



Finance Act 2004

2004 CHAPTER 12

PART 6 **U.K.**

OTHER TAXES

Climate change levy

289 Supplies to producers of commodities **U.K.**

- (1) Schedule 6 to the Finance Act 2000 (c. 17) (climate change levy) is amended as set out in subsections (2) to (5).
- (2) In paragraph 13 (exemption for supplies to producers of commodities), in paragraph (b), after sub-paragraph (ii) insert—
 - “(ia) in producing biodiesel for chargeable use within the meaning of section 6AA of the Hydrocarbon Oil Duties Act 1979 (excise duty on biodiesel),
 - (ib) in producing bioblend for delivery for home use from any place mentioned in section 6AB(1)(b) of that Act (excise duty on bioblend),
 - (ic) in producing bioethanol for chargeable use within the meaning of section 6AD of that Act (excise duty on bioethanol),
 - (id) in producing bioethanol blend for delivery for home use from any place mentioned in section 6AE(1)(b) of that Act (excise duty on bioethanol blend).”
- (3) In paragraph 13(b)(iii), for “liquids that are not hydrocarbon oil” substitute “liquids (within the meaning of that section) in respect of which a charge is capable of arising under that section”.
- (4) In paragraph 13, for the words from “For this purpose” to the end substitute— “Expressions which are used in this paragraph and the Hydrocarbon Oil Duties Act 1979 have the same meaning in this paragraph as they have in that Act. ”

Status: Point in time view as at 22/07/2004.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 6. (See end of Document for details)

(5) After paragraph 13 insert—

- “13A
- (1) The Commissioners may by regulations make provision amending paragraph 13 for the purpose of—
- (a) extending the circumstances in which a supply of a taxable commodity is exempt from the levy, or
 - (b) restricting the circumstances in which a supply of a taxable commodity is exempt from the levy.
- (2) Regulations under this paragraph that include provision made for the purpose mentioned in sub-paragraph (1)(a) may provide for the provision to have retrospective effect.
- (3) A statutory instrument that contains (whether alone or with other provisions) regulations under this paragraph made for the purpose mentioned in sub-paragraph (1)(b) shall not be made unless a draft of the instrument has been laid before Parliament and approved by a resolution of the House of Commons.”
- (6) The amendments made by subsections (2) to (4) have effect—
- (a) as regards biodiesel and bioblend, in relation to supplies made on or after the day on which this Act is passed;
 - (b) as regards bioethanol and bioethanol blend, in relation to supplies made on or after 1st January 2005.

Aggregates levy

290 Transitional tax credit in Northern Ireland: changes to existing scheme **U.K.**

- (1) In section 30A of the Finance Act 2001 (c. 9) (aggregates levy: transitional tax credit in Northern Ireland) after subsection (3) insert—
- “(4) The Treasury may by order made by statutory instrument amend subsection (2) above so as to—
- (a) change the period in relation to which the amount of a tax credit is to be reduced;
 - (b) change the amount by which a tax credit is to be reduced.
- (5) An order under subsection (4) above shall not be made unless a draft of the order has been laid before Parliament and approved by a resolution of the House of Commons.”
- (2) This section shall be deemed to have come into force on 1st April 2004.

291 Transitional tax credit in Northern Ireland: new scheme **U.K.**

- (1) Part 2 of the Finance Act 2001 (aggregates levy) is amended as set out in subsections (2) and (3).
- (2) For section 30A substitute—

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“30A Transitional tax credit in Northern Ireland

- (1) The Commissioners may by regulations make provision of the kind described in section 30(2) above (entitlement to tax credit) in relation to cases within subsection (2) below.
- (2) The cases are those where a charge to aggregates levy has arisen on a quantity of aggregate which has been subjected to commercial exploitation in Northern Ireland during a period—
 - (a) starting on the prescribed date, and
 - (b) ending on 31st March 2011.
- (3) The date prescribed for the purposes of subsection (2)(a) above may be earlier than the date on which this section comes into force.
- (4) The amount of a tax credit to which a person is entitled under the regulations must not be more than 80% of any aggregates levy charged on the aggregate in question.
- (5) Regulations under this section may in particular make provision—
 - (a) for a person operating a site to be entitled to a tax credit under the regulations in respect of a period for which he holds an aggregates levy credit certificate which has been issued in respect of the site and which has not been withdrawn;
 - (b) for an aggregates levy credit certificate to be issued to a person in respect of a site only if an aggregates levy credit agreement is in force in respect of the site;
 - (c) for the withdrawal of an aggregates levy credit certificate where the aggregates levy credit agreement in respect of which it was issued is no longer in force;
 - (d) for the form and content of aggregates levy credit certificates and aggregates levy credit agreements.
- (6) Regulations under this section which make provision such as is mentioned in subsection (5)(d) above may be framed by reference to any provisions of a notice published by the Commissioners in pursuance of the regulations and not withdrawn by a further notice.
- (7) If regulations under this section make provision such as is mentioned in subsection (5) above, the Commissioners or the Northern Ireland Department may—
 - (a) enter into aggregates levy credit agreements;
 - (b) issue and withdraw aggregates levy credit certificates;
 - (c) take such other steps as the Commissioners or the Northern Ireland Department consider appropriate in relation to aggregates levy credit agreements and aggregates levy credit certificates.
- (8) Regulations under this section which make provision such as is mentioned in subsection (5) above must include provision requiring the Northern Ireland Department to inform the Commissioners if the Northern Ireland Department issues or withdraws an aggregates levy credit certificate.

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Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 6. (See end of Document for details)

- (9) Subsections (3) to (5) of section 30 above apply to regulations under this section as they apply to regulations under that section.
- (10) The Treasury may by order made by statutory instrument amend subsection (4) above by substituting for the percentage for the time being specified in that subsection a percentage lower than 80%.
- (11) An order under subsection (10) above shall not be made unless a draft of the order has been laid before Parliament and approved by a resolution of the House of Commons.
- (12) Any expenses of the Northern Ireland Department under this section shall be charged on the Consolidated Fund of Northern Ireland.
- (13) In this section—
- “aggregates levy credit agreement” means an agreement entered into in respect of a site by the person operating the site and the Commissioners or the Northern Ireland Department;
- “aggregates levy credit certificate” means a certificate issued to the person operating a site by the Commissioners or the Northern Ireland Department as evidence of the fact that an aggregates levy credit agreement has been entered into in respect of the site;
- “the Northern Ireland Department” means the Department of the Environment in Northern Ireland.”
- (3) In section 48(1) (interpretation), in the definition of “tax credit regulations” after “section 30” insert “ or 30A ”.
- (4) The preceding provisions of this section come into force on such day as the Treasury may by order made by statutory instrument appoint.
- (5) An order under subsection (4) may—
- (a) make different provision for different purposes;
 - (b) make incidental, consequential, supplemental or transitional provision and savings.

Commencement Information

- II** [S. 291](#) wholly in force at 23.7.2004; [s. 291\(4\)\(5\)](#) in force at Royal Assent, see [s. 291\(4\)](#); [s. 291\(1\)-\(3\)](#) in force at 23.7.2004 by [S.I. 2004/1942](#), [art. 2](#)

Lorry road-user charge

292 Lorry road-user charge **U.K.**

- (1) Section 137 of the Finance Act 2002 (c. 23) (lorry road-user charge) is amended as follows.
- (2) For subsection (4) substitute—
- “(4) Lorry road-user charge—
- (a) shall be under the care and management of the Commissioners of Customs and Excise, and

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- (b) shall be administered and enforced in accordance with such provisions as Parliament may determine.”.
- (3) For subsections (5) and (6) substitute—
- “(5) All money and securities for money collected or received for or on account of lorry road-user charge shall—
- (a) if collected or received in Great Britain, be placed to the general account of the Commissioners of Customs and Excise kept at the Bank of England under section 17 of the Customs and Excise Management Act 1979;
- (b) if collected or received in Northern Ireland, be paid into the Consolidated Fund of the United Kingdom in such manner as the Treasury may direct.”.

Inheritance tax

293 Delivery of accounts etc U.K.

- (1) Section 256 of the Inheritance Tax Act 1984 (c. 51) (regulations about information to be furnished to the Board) is amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (a), after “specified in” insert “ or determined under ”;
- (b) after paragraph (a) insert—
- “(aa) requiring persons who by virtue of regulations under paragraph (a) above are not required to deliver accounts under section 216 above to produce to the Board, in such manner as may be specified in or determined under the regulations, such information or documents as may be so specified or determined”;
- (c) in paragraph (b), after “so specified” insert “ or determined ”;
- (d) paragraph (c) shall cease to have effect.
- (3) After subsection (1) insert—
- “(1A) Regulations under subsection (1)(aa) may in particular—
- (a) provide that information or documents must be produced to the Board by producing it or them to—
- (i) a probate registry in England and Wales;
- (ii) the sheriff in Scotland;
- (iii) the Probate and Matrimonial Office in Northern Ireland;
- (b) provide that information or documents produced as specified in paragraph (a) is or are to be treated for any or all purposes of this Act as produced to the Board;
- (c) provide for the further transmission to the Board of information or documents produced as specified in paragraph (a).”
- (4) Subsection (2) shall cease to have effect.
- (5) In subsection (3), at the end insert “ and may make different provision for different cases ”.

Status: Point in time view as at 22/07/2004.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 6. (See end of Document for details)

(6) After subsection (3) insert—

“(3A) Regulations under this section may only be made—

- (a) in relation to England and Wales or Northern Ireland, after consulting the Lord Chancellor;
- (b) in relation to Scotland, after consulting the Scottish Ministers.”

294 Grant of probate **U.K.**

(1) In section 109 of the Supreme Court Act 1981 (c. 54) (refusal of grant of probate where inheritance tax unpaid)—

(a) for subsection (1) substitute—

“(1) No grant shall be made, and no grant made outside the United Kingdom shall be resealed, except—

(a) on the production of information or documents under regulations under section 256(1)(aa) of the Inheritance Tax Act 1984 (excepted estates); or

(b) on the production of an account prepared in pursuance of that Act showing by means of such receipt or certification as may be prescribed by the Commissioners either—

(i) that the inheritance tax payable on the delivery of the account has been paid; or

(ii) that no such tax is so payable.”;

(b) in subsection (2), for “this section” substitute “ subsection (1)(b) ”;

(c) after subsection (2) insert—

“(2A) In this section and the following section, “the Commissioners” means the Commissioners of Inland Revenue”;

(d) subsection (3) shall cease to have effect.

(2) In section 42 of the Probate and Legacy Duties Act 1808 (c. 149) (grant of confirmation)—

(a) the existing text shall become subsection (1) of that section;

(b) at the beginning of that subsection, for “And” substitute “ Subject to subsection (2) below, ”; and

(c) after that subsection insert—

“(2) In a case to which regulations under section 256(1)(aa) of the Inheritance Tax Act 1984 (c. 51) apply (excepted estates), it shall not be lawful to grant confirmation such as is mentioned in subsection (1) above except on the production of information or documents in accordance with those regulations.”

(3) In Article 20 of the Administration of Estates (Northern Ireland) Order 1979 (S.I.1979/1575 (N.I.14)) (inheritance tax accounts)—

(a) for paragraph (1) substitute—

“(1) The High Court shall not make any grant, or reseal any grant made outside the United Kingdom, except—

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Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 6. (See end of Document for details)

- (a) on the production of information or documents under regulations under section 256(1)(aa) of the Inheritance Tax Act 1984 (excepted estates); or
 - (b) on the production of an account prepared in pursuance of that Act showing by means of such receipt or certification as may be prescribed by the Commissioners of Inland Revenue either—
 - (i) that the inheritance tax payable on the delivery of the account has been paid; or
 - (ii) that no such tax is so payable.”;
- (b) in paragraph (2) of that Article, for “this Article” substitute “ paragraph (1) (b) ”.
- (4) Subsection (1) shall come into force on such day as the Treasury may after consulting the Lord Chancellor by order made by statutory instrument appoint.
- (5) Subsection (2) shall come into force on such day as the Treasury may after consulting the Scottish Ministers by order made by statutory instrument appoint.
- (6) Subsection (3) shall come into force on such day as the Treasury may after consulting the Lord Chancellor by order made by statutory instrument appoint.

Commencement Information

I2 S. 294 partly in force; s. 294(4)-(6) in force at Royal Assent see s. 294(4)-(6)

295 Amendments to penalty regime **U.K.**

- (1) The Inheritance Tax Act 1984 (c. 51) is amended as specified in subsections (2) to (4).
- (2) In section 245 (failure to deliver accounts)—
- (a) in subsections (2)(a) and (3), for “not exceeding” substitute “ of ”;
 - (b) after subsection (4) insert—

“(4A) Without prejudice to any penalties under subsections (2) and (3) above, if—

 - (a) the failure by the taxpayer to deliver the account continues after the anniversary of the end of the period given by section 216(6) or (7) (whichever is applicable), and
 - (b) there would have been a liability to tax shown in the account, the taxpayer shall be liable to a penalty of an amount not exceeding £3,000.”
- (3) In section 245A (failure to provide information etc)—
- (a) after subsection (1A) insert—

“(1B) Without prejudice to any penalties under subsection (1A) above, if a person continues to fail to comply with the requirements of section 218A after the anniversary of the end of the period of six months referred to in section 218A(1), he shall be liable to a penalty of an amount not exceeding £3,000.”;
 - (b) in subsection (5)—

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- (i) after “failing to make a return” insert “, to comply with the requirements of section 218A ”;
 - (ii) after “fails to make the return” insert “, to comply with the requirements of section 218A ”.
- (4) In section 247 (provision of incorrect information)—
- (a) in subsection (1), for the words from “, in the case of fraud” to the end substitute “ to a penalty not exceeding the difference mentioned in subsection (2) below ”;
 - (b) in subsection (3), for the words from “, in the case of fraud” to the end substitute “ to a penalty not exceeding £3,000 ”.
- (5) Subsection (2)(a) above has effect in relation to a failure by any person to deliver an account under section 216 or 217 of the Inheritance Tax Act 1984 (c. 51) where the period under section 216(6) or (7) or 217 of that Act (whichever is applicable) within which the person is required to deliver the account expires after six months from the day on which this Act is passed.
- (6) Subsection (2)(b) above has effect—
- (a) in relation to a failure by any person to deliver an account under section 216 of the Inheritance Tax Act 1984 where the period under section 216(6) or (7) of that Act (whichever is applicable) within which the person is required to deliver the account expires after the day on which this Act is passed; and
 - (b) in relation to such a failure to deliver such an account where that period expires on or before the day on which this Act is passed, as if, in the subsection (4A) inserted in section 245 of that Act by subsection (2)(b) above, for the words “anniversary of the end of the period given by section 216(6) or (7) (whichever is applicable)” there were substituted “ end of the period of twelve months beginning with the day on which the Finance Act 2004 is passed ”.
- (7) Subsection (3)(a) above has effect—
- (a) in relation to a failure to comply with the requirements of section 218A of the Inheritance Tax Act 1984 where the period of six months referred to in subsection (1) of that section expires after the day on which this Act is passed; and
 - (b) in relation to such a failure to comply with those requirements where that period expires on or before the day on which this Act is passed, as if, in the subsection (1B) inserted in section 245A of that Act by subsection (3) (a) above, for the words “anniversary of the end of the period of six months referred to in section 218A(1)” there were substituted “ end of the period of twelve months beginning with the day on which the Finance Act 2004 is passed ”.
- (8) Subsection (3)(b) above has effect in relation to a failure to comply with the requirements of section 218A of the Inheritance Tax Act 1984 where the period of six months referred to in subsection (1) of that section expires after the day on which this Act is passed.
- (9) Subsection (4) above has effect in relation to incorrect accounts, information or documents delivered, furnished or produced after the day on which this Act is passed.

Status: Point in time view as at 22/07/2004.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 6. (See end of Document for details)

Stamp duty land tax and stamp duty

296 Miscellaneous amendments **U.K.**

Schedule 39 to this Act, which makes amendments to Part 4 (stamp duty land tax) and Part 5 (stamp duty) of the Finance Act 2003 (c. 14), has effect.

Stamp duty land tax

297 Leases **U.K.**

- (1) Part 4 of the Finance Act 2003 (c. 14) (stamp duty land tax) is amended as follows.
- (2) In subsection (3) of section 43 (land transactions), in paragraph (d) (inserted by paragraph 2(b) of Schedule 39 to this Act), after “where” insert “ (i) ” and at the end insert “, or
 - (ii) paragraph 15A of Schedule 17A (reduction of rent or term) applies.”.
- (3) In section 48 (chargeable interests), at the end of subsection (7) (inserted by paragraph 4(2) of that Schedule) insert “ and to paragraph 15A of Schedule 17A (reduction of rent or term of lease) ”.
- (4) In section 53 (deemed market value where transaction involves connected company), for subsection (1) substitute—
 - “(1) This section applies where the purchaser is a company and—
 - (a) the vendor is connected with the purchaser, or
 - (b) some or all of the consideration for the transaction consists of the issue or transfer of shares in a company with which the vendor is connected.
 - (1A) The chargeable consideration for the transaction shall be taken to be not less than—
 - (a) the market value of the subject-matter of the transaction as at the effective date of the transaction, and
 - (b) if the acquisition is the grant of a lease at a rent, that rent.”.
- (5) In section 79 (registration of land transactions etc), in subsection (2) (transactions to which section does not apply) (as amended by paragraph 7 of Schedule 39 to this Act)
 - (a) in paragraph (a) for the words from “by virtue of” to the end substitute “by virtue of—
 - (i) section 45 (contract and conveyance: effect of transfer of rights), or
 - (ii) paragraph 12B of Schedule 17A (assignment of agreement for lease),”;
 - (b) at the end insert—
 - “(c) under paragraph 12A(2) or 19(3) of Schedule 17A (agreement for lease), or
 - (d) under paragraph 13 (increase of rent) or 15A (reduction of rent or term) of that Schedule.”.

Status: Point in time view as at 22/07/2004.

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(6) After that subsection insert—

“(2A) Subsection (1), so far as relating to the entry of a notice under section 34 of the Land Registration Act 2002 or section 38 of the Land Registration Act (Northern Ireland) 1970 (notice in respect of interest affecting registered land), does not apply where the land transaction in question is the variation of a lease.”

(7) In subsection (3) of that section, after “The certificate” insert “ referred to in subsection (1) ”.

(8) In Schedule 4 (chargeable consideration), in paragraph 10 (carrying out of works), in sub-paragraph (2A) (inserted by paragraph 9(2) of Schedule 39 to this Act), for the words from the beginning to “completion,” substitute—

“Where by virtue of—

- (a) subsection (8) of section 44 (contract and conveyance),
- (b) paragraph 12A of Schedule 17A (agreement for lease), or
- (c) paragraph 19(3) to (6) of Schedule 17A (missives of let etc in Scotland),

there are two notifiable transactions (the first being the contract or agreement and the second being the transaction effected on completion or, as the case may be, the grant or execution of the lease), ”.

(9) Subsections (2) to (4) and (8) apply in relation to any transaction of which the effective date is on or after the day on which this Act is passed.

(10) Subsections (5) to (7) apply in relation to any transaction or deemed transaction of which the effective date is on or after 17th March 2004.

(11) In this section “effective date” has the same meaning as in Part 4 of the Finance Act 2003 (c. 14).

298 Notification, registration and penalties U.K.

(1) Part 4 of the Finance Act 2003 (stamp duty land tax) is amended as follows.

(2) In section 77 (notifiable transactions)—

(a) after subsection (2) insert—

“(2A) The assignment of a lease is notifiable if—

- (a) the grant of the lease, if occurring at the time of the assignment, would be notifiable, or
- (b) there is consideration for the assignment that is chargeable at a rate of 1% or higher, or would be so chargeable but for a relief.”;

(b) in subsection (3), for “unless it is exempt from charge under Schedule 3” substitute “unless—

- (a) the acquisition is exempt from charge under Schedule 3, or
- (b) the land consists entirely of residential property and the chargeable consideration for the acquisition, together with that of any linked transactions, is less than £1,000”;

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- (c) after subsection (5) (inserted by paragraph 4(3) of Schedule 39 to this Act) insert—
- “(6) In this section “relief” does not include any exemption from charge under Schedule 3.”.
- (3) In section 79 (registration of land transactions etc), in subsection (1)(b), after “any register maintained by the Keeper of the Registers of Scotland” insert “ (other than the Register of Community Interests in Land) ”.
- (4) In section 99 (general provisions about penalties), after subsection (2) insert—
- “(2A) Where a person is liable to more than one tax-related penalty in respect of the same land transaction, each penalty after the first shall be reduced so that his liability to such penalties, in total, does not exceed the amount of whichever is (or, but for this subsection, would be) the greatest one.”.
- (5) In Schedule 6 (disadvantaged areas relief)—
- (a) for the heading of Part 4 substitute “ SUPPLEMENTARY ”;
- (b) after paragraph 12 insert—

13 “Notification of transactions

For the purposes of section 77 (which specifies what land transactions are notifiable) no account shall be taken of any provision of this Schedule to the effect that consideration does not count as chargeable consideration.”.

299 Claims not included in returns **U.K.**

- (1) Part 4 of the Finance Act 2003 (c. 14) (stamp duty land tax) is amended as follows.
- (2) After section 82 insert—

“82A Claims not included in returns

Schedule 11A has effect with respect to claims not included in returns.”.

- (3) After Schedule 11 insert the Schedule set out in Schedule 40 to this Act.
- (4) In section 80 (adjustment where contingency ceases or consideration is ascertained), in subsection (4) (claim for repayment), for the words from “the amount” to the end substitute—
- “(a) the purchaser may, within the period allowed for amendment of the land transaction return, amend the return accordingly;
- (b) after the end of that period he may (if the land transaction return is not so amended) make a claim to the Inland Revenue for repayment of the amount overpaid”.
- (5) In section 111 (claim for repayment if regulations under general power not approved) in subsection (1), for the words from “any amount” to the end substitute “ a claim may be made to the Inland Revenue for repayment of any tax, interest or penalty that would not have been payable but for the regulations ”.

Status: Point in time view as at 22/07/2004.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 6. (See end of Document for details)

- (6) In section 113 (functions conferred on “the Inland Revenue”), after subsection (3) insert—
- “(3A) The following functions of the Inland Revenue under Schedule 11A (claims not included in returns) are functions of the Board—
- (a) functions under paragraph 2(1) (form of claims),
 - (b) functions relating to a claim made to the Board.”.
- (7) In Schedule 10 (returns, enquiries, assessments and appeals), in paragraph 33 (relief in case of double assessment)—
- (a) in sub-paragraph (1), for “for relief under this paragraph” substitute “ to the Inland Revenue for relief against any double charge ”;
 - (b) omit sub-paragraphs (2) and (3).
- (8) In paragraph 34 of that Schedule (relief in case of mistake in return)—
- (a) in sub-paragraph (1), for “for relief under this paragraph” substitute “ to the Inland Revenue for relief against any excessive charge ”;
 - (b) in sub-paragraph (2), omit “by notice in writing given to the Inland Revenue”;
 - (c) omit sub-paragraph (3).

300 Assents and appropriations by personal representatives **U.K.**

- (1) In Schedule 3 to the Finance Act 2003 (c. 14) (stamp duty land tax: transactions exempt from charge), after paragraph 3 insert—

“Assents and appropriations by personal representatives

- 3A (1) The acquisition of property by a person in or towards satisfaction of his entitlement under or in relation to the will of a deceased person, or on the intestacy of a deceased person, is exempt from charge.
- (2) Sub-paragraph (1) does not apply if the person acquiring the property gives any consideration for it, other than the assumption of secured debt.
- (3) Where sub-paragraph (1) does not apply because of sub-paragraph (2), the chargeable consideration for the transaction is determined in accordance with paragraph 8A(1) of Schedule 4.
- (4) In this paragraph—
- “debt” means an obligation, whether certain or contingent, to pay a sum of money either immediately or at a future date, and
- “secured debt” means debt that, immediately after the death of the deceased person, is secured on the property.”.

- (2) The amendment made by this section is deemed always to have had effect.

301 Chargeable consideration **U.K.**

- (1) In Schedule 3 to the Finance Act 2003 (transactions exempt from charge), in paragraph 4 (variation of testamentary dispositions etc) after sub-paragraph (2) insert—

Status: Point in time view as at 22/07/2004.

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- “(2A) Where the condition in sub-paragraph (2)(b) is not met, the chargeable consideration for the transaction is determined in accordance with paragraph 8A(2) of Schedule 4.”.
- (2) Schedule 4 to that Act (stamp duty land tax: chargeable consideration) is amended as follows.
- (3) In paragraph 8 (debt as consideration), after sub-paragraph (1) insert—
- “(1A) Where—
- (a) debt is secured on the subject-matter of a land transaction immediately before and immediately after the transaction, and
- (b) the rights or liabilities in relation to that debt of any party to the transaction are changed as a result of or in connection with the transaction,
- then for the purposes of this paragraph there is an assumption of that debt by the purchaser, and that assumption of debt constitutes chargeable consideration for the transaction.
- (1B) Where in a case in which sub-paragraph (1)(b) applies—
- (a) the debt assumed is or includes debt secured on the property forming the subject-matter of the transaction, and
- (b) immediately before the transaction there were two or more persons each holding an undivided share of that property, or there are two or more such persons immediately afterwards,
- the amount of secured debt assumed shall be determined as if the amount of that debt owed by each of those persons at a given time were the proportion of it corresponding to his undivided share of the property at that time.
- (1C) For the purposes of sub-paragraph (1B), in England and Wales and Northern Ireland each joint tenant of property is treated as holding an equal undivided share of it.”.
- (4) In sub-paragraph (2) of that paragraph, for “sub-paragraph (1)” substitute “ this paragraph ”.
- (5) After paragraph 8 insert—

8A “Cases where conditions for exemption not fully met

- (1) Where a land transaction would be exempt from charge under paragraph 3A of Schedule 3 (assents and appropriations by personal representatives) but for sub-paragraph (2) of that paragraph (cases where person acquiring property gives consideration for it), the chargeable consideration for the transaction does not include the amount of any secured debt assumed.
- “Secured debt” has the same meaning as in that paragraph.
- (2) Where a land transaction would be exempt from charge under paragraph 4 of Schedule 3 (variation of testamentary dispositions etc) but for a failure to meet the condition in sub-paragraph (2)(b) of that paragraph (no consideration other than variation of another disposition), the chargeable consideration for the transaction does not include the making of any such variation as is mentioned in that sub-paragraph.”.

Status: Point in time view as at 22/07/2004.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 6. (See end of Document for details)

- (6) The amendments made by subsections (3) and (4) apply in relation to any transaction of which the effective date (within the meaning of Part 4 of the Finance Act 2003 (c. 14)) is on or after the day on which this act is passed.
- (7) The other amendments made by this section are deemed always to have had effect.

302 Charities relief **U.K.**

- (1) In Schedule 8 to the Finance Act 2003 (stamp duty land tax: charities relief), after paragraph 2 insert—

“Cases where first condition not fully met

- 3 (1) This paragraph applies where—
- (a) a land transaction is not exempt from charge under paragraph 1 because the first condition in that paragraph is not met, but
 - (b) the purchaser (“C”) intends to hold the greater part of the subject-matter of the transaction for qualifying charitable purposes.
- (2) In such a case—
- (a) the transaction is exempt from charge, but
 - (b) for the purposes of paragraph 2 (withdrawal of charities relief) “disqualifying event” includes—
 - (i) any transfer by C of a major interest in the whole or any part of the subject-matter of the transaction, or
 - (ii) any grant by C at a premium of a low-rental lease of the whole or any part of that subject-matter,
 that is not made in furtherance of the charitable purposes of C.
- (3) For the purposes of sub-paragraph (2)(b)(ii)—
- (a) a lease is granted “at a premium” if there is consideration other than rent, and
 - (b) a lease is a “low-rental” lease if the annual rent (if any) does not exceed £600 a year.
- (4) In relation to a transaction that, by virtue of this paragraph, is a disqualifying event for the purposes of paragraph 2—
- (a) the date of the event for those purposes is the effective date of the transaction;
 - (b) paragraph 2 has effect as if—
 - (i) in sub-paragraph (1)(b), for “at the time of” there were substituted “immediately before”,
 - (ii) in sub-paragraph (4)(a), for “at the time of” there were substituted “immediately before and immediately after”, and
 - (iii) sub-paragraph (4)(b) were omitted.
- (5) In this paragraph—
- “qualifying charitable purposes” has the same meaning as in paragraph 1;

Status: Point in time view as at 22/07/2004.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 6. (See end of Document for details)

“rent” has the same meaning as in Schedule 5 (amount of tax chargeable: rent) and “annual rent” has the same meaning as in paragraph 9(2) of that Schedule.”.

(2) After paragraph 3 of that Schedule (inserted by subsection (1) above) insert—

“Charitable trusts

4 (1) This Schedule applies in relation to a charitable trust as it applies in relation to a charity.

(2) In this paragraph “charitable trust” means—

- (a) a trust of which all the beneficiaries are charities, or
- (b) a unit trust scheme in which all the unit holders are charities, and “charity” has the same meaning as in paragraph 1.

(3) In this Schedule as it applies by virtue of this paragraph—

- (a) references to the purchaser in paragraphs (a) and (b) of paragraph 1(2) are to the beneficiaries or unit holders, or any of them;
- (b) the reference to the purchaser in paragraph 2(3)(a) is to any of the beneficiaries or unit holders;
- (c) the reference in paragraph 3(2)(b) to the charitable purposes of C is to those of the beneficiaries or unit holders, or any of them.”

(3) In paragraph 1(1) of that Schedule, for “this paragraph” substitute “ this Schedule ”.

(4) In paragraph 2(1) of that Schedule, for “paragraph 1 (charities relief)” substitute “ this Schedule ”.

(5) In section 81 (further return where relief withdrawn), in paragraph (c) of subsection (4) (meaning of “the disqualifying event”), after “paragraph 2(3)” insert “ or 3(2) ”.

(6) In section 87 (interest on unpaid tax), in paragraph (c) of subsection (4) (meaning of “the disqualifying event”), after “paragraph 2(3)” insert “ or 3(2) ”.

(7) This section applies in relation to any transaction of which the effective date (within the meaning of Part 4 of the Finance Act 2003 (c. 14)) is on or after the day on which this Act is passed.

303 Shared ownership leases U.K.

(1) In Schedule 9 to the Finance Act 2003 (stamp duty land tax: right to buy, shared ownership leases etc), after paragraph 4 insert—

“Shared ownership lease: treatment of staircasing transaction

4A (1) This paragraph applies where under a shared ownership lease—

- (a) the lessee or lessees have the right, on the payment of a sum, to require the terms of the lease to be altered so that the rent payable under it is reduced, and
- (b) by exercising that right the lessee or lessees acquire an interest, additional to one already held, calculated by reference to the market value of the dwelling and expressed as a percentage of the dwelling or its value (a “share of the dwelling”).

Status: Point in time view as at 22/07/2004.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 6. (See end of Document for details)

- (2) Such an acquisition is exempt from charge if—
- (a) an election was made for tax to be charged in accordance with paragraph 2 or, as the case may be, paragraph 4 and any tax chargeable in respect of the grant of the lease has been paid, or
 - (b) immediately after the acquisition the total share of the dwelling held by the lessee or lessees does not exceed 80%.
- (3) In this paragraph “shared ownership lease” means a lease granted—
- (a) by a qualifying body, or
 - (b) in pursuance of the preserved right to buy,
- in relation to which the conditions in paragraph 2(2) or 4(2) are met.
- (4) Section 118 (meaning of “market value”) does not apply in relation to the references in this paragraph to the market value of the dwelling.”
- (2) In sub-paragraph (1) of paragraph 5 of that Schedule (meaning of “qualifying body” and “preserved right to buy”) for “2 and 4” substitute “2, 4 and 4A ”.
- (3) In Schedule 19 to that Act (stamp duty land tax: commencement and transitional provisions), in paragraph 7 (earlier related transactions under stamp duty), for sub-paragraph (2) substitute—
- “(2) In paragraph 3 of Schedule 9 (relief for transfer of reversion under shared ownership lease where election made for market value treatment) and paragraph 4A of that Schedule (shared ownership lease: treatment of staircasing transaction) as they apply in a case where the original lease was granted before the implementation date—
- (a) a reference to a lease to which paragraph 2 of that Schedule applies shall be read as a reference to a lease to which section 97 of the Finance Act 1980 applied (which made provision for stamp duty corresponding to that paragraph), and
 - (b) a reference to an election having been made for tax to be charged in accordance with paragraph 2 or 4 of that Schedule shall be read as a reference to the lease having contained a statement of the parties' intention such as is mentioned in section 97(2)(d) of the Finance Act 1980 or, as the case may be, paragraph (d) of section 108(5) of the Finance Act 1981 (which made provision for stamp duty corresponding to paragraph 4).”.
- (4) Subsections (1) and (2) apply in relation to an acquisition after 17th March 2004.
- (5) Subsection (3) is deemed to have come into force on 1st December 2003.

Commencement Information

I3 [S. 303](#) wholly in force at Royal Assent; [s. 303\(3\)](#) in force retrospective to 1.12.2003 see [s. 303\(5\)](#)

304 Application to certain partnership transactions **U.K.**

Schedule 41 to this Act (which makes provision with respect to the application of stamp duty land tax to certain transactions involving partnerships) has effect.

Status: Point in time view as at 22/07/2004.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 6. (See end of Document for details)

305 Liability of partners **U.K.**

In paragraph 7 of Schedule 15 to the Finance Act 2003 (c. 14) (stamp duty land tax: joint and several liability of responsible partners) after sub-paragraph (1) insert—

“(1A) No amount may be recovered by virtue of sub-paragraph (1)(a) or (b) from a person who did not become a responsible partner until after the effective date of the transaction in respect of which the tax is payable.”

Status:

Point in time view as at 22/07/2004.

Changes to legislation:

There are currently no known outstanding effects for the Finance Act 2004, Part 6.