



Finance Act 2008

2008 CHAPTER 9

PART 8

MISCELLANEOUS

Alternative finance arrangements

154 Stamp duty and stamp duty reserve tax: alternative finance investment bonds

- (1) FA 1986 is amended as follows.
- (2) In section 78(7) (stamp duty: loan capital), after paragraph (c) insert—
 - “(d) any capital raised under arrangements which fall within section 48A of the Finance Act 2005 (alternative finance investment bonds).”
- (3) In section 79 (loan capital: instruments not chargeable to stamp duty), after subsection (8) insert—
 - “(8A) In the application of this section to loan capital that falls within paragraph (d) of section 78(7) (alternative finance investment bonds)—
 - (a) subsection (6) has effect as if—
 - (i) paragraph (a) were omitted, and
 - (ii) for paragraph (c) there were substituted—
 - “(c) a right at the end of the bond term (within the meaning of section 48A(1) of the Finance Act 2005) to a payment of an amount that exceeds the aggregate of—
 - (i) the amount paid for the issue of the bond, and
 - (ii) the notional payment amount;

Status: Point in time view as at 21/07/2008.

Changes to legislation: Finance Act 2008, Cross Heading: Alternative finance arrangements is up to date with all changes known to be in force on or before 29 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)

- commercial return (within the meaning of section 48A(1) of the Finance Act 2005) on the bond over the bond term, less the amount of the payments actually made.”,
- (b) subsections (6)(b), (7), (7A), (7B) and (13) have effect as if references to interest were references to additional payments (“additional payments” having the same meaning as in section 48A of the Finance Act 2005), and
- (c) subsections (7B) and (13) also have effect as if—
- (i) references to a capital market investment were references to the loan capital falling within paragraph (d) of section 78(7), and
- (ii) references to a capital market arrangement were to the arrangements under which that loan capital is raised.”
- (4) In section 99 (stamp duty reserve tax: interpretation), after subsection (9) insert—
- “(9A) But “unit trust scheme” does not include arrangements falling within section 48A of the Finance Act 2005 (alternative finance investment bonds).”
- (5) The amendments made by subsections (2) and (3) have effect in relation to instruments executed on or after the day on which this Act is passed (and for this purpose it does not matter when the arrangements falling within section 48A of FA 2005 are made).
- (6) The amendment made by subsection (4) has effect in relation to—
- (a) agreements to transfer chargeable securities made on or after the day on which this Act is passed, and
- (b) the transfer, issue or appropriation of chargeable securities after that day in pursuance of an agreement made after that day;
- (and for this purpose it does not matter when the arrangements falling within section 48A of FA 2005 are made).

155 Alternative property finance: anti-avoidance

- (1) FA 2003 is amended as follows.
- (2) For the heading of section 73A substitute “ **Sections 71A to 73: relationship with Schedule 7** ”.
- (3) After section 73A insert—

“73AB Sections 71A to 72A: arrangements to transfer control of financial institution

- (1) Section 71A, 72 or 72A does not apply to alternative finance arrangements if those arrangements, or any connected arrangements, include arrangements for a person to acquire control of the relevant financial institution.
- (2) That includes arrangements for a person to acquire control of the relevant financial institution only if one or more conditions are met (such as the happening of an event or doing of an act).
- (3) In this section—

Status: Point in time view as at 21/07/2008.

Changes to legislation: Finance Act 2008, Cross Heading: Alternative finance arrangements is up to date with all changes known to be in force on or before 29 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)

“alternative finance arrangements” means the arrangements referred to in section 71A(1), 72(1) or 72A(1);

“arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable);

“connected arrangements” means any arrangements entered into in connection with the making of the alternative finance arrangements (including arrangements involving one or more persons who are not parties to the alternative finance arrangements);

“relevant financial institution” means the financial institution which enters into the alternative finance arrangements.

(4) Section 840 of the Taxes Act 1988 applies for the purposes of determining who has control of the relevant financial institution.”

(4) The amendment made by subsection (3) has effect in relation to alternative finance arrangements entered into on or after 12 March 2008.

156 Alternative finance arrangements: power to vary Chapter 5 of Part 2 of FA 2005

(1) Section 98 of FA 2006 (alternative finance arrangements: variation of Chapter 5 of Part 2 of FA 2005 by order) is amended as follows.

(2) For the heading substitute “ **Orders amending Chapter 5 of Part 2 of FA 2005** ”.

(3) For subsection (1) substitute—

“(1) The Treasury may by order amend Chapter 5 of Part 2 of FA 2005 (alternative finance arrangements).

(1A) The amendments that may be made by an order under subsection (1) include—

- (a) the variation of provision already included in Chapter 5, and
- (b) the introduction into Chapter 5 of new provision relating to alternative finance arrangements.”

(4) For subsection (3) substitute—

“(3) An order under this section shall be made by statutory instrument.

(4) If a statutory instrument containing an order under this section—

- (a) introduces into Chapter 5 of Part 2 of FA 2005 new provision relating to alternative finance arrangements, or
- (b) amends an enactment which is not contained in that Chapter, but is contained in an Act,

it shall not be made unless a draft has been laid before and approved by resolution of the House of Commons.

(5) In any other case, a statutory instrument containing an order under this section shall be subject to annulment in pursuance of a resolution of the House of Commons.

(6) In this section “alternative finance arrangements” means arrangements which in the Treasury's opinion—

- (a) equate in substance to a loan, deposit or other transaction of a kind that generally involves the payment of interest, and

Status: Point in time view as at 21/07/2008.

Changes to legislation: Finance Act 2008, Cross Heading: Alternative finance arrangements is up to date with all changes known to be in force on or before 29 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)

- (b) achieve a similar effect without including provision for the payment of interest.”

157 Government borrowing: alternative finance arrangements

- (1) The Treasury may by regulations make provision for raising money through alternative finance arrangements.
- (2) Regulations under subsection (1) must specify the purpose or purposes for which money may be raised through each kind of alternative finance arrangements that, under regulations under subsection (1), is available for raising money.
- (3) The Treasury may not raise money through a particular kind of alternative finance arrangements unless, in the Treasury's opinion, raising the money would be in accordance with the provision made under subsection (2) in relation to that kind of arrangements.
- (4) Regulations under subsection (2) may, in particular, specify a purpose or purposes for which money may be raised under the National Loans Act 1968 (c. 13).
- (5) Money to be raised under regulations made under this section—
 - (a) may be raised either within or outside the United Kingdom, and
 - (b) may be raised either in sterling or in any other currency or medium of exchange, whether national or international.
- (6) Subsection (5) is subject to provision made in or under the regulations.
- (7) Schedule 46 contains further provision about regulations under this section.
- (8) In this section and Schedule 46 “alternative finance arrangements” means arrangements which in the Treasury's opinion—
 - (a) equate in substance to a loan, deposit or other transaction of a kind that generally involves the payment of interest (including the issuance of government securities), but
 - (b) achieve a similar effect to such a transaction without including provision for the payment of interest.

Status:

Point in time view as at 21/07/2008.

Changes to legislation:

Finance Act 2008, Cross Heading: Alternative finance arrangements is up to date with all changes known to be in force on or before 29 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.