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## SCHEDULES

### SCHEDULE 1

Section 4

#### BEER FROM SMALL BREWERIES: REDUCED RATE OF DUTY

- 1 (1) Section 36 of the Alcoholic Liquor Duties Act 1979 (c. 4) (beer: charge of excise duty) is amended as follows.
  - (2) In subsection (1), for “at the rate of £11.89 per hectolitre per cent of alcohol in the beer” substitute “at the rates specified in subsection (1AA) below”.
  - (3) After subsection (1), insert—

“(1AA) The rates at which the duty shall be charged are—

    - (a) in the case of beer that is not small brewery beer, £11.89 per hectolitre per cent of alcohol in the beer;
    - (b) in the case of small brewery beer produced in a singleton brewery, the rate per hectolitre per cent of alcohol in the beer that is given by section 36D below;
    - (c) in the case of small brewery beer produced in a co-operated brewery, the rate per hectolitre per cent of alcohol in the beer that is given by section 36F below.”.
- 2 In that Act, after that section (and before the heading “*Reliefs from excise dut*”) insert—

*“Reduced rates of excise duty*

#### **36A Beer from small breweries: introductory**

- (1) For the purposes of section 36(1AA) above (but subject to subsection (2) below)—
  - (a) whether beer produced in a singleton brewery is “small brewery beer” is determined in accordance with section 36C below, and
  - (b) whether beer produced in a co-operated brewery is “small brewery beer” is determined in accordance with section 36E below.
- (2) Beer is not small brewery beer if it is produced by a person on any premises in circumstances in which he is required to be, but is not, registered under section 47 below in respect of those premises.

#### **36B Interpretation of provisions relating to small brewery beer**

- (1) The following provisions of this section have effect for the purposes of section 36(1AA) above, section 36A above, this section and sections 36C to 36F below.

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- (2) A brewery is a “singleton brewery” at any particular time in a calendar year if it is not a co-operated brewery at that time.
- (3) A brewery is a “co-operated brewery” at any particular time in a calendar year if—
- (a) a person who produces beer in the brewery at that time or any earlier time in that year, or
  - (b) a person connected with such a person,
- also produces beer in any other brewery at that time or any earlier time in that year.
- (4) “Brewery” means premises (whether or not in the United Kingdom) on which beer is produced and that are situated physically apart from any other premises on which beer is produced.
- (5) “The standard beer duty rate” means the rate of duty specified by section 36(1AA)(a) above.
- (6) References to “the grossed-up amount” of an estimate of the amount of a brewery’s production in a calendar year are to the amount given by—

$$\frac{E}{(365-N)} \times 365$$

where—

E is the amount of the estimate, and

N is the number of days (if any) in the calendar year before the brewery begins to be used as beer-production premises.

- (7) References to a brewery being used as beer-production premises are, in the case of a brewery in the United Kingdom, to there being at least one person who is required to be registered under section 47 below in respect of the brewery.
- (8) Any question whether a person is connected with another shall be determined in accordance with section 839 of the Income and Corporation Taxes Act 1988.

### **36C Meaning of “small brewery beer”: beer from singleton breweries**

- (1) This section applies to beer produced in a brewery at a time in a calendar year (“the current year”) when the brewery is a singleton brewery.
- (2) The beer is “small brewery beer” if the following conditions are satisfied; but this is subject to subsections (9) and (10) below.
- (3) The first condition is that either—
- (a) no beer was produced in the brewery in the previous calendar year (“the previous year”), or
  - (b) the amount of beer produced in the brewery in the previous year was not more than 30,000 hectolitres.

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- (4) For the purposes of subsection (3)(b) above, where the brewery was in use as beer-production premises during part only of the previous year, the amount of beer produced in the previous year in the brewery shall be taken to have been—

$$\frac{A}{D} \times 365$$

where—

A is the amount of beer actually produced in the previous year in the brewery, and

D is the number of days in that part of the previous year.

- (5) The second condition is that the amount of the estimate under subsection (9) below of the brewery's production in the current year is not more than 30,000 hectolitres.
- (6) The third condition is that if the brewery begins to be used as beer-production premises part-way through the current year, the grossed-up amount of that estimate is not more than 30,000 hectolitres.
- (7) The fourth condition is that less than half of the beer produced in the brewery in the previous year was produced under licence.
- (8) The fifth condition is that the beer is not produced under licence.
- (9) Beer produced in the brewery in the current year before the person who first produces beer in the brewery in that year has made a reasonable estimate of the amount of beer that will be produced in the brewery in that year is not small brewery beer.
- (10) Beer produced in the brewery in the current year after the amount of beer produced in the brewery in the current year has reached 30,000 hectolitres is not small brewery beer.
- (11) Subsection (10) above is without prejudice to section 167(4) of the Customs and Excise Management Act 1979 (recovery of duty unpaid by reason of untrue document or statement).

### **36D Rate of duty for small brewery beer from singleton breweries**

- (1) This section applies to small brewery beer produced in a brewery at a time in a calendar year ("the current year") when the brewery is a singleton brewery.
- (2) The rate of duty in the case of that beer ("the brewery rate") is determined in accordance with this section.
- (3) Subsection (4) below applies if—
- beer was produced in the brewery in the previous calendar year ("the previous year") and the amount produced in the brewery in that year was not more than 5,000 hectolitres, or
  - no beer was produced in the brewery in the previous year and the grossed-up amount of the estimate under section 36C(9) above of

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the brewery's production in the current year is not more than 5,000 hectolitres.

- (4) If this subsection applies, "the brewery rate" is 50% of the standard beer duty rate at the time concerned; but this is subject to rounding under subsection (7) below.
- (5) Subsection (6) below applies if—
- (a) beer was produced in the brewery in the previous year and the amount produced in the brewery in that year was more than 5,000 hectolitres but not more than 30,000 hectolitres, or
  - (b) no beer was produced in the brewery in the previous year and the grossed-up amount of the estimate under section 36C(9) above of the brewery's production in the current year is more than 5,000 hectolitres but not more than 30,000 hectolitres.
- (6) If this subsection applies, "the brewery rate" is, subject to rounding under subsection (7) below, given by—

$$\frac{P-2,500}{P} \times \text{the standard beer duty rate at the time c}$$

where—

if this subsection applies by reason of subsection (5)(a) above, P is the amount, in hectolitres, of beer produced in the brewery in the previous year, and

if this subsection applies by reason of subsection (5)(b) above, P is the grossed-up amount (expressed in hectolitres) mentioned in subsection (5)(b).

- (7) Where a rate given by subsection (4) or (6) above would (apart from this subsection) not be a whole number of pennies, the rate given by that subsection shall be taken to be the rate actually given by that subsection rounded up to the nearest penny.
- (8) Where the brewery was in use as beer-production premises during part only of the previous year, for the purposes of subsections (3)(a), (5)(a) and (6) above the amount of beer produced in the brewery in the previous year shall be taken to have been—

$$\frac{A}{D} \times 365$$

where—

A is the amount of beer actually produced in the previous year in the brewery, and

D is the number of days in that part of the previous year.

### **36E Meaning of "small brewery beer": beer from co-operated breweries**

- (1) This section applies to beer produced in a brewery at a time in a calendar year ("the current year") when the brewery is a co-operated brewery.

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- (2) The beer is “small brewery beer” if the following conditions are satisfied; but this is subject to subsections (10) and (11) below.
- (3) In this section—
- “the group” means the group of breweries consisting of—
- (a) the co-operated brewery, and
- (b) every brewery (other than the co-operated brewery) in which beer is produced at the time mentioned in subsection (1) above, or at any earlier time in the current year, by—
- (i) a person who produces beer in the co-operated brewery at the time so mentioned or at any earlier time in the current year, or
- (ii) a person connected with such a person;
- “group brewery” means a brewery that is in the group;
- “the previous year” means the calendar year immediately preceding the current year.
- (4) The first condition is that either—
- (a) no beer was produced in the previous year in the group, or
- (b) the amount given by  $PY + GE$  is not more than 30,000 hectolitres, where—
- PY is the amount of beer produced in the previous year in the group, and
- GE is the aggregate of the grossed-up amount of each estimate that—
- (i) is an estimate for the purposes of subsection (10) below of the amount of the production in the current year in a group brewery in which no beer was produced in the previous year, and
- (ii) is made no later than the time mentioned in subsection (1) above.
- (5) For the purposes of subsection (4)(b) above, where a group brewery was in use as beer-production premises during part only of the previous year, the amount of beer produced in the previous year in that brewery shall be taken to have been—

$$\frac{A}{D} \times 365$$

where—

A is the amount of beer actually produced in the previous year in that brewery, and

D is the number of days in that part of the previous year.

- (6) The second condition is that the aggregate of each estimate that—
- (a) is an estimate for the purposes of subsection (10) below of the amount of a group brewery’s production in the current year, and
- (b) is made no later than the time mentioned in subsection (1) above, is not more than 30,000 hectolitres.

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- (7) The third condition is that if any group brewery begins to be used as beer-production premises part-way through the current year, the aggregate of the grossed-up amount of each estimate that—
  - (a) is an estimate for the purposes of subsection (10) below of the amount of a group brewery’s production in the current year, and
  - (b) is made no later than the time mentioned in subsection (1) above, is not more than 30,000 hectolitres.
- (8) The fourth condition is that less than half of the beer produced in the previous year in each group brewery was produced under licence.
- (9) The fifth condition is that the beer is not produced under licence.
- (10) Beer produced in the co-operated brewery at an unestimated time is not small brewery beer; and here “unestimated time” means a time in the current year when there is a group brewery for which there does not exist a reasonable estimate, made by the person who first produces beer in that brewery in that year, of the amount of beer that will be produced in that brewery in that year.
- (11) Beer produced in the co-operated brewery in the current year after the amount of beer produced in the group in the current year has reached 30,000 hectolitres is not small brewery beer.
- (12) Subsection (11) above is without prejudice to section 167(4) of the Customs and Excise Management Act 1979 (recovery of duty unpaid by reason of untrue document or statement).

### **36F Rate of duty for small brewery beer from co-operated breweries**

- (1) This section applies to small brewery beer produced in a brewery at a time in a calendar year (“the current year”) when the brewery is a co-operated brewery.
- (2) The rate of duty in the case of that beer (“the brewery rate”) is determined in accordance with this section.
- (3) In this section—
  - “the group” means the group of breweries consisting of—
    - (a) the co-operated brewery, and
    - (b) every brewery (other than the co-operated brewery) in which beer is produced at the time mentioned in subsection (1) above, or at any earlier time in the current year, by—
      - (i) a person who produces beer in the co-operated brewery at the time so mentioned or at any earlier time in the current year, or
      - (ii) a person connected with such a person;
  - “group brewery” means a brewery that is in the group;
  - “the previous year” means the calendar year immediately preceding the current year;
  - “the notional previous year’s production” has the meaning given by subsection (4) below.

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(4) In this section “the notional previous year’s production” means the amount, in hectolitres, given by  $PY + GE$  where—

PY is the amount of beer produced in the group in the previous year, and

GE is the aggregate of the grossed-up amount of each estimate that—

(a) is an estimate for the purposes of section 36E(10) above of the amount of the production in the current year in a group brewery in which no beer was produced in the previous year, and

(b) is made no later than the time mentioned in subsection (1) above.

(5) Where a group brewery was in use as beer-production premises during part only of the previous year, in calculating PY for the purposes of subsection (4) above the amount of beer produced in that brewery in the previous year shall be taken to have been—

$$\frac{A}{D} \times 365$$

where—

A is the amount of beer actually produced in the previous year in that brewery, and

D is the number of days in that part of the previous year.

(6) Subsection (7) below applies if—

(a) beer was produced in at least one group brewery in the previous year and the notional previous year’s production is not more than 5,000 hectolitres, or

(b) no beer was produced in the group in the previous year and the aggregate of each estimate that—

(i) is an estimate for the purposes of section 36E(10) above of the amount of a group brewery’s production in the current year, and

(ii) is made no later than the time mentioned in subsection (1) above,

is not more than 5,000 hectolitres.

(7) If this subsection applies, “the brewery rate” is 50% of the standard rate at the time mentioned in subsection (1) above; but this is subject to rounding under subsection (10) below.

(8) Subsection (9) below applies if—

(a) beer was produced in at least one group brewery in the previous year and the notional previous year’s production is more than 5,000 hectolitres but not more than 30,000 hectolitres, or

(b) no beer was produced in the group in the previous year and the aggregate mentioned in subsection (6)(b) above is more than 5,000 hectolitres but not more than 30,000 hectolitres.

(9) If this subsection applies, “the brewery rate” is, subject to rounding under subsection (10) below, given by—

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$$\frac{P-2,500}{P} \times \text{the standard rate}$$

where—

if this subsection applies by reason of subsection (8)(a) above, P is the previous year's notional production,

if this subsection applies by reason of subsection (8)(b) above, P is the amount, in hectolitres, of the aggregate mentioned in subsection (6)(b) above, and

“the standard rate” means the standard beer duty rate at the time mentioned in subsection (1) above.

- (10) Where a rate given by subsection (7) or (9) above would (apart from this subsection) not be a whole number of pennies, the rate given by that subsection shall be taken to be the rate actually given by that subsection rounded up to the nearest penny.

### **36G Assessments where incorrectly low rate of duty applied**

- (1) Subsection (3) below applies if—
- (a) duty is charged by section 36 above on any beer, and
  - (b) it appears at the excise duty point that the beer is small brewery beer for the purposes of section 36(1AA) above, but
  - (c) it turns out that the beer was not small brewery beer for those purposes (because, for example, circumstances were not as they appeared at that point or they subsequently changed).
- (2) Subsection (3) below also applies if—
- (a) duty is charged by section 36 above on any beer that is small brewery beer for the purposes of section 36(1AA) above, and
  - (b) the rate of duty that at the excise duty point appeared to be the correct rate turns out to have been lower than the correct rate (because, for example, circumstances were not as they appeared at that point or they subsequently changed).
- (3) In any such case the Commissioners—
- (a) may assess the amount that is the difference between—
    - (i) the actual amount of the duty charged on the beer by section 36 above, and
    - (ii) the lower amount that, at the excise duty point, appeared to be the amount charged,
 as being excise duty due from the person liable to pay the duty charged on the beer by section 36 above, and
  - (b) may notify him or his representative accordingly.
- (4) Where two or more persons are liable to pay the duty charged on the beer—
- (a) the reference in subsection (3)(a) above to the person liable to pay the duty is to any one or more of those persons, and



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- (b) the reference in subsection (3)(b) above to notifying the person liable or his representative is to notifying each person assessed or his representative.

### **36H Power to vary reduced rate provisions**

- (1) The Treasury may by order made by statutory instrument make provision amending this Act for the purpose of causing excise duty to be charged on a description of beer—
  - (a) at a reduced rate instead of at the standard rate;
  - (b) at the standard rate instead of at a reduced rate;
  - (c) at a different reduced rate.
- (2) In this section—
  - “reduced rate” means a rate lower than the standard rate, and
  - “the standard rate” means the rate specified by section 36(1AA) (a) above.
- (3) An order under subsection (1) above may—
  - (a) make different provision for different cases;
  - (b) make such consequential amendments in this Act and other enactments as appear to the Treasury to be necessary or expedient;
  - (c) make such other consequential provision, and such incidental and transitional provision, as appears to the Treasury to be necessary or expedient.
- (4) A statutory instrument by which there is made an order under subsection (1) above shall be laid before the House of Commons after being made.

Unless the instrument is approved by the House of Commons before the expiration of 28 days beginning with the date on which the instrument was made, the order shall cease to have effect on the expiration of that period.

Where the order so ceases to have effect, that does not prejudice—

- (a) anything previously done under the order, or
- (b) the making of a new order.

In reckoning any such period of 28 days, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which the House of Commons is adjourned for more than 4 days.”.

#### **Commencement Information**

- II** Sch. 1 para. 2 wholly in force; Sch. 1 para. 2 in force for specified purposes at 1.6.2002, otherwise Sch. 1 para. 2 in force at 24.7.2002, see. s. 4

- 3 In section 49(1) of the Alcoholic Liquor Duties Act 1979 (c. 4) (beer regulations), after paragraph (j) insert—
  - “(k) requiring the production of certificates as to matters relating to beer imported into the United Kingdom and the beer’s production and producer, whether as alternative conditions for charging the duty on

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the beer at a rate lower than that specified by section 36(1AA)(a) above or as evidence that conditions for charging the duty at such a rate are satisfied.”.

- 4 (1) The Finance Act 1994 (c. 9) is amended as follows.
- (2) In section 12A(3)(bb) (recovery of amounts assessed under the Alcoholic Liquor Duties Act 1979), for “or 11” substitute “, 11 or 36G”.
- (3) In section 12B(2) (meaning of “relevant time” in section 12A), after paragraph (eb) insert—
- “(ec) in the case of an assessment under section 36G of that Act, the the time at which the requirement to pay the duty took effect (which time, in a case where there was an excise duty point for the beer fixed under section 1 of the Finance (No. 2) Act 1992, is that excise duty point);”.
- (4) In section 14(1)(ba) (review of assessments), for “or 11” substitute “, 11 or 36G”.

## SCHEDULE 2

Section 5

### HYDROCARBON OIL DUTIES: MINOR AND CONSEQUENTIAL AMENDMENTS RELATING TO BIODIESEL

#### *Introduction*

- 1 The Hydrocarbon Oil Duties Act 1979 (c. 5) is amended as follows.

#### *Biodiesel and bioblend not to be treated as fuel substitute*

- 2 In section 6A(1) (fuel substitutes: charge of duty) after “which is not hydrocarbon oil” insert “, biodiesel or bioblend”.

#### *Exclusion of bioblend from rebates on heavy oil*

- 3 In section 11 (rebate on heavy oil), after subsection (5) insert—
- “(6) No rebate shall be allowed under this section in respect of bioblend.”.

#### *Repayment of duty in case of biodiesel used otherwise than as road fuel*

- <sup>F14</sup> .....

#### **Textual Amendments**

- F1** Sch. 2 para. 4 omitted (retrospective to 1.4.2008) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 5 paras. 25\(d\)\(ii\)](#), [26\(b\)](#)

#### *Mixing biodiesel and rebated heavy oil*

- 5 (1) In section 20AAA (mixing of rebated oil), after subsection (2A) insert—

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“(2B) Where a mixture is produced in contravention of Part 2B of Schedule 2A to this Act, a duty of excise shall be charged on the mixture.”.

- (2) In section 20AAA(3) (producer of mixture liable to pay duty), for “or (2A)” substitute “, (2A) or (2B)”.
- (3) After Part 2A of Schedule 2A (mixing of rebated oil) insert—

## “PART 2B

### BIODIESEL

#### *Mixing biodiesel with rebated heavy oil*

- 7B (1) A mixture is produced in contravention of this paragraph if it is produced by mixing—
- (a) biodiesel or a substance containing biodiesel, and
  - (b) rebated heavy oil.

(2) In sub-paragraph (1)(b) above “rebated heavy oil” means heavy oil in respect of which a rebate has been allowed under section 11 of this Act.”.

- (4) In paragraph 9(1A) of that Schedule (rates of duty for mixtures of heavy oil), after “subsection (2A)” insert “ or (2B) ”.
- (5) In paragraph 10(1) of that Schedule (credit for duty paid on ingredients of mixture), after “section 6” insert “, 6AA, 6AB or 6A ”.
- (6) In section 20AAB (mixing of rebated oil: supplementary), in subsection (1)(a) for “or (2A)” substitute “, (2A) or (2B)”.
- (7) In section 22 (prohibition on use of petrol substitutes on which duty has not been paid), after subsection (1) insert—

“(1AA) Where any person—

- (a) puts any biodiesel to a chargeable use (within the meaning of section 6AA above), and
- (b) knows or has reasonable cause to believe that there is duty charged under section 6AA above on that biodiesel which has not been paid and is not lawfully deferred,

his putting the biodiesel to that use shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties), and any goods in respect of which any person contravenes this subsection shall be liable to forfeiture.”.

- (8) In section 22(1A) (section 10 of the Finance Act 1994 does not apply), after “subsection (1)” insert “ or (1AA) ”.

#### *Interpretation*

- 6 In section 27(1) (interpretation) at the appropriate places insert—

““bioblend” has the meaning given by section 6AB(2) above;”,

and

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““biodiesel” has the meaning given by section 2AA above;”.

PROSPECTIVE

*Provision in relation to bioblend corresponding to that made by section 6 of the Finance Act 1998 in relation to section 6 of the Hydrocarbon Oil Duties Act 1979*

- 7 (1) In section 6AB (which charges excise duty on bioblend and is inserted by section 5 of this Act), in subsection (1), omit the words from “and delivered” to the end.
- (2) For subsection (6) of that section substitute—
- “(6) Where—
- (a) imported bioblend is removed to relevant premises,
  - (b) the bioblend undergoes a production process at those premises or any other relevant premises, and
  - (c) any duty charged on the importation of the bioblend has not become payable at any time before the production time,
- the duty charged on importation shall not become payable at any time after the production time.
- (7) In subsection (6) above—
- “the production time” means the time at which the bioblend undergoes the production process; and
- “relevant premises” means—
- (a) a refinery,
  - (b) other premises used for the production of hydrocarbon oil, or
  - (c) premises of such description as may be specified in regulations made by the Commissioners.
- (8) For the purposes of subsection (6) above, bioblend undergoes a production process if—
- (a) hydrocarbon oil, or bioblend, of any description, or biodiesel, is obtained from it, or
  - (b) it is subjected to any process of purification or blending.”.

### SCHEDULE 3

Section 6

#### HYDROCARBON OIL DUTIES: REBATED HEAVY OIL ETC

#### PART 1

##### REGULATING TRADERS IN REBATED HEAVY OIL

- 1 In the Hydrocarbon Oil Duties Act 1979 (c. 5), after section 23 insert—

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### **“23A Regulation of traders in controlled oil**

- (1) If a revenue trader who is not a registered excise dealer and shipper—
  - (a) buys or sells controlled oil in the course of a trade or business, or
  - (b) in the course of a trade or business deals in controlled oil,his buying or selling, or dealing in, the oil shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties).
- (2) Subsection (1) above does not apply to the buying of oil by a revenue trader if—
  - (a) the oil is for use by the trader, and
  - (b) that use does not involve selling or dealing in hydrocarbon oil.
- (3) Subsection (1) above does not apply to the selling of oil by a revenue trader if—
  - (a) that oil was for use by the trader,
  - (b) that use did not involve selling or dealing in hydrocarbon oil,
  - (c) that use came to an end before the oil was used, and
  - (d) the oil is sold after the use ends.
- (4) Where a revenue trader who is not a registered excise dealer and shipper is entitled to the possession of any controlled oil, the oil is liable to forfeiture.
- (5) Subsection (4) above does not apply to oil if—
  - (a) that oil is for use by the revenue trader, and
  - (b) that use does not involve selling or dealing in hydrocarbon oil.
- (6) Subsection (4) above does not apply to oil if—
  - (a) the oil was for use by the revenue trader,
  - (b) that use did not involve selling or dealing in hydrocarbon oil,
  - (c) that use has come to an end,
  - (d) that use came to an end before the oil was used, and
  - (e) the oil is being held pending sale or other disposal.
- (7) Where oil is liable to forfeiture by virtue of subsection (4) above—
  - (a) anything mixed with the oil,
  - (b) any container in which the oil (and anything mixed with it) is kept, and
  - (c) any equipment kept for dispensing the contents of any such container,is liable to forfeiture.

### **23B Power to provide for exceptions to section 23A**

- (1) The Commissioners may by regulations make provision for—
  - (a) exceptions to section 23A(1) above in addition to those allowed by section 23A(2) and (3) above;
  - (b) exceptions to section 23A(4) above in addition to those allowed by section 23A(5) and (6) above;
  - (c) exceptions to section 23A(7) above.

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- (2) Regulations under subsection (1) above may provide for exceptions allowed by such regulations to have effect subject to conditions—
- (a) specified by such regulations;
  - (b) specified by the Commissioners under such regulations.”.

#### Commencement Information

- I2** Sch. 3 para. 1 in force at 24.7.2002 for specified purposes , see s. 6(3)(4); Sch. 3 para. 1 in force at 1.4.2003 in so far as not already in force by [S.I. 2002/3056](#), [art. 2](#)

- 2 In section 100H(1) of the Customs and Excise Management Act 1979 (c. 2) (particular provision that may be made by registered excise dealers and shippers regulations), after paragraph (n) insert—
- “(p) authorised by section 24AA of the Hydrocarbon Oil Duties Act 1979 (regulation of traders in controlled oil).”.
- 3 In the Hydrocarbon Oil Duties Act 1979 (c. 5), after section 24 insert—

#### **“24AA Registered excise dealers and shippers regulations: special provision for traders in controlled oil**

- (1) For the purposes of section 100H(1)(p) of the Management Act (registered excise dealers and shippers regulations may, in particular, make provision authorised by this section), this section authorises provision—
- (a) requiring traders in controlled oil to notify prescribed information;
  - (b) requiring traders in controlled oil to make prescribed returns;
  - (c) authorising a trader in controlled oil to carry out or arrange for the carrying out of any prescribed activity falling within section 100H(1)(b) of the Management Act in relation to controlled oil, but subject to prescribed conditions or restrictions;
  - (d) requiring a trader in controlled oil to give security by prescribed means for amounts that may become due from him by way of repayment of rebate;
  - (e) for taking into account, in determining whether a trader in controlled oil has—
    - (i) contravened any provision of registered excise dealers and shippers regulations, or
    - (ii) failed to comply with any prescribed condition, restriction or requirement,
 the extent to which the trader has followed guidance issued by the Commissioners (including guidance issued after the making of provision under this paragraph referring to it).

- (2) In this section—
- “prescribed” has the meaning given by section 100H(3) of the Management Act;
- “trader in controlled oil” means a registered excise dealer and shipper carrying on a trade or business that consists of or includes the dealing in, buying or selling of controlled oil.”.

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- 4 (1) Section 27 of the Hydrocarbon Oil Duties Act 1979 (c. 5) (interpretation) is amended as follows.
- (2) In subsection (1) insert (at the appropriate place)—
- ““controlled oil” means hydrocarbon oil in respect of which a rebate has been allowed under section 11(1)(b), (ba) or (c) or 13AA;”.
- (3) In the Table set out in subsection (3) (expressions used in the Act that have a meaning given by another Act included in the Customs and Excise Acts 1979), under the heading “Management Act” insert (at the appropriate places)—
- ““registered excise dealer and shipper””,
- and
- ““revenue trader””.

## PART 2

### MINOR AMENDMENTS RELATING TO REBATES

- 5 The Hydrocarbon Oil Duties Act 1979 is amended as follows.
- 6 In section 12(1) (no rebate allowed on heavy oil intended for use in a road vehicle), after “no rebate” insert “ under section 11 above ”.
- 7 In section 12(2) (oil not to be used in road vehicles if rebate has been allowed under section 11(1) or 13AA(1)), for “section 11(1)” substitute “ section 11 ”.
- 8 In section 24(2) (regulations made for the purposes of section 12 or 13AA), for “under subsection (2) of that section” substitute “ under subsection (2) of section 12, or subsection (3) of section 13AA, ”.
- 9 In section 27(1) (interpretation), in the definition of “rebate”, after “section 11,” insert “ 13AA, ”.

## SCHEDULE 4

Section 12

### POOL BETTING DUTY ETC

## PART 1

### AMENDMENTS OF THE BETTING AND GAMING DUTIES ACT 1981

- 1 The Betting and Gaming Duties Act 1981 (c. 63) is amended as follows.
- 2 For sections 6 to 8 (pool betting duty: charge, rate and payment) substitute—

*“Pool betting duty*

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## 6 The duty

A duty of excise to be known as pool betting duty shall be charged in accordance with sections 7 to 8C.

## 7 Duty charged on net pool betting receipts

- (1) If the amount of a person's net pool betting receipts for an accounting period is greater than zero, pool betting duty is charged on those receipts.
- (2) The amount of that duty is 15 per cent of the amount of the receipts.

### 7A Calculating net pool betting receipts

For the purposes of section 7, the amount of a person's net pool betting receipts for an accounting period is—

### 7B Net pool betting receipts: meaning of “dutable pool bet”

- (1) For the purposes of a calculation under section 7A of the amount of a person's net pool betting receipts for any accounting period, a bet (wherever made) is a “dutable pool bet” if—
  - (a) the bet is made by way of pool betting, and
  - (b) the following conditions are satisfied.
- (2) The first condition is that—
  - (a) the bet is made by means of a totalisator situated in the United Kingdom and that person is the operator, or
  - (b) the bet is made otherwise than by means of a totalisator and that person is the promoter and is in the United Kingdom.
- (3) The second condition is that the bet is not—
  - (a) made by way of sponsored pool betting,
  - (b) made as mentioned in section 4(3), or
  - (c) made for community benefit.
- (4) The third condition is that if the bet was made before 31st March 2002, at least one event to which it relates takes place on or after that date.

### 7C Net pool betting receipts: calculating stake money

- (1) This section applies for the purpose of calculating S in a calculation under section 7A.
- (2) Any payment that entitles a person to make a bet shall, if he makes the bet, be treated as stake money on the bet.
- (3) All payments made—
  - (a) for or on account of or in connection with bets that are dutable pool bets for the purposes of the calculation,
  - (b) in addition to the stake money, and
  - (c) by the persons making the bets,



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shall be treated as amounts due in respect of the bets except in so far as the contrary is proved by the person whose net pool betting receipts are being calculated.

#### **7D Net pool betting receipts: when stakes etc fall due**

- (1) Subsections (2) to (5) apply for the purpose of calculating S in a calculation under section 7A but have effect subject to any regulations under subsection (6).
- (2) Where—
  - (a) a person makes a bet, and
  - (b) the bet relates to a single event, or to two or more events all taking place on the same day,any sum due to a person in respect of the bet shall be treated as falling due on the day on which the event or events take place.
- (3) Where—
  - (a) a person makes a bet, and
  - (b) subsection (2) does not apply,any sum due to a person in respect of the bet shall (subject to subsection (5)) be treated as falling due when the bet is made.
- (4) Subsections (2) and (3) have effect in relation to a sum irrespective of when it is actually paid or required to be paid (even where a sum that those subsections require to be treated as falling due on or after 31st March 2002 was actually paid, or required to be paid, before that date).
- (5) As respects a bet made before 31st March 2002 that relates to events at least one of which takes place before that date and at least one of which takes place on or after that date, any sum paid on or after that date in respect of the bet shall be treated as falling due when it is paid.
- (6) The Commissioners may by regulations make provision as to when any sum due to a person in respect of a bet is to be treated as falling due for the purpose of calculating S in a calculation under section 7A.
- (7) Provision made by regulations under subsection (6) may not provide for a sum due to a person in respect of a bet to be treated as falling due—
  - (a) earlier than when the bet is made, or
  - (b) later than when the bet is determined.
- (8) Regulations made under subsection (6) may—
  - (a) make provision that applies generally or only in relation to a specified description of bet;
  - (b) make different provision for different purposes;
  - (c) make provision relating to bets made before the regulations are made (including bets made before the passing of the Finance Act 2002);
  - (d) make transitional provision.

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### **7E Net pool betting receipts: expenses and profits**

- (1) Subsections (2) and (3) apply for the purpose of calculating E in a calculation under section 7A.
- (2) The expenses and profits falling within this subsection are (subject to subsection (3))—
  - (a) those of the person whose net pool betting receipts are being calculated, and
  - (b) those of any other person concerned with or benefiting from the promotion of the betting concerned.
- (3) Expenses and profits do not fall within subsection (2) so far as they are—
  - (a) provided out of amounts due, in respect of bets that are dutiable pool bets for the purposes of the calculation, to the person whose net pool betting receipts are being calculated, or
  - (b) referable to matters other than—
    - (i) the promotion or management of the betting concerned, or
    - (ii) activities ancillary to, or connected with, such promotion or management.
- (4) The Commissioners may by regulations make provision as to the accounting period to which expenses and profits falling within subsection (2) are to be treated as attributable for the purpose of calculating E in a calculation under section 7A.
- (5) Regulations made under subsection (4) may—
  - (a) make provision that applies generally or only in relation to a specified description of bet;
  - (b) make different provision for different purposes;
  - (c) make provision applying in respect of expenses incurred, and profits accruing, before the regulations are made (including any incurred or accruing before the passing of the Finance Act 2002);
  - (d) make transitional provision.

### **7F Net pool betting receipts: calculating winnings**

- (1) Subsections (2) to (5) apply for the purpose of calculating W in a calculation under section 7A.
- (2) 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.
- (3) The return of a stake shall be treated as a payment by way of winnings.
- (4) Only payments of money shall be taken into account.
- (5) Where a bet made before 31st March 2002 relates to events at least one of which takes place before that date and at least one of which takes place on or after that date, no account shall be taken of any payment by way of winnings on the bet.

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- (6) The Commissioners may by regulations make provision as to when amounts paid by way of winnings are to be treated as being paid for the purposes of calculating W in a calculation under section 7A.
- (7) Regulations made under subsection (6) may—
  - (a) make provision that applies generally or only in relation to a specified description of bet;
  - (b) make different provision for different purposes;
  - (c) make provision applying in respect of amounts paid before the regulations are made (including amounts paid before the passing of the Finance Act 2002);
  - (d) make transitional provision.

## **8 Payment and recovery**

- (1) Pool betting duty charged on a person's net pool betting receipts for an accounting period—
  - (a) becomes due at the end of the period,
  - (b) shall be paid by the person, and
  - (c) shall, subject to any regulations under subsection (3) and any directions under paragraph 3 of Schedule 1 to this Act, be paid when it becomes due.
- (2) Pool betting duty that is due to be paid may be recovered from the following persons as if they were jointly and severally liable to pay the duty—
  - (a) the person on whose net pool betting receipts the duty is charged ("the primary payer");
  - (b) a person responsible for the management of any business in the course of which any bets have been made that are dutiable pool bets for the purposes of calculations under section 7A of the amount of the primary payer's net pool betting receipts for any accounting period;
  - (c) a person responsible for the management of any totalisator used for the purposes of any such business;
  - (d) where a person within any of paragraphs (a) to (c) is a company, a director.
- (3) The Commissioners may by regulations—
  - (a) make provision as to when pool betting duty is to be paid (including provision repealing paragraph 3 of Schedule 1 to this Act and the reference to that paragraph in subsection (1)(c));
  - (b) make provision as to how pool betting duty is to be paid.
- (4) Regulations made under subsection (3) may—
  - (a) make provision that 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.

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### **8A Meaning of “bet made for community benefit” in sections 6 to 8**

- (1) For the purposes of sections 6 to 8 (but subject to any direction under subsection (3)), a bet is made “for community benefit” if—
  - (a) the promoter of the betting concerned is a community society or is bound to pay all benefits accruing from the betting to such a society, and
  - (b) the person making the bet knows, when making it, that the purpose of the betting is to benefit such a society.
- (2) In the case of a bet made by means of a totalisator, the reference in subsection (1) to the promoter of the betting concerned is a reference to the operator.
- (3) The Commissioners may direct that any bet specified by the direction, or of a description so specified, is not a bet made for community benefit.
- (4) The power conferred by subsection (3) may not be exercised unless the Commissioners consider that an unreasonably large part of the amounts paid in respect of the bets concerned will, or may, be applied otherwise than—
  - (a) in the payment of winnings, or
  - (b) for the benefit of a community society.
- (5) In this section “community society” means—
  - (a) a society established and conducted for charitable purposes only, or
  - (b) a society established and conducted wholly or mainly for the support of athletic sports or athletic games and not established or conducted for purposes of private gain.
- (6) In this section “society” includes any club, institution, organisation or association of persons, by whatever name called.

### **8B Meaning of “accounting period” in sections 6 to 8**

- (1) For the purposes of sections 6 to 8—
  - (a) each period that ends with the last Saturday in a calendar month, and begins with the Sunday immediately following the previous such Saturday, is an accounting period, but
  - (b) the Commissioners may by regulations make provision for some other specified period to be an accounting period.
- (2) Regulations made under subsection (1)(b) may—
  - (a) make provision that 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.

### **8C Meaning of “bet” in sections 6 to 8A**

- (1) For the purposes of sections 6 to 8A, “bet” does not include the taking of a ticket or chance in a lottery.

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- (2) Where payments are made for the chance of winning any money or money's worth on terms under which the persons making the payments have a power of selection that may (directly or indirectly) determine the winner, those payments shall be treated as bets for the purposes of sections 6 to 8A notwithstanding that the power is not exercised.
- (3) Subsection (2) has effect subject to section 12(3).
- (4) Where any payment entitles a person to take part in a transaction that is, on his part only, not a bet made by way of pool betting by reason of his not in fact making any stake as if the transaction were such a bet, the transaction shall be treated as such a bet for the purposes of pool betting duty (and section 7C(3) shall apply to any such payment)."

#### Commencement Information

**I3** Sch. 4 para. 2 wholly in force; Sch. 4 para. 2 in force at 31.3.2002 for specified purposes, otherwise in force at 24.7.2002, see s. 12(5)(7)(a)(8)

- 3 In section 2(2) (bets to which section 2(1) does not apply)—
  - (a) in paragraph (b), after "bet," insert " or ", and
  - (b) omit paragraph (d) and the word "or" preceding it.
- 4 In section 4(6) (bets to which subsections (1) to (3) do not apply), for the words from "do not apply" to the end substitute " do not apply to on-course bets. ”.
- 5 In section 9(2) (bets to which section applies), omit "or coupon betting" (in both places).
- 6 In section 9(3) (bets to which section does not apply)—
  - (a) in paragraph (a), omit "or coupon betting",
  - (b) for sub-paragraphs (i) to (iv) of paragraph (a) substitute—
    - “(i) the bet is not made by means of a totalisator, and
    - (ii) the promoter is in the Isle of Man; or”

and

  - (c) in paragraph (aa)(i), omit "or coupon betting".

#### Commencement Information

**I4** Sch. 4 para. 6 wholly in force; Sch. 4 para. 6(b) in force at 31.3.2002; Sch. 4 para. 6(a)(c) in force at 24.4.2002, see s. 12(5)(6)

- 7 For section 9(6) substitute—

“(6) Section 8C(1) to (3) above shall have effect for the purposes of subsections (2)(a) and (5) above as it has effect for the purposes of sections 6 to 8A above.”.
- 8 Omit section 11 (definition of coupon betting).
- 9 In section 12(3) (interpretation of sections 1 to 10 etc), omit "(except in sections 6, 7, 8, 9(2)(a) and 9(5) in their application to coupon betting)".
- 10 (1) Schedule 1 (administration etc of betting duties) is amended as follows.

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- (2) In paragraph 1, in the definition of “pool betting business”, at the end insert “ or would or might involve such sums becoming so payable if receipts from bets made for community benefit (as defined by section 8A of this Act) were not excluded from that duty. ”.
- (3) After paragraph 2 insert—
- “2A (1) Pool betting duty shall be under the care and management of the Commissioners.
- (2) Without prejudice to any other provision of this Schedule, the Commissioners may make regulations providing for any matter for which provision appears to them to be necessary for the administration or enforcement of pool betting duty or for the protection of the revenue from pool betting duty.
- (3) Regulations under sub-paragraph (2) above may in particular—
- (a) provide for payments on account of pool betting duty which may become chargeable to be made in advance;
- (b) provide for the giving of security by means of a deposit or otherwise for duty due or to become due.”.
- (4) In paragraph 3, omit “shall be under the care and management of the Commissioners, and”.
- (5) In paragraph 4(2), for “sub-paragraphs (3) and (4)” substitute “ sub-paragraph (3) ”.
- (6) Omit paragraph 4(4) to (6).
- (7) In paragraph 5(1), for “made entry or given notice in accordance with paragraph 4(2) or (4)” substitute “ made entry in accordance with paragraph 4(2) ”.
- (8) Renumber paragraph (b) of paragraph 5(2) as paragraph 5(3).
- (9) In what remains of paragraph 5(2) after that renumbering, for the words from “paragraph 12(3) below, except that” to the end substitute “ sub-paragraph (3) below. ”.
- (10) In paragraph 6(2), omit paragraph (b).
- (11) Omit paragraphs 8 and 12.
- (12) In paragraph 13(1)(b), after “any of paragraphs 2,” insert “ 2A, ”.
- (13) In paragraph 14(1), omit the words after paragraph (b).
- <sup>F2</sup>(14) .....

#### Textual Amendments

**F2** Sch. 4 para. 10(14) repealed (19.7.2007) by Finance Act 2007 (c. 11), Sch. 27 Pt. 6(3)

#### Commencement Information

**I5** Sch. 6 para. 10 wholly in force; Sch. 6 para. 10(1)(2)(5)-(11)(13)(14) in force at 24.4.2002; Sch. 6 para. 10(3)(4)(12) in force at 24.7.2002, see s. 12(6)(7)(b)

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## PART 2

### MINOR AMENDMENTS AND TRANSITIONAL PROVISIONS

#### *Amendment in the Excise Duties (Surcharges or Rebates) Act 1979*

- 11 In section 1(3) of the Excise Duties (Surcharges or Rebates) Act 1979 (c. 8) (liability to duty other than pool betting duty adjusted if order under section in force when duty becomes due), omit the words from “, except that if the duty is pool betting duty” to the end.

#### *Amendments in Schedule 5 to the Finance Act 1994*

- 12 (1) Paragraph 6 of Schedule 5 to the Finance Act 1994 (c. 9) (decisions under the Betting and Gaming Duties Act 1981 that are subject to review and appeal) is amended as follows.
- (2) In sub-paragraph (2)(a) (decisions in connection with requiring security for duty)—
- (a) after “regulations under paragraph 2” insert “ or 2A ”, and
- (b) after “in relation to general betting duty” insert “ or pool betting duty ”.
- (3) After sub-paragraph (2) insert—
- “(3) Any decision consisting in the giving of a direction under section 8A(3) of the Betting and Gaming Duties Act 1981 (pool betting duty: direction that bet is not made for community benefit).”

#### **Commencement Information**

- 16** Sch. 4 para. 12 wholly in force; Sch. 4 para. 12(1)(3) in force at 24.4.2002; Sch. 4 para. 12(2) in force at 24.7.2002, see. s. 12(6)(7)(b)

#### *Duty charged before 31st March 2002*

- 13 (1) If—
- (a) stake money is paid before 31st March 2002 in respect of a bet to which this paragraph applies, and
- (b) pool betting duty charged on that money before that date is not paid before 24th April 2002,
- that duty ceases on 24th April 2002 to be charged on that money.
- (2) If—
- (a) stake money is paid before 31st March 2002 in respect of such a bet, and
- (b) pool betting duty charged on that money before that date is paid before 24th April 2002,
- the person who paid that duty becomes entitled on 24th April 2002 to a credit equal to the amount of the duty.
- (3) Effect is given to such a credit by setting it (until fully utilised) against pool betting duty that the person is liable to pay in respect of accounting periods for the purposes of pool betting duty that begin on or after 31st March 2002 (taking earlier such periods before later ones).

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- (4) Such a credit does not—
- (a) carry interest,
  - (b) affect the payability of the duty mentioned in sub-paragraph (2), or
  - (c) entitle any person to any payment in respect of the credit.
- (5) This paragraph applies to a bet if—
- (a) it is a dutiable pool bet for the purposes of a calculation, under the section 7A of the Betting and Gaming Duties Act 1981 inserted by this Schedule, of the amount of a person’s net pool betting receipts for any accounting period, and
  - (b) it is made before 31st March 2002 but all the events to which it relates take place on or after that date.

*Notifications under paragraph 4(4) of Schedule 1 to that Act of premises used in connection with coupon betting*

- 14 Any notification under paragraph 4(4) of Schedule 1 to the Betting and Gaming Duties Act 1981 (c. 63) (duty to notify premises used for purposes of pool betting business in connection only with coupon betting) that is effective immediately before 24th April 2002 shall on and after that date have effect (until withdrawn) as a notification made on 31st March 2002 under paragraph 4(3) of that Schedule (duty to notify premises used for purposes of betting business in connection only with general betting).

## SCHEDULE 5

Section 19

### VEHICLE EXCISE DUTY: REGISTERED VEHICLES ETC

- 1 The Vehicle Excise and Registration Act 1994 (c. 22) is amended as follows.

**Commencement Information**

- I7** Sch. 5 para. 1 in force at 24.7.2002 for specified purposes, see s. 19(2)(3); Sch. 5 para. 1 in force at 30.11.2003 in so far as not already in force by [S.I. 2003/3086](#), [art. 2](#)

- 2 For section 1(1) substitute—
- “(1) A duty of excise (“vehicle excise duty”) shall be charged in respect of every mechanically propelled vehicle that—
- (a) is registered under this Act (see section 21), or
  - (b) is not so registered but is used, or kept, on a public road in the United Kingdom.
- (1A) Vehicle excise duty shall also be charged in respect of every thing (whether or not it is a vehicle) that has been, but has ceased to be, a mechanically propelled vehicle and—
- (a) is registered under this Act, or
  - (b) is not so registered but is used, or kept, on a public road in the United Kingdom.
- (1B) In the following provisions of this Act “vehicle” means—



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- (a) a mechanically propelled vehicle, or
  - (b) any thing (whether or not it is a vehicle) that has been, but has ceased to be, a mechanically propelled vehicle.
- (1C) Vehicle excise duty charged in respect of a vehicle by subsection (1)(a) or (1A)(a) shall be paid on a licence to be taken out—
- (a) by the person in whose name the vehicle is registered under this Act, or
  - (b) if that person is not the person keeping the vehicle, by either of those persons.
- (1D) Vehicle excise duty charged in respect of a vehicle by subsection (1)(b) or (1A)(b) shall be paid on a licence to be taken out by the person keeping the vehicle.”.

#### Commencement Information

**18** Sch. 5 para. 2 in force at 24.7.2002 for specified purposes, see s. 19(2)(3); Sch. 5 para. 2 in force at 30.11.2003 in so far as not already in force by [S.I. 2003/3086](#), [art. 2](#)

- 3 For section 2(2) to (4) (rates where duty charged in respect of keeping but not use) substitute—
- “(2) Subsection (1) applies subject to the following provisions of this section.
- (3) Where vehicle excise duty is charged by section 1(1)(b) or (1A)(b) in respect of the keeping of a vehicle on a road (and not in respect of its use), duty in respect of such keeping is chargeable by reference to the general rate currently specified in paragraph 1(2) of Schedule 1.
- (4) Subsections (5) and (6) apply where—
- (a) vehicle excise duty is charged by section 1(1)(a) or (1A)(a) in respect of a vehicle, and
  - (b) were the vehicle not registered under this Act, duty would not be charged by section 1(1)(b) or (1A)(b) in respect of the use of the vehicle on a road.
- (5) Where one or more use licences have previously been issued for the vehicle, the duty charged by section 1(1)(a) or (1A)(a) is chargeable by reference to the annual rate currently applicable to a vehicle of the same description as that of the vehicle on the occasion of the issue of that licence (or the last of those licences).
- (6) In any other case, the duty charged by section 1(1)(a) or (1A)(a) is chargeable by reference to the general rate currently specified in paragraph 1(2) of Schedule 1.
- (7) In subsection (5) “use licence” means—
- (a) a vehicle licence issued for the use of a vehicle, or
  - (b) a vehicle licence that is issued by reason of a vehicle being registered under this Act but which would have been issued for the use of the vehicle if the vehicle had not been registered under this Act.”.

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#### Commencement Information

**I9** Sch. 5 para. 3 in force at 24.7.2002 for specified purposes, see s. 19(2)(3); Sch. 5 para. 3 in force at 30.11.2003 in so far as not already in force by [S.I. 2003/3086](#), [art. 2](#)

4 For section 7(4) (vehicle licence valid only for vehicle for which it is issued) substitute—

“(4) A vehicle licence is issued for the vehicle specified in the application for the licence (and for no other).”.

#### Commencement Information

**I10** Sch. 5 para. 4 in force at 24.7.2002 for specified purposes, see s. 19(2)(3); Sch. 5 para. 4 in force at 30.11.2003 in so far as not already in force by [S.I. 2003/3086](#), [art. 2](#)

5 After section 7 insert—

#### “7A Supplement payable on late renewal of vehicle licence

(1) Regulations may make provision for a supplement of a prescribed amount to be payable in prescribed cases where—

- (a) a vehicle licence taken out for a vehicle expires, and
- (b) no vehicle licence is issued for the vehicle—
  - (i) before the end of such period beginning with the expiry of the expired licence as may be prescribed, and
  - (ii) for a period beginning with that expiry.

(2) A supplement under this section—

- (a) shall be payable by such person, or jointly and severally by such persons, as may be prescribed;
- (b) shall become payable at such time as may be prescribed;
- (c) may be of an amount that varies according to the length of the period between—
  - (i) the expiry of the licence by reason of whose non-renewal the supplement becomes payable, and
  - (ii) the time at which the supplement is paid or that licence is renewed.

(3) A supplement under this section that has become payable—

- (a) is in addition to any vehicle excise duty charged in respect of the vehicle concerned;
- (b) does not cease to be payable by reason of a vehicle licence being taken out for the vehicle after the supplement has become payable;
- (c) may, without prejudice to section 6 or 7B(2) and (3) or any other provision of this Act, be recovered as a debt due to the Crown.

(4) In this section—

- (a) references to the expiry of a vehicle licence include a reference to—
  - (i) its surrender, and

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- (ii) its being treated as no longer in force for the purposes of subsection (2) of section 31A by subsection (4) of that section;
  - (b) “prescribed” means prescribed by, or determined in accordance with, regulations;
  - (c) “regulations” means regulations made by the Secretary of State with the consent of the Treasury.
- (5) No regulations to which subsection (6) applies shall be made under this section unless a draft of the regulations has been laid before, and approved by a resolution of, each House of Parliament.
- (6) This subsection applies to regulations under this section that—
- (a) provide for a supplement to be payable in a case where one would not otherwise be payable,
  - (b) increase the amount of a supplement,
  - (c) provide for a supplement to become payable earlier than it would otherwise be payable, or
  - (d) provide for a supplement to be payable by a person by whom the supplement would not otherwise be payable.

#### **7B Late-renewal supplements: further provisions**

- (1) The Secretary of State may by regulations make provision for notifying the person in whose name a vehicle is registered under this Act about—
- (a) any supplement under section 7A that may or has become payable on non-renewal of a vehicle licence for the vehicle;
  - (b) when failure to renew a vehicle licence may result in the person being guilty of an offence under section 31A.
- (2) The Secretary of State may by regulations make provision—
- (a) for assessing an amount of supplement due under section 7A from any person and for notifying that amount to that person or any person acting in a representative capacity in relation to that person;
  - (b) for an amount assessed and notified under such regulations to be deemed to be an amount of vehicle excise duty due from the person assessed and recoverable accordingly;
  - (c) for review of decisions under such regulations and for appeals with respect to such decisions or decisions on such reviews.
- (3) Regulations under subsection (2) may, in particular, make provision that, subject to any modifications that the Secretary of State considers appropriate, corresponds or is similar to—
- (a) any provision made by sections 12A and 12B of the Finance Act 1994 (assessments related to excise duty matters), or
  - (b) any provision made by sections 14 to 16 of that Act (customs and excise reviews and appeals).
- (4) Sums received by way of supplements under section 7A shall be paid into the Consolidated Fund.”.

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#### Commencement Information

**I11** Sch. 5 para. 5 in force at 24.7.2002 for specified purposes, see s. 19(2)(3); Sch. 5 para. 5 in force at 30.11.2003 in so far as not already in force by [S.I. 2003/3086](#), [art. 2](#)

6 (1) In section 22 (registration regulations), in subsection (1D) (power to require details about unlicensed vehicles), after paragraph (a) insert—

“(aa) who does not renew a vehicle licence for a vehicle registered under this Act in his name,”.

(2) After that subsection insert—

“(1DA) For the purposes of subsection (1D)(aa) a person shall be regarded as not renewing a vehicle licence for a vehicle registered in his name if—

- (a) a vehicle for which a vehicle licence is in force is registered in his name, and
- (b) he does not, at such time as may be prescribed by the regulations or within such period as may be so prescribed, take out a vehicle licence to have effect from the expiry of the vehicle licence mentioned in paragraph (a).”.

#### Commencement Information

**I12** Sch. 5 para. 6 in force at 24.7.2002 for specified purposes, see s. 19(2)(3); Sch. 5 para. 6 in force at 30.11.2003 in so far as not already in force by [S.I. 2003/3086](#), [art. 2](#)

7 In section 29(7) (rate of duty by reference to which penalty is calculated), for “section 2(2) to (4)” substitute “section 2(3) to (6)”.

#### Commencement Information

**I13** Sch. 5 para. 7 in force at 24.7.2002 for specified purposes, see s. 19(2)(3); Sch. 5 para. 7 in force at 30.11.2003 in so far as not already in force by [S.I. 2003/3086](#), [art. 2](#)

8 After section 31 insert—

*“Offence of being registered keeper of unlicensed vehicle*

#### **31A Offence by registered keeper where vehicle unlicensed**

- (1) If a vehicle registered under this Act is unlicensed, the person in whose name the vehicle is registered is guilty of an offence.
- (2) For the purposes of this section a vehicle is unlicensed if no vehicle licence or trade licence is in force for or in respect of the vehicle.
- (3) Subsection (1) does not apply to a vehicle if—
  - (a) it is an exempt vehicle in respect of which regulations under this Act require a nil licence to be in force and a nil licence is in force in respect of the vehicle, or

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- (b) it is an exempt vehicle that is not one in respect of which regulations under this Act require a nil licence to be in force.
- (4) Where a vehicle for which a vehicle licence is in force is transferred by the holder of the licence to another person, the licence is to be treated for the purposes of subsection (2) as no longer in force unless it is delivered to the other person with the vehicle.
- (5) Where—
  - (a) an application is made for a vehicle licence for any period, and
  - (b) a temporary licence is issued pursuant to the application,subsection (4) does not apply to the licence applied for if, on a transfer of the vehicle during the currency of the temporary licence, the temporary licence is delivered with the vehicle to the transferee.

### **31B Exceptions to section 31A**

- (1) A person (“the registered keeper”) in whose name an unlicensed vehicle is registered at any particular time (“the relevant time”) does not commit an offence under section 31A at that time if any of the following conditions are satisfied.
- (2) The first condition is that the registered keeper—
  - (a) is not at the relevant time the person keeping the vehicle, and
  - (b) if previously he was the person keeping the vehicle, he has by the relevant time complied with any requirements under section 22(1)
  - (d)—
    - (i) that are prescribed for the purposes of this condition, and
    - (ii) that he is required to have complied with by the relevant or any earlier time.
- (3) The second condition is that—
  - (a) the registered keeper is at the relevant time the person keeping the vehicle,
  - (b) at the relevant time the vehicle is neither kept nor used on a public road, and
  - (c) the registered keeper has by the relevant time complied with any requirements under section 22(1D)—
    - (i) that are prescribed for the purposes of this condition, and
    - (ii) that he is required to have complied with by the relevant or any earlier time.
- (4) The third condition is that—
  - (a) the vehicle has been stolen before the relevant time,
  - (b) the vehicle has not been recovered by the relevant time, and
  - (c) any requirements under subsection (6) that, in connection with the theft, are required to have been complied with by the relevant or any earlier time have been complied with by the relevant time.
- (5) The fourth condition is that the relevant time falls within a period (“the grace days”)—

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- (a) beginning with the expiry of the last vehicle licence to be in force for the vehicle, and
  - (b) of a prescribed length,
- and a vehicle licence for the vehicle is taken out within the grace days for a period beginning with the grace days.
- (6) The Secretary of State may by regulations make provision for the purposes of subsection (4)(c) as to the persons to whom, the times at which and the manner in which the theft of a vehicle is to be notified.
  - (7) The Secretary of State may by regulations make provision amending this section for the purpose of providing for further exceptions to section 31A(1) (or varying or revoking any such further exceptions).
  - (8) A person accused of an offence under section 31A(1) is not entitled to the benefit of an exception conferred by or under this section unless evidence is adduced that is sufficient to raise an issue with respect to that exception, but where evidence is so adduced it is for the prosecution to prove beyond reasonable doubt that the exception does not apply.
  - (9) In this section—
    - (a) references to the expiry of a vehicle licence include a reference to—
      - (i) its surrender, and
      - (ii) its being treated as no longer in force for the purposes of subsection (2) of section 31A by subsection (4) of that section;
    - (b) “prescribed” means prescribed by regulations made by the Secretary of State.

### **31C Penalties for offences under section 31A**

- (1) A person guilty of an offence under section 31A(1) is liable on summary conviction to—
  - (a) an excise penalty of—
    - (i) level 3 on the standard scale, or
    - (ii) five times the amount of vehicle excise duty chargeable in respect of the vehicle concerned,
 whichever is the greater; and
  - (b) if subsection (3) applies to him, an excise penalty (in addition to any under paragraph (a)) of an amount that complies with subsection (2).
- (2) An amount complies with this subsection if it—
  - (a) is not less than the greater of—
    - (i) the maximum of the penalty to which the person is liable under subsection (1)(a), and
    - (ii) the amount of the supplement (if any) that became payable by him by reason of non-renewal of the vehicle licence for the vehicle that last expired before the commission of the offence; and
  - (b) is not more than the greatest of—

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- (i) the maximum of the penalty to which the person is liable under subsection (1)(a),
  - (ii) the amount mentioned in paragraph (a)(ii), and
  - (iii) ten times the amount of vehicle excise duty chargeable in respect of the vehicle.
- (3) This subsection applies to the person if—
  - (a) he was, at the time proceedings for the offence were commenced, the person in whose name the vehicle concerned was registered under this Act, and
  - (b) that vehicle was unlicensed throughout the period beginning with the commission of the offence and ending with the commencement of those proceedings.
- (4) The amount of vehicle excise duty chargeable in respect of a vehicle is to be taken for the purposes of subsections (1) and (2) to be an amount equal to the annual rate of duty applicable to the vehicle at the date on which the offence was committed.
- (5) Where in the case of a vehicle kept (but not used) on a public road that annual rate differs from the annual rate by reference to which the vehicle was at that date chargeable under section 2(3) to (6), the amount of the vehicle excise duty chargeable in respect of the vehicle is to be taken for those purposes to be an amount equal to the latter rate.
- (6) In the case of a conviction for a continuing offence, the offence is to be taken for the purposes of subsections (4) and (5) to have been committed on the date or latest date to which the conviction relates.
- (7) In this section, references to the expiry of a vehicle licence include a reference to—
  - (a) its surrender, and
  - (b) its being treated as no longer in force for the purposes of subsection (2) of section 31A by subsection (4) of that section.

*Offences under sections 29 and 31A: supplementary”.*

#### **Commencement Information**

**I14** Sch. 5 para. 8 in force at 24.7.2002 for specified purposes, see s. 19(2)(3); Sch. 5 para. 8 in force at 19.12.2003 in so far as not already in force by [S.I. 2003/3086](#), [art. 2](#)

- 9 (1) In section 32 (sections 29 to 31: supplementary), in subsection (1) (discharges to be treated as convictions)—
  - (a) in the words before paragraph (a), after “section 29” insert “ or 31A ”, and
  - (b) in the words after paragraph (c), after “sections 29 to 31” insert “ or (as the case may be) sections 31A to 31C ”.
- (2) In the heading of that section, for “31” substitute “ 31C ”.

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**Commencement Information**

**I15** Sch. 5 para. 9 in force at 24.7.2002 for specified purposes, see s. 19(2)(3); Sch. 5 para. 9 in force at 19.12.2003 in so far as not already in force by [S.I. 2003/3086](#), [art. 2](#)

10 In section 33(3)(b) (offences of not exhibiting licence are without prejudice to offences of not having a licence), after “sections 29” insert “, 31A”.

**Commencement Information**

**I16** Sch. 5 para. 10 in force at 24.7.2002 for specified purposes, see s. 19(2)(3); Sch. 5 para. 10 in force at 19.12.2003 in so far as not already in force by [S.I. 2003/3086](#), [art. 2](#)

11 In section 34(4) (rate of duty by reference to which penalty is calculated), for “section 2(2) to (4)” substitute “ section 2(3) to (6) ”.

**Commencement Information**

**I17** Sch. 5 para. 11 in force at 24.7.2002 for specified purposes, see s. 19(2)(3); Sch. 5 para. 11 in force at 30.11.2003 in so far as not already in force by [S.I. 2003/3086](#), [art. 2](#)

12 In section 47 (proceedings in England and Wales or Northern Ireland), in each of subsections (1) and (2)(a) (who may prosecute and time limit), after “section 29,” insert “ 31A, ”.

**Commencement Information**

**I18** Sch. 5 para. 12 in force at 24.7.2002 for specified purposes, see s. 19(2)(3); Sch. 5 para. 12 in force at 19.12.2003 in so far as not already in force by [S.I. 2003/3086](#), [art. 2](#)

13 In section 48(3)(a) (proceedings in Scotland: time limit), after “section 29,” insert “ 31A, ”.

**Commencement Information**

**I19** Sch. 5 para. 13 in force at 24.7.2002 for specified purposes, see s. 19(2)(3); Sch. 5 para. 13 in force at 19.12.2003 in so far as not already in force by [S.I. 2003/3086](#), [art. 2](#)

14 In section 53 (burden of proof of certain matters in proceedings for certain offences), after “section 29,” insert “ 31A, ”.

**Commencement Information**

**I20** Sch. 5 para. 14 in force at 24.7.2002 for specified purposes, see s. 19(2)(3); Sch. 5 para. 14 in force at 19.12.2003 in so far as not already in force by [S.I. 2003/3086](#), [art. 2](#)

15 In section 54 (single witness sufficient in Scottish proceedings), after “section 29” insert “ , 31A ”.



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**Commencement Information**

**I21** Sch. 5 para. 15 in force at 24.7.2002 for specified purposes, see s. 19(2)(3); Sch. 5 para. 15 in force at 19.12.2003 in so far as not already in force by [S.I. 2003/3086](#), [art. 2](#)

16 In section 57 (regulations), after subsection (7) insert—

“(7A) Subsection (7) does not apply to a statutory instrument containing regulations under section 7A to which subsection (6) of that section applies.”.

**Commencement Information**

**I22** Sch. 5 para. 16 in force at 24.7.2002 for specified purposes, see s. 19(2)(3); Sch. 5 para. 16 in force at 30.11.2003 in so far as not already in force by [S.I. 2003/3086](#), [art. 2](#)

17 In section 62(1) (definitions), for the definition of “vehicle” substitute—

““vehicle” shall be construed in accordance with section 1(1B);”.

**Commencement Information**

**I23** Sch. 5 para. 17 in force at 24.7.2002 for specified purposes, see s. 19(2)(3); Sch. 5 para. 17 in force at 30.11.2003 in so far as not already in force by [S.I. 2003/3086](#), [art. 2](#); Sch. 5 para. 17 in force at 24.7.2002 for specified purposes, see s. 19(2)(3)

F<sup>3</sup>SCHEDULE 6

Section 37

**Textual Amendments**

**F3** Sch. 6 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, [Sch. 8 Pt. 1](#) (with Sch. 7)

SCHEDULE 7

Section 43

CHARGEABLE GAINS: ROLL-OVER OF DEGROUPING CHARGE: MODIFICATION OF ENACTMENTS

The following Schedule is inserted after Schedule 7AA to the Taxation of Chargeable Gains Act 1992 (c. 12)—

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## “SCHEDULE 7AB

### ROLL-OVER OF DEGROUPING CHARGE: MODIFICATION OF ENACTMENTS

#### **Introductory**

- 1 (1) This Schedule sets out how sections 152 and 153 and other related enactments are modified for the purposes of section 179B (roll-over of degrouping charge on business assets).
- (2) In the enactments as so modified—
- “company A” and “company B” have the same meanings as in section 179;
  - “relevant asset” means the asset mentioned in section 179B(1);
  - “deemed sale” means the sale of the relevant asset that is treated as taking place by virtue of section 179(3) or (6);
  - “deemed sale consideration” means the amount for which company A is treated as having sold the relevant asset;
  - “time of accrual” means—
    - (a) in a case where section 179(3) applies, the time at which, by virtue of section 179(4), the gain or loss accruing on the deemed sale is treated as accruing to company A;
    - (b) in a case where section 179(6) applies, the latest time at which the company satisfies the conditions in section 179(7).

#### **Section 152**

- 2 (1) For subsection (1) of section 152 (roll-over relief) substitute—
- (“) If—
- (a) company B was carrying on a trade at the time when it disposed of the relevant asset to company A,
  - (b) the relevant asset was used, and used only, for the purposes of that trade throughout the period when it was owned by company B,
  - (c) an amount that is not less than the deemed sale consideration is applied by company A in acquiring other assets, or an interest in other assets (“the new assets”),
  - (d) on acquisition the new assets are taken into use, and used only, for the purposes of a trade carried on by company A,
  - (e) both the relevant asset and the new assets are within the classes of assets listed in section 155, and
  - (f) company A makes a claim as respects the amount applied as mentioned in paragraph (c),
- company A shall be treated for the purposes of this Act as if the deemed sale consideration were (if otherwise of a greater amount) reduced to such amount as would secure that neither a gain nor a loss accrues to the company in respect of the deemed sale.
- (1A) Where subsection (1) applies, company A shall be treated for the purposes of this Act as if the amount or value of the consideration for the acquisition of, or of the interest in, the new assets were reduced by the same amount as the amount of the reduction under that subsection.

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- (1B) Subsection (1) does not affect the value at which company A is treated by virtue of section 179 as having reacquired the relevant asset.
- (1C) Subsection (1A) does not affect the treatment for the purposes of this Act of the other party to the transaction involving the new assets. "
- (2) In subsection (2) of that section (application of subsection (1) where old assets held on 6th April 1965)—
- (a) for "subsection (1)(a)" substitute "subsection (1)";
  - (b) for "subsection (1)(b)" substitute "subsection (1A)".
- (3) In subsection (3) of that section (reinvestment period), for "after the disposal of, or of the interest in, the old assets" substitute "after the time of accrual".
- (4) In subsection (5) of that section (new assets must be acquired for purposes of trade), for "the trade" substitute "the trade carried on by company A".
- (5) In subsection (6) of that section (apportionment where part of building etc not used for purposes of trade), omit "or disposal" and insert at the end "or of the deemed sale consideration".
- (6) After that subsection insert—
- (“) In subsection (6) "period of ownership", in relation to the relevant asset, means the period during which the asset was owned by company B. "
- (7) In subsection (7) of that section (apportionment where old assets not used for purposes of trade throughout period of ownership)—
- (a) for the words from the beginning to "period of ownership" substitute "If the relevant asset was not used for the purposes of the trade carried on by company B throughout the period during which it was owned by that company";
  - (b) for the words from "or disposal" to the end substitute "of the asset or of the deemed sale consideration".
- (8) In subsection (9) of that section ("period of ownership" does not include period before 31st March 1982), for " "period of ownership" does not" substitute "the references to the period during which the relevant asset was owned by company B do not".
- (9) In subsection (11) of that section (apportionment of consideration for assets not all of which are subject of claim), omit "or disposal" and insert at the end "; and similarly in relation to the deemed sale consideration".

### **Section 153**

- 3 For subsection (1) of section 153 (assets only partly replaced) substitute—
- (“) If—
- (a) an amount that is less than the deemed sale consideration is applied by company A in acquiring other assets, or an interest in other assets ("the new assets"),
  - (b) the difference between the deemed sale consideration and the amount so applied ("the shortfall") is less than the amount of the gain (whether all chargeable gain or not) accruing on the deemed sale,
  - (c) the conditions in paragraphs (a), (b), (d) and (e) of section 152(1) are satisfied,
- and

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- (d) company A makes a claim as respects the amount applied as mentioned in paragraph (a) above,  
 company A shall be treated for the purposes of this Act as if the amount of the gain accruing as mentioned in paragraph (b) above were reduced to the same amount as the shortfall (with a proportionate reduction, if not all of that gain is chargeable gain, in the amount of the chargeable gain).
- (1A) Where subsection (1) applies, company A shall be treated for the purposes of this Act as if the amount or value of the consideration for the acquisition of, or of the interest in, the new assets were reduced by the amount by which the gain is reduced (or as the case may be the amount by which the chargeable gain is proportionately reduced) under that subsection.
- (1B) Subsection (1) does not affect the value at which company A is treated by virtue of section 179 as having reacquired the relevant asset.
- (1C) Subsection (1A) does not affect the treatment for the purposes of this Act of the other party to the transaction involving the new assets. "

### **Section 153A**

- 4 (1) In subsection (1) of section 153A (provisional application of sections 152 and 153)—
- (a) for the words from "a person" to "takes place" substitute "company A declares, in its return for the chargeable period in which the time of accrual falls";
  - (b) for "the trade" substitute "a trade carried on by company A";
  - (c) for "the whole or any specified part of the consideration" substitute "an amount equal to the deemed sale consideration or any specified part of that amount".
- (2) In subsection (5) of that section (meaning of "relevant day"), for paragraphs (a) and (b) substitute "the fourth anniversary of the last day of the accounting period of company A in which the time of accrual falls".

### **Section 155**

- 5 In section 155 (relevant classes of assets), in Head A of Class 1, after paragraph 2 insert — "In Head A "the trade" means—
- (a) for the purposes of determining whether the relevant asset is within this head, the trade carried on by company B;
  - (b) for the purposes of determining whether the new assets are within this head, the trade carried on by company A. "

### **Section 159**

- 6 (1) In subsection (1) of section 159 (new assets must be chargeable assets), for the words from "in the case of a person" to the second "in relation to him" substitute "if the relevant asset (or, as the case may be, the property mentioned in section 179(3)(b)) is a chargeable asset in relation to company A at the time of accrual, unless the new assets are chargeable assets in relation to that company".
- (2) In subsection (2) of that section (subsection (1) not to apply where new assets acquired by UK resident after disposal of old ones)—
- (a) for paragraph (a) substitute—
  - (“ company A acquires the new assets after the time of accrual, and ”;

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- (b) in paragraph (b) for “the person” substitute “that company”.
- (3) In subsection (3) of that section (subsection (2) not to apply in certain cases where new assets acquired by dual resident), for “the person” substitute “company A”.
- (4) In subsection (6) of that section (definitions)—
  - (a) in paragraph (a) for “ “the old assets” and “the new assets” have the same meanings” substitute “ “the new assets” has the same meaning”;
  - (b) omit paragraph (b).
- (5) Omit subsection (7) of that section (acquisitions before 14th March 1989).

### **Section 175**

- 7 (1) In subsection (2) of section 175 (single-trade rule for group members not to apply in case of dual resident investing company)—
  - (a) for “the consideration for the disposal of the old assets” substitute “the amount of the deemed sale consideration”;
  - (b) for “ “the old assets” and “the new assets” have the same meanings” substitute “ “the new assets” has the same meaning”.
- (2) In subsection (2A) of that section (claim by two group members to be treated as same person for roll-over purposes), for paragraph (a) substitute—
  - (“ company A is a member of a group of companies at the time of accrual, ”.
- (3) In subsection (2AA) of that section (conditions for claim under subsection (2A))—
  - (a) in paragraph (a) for the words from the beginning to “chargeable assets” substitute “that company A is resident in the United Kingdom at the time of accrual, or the relevant asset (or, as the case may be, the property mentioned in section 179(3)(b)) is a chargeable asset”
  - (b) in paragraph (b) for “the assets” substitute “the new assets (within the meaning of section 152)”.
- (4) Immediately before subsection (2B) of that section (roll-over relief for group member not itself carrying on trade) insert—
  - (“ Section 152 or 153 shall apply where—
    - (a) company B was not carrying on a trade at the time when it disposed of the relevant asset to company A, but was a member of a group of companies at that time, and
    - (b) immediately before that time the relevant asset was used, and used only, for the purposes of the trade which (in accordance with subsection (1) above) is treated as carried on by the members of the group which carried on a trade, as if company B had been carrying on that trade. ”.
- (5) In subsection (2B) of that section—
  - (a) omit paragraph (a);
  - (b) in paragraph (b), for “those purposes” substitute “the purposes of the trade which (in accordance with subsection (1) above) is treated as carried on by the members of the group which carry on a trade”.
- (6) Omit subsection (4) of that section (acquisitions before 20th March 1990).

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### **Section 185**

- 8 (1) In subsection (3) of section 185 (no roll-over relief in certain cases where company acquires new assets after becoming non-resident)—
- (a) omit “the company”;
  - (b) for paragraph (a) substitute—
  - (“ the time of accrual falls before the relevant time; and ”;
  - (c) insert “the company” at the beginning of paragraph (b).
- (2) In subsection (5) of that section (definitions), in paragraph (c) for “ “the old assets” and “the new assets” have the same meanings” substitute “ “the new assets” has the same meaning”.

### **Section 198**

- 9 (1) For subsection (1) of section 198 (replacement of business assets used in connection with oil fields) substitute—
- (“ If at the time of accrual the relevant asset (or, as the case may be, the property mentioned in section 179(3)(b)) was used by company A for the purposes of a ring fence trade carried on by it, section 152 or 153 shall not apply unless the new assets are on acquisition taken into use, and used only, for the purposes of that trade. ”.
- (2) In subsection (3) of that section (new asset conclusively presumed to be depreciating asset), for “in relation to any of the consideration on a material disposal” substitute “in a case falling within subsection (1) above”.
- (3) In subsection (5) of that section (definitions), omit paragraph (a).

### **Schedule 22 to the Finance Act 2000**

- 10 In sub-paragraph (2) of paragraph 67 of Schedule 22 to the Finance Act 2000 (c. 17) (no roll-over relief for tonnage tax assets)—
- (a) after “the disposal”, in the first and third places, insert “or deemed sale”;
  - (b) in paragraph (a) after “Asset No.1” insert “or, as the case may be, the deemed sale consideration”.

## SCHEDULE 8

Section 44(2)

### CHARGEABLE GAINS: EXEMPTIONS IN CASE OF SUBSTANTIAL SHAREHOLDING

#### PART 1

#### NEW SCHEDULE 7AC TO THE TAXATION OF CHARGEABLE GAINS ACT 1992

- 1 The following Schedule is inserted after Schedule 7AB to the Taxation of Chargeable Gains Act 1992 (c. 12)—

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## “SCHEDULE 7AC

### EXEMPTIONS FOR DISPOSALS BY COMPANIES WITH SUBSTANTIAL SHAREHOLDING

#### PART 1

#### THE EXEMPTIONS

##### ***The main exemption***

- 1 (1) A gain accruing to a company (“the investing company”) on a disposal of shares or an interest in shares in another company (“the company invested in”) is not a chargeable gain if the requirements of this Schedule are met.
- (2) The requirements are set out in—
  - Part 2 (the substantial shareholding requirement), and
  - Part 3 (requirements to be met in relation to the investing company and the company invested in).
- (3) The exemption conferred by this paragraph does not apply in the circumstances specified in paragraph 5 or the cases specified in paragraph 6.

##### ***Subsidiary exemption: disposal of asset related to shares where main exemption conditions met***

- 2 (1) A gain accruing to a company (“company A”) on a disposal of an asset related to shares in another company (“company B”) is not a chargeable gain if either of the following conditions is met.
- (2) The first condition is that—
  - (a) immediately before the disposal company A holds shares or an interest in shares in company B, and
  - (b) any gain accruing to company A on a disposal at that time of the shares or interest would, by virtue of paragraph 1, not be a chargeable gain.
- (3) The second condition is that—
  - (a) immediately before the disposal company A does not hold shares or an interest in shares in company B but is a member of a group and another member of that group does hold shares or an interest in shares in company B, and
  - (b) if company A, rather than that other company, held the shares or interest, any gain accruing to company A on a disposal at that time of the shares or interest would, by virtue of paragraph 1, not be a chargeable gain.
- (4) Where assets of a company are vested in a liquidator under section 145 of the Insolvency Act 1986 or Article 123 of the Insolvency (Northern Ireland) Order 1989 or otherwise, this paragraph applies as if the assets were vested in, and the acts of the liquidator in relation to the assets were the acts of,

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the company (acquisitions from or disposals to him by the company being disregarded accordingly).

- (5) The exemption conferred by this paragraph does not apply in the circumstances specified in paragraph 5 or the cases specified in paragraph 6.

***Subsidiary exemption: disposal of shares or related asset where main exemption conditions previously met***

- 3 (1) A gain accruing to a company (“company A”) on a disposal of shares, or an interest in shares or an asset related to shares, in another company (“company B”) is not a chargeable gain if the following conditions are met.

- (2) The conditions are—

- (a) that at the time of the disposal company A meets the requirement in paragraph 7 (the substantial shareholding requirement) in relation to company B;
- (b) that a chargeable gain or allowable loss would, apart from this paragraph, accrue to company A on the disposal (but see sub-paragraph (3) below);
- (c) that at the time of the disposal—
  - (i) company A is resident in the United Kingdom, or
  - (ii) any chargeable gain accruing to company A on the disposal would, by virtue of section 10(3), form part of that company’s chargeable profits for corporation tax purposes;
- (d) that there was a time within the period of two years ending with the disposal (“the relevant period”) when, if—
  - (i) company A, or
  - (ii) a company that at any time in the relevant period was a member of the same group as company A,
 had disposed of shares or an interest in shares in company B that it then held, a gain accruing would, by virtue of paragraph 1, not have been a chargeable gain; and
- (e) that, if at the time of the disposal the requirements of paragraph 19 (requirements relating to company invested in) are not met in relation to company B, there was a time within the relevant period when company B was controlled by—
  - (i) company A, or
  - (ii) company A together with any persons connected with it, or
  - (iii) a company that at any time in the relevant period was a member of the same group as company A, or
  - (iv) any such company together with any persons connected with it.

- (3) Sub-paragraph (1) does not apply if—

- (a) the condition in sub-paragraph (2)(b) is met but would not be met but for a failure to meet the requirement in paragraph 18(1)(b) (requirement as to investing company to be met immediately after the disposal), and
- (b) the failure to meet that requirement is not due to—
  - (i) the fact that company A has been wound up or dissolved, or



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- (ii) where the winding up or dissolution takes place as soon as is reasonably practicable in the circumstances, the fact that company A is about to be wound up or dissolved.
- (4) In determining for the purpose of sub-paragraph (2)(d) whether a gain accruing on the hypothetical disposal referred to would have been a chargeable gain, the requirements of paragraph 18(1)(b) and of paragraph 19(1)(b) (requirement as to company invested in to be met immediately after the disposal) shall be assumed to be met.
- (5) Where—
- (a) immediately before the disposal company B holds an asset,
  - (b) the expenditure allowable in computing any gain or loss on that asset, were it to be disposed of by company B immediately before that disposal, would fall to be reduced because of a claim to relief under section 165 (gifts relief) in relation to an earlier disposal, and
  - (c) that earlier disposal took place within the relevant period,
- sub-paragraph (1) does not prevent a gain accruing to company A on the disposal from being a chargeable gain but any loss so accruing is not an allowable loss.
- (6) Where assets of company B are vested in a liquidator under section 145 of the Insolvency Act 1986 or Article 123 of the Insolvency (Northern Ireland) Order 1989 or otherwise, sub-paragraph (5)(a) applies as if the assets were vested in the company.
- (7) In determining “the relevant period” for the purposes of sub-paragraph (2)(d) or (e) or sub-paragraph (5)(c), section 28 (time of disposal under contract) applies with the omission of subsection (2) (postponement of time of disposal in case of conditional contract).
- (8) The exemption conferred by this paragraph does not apply in the circumstances specified in paragraph 5 or the cases specified in paragraph 6.

***Application of exemptions in priority to provisions deeming there to be no disposal etc***

- 4 (1) For the purposes of determining whether an exemption conferred by this Schedule applies, the question whether there is a disposal shall be determined without regard to—
- (a) section 116(10) (reorganisation, conversion of securities, etc treated as not involving disposal),
  - (b) section 127 (share reorganisations etc treated as not involving disposal), or
  - (c) section 192(2)(a) (distribution not treated as capital distribution).
- (2) Sub-paragraph (1) does not apply to a disposal of shares if the effect of its applying would be that relief attributable to the shares under Schedule 15 to the Finance Act 2000 (corporate venturing scheme) would be withdrawn or reduced under paragraph 46 of that Schedule (withdrawal or reduction of investment relief on disposal of shares).
- (3) Where or to the extent that an exemption conferred by this Schedule does apply—

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- (a) the provisions mentioned in sub-paragraph (1)(a) and (b) do not apply in relation to the disposal, and
  - (b) the provision mentioned in sub-paragraph (1)(c) does not apply in relation to the subject matter of the disposal.
- (4) Where section 127 is disapplied by sub-paragraph (3)(a) in a case in which that section would otherwise have applied in relation to the disposal by virtue of paragraph 84 of Schedule 15 to the Finance Act 2000 (corporate venturing scheme: share exchanges), paragraph 85 of that Schedule (attribution of relief to new shares) does not apply.
- (5) In this paragraph any reference to section 127 includes a reference to that provision as applied by any enactment relating to corporation tax.

***Circumstances in which exemptions do not apply***

- 5 (1) Where in pursuance of arrangements to which this paragraph applies—
- (a) an untaxed gain accrues to a company (“company A”) on a disposal of shares, or an interest in shares or an asset related to shares, in another company (“company B”), and
  - (b) before the accrual of that gain—
    - (i) company A acquired control of company B, or the same person or persons acquired control of both companies, or
    - (ii) there was a significant change of trading activities affecting company B at a time when it was controlled by company A, or when both companies were controlled by the same person or persons,
 none of the exemptions in this Schedule applies to the disposal.
- (2) This paragraph applies to arrangements from which the sole or main benefit that (but for this paragraph) could be expected to arise is that the gain on the disposal would, by virtue of this Schedule, not be a chargeable gain.
- (3) For the purposes of sub-paragraph (1)(a) a gain is “untaxed” if the gain, or all of it but a part that is not substantial, represents profits that have not been brought into account (in the United Kingdom or elsewhere) for the purposes of tax on profits for a period ending on or before the date of the disposal.
- (4) The reference in sub-paragraph (3) to profits being brought into account for the purposes of tax on profits includes a reference to the case where—
- (a) an amount in respect of those profits is apportioned to a company resident in the United Kingdom by virtue of subsection (3) of section 747 of the Taxes Act 1988 (imputation of chargeable profits etc of controlled foreign companies), and
  - (b) a sum is chargeable on that company in respect of that amount by virtue of subsection (4) of that section for an accounting period of that company ending on or before the date of the disposal.
- (5) For the purposes of sub-paragraph (1)(b)(ii) there is a “significant change of trading activities affecting company B” if—
- (a) there is a major change in the nature or conduct of a trade carried on by company B or a 51% subsidiary of company B, or

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- (b) there is a major change in the scale of the activities of a trade carried on by company B or a 51% subsidiary of company B, or
  - (c) company B or a 51% subsidiary of company B begins to carry on a trade.
- (6) In this paragraph—
- “arrangements” includes any scheme, agreement or understanding, whether or not legally enforceable;
  - “major change in the nature or conduct of a trade” has the same meaning as in section 768 of the Taxes Act (change of ownership of company: disallowance of trading losses);
  - “profits” means income or gains (including unrealised income or gains).

### ***Other cases excluded from exemptions***

- 6 (1) The exemptions conferred by this Schedule do not apply—
- (a) to a disposal that by virtue of any enactment relating to chargeable gains is deemed to be for a consideration such that no gain or loss accrues to the person making the disposal,
  - (b) to a disposal a gain on which would, by virtue of any enactment not contained in this Schedule, not be a chargeable gain, or
  - (c) to a deemed disposal under section 440(1) or (2) of the Taxes Act (deemed disposal on transfer of asset of insurance company from one category to another).
- (2) The hypothetical disposal referred to in paragraph 2(2)(b) or (3)(b) or paragraph 3(2)(d) shall be assumed not to be a disposal within subparagraph (1)(a), (b) or (c) above.

## **PART 2 THE SUBSTANTIAL SHAREHOLDING REQUIREMENT**

### ***The requirement***

- 7 The investing company must have held a substantial shareholding in the company invested in throughout a twelve-month period beginning not more than two years before the day on which the disposal takes place.

### ***Meaning of “substantial shareholdin”g***

- 8 (1) For the purposes of this Schedule a company holds a “substantial shareholding” in another company if it holds shares or interests in shares in that company by virtue of which—
- (a) it holds not less than 10% of the company’s ordinary share capital,
  - (b) it is beneficially entitled to not less than 10% of the profits available for distribution to equity holders of the company, and
  - (c) it would be beneficially entitled on a winding up to not less than 10% of the assets of the company available for distribution to equity holders.

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This is without prejudice to what is meant by “substantial” where the word appears in other contexts.

- (2) Schedule 18 to the Taxes Act 1988 (meaning of equity holder and determination of profits or assets available for distribution) applies for the purposes of sub-paragraph (1).
- (3) In that Schedule as it applies for those purposes—
  - (a) for any reference to sections 403C and 413(7) of that Act, or either of those provisions, substitute a reference to sub-paragraph (1) above;
  - (b) omit the words in paragraph 1(4) from “but” to the end;
  - (c) omit paragraph 5(3) and paragraphs 5B to 5F; and
  - (d) omit paragraph 7(1)(b).

***Aggregation of holdings of group companies***

- 9 (1) For the purposes of paragraph 7 (the substantial shareholding requirement) a company that is a member of a group is treated—
  - (a) as holding any shares or interest in shares held by any other company in the group, and
  - (b) as having the same entitlement as any such company to any rights enjoyed by virtue of holding shares or an interest in shares.
- (2) Sub-paragraph (1) is subject to paragraph 17(4) (exclusion of aggregation in case of assets of long-term insurance fund of insurance company).

***Effect of earlier no-gain/no-loss transfer***

- 10 (1) For the purposes of this Part the period for which a company has held shares is treated as extended by any earlier period during which the shares concerned, or shares from which they are derived, were held—
  - (a) by a company from which the shares concerned were transferred to the first-mentioned company on a no-gain/ no-loss transfer, or
  - (b) by a company from which the shares concerned, or shares from which they are derived, were transferred on a previous no-gain/no-loss transfer—
    - (i) to a company within paragraph (a), or
    - (ii) to another company within this paragraph.
- (2) For the purposes of sub-paragraph (1)—
  - (a) a “no-gain/no-loss transfer” means a disposal and corresponding acquisition that by virtue of any enactment relating to chargeable gains are deemed to be for a consideration such that no gain or loss accrues to the person making the disposal;
  - (b) a transfer shall be treated as if it had been a no-gain/no-loss transfer if it is a transfer to which subsection (1) of section 171 (transfers within a group) would apply but for subsection (3) of that section.
- (3) Where sub-paragraph (1) applies to extend the period for which a company (“company A”) is treated as having held any shares, that company shall be treated for the purposes of this Part as having had at any time the same entitlement—

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- (a) to shares, and
  - (b) to any rights enjoyed by virtue of holding shares,  
as the company (“company B”) that at that time held the shares concerned or, as the case may be, the shares from which they are derived.
- (4) The shares and rights to be so attributed to company A include any holding or entitlement attributed at that time to company B under paragraph 9 (aggregation of holdings of group companies).
- (5) In this paragraph, except in paragraphs (a) to (c) of sub-paragraph (6), “shares” includes an interest in shares.
- (6) For the purposes of this paragraph shares are “derived” from other shares only where—
- (a) a company becomes a co-owner of shares previously owned by it alone, or vice versa,
  - (b) a company’s interest in shares as co-owner changes (without the company ceasing to be a co-owner),
  - (c) one holding of shares is treated by virtue of section 127 as the same asset as another, or
  - (d) there is a sequence of two or more of the occurrences mentioned in paragraphs (a) to (c).

The reference in paragraph (c) to section 127 includes a reference to that provision as applied by any enactment relating to corporation tax.

### ***Effect of deemed disposal and reacquisition***

- 11 (1) For the purposes of this Part a company is not regarded as having held shares throughout a period if, at any time during that period, there is a deemed disposal and reacquisition of—
- (a) the shares concerned, or
  - (b) shares, or an interest in shares, from which those shares are derived.
- (2) For the purposes of this Part a company is not regarded as having held an interest in shares throughout a period if, at any time during that period, there is a deemed disposal and reacquisition of—
- (a) the interest concerned, or
  - (b) shares, or an interest in shares, from which that interest is derived.
- (3) In this paragraph—
- “deemed disposal and reacquisition” means a disposal and immediate reacquisition treated as taking place under any enactment relating to corporation tax;
- “derived” has the same meaning as in paragraph 10.

### ***Effect of repurchase agreement***

- 12 (1) This paragraph applies where—
- (a) a company that holds shares in another company transfers the shares under a repurchase agreement, and

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- (b) by virtue of section 263A(1) (agreements for sale and repurchase of securities) the disposal is disregarded for the purposes of the enactments relating to chargeable gains.
- (2) During the period of the repurchase agreement—
- (a) the original owner shall be treated for the purposes of this Part as continuing to hold the shares transferred and accordingly as retaining his entitlement to any rights attached to them, and
  - (b) the interim holder shall be treated for those purposes as not holding the shares transferred and as not becoming entitled to any such rights.

This is subject to the following qualification.

- (3) If at any time before the end of the period of the repurchase agreement the original owner, or another member of the same group as the original owner, becomes the holder—
- (a) of any of the shares transferred, or
  - (b) of any shares directly or indirectly representing any of the shares transferred,
- sub-paragraph (2) does not apply after that time in relation to those shares or, as the case may be, in relation to the shares represented by those shares.
- (4) In this paragraph a “repurchase agreement” means an agreement under which—
- (a) a person (“the original owner”) transfers shares to another person (“the interim holder”) under an agreement to sell them, and
  - (b) the original owner or a person connected with him is required to buy them back either—
    - (i) in pursuance of an obligation to do so imposed by that agreement or by any related agreement, or
    - (ii) in consequence of the exercise of an option acquired under that agreement or any related agreement.

For the purposes of paragraph (b) agreements are related if they are entered into in pursuance of the same arrangements (regardless of the date on which either agreement is entered into).

- (5) Any reference in this paragraph to the period of a repurchase agreement is to the period beginning with the transfer of the shares by the original owner to the interim holder and ending with the repurchase of the shares in pursuance of the agreement.

### ***Effect of stock lending arrangements***

- 13 (1) This paragraph applies where—
- (a) a company that holds shares in another company transfers the shares under a stock lending arrangement, and
  - (b) by virtue of section 263B(2) (stock lending arrangements) the disposal is disregarded for the purposes of the enactments relating to chargeable gains.

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- (2) During the period of the stock lending arrangement—
- (a) the lender shall be treated for the purposes of this Part as continuing to hold the shares transferred and accordingly as retaining his entitlement to any rights attached to them, and
  - (b) the borrower shall be treated for those purposes as not holding the shares transferred and as not becoming entitled to any such rights.

This is subject to the following qualification.

- (3) If at any time before the end of the period of the stock lending arrangement the lender, or another member of the same group as the lender, becomes the holder—
- (a) of any of the shares transferred, or
  - (b) of any shares directly or indirectly representing any of the shares transferred,
- sub-paragraph (2) does not apply after that time in relation to those shares or, as the case may be, in relation to the shares represented by those shares.
- (4) In this paragraph a “stock lending arrangement” means arrangements between two persons (“the borrower” and “the lender”) under which—
- (a) the lender transfers shares to the borrower otherwise than by way of sale, and
  - (b) a requirement is imposed on the borrower to transfer those shares back to the lender otherwise than by way of sale.
- (5) Any reference in this paragraph to the period of a stock lending arrangement is to the period beginning with the transfer of the shares by the lender to the borrower and ending—
- (a) with the transfer of the shares back to the lender in pursuance of the arrangement, or
  - (b) when it becomes apparent that the requirement for the borrower to make a transfer back to the lender will not be complied with.
- (6) The following provisions apply for the purposes of this paragraph as they apply for the purposes of section 263B—
- (a) subsections (5) and (6) of that section (references to transfer back of securities to include transfer of other securities of the same description);
  - (b) section 263C (references to transfer back of securities to include payment in respect of redemption).

***Effect in relation to company invested in of earlier company reconstruction etc***

- 14 (1) This paragraph applies where shares in one company (“company X”)—
- (a) are exchanged (or deemed to be exchanged) for shares in another company (“company Y”), or
  - (b) are deemed to be exchanged by virtue of section 136 for shares in company X and shares in another company (“company Y”),
- in circumstances such that, under section 127 as that section applies by virtue of section 135 or 136, the original shares and the new holding are treated as the same asset.

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- (2) Where company Y—
- (a) is the company invested in, and is accordingly the company by reference to which the requirement of paragraph 7 (the substantial shareholding requirement) falls to be met, or
  - (b) is a company by reference to which, by virtue of this paragraph, that requirement may be met, or
  - (c) is a company by reference to which, by virtue of paragraph 15 (effect of earlier demerger) that requirement may be met,
- that requirement may instead be met, in relation to times before the exchange (or deemed exchange), by reference to company X.
- (3) If in any case that requirement can be met by virtue of this paragraph (or by virtue of this paragraph together with paragraph 15), it shall be treated as met.
- (4) In sub-paragraph (1) “original shares” and “new holding” shall be construed in accordance with sections 126, 127, 135 and 136.

***Effect in relation to company invested in of earlier demerger***

- 15 (1) This paragraph applies where shares in one company (“the subsidiary”) are transferred by another company (“the parent company”) on a demerger.
- (2) Where the subsidiary—
- (a) is the company invested in, and is accordingly the company by reference to which the requirement of paragraph 7 (the substantial shareholding requirement) falls to be met, or
  - (b) is a company by reference to which, by virtue of this paragraph, that requirement may be met, or
  - (c) is a company by reference to which, by virtue of paragraph 14 (effect of earlier company reconstruction etc), that requirement may be met,
- that requirement may instead be met, in relation to times before the transfer, by reference to the parent company.
- (3) If in any case that requirement can be met by virtue of this paragraph (or by virtue of this paragraph together with paragraph 14), it shall be treated as met.
- (4) In this paragraph a “transfer of shares on a demerger” means a transfer such that, by virtue of section 192(2)(b), sections 126 to 130 apply as if the parent company and the subsidiary were the same company and the transfer were a reorganisation of that company’s share capital not involving a disposal or acquisition.

***Effect of investing company’s liquidation***

- 16 Where assets of the investing company, or of a company that is a member of the same group as the investing company, are vested in a liquidator under section 145 of the Insolvency Act 1986 or Article 123 of the Insolvency (Northern Ireland) Order 1989 or otherwise, this Part applies as if the assets were vested in, and the acts of the liquidator in relation to the assets were the



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acts of, the company (acquisitions from or disposals to him by the company being disregarded accordingly).

***Special rules for assets of insurance company’s long-term insurance fund***

17 (1) In the following two cases paragraph 8(1) (meaning of substantial shareholding) has effect as if, in paragraphs (a), (b) and (c), “30%” were substituted for “10%”.

(2) The first case is where the investing company is an insurance company and the disposal is of an asset of its long-term insurance fund.

(3) The second case is where—

- (a) the investing company is a 51% subsidiary of an insurance company, and
- (b) the insurance company holds as an asset of its long-term insurance fund shares or an interest in shares—
  - (i) in the investing company, or
  - (ii) in another company through which it owns shares in the investing company.

The reference in paragraph (b)(ii) to owning shares through another company has the same meaning as in section 838 of the Taxes Act (subsidiaries).

(4) Where the investing company is a member of a group that includes an insurance company, paragraph 9 (aggregation of holdings of group companies) does not apply in relation to shares or an interest in shares held by the insurance company as assets of its long-term insurance fund.

(5) In this paragraph “insurance company” and “long-term insurance fund” have the meanings given by section 431(2) of the Taxes Act.

**PART 3 REQUIREMENTS TO BE MET IN RELATION TO INVESTING COMPANY AND COMPANY INVESTED IN**

***Requirements relating to the investing company***

18 (1) The investing company must—

- (a) have been a sole trading company or a member of a qualifying group throughout the period (“the qualifying period”)—
  - (i) beginning with the start of the latest twelve-month period by reference to which the requirement of paragraph 7 (the substantial shareholding requirement) is met, and
  - (ii) ending with the time of the disposal, and
- (b) be a sole trading company or a member of a qualifying group immediately after the time of the disposal.

(2) For this purpose a “qualifying group” means—

- (a) a trading group, or

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- (b) a group that would be a trading group if the activities of any group member that is not established for profit were disregarded to the extent that they are carried on otherwise than for profit.

In determining whether a company is established for profit, no account shall be taken of any object or power of the company that is only incidental to its main objects.

- (3) The requirement in sub-paragraph (1)(a) is met if the investing company was a sole trading company for some of the qualifying period and a member of a qualifying group for the remainder of that period.
- (4) The requirement in sub-paragraph (1)(a) is treated as met if at the time of the disposal—
- (a) the investing company is a member of a group, and
  - (b) there is another member of the group in relation to which that requirement would have been met if—
    - (i) the subject matter of the disposal had been transferred to it immediately before the disposal in circumstances in which section 171(1) (transfers within a group) applied, and
    - (ii) it had made the disposal.
- (5) If the disposal is by virtue of section 28(1) or (2) (asset disposed of under contract) treated as made at a time before the asset is conveyed or transferred, the requirements in sub-paragraph (1)(a) and (b) must also be complied with as they would have effect if the references in those provisions and sub-paragraph (4) to the time of the disposal were to the time of the conveyance or transfer.
- (6) In this paragraph a “sole trading company” means a trading company that is not a member of a group.

***Requirements relating to the company invested in***

- 19 (1) The company invested in must—
- (a) have been a qualifying company throughout the period—
    - (i) beginning with the start of the latest twelve-month period by reference to which the requirement of paragraph 7 (the substantial shareholding requirement) is met, and
    - (ii) ending with the time of the disposal, and
  - (b) be a qualifying company immediately after the time of the disposal.
- (2) For this purpose a “qualifying company” means a trading company or the holding company of a trading group or a trading subgroup.
- (3) If the disposal is by virtue of section 28(1) or (2) (asset disposed of under contract) treated as made at a time before the asset is conveyed or transferred, the requirements in sub-paragraph (1)(a) and (b) must also be complied with as they would have effect if the references there to the time of the disposal were to the time of the conveyance or transfer.

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### **Meaning of “trading compan”y**

- 20 (1) In this Schedule “trading company” means a company carrying on trading activities whose activities do not include to a substantial extent activities other than trading activities.
- (2) For the purposes of sub-paragraph (1) “trading activities” means activities carried on by the company—
- (a) in the course of, or for the purposes of, a trade being carried on by it,
  - (b) for the purposes of a trade that it is preparing to carry on,
  - (c) with a view to its acquiring or starting to carry on a trade, or
  - (d) with a view to its acquiring a significant interest in the share capital of another company that—
    - (i) is a trading company or the holding company of a trading group or trading subgroup, and
    - (ii) if the acquiring company is a member of a group, is not a member of that group.
- (3) Activities do not qualify as trading activities under sub-paragraph (2)(c) or (d) unless the acquisition is made, or (as the case may be) the company starts to carry on the trade, as soon as is reasonably practicable in the circumstances.
- (4) The reference in sub-paragraph (2)(d) to the acquisition of a significant interest in the share capital of another company is to an acquisition of ordinary share capital in the other company—
- (a) such as would make that company a 51% subsidiary of the acquiring company, or
  - (b) such as would give the acquiring company a qualifying shareholding in a joint venture company without making the two companies members of the same group.

### **Meaning of “trading grou”p**

- 21 (1) In this Schedule “trading group” means a group—
- (a) one or more of whose members carry on trading activities, and
  - (b) the activities of whose members, taken together, do not include to a substantial extent activities other than trading activities.
- (2) For the purposes of sub-paragraph (1) “trading activities” means activities carried on by a member of the group—
- (a) in the course of, or for the purposes of, a trade being carried on by any member of the group,
  - (b) for the purposes of a trade that any member of the group is preparing to carry on,
  - (c) with a view to any member of the group acquiring or starting to carry on a trade, or
  - (d) with a view to any member of the group acquiring a significant interest in the share capital of another company that—
    - (i) is a trading company or the holding company of a trading group or trading subgroup, and

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- (ii) is not a member of the same group as the acquiring company.
- (3) Activities do not qualify as trading activities under sub-paragraph (2)(c) or (d) unless the acquisition is made, or (as the case may be) the group member in question starts to carry on the trade, as soon as is reasonably practicable in the circumstances.
- (4) The reference in sub-paragraph (2)(d) to the acquisition of a significant interest in the share capital of another company is to an acquisition of ordinary share capital in the other company—
  - (a) such as would make that company a member of the same group as the acquiring company, or
  - (b) such as would give the acquiring company a qualifying shareholding in a joint venture company without making the joint venture company a member of the same group as the acquiring company.
- (5) For the purposes of this paragraph the activities of the members of the group shall be treated as one business (with the result that activities are disregarded to the extent that they are intra-group activities).

***Meaning of “trading subgroup”***

- 22 (1) In this Schedule “trading subgroup” means a subgroup—
- (a) one or more of whose members carry on trading activities, and
  - (b) the activities of whose members, taken together, do not include to a substantial extent activities other than trading activities.
- (2) For the purposes of sub-paragraph (1) “trading activities” means activities carried on by a member of the subgroup—
- (a) in the course of, or for the purposes of, a trade being carried on by any member of the subgroup,
  - (b) for the purposes of a trade that any member of the subgroup is preparing to carry on,
  - (c) with a view to any member of the subgroup acquiring or starting to carry on a trade, or
  - (d) with a view to any member of the subgroup acquiring a significant interest in the share capital of another company that—
    - (i) is a trading company or the holding company of a trading group or trading subgroup, and
    - (ii) is not a member of the same group as the acquiring company.
- (3) Activities do not qualify as trading activities under sub-paragraph (2)(c) or (d) unless the acquisition is made, or (as the case may be) the subgroup member in question starts to carry on the trade, as soon as is reasonably practicable in the circumstances.
- (4) The reference in sub-paragraph (2)(d) to the acquisition of a significant interest in the share capital of another company is to an acquisition of ordinary share capital in the other company—
- (a) such as would make that company a member of the same subgroup as the acquiring company, or

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- (b) such as would give the acquiring company a qualifying shareholding in a joint venture company without making the two companies members of the same group.
- (5) For the purposes of this paragraph the activities of the members of the subgroup shall be treated as one business (with the result that activities are disregarded to the extent that they are intra-subgroup activities).

### ***Treatment of holdings in joint venture companies***

- 23 (1) This paragraph applies where a company (“the company”) has a qualifying shareholding in a joint venture company.
- (2) In determining whether the company is a trading company—
- (a) its holding of shares in the joint venture company shall be disregarded, and
  - (b) it shall be treated as carrying on an appropriate proportion—
    - (i) of the activities of the joint venture company, or
    - (ii) where the joint venture company is a holding company, of the activities of that company and its 51% subsidiaries.

This sub-paragraph does not apply if the company is a member of a group and the joint venture company is a member of the same group.
- (3) In determining whether the company is a member of a trading group or the holding company of a trading group—
- (a) every holding of shares in the joint venture company by a member of the group having a qualifying shareholding in that company shall be disregarded, and
  - (b) each member of the group having a qualifying shareholding in the joint venture company shall be treated as carrying on an appropriate proportion—
    - (i) of the activities of the joint venture company, or
    - (ii) where the joint venture company is a holding company, of the activities of that company and its 51% subsidiaries.

This sub-paragraph does not apply if the joint venture company is a member of the group.
- (4) In determining whether the company is the holding company of a trading subgroup—
- (a) every holding of shares in the joint venture company by the company and any of its 51% subsidiaries having a qualifying shareholding in the joint venture company shall be disregarded, and
  - (b) the company and each of its 51% subsidiaries having a qualifying shareholding in the joint venture company shall be treated as carrying on an appropriate proportion—
    - (i) of the activities of the joint venture company, or
    - (ii) where the joint venture company is a holding company, of the activities of that company and its 51% subsidiaries.

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This sub-paragraph does not apply if the joint venture company is a member of the same group as the company.

- (5) In sub-paragraphs (2)(b), (3)(b) and (4)(b) “an appropriate proportion” means a proportion corresponding to the percentage of the ordinary share capital of the joint venture company held by the company concerned.
- (6) In this paragraph “shares”, in relation to a joint venture company, includes securities of that company or an interest in shares in or securities of that company.
- (7) For the purposes of this paragraph the activities of a joint venture company that is a holding company and its 51% subsidiaries shall be treated as a single business (so that activities are disregarded to the extent that they are intra-group activities or, as the case may be, intra-subgroup activities).

***Meaning of “joint venture company” and “qualifying shareholding”***

- 24 (1) For the purposes of this Schedule a company is a “joint venture company” if, and only if—
- (a) it is a trading company or the holding company of a trading group or trading subgroup, and
  - (b) there are five or fewer persons who between them hold 75% or more of its ordinary share capital.

In determining whether there are five or fewer such persons as are mentioned in paragraph (b), the members of a group are treated as if they were a single company.

- (2) For the purposes of this Schedule—
- (a) a company that is not a member of a group has a “qualifying shareholding” in a joint venture company if, and only if, it holds shares or an interest in shares in the joint venture company by virtue of which it holds 10% or more of that company’s ordinary share capital;
  - (b) a company that is a member of a group has a “qualifying shareholding” in a joint venture company if, and only if—
    - (i) it holds ordinary share capital of the joint venture company, and
    - (ii) the members of the group between them hold 10% or more of the ordinary share capital of that company.

***Effect in relation to company invested in of earlier company reconstruction, demerger etc***

- 25 The provisions of—
- (a) paragraph 14 (effect of earlier company reconstruction etc), and
  - (b) paragraph 15 (effect of earlier demerger),
- have effect in relation to the requirements of paragraph 19 (requirements in relation to company invested in) as they have effect in relation to the requirement of paragraph 7 (the substantial shareholding requirement).

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## PART 4 INTERPRETATION

### ***Meaning of “company”, “group” and related expressions***

26 (1) In this Schedule—

- (a) “company” has the meaning given by section 170(9); and
  - (b) references to a group, or to membership of a group, shall be construed in accordance with the provisions of section 170 read as if “51 per cent” were substituted for “75 per cent”.
- (2) References in this Schedule to a “subgroup” are to companies that would form a group but for the fact that one of them is a 51% subsidiary of another company.
- (3) In this Schedule “holding company”—
- (a) in relation to a group, means the company described in section 170 as the principal company of the group;
  - (b) in relation to a subgroup, means a company that would be the holding company of a group but for being a 51% subsidiary of another company.
- (4) In this Schedule “51% subsidiary” has the meaning given by section 838 of the Taxes Act.

In applying that section for the purposes of this Schedule, any share capital of a registered industrial and provident society shall be treated as ordinary share capital.

- (5) References in this Schedule to a “group” or “subsidiary” shall be construed with any necessary modifications where applied to a company incorporated under the law of a country or territory outside the United Kingdom.

### ***Meaning of “trade”***

27 In this Schedule “trade” means anything that—

- (a) is a trade, profession or vocation, within the meaning of the Income Tax Acts, and
- (b) is conducted on a commercial basis with a view to the realisation of profits.

### ***Meaning of “twelve-month period”***

28 For the purposes of this Schedule a “twelve-month period” means a period ending with the day before the first anniversary of the day with which, or in the course of which, the period began.

### ***Meaning of “interest in shares”***

29 (1) References in this Schedule to an interest in shares are to an interest as a co-owner of shares.

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- (2) It does not matter whether the shares are owned jointly or in common, or whether the interests of the co-owners are equal.

***Meaning of “asset related to share”s***

- 30 (1) This paragraph explains what is meant by an asset related to shares in a company.
- (2) An asset is related to shares in a company if it is—
- (a) an option to acquire or dispose of shares or an interest in shares in that company, or
  - (b) a security to which are attached rights by virtue of which the holder is or may become entitled to acquire or dispose of (whether by conversion or exchange or otherwise)—
    - (i) shares or an interest in shares in that company, or
    - (ii) an option to acquire or dispose of shares or an interest in shares in that company, or
    - (iii) another security falling within this paragraph, or
  - (c) an option to acquire or dispose of any security within paragraph (b) or an interest in any such security, or
  - (d) an interest in, or option over, any such option or security as is mentioned in paragraph (a), (b) or (c), or
  - (e) any interest in, or option over, any such interest or option as is mentioned in paragraph (d) or this paragraph.
- (3) In determining whether a security is within sub-paragraph (2)(b), no account shall be taken—
- (a) of any rights attached to the security other than rights relating, directly or indirectly, to shares of the company in question, or
  - (b) of rights as regards which, at the time the security came into existence, there was no more than a negligible likelihood that they would in due course be exercised to a significant extent.
- (4) The references in this paragraph to an interest in a security or option have a meaning corresponding to that given by paragraph 29 in relation to an interest in shares.

***Index of defined expressions***

- 31 In this Schedule the expressions listed below are defined or otherwise explained by the provisions indicated:

PART 5 CONSEQUENTIAL PROVISIONS

***Meaning of “chargeable share”s or “chargeable asset”***

- 32 Any exemption conferred by this Schedule shall be disregarded in determining whether shares are “chargeable shares”, or an asset is a “chargeable asset”, for the purposes of any enactment relating to corporation tax or capital gains tax.



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### ***Negligible value claims***

- 33 (1) This paragraph applies where—
- (a) a company makes a claim under section 24(2) (assets of negligible value) in relation to shares held by it, and
  - (b) by virtue of this Schedule any loss accruing to the company on a disposal of the shares at the time of the claim would not be an allowable loss.
- (2) Where this paragraph applies the company may not exercise the option under section 24(2) to specify a time earlier than the time of the claim as the time when the shares are treated as sold and reacquired by virtue of that subsection.
- (3) This paragraph applies to—
- (a) an interest in shares in a company, or
  - (b) an asset related to shares in a company,
- as it applies to shares in that company.

### ***Reorganisations etc: deemed accrual of chargeable gain or allowable loss held over on earlier transaction***

- 34 (1) The exemptions conferred by this Schedule do not apply to or affect a chargeable gain or allowable loss deemed to accrue on a disposal by virtue of section 116(10)(b) (reorganisations, conversions and reconstructions: deemed accrual of gain or loss held over on earlier transaction).
- (2) Sub-paragraph (1) does not apply where the relevant earlier transaction was a deemed disposal and reacquisition under section 92(7) of the Finance Act 1996 (convertible securities etc).

### ***Recovery of charge postponed on transfer of assets to non-resident company***

- 35 (1) This paragraph applies where—
- (a) a company disposes of an asset in circumstances falling within section 140(4) (recovery of charge postponed on transfer of assets to non-resident company), and
  - (b) by virtue of this Schedule any gain accruing to the company on the disposal would not be a chargeable gain.
- (2) Where this paragraph applies the amount by which the consideration received on the disposal would be treated as increased by virtue of section 140(4) shall instead be treated as accruing to the company, at the time of the disposal, as a chargeable gain to which this Schedule does not apply.
- (3) Any reference in section 140 to an amount being brought or taken into account under or in accordance with subsection (4) of that section includes a reference to an amount being treated, by virtue of sub-paragraph (2) above, as accruing as a chargeable gain.

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### ***Appropriation of asset to trading stock***

36 (1) Where—

- (a) an asset acquired by a company otherwise than as trading stock of a trade carried on by it is appropriated by the company for the purposes of the trade as trading stock (whether on the commencement of the trade or otherwise), and
- (b) if the company had then sold the asset for its market value, a chargeable gain or allowable loss would have accrued to the company but for an exemption conferred by this Schedule,

the company is treated for the purposes of the enactments relating to chargeable gains as if it had thereby disposed of the asset for its market value.

- (2) Section 173 (transfers within a group: trading stock) applies in relation to this paragraph as it applies in relation to section 161 (appropriations to and from stock).

### ***Recovery of held-over gain on claim for gifts relief***

37 (1) This paragraph applies where—

- (a) a company disposes of an asset,
- (b) the expenditure allowable in computing a gain or loss on that disposal falls to be reduced because of a claim for relief under section 165 (gifts relief) in relation to an earlier disposal, and
- (c) by virtue of this Schedule any gain accruing to the company on the disposal mentioned in paragraph (a) would not be a chargeable gain.

- (2) Where this paragraph applies the amount of the held-over gain, or an appropriate proportion of it, shall be treated as accruing to the company, at the time of the disposal mentioned in sub-paragraph (1)(a), as a chargeable gain to which this Schedule does not apply.

- (3) An “appropriate proportion” means a proportion determined on a just and reasonable basis having regard to the subject matter of the disposal mentioned in sub-paragraph (1)(a) and the subject matter of the earlier disposal that was the subject of the claim for relief under section 165.

- (4) In this paragraph “held-over gain” has the same meaning as in section 165.

### ***Degrouping: time when deemed sale and reacquisition treated as taking place***

38 (1) Where—

- (a) a company, as a result of ceasing at any time (“the time of degrouping”) to be a member of a group, is treated by section 179(3) as having sold and immediately reacquired an asset, and
- (b) if the company owning the asset at the time of degrouping had disposed of it immediately before that time, any gain accruing on the disposal would by virtue of this Schedule not have been a chargeable gain,

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section 179(3) shall have effect as if it provided for the deemed sale and reacquisition to be treated as taking place immediately before the time of degrouping.

(2) Where—

(a) a company, as a result of ceasing at any time (“the relevant time”) to satisfy the conditions in section 179(7), is treated by section 179(6) as having sold and immediately reacquired an asset, and

(b) if the company owning the asset at the relevant time had disposed of it immediately before that time, any gain accruing on the disposal would by virtue of this Schedule not have been a chargeable gain,

section 179(6) shall have effect as if it provided for the deemed sale and reacquisition to be treated as taking place immediately before the relevant time.

(3) Any reference in this paragraph to a disposal or other event taking place immediately before the time of degrouping or the relevant time is to its taking place immediately before that time but on the same day.

#### ***Effect of FOREX matching regulations***

39 (1) No gain or loss shall be treated as arising under the FOREX matching regulations on a disposal on which by virtue of this Schedule any gain would not be a chargeable gain.

(2) The “FOREX matching regulations” means any regulations made under Schedule 15 to the Finance Act 1993 (exchange gains and losses: alternative method of calculation).”.

## **PART 2**

### **CONSEQUENTIAL AMENDMENTS**

#### ***Degrouping: time of accrual of chargeable gain or allowable loss***

2 In section 179(4) of the Taxation of Chargeable Gains Act 1992 (c. 12) (deemed sale and reacquisition on company ceasing to be member of group: time when chargeable gain or allowable loss treated as accruing), for “which, apart from this subsection, would accrue” substitute “accruing”.

#### ***Treatment of furnished holiday lettings***

3 (1) Section 241 of the Taxation of Chargeable Gains Act 1992 (furnished holiday lettings) is amended as follows.

(2) In subsection (3) (commercial letting of furnished holiday accommodation to be treated as trade for certain purposes), for the opening words substitute—

“Subject to subsections (4) to (8) below, for the purposes of the provisions mentioned in subsection (3A) below—”.

(3) After that subsection insert—

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“(3A) The provisions referred to in subsection (3) above are—  
 sections 152 to 157 (roll-over relief on replacement of business asset),  
 section 165 (gifts relief),  
 Section 253 (relief for loans to traders),  
 Schedule A1 (taper relief),  
 Schedule 6 (retirement relief etc), and  
 Schedule 7AC (exemptions for disposals by companies with  
 substantial shareholding).”.

(4) In subsection (4) for “sections mentioned in subsection (3)” substitute “ provisions mentioned in subsection (3A) ”.

*Overseas life insurance companies*

- 4 In Schedule 7B of the Taxation of Chargeable Gains Act 1992 (c. 12) (modification of Act in relation to overseas life insurance companies), after paragraph 15 add—
- “16 In Schedule 7AC, in paragraph 3(2)(c)(ii), the words “section 11(2)(b), (c) or (d) of the Taxes Act” shall be treated as substituted for the words “section 10(3)”.”.

*Corporate venturing scheme*

- 5 In Schedule 15 to the Finance Act 2000 (c. 17) (the corporate venturing scheme), in paragraphs 84(1) and 85(1) after “(see paragraph 83” insert “ and paragraph 4 of Schedule 7AC to the Taxation of Chargeable Gains Act 1992 ”.

SCHEDULE 9

Section 45

CHARGEABLE GAINS: SHARE EXCHANGES AND COMPANY RECONSTRUCTIONS

**PART 1**

PROVISIONS REPLACING SECTIONS 135 AND 136 OF  
 THE TAXATION OF CHARGEABLE GAINS ACT 1992

*Share exchanges*

- 1 For section 135 of the Taxation of Chargeable Gains Act 1992 (exchange of securities for those in another company) substitute—

**“135 Exchange of securities for those in another company**

- (1) This section applies in the following circumstances where a company (“company B”) issues shares or debentures to a person in exchange for shares in or debentures of another company (“company A”).
- (2) The circumstances are:

*Case 1*

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*Status: Point in time view as at 01/04/2010.*

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Where company B holds, or in consequence of the exchange will hold, more than 25% of the ordinary share capital of company A.

*Case 2*

Where company B issues the shares or debentures in exchange for shares as the result of a general offer—

- (a) made to members of company A or any class of them (with or without exceptions for persons connected with company B), and
- (b) made in the first instance on a condition such that if it were satisfied company B would have control of company A.

*Case 3*

Where company B holds, or in consequence of the exchange will hold, the greater part of the voting power in company A.

- (3) Where this section applies, sections 127 to 131 (share reorganisations etc) apply with the necessary adaptations as if company A and company B were the same company and the exchange were a reorganisation of its share capital.
- (4) In this section “ordinary share capital” has the meaning given by section 832(1) of the Taxes Act and also includes—
  - (a) in relation to a unit trust scheme, any rights that are treated by section 99(1)(b) of this Act (application of Act to unit trust schemes) as shares in a company, and
  - (b) in relation to a company that has no share capital, any interests in the company possessed by members of the company.
- (5) This section applies in relation to a company that has no share capital as if references to shares in or debentures of the company included any interests in the company possessed by members of the company.
- (6) This section has effect subject to section 137(1) (exchange must be for bona fide commercial reasons and not part of tax avoidance scheme).”.

*Scheme of reconstruction involving issue of securities*

- 2 For section 136 of the Taxation of Chargeable Gains Act 1992 (c. 12) (reconstruction or amalgamation involving issue of securities) substitute—

**“136 Scheme of reconstruction involving issue of securities**

- (1) This section applies where—
  - (a) an arrangement between a company (“company A”) and—
    - (i) the persons holding shares in or debentures of the company, or
    - (ii) where there are different classes of shares in or debentures of the company, the persons holding any class of those shares or debentures,

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is entered into for the purposes of, or in connection with, a scheme of reconstruction, and

- (b) under the arrangement—
  - (i) another company (“company B”) issues shares or debentures to those persons in respect of and in proportion to (or as nearly as may be in proportion to) their relevant holdings in company A, and
  - (ii) the shares in or debentures of company A comprised in relevant holdings are retained by those persons or are cancelled or otherwise extinguished.

(2) Where this section applies—

- (a) those persons are treated as exchanging their relevant holdings in company A for the shares or debentures held by them in consequence of the arrangement, and
- (b) sections 127 to 131 (share reorganisations etc) apply with the necessary adaptations as if company A and company B were the same company and the exchange were a reorganisation of its share capital.

For this purpose shares in or debentures of company A comprised in relevant holdings that are retained are treated as if they had been cancelled and replaced by a new issue.

(3) Where a reorganisation of the share capital of company A is carried out for the purposes of the scheme of reconstruction, the provisions of subsections (1) and (2) apply in relation to the position after the reorganisation.

(4) In this section—

- (a) “scheme of reconstruction” has the meaning given by Schedule 5AA to this Act;
- (b) references to “relevant holdings” of shares in or debentures of company A are—
  - (i) where there is only one class of shares in or debentures of the company, to holdings of shares in or debentures of the company, and
  - (ii) where there are different classes of shares in or debentures of the company, to holdings of a class of shares or debentures that is involved in the scheme of reconstruction (within the meaning of paragraph 2 of Schedule 5AA);
- (c) references to shares or debentures being retained include their being retained with altered rights or in an altered form, whether as the result of reduction, consolidation, division or otherwise; and
- (d) any reference to a reorganisation of a company’s share capital is to a reorganisation within the meaning of section 126.

(5) This section applies in relation to a company that has no share capital as if references to shares in or debentures of the company included any interests in the company possessed by members of the company.

(6) This section has effect subject to section 137(1) (scheme of reconstruction must be for bona fide commercial reasons and not part of tax avoidance scheme).”.

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### Meaning of “scheme of reconstruction”

3 After Schedule 5A to the Taxation of Chargeable Gains Act 1992 insert—

#### “SCHEDULE 5AA

##### MEANING OF “SCHEME OF RECONSTRUCTION”

###### **Introductory**

1 In section 136 “scheme of reconstruction” means a scheme of merger, division or other restructuring that meets the first and second, and either the third or the fourth, of the following conditions.

###### **First condition: issue of ordinary share capital**

2 The first condition is that the scheme involves the issue of ordinary share capital of a company (“the successor company”) or of more than one company (“the successor companies”)—

- (a) to holders of ordinary share capital of another company (“the original company”) or, where there are different classes of ordinary share capital of that company, to holders of one or more classes of ordinary share capital of that company (the classes “involved in the scheme of reconstruction”), or
- (b) to holders of ordinary share capital of more than one other company (“the original companies”) or, where there are different classes of ordinary share capital of one or more of the original company or companies, to holders of ordinary share capital of any of those companies or of one or more classes of ordinary share capital of any of those companies (the classes “involved in the scheme of reconstruction”),

and does not involve the issue of ordinary share capital of the successor company, or (as the case may be) any of the successor companies, to anyone else.

###### **Second condition: equal entitlement to new shares**

3 (1) The second condition is that under the scheme the entitlement of any person to acquire ordinary share capital of the successor company or companies by virtue of holding relevant shares, or relevant shares of any class, is the same as that of any other person holding such shares or shares of that class.

(2) For this purpose “relevant shares” means shares comprised—

- (a) where there is one original company, in the ordinary share capital of that company or, as the case may be, in the ordinary share capital of that company of a class involved in the scheme of reconstruction;
- (b) where there is more than one original company, in the ordinary share capital of any of those companies or, as the case may be, in the ordinary share capital of any of those companies of a class involved in the scheme of reconstruction.

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***Third condition: continuity of business***

- 4 (1) The third condition is that the effect of the restructuring is—
- (a) where there is one original company, that the business or substantially the whole of the business carried on by the company is carried on—
    - (i) by a successor company which is not the original company, or
    - (ii) by two or more successor companies (which may include the original company);
  - (b) where there is more than one original company, that all or part of the business or businesses carried on by one or more of the original companies is carried on by a different company, and the whole or substantially the whole of the businesses carried on by the original companies are carried on—
    - (i) where there is one successor company, by that company (which may be one of the original companies), or
    - (ii) where there are two or more successor companies, by those companies (which may be the same as the original companies or include any of those companies).

(2) The reference in sub-paragraph (1)(a)(ii) or (b)(ii) to the whole or substantially the whole of a business, or businesses, being carried on by two or more companies includes the case where the activities of those companies taken together embrace the whole or substantially the whole of the business, or businesses, in question.

(3) For the purposes of this paragraph a business carried on by a company that is under the control of another company is treated as carried on by the controlling company as well as by the controlled company.

Section 840 of the Taxes Act (meaning of “control”) applies for the purposes of this sub-paragraph.

(4) For the purposes of this paragraph the holding and management of assets that are retained by the original company, or any of the original companies, for the purpose of making a capital distribution in respect of shares in the company shall be disregarded.

In this sub-paragraph “capital distribution” has the same meaning as in section 122.

***Fourth condition: compromise or arrangement with members***

- 5 The fourth condition is that—
- (a) the scheme is carried out in pursuance of a compromise or arrangement—
    - (i) under section 425 of the Companies Act 1985 or Article 418 of the Companies (Northern Ireland) Order 1986, or
    - (ii) under any corresponding provision of the law of a country or territory outside the United Kingdom, and



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- (b) no part of the business of the original company, or of any of the original companies, is transferred under the scheme to any other person.

***Preliminary reorganisation of share capital to be disregarded***

- 6 Where a reorganisation of the share capital of the original company, or of any of the original companies, is carried out for the purposes of the scheme of reconstruction, the provisions of the first and second conditions apply in relation to the position after the reorganisation.

***Subsequent issue of shares or debentures to be disregarded***

- 7 An issue of shares in or debentures of the successor company, or any of the successor companies, after the latest date on which any ordinary share capital of the successor company, or any of them, is issued—
- (a) in consideration of the transfer of any business, or part of a business, under the scheme, or
  - (b) in pursuance of the compromise or arrangement mentioned in paragraph 5(a),
- shall be disregarded for the purposes of the first and second conditions.

***Interpretation***

- 8 (1) In this Schedule “ordinary share capital” has the meaning given by section 832(1) of the Taxes Act and also includes—
- (a) in relation to a unit trust scheme, any rights that are treated by section 99(1)(b) of this Act (application of Act to unit trust schemes) as shares in a company, and
  - (b) in relation to a company that has no share capital, any interests in the company possessed by members of the company.
- (2) Any reference in this Schedule to a reorganisation of a company’s share capital is to a reorganisation within the meaning of section 126.”.

**PART 2**

CONSEQUENTIAL AMENDMENTS

*Taxes Act 1988*

- 4 (1) The Taxes Act 1988 is amended as follows.
- (2) In section 299 (disposal of shares)—
- <sup>F4</sup>(a) .....
  - (b) in subsection (4C), as that section applies to shares issued before 1st January 1994 (business expansion scheme),
- for “(whether or not by virtue of section 135(3) of that Act)” substitute “ (including a case where that section applies by virtue of any enactment relating to chargeable gains) ”, and for the words from “shall be construed” to the end substitute “ have the

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same meaning as in section 127 of the 1992 Act (or, as the case may be, that section as applied by virtue of the enactment concerned) ”.

- F<sup>5</sup>(3) . . . . .
- F<sup>6</sup>(4) . . . . .
- F<sup>7</sup>(5) . . . . .
- F<sup>7</sup>(6) . . . . .
- F<sup>8</sup>(7) . . . . .

**Textual Amendments**

- F4** Sch. 9 para. 4(2)(a) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 2** (with [Sch. 2](#))
- F5** Sch. 9 para. 4(3) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 2** (with [Sch. 2](#))
- F6** Sch. 9 para. 4(4) repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with [Sch. 2 Pts. 1, 2](#))
- F7** Sch. 9 para. 4(5)(6) repealed (with effect in accordance with reg. 1(2)(3), Sch. 1 of the amending S.I.) by [The Offshore Funds \(Tax\) Regulations 2009 \(S.I. 2009/3001\)](#), reg. 1(1), **Sch. 2**
- F8** [Sch. 9 para. 4\(7\)](#) repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 3 Pt. 1** (with [Sch. 2](#))

*Taxation of Chargeable Gains Act 1992*

- 5 (1) The Taxation of Chargeable Gains Act 1992 (c. 12) is amended as follows.
- (2) In section 31 (distributions within a group followed by a disposal of shares), for subsection (6)(b) substitute—
- “(b) an exchange, or deemed exchange, of shares in or debentures of a company held by company A for shares in or debentures of another company, being a company associated with company A immediately after the transaction, that is treated by virtue of section 135 or 136 as a reorganisation of share capital within the meaning of section 126 to which sections 127 to 131 apply with the necessary adaptations, or”.
- (3) In section 34 (transactions treated as a reorganisation of capital)—
- (a) in subsections (1)(a), (1A), (1B) and (1C)(a) for “sections 127 and 135(3)” substitute “section 135 or 136”;
- (b) in the closing words of subsection (1) for “section 135(3)” substitute “section 135 or 136”; and
- (c) in subsection (2) for the words from the beginning to “and in those subsections” substitute “In subsections (1) to (1C)” (the words omitted being unnecessary).
- (4) In section 102 (collective investment schemes with property divided into separate parts), in subsection (3)(b) after “135” insert “or 136”.
- (5) In section 137 (restriction on application of sections 135 and 136)—
- (a) in subsection (1), for “, reconstruction or amalgamation” substitute “or scheme of reconstruction”; and

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- (b) in subsection (6), for “section 136(3)” substitute “ section 135(5), 136(5) ”.
- (6) In section 138(1) (procedure for clearance in advance), for “, reconstruction or amalgamation” substitute “ or scheme of reconstruction ”.
- (7) In section 139 (reconstruction involving transfer of business), for subsection (9) substitute—
- “(9) In this section “scheme of reconstruction” has the same meaning as in section 136.”.
- (8) In section 147 (quoted options treated as part of new holdings)—
- (a) in subsection (1) for “or amalgamation” substitute “, exchange or scheme of reconstruction ”; and
- (b) in subsection (2) at the end insert “ and “scheme of reconstruction” has the same meaning as in section 136 ”.
- (9) In section 151B (venture capital trusts: supplementary), in subsection (8) for paragraph (c) substitute—
- “(c) a reference to the exchanged holding is, in relation to section 135 or 136, to the shares in the company referred to in that section as company A.”.
- (10) In section 171(3) (transfers within a group) for “by virtue of sections 127 and 135” substitute “ by section 127 as it applies by virtue of section 135 ”.
- <sup>F9</sup>(11) .....
- (12) In section 251 (debts: general provisions)—
- (a) in subsection (2) for “132 and 135” substitute “ 132, 135 and 136 ”;
- (b) in subsection (3)—
- (i) for “132 and 135” substitute “ 132, 135 and 136 ”, and
- (ii) for “either section 132 or 135” substitute “ section 132, 135 or 136 ”;
- (c) in subsection (6)(b) for the words from “unaffected” to the end substitute “ to which section 135 applies and which is unaffected by section 137(1) ”.
- <sup>F10</sup>(13) .....
- (14) In Schedule 6 (retirement relief: supplementary provisions), in paragraph 2(2) for “section 135(3)” substitute “ section 135 or 136 ”.

#### Textual Amendments

**F9** Sch. 9 para. 5(11) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(9\)](#)

**F10** [Sch. 9 para. 5\(13\)](#) omitted (with effect in accordance with Sch. 2 para. 56(3) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 2 para. 55\(e\)\(ii\)](#)

#### Finance Act 2000

- 6 (1) Schedule 15 to the Finance Act 2000 (c. 17) (corporate venturing scheme) is amended as follows.
- (2) In paragraph 71 (tax avoidance), in sub-paragraph (1)(b)(ii) for “reconstructions and amalgamations” substitute “ schemes of reconstruction ”.

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- (3) In paragraph 82(1) (company reconstructions and amalgamations), in the closing words for “company reconstructions and amalgamations” substitute “ share exchanges and company reconstructions ”.
- (4) In paragraph 93(7) (identification of shares on a disposal: cases to which section 127 applies)—
  - (a) for “(whether or not by virtue of section 135(3) of that Act)” substitute “ (including a case where that section applies by virtue of any enactment relating to chargeable gains) ”; and
  - (b) for the words from “shall be construed” to the end substitute “ have the same meaning as in section 127 of the 1992 Act (or, as the case may be, that section as applied by virtue of the enactment concerned) ”.
- (5) In paragraph 96 (meaning of “disposal”)—
  - (a) in sub-paragraph (2)(a) for “section 136(1)” substitute “ section 136 ”;
  - (b) in sub-paragraph (2)(b) for “sections 135 and 136 of that Act to bona fide reconstructions and amalgamations” substitute “ section 136 of that Act to bona fide schemes of reconstruction ”.

**PART 3**

COMMENCEMENT

*General commencement date*

- 7 (1) Subject to paragraph 8, the provisions of this Schedule have effect in relation to shares or debentures issued on or after 17th April 2002 (“the commencement date”).
- (2) The reference in sub-paragraph (1) to shares or debentures includes any interests falling to be treated as shares or debentures for the purposes of section 135 or 136 of the Taxation of Chargeable Gains Act 1992 (c. 12) as substituted by this Schedule.

*Commencement provision for certain consequential amendments*

- 8 (1) Paragraph 4(2), (3) and (5) and paragraph 6(2), (4) and (5) have effect in relation to disposals on or after the commencement date.
- <sup>F11</sup>(2) .....
- (3) Paragraph 4(6) has effect in relation to events occurring on or after the commencement date.
- <sup>F12</sup>(4) .....

**Textual Amendments**

**F11** Sch. 9 para. 8(2) repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with [Sch. 2 Pts. 1, 2](#))

**F12** Sch. 9 para. 8(4) repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 3 Pt. 1** (with [Sch. 2](#))

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F13 SCHEDULE 10

Section 47

**Textual Amendments**

**F13** Sch. 10 omitted (with effect in accordance with Sch. 2 para. 56(3) of the amending Act) by virtue of Finance Act 2008 (c. 9), Sch. 2 para. 55(e)(iii)

SCHEDULE 11

Section 51

CHARGEABLE GAINS: DEDUCTION OF PERSONAL LOSSES  
FROM GAINS TREATED AS ACCRUING TO SETTLORS

*Introduction*

1 The Taxation of Chargeable Gains Act 1992 (c. 12) is amended in accordance with paragraphs 2 to 6.

*Section 2*

2 (1) Section 2 (persons and gains chargeable to capital gains tax, and allowable losses) is amended as follows.

F14(2) .....

(3) In paragraph (b) of that subsection, omit “77, 86,”.

(4) After that subsection insert—

“(6) Allowable losses must (notwithstanding section 2A(6)) be deducted under paragraph (a)(i) of subsection (5) above before any may be deducted under paragraph (aa)(i) of that subsection.

(7) Where in any year of assessment—

- (a) there are amounts treated as accruing to a person by virtue of section 77 or 86,
- (b) two or more of those amounts, or elements of them—
  - (i) relate to different settlements, and
  - (ii) attract taper relief (by virtue of subsection (5)(aa)(ii) above) at the same rate, or are not eligible for taper relief, and
- (c) losses are deductible from the amounts or elements mentioned in paragraph (b) above (“the equal-tapered amounts”) but are not enough to exhaust them all,

the deduction applicable to each of the equal-tapered amounts shall be the appropriate proportion of the aggregate of those losses.

The “appropriate proportion” is that given by dividing the equal-tapered amount in question by the total of the equal-tapered amounts.

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(8) The references to section 86 in subsection (5)(aa) above (in the opening words) and subsection (7)(a) above include references to that section read with section 10A.”.

**Textual Amendments**

**F14** Sch. 11 para. 2(2) omitted (with effect in accordance with Sch. 2 para. 56(3) of the amending Act) by virtue of Finance Act 2008 (c. 9), Sch. 2 para. 55(e)(iv)

Section 77

F153 .....

**Textual Amendments**

**F15** Sch. 11 para. 3 omitted (with effect in accordance with Sch. 2 para. 22 of the amending Act) by virtue of Finance Act 2008 (c. 9), Sch. 2 para. 21(f)

Section 86

F164 .....

**Textual Amendments**

**F16** Sch. 11 paras. 4-6 omitted (with effect in accordance with Sch. 2 para. 56(3) of the amending Act) by virtue of Finance Act 2008 (c. 9), Sch. 2 para. 55(e)(iv)

Section 86A

F165 .....

**Textual Amendments**

**F16** Sch. 11 paras. 4-6 omitted (with effect in accordance with Sch. 2 para. 56(3) of the amending Act) by virtue of Finance Act 2008 (c. 9), Sch. 2 para. 55(e)(iv)

Section 87

F166 .....

**Textual Amendments**

**F16** Sch. 11 paras. 4-6 omitted (with effect in accordance with Sch. 2 para. 56(3) of the amending Act) by virtue of Finance Act 2008 (c. 9), Sch. 2 para. 55(e)(iv)

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### Commencement

7 This Schedule applies in relation to chargeable gains treated as accruing to a person by virtue of section 77 or 86 (read, where appropriate, with section 10A) of the Taxation of Chargeable Gains Act 1992 (c. 12) in the year 2003-04 and subsequent years of assessment.

### Election for Schedule to apply for years earlier than 2003-04

8 (1) This Schedule also applies, if the person so elects, in relation to chargeable gains so accruing to a person in any of the years of assessment 2000-01, 2001-02 and 2002-03.

(2) An election under this paragraph—

- (a) must be made by a notice given to an officer of the Board no later than 31st January 2005;
- (b) where chargeable gains are treated as accruing in respect of two or more settlements, may be restricted to those treated as accruing in respect of the settlement or settlements specified in the election.

(3) All such adjustments shall be made, whether by way of discharge or repayment of tax, the making of assessments or otherwise, as are required to give effect to an election under this paragraph.

(4) Where—

- (a) a person makes an election under this paragraph for any one or more of the years of assessment 2000-01, 2001-02 and 2002-03, and
- (b) the effect of the election, or (as the case may be) both or all of them taken together, is to increase the total amount of tax that the person is entitled to recover from the trustees of a particular settlement for those three years under section 78(1)(a) of the Taxation of Chargeable Gains Act 1992 or paragraph 6 of Schedule 5 to that Act,

the trustees of that settlement must join in the election, or (as the case may be) each of them that has that effect or contributes to it.

F17 SCHEDULE 12

Section 53

### Textual Amendments

F17 Sch. 12 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), Sch. 1 para. 536, [Sch. 3 Pt. 1](#) (with Sch. 2 Pts. 1, 2)

F18 SCHEDULE 13

Section 54

*Status: Point in time view as at 01/04/2010.*

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**Textual Amendments**

**F18** Sch. 13 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), Sch. 1 para. 537, **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

**F19** SCHEDULE 14

Section 54

**Textual Amendments**

**F19** Sch. 14 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

**F20** SCHEDULE 15

Section 56

**Textual Amendments**

**F20** Sch. 15 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

**F21** SCHEDULE 16

Section 57

**Textual Amendments**

**F21** Sch. 16 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), Sch. 1 para. 373, **Sch. 3 Pt. 1** (with Sch. 2)

SCHEDULE 17

Section 57

COMMUNITY INVESTMENT TAX RELIEF: CONSEQUENTIAL AMENDMENTS

**Commencement Information**

**I24** Sch. 17 in force at 23.1.2003 by [S.I. 2003/88](#), art. 2



*Status: Point in time view as at 01/04/2010.*

*Changes to legislation: Finance Act 2002 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

F22<sup>1</sup> .....

**Textual Amendments**

**F22** Sch. 17 para. 1 repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

F23<sup>2</sup> .....

**Textual Amendments**

**F23** Sch. 17 para. 2 repealed (6.4.2007) by Income Tax Act 2007 (c. 3), s. 1034(1), **Sch. 3 Pt. 2** (with Sch. 2)

F24<sup>3</sup> .....

**Textual Amendments**

**F24** Sch. 17 para. 3 repealed (6.4.2007) by Income Tax Act 2007 (c. 3), s. 1034(1), **Sch. 3 Pt. 1** (with Sch. 2)

F25<sup>4</sup> .....

**Textual Amendments**

**F25** Sch. 17 para. 4 repealed (6.4.2007) by Income Tax Act 2007 (c. 3), s. 1034(1), **Sch. 3 Pt. 1** (with Sch. 2)

5 In Schedule 18 to the Finance Act 1998 (c. 36) (company tax returns, assessments and related matters), in paragraph 8 (calculation of tax payable), after paragraph 1A of the second step of the calculation in sub-paragraph (1) insert—  
“1B Any relief under Part 5 of Schedule 16 to the Finance Act 2002 (community investment tax relief).”

**Textual Amendments**

**F26** Sch. 18 repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 1 para. 374, **Sch. 3 Pt. 1** (with Sch. 2)

*Status: Point in time view as at 01/04/2010.*

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## SCHEDULE 19

Section 59

### CAPITAL ALLOWANCES: CARS WITH LOW CARBON DIOXIDE EMISSIONS

#### *Introductory*

1 The Capital Allowances Act 2001 (c. 2) is amended as follows.

#### *Types of expenditure for which first-year allowances available*

2 In section 39, after the entry relating to section 45A add,

“section 45D	expenditure on cars with low CO <sub>2</sub> emissions,”.
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#### *First-year qualifying expenditure: car with low carbon dioxide emissions*

3 After section 45C insert—

#### **“45D Expenditure on cars with low carbon dioxide emissions**

- (1) Expenditure is first-year qualifying expenditure if—
  - (a) it is incurred in the period beginning with 17th April 2002 and ending with 31st March 2008,
  - (b) it is expenditure on a car which is first registered on or after 17th April 2002 and which is unused and not second-hand,
  - (c) the car—
    - (i) is an electrically-propelled car, or
    - (ii) is a car with low CO<sub>2</sub> emissions, and
  - (d) the expenditure is not excluded by section 46 (general exclusions).
- (2) For the purposes of this section a car with low CO<sub>2</sub> emissions is a car which satisfies the conditions in subsections (3) and (4).
- (3) The first condition is that, when the car is first registered, it is so registered on the basis of an EC certificate of conformity, or a UK approval certificate, that specifies—
  - (a) in the case of a car other than a bi-fuel car, a CO<sub>2</sub> emissions figure in terms of grams per kilometre driven, or
  - (b) in the case of a bi-fuel car, separate CO<sub>2</sub> emissions figures in terms of grams per kilometre driven for different fuels.
- (4) The second condition is that the applicable CO<sub>2</sub> emissions figure in the case of the car does not exceed 120 grams per kilometre driven.
- (5) For the purposes of subsection (4) the applicable CO<sub>2</sub> emissions figure in the case of a car other than a bi-fuel car is—
  - (a) where the EC certificate of conformity or UK approval certificate specifies only one CO<sub>2</sub> emissions figure, that figure, and
  - (b) where the certificate specifies more than one CO<sub>2</sub> emissions figure, the figure specified as the CO<sub>2</sub> emissions (combined) figure.

*Status: Point in time view as at 01/04/2010.*

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- (6) For the purposes of subsection (4) the applicable CO<sub>2</sub> emissions figure in the case of a bi-fuel car is—
- (a) where the EC certificate of conformity or UK approval certificate specifies more than one CO<sub>2</sub> emissions figure in relation to each fuel, the lowest CO<sub>2</sub> emissions (combined) figure specified, and
  - (b) in any other case, the lowest CO<sub>2</sub> figure specified by the certificate.
- (7) The Treasury may by order amend the amount from time to time specified in subsection (4).
- (8) In this section any reference to a car—
- (a) includes a reference to a mechanically propelled road vehicle of a type commonly used as a hackney carriage, but
  - (b) does not include a reference to a motorcycle.
- (9) For the purposes of this section, a car is an electrically-propelled car only if—
- (a) it is propelled solely by electrical power, and
  - (b) that power is derived from—
    - (i) a source external to the vehicle, or
    - (ii) an electrical storage battery which is not connected to any source of power when the vehicle is in motion.
- (10) In this section—
- “bi-fuel car” means a car which is capable of being propelled by—
    - (a) petrol and road fuel gas, or
    - (b) diesel and road fuel gas;
  - “car” has the meaning given by section 81 (extended meaning of “car”);
  - “diesel” means any diesel fuel within the definition in Article 2 of Directive 98/70/EC of the European Parliament and of the Council;
  - “EC certificate of conformity” means a certificate of conformity issued by a manufacturer under any provision of the law of a member State implementing Article 6 of Council Directive 70/156/EEC, as amended;
  - “petrol” has the meaning given by Article 2 of Directive 98/70/EC of the European Parliament and of the Council;
  - “road fuel gas” has the same meaning as in section 168AB of ICTA;
  - “UK approval certificate” means a certificate issued under—
    - (a) section 58(1) or (4) of the Road Traffic Act 1988, or
    - (b) Article 31A(4) or (5) of the Road Traffic (Northern Ireland) Order 1981.”.

*General exclusions affecting first-year qualifying expenditure*

- 4 (1) Section 46 is amended as follows.

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(2) In subsection (1) (expenditure which is subject to the general exclusions) after the entry relating to section 45A add “,

section 45D	(expenditure on cars with low CO <sub>2</sub> emissions),”.
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(3) After subsection (2) (general exclusions listed for the purposes of subsection (1)) insert—

“(3) Subsection (1) is subject to the following provisions of this section.

(4) General exclusion 2 does not prevent expenditure being first-year qualifying expenditure under section 45D.”.

*Amount of first-year allowances*

5 In section 52(3), in the Table, after the entry relating to expenditure qualifying under section 45A add—

“Expenditure qualifying under section 45D (expenditure on cars with low CO <sub>2</sub> emissions)	100%”.
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*Single asset pool in relation to cars above cost threshold*

<sup>F27</sup>6 .....

**Textual Amendments**

**F27** Sch. 19 para. 6 omitted (with effect in accordance with Sch. 11 paras. 26, 27, 28(1) of the amending Act) by virtue of Finance Act 2009 (c. 10), Sch. 11 para. 25 (with Sch. 11 paras. 30-32)

SCHEDULE 20

Section 61

CAPITAL ALLOWANCES: PLANT OR MACHINERY FOR GAS REFUELLING STATION

*Introductory*

1 The Capital Allowances Act 2001 (c. 2) is amended as follows.

*Types of expenditure for which first-year allowances available*

2 In section 39, after the entry relating to section 45D (which is inserted by Schedule 19 to this Act) add—

“section 45E	expenditure on plant or machinery for gas refuelling station”.
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*Status: Point in time view as at 01/04/2010.*

*Changes to legislation: Finance Act 2002 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

*First-year qualifying expenditure: plant or machinery for gas refuelling station*

3 After section 45D (which is added by Schedule 19 to this Act) insert—

**“45E Expenditure on plant or machinery for gas refuelling station**

- (1) Expenditure is first-year qualifying expenditure if—
- (a) it is incurred in the period beginning with 17th April 2002 and ending with 31st March 2008,
  - (b) it is expenditure on plant or machinery for a gas refuelling station where the plant or machinery is unused and not second-hand, and
  - (c) it is not excluded by section 46 (general exclusions).
- (2) For the purposes of this section expenditure on plant or machinery for a gas refuelling station is expenditure on plant or machinery installed at a gas refuelling station for use solely for or in connection with refuelling vehicles with natural gas or hydrogen fuel.
- (3) For the purposes of subsection (2) the plant or machinery which is for use for or in connection with refuelling vehicles with natural gas or hydrogen fuel includes—
- (a) any storage tank for natural gas or hydrogen fuel,
  - (b) any compressor, pump, control or meter used for or in connection with refuelling vehicles with natural gas or hydrogen fuel, and
  - (c) any equipment for dispensing natural gas or hydrogen fuel to the fuel tank of a vehicle.
- (4) For the purposes of this section—
- “gas refuelling station” means any premises, or that part of any premises, where vehicles are refuelled with natural gas or hydrogen fuel;
  - “hydrogen fuel” means a fuel consisting of gaseous or cryogenic liquid hydrogen which is used for propelling vehicles;
  - “vehicle” means a mechanically propelled road vehicle.”.

*General exclusions affecting first-year qualifying expenditure*

4 In section 46, in subsection (1) (expenditure which is subject to the general exclusions) after the entry relating to section 45D (which is added by Schedule 19 to this Act) add—

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“section 45E	(expenditure on plant or machinery for gas refuelling station)”.
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*Amount of first-year allowance*

5 In section 52(3), in the Table, after the entry relating to expenditure qualifying under section 45D (which is added by Schedule 19 to this Act) add—

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“Expenditure qualifying under section 45E (expenditure on plant or machinery for gas refuelling station)	100%”.
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*Status: Point in time view as at 01/04/2010.*

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## SCHEDULE 21

Section 63

### FIRST-YEAR ALLOWANCES FOR EXPENDITURE WHOLLY FOR A RING FENCE TRADE

#### PART 1

#### PLANT AND MACHINERY

##### *Introductory*

- 1 Part 2 of the Capital Allowances Act 2001 (c. 2) (plant and machinery allowances) is amended as follows.

##### *Types of expenditure for which first-year allowances available*

- 2 In section 39, after the entry relating to section 45E (which is added by Schedule 20 to this Act) add “, or

section 45F	expenditure on plant and machinery for use wholly in a ring fence trade.”.
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##### *First-year qualifying expenditure: plant and machinery for use wholly in a ring fence trade*

- 3 After section 45E (which is inserted by Schedule 20 to this Act) insert—

**“45F Expenditure on plant and machinery for use wholly in a ring fence trade**

- (1) Expenditure is first-year qualifying expenditure if—
- (a) it is incurred on or after 17th April 2002,
  - (b) it is incurred by a company,
  - (c) it is incurred on the provision of plant or machinery for use wholly for the purposes of a ring fence trade, and
  - (d) it is not excluded by section 46 (general exclusions).
- (2) This section is subject to section 45G (plant or machinery used for less than five years in a ring fence trade).
- (3) In this section “ring fence trade” means a ring fence trade in respect of which tax is chargeable under section 501A of the Taxes Act 1988 (supplementary charge in respect of ring fence trades).”.

##### *Plant or machinery used for less than five years in a ring fence trade*

- 4 After section 45F insert—

**“45G Plant or machinery used for less than five years in a ring fence trade**

- (1) Expenditure incurred by a company on the provision of plant or machinery is to be treated as never having been first-year qualifying expenditure under section 45F if the plant or machinery—

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- (a) is at no time in the relevant period used in a ring fence trade carried on by the company or a company connected with it, or
  - (b) is at any time in the relevant period used for a purpose other than that of a ring fence trade carried on by the company or a company connected with it.
- (2) For the purposes of this section “the relevant period” means whichever of the following periods, beginning with the incurring of the expenditure, first ends, namely—
- (a) the period ending with the fifth anniversary of the incurring of the expenditure, or
  - (b) the period ending with the day preceding the first occasion on which the plant or machinery, after becoming owned by the company which incurred the expenditure, is not owned by a company which is either that company or a company connected with it.
- (3) All such assessments and adjustments of assessments are to be made as are necessary to give effect to subsection (1).
- (4) If a person who has made a return becomes aware that, after making it, anything in it has become incorrect because of the operation of this section, he must give notice to the Inland Revenue specifying how the return needs to be amended.
- (5) The notice must be given within 3 months beginning with the day on which the person first became aware that anything in the return had become incorrect because of the operation of this section.
- (6) In this section “ring fence trade” has the same meaning as in section 45F.”.

*General exclusions affecting first-year qualifying expenditure*

- 5 In section 46, in subsection (1) (expenditure which is subject to the general exclusions) after the entry relating to section 45E (which is added by Schedule 20 to this Act) add “, or

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section 45F	(expenditure on plant and machinery for use wholly in a ring fence trade).”.
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*Amount of first-year allowances*

- 6 In section 52(3), in the Table, after the entry relating to expenditure qualifying under section 45E (which is added by Schedule 20 to this Act) add—

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“Expenditure qualifying under section 45F (expenditure on plant and machinery for use wholly in a ring fence trade) which is long-life asset expenditure	24%
Expenditure qualifying under section 45F (expenditure on plant and machinery for use wholly in a ring	100%”.

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fence trade) other than long-life asset  
 expenditure

*Penalty for failure to provide information etc*

- 7 (1) The Taxes Management Act 1970 (c. 9) is amended as follows.
- (2) In the second column of the Table in section 98, in the entry relating to requirements imposed by provisions of the Capital Allowances Act, after “45B(5) and (6),” insert “45G(4) and (5),”.

**PART 2**

MINERAL EXTRACTION ALLOWANCES

*Introductory*

- 8 Part 5 of the Capital Allowances Act 2001 (c. 2) (mineral extraction allowances) is amended as follows.

*First-year qualifying expenditure*

- 9 After section 416, insert the following Chapter—

**“CHAPTER 5A**

FIRST-YEAR QUALIFYING EXPENDITURE

*General*

**416A First-year allowances available for certain types of qualifying expenditure**

A first-year allowance is not available unless the qualifying expenditure is first-year qualifying expenditure under section 416B (expenditure incurred wholly for purposes of a ring fence trade).

*Types of expenditure which may qualify for first year allowances*

**416B Expenditure incurred by company for purposes of a ring fence trade**

- (1) Expenditure is first-year qualifying expenditure if—
- (a) it is incurred on or after 17th April 2002,
  - (b) it is incurred by a company,
  - (c) it is incurred wholly for the purposes of a ring fence trade, and
  - (d) it is not excluded by—
    - (i) subsection (2) (acquisition of mineral asset), or



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- (ii) subsection (3) (acquisition of asset representing expenditure of connected company).
- (2) Expenditure is not first-year qualifying expenditure under this section if it is expenditure on acquiring a mineral asset.
  - (3) Expenditure is not first-year qualifying expenditure under this section if it is expenditure incurred by a company on the acquisition of an asset representing expenditure incurred by a company connected with that company.
  - (4) To the extent that references in this section to an asset representing expenditure incurred by a company include a reference to an asset representing expenditure on mineral exploration and access, they also include a reference to any results obtained from any search, exploration or inquiry on which any such expenditure was incurred.
  - (5) In this section “ring fence trade” means a ring fence trade in respect of which tax is chargeable under section 501A of the Taxes Act 1988 (supplementary charge in respect of ring fence trades).

### *Supplementary*

#### **416C Time when expenditure is incurred**

- (1) In determining whether expenditure is first-year qualifying expenditure under this Chapter, any effect of the provisions specified in subsection (2) on the time at which the expenditure is to be treated as incurred is to be disregarded.
- (2) The provisions are—
  - (a) section 400(4) (which treats certain pre-trading expenditure as incurred on the first day of trading), and
  - (b) section 434 (which treats certain other expenditure incurred for the purposes of a trade about to be carried on as incurred on that day).”.

### *First-year allowances*

10 At the beginning of Chapter 6 (allowances and charges) insert—

#### *“First-year allowances*

#### **First-year allowances**

- 416D) A person is entitled to a first-year allowance in respect of first-year qualifying expenditure if the expenditure is incurred in a chargeable period to which this Act applies.
- (2) Any first-year allowance is made for the chargeable period in which the first-year qualifying expenditure is incurred.

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- (3) The amount of the allowance is a percentage of the first-year qualifying expenditure in respect of which the allowance is made, as shown in the Table—

TABLE

AMOUNT OF FIRST-YEAR ALLOWANCES

<i>Type of first-year qualifying expenditure</i>	<i>Amount</i>
Expenditure qualifying under section 416B (expenditure incurred wholly for the purposes of a ring fence trade)	100%

- (4) A person who is entitled to a first-year allowance may claim the allowance in respect of the whole or a part of the first-year qualifying expenditure.
- (5) This section is subject to section 416E (artificially inflated claims for first-year allowances).”.

*Artificially inflated claims for first-year allowances*

11 After section 416D insert—

**“416E Artificially inflated claims for first-year allowances**

- (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 a chargeable period the amount of any first-year allowance to which a person is entitled.
- (2) For the purposes of this section, 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 person to obtain—
- (a) a first-year allowance to which he would not otherwise be entitled, or
  - (b) a first-year allowance of a greater amount than that to which he would otherwise be entitled.
- (3) In this section “arrangements” includes any scheme, agreement or understanding, whether or not legally enforceable.”.

*Amount of allowances and charges: balancing charge for period in which expenditure incurred*

12 (1) Section 418 is amended as follows.

- (2) In subsection (4) (amount of balancing charge) after paragraph (b) insert the following as a second sentence—

“Where a person is liable to a balancing charge in respect of first-year qualifying expenditure for the chargeable period in which he incurred the expenditure, any first-year allowance made in respect of the expenditure shall be treated for the

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purposes of paragraph (b) as if it were an allowance for an earlier chargeable period.”.

*Unrelieved qualifying expenditure: effect of first-year qualifying expenditure*

- 13 (1) Section 419 is amended as follows.
- (2) In subsection (1) (amount of qualifying expenditure which is unrelieved qualifying expenditure for the chargeable period in which the expenditure is incurred) for “the whole of it” substitute—
- “(a) the whole of it, unless the expenditure is first-year qualifying expenditure, or
- (b) if the expenditure is first-year qualifying expenditure, none of it,
- but paragraph (b) is subject to subsections (3) to (5). ”.
- (3) After subsection (2) insert—
- “(3) If, in the case of expenditure which is first-year qualifying expenditure, a disposal receipt falls to be brought into account for the chargeable period in which the expenditure is incurred (“the initial period”), subsection (4) below applies.
- (4) Where this subsection applies, the unrelieved balance of the expenditure shall be taken to be unrelieved qualifying expenditure for the initial period, but only for the purpose specified in subsection (5).
- (5) The purpose is that of determining in accordance with sections 417 and 418—
- (a) any question whether the person who incurred the expenditure—
- (i) is entitled to a balancing allowance for the initial period, or
- (ii) is liable to a balancing charge for that period, and
- (b) if so, the amount of that balancing allowance or balancing charge.
- (6) In this section “the unrelieved balance of the expenditure” means so much of the first-year qualifying expenditure in question as remains after deducting the amount of any first-year allowance given in respect of the whole or any part of that expenditure.”.

**Textual Amendments**

**F28** Sch. 22 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), Sch. 1 para. 540, **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Status: Point in time view as at 01/04/2010.*

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SCHEDULE 23

Section 79

EXCHANGE GAINS AND LOSSES FROM LOAN RELATIONSHIPS ETC

**PART 1**

AMENDMENTS OF THE FINANCE ACT 1996

*Introductory*

1 Chapter 2 of Part 4 of the Finance Act 1996 (c. 8) (loan relationships) is amended in accordance with the following provisions of this Part.

*Meaning of “related transaction”*

F29<sup>2</sup> .....

**Textual Amendments**

**F29** Sch. 23 para. 2 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Exchange gains and losses from loan relationships etc*

F30<sup>3</sup> .....

**Textual Amendments**

**F30** Sch. 23 para. 3 repealed (with effect in accordance with Sch. 11 Pt. 2(6) Note 3 of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), **Sch. 11 Pt. 2(6)**

*Authorised accounting methods*

F31<sup>4</sup> .....

**Textual Amendments**

**F31** Sch. 23 para. 4 repealed (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), **Sch. 42 Pt. 2(6)**

*Convertible securities etc: exchange gains and losses*

F32<sup>5</sup> .....

**Textual Amendments**

**F32** Sch. 23 para. 5 repealed (with effect in accordance with s. 52(3), Sch. 10 para. 9(2)(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), **Sch. 42 Pt. 2(6)**

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*Extension of section 100 to exchange gains and losses and to items other than money debts*

F33<sup>6</sup> .....

**Textual Amendments**

**F33** Sch. 23 para. 6 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Interpretation*

F34<sup>7</sup> .....

**Textual Amendments**

**F34** Sch. 23 para. 7 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Bad debt etc: cases where departure allowed from assumption of prompt payment in full*

F35<sup>8</sup> .....

**Textual Amendments**

**F35** Sch. 23 para. 8 repealed (with effect in accordance with s. 52(3) of the amending Act) by Finance Act 2004 (c. 12), **Sch. 42 Pt. 2(6)**

*Bad debts etc where parties have a connection*

F36<sup>9</sup> .....

**Textual Amendments**

**F36** Sch. 23 paras. 9-15 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Transactions not at arm's length*

F36<sup>10</sup> .....

**Textual Amendments**

**F36** Sch. 23 paras. 9-15 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Exchange gains and losses where loan not on arm's length terms*

F36<sup>11</sup> .....

*Status: Point in time view as at 01/04/2010.*

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**Textual Amendments**

**F36** Sch. 23 paras. 9-15 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Continuity of treatment: groups etc*

**F36**<sub>12</sub> .....

**Textual Amendments**

**F36** Sch. 23 paras. 9-15 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Loan relationships for unallowable purposes*

**F36**<sub>13</sub> .....

**Textual Amendments**

**F36** Sch. 23 paras. 9-15 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Life assurance business*

**F36**<sub>14</sub> .....

**Textual Amendments**

**F36** Sch. 23 paras. 9-15 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Special provisions for insurers: apportionments*

**F36**<sub>15</sub> .....

**Textual Amendments**

**F36** Sch. 23 paras. 9-15 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Savings and transitional provisions in the Finance Act 1996*

16 In Schedule 15 (savings and transitional provisions) omit paragraphs 22 to 24.

*Status: Point in time view as at 01/04/2010.*

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## PART 2

### AMENDMENTS OF OTHER LEGISLATION

#### *The Income and Corporation Taxes Act 1988*

##### *Charges on income*

F37 17 .....

###### **Textual Amendments**

**F37** Sch. 23 paras. 17, 18 repealed (1.4.2010) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 3 Pt. 1** (with [Sch. 2](#))

##### *Supplementary charge in respect of ring fence trades*

F37 18 .....

###### **Textual Amendments**

**F37** Sch. 23 paras. 17, 18 repealed (1.4.2010) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 3 Pt. 1** (with [Sch. 2](#))

F38 19 .....

###### **Textual Amendments**

**F38** Sch. 23 para. 19 repealed (7.4.2005) by [Finance Act 2005 \(c. 7\)](#), **Sch. 11 Pt. 2(6)**

##### *Double taxation relief*

- 20 (1) Section 798B of the Taxes Act 1988 (adjustments of interest and dividends for spared tax etc) is amended as follows.
- (2) In subsection (5) (meaning of “qualifying losses”) for paragraph (a) (exchange losses under Finance Act 1993) substitute—
- “(a) exchange losses falling to be brought into account as debits for the purposes of Chapter 2 of Part 4 of the Finance Act 1996 (loan relationships); and”.

##### *Provision not at arm’s length: foreign exchange gains and losses*

F39 21 .....

*Status: Point in time view as at 01/04/2010.*

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**Textual Amendments**

**F39** Sch. 23 para. 21 repealed (with effect in accordance with s. 381(1) of the amending Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), s. 381(1), Sch. 10 Pt. 2 (with Sch. 9 paras. 1-9, 22)

*The Finance Act 1995*

*Miscellaneous amendments*

- 22 (1) The Finance Act 1995 (c. 4) is amended as follows.
- (2) Omit section 131(which made transitional provision in relation to exchange gains and losses and which is spent).
- (3) In Part 2 of Schedule 24 (amendments of certain enactments) in paragraph 7 (commencement on day appointed under section 165(7)(b) of Finance Act 1993) for the words following “come into force on” substitute “ 23rd March 1995 ”.

*The Finance Act 2000*

*Tonnage tax*

- 23 (1) Schedule 22 to the Finance Act 2000 (c. 17) is amended as follows.
- (2) In paragraph 50 (relevant shipping income: certain interests etc) in sub-paragraph (2) (income to which paragraph 50 applies) at the end of paragraph (a) insert “ and ”.
- (3) In paragraph 63 (meaning of “finance costs”) in sub-paragraph (2)(c) (exchange gain or loss) for “within the meaning of Chapter II of Part II of the Finance Act 1993” substitute “ within the meaning given by section 103(1A) of the Finance Act 1996 ”.

*The Finance Act 2002*

*Intangible fixed assets: assets entirely excluded: financial assets*

- 24 (1) Schedule 29 to the Finance Act 2002 (gains and losses of a company from intangible fixed assets) is amended as follows.
- (2) In paragraph 75 (assets entirely excluded: financial assets) in sub-paragraph (3) for paragraph (a) (money debts) substitute—  
“(a) loan relationships;”.

**PART 3**

TRANSITIONAL PROVISIONS ETC

*Anti-avoidance: change of accounting period*

<sup>F40</sup>25 .....



*Status: Point in time view as at 01/04/2010.*

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### Textual Amendments

**F40** Sch. 23 para. 25 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), Sch. 1 para. 541(2), **Sch. 3 Pt. 1** (with Pts. 1, 2, Sch. 2 para. 57)

### *Deferred foreign exchange gains*

- 26 (1) The repeal of sections 139 to 143 of the Finance Act 1993 (c. 34) (foreign exchange gains and losses) does not prevent the making of a claim under section 139 of that Act (deferral of unrealised gains) by a company in respect of a gain accruing in an accrual period which begins with, or at any time in, the last accounting period of the company which begins before 1st October 2002; but any such claim shall have effect subject to the following provisions of this paragraph and (subject to regulations under section 81) regulations under Chapter 2 of Part 2 of that Act.
- (2) Amounts which, but for the repeal of subsections (4) to (10) of section 140 of the Finance Act 1993, would fall to be treated by virtue of those subsections as exchange gains for an accrual period which consists of, or falls in, an accounting period beginning on or after 1st October 2002—
- (a) shall be brought into account for that accounting period as if they were credits falling for the purposes of [F<sup>41</sup>Part 5 of the Corporation Tax Act 2009] to be brought into account in respect of the company's loan relationships;
  - (b) shall be treated for the purposes of [F<sup>42</sup>that Part] as non-trading credits, to the extent that they would, but for the repeal of subsections (5), (8) and (9) of section 140 of the Finance Act 1993, have fallen to be treated by virtue of those subsections as non-trading exchange gains; and
  - (c) except as provided by paragraph (b), shall be brought into account under [F<sup>43</sup>section 297(2) of the Corporation Tax Act 2009] (trading credits).
- (3) Before the expiration of the period of 2 years following the end of its first accounting period beginning on or after 1st October 2002, a company may elect for any amounts that would otherwise fall to be brought into account for that accounting period in accordance with paragraph (a) of sub-paragraph (2) instead to be brought into account in accordance with that sub-paragraph, but—
- (a) over the first 6 accounting periods of the company which begin on or after 1st October 2002; and
  - (b) in instalments of an equal amount for each such accounting period.
- (4) If a company—
- (a) makes an election under sub-paragraph (3), but
  - (b) ceases to be within the charge to corporation tax before six accounting periods of the company which begin on or after 1st October 2002 have elapsed,
- any instalment under that sub-paragraph which does not fall to be brought into account for an earlier accounting period shall be brought into account for the accounting period in which the company ceases to be within the charge to corporation tax.

<sup>F44</sup>(5) .....

*Status: Point in time view as at 01/04/2010.*

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**Textual Amendments**

- F41** Words in Sch. 23 para. 26(2)(a) substituted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 1 para. 541(3)(a)(i)** (with Sch. 2 Pts. 1, 2)
- F42** Words in Sch. 23 para. 26(2)(b) substituted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 1 para. 541(3)(a)(ii)** (with Sch. 2 Pts. 1, 2)
- F43** Words in Sch. 23 para. 26(2)(c) substituted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 1 para. 541(3)(a)(iii)** (with Sch. 2 Pts. 1, 2)
- F44** Sch. 23 para. 26(5) repealed (with effect in accordance with Sch. 11 Pt. 2(6) Note 3 of the amending Act) by Finance (No. 2) Act 2005 (c. 22), **Sch. 11 Pt. 2(6)**

SCHEDULE 24

Section 80

CORPORATION TAX: CURRENCY

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

- C1** Sch. 24 extended (retrospective to 30.9.2002) by Finance Act 2003 (c. 14), s. 177(4)(8)(11)

*The Finance Act 1993*

*Introductory*

F45<sub>1</sub> .....

**Textual Amendments**

- F45** Sch. 24 paras. 1-6 repealed (with effect in accordance with s. 52(3) of the amending Act) by Finance Act 2004 (c. 12), **Sch. 42 Pt. 2(6)**

*The basic rule: sterling to be used*

F45<sub>2</sub> .....

**Textual Amendments**

- F45** Sch. 24 paras. 1-6 repealed (with effect in accordance with s. 52(3) of the amending Act) by Finance Act 2004 (c. 12), **Sch. 42 Pt. 2(6)**

*Use of currency other than sterling: accounts as a whole etc in foreign currency*

F45<sub>3</sub> .....

*Status: Point in time view as at 01/04/2010.*

*Changes to legislation: Finance Act 2002 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**Textual Amendments**

**F45** Sch. 24 paras. 1-6 repealed (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 2\(6\)](#)

*Use of currency other than sterling: accounts etc partly from statements in foreign currency*

**F45**<sub>4</sub> .....

**Textual Amendments**

**F45** Sch. 24 paras. 1-6 repealed (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 2\(6\)](#)

*Rules for ascertaining currency equivalents: general*

**F45**<sub>5</sub> .....

**Textual Amendments**

**F45** Sch. 24 paras. 1-6 repealed (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 2\(6\)](#)

*Rules for ascertaining sterling equivalent for section 93(4) or (5)*

**F45**<sub>6</sub> .....

**Textual Amendments**

**F45** Sch. 24 paras. 1-6 repealed (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 2\(6\)](#)

*The Finance Act 1994*

*Lloyd's underwriters: corporations etc*

- 7 (1) Section 226 of the Finance Act 1994 (c. 9) (provisions which are not to apply to corporate members of Lloyd's) is amended as follows.
- (2) Subsection (1) (which prevents sections 92 to 95 of the Finance Act 1993 (c. 34) from applying) shall cease to have effect (and sections 92 to 94AB of that Act shall accordingly apply for the purposes of computing for the purposes of corporation tax the profits or losses of a corporate member's underwriting business).

*Status: Point in time view as at 01/04/2010.*

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SCHEDULE 25

Section 82

LOAN RELATIONSHIPS

**PART 1**

AMENDMENTS OF THE FINANCE ACT 1996

*Introductory*

1 Chapter 2 of Part 4 of the Finance Act 1996 (c. 8) (loan relationships) is amended in accordance with the following provisions of this Part of this Schedule.

*Meaning of “loan relationship” etc: method of settlement*

F46<sup>2</sup> .....

**Textual Amendments**

**F46** Sch. 25 paras. 2-25 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Non-trading deficit on loan relationships*

F46<sup>3</sup> .....

**Textual Amendments**

**F46** Sch. 25 paras. 2-25 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Debits and credits brought into account*

F47<sup>4</sup> .....

**Textual Amendments**

**F47** Sch. 25 paras. 4-6 repealed (with effect in accordance with s. 52(3) of the amending Act) by Finance Act 2004 (c. 12), **Sch. 42 Pt. 2(6)**

*Authorised accounting methods*

F47<sup>5</sup> .....

**Textual Amendments**

**F47** Sch. 25 paras. 4-6 repealed (with effect in accordance with s. 52(3) of the amending Act) by Finance Act 2004 (c. 12), **Sch. 42 Pt. 2(6)**

*Status: Point in time view as at 01/04/2010.*

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*Application of accounting methods*

F47<sup>6</sup> .....

**Textual Amendments**

**F47** Sch. 25 paras. 4-6 repealed (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 2\(6\)](#)

*Accounting method where parties have a connection*

F46<sup>7</sup> .....

**Textual Amendments**

**F46** Sch. 25 paras. 2-25 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))

*Meaning of “control” in section 87*

F46<sup>8</sup> .....

**Textual Amendments**

**F46** Sch. 25 paras. 2-25 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))

*Inconsistent application of accounting methods*

F46<sup>9</sup> .....

**Textual Amendments**

**F46** Sch. 25 paras. 2-25 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))

*Changes of accounting method*

F48<sup>10</sup> .....

**Textual Amendments**

**F48** Sch. 25 para. 10 repealed (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 2\(6\)](#)

*Payments subject to deduction of tax*

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

*Status: Point in time view as at 01/04/2010.*

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**Textual Amendments**

**F46** Sch. 25 paras. 2-25 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Indexed gilt-edged securities*

**F46**<sub>12</sub> .....

**Textual Amendments**

**F46** Sch. 25 paras. 2-25 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Manufactured interest*

**F46**<sub>13</sub> .....

**Textual Amendments**

**F46** Sch. 25 paras. 2-25 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Interpretation: “shares” not to include building society shares*

**F46**<sub>14</sub> .....

**Textual Amendments**

**F46** Sch. 25 paras. 2-25 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Interpretation: miscellaneous*

**F46**<sub>15</sub> .....

**Textual Amendments**

**F46** Sch. 25 paras. 2-25 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Provision continuing to be made on accruals basis after company ceases to be party*

**F46**<sub>16</sub> .....

*Status: Point in time view as at 01/04/2010.*

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**Textual Amendments**

**F46** Sch. 25 paras. 2-25 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Claims to treat deficit as eligible for group relief*

**F46**17 .....

**Textual Amendments**

**F46** Sch. 25 paras. 2-25 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Claim to carry back deficit to previous accounting periods*

**F46**18 .....

**Textual Amendments**

**F46** Sch. 25 paras. 2-25 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Deficit carried forward and set against non-trading profits of succeeding accounting periods*

**F46**19 .....

**Textual Amendments**

**F46** Sch. 25 paras. 2-25 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Distributions*

**F46**20 .....

**Textual Amendments**

**F46** Sch. 25 paras. 2-25 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Life assurance policies and capital redemption policies*

**F49**21 .....

*Status: Point in time view as at 01/04/2010.*

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**Textual Amendments**

**F49** Sch. 25 para. 21 omitted (with effect in accordance with Sch. 14 para. 18 of the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 14 para. 17(k)**

*Late interest: further cases where paragraph 2 of Schedule 9 applies*

<sup>F46</sup>22 .....

**Textual Amendments**

**F46** Sch. 25 paras. 2-25 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Bad debts and consortium relief*

<sup>F46</sup>23 .....

**Textual Amendments**

**F46** Sch. 25 paras. 2-25 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Bad debt etc where parties have a connection*

<sup>F46</sup>24 .....

**Textual Amendments**

**F46** Sch. 25 paras. 2-25 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Bad debt etc: parties having connection and creditor company in insolvent liquidation etc*

<sup>F46</sup>25 .....

**Textual Amendments**

**F46** Sch. 25 paras. 2-25 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

<sup>F50</sup>26 .....

**Textual Amendments**

**F50** Sch. 25 para. 26 repealed (7.4.2005) by Finance Act 2005 (c. 7), **Sch. 11 Pt. 2(5)**



*Status: Point in time view as at 01/04/2010.*

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*Bad debt etc: departure not permitted by paragraph 6: subsequent cessation of connection*

<sup>F51</sup>27 .....

**Textual Amendments**

**F51** Sch. 25 paras. 27-36 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Imported losses etc*

<sup>F51</sup>28 .....

**Textual Amendments**

**F51** Sch. 25 paras. 27-36 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Continuity of treatment: groups etc*

<sup>F51</sup>29 .....

**Textual Amendments**

**F51** Sch. 25 paras. 27-36 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Loan relationships for unallowable purposes*

<sup>F51</sup>30 .....

**Textual Amendments**

**F51** Sch. 25 paras. 27-36 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Debits and credits treated as relating to capital expenditure*

<sup>F51</sup>31 .....

**Textual Amendments**

**F51** Sch. 25 paras. 27-36 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Repo transactions and stock lending*

<sup>F52</sup>32 .....

*Status: Point in time view as at 01/04/2010.*

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#### Textual Amendments

**F52** Sch. 25 para. 32 repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), **Sch. 27 Pt. 2(14)**

#### *Discounted securities where companies have a connection*

**F51**33 .....

#### Textual Amendments

**F51** Sch. 25 paras. 27-36 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

#### *Discounted securities of close companies*

**F51**34 .....

#### Textual Amendments

**F51** Sch. 25 paras. 27-36 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

#### *Partnerships involving companies*

**F51**35 .....

#### Textual Amendments

**F51** Sch. 25 paras. 27-36 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

#### *Interpretation of Schedule 9: “major interest”*

**F51**36 .....

#### Textual Amendments

**F51** Sch. 25 paras. 27-36 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

#### *Investment trusts and venture capital trusts: treatment of capital reserves*

- 37 (1) Schedule 10 (collective investment schemes) is amended as follows.
- (2) For paragraph 1 substitute—

*Status: Point in time view as at 01/04/2010.*

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### **“Investment trusts and venture capital trusts: capital reserves**

- 1A (1) Where any profits, gains or losses arising to an investment trust from a creditor relationship for an accounting period are carried to or sustained by a capital reserve in accordance with the Statement of Recommended Practice used for that accounting period, those profits, gains or losses must not be brought into account as credits or debits for the purposes of this Chapter, notwithstanding section 84(2)(b) of this Act.
- (2) Where any profits, gains or losses arising to a venture capital trust from a creditor relationship for an accounting period—
- (a) are carried to or sustained by a capital reserve in accordance with the Statement of Recommended Practice used for the accounting period as if the venture capital trust were an investment trust, or
  - (b) would be carried to or sustained by a capital reserve if the venture capital trust were an investment trust and were using that Statement of Recommended Practice,
- those profits, gains or losses must not be brought into account as credits or debits for the purposes of this Chapter, notwithstanding section 84(2)(b) of this Act.
- (3) For the purposes of this paragraph, the “Statement of Recommended Practice” used for an accounting period is—
- (a) in relation to an accounting period for which it is permitted to be used, the Statement of Recommended Practice relating to Investment Trust Companies, issued by the Association of Investment Trust Companies in December 1995, as from time to time modified, amended or revised, or
  - (b) in relation to any accounting period for which it is permitted to be used, any subsequent Statement of Recommended Practice relating to investment trusts, as from time to time modified, amended or revised.”.

### *Authorised unit trusts and open-ended investment companies*

- 38 (1) Schedule 10 (collective investment schemes) is amended as follows.
- (2) For paragraph 2 (which makes special provision in relation to authorised unit trusts and is applied to open-ended investment companies by regulations under section 152 of the Finance Act 1995 (c. 4)) and the heading immediately preceding it substitute—

### **“Authorised unit trusts**

- 2A (1) Where any profits, gains or losses arising to an authorised unit trust from a creditor relationship in an accounting period are capital profits, gains or losses, those profits, gains or losses must not be brought into account as credits or debits for the purposes of this Chapter, notwithstanding section 84(2)(b) of this Act.
- (2) For the purposes of this paragraph, capital profits, gains or losses arising from a creditor relationship in an accounting period are such profits, gains or losses arising from a creditor relationship as fall to be dealt with under—

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- (a) the heading “net gains/losses on investments during the period”, or
  - (b) the heading “other gains/losses”,
- in the statement of total return for the accounting period.
- (3) For the purposes of sub-paragraph (2) above, the statement of total return for an accounting period is the statement of total return which, in accordance with the Statement of Recommended Practice used for the accounting period, must be included in the accounts contained in the annual report of the authorised unit trust which deals with the accounting period.
- (4) For the purposes of sub-paragraph (3) above, “Statement of Recommended Practice” means—
- (a) in relation to any accounting period for which it is required or permitted to be used, the Statement of Recommended Practice relating to Authorised Unit Trust Schemes issued by the Investment Management Regulatory Organisation Limited in January 1997, as from time to time modified, amended or revised; or
  - (b) in relation to any accounting period for which it is required or permitted to be used, any subsequent Statement of Recommended Practice relating to authorised unit trust schemes, as from time to time modified, amended or revised.
- (5) The Treasury may by order amend this paragraph so as to alter the definition of capital profits, gains or losses in consequence of the modification, amendment, revision or replacement of a Statement of Recommended Practice.
- (6) The power to make an order under this paragraph includes power—
- (a) to make different provision for different cases; and
  - (b) to make such consequential, supplementary, incidental or transitional provision, or savings, as appear to the Treasury to be necessary or expedient (including provision amending any enactment or any instrument made under any enactment).

### **Open-ended investment companies**

- 2B (1) Where any profits, gains or losses arising to an open-ended investment company from a creditor relationship in an accounting period are capital profits, gains or losses, those profits, gains or losses must not be brought into account as credits or debits for the purposes of this Chapter, notwithstanding section 84(2)(b) of this Act.
- (2) For the purposes of this paragraph, capital profits, gains or losses arising from a creditor relationship in an accounting period are such profits, gains or losses arising from a creditor relationship as fall to be dealt with under—
- (a) the heading “net gains/losses on investments during the period”, or
  - (b) the heading “other gains/losses”,
- in the statement of total return for the accounting period.
- (3) For the purposes of sub-paragraph (2) above, the statement of total return for an accounting period is the statement of total return which, in accordance with the Statement of Recommended Practice used for the accounting period,

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must be included in the accounts contained in the annual report of the open-ended investment company which deals with the accounting period.

- (4) For the purposes of sub-paragraph (3) above, “Statement of Recommended Practice” means—
- (a) in relation to any accounting period for which it is required or permitted to be used, the Statement of Recommended Practice relating to Open-Ended Investment Companies issued by the Financial Services Authority in November 2000, as from time to time modified, amended or revised; or
  - (b) in relation to any accounting period for which it is required or permitted to be used, any subsequent Statement of Recommended Practice relating to open-ended investment companies, as from time to time modified, amended or revised.
- (5) The Treasury may by order amend this paragraph so as to alter the definition of capital profits, gains or losses in consequence of the modification, amendment, revision or replacement of a Statement of Recommended Practice.
- (6) The power to make an order under this paragraph includes power—
- (a) to make different provision for different cases; and
  - (b) to make such consequential, supplementary, incidental or transitional provision, or savings, as appear to the Treasury to be necessary or expedient (including provision amending any enactment or any instrument made under any enactment).”.

### *Distributing offshore funds*

39 For paragraph 3 of that Schedule substitute—

- “3 (1) For the purposes of paragraph 5(1) of Schedule 27 to the Taxes Act 1988 (computation of UK equivalent profit), the assumptions to be made in determining what, for any period, would be the total profits of an offshore fund are to include the assumptions in sub-paragraphs (2) and (3) below.
- (2) The first assumption is that the provisions of this Chapter so far as they relate to the creditor relationships of a company do not apply for the purposes of corporation tax in computing the profits or loss of an offshore fund.
- (3) The second assumption is that for the purposes of corporation tax the profits and gains, and losses, that are to be taken to arise from the creditor relationships of an offshore fund are to be computed—
- (a) in accordance with the provisions applicable, in the case of unauthorised unit trusts, for the purposes of income tax; and
  - (b) as if the provisions so applicable had effect in relation to an accounting period of an offshore fund as they have effect, in the case of unauthorised unit trusts, in relation to a year of assessment.

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- (4) In this paragraph “unauthorised unit trust” means the trustees of any unit trust scheme which is not an authorised unit trust but is a unit trust scheme for the purposes of section 469 of the Taxes Act 1988.”

### *Life assurance business*

<sup>F53</sup>40 .....

#### **Textual Amendments**

**F53** Sch. 25 para. 40 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

### *Adjustments in the case of chargeable assets etc*

- 41 (1) In Schedule 15 (loan relationships: savings and transitional provisions) paragraph 11 is amended as follows.

- (2) After sub-paragraph (2) insert—

“(2A) If, in a case where the continuing loan relationship is a creditor relationship,

- (a) the company acquired its rights under the relationship on or before 31st March 1996 by virtue of an arm’s length transaction,
- (b) for the accounting period in which it acquired those rights—
  - (i) there was no connection (as defined in sub-paragraph (2C) below) between the company and the person from whom the company acquired the asset, but
  - (ii) there was such a connection between the company and a company standing in the position of a debtor as respects the money debt, and
- (c) there had been no such connection between the companies mentioned in paragraph (b)(ii) above at any time in the period which—
  - (i) begins 4 years before the date on which the company acquired those rights, and
  - (ii) ends twelve months before that date,

this paragraph shall have effect as if the amount mentioned in sub-paragraph (2)(b) above were an amount equal to the greater of the amounts mentioned in sub-paragraph (2B) below.

- (2B) Those amounts are—

- (a) the fair value of the rights at the time when the company ceases to be a party to the loan relationship; and
- (b) the fair value of the rights on 1st April 1996.

- (2C) For the purposes of sub-paragraph (2A) above there is a connection between a company and another person at any time if at that time—

- (a) the other person is a company and one of the companies has control of the other,

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- (b) the other person is a company and both companies are under the control of the same person, or
- (c) the company is a close company and the other person is a participator in that company or the associate of a person who is such a participator,

and there is a connection between a company and another person for an accounting period if there is a connection (within paragraphs (a) to (c) above) between the company and the person at any time in that accounting period.

(2D) For the purposes of sub-paragraph (2C) above—

- (a) subsections (2) to (6) of section 416 of the Taxes Act 1988 (meaning of control) shall apply as they apply for the purposes of Part 11 of that Act;
- (b) subject to paragraph (c) below, “participator” and “associate” have the meaning given for the purposes of that Part by section 417 of that Act;
- (c) a person shall not be regarded as a participator in relation to a company by reason only that he is a loan creditor of the company.”.

*Reduction of paragraph 11 credit where s.251(4) of 1992 Act prevents paragraph 8 loss*

42 In Schedule 15, after paragraph 11 (other adjustments in the case of chargeable assets etc) insert—

**“Reduction of paragraph 11 credit where s.251(4) of 1992 Act prevents paragraph 8 loss**

- 11A (1) This paragraph applies where, in the case of any asset representing in whole or in part a loan relationship of a company, an amount representing a deemed allowable loss would (apart from this paragraph) fall or have fallen to be brought into account in accordance with paragraph 8(3) above for an accounting period (whenever beginning or ending), but for section 251(4) of the 1992 Act (no allowable loss on disposal of debt acquired from connected person).
- (2) Where this paragraph applies, the amount of any credit falling within sub-paragraph (3) below shall be treated for the purposes of this Chapter as reduced (but not below nil) by the amount described in sub-paragraph (1) above.
- (3) A credit falls within this sub-paragraph if (apart from this paragraph)—
- (a) the credit falls to be given by virtue of paragraph 11(3)(a) above for an accounting period beginning on or after 1st October 2002; and
  - (b) the loan relationship mentioned in paragraph 11(1)(a) above in the case of the credit is the same loan relationship as the one mentioned in sub-paragraph (1) above.”.

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**PART 2**

AMENDMENTS OF OTHER ENACTMENTS

*The Taxes Act 1988*

*Introductory*

43 The Taxes Act 1988 is amended as follows.

*Incidental costs of obtaining loan finance*

44 In section 77(2)(a) (meaning of “qualifying loan” etc) omit sub-paragraph (ii) (interest deductible under section 338 against total profits).

*Group relief*

<sup>F54</sup>45 .....

**Textual Amendments**  
**F54** Sch. 25 para. 45 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

<sup>F55</sup>46 .....

**Textual Amendments**  
**F55** Sch. 25 para. 46 repealed (with effect in accordance with Sch. 43 Pt. 3(12) Note 1 of the amending Act) by [Finance Act 2003 \(c. 14\)](#), **Sch. 43 Pt. 3(12)**

*Building society shares: regulations for deduction of tax*

<sup>F56</sup>47 .....

**Textual Amendments**  
**F56** Sch. 25 para. 47 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Building society shares: incidental costs of issuing qualifying shares*

<sup>F57</sup>48 .....



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**Textual Amendments**

**F57** Sch. 25 para. 48 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*European Economic Interest Groupings*

**F58** 49 .....

**Textual Amendments**

**F58** Sch. 25 para. 49 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

*Funding bonds issued in respect of interest on certain debts*

**F59** 50 .....

**Textual Amendments**

**F59** Sch. 25 para. 50 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Transfers of income arising from securities*

**F60** 51 .....

**Textual Amendments**

**F60** Sch. 25 para. 51 repealed (with effect in accordance with Sch. 11 Pt. 2(8) Note of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), **Sch. 11 Pt. 2(8)**

*Treatment of price differential on sale and repurchase of securities*

**F61** 52 .....

**Textual Amendments**

**F61** Sch. 25 para. 52 repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), **Sch. 27 Pt. 2(14)**

*Restriction of relief for payments of interest*

**F62** 53 .....

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#### Textual Amendments

- F62** Sch. 25 para. 53 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

#### Limits on credit: corporation tax

**F63**54 .....

#### Textual Amendments

- F63** Sch. 25 paras. 54, 55 repealed (1.4.2010) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), **Sch. 10 Pt. 1** (with Sch. 9 paras. 1-9, 22)

#### Foreign tax on items giving rise to a non-trading credit

**F63**55 .....

#### Textual Amendments

- F63** Sch. 25 paras. 54, 55 repealed (1.4.2010) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), **Sch. 10 Pt. 1** (with Sch. 9 paras. 1-9, 22)

#### Investment trusts

**F64**56 .....

#### Textual Amendments

- F64** Sch. 25 para. 56 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

#### Venture capital trusts

**F65**57 .....

#### Textual Amendments

- F65** Sch. 25 para. 57 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), Sch. 1 para. 421, **Sch. 3 Pt. 1** (with Sch. 2)

#### Change in ownership of investment company

**F66**58 .....

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**Textual Amendments**

**F66** Sch. 25 para. 58 repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 3 Pt. 1 (with Sch. 2)

*The Finance Act 1988*

*Commercial woodlands*

- 59 (1) Schedule 6 to the Finance Act 1988 (c. 39) is amended as follows.
- (2) In consequence of Chapter 2 of Part 4 of the Finance Act 1996 (loan relationships) in paragraph 3 (abolition of Schedule D election etc) omit—
- (a) sub-paragraphs (3)(a), (4)(a) and (5)(a) and (b);
  - (b) in sub-paragraph (5), in the words following paragraph (c), the word “group”; and
  - (c) sub-paragraph (6).

*The Taxation of Chargeable Gains Act 1992*

*Interest charged to capital*

- 60 (1) Section 40 of the Taxation of Chargeable Gains Act 1992 (c. 12) is amended as follows.
- (2) After subsection (3) add—
- “(4) In consequence of Chapter 2 of Part 4 of the Finance Act 1996 (c. 8) (loan relationships) this section does not have effect in relation to interest referable to an accounting period ending on or after 1st April 1996.”

**PART 3**

TRANSITIONAL PROVISIONS

*Interpretation*

<sup>F67</sup>61 .....

**Textual Amendments**

**F67** Sch. 25 paras. 61-64 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 542, Sch. 3 Pt. 1 (with Sch. 2 Pts. 1, 2)

*Non-trading deficit carried forward from last old accounting period*

<sup>F67</sup>61A .....

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**Textual Amendments**

**F67** Sch. 25 paras. 61-64 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 542, **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Discounted securities where companies have a connection*

<sup>F67</sup>62 .....

**Textual Amendments**

**F67** Sch. 25 paras. 61-64 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 542, **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Discounted securities of close companies*

<sup>F67</sup>63 .....

**Textual Amendments**

**F67** Sch. 25 paras. 61-64 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 542, **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Authorised unit trusts and open-ended investment companies*

<sup>F67</sup>64 .....

**Textual Amendments**

**F67** Sch. 25 paras. 61-64 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 542, **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

**Textual Amendments**

**F68** Sch. 26 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 543, **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

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SCHEDULE 27

Section 83

DERIVATIVE CONTRACTS: MINOR AND CONSEQUENTIAL AMENDMENTS

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

**C2** Sch. 27 extended (retrospective to 30.9.2002) by [Finance Act 2003 \(c. 14\), s. 177\(4\)\(8\)\(11\)](#)

*The Taxes Act 1988*

- 1 The Taxes Act 1988 is amended as follows.
- 2 In section 15(1) (Schedule A) in paragraph 2(3) of Schedule A (profits of Schedule A business computed without regard to certain items) for the third indent (which relates to qualifying payments within Chapter 2 of Part 4 of the Finance Act 1994 (c. 9)) substitute—
  - “—credits or debits within Schedule 26 to the Finance Act 2002 (derivative contracts).”.

F693 .....

**Textual Amendments**

**F69** Sch. 27 para. 3 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\), Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))

4 F70(1) .....

(2) After subsection (1A) of that section insert—

“(1B) If, apart from section 143(1) of the 1992 Act or section 128(2) above, gains arising in the course of dealing in financial futures or in qualifying options would constitute, for the purposes of the Corporation Tax Acts, profits and gains chargeable to tax under Case V or VI of Schedule D, then any loss arising in the course of that dealing shall not be allowable against profits and gains which are chargeable to tax under Case V or VI of Schedule D.”.

**Textual Amendments**

**F70** Sch. 27 para. 4(1) repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 3](#) (with [Sch. 2](#))

F715 .....

**Textual Amendments**

**F71** Sch. 27 para. 5 repealed (19.7.2007) by [Finance Act 2007 \(c. 11\), Sch. 27 Pt. 2\(10\)](#)

- 6 Omit section 468AA (authorised unit trusts: futures and options).
- 7 (1) Section 468L (interest distributions) is amended as follows.

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- (2) In subsection (9) (meaning of “qualifying investments”) after paragraph (e) insert—
  - “(f) derivative contracts whose underlying subject matter consists wholly of any one or more of the matters referred to in paragraphs (a) to (e) above;
  - (g) contracts for differences whose underlying subject matter consists wholly of interest rates or creditworthiness or both of those matters.”.
- (3) In subsection (11) (assumption as to investments of other authorised unit trust which are to be regarded as qualifying investments) after “within paragraphs (a) to (c)” insert “, (f) and (g)”.
- (4) After subsection (12G) insert—
  - “(12H) For the purposes of this section—
    - “contract for differences” has the same meaning as in paragraph 12 of Schedule 26 to the Finance Act 2002;
    - “derivative contract” means—
      - (a) a contract which is a derivative contract within the meaning of that Schedule, or
      - (b) a contract which is, in the accounting period in question, treated as if it were a derivative contract by virtue of paragraph 36 of that Schedule (contracts relating to holdings in unit trust schemes, open-ended investment companies and offshore funds);
    - “underlying subject matter” has the same meaning as in paragraph 11 of that Schedule.”.

F72<sub>8</sub> .....

**Textual Amendments**  
**F72** Sch. 27 paras. 8-10 repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

F72<sub>9</sub> .....

**Textual Amendments**  
**F72** Sch. 27 paras. 8-10 repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

F72<sub>10</sub> .....

**Textual Amendments**  
**F72** Sch. 27 paras. 8-10 repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

11 In section 798B (restriction of relief on certain interest and dividends: meaning of “financial expenditure”) in subsection (5) (meaning of “qualifying losses”) for

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paragraph (b) (losses brought into account for purposes of Chapter 2 of Part 4 of the Finance Act 1994) substitute—

“(b) the amount (if any) by which debits brought into account in respect of a derivative contract for the purposes of Schedule 26 to the Finance Act 2002 (derivative contracts) exceed credits so brought into account;”.

12 (1) Section 807A (disposals and acquisitions of company loan relationships with or without interest) is amended as follows.

F73(2) .....

F73(3) .....

(4) In that subsection, omit the definition of “relevant qualifying payment”.

**Textual Amendments**

F73 Sch. 27 para. 12(2)(3) repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), **Sch. 10 Pt. 1** (with Sch. 9 paras. 1-9, 22)

F74 13 .....

**Textual Amendments**

F74 Sch. 27 para. 13 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

F75 14 .....

**Textual Amendments**

F75 Sch. 27 para. 14 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), **Sch. 3** (with Sch. 2)

F76 15 .....

**Textual Amendments**

F76 Sch. 27 para. 15 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), **Sch. 10 Pt. 2** (with Sch. 9 paras. 1-9, 22)

*The Finance Act 1994*

16 In section 226 (provisions of the Finance Act 1993 (c. 34) and Finance Act 1994 which are not to apply in the case of Lloyd’s underwriters) for subsection (3) (contracts and options in premium trust fund of corporate member not to be qualifying contracts for purposes of Chapter 2 of Part 4 of the Finance Act 1994) substitute—

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“(3) No relevant contract (within the meaning of Schedule 26 to the Finance Act 2002) forming part of a premium trust fund of a corporate member shall be a derivative contract.”.

*The Finance Act 1996*

17 The Finance Act 1996 (c. 8) is amended as follows.

F77 18 .....

**Textual Amendments**  
F77 Sch. 27 para. 18 repealed (with effect in accordance with s. 52(3), Sch. 10 para. 11(2)(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), **Sch. 42 Pt. 2(6)**

F78 19 .....

**Textual Amendments**  
F78 Sch. 27 para. 19 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

F79 20 .....

**Textual Amendments**  
F79 Sch. 27 para. 20 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

21 Omit Schedule 12(meaning of debt contract or option).

*The Finance Act 2000*

22 The Finance Act 2000 (c. 17) is amended as follows.

23 (1) Schedule 22 (tonnage tax) is amended as follows.

(2) In paragraph 50 (income which, otherwise than under Schedule 22 to the Finance Act 2000, falls to be taken into account as trading income from trade consisting of tonnage tax activities) in sub-paragraph (2), for paragraph (c) substitute—

“(c) any credit falling to be brought into account under Schedule 26 to the Finance Act 2002 (derivative contracts).”.

(3) In paragraph 63 (ring-fencing of accounting periods where company is tonnage tax company: meaning of “finance costs”) in sub-paragraph (2), for paragraph (b) substitute—

“(b) any credit or debit falling to be brought into account under Schedule 26 to the Finance Act 2002 (derivative contracts) in relation to debt finance;”.



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### The Finance Act 2002

- 24 The Finance Act 2002 is amended as follows.
- 25 Section 78 (which amends the provision made by Schedule 5AA to the Taxes Act 1988 as regards corporation tax in relation to guaranteed returns on transactions involving futures and options, provision as regards which is made in Schedule 26 in relation to accounting periods beginning on or after 1st October 2002) shall cease to have effect.
- 26 In Schedule 29 (taxation of intangible fixed assets) in paragraph 75 (which provides for the Schedule not to apply to financial assets) for sub-paragraph (3)(b) (financial assets to include qualifying contracts within Chapter 2 of Part 4 of the Finance Act 1994) substitute—
- “(b) derivative contracts (see Part 2 of Schedule 26 to this Act).”

## SCHEDULE 28

Section 83

### DERIVATIVE CONTRACTS: TRANSITIONAL PROVISIONS ETC

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

- C3** Sch. 28 extended (retrospective to 30.9.2002) by [Finance Act 2003 \(c. 14\), s. 177\(6\)-\(8\)\(11\)](#)

#### *Anti-avoidance: change of accounting period*

**F80**<sub>1</sub> .....

#### Textual Amendments

- F80** [Sch. 28 para. 1](#) repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\), Sch. 1 para. 544\(2\), Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))

#### *Qualifying contracts to which company ceases to be party before commencement day*

- 2 (1) This paragraph applies if the conditions in sub-paragraphs (2) and (3) are satisfied in relation to any contract of a company.
- (2) The first condition is that the company was a party to a qualifying contract (within the meaning of Chapter 2 of Part 4 of the Finance Act 1994) before its commencement day, but is not a party to it on that commencement day.
- (3) The second condition is that, if the company had been a party to the contract on its commencement day, the contract would have been a derivative contract.
- (4) To the extent that amounts have been brought into account in computing, in accordance with Chapter 2 of Part 4 of the Finance Act 1994, the profits or losses accruing to the company from the contract in an old period of the company, they shall not be brought into account again by the company as credits or debits given in respect of that contract for the first new period or any subsequent accounting period of the company by Schedule 26.

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[<sup>F81</sup>(4A) In relation to a subsequent accounting period ending on or after 1 April 2009, the reference in sub-paragraph (4) to Schedule 26 is to be read as a reference to Part 7 of the Corporation Tax Act 2009.]

#### Textual Amendments

**F81** Sch. 28 para. 2(4A) inserted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 544(3) (with Sch. 2 Pts. 1, 2)

#### *Qualifying contracts which become derivative contracts*

<sup>F82</sup>3 .....

#### Textual Amendments

**F82** Sch. 28 para. 3 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 544(4), Sch. 3 Pt. 1 (with Sch. 2 Pts. 1, 2)

#### *Contracts which become derivative contracts: chargeable assets*

- 4 (1) This paragraph applies if the conditions in sub-paragraphs (2) to (4) are satisfied in relation to any contract of a company.
- (2) The first condition is that the company is a party to the contract immediately before and on its commencement day.
- (3) The second condition is that the contract—
- (a) was not a qualifying contract (within the meaning of Chapter 2 of Part 4 of the Finance Act 1994) immediately before the company's commencement day, but
  - (b) as from that day is a derivative contract.
- (4) The third condition is that the contract was, immediately before the company's commencement day, a chargeable asset.
- (5) Where this paragraph applies, the company shall, when it ceases to be a party to the contract, bring into account, for the accounting period in which it ceases to be a party to the contract, the amount of any chargeable gain or allowable loss which would have been treated as accruing to the company on the assumption—
- (a) that it had made a disposal of the asset immediately before its commencement day, and
  - (b) that the disposal had been for a consideration equal to the value (if any) given to the contract in the accounts of the company at the end of the company's accounting period immediately before its first new period.
- (6) Sub-paragraph (5) has effect subject to sub-paragraph (7).
- (7) The company may elect that a debit representing the amount of any allowable loss, which under sub-paragraph (5) is to be brought into account for the accounting period in which it ceases to be a party to the contract, shall be brought into account for that accounting period as if it were a non-trading debit falling to be brought into account

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for the purposes of Chapter 2 of Part 4 of the Finance Act 1996 (c. 8) in respect of a loan relationship of the company.

[<sup>F83</sup>(7A) In relation to an accounting period ending on or after 1 April 2009, the reference in sub-paragraph (7) to Chapter 2 of Part 4 of the Finance Act 1996 is to be read as a reference to Part 5 of the Corporation Tax Act 2009.]

- (8) An election under sub-paragraph (7) may only be made within the period of two years following the end of the accounting period in which the company ceases to be a party to the contract.
- (9) For the purposes of this paragraph an asset is a chargeable asset if any gain accruing on the disposal of the asset by the company would be a chargeable gain for the purposes of the Taxation of Chargeable Gains Act 1992 (c. 12) (and includes any obligations under futures contracts which, by virtue of section 143 of that Act, are regarded as assets to the disposal of which that Act applies).
- (10) This paragraph has effect subject to paragraph 5.

#### Textual Amendments

**F83** Sch. 28 para. 4(7A) inserted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 544(5) (with Sch. 2 Pts. 1, 2)

#### *Contracts: election to treat as two assets*

- 5 (1) This paragraph applies if the conditions in sub-paragraphs (2) to (4) are satisfied in relation to any contract of a company.
  - (2) The first condition is that the company is a party to the contract immediately before and on its commencement day.
  - (3) The second condition is that the contract—
    - (a) was not a qualifying contract (within the meaning of Chapter 2 of Part 4 of the Finance Act 1994 (c. 9)) immediately before the company's commencement day, but
    - (b) as from that day would, but for an election under sub-paragraph (5) of this paragraph, be a derivative contract to which paragraph 7 of Schedule 26 (contracts designed to secure guaranteed amount) applies.
  - (4) The third condition is that the contract was, immediately before the company's commencement day, a chargeable asset.
  - (5) Where this paragraph applies the company may elect that its contract shall be treated for the purposes of the Corporation Tax Acts as if it were—
    - (a) a creditor relationship of the company which is a zero coupon bond (within the meaning of paragraph 48 of Schedule 26), and
    - (b) an option of the company whose underlying subject matter is the same as the underlying subject matter of the contract to which this paragraph applies;and sub-paragraphs (4) to (6) of that paragraph shall apply to a creditor relationship and an option arising under this sub-paragraph as they apply to a creditor relationship and an option arising under paragraph 48(2) of Schedule 26.
  - (6) An election under sub-paragraph (5) in relation to a contract—

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- (a) may only be made within the period of two years following the end of the company's first new period;
  - (b) has effect for the company's first new period and all subsequent accounting periods of the company; and
  - (c) is irrevocable.
- (7) Where an election under sub-paragraph (5) has been made by a company in relation to a contract, the company shall, when it ceases to be a party to the contract, bring into account, for the accounting period in which it ceases to be a party to the contract, the amount of any chargeable gain or allowable loss which would have been treated as accruing to the company on the assumption—
- (a) that it had made a disposal of the asset immediately before its commencement day, and
  - (b) that the disposal had been for a consideration equal to the value (if any) given to the contract in the accounts of the company at the end of the company's accounting period immediately before its first new period.
- (8) Sub-paragraph (7) has effect subject to sub-paragraph (9).
- (9) The company may elect that a debit representing the amount of any allowable loss, which under sub-paragraph (7) is to be brought into account for the accounting period in which it ceases to be a party to the contract, shall be brought into account for that accounting period as if it were a non-trading debit falling to be brought into account for the purposes of Chapter 2 of Part 4 of the Finance Act 1996 (c. 8) in respect of a loan relationship of the company.
- [<sup>F84</sup>(9A) In relation to an accounting period ending on or after 1 April 2009, the reference in sub-paragraph (9) to Chapter 2 of Part 4 of the Finance Act 1996 is to be read as a reference to Part 5 of the Corporation Tax Act 2009.]
- (10) An election under sub-paragraph (9) may only be made within the period of two years following the end of the accounting period in which the company ceases to be a party to the contract.
- (11) For the purposes of this paragraph references to an asset being a chargeable asset shall be construed in accordance with paragraph 4(9).
- (12) In this paragraph “option” and “underlying subject matter” have the same meaning as in Schedule 26.

#### Textual Amendments

**F84** Sch. 28 para. 5(9A) inserted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 544(6) (with Sch. 2 Pts. 1, 2)

#### *Contracts which become derivative contracts: contracts within Schedule 5AA to the Taxes Act 1988*

- 6 (1) This paragraph applies if the conditions in sub-paragraphs (2) to (5) are satisfied in relation to any contract of a company.
- (2) The first condition is that the company is a party to the contract immediately before and on its commencement day.

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- (3) The second condition is that the contract—
- (a) was not a qualifying contract (within the meaning of Chapter 2 of Part 4 of the Finance Act 1994 (c. 9)) immediately before the company's commencement day, but
  - (b) as from that day is a derivative contract.
- (4) The third condition is that the contract was, immediately before the company's commencement day, a transaction to which Schedule 5AA to the Taxes Act 1988 applied.
- (5) The fourth condition is that, on or after the company's commencement day, a relevant event occurs.
- (6) For the purposes of this paragraph a relevant event is an event which would, if Schedule 5AA to the Taxes Act 1988 had continued to apply to the contract for the purposes of corporation tax, have given rise to an amount of profits falling to be charged under that Schedule.
- (7) A credit representing that amount of profits ("a relevant credit") shall be brought into account by virtue of paragraph 14(3) of Schedule 26 for the accounting period in which the relevant event occurs as if it were a non-trading credit falling to be brought into account for the purposes of Chapter 2 of Part 4 of the Finance Act 1996 in respect of a loan relationship of the company.
- (8) The amount of the relevant credit is the sum of—
- (a) the amount of profits which would have been chargeable under Schedule 5AA to the Taxes Act 1988 if it had continued to apply to the contract, and
  - (b) the amount of any debits given by Schedule 26 in respect of the contract for the first new period and any subsequent accounting period ending with the accounting period in which the relevant event occurred,
- less the amount of any credits given by Schedule 26 in respect of the contract for those accounting periods.
- [<sup>F85</sup>(8A) In relation to an accounting period ending on or after 1 April 2009—
- (a) the reference in sub-paragraph (7) to paragraph 14(3) of Schedule 26 is to be read as a reference to section 574 of the Corporation Tax Act 2009,
  - (b) the reference in that sub-paragraph to Chapter 2 of Part 4 of the Finance Act 1996 is to be read as a reference to Part 5 of the Corporation Tax Act 2009, and
  - (c) the references in sub-paragraph (8) to Schedule 26 are to be read as references to Part 7 of the Corporation Tax Act 2009.]

#### Textual Amendments

**F85** Sch. 28 para. 6(8A) inserted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 1 para. 544(7)** (with Sch. 2 Pts. 1, 2)

#### Interpretation

7 For the purposes of this Schedule—

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- (a) a company's commencement day is the first day of its first accounting period to begin on or after 1st October 2002,
- (b) a company's first new period is its first accounting period to begin on or after that date, and
- (c) an old period of the company is any accounting period of the company ending before the first day of its first new period.

F86 SCHEDULE 29

Section 84(1)

**Textual Amendments**

**F86** Sch. 29 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), Sch. 1 para. 545, **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

SCHEDULE 30

Section 84(2)

GAINS AND LOSSES OF A COMPANY FROM INTANGIBLE  
 FIXED ASSETS: CONSEQUENTIAL AMENDMENTS

*General provisions about deductions*

- 1 (1) For sections 337 and 337A of the Taxes Act 1988 (corporation tax: general provisions about taxation of income) substitute—

**“337 Company beginning or ceasing to carry on trade**

- (1) Where a company begins or ceases—
  - (a) to carry on a trade, or
  - (b) to be within the charge to corporation tax in respect of a trade,
 the company's income shall be computed as if that were the commencement or, as the case may be, the discontinuance of the trade, whether or not the trade is in fact commenced or discontinued.
- (2) Subsection (1) applies to a Schedule A business or overseas property business as it applies to a trade.

**337A Computation of company's profits or income: exclusion of general deductions**

- (1) For the purposes of corporation tax, subject to any provision of the Corporation Tax Acts expressly authorising a deduction—
  - (a) a company's profits shall be computed without any deduction in respect of dividends or other distributions, and
  - (b) a company's income from any source shall be computed without any deduction in respect of charges on income.

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(2) In computing a company’s income from any source for the purposes of corporation tax—

- (a) no deduction shall be made in respect of interest except in accordance with Chapter 2 of Part 4 of the Finance Act 1996 (loan relationships); and
- (b) no deduction shall be made in respect of losses from intangible fixed assets within Schedule 29 to the Finance Act 2002 except in accordance with that Schedule.”.

F87(2) .....

(3) In section 214(1) of the Taxes Act 1988 (chargeable payments connected with exempt distributions), in paragraph (c) (payments not to be treated as distributions for purposes of certain provisions) for “sections 337(2) and 338(2)(a)” substitute “section 337A(1)”.

F88(4) .....

F89(5) .....

**Textual Amendments**

- F87 Sch. 30 para. 1(2) repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)
- F88 Sch. 30 para. 1(4) repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)
- F89 Sch. 30 para. 1(5) repealed (6.4.2007) by Income Tax Act 2007 (c. 3), s. 1034(1), **Sch. 3 Pt. 1** (with Sch. 2)

*Surrender of non-trading loss by way of group relief*

F90<sub>2</sub> .....

**Textual Amendments**

- F90 Sch. 30 paras. 2-4 repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

*Extension of charitable exemption to non-trading gains*

F90<sub>3</sub> .....

**Textual Amendments**

- F90 Sch. 30 paras. 2-4 repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

*Change in ownership of company with unused non-trading loss*

F90<sub>4</sub> .....

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#### Textual Amendments

**F90** Sch. 30 paras. 2-4 repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

#### Double taxation relief

**F915** .....

#### Textual Amendments

**F91** Sch. 30 para. 5 repealed (with effect in accordance with s. 381(1) of the amending Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), s. 381(1), **Sch. 10 Pt. 1** (with Sch. 9 paras. 1-9, 22)

#### Value-shifting provisions

6 After section 33 of the Taxation of Chargeable Gains Act 1992 (provisions supplementary to sections 30 to 32) insert—

#### “33A Modification of sections 30 to 33 in relation to chargeable intangible asset

(1) Sections 30 to 33 have effect in relation to a chargeable intangible asset subject to the following modifications.

In this section “chargeable intangible asset” has the same meaning as in Schedule 29 to the Finance Act 2002.

(2) Any reference in those sections—

- (a) to a disposal or part disposal of the asset shall be read as a reference to its realisation or part realisation within the meaning of that Schedule (see paragraph 19 of that Schedule);
- (b) to an disposal of the asset under section 171(1) shall be read as a reference to its transfer under paragraph 55 of that Schedule (transfers within a group);
- (c) to a disposal of the asset under section 179 shall be read as a reference to its realisation under paragraph 58 or 60 of that Schedule (degrouing).

(3) In section 31(6), paragraph (c) shall not apply to a revaluation where the profit on the revaluation is wholly taken into account as a credit under that Schedule (see paragraph 15 of that Schedule).

(4) None of the conditions in section 31(9) shall be treated as satisfied if the asset with enhanced value is a chargeable intangible asset within the meaning of that Schedule.

(5) The reference in section 32(2)(b) to the cost of the underlying asset shall be read, in the case of a chargeable intangible asset, as a reference to the capitalised value of the asset recognised for accounting purposes.”.



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## SCHEDULE 31

Section 85

### GAINS OF INSURANCE COMPANY FROM VENTURE CAPITAL INVESTMENT PARTNERSHIP

The following Schedule is inserted after Schedule 7AC to the Taxation of Chargeable Gains Act 1992 (c. 12)—

#### “SCHEDULE 7AD

### GAINS OF INSURANCE COMPANY FROM VENTURE CAPITAL INVESTMENT PARTNERSHIP

#### **Introduction**

- 1 This Schedule applies where the assets of the long-term insurance fund of an insurance company (“the company”) include assets held by the company as a limited partner in a venture capital investment partnership (“the partnership”).

#### **Meaning of “venture capital investment partnership”**

- 2 (1) A “venture capital investment partnership” means a partnership in relation to which the following conditions are met.
  - (2) The first condition is that the sole or main purpose of the partnership is to invest in unquoted shares or securities.

This condition shall not be regarded as met unless it appears from—

    - (a) the agreement constituting the partnership, or
    - (b) any prospectus issued to prospective partners,that that is the sole or main purpose of the partnership.
  - (3) The second condition is that the partnership does not carry on a trade.
  - (4) The third condition is that not less than 90% of the book value of the partnership’s investments is attributable to investments that are either—
    - (a) shares or securities that were unquoted at the time of their acquisition by the partnership, or
    - (b) shares that were quoted at the time of their acquisition by the partnership but which it was reasonable to believe would cease to be quoted within the next twelve months.
  - (5) For the purposes of the third condition—
    - (a) the following shall be disregarded—
      - (i) any holding of cash, including cash deposited in a bank account or similar account but not cash acquired wholly or partly for the purpose of realising a gain on its disposal;
      - (ii) any holding of quoted shares or securities acquired by the partnership in exchange for unquoted shares or securities;
    - (b) whether the 90% test is met shall be determined by reference to the values shown in the partnership’s accounts at the end of a period of account of the partnership.
  - (6) Where a partnership ceases to meet the above conditions, the company shall be treated as if the partnership had continued to be a venture capital investment partnership until

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the end of the period of account of the partnership during which it ceased to meet the conditions.

- (7) A partnership that ceases to meet those conditions cannot qualify again as a venture capital investment partnership.

For this purpose a partnership is treated as the same partnership notwithstanding a change in membership if any person who was a member before the change remains a member.

***Interest in relevant assets of partnership treated as single asset***

- 3 (1) Where this Schedule applies section 59 (partnerships) does not have effect to make the company chargeable on its share of gains accruing on each disposal of relevant assets of the partnership.
- (2) Instead—
- (a) the company’s interest in relevant assets of the partnership is treated as a single asset (“the single asset”) acquired by the company when it became a member of the partnership, and
  - (b) the following provisions of this Schedule have effect.
- (3) For the purposes of this Schedule the “relevant assets” of the partnership are the shares and securities held by the partnership, other than qualifying corporate bonds.
- (4) Nothing in this Schedule shall be read—
- (a) as affecting the operation of section 59 in relation to partners who are not insurance companies carrying on long-term business or are not limited partners, or
  - (b) as imposing any liability on the partnership as such.

***The cost of the single asset***

- 4 (1) The company is treated as having given, wholly and exclusively for the acquisition of the single asset, consideration equal to the amount of capital contributed by it on becoming a member of the partnership.
- (2) Any further amounts of capital contributed by it to the partnership are treated on a disposal of the single asset as expenditure incurred wholly and exclusively on the asset for the purpose of enhancing its value and reflected in its state or nature at the time of the disposal.
- (3) Where the investments of the partnership include qualifying corporate bonds, the amount to be taken into account under sub-paragraph (1) or (2) is proportionately reduced.
- (4) The reduction is made by applying to that amount the fraction:

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

where—

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A is the book value of all shares and securities held by the partnership at the end of the period of account of the partnership in which the amount of capital in question is fully invested by the partnership, and

B is the book value of all qualifying corporate bonds held by the partnership at the end of that period of account.

- (5) For the purposes of sub-paragraph (4) the “book value” means the value shown in the partnership’s accounts at the end of the period of account.

### ***Deemed disposal of single asset in case of distribution***

- 5 (1) There is a disposal of the single asset on each occasion on which the company receives a distribution from the partnership that does not consist entirely of income or the proceeds of sale or redemption of assets that are not relevant assets.
- (2) The disposal is taken to be for a consideration equal to the amount of the distribution or of so much of it as does not consist of income or the proceeds of sale or redemption of assets that are not relevant assets.
- (3) Where—
- (a) the partnership disposes of relevant assets on which a chargeable gain or allowable loss would accrue if they were held by the company alone, and
  - (b) no distribution of the proceeds of the disposal is made within twelve months of the disposal,
- the company is treated as having received its share of the proceeds as a distribution at the end of the period of account of the partnership following that in which the disposal took place, or at the end of the period of six months after the date of the disposal, whichever is the later.
- (4) The operation of sub-paragraph (3) is not affected by the partnership having ceased to be a venture capital investment partnership before the time at which the distribution is treated as received by the company.
- (5) Where sub-paragraph (3) applies, any subsequent actual distribution of the proceeds is disregarded.

### ***Apportionment in case of part disposal***

- 6 (1) For the purposes of section 42 (apportionment of cost etc in case of part disposal) the market value of the property remaining undisposed of on a part disposal of the single asset shall be determined as follows.
- (2) If there is no further disposal of that asset in the period of account in which the part disposal in question takes place, the market value of the property remaining undisposed of shall be taken to be equal to the company’s share of the book value of the relevant assets of the partnership as shown in the partnership’s accounts at the end of that period of account.
- (3) If there is a further disposal of that asset in the period of account in which the part disposal in question takes place, or more than one, the market value of the property remaining undisposed of shall be taken to be equal to the sum of—

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- (a) the amount or value of the consideration on the further disposal or, as the case may be, the total amount or value of the consideration on the further disposals, and
- (b) the amount (if any) of the company's share of the book value of the relevant assets of the partnership as shown in the partnership's accounts at the end of that period of account.

***Disposal of partnership asset giving rise to offshore income gain***

- 7 (1) Nothing in this Schedule shall be read as affecting the operation of Chapter 5 of Part 17 of the Taxes Act (offshore funds).
- (2) Where an offshore income gain accrues to the company under that Chapter from the disposal of any relevant asset of the partnership, the amount of any distribution received or treated as received by the company from the partnership that represents the whole or part of the proceeds of disposal of that asset is treated for the purposes of this Schedule as reduced by the amount of the whole or a corresponding part of the offshore income gain.

***Exclusion of negligible value claim***

- 8 No claim may be made in respect of the single asset under section 24(2) (assets that have become of negligible value).

***Investment in other venture capital investment partnerships***

- 9 (1) For the purposes of paragraph 2 (meaning of "venture capital investment partnership") an investment by way of capital contribution to another venture capital investment partnership shall be treated as an investment in unquoted shares or securities.
- (2) The Treasury may by regulations make provision, in place of but corresponding to that made by paragraphs 3 to 8, in relation to gains accruing on a disposal of relevant assets by such a partnership.
- (3) The regulations may make provision for any period of account to which, in accordance with paragraphs 11 to 13, this Schedule applies.

***Interpretation***

- 10 (1) In this Schedule—
- “insurance company”, “long-term business” and “long-term insurance fund” have the same meaning as in Chapter 1 of Part 12 of the Taxes Act (see section 431(2) of that Act);
  - “limited partner” means—
    - (a) a person carrying on a business as a limited partner in a partnership registered under the Limited Partnership Act 1907, or
    - (b) a person carrying on a business jointly with others who, under the law of a country or territory outside the United Kingdom, is not entitled to take part in the management of the business and is not liable beyond a certain limit for debts or obligations incurred for the purposes of the business;
  - “relevant assets” has the meaning given by paragraph 3(3);

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“securities” has the same meaning as in section 132 and also includes any debentures;

“unquoted” and “quoted”, in relation to shares or securities, refer to listing on a recognised stock exchange.

- (2) References in this Schedule to the partnership’s accounts are to accounts drawn up in accordance with generally accepted accounting practice.

If no such accounts are drawn up, the references to the treatment of any matter, or the amounts shown, in the accounts of the partnership are to what would have appeared if accounts had been drawn up in accordance with generally accepted accounting practice.

- (3) References in this Schedule to capital contributed to a limited partnership include amounts purporting to be provided by way of loan if—

- (a) the loan carries no interest,
- (b) all the limited partners are required to make such loans, and
- (c) the loans are accounted for as partners’ capital, or partners’ equity, in the accounts of the partnership.

- (4) For the purposes of this Schedule the assets of—

- (a) a Scottish partnership, or
  - (b) a partnership under the law of any other country or territory under which assets of a partnership are regarded as held by or on behalf of the partnership as such,
- shall be treated as held by the members of the partnership in the proportions in which they are entitled to share in the profits of the partnership.

References in this Schedule to the company’s interest in, or share of, the partnership’s assets shall be construed accordingly.

### ***General commencement and transitional provisions***

- 11 (1) Subject to paragraph 12 (election to remain outside Schedule), this Schedule applies—
- (a) to periods of account of the partnership beginning on or after 1st January 2002, and
  - (b) to a period of account of the partnership beginning before that date and ending on or after it, unless the company elects that it shall not do so.

- (2) Where the company became a member of the partnership before the beginning of the first period of account of the partnership to which this Schedule applies, the cost of the single asset at the beginning of that period of account shall be taken to be equal to the total of the relevant indexed base costs.

- (3) For the purposes of sub-paragraph (2)—

- (a) the “indexed base cost” means—
  - (i) in relation to a holding that by virtue of section 104 is to be treated as a single asset, what would be the indexed pool of expenditure within the meaning of section 110 if the holding were disposed of, and
  - (ii) in relation to any other asset, the amount of expenditure together with the indexation allowance that would be fall to be deducted if the asset were disposed of; and
- (b) the “relevant indexed base costs” means the indexed base costs that would be taken into account in computing in accordance with section 59 the gain or loss of the company if all the shares and securities (other than qualifying corporate

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bonds) held by the partnership were disposed of on the last day of the company's accounting period immediately preceding its first accounting period beginning on or after 1st January 2002.

- (4) No account shall be taken under this Schedule of a distribution by the partnership in a period of account to which this Schedule applies to the extent that it represents a chargeable gain accruing in an earlier period to which this Schedule does not apply.

### ***Election to remain outside Schedule***

- 12 If the company—
- (a) became a member of the partnership before the beginning of the first period of account of the partnership to which this Schedule would otherwise apply, or
  - (b) made its first contribution of capital to the partnership before 17th April 2002,
- it may elect that the provisions of this Schedule shall not apply to it in relation to that partnership.

### ***How and when election to be made***

- 13 Any election under paragraph 11 or 12 must be made—
- (a) by notice to an officer of the Board,
  - (b) not later than the end of the period of two years after the end of the company's first accounting period beginning on or after 1st January 2002.”.

## SCHEDULE 32

Section 86

### LLOYD'S UNDERWRITERS

#### *Individuals*

- 1 Chapter 3 of Part 2 of the Finance Act 1993 (c. 34) (Lloyd's underwriters, etc) is amended as follows.
- 2 In section 178(stop loss and quota share insurance), in subsection (1) (deductions), for paragraph (c) substitute—
- “(c) where an amount is payable by him under a quota share contract—
    - (i) so much of that amount as exceeds the amount of transferred losses that are declared on or before the date the contract takes effect (“the declared amount”), or
    - (ii) if the contract does not take effect, the amount so payable under the contract.”.
- 3 After subsection (3) of that section insert—
- “(3A) Where the amount payable by a member under a quota share contract is less than the declared amount, the difference between the two amounts shall be treated as a trading receipt in computing the profits arising from the member's underwriting business in the year of assessment which corresponds to the underwriting year in which the contract takes effect.

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- (3B) Where a member has entered a quota share contract, any amount paid by him to cover a cash call in respect of transferred losses that are not declared at the time the contract takes effect shall be treated—
- (a) for the purposes of subsection (1)(c)(i) and (3A) above, as an amount payable under the contract, and
  - (b) for the purposes of section 172, as a payment made at the time the contract takes effect.”.
- 4 For subsection (4) of that section substitute—
- “(4) For the purposes of this section—
- “cash call” has the same meaning as in Part 1 of Schedule 20 to this Act;
  - “quota share contract” means any contract between a member and another person which—
    - (a) is made in accordance with the rules or practice of Lloyd’s, and
    - (b) provides for that other person to take over any rights and liabilities of the member under any of the syndicates of which he is a member;
- and where the taking over of a member’s rights and liabilities is conditional upon the occurrence of any event, the contract does not take effect until that event occurs; and
- “transferred loss”, in relation to such a contract, means a loss for which that other person takes over liability under the contract (disregarding, in the case of a loss that has been declared at the time it is taken over, any part of it in respect of which the member has paid a cash call before that time).”.
- 5 In section 184(1) (interpretation), in the definition of “stop-loss insurance”, after “business” insert “, except insurance taken out by entering a quota share contract (within the meaning of section 178 above) ”.

#### *Corporate bodies*

- 6 Chapter 5 of Part 4 of the Finance Act 1994 (c. 9) (Lloyd’s underwriters: corporations etc) is amended as follows.
- 7 In section 225 (stop loss and quota share insurance), in subsection (1) (deductions), for paragraph (b) substitute—
- “(b) where an amount is payable by it under a quota share contract—
    - (i) so much of that amount as exceeds the amount of transferred losses that are declared on or before the date the contract takes effect (“the declared amount”), or
    - (ii) if the contract does not take effect, the amount so payable under the contract.”.
- 8 After subsection (3) of that section insert—
- “(3A) Where the amount payable by a corporate member under a quota share contract is less than the declared amount—
- (a) if the underwriting year in which the contract takes effect falls within a single accounting period, the difference between the two amounts

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(“the surplus”) shall be treated as a trading receipt in computing the profits arising from the member’s underwriting business for that period, and

- (b) if that underwriting year falls within two or more accounting periods, the apportioned part of the surplus shall be treated as a trading receipt in computing the profits arising from the member’s underwriting business for each of those periods.

(3B) Where a corporate member has entered a quota share contract, any amount paid by it to cover a cash call in respect of transferred losses that are not declared at the time the contract takes effect shall be treated, for the purposes of subsections (1)(b)(i) and (3A) above, as an amount payable under the contract at that time.”.

9 For subsection (4) of that section substitute—

“(4) In this section—

“apportioned part”, in relation to any insurance money or other amount, means a part apportioned under section 72 of the Taxes Act 1988;

“cash call” means a request for funds which, in pursuance of a contract made in accordance with the rules and practices of Lloyd’s, is made to a corporate member by the agent of a syndicate of which it is a member;

“quota share contract” means any contract between a corporate member and another person which—

- (a) is made in accordance with the rules or practice of Lloyd’s; and  
(b) provides for that other person to take over any rights and liabilities of the member under any of the syndicates of which it is a member;

and where the taking over of a member’s rights and liabilities is conditional upon the occurrence of any event, the contract does not take effect until that event occurs; and

“transferred loss”, in relation to such a contract, means a loss for which that other person takes over liability under the contract (disregarding, in the case of a loss that has been declared at the time it is taken over, any part of it in respect of which the member has paid a cash call before that time).”.

10 In section 230(1) (interpretation), in the definition of “stop-loss insurance”, after “business” insert “, except insurance taken out by entering a quota share contract (within the meaning of section 225 above) ”.

.....



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### Textual Amendments

- F92** Sch. 33 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), Sch. 1 para. 423, [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

## SCHEDULE 34

Section 111

### STAMP DUTY: WITHDRAWAL OF GROUP RELIEF: SUPPLEMENTARY PROVISIONS

#### *Introduction*

- 1 (1) The provisions of this Schedule supplement section 111 (withdrawal of group relief).
- (2) Expressions used in this Schedule that are defined for the purposes of that section have the same meaning in this Schedule.

#### *Relief not withdrawn if transferor company leaves group*

- 2 (1) Section 111 does not apply if the transferee company ceases to be a member of the same group as the transferor company by reason of the latter company leaving the group.
- (2) The transferor company is regarded as leaving the group if the companies cease to be members of the same group by reason of a transaction relating to shares in—
  - (a) the transferor company, or
  - (b) another company that as a result of the transaction ceases to be a member of the same group as the transferee company.

#### *Relief not withdrawn in case of winding-up*

- 3 (1) Section 111 does not apply if the transferee company ceases to be a member of the same group as the transferor company by reason of anything done for the purposes of, or in the course of, winding up the transferor company or another company that is above the transferor company in the group structure.
- (2) For the purposes of this paragraph a company is “above” the transferor company in the group structure if it is the parent (within the meaning of the relevant group relief provision)—
  - (a) of the transferor company, or
  - (b) of another company that is above the transferor company in the group structure.

#### *Relief not withdrawn in case of exempt acquisition*

- 4 (1) Section 111 does not apply if—
  - (a) the transferee company ceases to be a member of the same group as the transferor company as a result of an acquisition of shares by another company (“the parent company”) in relation to which acquisition relief applies, and

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- (b) the transferee company is immediately after that acquisition a member of the same group as the parent company (“the new group”).
- (2) For this purpose—
- (a) “acquisition relief” means relief under section 75 of the Finance Act 1986 (c. 41); and
- (b) references to an acquisition in relation to which such relief applies are to an acquisition such that an instrument effecting the transfer of the shares is exempt from stamp duty by virtue of that provision.
- (3) But if before the end of the period of two years beginning with the date on which the relevant instrument was executed—
- (a) the transferee company ceases to be a member of the new group, and
- (b) at the time when [<sup>F93</sup>the transferee company ceases] to be a member of the new group [<sup>F94</sup>it or a relevant associated company (as defined in sub-paragraph (4) below) holds] an estate or interest in land that—
- (i) was transferred [<sup>F95</sup>to the transferee company] by the relevant instrument, or
- (ii) is derived from an estate or interest that was so transferred,
- [<sup>F96</sup>and that has not subsequently been transferred at market value by a duly stamped instrument on which *ad valorem* duty was paid and in respect of which group relief was not claimed],
- section 111 and the provisions of this Schedule apply [<sup>F97</sup>as if the transferee had then ceased to be a member of the same group as the transferor company and had then held the estate or interest referred to in paragraph (b).]
- [<sup>F98</sup>(4) In sub-paragraph (3)(b) “relevant associated company”, in relation to the transferee company, means a company that is in the same group as the transferee company immediately before the transferee company ceases to be a member of the new group and which ceases to be a member of the new group in consequence of the transferee company so ceasing.]

#### Textual Amendments

- F93** Words in Sch. 34 para. 4(3)(b) substituted (retrospective to 15.4.2003) by [Finance Act 2003 \(c. 14\)](#), s. [126\(6\)\(a\)\(i\)\(11\)](#) (with s. [126\(9\)\(10\)](#))
- F94** Words in Sch. 34 para. 4(3)(b) substituted (retrospective to 15.4.2003) by [Finance Act 2003 \(c. 14\)](#), s. [126\(6\)\(a\)\(ii\)\(11\)](#) (with s. [126\(9\)\(10\)](#))
- F95** Words in Sch. 34 para. 4(3)(b)(i) substituted (retrospective to 15.4.2003) by [Finance Act 2003 \(c. 14\)](#), s. [126\(6\)\(b\)\(11\)](#) (with s. [126\(9\)\(10\)](#))
- F96** Words in Sch. 34 para. 4(3)(b) substituted (retrospective to 15.4.2003) by [Finance Act 2003 \(c. 14\)](#), s. [126\(6\)\(c\)\(11\)](#) (with s. [126\(9\)\(10\)](#))
- F97** Words in Sch. 34 para. 4(3) substituted (retrospective to 15.4.2003) by [Finance Act 2003 \(c. 14\)](#), s. [126\(7\)\(11\)](#) (with s. [126\(9\)\(10\)](#))
- F98** Sch. 34 para. 4(4) inserted (retrospective to 15.4.2003) by [Finance Act 2003 \(c. 14\)](#), s. [126\(8\)\(11\)](#) (with s. [126\(9\)\(10\)](#))

#### Interest

- 5 (1) If any duty payable under section 111 is not paid within the period of 30 days within which payment is to be made, interest is payable on the amount remaining unpaid.

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- (2) The provisions of section 15A(3) to (5) of the Stamp Act 1891 (c. 39) (rate of interest on unpaid duty, etc) apply in relation to interest under sub-paragraph (1).

*Duty of transferee company to notify particulars*

- 6 (1) The transferee company shall, within the period of 30 days mentioned in section 111(2)(b) within which payment is to be made, notify the Commissioners of—
- (a) the date on which it ceased to be a member of the same group as the transferor company,
  - (b) the relevant land held by it at that time,
  - (c) the nature of the relevant instrument, the date on which it was executed, the parties to the instrument and the date on which the instrument was stamped,
  - (d) the market value of the land transferred to it by the relevant instrument at the date on which that instrument was executed, and
  - (e) the amount of duty and interest payable by it under section 111 or this Schedule.
- (2) In sub-paragraph (1)(b) the “relevant land” held by the transferee company means every estate or interest to in relation to which section 111(1)(c) applies.
- (3) In section 98(5) of the Taxes Management Act 1970 (c. 9) (penalty for failure to provide information), in the second column of the Table, at the appropriate place insert “paragraph 6 of Schedule 34 to the Finance Act 2002”.

*Determination, collection and recovery of duty and interest*

- 7 The provisions of regulations under section 98 of the Finance Act 1986 (c. 41) (stamp duty reserve tax: administration etc), and the provisions of the Taxes Management Act 1970 (c. 9) applied by those regulations, have effect with the necessary modifications in relation to—
- (a) the determination by the Commissioners of the duty payable under section 111 or the interest payable thereon,
  - (b) appeals against any such determination, and
  - (c) the collection and recovery of any such duty or interest,
- as if it were an amount of stamp duty reserve tax.

*Recovery of group relief from from another group company or controlling director*

- 8 (1) This paragraph applies where—
- (a) an amount is payable under section 111 or this Schedule by the transferee company,
  - (b) a notice of determination of the amount payable has been issued by the Commissioners, and
  - (c) the whole or part of that amount is unpaid six months after the date on which it became payable.
- (2) The following persons may, by notice under paragraph 9, be required to pay the unpaid amount—
- (a) the transferor company;

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- (b) any company that, at any relevant time, was a member of the same group as the transferee company and was above it in the group structure;
  - (c) any person who at any relevant time was a controlling director of the transferee company or of a company having control of the transferee company.
- (3) For the purposes of this paragraph—
- (a) a “relevant time” means any time between the execution of the relevant instrument and the transferee company ceasing to be a member of the same group as the transferor company;
  - (b) a company is “above” another company in a group structure if it is the parent (within the meaning of the relevant group relief provision)—
    - (i) of that company, or
    - (ii) of another company that is above that company in the group structure.
- (4) In this paragraph—
- [<sup>F99</sup>“director”, in relation to a company, has the meaning given by section 67(1) and (2) of the Income Tax (Earnings and Pensions) Act 2003 and includes any person falling within section 452(1) of the Corporation Tax Act 2010;]
- “controlling director”, in relation to a company, means a director of the company who has control of it (construing control in accordance with [<sup>F100</sup>sections 450 and 451 of the Corporation Tax Act 2010]).

#### Textual Amendments

**F99** Words in Sch. 34 para. 8(4) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 375\(a\)](#) (with [Sch. 2](#))

**F100** Words in Sch. 34 para. 8(4) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 375\(b\)](#) (with [Sch. 2](#))

#### *Recovery of group relief from another group company or controlling director: procedure and time limit*

- 9
- (1) The Commissioners may serve a notice on a person within paragraph 8(2) requiring him, within 30 days of the service of the notice, to pay the amount that remains unpaid.
  - (2) Any notice under this paragraph must be served before the end of the period of three years beginning with the date on which the notice of determination mentioned in paragraph 8(1)(b) is issued.
  - (3) The notice must state the amount required to be paid by the person on whom the notice is served.
  - (4) The notice has effect—
    - (a) for the purposes of the recovery from that person of the amount required to be paid and of interest on that amount, and
    - (b) for the purposes of appeals,

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as if it were a notice of determination and that amount were an amount of stamp duty reserve tax due from that person.

- (5) A person who has paid an amount in pursuance of a notice under this paragraph may recover that amount from the transferee company.
- (6) A payment in pursuance of a notice under this paragraph is not allowed as a deduction in computing any income, profits or losses for any tax purposes.

#### *Power to require information*

- 10 (1) The Commissioners may by notice require any person to furnish them within such time, not being less than 30 days, as may be specified in the notice with such information (including documents or records) as the Commissioners may reasonably require for the purposes of section 111 or this Schedule.
- (2) [<sup>F101</sup>A relevant lawyer] shall not be obliged in pursuance of a notice under this paragraph to disclose, without his client's consent, any information with respect to which a claim to professional privilege could be maintained.
- [<sup>F102</sup>(2A) "Relevant lawyer" means a barrister, advocate, solicitor or other legal representative communications with whom may be the subject of a claim to professional privilege.]
- (3) In section 98(5) of the Taxes Management Act 1970 (c. 9) (penalty for failure to comply with notice to provide information), in the first column of the Table, at the appropriate place insert "paragraph 10 of Schedule 34 to the Finance Act 2002".

#### **Textual Amendments**

**F101** Words in Sch. 34 para. 10(2) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), s. 211(2), Sch. 21 para. 135(a) (with ss. 29, 192, 193); S.I. 2009/3250, art. 2(h)

**F102** Sch. 34 para. 10(2A) inserted (1.1.2010) by Legal Services Act 2007 (c. 29), s. 211(2), Sch. 21 para. 135(b) (with ss. 29, 192, 193); S.I. 2009/3250, art. 2(h)

#### *Supplementary*

- 11 Section 111 and this Schedule shall be construed as one with the Stamp Act 1891 (c. 39).

## SCHEDULE 35

Section 113

### STAMP DUTY: WITHDRAWAL OF RELIEF FOR COMPANY ACQUISITIONS: SUPPLEMENTARY PROVISIONS

#### *Introduction*

- 1 (1) The provisions of this Schedule supplement section 113 (withdrawal of relief under s.76 of the Finance Act 1986 (c. 41)).
- (2) Expressions used in this Schedule that are defined for the purposes of that section have the same meaning in this Schedule.

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*Change of control due to exempt transfer*

- 2 Section 113 does not apply by reason of control of the acquiring company changing as a result of any of the transactions listed in the Schedule to the Stamp Duty (Exempt Instruments) Regulations 1987 (S.I. 1987/516).

*Change of control due to intra-group transfer*

- 3 (1) Section 113 does not apply by reason of control of the acquiring company changing as a result of a transfer of shares (“the intra-group transfer”) in relation to which group relief applies.
- (2) In this paragraph—
- (a) “group relief” means relief under section 42 of the Finance Act 1930 (c. 28) or section 11 of the Finance Act (Northern Ireland) 1954 (c. 23 (N.I.)) (transfer of property between associated bodies corporate); and
  - (b) references to a transfer in relation to which group relief applies are to a transfer such that an instrument effecting the transfer is exempt from stamp duty by virtue of either of the group relief provisions.
- (3) But if before the end of the period of two years beginning with the date on which the relevant instrument was executed—
- (a) a company (“company B”) holding shares in the acquiring company to which the intra-group share transfer related, or that are derived from shares to which that instrument related, ceases to be a member of the same group as the company referred to in section 76 as the target company (“company C”), and
  - (b) the acquiring company [<sup>F103</sup>or a relevant associated company], at that time, holds an estate or interest in land—
    - (i) that was transferred [<sup>F104</sup>to the acquiring company] by the relevant instrument, or
    - (ii) that is derived from an estate or interest so transferred,<sup>F105</sup>and that has not subsequently been transferred at market value by a duly stamped instrument on which *ad valorem* duty was paid and in respect of which section 76 relief was not claimed],
- (4) In those circumstances—
- (a) section 76 relief in relation to the relevant instrument (or an appropriate proportion of that relief) is withdrawn, and
  - (b) the additional stamp duty that would have been paid on stamping the relevant instrument but for that relief if the land in question had been transferred by that instrument at market value, or an appropriate proportion of that amount, is payable by the acquiring company within 30 days after company B ceases to be a member of the same group as company C.
- (5) In this paragraph—
- (a) “company” includes any body corporate; and
  - (b) references to a company being in the same group as another company are to the companies being associated bodies corporate within the meaning of the relevant group relief provision.

*Status: Point in time view as at 01/04/2010.*

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#### Textual Amendments

- F103** Words in Sch. 35 para. 3(3)(b) inserted (retrospective to 15.4.2003) by [Finance Act 2003 \(c. 14\)](#), [s. 127\(6\)\(a\)\(9\)](#) (with [s. 127\(7\)\(8\)](#))
- F104** Words in Sch. 35 para. 3(3)(b)(i) substituted (retrospective to 15.4.2003) by [Finance Act 2003 \(c. 14\)](#), [s. 127\(6\)\(b\)\(9\)](#) (with [s. 127\(7\)\(8\)](#))
- F105** Words in Sch. 35 para. 3(3)(b) substituted (retrospective to 15.4.2003) by [Finance Act 2003 \(c. 14\)](#), [s. 127\(6\)\(c\)\(9\)](#) (with [s. 127\(7\)\(8\)](#))

#### *Change of control due to exempt share acquisition*

- 4 (1) Section 113 does not apply by reason of control of the acquiring company changing as a result of a transfer of shares (“the exempt transfer”) to another company (“the parent company”) in relation to which share acquisition relief applies.
- (2) For this purpose—
- (a) “share acquisition relief” means relief under section 77 of the Finance Act 1986 (c. 41); and
  - (b) references to a transfer in relation to which such relief applies are to a transfer such that an instrument effecting the transfer is exempt from stamp duty by virtue of that provision.
- (3) But if before the end of the period of two years beginning with the date on which the relevant instrument was executed—
- (a) control of the parent company changes at a time when that company holds any shares transferred to it by the exempt transfer, or any shares derived from shares so transferred, and
  - (b) the acquiring company [<sup>F106</sup>or a relevant associated company], at that time, holds an estate or interest in land—
    - (i) that was transferred [<sup>F107</sup>to the acquiring company] by the relevant instrument, or
    - (ii) that is derived from an estate or interest so transferred,<sup>F108</sup>and that has not subsequently been transferred at market value by a duly stamped instrument on which *ad valorem* duty was paid and in respect of which section 76 relief was not claimed],
- the following provisions apply.
- (4) In those circumstances—
- (a) section 76 relief in relation to the relevant instrument (or an appropriate proportion of that relief) is withdrawn, and
  - (b) the additional stamp duty that would have been paid on stamping the relevant instrument but for that relief if the land in question had been transferred by that instrument at market value, or an appropriate proportion of that additional duty, is payable by the acquiring company within 30 days after control of the parent company changed.

#### Textual Amendments

- F106** Words in Sch. 35 para. 4(3)(b) inserted (retrospective to 15.4.2003) by [Finance Act 2003 \(c. 14\)](#), [s. 127\(6\)\(a\)\(9\)](#) (with [s. 127\(7\)\(8\)](#))

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- F107** Words in Sch. 35 para. 4(3)(b)(i) substituted (retrospective to 15.4.2003) by [Finance Act 2003 \(c. 14\), s. 127\(6\)\(b\)\(9\)](#) (with [s. 127\(7\)\(8\)](#))
- F108** Words in Sch. 35 para. 4(3)(b) substituted (retrospective to 15.4.2003) by [Finance Act 2003 \(c. 14\), s. 127\(6\)\(c\)\(9\)](#) (with [s. 127\(7\)\(8\)](#))

#### *Change of control due to interest of loan creditor*

- 5 (1) Section 113 does not apply by reason of control of the acquiring company changing as a result of a loan creditor becoming, or ceasing to be, treated as having control of the company if the other persons who were previously treated as controlling the company continue to be so treated.
- (2) In sub-paragraph (1) “loan creditor” has the meaning given by [<sup>F109</sup>section 453 of the Corporation Tax Act 2010].

#### **Textual Amendments**

- F109** Words in [Sch. 35 para. 5\(2\)](#) substituted (with effect in accordance with [s. 1184\(1\)](#) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 1 para. 376\(a\)](#) (with [Sch. 2](#))

#### *Interest*

- 6 (1) If any duty payable under section 113 or this Schedule is not paid within the period of 30 days within which payment is to be made, interest is payable on the amount remaining unpaid.
- (2) The provisions of section 15A(3) to (5) of the Stamp Act 1891 (c. 39) (rate of interest on unpaid duty, etc) apply in relation to interest under this paragraph.

#### *Duty of acquiring company to notify particulars*

- 7 (1) The acquiring company shall, within the period of 30 days within which payment is to be made, notify the Commissioners of—
- (a) the date on which the event occurred by reason of which it is liable to make a payment of duty under section 113 or this Schedule,
  - (b) the relevant land held by it at that time,
  - (c) the nature of the relevant instrument, the date on which it was executed, the parties to the instrument and the date on which the instrument was stamped,
  - (d) the market value of the land transferred to it by the relevant instrument at the date it was executed, and
  - (e) the amount of duty and interest payable by it.
- (2) In sub-paragraph (1)(b) the “relevant land” held by the acquiring company means every estate or interest to in relation to which section 113(1)(c) applies.
- (3) In section 98(5) of the Taxes Management Act 1970 (c. 9) (penalty for failure to provide information), in the second column of the Table, at the appropriate place insert “paragraph 7 of Schedule 35 to the Finance Act 2002”.



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*Determination, collection and recovery of duty and interest*

- 8 The provisions of regulations under section 98 of the Finance Act 1986 (c. 41) (stamp duty reserve tax: administration etc), and the provisions of the Taxes Management Act 1970 applied by those regulations, have effect with the necessary modifications in relation to—
- (a) the determination by the Commissioners of the duty payable under section 113 or this Schedule, or of the interest payable thereon,
  - (b) appeals against any such determination, and
  - (c) the collection and recovery of any such duty or interest,
- as if it were an amount of stamp duty reserve tax.

*Recovery of section 76 relief from from another group company or controlling director*

- 9 (1) This paragraph applies where—
- (a) an amount is payable under section 113 or this Schedule by the acquiring company,
  - (b) a notice of determination of the amount payable has been issued by the Inland Revenue, and
  - (c) the whole or part of that amount is unpaid six months after the date on which it became payable.
- (2) The following persons may, by notice under paragraph 10, be required to pay the unpaid amount—
- (a) any company that at any relevant time was a member of the same group as the acquiring company and was above it in the group structure, and
  - (b) any person who at any relevant time was a controlling director of the acquiring company or of a company having control of the acquiring company.
- (3) For this purpose a “relevant time” means any time between the execution of the relevant instrument and the change of control by virtue of which the liability to pay the amount arises.
- (4) In this paragraph—
- (a) references to companies being in the same group are to one company having control of the other or both companies being under the control of the same person or persons;
  - (b) a company is “above” another company in a group structure if it controls—
    - (i) that company, or
    - (ii) another company that is above that company in the group structure;
  - [<sup>F110</sup>(c) “director”, in relation to a company, has the meaning given by section 67(1) and (2) of the Income Tax (Earnings and Pensions) Act 2003 and includes any person falling within section 452(1) of the Corporation Tax Act 2010;]
  - (d) “controlling director”, in relation to a company, means a director of the company who has control of it.

**Textual Amendments**

**F110** Sch. 35 para. 9(4)(c) substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 376(b)** (with Sch. 2)

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*Recovery of section 76 relief from another group company or controlling director: procedure and time limit*

- 10 (1) The Commissioners may serve a notice on a person within paragraph 9(2) requiring him, within 30 days of the service of the notice, to pay the amount that remains unpaid.
- (2) A notice under this paragraph must be served before the end of the period of three years beginning with the date on which the notice of determination mentioned in paragraph 9(1)(b) is issued.
- (3) The notice must state the amount required to be paid by the person on whom the notice is served.
- (4) The notice has effect—
- (a) for the purposes of the recovery from that person of the amount required to be paid and of interest on that amount, and
  - (b) for the purposes of appeals,
- as if it were a notice of determination and that amount were an amount of stamp duty reserve tax due from that person.
- (5) A person who has paid an amount in pursuance of a notice under this paragraph may recover that amount from the acquiring company.
- (6) A payment in pursuance of a notice under this paragraph is not allowed as a deduction in computing any income, profits or losses for any tax purposes.

*Power to require information*

- 11 (1) The Commissioners may by notice require any person to furnish them within such time, not being less than 30 days, as may be specified in the notice with such information (including documents or records) as the Commissioners may reasonably require for the purposes of section 113 or this Schedule.
- (2) <sup>[F111]</sup> A relevant lawyer] shall not be obliged in pursuance of a notice under this paragraph to disclose, without his client's consent, any information with respect to which a claim to professional privilege could be maintained.
- <sup>[F112]</sup>(2A) "Relevant lawyer" means a barrister, advocate, solicitor or other legal representative communications with whom may be the subject of a claim to professional privilege.]
- (3) In section 98(5) of the Taxes Management Act 1970 (c. 9) (penalty for failure to comply with notice to provide information), in the first column of the Table, at the appropriate place insert "paragraph 11 of Schedule 35 to the Finance Act 2002".

**Textual Amendments**

- F111** Words in [Sch. 35 para. 11\(2\)](#) substituted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), s. 211(2), [Sch. 21 para. 136\(a\)](#) (with ss. 29, 192, 193); S.I. 2009/3250, art. 2(h)
- F112** [Sch. 35 para. 11\(2A\)](#) inserted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), s. 211(2), [Sch. 21 para. 136\(b\)](#) (with ss. 29, 192, 193); S.I. 2009/3250, art. 2(h)

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### *Supplementary*

- 12 Section 113 and this Schedule shall be construed as one with the Stamp Act 1891 (c. 39).

## SCHEDULE 36

Section 115(7)

### STAMP DUTY: CONTRACTS CHARGEABLE AS CONVEYANCES: SUPPLEMENTARY PROVISIONS

#### PART 1

#### SUBSALES

##### *Introduction*

- 1 This Part of this Schedule has effect for affording relief from duty under section 115 (contracts chargeable as conveyances) on a subsale.

##### *Meaning of “subsale”*

- 2 For the purposes of this Schedule there is a subsale—
- (a) where the purchaser under a contract or agreement for the sale of an estate or interest in land in the United Kingdom (“the original sale”), without having obtained a conveyance of the property contracted to be sold, contracts to sell the whole or part of the property to another person, or
  - (b) where the sub-purchaser under a subsale of an estate or interest in land in the United Kingdom, without having obtained a conveyance of the property contracted to be sold, contracts to sell to another person the whole or part of the property contracted to be sold by the original sale,
- so as to entitle that person to call for a conveyance from the original seller.

##### *Relief where duty paid on original sale or earlier subsale*

- 3 (1) Where duty under section 115 has been paid—
- (a) on the original sale, or
  - (b) on an intervening subsale,
- duty under that section on a subsale, or subsequent subsale, is chargeable only in respect of the amount (if any) by which the chargeable consideration on that transaction exceeds the chargeable consideration on the earlier transaction.
- (2) If there is more than one such earlier transaction on which duty has been paid, the reference in sub-paragraph (1) to the chargeable consideration on the earlier transaction shall be read as a reference to the higher or highest amount of chargeable consideration on which duty has been paid.
- (3) If the subsale does not relate to the whole of the property to which the earlier transaction related, the references in sub-paragraphs (1) and (2) to the chargeable consideration on an earlier transaction shall be read as references to an appropriate proportion of that consideration.

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- (4) What is an appropriate proportion shall be determined on a just and reasonable basis having regard to the subject matter of the subsale and of the earlier transaction.
- (5) For the purposes of this paragraph the chargeable consideration on a transaction is the consideration that falls to be brought into account in determining the duty chargeable on it.
- (6) Where under this paragraph duty on a subsale is chargeable in respect of part only of the consideration for the subsale, it is chargeable at the rate that would be applicable if the whole of the chargeable consideration on the subsale were taken into account.

## PART 2

### SUBSEQUENT CONVEYANCE OR TRANSFER

#### *Introduction*

- 4 (1) This Part of this Schedule has effect for affording relief where *ad valorem* duty is chargeable both—
- (a) under section 115 on a contract or agreement (“the original sale”), and
  - (b) on a subsequent conveyance or transfer by the original seller to the purchaser, or a sub-purchaser, in conformity with that contract or agreement.
- (2) References in this Part to the purchaser under the original sale, or a sub-purchaser under a subsale, include a person by whom the rights of the purchaser, or a sub-purchaser, are exercisable by virtue of any assignment (in Scotland, assignation) or agreement (other than a subsale).

#### *Conveyance or transfer of property contracted to be sold*

- 5 (1) Where the original seller conveys the whole of the property contracted to be sold—
- (a) to the purchaser, or
  - (b) to a sub-purchaser in circumstances in which section 58(4) of the Stamp Act 1891 (c. 39) applies (conveyance chargeable only on consideration moving from sub-purchaser),
- the conveyance or transfer is chargeable with duty only to the extent (if any) that the *ad valorem* duty chargeable on it (apart from this sub-paragraph) exceeds the duty paid under section 115 on the original sale together with the amount of any such duty paid on an intervening subsale.
- (2) Where—
- (a) the original seller conveys the property contracted to be sold to different sub-purchasers in parts or parcels, and
  - (b) section 58(5) of the Stamp Act 1891 (c. 39) applies (conveyance chargeable only on consideration moving from sub-purchaser),
- the conveyance or transfer of each part or parcel is chargeable with duty only to the extent (if any) that the *ad valorem* duty chargeable on it (apart from this sub-paragraph) exceeds an appropriate proportion of the *ad valorem* duty paid on the original sale together with an appropriate proportion of any such duty paid on an intervening subsale.

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- (3) What is an appropriate proportion shall be determined on a just and reasonable basis having regard to the subject matter of the conveyance or transfer and of the earlier transaction.
- (4) Where sub-paragraph (1) or (2) applies to reduce or extinguish the duty payable on a conveyance or transfer, the Commissioners shall, upon application and upon production of the earlier instrument or instruments, duly stamped, either—
  - (a) denote the payment of the whole of the *ad valorem* duty upon the conveyance or transfer, or
  - (b) transfer to the conveyance or transfer the *ad valorem* duty paid on the earlier instrument or instruments.

#### *Repayment of duty in certain cases*

- 6 (1) Where—
  - (a) duty is paid under section 115 on the original sale,
  - (b) one or more conveyances or transfers are executed in conformity with that contract or agreement so that the whole of the property contracted to be sold is duly conveyed to a purchaser or to one or more sub-purchasers,
  - (c) those conveyances or transfers are all duly stamped, and
  - (d) the aggregate amount of the duty that would have been paid on those conveyances or transfers but for duty having been previously paid on the original sale is less than the duty paid on the original sale,the Commissioners shall repay the difference to the person by whom the duty was paid on the original sale.
- (2) If duty has been paid under section 115 on one or more intervening subsales, sub-paragraph (1) has effect with the following modifications—
  - (a) the reference to duty having been paid on the original sale shall be read as a reference to duty having been paid either on the original sale or on an intervening subsale;
  - (b) the reference to the amount of duty paid on the original sale shall be read as a reference to the aggregate of the amounts paid on the original sale and any intervening subsales, and
  - (c) any repayment shall be apportioned among the persons by whom those amounts were paid.
- (3) The apportionment mentioned in sub-paragraph (2)(c) shall be made on a just and reasonable basis having regard to the subject matter of the original sale and of the subsale or subsales in question.

### **PART 3**

#### GENERAL SUPPLEMENTARY PROVISIONS

#### *Construction of references to duty on transactions*

- 7 Any reference in section 115 or this Schedule to duty chargeable or paid on a transaction is to duty chargeable or paid on the stamping of the instrument by which the transaction is effected.

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*Transactions relating to land in the UK and to other property*

- 8 (1) Where a transaction relates both to land in the United Kingdom and to other property, section 115 and this Schedule apply as if there were separate transactions.
- (2) Similarly, the reference in section 115(1)(b) to a series of transactions is to a series of transactions so far as relating to land in the United Kingdom.
- (3) If, in a case where a transaction or series of transactions relates partly to land in the United Kingdom and partly to other property, the consideration is not apportioned in a manner that is just and reasonable, section 115 and this Schedule shall have effect as if the consideration had been apportioned in such a manner.

*Person claiming relief to establish entitlement*

- 9 It is for a person claiming any relief under this Schedule to prove to the satisfaction of the Commissioners that he is entitled to relief and in what amount.

*Construction as one*

- 10 Section 115 and this Schedule shall be construed as one with the Stamp Act 1891 (c. 39).

SCHEDULE 37

Section 116(2)

STAMP DUTY: ABOLITION OF DUTY ON INSTRUMENTS  
RELATING TO GOODWILL: SUPPLEMENTARY PROVISIONS

*Reduction of stamp duty where instrument partly relating to goodwill*

- 1 (1) This paragraph applies where stamp duty under Part 1 of Schedule 13 to the Finance Act 1999 (c. 16) (conveyance or transfer on sale) is chargeable on an instrument that relates partly to goodwill and partly to property other than goodwill.
- (2) In such a case—
- (a) the consideration in respect of which duty would otherwise be charged shall be apportioned, on a just and reasonable basis, as between the goodwill and the other property, and
- (b) the instrument shall be charged only in respect of the consideration attributed to the other property.
- (3) This paragraph applies to instruments executed on or after 23rd April 2002.

*Apportionment of consideration for stamp duty purposes*

- 2 (1) Where part of the property referred to in section 58(1) of the Stamp Act 1891 (c. 39) (consideration to be apportioned between different instruments as parties think fit) consists of goodwill, that provision shall have effect as if “the parties think fit” read “is just and reasonable”.
- (2) Where—

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- (a) part 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 goodwill, and
- (b) both or (as the case may be) all the relevant persons are connected with one another,

that provision shall have effect as if the words from “for distinct parts of the consideration” to the end of the subsection read “, the consideration shall 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 to be charged with *ad valorem* duty in respect of such distinct consideration.”.

- (3) In a case where sub-paragraph (1) or (2) 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).
- (4) 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;
  - (b) the question whether persons are connected with one another shall be determined in accordance with [<sup>F113</sup>section 1122 of the Corporation Tax Act 2010].
- (5) This paragraph applies to instruments executed on or after 23rd April 2002.

#### Textual Amendments

**F113** Words in Sch. 37 para. 2(4)(b) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 377](#) (with [Sch. 2](#))

#### *Certification of instruments for stamp duty purposes*

- 3 (1) Goodwill shall be disregarded for the purposes of paragraph 6 of Schedule 13 to the Finance Act 1999 (c. 19) (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 so disregarded.
- (3) This paragraph applies to instruments executed on or after 23rd April 2002.

#### *Acquisition under statute*

- 4 (1) Section 12 of the Finance Act 1895 (c. 16) (property vested by Act or purchased under statutory powers) does not require any person who is authorised to purchase any property as mentioned in that section after 23rd April 2002 to include any

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goodwill in the instrument of conveyance required by that section to be produced to the Commissioners.

- (2) If the property consists wholly of goodwill no instrument of conveyance need be produced to the Commissioners under that section.
- (3) This paragraph applies where the Act mentioned in that section, and by virtue of which property is vested or a person is authorised to purchase property, is passed after 23rd April 2002.

### *Interpretation*

- 5 In this Schedule “the enactments relating to stamp duty” means the Stamp Act 1891 (c.39) and any enactment amending that Act or that is to be construed as one with that Act.

## SCHEDULE 38

Section 132

### AGGREGATES LEVY AMENDMENTS

#### *Introduction*

- 1 This Schedule makes amendments to provisions of Part 2 of the Finance Act 2001 (c. 9) (aggregates levy).

#### *The charge*

- 2 In section 16(1) (charge to aggregates levy), for “A levy” substitute “ A tax ”.

#### *Meaning of “aggregat”e etc*

- 3 (1) Section 17 (meaning of “aggregate” etc) is amended as follows.
  - (2) In subsection (2) (meaning of “taxable” aggregate), for paragraph (d) substitute—
    - “(d) it is aggregate that on the commencement date is on a site other than—
      - (i) its originating site, or
      - (ii) a site that is required to be registered under the name of a person who is the operator, or one of the operators, of that originating site.”.
  - (3) In subsection (3)(d) (exemption for aggregate won in the course of road works), in sub-paragraph (ii) for “otherwise than wholly or mainly” substitute “ not ”.
  - (4) In subsection (4), in paragraph (d) (exemption for cuttings from oil drilling)—
    - (a) after “the Petroleum Act 1998” insert “ or the Petroleum (Production) Act (Northern Ireland) 1964 ”;
    - (b) omit the words from “otherwise” to the end (which restrict the exemption to off-shore drilling).



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### *Exempt processes*

- 4 (1) Section 18 (exempt processes) is amended as follows.
  - (2) In subsection (2)(c) (exemption for production of lime etc), for “some other substance” substitute “ anything else ”.
  - (3) In subsection (3) (meaning of “relevant substance”), omit paragraphs (d) (calcite) and (h) (flint).

### *Commercial exploitation*

- 5 (1) Section 19 (commercial exploitation) is amended as follows.
  - (2) In subsection (2) (description of sites removal of aggregate from which counts as exploitation), in paragraph (b) for the words from “who is the operator” to the end substitute “ under whose name that originating site is also registered ”.
  - (3) After subsection (3) (meaning of “commercial” exploitation) insert—

“(3A) For the purposes of subsection (3)(a) above “business” includes any activity of a Government department, local authority or charity.”.
  - (4) In subsection (4) (exemption in certain cases where aggregate is won from one site and incorporated into a neighbouring site), for the words “adjacent land” in both places substitute “ other land ”.

### *Responsibility for commercial exploitation*

- 6 In section 22 (which determines who is taken to be responsible for exploitation of aggregate), at the end of subsection (2) (responsibility for “commercial” exploitation) insert—

“For the purposes of this subsection “business” includes any activity of a Government department, local authority or charity.”.

### *The register*

- 7 In section 24 (the register), in subsection (6) (premises that may be registered) insert after paragraph (c)—

“(ca) for mixing, otherwise than in permitted circumstances (within the meaning given by section 19(7)), any aggregate with any material or substance other than water,”.

### *Insolvency etc*

- 8 In section 37 (regulations about cases of insolvency etc), in subsection (7) (meaning of “insolvency procedure) omit paragraphs (g) to (j) (appointment of receiver and other interim or provisional orders).

### *Notification of registrability etc*

- 9 (1) Paragraph 1 of Schedule 4 (notification of registrability etc) is amended as follows.
  - (2) For sub-paragraph (1) substitute—

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- “(1) An unregistered person who—
- (a) is required to be registered for the purposes of aggregates levy, or
  - (b) has formed the intention of carrying out taxable activities that are registrable,
- shall notify the Commissioners of that fact.
- (1A) An unregistered person who—
- (a) would be required to be registered for the purposes of aggregates levy but for an exemption by virtue of regulations under section 24(4) of this Act, or
  - (b) has formed the intention of carrying out taxable activities that would be registrable but for such an exemption,
- shall, in such cases or circumstances as may be prescribed in the regulations, notify the Commissioners of that fact.
- (1B) For the purposes of sub-paragraphs (1) and (1A) above, taxable activities are “registrable” if a person carrying them out is, by reason of doing so, required by section 24(2) of this Act to be registered for the purposes of aggregates levy.”.
- (3) In sub-paragraphs (2) and (5), after “sub-paragraph (1)” insert “ or (1A) ”.

*Restriction on powers to provide for set-off*

- 10 In paragraph 11 of Schedule 8 (restriction on powers to provide for set-off), in sub-paragraph (2) (meaning of “insolvency procedure”) omit paragraphs (f), (g) and (h) (appointment of receiver and other interim or provisional orders).

SCHEDULE 39

Section 134(1)

RECOVERY OF TAXES ETC DUE IN OTHER MEMBER STATES

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

**C4** Sch. 39 applied (with modifications) (22.7.2004) by [Finance Act 2004 \(c. 12\), s. 322](#)

*Introduction*

- 1 (1) This Schedule applies where in accordance with the Mutual Assistance Recovery Directive an authority in another member State makes a request for the recovery in the United Kingdom of a sum claimed by that authority in that State.
- (2) In this Schedule—
- (a) the “Mutual Assistance Recovery Directive” has the meaning given by section 134; and
  - (b) the “foreign claim” means the claim in relation to which a request under that Directive is made as mentioned in sub-paragraph (1).

*Status: Point in time view as at 01/04/2010.*

*Changes to legislation: Finance Act 2002 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### *Enforcement of claims in the United Kingdom*

- 2 (1) Subject to the following provisions of this Schedule—
- (a) such proceedings may be taken by or on behalf of the relevant UK authority to enforce the foreign claim, by way of legal proceedings, distress, diligence or otherwise, as might be taken to enforce a corresponding UK claim, and
  - (b) any enactment or rule of law relating to a corresponding UK claim shall apply, with any necessary adaptations, in relation to the foreign claim.
- (2) “The relevant UK authority” means—
- (a) in relation to matters corresponding to those within the care and management of the Commissioners of Customs and Excise, those Commissioners;
  - (b) in relation to matters corresponding to those within the care and management of the Commissioners of Inland Revenue, those Commissioners;
  - (c) in relation to agricultural levies of the European Community, the relevant Minister, that is—
    - (i) in England, the Secretary of State,
    - (ii) in Scotland, the Scottish Ministers,
    - (iii) in Wales, the National Assembly for Wales, and
    - (iv) in Northern Ireland, the Department of Agriculture and Rural Development.
- (3) A “corresponding UK claim” means a claim in the United Kingdom corresponding to the foreign claim.
- (4) The enactments referred to in sub-paragraph (1)(b) include, in particular, those relating to the recovery of penalties and of interest on unpaid amounts.

### *Power to make supplementary provision by regulations*

- 3 (1) The Treasury may make provision by regulations—
- (a) as to what is a corresponding UK claim in relation to any description of foreign claim, and
  - (b) as to such other procedural and other supplementary matters as appear to them appropriate for implementing the Mutual Assistance Recovery Directive.
- (2) In relation to a case where there is no claim in the United Kingdom that is directly equivalent to a particular description of foreign claim, regulations under sub-paragraph (1)(a) may prescribe as the corresponding UK claim one that appears to the Treasury to be closest to an equivalent.
- (3) The power conferred by sub-paragraph (1)(b) includes power to make any provision appearing to the Treasury to be appropriate to give effect to any Commission Directive laying down detailed rules for implementing the Mutual Assistance Recovery Directive.
- (4) The relevant UK authority may make provision by regulations as to the application, non-application or adaptation in relation to foreign claims of any enactment or rule of law applicable to corresponding UK claims.

This is without prejudice to the application of any such enactment or rule in relation to foreign claims in circumstances not dealt with by regulations under this sub-paragraph.

*Status: Point in time view as at 01/04/2010.*

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- (5) Regulations under this paragraph shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the House of Commons.

*Proceedings on contested claims*

- 4 (1) Except where permitted by virtue of regulations under paragraph 3(4) applying an enactment that permits such proceedings in the case of a corresponding UK claim, no proceedings under this Schedule shall be taken against a person if he shows that proceedings relevant to his liability on the foreign claim are pending, or are about to be instituted, before a court, tribunal or other competent body in the member State in question.
- (2) For this purpose proceedings are pending so long as an appeal may be brought against any decision in the proceedings.
- (3) Proceedings under this Schedule may be taken if the proceedings in the member State are not prosecuted or instituted with reasonable expedition.

*Claims determined in taxpayer's favour*

- 5 (1) No proceedings under this Schedule shall be taken against a person if a final decision on the foreign claim has been given in his favour by a court, tribunal or other competent body in the member State in question.
- (2) For this purpose a final decision is one against which no appeal lies or against which an appeal lies within a period that has expired without an appeal having been brought.
- (3) If he shows that such a decision has been given in respect of part of the claim no proceedings under this Schedule shall be taken in relation to that part.

*Other supplementary provisions*

- 6 For the purposes of proceedings under this Schedule—
- (a) a request made by an authority in another member State shall be taken to be duly made in accordance with the Mutual Assistance Recovery Directive unless the contrary is proved, and
- (b) except as mentioned in paragraph 5, no question may be raised as to a person's liability on the foreign claim.

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## SCHEDULE 40

Section 141

### REPEALS

#### PART 1

##### EXCISE DUTIES

###### (1) ALCOHOLIC LIQUOR DUTIES

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Alcoholic Liquor Duties Act 1979 (c. 4)	Section 1(9).

This repeal shall be deemed to have come into force on 28th April 2002.

###### (2) HYDROCARBON OIL DUTIES

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Hydrocarbon Oil Duties Act 1979 (c. 5)	In section 6AB(1), the words from “and delivered” to the end.
Finance Act 1998 (c. 36)	Section 9(2) and (3).

1 The repeal in the Hydrocarbon Oil Duties Act 1979 has effect in accordance with section 5(8)(c) of this Act.

2 The repeals in the Finance Act 1988 have effect in accordance with section 5(8)(b) of this Act.

###### (3) AMUSEMENT MACHINE LICENCE DUTY

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Betting and Gaming Duties Act 1981 (c. 63)	In section 26(2), the definition of “thirty-five-penny machine”.
Finance Act 1995 (c. 4)	In Schedule 3, paragraph 8(2)(b).

These repeals have effect in accordance with section 8(6) of this Act.

###### (4) BETTING DUTIES

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Excise Duties (Surcharges or Rebates) Act 1979 (c. 8)	In section 1(3), the words from “, except that if the duty is pool betting duty” to the end.
Betting and Gaming Duties Act 1981 (c. 63)	In section 2(2), paragraph (d) and the word “or” preceding it. In section 9(2), the words “or coupon betting” (in both places). In section 9(3)(a), the words “or coupon betting”.

*Status: Point in time view as at 01/04/2010.*

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	In section 9(3)(aa)(i), the words “or coupon betting”.
	Section 9(4).
	Section 11.
	In section 12(3), the words “(except in sections 6, 7, 8, 9(2)(a) and 9(5) in their application to coupon betting)”.
	In Schedule 1—
	(a) in paragraph 3, the words “shall be under the care and management of the Commissioners, and”;
	(b) paragraphs 4(4) to (6), 6(2)(b), 8 and 12;
	(c) in paragraph 14(1), the words after paragraph (b).
Finance Act 1986 (c. 41)	In Schedule 4, paragraph 2(1).
Finance Act 1993 (c. 34)	Section 39(a).
Finance Act 2001 (c. 9)	In Schedule 1, the second paragraph (which begins “In section 6(1)”).

1 The repeal of section 9(4) of the Betting and Gaming Duties Act 1981 has effect in accordance with section 14(6) of this Act.

2 The other repeals have effect in accordance with section 12 of this Act.

#### (5) VEHICLE EXCISE DUTY

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Vehicle Excise and Registration Act 1994 (c. 22)	Section 57(8). In Schedule 1, paragraph 2(4).
Finance Act 1995 (c. 4)	In Schedule 4, paragraph 7.

1 The repeal of paragraph 2(4) of Schedule 1 to the Vehicle Excise and Registration Act 1994 has effect subject to the saving in section 20(3) of this Act.

2 The repeal of paragraph 7 of Schedule 4 to the Finance Act 1995 has effect in accordance with section 18(3) of this Act.

#### (6) Drawback of excise duty

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Customs and Excise Management Act 1979 (c. 2)	Section 133(3).

*Status: Point in time view as at 01/04/2010.*

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## PART 2

### VALUE ADDED TAX

#### (1) DISALLOWANCE OF INPUT TAX WHERE CONSIDERATION NOT PAID

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Value Added Tax Act 1994 (c. 23)	Section 36(4A) and (5)(ea).
Finance Act 1997 (c. 16)	Section 39(2) to (4).

These repeals have effect in accordance with section 22(3) of this Act.

#### (2) INVOICES

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Value Added Tax Act 1994 (c. 23)	Section 6(9). In paragraph 2 of Schedule 11— (a) in the heading, the words “, VAT invoices”; (b) in sub-paragraph (1), the words from “and may require” to the end; (c) sub-paragraphs (2) and (2A).
Finance Act 1996 (c. 8)	Section 38(2).

These repeals have effect in accordance with section 24(5) and (6) of this Act.

## PART 3

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

#### (1) DEDUCTIONS FROM PAYMENTS TO SUB-CONTRACTORS

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Income and Corporation Taxes Act 1988 (c. 1)	In section 559— (a) in subsection (4), the words from “and the sum so deducted” to the end; (b) subsections (5) and (5A); (c) subsection (8).
Finance Act 1998 (c. 36)	In Schedule 7, in paragraph 1 the words “559(4)(b) and (5) (twice)”. In Schedule 8, paragraph 2(1).

These repeals have effect in accordance with section 40(4) of this Act.

#### (2) COMPANY RECONSTRUCTIONS

<i>Short title and chapter</i>	<i>Extent of repeal</i>
These repeals have effect in accordance with paragraphs 7 and 8 of Schedule 9 to this Act.	

*Status: Point in time view as at 01/04/2010.*

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Income and Corporation Taxes Act 1988 (c. 1)	In section 842(3)(c), the words “or amalgamation”.
Taxation of Chargeable Gains Act 1992 (c. 12)	In the heading before section 135, the words “and amalgamations”. In section 139(1), in the heading, in subsection (1)(a) and in subsection (5) (twice), the words “or amalgamation”. In section 211(2)— (a) in paragraph (a), and (b) in the closing words, the words “or amalgamation”. In section 214C(2)(a) and (3), the words “or amalgamation”.
Finance (No. 2) Act 1992 (c. 48)	Section 35(1).

These repeals have effect in accordance with paragraphs 7 and 8 of Schedule 9 to this Act.

### (3) TAPER RELIEF

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Taxation of Chargeable Gains Act 1992 (c. 12)	In section 2A(8)(b)(ii), the words “11 or”. In Schedule A1— (a) paragraph 11; (b) in paragraph 22(1), in the definition of “51 per cent subsidiary”, the words “(except in paragraph 11 above)”; (c) in paragraph 23, the final sentence of sub-paragraph (4), sub-paragraph (5), in sub-paragraph (7) the words “, (5)(b)” and sub-paragraphs (9) and (10); (d) paragraph 24(6).

These repeals have effect in accordance with paragraphs 2, 4 and 7 of Schedule 10 to this Act.

### (4) GAINS TREATED AS ACCRUING TO SETTLORS

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Taxation of Chargeable Gains Act 1992 (c. 12)	In section 2(5)(b), the words “77, 86”. Section 77(6A). Section 86(4A). In section 86A(8), the words “or aggregate amount”.
Finance Act 1998 (c. 36)	In Schedule 21, paragraph 6(1) and (2).

These repeals have effect in accordance with paragraphs 7 and 8 of Schedule 11 to this Act.

### (5) TAX RELIEF FOR RESEARCH AND DEVELOPMENT EXPENDITURE

<i>Short title and chapter</i>	<i>Extent of repeal</i>
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These repeals have effect for accounting periods ending on or after 1st April 2002.



*Status: Point in time view as at 01/04/2010.*

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Finance Act 2000 (c. 17)	In Schedule 20— (a) in paragraph 5(1)(c), the words “(within the meaning of section 231A(4) of the Taxes Act 1988)”; (b) in paragraph 12, the word “and” at the end of paragraph (a).
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These repeals have effect for accounting periods ending on or after 1st April 2002.

#### (6) COMMUNITY INVESTMENT TAX CREDIT

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Finance Act 1990 (c. 29)	In section 25(7), the word “and” at the end of paragraph (b).

This repeal has effect in accordance with section 57(3) and (4)(b) of this Act.

#### (7) CARS WITH LOW CARBON DIOXIDE EMISSIONS

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Capital Allowances Act 2001 (c. 2)	In section 39, the word “or” preceding the words “section 45A”. In section 46(1), the word “or” preceding the words “section 45A”. In section 74(2), the word “and” preceding paragraph (b).

These repeals have effect in accordance with section 59 of this Act.

#### (8) COMPUTATION OF PROFITS

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Income and Corporation Taxes Act 1988 (c. 1)	In section 473(2), the words, “, if the securities were not such as are mentioned in subsection (1)(b) above”.
Finance Act 1998 (c. 36)	Section 44. Schedule 6.
Capital Allowances Act 2001	In Schedule 2, paragraph 102.

The repeal in section 473(2) of the Taxes Act 1988 has effect in accordance with section 67(4)(a) of this Act.

The other repeals have effect in accordance with section 64(6) of and paragraphs 16 and 17 of Schedule 22 to this Act.

#### (9) ASSET-LINKED LOAN RELATIONSHIPS

<i>Short title and chapter</i>	<i>Extent of repeal</i>
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*Status: Point in time view as at 01/04/2010.*

*Changes to legislation: Finance Act 2002 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Finance Act 1996 (c. 8) In section 92, in subsection (1)(e), the word “and”.  
Section 93(11) and (13).

The repeal in section 92 of the Finance Act 1996 (c. 8) has effect in accordance with section 72 of this Act.

The repeals in section 93 of that Act have effect in accordance with section 75 of this Act.

(10) FOREX AND EXCHANGE GAINS AND LOSSES FROM LOAN RELATIONSHIPS ETC

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Income and Corporation Taxes Act 1988 (c. 1)	In section 15(1), the second indent of paragraph 2(3) of Schedule A. Section 56(3A) to (3D). In Schedule 24, paragraphs 13 to 19. In Schedule 27, paragraph 5(2A) so far as relating to sections 125 to 133 of the Finance Act 1993.
Taxation of Chargeable Gains Act 1992 (c. 12)	In section 117(A1), the words “(subject to sections 117A and 117B below)”. Sections 117A and 117B.
Finance Act 1993 (c. 34)	Section 60. Sections 125 to 169. Schedules 15 to 17. In Schedule 18, paragraph 2.
Finance Act 1994 (c. 9)	Sections 114 to 116. Section 226(2).
Finance Act 1995 (c. 4)	Section 52(2). Section 131. In Schedule 24, paragraphs 1 to 3. In Schedule 25, paragraphs 6(5) and 7.
Finance Act 1996 (c. 8)	In section 85(2), the word “and” at the end of paragraph (b). In section 92(6)(b), the words “127 or”. In Schedule 9— (a) paragraphs 4 and 11(4); (b) in paragraph 13(6), the definition of “related transaction”; (c) in paragraph 15(1), the words “for the purposes of section 84 of this Act”. In Schedule 11, in paragraph 3A(1)(b), the words “debt or”. In Schedule 14, paragraphs 67 to 74. In Schedule 15, paragraphs 22 to 24. In Schedule 20, paragraphs 68 to 70.
Finance Act 1998 (c. 36)	Section 108(3) and (4)(a). In section 109— (a) subsections (1) and (2);

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	(b) subsection (4) so far as relating to those subsections; (c) subsection (5) so far as relating to the enactments specified in paragraph (a) of it. Section 110(4)(b). Schedule 4, paragraph 7.
Finance Act 2000 (c. 17)	Section 106. In Schedule 22, paragraph 50(2)(b). In Schedule 29, paragraphs 20, 21 and 41 to 43.

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The repeal in Schedule 27 to the Taxes Act 1988 has effect for account periods beginning on or after 1st October 2002.

The other repeals have effect in accordance with section 79(3) of this Act and Schedule 23 to this Act.

#### (11) CORPORATION TAX: CURRENCY

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<i>Short title and chapter</i>	<i>Extent of repeal</i>
Finance Act 1993 (c. 34)	In section 93, subsections (3) and (6) and, in subsection (7), the definitions of “branch” and “the closing rate/net investment method”.
Finance Act 1994 (c. 9)	Section 226(1).
Finance Act 1998 (c. 36)	Section 163(3)(b) and (c).

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These repeals have effect in accordance with section 80 of this Act and Schedule 24 to this Act.

#### (12) LOAN RELATIONSHIPS: GENERAL AMENDMENTS

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<i>Short title and chapter</i>	<i>Extent of repeal</i>
Income and Corporation Taxes Act 1988 (c. 1)	In section 77(2)(a), sub-paragraph (ii) and the preceding word “or”. Section 403ZC(2). In section 432A(9B), the definition of “money debt”. In section 797A, the second sentence in subsection (5) and in subsection (7). In Schedule 28A— (a) in paragraph 7, in sub-paragraph (1)(d), the word “and” preceding sub-paragraph (iii), in sub-paragraph (1)(e), the word “and” preceding sub-paragraph (iii), and sub-paragraph (2); (b) in paragraph 16, in sub-paragraph (1)(d), the word “and” preceding sub-paragraph (iii), in sub-paragraph (1)(e), the word “and” preceding sub-paragraph (iii), and sub-paragraph (2).

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These repeals have effect in accordance with section 82(2) of this Act.

*Status: Point in time view as at 01/04/2010.*

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Finance Act 1988 (c. 39)	In Schedule 6, in paragraph 3— (a) sub-paragraphs (3)(a), (4)(a) and (5)(a) and (b); (b) in sub-paragraph (5), in the words following paragraph (c), the word “group”; (c) sub-paragraph (6).
Finance Act 1996 (c. 8)	In section 83— (a) in subsection (2), paragraphs (b) and (d) and the word “or” at the end of paragraph (c); (b) subsection (4); (c) in subsection (7), in paragraph (a), the word “(b)”, and paragraph (b) and the preceding word “and”. In section 87— (a) in subsection (3), in paragraph (a) the words “or in the two years before the beginning of that period”, in paragraph (b) the words “or in those two years”, and paragraph (c) and the preceding word “or”; (b) subsections (6) to (8). Section 89. Section 91. In Schedule 8, paragraph 2. In Schedule 9, in paragraph 17— (a) in sub-paragraph (5), in paragraph (a) the words “or in the period of two years before the beginning of that period” and in paragraph (b) the words “or in those two years”; (b) sub-paragraphs (6) and (7). In Schedule 9, in paragraph 18— (a) in sub-paragraph (1), the word “and” immediately preceding paragraph (b); (b) in sub-paragraph (4), the definition of “control”.  Finance Act 1998 (c. 36)
	Section 82(1) and (2)(c) and (e).

These repeals have effect in accordance with section 82(2) of this Act.

### (13) DERIVATIVE CONTRACTS

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Income and Corporation Taxes Act 1988 (c. 1)	Section 468AA. In section 807A(7), the definition of “relevant qualifying payment”. In Schedule 5AA— (a) in paragraph 1, sub-paragraphs (2)(b) and (c) and (3), in sub-paragraph (5), the words “and 396”, in sub-paragraph (6), the words “, corporation tax” and “or 396”, and sub-paragraph (7);

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	(b) paragraph 2(3); (c) paragraph 4(4A); (d) in paragraph 4A, in sub-paragraph (5) (b), the words “or 396”, and sub- paragraph (10A); (e) paragraph 6(3A); (f) paragraph 9. In Schedule 27, paragraph 5(2A) so far as relating to sections 159 and 160 of, and paragraph 1 of Schedule 18 to, the Finance Act 1994.
Finance Act 1990 (c. 29)	Section 81(1).
Finance Act 1994 (c. 9)	Sections 147 to 175. Section 177. Schedule 18.
Finance Act 1995 (c. 4)	Section 52(3). Section 132.
Finance Act 1996 (c. 8)	Section 93A(3)(a) and (7). Section 101(2) to (6). Schedule 12. In Schedule 14, paragraphs 75 to 79. In Schedule 15, paragraph 25. In Schedule 20, paragraph 71.
Finance Act 1998 (c. 36)	Section 99(2) and (3). In section 109— (a) subsection (3); (b) subsection (4) so far as relating to subsection (3); (c) subsection (5) so far as relating to the enactments specified in paragraph (b) of it.
Finance Act 2000 (c. 17)	In Schedule 30, paragraph 24(3).
Finance Act 2002 (c. 23)	Sections 69 and 70. Section 78.

The repeal in Schedule 27 to the Taxes Act 1988 has effect for account periods beginning on or after 1st October 2002.

The other repeals have effect in accordance with section 83(3) of this Act.

(14) DEDUCTION OF TAX: PAYMENTS TO EXEMPT BODIES ETC

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Income and Corporation Taxes Act 1988 (c. 1)	Section 349B(1)(b) and the word “or” preceding it.

This repeal has effect in accordance with section 94(7) of this Act.

*Status: Point in time view as at 01/04/2010.*

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### (15) GIFTS OF REAL PROPERTY TO CHARITY

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Income and Corporation Taxes Act 1988	In section 587B(9), the word “and” preceding paragraph (d).

This repeal has effect in accordance with section 97 of this Act.

### (16) REFERENCES TO ACCOUNTING PRACTICE AND PERIODS OF ACCOUNT

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Taxes Management Act 1970 (c. 9)	In section 12AB(5), the definition of “period of account”.
Income and Corporation Taxes Act 1988 (c. 1)	Section 43A(2). Section 91A(8). Section 91B(11)(e) and the word “and” preceding it. In section 297(5B), the second sentence. Section 494AA(2)(b) and the word “or” preceding it. In section 560(2), the words from “and in paragraph (f)” to the end. In section 834(1), in the definition of “accounting date”, the words from “and “period of account”” to the end. Section 837A(5). In section 842B(2), the second sentence. In Schedule 5, in paragraphs 2(6) and 6(4), the definitions of “period of account”. In Schedule 28B, in paragraph 4(6B), the second sentence.
Finance Act 1988 (c. 39)	In section 86(3), the definition of “period of account”.
Finance Act 1989 (c. 26)	In section 43(9), the definition of “period of account”.
Taxation of Chargeable Gains Act 1992 (c. 12)	In section 161(3A), the words from “and in paragraph (a)” to the end. In section 13(5B), the second sentence.
Finance Act 1997 (c. 16)	In Schedule 12— (a) in paragraph 1(1)(c), the words “, in the case of companies incorporated in any part of the United Kingdom,” and “for the purposes of the accounts of such companies”; (b) in paragraph 4(5), the words “, if the recipient were a company incorporated in the United Kingdom,”; (c) in paragraph 15(1)(c), the words “, in the case of companies incorporated in any part of

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	the United Kingdom," and "for the purposes of the accounts of such companies"; (d) paragraph 28(1) to (4).
Finance Act 1998 (c. 36)	Section 45. In Schedule 18, in paragraph 14(2), the second sentence.
Finance Act 1999 (c. 16)	In Schedule 6, paragraph 3(5).
Finance Act 2000 (c. 17)	In Schedule 14, in paragraph 22(4), the second sentence. In Schedule 15, in paragraph 29(4), the second sentence. In Schedule 20, in paragraph 25(1), the definition of "normal accounting practice". In Schedule 23, in paragraph 5, the definitions of "normal accounting practice" and "statutory accounts".
Capital Allowances Act 2001 (c. 2)	Section 179(2). Section 219(2).

#### (17) FINANCIAL TRADING STOCK

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Income and Corporation Taxes Act 1988 (c. 1)	Section 100(1B)(a).
Finance Act 1988 (c. 39)	In Schedule 12, paragraph 2.

#### (18) BANKS ETC IN COMPULSORY LIQUIDATION

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Finance (No. 2) Act 1992 (c. 48)	In Schedule 12, paragraphs 3(3)(c) and 4(3).
Finance Act 1998 (c. 36)	In Schedule 7, in paragraph 8, the words "3(3)(c) and".

These repeals have effect in accordance with section 107 of this Act.

### PART 4

#### OTHER TAXES

##### (1) AIR PASSENGER DUTY: EXTENSION OF AREA TO WHICH EEA RATES APPLY

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Finance Act 1994 (c. 9)	In section 30(2), the word "or" preceding paragraph (b).

This repeal has effect in accordance with section 121 of this Act.

*Status: Point in time view as at 01/04/2010.*

*Changes to legislation: Finance Act 2002 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## (2) CLIMATE CHANGE LEVY

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Finance Act 2000 (c. 17)	In Schedule 6, in paragraph 20(7), paragraph (c) and the preceding word "and".

This repeal has effect in accordance with section 125(2) of this Act.

## (3) AGGREGATES LEVY

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Finance Act 2001 (c. 9)	In section 17— (a) subsection (3)(a); (b) in subsection (4), paragraph (b) and the words in paragraph (d) from "otherwise" to the end. Section 18(3)(d) and (h). In section 20(1)— (a) the words "and is not rock" in paragraphs (a) and (b); (b) paragraph (c). Section 21(2)(b). Section 24(6)(b) and (8)(a). Section 37(7)(g) to (j). In Schedule 6, in paragraph 7(1), paragraph (b) and the words from "equal to the amount" to the end. In Schedule 8, in paragraph 11(2), paragraphs (f), (g) and (h).

The repeals in Schedule 6 to the Finance Act 2001 shall be deemed to have come into force on 1st May 2002.

The other repeals shall be deemed to have come into force on 1st April 2002.

## PART 5

### MISCELLANEOUS

#### RECOVERY OF TAX DUE IN OTHER MEMBER STATES

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Finance Act 1977 (c. 36)	Section 11.
Finance Act 1980 (c. 48)	In section 17— (a) subsection (1); (b) in subsection (2A), the words "(1) and"; (c) in subsection (3), the words from the beginning to "passing of this Act;".



**Status:**

Point in time view as at 01/04/2010.

**Changes to legislation:**

Finance Act 2002 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.