Finance Act 2001

2001 CHAPTER 9

An Act to grant certain duties, to alter other duties, and to amend the law relating to the National Debt and the Public Revenue, and to make further provision in connection with Finance. [11th May 2001]

Most Gracious Sovereign,

We, Your Majesty's most dutiful and loyal subjects, the Commons of the United Kingdom in Parliament assembled, towards raising the necessary supplies to defray Your Majesty's public expenses, and making an addition to the public revenue, have freely and voluntarily resolved to give and grant unto Your Majesty the several duties hereinafter mentioned; and do therefore most humbly beseech Your Majesty that it may be enacted, and be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Modifications etc. (not altering text)
C1 Act extended (1.4.2002) by S.I. 2002/761, **reg. 37(2)(c)**

PART 1

EXCISE DUTIES

Hydrocarbon oil duties

1 Rates of duty on hydrocarbon oil

(1) In section 6(1A) of the Hydrocarbon Oil Duties Act 1979 (c. 5) (rates of duty on hydrocarbon oil)—

(a) in paragraph (a) (ultra-low sulphur petrol), for "£0.4782" substitute " £0.4582 "; and

(b) in paragraph (c) (ultra-low sulphur diesel), for "£0.4882" substitute " £0.4582 ".

(2) That subsection shall have effect until midnight on 14th June 2001 as if for paragraph (b) (other light oil) there were substituted—

"(ba) £0.5268 in the case of unleaded petrol other than ultra low sulphur petrol;

(bb) £0.5468 in the case of light oil not within paragraph (a) or (ba) above;".

After that, paragraph (b) shall have effect as it did before.

(3) In section 8(3) of the Hydrocarbon Oil Duties Act 1979 (c. 5) (rate of duty on road fuel gas) for "£0.1500" substitute " £0.0900 ".

(4) This section shall be deemed to have come into force at 6 o'clock in the evening of 7th March 2001.

2 Rebate on unleaded petrol

(1) For section 13A of the Hydrocarbon Oil Duties Act 1979 (under which different rates of rebate are specified for higher octane and other unleaded petrol) substitute—

"**13A Rebate on unleaded petrol**

(1) On unleaded petrol, other than ultra low sulphur petrol, charged with the excise duty on hydrocarbon oil and delivered for home use there shall be allowed at the time of delivery a rebate of duty at the rate of £0.0586 a litre.

(2) Rebate is not allowed under this section in a case where a rebate is allowed under section 14 below.".

(2) In paragraph 1(1) of Schedule 2A to that Act (converting unleaded petrol into leaded petrol)—

(a) for paragraphs (a) and (b) substitute—

"(ab) adding lead to unleaded petrol in respect of which a rebate has been allowed under section 13A;";

and

(b) in paragraph (c)—

(i) for "paragraph (a)" substitute " paragraph (aa) ", and

(ii) for "paragraph (b)" substitute " paragraph (ab) ".

(3) For paragraph 2A of that Schedule (mixing different kinds of unleaded petrol) substitute—

"2A (1) A mixture which is unleaded petrol is produced in contravention of this paragraph if the mixture is produced by mixing—

(a) petrol on which duty has been paid at the rate specified in section 6(1A)(a), and

(b) petrol in respect of which a rebate has been allowed under section 13A,

and the mixture produced is unleaded petrol that is not ultra low sulphur petrol.

(2) This paragraph is subject to any direction given under paragraph 3.".

(4) In paragraph 8 of that Schedule (rate of duty on mixtures of light oil), for sub-paragraph (3A) substitute—

"(3A) In the case of a mixture produced in contravention of paragraph 2A above, the rate is that produced by deducting from the rate in force under section 6(1A)(b) at the time the mixture is produced the rebate which at that time is in force under section 13A.".

(5) This section shall be deemed to have come into force at 6 o'clock in the evening of 7th March 2001.

3 Fuel-testing pilot projects

(1) In the Hydrocarbon Oil Duties Act 1979 (c. 5), after section 20AA insert—

"**20AB Power to allow reliefs for fuel testing etc**

(1) The Commissioners may by regulations make provision allowing reliefs as regards excise duty charged in respect of experimental fuel where—

(a) the fuel is, or is to be, used for the purposes of a fuel-testing project that is approved by the Commissioners,

(b) the project is approved for the purposes of the development of the fuel (see subsection (8)(a) below), and

(c) the use takes place, or is to take place, during the period that, for the purposes of the project, is the relief period for the fuel (see subsection (8)(b) below).

(2) In this section "experimental fuel" means a substance of a description specified in regulations made by the Commissioners.

(3) For each experimental fuel, the Commissioners shall by regulations make provision specifying—

(a) the beginning and end of the period that is the experimental period for that fuel; and

(b) the form that (subject to any directions under subsection (9)(a) below) is to be taken by relief under this section as regards excise duty chargeable on that fuel.

(4) A form of relief specified under subsection (3)(b) above must be an authorised form; and for the purposes of this section "an authorised form" is—

(a) a repayment, or

(b) a rebate (or extra rebate).

(5) Relief under this section shall be allowed—

(a) to the extent specified in, or determined in accordance with, regulations under subsection (1) above, and

(b) subject to—

(i) such conditions as the Commissioners may impose, and

(ii) any directions under subsection (9)(b) below.

(6) The conditions that may be imposed under subsection (5)(b)(i) above include, in particular, conditions in connection with—

(a) the collection, keeping, compilation or analysis, or

(b) the supply to the Commissioners or other persons,

of data, or information, relating to the production, use or performance of an experimental fuel.

(7) Subsections (8) and (9) below apply where the Commissioners have approved a fuel-testing project.

(8) The Commissioners shall give directions specifying—

(a) each experimental fuel for the purposes of whose development the project is approved;

(b) for each fuel specified under paragraph (a) above, the beginning and end of the period that, for the purposes of the project, is (in accordance with subsection (10) below) the relief period for the fuel; and

(c) any conditions imposed under subsection (5)(b)(i) above that apply to the allowance under this section of relief as regards excise duty chargeable in respect of an experimental fuel used, or to be used, for the purposes of the project.

(9) The Commissioners may give directions—

(a) providing for relief as regards excise duty chargeable in respect of an experimental fuel used, or to be used, for the purposes of the project to take an authorised form different to the form specified under subsection (3)(b) above;

(b) as to administration in connection with allowing reliefs under this section as regards excise duty chargeable in respect of an experimental fuel used, or to be used, for the purposes of the project.

(10) For the purposes of subsection (8)(b) above—

(a) the beginning of the relief period for a fuel may not be earlier than the beginning of the experimental period for that fuel; and

(b) the end of the relief period for a fuel may not be later than the end of the experimental period for that fuel.

(11) In this section—

"excise duty" means—

(a) excise duty chargeable by virtue of this Act, or

(b) any addition to such duty by virtue of section 1 of the Excise Duties (Surcharges or Rebates) Act 1979 (c. 8);

"fuel-testing project" means a pilot project connected with the technological development of environment-friendly fuels.

(12) Regulations under this section may make different provision for different cases.".

(2) In section 24(1) of the Hydrocarbon Oil Duties Act 1979 (c. 5) (regulations for the purposes of provisions providing for rebates etc.), after "section 19A" insert " , section 20AB ".

(3) In section 27(1) of the Hydrocarbon Oil Duties Act 1979 (interpretation), in the definition of "rebate", for "or 14" substitute " , 14 or 20AB ".

(4) In section 12B(1)(h) of the Finance Act 1994 (c. 9) (excise duty reliefs that may be recovered under section 12A when wrongly given), after "allowed to a person by virtue of section 20AA" insert " or 20AB ".

Tobacco products duty

4 Rates of tobacco products duty

(1) For the Table of rates of duty in Schedule 1 to the Tobacco Products Duty Act 1979 (c. 7) substitute—

TABLE

1. Cigarettes	An amount equal to 22 per cent. of the retail price plus 92.25 per thousand cigarettes.
2. Cigars	134.69 per kilogram.
3. Hand-rolling tobacco	96.81 per kilogram.
4. Other smoking tobacco and chewing tobacco	59.21 per kilogram.

(2) This section shall be deemed to have come into force at 6 o'clock in the evening of 7th March 2001.

Alcoholic liquor duties

5 Dilution etc. of cider

In section 62(5) of the Alcoholic Liquor Duties Act 1979 (c. 4) (regulations providing for the management of the duty on cider), after paragraph (d) insert—

"(e) regulating and, in such circumstances as may be prescribed in the regulations, prohibiting the addition of substances to, the mixing of, or the carrying out of other operations on or in relation to, cider.".

Betting and gaming duties

VALID FROM 06/10/2001

6 General betting duty

(1) Schedule 1 to this Act (which makes provision about general betting duty) has effect.

(2) This section shall come into force in accordance with such provision as the Commissioners of Customs and Excise may make by order made by statutory instrument.

Subordinate Legislation Made

P1 S. 6(2) power fully exercised: 6.10.2001 appointed by S.I. 2001/3089, **art. 2**

7 Rates of gaming duty

(1) For the table in section 11(2) of the Finance Act 1997 (c. 16) (rates of gaming duty) substitute—

TABLE

Part of gross gaming yield	***Rate***
The first £484,500	2.5 per cent.
The next £1,076,000	12.5 per cent.
The next £1,076,000	20 per cent.
The next £1,883,500	30 per cent.
The remainder	40 per cent.

(2) This section has effect in relation to accounting periods beginning on or after 1st April 2001.

Vehicle excise duty

8 Threshold for reduced general rate

(1) In paragraph 1 of Schedule 1 to the Vehicle Excise and Registration Act 1994 (c. 22) (rate of duty applicable where no other rate specified), in sub-paragraphs (2) and (2A) for "1,200 cubic centimetres" (the reduced rate threshold) substitute " 1,549 cubic centimetres ".

This amendment applies to licences issued on or after 1st July 2001.

(2) Refunds shall be made by the Secretary of State, in accordance with the following provisions of this section, in respect of licences—

(a) issued in the period beginning with 1st November 2000 and ending with 30th June 2001, and

(b) not surrendered before the end of that period,

where the amount of vehicle excise duty chargeable on the licence would have been less if the amendment in subsection (1) had applied.

(3) The amount of the refund is—

(a) £55 for a 12 month licence, and

(b) £27.50 for a 6 month licence.

(4) The person entitled to the refund is—

(a) in the case of a licence in force on 30th June 2001, the keeper of the vehicle on that date;

(b) in the case of a licence that has ceased to be in force before that date, the keeper of the vehicle when the licence expired.

(5) For the purposes of subsection (4) the keeper of the vehicle shall be taken to be—

(a) the person registered as keeper of the vehicle on the date in question, or

(b) if the Secretary of State has received notification of a change of ownership of the vehicle as a result of which another person is on that date entitled to be registered as the new keeper of the vehicle, that person.

(6) A refund shall only be made if an application is made for it in such form, and containing such particulars and supported by such documents, as the Secretary of State may require.

(7) The Secretary of State shall give notice in writing to any person appearing to him to be entitled to a refund—

(a) informing him that he appears to be entitled to a refund,

(b) enclosing an application form, and

(c) specifying the particulars and supporting documents to be provided.

(8) An application for, or the making of, a refund under this section in respect of a licence does not affect the validity of the licence.

(9) For the purposes of section 19 of the Vehicle Excise and Registration Act 1994 (c. 22) (surrender of licences) as it applies to the surrender on or after 1st July 2001 of a licence in respect of which a refund under this section has been made, or applied for, the annual rate of duty chargeable on the licence shall be taken to be that which would have been chargeable if the amendment in subsection (1) above had applied.

(10) Section 45 of that Act (offence of false or misleading declaration) applies to a declaration in connection with an application for a refund under this section as it applies to a declaration in connection with an application for a vehicle licence.

(11) In the application of this section to Northern Ireland, references to registration as the keeper of a vehicle shall be read as references to registration as the owner of the vehicle.

(12) This section shall come into force on 1st July 2001.

9 Rates of duty for goods vehicles

(1) Schedule 2 to this Act (which makes provision for new rates of vehicle excise duty for goods vehicles etc.) has effect.

(2) The provisions of that Schedule apply in relation to licences issued on or after 1st December 2001.

10 Rates of duty for vehicles used for exceptional loads

(1) Part 6 of Schedule 1 to the Vehicle Excise and Registration Act 1994 (annual rates of vehicle excise duty: vehicles used for exceptional loads) is amended as follows.

(2) In paragraph 6(2A)(a) (vehicles not satisfying reduced pollution requirements), for "£5,170" substitute " £2,585 ".

(3) In paragraph 6(2A)(b) (vehicles satisfying reduced pollution requirements), for "£4,170" substitute " £2,085 ".

(4) The provisions of this section apply in relation to licences issued on or after 1st December 2001.

11 Rates of duty for recovery vehicles

(1) In Part 5 of Schedule 1 to the Vehicle Excise and Registration Act 1994 (c. 22) (annual rates of vehicle excise duty: recovery vehicles), paragraph 5(1) is amended as follows.

(2) For paragraphs (a) and (b) substitute—

"(a) if it has a revenue weight exceeding 3,500 kilograms and not exceeding 25,000 kilograms, the same as the basic goods vehicle rate;".

(3) In paragraph (c) (vehicle with revenue weight exceeding 25,000 kilograms charged at 500 per cent of basic goods vehicle rate), for "500" substitute " 250 ".

(4) The provisions of this section apply in relation to licences issued on or after 1st December 2001.

12 Mobile pumping vehicles

(1) Part 4 of Schedule 1 to the Vehicle Excise and Registration Act 1994 (annual rates of duty: special vehicles) is amended as follows.

(2) In paragraph 4(2), after paragraph (d) insert—

"(dd) mobile pumping vehicle,".

(3) In paragraph 4, after sub-paragraph (5) insert—

"(5A) In sub-paragraph (2)(dd) "mobile pumping vehicle" means a vehicle—

(a) which is constructed or adapted for use and used for the conveyance of a pump and a jib satisfying the requirements specified in sub-paragraph (5B),

(b) which is used on public roads only—

(i) when the vehicle is stationary and the pump is being used to pump material from a point in the immediate vicinity to another such point, or

(ii) for the purpose of proceeding to and from a place where the pump is to be or has been used, and

(c) which, when so proceeding, does not carry—

(i) the material that is to be or has been pumped, or

(ii) any other load except such as is necessary for the propulsion or equipment of the vehicle or for the operation of the pump.

(5B) The requirements are that each of the pump and the jib is—

(a) built in as part of the vehicle, and

(b) designed so that material pumped by the pump is delivered to a desired height or depth through piping that—

(i) is attached to the pump and the jib, and

(ii) is raised or lowered to that height or depth by operation of the jib.".

(4) In paragraph 1A (old vehicles) of Schedule 2 to the Vehicle Excise and Registration Act 1994 (exempt vehicles)—

(a) in sub-paragraph (2)(b)(ii) (mobile cranes etc. not exempt vehicles under paragraph 1A), after "mobile crane," insert " mobile pumping vehicle, ", and

(b) in sub-paragraph (5) (definitions), after "mobile crane" insert " , mobile pumping vehicle ".

(5) The amendments made by subsections (2) to (4) apply to licences issued after the day on which this Act is passed.

(6) Where—

(a) a licence was issued on or before that day for a mobile pumping vehicle (within the meaning given by the paragraph 4(5A) inserted by subsection (3)) on the basis that the vehicle was a mobile crane (within the meaning given by paragraph 4(5) of Schedule 1 to the Vehicle Excise and Registration Act 1994 (c. 22)), and

(b) vehicle excise duty was paid accordingly,

the vehicle shall be deemed to have been a mobile crane at any time on or before that day when the licence was in force (but this does not affect proceedings in any court that were concluded on or before that day).

13 Exemption of agricultural etc. vehicles

(1) In Schedule 2 to the Vehicle Excise and Registration Act 1994 (exempt vehicles), after paragraph 20A insert—

"**Tractors**

20B (1) A vehicle is an exempt vehicle if it is—

(a) an agricultural tractor, or

(b) an off-road tractor.

(2) In sub-paragraph (1) "agricultural tractor" means a tractor used on public roads solely for purposes relating to agriculture, horticulture, forestry or activities falling within sub-paragraph (3).

(3) The activities falling within this sub-paragraph are—

(a) cutting verges bordering public roads;

(b) cutting hedges or trees bordering public roads or bordering verges which border public roads.

(4) In sub-paragraph (1) "off-road tractor" means a tractor which is not an agricultural tractor (within the meaning given by sub-paragraph (2)) and which is—

(a) designed and constructed primarily for use otherwise than on roads, and

(b) incapable by reason of its construction of exceeding a speed of twenty-five miles per hour on the level under its own power.

Light agricultural vehicles

20C (1) A vehicle is an exempt vehicle if it is a light agricultural vehicle.

(2) In sub-paragraph (1) "light agricultural vehicle" means a vehicle which—

(a) has a revenue weight not exceeding 1,000 kilograms,

(b) is designed and constructed so as to seat only the driver,

(c) is designed and constructed primarily for use otherwise than on roads, and

(d) is used solely for purposes relating to agriculture, horticulture or forestry.

Agricultural engines

20D An agricultural engine is an exempt vehicle.

Mowing machines

20E A mowing machine is an exempt vehicle.

Steam powered vehicles

20F A steam powered vehicle is an exempt vehicle.

Electrically propelled vehicles

20G An electrically propelled vehicle is an exempt vehicle.

Snow ploughs

20H A vehicle is an exempt vehicle when it is—

(a) being used,

(b) going to or from the place where it is to be or has been used, or

(c) being kept for use,

for the purpose of clearing snow from public roads by means of a snow plough or similar device (whether or not forming part of the vehicle).

Gritters

20J A vehicle is an exempt vehicle if it is constructed or adapted, and used, solely for the conveyance of machinery for spreading material on roads to deal with frost, ice or snow (with or without articles or material used for the purposes of the machinery).".

(2) In Part 2 of Schedule 1 to the Vehicle Excise and Registration Act 1994 (c. 22) (annual rates of duty: motorcycles), paragraph 2 is amended as follows—

(a) in sub-paragraph (1)(a) (rate of duty for electrically propelled motorcycles etc.), omit "or the motorcycle is an electrically propelled vehicle", and

(b) in sub-paragraph (3), in the definition of "motorcycle", after "motortricycle" insert " but does not include an electrically propelled vehicle ".

(3) Part 4A of Schedule 1 to the Vehicle Excise and Registration Act 1994 (annual rates of duty: special concessionary vehicles) shall cease to have effect.

(4) The amendments made by subsections (1) to (3) and (13) apply to licences issued on or after 1st April 2001.

(5) Subsection (6) applies where a licence—

(a) is issued before 1st April 2001 for a relevant vehicle, and

(b) is in force on 1st April 2001 or comes into force after 1st April 2001.

(6) The licence shall, during the period—

(a) beginning with the later of 1st April 2001 and the day when it comes into force, and

(b) ending with the expiry of the period for which it is issued,

be deemed to be a nil licence for the purposes of the Vehicle Excise and Registration Act 1994 (c. 22).

(7) A refund shall be made by the Secretary of State, in accordance with the following provisions of this section, in respect of a licence for a relevant vehicle that—

(a) is issued before 1st March 2001, in force on 1st March 2001 and not surrendered before 1st April 2001,

(b) is issued before 1st March 2001, comes into force after 1st March 2001 and is not surrendered before 1st April 2001, or

(c) is issued in March 2001 and not surrendered before 1st April 2001.

(8) The amount of the refund is one-twelfth of the annual rate of duty chargeable on the licence for—

(a) in the case of a licence issued before 1st March 2001, each whole month after February 2001 that forms part of the period for which the licence was issued, and

(b) in the case of a licence issued on or after 1st March 2001, each whole month of the period for which the licence is issued.

(9) The person entitled to the refund is the person registered as the keeper of the relevant vehicle on 30th April 2001.

(10) The provisions of sections 10(2) and 19 of the Vehicle Excise and Registration Act 1994 (surrender of licences) do not apply to a licence in respect of which a person is entitled to a refund under this section.

(11) In the application of this section to Northern Ireland, references to registration as the keeper of a vehicle shall be read as references to registration as the owner of the vehicle.

(12) In subsections (5) to (9) "relevant vehicle" means a vehicle of any of the descriptions mentioned in the paragraphs 20B to 20J inserted by subsection (1).

(13) For section 16(1) of the Finance Act 1996 (c. 8) substitute—

"(1) Schedule 1 to the Vehicle Excise and Registration Act 1994 (annual rates of duty) is amended as follows.".

(14) This section shall be deemed to have come into force on 1st April 2001.

14 Surrender of vehicle licences

(1) Section 19 of the Vehicle Excise and Registration Act 1994 (surrender of licences) is amended as follows.

(2) After subsection (1) insert—

"(1A) Subsection (1B) applies where the holder of a licence—

(a) has notified the Secretary of State that he wishes to surrender the licence under section 10(2),

(b) has agreed to comply with such conditions as may be specified in relation to him by the Secretary of State, and

(c) if the conditions so specified in relation to him include a condition such as is mentioned in subsection (1C)(a), has complied with that condition.

(1B) If the holder has not surrendered the licence before the time when paragraphs (a) to (c) of subsection (1A) are first all satisfied, then at that time—

(a) the holder becomes entitled to rebate under subsection (1) as if he had surrendered the licence at that time,

(b) the licence ceases to be in force, and

(c) the provisions of section 10(2) and subsection (1) cease to apply to the licence.

(1C) The conditions which may be specified under subsection (1A)(b) include—

(a) a condition that particulars for the time being prescribed under section 22(1D)(a) are furnished by being transmitted to the Secretary of State by such electronic means as he may specify; and

(b) a condition that the licence be returned to the Secretary of State within such period as may be specified by the Secretary of State.".

(3) Subsection (3) (no rebate under subsection (1) where regulations not complied with) shall cease to have effect.

General

15 Payments by Commissioners in case of error or delay

Schedule 3 to this Act (which allows or requires the Commissioners of Customs and Excise to make payments in cases of error or delay in relation to excise duty) has effect.

PART 2

AGGREGATES LEVY

Charging provisions

16 Charge to aggregates levy

(1) A levy, to be known as aggregates levy, shall be charged in accordance with this Part on aggregate subjected to commercial exploitation.

(2) The charge to the levy shall arise whenever a quantity of taxable aggregate is subjected, on or after the commencement date, to commercial exploitation in the United Kingdom.

(3) The person charged with the levy arising on any occasion on a quantity of aggregate subjected to commercial exploitation shall be the person responsible for its being so subjected on that occasion.

(4) The levy shall be charged at the rate of £1.60 per tonne of aggregate subjected to commercial exploitation; and the amount of levy charged on a part of a tonne of aggregate shall be the proportionately reduced amount.

(5) The levy shall be under the care and management of the Commissioners of Customs and Excise (in this Part referred to as "the Commissioners").

(6) In this Part "the commencement date" means such date as the Treasury may by order made by statutory instrument appoint for the purposes of this section.

17 Meanings of "aggregate" and "taxable aggregate"

(1) In this Part "aggregate" means (subject to section 18 below) any rock, gravel or sand, together with whatever substances are for the time being incorporated in the rock, gravel or sand or naturally occur mixed with it.

(2) For the purposes of this Part any quantity of aggregate is, in relation to any occasion on which it is subjected to commercial exploitation, a quantity of taxable aggregate except to the extent that—

(a) it is exempt under this section;

(b) it has previously been used for construction purposes (whether before or after the commencement date);

(c) it is, or derives from, any aggregate that has already been subjected to a charge to aggregates levy;

(d) it is aggregate that was removed from its originating site before the commencement date.

(3) For the purposes of this Part aggregate is exempt under this section if—

(a) it is rock that has not been subjected to an industrial crushing process;

(b) it consists wholly of aggregate won by being removed from the ground on the site of any building or proposed building in the course of excavations lawfully carried out—

(i) in connection with the modification or erection of the building; and

(ii) exclusively for the purpose of laying foundations or of laying any pipe or cable;

(c) it consists wholly of aggregate won—

(i) by being removed from the bed of any river, canal or watercourse (whether natural or artificial) or of any channel in or approach to any port or harbour (whether natural or artificial); and

(ii) in the course of the carrying out of any dredging undertaken exclusively for the purpose of creating, restoring, improving or maintaining that river, canal, watercourse, channel or approach;

(d) it consists wholly of aggregate won by being removed from the ground along the line or proposed line of any highway or proposed highway and in the course of excavations carried out—

(i) for the purpose of improving or maintaining the highway or of constructing the proposed highway; and

(ii) otherwise than wholly or mainly for the purpose of extracting that aggregate; or

(e) it consists wholly of the spoil, waste or other by-products resulting from the extraction or other separation from any quantity of aggregate of any china clay or ball clay.

(4) For the purposes of this Part a quantity of any aggregate shall be taken to be a quantity of aggregate that is exempt under this section if it consists wholly or mainly of any one or more of the following, or is part of anything so consisting, namely—

(a) coal, lignite, slate or shale;

(b) the spoil from any process by which coal has been separated from other rock after being extracted or won with that other rock;

(c) the spoil or waste from, or other by-products of—

(i) any industrial combustion process, or

(ii) the smelting or refining of metal;

(d) the drill-cuttings resulting from any operations carried out in accordance with a licence granted under the Petroleum Act 1998 (c. 17) otherwise than in relation to petroleum situated in the strata in Great Britain;

(e) anything resulting from works carried out in exercise of powers which are required to be exercised in accordance with, or are conferred by, provision made by or under the New Roads and Street Works Act 1991 (c. 22), the Roads (Northern Ireland) Order 1993 (S.I. 1993/3160 (N.I. 15)) or the Street Works (Northern Ireland) Order 1995 (S.I. 1995/3210 (N.I. 19));

(f) clay, soil or vegetable or other organic matter.

(5) For the purposes of this section aggregate subjected to exploitation in the United Kingdom is aggregate that has already been subjected to a charge to aggregates levy if, and only if—

(a) there has been a previous occasion on which a charge to aggregates levy on that aggregate has arisen; and

(b) at least some of the aggregates levy previously charged on that aggregate is either—

(i) levy in respect of which there is or was no entitlement to a tax credit; or

(ii) levy in respect of which any entitlement to a tax credit is or was an entitlement to a tax credit of an amount less than the amount of the levy charged on it.

(6) For the purposes of subsection (5)(b) above, any credit the entitlement to which arises in a case which—

(a) falls within section 30(1)(c) below, and

(b) is prescribed for the purposes of this subsection,

shall be disregarded.

(7) In this section—

"coal" has the same meaning as in the Coal Industry Act 1994 (c. 21); and

"highway" includes any road within the meaning of the Roads (Scotland) Act 1984 (c. 54) or the Road Traffic (Northern Ireland) Order 1995 (S.I. 1995/2994 (N.I. 18)).

18 Exempt processes

(1) In this Part references to aggregate—

(a) include references to the spoil, waste, off-cuts and other by-products resulting from the application of any exempt process to any aggregate; but

(b) do not include references to anything else resulting from the application of any such process to any aggregate.

(2) In this Part "exempt process" means—

(a) the cutting of any rock to produce dimension stone;

(b) any process by which a relevant substance is extracted or otherwise separated (whether as part of the process of winning it from any land or otherwise) from any aggregate;

(c) any process for the production of lime or cement from limestone or from limestone and some other substance.

(3) In this section "relevant substance" means any of the following—

(a) anhydrite;

(b) ball clay;

(c) barytes;

(d) calcite;

(e) china clay;

(f) feldspar;

(g) fireclay;

(h) flint;

(i) fluorspar;

(j) fuller's earth;

(k) gems and semi-precious stones;

(l) gypsum;

(m) any metal or the ore of any metal;

(n) muscovite;

(o) perlite;

(p) potash;

(q) pumice;

(r) rock phosphates;

(s) sodium chloride;

(t) talc;

(u) vermiculite.

(4) The Treasury may by order made by statutory instrument—

(a) modify the list of substances in subsection (3) above by adding any substance to that list or by removing any substance from it; and

(b) make any such transitional provision in connection with the modification of that list under this subsection as they may think fit.

(5) The Treasury shall not make an order under subsection (4) above by virtue of which any substance ceases to be a relevant substance unless a draft of the order has been laid before Parliament and approved by resolution of the House of Commons.

(6) A statutory instrument containing an order under subsection (4) above that has not had to be approved in draft for the purposes of subsection (5) above shall be subject to annulment in pursuance of a resolution of the House of Commons.

19 Commercial exploitation

(1) For the purposes of this Part a quantity of aggregate is subjected to exploitation if, and only if—

(a) it is removed from a site falling within subsection (2) below;

(b) it becomes subject to an agreement to supply it to any person;

(c) it is used for construction purposes; or

(d) it is mixed, otherwise than in permitted circumstances, with any material or substance other than water.

(2) The sites which, in relation to any quantity of aggregate, fall within this subsection are—

(a) the originating site of the aggregate;

(b) any site which is not the originating site of the aggregate but is registered under the name of a person who is the operator of that originating site, or is one of its operators;

(c) any site not falling within paragraph (a) or (b) above to which the quantity of aggregate had been removed for the purpose of having an exempt process applied to it on that site but at which no such process has been applied to it.

(3) For the purposes of this Part the exploitation to which a quantity of aggregate is subjected shall be taken to be commercial exploitation if, and only if—

(a) it is subjected to exploitation in the course or furtherance of a business carried on by the person, or one of the persons, responsible for subjecting it to exploitation;

(b) the exploitation to which it is subjected does not consist in its removal from one registered site to another in a case where both sites are registered under the name of the same person;

(c) the exploitation to which it is subjected does not consist in or require its removal to a registered site for the purpose of having an exempt process applied to it on that site;

(d) the exploitation to which it is subjected does not consist in or require its removal to any premises for the purpose of having china clay or ball clay extracted or otherwise separated from it on that site; and

(e) the exploitation to which it is subjected is not such that, as a result and without its being subjected to any process involving its being mixed with any other substance or material (apart from water), it again becomes part of the land at the site from which it was won.

(4) Where, at the time when any aggregate is won from any site, the same person is in occupation of both—

(a) that site, and

(b) adjacent land which is occupied, together with that site—

(i) for the purposes of the carrying on of any agricultural business, or

(ii) for the purposes of the carrying on of any forestry business or otherwise for the purposes of forestry,

subsection (3)(e) above shall have effect as if the reference to the land at the site from which the aggregate was won included the adjacent land, so long as it and that site continue to be occupied by that person for such purposes.

(5) For the purposes of this Part where a quantity of aggregate is subjected to exploitation, the exploitation shall be taken to be in the United Kingdom if, and only if, the aggregate is in the United Kingdom or United Kingdom waters when it is subjected to exploitation.

(6) For the purposes of this section a quantity of aggregate becomes subject to an agreement to supply it to any person—

(a) except to the extent that it is not separately identifiable at the time when the agreement is entered into, at that time; and

(b) to that extent, at the time when it is appropriated to the agreement;

but references in this Part to the supply of a quantity of aggregate do not include references to any supply which is effected, or is to be effected, by the transfer or creation of any interest or right in or over land.

(7) For the purposes of this section a quantity of aggregate is mixed with a material or substance in permitted circumstances if—

(a) the material or substance with which it is mixed consists wholly of a quantity of taxable aggregate that has not previously been subjected to commercial exploitation in the United Kingdom; and

(b) the mixing takes place on a site which, in a case where it falls within subsection (2) above in relation to any part of the aggregate included in the mixture, so falls in relation to every part of it.

20 Originating sites

(1) In this Part references, in relation to any aggregate, to its originating site are references (subject to subsection (2) below)—

(a) in the case of aggregate which has been won from the seabed of any area of sea in the United Kingdom or United Kingdom waters and is not rock, to the site where it is first landed after being so won;

(b) in the case of aggregate which results from the application of an exempt process to any aggregate and is not rock, to the site where that process was so applied;

(c) in the case of rock, to the site at which it is first subjected to an industrial crushing process; and

(d) in any other case, to the site from which the aggregate was won or, as the case may be, from which it was most recently won.

(2) Where any aggregate which is on its originating site on the commencement date has been mixed before that date with aggregate the originating site of which would (but for this subsection) be different, the site where the mixture is situated on that date shall be deemed for the purposes of this Part to be the originating site of all the aggregate comprised in the mixture.

21 Operators of sites

(1) For the purposes of this Part the persons operating a site are each of the following—

(a) the person who occupies the site; and

(b) if a person other than the occupier exercises any right to exercise control over aggregate on that site, that other person;

and "operator", in relation to a site, shall be construed accordingly.

(2) In subsection (1) above the reference to exercising control over aggregate on a site is a reference to doing any of the following, that is to say—

(a) winning aggregate from land at that site;

(b) carrying out an industrial crushing process at that site in relation to any rock;

(c) carrying out any exempt process at that site;

(d) storing aggregate at that site.

22 Responsibility for exploitation of aggregate

(1) Subject to subsection (2) below, the persons who shall be taken for the purposes of this Part to be responsible for subjecting a quantity of aggregate to exploitation are each of the following—

(a) in a case of the exploitation of a quantity of aggregate by its removal from its originating site or from a connected site, the operator of that site;

(b) in a case of the exploitation of a quantity of aggregate by its removal from a site falling within section 19(2)(c) above, the operator of the site and (if different) the owner of the aggregate at the time when the removal takes place;

(c) in a case of the exploitation of a quantity of aggregate—

(i) by its being subjected, at a time when it is not on its originating site or a connected site, to any agreement, or

(ii) by its being used at such a time for construction purposes,

the person agreeing to supply it or using it for construction purposes;

(d) in a case of the exploitation of a quantity of aggregate—

(i) by its being subjected, at a time when it is on its originating site or a connected site, to any agreement, or

(ii) by its being used at such a time for construction purposes,

the person mentioned in paragraph (c) above and (if different) the operator of that site;

(e) in a case of the exploitation of a quantity of aggregate by its being mixed at premises that are not comprised in its originating site or a connected site with any material or substance, the owner of the aggregate at the time when the mixing takes place and the occupier of the premises where it takes place;

(f) in a case of the exploitation of a quantity of aggregate by its being mixed at its originating site or a connected site with any material or substance, the owner of the aggregate at the time when the mixing takes place and (if different) the operator of the site.

(2) A person who is responsible for subjecting a quantity of aggregate to exploitation shall not be taken for the purposes of this Part to be responsible for subjecting it to commercial exploitation unless that takes place in the course or furtherance of a business carried on by him.

(3) Where by virtue of this section more than one person is charged with aggregates levy, their liabilities under this Part as persons charged with the levy shall be joint and several.

(4) In this section "connected site", in relation to any quantity of aggregate, means any site that falls in relation to that quantity of aggregate within section 19(2)(b).

23 Weight of aggregate

(1) The Commissioners may make regulations for determining the weight of any aggregate for the purposes of aggregates levy.

(2) The regulations may—

(a) prescribe rules for determining the weight;

(b) authorise rules for determining the weight to be specified by the Commissioners in a prescribed manner;

(c) authorise rules for determining the weight to be agreed between the person charged with the levy and a person acting under the authority of the Commissioners.

(3) The regulations may, in particular, provide for the rules prescribed or authorised under the regulations to include rules about—

(a) the method by which the weight is to be determined;

(b) the time by reference to which the weight is to be determined;

(c) the discounting of constituents (such as water).

(4) The regulations may include provision that rules specified by virtue of subsection (2)(b) above—

(a) are to have effect only in such cases as may be described in the rules; and

(b) are not to have effect in particular cases unless the Commissioners are satisfied that such conditions as may be set out in the rules are met in those cases.

(5) Conditions for which provision is made by virtue of subsection (4)(b) above may be framed by reference to such factors as the Commissioners think fit (such as the consent, in a particular case, of a person acting under the authority of the Commissioners).

(6) The regulations may include provision that—

(a) where rules are agreed as mentioned in subsection (2)(c) above, and

(b) the Commissioners believe that they should no longer be applied (whether because they do not give an accurate indication of the weight or are not being fully observed or for some other reason),

the Commissioners may direct that the agreed rules shall no longer have effect.

Administration and enforcement

24 The register

(1) It shall be the duty of the Commissioners to establish and maintain a register of persons who are required to be registered for the purposes of aggregates levy.

(2) A person is required to be registered for the purposes of aggregates levy if he—

(a) carries out taxable activities, and

(b) is not exempted from registration by regulations under subsection (4) below.

(3) For the purposes of subsection (2) above a person carries out a taxable activity if a quantity of aggregate is subjected to commercial exploitation in the United Kingdom in circumstances in which he is responsible for its being so subjected.

(4) The Commissioners may by regulations provide for persons carrying out taxable activities to be, to such extent and subject to such conditions or restrictions as may be prescribed, either—

(a) exempt from the requirement of registration; or

(b) exempt from such obligations or liabilities imposed by or under this Part on persons required to be registered for the purposes of aggregates levy as may be prescribed.

(5) The Commissioners shall keep such information in the register as they consider it appropriate so to keep for the purposes of the care and management of aggregates levy.

(6) In particular, where it appears to the Commissioners that any person is operating or using any premises, or intends to operate or use any premises—

(a) for winning any aggregate,

(b) for carrying out an industrial crushing process in relation to any rock,

(c) for applying an exempt process to any aggregate,

(d) for storing any aggregate, or

(e) for the first landing in the United Kingdom of aggregate won from the seabed of any area of sea in the United Kingdom or United Kingdom waters,

they may, if they think fit, register those premises, in any entry relating to that person and under his name, as a registered site.

(7) Where any premises are registered in accordance with subsection (6) above as a registered site, the particulars included in the register shall set out as the boundaries of the site such boundaries as appear to the Commissioners best to secure that avoidance of levy is not facilitated by the registration of any part of any premises that is not used or operated as mentioned in subsection (6) above.

(8) Where any entry in the register at any time specifies that any premises registered under a person's name as a registered site are to be taken to be the originating site of—

(a) any aggregate comprising rock subjected to an industrial crushing process there,

(b) any aggregate resulting from the carrying out of any exempt process there, or

(c) any aggregate won or landed there,

any question for the purposes of this Part as to the boundaries at that time of the originating site of any such aggregate shall be conclusively determined in accordance with that entry.

(9) Schedule 4 to this Act (provisions with respect to registration for the purposes of aggregates levy) shall have effect.

(10) The preceding provisions of this section and the provisions of Schedule 4 to this Act shall come into force on such date as the Treasury may by order made by statutory instrument appoint; and different days may be appointed under this subsection for different purposes.

Subordinate Legislation Made

P2 S. 24(10) power partly exercised: different dates appointed for specified provisions by S.I. 2001/4033, **arts. 2**, 3

Commencement Information

I1 S. 24 wholly in force; s. 24(10) in force at Royal Assent for specified purposes, see s. 24(10); s. 24 in force insofar as not already in force at 11.1.2002 by S.I. 2001/4033, **art. 3**

25 Returns and payment of levy

(1) The Commissioners may by regulations make provision—

(a) for persons charged with aggregates levy to be liable to account for it by reference to such periods ("accounting periods") as may be determined by or under the regulations;

(b) for persons who are or are required to be registered for the purposes of aggregates levy to be subject to such obligations to make returns for those purposes for such periods, at such times and in such form as may be so determined; and

(c) for persons who are required to account for aggregates levy for any period to become liable to pay the amounts due from them at such times and in such manner as may be so determined.

(2) Without prejudice to the generality of the powers conferred by subsection (1) above, regulations under this section may contain provision—

(a) for aggregates levy falling in accordance with the regulations to be accounted for by reference to one accounting period to be treated in prescribed circumstances, and for prescribed purposes, as levy due for a different period;

(b) for the correction of errors made when accounting for aggregates levy by reference to any period;

(c) for the entries to be made in any accounts in connection with the correction of any such errors and for the financial adjustments to be made in that connection;

(d) for a person, for purposes connected with the making of any such entry or financial adjustment, to be required to provide to any prescribed person, or to retain, a document in the prescribed form containing prescribed particulars of the matters to which the entry or adjustment relates;

(e) for enabling the Commissioners, in such cases as they may think fit, to dispense with or relax a requirement imposed by regulations made by virtue of paragraph (d) above;

(f) for the amount of levy which, in accordance with the regulations, is treated as due for a later period than that by reference to which it should have been accounted for to be treated as increased by an amount representing interest at the rate applicable under section 197 of the Finance Act 1996 (c. 8) for such period as may be determined in accordance with the regulations.

(3) Subject to the following provisions of this section, if any person ("the taxpayer") fails—

(a) to comply with so much of any regulations under this section as requires him, at or before a particular time, to make a return for any accounting period, or

(b) to comply with so much of any regulations under this section as requires him, at or before a particular time, to pay an amount of aggregates levy due from him,

he shall be liable to a penalty of £250.

(4) Liability to a penalty under subsection (3) above shall not arise if the taxpayer satisfies the Commissioners or, on appeal, an appeal tribunal—

(a) that there is a reasonable excuse for the failure to make the return or to pay the levy in accordance with regulations; and

(b) that there is not an occasion after the last day on which the return or payment was required by the regulations to be made when there was a failure without reasonable excuse to make it.

(5) Where, by reason of any failure falling within paragraph (a) or (b) of subsection (3) above—

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

(b) a person is assessed to a penalty under paragraph 7 of Schedule 6 to this Act (penalty for evasion),

that person shall not, by reason of that failure, be liable also to a penalty under that subsection (3).

(6) In subsection (1)(b) above the reference to a person who is required to be registered for the purposes of aggregates levy includes a reference to a person who would be so required but for any exemption conferred by regulations under section 24(4) above.

26 Security for levy

(1) Where it appears to the Commissioners necessary to do so for the protection of the revenue they may require any person who is or is required to be registered to give security, or further security, for the payment of any aggregates levy which is or may become due from him.

(2) The power of the Commissioners to require any security, or further security, under this section shall be a power to require security, or further security, of such amount and in such manner as they may determine.

(3) A person who is responsible for any aggregate being subjected to commercial exploitation in the United Kingdom is guilty of an offence if, at the time it is so subjected—

(a) he has been required to give security under this section; and

(b) he has not complied with that requirement.

(4) A person guilty of an offence under this section shall be liable, on summary conviction, to a penalty of level 5 on the standard scale.

(5) Sections 145 to 155 of the Customs and Excise Management Act 1979 (c. 2) (proceedings for offences, mitigation of penalties and certain other matters) shall apply in relation to an offence under this section as they apply in relation to offences and penalties under the customs and excise Acts.

(6) In subsection (1) above the reference to a person who is required to be registered for the purposes of aggregates levy includes a reference to a person who would be so required but for any exemption conferred by regulations under section 24(4) above.

27 Recovery and interest

Schedule 5 to this Act (which makes provision for the recovery of amounts of aggregates levy due from any person and for the interest payable on such amounts) shall have effect.

28 Evasion, misdeclaration and neglect

Schedule 6 to this Act (which makes provision for and in connection with the imposition of criminal and civil penalties for the evasion of aggregates levy and for related misconduct) shall have effect.

29 Information and evidence

Schedule 7 to this Act (which provides for the supply of information to the Commissioners, for the powers under which the Commissioners may collect information for enforcement purposes and about evidence) shall have effect.

Credits and repayments

30 Credit for aggregates levy

(1) The Commissioners may, in accordance with the following provisions of this section, by regulations make provision in relation to cases where, after a charge to aggregates levy has arisen on any quantity of aggregate—

(a) any of that aggregate is exported from the United Kingdom in the form of aggregate;

(b) an exempt process is applied to any of that aggregate;

(c) any of that aggregate is used in a prescribed industrial or agricultural process;

(d) any of that aggregate is disposed of (by dumping or otherwise) in such manner not constituting its use for construction purposes as may be prescribed; or

(e) the whole or any part of a debt due to a person responsible for subjecting the aggregate to commercial exploitation is written off in his accounts as a bad debt.

(2) The provision that may be made in relation to any such case as is mentioned in subsection (1) above is provision—

(a) for such person as may be specified in the regulations to be entitled to a tax credit in respect of any aggregates levy charged on the aggregate in question;

(b) for a tax credit to which any person is entitled under the regulations to be brought into account when he is accounting for aggregates levy due from him for such accounting period or periods as may be determined in accordance with the regulations; and

(c) for a person entitled to a tax credit to be entitled, in any prescribed case where he cannot bring the tax credit into account so as to set it against a liability to aggregates levy, to a repayment of levy of an amount so determined.

(3) Regulations under this section may contain any or all of the following provisions—

(a) provision making any entitlement to a tax credit conditional on the making of a claim by such person, within such period and in such manner as may be prescribed;

(b) provision making entitlement to bring a tax credit into account, or to receive a repayment in respect of such a credit, conditional on compliance with such requirements as may be determined in accordance with the regulations;

(c) provision requiring a claim for a tax credit to be evidenced and quantified by reference to such records and other documents as may be so determined;

(d) provision requiring a person claiming any entitlement to a tax credit to keep, for such period and in such form and manner as may be so determined, those records and documents and a record of such information relating to the claim as may be so determined;

(e) provision for the withdrawal of a tax credit where any requirement of the regulations is not complied with;

(f) provision for interest at the rate applicable under section 197 of the Finance Act 1996 (c. 8) to be treated as added, for such period and for such purposes as may be prescribed, to the amount of any tax credit;

(g) provision for anything falling to be determined in accordance with the regulations to be determined by reference to a general or specific direction given in accordance with the regulations by the Commissioners.

(4) Without prejudice to the generality of the preceding provisions of this section, regulations under this section may also contain—

(a) provision for ascertaining whether, when and to what extent an amount is to be taken for the purposes of any regulations under this section to have been written off in any accounts as a bad debt;

(b) provision requiring a person who for the purposes of any such regulations is taken to have written off any amount as a bad debt to keep, for such period and in such form and manner as may be prescribed, information relating to anything subsequently paid in respect of the amount written off;

(c) provision for the withdrawal of the whole or an appropriate part of any tax credit relating to an amount taken to have been written off as a bad debt where the whole or any part (or further part) of the amount written off is subsequently paid;

(d) provision for ascertaining whether, and to what extent, anything received by any person is to be taken as a payment of, or of a part of, an amount taken, for the purposes of any regulations under this section, to have been written off;

(e) provision for determining the value for the purposes of provision made by virtue of paragraph (d) above of things received otherwise than in the form of money.

(5) Regulations made under this section shall have effect subject to the provisions of section 32 below.

VALID FROM 24/07/2002

[F1 30A Transitional tax credit in Northern Ireland

(1) The Commissioners may by regulations make provision of the kind described in section 30(2) above (entitlement to tax credit) in relation to cases where aggregate is used in Northern Ireland for a prescribed purpose—

(a) on or after the commencement date, and

(b) before 1st April 2007.

(2) In relation to the use of aggregate in the year ending with a date shown in the first column of the following table, the amount of any tax credit to which a person would otherwise by entitled by virtue of the regulations shall be reduced by the percentage of that amount shown opposite that date in the second column.

Year ending	*Reduction in tax credit*
31st March 2004	20%
31st March 2005	40%
31st March 2006	60%
31st March 2007	80%

(3) Subsections (3) to (5) of section 30 above apply to regulations under this section as they apply to regulations under that section.**]**

Textual Amendments

F1 S. 30A inserted (24.7.2002) by 2002 c. 23, **s. 129(1)**

31 Repayments of overpaid levy

(1) Where a person has paid an amount to the Commissioners by way of aggregates levy which was not levy due to them, they shall be liable to repay the amount to him.

(2) The Commissioners shall not be liable to repay an amount under this section except on the making of a claim for that purpose.

(3) A claim under this section must be made in such form and manner, and must be supported by such documentary evidence, as may be required by regulations made by the Commissioners.

(4) The preceding provisions of this section are subject to the provisions of section 32 below.

(5) Except as provided by this section, the Commissioners shall not, by virtue of the fact that it was not levy due to them, be liable to repay any amount paid to them by way of aggregates levy.

32 Supplemental provisions about repayments etc

(1) The Commissioners shall not be liable, on any claim for a repayment of aggregates levy, to repay any amount paid to them more than three years before the making of the claim.

(2) In the case of any claim for a repayment of an amount of aggregates levy other than a claim to a repayment to which a person is entitled by virtue of tax credit regulations, it shall be a defence to that claim that the repayment of that amount would unjustly enrich the claimant.

(3) Subsection (4) below applies for the purposes of subsection (2) above where—

(a) there is an amount paid by way of aggregates levy which (apart from subsection (2) above) would fall to be the subject of a repayment of aggregates levy to any person ("the taxpayer"); and

(b) the whole or a part of the cost of the payment of that amount to the Commissioners has, for practical purposes, been borne by a person other than the taxpayer.

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

(a) whether or to what extent the repayment of an amount to the taxpayer would enrich him; or

(b) whether or to what extent any enrichment of the taxpayer would be unjust.

(5) In subsection (4) 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.

(6) The reference in subsection (4) above to provisions relating to aggregates levy is a reference to any provisions of—

(a) any enactment or subordinate legislation (whether or not still in force) which relates to that levy or to any matter connected with it; or

(b) any notice published by the Commissioners under or for the purposes of any enactment or subordinate legislation relating to aggregates levy.

(7) Schedule 8 to this Act (which contains further provision about payments and repayments by the Commissioners and about the setting off of amounts due to or from the Commissioners under this Part and the setting of other amounts against such amounts) shall have effect.

Modifications etc. (not altering text)

C2 S. 32 extended (1.4.2002) by S.I. 2002/761, **reg. 15(5)**

C3 S. 32(2) modified (1.4.2002) by S.I. 2002/761, **reg. 21**

Non-resident taxpayers

33 Appointment of tax representatives

(1) The Commissioners may by regulations make provision for securing that every non-resident taxpayer has a person resident in the United Kingdom to act as his tax representative for the purposes of aggregates levy.

(2) Regulations under this section may, in particular, contain any or all of the following—

(a) provision requiring notification to be given to the Commissioners where a person becomes a non-resident taxpayer;

(b) provision requiring the appointment of tax representatives by non-resident taxpayers;

(c) provision for the appointment of a person as a tax representative to take effect only where the person appointed is approved by the Commissioners;

(d) provision authorising the Commissioners to give a direction requiring the replacement of a tax representative;

(e) provision authorising the Commissioners to give a direction requiring a person specified in the direction to be treated as the appointed tax representative of a non-resident taxpayer so specified;

(f) provision about the circumstances in which a person ceases to be a tax representative and about the withdrawal by the Commissioners of their approval of a tax representative;

(g) provision enabling a tax representative to act on behalf of the person for whom he is the tax representative through an agent of the representative;

(h) provision for the purposes of any provision made by virtue of paragraphs (a) to (g) above regulating the procedure to be followed in any case and imposing requirements as to the information and other particulars to be provided to the Commissioners;

(i) provision as to the time at which things done under or for the purposes of the regulations are to take effect.

(3) Subject to subsection (4) below, a person who—

(a) becomes subject, in accordance with any regulations under this section, to an obligation to request the Commissioners' approval for any person's appointment as his tax representative, but

(b) fails (with or without making the appointment) to make the request as required by the regulations,

shall be liable to a penalty of £10,000.

(4) A failure such as is mentioned in subsection (3) above shall not give rise to liability to a penalty under this section if the person concerned satisfies the Commissioners or, on appeal, an appeal tribunal that there is a reasonable excuse for the failure.

34 Effect of appointment of tax representatives

(1) The tax representative of a non-resident taxpayer shall be entitled to act on the non-resident taxpayer's behalf for the purposes of any provision made by or under this Part.

(2) The tax representative of a non-resident taxpayer shall be under a duty, except to such extent as the Commissioners by regulations otherwise provide, to secure the non-resident taxpayer's compliance with, and discharge of, the obligations and liabilities to which the non-resident taxpayer is subject by virtue of any provision made by or under this Part (including obligations and liabilities arising or incurred before he became the non-resident taxpayer's tax representative).

(3) A person who is or has been the tax representative of a non-resident taxpayer shall be personally liable—

(a) in respect of any failure while he is or was the non-resident taxpayer's tax representative to secure compliance with, or the discharge of, any obligation or liability to which subsection (2) above applies, and

(b) in respect of anything done in the course of, or for purposes connected with, acting on the non-resident taxpayer's behalf,

as if the obligations and liabilities to which subsection (2) above applies were imposed jointly and severally on the tax representative and the non-resident taxpayer.

(4) A tax representative shall not be liable by virtue of this section to be registered for the purposes of aggregates levy; but the Commissioners may by regulations—

(a) require the registration of the names of tax representatives against the names of the non-resident taxpayers of whom they are the representatives;

(b) make provision for the deletion of the names of persons who cease to be tax representatives.

(5) A tax representative shall not by virtue of this section be guilty of any offence except in so far as—

(a) he has consented to, or connived in, the commission of the offence by the non-resident taxpayer;

(b) the commission of the offence by the non-resident taxpayer is attributable to any neglect on the part of the tax representative; or

(c) the offence consists in a contravention by the tax representative of an obligation which, by virtue of this section, is imposed both on the tax representative and on the non-resident taxpayer.

Other special cases

35 Groups of companies etc

(1) Schedule 9 to this Act (which provides for two or more bodies corporate to be treated as members of the same group for the purposes of this Part) shall have effect.

(2) Any aggregates levy with which a body corporate is charged in respect of aggregate subjected to commercial exploitation at a time when the body is a member of a group shall be treated for the purposes of this Part as if it were the representative member for that group (instead of that body) which is charged with the levy.

(3) All the bodies corporate who are members of a group when any aggregates levy becomes due from the representative member, together with any bodies corporate who become members of the group while any such levy remains unpaid, shall be jointly and severally liable for any aggregates levy due from the representative member.

(4) Subject to subsections (2) and (3) above, the Commissioners may by regulations make such provision as they consider appropriate about—

(a) the person by whom any obligation or liability imposed by or under this Part is to be performed or discharged, and

(b) the manner in which it is to be performed or discharged,

in a case where the person who (apart from the regulations) would be subject to the obligation or liability is one of a number of bodies corporate registered in the name of the representative member for a group.

(5) References in this section to aggregates levy being or becoming due from the representative member include references to any amounts being or becoming recoverable as if they were aggregates levy due from that member.

(6) For the purposes of this Part—

(a) a body corporate is a member of a group at any time in relation to which it falls to be treated as such a member in accordance with Schedule 9 to this Act; and

(b) the body corporate which is to be taken to be the representative member for a group at any time is the member of the group which in relation to that time is the representative member under that Schedule in the case of that group.

36 Partnerships and other unincorporated bodies

(1) The Commissioners may by regulations make provision for determining by what persons anything required to be done under this Part is to be done where, apart from those regulations, that requirement would fall on—

(a) persons carrying on business in partnership; or

(b) persons carrying on business together as an unincorporated body;

but any regulations under this subsection must be construed subject to the following provisions of this section.

(2) In determining for the purposes of this Part who at any time is the person chargeable with any aggregates levy where the persons responsible for subjecting any aggregate to commercial exploitation are persons carrying on any business—

(a) in partnership, or

(b) as an unincorporated body,

the firm or body shall be treated, for the purposes of that determination (and notwithstanding any changes from time to time in the members of the firm or body), as the same person and as separate from its members.

(3) Without prejudice to section 36 of the Partnership Act 1890 (c. 39) (rights of persons dealing with firm against apparent members of firm), where—

(a) persons have been carrying on in partnership any business in the course or furtherance of which any aggregate has been subjected to commercial exploitation, and

(b) a person ceases to be a member of the firm,

that person shall be regarded for the purposes of this Part (including subsection (7) below) as continuing to be a partner until the date on which the change in the partnership is notified to the Commissioners.

(4) Where a person ceases to be a member of a firm during an accounting period (or is treated as so ceasing by virtue of subsection (3) above) any notice, whether of assessment or otherwise, which—

(a) is served on the firm under or for the purposes of any provision made by or under this Part, and

(b) relates to, or to any matter arising in, that period or any earlier period during the whole or part of which he was a member of the firm,

shall be treated as served also on him.

(5) Without prejudice to section 16 of the Partnership Act 1890 (c. 39) (notice to acting partner to be notice to the firm), any notice, whether of assessment or otherwise, which—

(a) is addressed to a firm by the name in which it is registered, and

(b) is served in accordance with this Part,

shall be treated for the purposes of this Part as served on the firm and, accordingly, where subsection (4) above applies, as served also on the former partner.

(6) Subject to subsection (7) below, nothing in this section shall affect the extent to which, under section 9 of the Partnership Act 1890 (liability of partners for debts of the firm), a partner is liable for aggregates levy owed by the firm.

(7) Where a person is a partner in a firm during part only of an accounting period, his personal liability for aggregates levy incurred by the firm in respect of aggregate subjected to commercial exploitation in that period shall include, but shall not exceed, such proportion of the firm's liability as may be just and reasonable in the circumstances.

37 Insolvency etc

(1) The Commissioners may by regulations make provision in accordance with the following provisions of this section for the application of this Part in cases in which an insolvency procedure is applied to a person or to a deceased person's estate.

(2) The provision that may be contained in regulations under this section may include any or all of the following—

(a) provision requiring any such person as may be prescribed to give notification to the Commissioners, in the prescribed manner, of the prescribed particulars of any relevant matter;

(b) provision requiring a person to be treated, to the prescribed extent, as if, for the purposes of this Part or such of its provisions as may be prescribed, he were the same person as the subject of the procedure; and

(c) provision for securing continuity in the application of any of the provisions of this Part where, by virtue of any regulations under this section, any person is treated as if he were the same person as the subject of the procedure.

(3) In subsection (2) above "relevant matter", in relation to a case in which an insolvency procedure is applied to any person or estate, means—

(a) the application of that procedure to that person or estate;

(b) the appointment of any person for the purposes of the application of that procedure;

(c) any other matter relating to—

(i) the application of that procedure to the subject of the procedure or to his estate;

(ii) the holding of an appointment made for the purposes of that procedure; or

(iii) the exercise or discharge of any powers or duties conferred or imposed on any person by virtue of such an appointment.

(4) Regulations made by virtue of subsection (2)(b) above may include provision for a person to cease, on the occurrence of such an event as may be prescribed, to be treated as if he were the same person as the subject of the procedure.

(5) Regulations under this section prescribing the manner in which any notification is to be given to the Commissioners may require it to be given in such manner and to contain such particulars as may be specified in a general notice published by the Commissioners in accordance with the regulations.

(6) Regulations under this section may provide that the extent to which, and the purposes for which, a person is to be treated under the regulations as if he were the same person

as the subject of the procedure may be determined by reference to a notice given in accordance with the regulations to the person so treated.

(7) For the purposes of this section, an insolvency procedure is applied to a person if—

(a) a bankruptcy order, winding-up order or administration order is made in relation to that person or a partnership of which he is a member;

(b) an award of sequestration is made in relation to that person's estate or the estate of a partnership of which he is a member;

(c) that person is put into administrative receivership;

(d) that person passes a resolution for voluntary winding up;

(e) any voluntary arrangement approved in accordance with—

(i) Part 1 or 8 of the Insolvency Act 1986 (c. 45), or

(ii) Part II or Chapter II of Part VIII of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)) ,

comes into force in relation to that person or a partnership of which that person is a member;

(f) a deed of arrangement registered in accordance with—

(i) the Deeds of Arrangement Act 1914 (c. 47), or

(ii) Chapter I of Part VIII of that Order,

takes effect in relation to that person;

(g) a person is appointed as the receiver or manager of some or all of that person's property, or of income arising from some or all of his property;

(h) a person is appointed as the interim receiver of some or all of that person's property under section 286 of the Insolvency Act 1986 or Article 259 of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/ 2405 (N.I. 19)));

(i) a person is appointed as the provisional liquidator in relation to that person under section 135 of that Act or Article 115 of that Order;

(j) an interim order is made under Part 8 of that Act, or Chapter II of Part VIII of that Order, in relation to that person; or

(k) that person's estate becomes vested in any other person as that person's trustee under a trust deed (within the meaning of the Bankruptcy (Scotland) Act 1985 (c. 66)).

(8) For the purposes of this section, an insolvency procedure is applied to a deceased person's estate if—

(a) after that person's death—

(i) a bankruptcy order, or

(ii) an order with corresponding effect but a different name,

is made in relation to that person's estate under any of the provisions of the Insolvency Act 1986 (c. 45) or the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)) as they are applied to the administration of the insolvent estates of deceased persons; or

(b) an award of sequestration is made on that person's estate after his death.

(9) In subsection (7) above—

(a) the reference to any administration order is a reference to an administration order under section 8 of the Insolvency Act 1986 or Article 21 of the Insolvency (Northern Ireland) Order 1989;

(b) the reference to a person being put into administrative receivership is a reference to the appointment in relation to him of an administrative receiver,

within the meaning of section 251 of that Act of 1986 or Article 5(1) of that Order of 1989; and

(c) references to a member of a partnership include references to any person who is liable as a partner under section 14 of the Partnership Act 1890 (c. 39) (persons liable by "holding out").

(10) In this section "the subject of the procedure", in relation to the application of any insolvency procedure, means the person to whom, or to whose estate, the procedure is applied.

38 Death and incapacity

(1) The Commissioners may, in accordance with subsection (2) below, by regulations make provision for the purposes of aggregates levy in relation to cases where a person carries on a business of an individual who has died or become incapacitated.

(2) The provisions that may be contained in regulations under this section are—

(a) provision requiring the person who is carrying on the business to inform the Commissioners of the fact that he is carrying on the business and of the event that has led to his carrying it on;

(b) provision allowing that person to be treated for a limited time as if he and the person who has died or become incapacitated were the same person; and

(c) such other provision as the Commissioners think fit for securing continuity in the application of this Part where a person is so treated.

39 Transfer of a business as a going concern

(1) The Commissioners may by regulations make provision for securing continuity in the application of this Part in cases where any business carried on by a person is transferred to another person as a going concern.

(2) Regulations under this section may, in particular, include any or all of the following—

(a) provision requiring the transferor to inform the Commissioners of the transfer;

(b) provision for liabilities and duties under this Part of the transferor to become, to such extent as may be provided by the regulations, liabilities and duties of the transferee;

(c) provision for any right of either of them to a tax credit or repayment of aggregates levy to be satisfied by allowing the credit or making the repayment to the other;

(d) provision as to the preservation of any records or accounts relating to the business which, by virtue of any regulations under paragraph 2 of Schedule 7 to this Act, are required to be preserved for any period after the transfer.

(3) Regulations under this section may provide that no such provision as is mentioned in paragraph (b) or (c) of subsection (2) above shall have effect in relation to any transferor and transferee unless an application for the purpose has been made by them under the regulations.

Review and appeal

40 Review of Commissioners' decisions

(1) This section applies to any decision of the Commissioners with respect to any of the following matters—

(a) whether or not a person is charged in any case with an amount of aggregates levy;

(b) the amount of aggregates levy charged in any case and the time when the charge is to be taken as having arisen;

(c) the registration of any person or premises for the purposes of aggregates levy or the cancellation of any registration;

(d) the person liable to pay the aggregates levy charged in any case, the amount of a person's liability to aggregates levy and the time by which he is required to pay an amount of that levy;

(e) the imposition of a requirement on any person to give security, or further security, under section 26 above and the amount and manner of providing any security required under that section;

(f) whether or not liability to a penalty or to interest on any amount arises in any person's case under any provision made by or under this Part, and the amount of any such liability;

(g) any matter the decision as to which is reviewable under this section in accordance with paragraph 8(6) or (7) of Schedule 6 to this Act;

(h) the extent of any person's entitlement to any tax credit or to a repayment in respect of a tax credit and the extent of any liability of the Commissioners under this Part to pay interest on any amount;

(i) whether or not any person is required to have a tax representative by virtue of any regulations under section 33 above;

(j) the giving, withdrawal or variation, for the purposes of any such regulations, of any approval or direction with respect to the person who is to act as another's tax representative;

(k) whether a body corporate is to be treated, or is to cease to be treated, as a member of a group, the times at which a body corporate is to be so treated and the body corporate which is, in relation to any time, to be the representative member for a group;

(l) any matter not falling within the preceding paragraphs the decision with respect to which is contained in any assessment under this Part.

(2) Any person who is or will be affected by any decision to which this section applies may by notice in writing to the Commissioners require them to review the decision.

(3) The Commissioners shall not be required under this section to review any decision unless the notice requiring the review is given before the end of the period of forty-five days beginning with the day on which written notification of the decision, or of an assessment containing or giving effect to the decision, was first given to the person requiring the review.

(4) For the purposes of subsection (3) above it shall be the duty of the Commissioners to give written notification of any decision to which this section applies to any person who—

(a) requests such a notification;

(b) has not previously been given written notification of that decision; and

(c) if given such a notification, will be entitled to require a review of the decision under this section.

(5) A person shall be entitled to give a notice under this section requiring a decision to be reviewed for a second or subsequent time only if—

(a) the grounds on which he requires the further review are that the Commissioners did not, on any previous review, have the opportunity to consider certain facts or other matters; and

(b) he does not, on the further review, require the Commissioners to consider any facts or matters which were considered on a previous review except in so far as they are relevant to any issue to which the facts or matters not previously considered relate.

(6) Where the Commissioners are required by a notice under this section to review any decision, it shall be their duty to do so.

(7) On a review under this section the Commissioners may (subject to subsection (9) below) withdraw, vary or confirm the decision reviewed.

(8) Where—

(a) it is the duty under this section of the Commissioners to review any decision, and

(b) they do not, within the period of forty-five days beginning with the day on which the review was required, give notice to the person requiring it of their determination on the review,

they shall be deemed to have confirmed the decision.

(9) Where the Commissioners decide, on a review under this section, that a liability to a penalty or to an amount of interest arises, they shall not be entitled to modify the amount payable in respect of that liability except—

(a) in exercise of a power conferred by section 46(1) below (penalties) or paragraph 10(3) of Schedule 5 to this Act, paragraph 6(6) of Schedule 8 to this Act or paragraph 5(5) of Schedule 10 to this Act (penalty interest); or

(b) for the purpose of making the amount payable conform to the amount of the liability imposed by this Part.

(10) This section has effect subject to paragraph 8(5) of Schedule 6 to this Act.

41 Appeals against reviewed decisions

(1) Subject to the following provisions of this section, an appeal shall lie to an appeal tribunal with respect to any of the following decisions—

(a) any decision by the Commissioners on a review under section 40 above (including a deemed confirmation under subsection (8) of that section);

(b) any decision by the Commissioners on any such review of a decision referred to in section 40(1) above as the Commissioners have agreed to undertake in consequence of a request made after the end of the period mentioned in section 40(3) above.

(2) Where an appeal under this section relates to a decision (whether or not contained in an assessment) that an amount of aggregates levy is due from any person, that appeal shall not be entertained unless—

(a) the amount which the Commissioners have determined to be due has been paid or deposited with them; or

(b) on being satisfied that the appellant would otherwise suffer hardship—

(i) the Commissioners agree, or

(ii) the tribunal decide,

that it should be entertained notwithstanding that that amount has not been so paid or deposited.

(3) On an appeal under this section relating to a penalty under paragraph 7 of Schedule 6 to this Act (evasion), the burden of proof as to the matters specified in paragraphs (a) to (c) of sub-paragraph (1) of that paragraph shall lie upon the Commissioners.

42 Determinations on appeal

(1) Where, on an appeal under section 41 above—

(a) it is found that an assessment of the appellant made, confirmed or treated as confirmed by the Commissioners on a review under section 40 above ("the original assessment") is an assessment for an amount that is less than it ought to have been, and

(b) the tribunal give a direction specifying the correct amount,

the assessment shall have effect as an assessment of the amount specified in the direction and (without prejudice to any power under this Part to reduce the amount of interest payable on the amount of an assessment) as if it were an assessment notified to the appellant in that amount at the same time as the original assessment.

(2) On an appeal under section 41 above, the powers of the appeal tribunal in relation to any decision of the Commissioners shall include a power, where the tribunal allow an appeal on the ground that the Commissioners could not reasonably have arrived at the decision, either—

(a) to direct that the decision, so far as it remains in force, is to cease to have effect from such time as the tribunal may direct; or

(b) to require the Commissioners to conduct, in accordance with the directions of the tribunal, a further review of the original decision.

(3) Where, on an appeal under section 41 above, the appeal tribunal find that a liability to a penalty or to an amount of interest arises, the tribunal shall not give any direction for the modification of the amount payable in respect of that liability except—

(a) in exercise of a power conferred on the tribunal by section 46(1) below (penalties) or paragraph 10(3) or (6) of Schedule 5 to this Act, paragraph 6(6) or (9) of Schedule 8 to this Act or paragraph 5(5) or (8) of Schedule 10 to this Act (penalty interest); or

(b) for the purpose of making the amount payable conform to the amount of the liability imposed by this Part.

(4) Where, on an appeal under section 41 above, it is found that the whole or part of any amount paid or deposited in pursuance of section 41(2) above is not due, so much of that amount as is found not to be due shall be repaid with interest at such rate as the tribunal may determine.

(5) Where, on an appeal under section 41 above, it is found that the whole or part of any amount due to the appellant by way of any repayment in respect of a tax credit has not

been paid, so much of that amount as is found not to have been paid shall be paid with interest at such rate as the tribunal may determine.

(6) Where—

(a) an appeal under section 41 above has been entertained notwithstanding that an amount determined by the Commissioners to be payable as aggregates levy has not been paid or deposited, and

(b) it is found on the appeal that that amount is due,

the tribunal may, if they think fit, direct that that amount shall be paid with interest at such rate as may be specified in the direction.

(7) Sections 85 and 87 of the Value Added Tax Act 1994 (c. 23) (settling of appeals by agreement and enforcement of certain decisions of tribunal) shall have effect as if—

(a) the references to section 83 of that Act included references to section 41 above; and

(b) the references to value added tax included references to aggregates levy.

43 Adjustments of contracts

(1) Where—

(a) an agreement to supply a quantity of aggregate to any person has been entered into at any time before the commencement date, and

(b) on or after that date aggregates levy is charged on that quantity of aggregate,

so much of the agreement as requires any payment to be made to the supplier at the time when or after the charge to levy on that quantity of aggregate arises shall be adjusted so as to secure that the cost of discharging the liability to pay the levy, to the extent that it would otherwise have been borne by the supplier, is borne by the person making the payment.

(2) Where—

(a) an agreement with regard to any sum payable in respect of the use of land (whether the sum is called rent or royalty or otherwise) provides that the amount of the sum is to be calculated by reference to—

(i) the turnover of a business, or

(ii) the price received for minerals extracted from the land,

(b) the agreement was entered into before commencement date, and

(c) the circumstances are such that (had the agreement been made on or after that date) it might reasonably be expected that it would have provided that aggregates levy charged in particular circumstances be ignored in calculating the turnover or price,

the agreement shall be taken to provide that aggregates levy charged in those circumstances shall be ignored in calculating the turnover or, as the case may be, price.

General provisions

44 Destination of receipts

All money and securities for money collected or received for or on account of aggregates levy shall—

(a) if collected or received in Great Britain, be placed to the general account of the Commissioners kept at the Bank of England under section 17 of the Customs and Excise Management Act 1979 (c. 2); and

(b) if collected or received in Northern Ireland, be paid into the Consolidated Fund of the United Kingdom in such manner as the Treasury may direct.

45 Regulations and orders

(1) The powers of the Commissioners under this Part to make regulations shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.

(2) Where regulations made under this Part impose a relevant requirement on any person, they may provide that if the person fails to comply with the requirement he shall be liable, subject to subsection (3) below, to a penalty of £250.

(3) Where by reason of any conduct—

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

(b) a person is assessed to a penalty under paragraph 7 of Schedule 6 to this Act,

that person shall not by reason of that conduct be liable also to a penalty under any regulations under this Part.

(4) In subsection (2) above "relevant requirement" means any requirement other than one the penalty for a contravention of which is specified in section 25(3) or 33(3) above or in paragraph 2 of Schedule 7 to this Act.

(5) Subject to subsection (6) below, a power under this Part to make any provision by order or regulations—

(a) may be exercised so as to apply the provision only in such cases as may be described in the order or regulations;

(b) may be exercised so as to make different provision for different cases or descriptions of case; and

(c) shall include power by the order or regulations to make such supplementary, incidental, consequential or transitional provision as the Treasury or, as the case may be, the Commissioners may think fit.

(6) Subsection (5) above does not apply to an order under section 16(6) or 24(10) above.

46 Civil penalties

(1) Where a person is liable to a civil penalty imposed by or under this Part—

(a) the Commissioners or, on appeal, an appeal tribunal may reduce the penalty to such amount (including nil) as they think proper; but

(b) on an appeal relating to any penalty reduced by the Commissioners, an appeal tribunal may cancel the whole or any part of the Commissioners' reduction.

(2) In determining whether a civil penalty should be, or should have been, reduced under subsection (1) above, no account shall be taken of any of the following matters, that is to say—

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

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

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

(3) For the purposes of any provision made by or under this Part under which liability to a civil penalty does not arise in respect of conduct for which there is shown to be a reasonable excuse—

(a) an insufficiency of funds available for paying any amount is not a reasonable excuse; and

(b) where reliance has been placed on any other person to perform any task, neither the fact of that reliance nor any conduct of the person relied upon is a reasonable excuse.

(4) Schedule 10 to this Act (which makes provision about the assessment of civil penalties imposed and about interest on such penalties) shall have effect.

(5) If it appears to the Treasury that there has been a change in the value of money since the time when the amount of a civil penalty provided for by this Part was fixed, they may by order made by statutory instrument substitute, for the amount for the time being specified as the amount of that penalty, such other sum as appears to them to be justified by the change.

(6) In subsection (5) above the reference to the time when the amount of a civil penalty was fixed is a reference—

(a) in the case of a penalty which has not previously been modified under that subsection, to the time of the passing of this Act; and

(b) in any other case, to the time of the making of the order under that subsection that made the most recent modification of the amount of that penalty.

(7) An order under subsection (5) above—

(a) shall not be made unless a draft of the order has been laid before Parliament and approved by resolution of the House of Commons; and

(b) shall not apply to the penalty for any conduct before the coming into force of the order.

(8) In this section "civil penalty" means any penalty liability to which arises otherwise than in consequence of a person's conviction for a criminal offence.

47 Service of notices etc

(1) Any notice, notification or requirement that is to be or may be served on, given to or imposed on any person for the purposes of any provision made by or under this Part may be served, given or imposed by sending it to that person or his tax representative by post in a letter addressed to that person or representative at the latest or usual residence or place of business of that person or representative.

(2) Any direction required or authorised by or under this Part to be given by the Commissioners may be given by sending it by post in a letter addressed to each person affected by it at his latest or usual residence or place of business.

(3) Any direction, notice or notification required or authorised by or under this Part to be given by the Commissioners may be withdrawn or varied by them by a direction, notice or notification given in the same manner as the one withdrawn or varied.

48 Interpretation of Part

(1) In this Part—

"accounting period" means a period which, in pursuance of any regulations under section 25(1) above, is an accounting period for the purposes of aggregates levy;

"aggregate" shall be construed in accordance with sections 17(1) and 18 above;

"agreement" includes any arrangement or understanding (whether or not legally enforceable), and cognate expressions shall be construed accordingly;

"agricultural" means agricultural within the meaning of the Agriculture Act 1967 (c. 22) or the Agriculture Act (Northern Ireland) 1949 (c. 2 (N.I.));

"appeal tribunal" means a VAT and duties tribunal;

"the commencement date" has the meaning given by section 16(6) above;

"commercial exploitation" shall be construed in accordance with section 19 above;

"the Commissioners" means the Commissioners of Customs and Excise;

"conduct" includes acts and omissions;

"construction purposes" shall be construed in accordance with subsection (2) below;

"exempt process" shall be construed in accordance with section 18(2) above;

"forestry" includes the cultivation, maintenance and care of trees or woodland of any description;

"gravel" includes gravel comprising or containing pebbles or stones or both;

"limestone" includes chalk and dolomite;

"member", in relation to a group, shall be construed in accordance with section 35(6) above;

"mixed" includes blended, and cognate expressions shall be construed accordingly;

"non-resident taxpayer" means a person who—

(a) is or is required to be registered for the purposes of aggregates levy, or would be so required but for an exemption by virtue of regulations under section 24(4) above; and

(b) is not resident in the United Kingdom;

"operate" and "operator", in relation to any site, shall be construed in accordance with section 21 above;

"originating site" shall be construed in accordance with section 20 above;

"prescribed" means prescribed by regulations made by the Commissioners under this Part;

"registered" means registered in the register maintained under section 24 above;

"representative member", in relation to a group, shall be construed in accordance with section 35(6) above;

"rock" does not include any rock contained in a quantity of aggregate consisting wholly or mainly of gravel or sand;

"structure" includes roads and paths, the way on which any railway track is or is to be laid and embankments;

"subordinate legislation" has the same meaning as in the Interpretation Act 1978 (c. 30);

"tax credit" means a tax credit for which provision is made by tax credit regulations;

"tax credit regulations" means regulations under section 30 above;

"tax representative", in relation to any person, means the person who, in accordance with any regulations under section 33 above, is for the time being that person's tax representative for the purposes of aggregates levy;

"taxable aggregate" shall be construed in accordance with section 17(2) to (4) above;

"United Kingdom waters" means—

(a) the territorial sea adjacent to the United Kingdom; or

(b) any area designated by Order in Council under section 1(7) of the Continental Shelf Act 1964 (c. 29).

(2) References in this Part to the use of anything for construction purposes are references to either of the following, except in so far as it consists in the application to it of an exempt process, that is to say—

(a) using it as material or support in the construction or improvement of any structure;

(b) mixing it with anything as part of the process of producing mortar, concrete, tarmacadam, coated roadstone or any similar construction material.

(3) References in this Part to winning any aggregate are references to winning it—

(a) by quarrying, dredging, mining or collecting it from any land or area of the seabed; or

(b) by separating it in any other manner from any land or area of the seabed in which it is comprised.

(4) References in this Part, in relation to any accounting period, to aggregates levy due from any person for that period are references (subject to any regulations made by virtue of section 25(2)(a) above) to the aggregates levy for which that person is required, in accordance with regulations under section 25 above, to account by reference to that period.

(5) References in this Part to a repayment of aggregates levy or of an amount of aggregates levy are references to any repayment of an amount to any person by virtue of—

(a) any tax credit regulations;

(b) section 31 above;

(c) paragraph 11(3) of Schedule 5 to this Act; or

(d) paragraph 6(3) of Schedule 10 to this Act.

(6) For the purposes of this Part a person is resident in the United Kingdom at any time if, at that time—

(a) that person has an established place of business in the United Kingdom;

(b) that person has a usual place of residence in the United Kingdom; or

(c) that person is a firm or unincorporated body which (without being resident in the United Kingdom by virtue of paragraph (a) above) has amongst its partners or members at least one individual with a usual place of residence in the United Kingdom.

Supplemental

49 Minor and consequential amendments

(1) In section 1(1) of the Provisional Collection of Taxes Act 1968 (c. 2) (taxes in relation to which resolutions may have temporary statutory effect), after "landfill tax," there shall be inserted " aggregates levy, ".

(2) In section 197(2) of the Finance Act 1996 (c. 8) (enactments for which interest rates are set under section 197), after paragraph (g) there shall be inserted—

"(h) the following provisions of the Finance Act 2001 (interest payable to or by the Commissioners in connection with aggregates levy), that is to say—

(i) sections 25(2)(f) and 30(3)(f);

(ii) paragraph 8(3)(a) of Schedule 5; and

(iii) paragraphs 2 and 6(1)(b) of Schedule 8.".

(3) In section 827 of the Taxes Act 1988 (no deduction for penalties etc.), the following subsection shall be inserted after subsection (1D)—

"(1E) Where a person is liable to make a payment by way of—

(a) any penalty under any provision of Part 2 of the Finance Act 2001 (aggregates levy),

(b) interest under any of paragraphs 5 to 9 of Schedule 5 to that Act (interest on aggregates levy due and on interest),

(c) interest under paragraph 6 of Schedule 8 to that Act (interest on recoverable overpayments etc.), or

(d) interest under paragraph 5 of Schedule 10 to that Act (interest on penalties),

the payment shall not be allowed as a deduction in computing any income, profits or losses for any tax purposes.".

PART 3

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER 1

CHARGE AND RATES

Income tax

50 Charge and rates for 2001-02

Income tax shall be charged for the year 2001-02, and for that year—

(a) the starting rate shall be 10%,

(b) the basic rate shall be 22%, and

(c) the higher rate shall be 40%.

51 Starting rate limit for 2001-02

(1) For the year 2001-02 the amount specified in section 1(2)(aa) of the Taxes Act 1988 (the starting rate limit) shall be £1,880.

(2) Accordingly, section 1(4) of that Act (indexation), so far as it relates to the amount so specified, does not apply for that year.

52 Children's tax credit: amount for 2001-02 and subsequent years

(1) In section 257AA(2) of the Taxes Act 1988 (which specifies the amount by reference to which the children's tax credit is calculated) for "£4,420" substitute " £5,200 ".

(2) This section has effect for the year 2001-02 and subsequent years of assessment.

53 Children's tax credit: baby rate

(1) After section 257AA(2) of the Taxes Act 1988 (which specifies the amount by reference to which the children's tax credit is calculated) insert—

"(2A) For a year of assessment during the whole or part of which a qualifying baby (or more than one) is resident with the claimant, subsection (2) above has effect as if the amount specified there were increased by £5,200.".

(2) After subsection (3) of that section (reduction of amount where claimant has income within the higher rate band) insert—

"(3A) Where subsection (2A) above applies, the reference in subsection (3) above to the amount specified in subsection (2) above is to the higher amount applicable by virtue of subsection (2A) above.".

(3) After subsection (4) of that section (meaning of "qualifying child") insert—

"(4A) In this section "qualifying baby", in relation to a year of assessment, means a qualifying child born in that year.".

(4) In section 257C(1) and (3) of the Taxes Act 1988 (indexation) for "257AA(2)" substitute " 257AA(2) and (2A) ".

(5) Schedule 13B to the Taxes Act 1988 (children's tax credit: provisions applicable where child lives with more than one adult in a year of assessment) is amended in accordance with Schedule 11 to this Act.

(6) Subsections (1) to (3) and (5) above have effect for the year 2002-03 and subsequent years of assessment.

(7) Subsection (4) above has effect for the purposes of the application of section 257AA of the Taxes Act 1988 for the year 2003-04 and subsequent years of assessment.

Corporation tax

54 Charge and main rate for financial year 2002

Corporation tax shall be charged for the financial year 2002 at the rate of 30%.

55 Small companies' rate and fraction for financial year 2001

For the financial year 2001—

(a) the small companies' rate shall be 20%, and

(b) the fraction mentioned in section 13(2) of the Taxes Act 1988 (marginal relief for small companies) shall be one fortieth.

56 Corporation tax starting rate and fraction for financial year 2001

For the financial year 2001—

(a) the corporation tax starting rate shall be 10%, and

(b) the fraction mentioned in section 13AA(3) of the Taxes Act 1988 (marginal relief for small companies) shall be one fortieth.

CHAPTER 2

OTHER PROVISIONS

Employment

57 Mileage allowances: exemptions and relief

(1) In Chapter 4 of Part 5 of the Taxes Act 1988 (provisions relating to the Schedule E charge: other exemptions and reliefs), after section 197AC insert—

" Mileage allowances

197AD Mileage allowance payments

(1) There is no charge to tax under Schedule E in respect of approved mileage allowance payments for a qualifying vehicle.

(2) Mileage allowance payments are amounts (other than passenger payments within the meaning of section 197AE(2)) paid to an employee in respect of expenses in connection with the use by him for business travel of a qualifying vehicle.

(3) Mileage allowance payments are approved only if, or to the extent that, for a tax year, the total amount of all the mileage allowance payments made to the employee for the kind of vehicle in question does not exceed the approved amount for mileage allowance payments applicable to that kind of vehicle.

(4) Subsection (1) above does not apply if—

(a) the employee is a passenger in the vehicle, or

(b) the vehicle is a company vehicle.

197AE Passenger payments

(1) There is no charge to tax under Schedule E in respect of approved passenger payments made to an employee for a car or van (whether or not it is a company vehicle) if—

(a) mileage allowance payments (within the meaning of section 197AD(2)) are made to the employee for the car or van, and

(b) if the car or van is made available to the employee by reason of his employment, he is chargeable to tax in respect of it under section 157 or 159AA (cars and vans made available for private use).

(2) Passenger payments are amounts paid to an employee because, while using a car or van for business travel, he carries one or more qualifying passengers in it.

"Qualifying passenger" means a passenger who is also an employee for whom the travel is business travel.

(3) Passenger payments are approved only if, or to the extent that, for a tax year, the total amount of all the passenger payments made to the employee does not exceed the approved amount for passenger payments.

(4) Section 168(6) (when cars and vans are made available by reason of employment) applies for the purposes of subsection (1)(b) above.

197AF Mileage allowance relief

(1) An employee is entitled to mileage allowance relief for a tax year if the employee uses a qualifying vehicle for business travel and—

(a) no mileage allowance payments are made to him for the kind of vehicle in question for the tax year, or

(b) the total amount of all the mileage allowance payments made to him for the kind of vehicle in question for the tax year is less than the approved amount for mileage allowance payments applicable to that kind of vehicle.

(2) Subsection (1) above does not apply if—

(a) the employee is a passenger in the vehicle, or

(b) the vehicle is a company vehicle.

(3) The amount of mileage allowance relief to which an employee is entitled for a tax year is—

(a) if subsection (1)(a) above applies, the approved amount for mileage allowance payments applicable to the kind of vehicle in question;

(b) if subsection (1)(b) above applies, the difference between the total amount of all the mileage allowance payments made to the employee for the kind of vehicle in question and the approved amount for mileage allowance payments applicable to that kind of vehicle.

(4) In this section "mileage allowance payments" has the meaning given by section 197AD(2).

197AG Giving effect to mileage allowance relief

(1) Mileage allowance relief to which an employee is entitled for a tax year is given effect as follows.

(2) Where any emoluments of the employment fall within Case I or IIof Schedule E, the relief is allowed as a deduction from those emoluments in calculating the amount chargeable to tax for that tax year.

(3) In the case of emoluments chargeable under Case III of Schedule E for a tax year there may be deducted from those emoluments the amount of any mileage allowance relief—

(a) for that tax year, and

(b) for any earlier tax year in which the employee was resident in the United Kingdom,

which might have been deducted from the emoluments of the employment for the tax year for which the employee is entitled to the relief if those emoluments had been chargeable under Case I of Schedule E.

(4) Subsection (3) above applies only to the extent that the mileage allowance relief cannot be deducted under subsection (2) above.

(5) A deduction shall not be made twice, whether under subsection (2) or (3) above, in respect of the same mileage allowance relief.

197AH Interpretation of sections 197AD to 197AG

Schedule 12AA to this Act defines terms used in sections 197AD to 197AG.".

(2) In the Taxes Act 1988 insert as Schedule 12AA the Schedule set out in Part 1 of Schedule 12 to this Act.

(3) The consequential amendments in Part 2 of Schedule 12 to this Act have effect.

(4) This section has effect for the year 2002-03 and subsequent years of assessment.

58 Mileage allowances: nil liability notices

(1) This section applies if—

(a) mileage allowance payments are made to an employee or office-holder in respect of the use of a vehicle that is not a company vehicle, or

(b) mileage allowance relief is available in respect of the use by an employee or office-holder of a vehicle.

(2) A nil liability notice in force immediately before 6th April 2002 shall cease to have effect in relation to—

(a) payments made, or

(b) benefits, facilities, non-cash vouchers, credit-tokens or cash vouchers provided,

in respect of expenses incurred in connection with the use of the vehicle by the employee or office-holder for business travel.

(3) In subsection (2) "nil liability notice" means a notice under—

(a) section 144(1) of the Taxes Act 1988 (notice of nil liability in respect of non-cash vouchers, credit-tokens or cash vouchers), or

(b) section 166(1) of that Act (notice of nil liability in respect of payments, benefits or facilities).

(4) In this section—

"business travel" has the meaning given by paragraph 2 of Schedule 12AA to the Taxes Act 1988;

"company vehicle" has the meaning given by paragraph 6 of Schedule 12AA to that Act; and

"mileage allowance payments" has the meaning given by section 197AD(2) of that Act.

59 Employees' vehicles: withdrawal of capital allowances

(1) In Chapter 3 of Part 2 of the Capital Allowances Act 2001 (c. 2) (plant and machinery: qualifying expenditure), for section 36 (restriction on qualifying expenditure in case of employment or office) substitute—

"**36 Restriction on qualifying expenditure in case of employment or office**

(1) Where the qualifying activity consists of an employment or office—

(a) expenditure on the provision of a mechanically propelled road vehicle, or a cycle, is not qualifying expenditure, and

(b) other expenditure is qualifying expenditure only if the plant or machinery is necessarily provided for use in the performance of the duties of the employment or office.

(2) In this section "cycle" has the meaning given by section 192(1) of the Road Traffic Act 1988.".

(2) Section 80 of that Act (vehicles provided for purposes of employment or office) is repealed.

(3) The above amendments apply to expenditure incurred on or after 6th April 2002.

(4) Where immediately before 6th April 2002—

(a) expenditure incurred by an employee on the provision of a mechanically propelled road vehicle, or a cycle, was qualifying expenditure for the purposes of Part 2 of the Capital Allowances Act 2001 (c. 2) , and

(b) the employee is treated for the purposes of that Part as owning an asset as a result of that expenditure having been incurred,

the employee shall be treated for the purposes of that Part of that Act as if he had ceased to own the asset at that time.

(5) In subsection (4)—

"employee" includes an office-holder; and

"cycle" has the meaning given by section 192(1) of the Road Traffic Act 1988 (c. 52).

60 Exemption for works bus services: extension to minibuses

(1) Section 197AA of the Taxes Act 1988 (works bus services: exemption from charge on benefits) is amended as follows.

(2) In subsection (1) (which confers the exemption), after "section 154 (taxable benefits: general charging provision)" insert " , or under section 157 (charge on provision of car for private use), ".

(3) In subsection (2) (meaning of works bus service), after "by means of a bus" insert " , or a minibus, ".

(4) In subsection (3) after the definition of "bus" insert—

> ""minibus" means a vehicle constructed or adapted for the carriage of passengers which has a seating capacity of 9 or more, but less than 12;".

(5) In subsection (6) after "154" insert " or 157 ".

(6) After subsection (8) (determination of seating capacity) insert—

> "(9) In determining whether a vehicle is a minibus for the purposes of this section, no account shall be taken of seats in relation to which relevant construction and use requirements are not met.
>
> In this subsection "construction and use requirements" has the same meaning as in Part 2 of the Road Traffic Act 1988 or, in Northern Ireland, Part III of the Road Traffic (Northern Ireland) Order 1995.".

(7) This section has effect for the year 2002-03 and subsequent years of assessment.

61 Employee share ownership plans

The provisions relating to employee share ownership plans are amended in accordance with Schedule 13 to this Act.

Enterprise incentives

62 Enterprise management incentives

Schedule 14 to this Act (which amends Schedule 14 to the Finance Act 2000 (c. 17) (enterprise management incentives)) has effect.

63 Enterprise investment scheme

Schedule 15 to this Act (which makes amendments relating to the enterprise investment scheme) has effect.

64 Venture capital

(1) Schedule 16 to this Act has effect.

(2) In that Schedule—

Part 1 makes amendments relating to venture capital trusts; and

Part 2 makes amendments relating to the corporate venturing scheme.

Capital allowances

65 Energy-saving plant and machinery

Schedule 17 to this Act (first-year allowances in respect of expenditure on energy-saving plant and machinery) has effect—

(a) for income tax purposes, as respects allowances and charges falling to be made for chargeable periods ending on or after 6th April 2001, and

(b) for corporation tax purposes, as respects allowances and charges falling to be made for chargeable periods ending on or after 1st April 2001.

66 Fixtures provided in connection with energy management services

(1) Schedule 18 to this Act (fixtures provided in connection with provision of energy management services) has effect in relation to expenditure incurred on or after 1st April 2001.

(2) The Schedule has effect—

(a) for income tax purposes, as respects allowances and charges falling to be made for chargeable periods ending on or after 6th April 2001, and

(b) for corporation tax purposes, as respects allowances and charges falling to be made for chargeable periods ending on or after 1st April 2001.

67 Conversion of parts of business premises into flats

Schedule 19 to this Act (capital allowances in respect of expenditure on the conversion of parts of business premises into flats) has effect in relation to expenditure incurred on or after the day on which this Act is passed.

68 Decommissioning of offshore oil infrastructure

Schedule 20 to this Act (capital allowances in respect of expenditure incurred on decommissioning offshore infrastructure) has effect.

69 Minor amendments

(1) Schedule 21 (which makes minor amendments to the Capital Allowances Act 2001 (c. 2)) has effect.

(2) The amendments made by the Schedule have effect—

(a) for income tax purposes, as respects allowances and charges falling to be made for chargeable periods ending on or after 6th April 2001, and

(b) for corporation tax purposes, as respects allowances and charges falling to be made for chargeable periods ending on or after 1st April 2001.

Other relieving provisions

70 Relief for expenditure on remediation of contaminated land

(1) Schedule 22 to this Act (tax relief for expenditure on land remediation) has effect for accounting periods ending on or after 1st April 2001.

(2) In that Schedule—

Part 1 provides for a deduction for certain capital expenditure in computing the profits of a Schedule A business or the profits of a trade for the purposes of Case I of Schedule D,

Part 2 provides for entitlement to relief,

Part 3 provides for the manner of giving effect to the relief,

Part 4 makes special provision for companies carrying on life assurance business, and

Part 5 contains supplementary provisions.

(3) Schedule 23 to this Act (which contains consequential amendments) has effect accordingly.

71 Creative artists: relief for fluctuating profits

(1) In Chapter 5 of Part 4 of the Taxes Act 1988 (computational provisions relating to the Schedule D charge), before section 96 and after the cross-heading "*Special provisions*" insert—

"95A **Creative artists: relief for fluctuating profits**

Schedule 4A (which enables individuals to make an averaging claim in respect of profits derived wholly or mainly from creative works) shall have effect.

The provisions of that Schedule apply for the year 2000-01 and subsequent years of assessment (so that the first years which may be the subject of an averaging claim are 2000-01 and 2001-02).".

(2) After Schedule 4 to that Act insert the Schedule 4A set out in Part 1 of Schedule 24 to this Act.

(3) The following provisions of the Taxes Act 1988 are repealed—

section 534 (relief for copyright payments etc.);

section 535 (relief where copyright sold after ten years or more);

section 537A (relief for payments in respect of designs);

section 538 (relief for painters, sculptors and other artists).

The repeals have effect in relation to payments actually receivable on or after 6th April 2001.

(4) Part 2 of Schedule 24 to this Act contains amendments consequential on the preceding provisions of this section.

72 Expenditure on film production etc

In section 48(2)(a) of the Finance (No.2) Act 1997 (c. 58) (favourable tax treatment for certain expenditure on film production, etc. incurred before 2nd July 2002) for "2nd July 2002" substitute " 2nd July 2005 ".

73 Deductions for business gifts: yearly limit

(1) Section 577 of the Taxes Act 1988 (prohibition on deduction of expenses in providing business entertainment or gifts) is amended as follows.

(2) In subsection (8)(b) (under which gifts not amounting to more than £10 in any year are disregarded)—

(a) for "year" substitute " relevant tax period ", and

(b) for "£10" substitute "£50".

(3) After that subsection insert—

"(8A) In subsection (8)(b) "relevant tax period" means—

(a) for the purposes of corporation tax, an accounting period;

(b) for the purposes of income tax—

(i) for a year of assessment in relation to which sections 60 to 63 apply and give a basis period, that basis period;

(ii) in any other case, a year of assessment.".

(4) This section applies in relation to the year 2001-02 and subsequent years of assessment or, in the case of companies, in relation to accounting periods beginning on or after 1st April 2001.

Pension funds

74 Payments to employers out of pension funds

(1) Section 601 of the Taxes Act 1988 (charge on payment to employer out of funds held for purposes of exempt approved scheme) is amended as follows.

(2) In subsection (2) (amount recoverable by Board from employer) for "40 per cent. of the payment" substitute " the relevant percentage of the payment ".

(3) After that subsection insert—

"(2A) The relevant percentage is 35% or such other percentage (whether higher or lower) as may be prescribed.".

(4) This section applies to payments made to employers after the passing of this Act.

Limited liability partnerships

75 Limited liability partnerships: general

(1) For section 118ZA of the Taxes Act 1988 (treatment of limited liability partnerships) substitute—

"**118ZA Treatment of limited liability partnerships**

(1) For the purposes of the Tax Acts, where a limited liability partnership carries on a trade, profession or other business with a view to profit—

(a) all the activities of the partnership are treated as carried on in partnership by its members (and not by the partnership as such),

(b) anything done by, to or in relation to the partnership for the purposes of, or in connection with, any of its activities is treated as done by, to or in relation to the members as partners, and

(c) the property of the partnership is treated as held by the members as partnership property.

References in this subsection to the activities of the limited liability partnership are to anything that it does, whether or not in the course of carrying on a trade, profession or other business with a view to profit.

(2) For all purposes, except as otherwise provided, in the Tax Acts—

(a) references to a partnership include a limited liability partnership in relation to which subsection (1) above applies,

(b) references to members of a partnership include members of such a limited liability partnership,

(c) references to a company do not include such a limited liability partnership, and

(d) references to members of a company do not include members of such a limited liability partnership.

(3) Subsection (1) above continues to apply in relation to a limited liability partnership which no longer carries on any trade, profession or other business with a view to profit—

(a) if the cessation is only temporary, or

(b) during a period of winding up following a permanent cessation, provided—

(i) the winding up is not for reasons connected in whole or in part with the avoidance of tax, and

(ii) the period of winding up is not unreasonably prolonged,

but subject to subsection (4) below.

(4) Subsection (1) above ceases to apply in relation to a limited liability partnership—

(a) on the appointment of a liquidator or (if earlier) the making of a winding-up order by the court, or

(b) on the occurrence of any event under the law of a country or territory outside the United Kingdom corresponding to an event specified in paragraph (a) above."

(2) In the Taxation of Chargeable Gains Act 1992 (c. 12), for section 59A (limited liability partnerships) substitute—

"**59A Limited liability partnerships**

(1) Where a limited liability partnership carries on a trade or business with a view to profit—

(a) assets held by the limited liability partnership are treated for the purposes of tax in respect of chargeable gains as held by its members as partners, and

(b) any dealings by the limited liability partnership are treated for those purposes as dealings by its members in partnership (and not by the limited liability partnership as such);

and tax in respect of chargeable gains accruing to the members of the limited liability partnership on the disposal of any of its assets shall be assessed and charged on them separately.

(2) For all purposes, except as otherwise provided, in the enactments relating to tax in respect of chargeable gains—

(a) references to a partnership include a limited liability partnership in relation to which subsection (1) above applies,

(b) references to members of a partnership include members of such a limited liability partnership,

(c) references to a company do not include such a limited liability partnership, and

(d) references to members of a company do not include members of such a limited liability partnership.

(3) Subsection (1) above continues to apply in relation to a limited liability partnership which no longer carries on any trade or business with a view to profit—

(a) if the cessation is only temporary, or

(b) during a period of winding up following a permanent cessation, provided—

(i) the winding up is not for reasons connected in whole or in part with the avoidance of tax, and

(ii) the period of winding up is not unreasonably prolonged,

but subject to subsection (4) below.

(4) Subsection (1) above ceases to apply in relation to a limited liability partnership—

(a) on the appointment of a liquidator or (if earlier) the making of a winding-up order by the court, or

(b) on the occurrence of any event under the law of a country or territory outside the United Kingdom corresponding to an event specified in paragraph (a) above.

(5) Where subsection (1) above ceases to apply in relation to a limited liability partnership with the effect that tax is assessed and charged—

(a) on the limited liability partnership (as a company) in respect of chargeable gains accruing on the disposal of any of its assets, and

(b) on the members in respect of chargeable gains accruing on the disposal of any of their capital interests in the limited liability partnership,

it shall be assessed and charged on the limited liability partnership as if subsection (1) above had never applied in relation to it.

(6) Neither the commencement of the application of subsection (1) above nor the cessation of its application in relation to a limited liability partnership shall be taken as giving rise to the disposal of any assets by it or any of its members.".

(3) In Chapter 2 of Part 5 of the Taxation of Chargeable Gains Act 1992 (c. 12) (relief for gifts of business assets), after section 169 insert—

"**169A Cessation of trade by limited liability partnership**

(1) This section applies where section 59A(1) ceases to apply to a limited liability partnership.

(2) A member of the partnership who immediately before the time at which section 59A(1) ceases to apply holds an asset, or an interest in an asset, acquired by him—

(a) on a disposal to members of a partnership, and

(b) for a consideration which is treated as reduced under section 165(4)(b) or 260(3)(b),

shall be treated as if a chargeable gain equal to the amount of the reduction accrued to him immediately before that time."

(4) In section 170(9) of the Taxation of Chargeable Gains Act 1992 (groups of companies: meaning of "company"), in paragraph (b) after "company" insert " (other than a limited liability partnership) ".

(5) Subsection (3) above shall be deemed to have come into force on 3rd May 2001 and applies where section 59A(1) of the Taxation of Chargeable Gains Act 1992 ceased or ceases to apply as mentioned in section 169A of that Act (as inserted by that subsection) on or after that date.

(6) The other provisions of this section shall be deemed to have come into force on 6th April 2001.

76 Limited liability partnerships: investment LLPs and property investment LLPs

(1) Schedule 25 to this Act has effect with respect to limited liability partnerships whose business consists wholly or mainly in the making of investments.

(2) The provisions of that Schedule shall be deemed to have come into force on 6th April 2001.

Chargeable gains

77 Notional transfers within a group

(1) Section 171A of the Taxation of Chargeable Gains Act 1992 (notional transfers within a group) shall be deemed to have been enacted with the following amendments.

(2) In subsection (2) (corporation tax consequences of election for asset disposed of by member A of a group to be treated as if, immediately before the disposal, it had been transferred to member B of the group) omit the word "and" immediately preceding paragraph (c) and at the end of that paragraph add—

"; and

(d) any incidental costs to A of making the actual disposal to C shall be deemed to be incidental costs to B of making the deemed disposal to C.".

(3) In subsection (4) (election to be made before second anniversary of end of accounting period of A in which disposal made) for "before" substitute " on or before ".

78 Taper relief: assets qualifying as business assets

(1) Schedule A1 to the Taxation of Chargeable Gains Act 1992 (c. 12) (application of taper relief) shall have effect with the amendments specified in Schedule 26 to this Act.

(2) Those amendments shall have effect, and be deemed always to have had effect, as if they had been included among the amendments made by section 67 of the Finance Act 2000 (c. 17).

79 De-grouping charge: transitional relief

Schedule 29 to the Finance Act 2000 (chargeable gains: non-resident companies and groups etc) shall be deemed to have been enacted with the following paragraph added at the end of Part 3 (transitional provisions) after paragraph 46—

47 "**De-grouping charge: deferral until company leaves new group**

(1) This paragraph has effect for the purposes of section 179 of the Taxation of Chargeable Gains Act 1992 as that section has effect in relation to assets acquired before 1st April 2000 ("old section 179").

(2) Where—

(a) a company would (apart from this paragraph) fall to be regarded for the purposes of old section 179 as ceasing to be a member of an old group at any time, but

(b) immediately before that time, it is also a member of a new group for the purposes of new section 179,

the company shall not be regarded for the purposes of old section 179 as ceasing to be a member of the old group unless or until it also ceases to be a member of the new group for the purposes of new section 179.

(3) Sub-paragraph (2) above does not prevent the company from being or becoming a member of another old group at any time.

(4) Where a company ceases to be a member of a new group on any occasion, it shall not by virtue of sub-paragraph (2) above be treated for the purposes of old section 179 as if it had on that occasion ceased to be a member of the same old group more than once.

(5) For the purposes of this paragraph—

(a) references to a company being a member of an old group are references to its being, for the purposes of old section 179, a member of a group of companies within the meaning given by old section 170;

(b) references to a company being a member of a new group are references to its being, for the purposes of new section 179, a member of a group of companies within the meaning given by new section 170; and

(c) references to a company ceasing to be a member of an old group or a new group shall be construed in accordance with paragraph (a) or (b) above, as the case may be.

(6) Where, for the purposes of sub-paragraph (2)(b) above, a company is not a member of a new group by reason only that—

(a) the principal company of the old group is not the principal company of the new group, and

(b) the company in question is not an effective 51 per cent subsidiary of the principal company of the new group,

subsection (3)(b) of new section 170 shall not apply in relation to the company for the purposes of this paragraph for so long as it remains an effective 51 per cent subsidiary of the company which was the principal company of the old group.

(7) In this paragraph—

(a) "new section 179" means section 179 of the Taxation of Chargeable Gains Act 1992 (c. 12) as it has effect in relation to assets acquired on or after 1st April 2000;

(b) "new section 170" means section 170 of that Act, as amended by the main amendments;

(c) "old section 170" means section 170 of the Taxation of Chargeable Gains Act 1992, as it stands before the main amendments.

(8) Expressions used in this paragraph and in section 170 of the Taxation of Chargeable Gains Act 1992 shall be construed in accordance with that section.".

80 Attribution of gains of non-resident companies

(1) Section 13 of the Taxation of Chargeable Gains Act 1992 (attribution of gains to members of non-resident companies) is amended as follows.

(2) In subsection (4) (no attribution if amount does not exceed one twentieth of gain) for "one twentieth" substitute " one tenth ".

(3) In subsection (5) (gains to which the section does not apply) for paragraph (b) substitute—

"(b) a chargeable gain accruing on the disposal of an asset used, and used only—

(i) for the purposes of a trade carried on by the company wholly outside the United Kingdom, or

(ii) for the purposes of the part carried on outside the United Kingdom of a trade carried on by the company partly within and partly outside the United Kingdom,".

(4) For subsection (5A) (credit for tax on attributed gain in relation to later distribution) substitute—

"(5A) Where—

(a) an amount of tax is paid by a person in pursuance of subsection (2) above, and

(b) an amount in respect of the chargeable gain is distributed (either by way of dividend or distribution of capital or on the dissolution of the company) before the end of the period specified in subsection (5B) below,

the amount of tax (so far as neither reimbursed by the company nor applied as a deduction under subsection (7) below) shall be applied for reducing or extinguishing any liability of that person to income tax, capital gains tax or corporation tax in respect of the distribution.

(5B) The period referred to in subsection (5A)(b) above is the period of three years from—

(a) the end of the period of account of the company in which the chargeable gain accrued, or

(b) the end of the period of twelve months beginning with the date on which the chargeable gain accrued,

whichever is earlier.

In paragraph (a) above a "period of account" means a period for which the company makes up its accounts."

(5) After subsection (10A) insert—

"(10B) A chargeable gain that would be treated as accruing to a person under subsection (2) above shall not be so treated if—

(a) it would be so treated only if assets that are assets of a pension scheme were taken into account in ascertaining that person's interest as a participator in the company, and

(b) at the time the gain accrues a gain arising on a disposal of those assets would be exempt from tax by virtue of section 271(1)(b), (c), (d), (g) or (h) or (2).

In paragraph (a) above "assets of a pension scheme" means assets held for the purposes of a fund or scheme to which any of the provisions mentioned in paragraph (b) above applies.".

(6) This section applies to chargeable gains accruing as mentioned in section 13(1) of the Taxation of Chargeable Gains Act 1992 (c. 12) on or after 7th March 2001.

International matters

81 Double taxation relief

Schedule 27 to this Act (double taxation relief) has effect.

82 Controlled foreign companies: acceptable distribution policy

(1) Part 1 of Schedule 25 to the Taxes Act 1988 (acceptable distribution policy) is amended as follows.

(2) In paragraph 2 (meaning of acceptable distribution policy) at the end of sub-paragraph (1A) (requirement that payment of dividend is taken into account in computing corporation tax) add—

"and—

(a) it is chargeable neither under Case I of Schedule D nor under Case VI of that Schedule in circumstances where by virtue of section 436,

439B or 441 profits are computed in accordance with the provisions of this Act applicable to Case I; or

(b) if it is chargeable under Case I, or under Case VI in the circumstances described in paragraph (a) above, it is not involved in a UK tax avoidance scheme;

and paragraph 2B below has effect for the purposes of paragraph (b) above. ”

(3) After paragraph 2A insert—

“2B (1) This paragraph has effect for the purposes of paragraph 2(1A)(b) above.

(2) No payment of dividend by a controlled foreign company for an accounting period shall be regarded as involved in a UK tax avoidance scheme by reason only that there is no charge to tax under section 747(4)(a) if the controlled foreign company pursues an acceptable distribution policy for that accounting period.

(3) “UK tax avoidance scheme” means a scheme or arrangement the purpose, or one of the main purposes, of which is to achieve a reduction in United Kingdom tax.

(4) A scheme or arrangement achieves a reduction in United Kingdom tax if, apart from the scheme or arrangement, any company—

(a) would have been liable for any such tax or for a greater amount of any such tax; or

(b) would not have been entitled to a relief from or repayment of any such tax or would have been entitled to a smaller relief from or repayment of any such tax.

(5) In this paragraph—

“arrangement” means an arrangement of any kind, whether in writing or not;

“United Kingdom tax” means corporation tax or any tax chargeable as if it were corporation tax.”.

(4) In paragraph 4 (controlled foreign company dividends passing up a chain of related companies) at the end of sub-paragraph (1) (which provides for a payment made by a controlled foreign company to be regarded as made to a United Kingdom resident) add “and shall be taken to satisfy the conditions in paragraph 2(1A) above”.

(5) At the end of sub-paragraph (1A) of that paragraph (requirement that the subsequent dividend is taken into account in computing corporation tax) add—

“and—

(a) it is chargeable neither under Case I of Schedule D nor under Case VI of that Schedule in circumstances where by virtue of section 436, 439B or 441 profits are computed in accordance with the provisions of this Act applicable to Case I; or

(b) if it is chargeable under Case I, or under Case VI in the circumstances described in paragraph (a) above, it is not involved in a UK tax avoidance scheme;

and paragraph 4A below has effect for the purposes of paragraph (b) above. ".

(6) In sub-paragraph (2) of that paragraph (interpretation) after "one company is related to another if" insert " neither is resident in the United Kingdom and ".

(7) After paragraph 4 insert—

"4A (1) This paragraph has effect for the purposes of paragraph 4(1A)(b) above.

(2) No payment to a company resident in the United Kingdom which represents the whole or part of a dividend paid by a controlled foreign company for an accounting period shall be regarded as involved in a UK tax avoidance scheme by reason only that—

(a) there is no charge to tax under section 747(4)(a) if the controlled foreign company pursues an acceptable distribution policy for that accounting period, and

(b) so much of the dividend as is represented by that payment will (if paragraph 4(1) above has effect) fall to be brought into account in determining whether the controlled foreign company has done so.

(3) "UK tax avoidance scheme" means a scheme or arrangement the purpose, or one of the main purposes, of which is to achieve a reduction in United Kingdom tax.

(4) A scheme or arrangement achieves a reduction in United Kingdom tax if, apart from the scheme or arrangement, any company—

(a) would have been liable for any such tax or for a greater amount of any such tax; or

(b) would not have been entitled to a relief from or repayment of any such tax or would have been entitled to a smaller relief from or repayment of any such tax.

(5) In this paragraph—

"arrangement" means an arrangement of any kind, whether in writing or not;

"United Kingdom tax" means corporation tax or any tax chargeable as if it were corporation tax."

(8) This section applies to dividends paid on or after 7th March 2001 by a controlled foreign company for any accounting period of that controlled foreign company which ends on or after that date.

(9) In this section "accounting period" and "controlled foreign company" have the same meaning as they have in Chapter 4 of Part 17 of the Taxes Act 1988.

Miscellaneous

83 Life policies, life annuity contracts and capital redemption policies

(1) Schedule 28 to this Act (which makes amendments relating to Chapter 2 of Part 13 of the Taxes Act 1988) has effect.

(2) The amendments made by Part 1 of that Schedule (which relate to the assignment or surrender of part of, or a share in, the rights conferred by a policy or contract) have effect, in the case of any policy or contract, in relation to any year (within the meaning given by section 546(4) of the Taxes Act 1988) beginning on or after 6th April 2001.

(3) The amendments made by Part 2 of that Schedule (which relate to the provision by insurers etc of information relating to chargeable events happening in connection with a policy or contract) have effect in relation to chargeable events happening on or after 6th April 2002.

84 Exclusion of deductions for deemed manufactured payments

(1) Section 736B of the Taxes Act 1988 (deemed manufactured payments in case of stock lending arrangements) is amended as follows.

(2) In subsection (2) (application of provisions to deemed manufactured payments) after "shall apply" insert " , subject to subsection (2A) below, ".

(3) After that subsection insert—

"(2A) The borrower is not entitled, by virtue of anything in Schedule 23A or any provision of regulations under that Schedule, or otherwise—

(a) to any deduction in computing profits or gains for the purposes of income tax or corporation tax, or

(b) to any deduction against total income or, as the case may be, total profits,

in respect of any such deemed requirement or payment as is provided for by subsection (2) above.

Where the borrower is a company, an amount may not be surrendered by way of group relief if a deduction in respect of it is prohibited by this subsection."

(4) This section applies to payments treated under section 736B as made on or after 3rd October 2000.

85 Deduction of tax: payments between companies etc

(1) After section 349 of the Taxes Act 1988 (certain payments to be made under deduction of tax) insert—

"349A Exceptions to section 349 for payments between companies etc

(1) The provisions specified in subsection (3) below (which require tax to be deducted on making certain payments) do not apply to a payment made by a company if, at the time the payment is made, the company reasonably believes that one of the conditions specified in section 349B is satisfied.

(2) Subsection (1) above has effect subject to any directions under section 349C.

(3) The provisions are—

section 349(1) (certain annuities and other annual payments, and royalties and other sums paid for use of UK patents),

section 349(2)(a) and (b) (UK interest),

section 349(3A) (dividend or interest on securities issued by building societies), and

section 524(3)(b) (which provides for section 349(1) to apply to proceeds of sale of UK patent rights).

(4) References in subsection (3) above to any provision of section 349 do not include that provision as applied—

(a) under section 777(9) (directions applying section 349(1) to certain payments to non-residents), or

(b) by paragraph 4(2) of Schedule 23A (manufactured overseas dividends to be treated as annual payments within section 349).

(5) References in this section to the company by which a payment is made do not include a company acting as trustee or agent for another person.

(6) For the purposes of this section, a payment by a partnership is treated as made by a company if any member of the partnership is a company.

349B The conditions mentioned in section 349A(1)

(1) The first of the conditions mentioned in section 349A(1) is that the person beneficially entitled to the income in respect of which the payment is made is—

(a) a company resident in the United Kingdom, or

(b) a partnership each member of which is a company resident in the United Kingdom.

(2) The second of those conditions is that—

(a) the person beneficially entitled to the income in respect of which the payment is made is a company not resident in the United Kingdom ("the non-resident company"),

(b) the non-resident company carries on a trade in the United Kingdom through a branch or agency, and

(c) the payment falls to be brought into account in computing the chargeable profits (within the meaning given by section 11(2)) of the non-resident company.

349C Directions disapplying section 349A(1)

(1) The Board may give a direction to a company directing that section 349A(1) is not to apply in relation to any payment that—

(a) is made by the company after the giving of the direction, and

(b) is specified in the direction or is of a description so specified.

(2) Such a direction shall not be given unless the Board have reasonable grounds for believing as respects each payment to which the direction relates that it is likely that neither of the conditions specified in section 349B will be satisfied in relation to the payment at the time the payment is made.

(3) A direction under this section may be varied or revoked by a subsequent such direction.

(4) In this section "company" includes a partnership of which any member is a company.

349D Section 349A(1): consequences of reasonable but incorrect belief

(1) Where—

(a) a payment is made by a company without an amount representing the income tax on the payment being deducted from the payment,

(b) at the time the payment is made, the company reasonably believes that one of the conditions specified in section 349B is satisfied,

(c) if the company did not so believe, tax would be deductible from the payment under section 349, and

(d) neither of the conditions specified in section 349B is satisfied at the time the payment is made,

section 350 applies as if the payment were within section 349 (and Schedule 16 applies as if tax were deductible from the payment under section 349).

(2) In this section "company" includes a partnership of which any member is a company.".

(2) In section 98 of the Taxes Management Act 1970 (c. 9) (penalties for failing to make, or making incorrectly, certain returns etc.), after subsection (4) insert—

"(4A) If—

(a) a failure to comply with section 350(1) of, or Schedule 16 to, the principal Act arises from a person's failure to deliver an account, or show the amount, of a payment, and

(b) the payment is within subsection (4B) below,

subsection (1) above shall have effect as if for "£300" there were substituted "£3,000" and as if for "£60" there were substituted "£600".

(4B) A payment is within this subsection if—

(a) the payment is made by a company without an amount representing the income tax on the payment being deducted from the payment,

(b) at the time the payment is made, the company—

(i) does not believe that either of the conditions specified in section 349B of the principal Act is satisfied, or

(ii) where it believes that either of those conditions is satisfied, could not reasonably so believe,

(c) the payment is one from which tax is deductible under section 349 of the principal Act unless the company reasonably believes that one of those conditions is satisfied, and

(d) neither of those conditions is satisfied at the time the payment is made.

(4C) In subsection (4B) above "company" includes a partnership of which any member is a company.".

(3) In section 338(4) of the Taxes Act 1988 (when payment by company to non-resident to be treated as charge on income), after paragraph (a) insert—

"(aa) the person beneficially entitled to the income in respect of which the payment is made is a company not resident in the United Kingdom ("the non-resident company"), the non-resident company carries on a trade in the United Kingdom through a branch or agency and the payment falls to be brought into account in computing the chargeable profits (within the meaning given by section 11(2)) of the non-resident company, or".

(4) Subsections (1) to (3) apply to payments made on or after 1st April 2001.

(5) Sections 247 and 248 of the Taxes Act 1988 (companies within a group may elect for section 349 not to apply to payments between them) shall cease to have effect.

(6) Subsection (5) applies in relation to payments made after the day on which this Act is passed.

86 Profits for purposes of small companies' relief

(1) Section 13 of the Taxes Act 1988 (small companies' relief) is amended in accordance with subsections (2) to (4).

(2) In subsection (7) (profits of company for accounting period)—
(a) in paragraph (a), omit "resident in the United Kingdom", and
(b) in paragraph (b), for "section 247(1A)" substitute " subsection (7A) below ".

(3) After subsection (7) insert—

"(7A) A company falls within this subsection if—
(a) it is a 75 per cent subsidiary of any other company, or
(b) arrangements of any kind (whether in writing or not) are in existence by virtue of which it could become such a subsidiary.".

(4) For subsection (8AA) (interpretation of subsection (7)) substitute—

"(8AA) Section 13ZA applies for the interpretation of subsection (7) above.".

(5) After section 13 of the Taxes Act 1988 insert—

"**13Z AInterpretation of section 13(7)**

(1) In determining for the purposes of section 13(7) whether one body corporate is a 51 per cent subsidiary of another, that other shall be treated as not being the owner of any share capital—
(a) which it owns indirectly, and
(b) which is owned directly by a body corporate for which a profit on the sale of the shares would be a trading receipt.

(2) Notwithstanding that at any time a company ("the subsidiary company") is a 51 per cent subsidiary of another company ("the parent company") it shall not be treated at that time as such a subsidiary for the purposes of section 13(7) unless, additionally, at that time—
(a) the parent company would be beneficially entitled to more than 50 per cent of any profits available for distribution to equity holders of the subsidiary company, and

(b) the parent company would be beneficially entitled to more than 50 per cent of any assets of the subsidiary company available for distribution to its equity holders on a winding-up.

(3) For the purposes of section 13(7) and this section—

(a) "trading or holding company" means a trading company or a company the business of which consists wholly or mainly in the holding of shares or securities of trading companies that are its 90 per cent subsidiaries;

(b) "trading company" means a company whose business consists wholly or mainly of the carrying on of a trade or trades;

(c) a company is owned by a consortium if 75 per cent or more of the ordinary share capital of the company is beneficially owned between them by companies of which none—

(i) beneficially owns less than 5 per cent of that capital,

(ii) would be beneficially entitled to less than 5 per cent of any profits available for distribution to equity holders of the company, or

(iii) would be beneficially entitled to less than 5 per cent of any assets of the company available for distribution to its equity holders on a winding up,

and those companies are called the members of the consortium.

(4) Schedule 18 (equity holders and assets etc. available for distribution) applies for the purposes of subsections (2) and (3)(c) above as it applies for the purposes of section 413(7)."

(6) The amendments made by this section apply for the purposes of accounting periods ending on or after 1st April 2001.

87 Tax deductions and credits: end of provisional repayment regime

(1) The provisions of section 438A of, and Schedule 19AB to, the Taxes Act 1988 (provisional repayments in respect of tax borne by deduction and tax credits) shall cease to have effect as follows.

(2) Those provisions shall not apply in relation to income tax borne by deduction from payments received after 30th September 2001.

(3) For the purposes of the following provisions (as they apply in relation to tax credits)—

(a) section 121 of the Finance Act 1993 (c. 34) (application of Schedule 19AB to tax exempt business of friendly societies) and any regulations under that section, and

(b) any regulations under section 333B of the Taxes Act 1988 (individual savings account business etc. of insurance companies and friendly societies),

that Schedule shall be deemed to continue to apply in relation to pension business of insurance companies as it would do so apart from subsection (2).

(4) The power to make regulations under each of the sections referred to in subsection (3) includes power to set out the text of that Schedule as applied by regulations under that section.

(5) The provisions of section 438A of, and Schedule 19AB to, the Taxes Act 1988 shall not apply in relation to tax credits in respect of distributions made on or after 6th April 2004.

General

88 Amendments to the machinery of self-assessment

(1) Schedule 29 to this Act (amendments to the machinery of self-assessment) has effect.

(2) In that Schedule—

Part 1 makes provision about the amendment or correction of returns,

Part 2 makes provision about enquiries into returns,

Part 3 makes provision for the referral of questions to the Special Commissioners during an enquiry,

Part 4 makes provision about the procedure on completion of an enquiry, and

Part 5 contains minor and consequential amendments.

(3) Except as otherwise provided, the amendments in that Schedule have effect as from the passing of this Act in relation to returns—

(a) whether made before or after the passing of this Act, and

(b) whether relating to periods before or after the passing of this Act.

89 Recovery proceedings: minor amendments

(1) In sections 66(1) and 67(1) of the Taxes Management Act 1970 (c. 9) (proceedings in county court or sheriff court to recover tax due and payable under an assessment), omit the words "under any assessment".

This amendment applies in relation to proceedings begun after the passing of this Act.

(2) For section 69 of the Taxes Management Act 1970 substitute—

"**69 Recovery of penalty, surcharge or interest**

(1) This section applies to—

(a) penalties imposed under Part 2, 5A or 10 of this Act or Schedule 18 to the Finance Act 1998;

(b) surcharges imposed under Part 5A of this Act; and

(c) interest charged under any provision of this Act (or recoverable as if it were interest so charged).

(2) An amount by way of penalty, surcharge or interest to which this section applies shall be treated for the purposes of the following provisions as if it were an amount of tax.

(3) Those provisions are—

(a) sections 61, 63 and 65 to 68 of this Act;

(b) section 35(2)(g)(i) of the Crown Proceedings Act 1947 (rules of court: restriction of set-off or counterclaim where proceedings, or set-off or

counterclaim, relate to tax) and any rules of court imposing any such restriction;

(c) section 35(2)(b) of that Act as set out in section 50 of that Act (which imposes corresponding restrictions in Scotland)."

This amendment applies—

(a) to proceedings begun (or a counterclaim made) after the passing of this Act, and

(b) to a set-off first claimed after the passing of this Act.

(3) In section 70 of the Taxes Management Act 1970 (c. 9) (evidence), in subsection (2)(a) (certificate of collector as to penalty, surcharge or interest payable), for "payable under Part 9 of this Act" substitute " payable under any provision of this Act or the principal Act ".

This amendment applies to certificates tendered in evidence after the passing of this Act.

90 Repayment supplements: claim for relief involving two or more years

(1) Section 824 of the Taxes Act 1988 (repayment supplements) is amended as follows.

(2) After subsection (2B) insert—

"(2C) Subsection (1) above shall apply to a repayment made by the Board as a result of a claim for relief under—

(a) paragraph 2 of Schedule 1B to the Management Act (carry back of loss relief),

(b) paragraph 3 of that Schedule (relief for fluctuating profits of farming etc.), or

(c) Schedule 4A to this Act (relief for fluctuating profits of creative artists etc.),

as if it were a repayment falling within that subsection.".

(3) In subsection (3), after paragraph (aa) insert—

"(ab) if the repayment is a repayment as a result of a claim for relief under any of the provisions mentioned in subsection (2C) above, the relevant time is the 31st January next following the year that is the later year in relation to the claim;".

(4) This section applies in relation to repayments made after the passing of this Act.

91 Power to revise excessive penalties

(1) In section 100 of the Taxes Management Act 1970 (determination of penalties by officer of the Board), in subsection (6) (revision of penalty if amount of tax taken into account discovered to be excessive), after "a penalty under" insert " section 93(2), (4) or (5) of this Act or ".

(2) This section applies in relation to penalties determined at any time whether before or after the passing of this Act.

PART 4

OTHER TAXES

Stamp duty and stamp duty reserve tax

92 Stamp duty: exemption for land in disadvantaged areas

(1) No stamp duty shall be chargeable under Part 1 or 2, or paragraph 16 of Part 3, of Schedule 13 to the Finance Act 1999 (c. 16) on—

(a) a conveyance or transfer of an estate or interest in land, or

(b) a lease of land,

if the land is situated in a disadvantaged area.

(2) Where stamp duty would be chargeable on an instrument but for subsection (1), that subsection shall have effect in relation to the instrument only if the instrument is certified to the Commissioners as being an instrument on which stamp duty is by virtue of that subsection not chargeable.

(3) No instrument which is certified as mentioned in subsection (2) shall be taken to be duly stamped unless—

(a) it is stamped in accordance with section 12 of the Stamp Act 1891 (c. 39) with a particular stamp denoting that it is not chargeable with any duty or that it is duly stamped, or

(b) it is stamped with the duty to which it would have been liable but for this section.

(4) For the purposes of this section and Schedule 30 to this Act, a disadvantaged area is an area designated as such by regulations made by the Treasury; and any such regulations may—

(a) designate specified areas as disadvantaged areas, or

(b) provide for areas of a description specified in the regulations to be designated as disadvantaged areas.

(5) If regulations under subsection (4) so provide, the designation of an area as a disadvantaged area shall have effect for such period as may be specified by or determined in accordance with the regulations.

(6) Schedule 30 to this Act (which makes further provision about land in disadvantaged areas) shall have effect.

(7) This section and Schedule 30 to this Act shall be construed as one with the Stamp Act 1891.

(8) The provisions of this section and Schedule 30 to this Act shall have effect in relation to instruments executed on or after such date as may be specified by order made by the Treasury.

(9) Regulations under subsection (4)—

(a) may make different provision for different cases, and

(b) may contain such incidental, supplementary, consequential or transitional provision as appears to the Treasury to be necessary or expedient.

(10) The power to make regulations under subsection (4) shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.

(11) The power to make an order under subsection (8) shall be exercisable by statutory instrument.

Subordinate Legislation Made

P3 S. 92(8) power fully exercised: 30.11.2001 is the date specified by S.I. 2001/3748, **art. 2**

Modifications etc. (not altering text)

C4 S. 92(1) excluded (28.11.2001) by S.I. 2001/3746, **reg. 4(1)(a)**
S. 92(1) restricted (28.11.2001) by S.I. 2001/3746, **reg. 5**

VALID FROM 24/07/2002

[F2 92A Restriction of exemption in the case of residential property etc

(1) Regulations may provide for an exemption conferred by section 92 or by Schedule 30 to this Act not to apply in cases specified by reference to either or both of the following—

(a) whether the land in question is residential property;

(b) the amount or value of the consideration.

(2) Regulations may contain provision corresponding to or modifying that made by Schedule 30 to this Act in the case of—

(a) a building or land only part of which falls within subsection (1)(a) or (b) of section 92B (meaning of "residential property"), or

(b) an interest in or right over land that subsists only partly as mentioned in subsection (1)(c) of that section.

(3) Where by virtue of regulations under this section the availability of an exemption depends on the land in question not being, or not being entirely, residential property, the certification under section 92(2) must include a statement that the land is not residential property or, as the case may be, that it is not residential property to the extent stated.

(4) Where by virtue of regulations under this section the availability of an exemption depends on the amount or value of the consideration not exceeding a specified amount, the instrument in question must be certified at that amount (or at a lower amount).

The reference here to an instrument being certified at an amount shall be construed in accordance with paragraph 6 of Schedule 13 to the Finance Act 1999 (as if the reference were contained in paragraph 4 of that Schedule).

(5) The power to make regulations under this section is exercisable by the Treasury.

(6) Regulations under this section—

(a) may make different provision for different cases, and

(b) may contain such incidental, supplementary, consequential or transitional provision as appears to the Treasury to be necessary or expedient.

(7) Regulations under this section must be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of the House of Commons.**]**

Textual Amendments

F2 S. 92A inserted (24.7.2002) by 2002 c. 23, **s. 110(3)**

VALID FROM 24/07/2002

[F3 92B Meaning of "residential property"

(1) In section 92A "residential property" means—

(a) a building that is used or suitable for use as a dwelling, or is in the process of being constructed or adapted for such use;

(b) land that is or forms part of the garden or grounds of a building within paragraph (a) (including any building or structure on such land);

(c) an interest in or right over land that subsists for the benefit of a building within paragraph (a) or of land within paragraph (b).

(2) For the purposes of subsection (1) use of a building as—

(a) residential accommodation for school pupils,

(b) residential accommodation for students, other than accommodation falling within subsection (3)(b),

(c) residential accommodation for members of any of the armed forces, or

(d) an institution that is the sole or main residence of at least 90% of its residents and does not fall within any of paragraphs (a) to (f) of subsection (3),

is use of a building as a dwelling.

(3) For the purposes of subsection (1) use of a building as—

(a) a home or other institution providing residential accommodation for children,

(b) a hall of residence for students in further or higher education,

(c) a home or other institution providing residential accommodation with personal care for persons in need of personal care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder,

(d) a hospital or hospice,

(e) a prison or similar establishment, or

(f) a hotel or inn or similar establishment,

is not use of a building as a dwelling.

(4) Where a building is used in a manner specified in subsection (3), no account shall be taken for the purposes of subsection (1)(a) of its suitability for any other use.

(5) Where a building that is not in use is suitable for at least one of the uses specified in subsection (2) and at least one of those specified in subsection (3)—

(a) if there is one such use for which it is most suitable, or if the uses for which it is most suitable are all specified in the same subsection, no account shall be taken for the purposes of subsection (1)(a) of its suitability for any other use;

(b) otherwise, the building shall be treated for those purposes as suitable for use as a dwelling.

(6) Regulations under section 92A may provide that, where there is a single contract for the conveyance, transfer or lease of land comprising or including six or more separate dwellings, none of that land counts as residential property for the purposes of the regulations.

(7) The Treasury may by order amend this section so as to change or clarify the cases where use of a building is, or is not, use of a building as a dwelling for the purposes of subsection (1).

(8) An order under subsection (7) may contain such incidental, supplementary, consequential or transitional provision as appears to the Treasury to be necessary or expedient.

(9) An order under subsection (7) must be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of the House of Commons.

(10) In this section "building" includes part of a building.**]**

Textual Amendments

F3 S. 92B inserted (24.7.2002) by 2002 c. 23, **s. 110(3)**

93 SDRT: unit trust schemes and individual pension accounts

(1) Schedule 19 to the Finance Act 1999 (c. 16) (which abolishes charges to stamp duty, and introduces a charge to stamp duty reserve tax, in relation to units under a unit trust scheme) is amended as follows.

(2) In paragraph 2(4) (charge to be subject to exclusions provided in paragraphs 6 and 7) after "6" insert " , 6A ".

(3) In paragraph 4 (proportionate reduction of tax by reference to units issued) at the end insert—

"(6) If a certificate is given in accordance with paragraph 6A(1)(c) in respect of a period which includes the relevant two-week period in the case of the unit in question in sub-paragraph (1), there shall be left out of account in applying this paragraph in relation to that unit—

(a) any issue of a unit which is to be held within an individual pension account, and

(b) any surrender of a unit which, immediately before the surrender, was held within an individual pension account.

(7) "Individual pension account" has the same meaning in sub-paragraph (6) as it has in paragraph 6A."

(4) After paragraph 6 insert—

6A "**Exclusion of charge in case of individual pension accounts**

(1) There is no charge to tax under this Part of this Schedule on the surrender of the unit if—

(a) immediately before the surrender, the unit is held within an individual pension account,

(b) not all the units under the unit trust scheme are so held at that time, and

(c) a certificate pursuant to sub-paragraph (2) is contained in, or provided with, the relevant monthly tax return.

(2) The certificate must be given by the persons making the relevant monthly tax return and must state—

(a) that at all times in the period to which the return relates the trustees or managers were able to identify which of the units under the scheme were held within individual pension accounts, and

(b) that at no time in that period have the trustees or managers imposed any charge on, or recovered any amount from, an IPA unit holder which included an amount directly or indirectly attributable to tax payable by the trustees under this Part of this Schedule.

(3) In sub-paragraph (2), "IPA unit holder" means—

(a) a person acquiring, or who has acquired, a unit under the unit trust scheme, where the unit is to be held within an individual pension account,

(b) a person holding a unit under the scheme, where the unit is held within an individual pension account, or

(c) a person surrendering, or who has surrendered, a unit under the scheme, where immediately before the surrender the unit is or was held within an individual pension account.

(4) In this paragraph—

"individual pension account" has the same meaning as in regulations under section 638A of the Taxes Act 1988 (as at 6th April 2001, see regulation 4 of the Personal Pension Schemes (Restriction on Discretion to Approve) (Permitted Investments) Regulations 2001 (S.I. 2001/117)) ;

"the relevant monthly tax return", in the case of any surrender, means the notice required by regulations under section 98 of the Finance Act 1986 (c. 41) to be given by the managers (or, failing that, the trustees) under the unit trust scheme to the Commissioners of Inland Revenue containing among other things details of all surrenders in the relevant two-week period;

"the relevant two-week period" has the meaning given by paragraph 4(2)."

(5) The amendment made by subsection (3) has effect where the relevant two-week period mentioned in paragraph 4(1) of Schedule 19 to the Finance Act 1999 (c. 16) ends after 6th April 2001.

(6) The other amendments made by this section have effect in relation to surrenders made or effected on or after 6th April 2001.

94 SDRT: open-ended investment companies and individual pension accounts

(1) Where there are two or more classes of shares in an open-ended investment company and the company's instrument of incorporation—

(a) provides that shares of one or more of those classes ("the IPA classes") may only be held within an individual pension account, and

(b) does not make such provision in relation to shares of at least one other class,

there is no charge to stamp duty reserve tax under Part 2 of Schedule 19 to the Finance Act 1999 (c. 16) on the surrender of a share of any of the IPA classes.

(2) References in this section to provisions of Schedule 19 to the Finance Act 1999 (c. 16) are references to those provisions as they have effect in relation to open-ended investment companies by virtue of regulations from time to time in force under section 152 of the Finance Act 1995 (c. 4)(as at 6th April 2001, see regulations 3 to 4B of the 1997 Regulations as amended by regulations 4 and 5 of the 1999 (No.2) Regulations).

(3) In this section—

"individual pension account" has the same meaning as it has in regulations from time to time in force under section 638A of the Taxes Act 1988 (as at 6th April 2001, see regulation 4 of the 2001 Regulations);

"open-ended investment company" has the meaning given by paragraph 14(2) of Schedule 19 to the Finance Act 1999 (c. 16);

"surrender", in relation to a share in an open-ended investment company, has the same meaning as it has in Part 2 of Schedule 19 to the Finance Act 1999.

(4) For the purposes of subsections (2) and (3)—

"the 1997 Regulations" are the Stamp Duty and Stamp Duty Reserve Tax (Open-ended Investment Companies) Regulations 1997 (S.I. 1997/ 1156) ;

"the 1999 (No.2) Regulations" are the Stamp Duty and Stamp Duty Reserve Tax (Open-ended Investment Companies) (Amendment No.2) Regulations 1999 (S.I. 1999/3261);

"the 2001 Regulations" are the Personal Pension Schemes (Restriction on Discretion to Approve) (Permitted Investments) Regulations 2001 (S.I. 2001/117).

(5) This section has effect in relation to surrenders made or effected on or after 6th April 2001.

95 Exemptions in relation to employee share ownership plans

(1) Schedule 8 to the Finance Act 2000 (c. 17) (employee share ownership plans) is amended as follows.

(2) After paragraph 116 insert—

116A "**Exemptions from stamp duty and stamp duty reserve tax**

Where, under an approved employee share ownership plan, partnership shares or dividend shares are transferred by the trustees to an employee—

(a) no ad valorem stamp duty is chargeable on any instrument by which the transfer is made, and

(b) no stamp duty reserve tax is chargeable on any agreement by the trustees to make the transfer."

(3) This section has effect in relation to—

(a) instruments executed (within the meaning of the Stamp Act 1891 (c. 39)) after the day on which this Act is passed, and

(b) agreements to transfer shares made after the day on which this Act is passed.

Value added tax

96 VAT: children's car seats

(1) In paragraph 1 of Schedule A1 to the Value Added Tax Act 1994 (c. 23) (supplies benefiting from 5% reduced rate), after sub-paragraph (4) insert—

"(5) The supplies falling within this paragraph also include supplies of children's car seats."

(2) After paragraph 6 of that Schedule insert—

"**Interpretation of paragraph 1(5)**

7 (1) Paragraph 1(5) above is interpreted in accordance with the provisions of this paragraph.

(2) The following are "children's car seats"—

(a) a safety seat;

(b) the combination of a safety seat and a related wheeled framework;

(c) a booster seat;

(d) a booster cushion.

(3) In this paragraph "safety seat" means a seat—

(a) designed to be sat in by a child in a road vehicle,

(b) designed so that, when in use in a road vehicle, it can be restrained—

(i) by a seat belt fitted in the vehicle, or

(ii) by belts, or anchorages, that form part of the seat being attached to the vehicle, or

(iii) in either of those ways, and

(c) incorporating an integral harness, or integral impact shield, for restraining a child seated in it.

(4) For the purposes of this paragraph, a wheeled framework is "related" to a safety seat if the framework and the seat are each designed so that—

(a) when the seat is not in use in a road vehicle it can be attached to the framework, and

(b) when the seat is so attached, the combination of the seat and the framework can be used as a child's pushchair.

(5) In this paragraph "booster seat" means a seat designed—

(a) to be sat in by a child in a road vehicle, and

(b) so that, when in use in a road vehicle, it and a child seated in it can be restrained by a seat belt fitted in the vehicle.

(6) In this paragraph "booster cushion" means a cushion designed—

(a) to be sat on by a child in a road vehicle, and

(b) so that a child seated on it can be restrained by a seat belt fitted in the vehicle.

(7) In this paragraph "child" means a person aged under 14 years.".

(3) The amendments made by this section have effect in relation to supplies made after the day on which this Act is passed.

97 VAT: residential conversions and renovations

(1) In paragraph 1 of Schedule A1 to the Value Added Tax Act 1994 (c. 23) (supplies benefiting from 5% reduced rate), after sub-paragraph (5) (which is inserted by section 96 of this Act) insert—

"(6) The supplies falling within this paragraph also include—

(a) the supply, in the course of a qualifying conversion, of qualifying services related to the conversion;

(b) the supply of building materials if—

(i) the materials are supplied by a person who, in the course of a qualifying conversion, is supplying qualifying services related to the conversion, and

(ii) those services include the incorporation of the materials in the building concerned or its immediate site.

(7) The supplies falling within this paragraph also include—

(a) the supply, in the course of the renovation or alteration of a single household dwelling, of qualifying services related to the renovation or alteration;

(b) the supply of building materials if—

(i) the materials are supplied by a person who, in the course of the renovation or alteration of a single household dwelling, is supplying qualifying services related to the renovation or alteration, and

(ii) those services include the incorporation of the materials in the dwelling concerned or its immediate site.

(8) Sub-paragraph (9) below applies where a supply of services is only in part a supply to which sub-paragraph (6)(a) or (7)(a) above applies.

(9) The supply, to the extent that it is one to which paragraph (a) of sub-paragraph (6) or (7) above applies, is to be taken to be a supply to which that paragraph applies; and an apportionment may be made to determine that extent."

(2) After paragraph 7 of that Schedule (which also is inserted by section 96 of this Act) insert—

"**Interpretation of paragraph 1(6): introductory**

8 (1) Paragraph 1(6) above is interpreted in accordance with paragraphs 9 to 17 and 22 below.

(2) In paragraphs 10 to 14 below, "single household dwelling" means a dwelling—

(a) that is designed for occupation by a single household, and

(b) in relation to which the conditions set out in sub-paragraph (4) below are satisfied.

(3) In paragraphs 10 to 14 below "multiple occupancy dwelling" means a dwelling—

(a) that is designed for occupation by persons not forming a single household, and

(b) in relation to which the conditions set out in sub-paragraph (4) below are satisfied.

(4) The conditions are—

(a) that the dwelling consists of self-contained living accommodation,

(b) that there is no provision for direct internal access from the dwelling to any other dwelling or part of a dwelling,

(c) that the separate use of the dwelling is not prohibited by the terms of any covenant, statutory planning consent or similar provision, and

(d) that the separate disposal of the dwelling is not prohibited by any such terms.

(5) For the purposes of this paragraph, a dwelling "is designed" for occupation of a particular kind if it is so designed—

(a) as a result of having been originally constructed for occupation of that kind and not having been subsequently adapted for occupation of any other kind, or

(b) as a result of adaptation.

Interpretation of paragraph 1(6): meaning of "qualifying conversion"

9 (1) A "qualifying conversion" means—

(a) a changed number of dwellings conversion (see paragraph 10 below);

(b) house in multiple occupation conversion (see paragraph 11 below); or

(c) a special residential conversion (see paragraph 12 below).

(2) Sub-paragraph (1) above is subject to paragraphs 14 and 15 below.

Interpretation of paragraph 1(6): meaning of "changed number of dwellings conversion"

10 (1) A "changed number of dwellings conversion" is—

(a) a conversion of premises consisting of a building where the conditions specified in this paragraph are satisfied, or

(b) a conversion of premises consisting of a part of a building where those conditions are satisfied.

(2) The first condition is that after the conversion the premises being converted contain a number of single household dwellings that is—

(a) different from the number (if any) that the premises contain before the conversion, and

(b) greater than, or equal to, one.

(3) The second condition is that there is no part of the premises being converted that is a part that after the conversion contains the same number of single household dwellings (whether zero, one or two or more) as before the conversion.

Interpretation of paragraph 1(6): meaning of "house in multiple occupation conversion"

11 (1) A "house in multiple occupation conversion" is—

(a) a conversion of premises consisting of a building where the condition specified in sub-paragraph (2) below is satisfied, or

(b) a conversion of premises consisting of a part of a building where that condition is satisfied.

(2) The condition is that—

(a) before the conversion the premises being converted contain only a single household dwelling or two or more such dwellings,

(b) after the conversion those premises contain only a multiple occupancy dwelling or two or more such dwellings, and

(c) the use to which those premises are intended to be put after the conversion is not to any extent use for a qualifying residential purpose (see paragraph 17 below).

Interpretation of paragraph 1(6): meaning of "special residential conversion"

12 (1) A "special residential conversion" is a conversion of premises consisting of—

(a) a building or two or more buildings,

(b) a part of a building or two or more parts of buildings, or

(c) a combination of—

(i) a building or two or more buildings, and

(ii) a part of a building or two or more parts of buildings,

where the conditions specified in this paragraph are satisfied.

(2) The first condition is that, before the conversion, the premises being converted contain only—

(a) a dwelling or two or more dwellings, or

(b) a dwelling, or two or more dwellings, and—

(i) an ancillary outbuilding occupied together with the dwelling or one or more of the dwellings, or

(ii) two or more ancillary outbuildings each occupied together with the dwelling or one or more of the dwellings.

(3) In sub-paragraph (2) above "dwelling" means single household dwelling or multiple occupancy dwelling.

(4) The second condition is that where before the conversion the premises being converted contain a multiple occupancy dwelling or two or more such dwellings, the use to which that dwelling, or any of those dwellings, was last put before the conversion was not to any extent use for a qualifying residential purpose (see paragraph 17 below).

(5) The third condition is that the premises being converted must be intended to be used after the conversion solely for a qualifying residential purpose.

(6) The fourth condition is that, where the qualifying residential purpose is an institutional purpose, the premises being converted must be intended to form after the conversion the entirety of an institution used for that purpose.

(7) In sub-paragraph (6) above "institutional purpose" means a purpose within paragraph 17(a) to (c), (f) or (g) below.

Special residential conversions: reduced rate only for supplies made to intended user of converted accommodation

13 (1) This paragraph applies where the qualifying conversion concerned is a special residential conversion.

(2) Paragraph 1(6)(a) or (b) above does not apply to a supply unless—

(a) it is made to a person who intends to use the premises being converted for the qualifying residential purpose, and

(b) before it is made, the person to whom it is made has given to the person making it a certificate that satisfies the requirements in sub-paragraph (3) below.

(3) Those requirements are that the certificate—

(a) is in such form as may be specified in a notice published by the Commissioners, and

(b) states that the conversion is a special residential conversion.

(4) In sub-paragraph (2)(a) above "the qualifying residential purpose" means the purpose within paragraph 17 below for which the premises being converted are intended to be used after the conversion.

Interpretation of paragraph 1(6): "qualifying conversion" includes related garage works

14 (1) A qualifying conversion includes any garage works related to the—

(a) changed number of dwellings conversion,

(b) house in multiple occupation conversion, or

(c) special residential conversion,

concerned.

(2) In this paragraph "garage works" means—

(a) the construction of a garage, or

(b) a conversion of a non-residential building, or of a non-residential part of a building, that results in a garage.

(3) For the purposes of sub-paragraph (1) above, garage works are "related" to a conversion if—

(a) they are carried out at the same time as the conversion, and

(b) the resulting garage is intended to be occupied with—

(i) where the conversion concerned is a changed number of dwellings conversion, a single household dwelling that will after the conversion be contained in the building, or part of a building, being converted,

(ii) where the conversion concerned is a house in multiple occupation conversion, a multiple occupancy dwelling that will after the conversion be contained in the building, or part of a building, being converted, or

(iii) where the conversion concerned is a special residential conversion, the institution or other accommodation resulting from the conversion.

(4) In sub-paragraph (2) above "non-residential" means neither designed, nor adapted, for use—

(a) as a dwelling or two or more dwellings, or

(b) for a qualifying residential purpose (see paragraph 17 below).

Interpretation of paragraph 1(6): conversion not "qualifying" if planning consent and building control approval not obtained

15 (1) A conversion is not a qualifying conversion if any statutory planning consent needed for the conversion has not been granted.

(2) A conversion is not a qualifying conversion if any statutory building control approval needed for the conversion has not been granted.

Interpretation of paragraph 1(6): meaning of "supply of qualifying services"

16 (1) In the case of a conversion of a building, "supply of qualifying services" means a supply of services that consists in—

(a) the carrying out of works to the fabric of the building, or

(b) the carrying out of works within the immediate site of the building that are in connection with—

(i) the means of providing water, power, heat or access to the building,

(ii) the means of providing drainage or security for the building, or

(iii) the provision of means of waste disposal for the building.

(2) In the case of a conversion of part of a building, "supply of qualifying services" means a supply of services that consists in—

(a) the carrying out of works to the fabric of the part, or

(b) the carrying out of works to the fabric of the building, or within the immediate site of the building, that are in connection with—

(i) the means of providing water, power, heat or access to the part,

(ii) the means of providing drainage or security for the part, or

(iii) the provision of means of waste disposal for the part.

(3) In this paragraph—

(a) references to the carrying out of works to the fabric of a building do not include the incorporation, or installation as fittings, in the building of any goods that are not building materials (see paragraph 22 below);

(b) references to the carrying out of works to the fabric of a part of a building do not include the incorporation, or installation as fittings, in the part of any goods that are not building materials.

Interpretation of paragraphs 11 to 14: meaning of "qualifying residential purpose"

17 For the purposes of paragraphs 11 to 14 above, "use for a qualifying residential purpose" means use as—

(a) a home or other institution providing residential accommodation for children,

(b) a home or other institution providing residential accommodation with personal care for persons in need of personal care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder,

(c) a hospice,

(d) residential accommodation for students or school pupils,

(e) residential accommodation for members of any of the armed forces,

(f) a monastery, nunnery or similar establishment, or

(g) an institution which is the sole or main residence of at least 90 per cent. of its residents,

except use as a hospital, prison or similar institution or an hotel, inn or similar establishment.

Interpretation of paragraph 1(7): introductory

18 (1) Paragraph 1(7) above is interpreted in accordance with this paragraph and paragraphs 19 to 22 below.

(2) For the purposes of paragraph 1(7) above (and paragraphs 19 to 21 below) —

"alteration" includes extension;

"single household dwelling" has the meaning given by paragraph 8(2), (4) and (5) above.

Paragraph 1(7) only applies where dwelling has been empty for at least 3 years

19 (1) Paragraph 1(7) above does not apply to a supply unless either of the empty home conditions is satisfied.

(2) The first "empty home condition" is that the dwelling concerned has not been lived in during the period of 3 years ending with the commencement of the relevant works.

(3) The second "empty home condition" is that—

(a) the dwelling was not lived in during a period of at least 3 years;

(b) the person, or one of the persons, whose beginning to live in the dwelling brought that period to an end was a person who (whether alone or jointly with another or others) acquired the dwelling at a time—

(i) no later than the end of that period, and

(ii) when the dwelling had been not lived in for at least 3 years;

(c) no works by way of renovation or alteration were carried out to the dwelling during the period of 3 years ending with the acquisition;

(d) the supply is made to a person who is—

(i) the person, or one of the persons, whose beginning to live in the property brought to an end the period mentioned in paragraph (a) above, and

(ii) the person, or one of the persons, who acquired the dwelling as mentioned in paragraph (b) above; and

(e) the relevant works are carried out during the period of one year beginning with the day of the acquisition.

(4) In this paragraph "the relevant works" means—

(a) where the supply is of the description set out in paragraph 1(7)(a) above, the works that constitute the services supplied;

(b) where the supply is of the description set out in paragraph 1(7)(b) above, the works by which the materials concerned are incorporated in the dwelling concerned or its immediate site.

(5) In sub-paragraph (3) above, references to a person acquiring a dwelling are to that person having a major interest in the dwelling granted, or assigned, to him for a consideration.

Paragraph 1(7) only applies if planning consent and building control approval obtained

20 (1) Paragraph 1(7) above does not apply to a supply unless any statutory planning consent needed for the renovation or alteration has been granted.

(2) Paragraph 1(7) above does not apply to a supply unless any statutory building control approval needed for the renovation or alteration has been granted.

Interpretation of paragraph 1(7): meaning of "supply of qualifying services"

21 (1) "Supply of qualifying services" means a supply of services that consists in—

(a) the carrying out of works to the fabric of the dwelling, or

(b) the carrying out of works within the immediate site of the dwelling that are in connection with—

(i) the means of providing water, power, heat or access to the dwelling,

(ii) the means of providing drainage or security for the dwelling, or

(iii) the provision of means of waste disposal for the dwelling.

(2) In sub-paragraph (1)(a) above, the reference to the carrying out of works to the fabric of the dwelling does not include the incorporation, or installation as fittings, in the dwelling of any goods that are not building materials (see paragraph 22 below).

Interpretation of paragraph 1(6) and (7): meaning of "building materials"

22 "Building materials" has the meaning given by Notes (22) and (23) of Group 5 to Schedule 8 (zero-rating of construction and conversion of buildings).".

(3) The amendments made by this section have effect in relation to supplies made after the day on which this Act is passed.

98 VAT: museums and galleries

(1) The Value Added Tax Act 1994 (c. 23) is amended as follows.

(2) After section 33 insert—

"**33A Refunds of VAT to museums and galleries**

(1) Subsections (2) to (5) below apply where—

(a) VAT is chargeable on—

(i) the supply of goods or services to a body to which this section applies,

(ii) the acquisition of any goods by such a body from another member State, or

(iii) the importation of any goods by such a body from a place outside the member States,

(b) the supply, acquisition or importation is attributable to the provision by the body of free rights of admission to a relevant museum or gallery, and

(c) the supply is made, or the acquisition or importation takes place, on or after 1st April 2001.

(2) The Commissioners shall, on a claim made by the body in such form and manner as the Commissioners may determine, refund to the body the amount of VAT so chargeable.

(3) The claim must be made before the end of the claim period.

(4) Subject to subsection (5) below, "the claim period" is the period of 3 years beginning with the day on which the supply is made or the acquisition or importation takes place.

(5) If the Commissioners so determine, the claim period is such shorter period beginning with that day as the Commissioners may determine.

(6) Subsection (7) below applies where goods or services supplied to, or acquired or imported by, a body to which this section applies that are attributable to free admissions cannot conveniently be distinguished from goods or services supplied to, or acquired or imported by, the body that are not attributable to free admissions.

(7) The amount to be refunded on a claim by the body under this section shall be such amount as remains after deducting from the VAT related to the claim such proportion of that VAT as appears to the Commissioners to be attributable otherwise than to free admissions.

(8) For the purposes of subsections (6) and (7) above—

(a) goods or services are, and VAT is, attributable to free admissions if they are, or it is, attributable to the provision by the body of free rights of admission to a relevant museum or gallery;

(b) the VAT related to a claim is the whole of the VAT chargeable on—

(i) the supplies to the body, and

(ii) the acquisitions and importations by the body,

to which the claim relates.

(9) The Treasury may by order—

(a) specify a body as being a body to which this section applies;

(b) when specifying a body under paragraph (a), specify any museum or gallery that, for the purposes of this section, is a "relevant" museum or gallery in relation to the body;

(c) specify an additional museum or gallery as being, for the purposes of this section, a "relevant" museum or gallery in relation to a body to which this section applies;

(d) when specifying a museum or gallery under paragraph (b) or (c), provide that this section shall have effect in the case of the museum or gallery as if in subsection (1)(c) there were substituted for 1st April 2001 a later date specified in the order.

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

(3) In section 63 (penalties for misdeclarations etc.), after subsection (9) insert—

"(9A) This section shall have effect in relation to a body which is registered and to which section 33A applies as if—

(a) any reference to a VAT credit included a reference to a refund under that section, and

(b) any reference to credit for input tax included a reference to VAT chargeable on supplies, acquisitions or importations which were attributable to the provision by the body of free rights of admission to a museum or gallery that in relation to the body was a relevant museum or gallery for the purposes of section 33A."

(4) Section 79 (repayment supplements) is amended in accordance with subsections (5) to (7).

(5) In subsection (1) (entitlement to supplement), after paragraph (b) insert—

", or

(c) a body which is registered and to which section 33A applies is entitled to a refund under that section,".

(6) In subsection (5) (how supplement to be treated), after paragraph (b) insert—

", and

(c) a supplement paid to any body under subsection (1)(c) shall be treated as an amount due to it by way of refund under section 33A."

(7) In subsection (6)(b) (meaning of "requisite return or claim"), after "section 33" insert " or (as the case may be) the Commissioners' determination under, and the provisions of, section 33A. ".

(8) In section 90(3) (VAT not to be refunded if it is repayable under the Provisional Collection of Taxes Act 1968 (c. 2)), after "section 33," insert " 33A, ".

(9) In Note (9) of Group 14 of Schedule 9 (no entitlement to both exemption and refund), after "33," insert " 33A, ".

(10) Subject to subsection (11), this section comes into force on 1st September 2001.

(11) For the purpose only of the exercise of the power to make orders under the section 33A(9) inserted by this section, this section comes into force on the day on which this Act is passed.

Commencement Information

I2 S. 98 wholly in force; s. 98 in force at Royal Assent for specified purposes, otherwise in force at 01.09.2001, see s. 98(10)

99 VAT: re-enactment of reduced-rate provisions

(1) For the purpose of re-enacting the provisions of the Value Added Tax Act 1994 (c. 23) that provide for VAT on certain supplies, acquisitions and importations to be charged at a reduced rate of 5 per cent., that Act is amended as follows.

(2) In section 2(1) (VAT to be charged at the rate of 17.5 per cent.), after "Subject to the following provisions of this section" insert " and to the provisions of section 29A ".

(3) Section 2(1A) to (1C) and Schedule A1 (which are superseded by the new section 29A and Schedule 7A) shall cease to have effect.

(4) In Part 2 (reliefs, exemptions and repayments), after the heading "*Reliefs etc. generally available*" insert—

"29A **Reduced rate**

(1) VAT charged on—

(a) any supply that is of a description for the time being specified in Schedule 7A, or

(b) any equivalent acquisition or importation,

shall be charged at the rate of 5 per cent.

(2) The reference in subsection (1) above to an equivalent acquisition or importation, in relation to any supply that is of a description for the time being specified in Schedule 7A, is a reference (as the case may be) to—

(a) any acquisition from another member State of goods the supply of which would be such a supply; or

(b) any importation from a place outside the member States of any such goods.

(3) The Treasury may by order vary Schedule 7A by adding to or deleting from it any description of supply or by varying any description of supply for the time being specified in it.

(4) The power to vary Schedule 7A conferred by subsection (3) above may be exercised so as to describe a supply of goods or services by reference to matters unrelated to the characteristics of the goods or services themselves.

In the case of a supply of goods, those matters include, in particular, the use that has been made of the goods.".

(5) After Schedule 7 insert the Schedule 7A set out in Part 1 of Schedule 31 to this Act.

(6) The consequential amendments in Part 2 of Schedule 31 to this Act have effect.

(7) The following provisions have effect in relation to supplies made, and acquisitions and importations taking place, on or after 1st November 2001—

(a) subsections (2) and (5),

(b) subsection (3) so far as providing for section 2(1A) and (1B), and Schedule A1, to cease to have effect, and

(c) subsection (4) so far as inserting subsections (1) and (2) of the new section 29A.

(8) Subsection (3), so far as providing for section 2(1C) to cease to have effect, comes into force on 1st November 2001.

(9) Subsection (6)—

(a) so far as relating to the amendments made by paragraphs 2 and 6(2) of Schedule 31 to this Act, has effect in relation to orders under section 2(2) of the Value Added Tax Act 1994 (c. 23) that make changes only in the rate of VAT that is in force at times on or after 1st November 2001;

(b) so far as relating to the amendment made by paragraph 3 of Schedule 31 to this Act, has effect in relation to supplies made, or to be made, on or after 1st November 2001.

Commencement Information

I3 S. 99 wholly in force at 01.11.2001; s. 99 in force at Royal Assent except that s. 99(3) is in force at 01.11.2001 for specified purposes, see s. 99(8)

100 VAT representatives

(1) In section 48 of the Value Added Tax Act 1994 (VAT representatives), in subsection (1) (directions requiring appointment of representative), for paragraph (b) substitute—

"(b) is not established, and does not have any fixed establishment, in the United Kingdom;

(ba) is established in a country or territory in respect of which it appears to the Commissioners that the condition specified in subsection (1A) below is satisfied; and".

(2) After that subsection insert—

"(1A) The condition mentioned in subsection (1)(ba) above is that—

(a) the country or territory is neither a member State nor a part of a member State, and

(b) there is no provision for mutual assistance between the United Kingdom and the country or territory similar in scope to the assistance provided for between the United Kingdom and each other member State by the mutual assistance provisions.

(1B) In subsection (1A) above "the mutual assistance provisions" means—

(a) section 11 of the Finance Act 1977 (c. 36) (recovery of duty due etc. in other member States),

(b) section 77 of the Finance Act 1978 (c. 42) (disclosure of tax information to tax authorities in other member States), and

(c) Council Regulation (EEC) No. 218/92 of 27th January 1992 on administrative cooperation in the field of indirect taxation (VAT).".

(3) For subsection (2) of that section (power of taxable person to appoint representative) substitute—

"(2) With the agreement of the Commissioners, a person—

(a) who has not been required under subsection (1) above to appoint another person to act on his behalf in relation to VAT, and

(b) in relation to whom the conditions specified in paragraphs (a), (b) and (c) of that subsection are satisfied,

may appoint another person to act on his behalf in relation to VAT.

(2A) In this Act "VAT representative" means a person appointed under subsection (1) or (2) above."

(4) The amendments made by this section come into force on 31st December 2001.

Petroleum revenue tax

101 PRT: unrelievable field losses

(1) In section 6 of the Oil Taxation Act 1975 (c. 22) (allowance of unrelievable loss from abandoned field), for subsections (1) and (1A) substitute—

"(1) In the case of a participator in an oil field, an allowable unrelievable field loss is the unrelievable portion of an allowable loss falling within subsection (1B) below.

(1A) Subsection (1) above is subject to subsections (5) to (9) below and Schedule 8 to this Act.

(1B) An allowable loss falls within this subsection if—

(a) the loss accrued in any chargeable period from another field ("the abandoned field"),

(b) the person to whom the loss accrued is—

(i) the participator, or

(ii) if the participator is a company, a company associated with the participator in respect of the loss (see subsection (3) below),

(c) the loss accrued to that person as a participator in the abandoned field, and

(d) the winning of oil from the abandoned field has permanently ceased.

(1C) The "unrelievable portion" of an allowable loss falling within subsection (1B) above is so much of that loss as cannot under the provisions of section 7 of this Act be relieved against assessable profits accruing from the abandoned field to the person to whom the loss accrued.

(1D) Subsection (1C) above is subject to Schedule 32 to the Finance Act 2001 (determination of unrelievable portion where Parts 2 and 3 of Schedule 17 to the Finance Act 1980 did not apply to transfer of interest in abandoned field).".

(2) In subsection (2) of that section, for "subsection (1) above" substitute " subsection (1B) above ".

(3) In section 113(2) of the Finance Act 1984 (c. 43)—

(a) for the words from "which, in the case" to "in subsection (1)" substitute " falling within subsection (1B) "; and

(b) for "from that other field" substitute " from the abandoned field ".

(4) Schedule 32 to this Act has effect.

(5) The provisions of this section shall be deemed to have come into force on 7th March 2001.

102 PRT: allowable decommissioning expenditure

(1) In section 3 of the Oil Taxation Act 1975 (c. 22) (allowable expenditure), for subsections (1C) and (1D) (apportionment of decommissioning expenditure) substitute—

"(1C) In any case where—

(a) any expenditure incurred by a participator in a taxable field would, apart from this subsection, be allowable for the field under subsection (1)(i) or (j) above, and

(b) the qualifying asset that is relevant to the incurring of that expenditure has at some time been used otherwise than in connection with the field,

only the relevant portion of the expenditure is allowable for the field under subsection (1)(i) or (j) above.

(1D) In subsection (1C) above "the relevant portion" of the expenditure is the portion of the expenditure that it is just and reasonable to apportion to use of the asset that is use in connection with the field.

(1E) Subsections (1C) and (1D) above have effect subject to the transitional provisions in section 102(5) to (11) of the Finance Act 2001.".

(2) In subsection (6) of that section, for "subsection (1C) or subsection (1D)" substitute " subsections (1C) and (1D) ".

(3) In section 10(2) of that Act (which, in particular, provides that although excluded oil is not oil for the purposes of section 3 of that Act it is oil for the purposes of section 3(1D)), for "subsection (1D)" substitute " subsections (1C) and (1D) ".

(4) The amendments made by subsections (1) to (3) apply to expenditure incurred on or after 7th March 2001.

(5) Subsections (6) to (8) apply where—

(a) on or after 7th March 2001 a participator in a taxable field ("the transitional participator") incurs expenditure that falls to be apportioned under the new provision,

(b) the transitional participator was a participator in the field both immediately before, and at the beginning of, 7th March 2001,

(c) the qualifying asset that is relevant to the incurring of the expenditure was, at both of the times mentioned in paragraph (b), a qualifying asset in relation to the transitional participator and the field, and

(d) at a time before 7th March 2001—

(i) a person was a participator in two or more oil fields, and

(ii) the asset was a qualifying asset in relation to that person and each of at least two of those fields.

(6) If there would be no apportionment of the expenditure under the old provision, for the purpose of applying the new provision to the expenditure "the relevant portion" of the expenditure is the taxable field portion.

(7) If the expenditure would be apportioned between two or more oil fields under the old provision, for the purpose of applying the new provision to the expenditure "the relevant portion" of the expenditure is the portion of the taxable field portion which it is just and reasonable to apportion to use of the asset in connection with the field.

(8) In carrying out that apportionment of the taxable field portion, ignore use of the asset in connection with an oil field that is not one of the oil fields between which the expenditure would be apportioned under the old provision.

(9) In subsections (6) to (8) "the taxable field portion" means the portion of the expenditure that it is just and reasonable to apportion to use of the asset in connection with a taxable field.

(10) In subsections (5) to (8)—

"the new provision" means section 3(1C) of the Oil Taxation Act 1975 (c. 22) as substituted by subsection (1);

"the old provision" means section 3(1C) of that Act as it would have effect apart from the amendments made by subsections (1) to (3);

"qualifying asset" has the same meaning as it has for the purposes of the Oil Taxation Act 1983 (c. 56) (see section 8 of that Act).

(11) Subsections (5) to (10) shall be construed as one with Part 1 of the Oil Taxation Act 1975.

103 PRT: expenditure in certain gas-producing fields

(1) In section 10 of the Oil Taxation Act 1975 (modifications of Part 1 in connection with gas sold to the British Gas Corporation under contracts made before end of June 1975), for subsection (3) (modified apportionment rule for expenditure allowable under section 3(1)(a), (b), (c), (hh), (i) or (j)) substitute—

"(3) Subsections (3A) to (3H) below apply where, in the case of any taxable field, the oil—

(a) won and saved from the field, or

(b) expected to be won and saved from the field,

includes oil falling within subsection (1)(a) above.

(3A) Any expenditure allowable under section 3 of this Act for the field by virtue of any of paragraphs (a) to (c) of section 3(1) of this Act shall be a proportion of what it would otherwise have been.

(3B) The proportion mentioned in subsection (3A) above is that which, according to estimates submitted to the Secretary of State after the end of June 1975 and approved by him as reasonable, the field's original reserves of oil exclusive of oil falling within subsection (1)(a) above bear to the field's original reserves of oil inclusive of oil so falling.

(3C) Until estimates have been submitted and approved for the purpose of subsection (3B) above, the expenditure allowable for the field under section 3 of this Act by virtue of section 3(1)(a), (b) or (c) of this Act shall be deemed to be nil.

(3D) Any expenditure allowable under section 3 of this Act for the field by virtue of section 3(1)(hh) of this Act shall be a portion of what it would otherwise have been.

(3E) That portion is determined in accordance with the following rules—

(1) Identify the abandonment guarantee (within the meaning given by section 104 of the Finance Act 1991 (c. 31)) on the obtaining of which the expenditure was incurred.

(2) Identify the liabilities covered by the guarantee.

(3) Identify which of those liabilities relate to qualifying assets.

(4) Identify the portion of the expenditure that it is just and reasonable to apportion to the liabilities identified under rule 3.

(5) Identify the qualifying assets to which the liabilities identified under rule 3 relate.

(6) Identify the use of those qualifying assets that has been (or is expected to be) non-excluded use.

(7) Assume that expenditure is incurred on the provision of those qualifying assets and identify the proportion of the hypothetical expenditure that it would be just and reasonable to apportion to the use of those assets identified under rule 6.

(8) The portion mentioned in subsection (3D) above is then determined by multiplying—

(i) the portion identified under rule 4, by

(ii) the proportion (expressed as a fraction) identified under rule 7.

(3F) Any expenditure allowable under section 3 of this Act for the field by virtue of section 3(1)(i) or (j) of this Act shall be a portion of what it would otherwise have been.

(3G) That portion is determined in accordance with the following rules—

(1) Identify the qualifying asset that is relevant to the incurring of the expenditure.

(2) Identify the use of that qualifying asset that has been non-excluded use.

(3) Assume that expenditure is incurred on the provision of that qualifying asset and identify the proportion of the hypothetical expenditure that it would be just and reasonable to apportion to the use of that asset identified under rule 2.

(4) The portion mentioned in subsection (3F) above is then determined by multiplying—

(i) the expenditure, by

(ii) the proportion (expressed as a fraction) identified under rule 3.

(3H) In subsections (3E) and (3G) above—

"non-excluded use" means—

(a) use in connection with the winning and saving of oil, other than excluded oil, from the field, or

(b) use giving rise to receipts that, for the purposes of the Oil Taxation Act 1983 (c. 56), are tariff receipts attributable to a participator in the field;

"qualifying asset" has the same meaning as it has for the purposes of the Oil Taxation Act 1983 (see section 8 of that Act).".

(2) The amendments made by this section apply to expenditure incurred on or after 7th March 2001.

Landfill tax

104 Landfill tax: rate

(1) In section 42 of the Finance Act 1996 (c. 8) (amount of landfill tax), in subsections (1)(a) and (2) for "£11" substitute " £12 ".

(2) This section has effect in relation to taxable disposals made, or treated as made, on or after 1st April 2001.

Climate change levy

105 Climate change levy

(1) Schedule 6 to the Finance Act 2000 (c. 17) (climate change levy) is amended as follows.

(2) After paragraph 11 insert—

11A "**Exemption: Northern Ireland gas supplies**

A supply of gas is exempt from the levy if—

(a) the supply is made by a gas utility, and

(b) the person to whom the supply is made intends to cause the gas to be burned in Northern Ireland.".

(3) In paragraph 14(2) (exemption for supplies to electricity producers does not apply to supplies to exempt unlicensed electricity suppliers, no matter what the electricity they produce is used for), at the end insert—

", and

(c) uses the electricity produced otherwise than in exemption-retaining ways.".

(4) For paragraph 14(3)(c) (uses of electricity produced by an auto-generator that cause auto-generator to lose benefit of exemption for supplies to electricity producers), substitute—

"(c) uses the electricity produced otherwise than in exemption-retaining ways.".

(5) In paragraph 14, after sub-paragraph (3) insert—

"(3A) For the purposes of this paragraph, electricity is used in an "exemption-retaining" way if it is used—

(a) in making supplies that are excluded under paragraphs 8 to 10 or exempt under any of paragraphs 11, 12 and 18, or

(b) in any of the ways mentioned in sub-paragraphs (i) to (iv) of paragraph 13(b).".

(6) In paragraph 15(1)(a) (exemption for supplies to combined heat and power stations), for "the commodity is to be used by that person" there is substituted " that person intends to cause the commodity to be used ".

(7) The amendments made by this section have effect in relation to supplies made on or after 1st April 2001.

Inheritance tax

106 Transfers within group etc

(1) Section 97 of the Inheritance Tax Act 1984 (c. 51) (transfers within group etc.) is amended as follows.

(2) In subsection (1) (minority participators in close company to be excluded from apportionment under section 94) for paragraph (a) (disposals to which section 171(1) of the Taxation of Chargeable Gains Act 1992 (c. 12) applies which are also transfers of value) substitute—

"(a) there is—

(i) a disposal of an asset by the transferor company, which is a disposal to which section 171(1) of the 1992 Act applies, or

(ii) by virtue of an election under section 171A(2) of that Act, a deemed transfer by the transferor company to another member of the group,

(aa) the disposal is also, or the deemed transfer gives rise to, a transfer of value, and".

(3) The amendment made by this section has effect, and shall be taken always to have had effect, in relation to disposals made, or transfers deemed to have been made, on or after 1st April 2000.

PART 5

MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

Miscellaneous

[F4 107 Interest on unpaid tax, etc.: foot-and-mouth disease

(1) This section applies in any case where, in exercise of their powers of care and management, the Commissioners of Inland Revenue agree that, by reason of circumstances arising as a result of the outbreak of foot-and-mouth disease, the payment of tax by a person may be deferred.

For this purpose "tax" includes any amount chargeable by way of tax, or as a result of the non-payment of tax, in respect of which interest would, apart from this section, be chargeable.

(2) Where this section applies no interest on the amount deferred shall be chargeable in respect of the period—

(a) beginning with 31st January 2001 or, if the Commissioners so direct in any case, any later date from which the agreement for deferred payment has effect, and

(b) ending with the date on which the agreement for deferred payment ceases to have effect.

(3) An agreement for deferred payment ceases to have effect at the end of the period of deferment specified in the agreement, subject as follows.

An agreement for deferred payment shall be treated as not ceasing to have effect if, or to the extent that, the Commissioners agree (whether before or after the end of the period of deferment specified in the agreement) to extend that period by reason of circumstances arising as a result of the outbreak of foot-and-mouth disease.

(4) For the purposes of subsection (3) as it applies to an agreement for payment by instalments, the period of deferment in relation to each instalment ends with the date on or before which that instalment is to be paid.

But if any instalment is not paid by the agreed date and the Commissioners do not agree in accordance with that subsection to extend the period of deferment, the whole agreement shall be treated as ceasing to have effect on that date.

(5) This section shall cease to have effect on a date specified by the Treasury by order made by statutory instrument.

This is without prejudice to its continued operation in relation to an agreement for deferred payment made by the Commissioners before the specified date.

(6) This section applies—

(a) whether the agreement for deferred payment was made before or after the passing of this Act, and

(b) whether the agreement for deferred payment was made before or after the amount to which it relates became due and payable.

(7) If in any case the Commissioners are satisfied that, although no agreement for deferred payment such as is mentioned in subsection (1) was made, such an agreement could have been made, this section shall apply as if such an agreement had been made.

The terms of the notional agreement shall be assumed to be such as the Commissioners are satisfied would have been agreed in the circumstances.**]**

Textual Amendments

F4 S. 107 shall cease to have effect (*prosp.*) by virtue of 2001 c. 9, **s. 107(5)**

Modifications etc. (not altering text)

C5 S. 107 applied (with modifications) (12.5.2001) by S.I. 2001/1818, **reg. 2(1)**

108 Trading funds

(1) Section 2C of the Government Trading Funds Act 1973 (c. 63) (limits on borrowing and public dividend capital) is amended as follows.

(2) In subsection (3) (upper limit on aggregate of borrowing etc. maxima of trading funds), for "£2,000 million" substitute " £8,000 million ".

(3) In subsection (4) (power to increase limit in subsection (3) but not above £4,000 million), for "£4,000 million" substitute " £10,000 million ".

Supplementary

109 Interpretation

In this Act "the Taxes Act 1988" means the Income and Corporation Taxes Act 1988 (c. 1).

110 Repeals and revocations

(1) The enactments mentioned in Schedule 33 to this Act (which include provisions that are spent or of no practical utility) are repealed or revoked to the extent specified.

(2) The repeals and revocations specified in that Schedule have effect subject to the commencement provisions and savings contained or referred to in the notes set out in that Schedule.

111 Short title

This Act may be cited as the Finance Act 2001.

SCHEDULES

VALID FROM 06/10/2001

SCHEDULE 1

Section 6.

GENERAL BETTING DUTY

For sections 1 to 5 of the Betting and Gaming Duties Act 1981 (c. 63) (general betting duty: charge, rate and payment) substitute—

" General betting duty

The duty

1 A duty of excise to be known as general betting duty shall be charged in accordance with sections 2 to 5D.

Bookmakers: general bets

2 (1) General betting duty shall be charged on a bet made with a bookmaker who is in the United Kingdom.

(2) Subsection (1) does not apply to—

(a) an on-course bet,

(b) a spread bet,

(c) a bet made by way of pool betting, or

(d) a bet made by way of coupon betting.

(3) The amount of duty charged in respect of bets made with a bookmaker in an accounting period shall be 15 per cent. of the amount of his net stake receipts for that period.

Bookmakers: spread bets

3 (1) General betting duty shall be charged on a spread bet made with a bookmaker who—

(a) is in the United Kingdom, and

(b) holds a bookmaker's permit.

(2) A bet is a spread bet if it constitutes a contract to which section 63 of the Financial Services Act 1986 applies by virtue of paragraphs 9 and 12 of Schedule 1 to that Act (gaming contracts: investments).

(3) The amount of duty charged under subsection (1) in respect of spread bets made with a bookmaker in an accounting period shall be—

(a) 3 per cent. of the amount of his net stake receipts in respect of financial spread bets for that period (if any), plus

(b) 10 per cent. of the amount of his net stake receipts in respect of other spread bets for that period (if any).

(4) A "financial spread bet" is a spread bet the subject of which is a financial matter.

(5) The Commissioners may by order provide that a specified matter—

(a) shall be treated as a financial matter for the purpose of subsection (4), or

(b) shall not be treated as a financial matter for that purpose.

Other betting

4 (1) General betting duty shall be charged on sponsored pool betting.

(2) General betting duty shall be charged on a bet made by means of facilities provided by the Horserace Totalisator Board.

(3) General betting duty shall be charged on a bet made on an event on a track falling within subsection (4) if the bet is made—

(a) by means of a totalisator which operates on that track, and

(b) on the day of the event.

(4) A track falls within this subsection if—

(a) a track betting licence is in force for the track under Schedule 3 to the Betting, Gaming and Lotteries Act 1963,

(b) a track betting licence is in force for the track under Article 37 of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985, or

(c) the Commissioners designate the track for the purposes of this subsection.

(5) The amount of duty charged under subsections (1) to (3) in respect of bets made by means of facilities provided by a person in an accounting period shall be 15 per cent. of the amount of his net stake receipts for that period.

(6) Subsections (1) to (3) do not apply to—

(a) on-course bets, or

(b) coupon betting.

Net stake receipts

5 (1) For the purposes of a charge under a provision of sections 2 to 4 in respect of the class of bets to which the provision applies, the amount of a person's net stake receipts for an accounting period is X minus Y, where—

(a) X is the aggregate of amounts which fall due to that person in the accounting period in respect of bets of that class made with him, and

(b) Y is the aggregate of amounts paid by the person in that period by way of winnings to persons who made bets of that class with him (irrespective of when the bets were made or determined).

(2) Where—

(a) a person makes a bet other than a spread bet, and

(b) the sum which he will lose if unsuccessful is known when the bet is made,

that sum shall be treated for the purposes of subsection (1)(a) as falling due when the bet is made (irrespective of when it is actually paid or required to be paid).

(3) Where the amount of a person's net stake receipts is zero or a negative amount, it shall be disregarded for the purposes of sections 2 to 4.

(4) In calculating an amount due to a person in respect of a bet, no deduction shall be made in respect of—

(a) any other benefit secured by the person who makes the bet as a result of paying the money,

(b) a person's expenses, whether in paying duty or otherwise, or

(c) any other matter.

(5) Where a person makes a bet in pursuance of an offer which permits him to pay nothing or less than the amount which he would have been required to pay without the offer, he shall be treated for the purposes of this section as being due to pay that amount—

(a) to the person with whom the bet is made, and

(b) at the time when the bet is made.

(6) For the purpose of subsection (1)(b)—

(a) the reference to paying an amount to a person includes a reference to holding it in an account if the person is notified that the amount is being held for him in the account and that he is entitled to withdraw it on demand,

(b) the return of a stake shall be treated as a payment by way of winnings, and

(c) only payments of money shall be taken into account.

(7) In the application of this section to a charge under section 4(1) to (3), a reference to bets made with a person shall be treated as a reference to bets made by means of facilities provided by him.

Multiple bets

5A (1) Subject to subsection (3), this section applies where—

(a) a person bets on more than one contingency, and

(b) he bets on terms that if his bet in respect of one contingency is successful the stake or winnings will be carried forward as the stake in respect of another contingency.

(2) Where this section applies—

(a) the person mentioned in subsection (1)(a) shall be treated for the purposes of sections 2 to 4 as making a separate bet on each contingency, and

(b) each bet which depends on the result of an earlier bet shall be treated as being made at the time of that result.

(3) This section does not apply where a person bets on more than one contingency if—

(a) the betting takes the form of a single bet or of bets placed at a single time, and

(b) the terms mentioned in subsection (1) do not permit the arrangement for carrying forward to be varied or terminated.

(4) In subsection (1)(b) the reference to "the stake or winnings" includes a reference to—

(a) any part of the stake,

(b) any part of the winnings, and

(c) any combination of stake and winnings.

Liability to pay

5B (1) At the end of each accounting period all general betting duty chargeable in respect of bets made in the period shall become due.

(2) In the case of bets made with a bookmaker in an accounting period the general betting duty shall be paid—

(a) when it becomes due, and

(b) by the bookmaker.

(3) But general betting duty which is due to be paid by a bookmaker in respect of bets may be recovered from the following persons as if they and the bookmaker were jointly and severally liable to pay the duty—

(a) the holder of a bookmaker's permit for the business in the course of which the bets were made;

(b) a person responsible for the management of that business;

(c) where the bookmaker is a company, a director.

(4) In the case of bets made in an accounting period by means of facilities provided by a person as described in section 4(1) to (3) the general betting duty shall be paid—

(a) when it becomes due, and

(b) by the person who provides the facilities.

(5) This section is without prejudice to paragraph 2 of Schedule 1 to this Act or regulations made under it.

Bet-brokers

5C (1) This section applies where—

(a) one person (the "bettor") makes a bet with another person (the "bet-taker") using facilities provided in the course of a business by a third person (the "bet-broker"), or

(b) one person (the "bet-broker") in the course of a business makes a bet with another person (the "bet-taker") as the agent of a third person (the "bettor") (whether the bettor is a disclosed principal or an undisclosed principal).

(2) For the purposes of sections 2 to 5B—

(a) the bet shall be treated as if it were made by the bettor with the bet-broker and not with the bet-taker,

(b) the bet-broker shall be treated as a bookmaker in respect of the bet,

(c) the aggregate of amounts due to be paid by the bettor in respect of the bet shall be treated as being due to the bet-broker, and

(d) a sum paid by the bet-taker by way of winnings in respect of the bet shall be treated as having been paid by the bet-broker at that time and for that purpose.

(3) But subsection (2) does not apply to a bet if—

(a) the bet-taker holds a bookmaker's permit, and

(b) the bet would not be an on-course bet if the bet-broker were making the bet with the bet-taker as principal.

(4) In the case of a bet which is excluded from subsection (2) by virtue of subsection (3), for the purposes of sections 2 to 5B—

(a) the bet shall be treated as if it were made separately by the bettor with the bet-broker and by the bet-broker with the bet-taker,

(b) the bet-broker shall be treated as a bookmaker in respect of the bet,

(c) the aggregate of amounts due to be paid by the bettor in respect of the bet shall be treated as being due separately to the bet-broker and to the bet-taker (and any amount due to be paid by the bet-broker to the bet-taker shall be disregarded), and

(d) a sum paid by the bet-taker by way of winnings in respect of the bet shall be treated as having been paid separately by the bet-taker and by the bet-broker at that time and for that purpose (and any sum paid by the bet-broker shall be disregarded).

(5) This section does not apply—

(a) to bets made by way of pool betting, or

(b) to bets made using facilities provided by a person holding (and relying on) a betting agency permit (within the meaning of section 9(2)(c)(ii) of the Betting, Gaming and Lotteries Act 1963).

(6) Where there is any doubt as to which of two persons is the bettor and which the bet-taker for the purposes of subsection (1)(a), whichever of the two was the first to use the facilities of the bet-broker to offer the bet shall be treated as the bet-taker.

Accounting period

5D (1) For the purposes of sections 2 to 5C—

(a) each calendar month is an accounting period, but

(b) the Commissioners may provide in regulations under paragraph 2 of Schedule 1 to this Act for some other specified period to be an accounting period.

(2) Regulations made by virtue of subsection (1)(b) may—

(a) make provision which applies generally or only in relation to a specified person or class of person;

(b) make different provision for different purposes;

(c) make transitional provision."

.

1 In section 6(1) of the Betting and Gaming Duties Act 1981 (c. 63) (pool betting duty) for "section 1(1)(c) above" substitute " section 4(3) ".

2 For section 9(3)(a) of that Act (protection of revenue) substitute—

"(a) to any bet which is made by way of pool betting or coupon betting if—

(i) the bet is not made by means of a totalisator,

(ii) the promoter is in the Isle of Man,

(iii) the bet is chargeable with a duty imposed by or under an Act of Tynwald which corresponds to pool betting duty, and

(iv) the duty mentioned in sub-paragraph (iii) is chargeable on the bet at a rate not less than the appropriate rate of pool betting duty; or

(aa) to any bet which is made with a bookmaker if—

(i) it is not made by way of pool betting or coupon betting,

(ii) the bookmaker is in the Isle of Man,

(iii) a duty is imposed by or under an Act of Tynwald in respect of bookmaker's receipts from bets of that kind, and

(iv) the rates and method of calculation of that duty result in no less duty being charged in respect of bets of that kind than is charged by way of general betting duty in respect of bets of that kind; or".

3 Paragraph 2(4)(b) and (c) of Schedule 1 to that Act (general betting duty: administration: records) shall cease to have effect.

SCHEDULE 2

Section 9.

RATES OF VEHICLE EXCISE DUTY ON GOODS VEHICLES

1 Part 8 of Schedule 1 to the Vehicle Excise and Registration Act 1994 (c. 22) (annual rates of vehicle excise duty: goods vehicles) is amended as follows.

2 For the Table in paragraph 9(1) (rigid goods vehicles not satisfying reduced pollution requirements and with a revenue weight exceeding 3,500 kilograms but not exceeding 44,000 kilograms) substitute—

Revenue weight of vehicle		***Rate***		
(1)	***(2)***	***(3)***	***(4)***	***(5)***
Exceeding	***Not Exceeding***	***Two axle vehicle***	***Three axle vehicle***	***Four or more axle vehicle***
kgs	**kgs**	**£**	**£**	**£**
3,500	7,500	165	165	165
7,500	12,000	200	200	200
12,000	13,000	200	200	200
13,000	14,000	200	200	200
14,000	15,000	200	200	200
15,000	17,000	650	200	200
17,000	19,000	650	200	200
19,000	21,000	650	200	200
21,000	23,000	650	450	200
23,000	25,000	650	650	450

25,000	27,000	650	650	650
27,000	29,000	650	650	1,200
29,000	31,000	650	650	1,200
31,000	44,000	650	650	1,200

3 In paragraph 9(3) (rigid goods vehicles not satisfying reduced pollution requirements and with a revenue weight exceeding 44,000 kilograms), for "£5,170" substitute " £2,585 ".

4 In paragraph 9A(3) (rigid goods vehicles satisfying reduced pollution requirements and with a revenue weight exceeding 44,000 kilograms), for "£4,170" substitute " £2,085 ".

5 For the Table in paragraph 9B (rigid goods vehicles satisfying reduced pollution requirements and with a revenue weight exceeding 3,500 kilograms but not exceeding 44,000 kilograms) substitute—

Revenue weight of vehicle		***Rate***		
(1)	***(2)***	***(3)***	***(4)***	***(5)***
Exceeding	***Not Exceeding***	***Two axle vehicle***	***Three axle vehicle***	***Four or more axle vehicle***
kgs	**kgs**	**£**	**£**	**£**
3,500	7,500	160	160	160
7,500	12,000	160	160	160
12,000	13,000	160	160	160
13,000	14,000	160	160	160
14,000	15,000	160	160	160
15,000	17,000	280	160	160
17,000	19,000	280	160	160
19,000	21,000	280	160	160
21,000	23,000	280	210	160
23,000	25,000	280	280	210
25,000	27,000	280	280	280
27,000	29,000	280	280	700
29,000	31,000	280	280	700
31,000	44,000	280	280	700

6 In paragraph 10(3) (trailer supplement for trailers exceeding 12,000 kilograms is 275 per cent of general rate), for "275" substitute " 140 ".

7 For the Table in paragraph 11(1) (tractive units not satisfying reduced pollution requirements and with a revenue weight exceeding 3,500 kilograms but not exceeding 44,000 kilograms) substitute—

Revenue weight of tractive unit		***Rate for tractive unit with two axles***			***Rate for tractive unit with three or more axles***		
(1)	***(2)***	***(3)***	***(4)***	***(5)***	***(6)***	***(7)***	***(8)***
Exceeding	***Not exceeding***	***Any no. of semi-trailer axles***	***2 or more semi-trailer axles***	***3 or more semi-trailer axles***	***Any no. of semi-trailer axles***	***2 or more semi-trailer axles***	***3 or more semi-trailer axles***
kgs	**kgs**	**£**	**£**	**£**	**£**	**£**	**£**
3,500	7,500	165	165	165	165	165	165
7,500	12,000	165	165	165	165	165	165
12,000	16,000	165	165	165	165	165	165
16,000	20,000	165	165	165	165	165	165
20,000	23,000	165	165	165	165	165	165
23,000	25,000	165	165	165	165	165	165
25,000	26,000	450	165	165	165	165	165
26,000	28,000	450	165	165	165	165	165
28,000	31,000	650	650	165	450	165	165
31,000	33,000	1,200	1,200	450	1,200	450	165
33,000	34,000	1,200	1,200	450	1,200	650	165
34,000	35,000	1,500	1,500	1,200	1,200	650	450
35,000	36,000	1,500	1,500	1,200	1,200	650	450
36,000	38,000	1,500	1,500	1,200	1,500	1,200	650
38,000	41,000	1,850	1,850	1,850	1,850	1,850	1,200
41,000	44,000	1,850	1,850	1,850	1,850	1,850	1,200

8 In paragraph 11(3) (tractive units not satisfying reduced pollution requirements and with a revenue weight exceeding 44,000 kilograms), for "£5,170" substitute " £2,585 ".

9 In paragraph 11A(3) (tractive units satisfying reduced pollution requirements and with a revenue weight exceeding 44,000 kilograms), for "£4,170" substitute " £2,085 ".

10 For the Table in paragraph 11B (tractive units satisfying reduced pollution requirements and with a revenue weight exceeding 3,500 kilograms but not exceeding 44,000 kilograms) substitute—

Revenue weight of tractive unit		***Rate for tractive unit with two axles***			***Rate for tractive unit with three or more axles***		
(1)	***(2)***	***(3)***	***(4)***	***(5)***	***(6)***	***(7)***	***(8)***

Exceeding	***Not exceeding***	***Any no. of semi-trailer axles***	***2 or more semi-trailer axles***	***3 or more semi-trailer axles***	***Any no. of semi-trailer axles***	***2 or more semi-trailer axles***	***3 or more semi-trailer axles***
kgs	**kgs**	**£**	**£**	**£**	**£**	**£**	**£**
3,500	7,500	160	160	160	160	160	160
7,500	12,000	160	160	160	160	160	160
12,000	16,000	160	160	160	160	160	160
16,000	20,000	160	160	160	160	160	160
20,000	23,000	160	160	160	160	160	160
23,000	25,000	160	160	160	160	160	160
25,000	26,000	210	160	160	160	160	160
26,000	28,000	210	160	160	160	160	160
28,000	31,000	280	280	160	210	160	160
31,000	33,000	700	700	210	700	210	160
33,000	34,000	700	700	210	700	280	160
34,000	35,000	1,000	1,000	700	700	280	210
35,000	36,000	1,000	1,000	700	700	280	210
36,000	38,000	1,000	1,000	700	1,000	700	280
38,000	41,000	1,350	1,350	1,350	1,350	1,350	700
41,000	44,000	1,350	1,350	1,350	1,350	1,350	700

11 In paragraph 11C(2)(a) (certain tractive units not satisfying reduced pollution requirements and with a revenue weight exceeding 41,000 kilograms but not exceeding 44,000 kilograms), for “£1,280” substitute “ £650 ”.

VALID FROM 01/11/2001

SCHEDULE 3

Section 15.

EXCISE DUTY: PAYMENTS BY COMMISSIONERS IN CASE OF ERROR OR DELAY

. . . . . .

VALID FROM 20/12/2001

SCHEDULE 4

Section 24.

AGGREGATES LEVY: REGISTRATION

. . . . . .

SCHEDULE 5

Section 27.

AGGREGATES LEVY: RECOVERY AND INTEREST

Recovery of levy as debt due

1 Aggregates levy shall be recoverable as a debt due to the Crown.

Assessments of amounts of levy due

2 (1) Where it appears to the Commissioners—

(a) that any period is an accounting period by reference to which a person is liable to account for aggregates levy,

(b) that any aggregates levy for which that person is liable to account by reference to that period has become due, and

(c) that there has been a default by that person that falls within sub-paragraph (2) below,

they may assess the amount of the levy due from that person for that period to the best of their judgement and notify that amount to that person.

(2) The defaults falling within this sub-paragraph are—

(a) any failure to make a return required to be made by any provision made by or under this Part of this Act;

(b) any failure to keep any documents necessary to verify returns required to be made under any such provision;

(c) any failure to afford the facilities necessary to verify returns required to be made under any such provision;

(d) the making, in purported compliance with any requirement of any such provision to make a return, of an incomplete or incorrect return;

(e) any failure to comply with a requirement imposed by or under Schedule 4 to this Act.

(3) Where it appears to the Commissioners that a default falling within sub-paragraph (2) above is a default by a person on whom the requirement to make a return is imposed in his capacity as the representative of another person, sub-paragraph (1) above shall apply as if the reference to the amount of aggregates levy due included a reference to any aggregates levy due from that other person.

(4) In a case where—

(a) the Commissioners have made an assessment for any accounting period as a result of any person's failure to make a return for that period,

(b) the levy assessed has been paid but no proper return has been made for that period,

(c) as a result of a failure (whether by that person or a representative of his) to make a return for a later accounting period, the Commissioners find it necessary to make another assessment under this paragraph in relation to the later period, and

(d) the Commissioners think it appropriate to do so in the light of the absence of a proper return for the earlier period,

they may, in the assessment in relation to the later period, specify an amount of aggregates levy due that is greater than the amount that they would have considered to be appropriate had they had regard only to the later period.

(5) Where an amount has been assessed and notified to any person under this paragraph, it shall be recoverable on the basis that it is an amount of aggregates levy due from him.

(6) Sub-paragraph (5) above does not have effect if, or to the extent that, the assessment in question has been withdrawn or reduced.

Supplementary assessments

3 (1) If, where an assessment has been notified to any person under paragraph 2 above or this paragraph, it appears to the Commissioners that the amount which ought to have been assessed as due for any accounting period exceeds the amount that has already been assessed, the Commissioners may make a supplementary assessment of the amount of the excess and notify that person accordingly.

(2) Where an amount has been assessed and notified to any person under this paragraph it shall be recoverable on the basis that it is an amount of aggregates levy 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.

Time limits for assessments

4 (1) An assessment under paragraph 2 or 3 above of an amount of aggregates levy due for any accounting period—

(a) shall not be made more than two years after the end of the accounting period unless it is made within the period mentioned in sub-paragraph (2) below; and

(b) subject to sub-paragraph (3) below, shall not in any event be made more than three years after the end of that accounting period.

(2) The period referred to in sub-paragraph (1)(a) above is the period of one year after evidence of facts sufficient in the Commissioners' opinion to justify the making of the assessment first came to their knowledge.

(3) Subject to sub-paragraph (4) below, where aggregates levy has been lost—

(a) as a result of any conduct for which a person has been convicted of an offence involving fraud,

(b) in circumstances giving rise to liability to a penalty under paragraph 1 of Schedule 4 to this Act (failure to notify of registrability etc.), or

(c) as a result of conduct falling within paragraph 7(1) of Schedule 6 to this Act (evasion),

that levy may be assessed under paragraph 2 or 3 above as if, in sub-paragraph (1)(b) above, for "three years" there were substituted " twenty years ".

(4) Where, after a person's death, the Commissioners propose to assess an amount of aggregates levy as due by reason of some conduct of the deceased—

(a) the assessment shall not be made more than three years after the death; and

(b) if the circumstances are as set out in sub-paragraph (3) above—

(i) the modification of sub-paragraph (1) above contained in that sub-paragraph shall not apply; but

(ii) any assessment which (applying that modification) could have been made immediately after the death may be made at any time within three years after it.

(5) Nothing in this paragraph shall prejudice the powers of the Commissioners under paragraph 2(4) above.

Penalty interest on unpaid levy

5 (1) Where—

(a) a person makes a return for the purposes of any regulations made under section 25 of this Act (whether or not at the time required by the regulations), and

(b) the return shows that an amount of aggregates levy is due from him for the accounting period for which the return is made,

that amount shall carry penalty interest for the period specified in sub-paragraph (2) below.

(2) That period is the period which—

(a) begins with the day after that on which the person is required in accordance with regulations under section 25 of this Act to pay aggregates levy due from him for the accounting period in question; and

(b) ends with the day before that on which the amount shown in the return is paid.

Interest on overdue levy paid before assessment

6 (1) Where—

(a) the circumstances are such that there was a time when an assessment could have been made under paragraph 2 or 3 above of an amount of levy due from any person, but

(b) before the making and notification to that person of any assessment of that amount, the amount was paid,

the whole of the amount paid shall be taken to have carried interest for the period specified in sub-paragraph (2).

(2) That period is the period which—

(a) begins with the day after that on which the person is required in accordance with regulations under section 25 of this Act to pay aggregates levy due from him for the accounting period to which the amount in question relates; and

(b) ends with the day before that on which that amount was paid.

(3) The interest payable by virtue of this paragraph shall be payable at the rate applicable under section 197 of the Finance Act 1996 (c. 8).

Penalty interest on levy where no return made

7 (1) Where—

(a) the Commissioners make an assessment under paragraph 2 or 3 above of an amount of aggregates levy due from any person for any accounting period and notify it to him, and

(b) the assessment is made at a time after the time by which a return is required by regulations under section 25 of this Act to be made by that person for that accounting period and before any such return has been made,

that amount shall carry penalty interest for the period specified in sub-paragraph (2) below.

(2) That period is the period which—

(a) begins with the day after that on which the person is required in accordance with regulations under section 25 of this Act to pay aggregates levy due from him for the accounting period in question; and

(b) ends with the day before that on which the assessed amount is paid.

Ordinary and penalty interest on under-declared levy

8 (1) Subject to sub-paragraph (4) below, where—

(a) the Commissioners make an assessment under paragraph 2 or 3 above of an amount of aggregates levy due from any person for any accounting period and notify it to him,

(b) the assessment is made after a return for the purposes of any regulations under section 25 has been made by that person for that accounting period, and

(c) the assessment is made on the basis that the amount ("the additional amount") is due from him in addition to any amount shown in the return, or in a previous assessment made in relation to the accounting period,

the additional amount shall carry interest for the period specified in sub-paragraph (2) below.

(2) That period is the period which—

(a) begins with the day after that on which the person is required in accordance with regulations under section 25 of this Act to pay aggregates levy due from him for the accounting period in question; and

(b) ends with the day before the day on which the additional amount is paid.

(3) Interest under this paragraph—

(a) in respect of so much of the period specified in sub-paragraph (2) above as falls before the day on which the assessment is notified to the person in question, shall be payable at the rate applicable under section 197 of the Finance Act 1996 (c. 8); and

(b) in respect of the remainder (if any) of that period, shall be penalty interest.

(4) Where—

(a) the Commissioners make an assessment under paragraph 2 or 3 above of an amount of aggregates levy due from any person for any accounting period and notify it to him,

(b) they also specify a date for the purposes of this sub-paragraph, and

(c) the amount assessed is paid on or before that date,

the only interest carried by that amount under this paragraph shall be interest, at the rate given by sub-paragraph (3)(a) above, for the period before the day on which the assessment is notified.

Penalty interest on unpaid ordinary interest

9 (1) Subject to sub-paragraph (2) below, where the Commissioners make an assessment under paragraph 12 below of an amount of interest payable at the rate given by paragraph 8(3)(a) above, that amount shall carry penalty interest for the period which—

(a) begins with the day on which the assessment is notified to the person on whom the assessment is made; and

(b) ends with the day before the day on which the assessed interest is paid.

(2) Where—

(a) the Commissioners make an assessment under paragraph 12 below of an amount of interest due from any person,

(b) they also specify a date for the purposes of this sub-paragraph, and

(c) the amount of interest assessed is paid on or before that date,

the amount paid before that date shall not carry penalty interest under this paragraph.

Penalty interest

10 (1) Penalty interest under any of paragraphs 5 to 9 above shall be compound interest calculated—

(a) at the penalty rate; and

(b) with monthly rests.

(2) For this purpose the penalty rate is the rate found by—

(a) taking the rate applicable under section 197 of the Finance Act 1996 (c. 8) for the purposes of paragraph 8(3)(a) above; and

(b) adding 10 percentage points to that rate.

(3) Where a person is liable under any of paragraphs 5 to 9 above to pay any penalty interest, the Commissioners or, on appeal, an appeal tribunal may reduce the amount payable to such amount (including nil) as they think proper.

(4) Subject to sub-paragraph (5) below, where the person concerned satisfies the Commissioners or, on appeal, an appeal tribunal that there is a reasonable excuse for the conduct giving rise to the liability to pay penalty interest, that is a matter which (among other things) may be taken into account under sub-paragraph (3) above.

(5) In determining whether there is a reasonable excuse for the purposes of sub-paragraph (4) above, no account shall be taken of any of the following matters, that is to say—

(a) the insufficiency of the funds available to any person for paying any aggregates levy due or for paying the amount of the interest;

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

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

(6) In the case of interest reduced by the Commissioners under sub-paragraph (3) above an appeal tribunal, on an appeal relating to the interest, may cancel the whole or any part of the reduction made by the Commissioners.

Supplemental provisions about interest

11 (1) Interest under any of paragraphs 5 to 9 above shall be paid without any deduction of income tax.

(2) Sub-paragraph (3) below applies where—

(a) an amount carries interest under any of paragraphs 5 to 9 above (or would do so apart from that sub-paragraph); and

(b) all or part of the amount turns out not to be due.

(3) In such a case—

(a) the amount or part that turns out not to be due shall not carry interest under the applicable paragraph and shall be treated as never having done so; and

(b) all such adjustments as are reasonable shall be made, including (subject to section 32 of, and Schedule 8 to, this Act) adjustments by way of repayment.

Assessments to interest

12 (1) Where a person is liable for interest under any of paragraphs 5 to 9 above, the Commissioners may assess the amount due by way of interest and notify it to him accordingly.

(2) If, where an assessment has been notified to any person under sub-paragraph (1) above or this sub-paragraph, it appears to the Commissioners that the amount which ought to have been assessed exceeds the amount that has already been assessed, the Commissioners may make a supplementary assessment of the amount of the excess and notify that person accordingly.

(3) Where an amount has been assessed and notified to any person under this paragraph, it shall be recoverable as if it were aggregates levy due from him.

(4) Sub-paragraph (3) above—

(a) shall not apply so as to require any interest to be payable on interest except—

(i) in accordance with paragraph 9 above; or

(ii) in so far as it falls to be compounded in accordance with paragraph 10 above;

and

(b) shall not have effect if, or to the extent that, the assessment in question has been withdrawn or reduced.

(5) Paragraph 4 above shall apply in relation to assessments under this paragraph as if any assessment to interest were an assessment under paragraph 2 above to aggregates levy due for the period which is the relevant accounting period in relation to that interest.

(6) Subject to sub-paragraph (7) below, where a person—

(a) is assessed under this paragraph to an amount due by way of any interest, and

(b) is also assessed under paragraph 2 or 3 above for the accounting period which is the relevant accounting period in relation to that interest,

the assessments may be combined and notified to him as one assessment.

(7) A notice of a combined assessment under sub-paragraph (6) above must separately identify the interest being assessed.

(8) The relevant accounting period for the purposes of this paragraph is—

(a) in the case of interest on the levy due for any accounting period, that accounting period; and

(b) in the case of interest on interest (whether under paragraph 9 above or by virtue of any compounding under paragraph 10 above) the period which is the relevant accounting period for the interest on which the interest is payable.

(9) In a case where—

(a) the amount of any interest falls to be calculated by reference to aggregates levy which was not paid at the time when it should have been, and

(b) that levy cannot be readily attributed to any one or more accounting periods,

that levy shall be treated for the purposes of interest on any of that levy as aggregates levy due for such period or periods as the Commissioners may determine to the best of their judgement and notify to the person liable.

Further assessments to penalty interest

13 (1) Where an assessment is made under paragraph 12 above to an amount of penalty interest under any of paragraphs 5 to 9 above—

(a) the notice of assessment shall specify a date, not later than the date of the notice of assessment, to which the amount of interest which is assessed is calculated; and

(b) if the interest continues to accrue after that date, a further assessment or further assessments may be made under paragraph 12 above in respect of the amounts so accruing.

(2) Where—

(a) an assessment to penalty interest is made specifying a date for the purposes of sub-paragraph (1)(a) above, and

(b) within such period as may for the purposes of this sub-paragraph have been notified by the Commissioners to the person liable for the interest, the amount on which the interest is payable is paid,

that amount shall be deemed for the purposes of any further liability to interest to have been paid on the specified date.

Recovery by distress

14 In section 51(5) of the Finance Act 1997 (c. 16) (definition of relevant taxes for the purposes of the power to make provision by regulations for enforcement by distress of the relevant taxes), after paragraph (d) there shall be inserted—

"(da) aggregates levy;".

Walking possession agreements

15 (1) This paragraph applies where—

(a) in accordance with regulations made by virtue of paragraph 14 above a distress is authorised to be levied on the goods and chattels of a person;

(b) that person ("the person in default") has refused or neglected to pay an amount of aggregates levy due from him or an amount recoverable from him as if it were aggregates levy; and

(c) the person levying the distress and the person in default have entered into a walking possession agreement.

(2) For the purposes of this paragraph a walking possession agreement is an agreement under which, in consideration of the property distrained upon being allowed to remain in the custody of the person in default and of the delaying of its sale, the person in default—

(a) acknowledges that the property specified in the agreement is under distraint and held in walking possession; and

(b) undertakes that, except with the consent of the Commissioners and subject to such conditions as they may impose, he will not remove or allow the removal of any of the specified property from the premises named in the agreement.

(3) Subject to sub-paragraph (4) below, if the person in default is in breach of the undertaking contained in a walking possession agreement, he shall be liable to a penalty equal to one half of the levy or other amount referred to in sub-paragraph (1) (b) above.

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

(5) This paragraph does not extend to Scotland.

Recovery by diligence

16 In section 52(5) of the Finance Act 1997 (c. 16) (definition of relevant taxes for the purposes of the power to make provision by regulations for enforcement by diligence of the relevant taxes), after paragraph (d) there shall be inserted—

"(da) aggregates levy;".

Preferential debts in England and Wales and Northern Ireland

17 (1) In the Insolvency Act 1986 (c. 45)—

(a) in section 386(1) (preferential debts), after "climate change levy,", there shall be inserted " aggregates levy, "; and

(b) in Schedule 6 (categories of preferential debts), the paragraph set out in sub-paragraph (2) below shall be inserted after paragraph 3C.

(2) That paragraph is as follows—

"3D Any aggregates levy which is referable to the period of 6 months next before the relevant date (which period is referred to below as "the 6-month period").

For the purposes of this paragraph—

(a) where the whole of the accounting period to which any aggregates levy is attributable falls within the 6-month period, the whole amount of that levy is referable to that period; and

(b) in any other case the amount of any aggregates levy which is referable to the 6-month period is the proportion of the levy which is equal to such proportion (if any) of the accounting period in question as falls within the 6-month period;

and references here to accounting periods shall be construed in accordance with Part 2 of the Finance Act 2001.".

(3) In the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19))—

(a) in Article 346(1) (preferential debts), after "climate change levy,", there shall be inserted " aggregates levy, "; and

(b) in Schedule 4 (categories of preferential debts), the paragraph set out in sub-paragraph (4) below shall be inserted after paragraph 3C.

(4) That paragraph is as follows—

"3D Any agggregates levy which is referable to the period of 6 months next before the relevant date (which period is referred to below as "the 6-month period").

For the purposes of this paragraph—

(a) where the whole of the accounting period to which any aggregates levy is attributable falls within the 6-month period, the whole amount of that levy is referable to that period; and

(b) in any other case the amount of any aggregates levy which is referable to the 6-month period is the proportion of the levy which is equal to such proportion (if any) of the accounting period in question as falls within the 6-month period;

and references here to accounting periods shall be construed in accordance with Part 2 of the Finance Act 2001.".

Preferred debts in Scotland

18 (1) In paragraph 2 of Schedule 3 to the Bankruptcy (Scotland) Act 1985 (c. 66) (tax liabilities that are preferred debts), the following sub-paragraph shall be inserted before sub-paragraph (2)—

("1D) Any aggregates levy which is referable to the period of six months next before the relevant date."

(2) In that Schedule, the following paragraph shall be inserted after paragraph 8C—

"**Periods to which aggregates levy referable**

8D (1) For the purpose of paragraph 2(1D) of Part 1 of this Schedule—

(a) where the whole of the accounting period to which any aggregates levy is attributable falls within the period of six months next before the relevant date ('the relevant period'), the whole amount of that levy shall be referable to the relevant period; and

(b) in any other case the amount of any aggregates levy which shall be referable to the relevant period shall be the proportion of the levy which is equal to such proportion (if any) of the accounting period in question as falls within the relevant period.

(2) In sub-paragraph (1) above 'accounting period' shall be construed in accordance with Part 2 of the Finance Act 2001.".

Interpretation of Schedule etc.

19 (1) In this Schedule "penalty interest" shall be construed in accordance with paragraph 10 above.

(2) Any notification of an assessment under any provision of this Schedule to a person's representative shall be treated for the purposes of this Part of this Act as notification to the person in relation to whom the representative acts.

(3) In this Schedule "representative", in relation to any person, means—

(a) any of that person's personal representatives;

(b) that person's trustee in bankruptcy or liquidator;

(c) any person holding office as a receiver in relation to that person or any of his property;

(d) that person's tax representative or any other person for the time being acting in a representative capacity in relation to that person.

(4) In this paragraph "trustee in bankruptcy" includes, as respects Scotland—

(a) an interim or permanent trustee (within the meaning of the Bankruptcy (Scotland) Act 1985); and

(b) a trustee acting under a trust deed (within the meaning of that Act).

SCHEDULE 6

Section 28.

AGGREGATES LEVY: EVASION, MISDECLARATION AND NEGLECT

PART 1

CRIMINAL OFFENCES

Evasion

1 (1) A person is guilty of an offence if he is knowingly concerned in, or in the taking of steps with a view to—

(a) the fraudulent evasion by that person of any aggregates levy with which he is charged; or

(b) the fraudulent evasion by any other person of any aggregates levy with which that other person is charged.

(2) The references in sub-paragraph (1) above to the evasion of aggregates levy include references to obtaining, in circumstances where there is no entitlement to it, either a tax credit or a repayment of aggregates levy.

(3) A person guilty of an offence under this paragraph shall be liable (subject to sub-paragraph (4) below)—

(a) on summary conviction, to a penalty of the statutory maximum or to imprisonment for a term not exceeding six months, or to both;

(b) on conviction on indictment, to a penalty of any amount or to imprisonment for a term not exceeding seven years, or to both.

(4) In the case of any offence under this paragraph, where the statutory maximum is less than three times the sum of the amounts of aggregates levy which are shown to be amounts that were or were intended to be evaded, the penalty on summary conviction shall be the amount equal to three times that sum (instead of the statutory maximum).

(5) For the purposes of sub-paragraph (4) above the amounts of levy that were or were intended to be evaded shall be taken to include—

(a) the amount of any tax credit, and

(b) the amount of any repayment of aggregates levy,

which was, or was intended to be, obtained in circumstances where there was no entitlement to it.

(6) In determining for the purposes of sub-paragraph (4) above how much aggregates levy (in addition to any amount falling within sub-paragraph (5) above) was or was intended to be evaded, no account shall be taken of the extent (if any) to which any liability to aggregates levy of any person fell, or would have fallen, to be reduced by the amount of any tax credit or repayment of aggregates levy to which he was, or would have been, entitled.

Misstatements

2 (1) A person is guilty of an offence if, with the requisite intent and for purposes connected with aggregates levy—

(a) he produces or provides, or causes to be produced or provided, any document which is false in a material particular; or

(b) he otherwise makes use of such a document;

and in this sub-paragraph "the requisite intent" means the intent to deceive any person or to secure that a machine will respond to the document as if it were a true document.

(2) A person is guilty of an offence if, in providing any information under any provision made by or under this Part of this Act—

(a) he makes a statement which he knows to be false in a material particular; or

(b) he recklessly makes a statement which is false in a material particular.

(3) A person guilty of an offence under this paragraph shall be liable (subject to sub-paragraph (4) below)—

(a) on summary conviction, to a penalty of the statutory maximum or to imprisonment for a term not exceeding six months, or to both;

(b) on conviction on indictment, to a penalty of any amount or to imprisonment for a term not exceeding seven years, or to both.

(4) In the case of any offence under this paragraph, where—

(a) the document referred to in sub-paragraph (1) above is a return required under any provision made by or under this Part of this Act, or

(b) the information referred to in sub-paragraph (2) above is contained in or otherwise relevant to such a return,

the amount of the penalty on summary conviction shall be whichever is the greater of the statutory maximum and the amount equal to three times the sum of the amounts (if any) by which the return understates any person's liability to aggregates levy.

(5) In sub-paragraph (4) above the reference to the amount by which any person's liability to aggregates levy is understated shall be taken to be equal to the sum of—

(a) the amount (if any) by which his gross liability was understated; and

(b) the amount (if any) by which any entitlements of his to tax credits and repayments of aggregates levy were overstated.

(6) In sub-paragraph (5) above "gross liability" means liability to aggregates levy before any deduction is made in respect of any entitlement to any tax credit or repayments of aggregates levy.

Conduct involving evasions or misstatements

3 (1) A person is guilty of an offence under this paragraph if his conduct during any particular period must have involved the commission by him of one or more offences under the preceding provisions of this Schedule.

(2) For the purposes of any proceedings for an offence under this paragraph it shall be immaterial whether the particulars of the offence or offences that must have been committed are known.

(3) A person guilty of an offence under this paragraph shall be liable (subject to sub-paragraph (4) below)—

(a) on summary conviction, to a penalty of the statutory maximum or to imprisonment for a term not exceeding six months, or to both;

(b) on conviction on indictment, to a penalty of any amount or to imprisonment for a term not exceeding seven years, or to both.

(4) In the case of any offence under this paragraph, where the statutory maximum is less than three times the sum of the amounts of aggregates levy which are shown to be amounts that were or were intended to be evaded by the conduct in question, the penalty on summary conviction shall be the amount equal to three times that sum (instead of the statutory maximum).

(5) For the purposes of sub-paragraph (4) above the amounts of levy that were or were intended to be evaded by any conduct shall be taken to include—

(a) the amount of any tax credit, and

(b) the amount of any repayment of aggregates levy,

which was, or was intended to be, obtained in circumstances where there was no entitlement to it.

(6) In determining for the purposes of sub-paragraph (4) above how much aggregates levy (in addition to any amount falling within sub-paragraph (5) above) was or was intended to be evaded, no account shall be taken of the extent (if any) to which any liability to aggregates levy of any person fell, or would have fallen, to be reduced by the amount of any tax credit or repayments of aggregates levy to which he was, or would have been, entitled.

Preparations for evasion

4 (1) Where a person—

(a) becomes a party to any agreement under or by means of which a quantity of taxable aggregate is or is to be subjected to commercial exploitation in the United Kingdom, or

(b) makes arrangements for any other person to become a party to such an agreement,

he is guilty of an offence if he does so in the belief that aggregates levy chargeable on the aggregate in question will be evaded.

(2) Subject to sub-paragraph (3) below, a person guilty of an offence under this paragraph shall be liable, on summary conviction, to a penalty of level 5 on the standard scale.

(3) In the case of any offence under this paragraph, where level 5 on the standard scale is less than three times the sum of the amounts of aggregates levy which are shown to be amounts that were or were intended to be evaded in respect of the aggregate in question, the penalty shall be the amount equal to three times that sum (instead of level 5 on the standard scale).

(4) For the purposes of sub-paragraph (3) above the amounts of levy that were or were intended to be evaded shall be taken to include—

(a) the amount of any tax credit, and

(b) the amount of any repayment of aggregates levy,

which was, or was intended to be, obtained in circumstances where there was no entitlement to it.

(5) In determining for the purposes of sub-paragraph (3) above how much aggregates levy (in addition to any amount falling within sub-paragraph (4) above) was or was intended to be evaded, no account shall be taken of the extent (if any) to which any liability to aggregates levy of any person fell, or would have fallen, to be reduced by the amount of any tax credit or repayments of aggregates levy to which he was, or would have been, entitled.

Criminal proceedings etc.

5 Sections 145 to 155 of the Customs and Excise Management Act 1979 (c. 2) (proceedings for offences, mitigation of penalties and certain other matters) shall apply in relation to offences and penalties under this Part of this Schedule as they apply in relation to offences and penalties under the customs and excise Acts.

Arrest

6 (1) Where an authorised person has reasonable grounds for suspecting that a fraud offence has been committed he may arrest anyone whom he has reasonable grounds for suspecting to be guilty of the offence.

(2) In this paragraph—

"authorised person" means any person acting under the authority of the Commissioners; and

"a fraud offence" means an offence under any of paragraphs 1 to 3 above.

PART 2

CIVIL PENALTIES

Evasion

7 (1) Subject to sub-paragraph (5) below, where—

(a) any person engages in any conduct for the purpose of evading aggregates levy,

(b) at the time when that person engages in that conduct he is a person who is or is required to be registered, or would be so required but for an exemption by virtue of regulations under section 24(4) of this Act, and

(c) that conduct involves dishonesty (whether or not it is such as to give rise to criminal liability),

that person shall be liable to a penalty equal to the amount of the levy evaded, or (as the case may be) intended to be evaded, by his conduct.

(2) The references in sub-paragraph (1) above to evading aggregates levy include references to obtaining, in circumstances where there is no entitlement to it, either—

(a) a tax credit; or

(b) a repayment of aggregates levy.

(3) For the purposes of sub-paragraph (1) above the amount of levy that was or was intended to be evaded by any conduct shall be taken to include—

(a) the amount of any tax credit, and

(b) the amount of any repayment of aggregates levy,

which was, or was intended to be, obtained in circumstances where there was no entitlement to it.

(4) In determining for the purposes of sub-paragraph (1) above how much aggregates levy (in addition to any amount falling within sub-paragraph (3) above) was or was intended to be evaded, no account shall be taken of the extent (if any) to which any liability to aggregates levy of any person fell, or would have fallen, to be reduced by the amount of any tax credit or repayments of aggregates levy to which he was, or would have been, entitled.

(5) Where, by reason of conduct falling within sub-paragraph (1) above, a person is convicted of an offence (whether under this Act or otherwise) that person shall not by reason of that conduct be liable also to a penalty under this paragraph.

Liability of directors etc. for civil penalties

8 (1) Where it appears to the Commissioners—

(a) that a body corporate is liable to a penalty under paragraph 7 above, and

(b) that the conduct giving rise to that penalty is, in whole or in part, attributable to the dishonesty of a person who is, or at the material time was, a director or managing officer of the body corporate (a "named officer"),

the Commissioners may serve a notice under this paragraph on the body corporate and on the named officer.

(2) A notice under this paragraph shall state—

(a) the amount of the penalty referred to in sub-paragraph (1)(a) above ("the basic penalty"); and

(b) that the Commissioners propose, in accordance with this paragraph, to recover from the named officer such portion of the basic penalty (which may be the whole of it) as is specified in the notice.

(3) Where a notice is served under this paragraph, the portion of the basic penalty specified in the notice shall be recoverable from the named officer as if he were personally liable under paragraph 7 above to a penalty which corresponds to that portion.

(4) Where a notice is served under this paragraph—

(a) the amount which may be assessed under Schedule 10 to this Act as the amount due by way of penalty from the body corporate shall be only so much (if any) of the basic penalty as is not assessed on and notified to a named officer; and

(b) the body corporate shall be treated as discharged from liability for so much of the basic penalty as is so assessed and notified.

(5) Subject to the following provisions of this paragraph, the giving of a notice under this paragraph as such shall not be a decision which may be reviewed under section 40 of this Act.

(6) Where a body corporate is assessed as mentioned in sub-paragraph (4)(a) above, the decisions of the Commissioners that may be reviewed in accordance with section 40 of this Act shall include their decision—

(a) as to the liability of the body corporate to a penalty; and

(b) as to the amount of the basic penalty that is specified in the assessment;

and sections 41 and 42 of this Act shall apply accordingly.

(7) Where an assessment is made on a named officer by virtue of this paragraph, the decisions which may be reviewed under section 40 of this Act at the request of the named officer shall include—

(a) the Commissioners' decisions in the case of the body corporate as to the matters mentioned in sub-paragraph (6)(a) and (b) above;

(b) their decision that the conduct of the body corporate referred to in sub-paragraph (1)(b) above is, in whole or in part, attributable to the dishonesty of the named officer; and

(c) their decision as to the portion of the penalty which the Commissioners propose to recover from him;

and sections 41 and 42 of this Act shall apply accordingly.

(8) In this paragraph a "managing officer", in relation to a body corporate, means—

(a) any manager, secretary or other similar officer of the body corporate; or

(b) any person purporting to act in any such capacity or as a director.

(9) Where the affairs of a body corporate are managed by its members, this paragraph shall apply in relation to the conduct of a member in connection with his functions of management as if he were a director of the body corporate.

Misdeclaration or neglect

9 (1) Subject to sub-paragraphs (3) to (5) below, where for an accounting period—

(a) a return is made which understates a person's liability to aggregates levy or overstates his entitlement to any tax credit or repayment of aggregates levy, or

(b) at the end of the period of 30 days beginning on the date of the making of any assessment which understates a person's liability to aggregates levy, that person has not taken all such steps as are reasonable to draw the understatement to the attention of the Commissioners,

the person concerned shall be liable to a penalty equal to 5 per cent. of the amount of the understatement of liability or (as the case may be) overstatement of entitlement.

(2) Where—

(a) a return for an accounting period—

(i) overstates or understates to any extent a person's liability to aggregates levy, or

(ii) understates or overstates to any extent his entitlement to any tax credits or repayments of aggregates levy,

and

(b) that return is corrected—

(i) in such circumstances as may be prescribed by regulations made by the Commissioners, and

(ii) in accordance with such conditions as may be so prescribed,

by a return for a later accounting period which understates or overstates, to the corresponding extent, any liability or entitlement for the later period,

it shall be assumed for the purposes of this paragraph that the statement made by each such return is a correct statement for the accounting period to which the return relates.

(3) Conduct falling within sub-paragraph (1) above shall not give rise to liability to a penalty under this paragraph if the person concerned provides the Commissioners with full information with respect to the inaccuracy concerned—

(a) at a time when he has no reason to believe that enquiries are being made by the Commissioners into his affairs, so far as they relate to aggregates levy; and

(b) in such form and manner as may be prescribed by regulations made by the Commissioners or specified by them in accordance with any such regulations.

(4) Conduct falling within sub-paragraph (1) above shall not give rise to liability to a penalty under this paragraph if the person concerned satisfies the Commissioners or, on appeal, an appeal tribunal that there is a reasonable excuse for his conduct.

(5) Where, by reason of conduct falling within sub-paragraph (1) above—

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

(b) a person is assessed to a penalty under paragraph 7 above,

that person shall not by reason of that conduct be liable also to a penalty under this paragraph.

VALID FROM 01/05/2002

Incorrect records etc evidencing claim for tax credit

[F5 9A (1) This paragraph applies where—

(a) a claim is made for a tax credit in such a case as is mentioned in—

(i) section 30(1)(c) of this Act (aggregate used in a prescribed industrial or agricultural process), or

(ii) section 30A of this Act (transitional tax credit in Northern Ireland);

(b) a record or other document is provided to the Commissioners as evidence for the claim; and

(c) the record or document is incorrect.

(2) The person who provided the document to the Commissioners, and any person who provided it to anyone else with a view to its being used as evidence for a claim for a tax credit, shall be liable to a penalty.

(3) The amount of the penalty shall be equal to 105 per cent of the difference between—

(a) the amount of tax credit that would have been due on the claim if the record or document had been correct, and

(b) the amount (if any) of tax credit actually due on the claim.

(4) The providing of a record or other document shall not give rise to a penalty under this paragraph if the person who provided it satisfies the Commissioners or, on appeal, an appeal tribunal that there is a reasonable excuse for his having provided it.

(5) Where by reason of providing a record or other document—

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

(b) a person is assessed to a penalty under paragraph 7 or 9 above,

that person shall not by reason of the providing of the record or document be liable also to a penalty under this paragraph.**]**

Textual Amendments

F5 Sch. 6 para. 9A inserted (*retrospective* from 1.5.2002) by 2002 c. 23, 133(5)(6)

PART 3

INTERPRETATION OF SCHEDULE

10 (1) References in this Schedule to obtaining a tax credit are references to bringing an amount into account as a tax credit for the purposes of aggregates levy on the basis that that amount is an amount which may be so brought into account in accordance with tax credit regulations.

(2) References in this Schedule to obtaining a repayment of aggregates levy are references to obtaining either—

(a) the payment or repayment of any amount, or

(b) the acknowledgement of a right to receive any amount,

on the basis that that amount is the amount of a repayment of aggregates levy to which there is an entitlement.

SCHEDULE 7

Section 29.

AGGREGATES LEVY: INFORMATION AND EVIDENCE ETC

Provision of information

1 (1) Every person involved (in whatever capacity) in subjecting any aggregate to exploitation in the United Kingdom, or in any connected activities, shall provide the Commissioners with such information relating to the matters in which he is or has been involved as the Commissioners may reasonably require.

(2) Information required under sub-paragraph (1) above shall be provided to the Commissioners within such period after being required, and in such form, as the Commissioners may reasonably require.

(3) Subject to sub-paragraphs (4) and (5) below and to paragraph 3(5) of Schedule 10 to this Act (which relates to supplementary assessments of daily penalties), if a person fails to provide information which he is required to provide under this paragraph, he shall be liable—

(a) to a penalty of £250; and

(b) to a further penalty of £20 for every day after the last relevant date and before the day after that on which the required information is provided.

(4) Liability to a penalty specified in sub-paragraph (3) above shall not arise if the person required to provide the information satisfies the Commissioners or, on appeal, an appeal tribunal—

(a) in the case of the penalty under paragraph (a) of that sub-paragraph that there is a reasonable excuse—

(i) for the initial failure to provide the required information on or before the last relevant date; and

(ii) for every subsequent failure to provide it;

and

(b) in the case of any penalty under paragraph (b) of that sub-paragraph for any day, that there is a reasonable excuse for the failure to provide the information on or before that day.

(5) Where, by reason of any failure by any person to provide information required under this paragraph—

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

(b) that person is assessed to a penalty under paragraph 7 of Schedule 6 to this Act (penalty for evasion),

that person shall not by reason of that failure be liable also to a penalty under this paragraph.

(6) In this paragraph "the last relevant date" means the last day of the period within which the person in question was required to provide the information.

Records

2 (1) The Commissioners may by regulations impose obligations to keep records on persons who are or are required to be registered and on persons who would be so required but for an exemption by virtue of regulations under section 24(4) of this Act.

(2) Regulations under this paragraph may be framed by reference to such records as may be stipulated in any notice published by the Commissioners in pursuance of the regulations and not withdrawn by a further notice.

(3) Regulations under this paragraph may—

(a) require any records kept in pursuance of the regulations to be preserved for such period, not exceeding six years, as may be specified in the regulations;

(b) authorise the Commissioners to direct that any such records need only be preserved for a shorter period than that specified in the regulations;

(c) authorise a direction to be made so as to apply generally or in such cases as the Commissioners may stipulate.

(4) Any duty under regulations under this paragraph to preserve records may be discharged by the preservation of the information contained in them by such means as the Commissioners may approve.

(5) The Commissioners may, as a condition of approving under sub-paragraph (4) above any means of preserving information contained in any records, impose such reasonable requirements as appear to them necessary for securing that the information will be as readily available to them as if the records themselves had been preserved.

(6) Subject to sub-paragraphs (7) and (8) below, a person who fails to preserve any record in compliance with—

(a) any regulations under this paragraph, or

(b) any notice, direction or requirement given or imposed under such regulations,

shall be liable to a penalty of £250.

(7) A failure such as is mentioned in sub-paragraph (6) above shall not give rise to any penalty under that sub-paragraph if the person required to preserve the record satisfies the Commissioners or, on appeal, an appeal tribunal that there is a reasonable excuse for the failure.

(8) Where, by reason of any such failure by any person as is mentioned in sub-paragraph (6) above—

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

(b) that person is assessed to a penalty under paragraph 7 of Schedule 6 to this Act (penalty for evasion),

that person shall not by reason of that failure be liable also to a penalty under this paragraph.

(9) The Commissioners may if they think fit at any time modify or withdraw any approval or requirement given or imposed for the purposes of this paragraph.

Evidence of records that are required to be preserved

3 (1) Subject to the following provisions of this paragraph, where any obligation to preserve records is discharged in accordance with paragraph 2(4) above, a copy of any document forming part of the records shall be admissible in evidence in any proceedings, whether civil or criminal, to the same extent as the records themselves.

(2) A statement contained in a document produced by a computer shall not by virtue of this paragraph be admissible in evidence—

(a) in criminal proceedings in England and Wales, except in accordance with Part 2 of the Criminal Justice Act 1988 (c. 33);

(b) in civil proceedings in Scotland, except in accordance with sections 5 and 6 of the Civil Evidence (Scotland) Act 1988 (c. 32);

(c) in criminal proceedings in Scotland, except in accordance with Schedule 8 to the Criminal Procedure (Scotland) Act 1995 (c. 46); or

(d) in criminal proceedings in Northern Ireland, except in accordance with Part II of the Criminal Justice (Evidence, Etc.) (Northern Ireland) Order 1988 (S.I. 1988/1847 (N.I. 17)).

Production of documents

4 (1) Every person involved (in whatever capacity) in subjecting any aggregate to exploitation in the United Kingdom, or in any connected activities, shall upon demand made by an authorised person produce or cause to be produced for inspection by that person any documents relating to the matters in which he is or has been involved.

(2) Where, by virtue of sub-paragraph (1) above, an authorised person has power to require the production of any documents from any person—

(a) he shall have the like power to require production of the documents concerned from any other person who appears to the authorised person to be in possession of them; and

(b) the production of any document by that other person in pursuance of a requirement under this sub-paragraph shall be without prejudice to any lien claimed by that other person on that document.

(3) The documents mentioned in sub-paragraphs (1) and (2) above shall be produced at such time and place as the authorised person may reasonably require.

(4) Subject to sub-paragraphs (5) and (6) below and to paragraph 3(5) of Schedule 10 to this Act (which relates to supplementary assessments of daily penalties), if a person fails to produce any document which he is required to produce under this paragraph, he shall be liable—

(a) to a penalty of £250; and

(b) to a further penalty of £20 for every day after the last relevant date and before the day after that on which the document is produced.

(5) Liability to a penalty specified in sub-paragraph (4) above shall not arise if the person required to produce the document in question satisfies the Commissioners or, on appeal, an appeal tribunal—

(a) in the case of the penalty under paragraph (a) of that sub-paragraph, that there is a reasonable excuse—

(i) for the initial failure to produce the document at the required time; and

(ii) for every subsequent failure to produce it;

and

(b) in the case of any penalty under paragraph (b) of that sub-paragraph for any day, that there is a reasonable excuse for the failure to produce the document on or before that day.

(6) Where, by reason of any failure by any person to provide information required under this paragraph—

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

(b) that person is assessed to a penalty under paragraph 7 of Schedule 6 to this Act (penalty for evasion),

that person shall not by reason of that failure be liable also to a penalty under this paragraph.

(7) In this paragraph "the last relevant date" means the last day of the period within which the person in question was required to produce the document.

Powers in relation to documents produced

5 (1) An authorised person may take copies of, or make extracts from, any document produced under paragraph 4 above.

(2) If it appears to him to be necessary to do so, an authorised person may, at a reasonable time and for a reasonable period, remove any document produced under paragraph 4 above.

(3) An authorised person who removes any document under sub-paragraph (2) above shall, if requested to do so, provide a receipt for the document so removed.

(4) Where a lien is claimed on a document produced under paragraph 4(2) above, the removal of the document under sub-paragraph (2) above shall not be regarded as breaking the lien.

(5) Where a document removed by an authorised person under sub-paragraph (2) above is reasonably required for any purpose he shall, as soon as practicable, provide a copy of the document, free of charge, to the person by whom it was produced or caused to be produced.

(6) Where any documents removed under the powers conferred by this paragraph are lost or damaged, the Commissioners shall be liable to compensate their owner for any expenses reasonably incurred by him in replacing or repairing the documents.

Entry and inspection

6 For the purpose of exercising any powers under this Part of this Act an authorised person may at any reasonable time enter and inspect premises used in connection with the carrying on of a business.

Entry and search

7 (1) Where—

(a) a justice of the peace is satisfied on information on oath that there is reasonable ground for suspecting that a fraud offence which appears to be of a serious nature is being, has been or is about to be committed on any premises or that evidence of the commission of such an offence is to be found there, or

(b) in Scotland a justice (within the meaning of section 307 of the Criminal Procedure (Scotland) Act 1995 (c. 46)) is satisfied by evidence on oath as mentioned in paragraph (a) above,

he may issue a warrant in writing authorising any authorised person to enter those premises, if necessary by force, at any time within one month from the time of the issue of the warrant and to search them.

(2) A person who enters the premises under the authority of the warrant may—

(a) take with him such other persons as appear to him to be necessary;

(b) seize and remove any such documents or other things at all found on the premises as he has reasonable cause to believe may be required as evidence for the purposes of proceedings in respect of a fraud offence which appears to him to be of a serious nature;

(c) search, or cause to be searched, any person found on the premises whom he has reasonable cause to believe to be in possession of any documents or other things which may be so required.

(3) Sub-paragraph (2) above shall not authorise any person to be searched by a member of the opposite sex.

(4) The powers conferred by a warrant under this paragraph shall not be exercisable—

(a) by more than such number of authorised persons as may be specified in the warrant;

(b) outside such periods of the day as may be so specified; or

(c) if the warrant so provides, otherwise than in the presence of a constable in uniform.

(5) An authorised person seeking to exercise the powers conferred by a warrant under this paragraph or, if there is more than one such authorised person, such one of them as is in charge of the search shall provide a copy of the warrant endorsed with his name as follows—

(a) if the occupier of the premises concerned is present at the time the search is to begin, the copy shall be supplied to the occupier;

(b) if at that time the occupier is not present but a person who appears to the authorised person to be in charge of the premises is present, the copy shall be supplied to that person;

(c) if neither paragraph (a) nor paragraph (b) above applies, the copy shall be left in a prominent place on the premises.

(6) In this paragraph "a fraud offence" means an offence under any of paragraphs 1 to 3 of Schedule 6 to this Act.

Order for access to recorded information etc.

8 (1) Where, on an application by an authorised person, a justice of the peace or, in Scotland, a justice (within the meaning of section 307 of the Criminal Procedure (Scotland) Act 1995 (c. 46)) is satisfied that there are reasonable grounds for believing—

(a) that an offence in connection with aggregates levy is being, has been or is about to be committed, and

(b) that any recorded information (including any document of any nature at all) which may be required as evidence for the purpose of any proceedings in respect of such an offence is in the possession of any person,

he may make an order under this paragraph.

(2) An order under this paragraph is an order that the person who appears to the justice to be in possession of the recorded information to which the application relates shall—

(a) give an authorised person access to it, and

(b) permit an authorised person to remove and take away any of it which he reasonably considers necessary,

not later than the end of the period of seven days beginning with the date of the order, or the end of such longer period as the order may specify.

(3) The reference in sub-paragraph (2)(a) above to giving an authorised person access to the recorded information to which the application relates includes a reference to permitting the authorised person to take copies of it or to make extracts from it.

(4) Where the recorded information consists of information contained in a computer, an order under this paragraph shall have effect as an order to produce the information—

(a) in a form in which it is visible and legible; and

(b) if the authorised person wishes to remove it, in a form in which it can be removed.

(5) This paragraph is without prejudice to the preceding paragraphs of this Schedule.

Removal of documents etc.

9 (1) An authorised person who removes anything in the exercise of a power conferred by or under paragraph 7 or 8 above shall, if so requested by a person showing himself—

(a) to be the occupier of premises from which it was removed, or

(b) to have had custody or control of it immediately before the removal,

provide that person with a record of what he removed.

(2) The authorised person shall provide the record within a reasonable time from the making of the request for it.

(3) Subject to sub-paragraph (7) below, if a request for permission to be allowed access to anything which—

(a) has been removed by an authorised person, and

(b) is retained by the Commissioners for the purposes of investigating an offence,

is made to the officer in overall charge of the investigation by a person who had custody or control of the thing immediately before it was so removed, or by someone acting on behalf of such a person, the officer shall allow the person who made the request access to it under the supervision of an authorised person.

(4) Subject to sub-paragraph (7) below, if a request for a photograph or copy of any such thing is made to the officer in overall charge of the investigation by a person who had custody or control of the thing immediately before it was so removed, or by someone acting on behalf of such a person, the officer shall—

(a) allow the person who made the request access to it under the supervision of an authorised person for the purpose of photographing it or copying it; or

(b) photograph or copy it, or cause it to be photographed or copied.

(5) Subject to sub-paragraph (7) below, where anything is photographed or copied under sub-paragraph (4)(b) above, the officer shall supply the photograph or copy, or cause it to be supplied, to the person who made the request.

(6) The photograph or copy shall be supplied within a reasonable time from the making of the request.

(7) There is no duty under this paragraph to allow access to anything, or to supply a photograph or copy of anything, if the officer in overall charge of the investigation for the purposes of which it was removed has reasonable grounds for believing that to do so would prejudice—

(a) that investigation;

(b) the investigation of an offence other than the offence for the purposes of the investigation of which the thing was removed; or

(c) any criminal proceedings which may be brought as a result of the investigation of which he is in charge or any such investigation as is mentioned in paragraph (b) above.

(8) Any reference in this paragraph to the officer in overall charge of the investigation is a reference to the person whose name and address are endorsed on the warrant concerned as being the officer so in charge.

Enforcement of paragraph 9

10 (1) Where, on an application made as mentioned in sub-paragraph (2) below, the appropriate judicial authority is satisfied that a person has failed to comply with a requirement imposed by paragraph 9 above, the authority may order that person to comply with the requirement within such time and in such manner as may be specified in the order.

(2) An application under sub-paragraph (1) above shall not be made except—

(a) in the case of a failure to comply with any of the requirements imposed by paragraph 9(1) and (2) above—

(i) by the occupier of the premises from which the thing in question was removed; or

(ii) by the person who had custody or control of it immediately before it was so removed;

(b) in any other case, by the person who had such custody or control.

(3) In this paragraph "the appropriate judicial authority" means—

(a) in England and Wales, a magistrates' court;

(b) in Scotland, the sheriff;

(c) in Northern Ireland, a court of summary jurisdiction, as defined in Article 2(2)(a) of the Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26)) .

(4) In England and Wales and Northern Ireland, an application for an order under this paragraph shall be made by way of complaint; and sections 21 and 42(2) of the InterpretationAct (Northern Ireland) 1954 (c. 33 (N.I.)) shall apply as if any reference in those provisions to any enactment included a reference to this paragraph.

Power to take samples

11 (1) An authorised person, if it appears to him necessary for the protection of the revenue against mistake or fraud, may at any time take, from material which he has reasonable cause to believe is aggregate which is intended to be, is being, or has been subjected to exploitation in the United Kingdom, such samples as he may require with a view to determining how the material ought to be treated, or to have been treated, for the purposes of aggregates levy.

(2) Any sample taken under this paragraph shall be disposed of in such manner as the Commissioners may direct.

Evidence by certificate

12 (1) In any proceedings a certificate of the Commissioners—

(a) that a person was or was not at any time registered,

(b) that any return required by regulations made under section 25 of this Act has not been made or had not been made at any time,

(c) that any levy shown as due in a return made in pursuance of regulations made under section 25 of this Act has not been paid, or

(d) that any amount shown as due in any assessment made under this Part of this Act has not been paid,

shall be evidence or, in Scotland, sufficient evidence of that fact.

(2) A photograph of any document provided to the Commissioners for the purposes of this Part of this Act and certified by them to be such a photograph shall be admissible in any proceedings, whether civil or criminal, to the same extent as the document itself.

(3) In any proceedings any document purporting to be a certificate under sub-paragraph (1) or (2) above shall be taken to be such a certificate unless the contrary is shown.

Inducements to provide information

13 (1) This paragraph applies—

(a) to any criminal proceedings against a person in respect of an offence in connection with or in relation to aggregates levy; and

(b) to any proceedings against a person for the recovery of any sum due from him in connection with or in relation to that levy.

(2) Statements made or documents produced or provided by or on behalf of a person shall not be inadmissible in any proceedings to which this paragraph applies by reason only that—

(a) a matter falling within sub-paragraph (3) or (4) below has been drawn to that person's attention; and

(b) he was or may have been induced, as a result, to make the statements or to produce or provide the documents.

(3) The matters falling within this sub-paragraph are—

(a) that, in relation to aggregates levy, the Commissioners may assess an amount due by way of a civil penalty instead of instituting criminal proceedings;

(b) that it is the practice of the Commissioners (without giving any undertaking as to whether they will make such an assessment in any case) to be influenced by whether a person—

(i) has made a full confession of any dishonest conduct to which he has been a party; and

(ii) has otherwise co-operated to the full with any investigation.

(4) The matter falling within this sub-paragraph is the fact that the Commissioners or, on appeal, an appeal tribunal have power under any provision of this Part of this Act to reduce a penalty.

Disclosure of information

14 (1) Notwithstanding any obligation not to disclose information that would otherwise apply but subject to sub-paragraph (2) below, the Commissioners may disclose any information obtained or held by them in or in connection with the carrying out of their functions in relation to aggregates levy to any of the following—

(a) any Minister of the Crown;

(b) the Scottish Ministers;

(c) any Minister, within the meaning of the Northern Ireland Act 1998 (c. 47), or any Northern Ireland department;

(d) the National Assembly for Wales;

(e) the Environment Agency;

(f) the Scottish Environment Protection Agency;

(g) a mineral planning authority in England and Wales (within the meaning of the Town and Country Planning Act 1990 (c. 8));

(h) a planning authority in Scotland;

(i) a district council in Northern Ireland;

(j) an authorised officer of any person mentioned in paragraphs (a) to (i) above.

(2) Information shall not be disclosed under sub-paragraph (1) above except for the purpose of assisting a person falling within paragraphs (a) to (j) of that sub-paragraph in the performance of his duties.

(3) Notwithstanding any such obligation as is mentioned in sub-paragraph (1) above, any person mentioned in sub-paragraph (1)(a) to (j) above may disclose information—

(a) to the Commissioners, or

(b) to an authorised officer of the Commissioners,

for the purpose of assisting the Commissioners in the performance of duties in relation to aggregates levy.

(4) Information that has been disclosed to a person by virtue of this paragraph shall not be disclosed by him except—

(a) to another person to whom (instead of him) disclosure could by virtue of this paragraph have been made; or

(b) for the purpose of any proceedings connected with the operation of any provision made by or under any enactment relating to the environment or to aggregates levy.

(5) References in the preceding provisions of this paragraph to an authorised officer of any person ("the principal") are to any person who has been designated by the principal as a person to and by whom information may be disclosed by virtue of this paragraph.

(6) Where the principal is a person falling within any of paragraphs (a) to (c) above, the principal shall notify the Commissioners in writing of the name of any person designated by the principal for the purposes of this paragraph.

(7) No charge may be made for any disclosure made by virtue of this paragraph.

(8) In this paragraph "enactment" includes an enactment contained in an Act of the Scottish Parliament or in any Northern Ireland legislation.

Interpretation of Schedule

15 In this Schedule—

"authorised person" means any person acting under the authority of the Commissioners;

"connected activities", in relation to the exploitation of aggregate in the United Kingdom, means any activities carried out—

(a) for purposes connected with the carrying out of any such exploitation or with any transaction involving the carrying out of any such exploitation; or

(b) for the purposes of, in connection with or in relation to the carrying on of any business involving any such exploitation.

SCHEDULE 8

Section 32.

AGGREGATES LEVY: REPAYMENTS AND CREDITS

Reimbursement arrangements

1 (1) The Commissioners may by regulations make provision for reimbursement arrangements made by any person to be disregarded for the purposes of section 32(2) of this Act 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 to a repayment of aggregates levy 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—

(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.

Interest payable by the Commissioners

2 (1) Where, due to an error on the part of the Commissioners, a person—

(a) has paid to them by way of aggregates levy an amount which was not levy due and which they are in consequence liable to repay to him,

(b) has failed to claim a repayment of levy to which he was entitled, under tax credit regulations, in respect of any tax credits, or

(c) has suffered delay in receiving payment of an amount due to him from them in connection with aggregates levy,

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

(2) In sub-paragraph (1) above, 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.

(3) In that sub-paragraph the amounts referred to in paragraph (c)—

(a) do not include any amount payable under this paragraph;

(b) do not include the amount of any interest for which provision is made by virtue of section 30(3)(f) of this Act; but

(c) do include any amount due (in respect of an adjustment of overpaid interest) by way of a repayment under—

(i) paragraph 11(3) of Schedule 5 to this Act; or

(ii) paragraph 6(3) of Schedule 10 to this Act.

(4) The applicable period, in a case falling within sub-paragraph (1)(a) above, is the period—

(a) beginning with the date on which the payment is received by the Commissioners; and

(b) ending with the date on which they authorise payment of the amount on which the interest is payable.

(5) The applicable period, in a case falling within sub-paragraph (1)(b) or (c) above, is the period—

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

(b) ending with the date on which they in fact authorise payment of that amount.

(6) 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 circumstances beyond their control.

(7) The reference in sub-paragraph (6) above to a period by which the Commissioners' authorisation of the payment of interest is delayed by circumstances beyond their control includes, in particular, any period which is referable to—

(a) any unreasonable delay in the making of any claim for the payment or repayment of the amount on which interest is claimed;

(b) any failure by any person 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 to be determined; and

(c) the making, as part of or in association with 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.

(8) In determining for the purposes of sub-paragraph (7) 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.

(9) The Commissioners shall not be liable to pay interest under this paragraph except on the making of a claim for that purpose.

(10) A claim under this paragraph must be in writing and must be made not more than three years after the end of the applicable period to which it relates.

(11) References in this paragraph—

(a) to receiving payment of any amount from the Commissioners, or

(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 9 or 10 below or otherwise) of the Commissioners' liability to pay that amount.

(12) Interest under this paragraph shall be payable at the rate applicable under section 197 of the Finance Act 1996 (c. 8).

Assessment for excessive repayment

3 (1) Where—

(a) any amount has been paid at any time to any person by way of a repayment of aggregates levy, 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.

(2) Where—

(a) any amount has been paid to any person by way of repayment of levy,

(b) the repayment is in respect of a tax credit the entitlement to which arose in a case falling within section 30(1)(e) (bad debts),

(c) the whole or any part of the credit is withdrawn on account of the payment of the whole or any part of the debt taken as bad,

(d) the amount of the repayment exceeded the amount which the Commissioners would have been liable to repay had the withdrawal taken place before the determination of the amount of the repayment,

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

(3) Where any person is liable to pay any amount to the Commissioners in pursuance of an obligation imposed by virtue of paragraph 1(4)(a) above, the Commissioners may, to the best of their judgement, assess the amount due from that person and notify it to him.

(4) Subject to sub-paragraph (5) below, where—

(a) an assessment is made on any person under this paragraph in respect of a repayment of levy made in relation to any accounting period, and

(b) the Commissioners have power under Schedule 5 to this Act to make an assessment on that person to an amount of aggregates levy due from that person for that period,

the assessments may be combined and notified to him as one assessment.

(5) A notice of a combined assessment under sub-paragraph (4) above must separately identify the amount being assessed in respect of repayments of levy.

Assessment for overpayments of interest

4 Where—

(a) any amount has been paid to any person by way of interest under paragraph 2 above, but

(b) that person was not entitled to that amount under that paragraph,

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.

Assessments under paragraphs 3 and 4

5 (1) An assessment under paragraph 3 or 4 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 3 or 4 above, it shall be recoverable as if it were aggregates levy 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

6 (1) Where an assessment is made under paragraph 3 or 4 above, the whole of the amount assessed shall carry interest, for the period specified in sub-paragraph (2) below, as follows—

(a) so much of that amount as represents the amount of a tax credit claimed by a person who was not entitled to it shall carry penalty interest; and

(b) so much of that amount as does not carry penalty interest under paragraph (a) above shall carry interest at the rate applicable under section 197 of the Finance Act 1996 (c. 8).

(2) That period is the period which—

(a) begins with the day after that on which the person is notified of the assessment; and

(b) ends with the day before that on which payment is made of the amount assessed.

(3) Interest under this paragraph shall be paid without any deduction of income tax.

(4) Penalty interest under this paragraph shall be compound interest calculated—

(a) at the penalty rate; and

(b) with monthly rests.

(5) For this purpose the penalty rate is the rate found by—

(a) taking the rate applicable under section 197 of the Finance Act 1996 for the purposes of sub-paragraph (1)(b) above; and

(b) adding 10 percentage points to that rate.

(6) Where a person is liable under this paragraph to pay any penalty interest, the Commissioners or, on appeal, an appeal tribunal may reduce the amount payable to such amount (including nil) as they think proper.

(7) Subject to sub-paragraph (8) below, where the person concerned satisfies the Commissioners or, on appeal, an appeal tribunal that there is a reasonable excuse for the conduct giving rise to the liability to pay penalty interest, that is a matter which (among other things) may be taken into account under sub-paragraph (6) above.

(8) In determining whether there is a reasonable excuse for the purposes of sub-paragraph (7) above, no account shall be taken of any of the following matters, that is to say—

(a) the insufficiency of the funds available to any person for paying any aggregates levy due or for paying the amount of the interest;

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

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

(9) In the case of interest reduced by the Commissioners under sub-paragraph (6) above an appeal tribunal, on an appeal relating to the interest, may cancel the whole or any part of the reduction made by the Commissioners.

Assessments to interest under paragraph 6

7 (1) Where any person is liable to interest under paragraph 6 above the Commissioners may assess the amount due by way of interest and notify it to him accordingly.

(2) 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.

(3) Where an amount has been assessed and notified to any person under this paragraph it shall be recoverable as if it were aggregates levy due from him.

(4) Sub-paragraph (3) above does not have effect if, or to the extent that, the assessment in question has been withdrawn or reduced.

(5) Where an assessment is made under this paragraph to an amount of interest under paragraph 6 above—

(a) the notice of assessment shall specify a date, not later than the date of the notice of assessment, to which the amount of interest which is assessed is calculated; and

(b) if the interest continues to accrue after that date, a further assessment or further assessments may be made under this paragraph in respect of the amounts so accruing.

(6) Where—

(a) an assessment to interest is made specifying a date for the purposes of sub-paragraph (5)(a) above, and

(b) within such period as may for the purposes of this sub-paragraph have been notified by the Commissioners to the person liable for the interest, the amount on which the interest is payable is paid,

that amount shall be deemed for the purposes of any further liability to interest to have been paid on the specified date.

Supplementary assessments

8 If it appears to the Commissioners that the amount which ought to have been assessed in an assessment under paragraph 3, 4 or 7 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 notify the person concerned accordingly.

Set-off of or against amounts due under this Part of this Act

9 (1) The Commissioners may by regulations make provision in relation to any case where—

(a) a person is under a duty to pay to the Commissioners at any time an amount or amounts in respect of aggregates levy; and

(b) the Commissioners are under a duty to pay to that person at the same time an amount or amounts in respect of that levy or any of the other taxes under their care and management.

(2) Regulations under this paragraph may provide that if the total of the amount or amounts mentioned in sub-paragraph (1)(a) above exceeds the total of the amount or amounts mentioned in sub-paragraph (1)(b) above, the latter shall be set off against the former.

(3) Regulations under this paragraph may provide that if the total of the amount or amounts mentioned in sub-paragraph (1)(b) above exceeds the total of the amount or amounts mentioned in sub-paragraph (1)(a) above, the Commissioners may set off the latter in paying the former.

(4) Regulations under this paragraph may provide that if the total of the amount or amounts mentioned in sub-paragraph (1)(a) above is the same as the total of the amount or amounts mentioned in sub-paragraph (1)(b) above no payment need be made in respect of the former or the latter.

(5) Regulations under this paragraph 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 aggregates levy 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.

(6) Regulations under this paragraph may include provision treating any duty to pay mentioned in sub-paragraph (1) above as discharged accordingly.

(7) References in sub-paragraph (1) above to an amount in respect of a particular tax include references not only to an amount of tax itself but also to other amounts such as interest and penalties that are or may be recovered as if they were amounts of tax.

(8) In this paragraph "tax" includes levy or duty.

Set-off of or against other taxes and duties

10 (1) The Commissioners may by regulations make provision in relation to any case where—

(a) a person is under a duty to pay to the Commissioners at any time an amount or amounts in respect of any tax (or taxes) under their care and management other than aggregates levy; and

(b) the Commissioners are under a duty, at the same time, to make any repayment of aggregates levy to that person or to make any other payment to him of any amount or amounts in respect of aggregates levy.

(2) Regulations under this paragraph may provide that if the total of the amount or amounts mentioned in sub-paragraph (1)(a) above exceeds the total of the amount or amounts mentioned in sub-paragraph (1)(b) above, the latter shall be set off against the former.

(3) Regulations under this paragraph may provide that if the total of the amount or amounts mentioned in sub-paragraph (1)(b) above exceeds the total of the amount or amounts mentioned in sub-paragraph (1)(a) above, the Commissioners may set off the latter in paying the former.

(4) Regulations under this paragraph may provide that if the total of the amount or amounts mentioned in sub-paragraph (1)(a) above is the same as the total of the amount or amounts mentioned in sub-paragraph (1)(b) above no payment need be made in respect of the former or the latter.

(5) Regulations under this paragraph 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.

(6) Regulations under this paragraph may include provision treating any duty to pay mentioned in sub-paragraph (1) above as discharged accordingly.

(7) References in sub-paragraph (1) above to an amount in respect of a particular tax include references not only to an amount of tax itself but also to other amounts such as interest and penalties that are or may be recovered as if they were amounts of tax.

(8) In this paragraph "tax" includes levy or duty.

Restriction on powers to provide for set-off

11 (1) Regulations made under paragraph 9 or 10 above shall not require any such amount or amounts as are mentioned in sub-paragraph (1)(b) of that paragraph ("the credit") to be set against any such amount or amounts as are mentioned in sub-paragraph (1)(a) of that paragraph ("the debit") in any case where—

(a) an insolvency procedure has been applied to the person entitled to the credit;

(b) the credit became due after that procedure was so applied; and

(c) the liability to pay the debit either arose before that procedure was so applied or (having arisen afterwards) relates to, or to matters occurring in the course of, the carrying on of any business at times before the procedure was so applied.

(2) For the purposes of this paragraph, an insolvency procedure is applied to a person if—

(a) a bankruptcy order, winding-up order or administration order is made in relation to that person or an award of sequestration is made on that person's estate;

(b) that person is put into administrative receivership;

(c) that person passes a resolution for voluntary winding up;

(d) any voluntary arrangement approved in accordance with—

(i) Part 1 or 8 of the Insolvency Act 1986 (c. 45), or

(ii) Part II or Chapter II of Part VIII of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)) ,

comes into force in relation to that person;

(e) a deed of arrangement registered in accordance with—

(i) the Deeds of Arrangement Act 1914 (c. 47), or

(ii) Chapter I of Part VIII of that Order,

takes effect in relation to that person;

(f) a person is appointed as the interim receiver of some or all of that person's property under section 286 of the Insolvency Act 1986 or Article 259 of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19));

(g) a person is appointed as the provisional liquidator in relation to that person under section 135 of that Act or Article 115 of that Order;

(h) an interim order is made under Part 8 of that Act, or Chapter I of Part VIII of that Order, in relation to that person; or

(i) that person's estate becomes vested in any other person as that person's trustee under a trust deed (within the meaning of the Bankruptcy (Scotland) Act 1985 (c. 66)).

(3) In this paragraph references, in relation to any person, to the application of an insolvency procedure to that person shall not include—

(a) the making of a bankruptcy order, winding-up order, administration order or award of sequestration at a time when any such arrangement or deed as is mentioned in paragraph (d), (e) or (i) of sub-paragraph (2) above is in force in relation to that person;

(b) the making of a winding-up order at any of the following times, that is to say—

(i) immediately upon the discharge of an administration order made in relation to that person;

(ii) when that person is being wound up voluntarily;

(iii) when that person is in administrative receivership;

or

(c) the making of an administration order in relation to that person at any time when that person is in administrative receivership.

(4) For the purposes of this paragraph a person shall be regarded as being in administrative receivership throughout any continuous period for which (disregarding any temporary vacancy in the office of receiver) there is an administrative receiver of that person.

(5) In this paragraph—

"administration order" means an administration order under section 8 of the Insolvency Act 1986 (c. 45) or Article 21 of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)) ;

"administrative receiver" means an administrative receiver within the meaning of section 251 of that Act of 1986 or Article 5(1) of that Order of 1989.

Supplemental provisions of Schedule

12 (1) Any notification of an assessment under any provision of this Schedule to a person's representative shall be treated for the purposes of this Part of this Act as notification to the person in relation to whom the representative acts.

(2) In this paragraph "representative", in relation to any person, means—

(a) any of that person's personal representatives;

(b) that person's trustee in bankruptcy or liquidator;

(c) any person holding office as a receiver in relation to that person or any of his property;

(d) that person's tax representative or any other person for the time being acting in a representative capacity in relation to that person.

(3) In this paragraph "trustee in bankruptcy" includes, as respects Scotland—

(a) an interim or permanent trustee (within the meaning of the Bankruptcy (Scotland) Act 1985); and

(b) a trustee acting under a trust deed (within the meaning of that Act).

(4) The powers conferred by paragraphs 9 and 10 of this Schedule are without prejudice to any power of the Commissioners to provide by tax credit regulations for any amount to be set against another.

SCHEDULE 9

Section 35.

AGGREGATES LEVY: GROUP TREATMENT

Eligibility for group treatment

1 Two or more bodies corporate are eligible to be treated as members of a group for the purposes of this Part of this Act if—

(a) each of them has an established place of business in the United Kingdom; and

(b) they are all under the same control.

Application for group treatment

2 (1) Subject to sub-paragraph (3) below, where an application is made to the Commissioners with respect to two or more bodies corporate and those bodies are all eligible to be treated as members of the same group, then, from the specified time—

(a) they shall be so treated for the purposes of this Part of this Act; and

(b) such one of them as is specified in the application shall be the representative member.

(2) Subject to sub-paragraph (3) below, where—

(a) any bodies corporate are treated as members of a group for the purposes of this Part of this Act, and

(b) an application is made to the Commissioners for the addition to the group of a body corporate that is eligible to be treated as a member of the group,

then, from the specified time, that body shall be included among the bodies so treated.

(3) The Commissioners may refuse an application under sub-paragraph (1) or (2) above if, and only if, it appears to them necessary to do so for the protection of the revenue; and an application that is refused under this sub-paragraph shall be, and be treated as always having been, ineffective.

(4) Where—

(a) it appears to the Commissioners that an application has been made for the purposes of this paragraph for a body corporate to be treated as a member of a group, but

(b) that body is not eligible to be treated as a member of that group,

the Commissioners shall give notice to the applicant that the application is ineffective.

(5) The Commissioners shall not refuse an application under sub-paragraph (3) above after the end of the period of ninety days beginning with the day on which the application is received by the Commissioners.

Modification of group treatment

3 (1) Subject to sub-paragraph (2) below, where any bodies corporate are treated as members of a group for the purposes of this Part of this Act and an application for the purpose is made to the Commissioners, then, from the specified time—

(a) a body corporate shall be excluded from the bodies so treated;

(b) one of those bodies corporate shall be substituted for another body corporate as the representative member; or

(c) the bodies corporate shall no longer be treated as members of a group.

(2) The Commissioners may refuse an application made for the purpose mentioned in sub-paragraph (1)(a) or (c) above if, and only if—

(a) the case is not one appearing to them to fall within paragraph 4(2)(a) and (b) below; and

(b) it appears to them necessary to refuse the application for the protection of the revenue.

(3) The Commissioners may refuse an application made for the purpose mentioned in sub-paragraph (1)(b) above if, and only if, it appears to them necessary to do so for the protection of the revenue.

(4) An application that is refused under this paragraph shall be, and be treated as always having been, ineffective.

(5) The specified time for the purposes of an application under sub-paragraph (1) above shall not be before the beginning of the accounting period which is current when the application is made.

Termination of group treatment

4 (1) If it appears to the Commissioners necessary to do so for the protection of the revenue, the Commissioners may, by notice given to any body corporate that is treated as a member of a group and to the representative member, terminate that treatment from such time as may be specified in the notice.

(2) Where—

(a) a body corporate is treated as a member of a group, and

(b) it appears to the Commissioners that it is not eligible to be treated as a member of that group,

they shall, by notice given to the body corporate and the representative member, terminate that treatment from such time as may be specified in the notice.

(3) Where—

(a) a body corporate ceases as from any time to be treated as a member of a group,

(b) immediately before that time that body was the representative member,

(c) there are two or more other bodies corporate which will continue after that time to be treated as members of the group, and

(d) none of those bodies corporate is substituted from that time, or from before that time, as the representative member of the group under paragraph 3(1)(b) above,

the Commissioners shall, by notice given to such one of the bodies corporate mentioned in paragraph (c) above as they think fit, substitute that body corporate as the representative member as from that time.

(4) The time specified in a notice under sub-paragraph (1) above shall not be a time before the day on which the notice is given to the representative member.

(5) Subject to sub-paragraph (6) below, the time specified in a notice under sub-paragraph (2) or (3) above may be a time before the giving of the notice.

(6) In the case of a notice given under sub-paragraph (2) above in respect of a body corporate's having ceased to be eligible to be treated as a member of a group, the time specified in the notice shall not be before the time when it so ceased.

Applications relating to group treatment

5 An application under this Schedule with respect to any bodies corporate must be made by one of those bodies or by the person controlling them.

Notifications relating to group treatment

6 (1) Where—

(a) two or more bodies corporate are treated as members of a group for the purposes of this Part of this Act, and

(b) any of those bodies ceases to be eligible to be so treated,

the body corporate which ceases to be so eligible shall notify the Commissioners of that fact.

(2) A body corporate which is designated as representative member in relation to any other bodies corporate shall not cease to have an established place of business in the United Kingdom without first notifying the Commissioners of that fact.

(3) A body corporate which fails to comply with sub-paragraph (1) or (2) above shall be liable to a penalty of £250.

Supplemental regulations about applications and notifications

7 (1) For the purposes of any provision made by or under this Schedule for an application to be made to the Commissioners, regulations made by the Commissioners may make provision—

(a) as to the time within which the application is to be made;

(b) as to the form and manner in which the application is to be made;

(c) as to the information and other particulars to be contained in or provided with any application.

(2) For those purposes the Commissioners may also by regulations impose obligations requiring a person who has made an application to notify the Commissioners if any information contained in or provided in connection with that application is or becomes inaccurate.

(3) The power under this paragraph to make regulations as to the time within which any application is to be made shall include power to authorise the Commissioners to extend the time for the making of an application.

(4) Sub-paragraphs (1) to (3) above shall apply for the purposes of any provision made by or under this Schedule for any matter to be notified to the Commissioners as they apply for the purposes of any provision so made for an application to be made to them; and for this purpose references to the making of the application shall be construed as references to the giving of the notification.

Interpretation of Schedule

8 (1) For the purposes of this Schedule two or more bodies are under the same control if—

(a) one of them controls each of the others;

(b) one person (whether a body corporate or an individual) controls all of them; or

(c) two or more individuals carrying on a business in partnership control all of them.

(2) For the purposes of this Schedule a body corporate shall be taken to control another body corporate if, and only 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 Companies Act 1985 (c. 6).

(3) For the purposes of this Schedule an individual or individuals shall be taken to control a body corporate if, and only if (were he or they a company) he or they would be that body's holding company within the meaning of section 736 of the Companies Act 1985.

(4) In this Schedule "the specified time", in relation to an application made under paragraph 2(1) or (2) or 3(1) above, means the beginning of such accounting period as may be specified in the application.

SCHEDULE 10

Section 46.

AGGREGATES LEVY: ASSESSMENT OF CIVIL PENALTIES AND INTEREST ON THEM

Preliminary

1 (1) In this Schedule "civil penalty" means any penalty liability to which—

(a) is imposed by or under this Part of this Act; and

(b) arises otherwise than in consequence of a person's conviction for a criminal offence.

(2) In this Schedule—

(a) references to a person's being liable to a civil penalty include references to his being a person from whom the whole or any part of a civil penalty is recoverable by virtue of paragraph 8 of Schedule 6 to this Act; and

(b) references, in relation to a person from whom the whole or any part of a civil penalty is so recoverable, to the penalty to which he is liable are references to so much of the penalty as is recoverable from him.

(3) Any notification of an assessment under any provision of this Schedule to a person's representative shall be treated for the purposes of this Part of this Act as notification to the person in relation to whom the representative acts.

(4) In this paragraph "representative", in relation to any person, means—

(a) any of that person's personal representatives;

(b) that person's trustee in bankruptcy or liquidator;

(c) any person holding office as a receiver in relation to that person or any of his property;

(d) that person's tax representative or any other person for the time being acting in a representative capacity in relation to that person.

(5) In this paragraph "trustee in bankruptcy" includes, as respects Scotland—

(a) an interim or permanent trustee (within the meaning of the Bankruptcy (Scotland) Act 1985 (c. 66)); and

(b) a trustee acting under a trust deed (within the meaning of that Act).

Assessments to penalties etc.

2 (1) Where a person is liable to a civil penalty, the Commissioners may assess the amount due by way of penalty and notify it to him accordingly.

(2) If, where an assessment has been notified to any person under sub-paragraph (1) above or this sub-paragraph, it appears to the Commissioners that the amount which ought to have been assessed exceeds the amount that has already been assessed, the Commissioners may make a supplementary assessment of the amount of the excess and notify that person accordingly.

(3) The fact that any conduct giving rise to a civil penalty may have ceased before an assessment is made under this paragraph shall not affect the power of the Commissioners to make such an assessment.

(4) Where an amount has been assessed and notified to any person under this paragraph, it shall be recoverable as if it were aggregates levy due from him.

(5) Sub-paragraph (4) above—

(a) shall not apply so as to require any interest to be payable on a penalty otherwise than in accordance with this Schedule; and

(b) shall not have effect if, or to the extent that, the assessment in question has been withdrawn or reduced.

(6) Subject to sub-paragraph (7) below, where a person—

(a) is assessed under this paragraph to an amount due by way of a penalty, and

(b) is also assessed under any one or more provisions of Schedule 5 to this Act for an accounting period to which the conduct attracting the penalty is referable,

the assessments may be combined and notified to him as one assessment.

(7) A notice of a combined assessment under sub-paragraph (6) above must separately identify the penalty being assessed.

(8) The power to make an assessment under this paragraph is subject to paragraph 8(4) of Schedule 6 to this Act.

Further assessments to daily penalties

3 (1) This paragraph applies where an assessment is made under paragraph 2 above to an amount of a civil penalty to which any person is liable—

(a) under paragraph 1(3) of Schedule 7 to this Act (failure to provide information); or

(b) under paragraph 4(4) of that Schedule (failure to produce a document).

(2) The notice of assessment shall specify a time, not later than the end of the day of the giving of the notice of assessment, to which the amount of any daily penalty is calculated.

(3) For the purposes of sub-paragraph (2) above "daily penalty" means—

(a) in a case within sub-paragraph (1)(a) above, a penalty imposed by virtue of paragraph 1(3)(b) of Schedule 7 to this Act; and

(b) in a case within sub-paragraph (1)(b) above, a penalty imposed by virtue of paragraph 4(4)(b) of that Schedule.

(4) If further penalties accrue in respect of a continuing failure after that date to provide the information or, as the case may be, produce the document, a further assessment or further assessments may be made under paragraph 2 above in respect of the amounts so accruing.

(5) Where—

(a) an assessment to a civil penalty is made specifying a date for the purposes of sub-paragraph (2) above, and

(b) the failure in question is remedied within such period as may for the purposes of this sub-paragraph have been notified by the Commissioners to the person liable for the penalty,

the failure shall be deemed for the purposes of any further liability to civil penalties to have been remedied on the specified date.

Time limits on penalty assessments

4 (1) Subject to sub-paragraphs (2) and (3) below, an assessment under paragraph 2 above to a civil penalty shall not be made more than three years after the conduct to which the penalty relates.

(2) Subject to sub-paragraph (3) below, if aggregates levy has been lost—

(a) as a result of any conduct for which a person has been convicted of an offence involving fraud,

(b) in circumstances giving rise to liability to a penalty under paragraph 1 of Schedule 4 to this Act, or

(c) as a result of conduct falling within paragraph 7(1) of Schedule 6 to this Act (evasion),

an assessment may be made for any civil penalty relating to that conduct as if, in sub-paragraph (1) above, for "three years" there were substituted " twenty years ".

(3) Where, after a person's death, the Commissioners propose to assess an amount of a civil penalty due by reason of some conduct of the deceased—

(a) the assessment shall not be made more than three years after the death; and

(b) if the circumstances are as set out in sub-paragraph (2) above—

(i) the modification of sub-paragraph (1) above contained in that sub-paragraph shall not apply; but

(ii) any assessment which (applying that modification) could have been made immediately after the death may be made at any time within three years after it.

Penalty interest on unpaid penalties

5 (1) Subject to sub-paragraph (2) below, where the Commissioners make an assessment under paragraph 2 above of any civil penalty to which a person is liable the amount of that penalty shall carry penalty interest for the period which—

(a) begins with the day on which the assessment is notified to the person on whom the assessment is made; and

(b) ends with the day before the day on which the assessed penalty is paid.

(2) Where—

(a) the Commissioners make an assessment under paragraph 2 above of an amount of any civil penalty to which any person is liable,

(b) they also specify a date for the purposes of this sub-paragraph, and

(c) the amount of the penalty assessed is paid on or before that date,

the amount paid before that date shall not carry penalty interest under this paragraph.

(3) Penalty interest under this paragraph shall be compound interest calculated—

(a) at the penalty rate; and

(b) with monthly rests.

(4) For this purpose the penalty rate is the rate found by—

(a) taking the rate applicable under section 197 of the Finance Act 1996 (c. 8) for the purposes of paragraph 8(3)(a) of Schedule 5 to this Act; and

(b) adding 10 percentage points to that rate.

(5) Where a person is liable under this paragraph to pay any penalty interest, the Commissioners or, on appeal, an appeal tribunal may reduce the amount payable to such amount (including nil) as they think proper.

(6) Subject to sub-paragraph (7) below, where the person concerned satisfies the Commissioners or, on appeal, an appeal tribunal that there is a reasonable excuse for the conduct giving rise to the liability to pay penalty interest, that is a matter which (among other things) may be taken into account under sub-paragraph (5) above.

(7) In determining whether there is a reasonable excuse for the purposes of sub-paragraph (6) above, no account shall be taken of any of the following matters, that is to say—

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

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

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

(8) In the case of interest reduced by the Commissioners under sub-paragraph (5) above, an appeal tribunal, on an appeal relating to the interest, may cancel the whole or any part of the reduction made by the Commissioners.

Supplemental provisions about interest

6 (1) Interest under paragraph 5 above shall be paid without any deduction of income tax.

(2) Sub-paragraph (3) below applies where—

(a) an amount carries interest under paragraph 5 above (or would do so apart from that sub-paragraph); and

(b) all or part of the amount turns out not to be due.

(3) In such a case—

(a) the amount or part that turns out not to be due shall not carry interest under paragraph 5 above and shall be treated as never having done so; and

(b) all such adjustments as are reasonable shall be made, including (subject to section 32 of, and Schedule 8 to, this Act) adjustments by way of repayment.

Assessments to penalty interest on unpaid penalties

7 (1) Where a person is liable for interest under paragraph 5 above, the Commissioners may assess the amount due by way of interest and notify it to him accordingly.

(2) If, where an assessment has been notified to any person under sub-paragraph (1) above or this sub-paragraph, it appears to the Commissioners that the amount which ought to have been assessed exceeds the amount that has already been assessed, the Commissioners may make a supplementary assessment of the amount of the excess and notify that person accordingly.

(3) Where an amount has been assessed and notified to any person under this paragraph, it shall be recoverable as if it were aggregates levy due from him.

(4) Sub-paragraph (3) above—

(a) shall not apply so as to require any interest to be payable on interest (except in so far as it falls to be compounded in accordance with paragraph 5(3) above); and

(b) shall not have effect if, or to the extent that, the assessment in question has been withdrawn or reduced.

(5) Paragraph 4 above shall apply in relation to assessments under this paragraph as if any assessment to interest on a penalty were an assessment under paragraph 2 above to the penalty in question.

(6) Subject to sub-paragraph (7) below, where a person—

(a) is assessed under this paragraph to an amount due by way of any interest on a penalty, and

(b) is also assessed under any one or more provisions of Schedule 5 to this Act for the accounting period to which the conduct attracting the penalty is referable,

the assessments may be combined and notified to him as one assessment.

(7) A notice of a combined assessment under sub-paragraph (6) above must separately identify the interest being assessed.

Further assessments to interest on penalties

8 (1) Where an assessment is made under paragraph 7 above to an amount of penalty interest under paragraph 5 above—

(a) the notice of assessment shall specify a date, not later than the date of the notice of assessment, to which the amount of interest which is assessed is calculated; and

(b) if the interest continues to accrue after that date, a further assessment or further assessments may be made under paragraph 7 above in respect of the amounts so accruing.

(2) Where—

(a) an assessment to penalty interest is made specifying a date for the purposes of sub-paragraph (1)(a) above, and

(b) within such period as may for the purposes of this sub-paragraph have been notified by the Commissioners to the person liable for the interest, the amount on which the interest is payable is paid,

that amount shall be deemed for the purposes of any further liability to interest to have been paid on the specified date.

SCHEDULE 11

Section 53.

CHILDREN'S TAX CREDIT: BABY RATE: SUPPLEMENTARY

Introduction

1 Schedule 13B to the Taxes Act 1988 (children's tax credit: provisions applicable where child lives with more than one adult in a year of assessment) is amended as follows.

Child living with married or unmarried couple

2 After paragraph 3(2) (provisions applicable where neither partner has income above the basic rate limit: entitlement where both partners claim in respect of a relevant child) insert—

"(2A) If a relevant child is a qualifying baby the reference in sub-paragraph (2)(b) above to the amount mentioned in section 257AA(2) is to the higher amount applicable by virtue of subsection (2A) of that section.".

Election that credit should go to lower-earning partner

3 In paragraph 5(4) (circumstances in which election may be made for current year of assessment), after paragraph (c) insert—

"(ca) a relevant child is born in that year, or".

Child living with more than one adult: other cases

4 (1) Paragraph 6 (provisions applicable in case of child living with more than one adult) is amended as follows.

(2) After sub-paragraph (4) (apportionment of entitlement) insert—

"(4A) If the child is a qualifying baby the reference in sub-paragraph (4) above to the amount mentioned in section 257AA(2) is to the higher amount applicable by virtue of subsection (2A) of that section.".

(3) After sub-paragraph (7) (claim by person with more than one allotted proportion) insert—

"(7A) Where sub-paragraph (7) above applies in relation to a person, and any child in respect of which a proportion has been, or could have been, allotted to that person is a qualifying baby, the reference in that sub-paragraph to the amount mentioned in section 257AA(2) is to the higher amount applicable by virtue of subsection (2A) of that section.".

Combined cases

5 In paragraph 7 (provisions applicable where child lives with more than one couple or with one or more couples and one or more other adults), after sub-paragraph (2) insert—

"(3) Where paragraph 6(4A) or (7A) above applies, the reference in sub-paragraph (2) above to the amount mentioned in section 257AA(2) is to the higher amount applicable by virtue of subsection (2A) of that section.".

Change of circumstances

6 (1) Paragraph 8 (change of circumstances) is amended as follows.

(2) In sub-paragraph (4) (periods before and after change to be treated as years of assessment for certain purposes), after "section 257AA" insert " (except subsection (4A)) ".

(3) After sub-paragraph (5) (apportionment of amounts) insert—

"(5A) If the child is a qualifying baby the references in sub-paragraph (5) above to the amount specified in section 257AA(2) are to the higher amount applicable by virtue of subsection (2A) of that section.".

SCHEDULE 12

Section 57.

MILEAGE ALLOWANCES

PART 1

NEW SCHEDULE 12AA TO THE TAXES ACT 1988

After Schedule 12 to the Taxes Act 1988 insert—

"SCHEDULE 12AA

MILEAGE ALLOWANCES: INTERPRETATION

Introduction

1 (1) The provisions of this Schedule apply for the purposes of sections 197AD to 197AG (Schedule E exemption for mileage allowance payments and passenger payments and mileage allowance relief).

(2) Expressions defined in this Schedule for those purposes have the same meaning for the purposes of this Schedule.

(3) In this Schedule "mileage allowance payments" has the meaning given by section 197AD(2) and "passenger payments" has the meaning given by section 197AE(2).

Business travel

2 "Business travel" means travelling the expenses of which, if incurred and defrayed by the employee in question out of the emoluments of his employment, would (in the absence of sections 197AD to 197AF) be deductible under section 198(1) (general relief for necessary expenses).

Qualifying vehicles

3 (1) "Qualifying vehicle" means a car, van, motor cycle or cycle.

(2) "Car" means a mechanically propelled road vehicle which is not—

(a) a goods vehicle,

(b) a motor cycle, or

(c) a vehicle of a type not commonly used as a private vehicle and unsuitable to be so used.

(3) "Van" means a mechanically propelled road vehicle which—

(a) is a goods vehicle, and

(b) has a design weight not exceeding 3,500 kilograms,

and which is not a motor cycle.

(4) "Motor cycle" has the meaning given by section 185(1) of the Road Traffic Act 1988.

(5) "Cycle" has the meaning given by section 192(1) of that Act.

(6) In this paragraph—

"design weight" means the weight which a vehicle is designed or adapted not to exceed when in normal use and travelling on a road laden; and

"goods vehicle" means a vehicle of a construction primarily suited for the conveyance of goods or burden of any description.

The approved amount: mileage allowance payments

4 (1) The approved amount for mileage allowance payments that is applicable to a kind of vehicle is—

$$M \times R$$

where—

M is the number of miles of business travel by the employee (other than as a passenger), using that kind of vehicle, in the tax year in question; and

R is the rate applicable for that kind of vehicle.

(2) The rates applicable are as follows—

Kind of vehicle	***Rate***
Car or van	40p per mile for the first 10,000 miles;
	25p per mile after that
Motor cycle	24p per mile.
Cycle	20p per mile.

Note: The reference above to "the first 10,000 miles" is to the total number of miles of business travel in relation to the employment or any associated employment, by car or van, in the tax year in question.

One employment is associated with another if—

(a) the employer is the same;

(b) the employers are partnerships or bodies and an individual or another partnership or body has control over both of them; or

(c) the employers are associated companies (as defined in section 416).

Section 168(12) (meaning of "control") applies for the purposes of paragraph (b).

(3) The Treasury may by regulations amend sub-paragraph (2) so as to alter the rates or rate bands.

The approved amount: passenger payments

5 (1) The approved amount for passenger payments is—

$$M \times R$$

where—

M is the number of miles of business travel by the employee, by car or van, for which the employee carries a qualifying passenger in the tax year in question and in respect of which passenger payments are made; and

R is 5p per mile.

(2) If the employee carries more than one qualifying passenger for all or part of a tax year, the approved amount for passenger payments is the total of the amounts calculated under sub-paragraph (1) in respect of each qualifying passenger.

(3) In this paragraph "qualifying passenger" means a passenger who is also an employee for whom the travel is business travel.

(4) The Treasury may by regulations amend sub-paragraph (1) so as to alter the rate.

Company vehicles

6 (1) A vehicle is a "company vehicle" in a tax year if in that year—

(a) the vehicle is made available to the employee by reason of his employment and is not available for his private use, or

(b) the employee is chargeable to tax in respect of the vehicle under section 154, 157 or 159AA (charge where benefit provided or car or van available for private use), or

(c) in the case of a car or van, the employee would be chargeable to tax in respect of it under section 157 or 159AA but for section 159 or 159AB (exception for pooled cars and vans), or

(d) in the case of a cycle, the employee would be chargeable to tax in respect of it under section 154 but for section 197AC(1)(a) (exception for cycles made available).

(2) Section 168(6) (when cars and vans are made available for private use and are made available by reason of employment) applies for the purposes of sub-paragraph (1).

Employment

7 "Employment" includes an office and "employee" includes an office-holder.

Tax year

8 "Tax year" means a year of assessment.".

PART 2

CONSEQUENTIAL AMENDMENTS

The Taxes Act 1988

1 (1) Section 153 of the Taxes Act 1988 (payments in respect of expenses) is amended as follows.

(2) In subsection (1), after "provisions of this Chapter" insert " and sections 197AD and 197AE ".

(3) In subsection (2), after "section" insert " 197AG, ".

2 In section 163(4)(b) of that Act (expenses connected with living accommodation), after "section" insert " 197AG, ".

3 In section 167(2)(b) of that Act (employment to which Chapter 2 of Part 5 applies), after "section" insert " 197AG, ".

4 (1) Section 168 of that Act (Chapter 2 of Part 5: other interpretative provisions) is amended as follows.

(2) In subsection (5)(c), after "would" insert " (in the absence of sections 197AD to 197AF) ".

(3) In subsection (5A)(c), after "would" insert " (in the absence of sections 197AD to 197AF) ".

5 In section 192(5) of that Act (relief for foreign emoluments), after "195(7)," insert " 197AG, ".

6 In section 198 of that Act (general relief for necessary expenses), after subsection (4) add—

"(5) No deduction may be made under this section in respect of qualifying travelling expenses incurred in connection with the use by an employee or office-holder of a vehicle that is not a company vehicle if—

(a) mileage allowance payments (within the meaning of section 197AD(2)) are made to that person in respect of the use of the vehicle; or

(b) mileage allowance relief is available in respect of the use of the vehicle by that person.

"Company vehicle" has the meaning given by paragraph 6 of Schedule 12AA.".

7 In section 200A(1)(b) (incidental overnight expenses), for "195, 198 or 332" substitute " 195 or 332 or (in the absence of sections 197AD to 197AF) 198 ".

8 For section 200C(2) (cap on travelling and subsistence expenditure exempt under section 200B) substitute—

"(2) Section 200B shall not apply in the case of any expenditure incurred in paying or reimbursing any expenses of travelling or subsistence, except to the extent that, on the assumptions in subsection (2A) below—

(a) mileage allowance relief would be available in respect of those expenses if no mileage allowance payments (within the meaning of section 197AD(2)) had been made; or

(b) those expenses would be deductible under section 198.

(2A) The assumptions are—

(a) that the employee undertook the training in question in the performance of the duties of his office or employment under the employer; and

(b) that the employee incurred the expenses in question out of the emoluments of that office or employment.".

9 For section 200F(2) (cap on travelling and subsistence expenditure exempt under section 200E) substitute—

"(2) Section 200E shall not apply in the case of any expenditure incurred in paying or reimbursing any expenses of travelling or subsistence, except to the extent that, on the assumptions in subsection (2A) below—

(a) mileage allowance relief would be available in respect of those expenses if no mileage allowance payments (within the meaning of section 197AD(2)) had been made; or

(b) those expenses would be deductible under section 198.

(2A) The assumptions are—

(a) that the employee undertook the education or training in question in the performance of the duties of—

(i) his office or employment under the employer, or

(ii) where the employee no longer holds an office or employment under the employer, the last office or employment that he did hold under the employer; and

(b) that the employee incurred the expenses in question out of the emoluments of that office or employment.".

10 In section 332 of that Act (expenditure of ministers of religion), after subsection (3) insert—

"(3A) No deduction may be made under subsection (3) above in respect of qualifying travelling expenses incurred in connection with the use by a clergyman or minister of a vehicle that is not a company vehicle if—

(a) mileage allowance payments are made to that person in respect of the use of the vehicle; or

(b) mileage allowance relief is available in respect of the use of the vehicle by that person.

(3B) In subsection (3A)—

"company vehicle" has the meaning given by paragraph 6 of Schedule 12AA;

"mileage allowance payments" has the meaning given by section 197AD(2); and

"qualifying travelling expenses" has the meaning given by section 198(1A).".

11 In section 578A(1) of that Act (deductions for expenditure on car hire)—

(a) after paragraph (a) insert " or "; and

(b) omit paragraph (c) and the word "or" immediately preceding it.

12 For section 589(6) (cap on travelling expenses exempt under section 588) substitute—

"(6) The travelling expenses referred to in subsection (5)(d) above are—

(a) those in respect of which, on the assumptions in subsection (6A) below, mileage allowance relief would be available if no mileage allowance payments (within the meaning of section 197AD(2)) had been made; or

(b) those which, on those assumptions, would be deductible under section 198.

(6A) The assumptions are—

(a) that attendance at the course is one of the duties of the employee's office or employment; and

(b) if the employee has in fact ceased to be employed by the employer, that he continues to be employed by him.".

13 For section 589B(4) (cap on travelling expenses exempt under section 589A) substitute—

"(4) In relation to services, allowable travelling expenses are—

(a) those in respect of which, on the assumptions in subsection (4A) below, mileage allowance relief would be available if no mileage allowance payments (within the meaning of section 197AD(2)) had been made; or

(b) those which, on those assumptions, would be deductible under section 198.

(4A) The assumptions are—

(a) that receipt of the services is one of the duties of the employee's office or employment; and

(b) if the employee has in fact ceased to be employed by the employer, that he continues to be employed by him.".

14 In section 646(2)(b) (meaning of "net relevant earnings"), after "section" insert " 197AG, ".

15 In paragraph 1A of Schedule 12 (foreign earnings), after "195(7)," insert " 197AG, ".

Finance Act 2000 (c. 17)

16 In Part 2 of Schedule 12 to the Finance Act 2000 (provision of services through an intermediary: the deemed Schedule E payment), in paragraph 11(4), after "higher-paid employment);" insert—

"(ab) for the purposes of section 197AG of that Act (mileage allowance relief);".

SCHEDULE 13

Section 61.

EMPLOYEE SHARE OWNERSHIP PLANS: AMENDMENTS

Introductory

1 Schedule 8 to the Finance Act 2000 (c. 17) (employee share ownership plans) is amended in accordance with this Schedule.

The employment requirement

2 (1) In paragraph 14—

(a) in sub-paragraph (1), for paragraph (b)(i) and (ii) (periods counting towards qualifying period) substitute " of a qualifying company ", and

(b) after that sub-paragraph insert—

"(1A) Except in the case of a group plan, a qualifying company means—

(a) the company, or

(b) a company that when the individual was employed by it was an associated company—

(i) of the company, or

(ii) of another company qualifying under this paragraph.

(1B) In the case of a group plan, a qualifying company means—

(a) a company that is a participating company at the end of the qualifying period, or

(b) a company that when the individual was employed by it was a participating company, or

(c) a company that when the individual was employed by it was an associated company of—

(i) a company qualifying under paragraph (a) or (b), or

(ii) another company qualifying under this paragraph.".

(2) This paragraph has effect in relation to awards of shares (within the meaning of Schedule 8 to the Finance Act 2000 (c. 17)) made after the passing of this Act.

Meaning of "salary"

3 (1) In paragraph 48—

(a) after "(PAYE)" insert " or which would be if that individual were within the scope of Schedule E ", and

(b) after "(expenses and benefits in kind)" add "or which would have been had the individual been within the scope of Schedule E".

(2) This paragraph has effect in relation to any award of partnership shares (within the meaning of Schedule 8 to the Finance Act 2000 (c. 17)) in relation to which the eligibility time falls after the passing of this Act.

(3) For this purpose "the eligibility time" means the time at which an individual, in order to participate in the award, is required, in accordance with paragraph 13(1)(b) of that Schedule, to be eligible to so participate.

No charge to tax on award of shares, etc.

4 (1) After paragraph 78(2) add—

"(3) Incidental expenditure of the trustees or the employer in operating the plan is not treated as giving rise to any charge to income tax on employees.".

(2) This paragraph has effect for the year 2001-02 and subsequent years of assessment.

Charge on disposal of beneficial interest during holding period

5 (1) Omit paragraph 82(2) (reduction for tax paid on capital receipts).

(2) This amendment shall be deemed always to have had effect.

Charge on distributions in respect of unappropriated shares

6 (1) In paragraph 88—

(a) in sub-paragraph (3) (period during which special trust rates of tax do not apply if shares are readily convertible assets), for "Subject to sub-paragraph (4)," substitute " If any of the shares in the company in question are readily convertible assets at the time the shares are acquired by the trustees, ", and

(b) in sub-paragraph (4) (period during which special trust rates of tax do not apply if shares are not readily convertible assets), in paragraph (b) for "the shares in question" substitute " any of the shares in that company ".

(2) This paragraph has effect in relation to any shares acquired by the trustees of an employee share ownership plan after the passing of this Act.

(3) For the purposes of sub-paragraph (2), "the trustees of an employee share ownership plan" means the body of persons established in accordance with paragraph 68 of Schedule 8 to the Finance Act 2000 (c. 17).

Dividend shares ceasing to be subject to plan: tax credit

7 (1) In paragraph 93(2), for "when the relevant dividend is paid over to him" substitute " when the shares cease to be subject to the plan ".

(2) This amendment shall be deemed always to have had effect.

Gains accruing to trustees

8 (1) In paragraph 98—

(a) in sub-paragraph (2) (period within which shares that are readily convertible assets must be awarded if gains not to be chargeable), for the words from the beginning to "they" substitute " If any of the shares in the company in question are readily convertible assets at the time the shares ", and

(b) in sub-paragraph (3) (period within which shares that are not readily convertible assets must be awarded if gains not to be chargeable)—

(i) for the words from the beginning to "assets" substitute " If at the time of the acquisition of the shares by the trustees none of the shares in the company in question are readily convertible assets ", and

(ii) for "the shares in question" substitute " any of the shares in that company ".

(2) This paragraph has effect in relation to any shares acquired by the trustees of an employee share ownership plan after the passing of this Act.

(3) For the purposes of sub-paragraph (2), "the trustees of an employee share ownership plan" means the body of persons established in accordance with paragraph 68 of Schedule 8 to the Finance Act 2000.

SCHEDULE 14

Section 62.

ENTERPRISE MANAGEMENT INCENTIVES: AMENDMENTS

Introductory

1 Schedule 14 to the Finance Act 2000 (enterprise management incentives) is amended in accordance with this Schedule.

Period of notice

2 In paragraph 2 (notice of option to be given to Inland Revenue), in subsection (1) for "30 days" substitute " 92 days ".

3 In paragraph 4 (notice of enquiry), in sub-paragraph (4) for "30 days" substitute " 92 days ".

General requirements to be met by option

4 In paragraph 8 (general requirements to be met by qualifying option), for paragraph (c) substitute—

"(c) the maximum value of the relevant company's shares in respect of which unexercised options can exist (see paragraph 11)."

Purpose of granting option

5 In paragraph 9 (purpose of granting the option), for "a key" substitute " an ".

Value of options in respect of a company's shares

6 For paragraph 11 (number of employees who may hold qualifying options) substitute—

"**Maximum value of options in respect of relevant company's shares**

11 (1) The total value of shares in the relevant company in respect of which unexercised qualifying options exist must not exceed £3 million.

(2) An option is not a qualifying option if the limit in sub-paragraph (1) is already exceeded at the time it is granted.

(3) If the grant of an option causes that limit to be exceeded the option is not a qualifying option so far as it relates to the excess.

(4) Where the grant of two or more options at the same time causes that limit to be exceeded, then, for the purpose of determining which part of each option relates to that excess, the amount of the excess shall be divided pro rata among the options according to the value of the shares in respect of which each option was granted.

(5) Sub-paragraphs (7) and (8) of paragraph 10 (determination of value of shares) apply for the purposes of this paragraph as they apply for the purposes of that paragraph."

Income tax: option to acquire shares at less than market value

7 In paragraph 45 (income tax charge on exercise of option to acquire shares at less than market value), for sub-paragraphs (2) to (4) substitute—

"(2) In that case for the purposes of section 135 of the Taxes Act 1988 (taxation of share options) the amount of the gain realised by the exercise of the option is taken to be the amount by which—

(a) the chargeable market value, exceeds

(b) the aggregate of—

(i) the amount or value of the consideration given for the grant of the option, and

(ii) the amount for which the shares are acquired.

(3) For the purposes of this paragraph "the chargeable market value" means—

(a) the market value of the shares—

(i) at the time the option was granted, or

(ii) if it is a replacement value, at the time the original option was granted,

or

(b) if lower, the market value of the shares at the time the option is exercised.

(4) If the chargeable market value does not exceed the aggregate of the amounts mentioned in sub-paragraph (2)(b)(i) and (ii), no amount is chargeable to income tax under section 135 of the Taxes Act 1988 (taxation of share options) in respect of the exercise of the option."

Income tax: option to acquire shares at nil cost

8 In paragraph 46 (income tax charge on exercise of option to acquire shares at nil cost), for sub-paragraph (2) substitute—

"(2) In that case for the purposes of section 135 of the Taxes Act 1988 (taxation of share options) the amount of the gain realised by the exercise of the option is taken to be the amount by which—

(a) the chargeable market value (within the meaning of paragraph 45), exceeds

(b) the amount or value of the consideration given for the grant of the option.

(2A) If the chargeable market value does not exceed the amount or value of the consideration given for the grant of the option, no amount is chargeable to income tax under section 135 of the Taxes Act 1988 (taxation of share options) in respect of the exercise of the option."

Disqualifying events: alteration of share capital

9 In paragraph 47 (main disqualifying events), for sub-paragraph (1)(e) substitute—

"(e) any alteration to the share capital of the relevant company that is within paragraph 49(1)—

(i) where the effect of the alteration is that the requirements of this Schedule would no longer be met in relation to the option, or

(ii) where the effect of the alteration is to increase the market value of the shares that are the subject of the qualifying option and paragraph 49(2) applies to the alteration;".

10 (1) Paragraph 49 (disqualifying events: alterations of share capital) is amended as follows.

(2) In sub-paragraph (1) for "this paragraph" substitute " this sub-paragraph ".

(3) For sub-paragraphs (2) to (5) (provision for approval of alteration by Inland Revenue) substitute—

"(2) This sub-paragraph applies to an alteration if—

(a) it is not made by the relevant company for commercial reasons, or

(b) the main purpose or one of the main purposes for making the alteration is to increase the market value of the shares which are the subject of the qualifying option."

Income tax charge arising on disqualifying event

11 (1) Paragraph 53 (effect of disqualifying event) is amended as follows.

(2) For sub-paragraph (2) substitute—

"(2) Where paragraph 44 applies (option to acquire shares at market value), then for the purposes of section 135 of the Taxes Act 1988 (taxation of share options) the amount of the gain realised on the exercise of the option is taken to be—

(a) the post-event gain (if any), less

(b) the amount or value of the consideration given for the grant of the option.

(2A) Where paragraph 45 applies (option to acquire shares at less than market value), then for the purposes of section 135 of the Taxes Act 1988 (taxation of share options) the amount of the gain realised on the exercise of the option is taken to be—

(a) the aggregate of—

(i) the chargeable market value (within the meaning of that paragraph), and

(ii) the post-event gain, less

(b) the aggregate of—

(i) the amount or value of the consideration given for the grant of the option, and

(ii) the amount for which the shares are acquired.

(2B) Where paragraph 46 applies (option to acquire shares at nil cost), then for the purposes of section 135 of the Taxes Act 1988 (taxation of share options) the amount of the gain realised on the exercise of the option is taken to be—

(a) the aggregate of—

(i) the chargeable market value (within the meaning of paragraph 45), and

(ii) the post-event gain, less

(b) the amount or value of the consideration given for the grant of the option.

(2C) For the purposes of this paragraph "the post-event gain" means the amount (if any) by which—

(a) the market value of the shares when the option is exercised, exceeds

(b) their market value immediately before the disqualifying event.

(2D) Where—

(a) the amount of the gain realised on the exercise of an option falls to be determined under sub-paragraph (2), (2A) or (2B) above, and

(b) the amount mentioned in paragraph (b) of the sub-paragraph concerned exceeds the amount mentioned in paragraph (a) of that sub-paragraph,

no amount is chargeable to income tax under section 135 of the Taxes Act 1988 (taxation of share options) in respect of the exercise of the option."

(3) In sub-paragraph (3) for "sub-paragraph (2)" substitute " sub-paragraphs (2), (2A) and (2B) ".

Qualifying requirements for replacement option

12 In paragraph 63 (qualifying requirements for replacement option), in paragraph (b) (ii) for "(number of employees who may hold qualifying options)" substitute " (maximum value of options in respect of relevant company's shares) ".

Commencement

13 (1) The amendments made by paragraphs 2 to 6 and 12 have effect in relation to any right to acquire shares granted after the passing of this Act.

(2) The amendments made by paragraphs 7, 8 and 11 have effect in relation to any right to acquire shares exercised after the passing of this Act.

(3) The amendments made by paragraphs 9 and 10 have effect in relation to any alteration made to the share capital of a company after the passing of this Act.

SCHEDULE 15

Section 63.

ENTERPRISE INVESTMENT SCHEME: AMENDMENTS

PART 1

INCOME TAX RELIEF

Introductory

1 Chapter 3 of Part 7 of the Taxes Act 1988 is amended in accordance with this Part.

Oil activities

2 In section 289 (eligibility for income tax relief)—

(a) in subsection (1C) (meaning of "the active company") for ", research and development or oil exploration" substitute " or research and development ",

(b) in subsection (2)—

(i) at the end of paragraph (a) insert " or ", and

(ii) omit paragraph (c) (which relates to the treatment of oil exploration as a qualifying business activity), and

(c) omit subsections (4) and (5) (which make provision supplemental to section 289(2)(c)).

3 In section 289A (form of relief), in subsection (7) (which specifies conditions to be satisfied before a claim for relief is allowed)—

(a) after paragraph (a) insert " and ", and

(b) omit paragraph (c) (condition to be satisfied in a case involving oil exploration).

4 In section 293 (qualifying company), in subsection (3B)(b) omit "and oil exploration".

5 In section 297 (qualifying trades) omit—

(a) subsection (2)(d) (oil extraction activities not to amount to substantial part of the trade); and

(b) subsection (9) (oil extraction activities treated as qualifying trade for purposes of section 289(2)(c)).

Requirement as to the money raised

6 In section 289 (eligibility for relief)—

(a) in subsection (1) (conditions of eligibility for income tax relief), for paragraph (c) (requirement that all of the money raised is employed for purposes of qualifying business activity within prescribed period) substitute—

"(c) at least 80% of the money raised by the issue mentioned in paragraph (b) above is employed wholly for the purpose of the activity mentioned in that paragraph not later than the time mentioned in subsection (3) below, and

(d) all of the money so raised is employed wholly for that purpose not later than 12 months after that time.",

and

(b) in subsection (3) for "condition in subsection (1)(c) above does" substitute " conditions in subsection (1)(c) and (d) above do ".

7 In section 307 (withdrawal of relief)—

(a) in subsection (1A) for "section 289(1)(b), (ba) or (c)" substitute " section 289(1)(b), (ba), (c) or (d) ", and

(b) in subsection (6)(aa) for "section 289(1)(c)" substitute " section 289(1)(c) or (d) ".

8 In section 310 (information), in subsection (2) for "289(1)(ba) or (c)" substitute " 289(1)(ba), (c) or (d) ".

Repayment supplements

9 (1) In section 289A (form of relief), omit subsection (9) (modification of provisions relating to repayment supplements where effect given to claim for relief by repayment of tax).

(2) The amendment made by this paragraph has effect in relation to repayments of tax on or after 7th March 2001.

Designated period

10 In section 291 (individuals qualifying for relief), for subsection (1)(b) (requirement that individual is not connected with the issuing company at any time in the designated period) substitute—

"(b) subject to section 291A(4), he is not at any time in the period—

(i) beginning two years before the issue of the shares, and

(ii) ending immediately before the termination date relating to those shares,

connected with the company (whether before or after its incorporation).".

11 In section 291A (connected persons: directors), in subsection (1)(a) for "the designated period" substitute " the period mentioned in section 291(1)(b) ".

Unquoted company requirement

12 (1) In section 293 (qualifying companies), after subsection (1) insert—

"(1A) At the beginning of the relevant period, the company must be—

(a) an unquoted company, and

(b) a company to which subsection (1B) below does not apply.

(1B) This subsection applies to a company—

(a) if arrangements are in existence for it to cease to be an unquoted company; or

(b) if—

(i) arrangements are in existence for it to become a subsidiary of another company ("the new company") by virtue of an exchange of shares, or shares and securities, in relation to which section 304A (certain exchanges resulting in acquisition of share capital by new company) applies, and

(ii) arrangements have been made with a view to the new company ceasing to be an unquoted company.".

(2) In subsection (2) of that section (requirement that, throughout the relevant period, the company is an unquoted company etc.) omit "be an unquoted company and".

13 In section 312 (interpretation), in subsection (1E) (unquoted company status not lost by reason of subsequent designation, by order, of stock exchange or means of dealing)—

(a) after "are issued" insert " ("the relevant time") ", and

(b) for the words "listed" to the end substitute—

"(a) listed on a stock exchange that is a recognised stock exchange by virtue of an order made under section 841, or

(b) listed on an exchange, or dealt in by any means, designated by an order made for the purposes of subsection (1B) above,

if the order was made after the relevant time. ".

Royalties and licence fees

14 (1) In relation to shares issued on or after 6th April 2000, section 293 (qualifying companies) has effect, and shall be deemed always to have had effect, with the following amendment.

(2) In subsection (3C) for "the requirements mentioned in paragraphs (a) and (b) of section 297(4) or (5) are" substitute " the requirement mentioned in section 297(4) is ".

Value received by individual etc.

15 (1) In section 300 (value received from company etc.), in subsection (1) after "value" insert " (other than insignificant value) ".

(2) In that subsection for "designated period" substitute " period of restriction ".

(3) After subsection (1A) of that section insert—

"(1AA) This section is subject to section 300A.".

(4) After subsection (1B) of that section insert—

"(1BA) Where—

(a) an individual subscribes for two or more issues of eligible shares in a company, being issues comprising shares in respect of which the individual obtains relief, and

(b) the individual receives any value from the company at any time in the periods of restriction relating to the shares comprised in two or more of those issues,

this section has effect in relation to the shares comprised in each of the issues referred to in paragraph (b) above as if the amount of the value received were reduced by multiplying it by the fraction specified in subsection (1BB) below.

(1BB) The fraction is—

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

where—

A is the amount subscribed by the individual for the eligible shares comprised in the issue in question, and

B is the aggregate of that amount and the corresponding amount or amounts for eligible shares comprised in the other issue or issues.

(1BC) Where—

(a) an individual who subscribes for eligible shares in a company receives value ("the relevant receipt") from the company during the period of restriction,

(b) the individual has received from the company one or more receipts of insignificant value at a time or times—

(i) during that period, but

(ii) not later than the time of the relevant receipt, and

(c) the aggregate amount of the value of the receipts within paragraphs (a) and (b) above is not an amount of insignificant value,

the individual shall be treated for the purposes of this Chapter as if the relevant receipt had been a receipt of an amount of value equal to the aggregate amount.

For this purpose a receipt does not fall within paragraph (b) above if it has previously been aggregated under this subsection.".

(5) In subsection (1C) of that section for the words from "References" to "include references" substitute " Any reference in subsection (1), (1BA) or (1BC) above to the receipt of value (however expressed) from a company includes a reference ".

(6) In subsections (4)(a) and (5) of that section for "receivable" substitute " received ".

16 After section 300 insert—

"**300A Receipt of replacement value**

(1) Where—

(a) any relief attributable to any eligible shares comprised in an issue of shares subscribed for by an individual ("the individual") would, in the absence of this section, be reduced or withdrawn under section 300 by reason of a receipt of value within subsection (2) or (5) of that section ("the original value"),

(b) the original supplier receives value ("the replacement value") from the original recipient by virtue of a qualifying receipt, and

(c) the amount of the replacement value is not less than the amount of the original value,

the receipt of the original value shall be disregarded for the purposes of section 300.

This is subject to subsections (7) and (8) below.

(2) For the purposes of this section—

"the original recipient" means the person who receives the original value, and

"the original supplier" means the person from whom that value was received.

(3) Where the amount of the original value is, by virtue of subsection (1BA) of section 300, treated as reduced for the purposes of that section as it applies in relation to the eligible shares in question, the reference in subsection (1)(c) above to the amount of the original value shall be read as a reference to the amount of that value disregarding the reduction.

(4) A receipt of the replacement value is a qualifying receipt for the purposes of subsection (1) above if it arises—

(a) by reason of the original recipient doing one or more of the following—

(i) making a payment to the original supplier, other than a payment which falls within paragraph (c) below or to which subsection (5) below applies;

(ii) acquiring any asset from the original supplier for a consideration the amount or value of which is more than the market value of the asset;

(iii) disposing of any asset to the original supplier for no consideration or for a consideration the amount or value of which is less than the market value of the asset;

(b) where the receipt of the original value was within section 300(2)(d), by reason of an event the effect of which is to reverse the event which constituted the receipt of the original value; or

(c) where the receipt of the original value was within section 300(5), by reason of the original recipient repurchasing the share capital or securities in question, or (as the case may be) reacquiring the right in question, for a consideration the amount or value of which is not less than the amount of the original value.

(5) This subsection applies to—

(a) any payment for any goods, services or facilities, provided (whether in the course of a trade or otherwise) by—

(i) the original supplier, or

(ii) any other person who, at any time in the period of restriction, is an associate of, or connected with, that supplier (whether or not he is such an associate, or so connected, at the material time),

which is reasonable in relation to the market value of those goods, services or facilities;

(b) any payment of any interest which represents no more than a reasonable commercial return on money lent to—

(i) the original recipient, or

(ii) any person who, at any time in the period of restriction, is an associate of his (whether or not he is such an associate at the material time);

(c) any payment for the acquisition of an asset which does not exceed its market value;

(d) any payment, as rent for any property occupied by—

(i) the original recipient, or

(ii) any person who, at any time in the period of restriction, is an associate of his (whether or not he is such an associate at the material time),

of an amount not exceeding a reasonable and commercial rent for the property;

(e) any payment in discharge of an ordinary trade debt; and

(f) any payment for shares in or securities of any company in circumstances that do not fall within subsection (4)(a)(ii) above.

(6) For the purposes of this section, the amount of the replacement value is—

(a) in a case within paragraph (a) of subsection (4) above, the aggregate of—

(i) the amount of any payment within sub-paragraph (i) of that paragraph, and

(ii) the difference between the market value of any asset to which sub-paragraph (ii) or (iii) of that paragraph applies and the amount or value of the consideration (if any) received for it,

(b) in a case within subsection (4)(b) above, the same as the amount of the original value, and

(c) in a case within subsection (4)(c) above, the amount or value of the consideration received by the original supplier,

and section 300(4) and (5) shall apply for the purposes of determining the amount of the original value.

(7) The receipt of the replacement value by the original supplier shall be disregarded for the purposes of this section, as it applies in relation to the eligible shares, to the extent to which that receipt has previously been set (under this section) against any receipts of value which are, in consequence, disregarded for the purposes of section 300 as that section applies in relation to those shares or any other shares subscribed for by the individual.

(8) The receipt of the replacement value by the original supplier ("the event") shall be disregarded for the purposes of this section if—

(a) the event occurs before the start of the period of restriction, or

(b) in a case where the event occurs after the time the original recipient receives the original value, it does not occur as soon after that time as is reasonably practicable in the circumstances, or

(c) where an appeal has been brought by the individual against an assessment to withdraw or reduce any relief attributable to the eligible shares by reason of the receipt of the original value, the event occurs more than 60 days after the amount of relief which falls to be withdrawn has been finally determined.

But nothing in this section requires the replacement value to be received after the original value.

(9) Subsection (10) below applies where—

(a) the receipt of the replacement value by the original supplier is a qualifying receipt (for the purposes of subsection (1) above) in consequence of which any receipts of value are disregarded for the purposes of section 300 as that section applies in relation to the shares in question or any other shares subscribed for by the individual in question, and

(b) the event which gives rise to the receipt is (or includes) a subscription for shares by—

(i) the individual, or

(ii) any person who, at any time in the period of restriction, is an associate of his, whether or not he is such an associate at the material time.

(10) Where this subsection applies, the person who subscribes for the shares as mentioned in subsection (9)(b) above shall not—

(a) be eligible for any relief under this Chapter in relation to those shares or any other shares in the same issue, or

(b) by virtue of his subscription for those shares or any other shares in the same issue, be treated as making a qualifying investment for the purposes of Schedule 5B to the 1992 Act (enterprise investment scheme: reinvestment).

(11) In this section—

(a) any reference to a payment to a person (however expressed) includes a reference to a payment made to him indirectly or to his order or for his benefit, and

(b) references to "the period of restriction" are to the period of restriction relating to the shares mentioned in subsection (1)(a) above.".

17 In section 301 (provisions supplementary to section 300), in subsections (4A) and (5) for "section 300" substitute " sections 300 and 300A ".

18 After that section insert—

"**301A Receipts of insignificant value: supplementary provision**

(1) In this section and section 300 references to a receipt of insignificant value (however expressed) are references to a receipt of an amount of insignificant value.

This is subject to subsection (3) below.

(2) For the purposes of this section and section 300 "an amount of insignificant value" means an amount of value which—

(a) does not exceed £1,000, or

(b) if it exceeds that amount, is insignificant in relation to the amount subscribed by the individual in question for the eligible shares in question.

(3) For the purposes of section 300, if, at any time in the period—

(a) beginning one year before the eligible shares in question are issued, and

(b) expiring at the end of the issue date,

arrangements are in existence which provide for the individual in question to receive or to be entitled to receive, at any time in the period of restriction relating to those shares, any value from the company that issued those shares, no amount of value received by the individual shall be treated as a receipt of insignificant value.

(4) For the purposes of this section—

(a) references to the individual include references to any person who, at any time in the period of restriction relating to the shares in question,

is an associate of his (whether or not he is such an associate at the material time), and

(b) the reference in subsection (3) above to the company includes a reference to any person who, at any time in the period of restriction relating to the shares in question, is connected with the company (whether or not that person is so connected at the material time).

(5) For the purposes of this section, an individual who acquires any eligible shares on such a transfer as is mentioned in section 304 shall be treated as if he subscribed for those shares.".

Repayment of share capital

19 (1) In section 303 (repayment of share capital), in subsection (1) for "designated period" substitute " period of restriction ".

(2) In subsection (1AA) of that section for "section 303A" substitute " sections 303AA and 303A ".

(3) In subsection (1B) of that section (receipts of value which do not result in the withdrawal or reduction of income tax relief)—

(a) in paragraph (c) after "relief" insert " attributable to shares held by that person ", and

(b) after paragraph (c) insert—

"or it would have the effect mentioned in paragraph (a), (b) or (c) above were it not a receipt of insignificant value for the purposes of section 300 above, paragraph 13 of Schedule 5B to the 1992 Act or paragraph 47 of the Finance Act 2000, as the case may be".

(4) In subsection (1C) of that section, in paragraph (a) for "receivable" substitute " received ".

(5) In subsection (2A) of that section, for paragraph (b) substitute—

"(b) if the shares were issued on or after 6th April 2000 but before 7th March 2001, the period beginning two years before the issue of the shares and ending immediately before the termination date relating to those shares,

(c) in any other case, the period of restriction for the issue.".

(6) Omit subsections (3) to (7) of that section (determination of whether a person is connected with the issuing company in case where member of company receives value from it).

(7) In subsection (9A) of that section after "this section" insert " and section 303AA ".

20 After section 303 insert—

"**303AA Insignificant repayments disregarded for purposes of s.303(1)**

(1) Any repayment shall be disregarded for the purposes of section 303(1) (repayments etc. which cause withdrawal or reduction of relief) if whichever is the greater of—

(a) the market value of the shares to which it relates ("the target shares") immediately before the event occurs, and

(b) the amount received by the member in question,

is insignificant in relation to the market value of the remaining issued share capital of the company in question (or, as the case may be, subsidiary in question) immediately after the event occurs.

This is subject to subsection (4) below.

(2) For the purposes of this section "repayment" means a repayment, redemption, repurchase or payment mentioned in section 303(1) (repayments etc. which cause withdrawal or reduction of relief).

(3) For the purposes of subsection (1) above it shall be assumed that the target shares are cancelled at the time the repayment is made.

(4) Where an individual subscribes for eligible shares in a company, subsection (1) above does not apply to prevent section 303(1) having effect in relation to those shares if, at a relevant time, arrangements are in existence that provide—

(a) for a repayment by the company or any subsidiary of the company (whether or not it is such a subsidiary at the time the arrangements are made), or

(b) for anyone to be entitled to such a repayment,

at any time in the period of restriction relating to those shares.

(5) For the purposes of subsection (4) above "a relevant time" means any time in the period—

(a) beginning one year before the eligible shares were issued, and

(b) expiring at the end of the issue date.".

21 In section 303A (restriction on withdrawal or reduction of relief under section 303) —

(a) for subsection (2) substitute—

"(2) For the purposes of this section "repayment" has the meaning given in section 303AA(2) above.",

(b) omit subsection (8) (repayments treated, for the purposes of the corporate venturing scheme, as causing insignificant changes to share capital to be disregarded), and

(c) in subsection (9)(a) for "that Schedule" substitute " Schedule 15 to the Finance Act 2000 (corporate venturing scheme) ".

Claims

22 (1) In section 306(1) (timing of claim for relief), for paragraph (a) substitute—

"(a) not earlier than the time the requirement in section 289A(6) is first satisfied; and".

(2) The amendment made by this paragraph has effect in relation to shares issued on or after 6th April 2001.

Information

23 (1) In section 310 (information), in subsection (1) (claimant required to give notice of events by reason of which relief falls to be withdrawn or reduced), after "300," insert

" or would fall to be withdrawn under section 300 were it not for the application of section 300A, ".

(2) In subsection (2) of that section (company etc. required to give notice of events by reason of which relief falls to be withdrawn or reduced), after "303" insert " , or would fall to be withdrawn under section 300 were it not for the application of section 300A, ".

(3) After that subsection insert—

"(2A) Where—

(a) a person is required to give notice under subsection (1) or (2) above of an event by reason of which any relief in respect of any shares in a company—

(i) falls to be withdrawn under section 300, or

(ii) would fall to be so withdrawn were it not for the application of section 300A, and

(b) that person has knowledge of the replacement value received (or expected to be received) from the original recipient by the original supplier by reason of a qualifying receipt,

the notice shall include particulars of that receipt of the replacement value (or expected receipt).

In this subsection "the replacement value", "the original recipient", "the original supplier" and "qualifying receipt" shall be construed in accordance with section 300A.".

(4) In subsection (4) of that section, after "believe" insert " (a) " and for "the inspector may" (where it first occurs) substitute—

", or

(b) that a person has given or received value (within the meaning of section 300(2) or (5)) which, but for the fact that the amount given or received was an amount of insignificant value (within the meaning of section 301A(2)), would have triggered a requirement to give a notice under subsection (1) or (2) above, or

(c) that a person has made or received any repayment (within the meaning of section 303AA(2)) which, but for the fact that it falls to be disregarded for the purposes of section 303(1) by virtue of section 303AA(1), would have triggered a requirement to give a notice under subsection (2) above,

the inspector may ".

(5) The amendments made by this paragraph have effect in relation to events occurring on or after 7th March 2001.

Interpretation

24 In section 312 (interpretation), in subsection (1), after the definition of "ordinary shares" insert—

""the period of restriction", in relation to any eligible shares issued by a company, means the period—

(a) beginning one year before the shares are issued, and

(b) ending immediately before the termination date relating to the shares;".

PART 2

POSTPONEMENT OF CHARGEABLE GAIN ON REINVESTMENT

Introductory

25 Schedule 5B to the Taxation of Chargeable Gains Act 1992 (c. 12) is amended in accordance with this Part.

Requirement as to the money raised

26 In paragraph 1 (eligibility for relief), in sub-paragraph (2) (qualifying investment)—

(a) for paragraph (g) substitute—

"(g) at least 80% of the money raised by the issue is employed wholly for the purpose of that activity not later than the time mentioned in section 289(3) of the Taxes Act, and

(h) all of the money so raised is employed wholly for that purpose not later than 12 months after that time,";

and

(b) in the full-out words at the end for "condition in paragraph (g) above does" substitute " conditions in paragraphs (g) and (h) above do ".

27 (1) In paragraph 1A (failure of conditions of application), in sub-paragraph (4)—

(a) after "(2)(g)" insert " or (h) "; and

(b) in paragraph (a) for "section 289(3) of the Taxes Act" substitute " sub-paragraph (4A) below ".

(2) After that sub-paragraph insert—

"(4A) The time referred to in sub-paragraph (4) above is—

(a) in a case relating to the condition in sub-paragraph (2)(g) of paragraph 1 above, the time mentioned in section 289(3) of the Taxes Act, and

(b) in a case relating to the condition in sub-paragraph (2)(h) of that paragraph, the time 12 months after that time.".

28 In paragraph 16 (information), after sub-paragraph (4) insert—

"(4A) Sub-paragraph (4) above shall apply in relation to the condition in paragraph 1(2)(h) above as it applies in relation to the condition in paragraph 1(2)(g) above, except that the reference to the time mentioned in section 289(3) of the Taxes Act shall be read as a reference to the time 12 months after that time.".

Designated period

29 In paragraph 3(1) (chargeable events) in both paragraph (c) and paragraph (d) for "within the designated period" substitute " before the termination date relating to those shares ".

Value received by investor

30 (1) In paragraph 13 (value received by investor) in sub-paragraph (1) after "any value" insert " (other than insignificant value) ".

(2) In that sub-paragraph for "designated period" substitute " period of restriction ".

(3) After that sub-paragraph insert—

"(1A) This paragraph is subject to paragraph 13B below.

(1B) Where—

(a) the individual who subscribes for the shares receives value ("the relevant receipt") from the company during the period of restriction,

(b) the individual has received from the company one or more receipts of insignificant value at a time or times—

(i) during that period, but

(ii) not later than the time of the relevant receipt, and

(c) the aggregate amount of the value of the receipts within paragraphs (a) and (b) above is not an amount of insignificant value,

the individual shall be treated for the purposes of this Schedule as if the relevant receipt had been a receipt of an amount of value equal to the aggregate amount.

For this purpose a receipt does not fall within paragraph (b) above if it has previously been aggregated under this sub-paragraph.".

(4) Omit sub-paragraph (4) of that paragraph (certain payments etc. received on a winding up or dissolution treated as receipts of value).

(5) In sub-paragraph (10) of that paragraph (interpretation of provisions applying to paragraph 13) after "this paragraph" insert " and paragraph 13A(1) below ".

(6) After sub-paragraph (11) of that paragraph insert—

"(12) In paragraphs 13A to 13C below (except paragraph 13C(4))—

(a) references to "the shares" shall be construed in accordance with sub-paragraph (1) above, and

(b) references to "the period of restriction" shall be construed as references to the period of restriction relating to the shares.".

31 After paragraph 13 insert—

"**Provision supplemental to paragraph 13**

13A (1) For the purposes of paragraph 13 above, the value received by the individual in question is—

(a) in a case within sub-paragraph (2)(a), (b) or (c) of that paragraph, the amount received by the individual or, if greater, the market value of the share capital, securities or debt in question;

(b) in a case within sub-paragraph (2)(d) of that paragraph, the amount of the liability;

(c) in a case within sub-paragraph (2)(e) of that paragraph, the amount of the loan or advance reduced by the amount of any repayment made before the issue of the shares;

(d) in a case within sub-paragraph (2)(f) of that paragraph, the cost to the company of providing the benefit or facility less any consideration given for it by the individual;

(e) in a case within sub-paragraph (2)(g) or (h) of that paragraph, the difference between the market value of the asset and the consideration (if any) given for it;

(f) in a case within sub-paragraph (2)(i) of that paragraph, the amount of the payment;

(g) in a case within sub-paragraph (5) of that paragraph, the amount received by the individual or, if greater, the market value of the share capital or securities in question.

(2) In this paragraph and paragraph 13 above references to a receipt of insignificant value (however expressed) are references to a receipt of an amount of insignificant value.

This is subject to sub-paragraph (4) below.

(3) For the purposes of this paragraph and paragraph 13 above "an amount of insignificant value" means an amount of value which—

(a) does not exceed £1,000, or

(b) if it exceeds that amount, is insignificant in relation to the total amount of expenditure on the shares which is set under this Schedule against a corresponding total amount of the whole or any part of any chargeable gains.

(4) For the purposes of paragraph 13 above, if, at any time in the period—

(a) beginning one year before the shares are issued, and

(b) expiring at the end of the issue date,

arrangements are in existence which provide for the individual who subscribes for the shares to receive or to be entitled to receive, at any time in the period of restriction, any value from the company that issued the shares, no amount of value received by the individual shall be treated as a receipt of insignificant value.

(5) In sub-paragraph (4) above—

(a) any reference to the individual includes a reference to any person who, at any time in the period of restriction, is an associate of his (whether or not he is such an associate at the material time), and

(b) the reference to the company includes a reference to any person who, at any time in the period of restriction, is connected with the company (whether or not that person is so connected at the material time).

Receipt of replacement value

13B (1) Where—

(a) by reason of a receipt of value within sub-paragraph (2) (other than paragraph (b)) or sub-paragraph (5) of paragraph 13 above ("the original value"), the shares would, in the absence of this paragraph, be treated as never having been eligible shares or as ceasing to be eligible shares on the date when the value is received,

(b) the original supplier receives value ("the replacement value") from the original recipient by reason of a qualifying receipt, and

(c) the amount of the replacement value is not less than the amount of the original value,

the receipt of the original value shall be disregarded for the purposes of paragraph 13 above.

(2) This paragraph is subject to paragraph 13C below.

(3) For the purposes of this paragraph and paragraph 13C below—

"the original recipient" means the person who receives the original value, and

"the original supplier" means the person from whom that value was received.

(4) A receipt of the replacement value is a qualifying receipt for the purposes of sub-paragraph (1) above if it arises—

(a) by reason of the original recipient doing one or more of the following—

(i) making a payment to the original supplier, other than a payment which falls within paragraph (c) below or to which sub-paragraph (5) below applies;

(ii) acquiring any asset from the original supplier for a consideration the amount or value of which is more than the market value of the asset;

(iii) disposing of any asset to the original supplier for no consideration or for a consideration the amount or value of which is less than the market value of the asset;

(b) where the receipt of the original value was within paragraph 13(2)(d) above, by reason of an event the effect of which is to reverse the event which constituted the receipt of the original value; or

(c) where the receipt of the original value was within paragraph 13(5) above, by reason of the original recipient repurchasing the share capital or securities in question, or (as the case may be) reacquiring the right in question, for a consideration the amount or value of which is not less than the amount of the original value.

(5) This sub-paragraph applies to—

(a) any payment for any goods, services or facilities, provided (whether in the course of a trade or otherwise) by—

(i) the original supplier, or

(ii) any other person who, at any time in the period of restriction, is an associate of, or connected with, that

supplier (whether or not that person is such an associate, or so connected, at the material time),

which is reasonable in relation to the market value of those goods, services or facilities;

(b) any payment of any interest which represents no more than a reasonable commercial return on money lent to—

(i) the original recipient, or

(ii) any person who, at any time in the period of restriction, is an associate of his (whether or not he is such an associate at the material time);

(c) any payment for the acquisition of an asset which does not exceed its market value;

(d) any payment, as rent for any property occupied by—

(i) the original recipient, or

(ii) any person who, at any time in the period of restriction, is an associate of his (whether or not he is such an associate at the material time),

of an amount not exceeding a reasonable and commercial rent for the property;

(e) any payment in discharge of an ordinary trade debt (within the meaning of paragraph 13(11) above); and

(f) any payment for shares in or securities of any company in circumstances that do not fall within sub-paragraph (4)(a)(ii) above.

(6) For the purposes of this paragraph, the amount of the replacement value is—

(a) in a case within paragraph (a) of sub-paragraph (4) above, the aggregate of—

(i) the amount of any payment within sub-paragraph (i) of that paragraph, and

(ii) the difference between the market value of any asset within sub-paragraph (ii) or (iii) of that paragraph and the amount or value of the consideration (if any) received for it,

(b) in a case within sub-paragraph (4)(b) above, the same as the amount of the original value, and

(c) in a case within sub-paragraph (4)(c) above, the amount or value of the consideration received by the original supplier,

and paragraph 13A(1) above applies for the purposes of determining the amount of the original value.

(7) In this paragraph any reference to a payment to a person (however expressed) includes a reference to a payment made to him indirectly or to his order or for his benefit.

Provision supplemental to paragraph 13B

13C (1) The receipt of the replacement value by the original supplier shall be disregarded for the purposes of paragraph 13B above, as it applies in relation to the shares, to the extent to which that receipt has previously been set (under that paragraph) against any receipts of value which are, in consequence, disregarded for the purposes of paragraph 13 above as that paragraph applies

in relation to those shares or any other shares subscribed for by the individual in question ("the individual").

(2) The receipt of the replacement value by the original supplier ("the event") shall also be disregarded for the purposes of paragraph 13B above if—

(a) the event occurs before the start of the period of restriction, or

(b) in a case where the event occurs after the time the original recipient receives the original value, it does not occur as soon after that time as is reasonably practicable in the circumstances, or

(c) where an appeal has been brought by the individual against an assessment made by virtue of paragraph 3(1)(e) above by reason of that receipt, the event occurs more than 60 days after the appeal has been finally determined.

But nothing in paragraph 13B above or this paragraph requires the replacement value to be received after the original value.

(3) Sub-paragraph (4) below applies where—

(a) the receipt of the replacement value by the original supplier is a qualifying receipt for the purposes of paragraph 13B(1) above, and

(b) the event which gives rise to the receipt is (or includes) a subscription for shares by—

(i) the individual, or

(ii) any person who, at any time in the period of restriction, is an associate of the individual, whether or not he is such an associate at the material time.

(4) Where this sub-paragraph applies, the person who subscribes for the shares shall not—

(a) be eligible for any relief under Chapter 3 of Part 7 of the Taxes Act (enterprise investment scheme: income tax relief) in relation to those shares or any other shares in the same issue, or

(b) by virtue of his subscription for those shares or any other shares in the same issue, be treated as making a qualifying investment for the purposes of this Schedule.

(5) In this paragraph "the original value" and "the replacement value" shall be construed in accordance with paragraph 13B above.".

Value received by persons other than the investor

32 (1) In paragraph 14 (value received by persons other than the investor), in sub-paragraph (1)—

(a) for "designated period" substitute " period of restriction ", and

(b) for "paragraph 14A" substitute " paragraphs 14AA and 14A ".

(2) In sub-paragraph (3) of that paragraph (repayments etc. excluded from the effects of paragraph 13(1))—

(a) in paragraph (c) after "relief" insert " attributable to shares held by that person ", and

(b) after paragraph (c) insert—

"or it would have the effect mentioned in paragraph (a), (b) or (c) above were it not a receipt of insignificant value for the purposes of paragraph 13 above, section 300 of the Taxes Act or paragraph 47 of Schedule 15 to the Finance Act 2000, as the case may be".

(3) In sub-paragraph (7) of that paragraph (meaning of "subsidiary" in paragraph 14) after "this paragraph" insert " and paragraph 14AA below ".

Certain receipts to be disregarded

33 After paragraph 14 insert—

"**Insignificant repayments disregarded for purposes of paragraph 14**

14AA(1) Any repayment shall be disregarded for the purposes of paragraph 14 above if whichever is the greater of—

(a) the market value of the shares to which it relates ("the target shares") immediately before the event occurs, and

(b) the amount received by the member in question,

is insignificant in relation to the market value of the remaining issued share capital of the company in question (or, as the case may be, subsidiary in question) immediately after the event occurs.

This is subject to sub-paragraph (4) below.

(2) For the purposes of this paragraph "repayment" means a repayment, redemption, repurchase or payment mentioned in paragraph 14(1) above.

(3) For the purposes of sub-paragraph (1) above it shall be assumed that the target shares are cancelled at the time the repayment is made.

(4) Where an individual subscribes for eligible shares in a company, sub-paragraph (1) above does not apply to prevent paragraph 14(2) above having effect in relation to the shares if, at a relevant time, arrangements are in existence that provide—

(a) for a repayment by the company or any subsidiary of the company (whether or not it is such a subsidiary at the time the arrangements are made), or

(b) for anyone to be entitled to such a repayment,

at any time in the period of restriction.

(5) For the purposes of sub-paragraph (4) above "a relevant time" means any time in the period—

(a) beginning one year before the eligible shares were issued, and

(b) expiring at the end of the issue date.".

34 In paragraph 14A (certain receipts to be disregarded for purposes of paragraph 14)—

(a) for sub-paragraph (2) substitute—

"(2) For the purposes of this paragraph "repayment" has the meaning given in paragraph 14AA(2) above.",

(b) omit sub-paragraph (7) (repayments treated, for the purposes of the corporate venturing scheme, as causing insignificant changes to share capital to be disregarded), and

(c) in sub-paragraph (8)(a) for "that Schedule" substitute " Schedule 15 to the Finance Act 2000 (corporate venturing scheme) ".

Information

35 (1) In paragraph 16 (information), in sub-paragraph (1)(a) for "in the designated period" substitute " before the termination date relating to those shares ".

(2) After sub-paragraph (2) of that paragraph insert—

"(2A) In determining, for the purposes of sub-paragraph (1) or (2) above, whether a chargeable event falling within paragraph 3(1)(e) above has occurred by virtue of paragraph 13(1)(b) above, the effect of paragraph 13B above shall be disregarded.".

(3) After sub-paragraph (3) of that paragraph insert—

"(3A) Where—

(a) a person is required to give a notice under sub-paragraph (1) or (2) above in respect of a chargeable event which occurs by virtue of paragraph 13(1)(b) above or would occur by virtue of that paragraph but for the operation of paragraph 13B above, and

(b) that person has knowledge of the replacement value received (or expected to be received) from the original recipient by the original supplier by reason of a qualifying receipt,

the notice shall include particulars of that receipt of the replacement value (or expected receipt).

In this sub-paragraph "the replacement value", "the original recipient", "the original supplier" and "qualifying receipt" shall be construed in accordance with paragraph 13B above.".

(4) In sub-paragraph (5) of that paragraph, for "If" to "particular case," substitute—

"If the inspector has reason to believe—

(a) that a person has not given a notice which he is required to give—

(i) under sub-paragraph (1) or (2) above in respect of any chargeable event, or

(ii) under sub-paragraph (4) above in respect of any particular case, or

(b) that a person has given or received value (within the meaning of paragraph 13(2) or (5) above) which, but for the fact that the amount given or received was an amount of insignificant value (within the meaning of paragraph 13A(3) above), would have triggered a requirement to give a notice under sub-paragraph (1) or (2) above, or

(c) that a person has made or received any repayment (within the meaning of paragraph 14AA(2) above) which, but for the fact that it falls to be disregarded for the purposes of paragraph 14 above by virtue of paragraph 14AA(1) above, would have triggered a requirement to give a notice under sub-paragraph (2) above,".

(5) The amendments made by this paragraph have effect in relation to events occurring on or after 7th March 2001.

Trustees: anti-avoidance

36 In paragraph 18 (trustees: anti-avoidance)—

(a) in sub-paragraph (1) after "13" insert " to 13C ", and

(b) in sub-paragraph (2)—

(i) in paragraph (a) for "paragraph 13 above applies" substitute " sub-paragraph (1) of paragraph 13 above applies, or that sub-paragraph would apply were it not for the fact that the amount of value is an amount of insignificant value for the purposes of that sub-paragraph ", and

(ii) after that paragraph insert—

"(ab) in a case where paragraph 13(1) above would apply were it not for the operation of paragraph 13B above, the time when the original value (within the meaning of paragraph 13B above) in question is received;".

Interpretation

37 In paragraph 19 (interpretation), in sub-paragraph (1)—

(a) after the definition of "ordinary shares" insert—

""the period of restriction", in relation to any shares, means the period—

(a) beginning one year before the shares are issued, and

(b) ending immediately before the termination date relating to the shares;",

(b) in the definition of "qualifying company" after "Act" insert " (except that for the purposes of this Schedule the reference in section 293(1B)(b)(i) of that Act to section 304A of that Act shall be read as a reference to paragraph 8 above) ", and

(c) at the end insert—

""termination date", in relation to any shares, means the date found by applying the definition of "termination date" in section 312(1) of the Taxes Act by reference to the company that issued the shares and by reference to the shares.".

PART 3

MISCELLANEOUS AND GENERAL

Loss relief

38 (1) Section 576 of the Taxes Act 1988 (supplementary provisions relating to relief for losses on shares in trading companies) is amended as follows.

(2) In subsection (4) (definition of "qualifying trading company") omit the words from "at all times" to "and which".

(3) In subsection (4A) (meaning of "eligible trading company" for purposes of subsection (4))—

(a) after paragraph (a) insert—

"(ab) the reference in subsection (1A) of section 293 to the beginning of the relevant period were a reference to the time at which the shares in respect of which relief is claimed under section 573 or 574 were issued;",

(b) in paragraph (b) for the words from "and the condition" to the end substitute "and after paragraph (a) of that subsection there were inserted— and

(b) the company continues, during the winding up, to be a trading company within the meaning of section 576(5).;", and

(c) in paragraph (d) after "293" insert " (except subsection (1A)) ".

(4) The amendment made by sub-paragraph (3)(b) has effect in relation to shares issued on or after 6th April 2001.

(5) The other amendments made by this paragraph have effect—

(a) in relation to shares issued on or after 7th March 2001, and

(b) in relation to shares issued after 5th April 1998 but before 7th March 2001, in respect of any part of the relevant period which falls on or after 7th March 2001.

(6) For the purposes of sub-paragraph (5)(b) "relevant period" has the meaning given in section 576(5) of the Taxes Act 1988.

Penalties in connection with returns etc.

39 (1) In section 98 of the Taxes Management Act 1970 (c. 9), in the second column of the Table, in the entry for section 310(1), (2) and (3) of the Taxes Act 1988 after "(2)" insert " , (2A) ".

(2) This paragraph has effect in relation to shares issued on or after 6th April 2001, for claims for relief under Chapter 3 of Part 7 of the Taxes Act 1988 made for the year 2000-01 or any later year of assessment.

Commencement

40 (1) Except where provision is made to the contrary, the amendments made by this Schedule have effect in accordance with the following provisions of this paragraph.

(2) The amendments made by paragraphs 2 to 8, 10 to 14, 24, 26 to 29 and 37 have effect—

(a) in relation to shares issued on or after 7th March 2001, and

(b) in respect of the application of Chapter 3 of Part 7 of the Taxes Act 1988 and Schedule 5B to the Taxation of Chargeable Gains Act 1992 (c. 12) on or after 7th March 2001 in relation to shares—

(i) that were issued after 31st December 1993 but before 7th March 2001, and

(ii) to which income tax relief or deferral relief was attributable immediately before 7th March 2001.

(3) The amendments made by paragraphs 15 to 21, 30 to 34 and 36 have effect—

(a) in relation to shares issued on or after 7th March 2001, and

(b) in relation to shares issued before that date, in respect of the application of the provisions mentioned in sub-paragraph (2)(b) in relation to—

(i) value received (within the meaning of section 300 of the Taxes Act 1988 or paragraph 13 of Schedule 5B to the Taxation of Chargeable Gains Act 1992), and

(ii) repayments made,

on or after that date.

(4) For the purposes of this paragraph—

"deferral relief" has the same meaning as in Schedule 5B to the Taxation of Chargeable Gains Act 1992 (c. 12) (enterprise investment scheme: reinvestment);

"income tax relief" means relief under Chapter 3 of Part 7 of the Taxes Act 1988 (enterprise investment scheme); and

"repayment" means a repayment, redemption, repurchase or payment mentioned in section 303(1) of the Taxes Act 1988 or paragraph 14(1) of Schedule 5B to the Taxation of Chargeable Gains Act 1992.

SCHEDULE 16

Section 64.

VENTURE CAPITAL

PART 1

VENTURE CAPITAL TRUSTS

Meaning of "qualifying holdings"

1 (1) In Schedule 28B to the Taxes Act 1988 (which specifies the requirements to be met by "qualifying holdings"), in paragraph 3 (requirements as to company's business), in sub-paragraph (8)(a) for "the requirements mentioned in paragraphs (a) and (b) of paragraph 4(5) or (6) below are" substitute " the requirement mentioned in paragraph 4(5) below is ".

(2) The amendment made by this paragraph has effect, and shall be deemed always to have had effect, for the purpose of determining whether shares or securities issued on or after 6th April 2000 are, for the purposes of section 842AA of the Taxes Act 1988 (venture capital trusts), to be regarded as comprised in a company's qualifying holdings.

2 (1) In paragraph 6 of that Schedule (requirement as to money raised by investment), for sub-paragraphs (1) and (2) (employment of money wholly for purposes of trade) substitute—

"(1) The requirements of this paragraph are that either—

(a) at least 80% of the money raised by the issue of the relevant holding must—

(i) have been employed wholly for the purposes of the trade by reference to which the requirements of paragraph 3(3) above are satisfied; or

(ii) be money which the relevant company or a relevant qualifying subsidiary of that company is intending to employ wholly for the purposes of that trade; or

(b) all of the money so raised must have been employed as mentioned in paragraph (a)(i) above.

(2) For the purposes of this Schedule—

(a) the requirements of sub-paragraph (1) above shall not be capable of being satisfied by virtue of paragraph (a)(ii) of that sub-paragraph at any time after 12 months have expired from the trading time, and

(b) the requirements of that sub-paragraph shall not be capable of being satisfied by virtue of paragraph (a)(i) of that sub-paragraph at any time after 24 months have expired from the trading time.

(2AA) In sub-paragraph (2) above, "the trading time" means whichever is applicable of the following—

(a) in a case where the requirements of sub-paragraph (3) of paragraph 3 above were satisfied in relation to the time when the relevant holding was issued by virtue of paragraph (a) of that sub-paragraph, that time; and

(b) in a case where they were satisfied in relation to that time by virtue of paragraph (b) of that sub-paragraph, the time when the relevant company or, as the case may be, the subsidiary in question began to carry on the intended trade.".

(2) The amendment made by this paragraph has effect for the purpose of determining whether shares or securities held by the trust company (within the meaning of Schedule 28B to the Taxes Act 1988) on or after 7th March 2001 are, for the purposes of that Schedule, to be regarded as comprised in that company's qualifying holdings.

Income tax relief: repayment supplements

3 (1) In Schedule 15B to the Taxes Act 1988 (relief from income tax), omit paragraph 1(7) (modification of provisions relating to repayment supplements where effect given to claim for relief by repayment of tax).

(2) The amendment made by this paragraph has effect in relation to repayments of tax on or after 7th March 2001.

PART 2

CORPORATE VENTURING SCHEME

Introductory

4 Schedule 15 to the Finance Act 2000 (c. 17) (corporate venturing scheme) is amended in accordance with this Part.

Money raised by issue of shares

5 (1) In paragraph 36 (requirement that money raised is employed for purposes of a relevant trade), for sub-paragraph (1) substitute—

"(1) At least 80% of the money raised by the issuance of the relevant issue of shares must have been employed wholly for the purposes of a relevant trade not later than the time determined in accordance with sub-paragraph (1B).

(1A) All of the money so raised must have been so employed not later than 12 months after that time.

(1B) The time referred to in sub-paragraph (1) is—

(a) the end of the period of 12 months beginning with the issue of the shares, or

(b) where the relevant trade was not being carried on at the time the shares were issued, the end of the period of 12 months beginning when the issuing company or a subsidiary begins to carry on the relevant trade.

(1C) Sub-paragraphs (1) and (1A) are subject to sub-paragraph (5).".

(2) In sub-paragraph (5) of that paragraph—

(a) in paragraph (a) for "any of the money mentioned in sub-paragraph (1)" substitute " any of the money raised by the issuance of the relevant issue of shares ", and

(b) for "the requirement of sub-paragraph (1)" substitute " the requirement of sub-paragraph (1) does not apply and the requirement of sub-paragraph (1A) ".

(3) The amendments made by this paragraph have effect—

(a) in relation to shares issued on or after 7th March 2001, and

(b) in respect of the application of Schedule 15 to the Finance Act 2000 (c. 17) (corporate venturing scheme) on or after 7th March 2001 in relation to shares—

(i) that were issued after 31st March 2000 but before 7th March 2001, and

(ii) to which investment relief (within the meaning of that Schedule) was attributable immediately before 7th March 2001.

Receipt of replacement value

6 (1) In paragraph 54 (receipt of replacement value), at the beginning of sub-paragraph (1) (c) insert " the amount of ".

(2) After sub-paragraph (2) of that paragraph insert—

"(2A) Where the amount of the original value is, by virtue of paragraph 51, treated as reduced for the purposes of paragraph 47, the reference in sub-paragraph (1)(c) to the amount of the original value shall be read as a reference to the amount of that value disregarding the reduction.".

(3) In sub-paragraph (3) of that paragraph (qualifying receipts), for paragraphs (a) to (c) substitute—

"(a) by reason of the original recipient doing one or more of the following—

(i) making a payment to the original supplier other than an excepted payment;

(ii) acquiring any asset from the original supplier for a consideration the amount or value of which is more than the market value of the asset;

(iii) disposing of any asset to the original supplier for no consideration or for a consideration the amount or value of which is less than the market value of the asset; or

(b) where the receipt of the original value was within paragraph 49(1)(d), by reason of an event the effect of which is to reverse the event which constituted the receipt of the original value.".

(4) After that sub-paragraph insert—

"(3A) For the purposes of sub-paragraph (3)(a)(i), the following are excepted payments—

(a) any payment for any goods, services or facilities, provided (whether in the course of a trade or otherwise) by—

(i) the original supplier, or

(ii) any other person who, at any time in the period of restriction relating to the relevant shares, is an associate of, or connected with, that supplier (whether or not he is such an associate, or so connected, at the material time),

which is reasonable in relation to the market value of those goods, services or facilities;

(b) any payment of any interest which represents no more than a reasonable commercial return on money lent to—

(i) the original recipient, or

(ii) any other person who, at any time in the period of restriction relating to the relevant shares, is an associate of, or connected with, that recipient (whether or not he is such an associate, or so connected, at the material time);

(c) any payment, as rent for any property occupied by—

(i) that recipient, or

(ii) any person who, at any time in the period of restriction relating to the relevant shares, is an associate of, or connected with, that recipient (whether or not he is such an associate, or so connected, at the material time),

of an amount not exceeding a reasonable and commercial rent for the property;

(d) any payment within paragraph (c), (d) or (f) of the definition of "qualifying payment" in paragraph 49(5); and

(e) any payment for shares in or securities of any company in circumstances that do not fall within sub-paragraph (3)(a)(ii).".

(5) For sub-paragraph (4) of that paragraph (calculation of amounts of original and replacement value) substitute—

"(4) For the purposes of this paragraph, the amount of the replacement value is—

(a) in a case within paragraph (a) of sub-paragraph (3), the aggregate of—

(i) the amount of any payment within sub-paragraph (i) of that paragraph, and

(ii) the difference between the market value of any asset to which sub-paragraph (ii) or (iii) of that paragraph applies and the amount or value of the consideration (if any) received for it, and

(b) in a case within sub-paragraph (3)(b), the amount of the original value,

and paragraph 50 shall apply for the purposes of determining the amount of the original value.".

(6) The amendment made by sub-paragraph (1) shall be deemed always to have had effect.

(7) Subject to that, the amendments made by this paragraph have effect—

(a) in relation to shares issued on or after 7th March 2001, and

(b) in relation to shares issued after 31st March 2000 but before 7th March 2001, in respect of value received (within the meaning of paragraph 49 of Schedule 15 to the Finance Act 2000 (c. 17)) on or after 7th March 2001.

7 (1) In paragraph 55 (provision supplementary to paragraph 54), after sub-paragraph (4) insert—

"(5) In this paragraph "the original value" and "the replacement value" shall be construed in accordance with paragraph 54.".

(2) The amendment made by this paragraph shall be deemed always to have had effect.

Value received by other persons

8 (1) In paragraph 56 (reduction or withdrawal of investment relief as a result of value received by certain persons), in sub-paragraph (3) (receipts of value which do not result in the withdrawal or reduction of relief), after paragraph (c) insert—

"or it would have the effect mentioned in paragraph (a), (b) or (c) were it not a receipt of insignificant value for the purposes of paragraph 47 (value received by the investing company), section 300 of the Taxes Act 1988 or paragraph 13 of Schedule 5B to the 1992 Act, as the case may be".

(2) The amendment made by this paragraph has effect—

(a) in relation to shares issued on or after 7th March 2001, and

(b) in respect of shares issued after 31st March 2000 but before 7th March 2001, in relation to any repayment (within the meaning of paragraph 57(2) of Schedule 15 to the Finance Act 2000) made on or after 7th March 2001.

Insignificant repayments disregarded

9 (1) In paragraph 57 (repayments etc. of insignificant amounts disregarded for the purposes of paragraph 56), in sub-paragraph (1) after "remaining" insert " issued ".

(2) In sub-paragraph (3) of that paragraph for "payment" substitute " repayment ".

(3) The amendment made by sub-paragraph (1) has effect—

(a) in relation to shares issued on or after 7th March 2001, and

(b) in respect of shares issued after 31st March 2000 but before 7th March 2001, in relation to repayments (within the meaning of paragraph 57(2) of Schedule 15 to the Finance Act 2000) made on or after 7th March 2001.

(4) The amendment made by sub-paragraph (2) shall be deemed always to have had effect.

SCHEDULE 17

Section 65.

CAPITAL ALLOWANCES: ENERGY-SAVING PLANT AND MACHINERY

1 In section 39 of the Capital Allowances Act 2001 (c. 2) (first-year allowances available for certain types of expenditure only), at the end add—

", or

section 45A	expenditure on energy-saving plant or machinery.".

2 After section 45 of that Act insert—

"**45A Expenditure on energy-saving plant or machinery**

(1) Expenditure is first-year qualifying expenditure if—

(a) it is expenditure on energy-saving plant or machinery that is unused and not second-hand,

(b) it is incurred on or after 1st April 2001, and

(c) it is not excluded by section 46 (general exclusions).

(2) Energy-saving plant or machinery means plant or machinery in relation to which the following conditions are met—

(a) when the expenditure is incurred, or

(b) when the contract for the provision of the plant or machinery is entered into.

(3) The conditions are that the plant or machinery—

(a) is of a description specified by Treasury order, and

(b) meets the energy-saving criteria specified by Treasury order for plant or machinery of that description.

(4) Any such order may make provision by reference to any technology list, or product list, issued by the Secretary of State (whether before or after the coming into force of this section).

45B Certification of energy-saving plant and machinery

(1) The Treasury may by order provide that, in such cases as may be specified in the order, no section 45A allowance may be made unless a relevant certificate of energy efficiency is in force.

A "section 45A allowance" means a first-year allowance in respect of expenditure that is first-year qualifying expenditure under section 45A.

(2) A certificate of energy efficiency is one certifying that—

(a) particular plant or machinery, or

(b) plant or machinery constructed to a particular design,

meets the energy-saving criteria specified in relation to that description of plant or machinery by order under section 45A.

(3) A relevant certificate of energy efficiency means one issued—

(a) by the Secretary of State or a person authorised by the Secretary of State;

(b) in the case of plant or machinery used or for use in Scotland, by the Scottish Ministers or a person authorised by them;

(c) in the case of plant or machinery used or for use in Wales, by the National Assembly for Wales or a person authorised by it;

(d) in the case of plant or machinery used or for use in Northern Ireland, by the Department of Enterprise, Trade and Investment in Northern Ireland or a person authorised by it.

(4) If a certificate of energy efficiency is revoked—

(a) the certificate is to be treated for the purposes of this section as if it had never been issued, and

(b) all such assessments and adjustments of assessments are to be made as are necessary as a result of the revocation.

(5) If a person who has made a tax return becomes aware that, as a result of the revocation of a certificate of energy efficiency after the return was made, the return has become incorrect, he must give notice to the Inland Revenue specifying how the return needs to be amended.

(6) The notice must be given within 3 months beginning with the day on which the person first became aware that anything in the tax return had become incorrect because of the revocation of the certificate.

45C Energy-saving components of plant or machinery

(1) This section applies for the purpose of apportioning expenditure incurred on plant or machinery if one or more components of the plant or machinery

(but not all of it) is of a description specified by Treasury order under section 45A(3).

(2) If—

(a) only one of the components is of such a description, and

(b) an amount is specified by the order in respect of that component,

the part of the expenditure that is section 45A expenditure must not exceed that amount.

(3) If—

(a) more than one of the components are of such a description, and

(b) an amount is specified by the order in respect of each of those components,

the part of the expenditure that is section 45A expenditure must not exceed the total of those amounts.

(4) If the expenditure is treated under this Act as incurred in instalments, the proportion of each instalment that is section 45A expenditure is the same as the proportion of the whole of the expenditure that is section 45A expenditure.

(5) If this section applies, the expenditure is not apportioned under section 562(3) (apportionment where property sold with other property).

(6) In this section "section 45A expenditure" means expenditure that is first-year qualifying expenditure under section 45A."

3 In section 46(1) of that Act (cases in which expenditure is not first-year qualifying expenditure), at the end add—

", or

section 45A (expenditure on energy-saving plant or machinery).".

4 In section 52(3) of that Act (amount of first-year allowances), in the Table, at the end add—

"Expenditure qualifying under section 45A (expenditure on energy-saving plant or machinery)	100%"

5 In the second column of the Table in section 98 of the Taxes Management Act 1970 (c. 9) (penalty for failure to provide information etc.), in the entry relating to requirements imposed by provisions of the Capital Allowances Act 2001 (c. 2) , after "43(5) and (6)," insert " 45B(5) and (6), ".

6 (1) For the purposes of section 45A(2) of the Capital Allowances Act 2001 (c. 2), if—

(a) expenditure on plant or machinery is incurred, or a contract for the provision of plant or machinery is entered into, before the first order is made under section 45A(3) of that Act; and

(b) if that order had been made before the relevant time, the conditions in section 45A(3) of that Act would have been met,

those conditions shall be treated as if they were met at the relevant time.

(2) In sub-paragraph (1) "the relevant time" means the time when the expenditure was incurred or (as the case may be) the contract was entered into.

SCHEDULE 18

Section 66.

CAPITAL ALLOWANCES: FIXTURES PROVIDED IN CONNECTION WITH ENERGY MANAGEMENT SERVICES

1 In section 172(3) of the Capital Allowances Act 2001 (c. 2) (scope of Chapter 14 of Part 2)—

(a) for "195" substitute " 195B "; and

(b) for "192" substitute " 192A ".

2 After section 175 of that Act insert—

"**175A Meaning of "energy services agreement"**

(1) In this Chapter "energy services agreement" means an agreement entered into by an energy services provider ("the energy services provider") and another person ("the client") that makes provision, with a view to saving energy or using energy more efficiently, for—

(a) the design of plant or machinery, or one or more systems incorporating plant or machinery,

(b) obtaining and installing the plant or machinery,

(c) the operation of the plant or machinery,

(d) the maintenance of the plant or machinery, and

(e) the amount of any payments in respect of the operation of the plant or machinery to be linked (wholly or in part) to energy savings or increases in energy efficiency resulting from the provision or operation of the plant or machinery.

(2) In this Chapter "energy services provider" means a person carrying on a qualifying activity consisting wholly or mainly in the provision of energy management services.".

3 In section 176(4) of that Act (treatment of fixture where expenditure incurred by person with interest in relevant land), for "section 177(4)" substitute " sections 177(4) and 180A(4) ".

4 After section 180 of that Act insert—

"**180A Energy services providers**

(1) If—

(a) an energy services agreement is entered into,

(b) the energy services provider incurs capital expenditure under the agreement on the provision of plant or machinery,

(c) the plant or machinery becomes a fixture,

(d) at the time the plant or machinery becomes a fixture—

(i) the client has an interest in the relevant land, and

(ii) the energy services provider does not,

(e) the plant or machinery—

(i) is not provided for leasing, and

(ii) is not provided for use in a dwelling-house,

(f) the operation of the plant or machinery is carried out wholly or substantially by the energy services provider or a person connected with him,

(g) the energy services provider and the client are not connected persons, and

(h) they elect that this section should apply,

the energy services provider is to be treated, on and after the time at which he incurs the expenditure, as the owner of the fixture as a result of incurring the expenditure.

(2) But if the client would not have been entitled to a section 176 allowance in respect of the expenditure if he had incurred it, subsection (1) does not apply unless the plant or machinery belongs to a class of plant or machinery specified by Treasury order.

(3) In subsection (2) a "section 176 allowance" means an allowance to which a person is entitled as a result of section 176.

(4) If an election is made under this section, the client is not to be treated under section 176 as the owner of the fixture.

(5) An election under this section must be made by notice to the Inland Revenue—

(a) for income tax purposes, on or before the normal time limit for amending a tax return for the tax year in which the relevant chargeable period ends;

(b) for corporation tax purposes, no later than 2 years after the end of the relevant chargeable period.

(6) The "relevant chargeable period" means the chargeable period in which the capital expenditure was incurred.".

5 In section 181(4) of that Act (purchaser of land giving consideration for fixture), for "section 182" substitute " sections 182 and 182A ".

6 After section 182 of that Act insert—

"**182A Purchaser of land discharging obligations of client under energy services agreement**

(1) If—

(a) after any plant or machinery has become a fixture, a person ("the purchaser") acquires an interest in the relevant land,

(b) that interest was in existence before the purchaser's acquisition of it,

(c) before that acquisition, the plant or machinery was provided under an energy services agreement, and

(d) in connection with that acquisition, the purchaser pays a capital sum to discharge the obligations of the client under the energy services agreement,

the purchaser is to be treated, on and after the time of the acquisition, as the owner of the fixture as a result of incurring expenditure, consisting of that capital sum, on the provision of the fixture.

(2) Subsection (1) does not apply, and is to be treated as never having applied, if, immediately after the time of the acquisition, a person has a prior right in relation to the fixture.

(3) Section 181(3) (test for whether person has a prior right) applies for the purposes of subsection (2).".

7 (1) Section 188 of that Act (cessation of ownership when person ceases to have qualifying interest) is amended as follows.

(2) In subsection (1), after paragraph (c) insert—

"(ca) section 182A (purchaser of land discharging obligations of client under energy services agreement),".

(3) In subsection (3)(a), for "or 182" substitute " , 182 or 182A ".

8 After section 192 of that Act insert—

"**192A Cessation of ownership of energy services provider**

(1) This section applies if an energy services provider is treated under section 180A as the owner of a fixture.

(2) If—

(a) the energy services provider at any time assigns his rights under the energy services agreement, or

(b) the financial obligations of the client in respect of the fixture under an energy services agreement are at any time discharged (on the payment of a capital sum or otherwise),

the energy services provider is to be treated as ceasing to be the owner of the fixture at that time (or, as the case may be, the earliest of those times).

(3) The reference in subsection (2)(b) to the client is, in a case where the financial obligations of the client have become vested in another person (by assignment, operation of law or otherwise), a reference to the person in whom the obligations are vested when the capital sum is paid.".

9 After section 195 of that Act insert—

"**195A Acquisition of ownership by assignee of energy services provider**

(1) If section 192A(2)(a) applies (cessation of ownership of energy services provider as a result of assignment), the assignee is to be treated, on and after the assignment—

(a) as having incurred expenditure, consisting of the consideration given by him for the assignment, on the provision of the fixture, and

(b) as being the owner of the fixture.

(2) For the purposes of section 192A (and subsection (1) and section 195B) the assignee is to be treated as being an energy services provider who owns the fixture under section 180A.

195B Acquisition of ownership by client

(1) If section 192A(2)(b) applies (discharge of obligations of client) because the client has paid a capital sum, the client is to be treated—

(a) as having incurred expenditure, consisting of the capital sum, on the provision of the fixture, and

(b) as being, on and after the time of payment, the owner of the fixture.

(2) Section 192A(3) (assignee of client) applies in relation to subsection (1).".

10 (1) Section 196 of that Act (disposal values in relation to fixtures) is amended as follows.

(2) In subsection (1), in the Table, after item 8 insert—

"8A. Cessation of ownership of the fixture because section 192A(2)(a) (assignment of rights) applies.	The consideration given by the assignee for the assignment.
8B. Cessation of ownership of the fixture because section 192A(2)(b) (discharge of client's obligations) applies on the payment of a capital sum.	The capital sum paid to discharge the financial obligations of the client."

(3) After subsection (4) insert—

"(4A) Section 192A(3) (assignee of client) applies in relation to item 8B of the Table.".

(4) In subsection (5), for "192" substitute " 192A ".

11 In section 203(2)(b) of that Act (reasons for amendment of returns), after "182(2)" insert " , 182A(2) ".

SCHEDULE 19

Section 67.

CAPITAL ALLOWANCES: CONVERSION OF PARTS OF BUSINESS PREMISES INTO FLATS

PART 1

NEW PART 4A OF THE CAPITAL ALLOWANCES ACT 2001

After Part 4 of the Capital Allowances Act 2001 (c. 2) insert—

"**PART 4A**

FLAT CONVERSION ALLOWANCES

CHAPTER 1

INTRODUCTION

Flat conversion allowances

393A(1) Allowances are available under this Part if a person incurs qualifying expenditure in respect of a flat.

(2) Allowances under this Part are made to the person who—

(a) incurred the expenditure, and

(b) has the relevant interest in the flat.

(3) In this Part "flat" means a dwelling which—

(a) is a separate set of premises (whether or not on the same floor),

(b) forms part of a building, and

(c) is divided horizontally from another part of the building.

(4) In this Part "dwelling" means a building or part of a building occupied or intended to be occupied as a separate dwelling.

CHAPTER 2

QUALIFYING EXPENDITURE

Meaning of "qualifying expenditure"

393B(1) In this Part "qualifying expenditure" means capital expenditure incurred on, or in connection with—

(a) the conversion of part of a qualifying building into a qualifying flat,

(b) the renovation of a flat in a qualifying building if the flat is, or will be, a qualifying flat, or

(c) repairs to a qualifying building, to the extent that the repairs are incidental to expenditure within paragraph (a) or (b).

(2) Expenditure within subsection (1)(a) or (b) is not qualifying expenditure unless the part of the building, or the flat, in respect of which the expenditure is incurred—

(a) was unused, or

(b) was used only for storage,

throughout the period of one year ending immediately before the date on which the conversion or renovation work began.

(3) Expenditure is not qualifying expenditure if it is incurred on or in connection with—

(a) the acquisition of land or rights in or over land,

(b) the extension of a qualifying building (except to the extent required for the purpose of providing a means of getting to or from a qualifying flat),

(c) the development of land adjoining or adjacent to a qualifying building, or

(d) the provision of furnishings or chattels.

(4) For the purposes of this section, expenditure incurred on repairs to a building is to be treated as capital expenditure if it is not expenditure that would be allowed to be deducted in calculating the profits of a Schedule A business for tax purposes.

(5) Treasury regulations may make further provision as to expenditure which is, or is not, qualifying expenditure.

CHAPTER 3

QUALIFYING BUILDINGS AND QUALIFYING FLATS

Meaning of "qualifying building"

393(1) In this Part "qualifying building" means a building in respect of which the following requirements are met—

(a) all or most of the ground floor of the building must be authorised for business use,

(b) it must appear that, when the building was constructed, the storeys above the ground floor were for use primarily as one or more dwellings,

(c) the building must not have more than 4 storeys above the ground floor, and

(d) the construction of the building must have been completed before 1st January 1980.

(2) In subsection (1)(a) "authorised for business use" means—

(a) in the case of a building in England or Wales, authorised for use within class A1, A2, A3, B1 or D1(a) specified in the Schedule to the Town and Country Planning (Use Classes) Order 1987;

(b) in the case of a building in Scotland—

(i) authorised for use within class 1, 2, 3 or 4 specified in the Schedule to the Town and Country Planning (Use Classes) (Scotland) Order 1997,

(ii) authorised for a use specified in Article 3(5)(j) of that Order, or

(iii) authorised for use for the provision of medical or health services other than from premises attached to the residence of the consultant or practitioner;

(c) in the case of a building in Northern Ireland—

(i) authorised for use within class 1, 2, 3, 4 or 15(a) specified in the Schedule to the Planning (Use Classes) Order (Northern Ireland) 1989, or

(ii) authorised for a use specified in Article 3(5)(b), (c) or (h) of that Order.

(3) The attic storey does not count for the purposes of subsection (1)(c) unless it is or has been in use as a dwelling or part of a dwelling.

(4) The requirement in subsection (1)(d) is met even if the building has been extended on or after 1st January 1980, provided any extension was completed on or before 31st December 2000.

(5) Treasury regulations may make further provision as to the circumstances in which a building is, or is not, a qualifying building.

Meaning of "qualifying flat"

393D(1) In this Part "qualifying flat" means a flat in respect of which the following requirements are met—

(a) the flat must be in a qualifying building,

(b) the flat must be suitable for letting as a dwelling,

(c) the flat must be held for the purpose of short-term letting,

(d) it must be possible to gain access to the flat without using the part of the ground floor of the building that is authorised for business use (as defined in section 393C(2)),

(e) the flat must not have more than 4 rooms,

(f) the flat must not be a high value flat,

(g) the flat must not be (or have been) created or renovated as part of a scheme involving the creation or renovation of one or more high value flats, and

(h) the flat must not be let to a person connected with the person who incurred the expenditure on its conversion or renovation.

(2) In subsection (1)(c) "short-term letting" means letting as a dwelling on a lease for a term (or, in Scotland, period) of not more than 5 years.

(3) For the purposes of subsection (1)(e), the following are ignored in determining the number of rooms in a flat—

(a) any kitchen or bathroom, and

(b) any closet, cloakroom or hallway not exceeding 5 square metres in area.

(4) For the purposes of this Part, if a flat is a qualifying flat immediately before a period when it is temporarily unsuitable for letting as a dwelling, it is to be treated as being a qualifying flat during that period.

(5) Treasury regulations may make further provision as to the circumstances in which a flat is, or is not, a qualifying flat.

High value flats

393E(1) For the purposes of section 393D(1) a flat is a high value flat if the notional rent exceeds the relevant limit set out in the Table in subsection (5).

(2) The "notional rent" means the rent that could reasonably be expected for the flat on the relevant date, on the assumption that, on that date—

(a) the conversion or renovation has been completed,

(b) the flat is let furnished,

(c) the lease does not require the tenant to pay a premium or make any other payments to the landlord or a person connected with the landlord,

(d) the tenant is not connected with the person incurring the expenditure on the conversion or renovation of the flat, and

(e) in the case of a flat in England or Wales or Scotland, the flat is let on a shorthold tenancy.

(3) The "relevant date" means the date on which expenditure on—

(a) the conversion of part of the building into the flat, or

(b) (as the case may be) the renovation of the flat,

is first incurred.

(4) "Shorthold tenancy" means—

(a) in the case of a flat in England or Wales, an assured shorthold tenancy;

(b) in the case of a flat in Scotland, a short assured tenancy.

(5) The limit for the notional rent is as shown in the Table—

TABLE: NOTIONAL RENT LIMITS

Number of rooms in flat	Flats in Greater London	Flats elsewhere
1 or 2 rooms	£350 per week	£150 per week
3 rooms	£425 per week	£225 per week
4 rooms	£480 per week	£300 per week

(6) Treasury regulations may make provision amending the notional rent limits in the Table in subsection (5).

(7) Section 393D(3) (determination of number of rooms in flat) applies for the purposes of this section.

CHAPTER 4

THE RELEVANT INTEREST IN THE FLAT

General rule as to what is the relevant interest

393E (1) The relevant interest in a flat in relation to any qualifying expenditure is the interest in the flat to which the person who incurred the expenditure was entitled when it was incurred.

(2) Subsection (1) is subject to the following provisions of this Chapter and to section 393V (provisions applying on termination of lease).

(3) If—

(a) the person who incurred the qualifying expenditure was entitled to more than one interest in the flat when the expenditure was incurred, and

(b) one of those interests was reversionary on all the others,

the reversionary interest is the relevant interest in the flat.

(4) An interest does not cease to be the relevant interest merely because of the creation of a lease or other interest to which that interest is subject.

(5) If—

(a) the relevant interest is a leasehold interest, and

(b) that interest is extinguished on the person entitled to it acquiring the interest which is reversionary on it,

the interest into which the leasehold interest merges becomes the relevant interest when the leasehold interest is extinguished.

Interest acquired on completion of conversion

393G For the purposes of determining the relevant interest in a flat, a person who—

(a) incurs expenditure on the conversion of part of a building into the flat, and

(b) is entitled to an interest in the flat on or as a result of the completion of the conversion,

is treated as having had that interest when the expenditure was incurred.

CHAPTER 5

INITIAL ALLOWANCES

Initial allowances

393H (1) A person who has incurred qualifying expenditure in respect of a flat is entitled to an initial allowance in respect of the expenditure.

(2) The amount of the initial allowance is 100% of the qualifying expenditure.

(3) A person claiming an initial allowance under this section may require the allowance to be reduced to a specified amount.

(4) The initial allowance is made for the chargeable period in which the qualifying expenditure is incurred.

Flat not qualifying flat or relevant interest sold before flat first let

393I (1) No initial allowance is to be made under section 393H if, at the relevant time, the flat is not a qualifying flat.

(2) An initial allowance which has been made in respect of a flat which is to be a qualifying flat is to be withdrawn if—

(a) the flat is not a qualifying flat at the relevant time, or

(b) the person to whom the allowance was made has sold the relevant interest in the flat before the relevant time.

(3) All such assessments and adjustments of assessments are to be made as are necessary to give effect to this section.

(4) In this section "the relevant time" means the time when the flat is first suitable for letting as a dwelling.

CHAPTER 6

WRITING-DOWN ALLOWANCES

Entitlement to writing-down allowances

393J (1) A person is entitled to a writing-down allowance for a chargeable period if he has incurred qualifying expenditure in respect of a flat and, at the end of the chargeable period—

(a) the person is entitled to the relevant interest in the flat,

(b) the person has not granted a long lease of the flat out of the relevant interest in consideration of the payment of a capital sum, and

(c) the flat is a qualifying flat.

(2) In subsection (1)(b) "long lease" means a lease the duration of which exceeds 50 years.

(3) Whether the duration of a lease exceeds 50 years is to be determined—

(a) in accordance with section 38(1) to (4) and (6) of ICTA, and

(b) without regard to section 393V(3) (new lease granted as a result of the exercise of an option treated as continuation of old lease).

(4) A person claiming a writing-down allowance may require the allowance to be reduced to a specified amount.

Amount of allowance

393K (1) The writing-down allowance for a chargeable period is 25% of the qualifying expenditure.

(2) The allowance is proportionately increased or reduced if the chargeable period is more or less than a year.

(3) The amount of the writing-down allowance for a chargeable period is limited to the residue of qualifying expenditure.

(4) For this purpose the residue is ascertained immediately before writing off the writing-down allowance at the end of the chargeable period.

Meaning of "the residue of qualifying expenditure"

393L The residue of qualifying expenditure is the qualifying expenditure that has not yet been written off in accordance with Chapter 8.

CHAPTER 7

BALANCING ADJUSTMENTS

When balancing adjustments are made

393M (1) A balancing adjustment is made if—

(a) qualifying expenditure has been incurred in respect of a flat, and

(b) a balancing event occurs.

(2) A balancing adjustment is either a balancing allowance or a balancing charge and is made for the chargeable period in which the balancing event occurs.

(3) A balancing allowance or balancing charge is made to or on the person who incurred the qualifying expenditure.

(4) No balancing adjustment is made if the balancing event occurs more than 7 years after the time when the flat was first suitable for letting as a dwelling.

(5) If more than one balancing event occurs, a balancing adjustment is made only on the first of them.

Balancing events

393I(1) The following are balancing events for the purposes of this Part—

(a) the relevant interest in the flat is sold;

(b) a long lease of the flat is granted out of the relevant interest in consideration of the payment of a capital sum;

(c) if the relevant interest is a lease, the lease ends otherwise than on the person entitled to it acquiring the interest reversionary on it;

(d) the person who incurred the qualifying expenditure dies;

(e) the flat is demolished or destroyed;

(f) the flat ceases to be a qualifying flat (without being demolished or destroyed).

(2) Section 393J(2) and (3) (meaning of "long lease") apply for the purposes of subsection (1)(b).

Proceeds from balancing events

393J(1) References in this Part to the proceeds from a balancing event are to the amounts received or receivable in connection with the event, as shown in the Table—

TABLE: BALANCING EVENTS AND PROCEEDS

1. Balancing event	*2. Proceeds from event*
1. The sale of the relevant interest.	The net proceeds of the sale.
2. The grant of a long lease out of the relevant interest.	If the capital sum paid in consideration of the grant is less than the commercial premium, the commercial premium. In any other case, the capital sum paid in consideration of the grant.
3. The coming to an end of a lease, where a person entitled to the lease and a person entitled to any superior interest are connected persons.	The market value of the relevant interest in the flat at the time of the event.
4. The death of the person who incurred the qualifying expenditure.	The residue of qualifying expenditure immediately before the death.
5. The demolition or destruction of the flat.	The net amount received for the remains of the flat, together with— (a) any insurance money received in respect of the demolition or destruction, and (b) any other compensation of any description so received, so far as it consists of capital sums.
6. The flat ceases to be a qualifying flat.	The market value of the relevant interest in the flat at the time of the event.

(2) The amounts referred to in column 2 of the Table are those received or receivable by the person who incurred the qualifying expenditure.

(3) In Item 2 of the Table "the commercial premium" means the premium that would have been given if the transaction had been at arm's length.

Calculation of balancing adjustments

393P(1) A balancing allowance is made if—

(a) there are no proceeds from the balancing event, or

(b) the proceeds from the balancing event are less than the residue of qualifying expenditure immediately before the event.

(2) The amount of the balancing allowance is the amount of—

(a) the residue (if there are no proceeds);

(b) the difference (if the proceeds are less than the residue).

(3) A balancing charge is made if the proceeds from the balancing event are more than the residue, if any, of qualifying expenditure immediately before the event.

(4) The amount of the balancing charge is the amount of—

(a) the difference, or

(b) the proceeds (if the residue is nil).

(5) The amount of a balancing charge made on a person must not exceed the total amount of—

(a) any initial allowances made to the person in respect of the expenditure, and

(b) any writing-down allowances made to the person in respect of the expenditure for chargeable periods ending on or before the date of the balancing event giving rise to the balancing adjustment.

CHAPTER 8

WRITING OFF QUALIFYING EXPENDITURE

Introduction

393Q For the purposes of this Part qualifying expenditure is written off to the extent and at the times specified in this Chapter.

Writing off initial allowances and writing-down allowances

393R(1) If an initial allowance is made in respect of the qualifying expenditure, the amount of the allowance is written off at the time when the flat is first suitable for letting as a dwelling.

(2) If a writing-down allowance is made in respect of the qualifying expenditure, the amount of the allowance is written off at the end of the chargeable period for which the allowance is made.

(3) If a balancing event occurs at the end of the chargeable period referred to in subsection (2), the amount written off under that subsection is to be taken into account in calculating the residue of qualifying expenditure immediately before the event to determine what balancing adjustment (if any) is to be made.

Treatment of demolition costs

393(1) This section applies if—

(a) a qualifying flat is demolished, and

(b) the person who incurred the qualifying expenditure incurs the cost of the demolition.

(2) The net cost of the demolition is added to the residue of qualifying expenditure immediately before the demolition.

(3) "The net cost of the demolition" means the amount, if any, by which the cost of the demolition exceeds any money received for the remains of the flat.

(4) If this section applies, neither the cost of the demolition nor the net cost of the demolition is treated for the purposes of any Part of this Act as expenditure on any other property replacing the flat demolished.

CHAPTER 9

SUPPLEMENTARY PROVISIONS

Giving effect to allowances and charges

393(1) This section applies if a person is entitled or liable under this Part to an allowance or charge for a chargeable period.

(2) If the person's interest in the flat is an asset of a Schedule A business carried on by him at any time in that period, the allowance or charge is to be given effect in calculating the profits of that business for that period, by treating—

(a) the allowance as an expense of that business, and

(b) the charge as a receipt of that business.

(3) If the person's interest in the flat is not an asset of a Schedule A business carried on by him at any time in that period, the allowance or charge is to be given effect by treating him as if he had been carrying on a Schedule A business in that period and as if—

(a) the allowance were an expense of that business, and

(b) the charge were a receipt of that business.

Apportionment of sums partly referable to non-qualifying assets

393(1) If the sum paid for the sale of the relevant interest in a flat is attributable—

(a) partly to assets representing expenditure for which an allowance can be made under this Part, and

(b) partly to assets representing other expenditure,

only so much of the sum as on a just and reasonable apportionment is attributable to the assets referred to in paragraph (a) is to be taken into account for the purposes of this Part.

(2) Subsection (1) applies to other proceeds from a balancing event in respect of a flat as it applies to a sum given for the sale of the relevant interest in the flat.

(3) Subsection (1) does not affect any other provision of this Act requiring an apportionment of the proceeds of a balancing event.

Provisions applying on termination of lease

393V (1) This section applies for the purposes of this Part if a lease is terminated.

(2) If, with the consent of the lessor, the lessee of a flat remains in possession of the flat after the termination without a new lease being granted to him the lease is treated as continuing so long as the lessee remains in possession.

(3) If on the termination a new lease is granted to the lessee as a result of the exercise of an option available to him under the terms of the first lease, the second lease is treated as a continuation of the first.

(4) If on the termination the lessor pays a sum to the lessee in respect of a flat comprised in the lease, the lease is treated as if it had come to an end by surrender in consideration of the payment.

(5) If on the termination—

(a) another lease is granted to a different lessee, and

(b) in connection with the transaction that lessee pays a sum to the person who was the lessee under the first lease,

the two leases are to be treated as if they were the same lease which had been assigned by the lessee under the first lease to the lessee under the second lease in consideration of the payment.

Meaning of "lease" etc.

393W (1) In this Part "lease" includes—

(a) an agreement for a lease if the term to be covered by the lease has begun, and

(b) any tenancy,

but does not include a mortgage (and "lessee", "lessor" and "leasehold interest" are to be read accordingly).

(2) In the application of this Part to Scotland—

(a) "leasehold interest" (or "leasehold estate") means the interest of a tenant in property subject to a lease, and

(b) any reference to an interest which is reversionary on a leasehold interest or on a lease is to be read as a reference to the interest of the landlord in the property subject to the leasehold interest or lease."

PART 2

CONSEQUENTIAL AMENDMENTS

1 In section 1(2) of the Capital Allowances Act 2001 (c. 2) (capital allowances provided for by Act), after paragraph (c) insert—

"(ca) Part 4A (flat conversion allowances);".

2 In section 2(3) of that Act (provisions about giving effect to allowances and charges), after the entry in the list for sections 391 and 392 of that Act insert—

"section 393T (flat conversion allowances);".

3 In section 537(1) of that Act (general conditions for making contribution allowances under Parts 2 to 5), and in the section heading and the cross-heading preceding that section, for "Parts 2 to 5" substitute " Parts 2 to 4 and 5 ".

4 In section 542(1) of that Act (effect of transfers of C's trade or relevant activity), for "Parts 3 to 5" substitute " Parts 3, 4 and 5 ".

5 In section 567(1) of that Act (Parts of Act for purposes of which provisions about sales not at market value apply), after "4," insert " 4A, ".

6 In section 570(1) of that Act (elections under section 569: supplementary), after "Part 4" insert " or 4A ".

7 In section 573(1) of that Act (transfers treated as sales), after "4" insert " , 4A ".

8 (1) Part 2 of Schedule 1 to that Act (list of defined expressions) is amended as follows.

(2) Insert the following entries in the appropriate places—

"balancing adjustment (in Part 4A)	section 393M"
"balancing event (in Part 4A)	section 393N"
"dwelling (in Part 4A)	section 393A(4)"
"flat (in Part 4A)	section 393A(3)"
"lease and related expressions (in Part 4A)	section 393W"
"proceeds from a balancing event (in Part 4A)	section 393O"
"qualifying building (in Part 4A)	section 393C"
"qualifying flat (in Part 4A)	section 393D"
"relevant interest (in Part 4A)	Chapter 4 of Part 4A"
"residue of qualifying expenditure (in Part 4A)	section 393L"

(3) In the entry for "sale, transfers under Parts 3, 4 and 10 treated as", after "4" insert " , 4A ".

SCHEDULE 20

Section 68.

CAPITAL ALLOWANCES: OFFSHORE OIL INFRASTRUCTURE

PART 1

CHARGEABLE PERIODS ENDING BEFORE 1ST OR 6TH APRIL 2001

Writing-down allowances: infrastructure from UK or non-UK oil fields

1 In Chapter 7 of Part 2 of the Capital Allowances Act 1990 (c. 1) (machinery and plant: miscellaneous expenditure), after section 62 insert—

"**62AA Reuse etc. of offshore oil infrastructure**

(1) This section applies where—

(a) a person carrying on a trade of oil extraction incurs decommissioning expenditure, and

(b) the machinery or plant concerned—

(i) has been brought into use for the purposes of the trade, and

(ii) is, or was when last in use for those purposes, offshore infrastructure.

(2) In this section—

"decommissioning expenditure" has the meaning given by section 62AB;

"offshore infrastructure" has the meaning given by section 62AC.

(3) The person's qualifying expenditure for the chargeable period in which the decommissioning expenditure is incurred is treated for the purposes of sections 24 and 25 as increased by the amount of the decommissioning expenditure.

(4) Subsection (3) above is subject to subsections (5) and (6) below and section 62A(4A).

(5) Subsection (3) above does not apply to decommissioning expenditure on UK infrastructure unless it is incurred in connection with measures taken, wholly or substantially, in order to comply with—

(a) an abandonment programme within the meaning given by section 29 of the Petroleum Act 1998 (c. 17), or

(b) any condition to which the approval of such a programme is subject.

(6) Subsection (3) above does not apply to expenditure in respect of which an allowance or deduction could be made apart from that subsection in taxing, or computing, the person's income for any purpose of income tax or corporation tax.

(7) For the purposes of subsection (5) above, decommissioning expenditure is "on UK infrastructure" if the machinery or plant concerned—

(a) is offshore infrastructure within section 62AC(1)(a) or (c), or

(b) is not offshore infrastructure but was offshore infrastructure within section 62AC(1)(a) or (c) when last in use for the purposes of the trade.

62AB Meaning of "decommissioning expenditure" in section 62AA

(1) In section 62AA "decommissioning expenditure" means expenditure in connection with—

(a) preserving machinery or plant pending its reuse or demolition,

(b) preparing machinery or plant for reuse,

(c) arranging for the reuse of machinery or plant, or

(d) demolishing machinery or plant.

(2) It is immaterial for the purposes of subsection (1)(a) above whether the machinery or plant is reused, is demolished or is partly reused and partly demolished.

(3) It is immaterial for the purposes of subsection (1)(b) and (c) above whether the machinery or plant is in fact reused.

62AC Meaning of "offshore infrastructure" in section 62AA

(1) In section 62AA "offshore infrastructure" means—

(a) an offshore installation within the meaning given by section 44 of the Petroleum Act 1998 or a part of such an installation, or

(b) something that would be, or would be a part of, an offshore installation within that meaning if in subsection (3) of that section "relevant waters" meant waters in a foreign sector of the continental shelf and other foreign tidal waters, or

(c) a pipeline within the meaning of section 26 of that Act, or a part of such a pipeline, that is in, under or over waters in—

(i) the territorial sea adjacent to the United Kingdom, or

(ii) an area designated under section 1(7) of the Continental Shelf Act 1964 (c. 29), or

(d) a pipeline within the meaning of section 26 of the Petroleum Act 1998 (c. 17), or a part of such a pipeline, that is in, under or over waters in a foreign sector of the continental shelf.

(2) In subsection (1)(b) and (d) above—

"foreign sector of the continental shelf" means an area within which rights are exercisable with respect to the sea bed and subsoil and their natural resources by a country or territory outside the United Kingdom;

"foreign tidal waters" means tidal waters in an area within which rights are exercisable with respect to the bed and subsoil of the body of water in question and their natural resources by a country or territory outside the United Kingdom.".

Ring fence trades: special allowance for pre-cessation abandonment expenditure

2 (1) Section 62A of the Capital Allowances Act 1990 (c. 1) (special allowance for costs of demolition of offshore machinery or plant) is amended as follows.

(2) In subsection (1) (section applies to expenditure that would otherwise fall within section 62(1)(b)), after "section 62(1)(b)" insert " or 62AA(3) ".

(3) In subsection (1)(c)—

(a) for "the demolition of" substitute " decommissioning "; and

(b) after "which is or forms part of" insert " , or when last in use for the purposes of the trade was or formed part of, ".

(4) In subsection (3)(a), for "demolition" (in both places) substitute " decommissioning ".

(5) After subsection (3) insert—

"(3A) In this section "decommissioning", in relation to any machinery or plant, means—

(a) demolishing the machinery or plant,

(b) preserving the machinery or plant pending its reuse or demolition,

(c) preparing the machinery or plant for reuse, or

(d) arranging for the reuse of the machinery or plant.

(3B) For the purposes of this section—

(a) in determining whether expenditure is incurred on preserving machinery or plant pending its reuse or demolition, it is immaterial whether the machinery or plant is reused, is demolished or is partly reused and partly demolished; and

(b) in determining whether expenditure is incurred on preparing machinery or plant for reuse, or on arranging for the reuse of machinery or plant, it is immaterial whether the machinery or plant is in fact reused.".

(6) For subsection (4) (entitlement to special allowance) substitute—

"(4) If the person incurring any abandonment expenditure so elects, for the chargeable period in which that expenditure is incurred there shall be made to that person an allowance equal to so much of the abandonment expenditure to which the election relates as is incurred in that period.

(4A) If a person makes such an election, neither of sections 62(1)(b) and 62AA(3) applies.

(4B) If machinery or plant is demolished, the total of any allowances under subsection (4) above in respect of expenditure on the decommissioning of the machinery or plant is reduced by the amount of any moneys received for the remains of the machinery or plant.

(4C) Effect is given to subsection (4B) above by setting the amount (until wholly utilised)—

first, against any allowance under subsection (4) above for the chargeable period in which the amount is received (as previously reduced in giving effect to subsection (4B));

second, against allowances under that subsection for earlier chargeable periods (as so reduced and taking later such periods before earlier ones); and

third, against allowances under that subsection for later chargeable periods (as so reduced and taking earlier such periods before later ones).".

(7) In subsection (5)(a) (election must specify amounts received for remains), for "subsection (4)(a)" substitute " subsection (4B) ".

(8) In the sidenote, for "demolition" substitute " decommissioning ".

Ring fence trades: allowances for post-cessation expenditure

3 (1) Section 62B of the Capital Allowances Act 1990 (c. 1) (abandonment expenditure incurred within 3 years of ceasing ring fence trade) is amended as follows.

(2) In subsection (1)(b) (section applies where expenditure incurred within 3 years of ceasing trade), for "the demolition of" substitute " decommissioning ".

(3) In subsection (1)(c) (section applies where expenditure would have been abandonment expenditure under section 62A if incurred earlier), for "demolition" substitute " decommissioning ".

(4) In subsection (2) (expenditure net of receipts for remains is eligible for allowances), for "the machinery or plant referred to in that paragraph" substitute " any of the machinery or plant referred to in that paragraph on whose demolition any of the post-cessation expenditure was incurred ".

Commencement of Part 1

4 (1) The amendments made by this Part of this Schedule apply to expenditure that is incurred—

(a) on or after 7th August 2000, and

(b) in a relevant chargeable period.

(2) The amendments made by paragraph 1 also apply to expenditure incurred before 7th August 2000 if the expenditure—

(a) is incurred in a relevant chargeable period, and

(b) is within sub-paragraph (3) or (4).

(3) Expenditure is within this sub-paragraph if—

(a) it is decommissioning expenditure on UK infrastructure, and

(b) it is incurred in connection with an abandonment programme approved on or after 7th August 2000.

(4) Expenditure is within this sub-paragraph if—

(a) it is decommissioning expenditure,

(b) it is not decommissioning expenditure on UK infrastructure, and

(c) it is incurred in connection with a decommissioning activity that takes place on or after 7th August 2000.

(5) The amendments made by paragraphs 2 and 3 also apply to expenditure incurred before 7th August 2000 if the expenditure—

(a) is incurred in a relevant chargeable period, and

(b) is incurred in connection with an abandonment programme approved on or after 7th August 2000.

(6) In sub-paragraphs (3) and (4), "decommissioning expenditure" and "decommissioning expenditure on UK infrastructure" have the same meaning as in the section 62AA inserted by paragraph 1.

(7) In sub-paragraph (4)(c) "decommissioning activity" means an activity mentioned in any of paragraphs (a) to (d) of the section 62AB(1) inserted by paragraph 1.

(8) In this paragraph "relevant chargeable period" means—

(a) for income tax purposes, a chargeable period ending before 6th April 2001, and

(b) for corporation tax purposes, a chargeable period ending before 1st April 2001.

PART 2

CHARGEABLE PERIODS ENDING ON OR AFTER 1ST OR 6TH APRIL 2001

Writing-down allowances: infrastructure from UK or non-UK oil fields

5 (1) In Chapter 13 of Part 2 of the Capital Allowances Act 2001 (c. 2) (plant and machinery allowances: provisions affecting mining and oil industries), after section 161 insert—

" Expenditure connected with reuse etc. of offshore oil infrastructure

161A Meaning of "offshore infrastructure"

(1) In sections 161C and 161D "offshore infrastructure" means—

(a) an offshore installation within the meaning given by section 44 of the Petroleum Act 1998 (c. 17) or a part of such an installation, or

(b) something that would be, or would be a part of, an offshore installation within that meaning if in subsection (3) of that section "relevant waters" meant waters in a foreign sector of the continental shelf and other foreign tidal waters, or

(c) a pipeline within the meaning of section 26 of that Act, or a part of such a pipeline, that is in, under or over waters in—

(i) the territorial sea adjacent to the United Kingdom, or

(ii) an area designated under section 1(7) of the Continental Shelf Act 1964 (c. 29), or

(d) a pipeline within the meaning of section 26 of the Petroleum Act 1998 (c. 17), or a part of such a pipeline, that is in, under or over waters in a foreign sector of the continental shelf.

(2) In subsection (1)(b) and (d)—

"foreign sector of the continental shelf" means an area within which rights are exercisable with respect to the sea bed and subsoil and their natural resources by a country or territory outside the United Kingdom;

"foreign tidal waters" means tidal waters in an area within which rights are exercisable with respect to the bed and subsoil of the body of water in question and their natural resources by a country or territory outside the United Kingdom.

161B Meaning of "decommissioning expenditure"

(1) In sections 161C and 161D "decommissioning expenditure" means expenditure in connection with—

(a) preserving plant or machinery pending its reuse or demolition,

(b) preparing plant or machinery for reuse, or

(c) arranging for the reuse of plant or machinery.

(2) It is immaterial for the purposes of subsection (1)(a) whether the plant or machinery is reused, is demolished or is partly reused and partly demolished.

(3) It is immaterial for the purposes of subsection (1)(b) and (c) whether the plant or machinery is in fact reused.

161C Expenditure related to reuse etc. qualifies for writing-down allowances

(1) This section applies where—

(a) a person carrying on a trade of oil extraction incurs decommissioning expenditure, and

(b) the plant or machinery concerned—

(i) has been brought into use for the purposes of the trade, and

(ii) is, or was when last in use for those purposes, offshore infrastructure.

(2) The decommissioning expenditure is allocated to the appropriate pool for the chargeable period in which it is incurred.

(3) Subsection (2) is subject to sections 161D and 164(4).

(4) In subsection (2) "the appropriate pool" means the pool to which the expenditure on the plant or machinery concerned has been or would be allocated in accordance with this Part.

161D Exceptions to section 161C(2)

(1) Subsection (2) of section 161C does not apply to decommissioning expenditure on UK infrastructure unless it is incurred in connection with measures taken, wholly or substantially, in order to comply with—

(a) an abandonment programme within the meaning given by section 29 of the Petroleum Act 1998 (c. 17), or

(b) any condition to which the approval of such a programme is subject.

(2) Subsection (2) of section 161C does not apply to expenditure in respect of which an allowance or deduction could be made apart from that subsection in taxing, or computing, the person's income for any tax purpose.

(3) For the purposes of subsection (1), decommissioning expenditure is "on UK infrastructure" if the plant or machinery concerned—

(a) is offshore infrastructure within section 161A(1)(a) or (c), or

(b) is not offshore infrastructure but was offshore infrastructure within section 161A(1)(a) or (c) when last in use for the purposes of the trade.".

(2) In section 57(2) of the Capital Allowances Act 2001 (c. 2) (available qualifying expenditure in pool includes amounts allocated to pool under specified provisions), before the entry for section 165(3) insert—

"section 161C(2) (decommissioning expenditure incurred by person carrying on trade of oil extraction);".

Ring fence trades: meaning of "abandonment expenditure"

6 (1) Section 163 of the Capital Allowances Act 2001 (c. 2) (meaning of "abandonment expenditure") is amended as follows.

(2) In subsection (2)(b), for "the demolition of" substitute " decommissioning ".

(3) In subsection (2)(b)(ii), at the end insert " or which, when last in use for the purposes of a ring-fence trade, was, or formed part of, such an installation or pipeline. ".

(4) In subsection (3), for "demolition" substitute " decommissioning ".

(5) After subsection (4) insert—

"(4A) In this section "decommissioning", in relation to any plant or machinery, means—

(a) demolishing the plant or machinery,

(b) preserving the plant or machinery pending its reuse or demolition,

(c) preparing the plant or machinery for reuse, or

(d) arranging for the reuse of the plant or machinery.

(4B) In determining whether expenditure is incurred on preserving plant or machinery pending its reuse or demolition, it is immaterial whether the plant or machinery is reused, is demolished or is partly reused and partly demolished.

(4C) In determining whether expenditure is incurred on preparing plant or machinery for reuse, or on arranging for the reuse of plant or machinery, it is immaterial whether the plant or machinery is in fact reused.".

Ring fence trades: special allowance for pre-cessation expenditure

7 (1) Section 164 of the Capital Allowances Act 2001 (c. 2) (abandonment expenditure incurred before cessation of ring fence trade) is amended as follows.

(2) In subsection (1) (person carrying on ring-fence trade may elect for special allowance if he incurs abandonment expenditure), after "incurs abandonment expenditure," insert. " and the plant or machinery concerned has been brought into use for the purposes of that trade, "

(3) For paragraph (b) of subsection (3) (election must specify amounts received for remains of demolished plant or machinery) substitute—

"(b) where the plant or machinery concerned has been or is to be demolished, any amounts received for its remains.".

(4) In subsection (4)(a) (entitlement to special allowance), the words ", of an amount equal to the net abandonment cost," are omitted.

(5) For paragraph (b) of subsection (4) (section 26(3) does not apply where election made) substitute—

"(b) neither of sections 26(3) and 161C(2) (net cost of demolition where plant or machinery not replaced, or cost of preparing for reuse, added to existing pool) applies.".

(6) For subsection (5) (meaning of "net abandonment cost") substitute—

"(5) The amount of the special allowance for a chargeable period is equal to so much of the abandonment expenditure to which the election relates as is incurred in that period.

(6) If plant or machinery is demolished, the total of any special allowances in respect of expenditure on decommissioning the plant or machinery is reduced by any amount received for the remains of the plant or machinery.

Here "decommissioning" has the meaning given by section 163(4A).

(7) Effect is given to subsection (6) by setting the amount (until wholly utilised) —

first, against any special allowance for the chargeable period in which the amount is received (as previously reduced in giving effect to subsection (6));

second, against special allowances for earlier chargeable periods (as so reduced and taking later such periods before earlier ones); and

third, against special allowances for later chargeable periods (as so reduced and taking earlier such periods before later ones)."

Ring fence trades: allowances for post-cessation expenditure

8 (1) Section 165 of the Capital Allowances Act 2001 (c. 2) (abandonment expenditure incurred within 3 years of ceasing ring fence trade) is amended as follows.

(2) In subsection (1)(b) (section applies where abandonment expenditure incurred within 3 years of ceasing trade), the words "on the demolition of plant or machinery" are omitted.

(3) In subsection (3)(b) (amounts received for remains of plant or machinery are not taxable income), before "any amount received" insert " where any of the abandonment expenditure was incurred on the demolition of plant or machinery, ".

(4) In subsection (4), in the definition of "the relevant abandonment cost", for "the plant or machinery" substitute " any plant or machinery on whose demolition any of the abandonment expenditure was incurred ".

Commencement of Part 2

9 (1) The amendments made by this Part of this Schedule (but see sub-paragraph (9)) apply to expenditure that is incurred—

(a) on or after 7th August 2000, and

(b) in a relevant chargeable period.

(2) The amendments made by paragraph 5 also apply to expenditure incurred before 7th August 2000 if the expenditure—

(a) is incurred in a relevant chargeable period, and

(b) is within sub-paragraph (3) or (4).

(3) Expenditure is within this sub-paragraph if—

(a) it is decommissioning expenditure on UK infrastructure, and

(b) it is incurred in connection with an abandonment programme approved on or after 7th August 2000.

(4) Expenditure is within this sub-paragraph if—

(a) it is decommissioning expenditure,

(b) it is not decommissioning expenditure on UK infrastructure, and

(c) it is incurred in connection with a decommissioning activity that takes place on or after 7th August 2000.

(5) The amendments made by paragraphs 6 to 8 (but see sub-paragraph (9)) also apply to expenditure incurred before 7th August 2000 if the expenditure—

(a) is incurred in a relevant chargeable period, and

(b) is incurred in connection with an abandonment programme approved on or after 7th August 2000.

(6) In sub-paragraphs (3) and (4), "decommissioning expenditure" and "decommissioning expenditure on UK infrastructure" have the same meaning as in the sections 161C and 161D inserted by paragraph 5.

(7) In sub-paragraph (4)(c) "decommissioning activity" means an activity mentioned in any of paragraphs (a) to (c) of the section 161B(1) inserted by paragraph 5.

(8) In this paragraph "relevant chargeable period" means—

(a) for income tax purposes, a chargeable period ending on or after 6th April 2001, and

(b) for corporation tax purposes, a chargeable period ending on or after 1st April 2001.

(9) Sub-paragraphs (1) to (8) do not apply to the amendments made by paragraphs 7(2) and 8(2).

Those amendments shall be deemed always to have had effect.

SCHEDULE 21

Section 69.

CAPITAL ALLOWANCES: MINOR AMENDMENTS

Thermal insulation of industrial buildings

1 In section 28(2) of the Capital Allowances Act 2001 (c. 2) (expenditure on thermal insulation of industrial buildings), after "ordinary Schedule A business" insert " or an overseas property business ".

Fixtures: purchasers of land and incoming lessees

2 (1) In section 181 of that Act (purchaser of land giving consideration for fixture), for subsection (2) substitute—

"(2) Subsection (1) does not apply, and is to be treated as never having applied, if, immediately after the time of the acquisition, a person has a prior right in relation to the fixture.".

(2) In section 181(3) of that Act—

(a) for "subsection (2)(b), the person holding the other interest" substitute " subsection (2), a person "; and

(b) for "subsection (2)(a)" substitute " subsection (2) ".

(3) In section 182 of that Act (purchaser of land discharging obligations of equipment lessee), for subsections (2) and (3) substitute—

"(2) Subsection (1) does not apply, and is to be treated as never having applied, if, immediately after the time of the acquisition, a person has a prior right in relation to the fixture.

(3) Section 181(3) (test for whether person has a prior right) applies for the purposes of subsection (2).".

(4) In section 184 of that Act (incoming lessee where lessor not entitled to allowances), for subsections (2) and (3) substitute—

"(2) Subsection (1) does not apply, and is to be treated as never having applied, if, immediately after the time when the lease is granted, a person has a prior right in relation to the fixture.

(3) Section 181(3) (test for whether person has a prior right) applies for the purposes of subsection (2).".

Meaning of "sale and finance leaseback"

3 In section 221(1) of that Act (meaning of "sale and finance leaseback"), in paragraph (b)(iii), for "any person" substitute " S or by a person (other than B) who is connected with S ".

Effect of partnership changes

4 (1) In section 263 of that Act (effect of partnership changes for the purpose of plant and machinery allowances), in subsection (1), for paragraph (c) substitute—

"(c) the change does not result in the qualifying activity being treated as permanently discontinued under section 113(1) or 337(1) of ICTA (changes in persons carrying on a trade etc. and effect of company ceasing to trade etc.).".

(2) In section 558 of that Act (effect of partnership changes for the purpose of other allowances), in subsection (1), for paragraph (c) substitute—

"(c) the change does not result in the relevant activity being treated as permanently discontinued under section 113(1) or 337(1) of ICTA (changes in persons carrying on a trade etc. and effect of company ceasing to trade etc.)."

Enterprise zones

5 In section 298(3) of that Act (meaning of "enterprise zone"), after "Secretary of State" insert " , the Scottish Ministers or the National Assembly for Wales, ".

Highway concessions

6 (1) In section 341(4) of that Act (meaning of "highway concession"), for "the Secretary of State or from the Department for Regional Development in Northern Ireland" substitute " the relevant authority ".

(2) After that subsection add—

"(5) In subsection (4) "the relevant authority" means—

(a) the Secretary of State,

(b) the Scottish Ministers,
(c) the National Assembly for Wales, or
(d) the Department for Regional Development in Northern Ireland.".

SCHEDULE 22

Section 70.

REMEDIATION OF CONTAMINATED LAND

PART 1

DEDUCTION FOR CAPITAL EXPENDITURE

Modifications etc. (not altering text)
C6 Sch. 22 Pt. I applied (11.5.2001) by 1988 c. 1, **s. 21A(5)** (as inserted (11.5.2001) by 2001 c. 9, s. 70, **Sch. 23 para. 1**)

Deduction for capital expenditure

1 (1) This paragraph applies if—
(a) land in the United Kingdom is, or has been, acquired by a company for the purposes of a trade carried on by the company,
(b) at the time of acquisition all or part of the land is or was in a contaminated state (see paragraph 3), and
(c) the company incurs capital expenditure which is qualifying land remediation expenditure in respect of the land (see paragraph 2).

(2) For the purposes of corporation tax such capital expenditure as is qualifying land remediation expenditure shall (if the company so elects) be allowed as a deduction in computing the profits of the trade for the accounting period in which that expenditure is incurred.

(3) For the purposes of sub-paragraph (2) any capital expenditure incurred for the purposes of a trade by a company about to carry it on shall be treated as if it had been incurred by that company on the first day on which it does carry it on and in the course of doing so.

(4) Sub-paragraph (2) shall not apply to so much of the qualifying land remediation expenditure as—
(a) represents expenditure which has been allowed as a deduction in computing the profits arising from the trade for any accounting period preceding the period in which the expenditure is incurred, or
(b) represents capital expenditure in respect of which an allowance has been, or may be, made under the enactments relating to capital allowances.

(5) A company is not entitled to a deduction under this paragraph in respect of expenditure on land all or part of which is in a contaminated state, if the land is in that state wholly or partly as a result of any thing done or omitted to be done at any time by the company or a person with a relevant connection to the company.

(6) An election under this paragraph must specify the accounting period in respect of which it is made.

(7) The election must be made by notice in writing to the Inland Revenue.

(8) The notice must be given before the end of the period of two years beginning with the end of the company's accounting period to which the election relates.

Qualifying land remediation expenditure

2 (1) For the purposes of this Schedule "qualifying land remediation expenditure" of a company means expenditure of the company that meets the conditions in sub-paragraphs (2) to (6).

(2) The first condition is that it is expenditure on land all or part of which is in a contaminated state (see paragraph 3).

(3) The second condition is that the expenditure is expenditure on relevant land remediation directly undertaken by the company or on its behalf (see paragraph 4).

(4) The third condition is that the expenditure is incurred—

(a) on employee costs (see paragraph 5), or

(b) on materials (see paragraph 6),

or is qualifying expenditure on sub-contracted land remediation (see paragraphs 9 to 11).

(5) The fourth condition is that the expenditure would not have been incurred had the land not been in a contaminated state (see paragraph 7).

(6) The fifth condition is that the expenditure is not subsidised (see paragraph 8).

Land in a contaminated state

3 (1) For the purposes of this Schedule land is in a contaminated state if, and only if, it is in such a condition, by reason of substances in, on or under the land, that—

(a) harm is being caused or there is a possibility of harm being caused; or

(b) pollution of controlled waters is being, or is likely to be, caused.

(2) For the purposes of this Schedule, a nuclear site is not land in a contaminated state.

(3) In this paragraph a "nuclear site" means—

(a) any site in respect of which a nuclear site licence is for the time being in force, or

(b) any site in respect of which, after the revocation or surrender of a nuclear site licence, the period of responsibility of the licensee has not yet come to an end;

and "nuclear site licence", "licensee" and "period of responsibility" have the same meaning as in the Nuclear Installations Act 1965 (c. 57).

Relevant land remediation

4 (1) For the purposes of this Schedule relevant land remediation, in relation to land acquired by a company, means—

(a) activities falling within sub-paragraph (2), and

(b) if there are such activities, preparatory activity falling within sub-paragraph (4) which satisfies the condition in sub-paragraph (5).

(2) The activities referred to in sub-paragraph (1)(a) are the doing of any works, the carrying out of any operations or the taking of any steps in relation to—

(a) the land in question,

(b) any controlled waters affected by that land, or

(c) any land adjoining or adjacent to that land,

for the purpose described in sub-paragraph (3).

(3) The purpose referred to in sub-paragraph (2) is that of—

(a) preventing or minimising, or remedying or mitigating the effects of, any harm, or any pollution of controlled waters, by reason of which the land is in a contaminated state; or

(b) restoring the land or waters to their former state.

(4) The preparatory activity referred to in sub-paragraph (1)(b) is the doing of anything for the purpose of assessing the condition of—

(a) the land in question,

(b) any controlled waters affected by that land, or

(c) any land adjoining or adjacent to that land.

(5) Preparatory activity satisfies the condition referred to in sub-paragraph (1)(b) if it is activity connected to such activities falling within sub-paragraph (2) as are undertaken by the company (whether directly or on its behalf).

(6) For the purposes of this paragraph, controlled waters are "affected by" land in a contaminated state if, and only if, the land in question is in such a condition, by reason of substances in, on or under the land, that pollution of those waters is being, or is likely to be, caused.

Employee costs

5 (1) For the purposes of this Schedule the employee costs of a company are—

(a) the emoluments paid by the company to directors or employees of the company, including all salaries, wages, perquisites and profits whatsoever other than benefits in kind;

(b) the secondary Class 1 national insurance contributions paid by the company; and

(c) the contributions paid by the company to any pension fund (within the meaning of section 231A(4) of the Taxes Act 1988) operated for the benefit of directors or employees of the company.

(2) The employee costs of a company attributable to relevant land remediation are those paid to, or in respect of, directors or employees directly and actively engaged in that relevant land remediation.

(3) In the case of a director or employee partly engaged directly and actively in relevant land remediation the following rules apply—

(a) if the time he spends so engaged is less than 20% of his total working time, none of the employee costs relating to him are treated as attributable to relevant land remediation;

(b) if the time he spends so engaged is more than 80% of his total working time, the whole of the employee costs relating to him are treated as attributable to relevant land remediation;

(c) in any other case, an appropriate proportion of the employee costs relating to him are treated as attributable to relevant land remediation.

(4) For the purpose of sub-paragraphs (2) and (3) persons who provide services, such as secretarial or administrative services, in support of activities carried on by others, are not, by virtue of providing those services, to be treated as themselves directly and actively engaged in those activities.

Expenditure on materials

6 For the purposes of this Schedule expenditure on materials is attributable to relevant land remediation if the materials are employed directly in that relevant land remediation.

Expenditure incurred because of contamination

7 (1) Without prejudice to the generality of paragraph 2(5), this paragraph has effect for the purpose of determining whether expenditure would or would not have been incurred had not all or part of the land been in a contaminated state.

(2) If expenditure on the land is increased by reason only that the land is in a contaminated state, the amount by which such expenditure is increased shall be considered to be expenditure satisfying the condition in paragraph 2(5).

(3) If any works are done, operations are carried out or steps are taken mainly for the purpose described in paragraph 4(3), expenditure on such works, operations or steps shall be taken to satisfy the condition in paragraph 2(5).

Subsidised expenditure

8 (1) For the purposes of this Schedule a company's expenditure is treated as subsidised to the extent that—

(a) a grant or subsidy is obtained in respect of the expenditure; or

(b) it is otherwise met directly or indirectly by any person other than the company.

(2) For the purposes of this Schedule a grant, subsidy or payment that is not allocated to particular expenditure shall be allocated to expenditure of the recipient in such manner as is just and reasonable.

Qualifying expenditure on sub-contracted land remediation

9 (1) The provisions of paragraphs 10 and 11 have effect for determining the amount of the qualifying expenditure of a company ("the company") on sub-contracted land remediation.

(2) For the purposes of this Schedule the company incurs expenditure on sub-contracted land remediation if it makes a payment (a "sub-contractor payment") to another person ("the sub-contractor") in respect of relevant land remediation contracted out by the company to that person.

Treatment of expenditure where company and sub-contractor are connected persons

10 (1) Where—

(a) the company and the sub-contractor are connected persons, and

(b) in accordance with normal accounting practice—

(i) the whole of the sub-contractor payment has been brought into account in determining the sub-contractor's profit or loss for a relevant period, and

(ii) all of the sub-contractor's relevant expenditure has been so brought into account,

the whole of the payment (up to the amount of the sub-contractor's relevant expenditure) is qualifying expenditure on sub-contracted land remediation.

(2) In sub-paragraph (1)—

(a) references to the "relevant expenditure" of the sub-contractor are to expenditure that—

(i) is incurred by the sub-contractor in carrying on, on behalf of the company, the activities to which the sub-contractor payment relates,

(ii) is not of a capital nature,

(iii) is incurred on employee costs or materials, and

(iv) is not subsidised;

(b) a "relevant period" means a period—

(i) for which accounts are drawn up for the sub-contractor, and

(ii) that ends not more than twelve months after the end of the company's period of account in which the sub-contractor payment is, in accordance with normal accounting practice, brought into account in determining the company's profit or loss.

(3) Paragraph 5 (employee costs) and paragraph 8 (subsidised expenditure) apply for the purposes of determining whether the sub-contractor's expenditure meets the requirements of sub-paragraph (2)(a)(iii) and (iv).

For this purpose the references in those paragraphs to a company shall be read as references to the sub-contractor.

(4) Any apportionment of expenditure of the company or the sub-contractor necessary for the purposes of this paragraph shall be made on a just and reasonable basis.

Treatment of sub-contractor payment in other cases

11 Where—

(a) the company makes a sub-contractor payment, and

(b) paragraph 10 (treatment of expenditure where company and sub-contractor are connected) does not apply,

the whole of the amount of the sub-contractor payment is treated as qualifying expenditure on sub-contracted land remediation.

PART 2

ENTITLEMENT TO LAND REMEDIATION RELIEF

Entitlement to relief

12 (1) This paragraph applies if—

(a) land in the United Kingdom is, or has been, acquired by a company for the purposes of a Schedule A business or a trade carried on by the company,

(b) at the time of acquisition all or part of the land is or was in a contaminated state, and

(c) the company incurs qualifying land remediation expenditure in respect of the land.

(2) A company is entitled to land remediation relief for an accounting period if the company's qualifying land remediation expenditure is deductible in that period.

(3) The company's qualifying land remediation expenditure is deductible in that period if it is allowable as a deduction in computing for tax purposes the profits for that period of a Schedule A business or a trade carried on by the company.

(4) A company is not entitled to land remediation relief in respect of expenditure on land all or part of which is in a contaminated state, if the land is in that state wholly or partly as a result of any thing done or omitted to be done at any time by the company or a person with a relevant connection to the company.

PART 3

MANNER OF GIVING EFFECT TO RELIEF

Deduction in computing profits of Schedule A business or trade

13 Where—

(a) a company is entitled to land remediation relief for an accounting period,

(b) it is carrying on a Schedule A business or a trade in that period, and

(c) it has qualifying land remediation expenditure that is allowable as a deduction in computing for tax purposes the profits of the Schedule A business or the trade for that period,

it may (on making a claim) treat that qualifying land remediation expenditure as if it were an amount equal to 150% of the actual amount.

Entitlement to land remediation tax credit

14 (1) A company may claim a land remediation tax credit if in an accounting period it has a "qualifying land remediation loss".

(2) A company has a "qualifying land remediation loss" for this purpose if in an accounting period—

(a) paragraph 13 applies, and

(b) the company incurs a Schedule A loss or a trading loss in that period in the Schedule A business or the trade referred to in paragraph 13(b).

(3) The amount of the qualifying land remediation loss is equal to the lesser of—

(a) 150% of the related qualifying land remediation expenditure, and

(b) so much of the company's Schedule A loss or trading loss as is unrelieved.

(4) For this purpose the amount of a Schedule A loss or trading loss that is "unrelieved" is the amount of that loss reduced by the amount of—

(a) any relief that was or could have been obtained by the company making a claim under section 392A(1) or 393A(1)(a) of the Taxes Act 1988 to set the loss against profits of whatever description of the same accounting period,

(b) any other relief obtained by the company in respect of the loss, including relief under section 393A(1)(b) of that Act (losses set against profits of an earlier accounting period), and

(c) any loss surrendered under section 403(1) of that Act (surrender of relief to group or consortium members).

(5) No account shall be taken for this purpose of—

(a) any Schedule A losses or trading losses brought forward from an earlier accounting period under section 392A(2) or 393(1) of the Taxes Act 1988, or

(b) any trading losses carried back from a later accounting period under section 393A(1)(b) of that Act.

(6) Sub-paragraphs (7) to (9) apply for the purpose of determining the amount of a Schedule A loss that is "unrelieved" in an accounting period in a case where the Schedule A loss is a loss treated under section 432AB(3) of the Taxes Act 1988 as an amount of expenses of management under section 76 of that Act.

(7) If in that accounting period no amount falls to be carried forward to a succeeding accounting period under section 75(3) of the Taxes Act 1988 (carrying forward expenses of management and charges on income where such expenses and charges exceed amount of profits from which deductible), no amount of the Schedule A loss is unrelieved.

(8) If in that accounting period an amount falls to be carried forward to a succeeding accounting period under section 75(3) of that Act, the amount of the Schedule A loss that is unrelieved is equal to the lesser of—

(a) the amount of the Schedule A loss, and

(b) the amount which so falls to be carried forward.

(9) In determining for the purposes of sub-paragraphs (7) and (8) whether there is an amount which falls to be carried forward under section 75(3) of the Taxes Act 1988, there shall be disregarded any amounts brought forward from an earlier accounting period and treated as expenses of management for the period in question by virtue of—

(a) a previous application of section 75(3) of that Act, or

(b) paragraph 4(4) of Schedule 11 to the Finance Act 1996 (c. 8) (loan relationships deficit carried forward and treated as expenses of management).

(10) If—

(a) the company is an insurance company, and

(b) it is treated under section 432AA of the Taxes Act 1988 as carrying on more than one Schedule A business,

references in this paragraph to a Schedule A loss shall be construed in accordance with section 432AB(4) or (6) of that Act (aggregation of losses where an insurance company is treated under section 432AA as having more than one Schedule A business).

Amount of land remediation tax credit

15 (1) The amount of the land remediation tax credit to which a company is entitled for an accounting period is an amount equal to 16% of the amount of the qualifying land remediation loss for the period.

(2) The Treasury may by order substitute for the percentage for the time being specified in sub-paragraph (1) such other percentage as they think fit.

(3) An order under sub-paragraph (2) may make such incidental, supplemental, consequential or transitional provision as the Treasury think fit.

Payment in respect of land remediation tax credit

16 (1) Where—

(a) the company is entitled to a land remediation tax credit for an accounting period, and

(b) makes a claim,

the Inland Revenue shall pay to the company the amount of the credit.

(2) An amount payable in respect of—

(a) a land remediation tax credit, or

(b) interest on a land remediation tax credit under section 826 of the Taxes Act 1988,

may be applied in discharging any liability of the company's to pay corporation tax, and to the extent that it is so applied the Inland Revenue's obligation under sub-paragraph (1) is discharged.

(3) Where the company's company tax return for the accounting period is enquired into by the Inland Revenue, no payment in respect of a land remediation tax credit for that period need be made before the Inland Revenue's enquiries are completed (see paragraph 32 of Schedule 18 to the Finance Act 1998 (c. 36)).

In those circumstances the Inland Revenue may make a payment on a provisional basis of such amount as they think fit.

(4) No payment need be made in respect of a land remediation tax credit for an accounting period before the company has paid to the Inland Revenue any amount that it is required to pay for payment periods ending in that accounting period—

(a) under the PAYE regulations, or

(b) in respect of Class 1 national insurance contributions.

(5) In this paragraph—

"PAYE regulations" means regulations under section 203 of the Taxes Act 1988;

"payment period" means a period which ends on the 5th day of a month and for which the company is liable to account for income tax and national insurance contributions to the Inland Revenue.

Restriction on losses carried forward

17 (1) For the purposes of section 392A of the Taxes Act 1988 (relief of Schedule A losses against future Schedule A losses), a company's Schedule A loss for a period in which it claims a land remediation tax credit is treated as reduced by the amount of the loss surrendered.

(2) For the purposes of section 393 of the Taxes Act 1988 (relief of trading losses against future trading profits), a company's trading loss for a period for which it claims a land remediation tax credit is treated as reduced by the amount of the loss surrendered.

(3) Sub-paragraph (4) applies if in an accounting period—

(a) a company's Schedule A loss is a loss treated under section 432AB(3) of the Taxes Act 1988 as an amount of expenses of management under section 76 of that Act,

(b) an amount falls to be carried forward to a succeeding accounting period under section 75(3) of that Act (carrying forward expenses of management and charges on income where such expenses and charges exceed amount of profits from which deductible), and

(c) the company claims a land remediation tax credit for the accounting period.

(4) Where this sub-paragraph applies, the amount which falls to be carried forward to a succeeding accounting period under section 75(3) of the Taxes Act 1988 is treated as reduced by the amount of the loss surrendered.

(5) For the purposes of this paragraph the amount of the loss surrendered is—

(a) where the maximum amount of land remediation tax credit was claimed, the whole of the qualifying land remediation loss for that period;

(b) where less than the maximum amount was claimed, a corresponding proportion of the qualifying land remediation loss for that period.

The "maximum amount" here means the amount specified in paragraph 15(1).

Tax credit not income

18 A payment in respect of a land remediation tax credit is not income of the company for any tax purpose.

Certain qualifying land remediation expenditure excluded for purposes of capital gains

19 If in an accounting period—

(a) a company has a qualifying land remediation loss, and

(b) by virtue of that qualifying land remediation loss, a payment is made to the company in respect of a land remediation tax credit,

the related qualifying land remediation expenditure shall be treated as if it were expenditure excluded for the purposes of capital gains tax under section 39 of the Taxation of Chargeable Gains Act 1992 (c. 12).

PART 4

SPECIAL PROVISION FOR LIFE ASSURANCE BUSINESS

Limitation on relief

20 Where for any accounting period the profits arising to an insurance company from its life assurance business, or from any category of its life assurance business, fall to be computed in accordance with the provisions of the Taxes Act 1988 applicable to Case I of Schedule D, no deduction for capital expenditure under paragraph 1 and no land remediation relief under paragraph 12 shall be allowable.

Provision in respect of "I minus E" basis

21 Paragraphs 22 to 28 apply where for any accounting period the profits arising to an insurance company from its life assurance business fall to be computed otherwise than in accordance with the provisions of the Taxes Act 1988 applicable to Case I of Schedule D.

Entitlement to relief: "I minus E" basis

22 (1) Sub-paragraph (2) applies if—

(a) land in the United Kingdom is a management asset of a company,

(b) at the time of acquisition by the company all or part of the land is or was in a contaminated state, and

(c) in any accounting period, the company incurs qualifying expenditure in respect of the land.

(2) Where this sub-paragraph applies, the company is entitled to relief for that accounting period in respect of its qualifying expenditure.

(3) For the purposes of this paragraph, the amount of a company's qualifying expenditure in an accounting period is the amount of its qualifying land remediation expenditure in that period reduced by the amount (if any) which by virtue of section 76(1)(d) of the Taxes Act 1988 is not to be treated as expenses of management.

(4) A company is not entitled to relief under this paragraph in respect of expenditure on land all or part of which is in a contaminated state, if the land is in that state wholly or partly as a result of any thing done or omitted to be done at any time by the company or a person with a relevant connection to the company.

(5) For the purposes of this paragraph, land is a management asset of a company if it is—

(a) an asset provided for use or used for the management of life assurance business carried on by the company, or

(b) an asset in respect of which expenditure is being incurred with a view to such use by the company.

Giving effect to relief: enhanced expenses of management

23 (1) If a company is entitled to relief under paragraph 22 for an accounting period in respect of its qualifying expenditure, sub-paragraph (2) shall apply for the purposes of section 76 of the Taxes Act 1988 (computing profits of company carrying on life assurance business: deduction of expenses of management etc).

(2) Where this sub-paragraph applies, the company may (on making a claim) treat an amount equal to 150% of the actual amount of the qualifying expenditure (as determined in accordance with paragraph 22(3)) as part of its expenses of management for that period.

Entitlement to life assurance company tax credit

24 (1) A company may claim a life assurance company tax credit under this paragraph if in an accounting period it has a "qualifying loss".

(2) A company has a "qualifying loss" for this purpose if in an accounting period—

(a) the company is entitled to relief under paragraph 22, and

(b) an amount falls to be carried forward to a succeeding accounting period under section 75(3) of the Taxes Act 1988 (carrying forward expenses of management and charges on income where such expenses and charges exceed amount of profits from which deductible).

(3) In determining for the purposes of sub-paragraph (2)(b) whether there is an amount which falls to be carried forward under section 75(3) of that Act, there shall be disregarded any amounts brought forward from an earlier accounting period and treated as expenses of management for the period in question by virtue of—

(a) a previous application of section 75(3) of that Act, or

(b) paragraph 4(4) of Schedule 11 to the Finance Act 1996 (c. 8) (loan relationships deficit carried forward and treated as expenses of management).

(4) The amount of the qualifying loss is equal to the lesser of—

(a) 150% of the related qualifying expenditure, and

(b) such amount as is determined in accordance with sub-paragraph (3) to be an amount which falls to be carried forward as described in sub-paragraph (2)(b).

Amount of life assurance company tax credit

25 (1) The amount of the life assurance company tax credit to which a company is entitled for an accounting period is equal to 16% of the amount of the qualifying loss for the period.

(2) The Treasury may by order substitute for the percentage for the time being specified in sub-paragraph (1) such other percentage as they think fit.

(3) An order under sub-paragraph (2) may make such incidental, supplemental, consequential or transitional provision as the Treasury think fit.

Payment in respect of life assurance company tax credit, etc

26 Paragraph 16 (payment) and paragraph 18 (tax credit not to be treated as income) shall have effect in relation to life assurance company tax credits with the substitution for each reference to a land remediation tax credit of a reference to a life assurance company tax credit.

Restriction on carrying forward expenses of management

27 (1) For the purposes of subsection (3) of section 75 of the Taxes Act 1988 (carrying forward expenses of management and charges on income where they exceed amount of profits from which deductible), the amount which may be carried forward under that subsection for a period in which the company claims a life assurance company tax credit is treated as reduced by the amount of the expenses of management surrendered.

(2) For the purposes of sub-paragraph (1) the amount of the expenses of management surrendered is—

(a) where the maximum amount of life assurance company tax credit was claimed, the whole of the qualifying loss for that period;

(b) where less than the maximum amount was claimed, a corresponding proportion of the qualifying loss for that period.

The "maximum amount" here means the amount specified in paragraph 25(1).

Certain qualifying expenditure excluded for purposes of capital gains

28 If in an accounting period—

(a) a company has a qualifying loss, and

(b) by virtue of that qualifying loss, a payment is made to the company in respect of a life assurance company tax credit,

the related qualifying expenditure shall be treated as if it were expenditure excluded for the purposes of capital gains tax under section 39 of the Taxation of Chargeable Gains Act 1992 (c. 12).

PART 5

SUPPLEMENTARY PROVISIONS

Artificially inflated claims for deduction, relief or tax credit

29 (1) To the extent that a transaction is attributable to arrangements entered into wholly or mainly for a disqualifying purpose, it shall be disregarded in determining for an accounting period the amount of—

(a) any deduction for capital expenditure which is allowed under paragraph 1,

(b) any land remediation relief to which a company is entitled under paragraph 12,

(c) any land remediation tax credit to which a company is entitled under paragraph 14,

(d) any relief to which a company carrying on life assurance business is entitled under paragraph 22, and

(e) any life assurance company tax credit to which such a company is entitled under paragraph 24.

(2) Arrangements are entered into wholly or mainly for a "disqualifying purpose" if their main object, or one of their main objects, is to enable a company to obtain—

(a) a deduction for capital expenditure which would not otherwise be allowed or of a greater amount than that which would otherwise be allowed;

(b) land remediation relief to which the company would not otherwise be entitled or of a greater amount than that to which it would otherwise be entitled;

(c) a land remediation tax credit to which it would not otherwise be entitled or of a greater amount than that to which it would otherwise be entitled;

(d) relief under paragraph 22 to which it would not otherwise be entitled or of a greater amount than that to which it would otherwise be entitled; or

(e) a life assurance company tax credit to which it would not otherwise be entitled or of a greater amount than that to which it would otherwise be entitled.

(3) In this paragraph "arrangements" includes any scheme, agreement or understanding, whether or not legally enforceable.

Funding of tax credits

30 Section 10 of the Exchequer and Audit Departments Act 1866 (c. 39) (gross revenues to be paid to Exchequer) shall be construed as allowing the Commissioners of Inland Revenue to deduct payments for or in respect of—

(a) land remediation tax credits, and

(b) life assurance company tax credits,

before causing the gross revenues of their department to be paid to the accounts mentioned in that section.

Interpretation

31 (1) In this Schedule—

"harm" means—

(a) harm to the health of living organisms,

(b) interference with the ecological systems of which any living organisms form part,

(c) offence to the senses of human beings, or

(d) damage to property;

"the Inland Revenue" means any officer of the Board;

"insurance company" has the same meaning as it has in Chapter 1 of Part 12 of the Taxes Act 1988;

"land" means any estate, interest or rights in or over land;

"life assurance business" has the same meaning as it has in Chapter 1 of Part 12 of the Taxes Act 1988;

"national insurance contributions" means contributions under Part 1 of the Social Security Contributions and Benefits Act 1992 (c. 4) or Part 1 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7);

"pollution of controlled waters" means the entry into controlled waters of any poisonous, noxious or polluting matter or any solid waste matter;

"qualifying loss" has the meaning given in paragraph 24;

"qualifying land remediation loss" has the meaning given in paragraph 14;

"Schedule A loss" has the meaning given by section 392A of the Taxes Act 1988; and

"substance" means any natural or artificial substance, whether in solid or liquid form or in the form of a gas or vapour.

(2) In this Schedule "controlled waters"—

(a) in relation to England and Wales, has the same meaning as in Part 3 of the Water Resources Act 1991 (c. 57);

(b) in relation to Scotland, has the same meaning as in section 30A of the Control of Pollution Act 1974 (c. 40);

(c) in relation to Northern Ireland, means water in waterways and underground strata (as defined in Article 2(2) of the Water (Northern Ireland) Order 1999 (S.I. 1999/662 (N.I. 6))).

(3) For the purposes of this Schedule, a person has a relevant connection to a company in a case where the company's land is in a contaminated state wholly or partly as a result of any thing done or omitted to be done by the person if—

(a) he is or was connected to the company when any such thing is or was done, or omitted to be done, by him,

(b) he is or was connected to the company at the time when the land in question is or was acquired by the company, or

(c) he is or was connected to the company at any time when relevant land remediation is or was undertaken by the company (whether directly or on its behalf).

(4) Section 839 of the Taxes Act 1988 (connected persons) applies for the purposes of this Schedule.

Transitional provisions

32 (1) This Schedule does not apply to expenditure incurred before the day on which this Act is passed.

(2) For this purpose no account shall be taken of section 401 of the Taxes Act 1988 (earlier expenditure treated as incurred when Schedule A business or trading begins).

SCHEDULE 23

Section 70.

LAND REMEDIATION: CONSEQUENTIAL AMENDMENTS

Computation under Schedule A

1 In section 21A of the Taxes Act 1988 (profits of Schedule A business computed in same way as for Case I of Schedule D trade), after subsection (4) (rules in Chapter 5 of Part 4 of the Taxes Act 1988 relating to trade within Case I of Schedule D not applying to Schedule A business) insert—

"(5) Part 1 of Schedule 22 to the Finance Act 2001 (deduction for capital expenditure on remediation of contaminated land) applies in accordance with subsection (1), and the other Parts of that Schedule (further provision

as to relief for remediation of contaminated land) have effect in relation to a Schedule A business in accordance with their provisions.".

Computation of profits of insurance companies

2 In section 76 of the Taxes Act 1988 (expenses of management of insurance companies in computing profits for an accounting period) after subsection (7A) insert—

"(7B) The amounts which a company may treat as part of its expenses of management for the purposes of this section include amounts in respect of which relief is given under paragraph 22 of Schedule 22 to the Finance Act 2001 (relief in respect of expenditure on remediation of contaminated land which is management asset).".

Interest

3 (1) Section 826 of the Taxes Act 1988 (interest on tax overpaid) is amended as follows.

(2) In subsection (1) (payments which carry interest) after paragraph (d) insert—

"; or

(e) a payment of land remediation tax credit or life assurance company tax credit falls to be made to a company under Schedule 22 to the Finance Act 2001 in respect of an accounting period,".

(3) After subsection (3A) (material date for payments of R&D tax credits) insert—

"(3B) In relation to a payment of land remediation tax credit or life assurance company tax credit falling within subsection (1)(e) above the material date is whichever is the later of—

(a) the filing date for the company's company tax return for the accounting period for which the land remediation tax credit or the life assurance company tax credit is claimed, and

(b) the date on which the company tax return or amended company tax return containing the claim for payment of the land remediation tax credit or the life assurance company tax credit is delivered to the Inland Revenue.

For this purpose "the filing date", in relation to a company tax return, has the same meaning as in Schedule 18 to the Finance Act 1998.".

(4) In subsection (8A) (recovery of overpaid interest)—

(a) in paragraph (a), after "subsection (1)(a) or (d)" insert " or (e) ", and

(b) in paragraph (b)(ii), after "R&D tax credit" insert " , land remediation tax credit or life assurance company tax credit ".

(5) In subsection (8BA) (cases where there is change in amount of tax credit)—

(a) after "amount of the R&D tax credit" insert " , the land remediation tax credit or the life assurance company tax credit ", and

(b) after "amount of R&D tax credit" insert " , land remediation tax credit or life assurance company tax credit ".

Claim must be made in tax return

4 In Schedule 18 to the Finance Act 1998 (c. 36) (company tax returns, assessments and related matters), in paragraph 10 (other claims and elections to be included in return), after sub-paragraph (2) insert—

"(2A) A claim to which Part 9B of this Schedule applies (claims for land remediation tax credit and life assurance company tax credit) can only be made by being included in a company tax return (see paragraph 83H).".

Recovery of excessive tax credit

5 In paragraph 52 of that Schedule (recovery of excessive repayments, etc.)—

(a) in sub-paragraph (2) (excessive repayments to which paragraphs 41 to 48 apply), before "or" at the end of paragraph (ba) insert—

"(bb) land remediation tax credit or life assurance company tax credit under Schedule 22 to the Finance Act 2001,";

(b) in that sub-paragraph, in paragraph (c) (interest paid under section 826 of the Taxes Act 1988) for "that Act" substitute " the Taxes Act 1988 ";

(c) in sub-paragraph (5) (connection of assessment for excessive payment to an accounting period), before "or" at the end of paragraph (ab) insert—

"(ac) an amount of land remediation tax credit or life assurance company tax credit paid to a company for an accounting period,";

and

(d) at the end of that sub-paragraph after "(ab)" insert " , (ac) ".

Claims relating to remediation of contaminated land

6 After Part 9A of that Schedule (claims for R&D tax credits) insert—

"PART 9B

CLAIMS RELATING TO REMEDIATION OF CONTAMINATED LAND

Introduction

83G This Part of this Schedule applies to claims for—

(a) land remediation tax credits under paragraph 14 of Schedule 22 to the Finance Act 2001 ("land remediation tax credits"), and

(b) life assurance company tax credits under paragraph 24 of that Schedule ("life assurance company tax credits").

Claim to be included in company tax return

83H (1) A claim for a land remediation tax credit or a life assurance company tax credit must be made by being included in the claimant company's company tax return for the accounting period for which the claim is made.

(2) It may be included in the return originally made or by amendment.

Content of claim

83I A claim for a land remediation tax credit or a life assurance company tax credit must specify the amount of the tax credit claimed, which must be an amount quantified at the time the claim is made.

Amendment or withdrawal of claim

83J A claim for a land remediation tax credit or a life assurance company tax credit may be amended or withdrawn by the claimant company only by amending its company tax return.

Time limit for claims

83K (1) A claim for a land remediation tax credit or a life assurance company tax credit may be made, amended or withdrawn at any time up to the first anniversary of the filing date for the company tax return of the claimant company for the accounting period for which the claim is made.

(2) The claim may be made, amended or withdrawn at a later date if the Inland Revenue allow it.

Penalty

83L (1) The company is liable to a penalty where it—

(a) fraudulently or negligently makes a claim for a land remediation tax credit or a life assurance company tax credit and that claim is incorrect, or

(b) discovers that such a claim made by it (neither fraudulently nor negligently) is incorrect and does not remedy the error without unreasonable delay.

(2) The penalty is an amount not exceeding the excess land remediation tax credit or excess life assurance company tax credit claimed, that is, the difference between—

(a) the amount of the land remediation tax credit or the life assurance company tax credit claimed by the company for the accounting period to which the claim relates, and

(b) the amount of the land remediation tax credit or the life assurance company tax credit to which the company is entitled for that period.”.

SCHEDULE 24 Section 71.

CREATIVE ARTISTS: RELIEF FOR FLUCTUATING PROFITS

PART 1

NEW SCHEDULE 4A TO THE TAXES ACT 1988

1 The Schedule inserted after Schedule 4 to the Taxes Act 1988 is as follows—

"SCHEDULE
4A

CREATIVE ARTISTS: RELIEF FOR FLUCTUATING PROFITS

Introduction

1 This Schedule enables an individual ("the taxpayer") to make a claim (an "averaging claim") if his profits from a qualifying trade, profession or vocation (his "relevant profits") fluctuate from one tax year to the next.

Qualifying trade, profession or vocation

2 (1) A trade, profession or vocation is a "qualifying trade, profession or vocation" if the taxpayer's profits from it—

(a) are derived wholly or mainly from qualifying creative works, and

(b) are chargeable to tax under Case I or II of Schedule D.

(2) In sub-paragraph (1) "qualifying creative works" means—

(a) literary, dramatic, musical or artistic works, or

(b) designs,

created by the taxpayer personally or, where the trade, profession or vocation is carried on by the taxpayer in partnership, by one or more of the partners personally.

Circumstances in which claim may be made

3 (1) An averaging claim may be made if the taxpayer has been carrying on the qualifying trade, profession or vocation in two consecutive tax years and either—

(a) his relevant profits for one of the tax years are less than 75% of his relevant profits for the other, or

(b) his relevant profits for one (but not both) of the tax years are nil.

(2) For the purposes of paragraph 4 (years in respect of which averaging claim may be made) an averaging claim relates to both of the years involved.

Years in respect of which claim may be made

4 (1) An averaging claim may not be made in relation to a tax year if an averaging claim in respect of the same qualifying trade, profession or vocation has already been made in relation to a later tax year.

(2) An averaging claim may not be made in relation to a tax year in which—

(a) the taxpayer starts, or permanently ceases, to carry on the trade, profession or vocation, or

(b) the trade, profession or vocation begins or ceases to be a qualifying trade, profession or vocation.

(3) An averaging claim may be made in relation to a tax year which was the later year on a previous averaging claim.

Time limit for claim

5 An averaging claim must be made not later than twelve months after the 31st January next following the end of the later of the tax years to which it relates.

This is subject to paragraph 10(2) (extended time limit where profits adjusted for some other reason).

Adjustment of profits on averaging claim

6 (1) Where the taxpayer is entitled to make, and makes, an averaging claim, the amount taken to be his profits from the qualifying trade, profession or vocation for each of the tax years to which the claim relates is adjusted in accordance with this paragraph.

(2) If—

(a) the taxpayer's relevant profits for one of the years amount to 70% or less of his relevant profits for the other year, or

(b) the taxpayer's relevant profits for one (but not both) of the years are nil,

the amount of the adjusted profits for each of the years to which the claim relates is the average of the relevant profits for the two years.

(3) If the taxpayer's relevant profits for one of the years amount to more than 70%, but less than 75%, of his relevant profits for the other year, the amount of the profits in each of the years is calculated as follows, so as to reduce the variation between them.

Step 1

The amount of the adjustment is given by the formula—

$$(D \times 3) - (P \times 0.75$$

where—

D is the difference between the taxpayer's relevant profits for the two tax years, and

P is the taxpayer's relevant profits for the year in which those profits are higher.

Step 2

Add the amount of the adjustment to the taxpayer's relevant profits for the year in which those profits are lower.

The result is the amount of the adjusted profits for that year.

Step 3

Subtract the amount of the adjustment from the taxpayer's relevant profits for the year in which those profits are higher.

The result is the amount of the adjusted profits for that year

(4) Subject to the following provisions of this Schedule, the adjusted profits are taken to be the taxpayer's relevant profits for the years to which the claim relates for all the purposes of the Income Tax Acts, including the further application of this Schedule.

How averaging claim is given effect

7 (1) An averaging claim relating to two tax years ("the earlier year" and "the later year") is given effect in the later year.

(2) In so far as the claim involves an adjustment to the profits for the earlier year it is treated as a claim for the amount of the difference between—

(a) the amount in which the taxpayer is chargeable to tax for the earlier year ("amount A"), and

(b) the amount in which he would be so chargeable if effect were given to the adjustment in that year ("amount B").

(3) That claim is given effect in the later year by increasing the amount referred to in section 59B(1)(b) of the Management Act (aggregate amount of payments on account made by the taxpayer) or, as the case may require, by increasing the amount of tax payable.

(4) Where effect falls to be given to two or more associated claims, amounts A and B above shall each be determined on the assumption that effect could have been, and had been, given to the other claim or claims in relation to the earlier year.

(5) Where this paragraph applies twice in relation to the same tax year, the increase or reduction in the amount of tax payable for that year as a result of the earlier application shall be disregarded in determining amounts A and B above for the purposes of the later application.

Extension of time for making other claims

8 (1) A claim by the taxpayer for relief under any other provision of the Income Tax Acts for either of the years to which an averaging claim relates ("the other claim")—

(a) is not out of time if made on or before the last date on which the averaging claim could have been made, and

(b) if already made, may be amended or revoked on or before that date.

(2) If the other claim is made by being included in a return, the reference in sub-paragraph (1)(b) to amending or revoking the claim shall be read as a reference to amending the return by amending or omitting the claim.

Giving effect to late claim for other relief

9 (1) This paragraph applies where—

(a) the taxpayer makes or amends a claim for relief under any other provision of the Income Tax Acts for either of the years to which an averaging claim relates, and

(b) the making or amendment of the claim would be out of time but for paragraph 8.

(2) The claim or amendment is given effect in the later year.

(3) In so far as the claim or amendment relates to income of the earlier year, the amount claimed, or (as the case may be) the increase or reduction in the amount claimed, shall be equal to the difference between—

(a) the amount in which the taxpayer is chargeable to tax for the earlier year ("amount A"), and

(b) the amount in which he would be so chargeable on the assumption that effect could be, and was, given to the claim or amendment in relation to that year ("amount B").

(4) That claim or amendment is given effect in the later year by increasing the amount referred to in section 59B(1)(b) of the Management Act (aggregate amount of payments on account made by the taxpayer) or, as the case may require, by increasing the amount of tax payable.

(5) Where effect falls to be given to two or more associated claims, amounts A and B above shall each be determined on the assumption that effect could have been, and had been, given to the other claim or claims in relation to the earlier year.

(6) In this paragraph "amend" includes revoke and "amendment" has a corresponding meaning.

Effect of later adjustment of profits

10 (1) If after the taxpayer has made an averaging claim, his relevant profits in either or both of the tax years to which the claim relates are adjusted for some other reason—

(a) the averaging claim shall be disregarded, and

(b) a further averaging claim may be made in relation to the taxpayer's relevant profits as adjusted.

(2) A further averaging claim is not out of time provided it is made not later than twelve months after the 31st January next following the tax year in which the adjustment for the other reason is made.

Interpretation of references to profits

11 (1) References in this Schedule to the taxpayer's profits from a qualifying trade, profession or vocation are to profits before making deductions for losses sustained in any tax year.

(2) If the taxpayer sustains a loss in the qualifying trade, profession or vocation in any tax year, the profits of that year for the purposes of this Schedule are nil.

This shall not be read as preventing the taxpayer from obtaining relief under the Income Tax Acts for a loss sustained by him in that or any other tax year.

Interpretation of references to amount chargeable to tax

12 In this Schedule any reference to the amount in which a person is chargeable to tax is a reference to the amount in which he is so chargeable after taking into account any relief or allowance for which a claim is made.

Meaning of "claim" and "associated claim"

13 (1) In this Schedule any reference to a claim includes a reference to an election or notice.

(2) For the purposes of this Schedule, two or more claims made by the same person are associated with each other if each of them is any of the following—

(a) a claim to which this Schedule applies, or

(b) a claim to which Schedule 1B to the Management Act applies (other claims involving more than one year to be given effect in later year),

and the same tax year is the earlier year in relation to each of those claims.

(3) In sub-paragraph (2)—

(a) the reference to a claim to which this Schedule applies includes amendments and revocations to which paragraph 9 above applies;

(b) the reference to a claim to which Schedule 1B to the Management Act applies includes amendments and revocations to which paragraph 4 of that Schedule applies.

Meaning of "tax year"

14 In this Schedule a "tax year" means a year of assessment.".

PART 2

CONSEQUENTIAL AMENDMENTS

2 (1) In section 46C(3) of the Taxes Management Act 1970 (c. 9) (jurisdiction of Special Commissioners over certain claims) for paragraph (d) substitute—

"(d) sections 527 and 536 (reliefs in respect of royalties);".

(2) This paragraph applies in relation to claims made in respect of payments actually receivable on or after 6th April 2001.

3 (1) In Schedule 1B to that Act (claims for relief involving two or more years), in paragraph 1 (preliminary definitions) for sub-paragraphs (2) and (3) substitute—

"(2) For the purposes of this Schedule, two or more claims made by the same person are associated with each other if each of them is any of the following—

(a) a claim to which this Schedule applies, or

(b) a claim to which Schedule 4A to the principal Act applies (creative artists: relief for fluctuating profits),

and the same year of assessment is the earlier year in relation to each of those claims.

(3) In sub-paragraph (2) above, any reference to claims includes—

(a) in the case of a claim to which this Schedule applies, a reference to amendments and revocations to which paragraph 4 below applies;

(b) in the case of a claim to which Schedule 4A to the principal Act applies, a reference to amendments and revocations to which paragraph 9 of that Schedule applies.".

(2) This paragraph applies for the year 2000-01 and subsequent years of assessment.

4 (1) In section 537 of the Taxes Act 1988 (application of sections 534, 535 and 536 for public lending right as for copyright)—

(a) for "Sections 534, 535 and 536" substitute " Section 536 ", and

(b) for "they have" substitute " it has ".

(2) This paragraph applies in relation to payments actually receivable on or after 6th April 2001.

SCHEDULE 25

Section 76.

LIMITED LIABILITY PARTNERSHIPS: INVESTMENT LLPS AND PROPERTY INVESTMETN LLPS

Meaning of "investment LLP" and "property investment LLP"

1 (1) In Part 19 of the Taxes Act 1988 (supplementary provisions), after section 842A insert—

"**842B Meaning of "investment LLP" and "property investment LLP"**

(1) In this Act—

(a) an "investment LLP" means a limited liability partnership whose business consists wholly or mainly in the making of investments and the principal part of whose income is derived therefrom; and

(b) a "property investment LLP" means a limited liability partnership whose business consists wholly or mainly in the making of

investments in land and the principal part of whose income is derived therefrom.

(2) Whether a limited liability partnership is an investment LLP or a property investment LLP is determined for each period of account of the partnership.

A "period of account" means any period for which accounts of the partnership are drawn up.".

(2) In section 832(1) of that Act (interpretation of the Tax Acts), at the appropriate place insert—

""investment LLP" and "property investment LLP" have the meaning given by section 842B;".

(3) In section 288(1) of the Taxation of Chargeable Gains Act 1992 (c. 12) (interpretation), at the appropriate place insert—

""property investment LLP" has the meaning given by section 842B of the Taxes Act;".

Pension funds, &c.: exclusion of exemptions from tax in case of income from property investment LLPs

2 In Chapter 6 of Part 14 of the Taxes Act 1988 (pension schemes, &c.: miscellaneous provisions), after section 659D insert—

"**659E Treatment of income from property investment LLPs**

(1) The exemptions specified below do not apply to income derived from investments, deposits or other property held as a member of a property investment LLP.

(2) The exemptions are those provided by—

section 592(2) (exempt approved schemes),
section 608(2)(a) (former approved superannuation funds),
section 613(4) (Parliamentary pension funds),
section 614(3) (certain colonial, &c. pension funds),
section 614(4) (the Overseas Service Pension Fund),
section 614(5) (other pension funds for overseas employees),
section 620(6) (retirement annuity trust schemes), and
section 643(2) (approved personal pension schemes).

(3) The income to which subsection (1) above applies includes relevant stock lending fees, in relation to any investments, to which any of the provisions listed in subsection (2) above would apply by virtue of section 129B.

(4) Section 659A (treatment of futures and options) applies for the purposes of subsection (1) above.".

Pension funds, &c.: exclusion of exemption from trusts rate in case of income from property investment LLPs

3 (1) Section 686 of the Taxes Act 1988 (accumulation and discretionary trusts: special rates of tax) is amended as follows.

(2) In subsection (2)(c) (income excluded from trusts rate or Schedule F trusts rate), before the words "income from investments, deposits or other property" (which relate to income of certain pension funds or schemes) insert " , subject to section (6A) below, ".

(3) After subsection (6) insert—

"(6A) The exemptions provided for by subsection (2)(c) above in relation to income from investments, deposits or other property held as mentioned in sub-paragraph (i) or (ii) of that paragraph do not apply to income derived from investments, deposits or other property held as a member of a property investment LLP.".

Pension funds, &c.: exclusion of exemptions in case of gains from property investment LLPs

4 In section 271 of the Taxation of Chargeable Gains Act 1992 (c. 12) (miscellaneous exemptions), after subsection (11) insert—

"(12) Subsection (1)(b), (c), (d), (g) and (h) and subsection (2) above do not apply to gains accruing to a person from the acquisition and disposal by him of assets held as a member of a property investment LLP.".

Insurance companies: treatment of income or gains arising from property investment LLP

5 In Chapter 1 of Part 12 of the Taxes Act 1988 (insurance companies, &c.), after section 438A insert—

"**438B Income or gains arising from property investment LLP**

(1) Where an asset held by an insurance company as an asset of its long term business fund is held by the company as a member of a property investment LLP, the policy holders' share of any income arising from, or chargeable gains accruing on the disposal of, the asset which—

(a) is attributable to the company, and

(b) would otherwise be referable by virtue of section 432A to pension business,

shall be treated for the purposes of the Corporation Tax Acts as referable to basic life assurance and general annuity business.

(2) For the purposes of this section the property business of the insurance company for the purposes of which the asset is held shall be treated as a separate business.

"Property business" means a Schedule A business or overseas property business.

(3) Where (apart from this subsection) an insurance company would not be carrying on basic life assurance and general annuity business, it shall be treated as carrying on such business if any income or chargeable gains of the

company are treated as referable to the business by virtue of subsection (1) above.

(4) A company may be charged to tax by virtue of this section—

(a) notwithstanding section 439A, and

(b) whether or not the income or chargeable gains to which subsection (1) above applies is taken into account in computing the profits of the company for the purposes of any charge to tax in accordance with Case I of Schedule D.

(5) The policy holders' share of income or chargeable gains to which subsection (1) above applies—

(a) shall not be treated as relevant profits for the purposes of section 88 of the Finance Act 1989 (corporation tax on policy holders' fraction of profits), and

(b) shall not be treated as part of the BLAGAB profits for the purposes of section 88A of that Act (lower corporation tax rate on certain profits);

but the whole of the income or gains to which that subsection applies shall be chargeable to tax at the rate provided by section 88 of that Act.

(6) So far as income is brought into account as mentioned in section 83(2) of the Finance Act 1989, sections 432B to 432F (apportionment of receipts brought into account) have effect as if subsection (1) above did not apply.

438C Determination of policy holders' share for purposes of s.438B

(1) For the purposes of section 438B the policy holders' share of any income or chargeable gains to which subsection (1) of that section applies is what remains after deducting the shareholders' share.

(2) The shareholders' share is found by applying to the whole the fraction—

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

where—

A is the amount of the profits of the company for the period which are chargeable to tax under section 436; and

B is an amount equal to the excess of—

(a) the amount taken into account as receipts of the company in computing those profits (apart from premiums and sums received by virtue of a claim under a reinsurance contract), over

(b) the amounts taken into account as expenses in computing those profits.

(3) Where there is no such excess as is mentioned in subsection (2) above, or where the profits are greater than any excess, the whole of the income or gains is treated as the shareholders' share.

(4) Subject to that, where there are no profits none of the income or gains is treated as the shareholders' share.".

Insurance companies: double taxation relief

6 In section 804B of the Taxes Act 1988 (double taxation relief: company carrying on more than one category of life assurance business: restriction of credit)—

(a) in subsection (2) after "sections 432ZA to 432E" insert " or section 438B ", and

(b) in subsection (4) after "section 432A" insert " or 438B ".

Insurance companies: capital allowances

7 In section 545 of the Capital Allowances Act 2001 (c. 2) (life assurance business: investment assets), for subsection (3) substitute—

"(3) Any allowance under this Act in respect of an investment asset shall be treated as referable to the category or categories of business to which income arising from the asset is or would be referable.

If income so arising is or would be referable to more than one category of business, the allowance shall be apportioned in accordance with sections 432ZA to 432E, or section 438B, of ICTA in the same way as the income.".

Friendly societies: exclusion of exemptions from tax

8 (1) In section 460 of the Taxes Act 1988 (friendly societies: exemption from tax in respect of life or endowment business), in subsection (2) (restrictions on exemption) after paragraph (ca), and before the word "and" following that paragraph, insert—

"(cb) shall not apply to profits arising from investments, deposits or other property held as a member of a property investment LLP;".

(2) In section 461 of that Act (registered friendly societies: exemption from tax on other business), after subsection (3) insert—

"(3A) The exemption conferred by subsection (1) above does not apply to profits arising from investments, deposits or other property held as a member of a property investment LLP.".

(3) In section 461B of that Act (incorporated friendly societies: exemption from tax on other business), after subsection (2) insert—

"(2A) Subsection (1) above shall not apply to any profits arising or accruing to the society from or by reason of its membership of a property investment LLP.".

Exclusion of relief on loans to buy into investment LLP

9 In section 362(2) of the Taxes Act 1988 (interest relief on loans to buy into partnership: conditions to be met), in paragraph (a) for the words from "otherwise" to "1907" substitute—

"otherwise than—

(i) as a limited partner in a limited partnership registered under the Limited Partnerships Act 1907, or

(ii) as a member of an investment LLP;".

SCHEDULE 26

Section 78.

CAPITAL GAINS TAX: TAPER RELIEF: BUSINESS ASSETS

Introductory

1 Schedule A1 to the Taxation of Chargeable Gains Act 1992 (c. 12) (application of taper relief) is amended as follows.

Conditions for assets other than shares to qualify as business assets

2 (1) Paragraph 5 is amended as follows.

(2) In sub-paragraph (3)(a) (asset used for purposes of trade carried on by trustees of settlement) after "settlement" insert—

"or by a partnership whose members at that time included—

(i) the trustees of the settlement; or

(ii) any one or more of the persons who at that time were the trustees of the settlement (so far as acting in their capacity as such trustees)".

Companies which are qualifying companies

3 (1) Paragraph 6 is amended as follows.

(2) After sub-paragraph (1) (qualifying company by reference to an individual) insert—

"(1A) A company shall also be taken to have been a qualifying company by reference to an individual at any time when—

(a) the company was a non-trading company or the holding company of a non-trading group,

(b) the individual was an officer or employee of the company, or of a company having a relevant connection with it, and

(c) the individual did not have a material interest in the company or in any company which at that time had control of the company.".

(3) After sub-paragraph (2) (qualifying company by reference to the trustees of a settlement) insert—

"(2A) A company shall also be taken to have been a qualifying company by reference to the trustees of a settlement at any time when—

(a) the company was a non-trading company or the holding company of a non-trading group,

(b) an eligible beneficiary was an officer or employee of the company, or of a company having a relevant connection with it, and

(c) the trustees of the settlement did not have a material interest in the company or in any company which at that time had control of the company.".

(4) At the end of the paragraph add—

"(4) For the purposes of this paragraph an individual shall be regarded as having a material interest in a company if—

(a) the individual,

(b) the individual together with one or more persons connected with him, or

(c) any person connected with the individual, with or without any other such persons,

has a material interest in the company.

(5) For the purposes of this paragraph the trustees of a settlement shall be regarded as having a material interest in a company if—

(a) the trustees of the settlement,

(b) the trustees of the settlement together with one or more persons connected with them, or

(c) any person connected with the trustees of the settlement, with or without any other such persons,

has a material interest in the company.

(6) In this paragraph "company" does not include a unit trust scheme, notwithstanding anything in section 99.

(7) This paragraph is supplemented by paragraph 6A below (meaning of "material interest").".

Meaning of "material interest"

4 After paragraph 6 insert—

"**Meaning of "material interest"**

6A (1) For the purposes of paragraph 6 above, a material interest in a company means possession of, or the ability to control (directly or through the medium of other companies or by any other indirect means),—

(a) more than 10% of the issued shares in the company of any particular class,

(b) more than 10% of the voting rights in the company,

(c) such rights as would, if the whole of the income of the company were distributed among the participators (without regard to any rights of any person as a loan creditor) give an entitlement to receive more than 10% of the amount distributed, or

(d) such rights as would, in the event of the winding up of the company or in any other circumstances, give an entitlement to receive more than 10% of the assets of the company which would then be available for distribution among the participators.

(2) For the purposes of sub-paragraph (1) above a right to acquire shares or rights (however arising) shall be treated as a right to control them.

(3) A person shall be treated for the purposes of this paragraph as having a right to acquire any shares or rights—

(a) which he is entitled to acquire at a future date, or

(b) which he will at a future date be entitled to acquire.

(4) Where—

(a) in the case of any shares or rights, an entitlement falling within sub-paragraph (3)(a) or (b) above is conferred on a person by a contract, but

(b) the contract is conditional,

the person shall be treated for the purposes of this paragraph as having a right to acquire the shares or rights as from the time at which the contract is made.

(5) In any case where—

(a) the shares of any particular class attributed to a person consist of or include shares which he or another person has a right to acquire, and

(b) the circumstances are such that if that right were to be exercised the shares acquired would be shares which were previously unissued and which the company is contractually bound to issue in the event of the exercise of the right,

then in determining at any time prior to the exercise of the right whether the number of shares of that class attributed to the person exceeds a particular percentage of the issued shares of that class, the number of issued shares of that class shall be taken to be increased by the number of unissued shares referred to in paragraph (b) above.

(6) The references in sub-paragraph (5) above to the shares of any particular class attributed to a person are to the shares which in accordance with sub-paragraph (1)(a) above fall to be brought into account in his case to determine whether their number exceeds a particular percentage of the issued shares of the company of that class.

(7) Sub-paragraphs (5) and (6) above shall apply, with the necessary modifications, in relation to—

(a) voting rights in the company (and attribution of such rights to a person in accordance with sub-paragraph (1)(b) above),

(b) rights which would, if the whole of the income of the company were distributed among the participators (without regard to any rights of any person as a loan creditor) give an entitlement to receive any of the amount distributed (and attribution of such rights to a person in accordance with sub-paragraph (1)(c) above), and

(c) rights which would, in the event of the winding up of the company or in any other circumstances, give an entitlement to receive any of the assets of the company which would then be available for distribution among the participators (and attribution of such rights to a person in accordance with sub-paragraph (1)(d) above),

as they apply in relation to shares of any particular class (and their attribution to a person in accordance with sub-paragraph (1)(a) above).

(8) For the purposes of this paragraph "participator" and "loan creditor" have the meaning given by section 417 of the Taxes Act.".

Interpretation of Schedule A1

5 (1) Paragraph 22 is amended as follows.

(2) In sub-paragraph (1) (definitions) insert each of the following definitions at the appropriate place—

""non-trading company" means a company which is not a trading company;";

""non-trading group" means a group of companies which is not a trading group;".

Qualifying shareholdings in joint venture companies

6 (1) Paragraph 23 is amended as follows.

(2) Sub-paragraph (8) (which concerns the meaning of "relevant connection" and is subsumed by the paragraph 24 inserted by this Schedule) shall cease to have effect.

Joint enterprise companies: relevant connection

7 After paragraph 23 (qualifying shareholdings in joint venture companies) add—

"**Joint enterprise companies: relevant connection**

24 (1) This Schedule has effect subject to sub-paragraph (5) below in any case where a company ("the investing company") has a qualifying shareholding in a joint enterprise company.

(2) For the purposes of this paragraph, a company is a "joint enterprise company" if, and only if, 75% or more of its ordinary share capital (in aggregate) is held by not more than five companies.

(3) For the purposes of sub-paragraph (2) above the shareholdings of members of a group of companies shall be treated as held by a single company.

(4) For the purposes of this paragraph a company has a "qualifying shareholding" in a joint enterprise company if—

(a) it holds more than 30% of the ordinary share capital of the joint enterprise company, or

(b) it is a member of a group of companies, it holds ordinary share capital of the joint enterprise company and the members of the group between them hold more than 30% of that share capital.

(5) The following shall be treated as having a relevant connection with each other—

(a) the investing company;

(b) the joint enterprise company;

(c) any company having a relevant connection with the investing company;

(d) any company having a relevant connection with the joint enterprise company by virtue of being—

(i) a 51 per cent subsidiary of that company, or

(ii) a member of the same commercial association of companies.

(6) For the purposes of this paragraph "ordinary share capital" has the meaning given by section 832(1) of the Taxes Act.".

SCHEDULE 27

Section 81.

DOUBLE TAXATION RELIEF

Computation of income subject to foreign tax

1 (1) Section 795 of the Taxes Act 1988 is amended as follows.

(2) In subsection (2)(b) (dividend to be treated as increased by any underlying tax taken into account in determining credit to be allowed in respect of the dividend) after "increased by" insert " —(i) " and after "in respect of the dividend" add—

", and

(ii) any underlying tax which, by virtue of section 799(1)(b) or section 799(1B)(b), does not fall to be so taken into account".

(3) After subsection (3) insert—

"(3A) The amount of any income or gain shall not be increased under subsection (2)(b)(i) above by so much of any underlying tax—

(a) as represents an increase under section 801(4B); or

(b) as represents relievable underlying tax (within the meaning of sections 806A to 806J) arising in respect of another dividend and treated as underlying tax under those sections.".

(4) This paragraph has effect in relation to dividends paid on or after 31st March 2001 by a company resident outside the United Kingdom to a company resident in the United Kingdom (whenever any such dividend as is mentioned in section 801(2) or (3) of the Taxes Act 1988 was paid).

Restriction of relief for underlying tax

2 (1) Section 799 of the Taxes Act 1988 (computation of underlying tax) is amended as follows.

(2) For subsection (1A) (the formula for restricting the amount of underlying tax in respect of which credit relief may be given) substitute—

"(1A) The formula is—

$$(D + U) \times \mathrm{M}\%$$

where—

D is the amount of the dividend;

U is the amount of underlying tax that would fall to be taken into account as mentioned in subsection (1) above, apart from paragraph (b) of that subsection; and

M% is the maximum relievable rate;

and for the purposes of this subsection the maximum relievable rate is the rate of corporation tax in force when the dividend was paid. ".

(3) After subsection (1A) insert—

"(1B) Where, under any arrangements, a company makes a claim for an allowance by way of credit in accordance with this Chapter—

(a) the claim may be so framed as to exclude such amounts of underlying tax as may be specified for the purpose in the claim; and

(b) any amounts of underlying tax so excluded shall be left out of account for the purposes of this section.".

(4) This paragraph has effect in relation to any claim for an allowance by way of credit made on or after 31st March 2001 in respect of a dividend paid by a company resident outside the United Kingdom to a company resident in the United Kingdom, unless the dividend was paid before that date.

(5) In determining, for the purpose of any such claim made on or after that date, the underlying tax of any such third, fourth or successive company as is mentioned in section 801(2) or (3) of the Taxes Act 1988, this paragraph shall be taken to have had effect at the time the dividend paid by that company was paid.

Credit for underlying tax: UK company related through overseas company

3 (1) Section 801 of the Taxes Act 1988 (dividends paid between related companies: relief for UK and third country taxes) is amended as follows.

(2) In subsection (2) (underlying tax in relation to dividend received by overseas company from third company etc) for "subject to subsection (4)" substitute " subject to subsections (4) to (4D) ".

(3) After subsection (4) (limitations to which subsections (2) and (3) are subject) insert—

"(4A) If, in the application of section 799(1)(b) by subsection (2) or (3) above in relation to a dividend paid by a company resident in the United Kingdom—

(a) the amount given by the formula in section 799(1A), exceeds

(b) the value of U in that formula,

subsection (4B) below shall apply.

(4B) Where this subsection applies, in the application (otherwise than by subsection (2) or (3) above) of subsection (1) of section 799 in relation to the dividend mentioned in that subsection ("the Case V dividend"), the amount of foreign tax which by virtue of the provision made by the arrangements mentioned in that subsection would fall to be taken into account under this Part in respect of the Case V dividend—

(a) apart from this subsection, and

(b) after applying paragraphs (a) and (b) of that subsection,

shall be increased by an amount of underlying tax equal to the appropriate portion of the amount of the excess described in subsection (4A) above in relation to the dividend paid by the company resident in the United Kingdom.

(4C) Subsection (6) of section 806B (meaning of "appropriate portion"), as read with subsections (7) and (10) of that section, shall have effect for the purposes of subsection (4B) above as it has effect for the purposes of subsection (5) of that section (but taking the references in subsection (10) of that section to the Case V dividend as references to the Case V dividend within the meaning of subsection (4B) above).

(4D) Subsections (4A) to (4C) above shall be ignored in determining for the purposes of subsection (2) or (3) above the extent to which any underlying tax paid by a company would be taken into account under this Part if the dividend in question had been paid by a company resident outside the United Kingdom to a company resident in the United Kingdom.".

(4) This paragraph has effect in relation to any claim for an allowance by way of credit made on or after 31st March 2001 in respect of a dividend paid by a company resident outside the United Kingdom to a company resident in the United Kingdom, unless the dividend was paid before that date.

(5) In determining, for the purpose of any such claim made on or after that date, the underlying tax of any such third, fourth or successive company as is mentioned in section 801(2) or (3) of the Taxes Act 1988, this paragraph shall be taken to have had effect at the time the dividend paid by that company was paid.

Dividends that give rise to eligible unrelieved foreign tax

4 (1) Section 806A of the Taxes Act 1988 (eligible unrelieved foreign tax) is amended as follows.

(2) At the end of subsection (5) (cases where an amount of eligible unrelieved foreign tax arises: Case B: restriction by the mixer cap) add—

"But if that is so in any case by reason only of the mixer cap restricting the amount of underlying tax that is treated as mentioned in subsection (2) or (3) of section 801 in the case of a dividend paid by a company resident in the United Kingdom, the case does not fall within Case B.".

(3) The amendment made by this paragraph has effect in relation to—

(a) dividends arising on or after 31st March 2001 to companies resident in the United Kingdom from companies resident outside the United Kingdom, and

(b) foreign tax in respect of such dividends,

(whenever the dividend mentioned in the amendment was paid).

The amounts that are eligible unrelieved foreign tax

5 (1) Section 806B (determination of the amounts that are eligible unrelieved foreign tax) is amended as follows.

(2) For subsections (3) to (6) (amounts of eligible unrelieved foreign tax in Case B) substitute—

"(3) In Case B, the amount (if any) by which—

(a) the aggregate of the upper rate amounts falling to be brought into account for the purposes of this paragraph by virtue of subsection (4) or (5) below, exceeds

(b) the amount of tax to be taken into account as mentioned in section 799(1) in the case of the Case V dividend, before any increase under section 801(4B),

shall be an amount of eligible unrelieved foreign tax.

(4) In the case of the Case V dividend (but not any lower level dividend), the upper rate amount to be brought into account for the purposes of subsection (3)(a) above—

(a) in a case where the mixer cap does not restrict the amount of tax to be taken into account as mentioned in section 799(1) (before any increase under section 801(4B)) in the case of that dividend, is that amount of tax; or

(b) in a case where the mixer cap restricts the amount of tax to be so taken into account in the case of that dividend, is the greater amount that would have been so taken into account if, in the application of the formula in section 799(1A) in the case of that dividend (but not any lower level dividend) M% had, in relation to—

(i) so much of D as does not represent any lower level dividend, and

(ii) so much of U as is not underlying tax attributable to any lower level dividend,

been the upper percentage.

(5) In the case of any dividend (the "relevant dividend") received as mentioned in subsection (2) or (3) of section 801 which is a lower level dividend in relation to the Case V dividend, the upper rate amount to be brought into account for the purposes of subsection (3)(a) above—

(a) in a case where the mixer cap does not restrict the amount of underlying tax that is treated as mentioned in subsection (2) or (3), as the case may be, of section 801 in the case of the relevant dividend, is the appropriate portion of that amount of underlying tax;

(b) in a case where—

(i) the relevant dividend was paid by a company resident in the United Kingdom, and

(ii) the mixer cap restricts the amount of underlying tax that is treated as mentioned in subsection (2) or (3), as the case may be, of section 801 in the case of that dividend,

is the appropriate portion of that restricted amount of underlying tax; or

(c) in a case where—

(i) the relevant dividend was paid by a company resident outside the United Kingdom, and

(ii) the mixer cap restricts the amount of underlying tax that is treated as mentioned in subsection (2) or (3), as the case may be, of section 801 in the case of that dividend,

is the appropriate portion of the greater amount of tax that would have been so treated if, in the application of the formula in section 799(1A) in the case of that dividend (but not any other dividend) M% had, in relation to so much of D as does not represent any lower level dividend, and so much of U as is not underlying tax attributable to any lower level dividend, been the upper percentage.

(6) For the purposes of subsection (5) above, the "appropriate portion" of any amount there mentioned in the case of a dividend is found by multiplying that amount by the product of the reducing fractions for each of the higher level dividends.".

(3) In subsection (9) (disregard of sections 806C and 806D for purpose of determining certain amounts in subsections (2)(b), (3)(b) or (5)(b)) for "(3)(b) or (5)(b)" substitute " (4)(b) or (5)(c) ".

(4) The amendments made by this paragraph have effect in relation to—

(a) dividends arising on or after 31st March 2001 to companies resident in the United Kingdom from companies resident outside the United Kingdom, and

(b) foreign tax in respect of such dividends,

(whenever any such dividend as is mentioned in section 801(2) or (3) of the Taxes Act 1988 was paid).

Underlying tax excluded from claim not to be allowed under section 811

6 (1) Section 811 of the Taxes Act 1988 (deduction for foreign tax where no credit allowable) is amended as follows.

(2) In subsection (2) (miscellaneous provisions relating to the application of subsection (1))—

(a) omit "and" immediately preceding paragraph (b);

(b) insert "and" at the end of that paragraph; and

(c) insert the following paragraph at the appropriate place—

"(d) shall not require any income to be treated as reduced by an amount of underlying tax which, by virtue of section 799(1B)(b), falls to be left out of account for the purposes of section 799;".

(3) This paragraph has effect in relation to income arising on or after 31st March 2001.

Relief for non-resident persons with branches or agencies in the UK

7 (1) The amendments made by paragraph 4 of Schedule 30 to the Finance Act 2000 (c. 17) shall have effect, and be taken always to have had effect, in accordance with the following provisions of this paragraph.

(2) In sub-paragraph (14) of that paragraph (which provides for the amendments to have effect in relation to accounting periods ending on or after 21st March 2000) for "accounting periods" substitute " chargeable periods ".

(3) That paragraph shall be taken to have been originally enacted as so amended.

SCHEDULE 28

Section 83.

LIFE POLICIES, LIFE ANNUITIES AND CAPITAL REDEMPTION POLICIES

PART 1

ASSIGNMENT OR SURRENDER OF PART OF THE RIGHTS

Introductory

1 Chapter 2 of Part 13 of the Taxes Act 1988 is amended in accordance with the following provisions of this Part of this Schedule.

Interpretation

2 In section 539 (introductory) after subsection (3) insert—

"(3A) References in this Chapter to assignment of the whole of, or assignment of part of or a share in, the rights conferred by a policy or contract shall, in any case where section 546A applies, be construed in accordance with that section.".

Life policies: chargeable events

3 (1) Section 540 is amended as follows.

(2) In subsection (1)(a) (chargeable events where policy is not a qualifying policy) at the beginning of sub-paragraph (v) (occurrence of excess under section 546 at end of year) insert " subject to section 546B(3)(a), ".

(3) In subsection (1)(b) (chargeable events where policy is a qualifying policy) in sub-paragraph (ii) (which refers to a surrender or assignment or such an excess) after "assignment or" insert " (subject to section 546B(3)(a)) ".

Life policies: computation of gain

4 (1) Section 541 is amended as follows.

(2) In subsection (1), in each of paragraphs (a)(ii), (b)(ii) and (c)(ii) (which refer to the total amount treated as gain by virtue of paragraph (d) on the previous happening of chargeable events) after "paragraph (d) below" insert " or section 546C(7)(b) ".

(3) In paragraph (d) of that subsection (if chargeable event is occurrence of excess mentioned in section 540(1)(a)(v), the gain is the amount of the excess) at the end insert " (subject to section 546B(3)(a)) ".

(4) Subsection (4) (which makes provision about in-year assignments for no consideration and is superseded by the sections 546B to 546D inserted by this Schedule) shall cease to have effect.

Life annuity contracts: chargeable events

5 (1) Section 542 is amended as follows.

(2) In subsection (1) (which specifies the chargeable events in relation to life annuity contracts) at the beginning of paragraph (c) (occurrence of excess under section 546 at end of year) insert " subject to section 546B(3)(a), ".

(3) In subsection (3) (which provides that, subject to section 544, an event referred to in subsection (1) is not a chargeable event in relation to certain contracts made before 26th June 1982) after "subsection (1) above" insert " or section 546C(7)(a) ".

Life annuity contracts: computation of gain

6 (1) Section 543(1) is amended as follows.

(2) In each of paragraphs (a)(ii) and (b)(ii) (which refer to the total amount treated as gain by virtue of paragraph (c) on the previous happening of chargeable events) after "paragraph (c) below" insert " or section 546C(7)(b) ".

(3) In paragraph (c) (if chargeable event is occurrence of excess mentioned in section 542(1), the gain is the amount of the excess) at the end insert " (subject to section 546B(3)(a)) ".

Capital redemption policies: chargeable events

7 In section 545(1) (which specifies the chargeable events in relation to capital redemption policies) at the beginning of paragraph (d) (occurrence of excess under section 546 at end of year) insert " subject to section 546B(3)(a), ".

The value of a part or share assigned

8 (1) Section 546 (calculation of certain amounts for the purposes of sections 540, 542 and 545) is amended as follows.

(2) In subsection (1), in paragraph (a) (calculation of value of parts or shares assigned or surrendered)—

(a) after "which" insert " —(i) ";

(b) for "assigned or surrendered" substitute " assigned for money or money's worth, or surrendered, "; and

(c) after "13th March 1975;" insert—

"or

(ii) has been assigned otherwise than for money or money's worth during that period but in a year beginning on or before 5th April 2001;".

(3) At the end of the section insert—

"(6) Where any part of or share in the rights conferred by a policy or contract is assigned, the value of the part or share, as at the time of the assignment, shall be taken for the purposes of this section to be its surrender value at that time.".

Assignments etc involving co-ownership

9 After section 546 (calculation of certain amounts for purposes of sections 540, 542 and 545) insert—

"**546A Treatment of certain assignments etc involving co-ownership**

(1) This section applies in any case where—

(a) as a result of any transaction (the "material transaction") the whole or part of or a share in the rights conferred by a policy or contract ("the material interest") becomes beneficially owned by one person or by two or more persons jointly or in common ("the new ownership");

(b) immediately before the material transaction, the material interest was in the beneficial ownership of one person or of two or more persons jointly ("the old ownership"); and

(c) at least one person who is a member of the old ownership is also a member of the new ownership.

(2) In any such case, the material transaction shall, in accordance with the following provisions of this section, be taken for the purposes of this Chapter (other than this section) to be one or more assignments, of part only of the rights conferred by the policy or contract.

(3) For the purposes of this Chapter (other than this section), the members of the old ownership shall be treated—

(a) where the old ownership consists of two or more persons beneficially entitled jointly, as if the material interest had been in their beneficial ownership in equal shares instead of jointly;

(b) where the new ownership consists of two or more persons beneficially entitled jointly, as if the result of the material transaction had been that the material interest was in the beneficial ownership of those persons in equal shares instead of jointly; and

(c) as if the material transaction had been the assignment by each member of the old ownership of so much (if any) of his old share as exceeds his new share (or, if he does not have a new share, the whole of his old share).

(4) In this section—

"new share", in relation to the material interest and a person who is a member of the new ownership, means—

(a) if there is only one member of the new ownership, the material interest;

(b) if there are two or more members of the new ownership beneficially entitled to the material interest in common, the member's share in the material interest; or

(c) if there are two or more members of the new ownership beneficially entitled to the material interest jointly, the share attributed to the member by subsection (3)(b) above;

"old share", in relation to the material interest and a person who is a member of the old ownership, means—

(a) if there is only one member of the old ownership, the material interest; or

(b) if there are two or more members of the old ownership, the share attributed to the member by subsection (3)(a) above.".

Charging tax in respect of certain section 546 excesses

10 After section 546A insert—

"**546B Special provision in respect of certain section 546 excesses**

(1) This section applies in relation to a policy or contract in any case where—

(a) a section 546 excess occurs at the end of any year (including the final year, whether or not ending with a terminal chargeable event); and

(b) the condition in subsection (2) below is satisfied in relation to that year.

(2) The condition is that—

(a) during the year there has been an assignment for money or money's worth of part of or a share in the rights conferred by the policy or contract; or

(b) during the year there has been both—

(i) an assignment, otherwise than for money or money's worth, of the whole or part of or a share in the rights conferred by the policy or contract; and

(ii) an earlier surrender of part of or a share in the rights conferred by the policy or contract.

(3) Where this section applies—

(a) the occurrence of the section 546 excess shall be treated for the purposes of this Chapter as not being a chargeable event; but

(b) the amount of the section 546 excess shall be charged to tax in accordance with the provisions of section 546C.

(4) In this section—

"final year" has the meaning given by section 546(4);

"section 546 excess", in relation to any year, means an excess, occurring at the end of the year, of—

(a) the reckonable aggregate value mentioned in subsection (2) of section 546, over

(b) the allowable aggregate amount mentoned in subsection (3) of that section;

"terminal chargeable event" means any chargeable event other than—

(a) an assignment for money or money's worth of the whole of the rights conferred by the policy or contract;

(b) the occurrence of a section 546 excess; or

(c) a chargeable event by virtue of section 546C(7)(a);

"year" has the meaning given by section 546(4).

546C Charging the section 546 excess to tax where section 546B applies

(1) This section applies where, in relation to any policy or contract, the amount of a section 546 excess occurring at the end of any year falls to be charged to tax in accordance with this section by virtue of section 546B(3)(b).

(2) The following amounts shall be calculated as at the end of that year—

(a) the aggregate of the values calculated under section 546(1)(a) in respect of any part of or share in the rights conferred by the policy or contract which has been assigned for money or money's worth, or surrendered, during the year;

(b) the amount by which—

(i) the reckonable aggregate value mentioned in section 546(2), as at the end of the year, exceeds

(ii) the aggregate calculated under paragraph (a) above;

and

(c) the amount by which—

(i) the allowable aggregate amount mentioned in section 546(3), as at the end of the year, exceeds

(ii) the amount calculated under paragraph (b) above.

(3) In this section—

(a) "relevant transaction" means any assignment for money or money's worth, or any surrender, of a part of or share in the rights conferred by the policy or contract which has happened during the year;

(b) "transaction value", in relation to any relevant transaction, means the value calculated in accordance with section 546(1)(a) in the case of that transaction;

(c) "the amount of available premium" means—

(i) in relation to the earliest relevant transaction, the amount calculated under subsection (2)(c) above (that amount being taken to be nil if there is no such excess as is there mentioned); and

(ii) in relation to each successive relevant transaction, that amount as successively reduced under subsections (5) to (7) below.

(4) Subsection (5) below shall apply successively to each of the relevant transactions that happened in the year, in the order in which they happened.

If the year is the final year and ends with a terminal chargeable event, this subsection is subject to section 546D.

(5) Where this subsection applies in relation to a relevant transaction—

(a) the transaction value shall be compared to the amount of available premium; and

(b) if the amount of available premium exceeds or is equal to the transaction value, subsection (6) below shall apply in relation to the transaction; but

(c) if the transaction value exceeds the amount of available premium, subsection (7) below shall apply in relation to the transaction.

(6) Where this subsection applies in relation to a relevant transaction—

(a) the amount of available premium shall be reduced (or further reduced) by the transaction value; and

(b) that reduction shall have effect in relation to the next subsequent relevant transaction.

(7) Where this subsection applies in relation to a relevant transaction—

(a) the relevant transaction shall for the purposes of this Chapter be a chargeable event in relation to the policy or contract, except as provided by sections 540(3) and 542(3);

(b) a gain of an amount equal to that by which the transaction value exceeds the amount of available premium shall be treated for the purposes of this Chapter as arising in connection with the policy or contract on the happening of that chargeable event; and

(c) in relation to any subsequent relevant transaction, the amount of available premium shall be reduced to nil.

(8) Where the whole or any part of the amount of any gain treated as arising by subsection (7)(b) above falls to be treated under any provision of section 547 as forming part of the income of any body or person for—

(a) the year of assessment in which the chargeable event in question happened, or

(b) the accounting period in which it happened,

that year of assessment or accounting period shall be taken to be the one which includes the end of the year as at which the section 546 excess in question occurs, instead of the one (if different) in which the relevant transaction happened.

(9) Where this section applies in relation to the final year and that year ends with a terminal chargeable event—

(a) effect shall be given to this section before applying the provisions of this Chapter in relation to the terminal chargeable event; and

(b) in applying this Chapter in relation to the terminal chargeable event, any chargeable event by virtue of subsection (7)(a) above accordingly falls to be regarded as having occurred before the terminal chargeable event.

(10) This section shall be construed as one with section 546B.

546D Modifications of s.546C for final year ending with terminal chargeable event

(1) This section applies in any case where the year mentioned in section 546C(4) is the final year and that year ends with a terminal chargeable event.

(2) In any such case there shall be calculated, as at the end of the year, the amount of the gain ("the gains limit") that would have been treated as arising on the

happening of the terminal chargeable event, apart from the application of sections 546B and 546C in relation to that year.

(3) Subsection (5) of section 546C shall apply successively to each of the relevant transactions that happened in the year, in the order in which they happened, unless and until the transaction in question (the "final transaction") is such that the aggregate of—

(a) its transaction value apart from subsection (4) below, and

(b) the sum of the transaction values of any relevant transactions to which subsection (5) of that section has previously applied,

exceeds the gains limit.

(4) If, in the case of the final transaction,—

(a) the aggregate mentioned in subsection (3) above exceeds the gains limit, but

(b) the sum mentioned in paragraph (b) of that subsection is less than that limit,

subsection (5) of section 546C shall apply in relation to that transaction, but for the purposes of subsections (5) to (7) of that section its transaction value shall be reduced to an amount equal to the difference between the gains limit and the sum mentioned in paragraph (b) above.

(5) Except as provided by subsection (4) above, subsection (5) of section 546C shall not apply in relation to the final transaction or any subsequent relevant transaction.

(6) This section shall be construed as one with sections 546B and 546C.".

Method of charging gain to tax

11 (1) Section 547 is amended as follows.

(2) In subsection (1) (which makes provision for charging tax in cases where under section 541, 543 or 545 a gain is treated as arising) for "or 545" substitute " , 545 or 546C ".

(3) After subsection (1) insert—

"(1A) In their application in relation to a gain which is treated as arising by virtue of section 546C(7)(b), subsection (1) above and subsections (9) to (11) below are subject to section 546C(8).".

(4) For subsection (4) (application of section in relation to an assignment of a share only in any rights) substitute—

"(4) References in subsection (1) above to the rights conferred by a policy or contract are, in the case of an assignment or surrender of only a part of or share in any rights, references to that part or share.".

(5) In subsection (5A) (gains treated under section 543 as arising in connection with certain life annuity contracts) after "section 543" insert " or 546C(7)(b) ".

(6) In subsection (7) (gains treated as arising under section 541 or 543 in connection with certain friendly society policies) for "or 543" substitute " , 543 or 546C(7)(b) ".

Method of charging gain to tax: multiple interests

12 In section 547A, for subsection (2) (application of section in relation to an assignment of a share only in any rights) substitute—

"(2) References in this section to the rights conferred by a policy or contract are, in the case of an assignment or surrender of only a part of or share in any rights, references to that part or share.".

Corresponding deficiency relief

13 In section 549(1) (deduction from individual's total income where deficiency occurs at end of final year, so far as not exceeding total amount treated as gain by virtue of section 541(1)(d) or 543(1)(c)) for "or 543(1)(c)" substitute " , 543(1)(c) or 546C(7)(b) ".

Relief where gain charged at higher rate

14 In section 550, after subsection (5) (which refers to two or more chargeable events which are the occurrence of excesses under section 546) insert—

"(5A) For the purposes of this section, a chargeable event by virtue of section 546C(7)(a)—

(a) shall be treated as being such a chargeable event as is mentioned in subsection (5) above; and

(b) accordingly, in computing any number of complete years, shall be treated as happening at the end of the year (within the meaning given by section 546(4)) as at which occurs the excess that gives rise to it.".

Right of individual to recover tax from trustees

15 In section 551(1)(b) (which refers to the rights or share in question being held on trust) for "rights or share" substitute " rights, or the part or share, ".

Right of company to recover tax from trustees

16 In section 551A(1)(b) (which refers to the rights or share in question being held on trust) for "rights or share" substitute " rights, or the part or share, ".

Non-resident policies and off-shore capital redemption policies

17 (1) Section 553 is amended as follows.

(2) In subsection (3) (reduction for non-residence of the amount that would otherwise be treated by virtue of section 541 as a gain arising) after "section 541" insert " or 546C(7)(b) ".

(3) In subsection (6) (which refers to gains under section 541 reduced in accordance with subsection (3) of the section) after "section 541" insert " or 546C(7)(b) ".

(4) In subsection (10) (interpretation) in the definition of "chargeable event" after "545" insert " or 546C(7)(a) ".

PART 2

PROVISION OF INFORMATION BY INSURERS

Information: duty of insurers

18 For section 552 of the Taxes Act 1988 substitute—

"**552 Information: duty of insurers**

(1) Where a chargeable event within the meaning of this Chapter has happened in relation to any policy or contract, the body by or with whom the policy or contract was issued, entered into or effected shall—

(a) unless satisfied that no gain is to be treated as arising by reason of the event, deliver to the appropriate policy holder before the end of the relevant three month period a certificate specifying the information described in subsection (5) below; and

(b) if the condition in paragraph (a) or (b) of subsection (2) below is satisfied, deliver to the inspector before the end of the relevant three month period a certificate specifying the information described in subsection (5) below together with the name and address of the appropriate policy holder.

(2) For the purposes of this section—

(a) the condition in this paragraph is that the event is an assignment for money or money's worth of the whole of the rights conferred by the policy or contract; or

(b) the condition in this paragraph is that the amount of the gain, or the aggregate amount of the gain and any gains connected with it, exceeds one half of the basic rate limit for the relevant year of assessment.

(3) If, in the case of every certificate which a body delivers under subsection (1)(a) above which relates to a gain attributable to a year of assessment (or, where the appropriate policy holder is a company, the corresponding financial year), the body also delivers to the inspector—

(a) before the end of the relevant three month period for the purposes of subsection (1)(b) above,

(b) by a means prescribed by the Board for the purposes of this subsection under section 552ZA(5), and

(c) in a form so prescribed in the case of that means,

a certificate specifying the same information as the certificate under subsection (1)(a) together with the name and address of the appropriate policy holder, the body shall be taken to have complied with the requirements of subsection (1)(b) above in relation to that year of assessment, and the corresponding financial year, so far as relating to the chargeable events to which the certificates relate.

(4) Where a certificate is not required to be delivered under subsection (1)(b) above in the case of any chargeable event—

(a) the inspector may by notice require the body to deliver to him a copy of any certificate that the body was required to deliver under subsection (1)(a) above which relates to the chargeable event; and

(b) it shall be the duty of the body to deliver such a copy within 30 days of receipt of the notice.

(5) The information to be given to the appropriate policy holder pursuant to subsection (1)(a) above or the inspector pursuant to subsection (1)(b) above is—

(a) any unique identifying designation given to the policy or contract;

(b) the nature of the chargeable event and—

(i) the date on which it happened; and

(ii) if it is a chargeable event by virtue of section 546C(7)(a), the date on which the year ends;

(c) if the event is the assignment of all the rights conferred by the policy or contract, such of the following as may be required for computing the amount of the gain to be treated as arising by virtue of this Chapter—

(i) the amount or value of any relevant capital payments;

(ii) the amounts previously paid under the policy or contract by way of premiums or otherwise by way of consideration for an annuity;

(iii) the capital element in any payment previously made on account of an annuity;

(iv) the value of any previously assigned parts of or shares in the rights conferred by the policy or contract;

(v) the total of the amounts of gains treated as arising on previous chargeable events by reason, or in consequence, of the occurrence of a section 546 excess at the end of a year;

(d) except where paragraph (c) above applies, the amount of the gain treated as arising by reason of the event;

(e) the number of years relevant for computing the appropriate fraction of the gain for the purposes of section 550(3), apart from section 553(8);

(f) on the assumption that section 547(1)(a) has effect in relation to the gain—

(i) whether an individual would fall to be treated as having paid income tax at the basic rate on the amount of the gain in accordance with section 547(5)(a); and

(ii) if so, except in a case where paragraph (c) above applies, the amount of such tax that would fall to be so treated as paid.

(6) For the purposes of subsection (1)(a) above, the relevant three month period is whichever of the following periods ends the latest—

(a) the period of three months following the happening of the chargeable event;

(b) if the event is a surrender or assignment which is a chargeable event by virtue of section 546C(7)(a), the period of three months following the end of the year in which the event happens;

(c) if the event is a death or an assignment of the whole of the rights or a surrender or assignment which is a chargeable event by virtue of section 546C(7)(a), the period of three months beginning with receipt of written notification of the event.

(7) For the purposes of subsection (1)(b) above, the relevant three month period is whichever of the following periods ends the latest—

(a) the period of three months following the end of the year of assessment, or, where the policy holder is a company, the financial year, in which the event happened;

(b) if the event is a surrender or assignment which is a chargeable event by virtue of section 546C(7)(a), the period of three months following the end of the year in which the event happens;

(c) if the event is a death or an assignment, the period of three months beginning with receipt of written notification of the event;

(d) if a certificate under subsection (1)(b) above would not be required in respect of the event apart from the happening of another event, and that other event is one of those mentioned in paragraph (c) above, the period of three months beginning with receipt of written notification of that other event.

(8) For the purposes of this section the cases where a gain is connected with another gain are those cases where—

(a) both gains arise in connection with policies or contracts containing obligations which, immediately before the chargeable event, were obligations of the same body;

(b) the policy holder of those policies or contracts is the same;

(c) both gains are attributable to the same year of assessment or, where the policy holder is a company, to the same financial year;

(d) the terms of the policies or contracts are the same, apart from any difference in their maturity dates; and

(e) the policies or contracts were issued in respect of insurances made, or were entered into or effected, on the same date.

(9) For the purposes of this section, the year of assessment or financial year to which a gain is attributable is—

(a) in the case of a gain treated as arising by virtue of section 546C(7)(b), the year of assessment or financial year which includes the end of the year as at which the section 546 excess in question occurs; or

(b) in any other case, the year of assessment or financial year in which happens the chargeable event by reason of which the gain is treated as arising.

(10) In this section—

"amount", in relation to any gain, means the amount of the gain apart from section 553(3);

"appropriate policy holder" means—

(a) in relation to an assignment of part of or a share in the rights conferred by a policy or contract, any person who is both—

(i) the policy holder, or one of the policy holders, immediately before the assignment; and

(ii) the assignor or one of the assignors; and

(b) in relation to any other chargeable event, the person who is the policy holder immediately before the happening of the event;

"financial year" means a period of 12 months beginning with 1st April;

"the relevant year of assessment", in the case of any gain, means—

(a) the year of assessment to which the gain is attributable, or

(b) if the gain arises to a company, the year of assessment which corresponds to the financial year to which the gain is attributable;

"section 546 excess" has the meaning given in section 546B(4);

"year", in relation to any policy or contract, has the meaning given by section 546(4).

(11) For the purposes of this section a year of assessment and a financial year correspond to each other if the financial year ends with 31st March in the year of assessment.

(12) This section is supplemented by section 552ZA.

552ZA Information: supplementary provisions

(1) This section supplements section 552 and shall be construed as one with it.

(2) Where the obligations under any policy or contract of the body that issued, entered into or effected it ("the original insurer") are at any time the obligations of another body ("the transferee") to whom there has been a transfer of the whole or any part of a business previously carried on by the original insurer, section 552 shall have effect in relation to that time, except where the chargeable event—

(a) happened before the transfer, and

(b) in the case of a death or an assignment, is an event of which the notification mentioned in subsection (6) or (7) of that section was given before the transfer,

as if the policy or contract had been issued, entered into or effected by the transferee.

(3) Where, in consequence of section 546C(7)(a), paragraph (a) or (b) of section 552(1) requires certificates to be delivered in respect of two or more surrenders, happening in the same year, of part of or a share in the rights conferred by the policy or contract, a single certificate may be delivered under the paragraph in question in respect of all those surrenders (and may treat them as if they together constituted a single surrender) unless between the happening of the first and the happening of the last of them there has been—

(a) an assignment of part of or a share in the rights conferred by the policy or contract; or

(b) an assignment, otherwise than for money or money's worth, of the whole of the rights conferred by the policy or contract.

(4) Where the appropriate policy holder is two or more persons—

(a) section 552(1)(a) requires a certificate to be delivered to each of them; but

(b) nothing in section 552 or this section requires a body to deliver a certificate under subsection (1)(a) of that section to any person whose address has not been provided to the body (or to another body, at a time when the obligations under the policy or contract were obligations of that other body).

(5) A certificate under section 552(1)(b) or (3)—

(a) shall be in a form prescribed for the purpose by the Board; and

(b) shall be delivered by any means prescribed for the purpose by the Board;

and different forms, or different means of delivery, may be prescribed for different cases or different purposes.

(6) The Board may by regulations make such provision as they think fit for securing that they are able—

(a) to ascertain whether there has been or is likely to be any contravention of the requirements of section 552 or this section; and

(b) to verify any certificate under that section.

(7) Regulations under subsection (6) above may include, in particular, provisions requiring persons to whom premiums under any policy are or have at any time been payable—

(a) to supply information to the Board; and

(b) to make available books, documents and other records for inspection on behalf of the Board.

(8) Regulations under subsection (6) above may—

(a) make different provision for different cases; and

(b) contain such supplementary, incidental, consequential or transitional provision as appears to the Board to be appropriate.".

Duties of overseas insurers' tax representatives

19 In section 552B of the Taxes Act 1988, for subsection (2) (which specifies the relevant duties) substitute—

"(2) For the purposes of this section "the relevant duties" are—

(a) the duties imposed by section 552,

(b) the duties imposed by section 552ZA(2), (4) or (5), and

(c) any duties imposed by regulations made under subsection (6) of section 552ZA by virtue of subsection (7) of that section,

so far as relating to relevant insurances under which the overseas insurer in question has any obligations.".

Penalties

20 In section 98 of the Taxes Management Act 1970 (c. 9), in the second column of the Table—

(a) for the entry "section 552(1) to (4);" substitute " section 552; "; and

(b) for the entry "regulations under section 552(4A)" substitute " regulations under section 552ZA(6); ".

SCHEDULE 29

Section 88.

AMENDMENTS TO MACHINERY OF SELF-ASSESSMENT

PART 1

AMENDMENT OR CORRECTION OF RETURN

Assessment by Revenue treated as included in return

1 (1) In section 9(3) of the Taxes Management Act 1970 (personal or trustee return to include self-assessment: assessment on the taxpayer's behalf) omit the words following the paragraphs.

(2) After that subsection insert—

"(3A) An assessment under subsection (3) above is treated for the purposes of this Act as a self-assessment and as included in the return.".

Power to amend or correct personal or trustee return

2 (1) In section 9 of the Taxes Management Act 1970 (personal or trustee return to include self-assessment) omit subsections (4) to (6).

(2) After that section insert—

"**9ZA Amendment of personal or trustee return by taxpayer**

(1) A person may amend his return under section 8 or 8A of this Act by notice to an officer of the Board.

(2) An amendment may not be made more than twelve months after the filing date.

(3) In this section "the filing date" means the day mentioned in section 8(1A) or, as the case may be, section 8A(1A) of this Act.

9ZB Correction of personal or trustee return by Revenue

(1) An officer of the Board may amend a return under section 8 or 8A of this Act so as to correct obvious errors or omissions in the return (whether errors of principle, arithmetical mistakes or otherwise).

(2) A correction under this section is made by notice to the person whose return it is.

(3) No such correction may be made more than nine months after—

(a) the day on which the return was delivered, or

(b) if the correction is required in consequence of an amendment of the return under section 9ZA of this Act, the day on which that amendment was made.

(4) A correction under this section is of no effect if the person whose return it is gives notice rejecting the correction.

(5) Notice of rejection under subsection (4) above must be given—

(a) to the officer of the Board by whom the notice of correction was given,

(b) before the end of the period of 30 days beginning with the date of issue of the notice of correction.".

Power to amend or correct partnership return

3 (1) In section 12AB of the Taxes Management Act 1970 (c. 9) (partnership returns) omit subsections (2) to (4) and the definition in subsection (5) of "filing date".

(2) After that section insert—

"**12ABA Amendment of partnership return by taxpayer**

(1) A partnership return may be amended by the partner who made and delivered the return, or his successor, by notice to an officer of the Board.

(2) An amendment may not be made more than twelve months after the filing date.

(3) Where a partnership return is amended under this section, the officer shall by notice to each of the partners amend—

(a) the partner's return under section 8 or 8A of this Act, or

(b) the partner's company tax return,

so as to give effect to the amendment of the partnership return.

(4) In this section "the filing date" means the day specified in the notice under section 12AA(2) of this Act or, as the case may be, subsection (3) of that section.

12ABB Correction of partnership return by Revenue

(1) An officer of the Board may amend a partnership return so as to correct obvious errors or omissions in the return (whether errors of principle, arithmetical mistakes or otherwise).

(2) A correction under this section is made by notice to the partner who made and delivered the return, or his successor.

(3) No such correction may be made more than nine months after—

(a) the day on which the return was delivered, or

(b) if the correction is required in consequence of an amendment of the return under section 12ABA of this Act, the day on which that amendment was made.

(4) A correction under this section is of no effect if the person to whom the notice of correction was given, or his successor, gives notice rejecting the correction.

(5) Notice of rejection under subsection (4) above must be given—

(a) to the officer of the Board by whom the notice of correction was given,

(b) before the end of the period of 30 days beginning with the date of issue of the notice of correction.

(6) Where a partnership return is corrected under this section, the officer shall by notice to each of the partners amend—

(a) the partner's return under section 8 or 8A of this Act, or

(b) the partner's company tax return,

so as to give effect to the correction of the partnership return.

Any such amendment shall cease to have effect if the correction is rejected.".

PART 2

ENQUIRIES INTO RETURNS

Enquiry into personal or trustee return

4 (1) For section 9A of the Taxes Management Act 1970 (c. 9) (power to enquire into returns) substitute—

"**9A Notice of enquiry**

(1) An officer of the Board may enquire into a return under section 8 or 8A of this Act if he gives notice of his intention to do so ("notice of enquiry")—

(a) to the person whose return it is ("the taxpayer"),

(b) within the time allowed.

(2) The time allowed is—

(a) if the return was delivered on or before the filing date, up to the end of the period of twelve months after the filing date;

(b) if the return was delivered after the filing date, up to and including the quarter day next following the first anniversary of the day on which the return was delivered;

(c) if the return is amended under section 9ZA of this Act, up to and including the quarter day next following the first anniversary of the day on which the amendment was made.

For this purpose the quarter days are 31st January, 30th April, 31st July and 31st October.

(3) A return which has been the subject of one notice of enquiry may not be the subject of another, except one given in consequence of an amendment (or another amendment) of the return under section 9ZA of this Act.

(4) An enquiry extends to anything contained in the return, or required to be contained in the return, including any claim or election included in the return, subject to the following limitation.

(5) If the notice of enquiry is given as a result of an amendment of the return under section 9ZA of this Act—

(a) at a time when it is no longer possible to give notice of enquiry under subsection (2)(a) or (b) above, or

(b) after an enquiry into the return has been completed,

the enquiry into the return is limited to matters to which the amendment relates or which are affected by the amendment.

(6) In this section "the filing date" means the day mentioned in section 8(1A) or, as the case may be, section 8A(1A) of this Act.

9B Amendment of return by taxpayer during enquiry

(1) This section applies if a return is amended under section 9ZA of this Act (amendment of personal or trustee return by taxpayer) at a time when an enquiry is in progress into the return.

(2) The amendment does not restrict the scope of the enquiry but may be taken into account (together with any matters arising) in the enquiry.

(3) So far as the amendment affects the amount stated in the self-assessment included in the return as the amount of tax payable, it does not take effect while the enquiry is in progress and—

(a) if the officer states in the closure notice that he has taken the amendment into account and that—

(i) the amendment has been taken into account in formulating the amendments contained in the notice, or

(ii) his conclusion is that the amendment is incorrect,

the amendment shall not take effect;

(b) otherwise, the amendment takes effect when the closure notice is issued.

(4) For the purposes of this section the period during which an enquiry is in progress is the whole of the period—

(a) beginning with the day on which notice of enquiry is given, and

(b) ending with the day on which the enquiry is completed.

9C Amendment of self-assessment during enquiry to prevent loss of tax

(1) This section applies where an enquiry is in progress into a return as a result of notice of enquiry by an officer of the Board under section 9A(1) of this Act.

(2) If the officer forms the opinion—

(a) that the amount stated in the self-assessment contained in the return as the amount of tax payable is insufficient, and

(b) that unless the assessment is immediately amended there is likely to be a loss of tax to the Crown,

he may by notice to the taxpayer amend the assessment to make good the deficiency.

(3) In the case of an enquiry which under section 9A(5) of this Act is limited to matters arising from an amendment of the return, subsection (2) above only applies so far as the deficiency is attributable to the amendment.

(4) For the purposes of this section the period during which an enquiry is in progress is the whole of the period—

(a) beginning with the day on which notice of enquiry is given, and

(b) ending with the day on which the enquiry is completed.

9D Choice between different Cases of Schedule D

(1) Where in the case of a return under section 8 or 8A of this Act—

(a) alternative methods are allowed by the Tax Acts for bringing amounts into charge to tax,

(b) the return is made using one of those methods but could have been made using an alternative method, and

(c) an officer of the Board determines which of the alternative methods is to be used,

the officer's determination is final and conclusive, for the purposes of any enquiry into the return, as to the basis of charge to be used.

(2) For the purposes of this section the cases where the Tax Acts allow alternative methods for bringing amounts into charge to tax are where they may be brought into charge either—

(a) in computing profits chargeable to tax under Case I or II of Schedule D, or

(b) as amounts within Case III, IV or V of that Schedule.".

(2) In section 9A(2)(a) of the Taxes Management Act 1970 (c. 9) (as substituted by sub-paragraph (1) above) as it applies in relation to returns for years of assessment before the year 2001-02, for "up to the end of the period of twelve months after the filing date" substitute " twelve months beginning with that date ".

Enquiry into partnership return

5 (1) For section 12AC of the Taxes Management Act 1970 (c. 9) (power to enquire into partnership return) substitute—

"**12AC Notice of enquiry**

(1) An officer of the Board may enquire into a partnership return if he gives notice of his intention to do so ("notice of enquiry")—

(a) to the partner who made and delivered the return, or his successor,

(b) within the time allowed.

(2) The time allowed is—

(a) if the return was delivered on or before the filing date, up to the end of the period of twelve months after the filing date;

(b) if the return was delivered after the filing date, up to and including the quarter day next following the first anniversary of the day on which the return was delivered;

(c) if the return is amended under section 12ABA of this Act, up to and including the quarter day next following the first anniversary of the day on which the amendment was made.

For this purpose the quarter days are 31st January, 30th April, 31st July and 31st October.

(3) A return which has been the subject of one notice of enquiry may not be the subject of another, except one given in consequence of an amendment (or another amendment) of the return under section 12ABA of this Act.

(4) An enquiry extends to anything contained in the return, or required to be contained in the return, including any claim or election included in the return, subject to the following limitation.

(5) If the notice of enquiry is given as a result of an amendment of the return under section 12ABA of this Act—

(a) at a time when it is no longer possible to give notice of enquiry under subsection (2)(a) or (b) above, or

(b) after an enquiry into the return has been completed,

the enquiry into the return is limited to matters to which the amendment relates or which are affected by the amendment.

(6) The giving of notice of enquiry under subsection (1) above at any time shall be deemed to include the giving of notice of enquiry—

(a) under section 9A(1) of this Act to each partner who at that time has made a return under section 8 or 8A of this Act or at any subsequent time makes such a return, or

(b) under paragraph 24 of Schedule 18 to the Finance Act 1998 to each partner who at that time has made a company tax return or at any subsequent time makes such a return.

(7) In this section "the filing date" means the day specified in the notice under section 12AA(2) of this Act or, as the case may be, subsection (3) of that section.

12AD Amendment of partnership return by taxpayer during enquiry

(1) This section applies if a partnership return is amended under section 12ABA of this Act (amendment of partnership return by taxpayer) at a time when an enquiry is in progress into the return.

(2) The amendment does not restrict the scope of the enquiry but may be taken into account (together with any matters arising) in the enquiry.

(3) So far as the amendment affects any amount stated in the partnership statement included in the return, it does not take effect while the enquiry is in progress and—

(a) if the officer states in the closure notice that he has taken the amendment into account and that—

(i) the amendment has been taken into account in formulating the amendments contained in the notice, or

(ii) his conclusion is that the amendment is incorrect,

the amendment shall not take effect;

(b) otherwise, the amendment takes effect when the closure notice is issued.

(4) Where the effect of an amendment is deferred under subsection (3) above—

(a) no amendment to give effect to that amendment ("the deferred amendment") shall be made under section 12ABA(3) of this Act (consequential amendment of partners' returns) while the enquiry is in progress;

(b) if the deferred amendment does not take effect but is taken into account as mentioned in subsection (3)(a)(i) above, section 28B(4) of this Act (amendment of partners' returns consequential on amendment of partnership return by closure notice) applies accordingly; and

(c) if the deferred amendment takes effect under subsection (3)(b) above, any necessary amendment under section 12ABA(3) of this Act may then be made.

(5) For the purposes of this section the period during which an enquiry is in progress is the whole of the period—

(a) beginning with the day on which notice of enquiry is given, and

(b) ending with the day on which the enquiry is completed.

12AE Choice between different Cases of Schedule D

(1) Where in the case of a partnership return—

(a) alternative methods are allowed by the Tax Acts for bringing amounts into charge to tax,

(b) the return is made using one of those methods but could have been made using an alternative method, and

(c) an officer of the Board determines which of the alternative methods is to be used,

the officer's determination is final and conclusive, for the purposes of any enquiry into the return, as to the basis of charge to be used.

(2) For the purposes of this section the cases where the Tax Acts allow alternative methods for bringing amounts into charge to tax are those specified—

(a) for income tax purposes, in section 9D(2) of this Act;

(b) for corporation tax purposes, in paragraph 84(2) or (3) of Schedule 18 to the Finance Act 1998.".

(2) In section 12AC(2)(a) of the Taxes Management Act 1970 (c. 9) (as substituted by sub-paragraph (1) above) as it applies in relation to returns for years of assessment before the year 2001-02, for "up to the end of the period of twelve months after the filing date" substitute " twelve months beginning with that date ".

PART 3

REFERRAL OF QESTIONS DURING ENQUIRY

Enquiry into personal, trustee or partnership return

6 (1) After Part 3 of the Taxes Management Act 1970 insert—

"**PART 3A**

REFERRAL OF QUESTIONS DURING ENQUIRY

Referral of questions during enquiry

28ZA (1) At any time when an enquiry is in progress under section 9A(1) or 12AC(1) of this Act, any question arising in connection with the subject-matter of the enquiry may be referred to the Special Commissioners for their determination.

(2) Notice of referral must be given—

(a) jointly by the taxpayer and an officer of the Board,

(b) in writing,

(c) to the Special Commissioners.

(3) The notice of referral must specify the question or questions being referred.

(4) More than one notice of referral may be given under this section in relation to an enquiry.

(5) For the purposes of this section the period during which an enquiry is in progress is the whole of the period—

(a) beginning with the day on which notice of enquiry is given, and

(b) ending with the day on which the enquiry is completed.

(6) In this section "the taxpayer" means—

(a) in relation to an enquiry under section 9A(1) of this Act, the person to whom the notice of enquiry was given;

(b) in relation to an enquiry under section 12AC(1) of this Act, the person to whom the notice of enquiry was given or his successor.

Withdrawal of notice of referral

28ZB (1) Either party may withdraw a notice of referral under section 28ZA of this Act by notice in accordance with this section.

(2) Notice of withdrawal must be given—

(a) in writing,

(b) to the other party to the referral and to the Special Commissioners,

(c) before the first hearing by the Special Commissioners in relation to the referral.

Regulations with respect to referrals

28ZC(1) The Lord Chancellor may make provision by regulations with respect to referrals to the Special Commissioners under—

(a) section 28ZA of this Act, or

(b) paragraph 31A of Schedule 18 to the Finance Act 1998.

(2) Regulations under subsection (1) above may, in particular—

(a) make provision with respect to any of the matters dealt with in the following provisions of this Act—

(i) section 50 (procedure before the Special Commissioners),

(ii) section 56 (statement of case for opinion of the High Court),

(iii) section 56A (appeals from the Special Commissioners), and

(iv) section 58 (proceedings in Northern Ireland), or

(b) provide for any of those provisions to apply, with such modifications as may be specified in the regulations, in relation to a referral to the Special Commissioners under the provisions mentioned in subsection (1) above.

(3) Regulations under subsection (1) above may—

(a) make different provision for different cases or different circumstances, and

(b) contain such supplementary, incidental, consequential and transitional provision as the Lord Chancellor thinks appropriate.

(4) Regulations under subsection (1) above shall—

(a) be made by statutory instrument, and

(b) be subject to annulment in pursuance of a resolution of either House of Parliament.

(5) In the following provisions any reference to an appeal includes a reference to a referral under section 28ZA of this Act or paragraph 31A of Schedule 18 to the Finance Act 1998—

(a) sections 56B, 56C and 56D of this Act (power of the Lord Chancellor to make regulations about the practice and procedure to be followed in connection with appeals to the Special Commissioners); and

(b) section 57 of this Act (power of the Board to make regulations about appeals relating to chargeable gains).

(6) Any regulations under section 56B or 57 of this Act which are in force immediately before the commencement of subsection (1) above shall apply in relation to referrals under section 28ZA of this Act or paragraph 31A of Schedule 18 to the Finance Act 1998, subject to any necessary modifications, as they apply in relation to appeals to the Special Commissioners.

(7) Regulations under this section relating to proceedings in Scotland shall not be made except with the consent of the Scottish Ministers.

Effect of referral on enquiry

28ZD(1) While proceedings on a referral under section 28ZA of this Act are in progress in relation to an enquiry—

(a) no closure notice shall be given in relation to the enquiry, and

(b) no application may be made for a direction to give such a notice.

(2) For the purposes of this section proceedings on a referral are in progress where—

(a) notice of referral has been given,

(b) the notice has not been withdrawn, and

(c) the questions referred have not been finally determined.

(3) For the purposes of subsection (2)(c) above a question referred is finally determined when—

(a) it has been determined by the Special Commissioners, and

(b) there is no further possibility of that determination being varied or set aside (disregarding any power to give permission to appeal out of time).

Effect of determination

28ZE(1) The determination of a question referred to the Special Commissioners under section 28ZA of this Act is binding on the parties to the referral in the same way, and to the same extent, as a decision on a preliminary issue in an appeal.

(2) The determination shall be taken into account by an officer of the Board—

(a) in reaching his conclusions on the enquiry, and

(b) in formulating any amendments of the return required to give effect to those conclusions.

(3) Any right of appeal under section 31(1)(a), (b) or (c) of this Act may not be exercised so as to reopen the question determined except to the extent (if any) that it could be reopened if it had been determined as a preliminary issue in that appeal.".

(2) This paragraph applies—

(a) where the notice of enquiry is given after the passing of this Act, or

(b) where the enquiry is in progress immediately before the passing of this Act.

For the purposes of paragraph (b) an enquiry is in progress until the officer's enquiries fall to be treated as completed under section 28A(5) or, as the case may be, section 28B(5) of the Taxes Management Act 1970 (c. 9) (as those provisions had effect apart from this Schedule).

Enquiry into company tax return

7 (1) In Part 4 of Schedule 18 to the Finance Act 1998 (c. 36) (enquiry into company tax return), after paragraph 31 insert—

"**Referral of questions to Special Commissioners during enquiry**

31A (1) At any time when an enquiry is in progress into a company's tax return any question arising in connection with the subject-matter of the enquiry may be referred to the Special Commissioners for their determination.

(2) Notice of referral must be given—

(a) jointly by the company and the Inland Revenue,

(b) in writing,

(c) to the Special Commissioners.

(3) The notice of referral must specify the question or questions being referred.

(4) More than one notice of referral may be given under this paragraph in relation to an enquiry.

(5) For the purposes of this paragraph the period during which an enquiry is in progress is the whole of the period—

(a) beginning with the day on which the Inland Revenue give notice of enquiry into the return, and

(b) ending with the day on which the enquiry is completed.

Withdrawal of notice of referral

31B (1) The Inland Revenue or the company may withdraw a notice of referral under paragraph 31A by notice in accordance with this paragraph.

(2) Notice of withdrawal must be given—

(a) in writing,

(b) to the other party to the referral and to the Special Commissioners,

(c) before the first hearing by the Special Commissioners in relation to the referral.

Effect of referral on enquiry

31C (1) While proceedings on a referral under paragraph 31A are in progress in relation to an enquiry—

(a) no closure notice shall be given in relation to the enquiry, and

(b) no application may be made for a direction to give such a notice.

(2) For the purposes of this paragraph proceedings on a referral are in progress where—

(a) notice of referral has been given,

(b) the notice has not been withdrawn, and

(c) the questions referred have not been finally determined.

(3) For the purposes of sub-paragraph (2)(c) a question referred is finally determined when—

(a) it has been determined by the Special Commissioners, and

(b) there is no further possibility of that determination being varied or set aside (disregarding any power to grant permission to appeal out of time).

Effect of determination

31D (1) The determination of a question referred to the Special Commissioners under paragraph 31A is binding on the parties to the referral in the same way, and to the same extent, as a decision on a preliminary issue in an appeal.

(2) The determination shall be taken into account by the Inland Revenue in reaching their conclusions on the enquiry.

(3) Any right of appeal under paragraph 30 or 34(3) may not be exercised so as to reopen the question determined except to the extent (if any) that it could be reopened if it had been determined as a preliminary issue in that appeal.".

(2) This paragraph applies in relation to an enquiry under Part 4 of Schedule 18 to the Finance Act 1998 (c. 36)—

(a) in relation to which notice of enquiry is given after the passing of this Act, or

(b) which is in progress (within the meaning of paragraph 31(5) of that Schedule) immediately before the passing of this Act.

PART 4

PROCEDURE ON COMPLETION OF ENQUIRY

Procedure on completion of enquiry into personal or trustee return

8 (1) For section 28A of the Taxes Management Act 1970 (c. 9) (amendment of self-assessment where enquiries made) substitute—

"**28A Completion of enquiry into personal or trustee return**

(1) An enquiry under section 9A(1) of this Act is completed when an officer of the Board by notice (a "closure notice") informs the taxpayer that he has completed his enquiries and states his conclusions.

In this section "the taxpayer" means the person to whom notice of enquiry was given.

(2) A closure notice must either—

(a) state that in the officer's opinion no amendment of the return is required, or

(b) make the amendments of the return required to give effect to his conclusions.

(3) A closure notice takes effect when it is issued.

(4) The taxpayer may apply to the Commissioners for a direction requiring an officer of the Board to issue a closure notice within a specified period.

(5) Any such application shall be heard and determined in the same way as an appeal.

(6) The Commissioners hearing the application shall give the direction applied for unless they are satisfied that there are reasonable grounds for not issuing a closure notice within a specified period."

(2) This paragraph applies—

(a) where the notice of enquiry is given after the passing of this Act, or

(b) where the enquiry is in progress immediately before the passing of this Act.

For the purposes of paragraph (b) an enquiry is in progress until the officer's enquiries fall to be treated as completed under section 28A(5) of the Taxes Management Act 1970 (c. 9) (as that provision had effect apart from this Schedule).

Procedure on completion of enquiry into partnership return

9 (1) For section 28B of the Taxes Management Act 1970 (amendment of partnership statement where enquiries made) substitute—

"**28B Completion of enquiry into partnership return**

(1) An enquiry under section 12AC(1) of this Act is completed when an officer of the Board by notice (a "closure notice") informs the taxpayer that he has completed his enquiries and states his conclusions.

In this section "the taxpayer" means the person to whom notice of enquiry was given or his successor.

(2) A closure notice must either—

(a) state that in the officer's opinion no amendment of the return is required, or

(b) make the amendments of the return required to give effect to his conclusions.

(3) A closure notice takes effect when it is issued.

(4) Where a partnership return is amended under subsection (2) above, the officer shall by notice to each of the partners amend—

(a) the partner's return under section 8 or 8A of this Act, or

(b) the partner's company tax return,

so as to give effect to the amendments of the partnership return.

(5) The taxpayer may apply to the Commissioners for a direction requiring an officer of the Board to issue a closure notice within a specified period.

(6) Any such application shall be heard and determined in the same way as an appeal.

(7) The Commissioners hearing the application shall give the direction applied for unless they are satisfied that there are reasonable grounds for not issuing a closure notice within a specified period.".

(2) This paragraph applies—

(a) where the notice of enquiry is given after the passing of this Act, or

(b) where the enquiry is in progress immediately before the passing of this Act.

For the purposes of paragraph (b) an enquiry is in progress until the officer's enquiries fall to be treated as completed under section 28B(5) of the Taxes Management Act 1970 (c. 9) (as that provision had effect apart from this Schedule).

Procedure on completion of enquiry into claims, &c. not included in returns

10 (1) Schedule 1A to the Taxes Management Act 1970 (claims, &c. not included in returns) is amended as follows.

(2) For paragraph 7 (amendments of claims where enquiries made) substitute—

"**Completion of enquiry into claim**

7 (1) An enquiry under paragraph 5 above is completed when an officer of the Board by notice (a "closure notice") informs the claimant that he has completed his enquiries and states his conclusions.

(2) In the case of a claim for discharge or repayment of tax, the closure notice must either—

(a) state that in the officer's opinion no amendment of the claim is required, or

(b) if in the officer's opinion the claim is insufficient or excessive, amend the claim so as to make good or eliminate the deficiency or excess.

In the case of an enquiry falling within paragraph 5(1)(b) above, paragraph (b) above only applies so far as the deficiency or excess is attributable to the claimant's amendment.

(3) In the case of a claim that is not a claim for discharge or repayment of tax, the closure notice must either—

(a) allow the claim, or

(b) disallow the claim, wholly or to such extent as appears to the officer appropriate.

(4) A closure notice takes effect when it is issued.

(5) The claimant may apply to the Commissioners for a direction requiring an officer of the Board to issue a closure notice within a specified period.

(6) Any such application shall be heard and determined in the same way as an appeal.

(7) The Commissioners hearing the application shall give the direction applied for unless they are satisfied that there are reasonable grounds for not issuing a closure notice within a specified period.

(8) In relation to a partnership claim, references in this paragraph to the claimant are to the person who made the claim or his successor.".

(3) This paragraph applies—

(a) where the notice of enquiry is given after the passing of this Act, or

(b) where the enquiry is in progress immediately before the passing of this Act.

For the purposes of paragraph (b) an enquiry is in progress until the officer's enquiries fall to be treated as completed under paragraph 7(4) of Schedule 1A to the Taxes Management Act 1970 (c. 9) (as that provision had effect apart from this Schedule).

PART 5

MINOR AND CONSEQUENTIAL AMENDMENTS

Appeals

11 (1) For section 31 of the Taxes Management Act 1970 (right of appeal) substitute—

"**31 Appeals: right of appeal**

(1) An appeal may be brought against—

(a) any amendment of a self-assessment under section 9C of this Act (amendment by Revenue during enquiry to prevent loss of tax),

(b) any conclusion stated or amendment made by a closure notice under section 28A or 28B of this Act (amendment by Revenue on completion of enquiry into return),

(c) any amendment of a partnership return under section 30B(1) of this Act (amendment by Revenue where loss of tax discovered), or

(d) any assessment to tax which is not a self-assessment.

(2) An appeal under subsection (1)(a) above against an amendment of a self-assessment made while an enquiry is in progress shall not be heard and determined until the enquiry is completed.

(3) A determination under section 9D or 12AE of this Act (choice between different Cases of Schedule D) may not be questioned on an appeal under this section.

(4) This section has effect subject to any express provision in the Taxes Acts, including in particular any provision making one kind of assessment conclusive in an appeal against another kind of assessment.

31A Appeals: notice of appeal

(1) Notice of an appeal under section 31 of this Act must be given—

(a) in writing,

(b) within 30 days after the specified date,

(c) to the relevant officer of the Board.

(2) In relation to an appeal under section 31(1)(a) or (c) of this Act—

(a) the specified date is the date on which the notice of amendment was issued, and

(b) the relevant officer of the Board is the officer by whom the notice of amendment was given.

(3) In relation to an appeal under section 31(1)(b) of this Act—

(a) the specified date is the date on which the closure notice was issued, and

(b) the relevant officer of the Board is the officer by whom the closure notice was given.

(4) In relation to an appeal under section 31(1)(d) of this Act—

(a) the specified date is the date on which the notice of assessment was issued, and

(b) the relevant officer of the Board is the officer by whom the notice of assessment was given.

(5) The notice of appeal must specify the grounds of appeal.

(6) On the hearing of the appeal the Commissioners may allow the appellant to put forward grounds not specified in the notice, and take them into consideration, if satisfied that the omission was not wilful or unreasonable.

31B Appeals: appeals to General Commissioners

(1) An appeal under section 31(1) of this Act shall be to the General Commissioners, subject to—

(a) section 31C of this Act (appeals to be brought to Special Commissioners),

(b) any provision made by or under Part 5 of this Act, and

(c) any other provision of the Taxes Acts providing for an appeal to be brought to the Special Commissioners to the exclusion of the General Commissioners.

(2) Subsection (1) above has effect subject to any election under section 31D of this Act (election to take appeal to Special Commissioners).

31C Appeals: appeals to Special Commissioners

(1) Unless the Special Commissioners otherwise direct, an appeal under section 31(1)(a), (b) or (c) of this Act shall be to the Special Commissioners if—

(a) the appeal relates to a return in relation to which notice of enquiry has been given under section 9A(1) or 12AC(1) of this Act, and

(b) notice has been given under section 28ZA of this Act referring a question relating to the subject-matter of that enquiry to the Special Commissioners.

This applies even if the notice of referral was subsequently withdrawn.

(2) An appeal under section 31(1)(d) of this Act (appeal against assessment other than self-assessment) shall be to the Special Commissioners if the assessment was made—

(a) by the Board, or

(b) under section 350 of the principal Act.

31D Appeals: election to bring appeal before Special Commissioners

(1) The appellant may elect (in accordance with section 46(1) of this Act) to bring before the Special Commissioners an appeal under section 31(1) of this Act that would otherwise be to the General Commissioners.

(2) Any such election above shall be disregarded if—

(a) the appellant and the inspector or other officer of the Board agree in writing, at any time before the determination of the appeal, that it is to be disregarded, or

(b) the General Commissioners have given a direction under subsection (5) below and have not revoked it.

(3) Where an election has been made under subsection (1) above, the inspector or other officer of the Board may refer the election to the General Commissioners.

(4) A reference under subsection (3) above must be made—

(a) after giving notice to the appellant, and

(b) before the determination of the appeal in respect of which the election has been made.

(5) On a reference under subsection (3) above the Commissioners shall, unless they are satisfied that the appellant has arguments to present or evidence to adduce on the merits of the appeal, direct that the election be disregarded.

(6) If at any time after giving a direction under subsection (5) above (but before the determination of the appeal) the General Commissioners are satisfied that the appellant has arguments to present or evidence to adduce on the merits of the appeal, they shall revoke the direction.

(7) A decision to give or revoke a direction under subsection (5) above shall be final.".

(2) This paragraph applies in relation to—

(a) amendments of a self-assessment under section 9C of the Taxes Management Act 1970 (c. 9) as inserted by paragraph 4 of this Schedule,

(b) closure notices issued under section 28A(1) or 28B(1) of that Act as substituted by paragraphs 8 and 9 of this Schedule,

(c) amendments of partnership returns under section 30B(1) of that Act where notice of the amendment is issued after the passing of this Act, and

(d) assessments to tax which are not self-assessments where the notice of the assessment is issued after the passing of this Act.

12 (1) Schedule 1A to the Taxes Management Act 1970 (c. 9) (claims etc. not included in returns) is amended as follows.

(2) For paragraph 9(1) (appeals against amendments under paragraph 7) substitute—

"(1) An appeal may be brought against—

(a) any conclusion stated or amendment made by a closure notice under paragraph 7(2) above, or

(b) any decision contained in a closure notice under paragraph 7(3) above.

(1A) Notice of the appeal must be given—

(a) in writing,

(b) within 30 days after the date on which the closure notice was issued,

(c) to the officer of the Board by whom the closure notice was given.".

(3) In paragraph 9(2) (extended time limit for appeal) for "(1)" substitute " (1A)(b) ".

(4) In paragraph 9(3) (Commissioners' power to vary amendment) for "amendment under paragraph 7(3) above" substitute " amendment made by a closure notice under paragraph 7(2) above ".

(5) In paragraph 9(4) (application of paragraph 8 where amendment varied) for "an amendment made under paragraph 7(3) above" substitute " any such amendment ".

(6) In paragraph 9(5) (claims disallowed) for "specified in a notice under paragraph 7(3A)" substitute " which was the subject of a decision contained in a closure notice under paragraph 7(3) ".

(7) In paragraph 10 (appeals to be heard by the Special Commissioners) for "an amendment under paragraph 7(3) above of" substitute " any conclusion stated or amendment made by a closure notice under paragraph 7(2) above relating to ".

(8) This paragraph applies in relation to closure notices issued under paragraph 7 of Schedule 1A to the Taxes Management Act 1970 as substituted by paragraph 10 of this Schedule.

13 (1) Part 11 of Schedule 18 to the Finance Act 1998 (c. 36) (company tax returns: supplementary provisions) is amended as follows.

(2) In paragraph 93 (general jurisdiction of Special or General Commissioners) after sub-paragraph (2) insert—

"(2A) Unless the Special Commissioners otherwise direct, an appeal under paragraph 30 or 34(3) shall be to the Special Commissioners if—

(a) the appeal relates to a return in relation to which notice of enquiry has been given under paragraph 24, and

(b) notice has been given under paragraph 31A referring a question relating to the subject-matter of that enquiry to the Special Commissioners.

This applies even if the notice of referral was subsequently withdrawn.".

Due date for payment after amendment or correction of return

14 (1) Section 59B of the Taxes Management Act 1970 (c. 9) (payment of income tax and capital gains tax) is amended as follows.

(2) In subsection (4A)(a)—

(a) for "28A(5)" substitute " 28A(1) ", and

(b) for "the officer's enquiries are treated as" substitute " the enquiry is ".

(3) For subsection (5) substitute—

"(5) An amount of tax which is payable or repayable as a result of the amendment or correction of a self-assessment under—

(a) section 9ZA, 9ZB, 9C or 28A of this Act (amendment or correction of return under section 8 or 8A of this Act), or

(b) section 12ABA(3)(a), 12ABB(6)(a), 28B(4)(a), 30B(2)(a), 33A(4)(a) or 50(9)(a) of this Act (amendment of partner's return to give effect to amendment or correction of partnership return),

is payable (or repayable) on or before the day specified by the relevant provision of Schedule 3ZA to this Act.".

15 After Schedule 3 to the Taxes Management Act 1970 insert—

"SCHEDULE
3ZA

DATE BY WHICH PAYMENT TO BE MADE AFTER AMENDMENT OR CORRECTION OF SELF-ASSESSMENT

General

1 (1) This Schedule specifies the day by which tax has to be paid (or repaid) following the amendment or correction of a self-assessment.

(2) If in any case the general rules in section 59B(3) and (4) of this Act give a later day, those rules apply instead.

(3) The provisions of this Schedule have effect subject to section 55(6) and (9) of this Act (provisions as to postponement of payment, etc. in case of appeal).

Amendment of personal or trustee return by the taxpayer

2 (1) This paragraph applies where an amount of tax is payable or repayable as a result of the amendment of a self-assessment under section 9ZA of this Act (amendment of personal or trustee return by taxpayer).

(2) Subject to sub-paragraph (3) below, the amount is payable (or repayable) on or before the day following the end of the period of 30 days beginning with the day on which the notice of amendment was given.

(3) If section 9B(3) of this Act applies (amendment of self-assessment by taxpayer during enquiry: deferral of effect), then—

(a) if the amendment is taken into account as mentioned in paragraph (a)(i) of that subsection, paragraph 5 below (amendment of personal or trustee return by closure notice) applies accordingly; and

(b) if the amendment takes effect under paragraph (b) of that subsection on the issue of the closure notice, the amount is payable (or repayable) on or before the day following the end of the period of 30 days beginning with the day on which the closure notice was given.

Correction of personal or trustee return by Revenue

3 (1) This paragraph applies where an amount of tax is payable or repayable as a result of the correction of a self-assessment under section 9ZB of this Act (correction of personal or trustee return by the Revenue).

(2) The amount is payable (or repayable) on or before the day following the end of the period of 30 days beginning with the day on which the notice of correction was given.

Amendment of personal or trustee return to prevent loss of tax

4 (1) This paragraph applies where an amount of tax is payable or repayable as a result of the amendment of a self-assessment under section 9C of this Act (amendment of personal or trustee return by Revenue to prevent loss of tax).

(2) The amount is payable (or repayable) on or before the day following the end of the period of 30 days beginning with the day on which the notice of amendment was given.

Amendment of personal or trustee return by closure notice

5 (1) This paragraph applies where an amount of tax is payable or repayable as a result of the amendment of a self-assessment under section 28A of this Act (amendment of personal or trustee return by closure notice following enquiry).

(2) The amount is payable (or repayable) on or before the day following the end of the period of 30 days beginning with the day on which the closure notice was given.

Amendment consequential on amendment of partnership return by taxpayer

6 (1) This paragraph applies where an amount of tax is payable or repayable as a result of the amendment of a self-assessment under section 12ABA(3)(a) of this Act (consequential amendment of partner's personal or trustee return where partnership return amended by taxpayer).

(2) The amount is payable (or repayable) on or before the day following the end of the period of 30 days beginning with the day on which the notice under section 12ABA(3)(a) of this Act was given.

Amendment consequential on correction of partnership return by Revenue

7 (1) This paragraph applies where an amount of tax is payable or repayable as a result of the amendment of a self-assessment under section 12ABB(6)(a) of this Act (consequential amendment of partner's personal or trustee return where partnership return corrected by Revenue).

(2) The amount is payable (or repayable) on or before the day following the end of the period of 30 days beginning with the day on which the notice under section 12ABB(6)(a) of this Act was given.

Amendment consequential on amendment of partnership return by closure notice

8 (1) This paragraph applies where an amount of tax is payable or repayable as a result of the amendment of a self-assessment under section 28B(4)(a) of this Act (consequential amendment of partner's personal or trustee return where partnership return amended by closure notice).

(2) The amount is payable (or repayable) on or before the day following the end of the period of 30 days beginning with the day on which the notice under section 28B(4)(a) of this Act was given.

Amendment consequential on amendment of partnership return to prevent loss of tax

9 (1) This paragraph applies where an amount of tax is payable or repayable as a result of the amendment of a self-assessment under section 30B(2)(a) of this Act (consequential amendment of partner's personal or trustee return where partnership return amended by Revenue to prevent loss of tax).

(2) The amount is payable (or repayable) on or before the day following the end of the period of 30 days beginning with the day on which the notice under section 30B(2)(a) of this Act was given.

Amendment consequential on amendment of partnership return by way of error or mistake relief

10 (1) This paragraph applies where an amount of tax is payable or repayable as a result of the amendment of a self-assessment under section 33A(4)(a) of this Act (consequential amendment of partner's personal or trustee return where partnership return amended by Revenue to afford relief in case of error or mistake).

(2) The amount is payable (or repayable) on or before the day following the end of the period of 30 days beginning with the day on which the notice under section 33A(4)(a) of this Act was given.

Amendment consequential on reduction or increase on appeal of amounts stated in partnership statement

11 (1) This paragraph applies where an amount of tax is payable or repayable as a result of the amendment of a self-assessment under section 50(9)(a) of this Act (consequential amendment of partner's personal or trustee return where partnership statement amended by Revenue following decision on appeal).

(2) The amount is payable (or repayable) on or before the day following the end of the period of 30 days beginning with the day on which the notice under section 50(9)(a) of this Act was given.".

16 (1) Paragraphs 14 and 15 above apply where the relevant day is, or is after, the day on which this Act is passed.

(2) In sub-paragraph (1) the "relevant day" means the first day of the period of 30 days specified in the relevant provision of Schedule 3ZA to the Taxes Management Act 1970 (c. 9) (as inserted by paragraph 15 above).

Effect of return on recovery proceedings

17 (1) In section 28C of the Taxes Management Act 1970 (determination of tax in absence of personal or trustee return), in subsection (4) (effect of subsequent self-assessment on recovery proceedings), for "an officer of the Board has commenced any proceedings" substitute " proceedings have been commenced ".

(2) In paragraph 40 of Schedule 18 to the Finance Act 1998 (c. 36) (determination of tax in absence of company tax return), in sub-paragraph (4) (effect of subsequent self-assessment on recovery proceedings), for "the Inland Revenue have begun proceedings" substitute " proceedings have been begun ".

(3) This paragraph applies in relation to proceedings begun after the passing of this Act.

Other amendments of the Taxes Management Act 1970

18 (1) Section 12AA of the Taxes Management Act 1970 (partnership return) is amended as follows.

(2) After subsection (10) insert—

"(10A) In this Act a "partnership return" means a return in pursuance of a notice under subsection (2) or (3) above.".

(3) In subsection (11) for "a return in pursuance of a notice under subsection (2) or (3) above" substitute " a partnership return ".

19 In section 12AB(1) of the Taxes Management Act 1970 (partnership return to include partnership statement), for "return under section 12AA of this Act" substitute " partnership return ".

20 (1) Section 12B of the Taxes Management Act 1970 (preservation of records) is amended as follows.

(2) In subsection (1)(b)(i)—

(a) omit "or any amendment of the return",

(b) for "28A(5) or 28B(5)" substitute " 28A(1) or 28B(1) ", and

(c) omit "treated as".

(3) In subsection (1)(b)(ii) omit "or any amendment of the return".

21 (1) Section 19A of the Taxes Management Act 1970 (c. 9) (power to call for documents for purposes of certain enquiries) is amended as follows.

(2) For subsection (1) substitute—

"(1) This section applies where an officer of the Board gives notice of enquiry under section 9A(1) or 12AC(1) of this Act to a person ("the taxpayer").".

(3) In subsection (2)—

(a) for "enquiring into the return or amendment" substitute " the enquiry ", and

(b) in paragraph (a), for "the return is incorrect or incomplete or the amendment is incorrect, and" substitute—

"—

(i) the return is incorrect or incomplete, or

(ii) in the case of an enquiry which is limited under section 9A(5) or 12AC(5) of this Act, the amendment to which the enquiry relates is incorrect, and".

(4) In subsection (2A)(a) for "28A(7A)(d) or 28B(6A)(d)" substitute " 9D(1)(c) or 12AE(1)(c) ".

(5) In subsection (5) for "any pending appeal by him" substitute—

"—

(i) any pending appeal by him, or

(ii) any pending referral to the Special Commissioners under section 28ZA of this Act to which he is a party.".

22 In section 29(7)(a)(ii) of the Taxes Management Act 1970 (assessment where loss of tax discovered), for "any return with respect to the partnership under section 12AA of this Act" substitute " any partnership return with respect to the partnership ".

23 (1) Section 30 of the Taxes Management Act 1970 (recovery of overpayment of tax, etc.) is amended as follows.

(2) In subsection (5)(b)—

(a) omit ", or an amendment of such a return,",

(b) for "28A(5)" substitute " 28A(1) ", and

(c) for "the officer's enquiries are treated as" substitute " the enquiry is ".

24 (1) Section 30B of the Taxes Management Act 1970 (amendment of partnership statement where loss of tax discovered) is amended as follows.

(2) In subsection (1) for "amend the statement" substitute " amend the partnership return ".

(3) For subsection (2) substitute—

"(2) Where a partnership return is amended under subsection (1) above, the officer shall by notice to each of the relevant partners amend—

(a) the partner's return under section 8 or 8A of this Act, or

(b) the partner's company tax return,

so as to give effect to the amendments of the partnership return.".

(4) In subsections (6)(a) and (7)(b) for "return under section 12AA of this Act" substitute " partnership return ".

25 (1) Section 33A of the Taxes Management Act 1970 (c. 9) (error or mistake in partnership statement) is amended as follows.

(2) In the sidenote and in subsections (1), (3), (5) and (9) for "partnership statement" substitute " partnership return ".

(3) For subsection (4) substitute—

"(4) Where a partnership return is amended under subsection (3) above, the Board shall by notice to each of the relevant partners amend—

(a) the partner's return under section 8 or 8A of this Act, or

(b) the partner's company tax return,

so as to give effect to the amendments of the partnership return.".

26 In section 42(6)(a) of the Taxes Management Act 1970 (procedure for making claims, etc.), for "return under section 12AA of this Act" substitute " partnership return ".

27 (1) Section 46B(2) of the Taxes Management Act 1970 (questions to be determined by Special Commissioners: appeals to which the section applies) is amended as follows.

(2) For paragraphs (a), (b) and (c) substitute—

"(a) an appeal against an amendment of a self-assessment under section 9C of this Act or paragraph 30 of Schedule 18 to the Finance Act 1998;

(aa) an appeal against an amendment of a return under paragraph 34(2) of Schedule 18 to the Finance Act 1998;

(b) an appeal against a conclusion stated or amendment made by a closure notice under section 28A or 28B of this Act;

(c) an appeal against an amendment of a partnership return under section 30B(1) of this Act;".

(3) In paragraph (e), for "an amendment under paragraph 7(3) of Schedule 1A to this Act of" substitute " a conclusion stated or amendment made by a closure notice under paragraph 7(2) of Schedule 1A to this Act relating to ".

(4) In paragraph (f), for "notice under paragraph 7(3A)" substitute " closure notice under paragraph 7(3) ".

28 (1) Section 46C of the Taxes Management Act 1970 (jurisdiction of Special Commissioners over certain claims) is amended as follows.

(2) In subsection (2) for paragraphs (a) and (b) substitute—

"(a) an appeal against an amendment of a self-assessment under section 9C of this Act or paragraph 30 of Schedule 18 to the Finance Act 1998;

(b) an appeal against an amendment of a return under paragraph 34(2) of Schedule 18 to the Finance Act 1998;

(c) an appeal against a conclusion stated or amendment made by a closure notice under section 28A or 28B of this Act;

(d) an appeal against an amendment of a partnership return under section 30B(1) of this Act.".

29 (1) Section 46D(2) of the Taxes Management Act 1970 (c. 9) (questions to be determined by Lands Tribunal: appeals to which the section applies) is amended as follows.

(2) For paragraphs (a), (b) and (c) substitute—

"(a) an appeal against an amendment of a self-assessment under section 9C of this Act or paragraph 30 of Schedule 18 to the Finance Act 1998;

(aa) an appeal against an amendment of a return under paragraph 34(2) of Schedule 18 to the Finance Act 1998;

(b) an appeal against a conclusion stated or amendment made by a closure notice under section 28A or 28B of this Act;

(c) an appeal against an amendment of a partnership return under section 30B(1) of this Act;".

(3) In paragraph (e), for "an amendment under paragraph 7(3) of Schedule 1A to this Act of" substitute "a conclusion stated or amendment made by a closure notice under paragraph 7(2) of Schedule 1A to this Act relating to".

(4) In paragraph (f), for "notice under paragraph 7(3A)" insert "closure notice under paragraph 7(3)".

30 (1) Section 50 of the Taxes Management Act 1970 (procedure on appeals) is amended as follows.

(2) In subsection (6)—

(a) in paragraph (a), omit the words from "by reason of" to "Finance Act 1998", and

(b) in paragraph (b), omit the words from "by reason of" to "this Act".

(3) In subsection (7)—

(a) in paragraph (a), omit the words from "which has been amended" to the end of the paragraph, and

(b) in paragraph (b), omit the words from "which has been amended" to "this Act".

(4) In subsection (7A) for "specified in a notice under section 28A(4A)" substitute "which was the subject of a decision contained in a closure notice under section 28A".

(5) In subsection (9) for paragraph (a) substitute—

"(a) the partner's return under section 8 or 8A of this Act, or".

31 (1) Section 55 of the Taxes Management Act 1970 (recovery of tax) is amended as follows.

(2) For subsection (1)(a) substitute—

"(a) an amendment of a self-assessment—

(i) under section 9C of this Act, or

(ii) under paragraph 30 or 34(2) of Schedule 18 to the Finance Act 1998,

(aa) a conclusion stated or amendment made by a closure notice under section 28A or 28B of this Act,".

(3) In subsection (2) for "by the amendment or assessment" substitute—

"—

(a) by the amendment or assessment, or

(b) where the appeal is against a conclusion stated by a closure notice, as a result of that conclusion,".

(4) In subsection (3)—

(a) after "or assessment" insert ", or as a result of the conclusion stated in the closure notice,", and

(b) for "the date of the issue of the notice of amendment or assessment" substitute "the specified date".

(5) In subsection (3A)—

(a) for "the date of the issue of the notice of amendment or assessment" substitute "the specified date", and

(b) after "the amendment or assessment" insert ", or as a result of the conclusion stated in the closure notice".

(6) In subsection (9)(a) after "the amendment or assessment" insert ", or as a result of the conclusion stated in the closure notice,".

(7) For subsection (10) substitute—

"(10) In subsection (3) above, "inspector" means the inspector or other officer of the Board—

(a) by whom the notice of amendment or assessment was issued, or

(b) in the case of an appeal against a conclusion stated or amendment made by a closure notice, by whom the closure notice was issued.

(10A) In this section "the specified date" means the date of—

(a) the issue of the notice of amendment or assessment, or

(b) in the case of an appeal against a conclusion stated or amendment made by a closure notice, the issue of the closure notice.

(10B) References in this section to an agreement being come to with an appellant, and to the giving of notice to or by an appellant, include references to an agreement being come to with, and the giving of notice to or by, a person acting on behalf of the appellant in relation to the appeal.".

32 In section 95A(1)(a) of the Taxes Management Act 1970 (c. 9) (incorrect partnership return or accounts)—

(a) in sub-paragraph (i), for "incorrect return of a kind mentioned in section 12AA of this Act" substitute "incorrect partnership return"; and

(b) in sub-paragraph (ii), for "return of such a kind" substitute " partnership return ".

33 (1) Section 118(1) of the Taxes Management Act 1970 (interpretation) is amended as follows.

(2) At the appropriate place insert—

""partnership return" has the meaning given by section 12AA(10A) of this Act,".

(3) In the definition of "successor" for "a return under section 12AA of this Act" substitute " a partnership return ".

34 (1) Schedule 1A to the Taxes Management Act 1970 (claims etc. not included in returns) is amended as follows.

(2) In paragraph 2A(2)(a) (keeping and preserving records until enquiries completed)—

(a) for "7(4)" substitute " 7(1) ", and

(b) omit "treated as".

(3) In paragraph 4(3)(a) (giving effect to claims and amendments where there is an enquiry)—

(a) for "7(4)" substitute " 7(1) ", and

(b) for "the officer's enquiries are treated as" substitute " the enquiry is ".

(4) In paragraph 8(1) (giving effect to amendments of non-partnership claim) for "of a claim other than a partnership claim being amended under paragraph 7(2) or (3)" substitute " after the date of issue of a closure notice amending a claim other than a partnership claim under paragraph 7(2) ".

(5) In paragraph 8(2) (giving effect to amendments of partnership claim) for "of a claim being amended under paragraph 7(2) or (3)" substitute " after the date of issue of a closure notice amending a partnership claim under paragraph 7(2) ".

Consequential amendments of other enactments

35 (1) The Taxes Act 1988 is amended as follows.

(2) In section 379A(3) (Schedule A losses: claim for relief) for "self-assessment previously made by the claimant under section 9" substitute " return made by the claimant under section 8 or 8A ".

(3) In Schedule 28AA (provision not at arm's length) in paragraph 6(7), in the definition of "relevant notice"—

(a) for paragraph (a) substitute—

"(a) a closure notice under section 28A(1) or 28B(1) of the Management Act in relation to an enquiry into a return under section 8 or 8A of that Act or into a partnership return;";

(b) in paragraph (e) for "partnership statement" substitute " partnership return ".

(4) In paragraph 6(7) of that Schedule, in the definition of "voluntary amendment" for the words from "any amendment" to the end substitute—

"—

(a) an amendment under section 9ZA or 12ABA of the Management Act (amendment of personal, trustee or partnership return by taxpayer), or

(b) an amendment under Schedule 18 to the Finance Act 1998 other than one made in response to the giving of a relevant notice.".

36 (1) Schedule 19 to the Finance Act 1993 (c. 34) (Lloyd's underwriters: assessment and collection of tax) is amended as follows.

(2) In paragraph 4(3) (application of section 31(5) to (5E) of the 1970 Act to appeal against a determination of a syndicate's profit or loss)—

(a) for "(5) to (5E) of section 31" substitute " (5) and (6) of section 31A and subsections (2) to (7) of section 31D ", and

(b) for "(4) of that section" substitute " (1) of section 31D of that Act ".

(3) In paragraph 7(2)(a) (application of section 31 of the 1970 Act) for "section 31" substitute " section 31A ".

37 (1) In Schedule 22 to the Finance Act 1995 (c. 4) (prevention of exploitation of self-assessment transitional provisions), Part 3 (procedural and other provisions) is amended as follows.

(2) In paragraph 11(2) for "partnership statement" substitute " partnership return ".

(3) In paragraph 11(3)—

(a) in paragraph (a)—

(i) for "an assessment under section 9 of the Management Act" substitute " a return under section 8 or 8A of the Management Act (personal or trustee return) ";

(ii) for "partnership statement under section 12AB of that Act" substitute " partnership return "; and

(iii) for "assessment or statement" substitute "return"; and

(b) for paragraph (b) substitute—

"(b) no such return has been so made.".

(4) In paragraph 12(1) for "an assessment made under section 9 of the Management Act (returns to include self-assessment)" substitute " a return under section 8 or 8A of the Management Act (personal or trustee return) ".

(5) In paragraph 12(2)—

(a) in paragraph (a)—

(i) for "an assessment under section 9 of the Management Act" substitute " a return under section 8 or 8A of the Management Act (personal or trustee return) "; and

(ii) for "that assessment" substitute " that return "; and

(b) for paragraph (b) substitute—

"(b) no such return has been so made.".

38 (1) The Finance Act 1998 (c. 36) is amended as follows.

(2) In section 110 (determinations requiring the sanction of the Board)—

(a) in subsection (1)(b) for "partnership statement" substitute " partnership return ", and

(b) in subsection (9), for paragraph (a) of the definition of "closure notice" substitute—

"(a) a closure notice under section 28A(1) or 28B(1) of the Taxes Management Act 1970 in relation to an enquiry into a return under section 8 or 8A of that Act or into a partnership return; or".

(3) In section 111(6) (notice to potential claimants)—

(a) for paragraph (a) substitute—

"(a) a closure notice under section 28A(1) or 28B(1) of the Taxes Management Act 1970 in relation to an enquiry into a return under section 8 or 8A of that Act or into a partnership return;",

and

(b) in paragraph (e) for "partnership statement" substitute " partnership return ".

(4) In paragraph 27 of Schedule 18 (notice to produce documents for purposes of enquiry into company return), in sub-paragraph (5) for "any pending appeal by the company" substitute—

"—

(a) any pending appeal by the company, or

(b) any pending referral to the Special Commissioners under paragraph 31A to which the company is a party.".

39 In section 12(5) of the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2) (application of section 31(5A) to (5E) of the 1970 Act in relation to elections under section 12(4))—

(a) for "(5A) to (5E) of section 31" substitute " (2) to (7) of section 31D ", and

(b) for "subsection (4) of that section" substitute " subsection (1) of that section ".

40 In Article 11(5) of the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671) (application of section 31(5A) to (5E) of the 1970 Act in relation to elections under Article 11(4))—

(a) for "(5A) to (5E) of section 31" substitute " (2) to (7) of section 31D ", and

(b) for "subsection (4) of that section" substitute " subsection (1) of that section ".

SCHEDULE 30

Section 92.

STAMP DUTY: LAND IN DISADVANTAGED AREAS

Stamp duty reduced for land partly in a disadvantaged area

1 (1) Where any land is situated partly in a disadvantaged area and partly outside such an area, liability to stamp duty under Part 1 or 2, or paragraph 16 of Part 3, of Schedule 13 to the Finance Act 1999 (c. 16) on—

(a) a conveyance or transfer of an estate or interest in the land, or

(b) a lease of the land,

shall be determined in accordance with sub-paragraph (2).

(2) Where liability to stamp duty falls to be determined in accordance with this sub-paragraph—

(a) the consideration in respect of which duty would be chargeable, but for the provisions of this paragraph, shall be apportioned, on such basis as is just and reasonable, as between the part of the land which is situated in a disadvantaged area and the part which is not so situated, and

(b) the instrument shall be chargeable only in respect of the consideration attributed to such part of the land as is not situated in a disadvantaged area.

(3) Where stamp duty, or a greater amount of stamp duty, would be chargeable on an instrument but for sub-paragraphs (1) and (2), those sub-paragraphs shall have effect in relation to the instrument only if the instrument is certified to the Commissioners as being an instrument in relation to which those sub-paragraphs have effect.

(4) No instrument which is certified as mentioned in sub-paragraph (3) shall be taken to be duly stamped unless—

(a) it is stamped in accordance with section 12 of the Stamp Act 1891 (c. 39) with a particular stamp denoting that it is not chargeable with any duty or that it is duly stamped, or

(b) it is stamped with the duty to which it would have been liable but for this paragraph.

Modifications etc. (not altering text)

C7 Sch. 30 para. 1 excluded (28.11.2001) by S.I. 2001/3746, **reg. 4(1)(b)**
Sch. 30 para. 1 restricted (28.11.2001) by S.I. 2001/3746, **reg. 5**

Apportionment of consideration for stamp duty purposes

2 (1) Where any part or parcel of the property referred to in section 58(1) of the Stamp Act 1891 (consideration to be apportioned between separate parts or parcels as parties think fit) consists of an estate or interest in land situated wholly or partly in a disadvantaged area, that provision shall have effect—

(a) as if "the parties think fit" read "is just and reasonable", and

(b) as if "such conveyance is" read "such conveyance is (subject to section 92 of, and Schedule 30 to, the Finance Act 2001)".

(2) Where—

(a) any part or parcel of the property referred to in section 58(2) of the Stamp Act 1891 (property contracted to be purchased by two or more persons etc.) consists of an estate or interest in land situated wholly or partly in a disadvantaged area, and

(b) both or (as the case may be) all the relevant persons are connected with one another,

that provision shall have effect in accordance with sub-paragraph (3).

(3) In a case falling within sub-paragraph (2), section 58(2) of that Act shall have effect as if the words from "for distinct parts of the consideration" to the end of the subsection read ", the consideration is to be apportioned in such manner as is just and reasonable, so that a distinct consideration for each separate part or parcel is set forth in the conveyance relating thereto, and such conveyance is (subject to section 92 of, and Schedule 30 to, the Finance Act 2001) to be charged with*ad valorem* duty in respect of such distinct consideration.".

(4) In a case where sub-paragraph (1) or (3) applies and the consideration is apportioned in a manner that is not just and reasonable, the enactments relating to stamp duty shall have effect as if—

(a) the consideration had been apportioned in a manner that is just and reasonable, and

(b) the amount of any distinct consideration set forth in any conveyance relating to a separate part or parcel of property were such amount as is found by a just and reasonable apportionment (and not the amount actually set forth).

(5) For the purposes of sub-paragraph (2)—

(a) a person is a relevant person if he is a person by or for whom the property is contracted to be purchased; and

(b) the question whether persons are connected with one another shall be determined in accordance with section 839 of the Taxes Act 1988.

(6) In sub-paragraph (4) "the enactments relating to stamp duty" means the Stamp Act 1891 and any enactment amending, or which is to be construed as one with, that Act.

Certification of instruments for stamp duty purposes

3 (1) If or to the extent that a transaction relates to an estate or interest in land which is situated in a disadvantaged area, it shall be disregarded for the purposes of paragraph 6 of Schedule 13 to the Finance Act 1999 (c. 16) (certification of instrument as not forming part of transaction or series of transactions exceeding specified amount).

(2) Any statement as mentioned in paragraph 6(1) of that Schedule shall be construed as leaving out of account any matter which is to be disregarded in accordance with sub-paragraph (1) above.

Modifications etc. (not altering text)
C8 Sch. 30 para. 3 excluded (28.11.2001) by S.I. 2001/3746, **reg. 4(2)**

SCHEDULE 31

Section 99.

VALUE ADDED TAX: RE-ENACTMENT OF REDUCED RATE PROVISIONS

PART 1

NEW SCHEDULE 7A TO THE VALUE ADDED TAX ACT 1994

1 The Schedule inserted after Schedule 7 to the Value Added Tax Act 1994 (c. 23) is as follows—

"SCHEDULE
7A

CHARGE AT REDUCED RATE

PART 1

INDEX TO REDUCED-RATE SUPPLIES OF GOODS AND SERVICES

Children's car seats.....	Group 5
Domestic fuel or power.....	Group 1
Energy-saving materials: installation.....	Group 2

Heating equipment, security goods and gas supplies: grant-funded installation or connection.....	Group 3
Renovation and alteration of dwellings.....	Group 7
Residential conversions.....	Group 6
Women's sanitary products.....	Group 4

PART 2

THE GROUPS

GROUP 1 — SUPPLIES OF DOMESTIC FUEL OR POWER

ITEM NO.

1 Supplies for qualifying use of—

(a) coal, coke or other solid substances held out for sale solely as fuel;

(b) coal gas, water gas, producer gases or similar gases;

(c) petroleum gases, or other gaseous hydrocarbons, whether in a gaseous or liquid state;

(d) fuel oil, gas oil or kerosene; or

(e) electricity, heat or air-conditioning.

NOTES:

Matters included or not included in the supplies

1 (1) Item 1(a) shall be deemed to include combustible materials put up for sale for kindling fires but shall not include matches.

(2) Item 1(b) and (c) shall not include any road fuel gas (within the meaning of the Hydrocarbon Oil Duties Act 1979 (c. 5)) on which a duty of excise has been charged or is chargeable.

(3) Item 1(d) shall not include hydrocarbon oil on which a duty of excise has been or is to be charged without relief from, or rebate of, such duty by virtue of the provisions of the Hydrocarbon Oil Duties Act 1979.

Meaning of "fuel oil", "gas oil" and "kerosene"

2 (1) In this Group "fuel oil" means heavy oil which contains in solution an amount of asphaltenes of not less than 0.5 per cent. or which contains less than 0.5 per cent. but not less than 0.1 per cent. of asphaltenes and has a closed flash point not exceeding 150°C.

(2) In this Group "gas oil" means heavy oil of which not more than 50 per cent. by volume distils at a temperature not exceeding 240°C and of which more than 50 per cent. by volume distils at a temperature not exceeding 340°C.

(3) In this Group "kerosene" means heavy oil of which more than 50 per cent. by volume distils at a temperature not exceeding 240°C.

(4) In this paragraph "heavy oil" has the same meaning as in the Hydrocarbon Oil Duties Act 1979.

Meaning of "qualifying use"

3 In this Group "qualifying use" means—

(a) domestic use; or

(b) use by a charity otherwise than in the course or furtherance of a business.

Supplies only partly for qualifying use

4 For the purposes of this Group, where there is a supply of goods partly for qualifying use and partly not—

(a) if at least 60 per cent. of the goods are supplied for qualifying use, the whole supply shall be treated as a supply for qualifying use; and

(b) in any other case, an apportionment shall be made to determine the extent to which the supply is a supply for qualifying use.

Supplies deemed to be for domestic use

5 For the purposes of this Group the following supplies are always for domestic use—

(a) a supply of not more than one tonne of coal or coke held out for sale as domestic fuel;

(b) a supply of wood, peat or charcoal not intended for sale by the recipient;

(c) a supply to a person at any premises of piped gas (that is, gas within item 1(b), or petroleum gas in a gaseous state, provided through pipes) where the gas (together with any other piped gas provided to him at the premises by the same supplier) was not provided at a rate exceeding 150 therms a month or, if the supplier charges for the gas by reference to the number of kilowatt hours supplied, 4397 kilowatt hours a month;

(d) a supply of petroleum gas in a liquid state where the gas is supplied in cylinders the net weight of each of which is less than 50 kilogrammes and either the number of cylinders supplied is 20 or fewer or the gas is not intended for sale by the recipient;

(e) a supply of petroleum gas in a liquid state, otherwise than in cylinders, to a person at any premises at which he is not able to store more than two tonnes of such gas;

(f) a supply of not more than 2,300 litres of fuel oil, gas oil or kerosene;

(g) a supply of electricity to a person at any premises where the electricity (together with any other electricity provided to him at the premises by the same supplier) was not provided at a rate exceeding 1000 kilowatt hours a month.

Other supplies that are for domestic use

6 For the purposes of this Group supplies not within paragraph 5 are for domestic use if and only if the goods supplied are for use in—

(a) a building, or part of a building, that consists of a dwelling or number of dwellings;

(b) a building, or part of a building, used for a relevant residential purpose;

(c) self-catering holiday accommodation;

(d) a caravan; or

(e) a houseboat.

Interpretation of paragraph 6

7 (1) For the purposes of this Group, "use for a relevant residential purpose" means use as—

(a) a home or other institution providing residential accommodation for children,

(b) a home or other institution providing residential accommodation with personal care for persons in need of personal care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder,

(c) a hospice,

(d) residential accommodation for students or school pupils,

(e) residential accommodation for members of any of the armed forces,

(f) a monastery, nunnery or similar establishment, or

(g) an institution which is the sole or main residence of at least 90 per cent. of its residents,

except use as a hospital, a prison or similar institution or an hotel or inn or similar establishment.

(2) For the purposes of this Group "self-catering holiday accommodation" includes any accommodation advertised or held out as such.

(3) In paragraph 6 "houseboat" means a boat or other floating decked structure designed or adapted for use solely as a place of permanent habitation and not having means of, or capable of being readily adapted for, self-propulsion.

GROUP 2 — INSTALLATION OF ENERGY-SAVING MATERIALS

ITEM NO.

1 Supplies of services of installing energy-saving materials in—

(a) residential accommodation, or

(b) a building intended for use solely for a relevant charitable purpose.

2 Supplies of energy-saving materials by a person who installs those materials in—

(a) residential accommodation, or

(b) a building intended for use solely for a relevant charitable purpose.

NOTES:

Meaning of "energy-saving materials"

1 For the purposes of this Group "energy-saving materials" means any of the following—

(a) insulation for walls, floors, ceilings, roofs or lofts or for water tanks, pipes or other plumbing fittings;

(b) draught stripping for windows and doors;

(c) central heating system controls (including thermostatic radiator valves);

(d) hot water system controls;

(e) solar panels;

(f) wind turbines;

(g) water turbines.

Meaning of "residential accommodation"

2 (1) For the purposes of this Group "residential accommodation" means—

(a) a building, or part of a building, that consists of a dwelling or a number of dwellings;

(b) a building, or part of a building, used for a relevant residential purpose;

(c) a caravan used as a place of permanent habitation; or

(d) a houseboat.

(2) For the purposes of this Group "use for a relevant residential purpose" has the same meaning as it has for the purposes of Group 1 (see paragraph 7(1) of the Notes to that Group).

(3) In sub-paragraph (1)(d) "houseboat" has the meaning given by paragraph 7(3) of the Notes to Group 1.

Meaning of "use for a relevant charitable purpose"

3 For the purposes of this Group "use for a relevant charitable purpose" means use by a charity in either or both of the following ways, namely—

(a) otherwise than in the course or furtherance of a business;

(b) as a village hall or similarly in providing social or recreational facilities for a local community.

GROUP 3 — GRANT-FUNDED INSTALLATION OF HEATING EQUIPMENT OR SECURITY GOODS OR CONNECTION OF GAS SUPPLY

ITEM NO.

1 Supplies to a qualifying person of any services of installing heating appliances in the qualifying person's sole or main residence.

2 Supplies of heating appliances made to a qualifying person by a person who installs those appliances in the qualifying person's sole or main residence.

3 Supplies to a qualifying person of services of connecting, or reconnecting, a mains gas supply to the qualifying person's sole or main residence.

4 Supplies of goods made to a qualifying person by a person connecting, or reconnecting, a mains gas supply to the qualifying person's sole or main residence, being goods whose installation is necessary for the connection, or reconnection, of the mains gas supply.

5 Supplies to a qualifying person of services of installing, maintaining or repairing a central heating system in the qualifying person's sole or main residence.

6 Supplies of goods made to a qualifying person by a person installing, maintaining or repairing a central heating system in the qualifying person's sole or main residence, being goods whose installation is necessary for the installation, maintenance or repair of the central heating system.

7 Supplies consisting in the leasing of goods that form the whole or part of a central heating system installed in the sole or main residence of a qualifying person.

8 Supplies of goods that form the whole or part of a central heating system installed in a qualifying person's sole or main residence and that, immediately before being supplied, were goods leased under arrangements such that the consideration for the supplies consisting in the leasing of the goods was, in whole or in part, funded by a grant made under a relevant scheme.

9 Supplies to a qualifying person of services of installing qualifying security goods in the qualifying person's sole or main residence.

10 Supplies of qualifying security goods made to a qualifying person by a person who installs those goods in the qualifying person's sole or main residence.

NOTES:

Supply only included so far as grant-funded

1 (1) Each of items 1 to 7, 9 and 10 applies to a supply only to the extent that the consideration for the supply is, or is to be, funded by a grant made under a relevant scheme.

(2) Item 8 applies to a supply only to the extent that the consideration for the supply—

(a) is, or is to be, funded by a grant made under a relevant scheme; or

(b) is a payment becoming due only by reason of the termination (whether by the passage of time or otherwise) of the leasing of the goods in question.

Meaning of "relevant scheme"

2 (1) For the purposes of this Group a scheme is a "relevant scheme" if it is one which satisfies the conditions specified in this paragraph.

(2) The first condition is that the scheme has as one of its objectives the funding of the installation of energy-saving materials in the homes of any persons who are qualifying persons.

(3) The second condition is that the scheme disburses, whether directly or indirectly, its grants in whole or in part out of funds made available to it in order to achieve that objective—

(a) by the Secretary of State,
(b) by the Scottish Ministers,
(c) by the National Assembly for Wales,
(d) by a Minister (within the meaning given by section 7(3) of the Northern Ireland Act 1998 (c. 47)) or a Northern Ireland department,
(e) by the European Community,
(f) under an arrangement approved by the Gas and Electricity Markets Authority,
(g) under an arrangement approved by the Director General of Electricity Supply for Northern Ireland, or
(h) by a local authority.

(4) The reference in sub-paragraph (3)(f) to an arrangement approved by the Gas and Electricity Markets Authority includes a reference to an arrangement approved by the Director General of Electricity Supply, or the Director General of Gas Supply, before the transfer (under the Utilities Act 2000 (c. 27)) of his functions to the Authority.

Apportionment of grants that also cover other supplies

3 Where a grant is made under a relevant scheme in order—

(a) to fund a supply of a description to which any of items 1 to 10 applies ("the relevant supply"), and
(b) also to fund a supply to which none of those items applies ("the non-relevant supply"),

the proportion of the grant that is to be attributed, for the purposes of paragraph 1, to the relevant supply shall be the same proportion as the consideration reasonably attributable to that supply bears to the consideration for that supply and for the non-relevant supply.

Meaning of "heating appliances"

4 For the purposes of items 1 and 2 "heating appliances" means any of the following—

(a) gas-fired room heaters that are fitted with thermostatic controls;
(b) electric storage heaters;
(c) closed solid fuel fire cassettes;
(d) electric dual immersion water heaters with foam-insulated hot water tanks;
(e) gas-fired boilers;
(f) oil-fired boilers;
(g) radiators.

Meaning of "qualifying security goods"

5 For the purposes of items 9 and 10 "qualifying security goods" means any of the following—

(a) locks or bolts for windows;

(b) locks, bolts or security chains for doors;

(c) spy holes;

(d) smoke alarms.

Meaning of "qualifying person"

6 (1) For the purposes of this Group, a person to whom a supply is made is "a qualifying person" if at the time of the supply he—

(a) is aged 60 or over; or

(b) is in receipt of one or more of the benefits mentioned in sub-paragraph (2).

(2) Those benefits are—

(a) council tax benefit under Part 7 of the Contributions and Benefits Act;

(b) disability living allowance under Part 3 of the Contributions and Benefits Act or Part 3 of the Northern Ireland Act;

(c) disabled person's tax credit, working families' tax credit, housing benefit or income support under Part 7 of the Contributions and Benefits Act or Part 7 of the Northern Ireland Act;

(d) an income-based jobseeker's allowance within the meaning of section 1(4) of the Jobseekers Act 1995 (c. 18) or Article 3(4) of the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/275 (N.I. 15));

(e) disablement pension under Part 5 of the Contributions and Benefits Act, or Part 5 of the Northern Ireland Act, that is payable at the increased rate provided for under section 104 (constant attendance allowance) of the Act concerned;

(f) war disablement pension under the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983 (S.I. 1983/883) that is payable at the increased rate provided for under article 14 (constant attendance allowance) or article 26A (mobility supplement) of that Order.

(3) In sub-paragraph (2)—

(a) "the Contributions and Benefits Act" means the Social Security Contributions and Benefits Act 1992 (c. 4); and

(b) "the Northern Ireland Act" means the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7).

GROUP 4 — WOMEN'S SANITARY PRODUCTS

ITEM NO.

1 Supplies of women's sanitary products.

NOTES:

Meaning of "women's sanitary products"

1 (1) In this Group "women's sanitary products" means women's sanitary products of any of the following descriptions—

(a) subject to sub-paragraph (2), products that are designed, and marketed, as being solely for use for absorbing, or otherwise collecting, lochia or menstrual flow;

(b) panty liners, other than panty liners that are designed as being primarily for use as incontinence products;

(c) sanitary belts.

(2) Sub-paragraph (1)(a) does not include protective briefs or any other form of clothing.

GROUP 5 — CHILDREN'S CAR SEATS

ITEM NO.

1 Supplies of children's car seats.

NOTES:

Meaning of "children's car seats"

1 (1) For the purposes of this Group, the following are "children's car seats"—

(a) a safety seat;

(b) the combination of a safety seat and a related wheeled framework;

(c) a booster seat;

(d) a booster cushion.

(2) In this Group "child" means a person aged under 14 years.

Meaning of "safety seat"

2 In this Group "safety seat" means a seat—

(a) designed to be sat in by a child in a road vehicle,

(b) designed so that, when in use in a road vehicle, it can be restrained—

(i) by a seat belt fitted in the vehicle, or

(ii) by belts, or anchorages, that form part of the seat being attached to the vehicle, or

(iii) in either of those ways, and

(c) incorporating an integral harness, or integral impact shield, for restraining a child seated in it.

Meaning of "related wheeled framework"

3 For the purposes of this Group, a wheeled framework is "related" to a safety seat if the framework and the seat are each designed so that—

(a) when the seat is not in use in a road vehicle it can be attached to the framework, and

(b) when the seat is so attached, the combination of the seat and the framework can be used as a child's pushchair.

Meaning of "booster seat"

4 In this Group "booster seat" means a seat designed—

(a) to be sat in by a child in a road vehicle, and

(b) so that, when in use in a road vehicle, it and a child seated in it can be restrained by a seat belt fitted in the vehicle.

Meaning of "booster cushion"

5 In this Group "booster cushion" means a cushion designed—

(a) to be sat on by a child in a road vehicle, and

(b) so that a child seated on it can be restrained by a seat belt fitted in the vehicle

GROUP 6 — RESIDENTIAL CONVERSIONS

ITEM NO.

1 The supply, in the course of a qualifying conversion, of qualifying services related to the conversion.

2 The supply of building materials if—

(a) the materials are supplied by a person who, in the course of a qualifying conversion, is supplying qualifying services related to the conversion, and

(b) those services include the incorporation of the materials in the building concerned or its immediate site.

NOTES:

Supplies only partly within item 1

1 (1) Sub-paragraph (2) applies where a supply of services is only in part a supply to which item 1 applies.

(2) The supply, to the extent that it is one to which item 1 applies, is to be taken to be a supply to which item 1 applies.

(3) An apportionment may be made to determine that extent.

Meaning of "qualifying conversion"

2 (1) A "qualifying conversion" means—

(a) a changed number of dwellings conversion (see paragraph 3);

(b) a house in multiple occupation conversion (see paragraph 5); or

(c) a special residential conversion (see paragraph 7).

(2) Sub-paragraph (1) is subject to paragraphs 9 and 10.

Meaning of "changed number of dwellings conversion"

3 (1) A "changed number of dwellings conversion" is—

(a) a conversion of premises consisting of a building where the conditions specified in this paragraph are satisfied, or

(b) a conversion of premises consisting of a part of a building where those conditions are satisfied.

(2) The first condition is that after the conversion the premises being converted contain a number of single household dwellings that is—

(a) different from the number (if any) that the premises contain before the conversion, and

(b) greater than, or equal to, one.

(3) The second condition is that there is no part of the premises being converted that is a part that after the conversion contains the same number of single household dwellings (whether zero, one or two or more) as before the conversion.

Meaning of "single household dwelling" and "multiple occupancy dwelling"

4 (1) For the purposes of this Group "single household dwelling" means a dwelling—

(a) that is designed for occupation by a single household, and

(b) in relation to which the conditions set out in sub-paragraph (3) are satisfied.

(2) For the purposes of this Group "multiple occupancy dwelling" means a dwelling—

(a) that is designed for occupation by persons not forming a single household, and

(b) in relation to which the conditions set out in sub-paragraph (3) are satisfied.

(3) The conditions are—

(a) that the dwelling consists of self-contained living accommodation,

(b) that there is no provision for direct internal access from the dwelling to any other dwelling or part of a dwelling,

(c) that the separate use of the dwelling is not prohibited by the terms of any covenant, statutory planning consent or similar provision, and

(d) that the separate disposal of the dwelling is not prohibited by any such terms.

(4) For the purposes of this paragraph, a dwelling "is designed" for occupation of a particular kind if it is so designed—

(a) as a result of having been originally constructed for occupation of that kind and not having been subsequently adapted for occupation of any other kind, or

(b) as a result of adaptation.

Meaning of "house in multiple occupation conversion"

5 (1) A "house in multiple occupation conversion" is—

(a) a conversion of premises consisting of a building where the condition specified in sub-paragraph (2) below is satisfied, or

(b) a conversion of premises consisting of a part of a building where that condition is satisfied.

(2) The condition is that—

(a) before the conversion the premises being converted contain only a single household dwelling or two or more such dwellings,

(b) after the conversion those premises contain only a multiple occupancy dwelling or two or more such dwellings, and

(c) the use to which those premises are intended to be put after the conversion is not to any extent use for a relevant residential purpose.

Meaning of "use for a relevant residential purpose"

6 For the purposes of this Group "use for a relevant residential purpose" means use as—

(a) a home or other institution providing residential accommodation for children,

(b) a home or other institution providing residential accommodation with personal care for persons in need of personal care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder,

(c) a hospice,

(d) residential accommodation for students or school pupils,

(e) residential accommodation for members of any of the armed forces,

(f) a monastery, nunnery or similar establishment, or

(g) an institution which is the sole or main residence of at least 90 per cent. of its residents,

except use as a hospital, prison or similar institution or an hotel, inn or similar establishment.

Meaning of "special residential conversion"

7 (1) A "special residential conversion" is a conversion of premises consisting of—

(a) a building or two or more buildings,

(b) a part of a building or two or more parts of buildings, or

(c) a combination of—

(i) a building or two or more buildings, and

(ii) a part of a building or two or more parts of buildings,

where the conditions specified in this paragraph are satisfied.

(2) The first condition is that, before the conversion, the premises being converted contain only—

(a) a dwelling or two or more dwellings, or

(b) a dwelling, or two or more dwellings, and

(i) an ancillary outbuilding occupied together with the dwelling or one or more of the dwellings, or

(ii) two or more ancillary outbuildings each occupied together with the dwelling or one or more of the dwellings.

(3) In sub-paragraph (2) "dwelling" means single household dwelling or multiple occupancy dwelling.

(4) The second condition is that where before the conversion the premises being converted contain a multiple occupancy dwelling or two or more such dwellings, the use to which that dwelling, or any of those dwellings, was last put before the conversion was not to any extent use for a relevant residential purpose.

(5) The third condition is that the premises being converted must be intended to be used after the conversion solely for a relevant residential purpose.

(6) The fourth condition is that, where the relevant residential purpose is an institutional purpose, the premises being converted must be intended to form after the conversion the entirety of an institution used for that purpose.

(7) In sub-paragraph (6) "institutional purpose" means a purpose within paragraph 6(a) to (c), (f) or (g).

Special residential conversions: reduced rate only for supplies made to intended user of converted accommodation

8 (1) This paragraph applies where the qualifying conversion concerned is a special residential conversion.

(2) Item 1 or 2 does not apply to a supply unless—

(a) it is made to a person who intends to use the premises being converted for the relevant residential purpose, and

(b) before it is made, the person to whom it is made has given to the person making it a certificate that satisfies the requirements in sub-paragraph (3).

(3) Those requirements are that the certificate—

(a) is in such form as may be specified in a notice published by the Commissioners, and

(b) states that the conversion is a special residential conversion.

(4) In sub-paragraph (2)(a) "the relevant residential purpose" means the purpose within paragraph 6 for which the premises being converted are intended to be used after the conversion.

"Qualifying conversion" includes related garage works

9 (1) A qualifying conversion includes any garage works related to the—

(a) changed number of dwellings conversion,

(b) house in multiple occupation conversion, or

(c) special residential conversion,

concerned.

(2) In this paragraph "garage works" means—

(a) the construction of a garage, or

(b) a conversion of a non-residential building, or of a non-residential part of a building, that results in a garage.

(3) For the purposes of sub-paragraph (1), garage works are "related" to a conversion if—

(a) they are carried out at the same time as the conversion, and

(b) the resulting garage is intended to be occupied with—

(i) where the conversion concerned is a changed number of dwellings conversion, a single household dwelling that will after the conversion be contained in the building, or part of a building, being converted,

(ii) where the conversion concerned is a house in multiple occupation conversion, a multiple occupancy dwelling that will after the conversion be contained in the building, or part of a building, being converted, or

(iii) where the conversion concerned is a special residential conversion, the institution or other accommodation resulting from the conversion.

(4) In sub-paragraph (2) "non-residential" means neither designed, nor adapted, for use—

(a) as a dwelling or two or more dwellings, or

(b) for a relevant residential purpose.

Conversion not "qualifying" if planning consent and building control approval not obtained

10 (1) A conversion is not a qualifying conversion if any statutory planning consent needed for the conversion has not been granted.

(2) A conversion is not a qualifying conversion if any statutory building control approval needed for the conversion has not been granted.

Meaning of "supply of qualifying services"

11 (1) In the case of a conversion of a building, "supply of qualifying services" means a supply of services that consists in—

(a) the carrying out of works to the fabric of the building, or

(b) the carrying out of works within the immediate site of the building that are in connection with—

(i) the means of providing water, power, heat or access to the building,

(ii) the means of providing drainage or security for the building, or

(iii) the provision of means of waste disposal for the building.

(2) In the case of a conversion of part of a building, "supply of qualifying services" means a supply of services that consists in—

(a) the carrying out of works to the fabric of the part, or

(b) the carrying out of works to the fabric of the building, or within the immediate site of the building, that are in connection with—

(i) the means of providing water, power, heat or access to the part,

(ii) the means of providing drainage or security for the part, or

(iii) the provision of means of waste disposal for the part.

(3) In this paragraph—

(a) references to the carrying out of works to the fabric of a building do not include the incorporation, or installation as fittings, in the building of any goods that are not building materials;

(b) references to the carrying out of works to the fabric of a part of a building do not include the incorporation, or installation as fittings, in the part of any goods that are not building materials.

Meaning of "building materials"

12 In this Group "building materials" has the meaning given by Notes (22) and (23) of Group 5 to Schedule 8 (zero-rating of construction and conversion of buildings).

GROUP 7 — RENOVATION AND ALTERATION OF DWELLINGS

ITEM NO.

1 The supply, in the course of the renovation or alteration of a single household dwelling, of qualifying services related to the renovation or alteration.

2 The supply of building materials if—

(a) the materials are supplied by a person who, in the course of the renovation or alteration of a single household dwelling, is supplying qualifying services related to the renovation or alteration, and

(b) those services include the incorporation of the materials in the dwelling concerned or its immediate site.

NOTES:

Supplies only partly within item 1

1 (1) Sub-paragraph (2) applies where a supply of services is only in part a supply to which item 1 applies.

(2) The supply, to the extent that it is one to which item 1 applies, is to be taken to be a supply to which item 1 applies.

(3) An apportionment may be made to determine that extent.

Meaning of "alteration" and "single household dwelling"

2 For the purposes of this Group—

"alteration" includes extension;

"single household dwelling" has the meaning given by paragraph 4 of the Notes to Group 6.

Items 1 and 2 only apply where dwelling has been empty for at least 3 years

3 (1) Item 1 or 2 does not apply to a supply unless either of the empty home conditions is satisfied.

(2) The first "empty home condition" is that the dwelling concerned has not been lived in during the period of 3 years ending with the commencement of the relevant works.

(3) The second "empty home condition" is that—

(a) the dwelling was not lived in during a period of at least 3 years;

(b) the person, or one of the persons, whose beginning to live in the dwelling brought that period to an end was a person who (whether alone or jointly with another or others) acquired the dwelling at a time—

(i) no later than the end of that period, and

(ii) when the dwelling had been not lived in for at least 3 years;

(c) no works by way of renovation or alteration were carried out to the dwelling during the period of 3 years ending with the acquisition;

(d) the supply is made to a person who is—

(i) the person, or one of the persons, whose beginning to live in the property brought to an end the period mentioned in paragraph (a), and

(ii) the person, or one of the persons, who acquired the dwelling as mentioned in paragraph (b); and

(e) the relevant works are carried out during the period of one year beginning with the day of the acquisition.

(4) In this paragraph "the relevant works" means—

(a) where the supply is of the description set out in item 1, the works that constitute the services supplied;

(b) where the supply is of the description set out in item 2, the works by which the materials concerned are incorporated in the dwelling concerned or its immediate site.

(5) In sub-paragraph (3), references to a person acquiring a dwelling are to that person having a major interest in the dwelling granted, or assigned, to him for a consideration.

Items 1 and 2 only apply if planning consent and building control approval obtained

4 (1) Item 1 or 2 does not apply to a supply unless any statutory planning consent needed for the renovation or alteration has been granted.

(2) Item 1 or 2 does not apply to a supply unless any statutory building control approval needed for the renovation or alteration has been granted.

Meaning of "supply of qualifying services"

5 (1) "Supply of qualifying services" means a supply of services that consists in—

(a) the carrying out of works to the fabric of the dwelling, or

(b) the carrying out of works within the immediate site of the dwelling that are in connection with—

(i) the means of providing water, power, heat or access to the dwelling,

(ii) the means of providing drainage or security for the dwelling, or

(iii) the provision of means of waste disposal for the dwelling.

(2) In sub-paragraph (1)(a), the reference to the carrying out of works to the fabric of the dwelling does not include the incorporation, or installation as fittings, in the dwelling of any goods that are not building materials.

Meaning of "building materials"

6 In this Group "building materials" has the meaning given by Notes (22) and (23) of Group 5 to Schedule 8 (zero-rating of construction and conversion of buildings).".

PART 2

CONSEQUENTIAL AMENDMENTS

Value Added Tax Act 1994 (c.23)

2 In section 2 of the Value Added Tax Act 1994 (rate of VAT), in each of subsections (2) and (3) (power to vary rate by up to 25% for up to one year), after "for the time being in force" insert " under this section ".

3 In section 62(1)(a)(i) of the Value Added Tax Act 1994 (penalty for giving incorrect certificate as to entitlement to reduced rate etc.), for "paragraph 1 of Schedule A1," substitute " any of the Groups of Schedule 7A, ".

4 (1) Section 88 of the Value Added Tax Act 1994 (supplies spanning change of rate etc.) is amended as follows.

(2) In subsection (1) (section applies where there is a change in the rate of VAT in force under section 2 or the descriptions of exempt or zero-rated supplies or acquisitions)—

(a) after "section 2" insert " or 29A ", and

(b) for "or zero-rated" (in both places) substitute " , zero-rated or reduced-rate ".

(3) In subsection (2) (election to disregard time of supply rules), after "any question whether it is zero-rated or exempt" insert " or a reduced-rate supply ".

(4) In subsection (4) (election to disregard time of acquisition rules), after "any question whether it is zero-rated or exempt" insert " or a reduced-rate acquisition ".

(5) After subsection (7) insert—

"(8) References in this section—

(a) to a supply being a reduced-rate supply, or

(b) to an acquisition being a reduced-rate acquisition,

are references to a supply, or (as the case may be) an acquisition, being one on which VAT is charged at the rate in force under section 29A.".

5 In section 96(9) of the Value Added Tax Act 1994 (notes in Schedules 8 and 9 to be used for interpretation and capable of being varied), after "Schedules" insert " 7A, ".

6 (1) Section 97(4) of the Value Added Tax Act 1994 (orders that cease to have effect if not approved by the House of Commons within 28 days of being made) is amended as follows.

(2) In paragraph (c)(i) (orders increasing rate of VAT in force), after "in force" insert " under section 2 ".

(3) In paragraph (c), after sub-paragraph (ii) insert—

"(iia) for varying Schedule 7A so as to cause VAT to be charged on a supply at the rate in force under section 2 instead of that in force under section 29A;".

(4) In paragraph (d)(i) (exception for orders under section 51 that are consequential on orders that vary Schedule 8 or 9 but do not fall within paragraph (c)), after "Schedule" insert " 7A, ".

Finance Act 2000 (c.17)

7 In paragraph 9 of Schedule 6 to the Finance Act 2000 (climate change levy: meaning of "for domestic use"), after sub-paragraph (4) (power under section 2(1C) of the Value Added Tax Act 1994 (c. 23) to amend Schedule A1 to that Act includes power to make corresponding amendments to paragraph 9) there is inserted—

"(5) The power to make provision under section 29A(3) of the Value Added Tax Act 1994 varying Schedule 7A to that Act (charge at reduced rate) includes power to make provision for any appropriate corresponding variation of this paragraph.".

SCHEDULE 32

Section 101.

PETROLEUM REVENUE TAX: UNRELIEVABLE FIELD LOSSES

Schedule applies where there has been a transfer to which Parts 2 and 3 of Schedule 17 to the Finance Act 1980 do not apply

1 (1) This Schedule applies where—

(a) there has been a transfer of the whole or part of the interest in an oil field of a participator in the field (see paragraph 4),

(b) the transfer is an excluded transfer (see paragraph 2), and

(c) an allowable loss has accrued from the field to—

(i) the old participator,

(ii) the new participator, or

(iii) a subsequent new owner (see paragraph 3).

(2) In this Schedule—

"the loss-maker" means the person to whom the allowable loss accrues;

"the old participator" means the person whose interest is wholly or partly transferred by the transfer and "the new participator" means the person to whom the interest or part is transferred by the transfer;

"the transferred interest" means—

(a) where the transfer is of the whole of the old participator's interest in the field, that interest, and

(b) where the transfer is of part of the old participator's interest in the field, that part.

Meaning of "excluded transfer"

2 For the purposes of this Schedule, a transfer of the whole or part of the interest in an oil field of a participator in the field is an "excluded transfer" if—

(a) Parts 2 and 3 of Schedule 17 to the Finance Act 1980 (c. 48) do not apply to the transfer, and

(b) either—

(i) the transfer is made pursuant to an agreement made on or after 7th March 2001, or

(ii) the transfer is made pursuant to a conditional agreement made before 7th March 2001 and the condition is satisfied on or after 7th March 2001.

Meaning of "subsequent new owner"

3 For the purposes of this Schedule, a "subsequent new owner" is any participator in the field who has the transferred interest, or any part of the transferred interest, as a result of—

(a) a transfer by the new participator of the whole or part of the transferred interest, or

(b) the combination of such a transfer as is mentioned in paragraph (a) and—

(i) a transfer by a subsequent new owner of the whole or part of the transferred interest, or

(ii) two or more such transfers as are mentioned in sub-paragraph (i).

Transfers of interests in oil fields: interpretation

4 (1) For the purposes of this Schedule, a participator in an oil field transfers the whole or part of his interest in the field whenever as a result of a transaction or event other than—

(a) the making of an agreement or arrangement of the kind mentioned in paragraph 5 of Schedule 3 to the Oil Taxation Act 1975 (c. 22) (agreement or arrangement for transfer of participator's rights to associated company), or

(b) a re-determination under a unitisation agreement,

the whole or part of his share in the oil to be won and saved from the field becomes the share or part of the share of another person who is or becomes a participator in the field.

(2) Paragraph 1(2) of Schedule 17 to the Finance Act 1980 (c. 48) (meaning of "unitisation agreement" and "re-determination") applies for the purposes of sub-paragraph (1) above as for those of paragraph 1(1) of that Schedule.

Schedule applies in place of section 6(1C) of the Oil Taxation Act 1975

5 Where this Schedule makes provision for determining the unrelievable portion of an allowable loss, that portion is determined in accordance with the provisions of this Schedule instead of in accordance with the provisions of section 6(1C) of the Oil Taxation Act 1975.

General rule for determinations under this Schedule of "unrelievable portion" of loss

6 (1) The unrelievable portion of the allowable loss is so much of the intermediate unrelieved loss as cannot be relieved under paragraph 7 against relevant profits.

(2) In this Schedule—

"the intermediate unrelieved loss" is so much of the allowable loss as cannot be relieved under section 7 of the Oil Taxation Act 1975 against assessable profits accruing from the field to the loss-maker;

"relevant profits" means assessable profits—

(a) accruing from the field to any participator in the field other than the loss-maker,

(b) computed as if the amounts mentioned in section 2(8)(a) of that Act did not include expenditure unrelated to the field except where it has been allowed in pursuance of a claim or election for its allowance received by the Board before 29th November 1994, and

(c) reduced (after being so computed) under section 7 of that Act.

(3) In sub-paragraph (2) "expenditure unrelated to the field" has the meaning given by section 6(9) of that Act.

Loss to be relieved against other participators' profits

7 (1) The intermediate unrelieved loss shall (but only for the purposes of determinations under this Schedule) be relieved against relevant profits accruing to a different owner.

(2) The provisions of paragraphs 8 to 10 apply for the purposes of relieving the intermediate unrelieved loss under this paragraph.

(3) In this paragraph and paragraph 8, a "different owner" means any participator in the field who—

(a) has the loss-maker's interest at any time (whether before or after the transfer) when the loss-maker does not have that interest, or

(b) has a part of the loss-maker's interest at any time (whether before or after the transfer) when the loss-maker does not have that part.

(4) In sub-paragraph (3) "the loss-maker's interest" means—

(a) if the loss-maker is the old participator or the new participator, the transferred interest;

(b) if the loss-maker is a subsequent new owner and at any time (whether before or after the transfer) has the whole of the transferred interest, that interest; and

(c) if the loss-maker is a subsequent new owner and paragraph (b) does not apply, the aggregate of each part of the transferred interest that at any time (whether before or after the transfer) is a part that the loss-maker has.

Extent to which losses to be relieved

8 (1) Where the interest in the field of a different owner is the transferred interest, the intermediate unrelieved loss is to be relieved against the whole of any relevant profits accruing to the different owner.

(2) Where the interest in the field of a different owner is part of the transferred interest, the corresponding part (but only that part) of the intermediate unrelieved loss is to be relieved against the whole of any relevant profits accruing to the different owner.

(3) Where—

(a) a different owner's interest in the field includes the transferred interest, but

(b) the transferred interest is only part of the different owner's interest in the field,

the intermediate unrelieved loss is to be relieved against the corresponding part (but no other part) of any relevant profits accruing to the different owner.

(4) Sub-paragraph (5) applies where—

(a) a different owner's interest in the field includes part only of the transferred interest ("the owned part of the transferred interest"), and

(b) the owned part of the transferred interest is only part of the different owner's interest in the field.

(5) Only the part of the intermediate unrelieved loss corresponding to the owned part of the transferred interest is to be relieved, and it is to be relieved against (but only against) the part of any relevant profits accruing to the different owner that corresponds to the part which the owned part of the transferred interest forms of the different owner's interest in the field.

Profits not to be utilised more than once

9 The intermediate unrelieved loss may not be relieved against relevant profits to the extent that those profits have already been utilised for the purposes of paragraph 7.

Relieving different losses against the same profits

10 (1) Where intermediate unrelieved losses accruing to each of two or more persons fall to be relieved under paragraph 7 against the same relevant profits, such a loss accruing to a person who last had the transferred interest (or part of it) at an earlier time shall be so relieved before one accruing to a person who last had the interest (or part) at a later time.

(2) Where—

(a) two or more persons each last had a part of the transferred interest at the same time, and

(b) intermediate unrelieved losses accruing to each of them fall to be relieved under paragraph 7 against the same relevant profits,

those losses shall be so relieved in such a manner as ensures that the same proportion of each is so relieved.

(3) In this paragraph, references to an intermediate unrelieved loss accruing to a person are to the intermediate unrelieved loss in respect of an allowable loss accruing to the person.

Construction as one with Part 1 of the Oil Taxation Act 1975

11 This Schedule shall be construed as one with Part 1 of the Oil Taxation Act 1975 (c. 22).

SCHEDULE 33

Section 110.

REPEALS

Commencement Information

I4 Sch. 33 in force at Royal Assent but for coming into force of individual repeals, see appropriate notes

PART 1

EXCISE DUTIES

(1) HYDROCARBON OILS

Short title and chapter	*Extent of repeal*
Hydrocarbon Oil Duties Act 1979 (c. 5)	In section 1—
	(a) in subsection (3A), the words "(other than higher octane unleaded petrol)";
	(b) subsection (3C).
	Section 2(1A).
	In section 2A(1), the words " "higher octane unleaded petrol;"".
	In section 27(1), the definition of "higher octane unleaded petrol".
	In Schedule 2A—
	(a) paragraph 2;
	(b) in paragraph 3, the word ", 2";
	(c) paragraph 8(3);

	(d) in paragraph 10(1), the words "Subject to sub-paragraph (2),";
	(e) paragraphs 10(2) and 11(2).
Finance Act 1996 (c. 8)	Section 4(4) and (5).
Finance Act 2000 (c. 17)	Section 5(2) and (4).
	In Schedule 1, paragraphs 2, 3(4) and 4.

These repeals shall be deemed to have come into force in accordance with section 2(5) of this Act.

(2) GENERAL BETTING DUTY

Short title and chapter	***Extent of repeal***
Betting and Gaming Duties Act 1981 (c. 63)	In Schedule 1, paragraph 2(4)(b) and (c).

These repeals have effect in accordance with section 6(2) of this Act.

(3) VEHICLE EXCISE DUTY

Short title and chapter	***Extent of repeal***
Vehicle Excise and Registration Act 1994 (c. 22)	Section 19(3).
	In Schedule 1—
	(a) in paragraph 2(1)(a), the words "or the motorcycle is an electrically propelled vehicle";
	(b) Part 4A;
	(c) paragraph 5(5A);
	(d) in paragraph 7(2), the words "IVA,";
	(e) in paragraph 16(1)(a), the words "IVA,".
Finance Act 1995 (c. 4)	In Schedule 4, paragraph 10.
Finance Act 1996 (c. 8)	Section 15(1) and (2).
	Section 16(6) and (7).
	In Schedule 2, paragraph 8.

1 The repeals of—
(a) section 19(3) of the Vehicle Excise and Registration Act 1994, and
(b) paragraph 8 of Schedule 2 to the Finance Act 1996,
come into force on the passing of this Act.

2 The other repeals have effect in relation to licences issued on or after 1st April 2001 and shall be deemed to have come into force on 1st April 2001.

These repeals have effect in accordance with paragraph 21 of Schedule 3 to this Act.

(4) EXCISE DUTY: PAYMENTS BY COMMISSIONERS IN CASE OF ERROR OR DELAY

Short title and chapter	***Extent of repeal***
Finance Act 1994 (c. 9)	In Schedule 6, paragraphs 9 and 10.
Finance Act 1997 (c. 16)	In Schedule 5—
	(a) in paragraph 14(3)(b), the word "or";
	(b) paragraph 15(2)(a);
	(c) in paragraph 15(2)(b), the word "or".

PART 2

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

(1) MILEAGE ALLOWANCES

Short title and chapter	***Extent of repeal***
Income and Corporation Taxes Act 1988 (c. 1)	Sections 197B to 197F.
	Section 578A(1)(c) and the word "or" immediately preceding it.
Finance Act 1990 (c. 29)	Section 23 and Schedule 4.
Capital Allowances Act 2001 (c. 2)	Section 80.

These repeals have effect for the year 2002-03 and subsequent years of assessment.

(2) EMPLOYEE SHARE OWNERSHIP PLANS

Short title and chapter	***Extent of repeal***
Finance Act 2000 (c. 17)	In Schedule 8, paragraph 82(2).

This repeal shall be deemed always to have had effect.

(3) ENTERPRISE INCENTIVES

Short title and chapter	***Extent of repeal***
Income and Corporation Taxes Act 1988 (c. 1)	In section 289—

(a) in subsection (1), the word "and" at the end of paragraph (ba);

(b) in subsection (2), paragraph (c) and the word "or" immediately preceding it;

(c) subsections (4) and (5).

In section 289A(7), paragraph (c) and the word "and" immediately preceding it.

Section 289A(9).

Section 291(6).

In section 293(2), the words "be an unquoted company and".

In section 293(3B)(b), the words "and oil exploration".

Section 297(2)(d) and (9).

In section 303—

(a) subsections (3) to (7);

(b) in subsection (9A), the words "or, as the case may be, the receipt of value in question".

Section 303A(8).

In section 312(1), the definitions of—

"appraisal licence";

"the designated period";

"development licence";

"exploration licence";

"modified appraisal licence", "modified development licence" and "modified exploration licence";

"Northern Ireland licence" (and in relation to such a licence "the initial term", "the 30 year renewal term" and "the five year renewal term");

"oil" and "oil extraction activities";

"oil exploration"; and

"the 1984 Regulations" and the word "and" immediately preceding the definition of "the 1984 Regulations".

Section 312(7) and (8).

In section 576—

	(a) in subsection (4), the words from "at all times" to "and which"; (b) in subsection (4B)(a), the words ", the words "an unquoted company and be" in subsection (2),". In Schedule 15B, paragraph 1(7).
Taxation of Chargeable Gains Act 1992 (c. 12)	In Schedule 5B— (a) in paragraph 1(2), the word "and" at the end of paragraph (f); (b) paragraph 13(4); (c) paragraph 14A(7); (d) in paragraph 19(1), the definition of "the designated period".
Finance Act 1994 (c. 9)	In Schedule 15, paragraphs 10(d), 17(b) and (c) and 21(a)(i).
Finance Act 1998 (c. 36)	In Schedule 13, paragraphs 6(1), 7(1), 15(2), 20(1)(a) and 30(1)(a).
Finance Act 2000 (c. 17)	In Schedule 17, paragraphs 2, 3(2), 4, 5(2) and (5), 6(2) and 7.

1 The repeal of section 289A(9) of the Taxes Act 1988 has effect in accordance with paragraph 9(2) of Schedule 15 to this Act.

2 The repeals in the following provisions have effect in accordance with paragraph 40(3) of Schedule 15 to this Act—

3 The repeals in section 576 of the Taxes Act 1988 have effect in accordance with paragraph 38(5) of Schedule 15 to this Act.

4 The repeal in Schedule 15B to the Taxes Act 1988 has effect in accordance with paragraph 3(2) of Schedule 16 to this Act.

5 The repeal in paragraph 21 of Schedule 15 to the Finance Act 1994 has effect in accordance with paragraph 22(2) of Schedule 15 to this Act.

6 The remaining repeals have effect in accordance with paragraph 40(2) of Schedule 15 to this Act.

These repeals have effect in accordance with section 65 of this Act.

(4) CAPITAL ALLOWANCES: ENERGY-SAVING PLANT AND MACHINERY

Short title and chapter	***Extent of repeal***
Capital Allowances Act 2001 (c. 2)	In section 39, the word "or" immediately preceding the words "section 45".

	In section 46(1), the word "or" immediately preceding the words "section 45".

(5) CAPITAL ALLOWANCES: OFFSHORE OIL INFRASTRUCTURE

Short title and chapter	***Extent of repeal***
Capital Allowances Act 2001 (c. 2)	In section 164(4)(a), the words ", of an amount equal to the net abandonment cost,". In section 165(1)(b), the words "on the demolition of plant or machinery".

1 The repeal in section 164 of the Capital Allowances Act 2001 has effect in accordance with paragraph 9(1), (5) and (8) of Schedule 20 to this Act.

2 The repeal in section 165 of that Act shall be deemed always to have had effect.

These repeals have effect in accordance with section 71(3) of this Act.

This repeal has effect in accordance with section 78 of this Act.

This repeal has effect in accordance with paragraph 6(3) of Schedule 27 to this Act.

This repeal has effect in accordance with section 83(2) of this Act.

These repeals apply in relation to payments made after the day on which this Act is passed.

This repeal applies for the purposes of accounting periods ending on or after 1st April 2001.

With the exception of the repeals of paragraph 12(2) of Schedule 3 to the Finance (No. 2) Act 1997 and section 90(3) of the Finance Act 1998 (which come into force on the passing of this Act), these repeals have effect in accordance with section 87 of this Act.

These repeals have effect in accordance with section 88 of, and Schedule 29 to, this Act.

(6) CREATIVE ARTISTS: RELIEF FOR FLUCTUATING PROFITS

Short title and chapter	***Extent of repeal***
Taxes Management Act 1970 (c. 9)	In Schedule 1B, paragraph 6.
Income and Corporation Taxes Act 1988 (c. 1)	Sections 534, 535, 537A and 538.
Finance Act 1996 (c. 8)	Section 128(5) to (10).

(7) CAPITAL GAINS TAX: TAPER RELIEF: BUSINESS ASSETS

Short title and chapter	***Extent of repeal***

Taxation of Chargeable Gains Act 1992 (c. 12)	In Schedule A1, paragraph 23(8).

(8) DOUBLE TAXATION RELIEF

Short title and chapter	***Extent of repeal***
Income and Corporation Taxes Act 1988 (c.1)	In section 811(2), the word "and" immediately preceding paragraph (b).

(9) LIFE POLICIES, LIFE ANNUITY CONTRACTS AND CAPITAL REDEMPTION, POLICIES

Short title and chapter	***Extent of repeal***
Income and Corporation Taxes Act 1988 (c. 1)	Section 541(4).

(10) DIVIDENDS PAID TO GROUP MEMBERS

Short title and chapter	***Extent of repeal***
Income and Corporation Taxes Act 1988 (c. 1)	In section 6(4), the words ", 247".
	In section 231(1), the words ", 247".
	Sections 247 and 248.
	In Schedule 24, paragraph 6.
Finance Act 1989 (c. 26)	Section 99.
Finance Act 1996 (c. 8)	In Schedule 14, paragraph 13.
Finance Act 1998 (c. 36)	In Schedule 3, paragraph 19(3) and (4)(a).

(11) SMALL COMPANIES' RELIEF

Short title and chapter	***Extent of repeal***
Income and Corporation Taxes Act 1988 (c. 1)	In section 13(7)(a), the words "resident in the United Kingdom".

(12) ENDING OF PROVISIONAL REPAYMENT REGIME

Short title and chapter	***Extent of repeal***
Income and Corporation Taxes Act 1988 (c. 1)	Section 438A.
	Schedule 19AB.
	In Schedule 19AC, paragraph 15.
Finance Act 1991 (c. 31)	Section 49.

	Schedule 8.
Finance Act 1993 (c. 34)	Section 121.
Finance Act 1995 (c. 4)	In Schedule 8, paragraph 12(1)(b).
Finance Act 1996 (c. 8)	Section 169.
	Schedule 34.
Finance (No. 2) Act 1997 (c. 58)	In Schedule 3, paragraphs 10 to 12 and 13(13).
Finance Act 1998 (c. 36)	Section 37(2).
	Section 90(3).
	Section 91.
	In Schedule 18, in paragraph 9(3), paragraph (b) and the word "and" preceding it.
	In Schedule 19, paragraph 51.

(13) AMENDMENTS TO MACHINERY OF SELF-ASSESSMENT

Short title and chapter	***Extent of repeal***
Taxes Management Act 1970 (c. 9)	In section 9—
	(a) in subsection (3), the words following the paragraphs;
	(b) subsections (4) to (6).
	In section 12AB—
	(a) subsections (2) to (4);
	(b) in subsection (5), the definition of "filing date".
	In section 12B(1)—
	(a) in paragraph (b)(i), the words "or any amendment of the return" and "treated as";
	(b) in paragraph (b)(ii), the words "or any amendment of the return".
	In section 30(5)(b), the words ", or an amendment of such a return,".
	In section 50—
	(a) in subsection (6)(a), the words from "by reason of" to "Finance Act 1998";
	(b) in subsection (6)(b), the words from "by reason of" to "this Act";

	(c) in subsection (7)(a), the words from "which has been amended" to the end of the paragraph;
	(d) in subsection (7)(b), the words from "which has been amended" to "this Act".
	In Schedule 1A, in paragraph 2A(2)(a), the words "treated as".
Finance Act 1984 (c. 43)	In Schedule 22, paragraph 3(1).
Finance Act 1990 (c. 29)	Section 104(2)(b).
Finance Act 1994 (c. 9)	Sections 180, 186, 188 and 189.
	In Schedule 19, paragraph 7.
Finance Act 1996 (c. 8)	In section 123, subsections (6) and (7).
	In Schedule 19—
	(a) in paragraph 2, the words "9A(1)," and "12AC(1), 19A(1), 28A(1) and 28B(1)";
	(b) paragraphs 4, 5, 6, 9 and 10(1).
	In Schedule 22, paragraphs 3 and 4.
	In Schedule 24, paragraph 5.
Finance Act 1998 (c. 36)	In Schedule 19, paragraphs 4, 5, 8, 10, 14(2), 16(3), 24, 25, 26 and 27(2) and (3).

(14) RECOVERY PROCEEDINGS: MINOR AMENDMENTS

Short title and chapter	***Extent of repeal***
Taxes Management Act 1970 (c. 9)	In section 66(1), the words "under any assessment".
	In section 67(1), the words "under any assessment".
Finance (No.2) Act 1987 (c. 51)	Section 86(1).
Finance Act 1994 (c. 9)	In Schedule 19, paragraph 20.
Finance Act 1998 (c. 36)	In Schedule 4, paragraph 3(2).
	In Schedule 19, paragraph 31.

1 The repeals in the Taxes Management Act 1970 have effect in relation to proceedings begun after the passing of this Act.

2 The other repeals have effect in relation to—

(a) proceedings begun (or a counterclaim made) after the passing of this Act, and

(b) a set-off first claimed after the passing of this Act.

PART 3

OTHER TAXES

(1) VALUE ADDED TAX: REDUCED RATE

Short title and chapter or title and number	*Extent of repeal or revocation*
Value Added Tax Act 1994 (c. 23)	Section 2(1A) to (1C).
	Section 97(4)(aa).
	Schedule A1.
Finance Act 1995 (c. 4)	Section 21.
Finance (No. 2) Act 1997 (c. 58)	Section 6.
Value Added Tax (Reduced Rate) Order 1998 (S.I. 1998/ 1375)	The whole Order.
Finance Act 2000 (c. 17)	Section 135.
	In Schedule 6, paragraph 9(4).
	Schedule 35.
Value Added Tax (Reduced Rate) Order 2000 (S.I. 2000/ 2954)	The whole Order.

1 The repeals of—

(a) sections 2(1C) and 97(4)(aa) of the Value Added Tax Act 1994, and

(b) paragraph 9(4) of Schedule 6 to the Finance Act 2000,

come into force on 1st November 2001.

2 The other repeals and revocations have effect in accordance with section 99(7) of this Act.

(2) PETROLEUM REVENUE TAX

Short title and chapter	*Extent of repeal*
Finance Act 1991 (c. 31)	Section 103(7)(b) and (c).
Finance Act 1995 (c. 4)	Section 146(1) and (2).

1 The repeals in the Finance Act 1991 have effect in accordance with section 103(2) of this Act.

2 The repeals in the Finance Act 1995 have effect in accordance with section 101(5) of this Act.

The repeal in paragraph 15(2)(b) of Schedule 6 to the Finance Act 2000 has effect in accordance with section 105(7) of this Act.

(3) LANDFILL TAX AND CLIMATE CHANGE LEVY

Short title and chapter	*Extent of repeal*

Finance Act 1998 (c. 36)	Section 148(2) to (4).
Finance Act 2000 (c. 17)	In Schedule 6— (a) in paragraph 14(2)(a), the word "and"; (b) in paragraph 15(2)(b), the words "by that person"; (c) paragraph 141.

Status:
Point in time view as at 01/07/2001. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation:
There are currently no known outstanding effects for the Finance Act 2001.