to produce to the officer such documents as are in the claimant's possession or power and as the officer may reasonably require for the purpose of determining whether and, if so, the extent to which the claim or amendment is incorrect, and
  - (b) to furnish the officer with such accounts or particulars as he may reasonably require for that purpose.

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- (3) Subsections (3) to (11) of section 19A of this Act apply for the purposes of this paragraph as they apply for the purposes of that section; and those subsections as so applied shall have effect as if any reference to subsection (2) of that section were a reference to sub-paragraph (2) above.
- (4) Where this paragraph applies in relation to a partnership claim, any reference in this paragraph to the claimant includes a reference to any predecessor or successor of his.

*Amendments of claims where enquiries made*

- 7 (1) This paragraph applies where an officer of the Board gives notice under paragraph 5(1) above to any person (the claimant) of his intention to enquire into—
  - (a) a claim made by the claimant, or
  - (b) any amendment made by the claimant of such a claim.
- (2) At any time in the period of 30 days beginning with the day on which the officer's enquiries are completed, the claimant may so amend his claim—
  - (a) as to eliminate or make good any excess or deficiency which, on the basis of the conclusions stated in the officer's notice under sub-paragraph (4) below, is an excess or deficiency which could be made good or eliminated under sub-paragraph (3) below; or
  - (b) as to give effect to any amendments to the claim which he has notified to the officer.
- (3) If, at any time in the period of 30 days beginning immediately after the period mentioned in sub-paragraph (2) above, the officer is of opinion that—
  - (a) the claimant's claim is excessive or insufficient, and
  - (b) in a case falling within sub-paragraph (1)(b) above, the excess or deficiency is attributable (wholly or partly) to the claimant's amendment,the officer may by notice to the claimant so amend the claim as to eliminate or make good the excess or deficiency or, where paragraph (b) above applies, so much of the excess or deficiency as is so attributable.
- (4) Subject to sub-paragraph (5) below, the officer's enquiries shall be treated as completed at such time as he by notice—
  - (a) informs the claimant that he has completed his enquiries, and
  - (b) states his conclusions as to the amount which should be the amount of the claimant's claim.
- (5) Subsections (6) and (7) of section 28A of this Act apply for the purposes of sub-paragraph (4) above as they apply for the purposes of subsection (5) of that section.
- (6) Where this paragraph applies in relation to a partnership claim, any reference in this paragraph to the claimant includes a reference to any predecessor or successor of his.

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*Giving effect to such amendments*

- 8 (1) An officer of the Board or the Board shall, within 30 days of a claim other than a partnership claim being amended under paragraph 7(2) or (3) above, give effect to the amendment by making such adjustment as may be necessary, whether—
- (a) by way of assessment on the claimant, or
  - (b) by discharge of tax or, on proof to the satisfaction of the officer or the Board that any tax has been paid by the claimant by deduction or otherwise, by repayment of tax.
- (2) An officer of the Board or the Board shall, within 30 days of a partnership claim being amended under paragraph 7(2) or (3) above, give effect to the amendment, as respects each of the relevant partners, by making such adjustment as may be necessary, whether—
- (a) by way of assessment on the partner, or
  - (b) by discharge of tax or, on proof to the satisfaction of the officer or the Board that any tax has been paid by the partner by deduction or otherwise, by repayment of tax.
- (3) An assessment made under sub-paragraph (1) or (2) above shall not be out of time if it is made within the time mentioned in that sub-paragraph.

*Appeals against such amendments*

- 9 (1) An appeal may be brought against an amendment made under paragraph 7(3) above by giving written notice to the officer within 30 days of the amendment being made.
- (2) Where, in the case of such an appeal, the issues arising include—
- (a) any question arising under section 278 of the principal Act (personal reliefs for non-residents);
  - (b) any question of residence, ordinary residence or domicile; or
  - (c) the question whether a fund is one to which section 615(3) of that Act applies (pension funds for service abroad),
- the time for bringing the appeal shall be three months from the making of the amendment under paragraph 7(3) above.
- (3) On an appeal under this paragraph, the Commissioners may vary the amendment appealed against whether or not the variation is to the advantage of the appellant.
- (4) Where an amendment made under paragraph 7(3) above is varied, whether by the Commissioners or by the order of any court, paragraph 8 above shall (with the necessary modifications) apply in relation to the variation as it applied in relation to the amendment.”

*Status: Point in time view as at 01/04/2023.*

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**Textual Amendments**

**F304** Sch. 19 para. 36 repealed (29.4.1996 with effect in accordance with Sch. 22 of the repealing Act) by 1996 c. 8, s. 205(1)(2), **Sch. 41 Pt. V(12)**, Note

**PART II U.K.**

AMENDMENTS OF TAXES ACT 1988

*Time limits for claims under section 96*

**F305** 37 .....

**Textual Amendments**

**F305** Sch. 19 para. 37 repealed (1.4.2010) (with effect in accordance with s. 381(1) of the amending Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), s. 381(1), **Sch. 10 Pt. 13** (with Sch. 9 paras. 1-9, 22)

*Interest on Schedule E tax*

**F306** 38 .....

**Textual Amendments**

**F306** Sch. 19 para. 39 repealed (31.1.2013) by Statute Law (Repeals) Act 2013 (c. 2), s. 3(2), **Sch. 1 Pt. 10** Group 1

*Time limits for claims under sections 534 and 537A*

**F306** 39 .....

**Textual Amendments**

**F306** Sch. 19 para. 39 repealed (31.1.2013) by Statute Law (Repeals) Act 2013 (c. 2), s. 3(2), **Sch. 1 Pt. 10** Group 1

**F307** 40 .....

**Textual Amendments**

**F307** Sch. 19 para. 40 repealed (31.1.2013) by Statute Law (Repeals) Act 2013 (c. 2), s. 3(2), **Sch. 1 Pt. 10** Group 1

*Status: Point in time view as at 01/04/2023.*

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*Repayment supplements: income tax*

- 41 (1) For subsection (1) of section 824 of the Taxes Act 1988 (repayment supplements: individuals and others) there shall be substituted the following subsection—

“(1) Subject to the following provisions of this section, a repayment made by the Board or an officer of the Board of any of the following, namely—

- (a) an amount paid on account of income tax under section 59A of the Management Act;
- (b) any income tax paid by or on behalf of an individual for a year of assessment;
- (c) a surcharge imposed under section 59C of that Act; and
- (d) a penalty incurred by an individual under any of the provisions of that Act,

shall be increased under this section by an amount (a “repayment supplement”) equal to interest on the amount repaid at the rate applicable under section 178 of the Finance Act 1989 for the period (if any) between the relevant time and the date on which the order for the repayment is issued.”

- (2) For subsection (3) of that section there shall be substituted the following subsection—

“(3) For the purposes of subsection (1) above—

- (a) if the repayment is of an amount paid on account of income tax, the relevant time is either the date on which the amount became due and payable in accordance with section 59A of the Management Act or, if later, the date on which the amount was paid;
- (b) if the repayment is of income tax, the relevant time is either the 31st January next following the year of assessment for which the tax was charged or, if later, the date on which the tax was paid; and
- (c) if the repayment is of a penalty or surcharge, the relevant time is either the date following the expiry of 30 days from the date on which the penalty or surcharge was incurred or imposed or, if later, the date on which the penalty or surcharge was paid.”

- (3) The following shall cease to have effect, namely—

- (a) subsection (5) of that section;
- (b) in subsection (9) of that section the words “a partnership” and the words “(within the meaning of section 111 of the Finance Act 1989)”; and
- (c) subsection (10) of that section.

- (4) This paragraph, so far as it relates to partnerships whose trades, professions or businesses are set up and commenced before 6th April 1994, has effect as respects the year 1997-98 and subsequent years of assessment.

*Interest on tax overpaid*

- 42 In subsection (2) of section 826 of the Taxes Act 1988 (interest on tax overpaid), for the words “section 10” there shall be substituted the words “ section 59D of the Management Act (payment of corporation tax) ”.



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*Time limits for elections under Schedule 5*

- 43 (1) In sub-paragraph (3) of paragraph 2 of Schedule 5 to the Taxes Act 1988 (farming: election for the herd basis), for the words from “not later” to the end there shall be substituted the following paragraphs—
- “(a) in the case of an election by a person chargeable to income tax, not later than twelve months from the 31st January next following the qualifying year of assessment;
  - (b) in the case of an election on behalf of persons in partnership, not later than twelve months from the 31st January next following the year of assessment in which the qualifying period of account ends; and
  - (c) in the case of an election by a person chargeable to corporation tax, not later than two years from the end of the qualifying accounting period.”
- (2) In sub-paragraph (4) of that paragraph, for paragraphs (a) and (b) there shall be substituted the following paragraphs—
- “(a) in a case falling within sub-paragraph (3)(a) above, for the qualifying year of assessment and all subsequent years;
  - (b) in a case falling within sub-paragraph (3)(b) above, for the qualifying period of account and all subsequent periods of account; and
  - (c) in a case falling within sub-paragraph (3)(c) above, for the qualifying accounting period and all subsequent accounting periods.”
- (3) After that sub-paragraph there shall be inserted the following sub-paragraphs—
- “(5) Where, in a case falling within sub-paragraph (3)(a) above, the commencement year immediately precedes the qualifying year of assessment, sub-paragraph (4)(a) above shall have effect as if the reference to the qualifying year of assessment were a reference to the commencement year.
- (6) In this paragraph—
- “commencement year”, in relation to a person chargeable to income tax, means the year of assessment in which his trade is set up and commenced;
  - “period of account”, in relation to persons in partnership, means any period for which accounts are drawn up;
  - “qualifying accounting period”, in relation to a person chargeable to corporation tax, means the first accounting period during the whole or part of which it kept a production herd of the class in question;
  - “qualifying period of account”, in relation to persons in partnership, means the first period of account during the whole or part of which those persons kept such a herd;
  - “qualifying year of assessment”, in relation to a person chargeable to income tax, means the first year of assessment after the commencement year for which the amount of profits or gains or losses in respect of his farming is computed for tax purposes by reference to the facts of a period during the whole or part of which he kept such a herd.”

*Status: Point in time view as at 01/04/2023.*

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(4) In paragraph 6 of that Schedule, for sub-paragraphs (2) to (4) there shall be substituted the following sub-paragraphs—

“(2) An election for the herd basis made by virtue of sub-paragraph (1) above shall only be valid if made—

- (a) in the case of an election by a person chargeable to income tax, not later than twelve months from the 31st January next following the qualifying year of assessment;
- (b) in the case of an election on behalf of persons in partnership, not later than twelve months from the 31st January next following the year of assessment in which the qualifying period of account ends; and
- (c) in the case of an election by a person chargeable to corporation tax, not later than two years from the end of the qualifying accounting period.

(3) An election for the herd basis made by virtue of sub-paragraph (1) above shall, notwithstanding paragraph 2(4) above, have effect—

- (a) in a case falling within sub-paragraph (2)(a) above, for the qualifying year of assessment and all subsequent years;
- (b) in a case falling within sub-paragraph (2)(b) above, for the qualifying period of account and all subsequent periods of account; and
- (c) in a case falling within sub-paragraph (2)(c) above, for the qualifying accounting period and all subsequent accounting periods.

(4) In this paragraph—

“period of account”, in relation to persons in partnership, means any period for which accounts are drawn up;

“qualifying accounting period”, in relation to a person chargeable to corporation tax, means the first accounting period in which the compensation is relevant;

“qualifying period of account”, in relation to persons in partnership, means the first period of account in which the compensation is relevant;

“qualifying year of assessment”, in relation to a person chargeable to income tax, means the first year of assessment for which the amount of profits or gains or losses in respect of his farming falls to be computed for tax purposes by reference to the facts of a period in which the compensation is relevant.”

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### PART III U.K.

#### AMENDMENTS OF OTHER ENACTMENTS

##### *Setting of rates of interest*

- 44 In subsection (2)(f) of section 178 of the <sup>M45</sup>Finance Act 1989 (setting of rates of interest), for the words “sections 86, 86A, 87, 87A, and 88” there shall be substituted the words “ sections 59C, 86, 86A, 87, 87A, 88 and 103A ”.

#### Marginal Citations

M45 1989 c. 26.

##### *Class 4 contributions*

- 45 In subsection (1) of section 16 of the <sup>M46</sup>Social Security Contributions and Benefits Act 1992 (application of Income Tax Acts to class 4 contributions), for paragraph (b) there shall be substituted the following paragraph—
- “(b) the provisions of Part VA (payment of tax) and Part X (penalties) of the Taxes Management Act 1970.”.

#### Marginal Citations

M46 1992 c. 4.

##### *Repayment supplements: capital gains tax*

- 46 (1) In subsection (1) of section 283 of the <sup>M47</sup>Taxation of Chargeable Gains Act 1992 (repayment supplements)—
- (a) for the words from “for which” to “that year of assessment” there shall be substituted the words “ a repayment of that ta is made by the Board or an officer of the Board ”, and
- (b) for the words “the end of the tax month in which” there shall be substituted the words “ the date on which ”.
- (2) For subsection (2) of that section there shall be substituted the following subsection—
- “(2) For the purposes of subsection (1) above, the relevant time is either the 31st January next following the year of assessment for which the tax was payable or, if later, the date on which the tax was paid.”
- (3) In subsection (4) of that section, for the words from “partnership” to “section 701(9) of that Act)” there shall be substituted the words “ trust or ”.
- (4) Subsection (5) of that section shall cease to have effect.

#### Marginal Citations

M47 1992 c. 12.

*Status: Point in time view as at 01/04/2023.*

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SCHEDULE 20 **U.K.**

Section 218.

CHANGES FOR FACILITATING SELF-ASSESSMENT: TRANSITIONAL PROVISIONS AND SAVINGS

*Assessment under Cases I and II of Schedule D*

F308<sub>1</sub> .....

**Textual Amendments**

**F308** Sch. 20 paras. 1-10 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\)](#), [Sch. 1 para. 472\(2\)](#), [Sch. 3](#) (with [Sch. 2](#))

F308<sub>2</sub> .....

**Textual Amendments**

**F308** Sch. 20 paras. 1-10 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\)](#), [Sch. 1 para. 472\(2\)](#), [Sch. 3](#) (with [Sch. 2](#))

F308<sub>3</sub> .....

**Textual Amendments**

**F308** Sch. 20 paras. 1-10 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\)](#), [Sch. 1 para. 472\(2\)](#), [Sch. 3](#) (with [Sch. 2](#))

*Assessment under Case III of Schedule D*

F308<sub>4</sub> .....

**Textual Amendments**

**F308** Sch. 20 paras. 1-10 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\)](#), [Sch. 1 para. 472\(2\)](#), [Sch. 3](#) (with [Sch. 2](#))

F308<sub>5</sub> .....

**Textual Amendments**

**F308** Sch. 20 paras. 1-10 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\)](#), [Sch. 1 para. 472\(2\)](#), [Sch. 3](#) (with [Sch. 2](#))

*Assessment under Cases IV and V of Schedule D*

F308<sub>6</sub> .....

*Status: Point in time view as at 01/04/2023.*

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**Textual Amendments**

**F308** Sch. 20 paras. 1-10 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 472\(2\)](#), [Sch. 3](#) (with [Sch. 2](#))

F308<sup>7</sup> .....

**Textual Amendments**

**F308** Sch. 20 paras. 1-10 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 472\(2\)](#), [Sch. 3](#) (with [Sch. 2](#))

*Loss relief*

F308<sup>8</sup> .....

**Textual Amendments**

**F308** Sch. 20 paras. 1-10 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 472\(2\)](#), [Sch. 3](#) (with [Sch. 2](#))

*Capital allowances*

F308<sup>9</sup> .....

**Textual Amendments**

**F308** Sch. 20 paras. 1-10 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 472\(2\)](#), [Sch. 3](#) (with [Sch. 2](#))

*Double taxation relief*

F308<sup>10</sup> .....

**Textual Amendments**

**F308** Sch. 20 paras. 1-10 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 472\(2\)](#), [Sch. 3](#) (with [Sch. 2](#))

- 11 (1) <sup>F309</sup> ... this paragraph applies in the case of—
- (a) a trade, profession or vocation set up and commenced before 6th April 1994 and continuing after 5th April 1998; or
  - (b) income from a source arising before the former date and continuing after the latter date.

(2) Sub-paragraph (3) below applies where—

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- (a) credit against income tax for the year 1995-96 or any earlier year of assessment is or has been allowed by virtue of subsection (1) of section 804 of the Taxes Act 1988 in respect of any income (“the original income”), and
  - (b) the source of that income ceases in a subsequent year of assessment (“the subsequent year”).
- (3) The following shall be set off one against the other, namely—
- (a) the amount of the credit which, under Part XVIII of the Taxes Act 1988 (including section 804), has been allowed against income tax in respect of the original income, and
  - (b) the aggregate of—
    - (i) the amount of the credit which, apart from that section, would have been so allowed, and
    - (ii) the difference between the amount of the credit which, on the assumptions mentioned in sub-paragraph (4) below, would have been allowable under Part XVIII of that Act for the year 1996-97 and the amount of credit which has been so allowed;
- and if the amount given by paragraph (a) exceeds that given by paragraph (b) above, the person chargeable in respect of income (if any) arising in the subsequent year from the same source as the original income shall [<sup>F310</sup>be chargeable for that year to an amount of income tax equal to the excess] . [<sup>F311</sup>, and the person shall be liable for any tax so chargeable]
- (4) The assumptions are—
- (a) that the words “the appropriate percentage of” were omitted from paragraph 2(2) above;
  - (b) that the words “50 per cent. of” were omitted from paragraphs (a), (b) and (c) of paragraph 6(2) above; and
  - (c) that paragraph 10 above had not been enacted.
- (5) Where the period on the income of which income tax is chargeable for the year 1996-97 is that year, sub-paragraph (3) above shall have effect as if for paragraph (b) there were substituted the following paragraph—
- “(b) the amount of the credit which, apart from that section, would have been so allowed;”.
- (6) Any reference in sub-paragraph (2) or (3) above to section 804 or Part XVIII of the Taxes Act 1988 includes a reference to the corresponding provisions of any earlier enactments.

<sup>F312</sup>(7) . . . . .

**Textual Amendments**

**F309** Words in Sch. 20 para. 11(1) repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 472\(3\)\(a\), Sch. 3](#) (with Sch. 2)

**F310** Words in Sch. 20 para. 11(3) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\), s. 1034\(1\), Sch. 1 para. 363\(2\)](#) (with Sch. 2)

**F311** Words in Sch. 20 para. 11(3) inserted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 472\(3\)\(c\)](#) (with Sch. 2)

*Status: Point in time view as at 01/04/2023.*

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**F312** Sch. 20 para. 11(7) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), Sch. 1 para. 363(3), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

**F313** 12 .....

**Textual Amendments**

**F313** Sch. 20 para. 12 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), Sch. 1 para. 472(4), [Sch. 3](#) (with [Sch. 2](#))

**F314** 13 .....

**Textual Amendments**

**F314** Sch. 20 para. 13 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), Sch. 1 para. 472(4), [Sch. 3](#) (with [Sch. 2](#))

*Supplemental*

- 14 (1) In this Schedule—
- (a) any reference to a source of income arising before any date (“the earlier date”) and continuing after or ceasing before some other date (“the later date”) is a reference to a source of income arising to any person before the earlier date and continuing to be possessed by that person after, or (as the case may be) ceasing to be possessed by that person before, the later date; and
  - (b) any reference to a source of income includes a reference to a part of such a source.
- (2) Where, as respects income from any source, income tax is to be charged under Case IV or V of Schedule D by reference to the amounts of income received in the United Kingdom, the source shall be treated for the purposes of this Schedule as arising on the date on which the first amount of income is so received.

SCHEDULE 21 **U.K.**

Section 228.

LLOYD’S UNDERWRITERS: INDIVIDUALS

*Year of assessment in which profits or losses arise*

1 **F315**(1) .....

(2) Subsection (3) of that section shall cease to have effect.

(3) In this paragraph—

**F315**(a) .....

(b) sub-paragraph (2) has effect for the year 1996-97 and subsequent years of assessment.

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### Textual Amendments

**F315** Sch. 21 para. 1(1)(3)(a) repealed (31.7.1997 with effect in accordance with s. 36, Sch. 6 of the repealing Act) by 1997 c. 58, s. 52, **Sch. 8 Pt. II(11)**, Note

- 2 (1) In subsection (1) of section 172 of the 1993 Act (year of assessment in which profits or losses arise), for paragraphs (a) and (b) there shall be substituted the following paragraphs—
- “(a) in the case of profits or losses arising directly from his membership of one or more syndicates, those of any previous year or years which are declared in the corresponding underwriting year;
- (b) in the case of profits or losses arising from assets forming part of a premiums trust fund, those allocated under the rules or practice of Lloyd’s to any previous year or years the profits or losses of which are declared in the corresponding underwriting year; and”.
- (2) Sub-paragraph (1) above does not have effect for the years 1994-95, 1995-96 and 1996-97, but in relation to those years that section shall have effect as if paragraphs (a) and (b) of subsection (1) were omitted.

#### *Premiums trust funds*

- 3 For subsection (1) of section 174 of the 1993 Act (premiums trust funds) there shall be substituted the following subsection—
- “(1) For the purposes of the Income Tax Acts and the Gains Tax Acts—
- (a) a member shall be treated as absolutely entitled as against the trustees to the assets forming part of a premiums trust fund of his; and
- (b) where a deposit required by a regulatory authority in a country or territory outside the United Kingdom is paid out of such a fund, the money so paid shall be treated as still forming part of that fund.”

#### *Reinsurance to close*

- 4 (1) After subsection (4) of section 177 of the 1993 Act (reinsurance to close) there shall be inserted the following subsection—
- “(5) This section also applies in any case where the member to whom the premium is payable is a corporate member within the meaning of Chapter V of Part IV of the Finance Act 1994.”
- (2) This paragraph has effect for the underwriting year 1993 and subsequent underwriting years.

#### *Stop-loss and quota share insurance*

- 5 (1) In subsection (2) of section 178 of the 1993 Act (stop-loss and quota share insurance) —
- (a) for the word “him” there shall be substituted the words “ a member ”; and
- (b) for the word “arose” there shall be substituted the words “ was declared ”.



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- (2) This paragraph has effect as respects insurance money and other amounts payable in respect of losses declared in the underwriting year 1997 or subsequent underwriting years.

*Cessation etc.*

- 6 (1) In section 179 of the 1993 Act (cessation: final year of assessment), subsection (3) and, in subsection (2), the words “to subsection (3) below and” shall cease to have effect.
- (2) After that section there shall be inserted the following section—

**“179A Death of member.**

- (1) This section applies where a member ceases to carry on his underwriting business by reason of death.
- (2) For the purposes of assessing the profits of the member’s underwriting business, the member shall be treated as having died at the end of the year of assessment which corresponds to the underwriting year immediately preceding that in which he actually died.
- (3) For the purposes of the Income Tax Acts—
- (a) the carrying on of the member’s underwriting business by his personal representatives shall not be treated as a change in the persons engaged in the carrying on of that business; and
- (b) subject to the provisions of any regulations made by the Board, the business shall be treated as continuing until the member’s deposit at Lloyd’s is paid over to his personal representatives.”
- (3) This paragraph has effect in any case where the member dies after the end of the year 1993-94.

*Regulations*

- 7 (1) In section 182 of the 1993 Act (regulations), subsections (2) to (4) shall cease to have effect.
- (2) This paragraph has effect for the year 1997-98 and subsequent years of assessment.

*Interpretation*

- 8 (1) In subsection (1) of section 184 of the 1993 Act (interpretation and commencement)
- (a) in the definition of “ancillary trust fund”, the words “or the managing agent of a syndicate of which he is a member” shall cease to have effect; and
- (b) in the definition of “member”, for the words “a member of Lloyd’s who” there shall be substituted the words “an individual who is a member of Lloyd’s and”.
- (2) In subsection (2)(c) of that section, for the word “agent”, in both places where it occurs, there shall be substituted the words “managing agent”.

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### *Assessment and collection of tax*

F316<sup>9</sup> .....

#### **Textual Amendments**

**F316** Sch. 21 para. 9 repealed (with effect in accordance with Sch. 11 Pt. 2(11) Note of the amending Act) by Finance (No. 2) Act 2005 (c. 22), **Sch. 11 Pt. 2(11)**

F317<sup>10</sup> .....

#### **Textual Amendments**

**F317** Sch. 21 para. 10 repealed (with effect in accordance with Sch. 11 Pt. 2(11) Note of the amending Act) by Finance (No. 2) Act 2005 (c. 22), **Sch. 11 Pt. 2(11)**

F318<sup>11</sup> .....

#### **Textual Amendments**

**F318** Sch. 21 para. 11 repealed (31.7.1997 with effect as mentioned in the Note to Sch. 8 Pt. II(5) of the repealing Act) by 1997 c. 38, s. 52, **Sch. 8 Pt. II(5)**

### *Special reserve funds*

- 12 (1) In Schedule 20 to the 1993 Act (special reserve funds), in paragraph 1(1) (preliminary), after the definition of “overall premium limit” there shall be inserted the following definition—
- ““payment”, unless the contrary intention appears, means a payment in money;”.
- (2) In paragraph 7(2) of that Schedule (payments out of fund on cessation), for the words “money’s worth” there shall be substituted the words “ in assets forming part of the fund ”.
- (3) This paragraph has effect for the year 1992-93 and subsequent years of assessment.
- 13 (1) For paragraph 8 of that Schedule (entitlement of member for tax purposes) there shall be substituted the following paragraph—
- “8 (1) Subject to sub-paragraph (2) below, a member shall be treated for the purposes of the Income Tax Acts and the Gains Tax Acts as absolutely entitled as against the trustees to the assets forming part of his special reserve fund.
- (2) Where an asset is disposed of by a member to the trustees of his special reserve fund, nothing in sub-paragraph (1) above shall affect the operation of the Gains Tax Acts in relation to that disposal.”
- (2) This paragraph has effect for the year 1994-95 and subsequent years of assessment.

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- 14 (1) In sub-paragraphs (1) to (4) of paragraph 10 of that Schedule (tax consequences of payments into and out of fund), for the word “corresponding”, in each place where it occurs, there shall be substituted the word “ relevant ”.
- (2) After sub-paragraph (4) of that paragraph there shall be inserted the following sub-paragraph—
- “(5) In this paragraph “the relevant underwriting year”, in relation to a year of assessment, means the underwriting year next but two before its corresponding underwriting year.”
- (3) Sub-paragraphs (1) and (2) above do not have effect for the years 1994-95, 1995-96 and 1996-97, but in relation to those years that Schedule shall have effect as if paragraph 10 were omitted.
- 15 (1) In sub-paragraph (2) of paragraph 11 of that Schedule (tax consequences of cessation), for the words “the final year of assessment” there shall be substituted the words “ the relevant year of assessment ” and for the words “the relevant year” there shall be substituted the words “ the relevant underwriting year ”.
- (2) In sub-paragraphs (3) and (4) of that paragraph, for the words “the relevant year” there shall be substituted the words “ the penultimate underwriting year ”.
- (3) For sub-paragraph (5) of that paragraph there shall be substituted the following sub-paragraph—
- “(5) In this paragraph, subject to the provisions of any regulations made by the Board—
- “the penultimate underwriting year” means the underwriting year immediately preceding that in which the member’s deposit at Lloyd’s is paid over to him or his personal representatives or assigns;
- “the relevant underwriting year” means—
- (a) in the case of a member who dies before his deposit at Lloyd’s is paid over to him or his assigns, the underwriting year immediately preceding that corresponding to the relevant year of assessment; and
- (b) in any other case, the underwriting year immediately preceding that in which his deposit at Lloyd’s is paid over to him or his assigns;
- “the relevant year of assessment” means—
- (a) in the case of a member who dies before his deposit at Lloyd’s is paid over to him or his assigns, the year of assessment at the end of which he is treated, by virtue of section 179A(2) of this Act, as having died; and
- (b) in any other case, his final year of assessment.”
- 16 (1) In sub-paragraph (1) of paragraph 13 of that Schedule (winding up of old-style funds), the words from “and a transfer” to the end shall cease to have effect.
- (2) After sub-paragraph (5) of that paragraph there shall be inserted the following sub-paragraph—
- “(6) A transfer or payment under this paragraph of an amount of capital shall be in money or in assets forming part of the fund or both, as the member may direct.”

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(3) This paragraph has effect for the year 1992-93 and subsequent years of assessment.

## SCHEDULE 22 U.K.

Sections 231 and 234.

### SUPPLEMENTARY PROVISIONS AS TO ELECTIONS BY REFERENCE TO PIPE-LINE USAGE

#### PART I U.K.

##### PROCEDURE FOR AND IN CONNECTION WITH AN ELECTION

###### *The election*

- 1 (1) An election shall be made by serving it on the Board, shall be in such form as may be prescribed by the Board and shall contain such information as the Board may reasonably require with respect to—
- (a) the oil field to which the election is to apply, the pipe-line by reference to which the election is being made and whether the election is to be limited in accordance with subsection (6) of section 231 of this Act;
  - (b) all other assets which, if the election were to be accepted, would at the date of the election be assets to which the election applies;
  - (c) the electing participator's interest in those assets;
  - (d) the sums to which, if the election is accepted, it is reasonable to expect that section 233 of this Act will apply and the sources, quantities and descriptions of oil which will give rise to those sums;
  - (e) any other oil field (whether taxable or non-taxable) in connection with which any of the assets referred to in paragraph (b) above is or is expected to be used or in respect of which services or other business facilities in connection with that use are or are expected to be provided; and
  - (f) the initial usage fraction and the amounts which make up the numerator and the denominator of that fraction.
- (2) The reference in sub-paragraph (1)(e) above to an oil field includes a reference to any area which the electing participator expects might be determined as an oil field under Schedule 1 to the principal Act.
- (3) An election shall include a declaration that it is correct and complete to the best of the knowledge and belief of the electing participator.
- (4) An election shall be irrevocable.

###### *Conditions for acceptance of an election*

- 2 (1) The Board shall reject an election if they are not satisfied—
- (a) that the conditions relating to the pipe-line in paragraphs (a) to (d) of subsection (1) or in subsection (3) of section 231 of this Act are fulfilled; or
  - (b) that the conditions relating to the oil field or the participator in subsection (2) of that section are fulfilled; or
  - (c) that, if the election were to be accepted, the assets to which the election would apply (having regard to any limitation under subsection (6) of that

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section) have the capacity and characteristics, and are otherwise suitable, to handle the quantities and descriptions of oil specified in accordance with paragraph 1(1)(d) above.

- (2) Subject to sub-paragraph (3) below, the Board shall also reject an election if it appears to them—
  - (a) that any of the information required to be contained in the election by virtue of paragraph 1(1) above is incorrect; or
  - (b) that, after receiving notice in writing from the Board, the electing participator has failed to furnish to the Board on or before the specified date any information which the Board have reasonably required either with respect to the matters specified in paragraph 1(1) above or for the purpose of satisfying themselves as to the matters referred to in sub-paragraph (1) above.
- (3) Before rejecting an election under sub-paragraph (2)(a) above the Board may, if they think fit, by notice in writing give the electing participator an opportunity to correct any error in the information and, if he does so, the information shall then be treated as having been provided in the correct form.
- (4) In sub-paragraph (2)(b) above “the specified date” means such date as may be specified in the notice concerned, being a date not earlier than one month after the date on which the notice was given.
- (5) A notice under sub-paragraph (2)(b) above shall be given within the period of three months beginning on the date on which the election was received by the Board.

#### *Notice of acceptance or rejection*

- 3 (1) Notice of the acceptance or rejection of an election shall be served on the electing participator before the expiry of the period of three months beginning on whichever of the following dates is the later or latest—
  - (a) the date on which the election was received by the Board;
  - (b) if a notice was given under paragraph 2(2)(b) above relating to the election, the date or, as the case may be, the last date which is the specified date, as defined in paragraph 2(4) above, in relation to such a notice;
  - (c) if a notice was given under paragraph 2(3) above relating to the election, the date on which that notice was given.
- (2) If no such notice of acceptance or rejection is so served, the Board shall be deemed to have accepted the election and to have served notice of their acceptance on the last day of the period referred to in sub-paragraph (1) above.

#### *Appeals*

- 4 (1) Where the Board serve notice on an electing participator under paragraph 3 above rejecting an election, he may appeal <sup>F319</sup>... against the notice.
- (2) An appeal under sub-paragraph (1) above shall be made by notice of appeal served on the Board within thirty days beginning on the date of the notice in respect of which the appeal is brought.
- (3) Where, at any time after the service of notice of appeal under this paragraph and before the determination of the appeal by the [<sup>F320</sup>tribunal], the Board and the appellants agree that the notice in respect of which the appeal is brought

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should stand or that the election to which it related should be accepted with or without modification, the same consequences shall ensue as if the [<sup>F320</sup>tribunal] had determined the appeal to that effect.

- (4) On the hearing of an appeal under this paragraph, the [<sup>F321</sup>tribunal] shall either dismiss the appeal or allow it; and if the [<sup>F322</sup>tribunal allows] the appeal, [<sup>F323</sup>the tribunal shall] direct either—
- (a) that the election shall be accepted; or
  - (b) that the election shall have effect subject to such modifications as may be specified in the direction and shall be accepted in its modified form.
- [<sup>F324</sup>(5) In an appeal under sub-paragraph (1)—
- (a) paragraphs 14(2), (8) and (11) and 14A to 14I of Schedule 2 to the principal Act shall apply as they apply in relation to an appeal against an assessment or determination made under that Act subject to any necessary modifications including the following;
  - (b) any reference in those paragraphs to an agreement under paragraph 14(9) shall be construed as a reference to an agreement under sub-paragraph (3) above.]
- (6) Any reference in this Chapter to an election accepted by the Board shall be construed as including a reference to an election accepted in pursuance of an appeal under this paragraph.

#### Textual Amendments

- F319** Words in Sch. 22 para. 4(1) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 211(2)**
- F320** Word in Sch. 22 para. 4(3) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 211(3)**
- F321** Word in Sch. 22 para. 4(4) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 211(4)(a)**
- F322** Words in Sch. 22 para. 4(4) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 211(4)(b)**
- F323** Words in Sch. 22 para. 4(4) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 211(4)(c)**
- F324** Sch. 22 para. 4(5) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 211(5)**

#### *Information to the responsible person*

- 5 (1) Within thirty days of the relevant date, the electing participator shall furnish to the responsible person for the field to which the election applies (or would apply if the election were accepted) a copy of—
- (a) any election made by him; and
  - (b) any notice under paragraph 3 above accepting or rejecting the election.
- (2) For the purposes of sub-paragraph (1) above, the relevant date is—
- (a) in the case of an election made by the electing participator, the date on which it was served on the Board; and
  - (b) in the case of a notice under paragraph 3 above, the date on which the electing participator received it.

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- (3) In a case where paragraph 9 below applies (or would apply if an election were accepted) sub-paragraphs (1) and (2) above shall require the electing participator additionally to furnish copies of the same documents to the responsible person for any non-chargeable field mentioned in sub-paragraph (3) of that paragraph.
- (4) In a case where paragraph 11 below applies (or would apply if an election were accepted) sub-paragraphs (1) and (2) above shall require the electing participator additionally to furnish copies of the same documents to the old participator referred to in that paragraph.

#### *Penalties for incorrect information*

- 6 Where a participator fraudulently or negligently furnishes any incorrect information or makes any incorrect declaration in or in connection with an election he shall be liable to a penalty not exceeding—
  - (a) in the case of negligence, £50,000, and
  - (b) in the case of fraud, £100,000.

#### *Re-opening election decisions on grounds of incorrect information*

- 7 (1) Without prejudice to paragraph 6 above, this paragraph applies if, at any time after notice of the acceptance of an election has been served by the Board, it appears to the Board that, as a result of an error in the information furnished to the Board, the election should not have been accepted.
  - (2) If, in a case where this paragraph applies, either—
    - (a) the error was attributable, in whole or in part, to the fraudulent or negligent conduct of the electing participator or a person acting on his behalf, or
    - (b) on the error coming to the notice of the electing participator, or a person acting on his behalf, the error was not remedied without unreasonable delay,the Board may serve on the electing participator and on the responsible person for the field to which the election applies a notice rescinding the acceptance and stating what appears to the Board to be the correct position.
  - (3) When a notice under sub-paragraph (2) above becomes effective, the election shall be treated as having been rejected in accordance with paragraph 3 above.
  - (4) If, in a case where this paragraph applies,—
    - (a) neither of the conditions in sub-paragraph (2) above is fulfilled, and
    - (b) the Board are of the opinion that, if the correct information had been furnished, the election could have been accepted,the election shall be treated as having been made and accepted subject to such modifications (being modifications to correct the effect of the error) as the Board may direct, by notice served on the electing participator and on the responsible person for the field to which the election applies.
  - (5) A notice served under sub-paragraph (2) or sub-paragraph (4) above shall become effective either—
    - (a) on the expiry of the period during which notice of appeal against the notice may be served on the Board under paragraph 8 below without such notice of appeal being served; or

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- (b) where such notice of appeal is served, when the notice can no longer be varied or quashed by the [<sup>F325</sup>tribunal] or by the order of any court.

#### Textual Amendments

**F325** Word in Sch. 22 para. 7(5)(b) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 212](#)

#### *Appeals against re-opening notices*

- 8 (1) This paragraph applies where the Board serve notice under sub-paragraph (2) or sub-paragraph (4) of paragraph 7 above; and in the following provisions of this paragraph such a notice is referred to as a “re-opening notice”.
- (2) The electing participator may, by notice of appeal served on the Board within thirty days beginning on the date of the re-opening notice, appeal <sup>F326</sup>... against the re-opening notice.
- (3) A notice of appeal under sub-paragraph (2) above shall state the grounds on which the appeal is brought.
- (4) An appeal under this paragraph may at any time [<sup>F327</sup>before it is notified to the tribunal] be abandoned by notice served on the Board by the electing participator.
- (5) A re-opening notice may be withdrawn at any time before it becomes effective.
- (6) In any case where—
- (a) the electing participator serves notice of appeal against a re-opening notice served under sub-paragraph (4) of paragraph 7 above, and
  - (b) before the appeal is determined by the [<sup>F328</sup>tribunal] , the Board and the electing participator agree as to the modifications necessary to correct the effect of the error concerned,
- the re-opening notice shall take effect subject to such modifications as may be necessary to give effect to that agreement; and thereupon the appeal shall be treated as having been abandoned.
- (7) Subject to sub-paragraph (8) below, on an appeal against a re-opening notice the [<sup>F329</sup>tribunal] may vary the notice, quash the notice or dismiss the appeal; and the notice may be varied whether or not the variation is to the advantage of the electing participator.
- (8) The provisions relating to the variation of a re-opening notice referred to in sub-paragraph (7) above shall not apply in respect of any such notice served under sub-paragraph (2) of paragraph 7 above.
- [<sup>F330</sup>(9) In an appeal under sub-paragraph (2)—
- (a) paragraphs 14A to 14I of Schedule 2 to the principal Act shall apply as they apply in relation to an appeal against an assessment or determination made under that Act subject to any necessary modifications including the following;
  - (b) any reference in those paragraphs to an agreement under paragraph 14(9) shall be construed as a reference to an agreement under sub-paragraph (6) above.]



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### Textual Amendments

- F326** Words in Sch. 22 para. 8(2) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 213\(2\)](#)
- F327** Words in Sch. 22 para. 8(4) inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 213\(3\)](#)
- F328** Word in Sch. 22 para. 8(6)(b) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 213\(4\)](#)
- F329** Word in Sch. 22 para. 8(7) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 213\(4\)](#)
- F330** Sch. 22 para. 8(9) inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 213\(5\)](#)

## PART II U.K.

### SUPPLEMENTARY PROVISIONS

#### *Assets used in connection with more than one taxable field*

- 9 (1) The provisions of this paragraph apply where—
- an election is in operation; and
  - any of the assets to which the election applies is used or expected to be used in connection with two or more taxable fields.
- (2) Any reference in this paragraph to allowable expenditure has the same meaning as in Part II of Schedule 1 to the 1983 Act and is a reference to expenditure incurred on an asset to which the election applies.
- (3) Sub-paragraph (4) below applies if, by virtue of paragraph 5 of Schedule 1 to the 1983 Act (which, in a case falling within this paragraph, provides for the apportionment of allowable expenditure between two or more fields), any part of the allowable expenditure is apportioned to a taxable field (a “non-chargeable field”) other than the field to which the election applies.
- (4) Where this sub-paragraph applies, then, so far as concerns the electing participator (as a participator in a non-chargeable field), section 232 of this Act shall apply in relation to that part of the allowable expenditure which is apportioned to the non-chargeable field as it applies in relation to the part apportioned to the field to which the election applies.

#### *Transfer of interests*

- 10 (1) If, while an election is in operation, the electing participator (or a person who is treated as an electing participator by virtue of this paragraph) transfers the whole or part of his interest in the field to which the election applies, then, so far as concerns that interest or part, the new participator shall thereafter be treated as the electing participator for the purposes of this Chapter, other than paragraph 11 below, and, in particular,—
- any restriction on the amount of expenditure allowed or allowable by virtue of section 232 of this Act shall continue to apply to any expenditure relief

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- transferred to the new participator under paragraph 6 of Schedule 17 to the <sup>M48</sup>Finance Act 1980; and
- (b) any relief from tax under section 233 of this Act shall apply in relation to the new participator as it applied in relation to the old participator.
- (2) If, in a case where paragraph 9 above applies, the electing participator, as a participator in the non-chargeable field (within the meaning of that paragraph) transfers the whole or part of his interest in that field, sub-paragraph (1) above (except paragraph (b)) shall apply in relation to that transfer as if—
- (a) any reference to the field to which the election applies were a reference to the non-chargeable field; and
- (b) any reference to the electing participator were a reference to him in his capacity as a participator in the non-chargeable field.
- (3) In sub-paragraph (1) above the expressions “the old participator” and “the new participator” have the same meaning as in Schedule 17 to the Finance Act 1980.

#### Marginal Citations

**M48** 1980 c. 48.

- 11 (1) This paragraph applies in any case where—
- (a) the electing participator acquired the whole or any part of his interest in the field to which the election applies as a result of a transfer to which Part I of Schedule 17 to the <sup>M49</sup>Finance Act 1980 applies (so that the electing participator is the new participator); and
- (b) some or all of the relief in respect of any expenditure incurred (before the transfer) on any asset to which the election applies did not fall to be transferred to the electing participator (whether by virtue of paragraph 6 or paragraph 7 of that Schedule).
- (2) With regard to so much of the expenditure referred to in sub-paragraph (1)(b) above as falls to be taken into account under paragraph (b)(i) or paragraph (c)(i) of subsection (9) of section 2 of the principal Act in computing, for any chargeable period ending before the transfer period, the assessable profit or allowable loss accruing to the old participator or any predecessor of his, section 232 of this Act shall apply in the case of the old participator or, as the case may be, his predecessor as it is expressed to apply in the case of the electing participator.
- (3) If, as a result of the operation of sub-paragraph (2) above, there is a reduction in the amount which would otherwise be the accumulated capital expenditure of the old participator at the end of the last chargeable period before the transfer period, paragraph 8 of Schedule 17 to the Finance Act 1980 shall be taken to have transferred a correspondingly reduced amount to the electing participator.
- (4) In this paragraph—
- (a) the expressions “the old participator”, “the new participator” and “the transfer period” have the same meaning as in Schedule 17 to the Finance Act 1980; and
- (b) any reference to a predecessor of the old participator is a reference to a person who (before the transfer referred to in sub-paragraph (1)(a) above) transferred the whole or part of his interest in the field to which the election

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applies either to the old participator or to another person who is a predecessor in title of the old participator in respect of that interest or part.

**Marginal Citations**

**M49** 1980 c. 48.

*Transfer of elected assets*

- 12 (1) This paragraph applies if there is a disposal of an asset which, immediately before the disposal or at an earlier time, was an asset to which an election applies; and in this paragraph—
- (a) “the asset transferred” means the asset so disposed of;
  - (b) “the vendor” means the electing participator or other person by whom the asset is disposed of.
- (2) Where a person has incurred expenditure on the acquisition of a transferred asset, he shall be treated for the purposes of the expenditure relief provisions as having incurred that expenditure only to the extent that it does not exceed the amount which, having regard to section 232 of this Act or the previous operation of this paragraph, was (in the case of the vendor) allowable under those provisions immediately before the disposal in respect of his expenditure on the asset.
- (3) Any expenditure incurred on the asset after the disposal shall be left out of account for the purposes of the expenditure relief provisions.

*Restriction of relief for expenditure incurred after 30th  
November 1993 and before the date of an election*

- 13 (1) This paragraph applies if, after 30th November 1993 and before the date of an election, expenditure was incurred by the electing participator under a contract—
- (a) for the acquisition from any other person of, or of an interest in, an asset to which the election applies; or
  - (b) for the provision by any other person of services or other business facilities of whatever kind in connection with the use of an asset to which the election applies.
- (2) If, in a case where this paragraph applies, the other person referred to in paragraph (a) or paragraph (b) of sub-paragraph (1) above (“the contractor”) has performed his obligations by entering into one or more further contracts, the contractor shall be treated for the purposes of subsection (2) of section 191 of the <sup>M50</sup>Finance Act 1993 (time when expenditure is incurred) as having performed his obligations under the contract only to the extent that, at that time, the asset or interest in question has been acquired by or, as the case may be, the services or other business facilities have been provided to, the electing participator.

**Marginal Citations**

**M50** 1993 c. 34.

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SCHEDULE 23 U.K.

Section 236.

AMENDMENTS OF THE PRINCIPAL ACT RELATING TO VALUATION OF LIGHT GASES

- 1 (1) In section 2 (assessable profits and allowable losses), in subsection (5) (amounts to be included in calculation of gross profit or loss) in each of paragraphs (b) and (c), after the word “oil”, in the first place where it occurs, there shall be inserted “ (not being light gases) ” and after paragraph (c) there shall be inserted—
- “(ca) the market value, ascertained in accordance with paragraph 3A of Schedule 3 to this Act, of so much of any light gases so won and disposed of by him otherwise than in sales at arm’s length as was delivered by him in the period; and
  - (cb) the market value, ascertained in accordance with paragraph 3A of Schedule 3 to this Act, of so much of any light gases so won as was relevantly appropriated by him in the period without being disposed of; and”.
- (2) In subsection (9) of that section (amounts to be taken into account in determining amount of debit or credit in respect of expenditure), in paragraph (a)—
- (a) in sub-paragraph (i) the words “or, as the case may be” shall be omitted;
  - (b) in that sub-paragraph after the words “delivery was made” there shall be inserted the words “ or (in the case of light gases) its market value as determined in accordance with paragraph 3A of Schedule 3 to this Act, as the case may require ”; and
  - (c) at the end of sub-paragraph (ii) there shall be inserted the words “ or (in the case of light gases) the market value as determined in accordance with paragraph 3A of Schedule 3 to this Act ”.
- 2 In Schedule 2 (management and collection of PRT), in paragraph 2(2) (returns by participators), in paragraph (a)(iii) after the words “delivery was made” and in paragraph (b)(ii) after the word “made” there shall be inserted the words “ or (in the case of light gases) the market value as determined in accordance with paragraph 3A of Schedule 3 to this Act ”.
- 3 (1) In Schedule 3 (miscellaneous provisions relating to PRT), in paragraph 2 (definition of market value of oil)—
- (a) at the beginning of sub-paragraph (1) there shall be inserted the words “ Except in the case of light gases ”; and
  - (b) at the end of that sub-paragraph there shall be added the words “ and, accordingly, references in the following provisions of this paragraph to oil do not apply to light gases ”.
- (2) In paragraph 2A of that Schedule (definition of market value of oil consisting of or including gas), after sub-paragraph (1) there shall be inserted the following sub-paragraph—
- “(1A) Sub-paragraphs (2) and (3) below also apply where the market value of any light gases falls to be ascertained under paragraph 3A below.”
- (3) In sub-paragraph (2) of paragraph 2A, after the words “paragraph 2 above”, in each place where they occur, there shall be inserted “ or, as the case may require, sub-paragraph (2)(b) of paragraph 3A below ”.

*Status: Point in time view as at 01/04/2023.*

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- (4) In sub-paragraph (3) of paragraph 2A, after the words “paragraph 2”, in the first place where they occur, there shall be inserted “ or, as the case may require, in accordance with paragraph 3A below ”.
- (5) Sub-paragraph (4) of paragraph 2A shall be omitted.
- 4 After paragraph 3 of Schedule 3 (aggregate market value of oil) there shall be inserted—

*“ Definition of market value of light gases*

- 3A (1) The market value of any light gases for the purposes of this Part of this Act is the price at which, having regard to all the circumstances relevant to the disposal or appropriation in question, light gases of that kind might reasonably have been expected to be sold under a contract of sale satisfying the conditions specified in sub-paragraph (2) below.
- (2) The conditions referred to in sub-paragraph (1) above are that—
- (a) the contract is for the sale of the gases at arm’s length to a willing buyer;
  - (b) the contract requires the gases to have been subjected to appropriate initial treatment before delivery; and
  - (c) the contract requires the gases to be delivered—
    - (i) in the case of gases extracted in the United Kingdom, at the place of extraction; or
    - (ii) in the case of gases extracted from strata in the sea bed and subsoil of the territorial sea of the United Kingdom or of a designated area, at the place in the United Kingdom or another country at which the seller could reasonably be expected to deliver the gases or, if there is more than one such place, the one nearest to the place of extraction.
- (3) If the circumstances referred to in sub-paragraph (1) above are such that the price referred to in that sub-paragraph might reasonably be expected to include—
- (a) any such payments as are referred to in subsection (2) of section 114 of the Finance Act 1984 (treatment of certain payments relating to gas sales), or
  - (b) any capacity payments, as defined in subsection (5) of that section,
- section 114 of the Finance Act 1984 shall apply accordingly in relation to the notional contract specified in sub-paragraph (1) above as it applies in relation to an actual contract.
- (4) This paragraph has effect subject to sub-paragraphs (2) and (3) of paragraph 2A above.”

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SCHEDULE 24 **U.K.**

Section 252.

## PROVISIONS RELATING TO THE RAILWAYS ACT 1993

*Interpretation*

## 1 (1) In this Schedule—

<sup>F331</sup>

“the Board” means the British Railways Board;

[<sup>F332</sup>“the Capital Allowances Act” means the Capital Allowances Act 2001 and includes, where the context admits, enactments which under the Taxes Act 1988 are to be treated as contained in the Capital Allowances Act 2001;]

“fixture” has the same meaning as it has in [<sup>F333</sup>Chapter 14 of Part 2 of the Capital Allowances Act];

“franchise company” has the meaning given by section 85(8) of the <sup>M51</sup>Railways Act 1993;

“the Franchising Director” means the Director of Passenger Rail Franchising;

“the Gains Act” means the <sup>M52</sup>Taxation of Chargeable Gains Act 1992;

“predecessor”, in relation to any relevant transfer, means the body from which the property, rights or liabilities in question are transferred by virtue of the restructuring scheme in question;

“property”, “rights” and “liabilities” have the same meaning as they have in Part II of the Railways Act 1993;

“publicly owned railway company” has the same meaning as it has in the Railways Act 1993;

“relevant transfer” means a transfer of any property, rights or liabilities by virtue of a restructuring scheme;

“restructuring scheme” means a section 85 transfer scheme made by, or pursuant to a direction of, the Secretary of State, if and to the extent that the transfer scheme provides for the transfer of property, rights or liabilities from—

- (a) the Board,
- (b) a wholly owned subsidiary of the Board,
- (c) a publicly owned railway company, or
- (d) a company which is wholly owned by the Franchising Director,

to any other body falling within paragraphs (a) to (d) above;

“section 85 transfer scheme” means a scheme made under or by virtue of section 85 of the Railways Act 1993;

“subsidiary” has the meaning given by section 736 of the <sup>M53</sup>Companies Act 1985;

“successor company” has the same meaning as it has in Part II of the Railways Act 1993;

“transfer date” shall be construed in accordance with section 85(6) of the Railways Act 1993;

“transfer scheme” means a scheme made under or by virtue of section 85 or 86 of the Railways Act 1993;

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“transferee”, in relation to a relevant transfer, means the body to which the property, rights or liabilities in question are transferred by virtue of the restructuring scheme in question;

“wholly owned subsidiary” has the meaning given by section 736 of the <sup>M54</sup>Companies Act 1985.

- (2) Section 151(2) and (3) of the <sup>M55</sup>Railways Act 1993 (companies wholly owned by the Crown or the Franchising Director) shall have effect for the purposes of this Schedule as it has effect for the purposes of that Act.
- (3) Any reference in this Schedule to “assignment” shall be construed in Scotland as a reference to “assignment”.
- (4) This Schedule—
  - (a) so far as it relates to income tax, shall be construed as one with the Income Tax Acts,
  - (b) so far as it relates to corporation tax, shall be construed as one with the Corporation Tax Acts, and
  - (c) so far as it relates to capital allowances, shall be construed as one with [<sup>F334</sup>the Capital Allowances Act].

#### Textual Amendments

- F331** Definition in Sch. 24 para. 1(1) repealed (22.3.2001 with effect as mentioned in s. 579(1) of the repealing Act) by 2001 c. 2, ss. 579, 580, Sch. 2 para. 91(1), Sch. 4
- F332** Definition in Sch. 24 para. 1(1) inserted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579, Sch. 2 para. 91(1)(b)
- F333** Words in definition in Sch. 24 para. 1(1) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579, Sch. 2 para. 91(1)(c)
- F334** Words in Sch. 24 para. 1(4)(c) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579, Sch. 2 para. 91(2)

#### Marginal Citations

- M51** 1993 c. 43.  
**M52** 1992 c. 12.  
**M53** 1985 c. 6.  
**M54** 1985 c. 6.  
**M55** 1993 c. 43.

#### *Chargeable gains: transfer to be without gain or loss*

- 2 (1) For the purposes of the Gains Act, where there is a relevant transfer, the disposal of property, rights and liabilities which is constituted by that transfer shall, subject to the following provisions of this Schedule, be taken, in relation to the transferee as well as the predecessor, to be for a consideration such that no gain or loss accrues to the predecessor.

<sup>F335</sup>(2) .....

- (3) Section 171(1) of the Gains Act (which makes provision in relation to the disposal of assets from one member of a group of companies to another member of the group) shall not apply where the disposal in question is a relevant transfer.

*Status: Point in time view as at 01/04/2023.*

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### Textual Amendments

**F335** Sch. 24 para. 2(2) omitted (21.7.2008 with effect in accordance with Sch. 2 para. 71 of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 2 para. 70\(b\)\(i\)](#)

#### *Chargeable gains: receipt of compensation or insurance policies*

- 3 (1) Subsection (4) of section 23 of the Gains Act (adjustments where compensation or insurance money used for purchase of replacement asset) shall have effect in accordance with sub-paragraph (3) below in any case where—
- (a) there is a relevant transfer such that—
    - (i) any capital sum received by the predecessor by way of compensation for the loss or destruction of any asset, or under a policy of insurance of the risk of the loss or destruction of any asset, becomes available to the transferee; or
    - (ii) any right of the predecessor to receive such a sum is transferred to the transferee, and the transferee receives that sum; and
  - (b) the transferee acquires an asset in circumstances where—
    - (i) had there been no such relevant transfer, and
    - (ii) had the predecessor acquired the asset by the application of that sum, the predecessor would be treated for the purposes of that subsection as having so acquired the asset in replacement for the asset lost or destroyed.
- (2) Subsection (5) of that section (adjustments where a part of any compensation or insurance money is used for the purchase of a replacement asset) shall have effect in accordance with sub-paragraph (3) below in any case where—
- (a) there is a relevant transfer such that—
    - (i) any capital sum received by the predecessor by way of compensation for the loss or destruction of any asset, or under a policy of insurance of the risk of the loss or destruction of any asset, becomes available to the transferee; or
    - (ii) any right of the predecessor to receive such a sum is transferred to the transferee, and the transferee receives that sum; and
  - (b) the transferee acquires an asset in circumstances where—
    - (i) had there been no such relevant transfer, and
    - (ii) had the predecessor acquired the asset by the application of all of that sum except for a part which was less than the amount of the gain (whether all chargeable gain or not) accruing on the disposal of the asset lost or destroyed, the predecessor would be treated for the purposes of that subsection as having so acquired the asset in replacement for the asset lost or destroyed.
- (3) In a case falling within sub-paragraph (1) or (2) above, subsection (4) or, as the case may be, subsection (5) of section 23 of the Gains Act shall have effect as if the transferee and the predecessor were the same person, except that—
- (a) in a case falling within sub-paragraph (1)(a)(i) or (2)(a)(i) above—
    - (i) any claim under the subsection in question must be made by the predecessor and the transferee; and



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- (ii) any adjustment to be made in consequence of paragraph (a) of that subsection shall be made for the purposes only of the taxation of the predecessor; and
- (b) in a case falling within sub-paragraph (1)(a)(ii) or (2)(a)(ii) above—
  - (i) any claim under the subsection in question must be made by the transferee; and
  - (ii) any adjustment to be made in consequence of paragraph (a) of that subsection shall be made for the purposes only of the taxation of the transferee.

*Chargeable gains: section 30 of the Gains Act*

- 4 (1) Nothing in Part II or III of the <sup>M56</sup>Railways Act 1993, and no instrument or agreement made, or other thing done, under or by virtue of either of those Parts, shall be regarded as a scheme or arrangement for the purposes of section 30 of the Gains Act (value-shifting).
- (2) In any case where—
- (a) an asset which is the subject of a relevant transfer or qualifying disposal has previously been the subject of a scheme or arrangements falling within subsection (1) of that section,
  - (b) in consequence, subsection (5) of that section (consideration on disposal to be treated as increased for certain purposes) would, apart from sub-paragraph (3) below, have had effect in relation to the consideration for the relevant transfer or qualifying disposal, and
  - (c) the consideration for the relevant transfer or qualifying disposal falls to be determined under paragraph 2 above or paragraph 7(2), 11(3) or 25(2) below, sub-paragraph (3) below shall apply.
- (3) Where this sub-paragraph applies—
- (a) the said subsection (5) shall not have effect in relation to the consideration for the relevant transfer or qualifying disposal; but
  - (b) on the first subsequent disposal of the asset which is neither a relevant transfer or qualifying disposal nor a group disposal—
    - (i) that subsection shall have effect in relation to the consideration for that disposal (whether or not it would otherwise have done so); and
    - (ii) the increase that falls to be made under that subsection shall be so calculated as to include any increase which would, but for paragraph (a) above, have fallen to be made in relation to the relevant transfer or qualifying disposal.
- (4) In this paragraph—
- “group disposal” means a disposal which falls to be treated by virtue of section 171(1) of the Gains Act as made for a consideration such that no gain or loss accrues to the person making the disposal;
  - “qualifying disposal” means—
    - (a) a disposal to which paragraph 7(2) below applies; or
    - (b) a disposal falling within paragraph 11(3) or 25(2) below.

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#### Commencement Information

- I3** Sch. 24 para. 4 in force retrospectively (5.11.1993 as to para. 4(1) and otherwise 11.1.1994) as mentioned in s. 252(2)(3).

#### Marginal Citations

- M56** 1993 c. 43.

#### *Chargeable gains: section 41 of the Gains Act*

- 5 Subsection (1) of section 174 of the Gains Act (which applies section 41 of that Act to cases where assets have been acquired without gain or loss) shall have effect, without prejudice to paragraph 2 above or paragraph 7(2), 11(3) or (4) or 25(2) below, where there has been—
- (a) a relevant transfer,
  - (b) a disposal to which paragraph 7(2) below applies, or
  - (c) a disposal falling within paragraph 11(3) or (4) or 25(2) below,
- as if the asset to which the transfer or disposal relates had thereby been transferred and acquired in relevant circumstances, within the meaning of that subsection.

#### *Chargeable gains: roll-over relief*

- 6 (1) Subject to the following provisions of this paragraph, where any asset, or any interest in an asset, is the subject of a relevant transfer, sections 152 to 160 of the Gains Act (roll-over relief on replacement of business assets) shall have effect as if—
- (a) the asset or interest had been acquired by the transferee—
    - (i) at the time at which, and for the consideration for which, the predecessor acquired it; and
    - (ii) for the purpose of the asset's use in a trade carried on by the transferee (and not wholly or partly for the purpose of realising a gain from the disposal of the asset or interest), but only to the extent that the predecessor's acquisition was for the purpose of the asset's use in a trade carried on by him (and not wholly or partly for the purpose of realising a gain from the disposal of the asset or interest);
  - (b) throughout the period during which the asset or interest was owned by the predecessor, it had been owned by the transferee; and
  - (c) to the extent that the predecessor—
    - (i) used the asset, or
    - (ii) in the case of an asset falling within head A of Class 1 in section 155 of that Act, used and occupied the asset,

during that period for the purposes of a trade carried on by him, the transferee had used or, as the case may be, used and occupied the asset for the purposes of a trade carried on by him.
- (2) In any case where—
- (a) a held-over gain would, but for the provisions of section 154 of the Gains Act (depreciating assets), have been carried forward to a depreciating asset, and
  - (b) that asset is the subject of a relevant transfer,

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that section shall have effect as if the gain had accrued to, and the claim for it to be held over had been made by, the transferee and as if the predecessor's acquisition of the depreciating asset had been the transferee's acquisition of that asset.

- (3) Where an asset, or an interest in an asset, is the subject of a relevant transfer, the predecessor shall not be entitled at any time after the coming into force of the relevant transfer to make any claim under section 152 or 153 of the Gains Act in respect of his acquisition of the asset or interest.
- (4) Where an asset, or an interest in an asset, is the subject of a relevant transfer, the transferee shall not, by virtue of any provision of this Schedule, be treated for the purposes of sections 152 to 154 of the Gains Act as having applied the whole or any part of the consideration for any disposal—
  - (a) in acquiring the asset or interest by virtue of the relevant transfer; or
  - (b) in acquiring the asset or interest as postulated in sub-paragraph (1)(a) above, if the predecessor has made a claim under section 152 or 153 of that Act in respect of his acquisition of the asset or interest.
- (5) Without prejudice to paragraph 1(4)(b) above, expressions used in sub-paragraph (2) above and in section 154 of the Gains Act have the same meaning in that sub-paragraph as they have in that section.

*Chargeable gains: agreements and instruments by  
virtue of section 91(1)(c) of the Railways Act 1993*

- 7 (1) Sub-paragraph (2) below applies to any disposal effected pursuant to an obligation imposed by a section 85 transfer scheme by virtue of section 91(1)(c) of the <sup>M57</sup>Railways Act 1993 (obligations to enter into agreements or execute instruments) if the person making the disposal is—
  - (a) the Board,
  - (b) a wholly owned subsidiary of the Board,
  - (c) a publicly owned railway company, or
  - (d) a company which is wholly owned by the Franchising Director,and the person to whom the disposal is made is either a person falling within paragraphs (a) to (d) above or the Franchising Director.
- (2) A disposal to which this sub-paragraph applies shall be taken for the purposes of corporation tax on chargeable gains, in relation to the person to whom the disposal is made as well as the person making the disposal, to be effected for a consideration such that no gain or loss accrues to the person making the disposal.
- (3) Section 171(1) of the Gains Act (transfers within a group) shall not apply where the disposal in question is one to which sub-paragraph (2) above applies.
- (4) Section 17 of that Act (disposals and acquisitions treated as made at market value) shall not have effect in relation to a disposal or the corresponding acquisition if—
  - (a) the disposal is effected pursuant to an obligation imposed by a section 85 transfer scheme by virtue of section 91(1)(c) of the <sup>M58</sup>Railways Act 1993,
  - (b) the person making the disposal is either a person falling within paragraphs (a) to (d) of sub-paragraph (1) above or the Franchising Director, and
  - (c) the person making the corresponding acquisition is neither a person falling within those paragraphs nor the Franchising Director,

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unless the person making the disposal is connected with the person to whom the disposal is made.

- (5) In this paragraph, “the corresponding acquisition”, in the case of any disposal, means the acquisition made by the person to whom the disposal is made.

#### Marginal Citations

**M57** 1993 c. 43.

**M58** 1993 c. 43.

#### *Chargeable gains: group transactions*

- 8 (1) For the purposes of section 179 of the Gains Act (company ceasing to be a member of a group), where any company (“the degrouped company”) ceases, by virtue of a qualifying transaction, to be a member of a group of companies, the degrouped company shall not, by virtue of that qualifying transaction, be treated under that section as having sold, and immediately reacquired, any asset acquired from a company which was at the time of acquisition a member of that group.
- (2) Where sub-paragraph (1) above applies in relation to any asset, section 179 of the Gains Act shall have effect on the first subsequent occasion on which the degrouped company ceases to be a member of a group of companies (the “subsequent group”), otherwise than by virtue of a qualifying transaction, as if both the degrouped company and the company from which the asset was acquired had been members of the subsequent group at the time of acquisition.
- (3) Where, disregarding any preparatory transactions, a company would be regarded for the purposes of section 179 of the Gains Act (and, accordingly, of this paragraph) as ceasing to be, or becoming, a member of a group of companies by virtue of a qualifying transaction, it shall be regarded for those purposes as so doing by virtue of the qualifying transaction and not by virtue of any preparatory transactions.
- (4) In this paragraph—  
“preparatory transaction” means anything done under or by virtue of Part II of the Railways Act 1993 for the purpose of initiating, advancing or facilitating the qualifying transaction in question;  
“qualifying transaction” means—  
(a) a relevant transfer;  
(b) any other transfer or disposal under or by virtue of section 85, 88(6) or (7) or 89 of the Railways Act 1993.
- (5) Expressions used in this paragraph and in section 179 of the Gains Act have the same meaning in this paragraph as they have in that section.

#### *Chargeable gains: disposal of debts*

- 9 (1) Where by virtue of any relevant transfer—  
(a) any debt owed to the predecessor is transferred to the transferee, and  
(b) the predecessor would, apart from this sub-paragraph, be the original creditor in relation to that debt for the purposes of section 251 of the Gains Act (disposal of debts),

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that Act shall have effect as if the transferee and not the predecessor were the original creditor for those purposes.

(2) Where, by virtue of any relevant transfer, any obligations of the predecessor under a guarantee of the repayment of a loan are transferred to the transferee, the transferee shall be treated for the purposes of section 253(4) of the Gains Act (relief for guarantors) as a person who gave the guarantee.

(3) In any case where—

(a) by virtue of any relevant transfer, a debt owed to the predecessor is transferred to the transferee,

(b) that debt is either—

(i) a right to the repayment of any amount outstanding as principal on a loan which is a qualifying loan for the purposes of either of sections 253<sup>F336</sup> . . . of the Gains Act (relief for irrecoverable debts owed by traders and payments under guarantees), or

(ii) a right to recover any amount paid under a guarantee of the repayment of such a loan or of a loan which would be such a loan but for section 253(1)(c) of that Act (exclusion of debts not on security), and

(c) no allowable loss in respect of the amount mentioned in paragraph (b)(i) or (ii) above has been claimed by the predecessor under either of sections 253<sup>F336</sup> . . . of that Act before the coming into force of the relevant transfer,

those sections shall have effect with the modifications set out in sub-paragraph (4) below.

(4) Those modifications are—

(a) that the loan or, as the case may be, the guarantee shall be treated as if it had been made or given by the transferee, and

(b) that any payment made under the guarantee by the predecessor shall be treated as if it had been made by the transferee,

and those sections shall accordingly have effect as if there had been no assignment of the right to recover the principal of the loan or of any right to recover an amount paid under the guarantee.

(5) In any case where—

(a) a debt falling within sub-paragraph (3)(b) above is transferred by virtue of a relevant transfer, and

(b) before the coming into force of the relevant transfer, the predecessor has claimed a loss in respect of the amount mentioned in sub-paragraph (3)(b)

(i) or (ii) above under section 253<sup>F336</sup> . . . of the Gains Act,

the relevant transfer shall not be treated as an assignment of the debt for the purposes of those sections and sub-paragraph (2) above shall not have effect in relation to the transferee, so far as relating to the amount mentioned in paragraph (b) above.

(6) In any case where—

(a) any right to the recovery of an amount falling within subsection (3) of section 253 of the Gains Act (relief in respect of certain irrecoverable loans) is transferred by virtue of a relevant transfer,

(b) an allowable loss determined by reference to that amount has been treated under that subsection as accruing to the predecessor, and

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- (c) the whole or any part of that amount is at any time recovered by the transferee or by a company in the same group of companies as the transferee, that Act shall have effect as if a chargeable gain equal to so much of the allowable loss as corresponds to the amount recovered had accrued to the transferee or, as the case may be, to the company in the same group as the transferee.
- (7) In any case where—
- any right to the recovery of an amount falling within subsection (4) of section 253 of the Gains Act is transferred by virtue of a relevant transfer,
  - an allowable loss determined by reference to that amount has been treated under that subsection as accruing to the predecessor, and
  - the whole or any part of the amount mentioned in subsection (4)(a), or the whole or any part of the amount of the payment mentioned in subsection (4) (b), of that section is at any time recovered by the transferee or by a company in the same group of companies as the transferee,
- that Act shall have effect as if a chargeable gain equal to so much of the allowable loss as corresponds to the amount recovered had accrued to the transferee or, as the case may be, to the company in the same group as the transferee.
- (8) In any case where—
- any right to recovery of the relevant outstanding amount, as defined in subsection (11) of section 254 of the Gains Act, is transferred by virtue of a relevant transfer,
  - an allowable loss determined by reference to that amount has been treated under subsection (2) of that section (relief for debts on qualifying corporate bonds) as accruing to the predecessor, and
  - the whole or any part of that amount is at any time recovered by the transferee or by a company in the same group of companies as the transferee,
- that Act shall have effect as if a chargeable gain equal to so much of the allowable loss as corresponds to the amount recovered had accrued to the transferee or, as the case may be, to the company in the same group as the transferee.
- (9) In any case where sub-paragraph (6), (7) or (8) above applies in relation to an allowable loss, subsections (7) and (8) of section 253 of the Gains Act <sup>F336</sup> . . . (which deem a chargeable gain to arise where an amount treated as an allowable loss is recovered by another company in the same group) shall not apply in relation to that allowable loss.
- (10) Expressions used in this paragraph and in section 253 <sup>F336</sup> . . . of the Gains Act have the same meaning in this paragraph as they have in that section.

#### Textual Amendments

**F336** Words in Sch. 24 para. 9 repealed (the repeals coming into force in accordance with the provisions of Pt. IV Ch. II (ss. 80-105) of the repealing Act) by 1996 c.8, ss. 105, 205, Sch. 41 Pt. V(3), Note

#### *Chargeable gains: assets held before 6th April 1965*

- 10 Schedule 2 to the Gains Act (assets held on 6th April 1965) shall have effect in relation to any assets which vest in the transferee by virtue of a relevant transfer as if—

*Status: Point in time view as at 01/04/2023.*

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- (a) the predecessor and the transferee were the same person; and
- (b) those assets, to the extent that they were in fact acquired or provided by the predecessor, were acquired or, as the case may be, provided by the transferee.

*Chargeable gains: miscellaneous disposals and acquisitions*

- 11 (1) In this paragraph, “relevant disposal” means—
- (a) a disposal by virtue of a section 85 transfer scheme, other than a restructuring scheme, to the extent that the scheme provides for the transfer of property, rights and liabilities of—
    - (i) the Board,
    - (ii) a wholly owned subsidiary of the Board,
    - (iii) a publicly owned railway company, or
    - (iv) a company which is wholly owned by the Franchising Director,to a franchise company or to the Franchising Director;
  - (b) a disposal pursuant to a direction under section 88(6) or (7) or 89 of the <sup>M59</sup>Railways Act 1993;
  - (c) a disposal by or pursuant to an agreement or instrument made or executed, transaction effected or direction given under or by virtue of paragraph 2, 3 or 14(2) of Schedule 8 to that Act, in a case where the transfer scheme in question is a section 85 transfer scheme, other than a restructuring scheme; or
  - (d) a disposal pursuant to a requirement imposed under paragraph 7(2)(b) of that Schedule, in a case where the transfer to which that Schedule applies is a transfer by virtue of a section 85 transfer scheme.
- (2) Subject to sub-paragraph (3) below, section 17 of the Gains Act (disposals and acquisitions treated as made at market value) shall not have effect—
- (a) in relation to a relevant disposal or the corresponding acquisition,
  - (b) in relation to an acquisition by a franchise company, in a case where the corresponding disposal is a disposal by the Franchising Director by virtue of a section 85 transfer scheme, or
  - (c) in relation to a disposal of a historical record or artefact in accordance with directions under section 125 of the <sup>M60</sup>Railways Act 1993 (railway heritage),
- unless, in a case falling within paragraph (a) or (b) above, the person making the disposal is connected with the person making the acquisition.
- (3) Where there is a relevant disposal of an asset of—
- (a) the Board,
  - (b) a subsidiary of the Board,
  - (c) a publicly owned railway company, or
  - (d) a company wholly owned by the Franchising Director,
- to the Franchising Director or a company wholly owned by the Crown, the disposal shall be taken for the purposes of the Gains Act, in relation to the person making the disposal and, if the disposal is made to a company wholly owned by the Crown, the person to whom the disposal is made, to be for a consideration such that no gain or loss accrues on the disposal.
- (4) Where there is a disposal of a historical record or artefact in accordance with directions under section 125 of the <sup>M61</sup>Railways Act 1993 and the disposal is either—

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- (a) for a consideration not exceeding the sums which are allowable as a deduction under section 38 of the Gains Act (consideration for, and incidental costs of, original acquisition etc), or
- (b) for no consideration,

the disposal shall be taken for the purposes of the Gains Act, in relation to the person to whom the disposal is made as well as the person making the disposal, to be for a consideration such that no gain or loss accrues on the disposal.

(5) In this paragraph—

“the corresponding acquisition”, in the case of any disposal, means the acquisition made by the person to whom the disposal is made;

“the corresponding disposal” in the case of any acquisition, means the disposal to the person by whom the acquisition is made.

#### Marginal Citations

**M59** 1993 c. 43.

**M60** 1993 c. 43.

**M61** 1993 c. 43.

#### *Transfers of trading stock*

- 12 (1) This paragraph applies in any case where—
- (a) by virtue of a relevant transfer, any trading stock belonging to a trade carried on by the predecessor (“the predecessor’s trade”) vests in the transferee, and
  - (b) the trading stock is acquired by the transferee as trading stock for the purposes of a trade which he carries on or which he begins to carry on after the relevant transfer (“the transferee’s trade”).
- (2) Where this paragraph applies, the trading stock in question shall, for the purposes (whether in relation to the predecessor or the transferee) of computing for the purposes of the Corporation Tax Acts the [<sup>F337</sup>profits] of the predecessor’s trade and the transferee’s trade,—
- (a) be taken to have been both disposed of by the predecessor and acquired by the transferee in the course of those trades and (subject to that) at the time when the transfer comes into force; and
  - (b) be valued in each case as if that disposal and acquisition had been for a consideration which in relation to the predecessor would have resulted in neither a profit nor a loss being brought into account in respect of the disposal in the accounting period of the predecessor which is current at that time.
- (3) In this paragraph “trading stock” has the same meaning as in section 100 of the Taxes Act 1988.

#### Textual Amendments

**F337** Words in Sch. 24 para. 12(2) substituted (31.7.1998) by 1998 c. 36, s. 46(3), **Sch. 7 para. 9**



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### *Transfer of rights to receipts*

- 13 Where, by virtue of any relevant transfer, there is transferred any right of the predecessor to receive any amount which is for the purposes of corporation tax—
- (a) an amount brought into account as a trading receipt of the predecessor for any accounting period ending before the time when the transfer comes into force, or
  - (b) an amount falling to be so brought into account if it is assumed, where it is not the case, that the accounting period of the predecessor current on the day before the transfer comes into force ends immediately before that time,
- the transfer shall not require any modification of the way in which that amount has been and is to be treated in relation to the predecessor for those purposes or entitle any amount due or paid in respect of that right to be treated as a trading receipt of the transferee for any accounting period.

### *Transfer of liabilities*

- 14 (1) If the whole or any part of the amount of a liability transferred by virtue of a relevant transfer falls, for the purposes of corporation tax,—
- (a) to be brought into account as deductible in computing the predecessor's profits, or any description of the predecessor's profits, for any accounting period ending before the time when the transfer comes into force, or
  - (b) to be so brought into account if it is assumed, where it is not the case, that the accounting period of the predecessor current on the day before the transfer comes into force ends immediately before that time,
- then the transfer shall not require any modification of the way in which that amount or, as the case may be, that part of that amount has been or is to be treated in relation to the predecessor for those purposes or entitle any amount due or paid in respect of that liability or, as the case may be, the corresponding part of that liability to be deductible in computing the transferee's profits, or any description of the transferee's profits, for any accounting period.
- (2) If and to the extent that the amount of any liability which, in consequence of any relevant transfer, falls to be discharged by the transferee is an amount which would (but for that and any other transfer) have fallen to be deductible in computing the predecessor's profits, or any description of the predecessor's profits, for any accounting period beginning with the coming into force of the transfer or at any subsequent time, that amount shall, to that extent,—
- (a) not be so deductible; but
  - (b) subject to sub-paragraph (3) below, be deductible in computing the transferee's profits to the same extent as if the transferee had become subject to the obligation in pursuance of which the liability arises or has arisen at the same time and for the same consideration, and otherwise on the same terms and in the same circumstances, as the predecessor;
- and for the purposes of this sub-paragraph it shall be assumed, where it is not the case, that the accounting period of the predecessor current on the day before the transfer comes into force ends immediately before the coming into force of that transfer.
- (3) For the purposes of corporation tax, where any relevant transfer has the effect that any liability falls to any extent to be discharged by the transferee instead of by the predecessor, the amounts deductible in computing the transferee's profits, or any description of the transferee's profits, for any accounting period shall not include

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any amount in respect of so much of that liability as falls to be so discharged unless it is an amount which (but for that and any other transfer) would have fallen to be deductible in computing the predecessor's profits, or any description of the predecessor's profits, for any accounting period beginning or ending after the coming into force of that transfer.

- (4) The preceding provisions of this paragraph shall apply in relation to the deduction of charges on income against the total profits of the predecessor or transferee for any period as they apply in relation to the deduction of any amount in the computation for that period of the profits of the predecessor or, as the case may be, of the transferee.
- (5) For the purposes of Chapter II of Part VI of the Taxes Act 1988 (definition of distributions), where in the case of any relevant transfer any consideration given or treated as given in respect of a security relating to—
- (a) any liability, or
  - (b) the use of the principal to which any liability, being a liability to interest or an equivalent liability, relates,

would fall (apart from this sub-paragraph) to be regarded for those purposes as new consideration received by the predecessor, that consideration shall be treated instead, to the extent that it relates to so much of the liability as falls in consequence of the transfer to be discharged by the transferee, as if it were new consideration received by the transferee.

#### *Trading losses*

- 15 (1) Subject to the following provisions of this paragraph, where as a result of a relevant transfer, the predecessor falls to be regarded for the purposes of section 343 of the Taxes Act 1988 (company reconstructions without change of ownership) as ceasing to carry on a trade and the transferee falls to be regarded for the purposes of that section as beginning to carry on that trade—
- (a) the transferee shall not, by virtue of those matters, be entitled to any relief under section 393(1) (trading losses) of that Act to which it would, apart from this paragraph, have been entitled by virtue of section 343(3) of that Act; and
  - (b) after the coming into force of the relevant transfer, the loss in question shall continue to be regarded for the purposes of the Corporation Tax Acts as a loss incurred in the trade for the time being carried on by the predecessor to the same extent as it would have been so regarded apart from the relevant transfer (and shall be eligible for relief accordingly).
- (2) The following provisions of this paragraph apply in any case where—
- (a) a restructuring scheme makes express provision for the transfer from the predecessor to the transferee of the right to obtain tax relief in respect of such an amount of the predecessor's unrelieved trading losses or unrelieved transferred losses as may be specified in, or determined in accordance with, the scheme; and
  - (b) after the relevant date the transferee carries on, or begins to carry on, any trade (whether or not the trade, or a part of the trade, carried on by the predecessor);

and any reference in this paragraph to a transferred loss is a reference to the amount mentioned in paragraph (a) above.

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- (3) The transferee shall be entitled to relief under section 393(1) of the Taxes Act 1988 for the transferred loss, as for a loss sustained by the transferee in carrying on its trade, but the transferred loss may only be set off against trading income of the transferee which arises in an accounting period throughout which the transferee is a public sector railway company.
- (4) Where the transferee ceases to be a public sector railway company, it shall be assumed for the purposes of giving relief by virtue of sub-paragraph (3) above that—
- (a) on the occasion of the cessation (unless a true accounting period of the transferee ends then) an accounting period of the transferee ends and a new one begins, the new accounting period to end with the end of the true accounting period; and
  - (b) the amount of the trading income for the true accounting period of the transferee against which the relief may be allowed is apportioned to the component accounting periods;
- and any apportionment under this sub-paragraph shall be on a time basis according to the respective lengths of the component accounting periods except that, if it appears that that method would work unreasonably or unjustly, such other method shall be used as appears just and reasonable.
- (5) Relief by virtue of sub-paragraph (3) above in respect of a transferred loss shall be given against the trading income of any accounting period of the transferee before relief is given against that income in respect of losses incurred by the transferee after the relevant date.
- (6) As from the relevant date—
- (a) the amount of the predecessor's unrelieved transferred losses (if any) shall be regarded for the purposes of this paragraph as reduced by an amount equal to the transferred loss; and
  - (b) if the transferred loss exceeds the amount of the predecessor's unrelieved transferred losses before the reduction under paragraph (a) above, or if there are no such losses, the predecessor's unrelieved trading losses shall be regarded for the purposes of the Corporation Tax Acts as reduced by the amount of that excess or, as the case may be, by an amount equal to the transferred loss.
- (7) Without prejudice to the generality of sub-paragraphs (1) and (3) above, if the conditions in subsection (1) of section 343 of the Taxes Act 1988 become satisfied at any time on or after the relevant date in relation to any trade (or, where subsection (8) of that section applies, any part of a trade which falls to be treated for the purposes of that section as a separate trade), the company which is the successor, within the meaning of that section, shall not become entitled to relief by virtue of subsection (3) of that section in respect of any amount for which the company which is the predecessor, within the meaning of that section, would have been entitled to relief by virtue of sub-paragraph (3) above had it continued to carry on the trade (or the part of the trade which falls to be treated as a separate trade).
- (8) Subject to sub-paragraph (9) below, the provisions of a restructuring scheme providing for the determination of the amount which is to be that of any transferred loss may include provision—
- (a) for such a determination to be made by the Secretary of State in such manner as may be described in the scheme;

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- (b) for any amount determined to be calculated by reference to such factors, or to the opinion of such person, as may be so described; and
  - (c) for a determination under those provisions to be capable of being modified, on one or more occasions, in such manner and in such circumstances as may be so described.
- (9) The consent of the Treasury shall be required for the making or modification of a determination of any such amount as is mentioned in sub-paragraph (8) above; and the consent of the transferee shall also be required for any such modification after the coming into force of the relevant transfer.
- (10) Where there is a determination, or a modification of a determination, for any purposes of this paragraph, all necessary adjustments shall be made by making assessments or by repayment or discharge of tax, and shall be so made notwithstanding any limitation on the time within which assessments may be made.
- (11) For the purposes of this paragraph, a transferee is at any time a “public sector railway company” if, and only if, it is at that time—
- (a) the Board;
  - (b) a wholly owned subsidiary of the Board;
  - [<sup>F338</sup>(ba) a wholly owned subsidiary of the Strategic Rail Authority;]
  - (c) a publicly owned railway company; or
  - (d) a company wholly owned by the Crown.
- (12) In this paragraph—
- “the relevant date” means the date on which the transfer mentioned in sub-paragraph (2)(a) above takes effect;
  - “trading income” has the same meaning as it has in section 393 of the Taxes Act 1988;
  - “unrelieved trading losses” means any losses—
    - (a) which were incurred by the predecessor in carrying on a trade in accounting periods ending before the relevant date, or
    - (b) for which the predecessor has, by virtue of section 343(3) of the Taxes Act 1988, become entitled to relief under section 393(1) of that Act,
      - and which would, apart from the restructuring scheme mentioned in sub-paragraph (2)(a) above, have fallen to be set off under the said section 393(1) against trading income of the predecessor arising in the accounting period in which the relevant date falls;
  - “unrelieved transferred losses” means so much of a transferred loss as would, apart from the restructuring scheme mentioned in sub-paragraph (2) (a) above, have fallen to be set off under section 393(1) of the Taxes Act 1988, as it applies by virtue of sub-paragraph (3) above, against trading income of the predecessor arising in the accounting period in which the relevant date falls.
- (13) It shall be assumed for the purposes of the definitions of “unrelieved trading losses” and “unrelieved transferred losses” in sub-paragraph (12) above (if it is not in fact the case) that the trading income mentioned in those definitions is at least equal to the aggregate amount of the losses in question of each of those descriptions.

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### Textual Amendments

**F338** Sch. 24 para. 15(11)(ba) inserted (15.1.2001) by 2000 c. 38, s. 252, **Sch. 27 para. 50(2)**; S.I. 2000/3376, **art. 2**

### *No reduction in allowable losses on extinguishment of certain liabilities*

- 16 Where any of the liabilities of a successor company are extinguished by virtue of section 106(1) of the <sup>M62</sup>Railways Act 1993, section 400 of the Taxes Act 1988 (reduction of allowable losses on write-off of government investment) shall not have effect in relation to any amount of government investment in a body corporate which, apart from this paragraph, would thereby fall to be regarded as written-off for the purposes of that section.

### Marginal Citations

**M62** 1993 c. 43.

### *Group relief*

- 17 (1) The existence of the powers of the Secretary of State or the Franchising Director under Part II of the Railways Act 1993 shall not be regarded as constituting arrangements falling within subsection (1) or (2) of section 410 of the Taxes Act 1988 (arrangements for the transfer of a company to another group or consortium).
- (2) Nothing in Part II of the Railways Act 1993, and no direction given by the Secretary of State under or by virtue of any provision of that Part, shall be regarded as constituting option arrangements for the purposes of paragraph 5B of Schedule 18 to the Taxes Act 1988.
- (3) Arrangements relating to the transfer, pursuant to any provision of Part II of the Railways Act 1993, of shares of a subsidiary of the Board to—
- (a) the Secretary of State,
  - (b) the Franchising Director,
  - (c) a publicly owned railway company,
  - (d) a company which is wholly owned by the Crown, or
  - (e) a person acting on behalf of a person falling within any of paragraphs (a) to (d) above,
- shall not, so far as so relating, be regarded as constituting arrangements falling within subsection (1)(b)(i) or (ii) of section 410 of the Taxes Act 1988.
- (4) Arrangements relating to the transfer, by virtue of a section 85 transfer scheme, of the whole or any part of a trade carried on by the Board or a wholly owned subsidiary of the Board to—
- (a) a publicly owned railway company, or
  - (b) a company wholly owned by the Franchising Director,
- shall not, so far as so relating, be regarded as constituting arrangements falling within section 410(1)(b)(iii) of the Taxes Act 1988.

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- (5) Arrangements relating to the transfer, pursuant to any provision of Part II of the Railways Act 1993, of shares of a subsidiary of the Board, or shares of a company owned by a consortium, to—
- (a) the Secretary of State,
  - (b) the Franchising Director,
  - (c) a publicly owned railway company,
  - (d) a company which is wholly owned by the Crown, or
  - (e) a person acting on behalf of a person falling within any of paragraphs (a) to (d) above,
- shall not, so far as so relating, be regarded as constituting arrangements falling within section 410(2)(b)(ii) of the Taxes Act 1988.
- (6) None of sub-paragraphs (3) to (5) above shall have effect in relation to any arrangements if—
- (a) notwithstanding the provisions of those sub-paragraphs, the arrangements to any extent fall within section 410(1) or (2) of the Taxes Act 1988; or
  - (b) the arrangements form part of a series of subsisting arrangements which to any extent—
    - (i) relate to the transfer of any shares or assets of, or the whole or any part of the trade carried on by, a company to which the first-mentioned arrangements relate, and
    - (ii) notwithstanding the provisions of sub-paragraphs (3) to (5) above, fall within section 410(1) or (2) of the Taxes Act 1988.
- (7) Section 413(6)(a) of the Taxes Act 1988 (company owned by a consortium) shall have effect for the purposes of sub-paragraph (5) above as it has effect for the purposes of Chapter IV of Part X of that Act.
- (8) In this paragraph—
- “arrangements” has the same meaning as in section 410 of the Taxes Act 1988;
- “shares” includes stock.

*Securities issued under section 98 or 106 of the Railways Act 1993*

- 18 (1) Subject to sub-paragraph (2) below, any shares issued by a relevant company in pursuance of section 98 or 106 of the <sup>M63</sup>Railways Act 1993 (initial share holding in, and extinguishment of certain liabilities of, successor companies) shall be treated for the purposes of the Corporation Tax Acts as if they had been issued wholly in consideration of a subscription paid to that company (and attributable equally between those shares) of an amount equal—
- (a) in the case of shares issued under section 98 of that Act, to the value, as at the transfer date, of the property, rights and liabilities vested in that company in accordance with the transfer scheme mentioned in subsection (1) of that section, or
  - (b) in the case of shares issued under section 106 of that Act, to the amount of the liabilities extinguished by the order under subsection (1) of that section, reduced, in either case, by the principal sum payable under any debentures issued by the company in pursuance of the section in question.

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- (2) Where two or more classes of share are issued by a relevant company in pursuance of section 98 or, as the case may be, section 106 of the Railways Act 1993—
- (a) the issued shares of each of those classes shall be valued, as at the day on which, in consequence of section 98(4) or, as the case may be, section 106(5) of that Act, no more shares can be directed to be issued by the company under the section in question;
  - (b) the amount of the consideration mentioned in sub-paragraph (1) above shall be apportioned between those classes of share in proportion to the aggregate value of the issued shares of each of those classes, as determined pursuant to paragraph (a) above; and
  - (c) the portion attributed to any class of share pursuant to paragraph (b) above shall be divided by the number of issued shares of that class, the resulting amount being referred to in the following provisions of this sub-paragraph as the “appropriate price” for a share of that class;
- and each of the issued shares of any of those classes shall be treated for the purposes of the Corporation Tax Acts as if it had been issued wholly in consideration of a subscription paid to the relevant company of an amount equal to the appropriate price for a share of that class.
- (3) Any debenture issued by a relevant company in pursuance of section 98 or 106 of the <sup>M64</sup>Railways Act 1993 shall be treated for the purposes of the Corporation Tax Acts as if it had been issued—
- (a) wholly in consideration of a loan made to that company of an amount equal to the principal sum payable under the debenture; and
  - (b) wholly and exclusively for the purposes of the trade or business carried on by that company.
- (4) If any debenture issued as mentioned in sub-paragraph (3) above includes provisions for the payment of a sum expressed as interest in respect of a period which falls wholly or partly before the issue of the debenture, any payment made in pursuance of that provision in respect of that period shall be treated for the purposes of the Corporation Tax Acts as if the debenture had been issued at the commencement of that period and, accordingly, as interest on the principal sum payable under the debenture.
- (5) The value required to be determined for the purposes of sub-paragraph (1)(a) or (2) (a) above is market value, as defined in section 272 of the Gains Act.
- (6) In this paragraph—
- “company” means a body corporate;
  - “relevant company” means a company which is—
    - (a) a successor company; or
    - (b) in the application of this paragraph in relation to shares or debentures issued pursuant to section 106 of the <sup>M65</sup>Railways Act 1993, the company, or one of the companies, wholly owning (within the meaning of that section) the successor company whose liabilities are extinguished by the order under subsection (1) of that section.

#### Marginal Citations

M63 1993 c. 43.

*Status: Point in time view as at 01/04/2023.*

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**M64** 1993 c. 43.

**M65** 1993 c. 43.

### *Leased assets*

- 19 (1) For the purposes of section 781 of the Taxes Act 1988 (assets leased to traders and others), where the interest of the lessor or the lessee under a lease, or any other interest in an asset, vests in any person by virtue of a relevant transfer—
- (a) the transfer shall (notwithstanding anything in section 783(4) of that Act) be treated as made without any capital sum having been obtained in respect of that interest by the predecessor or the transferee; and
  - (b) in a case where the interest is an interest under a lease, payments made by the predecessor under the lease before the coming into force of the transfer shall be treated as if they had been made under that lease by the transferee.
- (2) No charge shall arise under section 781(1) of the Taxes Act 1988 by virtue of section 783(2) of that Act in a case where the capital sum mentioned in section 781(1)(b)(i) or (ii) of that Act is the consideration obtained (or treated by section 783(4) of that Act as obtained) by the Board on a disposal pursuant to a direction under Part II of the <sup>M66</sup>Railways Act 1993 of securities of a subsidiary of the Board.
- (3) The grant of a lease of an asset—
- (a) by a person to an associate of his, pursuant to an obligation imposed by a restructuring scheme by virtue of section 91(1)(c) of the <sup>M67</sup>Railways Act 1993,
  - (b) by a person to an associate of his, pursuant to paragraph 2 of Schedule 8 to that Act in connection with a restructuring scheme, or
  - (c) by the Board, any of the Board's wholly owned subsidiaries, a publicly owned railway company or a company wholly owned by the Franchising Director to an associate of the grantor, pursuant to a direction under that Act,
- shall be treated for the purposes of section 781 of the Taxes Act 1988 (notwithstanding anything in section 783(4) of that Act) as made without any capital sum having been obtained by the grantor.
- (4) No charge shall arise under section 781(1) of the Taxes Act 1988 in a case where the capital sum mentioned in section 781(1)(b)(i) or (ii) of that Act is the consideration obtained (or treated by section 783(4) of that Act as obtained) on a disposal of, or of an interest in, rolling stock by—
- (a) the Board,
  - (b) a wholly owned subsidiary of the Board,
  - (c) a publicly owned railway company,
  - (d) a company wholly owned by the Franchising Director, or
  - (e) a body which, at the time when it acquired the rolling stock, fell within paragraph (b), (c) or (d) above,
- in any case where before, at or after the time when the disposal is made the lessee's interest in a lease of the rolling stock has belonged to an associate of the person making the disposal.
- (5) Section 782 of the Taxes Act 1988 (leased assets: special cases) shall not apply to payments made by—
- (a) the Board,



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- (b) a wholly owned subsidiary of the Board,
  - <sup>F339</sup>(ba) the Strategic Rail Authority,
  - (bb) a wholly owned subsidiary of the Strategic Rail Authority,]
  - (c) a publicly owned railway company,
  - (d) a company wholly owned by the Franchising Director,
  - (e) a successor company, or
  - (f) a franchise company,
- under a lease of an asset which at any time before the creation of the lease was used by a body falling within paragraphs (a) to (d) above for the purposes of a trade carried on by that body and which was, when so used, owned by that body.
- (6) Section 781 of the Taxes Act 1988 shall not, by virtue of sub-paragraph (5) above, apply to any payments to which, by virtue of section 782 of that Act, it would not have applied apart from that sub-paragraph.
- (7) In this paragraph—
- “asset” has the meaning given by section 785 of the Taxes Act 1988;
  - “associate” shall be construed in accordance with section 783(10) of that Act;
  - “capital sum” has the meaning given by section 785 of that Act;
  - “lease” has the meaning given by section 785 of that Act;
  - “rolling stock” has the meaning given by section 83(1) of the <sup>M68</sup>Railways Act 1993;
  - “securities” has the meaning given by [<sup>F340</sup>section 102A(2)] of the Financial Services and Markets Act 2000.

#### Textual Amendments

**F339** Sch. 24 para.19(5)(ba)(bb) inserted (15.1.2001) by 2000 c. 38, s. 252, **Sch. 27 para. 50(3)**; S.I. 2000/3376, **art. 2**

**F340** Words in Sch. 24 para. 19(7) substituted (1.4.2013) by **Financial Services Act 2012 (c. 21)**, s. 122(3), **Sch. 18 para. 79(3)** (with **Sch. 20**); S.I. 2013/423, **art. 3**, **Sch.**

#### Marginal Citations

**M66** 1993 c. 43.

**M67** 1993 c. 43.

**M68** 1993 c. 43.

#### *Continuity in relation to capital allowances etc where trade transferred*

- 20 (1) Subject to the following provisions of this Schedule, where, apart from this paragraph—
- (a) the predecessor would be treated for the purposes of the Corporation Tax Acts as having ceased, by virtue of the coming into force of a relevant transfer, to carry on any trade, and
  - (b) the transferee would be treated as having begun, on the coming into force of that transfer, to carry it on,
- then <sup>F341</sup>... sub-paragraphs (2) to (4) below shall apply.

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- (2) Subject to sub-paragraphs (3) and (4) below, in a case falling within sub-paragraph (1) above—
- (a) there shall be made to or on the transferee in accordance with [F<sup>342</sup>the Capital Allowances Act] all such allowances and charges as would, if the predecessor had continued to carry on the trade, have fallen to be made to or on the predecessor; and
  - (b) the amount of any such allowance or charge shall be computed as if—
    - (i) the transferee had been carrying on the trade since the predecessor began to do so; and
    - (ii) everything done to or by the predecessor had been done to or by the transferee (but so that the relevant transfer itself, so far as it relates to any assets in use for the purpose of the trade, shall not be treated as giving rise to any such allowance or charge).
- (3) For the purposes of the Corporation Tax Acts, only such amounts (if any) as may be specified in or determined in accordance with the restructuring scheme providing for a relevant transfer shall be allocated to the transferee in respect of expenditure by reference to which capital allowances may be made by virtue of sub-paragraph (2) above in relation to anything to which the transfer relates.
- (4) Sub-paragraph (2) above shall affect the amounts falling to be taken into account in relation to the predecessor as expenditure by reference to which capital allowances may be made only so far as necessary to give effect to a reduction of any such amount by a sum equal to so much of that amount as is allocated to the transferee as mentioned in sub-paragraph (3) above.
- (5) Subject to sub-paragraph (6) below, the provisions of a restructuring scheme providing for the determination of any amount which for the purposes of sub-paragraph (3) above is to be allocated, in the case of any relevant transfer, to the transferee may include provision—
- (a) for such a determination to be made by the Secretary of State in such manner as may be described in the scheme;
  - (b) for any amount determined to be calculated by reference to such factors or to the opinion of such person as may be so described; and
  - (c) for a determination under those provisions to be capable of being modified, on one or more occasions, in such manner and in such circumstances as may be so described.
- (6) The consent of the Treasury shall be required for the making or modification of a determination of any such amount as is mentioned in sub-paragraph (5) above; and the consent of the transferee shall also be required for any such modification after the coming into force of the relevant transfer.
- (7) This sub-paragraph applies in any case where assets which are the subject of a relevant transfer became vested in the predecessor by virtue of a transfer made by a company; and in any such case—
- (a) if the predecessor held a direct or indirect interest in the company at the time of the transfer by the company, that interest shall be treated for the purposes of sub-paragraph (2)(b)(ii) above as if it had instead been held by the transferee;
  - (b) if the company held a direct or indirect interest in the predecessor at the time of the transfer by the company, the interest which the company held in

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- the predecessor shall be treated for the purposes of sub-paragraph (2)(b)(ii) above as if it had instead been the corresponding interest in the transferee; and
- (c) if there was a person who, at the time of the transfer by the company, held—
- (i) a direct or indirect interest in the predecessor, and
  - (ii) a direct or indirect interest in the company,
- the interest which that person held at that time in the predecessor shall be treated for the purposes of sub-paragraph (2)(b)(ii) above as if it had instead been the corresponding interest in the transferee.
- (8) Neither section 343 of the Taxes Act 1988 (company reconstructions without change of ownership) nor <sup>F343</sup>sections 266 and 267 of the Capital Allowances Act (election where predecessor and successor are connected persons)] shall have effect in a case falling within sub-paragraph (1) above.
- (9) In determining whether sub-paragraph (1) above has effect in relation to a relevant transfer in a case where—
- (a) the predecessor continues to carry on any trade or part of a trade after the coming into force of the transfer, or
  - (b) the transferee was carrying on any trade before the coming into force of the transfer,
- the trade or part of a trade which is continued or, as the case may be, was being carried on shall for the purposes of that sub-paragraph be treated in relation to any trade or part of a trade which is transferred by virtue of the transfer as a separate trade and shall accordingly be disregarded.
- (10) Where there is a determination, or a modification of a determination, for any purposes of this paragraph, all necessary adjustments shall be made by making assessments or by repayment or discharge of tax, and shall be so made notwithstanding any limitation on the time within which assessments may be made.

#### Textual Amendments

- F341** Words in Sch. 24 para. 20(1) repealed (1.4.2009) (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 398](#), [Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))
- F342** Words in Sch. 24 para. 20(1)(2)(a) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by [2001 c. 2, ss. 578, 579](#), [Sch. 2 para. 91\(3\)](#)
- F343** Words in Sch. 24 para. 20(8) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by [2001 c. 2, ss. 578, 579](#), [Sch. 2 para. 91\(4\)](#)

#### *Capital allowances in certain cases where paragraph 20 does not apply*

- 21 (1) <sup>F344</sup>The Capital Allowances Act] shall have effect in accordance with this paragraph in relation to any property if—
- (a) it is property to which a relevant transfer relates; and
  - (b) paragraph 20 above does not apply in relation to its transfer to the transferee; and in this paragraph “the relevant scheme”, in relation to property to which a relevant transfer relates, means the restructuring scheme that provides for that transfer.

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- (2) In any case where—
- (a) [<sup>F345</sup>section 573 of the Capital Allowances Act (transfers treated as sales) as it applies for the purposes of Part 3 of that Act] applies on the relevant transfer in relation to the property, and
  - (b) the relevant scheme contains provision for the sale of that property which is deemed to occur by virtue of [<sup>F346</sup>that section] to be deemed for the purposes of [<sup>F346</sup>that Act] to be at a price specified in or determined in accordance with the scheme,
- that deemed sale shall be treated as a sale at the price so specified or determined (instead of at the price determined [<sup>F347</sup>under that section or any other provision of the Capital Allowances Act), sections 567 to 570 of that Act] shall not apply and that provision of the scheme shall have an equivalent effect in relation to the expenditure which the transferee is to be treated as having incurred in making the corresponding purchase.
- (3) Where the property is plant or machinery which would, for the purposes of [<sup>F348</sup>the Capital Allowances Act], be treated on the coming into force of the relevant transfer as disposed of by the predecessor to the transferee and the relevant scheme contains provision for the disposal value of that property to be deemed for the purposes of [<sup>F349</sup>that Act] to be of such amount as may be specified in or determined in accordance with the scheme—
- (a) that provision shall have effect, instead of [<sup>F350</sup>section 61(2) to (4), 72(3) to (5), 171, 196 or 423 of the Capital Allowances Act], for determining an amount as the disposal value of the property or, as the case may be, as the price at which any fixture is to be treated as sold;
  - (b) the transferee shall be deemed to have incurred expenditure of that amount on the provision of that property; and
  - (c) in the case of a fixture, the expenditure which falls to be treated as incurred by the transferee shall be deemed for the purposes of [<sup>F351</sup>sections 181(1) and 182(1)] of that Act to be incurred by the giving of a consideration consisting in a capital sum of that amount.
- (4) Sub-paragraphs (5) and (6) of paragraph 20 above shall apply in relation to any determination of any amount in accordance with any provision made by a restructuring scheme for the purposes of this paragraph as they apply for the purposes of a determination such as is mentioned in those sub-paragraphs.
- (5) Where there is a determination, or a modification of a determination, for any purposes of this paragraph, all necessary adjustments shall be made by making assessments or by repayment or discharge of tax, and shall be so made notwithstanding any limitation on the time within which assessments may be made.

#### Textual Amendments

- F344** Words in Sch. 24, para. 21(1) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579, Sch. 2 para. 91(5)
- F345** Words in Sch. 24 para. 21(2)(a) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579, Sch. 2 para. 91(6)(a)
- F346** Words in Sch. 24 para. 21(2)(b) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579, Sch. 2 para. 91(6)(b)

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- F347** Words in Sch. 24 para. 21(2)(b) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579, **Sch. 2 para. 91(6)(c)**
- F348** Words in Sch. 24 para. 21(3) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579, **Sch. 2 para. 91(7)(a)**
- F349** Words in Sch. 24 para. 21(3) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579, **Sch. 2 para. 91(7)(b)**
- F350** Words in Sch. 24 para. 21(3)(a) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579, **Sch. 2 para. 91(7)(c)**
- F351** Words in Sch. 24 para. 21(3)(c) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579, **Sch. 2 para. 91(7)(d)**

*Capital allowances: actual consideration to be the disposal value in certain other cases*

- 22 (1) In this paragraph, “relevant disposal” means—
- (a) a disposal by virtue of a section 85 transfer scheme, other than a restructuring scheme, to the extent that the scheme provides for the transfer of property, rights and liabilities of—
    - (i) the Board,
    - (ii) a wholly owned subsidiary of the Board,
    - (iii) a publicly owned railway company, or
    - (iv) a company which is wholly owned by the Franchising Director,to a franchise company or to the Franchising Director;
  - (b) a disposal pursuant to a direction under section 89 of the <sup>M69</sup>Railways Act 1993;
  - (c) a disposal in accordance with directions under section 125 of that Act;
  - (d) a disposal by or pursuant to an agreement or instrument made or executed, transaction effected or direction given under or by virtue of paragraph 2, 3 or 14(2) of Schedule 8 to that Act, in a case where the transfer scheme in question is a section 85 transfer scheme, other than a restructuring scheme; or
  - (e) a disposal pursuant to a requirement imposed under paragraph 7(2)(b) of that Schedule, in a case where the transfer to which that Schedule applies is a transfer by virtue of a section 85 transfer scheme.
- (2) A relevant disposal of the relevant interest in—
- (a) an industrial [<sup>F352</sup>building], or
  - (b) a qualifying hotel or a commercial [<sup>F352</sup>building],
- shall be treated for the purposes of [<sup>F353</sup>Part 3 of the Capital Allowances Act], and the other provisions of that Act which are relevant to that Part, as a sale of that relevant interest; and [<sup>F354</sup>sections 567 to 570] of that Act (sales between connected persons or without change of control) shall not have effect in relation to that sale.
- (3) Where there is a relevant disposal of [<sup>F355</sup>plant or machinery], the amount which, in consequence of that disposal, is to be brought into account as the disposal value of that [<sup>F355</sup>plant or machinery] for the purposes of [<sup>F356</sup>section 55 of the Capital Allowances Act (determination of entitlement or liability) shall, subject to section 62 of that Act (general limit on amount of disposal value)] be taken—
- (a) if consideration is given in respect of the relevant disposal, to be an amount equal to the amount or value of that consideration, or
  - (b) if no such consideration is given, to be nil,

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notwithstanding any other provision of the [<sup>F357</sup>the Capital Allowances Act].

(4) Where, in consequence of a relevant disposal, a fixture is treated by [<sup>F358</sup>section 188 of the Capital Allowances Act] as ceasing to belong to a person at any time, the amount which, in consequence of that disposal, is to be brought into account as the disposal value of the fixture for the purposes of [<sup>F359</sup>section 55 of that Act shall, subject to section 62] of that Act, be taken—

- (a) if consideration is given in respect of the relevant disposal, to be an amount equal to that portion of the amount or value of that consideration which falls (or, if the person to whom the relevant disposal is made were entitled to an allowance, would fall) to be treated for the purposes of [<sup>F360</sup>Part 2] of that Act as expenditure incurred by that person on the provision of the fixture, or
- (b) if no such consideration is given, to be nil,

notwithstanding any other provision of [<sup>F361</sup>the Capital Allowances Act].

#### Textual Amendments

- F352** Words in Sch. 24 para. 22(2) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579, Sch. 2 para. 91(8)(a)
- F353** Words in Sch. 24 para. 22(2) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579, Sch. 2 para. 91(8)(b)
- F354** Words in Sch. 24 para. 22(2) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579, Sch. 2 para. 91(8)(c)
- F355** Words in Sch. 24 para. 22(3) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579, Sch. 2 para. 91(9)(a)
- F356** Words in Sch. 24 para. 22(3) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579, Sch. 2 para. 91(9)(b)
- F357** Words in Sch. 24 para. 22(3) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579, Sch. 2 para. 91(9)(c)
- F358** Words in Sch. 24 para. 22(4) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579, Sch. 2 para. 91(10)(a)
- F359** Words in Sch. 24 para. 22(4) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579, Sch. 2 para. 91(10)(b)
- F360** Words in Sch. 24 para. 22(4)(a) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579, Sch. 2 para. 91(10)(c)
- F361** Words in Sch. 24 para. 22(4) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579, Sch. 2 para. 91(10)(d)

#### Marginal Citations

- M69** 1993 c. 43.

#### *Sale and lease-back: limitation on tax reliefs*

- 23 (1) Section 779 of the Taxes Act 1988 (sale and lease back) shall not apply by virtue of subsection (1) or (2) of that section in any case where the liability of the transferor, or of the person associated with the transferor, is—
- (a) a liability under an access agreement, within the meaning of Part I of the <sup>M70</sup>Railways Act 1993;
  - (b) a liability under an agreement or instrument made or executed—

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- (i) pursuant to an obligation imposed by a restructuring scheme by virtue of section 91(1)(c) of that Act; or
    - (ii) pursuant to paragraph 2 of Schedule 8 to that Act;
  - (c) a liability under an exempt lease; or
  - (d) a liability to pay exempt rent or to make other exempt payments.
- (2) A lease is “exempt” for the purposes of sub-paragraph (1)(c) above if—
  - (a) the transfer mentioned in subsection (1) of section 779 of the Taxes Act 1988 is—
    - (i) a transfer by virtue of a restructuring scheme;
    - (ii) a transfer pursuant to an obligation imposed by a restructuring scheme by virtue of section 91(1)(c) of the <sup>M71</sup>Railways Act 1993; or
    - (iii) a transfer pursuant to paragraph 2 of Schedule 8 to that Act; and
  - (b) the lease is granted after that transfer and otherwise than pursuant to—
    - (i) an obligation imposed by a restructuring scheme by virtue of section 91(1)(c) of the <sup>M72</sup>Railways Act 1993; or
    - (ii) paragraph 2 of Schedule 8 to that Act.
- (3) Rent or other payments are “exempt” for the purposes of paragraph (d) of sub-paragraph (1) above if—
  - (a) the rent or other payments would, apart from that paragraph, be rent or other payments to which section 779 of the Taxes Act 1988 applies by virtue of subsection (1) or (2) of that section;
  - (b) the transfer mentioned in subsection (1) or, as the case may be, subsection (2) (a) of that section is—
    - (i) a transfer by virtue of a restructuring scheme;
    - (ii) a transfer pursuant to an obligation imposed by a restructuring scheme by virtue of section 91(1)(c) of the <sup>M73</sup>Railways Act 1993; or
    - (iii) a transfer pursuant to paragraph 2 of Schedule 8 to that Act; and
  - (c) the transaction or series of transactions mentioned in subsection (1)(b) or, as the case may be, subsection (2)(b) of the said section 779 is effected after that transfer.
- (4) In this paragraph “transferor”, “lease” and “rent” have the same meaning as they have in section 779 of the Taxes Act 1988 and “associated” shall be construed in accordance with subsection (11) of that section.

#### **Marginal Citations**

- M70** 1993 c. 43.
- M71** 1993 c. 43.
- M72** 1993 c. 43.
- M73** 1993 c. 43.

#### *Sales of land with right to reconveyance*

- 24 No charge to tax shall arise by virtue of section 36 of the Taxes Act 1988 (charge on sale of land with right to reconveyance) where the sale in question is constituted by a disposition to a franchise company—
- (a) by virtue of a transfer scheme;

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- (b) pursuant to an obligation imposed by a transfer scheme by virtue of section 91(1)(c) of the <sup>M74</sup>Railways Act 1993; or
- (c) pursuant to paragraph 2 of Schedule 8 to that Act.

#### Marginal Citations

M74 1993 c. 43.

#### *Modifications of restructuring scheme*

- 25 (1) Subject to sub-paragraph (2) below, where the effect of a restructuring scheme is modified in pursuance of an agreement or direction under paragraph 2 or 3 of Schedule 8 to the <sup>M75</sup>Railways Act 1993, the Corporation Tax Acts and this Schedule shall have effect as if—
- (a) the scheme originally made had been the scheme as modified; and
  - (b) anything done by or in relation to the preceding holder had, so far as relating to the property, rights or liabilities affected by the modification, been done by or in relation to the subsequent holder.
- (2) A disposal of an asset—
- (a) which is effected in pursuance of an agreement or direction under paragraph 2 of Schedule 8 to the <sup>M76</sup>Railways Act 1993, and
  - (b) which is either the grant of a lease of land or the creation of other liabilities and rights over land,
- shall be taken for the purposes of corporation tax on chargeable gains, in relation to the person to whom the disposal is made as well as the person making the disposal, to be effected for a consideration such that no gain or loss accrues to the person making the disposal.
- (3) Section 171(1) of the Gains Act (transfers within a group) shall not apply where the disposal in question falls within sub-paragraph (2) above.
- (4) Any reference in sub-paragraph (1) or (2) above to an agreement or direction under paragraph 2 or 3 of Schedule 8 to the <sup>M77</sup>Railways Act 1993 includes a reference to such an agreement or direction as varied in accordance with a direction given by the Secretary of State under paragraph 14(2) of that Schedule.
- (5) For the purposes of sub-paragraph (1)(b) above—
- “the preceding holder” means the person who without the modification in question—
- (a) became, by virtue of the restructuring scheme in question, entitled or subject to the property, rights or liabilities affected by the modification, or
  - (b) remained, notwithstanding the restructuring scheme in question, entitled or subject to the property, rights or liabilities affected by the modification,
- as the case may be;
- “the subsequent holder” means the person who, in consequence of the modification in question, becomes, or resumes being, entitled or subject to the property, rights or liabilities affected by the modification.



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#### Marginal Citations

**M75** 1993 c. 43.

**M76** 1993 c. 43.

**M77** 1993 c. 43.

#### *Income tax exemption for certain interest*

- 26 Where liability for a loan made to the Board is vested in a successor company by virtue of a section 85 transfer scheme, the vesting shall not affect any direction given, or having effect as if given, by the Treasury under [<sup>F362</sup>section 755 of the Income Tax (Trading and Other Income) Act 2005] (income tax exemption for interest on foreign currency securities) in respect of the loan.

#### Textual Amendments

**F362** Words in Sch. 24 para. 26 substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 473](#) (with Sch. 2)

#### *Employee benefits: transport vouchers*

- 27 (1) This paragraph applies to any person (an “eligible person”)—
- (a) who on 11th January 1994 was in the employment of—
    - (i) the Board,
    - (ii) a wholly owned subsidiary of the Board, or
    - (iii) any other subsidiary of the Board which, at that date, was a passenger transport undertaking; and
  - (b) who at that date was provided, or was eligible to be provided, by reason of that employment, with a transport voucher falling within subsection (6) of section 141 of the Taxes Act 1988 (exclusion of subsection (1) of that section in relation to certain transport vouchers);
- but this sub-paragraph is subject to sub-paragraph (2) below.
- (2) This paragraph shall not apply, or shall cease to apply, to a person if, on or after 11th January 1994, any of the following conditions became or becomes satisfied in his case, that is to say—
- (a) he ceases, otherwise than—
    - (i) by virtue of anything done under or by virtue of, or pursuant to, the <sup>M78</sup>Railways Act 1993, or
    - (ii) by virtue of any other enactment or statutory instrument, in consequence of anything so done,to be in the employment of a person falling within sub-paragraph (i) or, as the case may be, sub-paragraph (ii) or (iii) of sub-paragraph (1)(a) above;
  - (b) he is not in the employment of any person engaged in the railway industry; or
  - (c) the continuity of the period of his employment is broken.
- (3) [<sup>F363</sup>Section 86 of ITEPA 2003 (exception for certain transport vouchers)] shall, if and so long as the conditions in sub-paragraph (4) below are satisfied, have effect in relation to a transport voucher provided for an eligible person, notwithstanding—

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- (a) that the employer of the eligible person does not fall to be regarded as a passenger transport undertaking;
- (b) that the arrangements under which the transport voucher is provided were not in operation on 25th March 1982; or
- (c) that the passenger transport services which may be obtained by means of the transport voucher are provided, in whole or in part, otherwise than as mentioned in [<sup>F364</sup>section 86(2)(a) to (d) of ITEPA 2003] ;
- but this sub-paragraph is subject to sub-paragraph (2) above.
- (4) The conditions mentioned in sub-paragraph (3) above are—
- (a) that the eligible person is in the employment of an employer engaged in the railway industry;
- (b) that the transport voucher is provided by reason of the eligible person's being in the employment of such an employer;
- (c) that the transport voucher is intended to enable the eligible person or a relation of his to obtain passenger transport services; and
- (d) that the current transport voucher benefits in the case of the eligible person are not significantly better than the former transport voucher benefits for comparable employees.
- (5) The Secretary of State may, with the consent of the Treasury, by order prescribe for any purposes of this paragraph circumstances—
- (a) in which a person who ceases, or ceased, as mentioned in sub-paragraph (2) (a) above to be in the employment there mentioned shall be treated—
- (i) as if he had not ceased to be in that employment, or
- (ii) as if he had not so ceased to be in that employment;
- (b) in which a person shall be treated for a period during which he is not or was not in the employment of any person engaged in the railway industry as if he were or had been in the employment of such a person;
- (c) in which a break in the continuity of a person's period of employment shall be disregarded; or
- (d) in which a transport voucher shall be treated as if it were, or had been, provided for a person by reason of his being in the employment of an employer engaged in the railway industry.
- (6) The employers who are to be regarded for the purposes of this paragraph as “engaged in the railway industry” are those who carry on activities of a class or description specified for the purposes of this sub-paragraph in an order made by the Secretary of State with the consent of the Treasury; and the Secretary of State may so specify any class or description of activity which, in his opinion, falls within, or is related to or connected with, the railway industry.
- (7) Any power to make an order under this paragraph shall be exercisable by statutory instrument; and a statutory instrument containing such an order shall be subject to annulment pursuant to a resolution of the House of Commons.
- (8) In determining for the purposes of sub-paragraph (4)(d) above whether the current transport voucher benefits in the case of an eligible person are not significantly better than the former transport voucher benefits for comparable employees, regard shall be had, in particular, to—

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- (a) the passenger transport services which may be, or (as the case may be) might have been, obtained by means of transport vouchers under the arrangements in question,
  - (b) whether, and (if so) the extent to which, free or concessionary travel is or (as the case may be) was available under those arrangements,
  - (c) the rate of any discount to the standard fare which is or (as the case may be) was available in the case of concessionary travel under those arrangements, and
  - (d) any limitations on the availability or use of transport vouchers under the arrangements in question.
- [<sup>F365</sup>(9) Chapter I of Part XIV of the Employment Rights Act 1996, except section 218(6), shall apply for the purposes of this paragraph as it applies for the purposes of that Act.]

(12) In this paragraph—

“the current transport voucher benefits”, in the case of an eligible person, means the totality of the benefits which, by reason of his employment by an employer engaged in the railway industry, are available in the year in question—

- (a) to the eligible person, and
- (b) to relations of his,

by way of transport voucher under the arrangements under which the transport voucher in question is provided;

“the former transport voucher benefits for comparable employees”, in the case of an eligible person, means the totality of the benefits which would, by reason of the employment by the Board of a person of similar status to the eligible person (“the comparable person”), have been available in the year 1993-94—

- (a) to the comparable person, and
- (b) to relations of his,

by way of transport voucher under arrangements in operation on 25th March 1982.

[<sup>F366</sup>“ITEPA 2003” means the Income Tax (Earnings and Pensions) Act 2003.]

- [<sup>F367</sup>(13) Subject to paragraph 1(1) and sub-paragraph (12) above, expressions used in this paragraph and in section 86 of ITEPA 2003 have the same meaning in this paragraph as in that section.

This does not apply in relation to the reference to a transport voucher in sub-paragraph (1) above.]

(14) This paragraph has effect—

- (a) in relation to transport vouchers received by an employee on or after 11th January 1994; and
- (b) in relation to expense incurred on or after that date in, or in connection with, the provision of—
  - (i) any transport voucher, or
  - (ii) the money, goods or services for which it is capable of being exchanged,

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irrespective of when the transport voucher falls to be regarded as received by the employee in question.

#### Textual Amendments

- F363** Words in Sch. 24 para. 27(3) substituted (6.4.2003) (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), s. 723, Sch. 6 para. 224\(2\)](#) (with [Sch. 7](#))
- F364** Words in Sch. 24 para. 27(3)(c) substituted (6.4.2003) (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), s. 723, Sch. 6 para. 224\(3\)](#) (with [Sch. 7](#))
- F365** Sch. 24 para. 27(9) substituted for paras. (9) to (11) (22.8.1996) by [1996 c. 18, ss. 240, 243, Sch. 1 para. 62\(a\)](#) (with [ss. 191-195, 202](#))
- F366** Words in Sch. 24 para. 27(12) inserted (6.4.2003) (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), s. 723, Sch. 6 para. 224\(4\)](#) (with [Sch. 7](#))
- F367** Sch. 24 para. 27(13) substituted (6.4.2003) (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), s. 723, Sch. 6 para. 224\(5\)](#) (with [Sch. 7](#))

#### Marginal Citations

- M78** [1993 c. 43.](#)

## SCHEDULE 25 U.K.

Section 253.

### NORTHERN IRELAND AIRPORTS LIMITED

#### *Interpretation*

- 1 (1) In this Schedule—
- “the final accounting period” means the last complete accounting period of NIAL ending before the transfer date;
- “the Holding Company” means the Northern Ireland Transport Holding Company established under section 47 of the <sup>M79</sup>Transport Act (Northern Ireland) 1967;
- “NIAL” means the subsidiary of the Holding Company incorporated under the name of Northern Ireland Airports Limited;
- “the Order” means the <sup>M80</sup>Airports (Northern Ireland) Order 1994 and any reference to an Article is to an Article of the Order;
- “the successor company” means the company nominated under Article 51(1) as the successor company for the purposes of the Order;
- “the transfer date” means the day appointed under Article 54(2);
- “the transferred trade” means the trade carried on by NIAL and transferred under Article 54(2) to the successor company.
- (2) This Schedule, so far as it relates to corporation tax on chargeable gains, shall be construed as one with the <sup>M81</sup>Taxation of Chargeable Gains Act 1992.

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**Marginal Citations**

- M79 1967 c. 37 (N.I.).
- M80 S.I. 1994/426 (N.I.).
- M81 1992 c. 12.

*Transfers from NIAL to successor company: general*

- 2 (1) The following shall apply for the purposes of the Corporation Tax Acts—
- (a) the transferred trade shall be treated as having been, at the time when it began to be carried on by NIAL and at all times since that time, a separate trade carried on by the successor company;
  - (b) the trade carried on by the successor company on and after the transfer date shall be treated as the same trade as that which, by virtue of paragraph (a) above, it is treated as having carried on before that date;
  - (c) all property, rights and liabilities of NIAL which are transferred under Article 54(2) to the successor company shall be treated as having been, at the time when they became vested in NIAL and at all times since that time, property, rights and liabilities of the successor company; and
  - (d) anything done by NIAL in relation to any property, rights and liabilities which are transferred under Article 54(2) to the successor company shall be deemed to have been done by the successor company.
- (2) This paragraph shall have effect in relation to accounting periods beginning after the final accounting period.

*Roll-over relief*

- 3 (1) This paragraph applies where NIAL has, before the transfer date, disposed of (or of its interest in) any assets used, throughout the period of ownership, wholly or partly for the purposes of the transferred trade.
- (2) Sections 152 to 156 of the <sup>M82</sup>Taxation of Chargeable Gains Act 1992 (roll-over relief on replacement of business assets) shall have effect in relation to that disposal as if NIAL and the successor company were the same person.

**Marginal Citations**

- M82 1992 c. 12.

*Transfers from Holding Company to successor company*

- 4 (1) This paragraph applies where under Article 54(2) an asset of the Holding Company is transferred to the successor company.
- (2) The disposal of the asset by the Holding Company shall be taken for the purposes of corporation tax on chargeable gains to be effected for a consideration of such amount as would secure that on the disposal neither a gain nor a loss would accrue to the Holding company.

<sup>F368</sup>(3) .....

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### Textual Amendments

**F368** Sch. 25 para. 4(3) omitted (21.7.2008 with effect in accordance with Sch. 2 para. 71 of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 2 para. 70\(b\)\(ii\)](#)

### *Leasehold interests in industrial buildings or structures*

- 5 (1) This paragraph applies where—
- (a) NIAL is entitled, under a lease granted by the Holding Company, to a leasehold interest in a building or structure,
  - (b) by virtue of Article 52(2)(b) that interest is deemed to have been surrendered by NIAL,
  - (c) under Article 52(3) the Holding Company and NIAL enter into a lease under which NIAL is entitled to a leasehold interest (“the new interest”) in the property, and
  - (d) under Article 54(2) that interest is transferred to the successor company.
- (2) For the purposes of [<sup>F369</sup>the Capital Allowances Act 2001]—
- (a) the surrender shall be deemed to be for such an amount (by way of sale, insurance, salvage or compensation moneys) as would secure that no balancing allowance or balancing charge would be made to or on NIAL by reason of the surrender (“the surrender value”);
  - (b) the successor company shall be treated for the purposes of [<sup>F369</sup>the Capital Allowances Act 2001]—
    - (i) as if the new interest were the relevant interest in relation to the capital expenditure incurred on the construction of the property; and
    - (ii) as if the amount of the residue of that expenditure immediately after the transfer of the new interest were equal to the surrender value.
- (3) In this paragraph—
- <sup>F370</sup> . . .
- “balancing allowance” and “balancing charge” have the same meanings as in [<sup>F371</sup>Chapter 7 of Part 3 of the Capital Allowances Act 2001];
- “the property” means the building or structure referred to in sub-paragraph (1); and
- “relevant interest” has the same meaning as in [<sup>F372</sup>Chapter 3 of Part 3 of the Capital Allowances Act 2001].

### Textual Amendments

**F369** Words in Sch. 25 para. 5(2) substituted (22.3.2001 with effect as mentioned in [s. 579\(1\)](#) of the amending Act) by [2001 c. 2, ss. 578, 579](#), [Sch. 2 para. 92\(1\)](#)

**F370** Definition in Sch. 25 para. 5(3) repealed (22.3.2001 with effect as mentioned in [s. 579\(1\)](#) of the repealing Act) by [2001 c. 2, ss. 579, 580](#), [Sch. 2 para. 92\(2\)\(a\)](#), [Sch. 4](#)

**F371** Words in Sch. 25 para. 5(3) substituted (22.3.2001 with effect as mentioned in [s. 579\(1\)](#) of the amending Act) by [2001 c. 2, ss. 578, 579](#), [Sch. 2 para. 92\(2\)\(b\)](#)

**F372** Words in Sch. 25 para. 5(3) substituted (22.3.2001 with effect as mentioned in [s. 579\(1\)](#) of the amending Act) by [2001 c. 2, ss. 578, 579](#), [Sch. 2 para. 92\(2\)\(c\)](#)

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### *Securities of successor company*

- 6 (1) Any share issued by the successor company under Article 57 shall be treated for the purposes of the Corporation Tax Acts as if it had been issued wholly in consideration of a subscription paid to the company of an amount equal to the nominal value of the share.
- (2) Any debenture issued by the successor company under Article 57 shall be treated for the purposes of the Corporation Tax Acts as if it had been issued—
- (a) wholly in consideration of a loan made to the company of an amount equal to the principal sum payable under the debenture, and
  - (b) wholly and exclusively for the purposes of the trade carried on by the company.
- (3) If any such debenture includes provision for the payment of a sum expressed as interest in respect of a period which falls wholly or partly before the issue of the debenture, any payment made in pursuance of that provision in respect of that period shall be treated for the purposes of the Corporation Tax Acts as if the debenture had been issued at the commencement of that period and, accordingly, as interest on the principal sum payable under the debenture.

## SCHEDULE 26 U.K.

Section 258.

### REPEALS

## PART I U.K.

### VEHICLES EXCISE DUTY

#### Commencement Information

**I4** Sch. 26 Pt. I in force at Royal Assent except for the repeals at (2) which come into force at 1.6.1994

#### (1) Rates

Chapter	Short title	Extent of repeal
1971 c. 10.	The Vehicles (Excise) Act 1971.	In Schedule 1, in Part I, paragraph 4(a). In Schedule 2, in Part I, paragraphs 3 and 5. In Schedule 4, paragraph 6(6)(a), (c) and (d).
1985 c. 54.	The Finance Act 1985.	Section 4(4).
1991 c. 31.	The Finance Act 1991.	In Schedule 3, in Part I, paragraph 21.
1993 c. 34.	The Finance Act 1993.	Section 17(3)(a) and (7)(b).

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Section 20(3).

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These repeals have effect in relation to licences taken out after 30th November 1993.

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**(2) Transitional modifications**

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1971 c. 10.	The Vehicles (Excise) Act 1971.	In section 2A(1), the words “(other than licences for one calendar year)”.
		In Schedule 7, in Part I, paragraphs 1(c), 3(b), 18, 19, 21, and 22 and, so far as it relates to section 26(2), paragraph 23.
1988 c. 54.	The Road Traffic (Consequential Provisions) Act 1988.	In Schedule 2, in Part III, paragraph 23.

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These repeals come into force on 1st June 1994.

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**(3) Other provisions**

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1971 c. 10.	The Vehicles (Excise) Act 1971.	Section 1(4).
		In section 3(3), the words “the restoration of any forfeiture and”.
		Section 4(3)(a).
1971 c. 10. (contd.)	The Vehicles (Excise) Act 1971. (contd.)	In section 16(4), the words following paragraph (b).
		In section 18, subsections (8) and (9) and, in subsection (10), paragraph (b) and the word “and” immediately preceding it.
		Section 21.
		In section 22, in subsection (1), the words “or sign to be exhibited”, “or 21” and “or exhibited” and, in subsection (2), the words “or sign exhibited” and “or sign”.
		In section 23, as set out in paragraph 20 of Part I of



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Schedule 7, in subsection (1) (f), the words “or the signs” and “or signs”.

In section 25, in subsection (1), in paragraph (a), the words “temporary licences or” and, in paragraph (b), the words from the beginning to “allocated to the dealer in pursuance of this Act or” and, in subsection (2), the words “requirement or” (in both places).

In section 26, in subsection (1), the words “or sign to be exhibited” and “or 21” and, in subsection (2) (a), the words “temporary licences or”.

In section 28(1), “11(2),”.

In section 29(4), “11(2),”.

In section 35(2), the words “and forfeitures” (in both places).

Section 36.

In section 37—in subsection (3), as set out in paragraph 22 of Part I of Schedule 7, “2(5), 11(3), 14,” in subsection (3A), as so set out, “14,” and “14 or”, and in subsection (4), “11(3), 14, 15(1), 17(1),”.

In Schedule 4, paragraph 5 and, in paragraph 15(1), in the definition of “goods vehicle”, the words “(including a tricycle as defined in Schedule 1 to this Act and weighing more than 425 kilograms unladen)”.

In section 11, in subsection (2)(c), the words “or, if it falls” onwards and subsection (5).

In section 12(2)(a), the words “either” and “, or elsewhere”.

1976 c. 40.

The Finance Act 1976.

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1983 c. 28.	The Finance Act 1983.	In Schedule 3, in Part II, paragraph 9.
1986 c. 41.	The Finance Act 1986.	In Schedule 2, in Part I, in paragraph 4, in sub-paragraph (5), in paragraph (a), the words “, including those words where they appear in the subsection as set out in paragraph 12 of Part I of Schedule 7,” and paragraph (c) and sub-paragraph (7)(b).
1987 c. 16.	The Finance Act 1987.	In Schedule 1, in Part III, paragraphs 16(2) and 18(2) and (3).
1988 c. 53.	The Road Traffic Offenders Act 1988.	In Schedule 5, the entry relating to the Vehicles (Excise) Act 1971.
1988 c. 54.	The Road Traffic (Consequential Provisions) Act 1988.	In Schedule 3, paragraph 15.
1990 c. 29.	The Finance Act 1990.	In Schedule 2, in Part II, paragraph 6(1) to (3).
1991 c. 31.	The Finance Act 1991.	In Schedule 3, Part II.
1993 c. 34.	The Finance Act 1993.	In section 19(2), the words “including that subsection as set out in paragraph 12 of Part I of Schedule 7”.

## PART II U.K.

### GAMING MACHINE LICENCE DUTY

#### Commencement Information

**I5** Sch. 26 Pt. II: repeals have effect in accordance with Sch. 3 (with appropriate commencement dates)

Chapter	Short title	Extent of repeal
1981 c. 63.	The Betting and Gaming Duties Act 1981.	Section 21A.  Section 22(5).  In section 24, subsection (2), in subsections (3) and (4) the word “such”, in subsection (3) the words

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		from “but” to the end, in subsection (4) the words “or there are special licences in force with respect to those machines” and in subsection (6)(a) the words from “or” at the end of subparagraph (i) to “greater”.
		In section 26, in subsection (4) the words “section 22(5) or”.
		In Schedule 4, paragraphs 9, 10 and 11A.
1982 c. 39.	The Finance Act 1982.	In Schedule 6, paragraphs 9, 11 and 15.
1984 c. 43.	The Finance Act 1984.	In Schedule 3, paragraphs 3 to 5, 6(b) to (d) and (f), 7(3) to (7) and (9) to (11).
1985 c. 54.	The Finance Act 1985.	In Schedule 5, paragraphs 2, 3(1) and 9(1).
1987 c. 16.	The Finance Act 1987.	Section 4. Section 5(1), (4) and (5).
1993 c. 34.	The Finance Act 1993.	Section 15. In section 16, subsections (4) (b) and (5).

These repeals have effect in accordance with Schedule 3 to this Act.

### PART III U.K.

#### EXCISE DUTIES: ENFORCEMENT AND APPEALS

Chapter	Short title	Extent of repeal
1979 c. 2.	The Customs and Excise Management Act 1979.	Section 111(2).  In section 113(4), the words from “and the trader” onwards. Section 116A. Section 127.
1979 c. 4.	The Alcoholic Liquor Duties Act 1979.	Section 13(4).  Section 15(8).

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		Section 19(3).
1979 c. 7.	The Tobacco Products Duty Act 1979.	Section 8(3).
1981 c. 35.	The Finance Act 1981.	In Schedule 8— (a) in paragraph 2(d), paragraph (ii) and the word “and” immediately preceding it; (b) paragraph 7; (c) in paragraph 12, in sub-paragraph (b), the words from “and after” onwards and sub-paragraph (c); (d) in paragraph 14, the words from “and after” in sub-paragraph (c) to the end of sub-paragraph (d); and (e) in paragraph 15, sub-paragraph (c) and the word “and” immediately preceding it.
1981 c. 63.	The Betting and Gaming Duties Act 1981.	In section 24(5), the words after paragraph (f).  In Schedule 1— (a) paragraph 11; (b) in paragraph 14(3), the word “reasonably”; and (c) in paragraph 15(1), the words from “(not being” to “9 above)”.  In Schedule 2, paragraph 5 and, in paragraph 7(6), the words “(1) or”.  In Schedule 3, paragraphs 14 and 16(4).  In Schedule 4, paragraph 16(2).
1985 c. 54.	The Finance Act 1985.	In Schedule 5, paragraph 9(2).
1989 c. 26.	The Finance Act 1989.	Section 15.
1992 c. 48.	The Finance (No. 2) Act 1992.	In Schedule 2, paragraph 2(6).

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Section 19 of this Act applies to these repeals as it applies to Chapter II of Part I of this Act.

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## PART IV U.K.

### VALUE ADDED TAX

Chapter	Short title	Extent of repeal
1985 c. 54.	The Finance Act 1985.	In section 20(2)(a) the words “one month after”.

This repeal has effect in accordance with section 46 of this Act.

## PART V U.K.

### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

#### (1) Reliefs

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Section 257BB(6).  In section 257D(5)(d), the words “section 257A and”.  In section 265(3)(b), the words from “section 257A” to “or under”.  In section 347B(2), the words “Notwithstanding section 347A(1)(a) but”.
1988 c. 39.	The Finance Act 1988.	In Schedule 3, paragraph 33.
1992 c. 48.	The Finance (No. 2) Act 1992.	In Schedule 5, paragraph 8(2).

The repeals in section 347B of the Income and Corporation Taxes Act 1988 and in the Finance Act 1988 have effect in relation to payments becoming due on or after 6th April 1994 and the other repeals have effect in accordance with section 77(7) of this Act.

#### (2) Interest relief

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Section 257D(8)(a).  Section 265(3)(a).  Section 353(4) and (5).
1991 c. 31.	The Finance Act 1991.	Section 27(1) to (5) and (7).
1992 c. 12.	The Taxation of Chargeable Gains Act 1992.	In section 6(1), the words “353(4), 369(3A)”, the words

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1992 c. 48.	The Finance (No. 2) Act 1992.	“certain interest etc. and” and paragraph (a). In section 19, in subsection (3), the words “353(5), 369(3B)” and subsection (5).
1993 c. 34.	The Finance Act 1993.	Section 57(7). In Schedule 6, in paragraph 1, the words “353(5), 369(3B)”.

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These repeals have effect in accordance with section 81(6) of this Act.

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### **(3)Medical insurance**

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1988 c.1.	The Income and Corporation Taxes Act 1988.	In section 257D(8), paragraph (d). In section 265(3), paragraph (d).
1989 c.26.	The Finance Act 1989.	In section 55, in subsection (2) paragraph (e) and the word “and” immediately preceding it, and subsections (3) to (6).

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(1) The repeals in the Income and Corporation Taxes Act 1988 have effect in accordance with paragraph 3 of Schedule 10 to this Act.

(2) The repeals in the Finance Act 1989 have effect in accordance with paragraph 5 of that Schedule.

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### **(4)Vocational training**

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1991 c. 31.	The Finance Act 1991.	In section 32(10), the words after paragraph (b).

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This repeal comes into force in accordance with section 84(4) of this Act.

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### **(5)Beneficial loans**

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 160(4), the words from “and Part III” to the end. Section 167(2A).

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1991 c. 31.	The Finance Act 1991.	Section 191B(14). In Schedule 7, in paragraph 1(5) the words “his employer, being” and Parts III to V. Section 31. In Schedule 6, paragraphs 2 and 5.
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These repeals have effect in accordance with section 88(5) of this Act.

#### **(6)Vouchers**

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 141(1), the words following paragraph (b).

#### **(7)Relief on re-investment**

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1992 c. 12.	The Taxation of Chargeable Gains Act 1992.	In section 164A, in subsection (2) the words “Subject to section 164C”, and subsections (3) to (7) and (11). Sections 164C to 164E. In section 164F, in subsection (5)(a) the words “or 164D” and in subsection (10) the words “(within the meaning of section 164D)”. In section 164H(1), the words “within the meaning of section 164C”.

These repeals have effect in accordance with section 91(2) of this Act.

#### **(8)Indexation allowance**

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1992 c. 12.	The Taxation of Chargeable Gains Act 1992.	In section 56(1)(a), the words “or loss”. Section 103. Section 111. Sections 182 to 184. Section 200.

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		In Schedule 7A, in paragraph 2(4) the words “except in relation to the calculation of any indexed rise”, in paragraph 2(9) the definition of “indexed rise”, in paragraph 4(12) the words from “together” to the end and paragraph 4(13).
1993 c. 34.	The Finance Act 1993.	In Schedule 17, paragraph 8.

These repeals have effect in accordance with section 93(11) of this Act.

#### **(9) Commodity and financial futures**

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1992 c. 12.	The Taxation of Chargeable Gains Act 1992.	Section 143(4).

This repeal has effect in accordance with section 95(2) of this Act.

#### **(10) Settlements with foreign element: information**

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1970 c. 9.	The Taxes Management Act 1970.	In the Table in section 98, in the second column the entry relating to paragraphs 11 to 14 of Schedule 5 to the Taxation of Chargeable Gains Act 1992.
1992 c. 12.	The Taxation of Chargeable Gains Act 1992.	In Schedule 5, paragraphs 11 to 14.

These repeals have effect in accordance with section 97 of this Act.

#### **(11) Profit sharing schemes**

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In Schedule 10, in paragraph 3 the words from “In this paragraph” to the end of the paragraph.

#### **(12) Retirement benefits schemes**

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 188(1), paragraph (c). In section 189, paragraph (b).



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In section 591(2)(g) the words “approved by the Board and”.

Section 605(1) and (2).

In section 612(1), the definition of “administrator”.

- (1) The repeals in sections 188 and 189 have effect in accordance with section 108 of this Act.
- (2) The repeal in section 591 has effect in accordance with section 107 of this Act.
- (3) The repeal of section 605(1) and (2) has effect in accordance with section 105 of this Act.
- (4) The repeal in section 612(1) has effect in accordance with section 103 of this Act.

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### **(13) Authorised unit trusts**

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 468, subsection (2), and in subsection (6) the definition of “distribution period”. Sections 468F and 468G.
1993 c. 34.	The Finance Act 1993.	In Schedule 6, paragraphs 4, 5 and 25(2).

These repeals have effect in accordance with section 111 of and Schedule 14 to this Act.

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### **(14) Manufactured payments**

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1988 c.1.	The Income and Corporation Taxes Act 1988.	In paragraph 5 of Schedule 23A, in subparagraphs (2) and (4) the word “and” at the end of paragraph (b).

These repeals have effect in accordance with section 123 of this Act.

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### **(15) Controlled Foreign Companies**

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In paragraph 2 of Schedule 25, in subparagraph (1), in paragraph (a) the words “or for some other period

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which, in whole or in part, falls within that accounting period” and the words following paragraph (d), and sub-paragraph (2).

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These repeals have effect in accordance with section 134(5) of this Act.

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**(16) Repeals connected with foreign income dividends**

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 434(6A) the word “and” at the end of paragraph (a).  In section 438(6) the words from “being” to “that profit.”.  In section 731(9), in the definition of “interest” the words from “and in applying” to the end of paragraph (b).

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**(17) Enterprise investment scheme**

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 257D(8)(b), the words “or under section 289”.  In section 265(3)(b), the words “or under section 289”.  In section 290A, subsection (10) and, in subsection (11), the definition of “prospectus”.  In section 293, subsection (4) and subsections (9) to (11).  Section 296(6).  In section 297, in subsection (1) the words “(6) and” and in subsection (2) paragraphs (h) and (j).  In section 298, in subsection (5) the definition of “property development” and subsections (6) to (8).  Section 301(1), (2) and (7).  Section 303(8), (10) and (11).

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		In section 306(10), the second sentence.
		In section 307, in subsection (1) the words from “but” to the end and subsection (9).
		Section 308(6).
		Section 309.
		Section 310(10) and (11).
		In section 312, in subsection (1) the definitions of “fixed-rate preference share capital” and “the relevant period”.
1988 c. 39.	The Finance Act 1988.	Section 50.
		Schedule 4.
1990 c. 29.	The Finance Act 1990.	Section 73.
1992 c. 12.	The Taxation of Chargeable Gains Act 1992.	In section 231(1)(d) the words “(business expansion scheme)”.
1992 c. 48.	The Finance (No. 2) Act 1992.	Sections 38 to 40.

These repeals have effect in relation to shares issued on or after 1st January 1994.

### (18) Deduction from income

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 808 the words “In this section “securities” includes stocks and shares.”

This repeal has effect in accordance with section 140 of this Act.

### (19) Qualifying lenders

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Section 376(5).
		In section 379, the words “except in section 376(4) and (5)”.
		In section 828(4), “376(5)”.

### (20) Premiums referred to pension business

*Status: Point in time view as at 01/04/2023.*

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<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 431(4), in paragraph (d) the words “approved by the Board and” and in paragraph (e) the words “approved by the Board”.

These repeals have effect in accordance with section 143 of this Act.

### **(21) Business donations**

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1990 c. 29.	The Finance Act 1990.	Section 75.

### **(22) Minor corrections**

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1965 c. 25.	The Finance Act 1965.	Section 87. Schedule 21.
1966 c. 18.	The Finance Act 1966.	In Schedule 5, paragraph 19. In Schedule 6, paragraph 23.
1970 c. 9.	The Taxes Management Act 1970.	In Schedule 4, paragraph 6.
1970 c. 10.	The Income and Corporation Taxes Act 1970.	In Schedule 15, in Part I of the Table in paragraph 11, the entry relating to the Finance Act 1966.
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 43(1), the words “or IV”.  In section 271— (a) in subsection (1)— (i) the words “or contract”, wherever they occur, (ii) in paragraph (b), the words “or the contract was made after that date”, and (iii) in paragraph (c), the words “or, as the case may be, the body with which the contract was made”, and (b) in subsection (2), paragraph (b) and the word “or” immediately preceding it. Section 614(1).

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In Schedule 11, in paragraph 8(b), the words “Chapter II of Part I of the 1968 Act or”.

The repeals in sections 43 and 271 of, and Schedule 11 to, the Income and Corporation Taxes Act 1988 have effect in accordance with Schedule 17 to this Act.

**(23) Management: self-assessment etc.**

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1970 c. 9.	The Taxes Management Act 1970.	In section 11(1), the words “inspector or other”. Section 11A. In section 12, subsections (1) and (4). In section 33(2), the proviso. In section 95(3), the words from “and the references” to the end. Section 118(3).
1975 c. 45.	The Finance (No. 2) Act 1975.	Section 67(1).
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Section 5. Section 10. In section 203(2)(dd), the words from “(being not less” to “due)”. Section 478. In section 824, subsection (5), in subsection (9), the words “a partnership” and the words “(within the meaning of section 111 of the Finance Act 1989)”, and subsection (10).
1992 c. 12	The Taxation of Chargeable Gains Act 1992.	Section 283(5).

(1) The repeal of section 118(3) of the Taxes Management Act 1970 has effect in accordance with section 199(2) of, and paragraph 34(3) of Schedule 19 to, this Act.

(2) The repeal of section 5 of the Income and Corporation Taxes Act 1988—

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- (a) except so far as it relates to partnerships whose trades, professions or businesses are set up and commenced before 6th April 1994, has effect in accordance with section 199(2) of this Act; and
  - (b) so far as it so relates, has effect as respects the year 1997-98 and subsequent years of assessment.
- (3) The repeals in section 824 of the Income and Corporation Taxes Act 1988 has effect in accordance with section 199(2) of, and paragraph 41(4) of Schedule 19 to, this Act.
- (4) The other repeals have effect in accordance with section 199(2) of this Act.

#### **(24) Changes for facilitating self-assessment**

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1988 c. 1.	The Income and Corporation Taxes Act 1988.	<p>In section 65, in subsection (1), the words “and sections 66 and 67” and the words “the year preceding”, in subsection (3), the words from “Nothing in this subsection” to the end, and in subsection (5), the words “subject to sections 66 and 67” and the words “the year preceding”, in each place where they occur.</p> <p>Sections 66 and 67.</p> <p>In section 96, in subsection (5), paragraph (b), in subsection (6), the words from “except that” to the end, and in subsection (7), paragraph (b).</p> <p>In section 113, in subsection (1), the words “and of section 114(3)(b)”, subsections (3) to (5) and, in subsection (6), the words from “and where” to the end.</p> <p>In section 114, in subsection (3), the words from “except that” to the end, and subsection (4).</p> <p>In section 115, subsections (1) to (3) and (6).</p> <p>In section 277, in subsection (1), the words “Subject to subsection (2) below”, paragraph (c) and the word “and” immediately</p>

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preceding that paragraph, and subsection (2).

Section 380(3).

Section 381(6).

Section 383.

In section 384, in subsection (1), the words “(including any amount in respect of capital allowances which, by virtue of section 383, is to be treated as a loss)”, in subsection (2), the words “or an allowance in respect of expenditure incurred”, paragraph (b) and the word “or” immediately preceding that paragraph, and subsection (5).

In section 385, subsections (2), (3), (5) and (8).

Section 386(4).

In section 388, in subsection (6), paragraphs (b) and (d) and the word “and” immediately preceding paragraph (d), and in subsection (7), the words from the beginning to “an earlier year, and”.

In section 389, subsections (3) and (5) to (7).

In section 397(1), the words from “and where” to the end.

In section 521, in subsections (1) and (2), the words “or its basis period”.

In section 528(1), the words “or its basis period”.

In section 530, in subsections (4) and (5), the words “or its basis period”.

In section 804(8), the definitions of “non-basis period” and “years of commencement” and the words “references to the

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1990 c. 1.	The Capital Allowances Act 1990.	<p>enactments relating to cessation are references to sections 63, 67 and 113”.</p> <p>In section 3, in subsections (1) and (2B) to (4), the words “or its basis period”, in each place where they occur.</p> <p>In section 4(10), the words “or of which the basis periods end on or before that date”.</p> <p>In section 7, in subsections (2) and (3), the words “or its basis period”.</p> <p>In section 8, in subsection (3), the words “or its basis period”, and in subsection (5), in paragraph (a), the words from “or” to the end.</p> <p>In section 9(3), the words “or its basis period”.</p> <p>In section 19(3), the words “or its basis period”, in each place where they occur.</p> <p>In section 21(8), the words “or its basis period”.</p> <p>In section 23(2), the words “or its basis period”.</p> <p>In section 24, in subsections (6), (6A) and (7), the words “or its basis period”, in each place where they occur.</p> <p>In section 25, in subsections (1) and (7), the words “or its basis period”.</p> <p>In section 33(3), the words “or, as the case may be, in its basis period”.</p> <p>In section 37, in subsections (2) and (9), the words “or its basis period”, in subsection (5), the words “or, as the case may be, in its basis period” and, in subsection (6), the words “or in the basis period for which”.</p>
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In section 42(4), the words “or in the basis period for which”.

In section 46(1), the words “or in the basis period for which”.

In section 47(1), the words “or in the basis period for which”.

In section 48, in subsections (3), (4) and (5), the words “or its basis period”.

In section 49(2), the words “or its basis period”.

In section 61(5), the words “or its basis period”.

In section 62A(6), the words “or its basis period”.

In section 67(6), the words “or its basis period”.

In section 73(3), the words “or its basis period”.

In section 79, in subsections (3) and (5), the words “or its basis period”, in each place where they occur.

In section 85, in subsections (1), (3) and (4), the words “or its basis period”, in each place where they occur.

In section 87(6), the words “or of which the basis periods end on or before that date”.

In section 93(3), the words “or its basis period”.

In section 99, in subsections (1) and (4), the words “or its basis period”.

In section 101, in subsections (2) and (6) to (8), the words “or its basis period”.

In section 121(4), the words “or its basis period” and the words “or, as the case may be, its basis period”.

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		In section 124(3), the words “or its basis period”.
		In section 126(2), the words “or its basis period”, in each place where they occur.
		In section 128(1), the words “or its basis period”.
		In section 129(3), the words “or the basis periods for which”.
		In section 134(1), the words from “but where a writing-down allowance” to the end.
		In section 138(7), the words “or its basis period”.
		In section 148(7), the words “or its basis period”.
		In section 159, in subsections (4) and (6), the words “or its basis period”.
		In section 159A(4), the words “or its basis period”.
1991 c. 31.	The Finance Act 1991.	In section 72(8), the words “383(6), (7) and (8)”.
1994 c. 9.	The Finance Act 1994.	In section 118(6), the words “or its basis period”.

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- (1) The repeal in section 65(3) of the Income and Corporation Taxes Act 1988 has effect in accordance with sections 207(6) and 218(1)(b) of this Act.
- (2) The repeal in section 96(6) of the Income and Corporation Taxes Act 1988 has effect in accordance with section 216(5) of this Act.
- (3) The repeal in section 96(7) of the Income and Corporation Taxes Act 1988 has effect in accordance with section 214(7) of this Act.
- (4) The following repeals, namely—
  - (a) the repeals in sections 113, 114, 115, 277, 380, 381 and 386 of the Income and Corporation Taxes Act 1988;
  - (b) the repeal of subsection (5) of section 384 of that Act;
  - (c) the repeal of subsections (2) and (5) of section 385 of that Act; and
  - (d) the repeal of subsection (3) of section 389 of that Act,
 have effect in accordance with section 215(4) of this Act.
- (5) The following repeals, namely—

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- (a) the repeals in sections 384(1) and (2), 388, 397, 521, 528 and 530 of the Income and Corporation Taxes Act 1988;
- (b) the repeal of section 383 of that Act;
- (c) the repeal of subsections (5) to (7) of section 389 of that Act;
- (d) the repeals in the Capital Allowances Act 1990;
- (e) the repeal in section 72 of the Finance Act 1991; and
- (f) the repeal in section 118 of the Finance Act 1994,

have effect in accordance with sections 211(2) and 218(1)(b) of this Act.

(6) The repeals of subsections (3) and (8) of section 385 of the Income and Corporation Taxes Act 1988 have effect in accordance with section 209(7) of this Act.

(7) The other repeals have effect in accordance with section 218(1) of this Act.

4 The following repeals, namely—

- (a) the repeals in sections 113, 114, 115, 277, 380, 381 and 386 of the Income and Corporation Taxes Act 1988;
- (b) the repeal of subsection (5) of section 384 of that Act;
- (c) the repeal of subsections (2) and (5) of section 385 of that Act; and
- (d) the repeal of subsection (3) of section 389 of that Act,

have effect in accordance with section 215(4) of this Act.

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#### **(25) Lloyd's underwriters**

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Section 627.
1993 c. 34.	The Finance Act 1993.	Section 641(2). Section 171(3). In section 179, in subsection (2), the words “to subsection (3) below and”, and subsection (3). In section 182, subsections (2) to (4). Section 183(3). In section 184(1), the words “or the managing agent of a syndicate of which he is a member”. In Schedule 19, Part II. In Schedule 20, in paragraph 13(1), the words from “and a transfer” to the end.

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- 1 The repeals in the Income and Corporation Taxes Act 1988 and in section 183 of the Finance Act 1993 have effect in accordance with section 228(4) of this Act.
- 2 The repeal in section 171 of the Finance Act 1993 has effect in accordance with paragraph 1(3)(b) of Schedule 21 to this Act.
- 3 The repeals in section 179 of the Finance Act 1993 have effect in accordance with paragraph 6(3) of that Schedule.
- 4 The repeals in section 182 of the Finance Act 1993 have effect in accordance with paragraph 7(2) of that Schedule.
- 5 The repeal in paragraph 13(1) of Schedule 20 to the Finance Act 1993 has effect in accordance with paragraph 16(3) of that Schedule.
- 6 The other repeals have effect in accordance with section 228(3) of this Act.

## PART VI U.K.

### OIL TAXATION

Chapter	Short title	Extent of repeal
1975 c. 22.	The Oil Taxation Act 1975.	In section 2(9)(a)(i), the words “or, as the case may be”.  In Schedule 3, in paragraph 2A, sub-paragraph (4).
1993 c. 34.	The Finance Act 1993.	Section 190(5)(b).

- 1 The repeals in the Oil Taxation Act 1975 have effect in accordance with section 236 of this Act.
- 2 The repeal in the Finance Act 1993 has effect in accordance with section 238 of this Act.

## PART VII U.K.

### STAMP DUTY

#### Commencement Information

**I6** Sch. 26 Pt VII(2) not in force at Royal Assent, see s. 245(8).

#### (1) Exchange, partition, etc.

Chapter	Short title	Extent of repeal
1891 c. 39.	The Stamp Act 1891.	In section 73, the words from first “upon” to “heritable property, or” and the words “exchange or”.

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1991 c. 31.	The Finance Act 1991.	In Schedule 1, the heading “Exchange or Excambion”. In section 110, subsection (3) (e) and, in subsection (4), the words following “exempt property”.
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These repeals have effect in accordance with section 241(6) of this Act.

## (2) Production of instruments in Northern Ireland

Chapter	Short title	Extent of repeal
1936 c. 33 (N. I.).	The Finance Act (Northern Ireland) 1936.	Section 9.

This repeal has effect in accordance with section 245(8) of this Act.

## PART VIII U.K.

### MISCELLANEOUS

#### Commencement Information

- I7** Sch. 26 Pt VIII(1) has effect in accordance with s. 251 which is partly retrospective to 30.11.1993; Sch. 26 Pt. VIII(2) deemed to have come into force on 11.1.1994.

## (1) Companies treated as non-resident

Chapter	Short title	Extent of repeal
1988 c.1.	The Income and Corporation Taxes Act 1988.	In section 468F, in subsection (1)(c) the words “and not a dual resident” and in subsection (8) the definition of “dual resident”. In section 742(8) the words “, or regarded for the purposes of any double taxation arrangements having effect by virtue of section 788 as resident in a territory outside the United Kingdom.”. In section 745(4) the words “, or regarded for the purposes of any double taxation arrangements having effect by virtue of section 788 as resident in a territory outside the United Kingdom.”.

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		Section 749(4A).
		Section 751(2)(bb).
1990 c.29.	The Finance Act 1990.	Section 66.
		In section 67, subsections (1) and (2).
1992 c.12.	The Taxation of Chargeable Gains Act 1992.	Section 139(3).
		Section 160.
		In section 166(2) the words “or a company” and the words “or company”.
		In section 171(2), paragraph (e) and the word “or” immediately preceding it.
		Section 172(3)(a).
		In section 175(2) the words from “or a company which” to the end of paragraph (b).
		Section 186.
		In section 187, in subsection (1)(a) the words “or 186” and in subsection (6) the words “or, as the case may be, section 186(2),” and the words “or, as the case may be, section 186(1)”.
		Section 188.
		In section 211(3) the words “(and would not be a gain on which, under any double taxation relief arrangements, it would not be liable to tax)”.
1993 c. 34.	The Finance Act 1993.	Section 61(3).

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These repeals have effect in accordance with section 251 of this Act.

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**(2) Railway taxation provisions**

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1992 c. 12.	The Taxation of Chargeable Gains Act 1992.	In section 35(3)(d), the word “and” immediately preceding sub-paragraph (viii).

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This repeal shall be deemed to have come into force on 11th January 1994.

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**(3)Assigned matters: minor corrections**

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1979 c. 2.	The Customs and Excise Management Act 1979.	In section 118A, subsection (7).
1983 c. 55.	The Value Added Tax Act 1983.	In Schedule 7, in paragraph 7, sub-paragraph (6).

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**Status:**

Point in time view as at 01/04/2023.

**Changes to legislation:**

Finance Act 1994 is up to date with all changes known to be in force on or before 03 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.