



# Finance Act 1996

## 1996 CHAPTER 8

### PART VII

#### MISCELLANEOUS AND SUPPLEMENTAL

##### *Miscellaneous: indirect taxation*

#### **197 Setting of rates of interest.**

- (1) The rate of interest applicable for the purposes of an enactment to which this section applies shall be the rate which for the purposes of that enactment is provided for by regulations made by the Treasury under this section.
- (2) This section applies to—
  - (a) paragraphs 7 and 9 of Schedule 6 to the <sup>M1</sup>Finance Act 1994 (interest payable to or by the Commissioners of Customs and Excise in connection with air passenger duty);
  - (b) paragraphs 21 and 22 of Schedule 7 to that Act (interest on amounts of insurance premium tax and on amounts payable by the Commissioners in respect of that tax);
  - (c) sections 74 and 78 of the <sup>M2</sup>Value Added Tax Act 1994 (interest on VAT recovered or recoverable by assessment and interest payable in cases of official error); <sup>F1</sup> . . .
  - (d) paragraphs 26 and 29 of Schedule 5 to this Act (interest payable to or by the Commissioners in connection with landfill tax) and
  - [<sup>F2</sup>(e) paragraph 17 of Schedule 5 to the Finance Act 1997 (interest on amounts repayable in respect of overpayments by the Commissioners in connection with excise duties, insurance premium tax and landfill tax).]
  - [<sup>F3</sup>(f) sections 126 and 127 of the Finance Act 1999 (interest on overdue customs duty and on repayments of amounts paid by way of customs duty).]
  - [<sup>F4</sup>(g) the following provisions of Schedule 6 to the Finance Act 2000 (interest payable to or by the Commissioners in connection with climate change levy), that is to say, paragraphs 41(2)(f), 62(3)(f), 66, 70(1)(b) and 81(3).]

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- (3) Regulations under this section may—
- (a) make different provision for different enactments or for different purposes of the same enactment,
  - (b) either themselves specify a rate of interest for the purposes of an enactment or make provision for any such rate to be determined, and to change from time to time, by reference to such rate or the average of such rates as may be referred to in the regulations,
  - (c) provide for rates to be reduced below, or increased above, what they otherwise would be by specified amounts or by reference to specified formulae,
  - (d) provide for rates arrived at by reference to averages or formulae to be rounded up or down,
  - (e) provide for circumstances in which changes of rates of interest are or are not to take place, and
  - (f) provide that changes of rates are to have effect for periods beginning on or after a day determined in accordance with the regulations in relation to interest running from before that day, as well as in relation to interest running from, or from after, that day.
- (4) The power to make regulations under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.
- (5) Where—
- (a) regulations under this section provide, without specifying the rate determined in accordance with the regulations, for a new method of determining the rate applicable for the purposes of any enactment, or
  - (b) the rate which, in accordance with regulations under this section, is the rate applicable for the purposes of any enactment changes otherwise than by virtue of the making of regulations specifying a new rate,
- the Commissioners of Customs and Excise shall make an order specifying the new rate and the day from which, in accordance with the regulations, it has effect.
- (6) The words “ the rate applicable under section 197 of the Finance Act 1996 ” shall be substituted—
- (a) for the words “the specified rate” in each of paragraphs 7(1) and (3) and 9(1) of Schedule 6 to the <sup>M3</sup>Finance Act 1994 (air passenger duty);
  - (b) for the words “the prescribed rate” in each of sub-paragraphs (1) and (3) of paragraph 21 of Schedule 7 to that Act (insurance premium tax);
  - (c) for the words from “such rate” onwards in sub-paragraph (2) of paragraph 22 of that Schedule; and
  - (d) in the <sup>M4</sup>Value Added Tax Act 1994—
    - (i) for the words “the prescribed rate” in each of subsections (1), (2) and (4) of section 74, and
    - (ii) for the words from “such rates” onwards in subsection (3) of section 78.
- (7) Subsections (1) and (6) above shall have effect for periods beginning on or after such day as the Treasury may by order made by statutory instrument appoint and shall have effect in relation to interest running from before that day, as well as in relation to interest running from, or from after, that day; and different days may be appointed under this subsection for different purposes.

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#### Subordinate Legislation Made

**P1** S. 197(7) power exercised (20.3.1997): 1.4.1997 appointed by S.I. 1997/1015, **art. 2**

#### Textual Amendments

**F1** Word in s. 197(2)(c) repealed (19.3.1997) by 1997 c. 16, s. 113, **Sch. 18 Pt. V(1)**

**F2** S. 197(2)(e) inserted (19.3.1997) by 1997 c. 16, s. 50(1), **Sch. 5 Pt. V para. 21**

**F3** S. 197(2)(f) inserted (27.7.1999) by 1999 c. 16, s. 130(3)

**F4** S. 197(2)(g) inserted (28.7.2000) by 2000 c. 17, s. 30(2), **Sch. 7 para. 6**

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

**C1** S. 197 applied (19.3.1997) by 1997 c. 16, s. 50(1), **Sch. 5 Pt. V para. 17(1)**

S. 197 applied (27.7.1999 with effect as mentioned in s. 126(8) of the amending Act and art. 2 of S.I. 2000/632) by 1999 c. 16, s. 126(2)(4); S.I. 2000/632, **art. 2**

S. 197 extended (27.7.1999 with effect as mentioned in s. 126(8) of the amending Act and art. 2 of S.I. 2000/632) by 1999 c. 16, s. 126(3)(4); S.I. 2000/632, **art. 2**

S. 197 applied (27.7.1999 with effect as mentioned in s. 127(11) of the amending Act and art. 2 of S.I. 2000/632) by 1999 c. 16, s. 127(7); S.I. 2000/632, **art. 2**

#### Marginal Citations

**M1** 1994 c. 9.

**M2** 1994 c. 23.

**M3** 1994 c. 9.

**M4** 1994 c. 23.

### *Miscellaneous: direct taxation*

#### **198 Banks.**

Schedule 37 to this Act (which re-defines “bank” for certain purposes, and makes related amendments) shall have effect.

#### **199 Quotation or listing of securities.**

Schedule 38 to this Act (which contains amendments of enactments referring to the quotation or listing of securities) shall have effect.

#### **200 Domicile for tax purposes of overseas electors.**

(1) In determining—

(a) for the purposes of inheritance tax, income tax or capital gains tax where a person is domiciled at any time on or after 6th April 1996, or

(b) for the purposes of section 267(1)(a) of the <sup>M5</sup>Inheritance Tax Act 1984 (deemed UK domicile for three years after ceasing to be so domiciled) where a person was domiciled at any time on or after 6th April 1993,

there shall be disregarded any relevant action taken by that person (whether before, on or after that date) in connection with electoral rights.

(2) Relevant action is taken by a person in connection with electoral rights where—

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- (a) he does anything with a view to, or in connection with, being registered as an overseas elector; or
  - (b) when registered as an overseas elector, he votes in any election at which he is entitled to vote by virtue of being so registered.
- (3) For the purposes of this section, a person is registered as an overseas elector if he is—
- (a) registered in any register mentioned in section 12(1) of the Representation of the <sup>M6</sup>People Act 1983 (right to be registered of persons entitled to vote at parliamentary elections) on account of any entitlement to vote conferred on him by section 1 of the Representation of the <sup>M7</sup>People Act 1985 (extension of parliamentary franchise to certain non-resident British citizens); or
  - (b) registered under section 3 of that Act of 1985 (certain non-resident peers entitled to vote at European Parliamentary elections).
- (4) Nothing in subsection (1) above prevents regard being had, in determining the domicile of a person at any time, to any relevant action taken by him in connection with electoral rights if—
- (a) his domicile at that time falls to be determined for the purpose of ascertaining his or any other person's liability to any of the taxes mentioned in subsection (1)(a) above; and
  - (b) the person whose liability is being ascertained wishes regard to be had to that action;
- and a person's domicile determined in accordance with any such wishes shall be taken to have been so determined for the purpose only of ascertaining the liability in question.

#### Marginal Citations

**M5** 1984 c. 51.

**M6** 1983 c. 2.

**M7** 1985 c. 50.

## 201 Enactment of Inland Revenue concessions.

Schedule 39 to this Act has effect for the purpose of enacting certain extra-statutory concessions relating to income tax, corporation tax, capital gains tax, and stamp duty.

*Miscellaneous: other matters*

## 202 Gilt stripping.

- (1) In section 47 of the <sup>M8</sup>Finance Act 1942 (Treasury regulations with respect to the transfer and registration of Government stock), after paragraph (bb) of subsection (1) there shall be inserted the following paragraphs—
- “(bc) for the exchange of any such stock and bonds (whenever issued) for strips thereof;
  - (bd) for exchanges by which such strips (whether deriving from the same security or from different securities) are consolidated into a single security of a description so specified;”.

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(2) After subsection (1A) of that section (transfer of deceased persons' stocks and bonds) there shall be inserted the following subsections—

“(1B) In this section “strip”, in relation to any stock or bond, means a security issued under the <sup>M9</sup>National Loans Act 1968 which—

- (a) is issued for the purpose of representing the right to, or of securing—
  - (i) a payment corresponding to a payment of interest or principal remaining to be made under the stock or bond, or
  - (ii) two or more payments each corresponding to a different payment remaining to be so made;
- (b) is issued in conjunction with the issue of one or more other securities which, together with that security, represent the right to, or secure, payments corresponding to every payment remaining to be made under the stock or bond; and
- (c) is not itself a security that represents the right to, or secures, payments corresponding to a part of every payment so remaining.

(1C) For the purposes of subsection (1B) of this section, where the balance has been struck for a dividend on any stock or bond, any payment to be made in respect of that dividend shall, at times falling after that balance has been struck, be treated as not being a payment remaining to be made under the stock or bond.

(1D) Without prejudice to the generality of the powers conferred by the preceding provisions of this section (but subject to subsection (1E) of this section), regulations made by virtue of paragraph (bc) or (bd) of subsection (1) of this section may—

- (a) provide, for the purpose of authorising the making of exchanges, for any stock or bonds to be treated as issued on such terms as may be specified in the regulations;
- (b) contain such provision as the Treasury think fit about the circumstances in which and the conditions subject to which exchanges may be effected; and
- (c) contain any such provision as could be contained in rules made under section 14(3) of the National Loans Act 1968 (Treasury rules as to exchange of securities).

(1E) Regulations made by virtue of subsection (1)(bc) or (bd) of this section shall not make provision for the exchange of any stock or bonds, or of any strips, in any cases other than those where the exchange is at the request of the holder or in accordance with an order made by a court.

(1F) Regulations under this section may make different provision for different cases and contain such exceptions and exclusions as the Treasury think fit; and the powers of the Treasury to make regulations under this section are without prejudice to any of their powers under the <sup>M10</sup>National Loans Act 1968.”

(3) After section 2 of the <sup>M11</sup>National Debt (Stockholders Relief) Act 1892 (date for striking balance for a dividend on stock) there shall be inserted the following section—

**“2A Payment of dividend on stock stripped after balance struck.**

(1) Where—

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- (a) any stock is exchanged for strips of that stock, and
  - (b) that exchange takes place after the balance has been struck for a dividend on that stock but before the day on which that dividend is payable,  
any person who would have been entitled to that dividend but for the exchange shall remain entitled to that dividend notwithstanding the exchange.
- (2) The Treasury may by order made by statutory instrument provide that for the purposes of this section and section 47(1C) of the <sup>M12</sup>Finance Act 1942, the balance for any dividend on any stock is to be deemed to be struck at a time which, by such a period as is specified in the order, precedes the time when the balance is actually struck.
- (3) A period specified in an order under subsection (2) above shall not exceed 7 days; and an order made under that subsection may make different provision for different cases.
- (4) In this section “strip”, in relation to any stock, has the meaning given by section 47 of the Finance Act 1942.”
- (4) In section 16 of the National Loans Act 1968 (supplemental provisions as to national debt), after subsection (4) there shall be inserted the following subsection—
- “(4A) In subsections (3) and (4) above the references to stock or registered bonds issued under this Act include references to a strip (within the meaning of section 47 of the Finance Act 1942) of any stock or bond (whether the stock or bond is issued under this Act or otherwise).”
- (5) The Treasury may by regulations make provision for securing that enactments and subordinate legislation which—
- (a) apply in relation to government securities or to any description of such securities, or
  - (b) for any other purpose refer (in whatever terms) to such securities or to any description of them,
- have effect with such modifications as the Treasury may think appropriate in consequence of the making of any provision or arrangements for, or in connection with, the issue or transfer of strips of government securities or the consolidation of such strips into other securities.
- (6) Regulations under subsection (5) above may—
- (a) impose a charge to income tax, corporation tax, capital gains tax, inheritance tax, stamp duty or stamp duty reserve tax;
  - (b) include provision applying generally to, or to any description of, enactments or subordinate legislation;
  - (c) make different provision for different cases; and
  - (d) contain such incidental, supplemental, consequential and transitional provision as the Treasury think appropriate.
- (7) The power to make regulations under subsection (5) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.
- (8) Schedule 40 to this Act (which makes provision in relation to strips for taxation purposes) shall have effect.

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(9) The enactments that may be modified by regulations under this section shall include section 95 above and the enactments contained in Schedule 40 to this Act.

(10) In this section—

“government securities” means any securities included in Part I of Schedule 11 to the <sup>M13</sup>Finance Act 1942;

“modifications” includes amendments, additions and omissions; and

“subordinate legislation” has the same meaning as in the <sup>M14</sup>Interpretation Act 1978;

and expressions used in this section and in section 47 of the <sup>M15</sup>Finance Act 1942 have the same meanings in this section as in that section.

#### Marginal Citations

**M8** 1942 c. 21.

**M9** 1968 c. 13.

**M10** 1968 c. 13.

**M11** 1892 c. 39.

**M12** 1942 c. 21.

**M13** 1942 c. 21.

**M14** 1978 c. 30.

**M15** 1942 c. 21.

## 203 Modification of the Agriculture Act 1993.

(1) Part I of Schedule 2 to the <sup>M16</sup>Agriculture Act 1993 (taxation provisions applying to the reorganisation of the milk marketing boards) shall have effect, and be deemed always to have had effect, in accordance with subsections (2) to (4) below where—

- (a) any approved scheme has made provision as to the functions of a milk marketing board in the period after the transfers taking effect on the vesting day under section 11 of that Act;
- (b) regulations have been made by virtue of section 14(2) of that Act (provision following re-organisation) for giving effect to that provision; and
- (c) a transaction is or has been entered into by that board in pursuance of any obligation under those regulations to carry out those functions so far as they relate to a subsidiary of the board.

(2) For the purposes of that Part of that Schedule—

- (a) anything done by way of entering into the transaction, or for the purpose of carrying it out, shall be deemed to have been done under and in accordance with the scheme; and
- (b) the terms and other provisions having effect in relation to that transaction by virtue of anything contained in, or anything done in exercise of powers conferred by, any regulations under section 14(2) of the <sup>M17</sup>Agriculture Act 1993 shall be deemed to be terms for which the scheme provided or, as the case may be, to be provisions of the scheme.

(3) Sub-paragraph (1) of paragraph 16 of Schedule 2 to the Agriculture Act 1993 (distributions) shall have effect, and be deemed always to have had effect, in a case

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where the terms and provisions mentioned in subsection (2)(b) above involved or involve—

- (a) the issue or transfer of any shares in, or securities of, any body,
- (b) the conferring of any right to a distribution out of the assets of any body,
- (c) the conferring of any right to, or to acquire, shares in any body, or
- (d) the transfer to any person of any property or rights of a milk marketing board, or of the subsidiary of such a board,

as if the references to the vesting day in paragraphs (a), (c), (d) and (e) of that sub-paragraph were references to the day on which the winding up of the board is completed.

(4) Sub-paragraph (4) of paragraph 31 of Schedule 2 to the Agriculture Act 1993 (condition to be satisfied if body to be qualifying body by virtue of sub-paragraph (1)(c)) shall have effect, and be deemed always to have had effect, as if—

- (a) the reference, in relation to a company, to 90 per cent. of its ordinary share capital were a reference to 70 per cent. of its ordinary share capital; and
- (b) the references to shares having been issued to any person included references to their having been allotted to that person.

(5) Paragraph 1 of Schedule 2 to the Agriculture Act 1993 (tax continuity with successor bodies) shall have effect, and be deemed to have had effect, in relation to any relevant transfer after 31st December 1995 to a society registered under the <sup>M18</sup>Industrial and Provident Societies Act 1965 of—

- (a) a trade, or part of a trade, of a milk marketing board, or
- (b) any property, rights or liabilities of such a board,

as it has effect in relation to any transfer under section 11 of that Act to a qualifying body.

(6) Paragraphs 16, 20, 25, 26, 28 and 29 of Schedule 2 to the Agriculture Act 1993 shall have effect, and be deemed to have had effect, in relation to any relevant transfer after 31st December 1995 of assets of a milk marketing board to a society registered under the Industrial and Provident Societies Act 1965 as if—

- (a) the terms and other provisions of the transaction for effecting the transfer were contained in an approved scheme;
- (b) the society were a relevant successor of that board; and
- (c) references in those paragraphs to the vesting day were references to the day on which the winding up of the board is completed.

(7) For the purposes of subsections (5) and (6) above, a transfer of anything to a society registered under the <sup>M19</sup>Industrial and Provident Societies Act 1965 is a relevant transfer if—

- (a) it is a transfer in pursuance of regulations made by virtue of section 14(2) of the <sup>M20</sup>Agriculture Act 1993;
- (b) it is not a transfer of shares in a subsidiary of a milk marketing board; and
- (c) the condition mentioned in sub-paragraph (5) of paragraph 31 of Schedule 2 to that Act would have been met in relation to that society if the provision made as to the persons to whom the membership of the society is open were contained in an approved scheme providing for the transfer.

(8) Paragraph 20 of Schedule 2 to the Agriculture Act 1993 (treatment of acquisition of certain shares and securities) shall not apply, and shall be deemed never to have applied, in relation to the acquisition of any security after 31st December 1995 if



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the indebtedness acknowledged by that security does not fall, for the purposes of the <sup>M21</sup>Taxation of Chargeable Gains Act 1992, to be treated as a debt on a security (as defined in section 132 of that Act of 1992).

- (9) For the purposes of Chapter II of Part IV of this Act, so far as it has effect for any accounting period ending after 31st March 1996 in relation to any creditor relationship represented by a debenture issued on or after 31st December 1995, paragraph 25 of Schedule 2 to the Agriculture Act 1993 shall have effect as if sub-paragraph (2)(a) of that paragraph (deemed consideration for issue of debenture issued under approved scheme) were omitted.
- (10) For the purposes of the Taxation of Chargeable Gains Act 1992, where any debenture to which paragraph 25 of Schedule 2 to the Agriculture Act 1993 applies has been or is issued at any time after 31st December 1995, the indebtedness acknowledged by that debenture shall be deemed (where that would not otherwise be the case) to be, and always to have been, a debt on a security (as defined in section 132 of that Act of 1992).
- (11) Expressions used in this section and in Part I of the Agriculture Act 1993 have the same meanings in this section as in that Part.

**Marginal Citations**

M16 1993 c. 37.  
M17 1993 c. 37.  
M18 1965 c.12.  
M19 1965 c. 12.  
M20 1993 c. 37.  
M21 1992 c.12.

*Supplemental*

**204 Interpretation.**

In this Act “the Taxes Act 1988” means the <sup>M22</sup>Income and Corporation Taxes Act 1988.

**Marginal Citations**

M22 1988 c. 1.

**205 Repeals.**

- (1) The enactments mentioned in Schedule 41 to this Act (which include spent provisions) are hereby repealed to the extent specified in the third column of that Schedule.
- (2) The repeals specified in that Schedule have effect subject to the commencement provisions and savings contained in, or referred to, in the notes set out in that Schedule.

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**206 Short title.**

This Act may be cited as the Finance Act 1996.

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