

*Status: Point in time view as at 08/11/2007.*

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## SCHEDULES

### SCHEDULE 1 U.K.

Section 13.

#### GAMING DUTY: ADMINISTRATION, ENFORCEMENT ETC

#### PART I U.K.

##### THE GAMING DUTY REGISTER

###### *The Register*

- 1 The Commissioners shall establish and maintain a register of persons involved in the provision of dutiable gaming.

###### *Interpretation*

- 2 (1) In this Part of this Schedule—
- [<sup>F1</sup>“casino premises licence” has the same meaning as in Part 8 of the Gambling Act 2005 (see section 150(1)(a));
  - “club gaming permit” has the same meaning as in that Act (see section 271);]
  - “the register” means the gaming duty register;
  - “registered person” means a person registered on the register; and
  - “registrable person” has the meaning given by paragraph 3 below.
- (2) For the purposes of this Part of this Schedule premises in the United Kingdom are “unlicensed premises” unless they are premises in Great Britain—
- [<sup>F2</sup>(a) in respect of which a casino premises licence is for the time being in force, or
  - (b) in respect of which a club gaming permit is for the time being in force.]
- (3) References in this Part of this Schedule to being a member of a group and to being the representative member of a group shall be construed in accordance with paragraph 8 below.

#### Textual Amendments

- F1** Words in Sch. 1 para. 2(1) inserted (1.9.2007) by Finance Act 2007 (c. 11), Sch. 25 paras. 20(2)23(2); S.I. 2007/2532, art. 2
- F2** Sch. 1 para. 2(2)(a)-(b) substituted (1.9.2007) by Finance Act 2007 (c. 11), Sch. 25 paras. 20(3)23(2); S.I. 2007/2532, art. 2

###### *Registration*

- 3 (1) The Commissioners shall, on receipt of a valid application made by—

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- (a) a registrable person, or
  - (b) a person who expects dutiable gaming to take place and to become a registrable person if it does,
- add that person to the register.
- (2) The following provisions of this paragraph have effect for the interpretation of sub-paragraph (1) above.
- (3) A valid application is one which is made in such form and manner, and is accompanied by such information, as the Commissioners may require.
- (4) Subject to sub-paragraph (5) below—
- (a) the holder of a [<sup>F3</sup>casino premises licence or club gaming permit] is a registrable person if and for so long as dutiable gaming takes place on the premises in respect of which the licence [<sup>F4</sup>or permit] is for the time being in force;
  - (b) a provider of unlicensed premises is a registrable person if and for so long as dutiable gaming takes place on those premises;
  - (c) a person is a registrable person if and for so long as he is concerned in the organisation or management of dutiable gaming that takes place on unlicensed premises.
- (5) A body corporate cannot be a registrable person if it—
- (a) is a member of a group, but
  - (b) is not the representative member of that group.
- (6) A body corporate which—
- (a) is the representative member of a group, and
  - (b) is not a registrable person in its own right,
- is a registrable person if another body corporate which is a member of that group would be a registrable person but for sub-paragraph (5) above.

#### Textual Amendments

- F3** Words in Sch. 1 para. 3(4)(a) substituted (1.9.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 25 paras. 20\(4\)\(a\), 23\(2\)](#); [S.I. 2007/2532, art. 2](#)
- F4** Words in Sch. 1 para. 3(4)(a) inserted (1.9.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 25 paras. 20\(4\)\(b\), 23\(2\)](#); [S.I. 2007/2532, art. 2](#)

#### *Cancellation of registration*

- 4 (1) This paragraph has effect for determining when a registered person is to be removed by the Commissioners from the register.
- (2) Where the Commissioners receive a valid notice from a registered person stating that he has ceased to be a registrable person, he shall be removed from the register.
- (3) Where the Commissioners receive a valid notice from a registered person stating that he will, from a time specified in the notice, cease to be a registrable person, he shall be removed from the register with effect from that time.
- (4) Where—

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- (a) a registered person has been added to the register on an application made under paragraph 3(1)(b) above, and
  - (b) the Commissioners receive a valid notice from him stating—
    - (i) that the dutiable gaming which he expected to take place has not taken place, and
    - (ii) that he no longer expects it to take place,he shall be removed from the register.
- (5) Where it appears to the Commissioners that a registered person has ceased to be a registrable person, he shall be removed from the register.
- (6) A registered person shall be removed from the register if—
- (a) he has been added to the register on an application made under paragraph 3(1)(b) above, and
  - (b) it appears to the Commissioners that the dutiable gaming which he expected to take place has not taken place and can no longer be expected to take place.
- (7) For the purposes of this paragraph, a valid notice is one which is given in such form and manner, and accompanied by such information, as the Commissioners may require.

*Penalties in connection with registration*

- 5 (1) There is a contravention of this sub-paragraph by every person who is a responsible person in relation to any premises if—
- (a) dutiable gaming takes place on those premises on or after 1st October 1997; and
  - (b) at the time when the gaming takes place, no person by whom those premises are notifiable is registered on the register.
- (2) For the purposes of this paragraph, a person is a responsible person in relation to any premises if—
- (a) he is a registrable person; and
  - (b) those premises are notifiable by him.
- (3) Where a person contravenes sub-paragraph (1) above, that contravention shall attract a penalty under section 9 of the <sup>M1</sup>Finance Act 1994 (civil penalties) and shall also attract daily penalties.
- (4) References in this paragraph to premises being notifiable are references to them being notifiable for the purposes of paragraph 6 below.

**Marginal Citations**

**M1** 1994 c. 9.

*Notification of premises*

- 6 (1) This paragraph has effect for determining the premises to be specified in a registered person's entry on the register.

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- (2) A person who makes an application under paragraph 3(1) above shall, on making that application, notify the Commissioners of all the premises which—
- (a) are notifiable by him, or
  - (b) in a case where his application is made under paragraph 3(1)(b), will become notifiable by him if the expected gaming takes place;
- and the Commissioners shall, on registering him on the register, cause those premises to be specified in his entry on the register.
- (3) Where any premises not currently notified by a registered person become notifiable by him—
- (a) he shall notify the Commissioners of those premises, and
  - (b) the Commissioners shall cause those premises to be specified in his entry on the register.
- (4) Subject to sub-paragraph (5) below, where any premises currently notified by a registered person cease to be notifiable by him—
- (a) he shall notify the Commissioners of that fact, and
  - (b) they shall cause those premises to be no longer specified in his entry on the register.
- (5) A registered person is not required to notify the Commissioners as mentioned in sub-paragraph (4) above in a case where—
- (a) he gives notice to the Commissioners under paragraph 4(2) above; or
  - (b) the premises ceasing to be notifiable by him so cease in accordance with a notification previously given by him to the Commissioners under sub-paragraph (6) below.
- (6) Where—
- (a) any premises are currently notified by a registered person, and
  - (b) he notifies the Commissioners of the date on which those premises will cease to be notifiable by him,
- the Commissioners shall ensure that those premises cease, with effect from that date, to be specified in his entry on the register.
- (7) Subject to sub-paragraph (8) below, where—
- (a) any premises are currently notified by a registered person,
  - (b) that person has been added to the register on an application made under paragraph 3(1)(b) above,
  - (c) any of the dutiable gaming which he expected to take place has not taken place,
  - (d) he no longer expects that gaming to take place, and
  - (e) in consequence of events turning out as mentioned in paragraphs (c) and (d) above, those premises have not and will not become notifiable by him,
- he shall notify the Commissioners accordingly and they shall cause those premises to be no longer specified in his entry on the register.
- (8) A registered person is not required to notify the Commissioners as mentioned in sub-paragraph (7) above in a case where he gives notice to the Commissioners under paragraph 4(4) above.

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- (9) For the purposes of this paragraph premises are currently notified by any person at any time if at that time they are specified in his entry on the register.
- (10) For the purposes of this paragraph, in the case of a person who is not a body corporate, or who is a body corporate that is not a member of any group—
- (a) premises in respect of which a [<sup>F5</sup>casino premises licence or club gaming permit] is for the time being in force are notifiable by him if and for so long as—
    - (i) he is the holder of the licence [<sup>F6</sup>or permit], and
    - (ii) dutiable gaming takes place on those premises;
  - (b) unlicensed premises of which he is a provider are notifiable by him if and for so long as dutiable gaming takes place on those premises; and
  - (c) any unlicensed premises of which he is not a provider are notifiable by him if and for so long as—
    - (i) dutiable gaming takes place on those premises, and
    - (ii) he is concerned in the organisation or management of that gaming.
- (11) For the purposes of this paragraph, in the case of a body corporate which is the representative member of a group—
- (a) premises in respect of which a [<sup>F7</sup>casino premises licence or club gaming permit] is for the time being in force are notifiable by the representative member if and for so long as—
    - (i) it, or another body corporate which is a member of that group, is the holder of the licence [<sup>F8</sup>or permit], and
    - (ii) dutiable gaming takes place on those premises;
  - (b) unlicensed premises of which the representative member or any such other body corporate is a provider are notifiable by the representative member if and for so long as dutiable gaming takes place on those premises; and
  - (c) unlicensed premises which are not notifiable by the representative member by virtue of paragraph (b) above are notifiable by it if and for so long as—
    - (i) dutiable gaming takes place on those premises, and
    - (ii) it or any such other body corporate is concerned in the organisation or management of that gaming.

#### Textual Amendments

- F5** Words in Sch. 1 para. 6(10)(a) substituted (1.9.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 25 paras. 20\(5\)\(a\)](#), 23(2); [S.I. 2007/2532](#), [art. 2](#)
- F6** Words in Sch. 1 para. 6(10)(a) inserted (1.9.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 25 paras. 20\(5\)\(a\)](#), 23(2); [S.I. 2007/2532](#), [art. 2](#)
- F7** Words in Sch. 1 para. 6(11)(a) substituted (1.9.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 25 paras. 20\(5\)\(b\)](#), 23(2); [S.I. 2007/2532](#), [art. 2](#)
- F8** Words in Sch. 1 para. 6(11)(a) inserted (1.9.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 25 paras. 20\(5\)\(b\)](#), 23(2); [S.I. 2007/2532](#), [art. 2](#)

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*Penalties in connection with notification*

- 7 (1) Where, in contravention of paragraph 6(2) above, a person fails to notify the Commissioners of any premises, that failure shall attract a penalty under section 9 of the <sup>M2</sup>Finance Act 1994 (civil penalties).
- (2) Where—
- (a) by virtue of paragraph 6(3), (4) or (7) above, a person at any time becomes subject to a requirement to notify the Commissioners of any premises or fact, and
  - (b) he fails to comply with that requirement before the end of the period of seven days beginning with the day on which that time falls,
- that failure shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties) and shall also attract daily penalties for every day after the end of that period on which the failure to notify continues.

**Marginal Citations**

**M2** 1994 c. 9.

*Groups*

- 8 (1) Two or more bodies corporate are eligible to be treated as members of a group for the purposes of this Part of this Schedule if each is resident or has an established place of business in the United Kingdom and—
- (a) one of them controls each of the others;
  - (b) one person (whether a body corporate or an individual) controls all of them; or
  - (c) two or more individuals carrying on a business in partnership control all of them.
- (2) Subject to sub-paragraph (3) below, where an application for the purpose is made to the Commissioners with respect to two or more bodies corporate eligible to be treated as members of a group, then, from such date as may be specified in the application—
- (a) they shall be so treated for the purposes of this Part of this Schedule; and
  - (b) such one of them as may be specified in the application shall be the representative member for those purposes.
- (3) The Commissioners may refuse an application under sub-paragraph (2) above if, and only if, it appears to them necessary to do so for the protection of the revenue from gaming duty.
- (4) Where any bodies corporate are treated as members of a group for the purposes of this Part of this Schedule and an application for the purpose is made to the Commissioners, then, from such time as may be specified in the application—
- (a) a further body eligible to be so treated shall be included among the bodies so treated; or
  - (b) a body corporate shall be excluded from the bodies so treated; or
  - (c) another member of the group shall be substituted as the representative member; or
  - (d) the bodies corporate shall no longer be treated as members of a group.

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- (5) If it appears to the Commissioners necessary to do so for the protection of the revenue from gaming duty, they may—
- (a) refuse any application made for the purpose mentioned in paragraph (a) or (c) of sub-paragraph (4) above; or
  - (b) refuse any application made for the purpose mentioned in paragraph (b) or (d) of that sub-paragraph in a case that does not appear to them to fall within sub-paragraph (6)(a) and (b) below.
- (6) Where—
- (a) a body corporate is treated as a member of a group for the purposes of this Part of this Schedule by virtue of being controlled by any person, and
  - (b) it appears to the Commissioners that it has ceased to be so controlled,
- they shall, by notice given to that person, terminate that treatment from such date as may be specified in the notice.
- (7) Where—
- (a) a notice under sub-paragraph (6) above is given to a body corporate which is the representative member of a group,
  - (b) there are two or more other bodies corporate who will continue to be treated as members of the group after the time when that notice takes effect, and
  - (c) none of those bodies corporate is substituted from that time, or from before that time, as the representative member of the group in pursuance of an application under sub-paragraph (4)(c) above,
- the Commissioners shall, by notice given to such one of the bodies corporate mentioned in paragraph (b) above as they think fit, substitute that body corporate as the representative member as from that time.
- (8) Where a notice under sub-paragraph (6) above is given to one member of a group of which there is only one other member, then (subject to any further application under this paragraph) the other member shall also cease, from the time specified in the notice, to be treated for the purposes of this Part of this Schedule as a member of the group.
- (9) An application under this paragraph with respect to any bodies corporate—
- (a) must be made by one of those bodies or by the person controlling them; and
  - (b) must be made not less than 90 days before the date from which it is to take effect, or at such later time as the Commissioners may allow.
- (10) For the purposes of this paragraph a body corporate shall be taken to control another body corporate if—
- (a) it is empowered by statute to control that body's activities; or
  - (b) it is that body's holding company within the meaning of section 736 of the <sup>M3</sup>Companies Act 1985;
- and an individual or individuals shall be taken to control a body corporate if (were he or they a company) he or they would be that body's holding company within the meaning of that Act.
- (11) Sections 14 to 16 of the <sup>M4</sup>Finance Act 1994 (review and appeals) shall have effect in relation to any refusal by the Commissioners of an application under sub-paragraph (2) or (4) above as if that refusal were a decision of a description specified in Schedule 5 to that Act.

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### Marginal Citations

**M3** 1985 c. 6.

**M4** 1994 c. 9.

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

### OTHER PROVISIONS

#### *Accounting periods*

- 9 (1) Where, in the case of any premises, the Commissioners and every relevant person so agree, the provisions of sections 10 to 15 of this Act and this Schedule shall have effect in relation to those premises as if accounting periods for the purposes of those provisions were periods of six months beginning on such dates other than 1st October and 1st April as may be specified in the agreement.
- (2) For the purposes of sub-paragraph (1) above, a person is a relevant person in relation to any premises if—
- (a) he is registered on the gaming duty register, and
  - (b) the entry relating to him on the register specifies those premises.
- (3) The Commissioners shall not enter into an agreement under this paragraph for a change in the date on which an accounting period begins in relation to any premises unless they are satisfied that appropriate transitional provision for the protection of the revenue is contained in the agreement.
- (4) The provision which, for the purposes of sub-paragraph (3) above, may be contained in any agreement under this paragraph shall include any such provision as may be contained in regulations under section 11(5) of this Act.
- (5) Sections 14 to 16 of the Finance Act 1994 (review and appeals) shall have effect in relation to any refusal of the Commissioners to enter into an agreement under this paragraph, or to enter into such an agreement on particular terms, as if that refusal were a decision of a description specified in Schedule 5 to that Act.

#### *Directions as to the making of returns*

- 10 (1) The Commissioners may give directions as to the making of returns in connection with gaming duty by—
- (a) persons registered on the gaming duty register;
  - (b) persons liable to pay any gaming duty.
- (2) Directions under this paragraph may, in particular, make provision as to—
- (a) when any returns are to be made;
  - (b) the persons by whom any returns are to be made;
  - (c) the form in which any returns are to be made;
  - (d) the information to be given in any returns;
  - (e) the declarations to be contained in returns and the manner in which returns are to be authenticated;
  - (f) returns being treated as not made until received by the Commissioners;



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(g) the places to which returns are to be made.

- (3) Where a person fails to comply with any provision of a direction given under this paragraph, that failure shall attract a penalty under section 9 of the <sup>M5</sup>Finance Act 1994 (civil penalties) and shall also attract daily penalties.

#### Marginal Citations

M5 1994 c. 9.

#### Regulations

- 11 (1) The Commissioners may make regulations providing for any matter for which provision appears to them to be necessary or expedient for the administration or enforcement of gaming duty, or for the protection of the revenue from that duty.
- (2) Regulations under this paragraph may, in particular, include provision as to the giving and operation of directions under section 11(6) of this Act.
- (3) Where any person contravenes or fails to comply with any of the provisions of any regulations under this paragraph, his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties).

#### Offences

- 12 (1) Any person who obstructs any officer in the exercise of his functions in relation to gaming duty shall be guilty of an offence and liable, on summary conviction, to a penalty of level 5 on the standard scale.
- (2) Any person who—
- (a) in connection with gaming duty, makes any statement which he knows to be false in a material particular or recklessly makes any statement which is false in a material particular,
  - (b) in that connection, with intent to deceive, produces or makes use of any book, account, record, return or other document which is false in a material particular, or
  - (c) is knowingly concerned in, or in the taking of steps with a view to, the fraudulent evasion (by him or any other person) of any gaming duty or of any obligation to make a payment on account of gaming duty,
- shall be guilty of an offence.
- (3) A person guilty of an offence under sub-paragraph (2) above shall be liable—
- (a) on summary conviction, to a penalty of—
    - (i) the statutory maximum, or
    - (ii) if greater, three times the duty or other amount which is unpaid or the payment of which is sought to be avoided,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—
    - (i) two years in the case of an offence by virtue of sub-paragraph (2) (a) above, and

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- (ii) seven years in any other case,  
or to both.
- (4) Section 27 of the <sup>M6</sup>Betting and Gaming Duties Act 1981 (offences by bodies corporate) shall have effect for the purposes of any offence under this paragraph as it has effect for the purposes of the offences mentioned in that section.
- (5) Where a person has committed an offence under sub-paragraph (2) above, all designated items related to the relevant gaming shall be liable to forfeiture if—
- (a) at the time the offence was committed that person was not registered on the gaming duty register; and
  - (b) the relevant gaming did not take place on premises which, at the time the offence was committed, were specified in any person’s entry on that register.
- (6) In sub-paragraph (5) above, “the relevant gaming” means—
- (a) in relation to an offence under sub-paragraph (2)(a) or (b) above, any gaming to which the false statement or (as the case may be) the false document related; and
  - (b) in relation to an offence under sub-paragraph (2)(c) above, any gaming on the premises the gaming duty on which was, or was sought to be, fraudulently evaded.
- (7) For the purposes of sub-paragraph (5) above, the designated items related to any gaming are—
- (a) any furniture, machines and other articles and equipment which—
    - (i) are on the premises where the gaming takes place; and
    - (ii) have been or are being, or are capable of being, used for or in connection with gaming;
 and
  - (b) any cash and gaming chips in the custody or under the control of any person who—
    - (i) is a provider of the premises on which the gaming takes place, or
    - (ii) is in any way concerned with the organisation or management of the gaming.
- (8) For the purposes of sub-paragraph (7)(b) above the cash and gaming chips taken to be under the control of a person who is the provider of any premises or is concerned with the organisation or management of gaming on any premises shall include all cash and gaming chips in play or left on a gaming table on those premises.

#### Marginal Citations

**M6** 1981 c. 63.

#### *Distress and poinding*

- 13 <sup>F9</sup>(1) Sections 28 and 29 of the Betting and Gaming Duties Act 1981 (recovery of duty) shall have effect as follows so as to apply in relation to gaming duty as they applied in relation to the duty on gaming licences—

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- (a) in subsection (1) of each section, for “or 14 above or of Schedule 2 to this Act” there shall be substituted “above or sections 10 to 15 of, and Schedule 1 to, the Finance Act 1997”; and
  - (b) in subsections (2) and (3) of each section, for the words “the duty on a gaming licence” there shall be substituted—
    - (i) in the first place where they occur in subsection (2), the words “the gaming duty”; and
    - (ii) in the other places where they occur, the words “gaming duty”].
- (2) Sub-paragraph (1) above shall cease to have effect on such day as the Commissioners may by order made by statutory instrument appoint, and different days may be appointed under this sub-paragraph for different purposes.

#### Textual Amendments

- F9** Sch. 1 para. 13(1) ceases to have effect (1.7.1997) by 1997 c. 16, s. 13, **Sch. 1 para. 13(2)**; S.I. 1997/1433, art. 2

#### *Disclosure of information*

- 14 (1) No obligation as to secrecy or other restriction on the disclosure of information imposed by statute or otherwise shall prevent—
- (a) the Commissioners or an authorised officer of the Commissioners from disclosing to [<sup>F10</sup>the Gambling Commission] or to an authorised officer of [<sup>F10</sup>that Commission], or
  - (b) [<sup>F10</sup>that Commission] or an authorised officer of [<sup>F10</sup>that Commission] from disclosing to the Commissioners or an authorised officer of the Commissioners,
- information for the purpose of assisting the Commissioners in the carrying out of their functions with respect to gaming duty or, as the case may be, [<sup>F10</sup>that Commission] in the carrying out of [<sup>F10</sup>that Commission's functions under the Gambling Act 2005] .
- (2) Information obtained by virtue of a disclosure authorised by this paragraph shall not be disclosed except—
- (a) to the Commissioners or [<sup>F11</sup>the Gambling Commission] or to an authorised officer of the Commissioners or [<sup>F11</sup>that Commission]; or
  - (b) for the purposes of any proceedings connected with a matter in relation to which the Commissioners or [<sup>F11</sup>that Commission] carry out the functions mentioned in sub-paragraph (1) above.

#### Textual Amendments

- F10** Words in Sch. 1 para. 14(1) substituted (19.7.2007) by Finance Act 2007 (c. 11), **Sch. 25 paras. 20(6)(a)23(1)**
- F11** Words in Sch. 1 para. 14(2) substituted (19.7.2007) by Finance Act 2007 (c. 11), **Sch. 25 paras. 20(6)(b)23(1)**

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*Evidence by certificate*

- 15 Section 29A of the <sup>M7</sup>Betting and Gaming Duties Act 1981 (evidence by certificate) shall apply for the purposes of sections 10 to 15 of this Act and this Schedule as it applies for the purposes of that Act.

**Marginal Citations**

**M7** 1981 c. 63.

*Protection of officers*

- 16 Section 31 of the Betting and Gaming Duties Act 1981 (protection of officers) shall apply for the purposes of gaming duty as it applies for the purposes of general betting duty.

SCHEDULE 2 **U.K.**

Section 13.

GAMING DUTY: CONSEQUENTIAL AND INCIDENTAL AMENDMENTS

PART I **U.K.**

AMENDMENTS OF THE CUSTOMS AND EXCISE MANAGEMENT ACT 1979

*Introductory*

- 1 The <sup>M8</sup>Customs and Excise Management Act 1979 shall be amended in accordance with the provisions of this Part of this Schedule.

**Marginal Citations**

**M8** 1979 c. 2.

*Meaning of “revenue trade provisions” and “revenue trader”*

- 2 (1) This paragraph amends section 1(1) (interpretation).
- (2) In the definition of “the revenue trade provisions of the customs and excise Acts”, after paragraph (d) there shall be inserted the following paragraph—  
 “(e) the provisions of sections 10 to 15 of, and Schedule 1 to, the Finance Act 1997;”.
- (3) In paragraph (a) of the definition of “revenue trader”, after sub-paragraph (ia) there shall be inserted the following sub-paragraphs—  
 “(ib) being (within the meaning of sections 10 to 15 of the Finance Act 1997) the provider of any premises for gaming;

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- (ic) the organisation, management or promotion of any gaming (within the meaning of the <sup>M9</sup>Gaming Act 1968 or the <sup>M10</sup>Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985); or”.
- (4) In sub-paragraph (ii) of that paragraph, for “or (ia)” there shall be substituted “, (ia), (ib) or (ic)”.

**Marginal Citations**

- M9** 1968 c. 65.
- M10** S.I. 1985/1204 (N.I. 11).

*Amendments of Part IXA*

- 3 In section 118B (furnishing of information etc. by revenue traders)—
  - (a) in subsection (1)(a), after sub-paragraph (ii) there shall be inserted “or (iii) any transaction or activity effected or taking place in the course or furtherance of a business.”;
  - (b) in subsection (1)(b), at the end there shall be inserted “ or to the transaction or activity ”; and
  - (c) in subsection (3), after “any business” there shall be inserted “, or to any transaction or activity effected or taking place in the course or furtherance of any business, ”.
- 4 (1) This paragraph amends section 118C (powers of entry and search).
- (2) After subsection (2) there shall be inserted the following subsections—
  - “(2A) Where an officer has reasonable cause to believe that any premises are premises where gaming to which section 10 of the Finance Act 1997 (gaming duty) applies is taking place, has taken place or is about to take place, he may at any reasonable time enter and inspect those premises and inspect any relevant materials found on them.
  - (2B) In subsection (2A) above “relevant materials” means—
    - (a) any accounts, records or other documents found on the premises in the custody or control of any person who is engaging, or whom the officer reasonably suspects of engaging—
      - (i) in any such gaming, or
      - (ii) in any activity by reason of which he is or may become liable to gaming duty,
    - and
    - (b) any equipment which is being, or which the officer reasonably suspects of having been or of being intended to be, used on the premises for or in connection with any such gaming.”

- F12(3) .....
- F12(4) .....
- F12(5) .....

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**Textual Amendments**

**F12** Sch. 2 para. 4(3)-(5) repealed (8.11.2007) by [Finance Act 2007 \(c. 11\)](#), s. 84(5), **Sch. 27 Pt. 5(1)**; [S.I. 2007/3166](#), art. 2(c)

**PART II U.K.**

OTHER AMENDMENTS

*Licences under the Gaming Act 1968*

- 5 (1) Schedule 2 to the <sup>M11</sup>Gaming Act 1968 (grant etc. of licences) shall be amended in accordance with the provisions of this paragraph.
- (2) In paragraph 20(1) (grounds for refusing to grant or renew a licence), after paragraph (f) there shall be inserted the following paragraph—  
“*(g) that any gaming duty charged on the premises remains unpaid.*”
- (3) In paragraph 48(1) (cancellation of licence on conviction for second or subsequent offence), after “the enactments consolidated by that Act” there shall be inserted “ or of an offence under paragraph 12 of Schedule 1 to the Finance Act 1997 ”.
- (4) In paragraph 60(c) (transfer of licence may be refused if duty unpaid), after “bingo duty” there shall be inserted “ or gaming duty ”.

**Marginal Citations**

**M11** [1968 c. 65](#).

*Preferential debts on insolvency*

<sup>F13</sup>6 .....

**Textual Amendments**

**F13** Sch. 2 para. 6 repealed (15.9.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, **Sch. 26**; [S.I. 2003/2093](#), art. 2(1), [Sch. 1](#) (with [art. 4](#))

*Assessments to duty*

- 7 In section 12(2)(c) of the <sup>M12</sup>Finance Act 1994 (duty may be assessed upon the occurrence of certain defaults in connection with betting duties and bingo duty), after “under Schedule 1 or 3 to the <sup>M13</sup>Betting and Gaming Duties Act 1981” there shall be inserted “ or Schedule 1 to the Finance Act 1997 ”.

**Marginal Citations**

**M12** [1994 c. 9](#).

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**M13** 1981 c. 63.

## SCHEDULE 3 **U.K.**

Section 18.

### VEHICLE EXCISE DUTY: EXEMPT VEHICLES

#### *Interpretation*

- 1 In this Schedule “the 1994 Act” means the <sup>M14</sup>Vehicle Excise and Registration Act 1994.

#### **Marginal Citations**

**M14** 1994 c. 22.

#### *Registration of vehicle on issue of nil licence*

- 2 In section 21 of the 1994 Act (registration of vehicles), for subsection (1) there shall be substituted the following subsection—

“(1) Subject to subsection (3), on the issue by the Secretary of State for a vehicle which is not registered under this section of either—

- (a) a vehicle licence, or
- (b) a nil licence,

the Secretary of State shall register the vehicle in such manner as he thinks fit without any further application by the person to whom the licence is issued.”

#### *Return of nil licence*

- 3 In section 22 of the 1994 Act (registration regulations), after subsection (3) there shall be inserted the following subsection—

“(4) Regulations made by the Secretary of State may make provision for the return of any nil licence to the Secretary of State in such circumstances as may be prescribed by the regulations.”

#### *Offence of not exhibiting nil licence*

- 4 (1) In section 33 of the 1994 Act (not exhibiting licence), after subsection (1) there shall be inserted the following subsection—

“(1A) A person is guilty of an offence if—

- (a) he uses, or keeps, on a public road an exempt vehicle,
- (b) that vehicle is one in respect of which regulations under this Act require a nil licence to be in force, and
- (c) there is not fixed to and exhibited on the vehicle in the manner prescribed by regulations made by the Secretary of State a nil licence for that vehicle which is for the time being in force.”

- (2) In subsection (2) of that section, after “(1)” there shall be inserted “ or (1A) ”.

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(3) For subsection (3) of that section there shall be substituted the following subsection—

“(3) Subsections (1) and (1A)—

- (a) have effect subject to the provisions of regulations made by the Secretary of State, and
- (b) are without prejudice to sections 29 and 43A.”

(4) In subsection (4) of that section, for “in respect of which excise duty is chargeable” there shall be substituted “ which is kept or used on a public road ”.

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

“(5) The reference to a licence in subsection (4) includes a reference to a nil licence.”

*Offence of failing to have nil licence for exempt vehicle*

5 Immediately before section 44 of the 1994 Act there shall be inserted the following section—

**“43A Failure to have nil licence for exempt vehicle.**

(1) A person is guilty of an offence if—

- (a) he uses, or keeps, on a public road an exempt vehicle,
- (b) that vehicle is one in respect of which regulations under this Act require a nil licence to be in force, and
- (c) a nil licence is not for the time being in force in respect of the vehicle.

(2) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(3) Subsection (1) has effect subject to the provisions of regulations made by the Secretary of State.

(4) The Secretary of State may, if he thinks fit, compound any proceedings for an offence under this section.”

*Offence of forging or fraudulently using etc. nil licence*

6 In subsection (2) of section 44 of the 1994 Act (forgery and fraud), for paragraph (c) there shall be substituted the following paragraph—

“(c) a nil licence,”.

*Supplemental provisions*

7 (1) In section 46 of the 1994 Act (duty to give information)—

- (a) in subsection (1), for “or 37” there shall be substituted “ , 37 or 43A ”;
- (b) in subsections (2) and (3), after “section 29” there shall be inserted “ or 43A ”.

(2) In subsection (1) of section 51 of that Act (admissions), for “or 34” there shall be substituted “ , 34 or 43A ”.



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- (3) In subsection (1) of section 62 of that Act (other definitions), after the definition of “motor trader” there shall be inserted the following definition—
- ““nil licence” means a document which is in the form of a vehicle licence and is issued by the Secretary of State in pursuance of regulations under this Act in respect of a vehicle which is an exempt vehicle,”.
- (4) In paragraph 20 of Schedule 2 to that Act (exempt vehicles), sub-paragraph (4) shall cease to have effect.

#### *Further amendments*

- 8 (1) In Schedule 3 to the <sup>M15</sup>Road Traffic Offenders Act 1988 (fixed penalty offences), in column 2 of the entry relating to section 33 of the 1994 Act, for “licence” there shall be substituted “ vehicle licence, trade licence or nil licence ”.
- (2) In Article 198 of the <sup>M16</sup>Road Traffic (Northern Ireland) Order 1981 (offences punishable without prosecution), in paragraph (1)(f) for “licence” there shall be substituted “ vehicle licence, trade licence or nil licence ”.

#### **Marginal Citations**

**M15** 1988 c. 53.

**M16** S.I. 1981/154 (N.I. 1).

#### *Commencement*

- 9 This Schedule shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint; and different days may be appointed under this paragraph for different purposes.

#### **Subordinate Legislation Made**

**P1** Sch. 3 para. 9 power fully exercised (3.3.1998): 1.4.1998 appointed by S.I. 1998/560, art. 2

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

Section 22.

### INSURANCE PREMIUM TAX: THE HIGHER RATE

*Schedule to be inserted into the Finance Act 1994*

## “SCHEDULE 6A **U.K.**”

Section 51A.

### PREMIUMS LIABLE TO TAX AT THE HIGHER RATE

## 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 section 839 of the Taxes Act 1988.

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

### DESCRIPTIONS OF PREMIUM

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

- 2 (1) 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.
- (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.
- (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

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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>M17</sup>Road Traffic Act 1988; or
    - (b) in Northern Ireland, by Article 3(1) of the <sup>M18</sup>Road Traffic (Northern Ireland) Order 1995;
  - “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.

*Insurance relating to domestic appliances etc.*

- 3 (1) 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

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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.

- (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.

#### *Travel insurance*

- 4 (1) A premium under a taxable insurance contract relating to travel risks 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 tour operator or travel agent;
  - (b) he is connected with a tour operator or travel agent; or
  - (c) he pays—
    - (i) the whole or any part of the premium received under the contract, or
    - (ii) a fee connected with the arranging of the contract,
 to a tour operator or travel agent or to a person who is connected with a tour operator or travel agent.

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- (3) Where a taxable insurance contract relating to travel risks is arranged through a person who is connected with a tour operator or travel agent, 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 services supplied by a tour operator or travel agent with whom that person is connected.
- (4) Where the insurer under a taxable insurance contract relating to travel risks is connected with a tour operator or travel agent, 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 services supplied by a tour operator or travel agent with whom the insurer is connected.
- (5) For the purposes of sub-paragraphs (3) and (4) above, a travel agent shall be treated as supplying any services whose provision he secures or arranges.
- (6) 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.
- (7) In this paragraph—
- “tour operator” includes any person who carries on a business which consists of or includes the provision, or the securing of the provision, of—
    - (a) services for the transport of travellers; or
    - (b) accommodation for travellers;
  - “travel agent” includes any person who carries on a business which consists of or includes the making of arrangements, whether directly or indirectly, with a tour operator for the transport or accommodation of travellers;
  - “travel risks” means—
    - (a) risks associated with, or related to, travel or intended travel; or
    - (b) risks to which a person travelling may be exposed at any place at which he may be in the course of his travel.”

**Marginal Citations**

**M17** 1988 c. 52.

**M18** S.I. 1995/2994 (N.I. 18).

**Marginal Citations**

**M17** 1988 c. 52.

**M18** S.I. 1995/2994 (N.I. 18).

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## SCHEDULE 5 **U.K.**

Section 50.

### INDIRECT TAXES: OVERPAYMENTS ETC

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

##### UNJUST ENRICHMENT

###### *Application of Part I*

- 1 (1) This Part of this Schedule has effect for the purposes of the following provisions (which make it a defence to a claim for repayment that the repayment would unjustly enrich the claimant), namely—
- (a) section 137A(3) of the <sup>M19</sup>Customs and Excise Management Act 1979 (excise duties);
  - (b) paragraph 8(3) of Schedule 7 to the <sup>M20</sup>Finance Act 1994 (insurance premium tax); and
  - (c) paragraph 14(3) of Schedule 5 to the <sup>M21</sup>Finance Act 1996 (landfill tax).
- (2) Those provisions are referred to in this Part of this Schedule as unjust enrichment provisions.
- (3) In this Part of this Schedule—
- “the Commissioners” means the Commissioners of Customs and Excise;
- “relevant repayment provision” means—
- (a) section 137A of the Customs and Excise Management Act 1979 (recovery of overpaid excise duty);
  - (b) paragraph 8 of Schedule 7 to the Finance Act 1994 (recovery of overpaid insurance premium tax); or
  - (c) paragraph 14 of Schedule 5 to the Finance Act 1996 (recovery of overpaid landfill tax);
- “relevant tax” means any duty of excise, insurance premium tax or landfill tax; and
- “subordinate legislation” has the same meaning as in the <sup>M22</sup>Interpretation Act 1978.

#### Marginal Citations

- M19** 1979 c. 2.  
**M20** 1994 c. 9.  
**M21** 1996 c. 8.  
**M22** 1978 c. 30.

###### *Disregard of business losses*

- 2 (1) This paragraph applies where—
- (a) there is an amount paid by way of relevant tax which (apart from an unjust enrichment provision) would fall to be repaid under a relevant repayment provision to any person (“the taxpayer”), and

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- (b) the whole or a part of the cost of the payment of that amount to the Commissioners has, for practical purposes, been borne by a person other than the taxpayer.
- (2) Where, in a case to which this paragraph applies, loss or damage has been or may be incurred by the taxpayer as a result of mistaken assumptions made in his case about the operation of any provisions relating to a relevant tax, that loss or damage shall be disregarded, except to the extent of the quantified amount, in the making of any determination—
  - (a) of whether or to what extent the repayment of an amount to the taxpayer would enrich him; or
  - (b) of whether or to what extent any enrichment of the taxpayer would be unjust.
- (3) In sub-paragraph (2) above “the quantified amount” means the amount (if any) which is shown by the taxpayer to constitute the amount that would appropriately compensate him for loss or damage shown by him to have resulted, for any business carried on by him, from the making of the mistaken assumptions.
- (4) The reference in sub-paragraph (2) above to provisions relating to a relevant tax is a reference to any provisions of—
  - (a) any enactment, subordinate legislation or Community legislation (whether or not still in force) which relates to that tax or to any matter connected with it; or
  - (b) any notice published by the Commissioners under or for the purposes of any such enactment or subordinate legislation.
- (5) This paragraph has effect for the purposes of making any repayment on or after the day on which this Act is passed, even if the claim for that repayment was made before that day.

#### *Reimbursement arrangements*

- 3 (1) The Commissioners may by regulations make provision for reimbursement arrangements made by any person to be disregarded for the purposes of any or all of the unjust enrichment provisions except where the arrangements—
  - (a) contain such provision as may be required by the regulations; and
  - (b) are supported by such undertakings to comply with the provisions of the arrangements as may be required by the regulations to be given to the Commissioners.
- (2) In this paragraph “reimbursement arrangements” means any arrangements for the purposes of a claim under a relevant repayment provision which—
  - (a) are made by any person for the purpose of securing that he is not unjustly enriched by the repayment of any amount in pursuance of the claim; and
  - (b) provide for the reimbursement of persons who have for practical purposes borne the whole or any part of the cost of the original payment of that amount to the Commissioners.
- (3) Without prejudice to the generality of sub-paragraph (1) above, the provision that may be required by regulations under this paragraph to be contained in reimbursement arrangements includes—

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- (a) provision requiring a reimbursement for which the arrangements provide to be made within such period after the repayment to which it relates as may be specified in the regulations;
  - (b) provision for the repayment of amounts to the Commissioners where those amounts are not reimbursed in accordance with the arrangements;
  - (c) provision requiring interest paid by the Commissioners on any amount repaid by them to be treated in the same way as that amount for the purposes of any requirement under the arrangements to make reimbursement or to repay the Commissioners;
  - (d) provision requiring such records relating to the carrying out of the arrangements as may be described in the regulations to be kept and produced to the Commissioners, or to an officer of theirs.
- (4) Regulations under this paragraph may impose obligations on such persons as may be specified in the regulations—
- (a) to make the repayments to the Commissioners that they are required to make in pursuance of any provisions contained in any reimbursement arrangements by virtue of sub-paragraph (3)(b) or (c) above;
  - (b) to comply with any requirements contained in any such arrangements by virtue of sub-paragraph (3)(d) above.
- (5) Regulations under this paragraph may make provision for the form and manner in which, and the times at which, undertakings are to be given to the Commissioners in accordance with the regulations; and any such provision may allow for those matters to be determined by the Commissioners in accordance with the regulations.
- (6) Regulations under this paragraph may—
- (a) contain any such incidental, supplementary, consequential or transitional provision as appears to the Commissioners to be necessary or expedient; and
  - (b) make different provision for different circumstances.
- (7) Regulations under this paragraph may have effect (irrespective of when the claim for repayment was made) for the purposes of the making of any repayment by the Commissioners after the time when the regulations are made; and, accordingly, such regulations may apply to arrangements made before that time.
- (8) Regulations under this paragraph shall be made by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.

*Contravention of requirement to repay Commissioners*

- 4 (1) Where any obligation is imposed by regulations made by virtue of paragraph 3(4) above, a contravention or failure to comply with that obligation shall, to the extent that it relates to amounts repaid under section 137A of the <sup>M23</sup>Customs and Excise Management Act 1979, attract a penalty under section 9 of the Finance Act 1994 (penalties in connection with excise duties).
- (2) For the purposes of Schedule 7 to the <sup>M24</sup>Finance Act 1994 (insurance premium tax), a contravention or failure to comply with an obligation imposed by regulations made by virtue of paragraph 3(4) above shall be deemed, to the extent that it relates to amounts repaid under paragraph 8 of that Schedule (recovery of overpaid insurance premium tax), to be a failure to comply with a requirement falling within paragraph 17(1)(c) of that Schedule (breach of regulations).



*Status: Point in time view as at 08/11/2007.*

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- (3) Paragraph 23 of Schedule 5 to the <sup>M25</sup>Finance Act 1996 (power to provide for penalty) shall have effect as if an obligation imposed by regulations made by virtue of paragraph 3(4) above were, to the extent that it relates to amounts repaid under paragraph 14 of that Schedule (recovery of overpaid landfill tax), a requirement imposed by regulations under Part III of that Act; and the provisions of that Schedule in relation to penalties under Part V of that Schedule shall have effect accordingly.

**Marginal Citations**

**M23** 1979 c. 2.

**M24** 1994 c. 9.

**M25** 1996 c. 8.

**PART II U.K.**

TIME LIMITS

*Repayments*

- 5 (1) For subsection (4) of section 137A of the <sup>M26</sup>Customs and Excise Management Act 1979 (time limit on recovery of overpaid excise duty) there shall be substituted the following subsection—
- “(4) The Commissioners shall not be liable, on a claim made under this section, to repay any amount paid to them more than three years before the making of the claim.”
- (2) For sub-paragraphs (4) and (5) of paragraph 8 of Schedule 7 to the <sup>M27</sup>Finance Act 1994 (time limit on recovery of overpaid insurance premium tax) there shall be substituted the following sub-paragraph—
- “(4) The Commissioners shall not be liable, on a claim made under this paragraph, to repay any amount paid to them more than three years before the making of the claim.”
- (3) For sub-paragraph (4) of paragraph 14 of Schedule 5 to the <sup>M28</sup>Finance Act 1996 (time limit on recovery of overpaid landfill tax) there shall be substituted the following sub-paragraph—
- “(4) The Commissioners shall not be liable, on a claim made under this paragraph, to repay any amount paid to them more than three years before the making of the claim.”

**Marginal Citations**

**M26** 1979 c. 2.

**M27** 1994 c. 9.

**M28** 1996 c. 8.

*Status: Point in time view as at 08/11/2007.*

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### Assessments

- 6 (1) In each of the enactments specified in sub-paragraph (2) below (which provide for the time limits applying to the making of assessments), for the words “six years”, wherever they occur, there shall be substituted the words “three years”.
- (2) Those enactments are—
- (a) section 12(4)(a) and (5) of the Finance Act 1994 (excise duties);
  - (b) paragraph 26(1) and (4) of Schedule 7 to that Act (insurance premium tax); and
  - (c) paragraph 33(1) and (4) of Schedule 5 to the <sup>M29</sup>Finance Act 1996 (landfill tax).

#### Marginal Citations

M29 1996 c. 8.

## PART III U.K.

### INTEREST

#### *Interest on overpaid air passenger duty*

- 7 (1) Paragraph 9 of Schedule 6 to the Finance Act 1994 (interest payable by the Commissioners in connection with air passenger duty) shall have effect, and be deemed always to have had effect, with the amendments for which this paragraph provides.
- (2) After sub-paragraph (1) there shall be inserted the following sub-paragraph—
- “(1A) In sub-paragraph (1) above the reference 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.”
- (3) For sub-paragraph (6) (claims for interest to be made within six years of discovery of error) there shall be substituted the following sub-paragraph—
- “(6) A claim under this paragraph shall not be made more than three years after the end of the applicable period to which it relates.”
- (4) For sub-paragraph (7) there shall be substituted the following sub-paragraph—
- “(7) Any reference in this paragraph to the authorisation by the Commissioners of the payment of any amount includes a reference to the discharge by way of set-off of the Commissioners’ liability to pay that amount.”
- 8 (1) In sub-paragraph (2) of that paragraph (applicable period), the words after paragraph (b) shall be omitted; and the following sub-paragraphs shall be substituted for sub-paragraphs (3) and (4)—
- “(2A) In determining the applicable period for the purposes of this paragraph there shall be left out of account any period by which the Commissioners’

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authorisation of the payment of interest is delayed by the conduct of the person who claims the interest.

(2B) The reference in sub-paragraph (2A) 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 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 repayment, and to interest on the amount of that repayment, to be determined; and

- (c) the making, as part of or in association with either—
  - (i) the claim for interest, or
  - (ii) any claim for the payment or repayment of the amount on which interest is claimed,

of a claim to anything to which the claimant was not entitled.

(3) In determining for the purposes of sub-paragraph (2B) above whether any period of delay is referable to a failure by any person to provide information in response to a request by the Commissioners, there shall be taken to be so referable, except so far as may be prescribed, any period which—

- (a) begins with the date on which the Commissioners require that person to provide information which they reasonably consider relevant to the matter to be determined; and
- (b) ends with the earliest date on which it would be reasonable for the Commissioners to conclude—
  - (i) that they have received a complete answer to their request for information;
  - (ii) that they have received all that they need in answer to that request; or
  - (iii) that it is unnecessary for them to be provided with any information in answer to that request.”

(2) Sub-paragraph (1) above shall have effect for the purposes of determining whether any period beginning on or after the day on which this Act is passed is left out of account.

#### *Interest on overpaid insurance premium tax*

9 (1) Paragraph 22 of Schedule 7 to the <sup>M30</sup>Finance Act 1994 (interest payable by the Commissioners in connection with insurance premium tax) shall have effect, and be deemed always to have had effect, with the amendments for which this paragraph provides.

(2) After sub-paragraph (1) there shall be inserted the following sub-paragraph—

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“(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.”

(3) For sub-paragraph (9) of that paragraph (claims for interest to be made within six years of discovery of error) there shall be substituted the following sub-paragraph—

“(9) A claim under this paragraph shall not be made more than three years after the end of the applicable period to which it relates.”

(4) For sub-paragraph (10) there shall be substituted the following sub-paragraph—

“(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.”

#### **Marginal Citations**

**M30** 1994 c. 9.

10 (1) For sub-paragraphs (5) to (7) of that paragraph (periods left out of account in computing periods for which the Commissioners are liable to interest) there shall be substituted the following sub-paragraphs—

“(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

- (c) the making, as part of or in association with either—
  - (i) the claim for interest, or

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- (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.”
- (2) Sub-paragraph (1) above shall have effect for the purposes of determining whether any period beginning on or after the day on which this Act is passed is left out of account.

*Interest on overpaid landfill tax*

- 11 (1) Paragraph 29 of Schedule 5 to the <sup>M31</sup>Finance Act 1996 (interest payable by the Commissioners in connection with landfill tax) shall have effect, and be deemed always to have had effect, with the amendments for which this paragraph provides.
- (2) After sub-paragraph (1) there shall be inserted the following sub-paragraph—
- “(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.”
- (3) For sub-paragraph (8) (claims for interest to be made within six years of discovery of error) there shall be substituted the following sub-paragraph—
- “(8) A claim under this paragraph shall not be made more than three years after the end of the applicable period to which it relates.”
- (4) For sub-paragraph (9) there shall be substituted the following sub-paragraph—
- “(9) References in this paragraph—
- (a) to receiving payment of any amount from the Commissioners, or

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(b) to the authorisation by the Commissioners of the payment of any amount,

include references to the discharge by way of set-off (whether in accordance with regulations under paragraph 42 or 43 below or otherwise) of the Commissioners' liability to pay that amount.”

#### Marginal Citations

M31 1996 c. 8.

12 (1) For sub-paragraphs (4) to (6) of that paragraph (periods left out of account in computing periods for which the Commissioners are liable to interest) there shall be substituted the following sub-paragraphs—

“(4) 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.

(4A) The reference in sub-paragraph (4) above to a period by which the Commissioners' authorisation of the payment of interest is delayed by the conduct of the person who claims it includes, in particular, any period which is referable to—

- (a) any unreasonable delay in the making of the claim for interest or in the making of any claim for the payment or repayment of the amount on which interest is claimed;
- (b) any failure by that person or a person acting on his behalf or under his influence to provide the Commissioners—
  - (i) at or before the time of the making of a claim, or
  - (ii) subsequently in response to a request for information by the Commissioners,

with all the information required by them to enable the existence and amount of the claimant's entitlement to a payment or repayment, and to interest on that payment or repayment, to be determined; and

- (c) the making, as part of or in association with either—
  - (i) the claim for interest, or
  - (ii) any claim for the payment or repayment of the amount on which interest is claimed,

of a claim to anything to which the claimant was not entitled.

(5) In determining for the purposes of sub-paragraph (4A) 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—

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- (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.”

(2) Sub-paragraph (1) above shall have effect for the purposes of determining whether any period beginning on or after the day on which this Act is passed is left out of account.

#### PART IV U.K.

##### SET-OFF INVOLVING LANDFILL TAX

13 (1) In paragraph 42 of Schedule 5 to the <sup>M32</sup>Finance Act 1996 (set-off of amounts), after sub-paragraph (4) there shall be inserted the following sub-paragraph—

“(4A) The regulations may provide for any limitation on the time within which the Commissioners are entitled to take steps for recovering any amount due to them in respect of landfill tax to be disregarded, in such cases as may be described in the regulations, in determining whether any person is under such a duty to pay as is mentioned in sub-paragraph (1)(a) above.”

(2) In paragraph 43 of that Schedule (set-off of amounts), after sub-paragraph (4) there shall be inserted the following sub-paragraph—

“(4A) The regulations may provide for any limitation on the time within which the Commissioners are entitled to take steps for recovering any amount due to them in respect of any of the taxes under their care and management to be disregarded, in such cases as may be described in the regulations, in determining whether any person is under such a duty to pay as is mentioned in sub-paragraph (1)(a) above.”

#### Marginal Citations

M32 1996 c. 8.

#### PART V U.K.

##### RECOVERY OF EXCESS PAYMENTS BY THE COMMISSIONERS

##### *Assessment for excessive repayment*

14 (1) Where—

- (a) any amount has been paid at any time to any person by way of a repayment under a relevant repayment provision, and
- (b) the amount paid exceeded the amount which the Commissioners were liable at that time to repay to that person,

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

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- (2) Where any person is liable to pay any amount to the Commissioners in pursuance of an obligation imposed by virtue of paragraph 3(4)(a) above, the Commissioners may, to the best of their judgement, assess the amount due from that person and notify it to him.
- (3) In this paragraph “relevant repayment provision” means—
- (a) section 137A of the <sup>M33</sup>Customs and Excise Management Act 1979 (recovery of overpaid excise duty);
  - (b) paragraph 8 of Schedule 7 to the <sup>M34</sup>Finance Act 1994 (recovery of overpaid insurance premium tax); <sup>F14</sup> . . .
  - (c) paragraph 14 of Schedule 5 to the Finance Act 1996 (recovery of overpaid landfill tax) [<sup>F15</sup>or
  - (d) Part 1 of Schedule 3 to the Finance Act 2001 (payments made and rebates disallowed in error).]

#### Textual Amendments

**F14** Word in Sch. 5 para. 14(3)(b) repealed (1.11.2001) by 2001 c. 9, ss. 15, 110, Sch. 3 para. 19(2), Sch. 33 Pt. I(4); S.I. 2001/3300, art. 2

**F15** Sch. 5 para. 14(3)(d) and the word “or” immediately preceding inserted (1.11.2001) by 2001 c. 9, s. 15, Sch. 3 para. 19(2); S.I. 2001/3300, art. 2

#### Marginal Citations

**M33** 1979 c. 2.

**M34** 1994 c. 9.

#### *Assessment for overpayments of interest*

- 15 (1) Where—
- (a) any amount has been paid to any person by way of interest under a relevant interest provision, but
  - (b) that person was not entitled to that amount under that provision,
- the Commissioners may, to the best of their judgement, assess the amount so paid to which that person was not entitled and notify it to him.
- (2) In this paragraph “relevant interest provision” means—
- <sup>F16</sup>(a) . . . . .
  - (b) paragraph 22 of Schedule 7 to that Act (interest payable by the Commissioners on overpayments etc. of insurance premium tax); <sup>F17</sup> . . .
  - (c) paragraph 29 of Schedule 5 to the <sup>M35</sup>Finance Act 1996 (interest payable by the Commissioners on overpayments etc. of landfill tax) [<sup>F18</sup>or.
  - (d) Part 2 of Schedule 3 to the Finance Act 2001 (interest).]

#### Textual Amendments

**F16** Sch. 5 para. 15(2)(a) repealed (1.11.2001) by 2001 c. 9, ss. 15, 110, Sch. 3 para. 19(3), Sch. 33 Pt. I(4); S.I. 2001/3300, art. 2

**F17** Word in Sch. 5 para. 15(2)(b) repealed (1.11.2001) by 2001 c. 9, ss. 15, 110, Sch. 3 para. 19(3), Sch. 33 Pt. I(4); S.I. 2001/3300, art. 2



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**F18** Sch. 5 para. 15(2)(d) and the word “or” immediately preceding it inserted (1.11.2001) by 2001 c. 9, s. 15, Sch. 3 para. 19(3); S.I. 2001/3300, art. 2

**Marginal Citations**

**M35** 1996 c. 8.

*Assessments under paragraphs 14 and 15*

- 16 (1) An assessment under paragraph 14 or 15 above shall not be made more than two years after the time when evidence of facts sufficient in the opinion of the Commissioners to justify the making of the assessment comes to the knowledge of the Commissioners.
- (2) Where an amount has been assessed and notified to any person under paragraph 14 or 15 above, it shall be recoverable (subject to any provision having effect in accordance with paragraph 19 below) as if it were relevant tax due from him.
- (3) Sub-paragraph (2) above does not have effect if, or to the extent that, the assessment in question has been withdrawn or reduced.

*Interest on amounts assessed*

- 17 (1) Where an assessment is made under paragraph 14 or 15 above, the whole of the amount assessed shall carry interest at the rate applicable under section 197 of the Finance Act 1996 from the date on which the assessment is notified until payment.
- (2) Where any person is liable to interest under sub-paragraph (1) above the Commissioners may assess the amount due by way of interest and notify it to him.
- (3) Without prejudice to the power to make assessments under this paragraph for later periods, the interest to which an assessment under this paragraph may relate shall be confined to interest for a period of no more than two years ending with the time when the assessment under this paragraph is made.
- (4) Interest under this paragraph shall be paid without any deduction of income tax.
- (5) A notice of assessment under this paragraph shall specify a date, being not later than the date of the notice, to which the amount of interest is calculated; and, if the interest continues to accrue after that date, a further assessment or assessments may be made under this paragraph in respect of amounts which so accrue.
- (6) If, within such period as may be notified by the Commissioners to the person liable for interest under sub-paragraph (1) above, the amount referred to in that sub-paragraph is paid, it shall be treated for the purposes of that sub-paragraph as paid on the date specified as mentioned in sub-paragraph (5) above.
- (7) Where an amount has been assessed and notified to any person under this paragraph it shall be recoverable as if it were relevant tax due from him.
- (8) Sub-paragraph (7) above does not have effect if, or to the extent that, the assessment in question has been withdrawn or reduced.

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### *Supplementary assessments*

- 18 If it appears to the Commissioners that the amount which ought to have been assessed in an assessment under paragraph 14, 15 or 17 above exceeds the amount which was so assessed, then—
- (a) under the same paragraph 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.

### *Review of decisions and appeals*

- 19 (1) Sections 14 to 16 of the <sup>M36</sup>Finance Act 1994 (review and appeals) shall have effect in relation to any decision which—
- (a) is contained in an assessment under paragraph 14, 15 or 17 above,
  - (b) is a decision about whether any amount is due to the Commissioners or about how much is due, and
  - (c) is made in a case in which the relevant repayment provision is section 137A of the <sup>M37</sup>Customs and Excise Management Act 1979 or [<sup>F19</sup>Part 1 of Schedule 3 to the Finance Act 2001 or the relevant interest provision is Part 2 of that Schedule],
- as if that decision were such a decision as is mentioned in section 14(1)(b) of that Act of 1994.
- (2) Sections 59 and 60 of that Act of 1994 (review and appeal in the case of insurance premium tax) shall have effect in relation to any decision which—
- (a) is contained in an assessment under paragraph 14, 15 or 17 above,
  - (b) is a decision about whether any amount is due to the Commissioners or about how much is due, and
  - (c) is made in a case in which the relevant repayment provision is paragraph 8 of Schedule 7 to that Act or the relevant interest provision is paragraph 22 of that Schedule,
- as if that decision were a decision to which section 59 of that Act applies.
- (3) Sections 54 to 56 of the <sup>M38</sup>Finance Act 1996 (review and appeal in the case of landfill tax) shall have effect in relation to any decision which—
- (a) is contained in an assessment under paragraph 14, 15 or 17 above,
  - (b) is a decision about whether any amount is due to the Commissioners or about how much is due, and
  - (c) is made in a case in which the relevant repayment provision is paragraph 14 of Schedule 5 to that Act or the relevant interest provision is paragraph 29 of that Schedule,
- as if that decision were a decision to which section 54 of that Act applies.

#### **Textual Amendments**

**F19** Words in *Sch. 5 para. 19(1)(c)* substituted (1.11.2001) by 2001 c. 9, s. 15, *Sch. 3 para. 19(4)*; S.I. 2001/3300, *art. 2*

*Status: Point in time view as at 08/11/2007.*

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#### Marginal Citations

- M36** 1994 c. 9.  
**M37** 1979 c. 2.  
**M38** 1996 c. 8.

#### *Interpretation of Part V*

- 20 (1) In this Part of this Schedule “the Commissioners” means the Commissioners of Customs and Excise.
- (2) In this Part of this Schedule “relevant tax”, in relation to any assessment, means—
- (a) a duty of excise if the assessment relates to—
    - (i) a repayment of an amount paid by way of such a duty,
    - (ii) an overpayment of interest under [<sup>F20</sup>Part 2 of Schedule 3 to the Finance Act 2001], or
    - (iii) interest on an amount specified in an assessment in relation to which the relevant tax is a duty of excise;
  - (b) insurance premium tax if the assessment relates to—
    - (i) a repayment of an amount paid by way of such tax,
    - (ii) an overpayment of interest under paragraph 22 of Schedule 7 to the Finance Act 1994, or
    - (iii) interest on an amount specified in an assessment in relation to which the relevant tax is insurance premium tax;
- and
- (c) landfill tax if the assessment relates to—
    - (i) a repayment of an amount paid by way of such tax,
    - (ii) an overpayment of interest under paragraph 29 of Schedule 5 to the <sup>M39</sup>Finance Act 1996, or
    - (iii) interest on an amount specified in an assessment in relation to which the relevant tax is landfill tax.
- (3) For the purposes of this Part of this Schedule notification to a personal representative, trustee in bankruptcy, interim or permanent trustee, receiver, liquidator or person otherwise acting in a representative capacity in relation to another shall be treated as notification to the person in relation to whom he so acts.

#### Textual Amendments

- F20** Words in Sch. 5 para. 20(2)(a)(ii) substituted (1.11.2001) by 2001 c. 9, s. 15, Sch. 3 para. 19(5); S.I. 2001/3300, art. 2

#### Marginal Citations

- M39** 1996 c. 8.

#### *Consequential amendment*

- 21 In section 197(2) of the Finance Act 1996 (enactments for which interest rates are set under section 197), after paragraph (d) there shall be inserted “and

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- (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).”

SCHEDULE 6 **U.K.**

Section 50.

ASSESSMENTS FOR EXCISE DUTY PURPOSES

*Assessment of amounts payable to the Commissioners*

- 1 (1) After section 12 of the Finance Act 1994 there shall be inserted the following sections—

**“12A Other assessments relating to excise duty matters.**

- (1) This subsection applies where any relevant excise duty relief other than an excepted relief—
- (a) has been given but ought not to have been given, or
  - (b) would not have been given had the facts been known or been as they later turn out to be.
- (2) Where subsection (1) above applies, the Commissioners may assess the amount of the relief given as being excise duty due from the liable person and notify him or his representative accordingly.
- (3) Where an amount has been assessed as due from any person under—
- (a) subsection (2) above,
  - (b) section 94 or 96 of the Management Act, or
  - (c) section 10, 13, 14, 23 or 24 of the <sup>M40</sup>Hydrocarbon Oil Duties Act 1979,
- and notice has been given accordingly, that amount shall, subject to any appeal under section 16 below, be deemed to be an amount of excise duty due from that person and may be recovered accordingly, unless, or except to the extent that, the assessment has subsequently been withdrawn or reduced.
- (4) No assessment under any of the provisions referred to in subsection (3) above, or under section 61 or 167 of the Management Act, shall be made at any time after whichever is the earlier of the following times, that is to say—
- (a) subject to subsection (6) below, the end of the period of three years beginning with the relevant time; and
  - (b) the end of the period of one year beginning with the day on which evidence of facts, sufficient in the opinion of the Commissioners to justify the making of the assessment, comes to their knowledge.
- (5) Subsection (4) above shall be without prejudice, where further evidence comes to the knowledge of the Commissioners at any time after the making the assessment concerned, to the making of a further assessment within the period applicable by virtue of that subsection in relation to that further assessment.

*Status: Point in time view as at 08/11/2007.*

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- (6) Subsection (4) above shall have effect as if the reference in paragraph (a) to three years were a reference to twenty years in any case where the assessment has been postponed or otherwise affected by, or the power to make the assessment arises out of, conduct falling within subsection (5)(a) or (b) of section 12 above (construed in accordance with subsection (7) of that section).

### **12B Section 12A: supplementary provisions.**

- (1) For the purposes of section 12A above and this section, relevant excise duty relief has been given if (and only if)—
- (a) an amount of excise duty which a person is liable to pay has been remitted or payment of an amount of excise duty which a person is liable to pay has been waived;
  - (b) an amount of excise duty has been repaid to a person;
  - (c) an amount by way of drawback of excise duty has been paid to a person;
  - (d) an allowance of excise duty in any amount has been made to a person;
  - (e) an amount by way of rebate has been allowed to a person;
  - (f) the liability of a person to repay an amount paid by way of drawback of excise duty has been waived;
  - (g) an amount has been paid to a person under section 20(3) of the Hydrocarbon Oil Duties Act 1979 (payments in respect of contaminated or accidentally mixed oil); or
  - (h) an amount of relief has been allowed to a person by virtue of section 20AA of that Act (power to allow reliefs), or in accordance with paragraph 10 of Schedule 3 to that Act (power to make regulations for the purpose of relieving from excise duty oil intended for exportation or shipment as stores);
- and the amount of the relief is the amount mentioned in relation to the relief in this subsection.
- (2) For the purposes of section 12A above the relevant time is—
- (a) in the case of an assessment under section 61 of the Management Act, the time when the ship or aircraft in question returned to a place within the United Kingdom;
  - (b) in the case of an assessment under section 94 of that Act, the time at which the goods in question were warehoused;
  - (c) in the case of an assessment under that section as it has effect by virtue of section 95 of that Act, the time when the goods in question were lawfully taken from the warehouse;
  - (d) in the case of an assessment under section 96 of that Act, the time when the goods in question were moved by pipe-line or notified as goods to be moved by pipe-line;
  - (e) in the case of an assessment under section 167 of that Act—
    - (i) if the assessment relates to unpaid duty, the time when the duty became payable or, if later, the time when the document in question was delivered or the statement in question was made; and

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- (ii) if the assessment relates to an overpayment, the time when the overpayment was made;
  - (f) in the case of an assessment under section 10, 13, 14 or 23 of the <sup>M41</sup>Hydrocarbon Oil Duties Act 1979, the time of the action which gave rise to the power to assess;
  - (g) in the case of an assessment under section 24(4A) or (4B) of that Act, the time when the rebate was allowed or the oil was delivered without payment of duty (as the case may be);
  - (h) in the case of an assessment under section 12A(2) above, the time when the relevant excise duty relief in question was given.
- (3) In section 12A above “the liable person” means—
- (a) in the case of excise duty which has been remitted or repaid under section 130 of the Management Act on the basis that goods were lost or destroyed while in a warehouse, the proprietor of the goods or the occupier of the warehouse;
  - (b) in the case of a rebate which has been allowed on any oil under section 11 of the Hydrocarbon Oil Duties Act 1979, the person to whom the rebate was allowed or the occupier of any warehouse from which the oil was delivered for home use;
  - (c) in the case of a rebate allowed on any petrol under section 13A of that Act, the person to whom the rebate was allowed or the occupier of any warehouse from which the petrol was delivered for home use;
  - (d) in any other case, the person mentioned in subsection (1) above to whom the relief in question was given.
- (4) In section 12A above—
- “excepted relief” means any relief which is given by the making of a repayment on a claim made under section 137A of the Management Act;
- “representative”, in relation to any person from whom the Commissioners assess an amount as being excise duty due, means his personal representative, trustee in bankruptcy or interim or permanent trustee, any receiver or liquidator appointed in relation to him or any of his property or any other person acting in a representative capacity in relation to him.”
- (2) After section 14(1)(b) of that Act there shall be inserted the following paragraph—
- “(ba) any decision by the Commissioners to assess any person to excise duty under section 12A(2) above, section 61, 94, 96 or 167 of the Management Act or section 10, 13, 14, 23 or 24 of the <sup>M42</sup>Hydrocarbon Oil Duties Act 1979, or as to the amount of duty to which a person is to be assessed under any of those provisions;”.
- (3) In sections 12(8) and 13(7) of that Act (definition of “representative” for the purposes of sections 12 and 13), for “or trustee in bankruptcy,” there shall be substituted “, trustee in bankruptcy or interim or permanent trustee, ”.

#### Marginal Citations

**M40** 1979 c. 5.

**M41** 1979 c. 5.

*Status: Point in time view as at 08/11/2007.*

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**M42** 1979 c. 5.

*Assessments in cases of a deficiency in stores*

- 2 (1) After subsection (7) of section 61 of the <sup>M43</sup>Customs and Excise Management Act 1979 (duty payable where deficiency or excess deficiency discovered in goods on return of ship or aircraft to United Kingdom) there shall be inserted the following subsection—
- “(7A) No amount of excise duty shall be payable under subsection (7) above unless the Commissioners have assessed that amount as being excise duty due from the master of the ship or the commander of the aircraft and notified him or his representative accordingly.”
- (2) In subsection (8) of that section (duty payable under subsection (7) recoverable as a civil debt) after “duty” there shall be inserted “, other than excise duty, ”.
- (3) After that subsection there shall be inserted the following subsection—
- “(8A) An amount of excise duty assessed as being due under subsection (7A) above shall, unless, or except to the extent that, the assessment has subsequently been withdrawn or reduced and subject to any appeal under section 16 of the <sup>M44</sup>Finance Act 1994, be recoverable summarily as a civil debt.”
- (4) In section 1(1) of that Act (interpretation), after the definition of “registered excise dealers and shippers regulations” there shall be inserted—
- ““representative”, in relation to any person from whom the Commissioners assess an amount as being excise duty due, means his personal representative, trustee in bankruptcy or interim or permanent trustee, any receiver or liquidator appointed in relation to him or any of his property or any other person acting in a representative capacity in relation to him;”.

**Marginal Citations**

- M43** 1979 c. 2.  
**M44** 1994 c. 9.

*Assessments in cases of a deficiency in warehoused goods*

- 3 (1) Section 94 of the <sup>M45</sup>Customs and Excise Management Act 1979 shall be amended in accordance with sub-paragraphs (2) to (6) below.
- (2) In subsection (3) (power to require payment of duty or repayment of drawback or allowance where warehoused goods are deficient), for the words from “require” to the end there shall be substituted the following paragraphs—
- “(a) require the occupier of the warehouse or the proprietor of the goods to pay immediately any duty, other than excise duty, chargeable or deemed under warehousing regulations to be chargeable on the relevant goods or, in the case of goods warehoused on drawback which could not lawfully be entered for home use, an amount equal to any drawback or allowance of such duty paid in respect of the relevant goods;

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- (b) assess, as being excise duty due from the occupier of the warehouse or the proprietor of the goods, the excise duty chargeable or deemed under warehousing regulations to be chargeable on the relevant goods or, in the case of goods warehoused on drawback which could not lawfully be entered for home use, an amount equal to any drawback or allowance of excise duty paid in respect of the relevant goods.”

(3) After subsection (3) there shall be inserted the following subsection—

“(3A) Where the Commissioners make an assessment under subsection (3) (b) above they shall notify the person assessed or his representative accordingly.”

(4) In subsection (4) for “(3)” there shall be substituted “ (3)(a) ”.

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

“(4A) If—

- (a) the occupier of the warehouse or the proprietor of the goods refuses to pay any amount of excise duty to which he has been assessed under subsection (3)(b) above, and
  - (b) the conditions set out in subsection (4B) below are fulfilled,
- he shall be liable on summary conviction to a penalty of double that amount.

(4B) The conditions are that—

- (a) the period of forty-five days referred to in section 14(3) of the <sup>M46</sup>Finance Act 1994 (period during which review may be required) has expired;
- (b) on any review under Chapter II of Part I of that Act the Commissioners’ decision (“the original decision”) in relation to the assessment has been confirmed (or treated as confirmed by virtue of section 15(2) of that Act), or confirmed subject only to a reduction in the amount of duty due under the assessment; and
- (c) the final result of any further appeal is that the original decision has been confirmed, subject only to any reduction in the amount of duty due under the assessment; and “final result” means the result of the last of any such appeals, against which no appeal may be made (whether because of expiry of time or for any other reason).

(4C) Where the amount of excise duty due under subsection (3)(b) above is reduced in consequence of a review or appeal, the penalty to which the person assessed is liable under subsection (4A) above shall be a penalty of double the reduced amount.”

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

“(5A) In this section “the relevant goods” means the missing goods or the whole or any part of the deficiency, as the Commissioners see fit.”

(7) In section 95 of that Act (application of section 94 to certain goods in the course of removal from warehouse), in subsection (2)(b) (section 94 to apply with the omission of references in subsections (3) and (4) to the occupier of the warehouse) for “and (4)” there shall be substituted “ , (4) and (4A) ”.



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**Marginal Citations**

**M45** 1979 c. 2.

**M46** 1994 c. 9.

*Assessments in cases of a deficiency in goods moved by pipe-line*

- 4 (1) Section 96 of the <sup>M47</sup>Customs and Excise Management Act 1979 shall be amended in accordance with sub-paragraphs (2) to (6) below.
- (2) In subsection (2) (power to require payment of unpaid or repaid duty, or repayment of drawback, where goods moved by pipe-line are deficient) for the words from “require” to the end there shall be substituted the following paragraphs—
- “(a) require the owner of the pipe-line or the proprietor of the goods to pay immediately any duty, other than excise duty, unpaid or repaid on the relevant goods or, as the case may be, an amount equal to any drawback of such duty paid on the relevant goods;
  - (b) assess, as being excise duty due from the owner of the pipe-line or the proprietor of the goods, the excise duty unpaid or repaid on the relevant goods or, as the case may be, an amount equal to any drawback of excise duty paid on the relevant goods.”
- (3) After subsection (2) there shall be inserted the following subsection—
- “(2A) Where the Commissioners make an assessment under subsection (2) (b) above they shall notify the person assessed or his representative accordingly.”
- (4) In subsection (3) for “(2)” there shall be substituted “ (2)(a) ”.
- (5) After subsection (3) there shall be inserted the following subsections—
- “(3A) If—
- (a) any person refuses to pay any amount of excise duty to which he has been assessed under subsection (2)(b) above, and
  - (b) the conditions set out in paragraphs (a) to (c) of section 94(4B) above (exhaustion of opportunities for review and appeal) are fulfilled,
- he shall be liable on summary conviction to a penalty of double that amount.
- (3B) Where the amount of excise duty due under subsection (2)(b) above is reduced in consequence of a review or appeal, the penalty to which the person assessed is liable under subsection (3A) above shall be a penalty of double the reduced amount.”
- (6) After subsection (5) there shall be inserted the following subsection—
- “(5A) In this section “the relevant goods” means the missing goods or the whole or any part of the deficiency, as the Commissioners see fit.”

**Marginal Citations**

**M47** 1979 c. 2.

*Status: Point in time view as at 08/11/2007.*

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*Assessments in cases of untrue declarations etc.*

- 5 After section 167(4) of the Customs and Excise Management Act 1979 (recovery as a debt due to the Crown or as a civil debt of amounts of duty not paid, and of overpayments in respect of drawback etc. made, by reason of untrue declaration etc.) there shall be inserted the following subsection—

“(5) An amount of excise duty, or the amount of an overpayment in respect of any drawback, allowance, rebate or repayment of any excise duty, shall not be recoverable as mentioned in subsection (4) above unless the Commissioners have assessed the amount of the duty or of the overpayment as being excise duty due from the person mentioned in subsection (1) or (3) above and notified him or his representative accordingly.”

*Assessments relating to hydrocarbon oil duty*

- 6 (1) In section 10(3) of the <sup>M48</sup>Hydrocarbon Oil Duties Act 1979 (power to recover excise duty where restrictions on use of duty-free oil infringed), for the words from “recover” to the end there shall be substituted “ assess an amount equal to the excise duty on like oil at the rate in force at the time of the contravention as being excise duty due from him, and notify him or his representative accordingly. ”

<sup>F21</sup>(2) .....

- (3) In section 14(4) of that Act (power to recover rebate where light oil delivered for use as furnace fuel is misused), for the words from “recover” to the end there shall be substituted “ assess the amount of rebate allowed on the oil as being excise duty due from him, and notify him or his representative accordingly. ”

- (4) After subsection (1A) of section 23 of that Act (prohibition on use of road fuel gas on which duty has not been paid) there shall be inserted the following subsection—

“(1B) Where any person—

- (a) uses as fuel in, or  
(b) takes as fuel into,

a road vehicle any road fuel gas on which the excise duty chargeable under section 8 above has not been paid, the Commissioners may assess the amount of that duty as being excise duty due from that person and notify him or his representative accordingly.”

- (5) In subsection (2) of that section, for “subsection (1)(b)” there shall be substituted “ subsections (1)(b) and (1B)(b) ”.

- (6) After subsection (4) of section 24 of that Act (control of use of duty-free and rebated oil) there shall be inserted the following subsections—

“(4A) Where—

- (a) a rebate of duty is allowed on any oil, and  
(b) a person contravenes or fails to comply with any requirement which, by virtue of any regulations made under this section, is a condition of allowing the rebate,

the Commissioners may assess an amount equal to the rebate as being excise duty due from that person, and notify him or his representative accordingly.

(4B) Where—

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- (a) any oil is delivered without payment of duty, and
- (b) a person contravenes or fails to comply with any requirement which, by virtue of any regulations made under this section, is a condition of allowing the oil to be delivered without payment of duty,

the Commissioners may assess an amount equal to the excise duty on like oil at the rate in force at the time of the contravention or failure to comply as being excise duty due from that person, and notify him or his representative accordingly.”

- (7) In the Table set out in section 27(3) of that Act (interpretation), under the heading “Management Act” there shall be inserted at the appropriate place “ “representative” ”.

#### Textual Amendments

**F21** Sch. 6 para. 6(2) repealed (28.7.2000 with effect as mentioned in Sch. 40 Pt. I(1) Note 2 of the amending Act) by 2000 c. 17, s. 156, **Sch. 40 Pt. I(1)**

#### Marginal Citations

**M48** 1979 c. 5.

#### Commencement

- 7 This Schedule shall come into force on such day as the Commissioners of Customs and Excise may by order made by statutory instrument appoint; and different days may be appointed under this paragraph for different purposes.

#### Subordinate Legislation Made

**P2** Sch. 6 para. 7 power fully exercised (16.5.1997): 1.6.1997 appointed by S.I. 1997/1305, **art. 2**

## SCHEDULE 7 **U.K.**

Section 69.

### SPECIAL TREATMENT FOR CERTAIN DISTRIBUTIONS

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

**C1** Sch. 7 excluded (28.4.1997) by S.I. 1997/1154, **reg. 25(10)**

#### *Distributions to which Schedule applies*

- [<sup>F22</sup>1] (1) Subject to paragraphs 4 to 7 below, this Schedule applies to any qualifying distribution which—
- (a) falls within either or both of sub-paragraphs (2) and (3) below; and
  - (b) is a distribution made on or after 8th October 1996 by a company resident in the United Kingdom.

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- (2) A qualifying distribution of a company falls within this sub-paragraph if it is a payment made by that company—
- (a) on the redemption, repayment or purchase of its own shares, or
  - (b) on the purchase of rights to acquire its own shares.
- (3) A qualifying distribution of a company falls within this sub-paragraph if—
- (a) arrangements are or have been made by virtue of which any one or more of the specified matters is or was made referable (in some way and to any extent) to, or to the carrying out of, a transaction in securities; and
  - (b) that transaction is a transaction completed on or after 8th October 1996, or some or all of those arrangements are arrangements made on or after that date.
- (4) For the purposes of this Schedule the specified matters, in relation to a qualifying distribution, are—
- (a) whether the distribution is made,
  - (b) the time when it is made,
  - (c) its form, and
  - (d) its amount.
- (5) In this Schedule—
- “arrangements” means arrangements of any kind, whether in writing or not;
- “qualifying distribution” has the same meaning as in the Taxes Act 1988;
- “shares” has the same meaning as in sections 219 to 228 of that Act (purchase of own shares);
- “transaction in securities” has the same meaning as in Chapter I of Part XVII of that Act (cancellation of tax advantages from certain transactions in securities).]

#### Textual Amendments

**F22** Sch. 7 para. 1 repealed (31.7.1997 with effect in relation to distributions made on or after 6.4.1999) by 1997 c. 58, s. 52, Sch. 8 Pt. II(12) Note 1 (with s. 3(3))

#### *Distributions treated as FIDs*

- [<sup>F23</sup>2 (1) The Tax Acts shall have effect, and be deemed in relation to any time on or after 8th October 1996 to have had effect, as if a qualifying distribution to which this Schedule applies were a foreign income dividend within the meaning of Chapter VA of Part VI of the Taxes Act 1988 and, accordingly, as if the making of the distribution were the payment of a foreign income dividend.
- (2) In section 246A of the Taxes Act 1988 (elections for dividends to be treated as foreign income dividends), after subsection (2) there shall be inserted the following subsection—
- “(2A) An election under this section cannot be made as regards a distribution which already falls to be treated as a foreign income dividend by virtue of paragraph 2(1) of Schedule 7 to the Finance Act 1997.”

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- (3) Sub-paragraph (1) above has effect subject to—
- [ section 95(1A)(b) of the Taxes Act 1988 (receipt of qualifying distribution<sup>F24</sup>(a) by dealer not to be treated as FID for certain purposes); and]
  - (b) section 247(5B) to (5D) [<sup>F25</sup>of the Taxes Act 1988] (distributions that are subject to group income elections).
- (4) Sub-paragraph (2) above has effect in relation to the making of elections on or after 8th October 1996.]

#### Textual Amendments

- F23** Sch. 7 para. 2 repealed (31.7.1997 with effect in relation to distributions made on or after 6.4.1999) by 1997 c. 58, ss. 36(4), 52, Sch. 6 para. 21(2)(4), Sch. 8 Pt. II(11) note (with s. 3(3))
- F24** Sch. 7 para. 2(3)(a) repealed (31.7.1997 with effect as mentioned in s. 24(15)(a)(b) of the amending Act) by 1997 c. 58, ss. 24(14)(a), 52, Sch. 8 Pt. II(8) note 1 (with s. 3(3))
- F25** Words in Sch. 7 para. 2(3)(b) substituted (31.7.1997 with effect as mentioned in s. 24(15)(a)(b) of the amending Act) by 1997 c. 58, s. 24(14)(b) (with s. 3(3))

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

- C2** Sch. 7 para. 2(1) restricted (31.7.1997) by 1997 c. 58, s. 36(3) (with s. 3(3))

#### *Distributions treated as section 686 income of trustees*

- [<sup>F263</sup> (1) This paragraph applies where—
- (a) a qualifying distribution to which this Schedule applies by virtue of its falling within paragraph 1(2) above is or has been made to trustees; and
  - (b) those trustees are not or, as the case may be, were not the trustees of a unit trust scheme within the meaning of section 469 of the Taxes Act 1988.
- (2) The relevant part of that distribution (and, accordingly, the corresponding part of the foreign income dividend that paragraph 2(1) above deems the distribution to be) shall be treated for the purposes of the Tax Acts as if it were income to which section 686 of the Taxes Act 1988 (application of rate applicable to trusts to income of certain discretionary trusts) applies.
- (3) In sub-paragraph (2) above the reference to the relevant part of the distribution is a reference to so much (if any) of that distribution as—
- (a) is not income falling within paragraph (a) of section 686(2) of the Taxes Act 1988 (income which is to be accumulated or which is payable at any person's discretion);
  - (b) does not fall to be treated for the purposes of the Income Tax Acts as income of a settlor;
  - (c) is not income arising under a trust established for charitable purposes; and
  - (d) is not income from investments, deposits or other property held for any such purposes as are mentioned in sub-paragraph (i) or (ii) of section 686(2)(c) of the Taxes Act 1988 (property held for pension purposes).
- (4) Subsection (6) of section 686 of the Taxes Act 1988 (meaning of “trustees” etc.) shall apply for the purposes of this paragraph as it applies for the purposes of that section.

*Status: Point in time view as at 08/11/2007.*

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- (5) This paragraph has effect for the year 1997-98 and subsequent years of assessment and shall be deemed to have had effect for the year 1996-97 in relation to distributions made on or after 5th December 1996.]

#### Textual Amendments

- F26** Sch. 7 para. 3 repealed (31.7.1997 with effect in relation to distributions made on or after 6.4.1999) by 1997 c. 58, s. 52, Sch. 8 Pt. II(9) Note 3 (with s. 3(3))

#### *Stock options*

- [<sup>F274</sup> (1) A qualifying distribution does not fall within paragraph 1(3) above by reason only that it is made in consequence of the exercise of such an option as is mentioned in section 249(1)(a) of the Taxes Act 1988 (option to receive either a cash dividend or additional share capital).
- (2) Section 251(1)(c) of the Taxes Act 1988 (interpretation of references to the exercise of an option to receive either a cash dividend or additional share capital) shall apply for the purposes of this paragraph as it applies for the purposes of sections 249 and 250 of that Act.]

#### Textual Amendments

- F27** Sch. 7 para. 4 repealed (31.7.1997 with effect in relation to distributions made on or after 6.4.1999) by 1997 c. 58, ss. 36(4), 52, Sch. 6 para. 21(3)(4), Sch. 8 Pt. II(11) note (with s. 3(3))

#### *Dividends on fixed rate preference shares*

- [<sup>F285</sup> (1) A qualifying distribution consisting in a dividend on a fixed-rate preference share does not fall within paragraph 1(3) above by reason only that any of the specified matters is made referable to the terms on which the share was issued.
- (2) In this paragraph “fixed-rate preference share” means—
- any fixed rate preference share within the meaning of [<sup>F29</sup>paragraph 13 of Schedule 28B to] the Taxes Act 1988; or
  - any share which would be such a share if the dividends mentioned in [<sup>F30</sup>paragraph 13(6)(c)(i) of that Schedule] included dividends fixed by reference to a standard published rate of interest.

[ For the purposes of sub-paragraph (2) above, any reference in paragraph 13(6) of <sup>F31</sup>(3) Schedule 28B to shares shall be taken as a reference to shares within the meaning of this Schedule.]]

#### Textual Amendments

- F28** Sch. 7 para. 5 repealed (31.7.1997 with effect in relation to distributions made on or after 6.4.1999) by 1997 c. 58, ss. 36(4), 52, Sch. 6 para. 21(3)(4), Sch. 8 Pt. II(11) note (with s. 3(3))
- F29** Words in Sch. 7 para. 5(2)(a) substituted (31.7.1997 with effect on and after 2.7.1997) by 1997 c. 58, s. 25(6)(a)(8) (with s. 3(3))
- F30** Words in Sch. 7 para. 5(2)(b) substituted (31.7.1997 with effect on and after 2.7.1997) by 1997 c. 58, s. 25(6)(b)(8) (with s. 3(3))

*Status: Point in time view as at 08/11/2007.*

*Changes to legislation: Finance Act 1997 is up to date with all changes known to be in force on or before 15 June 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)*

**F31** Sch. 7 para. 5(3) inserted (31.7.1997 with effect on and after 2.7.1997) by 1997 c. 58, s. 25(7)(8) (with s. 3(3))

*Pre-sale distributions*

- [<sup>F326</sup> (1) A qualifying distribution which is an excepted pre-sale distribution does not fall within paragraph 1(3) above if the only transactions in securities to which any of the specified matters are referable are relevant transactions.
- (2) For the purposes of this paragraph, a qualifying distribution of a company is an excepted pre-sale distribution if, in the period beginning with the making of the distribution and ending with the fourteenth day after the day on which the distribution is made, there is a major change in the ownership of that company.
- (3) For the purposes of sub-paragraph (2) above, there is a major change in the ownership of a company in any period if, in that period—
- (a) a single person acquires a holding of 75 per cent. or more of the ordinary share capital of the company; or
  - (b) each of two or more persons acquires a holding of ordinary share capital of the company, and the holdings together amount to 75 per cent. or more of the ordinary share capital of the company.
- (4) For the purposes of this paragraph a relevant transaction, in relation to any excepted pre-sale distribution, is any transaction in securities by which the holding or, as the case may be, any of the holdings mentioned in sub-paragraph (3) above is acquired.
- (5) In applying sub-paragraph (3) above—
- (a) the circumstances at any two points in time falling within the period in question may be compared, and a holder at the later time may be regarded as having acquired in that period whatever he did not hold at the earlier time, irrespective of what he has acquired or disposed of in between;
  - (b) to allow for any issue of shares or other reorganisation of capital, any such comparison may be made in terms of percentage holdings of the total ordinary share capital at the respective times, so that a person whose percentage holding is greater at the later time may be regarded as having acquired in the period a percentage holding equal to the increase;
  - (c) any acquisition of shares under the will or on the intestacy of a deceased person, and any gift of shares which is unsolicited and made without regard to the provisions of paragraphs 2 and 3 above, shall be left out of account.
- (6) For the purposes of this paragraph, where—
- (a) persons, whether company members or not, possess extraordinary rights or powers under the articles of association of a company or under any other document regulating the company, and
  - (b) because of that fact, ownership of the ordinary share capital may not be an appropriate test of whether there has been a major change in the ownership of the company,
- then, in considering whether there has been a major change in the ownership of the company, holdings of all kinds of share capital, including preference shares, or of any particular kind of share capital, or voting power or any other special kind of power, shall be taken into account, and holdings of ordinary share capital shall be disregarded, to such extent as may be appropriate.

*Status: Point in time view as at 08/11/2007.*

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- (7) For the purposes of this paragraph, references to ownership shall be construed as references to beneficial ownership, and references to acquisition shall be construed accordingly.]

#### Textual Amendments

**F32** Sch. 7 para. 6 repealed (31.7.1997 with effect in relation to distributions made on or after 6.4.1999) by 1997 c. 58, ss. 36(4), 52, Sch. 6 para. 21(3)(4), **Sch. 8 Pt. II(11)** Note (with s. 3(3))

#### *Manufactured payments*

- [<sup>F337</sup> (1) A manufactured dividend shall not be taken to be a qualifying distribution to which this Schedule applies except in pursuance of sub-paragraph (2) below.
- (2) Where a payment is made which is representative of a qualifying distribution to which this Schedule applies, that payment shall be deemed to be such a distribution for all the purposes of the Tax Acts, except those for which Schedule 23A to the Taxes Act 1988 (manufactured payments) makes provision in relation to the payment which is different from the provision applying to distributions to which this Schedule applies.
- (3) For the purposes of Schedule 23A to the Taxes Act 1988 a payment which is representative of a payment falling within paragraph 1(2) above shall be treated as if it were representative of a dividend on the shares redeemed, repaid or purchased or, as the case may be, on the shares to which the right relates.
- (4) In this paragraph “manufactured dividend” has the same meaning as in Schedule 23A to the Taxes Act 1988.]

#### Textual Amendments

**F33** Sch. 7 para. 7 repealed (31.7.1997 with effect in relation to payments which are representative of distributions made on or after 6.4.1999) by 1997 c. 58, s. 52, **Sch. 8 Pt. II(12)** Note 2 (with s. 3(3))

#### *Amendment of section 95 of the Taxes Act 1988*

- 8 (1) In section 95 of the Taxes Act 1988 (taxation of distributions received by dealers on purchase by a company of its own shares), for subsections (1) to (3) there shall be substituted the following subsections—
- “(1) Each of the following, that is to say—
- (a) any qualifying distribution to which Schedule 7 to the Finance Act 1997 (special treatment for certain distributions) applies which is received by a dealer, and
- (b) any payment by a dealer which is representative of a qualifying distribution to which that Schedule applies,
- shall be taken into account in computing the profits of the dealer which are chargeable to tax in accordance with the provisions of this Act applicable to Case I or II of Schedule D.
- (1A) Accordingly, where a dealer receives a qualifying distribution to which Schedule 7 to the Finance Act 1997 applies—



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- (a) tax shall not be charged under Schedule F in respect of that distribution;
  - (b) that distribution shall not be treated for the purposes of sections 246D and 246F as a foreign income dividend received by the dealer;
  - (c) sections 208 and 234(1) shall not apply to that distribution; and
  - (d) paragraph 2A(2) of Schedule 23A shall not apply to the payment by the dealer of an amount which is representative of that distribution and is paid by him on or after the date appointed under paragraph 16(1) of Schedule 10 to the Finance Act 1997.
- (1B) Where the result of any transaction is that a qualifying distribution to which Schedule 7 to the Finance Act 1997 applies is receivable by a dealer, that distribution shall not, in relation to that transaction, be treated as interest for the purposes of determining whether section 732 applies by virtue of section 731.
- (2) For the purposes of this section a person is a dealer in relation to any qualifying distribution if—
- (a) were there a sale by that person of the shares in respect of which the distribution is made, and
  - (b) the circumstances of that sale were such that the price would not fall to be treated as a qualifying distribution,
- the price would be taken into account in computing the profits of that person which are chargeable to tax in accordance with the provisions of this Act applicable to Case I or II of Schedule D.”
- (2) In that Act—
- <sup>F34</sup>(a) .....
  - (b) in section 234(1) (information relating to distributions), for “95(1)(c)” there shall be substituted “ 95(1A)(c) ”.
- (3) This paragraph has effect in relation to distributions made on or after 26th November 1996.

**Textual Amendments**

**F34** Sch. 7 para. 8(2)(a) repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 3](#) (with [Sch. 2](#))

*Information to be provided about deemed FID*

- [<sup>F359</sup> (1) In section 246G(1)(d) of that Act (information to be provided about a foreign income dividend), after “carries no entitlement to a tax credit” there shall be inserted “ and, in the case of a qualifying distribution to which Schedule 7 to the Finance Act 1997 applies, that it is a foreign income dividend by virtue of paragraph 2(1) of that Schedule ”.
- (2) This paragraph has effect in relation to distributions made on or after 26th November 1996.]

*Status: Point in time view as at 08/11/2007.*

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### Textual Amendments

**F35** Sch. 7 para. 9 repealed (31.7.1997 with effect in accordance with s. 36 and Sch. 6 of the amending Act) by 1997 c. 58, s. 52, Sch. 8 Pt. II(11) Note (with s. 3(3))

### *Group income*

[<sup>F36</sup>10 (1) In subsection (5A) of section 247 of that Act (under which the group income provisions do not apply to FIDs), at the beginning there shall be inserted the words “ Subject to subsections (5B) to (5D) below, ”; and after that subsection there shall be inserted the following subsections—

“(5B) Where—

- (a) a company falling within subsection (5C) below and resident in the United Kingdom receives a dividend, and
- (b) that dividend would, apart from subsection (5D) below, be a distribution to which Schedule 7 to the Finance Act 1997 (special treatment for certain distributions) applies,

the dividend shall be taken to be one in relation to which an election under subsection (1) above may have effect in accordance with this section.

(5C) The receiving company falls within this subsection if—

- (a) it directly or indirectly owns all the ordinary share capital of the paying company, or
- (b) all the ordinary share capital of the paying company is owned directly or indirectly by a company resident in the United Kingdom which also owns, directly or indirectly, all the ordinary share capital of the receiving company;

and section 838 shall apply for construing the references in this subsection to directly or indirectly owning ordinary share capital of a company.

(5D) If an election under subsection (1) above has effect in relation to such a distribution as is mentioned in subsection (5B) above, that distribution shall be deemed to be a distribution to which Schedule 7 to the Finance Act 1997 does not apply.”

(2) This paragraph has effect in relation to distributions made on or after 26th November 1996.]

### Textual Amendments

**F36** Sch. 7 para. 10 repealed (31.7.1997 with effect in accordance with s. 36 and Sch. 6 of the amending Act) by 1997 c. 58, s. 52, Sch. 8 Pt. II(11) Note (with s. 3(3))

### Modifications etc. (not altering text)

**C3** Sch. 7 para. 10(1) excluded (19.3.1997 with effect in relation to distributions made on or after 26.11.1996) by 1988 c. 1, s. 247(5D) (as inserted (19.3.1997 with effect in relation to distributions made on or after 26.11.1996) by 1997 c. 16, s. 69, Sch. 7 para. 10)

*Status: Point in time view as at 08/11/2007.*

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*Distribution accounts*

[<sup>F37</sup>11 (1) In section 468I of that Act (distribution accounts of authorised unit trusts), after subsection (5) there shall be inserted the following subsection—

“(5A) The following amounts shown as available for distribution in the distribution accounts must be shown in those accounts as available for distribution as foreign income dividends—

- (a) amounts deriving from qualifying distributions to which Schedule 7 to the Finance Act 1997 (special treatment for certain distributions) applies; and
- (b) so much of any amounts not falling within paragraph (a) above as, if shown as available for distribution as dividends, would fall to be treated as distributions to which that Schedule applies.”

(2) This paragraph applies to distribution accounts for any distribution period ending on or after 26th November 1996.]

**Textual Amendments**

**F37** Sch. 7 para. 11 repealed (31.7.1997 with effect in accordance with s. 36 and Sch. 6 of the amending Act) by 1997 c. 58, s. 52, Sch. 8 Pt. II(11) Note (with s. 3(3))

*Amendments consequential on paragraph 3 above*

12 (1) In section 686 of that Act (application of rate applicable to trusts to income of certain discretionary trusts), paragraph (d) of subsection (2) shall be omitted; <sup>F38</sup>...

<sup>F39</sup>(2) .....

<sup>F40</sup>(3) .....

(4) This paragraph has effect for the year 1997-98 and subsequent years of assessment and shall be deemed to have had effect for the year 1996-97.

**Textual Amendments**

**F38** Words in Sch. 7 para. 12(1) repealed (6.4.2007) by Income Tax Act 2007 (c. 3), s. 1034(1), Sch. 3 Pt. 1 (with Sch. 2)

**F39** Sch. 7 para. 12(2) repealed (6.4.2007) by Income Tax Act 2007 (c. 3), s. 1034(1), Sch. 3 Pt. 1 (with Sch. 2)

**F40** Sch. 7 para. 12(3) repealed (6.4.2005) by Income Tax (Trading and Other Income) Act 2005 (c. 5), s. 883(1), Sch. 3 (with Sch. 2)

.....

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**Textual Amendments**

**F41** Sch. 8 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 2](#) (with [Sch. 2](#))

<sup>F42</sup>SCHEDULE 9 **U.K.**

Section 75.

**Textual Amendments**

**F42** Sch. 9 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

SCHEDULE 10 **U.K.**

Section 76.

STOCK LENDING ARRANGEMENTS AND MANUFACTURED PAYMENTS

**PART I U.K.**

STOCK LENDING

*Approved stock lending arrangements: traders*

- 1 (1) Section 129 of the Taxes Act 1988 (treatment of approved stock lending arrangements when computing the profits of a trade) shall cease to have effect.
- (2) Section 129A of, and Schedule 5A to, that Act (interest on cash collateral for approved stock lending arrangements) shall also cease to have effect.

*Stock lending fees*

- 2 (1) In subsection (3) of section 129B of the Taxes Act 1988 (stock lending fees under approved stock lending arrangements), for “an approved” there shall be substituted “any”.
- (2) For subsection (4) of that section (meaning of approved stock lending arrangement) there shall be substituted the following subsection—
  - “(4) In this section “stock lending arrangement” has the same meaning as in section 263B of the 1992 Act.”

*Stock lending agreements under which manufactured payments are not made*

- 3 After section 736A of the Taxes Act 1988 (manufactured dividends and interest) there shall be inserted the following section—

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### **“736B Deemed manufactured payments in the case of stock lending arrangements.**

- (1) This section applies where—
  - (a) any interest on securities transferred by the lender under a stock lending arrangement is paid, as a consequence of the arrangement, to a person other than the lender; and
  - (b) no provision is made for securing that the lender receives payments representative of that interest.
- (2) Where this section applies, Schedule 23A and the provisions for the time being contained in any regulations under that Schedule shall apply as if—
  - (a) the borrower were required under the stock lending arrangement to pay the lender an amount representative of the interest mentioned in subsection (1)(a) above;
  - (b) a payment were made by the borrower in discharge of that requirement; and
  - (c) that payment were made on the same date as the payment of the interest of which it is representative.
- (3) In this section—
  - “interest” includes dividends; and
  - “stock lending arrangement” and “securities” have the same meanings as in section 263B of the 1992 Act.”

#### *Manufactured payments in stock lending cases etc.*

- 4 In Schedule 23A to the Taxes Act 1988 (manufactured payments)—
  - (a) paragraph 6 (unapproved manufactured payments) shall cease to have effect; and
  - (b) in paragraph 7(3)—
    - (i) in paragraph (a), the words “except where paragraph 6 above applies, and” shall be omitted;
    - (ii) paragraph (b) shall be omitted; and
    - (iii) for the words “3, 4 or 6” there shall be substituted “3 or 4”.

#### *Stock lending arrangements: capital gains*

- 5 (1) After section 263A of the <sup>M49</sup>Taxation of Chargeable Gains Act 1992 (agreements for sale and repurchase of securities) there shall be inserted the following sections—

### **“263B Stock lending arrangements.**

- (1) In this section “stock lending arrangement” means so much of any arrangements between two persons (“the borrower” and “the lender”) as are arrangements under which—
  - (a) the lender transfers securities to the borrower otherwise than by way of sale; and
  - (b) a requirement is imposed on the borrower to transfer those securities back to the lender otherwise than by way of sale.

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- (2) Subject to the following provisions of this section and section 263C(2), the disposals and acquisitions made in pursuance of any stock lending arrangement shall be disregarded for the purposes of capital gains tax.
- (3) Where—
- (a) the borrower under any stock lending arrangement disposes of any securities transferred to him under the arrangement,
  - (b) that disposal is made otherwise than in the discharge of the requirement for the transfer of securities back to the lender, and
  - (c) that requirement, so far as it relates to the securities disposed of, has been or will be discharged by the transfer of securities other than those transferred to the borrower,
- any question relating to the acquisition of the securities disposed of shall be determined (without prejudice to the provisions of Chapter I of Part IV) as if the securities disposed of were the securities with which that requirement (so far as relating to the securities disposed of) has been or will be discharged.
- (4) Where, in the case of any stock lending arrangement, it becomes apparent, at any time after the making of the transfer by the lender, that the requirement for the borrower to make a transfer back to the lender will not be complied with—
- (a) the lender shall be deemed for the purposes of this Act to have made a disposal at that time of the securities transferred to the borrower;
  - (b) the borrower shall be deemed to have acquired them at that time; and
  - (c) subsection (3) above shall have effect in relation to any disposal before that time by the borrower of securities transferred to him by the lender as if the securities deemed to have been acquired by the borrower in accordance with paragraph (b) above were to be used for discharging a requirement to transfer securities back to the lender.
- (5) References in this section, in relation to a person to whom securities are transferred, to the transfer of those securities back to another person shall be construed as if the cases where those securities are taken to be transferred back to that other person included any case where securities of the same description as those securities are transferred to that other person either—
- (a) in accordance with a requirement to transfer securities of the same description; or
  - (b) in exercise of a power to substitute securities of the same description for the securities that are required to be transferred back.
- (6) For the purposes of this section securities shall not be taken to be of the same description as other securities unless they are in the same quantities, give the same rights against the same persons and are of the same type and nominal value as the other securities.
- (7) In this section—
- “interest” includes dividends; and
- “securities” means United Kingdom equities, United Kingdom securities or overseas securities (within the meaning, in each case, of Schedule 23A to the Taxes Act).

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### **263C Stock lending involving redemption.**

- (1) In section 263B references to the transfer back to a person of securities transferred by him shall be taken to include references to the payment to him, in pursuance of an obligation arising on any person's becoming entitled to receive an amount in respect of the redemption of those securities, of an amount equal to the amount of the entitlement.
  - (2) Where, in pursuance of any such obligation, the lender under any stock lending arrangement is paid any amount in respect of the redemption of any securities to which the arrangement relates—
    - (a) that lender shall be deemed for the purposes of this Act to have disposed, for that amount, of the securities in respect of whose redemption it is paid (“the relevant lent securities”);
    - (b) the borrower shall not, in respect of the redemption, be taken for the purposes of this Act to have made any disposal of the relevant lent securities; and
    - (c) section 263B(3) shall have effect in relation to disposals of any of the relevant lent securities made by the borrower before the redemption as if—
      - (i) the amount paid to the lender were an amount paid for the acquisition of securities, and
      - (ii) the securities acquired were to be used by the borrower for discharging a requirement under the arrangement to transfer the relevant lent securities back to the lender.
  - (3) Expressions used in this section and section 263B have the same meanings in this section as in that section.”
- (2) Section 271(9) of that Act (treatment of approved stock lending arrangements) shall cease to have effect.

<sup>F43</sup>(3) . . . . .

#### **Textual Amendments**

**F43** Sch. 10 para. 5(3) repealed (6.4.2007) by *Income Tax Act 2007* (c. 3), s. 1034(1), **Sch. 3 Pt. 1** (with Sch. 2)

#### **Marginal Citations**

**M49** 1992 c. 12.

#### *Premiums trust funds of Lloyd's members*

6 The following provisions of Chapter III of Part II of the <sup>M50</sup>Finance Act 1993 and Chapter V of Part IV of the <sup>M51</sup>Finance Act 1994 (Lloyd's members) shall cease to have effect—

- (a) section 174(4) and (5) and section 182(1)(ca)(i) of that Act of 1993 (stock lending arrangements applying to securities in the premiums trust funds of individual members); and

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- (b) section 222(4) and (5) and section 229(ca)(i) of that Act of 1994 (which makes corresponding provision for the premiums trust funds of corporate members).

**Marginal Citations**

**M50** 1993 c. 34.

**M51** 1994 c. 9.

*Commencement*

- 7 (1) This Part of this Schedule (except paragraph 4 above) has effect in relation to, and to transfers under, any arrangement made on or after such day as the Treasury may by order made by statutory instrument appoint.
- (2) Paragraph 4 above has effect in relation to any manufactured payment made on or after the day appointed under sub-paragraph (1) above.

**Subordinate Legislation Made**

**P3** Sch. 10 para. 7(1) power fully exercised (20.3.1997): 1.7.1997 appointed by S.I. 1997/991, art. 2

**PART II U.K.**

MANUFACTURED PAYMENTS

*Repeal of section 737 of the Taxes Act 1988*

- 8 Section 737 of the Taxes Act 1988 (manufactured dividends: treatment of tax deducted) shall cease to have effect.

*Meaning of “foreign income dividend”*

- [<sup>F449</sup> In paragraph 1(1) of Schedule 23A to that Act (interpretation of that Schedule), after the definition of “dividend manufacturing regulations” there shall be inserted the following definition—
- ““foreign income dividend” shall be construed in accordance with Chapter VA of Part VI;”.]

**Textual Amendments**

**F44** Sch. 10 para. 9 repealed (31.7.1997 with effect in accordance with s. 36 and Sch. 6 of the amending Act) by 1997 c. 58, s. 52, Sch. 8 Pt. II(11) note (with s. 3(3))

*Manufactured dividends on UK equities*

- 10 (1) For paragraph 2 of Schedule 23A to that Act (manufactured dividends on UK equities) there shall be substituted the following paragraphs—



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*“ Manufactured dividends on UK equities: general*

- 2
- (1) This paragraph applies in any case where, under a contract or other arrangements for the transfer of United Kingdom equities, one of the parties (a “dividend manufacturer”) is required to pay to the other (“the recipient”) an amount (a “manufactured dividend”) which is representative of a dividend on the equities.
  - (2) A manufactured dividend paid by a dividend manufacturer who is a company resident in the United Kingdom shall be treated for the purposes of the Tax Acts as if the amount paid were a dividend of the dividend manufacturer.
  - (3) Where a manufactured dividend to which sub-paragraph (2) above does not apply is paid by any person—
    - (a) an amount of tax representing the advance corporation tax that would have been payable in respect of the manufactured dividend if—
      - (i) the dividend manufacturer were a company resident in the United Kingdom, and
      - (ii) the manufactured dividend were a distribution by that company,shall be accounted for to the extent, and in the manner, specified in dividend manufacturing regulations;
    - (b) the Tax Acts shall have effect in relation to the recipient, and persons claiming title through or under him, as if the manufactured dividend were a dividend on the United Kingdom equities in question; and
    - (c) the Tax Acts shall have effect in relation to the dividend manufacturer subject to the provisions of paragraph 2A below.
  - (4) The persons who, under dividend manufacturing regulations, may be made liable to account for an amount of tax as mentioned in sub-paragraph (3)(a) above are—
    - (a) the dividend manufacturer, in the case of a manufactured dividend to which sub-paragraph (5) below applies; and
    - (b) the recipient, in the case of a manufactured dividend to which that sub-paragraph does not apply.
  - (5) This sub-paragraph applies to a manufactured dividend if—
    - (a) the dividend manufacturer is a person resident in the United Kingdom who is not a company; or
    - (b) the following two conditions are satisfied in the case of that manufactured dividend, that is to say—
      - (i) the dividend manufacturer is a company that is not so resident but carries on a trade in the United Kingdom through a branch or agency; and
      - (ii) the requirement to pay the manufactured dividend is attributable to the carrying on of a trade carried on through that branch or agency.

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- (6) Subject to paragraph 2B(2)(b) below, where—
- (a) a dividend manufacturer pays a manufactured dividend, and
  - (b) that dividend manufacturer is, in respect of that dividend, required under dividend manufacturing regulations to account for an amount of tax such as is mentioned in sub-paragraph (3)(a) above,
- the dividend manufacturer shall, on paying the manufactured dividend, provide the recipient with a statement in writing setting out the matters specified in sub-paragraph (7) below.
- (7) Those matters are—
- (a) the amount of the manufactured dividend;
  - (b) the date of the payment of the manufactured dividend; and
  - (c) the amount of the tax credit to which, by virtue of sub-paragraph (3)(b) above, the recipient or a person claiming title through or under him either—
    - (i) is entitled in respect of the manufactured dividend, or
    - (ii) would be so entitled were all the conditions of a right to a tax credit satisfied, in the case of the recipient or that person, as respects the dividend which the recipient is deemed to receive.
- (8) The duty imposed by sub-paragraph (6) above shall be enforceable at the suit or instance of the recipient.

*Deductibility of manufactured payment in the case of the manufacturer*

- 2A (1) Where, in the case of a manufactured dividend, the dividend manufacturer—
- (a) is resident in the United Kingdom, but
  - (b) is not a company,
- the amount of the manufactured dividend actually paid (so far as it is not otherwise deductible), together with an amount equal to the notional ACT, shall be allowable for the purposes of income tax as a deduction against the total income of the dividend manufacturer.
- (2) Where, in the case of a manufactured dividend, the dividend manufacturer is a company which is not resident in the United Kingdom, no amount at all shall be deductible, in the case of that company, in respect of the payment of that manufactured dividend.
- (3) The reference in sub-paragraph (1) above to an amount equal to the notional ACT is a reference to the amount equal to the advance corporation tax that would be payable in respect of the manufactured dividend if—
- (a) the dividend manufacturer were a company resident in the United Kingdom, and
  - (b) the manufactured dividend were a distribution by that company.
- (4) The references in this paragraph to an amount being deductible are references to its being either—

*Status: Point in time view as at 08/11/2007.*

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- (a) deductible in computing the amount of any of the dividend manufacturer's profits or gains for the purposes of income tax or corporation tax; or
- (b) deductible for those purposes from the total income or, as the case may be, total profits of the dividend manufacturer.

*Manufactured dividends representative of foreign income dividends*

- 2B
- (1) Where a manufactured dividend to which paragraph 2(2) above applies is representative of a foreign income dividend, the Tax Acts shall have effect for all purposes as if—
    - (a) the deemed dividend of the dividend manufacturer were itself a foreign income dividend; and
    - (b) that foreign income dividend were one in respect of which the dividend manufacturer is not liable to make any payment of advance corporation tax.
  - (2) Where a manufactured dividend to which paragraph 2(3) above applies is representative of a foreign income dividend—
    - (a) the Tax Acts shall have effect, in relation to the recipient and any persons claiming title through or under him, as if the dividend on the United Kingdom equities which the recipient is treated as having received were a foreign income dividend;
    - (b) there shall be no requirement for any person to account for tax in respect of that manufactured dividend by virtue of paragraph 2(3)(a) above;
    - (c) any deduction made in respect of the manufactured dividend under paragraph 2A(1) above shall be made without including an amount equal to the notional ACT in the deduction; and
    - (d) the dividend manufacturer, on paying the manufactured dividend in any case falling within sub-paragraph (3) below, shall provide the recipient with a statement in writing setting out the matters specified in sub-paragraph (4) below.
  - (3) A case falls within this sub-paragraph where, were it not for sub-paragraph (2)(a) and (b) above, the dividend manufacturer would be required to provide such a statement as is mentioned in paragraph 2(6) above.
  - (4) Those matters are—
    - (a) the amount of the manufactured dividend;
    - (b) the date on which it is paid;
    - (c) the fact that the dividend carries no entitlement to a tax credit; and
    - (d) in the case of a manufactured dividend which is representative of a qualifying distribution to which Schedule 7 to the Finance Act 1997 applies, the fact that the distribution is a foreign income dividend by virtue of paragraph 2(1) of that Schedule.
  - (5) The Board may give directions as to the form that must be taken by a statement provided for the purposes of sub-paragraph (2)(d) above.

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(6) The duty imposed by sub-paragraph (2)(d) above shall be enforceable at the suit or instance of the recipient.”

[<sup>F45</sup>(2) In section 246F(4) of that Act (calculation of ACT where company receives foreign income dividend), for “paragraph 2(6)” there shall be substituted “ paragraph 2B(1) ”.

(3) In paragraph 9A of Schedule 13 to that Act (exception for manufactured foreign income dividends), for “paragraph 2(2) and (6)” there shall be substituted “ paragraphs 2(2) and 2B(1) ”.]

**Textual Amendments**

**F45** Sch. 10 para. 10(2)(3) repealed (31.7.1997 with effect in accordance with s. 36 and Sch. 6 of the amending Act) by 1997 c. 58, s. 52, Sch. 8 Pt. II(11) note (with s. 3(3))

*Manufactured interest on UK securities*

<sup>F46</sup>11 .....

**Textual Amendments**

**F46** Sch. 10 para. 11 repealed (6.4.2007) by Income Tax Act 2007 (c. 3), s. 1034(1), Sch. 3 Pt. 1 (with Sch. 2)

*Repeal of paragraph 5 of Schedule 23A*

12 Paragraph 5 of Schedule 23A to that Act (dividends and interest passing through the market) shall cease to have effect.

*Consequential amendments in Schedule 23A*

13 (1) In sub-paragraph (1) of paragraph 8 of Schedule 23A to that Act (power to modify provisions of Schedule), for “paragraphs 2 to 5 above” there shall be substituted “ paragraphs 2 to 4 above ”.

(2) In sub-paragraph (2) of that paragraph (powers with respect to accounts and records, returns, accounting for tax etc.), for the words after paragraph (d) there shall be substituted—

“by persons by or to whom manufactured dividends, manufactured interest or manufactured overseas dividends are paid.”

<sup>F47</sup>(3) .....

**Textual Amendments**

**F47** Sch. 10 para. 13(3) repealed (6.4.2007) by Income Tax Act 2007 (c. 3), s. 1034(1), Sch. 3 Pt. 1 (with Sch. 2)

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### *Amendments of Taxes Management Act 1970*

- 14 (1) Section 21 of the <sup>M52</sup>Taxes Management Act 1970 (information about a market maker's business) shall be amended as follows.
- (2) For subsection (1) there shall be substituted the following subsection—
- “(1) The Board may exercise the powers conferred by this section as respects, and in connection with, any business consisting in or involving dealings in securities; and for the purposes of this section it shall be immaterial whether those dealings are or, as the case may be, were—
- (a) on behalf of persons other than the person carrying on the business;
  - (b) by that person on his own behalf; or
  - (c) a mixture of the two.”
- (3) In subsection (2)—
- (a) for the word “transactions”, in the first place where it occurs, there shall be substituted “ securities transactions ”; and
  - (b) for “market maker” there shall be substituted “ person ”.
- (4) In subsection (3), for “transactions in the course of” there shall be substituted “ securities transactions in the course of any business of a person other than the broker which is ”.
- (5) For subsection (4) there shall be substituted the following subsections—
- “(4) Where a person (“the recipient”) who is not a broker has directly or indirectly received from another person any payment which—
- (a) is made by that other person in the course of a business within subsection (1) above, and
  - (b) is a payment treated by that other person as made in respect of interest on securities,
- the Board may by notice in writing require the recipient to state, within a time specified in the notice, whether the amount received is in whole or in part received on behalf of, or for payment on to, a third person and (if it is) to furnish the name and address of that third person.
- (4A) Where a person (“the payer”) has directly or indirectly paid to another person any sum which—
- (a) constitutes a receipt by that other person in the course of a business within subsection (1) above, and
  - (b) is a receipt treated by that other person as accruing in respect of interest on securities,
- the Board may by notice in writing require the payer to state, within a time specified in the notice, whether the amount paid is in whole or in part received from, or paid on account of, a third person and (if it is) to furnish the name and address of that third person.”
- (6) In subsection (5)—
- (a) for “whether brokers or market makers or not” there shall be substituted “ at all ”; and
  - (b) for “transactions” there shall be substituted “ securities transactions ”.
- (7) After that subsection there shall be inserted the following subsection—

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“(5A) Where it appears to the Board that a person may have incurred a liability to pay or account for tax under Schedule 23A to the principal Act (manufactured payments), the Board may by notice served on that person require him, within such period (not being less than 28 days) as may be specified in the notice, to provide the Board with information which—

- (a) is available to that person; and
- (b) is or may be relevant to whether that person has incurred such a liability, or to the extent of such a liability.”

(8) For subsection (7) there shall be substituted the following subsection—

“(7) In this section—

“broker” means any person who is a member of a recognised investment exchange, within the meaning of the <sup>M53</sup>Financial Services Act 1986;

“interest” includes dividends;

“securities” includes shares and stock; and

“securities transaction” means—

- (a) any transaction in securities;
- (b) any transaction under which a payment which is representative of any interest on a security has been, is to be or may be made; or
- (c) the making or receipt of such a payment.”

**Marginal Citations**

**M52** 1970 c. 9.

**M53** 1986 c. 60.

*Repeal of powers to modify information provisions*

15 Paragraphs 7 and 9 of Schedule 18 to the <sup>M54</sup>Finance Act 1986 (which contain powers to modify section 21 of the <sup>M55</sup>Taxes Management Act 1970) shall cease to have effect.

**Marginal Citations**

**M54** 1986 c. 41.

**M55** 1970 c. 9.

*Commencement*

- 16 (1) Subject to the following provisions of this paragraph, this Part of this Schedule has effect in relation to any payment of a manufactured dividend or manufactured interest which is a payment made on or after such day as the Treasury may by order made by statutory instrument appoint.
- (2) Paragraph 14 above has effect (instead of in accordance with sub-paragraph (1) above but subject to sub-paragraph (3) below) for the purpose of conferring powers for obtaining information about—

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- (a) transactions entered into on or after such day as the Treasury may by order made by statutory instrument appoint; and
  - (b) payments made on or after that day (whether under such transactions or under transactions entered into before that day).
- (3) Nothing in this Part of this Schedule shall affect the exercise, at any time on or after the day appointed under sub-paragraph (2) above, of the powers conferred apart from this Schedule by—
- (a) section 21 of the <sup>M56</sup>Taxes Management Act 1970, or by any regulations modifying that section, or
  - (b) section 737(8) of the Taxes Act 1988,
- for obtaining information about transactions entered into, or payments made, before that day.

**Subordinate Legislation Made**

**P4** Sch. 10 para. 16(1)(2) power fully exercised (20.3.1997): 1.7.1997 appointed by 1997/991, art. 2

**Marginal Citations**

**M56** 1970 c. 9.

<sup>F48</sup>SCHEDULE 11 **U.K.**

Section 80.

**Textual Amendments**

**F48** Sch. 11 repealed (6.4.2005) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, s. 883(1), **Sch. 3** (with Sch. 2)

SCHEDULE 12 **U.K.**

Section 82.

LEASING ARRANGEMENTS: FINANCE LEASES AND LOANS

**PART I U.K.**

LEASING ARRANGEMENTS WHERE ANY OF THE RETURN ON INVESTMENT IS IN CAPITAL FORM

*Purpose of this Part of this Schedule*

- 1 (1) This Part of this Schedule is concerned with arrangements—
- (a) which involve the lease of an asset;
  - (b) which are or have been entered into by companies or other persons;

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- (c) which are of such a kind as, <sup>F49</sup> . . . falls <sup>F49</sup> . . . to be treated in accordance with [<sup>F50</sup>generally accepted accounting practice] as finance leases or loans; and
  - (d) whose effect is that some or all of the return on investment in respect of the finance lease or loan—
    - (i) is or may be in the form of a sum which is not rent; and
    - (ii) would not, apart from this Schedule, be wholly brought into account for tax purposes as rent from the lease.
- (2) The principal purpose of this Part of this Schedule is, in the case of any such arrangements,—
- (a) to charge any person entitled to the lessor’s interest under the lease of the asset to tax from time to time on amounts of income determined by reference to those which fall for accounting purposes to be treated in accordance with [<sup>F51</sup>generally accepted accounting practice] as the income return, on and after 26th November 1996, on investment in respect of the finance lease or loan (taking into account the substance of the matter as a whole, including in particular the state of affairs as between connected persons, or within a group of companies, as reflected or falling to be reflected in accounts of any of those persons or in consolidated group accounts);
  - (b) where the sum mentioned in sub-paragraph (1)(d) above falls due, to recover by reference to that sum the whole or any part of any reliefs, allowances or deductions which are or have been allowed or made in respect of capital expenditure incurred in respect of the leased asset.

#### Textual Amendments

- F49** Words in Sch. 12 para. 1(1)(c) repealed (24.7.2002) by Finance Act 2002 (c. 23), s. 141, Sch. 40 Pt. 3(16)
- F50** Words in Sch. 12 para. 1(1)(c) substituted (24.7.2002) by Finance Act 2002 (c. 23), s. 103(4)(e)
- F51** Words in Sch. 12 para. 1(2)(a) substituted (24.7.2002) by Finance Act 2002 (c. 23), s. 103(4)(e)

#### *Application of this Part of this Schedule*

- 2 (1) This Part of this Schedule applies in any case where (whether before or after the passing of this Act)—
- (a) a lease of an asset is or has been granted; and
  - (b) in the case of the lease, the conditions in paragraph 3 below are or have been satisfied at some time in a period of account of the current lessor.
- [<sup>F52</sup>(1A) This Part of this Schedule does not apply if or to the extent that, in the case of the current lessor, the lease falls to be regarded in accordance with Chapter 6A of Part 2 of the Capital Allowances Act 2001 as a long funding lease for the purposes of that Part.]
- (2) Where the conditions in paragraph 3 below have been satisfied at some time in a period of account of the person who was at that time the lessor, they shall be taken to continue to be satisfied for the purposes of this Part of this Schedule unless and until—
- (a) the asset ceases to be leased under the lease; or
  - (b) the lessor’s interest under the lease is assigned to a person who is not connected with any of the persons described in sub-paragraph (3) below.



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- (3) Those persons are—
- (a) the assignor;
  - (b) any person who was the lessor at some time before the assignment; or
  - (c) any person who at some time after the assignment becomes the lessor pursuant to arrangements made by a person who was the lessor, or was connected with the lessor, at some time before the assignment.
- (4) Nothing in sub-paragraph (2) above prevents this Part of this Schedule from again applying in the case of the lease if the conditions for its application are satisfied after the assignment.

#### Textual Amendments

**F52** Sch. 12 para. 2(1A) inserted (with effect in accordance with Sch. 9 para. 7(4) of the amending Act) by Finance Act 2006 (c. 25), Sch. 9 para. 7(2)

#### *The conditions*

- 3 (1) The condition in this sub-paragraph is that at the relevant time the leasing arrangements are such as fall for accounting purposes to be treated in accordance with [<sup>F53</sup>generally accepted accounting practice] as a finance lease or a loan and—
- (a) the lessor, or a person connected with him, falls for accounting purposes to be treated in accordance with [<sup>F54</sup>generally accepted accounting practice] as the finance lessor in relation to the finance lease or loan, or
  - (b) the finance lease or loan falls for accounting purposes to be treated, in accordance with [<sup>F55</sup>generally accepted accounting practice], as subsisting for the purposes of consolidated group accounts of a group of companies of which the lessor is a member.
- (2) The condition in this sub-paragraph is that, under the leasing arrangements, there is or may be payable to the lessor, or to a person connected with him, a sum (a “major lump sum”) which is not rent but is a sum such as falls for accounting purposes to be treated in accordance with [<sup>F53</sup>generally accepted accounting practice]—
- (a) as to part, as repayment of some or all of the investment in respect of a finance lease or loan; and
  - (b) as to part, as a return on investment in respect of a finance lease or loan.
- (3) The condition in this sub-paragraph is that not all of that part of a major lump sum which falls within paragraph (b) of sub-paragraph (2) above would, apart from this Schedule, fall to be brought into account for tax purposes in chargeable periods of the lessor ending with the relevant chargeable period as the normal rent from the lease for periods of account of the lessor.
- (4) The condition in this sub-paragraph is that, as respects the lessor at the relevant time,
- (a) the period of account of his in which the relevant time falls, or
  - (b) an earlier period of account of his during which he was the lessor,
- is a period of account for which the accountancy rental earnings in respect of the lease exceed the normal rent for the period.
- (5) The condition in this sub-paragraph is that at the relevant time—

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- (a) arrangements falling within sub-paragraph (1) of paragraph 4 below exist; or
- (b) if the condition in paragraph (a) above is not satisfied, circumstances falling within sub-paragraph (2) of that paragraph exist.

[<sup>F56</sup>(6) In determining the normal rent for a period of account for the purpose of determining whether the condition in sub-paragraph (4) above is satisfied, rent which for the purposes of corporation tax under Schedule A falls to be brought into account as a person becomes entitled to it shall be treated—

- (a) as if it accrued evenly throughout the period to which, in accordance with the terms of the lease, each payment to which the person becomes entitled relates, and
- (b) as if he had become entitled to the rent as it so accrues,

unless any such payment falls due more than 12 months after the time at which any of the rent to which that payment relates is so treated as accruing.]

(7) In determining the normal rent for a period of account for the purpose of determining whether the condition in sub-paragraph (4) above is satisfied, rent which falls to be brought into account for tax purposes as it falls due shall be treated—

- (a) as accruing evenly throughout the period to which, in accordance with the terms of the lease, each payment falling due relates, and
- (b) as falling due as it so accrues,

unless any such payment falls due more than 12 months after the time at which any of the rent to which that payment relates is so treated as accruing.

(8) In this paragraph—

“the relevant chargeable period”, in the case of any major lump sum, means—

- (a) the chargeable period of the lessor which is related to his period of account in which that major lump sum is or may be payable in accordance with the leasing arrangements; or
- (b) if there are two or more such chargeable periods, the latest of them;

“the relevant time” means the time as at which it falls to be determined for the purposes of sub-paragraph (1) or (2) of paragraph 2 above whether the conditions in this paragraph are or, as the case may be, were satisfied.

#### Textual Amendments

- F53** Words in Sch. 12 para. 3(1)(2) substituted (24.7.2002) by Finance Act 2002 (c. 23), s. 103(4)(e)
- F54** Words in Sch. 12 para. 3(1)(2) substituted (24.7.2002) by Finance Act 2002 (c. 23), s. 103(4)(e)
- F55** Words in Sch. 12 para. 3(1)(2) substituted (24.7.2002) by Finance Act 2002 (c. 23), s. 103(4)(e)
- F56** Sch. 12 para. 3(6) repealed (31.7.1998 with effect in accordance with s. 38(2)(3) of the amending Act) by 1998 c. 36, s. 165, Sch. 27 Pt. III(4) note

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

- C4** Sch. 12 para. 3(6) excluded (31.7.1998 in relation to periods of account beginning on or after 1.4.1998) by 1998 c. 36, s. 38(1), Sch. 5 para. 74(1)(2)

#### *The arrangements and circumstances in paragraph 3(5)*

- 4 (1) The arrangements mentioned in paragraph 3(5)(a) above are arrangements under which—

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- (a) the lessee or a person connected with him may acquire, whether directly or indirectly, the leased asset, or an asset representing the leased asset, from the lessor or a person connected with the lessor; and
  - (b) in connection with that acquisition, the lessor or a person connected with him may receive, whether directly or indirectly, a qualifying lump sum from the lessee or a person connected with the lessee.
- (2) The circumstances mentioned in paragraph 3(5)(b) above are circumstances which make it more likely—
- (a) that the events described in sub-paragraph (3) below will occur, than
  - (b) that the event described in sub-paragraph (4) below will occur.
- (3) The events mentioned in sub-paragraph (2)(a) above are—
- (a) that the lessee or a person connected with him will acquire, whether directly or indirectly, the leased asset or an asset representing the leased asset from the lessor or a person connected with the lessor; and
  - (b) that, in connection with that acquisition, the lessor or a person connected with him will receive, whether directly or indirectly, a qualifying lump sum from the lessee or a person connected with the lessee.
- (4) The event mentioned in sub-paragraph (2)(b) above is that, before any such acquisition as is mentioned in sub-paragraph (3) above takes place, the leased asset or, as the case may be, the asset representing the leased asset, will have been acquired, in a sale on the open market, by a person who is not the lessor or the lessee and who is not connected with either of them.
- (5) In this paragraph, “qualifying lump sum” means any sum which is not rent but at least part of which would <sup>F57</sup> . . . fall for accounting purposes to be treated in accordance with [<sup>F58</sup> generally accepted accounting practice] as a return on investment in respect of a finance lease or loan.

#### Textual Amendments

**F57** Words in [Sch. 12 para. 4\(5\)](#) repealed (24.7.2002) by [Finance Act 2002 \(c. 23\)](#), s. 141, [Sch. 40 Pt. 3\(16\)](#)

**F58** Words in [Sch. 12 para. 4\(5\)](#) substituted (24.7.2002) by [Finance Act 2002 \(c. 23\)](#), s. 103(4)(e)

#### *Current lessor to be taxed by reference to accountancy rental earnings*

- 5 (1) Where, in the case of any period of account of the current lessor,—
- (a) this Part of this Schedule applies in the case of the lease, and
  - (b) the accountancy rental earnings in respect of the lease for that period of account exceed the normal rent for that period,
- he shall be treated for tax purposes as if in that period of account he had been entitled to, and there had arisen to him, rent from the lease of an amount equal to those accountancy rental earnings (instead of the normal rent referred to in paragraph (b) above).
- (2) Where a person is treated under sub-paragraph (1) above as if he had in a period of account been entitled to, and there had arisen to him, any rent from a lease of an asset, the rent shall be treated for tax purposes—
- (a) as if it had accrued at an even rate throughout so much of the period of account as falls within the period for which the asset is leased; and

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- (b) as if that person had become entitled to it as it accrued.

*Reduction of taxable rent by certain excesses*

- 6 (1) Subject to sub-paragraph (6)(b) below, if in the case of the lease—
- (a) the normal rent for a period of account of the current lessor throughout which the leasing arrangements are such as fall for accounting purposes to be treated in accordance with [<sup>F59</sup>generally accepted accounting practice] as a finance lease or loan, exceeds
  - (b) the accountancy rental earnings for the period,
- there is for the purposes of this paragraph a “normal rental excess” for that period of an amount equal to the excess.
- (2) In this paragraph the “cumulative normal rental excess” in the case of the lease and a period of account of the current lessor means so much of the aggregate of the normal rental excesses for previous periods of account of his as (after taking account of any increases under paragraph 10 below) has not been—
- (a) set off under this paragraph against the taxable rent for any such previous period; or
  - (b) reduced under paragraph 10 below.
- (3) Subject to sub-paragraph (8)(b) below, if the taxable rent in the case of the lease for a period of account of the current lessor is, by virtue of paragraph 5 above, an amount equal to the accountancy rental earnings, there is for the purposes of this paragraph an “accountancy rental excess” for that period of an amount equal to the difference between—
- (a) the accountancy rental earnings for the period of account; and
  - (b) the normal rent for the period.
- (4) In this paragraph the “cumulative accountancy rental excess”, in the case of the lease and a period of account of the current lessor, means so much of the aggregate of the accountancy rental excesses for previous periods of account of his as (after taking account of any increases under paragraph 9 below) has not been—
- (a) set off under this paragraph against the taxable rent for any such previous period;
  - (b) reduced under paragraph 9 below; or
  - (c) set off under paragraph 12 below against the consideration for a disposal.
- (5) If a period of account of the current lessor is one—
- (a) for which the normal rent exceeds the accountancy rental earnings, and
  - (b) for which there is any cumulative accountancy rental excess,
- sub-paragraph (6) below shall apply.
- (6) Where this sub-paragraph applies—
- (a) the taxable rent for the period of account shall be reduced (but not below the accountancy rental earnings) by setting against it the cumulative accountancy rental excess; and
  - (b) the normal rental excess for the period shall be the amount (if any) by which—
    - (i) the normal rent, reduced by an amount equal to the reduction under paragraph (a) above, exceeds

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- (ii) the accountancy rental earnings,  
and if there is no such excess, there is no normal rental excess for the period.
- (7) If a period of account of the current lessor is one—
- (a) for which the taxable rent in the case of the lease is, by virtue of paragraph 5 above, an amount equal to the accountancy rental earnings, and
  - (b) there is any cumulative normal rental excess,
- sub-paragraph (8) below shall apply.
- (8) Where this sub-paragraph applies—
- (a) the taxable rent for the period of account shall be reduced (but not below the normal rent) by setting against it the cumulative normal rental excess, and
  - (b) the accountancy rental excess for the period shall be the amount (if any) by which—
    - (i) the accountancy rental earnings, reduced by an amount equal to the reduction under paragraph (a) above, exceeds
    - (ii) the normal rent,and if there is no such excess, there is no accountancy rental excess for the period.
- (9) In this paragraph “the taxable rent”, in the case of a period of account of the current lessor, means the amount which would, apart from this paragraph and paragraph 8(6) below, be treated for tax purposes as rent from the lease—
- (a) which arises to him, and
  - [<sup>F60</sup>(b) if rent arising to him from the lease is chargeable to corporation tax under Schedule A, to which he is entitled,]
- in that period of account for the purpose of determining his liability to tax for the related chargeable period or periods.

#### Textual Amendments

- F59** Words in Sch. 12 para. 6(1)(a) substituted (24.7.2002) by Finance Act 2002 (c. 23), s. 103(4)(e)
- F60** Sch. 12 para. 6(9)(b) repealed (31.7.1998 with effect in accordance with s. 38(2)(3) of the amending Act) by 1998 c. 36, s. 165, Sch. 27 Pt. III(4) Note

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

- C5** Sch. 12 para. 6(9)(b) excluded (31.7.1998 in relation to periods of account beginning on or after 1.4.1998) by 1998 c. 36, s. 38(1), Sch. 5 para. 74(1)(2)

#### *Assignments on which neither a gain nor a loss accrues*

- 7 (1) This paragraph applies in any case where—
- (a) the current lessor assigns the lessor’s interest under the lease; and
  - (b) the assignment is a disposal on which, by virtue of any of the enactments specified in section 35(3)(d) of the <sup>M57</sup>Taxation of Chargeable Gains Act 1992, neither a gain nor a loss accrues.
- (2) Where this paragraph applies, this Schedule shall have effect as if—
- (a) a period of account of the assignor ended, and
  - (b) a period of account of the assignee began,

*Status: Point in time view as at 08/11/2007.*

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with the assignment.

(3) Where this paragraph applies—

- (a) any unused cumulative accountancy rental excess, or
- (b) any unused cumulative normal rental excess,

of the assignor shall become the cumulative accountancy rental excess or the cumulative normal rental excess (as the case may be) for the period of account of the assignee which begins with the assignment.

(4) In sub-paragraph (3) above—

“unused cumulative accountancy rental excess”, in relation to the assignor, means the aggregate of—

- (a) any cumulative accountancy rental excess, and
- (b) any accountancy rental excess,

for the period of account of his which ends with the assignment;

“unused cumulative normal rental excess”, in relation to the assignor, means the aggregate of—

- (a) any cumulative normal rental excess, and
- (b) any normal rental excess,

for the period of account of his which ends with the assignment.

#### **Marginal Citations**

**M57** 1992 c. 12.

#### *Relief for bad debts etc: corporation tax under Schedule A*

[<sup>F618</sup>] (1) Section 41 of the Taxes Act 1988 (which gives a person relief from corporation tax under Schedule A for rent etc not paid, by treating him as if he had never been entitled to the rent) shall be disregarded in determining for the purposes of this Part of this Schedule the amount of—

- (a) the accountancy rental earnings in respect of the lease, or
- (b) the normal rent from the lease,

for any period of account.

(2) Where for any period of account—

- (a) a person is treated under paragraph 5 above as if he had been entitled to receive an amount of rent, and
- (b) the amount is in respect of rents on the profits or gains arising from which that person is chargeable to corporation tax under Schedule A,

section 41 of the Taxes Act 1988 shall not have effect in relation to amounts in respect of rents from the lease of the asset for that or any subsequent period of account of his, or of any person to whom the lessor’s interest under the lease is assigned, until the lease terminates or is assigned in circumstances such that paragraph 7 above does not apply.

(3) Where, by virtue of sub-paragraph (2) above, section 41 of the Taxes Act 1988 does not apply, sub-paragraph (4) below shall apply instead.

*Status: Point in time view as at 08/11/2007.*

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- (4) In computing the profits or gains on which a person is chargeable to corporation tax under Schedule A in a case falling within sub-paragraph (2) above, any sums falling within sub-paragraph (i), (ii) or (iii) of section 74(1)(j) of the Taxes Act 1988 in respect of amounts in respect of rents from the lease of the asset shall be deductible in a period of account as an expense to the extent that they would be deductible in that period of account if—
- (a) amounts in respect of rents from the lease of the asset fell to be taken into account as trading receipts in computing the [<sup>F62</sup>profits] of a trade carried on by the person;
  - (b) the asset were leased in the course of that trade; and
  - (c) the charge to corporation tax under Schedule A were in respect of such annual profits or gains as are described in that Schedule arising from a trade.
- (5) Any such expense as is mentioned in sub-paragraph (4) above shall be treated for the purposes of section 25 of the Taxes Act 1988 (deductions from rent for the purposes of corporation tax under Schedule A) as if that expense—
- (a) were included among the permitted deductions, within the meaning of that section;
  - (b) were a payment made in respect of the premises comprised in the lease; and
  - (c) were a payment which became due, and was made, immediately before the end of the period of account mentioned in sub-paragraph (4) above.
- (6) Where—
- (a) a deduction has been made by virtue of sub-paragraph (4) above in respect of an amount, but
  - (b) subsequently an amount (“the relevant credit”) is recovered or credited in respect of the amount in respect of which the deduction was made, and
  - (c) the relevant credit would, on the suppositions in paragraphs (a) to (c) of sub-paragraph (4) above, be brought into account for tax purposes as a trading receipt for a period of account of the current lessor,
- the taxable rent for that period of account shall be increased by the amount of the relevant credit.
- (7) In sub-paragraph (6) above, “the taxable rent”, in the case of a period of account of the current lessor, means the amount which would, apart from that sub-paragraph, be treated for tax purposes as rent from the lease—
- (a) which arises to him, and
  - (b) if rent arising to him from the lease is chargeable to corporation tax under Schedule A, to which he is entitled,
- in that period of account for the purpose of determining his liability to tax for the related chargeable period or periods.
- (8) After the time when the conditions in paragraph 3 above become satisfied as respects any particular lessor, no claim under section 41 of the Taxes Act 1988 shall be made in respect of any amount which that lessor was entitled to receive in respect of rents from the lease of the asset.
- (9) Where—
- (a) before the time at which the conditions in paragraph 3 above become satisfied as respects any particular lessor, a claim under section 41 of the

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Taxes Act 1988 in respect of an amount which he was entitled to receive in respect of any rents from the lease of the asset has been made, and

(b) the claim is to any extent allowed,

no amount shall be deductible under sub-paragraph (4) above in respect of that amount so far as so allowed.]

#### Textual Amendments

**F61** Sch. 12 para. 8 repealed (31.7.1998 with effect in accordance with s. 38(2)(3) of the amending Act) by 1998 c. 36, s. 165, **Sch. 27 Pt. III(4)** note

**F62** Words in Sch. 12 para. 8(4)(a) substituted (31.7.1998) by 1998 c. 36, s. 46(3)(a), **Sch. 7 para. 12**

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

**C6** Sch. 12 para. 8(1)-(7) excluded (31.7.1998 in relation to periods of account beginning on or after 1.4.1998) by 1998 c. 36, s. 38(1), **Sch. 5 para. 74(1)(2)**

**C7** Sch. 12 para. 8(8) excluded (31.7.1998) by 1998 c. 36, s. 38(1), **Sch. 5 para. 74(1)(2)**

**C8** Sch. 12 para. 8(9) excluded (31.7.1998) by 1998 c. 36, s. 38(1) **Sch. 5 para. 74(1)(2)**

#### *Relief for bad debts etc: cumulative accountancy rental excess*

- 9 (1) If, in the case of the lease, for any period of account—
- the accountancy rental earnings exceed the normal rent,
  - a bad debt deduction falls to be made in respect of rent from the lease,
  - the amount of the bad debt deduction exceeds the amount of the accountancy rental earnings, and
  - there is a cumulative accountancy rental excess,
- the cumulative accountancy rental excess for the period of account shall be reduced (but not below nil) by the amount by which the bad debt deduction exceeds the accountancy rental earnings.
- (2) If, in the case of the lease, for any period of account—
- the accountancy rental earnings do not exceed the normal rent,
  - a bad debt deduction falls to be made in respect of rent from the lease, and
  - there is a cumulative accountancy rental excess for that period of account,
- sub-paragraph (3) below shall apply.
- (3) Where this sub-paragraph applies, the amount of the cumulative accountancy rental excess which may be set against the taxable rent for the period of account shall not exceed the amount (if any) by which the normal rent exceeds the bad debt deduction (and, if the normal rent does not exceed the bad debt deduction, shall be nil).
- (4) If, in a case where sub-paragraph (3) above applies, the bad debt deduction exceeds the normal rent for the period of account, the cumulative accountancy rental excess for the period of account shall be reduced (but not below nil) by the amount by which the bad debt deduction exceeds the normal rent.
- (5) Where—
- the cumulative accountancy rental excess for any period of account of the current lessor has been reduced under sub-paragraph (1) or (4) above by reason of a bad debt deduction, but



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- (b) in a subsequent period of account of his, an amount (“the relevant credit”) is recovered or credited in respect of the amount which constituted the bad debt deduction,

the cumulative accountancy rental excess (if any) for the period of account mentioned in paragraph (b) above shall, subject to sub-paragraph (6) below, be increased by the relevant credit.

- (6) If, in a case falling within sub-paragraph (5) above,—

- (a) the relevant credit, exceeds  
(b) the aggregate of the reductions falling within paragraph (a) of that sub-paragraph,

the amount of the increase under that sub-paragraph shall not exceed that aggregate.

- (7) In this paragraph—

[<sup>F63</sup>“bad debt deduction”, in relation to a period of account, means the aggregate of any deductions falling to be made for accounting purposes for that period by way of impairment loss in respect of rents from the lease of the asset;]

“taxable rent” has the same meaning as in paragraph 6 above.

#### Textual Amendments

**F63** Words in [Sch. 12 para. 9\(7\)](#) substituted (7.4.2005) by [Finance Act 2005 \(c. 7\), Sch. 4 para. 18\(2\)](#)

#### *Relief for bad debts etc: cumulative normal rental excess*

- 10 (1) If, in the case of the lease, for any period of account—
- (a) the accountancy rental earnings do not exceed the normal rent,  
(b) a bad debt deduction falls to be made in respect of rent from the lease,  
(c) the amount of the bad debt deduction exceeds the amount of the normal rent,  
and  
(d) there is a cumulative normal rental excess,
- the cumulative normal rental excess for the period of account shall be reduced (but not below nil) by the amount by which the bad debt deduction exceeds the normal rent.
- (2) If, in the case of the lease, for any period of account—
- (a) the accountancy rental earnings exceed the normal rent,  
(b) a bad debt deduction falls to be made in respect of rent from the lease, and  
(c) there is a cumulative normal rental excess for that period of account,
- sub-paragraph (3) below shall apply.
- (3) Where this sub-paragraph applies, the amount of the cumulative normal rental excess which may be set against the taxable rent for the period of account shall not exceed the amount (if any) by which the accountancy rental earnings exceed the bad debt deduction (and, if the accountancy rental earnings do not exceed the bad debt deduction, shall be nil).
- (4) If, in a case where sub-paragraph (3) above applies, the bad debt deduction exceeds the accountancy rental earnings for the period of account, the cumulative normal

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rental excess for the period of account shall be reduced (but not below nil) by the amount by which the bad debt deduction exceeds the accountancy rental earnings.

(5) Where—

- (a) the cumulative normal rental excess for any period of account of the current lessor has been reduced under sub-paragraph (1) or (4) above by reason of a bad debt deduction, but
- (b) in a subsequent period of account of his, an amount (“the relevant credit”) is recovered or credited in respect of the amount which constituted the bad debt deduction,

the cumulative normal rental excess (if any) for the period of account mentioned in paragraph (b) above shall, subject to sub-paragraph (6) below, be increased by the relevant credit.

(6) If, in a case falling within sub-paragraph (5) above,—

- (a) the relevant credit, exceeds
- (b) the aggregate of the reductions falling within paragraph (a) of that sub-paragraph,

the amount of the increase under that sub-paragraph shall not exceed that aggregate.

(7) In this paragraph—

[<sup>F64</sup>“bad debt deduction”, in relation to a period of account, means the aggregate of any deductions falling to be made for accounting purposes for that period by way of impairment loss in respect of rents from the lease of the asset;]

“taxable rent” has the same meaning as in paragraph 6 above.

#### Textual Amendments

**F64** Words in [Sch. 12 para. 10\(7\)](#) substituted (7.4.2005) by [Finance Act 2005 \(c. 7\)](#), [Sch. 4 para. 18\(3\)](#)

#### *Capital allowances*

- 11 (1) This paragraph applies in any case where an occasion occurs on or after 26th November 1996 on which a major lump sum falls to be paid in the case of the lease of the asset.
- (2) In this paragraph “the relevant occasion” means the occasion mentioned in sub-paragraph (1) above.
- (3) If capital expenditure incurred by the current lessor in respect of the leased asset is or has been taken into account for the purposes of any allowance or charge under any of the following groups of provisions, that is to say—
- [<sup>F65</sup>(a) Part 2 of the Capital Allowances Act (plant and machinery allowances),
  - (b) Part 5 of that Act (mineral extraction allowances), or
  - (c) Part 8 of that Act (patent allowances)]
- the group of provisions in question (“the relevant provisions”) shall have effect as if the relevant occasion were an event by reason of which a disposal value is to be brought into account of an amount equal (subject to any applicable limiting provision) to the amount or value of the major lump sum.

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- (4) In this paragraph “limiting provision” means a provision to the effect that the disposal value of the asset in question is not to exceed an amount (“the limit”) described by reference to capital expenditure incurred in respect of the asset.
- (5) Where—
  - (a) by virtue of sub-paragraph (3) above, a disposal value (“the relevant disposal value”) falls or has fallen to be brought into account by a person in respect of the leased asset for the purposes of the relevant provisions, and
  - (b) a limiting provision has effect in the case of those provisions,sub-paragraph (6) below shall apply.
- (6) Where this sub-paragraph applies, the limiting provision shall have effect (if or to the extent that it would not otherwise do so)—
  - (a) in the case of the relevant disposal value, and
  - (b) in the case of any simultaneous or subsequent disposal value,as if, instead of any particular disposal value, it were the aggregate amount of all the disposal values brought into account for the purposes of the relevant provisions by the current lessor in respect of the leased asset which is not to exceed the limit.
- (7) In sub-paragraph (6) above “simultaneous or subsequent disposal value” means any disposal value which falls to be brought into account by the current lessor in respect of the leased asset by reason of any event occurring subsequent to, or at the same time as, the event by reason of which the relevant disposal value falls to be brought into account.
- (8) If any allowance is or has been given in respect of capital expenditure incurred by the current lessor in respect of the leased asset under any provision of [<sup>F66</sup>the Capital Allowances Act] other than those specified in sub-paragraph (3) above, an amount equal to the lesser of—
  - (a) the aggregate of the allowances so given (so far as not previously recovered or withdrawn),
  - (b) the amount or value of the major lump sum,shall, in relation to the current lessor, be treated as if it were a balancing charge to be made on him for the chargeable period <sup>F67</sup>. . . in which falls the relevant occasion.
- (9) If there is or has been allowed to the current lessor in respect of expenditure incurred in connection with the leased asset any deduction by virtue of [<sup>F68</sup>section 40B(1) or 42 of the Finance (No. 2) Act 1992 [<sup>F69</sup>or section 135, 138, [<sup>F70</sup>138A,] 139 or 140 of ITTOIA 2005] (expenditure in connection with films etc.),]sub-paragraph (10) below shall apply.
- (10) Where this sub-paragraph applies, the current lessor shall be treated as if receipts of a revenue nature of an amount equal to the amount (if any) by which—
  - (a) the amount or value of the major lump sum, exceeds
  - (b) the amount or value of so much of the major lump sum as is treated as receipts of a revenue nature [<sup>F71</sup>under section 40A(2) of the Finance (No. 2) Act 1992][<sup>F72</sup>or section 134(2) of ITTOIA 2005],arose to him from the trade or business in question on the relevant occasion.
- (11) If there is or has been allowed to the current lessor in respect of capital expenditure incurred in connection with the leased asset any deduction by virtue of—

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- (a) section 91 of the Taxes Act 1988 [<sup>F73</sup>or section 170 of ITTOIA 2005] (cemeteries etc), or
- (b) section 91A or 91B [<sup>F74</sup>of the Taxes Act 1988 or section 165 or 168 of ITTOIA 2005] (restoration and preparation expenditure in relation to a waste disposal site),
- sub-paragraph (12) below shall apply.
- (12) Where this sub-paragraph applies, the current lessor shall be treated as if trading receipts of an amount equal to the lesser of—
- (a) the amount or value of the major lump sum,
- (b) the deductions previously allowed,
- arose to him from the trade in question on the relevant occasion.
- (13) If, in a case where this paragraph applies, allowances are or have been made to a person (“the contributor”) by virtue of [<sup>F75</sup>sections 537 to 542 of the Capital Allowances Act] (allowances in respect of contributions to capital expenditure) in respect of his contribution of a capital sum to expenditure on the provision of the leased asset, the foregoing provisions of this paragraph shall have effect in relation to the contributor and allowances by virtue of that section in respect of the contribution as they have effect in relation to the current lessor and allowances in respect of capital expenditure incurred by him in respect of the leased asset.

[<sup>F76</sup>(14) In sub-paragraph (8) above—

“the Capital Allowances Act” includes enactments which under the Taxes Act 1988 are to be treated as contained in the Capital Allowances Act;

“chargeable period” has the meaning given by section 6 of the Capital Allowances Act.]

[<sup>F77</sup>(15) . . . . .

#### Textual Amendments

- F65** Sch. 12 para. 11(3)(a)-(c) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 578, **Sch. 2 para. 98(1)**
- F66** Words in Sch. 12 para. 11(8) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 578, **Sch. 2 para. 98(2)**
- F67** Words in Sch. 12 para. 11(8) repealed (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 580, **Sch. 2 para. 98(2), Sch. 4**
- F68** Words in Sch. 12 para. 11(9) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) for Sch. 12 para. 11(9)(a)(b) by 2001 c. 2, s. 578, **Sch. 2 para. 98(3)**
- F69** Words in Sch. 12 para. 11(9) inserted (6.4.2005) by **Income Tax (Trading and Other Income) Act 2005 (c. 5), s. 883(1), Sch. 1 para. 494(2)(a)** (with Sch. 2)
- F70** Word in Sch. 12 para. 11(9) inserted (with effect in accordance with Sch. 3 para. 31(2) of the amending Act) by **Finance Act 2005 (c. 7), Sch. 3 para. 25**
- F71** Words in Sch. 12 para. 11(10)(b) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 578, **Sch. 2 para. 98(4)**
- F72** Words in Sch. 12 para. 11(10)(b) inserted (6.4.2005) by **Income Tax (Trading and Other Income) Act 2005 (c. 5), s. 883(1), Sch. 1 para. 494(2)(b)** (with Sch. 2)
- F73** Words in Sch. 12 para. 11(11)(a) inserted (6.4.2005) by **Income Tax (Trading and Other Income) Act 2005 (c. 5), s. 883(1), Sch. 1 para. 494(2)(c)** (with Sch. 2)
- F74** Words in Sch. 12 para. 11(11)(b) substituted (6.4.2005) by **Income Tax (Trading and Other Income) Act 2005 (c. 5), s. 883(1), Sch. 1 para. 494(2)(d)** (with Sch. 2)

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- F75** Words in Sch. 12 para. 11(13) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 578, **Sch. 2 para. 98(5)**
- F76** Sch. 12 para. 11(14) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 578, **Sch. 2 para. 98(6)**
- F77** Sch. 12 para. 11(15) repealed (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 580, Sch. 2 para. 98(7), **Sch. 4**

### *Chargeable gains*

- 12 (1) If, in the case of the lease,—
- (a) the current lessor or a person connected with him disposes of—
    - (i) the lessor's interest under the lease, or
    - (ii) the leased asset, or
    - (iii) an asset representing the leased asset, and
  - (b) there is, for the period of account of the current lessor in which the disposal takes place, any cumulative accountancy rental excess,
- then, in determining for the purposes of the <sup>M58</sup>Taxation of Chargeable Gains Act 1992 the amount of any gain accruing to the person making the disposal, the consideration for the disposal shall be treated as reduced (but not below nil) by setting against it the cumulative accountancy rental excess.
- (2) If the disposal mentioned in sub-paragraph (1) above is, for the purposes of the <sup>M59</sup>Taxation of Chargeable Gains Act 1992, a part-disposal of an asset—
- (a) the cumulative accountancy rental excess mentioned in sub-paragraph (1) above shall be apportioned between—
    - (i) the property disposed of, and
    - (ii) the property which remains undisposed of,in the proportions in which the sums which under paragraph (a) or (b) of section 38(1) of that Act are attributable to the asset fall to be apportioned under section 42 of that Act; and
  - (b) only that portion of the cumulative accountancy rental excess which is so apportioned to the property disposed of shall be set against the consideration for the part-disposal in accordance with sub-paragraph (1) above.
- (3) Sub-paragraph (1) above is without prejudice to section 37 of the Taxation of Chargeable Gains Act 1992 (deduction for money or money's worth charged to income tax etc) except as provided in sub-paragraph (4) below.
- (4) Section 37 of that Act shall not apply if or to the extent that any money or money's worth which, apart from this sub-paragraph, would be excluded by virtue of that section from the consideration for a disposal is represented by any cumulative accountancy rental excess which in accordance with sub-paragraph (1) above—
- (a) falls to be set against the consideration for the disposal; or
  - (b) has fallen to be set against the consideration for a previous disposal made by the person making the disposal in question or a person connected with him.
- (5) Where the current lessor or a person connected with him disposes of—
- (a) the lessor's interest under the lease, or
  - (b) the leased asset, or
  - (c) an asset representing the leased asset,

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this Schedule shall have effect as if a period of account of the current lessor ended, and another period of account of his began, immediately before the disposal.

- (6) If two or more disposals falling within sub-paragraph (1) above are made at the same time—
- (a) the cumulative accountancy rental excess mentioned in sub-paragraph (1) above shall, subject to sub-paragraph (2) above, be apportioned between them in such proportions as are just and reasonable; and
  - (b) sub-paragraph (5) above shall have effect in relation to those disposals as if they together constituted a single disposal.
- (7) In this paragraph “dispose” and “disposal” shall be construed in accordance with the <sup>M60</sup>Taxation of Chargeable Gains Act 1992.

**Marginal Citations**

- M58** 1992 c. 12.  
**M59** 1992 c. 12.  
**M60** 1992 c. 12.

*Existing schemes where this Part does not at first apply*

- 13 (1) This paragraph applies in any case where—
- (a) the lease of the asset forms part of an existing scheme, but
  - (b) the conditions in paragraph 3 above become satisfied after 26th November 1996.
- (2) This Schedule shall have effect as if a period of account of the current lessor ended, and another period of account of his began—
- (a) immediately before the time at which the conditions in paragraph 3 above become satisfied as mentioned in sub-paragraph (1)(b) above; and
  - (b) immediately after the time at which those conditions become so satisfied.
- (3) If, on the assumption that this Part of this Schedule (other than this paragraph) had applied in the case of the lease at all times on or after 26th November 1996, there would be an amount of cumulative accountancy rental excess for the period of account of the current lessor in which the conditions in paragraph 3 above become satisfied, then—
- (a) that amount shall be the cumulative accountancy rental excess for that period of account; and
  - (b) the current lessor shall be treated for tax purposes as if, in the immediately preceding period of account, he had been entitled to, and there had arisen to him, rent from the lease of an amount equal to that cumulative accountancy rental excess.
- (4) If, on the assumption that this Part of this Schedule (other than this paragraph) had applied in the case of the lease at all times on or after 26th November 1996, there would be an amount of cumulative normal rental excess for the period of account of the current lessor in which the conditions in paragraph 3 above become satisfied, that amount shall be the cumulative normal rental excess for that period of account.
- (5) The amount of rent mentioned in sub-paragraph (3)(b) above—

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- (a) is in addition to any other rent from the lease for the period of account there mentioned; and
  - (b) shall be left out of account for the purposes of paragraph 5 above.
- (6) Where a person is treated under sub-paragraph (3)(b) above as if he had in a period of account been entitled to, and there had arisen to him, any rent, the rent shall be treated for tax purposes as if it had accrued, and he had become entitled to it, immediately before the end of that period of account.
- [<sup>F78</sup>(7) In determining for the purposes of this paragraph the amount which would, on the assumption in sub-paragraph (3) or (4) above, be the amount of—
- (a) the cumulative accountancy rental excess, or
  - (b) the cumulative normal rental excess,
- for the period of account of the current lessor in which the conditions in paragraph 3 above become satisfied, any amount of relief given for a period of account on a claim under section 41 of the Taxes Act 1988 shall be treated as if it had instead been given under paragraph 8(4) above for that period of account.]

#### Textual Amendments

**F78** Sch. 12 para. 13(7) repealed (31.7.1998 with effect in accordance with s. 38(2)(3) of the amending Act) by 1998 c. 36, s. 165, Sch. 27 Pt. III(4) note

*New schemes where this Part begins to apply after Part II has applied*

- 14 If—
- (a) the conditions in paragraph 3 above become satisfied in the case of the lease of the asset, and
  - (b) immediately before those conditions became so satisfied, Part II of this Schedule applied in the case of the lease,
- then, in determining the cumulative accountancy rental excess or the cumulative normal rental excess for any period of account ending after those conditions become satisfied, this Schedule shall have effect as if this Part of this Schedule had applied in relation to the lease at any time when Part II of this Schedule applied in relation to it.

## PART II U.K.

### OTHER FINANCE LEASES

#### *Purpose of this Part of this Schedule*

- 15 (1) This Part of this Schedule is concerned with arrangements (other than arrangements with which Part I of this Schedule is concerned)—
- (a) which involve the lease of an asset;
  - (b) which are or have been entered into by companies or other persons; and
  - (c) which are of such a kind as <sup>F79</sup> . . . falls <sup>F79</sup> . . . to be treated in accordance with [<sup>F80</sup>generally accepted accounting practice] as finance leases or loans.

*Status: Point in time view as at 08/11/2007.*

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- (2) The principal purpose of this Part of this Schedule is, in the case of any such arrangements, to charge any person entitled to the lessor's interest under the lease of the asset to tax from time to time on amounts of income determined by reference to those which fall for accounting purposes to be treated in accordance with [<sup>F80</sup>generally accepted accounting practice] as the income return, on and after 26th November 1996, on investment in respect of the finance lease or loan (taking into account the substance of the matter as a whole, including in particular the state of affairs as between connected persons, or within a group of companies, as reflected or falling to be reflected in accounts of any of those persons or in consolidated group accounts).

#### Textual Amendments

- F79** Words in Sch. 12 para. 15(1)(c) repealed (24.7.2002) by Finance Act 2002 (c. 23), s. 141, Sch. 40 Pt. 3(16)
- F80** Words in Sch. 12 para. 15(1)(c)(2) substituted (24.7.2002) by Finance Act 2002 (c. 23), s. 103(4)(e)

#### *Application of this Part of this Schedule*

- 16 (1) This Part of this Schedule applies in any case where—
- (a) a lease of an asset is or has been granted on or after 26th November 1996;
  - (b) the lease forms part of a new scheme;
  - (c) in the case of the lease, the condition in sub-paragraph (1) of paragraph 3 above is or has been satisfied at some time on or after 26th November 1996 in a period of account of the current lessor; and
  - (d) Part I of this Schedule does not apply in the case of the lease by reason of the conditions in sub-paragraphs (2) to (5) of that paragraph not all being, or having been, satisfied as mentioned in paragraph 2 above.
- [<sup>F81</sup>(1A) This Part of this Schedule does not apply if or to the extent that, in the case of the current lessor, the lease falls to be regarded in accordance with Chapter 6A of Part 2 of the Capital Allowances Act 2001 as a long funding lease for the purposes of that Part.]
- (2) Where the condition in paragraph 3(1) above has been satisfied at any time on or after 26th November 1996 in a period of account of the person who was at that time the lessor, it shall be taken to continue to be satisfied unless and until—
- (a) the asset ceases to be leased under the lease; or
  - (b) the lessor's interest under the lease is assigned to a person who is not connected with any of the persons described in sub-paragraph (3) below.
- (3) Those persons are—
- (a) the assignor;
  - (b) any person who was the lessor at some time before the assignment; or
  - (c) any person who at some time after the assignment becomes the lessor pursuant to arrangements made by a person who was the lessor, or was connected with the lessor, at some time before the assignment.
- (4) Nothing in sub-paragraph (2) above prevents this Part of this Schedule from again applying in the case of the lease if the conditions for its application are satisfied after the assignment.



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**Textual Amendments**

**F81** Sch. 12 para. 16(1A) inserted (with effect in accordance with Sch. 9 para. 7(4) of the amending Act) by Finance Act 2006 (c. 25), **Sch. 9 para. 7(3)**

*Application of provisions of Part I for purposes of Part II*

17 Paragraphs 5 to 10 and 12 above shall apply for the purposes of this Part of this Schedule as they apply for the purposes of Part I of this Schedule.

**PART III U.K.**

INSURANCE COMPANIES

*Accounting purposes*

<sup>F82</sup>18 .....

**Textual Amendments**

**F82** Sch. 12 para. 18 repealed (19.7.2007) by Finance Act 2007 (c. 11), Sch. 10 para. 16(6), **Sch. 27 Pt. 2(10)**

*Companies carrying on life assurance business*

19 <sup>F83</sup>(1) .....

<sup>F83</sup>(2) .....

<sup>F83</sup>(3) .....

(4) Where—

(a) under paragraph 5 or 13 above the company is treated for tax purposes as if in a period of account it had been entitled to, and there had arisen to it, any rent from the lease, and

(b) the leased asset is an asset of the company's [<sup>F84</sup>long-term insurance] fund or is linked to any category of insurance business, and

(c) any question arises for the purposes of the Corporation Tax Acts as to the extent to which that rent is referable to any category of the company's [<sup>F85</sup>long-term] business,

section 432A of the Taxes Act 1988 (apportionment of insurance companies' income) shall have effect in relation to the rent as it has effect in relation to the income arising from an asset.

[<sup>F86</sup>(5) In this paragraph “life assurance business” has the same meaning as in Chapter I of Part XII of the Taxes Act 1988.]

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#### Textual Amendments

- F83** Sch. 12 para. 19(1)–(3) repealed (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 10 para. 4\(4\)\(c\)](#), [Sch. 27 Pt. 2\(10\)](#)
- F84** Words in Sch. 12 para. 19(2)(3)(4)(b) substituted (1.12.2001 with effect as mentioned in art. 102(4) of the amending S.I.) by [S.I. 2001/3629](#), [art. 102\(3\)\(a\)](#)
- F85** Words in Sch. 12 para. 19(4)(c) substituted (1.12.2001 with effect as mentioned in art. 102(4) of the amending S.I.) by [S.I. 2001/3629](#), [art. 102\(3\)\(b\)](#)
- F86** Sch. 12 para. 19(5) added (23.3.1999) by [S.I. 1999/498](#), [reg. 16\(2\)](#)

## PART IV U.K.

### SUPPLEMENTARY PROVISIONS

#### *Normal rent*

- 20 For the purposes of this Schedule, the “normal rent” in respect of a lease for a period of account of the lessor is the amount which he would, apart from this Schedule, bring into account as rent from the lease—
- (a) which arises to him, and
- [<sup>F87</sup>(b) if rent arising to him from the lease is chargeable to corporation tax under Schedule A, to which he is entitled,]
- in that period of account for the purpose of determining his liability to tax for the related chargeable period or periods.

#### Textual Amendments

- F87** [Sch. 12 para. 20\(b\)](#) repealed (31.7.1998 with effect in accordance with [s. 38\(2\)\(3\)](#) of the amending Act) by [1998 c. 36, s. 165](#), [Sch. 27 Pt. III\(4\)](#) Note

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

- C9** [Sch. 12 para. 20\(b\)](#) excluded (31.7.1998 in relation to periods of account beginning on or after 1.4.1998) by [1998 c. 36, s. 38\(1\)](#), [Sch. 5 para. 74\(1\)\(2\)](#)

#### *Accountancy rental earnings*

- 21 (1) For the purposes of this Schedule, the “accountancy rental earnings” in respect of the lease for a period of account of the lessor is the greatest of the amounts specified in sub-paragraph (2) below.
- (2) Those amounts are—
- (a) the rental earnings for the relevant period in respect of the lease, in the case of the lessor;
- (b) the rental earnings for the relevant period in respect of the lease, in the case of a person connected with the lessor;
- (c) the rental earnings for the relevant period in respect of the lease, for the purposes of consolidated group accounts of a group of companies of which the lessor is a member.

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- (3) In sub-paragraph (2) above, “the relevant period” means the period of account of the lessor which is mentioned in sub-paragraph (1) above.

#### *Rental earnings*

- 22 In this Schedule “the rental earnings” for any period in respect of the lease of the asset is, in the case of any person or any consolidated group accounts, the amount which falls for accounting purposes to be treated in accordance with [<sup>F88</sup>generally accepted accounting practice] as the gross return for that period on investment in respect of a finance lease or loan in respect of the leasing arrangements.

#### **Textual Amendments**

**F88** Words in Sch. 12 para. 22 substituted (24.7.2002) by Finance Act 2002 (c. 23), s. 103(4)(e)

#### *Periods of account which straddle 26th November 1996*

- 23 This Schedule shall apply in relation to a period of account which begins before 26th November 1996 and ends on or after that date as if—
- (a) so much of the period as falls before 26th November 1996, and
  - (b) so much of the period as falls on or after that date,
- were separate periods of account.

#### *Time apportionment where periods do not coincide*

- 24 (1) This paragraph applies in any case where—
- (a) a period of account of the lessor does not coincide with a period of account of a person connected with the lessor, or
  - (b) a period of account of the lessor does not coincide with a period for which consolidated group accounts of a group of companies of which the lessor is a member fall to be prepared.
- (2) Where this paragraph applies, any amount which falls for the purposes of this Schedule to be found for the lessor’s period of account but by reference to the connected person or, as the case may be, the consolidated group accounts shall be found by making such apportionments as may be necessary—
- (a) between two or more periods of account of the connected person, or
  - (b) between two or more periods for which consolidated group accounts of the group fall to be prepared,
- as the case may be.
- (3) Any apportionment under sub-paragraph (2) above shall be made in proportion to the number of days in the respective periods which fall within the lessor’s period of account.

#### *Connected persons*

- 25 (1) If a person is connected with another at some time during the period which—
- (a) begins at the earliest time at which any of the leasing arrangements were made, and

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- (b) ends when the current lessor finally ceases to have an interest in the asset or any arrangements relating to it,

he shall be treated for the purposes of this Schedule, in its application in consequence of those leasing arrangements, as being connected with that other throughout that period.

- (2) Section 839 of the Taxes Act 1988 shall apply for the purposes of this Schedule.

*Assets which represent the leased asset*

- 26 For the purposes of this Schedule, the following assets shall be treated as representing the leased asset—

- (a) any asset derived from, or created out of, the leased asset;
- (b) any asset from or out of which the leased asset was derived or created;
- (c) any asset derived from or created out of an asset from or out of which the leased asset was derived or created; or
- (d) any asset which derives the whole or a substantial part of its value from the leased asset or from an asset which itself represents the leased asset.

*Existing schemes and new schemes*

- 27 (1) For the purposes of this Schedule, a lease of an asset—
- (a) forms part of an existing scheme if, and only if, the conditions in sub-paragraph (2) or (3) below are satisfied; and
  - (b) in any other case, forms part of a new scheme.
- (2) The conditions in this sub-paragraph are that—
- (a) a contract in writing for the lease of the asset has been made before 26th November 1996;
  - (b) either—
    - (i) the contract is unconditional; or
    - (ii) if the contract is conditional, the conditions have been satisfied before that date; and
  - (c) no terms remain to be agreed on or after that date.
- (3) The conditions in this sub-paragraph are that—
- (a) a contract in writing for the lease of the asset has been made before 26th November 1996;
  - (b) the condition in paragraph (b) or (c) of sub-paragraph (2) above is not satisfied in the case of the contract;
  - (c) either the contract is unconditional or, if it is conditional, the conditions are satisfied before the end of the finalisation period or within such further period as the Commissioners of Inland Revenue may allow in the particular case;
  - (d) no terms remain to be agreed after the end of the finalisation period or such further period as the Commissioners of Inland Revenue may allow in the particular case; and
  - (e) the contract in its final form is not materially different from the contract as it stood when it was made as mentioned in paragraph (a) above.

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- (4) In sub-paragraph (3) above, “the finalisation period” means the period which ends with the later of—
- (a) 31st January 1997;
  - (b) the expiration of the period of six months next following the day on which the contract was made as mentioned in sub-paragraph (3)(a) above.

*Accounting purposes and normal accountancy practice*

- 28 (1) <sup>F89</sup> .....
- (2) <sup>F89</sup> .....
- (3) <sup>F89</sup> .....
- (4) <sup>F89</sup> .....
- (5) This Schedule shall have effect in relation to a body corporate (wherever incorporated) which is a parent undertaking but which, for accounting purposes, is not required to prepare consolidated group accounts in accordance with [<sup>F90</sup>generally accepted accounting practice] as if the body corporate were required to do so.
- (6) In sub-paragraph (5) above “parent undertaking” shall be construed in accordance with—
- (a) section 258 of the <sup>M61</sup>Companies Act 1985, or
  - (b) in Northern Ireland, Article 266 of the <sup>M62</sup>Companies (Northern Ireland) Order 1986.

**Textual Amendments**

**F89** Sch. 12 para. 28(1)-(4) repealed (24.7.2002) by [Finance Act 2002 \(c. 23\), s. 141, Sch. 40 Pt. 3\(16\)](#)

**F90** Words in Sch. 12 para. 28(5) substituted (24.7.2002) by [Finance Act 2002 \(c. 23\), s. 103\(4\)\(e\)](#)

**Marginal Citations**

**M61** 1985 c. 6.

**M62** S.I. 1986/1032 (N.I. 6).

*Assessments and adjustments*

- 29 All such assessments and adjustments shall be made as are necessary to give effect to the provisions of this Schedule.

*Interpretation*

- 30 (1) In this Schedule, unless the context otherwise requires—
- “accountancy rental earnings” has the meaning given by paragraph 21(1) above;
  - “accountancy rental excess” shall be construed—
    - (a) for the purposes of Part I of this Schedule, in accordance with paragraph 6 above; and
    - (b) for the purposes of Part II of this Schedule, in accordance with paragraph 6 above as it has effect by virtue of paragraph 17 above;

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“accounting purposes” means the purposes of—

- (a) accounts of companies incorporated in any part of the United Kingdom, or
- (b) consolidated group accounts for groups all the members of which are companies incorporated in any part of the United Kingdom;

“asset” means any form of property or rights;

“asset representing the leased asset” shall be construed in accordance with paragraph 26 above;

“assignment”, in the application of this Schedule to Scotland, means assignation;

<sup>F91</sup> .....

“cumulative accountancy rental excess” and “cumulative normal rental excess” shall be construed—

- (a) for the purposes of Part I of this Schedule, in accordance with paragraph 6 above; and
- (b) for the purposes of Part II of this Schedule, in accordance with paragraph 6 above as it has effect by virtue of paragraph 17 above;

“the current lessor”, in the case of a lease of an asset, means the person who is for the time being entitled to the lessor’s interest under the lease;

“existing scheme” shall be construed in accordance with paragraph 27(1) (a) above;

“finance lessor” means a person who for accounting purposes is treated in accordance with [<sup>F92</sup>generally accepted accounting practice] as the person with—

- (i) the grantor’s interest in relation to a finance lease; or
- (ii) the lender’s interest in relation to a loan;

<sup>F91</sup> .....

[<sup>F93</sup>“ITTOIA 2005” means the Income Tax (Trading and Other Income) Act 2005;]

“lease”—

- (a) in relation to land, includes an underlease, sublease or any tenancy or licence, and any agreement for a lease, underlease, sublease or tenancy or licence and, in the case of land outside the United Kingdom, any interest corresponding to a lease as so defined; and
- (b) in relation to any form of property or right other than land, means any kind of agreement or arrangement under which payments are made for the use of, or otherwise in respect of, an asset;

and “rent” shall be construed accordingly;

“the leasing arrangements”, in the case of a lease of an asset, means—

- (a) the lease of the asset,
- (b) any arrangements relating to or connected with the lease of the asset, and
- (c) any other arrangements of which the lease of the asset forms part,

and includes a reference to any of the leasing arrangements;

“the lessee”, in the case of a lease of an asset, means (except in the expression “the lessee’s interest under the lease”) the person entitled to the lessee’s interest under the lease;

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“the lessor”, in the case of a lease of an asset, means (except in the expression “the lessor’s interest under the lease”) the person entitled to the lessor’s interest under the lease;

“major lump sum” shall be construed in accordance with paragraph 3(2) above;

“new scheme” shall be construed in accordance with paragraph 27(1)(b) above;

“normal rent” shall be construed in accordance with paragraph 20 above;

“normal rental excess” shall be construed—

(a) for the purposes of Part I of this Schedule, in accordance with paragraph 6 above; and

(b) for the purposes of Part II of this Schedule, in accordance with paragraph 6 above as it has effect by virtue of paragraph 17 above;

“period of account” means a period for which accounts are made up and, except for the purposes of paragraphs 2 to 4 and 23 above, means such a period which begins on or after 26th November 1996;

“related chargeable period” shall be construed in accordance with subparagraph (2) below;

“sum” includes any money or money’s worth (and “pay” and cognate expressions shall be construed accordingly);

“the rental earnings”, in relation to the lease of the asset and any period, has the meaning given by paragraph 22 above.

- (2) For the purposes of this Schedule a chargeable period is related to a period of account (and a period of account is related to a chargeable period) if—
- (a) the chargeable period is an accounting period which consists of or includes the whole or any part of the period of account; or
  - (b) the chargeable period is a year of assessment whose basis period for the purposes of [F94Part 2 of ITTOIA 2005] consists of or includes the whole or any part of the period of account.

#### Textual Amendments

**F91** Words in Sch. 12 para. 30(1) repealed (7.4.2005) by [Finance Act 2005 \(c. 7\), Sch. 4 para. 32, Sch. 11 Pt. 2\(7\)](#)

**F92** Words in Sch. 12 para. 30(1) substituted (24.7.2002) by [Finance Act 2002 \(c. 23\), s. 103\(4\)\(e\)](#)

**F93** Words in Sch. 12 para. 30(1) inserted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 494\(3\)\(a\)](#) (with Sch. 2)

**F94** Words in Sch. 12 para. 30(2)(b) substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 494\(3\)\(b\)](#) (with Sch. 2)

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SCHEDULE 13 U.K.

Section 83.

LOAN RELATIONSHIPS: AMENDMENT OF TRANSITIONAL PROVISIONS

*Introductory*

- 1 Schedule 15 to the <sup>M63</sup>Finance Act 1996 (transitional provisions and savings for loan relationships) shall be amended as follows.

**Marginal Citations**

**M63** 1996 c. 8.

*Transitional rules for transitional accounting periods*

- 2 In paragraph 3 (basic transitional rules for transitional accounting periods), after sub-paragraph (5) there shall be inserted the following sub-paragraph—

“(5A) Where—

- (a) sub-paragraph (5) above applies for determining the closing value of a continuing loan relationship of a company for a transitional accounting period ending on or after 14th November 1996, and
- (b) an opening valuation of that relationship falls to be made, as at the beginning of the immediately following accounting period, for the purpose of bringing amounts into account in that company’s case on a mark to market basis of accounting,

the opening value given by that opening valuation shall be taken to be the same as the closing value given in accordance with that sub-paragraph.”

*Opening valuations as at 1st April 1996*

- 3 After paragraph 3 there shall be inserted the following paragraph—

*“ Adjustment of opening value where new accounting basis adopted as from an accounting period beginning on 1st April 1996*

- 3A (1) This paragraph applies in the case of a continuing loan relationship of a company where—
- (a) the company’s first relevant accounting period begins on 1st April 1996;
  - (b) in that period amounts are brought into account for the purposes of this Chapter in respect of the relationship on a mark to market basis of accounting;
  - (c) amounts falling to be brought into account in respect of the relationship for the purposes of corporation tax in the accounting period ending with 31st March 1996 were or (if there had been any) would have been so brought into account otherwise than on a mark to market basis of accounting; and
  - (d) an opening valuation of the relationship falls to be made, as at the beginning of the accounting period immediately following the first



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relevant accounting period, for the purpose of bringing amounts into account on a mark to market basis of accounting.

- (2) Where this paragraph applies in the case of a continuing loan relationship of a company, the opening valuation mentioned in sub-paragraph (1)(d) above shall be made disregarding any amount of interest that has accrued in the company's first relevant accounting period or in any of its accounting periods preceding that period."

*Adjustments in the case of pre-commencement trading relationships*

- 4 In paragraph 5 (pre-commencement trading relationships), after sub-paragraph (4) there shall be inserted the following sub-paragraphs—

"(4A) In sub-paragraph (4) above the reference, in relation to a creditor relationship, to the amount deductible as representing the cost of a company's becoming a party to the relationship shall not, except where sub-paragraph (4B) or (4C) below applies, include a reference to so much of that amount as would represent the cost of acquiring any right to accrued interest under the loan relationship.

(4B) This sub-paragraph applies where—

- (a) the company became a party to the relationship before the beginning of its first relevant accounting period,
- (b) interest accruing under the relationship before the company became a party to it was paid to the company after it became a party to it but before the beginning of the company's first relevant accounting period, and
- (c) the interest under the relationship which, in the case of that company, has been brought into account for the purposes of corporation tax has included interest accruing under the relationship before the company became a party to it but paid afterwards.

(4C) This sub-paragraph applies where—

- (a) the company became a party to the loan relationship in a transitional accounting period, and
- (b) in the case of that company, interest under the relationship which—
  - (i) accrued before the company became a party to the relationship, but
  - (ii) became due and payable afterwards,

is brought into account for the purposes of this Chapter in accordance with an authorised mark to market basis of accounting."

*Chargeable assets held after commencement*

- 5 In paragraph 8 (transitional provision for chargeable assets held after commencement), after sub-paragraph (5) there shall be inserted the following sub-paragraph—

"(5A) In any case where the relevant event has not occurred before 14th November 1996, the deemed chargeable gain or deemed allowable loss falling to be brought into account in accordance with sub-paragraph (3) above shall be computed without any account being taken of the provisions of

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section 119(6) and (7) of the 1992 Act (transfer of securities with or without accrued interest).”

*Adjustments in the case of chargeable assets*

6 In paragraph 11 (adjustments in the case of chargeable assets), for sub-paragraphs (2) to (4) there shall be substituted the following sub-paragraphs—

- “(2) Those amounts are—
- (a) the notional closing value of the relationship as at 31st March 1996; and
  - (b) the amount which would be taken on a computation made—
    - (i) in accordance with an authorised accruals basis of accounting, and
    - (ii) on the assumption that such a basis of accounting had always been used as respects that relationship,
 to represent the accrued value of the loan relationship in question on 1st April 1996.
- (3) Where there is a difference between the amounts mentioned in sub-paragraph (2) above, that difference shall be brought into account—
- (a) where the amount mentioned in paragraph (a) of that sub-paragraph is the smaller, as a credit given for the purposes of this Chapter for the accounting period in which the company ceases to be a party to the relationship; and
  - (b) in any other case, as a debit so given.”

*Commencement of Schedule*

- 7 (1) Subject to sub-paragraph (2) below, this Schedule has effect for the purpose of determining the credits and debits to be brought into account in any accounting period ending on or after 14th November 1996.
- (2) Paragraphs 4 and 6 above do not apply in the case of a loan relationship to which the company in question has ceased to be a party before 14th November 1996 unless—
- (a) that company ceased to be a party to the relationship as a result of being directly or indirectly replaced as a party to that relationship by another company, and
  - (b) the transaction, or series of transactions, by virtue of which the replacement took place fell within any of paragraphs (a) to (d) of paragraph 12(1) of Schedule 9 to the <sup>M64</sup>Finance Act 1996 (continuity of treatment in the case of groups and certain transfers of insurance business).
- (3) A credit or debit a fraction of which falls to be brought into account under paragraph 6(4) of Schedule 15 to the Finance Act 1996 (election as to adjustments) in an accounting period ending on or after 14th November 1996 shall be determined, for the purposes mentioned in sub-paragraph (1) above, without applying sub-paragraph (2) above in relation to the relevant assumption.

**Marginal Citations**

**M64** 1996 c. 8.

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<sup>F95</sup> SCHEDULE 14 **U.K.**

**Textual Amendments**

**F95** Sch. 14 repealed (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 580, Sch. 4

SCHEDULE 15 **U.K.**

Section 85.

CAPITAL ALLOWANCES: SCHEDULE A CASES ETC

*Repeal of existing rules*

- 1 Section 32 of the Taxes Act 1988 (capital allowances in Schedule A cases) shall cease to have effect, both for the purposes of income tax and for the purposes of corporation tax.

*Removal of restriction on set-off of losses*

- 2 (1) In section 379A(2) of the Taxes Act 1988 (cases in which Schedule A losses may be set against other income of the same year or the following year)—
- (a) in paragraph (a) (losses attributable to relevant capital allowances), the word “relevant” shall be omitted; and
  - (b) the words after paragraph (b) (which define the relevant capital allowances) shall cease to have effect.

[<sup>F96</sup>(2) In section 503 of that Act (letting of furnished holiday accommodation treated as trade), after subsection (1) there shall be inserted the following subsection—

“(1A) In its application by virtue of subsection (1) above, section 384 shall have effect with the omission of subsections (6) to (8) and of the words after paragraph (b) in subsection (10) (restrictions on right to set off losses attributable to capital allowances).”]

**Textual Amendments**

**F96** Sch. 15 para. 2(2) repealed (31.7.1998 with effect in accordance with s. 38(2)(3) of the amending Act) by 1998 c. 36, s. 165, Sch. 27 Pt. III(4) note

*New general provision*

<sup>F97</sup>3

*Status: Point in time view as at 08/11/2007.*

*Changes to legislation: Finance Act 1997 is up to date with all changes known to be in force on or before 15 June 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)*

**Textual Amendments**

**F97** Sch. 15 para. 3 repealed (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 580, Sch. 4

**F98** 4 . . . . .

**Textual Amendments**

**F98** Sch. 15 para. 4 repealed (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 580, Sch. 4

*Manner of making allowances and charges*

5 [F99(1) In subsection (3) of section 67 of that Act of 1990 (manner of giving allowance on thermal insulation), the words from “shall be made” to “corporation tax,” shall be omitted.

F99(2) After that subsection there shall be inserted the following subsection—

“(3A) Subsections (2) and (3) above have effect for the purposes of corporation tax only.”]

F100(3) . . . . .

**Textual Amendments**

**F99** Sch. 15 para. 5(1)(2) repealed (31.7.1998 with effect in accordance with s. 38(2)(3) of the amending Act) by 1998 c. 36, s. 165, Sch. 27 Pt. III(4) Note

**F100** Sch. 15 para. 5(3) repealed (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 580, Sch. 4

[F101(1) In section 73 of that Act of 1990 (manner of making allowances and charges under Part II), in subsection (1), for “subsection (2)” there shall be substituted “ subsections (1A) and (2) ”.

(2) After subsection (1) of that section there shall be inserted the following subsection—

“(1A) Any allowance or charge made to or on any company by virtue of section 28A shall be made for the purposes of corporation tax by way of discharge or repayment of tax and, for that purpose—

- (a) any such allowance shall be available primarily against income chargeable to tax under Schedule A; and
- (b) the amount on which any such charge is to be made shall be treated as income so chargeable.”]

**Textual Amendments**

**F101** Sch. 12 para. 6 repealed (31.7.1998 with effect in accordance with s. 38(2)(3) of the amending Act) by 1998 c. 36, s. 165, Sch. 27 Pt. III(4) note

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### *Meaning of capital expenditure*

F102<sup>7</sup> .....

#### **Textual Amendments**

**F102** Sch. 15 para. 7 repealed (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 580, Sch. 4

### *Consequential amendment of section 434E of the Taxes Act 1988*

F103<sup>8</sup> .....

#### **Textual Amendments**

**F103** Sch. 15 para. 8 repealed (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 580, Sch. 4

### *Commencement*

- 9 (1) Subject to sub-paragraph (2) below, this Schedule has effect—
- (a) for the purposes of income tax, in relation to the year 1997-98 and subsequent years of assessment; and
  - (b) for the purposes of corporation tax, in relation to accounting periods ending on or after 1st April 1997.

F104<sup>(2)</sup> .....

#### **Textual Amendments**

**F104** Sch. 15 para. 9(2): By 2001 c. 2, s. 580, Sch. 4 it is provided (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) that Sch. 15 para. “(9)(2)” is repealed

F105<sup>SCHEDULE 16</sup> U.K.

#### **Textual Amendments**

**F105** Sch. 16 repealed (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 580, Sch. 4

*Status: Point in time view as at 08/11/2007.*

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SCHEDULE 17 **U.K.**

Section 87.

## CHARGEABLE GAINS: RE-INVESTMENT RELIEF

*Introductory*

- 1 The <sup>M78</sup>Taxation of Chargeable Gains Act 1992 shall be amended in accordance with the provisions of this Schedule.

**Marginal Citations**

M78 1992 c. 12.

*Qualifying investments*

- 2 (1) In subsection (8) of section 164A (cases where eligible shares are not a qualifying investment), after “in a qualifying company shall” there shall be inserted “, subject to subsection (8A) below, ”.
- (2) After that subsection there shall be inserted the following subsections—
- “(8A) Where the eligible shares acquired by any person in a qualifying company are shares which he acquires by their being issued to him, his acquisition of the shares shall not be regarded as the acquisition of a qualifying investment unless the qualifying company, or a qualifying subsidiary of that company, is intending to employ the money raised by the issue of the shares wholly for the purposes of a qualifying trade carried on by it.
- (8B) For the purposes of subsection (8A) above—
- (a) the purposes of a trade include the purpose of preparing for the carrying on of the trade; and
- (b) “qualifying subsidiary” has the same meaning as in section 164G.”

*Loss of relief*

- 3 (1) In subsection (1) of section 164F (failure of conditions of relief), after “or this section” there shall be inserted “ or section 164FA ”.
- (2) After that section there shall be inserted the following section—
- “164FA Loss of relief in cases where shares acquired on being issued.**
- (1) Subsection (5) below applies in any case falling within any of subsections (2) to (4) below which is a case 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 section 164A or 164F or this section, by any amount (“the held-over gain”); and
- (b) that person acquired those shares by their being issued to him.
- (2) A case falls within this subsection if—
- (a) the money raised by the issue of the shares comprised in the acquired holding was, at the time when those shares were acquired, intended

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- to be employed for the purposes of a qualifying trade then being carried on; and
- (b) that money has not been wholly employed for permissible purposes by the end of the initial utilisation period.
- (3) A case falls within this subsection if—
- (a) the money raised by the issue of the shares comprised in the acquired holding was, at the time when those shares were acquired, intended to be employed for the purposes of a qualifying trade not then being carried on;
- (b) that trade begins to be carried on before the end of the period of 2 years from that time; and
- (c) that money (apart from any part of it wholly employed for permissible purposes within the initial utilisation period) has not been wholly employed for the purposes of that trade by the end of the period of 1 year from the time when that trade begins to be carried on (“the first trading year”).
- (4) A case falls within this subsection if—
- (a) the money raised by the issue of the shares comprised in the acquired holding was, at the time when those shares were acquired, intended to be employed for the purposes of a qualifying trade not then being carried on;
- (b) that trade does not begin to be carried on before the end of the period of 2 years from that time; and
- (c) that money has not been wholly employed for permissible purposes by the end of the initial utilisation period.
- (5) In a case in which this subsection applies, but subject to the following provisions of this section, a chargeable gain equal to the appropriate portion of the held-over gain shall be treated as accruing to the person mentioned in subsection (1) above immediately before the utilisation time; and in this subsection “the utilisation time” means—
- (a) in relation to a case falling within subsection (2) above, the end of the initial utilisation period;
- (b) in relation to a case falling within subsection (3) above, the end of the first trading year; and
- (c) in relation to a case falling within subsection (4) above, the end of the period of 2 years mentioned in that subsection.
- (6) If, in a case in which subsection (5) above applies, part (but only part) of the money raised by the issue of the shares comprised in the acquired holding has been permissibly employed, this Chapter shall have effect in relation to that holding—
- (a) as if it were two separate holdings consisting of—
- (i) a holding from which that part of the money was raised; and
- (ii) a holding from which the remainder was raised;
- and
- (b) as if its value were to be apportioned accordingly between those two holdings;

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but nothing in this subsection shall require any money whose use is disregarded by virtue of subsection (8)(e) below to be treated as raised by a different holding.

(7) For the purposes of subsection (6) above a part of the money raised by the issue of the shares comprised in the acquired holding shall be taken to have been permissibly employed if—

- (a) in a case falling within subsection (2) or (4) above, that part has been wholly employed for permissible purposes within the initial utilisation period; or
- (b) in a case falling within subsection (3) above that part has been wholly employed—
  - (i) for permissible purposes within the initial utilisation period, or
  - (ii) for the purposes of the trade mentioned in that subsection before the end of the first trading year.

(8) For the purposes of this section—

- (a) the appropriate portion of the held-over gain is so much, if any, of that gain as has not already been charged on any disposal or under section 164F or this section;
- (b) “the initial utilisation period” means the period of 1 year from the time when the acquired holding was acquired;
- (c) “permissible purposes”, in relation to a company, means the purposes of any qualifying trade carried on by it or by any of its qualifying subsidiaries;
- (d) “qualifying subsidiary” has the same meaning as in section 164G;
- (e) money shall not be treated as employed otherwise than wholly for particular purposes if the only amount employed for other purposes is an amount which is not a significant amount; and
- (f) the purposes of a qualifying trade shall be taken to include the purpose of preparing for the carrying on of the trade.

(9) Subsections (4) to (5) and (10A) to (11) of section 164F shall apply for the purposes of this section as they apply for the purposes of that section, but—

- (a) subsection (5) of that section shall so apply—
  - (i) with the omission of paragraphs (e) to (g), and
  - (ii) as if the reference in paragraph (d) to any charge under subsection (2) of that section were a reference to any charge under subsection (5) of this section;

and

- (b) subsection (10A) of that section shall so apply as if the reference to subsection (2) of that section were a reference to subsection (5) of this section.”

*Meaning of “qualifying company”*

- 4 (1) For paragraphs (b) and (c) of subsection (2) of section 164G (company must be of one of the given descriptions) there shall be substituted “or
- (aa) an unquoted company which is the parent company of a trading group.”



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(2) For subsections (4) and (5) of that section (meaning of “qualifying subsidiary”) there shall be substituted the following subsections—

“(4) In this section “qualifying subsidiary”, in relation to a company (“the holding company”), means any company which is a member of a group of companies of which the holding company is the principal company.

(4A) For the purposes of this section a company is the parent company of a trading group if—

- (a) it is the principal company of a group of companies; and
- (b) the requirements of subsection (4B) below are fulfilled by what would be the business of the company and its qualifying subsidiaries if all the activities, taken together, of the company and its qualifying subsidiaries were regarded as one business.

(4B) A business fulfils the requirements of this subsection if—

- (a) it is carried on wholly or mainly in the United Kingdom; and
- (b) neither the business nor a substantial part of it consists in, or in either of, the following, that is to say—
  - (i) activities falling within section 164I(2) but not within subsection (4C) below; and
  - (ii) activities carried on otherwise than in the course of a trade.

(4C) The activities falling within this subsection are—

- (a) the receiving of royalties or licence fees in circumstances where the requirements mentioned in paragraphs (a) and (b) of section 164I(5) or (6) are satisfied in relation to the company receiving them;
- (b) the letting of ships, other than oil rigs or pleasure craft, on charter in circumstances where the requirements mentioned in paragraphs (a) to (d) of section 164I(7) are satisfied in relation to the company so letting them.

(4D) Activities of a company or of any of its qualifying subsidiaries shall be disregarded for the purposes of subsections (4A) to (4C) above to the extent that they consist in—

- (a) the holding of shares in or securities of, or the making of loans to, one or more of the company’s qualifying subsidiaries; or
- (b) the holding and managing of property used by the company or any of its qualifying subsidiaries for the purposes of—
  - (i) research and development from which it is intended that a qualifying trade to be carried on by the company or any of its qualifying subsidiaries will be derived; or
  - (ii) one or more qualifying trades so carried on.

(4E) Activities of a qualifying subsidiary of a company shall also be disregarded for the purposes of subsections (4A) to (4C) above to the extent that they consist in—

- (a) the making of loans to the company; or
- (b) in the case of a mainly trading subsidiary, activities carried on in pursuance of its insignificant purposes (within the meaning given by subsection (4F) below).

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(4F) In subsection (4E) above “mainly trading subsidiary” means a qualifying subsidiary which, apart from purposes (“its insignificant purposes”) capable of having no significant effect (other than in relation to incidental matters) on the extent of its activities, exists wholly for the purpose of carrying on one or more qualifying trades.”

*Meaning of “qualifying trade”*

- 5 (1) In paragraph (a) of subsection (1) of section 164I (meaning of “qualifying trade”), after “complies with the requirements of this section” there shall be inserted “ and is carried on wholly or mainly in the United Kingdom ”.
- (2) In paragraph (b) of that subsection—
- (a) after the words “the carrying on” (where they first occur) there shall be inserted “ , wholly or mainly in the United Kingdom, ”; and
- (b) after “complying with those requirements” there shall be inserted “ , and to be carried on wholly or mainly in the United Kingdom, ”.

*Interpretation of Chapter IA of Part V*

- 6 (1) For subsection (2) of section 164N (application of section 170 for the interpretation of sections 164G and 164I) there shall be substituted the following subsection—
- “(2) Section 170 shall apply for the interpretation of sections 164G and 164I as it would apply for the interpretation of sections 171 to 181 if section 170(2) (a) together with the words “(although resident in the United Kingdom)” in section 170(9)(b) were omitted.”
- (2) In section 164N (interpretation of Chapter IA), after subsection (4) there shall be inserted the following subsection—
- “(5) For the purposes of this Chapter, any allotment of shares before their issue shall be disregarded in determining whether and when a person acquires shares by their issue to him.”

*Commencement*

- 7 (1) This Schedule—
- (a) applies in relation to shares acquired after 26th November 1996; and
- (b) subject to sub-paragraph (3) below, applies after 26th November 1996 in relation to shares that fall within sub-paragraph (2) below.
- (2) Shares fall within this sub-paragraph if—
- (a) they were acquired by a person at any time on or before 26th November 1996;
- (b) they were held by him throughout the period beginning with that time and ending with 26th November 1996; and
- (c) at all times in that period they were, for the purposes of Chapter IA of Part V of the <sup>M79</sup>Taxation of Chargeable Gains Act 1992, eligible shares in a qualifying company.
- (3) The application of the preceding provisions of this Schedule in relation to any shares falling within sub-paragraph (2) above shall not prevent those shares from being (or

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having been) shares in a qualifying company at any relevant time when those shares would have been shares in such a company if this Schedule had not been enacted.

- (4) For the purposes of sub-paragraph (3) above a time is a relevant time in relation to any shares falling within sub-paragraph (2) above if it is a time after 26th November 1996 and within the period of 3 years after the acquisition of the shares.

#### Marginal Citations

M79 1992 c. 12.

## SCHEDULE 18 **U.K.**

Section 113.

### REPEALS

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

**C10** S. 76(7) amendment to earlier affecting provision S.I. 1992/1655, reg. 4 (19.3.1997) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) \(Amendment\) Regulations 1997 \(S.I. 1997/471\)](#), reg. 4

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

### HYDROCARBON OIL DUTY

Chapter	Short title	Extent of repeal
1979 c. 5.	The Hydrocarbon Oil Duties Act 1979.	In section 11(2), the definition of “gas oil” and the word “and” immediately preceding that definition.  In section 27(1), the word “and” immediately following the definition of “road fuel gas”.

The power in subsection (10) of section 7 of this Act applies in relation to these repeals as it applies in relation to the provisions of that section.

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

### GAMING DUTY

Chapter	Short title	Extent of repeal
1979 c. 2.	The Customs and Excise Management Act 1979.	In section 1(1)—

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		(a) the word “and” at the end of paragraph (c) of the definition of “the revenue trade provisions of the customs and excise Acts”; and (b) the word “or” at the end of paragraph (a)(ia) of the definition of “revenue trader”.
1981 c. 63.	The Betting and Gaming Duties Act 1981.	Sections 13 to 16.  In section 27, the words “15 or” and “paragraph 7 of Schedule 2,”.  In section 31, the words “gaming licences or”.  In section 32— (a) in subsection (2), the words “Subject to subsection (3) below,”; and (b) subsection (3).  In section 35(3), paragraphs (a) and (c) and the words after paragraph (d). Schedule 2.
1984 c. 60.	The Police and Criminal Evidence Act 1984.	In Schedule 6, paragraph 39(a).
1985 c. 66.	The Bankruptcy (Scotland) Act 1985.	In paragraph 2(3) of Schedule 3, paragraph (c) and the word “or” immediately preceding it.
1986 c. 45.	The Insolvency Act 1986.	In paragraph 5 of Schedule 6, paragraph (c) and the word “or” immediately preceding it.
1988 c. 39.	The Finance Act 1988.	In section 12(4), the words “and paragraph 7 of Schedule 2” and the word “each”.
S.I. 1989/2405 (N.I. 19).	The Insolvency (Northern Ireland) Order 1989.	In paragraph 5 of Schedule 4, paragraph (c) and the word “or” immediately preceding it.
1991 c. 31.	The Finance Act 1991.	Section 6.

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1994 c. 9.	The Finance Act 1994.	In section 12(7)(b), the words “, paragraph 7(3) of Schedule 2”.
		In Schedule 4, paragraph 63.

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- 1 The repeals in the Bankruptcy (Scotland) Act 1985, the Insolvency Act 1986 and the Insolvency (Northern Ireland) Order 1989 shall not apply in relation to any amount due in respect of duty chargeable for a period beginning before 1st October 1997.
- 2 The other repeals have effect in relation to any gaming on or after 1st October 1997.

### PART III U.K.

#### VEHICLE EXCISE AND REGISTRATION: EXEMPT VEHICLES

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Chapter	Short title	Extent of repeal
1994 c. 22.	The Vehicle Excise and Registration Act 1994.	In Schedule 2, paragraph 20(4).

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The power in paragraph 9 of Schedule 3 to this Act applies in relation to this repeal as it applies in relation to the provisions of that Schedule.

### PART IV U.K.

#### VALUE ADDED TAX

##### (1) Aggregation of businesses

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Chapter	Short title	Extent of repeal
1994 c. 23.	The Value Added Tax Act 1994.	In Schedule 1, in paragraph 2— (a) in sub-paragraph (2) (b), the words from “which should properly” to “described in the direction”; (b) paragraph (d) of sub-paragraph (2) and the word “and” immediately preceding it; and (c) in sub-paragraph (4), the word “properly”.

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These repeals have effect in relation to the making of directions on or after the day on which this Act is passed.

##### (2) The option to tax buildings and land

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Chapter	Short title	Extent of repeal
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*Status: Point in time view as at 08/11/2007.*

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1994 c. 23.	The Value Added Tax Act 1994.	In Schedule 10, paragraphs 2(3A) and 3(8A).
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These repeals have effect in accordance with section 37(1) of this Act.

### (3) Bad debt relief

Chapter	Short title	Extent of repeal
1994 c. 23.	The Value Added Tax Act 1994.	In section 36(4), paragraph (b) and the word “and” immediately preceding it. In Schedule 13, paragraph 9(1).

These repeals have effect in accordance with section 39 of this Act.

## PART V U.K.

### INDIRECT TAXES

#### (1) Interest repayments

Chapter	Short title	Extent of repeal
1994 c. 9.	The Finance Act 1994.	In Schedule 6, in paragraph 9(2), the words after paragraph (b).
1996 c. 8.	The Finance Act 1996.	In section 197(2), the word “and” at the end of paragraph (c).

The repeal in the Finance Act 1994 has effect in accordance with paragraph 8 of Schedule 5 to this Act.

#### (2) Distress and diligence

Chapter	Short title	Extent of repeal
1979 c. 2.	The Customs and Excise Management Act 1979.	In section 117— (a) subsections (5) to (7A); (b) in subsection (9), paragraphs (c) to (f); and (c) subsection (10).
1981 c. 35.	The Finance Act 1981.	In Schedule 8, paragraph 8.
1981 c. 63.	The Betting and Gaming Duties Act 1981.	Sections 28 and 29.
1986 c. 41.	The Finance Act 1986.	In Schedule 4, paragraphs 8 and 9.

*Status: Point in time view as at 08/11/2007.*

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1987 c. 18.	The Debtors (Scotland) Act 1987.	In Schedule 6, paragraph 23.
1992 c. 48.	The Finance (No. 2) Act 1992.	In paragraph 5(a) of Schedule 2, the words “and (5)”.
1994 c. 9.	The Finance Act 1994.	In section 18— (a) in subsection (2), in paragraph (a), the words “, not being an amount in relation to which subsection (4) below applies,” and the word “and”; (b) paragraph (b) of that subsection; and (c) subsection (4).  In Schedule 7, paragraph 7(7) to (12).
1994 c. 23.	The Value Added Tax Act 1994.	In Schedule 11, paragraph 5(4) to (10).
1995 c. 4.	The Finance Act 1995.	In Schedule 5, paragraph 9.
1996 c. 8.	The Finance Act 1996.	In Schedule 5, paragraph 13.

These repeals come into force on such day as the Commissioners of Customs and Excise may by order made by statutory instrument appoint, and different days may be appointed for different purposes.

#### Subordinate Legislation Made

**P5** [Sch. 18 Pt. V\(2\)](#) note power fully exercised (9.6.1997): 1.7.1997 appointed by [S.I. 1997/1433](#), [art. 2](#)

## PART VI U.K.

### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

#### (1) Additional rate of income tax

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 832(1), the definition of “additional rate”.
1988 c. 39.	The Finance Act 1988.	Section 24(4).

These repeals have effect in relation to the year 1997-98 and subsequent years of assessment.

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## (2) Wayleaves

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1970 c. 9.	The Taxes Management Act 1970.	In section 42(7)(a) (as it has effect by virtue of section 196 of the Finance Act 1994), the words “120(2),”.
1988 c. 1.	The Income and Corporation Taxes Act 1988.	<p>In section 1A(2)(a)(ii), the words “or 120”.</p> <p>In section 3, paragraph (c) and the word “or” immediately preceding it.</p> <p>Section 74(1)(q).</p> <p>In section 120—</p> <p>(a) in subsection (1), the words from “and, subject to” onwards;</p> <p>(b) subsections (2) to (4); and</p> <p>(c) in subsection (5), paragraph (c) and the word “and” immediately preceding it.</p> <p>In section 348(2), paragraph (b) and the word “or” immediately preceding it.</p> <p>In section 349(1), paragraph (c) and the word “or” immediately preceding it.</p> <p>Section 387(3)(c).</p> <p>In section 821(3), paragraph (c) and the word “and” immediately preceding it.</p>

These repeals have effect in relation to payments made on or after 6th April 1997.

## (3) Profit-related pay

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1970 c. 9.	The Taxes Management Act 1970.	In section 98, in the Table—
		(a) in the first column, the entry relating to section 181(1) of the Taxes Act 1988; and



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		(b) in the second column, the entry relating to section 180(1) of that Act.
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Sections 169 to 184. Schedule 8.
1988 c. 39.	The Finance Act 1988.	In Schedule 13, paragraph 4.
1989 c. 26.	The Finance Act 1989.	Section 42(4). Section 61. Schedule 4. In Schedule 12, paragraph 18.
1989 c. 40.	The Companies Act 1989.	In Schedule 10, paragraph 38(2).
S.I. 1990/593 (N.I. 5).	The Companies (Northern Ireland) Order 1990.	In Schedule 10, paragraph 30(1).
1991 c. 31.	The Finance Act 1991.	Section 37.
1994 c. 9.	The Finance Act 1994.	Sections 98 and 99.
1995 c. 4.	The Finance Act 1995.	Section 136. Section 137(1) and (6).

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

**C11** Sch. 18 Pt. VI(3) extended (31.7.1998) by 1997 c. 58, s. 4(7) (with s. 3(3))

- 1 These repeals have effect (subject to Notes 2 and 3 below) in accordance with section 61(2) and (3) of this Act.
- 2 These repeals do not affect the operation of any of the repealed provisions, or prevent the exercise of any power under those provisions, in relation to profit periods beginning before 1st January 2000 or for purposes connected with, or with the doing or not doing of anything in or in relation to, any such periods.
- 3 The repeal of Schedule 8 to the Taxes Act 1988 does not affect the application of any of the provisions of paragraph 7 of that Schedule by any of—
  - (a) section 360A(5) and (7) of that Act;
  - <sup>F106</sup>(b) .....
  - (c) paragraph 16(4) and (6) of Schedule 5 to the Finance Act 1989.This repeal has effect in accordance with section 63(3) of this Act.  
This repeal has effect in accordance with section 65 of this Act.  
These repeals have effect in relation to accounting periods beginning after 5th March 1997.

*Status: Point in time view as at 08/11/2007.*

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(4) Work-related training

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 200A(3)(b), the word “either” before subparagraph (i).

(5) National Insurance contributions

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 617(3), the words “and (5)”.

(6) Annuity business of insurance companies

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 76(2A)(b), subparagraph (iv) and the word “and” immediately preceding it. Section 434B(2). In section 490(2), the words from “but if” onwards.
1991 c. 31.	The Finance Act 1991.	In Schedule 7, paragraph 16(3) and (4).
1995 c. 4.	The Finance Act 1995.	In Schedule 8, paragraph 21(1).
1996 c. 8.	The Finance Act 1996.	Section 165(3).

(7) Distributions treated as 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 118G(5)(a), the words “or applied in defraying expenses of the trustees”. In section 231(1), the words “95(1)(b),”. In section 481(4A), the words “or applied in defraying expenses of the trustees”.

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1992 c. 12.	The Taxation of Chargeable Gains Act 1992.	In section 686(2), paragraph (d) and the word “and” immediately preceding it.  In section 5(2)— (a) paragraph (c); and (b) in paragraph (d), the words “or applied as mentioned in paragraph (c) above”.
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### Textual Amendments

**F106** Words in Sch. 18 Pt. VI(3) repealed (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. 8 Pt. 1](#) (with [Sch. 7](#))

- 1 Subject to Note 2 below, these repeals have effect in accordance with paragraph 12(4) of Schedule 7 to this Act.
- 2 The repeal in section 231(1) of the Taxes Act 1988 has effect in accordance with paragraph 8(3) of that Schedule.

These repeals have effect in accordance with paragraph 1 of Schedule 8 to this Act.

This repeal has effect in accordance with paragraph 6 of Schedule 9 to this Act.

#### (8) Enterprise investment scheme

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 308— (a) paragraph (b) of subsection (1), and the word “and” immediately preceding that paragraph; and (b) paragraphs (a) and (b) of subsection (5).

#### (9) Venture capital trusts

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In Schedule 28B, paragraph 10(2).

#### (10) Stock lending and manufactured payments

Chapter	Short title	Extent of repeal
1970 c. 9.	The Taxes Management Act 1970.	In section 98, in the first column of the Table,

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		the entry relating to section 737(8) of the Taxes Act 1988.
1986 c. 41.	The Finance Act 1986.	In Schedule 18, paragraphs 7 and 9.
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Sections 129 and 129A.
		In section 387(3), paragraph (f) and the word “or” immediately preceding it.
		In section 715(6) the words “section 737 or”.
		Section 727(1).
		Section 737.
		In section 737A(5), the words “section 737 and”.
		In section 737C—
		(a) in subsection (2)(b), the words “section 737 and paragraph 2 of Schedule 23A apply, or”;
		(b) subsections (5) and (6);
		(c) in subsection (7)(b), the words “(whether or not section 737 also applies in relation to that payment)”;
		(d) in subsection (9), the words “subsections (6) and (8) above apply, or where”; and
		(e) subsection (11B).
		Section 738(3) and (4).
		Schedule 5A.
		In Schedule 23A—
		(a) in paragraph 1(1), the definitions of “approved stock lending arrangement”, “market maker”, “recognised clearing house”, “recognised investment exchange”, “unapproved manufactured payment”

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		and “unapproved stock lending arrangement”; (b) paragraph 1(2); (c) paragraph 5; (d) paragraph 6; (e) in paragraph 7(1), the words “Except where paragraph 5(2) or (4) above applies,”; (f) paragraph 7(2); and (g) in paragraph 7(3), in paragraph (a), the words “except where paragraph 6 above applies, and”, and paragraph (b).
1991 c. 31.	The Finance Act 1991.	Section 57. In Schedule 13, paragraphs 2 to 4.
1992 c. 12.	The Taxation of Chargeable Gains Act 1992.	Section 271(9). In Schedule 10, paragraph 14(8), (39) and (61).
1993 c. 34.	The Finance Act 1993.	Section 174(4) and (5). Section 182(1)(ca)(i). In Schedule 6, paragraphs 19 and 25(3) and (4).
1994 c. 9.	The Finance Act 1994.	Section 123(2) to (5) and (7). Section 222(4) and (5). Section 229(ca)(i). In Schedule 16, paragraphs 18 and 19.
1995 c. 4.	The Finance Act 1995.	Section 82. Sections 84 and 85. Schedule 19.
1996 c. 8.	The Finance Act 1996.	In section 97— (a) in subsection (4), the words “section 737 of, or”; and (b) subsection (5). In section 159— (a) subsections (2) and (3); and

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(b) in subsection (7), paragraph (b) and the word “and” immediately preceding it.

In Schedule 6, paragraphs 18 and 19.

In Schedule 14, paragraphs 38 and 52(2), (3), (5) and (6).

- 1 These repeals (except those to which Notes 2 to 6 below apply) have effect in relation to, and to transfers under, any arrangement made on or after such day as may be appointed by order under paragraph 7(1) of Schedule 10 to this Act.
- 2 The repeal of paragraph 6 of Schedule 23A to the Taxes Act 1988 and—
- (a) the repeals in paragraph 1(1) of that Schedule of the definitions of “unapproved manufactured payment” and “unapproved stock lending arrangement”, and
  - (b) the repeal of paragraph (b) of paragraph 1(2) of that Schedule, and
  - (c) the repeals in paragraph 7(3) of that Schedule,
- have effect in relation to manufactured payments made on or after such day as may be appointed by order under paragraph 7(1) of Schedule 10 to this Act.
- 3 Subject to Note 6 below, the repeals of the following provisions, that is to say—
- (a) sections 387(3)(f), 737, 737C(5), (6) and (11B) and 738(3) and (4) of the Taxes Act 1988,
  - (b) paragraphs 5 and 7(2) of Schedule 23A to that Act, and
  - (c) section 97(5) of the Finance Act 1996,
- together with the repeals listed in Note 4 below, have effect in relation to payments made on or after such day as may be appointed by order under paragraph 16(1) of Schedule 10 to this Act.
- 4 The repeals mentioned in Note 3 above are—
- (a) any repeal of an enactment amending a provision specified in Note 3 above;
  - (b) the repeal of the references to section 737 of the Taxes Act 1988 in sections 737A(5) and 737C(2)(b) and (7)(b) of that Act and in section 97(4) of the Finance Act 1996;
  - (c) the repeal of the reference to section 737C(6) of the Taxes Act 1988 in section 737C(9) of that Act;
  - (d) the repeal of the enactments amending paragraph 2 of Schedule 23A to that Act; and
  - (e) the repeal in paragraph 7(1) of that Schedule.
- 5 The repeals of the provisions which amend, or authorise the amendment of, section 21 of the Taxes Management Act 1970 have effect in accordance with paragraph 16(2) and (3) of Schedule 10 to this Act.
- 6 The repeal of section 737(8) of the Taxes Act 1988 has effect subject to paragraph 16(3) of Schedule 10 to this Act; and the repeal of the entry relating to section 737(8) in the Table in section 98 of the Taxes Management Act 1970 has effect accordingly.
- These repeals have effect in accordance with paragraph 9(1) of Schedule 15 to this Act.

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(11) Capital allowances: Schedule A cases

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Section 32.  In section 379A(2)— (a) in paragraph (a), the word “relevant”; and (b) the words after paragraph (b).
1990 c. 1.	The Capital Allowances Act 1990.	In section 67(3), the words from “shall be made” to “corporation tax,”.  Section 73(4).  In section 141— (a) in subsection (2), the words “Subject to subsection (3) below,”; and (b) subsections (3), (4) and (6).  In Schedule 1, paragraph 8(2).
1995 c. 4.	The Finance Act 1995.	In Schedule 6, paragraphs 8, 31 and 33.
1996 c. 8.	The Finance Act 1996.	In Schedule 21, paragraph 34.

(12) Capital allowances: fixtures

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1990 c. 1.	The Capital Allowances Act 1990.	In section 51(8), paragraph (b).  In section 54(1), paragraph (c) and the word “and” immediately preceding it.  In section 55(4), paragraph (b) and the word “or” immediately preceding it.  In section 56, paragraph (c).

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		Section 59(10).
1991 c. 31.	The Finance Act 1991.	In Schedule 14, paragraph 10.

- 1 These repeals have effect, subject to the following notes and paragraph 2(8) of Schedule 16 to this Act, for chargeable periods ending on or after 24th July 1996.
- 2 The repeal in section 54(1) of the Capital Allowances Act 1990 does not apply where the purchaser acquired the relevant interest before that date.
- 3 The repeals in sections 55(4) and 56 of that Act do not apply where the lease was granted before that date.
- 4 The repeal of section 59(10) of that Act does not apply where the fixture ceased to belong to the former owner before that date.

**PART VII U.K.**

## STAMP DUTY AND STAMP DUTY RESERVE TAX

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1986 c. 41.	The Finance Act 1986.	Section 67(4). Section 69(6) to (8). Section 70(4). Section 72(4). Sections 80A to 80C. Sections 81 and 82. Section 87(7B). In section 88(1B)(b), the word “or” at the end of subparagraph (ii). Sections 88A and 88B. Section 89. Section 89AA. Section 89B. Section 90(3)(b). Section 93(5). Section 94(5) to (7). Section 96(3) and (11).
1987 c. 16.	The Finance Act 1987.	Section 53.
1988 c. 39.	The Finance Act 1988.	In Schedule 7, paragraph 4. In Schedule 13, paragraph 23.



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1996 c. 8.	The Finance Act 1996.	Section 191. Section 194(2)(b) and (4)(b).
1997 c. 16.	The Finance Act 1997.	Sections 97 to 106.

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- 1 The repeals of sections 80A to 80C of the Finance Act 1986 and sections 97 to 99 of this Act have effect in accordance with section 108 of the Finance Act 1990.
- 2 The repeals in sections 67, 69, 70 and 72 of the Finance Act 1986 have effect in accordance with section 99 of this Act.
- 3 The repeal of section 81 of the Finance Act 1986 has effect in accordance with section 97 of this Act.
- 4 The repeals of section 82 of the Finance Act 1986 and section 53 of the Finance Act 1987 have effect in accordance with section 98 of this Act.
- 5 The repeals in sections 87 and 88 of the Finance Act 1986 have effect in accordance with section 106 of this Act.
- 6 The repeals of sections 88A, 88B and 89AA of the Finance Act 1986 and sections 100 to 106 of this Act have effect in accordance with section 110 of the Finance Act 1990.
- 7 The repeal of section 89 of the Finance Act 1986 and the repeal in Schedule 7 to the Finance Act 1987 have effect in accordance with section 102 of this Act.
- 8 The repeals of section 89B of the Finance Act 1986 and section 191 of the Finance Act 1996 have effect in accordance with section 103 of this Act.
- 9 The repeal of section 90(3)(b) of the Finance Act 1986 has effect in accordance with section 105 of this Act.
- 10 The repeals in sections 93, 94 and 96 of the Finance Act 1986, in Schedule 13 to the Finance Act 1988 and in section 194 of the Finance Act 1996 have effect in accordance with section 104 of this Act.

**Status:**

Point in time view as at 08/11/2007.

**Changes to legislation:**

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