



# Finance Act 1995

## 1995 CHAPTER 4

### PART II

#### VALUE ADDED TAX AND INSURANCE PREMIUM TAX

VALID FROM 01/05/1995

#### *Value added tax*

#### **21 Fuel and power for domestic or charity use.**

- (1) The *Value Added Tax Act 1994* shall be amended as follows.
- (2) In section 2 (rate of VAT) in subsection (1) the words “and paragraph 7 of Schedule 13” shall be omitted, and the following subsections shall be inserted after that subsection—
  - “(1A) VAT charged on—
    - (a) any supply for the time being falling within paragraph 1 of Schedule A1; or
    - (b) any equivalent acquisition or importation,shall be charged at the rate of 8 per cent.
  - (1B) The reference in subsection (1A) above to an equivalent acquisition or importation, in relation to any supply for the time being falling within paragraph 1 of Schedule A1, is a reference (as the case may be) to—
    - (a) any acquisition from another member State of goods the supply of which would be such a supply; or
    - (b) any importation from a place outside the member States of any such goods.

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

(3) The following Schedule shall be inserted immediately before Schedule 1—

“SCHEDULE  
A1

CHARGE AT REDUCED RATE

*The supplies*

- 1 (1) The supplies falling within this paragraph are supplies for qualifying use of—
- (a) coal, coke or other solid substances held out for sale solely as fuel;
  - (b) coal gas, water gas, producer gases or similar gases;
  - (c) petroleum gases, or other gaseous hydrocarbons, whether in a gaseous or liquid state;
  - (d) fuel oil, gas oil or kerosene; or
  - (e) electricity, heat or air-conditioning.
- (2) In this paragraph “qualifying use” means—
- (a) domestic use; or
  - (b) use by a charity otherwise than in the course or furtherance of a business.
- (3) Where there is a supply of goods partly for qualifying use and partly not—
- (a) if at least 60 per cent. of the goods are supplied for qualifying use, the whole supply shall be treated as a supply for qualifying use; and
  - (b) in any other case, an apportionment shall be made to determine the extent to which the supply is a supply for qualifying use.

*Interpretation*

- 2 For the purposes of this Schedule the following supplies are always for domestic use—
- (a) a supply of not more than one tonne of coal or coke held out for sale as domestic fuel;
  - (b) a supply of wood, peat or charcoal not intended for sale by the recipient;
  - (c) a supply to a person at any premises of piped gas (that is, gas within paragraph 1(1)(b) above, or petroleum gas in a gaseous state, provided through pipes) where the gas (together with any other piped gas provided to him at the premises by the same supplier) was not provided at a rate exceeding 150 therms a month or, if the supplier charges for the gas by reference to the number of kilowatt hours supplied, 4397 kilowatt hours a month;
  - (d) a supply of petroleum gas in a liquid state where the gas is supplied in cylinders the net weight of each of which is less than 50

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- kilogrammes and either the number of cylinders supplied is 20 or fewer or the gas is not intended for sale by the recipient;
- (e) a supply of petroleum gas in a liquid state, otherwise than in cylinders, to a person at any premises at which he is not able to store more than two tonnes of such gas;
  - (f) a supply of not more than 2,300 litres of fuel oil, gas oil or kerosene;
  - (g) a supply of electricity to a person at any premises where the electricity (together with any other electricity provided to him at the premises by the same supplier) was not provided at a rate exceeding 1000 kilowatt hours a month.
- 3 (1) For the purposes of this Schedule supplies not within paragraph 2 above are for domestic use if and only if the goods supplied are for use in—
- (a) a building, or part of a building, which consists of a dwelling or number of dwellings;
  - (b) a building, or part of a building, used for a relevant residential purpose;
  - (c) self-catering holiday accommodation;
  - (d) a caravan; or
  - (e) a houseboat.
- (2) For the purposes of this Schedule use for a relevant residential purpose means use as—
- (a) a home or other institution providing residential accommodation for children;
  - (b) a home or other institution providing residential accommodation with personal care for persons in need of personal care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder;
  - (c) a hospice;
  - (d) residential accommodation for students or school pupils;
  - (e) residential accommodation for members of any of the armed forces;
  - (f) a monastery, nunnery or similar establishment; or
  - (g) an institution which is the sole or main residence of at least 90 per cent. of its residents,
- except use as a hospital, a prison or similar institution or an hotel or inn or similar establishment.
- (3) For the purposes of this Schedule self-catering holiday accommodation includes any accommodation advertised or held out as such.
- (4) In this Schedule “houseboat” means a boat or other floating decked structure designed or adapted for use solely as a place of permanent habitation and not having means of, or capable of being readily adapted for, self-propulsion.
- 4 (1) Paragraph 1(1)(a) above shall be deemed to include combustible materials put up for sale for kindling fires but shall not include matches.
- (2) Paragraph 1(1)(b) and (c) above shall not include any road fuel gas (within the meaning of the <sup>MI</sup>Hydrocarbon Oil Duties Act 1979) on which a duty of excise has been charged or is chargeable.

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- (3) Paragraph 1(1)(d) above shall not include hydrocarbon oil on which a duty of excise has been or is to be charged without relief from, or rebate of, such duty by virtue of the provisions of the Hydrocarbon Oil Duties Act 1979.
- (4) In this Schedule “fuel oil” means heavy oil which contains in solution an amount of asphaltenes of not less than 0.5 per cent. or which contains less than 0.5 per cent. but not less than 0.1 per cent. of asphaltenes and has a closed flash point not exceeding 150°C.
- (5) In this Schedule “gas oil” means heavy oil of which not more than 50 per cent. by volume distils at a temperature not exceeding 240°C and of which more than 50 per cent. by volume distils at a temperature not exceeding 340°C.
- (6) In this Schedule “kerosene” means heavy oil of which more than 50 per cent. by volume distils at a temperature not exceeding 240°C.
- (7) In this Schedule “heavy oil” shall have the same meaning as in the Hydrocarbon Oil Duties Act 1979.”
- (4) In section 97 (orders etc.) in subsection (4) (orders requiring approval) the following paragraph shall be inserted immediately before paragraph (a)—
- “(aa) an order under section 2(1C);”.
- (5) In Schedule 13 (transitional provisions and savings) paragraph 7 (fuel and power) shall be omitted.
- (6) This section shall apply in relation to any supply made on or after 1st April 1995 and any acquisition or importation taking place on or after that date.

#### Marginal Citations

M1 1979 c. 5.

## 22 Imported works of art, antiques, etc.

- (1) In subsection (1) of section 21 of the <sup>M2</sup>Value Added Tax Act 1994 (value of imported goods), for “and (3)” there shall be substituted “ to (4) ”; and after subsection (3) there shall be inserted the following subsections—
- “(4) For the purposes of this Act, the value of any goods falling within subsection (5) below which are imported from a place outside the member States shall be taken to be an amount equal to 14.29 per cent. of the amount which, apart from this subsection, would be their value for those purposes.
- (5) The goods which fall within this subsection are—
- (a) any work of art which was obtained by any person before 1st April 1973 otherwise than by his producing it himself or by succession on the death of the person who produced it;
- (b) any work of art which was—
- (i) exported from the United Kingdom before 1st April 1973,
- (ii) exported from the United Kingdom on or after that date and before 1st January 1993 by a person who, had he supplied

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it in the United Kingdom at the date when it was exported, would not have had to account for VAT on the full value of the supply, or

(iii) exported from the United Kingdom on or after 1st January 1993 by such a person to a place which, at the time, was outside the member States,

being, in each case, a work of art which has not been imported between the time when it was exported and the importation in question;

(c) any antique more than one hundred years old, being neither a work of art nor pearls or loose gem stones; and

(d) collectors' pieces of zoological, botanical, mineralogical, anatomical, historical, archaeological, paleontological or ethnographic interest.

(6) In this section "work of art" means goods falling within any of the following descriptions, that is to say—

(a) paintings, drawings and pastels executed by hand but not comprised in manufactured articles that have been hand-painted or hand-decorated;

(b) original engravings, lithographs and other prints;

(c) original sculptures and statuary, in any material.

(7) An order under section 2(2) may contain provision making such alteration of the percentage for the time being specified in subsection (4) above as the Treasury consider appropriate in consequence of any increase or decrease by that order of the rate of VAT."

(2) This section shall have effect in relation to goods imported at any time on or after the day on which this Act is passed.

#### **Marginal Citations**

M2 1994 c. 23.

### **23 Agents acting in their own names.**

(1) In subsection (1) of section 47 of the <sup>M3</sup>Value Added Tax Act 1994 (agents etc.), for "the goods may" there shall be substituted " then, if the taxable person acts in relation to the supply in his own name, the goods shall ".

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

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

(3) In subsection (3) of that section, the words "goods or" shall be omitted.

(4) This section shall have effect—

(a) so far as it amends section 47(1) of that Act, in relation to goods acquired or imported on or after the day on which this Act is passed; and

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- (b) for other purposes, in relation to any supply taking place on or after that day.

#### Marginal Citations

M3 1994 c. 23.

## 24 Margin schemes.

- (1) After section 50 of the <sup>M4</sup>Value Added Tax Act 1994 there shall be inserted the following section—

### “50A Margin schemes.

- (1) The Treasury may by order provide, in relation to any such description of supplies to which this section applies as may be specified in the order, for a taxable person to be entitled to opt that, where he makes supplies of that description, VAT is to be charged by reference to the profit margin on the supplies, instead of by reference to their value.
- (2) This section applies to the following supplies, that is to say—
  - (a) supplies of works of art, antiques or collectors’ items;
  - (b) supplies of motor vehicles;
  - (c) supplies of second-hand goods; and
  - (d) any supply of goods through a person who acts as an agent, but in his own name, in relation to the supply.
- (3) An option for the purposes of an order under this section shall be exercisable, and may be withdrawn, in such manner as may be required by such an order.
- (4) Subject to subsection (7) below, the profit margin on a supply to which this section applies shall be taken, for the purposes of an order under this section, to be equal to the amount (if any) by which the price at which the person making the supply obtained the goods in question is exceeded by the price at which he supplies them.
- (5) For the purposes of this section the price at which a person has obtained any goods and the price at which he supplies them shall each be calculated in accordance with the provisions contained in an order under this section; and such an order may, in particular, make provision stipulating the extent to which any VAT charged on a supply, acquisition or importation of any goods is to be treated as included in the price at which those goods have been obtained or are supplied.
- (6) An order under this section may provide that the consideration for any services supplied in connection with a supply of goods by a person who acts as an agent, but in his own name, in relation to the supply of the goods is to be treated for the purposes of any such order as an amount to be taken into account in computing the profit margin on the supply of the goods, instead of being separately chargeable to VAT as comprised in the value of the services supplied.

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- (7) An order under this section may provide for the total profit margin on all the goods of a particular description supplied by a person in any prescribed accounting period to be calculated by—
- (a) aggregating all the prices at which that person obtained goods of that description in that period together with any amount carried forward to that period in pursuance of paragraph (d) below;
  - (b) aggregating all the prices at which he supplies goods of that description in that period;
  - (c) treating the total profit margin on goods supplied in that period as being equal to the amount (if any) by which, for that period, the aggregate calculated in pursuance of paragraph (a) above is exceeded by the aggregate calculated in pursuance of paragraph (b) above; and
  - (d) treating any amount by which, for that period, the aggregate calculated in pursuance of paragraph (b) above is exceeded by the aggregate calculated in pursuance of paragraph (a) above as an amount to be carried forward to the following prescribed accounting period so as to be included, for the period to which it is carried forward, in any aggregate falling to be calculated in pursuance of paragraph (a) above.
- (8) An order under this section may—
- (a) make different provision for different cases; and
  - (b) make provisions of the order subject to such general or special directions as may, in accordance with the order, be given by the Commissioners with respect to any matter to which the order relates.”
- (2) Section 32 of that Act (relief on supply of certain second-hand goods) shall cease to have effect on such day as the Commissioners of Customs and Excise may by order made by statutory instrument appoint.

#### **Marginal Citations**

M4 1994 c. 23.

## **25 Groups of companies.**

- (1) Section 43 of the <sup>M5</sup>Value Added Tax Act 1994 (groups of companies) shall be amended as follows.
- (2) After subsection (1) there shall be inserted the following subsection—
- “(1A) Paragraph (a) of subsection (1) above shall not apply in relation to any supply of goods or services by one member of a group to another unless both the body making the supply and the body supplied continue to be members of that group until—
- (a) in the case of a supply of goods which are to be removed in pursuance of the supply, a time after the removal;

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- (b) in the case of any other supply of goods, a time after the goods have been made available, in pursuance of the supply, to the body supplied; or
- (c) in the case of a supply of services, a time after the services have been performed.”;

and in subsection (1)(b), for “other supply” there shall be substituted “ supply which is a supply to which paragraph (a) above does not apply and is a supply ”.

- (3) In subsection (5) (applications to be treated or to cease to be treated as members of a group etc.), for the words after paragraph (d) there shall be substituted—

“unless the Commissioners refuse the application under subsection (5A) below.”

- (4) After subsection (5) there shall be inserted the following subsection—

“(5A) If it appears to the Commissioners necessary to do so for the protection of the revenue, they may—

- (a) refuse any application made to the effect mentioned in paragraph (a) or (c) of subsection (5) above; or
- (b) refuse any application made to the effect mentioned in paragraph (b) or (d) of that subsection in a case that does not appear to them to fall within subsection (6) below.”

- (5) Subsection (2) above has effect in relation to—

- (a) any supply made on or after 1st March 1995, and
- (b) any supply made before that date in the case of which both the body making the supply and the body supplied continued to be members of the group in question until at least that date,

and subsections (3) and (4) above have effect in relation to applications made on or after the day on which this Act is passed.

#### Marginal Citations

M5 1994 c. 23.

PROSPECTIVE

#### <sup>F1</sup>26 Co-owners etc. of buildings and land.

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#### Textual Amendments

F1 S. 26 repealed (with effect in accordance with art. 1(2) of the amending S.I.) by [The Value Added Tax \(Buildings and Land\) Order 2008 \(S.I. 2008/1146\)](#), arts. 1(1), **5(1)** (with Sch. 2)



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## 27 Set-off of credits.

- (1) Section 81 of the <sup>M6</sup>Value Added Tax Act 1994 (which includes provision as to the setting off of credits) shall be amended as follows.
- (2) For subsection (4) there shall be substituted the following subsections—
  - “(4A) Subsection (3) above shall not require any such amount as is mentioned in paragraph (a) of that subsection (“the credit”) to be set against any such sum as is mentioned in paragraph (b) of that subsection (“the debit”) in any case where—
    - (a) an insolvency procedure has been applied to the person entitled to the credit;
    - (b) the credit became due after that procedure was so applied; and
    - (c) the liability to pay the debit either arose before that procedure was so applied or (having arisen afterwards) relates to, or to matters occurring in the course of, the carrying on of any business at times before the procedure was so applied.
  - (4B) Subject to subsection (4C) below, the following are the times when an insolvency procedure is to be taken, for the purposes of this section, to be applied to any person, that is to say—
    - (a) when a bankruptcy order, winding-up order, administration order or award of sequestration is made in relation to that person;
    - (b) when that person is put into administrative receivership;
    - (c) when that person, being a corporation, passes a resolution for voluntary winding up;
    - (d) when any voluntary arrangement approved in accordance with Part I or VIII of the Insolvency Act 1986, or Part II or Chapter II of Part VIII of the <sup>M7</sup>Insolvency (Northern Ireland) Order 1989, comes into force in relation to that person;
    - (e) when a deed of arrangement registered in accordance with the <sup>M8</sup>Deeds of Arrangement Act 1914 or Chapter I of Part VIII of that Order of 1989 takes effect in relation to that person;
    - (f) when that person’s estate becomes vested in any other person as that person’s trustee under a trust deed.
  - (4C) In this section references, in relation to any person, to the application of an insolvency procedure to that person shall not include—
    - (a) the making of a bankruptcy order, winding-up order, administration order or award of sequestration at a time when any such arrangement or deed as is mentioned in subsection (4B)(d) to (f) above is in force in relation to that person;
    - (b) the making of a winding-up order at any of the following times, that is to say—
      - (i) immediately upon the discharge of an administration order made in relation to that person;
      - (ii) when that person is being wound up voluntarily;
      - (iii) when that person is in administrative receivership;or
    - (c) the making of an administration order in relation to that person at any time when that person is in administrative receivership.

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(4D) For the purposes of this section a person shall be regarded as being in administrative receivership throughout any continuous period for which (disregarding any temporary vacancy in the office of receiver) there is an administrative receiver of that person, and the reference in subsection (4B) above to a person being put into administrative receivership shall be construed accordingly.”

(3) In subsection (5) (definitions), for “subsection (4) above” there shall be substituted “this section”.

(4) This section shall have effect in relation to amounts becoming due from the Commissioners of Customs and Excise at times on or after the day on which this Act is passed.

#### Marginal Citations

M6 1994 c. 23.

M7 1986 c. 45.

M8 1914 c. 47.

## 28 Transactions treated as supplies for purposes of zero-rating etc.

(1) In section 30 of the <sup>M9</sup>Value Added Tax Act 1994 (zero-rated supplies) for subsection (5) (transactions described in Schedule 8 to the Act to be treated as supplies) there shall be substituted—

“(5) The export of any goods by a charity to a place outside the member States shall for the purposes of this Act be treated as a supply made by the charity—

(a) in the United Kingdom, and

(b) in the course or furtherance of a business carried on by the charity.”

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

#### Marginal Citations

M9 1994 c. 23.

## 29 Goods removed from warehousing regime.

In section 18 of the <sup>M10</sup>Value Added Tax Act 1994 (place and time of acquisition or supply of goods subject to warehousing regime) for subsection (5) (regulations about payment of VAT on supply of such goods) there shall be substituted the following subsections—

“(5) The Commissioners may by regulations make provision for enabling a taxable person to pay the VAT he is required to pay by virtue of paragraph (b) of subsection (4) above at a time later than that provided for by that paragraph.

(5A) Regulations under subsection (5) above may in particular make provision for either or both of the following—

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- (a) for the taxable person to pay the VAT together with the VAT chargeable on other supplies by him of goods and services;
  - (b) for the taxable person to pay the VAT together with any duty of excise deferment of which has been granted to him under section 127A of the <sup>M11</sup>Customs and Excise Management Act 1979;
- and they may make different provision for different descriptions of taxable person and for different descriptions of goods.”

**Marginal Citations**

M10 1994 c. 23.

M11 1979 c. 2.

**30 Fuel supplied for private use.**

- (1) Section 57 of the <sup>M12</sup>Value Added Tax Act 1994 (determination of consideration for fuel supplied for private use) shall be amended as follows.
- (2) The following subsection shall be inserted after subsection (1)—
  - “(1A) Where the prescribed accounting period is a period of 12 months, the consideration appropriate to any vehicle is that specified in relation to a vehicle of the appropriate description in the second column of Table A below.”
- (3) In subsection (2) (consideration where prescribed accounting period is period of 3 months) for “second” there shall be substituted “ third ”.
- (4) In subsection (3) (consideration where prescribed accounting period is period of one month) for “third” there shall be substituted “ fourth ”.
- (5) The following Table shall be substituted for Table A—

“ TABLE A

<i>Description of vehicle (Type of engine and cylinder capacity in cubic centimetres)</i>	<i>12 month period</i>	<i>3 month period</i>	<i>1 month period</i>
	<b>£</b>	<b>£</b>	<b>£</b>
Diesel engine 2000 or less	605	151	50
More than 2000	780	195	65
Any other type of engine 1400 or less	670	167	55
More than 1400 but not more than 2000	850	212	70
More than 2000	1260	315	105”

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(6) This section shall apply in relation to prescribed accounting periods beginning on or after 6th April 1995.

(7) Nothing in this section shall be taken to prejudice any practice by which the consideration appropriate to a vehicle is arrived at where a prescribed accounting period beginning before 6th April 1995 is a period of 12 months.

#### Marginal Citations

M12 1994 c. 23.

### 31 Appeals: payment of amounts shown in returns.

(1) In section 84(2) of the <sup>M13</sup>Value Added Tax Act 1994 (appeal not to be entertained unless amounts shown in returns paid, except in certain cases) the words “, except in the case of an appeal against a decision with respect to the matter mentioned in section 83(1),” shall be omitted.

(2) This section shall apply in relation to appeals brought after the day on which this Act is passed.

#### Marginal Citations

M13 1994 c. 23.

### 32 Penalties for failure to notify etc.

(1) In section 67 of the <sup>M14</sup>Value Added Tax Act 1994 (failure to notify and unauthorised issue of invoices) in subsection (4) (the specified percentage)—

- (a) in paragraph (a) for “10 per cent.” there shall be substituted “ 5 per cent. ”;
- (b) in paragraph (b) for “20 per cent.” there shall be substituted “ 10 per cent. ”; and
- (c) in paragraph (c) for “30 per cent.” there shall be substituted “ 15 per cent. ”

(2) Section 15(3A) of the Finance Act 1985 (provision which is repealed by the <sup>M15</sup>1994 Act and which corresponds to section 67(4)) shall have effect subject to the amendments made by subsection (1) above.

(3) Subject to subsection (4) below, subsections (1) and (2) above shall apply where a penalty is assessed on or after 1st January 1995.

(4) Subsections (1) and (2) above shall not apply in the case of a supplementary assessment if the original assessment was made before 1st January 1995.

#### Marginal Citations

M14 1994 c. 23.

M15 1985 c. 54.

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### **33 Correction of consolidation errors.**

- (1) The <sup>M16</sup>Value Added Tax Act 1994 shall have effect, and be deemed always to have had effect, as if it had been enacted as follows.
- (2) Section 35(1) (refund of VAT to persons constructing certain buildings) shall be deemed to have been enacted with the word “building” substituted for the word “dwelling” in each place where it occurs.
- (3) Paragraph 5(5) and (6)(b) of Schedule 4 and paragraph 7(b) of Schedule 6 (which contain references to paragraph 5(3) of Schedule 4 which should be references to paragraph 5(4) of that Schedule) shall be deemed to have been enacted—
  - (a) in the case of paragraph 5(5) and (6)(b), with “sub-paragraph (4) above” substituted for “sub-paragraph (3) above”, in each case; and
  - (b) in the case of paragraph 7(b), with “paragraph 5(4)” substituted for “paragraph 5(3)”.
- (4) In paragraph 9 of Schedule 13 (which contains transitional provisions relating to bad debt relief), the following sub-paragraph shall be deemed to have been enacted instead of sub-paragraph (2) of that paragraph, that is to say—
  - “(2) Claims for refunds of VAT shall not be made in accordance with section 36 of this Act in relation to—
    - (a) any supply made before 1st April 1989; or
    - (b) any supply as respects which a claim is or has been made under section 22 of the 1983 Act.”
- (5) In paragraph 13 of Schedule 14 (consequential amendment of the <sup>M17</sup>Finance Act 1994), the following sub-paragraph shall be deemed to have been enacted instead of sub-paragraph (a) of that paragraph, that is to say—
  - “(a) in subsection (4) for “25 and 29 of the Finance Act 1985” and “40 of the Value Added Tax Act 1983” there shall be substituted, respectively, “85 and 87 of the Value Added Tax Act 1994” and “83 of that Act”.”

#### **Marginal Citations**

**M16** 1994 c. 23.

**M17** 1994 c. 9.

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