STATUTORY INSTRUMENTS

2005 No. 646

The Finance Act 2002, Schedule 26, Parts 2 and 9 (Amendment) Order 2005

Amendment of Part 2 of Schedule 26 to the Finance Act 2002

5. After paragraph 4 insert—

"Contracts which become derivative contracts: chargeable assets

4A.—(1) This paragraph applies to a company if the conditions in sub-paragraph (2) are satisfied in relation to a relevant contract.

(2) The conditions are—

   (a) the company is a party to the relevant contract both immediately before and at 3.00 p.m. on 16th March 2005;

   (b) the relevant contract—

   (i) was not a derivative contract immediately before 3.00 p.m. on 16th March 2005, but

   (ii) as from that time is a derivative contract; and

   (c) the relevant contract was, immediately before 3.00 p.m. on 16th March 2005, a chargeable asset.

(3) Where this paragraph applies, the company shall, when it ceases to be a party to the contract, bring into account, for the accounting period in which it ceased to be a party to the contract, the amount of any chargeable gain or allowable loss which would have been treated as accruing to the company on the assumption—

   (a) that it had made a disposal of the asset immediately before 3.00 p.m. on 16th March 2005, and

   (b) that the disposal had been for a consideration equal to the value (if any) given to the contract in the accounts of the company at the end of the company's accounting period immediately before its first new period.

(4) For the purposes of this paragraph an asset is a chargeable asset if any gain accruing on the disposal of the asset by the company would be a chargeable gain for the purposes of the Taxation of Chargeable Gains Act 1992(**1**) (and includes any obligations under futures contracts which, by virtue of section 143 of that Act(**2**), are regarded as assets to the disposal of which that Act applies.".

(**1**)   1992 c. 12.
(**2**)   Section 143 was amended by section 95 of, and Part V(9) of Schedule 26 to, the Finance Act 1994 (c. 9) and articles 61 and 64 of S.I.2001/3629.