SCHEDULES

SCHEDULE 1

Section 7

CORPORATION TAX RATES

PART 1

ABOLITION OF SMALL PROFITS RATE FOR NON-RING FENCE PROFITS

1 CTA 2010 is amended as follows.

2 In section 1 (overview of Act), in subsection (2)—

(a) for "Parts 3" substitute " Parts 4 ", and

(b) omit paragraph (a).

3 For section 3 (corporation tax rates) substitute—

"**3 Corporation tax rates**

(1) Corporation tax is charged at the rate set by Parliament for the financial year as the main rate.

(2) Subsection (1) is subject to any provision of the Corporation Tax Acts which provides for corporation tax to be charged at a different rate."

4 Omit Part 3 (companies with small profits).

5 (1) Part 8 (oil activities) is amended as follows.

(2) In section 270 (overview of Part 8), after subsection (3) insert—

"(3A) Chapter 3A makes provision about the rates at which corporation tax is charged on ring fence profits."

(3) After Chapter 3 insert—

"**CHAPTER 3A**

RATES AT WHICH CORPORATION TAX IS CHARGED ON RING FENCE PROFITS

The rates

Corporation tax rates on ring fence profits

279A(1) Corporation tax is charged on ring fence profits at the main ring fence profits rate.

(2) But subsection (3) provides for tax to be charged at the small ring fence profits rate instead of the main ring fence profits rate in certain circumstances.

(3) Corporation tax is charged at the small ring fence profits rate on a company's ring fence profits of an accounting period if—

(a) the company is UK resident in the accounting period, and

(b) its augmented profits of the accounting period do not exceed the lower limit.

(4) In this Act—

"the main ring fence profits rate" means 30%, and

"the small ring fence profits rate" means 19%.

Marginal relief

Company with only ring fence profits

279B (1) This section applies if—

(a) a company is UK resident in an accounting period,

(b) its augmented profits of the accounting period—

(i) exceed the lower limit, but

(ii) do not exceed the upper limit, and

(c) its augmented profits of that period consist exclusively of ring fence profits.

(2) The corporation tax charged on the company's taxable total profits of the accounting period is reduced by an amount equal to—

$$R \times (U - A) \times \left(\frac{N}{A} \right)$$

where—

R is the marginal relief fraction,

U is the upper limit,

A is the amount of the augmented profits, and

N is the amount of the taxable total profits.

(3) In this Chapter "the marginal relief fraction" means 11/400ths.

Company with ring fence profits and other profits

279C (1) This section applies if—

(a) a company is UK resident in an accounting period,

(b) its augmented profits of the accounting period—

(i) exceed the lower limit, but

(ii) do not exceed the upper limit, and

(c) its augmented profits of that period consist of both ring fence profits and other profits.

(2) The corporation tax charged on the company's taxable total profits of the accounting period is reduced by the sum equal to the marginal relief fraction of the ring fence amount.

The ring fence amount

279D (1) In section 279C "the ring fence amount" means the amount given by the formula—

$$\left(UR - AR\right) \times \left(\frac{NR}{AR}\right)$$

(2) In this section—

$$\frac{AR}{A}$$

UR is the amount given by multiplying the upper limit by—

AR is the total amount of any ring fence profits that form part of the augmented profits of the accounting period,

NR is the total amount of any ring fence profits that form part of the taxable total profits of the accounting period, and

A is the amount of the augmented profits of the accounting period.

The lower limit and the upper limit

The lower limit and the upper limit

279E (1) This section gives the meaning in this Chapter of "the lower limit" and "the upper limit" in relation to an accounting period of a company ("A").

(2) If no company is a related 51% group company of A in the accounting period—

(a) the lower limit is £300,000, and

(b) the upper limit is £1,500,000.

(3) If one or more companies are related 51% group companies of A in the accounting period—

(a) the lower limit is—

$$\frac{£300{,}000}{(1+N)}$$

and

(b) the upper limit is—

$$\frac{£1{,}500{,}000}{(1+N)}$$

where N is the number of those related 51% group companies.

(4) For an accounting period of less than 12 months the lower limit and the upper limit are proportionately reduced.

Related 51% group companies

"Related 51% group company"

279H (1) For the purposes of this Chapter a company ("B") is a related 51% group company of another company ("A") in an accounting period if for any part of the accounting period—

(a) A is a 51% subsidiary of B,

(b) B is a 51% subsidiary of A, or

(c) both A and B are 51% subsidiaries of the same company.

(2) The rule in subsection (1) applies to each of two or more related 51% group companies even if they are related 51% group companies for different parts of the accounting period.

(3) But a related 51% group company is ignored for the purposes of section 279E if—

(a) it has not carried on a trade or business at any time in the accounting period, or

(b) it was a related 51% group company for part only of the accounting period and has not carried on a trade or business at any time in that part of the accounting period.

(4) Subsection (3) is subject to subsections (5) to (9).

(5) Subsection (6) applies if a company carries on a business of making investments in an accounting period and throughout the period the company—

(a) carries on no trade,

(b) has one or more 51% subsidiaries, and

(c) is a passive company.

(6) The company is treated for the purposes of subsection (3) as not carrying on a business at any time in the accounting period.

(7) A company is a passive company throughout an accounting period only if the following requirements are met—

(a) it has no assets in that period, other than shares in companies which are its 51% subsidiaries,

(b) no income arises to it in that period other than dividends,

(c) if income arises to it in that period in the form of dividends—

(i) the redistribution condition is met (see subsection (8)), and

(ii) the dividends are franked investment income received by it,

(d) no chargeable gains accrue to it in that period,

(e) no expenses of management of the business mentioned in subsection (5) are referable to that period, and

(f) no qualifying charitable donations are deductible from the company's total profits of that period.

(8) The redistribution condition is that—

(a) the company pays dividends to one or more of its shareholders in the accounting period, and

(b) the total amount paid in the form of those dividends is at least equal to the amount of the income arising to the company in the form of dividends in that period.

(9) If income arises to a company in an accounting period in the form of a dividend and the requirement in subsection (7)(c) is met in respect of the income—

(a) neither the dividend nor any asset representing it is treated as an asset of the company in that accounting period for the purposes of subsection (7)(a), and

(b) no right of the company to receive the dividend is treated as an asset of the company for the purposes of subsection (7)(a) in that period or any earlier accounting period.

Augmented profits

"Augmented profits"

279G (1) For the purposes of this Chapter a company's augmented profits of an accounting period are—

(a) the company's adjusted taxable total profits of that period, plus

(b) any franked investment income received by the company that is not excluded by subsection (3).

(2) A company's "adjusted taxable total profits" of a period are what would have been the company's taxable total profits of the period in the absence of sections 1(2A), 2B and 8(4A) of TCGA 1992 and section 2(2A) of CTA 2009 (certain gains on relevant high value disposals by companies etc chargeable to capital gains tax not corporation tax).

(3) This subsection excludes any franked investment income which the company ("the receiving company") receives from a company which is—

(a) a 51% subsidiary of—

(i) the receiving company, or

(ii) a company of which the receiving company is a 51% subsidiary, or

(b) a trading company or relevant holding company that is a quasi-subsidiary of the receiving company.

(4) For the purposes of subsection (3)(b) a company is a quasi-subsidiary of the receiving company if—

(a) it is owned by a consortium of which the receiving company is a member,

(b) it is not a 75% subsidiary of any company, and

(c) no arrangements of any kind (whether in writing or not) exist by virtue of which it could become a 75% subsidiary of any company.

Interpretation of section 279G(3) and (4)

279H(1) For the purposes of section 279G(3)(a), a company ("A") is a 51% subsidiary of another company ("B") only at times when—

(a) B would be beneficially entitled to more than 50% of any profits available for distribution to equity holders of A, and

(b) B would be beneficially entitled to more than 50% of any assets of A available for distribution to its equity holders on a winding up.

(2) The requirement in subsection (1) is in addition to the requirements of section 1154(2) (meaning of 51% subsidiary).

(3) In determining for the purposes of section 279G(3)(a) whether or not a company is a 51% subsidiary of another company ("C"), C is treated as not being the owner of share capital if—

(a) it owns the share capital indirectly,

(b) the share capital is owned directly by a company ("D"), and

(c) a profit on the sale of the shares would be a trading receipt for D.

(4) In section 279G(3)(b) and this section—

"trading company" means a company whose business consists wholly or mainly of carrying on a trade or trades, and

"relevant holding company" means a company whose business consists wholly or mainly of holding shares in or securities of trading companies that are its 90% subsidiaries.

(5) For the purposes of section 279G(4), a company is owned by a consortium if at least 75% of the company's ordinary share capital is beneficially owned by two or more companies each of which—

(a) beneficially owns at least 5% of that capital,

(b) would be beneficially entitled to at least 5% of any profits available for distribution to equity holders of the company, and

(c) would be beneficially entitled to at least 5% of any asset of the company available for distribution to its equity holders on a winding up.

(6) The companies meeting those conditions are called the members of the consortium.

(7) Chapter 6 of Part 5 (equity holders and profits or assets available for distribution) applies for the purposes of subsections (1) and (5) as it applies for the purposes of section 151(4)(a) and (b).”

PART 2

AMENDMENTS CONSEQUENTIAL ON PART 1 OF THIS SCHEDULE

Finance Act 1998

6 In Schedule 18 to FA 1998 (company tax returns, assessments and related matters), in paragraph 8 (calculation of tax payable), in subsection (1), for “section 19, 20 or 21 of the Corporation Tax Act 2010 (marginal relief for companies with small profits)” substitute “ Chapter 3A of Part 8 of the Corporation Tax Act 2010 (marginal relief for companies with small ring fence profits etc) ”.

Finance Act 2000

7 In Schedule 22 to FA 2000 (tonnage tax), in paragraph 57 (exclusion of relief or set-off against tax liability), in sub-paragraph (6), for paragraph (a) substitute—

“(a) any reduction under Chapter 3A of Part 8 of CTA 2010 (marginal relief for companies with small ring fence profits), or”.

Capital Allowances Act 2001

8 In section 99 of CAA 2001 (long-life assets: the monetary limit)—

(a) in subsection (4)—

(i) for “If, in a chargeable period, a company has one or more associated companies” substitute “ In the case of a company (“C”), if, in a chargeable period, one or more companies are related 51% group companies of C ”, and

(ii) for “number of associated” substitute “ number of related 51% group ”, and

(b) omit subsection (5).

9 In Part 2 of Schedule 1 to that Act (defined expressions), at the appropriate place insert—

“related 51% group company	section 279F of CTA 2010 (as applied by 1119 of that Act).”

Corporation Tax Act 2009

10 In section 104N of CTA 2009 (payment of R&D expenditure credit) in subsection (3), in the definition of "*Amount A*", in paragraph (b), after "main rate" insert " (or, in the case of ring fence profits, the main ring fence profits rate) ".

11 In section 1114 of that Act (calculation of total R&D aid for the purposes of the cap), after "aid is calculated" insert " (or, in the case of a ring fence trade (within the meaning of section 277 of CTA 2010) the main ring fence profits rate at that time) ".

12 In Schedule 4 to that Act (index of defined expressions), at the appropriate place, insert—

"main ring fence profits rate	section 279A(4) (as applied by 1119 of CTA 2010)".

Corporation Tax Act 2010

13 (1) Chapter 3 of Part 8A of CTA 2010 (profits arising from the exploitation of patents etc: relevant IP profits) is amended as follows.

(2) In section 357CL (companies eligible to elect for small claims treatment)—

(a) in subsection (5) for "the company has no associated company" substitute " no other company is a related 51% group company of the company ",

(b) in subsection (6)—

(i) for "the company has one or more associated companies" substitute " one or more other companies are related 51% group companies of the company, " and

(ii) for "those associated" substitute " those related 51% group ", and

(c) omit subsection (9).

(3) In section 357CM (small claims amount)—

(a) in subsection (5) for "the company has no associated company" substitute " no other company is a related 51% group company of the company ",

(b) in subsection (6)—

(i) for "the company has one or more associated companies" substitute " one or more other companies are related 51% group companies of the company, " and

(ii) for "those associated" substitute " those related 51% group ", and

(c) omit subsection (8).

14 (1) Part 12 of CTA 2010 (real estate investment trusts) is amended as follows.

(2) In section 534 (tax treatment of profits), omit subsection (3).

(3) In section 535 (tax treatment of gains), omit subsection (6).

(4) In section 543 (profit: financing-cost ratio), omit subsection (5).

(5) In section 551 (tax consequences of distribution to holder of excessive rights), omit subsection (6).

(6) In section 552 ("the section 552 amount"), in subsection (2), for "rate of corporation tax mentioned in section 534(3) (rate determined without reference to sections 18 to 23)" substitute " main rate of corporation tax ".

(7) In section 564 (breach of condition as to distribution of profits), omit subsection (4).

15 (1) Part 13 of CTA 2010 (other special types of company etc) is amended as follows.

(2) In section 614 (open-ended investment companies: applicable corporation tax rate), omit "(and sections 18 and 19 (relief for companies with small profits) do not apply)".

(3) In section 618 (authorised unit trusts: applicable corporation tax rate), omit "(and sections 18 and 19 (relief for companies with small profits) do not apply)".

(4) In section 627 (companies in liquidation etc: meaning of "rate of corporation tax" in case of companies with small profits)—

(a) for subsections (1) and (2) substitute—

"(1) This section applies if corporation tax is chargeable on ring fence profits of a company for a financial year.

(2) References in this Chapter to the "main rate of corporation tax", so far as relating to those profits, are to be taken—

(a) if corporation tax is to be charged on those profits at the main ring fence profits rate, as references to that rate;

(b) if corporation tax is to be charged on those profits at the small ring fence profits rate, as references to that rate;

(c) if corporation tax on those profits is to be reduced by reference to the marginal relief fraction within the meaning of Chapter 3A of Part 8 (see sections 279B and 279C), as including references to the marginal relief fraction (and with references to a rate being "fixed" or "proposed" read accordingly as references to the marginal relief fraction concerned being fixed or proposed)."

(b) accordingly, in the heading for the section, for "**small profits**" substitute " **ring fence profits** ".

(5) In section 628 (company in liquidation: corporation tax rates), for "the rate of corporation tax" (in each place it occurs) substitute " the main rate of corporation tax ".

(6) In section 630 (company in administration: corporation tax rates), for "the rate of corporation tax" (in each place it occurs) substitute " the main rate of corporation tax ".

16 In section 1119 of CTA 2010 (Corporation Tax Acts definitions), at the appropriate places insert—

""main ring fence profits rate" has the meaning given by section 279A(4),", and

"" "related 51% group company" is to be read in accordance with section 279F,".

17 (1) Schedule 4 to CTA 2010 (index of defined expressions) is amended as follows.

(2) Insert the following entries at the appropriate places—

"the main ring fence profits rate	section 279A(4) (as applied by section 1119)"

"the marginal relief fraction (in Chapter 3A of Part 8)	section 279B(3)"
"related 51% group company	section 279F (as applied by section 1119)"
"the small ring fence profits rate	section 279A(4)"

(3) Omit the entries for—

"associated company (in Part 3)";
"close investment holding company (in Part 3)";
"the ring fence fraction (in Part 3)";
"the small profits rate";
"the standard fraction (in Part 3)".

(4) In the entry for "augmented profits (in Part 3)"—

(a) in the first column for "Part 3" substitute " Chapter 3A of Part 8 ", and
(b) in the second column, for "32" substitute " 279G ".

(5) In the entry for "the lower limit (in Part 3)"—

(a) in the first column for "Part 3" substitute " Chapter 3A of Part 8 ", and
(b) in the second column for "24" substitute " 279E ".

(6) In the entry for "the upper limit (in Part 3)"—

(a) in the first column for "Part 3" substitute " Chapter 3A of Part 8 ", and
(b) in the second column for "24" substitute " 279E ".

Finance Act 2012

18 In section 102 of FA 2012 (policy holders' rate of tax on policyholders' share of I-E profit), omit subsection (5).

Finance Act 2013

19 In section 6 of FA 2013 (main rate for financial year 2015)—

(a) in subsection (1) for "the rate" substitute " the main rate ",
(b) in that subsection, omit "on profits of companies other than ring fence profits", and
(c) omit subsection (2).

20 In Schedule 25 to that Act (charge on certain high value disposals by companies etc), omit paragraph 19.

PART 3

COMMENCEMENT AND TRANSITIONAL PROVISION

21 (1) The amendments made by paragraphs 8, 9 and 13 have effect in relation to accounting periods beginning on or after 1 April 2015.

(2) Accordingly—

(a) despite the repeal of Part 3 of CTA 2010 by paragraph 4 of this Schedule, sections 25 to 30 of that Act (interpretation of references to associated companies) continue to apply for the purposes of section 99 of CAA 2001, and sections 357CL and 357CM of CTA 2010, in relation to accounting periods beginning before but ending on or after 1 April 2015, and

(b) in relation to the application of sections 25 to 30 of CTA 2010 for those purposes, paragraph 22(2) of this Schedule is to be ignored.

22 (1) The other amendments made by this Schedule have effect for the financial year 2015 and subsequent financial years.

(2) In the case of an accounting period (a "straddling period")—

(a) beginning before 1 April 2015, and

(b) ending on or after that date,

the repealed small profit provisions and the new ring fence small profit provisions apply as if the different parts of the straddling period falling in the different financial years were separate accounting periods.

(3) For this purpose—

"the repealed small profit provisions" means Part 3 of CTA 2010,

"the new ring fence small profit provisions" means sections 279A(3) and 279B to 279H".

(4) For the purposes of sub-paragraph (2) all necessary apportionments are to be made between the two separate accounting periods.

Modifications etc. (not altering text)

C1 Sch. 1 para. 22 excluded (18.11.2015) by Finance (No. 2) Act 2015 (c. 33), **s. 39(1)**(2)(b)

SCHEDULE 2

Section 10

ANNUAL INVESTMENT ALLOWANCE: TRANSITIONAL PROVISIONS ETC

PART 1

TRANSITIONAL PROVISIONS

Chargeable periods which straddle start date

1 (1) This paragraph applies in relation to a chargeable period which begins before the start date and ends on or after that date ("the first straddling period").

For "the start date", see section 10(3).

(2) The maximum allowance under section 51A of CAA 2001 for the first straddling period is the sum of each maximum allowance that would be found if—

(a) so much (if any) of the first straddling period as falls before 1 January 2013,

(b) so much of the first straddling period as falls on or after that date but before the start date, and

(c) so much of the first straddling period as falls on or after the start date,

were each treated as separate chargeable periods.

(3) But this is subject to paragraphs 2 and 3.

First straddling period beginning before 1 January 2013

2 (1) This paragraph applies where the first straddling period begins before 1 January 2013.

(2) So far as concerns expenditure incurred before 1 January 2013, the maximum allowance under section 51A of CAA 2001 for the first straddling period is what would have been the maximum allowance for that period if neither the amendment made by section 7(1) of FA 2013 nor the amendment made by section 10(1) had been made.

(3) So far as concerns expenditure incurred before the start date, the maximum allowance under section 51A of CAA 2001 for the first straddling period is what would have been the maximum allowance for that period if neither the amendment made by section 10(1) nor the amendments made by Part 2 of this Schedule had been made.

First straddling period beginning on or after 1 January 2013

3 (1) This paragraph applies where no part of the first straddling period falls before 1 January 2013.

(2) So far as concerns expenditure incurred before the start date, the maximum allowance under section 51A of CAA 2001 for the first straddling period is what would have been the maximum allowance for that period if the amendment made by section 10(1) had not been made.

Chargeable periods which straddle 1 January 2016

4 (1) This paragraph applies in relation to a chargeable period ("the second straddling period") which begins before 1 January 2016 and ends on or after that date.

(2) The maximum allowance under section 51A of CAA 2001 for the second straddling period is the sum of each maximum allowance that would be found if—

(a) the period beginning with the first day of the chargeable period and ending with 31 December 2015, and

(b) the period beginning with 1 January 2016 and ending with the last day of the chargeable period,

were treated as separate chargeable periods.

(3) But, so far as concerns expenditure incurred on or after 1 January 2016, the maximum allowance under section 51A of CAA 2001 for the second straddling period is the maximum allowance, calculated in accordance with sub-paragraph (2), for the period mentioned in paragraph (b) of that sub-paragraph.

Operation of annual investment allowance where restrictions apply

5 (1) Paragraphs 1 to 4 also apply for the purpose of determining the maximum allowance under section 51K of CAA 2001 (operation of annual investment allowance where restrictions apply) in a case where one or more chargeable periods in which the

relevant AIA qualifying expenditure is incurred are chargeable periods within paragraph 1(1) or 4(1).

(2) There is to be taken into account for the purpose mentioned in sub-paragraph (1) only chargeable periods of one year or less (whether or not they are chargeable periods within paragraph 1(1) or 4(1)), and, if there is more than one such period, only that period which gives rise to the greatest maximum allowance.

(3) For the purposes of sub-paragraph (2) any chargeable period which—

(a) is longer than a year, and

(b) ends in the tax year 2013-14, 2014-15, 2015-16, 2016-17 or 2017-18,

is to be treated as being a chargeable period of one year ending at the same time as it actually ends.

(4) Nothing in this paragraph affects the operation of sections 51M and 51N of CAA 2001.

PART 2

AMENDMENTS OF FA 2013

6 (1) Section 7 of FA 2013 (temporary increase in annual investment allowance) is amended as follows.

(2) In subsection (1), for "of two years beginning with 1 January 2013" substitute " beginning with 1 January 2013 and ending with the specified date ".

(3) After subsection (1) insert—

"(1A) The specified date is —

(a) for the purposes of corporation tax, 31 March 2014, and

(b) for the purposes of income tax, 5 April 2014."

(4) In subsection (2), omit "or 1 January 2015".

7 (1) Schedule 1 to FA 2013 (annual investment allowance) is amended as follows.

(2) In paragraph 1 (chargeable periods which straddle 1 January 2013)—

(a) in sub-paragraph (1), after "that date" insert " but not later than the specified date ", and

(b) after sub-paragraph (1) insert—

"(1A) The specified date" means—

(a) for the purposes of corporation tax, 31 March 2014, and

(b) for the purposes of income tax, 5 April 2014."

(3) Omit paragraph 4 (chargeable periods which straddle 1 January 2015).

(4) In paragraph 5 (operation of annual investment allowance where restrictions apply) —

(a) in sub-paragraph (1)—

(i) for "to 4" substitute " to 3 ", and

(ii) omit "or 4(1)", and

(b) in sub-paragraph (2), omit "or 4(1)",

(c) in sub-paragraph (3)(b), for ", 2014-15, 2015-16 or 2016-17" substitute " or 2014-15 ".

SCHEDULE 3

Section 15

RESTRICTIONS ON REMITTANCE BASIS

1 ITEPA 2003 is amended as follows.

2 In section 23 (taxable earnings: calculation of "chargeable overseas earnings") after subsection (1) insert—

"(1A) But none of an employee's general earnings from an employment for a tax year are to be "chargeable overseas earnings" if section 24A applies in relation to the employment for the tax year."

3 After section 24 insert—

"**24A Restrictions on remittance basis**

(1) This section applies in relation to an employment ("the relevant employment") for a tax year ("the relevant tax year") if—

(a) one or more of the paragraphs in subsection (5) applies,

(b) conditions 1 to 4 are met, and

(c) condition 5 is not met.

(2) The consequences of this section applying are set out in sections 23(1A), 41C(4A), 41H(5) and 554Z9(1A).

(3) But, for the purpose of determining if, and the extent to which, any provision of Part 11 (PAYE), or of PAYE regulations, applies in relation to any income, the application of any provision mentioned in subsection (2) in relation to the income is to be ignored.

(4) In this section—

(a) "the relevant employee" means the employee in respect of the relevant employment,

(b) "the relevant employer" means the employer in respect of the relevant employment, and

(c) "UK employment" means an employment the duties of which are not performed wholly outside the United Kingdom and "UK employer" is to be read accordingly,

and the rules in section 24(5) ("associated" persons) apply for the purposes of this section.

(5) The paragraphs referred to in subsection (1)(a) are—

(a) general earnings from the relevant employment which are for the relevant tax year would, apart from section 23(1A) and step 3 in section 23(3), be "chargeable overseas earnings" under section 23(3);

(b) employment income in respect of the relevant employment which is treated as accruing in the relevant tax year under section 41C(2)

would, apart from sections 41C(4A), 41D and 41E, be "foreign" under section 41C(3);

(c) employment income in respect of the relevant employment which is treated as accruing in the relevant tax year under section 41H(2) would, apart from sections 41H(5), 41I and 41L, be "chargeable foreign securities income" under section 41H(3);

(d) section 554Z9(2) would, apart from section 554Z9(1A) and (4) and (5), apply to employment income in respect of the relevant employment which corresponds to the value of a relevant step, or a part of the value of a relevant step, which is "for" the relevant tax year as determined under section 554Z4.

(6) Condition 1 is that the relevant employee holds a UK employment—

(a) at a time in the relevant tax year when the relevant employee also holds the relevant employment, or

(b) if the relevant tax year is a split year as respects the relevant employee, at a time in the UK part of the relevant tax year when the relevant employee also holds the relevant employment.

(7) Condition 2 is that the UK employer is the same as, or is associated with, the relevant employer.

(8) Condition 3 is that the UK employment and the relevant employment are related to each other.

(9) Without prejudice to the generality of subsection (8), the UK employment and the relevant employment are to be assumed to be related to each other if one or more of the following paragraphs applies—

(a) it is reasonable to suppose that—

(i) the relevant employee would not hold one employment without holding the other employment, or

(ii) the employments will cease at the same time or one employment will cease in consequence of the other employment ceasing;

(b) the terms of one employment operate to any extent by reference to the other employment;

(c) the performance of duties of one employment is (wholly or partly) dependent upon, or otherwise linked (directly or indirectly) to, the performance of duties of the other employment;

(d) the duties of the employments are wholly or mainly of the same type (ignoring the fact that they may be performed (wholly or partly) in different locations);

(e) the duties of the employments involve (wholly or partly) the provision of goods or services to the same customers or clients;

(f) the relevant employee is—

(i) a director (as defined in section 67) of the UK employer or the relevant employer who has a material interest (as defined in section 68) in the UK employer or the relevant employer,

(ii) a senior employee of the UK employer or the relevant employer, or

(iii) one of the employees of the UK employer or the relevant employer who receives the higher or highest levels of remuneration.

(10) In subsection (9)(f) references to the UK employer or the relevant employer include references to—

(a) any person with which the UK employer or the relevant employer (as the case may be) is associated, and

(b) if the UK employer or the relevant employer (as the case may be) is a company, the following companies taken together as if they were one company—

(i) the UK employer or the relevant employer (as the case may be), and

(ii) all the companies with which the UK employer or the relevant employer (as the case may be) is associated.

(11) The Treasury may by regulations amend this section so as to add to, reduce or modify the cases in which the UK employment and the relevant employment are to be assumed to be related to each other.

(12) A statutory instrument containing regulations under subsection (11) may not be made unless a draft has been laid before, and approved by a resolution of, the House of Commons.

(13) Condition 4 is that X% is less than Y%.

(14) "X%" is given by the following formula—

$$\frac{C}{I} \times 100\%$$

See section 24B for the definitions of "C" and "I".

(15) "Y%" is 65% of the additional rate for the relevant tax year.

(16) The Treasury may by regulations amend this section so as to amend the definition of "Y%".

(17) Condition 5 is that—

(a) were the duties of the relevant employment to be duties of the UK employment instead, all or substantially all of them could not lawfully be performed in the relevant territory (whether on the meeting of any condition or otherwise) by virtue of any regulatory requirements imposed by or under the law of that territory, and

(b) were the UK duties of the UK employment to be duties of the relevant employment instead, all or substantially all of them could not lawfully be performed in the part of the United Kingdom in which they are performed (whether on the meeting of any condition or otherwise) by virtue of any regulatory requirements imposed by or under the law of that part of the United Kingdom.

(18) In subsection (17)—

"the relevant territory" means the territory in which the duties of the relevant employment are performed, and

"UK duties" means duties performed in the United Kingdom.

24B Definitions of "C" and "I" for the purposes of section 24A(14)

(1) This section applies for the purposes of section 24A(14).

(2) "C" is the total amount of credit which would be allowed under section 18(2) of TIOPA 2010 (double taxation relief by way of credit) against income tax in respect of all the employment income falling within section 24A(5)(a) to (d) were none of that income to be, as relevant—

(a) "chargeable overseas earnings",

(b) "foreign",

(c) "chargeable foreign securities income", or

(d) income to which section 554Z9(2) applies.

(3) For this purpose, assume—

(a) that all relief is claimed within the applicable time limit given by section 19 of TIOPA 2010, and

(b) that all reasonable steps are taken to minimise any amounts of tax payable as mentioned in section 33 of that Act.

(4) "I" is the total amount of all the employment income falling within section 24A(5)(a) to (d)."

4 (1) Section 41C (taxable specific income from employment-related securities etc: foreign securities income) is amended as follows.

(2) After subsection (4) insert—

"(4A) But subsection (4) does not apply to a tax year if section 24A applies in relation to the employment for the tax year."

(3) After subsection (8) insert—

"(9) If subsection (4) does not apply to a tax year by virtue of subsection (4A), it is to be assumed for the purposes of section 41E that it is just and reasonable for none of the securities income treated as accruing in the tax year to be "foreign"."

5 In section 554Z9 (employment income provided through third parties: remittance basis) after subsection (1) insert—

"(1A) But subsection (2) does not apply if section 24A applies in relation to A's employment with B for the relevant tax year."

6 In section 717 (orders and regulations) in subsection (4) after "under" insert " section 24A(11) (assumptions about related employments), ".

7 (1) Section 23(1A) of ITEPA 2003 (as inserted by paragraph 2) has effect in relation to general earnings which are general earnings from an employment for the tax year 2014-15 or any subsequent tax year.

(2) Section 41C(4A) of ITEPA 2003 (as inserted by paragraph 4(2)) has effect for cases where the tax year in question is the tax year 2014-15 or any subsequent tax year.

(3) Section 41H(5) of ITEPA 2003 (as inserted by Part 1 of Schedule 9 to this Act) has effect for cases where the tax year in question is the tax year 2014-15 or any subsequent tax year.

(4) Section 554Z9(1A) of ITEPA 2003 (as inserted by paragraph 5) has effect for cases where the relevant tax year (see section 554Z9(1)(a) of that Act) is the tax year 2014-15 or any subsequent tax year.

SCHEDULE 4

Section 36

TAX RELIEF FOR THEATRICAL PRODUCTION

PART 1

AMENDMENTS OF CTA 2009

1 Before Part 16 of CTA 2009 insert—

"**PART 15C**

THEATRICAL PRODUCTIONS

Introduction

Overview

1217F(1) This Part contains provision about tax relief for production companies in respect of their theatrical productions.

(2) Sections 1217FA to 1217FC define "production company" and "theatrical production".

(3) Section 1217G sets out the conditions a production company must meet to qualify for relief in relation to its theatrical production.

(4) Section 1217H provides for relief by way of additional deductions in respect of certain expenditure (and section 1217J is about the amount of the additional deduction).

(5) This Part also contains provision—

(a) for a company that claims relief to be treated as carrying on a separate trade relating to the theatrical production (see section 1217H(3)), and

(b) about the calculation of the profits and losses of that trade (see sections 1217I to 1217IF).

(6) Sections 1217K to 1217KC—

(a) provide for relief by way of payments (called "theatre tax credits") to be made on the company's surrender of certain losses of that trade, and

(b) set out an upper limit on relief, in connection with State aid legislation.

(7) Sections 1217LA and 1217LB are about certain cases involving tax avoidance arrangements or arrangements entered into otherwise than for genuine commercial reasons.

(8) Sections 1217M to 1217MC contain provision about the use of losses of the separate trade (including provision about relief for terminal losses).

(9) Sections 1217N and 1217NA are concerned with the provisional nature of relief given for periods preceding the period in which the company ceases to carry on the separate theatrical trade.

"Theatrical production"

1217FA(1) In this Part "theatrical production" means a dramatic production or a ballet (and any ballet is therefore a theatrical production, whether or not it is also a dramatic production).

But see section 1217FB.

(2) "Dramatic production" means a production of a play, opera, musical, or other dramatic piece (whether or not involving improvisation) in relation to which the following conditions are met—

(a) the actors, singers, dancers or other performers are to give their performances wholly or mainly through the playing of roles,

(b) each performance in the proposed run of performances is to be live, and

(c) the presentation of live performances is the main object, or one of the main objects, of the company's activities in relation to the production.

(3) "Dramatic piece" may also include, for example, a show that is to be performed by a circus.

(4) For the purposes of this section a performance is "live" if it is to an audience before whom the performers are actually present.

Productions not regarded as theatrical

1217FB(1) A dramatic production or ballet is not regarded as a theatrical production if—

(a) the main purpose, or one of the main purposes, for which it is made is to advertise or promote any goods or services,

(b) the performances are to consist of or include a competition or contest,

(c) a wild animal is to be used in any performance,

(d) the production is of a sexual nature (see subsection (3)), or

(e) the making of a relevant recording is the main object, or one of the main objects, of the company's activities in relation to the production.

(2) For the purposes of subsection (1)(c) an animal is used in a performance if the animal performs, or is shown, in the course of the performance.

(3) A production is of a sexual nature for the purposes of subsection (1)(d) if the performances are to include any content the nature of which is such that, ignoring financial gain, it would be reasonable to assume the content to be included solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).

(4) "Relevant recording" means a recording of a performance—

(a) as a film (or part of a film) for exhibition to the paying general public at the commercial cinema, or

(b) for broadcast to the general public.

(5) In this section—

"broadcast" means broadcast by any means (including television, radio or the internet);

"film" has the same meaning as in Part 15 (see section 1181);

"wild animal" means an animal of a kind which is not commonly domesticated in the British Islands (and in this definition "animal" has the meaning given by section 1(1) of the Animal Welfare Act 2006).

"Production company"

1217FC (1) A company is the production company in relation to a theatrical production if the company (acting otherwise than in partnership)—

(a) is responsible for producing, running and closing the theatrical production,

(b) is actively engaged in decision-making during the production, running and closing phases,

(c) makes an effective creative, technical and artistic contribution to the production, and

(d) directly negotiates for, contracts for and pays for rights, goods and services in relation to the production.

(2) No more than one company can be the production company in relation to a theatrical production.

(3) If more than one company meets the conditions in subsection (1) in relation to a theatrical production, the company that is most directly engaged in the activities mentioned in subsection (1) is the production company.

(4) If there is no company meeting the conditions in subsection (1), there is no production company in relation to the production.

Companies qualifying for relief

How a company qualifies for relief

1217G (1) A company qualifies for relief in relation to a theatrical production if—

(a) it is the production company in relation to the production, and

(b) the commercial purpose condition (see section 1217GA) and the EEA expenditure condition (see section 1217GB) are met.

(2) There is further provision relating to subsection (1) in section 1217LA (tax avoidance arrangements).

The commercial purpose condition

1217GA(1) The "commercial purpose condition" is that at the beginning of the production phase the company intends that all, or a high proportion of, the live performances that it proposes to run will be—

(a) to paying members of the general public, or

(b) provided for educational purposes.

(2) The reference in subsection (1) to "live performances" is to be read in accordance with section 1217FA(4).

(3) A performance is not regarded as provided for educational purposes if the production company is, or is associated with, a person who—

(a) has responsibility for the beneficiaries, or

(b) is otherwise connected with the beneficiaries (for instance, by being their employer).

(4) For the purposes of subsection (3), a production company is associated with a person ("P") if—

(a) P controls the production company, or

(b) P is a company which is controlled by the production company or by a person who also controls the production company.

(5) In this section—

"the beneficiaries" means persons for whose benefit the performance will or may be provided;

"control" has the same meaning as in Part 10 of CTA 2010 (see section 450 of that Act).

The EEA expenditure condition

1217GB(1) The "EEA expenditure condition" is that at least 25% of the core expenditure on the theatrical production incurred by the company is EEA expenditure.

(2) In this Part "EEA expenditure" means expenditure on goods or services that are provided from within the European Economic Area.

(3) Any apportionment of expenditure as between EEA and non-EEA expenditure for the purposes of this Part is to be made on a just and reasonable basis.

(4) The Treasury may by regulations—

(a) amend the percentage specified in subsection (1);

(b) amend subsection (2).

(5) See also sections 1217N and 1217NA (which are about the giving of relief provisionally on the basis that the EEA expenditure condition will be met).

"Core expenditure"

1217GC(1) In this Part "core expenditure", in relation to a theatrical production, means expenditure on the activities involved in—

(a) producing the production, and

(b) closing the production.

(2) The reference in subsection (1)(a) to "expenditure on the activities involved in producing the production"—

(a) does not include expenditure on any matters not directly involved in producing the production (for instance, financing, marketing, legal services or storage);

(b) does not include expenditure on the ordinary running of the production; but expenditure incurred on or after the date of the first performance of the production to the paying general public may fall within subsection (1)(a) (for instance, if it is incurred in connection with a substantial recasting or a substantial redesign of the set).

Claim for additional deduction

Claim for additional deduction

1217H(1) A company which qualifies for relief in relation to a theatrical production may claim an additional deduction in relation to the production.

(2) A claim under subsection (1) is made with respect to an accounting period.

(See Schedule 18 to FA 1998, and in particular Part 9D, for provision about the procedure for making claims.)

(3) Where a company has made a claim under subsection (1)—

(a) the company's activities in relation to the theatrical production are treated for corporation tax purposes as a trade separate from any other activities of the company (including activities in relation to any other theatrical production), and

(b) the company is entitled to make an additional deduction, in accordance with section 1217J, in calculating the profit or loss of the separate trade for the accounting period concerned.

(4) The company is treated as beginning to carry on the separate trade—

(a) when the production phase begins, or

(b) if earlier, at the time of the first receipt by the company of any income from the theatrical production.

(5) Where the company tax return in which a claim under subsection (1) is made is for an accounting period later than that in which the company begins to carry on the separate trade, the company must make any amendments of company tax returns for earlier periods that may be necessary.

(6) Any amendment or assessment necessary to give effect to subsection (5) may be made despite any limitation on the time within which an amendment or assessment may normally be made.

(7) If the company ceases at any time to meet the conditions in section 1217FC(1) (meaning of "production company") in relation to the production, it is treated as ceasing to carry on the separate trade at that time.

The separate theatrical trade

Introduction to sections 1217IA to 1217IF

1217I Where a company is treated under section 1217H(3)(a) as carrying on a separate trade ("the separate theatrical trade"), the profits or losses of the trade are calculated for corporation tax purposes in accordance with sections 1217IA to 1217IF.

Calculation of profits or losses of separate theatrical trade

1217IA(1) For the first period of account during which the separate theatrical trade is carried on, the following are brought into account—

(a) as a debit, the costs of the theatrical production incurred (and represented in work done) to date;

(b) as a credit, the proportion of the estimated total income from the production treated as earned at the end of that period.

(2) For subsequent periods of account the following are brought into account—

(a) as a debit, the difference between the amount ("C") of the costs of the theatrical production incurred (and represented in work done) to date and the amount corresponding to C for the previous period, and

(b) as a credit, the difference between the proportion ("PI") of the estimated total income from the production treated as earned at the end of that period and the amount corresponding to PI for the previous period.

(3) The proportion of the estimated total income treated as earned at the end of a period of account is—

$$\frac{C}{T} \times I$$

where—

C is the total to date of costs incurred (and represented in work done);

T is the estimated total cost of the theatrical production;

I is the estimated total income from the theatrical production.

Income from the production

1217IB(1) References in this Part to income from a theatrical production are to any receipts by the company in connection with the making or exploitation of the production.

(2) This includes—

(a) receipts from the sale of tickets or of rights in the theatrical production;

(b) royalties or other payments for use of aspects of the theatrical production (for example, characters or music);

(c) payments for rights to produce merchandise;

(d) receipts by the company by way of a profit share agreement.

(3) Receipts that (apart from this subsection) would be regarded as being of a capital nature are treated as being of a revenue nature.

Costs of the production

1217IC (1) References in this Part to the costs of a theatrical production are to expenditure incurred by the company on—

(a) the activities involved in developing, producing, running and closing the production, or

(b) activities with a view to exploiting the production.

(2) This is subject to any provision of the Corporation Tax Acts prohibiting the making of a deduction, or restricting the extent to which a deduction is allowed, in calculating the profits of a trade.

(3) Expenditure which, apart from this subsection, would be regarded as being of a capital nature only because it is incurred on the creation of an asset (i.e. the theatrical production) is treated as being of a revenue nature.

When costs are taken to be incurred

1217ID (1) For the purposes of this Part, the costs that have been incurred on a theatrical production at a given time—

(a) are those costs of the production that are represented in the state of completion of the work in progress, but

(b) do not include any amount that has not been paid unless it is the subject of an unconditional obligation to pay.

(2) In accordance with subsection (1)(a)—

(a) payments in advance of work to be done are ignored until the work has been carried out;

(b) deferred payments are recognised to the extent that the goods or services in question are represented in the state of completion of the work in progress (but this is subject to subsection (1)(b)).

(3) Where an obligation to pay an amount is linked to income being earned from the theatrical production, the obligation is not treated as having become unconditional unless an appropriate amount of income is or has been brought into account under section 1217IA.

(4) In determining for the purposes of this Part the amount of costs incurred on a theatrical production at the end of a period of account, any amount that has not been paid 4 months after the end of that period is to be ignored.

Pre-trading expenditure

1217IE (1) This section applies if, before the company begins to carry on the separate theatrical trade, it incurs expenditure on activities falling within section 1217IC(1)(a).

(2) The expenditure may be treated as expenditure of the separate theatrical trade and as if incurred immediately after the company begins to carry on that trade.

(3) If expenditure so treated has previously been taken into account for other tax purposes, the company must amend any relevant company tax return accordingly.

(4) Any amendment or assessment necessary to give effect to subsection (3) may be made despite any limitation on the time within which an amendment or assessment may normally be made.

Estimates

1217IF Estimates for the purposes of section 1217IA must be made as at the balance sheet date for each period of account, on a just and reasonable basis taking into consideration all relevant circumstances.

Amount of additional deduction

Amount of additional deduction

1217J (1) The amount of an additional deduction to which a company is entitled as a result of a claim under section 1217H is calculated as follows.

(2) For the first period of account during which the separate theatrical trade is carried on, the amount of the additional deduction is E, where—

E is—

(a) so much of the qualifying expenditure incurred to date as is EEA expenditure, or

(b) if less, 80% of the total amount of qualifying expenditure incurred to date.

(3) For any period of account after the first, the amount of the additional deduction is—

$$E - P$$

where—

E is—

(a) so much of the qualifying expenditure incurred to date as is EEA expenditure, or

(b) if less, 80% of the total amount of qualifying expenditure incurred to date, and

P is the total amount of the additional deductions given for previous periods.

(4) The Treasury may by regulations amend the percentage specified in subsection (2) or (3).

"Qualifying expenditure"

1217JA(1) In this Part "qualifying expenditure", in relation to a theatrical production, means core expenditure (see section 1217GC) on the theatrical production that—

(a) falls to be taken into account under sections 1217IA to 1217IF in calculating the profit or loss of the separate theatrical trade for tax purposes, and

(b) is not excluded by subsection (2).

(2) The following expenditure is excluded—

(a) expenditure in respect of which the company is entitled to an R&D expenditure credit under Chapter 6A of Part 3;

(b) expenditure in respect of which the company has obtained relief under Part 13 (additional relief for expenditure on research and development).

Theatre tax credits

Theatre tax credit claimable if company has surrenderable loss

1217K(1) A company which—

(a) is treated under section 1217H(3) as carrying on a separate trade during the whole or part of an accounting period, and

(b) has a surrenderable loss in that period,

may claim a theatre tax credit for that accounting period.

(2) Section 1217KA sets out how to calculate the amount of any surrenderable loss that the company has in the accounting period.

(3) A company making a claim may surrender the whole or part of its surrenderable loss in the accounting period.

(4) The amount of the theatre tax credit to which a company making a claim is entitled for the accounting period is—

(a) 25% of the amount of the loss surrendered if the theatrical production is a touring production, or

(b) 20% of the amount of the loss surrendered if the theatrical production is not a touring production.

(5) The company's available loss for the accounting period (see section 1217KA(2)) is reduced by the amount surrendered.

(6) A theatrical production is a "touring production" only if the company intends at the beginning of the production phase—

(a) that it will present performances of the production in 6 or more separate premises, or

(b) that it will present performances of the production in at least two separate premises and that the number of performances will be at least 14.

(7) See Schedule 18 to FA 1998 (in particular, Part 9D) for provision about the procedure for making claims under subsection (1).

Amount of surrenderable loss

1217KA(1) The company's surrenderable loss in the accounting period is—

(a) the company's available loss for the period in the separate theatrical trade (see subsections (2) and (3)), or

(b) if less, the available qualifying expenditure for the period (see subsections (4) and (5)).

(2) The company's available loss for an accounting period is—

$$L + \text{RUL}$$

where—

L is the amount of the company's loss for the period in the separate theatrical trade, and

RUL is the amount of any relevant unused loss of the company (see subsection (3)).

(3) The "relevant unused loss" of a company is so much of any available loss of the company for the previous accounting period as has not been—

(a) surrendered under section 1217K, or

(b) carried forward under section 45 of CTA 2010 and set against profits of the separate theatrical trade.

(4) For the first period of account during which the separate theatrical trade is carried on, the available qualifying expenditure is the amount that is E for that period for the purposes of section 1217J(2).

(5) For any period of account after the first, the available qualifying expenditure is—

$$\text{E} - \text{S}$$

where—

E is the amount that is E for that period for the purposes of section 1217J(3), and

S is the total amount previously surrendered under section 1217K.

(6) If a period of account of the separate theatrical trade does not coincide with an accounting period, any necessary apportionments are to be made by reference to the number of days in the periods concerned.

Payment in respect of theatre tax credit

1217KB(1) If a company—

(a) is entitled to a theatre tax credit for an accounting period, and

(b) makes a claim,

the Commissioners for Her Majesty's Revenue and Customs ("the Commissioners") must pay the amount of the credit to the company.

(2) An amount payable in respect of—

(a) a theatre tax credit, or

(b) interest on a theatre tax credit under section 826 of ICTA,

may be applied in discharging any liability of the company to pay corporation tax.

To the extent that it is so applied the Commissioners' liability under subsection (1) is discharged.

(3) If the company's company tax return for the accounting period is enquired into by the Commissioners, no payment in respect of a theatre tax credit for that period need be made before the Commissioners' enquiries are completed (see paragraph 32 of Schedule 18 to FA 1998).

In those circumstances the Commissioners may make a payment on a provisional basis of such amount as they consider appropriate.

(4) No payment need be made in respect of a theatre tax credit for an accounting period before the company has paid to the Commissioners any amount that it is required to pay for payment periods ending in that accounting period—

(a) under PAYE regulations,

(b) under section 966 of ITA 2007 (visiting performers), or

(c) in respect of Class 1 national insurance contributions under Part 1 of the Social Security Contributions and Benefits Act 1992 or Part 1 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992.

(5) A payment in respect of a theatre tax credit is not income of the company for any tax purpose.

Limit on State aid

1217KC(1) The total amount of any theatre tax credits payable under section 1217KB in the case of any undertaking is not to exceed 50 million euros per year.

(2) In this section "undertaking" has the same meaning as in the General Block Exemption Regulation.

(3) In this section "the General Block Exemption Regulation" means any regulation that—

(a) is for the time being in force under Article 1 of Council Regulation (EC) No 994/98, and

(b) makes, in relation to aid in favour of culture and heritage conservation, the declaration provided for by that Article.

Anti-avoidance etc

Tax avoidance arrangements

1217LA(1) A company does not qualify for relief in relation to a theatrical production if there are any tax avoidance arrangements relating to the production.

(2) Arrangements are "tax avoidance arrangements" if their main purpose, or one of their main purposes, is the obtaining of a tax advantage.

(3) In this section—

"arrangements" includes any scheme, agreement or understanding, whether or not legally enforceable;

"tax advantage" has the meaning given by section 1139 of CTA 2010.

Transactions not entered into for genuine commercial reasons

1217LB(1) A transaction is to be ignored for the purpose of determining a relief mentioned in subsection (2) so far as the transaction is attributable to arrangements (other than tax avoidance arrangements) entered into otherwise than for genuine commercial reasons.

(2) The reliefs mentioned in subsection (1) are—

(a) any additional deduction which a company may make under this Part, and

(b) any theatre tax credit to be given to a company.

(3) In this section "arrangements" and "tax avoidance arrangements" have the same meaning as in section 1217LA.

Use of losses

Application of sections 1217MA to 1217MC

1217M(1) Sections 1217MA to 1217MC apply to a company that is treated under section 1217H(3) as carrying on a separate trade in relation to a theatrical production.

(2) In those sections—

"the completion period" means the accounting period in which the company ceases to carry on the separate theatrical trade;

"loss relief" includes any means by which a loss might be used to reduce the amount in respect of which a company, or any other person, is chargeable to tax.

Restriction on use of losses before completion period

1217MA(1) Subsection (2) applies if a loss is made by the company in the separate theatrical trade in an accounting period preceding the completion period.

(2) The loss is not available for loss relief, except to the extent that the loss may be carried forward under section 45 of CTA 2010 to be set against profits of the separate theatrical trade in a subsequent period.

Use of losses in the completion period

1217MB(1) Subsection (2) applies if a loss made in the separate theatrical trade is carried forward under section 45 of CTA 2010 to the completion period.

(2) So much (if any) of the loss as is not attributable to relief under section 1217H (see subsection (4)) may be treated for the purposes of loss relief as if it were a loss made in the completion period.

(3) If a loss is made in the separate theatrical trade in the completion period, the amount of the loss that may be—

(a) deducted from total profits of the same or an earlier period under section 37 of CTA 2010, or

(b) surrendered as group relief under Part 5 of that Act,

is restricted to the amount (if any) that is not attributable to relief under section 1217H.

(4) The amount of a loss in any period that is attributable to relief under section 1217H is found by—

(a) calculating what the amount of the loss would have been if there had been no additional deduction under that section in that or any earlier period, and

(b) deducting that amount from the total amount of the loss.

(5) This section does not apply to loss surrendered, or treated as carried forward, under section 1217MC (terminal losses).

Terminal losses

1217MC(1) This section applies if—

(a) the company ceases to carry on the separate theatrical trade, and

(b) if the company had not ceased to carry on the separate theatrical trade, it could have carried forward an amount under section 45 of CTA 2010 to be set against profits of that trade in a later period ("the terminal loss").

Below in this section the company is referred to as "company A" and the separate theatrical trade is referred to as "trade 1".

(2) If company A—

(a) is treated under section 1217H(3) as carrying on a separate theatrical trade in relation to another theatrical production ("trade 2"), and

(b) is carrying on trade 2 when it ceases to carry on trade 1,

company A may (on making a claim) elect to transfer the terminal loss (or a part of it) to trade 2.

(3) If company A makes an election under subsection (2), the terminal loss (or part of the loss) is treated as if it were a loss brought forward under section 45

of CTA 2010 to be set against the profits of trade 2 of the first accounting period beginning after the cessation and so on.

(4) Subsection (5) applies if—

(a) another company ("company B") is treated under section 1217H(3) as carrying on a separate theatrical trade ("company B's trade") in relation to another theatrical production,

(b) company B is carrying on that trade when company A ceases to carry on trade 1, and

(c) company B is in the same group as company A for the purposes of Part 5 of CTA 2010 (group relief).

(5) Company A may surrender the loss (or part of it) to company B.

(6) On the making of a claim by company B the amount surrendered is treated as if it were a loss brought forward by company B under section 45 of CTA 2010 to be set against the profits of company B's trade of the first accounting period beginning after the cessation and so on.

(7) The Treasury may by regulations make administrative provision in relation to the surrender of a loss under subsection (5) and the resulting claim under subsection (6).

(8) "Administrative provision" means provision corresponding, subject to such adaptations or other modifications as appear to the Treasury to be appropriate, to that made by Part 8 of Schedule 18 to FA 1998 (company tax returns: claims for group relief).

Provisional entitlement to relief

Provisional entitlement to relief

1217N (1) In relation to a company that has made a claim under section 1217H in relation to a theatrical production, "interim accounting period" means any accounting period that—

(a) is one in which the company carries on the separate theatrical trade, and

(b) precedes the accounting period in which it ceases to do so.

(2) A company is not entitled to relief under any of the relieving provisions for an interim accounting period unless—

(a) its company tax return for the period states the amount of planned core expenditure on the theatrical production that is EEA expenditure, and

(b) that amount is such as to indicate that the EEA expenditure condition (see section 1217GB) will be met in relation to the production.

If those requirements are met, the company is provisionally treated in relation to that period as if the EEA expenditure condition were met.

(3) In this section "the relieving provisions" means—

(a) section 1217H (additional deduction),

(b) section 1217K (theatre tax credits), and

(c) section 1217MC (terminal losses).

Clawback of provisional relief

1217NA(1) If a statement is made under section 1217N(2) but it subsequently appears that the EEA expenditure condition will not be met on the company's ceasing to carry on the separate theatrical trade, the company—

(a) is not entitled to relief under any of the relieving provisions for any period for which its entitlement depended on such a statement, and

(b) must amend its company tax return for any such period accordingly.

(2) When a company which has made a claim under section 1217H ceases to carry on the separate theatrical trade, the company's company tax return for the period in which that cessation occurs must—

(a) state that the company has ceased to carry on the separate theatrical trade, and

(b) be accompanied by a final statement of the amount of the core expenditure on the theatrical production that is EEA expenditure.

(3) If that statement shows that the EEA expenditure condition is not met—

(a) the company is not entitled to relief under any of the relieving provisions for any period,

(b) the company is treated for corporation tax purposes as if section 1217H(3)(a) (treatment as a separate trade) did not apply in relation to the theatrical production for any period, and

(c) accordingly, sections 1217MA and 1217MB (provisions about use of losses) do not apply in relation to the theatrical production for any period.

(4) Where subsection (3) applies, the company must amend its company tax return for any period in which (or in any part of which) it was treated as carrying on a separate trade relating to the theatrical production.

(5) Any amendment or assessment necessary to give effect to this section may be made despite any limitation on the time within which an amendment or assessment may normally be made.

(6) In this section "the relieving provisions" has the same meaning as in section 1217N.

Interpretation

Activities involved in developing, producing, running or closing a production

1217O The Treasury may by regulations amend section 1217GC (core expenditure) or 1217IC (costs of production) for the purpose of providing that activities of a specified description are, or are not, to be regarded as activities involved in developing or (as the case may be) producing, running or closing—

(a) a theatrical production, or

(b) a theatrical production of a specified description.

"Company tax return"

1217OA In this Part "company tax return" has the same meaning as in Schedule 18 to FA 1998 (see paragraph 3(1) of that Schedule).

Index

1217OB In this Part—

"commercial purpose condition" has the meaning given by section 1217GA;

"company tax return" has the meaning given by section 1217OA;

"core expenditure" has the meaning given by section 1217GC;

"costs", in relation to a theatrical production, has the meaning given by section 1217IC;

"EEA expenditure" has the meaning given by section 1217GB;

"EEA expenditure condition" has the meaning given by section 1217GB;

references to "income from a theatrical production" are to be read in accordance with section 1217IB;

"production company" has the meaning given by section 1217FC;

"qualifying expenditure" has the meaning given by section 1217JA;

references to the "separate theatrical trade" are to be read in accordance with section 1217I;

"theatrical production" has the meaning given by section 1217FA (read with section 1217FB)."

Commencement Information

I1 Sch. 4 para. 1 partly in force at Royal Assent; sch. 4 para. 1 in force at Royal Assent for specified purposes, see Sch. 4 para. 16

I2 Sch. 4 para. 1 in force at 22.8.2014 for the purposes of the amendments made by that paragraph in so far as not already in force by S.I. 2014/2228, **art. 2**

PART 2

CONSEQUENTIAL AMENDMENTS

ICTA

2 (1) Section 826 of the Income and Corporation Taxes Act 1988 (interest on tax overpaid) is amended as follows.

(2) In subsection (1), after paragraph (fb) insert—

"(fc) a payment of theatre tax credit falls to be made to a company; or".

(3) In subsection (3C), for "or video game tax credit" substitute " , video game tax credit or theatre tax credit ".

(4) In subsection (8A)—

(a) in paragraph (a) for "or (f)" substitute " (f), (fa), (fb) or (fc) ", and

(b) in paragraph (b)(ii), after "video game tax credit" insert " or theatre tax credit ".

(5) In subsection (8BA), after "video game tax credit" (in both places) insert " or theatre tax credit ".

Commencement Information

I3 Sch. 4 para. 2 in force at 22.8.2014 for the purposes of the amendments made by that paragraph by S.I. 2014/2228, **art. 2**

FA 1998

3 Schedule 18 to FA 1998 (company tax returns, assessments and related matters) is amended as follows.

4 In paragraph 10 (other claims and elections to be included in return), in sub-paragraph (4)—

(a) before "claims" insert " certain ";

(b) for "or 15B" substitute " , 15B or 15C ".

Commencement Information

I4 Sch. 4 para. 4 in force at 22.8.2014 for the purposes of the amendments made by that paragraph by S.I. 2014/2228, **art. 2**

5 (1) Paragraph 52 (recovery of excessive overpayments etc) is amended as follows.

(2) In sub-paragraph (2), after paragraph (bf) insert—

"(bg) theatre tax credit under Part 15C of that Act,".

(3) In sub-paragraph (5)—

(a) after paragraph (ah) insert—

"(ai) an amount of theatre tax credit paid to a company for an accounting period,";

(b) in the words after paragraph (b), after "(ah)" insert " , (ai) ".

Commencement Information

I5 Sch. 4 para. 5 in force at 22.8.2014 for the purposes of the amendments made by that paragraph by S.I. 2014/2228, **art. 2**

6 (1) Part 9D (certain claims for tax relief) is amended as follows.

(2) In paragraph 83S (introduction), after paragraph (c) insert—

"(d) an additional deduction under Part 15C of CTA 2009,

(e) a theatre tax credit under that Part of that Act."

(3) The heading of that Part becomes " CLAIMS FOR TAX RELIEF UNDER PART 15, 15A, 15B OR 15C OF THE CORPORATION TAX ACT 2009 ".

Commencement Information

I6 Sch. 4 para. 6 in force at 22.8.2014 for the purposes of the amendments made by that paragraph by S.I. 2014/2228, **art. 2**

CAA 2001

F1 7 . . . . . .

Textual Amendments

F1 Sch. 4 para. 7 repealed (with effect in accordance with s. 33(5) of the amending Act) by Finance Act 2019 (c. 1), **s. 33(2)(c)(xi)**

FA 2007

8 In Schedule 24 to FA 2007 (penalties for errors), in paragraph 28(fa) (meaning of "corporation tax credit"), omit the "or" at the end of sub-paragraph (ivb) and after that sub-paragraph insert—

"(ivc) a theatre tax credit under section 1217K of that Act, or".

Commencement Information

I7 Sch. 4 para. 8 in force at 22.8.2014 for the purposes of the amendments made by that paragraph by S.I. 2014/2228, **art. 2**

CTA 2009

9 In section 104BA of CTA 2009 (R&D expenditure credits: restrictions on claiming other tax reliefs), after subsection (3) insert—

"(4) For provision prohibiting an R&D expenditure credit being given under this Chapter and relief being given under section 1217H or 1217K (theatrical productions: additional deduction or theatre tax credit), see section 1217JA(2)."

Commencement Information

I8 Sch. 4 para. 9 in force at 22.8.2014 for the purposes of the amendments made by that paragraph by S.I. 2014/2228, **art. 2**

10 In Part 8 of CTA 2009 (intangible fixed assets), in Chapter 10 (excluded assets), before section 809 insert—

Assets representing expenditure incurred in course of separate theatrical trade

"808C(1) This Part does not apply to an intangible fixed asset held by a theatrical production company so far as the asset represents expenditure on a theatrical production that is treated under Part 15C as expenditure of a separate trade (see particularly sections 1217H and 1217IE).

(2) In this section—

"theatrical production" has the same meaning as in Part 15C (see section 1217FA);

"theatrical production company" means a company which, for the purposes of that Part, is the production company in relation to a theatrical production (see section 1217FC)."

Commencement Information

I9 Sch. 4 para. 10 in force at 22.8.2014 for the purposes of the amendments made by that paragraph by S.I. 2014/2228, **art. 2**

11 In section 1040ZA of CTA 2009 (additional relief for expenditure on research and development), after subsection (3) insert—

"(4) For provision prohibiting relief being given under this Part and under section 1217H or 1217K (theatrical productions: additional deduction or theatre tax credit), see section 1217JA(2)."

Commencement Information

I10 Sch. 4 para. 11 in force at 22.8.2014 for the purposes of the amendments made by that paragraph by S.I. 2014/2228, **art. 2**

12 In section 1310 of CTA 2009 (orders and regulations), in subsection (4), after paragraph (ej) insert—

"(ek) section 1217GB(4) (EEA expenditure condition),

(el) section 1217J(4) (amount of additional deduction),

(em) section 1217O (activities involved in developing, producing, running or closing a production),".

Commencement Information

I11 Sch. 4 para. 12 in force at 22.8.2014 for the purposes of the amendments made by that paragraph by S.I. 2014/2228, **art. 2**

13 In Schedule 4 to CTA 2009 (index of defined expressions) at the appropriate place insert—

"commercial purpose condition (in Part 15C)	section 1217OB";

"company tax return (in Part 15C)	section 1217OA";
"core expenditure (in Part 15C)	section 1217GC";
"costs of a theatrical production (in Part 15C)	section 1217IC";
"EEA expenditure (in Part 15C)	section 1217GB";
"EEA expenditure condition (in Part 15C)	section 1217OB";
"income from a theatrical production (in Part 15C)	section 1217IB";
"production company (in Part 15C)	section 1217FC";
"qualifying expenditure (in Part 15C)	section 1217JA";
"the separate theatrical trade (in Part 15C)	section 1217OB";
"theatrical production (in Part 15C)	section 1217FA".

Commencement Information

I12 Sch. 4 para. 13 in force at 22.8.2014 for the purposes of the amendments made by that paragraph by S.I. 2014/2228, **art. 2**

FA 2009

14 In Schedule 54A to FA 2009 (which is prospectively inserted by F(No. 3)A 2010 and contains provision about the recovery of certain amounts of interest paid by HMRC), in paragraph 2—

(a) in sub-paragraph (2), omit the "or" at the end of paragraph (f) and after paragraph (g) insert ", or

(h) a payment of theatre tax credit under section 1217K of CTA 2009 for an accounting period.";

(b) in sub-paragraph (4), for "(e)" substitute " (h) ".

Commencement Information

I13 Sch. 4 para. 14 in force at 22.8.2014 for the purposes of the amendments made by that paragraph by S.I. 2014/2228, **art. 2**

PROSPECTIVE

CTA 2010

15 (1) Section 357CG of CTA 2010 (profits arising from the exploitation of patents etc: adjustments in calculating profits of trade) is amended as follows.

(2) In subsection (3), omit the "and" at the end of paragraph (c) and after paragraph (d) insert ", and

(e) the amount of any additional deduction for the accounting period obtained by the company under Part 15C of CTA 2009 in respect of qualifying expenditure on a theatrical production."

(3) In subsection (6)—

(a) in the definition of "qualifying expenditure", omit the "and" at the end of paragraph (a) and after paragraph (b) insert ", and

(c) in relation to a company that is the production company (as defined in section 1217FC of that Act) in relation to a theatrical production, has the same meaning as in Part 15C of that Act,";

(b) omit the "and" at the end of the definition of "television production company" and after that definition insert—

""theatrical production" has the same meaning as in Part 15C of CTA 2009 (see section 1217FA of that Act), and".

PROSPECTIVE

PART 3

COMMENCEMENT

16 (1) Any power to make regulations conferred on the Treasury by virtue of this Schedule comes into force on the day on which this Act is passed.

(2) So far as not already brought into force by sub-paragraph (1), the amendments made by this Schedule come into force in accordance with provision contained in an order made by the Treasury.

(3) An order under sub-paragraph (2) may make different provision for different purposes.

17 (1) The amendments made by this Schedule have effect in relation to accounting periods beginning on or after 1 September 2014.

(2) Sub-paragraph (3) applies where a company has an accounting period beginning before 1 September 2014 and ending on or after that date ("the straddling period").

(3) For the purposes of Part 15C of CTA 2009—

(a) so much of the straddling period as falls before 1 September 2014, and so much of that period as falls on or after that date, are treated as separate accounting periods, and

(b) any amounts brought into account for the purposes of calculating for corporation tax purposes the profits of a trade for the straddling period are apportioned to the two separate accounting periods on such basis as is just and reasonable.

SCHEDULE 5

Section 43

PENSION FLEXIBILITY: FURTHER AMENDMENTS

Temporary extension of period by which commencement lump sum may precede pension

1 In Schedule 29 to FA 2004 (authorised lump sums under registered pension schemes) after paragraph 1 (conditions for a lump sum to be a pension commencement lump sum) insert—

"1A (1) Paragraph 1(1)(c) is to be omitted when deciding whether a lump sum to which this paragraph applies is a pension commencement lump sum.

(2) This paragraph applies to a lump sum if—

(a) the sum is paid in respect of a money purchase arrangement,

(b) the sum is paid before the member becomes entitled to the sum,

(c) either—

(i) the sum is paid on or after 19 September 2013 but before 6 April 2015, or

(ii) the sum is paid before 19 September 2013, a contract for a lifetime annuity is entered into to provide the pension in connection with which the sum is paid, and on or after 19 March 2014 the contract is cancelled, and

(d) the member becomes entitled to the sum before 6 October 2015.

(3) Where—

(a) a lump sum to which this paragraph applies is a pension commencement lump sum but would not be a pension commencement lump sum if sub-paragraph (1) were omitted, and

(b) the lump sum is paid to the member in connection with a pension under the scheme to which it is expected that the member will become entitled ("the expected pension"),

no lump sum paid to the member out of the expected-pension fund is a pension commencement lump sum; and here "the expected-pension fund" means the sums and assets that from time to time represent the sums and assets that, when the lump sum mentioned in paragraph (a) was paid, were held for the purpose of providing the expected pension.

(4) For the purposes of sub-paragraph (2), if the circumstances are as described in sub-paragraph (2)(c)(ii), the member is treated as not having become entitled to the arranged pension as a result of the cancelled contract having been entered into; and here "the arranged pension" means the pension that would have been provided by that contract had it not been cancelled."

Temporary relaxation to allow transfer of pension rights after lump sum paid

2 (1) In Schedule 29 to FA 2004 after paragraph 1A insert—

"1B (1) When deciding whether a lump sum to which this paragraph applies is a pension commencement lump sum—

(a) paragraph 1(1)(aa) and (c) and (3) are to be omitted,

(b) paragraph 1(4) is to be treated as referring to the actual pension (see sub-paragraph (2)(h) of this paragraph), and

(c) paragraph 2(2) is to be treated as referring to the arrangement under which the member was expected to become entitled to the expected pension (see sub-paragraph (2)(b) of this paragraph).

(2) This paragraph applies to a lump sum if—

(a) the sum is paid in respect of a money purchase arrangement,

(b) the sum is paid to the member in connection with a pension under a registered pension scheme to which it is expected that the member will become entitled ("the expected pension"),

(c) the expected pension is income withdrawal, a lifetime annuity or a scheme pension,

(d) the sum is paid before the member becomes entitled to the expected pension,

(e) either—

(i) the sum is paid on or after 19 September 2013 but before 6 April 2015, or

(ii) the sum is paid before 19 September 2013, a contract for a lifetime annuity is entered into to provide the expected pension, and on or after 19 March 2014 the contract is cancelled,

(f) the sum is not repaid at any time before 6 October 2015,

(g) before the member becomes entitled to the expected pension, there is a recognised transfer of the sums and assets that immediately before the transfer represent the sums and assets that when the sum was paid were held for the purpose of providing the expected pension,

(h) the member becomes entitled before 6 October 2015 to a pension under the scheme to which the recognised transfer is made (" the actual pension "),

(i) the actual pension is income withdrawal, a lifetime annuity or a scheme pension, or some combination of them, and

(j) all of the sums and assets that represent the sums and assets transferred by the recognised transfer are used to provide the actual pension.

(3) If a lump sum to which this paragraph applies is a pension commencement lump sum, any lump sum paid—

(a) to the member,

(b) by the scheme to which the recognised transfer mentioned in sub-paragraph (2)(g) is made or by any other registered pension scheme (including the scheme from which the transfer was made), and

(c) in connection with the member's becoming entitled to the actual pension,

is not a pension commencement lump sum.

(4) For the purposes of sub-paragraph (2), if the circumstances are as described in sub-paragraph (2)(e)(ii), the member is treated as not having become entitled to the expected pension as a result of the cancelled contract having been entered into."

(2) In section 166(2) of FA 2004 (time at which a person becomes entitled to a lump sum)—

(a) before paragraph (a) insert—

"(za) in the case of a pension commencement lump sum to which paragraph 1B of Schedule 29 applies (certain sums paid before 6 April 2015), immediately before the person becomes entitled to the actual pension (see paragraph 1B(2)(h) of that Schedule),", and

(b) in paragraph (a) for "of a" substitute " of any other ".

Temporary relaxation to allow lump sum to be repaid to pension scheme that paid it

3 In Chapter 3 of Part 4 of FA 2004 (payments by registered pension schemes) after section 185I insert—

"Repayments of lump sums

185J Effect of repayment of certain pre-6 April 2015 lump sums

(1) For the purposes of this Part—

(a) a lump sum to which this section applies is treated as never having been paid, and

(b) the payment by which it is repaid is treated as not being a payment.

(2) This section applies to a lump sum if—

(a) the sum is paid by a registered pension scheme to a member of the scheme in respect of a money purchase arrangement,

(b) the sum is paid to the member in connection with a pension under the scheme to which it is expected that the member will become entitled ("the expected pension"),

(c) the expected pension is income withdrawal, a lifetime annuity or a scheme pension,

(d) the sum is paid before the member becomes entitled to the expected pension,

(e) either—

(i) the sum is paid on or after 19 September 2013 but before 6 April 2015, or

(ii) the sum is paid before 19 September 2013, a contract for a lifetime annuity is entered into to provide the expected pension, and on or after 19 March 2014 the contract is cancelled,

(f) before the member becomes entitled to the expected pension, the member repays the sum to the pension scheme that paid it, and

(g) the repayment is made before 6 October 2015.

(3) For the purposes of subsection (2), if the circumstances are as described in subsection (2)(e)(ii), the member is treated as not having become entitled to the expected pension as a result of the cancelled contract having been entered into."

Calculation of "applicable amount" in certain cases

4 In paragraph 3 of Schedule 29 to FA 2004 (pension commencement lump sums: applicable amount) after sub-paragraph (8) insert—

"(8A) Sub-paragraphs (1) to (8) have effect subject to the following—

(a) if—

(i) paragraph 1A or 1B applies to the lump sum,

(ii) the lump sum is paid more than 6 months before the day on which the member becomes entitled to it,

(iii) a contract for a lifetime annuity is entered into to provide the pension in connection with which the lump sum is paid, and

(iv) on or after 19 March 2014 the contract is cancelled,

the applicable amount is one third of the annuity purchase price that would have been given by sub-paragraphs (4) to (5) in the case of that annuity had the contract not been cancelled, and

(b) if—

(i) paragraph 1A or 1B applies to the lump sum,

(ii) the lump sum is paid more than 6 months before the day on which the member becomes entitled to it, and

(iii) paragraph (a) does not apply,

the applicable amount is one third of the sums, plus one third of the then market value of the assets, held at the time the lump sum is paid for the purpose of providing the pension at that time expected to be the pension in connection with which the lump sum is paid.

(8B) For the purposes of sub-paragraph (8A)(a)(ii), the member is treated as not having become entitled to a pension as a result of the cancelled contract having been entered into."

Expected pension commencement lump sums treated as trivial commutation lump sums

5 (1) In section 166(1) of FA 2004, in the lump sum rule, omit the "or" after paragraph (f), and after paragraph (g) insert ", or

(h) a transitional 2013/14 lump sum."

(2) In Schedule 29 to FA 2004, after paragraph 11 insert—

"Transitional 2013/14 lump sum, and its related trivial commutation lump sum

11A (1) A lump sum is a transitional 2013/14 lump sum for the purposes of this Part if—

(a) the sum ("the earlier sum") is paid to the member in connection with a pension under a registered pension scheme to which it is expected that the member will become entitled ("the expected pension"),

(b) the earlier sum is paid before the member becomes entitled to the expected pension,

(c) either—

(i) the earlier sum is paid on or after 19 September 2013 but before 27 March 2014, or

(ii) the earlier sum is paid before 19 September 2013, a contract for a lifetime annuity is entered into to provide the expected pension, and on or after 19 March 2014 the contract is cancelled,

(d) all of the sums and assets for the time being representing the sums and assets that when the earlier sum was paid were held for the purpose of providing the expected pension are, before the member becomes entitled to the expected pension, used in paying a further lump sum to the member (" the further sum "),

(e) the further sum is paid on or after 6 July 2014 but before 6 April 2015, and

(f) the further sum is a trivial commutation lump sum (see sub-paragraph (2)).

(2) Sub-paragraph (4) applies when deciding under paragraph 7 whether the further sum is a trivial commutation lump sum in a case where the earlier sum is paid before the nominated date (see paragraph 7(3) for the meaning of "the nominated date").

(3) If the earlier sum is a transitional 2013/14 lump sum, and the earlier sum and the further sum are not the only lump sums paid under registered pension schemes to the member, sub-paragraph (4) applies when deciding under paragraph 7 whether any other lump sum paid under a registered pension scheme to the member is a trivial commutation lump sum.

(4) If this sub-paragraph applies, the payment of the earlier sum is to be treated for the purposes of paragraph 8(1)(b) as a benefit crystallisation event—

(a) which occurs when the earlier sum is paid, and

(b) on which the amount crystallised is the amount of the earlier sum.

(5) If the earlier sum is a transitional 2013/14 lump sum, and only the sums and assets mentioned in sub-paragraph (1)(d) are used in paying the further sum, section 636B of ITEPA 2003 applies in relation to the further sum with the omission of its subsection (3).

(6) If the earlier sum is a transitional 2013/14 lump sum, and the sums and assets mentioned in sub-paragraph (1)(d) are used together with other sums and assets in paying the further sum—

(a) section 636B of ITEPA 2003 applies in relation to the further sum as if instead of the further sum there were two separate trivial commutation lump sums as follows—

(i) one ("the first part of the further sum") consisting of so much of the further sum as is attributable to the sums and assets mentioned in sub-paragraph (1)(d), and

(ii) another consisting of the remainder of the further sum,

(b) the first part of the further sum is to be treated for the purposes of section 636B of ITEPA 2003 as having been paid immediately before the remainder of the further sum,

(c) section 636B of ITEPA 2003 applies in relation to the first part of the further sum with the omission of its subsection (3), and

(d) for the purposes of applying section 636B(3) of ITEPA 2003 in relation to the remainder of the further sum, the rights to which the first part of the further sum relates are to be treated as rights that are not uncrystallised rights immediately before the remainder of the further sum is paid.

(7) For the purposes of sub-paragraph (1), if the circumstances are as described in sub-paragraph (1)(c)(ii), the member is treated as not having become entitled to the expected pension as a result of the cancelled contract having been entered into."

(3) In section 636A of ITEPA 2003 (income tax exemption for certain lump sums)—

(a) in subsection (1) after paragraph (c) insert—

"(ca) a transitional 2013/14 lump sum,", and

(b) in subsection (6) (definitions) omit the "and", and after " "short service refund lump sum"," insert "and

"transitional 2013/14 lump sum",".

(4) In section 280(2) of FA 2004 (index of expressions) at the appropriate place insert—

"transitional 2013/14 lump sum	paragraph 11A of Schedule 29"

Small pot lump sums

6 (1) In the Registered Pension Schemes (Authorised Payments) Regulations 2009 (S.I. 2009/1171) after regulation 3 insert—

"3A (1) This regulation applies to a lump sum if—

(a) the sum ("the earlier sum") is paid under a registered pension scheme to a member of the scheme,

(b) the earlier sum is paid to the member in connection with a pension under a registered pension scheme to which it is expected that the member will become entitled ("the expected pension"),

(c) the earlier sum is paid before the member becomes entitled to the expected pension,

(d) either—

(i) the earlier sum is paid on or after 19 September 2013 but before 27 March 2014, or

(ii) the earlier sum is paid before 19 September 2013, a contract for a lifetime annuity is entered into to provide the expected pension, and on or after 19 March 2014 the contract is cancelled,

(e) all of the sums and assets for the time being representing the sums and assets that when the earlier sum was paid were held for the purpose of providing the expected pension are, before the member becomes entitled to the expected pension, used in paying a further lump sum to the member (" the further sum "),

(f) the further sum is paid on or after 6 July 2014 but before 6 April 2015, and

(g) either—

(i) the payment of the further sum is a payment described in regulation 11, 11A or 12, or

(ii) the further sum is a trivial commutation lump sum within paragraph 7A of Schedule 29 and the earlier sum is the pension commencement lump sum in connection with which the further sum is paid.

(2) If this regulation applies to the earlier sum, and the payment of the further sum is a payment described in regulation 11, 11A or 12—

(a) the payment of the earlier sum is a payment of a prescribed description for the purposes of section 164(1)(f), and

(b) section 636A of ITEPA 2003 (exemption from income tax for certain lump sums) applies in relation to the earlier sum as if the earlier sum were a pension commencement lump sum.

(3) When deciding for the purposes of this regulation whether the further sum is a trivial commutation lump sum within paragraph 7A of Schedule 29, sub-paragraph (2)(c) of that paragraph is to be omitted.

(4) If this regulation applies to the earlier sum, and only the sums and assets mentioned in paragraph (1)(e) are used in paying the further sum, section 636B of ITEPA 2003 applies in relation to the further sum with the omission of its subsection (3).

(5) If this regulation applies to the earlier sum, and the sums and assets mentioned in paragraph (1)(e) are used together with other sums and assets in paying the further sum—

(a) section 636B of ITEPA 2003 applies in relation to the further sum as if instead of the further sum there were two separate trivial commutation lump sums as follows—

(i) one ("the first part of the further sum") consisting of so much of the further sum as is attributable to the sums and assets mentioned in paragraph (1)(e), and

(ii) another consisting of the remainder of the further sum,

(b) the first part of the further sum is to be treated for the purposes of section 636B of ITEPA 2003 as having been paid immediately before the remainder of the further sum,

(c) section 636B of ITEPA 2003 applies in relation to the first part of the further sum with the omission of its subsection (3), and

(d) for the purposes of applying section 636B(3) of ITEPA 2003 in relation to the remainder of the further sum, the rights to which the first part of the further sum relates are to be treated as rights that are not uncrystallised rights immediately before the remainder of the further sum is paid.

(6) For the purposes of paragraph (1), if the circumstances are as described in paragraph (1)(d)(ii), the member is treated as not having become entitled to the expected pension as a result of the cancelled contract having been entered into."

(2) The amendment made by sub-paragraph (1) is to be treated as having been made by the Commissioners for Her Majesty's Revenue and Customs under the powers to make regulations conferred by section 164(1)(f) and (2) of FA 2004.

Preservation of protected pension age following certain transfers of pension rights

7 (1) In paragraph 22 of Schedule 36 to FA 2004 (protection of rights to take benefit before normal minimum pension age) after sub-paragraph (6) insert—

"(6A) A transfer is also a block transfer if—

(a) it involves the transfer in a single transaction of all the sums and assets held for the purposes of, or representing accrued rights under, the arrangements under the pension scheme from which the transfer is made which relate to the member,

(b) the transfer takes place—

(i) on or after 19 March 2014, and

(ii) before 6 April 2015, and

(c) the date mentioned in sub-paragraph (7)(a) is before 6 October 2015."

(2) In paragraph 23(6) of Schedule 36 to FA 2004 (meaning of "block transfer") after "22(6)" insert " and (6A), but for this purpose paragraph 22(6A)(c) is to be read as if its reference to paragraph 22(7)(a) were a reference to sub-paragraph (7) of this paragraph ".

Operation of enhanced protection of pre-6 April 2006 rights to take lump sums

8 In paragraph 29 of Schedule 36 to FA 2004 (modifications of paragraph 3 of Schedule 29 to FA 2004 for cases where there is enhanced protection) after sub-paragraph (3) insert—

"(4) Paragraph 3 applies as if in sub-paragraph (8A)(a) for "is one third of" there were substituted "is—

$$\frac{\text{VULSR}}{\text{VUR}} \times (\text{LS} + \text{CAPP})$$

where VULSR, VUR and LS have the same meaning as in sub-paragraph (1), and CAPP is".

(5) Paragraph 3 applies as if in sub-paragraph (8A)(b) for "is one third of the sums, plus one third of" there were substituted "is—

$$\frac{\text{VULSR}}{\text{VUR}} \times (\text{LS} + \text{EP})$$

where VULSR, VUR and LS have the same meaning as in sub-paragraph (1), and EP is the total of the sums, and"."

Protected lump sum entitlement following certain transfers of pension rights

9 In paragraph 31(8) of Schedule 36 to FA 2004 ("block transfer" has meaning given by paragraph 22(6) of Schedule 36 to FA 2004)—

(a) after "22(6)" insert " and (6A) ", and

(b) at the end insert " , and reading paragraph 22(6A)(c) as if its reference to paragraph 22(7)(a) were a reference to sub-paragraph (3) of this paragraph. "

10 (1) In paragraph 34(2) of Schedule 36 to FA 2004 (modifications required by paragraph 31 in cases involving protected entitlements to lump sums) the sub-paragraphs treated as substituted in paragraph 2 of Schedule 29 to FA 2004 are amended as follows.

(2) In the substituted sub-paragraph (7A), in the definition of AC, for "(7AA) and (7B))" substitute " (7AA) to (7B)) ".

(3) After the substituted sub-paragraph (7AA) insert—

"(7AB) Where paragraph 1A applies to the lump sum, AC is the total of—

(a) the sums held, at the time the lump sum is paid, for the purpose of providing the pension at that time expected to be the pension in connection with which the lump sum is paid, and

(b) the market value at that time of the assets held at that time for that purpose.

(7AC) Where paragraph 1B applies to the lump sum, AC is the total of—

(a) the sums held, at the time the lump sum is paid, for the purpose of providing the expected pension (see paragraph 1B(2)(b)), and

(b) the market value at that time of the assets held at that time for that purpose."

Reporting obligations

11 (1) In the Registered Pension Schemes (Provision of Information) Regulations 2006 (S.I. 2006/567) after regulation 18 insert—

"Modified operation of these Regulations in the case of certain pre-6 April 2015 lump sums

Lump sums to which paragraph 1B of Schedule 29 applies

19 (1) Regulations 3 to 18 have effect subject to the following provisions of this regulation.

(2) Paragraphs (3) to (8) apply if—

(a) a lump sum is paid by a registered pension scheme ("the paying scheme") to a member of the scheme,

(b) paragraph 1B of Schedule 29 applies to the lump sum, and

(c) the member's becoming entitled to the actual pension mentioned in paragraph 1B(2)(h) of Schedule 29 has the effect that—

(i) the member also becomes entitled to the lump sum, and

(ii) the member's becoming entitled to the lump sum is a benefit crystallisation event.

(3) For the purposes of—

(a) reportable event 6,

(b) regulation 3 so far as applying by virtue of that event, and

(c) obligations under regulation 14(1),

the benefit crystallisation event mentioned in paragraph (2)(c)(ii) is treated as occurring—

(i) in respect of the scheme to which the transfer mentioned in paragraph 1B(2)(g) of Schedule 29 was made ("the receiving scheme") and not in respect of the paying scheme, and

(ii) when the member becomes entitled to the actual pension or, if later, on 5 August 2014.

(4) For the purposes of regulations 15(2)(a) and 17(5)(a)(i) and (7)(a)(i), that benefit crystallisation event is treated as occurring in respect of the receiving scheme and not in respect of the paying scheme.

(5) For the purposes of—

(a) reportable event 7 (but not its definition of "the entitlement amount"),

(b) reportable event 8, and

(c) regulation 3 so far as applying by virtue of either of those events,

the lump sum is treated as having been paid—

(i) by the receiving scheme and not by the paying scheme, and

(ii) when the member becomes entitled to the actual pension or, if later, on 5 August 2014.

(6) For the purposes of reportable event 7 "the entitlement amount" is the total of—

(a) the sums held, at the time the lump sum is actually paid, for the purpose of providing the expected pension mentioned in paragraph 1B(2)(b) of Schedule 29, and

(b) the market value at that time of the assets held at that time for that purpose.

(7) The scheme administrator of the paying scheme is to provide the scheme administrator of the receiving scheme with the following information—

(a) the date the lump sum was paid,

(b) the amount of the lump sum,

(c) the total of—

(i) the sums held, at the time lump sum is paid, for the purpose of providing the expected pension mentioned in paragraph 1B(2)(b) of Schedule 29, and

(ii) the market value at that time of the assets held at that time for that purpose, and

(d) a statement that no further pension commencement lump sum may be paid in connection with that expected pension.

(8) The scheme administrator of the paying scheme is to comply with its obligations under paragraph (7) before—

(a) the end of 30 days beginning with the date of the transfer mentioned in paragraph 1B(2)(g) of Schedule 29, or

(b) if later, the end of 3 September 2014.

Lump sums to which paragraph 1B of Schedule 29 fails to apply

20 (1) Regulations 3 to 18 have effect subject to the following provisions of this regulation.

(2) Paragraph (3) applies if—

(a) a lump sum is paid by a registered pension scheme ("the paying scheme") to a member of the scheme,

(b) paragraph 1B of Schedule 29 does not apply to the lump sum, but the conditions in paragraph 1B(2)(a) to (g) are met in the case of the lump sum, and

(c) as at the end of 5 October 2015 it is the case that the lump sum is to be taken as having been an unauthorised member payment.

(3) For the purposes of reportable event 1, and regulation 3 so far as applying by virtue of that event, the lump sum is treated as having been paid—

(a) by the receiving scheme and not by the paying scheme, and

(b) on 6 October 2015."

(2) The amendment made by sub-paragraph (1) is to be treated as having been made by the Commissioners for Her Majesty's Revenue and Customs under such of the powers cited in the instrument containing the Regulations as are applicable.

Scheme sanction charges

12 (1) In section 239(3) of FA 2004 (cases where person other than scheme administrator is liable for a scheme sanction charge)—

(a) after "But" insert "—

(a)",

and

(b) at the end insert ", and

(b) in the case of a payment of a lump sum to a member where the conditions in paragraphs 1(1)(b) and (d) and 1B(2)(a) to (g) of Schedule 29 are met, the person liable to the scheme sanction charge so far as relating to any part of the lump sum within the permitted maximum is the scheme administrator of the registered pension scheme to which the transfer mentioned in paragraph 1B(2)(g) of Schedule 29 is made."

(2) In section 239 of FA 2004 (scheme sanction charges) after subsection (3) insert—

"(3A) For the purposes of subsection (3)(b) "the permitted maximum", in the case of a lump sum paid to an individual, is the amount that in accordance with paragraph 2 of Schedule 29 would be the permitted maximum for that lump sum if the individual became entitled at the time the lump sum is paid to the pension at that time expected to be the pension in connection with which the lump sum is paid."

(3) In section 268 of FA 2004 (discharge of liability to scheme sanction charges etc) after subsection (7) insert—

"(7A) Subsection (7) applies with the omission of its paragraph (a) if the scheme chargeable payment is a payment of a lump sum where the conditions in paragraph 1B(2)(a) to (g) of Schedule 29 are met."

(4) In the Taxation of Pension Schemes (Transitional Provisions) Order 2006 (S.I. 2006/572) in article 18 (which provides for paragraph 1(1)(b) of Schedule 29 to FA 2004 to be omitted in certain cases) at the end insert " , and section 239 has effect in the case of a lump sum paid to that individual as if its subsection (3)(b) did not include a reference to paragraph 1(1)(b) of Schedule 29 ".

(5) The amendment made by sub-paragraph (4) is to be treated as made by the Treasury under the powers to make orders conferred by section 283(2) of FA 2004.

Power to make further adjustments

13 In section 166 of FA 2004 (payments by registered pension schemes: the lump sum rule) after subsection (4) insert—

"(5) The Commissioners for Her Majesty's Revenue and Customs may by regulations amend Part 1 of Schedule 29, or Part 3 of Schedule 36, in connection with cases involving a lump sum within subsection (6).

(6) A lump sum is within this subsection if—

(a) the sum is paid on or after 19 September 2013 and before 6 April 2015, or

(b) the sum is paid before 19 September 2013, a contract for a lifetime annuity is entered into to provide the pension in connection with which the sum is paid, and on or after 19 March 2014 the contract is cancelled.

(7) The provision that may be made under subsection (5) includes provision altering the effect of amendments made by the Finance Act 2014."

14 In section 282(1) and (2) of FA 2004 (making of regulations and orders) for "Board of Inland Revenue" substitute " Commissioners for Her Majesty's Revenue and Customs ".

Commencement

15 The amendments made by paragraphs 1 to 5, 6(1), 7 to 10, 11(1) and 12(1) to (4) of this Schedule are to be treated as having come into force on 19 March 2014.

SCHEDULE 6

Section 44

TRANSITIONAL PROVISION RELATING TO NEW STANDARD LIFETIME ALLOWANCE FOR THE TAX YEAR 2014-15 ETC

Modifications etc. (not altering text)
C2 Sch. 6 applied (S.) (1.6.2018) by The Local Government Pension Scheme (Scotland) Regulations 2018 (S.S.I. 2018/141), regs. 1(1), **48(2)**

PART 1

"INDIVIDUAL PROTECTION 2014"

The protection

1 (1) Sub-paragraph (2) applies on and after 6 April 2014 in the case of an individual—

(a) who, on 5 April 2014, has one or more relevant arrangements (see sub-paragraph (4)),

(b) whose relevant amount is greater than £1,250,000 (see sub-paragraph (5)), and

(c) in relation to whom paragraph 7 of Schedule 36 to FA 2004 (primary protection) does not make provision for a lifetime allowance enhancement factor,

if notice of intention to rely on it is given to an officer of Revenue and Customs before 6 April 2017.

(2) Part 4 of FA 2004 has effect in relation to the individual as if the standard lifetime allowance were—

(a) if the individual's relevant amount is greater than £1,500,000, the greater of the standard lifetime allowance and £1,500,000, or

(b) otherwise, the greater of the standard lifetime allowance and the individual's relevant amount.

(3) But sub-paragraph (2) does not apply at any time when any of the following provisions applies in the case of the individual—

(a) paragraph 12 of Schedule 36 to FA 2004 (enhanced protection);

(b) paragraph 14 of Schedule 18 to FA 2011 (fixed protection 2012);

(c) paragraph 1 of Schedule 22 to FA 2013 (fixed protection 2014).

(4) "Relevant arrangement", in relation to an individual, means an arrangement relating to the individual under—

(a) a registered pension scheme of which the individual is a member, or

(b) a relieved non-UK pension scheme of which the individual is a relieved member.

(5) An individual's "relevant amount" is the sum of amounts A, B, C and D (see paragraphs 2 to 5).

(6) Sub-paragraphs (7) and (8) apply if rights of an individual under a relevant arrangement become subject to a pension debit where the transfer day falls on or after 6 April 2014.

(7) For the purpose of applying sub-paragraph (2) in the case of the individual on and after the transfer day, the individual's relevant amount is reduced (or further reduced) by the following amount—

$$X - (Y \times Z)$$

where—

X is the appropriate amount,

Y is 5% of X, and

Z is the number of tax years beginning after 5 April 2014 but ending on or before the transfer day.

(If the formula gives a negative amount, it is to be taken to be nil.)

(8) But if the individual's relevant amount would be reduced (or further reduced) to £1,250,000 or less, sub-paragraph (2) is not to apply at all in the case of the individual on and after the transfer day.

(9) In sub-paragraphs (6) to (8) "appropriate amount" and "transfer day", in relation to a pension debit, have the same meaning as in section 29 of WRPA 1999 or Article 26 of WRP(NI)O 1999 (as the case may be).

Amount A (pre-6 April 2006 pensions in payment)

2 (1) To determine amount A—

(a) apply sub-paragraph (2) if a benefit crystallisation event has occurred in relation to the individual during the period comprising the tax year 2006-07 and all subsequent tax years up to (and including) the tax year 2013-14;

(b) otherwise, apply sub-paragraph (6).

(2) If this sub-paragraph is to be applied, amount A is—

$$25 \times \text{ARP} \times \frac{1{,}500{,}000}{\text{SLT}}$$

where—

ARP is (subject to sub-paragraph (3)) an amount equal to—

(a) the annual rate at which any relevant existing pension was payable to the individual at the time immediately before the benefit crystallisation event occurred, or

(b) if more than one relevant existing pension was payable to the individual at that time, the sum of the annual rates at which each of the relevant existing pensions was so payable, and

SLT is an amount equal to what the standard lifetime allowance was at the time the benefit crystallisation event occurred.

(3) Paragraph 20(4) of Schedule 36 to FA 2004 applies for the purposes of the definition of "ARP" in sub-paragraph (2) (and, for this purpose, in paragraph 20(4) any reference to "the time" is to be read as a reference to the time immediately before the benefit crystallisation event occurred).

(4) If the time immediately before the benefit crystallisation event occurred falls before 6 April 2011, in sub-paragraph (3) references to paragraph 20(4) are to be read as references to that provision as it stood at the time immediately before the benefit crystallisation event occurred.

(5) If more than one benefit crystallisation event has occurred, in sub-paragraphs (2) to (4) references to the benefit crystallisation event are to be read as references to the first benefit crystallisation event.

(6) If this sub-paragraph is to be applied, amount A is—

$$25 \times \text{ARP}$$

where ARP is (subject to sub-paragraph (7)) an amount equal to—

a the annual rate at which any relevant existing pension is payable to the individual at the end of 5 April 2014, or

b if more than one relevant existing pension is payable to the individual at the end of 5 April 2014, the sum of the annual rates at which each of the relevant existing pensions is so payable.

(7) Paragraph 20(4) of Schedule 36 to FA 2004 applies for the purposes of the definition of "ARP" in sub-paragraph (6) (and, for this purpose, in paragraph 20(4) any reference to "the time" is to be read as a reference to 5 April 2014).

(8) In this paragraph "relevant existing pension" means (subject to sub-paragraph (9)) a pension, annuity or right—

(a) which was, at the end of 5 April 2006, a "relevant existing pension" as defined by paragraph 10(2) and (3) of Schedule 36 to FA 2004, and

(b) the payment of which the individual had, at the end of 5 April 2006, an actual (rather than a prospective) right to.

(9) If—

(a) before 6 April 2014, there was a recognised transfer of sums or assets representing a relevant existing pension, and

(b) those sums or assets were, after the transfer, applied towards the provision of a scheme pension ("the new scheme pension"),

the new scheme pension is also to be a "relevant existing pension" (including for the purposes of this sub-paragraph).

Amount B (pre-6 April 2014 benefit crystallisation events)

3 (1) To determine amount B—

(a) identify each benefit crystallisation event that has occurred in relation to the individual during the period comprising the tax year 2006-07 and all subsequent tax years up to (and including) the tax year 2013-14,

(b) determine the amount which was crystallised by each of those benefit crystallisation events (applying paragraph 14 of Schedule 34 to FA 2004 if relevant), and

(c) multiply each crystallised amount by the following fraction—

$$\frac{1{,}500{,}000}{SLT}$$

where SLT is an amount equal to what the standard lifetime allowance was at the time the benefit crystallisation event in question occurred.

(2) Amount B is the sum of the crystallised amounts determined under sub-paragraph (1)(b) as adjusted under sub-paragraph (1)(c).

Amount C (uncrystallised rights at end of 5 April 2014 under registered pension schemes)

4 Amount C is the total value of the individual's uncrystallised rights at the end of 5 April 2014 under arrangements relating to the individual under registered pension schemes of which the individual is a member as determined in accordance with section 212 of FA 2004.

Amount D (uncrystallised rights at end of 5 April 2014 under relieved non-UK pension schemes)

5 (1) To determine amount D—

(a) identify each relieved non-UK pension scheme of which the individual is a relieved member at the end of 5 April 2014, and

(b) in relation to each such scheme—

(i) assume that a benefit crystallisation event occurs in relation to the individual at the end of 5 April 2014, and

(ii) in accordance with paragraph 14 of Schedule 34 to FA 2004, determine what the untested portion of the relevant relieved amount would be immediately before the assumed benefit crystallisation event.

(2) Amount D is the sum of the untested portions determined under sub-paragraph (1)(b)(ii).

Interpretation

6 (1) Expressions used in this Part of this Schedule and Part 4 of FA 2004 have the same meaning in this Part as in that Part.

(2) In particular, references to a relieved non-UK pension scheme or a relieved member of such a scheme are to be read in accordance with paragraphs 13(3) and (4) and 18 of Schedule 34 to FA 2004.

PART 2

REGULATIONS

7 (1) The Commissioners for Her Majesty's Revenue and Customs may by regulations amend Part 1 of this Schedule.

(2) Regulations under this paragraph may (for example) add to the cases in which paragraph 1(2) is to apply.

(3) Regulations under this paragraph must not increase any person's liability to tax.

(4) Regulations under this paragraph may include provision having effect in relation to a time before the regulations are made; but the time must be no earlier than 6 April 2014.

8 (1) The Commissioners for Her Majesty's Revenue and Customs may by regulations make provision specifying how any notice required to be given to an officer of Revenue and Customs under Part 1 of this Schedule is to be given.

(2) In sub-paragraph (1) the reference to Part 1 of this Schedule is to that Part as amended from time to time by regulations under paragraph 7.

9 (1) Regulations under paragraph 7 or 8 may include supplementary or incidental provision.

(2) The powers to make regulations under paragraphs 7 and 8 are exercisable by statutory instrument.

(3) A statutory instrument containing regulations under paragraph 7 or 8 is subject to annulment in pursuance of a resolution of the House of Commons.

PART 3

OTHER PROVISION

Amendment of section 219(5A) of FA 2004

10 (1) In section 219 of FA 2004 (availability of individual's lifetime allowance) in subsection (5A) after "effect" insert " where the previous benefit crystallisation event occurred before 6 April 2014 ".

(2) The amendment made by this paragraph is treated as having come into force on 6 April 2014.

Amendment of section 98 of TMA 1970

11 (1) Column 2 of the Table at the end of section 98 of TMA 1970 (special returns: penalties) is amended as follows.

(2) After the entry for section 228 of TIOPA 2010 insert—

"Regulations under paragraph 16 of Schedule 18 to the Finance Act 2011."

(3) After the entry for regulations under section 61(5) of FA 2012 insert—

"Regulations under paragraph 3 of Schedule 22 to the Finance Act 2013.
Regulations under paragraph 8 of Schedule 6 to the Finance Act 2014."

SCHEDULE 7

Section 46

PENSION SCHEMES

Introduction

1 Part 4 of FA 2004 (pension schemes etc) is amended as follows.

Registration of pension schemes

2 (1) Section 153 (applications for registration) is amended as follows.

(2) In subsection (4) for "On" substitute " Following ".

(3) In subsection (5) for paragraphs (a) and (b) substitute—

"(a) any information falling within subsection (5A) is inaccurate in a material respect,

(b) any document falling within subsection (5B) contains a material inaccuracy,

(c) any declaration accompanying the application is false,

(d) the scheme administrator has failed to comply with an information notice under section 153A given in connection with the application (including any declaration accompanying it),

(e) the scheme administrator has deliberately obstructed an officer of Revenue and Customs in the course of an inspection under section 153B carried out in connection with the application (including any declaration accompanying it) where the inspection has been approved by the tribunal,

(f) the pension scheme has not been established, or is not being maintained, wholly or mainly for the purpose of making payments falling within section 164(1)(a) or (b) (authorised payments of pensions and lump sums), or

(g) the person who is, or any of the persons who are, the scheme administrator is not a fit and proper person to be, as the case may be—

(i) the scheme administrator, or

(ii) one of the persons who are the scheme administrator."

(4) After subsection (5) insert—

"(5A) The information falling within this subsection is any information—

(a) contained in the application, or

(b) otherwise provided to an officer of Revenue and Customs by the scheme administrator (whether under section 153A or otherwise) in connection with the application (including any declaration accompanying it).

(5B) The documents falling within this subsection are any documents produced to an officer of Revenue and Customs by the scheme administrator (whether under section 153A or otherwise) in connection with the application (including any declaration accompanying it).

(5C) The reference in subsection (5)(d) to the scheme administrator having failed to comply with an information notice under section 153A includes a case where the scheme administrator has concealed, destroyed or otherwise disposed of, or has arranged for the concealment, destruction or disposal of, a document in breach of paragraph 42 or 43 of Schedule 36 to the Finance Act 2008 as applied by section 153A(3)."

3 After section 153 insert—

"**153A Power to require information or documents in relation to applications for registration**

(1) This section applies where an application for a pension scheme to be registered is made.

(2) An officer of Revenue and Customs may by notice (an "information notice") require the scheme administrator or any other person—

(a) to provide the officer with any information, or

(b) to produce a document to the officer,

if the officer reasonably requires the information or document in connection with the application (including any declaration accompanying it).

(3) Paragraphs 6(2), 7, 8, 15, 16, 18 to 20, 23 to 27, 42 and 43 of Schedule 36 to the Finance Act 2008 (information notices etc) apply in relation to information notices under this section as they apply in relation to information notices under that Schedule.

(4) Where an information notice under this section is given to a person other than the scheme administrator, an officer of Revenue and Customs must give a copy of the notice to the scheme administrator.

(5) A person, other than the scheme administrator, who is given an information notice under this section may appeal against the notice or any requirement in the notice.

(6) Paragraph 32 of Schedule 36 to the Finance Act 2008 (procedures for appeals against information notices) applies for the purposes of an appeal under subsection (5) as it applies for the purposes of an appeal under Part 5 of that Schedule.

153B Power to inspect documents in relation to applications for registration

(1) This section applies where an application for a pension scheme to be registered is made.

(2) An officer of Revenue and Customs may—

(a) enter any business premises of the scheme administrator or any other person, and

(b) inspect documents that are on the premises,

if the officer reasonably requires to inspect the documents in connection with the application (including any declaration accompanying it).

(3) In subsection (2)(a) "business premises" has the meaning given by paragraph 10(3) of Schedule 36 to the Finance Act 2008 (power to inspect business premises etc).

(4) Paragraphs 10(2), 12, 15 and 16 of Schedule 36 to the Finance Act 2008 apply in relation to the power of inspection conferred by this section as they apply in relation to the power of inspection conferred by paragraph 10 of that Schedule.

(5) An officer of Revenue and Customs may not inspect a document under this section if or to the extent that, by virtue of a provision of Part 4 of Schedule 36 to the Finance Act 2008 (restrictions on powers) applied by section 153A(3), an information notice under section 153A given at the time of the inspection to the occupier of the premises could not require the occupier to produce the document.

(6) An officer of Revenue and Customs may ask the tribunal to approve an inspection under this section.

(7) Paragraph 13(1A), (2) and (3) of Schedule 36 to the Finance Act 2008 (approval of tribunal for inspections) applies in relation to an application under subsection (6) as it applies in relation to an application under paragraph 13 of that Schedule in relation to an inspection under paragraph 10 of that Schedule.

153C Penalties for failure to comply with information notices etc

(1) This section applies where a person other than the scheme administrator—

(a) fails to comply with an information notice under section 153A, or

(b) deliberately obstructs an officer of Revenue and Customs in the course of an inspection under section 153B that has been approved by the tribunal.

(2) The reference in subsection (1)(a) to a person who fails to comply with an information notice includes a person who conceals, destroys or otherwise disposes of, or arranges for the concealment, destruction or disposal of, a document in breach of paragraph 42 or 43 of Schedule 36 to the Finance Act 2008 as applied by section 153A(3).

(3) Paragraphs 39(2), 40 and 44 to 49 of Schedule 36 to the Finance Act 2008 (penalties for failure to comply with information notice etc) apply in relation

to the failure or obstruction as they apply in relation to a failure or obstruction mentioned in paragraph 39(1) of that Schedule.

153D Penalties for inaccurate information in applications

(1) This section applies where—

(a) an application under section 153 contains information which is inaccurate,

(b) the inaccuracy is material, and

(c) condition A, B or C is met.

(2) Condition A is that the inaccuracy is careless or deliberate.

(3) An inaccuracy is careless if it is due to a failure by the scheme administrator to take reasonable care.

(4) Condition B is that the scheme administrator knows of the inaccuracy at the time the application is made but does not inform an officer of Revenue and Customs at that time.

(5) Condition C is that the scheme administrator—

(a) discovers the inaccuracy some time later, and

(b) fails to take reasonable steps to inform an officer of Revenue and Customs.

(6) The scheme administrator is liable to a penalty not exceeding the maximum penalty for which the scheme administrator could have been liable under paragraph 40A of Schedule 36 to the Finance Act 2008 (penalties for inaccurate information and documents) had that paragraph applied in relation to the inaccuracy.

(7) Where the information contains more than one material inaccuracy, a penalty is payable for each inaccuracy.

(8) Paragraphs 46 to 49 of Schedule 36 to the Finance Act 2008 (assessment of penalties etc) apply in relation to a penalty under this section as they apply in relation to a penalty under paragraph 40A of that Schedule.

153E Penalties for inaccurate information or documents provided under information notice

(1) This section applies where—

(a) in complying with an information notice under section 153A, a person provides inaccurate information or produces a document that contains an inaccuracy, and

(b) the inaccuracy is material.

(2) Paragraphs 40A and 46 to 49 of Schedule 36 to the Finance Act 2008 (penalties for inaccurate information and documents) apply in relation to the inaccuracy as they apply in relation to an inaccuracy connected with an information notice under that Schedule.

153F Penalties for false declarations

(1) This section applies where—

(a) a declaration accompanying an application under section 153 is false, and

(b) at least one of conditions A to C in section 153D is met (reading references to an inaccuracy as references to a falsehood and references to the scheme administrator as references to the person who made the declaration).

(2) The person who made the declaration is liable to a penalty not exceeding the maximum penalty for which the person could have been liable under paragraph 40A of Schedule 36 to the Finance Act 2008 (penalties for inaccurate information and documents) had that paragraph applied in relation to the falsehood.

(3) Where the declaration contains more than one falsehood, a penalty is payable in relation to each falsehood.

(4) Paragraphs 46 to 49 of Schedule 36 to the Finance Act 2008 (assessment of penalties etc) apply in relation to a penalty under this section as they apply in relation to a penalty under paragraph 40A of that Schedule."

4 After section 156 insert—

"**156A Cases where application for registration not decided within 6 months**

(1) This section applies where—

(a) an application for a pension scheme to be registered is made, but

(b) the scheme administrator is not notified under section 153(6) within the period of 6 months after the day on which the application is made.

(2) The scheme administrator may appeal to the tribunal as if, at the end of that period of 6 months, the scheme administrator had been notified under section 153(6) of a decision not to register the scheme; and section 156(5) to (8) applies accordingly."

5 (1) The amendments made by paragraphs 2 to 4 are treated as having come into force on 20 March 2014 and have effect in relation to applications made on or after that date.

(2) In relation to an application made before 1 September 2014, section 153(5) of FA 2004 (as amended by paragraph 2(3)) has effect with the omission of paragraph (g).

De-registration of pension schemes

6 (1) Section 158 (grounds for de-registration) is amended as follows.

(2) In subsection (1)—

(a) before paragraph (a) insert—

"(za) that the pension scheme has not been established, or is not being maintained, wholly or mainly for the purpose of making payments falling within section 164(1)(a) or (b) (authorised payments of pensions and lump sums),",

(b) in paragraph (d) for "incorrect" substitute " inaccurate ",

(c) after paragraph (d) insert—

"(da) that the scheme administrator fails to produce any document required to be produced to an officer of Revenue and Customs by virtue of this Part or Part 1 of Schedule 36 to the Finance Act 2008,

(db) that any document produced to an officer of Revenue and Customs by the scheme administrator contains a material inaccuracy in relation to which at least one of conditions A to C in subsections (7) to (10) is met,", and"

(d) for paragraph (e) substitute—

"(e) that any declaration accompanying the application to register the pension scheme, or otherwise made to an officer of Revenue and Customs in connection with the pension scheme, is false in a material particular,

(ea) that the scheme administrator has deliberately obstructed an officer of Revenue and Customs in the course of an inspection under Part 2 of Schedule 36 to the Finance Act 2008 that has been approved by the tribunal, or".

(3) In subsection (1) (as amended by sub-paragraph (2) above)—

(a) after paragraph (za) insert—

"(zb) that the person who is, or any of the persons who are, the scheme administrator is not a fit and proper person to be, as the case may be—

(i) the scheme administrator, or

(ii) one of the persons who are the scheme administrator,", and

(b) in paragraph (ea) after "under" insert " section 159B or ".

(4) After subsection (5) insert—

"(6) Subsections (7) to (10) apply for the purposes of subsection (1)(db).

(7) Condition A is that the inaccuracy is careless or deliberate.

(8) An inaccuracy is careless if it is due to a failure by the scheme administrator to take reasonable care.

(9) Condition B is that the scheme administrator knows of the inaccuracy at the time the document is produced to an officer of Revenue and Customs but does not inform such an officer at that time.

(10) Condition C is that the scheme administrator—

(a) discovers the inaccuracy some time later, and

(b) fails to take reasonable steps to inform an officer of Revenue and Customs."

7 In Chapter 2, after section 159 insert—

"**159A Power to require information or documents for purpose of considering if scheme administrator is fit and proper**

(1) An officer of Revenue and Customs may by notice (an "information notice") require the scheme administrator of a registered pension scheme or any other person—

(a) to provide the officer with any information, or

(b) to produce a document to the officer,

if the officer reasonably requires the information or document for the purpose of considering whether the person who is, or any of the persons who are, the scheme administrator is a fit and proper person to be the scheme administrator or one of those persons (as the case may be).

(2) Paragraphs 6(2), 7, 8, 15, 16, 18 to 20, 23 to 27, 42 and 43 of Schedule 36 to the Finance Act 2008 (information notices etc) apply in relation to information notices under this section as they apply in relation to information notices under that Schedule.

(3) Where an information notice under this section is given to a person other than the scheme administrator, an officer of Revenue and Customs must give a copy of the notice to the scheme administrator.

(4) A person who is given an information notice under this section may appeal against the notice or any requirement in the notice.

(5) Paragraph 32 of Schedule 36 to the Finance Act 2008 (procedures for appeals against information notices) applies for the purposes of an appeal under subsection (4) as it applies for the purposes of an appeal under Part 5 of that Schedule.

159B Power to inspect documents for purpose of considering if scheme administrator is fit and proper

(1) An officer of Revenue and Customs may—

(a) enter any business premises of the scheme administrator of a registered pension scheme or of any other person, and

(b) inspect documents that are on the premises,

if the officer reasonably requires to inspect the documents for the purpose of considering whether the person who is, or any of the persons who are, the scheme administrator is a fit and proper person to be the scheme administrator or one of those persons (as the case may be).

(2) In subsection (1)(a) "business premises" has the meaning given by paragraph 10(3) of Schedule 36 to the Finance Act 2008 (power to inspect business premises etc).

(3) Paragraphs 10(2), 12, 15 and 16 of Schedule 36 to the Finance Act 2008 apply in relation to the power of inspection conferred by this section as they apply in relation to the power of inspection conferred by paragraph 10 of that Schedule.

(4) An officer of Revenue and Customs may not inspect a document under this section if or to the extent that, by virtue of a provision of Part 4 of Schedule 36

to the Finance Act 2008 (restrictions on powers) applied by section 159A(2), an information notice under section 159A given at the time of the inspection to the occupier of the premises could not require the occupier to produce the document.

(5) An officer of Revenue and Customs may ask the tribunal to approve an inspection under this section.

(6) Paragraph 13(1A), (2) and (3) of Schedule 36 to the Finance Act 2008 (approval of tribunal for inspections) applies in relation to an application under subsection (5) as it applies in relation to an application under paragraph 13 of that Schedule in relation to an inspection under paragraph 10 of that Schedule.

159C Penalties for failure to comply with information notices etc

(1) This section applies where a person—

(a) fails to comply with an information notice under section 159A, or

(b) deliberately obstructs an officer of Revenue and Customs in the course of an inspection under section 159B that has been approved by the tribunal.

(2) The reference in subsection (1)(a) to a person who fails to comply with an information notice includes a person who conceals, destroys or otherwise disposes of, or arranges for the concealment, destruction or disposal of, a document in breach of paragraph 42 or 43 of Schedule 36 to the Finance Act 2008 as applied by section 159A(2).

(3) Paragraphs 39(2), 40 and 44 to 49 of Schedule 36 to the Finance Act 2008 (penalties for failure to comply with information notice etc) apply in relation to the failure or obstruction as they apply in relation to a failure or obstruction mentioned in paragraph 39(1) of that Schedule.

159D Penalties for inaccurate information or documents provided under information notice

(1) This section applies where—

(a) in complying with an information notice under section 159A, a person provides inaccurate information or produces a document that contains an inaccuracy, and

(b) the inaccuracy is material.

(2) Paragraphs 40A and 46 to 49 of Schedule 36 to the Finance Act 2008 (penalties for inaccurate information and documents) apply in relation to the inaccuracy as they apply in relation to an inaccuracy connected with an information notice under that Schedule."

8 (1) The amendments made by paragraphs 6 and 7 have effect in relation to pension schemes whenever registered (including schemes registered by virtue of paragraph 1 of Schedule 36 to FA 2004 (deemed registration of existing schemes)).

(2) The amendments made by paragraph 6(2) and (4) are treated as having come into force on 20 March 2014.

(3) The amendments made by paragraphs 6(3) and 7 come into force on 1 September 2014 or, if later, the day after the day on which this Act is passed.

Declarations required from person who is to be a scheme administrator

9 (1) In section 270 (meaning of "scheme administrator") in subsection (2)—

(a) after paragraph (a) omit "and", and

(b) after paragraph (b) insert ", and

(c) has made to an officer of Revenue and Customs any other declarations which are reasonably required by Her Majesty's Revenue and Customs."

(2) The amendments made by this paragraph have effect in relation to appointments on or after 1 September 2014.

Payments by registered pension schemes: surrender

10 (1) Section 172A (payments by registered pension schemes: surrender) is amended as follows.

(2) In subsection (5) omit paragraph (d).

(3) After subsection (5) insert—

"(5A) Subsection (5)(b) applies only if the entitlement is held (or is to be held) by the dependant under an arrangement under the pension scheme relating to the member or dependant."

11 In section 207 (authorised surplus payments charge) after subsection (6) insert—

"(6A) Subsection (1) does not apply to an authorised surplus payment to the extent that the payment is funded (directly or indirectly) by a surrender of (or an agreement to surrender) benefits or rights which results in the registered pension scheme being treated as making an unauthorised payment under section 172A.

(6B) Terms used in subsection (6A) which are defined in section 172A have the same meaning as they have in that section."

12 The amendments made by paragraphs 10 and 11 have effect in relation to surrenders (or agreements to surrender) made on or after 20 March 2014.

Orders for money etc to be restored to pension schemes

13 (1) Section 188 (relief for members' contributions) is amended as follows.

(2) In subsection (2) after "(3)" insert " or (3A) ".

(3) After subsection (3) insert—

"(3A) This subsection applies to a contribution if the contribution results from the transfer of property or money, or the payment of a sum, towards the pension scheme pursuant to a relevant order in a case where—

(a) section 266A (members' liability in respect of unauthorised member payments) applies, and

(b) relief is claimed under that section in respect of the liability mentioned in subsection (1)(a) of that section.

(3B) In the case of a contribution which is greater than UMP (see section 266A(5)), subsection (3A) does not apply to the contribution so far as it is greater than UMP.

(3C) In subsection (3A) "relevant order" means an order under any of the following—

(a) section 16(1), 19(4) or 21(2)(a) of the Pensions Act 2004 (orders for money etc to be restored to pension schemes), or

(b) Article 12(1), 15(4) or 17(2)(a) of the Pensions (Northern Ireland) Order 2005 (corresponding provision for Northern Ireland)."

14 (1) Section 266A (member's liability) is amended as follows.

(2) In subsection (1)(b) for the words from "an order" to "Regulator)" substitute " a relevant order ".

(3) In subsection (5), in the definition of "ASO"—

(a) before the first "order" insert " relevant ", and

(b) for the words from the second "order" to "2005" substitute " relevant order ".

(4) After subsection (6) insert—

"(6A) In this section "relevant order" means an order under any of the following—

(a) section 16(1), 19(4) or 21(2)(a) of the Pensions Act 2004 (orders for money etc to be restored to pension schemes), or

(b) Article 12(1), 15(4) or 17(2)(a) of the Pensions (Northern Ireland) Order 2005 (corresponding provision for Northern Ireland)."

15 (1) Section 266B (scheme's liability) is amended as follows.

(2) In subsection (1)(b) for the words from "an order" to "Regulator)" substitute " a relevant order ".

(3) In subsection (3), in the definition of "ASO"—

(a) before the first "order" insert " relevant ", and

(b) for the words from the second "order" to "2005" substitute " relevant order ".

(4) After subsection (4) insert—

"(5) In this section "relevant order" means an order under any of the following—

(a) section 16(1), 19(4) or 21(2)(a) of the Pensions Act 2004 (orders for money etc to be restored to pension schemes), or

(b) Article 12(1), 15(4) or 17(2)(a) of the Pensions (Northern Ireland) Order 2005 (corresponding provision for Northern Ireland)."

16 The amendments made by paragraphs 13 to 15 have effect in relation to orders made on or after 1 September 2014.

Liabilities of trustees appointed by Pensions Regulator etc

17 In section 255 (assessments under Part) in subsection (1) after paragraph (e) insert—

"(ea) liability under section 272C (former scheme administrator to retain liability in cases involving independent trustees etc),".

18 In section 272 (trustees etc liable as scheme administrator) in subsection (4) after "applying in relation to the pension scheme" insert " or by reason of section 272C(7) applying in relation to a liability ".

19 After section 272 insert—

"**272A Liabilities of independent trustee**

(1) This section applies in relation to a person ("P") who is an independent trustee of a registered pension scheme.

(2) For the purposes of this section and section 272B an "independent trustee" is a trustee of a pension scheme—

(a) who is appointed by, or otherwise pursuant to, an order made—

(i) by the Pensions Regulator under section 7 of the Pensions Act 1995 or Article 7 of the Pensions (Northern Ireland) Order 1995 (appointment of trustees by the Pensions Regulator), or

(ii) by a court on an application made by the Pensions Regulator, and

(b) who is not a trustee of the pension scheme at any time before—

(i) the day on which the trustee's appointment as mentioned in paragraph (a) takes effect, or

(ii) if the trustee is appointed as mentioned in paragraph (a) on more than one occasion, the day on which the first appointment takes effect.

(3) In this section "the relevant day" means—

(a) the day on which P's appointment as trustee of the pension scheme as mentioned in subsection (2)(a) takes effect, or

(b) if P is appointed as trustee of the pension scheme as mentioned in subsection (2)(a) on more than one occasion, the day on which P's first appointment takes effect.

(4) If P is, or is one of the persons who are, the scheme administrator, P does not assume any liability falling within subsection (7) which P would otherwise assume (including by reason of section 272C(3) or (4)).

(5) Subsection (4) does not apply if P is, or is one of the persons who are, the scheme administrator at any time before the relevant day.

(6) In relation to any liability falling within subsection (7), in section 272(4) references to trustees or to persons who control the management of the pension scheme do not include P.

(7) The liabilities falling within this subsection are—

(a) liabilities for the following in respect of payments made (or treated as having been made) by the pension scheme on or before the relevant day—

(i) the short service refund lump sum charge;

(ii) the serious ill-health lump sum charge;

(iii) the special lump sum death benefits charge;

(iv) the authorised surplus payments charge;

(v) the scheme sanction charge in respect of scheme chargeable payments falling within section 241(1)(a) or (b);

(b) liabilities for the lifetime allowance charge in respect of benefit crystallisation events occurring on or before the relevant day;

(c) liabilities for the scheme sanction charge in respect of scheme chargeable payments treated under section 185A or 185F as having been made by the pension scheme in tax years earlier than the one in which the relevant day falls;

(d) any liability for the scheme sanction charge in respect of the relevant fraction of any scheme chargeable payment treated under section 185A as having been made by the pension scheme in the tax year in which the relevant day falls;

(e) where the pension scheme is treated under section 185F as having made a scheme chargeable payment in the tax year in which the relevant day falls and there is a relevant net gain, any liability for the scheme sanction charge in respect of the relevant amount;

(f) any liability to pay interest in respect of a liability mentioned in paragraphs (a) to (e) arising at any time.

(8) For the purposes of subsection (7)(d) "the relevant fraction" is—

$$\frac{A}{B}$$

where—

A is the number of days in the tax year up to (and including) the relevant day, and

B is the number of days in the tax year.

(9) For the purposes of subsection (7)(e)—

(a) there is a "relevant net gain" if—

(i) the total amount of any gains treated under section 185F as accruing in the tax year on or before the relevant day, exceeds

(ii) the total amount of any losses treated under section 185F as so accruing, and

(b) "the relevant amount" is—

(i) the scheme chargeable payment, or

(ii) if that payment is greater than the excess of gains over losses mentioned in paragraph (a), the amount of that excess.

(10) Subsection (11) applies if—

(a) apart from that subsection, losses in relation to which section 185G(10) applies would be included in the total amount mentioned in subsection (9)(a)(ii), and

(b) the losses exceed the gains—

(i) which are included in the total amount mentioned in subsection (9)(a)(i), and

(ii) from which the losses can be deducted in accordance with section 185G(10).

(11) The losses are not to be included in the total amount mentioned in subsection (9)(a)(ii) so far as they exceed the gains.

272B Liabilities of scheme administrator appointed by independent trustee etc

(1) This section applies in relation to a person ("Q") who is, or is one of the persons who are, the scheme administrator of a registered pension scheme where Q's appointment as such takes effect at a time when the pension scheme has one or more independent trustees.

(2) Q does not assume any liability falling within section 272A(7) which Q would otherwise assume.

(3) In relation to any liability falling within section 272A(7), in section 272(4) references to persons who control the management of the pension scheme do not include Q.

(4) Subsections (2) and (3) do not apply if Q is, or is one of the persons who are, the scheme administrator at any time before the relevant day.

(5) In this section, and in section 272A as it applies for the purposes of this section, "the relevant day" means the first day on which the pension scheme has an independent trustee (whether or not there are days between that day and the day on which Q's appointment takes effect on which the pension scheme has no independent trustees).

272C Former scheme administrator etc to retain liability

(1) This section applies in relation to a liability which, by reason of section 272A(4), is not assumed by P (in which case "the relevant day" is to be read in accordance with section 272A(3)).

(2) This section also applies in relation to a liability which, by reason of section 272B(2), is not assumed by Q (in which case "the relevant day" is to be read in accordance with section 272B(5)).

(3) The liability is to be retained or assumed by the person who is, or the persons who are, the scheme administrator immediately before the relevant day (unless dead or having ceased to exist).

(4) If there is no scheme administrator immediately before the relevant day, the liability is to be retained or assumed by the person who was, or the persons who were, the scheme administrator when there last was a scheme administrator before the relevant day (unless dead or having ceased to exist).

(5) Nothing in section 271 prevents a person from having (and continuing to have) the liability by reason of subsection (3) or (4).

(6) Subsection (7) applies if—

(a) no-one has the liability by reason of subsection (3) or (4),

(b) no-one who has the liability by reason of subsection (3) or (4) can be traced, or

(c) the person who has, or all the persons who have, the liability by reason of subsection (3) or (4) are in serious default (as determined in accordance with section 272(6)).

(7) The liability is to be assumed by the person or persons determined in accordance with section 272(4).

(8) Section 272(5) applies in relation to a person who assumes the liability by reason of subsection (7) as it applies in relation to a person who assumes a liability by reason of section 272.

(9) Nothing in this section prevents any person from being subject to the liability apart from this section (in addition to any person who is subject to the liability by reason of this section), and in particular the liability continues to be a liability of the scheme administrator for the purposes of section 271(2).

(10) If a person assumes the liability under section 271(2) at a time after P or Q's appointment as, or as one of the persons who are, the scheme administrator has ceased, the person who has, or the persons who have, the liability by reason of subsection (3) or (4) is, or are, released from the liability.

(11) A person who has, or persons who have, the liability by reason of subsection (3) or (4) may apply to an officer of Revenue and Customs to be released from the liability.

(12) Section 271(6) to (13) applies in relation to an application under subsection (11) as it applies in relation to an application under section 271(5).”

20 In section 273 (members liable as scheme administrator) after subsection (1) insert—

“(1A) This section also applies in relation to a registered pension scheme if—

(a) a person has, or persons have, by reason of section 272C(7) assumed a liability to pay tax (or interest on tax) by virtue of section 239 (scheme sanction charge) in respect of the whole or a part of a scheme chargeable payment falling within section 241(1)(b) or (c) made (or treated as having been made) by the pension scheme,

(b) that person, or each of those persons, has failed (in whole or in part) to satisfy the liability, and

(c) that person, or each of those persons, has either died or ceased to exist or is a person in whose case an officer of Revenue and Customs considers the person's failure to satisfy the liability to be of a serious nature.”

21 (1) Section 274 (supplementary) is amended as follows.

(2) In subsection (1)—

(a) after “(trustees etc)” insert “ , section 272C(7) ”, and

(b) in paragraph (b) after “administrator)” insert “ , section 272C(3) or (4) ”.

(3) In subsection (3)(b) after “272” insert “ , 272C ”.

22 Sections 272A to 272C (as inserted by paragraph 19) have effect for cases where the relevant day falls on or after 1 September 2014.

Other provision

23 In the following provisions (which relate to the giving of information etc) for "incorrect" (in all places) substitute " inaccurate "

(a) section 169(5)(a)(ii);

(b) section 257(4)(a) and (b);

(c) section 261(1)(a);

(d) section 264(2)(a).

SCHEDULE 8

Section 51

EMPLOYEE SHARE SCHEMES

PART 1

SHARE INCENTIVE PLANS

Amendments to Chapter 6 of Part 7 of ITEPA 2003

1 Chapter 6 of Part 7 of ITEPA 2003 (employment income: income and exemptions relating to securities: share incentive plans) is amended as follows.

2 In the title omit "APPROVED".

3 (1) Section 488 (introduction to share incentive plans) is amended as follows.

(2) In the heading omit "**Approved**".

(3) In subsection (1)—

(a) omit paragraph (a), and

(b) in paragraph (b) for "those plans" substitute " share incentive plans ("SIPs") which are Schedule 2 SIPs ".

(4) Omit subsection (2).

(5) In subsection (4)—

(a) omit the definitions of "approved" and "approval", and

(b) after the definition of "PAYE deduction" insert—

""Schedule 2 SIP" is to be read in accordance with paragraph 1 and Part 10 of Schedule 2;".

4 (1) Section 489 (operation of tax advantages) is amended as follows.

(2) In the heading for "**approved**" substitute " **Schedule 2** ".

(3) In subsection (1) for "an approved" substitute " a Schedule 2 ".

5 In section 498 (no charge on shares ceasing to be subject to plan in certain circumstances) in subsection (9)(b) for "an approved" substitute " a Schedule 2 ".

6 (1) Section 500 (operation of tax charges) is amended as follows.

(2) In the heading for "**approved**" substitute " **Schedule 2** ".

(3) In subsection (1) for "an approved" substitute " a Schedule 2 ".

7 In section 503 (charge on partnership share money) in subsection (2), in the entry for paragraph 56, for "withdrawal of plan approval" substitute " plan ceasing to be a Schedule 2 SIP ".

8 (1) Section 506 (charge on partnership shares ceasing to be subject to plan) is amended as follows.

(2) In subsection (2) for "market value of the shares at the exit date" substitute " relevant amount ".

(3) After subsection (2) insert—

"(2A) Subject to subsection (2B), in subsection (2) "the relevant amount" means the market value of the shares at the exit date.

(2B) If the shares cease to be subject to the plan by virtue of a provision of the kind mentioned in paragraph 43(2B) of Schedule 2 (provision requiring partnership shares to be offered for sale), in subsection (2) "the relevant amount" means the lesser of—

(a) the amount of partnership share money used to acquire the shares, and

(b) the market value of the shares at the time they are offered for sale.

(2C) Paragraph 92(2) of Schedule 2 (market value of shares subject to a restriction) applies for the purposes of subsection (2B)(b)."

(4) After subsection (3) insert—

"(3A) If the shares cease to be subject to the plan by virtue of a provision of the kind mentioned in paragraph 43(2B) of Schedule 2, in subsection (3)(b) the reference to the market value of the shares at the exit date is to be read as a reference to the market value of the shares at the time they are offered for sale (as determined in accordance with paragraph 92(2) of Schedule 2 if relevant)."

9 In section 509 (modification of section 696) in subsection (1)(a) for "an approved" substitute " a Schedule 2 ".

10 In section 510 (payments by trustees) in subsection (1) for "an approved" substitute " a Schedule 2 ".

11 In section 511 (deductions to be made by trustees) in subsection (1) for "an approved" substitute " a Schedule 2 ".

12 In section 515 (tax advantages and charges under other Acts) in subsection (2)(a) and (d) for "an approved" substitute " a Schedule 2 ".

13 Schedule 2 is amended as follows.

14 In the title omit "APPROVED".

15 In the cross-heading before paragraph 1 for "*Approval of*" substitute " *Introduction to Schedule 2* ".

16 (1) Paragraph 1 (introduction) is amended as follows.

(2) For sub-paragraphs (1) and (2) substitute—

"(A1) For the purposes of the SIP code a share incentive plan (a "SIP") is a Schedule 2 SIP if the requirements of Parts 2 to 9 of this Schedule are met in relation to the SIP."

(3) For sub-paragraph (4) substitute—

"(4) Sub-paragraph (A1) is subject to Part 10 of this Schedule which—

(a) requires notice of a plan to be given to Her Majesty's Revenue and Customs ("HMRC") in order for the plan to be a Schedule 2 SIP (see paragraph 81A(1)),

(b) provides for a plan in relation to which such notice is given to be a Schedule 2 SIP (see paragraph 81A(4)), and

(c) gives power to HMRC to enquire into a plan and to decide that the plan should not be a Schedule 2 SIP (see paragraphs 81F to 81I)."

17 In the cross-heading before paragraph 6 omit "*for approval*".

18 (1) Paragraph 6 (general requirements for SIPs) is amended as follows.

(2) Make the existing text sub-paragraph (1).

(3) After the new sub-paragraph (1) insert—

"(2) The requirements of this Part are also to be taken to include the requirements of paragraphs 89 and 90 (plan termination notices etc)."

19 (1) Paragraph 7 (the purpose of the plan) is amended as follows.

(2) In sub-paragraph (1)—

(a) after "provide" insert " , in accordance with this Schedule, ", and

(b) for "nature" substitute " form ".

(3) After sub-paragraph (1) insert—

"(1A) The plan must not provide benefits to employees otherwise than in accordance with this Schedule.

(1B) For example, the plan must not provide cash to employees as an alternative to shares.

(1C) Sub-paragraph (1A) does not prohibit an employee receiving a benefit from a company as a result of any shares in that company being held on the employee's behalf under the plan where the employee would have received the same benefit from the company had the shares been acquired by the employee otherwise than by virtue of the plan."

(4) Omit sub-paragraph (2).

20 In paragraph 18 (requirement not to participate in other SIPs) in sub-paragraph (1) for "approved" substitute " Schedule 2 ".

21 In paragraph 18A (participation in more than one connected SIP) in sub-paragraph (1) for "approved" substitute " Schedule 2 ".

22 In paragraph 37 (holding period: power of participant to direct trustees) in sub-paragraph (3)(b) for "an approved" substitute " a Schedule 2 ".

23 In paragraph 43 (partnership shares: introduction) after sub-paragraph (2A) insert—

"(2B) Partnership shares may (notwithstanding sub-paragraph (2A) if relevant) be subject to provision requiring partnership shares acquired on behalf of an employee to be offered for sale but only if the requirement of sub-paragraph (2C) is met.

(2C) The consideration at which the shares are required to be offered for sale must be at least equal to—

(a) the amount of partnership share money applied in acquiring the shares on behalf of the employee, or

(b) if lower, the market value of the shares at the time they are offered for sale."

24 In the cross-heading before paragraph 56 for "*withdrawal of approval*" substitute " *plan ceasing to be a Schedule 2 SIP* ".

25 (1) Paragraph 56 (repayment of partnership share money) is amended as follows.

(2) In sub-paragraph (1) for "approval of the plan is withdrawn (see paragraph 83)" substitute " plan is not to be a Schedule 2 SIP by virtue of paragraph 81H or 81I ".

(3) In sub-paragraph (2) for the words from "notice" to the end substitute " the relevant day ".

(4) After sub-paragraph (2) insert—

"(2A) If the plan is not to be a Schedule 2 SIP by virtue of paragraph 81H, in sub-paragraph (2) "the relevant day" means—

(a) the last day of the period in which notice of an appeal under paragraph 81K(2)(a) may be given, or

(b) if notice of such an appeal is given, the day on which the appeal is determined or withdrawn.

(2B) If the plan is not to be a Schedule 2 SIP by virtue of paragraph 81I, in sub-paragraph (2) "the relevant day" means—

(a) the last day of the period in which notice of an appeal under paragraph 81K(3) may be given, or

(b) if notice of such an appeal is given, the day on which the appeal is determined or withdrawn."

26 (1) Paragraph 65 (general requirements as to dividend shares) is amended as follows.

(2) Make the existing text sub-paragraph (1).

(3) After the new sub-paragraph (1) insert—

"(2) Dividend shares may (notwithstanding sub-paragraph (1)(b) if relevant) be subject to provision requiring dividend shares acquired on behalf of an employee to be offered for sale but only if the requirement of sub-paragraph (3) is met.

(3) The consideration at which the shares are required to be offered for sale must be at least equal to—

(a) the amount of the cash dividends applied in acquiring the shares on behalf of the employee, or

(b) if lower, the market value of the shares at the time they are offered for sale."

27 In paragraph 71A (duty to monitor participants) for "approved" substitute " Schedule 2 ".

28 For Part 10 substitute—

"PART 10

NOTIFICATION OF PLANS, ANNUAL RETURNS AND ENQUIRIES

Notice of SIP to be given to HMRC

81A (1) For a SIP to be a Schedule 2 SIP, notice of the SIP must be given to Her Majesty's Revenue and Customs ("HMRC").

(2) The notice must—

(a) be given by the company,

(b) contain, or be accompanied by, such information as HMRC may require, and

(c) contain a declaration within sub-paragraph (3) made by such persons as HMRC may require.

(3) A declaration within this sub-paragraph is a declaration—

(a) that the requirements of Parts 2 to 9 of this Schedule are met in relation to the SIP, and

(b) if the declaration is made after the first date on which awards of shares are made under the SIP ("the first award date"), that those requirements—

(i) were met in relation to those awards of shares, and

(ii) have otherwise been met in relation to the SIP at all times on or after the first award date when shares appropriated to, or acquired on behalf of, individuals under the SIP have been held under the SIP.

(4) If notice is given under this paragraph in relation to a SIP, for the purposes of the SIP code the SIP is to be a Schedule 2 SIP at all times on and after the relevant date (but not before that date).

(5) But if the notice is given after the initial notification deadline, the SIP is to be a Schedule 2 SIP only from the beginning of the relevant tax year.

(6) For the purposes of this Part—

"the initial notification deadline" is 6 July in the tax year following that in which the first award date falls,

"the relevant date" is—

(a) the date on which the declaration within sub-paragraph (3) is made, or

(b) if that declaration is made after the first award date, the first award date, and

"the relevant tax year" is—

(a) the tax year in which the notice under this paragraph is given, or

(b) if that notice is given on or before 6 July in that tax year, the preceding tax year.

(7) Sub-paragraph (4) is subject to the following paragraphs of this Part.

Annual returns

81B (1) This paragraph applies if notice is given in relation to a SIP under paragraph 81A.

(2) The company must give to HMRC a return for the tax year in which the relevant date falls and for each subsequent tax year (subject to sub-paragraph (9)).

(3) If paragraph 81A(5) applies in relation to the SIP, in sub-paragraph (2) the reference to the tax year in which the relevant date falls is to be read as a reference to the relevant tax year.

(4) A return for a tax year must—

(a) contain, or be accompanied by, such information as HMRC may require, and

(b) be given on or before 6 July in the following tax year.

(5) The information which may be required under sub-paragraph (4)(a) includes (in particular) information to enable HMRC to determine the liability to tax, including capital gains tax, of—

(a) any person who has participated in the SIP, or

(b) any other person whose liability to tax the operation of the SIP is relevant to.

(6) If during a tax year an alteration is made in a key feature of—

(a) the SIP, or

(b) the plan trust,

the return for the tax year must contain a declaration within sub-paragraph (7) made by such persons as HMRC may require.

(7) A declaration within this sub-paragraph is a declaration that the alteration has not caused the requirements of Parts 2 to 9 of this Schedule not to be met in relation to the SIP.

(8) For the purposes of sub-paragraph (6) a "key feature" of a SIP or plan trust is a provision of the SIP or plan trust which is necessary in order for the requirements of Parts 2 to 9 of this Schedule to be met in relation to the SIP.

(9) A return is not required for any tax year following that in which the termination condition is met in relation to the SIP.

(10) For the purposes of this Part "the termination condition" is met in relation to a SIP when—

(a) a plan termination notice has been issued in relation to it under paragraph 89, and

(b) all the requirements under paragraphs 56(3), 68(4)(c) and 90 have been met by the trustees.

(11) If the company becomes aware that—

(a) anything which should have been included in, or should have accompanied, a return for a tax year was not included in, or did not accompany, the return,

(b) anything which should not have been included in, or should not have accompanied, a return for a tax year was included in, or accompanied, the return, or

(c) any other error or inaccuracy has occurred in relation to a return for a tax year,

the company must give an amended return correcting the position to HMRC without delay.

81C (1) This paragraph applies if the company fails to give a return for a tax year (containing, or accompanied by, all required information and declarations) on or before the date mentioned in paragraph 81B(4)(b) ("the date for delivery").

(2) The company is liable for a penalty of £100.

(3) If the company's failure continues after the end of the period of 3 months beginning with the date for delivery, the company is liable for a further penalty of £300.

(4) If the company's failure continues after the end of the period of 6 months beginning with the date for delivery, the company is liable for a further penalty of £300.

(5) The company is liable for a further penalty under this sub-paragraph if—

(a) the company's failure continues after the end of the period of 9 months beginning with the date for delivery,

(b) HMRC decide that such a penalty should be payable, and

(c) HMRC give notice to the company specifying the period in respect of which the penalty is payable.

(The company may be liable for more than one penalty under this sub-paragraph.)

(6) The penalty under sub-paragraph (5) is £10 for each day that the failure continues during the period specified in the notice under sub-paragraph (5)(c).

(7) The period specified in the notice under sub-paragraph (5)(c)—

(a) may begin earlier than the date on which the notice is given, but

(b) may not begin until after the end of the period mentioned in sub-paragraph (5)(a) or, if relevant, the end of any period specified in any previous notice under sub-paragraph (5)(c) given in relation to the failure.

(8) Liability for a penalty under this paragraph does not arise if the company satisfies HMRC (or, on an appeal under paragraph 81K, the tribunal) that there is a reasonable excuse for its failure.

(9) For the purposes of sub-paragraph (8)—

(a) an insufficiency of funds is not a reasonable excuse, unless attributable to events outside the company's control,

(b) where the company relies on any other person to do anything, that is not a reasonable excuse unless the company took reasonable care to avoid the failure, and

(c) where the company had a reasonable excuse for the failure but the excuse ceased, the company is to be treated as having continued to have the excuse if the failure is remedied without unreasonable delay after the excuse ceased.

Notices and returns to be given electronically etc

81D (1) A notice under paragraph 81A, and any information accompanying the notice, must be given electronically.

(2) A return under paragraph 81B, and any information accompanying the return, must be given electronically.

(3) But, if HMRC consider it appropriate to do so, HMRC may allow the company to give a notice or return or any accompanying information in another way; and, if HMRC do so, the notice, return or information must be given in that other way.

(4) The Commissioners for Her Majesty's Revenue and Customs—

(a) must prescribe how notices, returns and accompanying information are to be given electronically;

(b) may make different provision for different cases or circumstances.

81E (1) This paragraph applies if a return under paragraph 81B, or any information accompanying such a return—

(a) is given otherwise than in accordance with paragraph 81D, or

(b) contains a material inaccuracy—

(i) which is careless or deliberate, or

(ii) which is not corrected as required by paragraph 81B(11).

(2) The company is liable for a penalty of an amount decided by HMRC.

(3) The penalty must not exceed £5,000.

(4) For the purposes of sub-paragraph (1)(b)(i) an inaccuracy is careless if it is due to a failure by the company to take reasonable care.

Enquiries

81F (1) This paragraph applies if notice is given in relation to a SIP under paragraph 81A.

(2) HMRC may enquire into the SIP if HMRC give notice to the company of HMRC's intention to do so no later than—

(a) 6 July in the tax year following the tax year in which the initial notification deadline falls, or

(b) if the notice under paragraph 81A is given after the initial notification deadline, 6 July in the second tax year following the relevant tax year.

(3) HMRC may enquire into the SIP if HMRC give notice to the company of HMRC's intention to do so no later than 12 months after the date on which a declaration within paragraph 81B(7) is given to HMRC.

(4) Sub-paragraph (5) applies if (at any time) HMRC have reasonable grounds for believing that requirements of Parts 2 to 9 of this Schedule—

(a) are not met in relation to the SIP, or

(b) have not been met in relation to the SIP.

(5) HMRC may enquire into the SIP if HMRC give notice to the company of HMRC's intention to do so.

(6) Notice may be given, and an enquiry may be conducted, under sub-paragraph (2), (3) or (5) even though the termination condition has been met in relation to the SIP.

81G (1) An enquiry under paragraph 81F(2), (3) or (5) is completed when HMRC give the company a notice (a "closure notice") stating—

(a) that HMRC have completed the enquiry, and

(b) that—

(i) paragraph 81H is to apply,

(ii) paragraph 81I is to apply, or

(iii) neither paragraph 81H nor paragraph 81I is to apply.

(2) If the company receives notice under paragraph 81F(2), (3) or (5), the company may make an application to the tribunal for a direction requiring a closure notice for the enquiry to be given within a specified period.

(3) The application is to be subject to the relevant provisions of Part 5 of TMA 1970 (see, in particular, section 48(2)(b) of that Act).

(4) The tribunal must give a direction unless satisfied that HMRC have reasonable grounds for not giving the closure notice within the specified period.

81H (1) This paragraph applies if HMRC decide—

(a) that requirements of Parts 2 to 9 of this Schedule—

(i) are not met in relation to the SIP, or

(ii) have not been met in relation to the SIP, and

(b) that the situation is, or was, so serious that this paragraph should apply.

(2) If this paragraph applies—

(a) the SIP is not to be a Schedule 2 SIP with effect from—

(i) such relevant time as is specified in the closure notice, or

(ii) if no relevant time is specified, the time of the giving of the closure notice, and

(b) the company is liable for a penalty of an amount decided by HMRC.

(3) Sub-paragraph (2)(a) does not affect the operation of the SIP code in relation to shares appropriated to, or acquired on behalf of, an individual under the SIP before the time mentioned in sub-paragraph (2)(a)(i) or (ii) (as the case may be).

(4) In particular, if the SIP was a Schedule 2 SIP when the shares were appropriated to, or acquired on behalf of, the individual, the SIP is to continue to be a Schedule 2 SIP in relation to those shares.

(5) The penalty under sub-paragraph (2)(b) must not exceed an amount equal to twice HMRC's reasonable estimate of—

(a) the total income tax for which participants in the SIP have not been liable, or will not be liable in the future, and

(b) the total contributions under Part 1 of SSCBA 1992 or SSCB(NI)A 1992 for which any persons have not been liable, or will not be liable in the future,

in consequence of the SIP having been a Schedule 2 SIP at any relevant time before the time mentioned in sub-paragraph (2)(a)(i) or (ii) (as the case may be).

(6) The liabilities covered by sub-paragraph (5) include liabilities for income tax or contributions which a person has not had, or will not have, in consequence of sub-paragraphs (3) and (4).

(7) In this paragraph "relevant time" means any time before the giving of the closure notice when requirements of Parts 2 to 9 of this Schedule were not met in relation to the SIP.

81I (1) This paragraph applies if HMRC decide—

(a) that requirements of Parts 2 to 9 of this Schedule—

(i) are not met in relation to the SIP, or

(ii) have not been met in relation to the SIP, but

(b) that the situation is not, or was not, so serious that paragraph 81H should apply.

(2) If this paragraph applies, the company—

(a) is liable for a penalty of an amount decided by HMRC, and

(b) must, no later than 90 days after the relevant day, secure that the requirements of Parts 2 to 9 of this Schedule are met in relation to the SIP.

(3) The penalty under sub-paragraph (2)(a) must not exceed £5,000.

(4) In sub-paragraph (2)(b) "the relevant day" means—

(a) the last day of the period in which notice of an appeal under paragraph 81K(2)(b) may be given, or

(b) if notice of such an appeal is given, the day on which the appeal is determined or withdrawn.

(5) Sub-paragraph (2)(b) does not apply if the termination condition was met in relation to the SIP before the giving of the closure notice or is met before the end of the 90 day period mentioned in sub-paragraph (2)(b).

(6) If the company fails to comply with sub-paragraph (2)(b), HMRC may give the company a notice stating that that is the case (a "default notice").

(7) If the company is given a default notice—

(a) the SIP is not to be a Schedule 2 SIP with effect from—

(i) such relevant time as is specified in the default notice, or

(ii) if no relevant time is specified, the time of the giving of the default notice, and

(b) the company is liable for a further penalty of an amount decided by HMRC.

(8) Sub-paragraph (7)(a) does not affect the operation of the SIP code in relation to shares appropriated to, or acquired on behalf of, an individual under the SIP before the time mentioned in sub-paragraph (7)(a)(i) or (ii) (as the case may be).

(9) In particular, if the SIP was a Schedule 2 SIP when the shares were appropriated to, or acquired on behalf of, the individual, the SIP is to continue to be a Schedule 2 SIP in relation to those shares.

(10) The penalty under sub-paragraph (7)(b) must not exceed an amount equal to twice HMRC's reasonable estimate of—

(a) the total income tax for which participants in the SIP have not been liable, or will not be liable in the future, and

(b) the total contributions under Part 1 of SSCBA 1992 or SSCB(NI)A 1992 for which any persons have not been liable, or will not be liable in the future,

in consequence of the SIP having been a Schedule 2 SIP at any relevant time before the time mentioned in sub-paragraph (7)(a)(i) or (ii) (as the case may be).

(11) The liabilities covered by sub-paragraph (10) include liabilities for income tax or contributions which a person has not had, or will not have, in consequence of sub-paragraphs (8) and (9).

(12) In this paragraph "relevant time" means any time before the giving of the default notice when requirements of Parts 2 to 9 of this Schedule were not met in relation to the SIP.

Assessment of penalties

81J (1) This paragraph applies if the company is liable for a penalty under this Part.

(2) HMRC must assess the penalty and notify the company of the assessment.

(3) Subject to sub-paragraphs (4) and (5), the assessment must be made no later than 12 months after the date on which the company becomes liable for the penalty.

(4) In the case of a penalty under paragraph 81E(1)(b), the assessment must be made no later than—

(a) 12 months after the date on which HMRC become aware of the inaccuracy, and

(b) 6 years after the date on which the company becomes liable for the penalty.

(5) In the case of a penalty under paragraph 81H(2)(b) or 81I(2)(a) or (7)(b) where notice of appeal is given under paragraph 81K(2) or (3), the assessment must be made no later than 12 months after the date on which the appeal is determined or withdrawn.

(6) A penalty payable under this Part must be paid—

(a) no later than 30 days after the date on which the notice under sub-paragraph (2) is given to the company, or

(b) if notice of appeal is given against the penalty under paragraph 81K(1) or (4), no later than 30 days after the date on which the appeal is determined or withdrawn.

(7) The penalty may be enforced as if it were corporation tax or, if the company is not within the charge to corporation tax, income tax charged in an assessment and due and payable.

(8) Sections 100 to 103 of TMA 1970 do not apply to a penalty under this Part.

Appeals

81K (1) The company may appeal against a decision of HMRC that the company is liable for a penalty under paragraph 81C or 81E.

(2) The company may appeal against—

(a) a decision of HMRC mentioned in paragraph 81H(1) or a decision of HMRC to specify, or not to specify, a relevant time in the closure notice;

(b) a decision of HMRC mentioned in paragraph 81I(1).

(3) The company may appeal against a decision of HMRC—

(a) to give the company a default notice under paragraph 81I;

(b) to specify, or not to specify, a relevant time in the default notice.

(4) The company may appeal against a decision of HMRC as to the amount of a penalty payable by the company under this Part.

(5) The company may appeal against a decision of an officer of Revenue and Customs to give a direction under section 998 of CTA 2009 (withdrawal of corporation tax deductions in relation to a Schedule 2 SIP).

(6) Notice of appeal must be given to HMRC no later than 30 days after the date on which—

(a) in the case of an appeal under sub-paragraph (1) or (4), the notice under paragraph 81J(2) is given to the company;

(b) in the case of an appeal under sub-paragraph (2), the closure notice is given;

(c) in the case of an appeal under sub-paragraph (3), the default notice is given;

(d) in the case of an appeal under sub-paragraph (5), notice of the officer's decision is given to the company.

(7) On an appeal under sub-paragraph (1), (3)(a) or (5) which is notified to the tribunal, the tribunal may affirm or cancel the decision.

(8) On an appeal under sub-paragraph (2) or (3)(b) which is notified to the tribunal, the tribunal may—

(a) affirm or cancel the decision, or

(b) substitute for the decision another decision which HMRC had power to make.

(9) On an appeal under sub-paragraph (4) which is notified to the tribunal, the tribunal may—

(a) affirm the amount of the penalty decided, or

(b) substitute another amount for that amount.

(10) Subject to this paragraph and paragraph 81J, the provisions of Part 5 of TMA 1970 relating to appeals have effect in relation to an appeal under this paragraph as they have effect in relation to an appeal against an assessment to corporation tax or, if the company is not within the charge to corporation tax, income tax."

29 In paragraph 89 (termination of plan) in sub-paragraph (2) omit paragraph (a).

30 In paragraph 90 (effect of plan termination notice) in sub-paragraph (2) for "awarded to" substitute " appropriated to, or acquired on behalf of, ".

31 (1) Paragraph 93 (power to require information) is amended as follows.

(2) For sub-paragraph (1) substitute—

"(1) An officer of Revenue and Customs may by notice require a person to provide the officer with any information—

(a) which the officer reasonably requires for the performance of any functions of Her Majesty's Revenue and Customs or an officer of Revenue and Customs under the SIP code, and

(b) which the person to whom the notice is addressed has or can reasonably obtain."

(3) In sub-paragraph (2)(a)—

(a) for sub-paragraph (i) substitute—

"(i) to check anything contained in a notice under paragraph 81A or a return under paragraph 81B or to check any information accompanying such a notice or return, or", and"

(b) in sub-paragraph (ii) after "plan" insert " or any other person whose liability to tax the operation of a plan is relevant to ".

32 In paragraph 100 (index of defined expressions)—

(a) omit the entries for "approval" and "approved", and

(b) at the appropriate place insert—

"Schedule 2 SIP	paragraph 1 and Part 10 of this Schedule".

Other amendments: TCGA 1992

33 TCGA 1992 is amended as follows.

34 In section 236A (relief for transfers to share incentive plans) for "an approved" substitute " a Schedule 2 ".

35 (1) Section 238A (share schemes and share incentives) is amended as follows.

(2) In the heading omit "**Approved**".

(3) In subsection (1) omit "approved".

(4) In subsection (2)(a) for "approved" substitute " Schedule 2 ".

36 Schedule 7C (relief for transfers to share plans) is amended as follows.

37 In the title for "APPROVED" substitute " SCHEDULE 2 ".

38 In paragraph 2 (conditions relating to disposal) in sub-paragraph (1) for "approved" substitute " a Schedule 2 SIP ".

39 Schedule 7D (share schemes and share incentives) is amended as follows.

40 In the title omit "APPROVED".

41 In the title of Part 1 for "APPROVED" substitute " SCHEDULE 2 ".

42 (1) Paragraph 1 (introduction to Part 1) is amended as follows.

(2) In sub-paragraph (1) for "an approved" substitute " a Schedule 2 ".

(3) In sub-paragraphs (2) and (3) omit "approved".

43 In paragraph 2 (gains accruing to trustees) in sub-paragraph (1)(a) omit "approved".

Other amendments: ITEPA 2003 and Part 4 of FA 2004

44 ITEPA 2003 is amended as follows.

45 In section 227 (scope of Part 4) in subsection (4)(c) omit "approved".

46 In section 417 (scope of Part 7) in subsection (2), in the entry for Chapter 6, omit "approved".

47 (1) Section 431A (provision relating to restricted securities) is amended as follows.

(2) In the heading for "**approved**" substitute " **tax advantaged** ".

(3) In subsection (2)(a) for "an approved" substitute " a Schedule 2 ".

48 In section 549 (application of Chapter 11 of Part 7) in subsection (2)(a) omit "approved".

49 (1) Section 554E (exclusions under Part 7A) is amended as follows.

(2) In subsections (1)(a) and (3)(a)(i) and (b)(i) for "an approved" substitute " a Schedule 2 ".

(3) In subsection (4)(a) and (b) for the first "approved" substitute " Schedule 2 ".

50 In paragraph 11 of Schedule 4 (CSOP schemes: material interest) in sub-paragraph (5)(a) for "approved" substitute " Schedule 2 ".

51 In paragraph 30 of Schedule 5 (enterprise management incentives: material interest) in sub-paragraph (7)(a) for "share incentive plan approved under Schedule 2 (SIPs)" substitute " Schedule 2 SIP (see Schedule 2) ".

52 In section 195 of FA 2004 (pensions: transfer of certain shares to be treated as payment of contribution) in subsection (5), in the definition of "share incentive plan", omit "approved".

Other amendments: ITTOIA 2005

53 Chapter 3 of Part 4 of ITTOIA 2005 (savings and investment income: dividends etc from UK resident companies) is amended as follows.

54 In section 382 (contents of Chapter 3) in subsection (1)(c) for "an approved" substitute " a Schedule 2 ".

55 In the cross-heading before section 392 for "*approved*" substitute " *Schedule 2* ".

56 In section 392 (SIP shares: introduction) in subsection (1) for "an approved" substitute " a Schedule 2 ".

57 (1) Section 394 (distribution when dividend shares cease to be subject to SIP) is amended as follows.

(2) In subsection (1) for "an approved" substitute " a Schedule 2 ".

(3) After subsection (3) insert—

"(3A) But if the shares cease to be subject to the plan by virtue of a provision of the kind mentioned in paragraph 65(2) of Schedule 2 to ITEPA 2003 (provision requiring dividend shares to be offered for sale), the amount of the distribution treated as made is the amount equal to the relevant fraction of the market value of the shares at the time they are offered for sale if that amount is less than the amount given by subsection (3).

(3B) For the purposes of subsection (3A) "the relevant fraction" is—

$$\frac{A}{B}$$

where—

A is so much of the amount of the cash dividend applied to acquire the shares on the participant's behalf as represents a cash dividend paid in respect of plan shares in a UK resident company, and

B is the amount of the cash dividend applied to acquire the shares on the participant's behalf.

(3C) Paragraph 92(2) of Schedule 2 to ITEPA 2003 (market value of shares subject to a restriction) applies for the purposes of subsection (3A)."

(4) In subsection (7) for "approved" substitute " Schedule 2 ".

58 In section 395 (reduction in tax due in cases within section 394) in subsections (1)(b) and (4) for "approved" substitute " Schedule 2 ".

59 In section 396 (interpretation) in subsections (1) and (2) omit "approved".

60 Chapter 4 of Part 4 of ITTOIA 2005 (savings and investment income: dividends etc from non-UK resident companies) is amended as follows.

61 In the cross-heading before section 405 for "*approved*" substitute " *Schedule 2* ".

62 (1) Section 405 (SIP shares: introduction) is amended as follows.

(2) In subsection (1) for "an approved" substitute " a Schedule 2 ".

(3) In subsections (3) and (4) omit "approved".

63 (1) Section 407 (dividend payment when dividend shares cease to be subject to SIP) is amended as follows.

(2) In subsection (1) for "an approved" substitute " a Schedule 2 ".

(3) After subsection (3) insert—

"(3A) But if the shares cease to be subject to the plan by virtue of a provision of the kind mentioned in paragraph 65(2) of Schedule 2 to ITEPA 2003 (provision requiring dividend shares to be offered for sale), the amount of the dividend treated as paid is the amount equal to the relevant fraction of the market value of the shares at the time they are offered for sale if that amount is less than the amount given by subsection (3).

(3B) For the purposes of subsection (3A) "the relevant fraction" is—

$$\frac{A}{B}$$

where—

A is so much of the amount of the cash dividend applied to acquire the shares on the participant's behalf as represents a cash dividend paid in respect of plan shares in a non-UK resident company, and

B is the amount of the cash dividend applied to acquire the shares on the participant's behalf.

(3C) Paragraph 92(2) of Schedule 2 to ITEPA 2003 (market value of shares subject to a restriction) applies for the purposes of subsection (3A)."

(4) In subsection (5) for "approved" substitute " Schedule 2 ".

64 In section 408 (reduction in tax due in cases within section 407) in subsections (1)(b) and (3) for "approved" substitute " Schedule 2 ".

65 Chapter 9 of Part 6 of ITTOIA 2005 (exempt income) is amended as follows.

66 In the cross-heading before section 770 for "*Approved*" substitute " *Schedule 2* ".

67 (1) Section 770 (amounts applied by SIP trustees) is amended as follows.

(2) In subsection (1)(a) for "an approved" substitute " a Schedule 2 ".

(3) In subsections (5) and (6) omit "approved".

Other amendments: Part 9 of ITA 2007

68 Part 9 of ITA 2007 (special rules about settlements and trusts) is amended as follows.

69 In section 462 (overview of Part) in subsection (5) for "an approved" substitute " a Schedule 2 ".

70 In section 479 (trustees' accumulated or discretionary income charged at special rates) in subsection (5) for "approved" substitute " Schedule 2 ".

71 (1) Section 488 (application of section 479 to trustees of SIP) is amended as follows.

(2) In the heading for "**approved**" substitute " **Schedule 2** ".

(3) In subsection (1)—

(a) in paragraph (a) for "an approved" substitute " a Schedule 2 ", and

(b) in paragraph (b) omit "approved".

72 In section 489 ("the applicable period") in subsection (8)(a) for "approved" substitute " Schedule 2 ".

73 In section 490 (interpretation of Chapter 5) in subsection (1) omit "approved".

Other amendments: Chapter 1 of Part 11 of CTA 2009

74 Chapter 1 of Part 11 of CTA 2009 (relief for employee share acquisition schemes: share incentive plans) is amended as follows.

75 (1) Section 983 (overview of Chapter) is amended as follows.

(2) In subsection (1) for "approved" substitute " Schedule 2 ".

(3) In subsection (7) for "approval for a plan is withdrawn" substitute " a plan ceases to be a Schedule 2 share incentive plan ".

76 (1) Section 987 (deduction for cost of setting up plan) is amended as follows.

(2) In the heading for "**an approved**" substitute " **a Schedule 2** ".

(3) In subsection (1) for "approved by an officer of Revenue and Customs" substitute " a Schedule 2 share incentive plan ".

(4) Omit subsection (3).

(5) In subsection (4) for "approval is given" (in both places) substitute " relevant date falls ".

(6) After subsection (4) insert—

"(4A) In subsection (4) "the relevant date", in relation to a share incentive plan, has the meaning given in paragraph 81A(6) of Schedule 2 to ITEPA 2003."

77 (1) Section 988 (deductions for running expenses) is amended as follows.

(2) In the heading for "**an approved**" substitute " **a Schedule 2** ".

(3) In subsections (1) and (3) for "an approved" substitute " a Schedule 2 ".

78 In section 989 (deduction for contribution to plan trust) in subsection (1)(a) for "an approved" substitute " a Schedule 2 ".

79 In section 994 (deduction for providing free or matching shares) in subsection (1) for "an approved" substitute " a Schedule 2 ".

80 In section 995 (deduction for additional expense in providing partnership shares) in subsection (1)(a) for "an approved" substitute " a Schedule 2 ".

81 In section 997 (no deduction for expenses in providing dividend shares) in subsection (1) for "an approved" substitute " a Schedule 2 ".

82 For the cross-heading before section 998 substitute " *Plan ceasing to be a Schedule 2 SIP* ".

83 (1) Section 998 (withdrawal of deductions) is amended as follows.

(2) In the heading for "**approval for share incentive plan withdrawn**" substitute " **share incentive plan ceases to be a Schedule 2 share incentive plan** ".

(3) In subsection (1)—

(a) in paragraph (a)—

(i) after "section" insert " 987, ", and

(ii) for "an approved" substitute " a Schedule 2 ", and

(b) for paragraph (b) substitute—

"(b) by virtue of paragraph 81H or 81I of Schedule 2 to ITEPA 2003 the plan is not to be a Schedule 2 share incentive plan."

Other amendments: Individual Savings Account Regulations 1998 (S.I. 1998/1870)

84 The Individual Savings Account Regulations 1998 are amended as follows.

85 In regulation 2 (interpretation) in paragraph (1)(a)—

(a) omit the definition of "approved SIP",

(b) in the definitions of "ceasing to be subject to the plan", "participant" and "plan shares" for "an approved" substitute " a Schedule 2 ", and

(c) at the appropriate place insert—

""Schedule 2 SIP" shall be construed in accordance with the SIP code (see section 488(3) of ITEPA 2003);".

86 In regulation 7 (qualifying investments) in paragraph (2)(h)(iii) for "an approved" substitute " a Schedule 2 ".

87 In regulation 34 (capital gains tax: adaptation of enactments) in paragraph (2)(a)—

(a) in the inserted subsections (12)(b)(iii) and (13)(d) for "an approved" substitute " a Schedule 2 ", and

(b) in the inserted subsection (13)(c) for "approved" substitute " Schedule 2 ".

Revocation of Employee Share Schemes (Electronic Communication of Returns and Information) Regulations 2007 (S.I. 2007/792)

88 The Employee Share Schemes (Electronic Communication of Returns and Information) Regulations 2007 are revoked.

Commencement and transitional provision

89 This Part is treated as having come into force on 6 April 2014.

90 Paragraphs 91 to 96 below apply in relation to a SIP established before 6 April 2014.

91 (1) If the SIP was an approved SIP immediately before 6 April 2014, this paragraph applies to any provision which the SIP contains immediately before that date and which requires the approval or agreement of Her Majesty's Revenue and Customs or an officer of Revenue and Customs to be obtained in relation to any matter.

(2) On and after 6 April 2014, the provision is to have effect without the requirement for the approval or agreement, unless the requirement reflects a requirement for approval or agreement set out in Schedule 2 to ITEPA 2003 (as amended by this Part).

92 (1) If the SIP was an approved SIP immediately before 6 April 2014, the amendments made by paragraph 19 above have effect in relation to the SIP only if, and when, there is an alteration in a key feature of the SIP or plan trust on or after that date.

(2) In sub-paragraph (1) "key feature" has the meaning given in paragraph 81B(8) of Schedule 2 to ITEPA 2003 (as inserted by paragraph 28 above).

93 If the SIP was an approved SIP immediately before 6 April 2014, on and after that date the SIP and the plan trust have effect with any modifications needed to reflect the amendments made by paragraphs 20 to 22, 25, 27, 29 and 30 above.

94 (1) Paragraph 81A of Schedule 2 to ITEPA 2003 (as inserted by paragraph 28 above) has effect in relation to the SIP—

(a) as if, at the end of sub-paragraph (1), the words "on or before 6 July 2015" were inserted,

(b) if the first date on which awards of shares are made under the SIP falls before 6 April 2014—

(i) as if, in sub-paragraph (3)(b), the reference to that date were a reference to 6 April 2014 and, accordingly, as if all references in paragraph 81A to the first award date were references to 6 April 2014,

(ii) as if sub-paragraph (3)(b)(i) were omitted, and

(iii) as if, in sub-paragraph (3)(b)(ii), "otherwise" were omitted,

(c) as if sub-paragraph (5) were omitted, and

(d) as if, in sub-paragraph (6), the definitions of "the initial notification deadline" and "the relevant tax year" were omitted.

(2) But the SIP cannot be a Schedule 2 SIP if, before 6 April 2014, an application for its approval was refused or an officer of Revenue and Customs decided to withdraw its approval.

(3) Sub-paragraph (2) is without prejudice to the outcome of any appeal under paragraph 82 or 85 of Schedule 2 to ITEPA 2003 against the refusal or decision to withdraw approval.

(4) The amendments made by this Part do not affect any right of appeal under paragraph 82 or 85 of Schedule 2 to ITEPA 2003 against a refusal or decision made before 6 April 2014 in relation to the SIP.

(5) Sub-paragraphs (6) and (7) apply if shares ("the relevant shares") were appropriated to, or acquired on behalf of, an individual before 6 April 2014 under the SIP at a time when the SIP was an approved SIP.

(6) On and after 6 April 2014, the SIP code operates in relation to the relevant shares—

(a) as if the relevant shares were appropriated to, or acquired on behalf of, the individual under the SIP at a time when the SIP was a Schedule 2 SIP, and

(b) if no notice under paragraph 81A of Schedule 2 to ITEPA 2003 is given in relation to the SIP or if the SIP cannot be a Schedule 2 SIP because of sub-paragraph (2) of this paragraph, as if the SIP were a Schedule 2 SIP despite no notice being given or despite sub-paragraph (2).

(7) If no notice under paragraph 81A of Schedule 2 to ITEPA 2003 is given in relation to the SIP, paragraph 81B of that Schedule (as inserted by paragraph 28 above) is to apply in relation to the SIP despite no notice being given; and, for this purpose, the relevant date is to be taken to be 6 April 2014.

(8) In relation to the SIP—

(a) paragraph 81F of Schedule 2 to ITEPA 2003 (as inserted by paragraph 28 above) has effect as if for sub-paragraph (2) there were substituted—

"(2) HMRC may enquire into the SIP if HMRC give notice to the company of HMRC's intention to do so no later than 6 July 2016.", and

(b) the cases covered by paragraphs 81F(4)(b), 81H(1)(a)(ii) and 81I(1)(a)(ii) of Schedule 2 to ITEPA 2003 (as inserted by paragraph 28 above) include cases in which requirements of Parts 2 to 9 of that Schedule were not met before 6 April 2014.

95 If the SIP was an approved SIP before 6 April 2014, the amendments made by this Part do not affect the deductions which may be made in relation to the SIP under section 987 of CTA 2009 (deduction for costs of setting up SIP) if they would otherwise do so; and the amendment made by paragraph 83(3)(a)(i) above has no effect in relation to such deductions.

96 The amendments made by paragraph 31 above do not affect a notice given in relation to the SIP under paragraph 93 of Schedule 2 to ITEPA 2003 before 6 April 2014.

PART 2

SAYE OPTION SCHEMES

Amendments to Chapter 7 of Part 7 of ITEPA 2003

97 Chapter 7 of Part 7 of ITEPA 2003 (employment income: income and exemptions relating to securities: SAYE option schemes) is amended as follows.

98 In the title omit "APPROVED".

99 (1) Section 516 (introduction to SAYE option schemes) is amended as follows.

(2) In the heading omit "**Approved**".

(3) In subsection (1)—

(a) omit paragraph (a) and the "and" after it, and

(b) in paragraph (b) for "those" substitute " SAYE option schemes which are Schedule 3 SAYE option ".

(4) Omit subsection (2).

(5) In subsection (3)(c) for "approved" substitute " Schedule 3 ".

(6) In subsection (4)—

(a) omit the definition of "approved", and

(b) after the definition of "SAYE option scheme" insert—

""Schedule 3 SAYE option scheme" is to be read in accordance with paragraph 1 and Part 8 of Schedule 3;".

100 In section 517 (share options to which Chapter applies) in subsection (1)(a) for "an approved" substitute " a Schedule 3 ".

101 (1) Section 519 (no charge in respect of exercise of option) is amended as follows.

(2) In subsection (1)(a) for "approved" substitute " a Schedule 3 SAYE option scheme ".

(3) In subsection (3A)—

(a) in paragraph (a) for "approved" substitute " a Schedule 3 SAYE option scheme ",

(b) in paragraph (b)(i) for "or (4)" substitute " , (4) or (4A) ",

(c) in paragraphs (c), (d) and (f) after sub-paragraph (ii) omit "or" and insert—

"(iia) the non-UK company reorganisation arrangement, or", and

(d) in paragraph (e) after sub-paragraph (ii) omit "or" and insert—

"(iia) the making of any non-UK company reorganisation arrangement which would fall within subsection (3H), or".

(4) In subsection (3H)—

(a) after "arrangement" insert " or a non-UK company reorganisation arrangement ", and

(b) in paragraph (b) for "an approved" substitute " a Schedule 3 ".

(5) In subsection (5)(b)—

(a) for "paragraph 42(3) provides" substitute " paragraphs 40H(4) and 40I(9) provide ",

(b) for "approved" substitute " a Schedule 3 SAYE option scheme ", and

(c) for "approval of the scheme has been previously withdrawn" substitute " the scheme is not a Schedule 3 SAYE option scheme ".

102 Schedule 3 is amended as follows.

103 In the title omit "APPROVED".

104 In the cross-heading before paragraph 1 for "*Approval of*" substitute " *Introduction to Schedule 3* ".

105 (1) Paragraph 1 (introduction) is amended as follows.

(2) For sub-paragraphs (1) and (2) substitute—

"(A1) For the purposes of the SAYE code an SAYE option scheme is a Schedule 3 SAYE option scheme if the requirements of Parts 2 to 7 of this Schedule are met in relation to the scheme."

(3) For sub-paragraph (4) substitute—

"(4) Sub-paragraph (A1) is subject to Part 8 of this Schedule which—

(a) requires notice of a scheme to be given to Her Majesty's Revenue and Customs ("HMRC") in order for the scheme to be a Schedule 3 SAYE option scheme (see paragraph 40A(1)),

(b) provides for a scheme in relation to which such notice is given to be a Schedule 3 SAYE option scheme (see paragraph 40A(4)), and

(c) gives power to HMRC to enquire into a scheme and to decide that the scheme should not be a Schedule 3 SAYE option scheme (see paragraphs 40F to 40I)."

106 In the title of Part 2 omit "FOR APPROVAL".

107 In the cross-heading before paragraph 4 omit "*for approval*".

108 For paragraph 5 (general restriction on contents of scheme) substitute—

"5 (1) The purpose of the scheme must be to provide, in accordance with this Schedule, benefits for employees and directors in the form of share options.

(2) The scheme must not provide benefits to employees or directors otherwise than in accordance with this Schedule.

(3) For example, the scheme must not provide cash as an alternative to share options or shares which might otherwise be acquired by the exercise of share options."

109 In paragraph 17 (requirements relating to shares that may be subject to share options) after sub-paragraph (1) insert—

"(1A) Sub-paragraph (1) and the other paragraphs of this Part are subject to paragraph 37(6B)."

110 In paragraph 25 (requirements as to contributions to savings arrangements) in sub-paragraph (3)(a) for "approved" substitute " Schedule 3 ".

111 (1) Paragraph 28 (requirements as to price for acquisition of shares) is amended as follows.

(2) After sub-paragraph (3) insert—

"(3A) If the scheme makes provision under sub-paragraph (3), the variation or variations made under that provision to take account of a variation in any share capital must (in particular) secure—

(a) that the total market value of the shares which may be acquired by the exercise of the share option is immediately after the variation or variations substantially the same as what it was immediately before the variation or variations, and

(b) that the total price at which those shares may be acquired is immediately after the variation or variations substantially the same as what it was immediately before the variation or variations.

(3B) Sub-paragraph (3) does not authorise any variation which would result in the requirements of the other paragraphs of this Schedule not being met in relation to the share option."

(3) Omit sub-paragraph (4).

112 In paragraph 32 (exercise of options: death) after "exercised" insert " at any time ".

113 In paragraph 34 (exercise of options: scheme-related employment ends) in sub-paragraph (5)—

(a) omit paragraph (a) and the "or" after it, and

(b) in paragraph (b) after "organiser" insert " where the transfer is not a relevant transfer within the meaning of the Transfer of Undertakings (Protection of Employment) Regulations 2006 ".

114 (1) Paragraph 37 (exercise of options: company events) is amended as follows.

(2) In sub-paragraph (1) after "(4)" insert " , (4A) ".

(3) In sub-paragraph (4)(b) for "an approved" substitute " a Schedule 3 ".

(4) After sub-paragraph (4) insert—

"(4A) The relevant date for the purposes of this sub-paragraph is the date on which a non-UK company reorganisation arrangement applicable to or affecting—

(a) all the ordinary share capital of the company or all the shares of the same class as the shares to which the option relates, or

(b) all the shares, or all the shares of that same class, which are held by a class of shareholders identified otherwise than by reference to their employments or directorships or their participation in a Schedule 3 SAYE option scheme,

becomes binding on the shareholders covered by it."

(5) After sub-paragraph (6) insert—

"(6A) Sub-paragraphs (6B) to (6F) apply if the scheme makes provision under sub-paragraph (1) or (6).

(6B) The scheme may provide that if, in consequence of a relevant event, shares in the company to which a share option relates no longer meet the requirements of Part 4 of this Schedule, the share option may be exercised under the provision made under sub-paragraph (1) or (6) (as the case may be) no later than 20 days after the day on which the relevant event occurs, notwithstanding that the shares no longer meet the requirements of Part 4 of this Schedule.

(6C) In sub-paragraph (6B) "relevant event" means—

(a) a person obtaining control of the company as mentioned in sub-paragraph (2)(a);

(b) a person obtaining control of the company as a result of a compromise or arrangement sanctioned by the court as mentioned in sub-paragraph (4);

(c) a person obtaining control of the company as a result of a non-UK company reorganisation arrangement which has become binding on the shareholders covered by it as mentioned in sub-paragraph (4A);

(d) a person who is bound or entitled to acquire shares in the company as mentioned in sub-paragraph (6) obtaining control of the company.

(6D) Provision made under sub-paragraph (6B) may not authorise the exercise of a share option, as the case may be—

(a) at a time outside the 6 month period mentioned in sub-paragraph (1), or

(b) at a time not covered by sub-paragraph (6).

(6E) The scheme may provide that a share option relating to shares in a company which is exercised during the period of 20 days ending with—

(a) the relevant date for the purposes of sub-paragraph (2), (4) or (4A), or

(b) the date on which any person becomes bound or entitled to acquire shares in the company as mentioned in sub-paragraph (6),

is to be treated as if it had been exercised in accordance with the provision made under sub-paragraph (1) or (6) (as the case may be).

(6F) If the scheme makes provision under sub-paragraph (6E) it must also provide that if—

(a) a share option is exercised in reliance on that provision in anticipation of—

(i) an event mentioned in sub-paragraph (2), (4) or (4A) occurring, or

(ii) a person becoming bound or entitled to acquire shares in the company as mentioned in sub-paragraph (6), but

(b) as the case may be—

(i) the relevant date for the purposes of sub-paragraph (2), (4) or (4A) does not fall during the period of 20 days beginning with the date on which the share option is exercised, or

(ii) the person does not become bound or entitled to acquire shares in the company by the end of the period of 20 days beginning with the date on which the share option is exercised,

the exercise of the share option is to be treated as having had no effect."

115 (1) Paragraph 38 (exchanges of options on company reorganisation) is amended as follows.

(2) In sub-paragraph (2) after paragraph (b) omit "or" and insert—

"(ba) obtains control of the scheme company as a result of a non-UK company reorganisation arrangement which has become binding on the shareholders covered by it; or".

(3) In sub-paragraph (3) after paragraph (b) omit "and" and insert—

"(ba) where control is obtained in the way set out in sub-paragraph (2)(ba), within the period of 6 months beginning with the date on which the non-UK company reorganisation arrangement becomes binding on the shareholders covered by it, and".

116 (1) Paragraph 39 (requirements about share options granted in exchange) is amended as follows.

(2) In sub-paragraph (4)—

(a) in paragraph (c) for "equal" substitute " be substantially the same as ", and

(b) in paragraph (d) for "equal to" substitute " substantially the same as ".

(3) After sub-paragraph (7) insert—

"(8) For the purposes of this paragraph the market value of any shares is to be determined using a methodology agreed by Her Majesty's Revenue and Customs."

117 For Part 8 substitute—

"**PART 8**

NOTIFICATION OF SCHEMES, ANNUAL RETURNS AND ENQUIRIES

Notice of scheme to be given to HMRC

40A (1) For an SAYE option scheme to be a Schedule 3 SAYE option scheme, notice of the scheme must be given to Her Majesty's Revenue and Customs ("HMRC").

(2) The notice must—

(a) be given by the scheme organiser,

(b) contain, or be accompanied by, such information as HMRC may require, and

(c) contain a declaration within sub-paragraph (3) made by such persons as HMRC may require.

(3) A declaration within this sub-paragraph is a declaration—

(a) that the requirements of Parts 2 to 7 of this Schedule are met in relation to the scheme, and

(b) if the declaration is made after the first date on which share options are granted under the scheme ("the first grant date"), that those requirements—

(i) were met in relation to those grants of share options, and

(ii) have otherwise been met in relation to the scheme at all times on or after the first grant date when share options granted under the scheme are outstanding.

(4) If notice is given under this paragraph in relation to an SAYE option scheme, for the purposes of the SAYE code the scheme is to be a Schedule 3 SAYE option scheme at all times on and after the relevant date (but not before that date).

(5) But if the notice is given after the initial notification deadline, the scheme is to be a Schedule 3 SAYE option scheme only from the beginning of the relevant tax year.

(6) For the purposes of this Part—

"the initial notification deadline" is 6 July in the tax year following that in which the first grant date falls,

"outstanding", in relation to a share option, means that the option—

(a) has not been exercised, but

(b) is capable of being exercised in accordance with the scheme (whether on the meeting of any condition or otherwise),

"the relevant date" is—

(a) the date on which the declaration within sub-paragraph (3) is made, or

(b) if that declaration is made after the first grant date, the first grant date, and

"the relevant tax year" is—

(a) the tax year in which the notice under this paragraph is given, or

(b) if that notice is given on or before 6 July in that tax year, the preceding tax year.

(7) Sub-paragraph (4) is subject to the following paragraphs of this Part.

Annual returns

40B (1) This paragraph applies if notice is given in relation to an SAYE option scheme under paragraph 40A.

(2) The scheme organiser must give to HMRC a return for the tax year in which the relevant date falls and for each subsequent tax year (subject to sub-paragraph (9)).

(3) If paragraph 40A(5) applies in relation to the scheme, in sub-paragraph (2) the reference to the tax year in which the relevant date falls is to be read as a reference to the relevant tax year.

(4) A return for a tax year must—

(a) contain, or be accompanied by, such information as HMRC may require, and

(b) be given on or before 6 July in the following tax year.

(5) The information which may be required under sub-paragraph (4)(a) includes (in particular) information to enable HMRC to determine the liability to tax, including capital gains tax, of—

(a) any person who has participated in the scheme, or

(b) any other person whose liability to tax the operation of the scheme is relevant to.

(6) If during a tax year—

(a) an alteration is made in a key feature of the scheme, or

(b) variations are made under a provision made under paragraph 28(3) to take account of a variation in any share capital,

the return for the tax year must contain a declaration within sub-paragraph (7) made by such persons as HMRC may require.

(7) A declaration within this sub-paragraph is a declaration, as the case may be—

(a) that the alteration has, or

(b) that the variations have,

not caused the requirements of Parts 2 to 7 of this Schedule not to be met in relation to the scheme.

(8) For the purposes of sub-paragraph (6)(a) a "key feature" of a scheme is a provision of the scheme which is necessary in order for the requirements of Parts 2 to 7 of this Schedule to be met in relation to the scheme.

(9) A return is not required for any tax year following that in which the termination condition is met in relation to the scheme.

(10) For the purposes of this Part "the termination condition" is met in relation to a scheme when—

(a) all share options granted under the scheme—

(i) have been exercised, or

(ii) are no longer capable of being exercised in accordance with the scheme (because, for example, they have lapsed or been cancelled), and

(b) no more share options will be granted under the scheme.

(11) If the scheme organiser becomes aware that—

(a) anything which should have been included in, or should have accompanied, a return for a tax year was not included in, or did not accompany, the return,

(b) anything which should not have been included in, or should not have accompanied, a return for a tax year was included in, or accompanied, the return, or

(c) any other error or inaccuracy has occurred in relation to a return for a tax year,

the scheme organiser must give an amended return correcting the position to HMRC without delay.

40C (1) This paragraph applies if the scheme organiser fails to give a return for a tax year (containing, or accompanied by, all required information and declarations) on or before the date mentioned in paragraph 40B(4)(b) ("the date for delivery").

(2) The scheme organiser is liable for a penalty of £100.

(3) If the scheme organiser's failure continues after the end of the period of 3 months beginning with the date for delivery, the scheme organiser is liable for a further penalty of £300.

(4) If the scheme organiser's failure continues after the end of the period of 6 months beginning with the date for delivery, the scheme organiser is liable for a further penalty of £300.

(5) The scheme organiser is liable for a further penalty under this sub-paragraph if—

(a) the scheme organiser's failure continues after the end of the period of 9 months beginning with the date for delivery,

(b) HMRC decide that such a penalty should be payable, and

(c) HMRC give notice to the scheme organiser specifying the period in respect of which the penalty is payable.

(The scheme organiser may be liable for more than one penalty under this sub-paragraph.)

(6) The penalty under sub-paragraph (5) is £10 for each day that the failure continues during the period specified in the notice under sub-paragraph (5)(c).

(7) The period specified in the notice under sub-paragraph (5)(c)—

(a) may begin earlier than the date on which the notice is given, but

(b) may not begin until after the end of the period mentioned in sub-paragraph (5)(a) or, if relevant, the end of any period specified in any previous notice under sub-paragraph (5)(c) given in relation to the failure.

(8) Liability for a penalty under this paragraph does not arise if the scheme organiser satisfies HMRC (or, on an appeal under paragraph 40K, the tribunal) that there is a reasonable excuse for its failure.

(9) For the purposes of sub-paragraph (8)—

(a) an insufficiency of funds is not a reasonable excuse, unless attributable to events outside the scheme organiser's control,

(b) where the scheme organiser relies on any other person to do anything, that is not a reasonable excuse unless the scheme organiser took reasonable care to avoid the failure, and

(c) where the scheme organiser had a reasonable excuse for the failure but the excuse ceased, the scheme organiser is to be treated as having continued to have the excuse if the failure is remedied without unreasonable delay after the excuse ceased.

Notices and returns to be given electronically etc

40D (1) A notice under paragraph 40A, and any information accompanying the notice, must be given electronically.

(2) A return under paragraph 40B, and any information accompanying the return, must be given electronically.

(3) But, if HMRC consider it appropriate to do so, HMRC may allow the scheme organiser to give a notice or return or any accompanying information in another way; and, if HMRC do so, the notice, return or information must be given in that other way.

(4) The Commissioners for Her Majesty's Revenue and Customs—

(a) must prescribe how notices, returns and accompanying information are to be given electronically;

(b) may make different provision for different cases or circumstances.

40E (1) This paragraph applies if a return under paragraph 40B, or any information accompanying such a return—

(a) is given otherwise than in accordance with paragraph 40D, or

(b) contains a material inaccuracy—

(i) which is careless or deliberate, or

(ii) which is not corrected as required by paragraph 40B(11).

(2) The scheme organiser is liable for a penalty of an amount decided by HMRC.

(3) The penalty must not exceed £5,000.

(4) For the purposes of sub-paragraph (1)(b)(i) an inaccuracy is careless if it is due to a failure by the scheme organiser to take reasonable care.

Enquiries

40F (1) This paragraph applies if notice is given in relation to an SAYE option scheme under paragraph 40A.

(2) HMRC may enquire into the scheme if HMRC give notice to the scheme organiser of HMRC's intention to do so no later than—

(a) 6 July in the tax year following the tax year in which the initial notification deadline falls, or

(b) if the notice under paragraph 40A is given after the initial notification deadline, 6 July in the second tax year following the relevant tax year.

(3) HMRC may enquire into the scheme if HMRC give notice to the scheme organiser of HMRC's intention to do so no later than 12 months after the date on which a declaration within paragraph 40B(7) is given to HMRC.

(4) Sub-paragraph (5) applies if (at any time) HMRC have reasonable grounds for believing that requirements of Parts 2 to 7 of this Schedule—

(a) are not met in relation to the scheme, or

(b) have not been met in relation to the scheme.

(5) HMRC may enquire into the scheme if HMRC give notice to the scheme organiser of HMRC's intention to do so.

(6) Notice may be given, and an enquiry may be conducted, under sub-paragraph (2), (3) or (5) even though the termination condition is met in relation to the scheme.

40G (1) An enquiry under paragraph 40F(2), (3) or (5) is completed when HMRC give the scheme organiser a notice (a "closure notice") stating—

(a) that HMRC have completed the enquiry, and

(b) that—

(i) paragraph 40H is to apply,

(ii) paragraph 40I is to apply, or

(iii) neither paragraph 40H nor paragraph 40I is to apply.

(2) If the scheme organiser receives notice under paragraph 40F(2), (3) or (5), the scheme organiser may make an application to the tribunal for a direction requiring a closure notice for the enquiry to be given within a specified period.

(3) The application is to be subject to the relevant provisions of Part 5 of TMA 1970 (see, in particular, section 48(2)(b) of that Act).

(4) The tribunal must give a direction unless satisfied that HMRC have reasonable grounds for not giving the closure notice within the specified period.

40H (1) This paragraph applies if HMRC decide—

(a) that requirements of Parts 2 to 7 of this Schedule—

(i) are not met in relation to the scheme, or

(ii) have not been met in relation to the scheme, and

(b) that the situation is, or was, so serious that this paragraph should apply.

(2) If this paragraph applies—

(a) the scheme is not to be a Schedule 3 SAYE option scheme with effect from—

(i) such relevant time as is specified in the closure notice, or

(ii) if no relevant time is specified, the time of the giving of the closure notice, and

(b) the scheme organiser is liable for a penalty of an amount decided by HMRC.

(3) Sub-paragraph (4) applies in relation to a share option granted under the scheme if the option—

(a) is granted at a time before that mentioned in sub-paragraph (2)(a)(i) or (ii) (as the case may be) when the scheme is a Schedule 3 SAYE option scheme, but

(b) is exercised at or after the time mentioned in sub-paragraph (2)(a)(i) or (ii) (as the case may be).

(4) For the purposes of section 519 (exemption in respect of exercise of share option) in its application to the option, the scheme is to be taken still to be a Schedule 3 SAYE option scheme at the time of the exercise of the option.

(5) The penalty under sub-paragraph (2)(b) must not exceed an amount equal to twice HMRC's reasonable estimate of—

(a) the total income tax for which persons who have been granted share options under the scheme have not been liable, or will not be liable in the future, and

(b) the total contributions under Part 1 of SSCBA 1992 or SSCB(NI)A 1992 for which any persons have not been liable, or will not be liable in the future,

in consequence of the scheme having been a Schedule 3 SAYE option scheme at any relevant time before the time mentioned in sub-paragraph (2)(a)(i) or (ii) (as the case may be).

(6) The liabilities covered by sub-paragraph (5) include liabilities for income tax or contributions which a person has not had, or will not have, in consequence of sub-paragraph (4).

(7) In this paragraph "relevant time" means any time before the giving of the closure notice when requirements of Parts 2 to 7 of this Schedule were not met in relation to the scheme.

40I (1) This paragraph applies if HMRC decide—

(a) that requirements of Parts 2 to 7 of this Schedule—

(i) are not met in relation to the scheme, or

(ii) have not been met in relation to the scheme, but

(b) that the situation is not, or was not, so serious that paragraph 40H should apply.

(2) If this paragraph applies, the scheme organiser—

(a) is liable for a penalty of an amount decided by HMRC, and

(b) must, no later than 90 days after the relevant day, secure that the requirements of Parts 2 to 7 of this Schedule are met in relation to the scheme.

(3) The penalty under sub-paragraph (2)(a) must not exceed £5,000.

(4) In sub-paragraph (2)(b) "the relevant day" means—

(a) the last day of the period in which notice of an appeal under paragraph 40K(2)(b) may be given, or

(b) if notice of such an appeal is given, the day on which the appeal is determined or withdrawn.

(5) Sub-paragraph (2)(b) does not apply if the termination condition was met in relation to the scheme before the closure notice was given or is met before the end of the 90 day period mentioned in sub-paragraph (2)(b).

(6) If the scheme organiser fails to comply with sub-paragraph (2)(b), HMRC may give the scheme organiser a notice stating that that is the case (a "default notice").

(7) If the scheme organiser is given a default notice—

(a) the scheme is not to be a Schedule 3 SAYE option scheme with effect from—

(i) such relevant time as is specified in the default notice, or

(ii) if no relevant time is specified, the time of the giving of the default notice, and

(b) the scheme organiser is liable for a further penalty of an amount decided by HMRC.

(8) Sub-paragraph (9) applies in relation to a share option granted under the scheme if the option—

(a) is granted at a time before that mentioned in sub-paragraph (7)(a)(i) or (ii) (as the case may be) when the scheme is a Schedule 3 SAYE option scheme, but

(b) is exercised at or after the time mentioned in sub-paragraph (7)(a)(i) or (ii) (as the case may be).

(9) For the purposes of section 519 (exemption in respect of exercise of share option) in its application to the option, the scheme is to be taken still to be a Schedule 3 SAYE option scheme at the time of the exercise of the option.

(10) The penalty under sub-paragraph (7)(b) must not exceed an amount equal to twice HMRC's reasonable estimate of—

(a) the total income tax for which persons who have been granted share options under the scheme have not been liable, or will not be liable in the future, and

(b) the total contributions under Part 1 of SSCBA 1992 or SSCB(NI)A 1992 for which any persons have not been liable, or will not be liable in the future,

in consequence of the scheme having been a Schedule 3 SAYE option scheme at any relevant time before the time mentioned in sub-paragraph (7)(a)(i) or (ii) (as the case may be).

(11) The liabilities covered by sub-paragraph (10) include liabilities for income tax or contributions which a person has not had, or will not have, in consequence of sub-paragraph (9).

(12) In this paragraph "relevant time" means any time before the giving of the default notice when requirements of Parts 2 to 7 of this Schedule were not met in relation to the scheme.

Assessment of penalties

40J (1) This paragraph applies if the scheme organiser is liable for a penalty under this Part.

(2) HMRC must assess the penalty and notify the scheme organiser of the assessment.

(3) Subject to sub-paragraphs (4) and (5), the assessment must be made no later than 12 months after the date on which the scheme organiser becomes liable for the penalty.

(4) In the case of a penalty under paragraph 40E(1)(b), the assessment must be made no later than—

(a) 12 months after the date on which HMRC become aware of the inaccuracy, and

(b) 6 years after the date on which the scheme organiser becomes liable for the penalty.

(5) In the case of a penalty under paragraph 40H(2)(b) or 40I(2)(a) or (7)(b) where notice of appeal is given under paragraph 40K(2) or (3), the assessment must be made no later than 12 months after the date on which the appeal is determined or withdrawn.

(6) A penalty payable under this Part must be paid—

(a) no later than 30 days after the date on which the notice under sub-paragraph (2) is given to the scheme organiser, or

(b) if notice of appeal is given against the penalty under paragraph 40K(1) or (4), no later than 30 days after the date on which the appeal is determined or withdrawn.

(7) The penalty may be enforced as if it were corporation tax or, if the scheme organiser is not within the charge to corporation tax, income tax charged in an assessment and due and payable.

(8) Sections 100 to 103 of TMA 1970 do not apply to a penalty under this Part.

Appeals

40K (1) The scheme organiser may appeal against a decision of HMRC that the scheme organiser is liable for a penalty under paragraph 40C or 40E.

(2) The scheme organiser may appeal against—

(a) a decision of HMRC mentioned in paragraph 40H(1) or a decision of HMRC to specify, or not to specify, a relevant time in the closure notice;

(b) a decision of HMRC mentioned in paragraph 40I(1).

(3) The scheme organiser may appeal against a decision of HMRC—

(a) to give the scheme organiser a default notice under paragraph 40I;

(b) to specify, or not to specify, a relevant time in the default notice.

(4) The scheme organiser may appeal against a decision of HMRC as to the amount of a penalty payable by the scheme organiser under this Part.

(5) Notice of appeal must be given to HMRC no later than 30 days after the date on which—

(a) in the case of an appeal under sub-paragraph (1) or (4), the notice under paragraph 40J(2) is given to the scheme organiser;

(b) in the case of an appeal under sub-paragraph (2), the closure notice is given;

(c) in the case of an appeal under sub-paragraph (3), the default notice is given.

(6) On an appeal under sub-paragraph (1) or (3)(a) which is notified to the tribunal, the tribunal may affirm or cancel the decision.

(7) On an appeal under sub-paragraph (2) or (3)(b) which is notified to the tribunal, the tribunal may—

(a) affirm or cancel the decision, or

(b) substitute for the decision another decision which HMRC had power to make.

(8) On an appeal under sub-paragraph (4) which is notified to the tribunal, the tribunal may—

(a) affirm the amount of the penalty decided, or

(b) substitute another amount for that amount.

(9) Subject to this paragraph and paragraph 40J, the provisions of Part 5 of TMA 1970 relating to appeals have effect in relation to an appeal under this paragraph as they have effect in relation to an appeal against an assessment to corporation tax or, if the scheme organiser is not within the charge to corporation tax, income tax."

118 (1) Paragraph 45 (power to require information) is amended as follows.

(2) For sub-paragraph (1) substitute—

"(1) An officer of Revenue and Customs may by notice require a person to provide the officer with any information—

(a) which the officer reasonably requires for the performance of any functions of Her Majesty's Revenue and Customs or an officer of Revenue and Customs under the SAYE code, and

(b) which the person to whom the notice is addressed has or can reasonably obtain."

(3) In sub-paragraph (2)(a)—

(a) for sub-paragraph (i) substitute—

"(i) to check anything contained in a notice under paragraph 40A or a return under paragraph 40B

or to check any information accompanying such a notice or return, or", and"

(b) in sub-paragraph (ii) after "scheme" insert " or any other person whose liability to tax the operation of a scheme is relevant to ".

119 After paragraph 47 insert—

"Non-UK company reorganisation arrangements

47A (1) For the purposes of the SAYE code a "non-UK company reorganisation arrangement" is an arrangement made in relation to a company under the law of a territory outside the United Kingdom—

(a) which gives effect to a reorganisation of the company's share capital by the consolidation of shares of different classes, or by the division of shares into shares of different classes, or by both of those methods, and

(b) which is approved by a resolution of members of the company.

(2) A resolution does not count for the purposes of sub-paragraph (1)(b) unless the members who vote in favour of approving the arrangement represent more than 50% of the total voting rights of all the members having the right to vote on the issue."

120 In paragraph 49 (index of defined expressions)—

(a) omit the entry for "approved", and

(b) at the appropriate places insert—

"non-UK company reorganisation arrangement	paragraph 47A"
"Schedule 3 SAYE option scheme	paragraph 1 and Part 8 of this Schedule".

Other amendments: TCGA 1992

121 TCGA 1992 is amended as follows.

122 (1) Section 105A (shares acquired on same day: election for alternative treatment) is amended as follows.

(2) For "approved-scheme" (in all places) substitute " tax-advantaged-scheme ".

(3) In subsection (1)(b)(ii) omit "approved".

123 In section 105B (provision supplementary to section 105A) in subsections (7) and (8) for "approved-scheme" substitute " tax-advantaged-scheme ".

124 In section 238A (share schemes and share incentives) in subsection (2)(b) for "approved" substitute " Schedule 3 ".

125 Part 2 of Schedule 7D (SAYE option schemes) is amended as follows.

126 In the title for "APPROVED" substitute " SCHEDULE 3 ".

127 In paragraph 9 (introduction) in sub-paragraphs (1) and (2) omit "approved".

128 (1) Paragraph 10 (market value rule not to apply) is amended as follows.

(2) In sub-paragraph (1)—

(a) in paragraph (a)(i) for "an approved" substitute " a Schedule 3 ", and

(b) in paragraph (b) for "approved" substitute " a Schedule 3 SAYE option scheme ".

(3) For sub-paragraph (3) substitute—

"(3) Sub-paragraph (3A) applies for the purposes of sub-paragraph (1)(b) if—

(a) the SAYE option scheme is not to be a Schedule 3 SAYE option scheme by virtue of paragraph 40H or 40I of Schedule 3 to ITEPA 2003, and

(b) the option was granted before, but exercised at or after, the time mentioned in paragraph 40H(2)(a)(i) or (ii) or 40I(7)(a)(i) or (ii) of that Schedule (as the case may be).

(3A) The scheme is to be taken still to be a Schedule 3 SAYE option scheme when the option is exercised."

Other amendments: ITEPA 2003, Part 4 of FA 2004, ITTOIA 2005 and CTA 2009

129 ITEPA 2003 is amended as follows.

130 In section 227 (scope of Part 4) in subsection (4)(e) omit "approved".

131 In section 417 (scope of Part 7) in subsection (2), in the entry for Chapter 7, omit "approved".

132 In section 431A (provision relating to restricted securities) in subsection (2)(b) for "an approved" substitute " a Schedule 3 ".

133 In section 473 (introduction to taxation of securities options) in subsection (4)(a) for "approved" substitute " Schedule 3 ".

134 In section 476 (charge on occurrence of chargeable event) in subsection (6), in the entry for section 519, omit "approved".

135 In section 549 (application of Chapter 11 of Part 7) in subsection (2)(b) omit "approved".

136 (1) Section 554E (exclusions under Part 7A) is amended as follows.

(2) In subsection (1)(b) for "an approved" substitute " a Schedule 3 ".

(3) In subsection (3)(a)(ii) and (b)(ii) for the first "an approved" substitute " a Schedule 3 ".

(4) In subsection (4)(a) and (b) for the second "approved" substitute " Schedule 3 ".

137 In section 697 (PAYE: enhancing the value of an asset) in subsection (4)—

(a) in paragraph (a) omit the words from "Schedule 3" to the second "or",

(b) after paragraph (a) insert—

"(aa) any shares acquired by the employee under a scheme which is a Schedule 3 SAYE option scheme (see Schedule 3),", and

(c) in paragraph (b) for "such a scheme" substitute " a scheme mentioned in any of the preceding paragraphs ".

138 In section 701 (PAYE: meaning of "asset") in subsection (2)(c)—

(a) in sub-paragraph (i) omit "Schedule 3 (approved SAYE option schemes) or", and

(b) after sub-paragraph (i) insert—

"(iza) any shares acquired by the employee under a scheme which is a Schedule 3 SAYE option scheme (see Schedule 3),".

139 In section 195 of FA 2004 (pensions: transfer of certain shares to be treated as payment of contribution) in subsection (5), in the definition of "SAYE option scheme", omit "approved".

140 (1) Section 94A of ITTOIA 2005 (costs of setting up SAYE option scheme or CSOP scheme) is amended as follows.

(2) In subsection (1)—

(a) in paragraph (a) omit "that is approved by an officer of Revenue and Customs", and

(b) omit paragraph (b) and the "and" before it.

(3) In subsection (2)—

(a) at the beginning of paragraph (a) insert " Schedule 3 ",

(b) at the beginning of paragraph (b) insert " Schedule 4 ", and

(c) omit the final sentence.

(4) In subsection (4) for "approval is given" (in both places) substitute " relevant date falls ".

(5) After subsection (4) insert—

"(4A) In subsection (4) "the relevant date"—

(a) in relation to a Schedule 3 SAYE option scheme, has the meaning given in paragraph 40A(6) of Schedule 3 to ITEPA 2003, and

(b) in relation to a Schedule 4 CSOP scheme, has the meaning given in paragraph 28A(6) of Schedule 4 to ITEPA 2003."

141 (1) Section 703 of ITTOIA 2005 (SAYE interest: meaning of "certified SAYE savings arrangement") is amended as follows.

(2) In subsection (2)(b) for "an approved" substitute " a Schedule 3 ".

(3) In subsection (3) for the definition of "SAYE option scheme" substitute—

""Schedule 3 SAYE option scheme" has the meaning given in Schedule 3 to ITEPA 2003."

142 (1) Section 999 of CTA 2009 (deduction for costs of setting up SAYE option scheme etc) is amended as follows.

(2) In subsection (1)—

(a) in paragraph (a) omit "that is approved by an officer of Revenue and Customs", and

(b) omit paragraph (b) and the "and" before it.

(3) In subsection (2)—

(a) at the beginning of paragraph (a) insert " Schedule 3 ",

(b) at the beginning of paragraph (b) insert " Schedule 4 ", and

(c) omit the final sentence.

(4) In subsection (6) for "approval is given" (in all places) substitute " relevant date falls ".

(5) After subsection (6) insert—

"(6A) In subsection (6) "the relevant date"—

(a) in relation to a Schedule 3 SAYE option scheme, has the meaning given in paragraph 40A(6) of Schedule 3 to ITEPA 2003, and

(b) in relation to a Schedule 4 CSOP scheme, has the meaning given in paragraph 28A(6) of Schedule 4 to ITEPA 2003."

Other amendments: Individual Savings Account Regulations 1998 (S.I. 1998/1870)

143 The Individual Savings Account Regulations 1998 are amended as follows.

144 In regulation 2 (interpretation) in paragraph (1)(a)—

(a) omit the definition of "approved SAYE option scheme", and

(b) at the appropriate place insert—

""Schedule 3 SAYE option scheme" shall be construed in accordance with the SAYE code (see section 516(3) of ITEPA 2003);".

145 In regulation 7 (qualifying investments) in paragraphs (2)(h)(i) and (10)(a) for "an approved" substitute " a Schedule 3 ".

Commencement and transitional provision

146 This Part is treated as having come into force on 6 April 2014.

147 Paragraphs 148 to 157 below apply in relation to an SAYE option scheme established before 6 April 2014.

148 (1) If the scheme was an approved SAYE option scheme immediately before 6 April 2014, this paragraph applies to any provision which the scheme contains immediately before that date and which requires the approval or agreement of Her Majesty's Revenue and Customs or an officer of Revenue and Customs to be obtained in relation to any matter.

(2) On and after 6 April 2014, the provision is to have effect without the requirement for the approval or agreement, unless the requirement reflects a requirement for approval or agreement set out in Schedule 3 to ITEPA 2003 (as amended by this Part).

149 (1) If the scheme was an approved SAYE option scheme immediately before 6 April 2014, the amendment made by paragraph 108 above has effect in relation to the scheme only if, and when, there is an alteration in a key feature of the scheme on or after that date.

(2) In sub-paragraph (1) "key feature" has the meaning given in paragraph 40B(8) of Schedule 3 to ITEPA 2003 (as inserted by paragraph 117 above).

150 If the scheme was an approved SAYE option scheme immediately before 6 April 2014, on and after that date the scheme has effect with any modifications needed to reflect the amendment made by paragraph 110 above.

151 (1) This paragraph applies if, immediately before 6 April 2014, the scheme was an approved SAYE option scheme which contains provision authorised by paragraph 28(3) of Schedule 3 to ITEPA 2003.

(2) On and after 6 April 2014, the scheme has effect with any modifications needed to reflect the amendments made by paragraph 111 above.

152 (1) The amendment made by paragraph 112 above has no effect in relation to share options granted before 6 April 2014 under the scheme.

(2) If the scheme was an approved SAYE option scheme immediately before 6 April 2014, on and after that date the scheme has effect with any modifications needed to reflect the amendment made by paragraph 112 above (subject to sub-paragraph (1) of this paragraph).

153 (1) The amendments made by paragraph 113 above have no effect in a case where P ceases to hold the scheme-related employment before 6 April 2014.

(2) If immediately before 6 April 2014 the scheme was an approved SAYE option scheme which contains provision authorised by paragraph 34(5) of Schedule 3 to ITEPA 2003, on and after that date the scheme has effect with any modifications needed to reflect the amendments made by paragraph 113 above (subject to sub-paragraph (1) of this paragraph).

154 (1) This paragraph applies if, immediately before 6 April 2014, the scheme was an approved SAYE option scheme which contains provision authorised by paragraph 37(1) of Schedule 3 to ITEPA 2003.

(2) On and after 6 April 2014, the scheme has effect with any modifications needed to reflect the amendment made by paragraph 114(3) above.

155 (1) Paragraph 40A of Schedule 3 to ITEPA 2003 (as inserted by paragraph 117 above) has effect in relation to the scheme—

(a) as if, at the end of sub-paragraph (1), the words "on or before 6 July 2015" were inserted,

(b) if the first date on which share options are granted under the scheme falls before 6 April 2014—

(i) as if, in sub-paragraph (3)(b), the reference to that date were a reference to 6 April 2014 and, accordingly, as if all references in paragraph 40A to the first grant date were references to 6 April 2014,

(ii) as if sub-paragraph (3)(b)(i) were omitted, and

(iii) as if, in sub-paragraph (3)(b)(ii), "otherwise" were omitted,

(c) as if sub-paragraph (5) were omitted, and

(d) as if, in sub-paragraph (6), the definitions of "the initial notification deadline" and "the relevant tax year" were omitted.

(2) But the scheme cannot be a Schedule 3 SAYE option scheme if, before 6 April 2014, an application for its approval was refused or an officer of Revenue and Customs decided to withdraw its approval.

(3) Sub-paragraph (2) is without prejudice to the outcome of any appeal under paragraph 41 or 44 of Schedule 3 to ITEPA 2003 against the refusal or decision to withdraw approval.

(4) The amendments made by this Part do not affect any right of appeal under paragraph 41 or 44 of Schedule 3 to ITEPA 2003 against a refusal or decision made before 6 April 2014 in relation to the scheme.

(5) Sub-paragraphs (6) and (7) apply if a share option was granted before 6 April 2014 under the scheme at a time when the scheme was an approved SAYE option scheme.

(6) On and after 6 April 2014, the SAYE code has effect in relation to the option as if it were granted under the scheme at a time when the scheme was a Schedule 3 SAYE option scheme (even if no notice is given under paragraph 40A of Schedule 3 to ITEPA 2003 in relation to the scheme or the scheme cannot be a Schedule 3 SAYE option scheme because of sub-paragraph (2) of this paragraph).

(7) If no notice is given under paragraph 40A of Schedule 3 to ITEPA 2003 in relation to the scheme, paragraph 40B of that Schedule (as inserted by paragraph 117 above) is to apply in relation to the scheme despite no notice being given; and, for this purpose, the relevant date is to be taken to be 6 April 2014.

(8) Sub-paragraph (9) applies in relation to a share option granted before 6 April 2014 under the scheme at a time when the scheme was an approved SAYE option scheme if—

(a) no notice is given under paragraph 40A of Schedule 3 to ITEPA 2003 in relation to the scheme or the scheme cannot be a Schedule 3 SAYE option scheme because of sub-paragraph (2) of this paragraph, and

(b) the option is exercised on or after 6 April 2014.

(9) The scheme is to be taken to be a Schedule 3 SAYE option scheme at the time of the exercise of the option for the purposes of the following provisions in their application to the option—

(a) section 519 of ITEPA 2003 (exemption in respect of exercise of share option), and

(b) paragraph 10(1)(b) of Schedule 7D to TCGA 1992 (market value rule not to apply).

(10) In relation to the scheme—

(a) paragraph 40F of Schedule 3 to ITEPA 2003 (as inserted by paragraph 117 above) has effect as if for sub-paragraph (2) there were substituted—

"(2) HMRC may enquire into the scheme if HMRC give notice to the scheme organiser of HMRC's intention to do so no later than 6 July 2016.", and

(b) the cases covered by paragraphs 40F(4)(b), 40H(1)(a)(ii) and 40I(1)(a)(ii) of Schedule 3 to ITEPA 2003 (as inserted by paragraph 117 above) include cases in which requirements of Parts 2 to 7 of that Schedule were not met before 6 April 2014.

156 If the scheme was an approved SAYE option scheme before 6 April 2014, the amendments made by this Part do not affect the deductions which may be made in relation to the scheme under section 94A of ITTOIA 2005 or section 999 of CTA 2009 (deduction for costs of setting up scheme) if they would otherwise do so.

157 The amendments made by paragraph 118 above do not affect a notice given in relation to the scheme under paragraph 45 of Schedule 3 to ITEPA 2003 before 6 April 2014.

PART 3

CSOP SCHEMES

Amendments to Chapter 8 of Part 7 of ITEPA 2003

158 Chapter 8 of Part 7 of ITEPA 2003 (employment income: income and exemptions relating to securities: CSOP schemes) is amended as follows.

159 In the title omit "APPROVED".

160 (1) Section 521 (introduction to CSOP schemes) is amended as follows.

(2) In the heading omit "**Approved**".

(3) In subsection (1)—

(a) omit paragraph (a), and

(b) in paragraph (b) for "those" substitute " CSOP schemes which are Schedule 4 CSOP ".

(4) Omit subsection (2).

(5) In subsection (3)(c) for "approved" substitute " Schedule 4 ".

(6) In subsection (4)—

(a) omit the definition of "approved", and

(b) after the definition of "CSOP scheme" insert—

> ""Schedule 4 CSOP scheme" is to be read in accordance with paragraph 1 and Part 7 of Schedule 4;".

161 In section 522 (share options to which Chapter applies) in subsection (1)(a) for "an approved" substitute " a Schedule 4 ".

162 (1) Section 524 (no charge in respect of exercise of option) is amended as follows.

(2) In subsection (1)(a) for "approved" substitute " a Schedule 4 CSOP scheme ".

(3) In subsection (2E)—

(a) in paragraph (a) for "approved" substitute " a Schedule 4 CSOP scheme ",

(b) in paragraphs (c), (d) and (f) after sub-paragraph (ii) omit "or" and insert—

> "(iia) the non-UK company reorganisation arrangement, or", and

(c) in paragraph (e) after sub-paragraph (ii) omit "or" and insert—

> "(iia) the making of any non-UK company reorganisation arrangement which would fall within subsection (2L), or".

(4) In subsection (2L)—

(a) after "arrangement" insert " or a non-UK company reorganisation arrangement ", and

(b) in paragraph (b) for "an approved" substitute " a Schedule 4 ".

163 Schedule 4 is amended as follows.

164 In the title omit "APPROVED".

165 In the cross-heading before paragraph 1 for "*Approval of*" substitute " *Introduction to Schedule 4* ".

166 (1) Paragraph 1 (introduction) is amended as follows.

(2) For sub-paragraphs (1) and (2) substitute—

"(A1) For the purposes of the CSOP code a CSOP scheme is a Schedule 4 CSOP scheme if the requirements of Parts 2 to 6 of this Schedule are met in relation to the scheme."

(3) For sub-paragraph (4) substitute—

"(4) Sub-paragraph (A1) is subject to Part 7 of this Schedule which—

(a) requires notice of a scheme to be given to Her Majesty's Revenue and Customs ("HMRC") in order for the scheme to be a Schedule 4 CSOP scheme (see paragraph 28A(1)),

(b) provides for a scheme in relation to which such notice is given to be a Schedule 4 CSOP scheme (see paragraph 28A(4)), and

(c) gives power to HMRC to enquire into a scheme and to decide that the scheme should not be a Schedule 4 CSOP scheme (see paragraphs 28F to 28I)."

167 In the title for Part 2 omit "FOR APPROVAL".

168 In the cross-heading before paragraph 4 omit "*for approval*".

169 For paragraph 5 (general restriction on contents of scheme) substitute—

"5 (1) The purpose of the scheme must be to provide, in accordance with this Schedule, benefits for employees and directors in the form of share options.

(2) The scheme must not provide benefits to employees or directors otherwise than in accordance with this Schedule.

(3) For example, the scheme must not provide cash as an alternative to share options or shares which might otherwise be acquired by the exercise of share options."

170 In paragraph 6 (limit on value of shares subject to options) in sub-paragraph (1)(b) for "approved" substitute " Schedule 4 ".

171 In paragraph 15 (requirements relating to shares that may be subject to share options) after sub-paragraph (1) insert—

"(1A) Sub-paragraph (1) and the other paragraphs of this Part are subject to paragraph 25A(7B)."

172 In paragraph 21 (requirements relating to share options) in sub-paragraph (1) before the entry for paragraph 22 insert— " paragraph 21A (general requirements as to terms of option), ".

173 After paragraph 21 insert—

"General requirements as to terms of option

21A (1) The following terms of a share option which is granted under the scheme must be stated at the time the option is granted—

(a) the price at which shares may be acquired by the exercise of the option,

(b) the number and description of the shares which may be acquired by the exercise of the option,

(c) the restrictions to which those shares may be subject,

(d) the times at which the option may be exercised (in whole or in part), and

(e) the circumstances under which the option will lapse or be cancelled (in whole or in part), including any conditions to which the exercise of the option is subject (in whole or in part).

(2) Terms stated as required by sub-paragraph (1) may be varied after the grant of the option, but—

(a) in the case of the price, only as provided for in paragraph 22,

(b) in the case of the number or description of shares, only as provided for in paragraph 22 or by way of a mechanism which is stated at the time the option is granted, and

(c) in any other case, only by way of a mechanism which is stated at the time the option is granted.

(3) Any mechanism stated for the purposes of sub-paragraph (2)(b) or (c) must be applied in a way that is fair and reasonable.

(4) Terms stated as required by sub-paragraph (1), and any mechanism stated for the purposes of sub-paragraph (2)(b) or (c), must be notified to the participant as soon as practicable after the grant of the option."

174 (1) Paragraph 22 (requirements as to price for acquisition of shares etc) is amended as follows.

(2) In sub-paragraph (1)—

(a) omit paragraph (a) and the "and" after it, and

(b) in paragraph (b) for "that time" substitute " the time when the option is granted ".

(3) After sub-paragraph (3) insert—

"(3A) If the scheme makes provision under sub-paragraph (3), the variation or variations made under that provision to take account of a variation in any share capital must (in particular) secure—

(a) that the total market value of the shares which may be acquired by the exercise of the share option is immediately after the variation or variations substantially the same as what it was immediately before the variation or variations, and

(b) that the total price at which those shares may be acquired is immediately after the variation or variations substantially the same as what it was immediately before the variation or variations.

(3B) Sub-paragraph (3) does not authorise any variation which would result in the requirements of the other paragraphs of this Schedule not being met in relation to the share option."

(4) Omit sub-paragraph (4).

(5) Omit sub-paragraph (5).

175 (1) Paragraph 25 (exercise of options: death) is amended as follows.

(2) Make the existing text sub-paragraph (1).

(3) In the new sub-paragraph (1) omit "but not later than 12 months after that date".

(4) After the new sub-paragraph (1) insert—

"(2) Provision made under sub-paragraph (1) must permit the exercise of the options at any time on or after the date of death but not later than 12 months after that date."

176 (1) Paragraph 25A (exercise of options: company events) is amended as follows.

(2) In sub-paragraph (1) for "or (6)" substitute " , (6) or (6A) ".

(3) In sub-paragraph (6)(b) for "an approved" substitute " a Schedule 4 ".

(4) After sub-paragraph (6) insert—

"(6A) The relevant date for the purposes of this sub-paragraph is the date on which a non-UK company reorganisation arrangement applicable to or affecting—

(a) all the ordinary share capital of the company or all the shares of the same class as the shares to which the option relates, or

(b) all the shares, or all the shares of that same class, which are held by a class of shareholders identified otherwise than by reference to their employments or directorships or their participation in a Schedule 4 CSOP scheme,

becomes binding on the shareholders covered by it."

(5) After sub-paragraph (7) insert—

"(7A) Sub-paragraphs (7B) to (7F) apply if the scheme makes provision under sub-paragraph (1) or (7).

(7B) The scheme may provide that if, in consequence of a relevant event, shares in the company to which a share option relates no longer meet the requirements of Part 4 of this Schedule, the share option may be exercised under the provision made under sub-paragraph (1) or (7) (as the case may be) no later than 20 days after the day on which the relevant event occurs, notwithstanding that the shares no longer meet the requirements of Part 4 of this Schedule.

(7C) In sub-paragraph (7B) "relevant event" means—

(a) a person obtaining control of the company as mentioned in sub-paragraph (2)(a);

(b) a person obtaining control of the company as a result of a compromise or arrangement sanctioned by the court as mentioned in sub-paragraph (6);

(c) a person obtaining control of the company as a result of a non-UK company reorganisation arrangement which has become binding on the shareholders covered by it as mentioned in sub-paragraph (6A);

(d) a person who is bound or entitled to acquire shares in the company as mentioned in sub-paragraph (7) obtaining control of the company.

(7D) Provision made under sub-paragraph (7B) may not authorise the exercise of a share option, as the case may be—

(a) at a time outside the 6 month period mentioned in sub-paragraph (1), or

(b) at a time not covered by sub-paragraph (7).

(7E) The scheme may provide that a share option relating to shares in a company which is exercised during the period of 20 days ending with—

(a) the relevant date for the purposes of sub-paragraph (2), (6) or (6A), or

(b) the date on which any person becomes bound or entitled to acquire shares in the company as mentioned in sub-paragraph (7),

is to be treated as if it had been exercised in accordance with the provision made under sub-paragraph (1) or (7) (as the case may be).

(7F) If the scheme makes provision under sub-paragraph (7E) it must also provide that if—

(a) a share option is exercised in reliance on that provision in anticipation of—

(i) an event mentioned in sub-paragraph (2), (6) or (6A) occurring, or

(ii) a person becoming bound or entitled to acquire shares in the company as mentioned in sub-paragraph (7), but

(b) as the case may be—

(i) the relevant date for the purposes of sub-paragraph (2), (6) or (6A) does not fall during the period of 20 days beginning with the date on which the share option is exercised, or

(ii) the person does not become bound or entitled to acquire shares in the company by the end of the period of 20 days beginning with the date on which the share option is exercised,

the exercise of the share option is to be treated as having had no effect."

177 (1) Paragraph 26 (exchanges of options on company reorganisation) is amended as follows.

(2) In sub-paragraph (2) after paragraph (b) insert—

"(ba) obtains control of the scheme company as a result of a non-UK company reorganisation arrangement which has become binding on the shareholders covered by it; or".

(3) In sub-paragraph (3) after paragraph (b) omit "and" and insert—

"(ba) where control is obtained in the way set out in sub-paragraph (2)(ba), within the period of 6 months beginning with the date on which the non-UK company reorganisation arrangement becomes binding on the shareholders covered by it, and".

178 (1) Paragraph 27 (requirements about share options granted in exchange) is amended as follows.

(2) In sub-paragraph (4)—

(a) in paragraph (c) for "equal" substitute " be substantially the same as ", and

(b) in paragraph (d) for "equal to" substitute " substantially the same as ".

(3) After sub-paragraph (7) insert—

"(8) For the purposes of this paragraph the market value of any shares is to be determined using a methodology agreed by Her Majesty's Revenue and Customs."

179 For Part 7 substitute—

"**PART 7**

NOTIFICATION OF SCHEMES, ANNUAL RETURNS AND ENQUIRIES

Notice of scheme to be given to HMRC

28A (1) For a CSOP scheme to be a Schedule 4 CSOP scheme, notice of the scheme must be given to Her Majesty's Revenue and Customs ("HMRC").

(2) The notice must—

(a) be given by the scheme organiser,

(b) contain, or be accompanied by, such information as HMRC may require, and

(c) contain a declaration within sub-paragraph (3) made by such persons as HMRC may require.

(3) A declaration within this sub-paragraph is a declaration—

(a) that the requirements of Parts 2 to 6 of this Schedule are met in relation to the scheme, and

(b) if the declaration is made after the first date on which share options are granted under the scheme ("the first grant date"), that those requirements—

(i) were met in relation to those grants of share options, and

(ii) have otherwise been met in relation to the scheme at all times on or after the first grant date when share options granted under the scheme are outstanding.

(4) If notice is given under this paragraph in relation to a CSOP scheme, for the purposes of the CSOP code the scheme is to be a Schedule 4 CSOP scheme at all times on and after the relevant date (but not before that date).

(5) But if the notice is given after the initial notification deadline, the scheme is to be a Schedule 4 CSOP scheme only from the beginning of the relevant tax year.

(6) For the purposes of this Part—

"the initial notification deadline" is 6 July in the tax year following that in which the first grant date falls,

"outstanding", in relation to a share option, means that the option—

(a) has not been exercised, but

(b) is capable of being exercised in accordance with the scheme (whether on the meeting of any condition or otherwise),

"the relevant date" is—

(a) the date on which the declaration within sub-paragraph (3) is made, or

(b) if that declaration is made after the first grant date, the first grant date, and

"the relevant tax year" is—

(a) the tax year in which the notice under this paragraph is given, or

(b) if that notice is given on or before 6 July in that tax year, the preceding tax year.

(7) Sub-paragraph (4) is subject to the following paragraphs of this Part.

Annual returns

28B (1) This paragraph applies if notice is given in relation to a CSOP scheme under paragraph 28A.

(2) The scheme organiser must give to HMRC a return for the tax year in which the relevant date falls and for each subsequent tax year (subject to sub-paragraph (9)).

(3) If paragraph 28A(5) applies in relation to the scheme, in sub-paragraph (2) the reference to the tax year in which the relevant date falls is to be read as a reference to the relevant tax year.

(4) A return for a tax year must—

(a) contain, or be accompanied by, such information as HMRC may require, and

(b) be given on or before 6 July in the following tax year.

(5) The information which may be required under sub-paragraph (4)(a) includes (in particular) information to enable HMRC to determine the liability to tax, including capital gains tax, of—

(a) any person who has participated in the scheme, or

(b) any other person whose liability to tax the operation of the scheme is relevant to.

(6) If during a tax year—

(a) an alteration is made in a key feature of the scheme, or

(b) variations are made under a provision made under paragraph 22(3) to take account of a variation in any share capital,

the return for the tax year must contain a declaration within sub-paragraph (7) made by such persons as HMRC may require.

(7) A declaration within this sub-paragraph is a declaration, as the case may be—

(a) that the alteration has, or

(b) that the variations have,

not caused the requirements of Parts 2 to 6 of this Schedule not to be met in relation to the scheme.

(8) For the purposes of sub-paragraph (6)(a) a "key feature" of a scheme is a provision of the scheme which is necessary in order for the requirements of Parts 2 to 6 of this Schedule to be met in relation to the scheme.

(9) A return is not required for any tax year following that in which the termination condition is met in relation to the scheme.

(10) For the purposes of this Part "the termination condition" is met in relation to a scheme when—

(a) all share options granted under the scheme—

(i) have been exercised, or

(ii) are no longer capable of being exercised in accordance with the scheme (because, for example, they have lapsed or been cancelled), and

(b) no more share options will be granted under the scheme.

(11) If the scheme organiser becomes aware that—

(a) anything which should have been included in, or should have accompanied, a return for a tax year was not included in, or did not accompany, the return,

(b) anything which should not have been included in, or should not have accompanied, a return for a tax year was included in, or accompanied, the return, or

(c) any other error or inaccuracy has occurred in relation to a return for a tax year,

the scheme organiser must give an amended return correcting the position to HMRC without delay.

28C (1) This paragraph applies if the scheme organiser fails to give a return for a tax year (containing, or accompanied by, all required information and declarations) on or before the date mentioned in paragraph 28B(4)(b) ("the date for delivery").

(2) The scheme organiser is liable for a penalty of £100.

(3) If the scheme organiser's failure continues after the end of the period of 3 months beginning with the date for delivery, the scheme organiser is liable for a further penalty of £300.

(4) If the scheme organiser's failure continues after the end of the period of 6 months beginning with the date for delivery, the scheme organiser is liable for a further penalty of £300.

(5) The scheme organiser is liable for a further penalty under this sub-paragraph if—

(a) the scheme organiser's failure continues after the end of the period of 9 months beginning with the date for delivery,

(b) HMRC decide that such a penalty should be payable, and

(c) HMRC give notice to the scheme organiser specifying the period in respect of which the penalty is payable.

(The scheme organiser may be liable for more than one penalty under this sub-paragraph.)

(6) The penalty under sub-paragraph (5) is £10 for each day that the failure continues during the period specified in the notice under sub-paragraph (5)(c).

(7) The period specified in the notice under sub-paragraph (5)(c)—

(a) may begin earlier than the date on which the notice is given, but

(b) may not begin until after the end of the period mentioned in sub-paragraph (5)(a) or, if relevant, the end of any period specified in any previous notice under sub-paragraph (5)(c) given in relation to the failure.

(8) Liability for a penalty under this paragraph does not arise if the scheme organiser satisfies HMRC (or, on an appeal under paragraph 28K, the tribunal) that there is a reasonable excuse for its failure.

(9) For the purposes of sub-paragraph (8)—

(a) an insufficiency of funds is not a reasonable excuse, unless attributable to events outside the scheme organiser's control,

(b) where the scheme organiser relies on any other person to do anything, that is not a reasonable excuse unless the scheme organiser took reasonable care to avoid the failure, and

(c) where the scheme organiser had a reasonable excuse for the failure but the excuse ceased, the scheme organiser is to be treated as having continued to have the excuse if the failure is remedied without unreasonable delay after the excuse ceased.

Notices and returns to be given electronically etc

28D (1) A notice under paragraph 28A, and any information accompanying the notice, must be given electronically.

(2) A return under paragraph 28B, and any information accompanying the return, must be given electronically.

(3) But, if HMRC consider it appropriate to do so, HMRC may allow the scheme organiser to give a notice or return or any accompanying information in another way; and, if HMRC do so, the notice, return or information must be given in that other way.

(4) The Commissioners for Her Majesty's Revenue and Customs—

(a) must prescribe how notices, returns and accompanying information are to be given electronically;

(b) may make different provision for different cases or circumstances.

28E (1) This paragraph applies if a return under paragraph 28B, or any information accompanying such a return—

(a) is given otherwise than in accordance with paragraph 28D, or

(b) contains a material inaccuracy—

(i) which is careless or deliberate, or

(ii) which is not corrected as required by paragraph 28B(11).

(2) The scheme organiser is liable for a penalty of an amount decided by HMRC.

(3) The penalty must not exceed £5,000.

(4) For the purposes of sub-paragraph (1)(b)(i) an inaccuracy is careless if it is due to a failure by the scheme organiser to take reasonable care.

Enquiries

28F (1) This paragraph applies if notice is given in relation to a CSOP scheme under paragraph 28A.

(2) HMRC may enquire into the scheme if HMRC give notice to the scheme organiser of HMRC's intention to do so no later than—

(a) 6 July in the tax year following that in which the initial notification deadline falls, or

(b) if the notice under paragraph 28A is given after the initial notification deadline, 6 July in the second tax year following the relevant tax year.

(3) HMRC may enquire into the scheme if HMRC give notice to the scheme organiser of HMRC's intention to do so no later than 12 months after the date on which a declaration within paragraph 28B(7) is given to HMRC.

(4) Sub-paragraph (5) applies if (at any time) HMRC have reasonable grounds for believing that requirements of Parts 2 to 6 of this Schedule—

(a) are not met in relation to the scheme, or

(b) have not been met in relation to the scheme.

(5) HMRC may enquire into the scheme if HMRC give notice to the scheme organiser of HMRC's intention to do so.

(6) Notice may be given, and an enquiry may be conducted, under sub-paragraph (2), (3) or (5) even though the termination condition is met in relation to the scheme.

28G (1) An enquiry under paragraph 28F(2), (3) or (5) is completed when HMRC give the scheme organiser a notice (a "closure notice") stating—

(a) that HMRC have completed the enquiry, and

(b) that—

(i) paragraph 28H is to apply,

(ii) paragraph 28I is to apply, or

(iii) neither paragraph 28H nor paragraph 28I is to apply.

(2) If the scheme organiser receives notice under paragraph 28F(2), (3) or (5), the scheme organiser may make an application to the tribunal for a direction requiring a closure notice for the enquiry to be given within a specified period.

(3) The application is to be subject to the relevant provisions of Part 5 of TMA 1970 (see, in particular, section 48(2)(b) of that Act).

(4) The tribunal must give a direction unless satisfied that HMRC have reasonable grounds for not giving the closure notice within the specified period.

28H (1) This paragraph applies if HMRC decide—

(a) that requirements of Parts 2 to 6 of this Schedule—

(i) are not met in relation to the scheme, or

(ii) have not been met in relation to the scheme, and

(b) that the situation is, or was, so serious that this paragraph should apply.

(2) If this paragraph applies—

(a) the scheme is not to be a Schedule 4 CSOP scheme with effect from—

(i) such relevant time as is specified in the closure notice, or

(ii) if no relevant time is specified, the time of the giving of the closure notice, and

(b) the scheme organiser is liable for a penalty of an amount decided by HMRC.

(3) The penalty under sub-paragraph (2)(b) must not exceed an amount equal to twice HMRC's reasonable estimate of—

(a) the total income tax for which persons who have been granted share options under the scheme have not been liable, or will not be liable in the future, and

(b) the total contributions under Part 1 of SSCBA 1992 or SSCB(NI)A 1992 for which any persons have not been liable, or will not be liable in the future,

in consequence of the scheme having been a Schedule 4 CSOP scheme at any relevant time before the time mentioned in sub-paragraph (2)(a)(i) or (ii) (as the case may be).

(4) In this paragraph "relevant time" means any time before the giving of the closure notice when requirements of Parts 2 to 6 of this Schedule were not met in relation to the scheme.

28I (1) This paragraph applies if HMRC decide—

(a) that requirements of Parts 2 to 6 of this Schedule—

(i) are not met in relation to the scheme, or

(ii) have not been met in relation to the scheme, but

(b) that the situation is not, or was not, so serious that paragraph 28H should apply.

(2) If this paragraph applies, the scheme organiser—

(a) is liable for a penalty of an amount decided by HMRC, and

(b) must, no later than 90 days after the relevant day, secure that the requirements of Parts 2 to 6 of this Schedule are met in relation to the scheme.

(3) The penalty under sub-paragraph (2)(a) must not exceed £5,000.

(4) In sub-paragraph (2)(b) "the relevant day" means—

(a) the last day of the period in which notice of an appeal under paragraph 28K(2)(b) may be given, or

(b) if notice of such an appeal is given, the day on which the appeal is determined or withdrawn.

(5) Sub-paragraph (2)(b) does not apply if the termination condition was met in relation to the scheme before the closure notice was given or is met before the end of the 90 day period mentioned in sub-paragraph (2)(b).

(6) If the scheme organiser fails to comply with sub-paragraph (2)(b), HMRC may give the scheme organiser a notice stating that that is the case (a "default notice").

(7) If the scheme organiser is given a default notice—

(a) the scheme is not to be a Schedule 4 CSOP scheme with effect from—

(i) such relevant time as is specified in the default notice, or

(ii) if no relevant time is specified, the time of the giving of the default notice, and

(b) the scheme organiser is liable for a further penalty of an amount decided by HMRC.

(8) The penalty under sub-paragraph (7)(b) must not exceed an amount equal to twice HMRC's reasonable estimate of—

(a) the total income tax for which persons who have been granted share options under the scheme have not been liable, or will not be liable in the future, and

(b) the total contributions under Part 1 of SSCBA 1992 or SSCB(NI)A 1992 for which any persons have not been liable, or will not be liable in the future,

in consequence of the scheme having been a Schedule 4 CSOP scheme at any relevant time before the time mentioned in sub-paragraph (7)(a)(i) or (ii) (as the case may be).

(9) In this paragraph "relevant time" means any time before the giving of the default notice when requirements of Parts 2 to 6 of this Schedule were not met in relation to the scheme.

Assessment of penalties

28J (1) This paragraph applies if the scheme organiser is liable for a penalty under this Part.

(2) HMRC must assess the penalty and notify the scheme organiser of the assessment.

(3) Subject to sub-paragraphs (4) and (5), the assessment must be made no later than 12 months after the date on which the scheme organiser becomes liable for the penalty.

(4) In the case of a penalty under paragraph 28E(1)(b), the assessment must be made no later than—

(a) 12 months after the date on which HMRC become aware of the inaccuracy, and

(b) 6 years after the date on which the scheme organiser becomes liable for the penalty.

(5) In the case of a penalty under paragraph 28H(2)(b) or 28I(2)(a) or (7)(b) where notice of appeal is given under paragraph 28K(2) or (3), the assessment must be made no later than 12 months after the date on which the appeal is determined or withdrawn.

(6) A penalty payable under this Part must be paid—

(a) no later than 30 days after the date on which the notice under sub-paragraph (2) is given to the scheme organiser, or

(b) if notice of appeal is given against the penalty under paragraph 28K(1) or (4), no later than 30 days after the date on which the appeal is determined or withdrawn.

(7) The penalty may be enforced as if it were corporation tax or, if the scheme organiser is not within the charge to corporation tax, income tax charged in an assessment and due and payable.

(8) Sections 100 to 103 of TMA 1970 do not apply to a penalty under this Part.

Appeals

28K (1) The scheme organiser may appeal against a decision of HMRC that the scheme organiser is liable for a penalty under paragraph 28C or 28E.

(2) The scheme organiser may appeal against—

(a) a decision of HMRC mentioned in paragraph 28H(1) or a decision of HMRC to specify, or not to specify, a relevant time in the closure notice;

(b) a decision of HMRC mentioned in paragraph 28I(1).

(3) The scheme organiser may appeal against a decision of HMRC—

(a) to give the scheme organiser a default notice under paragraph 28I;

(b) to specify, or not to specify, a relevant time in the default notice.

(4) The scheme organiser may appeal against a decision of HMRC as to the amount of a penalty payable by the scheme organiser under this Part.

(5) Notice of appeal must be given to HMRC no later than 30 days after the date on which—

(a) in the case of an appeal under sub-paragraph (1) or (4), the notice under paragraph 28J(2) is given to the scheme organiser;

(b) in the case of an appeal under sub-paragraph (2), the closure notice is given;

(c) in the case of an appeal under sub-paragraph (3), the default notice is given.

(6) On an appeal under sub-paragraph (1) or (3)(a) which is notified to the tribunal, the tribunal may affirm or cancel the decision.

(7) On an appeal under sub-paragraph (2) or (3)(b) which is notified to the tribunal, the tribunal may—

(a) affirm or cancel the decision, or

(b) substitute for the decision another decision which HMRC had power to make.

(8) On an appeal under sub-paragraph (4) which is notified to the tribunal, the tribunal may—

(a) affirm the amount of the penalty decided, or

(b) substitute another amount for that amount.

(9) Subject to this paragraph and paragraph 28J, the provisions of Part 5 of TMA 1970 relating to appeals have effect in relation to an appeal under this paragraph as they have effect in relation to an appeal against an assessment to corporation tax or, if the scheme organiser is not within the charge to corporation tax, income tax."

180 (1) Paragraph 33 (power to require information) is amended as follows.

(2) For sub-paragraph (1) substitute—

"(1) An officer of Revenue and Customs may by notice require a person to provide the officer with any information—

(a) which the officer reasonably requires for the performance of any functions of Her Majesty's Revenue and Customs or an officer of Revenue and Customs under the CSOP code, and

(b) which the person to whom the notice is addressed has or can reasonably obtain."

(3) In sub-paragraph (2)(a)—

(a) for sub-paragraph (i) substitute—

"(i) to check anything contained in a notice under paragraph 28A or a return under paragraph 28B or to check any information accompanying such a notice or return, or", and"

(b) in sub-paragraph (ii) after "scheme" insert " or any other person whose liability to tax the operation of a scheme is relevant to ".

181 After paragraph 35 insert—

"Non-UK company reorganisation arrangements

35ZA (1) For the purposes of the CSOP code a "non-UK company reorganisation arrangement" is an arrangement made in relation to a company under the law of a territory outside the United Kingdom—

(a) which gives effect to a reorganisation of the company's share capital by the consolidation of shares of different classes, or by the division of shares into shares of different classes, or by both of those methods, and

(b) which is approved by a resolution of members of the company.

(2) A resolution does not count for the purposes of sub-paragraph (1)(b) unless the members who vote in favour of approving the arrangement represent more than 50% of the total voting rights of all the members having the right to vote on the issue."

182 In paragraph 37 (index of defined expressions)—

(a) omit the entry for "approved", and

(b) at the appropriate places insert—

"non-UK company reorganisation arrangement	paragraph 35ZA"
"Schedule 4 CSOP scheme	paragraph 1 and Part 7 of this Schedule".

Other amendments: TCGA 1992

183 TCGA 1992 is amended as follows.

184 In section 238A (share schemes and share incentives) in subsection (2)(c) for "approved" substitute " Schedule 4 ".

185 Part 3 of Schedule 7D (CSOP schemes) is amended as follows.

186 In the title for "APPROVED" substitute " SCHEDULE 4 ".

187 (1) Paragraph 11 (introduction) is amended as follows.

(2) In sub-paragraphs (1) and (2) omit "approved".

(3) In sub-paragraph (3)(a)(i) for "an approved" substitute " a Schedule 4 ".

188 In paragraph 12 (relief where income tax charged in respect of grant of option) in sub-paragraph (4)(b) for "approved" substitute " a Schedule 4 CSOP scheme ".

189 In paragraph 13 (market value rule not to apply) in sub-paragraphs (1)(a) and (3) for "approved" substitute " a Schedule 4 CSOP scheme ".

Other amendments: ITEPA 2003

190 ITEPA 2003 is amended as follows.

191 In section 227 (scope of Part 4) in subsection (4)(g) omit "approved".

192 In section 417 (scope of Part 7) in subsection (2), in the entry for Chapter 8, omit "approved".

193 In section 431A (which makes provision relating to restricted securities etc) in subsection (2)(c) for "an approved" substitute " a Schedule 4 ".

194 In section 473 (introduction to taxation of securities options) in subsection (4)(b) for "approved" substitute " Schedule 4 ".

195 In section 475 (no charge in respect of acquisition of option) in subsection (2) omit "approved".

196 In section 476 (charge on occurrence of chargeable event) in subsection (6), in the entry for section 524, omit "approved".

197 In section 480 (deductible amounts) in subsection (4) omit "approved".

198 In section 539 (CSOP and other options relevant for purposes of section 536) in subsection (4) for "approved under Schedule 4 (CSOP schemes)" substitute " which is a Schedule 4 CSOP scheme (see Schedule 4) ".

199 In section 549 (application of Chapter 11 of Part 7) in subsection (2)(c) omit "approved".

200 (1) Section 554E (exclusions under Part 7A) is amended as follows.

(2) In subsection (1)(c) for "an approved" substitute " a Schedule 4 ".

(3) In subsection (3)(a)(ii) and (b)(ii) for the second "an approved" substitute " a Schedule 4 ".

(4) In subsection (4)(a) and (b) for the third "approved" substitute " Schedule 4 ".

201 In section 697 (PAYE: enhancing the value of an asset) in subsection (4) before paragraph (b) insert—

"(ab) any shares acquired by the employee under a scheme which is a Schedule 4 CSOP scheme (see Schedule 4),".

202 In section 701 (PAYE: meaning of "asset") in subsection (2)(c)(ia) for "approved under Schedule 4 (approved CSOP schemes)" substitute " which is a Schedule 4 CSOP scheme (see Schedule 4) ".

203 In paragraph 5 of Schedule 5 (enterprise management incentives: maximum entitlement of employee) in sub-paragraph (5) for "approved under Schedule 4 (CSOP schemes)" substitute " which is a Schedule 4 CSOP scheme (see Schedule 4) ".

Commencement and transitional provision

204 This Part is treated as having come into force on 6 April 2014.

205 Paragraphs 206 to 215 below apply in relation to a CSOP scheme established before 6 April 2014.

206 (1) If the scheme was an approved CSOP scheme immediately before 6 April 2014, this paragraph applies to any provision which the scheme contains immediately before that date and which requires the approval or agreement of Her Majesty's Revenue and Customs or an officer of Revenue and Customs to be obtained in relation to any matter.

(2) On and after 6 April 2014, the provision is to have effect without the requirement for the approval or agreement, unless the requirement reflects a requirement for approval or agreement set out in Schedule 4 to ITEPA 2003 (as amended by this Part).

207 (1) If the scheme was an approved CSOP scheme immediately before 6 April 2014, the amendment made by paragraph 169 above has effect in relation to the scheme only if, and when, there is an alteration in a key feature of the scheme on or after that date.

(2) In sub-paragraph (1) "key feature" has the meaning given in paragraph 28B(8) of Schedule 4 to ITEPA 2003 (as inserted by paragraph 179 above).

208 If the scheme was an approved CSOP scheme immediately before 6 April 2014, on and after that date the scheme has effect with any modifications needed to reflect the amendment made by paragraph 170 above.

209 (1) The amendments made by paragraphs 172, 173 and 174(2) and (5) above have no effect in relation to share options granted under the scheme before 6 April 2014.

(2) If the scheme was an approved CSOP scheme immediately before 6 April 2014, on and after that date the scheme has effect with any modifications needed to reflect the amendments made by paragraphs 172, 173 and 174(2) and (5) above (subject to sub-paragraph (1) of this paragraph).

210 (1) This paragraph applies if, immediately before 6 April 2014 the scheme was an approved CSOP scheme which contains provision authorised by paragraph 22(3) of Schedule 4 to ITEPA 2003.

(2) On and after 6 April 2014, the scheme has effect with any modifications needed to reflect the amendments made by paragraph 174(3) and (4) above.

211 (1) The amendments made by paragraph 175 above have no effect in relation to share options granted before 6 April 2014 under the scheme.

(2) If immediately before 6 April 2014 the scheme was an approved CSOP scheme which contains provision authorised by paragraph 25 of Schedule 4 to ITEPA 2003, on and after that date the scheme has effect with any modifications needed to reflect the amendments made by paragraph 175 above (subject to sub-paragraph (1) of this paragraph).

212 (1) This paragraph applies if immediately before 6 April 2014 the scheme was an approved CSOP scheme which contains provision authorised by paragraph 25A(1) of Schedule 4 to ITEPA 2003.

(2) On and after 6 April 2014, the scheme has effect with any modifications needed to reflect the amendment made by paragraph 176(3) above.

213 (1) Paragraph 28A of Schedule 4 to ITEPA 2003 (as inserted by paragraph 179 above) has effect in relation to the scheme—

(a) as if, at the end of sub-paragraph (1), the words "on or before 6 July 2015" were inserted,

(b) if the first date on which share options are granted under the scheme falls before 6 April 2014—

(i) as if, in sub-paragraph (3)(b), the reference to that date were a reference to 6 April 2014 and, accordingly, as if all references in paragraph 28A to the first grant date were references to 6 April 2014,

(ii) as if sub-paragraph (3)(b)(i) were omitted, and

(iii) as if, in sub-paragraph (3)(b)(ii), "otherwise" were omitted,

(c) as if sub-paragraph (5) were omitted, and

(d) as if, in sub-paragraph (6), the definitions of "the initial notification deadline" and "the relevant tax year" were omitted.

(2) But the scheme cannot be a Schedule 4 CSOP scheme if, before 6 April 2014, an application for its approval was refused or an officer of Revenue and Customs decided to withdraw its approval.

(3) Sub-paragraph (2) is without prejudice to the outcome of any appeal under paragraph 29 or 32 of Schedule 4 to ITEPA 2003 against the refusal or decision to withdraw approval.

(4) The amendments made by this Part do not affect any right of appeal under paragraph 29 or 32 of Schedule 4 to ITEPA 2003 against a refusal or decision made before 6 April 2014 in relation to the scheme.

(5) Sub-paragraph (6) applies if a share option was granted before 6 April 2014 under the scheme at a time when the scheme was an approved CSOP scheme.

(6) On and after 6 April 2014, the CSOP code has effect in relation to the option as if it were granted under the scheme at a time when the scheme was a Schedule 4 CSOP scheme (but not if no notice under paragraph 28A of Schedule 4 to ITEPA 2003 is

given in relation to the scheme or if the scheme cannot be a Schedule 4 CSOP scheme because of sub-paragraph (2) of this paragraph).

(7) In relation to the scheme—

(a) paragraph 28F of Schedule 4 to ITEPA 2003 (as inserted by paragraph 179 above) has effect as if for sub-paragraph (2) there were substituted—

"(2) HMRC may enquire into the scheme if HMRC give notice to the scheme organiser of HMRC's intention to do so no later than 6 July 2016.", and

(b) the cases covered by paragraphs 28F(4)(b), 28H(1)(a)(ii) and 28I(1)(a)(ii) of Schedule 4 to ITEPA 2003 (as inserted by paragraph 179 above) include cases in which requirements of Parts 2 to 6 of that Schedule were not met before 6 April 2014.

214 If the scheme was an approved CSOP scheme before 6 April 2014, the amendments made by this Part and paragraphs 140 and 142 above do not affect the deductions which may be made in relation to the scheme under section 94A of ITTOIA 2005 or section 999 of CTA 2009 (deduction for costs of setting up scheme) if they would otherwise do so.

215 The amendments made by paragraph 180 above do not affect a notice given in relation to the scheme under paragraph 33 of Schedule 4 to ITEPA 2003 before 6 April 2014.

PART 4

ENTERPRISE MANAGEMENT INCENTIVES

Amendments to Schedule 5 to ITEPA 2003

216 Schedule 5 to ITEPA 2003 (enterprise management incentives) is amended as follows.

217 (1) Paragraph 44 (notice of option to be given to HMRC) is amended as follows.

(2) In sub-paragraph (2) omit paragraph (b) and the "and" before it.

(3) In sub-paragraph (4) for "each of sub-paragraphs (5) and (6)" substitute " sub-paragraph (5) ".

(4) In sub-paragraph (5)—

(a) after paragraph (a) omit "and", and

(b) after paragraph (b) insert ", and

(c) that the individual to whom the option has been granted has made and signed a written declaration within sub-paragraph (6) and that the declaration is held by the employer company".

(5) After sub-paragraph (5) insert—

"(5A) The employer company must—

(a) retain the declaration mentioned in sub-paragraph (5)(c) and, if requested to do so by an officer of Revenue and Customs, produce

it to such an officer before the end of the period of 7 days after the day on which the request is made, and

(b) give a copy of that declaration to the individual before the end of the period of 7 days after the day on which the declaration is signed by the individual."

(6) After sub-paragraph (7) insert—

"(8) The notice, and any information supporting it, must be given electronically.

(9) But, if an officer of Revenue and Customs considers it appropriate to do so, the officer may allow the employer company to give the notice or any supporting information in another way; and, if the officer does so, the notice or information must be given in that other way.

(10) The Commissioners for Her Majesty's Revenue and Customs—

(a) must prescribe how notices and supporting information are to be given electronically;

(b) may make different provision for different cases or circumstances."

218 For paragraph 52 (annual returns) substitute—

"52 (1) This paragraph applies in relation to a company whose shares are (or have been) subject to qualifying options.

(2) The company must give to Her Majesty's Revenue and Customs ("HMRC") a return for each tax year falling (wholly or partly) in the company's qualifying option period.

(3) The company's "qualifying option period" is the period—

(a) beginning when the first qualifying option to which the company's shares are subject is granted, and

(b) ending when the termination condition is met.

(4) "The termination condition" is met when the company's shares—

(a) are no longer subject to qualifying options, and

(b) will no longer become subject to qualifying options.

(5) The return for a tax year must—

(a) contain, or be accompanied by, such information as HMRC may require, and

(b) be given on or before 6 July in the following tax year.

(6) The information which may be required under sub-paragraph (5)(a) includes (in particular) information to enable HMRC to determine the liability to tax, including capital gains tax, of any person who has been granted a qualifying option to which the company's shares are subject.

(7) If the company becomes aware that—

(a) anything which should have been included in, or should have accompanied, a return for a tax year was not included in, or did not accompany, the return,

(b) anything which should not have been included in, or should not have accompanied, a return for a tax year was included in, or accompanied, the return, or

(c) any other error or inaccuracy has occurred in relation to a return for a tax year,

the company must give an amended return correcting the position to HMRC without delay.

52A (1) A return under paragraph 52, and any information accompanying the return, must be given electronically.

(2) But, if HMRC consider it appropriate to do so, HMRC may allow a company to give a return or any accompanying information in another way; and, if HMRC do so, the return or information must be given in that other way.

(3) The Commissioners for Her Majesty's Revenue and Customs—

(a) must prescribe how returns and accompanying information are to be given electronically;

(b) may make different provision for different cases or circumstances."

219 (1) Paragraph 53 (compliance with time limits) is amended as follows.

(2) In sub-paragraph (1)—

(a) after "a person" insert " ("P") ", and

(b) in paragraphs (a) and (b) for "the person" substitute " P ".

(3) After sub-paragraph (2) insert—

"(3) For the purposes of sub-paragraph (1)—

(a) an insufficiency of funds is not a reasonable excuse, unless attributable to events outside P's control, and

(b) where P relies on any other person to do anything, that is not a reasonable excuse unless P took reasonable care to avoid the failure."

220 After paragraph 57 insert—

"Penalties

57A A company is liable for a penalty of £500 if the company fails—

(a) to produce a declaration to an officer of Revenue and Customs as required by paragraph 44(5A)(a) before the end of the period mentioned in that provision, or

(b) to provide a copy of a declaration to an individual as required by paragraph 44(5A)(b) before the end of the period mentioned in that provision,

and Her Majesty's Revenue and Customs ("HMRC") decide that such a penalty should be payable.

57B (1) This paragraph applies if a company fails to give a return for a tax year (containing, or accompanied by, all required information) on or before the date mentioned in paragraph 52(5)(b) ("the date for delivery").

(2) The company is liable for a penalty of £100.

(3) If the company's failure continues after the end of the period of 3 months beginning with the date for delivery, the company is liable for a further penalty of £300.

(4) If the company's failure continues after the end of the period of 6 months beginning with the date for delivery, the company is liable for a further penalty of £300.

(5) The company is liable for a further penalty under this sub-paragraph if—

(a) the company's failure continues after the end of the period of 9 months beginning with the date for delivery,

(b) HMRC decide that such a penalty should be payable, and

(c) HMRC give notice to the company specifying the period in respect of which the penalty is payable.

(The company may be liable for more than one penalty under this sub-paragraph.)

(6) The penalty under sub-paragraph (5) is £10 for each day that the failure continues during the period specified in the notice under sub-paragraph (5)(c).

(7) The period specified in the notice under sub-paragraph (5)(c)—

(a) may begin earlier than the date on which the notice is given, but

(b) may not begin until after the end of the period mentioned in sub-paragraph (5)(a) or, if relevant, the end of any period specified in any previous notice under sub-paragraph (5)(c) given in relation to the failure.

57C (1) This paragraph applies if a return under paragraph 52, or any information accompanying such a return—

(a) is given otherwise than in accordance with paragraph 52A, or

(b) contains a material inaccuracy—

(i) which is careless or deliberate, or

(ii) which is not corrected as required by paragraph 52(7).

(2) The company is liable for a penalty of an amount decided by HMRC.

(3) The penalty must not exceed £5,000.

(4) For the purposes of sub-paragraph (1)(b)(i) an inaccuracy is careless if it is due to a failure by the company to take reasonable care.

57D (1) This paragraph applies if a company is liable for a penalty under this Part.

(2) HMRC must assess the penalty and notify the company of the assessment.

(3) Subject to sub-paragraph (4), the assessment must be made no later than 12 months after the date on which the company becomes liable for the penalty.

(4) In the case of a penalty under paragraph 57C(1)(b), the assessment must be made no later than—

(a) 12 months after the date on which HMRC become aware of the inaccuracy, and

(b) 6 years after the date on which the company becomes liable for the penalty.

(5) A penalty payable under this Part must be paid—

(a) no later than 30 days after the date on which the notice under sub-paragraph (2) is given to the company, or

(b) if notice of appeal is given against the penalty under paragraph 57E(1) or (2), no later than 30 days after the date on which the appeal is determined or withdrawn.

(6) The penalty may be enforced as if it were corporation tax or, if the company is not within the charge to corporation tax, income tax charged in an assessment and due and payable.

(7) Sections 100 to 103 of TMA 1970 do not apply to a penalty under this Part.

57E (1) A company may appeal against a decision of HMRC that the company is liable for a penalty under this Part.

(2) A company may appeal against a decision of HMRC as to the amount of a penalty payable by the company under this Part.

(3) Notice of appeal must be given to HMRC no later than 30 days after the date on which the notice under paragraph 57D(2) is given to the company.

(4) On an appeal under sub-paragraph (1) which is notified to the tribunal, the tribunal may affirm or cancel the decision.

(5) On an appeal under sub-paragraph (2) which is notified to the tribunal, the tribunal may—

(a) affirm the amount of the penalty decided, or

(b) substitute another amount for that amount.

(6) Subject to this paragraph and paragraph 57D, the provisions of Part 5 of TMA 1970 relating to appeals have effect in relation to an appeal under this paragraph as they have effect in relation to an appeal against an assessment to corporation tax or, if the company is not within the charge to corporation tax, income tax."

Other amendment: section 98 of TMA 1970

221 In the second column of the Table in section 98 of TMA 1970 (special returns etc) omit the entry for paragraph 52 of Schedule 5 to ITEPA 2003.

Commencement and transitional provision

222 This Part is treated as having come into force on 6 April 2014.

223 The amendments made by paragraph 217 above have no effect in relation to options granted before 6 April 2014.

224 (1) The amendment made by paragraph 218 above has effect so as to require returns for the tax year 2014-15 and subsequent tax years.

(2) It has effect in relation to companies whose qualifying option periods begin before 6 April 2014 (as well as those whose qualifying option periods begin on or after that date).

(3) It does not affect the duty of a company to deliver a return for a tax year earlier than the tax year 2014-15 in accordance with paragraph 52 of Schedule 5 to ITEPA 2003

as that paragraph stood before its substitution; and the effect of the amendment made by paragraph 221 above is limited accordingly.

(4) In paragraphs 57B(1) and 57C(1) of Schedule 5 to ITEPA 2003 (as inserted by paragraph 220 above) the reference to a return is to a return under paragraph 52 of that Schedule as substituted.

225 The amendment made by paragraph 219(3) above does not affect a reasonable excuse which began before 6 April 2014.

PART 5

OTHER EMPLOYEE SHARE SCHEMES

Amendments to Chapter 1 of Part 7 of ITEPA 2003

226 Chapter 1 of Part 7 of ITEPA 2003 (employment income: income and exemptions relating to securities: general) is amended as follows.

227 (1) Section 421J (duty to provide information) is amended as follows.

(2) Omit subsections (3), (7), (8), (11) and (12).

(3) In subsection (10) for "by, or by a notice under," substitute " by a notice under ".

228 After section 421J insert—

"**421JA Annual returns**

(1) This section applies in relation to a person who is (or has been) a responsible person (see section 421L) in relation to reportable events (see section 421K).

(2) The person must give to Her Majesty's Revenue and Customs ("HMRC") a return for each tax year falling (wholly or partly) in the person's reportable event period.

(3) The person's "reportable event period" is the period—

(a) beginning when the first reportable event occurs in relation to which the person is a responsible person, and

(b) ending when the person will no longer be a responsible person in relation to reportable events.

(4) The return for a tax year must—

(a) contain, or be accompanied by, such information as HMRC may require, and

(b) be given on or before 6 July in the following tax year.

(5) The information which may be required under subsection (4)(a) includes (in particular) information to enable HMRC to determine the liability to tax, including capital gains tax, of any employee.

(6) If the person becomes aware that—

(a) anything which should have been included in, or should have accompanied, a return for a tax year was not included in, or did not accompany, the return,

(b) anything which should not have been included in, or should not have accompanied, a return for a tax year was included in, or accompanied, the return, or

(c) any other error or inaccuracy has occurred in relation to a return for a tax year,

the person must give an amended return correcting the position to HMRC without delay.

(7) A person's return for a tax year under this section need not contain, or be accompanied by, duplicate information and a person is not required to give a return for a tax year under this section if it would only contain, or be accompanied by, duplicate information.

(8) "Duplicate information" means information which is contained in or accompanies—

(a) a return which another person gives for the tax year under this section, or

(b) a return which any person gives for the tax year under any of the following provisions—

(i) paragraph 81B of Schedule 2 (annual return for Schedule 2 SIP);

(ii) paragraph 40B of Schedule 3 (annual return for Schedule 3 SAYE option scheme);

(iii) paragraph 28B of Schedule 4 (annual return for Schedule 4 CSOP scheme);

(iv) paragraph 52 of Schedule 5 (annual return for company whose shares are subject to qualifying options under the EMI code).

421JB Returns to be given electronically

(1) A return under section 421JA, and any information accompanying the return, must be given electronically.

(2) But, if HMRC consider it appropriate to do so, HMRC may allow a person to give a return or any accompanying information in another way; and, if HMRC do so, the return or information must be given in that other way.

(3) The Commissioners for Her Majesty's Revenue and Customs—

(a) must prescribe how returns and accompanying information are to be given electronically;

(b) may make different provision for different cases or circumstances.

421JC Penalties for late returns

(1) This section applies if a person fails to give a return under section 421JA for a tax year (containing, or accompanied by, all required information) on or before the date mentioned in section 421JA(4)(b) ("the date for delivery").

(2) The person is liable for a penalty of £100.

(3) If the person's failure continues after the end of the period of 3 months beginning with the date for delivery, the person is liable for a further penalty of £300.

(4) If the person's failure continues after the end of the period of 6 months beginning with the date for delivery, the person is liable for a further penalty of £300.

(5) The person is liable for a further penalty under this subsection if—

(a) the person's failure continues after the end of the period of 9 months beginning with the date for delivery,

(b) HMRC decide that such a penalty should be payable, and

(c) HMRC give notice to the person specifying the period in respect of which the penalty is payable.

(The person may be liable for more than one penalty under this subsection.)

(6) The penalty under subsection (5) is £10 for each day that the failure continues during the period specified in the notice under subsection (5)(c).

(7) The period specified in the notice under subsection (5)(c)—

(a) may begin earlier than the date on which the notice is given, but

(b) may not begin until after the end of the period mentioned in subsection (5)(a) or, if relevant, the end of any period specified in any previous notice under subsection (5)(c) given in relation to the failure.

(8) Liability for a penalty under this section does not arise if the person satisfies HMRC (or, on an appeal under section 421JF, the tribunal) that there is a reasonable excuse for the person's failure.

(9) For the purposes of subsection (8)—

(a) an insufficiency of funds is not a reasonable excuse, unless attributable to events outside the person's control,

(b) where the person relies on any other person to do anything, that is not a reasonable excuse unless the (first mentioned) person took reasonable care to avoid the failure, and

(c) where the person had a reasonable excuse for the failure but the excuse ceased, the person is to be treated as having continued to have the excuse if the failure is remedied without unreasonable delay after the excuse ceased.

421JD Penalty if information not given correctly

(1) This section applies if a return under section 421JA, or any information accompanying such a return—

(a) is given otherwise than in accordance with section 421JB, or

(b) contains a material inaccuracy—

(i) which is careless or deliberate, or

(ii) which is not corrected as required by section 421JA(6).

(2) The person in question is liable for a penalty of an amount decided by HMRC.

(3) The penalty must not exceed £5,000.

(4) For the purposes of subsection (1)(b)(i) an inaccuracy is careless if it is due to a failure by the person in question to take reasonable care.

421JE Assessment of penalties

(1) This section applies if a person is liable for a penalty under section 421JC or 421JD.

(2) HMRC must assess the penalty and notify the person of the assessment.

(3) Subject to subsection (4), the assessment must be made no later than 12 months after the date on which the person becomes liable for the penalty.

(4) In the case of a penalty under section 421JD(1)(b), the assessment must be made no later than—

(a) 12 months after the date on which HMRC become aware of the inaccuracy, and

(b) 6 years after the date on which the person becomes liable for the penalty.

(5) A penalty payable under this Part must be paid—

(a) no later than 30 days after the date on which the notice under subsection (2) is given to the person, or

(b) if notice of appeal is given against the penalty under section 421JF(1) or (2), no later than 30 days after the date on which the appeal is determined or withdrawn.

(6) The penalty may be enforced as if it were income tax or, if the person is a company within the charge to corporation tax, corporation tax charged in an assessment and due and payable.

(7) Sections 100 to 103 of TMA 1970 do not apply to a penalty under section 421JC or 421JD.

421JF Appeals

(1) A person may appeal against a decision of HMRC that the person is liable for a penalty under section 421JC or 421JD.

(2) A person may appeal against a decision of HMRC as to the amount of a penalty payable by the person under section 421JC or 421JD.

(3) Notice of appeal must be given to HMRC no later than 30 days after the date on which the notice under section 421JE(2) is given to the person.

(4) On an appeal under subsection (1) which is notified to the tribunal, the tribunal may affirm or cancel the decision.

(5) On an appeal under subsection (2) which is notified to the tribunal, the tribunal may—

(a) affirm the amount of the penalty decided, or

(b) substitute another amount for that amount.

(6) Subject to this section and section 421JE, the provisions of Part 5 of TMA 1970 relating to appeals have effect in relation to an appeal under this section as they have effect in relation to an appeal against an assessment to income tax or, if the person is a company within the charge to corporation tax, corporation tax."

229 In section 421K (reportable events) in subsection (1) for "section 421J (duty to provide information)" substitute " sections 421J and 421JA (duties to provide information and annual returns) ".

230 In section 421L (responsible persons) in subsection (1) for "section 421J (duty to provide information)" substitute " sections 421J and 421JA (duties to provide information and annual returns) ".

Other amendment: section 98 of TMA 1970

231 In the second column of the Table in section 98 of TMA 1970 (special returns etc) omit the entry for section 421J(3) of ITEPA 2003.

Commencement and transitional provision

232 This Part is treated as having come into force on 6 April 2014.

233 The amendments made by paragraphs 227 and 231 above have no effect in relation to reportable events occurring before 6 April 2014.

234 (1) Section 421JA of ITEPA 2003 (as inserted by paragraph 228 above) has effect so as to require returns for the tax year 2014-15 and subsequent tax years.

(2) That section has effect in relation to persons whose reportable event periods begin before 6 April 2014 (as well as those whose reportable event periods begin on or after that date).

SCHEDULE 9

Section 52

EMPLOYMENT-RELATED SECURITIES ETC

PART 1

INTERNATIONALLY MOBILE EMPLOYEES

ITEPA 2003

1 ITEPA 2003 is amended as follows.

2 Part 2 (employment income: charge to tax) is amended as follows.

3 In section 6 (nature of charge to tax on employment income), in subsection (3A), for "Chapter 5A" substitute " Chapter 5B ".

4 In section 10 (meaning of "taxable earnings" and "taxable specific income"), in subsection (4), for the words from "Chapter 5A" to the end substitute " Chapter 5B

(taxable specific income from employment-related securities etc: internationally mobile employees) ".

5 For Chapter 5A (taxable specific income: effect of remittance basis) substitute—

"**CHAPTER 5B**

TAXABLE SPECIFIC INCOME FROM EMPLOYMENT-RELATED SECURITIES ETC: INTERNATIONALLY MOBILE EMPLOYEES

Taxable specific income: internationally mobile employees etc

41F (1) This section applies if—

(a) an amount counts under Chapters 2 to 5 of Part 7 (employment-related securities etc) as employment income of an individual for a tax year ("the securities income") in respect of an employment ("the relevant employment"), and

(b) one or more of the international mobility conditions is met in relation to the individual (see subsection (2)).

(2) The "international mobility conditions" are—

(a) that any part of the relevant period (see section 41G) is within a tax year for which section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the individual;

(b) that any part of the relevant period is within a tax year for which the individual is not UK resident;

(c) that any part of the relevant period is within the overseas part of a tax year that is a split year with respect to the individual.

(3) An amount equal to—

$$SI - FSI$$

is an amount of "taxable specific income" from the relevant employment for the tax year mentioned in subsection (1)(a).

(4) In subsection (3)—

(a) SI is the amount of the securities income, and

(b) FSI is the amount of the securities income that is "foreign".

(5) The amount of the securities income that is "foreign" is the sum of any chargeable foreign securities income and any unchargeable foreign securities income (see sections 41H to 41L).

(6) The full amount of any chargeable foreign securities income which is remitted to the United Kingdom in a tax year is an amount of "taxable specific income" from the relevant employment for that year.

(7) Subsection (6) applies whether or not the relevant employment is held when the chargeable foreign securities income is remitted.

(8) For the purposes of Chapter A1 of Part 14 of ITA 2007 (remittance basis), treat the relevant securities or relevant securities option as deriving from the chargeable foreign securities income.

(9) But where—

(a) the chargeable event is the disposal of the relevant securities or the assignment or release of the relevant securities option, and

(b) the individual receives consideration for the disposal, assignment or release of an amount equal to or exceeding the market value of the relevant securities or relevant securities option,

for the purposes of that Chapter treat the consideration (and not the relevant securities or relevant securities option) as deriving from the chargeable foreign securities income.

(10) See Chapter A1 of Part 14 of ITA 2007 for the meaning of "remitted to the United Kingdom".

(11) In this section and section 41G—

"the chargeable event" means the event giving rise to the securities income, and

"the relevant securities" or "the relevant securities option" means the employment-related securities or employment-related securities option by virtue of which the amount mentioned in subsection (1)(a) counts as employment income.

Section 41F: the relevant period

41G(1) "The relevant period" is to be determined as follows.

(2) In the case of an amount that counts as employment income by virtue of Chapter 2 of Part 7 (restricted securities) (other than where subsection (4) applies) or Chapter 3 of that Part (convertible securities), the relevant period—

(a) begins with the day of the acquisition, and

(b) ends with the day of the chargeable event.

(3) In the case of an amount that counts as employment income by virtue of section 446B (securities with artificially depressed market value: charge on acquisition), the relevant period is the tax year in which the acquisition occurs.

(4) In a case within subsection (1)(aa) or (b) of section 446E (securities with artificially depressed market value: charge on restricted securities) where an amount counts as employment income by virtue of that section, the relevant period—

(a) begins at the beginning of the tax year in which the chargeable event is treated as occurring, and

(b) ends with the day on which the chargeable event is treated as occurring.

(5) In the case of an amount that counts as employment income by virtue of section 446L (securities with artificially enhanced market value), the relevant period—

(a) begins at the beginning of the tax year in which the valuation date (within the meaning of that section) falls, and

(b) ends with the valuation date.

(6) In the case of an amount that counts as employment income by virtue of section 446U (securities acquired for less than market value: discharge of notional loan) or 446UA (avoidance cases in respect of such securities)—

(a) if the relevant securities were acquired by virtue of the exercise of a securities option ("the option"), the relevant period—

(i) begins with the day of the acquisition of the option, and

(ii) ends with the day the option vests, and

(b) otherwise, the relevant period is—

(i) the tax year in which the notional loan (within the meaning of Chapter 3C of Part 7) is treated as made, or

(ii) if the chargeable event occurs in that year, the period beginning at the beginning of that year and ending with the day of that event.

(7) In the case of an amount that counts as employment income by virtue of—

(a) Chapter 3D of Part 7 (securities disposed of for more than market value), or

(b) Chapter 4 of that Part (post-acquisition benefits from securities),

the relevant period is the tax year in which the chargeable event occurs.

(8) In the case of an amount that counts as employment income by virtue of Chapter 5 of Part 7 (employment-related securities options), the relevant period—

(a) begins with the day of the acquisition, and

(b) ends with the day of the chargeable event or, if earlier, the day the relevant securities option vests.

(9) If the relevant period determined in accordance with subsections (2) to (8) would not, in all the circumstances, be just and reasonable, the relevant period is to be such period as is just and reasonable.

(10) In this section "the acquisition" has the same meaning as in Chapters 2 to 4 or Chapter 5 of Part 7 (see section 421B or 471).

(11) For the purposes of this section an option "vests"—

(a) when it becomes exercisable, or

(b) if earlier, when it becomes exercisable subject only to a period of time expiring.

(12) See section 41F(11) for the definitions of "the chargeable event", "the relevant securities" and "the relevant securities option".

Section 41F: chargeable and unchargeable foreign securities income

41H(1) The extent to which the securities income is "chargeable foreign securities income" or "unchargeable foreign securities income" is to be determined as follows.

(2) Treat an equal amount of the securities income as accruing on each day of the relevant period.

(3) If any part of the relevant period is within a tax year to which subsection (4) applies, the securities income treated as accruing in that part of the relevant period is "chargeable foreign securities income".

This is subject to subsection (9) and section 41I (limit where duties of associated employment performed in UK).

(4) This subsection applies to a tax year if—

(a) section 809B, 809D or 809E of ITA 2007 applies to the individual for the year,

(b) the individual does not meet the requirement of section 26A for the year (reading references there to the employee as references to the individual),

(c) the relevant employment is with a foreign employer, and

(d) the duties of the relevant employment are performed wholly outside the United Kingdom in the year.

(5) But subsection (4) does not apply to a tax year if section 24A applies in relation to the relevant employment for the tax year.

(6) If any part of the relevant period is within a tax year to which subsection (7) applies—

(a) if the duties of the relevant employment are performed wholly outside the United Kingdom, the securities income treated as accruing in that part of the relevant period is "chargeable foreign securities income", and

(b) if some, but not all, of those duties are performed outside the United Kingdom—

(i) the securities income mentioned in paragraph (a) is to be apportioned (on a just and reasonable basis) between duties performed in the United Kingdom and duties performed outside the United Kingdom, and

(ii) the income apportioned in respect of duties performed outside the United Kingdom is "chargeable foreign securities income".

This is subject to subsection (9).

(7) This subsection applies to a tax year if—

(a) section 809B, 809D or 809E of ITA 2007 applies to the individual for the year,

(b) the individual meets the requirement of section 26A for the year (reading references there to the employee as references to the individual), and

(c) some or all of the duties of the relevant employment are performed outside the United Kingdom in the year.

(8) If any part of the relevant period is within a tax year for which the individual is not UK resident—

(a) if the duties of the relevant employment are performed wholly outside the United Kingdom in that year, the securities income treated as accruing in that part of the relevant period is "unchargeable foreign securities income", or

(b) if some, but not all, of those duties are performed outside the United Kingdom in that year—

(i) the securities income mentioned in paragraph (a) is to be apportioned (on a just and reasonable basis) between duties performed in the United Kingdom and duties performed outside the United Kingdom, and

(ii) the income apportioned in respect of duties performed outside the United Kingdom is "unchargeable foreign securities income".

(9) If any part of the relevant period is within the overseas part of a tax year that is a split year with respect to the individual—

(a) if the duties of the relevant employment are performed wholly outside the United Kingdom in that overseas part, the securities income treated as accruing in that part of the relevant period is "unchargeable foreign securities income", or

(b) if some, but not all, of those duties are performed outside the United Kingdom in that overseas part—

(i) the securities income mentioned in paragraph (a) is to be apportioned (on a just and reasonable basis) between duties performed in the United Kingdom and duties performed outside the United Kingdom, and

(ii) the income apportioned in respect of duties performed outside the United Kingdom is "unchargeable foreign securities income".

(10) If subsection (4) does not apply to a tax year by virtue of subsection (5), it is to be assumed for the purposes of section 41L that it is just and reasonable for none of the securities income treated as accruing in the tax year to be "chargeable foreign securities income".

(11) See section 41J for further provision about the location of employment duties.

(12) This section is subject to—

(a) section 41K (securities income from overseas Crown employment), and

(b) section 41L (chargeable and unchargeable foreign securities income: just and reasonable apportionment).

Limit on "chargeable foreign securities income" where duties of associated employment performed in UK

41I (1) This section imposes a limit on the extent to which section 41H(3) applies in relation to a period when—

(a) the individual holds associated employments as well as the relevant employment, and

(b) the duties of the associated employments are not performed wholly outside the United Kingdom.

(2) The amount of the securities income for the period that is to be regarded as "chargeable foreign securities income" is limited to such amount as is just and reasonable, having regard to—

(a) the employment income for the period from all the employments mentioned in subsection (1)(a),

(b) the proportion of that income that is general earnings to which section 22 applies (chargeable overseas earnings),

(c) the nature of, and time devoted to, the duties performed outside the United Kingdom, and those performed in the United Kingdom, in the period, and

(d) all other relevant circumstances.

(3) In this section "associated employments" means employments with the same employer or with associated employers.

(4) Section 24(5) and (6) (meaning of "associated employer") applies for the purposes of this section.

Location of employment duties

41J (1) The following provisions apply for the purposes of this Chapter—

(a) section 39(1) and (2), and

(b) section 40 (but as if in subsections (3) and (4) of that section references to section 24(1)(b) were to section 41I(1)(b)).

(2) Duties of an employment performed in the UK sector of the continental shelf in connection with exploration or exploitation activities are to be treated for the purposes of this Chapter as being performed in the United Kingdom.

(3) In subsection (2) "the UK sector of the continental shelf" and "exploration or exploitation activities" have the same meaning as in section 41 (treatment of general earnings from employment in the UK sector of the continental shelf).

Securities income from overseas Crown employment

41K (1) If securities income is from overseas Crown employment subject to United Kingdom tax, it is (notwithstanding any other provision of this Chapter) not "foreign".

(2) "Securities income from overseas Crown employment" means securities income from Crown employment (within the meaning given by section 28(2)) in respect of duties performed outside the United Kingdom.

(3) Such securities income is to be taken as being "subject to United Kingdom tax" unless, by virtue of subsection (4), it falls within an exception contained in an order under section 28(5).

(4) Subject to any provision made in an order under section 28(5) for the purposes of this section, provisions made in an order under that section for the purposes of excepting general earnings from overseas Crown employment from the operation of section 27(2) also have effect for the

purposes of excepting securities income from such employment from the operation of subsection (1).

(5) For the purposes of this section, if securities income is partly from overseas Crown employment subject to United Kingdom tax, a just and reasonable proportion of the securities income is to be taken to be from such employment.

Chargeable and unchargeable foreign securities income: just and reasonable apportionment

41L (1) This section applies if the proportion of the securities income that would otherwise be regarded as "chargeable foreign securities income" or "unchargeable foreign securities income" is not, having regard to all the circumstances, just and reasonable.

(2) The amounts of the securities income that are "chargeable foreign securities income" and "unchargeable foreign securities income" are such amounts as are just and reasonable (rather than the amounts calculated in accordance with section 41H)."

6 Part 7 (employment income: income and exemptions relating to securities) is amended as follows.

7 In section 418 (other related provisions), before subsection (1) insert—

"(A1) This Part needs to be read with Chapter 5B of Part 2 (taxable specific income from employment-related securities etc: internationally mobile employees)."

8 Omit section 421E (employment-related securities: exclusions, residence etc).

9 In section 425 (no charge in respect of acquisition in certain cases), after subsection (5) insert—

"(6) No election may be made under subsection (3) unless, at the time of the acquisition, the earnings from the employment are (or would be if there were any) general earnings to which any of the charging provisions of Chapters 4 and 5 of Part 2 applies."

10 (1) Section 428 (restricted securities: amount of charge) is amended as follows.

(2) In subsection (7), after paragraph (ba) insert—

"(bb) any amount that was charged to non-UK income tax in respect of the acquisition of the employment-related securities, but only so far as that amount exceeds any amount within paragraph (b) or (ba),".

(3) After subsection (7) insert—

"(7A) In subsection (7)(b) and (ba) the references to an amount of exempt income, in a case in which the amount that constituted, or was treated as, earnings in respect of the acquisition was not an amount of general earnings to which any of the charging provisions of Chapters 4 and 5 of Part 2 applied, includes any amount that would have been an amount of exempt income if any of those charging provisions had applied.

(7B) In subsection (7)(bb) "non-UK income tax" means a tax chargeable on income under the law of a territory outside the United Kingdom that corresponds to United Kingdom income tax.

(7C) A tax is not outside the scope of subsection (7B) by reason only that it—

(a) is chargeable under the law of a province, state or other part of a country, or

(b) is levied by or on behalf of a municipality or other local body."

11 In section 430 (election for outstanding restrictions to be ignored), after subsection (3) insert—

"(4) No election may be made under this section unless, at the time of the chargeable event, the earnings from the employment are (or would be if there were any) general earnings to which any of the charging provisions of Chapters 4 and 5 of Part 2 applies."

12 In section 431 (election for full or partial disapplication of Chapter 2 of Part 7 of ITEPA 2003), after subsection (5) insert—

"(6) No election may be made under this section unless, at the time of the acquisition, the earnings from the employment are (or would be if there were any) general earnings to which any of the charging provisions of Chapters 4 and 5 of Part 2 applies."

13 In section 446T (securities acquired for less than market value: amount of notional loan), after subsection (3) insert—

"(3A) In subsection (3)(b) and (ba) the references to an amount of exempt income, in a case in which the amount that constitutes, or is treated as, earnings in respect of the acquisition is not an amount of general earnings to which any of the charging provisions of Chapters 4 and 5 of Part 2 applies, includes any amount that would be an amount of exempt income if any of those charging provisions were to apply."

14 Omit section 474 (cases where Chapter 5 of Part 7 of ITEPA 2003 (employment-related securities options) does not apply).

15 In section 480 (securities options: deductible amounts), after subsection (5) insert—

"(5A) In subsection (5)(a) the reference to an amount of exempt income, in a case in which the amount that constituted earnings in respect of the acquisition was not an amount of general earnings to which any of the charging provisions of Chapters 4 and 5 of Part 2 applied, includes any amount that would have been an amount of exempt income if any of those charging provisions had applied."

16 (1) Section 540 (no charge on acquisition of shares as taxable benefit) is amended as follows.

(2) In subsection (1), omit "In its application in relation to a UK resident employee,".

(3) Omit subsection (2).

17 Part 7A (employment income provided through third parties) is amended as follows.

18 In section 554L (exclusions: earmarking for employee share schemes (3)), in subsection (10)(c)(i), for "section 474" substitute " Chapter 5B of Part 2 ".

19 (1) Section 554M (exclusions: earmarking for employee share schemes (4)) is amended as follows.

(2) In subsection (9)(b)(i), for "section 474" substitute " Chapter 5B of Part 2 ".

(3) In subsection (10)(b)(i), for "section 474" substitute " Chapter 5B of Part 2 ".

20 (1) Section 554N (exclusions: other cases involving employment-related securities etc) is amended as follows.

(2) In subsection (1)(b), omit ", or would apply apart from section 421E(1),".

(3) In subsection (2)(b), omit ", or would apply apart from section 474(1),".

(4) In subsection (6)—

(a) omit "421E(1),", and

(b) omit ", 474(1)".

(5) In subsection (10)—

(a) in paragraph (b), omit ", but ignoring section 474(1)", and

(b) in paragraph (c), omit "or would be a chargeable event apart from section 474(1)".

(6) In subsection (13)(c)(i), for "section 474" substitute " Chapter 5B of Part 2 ".

21 In Chapter 4 of Part 11 (PAYE: special types of income), in section 700A (employment-related securities etc: remittance basis), in subsection (3), for "41A" substitute " 41F ".

Consequential amendments to other Acts

22 TCGA 1992 is amended as follows.

23 In section 119A (increase in expenditure by reference to tax charged in relation to employment-related securities), in subsection (5A), for "unremitted foreign securities income" substitute " unchargeable, and unremitted chargeable, foreign securities income ".

24 (1) Section 119B (section 119A: unremitted foreign securities income) is amended as follows.

(2) In the heading, for "unremitted foreign securities income" substitute " unchargeable, and unremitted chargeable, foreign securities income ".

(3) In subsection (1), for the words from "unremitted" to the end substitute "—

(a) unchargeable foreign securities income, or

(b) unremitted chargeable foreign securities income."

(4) After subsection (1) insert—

"(1A) In this section "unchargeable foreign securities income" means unchargeable foreign securities income for the purposes of section 41F of ITEPA 2003 (taxable specific income: internationally mobile employees etc) (see sections 41H to 41L of that Act)."

(5) In subsection (2)—

(a) after "unremitted" insert " chargeable ", and

(b) for paragraph (a) substitute—

"(a) is chargeable foreign securities income for the purposes of section 41F of ITEPA 2003, and".

(6) In subsection (3), after "unremitted" insert " chargeable ".

25 In section 144ZB (exception to rule in section 144ZA), in subsection (2)(a), omit "or would, apart from section 474 of that Act, apply".

26 In section 149A (employment-related securities options), in subsection (1)(b), omit "or would, apart from section 474 of that Act, apply".

27 In section 149AA (restricted and convertible employment-related securities and employee shareholder shares), in subsection (7)—

(a) after "include" insert "—

(a)",

and

(b) at the end insert ", or

(b) in a case in which the amount that constituted, or was treated as, earnings was not an amount of general earnings to which any of the charging provisions of Chapters 4 and 5 of Part 2 of ITEPA 2003 applied, any amount that would have been an amount of such exempt income if any of those charging provisions had applied."

28 In section 288 (interpretation), in subsection (1A), omit "or would, apart from section 474 of that Act, apply".

29 In section 809K of ITA 2007 (remittance of income and gains: introduction), in subsection (1), for paragraph (c) substitute—

"(c) Chapter 5B of Part 2 of that Act (taxable specific income from employment-related securities etc: internationally mobile employees),".

30 CTA 2009 is amended as follows.

31 In section 1017 (condition relating to employee's income tax position for CT relief following acquisition of shares pursuant to option), omit subsections (2) to (4).

32 In section 1025 (additional CT relief available if shares are restricted shares), omit subsections (3) to (5).

33 In section 1032 (meaning of "chargeable event" for the purposes of additional CT relief in cases involving convertible securities), omit subsections (3) to (5).

PART 2

RESTRICTED SECURITIES AND SECURITIES ACQUIRED FOR LESS THAN MARKET VALUE: REPLACEMENT AND ADDITIONAL SECURITIES AND ROLLOVER RELIEF ETC

34 ITEPA 2003 is amended as follows.

35 (1) In Chapter 1 of Part 7 (income and exemptions relating to securities: general), section 421D (replacement and additional securities and changes in interests) is amended as follows.

(2) In subsection (3), insert at the end " and for the purposes of Chapter 3C as a payment made for their acquisition at or before the time of the acquisition ".

(3) In subsection (4), insert at the end " or a payment was made for their acquisition at or before the time of the acquisition ".

36 In Chapter 2 of Part 7 (restricted securities), before section 431 (election for full or partial disapplication of Chapter 2) but after the heading before that section (supplementary) insert—

Application of this Chapter where securities exchanged for further securities

"430A(1) This section applies if—

(a) an associated person disposes of the employment-related securities ("the old securities") for consideration, otherwise than to another associated person,

(b) the whole or part of the consideration consists of, or includes, other securities which are restricted securities ("the new securities") being acquired by an associated person,

(c) the value of the consideration determined in accordance with subsection (2) is no more than what would have been the market value of the old securities immediately before the disposal but for any restrictions, and

(d) the avoidance of tax or national insurance contributions is not the main purpose (or one of the main purposes) of the disposal.

(2) The value of the consideration is the sum of—

(a) what would have been the market value of the new securities immediately before the disposal but for any restrictions, and

(b) the value of the rest of the consideration (if any).

(3) If the consideration consists partly of the new securities and partly of other consideration, the disposal is to be treated for the purposes of this Chapter as being two separate disposals as follows—

(a) a disposal, that is a chargeable event within section 427(3)(c), of the appropriate amount of the old securities (see subsection (4)) for such of the consideration as does not consist of the new securities, and

(b) a disposal, to which this section applies, of the remaining old securities for consideration consisting wholly of the new securities.

(4) In subsection (3)(a) the appropriate amount of the old securities is—

$$OS \times \frac{OC}{TC}$$

where—

OS is the total number of the old securities,

OC is the value of such of the consideration as does not consist of the new securities, and

TC is value of the consideration determined in accordance with subsection (2).

(5) If the consideration consists wholly of the new securities—

(a) neither the disposal of the old securities, nor the acquisition of the new securities, gives rise to any liability to income tax,

(b) the disposal is not a chargeable event within section 427(3)(c), and

(c) this Chapter applies to the new securities as it applies to the old securities, subject to subsections (6) to (17).

(6) Sections 425 and 431 do not apply in relation to the new securities.

(7) If, at the time of the disposal, sections 426 to 429 do not apply to the old securities by virtue of—

(a) an election made under section 430(1) or 431(1) in relation to the old securities, or

(b) this subsection,

sections 426 to 430 do not apply to the new securities.

(8) If there is a chargeable event for the purposes of section 426 in relation to any of the new securities, for the purposes of section 428 (amount of charge)—

(a) IUP (see subsection (3) of that section) is to be determined in accordance with subsection (9), and

(b) PCP (see subsection (4) of that section) is to be determined in accordance with subsection (10).

(9) IUP is equal to what IUP was, for the purposes of determining the taxable amount for the purposes of section 426, in relation to chargeable events relating to the old securities that occurred before the disposal (or what it would have been had there been any such chargeable events).

(10) PCP is the aggregate of—

(a) PCP determined in accordance with section 428(4), and

(b) what PCP would have been, for the purposes of determining the taxable amount for the purposes of section 426, if a chargeable event relating to the old securities had occurred immediately before the disposal but after any chargeable events relating to the old securities that actually did occur before the disposal.

(11) Subsections (12) to (14) apply if—

(a) section 425(2) (no liability to income tax on acquisition of certain securities subject to forfeiture etc) applied in relation to the old securities, and

(b) at the time of the disposal, there is still a restriction relating to those securities such that they are restricted securities by virtue of section 423(2) (provision for forfeiture etc).

(12) This Chapter has effect in relation to any of the new securities that are not restricted securities by virtue of section 423(2) as if—

(a) there were a restriction relating to them ("the deemed restriction") corresponding to the restriction relating to the old securities mentioned in subsection (11)(b), and

(b) immediately after their acquisition, the deemed restriction were removed.

(13) Subsection (14) applies if—

(a) there is a restriction by virtue of which some or all of the new securities are, at the time of the disposal, restricted securities, by virtue of subsection (2) of section 423, and

(b) within 5 years after the acquisition of the old securities, the restriction is not removed or varied such that the new securities to which it relates cease to be restricted securities by virtue of that subsection.

(14) For the purposes of this Chapter the restriction mentioned in subsection (13) is to be treated as being removed 5 years after the acquisition of the old securities.

(15) Subsection (16) applies if, at the time of the disposal—

(a) there is a restriction relating to the old securities such that they are restricted securities by virtue of section 423(2), and

(b) subsections (13) and (14) apply in relation to the old securities (including by virtue of subsection (16)).

(16) Subsections (12) to (14) apply in relation to the new securities, but—

(a) the reference in subsection (12)(a) to the restriction mentioned in subsection (11)(b) is to be read as a reference to the restriction mentioned in subsection (15)(a), and

(b) the references in subsections (13)(b) and (14) to the acquisition of the old securities are to be read as references to the acquisition of the original forfeitable securities.

(17) In subsection (16) "original forfeitable securities" means the restricted securities by virtue of the application to which of section 425(2) subsections (13) and (14) apply to the old securities.

(18) In this section references to restricted securities include a restricted interest in securities."

37 (1) In Chapter 3C of Part 7 (securities acquired for less than market value), section 446U (discharge of notional loan) is amended as follows.

(2) In subsection (1), omit the "or" at the end of paragraph (a) and for paragraph (b) substitute—

"(b) if there is an outstanding or contingent liability to pay for the employment-related securities, that liability is released, extinguished, transferred or adjusted so as no longer to bind any associated person (except in circumstances in which subsection (4)(aa) applies), or".

(3) After that subsection insert—

"(1A) Subsection (1)(a) does not apply if, at the time of the acquisition, there was an actual or contingent liability to make one or more further payments equal to the amount initially outstanding for the employment-related securities."

(4) In subsection (4), omit the "or" at the end of paragraph (a) and after that paragraph insert—

"(aa) the employment-related securities, together with the liability to make such further payment or payments, are disposed of otherwise than to an associated person and for consideration of an amount that reflects the transfer of the liability, or".

38 In section 554N (exclusions from Chapter 2 of Part 7A: other cases involving employment related securities etc), in subsection (6), after "429," insert " 430A(5)(b), ".

PART 3

CORPORATION TAX RELIEF FOR EMPLOYEE SHARE ACQUISITIONS

39 Part 12 of CTA 2009 (other relief for employee share acquisitions) is amended as follows.

40 In Chapter 1 (introduction), in section 1002 ("employment"), after subsection (4) insert—

"(5) See also sections 1007A(2), 1015B(2), 1025B(2) and 1030B(2) (deemed employment for the purposes of Chapters 2, 3, 4 and 5 of certain employees of overseas companies who work for companies in the UK)."

41 In section 1005 (other definitions)—

(a) at the end of the definition of "the employee" insert " (see also sections 1025A(7) and 1030A(8)) ", and

(b) in the definition of "the qualifying business", for "or 1015(1)(b)" substitute " , 1015(1)(b), 1025A(1)(d)(i) or 1030A(1)(d)(ii) ".

42 In Chapter 2 (corporation tax relief if shares are acquired by employee or other person), after section 1007 insert—

"**1007A Application of Chapter in relation to employees of overseas companies who work for companies in the UK**

(1) This section applies if—

(a) a person has an employment ("the actual employment") with a non-UK resident company not within the charge to corporation tax ("the overseas employer"),

(b) in performing any of the duties of the actual employment, the person works in the United Kingdom for, but is not employed by, another company ("the host employer"), and

(c) the host employer is—

(i) a UK resident company, or

(ii) a non-UK resident company within the charge to corporation tax.

(2) For the purposes of this Chapter, the person is to be treated as having an employment with the host employer ("the deemed employment"), the duties of which consist of the work the person does for the host employer.

(3) Subsection (4) applies if—

(a) shares ("relevant shares") are acquired because of the actual employment, and

(b) because of the work the person does for the host employer, an amount of employment income of the person is charged to tax under ITEPA 2003 in relation to the acquisition of the relevant shares.

(4) For the purposes of section 1007(1)(c) (requirement that shares are acquired because of employment) the relevant shares are (regardless of when the acquisition takes place) to be treated, so far as would not otherwise be the case, as if they are acquired because of the deemed employment.

(5) In section 1008 (conditions relating to the shares acquired) references to the employing company are to be read as including references to the overseas employer.

(6) If, in relation to an acquisition of shares, the amount of relief would otherwise be more than the total amount of employment income of the person charged to tax under ITEPA 2003, the amount of relief is (notwithstanding any other provision of this Chapter) limited to the total amount of that income so charged.

(7) If relief is available to more than one company in respect of the same acquisition of shares, relief may only be given to one of them in respect of that acquisition.

(8) For the purposes of this section a person works for another person if the person provides, and is obliged to provide, personal service to the other person."

43 In Chapter 3 (corporation tax relief if employee or other person obtains option to acquire shares), after section 1015 insert—

"**1015A Application of Chapter: employees of overseas companies who take up employment with a UK company**

(1) This section applies if—

(a) a person ("E") has, or had, an employment with a non-UK resident company not within the charge to corporation tax ("the overseas employment"),

(b) E or another person obtains an option to acquire shares because of the overseas employment,

(c) E has an employment ("the UK employment") with a company that is a UK resident company or a non-UK resident company within the charge to corporation tax,

(d) the person who obtained the option acquires shares pursuant to it, and

(e) subsection (2) applies.

(2) This subsection applies if—

(a) an amount of employment income of E is charged to tax under ITEPA 2003 in relation to the acquisition because of the UK employment, or

(b) it is because of the UK employment that E or another person is able to acquire the shares pursuant to the option.

(3) For the purposes of section 1015(1)(c) (requirement that option is obtained because of employment), the option is (regardless of when it is obtained) to be treated as if it is obtained because of the UK employment.

(4) In section 1016 (conditions relating to the shares acquired) references to the employing company are to be read as including references to the company mentioned in subsection (1)(a).

(5) If, in relation to the acquisition, an amount of relief would otherwise be available that is more than the total amount of employment income of E charged to tax under ITEPA 2003, the amount of relief is (notwithstanding any other provision of this Chapter) limited to the total amount of that income so charged.

(6) If relief is available to more than one company in respect of the same acquisition of shares pursuant to an option, relief may only be given to one of them in respect of that acquisition.

1015B Application of Chapter in relation to employees of overseas companies who work for companies in the UK

(1) This section applies if—

(a) a person has an employment ("the actual employment") with a non-UK resident company not within the charge to corporation tax ("the overseas employer"),

(b) in performing any of the duties of the actual employment, the person works in the United Kingdom for, but is not employed by, another company ("the host employer"), and

(c) the host employer is—

(i) a UK resident company, or

(ii) a non-UK resident company within the charge to corporation tax.

(2) For the purposes of this Chapter, the person is to be treated as having an employment ("the deemed employment") with the host employer, the duties of which consist of the work the person does for the host employer.

(3) Subsection (4) applies if—

(a) an option to acquire shares ("the relevant option") is obtained because of the actual employment,

(b) shares are acquired pursuant to the relevant option, and

(c) because of the work the person does for the host employer, an amount of employment income of the person is charged to tax under ITEPA 2003 in relation to the acquisition of the shares.

(4) For the purposes of section 1015(1)(c) (requirement that option is obtained because of employment), the relevant option is (regardless of when it is obtained) to be treated, so far as would not otherwise be the case, as if it is obtained because of the deemed employment.

(5) In section 1016 (conditions relating to the shares acquired) references to the employing company are to be read as including references to the overseas employer.

(6) If, in relation to an acquisition of shares pursuant to an option, the amount of relief would otherwise be more than the total amount of employment income of the person charged to tax under ITEPA 2003, the amount of relief is (notwithstanding any other provision of this Chapter) limited to the total amount of that income so charged.

(7) If relief is available to more than one company in respect of the same acquisition of shares pursuant to an option, relief may only be given to one of them in respect of that acquisition.

(8) For the purposes of this section a person works for another person if the person provides, and is obliged to provide, personal service to the other person."

44 (1) Section 1016 (conditions relating to shares acquired) is amended as follows.

(2) In subsection (1), omit the "or" at the end of paragraph (b) of Condition 2 and after paragraph (c) of that Condition insert ", or

(d) shares within subsection (1A)".

(3) After subsection (1) insert—

"(1A) Shares are within this subsection if—

(a) after the option is obtained, the company in which the shares are to be acquired ("the relevant company") comes to be controlled by another company ("the takeover"),

(b) immediately before the takeover, the shares were within any of paragraphs (a) to (c) of Condition 2,

(c) as a result of the takeover, the shares cease to be within any of those paragraphs,

(d) the shares are acquired pursuant to the option within the period of 90 days beginning with the day of the takeover, and

(e) the avoidance of tax is not the main purpose (or one of the main purposes) of the takeover."

45 In Chapter 4 (additional corporation tax relief in cases involving restricted shares), after section 1025 insert—

"**1025A Application of Chapter: employees of overseas companies who take up employment with, or work for, a UK company**

(1) This section applies if—

(a) a person ("E") has, or had, an employment ("the overseas employment") with a non-UK resident company not within the charge to corporation tax ("the overseas company"),

(b) E or another person acquired restricted shares because of the overseas employment (whether or not pursuant to an option),

(c) the case is not within section 1025(1)(a),

(d) relief under Chapter 2 or 3 would have been available to the overseas company in relation to the acquisition if, at all material times—

(i) the overseas company had carried on a business within subsection (2) ("a qualifying business"), and

(ii) the overseas employment had related to that business,

(e) E has a UK employment with a UK company (see subsections (3) and (4)),

(f) the UK employment is in relation to a qualifying business carried on by the UK company,

(g) an event occurs that is a chargeable event in relation to the restricted shares for the purposes of section 426 of ITEPA 2003, and

(h) because of the UK employment, an amount of employment income of E is charged to tax under ITEPA 2003 in relation to the chargeable event.

For the purposes of paragraph (d) it does not matter if the amount of the relief would have been calculated as nil.

(2) A business is within this subsection so far as—

(a) it is carried on by a company, and

(b) the company is within the charge to corporation tax in relation to the profits of the business or would be but for section 18A.

(3) A company is a "UK company" if it is a UK resident company or a non-UK resident company within the charge to corporation tax.

(4) E has a "UK employment" with a UK company if—

(a) E is employed by the UK company, or

(b) E is not employed by the UK company but provides, and is obliged to provide, personal service to the UK company, in the course of performing the duties of the overseas employment (in which case, references to the UK employment are to the personal service E provides).

(5) Relief under this Chapter is available to the UK company as a result of the chargeable event.

(6) References in this Chapter to the original relief (other than in section 1025B) are to be treated as references to the relief that would have been available as mentioned in subsection (1)(d).

(7) In section 1026(3) (amount of relief on occurrence of chargeable event), the reference to the employee is to be read as a reference to E.

(8) For the purposes of section 1028(2) (giving relief), as that provision has effect by virtue of subsection (6), in section 1013(2) to (5) or (as the case may be) 1021(2) to (5)—

(a) references to the employing company are to be treated as references to the UK company,

(b) the reference to the relevant employment is to be treated as a reference to the UK employment, and

(c) references to a business within section 1007(2) or (as the case may be) 1015(2) are to be treated as references to a business within subsection (2).

(9) If, in relation to the chargeable event, the amount of relief available would otherwise be more than the total amount of employment income of E charged to tax under ITEPA 2003, the amount of relief is (notwithstanding any other

provision of this Chapter) limited to the total amount of that income so charged.

(10) If relief is available to more than one company as a result of the same chargeable event, relief may only be given to one of them in respect of that event.

1025B Application of Chapter where original relief a consequence of section 1007A, 1015A or 1015B

(1) This section applies if the original relief is available under—

(a) Chapter 2 as a consequence of section 1007A, or

(b) Chapter 3 as a consequence of section 1015A or 1015B.

(2) If the original relief is available as a consequence of section 1007A or 1015B, subsection (2) of the section concerned applies for the purposes of this Chapter.

(3) If, in relation to a chargeable event, the amount of relief available would otherwise be more than the total amount of employment income of the employee charged to tax under ITEPA 2003, the amount of relief is (notwithstanding any other provision of this Chapter) limited to the total amount of that income so charged.

(4) If relief is available to more than one company as a result of the same chargeable event, relief may only be given to one of them in respect of that event.

(5) No relief is available as a result of the employee's death."

46 In Chapter 5 (additional corporation tax relief in cases involving convertible securities), after section 1030 insert—

"**1030A Application of Chapter: employees of overseas companies who take up employment with, or work for, a UK company**

(1) This section applies if—

(a) a person ("E") has, or had, an employment ("the overseas employment") with a non-UK resident company not within the charge to corporation tax ("the overseas company"),

(b) E or another person acquired convertible securities because of the overseas employment (whether or not pursuant to an option),

(c) the case is not within section 1030(1) or (2),

(d) relief under Chapter 2 or 3 would have been available to the overseas company in relation to the acquisition if—

(i) in a case in which the convertible securities were not shares, they had been shares in relation to which the conditions set out in section 1008 or (as the case may be) 1016 were met, and

(ii) at all material times, the overseas company had carried on a business within subsection (2) ("a qualifying business") and the overseas employment had related to that business,

(e) E has a UK employment with a UK company (see subsections (3) and (4)),

(f) the UK employment is in relation to a qualifying business carried on by the UK company,

(g) an event occurs that is a chargeable event (within the meaning given by section 1032 modified in accordance with subsections (6) and (7)) in relation to the convertible securities, and

(h) because of the UK employment, an amount of employment income of E is charged to tax under ITEPA 2003 in relation to the chargeable event.

For the purposes of paragraph (d) it does not matter if the amount of the relief would have been calculated as nil.

(2) A business is within this subsection so far as—

(a) it is carried on by a company, and

(b) the company is within the charge to corporation tax in relation to the profits of the business or would be but for section 18A.

(3) A company is a "UK company" if it is a UK resident company or a non-UK resident company within the charge to corporation tax.

(4) E has a "UK employment" with a UK company if—

(a) E is employed by the UK company, or

(b) E is not employed by the UK company but provides, and is obliged to provide, personal service to the UK company, in the course of performing the duties of the overseas employment (in which case, references to the UK employment are to the personal service E provides).

(5) Relief under this Chapter is available to the UK company as a result of the chargeable event.

(6) References in this Chapter to the original relief (other than in section 1030B) are to be treated as references to the relief that would have been available as mentioned in subsection (1)(d).

(7) For the purposes of section 1032(2), references to the employing company in the conditions set out in section 1008 or (as the case may be) 1016 are to be read as references to the overseas company or the UK company.

(8) In section 1033(3) (amount of relief available on occurrence of chargeable event), the reference to the employee is to be read as a reference to E.

(9) For the purposes of section 1035(2) (giving relief), as that provision has effect by virtue of subsection (6), in section 1013(2) to (5) or (as the case may be) 1021(2) to (5)—

(a) references to the employing company are to be treated as references to the UK company,

(b) the reference to the relevant employment is to be treated as a reference to the UK employment, and

(c) references to a business within section 1007(2) or (as the case may be) 1015(2) are to be treated as references to a business within subsection (2).

(10) If, in relation to the chargeable event, the amount of relief available would otherwise be more than the total amount of employment income of E charged to tax under ITEPA 2003, the amount of relief is (notwithstanding any other provision of this Chapter) limited to the total amount of that income so charged.

(11) If relief is available to more than one company as a result of the same chargeable event, relief may only be given to one of them in respect of that event.

1030B Application of Chapter where original relief a consequence of section 1007A, 1015A or 1015B

(1) This section applies if the original relief is, or would have been, available under—

(a) Chapter 2 as a consequence of section 1007A, or

(b) Chapter 3 as a consequence of section 1015A or 1015B.

(2) If the original relief is, or would have been, available as a consequence of section 1007A or 1015B, subsection (2) of the section concerned applies for the purposes of this Chapter.

(3) Section 1007A(5), 1015A(4) or (as the case may be) 1015B(5) applies for the purposes of section 1032(2).

(4) If, in relation to a chargeable event, the amount of relief available would otherwise be more than the total amount of employment income of the employee charged to tax under ITEPA 2003, the amount of relief is (notwithstanding any other provision of this Chapter) limited to the total amount of that income so charged.

(5) If relief is available to more than one company as a result of the same chargeable event, relief may only be given to one of them in respect of that event.

(6) No relief is available as a result of the employee's death."

PART 4

COMMENCEMENT ETC

47 Part 1 and paragraphs 40 to 43, 45 and 46 of Part 3 of this Schedule come into force on 6 April 2015.

48 The amendments made by Part 1 have effect on and after that date in relation to employment-related securities and employment-related securities options irrespective of the date of the acquisition.

49 The Treasury may by regulations—

(a) make transitional provision or savings in connection with the coming into force of any of the provisions mentioned in paragraph 47;

(b) make consequential, incidental or supplementary provision in connection with any of those provisions.

50 (1) Regulations made under paragraph 49 may—

(a) modify any provision made by or under an Act (including paragraph 48 of this Schedule), as the Treasury think appropriate;

(b) make different provision for different cases or different circumstances.

(2) In sub-paragraph (1)(a) "modify" includes amend, repeal or revoke.

SCHEDULE 10

Section 53

VENTURE CAPITAL TRUSTS

Time limits for making assessments

1 (1) In section 270 of ITA 2007 (assessment on withdrawal or reduction of relief), in subsection (1), after "obtained" insert " , and may be made at any time not more than 6 years after the end of that tax year ".

(2) The amendment made by this paragraph has effect in relation to assessments made on or after 6 April 2014 (including those made for tax years ending before that date).

Linked sales

2 (1) After section 264 of ITA 2007 insert—

"**264A Restricting relief where there is a linked sale**

(1) This section applies where—

(a) an individual subscribes for shares ("the relevant shares") in a VCT ("the VCT"), and

(b) there is at least one linked sale of other shares by the individual.

(2) For the purposes of this Part, the amount the individual subscribes for the shares is to be treated as reduced (but not below nil) by the total consideration given for the linked sales of other shares.

This is subject to subsection (3).

(3) If a sale is linked in relation to more than one subscription for shares—

(a) the consideration for it is to be applied to reduce subscriptions under subsection (2) in the order in which the subscriptions are made, and

(b) accordingly, to the extent that any consideration has been used to reduce an earlier subscription, it is not available to reduce a later one.

(4) A sale of shares ("the sold shares") is "linked" if conditions A and B are met.

(5) Condition A is that the sold shares are in—

(a) the VCT, or

(b) a company which is (or later becomes) a successor or predecessor of the VCT.

(6) Condition B is that—

(a) the individual subscribes for the relevant shares in circumstances where—

(i) the purchase of the sold shares from the individual was conditional upon the individual subscribing for shares in the VCT, or

(ii) the individual's subscription for shares in the VCT was conditional upon that purchase, or

(b) the subscription for the relevant shares and the sale of the sold shares are within 6 months of each other (irrespective of which came first).

(7) A company ("company X") is a "successor or predecessor of the VCT" if—

(a) there is a merger of two or more companies for the purposes of Chapter 5 (see section 323) and—

(i) the VCT is one of the merged companies and company X is "the successor company" (as defined by that section), or

(ii) the VCT is "the successor company" and company X is one of the merged companies, or

(b) section 327 (effect of restructuring of VCT) applies and—

(i) the VCT is "the old company" and company X is "the new company" for the purposes of that section, or

(ii) company X is "the old company" and the VCT is "the new company" for those purposes.

(8) This section does not apply if, or to the extent that, the subscription for the relevant shares is a result of the individual electing to reinvest dividends payable to the individual on shares in the VCT, in acquiring further shares in the VCT."

(2) The amendment made by this paragraph has effect in relation to claims for relief by reference to shares issued on or after 6 April 2014.

Approval of VCT: return of capital

3 (1) Section 281 of ITA 2007 (withdrawal of VCT approval of a company) is amended as follows.

(2) In subsection (1), omit the "or" at the end of paragraph (d) and after paragraph (e) insert—

"(f) that, while it has been a VCT, the company has issued shares and, before the end of the restricted period, the company, other than for the purpose of redeeming or repurchasing any of those shares, has—

(i) made a payment to all or any of its shareholders of an amount representing (directly or indirectly) a repayment of its share capital, whether that payment was made out of a reserve arising from a reduction of share capital or otherwise,

(ii) where the shares were issued at a premium, made a payment to all or any of its shareholders of an amount representing (directly or indirectly) that premium or any part of it, whether that payment was made out of a share premium reserve or otherwise, or

(iii) used an amount which represents (directly or indirectly) the company's share capital or an amount by which that share capital has been diminished, or, where the shares were issued at a premium, that premium (or any part of it), to pay up new shares to be allotted to all or any of its shareholders."

(3) After that subsection insert—

"(1A) In subsection (1)(f)—

"payment"—

(a) does not include any distribution of assets made in connection with the winding up of the company, but

(b) does include every other description of distribution of the company's assets to its members,

and for this purpose "distribution" includes (but is not limited to) a distribution within the meaning of section 989,

"reduction of share capital" has the same meaning as in section 1027A(2) of CTA 2010, and

"the restricted period" means the period of 3 years beginning at the end of the accounting period of the company in which the shares were issued."

(4) The amendments made by this paragraph have effect in relation to shares issued on or after 6 April 2014.

(5) In section 281(1)(f)(i) or (iii) of ITA 2007 references to a company's share capital do not include so much (if any) of its share capital as consists of shares issued before 6 April 2014.

4 In section 322 of ITA 2007 (power to facilitate mergers of VCTs: provision that may be made by regulations), after subsection (5) insert—

"(5A) Provision for section 281(1)(f) (withdrawal of VCT approval where company has made a repayment of share capital etc) not to apply, or to apply subject to modifications, to the successor company or any of the merging companies, in relation to payments made, or amounts used to pay up new shares, in connection with or after the merger."

Nominees

5 (1) After section 330 of ITA 2007 insert—

"Nominees

330A Nominees

Shares subscribed for, issued to, held by or disposed of for an individual by a nominee are treated for the purposes of this Part as subscribed for, issued to, held by or disposed of by the individual."

(2) In section 284 of that Act (power to make regulations as to procedure), in subsection (1)(d), after "persons" include "(including nominees)".

SCHEDULE 11

Section 57

TAX RELIEF FOR SOCIAL INVESTMENTS

PART 1

NEW PART 5B OF ITA 2007

1 In ITA 2007, after Part 5A (seed enterprise investment scheme) insert—

"**PART 5B**

TAX RELIEF FOR SOCIAL INVESTMENTS

CHAPTER 1

INTRODUCTION

Meaning of "SI relief" and "social enterprise"

257JA(1) This Part provides for income tax relief for social investments ("SI relief"), that is, entitlement to tax reductions in respect of amounts invested in social enterprises by individuals.

(2) In this Part "social enterprise" means—

(a) a community interest company,

(b) a community benefit society (see section 257JB) that is not a charity,

(c) a charity,

(d) an accredited social impact contractor (see section 257JD), or

(e) any other body prescribed, or of a description prescribed, by an order made by the Treasury.

(3) An order under subsection (2)(e) may make provision as to the bodies which are social enterprises for the purposes of this Part at times before the order comes into force or FA 2014 is passed but, where a body is a social enterprise for the purposes of this Part as a result of an order under subsection (2)(e) that has come into force, no subsequent order under subsection (2)(e) may undo that result in respect of times before the subsequent order comes into force.

Form and amount of relief

257JA(1) If an individual—

(a) is eligible for SI relief in respect of any amount, and

(b) makes a claim in respect of all or some of the amount,

the individual is entitled to a tax reduction for the tax year in which the amount was invested.

This is subject to the provisions of this Part.

(2) The amount of the reduction to which an individual is entitled under this Part for any particular tax year is the amount equal to tax, at the SI rate for that year, on—

(a) the amount or, as the case may be, the sum of the amounts invested in that year in respect of which the individual is eligible for and claims SI relief, or

(b) if less, £1 million.

(3) The tax reduction is given effect at Step 6 in section 23.

(4) If an individual—

(a) is eligible for and claims SI relief in respect of an amount, and

(b) makes a claim for part of that amount to be treated for the purposes of subsections (1) and (2) as if it had been invested not in the tax year in which it was actually invested but in the preceding tax year,

those subsections apply, and the individual's liability to tax for both tax years is determined, in accordance with the claim.

(5) In this Part "the SI rate" means 30%.

Meaning of "community benefit society"

257JB(1) In this Part "community benefit society" means a body that—

(a) is registered as a community benefit society under the 2014 Act,

(b) is a pre-commencement society (within the meaning of the 2014 Act) that meets the condition in section 2(2)(a)(ii) of the 2014 Act, or

(c) is a society registered, or treated as registered, under section 1 of the Industrial and Provident Societies Act (Northern Ireland) 1969 in the case of which the condition in section 1(2)(b) of that Act is fulfilled,

and in respect of which the condition in subsection (2) is met.

(2) The condition is that—

(a) the body is of a kind prescribed by regulation 5 of, and

(b) the body's rules include a rule in the terms set out in Schedule 1 to,

the Community Benefit Societies (Restriction on Use of Assets) Regulations 2006 (S.I. 2006/264) or the Community Benefit Societies (Restriction on Use of Assets) Regulations (Northern Ireland) 2006 (S.R. 2006/258).

(3) The Treasury may by order amend this section for the purpose of—

(a) replacing—

(i) the condition in subsection (2), or

(ii) the condition, or all or any of the conditions, for the time being replacing the condition in subsection (2),

with one or more other conditions;

(b) varying—

(i) the condition in subsection (2), or

(ii) the condition, or any of the conditions, for the time being replacing the condition in subsection (2);

(c) dispensing with—

(i) the condition in subsection (2), or

(ii) the condition, or all or any of the conditions, for the time being replacing the condition in subsection (2).

(4) In this section—

"the 2014 Act" means the Co-operative and Community Benefit Societies Act 2014;

"the 2010 Act" means the Co-operative and Community Benefit Societies and Credit Unions Act 2010.

(5) While neither the 2014 Act, nor section 1 of the 2010 Act, is in force, subsection (1) of this section has effect as if for paragraphs (a) and (b) of that subsection there were substituted—

"(a) is a society registered, or treated as registered, under section 1 of the Industrial and Provident Societies Act 1965 in the case of which the condition in section 1(2)(b) of that Act is fulfilled, or".

(6) If section 1 of the 2010 Act (registration of societies) comes into force before the 2014 Act comes into force then, with effect from the coming into force of that section and until the coming into force of the 2014 Act, subsection (1) of this section has effect as if for paragraphs (a) and (b) of that subsection there were substituted—

"(a) is registered as a community benefit society under section 1 of the Industrial and Provident Societies Act 1965 ("the 1965 Act"),

(b) is a pre-2010 Act society (as defined by section 4A(1) of the 1965 Act) that meets the condition in section 1(3) of the 1965 Act, or".

(7) In the event that section 2 of the 2010 Act (renaming of the 1965 Act) is brought into force before its repeal by the 2014 Act takes effect then, with effect from the coming into force of that section, subsections (5) and (6) of this section have effect as if, in the provisions which they substitute, the references to the Industrial and Provident Societies Act 1965 were references to the Co-operative and Community Benefit Societies and Credit Unions Act 1965.

Charities that are trusts

257JC In this Part (except section 257JD), a reference to a company includes a reference to a charity that is a trust.

Accreditation as a social impact contractor

257JD(1) In this Part "accredited social impact contractor" means a company limited by shares that is accredited under this section as a social impact contractor.

(2) Applications for accreditation as a social impact contractor must be made to a Minister of the Crown in the form and manner specified by a Minister of the Crown.

(3) A Minister of the Crown is to accredit a company if, but only if, that Minister is satisfied that—

(a) the company has entered into a social impact contract (see section 257JE),

(b) the company is, and at all times since its incorporation has been, established—

(i) for the purpose of entering into and carrying out a social impact contract, or for that purpose and purposes incidental to it, but

(ii) for no other purpose, and

(c) the activities of the company in carrying out that contract will not consist wholly, or as to a substantial part, in excluded activities (see section 257MQ).

(4) If a Minister of the Crown is satisfied that the condition in subsection (3)(b) or (c) has ceased to be met in relation to a company that is an accredited social impact contractor, that Minister is to withdraw the company's accreditation with effect from the time the condition ceased to be met or a later time.

Meaning of "social impact contract"

257JE(1) In this Part "social impact contract" means a contract that meets such criteria as may be specified in regulations made by the Treasury.

(2) The criteria which may be specified under subsection (1) include, in particular, criteria as to a party to the contract other than the company seeking accreditation.

(3) Criteria may be specified in regulations under subsection (1) by reference to material published by, or on behalf of, a Minister of the Crown after the making of the regulations (as well as by reference to material published before the making of the regulations).

(4) Regulations under subsection (1) may make different provision for different cases or circumstances or in relation to different areas.

Accreditations: supplementary provisions

257JF(1) An accreditation must be made so as to be conditional on compliance with—

(a) any requirements imposed by or under regulations, and

(b) any other requirements considered appropriate by the Minister of the Crown who is accrediting the company concerned.

(2) The requirements that may be imposed by virtue of subsection (1) include requirements relating to the provision of information.

(3) Regulations may—

(a) make further provision about applications for accreditation,

(b) make provision for the variation of an accreditation (including its provisions as to its duration),

(c) make provision which, in a case where a company is or has been an accredited social impact contractor, imposes or authorises the imposition of requirements on the company, or on any other party to the social impact contract concerned, to provide information,

(d) make provision about the consequences of a failure to comply with any requirement of an accreditation imposed by virtue of subsection (1) or with any requirement imposed by virtue of paragraph (c), including in particular—

(i) provision for the withdrawal of the accreditation concerned with effect from the time of the failure or a later time, and

(ii) provision for the imposition of penalties,

(e) make provision for publication of information about an accreditation or accredited social impact contractor, and

(f) make provision for reviews of, or for appeals to the tribunal against, any of the following—

(i) a refusal to grant or vary an accreditation,

(ii) the imposition of a requirement under subsection (1)(b),

(iii) the withdrawal of an accreditation (whether under section 257JD(4) or by virtue of provision made under paragraph (d)(i)), and

(iv) the imposition or amount of a penalty imposed by virtue of provision made under paragraph (d)(ii).

(4) Regulations under subsection (1) or (3) may—

(a) make provision for the making of decisions by a Minister of the Crown as to any matter required to be decided for the purposes of the regulations,

(b) be framed by reference to material published by, or on behalf of, a Minister of the Crown after the making of the regulations (as well as by reference to material published before the making of the regulations),

(c) make different provision for different cases or circumstances or in relation to different areas, and

(d) contain incidental, supplemental, consequential and transitional provision and savings.

(5) In this section—

"accreditation" means accreditation under section 257JD, and

"regulations" means regulations made by the Treasury.

Period of accreditation as a social impact contractor

257JG(1) An accreditation under section 257JD has effect for a period—

(a) beginning with the day specified in the accreditation, and

(b) of a length specified in, or determined in accordance with, the accreditation.

(2) The day specified under subsection (1)(a) in an accreditation may not be earlier than 6 April 2014 but subject to that—

(a) may be, or be earlier than, the day it is decided to grant the accreditation (and in particular may be, or be earlier than, the day the application for the accreditation is made), and

(b) may be earlier than the day section 257JD comes into force.

(3) This section has effect subject to sections 257JD(4) and 257JF(3)(d)(i) (withdrawal of accreditations).

Functions of Ministers of the Crown under sections 257JD to 257JG

257JH(1) A Minister of the Crown may delegate any function given to a Minister of the Crown by or under sections 257JD to 257JG other than a power of the Treasury to make regulations.

(2) In those sections and this section "Minister of Crown" has the meaning given by section 8(1) of the Ministers of the Crown Act 1975.

CHAPTER 2

ELIGIBILITY FOR RELIEF: BASIC RULE AND KEY DEFINITIONS

Eligibility

Eligibility for SI relief

257KA(1) An individual ("the investor") who invests in a social enterprise is eligible for SI relief in respect of the amount invested if—

(a) the investment is made—

(i) by the investor on the investor's own behalf,

(ii) on or after 6 April 2014, and

(iii) before 6 April 2019 (but see subsection (5)), and

(b) the conditions set out in Chapters 3 and 4 are met.

(2) Subsection (1)(b) is subject to the provisions in sections 257LB and 257MJ to 257MN which provide for conditions set out in those sections not to apply where the social enterprise is an accredited social impact contractor.

(3) The investor is not eligible for SI relief in respect of the amount invested if—

(a) the investor has obtained in respect of that amount, or any part of it, relief under—

(i) Part 5 (enterprise investment scheme),

(ii) Part 5A (seed enterprise investment scheme), or

(iii) Part 7 (community investment tax relief), or

(b) that amount, or any part of it, has under Schedule 5B to TCGA 1992 (enterprise investment scheme: re-investment) been set against a chargeable gain.

(4) Investments made by, subscribed for, issued to, held by or disposed of for an individual by a nominee are treated for the purposes of this Part as made by, subscribed for, issued to, held by or disposed of by the individual.

(5) The Treasury may by order substitute a later date for the date for time being specified in subsection (1)(a)(iii).

Key definitions

Key to reading the rest of the Part

257KA In the following provisions of this Part (except section 257N), a reference to—

"the amount invested",

"the investment",

"the investor", or

"the social enterprise",

is to be read in accordance with section 257K(1).

When investment is made, and "investment date"

257KB (1) For the purposes of this Part "the investment date" means the date on which the investment is made.

(2) So far as the investment is in shares, for the purposes of this Part it is made when the shares are issued to the investor by the social enterprise.

(3) If the investment, so far as it is in qualifying debt investments (see section 257L), involves making the only advance covered by the debenture or debentures concerned, for the purposes of this Part it is made—

(a) when the social enterprise issues the debenture or debentures to the investor, or

(b) in a case where there is to be no such issuing, when the debenture or debentures, so far as relating to the advance, take effect between the social enterprise and the investor.

(4) If the investment, so far as it is in qualifying debt investments, involves making the first of multiple advances covered by the debenture or debentures concerned, for the purposes of this Part it is made—

(a) when the social enterprise issues the debenture or debentures to the investor, or

(b) in a case where there is to be no such issuing, when the debenture or debentures, so far as relating to all of those advances, take effect between the social enterprise and the investor.

(5) If the investment, so far as it is in qualifying debt investments, involves making the second of multiple advances covered by the debenture or debentures concerned, or a subsequent one of those advances, for the purposes of this Part it is made—

(a) when the amount of that advance is fully advanced in cash, or

(b) if later—

(i) when the social enterprise issues the debenture or debentures to the investor, or

(ii) in a case where there is to be no such issuing, when the debenture or debentures, so far as relating to all of those advances, takes effect between the social enterprise and the investor.

(6) For the purposes of subsections (3) to (5) "debenture" includes any instrument creating or acknowledging indebtedness.

"Shorter applicable period" and "longer applicable period"

257KC(1) In this Part "the shorter applicable period" and "the longer applicable period" have the meaning given by this section.

(2) The shorter applicable period begins with the investment date.

(3) The longer applicable period begins with—

(a) the day on which the social enterprise is—

(i) incorporated (if it is a body corporate), or

(ii) established (in any other case), or

(b) if later, the day whose first anniversary is the investment date.

(4) Each of the periods ends with the third anniversary of the investment date.

CHAPTER 3

ELIGIBILITY: CONDITIONS RELATING TO THE INVESTOR AND THE INVESTMENT

Investment to be in new shares or new qualifying debt investments

257KD(1) At all times during the shorter applicable period, the investment must be in—

(a) shares that meet conditions A and B and are issued to the investor by the social enterprise in return for the amount invested, or

(b) qualifying debt investments of which the investor is the holder in return for advancing the amount invested to the social enterprise.

(2) Condition A is that the shares must carry none of the following—

(a) a right to a return which, or any part of which, is a fixed amount;

(b) a right to a return which, or any part of which, is at a fixed rate;

(c) a right to a return which, or any part of which, is otherwise fixed by reference to the amount invested;

(d) a right to a return which, or any part of which, is fixed by reference to some other factor that is not contingent on successful financial performance by the social enterprise;

(e) a right to a return at a rate greater than a reasonable commercial rate.

(3) Condition B is that, for the purpose of determining the amounts due in respect of the shares to their holder in the event of the winding-up of the social enterprise—

(a) those amounts rank after all debts of the social enterprise except any due to holders of qualifying debt investments in the social enterprise in respect of their qualifying debt investments, and

(b) the shares do not rank above any other shares in the social enterprise.

(4) In this Part "qualifying debt investments", in relation to the social enterprise, means any debentures of the social enterprise in respect of which the following conditions are met—

(a) neither the principal of the debt concerned, nor any return on that, is charged on any assets,

(b) the rate of any such return is not greater than a reasonable commercial rate of return, and

(c) in the event of the winding-up of the social enterprise and so far as the law allows, any sums due in respect of the debt (whether principal or return)—

(i) are subordinated to all other debts of the social enterprise except sums due in the case of other unsecured debentures of the social enterprise which rank equally,

(ii) rank equally, if there are shares in the social enterprise and they all rank equally among themselves, with amounts due to share-holders in respect of their shares, and

(iii) rank equally, if there are shares in the social enterprise and they do not all rank equally, with amounts due in respect of their shares to the holders of shares that do not rank above any other shares.

(5) The condition in subsection (3)(a) or (4)(c)(i) is met even if the sums concerned do not rank after debts which are postponed—

(a) by rules under section 411 of the Insolvency Act 1986, or

(b) by or under any other enactment.

(6) For the purposes of subsection (4) "debenture" includes any instrument creating or acknowledging indebtedness.

Condition that the amount invested must have been paid over

257LA(1) So far as the investment is in shares—

(a) the shares must be subscribed for wholly in cash, and

(b) must be fully paid up at the time they are issued.

(2) If the investment, so far as it is in qualifying debt investments, involves making—

(a) the only advance covered by the debenture or debentures concerned, or

(b) one of multiple advances covered by the debenture or debentures concerned,

the full amount of that advance must have been advanced wholly in cash by the time the investment is made.

(3) For the purposes of this section—

(a) shares are not fully paid up, or

(b) the full nominal amount of qualifying debt investments has not been advanced,

if there is any undertaking to pay cash to any person at a future time in respect of the acquisition of the shares or investments.

(4) For the purposes of subsection (2) "debenture" includes any instrument creating or acknowledging indebtedness.

The no pre-arranged exits requirements

257LB(1) There must not at any time in the shorter applicable period be any arrangements in existence for the investment to be redeemed, repaid, repurchased, exchanged or otherwise disposed of in that period.

(2) The issuing arrangements for the investment must not include—

(a) arrangements for or with a view to the cessation of any trade which is being or is to be or may be carried on by the social enterprise or a person connected with the social enterprise, or

(b) arrangements for the disposal of, or of a substantial amount (in terms of value) of, the assets of the social enterprise or of a person connected with the social enterprise.

(3) The arrangements referred to in subsection (2)(a) and (b) do not include any arrangements applicable only on the winding-up of a company except in a case where—

(a) the issuing arrangements include arrangements for the company to be wound up, or

(b) the arrangements are applicable on the winding-up of the company otherwise than for genuine commercial reasons.

(4) In this section "the issuing arrangements" means—

(a) the arrangements under which the investor makes the investment, and

(b) any arrangements made before, and in relation to or in connection with, the making of the investment by the investor.

(5) Subsections (2) to (4) do not apply if the social enterprise is an accredited social impact contractor.

The no risk avoidance requirement

257LC(1) There must not at any time in the shorter applicable period be any arrangements in existence the main purpose or one of the main purposes of which is (by means of any insurance, indemnity, guarantee, hedging of risk or otherwise) to provide partial or complete protection for the investor against what would otherwise be the risks attached to making the investment.

(2) The arrangements referred to in subsection (1) do not include any arrangements which are confined to the provision—

(a) for the social enterprise itself, or

(b) if the social enterprise is a parent company that meets the trading requirement in section 257MJ(2)(c) or is a parent company that is an accredited social impact contractor—

(i) for the social enterprise itself,

(ii) for the social enterprise itself and one or more of its subsidiaries, or

(iii) for one or more of the subsidiaries of the social enterprise,

of any such protection against the risks arising in the course of carrying on its business as might reasonably be expected to be provided in normal commercial circumstances.

The no linked loans requirement

257LD(1) No linked loan is to be made by any person, at any time in the longer applicable period, to the investor or an associate of the investor.

(2) In this section "linked loan" means any loan which—

(a) would not have been made, or

(b) would not have been made on the same terms,

if the investor had not made the investment, or had not been proposing to do so.

(3) References in this section to the making by any person of a loan to the investor or an associate of the investor include—

(a) references to the giving by that person of any credit to the investor or any associate of the investor, and

(b) references to the assignment to that person of a debt due from the investor or any associate of the investor.

The no tax avoidance requirement

257LE The investment must not be made as part of any arrangements the main purpose or one of the main purposes of which is the avoidance of tax.

Restrictions on being an employee, partner or paid director

257LF(1) This section applies—

(a) to the investor, and

(b) to any individual who is an associate of the investor.

(2) An individual to whom this section applies must not at any time in the longer applicable period be—

(a) an employee of—

(i) the social enterprise,

(ii) any subsidiary of the social enterprise,

(iii) a partner of the social enterprise, or

(iv) a partner of any subsidiary of the social enterprise,

(b) a partner of—

(i) the social enterprise, or

(ii) any subsidiary of the social enterprise,

(c) a trustee of—

(i) the social enterprise, or

(ii) any subsidiary of the social enterprise, or

(d) a remunerated director of—

(i) the social enterprise, or

(ii) a linked company.

(3) In this section—

"linked company" means—

(a) a subsidiary of the social enterprise,

(b) a company which is a partner of the social enterprise, or

(c) a company which is a partner of a subsidiary of the social enterprise;

"related person" means—

(a) the social enterprise,

(b) a person connected with the social enterprise,

(c) a linked company of which the individual is a director, or

(d) a person connected with such a company;

"subsidiary", in relation to the social enterprise, means a company which at any time in the longer applicable period is a 51% subsidiary of the social enterprise (and such a company is therefore a subsidiary of the social enterprise for the purposes of this section even at times when it is not a 51% subsidiary of the social enterprise).

(4) For the purposes of subsection (2)(d), an individual who is a director of the social enterprise or a linked company is "remunerated" if the individual (or a partnership of which the individual is a member)—

(a) receives at any time in the longer applicable period a payment from a related person, or

(b) is entitled to receive a payment from a related person in respect of any time in the longer applicable period.

(5) For the purposes of subsection (4) the following are ignored—

(a) any payment or reimbursement of travelling or other expenses wholly, exclusively and necessarily incurred by the individual in the performance of the individual's duties as a director,

(b) any interest which represents no more than a reasonable commercial return on money lent to a related person,

(c) any dividend or other distribution which does not exceed a normal return on the investment,

(d) any payment for the supply of goods which does not exceed their market value,

(e) any payment of rent for any property occupied by a related person which does not exceed a reasonable and commercial rent for the property,

(f) any necessary and reasonable remuneration which—

(i) is paid for services, rendered to a related person in the course of a trade or profession, that are not secretarial services and are not managerial services and are not services of a kind provided by the person to whom they are rendered, and

(ii) is taken into account in calculating for tax purposes the profits of that trade or profession, and

(g) if condition A is met and (where applicable) condition B is also met, any other reasonable remuneration (including any benefit or facility) received by the individual, or to which the individual is entitled, for services rendered by the individual—

(i) to the company (whether the social enterprise or a linked company) of which the individual is a director, and

(ii) in the individual's capacity as a director of that company.

(6) Condition A is that the investor made the investment, or previously made another investment meeting the requirement in section 257L(1), at a time ("the qualifying time") when—

(a) the requirements of this section and sections 257LG and 257LH (even if the three sections were not then in force) would have been met even if each other reference in the three sections to any time in the longer applicable period were a reference to any time before the qualifying time, and

(b) the investor had never been involved in carrying on (whether on the investor's own account or as a partner, director or employee) the whole or any part of the trade, business or profession carried on by the social enterprise or a subsidiary of the social enterprise.

(7) Condition B is that—

(a) the investment did not meet condition A (but a previous investment did), and

(b) the investment was made before the third anniversary of the date when the investor last made an investment in the social enterprise which met condition A.

(8) References in this section to an individual in the individual's capacity as a director of a company include, if the individual is both a director and an employee of the company, references to the individual in the individual's capacity as an employee of the company but, apart from that, an individual who is both a director and an employee of a company is treated for the purposes of this section as a director, and not an employee, of the company.

(9) In subsections (2), (4) and (5) "director" does not include a trustee of a charity that is a trust.

The requirement not to be interested in capital etc of social enterprise

257LG(1) This section applies—

(a) to the investor, and

(b) to any individual who is an associate of the investor.

(2) In this section "related company" means—

(a) the social enterprise, or

(b) a company which at any time in the longer applicable period is a 51% subsidiary of the social enterprise (and such a company is therefore a related company for the purposes of this section even at times when it is not a 51% subsidiary of the social enterprise).

(3) There must not be any time in the longer applicable period when an individual to whom this section applies has control of a related company.

(4) There must not be any time in the longer applicable period when an individual to whom this section applies directly or indirectly possesses or is entitled to acquire—

(a) more than 30% of the ordinary share capital of a related company,

(b) more than 30% of the loan capital of a related company, or

(c) more than 30% of the voting power in a related company.

(5) For the purposes of subsections (3) and (4) ignore any shares in a related company held by the individual, or by an associate of the individual, at a time when that company—

(a) has not issued any shares other than subscriber shares, and

(b) has not begun to carry on, or make preparations for carrying on, any trade or business.

(6) For the purposes of this section, the loan capital of a company—

(a) is treated as including any debt incurred by the company—

(i) for any money borrowed or capital assets acquired by the company,

(ii) for any right to receive income created in favour of the company, or

(iii) for consideration the value of which to the company was (at the time when the debt was incurred) substantially less than the amount of the debt (including any premium on it), and

(b) is treated as not including any debt incurred by the company by overdrawing an account with a person carrying on a business of banking if the debt arose in the ordinary course of that business.

(7) For the purposes of this section—

(a) an individual is treated as entitled to acquire anything which the individual is entitled to acquire at a future date or will at a future date be entitled to acquire, and

(b) there is attributed to any individual any rights or powers of any other person who is an associate of the individual.

Requirement for no collusion with a non-qualifying investor

257LH There must not at any time in the longer applicable period be any arrangements—

(a) as part of which—

(i) the investor makes the investment, or

(ii) the investor, or an individual who is an associate of the investor, makes any other investment in the social enterprise,

(b) which provide for a person to make an investment in a company other than the social enterprise, where that person is not the individual ("A") who invests as mentioned in paragraph (a), and

(c) to which there is a party (whether or not A) who is an individual in relation to whom not all of the requirements in sections 257LF and 257LG would be met if—

(i) references in those sections to the investor were read as references to that individual, and

(ii) references in those sections to the social enterprise were read as references to the company mentioned in paragraph (b).

CHAPTER 4

ELIGIBILITY: CONDITIONS RELATING TO THE SOCIAL ENTERPRISE

Conditions relating to the social enterprise

The continuing to be a social enterprise requirement

257M The social enterprise must be a social enterprise throughout the shorter applicable period.

The amount raised from investments potentially eligible for relief

257MA(1) The amount invested must not be more than the amount given by—

$$\left(\frac{[\text{euro}]200{,}000 - M}{\text{RCG} + \text{RSI}} \right) - T$$

where—

T is the total of any scheme investments made in the aid period,

M is the total of any de minimis aid, other than scheme investments, that is granted during the aid period—

(a) to the social enterprise, or

(b) to a qualifying subsidiary of the social enterprise at a time when it is such a subsidiary,

RCG is the highest rate at which capital gains tax is charged in the aid period, and

RSI is the highest SI rate in the aid period.

(2) In subsection (1) "the aid period" is the 3 years—

(a) ending with the day on which the investment is made, but

(b) in the case of that day, including only the part of the day before the investment is made.

(3) In this section "de minimis aid" means de minimis aid which fulfils the conditions laid down—

(a) in Commission Regulation (EU) No. 1407/2013 (de minimis aid) as amended from time to time, or

(b) in any EU instrument from time to time replacing the whole or any part of that Regulation.

(4) For the purposes of subsection (1), the amount of any de minimis aid is the amount of the grant or, if the aid is not in the form of a grant, the gross grant

equivalent amount within the meaning of that Regulation as amended from time to time.

(5) For the purposes of this section—

(a) a scheme investment is an investment in respect of which the social enterprise (at any time) provides a compliance statement, and

(b) section 257KB applies for the purpose of determining when a scheme investment is made, but as if references in that section to this Part, the investment and the investor were (respectively) to this section, the scheme investment and the person making the scheme investment.

(6) For the purposes of subsection (1), if—

(a) the investment or any scheme investment is made, or

(b) any aid is granted,

in sterling or any other currency that is not the euro, its amount is to be converted into euros at an appropriate spot rate of exchange for the date on which the investment is made or the aid is paid.

Power to amend limits on amounts raised

257MB(1) The Treasury may by order amend this Part for the purpose of—

(a) altering any limit for the time being imposed by this Part on amounts that a social enterprise may raise through investments eligible for SI relief;

(b) complying with any undertakings given to the European Commission, or any conditions imposed by the Commission, in connection with an application for State aid approval.

(2) In subsection (1) "State aid approval" means approval that the provision made by this Part, so far as it constitutes the granting of aid to which any of the provisions of Article 107 or 108 of the Treaty on the Functioning of the European Union applies, is or would be compatible with the internal market, within the meaning of Article 107 of that Treaty.

(3) An order under this section may make incidental, supplemental, consequential, transitional or saving provision.

(4) An order under this section may not be made unless a draft of the instrument containing it has been laid before, and approved by a resolution of, the House of Commons.

The gross assets requirement

257MC(1) If the social enterprise is a single company, the value of its assets—

(a) must not exceed £15 million immediately before the investment is made, and

(b) must not exceed £16 million immediately after the investment is made.

(2) If the social enterprise is a parent company, the value of the group assets—

(a) must not exceed £15 million immediately before the investment is made, and

(b) must not exceed £16 million immediately after the investment is made.

(3) For the purposes of subsection (2), the value of the group assets is the sum of the values of the gross assets of each of the members of the group, ignoring any assets that consist in rights against, or shares in or securities of, another member of the group.

The unquoted status requirement

257MD(1) At the beginning of the shorter applicable period—

(a) the social enterprise must not be a quoted company,

(b) there must be no arrangements in existence for the social enterprise to become a quoted company, and

(c) there must be no arrangements in existence for the social enterprise to become a subsidiary of a company ("the new company") by virtue of an exchange of shares, or shares and securities, if arrangements have been made with a view to the new company becoming a quoted company.

(2) For the purpose of this section, a company is a "quoted company" if any shares, stocks, debentures or other securities of the company are—

(a) listed on a recognised stock exchange,

(b) listed on a designated exchange in a country outside the United Kingdom, or

(c) dealt in outside the United Kingdom by such means as may be designated.

(3) In subsection (2)(b) and (c) "designated" means designated by an order made by the Commissioners for Her Majesty's Revenue and Customs for the purposes of that provision.

(4) An order made for the purposes of subsection (2)(b) may designate an exchange by name, or by reference to any class or description of exchanges, including a class or description framed by reference to any authority or approval given in a country outside the United Kingdom.

(5) The arrangements referred to in subsection (1)(b), and the second arrangements referred to in subsection (1)(c), do not include arrangements in consequence of which any shares, stocks, debentures or other securities of the social enterprise or the new company (as the case may be) are at any subsequent time—

(a) listed on a stock exchange that is a recognised stock exchange by virtue of an order under section 1005(1)(b), or

(b) listed on an exchange, or dealt in by any means, designated by an order made for the purposes of subsection (2)(b) or (c),

if the order was made after the beginning of the shorter applicable period.

The control and independence requirements

257ME(1) The social enterprise must not at any time in the shorter applicable period control (whether on its own or together with any person connected with it) any company which is not a qualifying subsidiary of the social enterprise.

(2) The social enterprise must not at any time in the shorter applicable period—

(a) be a 51% subsidiary of a company, or

(b) be under the control of a company, or under the control of a company and a person connected with that company, without being a 51% subsidiary of the company.

(3) No arrangements must be in existence at any time in the shorter applicable period by virtue of which the social enterprise could fail to meet either or both of subsections (1) and (2) (whether during that period or otherwise).

The qualifying subsidiaries requirement

257MF Any subsidiary that the social enterprise has at any time in the shorter applicable period must be a qualifying subsidiary of the social enterprise.

The property-managing subsidiaries requirement

257MG (1) Any property-managing subsidiary that the social enterprise has at any time in the shorter applicable period must be a 90% social subsidiary of the social enterprise.

(2) In subsection (1) "property-managing subsidiary" means a subsidiary of the social enterprise whose business consists wholly or mainly in the holding or managing of land or any property deriving its value (directly or indirectly) from land.

The number of employees requirement

257MH (1) If the social enterprise is a single company, the full-time equivalent employee number for it must be less than 500 when the investment is made.

(2) If the social enterprise is a parent company, the sum of—

(a) the full-time equivalent employee number for it, and

(b) the full-time equivalent employee number for each of its qualifying subsidiaries,

must be less than 500 when the investment is made.

(3) The full-time equivalent employee number for a company is calculated by taking the number of full-time employees of the company and adding, for each employee of the company who is not a full-time employee, such fraction as is just and reasonable.

(4) In this section "employee"—

(a) includes a director, but

(b) does not include—

(i) an employee on maternity or paternity leave, or

(ii) a student on vocational training.

The no partnership requirement

257MI (1) The requirements in this section apply during the shorter applicable period.

(2) The social enterprise must not be a member of any partnership.

(3) Each 90% social subsidiary of the social enterprise must not be a member of a partnership.

The trading requirement

257M(1) The social enterprise must meet the trading requirement throughout the shorter applicable period, but this does not apply if the social enterprise is an accredited social impact contractor.

(2) The trading requirement is that—

(a) the social enterprise is a charity,

(b) the social enterprise is a single company that is not a charity, and its business—

(i) does not, if things done for incidental purposes are ignored, consist to any extent in the carrying-on of non-trade activities, and

(ii) does not consist wholly, or as to a substantial part, in the carrying-on of excluded activities, or

(c) the social enterprise is a parent company that is not a charity, and the business of the group does not consist wholly, or as to a substantial part, in the carrying-on of non-qualifying activities.

(3) If the social enterprise intends that one or more companies should become its qualifying subsidiaries with a view to their carrying on one or more qualifying trades—

(a) the social enterprise is treated as a parent company for the purposes of subsection (2)(b) and (c), and

(b) the reference in subsection (2)(c) to the group includes the social enterprise and any existing or future company that will be its qualifying subsidiary after the intention in question is carried out,

but this subsection does not apply at any time after the abandonment of that intention.

(4) For the purposes of subsection (2)(c) "the business of the group" means what would be the business of the group if the activities of the group companies taken together were regarded as one business.

(5) For the purposes of determining the business of a group, activities of a group company are ignored so far as they are activities carried on by a mainly trading subsidiary otherwise than for its main purpose.

(6) For the purposes of determining the business of a group, activities of a group company are ignored so far as they consist in—

(a) the holding of shares in or securities of a qualifying subsidiary of the parent company,

(b) the making of loans to another group company, or

(c) the holding and managing of property used by a group company for the purpose of one or more qualifying trades carried on by a group company.

(7) In this section—

"incidental purposes" means purposes having no significant effect (other than in relation to incidental matters) on the extent of the activities of the body in question,

"mainly trading subsidiary" means a qualifying subsidiary which, apart from incidental purposes, exists wholly for the purpose of carrying on one or more qualifying trades, and any reference to the main purpose of such a subsidiary is to be read accordingly,

"non-qualifying activities" means—

(a) excluded activities, and

(b) activities, other than activities carried on by a charity, that are carried on otherwise than in the course of a trade, and

"non-trade activities" means activities which are neither of the following—

(a) activities carried on in the course of a trade, and

(b) activities carried on in the course of preparing to carry on a trade.

Ceasing to meet trading requirement: administration or receivership

257MK(1) The social enterprise is not regarded as ceasing to meet the trading requirement merely because of anything done in consequence of the social enterprise or any of its subsidiaries being in administration or receivership, but this is subject to subsections (2) and (3).

(2) Subsection (1) applies only if—

(a) the entry into administration or receivership, and

(b) everything done as a result of the company concerned being in administration or receivership,

is for genuine commercial reasons, and is not part of any arrangements the main purpose or one of the main purposes of which is the avoidance of tax.

(3) The social enterprise ceases to meet the trading requirement if before the end of the shorter applicable period—

(a) a resolution is passed, or an order is made, for the winding-up of the social enterprise or any of its subsidiaries (or, in the case of a winding-up otherwise than under the Insolvency Act 1986 or the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)), any other act is done for the like purpose), or

(b) the company or any of its subsidiaries is dissolved without winding-up,

but this is subject to subsection (4).

(4) Subsection (3) does not apply if the winding-up or dissolution is for genuine commercial reasons, and is not part of any arrangements the main purpose or one of the main purposes of which is the avoidance of tax.

The issue must be to raise money for chosen trade or preparing for it

257ML(1) The social enterprise must be a party to the making of the investment (so far as not in bonus shares) in order to raise money for the carrying-on, by the social enterprise or a 90% social subsidiary of the social enterprise, of—

(a) a qualifying trade which on the investment date is carried on by the social enterprise or a 90% social subsidiary of the social enterprise, or

(b) the activity of preparing to carry on (or preparing to carry on and then carrying on) a qualifying trade—

(i) which on the investment date is intended to be carried on by the social enterprise or a 90% social subsidiary of the social enterprise, and

(ii) which is begun to be carried by the social enterprise or such a subsidiary within 2 years after that date.

(2) In this Chapter—

(a) the purpose within subsection (1) for which money is raised is referred to as "the funded purpose",

(b) the qualifying trade mentioned in subsection (1)(a) or (b) is referred to as "the chosen trade", and

(c) if the funded purpose is the carrying-on of the activity mentioned in subsection (1)(b), "relevant preparation work" means preparations that form the whole or part of the activity.

(3) In determining for the purposes of subsection (1)(b) when a qualifying trade is begun to be carried on by a 90% social subsidiary of the social enterprise, any carrying-on of the trade by it before it became such a subsidiary is ignored.

(4) The reference in subsection (1)(b)(i) to a 90% social subsidiary of the social enterprise includes a reference to any existing or future body which will be such a subsidiary at any future time.

(5) This section does not apply if the social enterprise is an accredited social impact contractor.

Requirement to use money raised and to trade for minimum period

257MM(1) All of the money raised by the social enterprise from the making of the investment must, no later than the end of 28 months beginning with the investment date, be employed wholly for the funded purpose.

(2) The chosen trade must have been carried on for a period of at least 4 months ending at or after the time the investment is made and, throughout that period, the trade—

(a) must have been carried on by the social enterprise or a 90% social subsidiary of the social enterprise, and

(b) must not have been carried on by any other person.

(3) Employing money on the acquisition of shares or stock in a body does not of itself amount to employing the money for the funded purpose.

(4) Subsection (1) does not fail to be met merely because an amount of money which is not significant is employed for other purposes.

(5) If—

(a) merely because of the social enterprise or any other company being wound up, or dissolved without winding-up, the qualifying trade is

carried on as mentioned in subsection (2) for a period shorter than 4 months, and

(b) the winding-up or dissolution—

(i) is for genuine commercial reasons, and

(ii) is not part of any arrangements the main purpose or one of the main purposes of which is the avoidance of tax,

subsection (2) has effect as if it referred to that shorter period.

(6) If—

(a) merely because of anything done as a result of the social enterprise or any other company being in administration or receivership, the chosen trade is carried on as mentioned in subsection (2) for a period shorter than 4 months, and

(b) the entry into administration or receivership, and everything done as a result of the company concerned being in administration or receivership—

(i) is for genuine commercial reasons, and

(ii) is not part of any arrangements the main purpose or one of the main purposes of which is the avoidance of tax,

subsection (2) has effect as if it referred to that shorter period.

(7) If the social enterprise is an accredited social impact contractor, the preceding provisions of this section apply with the following modifications—

(a) in subsection (1), for "28 months" substitute " 24 months ",

(b) in that subsection, for "the funded purpose" substitute " the carrying out of the social impact contract concerned ", and

(c) omit subsections (2), (3), (5) and (6).

The social enterprise must carry on the chosen trade

257MN(1) There must not be a time in the shorter applicable period when—

(a) the chosen trade, or

(b) relevant preparation work,

is carried on by a person who is neither the social enterprise nor a 90% social subsidiary of the social enterprise.

(2) If relevant preparation work is carried out in the shorter applicable period by the social enterprise or a 90% social subsidiary of the social enterprise then, for the purposes of determining whether the requirement in subsection (1) is met, ignore any carrying-on of the chosen trade that takes place in that period before the trade begins to be carried on by a person who is the social enterprise or a 90% social subsidiary of the social enterprise.

(3) The requirement in subsection (1) is not regarded as failing to be met if, merely because of any act or event within subsection (4), the chosen trade—

(a) ceases to be carried on in the shorter applicable period by the social enterprise or any 90% social subsidiary of the social enterprise, and

(b) it is subsequently carried on in that period by a person who is not any time in the longer applicable period connected with the social enterprise.

(4) The acts and events within this subsection are—

(a) anything done as a consequence of the social enterprise or any other company being in administration or receivership, and

(b) the social enterprise or any other company being wound up, or dissolved without being wound up.

(5) Subsection (4) applies only if—

(a) the entry into administration or receivership, and everything done as a consequence of the company concerned being in administration or receivership, or

(b) the winding-up or dissolution,

is for genuine commercial reasons, and is not part of any arrangements the main purpose or one of the main purposes of which is the avoidance of tax.

(6) This section does not apply if the social enterprise is an accredited social impact contractor.

Interpretation of conditions relating to the social enterprise

Meaning of "qualifying trade"

257MP (1) For the purposes of this Chapter, a trade is a qualifying trade if—

(a) it is conducted on a commercial basis and with a view to the realisation of profits, and

(b) it does not at any time in the shorter applicable period consist wholly or as to a substantial part in the carrying-on of excluded activities.

(2) References in this section and sections 257MQ to 257MT (excluded activities) to a trade are to be read without regard to the definition of "trade" in section 989.

Meaning of "excluded activity"

257MQ (1) The following are excluded activities for the purposes of sections 257JD, 257MJ and 257MP—

(a) dealing in land, in commodities or futures or in shares, securities or other financial instruments,

(b) banking, insurance, money-lending, debt-factoring, hire-purchase financing or other financial activities (but see subsection (2)),

(c) property development (see section 257MR),

(d) activities in the fishery and aquaculture sector that is covered by Council Regulation (EC) No. 104/2000 of 17 December 1999 on the common organisation of the markets in fishery and aquaculture products,

(e) the primary production of products listed in Annex I to the Treaty on the Functioning of the European Union (agricultural etc products), with the exception of products covered by Council Regulation (EC) No. 104/2000 (fishery and aquaculture products),

(f) the subsidised generation or export of electricity (see section 257MS),

(g) road freight transport for hire or reward, and

(h) providing services or facilities for a business carried on by another person (other than a company of which the provider of the services or facilities is a qualifying subsidiary) if—

(i) the business consists wholly or as to a substantial part of activities falling within any of paragraphs (a) to (g), and

(ii) a controlling interest (see section 257MT) in the business is held by a person who also has a controlling interest in the business carried on by the provider of the services or facilities.

(2) The activity of lending money to a social enterprise is not an excluded activity for the purposes of sections 257MJ and 257MP.

Excluded activities: property development

257MR(1) For the purposes of section 257MQ(1)(c) "property development" means the development of land—

(a) by a company which has, or at any time has had, an interest in the land, and

(b) with the sole or main object of realising a gain from the disposal of an interest in the land when it is developed.

(2) For the purposes of subsection (1) "interest in land" means (subject to subsection (3))—

(a) any estate, interest or right in or over land, including any right affecting the use or disposition of land, or

(b) any right to obtain such an estate, interest or right from another which is conditional on the other's ability to grant it.

(3) References in this section to an interest in land do not include—

(a) the interest of a creditor (other than a creditor in respect of a rentcharge) whose debt is secured by way of mortgage, an agreement for a mortgage or a charge of any kind over land, or

(b) in the case of land in Scotland, the interest of a creditor in a charge or security of any kind over land.

Excluded activity: subsidised generation or export of electricity

257MS(1) This section supplements section 257MQ(1)(f).

(2) Electricity is exported if it is exported onto a distribution system or transmission system (within the meaning of section 4 of the Electricity Act 1989).

(3) The generation of electricity is subsidised if a person receives a FIT subsidy in respect of the electricity generated.

(4) The export of electricity is subsidised if a person receives a FIT subsidy in respect of the electricity exported.

(5) In this section—

"FIT subsidy" means—

(a) a financial incentive under a scheme established by virtue of section 41 of the Energy Act 2008 (powers to amend licence conditions etc: feed-in tariffs) to encourage small-scale low-carbon generation of electricity, or

(b) a financial incentive under a similar scheme established in Northern Ireland, or in a territory outside the United Kingdom, to encourage small-scale low-carbon generation of electricity;

"small-scale low-carbon generation of electricity" has the meaning given by section 41(4) of the Energy Act 2008.

Excluded activity: providing services or facilities for another business

257MP(1) This section explains what is meant by a controlling interest in a business for the purposes of section 257MQ(1)(h).

(2) In the case of a business carried on by a company, a person ("A") has a controlling interest in the business if—

(a) A controls the company,

(b) the company is a close company and A, or an associate of A, is a director of the company and either—

(i) is the beneficial owner of more than 30% of the ordinary share capital of the company, or

(ii) is able, directly or through the medium of other companies or by any other indirect means, to control more than 30% of that share capital, or

(c) at least half of the business could, in accordance with section 942 of CTA 2010, be regarded as belonging to A for the purposes of section 941 of CTA 2010 (company reconstructions without a change of ownership).

(3) In any other case, a person has a controlling interest in a business if the person is entitled to at least half of the assets used for, or of the income arising from, the business.

(4) For the purposes of this section—

(a) any rights or powers of a person who is an associate of another are to be attributed to that other person, and

(b) "business" includes any trade, profession or vocation.

Meaning of "qualifying subsidiary"

257MQ(1) For the purposes of this Part, a company ("the subsidiary") is a qualifying subsidiary of another company ("the parent") if—

(a) the subsidiary is a 51% subsidiary of the parent,

(b) no person other than the parent, or another of its subsidiaries, has control of the subsidiary, and

(c) no arrangements are in existence as a result of which either of the conditions in paragraphs (a) and (b) would cease to be met.

(2) The conditions in subsection (1)(a) to (c) do not cease to be met merely because the subsidiary or any other company is wound up, or dissolved without winding up, if the winding-up or dissolution—

(a) is for genuine commercial reasons, and

(b) is not part of any arrangements the main purpose or one of the main purposes of which is the avoidance of tax.

(3) The conditions in subsection (1)(a) to (c) do not cease to be met merely because of anything done as a consequence of the subsidiary or another company being in administration, or receivership, if—

(a) the entry into administration or receivership, and

(b) everything done as a consequence of the company concerned being in administration or receivership,

is for genuine commercial reasons, and is not part of any arrangements the main purpose or one of the main purposes of which is the avoidance of tax.

(4) The conditions in subsection (1)(a) to (c) do not cease to be met merely because arrangements are in existence for the disposal by the parent or (as the case may be) by another subsidiary of all its interest in the subsidiary if the disposal—

(a) is to be for genuine commercial reasons, and

(b) is not to be part of any arrangements the main purpose or one of the main purposes of which is the avoidance of tax.

Meaning of "90% social subsidiary" of a social enterprise

257MV (1) For the purposes of this Chapter, a company ("the subsidiary") is a 90% social subsidiary of another company ("the parent") if—

(a) the subsidiary is a social enterprise,

(b) the parent possesses at least 90% of the issued share capital of, and at least 90% of the voting power in, the subsidiary,

(c) the parent would—

(i) in the event of a winding-up of the subsidiary, or

(ii) in any other circumstances,

be beneficially entitled to receive at least 90% of the assets of the subsidiary which would then be available for distribution to equity holders of the subsidiary,

(d) the parent is beneficially entitled to receive at least 90% of any profits of the subsidiary which are available for distribution to equity holders of the subsidiary,

(e) no person other than the parent has control of the subsidiary, and

(f) no arrangements are in existence as a result of which any of the conditions in paragraphs (a) to (e) would cease to be met.

(2) For the purposes of this Chapter, a company ("company A") which is a subsidiary of another company ("company B") is a 90% social subsidiary of a third company ("company C") if—

(a) company A is a 90% social subsidiary of company B, and company B is a 100% social subsidiary of company C, or

(b) company A is a 100% social subsidiary of company B, and company B is a 90% social subsidiary of company C.

(3) For the purposes of subsection (2) no account is to be taken of any control company C may have of company A.

(4) For the purposes of subsection (2), a company ("company X") is a 100% social subsidiary of another company ("company Y") at any time when the conditions in subsection (1)(a) to (f) would be met if—

(a) company X were the subsidiary,

(b) company Y were the parent, and

(c) in subsection (1) for "at least 90%" there were substituted " 100% ".

(5) The conditions in subsection (1)(a) to (f) do not cease to be met merely because of anything done as a consequence of the subsidiary or any other company being wound up, or dissolved without being wound up, if the winding-up or dissolution—

(a) is for genuine commercial reasons, and

(b) is not part of any arrangements the main purpose or one of the main purposes of which is the avoidance of tax.

(6) The conditions in subsection (1)(a) to (f) do not cease to be met merely because of anything done as a consequence of the subsidiary or any other company being in administration, or receivership, if—

(a) the entry into administration or receivership, and

(b) everything done as a consequence of the company concerned being in administration or receivership,

is for genuine commercial reasons, and is not part of any arrangements the main purpose or one of the main purposes of which is the avoidance of tax.

(7) The conditions in subsection (1)(a) to (f) do not cease to be met merely because any arrangements are in existence for the disposal by the parent of all its interest in the subsidiary if the disposal—

(a) is to be for genuine commercial reasons, and

(b) is not to be part of any arrangements the main purpose or one of the main purposes of which is the avoidance of tax.

(8) For the purposes of subsection (1)—

(a) the persons who are equity holders of the subsidiary, and

(b) the percentage of the assets of the subsidiary to which an equity holder would be entitled,

are to be determined in accordance with Chapter 6 of Part 5 of CTA 2010.

(9) In making that determination—

(a) references in section 166 of that Act to company A are to be read as references to an equity holder, and

(b) references in that section to winding up are to be read as including references to any other circumstances in which assets of the subsidiary are available for distribution to its equity holders.

CHAPTER 5

ATTRIBUTION OF RELIEF

Attribution of SI relief to investments

257KI (1) References in this Part, in relation to any individual, to the SI relief attributable to any investment are to be read as references to any reduction made in the individual's liability to income tax that is attributed to that investment in accordance with this section.

This is subject to the provisions of this Part providing for the withdrawal or reduction of SI relief.

(2) If an individual's liability to income tax is reduced under this Part in any tax year, then—

(a) if the reduction is obtained because of a single distinct investment, the amount of the reduction is attributed to that investment, and

(b) if the reduction is obtained because of two or more distinct investments, the amount of the reduction—

(i) is apportioned between the distinct investments in the same proportions as the amounts claimed by the individual in respect of each of those investments, and

(ii) is attributed to those investments accordingly.

(3) In this section "distinct investment" means an investment, made on a single day, in—

(a) a single share or single qualifying debt investment, or

(b) two or more shares, or two or more qualifying debt investments, where the shares or qualifying debt investments are in the same social enterprise and of the same class.

(4) If under this section an amount of any reduction in income tax is attributed to a distinct investment—

(a) in the case of a distinct investment of the kind mentioned in subsection (3)(a), that amount is attributed to the share, or qualifying debt investment, concerned, and

(b) in the case of a distinct investment of the kind mentioned in subsection (3)(b), a proportionate part of that amount is attributed to each of the shares, or qualifying debt investments, concerned.

(5) If corresponding bonus shares are issued to an individual in respect of any shares ("the original shares") to which SI relief is attributed—

(a) a proportionate part of the total amount attributed to the original shares immediately before the bonus shares are issued is attributed to each of the shares in the holding comprising the original shares and the bonus shares, and

(b) after the issue of the bonus shares, this Part applies as if those shares had been issued to the individual on the same day as the original shares.

(6) In subsection (5) "corresponding bonus shares" means bonus shares which are in the same company, of the same class, and carry the same rights, as the original shares.

(7) If section 257JA(1) and (2) apply in the case of any investment as if part of the amount invested had been invested in a previous tax year, this section has effect as if that part and the remainder had been invested by separate investments (and that part had been invested by an investment made on a day in the previous tax year).

(8) For the purposes of this section, shares or other investments in a company are not treated as being of the same class unless they would be so treated if dealt in on a recognised stock exchange.

CHAPTER 6

CLAIMS FOR RELIEF

Time for making claims for SI relief

257PI(1) A claim for SI relief in respect of the amount invested may be made—

(a) not earlier than the time the requirement in section 257MM(2) (chosen trade must have been carried on for 4 months) is first met, and

(b) not later than the fifth anniversary of the normal self-assessment filing date for the tax year in which the investment is made.

(2) If the social enterprise is an accredited social impact contractor, subsection (1) applies with the omission of its paragraph (a).

(3) If section 257JA(1) and (2) apply as if part of the amount invested had been invested in a previous tax year, subsection (1) has effect as if that part and the remainder had been invested by separate investments (and that part had been invested by an investment made on a day in the previous tax year).

Entitlement to claim

257PJ(1) The investor is entitled to make a claim for SI relief in respect of the amount invested if the investor has received from the social enterprise a compliance certificate in respect of that amount.

(2) For the purposes of PAYE regulations, no regard is to be had to SI relief unless a claim for it has been duly made.

(3) No application may be under section 55(3) or (4) of TMA 1970 (application for postponement of payment of tax pending appeal) on the ground that the investor is entitled to SI relief unless a claim for the relief has been duly made by the investor.

Compliance statements

257PK(1) For the purposes of this Part, a "compliance statement" in respect of the investment is a statement by the social enterprise to the effect that, except so

far as they fall to be met by or in relation to the individual, the requirements for SI relief—

(a) are for the time being met in relation to the investment (or in relation to investments that include the investment), and

(b) have been so met at all times since the investment was made.

(2) A compliance statement must be in such form as the Commissioners for Her Majesty's Revenue and Customs may direct and must contain—

(a) such additional information as the Commissioners may reasonably require, including in particular information relating to the persons who have requested the issue of compliance certificates,

(b) a declaration that the statement is correct to the best of the social enterprise's knowledge and belief, and

(c) such other declarations as the Commissioners may reasonably require.

(3) The social enterprise may not provide an officer of Revenue and Customs with a compliance statement in respect of the investment—

(a) before the requirement in section 257MM(2) (trade must have been carried for 4 months) is met, or

(b) later than 2 years after the end of the tax year in which the investment is made or, if that requirement is first met after the end of that tax year, later than 2 years after the requirement is first met.

(4) If the social enterprise is an accredited social impact contractor, subsection (3) applies with the omission of its paragraph (a).

Compliance certificates

257PC(1) For the purposes of this Chapter, a "compliance certificate" is a certificate which—

(a) is issued by the social enterprise in respect of the investment,

(b) states that, except so far as they fall to be met by or in relation to the individual, the requirements for SI relief are for the time being met in relation to the investment, and

(c) is in such form as the Commissioners for Her Majesty's Revenue and Customs may direct.

(2) Before issuing a compliance certificate, the social enterprise must provide an officer of Revenue and Customs with a compliance statement in respect of the investment.

(3) The social enterprise must not issue a compliance certificate without the authority of an officer of Revenue and Customs.

(4) If the social enterprise, or a person connected with the social enterprise, has under section 257SF given a notice to an officer of Revenue and Customs that relates (whether or not exclusively) to the investment, a compliance certificate must not be issued unless the authority mentioned in subsection (3) of this section is given or renewed after receipt of the notice.

(5) If—

(a) an officer of Revenue and Customs has been requested to give or renew an authority to issue a compliance certificate, and

(b) an officer of Revenue and Customs has decided whether or not to do so,

an officer of Revenue and Customs must give notice of the decision to the social enterprise.

(6) For the purposes of the provisions of TMA 1970 relating to appeals, the refusal of an officer of Revenue and Customs to authorise the issue of a compliance certificate is taken to be a decision disallowing a claim by the social enterprise.

(7) In the case of requirements that cannot be met until a future time, references in this section to requirements being met for the time being are to nothing having occurred to prevent their being met.

Penalties for fraudulent certificate or statement etc

257PD The social enterprise is liable to a penalty not exceeding £3,000 if—

(a) it issues a compliance certificate, or provides a compliance statement, which is made fraudulently or negligently, or

(b) it issues a compliance certificate in contravention of section 257PC(3) or (4).

Power to amend Chapter

257PE (1) The Treasury may by order amend this Chapter.

(2) An order under this section may include consequential, incidental or transitional provision or savings, including consequential amendments, repeals or revocations of provision made by or under an enactment (including this Act) whenever passed or made.

(3) An order under this section may make different provision for different cases or purposes.

(4) An order under this section may, in particular, make provision for persons to be liable to penalties whose amount, or maximum amount, does not exceed £3,000.

CHAPTER 7

WITHDRAWAL OR REDUCTION OF SI RELIEF

Value received by the investor

Effect of the investor receiving value from the social enterprise

257QI (1) If the investor receives any value from the social enterprise at any time in the longer applicable period, any SI relief given in respect of the investment must—

(a) if it is greater than the amount given by the formula set out in subsection (2), be reduced by that amount, and

(b) in any other case, be withdrawn.

(2) The formula is—

$$V \times R$$

where—

V is the amount of the value received, and

R is the SI rate for the tax year for which the SI relief was given.

(3) Subsections (1) and (2) are subject to—

(a) section 257QA (value received: insignificant receipts),

(b) section 257QB (value received where there is more than one issue of investments),

(c) section 257QC (value received where part of investment treated as made in previous tax year),

(d) section 257QD (cases where maximum SI relief not obtained),

(e) section 257QG (receipts of value by and from connected persons etc), and

(f) section 257QH (receipt of replacement value).

(4) Sections 257QB to 257QD are to be applied in the order in which they appear in this Part.

(5) Value received is to be ignored, for the purposes of this section, so far as SI relief attributable to the investment has already been withdrawn or reduced on its account.

(6) For the purposes of this section and sections 257QA to 257QI, an individual—

(a) who acquires any part of the investment, and

(b) who does so on such a transfer as is mentioned in section 257T (spouses or civil partners),

is treated as the investor.

Value received: insignificant receipts

257QA(1) In this section "insignificant receipt" means a receipt whose amount—

(a) is not more than £1,000, or

(b) is more than £1,000 but is insignificant in relation to the amount invested.

(2) Section 257Q(1) does not apply to an insignificant receipt, subject as follows.

(3) Section 257Q(1) applies to all receipts within the longer applicable period if, at any time on the investment date or in the preceding 12 months, arrangements are in existence providing for the investor to receive, or to be

entitled to receive, value from the social enterprise at any time in the longer applicable period.

(4) Once section 257Q(1) has applied to a receipt, it applies also to all other receipts within the longer applicable period except any earlier insignificant receipts.

(5) The amount of the first receipt to which section 257Q(1) applies is treated as increased by the total amount of any earlier insignificant receipts.

(6) In subsection (3)—

(a) the reference to the investor includes any person who at any time in the longer applicable period is an associate of the investor (whether or not an associate at the material time), and

(b) the reference to the social enterprise includes any person who at any time in the longer applicable period is connected with the social enterprise (whether or not connected at the material time).

Value received where there is more than one issue of investments

257QB(1) Subsection (3) applies if—

(a) a time in the longer applicable period when the investor receives value from the social enterprise is within the period that for the purposes of this Part is the longer applicable period in relation to another investment in the social enterprise, and

(b) that other investment is one for which the investor has SI relief.

(2) That other investment is an "overlapping investment" for the purposes of subsection (3).

(3) Section 257Q(2) has effect in relation to the investment as if the amount V were reduced by multiplying it by—

$$\frac{I}{T}$$

where—

I is the amount on which the investor has SI relief in the case of the investment, and

T is the total of that amount and the corresponding amount for each overlapping investment.

Value received where part of investment treated as made in previous tax year

257QC(1) Subsection (2) applies if—

(a) section 257Q(1) applies to a receipt, and

(b) section 257JA(1) and (2) apply as if part of the amount invested had been invested in a previous tax year.

(2) The calculation under section 257Q(2) in relation to that receipt is to be made as follows—

Step 1 Apportion the amount referred to as "V" between the tax year in which the investment was made and the preceding tax year by multiplying that amount by—

$$\frac{A}{B}$$

where—

A is the part of the amount invested on which the investor obtains SI relief for the tax year in question, and

B is the sum of—

(a) that part, and

(b) the part of the amount invested on which the investor obtains SI relief for the other tax year.

Step 2 In relation to each of the amounts ("V1" and "V2") so apportioned to the two tax years, calculate the amounts ("X1" and "X2") that would be given by the formula if separate investments had been made in those tax years. In calculating amounts X1 and X2, apply section 257QD if appropriate but do not apply section 257QB.

Step 3 Add amounts X1 and X2 together. The result is the required amount.

Cases where maximum SI relief not obtained

257QD(1) If the investor's liability to income tax is reduced for any tax year in respect of the investment and—

(a) the amount of the reduction ("A"), is less than

(b) the amount ("B") which is equal to income tax at the SI rate for that tax year on the amount on which the investor has SI relief in the case of the investment,

section 257Q(2) has effect in relation to any value received as if the amount referred to as "V" were reduced by multiplying it by—

$$\frac{A}{B}$$

(2) If the amount of SI relief attributable to the investment has been reduced before the SI relief was obtained, the amount referred to in subsection (1) as "A" is to be treated for the purposes of that subsection as the amount that it would have been without that reduction.

(3) Subsection (2) does not apply to a reduction of SI relief as a result of section 257N(5) (attribution of SI relief where there is a corresponding issue of bonus shares).

When value is received

257QE(1) This section applies for the purposes of sections 257Q and 257QB.

(2) The investor receives value from the social enterprise at any time when the social enterprise—

(a) repays, redeems or repurchases any investments in the social enterprise which belong to the investor, or makes any payment to the investor for giving up the investor's right to investments in the social enterprise on their cancellation or extinguishment,

(b) repays, in pursuance of any arrangements for or in connection with the making of the investment, any debt owed to the investor other than a debt which was incurred by the social enterprise—

(i) on or after the investment date, and

(ii) otherwise than in consideration of the extinguishment of a debt incurred before that date,

(c) makes to the investor any payment for giving up on its extinguishment the investor's right to any debt, other than—

(i) a debt in respect of a repayment of the kind mentioned in section 257LF(5)(a) or (f), or

(ii) an ordinary trade debt,

(d) releases or waives any liability of the investor to the social enterprise or discharges or undertakes to discharge any liability of the investor to a third person,

(e) makes a loan or advance to the investor which has not been repaid in full before the investment is made,

(f) provides a benefit or facility for the investor by providing, at a price less than the arm's-length price or free of charge, goods or services for whose provision the social enterprise ordinarily makes a charge,

(g) otherwise provides any benefit or facility for the investor,

(h) transfers an asset to the investor for no consideration or for consideration less than its market value or acquires an asset from the investor for consideration greater than its market value, or

(i) makes to the investor any other payment except—

(i) a payment of a kind mentioned in section 257LF(5), or

(ii) a payment in discharge of an ordinary trade debt.

(3) For the purposes of subsection (2)(d), the social enterprise is treated as having released or waived a liability if the liability is not discharged within 12 months of the time when it ought to have been discharged.

(4) For the purposes of subsection (2)(e), each of the following is treated as a loan made by the social enterprise to the investor—

(a) the amount of any debt, other than an ordinary trade debt, incurred by the investor to the social enterprise, and

(b) the amount of any debt due from the investor to a third party which has been assigned to the social enterprise.

(5) The investor also receives value from the social enterprise if—

(a) in respect of ordinary shares, or qualifying debt investments, held by the investor any payment or asset is received in a winding-up or dissolution of the social enterprise, and

(b) the winding-up or dissolution is for genuine commercial reasons, and is not part of any arrangements the main purpose or one of the main purposes of which is the avoidance of tax.

(6) The investor also receives value from the social enterprise if—

(a) a person—

(i) purchases any investments in the social enterprise which belong to the investor, or

(ii) makes any payment to the investor for giving up any right in relation to any investments in the social enterprise, and

(b) that person is an individual in relation to whom not all of the requirements in sections 257LF and 257LG would be met if references in those sections to the investor were read as references to that person.

(7) If, because of the investor's disposal of investments in the social enterprise, any SI relief attributable to those investments is withdrawn or reduced under section 257R, the investor is not to be treated as receiving value from the social enterprise in respect of the disposal.

(8) If the investor is a director of the social enterprise, the investor is not to be treated as receiving value from the social enterprise merely because of the payment to the investor of reasonable remuneration (including any benefit or facility) for any services rendered to the social enterprise as a director or employee.

(9) In this section "ordinary trade debt" means any debt for goods or services supplied in the ordinary course of a trade or business if any credit given—

(a) is for not more than 6 months, and

(b) is not for longer than that normally given to customers of the person carrying on the trade or business.

The amount of value received

257QF In a case falling within a provision listed in column 1 of the following table, the amount of value received for the purposes of sections 257Q and 257QB is given by the corresponding entry in column 2 of the table.

Receipts of value by and from connected persons etc

257QG In sections 257Q, 257QA, 257QB, 257QE and 257QF—

(a) any reference to a payment or transfer to the investor includes a reference to a payment or transfer made to the investor indirectly or to the investor's order or for the investor's benefit,

(b) any reference to the investor includes a reference to an associate of the investor, and

(c) any reference to the social enterprise includes a reference to a person who at any time in the longer applicable period is connected with

the social enterprise (whether or not that person is so connected at the material time).

Receipt of replacement value

257QH(1) If—

(a) any SI relief attributable to the investment would, in the absence of this section, be reduced or withdrawn under section 257Q because of a receipt of value within section 257QE(2) or (6) ("the original value"),

(b) the original supplier receives value ("the replacement value") from the original recipient and the receipt is a qualifying receipt, and

(c) the amount of the replacement value is at least the amount of the original value,

section 257Q does not, because of the receipt of the original value, have effect to withdraw or reduce the SI relief.

This is subject to section 257QI(1) and (2).

(2) For the purposes of this section—

"the original recipient" means the person who receives the original value, and

"the original supplier" means the person from whom that value was received.

(3) If the amount of the original value is, by virtue of section 257QB, treated as reduced for the purposes of section 257Q(2) as it applies in relation to the investment, the reference in subsection (1)(c) to the amount of the original value is to be read as a reference to the amount of that value ignoring the reduction.

(4) A receipt of the replacement value is a qualifying receipt for the purposes of subsection (1) if it arises—

(a) because of the original recipient doing one or more of the following—

(i) making a payment to the original supplier, other than a payment within paragraph (c) or a payment to which subsection (5) applies,

(ii) acquiring any asset from the original supplier for a consideration the amount or value of which is more than the market value of the asset, and

(iii) disposing of any asset to the original supplier for no consideration or for a consideration the amount or value of which is less than the market value of the asset,

(b) if the receipt of the original value was within section 257QE(2)(d), because of an event the effect of which is to reverse the event which constituted the receipt of the original value, or

(c) if the receipt of the original value was within section 257QE(6), because of the original recipient repurchasing the investments in question, or (as the case may be) re-acquiring the right in question, for a consideration the amount or value of which is at least the amount of the original value.

(5) This subsection applies to—

(a) any payment for any goods, services or facilities, provided (whether in the course of trade or otherwise) by—

(i) the original supplier, or

(ii) any other person who at any time in the longer applicable period is an associate of, or is connected with, the original supplier (whether or not the person is such an associate, or is so connected, at the material time),

which is reasonable in relation to the market value of those goods, services or facilities,

(b) any payment of any interest which represents no more than a reasonable commercial return on any money lent to—

(i) the original recipient, or

(ii) any other person who at any time in the longer applicable period is an associate of the original recipient (whether or not the person is such an associate at the material time),

(c) any payment for the acquisition of an asset which does not exceed its market value,

(d) any payment, as rent for any property occupied by—

(i) the original recipient, or

(ii) any person who at any time in the longer applicable period is an associate of the original recipient (whether or not the person is such an associate at the material time),

of an amount not exceeding a reasonable and commercial rent for the property,

(e) any payment in discharge of an ordinary trade debt, and

(f) any payment for shares in or securities of any company in circumstances that do not fall within subsection (4)(a)(ii).

(6) For the purposes of this section, the amount of the replacement value is—

(a) in a case within paragraph (a) of subsection (4), the sum of—

(i) the amount of any payment within sub-paragraph (i) of that paragraph, and

(ii) the difference between the market value of any asset to which sub-paragraph (ii) or (iii) of that paragraph applies and the amount or value of the consideration (if any) received for it,

(b) in a case within subsection (4)(b), the same as the amount of the original value, and

(c) in a case within subsection (4)(c), the amount or value of the consideration received by the original supplier.

Section 257QF applies for the purpose of determining the amount of the original value.

(7) In this section—

(a) any reference to a payment to a person (however expressed) includes a reference to a payment made to the person indirectly or to the person's order or for the person's benefit, and

(b) "ordinary trade debt" has the meaning given by section 257QE(9).

Section 257QH: supplementary

257QJ(1) The receipt of the replacement value by the original supplier is ignored for the purposes of section 257QH(1) to the extent to which it has previously been set under section 257QH against a receipt of value to prevent any reduction or withdrawal of SI relief under section 257Q.

(2) The receipt of the replacement value by the original supplier ("the event") is ignored for the purposes of section 257QH if—

(a) the event occurs before the longer applicable period,

(b) where the event occurs after the time the original recipient receives the original value, it does not occur as soon after that time as is reasonably practicable in the circumstances, or

(c) where an appeal has been brought by the investor against an assessment to withdraw or reduce any SI relief attributable to the investment because of the receipt of the original value, the event occurs more than 60 days after the day on which the amount of the relief which falls to be withdrawn has been finally determined.

But nothing in section 257QH or this section requires the replacement value to be received after the original value.

(3) This subsection applies if—

(a) the receipt of the replacement value by the original supplier is a qualifying receipt for the purposes of section 257QH(1), and

(b) in consequence of the receipt, any receipts of value are ignored for the purposes of section 257Q as that section applies in relation to the investment or any other investments made by the investor, and

(c) the event which gives rise to the receipt is (or includes) the making of an investment by—

(i) the investor, or

(ii) any person who at any time in the longer applicable period is an associate of the investor (whether or not the person is such an associate at the material time).

(4) If subsection (3) applies, the person who makes the investment concerned is not to be eligible for SI relief in relation to the investment concerned or any other investments in the same issue.

(5) In this section "the original recipient", "the original supplier" and "replacement value" have the same meaning as in section 257QH.

Repayments etc of investments to other persons

Repayments etc of share capital to other persons

257QJ(1) This section applies if any SI relief is attributable to the whole or any part of the investment and, at any time in the longer applicable period, the social enterprise or any subsidiary—

(a) repays, redeems or repurchases any of its share capital which belongs to any member other than—

(i) the investor, or

(ii) a person who falls within subsection (5), or

(b) makes any payment to any such member for giving up the member's right to any of the share capital of the social enterprise or subsidiary on its cancellation or extinguishment.

(2) The SI relief must—

(a) if it is greater than the amount given by the formula set out in subsection (3), be reduced by that amount, and

(b) in any other case, be withdrawn.

(3) The formula is—

$$A \times R$$

where—

A is the amount received by the member, and

R is the SI rate for the tax year for which the SI relief was given.

(4) This section is subject to sections 257QK to 257QP; and sections 257QL to 257QO are to be applied in the order in which they appear in this Part.

(5) A person falls within this subsection if the repayment causes any SI relief attributable to that person's shares in the social enterprise to be withdrawn or reduced by virtue of—

(a) section 257QE(2)(a) (receipt of value by virtue of repayment of investments etc), or

(b) section 257R (disposal of whole or part of the investment).

(6) A repayment is treated as having the effect mentioned in subsection (5)(a) if it would have that effect were it not an insignificant receipt; and here "insignificant receipt" is to be read in accordance with section 257QA(1).

(7) A repayment is to be ignored, for the purposes of this section, to the extent to which SI relief attributable to any shares has already been withdrawn or reduced on its account.

(8) In this section and sections 257QK to 257QP—

(a) "repayment" means a repayment, redemption, repurchase or payment mentioned in subsection (1)(a) or (b), and

(b) references to a subsidiary of the social enterprise are references to a company which at any time in the longer applicable period is a 51% subsidiary of the social enterprise (whether or not it is such a subsidiary at the time of the repayment).

Insignificant payments ignored for the purposes of section 257QJ

257QK (1) A repayment is ignored for the purposes of section 257QJ if both—

(a) the market value of the shares to which it relates ("the target shares") immediately before the event occurs, and

(b) the amount received by the member in question,

are insignificant in relation to the market value of the remaining issued share capital of the social enterprise, or (as the case may be) the subsidiary, immediately after the event occurs.

This is subject to subsection (3).

(2) For the purposes of subsection (1) it is to be assumed that the target shares are cancelled at the time the repayment is made.

(3) Subsection (1) does not apply if repayment arrangements are in existence at any time in the period—

(a) beginning 12 months before the investment date, and

(b) ending at the end of the investment date.

(4) For this purpose "repayment arrangements" means arrangements which provide—

(a) for a repayment by the social enterprise or any subsidiary of the social enterprise (whether or not it is such a subsidiary at the time the arrangements are made), or

(b) for anyone to be entitled to such a repayment,

at any time in the longer applicable period.

Amount of repayments etc if there is more than one issue of shares

257QL(1) This section applies if, in relation to the same repayment, section 257QJ(2) applies to SI relief attributable to two or more issues of shares.

(2) Section 257QJ(3) has effect in relation to the shares included in each of those issues as if the amount referred to as A were reduced by multiplying it by the fraction—

$$\frac{I}{T}$$

where—

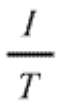
I is the amount on which SI relief was obtained by individuals in respect of shares which are included in the issue and to which SI relief is or, but for section 257QJ(2)(b), would be attributable, and

T is the total of that amount and the corresponding amount or amounts in respect of the other issue or issues.

Single issue affecting more than one individual

257QM(1) This section applies if, in relation to the same repayment, section 257QJ(2) applies to SI relief attributable to shares held by two or more individuals.

(2) Section 257QJ(3) has effect in relation to each individual as if the amount referred to as A were reduced by multiplying it by the fraction—



where—

I is the amount on which the individual obtains SI relief in respect of the shares to which SI relief is or, but for section 257QJ(2)(b), would be attributable, and

T is the total of that amount and the corresponding amount or amounts on which the other individual or individuals obtain SI relief in respect of such shares.

Single issue treated as made partly in previous tax year

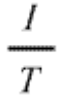
257QN(1) This section applies if—

(a) section 257QJ(2) applies to SI relief attributable to shares held by an individual, and

(b) part of the issue of shares has been treated as issued to the individual in a previous tax year for the purposes of section 257JA(1) and (2).

(2) This subsection explains how the calculation under section 257QJ(3) is to be made.

Step 1 Apportion the amount referred to as A between the tax year in which the shares were issued and the previous tax year by multiplying that amount by the fraction—



where—

I is the amount on which the individual obtains SI relief in respect of the shares treated as issued in the tax year in question, and

T is the total of that amount and the corresponding amount in respect of the shares treated as issued in the other tax year.

Step 2 In relation to each of the amounts ("A1" and "A2") so apportioned to the two tax years, calculate the amounts ("X1" and "X2") that would be given by the formula if there were separate issues of shares in those tax years. In calculating amounts X1 and X2, apply section 257QO if appropriate but do not apply section 257QL or 257QM.

Step 3 Add amounts X1 and X2 together. The result is the required amount.

Maximum relief not obtained for share issue

257QO(1) This section applies if section 257QJ(2) applies to SI relief attributable to shares held by the investor and—

(a) the amount of the reduction ("D") in the investor's liability to income tax for any tax year in respect of the shares, is less than

(b) the amount given by—

$$I \times R$$

where—

I is the amount on which the investor claims SI relief in respect of the investment, and

R is the SI rate for the tax year for which the SI relief was given.

(2) Section 257QJ(3) has effect as if the amount referred to as A were reduced by multiplying it by the fraction—

$$\frac{D}{I \times R}$$

(3) If the amount of SI relief attributable to any of the shares has been reduced before the SI relief was obtained, the amount referred to in subsections (1) and (2) as D is to be treated for the purposes of those subsections as the amount it would have been without that reduction.

(4) Subsection (3) does not apply to a reduction of SI relief by virtue of section 257N(5) (attribution of SI relief where there is a corresponding issue of bonus shares).

Repayment of authorised minimum within 12 months

257QP(1) This section applies if—

(a) a company issues share capital ("the original shares") of nominal value equal to the authorised minimum (within the meaning of the Companies Act 2006) for the purposes of complying with section 761 of that Act (public company: requirement as to minimum share capital), and

(b) the registrar of companies issues the company with a certificate under that section.

(2) Section 257QJ(2) does not apply in relation to any redemption of the original shares within 12 months of the date on which they were issued.

Miscellaneous

Acquisition of a trade or trading assets

257QQ(1) Any SI relief attributable to the investment is withdrawn if—

(a) at any time in the longer applicable period, the social enterprise or any qualifying subsidiary—

(i) begins to carry on as its trade, or as part of its trade, a trade which was previously carried on at any time in that period otherwise than by the social enterprise or any qualifying subsidiary, or

(ii) acquires the whole, or the greater part, of the assets used for the purposes of a trade previously so carried on, and

(b) the investor is a person, or one of a group of persons, to whom subsection (2) or (3) applies.

(2) This subsection applies to any person or group of persons—

(a) to whom an interest amounting in total to more than a half share in the trade (as previously carried on) belonged at any time in the longer applicable period, and

(b) who is or are a person or group of persons to whom such an interest in the trade carried on by the social enterprise belongs or has, at any such time, belonged.

(3) This subsection applies to any person or group of persons who—

(a) control or, at any time in the longer applicable period, have controlled the social enterprise, and

(b) is or are a person or group of persons who, at any such time, controlled another company which previously carried on the trade.

(4) For the purposes of subsection (2)—

(a) for the purpose of determining the person to whom a trade belongs and, if a trade belongs to two or more persons, their respective shares in that trade—

(i) apply section 941(6) of CTA 2010, and

(ii) an interest in a trade belonging to a company may be treated in accordance with any of the options set out in section 942 of that Act, and

(b) any interest, rights or powers of a person who is an associate of another person are treated as those of that other person.

(5) If the investor—

(a) is a director of, or of a company which is a partner of, the social enterprise or any qualifying subsidiary, and

(b) is in receipt of, or entitled to receive, remuneration as such a director falling within section 257LF(5)(g) (reasonable remuneration for services),

then, in determining whether any SI relief attributable to the investment is to be withdrawn, the reference in subsection (3)(b), and (so far as relating to that provision) the reference in subsection (1)(a)(i), to any time in the longer applicable period are to be read as references to any time before the end of the longer applicable period.

(6) Section 257LF(8) (director also an employee) applies for the purposes of subsection (5) as it applies for the purposes of section 257LF, and in subsection (5) "remuneration" includes any benefit or facility.

(7) In this section "trade" includes any business or profession, and references to a trade previously carried on include references to part of such a trade.

Acquisition of share capital

257QR(1) Any SI relief attributable to the investment is withdrawn if—

(a) the social enterprise comes to acquire all of the issued share capital of another company at any time in the longer applicable period, and

(b) the investor is a person, or one of a group of persons, to whom subsection (2) applies.

(2) This subsection applies to any person or group of persons who—

(a) control or have, at any time in the longer applicable period, controlled the social enterprise, and

(b) is or are a person or group of persons who, at any such time, controlled the other company.

(3) If the investor—

(a) is a director of, or of a company which is a partner of, the social enterprise or any qualifying subsidiary, and

(b) is in receipt of, or entitled to receive, remuneration as such a director falling within section 257LF(5)(g) (reasonable remuneration for services),

then, in determining whether any SI relief attributable to the investment is to be withdrawn, the reference in subsection (2)(b) to any time in the longer applicable period is to be read as a reference to any time before the end of the longer applicable period.

(4) Section 257LF(8) (director also an employee) applies for the purposes of subsection (3) as it applies for the purposes of section 257LF, and in subsection (3) "remuneration" includes any benefit or facility.

Relief subsequently found not to have been due

257QS(1) Any SI relief obtained by the investor which is subsequently found not to have been due must be withdrawn.

(2) SI relief obtained by the investor in respect of the investment may not be withdrawn on the ground that the requirements of Chapter 4 are not met unless the requirements of subsection (3) are met.

(3) The requirements of this subsection are met if either—

(a) the social enterprise has given notice under section 257SF in relation to the investment (information to be provided by the social enterprise etc), or

(b) an officer of Revenue and Customs has given notice to the social enterprise stating the officer's opinion that, because of the ground in question, the whole or any part of the SI relief attributable to the investment (whether alone or with other SI relief) was not due.

Disposals

Disposal of whole or part of the investment

257R(1) This section applies if—

(a) the investor disposes of the whole or part of the investment,

(b) the disposal takes place before the shorter applicable period ends,

(c) SI relief is attributable to the shares, or qualifying debt investments, disposed of,

(d) the disposal is not to an individual who—

(i) is the spouse, or civil partner, of the investor, and

(ii) is living together with the investor at the time of the disposal, and

(e) the disposal does not occur as a result of the investor's death.

(2) If the disposal is not made by way of a bargain at arm's length, the SI relief attributable to those shares, or qualifying debt investments, must be withdrawn.

(3) If the disposal is made by way of a bargain at arm's length, the SI relief attributable to those shares or qualifying debt investments must—

(a) if it is greater than the amount given by the formula set out in subsection (4), be reduced by that amount, and

(b) in any other case, be withdrawn.

(4) The formula is—

$$C \times R$$

where—

C is the amount or value of the consideration received by the investor for the shares or qualifying debt investments, and

R is the SI rate for the tax year for which the SI relief was given.

Cases where maximum relief not obtained

257RA(1) Subsection (2) applies if the investor's liability to income tax for any tax year is reduced under this Part in respect of the investment and—

(a) the amount of the reduction ("D"), is less than

(b) the amount given by—

$$A \times R$$

where—

A is the amount on which the investor claims SI relief in respect of the investment, and

R is the SI rate for that tax year.

(2) Section 257R(3) and (4) have effect as if the amount or value referred to as C were reduced by multiplying it by the fraction—

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

(3) If section 257JA(1) and (2) apply in the case of the investment as if part of it had been made in a previous tax year, subsections (1) and (2) of this section have effect as if that part and the remainder had been invested by separate investments (and that part had been invested by an investment made on a day in the previous tax year).

(4) If the amount of SI relief attributable to the investment or any part of it has been reduced before SI relief was obtained, the amount referred to in subsections (1) and (2) as D is to be treated for the purposes of those subsections as the amount that it would have been without that reduction.

(5) Subsection (4) does not apply to a reduction of SI relief by virtue of section 257N(5) (attribution of SI relief if there is a corresponding issue of bonus shares).

Call options

257RB Call options.

(1) This section applies if the investor grants an option which, if exercised, would bind the investor to sell the whole or part of investment.

(2) The grant of the option is treated for the purposes of section 257R as a disposal—

(a) of the investment, or

(b) (as the case may be) of the part of the investment to which the option relates.

(3) Nothing in this section prejudices section 257LB (no pre-arranged exits).

Put options

257RC Put options.

(1) This section applies if, at any time in the longer applicable period, a person grants the investor an option which, if exercised, would bind the grantor to purchase the whole or part of the investment.

(2) Any SI relief—

(a) attributable to the investment, or

(b) (as the case may be) attributable to the part of the investment to which the option relates,

must be withdrawn.

(3) For the purposes of subsection (2)(b), the part of the investment to which an option relates is the part which, if—

(a) the option were exercised immediately after the grant, and

(b) any investments made in the social enterprise by the investor after the grant were disposed of immediately after being made,

would be treated for the purposes of section 257R as disposed of in pursuance of the option.

CHAPTER 8

WITHDRAWAL OR REDUCTION OF SI RELIEF: PROCEDURE

Assessments and appeals

Assessments for the withdrawal or reduction of SI relief

257S If any SI relief which has been obtained falls to be withdrawn or reduced under Chapter 7, it must be withdrawn or reduced by the making of an assessment to income tax for the tax year for which the relief was obtained.

Appeals against section 257QS(3)(b) notices

257SA For the purposes of the provisions of TMA 1970 relating to appeals, the giving of notice by an officer of Revenue and Customs under section 257QS(3)(b) is taken to be a decision disallowing a claim by the social enterprise.

Time limits for assessments

257SB (1) An officer of Revenue and Customs may—

(a) make an assessment for withdrawing or reducing the SI relief attributable to whole or any part of the investment, or

(b) give a notice under section 257QS(3)(b),

at any time not more than 6 years after the end of the relevant tax year.

(2) In subsection (1) "the relevant tax year" means—

(a) the tax year containing the end of the 28 months beginning with the investment date, or

(b) if later, the tax year in which occurs the event which causes the SI relief to be withdrawn or reduced.

(3) Subsection (1) is without prejudice to section 36(1A) of TMA 1970 (loss of tax brought about deliberately etc).

Cases where assessment not to be made

257SC (1) No assessment for withdrawing or reducing SI relief in respect of the investment may be made because of an event occurring after the investor's death.

(2) Subsection (3) applies if the investor has, by a disposal or disposals to which section 257R(3) applies, disposed of all investments which—

(a) have been made by the investor in the social enterprise, and

(b) are investments—

(i) to which SI relief is attributable, or

(ii) have not been held by the investor until the end of the third anniversary of the date on which they were made.

(3) No assessment for withdrawing or reducing SI relief in respect of those investments may be made because of any subsequent event unless the event occurs at a time when the requirements of sections 257LF, 257LG and 257LH are not met in relation to the investor by reference to any of those investments.

Interest

Date from which interest is chargeable

257SD(1) In its application to an assessment made by virtue of section 257S in the case of relief withdrawn or reduced by virtue of a provision listed in subsection (2), section 86 of TMA 1970 (interest on overdue income tax) has effect as if the relevant date were 31 January next following the tax year for which the assessment is made.

(2) The provisions are—

section 257LD,
any of sections 257LF to 257LH,
any of sections 257M to 257MJ,
section 257MN,
section 257Q,
section 257QJ,
section 257QQ,
section 257QR
section 257R, and
section 257RC.

Information

Information to be provided by the investor

257SE(1) This section applies if the investor has obtained SI relief in respect of the investment, and an event occurs as a result of which—

(a) the SI relief falls to be withdrawn or reduced by virtue of any of sections 257LD, 257LF, 257LG and 257LH,

(b) the SI relief falls to be withdrawn or reduced under section 257Q (receipt of value), or would fall to be so withdrawn or reduced but for section 257QH (receipt of replacement value), or

(c) the SI relief falls to be withdrawn or reduced under any of sections 257R, 257RB and 257RC (disposals and options).

(2) The investor must within 60 days of coming to know of the event give a notice to an officer of Revenue and Customs containing particulars of the event.

(3) If the investor—

(a) is required under this section to give notice of a receipt of value which is within section 257Q, or would be within that section but for section 257QH, and

(b) has knowledge of any replacement value received (or expected to be received) because of a qualifying receipt,

the notice must include particulars of that receipt (or expected receipt).

(4) In subsection (3) "qualifying receipt" and "replacement value" are to be read in accordance with section 257QH.

Information to be provided by the social enterprise etc

257SH(1) This section applies if the social enterprise has provided an officer of Revenue and Customs with a compliance statement in respect of the investment and an event occurs as a result of which—

(a) any of the requirements in sections 257M, 257MC to 257MK, 257MM(1) and 257MN is not met in respect of the investment, or

(b) any of sections 257Q, 257QJ, 257QQ and 257QR has effect to cause any SI relief attributable to the investment to be withdrawn or reduced, or—

(i) would have such an effect if SI relief had been obtained in respect of the investment, or

(ii) in the case of section 257Q, would have such an effect but for section 257QH (receipt of replacement value).

(2) If this section applies—

(a) the social enterprise, and

(b) any person connected with the social enterprise who has knowledge of the matters mentioned in subsection (1),

must give a notice to an officer of Revenue and Customs containing particulars of the event.

(3) Any notice required to be given by the social enterprise under subsection (2)(a) must be given—

(a) within 60 days of the event, or

(b) if the event is a receipt of value within section 257QE(2) from a person connected with the social enterprise (see section 257QG), within 60 days of the social enterprise coming to know of the event.

(4) Any notice required to be given by a person under subsection (2)(b) must be given within 60 days of the person coming to know of the event.

(5) If a person—

(a) is required under this section to give notice of a receipt of value which is within section 257Q, or would be within that section but for section 257QH, and

(b) has knowledge of any replacement value received (or expected to be received) because of a qualifying receipt,

the notice must include particulars of that receipt of replacement value (or expected receipt).

(6) In subsection (5) "qualifying receipt" and "replacement value" are to be read in accordance with section 257QH.

(7) If the event mentioned in subsection (1) is one whose occurrence results in the requirement in section 257M not being met in respect of the investment, the references in subsections (2) and (3) to the social enterprise are to—

(a) the body concerned even though it has ceased to be a social enterprise, or

(b) the body into which the social enterprise has been converted.

Power to require information in section 257SE or 257SF cases

257SG(1) This section applies if an officer of Revenue and Customs has reason to believe that a person—

(a) has not given a notice which the person is required to give under section 257SE or 257SF in respect of any event,

(b) has given or received value within the meaning of section 257QE(2) or (6) which, but for the fact that the amount given or received was an insignificant receipt, would have triggered a requirement to give such a notice, or

(c) has made or received any repayment within the meaning given by section 257QJ(8) which, but for the fact that it falls to be ignored for the purposes of section 257QJ by virtue of section 257QK(1), would have triggered a requirement to give a notice under section 257SF.

(2) The officer may by notice require the person concerned to supply the officer, within such time as the officer may specify in the notice, with such information relating to the event as the officer may reasonably require for the purposes of this Part.

(3) The period specified in a notice under subsection (2) must be at least 60 days.

(4) In subsection (1)(b) the reference to an insignificant receipt is to be read in accordance with section 257QA(1).

Power to require information in other cases

257SH(1) Subsection (2) applies if SI relief is claimed in respect of the investment, and an officer of Revenue and Customs has reason to believe that it may not be due because of any such arrangements as are mentioned in section 257LB(1), 257LC, 257LE, 257LH, 257ME(3), 257MK(2) or (4), 257MM(5) or (6), 257MN(5), 257MU or 257MV(1), (5), (6) or (7).

(2) The officer may by notice require any person concerned to supply the officer within such time as may be specified in the notice with—

(a) a declaration in writing stating whether or not, according to the information which that person has or can reasonably obtain, any such arrangements exist or have existed, and

(b) such other information as the officer may reasonably require for the purposes of the provision in question and as that person has or can reasonably obtain.

(3) The period specified in a notice under subsection (2) must be at least 60 days.

(4) For the purposes of subsection (2), in the case of a provision listed in column 1 of the following table, the person concerned is given by the corresponding entry in column 2 of the table.

Provision	*The person concerned*
Section 257LB(1) or 257LC	The investor, the social enterprise and any person connected with the social enterprise
Section 257LE or 257MK(2) or (4)	The investor, the social enterprise and any person controlling the social enterprise
Section 257LH	The investor
Section 257ME(3), 257MU(1) or 257MV(1)	The social enterprise and any person controlling the social enterprise
Section 257MM(5) or (6), 257MN(5), 257MU(2), (3) or (4) or 257MV(5), (6) or (7)	The investor, the social enterprise, any other company in question, and any person controlling the social enterprise or any other company in question

References in the table to the investor include references to any person to whom the investor appears to have made such a transfer as is mentioned in section 257T (spouses or civil partners) of the whole or part of the investment.

(5) If SI relief has been obtained in respect of the investment—

(a) any person who receives from the social enterprise any payment or asset which may constitute value received (by the person or another) for the purposes of section 257Q, and

(b) any person on whose behalf such a payment or asset is received,

must, if so required by an officer of Revenue and Customs, state whether the payment or asset so received is received on behalf of any other person and, if so, the name and address of that other person.

(6) If SI relief has been claimed in respect of the investment—

(a) any person who holds or has held investments in the social enterprise, and

(b) any person on whose behalf any such investments are or were held,

must, if so required by an officer of Revenue and Customs, state whether the investments so held are or were held on behalf of any other person and, if so, the name and address of that other person.

Confidentiality

257SI1 (1) Section 18(1) of the Commissioners for Revenue and Customs Act 2005 does not prevent an officer of Revenue and Customs from disclosing to the social enterprise that SI relief has been obtained or claimed in respect of a particular number or proportion of any investments in it.

(2) Section 18(1) of the Commissioners for Revenue and Customs Act 2005 does not prevent—

(a) disclosure to the Regulator of Community Interest Companies for the purposes of the Regulator's functions,

(b) disclosure to a Minister of the Crown for the purposes of functions of a Minister of the Crown under sections 257JD to 257JG, or

(c) disclosure to a person for the purposes of functions delegated to the person under section 257JH(1).

(3) Information disclosed in reliance on subsection (2) may not be further disclosed except—

(a) with the consent of the Commissioners for Her Majesty's Revenue and Customs, or

(b) if the disclosure is required by an enactment.

(4) Information originally disclosed in reliance on subsection (2)(a) may be disclosed in reliance on subsection (3)(a) only for the purposes of the Regulator's functions.

(5) Information originally disclosed in reliance on subsection (2)(b) or (c) may be disclosed in reliance on subsection (3)(a) only for the purposes of—

(a) functions of a Minister of the Crown under sections 257JD to 257JG, or

(b) functions delegated to a person under section 257JH(1).

(6) If, in contravention of subsections (3) to (5), any revenue and customs information relating to a person is disclosed and the identity of the person—

(a) is specified in the disclosure, or

(b) can be deduced from it,

section 19 of the Commissioners for Revenue and Customs Act 2005 (offence of wrongful disclosure) applies as it applies in relation to a disclosure of such information in contravention of section 20(9) of that Act.

(7) In subsection (6) "revenue and customs information relating to a person" has the meaning given by section 19(2) of that Act.

(8) Subject to subsections (3) and (5), no obligation as to confidentiality or other restriction on disclosure, whether imposed by an enactment or otherwise, prevents disclosure of relevant information—

(a) to a Minister of the Crown for the purposes of functions of a Minister of the Crown under sections 257JD to 257JG,

(b) to a person for the purposes of functions delegated to the person under section 257JH(1), or

(c) to an officer of Revenue and Customs for the purpose of assisting Her Majesty's Revenue and Customs to discharge their functions under the Income Tax Acts so far as relating to matters arising under this Part.

(9) In subsection (8) "relevant information" means information obtained—

(a) by a Minister of the Crown, or

(b) by a person to whom functions have been delegated under section 257JH(1),

in the course of discharging functions under sections 257JD to 257JG.

(10) In this section "Minister of the Crown" has the meaning given by section 8(1) of the Ministers of the Crown Act 1975.

CHAPTER 9

MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

Transfers between spouses or civil partners

257T(1) This section applies if—

(a) the investor transfers the whole or part of the investment to another individual ("B") during their lives,

(b) the investor was married to, or was the civil partner of, B at the time of the transfer, and

(c) section 257R does not apply to the transfer.

(2) This Part (including subsection (1)) has effect, in relation to any subsequent disposal or other event, as if—

(a) B were the investor as respects the transferred stake,

(b) B's liability to income tax had been reduced in respect of the transferred stake for the same tax year as that for which the investor's was so reduced,

(c) the amount by which B's liability to income tax had been reduced in respect of the transferred stake were the same as that by which the investor's liability had been so reduced, and

(d) the same amount of SI relief had continued to be attributable to the transferred stake despite the transfer.

(3) If the amount of SI relief attributable to the transferred stake had been reduced before the relief was obtained by the investor—

(a) this Part has effect, in relation to any subsequent disposal or other event, as if the amount of SI relief attributable to the transferred stake had been correspondingly reduced before the relief was obtained by B, and

(b) section 257QD(2), 257QO(3) and 257RA(4) apply in relation to B as they would have applied in relation to the investor.

(4) If, because of any such disposal or other event, an assessment for reducing or withdrawing SI relief is to be made, the assessment is to be made on B.

Identification of investments on a disposal

257TA(1) The rules in subsections (2) and (3) are for determining which investments of any class are treated as disposed of for the purposes of—

(a) section 257R (disposal of the investment), or

(b) section 257T (spouses or civil partners),

if the investor disposes of some but not all of the investments of that class which the investor holds in the social enterprise.

(2) Investments made on an earlier day are treated as disposed of before investments made on a later day.

(3) Investments made on the same day are treated as disposed of in the following order—

(a) first, any to which neither SI relief nor hold-over relief is attributable,

(b) next, any to which hold-over relief, but not SI relief, is attributable,

(c) next, any to which SI relief, but not hold-over relief, is attributable, and

(d) finally, any to which both SI relief and hold-over relief are attributable.

(4) Any investments within paragraph (c) or (d) of subsection (3) which are treated by section 257N(7) as issued on an earlier day are treated as disposed of before any other investments falling within that paragraph of subsection (3).

(5) The following—

(a) any investments to which SI relief is attributable and which were transferred to an individual as mentioned in section 257T, and

(b) any investments to which hold-over relief, but not SI relief, is attributable and which were acquired by an individual on a disposal to which section 58 of TCGA 1992 applies,

are treated for the purposes of subsections (2) and (3) as acquired by the individual on the day on which they were made.

(6) In a case to which section 127 of TCGA 1992 applies (including the case where that section applies by virtue of an enactment relating to chargeable gains), shares included in the new holding are treated for the purposes of subsections (2) and (3) as acquired when the original shares were acquired.

(7) In this section—

"hold-over relief" means relief under Schedule 8B to TCGA 1992;

"new holding" and "original shares" have the same meaning as in section 127 of TCGA 1992 (or, as the case may be, that section as applied by the enactment concerned).

Meaning of a company being "in administration" or "in receivership"

257TB1 (1) References in this Part to a company being "in administration" or "in receivership" are to be read as follows.

(2) A company is "in administration" if—

(a) it is in administration within the meaning of Schedule B1 to the Insolvency Act 1986 or Schedule B1 to the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)), or

(b) there is in force in relation to it under the law of a country or territory outside the United Kingdom any appointment corresponding to an appointment of an administrator under either of those Schedules.

(3) A company is "in receivership" if there is in force in relation to it—

(a) an order for the appointment of an administrative receiver, a receiver and manager or a receiver under Chapter 1 or 2 of Part 3 of the Insolvency Act 1986 or Part 4 of the Insolvency (Northern Ireland) Order 1989, or

(b) any corresponding order under the law of a country or territory outside the United Kingdom.

Meaning of "associate"

257TC(1) In this Part "associate", in relation to a person, means—

(a) any relative or partner of the person,

(b) the trustee or trustees of any settlement in relation to which the person, or any relative of the person (living or dead), is or was a settlor, and

(c) if the person has an interest in any shares or obligations of a company which are subject to any trust or are part of the estate of a deceased person—

(i) the trustee or trustees of the settlement concerned or, as the case may be, the personal representatives of the deceased, and

(ii) if the person is a company, any other company which has an interest in those shares or obligations.

(2) In this section "relative" means spouse, civil partner, ancestor or lineal descendant.

Meaning of "control"

257TD(1) In this Part "control" is to be read in accordance with sections 450 and 451 of CTA 2010 but as if "company" in those sections included a charity that is a trust.

(2) For the purposes of this Part, a charity that is a trust has "control" of another person if, as a result of the operation of subsection (1), the trustees (in their capacity as trustees of the trust) have, or any of them has, control of the person.

(3) A person has "control" of a charity that is a trust if—

(a) the person is a trustee of the charity and some or all of the powers of the trustees of the charity could be exercised by—

(i) the person acting alone, or

(ii) by the person acting together with any other persons who are trustees of the charity and who are connected with the person,

(b) the person, alone or together with other persons, has power to appoint or remove a trustee of the charity, or

(c) the person, alone or together with other persons, has any power of approval or direction in relation to the carrying-out by the trustees of any of their functions.

(4) Subsection (3) is in addition to, and does not limit, subsection (1); and both of those subsections are subject to subsection (5).

(5) For the purposes of this Part, a regulator is to be treated as not having control of any company regulated by the regulator.

(6) Section 995 of this Act (control) does not apply for the purposes of this Part.

Minor definitions etc

257TH (1) In this Part—

"arrangements" (except as used, in sections 257LB and 257QK, in the expressions "issuing arrangements" and "repayment arrangements") includes any scheme, arrangement or understanding of any kind, whether or not legally enforceable, involving a single transaction or two or more transactions,

"bonus shares" means shares which are issued otherwise than for payment (whether in cash or otherwise),

"compliance statement" has the meaning given by section 257PB,

"director"—

(a) is read in accordance with section 452 of CTA 2010 but as if "company" in that section included a charity that is a trust, and

(b) in relation to a charity that is a trust (but subject to section 257LF(9)), includes (in particular) each trustee of the trust,

"disposal", in relation to any shares or other investments, includes disposal of an interest or right in or over them,

"group" means a parent company and its qualifying subsidiaries,

"group company", in relation to a group, means the parent company or any of its qualifying subsidiaries,

"ordinary shares" means shares forming part of a company's ordinary share capital,

"parent company" means a company that has one or more qualifying subsidiaries,

"qualifying subsidiary" has the meaning given by section 257MU, and

"single company" means a company that does not have any qualifying subsidiaries.

(2) For the purposes of this Part, the market value at any time of any asset is the price which it might reasonably be expected to fetch on a sale at that time in the open market free from any interest or right which exists by way of security in or over it."

PART 2

CONSEQUENTIAL AMENDMENTS

2 (1) Section 98 of TMA 1970 (penalties) is amended as follows.

(2) In column 1 of the Table, after the entry for sections 257GG and 257GH(1) and (2) of ITA 2007, insert—

"sections 257SG and 257SH(1) and (2) of ITA 2007;"

(3) In column 2 of the Table, after the entry for sections 257GE and 257GF of ITA 2007, insert—

"sections 257SE and 257SF of ITA 2007;"

3 ITA 2007 is amended as follows.

4 In section 2 (overview of Act) after subsection (5A) insert—

"(5B) Part 5B is about relief for social investments."

5 In section 24A(7)(d) (share loss relief on the disposal of certain investments not subject to the limit on deductions imposed by section 24A) after sub-paragraph (ii) insert ", or

(iii) where SI relief is attributable to the shares in question as determined in accordance with Part 5B (income tax relief for social investments)."

6 In section 26(1)(a) (provisions giving rise to deductions at Step 6 of the calculation in section 23) after the entry for Chapter 1 of Part 5A of ITA 2007 insert— " Chapter 1 of Part 5B (relief for social investments), ".

7 In section 27(5) (order in which certain tax reductions are to be made) after the entry for Chapter 1 of Part 5A of ITA 2007 insert— " Chapter 1 of Part 5B (relief for social investments), ".

8 In section 29(4B) (limit on certain tax reductions) after the entry for Chapter 1 of Part 5 of ITA 2007 insert— " Chapter 1 of Part 5B (relief for social investments), ".

9 In section 32 (liabilities to income tax not dealt with in the calculation under Chapter 3 of Part 2) after the entry for section 257G of ITA 2007 insert— " under section 257S (withdrawal or reduction of relief for social investments), ".

10 In section 392 (loan to buy interest in close company) after subsection (3) insert—

"(3A) Subsection (2) does not apply if at any time the individual by whom the shares are acquired or the money is lent, or that individual's spouse or civil partner, makes—

(a) a claim under Part 5B of this Act for relief in respect of the amount invested in acquiring the shares or (as the case may be) in return for the debentures in respect of the money lent, or

(b) a claim in respect of the amount under Schedule 8B to TCGA 1992 (hold-over relief for gains re-invested in social enterprises).

(3B) For the purposes of subsection (3A)(a) "debenture" includes any instrument creating or acknowledging indebtedness."

11 In section 416 (gift aid: meaning of "qualifying donation") after subsection (6) insert—

"(6A) Condition EA is that the payment is not by way of, and does not amount in substance to, waiver by the individual of entitlement to sums (whether of

principal or return) due to the individual from the charity in respect of an amount—

(a) advanced to the charity, and

(b) in respect of which a person, whether or not the individual, has obtained relief under Part 5B (relief for social investments)."

12 In section 1014(5)(b) (orders and regulations not subject to negative procedure) after sub-paragraph (iii) insert—

"(iiia) section 257MB (amendment of Part 5B: amounts that may be raised from social investments; and State aid),".

13 In section 1022 (meaning of "debenture") after subsection (1) insert—

"(1A) For the meaning of "debenture" in sections 257KB(3) to (5), 257L(4), 257LA(2) and 392(3A)(a), see also sections 257KB(6), 257L(6), 257LA(4) and 392(3B)."

SCHEDULE 12

Section 57

INVESTMENTS IN SOCIAL ENTERPRISES: CAPITAL GAINS

1 TCGA 1992 is amended as follows.

2 After section 255 insert—

"Investments in social enterprises

255A Hold-over relief for gains re-invested in social enterprises

Schedule 8B to this Act (which provides relief in respect of gains re-invested in social enterprises) has effect.

255B Gains and losses on investments in social enterprises

(1) For the purpose of determining the gain or loss on any disposal of an asset by an individual where—

(a) an amount of SI relief is attributable to the asset, and

(b) apart from this subsection there would be a loss,

treat the consideration given by the individual for the acquisition of the asset as reduced by the amount of the SI relief.

(2) If—

(a) an individual disposes of an asset,

(b) an amount of SI relief is attributable to the asset,

(c) the disposal takes place after the end of the 3 years beginning with the day when the individual acquired the asset, and

(d) apart from this subsection, there would be a gain on the disposal,

the gain is not a chargeable gain, subject to section 255C.

(3) Despite section 16(2), subsection (2) above does not apply to a disposal on which a loss accrues.

(4) Any question as to—

(a) which of any assets acquired by an individual at different times a disposal relates to, being assets to which SI relief is attributable, or

(b) whether a disposal relates to assets to which SI relief is attributable or to other assets,

is to be determined for the purposes of capital gains tax as provided by section 257TA of ITA 2007.

(5) Chapter 1 of this Part has effect subject to subsection (4).

(6) Sections 104, 105 and 106A do not apply to assets to which SI relief is attributable.

(7) There are to be made all such adjustments of capital gains tax, whether by way of assessment or by way of discharge or repayment of tax, as may be required in consequence of SI relief being given or withdrawn.

(8) In this section and sections 255C to 255E "SI relief" means relief under Part 5B of ITA 2007 (income tax relief for investments in social enterprises).

(9) That Part applies for the purposes of this section and sections 255C to 255E to determine whether SI relief is attributable to any asset and, if so, the amount of SI relief so attributable.

255C Application of section 255B(2) where maximum SI relief not obtained

(1) Subsection (2) applies if—

(a) an individual's liability to income tax has been reduced (or treated by virtue of section 257T of ITA 2007 (spouses or civil partners) as reduced) for any tax year under section 257JA of ITA 2007 (SI relief) in respect of the acquisition of an asset,

(b) the amount of the reduction ("D") is less than the amount given by—

$$I \times R$$

where—

I is the amount on which the individual has SI relief in the case of the asset, and

R is the SI rate for the tax year for which the SI relief was obtained, and

(c) D is not within paragraph (b) solely by virtue of section 29(2) and (3) of ITA 2007.

(2) If the individual disposes of the asset and there is a gain on the disposal, section 255B(2) has effect in relation to the gain as if it were reduced by multiplying it by—

$$\frac{D}{I \times R}$$

(3) In this section "SI rate" has the meaning given by section 257JA(5) of ITA 2007.

255D Application of section 255B(2) where SI relief has been reduced

(1) Subsection (2) applies if before a disposal of an asset—

(a) value is received in circumstances where SI relief attributable to the asset is reduced by an amount under section 257Q(1)(a) of ITA 2007, or

(b) there is a repayment, redemption, repurchase or payment in circumstances where SI relief attributable to the asset is reduced by an amount under section 257QJ(2)(a) of ITA 2007, or

(c) paragraphs (a) and (b) both apply.

(2) If section 255B(2) applies on the disposal but section 255C does not, section 255B(2) applies only to so much of the gain as remains after deducting so much of it as is found by multiplying it by the fraction—

$$\frac{A}{B}$$

where—

A is equal to the amount by which the SI relief given in respect of the asset is reduced as mentioned in subsection (1) above, and

B is equal to the amount of the SI relief given in respect of the asset.

(3) If sections 255B(2) and 255C apply on the disposal, section 255B(2) applies only to so much of the gain as is found by—

(a) taking the part of the gain found under section 255C, and

(b) deducting from that part so much of it as is found by multiplying it by the fraction mentioned in subsection (2).

(4) If the SI relief given in respect of the asset is reduced as mentioned in subsection (1) by more than one amount, the amount referred to as A in subsection (2) is to be taken to be equal to the aggregate of those amounts.

(5) The amount referred to in subsection (2) as B is to be found without regard to any reduction mentioned in subsection (1).

255E Reorganisations involving shares to which SI relief is attributable

(1) Subsection (2) applies if an individual holds shares which form part of the ordinary share capital of a company and include shares of more than one of the following kinds—

(a) shares to which SI relief is attributable and to which subsection (3) applies,

(b) shares to which SI relief is attributable and to which subsection (3) does not apply, and

(c) shares to which SI relief is not attributable and to which subsection (3) does not apply.

(2) If there is a reorganisation within the meaning of section 126 affecting the shares listed in subsection (1), section 127 applies separately to those shares so that shares of each kind are treated as a separate holding of original shares and identified with a separate new holding.

(3) This subsection applies to any shares if—

(a) expenditure on the shares has been set under Schedule 8B to this Act against the whole or part of any gain, and

(b) in relation to the shares there has been no chargeable event for the purposes of that Schedule.

(4) If—

(a) an individual holds shares ("the existing holding") which form part of the ordinary share capital of a company,

(b) there is, by virtue of any such allotment for payment as is mentioned in section 126(2)(a), a reorganisation affecting the existing holding, and

(c) immediately following the reorganisation, SI relief is attributable to the existing holding or the allotted shares,

sections 127 to 130 do not apply in relation to the existing holding.

(5) Subject to subsection (6), sections 135 and 136 do not apply in respect of shares to which SI relief is attributable.

(6) Subsection (5) does not have effect to disapply section 135 or 136 in a case where the original shares are shares to which SI relief is attributable if—

(a) the new holding consists of new ordinary shares which meet conditions A and B of section 257L of ITA 2007,

(b) the new shares are issued after the end of three years beginning with the day on which the original shares were acquired,

(c) before issuing the new shares, the company had issued shares which met conditions A and B of section 257L of ITA 2007, and

(d) the company issued a compliance certificate in relation to those earlier shares for the purposes of section 257PA(1) of ITA 2007 and in accordance with sections 257PB and 257PC of ITA 2007.

(7) In subsection (6) "new holding" is to be construed in accordance with sections 126, 127, 135 and 136.

(8) In this section—

"ordinary share capital" has the meaning given in section 989 of ITA 2007;

"ordinary shares", in relation to a company, means shares forming part of its ordinary share capital."

3 Before Schedule 9 insert—

"SCHEDULE 8B

Section 255A

HOLD-OVER RELIEF FOR GAINS RE-INVESTED IN SOCIAL ENTERPRISES

When does the Schedule apply?

1 (1) This Schedule applies if—

(a) a chargeable gain accrues to an individual ("the investor"),

(b) the investor acquires one or more assets ("the social holding"),

(c) the investor is eligible for SI relief under Part 5B of ITA 2007 in respect of the consideration given for the social holding, and

(d) conditions A, B, C, D and E are met.

(2) Condition A is that the gain is one that accrues—

(a) on the disposal by the investor of an asset,

(b) in accordance with section 169N (but see sub-paragraph (7)), or

(c) as a result of the operation of paragraph 5 in connection with a chargeable event within paragraph 6(1)(c) or (d).

(3) Condition B is that the gain is one that accrues—

(a) on or after 6 April 2014, and

(b) before 6 April 2019 (but see sub-paragraph (8)).

(4) Condition C is that the investor is resident in the United Kingdom—

(a) when the gain accrues, and

(b) when the social holding is acquired.

(5) Condition D is that the social holding is acquired by the investor on the investor's own behalf.

(6) Condition E is that the social holding is acquired—

(a) in the 3 years beginning with the day when the gain accrues, or

(b) in the year that ends at the beginning of that day.

(7) The reference in sub-paragraph (2)(b) to a gain accruing in accordance with section 169N does not include such a gain so far as it is chargeable to capital gains tax at the rate in section 169N(3) (rate where entrepreneurs' relief is available).

(8) The Treasury may by order substitute a later date for the date for the time being specified in sub-paragraph (3)(b).

2 (1) This Schedule also applies if—

(a) a chargeable gain accrues to an individual ("the investor"),

(b) the gain accrues as a result of the operation of paragraph 5 in connection with a chargeable event within paragraph 6(1)(a), (b) or (c),

(c) the chargeable event is either—

(i) a disposal to a social enterprise of shares in or debentures of the social enterprise, or

(ii) the cancellation, extinguishment, redemption or repayment by a social enterprise of shares in or debentures of the social enterprise,

(d) as part of the chargeable event or in connection with it, and in place of the shares or debentures, the investor acquires one or more assets ("the social holding") from the social enterprise,

(e) other than the investor's ceasing to hold the shares or debentures, no detriment is suffered in return for the acquisition of the social holding,

(f) the asset acquired, or each of the assets acquired, is a share in or debenture of the social enterprise,

(g) but for section 257LA of ITA 2007 (consideration for acquisition must be wholly in cash and fully paid) the investor would be eligible for SI relief under Part 5B of ITA 2007 in respect of the consideration given for the social holding, and

(h) conditions F, G, H and J are met.

(2) Condition F is that the gain is one that accrues—

(a) on or after 6 April 2014, and

(b) before 6 April 2019 (but see sub-paragraph (6)).

(3) Condition G is that the investor is resident in the United Kingdom—

(a) when the gain accrues, and

(b) when the social holding is acquired.

(4) Condition H is that the social holding is acquired by the investor on the investor's own behalf.

(5) Condition J is that the social holding is acquired—

(a) in the 3 years beginning with the day when the gain accrues, or

(b) in the year that ends at the beginning of that day.

(6) The Treasury may by order substitute a later date for the date for the time being specified in sub-paragraph (2)(b).

(7) In this paragraph "debenture" includes any instrument creating or acknowledging indebtedness.

(8) A reference in this paragraph to a social enterprise is a reference to a body that is a social enterprise for the purposes of Part 5B of ITA 2007 (see section 257J of that Act).

Interpretation of Schedule

3 (1) In the following provisions of this Schedule—

"the amount invested" means, in a case where this Schedule applies because of paragraph 1, the consideration mentioned in paragraph 1(1)(c),

"the investor" means the individual mentioned in paragraph 1(1)(a) or, as the case may be, paragraph 2(1)(a),

"the original gain" means the chargeable gain mentioned in paragraph 1(1)(a) or, as the case may be, paragraph 2(1)(a), and

"the social holding" means the asset or assets mentioned in paragraph 1(1)(b) or, as the case may be, paragraph 2(1)(d).

(2) In this Schedule, a "disposal within marriage or civil partnership" is a disposal to which section 58 (certain disposals between spouses or civil partners) applies.

Claim to hold gain over while invested in a social enterprise

4 (1) The investor may make a claim for the original gain to be reduced—

(a) in a case within paragraph 1, by the amount invested, or by a part of that amount specified in the claim, or

(b) in a case within paragraph 2, to the extent specified in the claim,

but, in either case, subject as follows.

(2) The reduction may not be more than the original gain or, if the original gain has already been reduced under one or more of the listed provisions, the reduction may not be more than the reduced gain.

(3) In a case within paragraph 1, the claim may not relate to any part of the amount invested that under any of the listed provisions has already been set against a chargeable gain.

(4) The "listed provisions" are—

(a) sub-paragraph (1),

(b) Schedule 5B, and

(c) paragraph 1(5) of Schedule 5BB.

(5) The total of all reductions claimed by the investor under sub-paragraph (1) in any tax year must not be more than £1,000,000.

(6) If there is relief by way of a reduction under sub-paragraph (1) then, for the purposes of this Schedule, that relief—

(a) is attributable to the asset or assets that form the social holding, but

(b) ceases to be attributable to any particular asset, or to any particular part of a particular asset, when—

(i) a chargeable event occurs in relation to that asset or part, or

(ii) the person holding the asset or part dies.

Held-over gain treated as accruing on disposal etc of the qualifying investment

5 (1) This paragraph applies if there has been a reduction under paragraph 4(1).

(2) A chargeable gain equal to the amount of the reduction is treated as accruing when a chargeable event occurs in relation to the social holding without any chargeable event having previously occurred in relation to any of the holding.

(3) When a chargeable event occurs in relation to part only of the social holding without any chargeable event having previously occurred in relation to any of that part, a chargeable gain calculated in accordance with sub-paragraph (4) is treated as accruing.

(4) The calculation is—

Step 1 Subtract from the amount of the reduction any chargeable gains previously treated as accruing as a result of the operation of sub-paragraph (3).

Step 2 Attribute a proportionate part of the amount calculated at Step 1 to each part of the social holding held, immediately before the occurrence of the chargeable event in question, by the investor or a person who has acquired any part of the holding from the investor on a disposal within marriage or civil partnership.

Step 3 The amount attributed at Step 2 to the part of the social holding in relation to which that chargeable event occurs is the chargeable gain treated as accruing as a result of the operation of subparagraph (3) on the occurrence of that event.

Chargeable events

6 (1) A chargeable event occurs in relation to an asset that forms the whole or any part of the social holding if (after the acquisition of the holding)—

(a) the investor disposes of the asset otherwise than by way of a disposal within marriage or civil partnership,

(b) the asset is disposed of, otherwise than by way of a disposal to the investor, by a person who acquired the asset on a disposal made within marriage or civil partnership,

(c) the asset is cancelled, extinguished, redeemed or repaid, or

(d) any of the conditions in Chapters 3 and 4 of Part 5B of ITA 2007 for the investor's eligibility for SI relief under that Part in respect of the amount invested fails to be met.

In this sub-paragraph "asset" includes part of an asset.

(2) In the event of the death of—

(a) the investor, or

(b) a person who, on a disposal within marriage or civil partnership, has acquired the whole or any part of the social holding,

nothing which occurs at or after the time of death is a chargeable event in relation to any part of the holding held by the deceased person immediately before the time of death.

(3) If a person makes a disposal of assets of a particular class while retaining other assets of that class—

(a) assets of that class acquired by the person on an earlier day are treated for the purposes of this Schedule as disposed of before assets of that class acquired by the person on a later day, and

(b) assets of that class acquired by the person on the same day are treated for the purposes of this Schedule as disposed of in the following order—

(i) first, any to which neither relief under this Schedule, nor SI relief under Part 5B of ITA 2007, is attributable,

(ii) next, any to which relief under this Schedule, but not SI relief under that Part, is attributable,

(iii) next, any to which SI relief under that Part, but not relief under this Schedule, is attributable, and

(iv) finally, any to which both SI relief under that Part, and relief under this Schedule, are attributable.

(4) For the purposes of sub-paragraph (3), assets—

(a) to which relief under this Schedule is attributable, and

(b) which have not been held continuously by the investor since the social holding was acquired,

are treated as having been acquired when the social holding was acquired if SI relief under Part 5B of ITA 2007 is not also attributable to them.

(5) For the purposes of sub-paragraph (3), assets—

(a) to which SI relief under Part 5B of ITA 2007 is attributable, and

(b) which were transferred to an individual as mentioned in section 257T of ITA 2007 (transfers between spouses or civil partners),

are treated as having been acquired when the social holding was acquired.

(6) Chapter 1 of Part 4 of this Act has effect subject to sub-paragraphs (3) to (5).

(7) Sections 104, 105 and 106A do not apply to assets to which relief under this Schedule is attributable if SI relief under Part 5B of ITA 2007 is not also attributable to them.

(8) Where, at the time of a chargeable event, an asset that formed the whole or any part of the social holding is treated for the purposes of this Act as represented by assets which consist of or include assets other than that asset—

(a) so much of the original gain as is attributable to the asset is treated, in determining for the purposes of this paragraph the amount of the original gain to be treated as attributable to each of those assets, as apportioned in such manner as may be just and reasonable between those assets, and

(b) as between different assets treated as representing the same asset, sub-paragraphs (3) to (5) apply with the necessary modifications in relation to those assets as they would apply in relation to the asset.

(9) In order to determine, for the purposes of sub-paragraph (8), the amount of the original gain attributable to any asset, a proportionate part of the amount of the original gain is to be attributed to each asset that forms the whole or any part of so much of the social holding as is held, immediately before the occurrence of the chargeable event in question, by the investor or a person who has acquired any part of the social holding from the investor on a disposal within marriage or civil partnership.

(10) In subsections (8) and (9) references to the original gain are to so much of the original gain as remains after deduction from it of the amount of any chargeable gain treated as accruing as a result of the previous operation of paragraph 5.

Person to whom held-over gain is treated as accruing

7 (1) This paragraph applies where a chargeable gain is treated as accruing as a result of the operation of paragraph 5.

(2) If the chargeable event is a disposal, that chargeable gain is treated as accruing to the person who makes the disposal.

(3) If the chargeable event occurs—

(a) when an asset, or part of an asset, is cancelled, extinguished, redeemed or repaid, or

(b) when a condition, for eligibility for relief in respect of the consideration given for the acquisition of an asset, fails to be met,

that chargeable gain is treated as accruing to the person who holds the asset, or part, when the chargeable event occurs.

Claims: procedure

8 (1) Sections 257P(1), 257PA(1) and 257PB to 257PD of ITA 2007—

(a) apply in relation to a claim under this Schedule in respect of the social holding as they apply in relation to a claim under Part 5B to ITA 2007 in respect of an investment, and

(b) as they so apply, have effect as if any reference to the requirements for relief under that Part were a reference to the conditions for the application of this Schedule.

(2) In section 257PE(2) of ITA 2007 (power to make consequential amendments etc when amending provision about claims for SI relief) "enactment" includes (in particular) sub-paragraph (1)."

SCHEDULE 13

Section 65

General Block Exemption Regulation

1 CAA 2001 is amended as follows.

2 (1) Section 45DB (exclusions from allowances under section 45DA) is amended as follows.

(2) In subsection (3)(a), for "a firm in difficulty for the purposes of the Community Guidelines on State Aid for Rescuing and Restructuring Firms in Difficulty (2004/C 244/02)" substitute " an undertaking in difficulty for the purposes of the General Block Exemption Regulation ".

(3) In subsection (4)(a), for "Council Regulation (EC) No 104/2000" substitute " Regulation (EU) No 1379/2013 of the European Parliament and of the Council ".

(4) In subsection (11), in the definition of "General Block Exemption Regulation", for "(EC) No 800/2008" substitute " (EU) No 651/2014 ".

(5) In subsection (12), for paragraph (c) substitute—

"(c) Regulation (EU) No 1379/2013 of the European Parliament and of the Council,".

3 In section 45K (expenditure on plant and machinery for use in designated assisted areas), after subsection (8) insert—

"(8A) Condition C is met by virtue of subsection (8)(c) only if the amount of the expenditure exceeds the amount by which the relevant plant or machinery is depreciated in the period of 3 years ending immediately before the beginning of the chargeable period in which the expenditure is incurred.

(8B) "Relevant plant or machinery" means the plant or machinery being used at the end of the period of 3 years mentioned in subsection (8A) for the purposes of the product, process or service mentioned in subsection (8)(c)."

4 (1) Section 45M (exemptions from allowances under section 45K) is amended as follows.

(2) In subsection (1), for "(6) or (7)" substitute " (7) or (7A) ".

(3) In subsection (3)(a), for "a firm in difficulty for the purposes of the Community Guidelines on State Aid for Rescuing and Restructuring Firms in Difficulty (2004/C 244/02)" substitute " an undertaking in difficulty for the purposes of the General Block Exemption Regulation ".

(4) In subsection (4)—

(a) in paragraph (a), for "Council Regulation (EC) No 104/2000" substitute " Regulation (EU) No 1379/2013 of the European Parliament and of the Council ", and

(b) after paragraph (b) insert—

"(ba) in the transport sector or related infrastructure,

(bb) relating to energy generation, distribution or infrastructure,

(bc) relating to the development of broadband networks,".

(5) After that subsection insert—

"(4A) Expressions used in subsection (4)(b), (ba), (bb) or (bc) and in the General Block Exemption Regulation have the same meaning as in that Regulation."

(6) Omit subsection (6).

(7) After subsection (7) insert—

"(7A) Expenditure is within this subsection if—

(a) the area by reference to which the condition in section 45K(1)(a) is met is not an area which falls within Article 107(3)(a) of the Treaty on the Functioning of the European Union,

(b) the condition in section 45K(8)(a) is not met in relation to the expenditure, and

(c) at the time the expenditure is incurred the company is not an SME for the purposes of the General Block Exemption Regulation."

(8) In subsection (12)—

(a) in the first definition, for the words from " "coal" to "have" substitute "has", and

(b) in the definition of "General Block Exemption Regulation", for "(EC) No 800/2008" substitute " (EU) No 651/2014 ".

(9) In subsection (15), for paragraph (c) substitute—

"(c) Regulation (EU) No 1379/2013 of the European Parliament and of the Council,".

5 (1) Section 45N (effect of plant or machinery subsequently being primarily for use outside designated assisted areas) is amended as follows.

(2) In subsection (1)—

(a) for "designated assisted area within the meaning of section 45K" substitute " relevant area ", and

(b) for "such a designated assisted" substitute " a relevant ".

(3) After subsection (3) insert—

"(3A) Relevant area" means—

(a) in relation to expenditure which would be within subsection (7A) of section 45M if paragraph (a) of that subsection were omitted, a designated assisted area within the meaning of section 45K which falls within Article 107(3)(a) of the Treaty on the Functioning of the European Union, and

(b) in relation to any other expenditure, a designated assisted area within the meaning of section 45K."

6 In section 212T(6) (cap on first-year allowances: zero-emission goods vehicles), in the definition of "undertaking", for "(EC) No 800/2008" substitute " (EU) No 651/2014 ".

7 In section 212U(5) (cap on first-year allowances: expenditure on plant and machinery for use in designated assisted areas), in the definition of "single investment project", for "(EC) No 800/2008" substitute " (EU) No 651/2014 "."

8 The amendments made by this Schedule have effect in relation to expenditure incurred on or after the day on which this Act is passed.

[F2]SCHEDULE 14

Section 69

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Textual Amendments

F2 Sch. 14 repealed (with effect in accordance with Sch. 11 para. 14 of the amending Act) by Finance Act 2015 (c. 11), **Sch. 11 para. 13(2)**

SCHEDULE 15

Section 70

SUPPLEMENTARY CHARGE: ONSHORE ALLOWANCE

PART 1

AMENDMENTS OF PART 8 OF CTA 2010

1 Part 8 of CTA 2010 (oil activities) is amended as follows.

Onshore allowance

2 Section 357 (other definitions) is renumbered as section 356AA.

3 After Chapter 7 insert—

"CHAPTER 8

SUPPLEMENTARY CHARGE: ONSHORE ALLOWANCE

Introduction

Overview

356B This Chapter sets out how relief for certain capital expenditure incurred for the purposes of onshore oil-related activities is given by way of reduction of a company's adjusted ring fence profits, and includes provision about—

(a) the need for allowance held for a site to be activated by relevant income from the same site in order for the allowance to be available for reducing adjusted ring fence profits,

(b) elections by a company to transfer allowance between different sites in which it is a licensee (see section 356F), and

(c) mandatory transfers of allowance where shares in the equity in a licensed area are disposed of (see sections 356H to 356HB and the related provisions in sections 356G to 356GD).

"Onshore oil-related activities"

356BA (1) In this Chapter "onshore oil-related activities" means activities of a company which are carried on onshore and—

(a) fall within any of subsections (1) to (4) of section 356BB, or

(b) consist of the acquisition, enjoyment or exploitation of oil rights.

(2) Activities of a company are carried on "onshore" if they are authorised—

(a) under a landward licence under Part 1 of the Petroleum Act 1998 or the Petroleum (Production) Act 1934, or

(b) under a licence under the Petroleum (Production) Act (Northern Ireland) 1964.

(3) In subsection (2)(a) "landward licence" means a licence in respect of an area which falls within the definition of "landward area" in the regulations pursuant to which the licence was applied for.

The activities

356BB(1) Activities of a company in searching for oil or causing such searching to be carried out for the company.

(2) Activities of a company in extracting oil, or causing oil to be extracted for it, under rights which—

(a) authorise the extraction, and

(b) are held by it or by a company associated with it.

(3) Activities of a company in transporting, or causing to be transported for it, oil extracted under rights which—

(a) authorise the extraction, and

(b) are held as mentioned in subsection (2)(b),

but only if the transportation meets the condition in subsection (5).

(4) Activities of the company in effecting, or causing to be effected for it, the initial treatment or initial storage of oil won from any site under rights which—

(a) authorise its extraction, and

(b) are held as mentioned in subsection (2)(b).

(5) The condition mentioned in subsection (3) is that the transportation is to a place at which the seller in a sale at arm's length could reasonably be expected to deliver it (or, if there is more than one such place, the one nearest to the place of extraction).

(6) In this section "initial storage"—

(a) means, in relation to oil won from a site, the storage of a quantity of oil won from the site not exceeding 10 times the relevant share of the maximum daily production rate of oil for the site as planned or achieved (whichever is greater), but

(b) does not include the matters excluded by paragraphs (a) to (c) of the definition of "initial storage" in section 12(1) of OTA 1975;

and in this subsection "the relevant share" means a share proportionate to the company's share of oil won from the site concerned.

(7) In this section "initial treatment" has the meaning given by section 12(1) of OTA 1975; but for this purpose that definition is to be read as if the references in it to an oil field were to a site.

"Site"

356BC In this Chapter "site" (except in the expression "drilling and extraction site") means—

(a) a drilling and extraction site that is not used in connection with any oil field, or

(b) an oil field (whether or not one or more drilling and extraction sites are used in connection with it).

Onshore allowance

Generation of onshore allowance

356C(1) Subsection (2) applies where a company incurs any relievable capital expenditure in relation to a qualifying site.

(2) The company is to hold an amount of allowance equal to 75% of the amount of the expenditure.

(3) "Qualifying site" means a site whose development (in whole or in part) is authorised for the first time on or after 5 December 2013.

(4) Capital expenditure incurred by a company is "relievable" only if, and so far as—

(a) it is incurred for the purposes of onshore oil-related activities (see section 356BA), and

(b) neither of the disqualifying conditions is met at the beginning of the day on which the expenditure is incurred (see section 356CA).

(5) Allowance held under this Chapter is called "onshore allowance".

(6) Onshore allowance is said in this Chapter to be "generated" at the time when the capital expenditure is incurred (see section 356JA).

(7) Onshore allowance is referred to in this Chapter as being generated—

(a) "by" the company concerned,

(b) "at" the site concerned.

(8) Where capital expenditure is incurred only partly for the purposes of onshore oil-related activities, or the onshore oil-related activities for the purposes of which capital expenditure is incurred are carried on only partly in relation to a particular site, the expenditure is to be attributed to the site concerned on a just and reasonable basis.

(9) In this section, references to authorisation of development of a site—

(a) in the case of a site which is an oil field, are to be read in accordance with section 351;

(b) in the case of a drilling and extraction site, are to be read in accordance with section 356J.

Disqualifying conditions for section 356C(4)(b)

356CA(1) The first disqualifying condition is that production from the site is expected to exceed 7,000,000 tonnes.

(2) The second disqualifying condition is that production from the site has exceeded 7,000,000 tonnes.

(3) For the purposes of this section 1,100 cubic metres of gas at a temperature of 15 degrees celsius and pressure of one atmosphere is to be counted as equivalent to one tonne.

Expenditure not related to an established site

356CB(1) A company may make an election under this section in relation to capital expenditure incurred by it for the purposes of onshore oil-related activities if the appropriate condition is met.

(2) The appropriate condition is that at the time of the election no site can be identified as a site in relation to which the expenditure has been incurred.

(3) An election may not be made before the beginning of the third accounting period of the company after that in which the expenditure is incurred.

(4) An election must specify—

(a) the expenditure in question,

(b) a site ("the specified site") every part of which is, or is part of, an area in which the company is a licensee, and

(c) an accounting period of the company ("the specified accounting period").

(5) The specified accounting period must not be earlier than the accounting period in which the election is made.

(6) Where a company makes an election under this section in relation to an amount of expenditure, that amount is treated for the purposes of this Chapter as incurred by the company—

(a) in relation to the specified site, and

(b) at the beginning of the specified accounting period.

Reduction of adjusted ring fence profits

Reduction of adjusted ring fence profits

356D(1) A company's adjusted ring fence profits for an accounting period are to be reduced by the cumulative total amount of activated allowance for the accounting period (but are not to be reduced below zero).

(2) In relation to a company and an accounting period, the "cumulative total amount of activated allowance" is—

$$A + C$$

where—

A is the total of any amounts of activated allowance the company has, for any sites, for the accounting period (see section 356E(2)) or for reference periods within the accounting period (see section 356GB(1)), and

C is any amount carried forward to the period under section 356DA.

Carrying forward of activated allowance

356DA(1) This section applies where, in the case of a company and an accounting period—

(a) the cumulative total amount of activated allowance (see section 356D(2)), is greater than

(b) the adjusted ring fence profits.

(2) The difference is carried forward to the next accounting period.

Companies with both field allowances and onshore allowance

356DB(1) This section applies where a company's adjusted ring fence profits for an accounting period are reducible both—

(a) under section 333(1) (by the amount of the company's pool of field allowances for the period), and

(b) under section 356D(1) (by the cumulative total amount of activated allowance for the period).

(2) The company may choose the order in which the different allowances are to be used.

(3) If the company chooses to apply section 333(1) first, then—

(a) Chapter 7 and this Chapter are to be ignored in calculating the "adjusted ring fence profits" in accordance with section 356AA, and

(b) if section 356D(1) is also applied: this Chapter, but not Chapter 7, is to be ignored in calculating the adjusted ring fence profits in accordance with section 356JB.

(4) If the company chooses to apply section 356D(1) first, then—

(a) this Chapter and Chapter 7 are to be ignored in calculating the adjusted ring fence profits in accordance with section 356JB, and

(b) if section 333(1) is also applied: Chapter 7, but not this Chapter, is to be ignored in calculating the "adjusted ring fence profits" in accordance with section 356AA.

Activated and unactivated allowance: basic calculation rules

Activation of allowance: no change of equity share

356E(1) This section applies where—

(a) a company is a licensee in a licensed area for the whole or part ("the licensed part") of an accounting period,

(b) the company's share of the equity in the site is the same throughout the accounting period or, as the case requires, throughout the licensed part of the accounting period,

(c) the licensed area is or contains a site,

(d) the company holds, for the accounting period and the site, a closing balance of unactivated allowance (see section 356EA) that is greater than zero, and

(e) the company has relevant income from the site for the accounting period.

(2) The amount of activated allowance the company has for that accounting period and that site is the smaller of—

(a) the closing balance of unactivated allowance held for the accounting period and the site;

(b) the company's relevant income for that accounting period from that site.

(3) In this Chapter "relevant income", in relation to a site and an accounting period of a company, means production income of the company from any oil extraction activities carried on at the site that is taken into account in calculating the company's adjusted ring fence profits for the accounting period.

The closing balance of unactivated allowance for an accounting period

356EA The closing balance of unactivated allowance held by a company for an accounting period and a site is—

Carrying forward of unactivated allowance

356EB (1) This section applies where X is greater than Y in the case of an accounting period of a company and a site, where—

X is the closing balance of unactivated allowance for the accounting period and the site;

Y is the company's relevant income for the accounting period from that site.

(2) An amount equal to the difference between X and Y is treated as onshore allowance held by the company for that site for the next accounting period (and is treated as held with effect from the beginning of that period).

Transfer of allowances between sites

Transfer of allowances between sites

356F (1) This section applies if a company has, with respect to a site, an amount ("N") of onshore allowance available to carry forward to an accounting period—

(a) under section 356EB(2), or

(b) by virtue of section 356GC(3).

(2) The company may elect to transfer the whole or part of that amount to another site ("site B"), if the appropriate conditions are met.

(3) The appropriate conditions are that—

(a) every part of site B is, or is part of, an area in which the company is a licensee, and

(b) the election is made no earlier than the beginning of the third accounting period of the company after that in which the allowance was generated.

(4) For the purposes of subsection (3)(b), a company may regard an amount of onshore allowance held by it for a site as generated in a particular accounting period if the amount does not exceed—

$$A - T$$

where—

A is the amount of onshore allowance generated in that accounting period for that site;

T is the total amount of onshore allowance generated in that period for that site that has already been transferred under this section.

(5) An election must specify—

(a) the amount of onshore allowance to be transferred;

(b) the site at which it was generated;

(c) the site to which it is transferred;

(d) the accounting period in which it was generated.

(6) Where a company makes an election under subsection (2), then—

(a) if the company elects to transfer the whole of N, no amount is available to be carried forward under section 356EB(2) or (as the case may be) by virtue of section 356GC(3);

(b) if the company elects to transfer only part of N, the amount available to be carried forward as mentioned in subsection (1) is reduced by the amount transferred.

(7) Where an amount of onshore allowance is transferred to a site as a result of an election, this Chapter has effect as if the allowance is generated at that site at the beginning of the accounting period in which the election is made.

Changes in equity share: activation of allowance

Introduction to sections 356GA to 356GD

356GA (1) Sections 356GA to 356GD apply to a company in respect of an accounting period and a licensed area that is or contains a site, if the following conditions are met—

(a) the company is a licensee in the licensed area for the whole, or for part, of the accounting period;

(b) the company has different shares (greater than zero) of the equity in the licensed area at different times during the accounting period.

(2) In a case where a company has three or more different shares of the equity in a licensed area during a particular day, sections 356GA to 356GD (in particular, provisions relating to the beginning or end of a day) have effect subject to the necessary modifications.

Reference periods

356GA(1) For the purposes of sections 356GB to 356GD, the accounting period, or (if the company is not a licensee for the whole of the accounting period) the part or parts of the accounting period for which the company is a licensee, are to be divided into reference periods (each of which "belongs to" the site concerned).

(2) A reference period is a period of consecutive days that meets the following conditions—

(a) at the beginning of each day in the period, the company is a licensee in the licensed area;

(b) at the beginning of each day in the period, the company's share of the equity in the licensed area is the same;

(c) each day in the period falls within the accounting period.

Activation of allowance: reference periods

356GB(1) The amount (if any) of activated allowance that a company has with respect to a site for a reference period is the smaller of the following—

(a) the company's relevant income from the site in the reference period;

(b) the total amount of unactivated allowance that is attributable to the reference period and the site (see section 356GD).

(2) The company's relevant income from the site in the reference period is—

$$I \times \frac{R}{L}$$

where—

I is the company's relevant income from the site in the whole of the accounting period;

R is the number of days in the reference period;

L is the number of days in the accounting period for which the company is a licensee in the licensed area concerned.

Carry-forward of unactivated allowance from a reference period

356GC(1) If, in the case of a reference period ("RP1") of a company, the amount mentioned in subsection (1)(b) of section 356GB exceeds the amount mentioned in subsection (1)(a) of that section, an amount equal to the difference between those amounts is treated as onshore allowance held by the company for the site concerned for the next period.

(2) If RP1 is immediately followed by another reference period of the company (belonging to the same site), "the next period" means that reference period.

(3) If subsection (2) does not apply, "the next period" means the next accounting period of the company.

Unactivated amounts attributable to a reference period

356GD(1) For the purposes of section 356GB(1)(b), the total amount of unactivated allowance attributable to a reference period and a site is—

$$P + Q - R$$

where—

P is the amount of allowance generated by the company in the reference period at the site (including any amount treated under section 356F(7) or 356HB(1) as generated by the company in that accounting period at that site);

Q is the amount given by subsection (2) or (3);

R is any amount to be deducted under section 356HA(1) in respect of a disposal of the whole or part of the company's share of the equity in a licensed area that is or contains the site.

(2) Where the reference period is not immediately preceded by another reference period but is preceded by an accounting period of the company, Q is equal to the amount (if any) that is to be carried forward from that preceding accounting period under section 356EB(2).

(3) Where the reference period is immediately preceded by another reference period, Q is equal to the amount carried forward by virtue of section 356GC(2).

Transfers of allowance on disposal of equity share

Introduction to sections 356HA and 356HB

356H(1) Sections 356HA and 356HB apply where a company ("the transferor")—

(a) disposes of the whole or part of its share of the equity in a licensed area that is or contains a site;

(b) immediately before the disposal holds (unactivated) onshore allowance for the site concerned.

(2) Each company to which a share of the equity is disposed of is referred to in section 356HB as "a transferee".

Reduction of allowance if equity disposed of

356HA(1) The following amount is to be deducted, in accordance with section 356GD(1), in calculating the total amount of unactivated allowance attributable to a reference period and a site—

$$F \times \frac{E1 - E2}{E1}$$

where—

F is the pre-transfer total of unactivated allowance for the reference period that ends with the day on which the disposal is made;

E1 is the transferor's share of the equity in the licensed area immediately before the disposal;

E2 is the transferor's share of the equity in the licensed area immediately after the disposal.

(2) The "pre-transfer total of unactivated allowance" for a reference period is—

$$P + Q$$

where P and Q are the same as in section 356GD.

Acquisition of allowance if equity acquired

356HB(1) A transferee is treated as generating at the site concerned, at the beginning of the reference period or accounting period of the transferee that begins with, or because of, the disposal, onshore allowance of the amount given by subsection (2).

(2) The amount is—

$$R \times \frac{\text{E3}}{\text{E1} - \text{E2}}$$

where—

R is the amount determined for the purposes of the deduction under section 356HA(1);

E3 is the share of equity in the licensed area that the transferee has acquired from the transferor;

E1 and E2 are the same as in section 356HA.

Miscellaneous

Adjustments

356I(1) This section applies if there is any alteration in a company's adjusted ring fence profits for an accounting period after this Chapter has effect in relation to the profits.

(2) Any necessary adjustments to the operation of this Chapter (whether in relation to the profits or otherwise) are to be made (including any necessary adjustments to the effect of section 356D on the profits or to the calculation of the amount to be carried forward under section 356DA).

Orders

356IA(1) The Treasury may by order substitute a different percentage for the percentage that is at any time specified in section 356C(2) (calculation of allowance as a percentage of capital expenditure).

(2) The Treasury may by order amend the number that is at any time specified in section 356CA(1) or (2) (cap on production, or estimated production, at a site for the purposes of onshore allowance).

(3) An order under subsection (1) or (2) may include transitional provision.

Interpretation

"Authorisation of development": drilling and extraction sites

356J(1) References in this Chapter to authorisation of development of a site are to be interpreted as follows in relation to a drilling and extraction site that is situated in, or used in connection with, a licensed area.

(2) The references are to be read as references to a national authority—

(a) granting a licensee consent for development of the licensed area,

(b) serving on a licensee a programme of development for the licensed area, or

(c) approving a programme of development for the licensed area.

(3) References in subsection (2) to a "licensee" are to a licensee in the licensed area mentioned in subsection (1).

(4) In this section—

"consent for development", in relation to a licensed area, does not include consent which is limited to the purpose of testing the characteristics of an oil-bearing area;

"development", in relation to a licensed area, means winning oil from the licensed area otherwise than in the course of searching for oil or drilling wells;

"national authority" means—

(a) the Secretary of State, or

(b) a Northern Ireland Department.

When capital expenditure is incurred

356JA Section 5 of CAA 2001 (when capital expenditure is incurred) applies for the purposes of this Chapter as for the purposes of that Act.

Other definitions

356JB In this Chapter (except where otherwise specified)—

"adjusted ring fence profits", in relation to a company and an accounting period, means the adjusted ring fence profits that would (if this Chapter were ignored) be taken into account in calculating the

supplementary charge on the company under section 330(1) for the accounting period (but see also section 356DB);

"cumulative total amount of activated allowance" has the meaning given by section 356D(2);

"licence" has the same meaning as in Part 1 of OTA 1975 (see section 12(1) of that Act);

"licensed area" has the same meaning as in Part 1 of OTA 1975;

"licensee" has the same meaning as in Part 1 of OTA 1975;

"onshore allowance" has the meaning given by section 356C(5);

"relevant income", in relation to an onshore site and an accounting period, has the meaning given by section 356E(3);

"site" has the meaning given by section 356BC."

Restriction of field allowance to offshore fields

4 (1) Section 352 (meaning of "qualifying oil field") is amended as follows.

(2) Renumber section 352 as subsection (1) of section 352.

(3) In section 352(1) (as renumbered), after "an oil field" insert " , other than an onshore field, ".

(4) After subsection (1) insert—

"(2) An oil field is an "onshore field" for the purposes of subsection (1) if—

(a) the authorisation day is on or after 5 December 2013, and

(b) on the authorisation day every part of the oil field is, or is part of, an onshore licensed area;

but see the transitional provisions in paragraph 7 of Schedule 15 to FA 2014.

(3) A licensed area is an "onshore licensed area" if it falls within the definition of "landward area" in the regulations pursuant to which the application for the licence was made."

PART 2

MINOR AND CONSEQUENTIAL AMENDMENTS

5 (1) CTA 2010 is amended as follows.

(2) In section 270 (overview of Part)—

(a) after subsection (7) insert—

"(7A) Chapter 8 makes provision about the reduction of supplementary charge by an allowance for capital expenditure incurred for the purposes of onshore oil-related activities.";

(b) in subsection (8)(c), for "357" substitute " 356AA ".

(3) In section 333 (reduction of adjusted ring fence profits)—

(a) in subsection (1), after "reduced" insert " (but not below zero) ";

(b) omit subsection (2).

(4) In section 356AA (as renumbered by paragraph 2)(definitions for Chapter 7), in the definition of "adjusted ring fence profits", at the end insert " ; but see also section 356DB (companies with allowances under Chapter 8 as well as this Chapter) ".

(5) In Schedule 4 (index of defined expressions)—

(a) at the appropriate places insert—

"adjusted ring fence profits (in Chapter 8 of Part 8)	section 356JB";
"cumulative total amount of activated allowance (in Chapter 8 of Part 8)	section 356JB";
"onshore allowance (in Chapter 8 of Part 8)	section 356JB";
"onshore oil-related activities (in Chapter 8 of Part 8)	section 356BA";
"relevant income (in Chapter 8 of Part 8)	section 356E(3)";
"site (in Chapter 8 of Part 8)	section 356BC";

(b) in the entries for "adjusted ring fence profits", "authorisation day", "eligible oil field", "licensee" and "relevant income" (in each case, as those expressions are defined for Chapter 7 of Part 8 of CTA 2010), for "357" substitute " 356AA ".

PART 3

COMMENCEMENT AND TRANSITIONAL PROVISION

Commencement of onshore allowance

6 (1) The amendments made by paragraphs 3 and 5(1), (2)(a), (3) and (4) have effect in relation to capital expenditure incurred on or after 5 December 2013.

(2) The amendments made by paragraph 4 have effect in relation to any accounting period of a company in which a post-commencement authorisation day falls.

(3) In sub-paragraph (2) "post-commencement authorisation day" means an authorisation day (as defined for Chapter 7 of Part 8 of CTA 2010) that is 5 December 2013 or a later day.

(4) Section 5 of CAA 2001 (when capital expenditure is incurred) applies for the purposes of this paragraph as for the purposes of that Act.

Option to defer commencement

7 (1) This paragraph applies in relation to any oil field whose development (in whole or in part) is authorised for the first time on or after 5 December 2013 but before 1 January 2015.

(2) At any time before 1 January 2015, the companies that are licensees in the oil field may jointly elect that the law is to have effect in relation to each of those companies as if the date specified in—

(a) section 352(2)(a) of CTA 2010 (as inserted by paragraph 4(4) of this Schedule),

(b) section 356C(3) of CTA 2010 (as inserted by paragraph 3 of this Schedule), and

(c) paragraph 6(3),

were 1 January 2015.

(3) Expressions used in this paragraph and in Chapter 7 of Part 8 of CTA 2010 have the same meaning in this paragraph as in that Chapter.

Straddling accounting periods

8 (1) Paragraphs 9 and 10 apply where a company has an accounting period (the "straddling accounting period") that begins before and ends on or after commencement day.

(2) In paragraphs 9 and 10 "commencement day" means—

(a) 5 December 2013 (except where paragraph (b) applies);

(b) 1 January 2015, in relation to a company that makes an election under paragraph 7.

(3) Expressions used in paragraph 9 or 10 and in Chapter 8 of Part 8 of CTA 2010 (as inserted by paragraph 3) have the same meaning in the paragraph concerned as in that Chapter.

9 (1) The amount (if any) by which the company's adjusted ring fence profits for the straddling accounting period are reduced under section 356D of CTA 2010 (as inserted by paragraph 3) cannot exceed the appropriate proportion of those profits.

(2) Section 356DA of CTA 2010 (carrying forward of activated allowance) applies in relation to the company and the accounting period as if the reference in subsection (1)(b) of that section to the adjusted ring fence profits were to the appropriate proportion of those profits.

(3) The "appropriate proportion" of the company's adjusted ring fence profits for the straddling accounting period is—

$$\frac{D}{Y} \times N$$

where—

D is the number of days in the straddling accounting period that fall on or after commencement day;

Y is the number of days in the straddling accounting period;

N is the amount of the company's adjusted ring fence profits for the accounting period.

(4) If the basis of apportionment in sub-paragraph (3) would work unjustly or unreasonably in the company's case, the company may elect for its adjusted ring fence profits to be apportioned on another basis that is just and reasonable and specified in the election.

10 (1) For the purpose of determining the amount of activated allowance the company has with respect to any site—

(a) for the straddling accounting period (see section 356E of CTA 2010, as inserted by paragraph 3), or

(b) for a reference period that is part of the straddling accounting period (see section 356GB of CTA 2010, as so inserted),

the company's relevant income from the site in the straddling accounting period is taken to be the appropriate proportion of the actual amount of that relevant income.

(2) Accordingly, in relation to the company, the straddling accounting period and the site in question, section 356EB of CTA 2010 (carrying forward of unactivated allowance) has effect as if Y in subsection (1) of that section were defined as the appropriate proportion of the company's relevant income for the straddling accounting period from that site.

(3) The "appropriate proportion" of the company's relevant income from a site in the straddling accounting period is—

$$\frac{D}{Y} \times I$$

D is the number of days in the straddling accounting period that fall on or after commencement day;

Y is the number of days in the straddling accounting period;

I is the amount of the company's relevant income from the site in the straddling accounting period.

(4) If the basis of apportionment in sub-paragraph (3) would work unjustly or unreasonably in the company's case, the company may elect for its adjusted ring fence profits to be apportioned on another basis that is just and reasonable and specified in the election.

SCHEDULE 16

Section 73

OIL CONTRACTORS: RING-FENCE TRADE ETC

CTA 2010

1 CTA 2010 is amended as follows.

2 In section 1 (overview of Act), in subsection (3), after paragraph (a) insert—

"(aa) oil contractor activities (see Part 8ZA),

(ab) profits arising from the exploitation of patents etc (see Part 8A),".

3 In Chapter 4 of Part 8 (oil activities: calculation of profits), after section 285 insert—

"Hire of relevant assets

285A Restriction on hire etc of relevant assets to be brought into account

(1) This section applies if—

(a) oil contractor activities are, or are to be, carried out, and

(b) a company that carries on a ring fence trade makes, or is to make, one or more payments under a lease of a relevant asset, or part of a relevant asset, which is, or is to be, provided, operated or used in the relevant offshore service in question.

(2) The total amount that may be brought into account in respect of the payments for the purposes of calculating the company's ring fence profits in an accounting period is limited to the hire cap.

(3) The "hire cap" is an amount equal to the relevant percentage of TC for the accounting period, subject to subsection (4).

(4) If payments in relation to which subsection (2) or section 356N(2) (restriction on hire for oil contractors under Part 8ZA) applies are also made, or to be made, by one or more other companies in respect of the relevant asset or part, the "hire cap" is to be such proportion of the amount mentioned in subsection (3) as is just and reasonable, having regard (in particular) to the amounts of the payments made, or to be made, by each company.

(5) The "relevant percentage" and TC are to be determined in accordance with section 356N(5) to (16).

(6) To the extent that, by virtue of this section, payments within subsection (1)(b) cannot be brought into account for the purposes of calculating the company's ring fence profits in an accounting period, the payments may be—

(a) allowed as a deduction from the company's total profits for the accounting period, or

(b) treated as a surrenderable amount of the company for the accounting period for the purposes of Part 5 (group relief) (see section 99(7)) as if they were a trading loss,

but this is subject to subsection (7).

(7) No deduction may be made by virtue of subsection (6) from total profits so far as they are ring fence profits or contractor's ring fence profits.

(8) If the company or an associated person enters into arrangements the main purpose or one of the main purposes of which is to secure that subsection (2) does not apply in relation to one or more payments to any extent, that subsection applies in relation to the payments to the extent that it would not otherwise do so.

(9) In subsection (8) "arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).

(10) In this section—

"associated person" has the meaning given by section 356LB;

"contractor's ring fence profits" has the meaning given by section 356LD;

"oil contractor activities" and "relevant offshore service" have the meaning given by section 356L;

"relevant asset" has the meaning given by section 356LA;

"lease" has the meaning given by section 868."

4 After Part 8 (oil activities) insert—

"**PART 8ZA**

OIL CONTRACTORS

CHAPTER 1

INTRODUCTION

Overview of Part

356KA(1) This Part is about the corporation tax treatment of oil contractor activities.

(2) Chapter 2 contains basic definitions used in this Part.

(3) Chapter 3 treats oil contractor activities as a separate trade.

(4) Chapter 4 makes provision about the calculation of profits from oil contractor activities.

(5) For the meaning of oil contractor activities, see section 356L.

CHAPTER 2

BASIC DEFINITIONS

"Oil contractor activities" etc

356L(1) The definitions in this section have effect for the purposes of this Part.

(2) "Oil contractor activities" means activities carried on by a company ("the contractor"), which are not oil-related activities (within the meaning of section 274), but are—

(a) exploration or exploitation activities in, or in connection with, which the contractor provides, operates or uses a relevant asset (see section 356LA) in a relevant offshore service, or

(b) otherwise carried on in, or in connection with, the provision by the contractor of a relevant offshore service.

(3) The contractor provides a "relevant offshore service" if the contractor provides, operates or uses a relevant asset in, or in connection with, the

carrying on of exploration or exploitation activities in a relevant offshore area by the contractor or any other associated person.

(4) "Exploration or exploitation activities" means activities carried on in connection with the exploration or exploitation of the seabed and subsoil and their natural resources.

(5) "Relevant offshore area" means—

(a) the territorial sea of the United Kingdom;

(b) the areas designated by Order in Council under section 1(7) of the Continental Shelf Act 1964.

"Relevant asset"

356LA(1) In this Part "relevant asset" means an asset within subsection (2) in respect of which conditions A and B are met.

(2) An asset is within this subsection if it is a structure that—

(a) can be moved from place to place (whether or not under its own power) without major dismantling or modification, and

(b) can be used to—

(i) drill for the purposes of searching for, or extracting, oil, or

(ii) provide accommodation for individuals who work on or from another structure used in a relevant offshore area for, or in connection with, exploration or exploitation activities ("offshore workers").

(3) But an asset is not within subsection (2)(b)(ii) if it is reasonable to suppose that its use to provide accommodation for offshore workers is unlikely to be more than incidental to another use, or other uses, to which the asset is likely to be put.

(4) In subsection (2)—

"oil" means any substance capable of being won under the authority of a licence granted under Part 1 of the Petroleum Act 1998 or the Petroleum (Production) Act (Northern Ireland) 1964;

"structure" includes a ship or other vessel.

(5) Condition A is that the asset, or any part of the asset, is leased (whether by the contractor or not) from an associated person other than the contractor.

(6) Condition B is that the asset is of the requisite value.

(7) The asset is of the "requisite value" if its market value is £2,000,000 or more.

(8) The Treasury may by regulations modify the meaning of "requisite value".

(9) Regulations under subsection (8) may—

(a) amend this section,

(b) make different provision for different cases or different purposes, and

(c) make incidental, consequential, supplementary or transitional provision or savings.

"Associated person"

356LB (1) For the purposes of this Part each of the following is an "associated person"—

(a) the contractor,

(b) any person who is, or has been, connected with the contractor,

(c) any person who has acted, acts or is to act, together with the contractor to provide a service, and

(d) any person who is connected with a person falling within paragraph (b) or (c).

(2) A person does not act together with the contractor to provide a service by reason only of leasing an asset, to any person, which is provided, operated or used in the service.

"Lease"

356LC In this Part "lease" has the meaning given by section 868 and "leased" and "leasing" are to be construed accordingly.

"Contractor's ring fence profits"

356LD In this Part the "contractor's ring fence profits", in relation to an accounting period, means the contractor's income arising from oil contractor activities for that period.

CHAPTER 3

DEEMED SEPARATE TRADE

Oil contractor activities treated as separate trade

356M If the contractor carries on oil contractor activities as part of a trade, those activities are treated for the purposes of the charge to corporation tax on income as a separate trade, distinct from all other activities carried on by the contractor as part of the trade.

CHAPTER 4

CALCULATION OF PROFITS

Hire of relevant assets

Restriction on hire etc of relevant assets to be brought into account

356N (1) This section applies if the contractor makes, or is to make, one or more payments under a lease of—

(a) a relevant asset, or

(b) part of a relevant asset.

(2) The total amount that may be brought into account in respect of the payments for the purposes of calculating the contractor's ring fence profits in an accounting period is limited to the hire cap.

(3) The "hire cap" is an amount equal to the relevant percentage of TC for the accounting period, subject to subsection (4).

(4) If payments in relation to which subsection (2) or section 285A(2) (restriction on hire for company carrying on a ring fence trade under Part 8) applies are also made, or to be made, by one or more other companies in respect of the relevant asset or part, the "hire cap" is to be such proportion of the amount mentioned in subsection (3) as is just and reasonable, having regard (in particular) to the amounts of the payments made, or to be made, by the contractor and each other company.

(5) Subject to subsection (7), the "relevant percentage" is—

$$\frac{\text{UROS}}{\text{TU}} \times 7.5\%$$

where—

UROS is the number of days in the accounting period that the relevant asset is provided, operated or used in a relevant offshore service, and

TU is the number of days in the accounting period that the relevant asset is provided, operated or used (whether or not in a relevant offshore service).

(6) Accordingly, the relevant percentage is zero if the relevant asset is not provided, operated or used in the accounting period.

(7) If the accounting period is less than 12 months, the relevant percentage is to be proportionally reduced.

(8) TC is—

$$\text{OC} + \text{CE}$$

(9) Unless subsection (11) applies, OC is the sum of—

(a) any consideration given for the acquisition of the relevant asset or part when it was first acquired by an associated person, and

(b) any expenses incurred by an associated person in connection with that acquisition (other than the costs of financing the acquisition).

This is subject to subsections (12) and (13).

(10) Subsection (11) applies if the relevant asset or part—

(a) is leased by an associated person from a person who is not an associated person, and

(b) has never been owned by an associated person.

(11) OC is the sum of—

(a) the consideration that it is reasonable to suppose would have been given for the acquisition of the relevant asset or part, if it had been acquired by an associated person by way of a bargain at arm's length at the time it was first leased as mentioned in subsection (10)(a), and

(b) the expenses (other than the costs of financing the acquisition) that it is reasonable to suppose would have been incurred by an associated person in connection with such an acquisition.

This is subject to subsections (12) and (13).

(12) If the relevant asset or part was first acquired by an associated person, or (as the case may be) first leased as mentioned in subsection (10)(a), before the beginning of the accounting period, OC does not include any part of the consideration mentioned in subsection (9)(a) or (as the case may be) (11)(a) that it is reasonable to attribute to anything that no longer forms part of the relevant asset or part at the beginning of the accounting period.

(13) If the relevant asset or part was first acquired by an associated person, or (as the case may be) first leased as mentioned in subsection (10)(a), in the accounting period, OC for the accounting period is—

$$\mathrm{OC} \times \frac{D - \mathrm{DBA}}{D}$$

where—

D is the total number of days in the accounting period,

DBA is the number of days in the accounting period before the day on which the relevant asset or part was first acquired or first leased, and

OC is the amount given by subsection (9) or (as the case may be) (11).

(14) CE is capital expenditure on the relevant asset or part (other than capital expenditure in respect of its acquisition or the acquisition of a lease of it) incurred by an associated person—

(a) after it was first acquired by an associated person or (as the case may be) was first leased as mentioned in subsection (10)(a), and

(b) before the end of the accounting period.

This is subject to subsections (15) and (16).

(15) CE does not include any capital expenditure mentioned in subsection (14) that is—

(a) incurred before the beginning of the accounting period, and

(b) not reflected in the state or nature of the relevant asset or part at the beginning of the accounting period.

(16) If any capital expenditure mentioned in subsection (14) is incurred on a day in the accounting period, the amount of CE for the accounting period in respect of that capital expenditure is—

$$\text{CEA} \times \frac{D - \text{DBI}}{D}$$

where—

D is the total number of days in the accounting period,

DBI is the number of days in the accounting period before the day on which that capital expenditure is incurred, and

CEA is the amount of that capital expenditure.

Restriction on hire: further provision

356NA(1) The Treasury may by regulations modify the "relevant percentage" for the purposes of section 356N or 285A.

(2) Regulations under subsection (1) may—

(a) amend section 356N or section 285A,

(b) make different provision for different cases or different purposes, and

(c) make incidental, consequential, supplementary or transitional provision or savings.

(3) To the extent that, by virtue of section 356N, payments within subsection (1) of that section cannot be brought into account for the purposes of calculating the contractor's ring fence profits in an accounting period, the payments may be—

(a) allowed as a deduction from the contractor's total profits for the accounting period, or

(b) treated as a surrenderable amount of the contractor for the accounting period for the purposes of Part 5 (group relief) (see section 99(7)) as if they were a trading loss,

subject to subsection (4).

(4) No deduction may be made by virtue of subsection (3) from total profits so far as they are contractor's ring fence profits or ring fence profits for the purposes of Part 8.

(5) If an associated person enters into arrangements the main purpose or one of the main purposes of which is to secure that section 356N(2) does not apply in relation to one or more payments to any extent, that provision applies in relation to the payments to the extent it would not otherwise do so.

(6) In subsection (5) "arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).

Loan relationships

Restriction on debits to be brought into account

356NB(1) Debits may not be brought into account for the purposes of Part 5 of CTA 2009 (loan relationships) in respect of the contractor's loan relationships in any way that results in a reduction of what would otherwise be the contractor's ring fence profits, but this is subject to subsections (2) to (4).

(2) Subsection (1) does not apply so far as a loan relationship is in respect of money borrowed by the contractor which has been—

(a) used to meet expenditure incurred by the contractor in carrying on oil contractor activities, or

(b) appropriated to meeting expenditure to be so incurred by the contractor.

(3) Subsection (1) does not apply, in the case of debits falling to be brought into account as a result of section 329 of CTA 2009 (pre-loan relationship and abortive expenses) in respect of a loan relationship that has not been entered into, so far as the relationship would have been one entered into for the purpose of borrowing money to be used or appropriated as mentioned in subsection (2).

(4) Subsection (1) does not apply, in the case of debits in respect of a loan relationship to which Chapter 2 of Part 6 of CTA 2009 (relevant non-lending relationships) applies, so far as—

(a) the payment of interest under the relationship is expenditure incurred as mentioned in subsection (2)(a), or

(b) the exchange loss arising from the relationship is in respect of a money debt on which the interest payable (if any) is, or would be, such expenditure.

(5) If a debit—

(a) falls to be brought into account for the purposes of Part 5 of CTA 2009 in respect of a loan relationship of the contractor, but

(b) as a result of this section cannot be brought into account in a way that results in any reduction of what would otherwise be the contractor's ring fence profits,

the debit is to be brought into account for those purposes as a non-trading debit despite anything in section 297 of that Act.

(6) References in this section to a loan relationship, in relation to the borrowing of money, do not include a relationship to which Chapter 2 of Part 6 of CTA 2009 (relevant non-lending relationships) applies.

Restriction on credits to be brought into account

356NC(1) Credits in respect of exchange gains from the contractor's loan relationships may not be brought into account for the purposes of Part 5 of CTA 2009 (loan relationships) in any way that results in an increase of what would otherwise be the contractor's ring fence profits, but this is subject to subsections (2) to (4).

(2) Subsection (1) does not apply so far as a loan relationship is in respect of money borrowed by the contractor which has been—

(a) used to meet expenditure incurred by the contractor in carrying on oil contractor activities, or

(b) appropriated to meeting expenditure to be so incurred by the contractor.

(3) Subsection (1) does not apply, in the case of credits falling to be brought into account as a result of section 329 of CTA 2009 (pre-loan relationship and abortive expenses) in respect of a loan relationship that has not been entered into, so far as the relationship would have been one entered into for the purpose of borrowing money to be used or appropriated as mentioned in subsection (2).

(4) Subsection (1) does not apply, in the case of credits in respect of a loan relationship to which Chapter 2 of Part 6 of CTA 2009 (relevant non-lending relationships) applies, so far as—

(a) the payment of interest under the relationship is expenditure incurred as mentioned in subsection (2)(a), or

(b) the exchange gain arising from the relationship is in respect of a money debt on which the interest payable (if any) is, or would be, such expenditure.

(5) If a credit—

(a) falls to be brought into account for the purposes of Part 5 of CTA 2009 in respect of a loan relationship of the contractor, but

(b) as a result of this section cannot be brought into account in a way that results in any increase of what would otherwise be the contractor's ring fence profits,

the credit is to be brought into account for those purposes as a non-trading credit despite anything in section 297 of that Act.

(6) Section 356NB(6) applies for the purposes of this section.

Relief

Management expenses

356ND No deduction under section 1219 of CTA 2009 (expenses of management of a company's investment business) is to be allowed from the contractor's ring fence profits.

Losses

356NE Relief in respect of a loss incurred by the contractor may not be given under section 37 (relief for trade losses against total profits) against the contractor's ring fence profits except so far as the loss arises from oil contractor activities.

Group relief

356NF (1) On a claim for group relief made by a claimant company in relation to a surrendering company, group relief may not be allowed against the claimant

company's contractor's ring fence profits except so far as the claim relates to losses incurred by the surrendering company that arose from oil contractor activities.

(2) In section 105 (restriction on surrender of losses etc within section 99(1)(d) to (g)) the references to the surrendering company's gross profits of the surrender period do not include the company's relevant contractor's ring fence profits for that period.

(3) The company's "relevant contractor's ring fence profits" for that period are—

(a) if for that period there are no qualifying charitable donations made by the company that are allowable under Part 6 (charitable donations relief), the company's contractor's ring fence profits for that period, or

(b) otherwise, so much of the contractor's ring fence profits of the company for that period as exceeds the amount of the qualifying charitable donations made by the company that are allowable under section 189 for that period.

(4) In this section "claimant company" and "surrendering company" are to be read in accordance with Part 5 (group relief) (see section 188).

Capital allowances

356NG A capital allowance may not to any extent be given effect under section 259 or 260 of CAA 2001 (special leasing) by deduction from the contractor's ring fence profits."

5 In Schedule 4 (index of defined expressions), insert the following entries at the appropriate places—

"associated person (in Part 8ZA)	section 356LB"
"contractor (in Part 8ZA)	section 356L(2)"
"contractor's ring fence profits (in Part 8ZA)	section 356LD"
"exploration or exploitation activities (in Part 8ZA)	section 356L(4)"
"lease (in Part 8ZA)	section 356LC"
"oil contractor activities (in Part 8ZA)	section 356L(2)"
"relevant asset (in Part 8ZA)	section 356LA"
"relevant offshore area (in Part 8ZA)	section 356L(5)"

"relevant offshore service (in Part 8ZA) section 356L(3)"

Commencement etc

6 This Schedule is to be treated as having come into force on 1 April 2014 ("the commencement date").

7 Section 356L of CTA 2010 has effect in relation to activities carried out on or after the commencement date.

8 (1) If, on the commencement date, a company was carrying on a trade that consisted of, or included, carrying out oil contractor activities, an accounting period ends (if it would not otherwise do so) with 31 March 2014.

(2) Sub-paragraph (3) applies if—

(a) but for sub-paragraph (1), a company would have had an accounting period that began before the commencement date and ended on or after that date ("the split accounting period"), and

(b) the company's accounting period beginning with 1 April 2014 ends when the split accounting period would have ended but for that sub-paragraph.

(3) For the purposes of Chapter 4 of Part 22 of CTA 2010 (surrender of tax refund within group)—

(a) the company is to be treated as having the split accounting period,

(b) any tax refund due to the company for—

(i) the accounting period ending with 31 March 2014, or

(ii) the accounting period beginning with 1 April 2014,

is to be treated as if it were a tax refund due to the company for the split accounting period, and

(c) if the company surrenders a tax refund that is so treated (or part of such a refund), the references in section 964(6) of CTA 2010 to the date on which corporation tax became due and payable are to be treated as references to the date on which corporation tax would have become due and payable had the company had the split accounting period.

9 (1) A company may be given relief under section 45 of CTA 2010 (carry forward of trade loss against subsequent trade profits) for a loss made in an accounting period ending before the commencement date against profits of a ring fence trade so far as (and only so far as) the loss would have been a loss of the ring fence trade had section 356L of that Act had effect in relation to activities carried out before the commencement date and Part 8ZA therefore applied.

(2) In sub-paragraph (1) "ring fence trade" means oil contractor activities that constitute a separate trade (whether by virtue of section 356M of that Act or otherwise).

SCHEDULE 17

Section 74

PARTNERSHIPS

PART 1

LIMITED LIABILITY PARTNERSHIPS: TREATMENT OF SALARIED MEMBERS

Main provision

1 In Part 9 of ITTOIA 2005 (partnerships) after section 863 (limited liability partnerships) insert—

"**863A Limited liability partnerships: salaried members**

(1) Subsection (2) applies at any time when conditions A to C in sections 863B to 863D are met in the case of an individual ("M") who is a member of a limited liability partnership in relation to which section 863(1) applies.

(2) For the purposes of the Income Tax Acts—

(a) M is to be treated as being employed by the limited liability partnership under a contract of service instead of being a member of the partnership, and

(b) accordingly, M's rights and duties as a member of the limited liability partnership are to be treated as rights and duties under that contract of service.

(3) This section needs to be read with section 863G (anti-avoidance).

863B Condition A

(1) The question of whether condition A is met is to be determined at the following times—

(a) if relevant arrangements are in place—

(i) at the beginning of the tax year 2014-15, or

(ii) if later, when M becomes a member of the limited liability partnership,

at the time mentioned in sub-paragraph (i) or (ii) (as the case may be);

(b) at any subsequent time when relevant arrangements are put in place or modified;

(c) where—

(i) the question has previously been determined, and

(ii) the relevant arrangements which were in place at the time of the previous determination do not end, and are not modified, by the end of the period which was the relevant period for the purposes of the previous determination (see step 1 in subsection (3)),

immediately after the end of that period.

(2) "Relevant arrangements" means arrangements under which amounts are to be, or may be, payable by the limited liability partnership in respect of M's performance of services for the partnership in M's capacity as a member of the partnership.

(3) Take the following steps to determine whether condition A is met at a time ("the relevant time").

Step 1 Identify the relevant period by reference to the relevant arrangements which are in place at the relevant time."The relevant period" means the period—

(a) beginning with the relevant time, and

(b) ending at the time when, as at the relevant time, it is reasonable to expect that the relevant arrangements will end or be modified.

Step 2 Condition A is met if, at the relevant time, it is reasonable to expect that at least 80% of the total amount payable by the limited liability partnership in respect of M's performance during the relevant period of services for the partnership in M's capacity as a member of the partnership will be disguised salary. An amount within the total amount is "disguised salary" if it—

(a) is fixed,

(b) is variable, but is varied without reference to the overall amount of the profits or losses of the limited liability partnership, or

(c) is not, in practice, affected by the overall amount of those profits or losses.

(4) If condition A is determined to be met, or not to be met, at a time, the condition is to be treated as met, or as not met, at all subsequent times until the question is required to be re-determined under subsection (1)(b) or (c).

(5) In this section "arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).

863C Condition B

Condition B is that the mutual rights and duties of the members of the limited liability partnership, and of the partnership and its members, do not give M significant influence over the affairs of the partnership.

863D Condition C

(1) Condition C is that, at the time at which it is being determined whether the condition is met ("the relevant time"), M's contribution to the limited liability partnership (see sections 863E and 863F) is less than 25% of the amount given by subsection (2) (subject to subsection (7)).

(2) That amount is the total amount of the disguised salary which, at the relevant time, it is reasonable to expect will be payable by the limited liability partnership in respect of M's performance during the relevant tax year of services for the partnership in M's capacity as a member of the partnership.

In this section "the relevant tax year" means the tax year in which the relevant time falls and an amount is "disguised salary" if it falls within any of paragraphs (a) to (c) at step 2 in section 863B(3).

(3) The question of whether condition C is met is to be determined—

(a) at the beginning of the tax year 2014-15 or, if later, the time at which M becomes a member of the limited liability partnership;

(b) after that, at the beginning of each tax year.

(4) If in a tax year—

(a) there is a change in M's contribution to the limited liability partnership, or

(b) there is otherwise a change of circumstances which might affect the question of whether condition C is met,

the question of whether the condition is met is to be re-determined at the time of the change.

This subsection is subject to section 863F(3).

(5) If condition C is determined to be met (including by virtue of subsection (7)), or not to be met, at the relevant time, the condition is to be treated as met, or as not met, at all subsequent times until the question is required to be re-determined under subsection (3)(b) or (4).

(6) Subsection (7) applies if—

(a) the relevant time coincides with an increase in M's contribution to the limited liability partnership, and

(b) apart from subsection (7), that increase would cause condition C not to be met at the relevant time.

(7) Condition C is to be treated as met at the relevant time unless, at that time, it is reasonable to expect that condition C will not be met for the remainder of the relevant tax year (ignoring this subsection).

(8) If there are any excluded days in the relevant tax year (see subsections (9) to (11)), in subsection (1) the reference to M's contribution to the limited liability partnership is to be read as a reference to that contribution multiplied by the following fraction—

$$\frac{D - E}{D}$$

where—

D is the number of days in the relevant tax year, and

E is the number of excluded days in the relevant tax year.

(9) Any day in the relevant tax year—

(a) which is before the day on which the relevant time falls, and

(b) on which M is not a member of the limited liability partnership,

is an "excluded" day for the purposes of subsection (8).

(10) If, at the relevant time, it is reasonable to expect that M will not be a member of the limited liability partnership for the remainder of the relevant tax year, any day in the relevant tax year—

(a) which is after the day on which the relevant time falls, and

(b) on which it is reasonable to expect that M will not be a member of the limited liability partnership,

is an "excluded" day for the purposes of subsection (8).

(11) If the relevant time coincides with an increase in M's contribution to the limited liability partnership, any day in the relevant tax year—

(a) which is before the day on which the relevant time falls, and

(b) on which condition C is met,

is an "excluded" day for the purposes of subsection (8).

(12) In subsections (6) and (11) references to an increase in M's contribution to the limited liability partnership include (in particular)—

(a) the making of M's first contribution to the capital of the limited liability partnership, and

(b) M being treated as having made a contribution by section 863F(2).

863E M's contribution to the limited liability partnership: the basic calculation

(1) For the purposes of condition C in section 863D M's contribution to the limited liability partnership at a time is amount A.

(2) Amount A is the total amount which M has contributed to the limited liability partnership as capital less so much of that amount (if any) as is within subsection (6).

(3) In particular, M's share of any profits of the limited liability partnership is to be included in the amount which M has contributed to the partnership as capital so far as that share has been added to the partnership's capital.

(4) In subsection (3) the reference to profits is to profits calculated in accordance with generally accepted accounting practice (before any adjustment required or authorised by law in calculating profits for income tax purposes).

(5) Subsection (3) applies as well for the purpose of construing references to contributions to the capital of the limited liability partnership in sections 863D(12)(a) and 863F.

(6) An amount of capital is within this subsection if it is an amount which—

(a) M has previously drawn out or received back,

(b) M is or may be entitled to draw out or receive back at any time when M is a member of the limited liability partnership, or

(c) M is or may be entitled to require another person to reimburse to M.

(7) In subsection (6) any reference to drawing out or receiving back an amount is to doing so directly or indirectly.

863F M's contribution to the limited liability partnership: deemed contributions

(1) This section applies if—

(a) by the time mentioned in section 863D(3)(a), M has given an undertaking (whether or not legally enforceable) to make a contribution to the capital of the limited liability partnership but has not made the contribution,

(b) the undertaking requires M to make the contribution by the end of—

(i) the period of 3 months ending with 5 July 2014, or

(ii) if it ends after that date, the period of 2 months beginning with the date on which M becomes a member of the limited liability partnership, and

(c) when it is made, the contribution will be included in amount A under section 863E.

In the following subsections "the relevant period" means the period mentioned in paragraph (b)(i) or (ii) (as the case may be).

(2) For the purpose of determining whether condition C in section 863D is met—

(a) at the time mentioned in section 863D(3)(a), or

(b) at any subsequent time during the relevant period,

M is to be treated as having made the contribution at the time mentioned in section 863D(3)(a) (so far as M has not (actually) made the contribution at the time at which it is being determined whether condition C is met).

(3) If M (actually) makes the contribution (in whole or in part) during the relevant period, the question of whether condition C is met is not to be re-determined under section 863D(4) just because of the making of the contribution (in whole or in part).

(4) If M does not (actually) make the contribution (in whole or in part) by the end of the relevant period, any determination in relation to which subsection (2) applied is to be made again (as at the time at which it was originally made).

(5) In making a determination again—

(a) if it is the whole of the contribution which M does not make by the end of the relevant period, subsection (2) is to be ignored;

(b) if M makes part of the contribution by the end of the relevant period, in subsection (2) references to the contribution are to be read as references to that part of it.

863G Anti-avoidance

(1) In determining whether section 863A(2) applies in the case of an individual who is a member of a limited liability partnership, no regard is to be had to any arrangements the main purpose, or one of the main purposes, of which is to secure that section 863A(2) does not apply in the case of—

(a) the individual, or

(b) the individual and one or more other individuals.

(2) Subsection (4) applies if—

(a) an individual ("X") personally performs services for a limited liability partnership at a time when X is not a member of the partnership,

(b) X performs the services under arrangements involving a member of the limited liability partnership ("Y") who is not an individual,

(c) the main purpose, or one of the main purposes, of those arrangements is to secure that section 863A(2) does not apply in the case of X or in the case of X and one or more other individuals, and

(d) in relation to X's performance of the services, an amount falling within subsection (3) arises to Y in respect of Y's membership of the limited liability partnership.

(3) An amount falls within this subsection if—

(a) were X performing the services under a contract of service by which X were employed by the limited liability partnership, and

(b) were the amount to arise to X directly from the limited liability partnership,

the amount would be employment income of X in respect of the employment.

(4) If this subsection applies, in relation to X's performance of the services, X is to be treated on the following basis—

(a) X is a member of the limited liability partnership in whose case section 863A(2) applies,

(b) the amount arising to Y arises instead to X directly from the limited liability partnership,

(c) that amount is employment income of X in respect of the employment under section 863A(2) accordingly, and

(d) neither that amount, nor any amount representing that amount, is to be income of X for income tax purposes on any other basis.

(4A) Section 863A(2) does not apply in the case of a member of a limited liability partnership if, apart from this subsection, it would apply in consequence of arrangements the main purpose, or one of the main purposes, of which is to secure that section 850C does not apply for one or more periods of account in relation to—

(a) the member, or

(b) the member and one or more other members of the limited liability partnership.

(5) In this section "arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable)."

2 In Part 17 of CTA 2009 (partnerships) after section 1273 (limited liability partnerships) insert—

"**1273A Limited liability partnerships: salaried members**

(1) Subsection (2) applies at any time when section 863A(2) of ITTOIA 2005 (limited liability partnerships: salaried members) applies in the case of an individual ("M") who is a member of a limited liability partnership in relation to which section 1273(1) applies.

(2) In relation to the charge to corporation tax on income, for the purposes of the Corporation Tax Acts—

(a) M is to be treated as being employed by the limited liability partnership under a contract of service instead of being a member of the partnership, and

(b) accordingly, M's rights and duties as a member of the limited liability partnership are to be treated as rights and duties under that contract of service."

Supplementary provision: deductions

3 (1) ITTOIA 2005 is amended as follows.

(2) At the end of Chapter 5 of Part 2 (trade profits: rules allowing deductions) insert—

"Limited liability partnerships: salaried members

Deductions in relation to salaried members

94AA(1) This section applies in relation to a limited liability partnership if section 863A(2) (limited liability partnerships: salaried members) applies in the case of a member of the partnership ("M").

(2) In calculating for a period of account under section 849 (calculation of firm's profits and losses) the profits of a trade carried on by the limited liability partnership, a deduction is allowed for expenses paid by the partnership in respect of M's employment under section 863A(2) if no deduction would otherwise be allowed for the payment.

(3) This section is subject to section 33 (capital expenditure), section 34 (expenses not wholly and exclusively for trade etc), section 45 (business entertainment and gifts) and section 53 (social security contributions)."

(3) In Chapter 3 of Part 3 (profits of property businesses: basic rules), in the table in section 272(2) (application of trading income rules), after the entry for section 94A insert—

"section 94AA	deductions in relation to salaried members of limited liability partnerships".

4 (1) CTA 2009 is amended as follows.

(2) At the end of Chapter 5 of Part 3 (trade profits: rules allowing deductions) insert—

"Limited liability partnerships: salaried members

Deductions in relation to salaried members

92A(1) This section applies in relation to a limited liability partnership if section 1273A(2) (limited liability partnerships: salaried members) applies in the case of a member of the partnership ("M").

(2) In calculating for an accounting period under section 1259 (calculation of firm's profits and losses) the profits of a trade carried on by the limited liability partnership, a deduction is allowed for expenses paid by the partnership in respect of M's employment under section 1273A(2) if no deduction would otherwise be allowed for the payment.

(3) This section is subject to—

(a) section 53 (capital expenditure),

(b) section 54 (expenses not wholly and exclusively for trade etc),

(c) section 1298 (business entertainment and gifts), and

(d) section 1302 (social security contributions).”

(3) In Chapter 3 of Part 4 (profits of property businesses: basic rules), in the table in section 210(2) (application of trading income rules), after the entry for section 92 insert—

“section 92A	deductions in relation to salaried members of limited liability partnerships”.

(4) In Chapter 2 of Part 16 (companies with investment business: management expenses)—

(a) in section 1224(1) (accounting period to which expenses are referable) for “1227” substitute “ 1227A ”, and

(b) after section 1227 insert—

“**1227A Management expenses in relation to salaried members of limited liability partnerships**

(1) This section applies in relation to a company if—

(a) as a member of a limited liability partnership, the company is a company with investment business,

(b) section 1273A(2) (limited liability partnerships: salaried members) applies in the case of a member of the partnership (“M”), and

(c) expenses of management of the company's investment business are paid in respect of M's employment under section 1273A(2) but are not referable to any accounting period under sections 1225 to 1227.

(2) The expenses are to be treated as referable to the accounting period in which they are paid.”

Supplementary provision: arrangements made by intermediaries

5 In Chapter 8 of Part 2 of ITEPA 2003 (application of provisions to workers under arrangements made by intermediaries) in section 54 (deemed employment payment) after subsection (1) insert—

“(1A) For the purposes of step 1 of subsection (1), any payment or benefit which is employment income of the worker by virtue of section 863G(4) of ITTOIA 2005 (salaried members of limited liability partnerships: anti-avoidance) is to be ignored.”

Commencement

6 (1) Subject to what follows, the amendments made by this Part are treated as having come into force on 6 April 2014.

(2) Section 863G(4A) of ITTOIA 2005 (as inserted by paragraph 1) comes into force on the day after the day on which this Act is passed.

PART 2

PARTNERSHIPS WITH MIXED MEMBERSHIP

Main provision

7 (1) Part 9 of ITTOIA 2005 (partnerships) is amended as follows.

(2) In section 850 (allocation of firm's profits and losses between partners) in subsection (1) for "and 850B" substitute " to 850D ".

(3) After section 850B insert—

"**850C Excess profit allocation to non-individual partners**

(1) Subsections (4) and (5) apply if—

(a) for a period of account ("the relevant period of account")—

(i) the calculation under section 849 in relation to an individual partner ("A") (see subsection (6)) produces a profit for the firm, and

(ii) A's share of that profit determined under section 850 or 850A ("A's profit share") is a profit or is neither a profit nor a loss,

(b) a non-individual partner ("B") (see subsection (6)) has a share of the profit for the firm mentioned in paragraph (a)(i) ("B's profit share") which is a profit (see subsection (7)), and

(c) condition X or Y is met.

(2) Condition X is that it is reasonable to suppose that—

(a) amounts representing A's deferred profit (see subsection (8)) are included in B's profit share, and

(b) in consequence, both A's profit share and the relevant tax amount (see subsection (9)) are lower than they would otherwise have been.

(3) Condition Y is that—

(a) B's profit share exceeds the appropriate notional profit (see subsections (10) to (17)),

(b) A has the power to enjoy B's profit share ("A's power to enjoy") (see subsections (18) to (21)), and

(c) it is reasonable to suppose that—

(i) the whole or any part of B's profit share is attributable to A's power to enjoy, and

(ii) both A's profit share and the relevant tax amount (see subsection (9)) are lower than they would have been in the absence of A's power to enjoy.

(4) A's profit share is increased by so much of the amount of B's profit share as, it is reasonable to suppose, is attributable to—

(a) A's deferred profit, or

(b) A's power to enjoy,

as determined on a just and reasonable basis.

But any increase by virtue of paragraph (b) is not to exceed the amount of the excess mentioned in subsection (3)(a) after deducting from that amount any increase by virtue of paragraph (a).

(5) If B is chargeable to income tax, in applying sections 850 to 850B in relation to B for the relevant period of account, such adjustments are to be made as are just and reasonable to take account of the increase in A's profit share under subsection (4).

(This subsection does not apply for the purposes of subsection (7) or section 850D(7).)

(6) A partner in a firm is an "individual partner" if the partner is an individual and "non-individual partner" is to be read accordingly; but "non-individual partner" does not include the firm itself where it is treated as a partner under section 863I (allocation of profit to AIFM firm).

(7) B's profit share is to be determined by applying section 850 and, if relevant, section 850A in relation to B for the relevant period of account (whether or not B is chargeable to income tax) on the assumption that the calculation under section 849 in relation to B produces the profit for the firm mentioned in subsection (1)(a)(i).

(8) "A's deferred profit"—

(a) is any remuneration or other benefits or returns the provision of which to A has been deferred (whether pending the meeting of any conditions (including conditions which may never be met) or otherwise), and

(b) includes A's share (as determined on a just and reasonable basis) of any remuneration or other benefits or returns the provision of which to A and one or more other persons, taken together, has been deferred (whether pending the meeting of any conditions (including conditions which may never be met) or otherwise).

(9) "The relevant tax amount" is the total amount of tax which, apart from this section, would be chargeable in respect of A and B's income as partners in the firm.

(10) "The appropriate notional profit" is the sum of the appropriate notional return on capital and the appropriate notional consideration for services.

(11) "The appropriate notional return on capital" is—

(a) the return which B would receive for the relevant period of account in respect of B's contribution to the firm were the return to be calculated on the basis mentioned in subsection (12), less

(b) any return actually received for the relevant period of account in respect of B's contribution to the firm which is not included in B's profit share.

(12) The return mentioned in subsection (11)(a) is to be calculated on the basis that it is a return which is—

(a) by reference to the time value of an amount of money equal to B's contribution to the firm, and

(b) at a rate which (in all the circumstances) is a commercial rate of interest.

(13) For the purposes of subsections (11) and (12) B's contribution to the firm is amount A determined under section 108 of ITA 2007 (meaning of "contribution to the LLP").

(14) That section is to be applied—

(a) reading references to the individual as references to B and references to the LLP as references to the firm, and

(b) with the omission of—

(i) subsections (5)(b) and (9), and

(ii) in subsection (6) the words from "but" to the end.

(15) "The appropriate notional consideration for services" is—

(a) the amount which B would receive in consideration for any services provided to the firm by B during the relevant period of account were the consideration to be calculated on the basis mentioned in subsection (16), less

(b) any amount actually received in consideration for any such services which is not included in B's profit share.

(16) The consideration mentioned in subsection (15)(a) is to be calculated on the basis that B is not a partner in the firm and is acting at arm's length from the firm.

(17) Any services, the provision of which involves any partner in the firm in addition to B, are to be ignored for the purposes of subsection (15).

(18) A has the power to enjoy B's profit share if—

(a) A is connected with B by virtue of a provision of section 993 of ITA 2007 (meaning of "connected" persons) other than subsection (4) of that section,

(b) A is a party to arrangements the main purpose, or one of the main purposes, of which is to secure that an amount included in B's profit share—

(i) is charged to corporation tax rather than income tax, or

(ii) is otherwise subject to the provisions of the Corporation Tax Acts rather than the provisions of the Income Tax Acts, or

(c) any of the enjoyment conditions (see subsection (20)) is met in relation to B's profit share or any part of B's profit share.

(19) In subsection (18)(b) "arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).

(20) The enjoyment conditions are—

(a) B's profit share, or the part, is in fact so dealt with by any person as to be calculated at some time to enure for the benefit of A, whether in the form of income or not;

(b) the receipt or accrual of B's profit share, or the part, by or to B operates to increase the value to A of any assets held by, or for the benefit of, A;

(c) A receives or is entitled to receive at any time any benefit provided or to be provided (directly or indirectly) out of B's profit share or the part;

(d) A may become entitled to the beneficial enjoyment of B's profit share, or the part, if one or more powers are exercised or successively exercised by any person;

(e) A is able in any manner to control (directly or indirectly) the application of B's profit share or the part.

(21) In subsection (20) references to A include any person connected with A apart from B.

(22) Subsection (23) applies if—

(a) the increase under subsection (4), or any part of it, is allocated by A to the firm itself under section 863I (allocation of profit to AIFM firm), and

(b) B makes a payment to the firm representing any income tax for which the firm is liable by virtue of section 863I in respect of the amount of the increase allocated to it.

(23) For income tax purposes, the payment—

(a) is not to be income of any partner in the firm, and

(b) is not to be taken into account in calculating any profits or losses of B or otherwise deducted from any income of B.

850D Excess profit allocation: cases involving individuals who are not partners

(1) Subsections (4) and (5) apply if—

(a) at a time during a period of account ("the relevant period of account") in respect of a firm, an individual ("A") personally performs services for the firm,

(b) if A had been a partner in the firm throughout the relevant period of account, the calculation under section 849 in relation to A for the relevant period of account would have produced a profit for the firm,

(c) a non-individual partner ("B") in the firm (see subsection (6)) has a share of that profit ("B's profit share") which is a profit (see subsection (7)),

(d) it is reasonable to suppose that A would have been a partner in the firm at a time during the relevant period of account or any earlier period of account but for the provision contained in section 850C (see also subsections (8) to (10)), and

(e) condition X or Y is met.

(2) Condition X is that it is reasonable to suppose that amounts representing A's deferred profit (see subsection (11)) are included in B's profit share.

(3) Condition Y is that—

(a) B's profit share exceeds the appropriate notional profit (see subsection (12)),

(b) A has the power to enjoy B's profit share ("A's power to enjoy") (see subsection (13)), and

(c) it is reasonable to suppose that the whole or any part of B's profit share is attributable to A's power to enjoy.

(4) A is to be treated on the following basis—

(a) A is a partner in the firm throughout the relevant period of account (but not for the purposes of section 863I (allocation of profit to AIFM firm)),

(b) A's share of the firm's profit for the relevant period of account is so much of the amount of B's profit share as, it is reasonable to suppose, is attributable to—

(i) A's deferred profit, or

(ii) A's power to enjoy,

as determined on a just and reasonable basis, and

(c) A's share of the firm's profit is chargeable to income tax under the applicable provisions of the Income Tax Acts for the tax year in which the relevant period of account ends.

But A's share of the firm's profit by virtue of paragraph (b)(ii) is not to exceed the amount of the excess mentioned in subsection (3)(a) after deducting from that amount A's share of the firm's profit (if any) by virtue of paragraph (b)(i).

(5) If B is chargeable to income tax, in applying sections 850 to 850B in relation to B for the relevant period of account, such adjustments are to be made as are just and reasonable to take account of A's share of the firm's profit under subsection (4).

(This subsection does not apply for the purposes of subsection (7) or section 850C(7).)

(6) "Non-individual partner" is to be read in accordance with section 850C(6).

(7) B's profit share is to be determined by applying section 850 and, if relevant, section 850A in relation to B for the relevant period of account (whether or not B is chargeable to income tax) on the assumption that the calculation under section 849 in relation to B produces the profit for the firm mentioned in subsection (1)(b).

(8) The requirement of subsection (1)(d) is to be assumed to be met if, at a time during the relevant period of account, A is a member of a partnership which is associated with the firm.

(9) A partnership is "associated" with the firm if—

(a) it is a member of the firm, or

(b) it is a member of a partnership which is associated with the firm (whether by virtue of paragraph (a) or this paragraph).

(10) In subsections (8) and (9) "partnership" includes a limited liability partnership whether or not section 863(1) applies in relation to it.

(11) "A's deferred profit" is to be read in accordance with section 850C(8).

(12) Section 850C(10) to (17) applies for the purpose of determining "the appropriate notional profit"; and A is to be treated as a partner in the firm for the purposes of section 850C(17).

(13) Section 850C(18) to (21) applies for the purpose of determining if A has the power to enjoy B's profit share.

850E Payments by B out of the excess part of B's profit share

(1) Subsection (2) applies in a case in which section 850C(4) or section 850D(4) applies if—

(a) there is an agreement in place in relation to the excess part of B's profit share,

(b) as a result of the agreement, B makes a payment to another person out of the excess part of B's profit share, and

(c) the payment is not made under any arrangements the main purpose, or one of the main purposes, of which is the obtaining of a tax advantage for any person.

(2) For income tax purposes, the payment—

(a) is not to be income of the recipient,

(b) is not to be taken into account in calculating any profits or losses of B or otherwise deducted from any income of B, and

(c) is not to be regarded as a distribution.

(3) In this section—

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

"B's profit share" has the same meaning as in section 850C or 850D (as the case may be),

"the excess part of B's profit share" means so much of the amount of B's profit share as is represented by the amount of, as the case may be—

(a) the increase under section 850C(4), or

(b) A's share of the firm's profit under section 850D(4), and

"tax advantage" has the meaning given by section 1139 of CTA 2010."

8 (1) Chapter 3 of Part 4 of ITA 2007 (trade loss relief: restrictions for certain partners) is amended as follows.

(2) In section 102 (overview of Chapter) after subsection (2) insert—

"(2A) This Chapter also provides for no relief to be given for a loss made by an individual in a trade carried on by the individual as a partner in a firm in certain cases where some or all of the loss is allocated to the individual rather than a person who is not an individual (see section 116A)."

(3) At the end insert—

"Partnerships with mixed membership etc

Excess loss allocation to partners who are individuals

116A(1) Subsection (2) applies if—

(a) in a tax year, an individual ("A") makes a loss in a trade as a partner in a firm, and

(b) A's loss arises, wholly or partly—

(i) directly or indirectly in consequence of, or

(ii) otherwise in connection with,

relevant tax avoidance arrangements.

(2) No relevant loss relief may be given to A for A's loss.

(3) In subsection (1)(b) "relevant tax avoidance arrangements" means arrangements—

(a) to which A is party, and

(b) the main purpose, or one of the main purposes, of which is to secure that losses of a trade are allocated, or otherwise arise, in whole or in part to A, rather than a person who is not an individual, with a view to A obtaining relevant loss relief.

(4) In subsection (3)(b) references to A include references to A and other individuals.

(5) For the purposes of subsection (3)(b) it does not matter if the person who is not an individual is not a partner in the firm or is unknown or does not exist.

(6) In this section—

"arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable), and

"relevant loss relief" means—

(a) sideways relief,

(b) relief under section 83 (carry-forward trade loss relief),

(c) relief under section 89 (terminal trade loss relief), or

(d) capital gains relief.

(7) This section applies to professions as it applies to trades."

9 (1) Chapter 4 of Part 4 of ITA 2007 (losses from property businesses) is amended as follows.

(2) In section 117 (overview of Chapter) in subsection (3) for "and 127B" substitute " to 127C ".

(3) After section 127B insert—

"**127C Excess loss allocation to partners who are individuals**

(1) Subsection (2) applies if—

(a) in a tax year, an individual ("A") makes a loss in a UK property business or an overseas property business as a partner in a firm, and

(b) A's loss arises, wholly or partly—

(i) directly or indirectly in consequence of, or

(ii) otherwise in connection with,

relevant tax avoidance arrangements.

(2) No relevant loss relief may be given to A for A's loss.

(3) In subsection (1)(b) "relevant tax avoidance arrangements" means arrangements—

(a) to which A is party, and

(b) the main purpose, or one of the main purposes, of which is to secure that losses of a UK property business or an overseas property business are allocated, or otherwise arise, in whole or in part to A, rather than a person who is not an individual, with a view to A obtaining relevant loss relief.

(4) In subsection (3)(b) references to A include references to A and other individuals.

(5) For the purposes of subsection (3)(b) it does not matter if the person who is not an individual is not a partner in the firm or is unknown or does not exist.

(6) In this section—

"arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable), and

"relevant loss relief" means relief under section 118 (carry-forward property loss relief) or section 120 (property loss relief against general income)."

10 (1) Part 17 of CTA 2009 (partnerships) is amended as follows.

(2) In section 1262 (allocation of firm's profits and losses between partners) in subsection (1) for "and 1264" substitute " to 1264A ".

(3) After section 1264 insert—

"**1264A Excess profit allocation to non-individual partners etc**

(1) Subsection (2) applies in a case in which—

(a) section 850C(4) or 850D(4) of ITTOIA 2005 applies for a period of account ("the relevant period of account"), and

(b) the partner who is "B" for the purposes of section 850C or 850D of that Act (as the case may be) is a company.

(2) In applying sections 1262 to 1264 in relation to the company—

(a) for the accounting period of the firm which coincides with the relevant period of account, or

(b) if no accounting period of the firm coincides with the relevant period of account, for accounting periods of the firm in which the relevant period of account falls,

such adjustments are to be made as are just and reasonable to take account of the increase under section 850C(4) of ITTOIA 2005 or A's share of the firm's profit under section 850D(4) of that Act.

(3) Sections 850C(23) and 850E(2) of ITTOIA 2005 apply for corporation tax purposes as they apply for income tax purposes."

Commencement

11 (1) Subject to sub-paragraph (2), the amendments made by paragraphs 7 and 10 are treated as having come into force on 5 December 2013 and have effect in accordance with paragraphs 12 and 13.

(2) Section 850C(8)(b), (18)(b) and (19) of ITTOIA 2005 is treated as having come into force on 6 April 2014.

12 (1) Section 850C of ITTOIA 2005 has effect for periods of account beginning on or after 6 April 2014 (and section 850E of ITTOIA 2005 and section 1264A of CTA 2009 have effect accordingly).

(2) Sub-paragraphs (3) and (4) apply in relation to a firm where a period of account ("the straddling period") begins before 6 April 2014 but ends on or after that date.

(3) Assume that the part of the straddling period falling on or after 6 April 2014 is a separate period of account.

(4) If section 850C(4) of ITTOIA 2005 would apply in relation to one or more partners in the firm for the assumed separate period of account, Part 9 of that Act has effect as if that part of the straddling period were a separate period of account.

13 (1) Section 850D of ITTOIA 2005 has effect for periods of account beginning on or after 6 April 2014 (and section 850E of ITTOIA 2005 and section 1264A of CTA 2009 have effect accordingly).

(2) Sub-paragraphs (3) and (4) apply in relation to a firm where a period of account ("the straddling period") begins before 6 April 2014 but ends on or after that date.

(3) Assume that the part of the straddling period falling on or after 6 April 2014 is a separate period of account.

(4) If section 850D(4) of ITTOIA 2005 would apply in relation to one or more individuals for the assumed separate period of account, Part 9 of that Act has effect as if that part of the straddling period were a separate period of account.

14 (1) The amendments made by paragraphs 8 and 9 have effect in relation to losses made in the tax year 2014-15 and subsequent tax years.

(2) Sub-paragraphs (3) and (4) apply for the purposes of section 116A or 127C of ITA 2007 if a loss made by an individual as a partner in a firm arises in a period of account ("the straddling period") which begins before 6 April 2014 but ends on or after that date.

(3) The loss is to be apportioned between the part of the straddling period falling before 6 April 2014 and the part falling on or after that date—

(a) on a time basis according to the respective lengths of those parts of the straddling period, or

(b) if that method produces a result that is unjust or unreasonable, on a just and reasonable basis.

(4) Section 116A or 127C of ITA 2007 does not apply in relation to the loss so far as it is apportioned to the part of the straddling period falling before 6 April 2014.

PART 3

ALTERNATIVE INVESTMENT FUND MANAGERS: DEFERRED REMUNERATION ETC

Main provision

15 At the end of Part 9 of ITTOIA 2005 (partnerships) insert—

"Alternative investment fund managers

Election for special provision for alternative investment fund managers to apply

863H (1) Section 863I applies in relation to an AIFM trade of an AIFM firm if the AIFM firm elects for that section to apply.

(2) An election under this section must be made within 6 months after the end of the first period of account for which the election is to have effect.

(3) An "AIFM firm" is a firm—

(a) the regular business of which is managing one or more AIFs, or

(b) which carries out one or more functions of managing one or more AIFs—

(i) as the delegate of, or

(ii) as the sub-delegate of a delegate of,

a person whose regular business is managing one or more AIFs.

(4) An "AIFM trade" is a trade of an AIFM firm which involves the firm's activities mentioned in subsection (3)(a) or (b).

(5) Subsection (3)(a) and (b) is to be construed as if it were contained in regulation 4 of the Alternative Investment Fund Managers Regulations 2013 (S.I. 2013/1773).

Allocation of profit to the AIFM firm

863I (1) This section applies for a period of account of the AIFM trade if—

(a) the calculation under section 849 in relation to a partner ("P") in the AIFM firm produces a profit, and

(b) P's share of that profit determined under section 850, 850A or 850C would, apart from this section, be a profit consisting (wholly or partly) of relevant restricted profit (see subsections (6) to (9)) chargeable to income tax under Chapter 2 of Part 2.

(2) P may allocate all or a part of the relevant restricted profit ("the allocated profit") to the AIFM firm itself.

(3) If P does so—

(a) the allocated profit is to be excluded from P's share of the AIFM firm's profit mentioned in subsection (1)(b),

(b) the AIFM firm is to be treated in accordance with subsection (4) as if it were itself a person who is a partner in the AIFM firm (and for this purpose, in the case of a limited liability partnership, it is the body corporate which is to be treated as that person), and

(c) all enactments applying generally to income tax are to apply accordingly with any necessary modifications (subject to subsection (5)).

(4) The AIFM firm is treated on the following basis—

(a) the calculation under section 849 in relation to the AIFM firm for the period of account produces the profit mentioned in subsection (1)(a),

(b) the AIFM firm's share of that profit determined under section 850 is the allocated profit (and sections 850A and 850C are to be ignored),

(c) that share is chargeable to tax under Chapter 2 of Part 2 for the tax year in which the period of account ends (with the person liable for the tax charged being the AIFM firm), and

(d) the tax is charged at the additional rate.

(5) The Commissioners for Her Majesty's Revenue and Customs may make regulations modifying any of the following enactments applying to income tax as they apply by virtue of this section in relation to the AIFM firm—

(a) those relating to returns of information and supply of accounts, statements and reports,

(b) those relating to the assessing, collecting and receiving of income tax,

(c) those conferring or regulating a right of appeal, and

(d) those concerning administration, penalties, interest on unpaid tax and priority of tax in cases of insolvency under the law of any part of the United Kingdom.

(6) P's profit determined under section 850, 850A or 850C is "relevant restricted profit" so far as it represents variable remuneration awarded to P—

(a) as deferred remuneration (including deferred remuneration which, if it vests in P, will vest in the form of instruments), or

(b) as upfront remuneration which vests in P in the form of instruments with a retention period of at least 6 months.

(7) In order for any variable remuneration to count for the purposes of subsection (6) it must be awarded to P in accordance with arrangements which are consistent with the AIFMD remuneration guidelines (see section 863L).

(8) In the case of a firm which is an AIFM firm by virtue of section 863H(3)(b) only, this section applies only in relation to partners who fall within a category of staff which is classified as identified staff.

(9) Terms used in subsections (6) to (8) have the same meaning as in the AIFMD remuneration guidelines.

Vesting of remuneration represented by the allocated profit

863J(1) Subsection (2) applies if all or a part of the variable remuneration represented by the allocated profit vests in P at a time when P is carrying on the AIFM trade (whether as a partner in the AIFM firm or otherwise).

(2) The amount given by subsection (5) is treated as a profit of the relevant tax year (see subsection (7)) made by P in the AIFM trade chargeable to income tax under Chapter 2 of Part 2.

(3) Subsection (4) applies if all or a part of the variable remuneration represented by the allocated profit vests in P at a time when P is no longer carrying on the AIFM trade (whether as a partner in the AIFM firm or otherwise).

(4) If this subsection applies—

(a) P is treated as receiving, in the relevant tax year (see subsection (7)), income of the amount given by subsection (5),

(b) income tax is charged under this subsection on that income, and

(c) P is the person liable for that tax.

(5) The amount to be treated as a profit or as income received by P is—

(a) the amount of the allocated profit, or the part of it representing the part of the variable remuneration, net of the income tax for which the AIFM firm is liable by virtue of section 863I in respect of the allocated profit or the part of it, plus

(b) an amount equal to—

(i) so much of the income tax mentioned in paragraph (a) as is paid by the AIFM firm by the time the vesting occurs, or

(ii) if the vesting occurs in the tax year for which the allocated profit is chargeable to tax under Chapter 2 of Part 2 by virtue of section 863I, so much of the income tax mentioned in paragraph (a) as is paid by the AIFM firm.

(6) Further—

(a) P is treated as paying, when the vesting occurs, an amount of income tax equal to the amount given by subsection (5)(b), and

(b) that amount is accordingly to be taken into account in determining the income tax payable by, or repayable to, P.

(7) "The relevant tax year" is—

(a) if the variable remuneration or the part of it is deferred remuneration, the tax year in which the vesting occurs, or

(b) if the variable remuneration or the part of it is upfront remuneration, the tax year for which the allocated profit would have been chargeable to income tax under Chapter 2 of Part 2 as mentioned in section 863I(1)(b).

(8) Terms used in this section have the same meaning as in the AIFMD remuneration guidelines (see section 863L).

(9) Section 850E (payment from B to other persons after application of section 850C(4) or 850D(4)) is to be ignored for the purposes of this section.

Vesting statements

863K(1) This section applies if all or a part of the variable remuneration represented by the allocated profit vests in P.

(2) If P requests it in writing, the AIFM firm must provide P with a statement showing—

(a) the amount of the allocated profit, or the part of it representing the part of the variable remuneration, gross of the income tax for which the AIFM firm is liable by virtue of section 863I in respect of the allocated profit or the part of it,

(b) the amount of the income tax for which the AIFM firm is liable, and

(c) so much of that amount of income tax as is paid by the AIFM firm by the time the vesting occurs or, if section 863J(5)(b)(ii) applies, as is paid by the AIFM firm.

(3) The duty to comply with a request under this section is enforceable by P.

(4) In the case of a limited liability partnership, the duty is enforceable against the body corporate.

The AIFMD remuneration guidelines

863L In sections 863I to 863K "the AIFMD remuneration guidelines" means the "Guidelines on Sound Remuneration Policies under the AIFMD" issued by the European Securities and Markets Authority on 3 July 2013 (ESMA/2013/232)."

Supplementary provision

16 (1) TMA 1970 is amended as follows.

(2) In Part 2 (returns of income and gains) after section 12AD insert—

"**12ADA AIFM firms**

(1) An officer of Revenue and Customs may by notice require a partnership which has made an election under section 863H of ITTOIA 2005 (whether or not the election has been revoked) to provide the officer with such information as the officer may reasonably require for purposes connected with the operation of sections 863H to 863K of ITTOIA 2005.

(2) The information must be provided within such reasonable time as the officer may specify in the notice."

(3) In column 2 of the Table in section 98 (special returns etc), at the appropriate place, insert " section 12ADA of this Act ".

17 In Part 3 of TCGA 1992 (which makes special provision about partnerships etc) after section 59A insert—

"**59B Alternative investment fund managers (1)**

(1) Subsection (2) applies if—

(a) under section 863I of ITTOIA 2005, a partner ("P") in a partnership allocates to the partnership an amount of profit ("the allocated profit") representing variable remuneration which, if it vests in P, will vest in the form of instruments,

(b) there is a disposal to P of instruments which are partnership assets of the partnership for the purposes of section 59, and

(c) by virtue of that disposal the variable remuneration vests in P.

(2) Both the persons making the disposal and P are to be treated as if the instruments were acquired by P from those persons for a consideration of an amount equal to the allocated profit net of the income tax for which the partnership is liable by virtue of section 863I of ITTOIA 2005 in respect of the allocated profit.

(3) Terms used in this section which are also used in section 863I or 863J of ITTOIA 2005 have the same meaning as in that section.

59C Alternative investment managers (2)

(1) Subsection (2) applies if—

(a) under section 863I of ITTOIA 2005, a partner ("P") in a partnership allocates to the partnership an amount of profit ("the allocated profit") representing variable remuneration which, if it vests in P, will vest in the form of instruments,

(b) there is a disposal to P of instruments by a company which is a partner in the partnership,

(c) by virtue of that disposal the variable remuneration vests in P, and

(d) the company would, as a partner in the partnership, have been charged to tax on the allocated profit but for adjustments made in the case of the company under section 1264A(2) of CTA 2009 or section 850C(5) of ITTOIA 2005.

(2) Both the company and P are to be treated as if the instruments were acquired by P from the company for a consideration of an amount equal to the allocated profit net of the income tax for which the partnership is liable by virtue of section 863I of ITTOIA 2005 in respect of the allocated profit.

(3) Terms used in this section which are also used in section 863I or 863J of ITTOIA 2005 have the same meaning as in that section."

18 In Part 4 of FA 2004 (pensions) in section 189 (relevant UK individual) after subsection (2A) insert—

"(2B) The income covered by subsection (2)(b) includes—

(a) an amount treated as a profit under section 863J(2) of ITTOIA 2005, and

(b) income treated as received under section 863J(4) of that Act."

19 In section 23 of ITA 2007 (calculation of income tax liability) at the end of Step 4 insert— " See also section 863I of ITTOIA 2005 which provides for certain partnership profits to be charged at the additional rate. "

Power to apply amendments to other types of firms carrying on regulated activities

20 (1) The Commissioners for Her Majesty's Revenue and Customs may by regulations amend any Act—

(a) so as to apply (with or without modifications), in relation to regulated firms of a specified description, the provision made by the amendments made by this Part, or

(b) so as to make, in relation to regulated firms of a specified description, provision corresponding to the provision made by the amendments made by this Part.

(2) "Regulated firm" means a firm carrying on a regulated activity within the meaning of the Financial Services and Markets Act 2000 (see section 22 of that Act); and "firm" has the same meaning as in ITTOIA 2005 (see section 847 of that Act) (and includes a limited liability partnership in relation to which section 863(1) of that Act applies).

(3) Regulations under this paragraph may—

(a) make different provision for different cases or different purposes;

(b) make incidental, consequential, supplementary and transitional provision and savings.

Commencement

21 The amendments made by this Part have effect for the tax year 2014-15 and subsequent tax years.

PART 4

DISPOSALS OF ASSETS THROUGH PARTNERSHIPS

Income tax

22 Part 13 of ITA 2007 (tax avoidance) is amended as follows.

23 (1) In Chapter 5A (transfers of income streams) section 809AZF (partnership shares) is amended as follows.

(2) In subsection (1) omit "if condition A or B is met".

(3) Omit subsections (2) and (3).

(4) The amendments made by this paragraph have effect for cases where the transfer of a right to relevant receipts occurs on or after 6 April 2014.

24 (1) After Chapter 5A insert—

"CHAPTER 5AA

DISPOSALS OF INCOME STREAMS THROUGH PARTNERSHIPS

Application of Chapter

809AAZA(1) This Chapter applies (subject to subsection (2)) if directly or indirectly in consequence of, or otherwise in connection with, arrangements involving a person within the charge to income tax ("the transferor") and another person ("the transferee")—

(a) there is, or is in substance, a disposal of a right to relevant receipts by the transferor to the transferee,

(b) the disposal is effected (wholly or partly) by or through a partnership ("the relevant partnership"),

(c) at any time—

(i) the transferor is a member of the relevant partnership or of a partnership associated with the relevant partnership, and

(ii) the transferee is a member of the relevant partnership or of a partnership associated with the relevant partnership, and

(d) the main purpose, or one of the main purposes, of one or more steps taken in effecting the disposal is the obtaining of a tax advantage for any person.

(2) This Chapter does not apply if—

(a) the transferor is the spouse or civil partner of the transferee and they are living together, or

(b) the transferor is a brother, sister, ancestor or lineal descendant of the transferee.

(3) In subsection (1)(a) the reference to a disposal of a right to relevant receipts includes anything constituting a disposal of such a right for the purposes of TCGA 1992.

(4) For the purposes of subsection (1)(b) the disposal might, in particular, be effected by an acquisition or disposal of, or an increase or decrease in, an interest in the relevant partnership (including a share of the profits or assets of the relevant partnership or an interest in such a share).

(5) For the purposes of subsection (1)(c) it does not matter if the transferor and the transferee are not members of a partnership as mentioned at the same time.

(6) For the purposes of subsection (1)(c) a partnership is "associated" with the relevant partnership if—

(a) it is a member of the relevant partnership, or

(b) it is a member of a partnership which is associated with the relevant partnership (whether by virtue of paragraph (a) or this paragraph).

(7) In subsections (1)(c) and (5) references to the transferor include a person connected with the transferor and references to the transferee include a person connected with the transferee.

(8) In this Chapter—

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

"partnership" includes a limited liability partnership whether or not section 863(1) of ITTOIA 2005 applies in relation to it,

"relevant receipts" means any income—

(a) which (but for the disposal) would be charged to income tax as income of the transferor (whether directly or as a member of a partnership), or

(b) which (but for the disposal) would be brought into account as income in calculating profits of the transferor (whether directly or as a member of a partnership) for income tax purposes, and

"tax advantage" means a tax advantage, as defined in section 1139 of CTA 2010, in relation to income tax or the charge to corporation tax on income.

Relevant amount to be treated as income

809AAZB(1) The relevant amount is to be treated as income of the transferor chargeable to income tax in the same way and to the same extent as that in which the relevant receipts—

(a) would have been chargeable to income tax as income of the transferor, or

(b) would have been brought into account as income in calculating profits of the transferor for income tax purposes,

but for the disposal.

(2) In subsection (1) "the relevant amount" is to be read in accordance with section 809AZB(2) and section 809AZB(3) to (6) applies for the purpose of determining when income under subsection (1) is treated as arising.

(3) For this purpose, in section 809AZB(2) to (6) references to the transfer of the right are to be read as references to the disposal of the right.

(4) If, apart from this subsection and section 809DZB(3)—

(a) both this Chapter and Chapter 5D would apply in relation to the disposal, and

(b) Chapter 5D would give a greater amount of income of the transferor chargeable to income tax,

this Chapter is not to apply in relation to the disposal."

(2) The amendment made by this paragraph has effect for cases where the arrangements mentioned in section 809AAZA(1) of ITA 2007 are made on or after 6 April 2014.

25 (1) After Chapter 5C insert—

"**CHAPTER 5D**

DISPOSALS OF ASSETS THROUGH PARTNERSHIPS

Application of Chapter

809DZA(1) This Chapter applies if conditions A and B are met.

(2) Condition A is (subject to subsection (3)) that directly or indirectly in consequence of, or otherwise in connection with, arrangements involving a person within the charge to income tax ("the transferor") and another person ("the transferee")—

(a) there is, or is in substance, a disposal of an asset ("the transferred asset") by the transferor to the transferee,

(b) the disposal is effected (wholly or partly) by or through a partnership ("the relevant partnership"),

(c) at any time—

(i) the transferor is a member of the relevant partnership or of a partnership associated with the relevant partnership, and

(ii) the transferee is a member of the relevant partnership or of a partnership associated with the relevant partnership, and

(d) the main purpose, or one of the main purposes, of one or more steps taken in effecting the disposal is the obtaining of a tax advantage for any person.

(3) Condition A is not met if—

(a) the transferor is the spouse or civil partner of the transferee and they are living together, or

(b) the transferor is a brother, sister, ancestor or lineal descendant of the transferee.

(4) In subsection (2)(a) the reference to a disposal of an asset includes anything constituting a disposal of an asset for the purposes of TCGA 1992.

(5) For the purposes of subsection (2)(b) the disposal might, in particular, be effected by an acquisition or disposal of, or an increase or decrease in, an interest in the relevant partnership (including a share of the profits or assets of the relevant partnership or an interest in such a share).

(6) For the purposes of subsection (2)(c) it does not matter if the transferor and the transferee are not members of a partnership as mentioned at the same time.

(7) For the purposes of subsection (2)(c) a partnership is "associated" with the relevant partnership if—

(a) it is a member of the relevant partnership, or

(b) it is a member of a partnership which is associated with the relevant partnership (whether by virtue of paragraph (a) or this paragraph).

(8) In subsections (2)(c) and (6) references to the transferor include a person connected with the transferor and references to the transferee include a person connected with the transferee.

(9) Condition B is that it is reasonable to assume that, had the transferred asset instead been disposed of directly by the transferor to the transferee, the relevant amount (or any part of it)—

(a) would have been chargeable to income tax as income of the transferor, or

(b) would have been brought into account as income in calculating profits of the transferor for income tax purposes.

(10) In this Chapter "the relevant amount" means the amount of the consideration received by the transferor for the disposal.

(11) If the transferor receives—

(a) no consideration for the disposal, or

(b) consideration which is substantially less than the market value of the transferred asset,

assume for the purposes of subsection (10) that the transferor receives consideration of an amount equal to the market value of the transferred asset.

(12) In subsection (11) references to the market value of the transferred asset are to that value at the time of the disposal.

(13) In this Chapter—

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

"partnership" includes a limited liability partnership whether or not section 863(1) of ITTOIA 2005 applies in relation to it, and

"tax advantage" means a tax advantage, as defined in section 1139 of CTA 2010, in relation to income tax or the charge to corporation tax on income.

Relevant amount to be treated as income

809DZB(1) The relevant amount is to be treated as income of the transferor chargeable to income tax in the same way and to the same extent as that in which it—

(a) would have been chargeable to income tax as income of the transferor, or

(b) would have been brought into account as income in calculating profits of the transferor for income tax purposes,

as mentioned in section 809DZA(9).

(2) Section 809AZB(3) to (6) applies for the purpose of determining when income under subsection (1) is treated as arising (reading references to the transfer of the right as references to the disposal of the transferred asset).

(3) If, apart from this subsection and section 809AAZB(4)—

(a) both this Chapter and Chapter 5AA would apply in relation to the disposal, and

(b) Chapter 5AA would give the same amount, or a greater amount, of income of the transferor chargeable to income tax,

this Chapter is not to apply in relation to the disposal."

(2) The amendment made by this paragraph has effect for cases where the arrangements mentioned in section 809DZA(2) of ITA 2007 are made on or after 6 April 2014.

Corporation tax

26 Part 16 of CTA 2010 (factoring of income etc) is amended as follows.

27 (1) In Chapter 1 (transfers of income streams) section 756 (partnership shares) is amended as follows.

(2) In subsection (1) omit "if condition A or B is met".

(3) Omit subsections (2) and (3).

(4) The amendments made by this paragraph have effect for cases where the transfer of a right to relevant receipts occurs on or after 1 April 2014.

28 (1) After Chapter 1 insert—

"**CHAPTER 1A**

DISPOSALS OF INCOME STREAMS THROUGH PARTNERSHIPS

Application of Chapter

757A (1) This Chapter applies if directly or indirectly in consequence of, or otherwise in connection with, arrangements involving a company within the charge to corporation tax ("the transferor") and another person ("the transferee")—

(a) there is, or is in substance, a disposal of a right to relevant receipts by the transferor to the transferee,

(b) the disposal is effected (wholly or partly) by or through a partnership ("the relevant partnership"),

(c) at any time—

(i) the transferor is a member of the relevant partnership or of a partnership associated with the relevant partnership, and

(ii) the transferee is a member of the relevant partnership or of a partnership associated with the relevant partnership, and

(d) the main purpose, or one of the main purposes, of one or more steps taken in effecting the disposal is the obtaining of a tax advantage for any person.

(2) In subsection (1)(a) the reference to a disposal of a right to relevant receipts includes anything constituting a disposal of such a right for the purposes of TCGA 1992.

(3) For the purposes of subsection (1)(b) the disposal might, in particular, be effected by an acquisition or disposal of, or an increase or decrease in, an interest in the relevant partnership (including a share of the profits or assets of the relevant partnership or an interest in such a share).

(4) For the purposes of subsection (1)(c) it does not matter if the transferor and the transferee are not members of a partnership as mentioned at the same time.

(5) For the purposes of subsection (1)(c) a partnership is "associated" with the relevant partnership if—

(a) it is a member of the relevant partnership, or

(b) it is a member of a partnership which is associated with the relevant partnership (whether by virtue of paragraph (a) or this paragraph).

(6) In subsections (1)(c) and (4) references to the transferor include a person connected with the transferor and references to the transferee include a person connected with the transferee.

(7) In this Chapter—

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

"partnership" includes a limited liability partnership whether or not section 1273(1) of CTA 2009 applies in relation to it,

"relevant receipts" means any income—

(a) which (but for the disposal) would be charged to corporation tax as income of the transferor (whether directly or as a member of a partnership), or

(b) which (but for the disposal) would be brought into account as income in calculating profits of the transferor (whether directly or as a member of a partnership) for corporation tax purposes, and

"tax advantage" means a tax advantage, as defined in section 1139, in relation to income tax or the charge to corporation tax on income.

Relevant amount to be treated as income

757B(1) The relevant amount is to be treated as income of the transferor chargeable to corporation tax in the same way and to the same extent as that in which the relevant receipts—

(a) would have been chargeable to corporation tax as income of the transferor, or

(b) would have been brought into account as income in calculating profits of the transferor for corporation tax purposes,

but for the disposal.

(2) In subsection (1) "the relevant amount" is to be read in accordance with section 753(2) and section 753(3) and (4) applies for the purpose of determining when income under subsection (1) is treated as arising.

(3) For this purpose, in section 753(2) to (4) references to the transfer of the right are to be read as references to the disposal of the right.

(4) If, apart from this subsection and section 779B(3)—

(a) both this Chapter and Chapter 4 would apply in relation to the disposal, and

(b) Chapter 4 would give a greater amount of income of the transferor chargeable to corporation tax,

this Chapter is not to apply in relation to the disposal."

(2) The amendment made by this paragraph has effect for cases where the arrangements mentioned in section 757A(1) of CTA 2010 are made on or after 1 April 2014.

29 (1) After Chapter 3 insert—

"**CHAPTER 4**

DISPOSALS OF ASSETS THROUGH PARTNERSHIPS

Application of Chapter

779A(1) This Chapter applies if conditions A and B are met.

(2) Condition A is that directly or indirectly in consequence of, or otherwise in connection with, arrangements involving a company within the charge to corporation tax ("the transferor") and another person ("the transferee")—

(a) there is, or is in substance, a disposal of an asset ("the transferred asset") by the transferor to the transferee,

(b) the disposal is effected (wholly or partly) by or through a partnership ("the relevant partnership"),

(c) at any time—

(i) the transferor is a member of the relevant partnership or of a partnership associated with the relevant partnership, and

(ii) the transferee is a member of the relevant partnership or of a partnership associated with the relevant partnership, and

(d) the main purpose, or one of the main purposes, of one or more steps taken in effecting the disposal is the obtaining of a tax advantage for any person.

(3) In subsection (2)(a) the reference to a disposal of an asset includes anything constituting a disposal of an asset for the purposes of TCGA 1992.

(4) For the purposes of subsection (2)(b) the disposal might, in particular, be effected by an acquisition or disposal of, or an increase or decrease in, an interest in the relevant partnership (including a share of the profits or assets of the relevant partnership or an interest in such a share).

(5) For the purposes of subsection (2)(c) it does not matter if the transferor and the transferee are not members of a partnership as mentioned at the same time.

(6) For the purposes of subsection (2)(c) a partnership is "associated" with the relevant partnership if—

(a) it is a member of the relevant partnership, or

(b) it is a member of a partnership which is associated with the relevant partnership (whether by virtue of paragraph (a) or this paragraph).

(7) In subsections (2)(c) and (5) references to the transferor include a person connected with the transferor and references to the transferee include a person connected with the transferee.

(8) Condition B is that it is reasonable to assume that, had the transferred asset instead been disposed of directly by the transferor to the transferee, the relevant amount (or any part of it)—

(a) would have been chargeable to corporation tax as income of the transferor, or

(b) would have been brought into account as income in calculating profits of the transferor for corporation tax purposes.

(9) In this Chapter "the relevant amount" means the amount of the consideration received by the transferor for the disposal.

(10) If the transferor receives—

(a) no consideration for the disposal, or

(b) consideration which is substantially less than the market value of the transferred asset,

assume for the purposes of subsection (9) that the transferor receives consideration of an amount equal to the market value of the transferred asset.

(11) In subsection (10) references to the market value of the transferred asset are to that value at the time of the disposal.

(12) In this Chapter—

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

"partnership" includes a limited liability partnership whether or not section 1273(1) of CTA 2009 applies in relation to it, and

"tax advantage" means a tax advantage, as defined in section 1139, in relation to income tax or the charge to corporation tax on income.

Relevant amount to be treated as income

779B(1) The relevant amount is to be treated as income of the transferor chargeable to corporation tax in the same way and to the same extent as that in which it—

(a) would have been chargeable to corporation tax as income of the transferor, or

(b) would have been brought into account as income in calculating profits of the transferor for corporation tax purposes,

as mentioned in section 779A(8).

(2) Section 753(3) and (4) applies for the purpose of determining when income under subsection (1) is treated as arising (reading references to the transfer of the right as references to the disposal of the transferred asset).

(3) If, apart from this subsection and section 757B(4)—

(a) both this Chapter and Chapter 1A would apply in relation to the disposal, and

(b) Chapter 1A would give the same amount, or a greater amount, of income of the transferor chargeable to corporation tax,

this Chapter is not to apply in relation to the disposal."

(2) The amendment made by this paragraph has effect for cases where the arrangements mentioned in section 779A(2) of CTA 2010 are made on or after 1 April 2014.

SCHEDULE 18

Section 86

ABOLITION OF REDUCED RATES FOR VEHICLES SATISFYING REDUCED POLLUTION REQUIREMENTS

PART 1

AMENDMENTS OF THE VEHICLE EXCISE AND REGISTRATION ACT 1994

1 VERA 1994 is amended as follows.

2 Omit section 61B (certificates as to reduced pollution).

3 In consequence of the amendment made by paragraph 2—

(a) in section 45 (false declarations etc), in subsections (3A) and (3B) omit "or 61B",

(b) in Schedule 1 (annual rates of duty)—

(i) in paragraph 3(6) omit paragraph (a) and the "and" following it,

(ii) in paragraph 4(7) omit paragraph (a) and the "and" following it,

(iii) in paragraph 5(6) omit paragraph (a) and the "and" following it, and

(iv) in paragraph 7(3) omit paragraph (a) and the "and" following it, and

(c) in paragraph 22 of Schedule 2 (exempt vehicles: vehicle testing etc)—

(i) in sub-paragraph (1)(a) for ", a vehicle weight test or a reduced pollution test" substitute " or a vehicle weight test ",

(ii) in sub-paragraph (2) omit "a reduced pollution test or",

(iii) in sub-paragraph (2A), in both places it occurs, omit "or a reduced pollution test",

(iv) in sub-paragraph (3) omit ", or a reduced pollution test,",

(v) omit sub-paragraph (6AA),

(vi) in sub-paragraph (6B) for ", a vehicle weight test or a reduced pollution test" substitute " or a vehicle weight test ", and

(vii) in sub-paragraphs (8) and (9) omit paragraph (d) and the "or" following paragraph (c).

4 In paragraph 3 of Schedule 1 (annual rates of duty: buses)—

(a) in sub-paragraph (1) omit "with respect to which the reduced pollution requirements are not satisfied", and

(b) omit sub-paragraph (1A).

5 In paragraph 6 of Schedule 1 (annual rates of duty: vehicles used for exceptional loads), in sub-paragraph (2A)—

(a) in paragraph (a) omit "in the case of a vehicle with respect to which the reduced pollution requirements are not satisfied,",
(b) omit the "and" following paragraph (a), and
(c) omit paragraph (b).

6 In paragraph 7 of Schedule 1 (annual rates of duty: haulage vehicles), for sub-paragraph (3A) substitute—

"(3A) The rate referred to in sub-paragraph (1)(b) is £350."

7 Omit paragraphs 9A and 9B of Schedule 1.

8 Omit paragraphs 11A and 11B of Schedule 1.

9 In paragraph 11C of Schedule 1 (annual rates of duty: tractive units), in sub-paragraph (2)—
(a) in paragraph (a) omit "in the case of a vehicle with respect to which the reduced pollution requirements are not satisfied,", and
(b) omit paragraph (b).

10 In consequence of the amendments made by paragraphs 4 to 9—
(a) in section 13 (trade licences: duration and amount of duty) omit subsection (7)(a) and the "and" following it,
(b) in section 13 (trade licences: duration and amount of duty) as set out in paragraph 8(1) of Schedule 4 to VERA 1994 which is to have effect on and after a day appointed by order, omit subsection (7)(a) and the "and" following it,
(c) in section 15 (vehicles becoming chargeable to duty at a higher rate), omit subsection (2A),
(d) in paragraph 9 of Schedule 1 (annual rates of duty: rigid goods vehicles)—
(i) in sub-paragraph (1), omit "is not a vehicle with respect to which the reduced pollution requirements are satisfied and which",
(ii) omit sub-paragraph (3)(a), and
(iii) in sub-paragraph (4), omit paragraph (a) and the "and" following it, and
(e) in paragraph 11 of Schedule 1 (annual rates of duty: tractive units)—
(i) in sub-paragraph (1), omit "is not a vehicle with respect to which the reduced pollution requirements are satisfied and which",
(ii) omit sub-paragraph (3)(a), and
(iii) in sub-paragraph (4), omit paragraph (a) and the "and" following it.

PART 2

COMMENCEMENT

Introduction

11 This Part of this Schedule makes provision for the coming into force of the amendments made by Part 1.

Licences taken out on or after 1 April 2014

12 In the case of an exceptional load vehicle—

(a) which is charged to HGV road user levy, and

(b) which satisfies the reduced pollution requirements for the purposes of VERA 1994,

the amendments made by paragraphs 5 and 10 have effect in relation to licences taken out on or after 1 April 2014.

13 In the case of a rigid goods vehicle or tractive unit—

(a) which has a revenue weight of not less than 12,000 kgs, and

(b) which satisfies the reduced pollution requirements for the purposes of VERA 1994,

the amendments made by paragraphs 7 to 10 have effect in relation to licences taken out on or after 1 April 2014.

Licences taken out on or after 1 April 2016

14 In the case of the vehicles described in paragraph 15 the amendments made by paragraphs 4 to 10 have effect in relation to licences taken out on or after 1 April 2016.

15 Those vehicles are—

(a) a bus, light exceptional load vehicle or haulage vehicle which satisfies the reduced pollution requirements for the purposes of VERA 1994 because paragraph 4 of Schedule 2 to the Regulations applies to the vehicle as result of it falling within item 1 or 2 of Table 1 or any of items 1 to 3 of Table 2 in that paragraph (or being taken to be a vehicle falling within item 1 of Table 1 or Table 2 as a result of paragraph 5 of that Schedule), and

(b) a rigid goods vehicle or tractive unit—

(i) which has a revenue weight below 12,000 kgs, and

(ii) which satisfies the reduced pollution requirements for the purposes of VERA 1994 because paragraph 4 of Schedule 2 to the Regulations applies to the vehicle as result of it falling within item 1 or 2 of Table 1 or any of items 1 to 3 of Table 2 in that paragraph (or being taken to be a vehicle falling within item 1 of Table 1 or Table 2 as a result of paragraph 5 of that Schedule).

Licences taken out on or after 1 January 2017

16 In the case of the vehicles described in paragraphs 17 and 18 the amendments made by paragraphs 4 to 10 have effect in relation to licences taken out on or after 1 January 2017.

17 A bus, light exceptional load vehicle or haulage vehicle which satisfies the reduced pollution requirements for the purposes of VERA 1994 because—

(a) paragraph 4 of Schedule 2 to the Regulations applies to the vehicle as result of it falling within item 3 or 4 of Table 1 or item 4 of Table 2 in that paragraph,

(b) paragraph 4A of Schedule 2 to the Regulations applies to the vehicle as result of it meeting the requirements of paragraph 4B of that Schedule, or

(c) paragraph 4C of Schedule 2 to the Regulations applies to the vehicle as result of it meeting the requirements of paragraph 4D of that Schedule.

18 (1) A rigid goods vehicle or tractive unit—

(a) which has a revenue weight below 12,000 kgs, and

(b) which satisfies the reduced pollution requirements for the purposes of VERA 1994 for any of the reasons in sub-paragraph (2).

(2) Those reasons are—

(a) paragraph 4 of Schedule 2 to the Regulations applies to the vehicle as result of it falling within item 3 or 4 of Table 1 or item 4 of Table 2 in that paragraph,

(b) paragraph 4A of Schedule 2 to the Regulations applies to the vehicle as result of it meeting the requirements of paragraph 4B of that Schedule, or

(c) paragraph 4C of Schedule 2 to the Regulations applies to the vehicle as result of it meeting the requirements of paragraph 4D of that Schedule.

1 January 2017

19 The amendments made by paragraphs 2 and 3 come into force on 1 January 2017.

Interpretation

20 In this Schedule—

"bus" has the same meaning as in paragraph 3(2) of Schedule 1 to VERA 1994;

"exceptional load vehicle" is a vehicle to which paragraph 6 of Schedule 1 to VERA 1994 applies by reason of falling within sub-paragraph (1) of that paragraph;

"haulage vehicle" has the same meaning as in paragraph 7(2) of Schedule 1 to VERA 1994;

"light exceptional load vehicle" means an exceptional load vehicle which is not charged to HGV road user levy;

"the Regulations" means the Road Vehicles (Registration and Licensing) Regulations 2002 (S.I. 2002/2742);

"rigid goods vehicle" and "tractive unit" have the same meaning as in VERA 1994.

SCHEDULE 19

Section 91

OTHER AMENDMENTS ABOUT VEHICLE EXCISE DUTY

PART 1

AMENDMENTS OF THE VEHICLE EXCISE AND REGISTRATION ACT 1994

1 VERA 1994 is amended as follows.

2 In section 7 (issue of vehicle licences), omit subsections (6) and (7).

3 (1) Section 7A (supplement payable on vehicle ceasing to be appropriately covered) is amended as follows.

(2) In subsection (1B)—

(a) omit "or in respect of", and

(b) omit the words from "unless" to the end.

(3) Omit subsection (1C).

4 Omit section 10 (transfer of vehicle licences).

5 In section 14 (trade licences: supplementary)—

(a) in subsection (2), for the words from "surrender" to the end substitute " request that the Secretary of State cancel the licence ", and

(b) omit subsection (4).

6 (1) Section 19 (rebates) is amended as follows.

(2) In subsection (1), for the words from the beginning to "receive" substitute " If any of the rebate conditions is satisfied in relation to a vehicle in respect of which a vehicle licence is in force, the relevant person is entitled to receive (by way of rebate of duty paid on the licence) ".

(3) For subsection (3) substitute—

"(3) The rebate conditions are as follows—

(a) the vehicle has been stolen and the Secretary of State has been notified of that by the relevant person,

(b) the vehicle has been destroyed and the Secretary of State has been notified of that by the relevant person,

(c) a nil licence for the vehicle has been issued in accordance with regulations under section 22,

(d) a qualifying application for a vehicle licence for the vehicle has been received by the Secretary of State,

(e) the vehicle is neither used nor kept on a public road and the particulars and declaration required to be furnished and made by regulations under section 22(1D) have been furnished and made in relation to it in accordance with the regulations,

(f) the vehicle has been sold or disposed of and the particulars prescribed by regulations under section 22(1)(d) have been furnished in relation to it in accordance with the regulations, or

(g) the vehicle has been removed from the United Kingdom with a view to its remaining permanently outside the United Kingdom and the Secretary of State has been notified of that by the relevant person."

(4) In subsection (3ZA), for "(3)(ca)" substitute " (3)(d) ".

(5) In subsection (3A), for "when the application is made" substitute " when the rebate condition is satisfied ".

(6) In subsection (3B), for paragraph (b) (and the "and" following it) substitute—

"(b) the rebate condition in question is that in subsection (3)(e), (f) or (g), and".

(7) For subsection (4) substitute—

"(4) In subsections (1) and (3) "the relevant person" means the person in whose name the vehicle is registered immediately before the rebate condition is satisfied."

(8) For subsections (5) and (6) substitute—

"(5) The Secretary of State may specify requirements which must be complied with before a rebate condition can be satisfied.

(5A) The requirements that may be specified include (in particular)—

(a) a requirement that particulars which are required to be furnished to the Secretary of State are transmitted to the Secretary of State by such electronic means as may be specified, and

(b) in a case within subsection (3)(a), requirements relating to the reporting to the police that the vehicle has been stolen."

(9) For subsection (7) substitute—

"(7) Where any of the rebate conditions is satisfied in relation to a licence, the licence ceases to be in force."

(10) In subsection (8)—

(a) for "trade licence is surrendered to the Secretary of State" substitute " request is made ",

(b) for "holder of the licence" substitute " holder of the trade licence ", and

(c) for "of the surrender" substitute " the request is received by the Secretary of State ".

7 In section 22 (registration regulations)—

(a) omit subsection (2A)(c), and

(b) omit subsection (4).

8 In section 29 (penalty for keeping unlicensed vehicle)—

(a) in subsection (4) omit the words from "unless" to the end, and

(b) omit subsection (5).

9 In section 31 (relevant period for purposes of section 30), in subsection (7)(a), omit "surrender or".

10 In section 31A (offence by registered keeper where vehicle unlicensed)—

(a) in subsection (4) omit the words from "unless" to the end, and

(b) omit subsection (5).

11 In section 31B (exceptions to section 31A), in subsection (9)(a)(i), omit "surrender or".

12 In section 31C (penalties for offences under section 31A), in subsection (7)(a) omit "surrender or".

13 Omit section 33 (offence of not exhibiting licence).

14 Omit section 33A (not exhibiting licence: period of grace).

15 Omit section 35 (failure to return licence).

16 (1) Section 35A (dishonoured cheques) is amended as follows.

(2) In subsection (1)—

(a) in paragraph (a), for "contains a relevant requirement" substitute " requires a person to pay the amount specified in subsection (4) within such reasonable period as is specified in the notice ", and

(b) in paragraph (b), for "contained in the notice" substitute " within that period ".

(3) Omit subsection (3).

(4) In subsection (4), for "subsection (3)(b)" substitute " subsection (1)(a) ".

(5) For subsection (7) substitute—

"(7) In the case of a requirement in a notice relating to a vehicle licence, those times are—

(a) the end of the month in which the notice under section 19A(2)(b) or 19B(2)(c) or the further notice under section 19A(3)(d), 19B(3)(d) or 19B(5)(f) was sent,

(b) the date on which the licence was due to expire, and

(c) the end of the month preceding that in which there first had effect a new vehicle licence for the vehicle in question;

and, in a case of a requirement in a notice relating to a trade licence, those times are the times specified in paragraphs (a) and (b)."

17 (1) Section 36 (dishonoured cheques: additional liability) is amended as follows.

(2) For subsection (4A) substitute—

"(4A) In the case of a vehicle licence, those times are—

(a) the end of the month in which the relevant notice was sent,

(b) the date on which the licence was due to expire, and

(c) the end of the month preceding that in which there first had effect a new licence for the vehicle in question;

and, in the case of a trade licence, those times are the times specified in paragraphs (a) and (b).

(4B) In subsection (4A)(a), the "relevant notice" is the notice under section 19A(2)(b) or 19B(2)(c) or the further notice under section 19A(3)(d), 19B(3)(d) or 19B(5)(f) which contained the requirement which was not complied with, resulting in the conviction of an offence under section 35A."

(3) In subsection (6)(b), for "section 35A(3)(b)" substitute " section 35A(1)(a) ".

18 In section 44 (forgery and fraud), in subsection (2), omit paragraphs (a) to (c).

19 In section 58 (fees prescribed by regulations) omit "7(6)(b),".

20 In section 62 (definitions), in the definition of "nil licence", for the words from "document" to "and is" substitute " licence ".

PART 2

AMENDMENTS OF OTHER ENACTMENTS

21 In Schedule 3 to the Road Traffic Offenders Act 1988 (fixed penalty offences) omit the entry relating to section 33 of VERA 1994.

PART 3

COMMENCEMENT

22 The amendments made by this Schedule come into force on 1 October 2014.

SCHEDULE 20

Section 99

CLIMATE CHANGE LEVY: EXEMPTIONS FOR MINERALOGICAL AND METALLURGICAL PROCESSES ETC

PART 1

THE EXEMPTIONS

1 Schedule 6 to FA 2000 (climate change levy) is amended as follows.

2 After paragraph 12 insert—

"Exemption: mineralogical and metallurgical processes

12A (1) A supply of a taxable commodity to a person is exempt from the levy if the commodity is to be used by the person in a mineralogical or metallurgical process.

(2) "Mineralogical process" has the same meaning as in Article 2(4)(b) of Council Directive 2003/96/EC of 27 October 2003 (which relates to the taxation of energy products and electricity).

(3) "Metallurgical process" means a process of any of the following descriptions.

(4) The descriptions are—

(a) a process falling within Division 24 of NACE Rev 2, excluding Class 24.46;

(b) a process falling within Group 25.5 of NACE Rev 2;

(c) a process falling within Class 25.61 of NACE Rev 2 which is—

(i) plating, anodising etc of metals;

(ii) heat treatment of metals;

(iii) deburring, sandblasting, tumbling and cleaning of metals where carried out in conjunction with a process mentioned in paragraph (a) or (b).

In this sub-paragraph "NACE Rev 2" is as set out in Annex I to Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 (relating to the statistical classification of economic activities)."

3 (1) Paragraph 42 (amount payable by way of levy) is amended as follows.

(2) In sub-paragraph (1)—

(a) in paragraph (a) omit "or a supply for use in scrap metal recycling",

(b) omit paragraph (d), and

(c) in the Table, in the heading for column 2, omit "*or a supply for use in scrap metal recycling*".

(3) Omit sub-paragraph (1ZA).

4 Omit paragraph 43A (supplies for use in scrap metal recycling) and the cross-heading before it.

5 In paragraph 43B (supplies for use in scrap metal recycling etc: deemed supply) in sub-paragraph (1)(b) omit sub-paragraph (i).

6 In paragraph 62 (tax credits) in sub-paragraph (1) omit paragraphs (ca) and (cb).

7 In paragraph 101 (civil penalties: incorrect certificates) in sub-paragraph (2)(a)—

(a) in sub-paragraph (ii) after "12," insert " 12A, ",

(b) after sub-paragraph (ii) insert " or ", and

(c) omit sub-paragraph (iiia) and the "or" after it.

8 (1) The Climate Change Levy (General) Regulations 2001 (S.I. 2001/838) are amended as follows.

(2) In regulation 2 (general interpretation) in paragraph (1) omit ", recycling lower-rate part", "a recycling lower-rate supply or" and the definition of "recycling lower-rate supply".

(3) In regulation 8 (records which a registrable person is obliged to keep) in paragraph (c)(ii) omit "recycling lower-rate supply or a".

(4) In regulation 11 (other tax credits: entitlement) in paragraph (1)—

(a) in sub-paragraph (c) omit "a recycling lower-rate supply or" (in both places), and

(b) omit sub-paragraph (ca).

(5) In regulation 12 (tax credits: general) in paragraph (1) omit ", recycling lower-rate supplies".

(6) In regulation 33 (special rules for certain supplies)—

(a) in the heading omit "**, recycling lower-rate supplies**", and

(b) in the text omit ", recycling lower-rate supplies".

(7) In the title of Part 3 omit ", RECYCLING LOWER-RATE".

(8) In regulation 34 (supplier certificates) in paragraph (1)(a) after "12 (transport)," insert " 12A (mineralogical and metallurgical processes), ".

(9) In regulation 35 (supplier certificates)—

(a) in paragraph (1) omit "a recycling lower-rate or",

(b) in paragraph (2)(a) omit paragraph (ii) and the "or" before it, and

(c) in paragraph (3) omit "or is for use in scrap metal recycling".

(10) Schedule 1 (certification etc) is amended as follows.

(11) In the title omit ", RECYCLING LOWER-RATE".

(12) In paragraph 2—

(a) in the formula omit "+0.8L",

(b) in the definition of "M", after paragraph (b) insert—

"(ba) paragraph 12A—mineralogical and metallurgical processes;", and

(c) omit the definition of "0.8L".

(13) In paragraph 3(1) omit "recycling lower-rate and".

(14) In paragraph 5(7) omit "Supplies for use in scrap metal recycling and".

(15) In paragraph 6(1)—

(a) in paragraph (c) omit "a recycling lower-rate supply or" (in both places), and

(b) omit paragraph (ca).

(16) The amendments made by sub-paragraphs (8) and (12)(b) are to be treated as having been made by the Commissioners for Her Majesty's Revenue and Customs in exercise of the power conferred by paragraph 22 of Schedule 6 to FA 2000 (regulations giving effect to exemptions).

9 (1) Schedule 1 to the Climate Change Levy (Fuel Use and Recycling Processes) Regulations 2005 (S.I. 2005/1715) is amended as follows.

(2) In paragraph 1 omit "Aluminium" and "Copper".

(3) In paragraph 2 for the words from "Gold" to "platinum group metal alloys and" substitute " The electrolytic dissolution of ".

(4) Omit paragraphs 18 to 24, 26, 27, 28, 32, 34, 36 and 37.

(5) The amendments made by this paragraph are to be treated as having been made by the Treasury in exercise of the power conferred by paragraph 18(2) of Schedule 6 to FA 2000 (exemption for supply not used as fuel).

10 (1) The amendments made by this Part are treated as having come into force on 1 April 2014 and have effect as follows.

(2) In relation to supplies of gas or electricity, they have effect in relation to gas or electricity actually supplied on or after 1 April 2014.

(3) In relation to any other supplies, they have effect in relation to supplies treated as taking place on or after 1 April 2014.

PART 2

OTHER PROVISION

11 Schedule 6 to FA 2000 (climate change levy) is amended as follows.

12 In paragraph 12A (as inserted by paragraph 2 above) after sub-paragraph (4) insert—

"(5) The Treasury may by regulations amend this paragraph so as to amend the definition of "mineralogical process".

(6) The Treasury may by regulations amend sub-paragraph (4) so as to add, remove or modify a description."

13 In paragraph 13A (power to make provision amending paragraph 13) in sub-paragraph (3) omit "Parliament".

14 (1) Paragraph 146 (regulations and orders) is amended as follows.

(2) In sub-paragraphs (2)(b) and (3) omit "Parliament".

(3) After sub-paragraph (3) insert—

"(3A) A statutory instrument that contains (whether alone or with other provision) regulations under paragraph 12A(5) that remove a process (in whole or in part) from the scope of the definition of "mineralogical process" shall not be made unless a draft of the statutory instrument containing the regulations has been laid before and approved by a resolution of the House of Commons.

(3B) A statutory instrument that contains (whether alone or with other provision) regulations under paragraph 12A(6) that—

(a) remove a description, or

(b) modify a description so as to narrow its scope,

shall not be made unless a draft of the statutory instrument containing the regulations has been laid before and approved by a resolution of the House of Commons."

SCHEDULE 21

Section 101

GOODS SHIPPED OR CARRIED AS STORES ON SHIPS OR AIRCRAFT

Meaning of "stores"

1 (1) Section 1 of CEMA 1979 (interpretation) is amended as follows.

(2) In subsection (4)(a)(i), for "relevant journey" substitute " journey made by the ship or aircraft ".

(3) Omit subsection (4A).

Commencement Information

I14 Sch. 21 para. 1 in force at 1.4.2015 by S.I. 2015/812, **art. 2**

Surplus stores

2 In section 39 of CEMA 1979 (entry of surplus stores), for subsection (1) substitute—

"(1) Surplus stores of any ship or aircraft—

(a) may remain on board the ship or aircraft without payment of duty; or

(b) may be entered for warehousing, notwithstanding that they could not lawfully be imported as merchandise.

This is subject to subsection (2) below."

Commencement Information
I15 Sch. 21 para. 2 in force at 1.4.2015 by S.I. 2015/812, **art. 2**

Power to make regulations about stores

3 In CEMA 1979, after section 60 insert—

"**60A Power to make regulations about stores**

(1) The Commissioners may by regulations make provision in relation to goods for use on a ship or aircraft as stores.

(2) The provision that may be made by regulations under subsection (1) includes—

(a) provision permitting, in specified circumstances, goods to be shipped or carried as stores without payment of duty or on drawback;

(b) provision requiring authorisation to be obtained, in specified circumstances, for goods to be shipped or carried as stores as mentioned in paragraph (a) above;

(c) provision about obtaining such authorisation;

(d) provision enabling such authorisation to be withdrawn in specified circumstances;

(e) provision for the supply, shipping or carriage of goods as stores as mentioned in paragraph (a) above to be subject to specified conditions or restrictions;

(f) provision as to any procedure to be followed in supplying goods to be shipped or carried as stores as mentioned in paragraph (a) above.

(3) Regulations made by virtue of subsection (2)(a) may include—

(a) provision requiring duty to be paid on goods shipped or carried as stores without payment of duty or on drawback where those goods are—

(i) consumed on a journey of a specified description; or

(ii) consumed in specified circumstances in port;

(b) provision as to the persons by whom such duty is payable;

(c) provision about the way in which, and the time at which, such duty is to be paid; and

(d) provision for goods, in specified circumstances, to be treated as having been consumed on a journey or in port.

(4) The provision that may be made by regulations under this section includes—

(a) different provision for different cases; and

(b) incidental, supplemental, consequential or transitional provision or savings.

(5) In this section "specified" means—

(a) specified in regulations made under this section; or

(b) specified by the Commissioners under such regulations."

Commencement Information

I16 Sch. 21 para. 3 partly in force; Sch. 21 para. 3 in force for specified purposes at Royal Assent, see Sch. 21 para. 10

4 (1) Section 61 of CEMA 1979 (provisions as to stores) is amended as follows.

(2) Omit subsections (1) to (4).

(3) In subsection (5), for the words from "for use on a voyage" to "duty" substitute " without payment of duty ".

(4) After subsection (5) insert—

"(5A) But subsection (5) above does not apply where the goods are entered for warehousing in accordance with section 39."

(5) In subsection (6), omit "for use".

(6) The heading of section 61 becomes " **Supplementary provision relating to stores** ".

Commencement Information

I17 Sch. 21 para. 4 in force at 1.4.2015 by S.I. 2015/812, **art. 2**

5 In consequence of the provision made by paragraph 4, in section 103 of F(No.2)A 1987 (consumption in port of goods transhipped for use as stores etc), omit subsections (1), (2) and (4) to (7).

Commencement Information

I18 Sch. 21 para. 5 in force at 1.4.2015 by S.I. 2015/812, **art. 2**

Penalties and enforcement

6 In CEMA 1979, after section 60A (inserted by paragraph 3 above) insert—

"**60B Failure to comply with regulations under section 60A**

(1) This section applies if a person fails to comply with—

(a) any provision made by or under regulations under section 60A; or

(b) any condition or restriction imposed under such regulations.

(2) The person's failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties) (but see subsection (4)).

(3) Any goods in respect of which the person fails to comply with the provision, condition or restriction are liable to forfeiture.

(4) Subsection (2) does not apply if, as a result of the failure, the person is liable to pay a penalty under Schedule 55 to the Finance Act 2009 (penalty for failure to make returns etc) or Schedule 56 to that Act (penalty for failure to make payments on time)."

Commencement Information
I19 Sch. 21 para. 6 in force at 1.4.2015 by S.I. 2015/812, **art. 2**

7 In Schedule 55 to FA 2009 (penalty for failure to make returns etc), in the Table in paragraph 1, after item 20 insert—

"20A	Excise duties	Return under regulations under section 60A of the Customs and Excise Management Act 1979".

Commencement Information
I20 Sch. 21 para. 7 in force at 1.4.2015 by S.I. 2015/812, **art. 2**

8 In Schedule 56 to FA 2009 (penalty for failure to make payments on time), in the Table in paragraph 1, after item 11G insert—

"11GA	Excise duties	Amount payable under regulations under section 60A of the Customs and Excise Management Act 1979 (except an amount falling within item 17A, 23 or 24).	The date determined by or under regulations under section 60A of the Customs and Excise Management Act 1979 as the date by which the amount must be paid".

Commencement Information
I21 Sch. 21 para. 8 in force at 1.4.2015 by S.I. 2015/812, **art. 2**

Review and appeal

9 In paragraph 2 of Schedule 5 to FA 1994 (decisions under CEMA 1979 subject to review and appeal), after sub-paragraph (3) insert—

"(3A) Any decision which is made under or for the purposes of any regulations under section 60A of the Management Act (power to make regulations about stores) and is a decision about granting or withdrawing authorisation for goods to be shipped or carried as stores without payment of duty or on drawback."

Commencement Information
I22 Sch. 21 para. 9 in force at 1.4.2015 by S.I. 2015/812, **art. 2**

PROSPECTIVE

Commencement

10 (1) Any power to make regulations conferred by virtue of this Schedule comes into force on the day on which this Act is passed.

(2) So far as not already brought into force by virtue of sub-paragraph (1), the amendments made by this Schedule come into force in accordance with provision contained in an order made by statutory instrument by the Commissioners for Her Majesty's Revenue and Customs.

11 (1) Schedule 55 to FA 2009 (including the amendments of that Schedule made by Schedule 10 to F(No.3)A 2010) is taken to have come into force for the purposes of section 60A of CEMA 1979 on the date on which paragraph 7 of this Schedule comes into force.

(2) Schedule 56 to FA 2009 (including the amendments of that Schedule made by Schedule 11 to F(No.3)A 2010) is taken to have come into force for the purposes of section 60A of CEMA 1979 on the date on which paragraph 8 of this Schedule comes into force.

SCHEDULE 22

Section 103

SUPPLIES OF ELECTRONIC, BROADCASTING AND TELECOMMUNICATION SERVICES: SPECIAL ACCOUNTING SCHEMES

PART 1

UNION SCHEME

New Union scheme for accounting for VAT on certain supplies

1 After Schedule 3B to VATA 1994 insert—

"SCHEDULE
3BA

ELECTRONIC, TELECOMMUNICATION AND BROADCASTING SERVICES: UNION SCHEME

PART 1

INTRODUCTION

Overview

1 In this Schedule—

(a) Parts 2 and 3 establish a special accounting scheme (called the "Union scheme") which may be used by certain persons established in the United Kingdom who make supplies of electronically supplied, telecommunication or broadcasting services that are treated as made in other member States;

(b) Part 4 is about persons participating in schemes in other member States that correspond to the Union scheme;

(c) Part 5 is about appeals;

(d) Part 6 contains definitions for the Schedule.

Meaning of "scheme services"

2 (1) In this Schedule "scheme services" means electronically supplied services, broadcasting services or telecommunication services.

(2) In sub-paragraph (1)—

"broadcasting services" means radio and television broadcasting services;

"electronically supplied services" has the same meaning as in Schedule 4A (see paragraph 9(3) and (4) of that Schedule);

"telecommunication services" has the same meaning as in Schedule 4A (see paragraph 8(2) of that Schedule).

PART 2

UNION SCHEME: REGISTRATION

The register

3 Persons registered under the scheme provided for by this Schedule ("the Union scheme") are to be registered in a single register kept by the Commissioners for the purposes of the scheme.

Persons who may be registered

4 (1) A person may register under the Union scheme if all the following conditions are met—

(a) the person makes or intends to make one or more qualifying supplies of scheme services in the course of a business that the person carries on;

(b) either the person's business is established in the United Kingdom or (if the person's business is not established in any member State) the person has a fixed establishment in the United Kingdom;

(c) the person is not barred from registering by sub-paragraph (3), by the second paragraph of Article 369a(2) of Directive 2006/112/EC or by any provision of the Implementing Regulation;

(d) the person is registered under Schedule 1.

(2) A supply of scheme services is a "qualifying supply of scheme services" if the following conditions are met.

(1) The recipient of the services must belong in a member State other than the United Kingdom and must not be a relevant business person.

(2) The person making the supply must not have a fixed establishment in the member State in which the recipient belongs.

(3) A person may not be registered under the Union scheme if the person is a participant in a non-UK special scheme (see paragraph 38(1)).

Becoming registered

5 (1) The Commissioners must register under the Union scheme any person who—

(a) satisfies them that the requirements for registration are met, and

(b) makes a request in accordance with this paragraph (a "registration request").

(2) A registration request made by a person must state the person's—

(a) name and postal address, and

(b) electronic addresses (including any websites).

(3) A registration request made by a person must also state—

(a) whether or not the person has begun to make qualifying supplies of scheme services, and

(b) (if applicable) the date on which the person began to do so.

(4) A registration request made by a person must also state—

(a) whether or not the person has previously been identified under a non-UK special scheme, and

(b) (if applicable) the date on which the person was first identified under the scheme concerned.

(5) A registration request—

(a) must contain any further information, and any declaration about its contents, that the Commissioners may by regulations require;

(b) must be made by such electronic means, and in such manner, as the Commissioners may direct or may by regulations require.

Notification of changes etc

6 (1) A person registered under the Union scheme must inform the Commissioners of the date when the person first makes qualifying supplies of scheme services (unless the person has already given the Commissioners the information mentioned in paragraph 5(3)(b)).

(2) That information, and any information a person is required to give under Article 57h of the Implementing Regulation (notification of certain changes), must be communicated by such electronic means, and in such manner, as the Commissioners may direct or may by regulations require.

Cancellation of registration

7 The Commissioners must cancel the registration under the Union scheme of a person if—

(a) the person has ceased to make, or no longer intends to make, supplies of scheme services and has notified them of that fact;

(b) they otherwise determine that the person has ceased to make, or no longer intends to make, supplies of scheme services;

(c) the person has ceased to satisfy any of the other conditions for registration in paragraph 4(1) and has notified them of that fact,

(d) they otherwise determine that the person has ceased to satisfy any of those conditions, or

(e) they determine that the person has persistently failed to comply with the person's obligations under this Schedule or the Implementing Regulation.

PART 3

UNION SCHEME: LIABILITY, RETURNS, PAYMENT ETC

Liability to pay non-UK VAT to Commissioners

8 (1) This paragraph applies where a person—

(a) makes a qualifying supply of scheme services, and

(b) is registered under the Union scheme when the supply is made.

(2) The person is liable to pay to the Commissioners the gross amount of VAT on the supply.

(3) The reference in sub-paragraph (2) to the gross amount of VAT on the supply is to the amount of VAT charged on the supply in accordance with the law of the member State in which the supply is treated as made, without any deduction of VAT pursuant to Article 168 of Directive 2006/112/EC.

Union scheme returns

9 (1) A person who is or has been registered under the Union scheme must submit a return (a "Union scheme return") to the Commissioners for each reporting period.

(2) Each quarter for the whole or part of which a person is registered under the Union scheme is a "reporting period" for that person.

Union scheme returns: further requirements

10 (1) A Union scheme return is to be made out in sterling.

(2) Any conversion from one currency into another for the purposes of sub-paragraph (1) is to be made using the exchange rates published by the European Central Bank—

(a) for the last day of the reporting period to which the Union scheme return relates, or

(b) if no such rate is published for that day, for the next day for which such a rate is published.

(3) A Union scheme return—

(a) must be submitted to the Commissioners within the 20 days after the last day of the reporting period to which it relates;

(b) must be submitted by such electronic means, and in such manner, as the Commissioners may direct or may by regulations require.

Payment

11 (1) A person who is required to submit a Union scheme return must pay, by the deadline for submitting the return, the amounts required in accordance with paragraph 8 in respect of qualifying supplies of scheme services made in the reporting period to which the return relates.

(2) A payment under this paragraph must be made in such manner as the Commissioners may direct or may by regulations require.

Availability of records

12 (1) A person who is registered under the Union scheme must make available to the Commissioners, on request, any obligatory records the person is keeping of transactions entered into by the person while registered under the scheme.

(2) The records must be made available by electronic means.

(3) In sub-paragraph (1) "obligatory records" means records kept in accordance with an obligation imposed in accordance with Article 369k of Directive 2006/112/EC.

Amounts required to be paid to other member States

13 Section 44 of the Commissioners for Revenue and Customs Act 2005 (requirement to pay receipts into the Consolidated Fund) does not apply to any money received for or on account of VAT that is required to be paid to another member State under Article 46 of Council Regulation (EU) No 904/2010.

PART 4

PERSONS REGISTERED UNDER NON-UK SPECIAL SCHEMES

Meaning of "non-UK special scheme"

14 (1) In this Schedule "non-UK special scheme" means any provision of the law of a member State other than the United Kingdom which implements Section 3 of Chapter 6 of Title XII of Directive 2006/112/EC.

(2) In relation to a non-UK special scheme, references to the "administering member State" are to the member State under whose law the scheme is established.

Exemption from requirement to register under this Act

15 (1) A participant in a non-UK special scheme is not required to be registered under this Act by virtue of making supplies of scheme services in respect of which the participant is required to make returns under that scheme.

(2) Sub-paragraph (1) overrides any contrary provision in this Act.

(3) Where a participant in a non-UK special scheme who is not registered under this Act ("the unregistered person") makes relevant supplies, it is to be assumed for all purposes of this Act relating to the determination of—

(a) whether or not VAT is chargeable under this Act on those supplies,

(b) how much VAT is chargeable under this Act on those supplies,

(c) the time at which those supplies are treated as taking place, and

(d) any other matter that the Commissioners may specify by regulations,

that the unregistered person is registered under this Act.

(4) Supplies of scheme services made by the unregistered person are "relevant supplies" if—

(a) the value of the supplies must be accounted for in a return required to be made by the unregistered person under the non-UK special scheme, and

(b) the supplies are treated as made in the United Kingdom.

De-registration

16 (1) Sub-paragraph (2) applies where a person who is registered under Schedule 1A—

(a) satisfies the Commissioners that the person intends to apply for identification under a non-UK special scheme, and

(b) asks the Commissioners to cancel the person's registration under Schedule 1A.

(2) The Commissioners may cancel the person's registration under Schedule 1A with effect from—

(a) the day on which the request is made, or

(b) a later date agreed between the person and the Commissioners.

Scheme participants who are also registered under this Act

17 (1) A person who—

(a) is a participant in a non-UK special scheme, and

(b) is also registered, or required to be registered, under this Act,

is not required to discharge any obligation placed on the person as a taxable person, so far as the obligation relates to relevant supplies.

(2) The reference in sub-paragraph (1) to an obligation placed on the person as a taxable person is to an obligation—

(a) to which the person is subject under or by virtue of this Act, and

(b) to which the person would not be subject if the person were neither registered nor required to be registered under this Act.

(3) A supply made by a participant in a non-UK special scheme is a "relevant supply" if—

(a) the value of the supply must be accounted for in a return required to be made by the participant under the non-UK special scheme, and

(b) the supply is treated as made in the United Kingdom.

(4) The Commissioners may by regulations specify cases in relation to which sub-paragraph (1) is not to apply.

(5) In section 25(2) (deduction of input tax from output tax by taxable person) the reference to output tax that is due from the taxable person does not include any VAT that the taxable person is liable under a non-UK special scheme to pay to the tax authorities for the administering member State.

Value of supplies to connected persons

18 In paragraph 1 of Schedule 6 (valuation: supply to connected person at less than market value) the reference to a supply made by a taxable person is to be read as including a supply of scheme services that is made by a participant in a non-UK special scheme (and is treated as made in the United Kingdom).

Refund of VAT on supplies of goods and services supplied to scheme participant

19 The power of the Commissioners to make regulations under section 39 (repayment of VAT to those in business overseas) includes power to make provision for giving effect to the second sentence of Article 369j of Directive 2006/112/EC (which provides for VAT on certain supplies to participants in special accounting schemes to be refunded in accordance with Directive 2008/9/EC).

Assessments: general modifications of section 73

20 (1) For the purposes of this Schedule, section 73 (assessments: incorrect returns etc) is to be read as if—

(a) the reference in subsection (1) of that section to returns required under this Act included relevant non-UK returns, and

(b) references in that section to a prescribed accounting period included a tax period.

(2) See also the modifications in paragraph 21.

(3) In this Schedule "relevant non-UK return" means a non-UK return (see paragraph 38(1)) that is required to be made (wholly or partly) in respect of supplies of scheme services that are treated as made in the United Kingdom.

Assessment in connection with increase in consideration

21 (1) Sub-paragraphs (2) to (4) make modifications of sections 73 and 76 which—

(a) have effect for the purposes of this Schedule, and

(b) are in addition to any other modifications of those sections made by this Schedule.

(2) Section 73 has effect as if the following were inserted after subsection (3) of that section—

"(3A) Where a person has failed to make an amendment or notification that the person is required to make under paragraph 31 of Schedule 3BA in respect of an increase in the consideration for a UK supply (as defined in paragraph 31(7)), the Commissioners may assess the amount of VAT due from the person as a result of the increase to the best of their judgement and notify it to the person.

(3B) An assessment under subsection (3A)—

(a) is of VAT due for the tax period mentioned in paragraph 31(1)(a) of Schedule 3BA;

(b) must be made within the time limits provided for in section 77, and must not be made after the later of—

(i) 2 years after the end of the tax period referred to in paragraph 31(1)(a);

(ii) one year after evidence of facts sufficient in the opinion of the Commissioners to justify making the assessment comes to their knowledge.

(3C) Subject to section 77, where further evidence such as is mentioned in subsection (3B)(b)(ii) comes to the Commissioners' knowledge after they have made an assessment under subsection (3A), another assessment may be made under that subsection, in addition to any earlier assessment."

(3) The reference in section 73(9) to subsection (1) of that section is taken to include a reference to section 73(3A) (as inserted by sub-paragraph (2)).

(4) Section 76 (assessment of amounts due by way of interest etc) is to be read as if the reference in subsection (5) of that section to section 73(1) included a reference to section 73(3A) (as inserted by sub-paragraph (2)).

Assessments: consequential modifications

22 References to prescribed accounting periods in the following provisions are to be read in accordance with the modifications made by paragraphs 20 and 21—

(a) section 74 (interest on VAT recovered or recoverable by assessment);

(b) section 76 (assessment of amounts due by way of penalty, interest or surcharge);

(c) section 77 (assessment: time limits).

Deemed amendments of relevant non-UK returns

23 (1) Where a person who has made a relevant non-UK return makes a claim under paragraph 29(7)(b) (overpayments) in relation to an error in the return, the relevant non-UK return is taken for the purposes of this Act to have been amended by the information in the claim.

(2) Where a person who has made a relevant non-UK return gives the Commissioners a notice relating to the return under paragraph 31(2)(b)

(increase or decrease in consideration), the relevant non-UK return is taken for the purposes of this Act to have been amended by that information.

(3) Where (in a case not falling within sub-paragraph (1) or (2)) a person who has made a relevant non-UK return notifies the Commissioners (after the expiry of the period during which the non-UK return may be amended under Article 61 of the Implementing Regulation) of a change that needs to be made to the return to correct an error, or rectify an omission, in it, the relevant non-UK return is taken for the purposes of this Act to have been amended by that information.

(4) The Commissioners may by regulations—

(a) specify within what period and in what form and manner notice is to be given under sub-paragraph (3);

(b) require notices to be supported by documentary evidence described in the regulations.

Interest on VAT: "reckonable date"

24 (1) Sub-paragraph (2) states the "reckonable date" for the purposes of section 74(1) and (2) for any case where an amount carrying interest under that section—

(a) is an amount assessed under section 73(2) (refunds etc) in reliance on paragraph 20, or that could have been so assessed, and

(b) was correctly paid or credited to the person, but would not have been paid or credited to the person had the facts been as they later turn out to be.

(2) The "reckonable date" is the first day after the end of the tax period in which the events occurred as a result of which the Commissioners were authorised to make the assessment (that was or could have been made) under section 73(2).

(3) Sub-paragraph (4) states the "reckonable date" for any other case where an amount carrying interest under section 74 is assessed under section 74(1) or (2) in reliance on paragraph 20, or could have been so assessed.

(4) The "reckonable date" is taken to be the latest date by which a non-UK return was required to be made for the tax period to which the amount assessed relates.

(5) Where section 74(1) or (2) (interest on VAT recovered or recoverable by assessment) applies in relation to an amount assessed under section 73(3A) (as inserted by paragraph 21(2)), the "reckonable date" for the purposes of section 74(1) or (2) is taken to be the day after the end of the tax period referred to in paragraph 31(2).

Default surcharge: notice of special surcharge period

25 (1) A person who is required to make a relevant non-UK return for a tax period is regarded for the purposes of this paragraph and paragraph 26 as being in default in respect of that period if either—

(a) conditions 1A and 2A are met, or

(b) conditions 1B and 2B are met;

(but see also paragraph 27).

(2) For the purposes of sub-paragraph (1)(a)—

(a) condition 1A is that the tax authorities for the administering member State have not received the return by the deadline for submitting it;

(b) condition 2A is that those tax authorities have, in accordance with Article 60a of the Implementing Regulation, issued a reminder of the obligation to submit the return.

(3) For the purposes of sub-paragraph (1)(b)—

(a) condition 1B is that, by the deadline for submitting the return, the tax authorities for the administering member State have received the return but have not received the amount of VAT shown on the return as payable by the person in respect of the tax period;

(b) condition 2B is that those tax authorities have, in accordance with Article 60a of the Implementing Regulation, issued a reminder of the VAT outstanding.

(4) The Commissioners may serve on a person who is in default in respect of a tax period a notice (a "special surcharge liability notice") specifying a period—

(a) ending on the first anniversary of the last day of that tax period, and

(b) beginning on the date of the notice.

(5) A period specified under sub-paragraph (4) is a "special surcharge period".

(6) If a special surcharge liability notice is served in respect of a tax period which ends at or before the end of an existing special surcharge period, the special surcharge period specified in that notice must be expressed as a continuation of the existing special surcharge period (so that the existing period and its extension are regarded as a single special surcharge period).

Further default after service of notice

26 (1) If a person on whom a special surcharge liability notice has been served—

(a) is in default in respect of a tax period ending within the special surcharge period specified in (or extended by) that notice, and

(b) has outstanding special scheme VAT for that tax period,

the person is to be liable to a surcharge of the amount given by sub-paragraph (2).

(2) The surcharge is equal to whichever is the greater of—

(a) £30, and

(b) the specified percentage of the person's outstanding special scheme VAT for the tax period.

(3) The specified percentage depends on whether the tax period is the first, second or third etc in the default period in respect of which the person is in default and has outstanding special scheme VAT, and is—

(a) for the first such tax period, 2%;

(b) for the second such tax period, 5%;

(c) for the third such tax period, 10%;

(d) for each such tax period after the third, 15%.

(4) "Special scheme VAT", in relation to a person, means VAT that the person is liable to pay to the tax authorities for the administering member State under a non-UK special scheme in respect of supplies of scheme services treated as made in the United Kingdom.

(5) A person has "outstanding special scheme VAT" for a tax period if some or all of the special scheme VAT for which the person is liable in respect of that period has not been paid by the deadline for the person to submit a non-UK return for that period (and the amount unpaid is referred to in sub-paragraph (2)(b) as "the person's outstanding special scheme VAT" for the tax period).

Default surcharge: exceptions for reasonable excuse etc

27 (1) A person who would otherwise have been liable to a surcharge under paragraph 26(1) is not to be liable to the surcharge if the person satisfies the Commissioners or, on appeal, the tribunal that, in the case of a default which is material to the surcharge—

(a) the non-UK return or, as the case may be, the VAT shown on that return, was despatched at such a time and in such manner that it was reasonable to expect that it would be received by the tax authorities for the administering member State within the appropriate time limit, or

(b) there is a reasonable excuse for the return or the VAT not having been so despatched.

(2) Where sub-paragraph (1) applies to a person—

(a) the person is treated as not having been in default in respect of the tax period in question, and

(b) accordingly, any special surcharge liability notice the service of which depended on that default is regarded as not having been served.

(3) A default is "material" to a surcharge if—

(a) it is the default which gives rise to the surcharge, under paragraph 26(1), or

(b) it is a default which was taken into account in the service of the special surcharge liability notice on which the surcharge depends and the person concerned has not previously been liable to a surcharge in respect of a tax period ending within the special surcharge period specified in or extended by that notice.

(4) A default is left out of account for the purposes of paragraphs 25(4) and 26(1) if—

(a) the conduct by virtue of which the person is in default is also conduct falling within section 69(1) (breaches of regulatory provisions), and

(b) by reason of that conduct the person concerned is assessed to a penalty under that section.

(5) If the Commissioners, after consultation with the Treasury, so direct, a default in respect of a tax period specified in the direction is to be left out of account for the purposes of paragraphs 25(4) and 26(1).

(6) Section 71(1) (meaning of "reasonable excuse") applies for the purposes of this paragraph as it applies for the purposes of sections 59 to 70.

Interest in certain cases of official error

28 (1) Section 78 (interest in certain cases of official error) applies as follows in relation to a case where, due to an error on the part of the Commissioners—

(a) a person has accounted under a non-UK special scheme for an amount by way of UK VAT that was not UK VAT due from the person, and as a result the Commissioners are liable under paragraph 29 to pay (or repay) an amount to the person, or

(b) (in a case not falling within paragraph (a)), a person has paid, in accordance with an obligation under a non-UK special scheme, an amount by way of UK VAT that was not UK VAT due from the person and which the Commissioners are in consequence liable to repay to the person.

(2) Section 78 has effect as if the condition in section 78(1)(a) were met in relation to that person.

(3) In the application of section 78 as a result of this paragraph, section 78(12)(b) is read as providing that any reference in that section to a return is to a return required to be made under a non-UK special scheme.

(4) In section 78, as it applies as a result of this section, "output tax" has the meaning that that expression would have if the reference in section 24(2) to a "taxable person" were to a "person".

Overpayments

29 (1) A person may make a claim if the person—

(a) has made a non-UK return for a tax period relating wholly or partly to supplies of scheme services treated as made in the United Kingdom,

(b) has accounted to the tax authorities for the administering member State for VAT in respect of those supplies, and

(c) in doing so has brought into account as UK VAT due to those authorities an amount ("the overpaid amount") that was not UK VAT due to them.

(2) A person may make a claim if the person has, as a participant in a non-UK special scheme, paid (to the tax authorities for the administering member State or to the Commissioners) an amount by way of UK VAT that was not UK VAT due ("the overpaid amount"), otherwise than in the circumstances mentioned in sub-paragraph (1)(c).

(3) A person who is or has been a participant in a non-UK special scheme may make a claim if the Commissioners—

(a) have assessed the person to VAT for a tax period, and

(b) in doing so, have brought into account as VAT an amount ("the amount not due") that was not VAT due.

(4) Where a person makes a claim under sub-paragraph (1) or (2), the Commissioners must repay the overpaid amount to the person.

(5) Where a person makes a claim under sub-paragraph (3), the Commissioners must credit the person with the amount not due.

(6) Where—

(a) as a result of a claim under sub-paragraph (3) an amount is to be credited to a person, and

(b) after setting any sums against that amount under or by virtue of this Act, some or all of the amount remains to the person's credit,

the Commissioners must pay (or repay) to the person so much of the amount as remains to the person's credit.

(7) The reference in sub-paragraph (1) to a claim is to a claim made—

(a) by correcting, in accordance with Article 61 of the Implementing Regulation, the error in the non-UK return mentioned in sub-paragraph (1)(a), or

(b) (after the expiry of the period during which the non-UK return may be amended under Article 61) to the Commissioners.

(8) Sub-paragraphs (1) and (2) do not require any amount to be repaid except so far as that is required by Article 63 of the Implementing Regulation.

Overpayments: supplementary

30 (1) In section 80—

(a) subsections (3) to (3C) (unjust enrichment), and

(b) subsections (4A), (4C) and (6) (recovery by assessment of amounts wrongly credited),

have effect as if a claim under paragraph 29(1) were a claim under section 80(1), a claim under paragraph 29(2) were a claim under section 80(1B) and a claim under paragraph 29(3) were a claim under section 80(1A).

(2) In section 80(3) to (3C), (4A), (4C) and (6), as applied by sub-paragraph (1) —

(a) references to the crediting of amounts are to be read as including the payment of amounts;

(b) references to a prescribed accounting period include a tax period.

(3) The Commissioners are not liable to repay the overpaid amount on a claim made—

(a) under paragraph 29(2),or

(b) as mentioned in paragraph 29(7)(b),

if the claim is made more than 4 years after the relevant date.

(4) On a claim made under paragraph 29(3), the Commissioners are not liable to credit the amount not due if the claim is made more than 4 years after the relevant date.

(5) The "relevant date" is—

(a) in the case of a claim under paragraph 29(1), the end of the tax period mentioned in paragraph 29(1)(a), except in the case of a claim resulting from an incorrect disclosure;

(b) in the case of a claim under paragraph 29(1) resulting from an incorrect disclosure, the end of the tax period in which the disclosure was made;

(c) in the case of a claim under paragraph 29(2), the date on which the payment was made;

(d) in the case of a claim under paragraph 29(3), the end of the quarter in which the assessment was made.

(6) A person makes an "incorrect disclosure" where—

(a) the person discloses to the tax authorities in question (whether the Commissioners or the tax authorities for the administering member State) that the person has not brought into account for a tax period an amount of UK VAT due for the period ("the disclosed amount"),

(b) the disclosure is made in a later tax period, and

(c) some or all of the disclosed amount is not in fact VAT due.

Increase or decrease in consideration for a supply

31 (1) This paragraph applies where—

(a) a person makes a non-UK return for a tax period ("the affected tax period") relating (wholly or partly) to a UK supply, and

(b) after the return has been made the amount of the consideration for the UK supply increases or decreases.

(2) The person must, in the tax period in which the increase or decrease is accounted for in the person's business accounts—

(a) amend the non-UK return to take account of the increase or decrease, or

(b) (if the period during which the person is entitled under Article 61 of the Implementing Regulation to amend the non-UK return has expired) notify the Commissioners of the adjustment needed to the figures in the non-UK return because of the increase or decrease.

(3) Where the change to which an amendment or notice under sub-paragraph (2) relates is an increase in the consideration for a UK supply, the person must pay to the tax authorities for the administering member State (in accordance with Article 62 of the Implementing Regulation) or, in a case falling within sub-paragraph (2)(b), the Commissioners, the difference between—

(a) the amount of VAT that was chargeable on the supply before the increase in consideration, and

(b) the amount of VAT that is chargeable in respect of the whole of the increased consideration for the supply.

(4) Where the change to which an amendment or notice under sub-paragraph (2) relates is a decrease in the consideration for a UK supply, the amendment or notice has effect as a claim; and where a claim is made the Commissioners must repay any VAT paid by the person that would not have been VAT

due from the person had the consideration for the supply always been the decreased amount.

(5) The Commissioners may by regulations specify—

(a) the latest time by which, and the form and manner in which, a claim or other notice under sub-paragraph (2)(b) must be given;

(b) the latest time by which, and the form in which, a payment under sub-paragraph (3) must be made in a case within sub-paragraph (2)(b).

(6) A payment made under sub-paragraph (3) in a case within sub-paragraph (2)(a) must be made before the end of the tax period referred to in sub-paragraph (2).

(7) In this paragraph "UK supply" means a supply of scheme services that is treated as made in the United Kingdom.

Bad debts

32 Where a participant in a non-UK special scheme—

(a) has submitted a non-UK return to the tax authorities for the administering member State, and

(b) amends the return to take account of the writing-off as a bad debt of the whole or part of the consideration for a supply of scheme services that is treated as made in the United Kingdom,

the amending of the return may be treated as the making of a claim to the Commissioners for the purposes of section 36(2) (bad debts: claim for refund of VAT).

Records relating to supplies in UK

33 (1) A person who is a participant in a non-UK special scheme must keep records of the transactions which the person enters into for the purposes of, or in connection with, relevant supplies.

(2) A supply made by a participant in a non-UK special scheme is a "relevant supply" if—

(a) the value of the supply must be accounted for in a return required to be made by the participant under the non-UK special scheme, and

(b) the supply is treated as made in the United Kingdom.

(3) The records must be sufficiently detailed to enable the Commissioners to determine whether any special scheme return submitted in respect of the supplies is correct.

(4) The records must be made available on request to the Commissioners by electronic means.

(5) Records must be kept for 10 years beginning with the 1 January following the date on which the transaction was entered into.

Penalties for errors: disclosure

34 Where a person corrects a non-UK return in a way that constitutes telling the tax authorities for the administering member State about—

(a) an inaccuracy in the return,

(b) a supply of false information, or

(c) a withholding of information,

the person is regarded as telling HMRC about that for the purposes of paragraph 9 of Schedule 24 to the Finance Act 2007.

Set-offs

35 Where a participant in a non-UK special scheme is liable to pay UK VAT to the tax authorities for the administering member State in accordance with the scheme, the UK VAT is regarded for the purposes of section 130(6) of the Finance Act 2008 (set-off: England, Wales and Northern Ireland) as payable to the Commissioners.

PART 5

APPEALS

36 (1) An appeal lies to the tribunal with respect to any of the following—

(a) a refusal to register a person under the Union scheme;

(b) the cancellation of the registration of any person under the Union scheme;

(c) a refusal to make a repayment under paragraph 29 (overpayments), or a decision by the Commissioners as to the amount of the repayment due under that provision;

(d) a refusal to make a repayment under paragraph 31(4) (decrease in consideration);

(e) any liability to a surcharge under paragraph 26 (default surcharge).

(2) Part 5 of this Act (appeals), and any order or regulations under that Part, have effect as if an appeal under this paragraph were an appeal which lies to the tribunal under section 83(1) (but not under any particular paragraph of that subsection).

37 Where the Commissioners have made an assessment under section 73 in reliance on paragraph 20 or 21—

(a) section 83(1)(p)(i): (appeals against assessments under section 73(1) etc) applies as if the relevant non-UK return were a return under this Act, and

(b) the references in section 84(3) and (5) to the matters mentioned in section 83(1)(p) are to be read accordingly.

PART 6

INTERPRETATION OF SCHEDULE

38 (1) In this Schedule—

"administering member State", in relation to a non-UK special scheme, has the meaning given by paragraph 14(2);

"the Implementing Regulation" means Council Implementing Regulation (EU) No 282/2011;

"non-UK return" means a return required to be made, for a tax period, under a non-UK special scheme;

"non-UK special scheme" has the meaning given by paragraph 14(1);

"participant", in relation to a non-UK special scheme, means a person who is identified under that scheme;

"qualifying supply of scheme services" has the meaning given by paragraph 4(2);

"relevant non-UK return" has the meaning given by paragraph 20(3);

"reporting period" is to be read in accordance with paragraph 9(2);

"scheme services" has the meaning given by paragraph 2;

"tax period" means a period for which a person is required to make a return under a non-UK special scheme;

"UKVAT" means VAT in respect of supplies of scheme services treated as made in the United Kingdom;

"Union scheme" has the meaning given by paragraph 3;

"Union scheme return" has the meaning given by paragraph 9(1).

(2) In relation to a non-UK special scheme (or a non-UK return), references in this Schedule to "the tax authorities" are to the tax authorities for the member State under whose law the non-UK special scheme is established.

(3) References in this Schedule to a supply of scheme services being "treated as made" in the United Kingdom are to its being treated as made in the United Kingdom by paragraph 15 of Schedule 4A."

Power to amend provisions about the Union scheme

2 In section 3A of VATA 1994 (supply of electronic services in member States: special accounting scheme)—

(a) in subsection (2), after "3B" insert " or 3BA ";

(b) in subsection (3), for "Schedule 3B" substitute " Schedules 3B and 3BA ".

PART 2

NON-UNION SCHEME: AMENDMENTS OF SCHEDULE 3B TO VATA 1994

Introduction

3 Schedule 3B to VATA 1994 (supply of electronic services in member States: special accounting scheme) is amended in accordance with paragraphs 4 to 10.

Extension of non-Union scheme to broadcasting and telecommunication services

4 For paragraph 3 (qualifying supplies) substitute—

"3 (1) In this Schedule "qualifying supply" means a supply of electronically supplied services, telecommunication services or broadcasting services to a person who—

(a) belongs in the United Kingdom or another member State, and

(b) is not a relevant business person.

(2) In sub-paragraph (1)—

"broadcasting services" means radio and television broadcasting services;

"electronically supplied services" has the same meaning as in Schedule 4A (see paragraph 9(3) and (4) of that Schedule);

"telecommunication services" has the same meaning as in Schedule 4A (see paragraph 8(2) of that Schedule)."

5 For the title of the Schedule substitute— " ELECTRONIC, TELECOMMUNICATION AND BROADCASTING SERVICES: NON-UNION SCHEME ".

Consequential and other amendments

6 (1) Part 1 of the Schedule (registration) is amended as follows.

(2) In paragraph 2 (persons who may be registered)—

(a) in sub-paragraph (6) for "Article 26c" substitute " Section 2 of Chapter 6 of Title XII of the VAT Directive ";

(b) for sub-paragraph (7) substitute—

"(7) In this Schedule "the VAT Directive" means Directive 2006/112/EC (Title XII of which is amended by Council Directive 2008/8/EC)."

(3) In paragraph 4 (registration request)—

(a) in sub-paragraph (2) for "paragraph 9 below" substitute " Article 58b of Implementing Regulation (EU) No 282/2011 ";

(b) for sub-paragraph (5) substitute—

"(5) A registration request—

(a) must contain any further information, and any declaration about its contents, that the Commissioners may by regulations require;

(b) must be made by such electronic means, and in such manner, as the Commissioners may direct or may by regulations require."

(4) Omit paragraph 5 (date on which registration takes effect) and the heading before it.

(5) In paragraph 7 (obligation to notify changes)—

(a) omit sub-paragraphs (1) and (2);

(b) in sub-paragraph (3), for "this paragraph" substitute " Article 57h of Implementing Regulation (EU) No 282/2011 ".

(6) In paragraph 8 (cancellation of registration)—

(a) in sub-paragraph (1)(e), after "this Schedule" insert " or Implementing Regulation (EU) No 282/2011 ";

(b) omit sub-paragraphs (2) and (3).

(7) Omit paragraph 9 (registration after cancellation for persistent default) and the heading before it.

(8) For the title substitute— " NON-UNION SCHEME: REGISTRATION ".

7 (1) Part 2 of the Schedule (obligations following registration, etc) is amended as follows.

(2) In paragraph 10 (liability for VAT)—

(a) in sub-paragraph (2), at the end insert " (and the VAT is to be paid without any deduction of VAT pursuant to Article 168 of Directive 2006/112/EC) ";

(b) in sub-paragraph (3), omit "that would have been" and for the words from "if the person" to the end substitute " (see paragraph 17(2)) ";

(c) in sub-paragraph (4), omit "that would have been" and the words from "if the person" to the end;

(d) in sub-paragraph (5) omit paragraph (b) and the "and" before it.

(3) In paragraph 11 (obligation to submit special accounting returns)—

(a) in sub-paragraph (1), for "Controller" substitute " Commissioners ";

(b) omit sub-paragraphs (3) to (7).

(4) In paragraph 12 (further obligations with respect to special accounting returns)—

(a) in sub-paragraph (1), for the words from "must" to the end substitute " is to be made out in sterling ";

(b) in sub-paragraph (3), for "Controller" substitute " Commissioners ".

(5) In paragraph 13 (payment of VAT), in sub-paragraph (1), for the words from "at" to "respect of" substitute " by the deadline for submitting the return, pay to the Commissioners the amount of VAT that the person is liable, in accordance with paragraph 10, to pay on qualifying supplies treated as made by the person in ".

(6) In paragraph 15 (Commissioners' power to request production of records), in sub-paragraph (2)(b), for "Article 26c" substitute " Section 2 of Chapter 6 of Title XII of the VAT Directive ".

(7) After paragraph 15 insert—

"15A Section 44 of the Commissioners for Revenue and Customs Act 2005 (requirement to pay receipts into the Consolidated Fund) does not apply to any money received for or on account of VAT that is required to be paid

to another member State under Article 46 of Council Regulation (EU) No 904/2010."

(8) For the title substitute— " NON-UNION SCHEME: LIABILITY, RETURNS, PAYMENT ETC ".

8 For Part 3 of the Schedule (understatements and overstatements of UK VAT) substitute—

"**PART 3**

SPECIAL SCHEMES: COLLECTION ETC OF UK VAT

Assessments: general modifications of section 73

16 (1) For the purposes of this Schedule, section 73 (assessments: incorrect returns etc) is to be read as if—

(a) the reference in subsection (1) of that section to returns required under this Act included relevant special scheme returns, and

(b) references in that section to a prescribed accounting period included a tax period.

(2) See also the modifications in paragraph 16A.

(3) In this Schedule "relevant special scheme return" means a special scheme return that is required to be made (wholly or partly) in respect of supplies of scheme services that are treated as made in the United Kingdom.

Assessment in connection with increase in consideration

16A (1) Sub-paragraphs (2) to (4) make modifications of sections 73 and 76 which—

(a) have effect for the purposes of this Schedule, and

(b) are in addition to any other modifications of those sections made by this Schedule.

(2) Section 73 has effect as if the following were inserted after subsection (3) of that section—

"(3A) Where a person has failed to make an amendment or notification that the person is required to make under paragraph 16K of Schedule 3B in respect of an increase in the consideration for a UK supply (as defined in paragraph 16K(7)), the Commissioners may assess the amount of VAT due from the person as a result of the increase to the best of their judgement and notify it to the person.

(3B) An assessment under subsection (3A)—

(a) is of VAT due for the tax period mentioned in paragraph 16K(1)(a) of Schedule 3B;

(b) must be made within the time limits provided for in section 77, and must not be made after the later of—

(i) 2 years after the end of the tax period referred to in paragraph 16K(1)(a);

(ii) one year after evidence of facts sufficient in the opinion of the Commissioners to justify making the assessment comes to their knowledge.

(3C) Subject to section 77, where further evidence such as is mentioned in subsection (3B)(b)(ii) comes to the Commissioners' knowledge after they have made an assessment under subsection (3A), another assessment may be made under that subsection, in addition to any earlier assessment."

(3) The reference in section 73(9) to subsection (1) of that section is taken to include a reference to section 73(3A) (as inserted by sub-paragraph (2)).

(4) Section 76 (assessment of amounts due by way of interest etc) is to be read as if the reference in subsection (5) of that section to section 73(1) included a reference to section 73(3A) (as inserted by sub-paragraph (2)).

Assessments: consequential modifications

16B References to prescribed accounting periods in the following provisions are to be read in accordance with the modifications made by paragraphs 16 and 16A—

(a) section 74 (interest on VAT recovered or recoverable by assessment);

(b) section 76 (assessment of amounts due by way of penalty, interest or surcharge);

(c) section 77 (assessment: time limits).

Deemed amendments of relevant special scheme returns

16C (1) Where a person who has made a relevant special scheme return makes a claim under paragraph 16I(7)(b) (overpayments) in relation to an error in the return, the relevant special scheme return is taken for the purposes of this Act to have been amended by the information in the claim.

(2) Where a person who has made a relevant special scheme return gives the Commissioners a notice relating to the return under paragraph 16K(2)(b) (increase or decrease in consideration), the relevant special scheme return is taken for the purposes of this Act to have been amended by that information.

(3) Where (in a case not falling within sub-paragraph (1) or (2)) a person who has made a relevant special scheme return notifies the Commissioners (after the expiry of the period during which the non-UK return may be amended under Article 61 of the Implementing Regulation) of a change that needs to be made to the return to correct an error, or rectify an omission, in it, the relevant special scheme return is taken for the purposes of this Act to have been amended by that information.

(4) The Commissioners may by regulations—

(a) specify within what period and in what form and manner notice may be given under sub-paragraph (3);

(b) require notices to be supported by documentary evidence described in the regulations.

Interest on VAT: "reckonable date"

16D (1) Sub-paragraph (2) states the "reckonable date" for the purposes of section 74(1) and (2) for any case where an amount carrying interest under that section—

(a) is an amount assessed under section 73(2) (refunds etc) in reliance on paragraph 16, or that could have been so assessed, and

(b) was correctly paid or credited to the person, but would not have been paid or credited to the person had the facts been as they later turn out to be.

(2) The "reckonable date" is the first day after the end of the tax period in which the events occurred as a result of which the Commissioners were authorised to make the assessment (that was or could have been made) under section 73(2).

(3) Sub-paragraph (4) states the "reckonable date", for any other case where an amount carrying interest under section 74 is assessed under section 74(1) or (2) in reliance on paragraph 16, or could have been so assessed.

(4) The "reckonable date" is taken to be the latest date by which a non-UK return was required to be made for the tax period to which the amount assessed relates.

(5) Where section 74(1) or (2) (interest on VAT recovered or recoverable by assessment) applies in relation to an amount assessed under section 73(3A) (as inserted by paragraph 16A(2)), the "reckonable date" for the purposes of section 74(1) or (2) is taken to be the day after the end of the tax period referred to in paragraph 16K(2).

Default surcharge: notice of special surcharge period

16E (1) A person who is required to make a relevant special scheme return for a tax period is regarded for the purposes of this paragraph and paragraph 16F as being in default in respect of that period if either—

(a) conditions 1A and 2A are met, or

(b) conditions 1B and 2B are met;

(but see also paragraph 16G).

(2) For the purposes of sub-paragraph (1)(a)—

(a) condition 1A is that the tax authorities for the administering member State have not received the return by the deadline for submitting it;

(b) condition 2A is that those tax authorities have, in accordance with Article 60a of the Implementing Regulation, issued a reminder of the obligation to submit the return.

(3) For the purposes of sub-paragraph (1)(b)—

(a) condition 1B is that, by the deadline for submitting the return, the tax authorities for the administering member State have received the return but have not received the amount of VAT shown on the return as payable by the person in respect of the tax period;

(b) condition 2B is that those tax authorities have, in accordance with Article 60a of the Implementing Regulation, issued a reminder of the VAT outstanding.

(4) The Commissioners may serve on a person who is in default in respect of a tax period a notice (a "special surcharge liability notice") specifying a period—

(a) ending on the first anniversary of the last day of that tax period, and

(b) beginning on the date of the notice.

(5) A period specified under sub-paragraph (4) is a "special surcharge period".

(6) If a special surcharge liability notice is served in respect of a tax period which ends at or before the end of an existing special surcharge period, the special surcharge period specified in that notice must be expressed as a continuation of the existing special surcharge period (so that the existing period and its extension are regarded as a single special surcharge period).

Further default after service of notice

16F (1) If a person on whom a special surcharge liability notice has been served—

(a) is in default in respect of a tax period ending within the special surcharge period specified in (or extended by) that notice, and

(b) has outstanding special scheme VAT for that tax period,

the person is to be liable to a surcharge of the amount given by sub-paragraph (2).

(2) The surcharge is equal to whichever is the greater of—

(a) £30, and

(b) the specified percentage of the person's outstanding special scheme VAT for the tax period.

(3) The specified percentage depends on whether the tax period is the first, second or third etc in the default period in respect of which the person is in default and has outstanding special scheme VAT, and is—

(a) for the first such tax period, 2%;

(b) for the second such tax period, 5%;

(c) for the third such tax period, 10%;

(d) for each such tax period after the third, 15%.

(4) "Special scheme VAT", in relation to a person, means VAT that the person is liable to pay to the tax authorities for the administering member

State under a special scheme in respect of supplies of scheme services treated as made in the United Kingdom.

(5) A person has "outstanding special scheme VAT" for a tax period if some or all of the special scheme VAT for which the person is liable in respect of that period has not been paid by the deadline for the person to submit a special scheme return for that period (and the amount unpaid is referred to in sub-paragraph (2)(b) as "the person's outstanding special scheme VAT" for the tax period).

Default surcharge: exceptions for reasonable excuse etc

16G (1) A person who would otherwise have been liable to a surcharge under paragraph 16F(1) is not to be liable to the surcharge if the person satisfies the Commissioners or, on appeal, the tribunal that, in the case of a default which is material to the surcharge—

(a) the special scheme return or, as the case may be, the VAT shown on that return, was despatched at such a time and in such manner that it was reasonable to expect that it would be received by the tax authorities for the administering member State within the appropriate time limit, or

(b) there is a reasonable excuse for the return or the VAT not having been so despatched.

(2) Where sub-paragraph (1) applies to a person—

(a) the person is treated as not having been in default in respect of the tax period in question, and

(b) accordingly, any special surcharge liability notice the service of which depended on that default is regarded as not having been served.

(3) A default is "material" to a surcharge if—

(a) it is the default which gives rise to the surcharge, under paragraph 16F(1), or

(b) it is a default which was taken into account in the service of the special surcharge liability notice on which the surcharge depends and the person concerned has not previously been liable to a surcharge in respect of a tax period ending within the special surcharge period specified in or extended by that notice.

(4) A default is left out of account for the purposes of paragraphs 16E(4) and 16F(1) if—

(a) the conduct by virtue of which the person is in default is also conduct falling within section 69(1) (breaches of regulatory provisions), and

(b) by reason of that conduct the person concerned is assessed to a penalty under that section.

(5) If the Commissioners, after consultation with the Treasury, so direct, a default in respect of a tax period specified in the direction is to be left out of account for the purposes of paragraphs 16E(4) and 16F(1).

(6) Section 71(1) (meaning of "reasonable excuse") applies for the purposes of this paragraph as it applies for the purposes of sections 59 to 70.

Interest in certain cases of official error

16H (1) Section 78 (interest in certain cases of official error) applies as follows in relation to a case where, due to an error on the part of the Commissioners—

(a) a person has accounted, under a special scheme, for an amount by way of UK VAT that was not UK VAT due from the person, and as a result the Commissioners are liable under paragraph 16I to pay (or repay) an amount to the person, or

(b) (in a case not falling within paragraph (a)), a person has paid, in accordance with an obligation under a special scheme, an amount by way of UK VAT that was not UK VAT due from the person and which the Commissioners are in consequence liable to repay to the person.

(2) Section 78 has effect as if the condition in section 78(1)(a) were met in relation to that person.

(3) In the application of section 78 as a result of this paragraph, section 78(12)(b) is read as providing that any reference in that section to a return is to a return required to be made under a special scheme.

(4) In section 78 in its application as a result of this section, "output tax" has the meaning that that expression would have if the reference in section 24(2) to a "taxable person" were to a "person".

Overpayments

16I (1) A person may make a claim if the person—

(a) has made a special scheme return for a tax period relating wholly or partly to supplies of scheme services treated as made in the United Kingdom,

(b) has accounted to the tax authorities for the administering member State (whether that is the United Kingdom or another member State) for VAT in respect of those supplies, and

(c) in doing so has brought into account as UK VAT due to those authorities an amount ("the overpaid amount") that was not UK VAT due to them.

(2) A person may make a claim if the person has, as a participant in a special scheme, paid (to the tax authorities for the administering member State or to the Commissioners) an amount by way of UK VAT that was not UK VAT due ("the overpaid amount"), otherwise than in the circumstances mentioned in sub-paragraph (1)(c).

(3) A person who is or has been a participant in a special scheme may make a claim if the Commissioners—

(a) have assessed the person to VAT for a tax period, and

(b) in doing so, have brought into account as VAT an amount ("the amount not due") that was not VAT due.

(4) Where a person makes a claim under sub-paragraph (1) or (2), the Commissioners must repay the overpaid amount to the person.

(5) Where a person makes a claim under sub-paragraph (3), the Commissioners must credit the person with the amount not due.

(6) Where—

(a) as a result of a claim under sub-paragraph (3) an amount is to be credited to a person, and

(b) after setting any sums against that amount under or by virtue of this Act, some or all of the amount remains to the person's credit,

the Commissioners must pay (or repay) to the person so much of the amount as remains to the person's credit.

(7) The reference in sub-paragraph (1) to a claim is to a claim made—

(a) by correcting, in accordance with Article 61 of the Implementing Regulation, the error in the non-UK return mentioned in sub-paragraph (1)(a), or

(b) (after the expiry of the period during which the non-UK return may be amended under Article 61) to the Commissioners.

(8) Sub-paragraphs (1) and (2) do not require any amount to be repaid except so far as that is required by Article 63 of the Implementing Regulation.

Overpayments: supplementary

16J (1) In section 80—

(a) subsections (3) to (3C) (unjust enrichment), and

(b) subsections (4A), (4C) and (6) (recovery by assessment of amounts wrongly credited),

have effect as if a claim under paragraph 16I(1) were a claim under section 80(1), a claim under paragraph 16I(2) were a claim under section 80(1B) and a claim under paragraph 16I(3) were a claim under section 80(1A).

(2) In section 80(3) to (3C), (4A), (4C) and (6), as applied by sub-paragraph (1)—

(a) references to the crediting of amounts are to be read as including the payment of amounts;

(b) references to a prescribed accounting period include a tax period.

(3) The Commissioners are not liable to repay the overpaid amount on a claim made—

(a) under paragraph 16I(2),or

(b) as mentioned in paragraph 16I(7)(b),

if the claim is made more than 4 years after the relevant date.

(4) On a claim made under paragraph 16I(3), the Commissioners are not liable to credit the amount not due if the claim is made more than 4 years after the relevant date.

(5) The "relevant date" is—

(a) in the case of a claim under paragraph 16I(1), the end of the tax period mentioned in paragraph 16I(1)(a), except in the case of a claim resulting from an incorrect disclosure;

(b) in the case of a claim under paragraph 16I(1) resulting from an incorrect disclosure, the end of the tax period in which the disclosure was made;

(c) in the case of a claim under paragraph 16I(2), the date on which the payment was made;

(d) in the case of a claim under paragraph 16I(3), the end of the quarter in which the assessment was made.

(6) A person makes an "incorrect disclosure" where—

(a) the person discloses to the tax authorities in question (whether the Commissioners or the tax authorities for the administering member State) that the person has not brought into account for a tax period an amount of UK VAT due for the period ("the disclosed amount"),

(b) the disclosure is made in a later tax period, and

(c) some or all of the disclosed amount is not in fact VAT due.

Increase or decrease in consideration for a supply

16K (1) This paragraph applies where—

(a) a person makes a special scheme return for a tax period ("the affected tax period") relating (wholly or partly) to a UK supply, and

(b) after the return has been made the amount of the consideration for the UK supply increases or decreases.

(2) The person must, in the tax period in which the increase or decrease is accounted for in the person's business accounts—

(a) amend the special scheme return to take account of the increase or decrease, or

(b) (if the period during which the person is entitled under Article 61 of the Implementing Regulation to amend the special scheme return has expired) notify the Commissioners of the adjustment needed to the figures in the special scheme return because of the increase or decrease.

(3) Where the change to which an amendment or notice under sub-paragraph (2) relates is an increase in the consideration for a UK supply, the person must pay to the tax authorities for the administering member State (in accordance with Article 62 of the Implementing Regulation) or, in a case falling within sub-paragraph (2)(b), the Commissioners, the difference between—

(a) the amount of VAT that was chargeable on the supply before the increase in consideration, and

(b) the amount of VAT that is chargeable in respect of the whole of the increased consideration for the supply.

(4) Where the change to which an amendment or notice under sub-paragraph (2) relates is a decrease in the consideration for a UK supply, the amendment or notice has effect as a claim; and where a claim is made the Commissioners must repay any VAT paid by the person that would not have been VAT due from the person had the consideration for the supply always been the decreased amount.

(5) The Commissioners may by regulations specify—

(a) the latest time by which, and the form and manner in which, a claim or other notice under sub-paragraph (2)(b) must be given;

(b) the latest time by which, and the form in which, a payment under sub-paragraph (3) must be made in a case within sub-paragraph (2)(b).

(6) A payment made under sub-paragraph (3) in a case within sub-paragraph (2)(a) must be made before the end of the tax period referred to in sub-paragraph (2).

(7) In this paragraph "UK supply" means a supply of scheme services that is treated as made in the United Kingdom.

Bad debts

16L Where a participant in a special scheme—

(a) has submitted a special scheme return to the tax authorities for the administering member State, and

(b) amends the return to take account of the writing-off as a bad debt of the whole or part of the consideration for a supply of scheme services that is treated as made in the United Kingdom,

the amending of the return may be treated as the making of a claim to the Commissioners for the purposes of section 36(2) (bad debts: claim for refund of VAT).

Penalties for errors: disclosure

16M Where a person corrects a special scheme return in a way that constitutes telling the tax authorities for the administering member State about—

(a) an inaccuracy in the return,

(b) a supply of false information, or

(c) a withholding of information,

the person is regarded as telling HMRC about that for the purposes of paragraph 9 of Schedule 24 to the Finance Act 2007.

Set-offs

16N Where a participant in a special scheme is liable to pay UK VAT to the tax authorities for the administering member State in accordance with the scheme, the UK VAT is regarded for the purposes of section 130(6) of the Finance Act 2008 (set-off: England, Wales and Northern Ireland) as payable to the Commissioners."

9 (1) Part 4 of the Schedule (application of provisions relating to VAT) is amended as follows.

(2) Paragraph 17 (registration under VATA 1994) is renumbered as sub-paragraph (1) of that paragraph.

(3) In that paragraph, after sub-paragraph (1) (as renumbered), insert—

"(2) Where a participant in the special scheme ("the scheme participant") makes relevant supplies, it is to be assumed for all purposes of this Act relating to the determination of—

(a) whether or not VAT is chargeable under this Act on those supplies,

(b) how much VAT is chargeable under this Act on those supplies,

(c) the time at which those supplies are treated as taking place, and

(d) any other matter that the Commissioners may specify by regulations,

that the scheme participant is registered under this Act.

(3) Supplies of scheme services made by the scheme participant are "relevant supplies" if—

(a) the value of the supplies must be accounted for in a special scheme return, and

(b) the supplies are treated as made in the United Kingdom."

(4) In paragraph 18 (de-registration), in paragraph (b), for "Article 26c," substitute " Section 2 of Chapter 6 of Title XII of the VAT Directive, ".

(5) After paragraph 18 insert—

"Value of supplies to connected persons

18A In paragraph 1 of Schedule 6 (valuation: supply to connected person at less than market value) the reference to a supply made by a taxable person is to be read as including a supply of scheme services that is made by a participant in the special scheme (and is treated as made in the United Kingdom)."

(6) In paragraph 20 (appeals)—

(a) in sub-paragraph (1), for paragraphs (b) and (c) substitute—

"(b) a refusal to make a repayment under paragraph 16I (overpayments), or a decision by the Commissioners as to the amount of the repayment due under that provision;

(c) a refusal to make a repayment under paragraph 16K(4) (decrease in consideration);

(d) any liability to a surcharge under paragraph 16F (default surcharge)."

(b) after sub-paragraph (2) insert—

"(3) Where the Commissioners have made an assessment under section 73 in reliance on paragraph 16 or 16A—

(a) section 83(1)(p)(i): (appeals against assessments under section 73(1) etc) applies as if the relevant special scheme return were a return under this Act, and

(b) the references in section 84(3) and (5) to the matters mentioned in section 83(1)(p) are to be read accordingly."

(7) Omit paragraph 21 (payments on account of non-UK VAT to other member States) and the heading before it (but see paragraph 7(7) of this Schedule).

(8) For the title substitute— " OTHER PROVISIONS ABOUT SPECIAL SCHEMES "

10 (1) In Part 5 of the Schedule (supplementary), paragraph 23 (interpretation) is amended as follows.

(2) In sub-paragraph (1)—

(a) for the words from " "Article 26c" to the end of the definition of "the Controller" substitute—

> ""administering member State", in relation to a special scheme, means the member State under whose law the scheme is established (whether that is the United Kingdom or another member State);
>
> "the Implementing Regulation" means Implementing Regulation (EU) No 282/2011;"

(b) for the definition of "participant in the special scheme", substitute—

> ""participant in the special scheme" means a person who—
>
> (a) is registered under this Schedule, or
>
> (b) is identified under any provision of the law of another member State which implements Section 2 of Chapter 6 of Title XII of the VAT Directive;"

(c) after the definition of "registration request" insert—

> ""relevant special scheme return" has the meaning given by paragraph 16(3);"

(d) after the definition of "reporting period" insert—

> ""scheme services" means electronically supplied services, broadcasting services or telecommunication services (and in this definition "electronically supplied services", "broadcasting services" and "telecommunication services" have the meaning given by paragraph 3(2));"

(e) after the definition of "special accounting return" insert—

> ""special scheme" means—
>
> (a) the accounting scheme under this Schedule, or
>
> (b) any other scheme, under the law of another member State, implementing Section 2 of Title XII of Directive 2006/112/EC;
>
> "special scheme return" means—
>
> (a) a special accounting return, or
>
> (b) a value added tax return submitted to the tax authorities of another member State;
>
> "tax period" means—
>
> (a) a reporting period (under the accounting scheme under this Schedule), or
>
> (b) any other period for which a person is required to make a return under a special scheme;

"UKVAT" means VAT which a person is liable to pay (whether in the United Kingdom or another member State) in respect of qualifying supplies treated as made in the United Kingdom at a time when the person is or was a participant in the special scheme;

"value added tax return", in relation to another member State, means any value added tax return required to be submitted under any provision of the law of that member State which implements Article 364 of the VAT Directive (as substituted by Article 5(11) of Council Directive 2008/8/EC);

"the VAT Directive" has the meaning given by paragraph 2(7);".

(3) In sub-paragraph (2)(a), for the words from "virtue" to "2002 VAT Directive)," substitute " paragraph 15 of Schedule 4A (place of supply of electronic, telecommunication and broadcasting services), ".

(4) Omit sub-paragraph (3).

PART 3

OTHER AMENDMENTS: UNION AND NON-UNION SCHEMES

11 VATA 1994 is amended in accordance with paragraphs 12 to 16.

12 (1) Section 3A (supply of electronic services in member States: special accounting scheme) is amended as follows.

(2) In subsection (1), after "services" insert " , telecommunication services or broadcasting services ".

(3) After subsection (1) insert—

"(1A) Schedule 3BA—

(a) establishes a special accounting scheme for use by persons established in the UK and supplying electronically supplied services, telecommunication services or broadcasting services in other member States, and

(b) makes provision about corresponding schemes in other member States."

(4) For the heading substitute " **Supplies of electronic, telecommunication and broadcasting services: special accounting schemes**. "

13 In section 76 (assessment of amounts due by way of penalty, interest or surcharge) —

(a) in subsection (1)(a), for "or 59A," substitute " , section 59A, paragraph 16F of Schedule 3B or paragraph 26 of Schedule 3BA, ";

(b) after subsection (3) insert—

"(3A) In the case of a surcharge under paragraph 16F of Schedule 3B or paragraph 26 of Schedule 3BA, the assessment under this section is of an amount due in respect of "the relevant period", that is to say, the tax period (see section 76A) in respect of which the person is in default and in respect of which the surcharge arises.";

(c) in subsection (5), after each "(3)" insert " or (3A) ".

14 After section 76 insert—

"**76A Section 76: cases involving special accounting schemes**

(1) References in section 76 to a prescribed accounting period are to be read as including a tax period so far as that is necessary for the purposes of the references in section 76(1)(a) to paragraph 16F of Schedule 3B and paragraph 26 of Schedule 3BA (assessment of surcharge in certain cases involving special accounting schemes).

(2) References in section 77 to a prescribed accounting period are to be read accordingly.

(3) In this section and section 76 "tax period" means a tax period as defined in paragraph 23(1) of Schedule 3B or paragraph 38(1) of Schedule 3BA, as the case requires."

15 In section 77 (assessment: time limits and supplementary assessments)—

(a) in subsection (2), after "subsection (3)" insert " or (3A) ";

(b) in subsection (3) after "subsection (3)" insert " or (3A) ".

16 In section 80 (repayment of overpaid VAT etc), in subsection (7), after "this section" insert " (and paragraph 16I of Schedule 3B and paragraph 29 of Schedule 3BA) ".

17 In section 84(6) (appeals: variation of amounts assessed by way of surcharge etc), after "70," insert " or (as the case requires) paragraph 26 of Schedule 3BA or paragraph 16F of Schedule 3B ".

18 In paragraph 12 of Schedule 1A to VATA 1994 (cancellation of registration under that Schedule)—

(a) after "Schedule 3B" insert " and paragraph 16 of Schedule 3BA ";

(b) for "that Schedule etc" substitute " the Schedule concerned ".

19 (1) Paragraph 1 of Schedule 24 to FA 2007 (penalties for errors) is amended as follows.

(2) In the Table, after the second entry relating to VAT insert—

"VAT	Return under a special scheme."

(3) Before sub-paragraph (5) insert—

"(4A) In this paragraph "return under a special scheme" means any of the following, so far as relating to supplies of services treated as made in the United Kingdom—

(a) a special accounting return under paragraph 11 of Schedule 3B;

(b) a value added tax return submitted under any provision of the law of a member State other than the United Kingdom which implements Article 364 of the VAT Directive (as substituted by Article 5(11) of the Amending Directive);

(c) a value added tax return submitted under any provision of the law of a member State other than the United Kingdom which implements Article 369f of the VAT Directive (as inserted by Article 5(15) of the Amending Directive).

(4B) A value added tax return mentioned in paragraph (b) or (c) of sub-paragraph (4A) is regarded for the purposes of sub-paragraph (1) as given to HMRC when it is submitted to the authority to whom it is required to be submitted.

(4C) In sub-paragraph (4A)—

"the VAT Directive" means Directive 2006/112/EC;

"the Amending Directive" means Council Directive 2008/8/EC."

20 (1) FA 2009 is amended as follows.

(2) In section 101 (late payment interest on sums due to HMRC), after subsection (9) insert—

"(10) The reference in subsection (1) to amounts payable to HMRC includes—

(a) amounts of UK VAT payable under a non-UK special scheme;

(b) amounts of UK VAT payable under a special scheme;

and references in Schedule 53 to amounts due or payable to HMRC are to be read accordingly.

(11) In subsection (10)—

(a) expressions used in paragraph (a) have the meaning given by paragraph 23(1) of Schedule 3B to VATA 1994 (non-Union scheme);

(b) expressions used in paragraph (b) have the meaning given by paragraph 38(1) of Schedule 3BA to VATA 1994 (Union scheme)."

(3) In section 108 (suspension of penalties during currency of agreement for deferred payment), in the Table in subsection (5), in the entry relating to value added tax, in the second column, after "1994" insert, " or under paragraph 16F of Schedule 3B, or paragraph 26 of Schedule 3BA, to that Act ".

21 (1) Schedule 10 to F(No.3)A 2010 (which prospectively amends Schedule 55 to FA 2009, which provides for penalties for failure to make returns) is amended as follows.

(2) In paragraph 2—

(a) after sub-paragraph (2) insert—

"(2A) In sub-paragraph (4), in the definition of "filing date", at the end insert " (or, in the case of a return mentioned in item 7AA or 7AB of the Table, to the tax authorities to whom the return is required to be delivered) ".";

(b) in the words inserted by sub-paragraph (4), after item 7A, insert—

"7AA	Value added tax	Relevant non-UK return (as defined in paragraph 20(3) of Schedule 3BA to VATA 1994)
7AB	Value added tax	Relevant special scheme return (as defined in paragraph 16(3) of Schedule 3B to VATA 1994)".

(3) In paragraph 7, in the inserted paragraph 13A(1), for "7A, 7B" substitute " 7A to 7B ".

22 (1) Schedule 11 to F(No.3)A 2010 (which prospectively amends Schedule 56 to FA 2009, which provides for penalties for failure to make payments) is amended as follows.

(2) In paragraph 2(7), in the inserted words, after item 6B insert—

"6BA	Value added tax	Amount payable under relevant special scheme return (as defined in paragraph 16(3) of Schedule 3B to VATA 1994) (except an amount falling within item 13A, 13AA, 13AB, 23 or 24)	The date by which the amount must be paid under the law of the member State which has established the special scheme
6BB	Value added tax	Amount payable under relevant non-UK return (as defined in paragraph 20(3) of Schedule 3BA to VATA 1994) (except an amount falling within item 13A, 13AA, 13AB, 23 or 24)	The date by which the amount must be paid under the law of the member State which has established the non-UK special scheme"

(3) In paragraph 2(9), in the inserted words, after item 13A insert—

"13AA	Value added tax	Amount assessed under section 73(1) of VATA 1994, by virtue of paragraph 16 of Schedule 3B to that Act, in the absence of a value added tax return (as defined in paragraph 23(1) of that Schedule)	The date by which the amount would have been required to be paid under the law of the member State under whose law the return was required
13AB	Value added tax	Amount assessed under section 73(1) of VATA 1994, by virtue of paragraph 20 of Schedule 3BA to that Act, in the absence of a relevant non-UK return (as defined in paragraph 38(1) of that Schedule)	The date by which the amount would have been required to be paid under the law of the member State under whose law the return was required"

(4) In paragraph 2(13)(a), in the substituted words, after "6A," insert " 6BA, 6BB, ".

(5) In paragraph 2(14)(a), in the substituted words, after "6A," insert " 6BA, 6BB, ".

(6) In paragraph 7, in the inserted paragraph 8A(1), after "6A," insert " 6BA, 6BB, ".

PART 4

COMMENCEMENT

23 (1) The amendments made by this Schedule (except the amendments made by paragraphs 20(2), 21 and 22) have effect in relation to supplies made on or after 1 January 2015 (but see also paragraphs 24 and 25).

(2) Sub-paragraph (1) does not apply in relation to—

(a) the amendment made by paragraph 6(3)(b);

(b) any amendment so far as it confers power to make regulations.

24 (1) No registration under Schedule 3BA (inserted by paragraph 1) may take effect before 1 January 2015.

(2) A request for registration under Schedule 3BA that is made before 1 October 2014 is to be treated for the purposes of Article 57d of Implementing Regulation (EU) No 282/2011 (as amended by Council Regulation (EU) No 967/2012) (registration to have effect from first day of subsequent quarter) as if it were made on that date.

25 (1) No registration under Schedule 3B that is to be made in reliance on the amendments made by paragraph 4 may take effect before 1 January 2015.

(2) A request for registration under Schedule 3B that is made before 1 October 2014 in reliance on the amendments made by paragraph 4 is to be treated for the purposes of Article 57d of Implementing Regulation (EU) No 282/2011 (as amended by Council Regulation (EU) No 967/2012) as if it were made on that date.

SCHEDULE 23

Section 113

SDLT: CHARITIES RELIEF

1 Schedule 8 to FA 2003 (stamp duty land tax: charities relief) is amended as follows.

2 In paragraph 1 (conditions for charities relief)—

(a) in sub-paragraph (2), omit the words from "that is" to the end;

(b) in sub-paragraph (3), for "not been" substitute " been ";

(c) after sub-paragraph (3) insert—

"(3A) For the purposes of this Schedule, a charity ("C") holds a chargeable interest for qualifying charitable purposes if it holds it—

(a) for use in furtherance of the charitable purposes of C or another charity, or

(b) as an investment from which the profits are applied to the charitable purposes of C."

3 After paragraph 3 insert—

"Joint purchasers: partial relief

3A (1) Sub-paragraphs (3) to (5) apply in any case where—

(a) there are two or more purchasers under a land transaction,

(b) the purchasers acquire the subject-matter of the transaction as tenants in common (or, in Scotland, as owners in common),

(c) at least one of them is, and at least one of them is not, a qualifying charity, and

(d) no purchaser enters into the transaction for the purpose of the avoidance of tax under this Part (whether by that purchaser or another person).

(2) A charity ("C") that is a purchaser under a land transaction is a "qualifying charity" in relation to the transaction if C intends to hold its undivided share of the subject-matter of the transaction for qualifying charitable purposes.

(3) The tax chargeable in respect of the transaction is reduced by the amount of the relief under sub-paragraph (4).

(4) The relief is equal to the relevant proportion of the tax that would have been chargeable in respect of the transaction without this Schedule.

(5) The "relevant proportion", in the case of a qualifying charity, is the lower of P1 and P2, where—

P1 is the proportion of the subject-matter of the transaction that is acquired by all the qualifying charities that are purchasers under the transaction (in aggregate);

P2 is the proportion of the chargeable consideration for the transaction that is given by all the qualifying charities that are purchasers under the transaction (in aggregate).

Withdrawal of relief given under paragraph 3A

3B (1) This paragraph applies where—

(a) relief has been given under paragraph 3A in respect of a transaction ("the relevant transaction"),

(b) a disqualifying event occurs in relation to a qualifying charity ("C") which was a purchaser under the transaction, and

(c) the disqualifying event occurs in the circumstances required by sub-paragraphs (2) and (3).

(2) The disqualifying event must occur—

(a) before the end of the period of 3 years beginning with the effective date of the transaction, or

(b) in pursuance of, or in connection with, arrangements made before the end of that period.

(3) At the time of the disqualifying event C must hold a chargeable interest that—

(a) was acquired by C under the relevant transaction, or

(b) is derived from an interest so acquired.

(4) There is a "disqualifying event" in relation to C if —

(a) C ceases to be established for charitable purposes only, or

(b) the chargeable interest acquired by C under the transaction, or any interest or right derived from that interest, is used or held by C otherwise than for qualifying charitable purposes.

(5) C's portion of the relief mentioned in sub-paragraph (1)(a), or an appropriate proportion of C's portion of that relief, is withdrawn and tax is chargeable in accordance with this paragraph.

(6) The amount chargeable is equal to C's portion of the relief or, as the case may be, the appropriate proportion of C's portion of the relief.

(7) C's portion of the relief depends on whether P1 or P2 was lower in the calculation under paragraph 3A(5).

(8) If P1 was lower, C's portion of the relief is equal to—

$$\frac{\text{p1}}{\text{P1}} \times R$$

where—

p1 is the proportion of the subject-matter of the transaction that was acquired by C under the transaction;

P1 has the same meaning as in paragraph 3A(5);

(9) If P2 was lower, C's portion of the relief is equal to—

$$\frac{\text{p2}}{\text{P2}} \times R$$

where—

p2 is the proportion of chargeable consideration for the transaction that was given by C;

P2 has the same meaning as in paragraph 3A(5);

(10) In sub-paragraphs (5) and (6) "appropriate proportion" means an appropriate proportion having regard to—

(a) what was acquired by C under the relevant transaction and what is held by C at the time of the disqualifying event, and

(b) the extent to which what is held by C at that time becomes used or held for purposes other than qualifying charitable purposes.

Partial relief: charity not fully meeting the "qualifying charity" condition

3C (1) This paragraph applies where—

(a) a charity ("C") is one of two or more purchasers acquiring the subject-matter of a land transaction ("the relevant transaction") as tenants in common (or, in Scotland, as owners in common),

(b) C is not a qualifying charity in relation to the transaction,

(c) paragraph 3A(3) to (5) would apply if C were a qualifying charity, and

(d) C intends to hold the greater part of its undivided share of the subject-matter of the transaction for qualifying charitable purposes.

(2) In such a case—

(a) paragraph 3A has effect as if C were a qualifying charity, but

(b) for the purposes of paragraph 3B (withdrawal of relief under paragraph 3A) "disqualifying event" includes any additional disqualifying transaction.

(3) The following are "additional disqualifying transactions" if they are not made in furtherance of the charitable purposes of C—

(a) any transfer by C of a major interest in the whole or any part of the chargeable interest acquired by C under the relevant transaction;

(b) any grant by C at a premium of a low-rental lease of the whole or any part of that chargeable interest.

(4) Paragraph 3(3) (meaning of "at a premium" and "low-rental") applies for the purposes of sub-paragraph (3)(b) as it applies for the purposes of paragraph 3(2)(b)(ii).

(5) In relation to a transaction that, by virtue of this paragraph, is a disqualifying event for the purposes of paragraph 3B—

(a) the date of the event for those purposes is the effective date of the transaction;

(b) paragraph 3B has effect with the modifications in sub-paragraph (6).

(6) The modifications to paragraph 3B are—

(a) in sub-paragraph (3), for "At the time of" substitute " Immediately before ";

(b) in sub-paragraph (10)(a), for "at the time of" substitute " immediately before and immediately after ";

(c) omit sub-paragraph (10)(b)."

4 In paragraph 4(3) (charitable trusts)—

(a) in paragraph (a), for the words from "references" to "are to" substitute " references in paragraph 1(3A) to the charitable purposes of C are to those of ";

(b) in paragraph (b), for "reference" substitute " references " and for "is" substitute " , and to C in paragraph 3B(4)(a), are ";

(c) in paragraph (c), for the words from "reference" to "is" substitute " references in paragraphs 3(2)(b) and 3C(3) to the charitable purposes of C are ".

5 The amendments made by this section have effect in relation to any transaction of which the effective date (within the meaning of Part 4 of FA 2003) is on or after the day on which this Act is passed.

SCHEDULE 24

Section 115

ABOLITION OF STAMP DUTY AND SDRT: SECURITIES ON RECOGNISED GROWTH MARKETS

PART 1

STAMP DUTY RESERVE TAX

"Chargeable securities"

1 Part 4 of FA 1986 (stamp duty reserve tax) is amended as follows.

2 In section 99 (interpretation), after subsection (4A) insert—

"(4B) Chargeable securities" does not include securities falling within paragraph (a), (b) or (c) of subsection (3) which are admitted to trading on a recognised growth market but not listed on that or any other market.

(4C) In subsection (4B), "listed" and "recognised growth market" are to be construed in accordance with section 99A."

3 After that section insert—

"**99A Section 99(4B): "listed" and "recognised growth market"**

(1) This section applies for the purposes of section 99(4B).

(2) Section 1005(3) to (5) of the Income Tax Act 2007 (meaning of "listed" etc) applies as it applies in relation to the Income Tax Acts.

(3) "Recognised growth market" means a market recognised as a growth market by the Commissioners for Her Majesty's Revenue and Customs.

(4) On an application made by a market, the market is to be recognised by the Commissioners as a growth market if, and only if, the Commissioners are satisfied, on the basis of evidence provided by the market, that the market qualifies for recognition.

(5) A market qualifies for recognition at any time ("the relevant time") if it is a recognised stock exchange which meets one or both of the following conditions—

(a) a majority of the companies whose stock or marketable securities are admitted to trading on the market are companies with market capitalisations of less than £170 million;

(b) the Commissioners are satisfied that the admission requirements of the market include provision requiring companies to demonstrate compounded annual growth in gross revenue or employment of at least 20% over the last three periods of account preceding admission ("the pre-admission periods").

(6) In subsection (5)—

"period of account" of a company means a period for which the company draws up accounts;

"recognised stock exchange" has the meaning given by section 1005(1) of the Income Tax Act 2007.

(7) For the purposes of subsection (5)(a) a company's market capitalisation at the relevant time is the average of the closing market capitalisations of the company on the last trading day of each calendar month (or part of a calendar month) in the qualifying period.

(8) "The qualifying period" means whichever is the shorter of—

(a) the last three calendar years preceding the relevant time, or

(b) the period beginning with the day on which the company is admitted to trading on the market and ending at the end of the last calendar year preceding the relevant time.

(9) For the purposes of subsection (5)(a), a company is to be disregarded if it is admitted to trading on the market in the calendar year in which the relevant time falls.

(10) In the case of a company with a market capitalisation in a currency other than sterling, the closing market capitalisation for the last trading day of any calendar month is to be taken, for the purposes of subsection (7), to be the sterling equivalent of that capitalisation (calculated by reference to the spot rate of exchange for that last trading day).

(11) For the purposes of subsection (5)(b), the percentage of the compounded annual growth in gross revenue over the pre-admission periods is calculated by applying the formula—

$$\left(\left(\frac{EV}{BV}\right)^{1/3} - 1\right) \times 100$$

where—

"EV" is the company's gross revenue for the last of the pre-admission periods,

"BV" is the company's gross revenue for the period of account immediately preceding the pre-admission periods.

(12) For those purposes, the percentage of the compounded annual growth in employment over the pre-admission periods is calculated by applying the formula—

$$\left(\left(\frac{EV}{BV}\right)^{1/3} - 1\right) \times 100$$

where—

"EV" is the number of employees of the company at the end of the last of the pre-admission periods,

"BV" is the number of employees of the company at the end of the period of account immediately preceding the pre-admission periods.

(13) The Treasury may by regulations—

(a) make provision for the revocation by the Commissioners of a recognition under this section and about the consequences of a revocation;

(b) amend this section so as to add, remove or alter a condition which must be met in relation to a market for it to be recognised by the Commissioners under this section.

(14) Regulations under this section may contain incidental, supplemental, consequential and transitional provision and savings.

(15) The power to make regulations under this section is exercisable by statutory instrument, and any statutory instrument containing such regulations is subject to annulment in pursuance of a resolution of the House of Commons.

(16) This section is to be construed as one with the Stamp Act 1891."

Commencement of Part 1 and transitional provision

4 (1) The amendment made by paragraph 2 has effect in relation to any agreement to transfer securities—

(a) where the agreement is conditional, if the condition is satisfied on or after 28 April 2014, and

(b) in any other case, if the agreement is made on or after that date.

(2) Subject to sub-paragraph (3), the amendment made by paragraph 3 is treated as having come into force on 28 April 2014.

(3) The following provisions of section 99A of FA 1986 (inserted by paragraph 3) come into force on the day on which this Act is passed—

(a) paragraph (b) of subsection (13), and

(b) subsections (14) and (15) so far as relating to that paragraph.

(4) Where, having been satisfied as mentioned in subsection (4) of section 99A of FA 1986, the Commissioners for Her Majesty's Revenue and Customs have recognised a market as a growth market in anticipation of the coming into force of that section, that recognition has effect on and after 28 April 2014 as if it were a recognition under that section.

PART 2

STAMP DUTY

Main charge

5 Stamp duty is not chargeable under Schedule 13 to FA 1999 (transfers on sale) on instruments relating to stock or marketable securities admitted to trading on a recognised growth market but not listed on any market.

Charge in relation to the purchase by a company of its own shares

6 Stamp duty is not chargeable by virtue of section 66(2) of FA 1986 (return relating to company's purchase of own shares treated as instrument of transfer on sale) on returns relating to shares admitted to trading on a recognised growth market but not listed on any market.

Charge in relation to property vested by Act or purchased under statutory power

7 Section 12 of FA 1895 (collection of stamp duty in cases of property vested by Act or purchased under statutory powers) does not apply to stock or marketable securities admitted to trading on a recognised growth market but not listed on any market.

Interpretation of paragraphs 5 to 7

8 In paragraphs 5 to 7 "listed" and "recognised growth market" are to be construed in accordance with section 99A of FA 1986 (inserted by paragraph 3 of this Schedule).

Depositary receipts: charge

9 In section 67 of FA 1986 (depositary receipts), after subsection (8) insert—

"(8A) Where an instrument transfers shares or stock or marketable securities admitted to trading on a recognised growth market but not listed on any market, subsections (2) to (5) do not apply and stamp duty is not chargeable on the instrument.

(8B) In subsection (8A) "listed" and "recognised growth market" are to be construed in accordance with section 99A below."

Clearance services: charge

10 In section 70 of that Act (clearance services), after subsection (8) insert—

"(8A) Where an instrument transfers shares or stock or marketable securities admitted to trading on a recognised growth market but not listed on any market, subsections (2) to (5) do not apply and stamp duty is not chargeable on the instrument.

(8B) In subsection (8A) "listed" and "recognised growth market" are to be construed in accordance with section 99A below."

Charge on transfers of partnership interests

11 (1) Schedule 15 to FA 2003 (SDLT: partnerships) is amended as follows.

(2) In paragraph 31(1) (stamp duty on transfers of partnership interests: continued application), after "that section)" insert " or in Schedule 24 to the Finance Act 2014 (abolition of stamp duty in relation to certain securities) ".

(3) In paragraph 33—

(a) in sub-paragraph (1A), for "stock or marketable" substitute " relevant ",

(b) in sub-paragraph (3), for "stock or marketable" substitute " relevant ",

(c) in that sub-paragraph omit "that stock and" (in both places),

(d) in sub-paragraph (6), for "stock or" (in each place) substitute " relevant ",

(e) in sub-paragraph (7), for "stock or" (in both places) substitute " relevant ", and

(f) after sub-paragraph (8) insert—

"(8A) In this paragraph "relevant securities" means stock or marketable securities other than any stock or marketable securities admitted to trading on a recognised growth market but not listed on any market."

Commencement of Part 2

12 (1) Paragraph 6 has effect in relation to any purchase of shares by a company on or after 28 April 2014.

(2) Paragraph 7 has effect in relation to—

(a) any Act passed on or after 28 April 2014, and

(b) any instrument of transfer pursuant to such an Act executed on or after that date.

(3) Paragraph 8 is treated as having come into force on 28 April 2014.

(4) Subject to that, this Part of this Schedule has effect in relation to—

(a) any instrument which is executed on or after 28 April 2014 in pursuance of—

(i) an agreement made on or after that date, or

(ii) a conditional agreement made before that date where the condition is satisfied on or after that date, and

(b) any instrument which is not executed in pursuance of a contract and is executed on or after that date.

SCHEDULE 25

Section 117

INHERITANCE TAX

Introductory

1 IHTA 1984 is amended as follows.

Rate bands for tax years 2015-16, 2016-17 and 2017-18

2 Section 8 (indexation) does not have effect by virtue of any difference between the consumer prices index for the month of September in 2014, 2015 or 2016 and the previous September.

Treatment of certain liabilities

3 (1) After section 162A (liabilities attributable to financing excluded property) insert—

"**162AA Liabilities attributable to financing non-residents' foreign currency accounts**

(1) This section applies if—

(a) in determining the value of a person's estate immediately before death, a balance on any qualifying foreign currency account ("the relevant balance") is to be left out of account under section 157 (non-residents' bank accounts), and

(b) the person has a liability which is attributable, in whole or in part, to financing (directly or indirectly) the relevant balance.

(2) To the extent that the liability is attributable as mentioned in subsection (1)(b), it may only be taken into account in determining the value of the person's estate immediately before death so far as permitted by subsection (3).

(3) If the amount of the liability that is attributable as mentioned in subsection (1)(b) exceeds the value of the relevant balance, the excess may be taken into account, but only so far as the excess does not arise for either of the reasons mentioned in subsection (4).

(4) The reasons are—

(a) arrangements the main purpose, or one of the main purposes, of which is to secure a tax advantage, or

(b) an increase in the amount of the liability (whether due to the accrual of interest or otherwise).

(5) In subsection (4)(a)—

"arrangements" includes any scheme, transaction or series of transactions, agreement or understanding, whether or not legally enforceable, and any associated operations;

"tax advantage" means—

(a) the avoidance or reduction of a charge to tax, or

(b) the avoidance of a possible determination in respect of tax."

(2) Section 162C (sections 162A and 162B: supplementary provision) is amended as follows.

(3) In the heading, after "162A" insert " , 162AA ".

(4) In subsection (1), after "162A(1) or (5)" insert " , 162AA(1) ".

(5) After subsection (1) insert—

"(1A) In a case in which the value of a person's estate immediately before death is to be determined, where a liability was discharged in part before that time—

(a) any part of the liability that, at the time of discharge, was not attributable as mentioned in subsection (1) is, so far as possible, to be taken to have been discharged first,

(b) any part of the liability that, at the time of discharge, was attributable as mentioned in section 162B(1)(b), (3)(b) or (5)(c) is, so far as possible, only to be taken to have been discharged after any part of the liability within paragraph (a) was discharged,

(c) any part of the liability that, at the time of discharge, was attributable as mentioned in section 162AA(1) is, so far as possible, only to be taken to have been discharged after any parts of the liability within paragraph (a) or (b) were discharged, and

(d) any part of the liability that, at the time of discharge, was attributable as mentioned in section 162A(1) or (5) is, so far as possible, only

to be taken to have been discharged after any parts of the liability within paragraphs (a) to (c) were discharged."

(6) In subsection (2)—

(a) for "Where" substitute " In any other case, where ", and

(b) in paragraph (a), for "subsection (1)" substitute " section 162A(1) or (5) or 162B(1)(b), (3)(b) or (5)(c) ".

(7) In section 175A (discharge of liabilities after death), in subsection (7)—

(a) after paragraph (a) insert—

"(aa) any part of the liability that is attributable as mentioned in section 162AA(1) is, so far as possible, taken to be discharged only after any part of the liability within paragraph (a) is discharged,",

(b) in paragraph (b)—

(i) for "part", in the second place it appears, substitute " parts ", and

(ii) for "(a) is" substitute " (a) or (aa) are ",

(c) in paragraph (c)—

(i) for "paragraph (a) or (b)" substitute " any of paragraphs (a) to (b) ", and

(ii) for "either" substitute " any ".

(8) The amendments made by this paragraph have effect in relation to transfers of value made, or treated as made, on or after the day on which this Act is passed.

Ten-year anniversary charge

4 (1) In section 64 (charge at ten-year anniversary), after subsection (1) insert—

"(1A) For the purposes of subsection (1) above, property held by the trustees of a settlement immediately before a ten-year anniversary is to be regarded as relevant property comprised in the settlement at that time if—

(a) it is income of the settlement,

(b) the income arose before the start of the five years ending immediately before the ten-year anniversary,

(c) the income arose (directly or indirectly) from property comprised in the settlement that, when the income arose, was relevant property, and

(d) when the income arose, no person was beneficially entitled to an interest in possession in the property from which the income arose.

(1B) Where the settlor of a settlement was not domiciled in the United Kingdom at the time the settlement was made, income of the settlement is not to be regarded as relevant property comprised in the settlement as a result of subsection (1A) above so far as the income—

(a) is situated outside the United Kingdom, or

(b) is represented by a holding in an authorised unit trust or a share in an open-ended investment company.

(1C) Income of the settlement is not to be regarded as relevant property comprised in the settlement as a result of subsection (1A) above so far as the income—

(a) is represented by securities issued by the Treasury subject to a condition of the kind mentioned in subsection (2) of section 6 above, and

(b) it is shown that all known persons for whose benefit the settled property or income from it has been or might be applied, or who are or might become beneficially entitled to an interest in possession in it, are persons of a description specified in the condition in question."

(2) In section 66 (rate of ten-yearly charge), after subsection (2) insert—

"(2A) Subsection (2) above does not apply to property which is regarded as relevant property as a result of section 64(1A) (and accordingly that property is charged to tax at the rate given by subsection (1) above)."

(3) The amendments made by this paragraph have effect in relation to occasions on which tax falls to be charged under section 64 of IHTA 1984 on or after 6 April 2014.

Delivery of account and payment of tax

5 (1) In section 216(6) (time for delivery of accounts), before paragraph (b) insert—

"(ad) in the case of an account to be delivered by a person within subsection (1)(c) above, before the expiration of the period of six months from the end of the month in which the occasion concerned occurs;".

(2) In section 226 (payment of tax: general rules), after subsection (3B) insert—

"(3C) Tax chargeable under Chapter 3 of Part 3 of this Act on the value transferred by a chargeable transfer, other than any for which the due date is given by subsection (3B) above, is due six months after the end of the month in which the chargeable transfer is made."

(3) In section 233 (interest on unpaid tax)—

(a) in subsection (1)(a), after "transfer" insert " not within paragraph (aa) below and ",

(b) after subsection (1)(a) insert—

"(aa) an amount of tax charged under Chapter 3 of Part 3 of this Act on the value transferred by a chargeable transfer remains unpaid after the end of the period of six months beginning with the end of the month in which the chargeable transfer was made, or", and

(c) in subsection (1)(b), for "any other chargeable transfer" substitute " a chargeable transfer not within paragraph (a) or (aa) above ".

(4) The amendments made by this paragraph have effect in relation to chargeable transfers made on or after 6 April 2014.

SCHEDULE 26

Section 120

THE BANK LEVY: MISCELLANEOUS CHANGES

Introduction

1 Schedule 19 to FA 2011 (the bank levy) is amended in accordance with this Schedule.

High quality liquid assets etc

2 In paragraph 15 (chargeable equity and liabilities of a UK banking group or a building society group)—

(a) in sub-paragraph (2)(c), for "finally," substitute " finally (subject to sub-paragraph (6)) ", and

(b) for sub-paragraph (6) substitute—

"(6) Where any amount ("A") within sub-paragraph (2)(c) is used to reduce short term liabilities, the amount of the reduction is determined as if A were an amount equal to half of A."

3 In paragraph 17 (chargeable equity and liabilities of foreign banking groups)—

(a) in sub-paragraph (6)(c), for "finally," substitute " finally (subject to sub-paragraph (16)) ",

(b) in sub-paragraph (12)(c), for "finally," substitute " finally (subject to sub-paragraph (16)) ", and

(c) for sub-paragraph (16) substitute—

"(16) Where any amount ("A") within sub-paragraph (6)(c) or (12)(c) is used to reduce short term liabilities, the amount of the reduction is determined as if A were an amount equal to half of A."

4 In paragraph 19 (chargeable equity and liabilities of non-banking groups)—

(a) in sub-paragraph (6)(c), for "finally," substitute " finally (subject to sub-paragraph (16)) ",

(b) in sub-paragraph (12)(c), for "finally," substitute " finally (subject to sub-paragraph (16)) ", and

(c) for sub-paragraph (16) substitute—

"(16) Where an amount ("A") within sub-paragraph (6)(c) or (12)(c) is used to reduce short term liabilities, the amount of the reduction is determined as if A were an amount equal to half of A."

5 In paragraph 21 (chargeable equity and liabilities of UK resident banks and building societies which are not members of groups)—

(a) in sub-paragraph (2)(c), for "finally," substitute " finally (subject to sub-paragraph (6)) ", and

(b) for sub-paragraph (6) substitute—

"(6) Where an amount ("A") within sub-paragraph (2)(c) is used to reduce short term liabilities, the amount of the reduction is determined as if A were an amount equal to half of A."

6 In paragraph 27 (determination of foreign bank's chargeable equity and liabilities) —

(a) in sub-paragraph (2)(c), for "finally," substitute " finally (subject to sub-paragraph (6)) ", and

(b) for sub-paragraph (6) substitute—

"(6) Where an amount ("A") within sub-paragraph (2)(c) is used to reduce short term liabilities, the amount of the reduction is determined as if A were an amount equal to half of A."

7 The amendments made by paragraphs 2 to 6 have effect in relation to chargeable periods ending on or after 1 January 2015.

Protected deposits

8 (1) Paragraph 29 ("excluded" equity and liabilities: protected deposits) is amended as follows.

(2) Omit sub-paragraphs (4) to (6).

(3) In sub-paragraph (8) omit ", and sub-paragraphs (4), (5) and (6) so far as relating to a scheme within sub-paragraph (2),".

(4) In sub-paragraph (9) omit ", and sub-paragraphs (4), (5) and (6) so far as relating to a scheme within sub-paragraph (3),".

(5) The amendments made by this paragraph have effect for chargeable periods ending on or after 1 January 2015.

Tier one capital equity and liabilities

9 (1) Paragraph 30 ("excluded" equity and liabilities: tier one capital equity and liabilities) is amended as follows.

(2) For sub-paragraph (2) substitute—

"(2) Tier one capital equity and liabilities" means, in relation to an entity or group of entities, so much of the entity or group's equity and liabilities as is tier one capital within the meaning of Article 25 of the Capital Requirements Regulation (taking account of the transitional provisions in Part Ten of that Regulation).

(3) For the purposes of sub-paragraph (2), the Capital Requirements Regulation is to be treated as applying, in relation to all entities and groups of entities, as if—

(a) to the extent it would not otherwise be the case, the Prudential Regulation Authority were the competent authority in relation to those entities and groups,

(b) the only determinations made, and discretions exercised, by the Prudential Regulation Authority for the purposes of the Capital Requirement Regulation were those published by it in accordance with that Regulation, and

(c) those entities and groups (to the extent that it would not otherwise be the case) were subject to the provisions of the PRA Handbook immediately before 1 January 2014.

(4) "The Capital Requirements Regulation" means Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms."

(3) The amendment made by this paragraph has effect in relation to chargeable periods ending on or after 1 January 2014.

Liabilities representing QCP margin in relation to trades executed under clearing agreements

10 (1) After paragraph 38 insert—

"38A(1) Liabilities are excluded if they represent cash collateral provided as QCP margin in relation to a trade executed or to be executed under a client clearing agreement.

(2) Cash collateral is provided as "QCP margin" if, and to the extent that—

(a) it exceeds the fair value of the instrument to which the trade relates, and

(b) it corresponds to either—

(i) an asset held in respect of the qualifying central counterparty which represents cash collateral provided to that qualifying central counterparty, or

(ii) cash collateral provided to the qualifying central counterparty which has the effect of reducing a liability of the clearing member to the qualifying central counterparty.

(3) In this paragraph—

"clearing member", in relation to a recognised central counterparty, has the meaning given by Article 2(14) of the EMIR Regulation,

"client" has the meaning given by Article 2(15) of the EMIR Regulation,

"client clearing agreement" means a contract between a clearing member of a qualifying central counterparty and a client, relating to the clearing of transactions with the qualifying central counterparty,

"derivative contract" has the meaning given by international accounting standards,

"the EMIR Regulation" means Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories,

"qualifying central counterparty" means a central counterparty that has been either authorised or recognised under the EMIR Regulation,

"trade" means a transaction relating to the sale and purchase of a financial instrument or to the entering into of a derivative contract."

(2) The amendment made by this paragraph has effect in relation to chargeable periods ending on or after 1 January 2014.

Certain liabilities deemed short term liabilities

11 (1) After paragraph 76 insert—

"76A (1) Liabilities under derivative contracts are never "long term" (and are therefore always short term).

(2) In this paragraph "derivative contract" has the meaning given by international accounting standards."

(2) In paragraph 75 (liabilities not required to be repaid within 12 months etc are long term liabilities), after sub-paragraph (2) insert—

"(3) This paragraph is subject to paragraph 76A."

(3) In paragraph 77 (which relates to the calculation of "UK allocated equity and liabilities"), for "76" substitute " 76A ".

(4) The amendments made by this paragraph have effect for chargeable periods ending on or after 1 January 2015.

Amendments consequential on regulatory changes

12 In paragraph 81 (power to make consequential amendments), in sub-paragraph (1), omit the "or" at the end of paragraph (b), and after paragraph (c) insert ", or

(d) any regulatory requirement, or change to any regulatory requirement, imposed by EU legislation, or by or under any Act (whenever adopted, enacted or made)."

Transitional provision

13 (1) This paragraph applies where—

(a) an amount of the bank levy is treated as if it were an amount of corporation tax chargeable on an entity ("E") for an accounting period of E,

(b) the chargeable period in respect of which the amount of the bank levy is charged falls (or partly falls) on or after 1 January 2014, and

(c) under the Instalment Payment Regulations, one or more instalment payments, in respect of the total liability of E for the accounting period, were treated as becoming due and payable before the commencement date ("pre-commencement instalment payments").

(2) Paragraphs 9 and 10 of this Schedule are to be ignored for the purpose of determining the amount of any pre-commencement instalment payment.

(3) If there is at least one instalment payment, in respect of the total liability of E for the accounting period, which under the Instalment Payment Regulations is treated as becoming due and payable on or after the commencement date ("post-commencement instalment payments"), the amount of that instalment payment, or the first of them, is to be increased by the adjustment amount.

(4) If there are no post-commencement instalment payments, a further instalment payment, in respect of the total liability of E for the accounting period, of an amount equal to the adjustment amount is to be treated as becoming due and payable at the end of the period of 30 days beginning with the commencement date.

(5) "The adjustment amount" is the difference between—

(a) the aggregate amount of the pre-commencement instalments determined in accordance with sub-paragraph (2), and

(b) the aggregate amount of those instalment payments determined ignoring sub-paragraph (2) (and so taking account of paragraphs 9 and 10).

(6) In the Instalment Payment Regulations—

(a) in regulations 6(1)(a), 7(2), 8(1)(a) and (2)(a), 9(5), 10(1), 11(1) and 13, references to regulation 4A, 4B, 4C, 4D, 5, 5A or 5B of those Regulations are to be read as including a reference to sub-paragraphs (1) to (5) above (and in regulation 7(2) "the regulation in question", and in regulation 8(2) "that regulation", are to be read accordingly), and

(b) in regulation 9(3), the reference to those Regulations is to be read as including a reference to sub-paragraphs (1) to (5) above.

(7) In section 59D of TMA 1970 (general rule as to when corporation tax is due and payable), in subsection (5), the reference to section 59E is to be read as including a reference to sub-paragraphs (1) to (6) above.

(8) In this paragraph—

"the chargeable period" is to be construed in accordance with paragraph 4 or (as the case may be) 5 of Schedule 19 to FA 2011;

"the commencement date" means the day on which this Act is passed;

"the Instalment Payment Regulations" means the Corporation Tax (Instalment Payments) Regulations 1998 (S.I. 1998/3175);

and references to the total liability of E for an accounting period are to be construed in accordance with regulation 2(3) of the Instalment Payment Regulations.

SCHEDULE 27

Section 177

SUSPENSION AND REVOCATION OF REMOTE OPERATING LICENCES

Breach notice

1 (1) The Commissioners may give a breach notice to the holder of a remote operating licence if it appears to them that there has been a breach of—

(a) a requirement to be registered under this Part in respect of an activity authorised by the licence,

(b) any conditions or requirements relating to registration under this Part in respect of such an activity,

(c) a requirement to pay general betting duty, pool betting duty or remote gaming duty in respect of such an activity, or

(d) a requirement imposed in respect of such an activity by a notice given under section 170 (requirement to provide security or further security) or 171 (requirement to appoint UK representative).

(2) The breach notice must specify—

(a) the breach,

(b) the action that must be taken in order to remedy the breach, and

(c) the period (which must be at least 90 days) within which the action must be taken.

(3) The Commissioners may by regulations—

(a) make provision as to cases in which a breach notice may or may not be given (including provision amending this paragraph);

(b) amend sub-paragraph (2)(c) by substituting for the period for the time being specified there a different period.

Final notice

2 (1) If it appears to the Commissioners that the breach has not been remedied in full within the period specified in the breach notice, they may give the holder of the remote operating licence a final notice.

(2) The final notice must—

(a) specify the breach and the extent to which it has not been remedied since the breach notice was given,

(b) specify the period within which a review may be required or appeal brought, and

(c) state that (unless the breach is remedied and subject to the outcome of any review, appeal or further appeal) the Commissioners will direct the Gambling Commission to suspend the remote operating licence after the end of the period.

(3) The decision to give the final notice is to be treated as a relevant decision for the purposes of sections 15A and 15C to 16 of FA 1994 (customs and excise reviews and appeals) and, accordingly, the final notice must include an offer of a review of the decision under section 15A of that Act.

(4) Only the holder of the remote operating licence may bring an appeal under section 16 of FA 1994 as applied by sub-paragraph (3).

Direction to suspend remote operating licence

3 (1) After the review request period has ended, the Commissioners may direct the Gambling Commission to suspend the remote operating licence if the breach specified in the final notice has not been remedied in full to the satisfaction of the Commissioners.

(2) But if the Commissioners have been required to review the decision, or an appeal has been brought against the decision, a direction may be given under sub-paragraph (1) only if—

(a) the decision to give the final notice has been upheld (in whole or in part) and the period within which any appeal or further appeal may ordinarily be brought has ended,

(b) the proceedings on the review, appeal or any further appeal have been abandoned, withdrawn or discontinued, or

(c) the proceedings on the review, appeal or any further appeal are in progress and—

(i) the Commissioners consider that the holder of the remote operating licence usually lives in or, if a body corporate, is legally constituted in a country or territory with which the United Kingdom does not have satisfactory arrangements for the enforcement of liabilities,

(ii) the breach was a failure to pay an amount of general betting duty, pool betting duty or remote gaming duty, and

(iii) the holder of the licence has not given to the Commissioners such security as appears to them adequate for the payment of the amount of duty that remains due.

(3) A direction under this paragraph may include provision directing the Gambling Commission as to how it is to exercise its powers under section 118(4) of the Gambling Act 2005 (time and duration of suspension and saving and transitional provision).

(4) In this paragraph "the review request period" means the period of 30 days beginning with the date of the final notice, subject to any extension given under section 15D of FA 1994.

Reinstatement of remote operating licence

4 (1) The Commissioners may direct the Gambling Commission to reinstate a remote operating licence suspended pursuant to a direction under paragraph 3 if the Commissioners are satisfied that—

(a) the breach specified in the final notice has been remedied in full,

(b) there are no other grounds on which a breach notice could be given in respect of the licence, and

(c) the holder of the licence has given to the Commissioners any security requested by them for the payment of amounts of general betting duty, pool betting duty and remote gaming duty likely to be due in future in respect of any activity authorised by the licence.

(2) Where the holder of a suspended licence requests the Commissioners to give a direction under this paragraph and the Commissioners refuse to give the direction, they must notify the holder of their decision.

(3) That decision is to be treated as a relevant decision for the purposes of sections 15A and 15C to 16 of FA 1994 (customs and excise reviews and appeals) and, accordingly, the notice under sub-paragraph (2) must include an offer of a review of the decision under section 15A of that Act.

(4) Only the holder of the suspended licence may bring an appeal under section 16 of FA 1994 as applied by sub-paragraph (3).

5 (1) An appeal tribunal may direct the Gambling Commission to reinstate a remote operating licence suspended pursuant to a direction under paragraph 3 if the tribunal gives permission to appeal against a decision to give a final notice under section 16(1F) of FA 1994 (appeal out of time).

(2) The reinstatement of a remote operating licence pursuant to a direction given under sub-paragraph (1) does not prevent the Commissioners from giving a further direction under paragraph 3(1) in reliance on the final notice if—

(a) the decision to give the notice is upheld (in whole or in part) in the proceedings on the appeal or any further appeal, or the proceedings on the appeal or any further appeal have been abandoned, withdrawn or discontinued, and

(b) the period during which any further appeal may ordinarily be brought has ended without an appeal being brought.

(3) In this paragraph "appeal tribunal" has the same meaning as in Chapter 2 of Part 1 of FA 1994.

Revocation of remote operating licence

6 (1) The Commissioners may direct the Gambling Commission to revoke a remote operating licence suspended pursuant to a direction under paragraph 3 if the breach specified in the final notice has not been remedied in full to the satisfaction of the Commissioners within the period of 6 months beginning with the day on which the direction under paragraph 3 was given.

(2) A direction under this paragraph may include provision directing the Gambling Commission as to how it is to exercise its powers under section 119(4) of the Gambling Act 2005 (time of revocation and saving and transitional provision).

(3) The Commissioners must notify the holder of the suspended licence of their decision to give the direction.

(4) That decision is to be treated as a relevant decision for the purposes of sections 15A and 15C to 16 of FA 1994 (customs and excise reviews and appeals) and, accordingly, the notice must include an offer of a review of the decision under section 15A of that Act.

(5) Only the holder of the suspended licence may bring an appeal under section 16 of FA 1994 as applied by sub-paragraph (4).

Consent requirement for grant of new remote operating licence

7 (1) The Gambling Commission requires the consent of the Commissioners to issue a remote operating licence to the holder of a licence—

(a) which is suspended pursuant to a direction under paragraph 3, or

(b) which has been revoked pursuant to a direction under paragraph 6.

(2) The Commissioners must notify the holder of the suspended or revoked licence of any decision—

(a) not to give their consent under this paragraph, or

(b) to give it subject to conditions.

(3) That decision is to be treated as a relevant decision for the purposes of sections 15A and 15C to 16 of FA 1994 (customs and excise reviews and appeals) and, accordingly, the notice under sub-paragraph (2) must include an offer of a review of the decision under section 15A of that Act.

(4) Only the holder of the suspended or revoked licence may bring an appeal under section 16 of FA 1994 as applied by sub-paragraph (3).

Supplementary

8 (1) A notice under this Schedule—

(a) must be in writing, and

(b) may specify more than one breach.

(2) The fact that a breach notice specifying one or more breaches has been given to the holder of a remote operating licence does not prevent a breach notice specifying other breaches being given to the holder of the licence.

9 References in this Schedule to the holder of a remote operating licence are to the person to whom the licence is or was issued.

SCHEDULE 28

Section 196

PART 3: CONSEQUENTIAL AMENDMENTS AND REPEALS

PART 1

BETTING AND GAMING DUTIES ACT 1981

1 BGDA 1981 is amended as follows.

2 Omit sections 1 to 12 (general betting duty and pool betting duty).

3 In section 17 (bingo duty) for subsection (2A) substitute—

"(2A) Bingo duty is not charged on the playing of a game of bingo which is not licensed bingo if every person playing the game participates by the use of—

(a) the internet,

(b) telephone,

(c) television,

(d) radio, or

(e) any other kind of electronic or other technology for facilitating communication."

4 Omit sections 26A to 26M (remote gaming duty).

5 In section 27 (offences by bodies corporate), omit "paragraph 13(1) or (3) or 14(1) of Schedule 1 or".

6 In section 31 (protection of officers), for "general betting duty, bingo duty or remote gaming duty" substitute " bingo duty ".

7 Omit Schedule A1 (general betting duty and pool betting duty: double taxation relief).

8 Omit Schedule 1 (administration of general betting duty and pool betting duty).

9 Omit Schedule 4B (remote gaming duty: double taxation relief).

PART 2

OTHER AMENDMENTS AND REPEALS

Customs and Excise Management Act 1979

10 CEMA 1979 is amended as follows

11 (1) Section 1(1) (interpretation) is amended as follows.

(2) In the definition of "the revenue trade provisions of the customs and excise Acts", after paragraph (f) insert—

"(g) the provisions of Part 3 of the Finance Act 2014;".

(3) In the definition of "revenue trader"—

(a) in paragraph (a)(ic), for "gaming within the meaning of the Betting and Gaming Duties Act 1981 (see section 33(1))" substitute " any activity that

constitutes betting or gaming for the purposes of Part 3 of the Finance Act 2014 (see sections 150, 183 and 188) ",

(b) after paragraph (a)(id) insert—

"(ie) the management or administration of any Chapter 1 stake fund, Chapter 2 stake fund or gaming prize fund within the meaning of Part 3 of the Finance Act 2014 (see sections 134, 143 and 154);", and

(c) in paragraph (a)(ii) for "or (id)" substitute " , (id) or (ie) ".

12 After section 118BC insert—

"**118BCA Inspection powers: betting duties and remote gaming duty**

(1) Subsection (2) applies to premises if an officer has reasonable cause to believe that—

(a) betting facilities are being provided, have been provided or are to be provided there,

(b) a totalisator is being operated, has been operated or is to be operated there, or

(c) any business in respect of which a person is or may become liable to remote gaming duty is being carried on, has been carried on or is to be carried on there.

(2) The officer may at any reasonable time enter and inspect the premises and inspect—

(a) accounts, records and other documents in the custody or control of a relevant person, and

(b) any relevant equipment.

(3) Subsection (1) does not permit an officer to enter or inspect a particular part of premises if—

(a) the officer has no reasonable cause to believe that paragraph (a), (b) or (as the case may be) (c) of that subsection is satisfied with respect to that particular part, and

(b) that part is used only as a dwelling.

(4) An officer may at any reasonable time (whether or not as part of an inspection under subsection (2)) require a relevant person or anyone acting on such a person's behalf—

(a) to open any relevant equipment, and

(b) to carry out any other operation that may be necessary to enable the officer to ascertain whether any general betting duty, pool betting duty or remote gaming duty is payable in respect of it and, if so, how much.

(5) A "relevant person" is a person—

(a) who by virtue of being a bookmaker, being treated by section 133 of the Finance Act 2014 as a bookmaker or providing facilities for making bets is liable to general betting duty,

(b) who by virtue of being a bookmaker is liable to pool betting duty,

(c) who by virtue of entering into arrangements for chargeable persons to participate in remote gaming is liable to remote gaming duty, or

(d) who is reasonably suspected by the officer of being, having been or being about to become liable as mentioned in paragraph (a), (b) or (c).

(6) "Relevant equipment" is equipment that is being, or that the officer reasonably suspects of having been or of being intended to be, used on the premises for or in connection with any activity that constitutes betting or gaming for the purposes of Part 3 of the Finance Act 2014 (see sections 150, 183 and 188).

(7) Expressions used in this section and Part 3 of the Finance Act 2014 have the same meanings in this section as in that Part."

13 (1) Section 118BD (inspection powers: supplementary provision) is amended as follows.

(2) In subsections (1) and (2), for "or 118BC," substitute " , 118BC or 118BCA, ".

(3) In subsection (3), for "and 118BC" substitute " , 118BC and 118BCA ".

14 In section 118G(1) (offence of failing comply with requirements imposed under Part 9A), for "or 118BC(4)" substitute " , 118BC(4) or 118BCA(4) ".

Finance Act 1994

15 FA 1994 is amended as follows.

16 In section 12 (assessments to excise duty), in subsection (2)(c)—

(a) omit "1 or", and

(b) after "2012" insert " or Part 3 of the Finance Act 2014 ".

17 Omit section 13A(2)(ga) (relevant decision: double taxation relief repayment).

18 (1) Paragraph 6 of Schedule 5 (decisions subject to review and appeal) is amended as follows.

(2) Omit sub-paragraph (1)(a).

(3) In sub-paragraph (2)—

(a) omit paragraph (a), and

(b) in paragraph (b), for "that Act" substitute " the Betting and Gaming Duties Act 1981 ".

(4) Omit sub-paragraph (3).

Value Added Tax Act 1994

19 (1) Section 23A (meaning of "relevant machine game") of VATA 1994 is amended as follows.

(2) In subsection (2)(f), for "section 26A of the Betting and Gaming Duties Act 1981 (remote gaming duty: interpretation)" substitute " section 154(1) of the Finance Act 2014 (meaning of remote gaming) ".

(3) In subsection (3), in the definition of "real game of chance", for "the Betting and Gaming Duties Act 1981" substitute " Part 3 of the Finance Act 2014 (see section 188(1)(b)) ".

Finance Act 1997

20 (1) Schedule 1 to FA 1997 (gaming duty: administration and enforcement) is amended as follows.

(2) In paragraph 12(4), for "the offences" substitute " the offence ".

(3) In paragraph 16, for "general betting duty" substitute " bingo duty ".

Criminal Justice and Police Act 2001

21 Omit paragraph 27 of Schedule 1 to the Criminal Justice and Police Act 2001 (application of section 50 to power of seizure under paragraph 16(2) of Schedule 1 to BGDA 1981).

Gambling Act 2005

22 The Gambling Act 2005 is amended as follows.

23 In section 67 (remote operating licence), at the end insert—

"(4) The power of the Commission to issue a remote operating licence to the holder of a licence suspended or revoked pursuant to a direction given under Schedule 27 to the Finance Act 2014 is subject to paragraph 7 of that Schedule (requirement for HMRC's consent)."

24 In section 118 (suspension of operating licence), after subsection (3) insert—

"(3A) The Commission must suspend an operating licence if directed to do so under paragraph 3 of Schedule 27 to the Finance Act 2014."

25 After that section insert—

"**118A Reinstatement**

(1) If an operating licence has been suspended in accordance with section 118(3A), the Commission must reinstate the licence if directed to do so under paragraph 4 or 5 of Schedule 27 to the Finance Act 2014.

(2) Where the Commission reinstate an operating licence it—

(a) must specify the time when the reinstatement takes effect, and

(b) may make the reinstatement subject to conditions."

26 In section 119 (revocation of operating licence), after subsection (3) insert—

"(3A) The Commission must revoke an operating licence if directed to do so under paragraph 6 of Schedule 27 to the Finance Act 2014."

Finance Act 2008

27 (1) The Table in paragraph 1 of Schedule 41 to FA 2008 (penalties: failure to notify and certain VAT and excise wrongdoing) is amended as follows.

(2) For the entries relating to general betting duty and pool betting duty substitute—

"General betting duty	Obligation to register under section 164(2) of FA 2014 (registration of persons liable etc for general betting duty).

Pool betting duty	Obligation to register under section 164(2) of FA 2014 (registration of persons liable etc for pool betting duty).”

(3) For the entry relating to remote gaming duty substitute—

“Remote gaming duty	Obligation to register under section 164(2) of FA 2014 (registration of persons liable etc for remote gaming duty).”

PROSPECTIVE

Finance Act 2009

28 FA 2009 is amended as follows.

29 The Table in paragraph 1 of Schedule 55 (penalty for failure to make returns etc) is amended as follows—

(a) in item 23 (general betting duty), for “paragraph 2 of Schedule 1 to BGDA 1981” substitute “ section 166 of FA 2014 ”,

(b) in item 24 (pool betting duty), for “paragraph 2A of Schedule 1 to BGDA 1981” substitute “ section 166 of FA 2014 ”, and

(c) in item 28 (remote gaming duty), for “26K of BGDA 1981” substitute “ 166 of FA 2014 ”.

30 (1) The Table in paragraph 1 of Schedule 56 (penalty for failure to make payments on time) is amended as follows.

(2) For items 11H and 11I substitute—

“11H	General betting duty	Amount payable under section 142 of FA 2014	The date determined— (a) under section 142 of FA 2014, or (b) by or under regulations under section 163 or 167 of that Act, as the date by which the amount must be paid
11I	Pool betting duty	Amount payable under section 151 of FA 2014	The date determined— (a) under section 151 of FA 2014, or (b) by or under regulations under section 163 or 167 of that Act, as the date by which the amount must be paid”

(3) For item 11M substitute—

“11M	Remote gaming duty	Amount payable under section 162 of FA 2014	The date determined by or under regulations under section 163 or 167 of FA

	2014 as the date by which the amount must be paid"

Finance Act 2012

31 (1) Schedule 24 to FA 2012 (machine games duty) is amended as follows.

(2) In paragraph 3(2), for "BGDA 1981" substitute " Part 3 of FA 2014 ".

(3) In paragraph 37(5), for "the offences" substitute " the offence ".

(4) In paragraph 38, for "remote gaming duty" substitute " bingo duty ".

SCHEDULE 29

Section 197

PART 3: TRANSITIONAL AND SAVING PROVISIONS

Final accounting periods under BGDA 1981

1 (1) The final accounting period for the purposes of a person's liability to general betting duty, pool betting duty or remote gaming duty under BGDA 1981 ends with 30 November 2014 (whether or not it would otherwise have ended with that day).

(2) The Commissioners may by direction make transitional arrangements for the purposes of the final accounting period, and those arrangements may (in particular) —

(a) make provision about the date on which the period begins, and
(b) combine what would otherwise be more than one accounting period.

(3) A direction under this paragraph—

(a) may apply generally or only to a particular case or class of case, and
(b) must be published unless it applies only to a particular case.

Withdrawal of double taxation relief

2 (1) The final reconciliation period for the purposes of a person's entitlement to a credit under section 5E, 8ZA or 26IA of BGDA 1981 (double taxation relief) ends with 30 November 2014 (whether or not it would otherwise have ended with that day).

(2) The Commissioners are not required to entertain a claim for a repayment made under section 5E, 8ZA or 26IA of BGDA 1981 after 30 November 2015.

Post-commencement receipts etc from pre-commencement general or pool betting

3 (1) In this paragraph "new accounting period" means an accounting period beginning on or after 1 December 2014.

(2) Where a bet to which section 2(1) of BGDA 1981 (general bets with bookmaker in the United Kingdom) applies is made with a bookmaker before 1 December 2014, amounts in respect of the bet which fall due to the bookmaker in a new accounting period are to be included among the amounts aggregated at Step 1 in section 131

of this Act in calculating the bookmaker's ordinary profits in respect of general bets for that period.

(3) Where—

(a) a bet to which section 3(1) of BGDA 1981 (spread bets with bookmaker in the United Kingdom) applies is made with a bookmaker before 1 December 2014, and

(b) the bet is a financial spread bet for the purposes of section 3 of BGDA 1981,

amounts in respect of the bet which fall due to the bookmaker in a new accounting period are to be included among the amounts aggregated at Step 1 in section 131 of this Act in calculating the bookmaker's ordinary profits in respect of financial spread bets for that period.

(4) Where—

(a) a bet to which section 3(1) of BGDA 1981 (spread bets with bookmaker in the United Kingdom) applies is made with a bookmaker before 1 December 2014, and

(b) the bet is not a financial spread bet for the purposes of section 3 of BGDA 1981,

amounts in respect of the bet which fall due to the bookmaker in a new accounting period are to be included among the amounts aggregated at Step 1 in section 131 of this Act in calculating the bookmaker's ordinary profits in respect of non-financial spread bets for that period.

(5) Where a bet by way of pool betting to which section 4(1) of BGDA 1981 applies is made before 1 December 2014 by means of facilities provided by a person, amounts in respect of the bet which fall due to the person in a new accounting period are to be included among the amounts aggregated under section 137(a) of this Act in calculating the person's profits for that period in respect of ordinary Chapter 1 pool bets.

(6) Where a dutiable pool bet (as defined by section 7B of BGDA 1981) is made before 1 December 2014, amounts in respect of the bet which in accordance with section 7D of BGDA 1981 fall due—

(a) to the operator of the totalisator by means of which the bet is made, or

(b) to the promoter,

in a new accounting period are to be included among the amounts aggregated under section 146(a) of this Act in calculating that person's profits for that period in respect of ordinary Chapter 2 pool bets.

(7) Section 5(2), (4) and (5) of BGDA 1981 (amounts due: timing and calculation) apply for the purposes of sub-paragraphs (2) to (5).

Post-commencement winnings paid on pre-commencement general or pool betting

4 (1) In this paragraph "transitional accounting period" means an accounting period—

(a) beginning on or after 1 December 2014, and

(b) ending on or before 30 November 2018.

(2) Where a bet to which section 2(1) of BGDA 1981 (general bets with bookmaker in the United Kingdom) applies is made with a bookmaker before 1 December 2014, amounts paid by the bookmaker in a transitional accounting period by way of winnings to the person who made the bet are to be included among the amounts

aggregated at Step 2 in section 131 of this Act in calculating the bookmaker's ordinary profits in respect of general bets for that period.

(3) Where—

(a) a bet to which section 3(1) of BGDA 1981 (spread bets with bookmaker in the United Kingdom) applies is made with a bookmaker before 1 December 2014, and

(b) the bet is a financial spread bet for the purposes of section 3 of BGDA 1981,

amounts paid by the bookmaker in a transitional accounting period by way of winnings to the person who made the bet are to be included among the amounts aggregated at Step 2 in section 131 of this Act in calculating the bookmaker's ordinary profits in respect of financial spread bets for that period.

(4) Where—

(a) a bet to which section 3(1) of BGDA 1981 (spread bets with bookmaker in the United Kingdom) applies is made with a bookmaker before 1 December 2014, and

(b) the bet is not a financial spread bet for the purposes of section 3 of BGDA 1981,

amounts paid by the bookmaker in a transitional accounting period by way of winnings to the person who made the bet are to be included among the amounts aggregated at Step 2 in section 131 of this Act in calculating the bookmaker's ordinary profits in respect of non-financial spread bets for that period.

(5) Where a bet by way of pool betting to which section 4(1) of BGDA 1981 applies is made before 1 December 2014 by means of facilities provided by a person ("the provider"), amounts paid by the provider in a transitional accounting period by way of winnings to the person who made the bet are to be included among the amounts aggregated under section 137(b) of this Act in calculating the provider's profits for that period in respect of ordinary Chapter 1 pool bets.

(6) Where a dutiable pool bet (as defined by section 7B of BGDA 1981) is made before 1 December 2014, amounts paid—

(a) by the operator of the totalisator by means of which the bet is made, or

(b) by the promoter,

in a transitional accounting period by way of winnings to the person who made the bet are to be included among the amounts aggregated under section 146(b) of this Act in calculating the profits of the operator, or (as the case may be) the promoter, for that period in respect of ordinary Chapter 2 pool bets.

(7) Section 5(6) of BGDA 1981 (meaning of "paid") applies for the purposes of sub-paragraphs (2) to (5).

(8) Section 7F of BGDA 1981 (meaning of "paid") applies for the purposes of sub-paragraph (6).

Post-commencement receipts & winnings etc in the case of pre-commencement remote gaming

5 (1) This paragraph applies where—

(a) a person ("the provider") provides facilities for playing a game of chance,

(b) the playing of the game is remote gaming for the purposes of remote gaming duty charged by BGDA 1981,

(c) the provision of the facilities by the provider is not exempt by virtue of section 26H of BGDA 1981, and

(d) the game is begun to be played before 1 December 2014.

(2) In this paragraph—

"new accounting period" means any accounting period beginning on or after 1 December 2014;

"transitional accounting period" means an accounting period—

(a) beginning on or after 1 December 2014, and

(b) ending on or before 30 November 2018.

(3) Amounts due to the provider in a new accounting period in respect of entitlement to use the facilities to play the game are to be included among the amounts aggregated under section 157(1)(a) of this Act in calculating the provider's profits in respect of ordinary gaming.

(4) Amounts in respect of the game that—

(a) are within section 26E(1)(b) of BGDA 1981 as it applies in relation to the provider, and

(b) are staked, or fall due to be paid, in a new accounting period,

are also to be included among the amounts aggregated under section 157(1)(a) of this Act in calculating the provider's profits in respect of ordinary gaming.

(5) In the case of each prize in the game that is a prize—

(a) provided in a transitional accounting period by the provider, and

(b) won by a person using the facilities to play the game,

the value of the prize is to be included among the amounts aggregated under section 157(2) of this Act in calculating the provider's profits for the period in respect of ordinary gaming.

(6) Section 26F(2) to (7) of BGDA 1981 (provision and value of prizes) apply for the purposes of sub-paragraph (5).

Post-commencement relief for unrelieved pre-commencement losses

6 (1) In this paragraph "new accounting period" means an accounting period beginning on or after 1 December 2014.

(2) Where under section 5 or 5AA(3) of BGDA 1981 a person has a negative amount of net stake receipts for an accounting period ending on 30 November 2014 in respect of bets to which section 2(1) of BGDA 1981 applies, the amount may be carried forward in reduction of the person's profits on general bets for one or more new accounting periods.

(3) Where under section 5 or 5AA(3) of BGDA 1981 a person has a negative amount of net stake receipts for an accounting period ending on 30 November 2014 in respect of bets—

(a) to which section 3(1) of BGDA 1981 applies, and

(b) which are financial spread bets for the purposes of section 3 of BGDA 1981,

the amount may be carried forward in reduction of the person's profits on financial spread bets for one or more new accounting periods.

(4) Where under section 5 or 5AA(3) of BGDA 1981 a person has a negative amount of net stake receipts for an accounting period ending on 30 November 2014 in respect of bets—

(a) to which section 3(1) of BGDA 1981 applies, and

(b) which are not financial spread bets for the purposes of section 3 of BGDA 1981,

the amount may be carried forward in reduction of the person's profits on non-financial spread bets for one or more new accounting periods.

(5) Where under section 5 or 5AA(3) of BGDA 1981 a person has a negative amount of net stake receipts for an accounting period ending on 30 November 2014 in respect of bets by way of pool betting to which section 4(1) of BGDA 1981 applies, the amount may be carried forward in reduction of the person's profits on Chapter 1 pool bets for one or more new accounting periods.

(6) Where under section 7ZA(3) or 7A of BGDA 1981 a person has a negative amount of net pool betting receipts for an accounting period ending on 30 November 2014, the amount may be carried forward in reduction of the person's profits on Chapter 2 pool bets for one or more new accounting periods.

(7) Where the amount of a person's remote gaming profits (see section 26C(2) of BGDA 1981) for an accounting period ending on or before 30 November 2014 is a negative amount then that amount, so far as it has not been carried forward under section 26G of BGDA 1981 in reduction of the profits of one or more later accounting periods ending on or before 30 November 2014, may be carried forward in reduction of the person's profits on remote gaming (see section 155(4) of this Act) for one or more new accounting periods.

Post-commencement winnings on non-dutiable pre-commencement general or pool betting

7 (1) In this paragraph "transitional accounting period" means an accounting period—

(a) beginning on or after 1 December 2014, and

(b) ending on or before 30 November 2018.

(2) For the purposes of this paragraph, a bet is "non-dutiable" if—

(a) neither of sections 2(1) and 3(1) of BGDA 1981 applies to it,

(b) it is not a bet by way of pool betting on which general betting duty is charged under section 4(1) of BGDA 1981, and

(c) it is not a dutiable pool bet as defined by section 7B of BGDA 1981.

(3) Where—

(a) a non-dutiable bet is made with a bookmaker before 1 December 2014, and

(b) the bet is a general bet as defined by section 126 of this Act,

amounts paid by the bookmaker in a transitional accounting period by way of winnings to the person who made the bet may be included among the amounts aggregated at Step 2 in section 131 of this Act in calculating the bookmaker's ordinary profits in respect of general bets for that period.

(4) Where—

(a) a non-dutiable bet is made with a bookmaker before 1 December 2014, and

(b) the bet is a financial spread bet as defined by section 128 of this Act,

amounts paid by the bookmaker in a transitional accounting period by way of winnings to the person who made the bet may be included among the amounts aggregated at Step 2 in section 131 of this Act in calculating the bookmaker's ordinary profits in respect of financial spread bets for that period.

(5) Where—

(a) a non-dutiable bet is made with a bookmaker before 1 December 2014, and

(b) the bet is a non-financial spread bet as defined by section 128 of this Act,

amounts paid by the bookmaker in a transitional accounting period by way of winnings to the person who made the bet may be included among the amounts aggregated at Step 2 in section 131 of this Act in calculating the bookmaker's ordinary profits in respect of non-financial spread bets for that period.

(6) Where—

(a) a non-dutiable bet is made with a bookmaker before 1 December 2014, and

(b) the bet is a Chapter 1 pool bet as defined by section 134 of this Act,

amounts paid by the bookmaker in a transitional accounting period by way of winnings in respect of the bet may be included among the amounts aggregated under section 137(b) of this Act in calculating the bookmaker's profits for that period in respect of ordinary Chapter 1 pool bets.

(7) Where—

(a) a non-dutiable bet is made with a bookmaker before 1 December 2014, and

(b) the bet is a Chapter 2 pool bet as defined by section 143 of this Act,

amounts paid by or on behalf of the bookmaker in a transitional accounting period by way of winnings in respect of the bet may be included among the amounts aggregated under section 146(b) of this Act in calculating the bookmaker's profits for that period in respect of ordinary Chapter 2 pool bets.

(8) Section 140 of this Act (meaning of "winnings") applies for the purposes of sub-paragraphs (3) to (6).

(9) Section 149 of this Act (meaning of "winnings") applies for the purposes of sub-paragraph (7).

Post-commencement winnings on non-dutiable pre-commencement remote gaming

8 (1) In this paragraph "transitional accounting period" means an accounting period—

(a) beginning on or after 1 December 2014, and

(b) ending on or before 30 November 2018.

(2) Sub-paragraph (3) applies where—

(a) under arrangements between a chargeable person (as defined by section 155(2)) and another person ("the provider"), the chargeable person participates in playing a game of chance,

(b) the game is begun to be played before 1 December 2014,

(c) the chargeable person's participation in playing the game under the arrangements is remote gaming (as defined by section 154(1)) which is ordinary gaming (as defined by section 154(3)),

(d) remote gaming duty under section 26B of BGDA 1981 is not charged on the provision of any facilities—

(i) used by the chargeable person to play the game, and

(ii) provided by the provider, and

(e) the condition in paragraph (d) is not met only by virtue of section 26H of BGDA 1981 (exemptions).

(3) The value of any prize—

(a) provided by or on behalf of the provider in a transitional accounting period, and

(b) won by the chargeable person as a result of participating in playing the game under the arrangements,

may be included among the values aggregated under section 157(2) in calculating the provider's expenditure for the period on prizes in respect of ordinary gaming.

(4) Section 160 (provision and value of prizes) applies for the purposes of sub-paragraph (3).

Saving for amendments and repeals made by Schedule 28

9 (1) The amendments and repeals made by Schedule 28 do not affect—

(a) the operation on and after 1 December 2014 of any enactment amended or repealed by that Schedule, as the enactment stood immediately before that date, for the purposes of accounting periods for general betting duty, pool betting duty or remote gaming duty that end before that date, or for the purposes of entitlement to double taxation relief for such accounting periods,

(b) the operation on and after that date of any regulations or orders made, directions given or notices published under BGDA 1981 before that date so far as they relate to any of those duties (but see paragraph (c)),

(c) the exercise on and after that date of any power of the Commissioners or the Treasury under BGDA 1981 as saved by paragraph (a), including (in particular) any such power to make, amend, revoke, publish, revise or replace regulations, orders, directions or notices,

(d) the charges under sections 2(1), 3(1) and 4(1) of BGDA 1981 on bets made before that date,

(e) the charge under section 5AB of BGDA 1981 so far as relating to bets determined before that date,

(f) the charge under section 7 of BGDA 1981 so far as relating to net pool betting receipts for accounting periods ending before that date, or

(g) the charges under sections 17 and 26B of BGDA 1981 so far as relating to games of chance that began to be played before that date.

(2) Sub-paragraph (1)—

(a) has effect subject to the preceding provisions of this Schedule, and

(b) does not prejudice the generality of section 16(1) of the Interpretation Act 1978.

SCHEDULE 30

Section 209

SECTION 208 PENALTY: VALUE OF THE DENIED ADVANTAGE

Introduction

1 This Schedule applies for the purposes of calculating penalties under section 209.

Value of denied advantage: normal rule

2 (1) The value of the denied advantage is the additional amount due or payable in respect of tax as a result of counteracting the denied advantage.

(2) The reference in sub-paragraph (1) to the additional amount due or payable includes a reference to—

(a) an amount payable to HMRC having erroneously been paid by way of repayment of tax, and

(b) an amount which would be repayable by HMRC if the denied advantage were not counteracted.

(3) The following are ignored in calculating the value of the denied advantage—

(a) group relief, and

(b) any relief under section 458 of CTA 2010 (relief in respect of repayment etc of loan) which is deferred under subsection (5) of that section.

(4) This paragraph is subject to paragraphs 3 and 4.

Value of denied advantage: losses

3 (1) To the extent that the denied advantage has the result that a loss is wrongly recorded for purposes of direct tax and the loss has been wholly used to reduce the amount due or payable in respect of tax, the value of the denied advantage is determined in accordance with paragraph 2.

(2) To the extent that the denied advantage has the result that a loss is wrongly recorded for purposes of direct tax and the loss has not been wholly used to reduce the amount due or payable in respect of tax, the value of the denied advantage is—

(a) the value under paragraph 2 of so much of the denied advantage as results from the part (if any) of the loss which is used to reduce the amount due or payable in respect of tax, plus

(b) 10% of the part of the loss not so used.

(3) Sub-paragraphs (1) and (2) apply both—

(a) to a case where no loss would have been recorded but for the denied advantage, and

(b) to a case where a loss of a different amount would have been recorded (but in that case sub-paragraphs (1) and (2) apply only to the difference between the amount recorded and the true amount).

(4) To the extent that a denied advantage creates or increases an aggregate loss recorded for a group of companies—

(a) the value of the denied advantage is calculated in accordance with this paragraph, and

(b) in applying paragraph 2 in accordance with sub-paragraphs (1) and (2), group relief may be taken into account (despite paragraph 2(3)).

(5) To the extent that the denied advantage results in a loss, the value of it is nil where, because of the nature of the loss or P's circumstances, there is no reasonable prospect of the loss being used to support a claim to reduce a tax liability (of any person).

Value of denied advantage: deferred tax

4 (1) To the extent that the denied advantage is a deferral of tax, the value of that advantage is—

(a) 25% of the amount of the deferred tax for each year of the deferral, or

(b) a percentage of the amount of the deferred tax, for each separate period of deferral of less than a year, equating to 25% per year,

or, if less, 100% of the amount of the deferred tax.

(2) This paragraph does not apply to a case to the extent that paragraph 3 applies.

SCHEDULE 31

Section 215

FOLLOWER NOTICES AND PARTNERSHIPS

Introduction

1 This Schedule makes special provision about the application of Chapter 2 to partners and partnerships.

Interpretation

2 (1) This paragraph applies for the purposes of this Schedule.

(2) "Partnership follower notice" means a follower notice given by reason of—

(a) a tax enquiry being in progress into a partnership return, or

(b) an appeal having been made in relation to an amendment of a partnership return or against a conclusion stated by a closure notice in relation to a tax enquiry into a partnership return.

(3) "Partnership return" means a return in pursuance of a notice under section 12AA(2) or (3) of TMA 1970.

(4) "The representative partner", in relation to a partnership return, means the person who was required by a notice served under or for the purposes of section 12AA(2) or (3) of TMA 1970 to deliver the return.

(5) "Relevant partner", in relation to a partnership return, means a person who was a partner in the partnership to which the return relates at any time during the period in respect of which the return was required.

(6) References to a "successor", in relation to the representative partner are to be construed in accordance with section 12AA(11) of TMA 1970.

Giving of follower notices in relation to partnership returns

3 (1) If the representative partner in relation to a partnership return is no longer available, then, for the purposes of section 204 the return, or an appeal in respect of the return, is to be regarded as made by the person who is for the time being the successor of that partner (if that would not otherwise be the case).

(2) Where, at any time after a partnership follower notice is given to P, P is no longer available, any reference in this Chapter (other than section 204 and this sub-paragraph) to P is to be read as a reference to the person who is, for the time being, the successor of the representative partner.

(3) For the purposes of Condition B in section 204 a partnership return, or appeal in respect of a partnership return, is made on the basis that a particular tax advantage results from particular tax arrangements if—

(a) it is made on the basis that an increase or reduction in one or more of the amounts mentioned in section 12AB(1) of TMA 1970 (amounts in the partnership statement in a partnership return) results from those tax arrangements, and

(b) that increase or reduction results in that tax advantage for one or more of the relevant partners.

(4) For the purposes of Condition D in section 204—

(a) a notice given to a person in the person's capacity as the representative partner of a partnership, or a successor of that partner, and a notice given to that person otherwise than in that capacity are not to be treated as given to the same person, and

(b) all notices given to the representative partner and successors of that partner, in that capacity, are to be treated as given to the same person.

(5) In this paragraph references to a person being "no longer available" have the same meaning as in section 12AA(11) of TMA 1970.

Penalty if corrective action not taken in response to partnership follower notice

4 (1) Section 208 applies, in relation to a partnership follower notice, in accordance with this paragraph.

(2) Subsection (2) applies as if the reference to P were to each relevant partner.

(3) References to the denied advantage are to be read as references to the increase or reduction in an amount in the partnership statement mentioned in paragraph 3(3) which is denied by the application of the principles laid down or the reasoning given in the judicial ruling identified in the partnership follower notice under section 206(a) or, if only part of any increase or reduction is so denied, that part.

(4) In subsection (6)(b) the words from "and (where different)" to the end are to be ignored, and accordingly subsection (7) does not apply.

Calculation of penalty etc

5 (1) This paragraph applies in relation to a partnership follower notice.

(2) Section 209 applies subject to the following modifications—

(a) the total amount of the penalties under section 208(2) for which the relevant partners are liable is 20% of the value of the denied advantage,

(b) the amount of the penalty for which each relevant partner is liable is that partner's appropriate share of that total amount, and

(c) the value of the denied advantage for the purposes of calculating the total amount of the penalties is—

(i) in the case of a notice given under section 204(2)(a), the net amount of the amendments required to be made to the partnership return to counteract the denied advantage, and

(ii) in the case of a notice given under section 204(2)(b), the net amount of the amendments that have been made to the partnership return to counteract the denied advantage,

(and, accordingly, Schedule 30 does not apply).

(3) For the purposes of sub-paragraph (2), a relevant partner's appropriate share is—

(a) the same share as the share in which any profits or loss for the period to which the return relates would be apportioned to that partner in accordance with the firm's profit-sharing arrangements, or

(b) if HMRC do not have sufficient information from P to establish that share, such share as is determined for the purposes of this paragraph by an officer of HMRC.

(4) Where—

(a) the relevant partners are liable to pay a penalty under section 208(2) (as modified by this paragraph),

(b) the penalties have not yet been assessed, and

(c) P has co-operated with HMRC,

section 210(1) does not apply, but HMRC may reduce the total amount of the penalties determined in accordance with sub-paragraph (2)(a) to reflect the quality of that co-operation.

(5) Nothing in sub-paragraph (4) permits HMRC to reduce the total amount of the penalties to less than 4% of the value of the denied advantage (as determined in accordance with sub-paragraph (2)(c)).

(6) For the purposes of section 212, a penalty imposed on a relevant partner by virtue of paragraph 4(2) is to be treated as if it were determined by reference to such additional amount of tax as is due and payable by the relevant partner as a result of the counteraction of the denied advantage.

(7) The right of appeal under section 214 extends to—

(a) a decision that penalties are payable by the relevant partners by virtue of this paragraph, and

(b) a decision as to the total amount of those penalties payable by those partners,

but not to a decision as to the appropriate share of, or the amount of a penalty payable by, a relevant partner.

(8) Section 214(3) applies to an appeal by virtue of sub-paragraph (7)(a) as it applies to an appeal under section 214(1).

(9) Section 214(8) applies to an appeal by virtue of sub-paragraph (7)(a), and section 214(9) to an appeal by virtue of sub-paragraph (7)(b).

(10) An appeal by virtue of sub-paragraph (7) may be brought only by the representative partner or, if that partner is no longer available, the person who is for the time being the successor of that partner.

(11) The Treasury may by order made by statutory instrument vary the rates for the time being specified in sub-paragraphs (2)(a) and (5).

(12) Any statutory instrument containing an order under sub-paragraph (10) is subject to annulment in pursuance of a resolution of the House of Commons.

SCHEDULE 32

Section 228

ACCELERATED PAYMENTS AND PARTNERSHIPS

Interpretation

1 (1) This paragraph applies for the purposes of this Schedule.

(2) "Partnership return" means a return in pursuance of a notice under section 12AA(2) or (3) of TMA 1970.

(3) "The representative partner", in relation to a partnership return, means the person who was required by a notice served under or for the purposes of section 12AA(2) or (3) of TMA 1970 to deliver the return.

(4) "Relevant partner", in relation to a partnership return, means a person who was a partner in the partnership to which the return relates at any time during the period in respect of which the return was required.

(5) References to a "successor", in relation to the representative partner, are to be construed in accordance with section 12AA(11) of TMA 1970.

Restriction on circumstances when accelerated payment notices can be given

2 (1) This paragraph applies where—

(a) a tax enquiry is in progress in relation to a partnership return, or

(b) an appeal has been made in relation to an amendment of such a return or against a conclusion stated by a closure notice in relation to a tax enquiry into such a return.

(2) No accelerated payment notice may be given to the representative partner of the partnership, or a successor of that partner, by reason of that enquiry or appeal.

(3) But this Schedule makes provision for partner payment notices and accelerated partner payments in such cases.

Circumstances in which partner payment notices may be given

3 (1) Where a partnership return has been made in respect of a partnership, HMRC may give a notice (a "partner payment notice") to each relevant partner of the partnership if Conditions A to C are met.

(2) Condition A is that—

(a) a tax enquiry is in progress in relation to the partnership return, or

(b) an appeal has been made in relation to an amendment of the return or against a conclusion stated by a closure notice in relation to a tax enquiry into the return.

(3) Condition B is that the return or, as the case may be, appeal is made on the basis that a particular tax advantage ("the asserted advantage") results from particular arrangements ("the chosen arrangements").

(4) Paragraph 3(3) of Schedule 31 applies for the purposes of sub-paragraph (3) as it applies for the purposes of Condition B in section 204(3).

(5) Condition C is that one or more of the following requirements are met—

(a) HMRC has given (or, at the same time as giving the partner payment notice, gives) the representative partner, or a successor of that partner, a follower notice under Chapter 2—

(i) in relation to the same return or, as the case may be, appeal, and

(ii) by reason of the same tax advantage and the chosen arrangements;

(b) the chosen arrangements are DOTAS arrangements (within the meaning of section 219(5) and (6));

(c) the relevant partner in question has been given a GAAR counteraction notice in respect of any tax advantage resulting from the asserted advantage or part of it and the chosen arrangements (or is given such a notice at the same time as the partner payment notice) in a case where the stated opinion of at least two of the members of the sub-panel of the GAAR Advisory Panel which considered the matter under paragraph 10 of Schedule 43 to FA 2013 was as set out in paragraph 11(3)(b) of that Schedule (entering into tax arrangements not reasonable course of action etc).

[F3(d) the relevant partner in question has been given a notice under paragraph 8(2) or 9(2) of Schedule 43A to FA 2013 (notice of final decision after considering Panel's opinion about referred or counteracted arrangements) in respect of any tax advantage resulting from the asserted advantage or part of it and the chosen arrangements (or is given such a notice at the same time as the partner payment notice) in a case where the stated opinion of at least two of the members of the sub-panel of the GAAR Advisory Panel about the other arrangements (see sub-paragraph (7)) was as set out in paragraph 11(3)(b) of Schedule 43 to FA 2013;

(e) the relevant partner in question has been given a notice under paragraph 8(2) of Schedule 43B to FA 2013 (GAAR: generic referral of arrangements) in respect of any tax advantage resulting from the asserted advantage or part of it and the chosen arrangements (or is given such a notice at the same time as the partner payment notice) in a case where the stated opinion of at least two of the members of the sub-panel of the GAAR Advisory Panel which considered the generic referral in respect of those arrangements was as set out in paragraph 6(4)(b) of that Schedule.**]**

(6) "GAAR counteraction notice" has the meaning given by section 219(7).

[F4(7) "Other arrangements" means—

(a) in relation to a notice under paragraph 8(2) of Schedule 43A to FA 2013, the referred arrangements (as defined in that paragraph);

(b) in relation to a notice under paragraph 9(2) of that Schedule, the counteracted arrangements (as defined in paragraph 2 of that Schedule).**]**

Textual Amendments

F3 Sch. 32 para. 3(5)(d)(e) inserted (with effect in accordance with s. 157(30) of the amending Act) by Finance Act 2016 (c. 24), **s. 157(27)**

F4 Sch. 32 para. 3(7) inserted (with effect in accordance with s. 157(30) of the amending Act) by Finance Act 2016 (c. 24), **s. 157(28)**

Content of partner payment notices

4 (1) The partner payment notice given to a relevant partner must—

(a) specify the paragraph or paragraphs of paragraph 3(5) by virtue of which the notice is given,

(b) specify the payment **[**F5(if any)**]** required to be made under paragraph 6, F6...

(c) explain the effect of paragraphs 5 and 6, and of the amendments made by sections 224 and 225 (so far as relating to the relevant tax in relation to which the partner payment notice is given)**[**F7, and

(d) if the denied advantage consists of or includes an asserted surrenderable amount, specify that amount and any action which is required to be taken in respect of it under paragraph 6A.**]**

(2) The payment required to be made under paragraph 6 is an amount equal to the amount which a designated HMRC officer determines, to the best of the officer's information and belief, as the understated partner tax **[**F8(and disregarding any dispute which has been referred to a tribunal under section 12ABZB(3) of TMA 1970 but not yet determined)**]**.

(3) "The understated partner tax" means the additional amount that would become due and payable by the relevant partner in respect of tax if—

(a) in the case of a notice given by virtue of paragraph 3(5)(a) (case where a partnership follower notice is given)—

(i) it were assumed that the explanation given in the follower notice in question under section 206(b) is correct, and

(ii) what the officer may determine to the best of the officer's information and belief as the denied advantage is counteracted to the extent that it is reflected in a return or claim of the relevant partner;

(b) in the case of a notice given by virtue of paragraph 3(5)(b) (cases where the DOTAS arrangements are met), such adjustments were made as are required to counteract so much of what the designated HMRC officer so determines as the denied advantage as is reflected in a return or claim of the relevant partner;

(c) in the case of a notice given by virtue of paragraph 3(5)(c) (cases involving counteraction under the general anti-abuse rule), such of the adjustments set out in the GAAR counteraction notice are made as have effect to counteract so much of the denied advantage as is reflected in a return or claim of the relevant partner.

(4) "The denied advantage"—

(a) in the case of the notice given by virtue of paragraph 3(5)(a), has the meaning given by paragraph 4(3) of Schedule 31,

(b) in the case of a notice given by virtue of paragraph 3(5)(b), means so much of the asserted advantage as is not a tax advantage which results from the chosen arrangements or otherwise, and

(c) in the case of a notice given by virtue of paragraph 3(5)(c), means so much of the asserted advantage as would be counteracted by making the adjustments set out in the GAAR counteraction notice.

[F9(4A) Asserted surrenderable amount" means so much of a surrenderable loss which the relevant partner asserts to have as a designated HMRC officer determines, to the best of that officer's information and belief, to be an amount—

(a) which would not be a surrenderable loss of that partner if the position were as stated in paragraphs (a), (b) or (c) of sub-paragraph (3), and

(b) which is not the subject of a claim by the relevant partner to relief from corporation tax which is reflected in the amount of the understated partner tax of that partner (and hence in the payment required to be made under paragraph 6).

(4B) "Surrenderable loss" means a loss or other amount within section 99(1) of CTA 2010 (or part of such a loss or other amount).**]**

(5) If a notice is given by reason of two or all of the requirements of paragraph 3(5) being met, **[**F10any payment specified under sub-paragraph (1)(b) or amount specified under sub-paragraph (1)(d)**]** is to be determined as if the notice were given by virtue of such one of them as is stated in the notice as being used for this purpose.

Textual Amendments

F5 Words in Sch. 32 para. 4(1)(b) inserted (26.3.2015) by Finance Act 2015 (c. 11), **Sch. 18 para. 10(2)(a)**

F6 Word in Sch. 32 para. 4(1)(b) omitted (26.3.2015) by virtue of Finance Act 2015 (c. 11), **Sch. 18 para. 10(2)(b)**

F7 Sch. 32 para. 4(1)(d) and preceding word inserted (26.3.2015) by Finance Act 2015 (c. 11), **Sch. 18 para. 10(2)(b)**

F8 Words in Sch. 32 para. 4(2) inserted (with effect in accordance with Sch. 6 para. 14 of the amending Act) by Finance Act 2018 (c. 3), **Sch. 6 para. 13(5)(a)**

F9 Sch. 32 para. 4(4A)(4B) inserted (26.3.2015) by Finance Act 2015 (c. 11), **Sch. 18 para. 10(2)(c)**

F10 Words in Sch. 32 para. 4(5) substituted (26.3.2015) by Finance Act 2015 (c. 11), **Sch. 18 para. 10(2)(d)**

Representations about a partner payment notice

5 (1) This paragraph applies where a partner payment notice has been given to a relevant partner under paragraph 3 (and not withdrawn).

(2) The relevant partner has 90 days beginning with the day that notice is given to send written representations to HMRC—

(a) objecting to the notice on the grounds that Condition A, B or C in that paragraph was not met, **[**F11...

(b) objecting to the amount specified in the notice under paragraph 4(1)(b)**[**F12, or

(c) objecting to the amount specified in the notice under paragraph 4(1)(d).**]**

(3) HMRC must consider any representations made in accordance with sub-paragraph (2).

(4) Having considered the representations, HMRC must—

(a) if representations were made under sub-paragraph (2)(a), determine whether—

(i) to confirm the partner payment notice (with or without amendment), or

(ii) to withdraw the partner payment notice, F13...

(b) if representations were made under sub-paragraph (2)(b) (and the notice is not withdrawn under paragraph (a)), determine whether a different amount **[**F14(or no amount)**]** ought to have been specified as the understated partner tax, and then—

(i) confirm the amount specified in the notice, F15...

(ii) amend the notice to specify a different amount**[**F16, or

(iii) remove from the notice the provision made under paragraph 4(1)(b),**][**F17, and

(c) if representations were made under sub-paragraph (2)(c) (and the notice is not withdrawn under paragraph (a)), determine whether a different amount (or no amount) ought to have been specified under paragraph 4(1)(d), and then—

(i) confirm the amount specified in the notice,

(ii) amend the notice to specify a different amount, or

(iii) remove from the notice the provision made under paragraph 4(1)(d),**]**

and notify P accordingly.

Textual Amendments

F11 Word in Sch. 32 para. 5(2)(a) omitted (26.3.2015) by virtue of Finance Act 2015 (c. 11), **Sch. 18 para. 10(3)(a)**

F12 Sch. 32 para. 5(2)(c) and preceding word inserted (26.3.2015) by Finance Act 2015 (c. 11), **Sch. 18 para. 10(3)(a)**

F13 Word in Sch. 32 para. 5(4)(a) omitted (26.3.2015) by virtue of Finance Act 2015 (c. 11), **Sch. 18 para. 10(3)(b)**

F14 Words in Sch. 32 para. 5(4)(b) inserted (26.3.2015) by Finance Act 2015 (c. 11), **Sch. 18 para. 10(3)(c)**

F15 Word in Sch. 32 para. 5(4)(b)(i) omitted (26.3.2015) by virtue of Finance Act 2015 (c. 11), **Sch. 18 para. 10(3)(d)**

F16 Sch. 32 para. 5(4)(b)(iii) and preceding word inserted (26.3.2015) by Finance Act 2015 (c. 11), **Sch. 18 para. 10(3)(d)**

F17 Sch. 32 para. 5(4)(c) and preceding word inserted (26.3.2015) by Finance Act 2015 (c. 11), **Sch. 18 para. 10(3)(e)**

Effect of partner payment notice

6 **[**F18(1) This paragraph applies where—

(a) a partner payment notice has been given to a relevant partner (and not withdrawn), and

(b) an amount is stated in the notice in accordance with paragraph 4(1)(b).**]**

(2) The relevant partner must make a payment ("the accelerated partner payment") to HMRC of **[**F19that amount**]**.

(3) The accelerated partner payment is to be treated as a payment on account of the understated partner tax (see paragraph 4).

(4) The accelerated partner payment must be made before the end of the payment period.

(5) "The payment period" means—

(a) if the relevant partner made no representations under paragraph 5, the period of 90 days beginning with the day on which the partner payment notice is given;

(b) if the relevant partner made such representations, whichever of the following ends later—

(i) the 90 day period mentioned in paragraph (a);

(ii) the period of 30 days beginning with the day on which the relevant partner is notified under paragraph 5 of HMRC's determination.

(6) If the relevant partner pays any part of the understated partner tax before the accelerated partner payment in respect of it, the accelerated partner payment is treated to that extent as having been paid at the same time.

(7) Subsections (8) and (9) of section 223 apply in relation to a payment under this paragraph as they apply to a payment under that section.

Textual Amendments

F18 Sch. 32 para. 6(1) substituted (26.3.2015) by Finance Act 2015 (c. 11), **Sch. 18 para. 10(4)(a)**

F19 Words in Sch. 32 para. 6(2) substituted (26.3.2015) by Finance Act 2015 (c. 11), **Sch. 18 para. 10(4)(b)**

[[F20]6A (1) This paragraph applies where—

(a) an accelerated payment notice is given (and not withdrawn), and

(b) an amount is specified in the notice in accordance with paragraph 4(1)(d).

(2) The relevant partner may not at any time when the notice has effect consent to any claim for group relief in respect of the amount so specified.

(3) Subject to sub-paragraph (2), paragraph 75 (other than sub-paragraphs (7) and (8)) of Schedule 18 to FA 1998 (reduction in amount available for surrender) has effect at any time when the notice has effect as if that specified amount ceased to be an amount available for surrender at the time the notice was given to the relevant partner.

(4) For the purposes of sub-paragraph (3), paragraph 75 of that Schedule has effect as if, in sub-paragraph (2) of that paragraph for "within 30 days" there were substituted " before the end of the payment period (within the meaning of paragraph 6(5) of Schedule 32 to the Finance Act 2014) ".

(5) The time limits otherwise applicable to amendment of a company tax return do not prevent an amendment being made in accordance with paragraph 75(6) of Schedule 18 to FA 1998 where the relevant partner withdraws consent by virtue of sub-paragraph (3).**]**

Textual Amendments

F20 Sch. 32 para. 6A inserted (with effect in accordance with Sch. 18 para. 12(2) of the amending Act) by Finance Act 2015 (c. 11), **Sch. 18 para. 10(5)**

Penalty for failure to comply with partner payment notice

7 Section 226 (penalty for failure to make accelerated payment on time) applies to accelerated partner payments as if—

(a) references in that section to the accelerated payment were to the accelerated partner payment,

(b) references to P were to the relevant partner, F21...

[F22(ba) the reference in section 226(8) to an amendment to an accelerated payment notice made under section 227(7A) were to an amendment to a partner payment notice made under that section as applied by paragraph 8 of this Schedule, and**]**

(c) "the payment period" had the meaning given by paragraph 6(5).

Textual Amendments

F21 Word in Sch. 32 para. 7(b) omitted (with effect in accordance with Sch. 6 para. 14 of the amending Act) by virtue of Finance Act 2018 (c. 3), **Sch. 6 para. 13(5)(b)(i)**

F22 Sch. 32 para. 7(ba) inserted (with effect in accordance with Sch. 6 para. 14 of the amending Act) by Finance Act 2018 (c. 3), **Sch. 6 para. 13(5)(b)(ii)**

Withdrawal, suspension or modification of partner payment notices

8 (1) Section 227 (withdrawal, modification or suspension of accelerated payment notice) applies in relation to a relevant partner, a partner payment notice, Condition C in paragraph 3 and an accelerated partner payment as it applies in relation to P, an accelerated payment notice, Condition C in section 219 and an accelerated payment.

(2) Accordingly, for this purpose—

[F23(za) section 227(2)(d), (12A) and (16) has effect as if the references to section 220(2)(d) or 221(2)(d) were to paragraph 4(1)(d) of this Schedule,**]**

(a) section 227(6)(b) and (7)(a) has effect as if the references to section 220(6) were to paragraph 4(5) of this Schedule, F24...

[F25(aa) section 227(7A) has effect as if the reference to a **[**F26section 12AA**]** partnership return to which the accelerated payment notice relates were a reference to the **[**F26section 12AA**]** partnership return in relation to which the partner payment notice is given;**]**

(b) the provisions listed in section 227(9) are to be read as including paragraph 6(5) of this Schedule**[**F27, F28...

(c) section 227(12A) has effect as if the reference to section 225A(3) were to paragraph 6A(3) of this Schedule**][**F29and

(d) section 227(13A) has effect as if the reference to section 223(2) were to paragraph 6(2) of this Schedule and the reference to section 223(5) were to paragraph 6(5) of this Schedule.**]**

Textual Amendments

F23 Sch. 32 para. 8(2)(za) inserted (26.3.2015) by Finance Act 2015 (c. 11), **Sch. 18 para. 10(6)(a)**

F24 Word in Sch. 32 para. 8(2) omitted (26.3.2015) by virtue of Finance Act 2015 (c. 11), **Sch. 18 para. 10(6)(b)**

F25 Sch. 32 para. 8(2)(aa) inserted (with effect in accordance with Sch. 6 para. 14 of the amending Act) by Finance Act 2018 (c. 3), **Sch. 6 para. 13(5)(c)(i)**

F26 Words in Sch. 32 para. 8(2)(aa) inserted by 2017 c. 32, Sch. 14 para. 46(5) (as inserted (15.3.2018) by Finance Act 2018 (c. 3), **Sch. 6 para. 15(4)**)

F27 Sch. 32 para. 8(2)(c) and preceding word inserted (26.3.2015) by Finance Act 2015 (c. 11), **Sch. 18 para. 10(6)(b)**

F28 Word in Sch. 32 para. 8(2)(b) omitted (with effect in accordance with Sch. 6 para. 14 of the amending Act) by virtue of Finance Act 2018 (c. 3), **Sch. 6 para. 13(5)(c)(ii)**

F29 Sch. 32 para. 8(2)(d) and word inserted (with effect in accordance with Sch. 6 para. 14 of the amending Act) by Finance Act 2018 (c. 3), **Sch. 6 para. 13(5)(c)(iii)**

SCHEDULE 33

Section 233

PART 4: CONSEQUENTIAL AMENDMENTS

Taxes Management Act 1970

1 In section 9B of TMA 1970 (amendment of return by relevant person during enquiry), in subsection (1), after "taxpayer)" insert " , or in accordance with Chapter 2 of Part 4 of the Finance Act 2014 (amendment of return after follower notice), ".

2 In section 103ZA of that Act (disapplication of sections 100 to 103 (penalty provisions) in the case of certain penalties)—

(a) omit "or" at the end of paragraph (f), and

(b) at the end of paragraph (g) insert ", or

(h) Part 4 of the Finance Act 2014 (follower notices and accelerated payments)."

Finance Act 2007

3 In paragraph 12 of Schedule 24 to FA 2007 (penalties for errors: interaction with other penalties), after sub-paragraph (2) insert—

"(2A) In sub-paragraph (2) "any other penalty" does not include a penalty under Part 4 of FA 2014 (penalty where corrective action not taken after follower notice etc)."

Finance Act 2008

4 In paragraph 15 of Schedule 41 to FA 2008 (penalties: failure to notify: interaction with other penalties), after sub-paragraph (1) insert—

"(1A) In sub-paragraph (1) "any other penalty" does not include a penalty under Part 4 of FA 2014 (penalty where corrective action not taken after follower notice etc)."

Finance Act 2009

5 In paragraph 17 of Schedule 55 to FA 2009 (penalty for failure to make returns etc: interaction with other penalties), after sub-paragraph (2)(b) insert ", or

(c) a penalty under Part 4 of FA 2014 (penalty where corrective action not taken after follower notice etc)."

SCHEDULE 34

Section 237

PROMOTERS OF TAX AVOIDANCE SCHEMES: THRESHOLD CONDITIONS

PART 1

MEETING THE THRESHOLD CONDITIONS: GENERAL

Meaning of "threshold condition"

1 Each of the conditions described in paragraphs 2 to 12 is a "threshold condition".

Deliberate tax defaulters

2 A person meets this condition if the Commissioners publish information about the person in reliance on section 94 of FA 2009 (publishing details of deliberate tax defaulters).

Breach of the Banking Code of Practice

3 A person meets this condition if the person is named in a report under section 285 as a result of the Commissioners determining that the person breached the Code of Practice on Taxation for Banks by reason of promoting arrangements which the person cannot have reasonably believed achieved a tax result which was intended by Parliament.

Dishonest tax agents

4 A person meets this condition if the person is given a conduct notice under paragraph 4 of Schedule 38 to FA 2012 (tax agents: dishonest conduct) and either—

(a) the time period during which a notice of appeal may be given in relation to the notice has expired, or

(b) an appeal against the notice has been made and the tribunal has confirmed the determination referred to in sub-paragraph (1) of paragraph 4 of that Schedule.

Non-compliance with Part 7 of FA 2004

5 (1) A person meets this condition if the person fails to comply with any of the following provisions of Part 7 of FA 2004 (disclosure of tax avoidance schemes)—

(a) section 308(1) and (3) (duty of promoter in relation to notifiable proposals and notifiable arrangements);

(b) section 309(1) (duty of person dealing with promoter outside the United Kingdom);

(c) section 310 (duty of parties to notifiable arrangements not involving promoter);

(d) section 313ZA (duty of promoter to provide details of clients).

[F30(2) For the purposes of sub-paragraph (1), a person ("P") fails to comply with a provision mentioned in that sub-paragraph if and only if any of conditions A to C are met.

(3) Condition A is met if—

(a) the tribunal has determined that P has failed to comply with the provision concerned,

(b) the appeal period has ended, and

(c) the determination has not been overturned on appeal.

(4) Condition B is met if—

(a) the tribunal has determined for the purposes of section 118(2) of TMA 1970 that P is to be deemed not to have failed to comply with the provision concerned as P had a reasonable excuse for not doing the thing required to be done,

(b) the appeal period has ended, and

(c) the determination has not been overturned on appeal.

(5) Condition C is met if P has admitted in writing to HMRC that P has failed to comply with the provision concerned.

(6) The "appeal period" means—

(a) the period during which an appeal could be brought against the determination of the tribunal, or

(b) where an appeal mentioned in paragraph (a) has been brought, the period during which that appeal has not been finally determined, withdrawn or otherwise disposed of.**]**

Textual Amendments

F30 Sch. 34 para. 5(2)-(6) substituted for Sch. 34 para. 5(2) (with effect in accordance with Sch. 19 para. 9 of the amending Act) by Finance Act 2015 (c. 11), **Sch. 19 para. 6**

Criminal offences

6 (1) A person meets this condition if the person is charged with a relevant offence.

(2) The fact that a person has been charged with an offence is disregarded for the purposes of this paragraph if—

(a) the person has been acquitted of the offence, or

(b) the charge has been dismissed or the proceedings have been discontinued.

(3) An acquittal is not taken into account for the purposes of sub-paragraph (2) if an appeal has been brought against the acquittal and has not yet been disposed of.

(4) "Relevant offence" means any of the following—

(a) an offence at common law of cheating in relation to the public revenue;

(b) in Scotland, an offence at common law of—

(i) fraud;

(ii) uttering;

(c) an offence under section 17(1) of the Theft Act 1968 or section 17 of the Theft Act (Northern Ireland) 1969 (c. 16 (N.I.)) (false accounting);

(d) an offence under section 106A of TMA 1970 (fraudulent evasion of income tax);

(e) an offence under section 107 of TMA 1970 (false statements: Scotland);

(f) an offence under any of the following provisions of CEMA 1979—

(i) section 50(2) (improper importation of goods with intent to defraud or evade duty);

(ii) section 167 (untrue declarations etc);

(iii) section 168 (counterfeiting documents etc);

(iv) section 170 (fraudulent evasion of duty);

(v) section 170B (taking steps for the fraudulent evasion of duty);

(g) an offence under any of the following provisions of VATA 1994—

(i) section 72(1) (being knowingly concerned in the evasion of VAT);

(ii) section 72(3) (false statement etc);

(iii) section 72(8) (conduct involving commission of other offence under section 72);

(h) an offence under section 1 of the Fraud Act 2006 (fraud);

(i) an offence under any of the following provisions of CRCA 2005—

(i) section 30 (impersonating a Commissioner or officer of Revenue and Customs);

(ii) section 31 (obstruction of officer of Revenue and Customs etc);

(iii) section 32 (assault of officer of Revenue and Customs);

(j) an offence under **[**[F31]regulation 86(1) of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017**]**;

(k) an offence under section 49(1) of the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13) (possession of articles for use in fraud).

Textual Amendments

F31 Words in Sch. 34 para. 6(4)(j) substituted (26.6.2017) by The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (S.I. 2017/692), reg. 1(2), **Sch. 7 para. 10** (with regs. 8, 15)

Opinion notice of GAAR Advisory Panel

7 A person meets this condition if—

(a) arrangements in relation to which the person is a promoter **[**[F32]—

(i) have been referred to the GAAR Advisory Panel under Schedule 43 to FA 2013 (referrals of single schemes),

(ii) are in a pool in respect of which a referral has been made to that Panel under Schedule 43B to that Act (generic referrals), or

(iii) have been referred to that Panel under paragraph 26 of Schedule 16 to F(No. 2)A 2017 (referrals in relation to penalties for enablers of defeated tax avoidance),**]**

(b) one or more opinion notices are given **[**F33in respect of the referral**][**F34under (as the case may be)—

(i) paragraph 11(3)(b) of Schedule 43 to FA 2013,

(ii) paragraph 6(4)(b) of Schedule 43B to that Act, or

(iii) paragraph 34(3)(b) of Schedule 16 to F(No. 2)A 2017,

(opinion of sub-panel of GAAR Advisory Panel that arrangements are not reasonable), and **]**

(c) the notice, or the notices taken together, either—

(i) state the joint opinion of all the members of the sub-panel arranged under F35... that Schedule, or

(ii) state the opinion of two or more members of that sub-panel.

Textual Amendments

F32 Words in Sch. 34 para. 7(a) substituted (with effect in accordance with Sch. 16 para. 62 of the amending Act) by Finance (No. 2) Act 2017 (c. 32), **Sch. 16 para. 61(a)**

F33 Words in Sch. 34 para. 7(b) substituted (with effect in accordance with s. 157(30) of the amending Act) by Finance Act 2016 (c. 24), **s. 157(29)(b)(i)**

F34 Words in Sch. 34 para. 7(b) substituted (with effect in accordance with Sch. 16 para. 62 of the amending Act) by Finance (No. 2) Act 2017 (c. 32), **Sch. 16 para. 61(b)**

F35 Words in Sch. 34 para. 7(c)(i) omitted (with effect in accordance with s. 157(30) of the amending Act) by virtue of Finance Act 2016 (c. 24), **s. 157(29)(c)**

*Disciplinary action **[**F36against a member of a trade or profession**]***

Textual Amendments

F36 Words in Sch. 34 para. 8 cross-heading substituted (with effect in accordance with Sch. 19 para. 9 of the amending Act) by Finance Act 2015 (c. 11), **Sch. 19 para. 7(3)**

8 **[**F37(1) A person who carries on a trade or profession that is regulated by a professional body meets this condition if all of the following conditions are met—

(a) the person is found guilty of misconduct of a prescribed kind,

(b) action of a prescribed kind is taken against the person in relation to that misconduct, and

(c) a penalty of a prescribed kind is imposed on the person as a result of that misconduct.**]**

(2) Misconduct may only be prescribed for the purposes of sub-paragraph (1)(a) if it is misconduct other than misconduct in matters (such as the payment of fees) that relate solely or mainly to the person's relationship with the professional body.

(3) A "professional body" means—

(a) the Institute of Chartered Accountants in England and Wales;

(b) the Institute of Chartered Accountants of Scotland;

(c) the General Council of the Bar;

(d) the Faculty of Advocates;

(e) the General Council of the Bar of Northern Ireland;

(f) the Law Society;
(g) the Law Society of Scotland;
(h) the Law Society **[**[F38]of**]** Northern Ireland;
(i) the Association of Accounting Technicians;
(j) the Association of Chartered Certified Accountants;
(k) the Association of Taxation Technicians;
(l) any other prescribed body with functions relating to the regulation of a trade or profession.

Textual Amendments

F37 Sch. 34 para. 8(1) substituted (with effect in accordance with Sch. 19 para. 9 of the amending Act) by Finance Act 2015 (c. 11), **Sch. 19 para. 7(2)**

F38 Word in Sch. 34 para. 8(3)(h) substituted (with effect in accordance with Sch. 19 para. 9 of the amending Act) by Finance Act 2015 (c. 11), **Sch. 19 para. 7(4)**

Disciplinary action by a regulatory authority

9 (1) A person meets this condition if a regulatory authority imposes a relevant sanction on the person.

(2) A "relevant sanction" is a sanction which is—
(a) imposed in relation to misconduct other than misconduct in matters (such as the payment of fees) that relate solely or mainly to the person's relationship with the regulatory authority, and
(b) prescribed.

(3) The following are regulatory authorities for the purposes of this paragraph—
(a) the Financial Conduct Authority;
(b) the Financial Services Authority;
(c) any other authority that may be prescribed.

(4) Only authorities that have functions relating to the regulation of financial institutions may be prescribed under sub-paragraph (3)(c).

Exercise of information powers

10 (1) A person meets this condition if the person fails to comply with an information notice given under any of paragraphs 1, 2, 5 and 5A of Schedule 36 to FA 2008.

(2) For the purposes of section 237, the failure to comply is taken to occur when the period within which the person is required to comply with the notice expires (without the person having complied with it).

Restrictive contractual terms

11 (1) A person ("P") meets this condition if P enters into an agreement with another person ("C") which relates to a relevant proposal or relevant arrangements in relation to which P is a promoter, on terms which—
(a) impose a contractual obligation on C which falls within sub-paragraph (2) or (3), or

(b) impose on C both obligations within sub-paragraph (4) and obligations within sub-paragraph (5).

(2) A contractual obligation falls within this sub-paragraph if it prevents or restricts the disclosure by C to HMRC of information relating to the proposals or arrangements, whether or not by referring to a wider class of persons.

(3) A contractual obligation falls within this sub-paragraph if it requires C to impose on any tax adviser to whom C discloses information relating to the proposals or arrangements a contractual obligation which prevents or restricts the disclosure of that information to HMRC by the adviser.

(4) A contractual obligation falls within this sub-paragraph if it requires C to—

(a) meet (in whole or in part) the costs of, or contribute to a fund to be used to meet the costs of, any proceedings relating to arrangements in relation to which P is a promoter (whether or not implemented by C), or

(b) take out an insurance policy which insures against the risk of having to meet the costs connected with proceedings relating to arrangements which C has implemented and in relation to which P is a promoter.

(5) A contractual obligation falls within this paragraph if it requires C to obtain the consent of P before—

(a) entering into any agreement with HMRC regarding arrangements which C has implemented and in relation to which P is a promoter, or

(b) withdrawing or discontinuing any appeal against any decision regarding such arrangements.

(6) In sub-paragraph (5)(b), the reference to withdrawing or discontinuing an appeal includes any action or inaction which results in an appeal being discontinued.

(7) In this paragraph—

"proceedings" includes any sort of proceedings for resolving disputes (and not just proceedings in court), whether commenced or contemplated;

"tax adviser" means a person appointed to give advice about the tax affairs of another person (whether appointed directly by that person or by another tax adviser of that person).

Continuing to promote certain arrangements

12 (1) A person ("P") meets this condition if P has been given a stop notice and after the end of the notice period P—

(a) makes a firm approach to another person ("C") in relation to an affected proposal with a view to making the affected proposal available for implementation by C or another person, or

(b) makes an affected proposal available for implementation by other persons.

(2) "Affected proposal" means a relevant proposal that is in substance the same as the relevant proposal specified in the stop notice in accordance with sub-paragraph (4)(c).

(3) An authorised officer may give a person ("P") a notice (a "stop notice") if each of these conditions is met—

(a) a person has been given a follower notice under section 204 (circumstances in which a follower notice may be given) in relation to particular relevant arrangements;

(b) P is a promoter in relation to a relevant proposal that is implemented by those arrangements;

(c) 90 days have elapsed since the follower notice was given and—

(i) the follower notice has not been withdrawn, and

(ii) if representations objecting to the follower notice were made under section 207 (representations about a follower notice), HMRC have confirmed the follower notice.

(4) A stop notice must—

(a) specify the arrangements which are the subject of the follower notice mentioned in sub-paragraph (3)(a),

(b) specify the judicial ruling identified in that follower notice,

(c) specify a relevant proposal in relation to which the condition in sub-paragraph (3)(b) is met, and

(d) explain the effect of the stop notice.

(5) An authorised officer may determine that a stop notice given to a person is to cease to have effect.

(6) If an authorised officer makes a determination under sub-paragraph (5) the officer must give the person written notice of the determination.

(7) The notice must specify the date from which it takes effect, which may be earlier than the date on which the notice is given.

(8) In this paragraph—

"the notice period" means the period of 30 days beginning with the day on which a stop notice is given;

"judicial ruling" means a ruling of a court or tribunal.

PART 2

MEETING THE THRESHOLD CONDITIONS: BODIES CORPORATE [F39 AND PARTNERSHIPS]

Textual Amendments

F39 Words in Sch. 34 heading inserted (with effect in accordance with Sch. 19 para. 9 of the amending Act) by Finance Act 2015 (c. 11), **Sch. 19 para. 4(2)**

[F40 Interpretation

Textual Amendments

F40 Sch. 34 paras. 13A-13D substituted for Sch. 34 para. 13 (with effect in accordance with Sch. 19 para. 9 of the amending Act) by Finance Act 2015 (c. 11), **Sch. 19 para. 4(3)**

13A (1) This paragraph contains definitions for the purposes of this Part of this Schedule.

(2) Each of the following is a "relevant body"—

(a) a body corporate, and

(b) a partnership.

(3) "Relevant time" means the time referred to in section 237(1A) (duty to give conduct notice to person treated as meeting threshold condition).

(4) "Relevant threshold condition" means a threshold condition specified in any of the following paragraphs of this Schedule—

(a) paragraph 2 (deliberate tax defaulters);

(b) paragraph 4 (dishonest tax agents);

(c) paragraph 6 (criminal offences);

(d) paragraph 7 (opinion notice of GAAR advisory panel);

(e) paragraph 8 (disciplinary action against a member of a trade or profession);

(f) paragraph 9 (disciplinary action by regulatory authority);

(g) paragraph 10 (failure to comply with information notice).

(5) A person controls a body corporate if the person has power to secure that the affairs of the body corporate are conducted in accordance with the person's wishes—

(a) by means of the holding of shares or the possession of voting power in relation to the body corporate or any other relevant body,

(b) as a result of any powers conferred by the articles of association or other document regulating the body corporate or any other relevant body, or

(c) by means of controlling a partnership.

[[F41](6) Two or more persons together control a body corporate if together they have the power to secure that the affairs of the body corporate are conducted in accordance with their wishes in any way specified in sub-paragraph (5)(a) to (c).

(7) A person controls a partnership if the person is a member of the partnership and—

(a) has the right to a share of more than half the assets, or more than half the income, of the partnership, or

(b) directs, or is on a day-to-day level in control of, the management of the business of the partnership.

(8) Two or more persons together control a partnership if they are members of the partnership and together they—

(a) have the right to a share of more than half the assets, or of more than half the income, of the partnership, or

(b) direct, or are on a day-to-day level in control of, the management of the business of the partnership.

(9) Paragraph 19(2) to (5) of Schedule 36 (connected persons etc) applies to a person referred to in sub-paragraph (7) or (8) as if references to "P" were to that person.

(10) A person has significant influence over a body corporate or partnership if the person—

(a) does not control the body corporate or partnership, but

(b) is able to, or actually does, exercise significant influence over it (whether or not as the result of a legal entitlement).

(11) Two or more persons together have significant influence over a body corporate or partnership if together those persons—

(a) do not control the body corporate or partnership, but

(b) are able to, or actually do, exercise significant influence over it (whether or not as the result of a legal entitlement).

(12) References to a person being a promoter are to the person carrying on business as a promoter.**]]**

Textual Amendments

F41 Sch. 34 paras. 13A(6)-(12) substituted for Sch. 34 paras. 6-8 (with effect in accordance with s. 24(5) of the amending Act) by Finance Act 2017 (c. 10), **s. 24(1)**

[F42Relevant bodies controlled etc by other persons treated as meeting a threshold condition

Textual Amendments

F42 Sch. 34 Pt. 2 paras. 13B-13D substituted (with effect in accordance with s. 24(5) of the amending Act) by Finance Act 2017 (c. 10), **s. 24(2)**

13B (1) A relevant body is treated as meeting a threshold condition at the relevant time if any of Conditions A to C is met.

(2) Condition A is that—

(a) a person met the threshold condition at a time when the person was a promoter, and

(b) the person controls or has significant influence over the relevant body at the relevant time.

(3) Condition B is that—

(a) a person met the threshold condition at a time when the person controlled or had significant influence over the relevant body,

(b) the relevant body was a promoter at that time, and

(c) the person controls or has significant influence over the relevant body at the relevant time.

(4) Condition C is that—

(a) two or more persons together controlled or had significant influence over the relevant body at a time when one of those persons met the threshold condition,

(b) the relevant body was a promoter at that time, and

(c) those persons together control or have significant influence over the relevant body at the relevant time.

(5) Where the person referred to in sub-paragraph (2)(a) or (3)(a) or (4)(a) as meeting a threshold condition is an individual, sub-paragraph (1) only applies if the threshold condition is a relevant threshold condition.

(6) For the purposes of sub-paragraph (2) it does not matter whether the relevant body existed at the time referred to in sub-paragraph (2)(a).

Persons who control etc a relevant body treated as meeting a threshold condition

13C (1) If at a time when a person controlled or had significant influence over a relevant body—

(a) the relevant body met a threshold condition, and

(b) the relevant body, or another relevant body which the person controlled or had significant influence over, was a promoter,

the person is treated as meeting the threshold condition at the relevant time.

(2) It does not matter whether any relevant body referred to sub-paragraph (1) exists at the relevant time.

Relevant bodies controlled etc by the same person treated as meeting a threshold condition

13D (1) If—

(a) a person controlled or had significant influence over a relevant body at a time when it met a threshold condition, and

(b) at that time that body, or another relevant body which the person controlled or had significant influence over, was a promoter,

any relevant body which the person controls or has significant influence over at the relevant time is treated as meeting the threshold condition at the relevant time.

(2) If—

(a) two or more persons together controlled or had significant influence over a relevant body at a time when it met a threshold condition, and

(b) at that time that body, or another relevant body which those persons together controlled or had significant influence over, was a promoter,

any relevant body which those persons together control or have significant influence over at the relevant time is treated as meeting the threshold condition at the relevant time.

(3) It does not matter whether—

(a) a relevant body referred to in sub-paragraph (1)(a) or (b) or (2)(a) or (b) exists at the relevant time, or

(b) a relevant body existing at the relevant time existed at the time referred to in sub-paragraph (1)(a) or (2)(a).**]**

PART 3

POWER TO AMEND

14 (1) The Treasury may by regulations amend this Schedule.

(2) An amendment made by virtue of sub-paragraph (1) may, in particular—

(a) vary or remove any of the conditions set out in paragraphs 2 to 12;

(b) add new conditions;

[[F43](c) vary any of the circumstances described in paragraphs 13B to 13D in which a person is treated as meeting a threshold condition (including by amending paragraph 13A);

(d) add new circumstances in which a person will be so treated.**]**

(3) Regulations under sub-paragraph (1) may include any amendment of this Part of this Act that is appropriate in consequence of an amendment made by virtue of sub-paragraph (1).

Textual Amendments

F43 Sch. 34 para. 14(2)(c)(d) inserted (with effect in accordance with Sch. 19 para. 9 of the amending Act) by Finance Act 2015 (c. 11), **Sch. 19 para. 8**

[F44SCHEDULE 34A

PROMOTERS OF TAX AVOIDANCE SCHEMES: DEFEATED ARRANGEMENTS

Textual Amendments

F44 Sch. 34A inserted (15.9.2016) by Finance Act 2016 (c. 24), **s. 160(5)**

PART 1

INTRODUCTION

1 In this Schedule—

(a) Part 2 is about the meaning of "relevant defeat";

(b) Part 3 contains provision about when a relevant defeat is treated as occurring in relation to a person;

(c) Part 4 contains provision about when a person is treated as meeting a condition in subsection (11), (12) or (13) of section 237A;

(d) Part 5 contains definitions and other supplementary provisions.

PART 2

MEANING OF "RELEVANT DEFEAT"

"Related" arrangements

2 (1) For the purposes of this Part of this Act, separate arrangements which persons have entered into are "related" to one another if (and only if) they are substantially the same.

(2) Sub-paragraphs (3) to (6) set out cases in which arrangements are to be treated as being "substantially the same" (if they would not otherwise be so treated under sub-paragraph (1)).

(3) Arrangements to which the same reference number has been allocated under Part 7 of FA 2004 (disclosure of tax avoidance schemes) are treated as being substantially the same.

For this purpose arrangements in relation to which information relating to a reference number has been provided in compliance with section 312 of FA 2004 are treated as arrangements to which that reference number has been allocated under Part 7 of that Act.

(4) Arrangements to which the same reference number has been allocated under paragraph 9 of Schedule 11A to VATA 1994 (disclosure of avoidance schemes) **[**[F45]or paragraph 22 of Schedule 17 to FA 2017 (disclosure of avoidance schemes: VAT and other indirect taxes)**]** are treated as being substantially the same.

(5) Any two or more sets of arrangements which are the subject of follower notices given by reference to the same judicial ruling are treated as being substantially the same.

(6) Where a notice of binding has been given in relation to any arrangements ("the bound arrangements") on the basis that they are, for the purposes of Schedule 43A to FA 2013, equivalent arrangements in relation to another set of arrangements (the "lead arrangements")—

(a) the bound arrangements and the lead arrangements are treated as being substantially the same, and

(b) the bound arrangements are treated as being substantially the same as any other arrangements which, as a result of this sub-paragraph, are treated as substantially the same as the lead arrangements.

Textual Amendments

F45 Words in Sch. 34A para. 2(4) inserted (16.11.2017 for specified purposes, 1.1.2018 in so far as not already in force) by Finance (No. 2) Act 2017 (c. 32), s. 66(4), **Sch. 17 para. 54(2)**

"Promoted arrangements"

3 (1) For the purposes of this Schedule arrangements are "promoted arrangements" in relation to a person if—

(a) they are relevant arrangements or would be relevant arrangements under the condition stated in sub-paragraph (2), and

(b) the person is carrying on a business as a promoter and—

(i) the person is or has been a promoter in relation to the arrangements, or

(ii) that would be the case if the condition in sub-paragraph (2) were met.

(2) That condition is that the definition of "tax" in section 283 includes, and has always included, value added tax.

Relevant defeat of single arrangements

4 (1) A defeat of arrangements (entered into by any person) which are promoted arrangements in relation to a person ("the promoter") is a "relevant defeat" in relation to the promoter if the condition in sub-paragraph (2) is met.

(2) The condition is that the arrangements are not related to any other arrangements which are promoted arrangements in relation to the promoter.

(3) For the meaning of "defeat" see paragraphs 10 to 16.

Relevant defeat of related arrangements

5 (1) This paragraph applies if arrangements (entered into by any person) ("Set A")—

(a) are promoted arrangements in relation to a person ("P"), and

(b) are related to other arrangements which are promoted arrangements in relation to P.

(2) If Case 1, 2 or 3 applies (see paragraphs 7 to 9) a relevant defeat occurs in relation to P and each of the related arrangements.

(3) "The related arrangements" means Set A and the arrangements mentioned in sub-paragraph (1)(b).

Limit on number of separate relevant defeats in relation to the same, or related, arrangements

6 In relation to a person, if there has been a relevant defeat of arrangements (whether under paragraph 4 or 5) there cannot be a further relevant defeat of—

(a) those particular arrangements, or

(b) arrangements which are related to those arrangements.

Case 1: counteraction upheld by judicial ruling

7 (1) Case 1 applies if—

(a) any of Conditions A to E is met in relation to any of the related arrangements, and

(b) in the case of those arrangements the decision to make the relevant counteraction has been upheld by a judicial ruling (which is final).

(2) In sub-paragraph (1) "the relevant counteraction" means the counteraction mentioned in paragraph 11(d), 12(1)(b), 13(1)(d), 14(1)(d) or 15(1)(d) (as the case requires).

Case 2: judicial ruling that avoidance-related rule applies

8 Case 2 applies if Condition F is met in relation to any of the related arrangements.

Case 3: proportion-based relevant defeat

9 (1) Case 3 applies if—

(a) at least 75% of the tested arrangements have been defeated, and

(b) no final judicial ruling in relation to any of the related arrangements has upheld a corresponding tax advantage which has been asserted in connection with any of the related arrangements.

(2) In this paragraph "the tested arrangements" means so many of the related arrangements (as defined in paragraph 5(3)) as meet the condition in sub-paragraph (3) or (4).

(3) Particular arrangements meet this condition if a person has made a return, claim or election on the basis that a tax advantage results from those arrangements and—

(a) there has been an enquiry or investigation by HMRC into the return, claim or election, or

(b) HMRC assesses the person to tax on the basis that the tax advantage (or any part of it) does not arise, or

(c) a GAAR counteraction notice has been given in relation to the tax advantage or part of it and the arrangements.

(4) Particular arrangements meet this condition if HMRC takes other action on the basis that a tax advantage which might be expected to arise from those arrangements, or is asserted in connection with them, does not arise.

(5) For the purposes of this paragraph a tax advantage has been "asserted" in connection with particular arrangements if a person has made a return, claim or election on the basis that the tax advantage arises from those arrangements.

(6) In sub-paragraph (1)(b) "corresponding tax advantage" means a tax advantage corresponding to any tax advantage the counteraction of which is taken into account by HMRC for the purposes of sub-paragraph (1)(a).

(7) For the purposes of this paragraph a court or tribunal "upholds" a tax advantage if—

(a) the court or tribunal makes a ruling to the effect that no part of the tax advantage is to be counteracted, and

(b) that judicial ruling is final.

(8) In this paragraph references to "counteraction" include anything referred to as a counteraction in any of Conditions A to F in paragraphs 11 to 16.

(9) In this paragraph "GAAR counteraction notice" means—

(a) a notice such as is mentioned in sub-paragraph (2) of paragraph 12 of Schedule 43 to FA 2013 (notice of final decision to counteract),

(b) a notice under paragraph 8(2) or 9(2) of Schedule 43A to that Act (pooling or binding of arrangements) stating that the tax advantage is to be counteracted under the general anti-abuse rule, or

(c) a notice under paragraph 8(2) of Schedule 43B to that Act (generic referrals) stating that the tax advantage is to be counteracted under the general anti-abuse rule.

"Defeat" of arrangements

10 For the purposes of this Part of this Act a "defeat" of arrangements occurs if any of Conditions A to F (in paragraphs 11 to 16) is met in relation to the arrangements.

11 Condition A is that—

(a) a person has made a return, claim or election on the basis that a tax advantage arises from the arrangements,

(b) a notice given to the person under paragraph 12 of Schedule 43 to, paragraph 8(2) or 9(2) of Schedule 43A to or paragraph 8(2) of Schedule 43B to FA 2013 stated that the tax advantage was to be counteracted under the general anti-abuse rule,

(c) the tax advantage has been counteracted (in whole or in part) under the general anti-abuse rule, and

(d) the counteraction is final.

12 (1) Condition B is that a follower notice has been given to a person by reference to the arrangements (and not withdrawn) and—

(a) the person has complied with subsection (2) of section 208 of FA 2014 by taking the action specified in subsections (4) to (6) of that section in respect of the denied tax advantage (or part of it), or

(b) the denied tax advantage has been counteracted (in whole or in part) otherwise than as mentioned in paragraph (a) and the counteraction is final.

(2) In this paragraph "the denied tax advantage" is to be interpreted in accordance with section 208(3) of FA 2014.

(3) In this Schedule "follower notice" means a follower notice under Chapter 2 of Part 4 of FA 2014.

13 (1) Condition C is that—

(a) the arrangements are DOTAS arrangements,

(b) a person ("the taxpayer") has made a return, claim or election on the basis that a relevant tax advantage arises,

(c) the relevant tax advantage has been counteracted, and

(d) the counteraction is final.

(2) For the purposes of sub-paragraph (1) "relevant tax advantage" means a tax advantage which the arrangements might be expected to enable the taxpayer to obtain.

(3) For the purposes of this paragraph the relevant tax advantage is "counteracted" if adjustments are made in respect of the taxpayer's tax position on the basis that the whole or part of that tax advantage does not arise.

14 (1) Condition D is that—

(a) the arrangements are disclosable VAT**[**F46or other indirect tax**]** arrangements to which a F47... person is a party,

(b) the F48... person has made a return or claim on the basis that a relevant tax advantage arises,

(c) the relevant tax advantage has been counteracted, and

(d) the counteraction is final.

(2) For the purposes of sub-paragraph (1) "relevant tax advantage" means a tax advantage which the arrangements might be expected to enable the F49... person to obtain.

(3) For the purposes of this paragraph the relevant tax advantage is "counteracted" if adjustments are made in respect of the F50... person's tax position on the basis that the whole or part of that tax advantage does not arise.

Textual Amendments

F46 Words in Sch. 34A para. 14(1)(a) inserted (16.11.2017 for specified purposes, 1.1.2018 in so far as not already in force) by Finance (No. 2) Act 2017 (c. 32), s. 66(4), **Sch. 17 para. 54(3)(a)**

F47 Word in Sch. 34A para. 14(1)(a) omitted (16.11.2017 for specified purposes, 1.1.2018 in so far as not already in force) by virtue of Finance (No. 2) Act 2017 (c. 32), s. 66(4), **Sch. 17 para. 54(3)(b)**

F48 Word in Sch. 34A para. 14(1)(b) omitted (16.11.2017 for specified purposes, 1.1.2018 in so far as not already in force) by virtue of Finance (No. 2) Act 2017 (c. 32), s. 66(4), **Sch. 17 para. 54(3)(b)**

F49 Word in Sch. 34A para. 14(2) omitted (16.11.2017 for specified purposes, 1.1.2018 in so far as not already in force) by virtue of Finance (No. 2) Act 2017 (c. 32), s. 66(4), **Sch. 17 para. 54(3)(b)**

F50 Word in Sch. 34A para. 14(3) omitted (16.11.2017 for specified purposes, 1.1.2018 in so far as not already in force) by virtue of Finance (No. 2) Act 2017 (c. 32), s. 66(4), **Sch. 17 para. 54(3)(b)**

15 (1) Condition E is that the arrangements are disclosable VAT arrangements to which a taxable person ("T") is a party and—

(a) the arrangements relate to the position with respect to VAT of a person other than T ("S") who has made supplies of goods or services to T,

(b) the arrangements might be expected to enable T to obtain a tax advantage in connection with those supplies of goods or services,

(c) the arrangements have been counteracted, and

(d) the counteraction is final.

(2) For the purposes of this paragraph the arrangements are "counteracted" if—

(a) HMRC assess S to tax or take any other action on a basis which prevents T from obtaining (or obtaining the whole of) the tax advantage in question, or

(b) adjustments are made on a basis such as is mentioned in paragraph (a).

16 (1) Condition F is that—

(a) a person has made a return, claim or election on the basis that a relevant tax advantage arises,

(b) the tax advantage, or part of the tax advantage would not arise if a particular avoidance-related rule (see paragraph 25) applies in relation to the person's tax affairs,

(c) it is held in a judicial ruling that the relevant avoidance-related rule applies in relation to the person's tax affairs, and

(d) the judicial ruling is final.

(2) For the purposes of sub-paragraph (1) "relevant tax advantage" means a tax advantage which the arrangements might be expected to enable the person to obtain.

PART 3

RELEVANT DEFEATS: ASSOCIATED PERSONS

Attribution of relevant defeats

17 (1) Sub-paragraph (2) applies if—

(a) there is (or has been) a person ("Q"),

(b) arrangements ("the defeated arrangements") have been entered into,

(c) an event occurs such that either—

(i) there is a relevant defeat in relation to Q and the defeated arrangements, or

(ii) the condition in sub-paragraph (i) would be met if Q had not ceased to exist,

(d) at the time of that event a person ("P") is carrying on a business as a promoter (or is carrying on what would be such a business under the condition in paragraph 3(2)), and

(e) Condition 1 or 2 is met in relation to Q and P.

(2) The event is treated for all purposes of this Part of this Act as a relevant defeat in relation to P and the defeated arrangements (whether or not it is also a relevant defeat in relation to Q, and regardless of whether or not P existed at any time when those arrangements were promoted arrangements in relation to Q).

(3) Condition 1 is that—

(a) P is not an individual,

(b) at a time when the defeated arrangements were promoted arrangements in relation to Q—

(i) P was a relevant body controlled by Q, or

(ii) Q was a relevant body controlled by P, and

(c) at the time of the event mentioned in sub-paragraph (1)(c)—

(i) Q is a relevant body controlled by P,

(ii) P is a relevant body controlled by Q, or

(iii) P and Q are relevant bodies controlled by a third person.

(4) Condition 2 is that—

(a) P and Q are relevant bodies,

(b) at a time when the defeated arrangements were promoted arrangements in relation to Q, a third person ("C") controlled Q, and

(c) C controls P at the time of the event mentioned in sub-paragraph (1)(c).

(5) For the purposes of sub-paragraphs (3)(b) and (4)(b), the question whether arrangements are promoted arrangements in relation to Q at any time is to be determined on the assumption that the reference to "design" in paragraph (b) of section 235(3) (definition of "promoter" in relation to relevant arrangements) is omitted.

Deemed defeat notices

18 (1) This paragraph applies if—

(a) an authorised officer becomes aware at any time ("the relevant time") that a relevant defeat has occurred in relation to a person (" P ") who is carrying on a business as a promoter,

(b) there have occurred, more than 3 years before the relevant time—

(i) one third party defeat, or

(ii) two third party defeats, and

(c) conditions A1 and B1 (in a case within paragraph (b)(i)), or conditions A2 and B2 (in a case within paragraph (b)(ii)), are met.

(2) Where this paragraph applies by virtue of sub-paragraph (1)(b)(i), this Part of this Act has effect as if an authorised officer had (with due authority), at the time of the time of the third party defeat, given P a single defeat notice under section 241A(2) in respect of it.

(3) Where this paragraph applies by virtue of sub-paragraph (1)(b)(ii), this Part of this Act has effect as if an authorised officer had (with due authority), at the time of the second of the two third party defeats, given P a double defeat notice under section 241A(3) in respect of the two third party defeats.

(4) Section 241A(8) has no effect in relation to a notice treated as given as mentioned in sub-paragraph (2) or (3).

(5) Condition A1 is that—

(a) a conduct notice or a single or double defeat notice has been given to the other person (see sub-paragraph (9)) in respect of the third party defeat,

(b) at the time of the third party defeat an authorised officer would have had power by virtue of paragraph 17 to give P a defeat notice in respect of the third party defeat, had the officer been aware that it was a relevant defeat in relation to P, and

(c) so far as the authorised officer mentioned in sub-paragraph (1)(a) is aware, the conditions for giving P a defeat notice in respect of the third party defeat have never been met (ignoring this paragraph).

(6) Condition A2 is that—

(a) a conduct notice or a single or double defeat notice has been given to the other person (see sub-paragraph (9)) in respect of each, or both, of the third party defeats,

(b) at the time of the second third party defeat an authorised officer would have had power by virtue of paragraph 17 to give P a double defeat notice in respect of the third party defeats, had the officer been aware that either of the third party defeats was a relevant defeat in relation to P, and

(c) so far as the authorised officer mentioned in sub-paragraph (1)(a) is aware, the conditions for giving P a defeat notice in respect of those third party defeats (or either of them) have never been met (ignoring this paragraph).

(7) Condition B1 is that, had an authorised officer given P a defeat notice in respect of the third party defeat at the time of that relevant defeat, that defeat notice would still have effect at the relevant time (see sub-paragraph (1)).

(8) Condition B2 is that, had an authorised officer given P a defeat notice in respect of the two third party defeats at the time of the second of those relevant defeats, that defeat notice would still have effect at the relevant time.

(9) In this paragraph "third party defeat" means a relevant defeat which has occurred in relation to a person other than P.

Meaning of "relevant body" and "control"

19 (1) In this Part of this Schedule "relevant body" means—

(a) a body corporate, or

(b) a partnership.

(2) For the purposes of this Part of this Schedule a person controls a body corporate if the person has power to secure that the affairs of the body corporate are conducted in accordance with the person's wishes—

(a) by means of the holding of shares or the possession of voting power in relation to the body corporate or any other relevant body,

(b) as a result of any powers conferred by the articles of association or other document regulating the body corporate or any other relevant body, or

(c) by means of controlling a partnership.

(3) For the purposes of this Part of this Schedule a person controls a partnership if the person is a controlling member or the managing partner of the partnership.

(4) In this paragraph "controlling member" has the same meaning as in Schedule 36 (partnerships).

(5) In this paragraph "managing partner", in relation to a partnership, means the member of the partnership who directs, or is on a day-to-day level in control of, the management of the business of the partnership.

PART 4

MEETING SECTION 237A CONDITIONS: BODIES CORPORATE AND PARTNERSHIPS

F[F51]Relevant bodies controlled etc by other persons treated as meeting section 237A condition

Textual Amendments

F51 Sch. 34A paras. 20-22 and cross-headings substituted (with effect in accordance with s. 24(6) of the amending Act) by Finance Act 2017 (c. 10), **s. 24(3)**

20 (1) A relevant body is treated as meeting a section 237A condition at the section 237A(2) relevant time if any of Conditions A to C is met.

(2) Condition A is that—

(a) a person met the section 237A condition at a time when the person was a promoter, and

(b) the person controls or has significant influence over the relevant body at the section 237A(2) relevant time.

(3) Condition B is that—

(a) a person met the section 237A condition at a time when the person controlled or had significant influence over the relevant body,

(b) the relevant body was a promoter at that time, and

(c) the person controls or has significant influence over the relevant body at the section 237A(2) relevant time.

(4) Condition C is that—

(a) two or more persons together controlled or had significant influence over the relevant body at a time when one of those persons met the section 237A condition,

(b) the relevant body was a promoter at that time, and

(c) those persons together control or have significant influence over the relevant body at the section 237A(2) relevant time.

(5) Sub-paragraph (1) does not apply where the person referred to in sub-paragraph (2)(a), (3)(a), or (4)(a) as meeting a section 237A condition is an individual.

(6) For the purposes of sub-paragraph (2) it does not matter whether the relevant body existed at the time referred to in sub-paragraph (2)(a).

Persons who control etc a relevant body treated as meeting a section 237A condition

21 (1) If at a time when a person controlled or had significant influence over a relevant body—

(a) the relevant body met a section 237A condition, and

(b) the relevant body, or another relevant body which the person controlled or had significant influence over, was a promoter,

the person is treated as meeting the section 237A condition at the section 237A(2) relevant time.

(2) It does not matter whether any relevant body referred to sub-paragraph (1) exists at the section 237A(2) relevant time.

Relevant bodies controlled etc by the same person treated as meeting a section 237A condition

22 (1) If—

(a) a person controlled or had significant influence over a relevant body at a time when it met a section 237A condition, and

(b) at that time that body, or another relevant body which the person controlled or had significant influence over, was a promoter,

any relevant body which the person controls or has significant influence over at the section 237A(2) relevant time is treated as meeting the section 237A condition at the section 237A(2) relevant time.

(2) If—

(a) two or more persons together controlled or had significant influence over a relevant body at a time when it met a section 237A condition, and

(b) at that time that body, or another relevant body which those persons together controlled or had significant influence over, was a promoter,

any relevant body which those persons together control or have significant influence over at the section 237A(2) relevant time is treated as meeting the section 237A condition at the section 237A(2) relevant time.

(3) It does not matter whether—

(a) a relevant body referred to in sub-paragraph (1)(a) or (b) or (2)(a) or (b) exists at the section 237A(2) relevant time, or

(b) a relevant body existing at the section 237A(2) relevant time existed at the time referred to in sub-paragraph (1)(a) or (2)(a).**]**

Interpretation

23 (1) In this Part of this Schedule—

[[F52]"control" and "significant influence" have the same meanings as in Part 4 of Schedule 34 (see paragraph 13A(5) to (11));

references to a person being a promoter are to the person carrying on business as a promoter;**]**

"relevant body" has the same meaning as in Part 3 of this Schedule;

"section 237A(2) relevant time" means the time referred to in section 237A(2);

"section 237A condition" means any of the conditions in section 237A(11), (12) and (13).

(2) For the purposes of paragraphs **[**[F53]20 to 22**]**, the condition in section 237A(11) (occurrence of 3 relevant defeats in the 3 years ending with the relevant time) is taken to have been met by a person at any time if at least 3 relevant defeats have occurred in relation to the person in the period of 3 years ending with that time.

Textual Amendments

F52 Words in Sch. 34A para. 23(1) substituted (with effect in accordance with s. 24(6) of the amending Act) by Finance Act 2017 (c. 10), **s. 24(4)(a)**

F53 Words in Sch. 34A para. 23(2) substituted (with effect in accordance with s. 24(6) of the amending Act) by Finance Act 2017 (c. 10), **s. 24(4)(b)**

PART 5

SUPPLEMENTARY

"Adjustments"

24 In this Schedule "adjustments" means any adjustments, whether by way of an assessment, the modification of an assessment or return, the amendment or disallowance of a claim, the entering into of a contract settlement or otherwise (and references to "making" adjustments accordingly include securing that adjustments are made by entering into a contract settlement).

Meaning of "avoidance-related rule"

25 (1) In this Schedule "avoidance-related rule" means a rule in Category 1 or 2.

(2) A rule is in Category 1 if—

(a) it refers (in whatever terms) to the purpose or main purpose or purposes of a transaction, arrangements or any other action or matter, and

(b) to whether or not the purpose in question is or involves the avoidance of tax or the obtaining of any advantage in relation to tax (however described).

(3) A rule is also in Category 1 if it refers (in whatever terms) to—

(a) expectations as to what are, or may be, the expected benefits of a transaction, arrangements or any other action or matter, and

(b) whether or not the avoidance of tax or the obtaining of any advantage in relation to tax (however described) is such a benefit.

For the purposes of paragraph (b) it does not matter whether the reference is (for instance) to the "sole or main benefit" or "one of the main benefits" or any other reference to a benefit.

(4) A rule falls within Category 2 if as a result of the rule a person may be treated differently for tax purposes depending on whether or not purposes referred to in the rule (for instance the purposes of an actual or contemplated action or enterprise) are (or are shown to be) commercial purposes.

(5) For example, a rule in the following form would fall within Category 1 and within Category 2—
"**Example rule**

Section X does not apply to a company in respect of a transaction if the company shows that the transaction meets Condition A or B.

Condition A is that the transaction is effected—
(a) for genuine commercial reasons, or
(b) in the ordinary course of managing investments.

Condition B is that the avoidance of tax is not the main object or one of the main objects of the transaction."

"DOTAS arrangements"

26 (1) For the purposes of this Schedule arrangements are "DOTAS arrangements" at any time if at that time a person—
(a) has provided, information in relation to the arrangements under section 308(3), 309 or 310 of FA 2004, or
(b) has failed to comply with any of those provisions in relation to the arrangements.

(2) But for the purposes of this Schedule "DOTAS arrangements" does not include arrangements in respect of which HMRC has given notice under section 312(6) of FA 2004 (notice that promoters not under duty to notify client of reference number).

(3) For the purposes of sub-paragraph (1) a person who would be required to provide information under subsection (3) of section 308 of FA 2004—
(a) but for the fact that the arrangements implement a proposal in respect of which notice has been given under subsection (1) of that section, or
(b) but for subsection (4A), (4C) or (5) of that section,

is treated as providing the information at the end of the period referred to in subsection (3) of that section.

I[F54] *"Disclosable VAT or other indirect tax arrangements"*

Textual Amendments

F54 Sch. 34A para. 26A and cross-heading inserted (16.11.2017 for specified purposes, 1.1.2018 in so far as not already in force) by Finance (No. 2) Act 2017 (c. 32), s. 66(4), **Sch. 17 para. 54(4)**

26A (1) For the purposes of this Schedule arrangements are "disclosable VAT or other indirect tax arrangements" at any time if at that time—
(a) the arrangements are disclosable Schedule 11A arrangements, or
(b) sub-paragraph (2) applies.

(2) This sub-paragraph applies if a person—
(a) has provided information in relation to the arrangements under paragraph 12(1), 17(2) or 18(2) of Schedule 17 to FA 2017, or

(b) has failed to comply with any of those provisions in relation to the arrangements.

(3) But for the purposes of this Schedule arrangements in respect of which HMRC have given notice under paragraph 23(6) of that Schedule (notice that promoters not under duty to notify client of reference number) are not to be regarded as disclosable VAT or other indirect tax arrangements.

(4) For the purposes of sub-paragraph (2) a person who would be required to provide information under paragraph 12(1) of that Schedule—

(a) but for the fact that the arrangements implement a proposal in respect of which notice has been given under paragraph 11(1) of that Schedule, or

(b) but for paragraph 13, 14 or 15 of that Schedule,

is treated as providing the information at the end of the period referred to in paragraph 12(1).**]**

*"Disclosable **[**F55Schedule 11A**]**VAT arrangements"*

Textual Amendments

F55 Words in Sch. 34A para. 27 cross-heading inserted (16.11.2017 for specified purposes) by Finance (No. 2) Act 2017 (c. 32), s. 66(4), **Sch. 17 para. 54(5)**

27 For the purposes of **[**F56paragraph 26A**]** arrangements are "disclosable **[**F57Schedule 11A**]**VAT arrangements" at any time if at that time—

(a) a person has complied with paragraph 6 of Schedule 11A to VATA 1994 in relation to the arrangements (duty to notify Commissioners),

(b) a person under a duty to comply with that paragraph in relation to the arrangements has failed to do so, or

(c) a reference number has been allocated to the scheme under paragraph 9 of that Schedule (voluntary notification of avoidance scheme which is not a designated scheme).

Textual Amendments

F56 Words in Sch. 34A para. 27 substituted (16.11.2017 for specified purposes, 1.1.2018 in so far as not already in force) by Finance (No. 2) Act 2017 (c. 32), s. 66(4), **Sch. 17 para. 54(6)(a)**

F57 Words in Sch. 34A para. 27 inserted (16.11.2017 for specified purposes, 1.1.2018 in so far as not already in force) by Finance (No. 2) Act 2017 (c. 32), s. 66(4), **Sch. 17 para. 54(6)(b)**

*Paragraphs 26 **[**F58to 27**]**: supplementary*

Textual Amendments

F58 Words in Sch. 34A para. 28 cross-heading substituted (16.11.2017 for specified purposes) by Finance (No. 2) Act 2017 (c. 32), s. 66(4), **Sch. 17 para. 54(7)**

28 (1) A person "fails to comply" with any provision mentioned in paragraph 26(1)(a)**[**F59, 26A(2)(a)**]** or 27(b) if and only if any of the conditions in sub-paragraphs (2) to (4) is met.

(2) The condition in this sub-paragraph is that—

(a) the tribunal has determined that the person has failed to comply with the provision concerned,

(b) the appeal period has ended, and

(c) the determination has not been overturned on appeal.

(3) The condition in this sub-paragraph is that—

(a) the tribunal has determined for the purposes of section 118(2) of TMA 1970 that the person is to be deemed not to have failed to comply with the provision concerned as the person had a reasonable excuse for not doing the thing required to be done,

(b) the appeal period has ended, and

(c) the determination has not been overturned on appeal.

(4) The condition in this sub-paragraph is that the person admitted in writing to HMRC that the person has failed to comply with the provision concerned.

(5) In this paragraph "the appeal period" means—

(a) the period during which an appeal could be brought against the determination of the tribunal, or

(b) where an appeal mentioned in paragraph (a) has been brought, the period during which that appeal has not been finally determined, withdrawn or otherwise disposed of.

Textual Amendments

F59 Word in Sch. 34A para. 28(1) inserted (16.11.2017 for specified purposes, 1.1.2018 in so far as not already in force) by Finance (No. 2) Act 2017 (c. 32), s. 66(4), **Sch. 17 para. 54(8)**

"Final" counteraction

29 For the purposes of this Schedule the counteraction of a tax advantage or of arrangements is "final" when the assessment or adjustments made to effect the counteraction, and any amounts arising as a result of the assessment or adjustments, can no longer be varied, on appeal or otherwise.

Inheritance tax, stamp duty reserve tax, VAT and petroleum revenue tax

30 (1) In this Schedule, in relation to inheritance tax, each of the following is treated as a return—

(a) an account delivered by a person under section 216 or 217 of IHTA 1984 (including an account delivered in accordance with regulations under section 256 of that Act);

(b) a statement or declaration which amends or is otherwise connected with such an account produced by the person who delivered the account;

(c) information or a document provided by a person in accordance with regulations under section 256 of that Act;

and such a return is treated as made by the person in question.

(2) In this Schedule references to an assessment to tax, in relation to inheritance tax, stamp duty reserve tax and petroleum revenue tax, include a determination.

(3) In this Schedule an expression used in relation to VAT has the same meaning as in VATA 1994.

Power to amend

31 (1) The Treasury may by regulations amend this Schedule (apart from this paragraph).

(2) An amendment by virtue of sub-paragraph (1) may, in particular, add, vary or remove conditions or categories (or otherwise vary the meaning of " avoidance-related rule ").

(3) Regulations under sub-paragraph (1) may include any amendment of this Part of this Act that is appropriate in consequence of an amendment made by virtue of sub-paragraph (1).**]**

SCHEDULE 35

Section 274

PROMOTERS OF TAX AVOIDANCE SCHEMES: PENALTIES

Introduction

1 In this Schedule a reference to an "information duty" is to a duty arising under any of the following provisions to provide information or produce a document—

(a) section 255 (duty to provide information or produce document);
(b) section 257 (ongoing duty to provide information);
(c) section 258 (duty of person dealing with non-resident promoter);
(d) section 259 (monitored promoter: duty to provide information about clients);
(e) section 260 (intermediaries: duty to provide information about clients);
(f) section 261 (duty to provide information about clients following enquiry);
(g) section 262 (information required for monitoring compliance with conduct notice);
(h) section 263 (information about monitored promoter's address).

Penalties for failure to comply

2 (1) A person who fails to comply with a duty imposed by or under this Part mentioned in column 1 of the Table is liable to a penalty not exceeding the amount shown in relation to that provision in column 2 of the Table.

TABLE

Column 1	***Column 2***
Provision	***Maximum penalty (£)***

Section 249(1) (duty to notify clients of monitoring notice)	5,000
Section 249(3) (duty to publicise monitoring notice)	1,000,000
Section 249(10) (duty to include information on correspondence etc)	1,000,000
Section 251 (duty of promoter to notify clients and intermediaries of reference number)	5,000
Section 252 (duty of those notified to notify others of promoter's number)	5,000
Section 253 (duty to notify HMRC of reference number)	the relevant amount (see sub-paragraph (3))
Section 255 (duty to provide information or produce document)	1,000,000
Section 257 (ongoing duty to provide information or produce document)	1,000,000
Section 258 (duty of person dealing with non-resident promoter)	1,000,000
Section 259 (monitored promoter: duty to provide information about clients)	5,000
Section 260 (intermediaries: duty to provide information about clients)	5,000
Section 261 (duty to provide information about clients following an enquiry)	10,000
Section 262 (duty to provide information required to monitor compliance with conduct notice)	5,000
Section 263 (duty to provide information about address)	5,000
Section 265 (duty to provide information to promoter)	5,000

(2) In relation to a failure to comply with section 249(1), 251, 252, 259 or 260 the maximum penalty specified in column 2 of the Table is a maximum penalty which may be imposed in respect of each person to whom the failure relates.

(3) In relation to a failure to comply with section 253, the "relevant amount" is—

(a) £5,000, unless paragraph (b) or (c) applies;

(b) £7,500, where a person has previously failed to comply with section 253 on one (and only one) occasion during the period of 36 months ending with the date on which the current failure occurred;

(c) £10,000, where a person has previously failed to comply with section 253 on two or more occasions during the period mentioned in paragraph (b).

(4) The amount of a penalty imposed under sub-paragraph (1) is to be arrived at after taking account of all relevant considerations, including the desirability of setting it at a level which appears appropriate for deterring the person, or other persons, from similar failures to comply on future occasions having regard (in particular)—

(a) in the case of a penalty imposed for a failure to comply with section 255 or 257, to the amount of fees received, or likely to have been received, by the person in connection with the monitored proposal, arrangements implementing the monitored proposal or monitored arrangements to which the information or document required as a result of section 255 or 257 relates;

(b) in the case of a penalty imposed in relation to a failure to comply with section 258(4) or (5), to the amount of any tax advantage gained, or sought to be gained, by the person in relation to the monitored arrangements or the arrangements implementing the monitored proposal.

Daily default penalties for failure to comply

3 (1) If the failure to comply with an information duty continues after a penalty is imposed under paragraph 2(1), the person is liable to a further penalty or penalties not exceeding the relevant sum for each day on which the failure continues after the day on which the penalty under paragraph 2(1) was imposed.

(2) In sub-paragraph (1) "the relevant sum" means—

(a) £10,000, in a case where the maximum penalty which could have been imposed for the failure was £1,000,000;

(b) £600, in cases not falling within paragraph (a).

Penalties for inaccurate information and documents

4 (1) If—

(a) in complying with an information duty, a person provides inaccurate information or produces a document that contains an inaccuracy, and

(b) condition A, B or C is met,

the person is liable to a penalty not exceeding the relevant sum.

(2) Condition A is that the inaccuracy is careless or deliberate.

(3) An inaccuracy is careless if it is due to a failure by the person to take reasonable care.

(4) For the purpose of determining whether or not a person who is a monitored promoter took reasonable care, reliance on legal advice is to be disregarded if either—

(a) the advice was not based on a full and accurate description of the facts, or

(b) the conclusions in the advice that the person relied on were unreasonable.

(5) For the purpose of determining whether or not a person who complies with a duty under section 258 took reasonable care, reliance on legal advice is to be disregarded if the advice was given or procured by the monitored promoter mentioned in subsection (1) of that section.

(6) Condition B is that the person knows of the inaccuracy at the time the information is provided or the document produced but does not inform HMRC at that time.

(7) Condition C is that the person—

(a) discovers the inaccuracy some time later, and

(b) fails to take reasonable steps to inform HMRC.

(8) The "relevant sum" means—

(a) £1,000,000, where the information is provided or document produced in compliance with a duty under section 255, 257 or 258;

(b) £10,000, where the information is provided in compliance with a duty under section 261;

(c) £5,000, where the information is provided or document produced in compliance with a duty under section 259, 260, 262 or 263.

(9) If the information or document contains more than one inaccuracy, one penalty is payable under this paragraph whatever the number of inaccuracies.

Power to change amount of penalties

5 (1) If it appears to the Treasury that there has been a change in the value of money since the last relevant date, they may by regulations substitute for the sums for the time being specified in paragraph 2, 3 or 4 such other sums as appear to them to be justified by the change.

(2) Regulations under sub-paragraph (1) may include any amendment of paragraph 10(b) that is appropriate in consequence of an amendment made by virtue of sub-paragraph (1).

(3) The "relevant date", in relation to a specified sum, means—

(a) the date on which this Act is passed, and

(b) each date on which the power conferred by sub-paragraph (1) has been exercised in relation to that sum.

Concealing, destroying etc documents following imposition of a duty to provide information

6 (1) A person must not conceal, destroy or otherwise dispose of, or arrange for the concealment, destruction or disposal of, a document which is subject to a duty under section 255, 257 or 262.

(2) Sub-paragraph (1) does not apply if the person acts after the document has been produced to an officer of Revenue and Customs in accordance with the duty, unless the officer has notified the person in writing that the document must continue to be available for inspection (and has not withdrawn the notification).

(3) Sub-paragraph (1) does not apply, in a case to which section 268(1) applies, if the person acts after the expiry of the period of 6 months beginning with the day on which a copy of the document was produced in accordance with that section unless, before the expiry of that period, an officer of Revenue and Customs makes a request for the original document under section 268(2)(b).

(4) A person who conceals, destroys or otherwise disposes of, or arranges for the concealment, destruction or disposal of, a document in breach of sub-paragraph (1), is taken to have failed to comply with the duty to produce the document under the provision concerned (but see sub-paragraph (5)).

(5) If a person conceals, destroys or otherwise disposes of, or arranges for the concealment, destruction or disposal of, a document which is subject to a duty under more than one of the provisions mentioned in sub-paragraph (1) then—

(a) in a case where a duty under section 255 applies, the person will be taken to have failed to comply only with that provision, or

(b) in a case where a duty under section 255 does not apply, the person will be taken to have failed to comply only with section 257.

Concealing, destroying etc documents following informal notification

7 (1) A person must not conceal, destroy or otherwise dispose of, or arrange for the concealment, destruction or disposal of, a document if an officer of Revenue and Customs has informed the person in writing that the person is, or is likely, to be given a notice under 255, 257 or 262 the effect of which will, or is likely to, require the production of the document.

(2) Sub-paragraph (1) does not apply if the person acts—

(a) at least 6 months after the person was, or was last, informed as described in sub-paragraph (1), or

(b) after the person becomes subject to a duty under 255, 257 or 262 which requires the document to be produced.

(3) A person who conceals, destroys or otherwise disposes of, or arranges for the concealment, destruction or disposal of, a document in breach of sub-paragraph (1), is taken to have failed to comply with the duty to produce the document under the provision concerned (but see sub-paragraph (4)).

(4) If a person conceals, destroys or otherwise disposes of, or arranges for the concealment, destruction or disposal of, a document which is subject to a duty under more than one of the provisions mentioned in sub-paragraph (1) then—

(a) in a case where a duty under section 255 applies, the person will be taken to have failed to comply only with that provision, or

(b) in a case where a duty under section 255 does not apply, the person will be taken to have failed to comply only with section 257.

Failure to comply with time limit

8 A failure to do anything required to be done within a limited period of time does not give rise to liability to a penalty under this Schedule if the person did it within such further time, if any, as an officer of Revenue and Customs or the tribunal may have allowed.

Reasonable excuse

9 (1) Liability to a penalty under this Schedule does not arise if there is a reasonable excuse for the failure.

(2) For the purposes of this paragraph—

(a) an insufficiency of funds is not a reasonable excuse unless attributable to events outside the person's control,

(b) if the person relies on any other person to do anything, that is not a reasonable excuse unless the first person took reasonable care to avoid the failure,

(c) if the person had a reasonable excuse for the failure but the excuse has ceased, the person is to be treated as having continued to have the excuse if the failure is remedied without unreasonable delay after the excuse ceased,

(d) reliance on legal advice is to be taken automatically not to constitute a reasonable excuse where the person is a monitored promoter if either—

(i) the advice was not based on a full and accurate description of the facts, or

(ii) the conclusions in the advice that the person relied on were unreasonable, and

(e) reliance on legal advice is to be taken automatically not to constitute a reasonable excuse in the case of a penalty for failure to comply with section 258, if the advice was given or procured by the monitored promoter mentioned in subsection (1) of that section.

Assessment of penalty and appeals

10 Part 10 of TMA 1970 (penalties, etc) has effect as if—

(a) the reference in section 100(1) to the Taxes Acts were read as a reference to the Taxes Acts and this Schedule,

(b) in subsection (2) of section 100, there were inserted a reference to a penalty under this Schedule, other than a penalty under paragraph 3 of this Schedule in respect of which the relevant sum is £600.

Interest on penalties

11 (1) A penalty under this Schedule is to carry interest **[**[F60]in accordance with section 101 of FA 2009**]**.

[F61](2) . . . . . .

Textual Amendments

F60 Words in Sch. 35 para. 11(1) substituted (12.2.2019) by Finance Act 2019 (c. 1), **s. 88(3)(a)**

F61 Sch. 35 para. 11(2) omitted (12.2.2019) by virtue of Finance Act 2019 (c. 1), **s. 88(3)(b)**

Double jeopardy

12 A person is not liable to a penalty under this Schedule in respect of anything in respect of which the person has been convicted of an offence.

Overlapping penalties

13 A person is not liable to a penalty under—

(a) Schedule 24 to the FA 2007 (penalties for errors),

(b) Part 7 of FA 2004, or

(c) any other provision which is prescribed,

by reason of any failure to include in any return or account a reference number required by section 253.

SCHEDULE 36

Section 281

PROMOTERS OF TAX AVOIDANCE SCHEMES: PARTNERSHIPS

PART 1

PARTNERSHIPS AS PERSONS

"Person" includes a partnership

1 (1) Persons carrying on a business in partnership—

(a) are regarded as a person for the purposes of this Part of this Act;

(b) are referred to in this Part as a "partnership".

(2) But in this Part of this Act "partnership" does not include a body of persons forming a legal person that is distinct from themselves (and paragraphs 2 to 21 may accordingly be disregarded in applying this Part of this Act to such a body of persons).

(3) In the references in this Part to carrying on a business in partnership, "partnership" has the same meaning as in the Partnership Act 1890.

Continuity of partnerships

2 A partnership is regarded for the purposes of this Part of this Act as continuing to be the same partnership (and the same person) regardless of a change in membership, provided that a person who was a member before the change remains a member after the change.

Meeting of conditions

3 (1) Accordingly, for the purposes of this Part of this Act a partnership is taken—

(a) to have done any act that bound the members, and

(b) to have failed to comply with any obligation of the firm which the members failed to comply with;

but see sub-paragraph (3).

(2) In sub-paragraph (1), "the members" means those who were the members of the partnership or (in the case of a limited partnership) the general partners of the partnership at the time when the act was done or the failure to comply occurred.

(3) Where a member of a partnership ("M") has done, or failed to do, an act at any time ("the earlier time"), the partnership is not treated at any later time as having done, or failed to do, that act unless—

(a) M, or

(b) another person who was a member of the partnership at the earlier time,

is a member of the partnership at the later time.

(4) In this paragraph "firm" has the same meaning as in the Partnership Act 1890.

. . . . . .

F62 4 . . . . . .

Textual Amendments

F62 Sch. 36 para. 4 and crossheading omitted (with effect in accordance with Sch. 19 para. 9 of the amending Act) by virtue of Finance Act 2015 (c. 11), **Sch. 19 para. 5(a)**

PART 2

CONDUCT NOTICES AND MONITORING NOTICES

[F63 Defeat notices

Textual Amendments

F63 Sch. 36 para. 4A and cross-heading inserted (15.9.2016) by Finance Act 2016 (c. 24), **s. 160(11)**

4A A defeat notice that is given to a partnership must state that it is a partnership defeat notice.**]**

Conduct notices

5 (1) A conduct notice that is given to a partnership must state that it is a partnership conduct notice.

(2) In accordance with paragraphs 1 and 2, where the person to whom a conduct notice is given is a partnership, section 238 authorises the imposition of conditions relating to—

(a) the persons who are members of the partnership when the conduct notice is given, and

(b) any person who becomes a member of the partnership after the conduct notice is given.

Monitoring notices

6 A monitoring notice that is given to a partnership must state that it is a partnership monitoring notice.

Person continuing to carry on partnership business as a sole trader

7 (1) This paragraph applies where—

(a) a person or persons have ceased to be members of a partnership,

(b) immediately before the cessation, a **[**F64defeat notice,**]** conduct notice or monitoring notice had effect in relation to the partnership, and

(c) immediately after the cessation, a person who was a member of the partnership immediately before the cessation is carrying on the business of the partnership, but not in partnership.

(2) Where this paragraph applies, the **[**F65defeat notice,**]** conduct notice or monitoring notice continues (despite paragraphs 1 and 2) to have effect in relation to the person mentioned in sub-paragraph (1)(c) (but, in relation to times when the business is not

being carried on in partnership, the notice is not regarded for the purposes of this Part of this Act as a notice that has been given to a partnership.)

Textual Amendments

F64 Words in Sch. 36 para. 7(1)(b) inserted (15.9.2016) by Finance Act 2016 (c. 24), **s. 160(12)**

F65 Words in Sch. 36 para. 7(2) inserted (15.9.2016) by Finance Act 2016 (c. 24), **s. 160(13)**

I[F66 Persons leaving partnership: defeat notices

Textual Amendments

F66 Sch. 36 para. 7A and cross-heading inserted (15.9.2016) by Finance Act 2016 (c. 24), **s. 160(14)**

7A (1) Sub-paragraphs (2) and (3) apply where—

(a) a person ("P") who was a controlling member of a partnership at the time when a defeat notice ("the original notice") was given to the partnership has ceased to be a member of the partnership,

(b) the defeat notice had effect in relation to the partnership at the time of that cessation, and

(c) P is carrying on a business as a promoter.

(2) An authorised officer may give P a defeat notice.

(3) If P is carrying on a business as a promoter in partnership with one or more other persons and is a controlling member of that partnership ("the new partnership"), an authorised officer may give a defeat notice to the new partnership.

(4) A defeat notice given under sub-paragraph (3) ceases to have effect if P ceases to be a member of the new partnership.

(5) A notice under sub-paragraph (2) or (3) may not be given after the original notice has ceased to have effect.

(6) A defeat notice given under sub-paragraph (2) or (3) is given in respect of the relevant defeat or relevant defeats to which the original notice relates.**]**

Persons leaving a partnership: conduct notices

8 (1) Sub-paragraphs (2) and (3) apply where—

(a) a person ("P") who was a controlling member of a partnership at the time when a conduct notice ("the original notice") was given to the partnership has ceased to be a member of the partnership,

(b) the conduct notice had effect in relation to the partnership at the time of that cessation, and

(c) P is carrying on a business as a promoter.

(2) An authorised officer may give P a conduct notice.

(3) If P is carrying on a business as a promoter in partnership with one or more other persons and is a controlling member of that partnership ("the new partnership"), an authorised officer may give a conduct notice to the new partnership.

(4) A conduct notice given under sub-paragraph (3) ceases to have effect if P ceases to be a member of the new partnership.

(5) A notice under sub-paragraph (2) or (3) may not be given after the termination date of the original notice (under section 241(2)(a) or (b)).

Persons leaving a partnership: monitoring notices

9 (1) Sub-paragraphs (2) and (3) apply where—

(a) a person ("P") who was a controlling member of a partnership at the time when a monitoring notice was given to the partnership has ceased to be a member of the partnership,

(b) the monitoring notice had effect in relation to the partnership at the time of that cessation, and

(c) P is carrying on a business as a promoter.

(2) An authorised officer may give P a monitoring notice.

(3) If P is carrying on a business as a promoter in partnership with one or more other persons, and is a controlling member of that partnership ("the new partnership"), an authorised officer may give a monitoring notice to the new partnership.

(4) A monitoring notice given under sub-paragraph (3) ceases to have effect if P ceases to be a member of the new partnership.

Division of partnership business

10 (1) This paragraph applies if—

(a) a person ("a departing partner") who has been carrying on a business in partnership ceases to carry on the business in partnership,

(b) a **[**F67, defeat notice, conduct notice or**]** monitoring notice had effect in relation to the partnership immediately before the departing partner ceased to carry on the business in partnership, and

(c) the departing partner is continuing to carry on part (but not the whole) of the business ("the transferred part").

(2) The notice mentioned in sub-paragraph (1)(b) is referred to in this paragraph as "the original notice".

(3) An authorised officer may give the departing partner—

[F68(za) a defeat notice (if the original notice is a defeat notice);**]**

(a) a conduct notice (if the original notice is a conduct notice);

(b) a monitoring notice (if the original notice is a monitoring notice).

(4) If the departing partner is itself carrying on the transferred part of the business in partnership, the authorised officer may give that partnership ("the new partnership") —

[F69(za) a defeat notice (if the original notice is a defeat notice);**]**

(a) a conduct notice (if the original notice is a conduct notice);

(b) a monitoring notice (if the original notice is a monitoring notice).

(5) A notice given under sub-paragraph (4) ceases to have effect if the departing partner ceases to be a member of the new partnership.

[F70(5A) A notice under sub-paragraph (3)(za) or (4)(za) may not be given after the end of the look-forward period of the original notice.**]**

(6) A notice under sub-paragraph (3)(a) or (4)(a) may not be given after the termination date of the original notice (under section 241(2)(a) or (b)).

(7) It does not matter whether one, some or all of the persons who were carrying on the business in partnership are departing partners by virtue of sub-paragraph (1).

Textual Amendments

F67 Words in Sch. 36 para. 10(1)(b) substituted (15.9.2016) by Finance Act 2016 (c. 24), **s. 160(15)(a)**

F68 Sch. 36 para. 10(3)(za) inserted (15.9.2016) by Finance Act 2016 (c. 24), **s. 160(15)(b)**

F69 Sch. 36 para. 10(4)(za) inserted (15.9.2016) by Finance Act 2016 (c. 24), **s. 160(15)(c)**

F70 Sch. 36 para. 10(5A) inserted (15.9.2016) by Finance Act 2016 (c. 24), **s. 160(15)(d)**

Notices under paragraphs 8 to 10: general

11 (1) In this Part of this Act—

"replacement conduct notice" means a notice under paragraph 8(2) or (3) or 10(3)(a) or (4)(a);

"replacement monitoring notice" means a notice given under paragraph 9(2) or (3) or 10(3)(b) or (4)(b).

(2) In this Part of this Act, "the original monitoring notice" means—

(a) in relation to a replacement monitoring notice given under paragraph 9(2), the monitoring notice mentioned in paragraph 9(1), and

(b) in relation to a replacement monitoring notice given under paragraph 10(3)(b) or (4)(b), the monitoring notice mentioned in paragraph 10(2),

and that original monitoring notice is also the "original monitoring notice" in relation to any monitoring notice that (under paragraph 9(2) or (3) or 10(3)(b) or (4)(b)) replaces a replacement monitoring notice.

[F71 11A The look-forward period for a notice under paragraph 7A(2) or (3) or 10(3)(za) or (4)(za)—

(a) begins on the day after the day on which the notice is given, and

(b) continues to the end of the look-forward period for the original notice (as defined in paragraph 7A(1)(a) or 10(2), as the case may be).**]**

Textual Amendments

F71 Sch. 36 para. 11A inserted (15.9.2016) by Finance Act 2016 (c. 24), **s. 160(16)**

12 A notice under paragraph 8(2) or (3) or 10(3)(a) or (4)(a)—

(a) has no effect after the termination date of the original notice;

(b) must state that that date is its termination date.

13 An authorised officer may not give a replacement conduct notice or replacement monitoring notice to a person if a conduct notice or monitoring notice previously given to the person still has effect in relation to the person.

Publication under section 248

14 Where the monitored promoter referred to in section 248(2) is a partnership, paragraphs (a), (b) and (d) of that subsection are to be read as referring to details of the partnership (for instance, the name under which the business of the partnership is carried on), not to details of particular partners.

PART 3

RESPONSIBILITY OF PARTNERS

Responsibility of partners

15 (1) A notice given to a partnership under this Part of this Act has effect, at any time, in relation to the persons who are members of the partnership at that time ("the responsible partners").

(2) Sub-paragraph (1) does not affect any liability of a person who has ceased to be a member of a partnership in respect of things that the responsible partners did or failed to do before that person ceased to be a member of the partnership.

(3) Anything required to be done by the responsible partners under or by virtue of a provision of this Part of this Act is required to be done by all the responsible partners (but see paragraph 18).

(4) In relation to any right (such as a right of appeal) conferred by this Part of this Act references to a person have the meaning that is appropriate in consequence of sub-paragraphs (1) to (3).

Joint and several liability of responsible partners

16 (1) Where the responsible partners are liable to a penalty under this Part of this Act, or to interest on such a penalty, their liability is joint and several.

(2) No amount may be recovered under sub-paragraph (1) from a person who did not become a responsible partner until after the relevant time.

(3) "The relevant time" means—

(a) in relation to so much of the penalty as is payable in respect of any day, or to interest on so much of a penalty as is so payable, the beginning of that day;

(b) in relation to any other penalty, or interest on such a penalty, the time when the act or omission occurred that caused the penalty to become payable.

Service of notices

17 (1) Any notice given to a partnership by an officer of Revenue and Customs under this Part of this Act must be served either—

(a) on all the persons who are members of the partnership when the notice is given, or

(b) on a representative partner.

(2) "Representative partner" means—

(a) a nominated partner, or

(b) if no partner has been nominated under paragraph 18(2), a partner designated by an authorised officer as a representative partner.

(3) A designation under sub-paragraph (2), or the revocation of such a designation, has effect only when notice of the designation, or revocation, has been given to the partnership by an authorised officer.

Nominated partners

18 (1) Anything required to be done by the responsible partners under this Part of this Act may instead be done by any nominated partner.

(2) "Nominated partner" means a partner nominated by a majority of the partners to act as the representative of the partnership for the purposes of this Part of this Act.

(3) A nomination under sub-paragraph (2), or the revocation of such a nomination, has effect only after notice of the nomination, or revocation, has been given to an authorised officer.

PART 4

INTERPRETATION

Meaning of "controlling member"

19 (1) For the purposes of this Schedule a person ("P") is a "controlling member" of a partnership at any time when the person has a right to a share of more than half the assets, or of more than half the income, of the partnership.

(2) For that purpose there are to be attributed to P any interests or rights of—

(a) any individual who is connected with P (if P is an individual), and

(b) any body corporate that P controls.

(3) An individual is "connected" with P if the individual is—

(a) P's spouse or civil partner;

(b) a relative of P;

(c) the spouse or civil partner of a relative of P;

(d) a relative of P's spouse or civil partner, or

(e) the spouse or civil partner of a relative of P's spouse or civil partner.

(4) In sub-paragraph (3) "relative" means brother, sister, ancestor or lineal descendant.

(5) P controls a body corporate ("B") if P has power to secure—

(a) by means of the holding of shares or the possession of voting power in relation to B or any other body corporate, or

(b) as a result of any powers conferred by the articles of association or other document regulating that or any other body corporate,

that the affairs of B are conducted in accordance with P's wishes.

. . . . . .

F72 20 . . . . . .

Textual Amendments

F72 Sch. 36 para. 20 and crossheading omitted (with effect in accordance with Sch. 19 para. 9 of the amending Act) by virtue of Finance Act 2015 (c. 11), **Sch. 19 para. 5(b)**

Power to amend definitions

21 (1) The Treasury may by regulations amend paragraph 19 F73....

(2) Regulations under sub-paragraph (1) may include any amendment of this Schedule that is necessary in consequence of any amendment made by virtue of sub-paragraph (1).

Textual Amendments

F73 Words in Sch. 36 para. 21 omitted (with effect in accordance with Sch. 19 para. 9 of the amending Act) by virtue of Finance Act 2015 (c. 11), **Sch. 19 para. 5(c)**

SCHEDULE 37

Section 290

COMPANIES OWNED BY EMPLOYEE-OWNERSHIP TRUSTS

PART 1

CAPITAL GAINS TAX RELIEF

Relief on disposals to employee-ownership trusts

1 In Part 7 of TCGA 1992 (other property, businesses, investments etc), after section 236G insert—

"Employee-ownership trusts

236H Disposals to employee-ownership trusts

(1) This section applies where—

(a) a person other than a company ("P") disposes of any ordinary share capital of a company ("C") to the trustees of a settlement,

(b) the relief requirements are met, and

(c) P makes a claim under this section.

(2) Section 17(1) (disposals and acquisitions treated as made at market value) does not apply to the disposal.

(3) The disposal, and the acquisition by the trustees, are to be treated for the purposes of this Act as being made for such consideration as to secure that neither a gain nor a loss accrues on the disposal.

(4) "The relief requirements" are—

(a) that C meets the trading requirement (see section 236I) at the time of the disposal and continues to meet that requirement for the remainder of the tax year in which that time falls,

(b) that the settlement meets the all-employee benefit requirement at the time of the disposal and continues to meet that requirement for the remainder of the tax year in which that time falls (see sections 236J to 236L and subsection (5) of this section),

(c) that the settlement does not meet the controlling interest requirement (see section 236M) immediately before the beginning of the tax year in which the disposal occurs, but—

(i) it meets that requirement at the end of that tax year, and

(ii) if it met the requirement at an earlier time in that tax year (whether before or after the time of the disposal) it continued to meet it throughout the remainder of that tax year,

(d) that the limited participation requirement is met (see section 236N), and

(e) that this section does not apply in relation to any related disposal by P or a person connected with P which occurs in an earlier tax year.

(5) For the purposes of subsection (4)(b)—

(a) unless the settlement met the all-employee benefit requirement by virtue of section 236L (cases in which all-employee benefit requirement treated as met) at the time of the disposal, that section does not apply for the purposes of determining whether the settlement continues to meet that requirement after the disposal, and

(b) if, at the time of the disposal, the settlement met that requirement by virtue of section 236L and later continues to meet it otherwise than by virtue of that section, it may not again meet the requirement by virtue of that section.

(6) A disposal in an earlier tax year is "related" to the disposal in question if—

(a) both disposals are of ordinary share capital of the same company, or

(b) the disposal in the earlier tax year is of ordinary share capital of a company which is, or at the time of that disposal was, a member of the same group as the company whose ordinary share capital is the subject of the disposal in question.

(7) A claim under this section must include—

(a) information to identify the settlement,

(b) C's name and the address of its registered office, and

(c) the date of the disposal and the number of shares disposed of.

(8) Section 236O makes provision about events which prevent a claim being made under this section and circumstances in which a claim is revoked.

236I Trading requirement

(1) C meets the trading requirement if C is—

(a) a trading company which is not a member of a group, or

(b) the principal company of a trading group.

(2) "Trading company" means a company carrying on trading activities whose activities do not include to a substantial extent activities other than trading activities.

(3) "Trading group" means a group—

(a) one or more of whose members carry on trading group activities, and

(b) the activities of whose members, taken together, do not include to a substantial extent activities other than trading group activities.

(4) In this section—

"trading activities" means activities carried on by the company in the course of, or for the purposes of, a trade being carried on by it;

"trading group activities" means activities carried on by a member of the group in the course of, or for the purposes of, a trade being carried on by any member of the group.

(5) For the purposes of determining whether C is a trading company or the principal company of a trading group—

(a) the activities of the members of a group are to be treated as one business (with the result that activities are disregarded to the extent that they are intra-group activities), and

(b) a business carried on by a company in partnership with one or more other persons is to be treated as not being a trading activity or a trading group activity.

236J All-employee benefit requirement

(1) A settlement meets the all-employee benefit requirement if the trusts of the settlement—

(a) do not permit any of the settled property to be applied, at any time, otherwise than for the benefit of all the eligible employees on the same terms,

(b) do not permit the trustees at any time to apply any of the settled property—

(i) by creating a trust, or

(ii) by transferring property to the trustees of any settlement other than by an authorised transfer,

(c) do not permit the trustees at any time to make loans to beneficiaries of the trusts, and

(d) do not permit the trustees or any other person at any time to amend the trusts in a way such that the amended trusts would not comply with one or more of paragraphs (a) to (c).

(2) Section 236K makes provision about the requirement in subsection (1)(a).

(3) "Eligible employee" means—

(a) if C meets the trading requirement by virtue of section 236I(1)(a), any individual who is employed by, or is an office-holder of, C, and

(b) if C meets the trading requirement by virtue of section 236I(1)(b), any individual who is employed by, or is an office-holder of, a relevant group company,

but does not include an excluded participator.

(4) But where—

(a) C has ceased to meet the trading requirement or the trustees have ceased to hold any shares in C (or both), and

(b) a person was an eligible employee at any time during the period of two years ending immediately before that event (or, where both have occurred, the earlier of them),

that person continues to be an "eligible employee".

(5) "Excluded participator" means—

(a) a person who is a participator in C, or, where C meets the trading requirement by virtue of section 236I(1)(b), in any relevant group company,

(b) any other person who is a participator in any close company that has made a disposition whereby property became comprised in the same settlement, being a disposition which but for section 13 or 13A of the Inheritance Tax Act 1984 (dispositions by close companies for benefit of employees or to employee-ownership trusts) would have been a transfer of value for the purposes of inheritance tax,

(c) any other person who has been a participator in any company mentioned in paragraph (a) or (b) at any time on or after the look-back date, or

(d) any person who is connected with any person within paragraph (a), (b) or (c).

(6) The participators in a company who are referred to in subsection (5) do not include any participator who—

(a) is not beneficially entitled to, or to rights entitling the participator to acquire, 5% or more of, or of any class of the shares comprised in, the company's share capital, and

(b) on a winding-up of the company would not be entitled to 5% or more of its assets.

(7) In this section—

"authorised transfer" means a transfer of property consisting of or including any ordinary share capital of a company ("the transferred company") where—

(a) the transferred company meets the trading requirement, and

(b) the transfer is made to the trustees of a settlement which—

(i) meets the controlling interest requirement with respect to the transferred company immediately after the transfer, and

(ii) meets the all-employee benefit requirement with respect to the transferred company (ignoring section 236L),

and for this purpose references to "C" in sections 236I, 236M and 236T and this section are to be read as references to the transferred company,

"close company" and "participator" have the same meaning as in Part 4 of the Inheritance Tax Act 1984 (see section 102 of that Act), and references to a participator in a company are, in the case of a company which is not a close company, to be construed as references to a person who would be a participator in the company if it were a close company,

"the look-back date" means the first day of the period of 10 years ending with whichever is later of—

(a) 10 December 2013, and

(b) the day on which any property first became comprised in the settlement, and

"relevant group company" means C or any other company which is a member of the group of which C is the principal company.

(8) In this section references to the settled property include references to any income arising from it.

(9) See section 236L for cases where the all-employee benefit requirement is treated as met.

236K Further provision about the equality requirement

(1) The requirement in section 236J(1)(a) ("the equality requirement") is not infringed by the trusts by reason only that they—

(a) permit the settled property to be applied, where an eligible employee has died, as if a surviving spouse, civil partner or dependant of the deceased person were the eligible employee (and continued to be employed) for a period of 12 months, or such shorter period as the trusts may provide, starting with the time of death,

(b) prevent the settled property being applied for the benefit of persons who have not been eligible employees for a continuous period of 12 months or such shorter period as the trusts may provide,

(c) permit the trustees to comply with a written request from a person that the trustees do not apply any of the settled property for the benefit of that person, or

(d) prevent the settled property being applied for the benefit of all persons who are eligible employees by reason only that they are office-holders.

(2) The equality requirement is not infringed by the trusts by reason only that, in addition to requiring the settled property to be applied for the benefit of all the eligible employees on the same terms, they also permit the settled property to be applied for charitable purposes.

(3) Subject to subsections (1) and (2), the equality requirement is infringed by the trusts if they permit the settled property to be applied by reference to factors other than those mentioned in subsection (4).

(4) The equality requirement is not infringed by the trusts by reason only that they permit the settled property to be applied for the benefit of all the eligible employees by reference to—

(a) an eligible employee's remuneration,

(b) an eligible employee's length of service, or

(c) hours worked by an eligible employee;

but this is subject to subsections (5) and (6).

(5) The equality requirement is infringed by the trusts if they permit any of the settled property to be applied on terms such that some (but not all) eligible employees receive no benefits (other than by virtue of subsection (1)(b), (c) and (d)).

(6) If any of the settled property is applied by reference to more than one of the factors mentioned in subsection (4), the equality requirement is infringed unless—

(a) each factor gives rise to a separate entitlement related to the level of remuneration, length of service or (as the case may be) hours worked, and

(b) the total entitlement is the sum of those separate entitlements.

(7) "Eligible employee" has the same meaning as in section 236J.

(8) In this section, references to the settled property include references to any income arising from it.

236L Cases in which all-employee benefit requirement treated as met

(1) A settlement which would not otherwise meet the all-employee benefit requirement at any time is treated as meeting that requirement at that time if—

(a) the settlement was created before 10 December 2013,

(b) on that date—

(i) section 86 of the Inheritance Tax Act 1984 (trusts for the benefit of employees) applied to the settled property,

(ii) the trustees held a significant interest in C, and

(iii) the settlement did not meet the all-employee benefit requirement (ignoring this section), and

(c) the trustees of the settlement do not, during the period of 12 months ending with the time in question, do any of the following—

(i) apply any of the settled property otherwise than for the benefit of all eligible employees on the same terms,

(ii) apply any of the settled property by creating a trust,

(iii) apply any of the settled property by transferring property to the trustees of any settlement other than by an authorised transfer, or

(iv) make loans to beneficiaries of the trusts of the settlement.

(2) The trustees held a significant interest in C on 10 December 2013 if on that date—

(a) they—

(i) held 10% or more of the ordinary share capital of C, and

(ii) had powers of voting on all questions affecting C as a whole which, if exercised, would have yielded 10% or more of the votes capable of being exercised on them,

(b) they were entitled to 10% or more of the profits available for distribution to the equity holders of C,

(c) they would have been entitled, on a winding up of C, to 10% or more of the assets of C available for distribution to equity holders, and

(d) there were no provisions in any agreement or instrument affecting C's constitution or management or its shares or securities whereby the condition in paragraph (a), (b) or (c) could cease to be satisfied without the consent of the trustees.

See section 236T for further provision relating to the holding of a significant interest.

(3) Subsections (3) to (8) of section 236J apply for the purposes of this section.

(4) The requirement in subsection (1)(c)(i) ("the behaviour requirement") is not infringed by reason only that the trustees of the settlement—

(a) apply any of the settled property, where an eligible employee has died, as if a surviving spouse, civil partner or dependant of the deceased person were the eligible employee (and continued to be employed) for a period of 12 months, or such shorter period as the trustees may determine, starting with the time of death,

(b) only apply the settled property for the benefit of persons who have been eligible employees for a continuous period of 12 months or such shorter period as the trustees may determine,

(c) comply with a written request from a person that the trustees do not apply any of the settled property for the benefit of that person, or

(d) have complied with the terms of the trusts of the settlement which prevent the settled property being applied for the benefit of some or all of the persons who are eligible employees by reason only that they are office-holders.

(5) The behaviour requirement is not infringed by reason only that, in addition to applying any of the settled property for the benefit of all the eligible employees on the same terms, the trustees also apply any of it for charitable purposes.

(6) Subject to subsections (4) and (5), the behaviour requirement is infringed by the trustees if they apply the settled property by reference to factors other than those mentioned in subsection (7).

(7) The behaviour requirement is not infringed by the trustees applying the settled property for the benefit of all the eligible employees by reference to—

(a) an eligible employee's remuneration,

(b) an eligible employee's length of service, or

(c) hours worked by an eligible employee;

but this is subject to subsections (8) and (9).

(8) The behaviour requirement is infringed if any of the settled property is applied by the trustees on terms such that some (but not all) eligible employees receive no benefits (other than as mentioned in subsection (4)(b), (c) and (d)).

(9) If the trustees apply any of the settled property by reference to more than one of the factors mentioned in subsection (7), the behaviour requirement is infringed unless—

(a) each factor gives rise to a separate entitlement related to the level of remuneration, length of service or (as the case may be) hours worked, and

(b) the total entitlement is the sum of those separate entitlements.

236M Controlling interest requirement

(1) A settlement meets the controlling interest requirement if—

(a) the trustees—

(i) hold more than 50% of the ordinary share capital of C, and

(ii) have powers of voting on all questions affecting C as a whole which, if exercised, would yield a majority of the votes capable of being exercised on them,

(b) the trustees are entitled to more than 50% of the profits available for distribution to the equity holders of C,

(c) the trustees would be entitled, on a winding up of C, to more than 50% of the assets of C available for distribution to equity holders, and

(d) there are no provisions in any agreement or instrument affecting C's constitution or management or its shares or securities whereby the condition in paragraph (a), (b) or (c) can cease to be satisfied without the consent of the trustees.

(2) See section 236T for further provision relating to the controlling interest requirement.

236N Limited participation requirement

(1) The limited participation requirement is met if Conditions A and B are met.

(2) Condition A is that there was no time in the period of 12 months ending immediately after the disposal mentioned in section 236H(1) when—

(a) P was a participator in C, and

(b) the participator fraction exceeded 2/5.

(3) Condition B is that the participator fraction does not exceed 2/5 at any time in the period beginning with that disposal and ending at the end of the tax year in which it occurs.

(4) But a time which falls in a period during which the participator fraction exceeded 2/5 is to be disregarded for the purposes of subsection (2)(b) and (3) if—

(a) that period lasts no more than 6 months, and

(b) the fraction exceeded 2/5 during that period by reason of events outside the reasonable control of the trustees.

(5) "The participator fraction" means—

$$\frac{NP}{NE}$$

where—

NP is the sum of—

(a) the number of persons who at the time in question are both—

(i) participators in C, and

(ii) employees of, or office-holders in, C, and

(b) the number of other persons who at that time are both—

(i) employees of, or office-holders in, C or, if C is the principal company of a trading group, any member of the group, and

(ii) connected with persons within paragraph (a);

NE is the number of persons who at that time are employees of C or, if C is the principal company of a trading group, any member of the group.

(6) The participators in C who are referred to in subsections (2) and (5) do not include any participator who—

(a) is not beneficially entitled to, or to rights entitling the participator to acquire, 5% or more of, or of any class of the shares comprised in, C's share capital, and

(b) on a winding-up of C would not be entitled to 5% or more of its assets.

(7) In this section—

(a) "participator" has the meaning given by section 454 of CTA 2010, and

(b) references to a participator in a company are, in the case of a company which is not a close company (within the meaning of Chapter 2 of Part 10 of that Act), to be construed as references to a person who would be a participator in the company if it were a close company.

236O No section 236H relief if disqualifying event in next tax year

(1) This section applies where—

(a) a disposal is made in circumstances where paragraphs (a) and (b) of section 236H(1) are satisfied, and

(b) one or more disqualifying events occur in relation to the disposal in the tax year following the tax year in which the disposal occurs.

(2) A "disqualifying event" occurs in relation to the disposal if and when—

(a) C ceases to meet the trading requirement,

(b) the settlement ceases to meet the all-employee benefit requirement,

(c) the settlement ceases to meet the controlling interest requirement,

(d) the participator fraction exceeds 2/5, or

(e) the trustees act in a way which the trusts, as required by the all-employee benefit requirement, do not permit.

(3) No claim for relief under section 236H may be made in respect of the disposal on or after the day on which the disqualifying event (or, if more than one, the first of them) occurs.

(4) Any claim for relief under section 236H made in respect of the disposal before that day is revoked, and the chargeable gains and allowable losses of any person for any chargeable period are to be calculated as if that claim had never been made.

(5) Such adjustments must be made in relation to any person, whether by the making of assessments or otherwise, as are required to give effect to subsection (4) (regardless of any limitation on the time within which any adjustment may be made).

(6) Section 236H(5) (restrictions on application of section 236L) applies for the purposes of subsection (2)(b).

(7) Section 236N(4) applies for the purposes of subsection (2)(d) as it applies in relation to section 236N(2)(b) and (3).

236P Events which trigger deemed disposal and reacquisition by trustees

(1) Where the trustees of a settlement acquire any ordinary share capital in a tax year in circumstances where section 236H applies, subsection (3) applies on the first occasion, after the end of the tax year following the tax year in which the acquisition occurs, when a disqualifying event occurs in relation to the acquisition.

(2) A "disqualifying event" occurs in relation to the acquisition if and when—

(a) C ceases to meet the trading requirement,

(b) the settlement ceases to meet the all-employee benefit requirement,

(c) the settlement ceases to meet the controlling interest requirement,

(d) the participator fraction exceeds 2/5, or

(e) the trustees act in a way which the trusts, as required by the all-employee benefit requirement, do not permit.

(3) The trustees are treated as having, immediately before the disqualifying event—

(a) disposed of any ordinary share capital of C held by the trustees which comprises shares acquired in circumstances where section 236H applied (and not subsequently disposed of and reacquired), and

(b) immediately reacquired that ordinary share capital,

at its market value at that time.

(4) For the purposes of subsection (2)(b)—

(a) unless the settlement met the all-employee benefit requirement at the time of the acquisition by virtue of section 236L, that section does not apply for the purposes of determining whether the settlement continues to meet that requirement after the acquisition, and

(b) if, at the time of the acquisition, the settlement met that requirement by virtue of section 236L and later continues to meet it otherwise than by virtue of that section, it may not again meet the requirement by virtue of that section.

(5) Section 236N(4) applies for the purposes of subsection (2)(d) as it applies in relation to section 236N(2)(b) and (3).

236Q Relief for deemed disposals under section 71

(1) This section applies where—

(a) a deemed disposal arises under section 71(1) by reason of the trustees of a settlement ("the acquiring settlement") becoming absolutely entitled to settled property as against the trustee of that settled property ("the transferring trustee"),

(b) that settled property consists of ordinary share capital of a company,

(c) the relief requirements in section 236H(4)(a) to (d) are met, and

(d) the transferring trustee makes a claim under this section.

(2) Section 17(1) (disposals and acquisitions treated as made at market value) does not apply to the disposal.

(3) The deemed disposal and acquisition by the transferring trustee under section 71(1) are to be treated for the purposes of this Act as being made for such consideration as to secure that neither a gain nor a loss accrues on the disposal.

(4) For the purposes of section 236P the trustees of the acquiring settlement are treated as acquiring the ordinary share capital from the transferring trustee, at the time of the deemed disposal, in circumstances where section 236H applies.

(5) In applying sections 236H(4), 236I to 236P and 236T for the purposes of this section—

(a) references in those provisions to the settlement are to be read as references to the acquiring settlement, and

(b) references in those provisions to C are to be read as references to the company mentioned in subsection (1)(b).

(6) A claim under this section must include—

(a) information to identify the acquiring settlement,

(b) the name of the company mentioned in subsection (1)(b) and the address of its registered office, and

(c) the date of the deemed disposal and the number of shares deemed to have been disposed of.

(7) Section 236R makes provision about events which prevent a claim being made under this section and circumstances in which a claim is revoked.

236R No section 236Q relief if disqualifying event in next tax year

(1) This section applies where—

(a) a deemed disposal arises in circumstances where paragraphs (a) to (c) of section 236Q(1) are satisfied, and

(b) one or more disqualifying events occur in relation to the disposal in the tax year following the tax year in which the deemed disposal arises.

(2) No claim for relief under section 236Q may be made in respect of the deemed disposal on or after the day on which the disqualifying event (or, if more than one, the first of them) occurs.

(3) Any claim for relief under section 236Q made in respect of the deemed disposal before that day is revoked, and the chargeable gains and allowable losses of any person for any chargeable period are to be calculated as if that claim had never been made.

(4) Such adjustments must be made in relation to any person, whether by the making of assessments or otherwise, as are required to give effect to subsection (3) (regardless of any limitation on the time within which any adjustment may be made).

(5) "Disqualifying event" is to be construed in accordance with subsections (2), (6) and (7) of section 236O except that—

(a) references in those subsections to the disposal are to be read as references to the deemed disposal, and

(b) in applying sections 236I to 236P and 236T for this purpose—

(i) references in those provisions to the settlement are to be read as references to the acquiring settlement (within the meaning of section 236Q(1)), and

(ii) references in those provisions to C are to be read as references to the company mentioned in section 236Q(1)(b).

236S Identification of shares where section 236H or 236Q applies

(1) This section applies where the trustees of a settlement hold—

(a) shares which were—

(i) acquired in circumstances where section 236H applied, or

(ii) the subject of a deemed acquisition under section 71(1) in circumstances where section 236Q applied,

and not subsequently disposed of and reacquired ("EOT exempt shares"), and

(b) other shares which, but for section 104(4A), would be shares of the same class as those shares.

(2) If the trustees dispose of some, but not all, of the shares so held, they may determine what proportion of the shares disposed of are EOT exempt shares (up to the number of such shares held).

(3) For the purposes of this section shares in a company are not to be treated as being of the same class unless they are so treated by the practice of a recognised stock exchange or would be so treated if dealt with on a recognised stock exchange.

(4) Nothing in subsection (2) applies in relation to a disposal by virtue of section 236P(3).

236T Further provision about significant and controlling interests

(1) This section applies for the purposes of—

(a) section 236L(2) (trustees hold a significant interest in C), and

(b) section 236M (controlling interest requirement).

(2) Chapter 6 of Part 5 of CTA 2010 (group relief: equity holders and profits or assets available for distribution) applies as it applies for the purposes of the provisions mentioned in section 157(1) of that Act.

(3) The trustees are to be treated, for the purposes of section 236L(2)(b) or 236M(1)(b), as entitled to dividends on shares even if the trustees are required, or permitted, by the trusts of the settlement to waive their entitlement to those dividends.

(4) In determining whether section 236L(2)(d) or 236M(1)(d) applies, ignore any provision of—

(a) a mortgage or charge (or, in Scotland, a charge or security) granted by the trustees to a third party to secure any debt, or

(b) an agreement in respect of a loan made to the trustees by a third party,

which confers any entitlement on the third party in the event of a default by the trustees in performing their obligations in relation to that debt or loan.

(5) In this section—

"third party" means a person other than—

(a) C or a member of a group of which C is the principal company,

(b) a person who is, or has at any time in the preceding 12 months been, a participator in C or in a member of such a group, or

(c) a person connected with a person within paragraph (b);

"close company" and "participator" have the same meaning as in Part 4 of the Inheritance Tax Act 1984 (see section 102 of that Act), and a reference to a participator in a company is, in the case of a company which is not a close company, to be construed as a reference to a person who would be a participator in the company if it were a close company.

236U Interpretation of sections 236H to 236U

(1) In sections 236H to 236T and this section—

"company" has the meaning given by section 170(9);

"ordinary share capital" has the meaning given by section 1119 of CTA 2010;

"trade" means any trade which is conducted on a commercial basis and with a view to the realisation of profits.

(2) In those sections—

(a) references to a group, to membership of a group or to the principal company of a group, are to be construed in accordance with section 170, and

(b) references to a group are to be construed with any necessary modifications where applied to a company incorporated under the law of a country or territory outside the United Kingdom.

(3) In determining whether a person is connected with another for the purposes of those sections, section 286 applies as if subsection (8) of that section also mentioned uncle, aunt, nephew and niece."

Commencement and transitional provision

2 Subject to paragraph 3, the amendment made by paragraph 1 has effect in relation to disposals made on or after 6 April 2014.

3 In relation to disposals made on or after 6 April 2014 but before 26 June 2014, TCGA 1992 has effect as if—

(a) in section 236H—

(i) in subsection (4)(b), for the words from "at the time of the disposal" to the end there were substituted " (see sections 236J to 236L) ",

(ii) subsection (4)(c)(ii) (and the "and" before it) were omitted, and

(iii) subsections (5) and (8) were omitted,

(b) in section 236N—

(i) in subsection (1), for "Conditions A and B are" there were substituted " Condition A is ", and

(ii) subsection (3) were omitted,

(c) section 236O were omitted,

(d) in section 236P—

(i) in subsection (1) the words ", after the end of the tax year following the tax year in which the acquisition occurs, when" were omitted,

(ii) for subsection (2) there were substituted—

"(2) A "disqualifying event" occurs in relation to the acquisition if and when—

(a) at any time after that tax year—

(i) C ceases to meet the trading requirement, or

(ii) the settlement ceases to meet the controlling interest requirement, or

(b) at any time after the acquisition—

(i) the settlement ceases to meet the all-employee benefit requirement,

(ii) the participator fraction exceeds 2/5, or

(iii) the trustees act in a way which the trusts, as required by the all-employee benefit requirement, do not permit.", and

(iii) in subsection (3) for "before" there were substituted " after ",

(e) section 236Q(7) were omitted, and

(f) section 236R were omitted.

4 (1) For the purposes of determining if the requirement of section 236L(1)(c) of TCGA 1992 (requirement as to conduct of trustees for 12 months) is met, anything done by the trustees before 10 December 2013 is to be disregarded.

(2) But sub-paragraph (1) does not apply in relation to section 236L of TCGA 1992 as applied by section 312E(3) of ITEPA 2003 (rules determining whether payment is a qualifying bonus payment for the purposes of Chapter 10A of Part 4 of ITEPA 2003).

PART 2

EMPLOYMENT INCOME EXEMPTION

5 In Part 4 of ITEPA 2003 (employment income: exemptions), after Chapter 10 insert—

"**CHAPTER 10A**

EXEMPTIONS: BONUS PAYMENTS BY CERTAIN EMPLOYERS

Limited exemption for qualifying bonus payments

312A(1) This section applies in relation to qualifying bonus payments made, in a tax year ("the tax year"), by an employer which is a company to an employee or former employee of the employer.

(2) No liability to income tax arises in respect of the qualifying bonus payments if, or to the extent that, the total chargeable amount in respect of those payments does not exceed £3,600 ("the exempt amount").

(3) If qualifying bonus payments are made to the same person by two or more employers in the tax year, subsection (2) applies separately in relation to the total payments made by each employer, unless subsection (4) applies.

(4) If two or more employers are members of the same group at the time each of them first makes a qualifying bonus payment to the employee or former employee in the tax year, subsection (2) applies as if the reference to the qualifying bonus payments were to all the qualifying bonus payments made by those employers to the employee or former employee in that tax year.

(5) If, in a tax year—

(a) an employer makes a payment when it is a member of a group, and

(b) later in that tax year the employer ceases to be a member of that group,

the employer is treated for the purposes of this section as remaining a member of that group for the remainder of the tax year (without prejudice to it also being a member of any other group).

(6) In applying subsection (2)—

(a) the exempt amount is set against payments in the order in which they are made, and

(b) if two or more payments are made on the same day, which together take the total payments made in the tax year over the exempt amount,

subsection (7) applies to determine the amount of each of those payments which is exempt.

(7) In a case within subsection (6)(b), the amount of a payment which is exempt is given by the formula—

$$\frac{P}{SP} \times REA$$

where—

P is the amount of the payment,

SP is the sum of that payment and the other payments made on the same day, and

REA is so much of the exempt amount as remains after taking account of any qualifying bonus payments previously made in the tax year.

(8) Where subsection (2) applies separately to different payments by virtue of subsection (3), subsections (6) and (7) also apply to those payments separately.

(9) The Treasury may by order increase or reduce the sum of money specified in subsection (2).

(10) A statutory instrument containing an order under this section which reduces the sum of money specified may not be made unless a draft of it has been laid before and approved by a resolution of the House of Commons.

(11) In this section "chargeable amount", in respect of a qualifying bonus payment, means the amount of employment income which would be charged to tax in respect of that qualifying bonus payment, apart from this section.

"Qualifying bonus payments"

312B(1) A payment made by an employer ("E") to an employee or former employee is a qualifying bonus payment if—

(a) it does not consist of regular salary or wages,

(b) it is awarded under a scheme which meets the participation requirement and the equality requirement (see section 312C),

(c) E meets the trading requirement (see section 312D) throughout the qualifying period,

(d) E meets the indirect employee-ownership requirement (see section 312E) throughout the qualifying period,

(e) E meets the office-holder requirement (see section 312F) at the time the payment is made and on at least the requisite number of days in the qualifying period (whether or not those days are consecutive),

(f) E is not a service company (see section 312G),

(g) the payment is not excluded (see section 312H), and

(h) where it is a payment to a former employee, it is made in the period of 12 months beginning with the day the employment ceased.

(2) In this section "the qualifying period", in relation to a payment, means the period of 12 months ending with the day on which the payment is made.

(3) But in a case where E meets the indirect employee-ownership requirement on the day on which the payment is made—

(a) if the controlling interest requirement was first met during that 12 month period, the qualifying period does not include any time before it was met, and

(b) if the all-employee benefit requirement was first met during that 12 month period, the qualifying period does not include any time before that requirement was met.

(4) In this section "the requisite number of days" means—

(a) if the qualifying period is 12 months, the number of days in that period reduced by 90, and

(b) if the qualifying period is a shorter period by virtue of subsection (3), the number of days in that period reduced by the corresponding fraction of 90 days.

Section 312B: the participation and equality requirements

312C(1) For the purposes of section 312B—

(a) the participation requirement is that all persons in relevant employment when the award is determined must be eligible to participate in that and any other award under the scheme, and

(b) the equality requirement is that every employee who participates in an award under the scheme must do so on the same terms.

(2) A person is in "relevant employment" if—

(a) where E is a member of a group, the person is employed by any company which is a member of the group, and

(b) in any other case, the person is employed by E.

(3) The participation requirement is not infringed by reason of a person in relevant employment being excluded from participating in an award because, at the time the award is determined, the person has less than the minimum period of continuous service in relevant employment required by E.

But the minimum period required by E for this purpose must not exceed 12 months.

(4) The participation requirement is not infringed—

(a) by reason of a person being excluded from participating in an award where—

(i) disciplinary proceedings have been taken against the person by E which have resulted in a finding of gross misconduct against the person, and

(ii) that finding was made in the period of 12 months immediately before the time the award is determined,

(b) by reason of a person's eligibility to participate in an award being conditional, in a case where the person is at the time of the award subject to disciplinary proceedings taken by E, upon those

proceedings being concluded and no finding of gross misconduct being made against that person, or

(c) by a person being treated as never having been eligible to participate in an award where, after the award was made but before the payment is made—

(i) a finding of gross misconduct is made against that person in disciplinary proceedings taken by E after the award was made, or

(ii) that person is summarily dismissed from the employment.

(5) The equality requirement is infringed if the amount of an award to an employee under the scheme is determined by reference to factors other than those mentioned in subsection (6).

(6) The equality requirement is not infringed by reason of the amount of an award under the scheme to employees participating in the award being determined by reference to—

(a) an employee's remuneration,

(b) an employee's length of service, or

(c) hours worked by an employee;

but this is subject to subsections (7) and (8).

(7) The equality requirement is infringed if an award is made on terms such that some (but not all) of the employees participating in the award receive nothing.

(8) If the amount of an award is determined by reference to more than one of the factors mentioned in subsection (6), the equality requirement is infringed unless—

(a) each factor gives rise to a separate entitlement related to the level of remuneration, length of service or (as the case may be) hours worked, and

(b) the total entitlement is the sum of those separate entitlements.

(9) Subject to subsection (6), the equality requirement is infringed if any feature of the scheme has, or is likely to have, the effect of conferring benefits wholly or mainly on those participating in the award who are—

(a) directors or former directors, or

(b) employees receiving the higher or highest levels of remuneration, or

(c) employees who—

(i) are employed in a particular part of the business carried on by E or, if E is a member of a group, the group, or

(ii) carry on particular kinds of activities.

(10) In subsections (1)(b), (5), (6), (7) and (9) references to an employee include a former employee, so, when applying those subsections in relation to a former employee, any reference to remuneration, length of service, hours worked, being employed in a particular part of a business or carrying on particular activities is to be read as relating to that former employment.

Section 312B: the trading requirement

312D (1) For the purposes of section 312B, a company meets the trading requirement if—

(a) it is a trading company which is not a member of a group, or

(b) it is a member of a trading group.

(2) "Trading company" means a company carrying on trading activities whose activities do not include to a substantial extent activities other than trading activities.

(3) "Trading group" means a group—

(a) one or more of whose members carry on trading group activities, and

(b) the activities of whose members, taken together, do not include to a substantial extent activities other than trading group activities.

(4) In this section—

"trading activities" means activities carried on by the company in the course of, or for the purposes of, a trade being carried on by it;

"trading group activities" means activities carried on by a member of the group in the course of, or for the purposes of, a trade being carried on by any member of the group.

(5) For the purposes of determining whether a company is a trading company or a member of a trading group—

(a) the activities of the members of a group are to be treated as one business (with the result that activities are disregarded to the extent that they are intra-group activities), and

(b) a business carried on by a company in partnership with one or more other persons is to be treated as not being a trading activity.

Section 312B: the indirect employee-ownership requirement

312E (1) For the purposes of section 312B, a company meets the indirect employee-ownership requirement if—

(a) a settlement meets the controlling interest requirement in respect of—

(i) the company, or

(ii) if the company is a member of a trading group, but not the principal company, that principal company, and

(b) the settlement meets the all-employee benefit requirement.

(2) For this purpose—

(a) section 236M of TCGA 1992 applies to determine if a settlement meets the controlling interest requirement in respect of the company mentioned in subsection (1)(a)(i) or (ii) (as the case may be), and

(b) sections 236J and 236K of that Act apply to determine if the settlement meets the all-employee benefit requirement (but see subsection (3)).

(3) If a settlement would not otherwise meet the all-employee benefit requirement at any time during the qualifying period, section 236L of TCGA 1992 applies for the purposes of subsection (1)(b), unless the all-employee benefit requirement has (ignoring that section) previously been met at any time in the period—

(a) beginning with 10 December 2013, and

(b) ending immediately before that time.

(4) For the purposes of subsections (2) and (3)—

(a) in sections 236I to 236M of TCGA 1992 references to C are to be read as references to the company in respect of which the settlement is required to meet the controlling interest requirement (see subsection (1)(a)), and

(b) section 236L of that Act applies as if the reference in subsection (1)(c) of that section to the period of 12 months ending with the time in question were a reference to the period of 12 months ending with the date the payment is made (even if the qualifying period is a period of less than 12 months by virtue of section 312B(3)).

Section 312B: the office-holder requirement

312F (1) For the purposes of section 312B, a company meets the officer-holder requirement if the appropriate fraction does not exceed 2/5.

(2) "The appropriate fraction" means—

$$\frac{ND}{NE}$$

where—

ND is the number of persons who are one or both of the following—

(a) a director or other office-holder of the company;

(b) an employee of the company connected with a person within paragraph (a);

NE is the number of persons who are employees (or office-holders) of the company.

"Service company"

312G (1) For the purposes of section 312B, "service company" means—

(a) a managed service company within the meaning of section 61B, or

(b) a company ("SC") in respect of which Conditions A and B are met.

(2) Condition A is that the business carried on by SC consists substantially of the provision of the services of persons employed by it.

(3) Condition B is that the majority of those services are provided to persons—

(a) to whom subsection (4) applies, but

(b) who are not members of the same group as the company which makes the payment.

(4) This subsection applies to—

(a) a person who controls or has controlled, or two or more persons who together control or have controlled, SC or any company of which SC is a 51% subsidiary at the time the payment is made,

(b) a person who, or two or more persons who together, at any time before the time the payment is made—

(i) employed all or a majority of the employees of SC, or

(ii) employed all or a majority of the employees of SC and other companies which are members of the same group as SC at the time the payment is made (taken together), and

(c) any company which is a 51% subsidiary of, controlled by or connected or associated with, any person within paragraph (a) or (b).

(5) For the purposes of subsection (4)—

(a) a partnership is to be treated as a single person, and

(b) where a partner (alone or together with others) has control of a company, the partnership is to be treated as having (in the same way) control of that company.

(6) The following provisions apply for the purposes of this section—

(a) section 449 of CTA 2010 ("associated company");

(b) section 995 of ITA 2007 (meaning of "control");

(c) section 286 of TCGA 1992 (connected persons: interpretation).

Excluded payments

312H(1) For the purposes of section 312B, a payment is "excluded" if the employee is a party to arrangements (whether made before or after the beginning of the employee's employment) under which—

(a) the employee gives up the right to receive an amount of general earnings or specific employment income in return for the provision of the payment, or

(b) the employee and employer agree that the employee is to receive the payment rather than receive some other description of employment income.

(2) In this section references to an employee include a former employee.

Interpretation of Chapter 10A

312I(1) In this Chapter—

"company" has the meaning given by section 170(9) of TCGA 1992;

"trade" means any trade which is conducted on a commercial basis and with a view to the realisation of profits.

(2) In this Chapter—

(a) references to a group, to membership of a group, to the principal company of a group or to being members of the same group, are to be construed in accordance with section 170 of TCGA 1992, and

(b) references to a group are to be construed with any necessary modifications where applied to a company incorporated under the law of a country or territory outside the United Kingdom.

(3) For the purposes of this Chapter, a payment is treated as made when it would be treated as received for the purposes of Chapter 4 of Part 2 if it were not a qualifying bonus payment (see section 18).

(4) In this Chapter references to a payment to an employee or former employee include a payment to the personal representatives of an employee or former employee who has died if the payment is made within the period of 12 months beginning with the date of death."

6 In section 717 (orders and regulations made by Treasury etc), in subsection (4) (instruments not subject to negative resolution procedure), after "to which" insert " section 312A(10) (reduction of tax-exempt amount in respect of certain bonus payments) or ".

7 In Part 2 of Schedule 1 (index of defined expressions), at the appropriate places insert—

"company (in Chapter 10A of Part 4)	section 312I";
"trade (in Chapter 10A of Part 4)	section 312I".

8 The amendment made by paragraph 5 has effect in relation to payments received on or after 1 October 2014.

PART 3

INHERITANCE TAX RELIEF

9 IHTA 1984 is amended as follows.

10 (1) After section 13 insert—

"**13A Dispositions by close companies to employee-ownership trusts**

(1) A disposition of property made to trustees by a close company ("C") whereby the property is to be held on trusts of the description specified in section 86(1) is not a transfer of value if—

(a) C meets the trading requirement,

(b) the trusts are of a settlement which meets the all-employee benefit requirement, and

(c) the settlement does not meet the controlling interest requirement immediately before the beginning of the tax year in which the disposition of property occurs but does meet it at the end of that year.

(2) Sections 236I, 236J, 236K, 236M and 236T (but not 236L) of the 1992 Act apply to determine whether—

(a) C meets the trading requirement;
(b) the settlement meets the all-employee benefit requirement;
(c) the settlement meets the controlling interest requirement;

with references in those sections to "C" being read accordingly.

(3) In this section—

"close company" has the same meaning as in Part 4 of this Act;

"tax year" means a year beginning on 6 April and ending on the following 5 April."

(2) The amendment made by this paragraph has effect in relation to dispositions of property made on or after 6 April 2014.

11 (1) After section 28 insert—

"**28A Employee-ownership trusts**

(1) A transfer of value made by an individual who is beneficially entitled to shares in a company ("C") is an exempt transfer to the extent that the value transferred is attributable to shares in or securities of C which become comprised in a settlement if—
(a) C meets the trading requirement,
(b) the settlement meets the all-employee benefit requirement, and
(c) the settlement does not meet the controlling interest requirement immediately before the beginning of the tax year in which the transfer of value is made but does meet it at the end of that year.

(2) Sections 236I, 236J, 236K, 236M and 236T (but not 236L) of the 1992 Act apply to determine whether—
(a) C meets the trading requirement;
(b) the settlement meets the all-employee benefit requirement;
(c) the settlement meets the controlling interest requirement;

with references in those sections to "C" being read accordingly.

(3) In this section "tax year" means a year beginning on 6 April and ending on the following 5 April."

(2) The amendment made by this paragraph has effect in relation to transfers of value made on or after 6 April 2014.

12 (1) In section 29A (abatement of exemption where claim settled out of beneficiary's own resources), in subsection (6)—
(a) for "to 28" substitute " to 28A ", and
(b) for "or 28" substitute " , 28 or 28A ".

(2) The amendment made by this paragraph has effect in relation to transfers of value made on or after 6 April 2014.

13 (1) Section 72 (property leaving employee trusts and newspaper trusts) is amended as follows.

(2) In subsection (2), after "Subject to subsections" insert " (3A), ".

(3) After subsection (3) insert—

"(3A) Where settled property ceases to be property to which this section applies because paragraph (d) of section 86(3) no longer applies, tax is not chargeable under this section by virtue of subsection (2)(a) if the only reason that paragraph no longer applies is that one or both of the trading requirement and the controlling interest requirement mentioned in that paragraph are no longer met with respect to the company so mentioned."

(4) The amendments made by this paragraph are treated as having come into force on 6 April 2014.

14 (1) After section 75 insert—

"**75A Property becoming subject to employee-ownership trust**

(1) Tax is not charged under section 65 in respect of shares in or securities of a company ("C") which cease to be relevant property on becoming held on trusts of the description specified in section 86(1) if the conditions in subsection (2) are satisfied.

(2) The conditions referred to in subsection (1) are—

(a) that C meets the trading requirement,

(b) that the trusts are of a settlement which meets the all-employee benefit requirement, and

(c) that the settlement does not meet the controlling interest requirement immediately before the beginning of the tax year in which the shares or securities cease to be relevant property but does meet it at the end of that year.

(3) Sections 236I, 236J, 236K, 236M and 236T (but not 236L) of the 1992 Act apply to determine whether—

(a) C meets the trading requirement;

(b) the settlement meets the all-employee benefit requirement;

(c) the settlement meets the controlling interest requirement;

with references in those sections to "C" being read accordingly.

(4) In this section "tax year" means a year beginning on 6 April and ending on the following 5 April."

(2) The amendment made by this paragraph is treated as having come into force on 6 April 2014.

15 (1) Section 86 (trusts for benefit of employees) is amended as follows.

(2) In subsection (3), after paragraph (c) insert ", or

(d) the settled property consists of or includes ordinary share capital of a company which meets the trading requirement and the trusts on which the settled property is held are those of a settlement which—

(i) meets the controlling interest requirement with respect to the company, and

(ii) meets the all-employee benefit requirement with respect to the company."

(3) After that subsection insert—

"(3A) For the purpose of determining whether subsection (3)(d) is satisfied in relation to settled property which consists of or includes ordinary share capital of a company—

(a) section 236I of the 1992 Act applies to determine whether the company meets the trading requirement (with references to "C" being read as references to that company),

(b) sections 236J, 236K, 236M and 236T (but not 236L) of the 1992 Act apply to determine whether the settlement meets the all-employee benefit requirement and the controlling interest requirement (with references in those sections to "C" being read as references to that company), and

(c) "ordinary share capital" has the meaning given by section 1119 of the Corporation Tax Act 2010."

(4) The amendments made by this paragraph are treated as having come into force on 6 April 2014.

16 (1) In section 144 (distribution etc from property settled by will), in subsection (1)(b), after "section 75" insert " , 75A ".

(2) The amendment made by this section is treated as having come into force on 6 April 2014.

PART 4

MISCELLANEOUS AMENDMENTS

Finance Act 1986

17 (1) In section 102 of FA 1986 (gifts with reservation), in subsection (5) omit the "and" after paragraph (h) and after paragraph (i) insert "; and

(j) section 28A (employee-ownership trusts)."

(2) The amendment made by this paragraph has effect in relation to disposals made on or after 6 April 2014.

Taxation of Chargeable Gains Act 1992

18 (1) In section 104 of TCGA 1992 (share pooling: general interpretative provisions), after subsection (4) insert—

"(4A) For the purposes of this Chapter, securities of a company which are held by the trustees of a settlement, having been last acquired or deemed to be acquired by them in circumstances where section 236H or 236Q applied, shall (notwithstanding that they would otherwise fall to be treated as of the same class) be treated as of a different class from any other securities of the company acquired by those trustees."

(2) The amendment made by this paragraph has effect in relation to any disposal on or after 6 April 2014 of any securities (whenever acquired).

Income Tax (Earnings and Pensions) Act 2003

19 (1) Paragraph 27 of Schedule 2 to ITEPA 2003 (share incentive plans: requirement as to listing etc) is amended as follows.

(2) In sub-paragraph (1), omit the "or" at the end of paragraph (b) and after that paragraph insert—

"(ba) shares in a company which is subject to an employee-ownership trust, or".

(3) After sub-paragraph (2) insert—

"(3) But a company is not a close company for the purposes of sub-paragraph (2) if it is subject to an employee-ownership trust.

(4) A company ("C") is "subject to an employee-ownership trust" if—

(a) C meets the trading requirement set out in section 312D,

(b) C meets the indirect employee-ownership requirement,

(c) neither C, nor any other company which is a member of the same group of companies as C, is a service company, and

(d) C is not under the control of another company (ignoring for this purpose another company acting in its capacity as the trustee of the settlement by virtue of which C meets the indirect employee-ownership requirement).

(5) Section 312E (the indirect employee-ownership requirement) applies for the purposes of sub-paragraph (4), subject to the following modifications—

(a) subsection (3) of that section has effect as if—

(i) the words "during the qualifying period" were omitted, and

(ii) in paragraph (a) for "10 December 2013" there were substituted " 1 October 2014 ", and

(b) subsection (4) has effect as if for paragraph (b) there were substituted—

"(b) section 236L of that Act applies as if the reference in subsection (1)(c) of that section to the period of 12 months ending with the time in question were a reference to any time on or after 1 October 2014."

(6) Section 312G (meaning of "service company") applies for the purposes of sub-paragraph (4)(c), subject to the following modifications—

(a) in subsection (3)(b), the reference to the company which makes the payment is to be read as a reference to C,

(b) in subsection (4)(a), the reference to the time the payment is made is to be read as a reference to any time, and

(c) in subsection (4)(b), the reference to any time before the time the payment is made is to be read as a reference to any time."

(4) The amendments made by this paragraph come into force on 1 October 2014.

20 (1) Paragraph 19 of Schedule 3 to ITEPA 2003 (SAYE option schemes: requirements as to listing) is amended as follows.

(2) In sub-paragraph (1), omit the "or" at the end of paragraph (b) and after that paragraph insert—

"(ba) shares in a company which is subject to an employee-ownership trust (within the meaning of paragraph 27(4) to (6) of Schedule 2), or".

(3) After sub-paragraph (2) insert—

"(3) But a company is not a close company for the purposes of sub-paragraph (2) if it is subject to an employee-ownership trust (within the meaning of paragraph 27(4) to (6) of Schedule 2)."

(4) The amendments made by this paragraph come into force on 1 October 2014.

21 (1) In paragraph 17 of Schedule 4 to ITEPA 2003 (CSOP schemes: requirements as to eligible shares), in sub-paragraph (1), omit the "or" after paragraph (a) and after paragraph (b) insert ", or

(ba) shares in a company which is subject to an employee-ownership trust (within the meaning of paragraph 27(4) to (6) of Schedule 2)."

(2) The amendment made by this paragraph come into force on 1 October 2014.

22 (1) In paragraph 9 of Schedule 5 to ITEPA 2003 (enterprise management incentives: the independence requirement), after sub-paragraph (4) insert—

"(5) But the independence requirement is treated as met if the company is subject to an employee-ownership trust (within the meaning of paragraph 27(4) to (6) of Schedule 2)."

(2) The amendment made by this paragraph comes into force in accordance with provision contained in an order made by the Treasury.

(3) Section 1014(4) of ITA 2007 (orders etc subject to annulment) does not apply in relation to an order under sub-paragraph (2).

Commencement Information

I23 Sch. 37 para. 22(1) in force at 1.10.2014 for the purposes of the amendment made by that sub-paragraph by S.I. 2014/2461, **art. 2**

Corporation Tax Act 2009

23 (1) In section 1292 of CTA 2009 (employee benefit contributions: provision of qualifying benefits), after subsection (6A) insert—

"(6B) For those purposes qualifying benefits are also provided, where a payment of money is made to a person, if and to the extent that the payment is exempt from income tax by virtue of section 312A of ITEPA 2003."

(2) The amendment made by this paragraph has effect in relation to payments made on or after 1 October 2014.

SCHEDULE 38

Section 296

SCOTTISH BASIC, HIGHER AND ADDITIONAL RATES OF INCOME TAX

PART 1

AMENDMENTS OF ITA 2007

1 ITA 2007 is amended as follows.

2 In section 6 (the basic rate, higher rate and additional rate)—

(a) omit subsections (2A) to (2C), and

(b) in subsection (3), after "see—" insert—

"(za) section 6A (Scottish basic, higher and additional rates),".

3 After section 6 insert—

"**6A The Scottish basic, higher and additional rates**

(1) The Scottish basic rate, the Scottish higher rate and the Scottish additional rate for a tax year are calculated as follows.

Step 1 Take the basic rate, higher rate or additional rate.

Step 2 Deduct 10 percentage points.

Step 3 Add the Scottish rate (if any) set by the Scottish Parliament for that year.

(2) For provision about the setting of the Scottish rate, see Chapter 2 of Part 4A of the Scotland Act 1998."

4 In section 10 (income charged at the basic, higher and additional rates: individuals)—

(a) omit subsections (3B) and (3C), and

(b) in subsection (4), at the appropriate place, insert—

"section 11A (income charged at the Scottish basic, higher and additional rates),".

5 After section 11 insert—

"**11A Income charged at the Scottish basic, higher and additional rates**

(1) Income tax is charged at the Scottish basic rate on the income of a Scottish taxpayer which—

(a) is non-savings income, and

(b) would otherwise be charged at the basic rate.

(2) Income tax is charged at the Scottish higher rate on the income of a Scottish taxpayer which—

(a) is non-savings income, and

(b) would otherwise be charged at the higher rate.

(3) Income tax is charged at the Scottish additional rate on the income of a Scottish taxpayer which—

(a) is non-savings income, and

(b) would otherwise be charged at the additional rate.

(4) For the purposes of this section, "non-savings income" means income which is not savings income.

(5) This section is subject to—

section 13 (income charged at the dividend ordinary, upper and additional rates: individuals), and

any provisions of the Income Tax Acts (apart from section 10) which provide for income of an individual to be charged at different rates of income tax in some circumstances.

(6) Section 16 has effect for determining the extent to which the non-savings income of a Scottish taxpayer would otherwise be charged at the basic, higher or additional rate."

6 In section 13 (income charged at the dividend ordinary, upper and additional rates) —

(a) in subsection (1)(b), after "the basic rate," insert " or the Scottish basic rate, ",

(b) in subsection (2)(b), after "the higher rate," insert " or the Scottish higher rate, ",

(c) in subsection (2A)(b), after "the additional rate," insert " or the Scottish additional rate, ",

(d) in subsection (3), after "section 10" insert " or 11A ", and

(e) in subsection (4), after "the basic, higher or additional rate" insert " or the Scottish basic, higher or additional rate ".

7 In section 16 (savings and dividend income to be treated as highest part of total income), in subsection (1), for paragraph (za) substitute—

"(za) the rate at which income tax would be charged on the non-savings income of a Scottish taxpayer apart from section 11A,".

8 In section 809H (charge on nominated income of long-term UK resident), for subsection (3A) substitute—

"(3A) If the individual is a Scottish taxpayer for the relevant tax year, the individual is to be treated for the purpose of calculating income tax charged by virtue of subsection (2) as if the individual were not a Scottish taxpayer for that year."

9 In section 828B (conditions to be met for exemption where individual resident but not domiciled in the UK), in subsection (5), after "the basic rate" insert " , the Scottish basic rate ".

10 In section 989 (definitions for the purposes of the Income Tax Acts)—

(a) in the definitions of "additional rate", "basic rate" and "higher rate", omit "or (2B)", and

(b) at the appropriate place, insert—

""Scottish additional rate" means the rate of income tax of that name calculated in accordance with section 6A,",

""Scottish basic rate" means the rate of income tax of that name calculated in accordance with section 6A,",

""Scottish higher rate" means the rate of income tax of that name calculated in accordance with section 6A,",

""Scottish taxpayer" has the same meaning as in Chapter 2 of Part 4A of the Scotland Act 1998".

11 In Schedule 4 (index of defined expressions), at the appropriate place, insert—

"Scottish additional rate	section 6A (as applied by section 989)""
"Scottish basic rate	section 6A (as applied by section 989)"
"Scottish higher rate	section 6A (as applied by section 989)"
"Scottish taxpayer	section 989"

12 The amendments made by this Part have effect in relation to the tax year appointed by the Treasury under section 25(5) of the Scotland Act 2012 and subsequent tax years.

PART 2

CONSEQUENTIAL AMENDMENTS

13 In section 1 of the Provisional Collection of Taxes Act 1968 (temporary statutory effect of resolutions of House of Commons), omit subsection (3A).

14 (1) In section 7 of TMA 1970 (notice of liability to income tax and capital gains tax), in subsection (6), after "the basic rate," insert " the Scottish basic rate, ".

(2) The amendment made by sub-paragraph (1) has effect in relation to the tax year appointed by the Treasury under section 25(5) of the Scotland Act 2012 and subsequent tax years.

15 (1) TCGA 1992 is amended as follows.

(2) In section 4 (rates of capital gains tax), in subsections (4) and (5), after "the higher rate" insert " , the Scottish higher rate ".

(3) In section 4A (section 4: special cases), in subsection (5), after "at the higher rate" insert " , the Scottish higher rate ".

(4) The amendments made by this paragraph have effect in relation to the tax year appointed by the Treasury under section 25(5) of the Scotland Act 2012 and subsequent tax years.

16 (1) The Scotland Act 1998 is amended as follows.

(2) In section 80C (power to set Scottish rate for Scottish taxpayers), for subsection (2) substitute—

"(2) See section 6A of the Income Tax Act 2007 for provision about the calculation of those rates and section 11A of that Act for provision about the income charged at those rates."

(3) Section 80G (supplemental powers to modify enactments) is amended in accordance with sub-paragraphs (4) to (8).

(4) For subsection (1) substitute—

"(1) The Treasury may by order modify section 11A of the Income Tax Act 2007 (income charged at the Scottish basic, higher and additional rates) for the purpose of altering—

(a) the definition of the income which is charged to income tax at the rates provided for under the section, or

(b) the application of the section in relation to a particular class of income which is so charged.

(1A) The Treasury may by order modify any enactment not contained in Chapter 2 of Part 2 of the Income Tax Act 2007 (rates at which income tax is charged) so that it makes provision, in relation to a Scottish taxpayer, by reference to the Scottish basic rate, the Scottish higher rate or the Scottish additional rate, instead of the basic rate, the higher rate or the additional rate.

(1B) If the Treasury consider it necessary or expedient to do so, they may by order provide that—

(a) the Scottish rate set by the Parliament for a tax year, or

(b) the fact that the Scottish rate has not been so set for a tax year,

does not require any change in the amounts repayable or deductible under PAYE regulations between the beginning of that year and such later date as may be specified in the order."

(5) In subsection (2), for the words from "with—" to the end substitute " with an order under subsection (1), (1A) or (1B) ".

(6) Omit subsection (3).

(7) After subsection (4) insert—

"(5) The power under subsection (1) does not include power to provide that any income which is—

(a) savings income, or

(b) dividend income which would otherwise be charged to income tax at a rate provided for under section 13 of the Income Tax Act 2007,

is income which is charged to income tax at a rate provided for under section 11A of that Act."

(8) In section 110 (Scottish taxpayers for social security purposes), in subsection (2)—

(a) for "basic rate" substitute " Scottish basic rate, Scottish higher rate or Scottish additional rate (within the meaning of the Income Tax Acts) ", and

(b) omit the words from "(instead of" to the end.

(9) Schedule 7 (procedure for subordinate legislation) is amended in accordance with sub-paragraphs (10) and (11).

(10) In paragraph 1(2)—

(a) omit the entry for section 79, and

(b) at the appropriate place insert—

"Section 80G(1), (1A) or (2)	Type E
Section 80G(1B)	Type K".

(11) At the end of paragraph 1, omit the Note relating to the entry for section 79.

(12) Sub-paragraph (8) comes into force on such day as the Secretary of State may by order made by statutory instrument appoint.

(13) Sub-paragraphs (10)(a) and (11) come into force on such day as the Treasury may by order appoint.

Commencement Information

I24 Sch. 38 para. 16 partly in force; sch. 38 para. 16(1)-(7)(9)(10)(b)(12)(13) in force at Royal Assent, see sch. 38 para. 16(12)(13)

17 In consequence of the amendments made by this Schedule, in the Scotland Act 2012 omit—

(a) section 26 (income tax for Scottish taxpayers),

(b) paragraph 1(2)(a) and (b) of Schedule 2 (amendments to section 110(2) of the Scotland Act 1998), and

(c) paragraph 1(4) of that Schedule (amendments to Schedule 7 to the Scotland Act 1998 relating to section 80G of that Act).

SCHEDULE 39

Section 298

TAXATION OF CO-OPERATIVE SOCIETIES ETC

Taxation of Chargeable Gains Act 1992 (c. 12)

1 In section 217D of TCGA 1992 (disposal of assets on union, amalgamation or transfer of engagements), in subsection (3), after paragraph (a) insert—

"(aa) a society registered as a credit union under the Credit Unions (Northern Ireland) Order 1985 (S.I. 1985/1205 (N.I. 12)),".

Co-operative and Community Benefit Societies Act 2014 (c. 14)

2 Schedule 4 to the Co-operative and Community Benefit Societies Act 2014 (consequential amendments) is amended as follows.

3 In paragraph 47 (which amends section 140E of TCGA 1992)—

(a) in sub-paragraph (2), after "Co-operative and Community Benefit Societies Act 2014" insert " or a society registered or treated as registered under the Industrial and Provident Societies Act (Northern Ireland) 1969 ", and

(b) in sub-paragraph (3), after "Co-operative and Community Benefit Societies Act 2014" insert " , a society registered or treated as registered under the Industrial and Provident Societies Act (Northern Ireland) 1969 ".

4 In paragraph 48 (which amends section 140F of TCGA 1992) after "Co-operative and Community Benefit Societies Act 2014" insert " or a society registered or treated as registered under the Industrial and Provident Societies Act (Northern Ireland) 1969 ".

5 In paragraph 49 (which amends section 140G of TCGA 1992) after "Co-operative and Community Benefit Societies Act 2014" insert " or a society registered or treated as registered under the Industrial and Provident Societies Act (Northern Ireland) 1969 ".

6 In paragraph 50 (which amends section 170 of TCGA 1992)—

(a) in sub-paragraph (2), for "within the meaning of the Co-operative and Community Benefits Societies Act 2014" substitute " (see section 1119 of that Act) ", and

(b) in sub-paragraph (3), for "within the meaning of the Co-operative and Community Benefits Societies Act 2014" substitute " (see section 1119 of CTA 2010) ".

7 In paragraph 53 (which amends Schedule 7AC of TCGA 1992) for "within the meaning of the Co-operative and Community Benefits Societies Act 2014" substitute " (see section 1119 of that Act) ".

8 In paragraph 82 (which amends paragraph 28 of Schedule 2 to ITEPA 2003), in the sub-paragraph (5) substituted by sub-paragraph (3)—

(a) omit the "or" following paragraph (b), and

(b) at the end of paragraph (c) insert ", or

(d) an SCE formed in accordance with Council Regulation (EC) No 1435/2003 on the Statute for a European Cooperative Society."

9 In paragraph 94 (which amends section 379 of ITTOIA 2005), in the definition of "registered society" inserted by sub-paragraph (4)—

(a) omit the "or" following paragraph (a), and

(b) after paragraph (b) insert—

"(c) a society registered as a credit union under the Credit Unions (Northern Ireland) Order 1985 (S.I. 1985/1205 (N.I. 12)), or

(d) an SCE formed in accordance with Council Regulation (EC) No 1435/2003 on the Statute for a European Cooperative Society,".

10 In paragraph 105 (which amends section 151 of ITA 2007), in the definition of "registered society" inserted by sub-paragraph (3)—

(a) omit the "or" following paragraph (a), and

(b) at the end of paragraph (b) insert "or

(c) an SCE formed in accordance with Council Regulation (EC) No 1435/2003 on the Statute for a European Cooperative Society,".

11 In paragraph 110 (which amends section 887 of ITA 2007), in the subsection (5) substituted by sub-paragraph (5)—

(a) omit the "or" following paragraph (a), and

(b) after paragraph (b) insert—

"(c) a society registered as a credit union under the Credit Unions (Northern Ireland) Order 1985 (S.I. 1985/1205 (N.I. 12)), or

(d) an SCE formed in accordance with Council Regulation (EC) No 1435/2003 on the Statute for a European Cooperative Society."

12 In paragraph 158 (which amends section 90 of CTA 2010), in the definition of "registered society" inserted by sub-paragraph (3)—

(a) omit the "or" following paragraph (a), and

(b) at the end of paragraph (b) insert "or

(c) an SCE formed in accordance with Council Regulation (EC) No 1435/2003 on the Statute for a European Cooperative Society,".

13 In paragraph 168 (which amends section 1119 of CTA 2010), in the definition of "registered society" inserted by sub-paragraph (3), for paragraph (c) and the "or" before it substitute—

"(c) a society registered as a credit union under the Credit Unions (Northern Ireland) Order 1985 (S.I. 1985/1205 (N.I. 12)), or

(d) an SCE formed in accordance with Council Regulation (EC) No 1435/2003 on the Statute for a European Cooperative Society,".

14 In paragraph 171 (which amends section 118 of TIOPA 2010)—

(a) in sub-paragraph (2), after "Co-operative and Community Benefit Societies Act 2014" insert " or a society registered or treated as registered under the Industrial and Provident Societies Act (Northern Ireland) 1969 ", and

(b) in sub-paragraph (3), after "Co-operative and Community Benefit Societies Act 2014" insert " , a society registered or treated as registered under the Industrial and Provident Societies Act (Northern Ireland) 1969 ".

Commencement

15 The amendments made by this Schedule come into force on 1 August 2014.

Status:
Point in time view as at 12/02/2019.

Changes to legislation:
Finance Act 2014 is up to date with all changes known to be in force on or before 08 July 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.