

Finance Act 1986

CHAPTER 41

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CUSTOMS AND EXCISE AND VALUE ADDED TAX

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ELIZABETH II



Finance Act 1986

1986 CHAPTER 41

An Act to grant certain duties, to alter other duties, and to amend the law relating to the National Debt and the Public Revenue, and to make further provision in connection with Finance. [25th July 1986]

Most Gracious Sovereign,

WE, Your Majesty's most dutiful and loyal subjects, the Commons of the United Kingdom in Parliament assembled, towards raising the necessary supplies to defray Your Majesty's public expenses, and making an addition to the public revenue, have freely and voluntarily resolved to give and grant unto your Majesty the several duties hereinafter mentioned; and do therefore most humbly beseech Your Majesty that it may be enacted, and be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I
CUSTOMS AND EXCISE AND VALUE ADDED TAX

CHAPTER I

CUSTOMS AND EXCISE

The rates of duty

Tobacco products.
1979 c. 7.

1.—(1) For the Table in Schedule 1 to the Tobacco Products Duty Act 1979 there shall be substituted—

“TABLE

1. Cigarettes	An amount equal to 21 per cent. of the retail price plus £30.61 per thousand cigarettes.
2. Cigars	£47.05 per kilogram.
3. Hand-rolling tobacco		£49.64 per kilogram.
4. Other smoking tobacco and chewing tobacco		£24.95 per kilogram.”

(2) This section shall be deemed to have come into force on 21st March 1986.

Hydrocarbon oil.
1979 c. 5.

2.—(1) In section 6(1) of the Hydrocarbon Oil Duties Act 1979 for “£0.1794” (light oil) and “£0.1515” (heavy oil) there shall be substituted “£0.1938” and “£0.1639” respectively.

(2) In subsection (1) of section 11 of that Act (rebate on heavy oil) for paragraphs (a) and (b) there shall be substituted—

- “(a) in the case of fuel oil, of £0.0077 a litre less than the rate at which the duty is for the time being chargeable;
- (b) in the case of gas oil, of £0.0110 a litre less than the rate at which the duty is for the time being chargeable; and
- (c) in the case of heavy oil other than fuel oil and gas oil, equal to the rate at which the duty is for the time being chargeable.”

(3) For subsection (2) of section 11 of that Act (definition of types of heavy oil), there shall be substituted—

“(2) In this section—

‘fuel oil’ means heavy oil which contains in solution an amount of asphaltenes of not less than 0.5 per cent. or which contains less than 0.5 per cent. but not less than 0.1 per cent. of asphaltenes and has a closed flash point not exceeding 150°C; and

‘gas oil’ means heavy oil of which not more than 50 per cent. by volume distils at a temperature not exceeding 240°C and of which more than 50 per cent. by volume distils at a temperature not exceeding 340°C.”

(4) This section shall be deemed to have come into force at 6 o’clock in the evening of 18th March 1986.

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3.—(1) The Vehicles (Excise) Act 1971 and the Vehicles (Excise) Act (Northern Ireland) 1972 shall be amended in accordance with this section.

Vehicles excise
duty.

1971 c. 10.

1972 c. 10

(N.I.).

(2) For Part II of Schedule 2 to each of the Acts of 1971 and 1972 (annual rates of duty on hackney carriages) there shall be substituted the provisions set out in Part I of Schedule 1 to this Act.

(3) In Schedule 4 to each of the Acts of 1971 and 1972 (annual rates of duty on goods vehicles)—

- (a) in Part I, in sub-paragraph (2) of paragraph 6 (farmer's goods vehicle or showman's goods vehicle having a plated gross weight or a plated train weight) in paragraph (b) (weight exceeding 7.5 tonnes but not exceeding 12 tonnes) for "£135" (which applies to farmers' goods vehicles only) there shall be substituted "£155"; and
- (b) in Part II, for Tables A(1), C(1) and D(1) (rates for farmers' goods vehicles having plated weight exceeding 12 tonnes) there shall be substituted the Tables set out in Part II of Schedule 1 to this Act.

(4) In section 16 of the Act of 1971, in subsection (5) (annual rates of duty for trade licences), including that subsection as set out in paragraph 12 of Part I of Schedule 7 to that Act, for "£46" and "£9" there shall be substituted respectively "£70" and "£14".

(5) In section 16 of the Act of 1972, in subsection (6) (annual rates of duty for trade licences), including that subsection as set out in paragraph 12 of Part I of Schedule 9 to that Act, for "£46" and "£9" there shall be substituted respectively "£70" and "£14".

(6) Subsections (2) and (3) above apply in relation to licences taken out after 18th March 1986; and subsections (4) and (5) above apply in relation to licences taken out after 31st December 1986.

(7) The Act of 1971 shall have effect subject to the further amendments in Part I of Schedule 2 to this Act; and the Act of 1972 shall have effect subject to the further amendments in Part II of that Schedule.

(8) The amendments made by paragraphs 4 and 9 of Schedule 2 to this Act shall not come into force until 1st January 1987; and the amendments made by paragraphs 5 and 10 of that Schedule shall not have effect with respect to the surrender of licences taken out before that date.

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Other provisions

Beer duty:
minor
amendments.
1979 c. 4.

4.—(1) In subsection (2) of section 46 of the Alcoholic Liquor Duties Act 1979 (remission or repayment of duty on beer which, having been removed from entered premises, has accidentally become spoilt or otherwise unfit for use)—

(a) the word “accidentally” shall be omitted; and

(b) after the words “subject to” there shall be inserted “subsection (2A) below and to”;

and at the end of that subsection there shall be inserted the following subsection—

“(2A) For the purpose of determining the amount of duty to be remitted or repaid under subsection (2) above in respect of any beer, it shall be assumed that, at any material time, the worts of the beer had an original gravity of one degree less than they actually had and that duty on the beer was charged accordingly.”

(2) After section 49 of the Alcoholic Liquor Duties Act 1979 there shall be inserted the following section—

“Drawback
allowable to
brewer for
sale.

49A.—(1) For the purpose of any claim for drawback by a brewer for sale in respect of duty charged on beer, duty which has been determined in accordance with regulations under section 49(1)(bb) above shall be deemed to be duty which has been paid (whether or not it is in fact paid by the time the claim is made).

(2) Subject to such conditions as the Commissioners see fit to impose, drawback allowable to a brewer for sale in respect of beer may be set against any amount to which the brewer is chargeable under section 38 above and, in relation to a brewer for sale, any reference in this Act or the Management Act to drawback payable shall be construed accordingly.”

Warehousing
regulations.

5. Schedule 3 to this Act (which contains amendments about warehousing regulations) shall have effect.

Betting duties
and bingo duty
in Northern
Ireland.
1981 c. 63.

6.—(1) The Betting and Gaming Duties Act 1981 (in this section referred to as “the 1981 Act”) shall have effect subject to the amendments in Part I of Schedule 4 to this Act, being amendments designed to extend to Northern Ireland—

(a) the provisions of the 1981 Act relating to general betting duty and pool betting duty (in place of the provisions of Part III of the Miscellaneous Transferred Excise Duties Act (Northern Ireland) 1972 relating to those duties); and

1972 c. 11
(N.I.).

(b) the provisions of the 1981 Act relating to bingo duty.

(2) Part II of Schedule 4 to this Act shall have effect for the purpose of making consequential amendments of certain Northern Ireland legislation; and Part III of that Schedule shall have effect for the purpose of extending to Northern Ireland certain subordinate legislation made under the 1981 Act.

(3) Schedule 4 to this Act,—

(a) so far as it relates to general betting duty or pool betting duty, shall come into force on the betting commencement date, but shall not have effect in relation to duty in respect of bets made before that date; and

(b) so far as it relates to bingo duty, shall come into force on the bingo commencement date, but shall not impose any charge to duty in respect of bingo played in Northern Ireland before that date.

(4) Part III of the Miscellaneous Transferred Excise Duties 1972 c. 11 Act (Northern Ireland) 1972 shall cease to have effect on the betting commencement date except in relation to duty in respect of bets made before that date. (N.I.).

(5) In this section and Schedule 4 to this Act—

“the betting commencement date” means 29th September 1986 or, if later, the day appointed for the coming into operation of Part II (betting) of the Betting, Gaming, S.I. 1985/1204 Lotteries and Amusements (Northern Ireland) Order (N.I. 11) 1985; and

“the bingo commencement date” means 29th September 1986 or, if later, the day appointed for the coming into operation of Chapter II of Part III (gaming on bingo club premises) of that Order.

7. After section 29 of the Betting and Gaming Duties Act 1981 there shall be inserted the following section—

“Evidence by 29A.—(1) A certificate of the Commissioners—
certificate,
etc. Betting and gaming duties: evidence by certificate, etc. 1981 c. 63.

(a) that any notice required by or under this Act to be given to them had or had not been given at any date, or

(b) that any permit, licence or authority required by or under this Act had or had not been issued at any date, or

(c) that any return required by or under this Act had not been made at any date, or

(d) that any duty shown as due in any return or estimate made in pursuance of this Act had not been paid at any date,

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shall be sufficient evidence of that fact until the contrary is proved.

(2) A photograph of any document furnished to the Commissioners for the purposes of this Act and certified by them to be such a photograph shall be admissible in any proceedings, whether civil or criminal, to the same extent as the document itself.

(3) Any document purporting to be a certificate under subsection (1) or (2) above shall be deemed to be such a certificate until the contrary is proved.”

Licences under the customs and excise Acts.
1979 c. 4.
1979 c. 6.

8.—(1) No excise licence duty shall be chargeable on the grant after 18th March 1986 of an excise licence under any provision of the Alcoholic Liquor Duties Act 1979 (licensing of various activities relating to the production of alcoholic liquor) or under section 2 of the Matches and Mechanical Lighters Duties Act 1979 (licensing of manufacture of matches).

(2) The following enactments shall cease to have effect—

(a) sections 12(2), 18(3), 47(3), 48(2) and 75(3) of the Alcoholic Liquor Duties Act 1979 and section 2(2) of the Matches and Mechanical Lighters Duties Act 1979 (which provide for certain excise licences, the duty on which is abolished by subsection (1) above, to expire on a specified date in each year); and

(b) section 81 of the Alcoholic Liquor Duties Act 1979 (under which a licence is required for the keeping or using of a still by any person otherwise than as a distiller, rectifier or compounder).

(3) The holder of a licence under any of the enactments specified in subsection (5) below may surrender the licence to the Commissioners of Customs and Excise at any time.

(4) The Commissioners of Customs and Excise may at any time revoke a licence granted in respect of any premises under any of the enactments specified in subsection (5) below if it appears to them that the holder of the licence has ceased to carry on at those premises the activity in respect of which the licence was granted.

(5) The enactments referred to in subsections (3) and (4) above are—

(a) section 12 of the Alcoholic Liquor Duties Act 1979 (distillers),

(b) section 18 of that Act (rectifiers),

(c) section 47 of that Act (brewers),

(d) section 48 of that Act (persons using premises for adding solutions to beer),

- (e) section 54 of that Act (wine producers),
- (f) section 55 of that Act (made-wine producers), and
- (g) section 2 of the Matches and Mechanical Lighters Duties Act 1979 (match manufacturers).

1979 c. 6.

(6) Schedule 5 to this Act shall have effect for the purpose of supplementing the provisions of this section.

CHAPTER II

VALUE ADDED TAX

9.—(1) The provisions of this section apply where, in any prescribed accounting period beginning after 6th April 1987, fuel for fuel which is or has previously been supplied to or imported or manufactured by a taxable person in the course of his business—^{Fuel for private use.}

- (a) is provided or to be provided by the taxable person to an individual for private use in his own vehicle or a vehicle allocated to him and is so provided by reason of that individual's employment; or
- (b) where the taxable person is an individual, is appropriated or to be appropriated by him for private use in his own vehicle; or
- (c) where the taxable person is a partnership, is provided or to be provided to any of the individual partners for private use in his own vehicle.

(2) For the purposes of this section fuel shall not be regarded as provided to any person for his private use if it is supplied at a price which,—

- (a) in the case of fuel supplied to or imported by the taxable person, is not less than the price at which it was so supplied or imported; and
- (b) in the case of fuel manufactured by the taxable person, is not less than the aggregate of the cost of the raw material and of manufacturing together with any excise duty thereon.

(3) For the purposes of this section and Schedule 6 to this Act—

- (a) “fuel for private use” means fuel which, having been supplied to or imported or manufactured by a taxable person in the course of his business, is or is to be provided or appropriated for private use as mentioned in subsection (1) above;

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- (b) any reference to an individual's own vehicle shall be construed as including any vehicle of which for the time being he has the use, other than a vehicle allocated to him;
- (c) subject to subsection (9) below, a vehicle shall at any time be taken to be allocated to an individual if at that time it is made available (without any transfer of the property in it) either to the individual himself or to any other person, and is so made available by reason of the individual's employment and for private use; and
- (d) fuel provided by an employer to an employee and fuel provided to any person for private use in a vehicle which, by virtue of paragraph (c) above, is for the time being taken to be allocated to the employee shall be taken to be provided to the employee by reason of his employment.

(4) Where under section 29 of the principal Act any bodies corporate are treated as members of a group, any provision of fuel by a member of the group to an individual shall be treated for the purposes of this section as provision by the representative member.

(5) In relation to the taxable person, tax on the supply or importation of fuel for private use shall be treated for the purposes of the principal Act as input tax, notwithstanding that the fuel is not used or to be used for the purposes of a business carried on by the taxable person (and, accordingly, no apportionment of tax shall fall to be made under section 14(4) of that Act by reference to fuel for private use).

(6) At the time at which fuel for private use is put into the fuel tank of an individual's own vehicle or of a vehicle allocated to him, the fuel shall be treated for the purposes of the principal Act as supplied to him by the taxable person in the course or furtherance of his business for a consideration determined in accordance with subsection (7) below (and, accordingly, where the fuel is appropriated by the taxable person to his own private use, he shall be treated as supplying it to himself in his private capacity).

(7) In any prescribed accounting period of the taxable person in which, by virtue of subsection (6) above, he is treated as supplying fuel for private use to an individual, the consideration for all the supplies made to that individual in that period in respect of any one vehicle shall be that which, by virtue of Schedule 6 to this Act, is appropriate to a vehicle of that description, and that consideration shall be taken to be inclusive of tax.

(8) In any case where,—

- (a) in any prescribed accounting period, fuel for private use is, by virtue of subsection (6) above, treated as supplied to an individual in respect of one vehicle for a part of the period and in respect of another vehicle for another part of the period; and
- (b) at the end of that period one of those vehicles neither belongs to him nor is allocated to him,

subsection (7) above shall have effect as if the supplies made to the individual during those parts of the period were in respect of only one vehicle.

(9) In any prescribed accounting period a vehicle shall not be regarded as allocated to an individual by reason of his employment if—

- (a) in that period it was made available to, and actually used by, more than one of the employees of one or more employers and, in the case of each of them, it was made available to him by reason of his employment but was not in that period ordinarily used by any one of them to the exclusion of the others; and
- (b) in the case of each of the employees, any private use of the vehicle made by him in that period was merely incidental to his other use of it in that period; and
- (c) it was in that period not normally kept overnight on or in the vicinity of any residential premises where any of the employees was residing, except while being kept overnight on premises occupied by the person making the vehicle available to them.

(10) In this section and Schedule 6 to this Act—

“employment” includes any office; and related expressions shall be construed accordingly;

“the principal Act” means the Value Added Tax Act 1983; 1983 c. 55.

“vehicle” means a mechanically propelled road vehicle other than—

(a) a motor cycle as defined in section 190(4) of the Road Traffic Act 1972 or, for Northern Ireland, 1972 c. 20. in Article 37(1)(f) of the Road Traffic (Northern S.I. 1981/154 Ireland) Order 1981, or (N.I. 1).

(b) an invalid carriage as defined in section 190(5) of that Act or, for Northern Ireland, in Article 37(1)(g) of that Order.

(11) This section and Schedule 6 to this Act shall be construed as one with the principal Act.

PART I

Registration of
two or more
persons as one
taxable
person.
1983 c. 55.

10.—(1) In Schedule 1 to the Value Added Tax Act 1983 (registration) after paragraph 1 there shall be inserted the following paragraph—

“1A.—(1) Without prejudice to paragraph 1 above, if the Commissioners make a direction under this paragraph, the persons named in the direction shall be treated as a single taxable person carrying on the activities of a business described in the direction and that taxable person shall be liable to be registered with effect from the date of the direction or, if the direction so provides, from such later date as may be specified therein.

(2) The Commissioners shall not make a direction under this paragraph naming any person unless they are satisfied—

- (a) that he is making or has made taxable supplies; and
- (b) that the activities in the course of which he makes or made those taxable supplies form only part of certain activities which should properly be regarded as those of the business described in the direction, the other activities being carried on concurrently or previously (or both) by one or more other persons; and
- (c) that, if all the taxable supplies of that business were taken into account, a person carrying on that business would at the time of the direction be liable to be registered by virtue of paragraph 1 above; and
- (d) that the main reason or one of the main reasons for the person concerned carrying on the activities first referred to in paragraph (b) above in the way he does is the avoidance of a liability to be registered (whether that liability would be his, another person's or that of two or more persons jointly).

(3) A direction made under this paragraph shall be served on each of the persons named in it.

(4) Where, after a direction has been given under this paragraph specifying a description of business, it appears to the Commissioners that a person who was not named in that direction is making taxable supplies in the course of activities which should properly be regarded as part of the activities of that business, the Commissioners may make and serve on him a supplementary direction referring to the earlier direction and the description of business specified in it and adding that person's name to those of the persons named in the earlier direction with effect from—

- (a) the date on which he began to make those taxable supplies, or

- (b) if it was later, the date with effect from which the single taxable person referred to in the earlier direction became liable to be registered.

(5) If, immediately before a direction (including a supplementary direction) is made under this paragraph, any person named in the direction is registered in respect of the taxable supplies made by him as mentioned in sub-paragraph (2) or sub-paragraph (4) above, he shall cease to be liable to be so registered with effect from whichever is the later of—

- (a) the date with effect from which the single taxable person concerned became liable to be registered; and
(b) the date of the direction.

(6) In relation to a business specified in a direction under this paragraph, the persons named in the direction, together with any person named in a supplementary direction relating to that business (being the persons who together are to be treated as the taxable person), are in sub-paragraphs (7) and (8) below referred to as “the constituent members”.

(7) Where a direction is made under this paragraph then, for the purposes of this Act,—

- (a) the taxable person carrying on the business specified in the direction shall be registerable in such name as the persons named in the direction may jointly nominate by notice in writing given to the Commissioners not later than fourteen days after the date of the direction or, in default of such a nomination, in such name as may be specified in the direction;
- (b) any supply of goods or services by or to one of the constituent members in the course of the activities of the taxable person shall be treated as a supply by or to that person;
- (c) each of the constituent members shall be jointly and severally liable for any tax due from the taxable person;
- (d) without prejudice to paragraph (c) above, any failure by the taxable person to comply with any requirement imposed by or under this Act shall be treated as a failure by each of the constituent members severally; and
- (e) subject to paragraphs (a) to (d) above, the constituent members shall be treated as a partnership carrying on the business of the taxable person and any question as to the scope of the activities of that business at any time shall be determined accordingly.

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(8) If it appears to the Commissioners that any person who is one of the constituent members should no longer be regarded as such for the purposes of paragraphs (c) and (d) of sub-paragraph (7) above and they give notice to that effect, he shall not have any liability by virtue of those paragraphs for anything done after the date specified in that notice and, accordingly, on that date he shall be treated as having ceased to be a member of the partnership referred to in paragraph (e) of that sub-paragraph.”

1983 c. 55.

(2) In section 40 of the Value Added Tax Act 1983 (appeals), in subsection (1), after paragraph (h) there shall be inserted the following paragraph—

“(hh) any direction or supplementary direction made under paragraph 1A of Schedule 1 to this Act”.

(3) In the said section 40, for the words from the beginning of subsection (3A) to “paragraph (m) above” there shall be substituted—

“(3A) Where there is an appeal against a decision to make such a direction as is mentioned in subsection (1) (hh) above, the tribunal shall not allow the appeal unless it considers that the Commissioners could not reasonably have been satisfied as to the matters in paragraphs (a) to (d) of sub-paragraph (2) of paragraph 1A of Schedule 1 to this Act or, as the case may be, as to the matters in sub-paragraph (4) of that paragraph.

(3B) Where, on an appeal against a decision with respect to any of the matters mentioned in subsection (1)(m) above”.

Long-stay
accommoda-
tion.

11.—(1) In paragraph 9 of Schedule 4 to the Value Added Tax Act 1983 (reduced value provision applicable to supply of accommodation in hotels etc. for periods exceeding four weeks) for the words preceding paragraph (a) there shall be substituted—

“(1) This paragraph applies where a supply of services consists in the provision of accommodation falling within paragraph (a) of item 1 of Group 1 in Schedule 6 to this Act and—

- (a) that provision is made to an individual for a period exceeding four weeks; and
- (b) throughout that period the accommodation is provided for the use of the individual either alone or together with one or more other persons who occupy the accommodation with him otherwise than at their own expense (whether incurred directly or indirectly).

(2) Where this paragraph applies”.

PART I

(2) This section applies to a supply of services on or after 1st November 1986.

12.—(1) In section 16 of the Value Added Tax Act 1983 (zero-rating) at the end of subsection (6) (goods exported or shipped as stores, etc.) there shall be added the words “and, in either case, if such other conditions, if any, as may be specified in regulations or the Commissioners may impose are fulfilled.”

Conditions for zero-rating of goods exported etc.
1983 c. 55.

(2) In subsection (9) of that section—

- (a) after the words “zero-rated” there shall be inserted “by virtue of subsection (6) above or”;
- (b) in paragraph (a) after the word “exported” there shall be inserted “or shipped”; and
- (c) in paragraph (b) for the word “regulations” there shall be substituted “relevant regulations under subsection (6), (7) or (8) above”.

13. In section 19 of the Value Added Tax Act 1983 (relief from tax on importation of goods to give effect to international agreements etc.) after subsection (1) there shall be inserted the following subsection—

Transfer of import relief.

“(1A) In any case where—

- (a) it is proposed that goods which have been imported by any person (in this subsection referred to as “the original importer”) with the benefit of relief under subsection (1) above shall be transferred to another person (in this subsection referred to as “the transferee”), and
 - (b) on an application made by the transferee, the Commissioners direct that this subsection shall apply,
- this Act shall have effect as if, on the date of the transfer of the goods (and in place of the transfer), the goods were exported by the original importer and imported by the transferee and, accordingly, where appropriate, provision made under subsection (1) above shall have effect in relation to the tax chargeable on the importation of the goods by the transferee.”

14.—(1) Where it appears to the Commissioners—

- (a) that a body corporate is liable to a penalty under section 13 of the Finance Act 1985 (civil penalty for value added tax evasion where conduct involves dishonesty), and
- (b) that the conduct giving rise to that penalty is, in whole or in part, attributable to the dishonesty of a person who is, or at the material time was, a director or managing officer of the body corporate (in this section referred to as a “named officer”),

Penalty for tax evasion: liability of directors etc.
1985 c. 54.

PART I

the Commissioners may serve a notice under this section on the body corporate and on the named officer.

(2) A notice under this section shall state—

- (a) the amount of the penalty referred to in subsection (1)(a) above (in this section referred to as “the basic penalty”); and
- (b) that the Commissioners propose, in accordance with this section, to recover from the named officer such portion (which may be the whole) of the basic penalty as is specified in the notice.

(3) Where a notice is served under this section, the portion of the basic penalty specified in the notice shall be recoverable from the named officer as if he were personally liable under section 13 of the Finance Act 1985 to a penalty which corresponds to that portion; and the amount of that penalty may be assessed and notified to him accordingly under section 21 of that Act.

1985 c. 54.

(4) Where a notice is served under this section,—

- (a) the amount which, under section 21 of the Finance Act 1985, may be assessed as the amount due by way of penalty from the body corporate shall be only so much (if any) of the basic penalty as is not assessed on and notified to a named officer by virtue of subsection (3) above; and
- (b) the body corporate shall be treated as discharged from liability for so much of the basic penalty as is so assessed and notified.

(5) No appeal shall lie against a notice under this section as such but,—

- (a) where a body corporate is assessed as mentioned in subsection (4)(a) above, the body corporate may appeal against the Commissioners’ decision as to its liability to a penalty and against the amount of the basic penalty as if it were specified in the assessment; and
- (b) where an assessment is made on a named officer by virtue of subsection (3) above, the named officer may appeal against the Commissioners’ decision that the conduct of the body corporate referred to in subsection (1)(b) above is, in whole or part, attributable to his dishonesty and against their decision as to the portion of the penalty which the Commissioners propose to recover from him.

1983 c. 55.

(6) For the purposes of the Value Added Tax Act 1983, any appeal brought by virtue of subsection (5) above shall be treated as an appeal under section 40 of that Act; and the reference in subsection (1A) of that section to an amount assessed by way of penalty includes a reference to an amount assessed by virtue of subsection (3) or subsection (4)(a) above.

PART I

(7) The provisions that may be included in rules under paragraph 9 of Schedule 8 to the Value Added Tax Act 1983 (procedure on appeals to value added tax tribunals) include provision with respect to the joinder of appeals brought by different persons where a notice is served under this section and the appeals relate to, or to different portions of, the basic penalty referred to in the notice. 1983 c. 55.

(8) In this section a “managing officer”, in relation to a body corporate, means any manager, secretary or other similar officer of the body corporate or any person purporting to act in any such capacity or as a director; and where the affairs of a body corporate are managed by its members, this section shall apply in relation to the conduct of a member in connection with his functions of management as if he were a director of the body corporate.

(9) This section does not apply where the conduct of the body corporate giving rise to the penalty took place before the passing of this Act.

15.—(1) In section 17 of the Finance Act 1985 (civil penalties for breaches of regulatory provisions under the Value Added Tax Act 1983) at the end of paragraph (c) of subsection (1) there shall be inserted “or Breaches of Treasury orders etc. 1985 c. 54.

(d) any order made by the Treasury under that Act; or

(e) any regulations made under the European Communities Act 1972 and relating to value added tax”.

(2) At the end of subsection (4)(b) of that section (previous failures before the passing of the 1985 Act to be disregarded in determining rate of daily penalty) there shall be added “or, in the case of a requirement falling within paragraph (d) or paragraph (e) of subsection (1) above, before the passing of the Finance Act 1986”.

PART II

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER I

GENERAL

Tax rates and main reliefs

16.—(1) Income tax for the year 1986–87 shall be charged at the basic rate of 29 per cent.; and in respect of so much of an individual’s total income as exceeds the basic rate limit (£17,200) at such higher rates as are specified in the Table below: Charge of income tax for 1986–87.

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TABLE

	<i>Higher rate bands</i>					<i>Higher rate per cent.</i>
The first £3,000	40
The next £5,200	45
The next £7,900	50
The next £7,900	55
The remainder	60

1971 c. 68.

and paragraphs (a) and (b) of subsection (1) of section 32 of the Finance Act 1971 (charge of tax at the basic and higher rates) shall have effect accordingly.

1980 c. 48.

(2) Section 24(4) of the Finance Act 1980 (indexation of thresholds) shall not, so far as it relates to the higher rate bands, apply for the year 1986–87.

Rate of
advance
corporation
tax.

17.—(1) For the financial year 1986 and any subsequent financial year, the rate of advance corporation tax shall be fixed by the fraction—

$$\frac{I}{100-I}$$

where I is the percentage at which income tax at the basic rate is charged for the year of assessment which begins on 6th April in that financial year; and in the following provisions of this section that percentage is referred to, in relation to a particular financial year, as “the basic rate percentage for the appropriate year of assessment”.

1968 c. 2.

(2) If, at the beginning of any financial year, the basic rate percentage for the appropriate year of assessment has not been determined (whether under the Provisional Collection of Taxes Act 1968 or otherwise), then, subject to subsection (3) below, advance corporation tax in respect of distributions made in that financial year shall be payable under Schedule 14 to the Finance Act 1972 and may be assessed under that Schedule according to the rate of advance corporation tax fixed for the previous financial year.

1972 c. 41.

(3) Subsection (2) above does not apply with respect to any distribution made in a financial year after—

- (a) the date on which is determined the basic rate percentage for the appropriate year of assessment; or
- (b) 5th August in that year,

whichever is the earlier.

PART II

(4) If a rate of advance corporation tax for any financial year is not fixed, under subsection (1) above or any other enactment, or if advance corporation tax for any financial year is charged otherwise than as it has been paid or assessed, the necessary adjustment shall be made by discharge or repayment of tax or by a further assessment.

(5) In subsection (2) of section 84 of the Finance Act 1972 (the rate of advance corporation tax) for the words from "for the period" onwards there shall be substituted "for the financial year 1986 and subsequent financial years shall be determined in accordance with section 17 of the Finance Act 1986".

(6) In section 103 of the Finance Act 1972 (charge of advance corporation tax at previous rate until new rate is fixed and change of rate) subsections (1) to (3) shall cease to have effect.

(7) Section 37(2) of the Finance Act 1974 (tax on company in liquidation to be based on Resolution fixing the rate of advance corporation tax) shall cease to have effect.

18.—(1) For the financial year 1986 the small companies rate shall be 29 per cent.

Corporation
tax: small
companies.

(2) For the financial year 1986, the fraction mentioned in section 95(2) of the Finance Act 1972 (marginal relief for small companies) shall be three two-hundredths.

19. For the year 1986–87, in subsection (7) of section 24 of the Finance Act 1980 (which specifies the date from which indexed changes in income tax thresholds and allowances are to be brought into account for the purposes of PAYE) for "5th May" there shall be substituted "18th May".

Personal
reliefs:
operative date
for PAYE.
1980 c. 48.

20. For the year 1986–87 the qualifying maximum referred to in paragraphs 5(1) and 24(3) of Schedule 1 to the Finance Act 1974 (limit on relief for interest on certain loans for the purchase or improvement of land) shall be £30,000.

Relief for
interest.
1974 c. 30.

21. Section 69(4) of the Finance (No. 2) Act 1975 (which requires deductions to be made from payments to certain sub-contractors in the construction industry) shall have effect in relation to payments made on or after 6th November 1986 with the substitution for the words "30 per cent." of the words "29 per cent."

Deduction rate
for sub-
contractors in
construction
industry.
1975 c. 45.

PART II

Employee shareholding

Employee
share schemes:
shares subject
to restrictions.
1978 c. 42.

22.—(1) In Schedule 9 to the Finance Act 1978 (approved profit sharing schemes) in paragraph 7 (conditions as to the shares)—

- (a) in paragraph (c) after the word “class” there shall be added the words “or a restriction authorised by sub-paragraph (2) below”; and
- (b) at the end there shall be added the sub-paragraphs set out in subsection (4) below followed by the additional sub-paragraph set out in subsection (5) below.

1980 c. 48.

(2) In Schedule 10 to the Finance Act 1980 (savings-related share option schemes) in paragraph 17 (conditions as to the scheme shares)—

- (a) in paragraph (c) after the word “class” there shall be added the words “or a restriction authorised by sub-paragraph (2) below”; and
- (b) at the end there shall be added the sub-paragraphs set out in subsection (4) below.

1984 c. 43.

(3) In Schedule 10 to the Finance Act 1984 (approved share option schemes) in paragraph 9 (conditions as to scheme shares)—

- (a) in paragraph (c) after the word “class” there shall be added the words “or a restriction authorised by sub-paragraph (2) below”; and
- (b) at the end there shall be added the sub-paragraphs set out in subsection (4) below.

(4) The sub-paragraphs referred to in subsections (1)(b), (2)(b) and (3)(b) above are—

“(2) Except as provided below, the shares may be subject to a restriction imposed by the company’s articles of association—

- (a) requiring all shares held by directors or employees of the company or of any other company of which it has control to be disposed of on ceasing to be so held; and
- (b) requiring all shares acquired, in pursuance of rights or interests obtained by such directors or employees, by persons who are not (or have ceased to be) such directors or employees to be disposed of when they are acquired.

(3) A restriction is not authorised by sub-paragraph (2) above unless—

- (a) any disposal required by the restriction will be by way of sale for a consideration in money on terms specified in the articles of association; and

(b) the articles also contain general provisions by virtue of which any person disposing of shares of the same class (whether or not held or acquired as mentioned in sub-paragraph (2) above) may be required to sell them on terms which are the same as those mentioned in paragraph (a) above.”

(5) The additional sub-paragraph referred to in subsection (1)(b) above is—

“(4) Except in the case of redeemable shares in a workers’ co-operative, nothing in sub-paragraph (2) above authorises a restriction which would require a person, before the release date, to dispose of his beneficial interest in shares the ownership of which has not been transferred to him.”

23.—(1) In this section—

“the 1978 Schedule” means Schedule 9 to the Finance Act 1978 (approved profit sharing schemes);

“the 1980 Schedule” means Schedule 10 to the Finance Act 1980 (savings-related share option schemes); and

“the 1984 Schedule” means Schedule 10 to the Finance Act 1984 (approved share option schemes).

Employee
share schemes:
general
amendments.
1978 c. 42.
1980 c. 48.
1984 c. 43.

(2) In each of the following provisions (which govern the eligibility of shares)—

(a) paragraph 8 of the 1978 Schedule,

(b) paragraph 19 of the 1980 Schedule,

(c) paragraph 11 of the 1984 Schedule,

there shall be made the amendments in subsection (3) below.

(3) After the words “of the same class” there shall be inserted “either must be employee-control shares or” and at the end there shall be added the following sub-paragraph—

“(2) For the purposes of this paragraph, shares of a company are employee-control shares if—

(a) the persons holding the shares are, by virtue of their holding, together able to control the company; and

(b) those persons are or have been employees or directors of the company or of another company which is under the control of the company.”

(4) In the following enactments (which exclude from provisions about restrictions attaching to shares provisions which are derived from a Model Code issued by The Stock Exchange in April 1981), namely—

(a) section 41 of the Finance Act 1982 (which relates to the 1982 c. 39.
1980 Schedule and also to Schedule 8 to the Finance Act 1973 c. 51.
1973—share option and share incentive schemes), and

PART II

(b) paragraph 10(2) of the 1984 Schedule, for “April 1981” there shall be substituted “November 1984”.

(5) For the purpose of bringing the definition of a member of a consortium in the 1978 Schedule and the 1980 Schedule into line with that in the 1984 Schedule—

(a) in paragraph 17 of the 1978 Schedule, and

(b) in paragraph 26(5) of the 1980 Schedule,

for the words “not more than five” there shall be substituted “a number of”.

(6) In each of the 1978 Schedule, the 1980 Schedule and the 1984 Schedule, “recognised stock exchange” has the same meaning as in the Corporation Tax Acts.

Approved
profit sharing
schemes:
workers’ co-
operatives.
1978 c. 42.

24.—(1) In Schedule 9 to the Finance Act 1978 (profit sharing schemes) at the end of Part V (interpretation) there shall be added the following paragraph—

“18. In this Schedule “workers’ co-operative” means a registered industrial and provident society, within the meaning of section 340 of the Taxes Act, which is a co-operative society and the rules of which include provisions which secure—

(a) that the only persons who may be members of it are those who are employed by, or by a subsidiary of, the society and those who are the trustees of its profit sharing scheme; and

(b) that, subject to any provision about qualifications for membership which is from time to time made by the members of the society by reference to age, length of service or other factors of any description, all such persons may be members of the society;

and in this paragraph “co-operative society” has the same meaning as in section 1 of the Industrial and Provident Societies Act 1965 or, as the case may be, the Industrial and Provident Societies Act (Northern Ireland) 1969.”

(2) In paragraph 7 of that Schedule (conditions as to shares) for paragraph (b) there shall be substituted the following paragraph—

“(b) except in the case of shares in a workers’ co-operative, not redeemable; and”.

(3) In section 54 of the Finance Act 1978 (the period of retention etc.)—

(a) at the end of subsection (1)(d) there shall be added “or, in the case of redeemable shares in a workers’

co-operative, as defined in Schedule 9 to this Act, by redemption”; and

(b) at the end of subsection (4) there shall be added “or

(d) in a case where the participant’s shares are redeemable shares in a workers’ co-operative, as defined in Schedule 9 to this Act, the date on which the participant ceases to be employed by, or by a subsidiary of, the co-operative.”

(4) Where, for the purpose of securing (and maintaining) approval of its profit sharing scheme in accordance with Part I of Schedule 9 to the Finance Act 1978, the rules of a society which is a workers’ co-operative or which is seeking to be registered under the industrial and provident societies legislation as a workers’ co-operative contain—

- (a) provision for membership of the society by the trustees of the scheme,
- (b) provision denying voting rights to those trustees, or
- (c) other provisions which appear to the registrar to be reasonably necessary for that purpose,

those provisions shall be disregarded in determining whether the society should be or continue to be registered under the industrial and provident societies legislation as a bona fide co-operative society.

(5) In subsection (4) above “the industrial and provident societies legislation” means—

- (a) the Industrial and Provident Societies Act 1965, or 1965 c. 12.
- (b) the Industrial and Provident Societies Act (Northern Ireland) 1969, 1969 c. 24 (N.I.).

and “registrar” has the same meaning as in each of those Acts and “co-operative society” has the same meaning as in section 1 of those Acts.

25.—(1) Schedule 10 to the Finance Act 1980 (savings-related share option schemes) shall be amended in accordance with subsections (2) to (7) below. Savings-related share option schemes.

(2) Paragraph 2 (schemes may be approved conditionally upon satisfaction as to acquisition price of scheme shares) shall cease to have effect. 1980 c. 48.

(3) In paragraph 8 (provisions as to exercising rights where a person ceases to be eligible to participate in schemes) after the words “may not be exercised at all” there shall be inserted the words “except pursuant to such a provision of the scheme as is specified in paragraph 10(1)(e) below”.

PART II

(4) At the end of sub-paragraph (1) of paragraph 10 (cases where a scheme may allow options to be exercised after certain events) there shall be added the following paragraph—

“(e) if a person ceases to hold an office or employment by virtue of which he is eligible to participate in the scheme by reason only that—

- (i) that office or employment is in a company of which the company concerned ceases to have control, or
- (ii) that office or employment relates to a business or part of a business which is transferred to a person who is neither an associated company of the company concerned nor a company of which the company concerned has control,

rights under the scheme held by that person may be exercised within six months of his so ceasing”.

(5) In paragraph 12 (supplementary provision as to ceasing to be employed) after the words “paragraph 8” there shall be inserted “or paragraph 10(1)(e)”.

(6) In paragraph 21 (eligibility to participate restricted to current directors and employees) after the words “paragraph 8 above” there shall be inserted “or pursuant to such a provision as is referred to in paragraph 10(1)(e) above”.

(7) Paragraph 22 (which restricts eligibility to participate in one scheme where, in the same year of assessment, rights have been obtained under another scheme) shall cease to have effect and, accordingly, in paragraph 20 for the words “paragraphs 22 and 23” there shall be substituted “paragraph 23”.

(8) Where an existing scheme is altered before 1st August 1988 so as to include such a provision as is specified in paragraph 10(1)(e) of Schedule 10 to the Finance Act 1980 (as amended by this section), the scheme as altered may by virtue of this section apply that provision to rights obtained under the scheme before the date on which the alteration takes effect, and where that provision is so applied in relation to such rights,—

- (a) the scheme may permit a person having such rights to take advantage of the provision, notwithstanding that under the scheme he would otherwise be unable to exercise those rights after he has ceased to hold the office or employment in question; and
- (b) if, before the date on which the alteration takes effect, a person who held such rights on 18th March 1986 ceases, in either of the circumstances set out in the said paragraph 10(1)(e), to hold an office or employment by virtue of which he was eligible to participate in the scheme, then, so far as concerns the rights so held, the scheme

- may permit him to take advantage of the provision in question as if the alteration had been made immediately before he ceased to hold that office or employment; and
- (c) the application of the provision shall not itself be regarded as the acquisition of a right for the purposes of the said Schedule 10.

(9) In subsection (8) above “an existing scheme” means a scheme approved under Schedule 10 to the Finance Act 1980 before 1st August 1986; and that subsection has effect subject to paragraph 3(2) of that Schedule (approval of Board required for alteration in scheme). 1980 c. 48.

26.—(1) In section 186 of the Taxes Act (directors and employees granted rights to acquire shares), after subsection (5) there shall be inserted the following subsections—

“(5A) In any case where—

- (a) a person has obtained any such right to acquire shares as is mentioned in subsection (1) above (in this subsection referred to as “the first right”), and
- (b) as to any of the shares to which the first right relates, he omits or undertakes to omit to exercise the right or grants or undertakes to grant to another a right to acquire the shares or any interest therein, and
- (c) in consideration for or otherwise in connection with that omission, grant or undertaking, he receives any benefit in money or money’s worth,

Shares and rights to acquire shares obtained by directors and employees.

he shall be treated for the purposes of this section as realising a gain by the assignment or release of the first right, so far as it relates to the shares in question, for a consideration equal to the amount or value of the benefit referred to in paragraph (c) above.

(5B) Where subsection (5A) above has had effect on any occasion, nothing in that subsection affects the application of this section in relation to a gain realised on a subsequent occasion, except that on that subsequent occasion so much of the consideration given for the grant of the first right as was deducted on the first occasion shall not be deducted again.”

(2) In subsection (11) of that section (notice of certain events relating to right to acquire shares) for the words from “gives any consideration” to “it shall” there shall be substituted “receives written notice of the assignment of such a right or provides any benefit in money or money’s worth—

- (a) for the assignment or for the release in whole or in part of such a right, or

PART II

- (b) for or in connection with an omission or undertaking to omit to exercise such a right, or
 - (c) for or in connection with the grant or undertaking to grant a right to acquire shares or an interest in shares to which such a right relates,
- it shall”.

1972 c. 41.

(3) In section 79 of the Finance Act 1972 (share incentive schemes) after subsection (5) there shall be inserted the following subsections—

“(5A) Subsection (5B) below applies where—

- (a) a person has acquired shares or an interest in shares as mentioned in subsection (1) above (and the shares which he acquires or in which he acquires an interest are in the following provisions of this section, other than subsection (6A), referred to as “the original shares”); and
- (b) the circumstances of his acquisition of the original shares are such that the application of subsection (4) above is not excluded; and
- (c) by virtue of his holding of the original shares or the interest in them he acquires (whether or not for consideration) additional shares or an interest in additional shares (and the shares which he so acquires or in which he so acquires an interest are in subsection (5B) below referred to as “the additional shares”).

(5B) Where this subsection applies—

- (a) the additional shares or, as the case may be, the interest in them shall be treated as having been acquired as mentioned in subsection (1) above and in circumstances falling within subsection (5A)(b) above and, for the purpose of subsection (6)(a) below, as having been acquired at the same time as the original shares or the interest in them;
- (b) for the purposes of subsections (4) and (5) above, the additional shares and the original shares shall be treated as one holding of shares and the market value of the shares comprised in that holding at any time shall be determined accordingly (the market value of the original shares at the time of acquisition being attributed proportionately to all the shares in the holding); and
- (c) for the purposes of those subsections, any consideration given for the acquisition of the additional shares or the interest in them shall be taken to be an increase falling within subsection (5)(a) above in

the consideration for the original shares or the interest in them.”

(4) In subsection (6)(c) of the said section 79 (the period at the end of which a charge to tax arises)—

- (a) for the words “the shares cease” there shall be substituted “by reason of the shares ceasing”; and
- (b) at the end there shall be added the words “either of the conditions in subsection (2)(c) above would be satisfied in relation to the shares if they had been acquired at that time”.

(5) After subsection (6) of the said section 79 there shall be inserted the following subsection—

“(6A) If, on a person ceasing to have a beneficial interest in any shares, he acquires other shares or an interest in other shares and the circumstances are such that, for the purposes of sections 78 to 81 of the Capital Gains Tax Act 1979 c. 15. 1979 (reorganisations etc.) the shares in which he ceases to have a beneficial interest constitute “original shares” and the other shares constitute a “new holding”,—

- (a) section 78 of that Act (which equates the original shares and the new holding) shall apply for the purposes of this section; and
- (b) if any such consideration is given for the new holding as is mentioned in section 79(1) of that Act, it shall be treated for the purposes of this section as an increase falling within subsection (5)(a) above in the consideration for the shares; and
- (c) if any such consideration is received for the disposal of the original shares as is mentioned in section 79(2) of that Act, the consideration shall be apportioned among the shares comprised in the new holding and the amount which, apart from this paragraph, would at any subsequent time be the market value of any of those shares shall be taken to be increased by the amount of the consideration apportioned to them;

and in paragraphs (a) to (c) above “the original shares” shall be construed in accordance with the said sections 78 to 81 (and not in accordance with subsection (5A) above).”

(6) In this section—

- (a) subsections (1) and (2) above have effect where a benefit is received after 18th March 1986;
- (b) subsection (3) above has effect where the acquisition of additional shares or the interest in shares is after that date;

PART II

- (c) subsection (4) above has effect where the shares cease to be subject to restrictions after that date; and
- (d) subsection (5) above has effect where the shares which constitute the new holding are acquired after that date.

Charities

Relief for donations under payroll deduction scheme.

27.—(1) This section applies where an individual (the employee) is entitled to receive payments from which income tax falls to be deducted by virtue of section 204 of the Taxes Act and regulations under that section (PAYE), and the person liable to make the payments (the employer) withholds sums from them.

(2) If the conditions mentioned in subsections (3) to (7) below are fulfilled the sums shall, in assessing tax under Schedule E, be allowed to be deducted as expenses incurred in the year of assessment in which they are withheld.

(3) The sums must be withheld in accordance with a scheme which is (or is of a kind) approved by the Board at the time they are withheld and which either contains provisions falling within subsection (4)(a) below, or contains provisions falling within subsection (4)(a) below and provisions falling within subsection (4)(b) below.

(4) The provisions are that—

- (a) the employer is to pay sums withheld to a person (the agent) who is approved by the Board at the time they are withheld, and the agent is to pay them to a charity or charities;
- (b) the employer is to pay sums withheld directly to a charity which (or charities each of which) is at the time the sums are withheld approved by the Board as an agent for the purpose of paying sums to other charities.

(5) The sums must be withheld in accordance with a request by the employee that they be paid to a charity or charities in accordance with a scheme approved (or of a kind approved) by the Board.

(6) The sums must constitute gifts by the employee to the charity or charities concerned, must not be paid by the employee under a covenant, and must fulfil any conditions set out in the terms of the scheme concerned.

(7) The sums must not in any year of assessment exceed £100 in the case of any employee (however many offices or employments he holds or has held).

(8) In this section “charity” has the same meaning as in section 360 of the Taxes Act.

(9) This section has effect in relation to sums withheld in the year 1987–88 or any subsequent year of assessment.

28.—(1) The circumstances in which the Board may for the purposes of section 27 above grant or withdraw approval of schemes (or kinds of scheme) or of agents shall be such as are prescribed by the Treasury by regulations. Payroll deduction scheme: further provisions.

(2) The circumstances so prescribed (whether relating to the terms of schemes or the qualifications of agents or otherwise) shall be such as the Treasury think fit.

(3) The Treasury may by regulations make provision—

- (a) that a participating employer or agent shall comply with any notice which is served on him by the Board and which requires him within a prescribed period to make available for the Board's inspection documents of a prescribed kind or records of a prescribed kind;
- (b) that a participating employer or agent shall in prescribed circumstances furnish to the Board information of a prescribed kind;
- (c) for, and with respect to, appeals to the Special Commissioners against the Board's refusal to grant, or their withdrawal of, approval of any scheme (or kind of scheme) or agent;
- (d) generally for giving effect to section 27 above.

(4) For the purposes of subsection (3) above a person is a participating employer or agent if he is an employer (within the meaning of section 27 above) or agent (within the meaning of that section) who participates, or has at any time participated, in a scheme under that section.

(5) In subsection (3) above "prescribed" means prescribed by the regulations.

(6) The words "Regulations under section 28 of the Finance Act 1986" shall be added at the end of each column in the Table in section 98 of the Taxes Management Act 1970 (penalties for 1970 c. 9. failure to furnish information etc.).

(7) The power to make regulations under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.

29.—(1) On a claim made by a company which is resident in the United Kingdom and is not a close company, a qualifying donation made by the company shall, subject to the provisions of this section, constitute a charge on the income of the company for the purposes of section 248 of the Taxes Act. Donations by companies to charities etc.

PART II

(2) Subject to subsection (3) below, a qualifying donation is a payment made by the company to a charity, other than—

- (a) a covenanted payment to charity, as defined in section 434(2) of the Taxes Act; and
- (b) a payment which is deductible in computing profits or any description of profits for purposes of corporation tax.

(3) A payment made by a company is not a qualifying donation unless, on the making of it, the company deducts out of it a sum representing the amount of income tax thereon; and in section 55(1) of the Taxes Act (certificates of deduction) after the words “Finance Act 1973” there shall be inserted “or section 29 of the Finance Act 1986”.

(4) Where, with a view to securing relief under this section, a company makes a payment subject to such a deduction as is mentioned in subsection (3) above, then, whether or not it proves to be a qualifying donation, the payment—

1972 c. 41.

- (a) shall be treated as a “relevant payment” for the purposes of Schedule 20 to the Finance Act 1972 (collection of income tax on company payments which are not distributions); and
- (b) shall in the hands of the recipient (whether a charity or not) be treated for the purposes of the Taxes Act as if it were an annual payment.

(5) In any accounting period of a company, the maximum amount allowable under section 248 of the Taxes Act in accordance with subsection (1) above in respect of qualifying donations made by the company shall be a sum equal to 3 per cent. of the dividends paid on the company’s ordinary share capital in that accounting period.

(6) In this section “charity” includes—

- (a) the Trustees of the British Museum;
- (b) the Trustees of the British Museum (Natural History);
- (c) the Trustees of the National Heritage Memorial Fund;
- (d) the Historic Buildings and Monuments Commission for England; and
- (e) any Association of a description specified in section 362 of the Taxes Act (scientific research associations);

and, subject to paragraphs (a) to (e) above, “charity” has the same meaning as in section 360 of the Taxes Act.

(7) This section applies to payments made on or after 1st April 1986 and, in the case of a company whose accounting period begins before and ends on or after that date, the period

beginning on that date and ending at the end of that accounting period shall be deemed to be an accounting period for the purpose of applying the limit in subsection (5) above.

30.—(1) Any payment which—

- (a) on or after 12th June 1986 is received by a charity from another charity, and
- (b) is not made for full consideration in money or money's worth, and
- (c) is not chargeable to tax apart from this subsection, and
- (d) is not, apart from this subsection, of a description which (on a claim) would be eligible for relief from tax by virtue of any provision of section 360(1) of the Taxes Act,

Certain payments to charities.

shall be chargeable to tax under Case III of Schedule D but shall be eligible for relief from tax under section 360(1)(c) of the Taxes Act as if it were an annual payment.

(2) In section 248 of the Taxes Act (allowance of charges on income) after subsection (8) there shall be inserted the following subsection—

“(8A) Notwithstanding anything in any other provision of the Tax Acts, a covenanted donation to charity made by a company after 18th March 1986 shall not be a charge on income for the purposes of this section unless the company—

- (a) deducts out of it a sum representing the amount of income tax thereon, and
- (b) accounts for that tax in accordance with Schedule 20 to the Finance Act 1972,

and any such payment from which a deduction is made as mentioned in paragraph (a) above shall be treated as a relevant payment for the purposes of the said Schedule 20, whether or not it would otherwise fall to be so treated.”

(3) In this section “charity” has the same meaning as in section 360 of the Taxes Act.

31.—(1) If in any chargeable period of a charity—

- (a) its relevant income and gains are not less than £10,000, and
- (b) its relevant income and gains exceed the amount of its qualifying expenditure, as defined in Part I of Schedule 7 to this Act, and
- (c) the charity incurs, or is treated by virtue of any of the following provisions of this section as incurring, non-qualifying expenditure, that is to say, expenditure which is not qualifying expenditure as defined in the said Part I,

Charities: restriction of tax exemptions.

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relief under the enactments conferring exemption from tax shall not be available for so much of the excess referred to in paragraph (b) above as does not exceed the non-qualifying expenditure incurred in that period.

(2) In relation to a chargeable period of less than twelve months, subsection (1) above shall have effect as if the amount specified in paragraph (a) of that subsection were proportionately reduced.

(3) In this section—

(a) “charity” has the same meaning as in section 360 of the Taxes Act;

(b) “covenanted payment to charity” shall be construed in accordance with section 434(2) of the Taxes Act;

(c) “the enactments conferring exemption from tax” means subsection (1) of the said section 360 (income) and section 145 of the Capital Gains Tax Act 1979 (gains); and

(d) “relevant income and gains” means—

(i) income which, apart from subsection (1) of the said section 360, would not be exempt from tax, together with any income which is taxable notwithstanding that subsection; and

(ii) gains which, apart from the said section 145, would be chargeable gains, together with any gains which are chargeable gains notwithstanding that section.

(4) If in any chargeable period a charity—

(a) invests any of its funds in an investment which is not a qualifying investment, as defined in Part II of Schedule 7 to this Act, or

(b) makes a loan (not being an investment) which is not a qualifying loan, as defined in Part III of that Schedule,

then, subject to subsection (5) below, the amount so invested or lent in that period shall be treated for the purposes of this section as being an amount of expenditure incurred by the charity and, accordingly, as being non-qualifying expenditure.

(5) If, in any chargeable period, a charity which has in that period made an investment or loan falling within subsection (4) above,—

(a) realises the whole or part of that investment, or

(b) is repaid the whole or part of that loan,

any further investment or lending in that period of the sum realised or repaid shall, to the extent that it does not exceed the sum originally invested or lent, be left out of account in

determining the amount which, by virtue of subsection (4) above, is treated as non-qualifying expenditure incurred in that period.

(6) If the aggregate of the qualifying and non-qualifying expenditure incurred by a charity in any chargeable period exceeds the relevant income and gains of that period, Part IV of Schedule 7 to this Act shall have effect to treat, in certain cases, some or all of that excess as non-qualifying expenditure incurred in earlier periods.

(7) Where, by virtue of this section, there is an amount of a charity's relevant income and gains for which relief under the enactments conferring exemption from tax is not available, the charity may, by notice in writing to the Board, specify which items of its relevant income and gains are, in whole or in part, to be attributed to that amount and, for this purpose, all covenanted payments to the charity shall be treated as a single item; and if, within thirty days of being required to do so by the Board, a charity does not give notice under this subsection, the items of its relevant income and gains which are to be attributed to the amount in question shall be such as the Board may determine.

(8) Where it appears to the Board that two or more charities acting in concert are engaged in transactions of which the main purpose or one of the main purposes is the avoidance of tax (whether by the charities or any other person), the Board may by notice in writing given to the charities provide that, for such chargeable periods as may be specified in the notice, subsection (1) above shall have effect in relation to them with the omission of paragraph (a).

(9) An appeal may be brought against a notice under subsection (8) above as if it were notice of the decision of the Board on a claim made by the charities concerned.

(10) Subsections (1) to (9) above have effect for chargeable periods ending after 11th June 1986; but where a chargeable period of a charity begins before and ends after that date, the charity may by notice in writing given to the Board elect that, for the purposes of subsections (1) to (9) above, that chargeable period shall be treated as two separate chargeable periods, the second of which begins on 12th June 1986 and ends at the end of that chargeable period.

(11) In Schedule 7 to this Act "the principal section" means this section and other expressions have the same meaning as in this section.

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Higher rate relief for covenanted payments.

32.—(1) In section 457 of the Taxes Act (settlements made on or after 7th April 1965) in subsection (1A) (which allows higher rate relief for covenanted payments to charities up to £10,000 in any year of assessment)—

- (a) at the beginning there shall be inserted the words “Subject to subsection (1B) below”; and
- (b) the words “and does not exceed £10,000 in any year of assessment” shall be omitted.

(2) After subsection (1A) of that section there shall be inserted the following subsections—

“(1B) If at least £1,000 of an individual’s income for any year of assessment consists of covenanted payments to charity which, in the hands of the charities receiving them, constitute income for which, by virtue of section 31 of the Finance Act 1986, relief under section 360(1) above is not available, so much of the individual’s income as consists of those payments shall not be excluded from the operation of subsection (1) above by virtue of subsection (1A) above.

(1C) If, for any chargeable period of a charity,—

- (a) the income of the charity includes two or more covenanted payments to charity, and
- (b) only a part of the aggregate of those payments constitutes income for which, by virtue of section 31 of the Finance Act 1986, relief under section 360(1) above is not available,

each of the payments which make up the aggregate shall be treated for the purposes of subsection (1B) above as apportioned rateably between the part of the aggregate referred to in paragraph (b) above and the remainder.”

(3) In Schedule 16 to the Finance Act 1972 (apportionment of income of close companies to participators) in paragraph 5(5A) (effect of covenanted payments to charities) after the words “year of assessment” there shall be inserted “then, except in so far as any such sum is referable to a payment which, if made by the individual, would be treated by virtue of subsection (1) of section 457 of the Taxes Act as the income of the individual for the purposes of excess liability (within the meaning of that subsection)” and for the words from “by whichever is the lesser of” to the end of paragraph (b) there shall be substituted “by the amount of that sum or those sums”.

(4) This section has effect for the year 1986–87 and subsequent years of assessment.

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33. At the end of section 9 of the Charities Act 1960 (exchange of information between the Commissioners of Inland Revenue and the Charity Commissioners etc.) there shall be added the following subsection—

Disclosure of information to Charity Commissioners.
1960 c. 58.

“(3) Without prejudice to subsection (1) above, no obligation as to secrecy or other restriction upon the disclosure of information shall prevent the Commissioners of Inland Revenue from disclosing to the Commissioners information with respect to any institution which has for any purpose been treated as established for charitable purposes but which appears to the Commissioners of Inland Revenue to be or to have been carrying on activities which are not charitable or to be or to have been applying any of its funds for purposes which are not charitable.”

Foreign element: expenses

34.—(1) Section 32 of the Finance Act 1977 (expenses in connection with work done abroad) shall be amended in accordance with subsections (2) to (6) below.

Expenses connected with work abroad.
1977 c. 36.

(2) In subsection (2) (travel from UK and back) after the words “travelling from” there shall be inserted “any place in” and for the words “returning to” there shall be substituted “travelling to any place in”.

(3) In subsection (6) (journeys to or by spouse or child)—

(a) for the words “between the United Kingdom and the place of performance of those duties” there shall be substituted “between any place in the United Kingdom and the place of performance of any of those duties outside the United Kingdom”,

(b) paragraph (b), and in paragraph (c) the words “or (b)”, shall be omitted, and

(c) for the words “journeys in each direction” there shall be substituted “outward and two return journeys”.

(4) After subsection (6) there shall be inserted—

“(6A) Where a person holds an office or employment the duties of which are performed partly outside the United Kingdom, subsection (7) below applies to any journey by him—

(a) from any place in the United Kingdom to the place of performance of any of those duties outside the United Kingdom;

(b) from the place of performance of any of those duties outside the United Kingdom to any place in the United Kingdom.

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(6B) But subsection (7) below does not apply by virtue of subsection (6A) above unless the duties concerned can only be performed outside the United Kingdom and the journey is made wholly and exclusively for the purpose—

- (a) where the journey falls within subsection (6A)(a), of performing the duties concerned; or
- (b) where the journey falls within subsection (6A)(b), of returning after performing the duties concerned.

(6C) Where a person is absent from the United Kingdom for the purpose of performing the duties of one or more offices or employments, subsection (7) below applies to—

- (a) any journey by him from the place of performance of any of those duties outside the United Kingdom to any place in the United Kingdom;
- (b) any return journey following a journey of a kind described in paragraph (a) above.

(6D) But subsection (7) below does not apply by virtue of subsection (6C) above unless the duties concerned can only be performed outside the United Kingdom and the absence mentioned in subsection (6C) was occasioned wholly and exclusively for the purpose of performing the duties concerned.”

(5) In subsection (7)(a) for the words “such journey” there shall be substituted “journey to which this subsection applies” and in subsection (7)(b) for the words “such office or employment” there shall be substituted “office or employment mentioned in subsection (6), (6A) or (6C) above”.

(6) After subsection (7) there shall be inserted—

“(7A) For the purposes of applying subsections (6) to (7) above in a case where the duties of the office or employment or (as the case may be) any of the offices or employments are performed on a vessel, in section 184(3)(b) of the Taxes Act the words from “or which” to the end (duties on voyage beginning or ending in UK treated as performed in UK) shall be ignored.

(7B) In such a case as is mentioned in subsection (7A) above, subsection (6B) above shall have effect as if “the duties concerned” in paragraphs (a) and (b) read “the duties concerned, or those duties and other duties of the office or employment”.

(7C) Where, apart from this subsection, a deduction in respect of any cost or expenses is allowable under a provision of this section and a deduction in respect of the same cost or expenses is also allowable under another provision of

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this section or of any other enactment, a deduction in respect of the cost or expenses may be made under either, but not both, of those provisions.”

(7) In section 184(3) of the Taxes Act after the words “subject to” there shall be inserted “section 32(7A) of and”.

(8) This section has effect for the year 1984–85 and subsequent years of assessment and all such adjustments (whether by repayment of tax or otherwise) shall be made as are appropriate to give effect to this section.

35.—(1) This section applies in the case of a trade, profession or vocation carried on wholly outside the United Kingdom by an individual (the taxpayer) who does not satisfy the Board as mentioned in section 122(2)(a) of the Taxes Act; and it is immaterial in the case of a trade or profession whether the taxpayer carries it on solely or in partnership. Expenses connected with foreign trades etc.

(2) Expenses of the taxpayer—

- (a) in travelling from any place in the United Kingdom to any place where the trade, profession or vocation is carried on,
- (b) in travelling to any place in the United Kingdom from any place where the trade, profession or vocation is carried on, or
- (c) on board and lodging for the taxpayer at any place where the trade, profession or vocation is carried on,

shall, subject to subsections (3) and (4) below, be treated for the purposes of section 130(a) of the Taxes Act (deductions) as having been wholly and exclusively expended for the purposes of the trade, profession or vocation.

(3) Subsection (2) above does not apply unless the taxpayer’s absence from the United Kingdom is occasioned wholly and exclusively for the purpose of performing the functions of the trade, profession or vocation or of performing those functions and the functions of any other trade, profession or vocation (whether or not one in the case of which this section applies).

(4) Where subsection (2) above applies and more than one trade, profession or vocation in the case of which this section applies is carried on at the place in question, the expenses shall be apportioned on such basis as is reasonable between those trades, professions or vocations, and the expenses so apportioned to a particular trade, profession or vocation shall be treated for the purposes of section 130(a) of the Taxes Act as having been wholly and exclusively expended for the purposes of that trade, profession or vocation.

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(5) Where the taxpayer is absent from the United Kingdom for a continuous period of 60 days or more wholly and exclusively for the purpose of performing the functions of one or more trades, professions or vocations in the case of which this section applies, expenses to which subsection (6) below applies shall be treated in accordance with subsection (7) or (8) below (as the case may be).

(6) This subsection applies to the expenses of any journey by the taxpayer's spouse, or any child of his, between any place in the United Kingdom and the place of performance of any of those functions outside the United Kingdom, if the journey—

(a) is made in order to accompany him at the beginning of the period of absence or to visit him during that period, or

(b) is a return journey following a journey falling within paragraph (a) above,

but this subsection does not apply to more than two outward and two return journeys by the same person in any year of assessment.

(7) The expenses shall be treated for the purposes of section 130(a) of the Taxes Act as having been wholly and exclusively expended for the purposes of the trade, profession or vocation concerned (if there is only one).

(8) The expenses shall be apportioned on such basis as is reasonable between the trades, professions or vocations concerned (if there is more than one) and the expenses so apportioned to a particular trade, profession or vocation shall be treated for the purposes of section 130(a) of the Taxes Act as having been wholly and exclusively expended for the purposes of that trade, profession or vocation.

(9) In subsection (6) above "child" includes a stepchild, an adopted child and an illegitimate child but does not include a person who is aged 18 or over at the beginning of the outward journey.

(10) Nothing in this section shall permit the same sum to be deducted for more than one trade, profession or vocation in respect of expenses in computing profits or gains.

(11) This section applies to expenses incurred after 5th April 1984 and all such adjustments (whether by repayment of tax or otherwise) shall be made as are appropriate to give effect to this section.

Travel between trades etc.

36.—(1) Where a taxpayer, within the meaning of section 35 above, travels between a place where he carries on a trade, profession or vocation in the case of which that section applies

and a place outside the United Kingdom where he carries on another trade, profession or vocation (whether or not one in the case of which that section applies) expenses of the taxpayer on such travel shall, subject to subsections (3) to (5) below, be treated for the purposes of section 130(a) of the Taxes Act as having been wholly and exclusively expended for the purposes of the trade, profession or vocation mentioned in subsection (2) below.

(2) The trade, profession or vocation is—

(a) the one carried on at the place of the taxpayer's destination, or

(b) if that trade, profession or vocation is not one in the case of which section 35 above applies, the one carried on at the place of his departure.

(3) This section does not apply unless the journey was made—

(a) after performing functions of the trade, profession or vocation carried on at the place of departure, and

(b) for the purpose of performing functions of the trade, profession or vocation carried on at the place of destination.

(4) This section does not apply unless the taxpayer's absence from the United Kingdom is occasioned wholly and exclusively for the purpose of performing the functions of both the trades, professions or vocations concerned or of performing those functions and the functions of any other trade, profession or vocation.

(5) Where this section applies and more than one trade, profession or vocation in the case of which section 35 above applies is carried on at the place of the taxpayer's destination or (in a case falling within subsection (2)(b) above) at the place of his departure, the expenses shall be apportioned on such basis as is reasonable between those trades, professions or vocations, and the expenses so apportioned to a particular trade, profession or vocation shall be treated for the purposes of section 130(a) of the Taxes Act as having been wholly and exclusively expended for the purposes of that trade, profession or vocation.

(6) Nothing in this section shall permit the same sum to be deducted for more than one trade, profession or vocation in respect of expenses in computing profits or gains.

(7) This section applies to expenses incurred after 5th April 1984 and all such adjustments (whether by repayment of tax or otherwise) shall be made as are appropriate to give effect to this section.

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Travelling expenses of employees not domiciled in UK.

37.—(1) Subject to subsection (2) below, this section applies in the case of an office or employment in respect of which a person (the employee) who is not domiciled in the United Kingdom is in receipt of emoluments for duties performed in the United Kingdom.

(2) This section does not apply unless subsection (3) below is satisfied in respect of a date on which the employee arrives in the United Kingdom to perform duties of the office or employment; and where subsection (3) is so satisfied, this section applies only for a period of five years beginning with that date.

(3) This subsection is satisfied in respect of a date if the employee—

(a) was not resident in the United Kingdom in either of the two years of assessment immediately preceding the year of assessment in which the date falls, or

(b) was not in the United Kingdom for any purpose at any time during the period of two years ending with the day immediately preceding the date.

(4) Where subsection (3) above is satisfied (by virtue of paragraph (a) of that subsection) in respect of more than one date in any year of assessment, only the first of those dates is relevant for the purposes of this section.

(5) Subsection (7) below applies to any journey by the employee—

(a) from his usual place of abode to any place in the United Kingdom in order to perform any duties of the office or employment there, or

(b) to his usual place of abode from any place in the United Kingdom after performing such duties there.

(6) Where the employee is in the United Kingdom for a continuous period of 60 days or more for the purpose of performing the duties of one or more offices or employments in the case of which this section applies, subsection (7) below applies to any journey by his spouse, or any child of his, between his usual place of abode and the place of performance of any of those duties in the United Kingdom, if the journey—

(a) is made to accompany him at the beginning of that period or to visit him during it, or

(b) is a return journey following a journey falling within paragraph (a) above;

but subsection (7) as it applies by virtue of this subsection does not extend to more than two journeys to the United Kingdom and two return journeys by the same person in any year of assessment.

(7) Subject to subsection (8) below, where—

- (a) travel facilities are provided for any journey to which this subsection applies and the cost of them is borne by or on behalf of a person who is an employer in respect of any office or employment in the case of which this section applies, or
- (b) expenses are incurred out of the emoluments of any office or employment in the case of which this section applies on such a journey and those expenses are reimbursed by or on behalf of the employer,

there shall be allowed, in charging tax under Case I or II of Schedule E on the emoluments from the office or employment concerned, a deduction of an amount equal to so much of that cost or, as the case may be, those expenses as falls to be included in those emoluments.

(8) If a journey is partly for a purpose mentioned in subsection (5) or (6) above and partly for another purpose, only so much of the cost or expenses referred to in subsection (7) above as is properly attributable to the former purpose shall be taken into account in calculating any deduction made under subsection (7) as it applies by virtue of subsection (5) or (as the case may be) (6).

(9) For the purposes of this section a person's usual place of abode is the country (outside the United Kingdom) in which he normally lives.

(10) In subsection (6) above "child" includes a stepchild, an adopted child and an illegitimate child but does not include a person who is aged 18 or over at the beginning of the journey to the United Kingdom.

(11) References in the Income Tax Acts to section 189 of the Taxes Act and to deductions allowable under Chapter I of Part VIII of that Act shall be construed as including a reference to subsection (7) above and to deductions allowable under it.

(12) Where, apart from this subsection, a deduction in respect of any cost or expenses is allowable under a provision of this section and a deduction in respect of the same cost or expenses is also allowable under another provision of this section or of any other enactment, a deduction in respect of the cost or expenses may be made under either, but not both, of those provisions.

38.—(1) Section 37 above shall have effect in accordance with subsections (2) to (4) below. Section 37:
commence-
ment.

(2) Where the office or employment is under or with any person, body of persons or partnership resident in the United

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Kingdom, section 37 shall have effect for the year 1984–85 and subsequent years of assessment.

(3) In any other case, section 37 shall have effect for the year 1984–85 and subsequent years of assessment except that subsections (2) to (4) shall have effect only for the year 1986–87 and subsequent years of assessment.

(4) Where by virtue of subsection (3) above any provision of section 37 applies in the case of an employee at any time during the year 1984–85 or 1985–86, that section shall apply in his case for the years 1986–87 to 1990–91 as if the following were substituted for subsections (2) to (4)—

“(2) This section does not apply after 5th April 1991.”

(5) All such adjustments (whether by repayment of tax or otherwise) shall be made as are appropriate to give effect to section 37 and this section.

Miscellaneous

Personal
equity plans.

39. Schedule 8 to this Act (which enables the Treasury to make regulations about personal equity plans) shall have effect.

Business
expansion
scheme.

40.—(1) Schedule 5 to the Finance Act 1983 (relief for investment in corporate trades) shall have effect subject to the amendments made by Part I of Schedule 9 to this Act.

1983 c. 28.

(2) In section 26 of the Finance Act 1983 (which, amongst other things, provides for Schedule 5 to that Act to have effect only in relation to shares issued in the year of assessment 1983–84 or in any of the next three years of assessment), for the words “of the next three years” there shall be substituted the words “later year”.

(3) The consequential amendments in Part II of Schedule 9 to this Act shall have effect.

Enterprise
allowance.

41.—(1) This section applies to—

(a) payments known as enterprise allowance and made by the Manpower Services Commission in pursuance of arrangements under section 2(2)(d) of the Employment and Training Act 1973, and

(b) corresponding payments made in Northern Ireland by the Department of Economic Development.

1973 c. 50

(2) Any such payment which would (apart from this section) be charged to tax under Case I or Case II of Schedule D shall be charged to tax under Case VI of that Schedule.

(3) Nothing in subsection (2) above shall prevent such a payment—

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- (a) being treated for the purposes of section 226(9)(c) of the Taxes Act (retirement annuities) or section 530(1)(c) of that Act (earned income) as immediately derived from the carrying on or exercise of a trade, profession or vocation, or
- (b) being treated for the purposes of paragraph 8 of Schedule 16 to the Finance Act 1972 (close companies) as trading income. 1972 c. 41.

(4) In consequence of subsection (2) above, the reference in section 9(1) of the Social Security Act 1975 and in section 9(1) of the Social Security (Northern Ireland) Act 1975 (Class 4 contributions) to profits or gains chargeable to income tax under Case I or Case II of Schedule D shall be taken to include a reference to profits or gains consisting of a payment of enterprise allowance chargeable to income tax under Case VI of Schedule D. 1975 c. 14. 1975 c. 15.

(5) This section applies to—

- (a) any payment made on or after 18th March 1986, and
- (b) any payment made before that day as part of a distinct series of payments made to the same person, provided one or more of the payments is made on or after that day.

(6) All such adjustments (whether by assessment to tax, repayment of tax or otherwise) shall be made as are appropriate to give effect to this section.

42.—(1) Schedule 10 to this Act (which amends sections 252 and 253 of the Taxes Act) shall have effect. Company reconstructions: restriction of relief.

(2) Subject to subsection (3) below, the amendments made by that Schedule have effect where a company ceases to carry on a trade, or part of a trade, after 18th March 1986.

(3) Where section 252(6) applies (successive company reconstructions) and the later event within the meaning of that subsection falls after 18th March 1986 but the earlier event falls on or before that date, those amendments do not affect the operation of any provision of section 252 or 253 in relation to the earlier event.

43.—(1) In section 286 of the Taxes Act (loans to participators etc.) in subsection (4) (date when assessed tax is due) after the word “Tax” there shall be inserted “shall be assessable by virtue of this section whether or not the whole or any part of the loan or advance in question has been repaid at the time of the assessment and tax”. Loans to participators.

(2) In subsection (5) of that section (discharge or repayment of tax on repayment of loan or advance) for the words from the

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beginning to “loan”, in the second place where it occurs, there shall be substituted “Where a close company makes a loan or advance which gives rise to a charge to tax on the company under subsection (1) above and the loan”.

(3) The amendments made by this section have effect in relation to any loan or advance made after 18th March 1986 and also in any case where there is a repayment after that date of the whole or any part of a loan or advance made on or before that date.

(4) All such adjustments shall be made, whether by the making of assessments or otherwise, as are required in consequence of the preceding provisions of this section.

(5) This section shall be construed as one with section 286 of the Taxes Act.

Entertainers
and
sportsmen.

44. Schedule 11 to this Act (which relates to non-resident entertainers and sportsmen) shall have effect.

Payments on
retirement or
removal from
office or
employment
etc.

45.—(1) Schedule 8 to the Taxes Act (relief as respects tax on payments on retirement etc.) shall have effect subject to the following provisions of this section, and in those provisions that Schedule is referred to as “Schedule 8”.

(2) On and after 4th June 1986, paragraph 10 of Schedule 8 (aggregation of two or more payments in respect of the same office etc.) shall have effect with the substitution for the words “paragraph 7” of the words “paragraphs 7 and 7A”.

(3) Paragraph 12 of Schedule 8 (which provides that any reference in the Schedule to a payment in respect of which tax is chargeable under section 187 of the Taxes Act is a reference to so much of that payment as is chargeable to tax after deduction of relief) shall not apply to any payment which, under subsection (4) of that section, is treated as income received on or after 4th June 1986 and, accordingly, paragraphs 7 and 7A of Schedule 8 shall apply to every such payment without making any deduction therefrom on account of relief under section 188(3) of that Act.

(4) In any case where—

(a) tax is chargeable under section 187 of the Taxes Act in respect of two or more payments to or in respect of the same person (whether or not in respect of the same office or employment) and is so chargeable for the same chargeable period, and

(b) under subsection (4) of that section at least one of those payments is treated as income received before 4th June 1986 and at least one of them is treated as income received on or after that date,

then, in the application of paragraphs 7 and 7A of Schedule 8 (in accordance with paragraph 10 or paragraph 11 thereof) in relation to any of those payments which is so treated as income received on or after that date, subsection (3) above shall have effect as if any reference therein to 4th June 1986 were a reference to the first day of the chargeable period referred to in paragraph (a) above.

46. Schedule 12 to this Act (which relates to surplus funds in certain pension schemes) shall have effect. Pension
scheme
surpluses.

47.—(1) In section 343 of the Taxes Act (building societies), subsection (1A) (which was inserted by the Finance Act 1985 and enables the Board to make regulations requiring societies to account for amounts representing income tax on certain sums) shall have effect and be deemed always to have had effect with the insertion after the words “in accordance with the regulations” of the words “(including sums paid or credited before the beginning of the year but not previously brought into account under subsection (1) above or this subsection)”. Building
societies.

(2) In subsection (2) of that section (treatment of building society payments for purposes of corporation tax)—

- (a) in paragraph (a) for the words “the amount” there shall be substituted “any amount”; and
- (b) in paragraph (b) after the words “any such dividends or interest” there shall be inserted “in respect of which the society is required to account for and pay an amount in accordance with the regulations”.

(3) At the end of subsection (7) of that section (meaning of “dividend”) there shall be added the words “but any sum which is paid by a building society by way of dividend and in respect of which the society is not required to account for and pay an amount in accordance with the regulations shall be treated for the purposes of Schedule D as paid by way of interest”.

(4) In consequence of the amendments of the said section 343 effected by section 40 of the Finance Act 1985 (regulations requiring societies to account for amounts representing income tax on certain sums),— 1985 c. 54.

- (a) in subsection (5) of section 16 of the Finance Act 1973 (amounts paid or credited to trustees of certain trusts) for the word “amounts” there shall be substituted “sums” and for the words from “with which” to “that year” there shall be substituted “being sums in respect of which the society is required to account for and pay an amount in accordance with regulations under section 343(1A) of the Taxes Act”; and 1973 c. 51.

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1975 c. 7.

(b) in subsection (1) of section 6 of the Finance Act 1975 (amounts paid or credited to exempt pension funds) for the words from “among the sums” to “the Taxes Act” there shall be substituted “sums in respect of which a building society is required to account for and pay an amount in accordance with regulations under subsection (1A) of section 343 of the Taxes Act”.

(5) Where a building society investment which is a source of income of any person (the “lender”) is not a relevant investment but at any time after 6th April 1986 becomes such an investment, section 121 of the Taxes Act (special rules where source of income ceases) shall apply as if the investment were a source of income which the lender ceased to possess immediately before that time.

(6) Where a building society investment which is a source of income of any person ceases at any time after 6th April 1986 to be a relevant investment, section 120(3) of the Taxes Act shall apply as if the investment were a new source of income acquired by him immediately after that time.

(7) Where a building society investment which was a source of income of any person immediately before 6th April 1986 was not on that date a relevant investment, section 120(3) of the Taxes Act shall apply as if the investment were a new source of income acquired by him on that date.

1984 c. 43.

(8) In subsections (5) to (7) above “building society investment” does not include a quoted Eurobond (as defined in section 35(1) of the Finance Act 1984) but, subject to that, means any shares in, deposit with or loan to a building society (within the meaning of section 343 of the Taxes Act); and for the purposes of those subsections a building society investment is a “relevant investment” if dividends or interest payable in respect of it are sums in respect of which the society is required to account for and pay an amount in accordance with regulations under subsection (1A) of that section.

(9) Subsections (2) to (4) above have effect for the year 1986–87 and subsequent years of assessment.

Foreign
dividends in
recognised
clearing
system.

48.—(1) Paragraph 1 of Schedule C (public revenue dividends payable in UK) shall not apply, in the case of dividends payable out of any public revenue other than the public revenue of the United Kingdom, if the securities in respect of which the dividends are payable are held in a recognised clearing system.

(2) Section 159(2) of the Taxes Act (tax under Schedule D on foreign dividends entrusted to person in UK for payment in UK) shall not apply if the stocks, funds, shares or securities out

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of or in respect of which the foreign dividends are payable are held in a recognised clearing system.

(3) In this section “recognised clearing system” means any system for the time being designated as a recognised clearing system under section 35 of the Finance Act 1984 (Eurobonds). 1984 c. 43.

(4) In this section “foreign dividends” has the same meaning as in section 159 of the Taxes Act.

(5) Subsection (1) above has effect in relation to dividends paid after the passing of this Act, and subsection (2) above has effect in relation to foreign dividends paid after the passing of this Act.

49.—(1) With respect to accounting periods beginning on or after 3rd June 1986, section 100 of the Finance Act 1972 (double taxation relief: advance corporation tax) shall be amended in accordance with this section. Double taxation relief: advance corporation tax.

(2) In subsection (6) (set-off of advance corporation tax against liability to corporation tax on income subject to foreign tax) for paragraphs (b) and (c) there shall be substituted— 1972 c. 41.

“(b) the amount of advance corporation tax which may be set against that liability, so far as it relates to the relevant income, shall not exceed whichever is the lower of the limits specified in subsection (6A) below”;

and in the words following paragraph (c), the words from “if the limit” to “the relevant income and” shall be omitted.

(3) After subsection (6) there shall be inserted the following subsection—

“(6A) In relation to an amount of income in respect of which the company’s liability to corporation tax is taken to be reduced as mentioned in paragraph (a) of subsection (6) above, the limits referred to in paragraph (b) of that subsection are—

- (a) the limit which would apply under section 85(2) above if that amount of income were the company’s only income for the relevant accounting period; and
- (b) the amount of corporation tax for which, after taking account of the said reduction, the company is liable in respect of that amount of income.”

50.—(1) Part II of Schedule 19 to the Finance Act 1984 (offshore funds: modifications of conditions for certification in certain cases) shall have effect subject to the provisions of this section. Offshore funds: conditions of certification.

(2) In paragraph 11 (which relates to cases of offshore funds with certain wholly-owned subsidiaries) for paragraphs (a) and

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(b) of sub-paragraph (1) (which restrict the application of the paragraph to wholly-owned subsidiaries which deal in commodities) there shall be substituted the words “which is a company”.

(3) At the beginning of sub-paragraph (2) of paragraph 11 (definition of “wholly-owned subsidiary of an offshore fund”) there shall be inserted the words “Subject to sub-paragraph (2A) below”.

(4) After sub-paragraph (2) of paragraph 11 there shall be inserted the following sub-paragraph—

“(2A) In the case of a company which has only one class of issued share capital, the reference in sub-paragraph (2) above to the whole of the issued share capital shall be construed as a reference to at least 95 per cent. of that share capital.”

(5) In sub-paragraph (3) of paragraph 11 (the modifications applicable in relation to wholly-owned subsidiaries)—

(a) at the beginning of paragraph (a) there shall be inserted the words “that percentage of”; and

(b) in paragraph (a) after the word “subsidiary” there shall be inserted “which is equal to the percentage of the issued share capital of the company concerned which is owned as mentioned in sub-paragraph (2) above”.

(6) After paragraph 12 there shall be inserted the following paragraph—

“Disregard of certain investments forming less than 5 per cent. of a fund

12A.—(1) In any case where—

(a) in any account period of an offshore fund, the assets of the fund include a holding of issued share capital (or any class of issued share capital) of a company, and

(b) that holding is such that, by virtue of section 95(3)(c) of this Act, the fund could not (apart from this paragraph) be certified as a distributing fund in respect of that account period,

then, if the condition in sub-paragraph (3) below is fulfilled, that holding shall be disregarded for the purposes of the said section 95(3)(c).

(2) In this paragraph any holding falling within sub-paragraph (1) above is referred to as an “excess holding”.

(3) The condition referred to in sub-paragraph (1) above is that at no time in the account period in question does that portion of the fund which consists of—

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- (a) excess holdings, and
- (b) interests in other offshore funds which are not qualifying funds,

exceed 5 per cent. by value of all the assets of the fund.”

(7) This section has effect with respect to periods which—

- (a) for the purposes of Chapter VII of Part II of the Finance Act 1984 are account periods of offshore funds; and 1984 c. 43.
- (b) end after the passing of this Act.

51.—(1) For section 377 of the Taxes Act (under which certain annuities payable by way of compensation for National-Socialist persecution are not regarded as income for any income tax purpose) there shall be substituted the following section—

Pensions paid to victims of National-Socialist persecution.

“377. Annuities and pensions payable under any special provision for victims of National-Socialist persecution which is made by the law of the Federal Republic of Germany or any part of it or of Austria shall not be regarded as income for any income tax purpose.”

(2) This section has effect for the year 1986–87 and subsequent years of assessment.

52.—(1) So much of any relevant pension or allowance as is attributable to any general increase taking effect in the year 1986–87 shall be left out of account for all the purposes of income tax charged for that year but not for the purpose of furnishing information relating to any person’s income for that year.

Temporary disregard of increase in certain pensions and allowances.

(2) For the purposes of this section a pension or allowance is a relevant pension or allowance if it is payable under the Social Security Act 1975, or the Social Security (Northern Ireland) Act 1975, and (in either case) is one of the following—

1975 c. 14.
1975 c. 15.

- (a) a retirement pension;
- (b) a widow’s allowance;
- (c) a widowed mother’s allowance;
- (d) a widow’s pension;
- (e) an invalid care allowance;
- (f) an industrial death benefit by way of widow’s or widower’s pension.

53.—(1) Where, under Chapter II of Part I of the Finance Act 1985 (value added tax), a person is liable to make a payment by way of—

Tax treatment of VAT penalties etc and repayment supplement.
1985 c. 54.

- (a) penalty under any of sections 13 to 17, or

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(b) interest under section 18, or

(c) surcharge under section 19,

the payment shall not be allowed as a deduction in computing any income, profits or losses for any tax purposes.

1985 c. 54.

(2) A sum paid to any person by way of supplement under section 20 of the Finance Act 1985 (repayment supplement in respect of certain delayed value added tax payments) shall be disregarded for all purposes of corporation tax and income tax.

Associated
companies: oil
and gas
industry.

1975 c. 22.

54.—(1) At the end of section 19 of the Oil Taxation Act 1975 (definitions relating to the corporation tax provisions of that Act) there shall be added the following subsection—

“(4) Without prejudice to subsection (3) above, for the purposes of this Part of this Act, two companies are also associated with one another if one has control of the other or both are under the control of the same person or persons; and in this subsection “control” shall be construed in accordance with section 302 of the Taxes Act.”

(2) This section has effect in relation to any allowance or distribution made, interest paid or other thing done after 18th March 1986.

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CAPITAL ALLOWANCES

New code of
allowances for
capital
expenditure on
mineral
extraction.
1968 c. 3.

55.—(1) The provisions of Chapter III of Part I of the Capital Allowances Act 1968 (which relate to allowances for certain capital expenditure incurred in connection with mineral extraction activities and which are in this section referred to as “the old code of allowances”) shall cease to have effect on 31st March 1986 except as provided by Schedule 14 to this Act.

(2) The provisions of Parts I to IV of Schedule 13 to this Act have effect to provide for relief in respect of certain new expenditure incurred by persons carrying on a trade of mineral extraction; and the provisions of Schedule 14 to this Act have effect with respect to certain expenditure incurred before 1st April 1987 by persons carrying on such a trade.

(3) Subject to paragraph 2 of Schedule 14 to this Act, for the purposes of the old code of allowances, the following provisions of this section and Schedules 13 and 14 to this Act, as respects any company which on 31st March 1986 was carrying on a trade of mineral extraction, it shall be assumed that, unless the latest accounting period of the company which begins on or before 31st March 1986 in fact ends on that date,—

- (a) that accounting period ends on that date; and
- (b) a new one begins on 1st April 1986, the new accounting period to end with the end of the true accounting period.

(4) Subject to paragraph 2 of Schedule 14 to this Act, for the purposes of the provisions referred to in subsection (3) above as they apply to a person who on 31st March 1986 was within the charge to income tax in respect of the profits or gains of a trade of mineral extraction carried on by him, it shall be assumed that, unless the latest basis period of his (determined in accordance with section 72 of the Capital Allowances Act 1968) which 1968 c. 3. begins on or before 31st March 1986 in fact ends on that date,—

- (a) that basis period ends on that date; and
- (b) a new basis period begins on 1st April 1986, the new basis period to end with the end of the true basis period.

(5) In any case where—

- (a) new expenditure is incurred by any person on the provision of machinery or plant for the purposes of mineral exploration and access, as defined in paragraph 1 of Schedule 13 to this Act, and
- (b) that expenditure is so incurred before the first day on which that person begins to carry on a trade of mineral extraction, and
- (c) on that first day the machinery or plant belongs to him, and does not fall within paragraph 5(1)(d) of Schedule 13 to this Act,

that person shall be treated for the purposes of Chapter I of Part III of the Finance Act 1971 (the normal code applicable to 1971 c. 68. machinery or plant) and section 57 of the Finance Act 1985 1985 c. 54. (short-life assets) as if he had sold the machinery or plant immediately before that first day and had on that first day incurred capital expenditure on the provision of the machinery or plant wholly and exclusively for the purposes of the trade, being expenditure equal to the expenditure incurred (or, where there has been an actual previous sale and re-acquisition, last incurred) as mentioned in paragraph (a) above.

(6) For the purpose of the application of Chapter I of Part III of the Finance Act 1971—

1971 c. 68.

- (a) in relation to expenditure treated by virtue of subsection (5) above as incurred on the first day on which a person begins to carry on a trade of mineral extraction, and
- (b) in relation to expenditure actually incurred on or after that day on the provision of machinery or plant for the purposes of mineral exploration and access,

that Chapter shall have effect subject to the amendments in subsection (7) below.

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1971 c. 68.

(7) The amendments referred to in subsection (6) above are—

(a) in section 50 of the Finance Act 1971 (the interpretation provisions applicable to allowances relating to machinery or plant) in subsection (1), after the definition of “income” there shall be inserted—

“ ‘mineral exploration and access’ and ‘trade of mineral extraction’ have the same meaning as in Schedule 13 to the Finance Act 1986”;

(b) after subsection (7) of that section there shall be inserted the following subsection—

“(7A) For the purposes of this Chapter, where a person is carrying on a trade of mineral extraction, expenditure incurred by him in connection with that trade on the provision of machinery or plant for mineral exploration and access shall be taken to be incurred on the provision of the machinery or plant wholly and exclusively for the purposes of that trade”;

(c) in section 44(5) of that Act (disposal values) at the end of sub-paragraph (ii) of paragraph (c) there shall be added the words “or, in the case of machinery or plant which was in use for mineral exploration and access, he abandons the machinery or plant at the site where it was in use for that purpose”; and

(d) in paragraph 7 of Schedule 8 to that Act (use after user not attracting capital allowances etc.) sub-paragraph (2) (which relates to machinery or plant used for mineral exploration etc.) shall be omitted.

(8) In this section—

“new expenditure” means, subject to Schedule 14 to this Act, expenditure incurred on or after 1st April 1986;

“old expenditure” means expenditure which is not new expenditure; and

“trade of mineral extraction” has the meaning assigned to it by paragraph 1 of Schedule 13 to this Act.

(9) In consequence of and in connection with the provisions of this section and Parts I to IV of Schedule 13, the amendments in Part V of that Schedule shall have effect.

Agricultural
land and
buildings.

1968 c. 3.

56.—(1) With respect to capital expenditure incurred on or after 1st April 1986, other than expenditure under existing contracts, the provisions of Schedule 15 to this Act shall have effect in place of section 68 of the Capital Allowances Act 1968 (allowances for capital expenditure on construction of agricultural buildings and works etc.).

(2) In subsection (1) above “expenditure under existing contracts” means expenditure which—

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(a) consists of the payment of sums under a contract entered into on or before 13th March 1984 by the person incurring the expenditure; and

(b) is incurred before 1st April 1987.

(3) The preceding provisions of this section and Schedule 15 to this Act shall be construed as if they were included in Part I of the Capital Allowances Act 1968.

1968 c. 3.

(4) In section 69 of the Capital Allowances Act 1968—

(a) after the words “section 68 above” there shall be inserted “and Schedule 15 to the Finance Act 1986”; and

(b) at the end of the definition of “agricultural land” after the word “husbandry” there shall be inserted “(as defined below)”; and

(c) at the end of the section there shall be added—

“ ‘husbandry’ includes any method of intensive rearing of livestock or fish on a commercial basis for the production of food for human consumption.”

(5) Where an allowance is or has been made under Schedule 15 to this Act in respect of any capital expenditure, none of that expenditure shall be taken into account in determining qualifying expenditure for the purpose of any allowance or charge under section 44 of the Finance Act 1971 (machinery and plant); and where such an allowance or charge is or has been made by reference to an amount of qualifying expenditure which took account of a particular amount of capital expenditure, that capital expenditure shall be left out of account for the purposes of Schedule 15 to this Act.

1971 c. 68.

(6) Any reference to Chapter V of Part I of the Capital Allowances Act 1968 in—

(a) section 14 of that Act (exclusion of double allowances), and

(b) section 85 of that Act (allowances in respect of contributions to capital expenditure), and

(c) paragraph 11 of Schedule 12 to the Finance Act 1982 (capital allowances for dwelling-houses let on assured tenancies),

1982 c. 39.

includes a reference to Schedule 15 to this Act; and the reference to section 68 of the said Act of 1968 in section 75 thereof (writing-down allowances during a period of specified length) includes a reference to that Schedule.

(7) In the following provisions—

(a) sections 155(8), 180(7), 227(4), 252(2) and 352(4) of the Taxes Act,

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- 1979 c. 14. (b) the definition of “capital allowance” in section 526(5) of the Taxes Act,
 (c) section 31(2) of the Capital Gains Tax Act 1979, and
 (d) the definition of “capital allowance” in subsection (4) of section 34 of the said Act of 1979,
- 1968 c. 3. any reference to the Capital Allowances Act 1968 or to Part I thereof includes a reference to Schedule 15 to this Act.

New expenditure on leased assets etc.

57.—(1) The provisions of subsections (4) to (8) below and Schedule 16 to this Act (which relate to allowances in respect of expenditure on the provision of machinery or plant for leasing and on the provision of certain vehicles) shall have effect with respect to new expenditure, as defined in subsections (2) and (3) below.

(2) In this section and Schedule 16 to this Act, new expenditure means expenditure incurred on or after 1st April 1986, other than—

- 1984 c. 43. (a) expenditure to which, by virtue of sub-paragraph (2) of paragraph 2 of Schedule 12 to the Finance Act 1984 (expenditure incurred under contracts entered into on or before 13th March 1984), sub-paragraph (1) of that paragraph (progressive withdrawal of first-year allowances) does not apply; and
 (b) expenditure to which, by virtue of paragraph 4 of that Schedule (transitional relief for regional projects) Part I of that Schedule does not apply; and
 (c) expenditure falling within paragraph 7 of Schedule 12 to the Finance Act 1980 (television sets, etc); and
 (d) expenditure excluded by subsection (3) below;
- 1980 c. 48.

and any expenditure which, by virtue of paragraph 6 of Schedule 12 to the Finance Act 1984 (spreading of expenditure under certain contracts) is deemed for the purposes of Chapter I of Part III of the Finance Act 1971 to be incurred on 1st April 1986 shall also be deemed to be incurred on that date for the purposes of this section and Schedule 16 to this Act.

1971 c. 68.

(3) In any case where—

- (a) before 1st April 1986 a person (in this subsection referred to as “the original lessor”) incurred expenditure on the provision of machinery or plant for leasing, and
 (b) on or after that date the machinery or plant ceases to belong to the original lessor on being acquired by an associate or successor of his, and
 (c) by virtue of subsection (9) of section 64 of the Finance Act 1980 (connected persons etc.), the machinery or

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plant is treated for the purposes of subsection (8) of that section (the requisite period) as continuing to belong to the original lessor so long as it belongs to his associate or successor,

expenditure incurred by his associate or successor on the acquisition of the machinery or plant is excluded from new expenditure; and in this subsection “associate or successor” means a person who, in relation to the original lessor, is of a description specified in paragraph (a) or paragraph (b) of the said subsection (9).

(4) Subject to subsection (7) below, the separate pooling provisions which are contained in sections 64 to 68 of the Finance Act 1980 and which are applicable to expenditure on machinery or plant which is not used for a qualifying purpose shall not apply to new expenditure but, for the purpose of maintaining a separate pool for expenditure falling within section 70 of the Finance Act 1982 (assets leased outside the United Kingdom) and for excluding from that section certain ships, aircraft and transport containers,—

- (a) sections 64 to 68 of the Finance Act 1980 shall have effect as amended by Part I of Schedule 16 to this Act;
- (b) section 70 of, and Schedule 11 to, the Finance Act 1982 shall have effect as amended by Part II of that Schedule; and
- (c) Part III of that Schedule shall have effect for supplementing the enactments amended by Parts I and II of that Schedule.

(5) In consequence of the preceding provisions of this section, in paragraph 8A of Schedule 8 to the Finance Act 1971 (writing-down allowances for ships) sub-paragraph (9) shall be omitted.

(6) In consequence of the preceding provisions of this section, but subject to subsection (7) below, in subsection (6)(b) of section 57 of the Finance Act 1985 (short-life assets: transfer of expenditure on asset beginning to be used otherwise than for a qualifying purpose)—

- (a) the words “(as it has effect in accordance with section 65 of the Finance Act 1980)” shall be omitted; and
- (b) for the words from “the separate trade” onwards there shall be substituted “his actual trade”.

(7) Notwithstanding anything in the preceding provisions of this section, section 44 of the Finance Act 1971 shall continue to apply separately with respect to expenditure on the provision of any vehicle falling within section 69 of the Finance Act 1980 (writing-down allowances for cars) and, accordingly,—

- (a) except where such a vehicle is used for the purpose of being leased to such a person as is referred to in paragraphs (a) and (b) of subsection (1) of section 70 of the

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1982 c. 39.

Finance Act 1982 and the leasing is not short-term leasing, within the meaning of that section, nothing in Parts I to III of Schedule 16 to this Act applies with respect to any such expenditure; and

- (b) the amendments made by subsection (6) above do not apply where the asset in question is a vehicle falling within section 69 of the Finance Act 1980.

1980 c. 48.

1984 c. 43.

(8) In consequence of the withdrawal of first-year allowances by section 58 of, and Schedule 12 to, the Finance Act 1984, section 69 of the Finance Act 1980 shall be amended, with respect to new expenditure, in accordance with Part IV of Schedule 16 to this Act.

(9) In section 64 of the Finance Act 1980, as it has effect where—

- (a) the expenditure on the provision of machinery or plant referred to in subsection (1) of that section is not new expenditure, but
- (b) the notional purchase of the machinery or plant by the lessee which is referred to in subsection (2)(a) of that section would at any time mean the incurring of new expenditure,

after the words “could have been made to the lessee” there shall be inserted “(disregarding for this purpose paragraph 2 of Schedule 12 to the Finance Act 1984)”.

1985 c. 54.

(10) In section 56 of the Finance Act 1985 (time when capital expenditure is incurred) at the end of subsection (1) there shall be added “and

- (e) section 57 of the Finance Act 1986”.

CHAPTER III

CAPITAL GAINS

Gifts into dual resident trusts.

58.—(1) This section applies where there is or has been a disposal of an asset to the trustees of a settlement in such circumstances that, on a claim for relief, section 79 of the Finance Act 1980 (general relief for gifts) applies, or would but for this section apply, so as to reduce the amounts of the chargeable gain and the consideration referred to in subsection (1) of that section.

(2) In this section—

- (a) “a relevant disposal” means such a disposal as is referred to in subsection (1) above; and

(b) “the 1980 provision” means section 79 of the Finance Act 1980. 1980 c. 48.

(3) Relief under the 1980 provision shall not be available on a relevant disposal occurring on or after 18th March 1986 if—

(a) at the material time the trustees to whom the disposal is made fall to be treated, under section 52 of the Capital Gains Tax Act 1979, as resident and ordinarily resident in the United Kingdom, although the general administration of the trust is ordinarily carried on outside the United Kingdom; and 1979 c. 14.

(b) on a notional disposal of the asset concerned occurring immediately after the material time, the trustees would be regarded for the purposes of any double taxation relief arrangements—

(i) as resident in a territory outside the United Kingdom; and

(ii) as not liable in the United Kingdom to tax on a gain arising on that disposal.

(4) In subsection (3) above—

(a) “the material time” means the time of the relevant disposal;

(b) a “notional disposal” means a disposal by the trustees of the asset which was the subject of the relevant disposal; and

(c) “double taxation relief arrangements” means arrangements having effect by virtue of section 497 of the Taxes Act (as extended to capital gains tax by section 10 of the Capital Gains Tax Act 1979). 1979 c. 14.

(5) In any case where—

(a) relief under the 1980 provision has been allowed on a claim relating to a relevant disposal, (whether occurring before, on or after 18th March 1986), and

(b) at a time subsequent to that relevant disposal, but not earlier than 18th March 1986, the circumstances become such that paragraphs (a) and (b) of subsection (3) above would apply if that time were the material time referred to in that subsection, and

(c) section 79 of the Finance Act 1981 (which provides for the recovery of relief under the 1980 provision in the event of the emigration of the donee) has not had effect in relation to the relevant disposal before that time and 1981 c. 35.

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would not (apart from this subsection) have effect at that time,

1981 c. 35.

section 79 of the Finance Act 1981 shall have effect as if, at that time, the trustees had become neither resident nor ordinarily resident in the United Kingdom.

Disposals of options and contracts for gilt-edged securities etc.
1979 c. 14.

59. With respect to disposals occurring on or after 2nd July 1986, for section 67 of the Capital Gains Tax Act 1979 there shall be substituted the following section—

“Exemptions for gilt-edged securities and qualifying corporate bonds etc.

67.—(1) A gain which accrues on the disposal by any person of—

- (a) gilt-edged securities or qualifying corporate bonds, or
- (b) any option or contract to acquire or dispose of gilt-edged securities or qualifying corporate bonds,

shall not be a chargeable gain.

(2) In subsection (1) above the reference to the disposal of a contract to acquire or dispose of gilt-edged securities or qualifying corporate bonds is a reference to the disposal of the outstanding obligations under such a contract.

(3) Without prejudice to section 72(3) of the Finance Act 1985 (closing out of certain futures contracts dealt in on a recognised futures exchange), where a person who has entered into any such contract as is referred to in subsection (1)(b) above closes out that contract by entering into another contract with obligations which are reciprocal to those of the first-mentioned contract, that transaction shall for the purposes of this section constitute the disposal of an asset, namely, his outstanding obligations under the first-mentioned contract.”

Small part disposals.

60.—(1) In section 107 of the Capital Gains Tax Act 1979 (small part disposals) in subsection (1) for the words “is small, as compared with” there shall be substituted “does not exceed one-fifth of”.

(2) This section applies to disposals on or after 6th April 1986.

CHAPTER IV

SECURITIES

Stock lending.

61.—(1) Subject to subsection (5) below, this section applies where a person (A) has contracted to sell securities and, to enable him to fulfil the contract, he enters into an arrangement under which—

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- (a) another person (B) is to transfer securities to A or his nominee, and
- (b) in return securities of the same kind and amount are to be transferred (whether or not by A or his nominee) to B or his nominee.

(2) Subject to subsection (5) below, this section also applies where, to enable B to make the transfer to A or his nominee, B enters into an arrangement under which—

- (a) another person (C) is to transfer securities to B or his nominee, and
- (b) in return securities of the same kind and amount are to be transferred (whether or not by B or his nominee) to C or his nominee.

(3) Any transfer made in pursuance of an arrangement mentioned in subsection (1) or (2) above shall not be taken into account for the purposes of the Tax Acts in computing the profits or losses of any trade carried on by the transferor or transferee.

(4) Any disposal and acquisition made in pursuance of an arrangement mentioned in subsection (1) or (2) above shall be disregarded for the purposes of capital gains tax.

(5) The Treasury may provide by regulations that this section, or any provision of it, does not apply unless such conditions as are specified in the regulations are fulfilled; and the conditions may relate to the capacity in which any person involved in any arrangement is acting, the Board's approval of any such person or of the arrangement, the nature of the securities, or otherwise.

(6) This section applies to transfers made after such date as is specified for this purpose by regulations under this section.

(7) In this section "securities" includes stocks and shares.

(8) The power to make regulations under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.

62. Schedule 17 to this Act (which contains amendments of Amendments of Finance Act 1985 about securities) shall have effect. 1985.

1985 c. 54.

63. Schedule 18 to this Act (which contains other provisions about securities) shall have effect. Other provisions.

PART III

STAMP DUTY

Securities

Stock or marketable securities: reduction of rate.

1963 c. 25.

1963 c. 22

(N.I.).

64.—(1) In section 55 of the Finance Act 1963 and in section 4 of the Finance Act (Northern Ireland) 1963 (duty on conveyance or transfer on sale) after subsection (1) there shall be inserted—

“(1A) In relation to duty chargeable under or by reference to the heading mentioned in subsection (1) above as it applies to a conveyance or transfer of stock or marketable securities, that subsection shall have effect as if for the words from “following rates” to the end of paragraph (c) there were substituted the words “rate of 50p for every £100 or part of £100 of the consideration”.

(2) Accordingly—

- (a) in subsection (1) of each of those sections for the words “(2) and” there shall be substituted the words “(1A) to”;
- (b) in subsection (2) of each of those sections for the words from “under” to “by reference to that heading” there shall be substituted the words “by reference to the heading mentioned in subsection (1) above.”

(3) This section applies to any instrument executed in pursuance of a contract made on or after the day on which the rule of The Stock Exchange that prohibits a person from carrying on business as both a broker and a jobber is abolished.

Bearers: consequential provisions etc. 1891 c. 39.

65.—(1) In the heading “Bearer Instrument” in Schedule 1 to the Stamp Act 1891, in column (2) (duty on certain overseas bearer instruments twice the transfer duty) for the word “twice” there shall be substituted the words “three times”.

(2) The following shall be inserted at the end of section 59(3) of the Finance Act 1963 (meaning of “transfer duty” for purposes of “Bearer Instrument” heading)—

“; and the instrument so postulated shall be taken to transfer the stock on the day of issue or transfer (depending on whether section 60(1) or (2) of this Act applies) and to be executed in pursuance of a contract made on that day.”

(3) The following shall be inserted at the end of section 8(3) of the Finance Act (Northern Ireland) 1963 (equivalent provision for Northern Ireland)—

“; and the instrument so postulated shall be taken to transfer the stock on the day of issue or transfer (depending on whether paragraph (a) or (b) of section 9(1) applies) and

to be executed in pursuance of a contract made on that day.”

(4) This section applies to any instrument which falls within section 60(1) of the Finance Act 1963 and is issued on or after the day of The Stock Exchange reforms. 1963 c. 25.

(5) This section applies to any instrument which falls within section 60(2) of that Act if the stock constituted by or transferable by means of it is transferred on or after the day of The Stock Exchange reforms.

(6) In this section “the day of The Stock Exchange reforms” means the day on which the rule of The Stock Exchange that prohibits a person from carrying on business as both a broker and a jobber is abolished.

(7) In subsection (4) above the reference to section 60(1) of the Finance Act 1963 includes a reference to section 9(1)(a) of the Finance Act (Northern Ireland) 1963 and in subsection (5) above the reference to section 60(2) of the former Act includes a reference to section 9(1)(b) of the latter. 1963 c. 22 (N.I.).

66.—(1) This section applies where a company purchases its own shares under section 162 of the Companies Act 1985 or Article 47 of the Companies (Northern Ireland) Order 1982. Company's purchase of own shares. 1985 c. 6.

(2) The return which relates to the shares purchased and is delivered to the registrar of companies under section 169 of that Act or, as the case may be, Article 53 of that Order shall be charged with stamp duty, and treated for all purposes of the Stamp Act 1891, as if it were an instrument transferring the shares on sale to the company in pursuance of the contract (or contracts) of purchase concerned. S.I. 1982/1534 (N.I. 17). 1891 c. 39.

(3) Subject to subsection (4) below, this section applies to any return under section 169 of the Companies Act 1985, or Article 53 of the Companies (Northern Ireland) Order 1982, which is delivered to the registrar of companies on or after the day of The Stock Exchange reforms.

(4) This section does not apply to any return to the extent that the shares to which it relates were purchased under a contract entered into before the day of The Stock Exchange reforms.

(5) In this section “the day of The Stock Exchange reforms” means the day on which the rule of The Stock Exchange that prohibits a person from carrying on business as both a broker and a jobber is abolished.

PART III

Depository receipts

Depository receipts.

67.—(1) Subject to subsection (9) below, subsection (2) or (3) below (as the case may be) applies where an instrument transfers relevant securities of a company incorporated in the United Kingdom to a person who at the time of the transfer falls within subsection (6), (7) or (8) below.

1891 c. 39.

(2) If stamp duty is chargeable on the instrument under the heading “Conveyance or Transfer on Sale” in Schedule 1 to the Stamp Act 1891, the rate at which the duty is charged under that heading shall be the rate of £1·50 for every £100 or part of £100 of the amount or value of the consideration for the sale to which the instrument gives effect.

(3) If stamp duty is chargeable on the instrument under the heading “Conveyance or Transfer of any kind not hereinbefore described” in Schedule 1 to the Stamp Act 1891, the rate at which the duty is charged under that heading shall (subject to subsections (4) and (5) below) be the rate of £1·50 for every £100 or part of £100 of the value of the securities at the date the instrument is executed.

(4) Subsection (3) above shall have effect as if “£1·50” read “£1” in a case where—

- (a) at the time of the transfer the transferor is a qualified dealer in securities of the kind concerned or a nominee of such a qualified dealer,
- (b) the transfer is made for the purposes of the dealer’s business,
- (c) at the time of the transfer the dealer is not a market maker in securities of the kind concerned, and
- (d) the instrument contains a statement that paragraphs (a) to (c) above are fulfilled.

(5) In a case where—

- (a) securities are issued, or securities sold are transferred, and (in either case) they are to be paid for in instalments,
- (b) the person to whom they are issued or transferred holds them and transfers them to another person when the last instalment is paid,
- (c) the transfer to the other person is effected by an instrument in the case of which subsection (3) above applies,
- (d) before the execution of the instrument mentioned in paragraph (c) above an instrument is received by a person falling (at the time of the receipt) within subsection (6), (7) or (8) below,
- (e) the instrument so received evidences all the rights which (by virtue of the terms under which the securities are issued or sold as mentioned in paragraph (a) above) subsist in respect of them at the time of the receipt, and

- (f) the instrument mentioned in paragraph (c) above contains a statement that paragraphs (a), (b) and (e) above are fulfilled,

subsection (3) above shall have effect as if the reference to the value there mentioned were to an amount (if any) equal to the total of the instalments payable, less those paid before the transfer to the other person is effected.

(6) A person falls within this subsection if his business is exclusively that of holding relevant securities—

(a) as nominee or agent for a person whose business is or includes issuing depositary receipts for relevant securities, and

(b) for the purposes of such part of the business mentioned in paragraph (a) above as consists of issuing such depositary receipts (in a case where the business does not consist exclusively of that).

(7) A person falls within this subsection if—

(a) he is specified for the purposes of this subsection by the Treasury by order made by statutory instrument, and

(b) his business is or includes issuing depositary receipts for relevant securities.

(8) A person falls within this subsection if—

(a) he is specified for the purposes of this subsection by the Treasury by order made by statutory instrument,

(b) he does not fall within subsection (6) above but his business includes holding relevant securities as nominee or agent for a person who falls within subsection (7)(b) above at the time of the transfer, and

(c) he holds relevant securities as nominee or agent for such a person, for the purposes of such part of that person's business as consists of issuing depositary receipts for relevant securities (in a case where that business does not consist exclusively of that).

(9) Where an instrument transfers relevant securities of a company incorporated in the United Kingdom—

(a) to a company which at the time of the transfer falls within subsection (6) above and is resident in the United Kingdom, and

(b) from a company which at that time falls within that subsection and is so resident,

subsections (2) to (5) above shall not apply and the maximum stamp duty chargeable on the instrument shall be 50p.

(10) This section applies to any instrument executed on or after the day on which the rule of The Stock Exchange that

PART III

prohibits a person from carrying on business as both a broker and a jobber is abolished.

Depository receipts: notification.

68.—(1) A person whose business is or includes issuing depository receipts for relevant securities of a company incorporated in the United Kingdom shall notify the Commissioners of that fact before the end of the period of one month beginning with the date on which he first issues such depository receipts.

(2) A person whose business includes (but does not exclusively consist of) holding relevant securities (being securities of a company incorporated in the United Kingdom)—

- (a) as nominee or agent for a person whose business is or includes issuing depository receipts for relevant securities, and
- (b) for the purposes of such part of the business mentioned in paragraph (a) above as consists of issuing such depository receipts (in a case where the business does not consist exclusively of that),

shall notify the Commissioners of that fact before the end of the period of one month beginning with the date on which he first holds such relevant securities as such a nominee or agent and for such purposes.

(3) A company which is incorporated in the United Kingdom and becomes aware that any shares in the company are held by a person such as is mentioned in subsection (1) or (2) above shall notify the Commissioners of that fact before the end of the period of one month beginning with the date on which the company first becomes aware of that fact.

(4) A person who fails to comply with subsection (1) or (2) above shall be liable to a fine not exceeding £1,000.

(5) A company which fails to comply with subsection (3) above shall be liable to a fine not exceeding £100.

1891 c. 39.

(6) Section 121 of the Stamp Act 1891 (recovery of penalties) shall apply to fines under subsection (4) or (5) above as it applies to fines imposed by that Act.

Depository receipts: supplementary.

69.—(1) For the purposes of sections 67 and 68 above a depository receipt for relevant securities is an instrument acknowledging—

- (a) that a person holds relevant securities or evidence of the right to receive them, and
- (b) that another person is entitled to rights, whether expressed as units or otherwise, in or in relation to relevant securities of the same kind, including the right to receive

such securities (or evidence of the right to receive them) from the person mentioned in paragraph (a) above,

except that for those purposes a depositary receipt for relevant securities does not include an instrument acknowledging rights in or in relation to securities if they are issued or sold under terms providing for payment in instalments and for the issue of the instrument as evidence that an instalment has been paid.

(2) The Treasury may by regulations provide that for subsection (1) above (as it has effect for the time being) there shall be substituted a subsection containing a different definition of a depositary receipt for the purposes of sections 67 and 68 above.

(3) References in this section and sections 67 and 68 above to relevant securities, or to relevant securities of a company, are to shares in or stock or marketable securities of any company (which, unless otherwise stated, need not be incorporated in the United Kingdom).

(4) For the purposes of section 67(3) above the value of securities at the date the instrument is executed shall be taken to be the price they might reasonably be expected to fetch on a sale at that time in the open market.

(5) Where section 67(3) above applies, section 15(2) of the Stamp Act 1891 (stamping of instruments after execution) shall have effect as if the instrument were specified in the first column of the table in paragraph (d) and the transferee were specified (opposite the instrument) in the second. 1891 c. 39.

(6) For the purposes of section 67(4) above a person is a qualified dealer in securities of a particular kind if he deals in securities of that kind and—

- (a) is a member of a recognised stock exchange (within the meaning given by section 535 of the Taxes Act), or
- (b) is designated a qualified dealer by order made by the Treasury.

(7) For the purposes of section 67(4) above a person is a market maker in securities of a particular kind if he—

- (a) holds himself out at all normal times in compliance with the rules of The Stock Exchange as willing to buy and sell securities of that kind at a price specified by him, and
- (b) is recognised as doing so by the Council of The Stock Exchange.

(8) The Treasury may by regulations provide that for subsection (7) above (as it has effect for the time being) there shall be substituted a subsection containing a different definition of a market maker for the purposes of section 67(4) above.

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(9) The power to make regulations or an order under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.

Clearance services

Clearance
services.

70.—(1) Subject to subsection (9) below, subsection (2) or (3) below (as the case may be) applies where an instrument transfers relevant securities of a company incorporated in the United Kingdom to a person who at the time of the transfer falls within subsection (6), (7) or (8) below.

1891 c. 39.

(2) If stamp duty is chargeable on the instrument under the heading “Conveyance or Transfer on Sale” in Schedule 1 to the Stamp Act 1891, the rate at which the duty is charged under that heading shall be the rate of £1.50 for every £100 or part of £100 of the amount or value of the consideration for the sale to which the instrument gives effect.

(3) If stamp duty is chargeable on the instrument under the heading “Conveyance or Transfer of any kind not hereinbefore described” in Schedule 1 to the Stamp Act 1891, the rate at which the duty is charged under that heading shall (subject to subsections (4) and (5) below) be the rate of £1.50 for every £100 or part of £100 of the value of the securities at the date the instrument is executed.

(4) Subsection (3) above shall have effect as if “£1.50” read “£1” in a case where—

- (a) at the time of the transfer the transferor is a qualified dealer in securities of the kind concerned or a nominee of such a qualified dealer,
- (b) the transfer is made for the purposes of the dealer’s business,
- (c) at the time of the transfer the dealer is not a market maker in securities of the kind concerned, and
- (d) the instrument contains a statement that paragraphs (a) to (c) above are fulfilled.

(5) In a case where—

- (a) securities are issued, or securities sold are transferred, and (in either case) they are to be paid for in instalments,
- (b) the person to whom they are issued or transferred holds them and transfers them to another person when the last instalment is paid,
- (c) the transfer to the other person is effected by an instrument in the case of which subsection (3) above applies,
- (d) before the execution of the instrument mentioned in paragraph (c) above an instrument is received by a person

falling (at the time of the receipt) within subsection (6), (7) or (8) below,

- (e) the instrument so received evidences all the rights which (by virtue of the terms under which the securities are issued or sold as mentioned in paragraph (a) above) subsist in respect of them at the time of the receipt, and
- (f) the instrument mentioned in paragraph (c) above contains a statement that paragraphs (a), (b) and (e) above are fulfilled,

subsection (3) above shall have effect as if the reference to the value there mentioned were to an amount (if any) equal to the total of the instalments payable, less those paid before the transfer to the other person is effected.

(6) A person falls within this subsection if his business is exclusively that of holding relevant securities—

- (a) as nominee or agent for a person whose business is or includes the provision of clearance services for the purchase and sale of relevant securities, and
- (b) for the purposes of such part of the business mentioned in paragraph (a) above as consists of the provision of such clearance services (in a case where the business does not consist exclusively of that).

(7) A person falls within this subsection if—

- (a) he is specified for the purposes of this subsection by the Treasury by order made by statutory instrument, and
- (b) his business is or includes the provision of clearance services for the purchase and sale of relevant securities.

(8) A person falls within this subsection if—

- (a) he is specified for the purposes of this subsection by the Treasury by order made by statutory instrument,
- (b) he does not fall within subsection (6) above but his business includes holding relevant securities as nominee or agent for a person who falls within subsection (7)(b) above at the time of the transfer, and
- (c) he holds relevant securities as nominee or agent for such a person, for the purposes of such part of that person's business as consists of the provision of clearance services for the purchase and sale of relevant securities (in a case where that business does not consist exclusively of that).

(9) Where an instrument transfers relevant securities of a company incorporated in the United Kingdom—

- (a) to a company which at the time of the transfer falls within subsection (6) above and is resident in the United Kingdom, and

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(b) from a company which at that time falls within that subsection and is so resident,

subsections (2) to (5) above shall not apply and the maximum stamp duty chargeable on the instrument shall be 50p.

(10) This section applies to any instrument executed on or after the day on which the rule of The Stock Exchange that prohibits a person from carrying on business as both a broker and a jobber is abolished.

Clearance
services:
notification.

71.—(1) A person whose business is or includes the provision of clearance services for the purchase and sale of relevant securities of a company incorporated in the United Kingdom shall notify the Commissioners of that fact before the end of the period of one month beginning with the date on which he first provides such clearance services.

(2) A person whose business includes (but does not exclusively consist of) holding relevant securities (being securities of a company incorporated in the United Kingdom)—

(a) as nominee or agent for a person whose business is or includes the provision of clearance services for the purchase and sale of relevant securities, and

(b) for the purposes of such part of the business mentioned in paragraph (a) above as consists of the provision of such clearance services (in a case where the business does not consist exclusively of that),

shall notify the Commissioners of that fact before the end of the period of one month beginning with the date on which he first holds such relevant securities as such a nominee or agent and for such purposes.

(3) A company which is incorporated in the United Kingdom and becomes aware that any shares in the company are held by a person such as is mentioned in subsection (1) or (2) above shall notify the Commissioners of that fact before the end of the period of one month beginning with the date on which the company first becomes aware of that fact.

(4) A person who fails to comply with subsection (1) or (2) above shall be liable to a fine not exceeding £1,000.

(5) A company which fails to comply with subsection (3) above shall be liable to a fine not exceeding £100.

(6) Section 121 of the Stamp Act 1891 (recovery of penalties) shall apply to fines under subsection (4) or (5) above as it applies to fines imposed by that Act.

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72.—(1) References in sections 70 and 71 above to relevant securities, or to relevant securities of a company, are to shares in or stock or marketable securities of any company (which, unless otherwise stated, need not be incorporated in the United Kingdom). Clearance services: supplementary.

(2) For the purposes of section 70(3) above the value of securities at the date the instrument is executed shall be taken to be the price they might reasonably be expected to fetch on a sale at that time in the open market.

(3) Where section 70(3) above applies, section 15(2) of the Stamp Act 1891 (stamping of instruments after execution) shall have effect as if the instrument were specified in the first column of the table in paragraph (d) and the transferee were specified (opposite the instrument) in the second. 1891 c. 39.

(4) For the purposes of section 70(4) above “qualified dealer” and “market maker” have at any particular time the same meanings as they have at that time for the purposes of section 67(4) above.

Reconstructions and acquisitions

73.—(1) In section 55 of the Finance Act 1927 and in section 4 of the Finance Act (Northern Ireland) 1928 (reconstructions and amalgamations) in paragraph (B) of subsection (1) for the words “not be chargeable” there shall be substituted the words “be chargeable at the rate mentioned in subsection (9) of this section” and for the words “nor shall any such duty be chargeable” there shall be substituted the word “or”. Reconstructions etc: amendments. 1927 c. 10. 1928 c. 9 (N.I.).

(2) In consequence, each of those sections shall be further amended as follows—

- (a) at the beginning of paragraph (B) of subsection (1) there shall be inserted the words “If a claim is made under this section”;
- (b) in paragraph (a) of the proviso to subsection (1) the words from “either it” to “liable or” and from “either that” to “duty or” shall be omitted, and in paragraph (c) of that proviso the words “for exemption” shall be omitted;
- (c) in subsection (2) for the words “for exemption under paragraph (B) of subsection (1) of” there shall be substituted the word “under”;
- (d) in subsection (5) the words “for exemption” shall be omitted;
- (e) in subsection (6), in paragraph (a) the words “for exemption from duty” shall be omitted, in paragraph (c)

PART III

for the word “exemption” there shall be substituted the word “claim”, and in the words following paragraph (c) for the word “exemption” there shall be substituted the word “claim”, for the word “remitted” (in the first place where it occurs) there shall be substituted the word “unpaid” and the words from “in the case of duty remitted under paragraph (A)” to “the said subsection” shall be omitted;

(f) in subsection (7) for the words “for exemption from duty under subsection (1) of” there shall be substituted the word “under”, for the words “such exemption” there shall be substituted the words “such a claim to be allowed” and for the words “have been remitted” there shall be substituted the words “not have been chargeable”.

(3) At the end of each of those sections there shall be inserted—
 “(9) The rate is the rate of 50p for every £100 or part of £100 of the amount or value of the consideration for the sale to which the instrument gives effect.”

1980 c. 48.

(4) In paragraph 12 of Schedule 18 to the Finance Act 1980 (demergers) for sub-paragraph (1) there shall be substituted—

“(1) If a document executed solely for the purpose of effecting an exempt distribution is chargeable with stamp duty under the heading “Conveyance or Transfer on Sale” in Schedule 1 to the Stamp Act 1891, the rate at which the duty is charged under that heading shall be the rate of 50p for every £100 or part of £100 of the amount or value of the consideration for the sale to which the document gives effect.

1891 c. 39.

(1A) If a document executed solely for the purpose of effecting an exempt distribution is chargeable with stamp duty under the heading “Conveyance or Transfer on Sale” in Schedule 1 to the Stamp Act 1891, it shall not be treated as duly stamped unless it is stamped in accordance with section 12 of the Stamp Act 1891 with a particular stamp denoting that it is duly stamped.”

(5) In paragraph 12(3) of Schedule 18 to the Finance Act 1980 for the words “this paragraph” there shall be substituted the words “sub-paragraph (2) above”.

1985 c. 54.

(6) In section 78 of the Finance Act 1985 (takeovers) the following shall be substituted for subsection (2)—

“(2) If the instrument transferring the shares in company B by way of the exchange is chargeable with stamp duty under the heading “Conveyance or Transfer on Sale” in Schedule 1 to the Stamp Act 1891, the rate at which the

duty is charged under that heading shall be the rate of 50p for every £100 or part of £100 of the amount or value of the consideration for the sale to which the instrument gives effect.”

(7) In section 79 of the Finance Act 1985 (voluntary winding-up: transfer of shares) the following shall be substituted for subsection (2)— 1985 c. 54.

“(2) If the instrument transferring the shares in company B to company A is chargeable with stamp duty under the heading “Conveyance or Transfer on Sale” in Schedule 1 to the Stamp Act 1891, the rate at which the duty is charged under that heading shall be the rate of 50p for every £100 or part of £100 of the amount or value of the consideration for the sale to which the instrument gives effect.”

(8) In section 78 and in section 79 of the Finance Act 1985—

- (a) in subsection (3) for the word “ignored” there shall be substituted the words “treated as reduced by 50 per cent.”;
- (b) subsection (9) shall be omitted;
- (c) in subsection (10) for “(3)” there shall be substituted “(2) or (3)”.

(9) This section applies to any instrument which is executed after 24th March 1986 unless—

- (a) it is executed in pursuance of an unconditional contract made on or before 18th March 1986, or
- (b) it transfers stock or marketable securities and is executed in pursuance of a general offer (for the stock or securities) which became unconditional as to acceptances on or before 18th March 1986.

(10) This section shall be deemed to have come into force on 25th March 1986.

- 74.—(1) The following provisions shall cease to have effect—
- (a) section 55 of the Finance Act 1927 and section 4 of the Finance Act (Northern Ireland) 1928 (reconstructions and amalgamations); Reconstructions etc: repeals. 1927 c. 10. 1928 c. 9 (N.I.).
 - (b) paragraph 12(1) and (1A) of Schedule 18 to the Finance Act 1980 (demergers); 1980 c. 48.
 - (c) sections 78, 79 and 80 of the Finance Act 1985 (takeovers and winding-up).

(2) In paragraph 12(3) of Schedule 18 to the Finance Act 1980 for the words “sub-paragraph (2) above” there shall be substituted the words “this paragraph”.

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(3) This section applies to any instrument executed in pursuance of a contract made on or after the day on which the rule of The Stock Exchange that prohibits a person from carrying on business as both a broker and a jobber is abolished.

Acquisitions:
reliefs.

75.—(1) This section applies where a company (the acquiring company) acquires the whole or part of an undertaking of another company (the target company) in pursuance of a scheme for the reconstruction of the target company.

(2) If the first and second conditions (as defined below) are fulfilled, stamp duty under the heading “Conveyance or Transfer on Sale” in Schedule 1 to the Stamp Act 1891 shall not be chargeable on an instrument executed for the purposes of or in connection with the transfer of the undertaking or part.

1891 c. 39.

(3) An instrument on which stamp duty is not chargeable by virtue only of subsection (2) above shall not be taken to be duly stamped unless it is stamped with the duty to which it would be liable but for that subsection or it has, in accordance with section 12 of the Stamp Act 1891, been stamped with a particular stamp denoting that it is not chargeable with any duty.

(4) The first condition is that the registered office of the acquiring company is in the United Kingdom and that the consideration for the acquisition—

- (a) consists of or includes the issue of shares in the acquiring company to all the shareholders of the target company;
- (b) includes nothing else (if anything) but the assumption or discharge by the acquiring company of liabilities of the target company.

(5) The second condition is that—

- (a) the acquisition is effected for bona fide commercial reasons and does not form part of a scheme or arrangement of which the main purpose, or one of the main purposes, is avoidance of liability to stamp duty, income tax, corporation tax or capital gains tax,
- (b) after the acquisition has been made, each shareholder of each of the companies is a shareholder of the other, and
- (c) after the acquisition has been made, the proportion of shares of one of the companies held by any shareholder is the same as the proportion of shares of the other company held by that shareholder.

(6) This section applies to any instrument which is executed after 24th March 1986 unless it is executed in pursuance of an unconditional contract made on or before 18th March 1986.

(7) This section shall be deemed to have come into force on 25th March 1986.

PART III

76.—(1) This section applies where a company (the acquiring company) acquires the whole or part of an undertaking of another company (the target company).

Acquisitions:
of further
provisions
about reliefs.

(2) If the condition mentioned in subsection (3) below is fulfilled, and stamp duty under the heading “Conveyance or Transfer on Sale” in Schedule 1 to the Stamp Act 1891 is chargeable on an instrument executed for the purposes of or in connection with—

1891 c. 39.

- (a) the transfer of the undertaking or part, or
- (b) the assignment to the acquiring company by a creditor of the target company of any relevant debts (secured or unsecured) owed by the target company,

the rate at which the duty is charged under that heading shall not exceed that mentioned in subsection (4) below.

(3) The condition is that the registered office of the acquiring company is in the United Kingdom and that the consideration for the acquisition—

- (a) consists of or includes the issue of shares in the acquiring company to the target company or to all or any of its shareholders;
- (b) includes nothing else (if anything) but cash not exceeding 10 per cent. of the nominal value of those shares, or the assumption or discharge by the acquiring company of liabilities of the target company, or both.

(4) The rate is the rate of 50p for every £100 or part of £100 of the amount or value of the consideration for the sale to which the instrument gives effect.

(5) An instrument on which, by virtue only of subsection (2) above, the rate at which stamp duty is charged is not to exceed that mentioned in subsection (4) above shall not be taken to be duly stamped unless it is stamped with the duty to which it would be liable but for subsection (2) above or it has, in accordance with section 12 of the Stamp Act 1891, been stamped with a particular stamp denoting that it is duly stamped.

(6) In subsection (2)(b) above “relevant debts” means—

- (a) any debt in the case of which the assignor is a bank or trade creditor, and
- (b) any other debt incurred not less than two years before the date on which the instrument is executed.

(7) This section applies to any instrument executed on or after the day on which the rule of The Stock Exchange that prohibits a person from carrying on business as both a broker and a jobber is abolished.

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Acquisition of target company's share capital. 1891 c. 39.

77.—(1) Stamp duty under the heading “Conveyance or Transfer on Sale” in Schedule 1 to the Stamp Act 1891 shall not be chargeable on an instrument transferring shares in one company (the target company) to another company (the acquiring company) if the conditions mentioned in subsection (3) below are fulfilled.

(2) An instrument on which stamp duty is not chargeable by virtue only of subsection (1) above shall not be taken to be duly stamped unless it is stamped with the duty to which it would be liable but for that subsection or it has, in accordance with section 12 of the Stamp Act 1891, been stamped with a particular stamp denoting that it is not chargeable with any duty.

(3) The conditions are that—

- (a) the registered office of the acquiring company is in the United Kingdom,
- (b) the transfer forms part of an arrangement by which the acquiring company acquires the whole of the issued share capital of the target company,
- (c) the acquisition is effected for bona fide commercial reasons and does not form part of a scheme or arrangement of which the main purpose, or one of the main purposes, is avoidance of liability to stamp duty, stamp duty reserve tax, income tax, corporation tax or capital gains tax,
- (d) the consideration for the acquisition consists only of the issue of shares in the acquiring company to the shareholders of the target company,
- (e) after the acquisition has been made, each person who immediately before it was made was a shareholder of the target company is a shareholder of the acquiring company,
- (f) after the acquisition has been made, the shares in the acquiring company are of the same classes as were the shares in the target company immediately before the acquisition was made,
- (g) after the acquisition has been made, the number of shares of any particular class in the acquiring company bears to all the shares in that company the same proportion as the number of shares of that class in the target company bore to all the shares in that company immediately before the acquisition was made, and
- (h) after the acquisition has been made, the proportion of shares of any particular class in the acquiring company held by any particular shareholder is the same as the proportion of shares of that class in the target company

held by him immediately before the acquisition was made.

(4) In this section references to shares and to share capital include references to stock.

(5) This section applies to any instrument executed on or after 1st August 1986.

Loan capital, letters of allotment etc.

78.—(1) This section (which reproduces the effect of a resolution having statutory effect under section 50 of the Finance Act 1973 for the period beginning on 25th March 1986 and ending on 6th July 1986) shall be deemed to have had effect during, and only during, that period. Loan capital. 1973 c. 51.

(2) The following provisions shall not apply—

- (a) in section 62 of the Finance Act 1963, subsections (2) and (6) (commonwealth stock); 1963 c. 25.
- (b) in section 11 of the Finance Act (Northern Ireland) 1963, subsections (2) and (5) (commonwealth stock); 1963 c. 22 (N.I.).
- (c) section 29 of the Finance Act 1967 (local authority capital); 1967 c. 54.
- (d) section 6 of the Finance Act (Northern Ireland) 1967 (local authority capital); 1967 c. 20 (N.I.).
- (e) section 126 of the Finance Act 1976 (loan capital). 1976 c. 40.

(3) Stamp duty under the heading “Bearer Instrument” in Schedule 1 to the Stamp Act 1891 shall not be chargeable on the issue of an instrument which relates to loan capital or on the transfer of the loan capital constituted by, or transferable by means of, such an instrument. 1891 c. 39.

(4) Stamp duty shall not be chargeable on an instrument which transfers loan capital issued or raised by—

- (a) the financial support fund of the Organisation for Economic Co-operation and Development,
- (b) the Inter-American Development Bank, or
- (c) an organisation which was a designated international organisation at the time of the transfer (whether or not it was such an organisation at the time the loan capital was issued or raised).

(5) Stamp duty shall not be chargeable on an instrument which transfers short-term loan capital.

(6) Where stamp duty under the heading “Conveyance or Transfer on Sale” in Schedule 1 to the Stamp Act 1891 is

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chargeable on an instrument which transfers loan capital, the rate at which the duty is charged under that heading shall be the rate of 50p for every £100 or part of £100 of the amount or value of the consideration for the sale to which the instrument gives effect.

(7) In this section “loan capital” means—

- (a) any debenture stock, corporation stock or funded debt, by whatever name known, issued by a body corporate or other body of persons (which here includes a local authority and any body whether formed or established in the United Kingdom or elsewhere);
- (b) any capital raised by such a body if the capital is borrowed or has the character of borrowed money, and whether it is in the form of stock or any other form;
- (c) stock or marketable securities issued by the government of any country or territory outside the United Kingdom.

(8) In this section “short-term loan capital” means loan capital the date (or latest date) for the repayment of which is not more than 5 years after the date on which it is issued or raised.

(9) In this section “designated international organisation” means an international organisation designated for the purposes of section 126 of the Finance Act 1984 by an order made under subsection (1) of that section.

1984 c. 43.

(10) In construing sections 80(3) and 81(3) of the Finance Act 1985 (definitions by reference to section 126 of the Finance Act 1976) the effect of this section shall be ignored.

1985 c. 54.
1976 c. 40.

(11) This section applies to any instrument which falls within section 60(1) of the Finance Act 1963 and is issued after 24th March 1986 and before 7th July 1986.

1963 c. 25.

(12) This section applies to any instrument which falls within section 60(2) of that Act if the loan capital constituted by or transferable by means of it is transferred after 24th March 1986 and before 7th July 1986.

(13) This section applies, in the case of instruments not falling within section 60(1) or (2) of that Act, to any instrument which is executed after 24th March 1986 and before 7th July 1986, unless it is executed in pursuance of a contract made on or before 18th March 1986.

(14) In this section references to section 60(1) of the Finance Act 1963 include references to section 9(1)(a) of the Finance Act (Northern Ireland) 1963 and references to section 60(2) of the former Act include references to section 9(1)(b) of the latter.

1963 c. 25.
1963 c. 22.
(N.I.).

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- 79.—(1) The following provisions shall cease to have effect—
- | | |
|---|--|
| (a) in section 62 of the Finance Act 1963, subsections (2) and (6) (commonwealth stock); | Loan capital :
new provisions.
1963 c. 25. |
| (b) in section 11 of the Finance Act (Northern Ireland) 1963, subsections (2) and (5) (commonwealth stock); | 1963 c. 22
(N.I.). |
| (c) section 29 of the Finance Act 1967 (local authority capital); | 1967 c. 54. |
| (d) section 6 of the Finance Act (Northern Ireland) 1967 (local authority capital); | 1967 c. 20
(N.I.). |
| (e) section 126 of the Finance Act 1976 (loan capital). | 1976 c. 40. |

(2) Stamp duty under the heading “Bearer Instrument” in Schedule 1 to the Stamp Act 1891 shall not be chargeable on the issue of an instrument which relates to loan capital or on the transfer of the loan capital constituted by, or transferable by means of, such an instrument. 1891 c. 39.

(3) Stamp duty shall not be chargeable on an instrument which transfers loan capital issued or raised by—

- (a) the financial support fund of the Organisation for Economic Co-operation and Development,
- (b) the Inter-American Development Bank, or
- (c) an organisation which was a designated international organisation at the time of the transfer (whether or not it was such an organisation at the time the loan capital was issued or raised).

(4) Subject to subsections (5) and (6) below, stamp duty shall not be chargeable on an instrument which transfers any other loan capital.

(5) Subsection (4) above does not apply to an instrument transferring loan capital which, at the time the instrument is executed, carries a right (exercisable then or later) of conversion into shares or other securities, or to the acquisition of shares or other securities, including loan capital of the same description.

(6) Subject to subsection (7) below, subsection (4) above does not apply to an instrument transferring loan capital which, at the time the instrument is executed or any earlier time, carries or has carried—

- (a) a right to interest the amount of which exceeds a reasonable commercial return on the nominal amount of the capital,
- (b) a right to interest the amount of which falls or has fallen to be determined to any extent by reference to the results of, or of any part of, a business or to the value of any property, or

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- (c) a right on repayment to an amount which exceeds the nominal amount of the capital and is not reasonably comparable with what is generally repayable (in respect of a similar nominal amount of capital) under the terms of issue of loan capital listed in the Official List of The Stock Exchange.

(7) Subsection (4) above shall not be prevented from applying to an instrument by virtue of subsection (6)(a) or (c) above by reason only that the loan capital concerned carries a right to interest, or (as the case may be) to an amount payable on repayment, determined to any extent by reference to an index showing changes in the general level of prices payable in the United Kingdom over a period substantially corresponding to the period between the issue or raising of the loan capital and its repayment.

1891 c. 39.

(8) Where stamp duty under the heading "Conveyance or Transfer on Sale" in Schedule 1 to the Stamp Act 1891 is chargeable on an instrument which transfers loan capital, the rate at which the duty is charged under that heading shall be the rate of 50p for every £100 or part of £100 of the amount or value of the consideration for the sale to which the instrument gives effect.

1963 c. 25.

(9) This section applies to any instrument which falls within section 60(1) of the Finance Act 1963 and is issued after 31st July 1986.

(10) This section applies to any instrument which falls within section 60(2) of that Act if the loan capital constituted by or transferable by means of it is transferred after 31st July 1986.

(11) This section applies, in the case of instruments not falling within section 60(1) or (2) of that Act, to any instrument which is executed after 31st July 1986.

(12) Subsections (7), (9), (10) and (14) of section 78 above shall apply as if references to that section included references to this.

Bearer letters
of allotment
etc.

80.—(1) In Schedule 1 to the Stamp Act 1891, in the heading "Bearer Instrument", paragraph 2 of the exemptions (bearer letter of allotment etc. required to be surrendered not later than six months after issue) shall be omitted.

(2) This section applies to any instrument which falls within section 60(1) of the Finance Act 1963 and is issued after 24th March 1986, unless it is issued by a company in pursuance of a general offer for its shares and the offer became unconditional as to acceptances on or before 18th March 1986.

(3) This section applies to any instrument which falls within section 60(2) of that Act if the stock constituted by or transferable by means of it is transferred after 24th March 1986.

(4) In this section the reference to section 60(1) of the Finance Act 1963 includes a reference to section 9(1)(a) of the Finance Act 1963 c. 25. Act (Northern Ireland) 1963 and the reference to section 60(2) of the former Act includes a reference to section 9(1)(b) of the latter. (N.I.)

(5) This section shall be deemed to have come into force on 25th March 1986.

Changes in financial institutions

81.—(1) Stamp duty shall not be chargeable on an instrument transferring stock on sale to a person or his nominee if it is shown to the satisfaction of the Commissioners that the transaction to which the instrument gives effect was carried out by the person in the ordinary course of his business as a market maker in stock of the kind transferred. Sales to market makers.

(2) An instrument on which stamp duty is not chargeable by virtue only of subsection (1) above shall not be deemed to be duly stamped unless it has been stamped with a stamp denoting that it is not chargeable with any duty; and notwithstanding anything in section 122(1) of the Stamp Act 1891, the stamp may be a stamp of such kind as the Commissioners may prescribe. 1891 c. 39.

(3) For the purposes of this section a person is a market maker in stock of a particular kind if he—

- (a) holds himself out at all normal times in compliance with the rules of The Stock Exchange as willing to buy and sell stock of that kind at a price specified by him, and
- (b) is recognised as doing so by the Council of The Stock Exchange.

(4) Subject to subsection (6) below, this section applies to any instrument giving effect to a transaction carried out on or after the day of The Stock Exchange reforms.

(5) The Treasury may by regulations provide that for subsection (3) above (as it has effect for the time being) there shall be substituted a subsection containing a different definition of a market maker for the purposes of this section.

(6) Regulations under subsection (5) above shall apply in relation to any instrument giving effect to a transaction carried out on or after such day, after the day of The Stock Exchange reforms, as is specified in the regulations.

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(7) The power to make regulations under subsection (5) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.

Borrowing of
stock by
market
makers.

82.—(1) This section applies where a person (A) has contracted to sell stock in the ordinary course of his business as a market maker in stock of that kind and, to enable him to fulfil the contract, he enters into an arrangement under which—

- (a) another person (B), who is not a market maker in stock of the kind concerned or a nominee of such a market maker, is to transfer stock to A or his nominee, and
- (b) in return stock of the same kind and amount is to be transferred (whether or not by A or his nominee) to B or his nominee.

(2) This section also applies where, to enable B to make the transfer to A or his nominee, B enters into an arrangement under which—

- (a) another person (C), who is not a market maker in stock of the kind concerned or a nominee of such a market maker, is to transfer stock to B or his nominee, and
- (b) in return stock of the same kind and amount is to be transferred (whether or not by B or his nominee) to C or his nominee.

(3) The maximum stamp duty chargeable on an instrument effecting a transfer to B or his nominee or C or his nominee in pursuance of an arrangement mentioned in subsection (1) or (2) above shall be 50p.

(4) For the purposes of this section a person is a market maker in stock of a particular kind if he—

- (a) holds himself out at all normal times in compliance with the rules of The Stock Exchange as willing to buy and sell stock of that kind at a price specified by him, and
- (b) is recognised as doing so by the Council of The Stock Exchange.

(5) Subject to subsection (7) below, this section applies to any instrument effecting a transfer in pursuance of an arrangement entered into on or after the day of The Stock Exchange reforms.

(6) The Treasury may by regulations provide that for subsection (3) above (as it has effect for the time being) there shall be substituted a subsection containing a different definition of a market maker for the purposes of this section.

(7) Regulations under subsection (6) above shall apply in relation to any instrument effecting a transfer in pursuance of

an arrangement entered into on or after such day, after the day of The Stock Exchange reforms, as is specified in the regulations.

(8) The power to make regulations under subsection (6) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.

83.—(1) In section 33(1) of the Finance Act 1970 (composition by stock exchanges in respect of transfer duty)—

Composition agreements.
1970 c. 24.

(a) for the words “any recognised stock exchange” there shall be substituted “any recognised investment exchange or recognised clearing house”, and

(b) the following shall be substituted for the words from “In this subsection” to the end—

“In this subsection ‘recognised investment exchange’ and ‘recognised clearing house’ have the same meanings as in the Financial Services Act 1986.”

(2) The words “recognised investment exchange or recognised clearing house” shall be substituted for the words “stock exchange” in section 33(2)(b), (c) and (d), (4) and (5) of the Finance Act 1970.

(3) This section shall come into force on such day as the Commissioners may appoint by order made by statutory instrument.

84.—(1) In section 127(1) of the Finance Act 1976 (no stamp duty on transfer to stock exchange nominee executed for purposes of a stock exchange transaction) the words “which is executed for the purposes of a stock exchange transaction” shall be omitted.

Miscellaneous exemptions.
1976 c. 40.

(2) Stamp duty shall not be chargeable on an instrument effecting a transfer of stock if—

(a) the transferee is a recognised investment exchange or a nominee of a recognised investment exchange, and

(b) an agreement which relates to the stamp duty which would (apart from this subsection) be chargeable on the instrument, and was made between the Commissioners and the investment exchange under section 33 of the Finance Act 1970, is in force at the time of the transfer.

(3) Stamp duty shall not be chargeable on an instrument effecting a transfer of stock if—

(a) the transferee is a recognised clearing house or a nominee of a recognised clearing house, and

(b) an agreement which relates to the stamp duty which would (apart from this subsection) be chargeable on the

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1970 c. 24.

instrument, and was made between the Commissioners and the clearing house under section 33 of the Finance Act 1970, is in force at the time of the transfer.

(4) Subsection (1) above applies to any transfer giving effect to a transaction carried out on or after the day of The Stock Exchange reforms.

(5) Subsection (2) above applies to any instrument giving effect to a transaction carried out on or after such day as the Commissioners may appoint by order made by statutory instrument.

(6) Subsection (3) above applies to any instrument giving effect to a transaction carried out on or after such day as the Commissioners may appoint by order made by statutory instrument.

Supplemen-
tary.
1920 c. 18.

85.—(1) Section 42(1) of the Finance Act 1920 (reduction of duty in case of certain transfers to jobbers or nominees or qualified dealers) shall have effect, in the case of any transfer giving effect to a transaction carried out on or after the day of The Stock Exchange reforms as if the following were omitted—

- (a) in that subsection, the words “a jobber or his nominee or to” and in the proviso to it the words “jobber or” (in each place);
- (b) in subsection (3) of that section, paragraph (d) of the definition of “qualified dealer” (Stock Exchange brokers).

1961 c. 36.
1961 c. 10
(N.I.).

(2) Section 34 of the Finance Act 1961 and section 4 of the Finance Act (Northern Ireland) 1961 (borrowing of stock by jobbers) shall not apply where stock is transferred in discharge of an undertaking given on or after the day of The Stock Exchange reforms.

(3) Section 42(1) of the Finance Act 1920 shall not apply to any transfer giving effect to a transaction carried out on or after such day as is specified for this purpose in regulations made under section 81(5) above; and different days may be so specified for different purposes.

1976 c. 40.

(4) Section 127(2) of the Finance Act 1976 (transfer otherwise than on sale from stock exchange nominee to jobber) shall not apply to any transfer giving effect to a transaction carried out on or after the day of The Stock Exchange reforms.

(5) In sections 81, 82 and 84 above and this section—

- (a) “the day of The Stock Exchange reforms” means the day on which the rule of The Stock Exchange that

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prohibits a person from carrying on business as both a broker and a jobber is abolished,

- (b) references to a recognised investment exchange are to a recognised investment exchange within the meaning of the Financial Services Act 1986,
- (c) references to a recognised clearing house are to a recognised clearing house within the meaning of the Financial Services Act 1986, and
- (d) "stock" includes marketable security.

PART IV

STAMP DUTY RESERVE TAX

Introduction

86.—(1) A tax, to be known as stamp duty reserve tax, shall be charged in accordance with this Part of this Act. The tax: introduction.

(2) The tax shall be under the care and management of the Board.

(3) Section 1 of the Provisional Collection of Taxes Act 1968 shall apply to the tax; and accordingly in subsection (1) of that section after the words "petroleum revenue tax" there shall be inserted the words "stamp duty reserve tax". 1968 c. 2.

The principal charge

87.—(1) This section applies where a person (A) agrees with another person (B) to transfer chargeable securities (whether or not to B) for consideration in money or money's worth. The principal charge.

(2) There shall be a charge to stamp duty reserve tax under this section on the expiry of the period of two months beginning with the relevant day, unless the agreement is to transfer the securities to B or his nominee and the first and second conditions mentioned below have been fulfilled by the time that period expires.

(3) In subsection (2) above "the relevant day" means—

- (a) in a case where the agreement is conditional, the day on which the condition is satisfied, and
- (b) in any other case, the day on which the agreement is made.

(4) The first condition is that an instrument is (or instruments are) executed in pursuance of the agreement and the instrument transfers (or the instruments between them transfer) to B or, as

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the case may be, to his nominee all the chargeable securities to which the agreement relates.

(5) The second condition is that the instrument (or each instrument) transferring the chargeable securities to which the agreement relates is duly stamped in accordance with the enactments relating to stamp duty if it is an instrument which, under those enactments, is chargeable with stamp duty or otherwise required to be stamped.

(6) Tax under this section shall be charged at the rate of 50p for every £100 or part of £100 of the amount or value of the consideration mentioned in subsection (1) above.

(7) For the purposes of subsection (6) above the value of any consideration not consisting of money shall be taken to be the price it might reasonably be expected to fetch on a sale in the open market at the time the agreement mentioned in subsection (1) above is made.

1891 c. 39.

(8) In this section “the enactments relating to stamp duty” means the Stamp Act 1891 and any enactment which amends or is required to be construed together with that Act.

(9) This section applies where the agreement to transfer is made on or after the day on which the rule of The Stock Exchange that prohibits a person from carrying on business as both a broker and a jobber is abolished.

(10) This section has effect subject to sections 88 to 90 below.

Section 87:
special cases.

88.—(1) An instrument on which stamp duty is not chargeable by virtue of—

1976 c. 40.

(a) section 127(1) of the Finance Act 1976 (transfer to stock exchange nominee), or

(b) section 84(2) or (3) above,

shall be disregarded in construing section 87(4) and (5) above.

(2) Subsection (3) below applies where the chargeable securities mentioned in section 87(1) above are constituted by or transferable by means of an inland bearer instrument, within the meaning of the heading “Bearer Instrument” in Schedule 1 to the Stamp Act 1891, which—

(a) is exempt from stamp duty under that heading by virtue of exemption 3 in that heading, or

(b) would be so exempt if it were otherwise chargeable under that heading.

(3) In such a case section 87 above shall have effect as if the following were omitted—

(a) in subsection (2) the words from “unless” to the end;

(b) subsections (4), (5) and (8).

89.—(1) Section 87 above shall not apply as regards an agreement to transfer securities if the agreement is made by B in the ordinary course of his business as a market maker in securities of the kind concerned. Section 87: exceptions for market makers etc.

(2) Section 87 above shall not apply as regards an agreement to transfer securities to B or his nominee if—

- (a) the agreement is made by B as principal in the ordinary course of his business as a broker and dealer in relation to securities of the kind concerned, and
- (b) before the end of the period of 7 days beginning with the day on which the agreement is made or (in a case where the agreement is conditional) the day on which the condition is satisfied, B enters into an unconditional agreement to sell the securities to another person.

(3) For the purposes of this section, a person is a market maker in securities of a particular kind if he—

- (a) holds himself out at all normal times in compliance with the rules of The Stock Exchange as willing to buy and sell securities of that kind at a price specified by him, and
- (b) is recognised as doing so by the Council of The Stock Exchange.

(4) For the purposes of this section, a person is a broker and dealer in relation to securities of a particular kind if he is a member of The Stock Exchange who carries on his business in the United Kingdom and is not a market maker in securities of that kind.

(5) The Treasury may by regulations provide that for subsection (3) above (as it has effect for the time being) there shall be substituted a subsection containing a different definition of a market maker for the purposes of this section.

(6) The Treasury may by regulations provide that for subsection (4) above (as it has effect for the time being) there shall be substituted a subsection containing a different definition of a broker and dealer for the purposes of this section.

(7) For the purposes of subsection (2) above, if the securities which B sells cannot be identified (apart from this subsection) securities shall be taken as follows—

- (a) securities of the same kind acquired in the period of 7 days ending with the day of the sale (and not taken for the purposes of a previous sale by B) shall be taken before securities of that kind acquired outside that period;

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(b) securities of that kind acquired earlier in that period (and not taken for the purposes of a previous sale by B) shall be taken before securities of that kind acquired later in that period.

(8) For the purposes of subsection (7) above—

(a) securities are acquired when B enters into an agreement for them to be transferred to B or his nominee or (in a case where the agreement is conditional) when the condition is satisfied;

(b) B sells securities when he enters into an unconditional agreement to sell them to another person.

(9) The power to make regulations under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.

Section 87:
other
exceptions.

90.—(1) Section 87 above shall not apply as regards an agreement to transfer a unit under a unit trust scheme to the managers under the scheme.

(2) Section 87 above shall not apply as regards an agreement to transfer a unit under a unit trust scheme if at the time the agreement is made—

(a) all the trustees under the scheme are resident outside the United Kingdom, and

(b) the unit is not registered in a register kept in the United Kingdom by or on behalf of the trustees under the scheme.

(3) Section 87 above shall not apply as regards an agreement to transfer securities constituted by or transferable by means of—

(a) an overseas bearer instrument, within the meaning of the heading “Bearer Instrument” in Schedule 1 to the Stamp Act 1891;

(b) an inland bearer instrument, within the meaning of that heading, which does not fall within exemption 3 in that heading (renounceable letter of allotment etc. where rights are renounceable not later than six months after issue).

(4) Section 87 above shall not apply as regards an agreement which forms part of an arrangement falling within section 93(1) or 96(1) below.

(5) Section 87 above shall not apply as regards an agreement to transfer securities which the Board are satisfied are held, when the agreement is made, by a person whose business is exclusively that of holding chargeable securities—

- (a) as nominee or agent for a person whose business is or includes the provision of clearance services for the purchase and sale of chargeable securities, and
- (b) for the purposes of such part of the business mentioned in paragraph (a) above as consists of the provision of such clearance services (in a case where the business does not consist exclusively of that).

91.—(1) Where tax is charged under section 87 above as Liability to tax. regards an agreement, B shall be liable for the tax.

(2) But where B is acting as nominee for another person, that other person shall be liable for the tax.

92.—(1) If, as regards an agreement to transfer securities to B or his nominee, tax is charged under section 87 above and it is proved to the Board's satisfaction that at a time after the expiry of the period of two months (beginning with the relevant day, as defined in section 87(3)) but before the expiry of the period of six years (so beginning) the conditions mentioned in section 87(4) and (5) have been fulfilled, the following provisions of this section shall apply. Repayment or cancellation of tax.

(2) If any of the tax charged has been paid, and a claim for repayment is made within the period of six years mentioned in subsection (1) above, the tax paid shall be repaid; and where the tax paid is not less than £25 it shall be repaid with interest on it at the appropriate rate from the time it was paid.

(3) To the extent that the tax charged has not been paid, the charge shall be cancelled by virtue of this subsection.

(4) In subsection (2) above "the appropriate rate" means 11 per cent. per annum or such other rate as the Treasury may from time to time specify by order.

(5) The power to make an order under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.

Other charges

93.—(1) Subject to subsection (7) below and section 95 below, there shall be a charge to stamp duty reserve tax under this section where in pursuance of an arrangement— Depository receipts.

- (a) a person falling within subsection (2) below has issued or is to issue a depository receipt for chargeable securities, and
- (b) chargeable securities of the same kind and amount are transferred or issued to a person falling within subsection

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(3) below, or are appropriated by such a person towards the eventual satisfaction of the entitlement of the receipt's holder to receive chargeable securities.

(2) A person falls within this subsection if his business is or includes issuing depositary receipts for chargeable securities.

(3) A person falls within this subsection if his business is or includes holding chargeable securities as nominee or agent for the person who has issued or is to issue the depositary receipt.

(4) Subject to subsections (5) to (7) below, tax under this section shall be charged at the rate of £1.50 for every £100 or part of £100 of the following—

- (a) in a case where the securities are issued, their price when issued;
- (b) in a case where the securities are transferred for consideration in money or money's worth, the amount or value of the consideration;
- (c) in any other case, the value of the securities.

(5) In a case where the securities are transferred and—

- (a) the transfer is effected by an instrument on which stamp duty under the heading "Conveyance or Transfer of any kind not hereinbefore described" in Schedule 1 to the Stamp Act 1891 is chargeable,
- (b) at the time of the transfer the transferor is a qualified dealer in securities of the kind concerned or a nominee of such a qualified dealer,
- (c) the transfer is made for the purposes of the dealer's business,
- (d) at the time of the transfer the dealer is not a market maker in securities of the kind concerned, and
- (e) the instrument contains a statement that paragraphs (b) to (d) above are fulfilled,

subsection (4) above shall have effect as if "£1.50" read "50p" (in a case where the securities are transferred before the day of The Stock Exchange reforms) or "£1" (in any other case).

(6) In a case where—

- (a) securities are issued, or securities sold are transferred, and (in either case) they are to be paid for in instalments,
- (b) the person to whom they are issued or transferred holds them and transfers them to another person when the last instalment is paid,
- (c) subsection (4)(c) above applies in the case of the transfer to the other person,

- (d) before the making of the transfer to the other person an instrument is received by a person falling within subsection (3) above,
- (e) the instrument so received evidences all the rights which (by virtue of the terms under which the securities are issued or sold as mentioned in paragraph (a) above) subsist in respect of them at the time of the receipt, and
- (f) the transfer to the other person is effected by an instrument containing a statement that paragraphs (a), (b) and (e) above are fulfilled,

subsection (4)(c) above shall have effect as if the reference to the value there mentioned were to an amount (if any) equal to the total of the instalments payable, less those paid before the transfer to the other person is effected.

(7) Where tax is (or would apart from this subsection be) charged under this section in respect of a transfer of securities, and ad valorem stamp duty is chargeable on any instrument effecting the transfer, then—

- (a) if the amount of the duty is less than the amount of tax found by virtue of subsections (4) to (6) above, the tax charged under this section shall be the amount so found less the amount of the duty;
- (b) in any other case, there shall be no charge to tax under this section in respect of the transfer.

(8) Where tax is charged under the preceding provisions of this section, the person liable for the tax shall (subject to subsection (9) below) be the person who has issued or is to issue the depositary receipt.

(9) Where tax is charged under the preceding provisions of this section in a case where securities are transferred, and at the time of the transfer the person who has issued or is to issue the depositary receipt is not resident in the United Kingdom and has no branch or agency in the United Kingdom, the person liable for the tax shall be the person to whom the securities are transferred.

(10) Where chargeable securities are issued or transferred on sale under terms providing for payment in instalments and for an issue of other chargeable securities, and (apart from this subsection) tax would be charged under this section in respect of that issue, tax shall not be so charged but—

- (a) if any of the instalments becomes payable by a person falling within subsection (2) or (3) above, there shall be a charge to stamp duty reserve tax under this section when the instalment becomes payable;

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- (b) the charge shall be at the rate of £1.50 for every £100 or part of £100 of the instalment payable;
- (c) the person liable to pay the instalment shall be liable for the tax.

(11) Subject to subsection (12) below, this section applies where securities are transferred, issued or appropriated after 18th March 1986 (whenever the arrangement was made).

(12) This section does not apply, in the case of securities which are transferred, if the Board are satisfied that they were acquired or appropriated by the transferor on or before 18th March 1986 for or towards the eventual satisfaction of the entitlement of a person to receive securities of the same kind under a depositary receipt (whether issued on or before that date or to be issued after that date).

Depository
receipts :
supplementary.

94.—(1) For the purposes of section 93 above a depositary receipt for chargeable securities is an instrument acknowledging—

- (a) that a person holds chargeable securities or evidence of the right to receive them, and
- (b) that another person is entitled to rights, whether expressed as units or otherwise, in or in relation to chargeable securities of the same kind, including the right to receive such securities (or evidence of the right to receive them) from the person mentioned in paragraph (a) above,

except that for those purposes a depositary receipt for chargeable securities does not include an instrument acknowledging rights in or in relation to securities if they are issued or sold under terms providing for payment in instalments and for the issue of the instrument as evidence that an instalment has been paid.

(2) The Treasury may by regulations provide that for subsection (1) above (as it has effect for the time being) there shall be substituted a subsection containing a different definition of a depositary receipt for the purposes of section 93 above.

(3) For the purposes of section 93(4)(b) above the value of any consideration not consisting of money shall be taken to be the price it might reasonably be expected to fetch on a sale in the open market at the time the securities are transferred.

(4) For the purposes of section 93(4)(c) above the value of the securities shall be taken to be the price they might reasonably be expected to fetch on a sale in the open market at the time they are transferred or appropriated (as the case may be).

(5) For the purposes of section 93(5) above a person is a qualified dealer in securities of a particular kind if he deals in securities of that kind and—

PART IV

- (a) is a member of a recognised stock exchange (within the meaning given by section 535 of the Taxes Act), or
- (b) is designated a qualified dealer by order made by the Treasury.

(6) For the purposes of section 93(5) above a person is a market maker in securities of a particular kind if he—

- (a) holds himself out at all normal times in compliance with the rules of The Stock Exchange as willing to buy and sell securities of that kind at a price specified by him, and
- (b) is recognised as doing so by the Council of The Stock Exchange.

(7) The Treasury may by regulations provide that for subsection (6) above (as it has effect for the time being) there shall be substituted a subsection containing a different definition of a market maker for the purposes of section 93(5) above.

(8) In section 93(5) above “the day of The Stock Exchange reforms” means the day on which the rule of The Stock Exchange that prohibits a person from carrying on business as both a broker and a jobber is abolished.

(9) The power to make regulations or an order under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.

95—(1) Where securities are transferred—

Depositar,
receipts:
exceptions.

- (a) to a company which at the time of the transfer falls within subsection (6) of section 67 above and is resident in the United Kingdom, and
- (b) from a company which at that time falls within that subsection and is so resident,

there shall be no charge to tax under section 93 above in respect of the transfer.

(2) There shall be no charge to tax under section 93 above in respect of a transfer, issue or appropriation of an inland bearer instrument, within the meaning of the heading “Bearer Instrument” in Schedule 1 to the Stamp Act 1891, which does not fall within exemption 3 in that heading (renounceable letter of allotment etc. where rights are renounceable not later than six months after issue). 1891 c. 39.

(3) There shall be no charge to tax under section 93 above in respect of an issue by a company (company X) of securities in exchange for shares in another company (company Y) where company X—

PART IV

- (a) has control of company Y, or
- (b) will have such control in consequence of the exchange or of an offer as a result of which the exchange is made.

(4) For the purposes of subsection (3) above company X has control of company Y if company X has power to control company Y's affairs by virtue of holding shares in, or possessing voting power in relation to, company Y or any other body corporate.

Clearance services.

96.—(1) Subject to subsection (5) below and section 97 below, there shall be a charge to stamp duty reserve tax under this section where—

- (a) a person (A) whose business is or includes the provision of clearance services for the purchase and sale of chargeable securities has entered into an arrangement to provide such clearance services for another person, and
- (b) in pursuance of the arrangement, chargeable securities are transferred or issued to A or to a person whose business is or includes holding chargeable securities as nominee for A.

(2) Subject to subsections (3) to (5) below, tax under this section shall be charged at the rate of £1.50 for every £100 or part of £100 of the following—

- (a) in a case where the securities are issued, their price when issued;
- (b) in a case where the securities are transferred for consideration in money or money's worth, the amount or value of the consideration;
- (c) in any other case, the value of the securities.

(3) In a case where the securities are transferred and—

- (a) the transfer is effected by an instrument on which stamp duty under the heading "Conveyance or Transfer of any kind not hereinbefore described" in Schedule 1 to the Stamp Act 1891 is chargeable,
- (b) at the time of the transfer the transferor is a qualified dealer in securities of the kind concerned or a nominee of such a qualified dealer,
- (c) the transfer is made for the purposes of the dealer's business,
- (d) at the time of the transfer the dealer is not a market maker in securities of the kind concerned, and
- (e) the instrument contains a statement that paragraphs (b) to (d) above are fulfilled,

1891 c. 39.

subsection (2) above shall have effect as if “£1.50” read “50p” (in a case where the securities are transferred before the day of The Stock Exchange reforms) or “£1” (in any other case).

(4) In a case where—

- (a) securities are issued, or securities sold are transferred, and (in either case) they are to be paid for in instalments,
- (b) the person to whom they are issued or transferred holds them and transfers them to another person when the last instalment is paid,
- (c) subsection (2)(c) above applies in the case of the transfer to the other person,
- (d) before the making of the transfer to the other person an instrument is received by A or a person whose business is or includes holding chargeable securities as nominee for A,
- (e) the instrument so received evidences all the rights which (by virtue of the terms under which the securities are issued or sold as mentioned in paragraph (a) above) subsist in respect of them at the time of the receipt, and
- (f) the transfer to the other person is effected by an instrument containing a statement that paragraphs (a), (b) and (e) above are fulfilled,

subsection (2)(c) above shall have effect as if the reference to the value there mentioned were to an amount (if any) equal to the total of the instalments payable, less those paid before the transfer to the other person is effected.

(5) Where tax is (or would apart from this subsection be) charged under this section in respect of a transfer of securities and ad valorem stamp duty is chargeable on any instrument effecting the transfer, then—

- (a) if the amount of the duty is less than the amount of tax found by virtue of subsections (2) to (4) above, the tax charged under this section shall be the amount so found less the amount of the duty;
- (b) in any other case, there shall be no charge to tax under this section in respect of the transfer.

(6) Where tax is charged under the preceding provisions of this section, the person liable for the tax shall (subject to subsection (7) below) be A.

(7) Where tax is charged under the preceding provisions of this section in a case where securities are transferred to a person other than A, and at the time of the transfer A is not resident in the United Kingdom and has no branch or agency in the United Kingdom, the person liable for the tax shall be the person to whom the securities are transferred.

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(8) Where chargeable securities are issued or transferred on sale under terms providing for payment in instalments and for an issue of other chargeable securities, and (apart from this subsection) tax would be charged under this section in respect of that issue, tax shall not be so charged but—

- (a) if any of the instalments becomes payable by A or by a person whose business is or includes holding chargeable securities as nominee for A, there shall be a charge to stamp duty reserve tax under this section when the instalment becomes payable;
- (b) the charge shall be at the rate of £1.50 for every £100 or part of £100 of the instalment payable;
- (c) the person liable to pay the instalment shall be liable for the tax.

(9) For the purposes of subsection (2)(b) above the value of any consideration not consisting of money shall be taken to be the price it might reasonably be expected to fetch on a sale in the open market at the time the securities are transferred.

(10) For the purposes of subsection (2)(c) above the value of securities shall be taken to be the price they might reasonably be expected to fetch on a sale in the open market at the time they are transferred.

(11) For the purposes of subsection (3) above “qualified dealer” and “market maker” have at any particular time the same meanings as they have at that time for the purposes of section 93(5) above.

(12) In subsection (3) above “the day of The Stock Exchange reforms” means the day on which the rule of The Stock Exchange that prohibits a person from carrying on business as both a broker and a jobber is abolished.

(13) Subject to subsection (14) below, this section applies where securities are transferred or issued after 18th March 1986 (whenever the arrangement was made).

(14) This section does not apply, in the case of securities which are transferred, if the Board are satisfied—

- (a) that on or before 18th March 1986 the transferor (or, where the transferor transfers as agent, the principal) agreed to sell securities of the same kind and amount to the person (other than A) referred to in subsection (1)(a) above, and
- (b) that the transfer is effected in pursuance of that agreement.

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Clearance
services:
exceptions.

97.—(1) Where securities are transferred—

- (a) to a company which at the time of the transfer falls within subsection (6) of section 70 above and is resident in the United Kingdom, and
- (b) from a company which at that time falls within that subsection and is so resident,

there shall be no charge to tax under section 96 above in respect of the transfer.

(2) There shall be no charge to tax under section 96 above in respect of a transfer effected by an instrument on which stamp duty is not chargeable by virtue of—

- (a) section 127(1) of the Finance Act 1976 (transfer to stock exchange nominee), or
- (b) section 84(2) or (3) above.

(3) There shall be no charge to tax under section 96 above in respect of a transfer or issue of an inland bearer instrument, within the meaning of the heading “Bearer Instrument” in Schedule 1 to the Stamp Act 1891, which does not fall within exemption 3 in that heading (renounceable letter of allotment etc. where rights are renounceable not later than six months after issue). 1891 c. 39.

(4) There shall be no charge to tax under section 96 above in respect of an issue by a company (company X) of securities in exchange for shares in another company (company Y) where company X—

- (a) has control of company Y, or
- (b) will have such control in consequence of the exchange or of an offer as a result of which the exchange is made.

(5) For the purposes of subsection (4) above company X has control of company Y if company X has power to control company Y’s affairs by virtue of holding shares in, or possessing voting power in relation to, company Y or any other body corporate.

General

98.—(1) The Treasury may make regulations—

- (a) providing that provisions of the Taxes Management Act 1970 specified in the regulations shall apply in relation to stamp duty reserve tax as they apply in relation to a tax within the meaning of that Act, with such modifications (specified in the regulations) as they think fit;
- (b) making with regard to stamp duty reserve tax such further provision as they think fit in relation to administration, assessment, collection and recovery.

Administra-
tion etc.
1970 c. 9.

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(2) The power to make regulations under subsection (1) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.

Interpretation. 99.—(1) This section applies for the purposes of this Part of this Act.

(2) “The Board” means the Commissioners of Inland Revenue.

(3) Subject to the following provisions of this section, “chargeable securities” means stocks, shares, loan capital and units under a unit trust scheme.

(4) “Chargeable securities” does not include stocks, shares or loan capital which is (or are) issued or raised by a body corporate not incorporated in the United Kingdom unless the stocks, shares or loan capital is (or are) registered in a register kept in the United Kingdom by or on behalf of the body corporate.

(5) “Chargeable securities” does not include stocks, shares or loan capital the transfer of which is exempt from all stamp duties.

(6) A reference to stocks, shares or loan capital includes a reference to—

- (a) an interest in, or in dividends or other rights arising out of, stocks, shares or loan capital the transfer of which is not exempt from all stamp duties;
- (b) a right to an allotment of or to subscribe for, or an option to acquire, stocks, shares or loan capital the transfer of which is not exempt from all stamp duties,

except that the reference does not include a reference to an interest in a depositary receipt for stocks or shares.

(7) A depositary receipt for stocks or shares is an instrument acknowledging—

- (a) that a person holds stocks or shares or evidence of the right to receive them, and
- (b) that another person is entitled to rights, whether expressed as units or otherwise, in or in relation to stocks or shares of the same kind, including the right to receive such stocks or shares (or evidence of the right to receive them) from the person mentioned in paragraph (a) above,

except that a depositary receipt for stocks or shares does not include an instrument acknowledging rights in or in relation to

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stocks or shares if they are issued or sold under terms providing for payment in instalments and for the issue of the instrument as evidence that an instalment has been paid.

(8) The Treasury may by regulations provide that for subsection (7) above (as it has effect for the time being) there shall be substituted a subsection containing a different definition of a depositary receipt; and the power to make regulations under this subsection shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.

(9) “Unit” and “unit trust scheme” have the same meanings as in Part VII of the Finance Act 1946.

1946 c. 64.

(10) In interpreting “chargeable securities” in sections 93, 94 and 96 above—

- (a) the words in subsection (4) above from “unless” to the end shall be ignored, and
- (b) the effect of paragraph 8 of Schedule 14 to the Companies Act 1985 (share registered overseas) and of section 118 of the Companies Act (Northern Ireland) 1960 and paragraph 7 of Schedule 14 to the Companies (Northern Ireland) Order 1986 (equivalent provision for Northern Ireland) shall be ignored for the purposes of subsection (5) above.

1985 c. 6.
1960 c. 22
S.I. 1986/1032
(N.I.6).

PART V

INHERITANCE TAX

100.—(1) On and after the passing of this Act, the tax charged under the Capital Transfer Tax Act 1984 (in this Part of this Act referred to as “the 1984 Act”) shall be known as inheritance tax and, accordingly, on and after that passing,—

Capital transfer tax to be known as inheritance tax.

- (a) the 1984 Act may be cited as the Inheritance Tax Act 1984; and
- (b) subject to subsection (2) below, any reference to capital transfer tax in the 1984 Act, in any other enactment passed before or in the same Session as this Act or in any document executed, made, served or issued on or before the passing of this Act or at any time thereafter shall have effect as a reference to inheritance tax.

1984 c. 51.

(2) Subsection (1)(b) above does not apply where the reference to capital transfer tax relates to a liability to tax arising before the passing of this Act.

(3) In the following provisions of this Part of this Act, any reference to tax except where it is a reference to a named tax is

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a reference to inheritance tax and, in so far as it occurs in a provision which relates to a time before the passing of this Act, includes a reference to capital transfer tax.

Lifetime transfers potentially exempt etc.

101.—(1) The 1984 Act shall have effect subject to the amendments in Part I of Schedule 19 to this Act, being amendments—

- (a) removing liability for tax on certain transfers of value where the transfer occurs at least seven years before the transferor's death;
- (b) providing for one Table of rates of tax;
- (c) abolishing exemptions for mutual transfers;
- (d) making provision with respect to the amounts of tax to be charged on transfers occurring before the death of the transferor;
- (e) making provision with respect to the application of relief under Chapter I (business property) and Chapter II (agricultural property) of Part V of the 1984 Act to such transfers; and
- (f) reducing the period during which the values transferred by chargeable transfers are aggregated from ten years to seven;

and amendments making provisions consequential on or incidental to the matters referred to above and to sections 102 and 103 below.

1980 c. 48.

(2) In consequence of the amendments effected by Part I of Schedule 19 to this Act, section 79 of the Finance Act 1980 (capital gains tax: general relief for gifts) shall be amended as follows—

- (a) in subsection (5) after the word “is”, in the second place where it occurs, there shall be inserted “(or proves to be)” and at the end there shall be added “and, in the case of a disposal which, being a potentially exempt transfer, proves to be a chargeable transfer, all necessary adjustments shall be made, whether by the discharge or repayment of capital gains tax or otherwise”; and
- (b) in subsection (6)(a) for the words “three years” there shall be substituted “seven years”.

(3) Part I of Schedule 19 to this Act has effect, subject to Part II of that Schedule, with respect to transfers of value made, and other events occurring, on or after 18th March 1986.

(4) The transitional provisions in Part II of Schedule 19 to this Act shall have effect.

Gifts with reservation.

102.—(1) Subject to subsections (5) and (6) below, this section applies where, on or after 18th March 1986, an individual disposes of any property by way of gift and either—

- (a) possession and enjoyment of the property is not bona fide assumed by the donee at or before the beginning of the relevant period; or
- (b) at any time in the relevant period the property is not enjoyed to the entire exclusion, or virtually to the entire exclusion, of the donor and of any benefit to him by contract or otherwise;

and in this section “the relevant period” means a period ending on the date of the donor’s death and beginning seven years before that date or, if it is later, on the date of the gift.

(2) If and so long as—

- (a) possession and enjoyment of any property is not bona fide assumed as mentioned in subsection (1)(a) above, or
- (b) any property is not enjoyed as mentioned in subsection (1)(b) above,

the property is referred to (in relation to the gift and the donor) as property subject to a reservation.

(3) If, immediately before the death of the donor, there is any property which, in relation to him, is property subject to a reservation then, to the extent that the property would not, apart from this section, form part of the donor’s estate immediately before his death, that property shall be treated for the purposes of the 1984 Act as property to which he was beneficially entitled immediately before his death.

(4) If, at a time before the end of the relevant period, any property ceases to be property subject to a reservation, the donor shall be treated for the purposes of the 1984 Act as having at that time made a disposition of the property by a disposition which is a potentially exempt transfer.

(5) This section does not apply if or, as the case may be, to the extent that the disposal of property by way of gift is an exempt transfer by virtue of any of the following provisions of Part II of the 1984 Act,—

- (a) section 18 (transfers between spouses);
 - (b) section 20 (small gifts);
 - (c) section 22 (gifts in consideration of marriage);
 - (d) section 23 (gifts to charities);
 - (e) section 24 (gifts to political parties);
 - (f) section 25 (gifts for national purposes, etc.);
 - (g) section 26 (gifts for public benefit);
 - (h) section 27 (maintenance funds for historic buildings);
- and

PART V

(i) section 28 (employee trusts).

(6) This section does not apply if the disposal of property by way of gift is made under the terms of a policy issued in respect of an insurance made before 18th March 1986 unless the policy is varied on or after that date so as to increase the benefits secured or to extend the term of the insurance; and, for this purpose, any change in the terms of the policy which is made in pursuance of an option or other power conferred by the policy shall be deemed to be a variation of the policy.

(7) If a policy issued as mentioned in subsection (6) above confers an option or other power under which benefits and premiums may be increased to take account of increases in the retail prices index (as defined in section 8(3) of the 1984 Act) or any similar index specified in the policy, then, to the extent that the right to exercise that option or power would have been lost if it had not been exercised on or before 1st August 1986, the exercise of that option or power before that date shall be disregarded for the purposes of subsection (6) above.

(8) Schedule 20 to this Act has effect for supplementing this section.

Treatment of
certain debts
and
incumbrances.

103.—(1) Subject to subsection (2) below, if, in determining the value of a person's estate immediately before his death, account would be taken, apart from this subsection, of a liability consisting of a debt incurred by him or an incumbrance created by a disposition made by him, that liability shall be subject to abatement to an extent proportionate to the value of any of the consideration given for the debt or incumbrance which consisted of—

- (a) property derived from the deceased; or
- (b) consideration (not being property derived from the deceased) given by any person who was at any time entitled to, or amongst whose resources there was at any time included, any property derived from the deceased.

(2) If, in a case where the whole or a part of the consideration given for a debt or incumbrance consisted of such consideration as is mentioned in subsection (1)(b) above, it is shown that the value of the consideration given, or of that part thereof, as the case may be, exceeded that which could have been rendered available by application of all the property derived from the deceased, other than such (if any) of that property—

- (a) as is included in the consideration given, or
- (b) as to which it is shown that the disposition of which it, or the property which it represented, was the subject matter was not made with reference to, or with a view

to enabling or facilitating, the giving of the consideration or the recoupment in any manner of the cost thereof, no abatement shall be made under subsection (1) above in respect of the excess.

(3) In subsections (1) and (2) above “property derived from the deceased” means, subject to subsection (4) below, any property which was the subject matter of a disposition made by the deceased, either by himself alone or in concert or by arrangement with any other person or which represented any of the subject matter of such a disposition, whether directly or indirectly, and whether by virtue of one or more intermediate dispositions.

(4) If the disposition first-mentioned in subsection (3) above was not a transfer of value and it is shown that the disposition was not part of associated operations which included—

- (a) a disposition by the deceased, either alone or in concert or by arrangement with any other person, otherwise than for full consideration in money or money’s worth paid to the deceased for his own use or benefit; or
- (b) a disposition by any other person operating to reduce the value of the property of the deceased,

that first-mentioned disposition shall be left out of account for the purposes of subsections (1) to (3) above.

(5) If, before a person’s death but on or after 18th March 1986, money or money’s worth is paid or applied by him—

- (a) in or towards the satisfaction or discharge of a debt or incumbrance in the case of which subsection (1) above would have effect on his death if the debt or incumbrance had not been satisfied or discharged, or
- (b) in reduction of a debt or incumbrance in the case of which that subsection has effect on his death,

the 1984 Act shall have effect as if, at the time of the payment or application, the person concerned had made a transfer of value equal to the money or money’s worth and that transfer were a potentially exempt transfer.

(6) Any reference in this section to a debt incurred is a reference to a debt incurred on or after 18th March 1986 and any reference to an incumbrance created by a disposition is a reference to an incumbrance created by a disposition made on or after that date; and in this section “subject matter” includes, in relation to any disposition, any annual or periodical payment made or payable under or by virtue of the disposition.

(7) In determining the value of a person’s estate immediately before his death, no account shall be taken (by virtue of section 5 of the 1984 Act) of any liability arising under or in connection

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with a policy of life insurance issued in respect of an insurance made on or after 1st July 1986 unless the whole of the sums assured under that policy form part of that person's estate immediately before his death.

Regulations for avoiding double charges etc.

104.—(1) For the purposes of the 1984 Act the Board may by regulations make such provision as is mentioned in subsection (2) below with respect to transfers of value made, and other events occurring, on or after 18th March 1986 where—

- (a) a potentially exempt transfer proves to be a chargeable transfer and, immediately before the death of the transferor, his estate includes property acquired by him from the transferee otherwise than for full consideration in money or money's worth;
- (b) an individual disposes of property by a transfer of value which is or proves to be a chargeable transfer and the circumstances are such that subsection (3) or subsection (4) of section 102 above applies to the property as being or having been property subject to a reservation;
- (c) in determining the value of a person's estate immediately before his death, a liability of his to any person is abated as mentioned in section 103 above and, before his death, the deceased made a transfer of value by virtue of which the estate of that other person was increased or by virtue of which property becomes comprised in a settlement of which that other person is a trustee; or
- (d) the circumstances are such as may be specified in the regulations for the purposes of this subsection, being circumstances appearing to the Board to be similar to those referred to in paragraphs (a) to (c) above.

(2) The provision which may be made by regulations under this section is provision for either or both of the following,—

- (a) treating the value transferred by a transfer of value as reduced by reference to the value transferred by another transfer of value; and
- (b) treating the whole or any part of the tax paid or payable on the value transferred by a transfer of value as a credit against the tax payable on the value transferred by another transfer of value.

(3) The power to make regulations under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the Commons House of Parliament.

PART V

105. With respect to transfers of value made on or after 18th March 1986, after section 39 of the 1984 Act there shall be inserted the following section—

“Operation of sections 38 and 39 in cases of business or agricultural relief.

Application of business and agricultural relief where transfer partly exempt.

39A.—(1) Where any part of the value transferred by a transfer of value is attributable to—

- (a) the value of relevant business property, or
- (b) the agricultural value of agricultural property,

then, for the purpose of attributing the value transferred (as reduced in accordance with section 104 or 116 below), to specific gifts and gifts of residue or shares of residue, sections 38 and 39 above shall have effect subject to the following provisions of this section.

(2) The value of any specific gifts of relevant business property or agricultural property shall be taken to be their value as reduced in accordance with section 104 or 116 below.

(3) The value of any specific gifts not falling within subsection (2) above shall be taken to be the appropriate fraction of their value.

(4) In subsection (3) above “the appropriate fraction” means a fraction of which—

- (a) the numerator is the difference between the value transferred and the value, reduced as mentioned in subsection (2) above, of any gifts falling within that subsection, and
- (b) the denominator is the difference between the unreduced value transferred and the value, before the reduction mentioned in subsection (2) above, of any gifts falling within that subsection;

and in paragraph (b) above “the unreduced value transferred” means the amount which would be the value transferred by the transfer but for the reduction required by sections 104 and 116 below.

(5) If or to the extent that specific gifts fall within paragraphs (a) and (b) of subsection (1) of section 38 above, the amount corresponding to the value of the gifts shall be arrived at in accordance with subsections (3) to (5) of that section by reference to their value reduced as mentioned in subsection (2) or, as the case may be, subsection (3) of this section.

(6) For the purposes of this section the value of a specific gift of relevant business property or agricultural property does not include the value of any

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other gift payable out of that property; and that other gift shall not itself be treated as a specific gift of relevant business property or agricultural property.

(7) In this section—

“ agricultural property” and “the agricultural value of agricultural property” have the same meaning as in Chapter II of Part V of this Act; and

“relevant business property” has the same meaning as in Chapter I of that Part.”

Changes in financial institutions: business property.

106.—(1) In section 105 of the 1984 Act (relevant business property) the following shall be substituted for subsection (4)(a)—

“(a) does not apply to any property if the business concerned is wholly that of a market maker or is that of a discount house and (in either case) is carried on in the United Kingdom, and”.

(2) At the end of that section there shall be inserted—

“(7) In this section “market maker” means a person who—

(a) holds himself out at all normal times in compliance with the rules of The Stock Exchange as willing to buy and sell securities, stocks or shares at a price specified by him, and

(b) is recognised as doing so by the Council of The Stock Exchange.”

(3) Subsections (1) and (2) above apply in relation to transfers of value made, and other events occurring, on or after the day of The Stock Exchange reforms.

(4) The Board may by regulations provide that section 105(7) of the 1984 Act (as inserted by subsection (2) above) shall have effect—

(a) as if the reference to The Stock Exchange in paragraph (a) were to any recognised investment exchange (within the meaning of the Financial Services Act 1986) or to any of those exchanges specified in the regulations, and

(b) as if the reference to the Council of The Stock Exchange in paragraph (b) were to the investment exchange concerned.

(5) The Board may by regulations amend section 105 of the 1984 Act so as to secure that section 105(3) does not apply to any property if the business concerned is of such a description as is set out in the regulations; and the regulations may include such incidental and consequential provisions as the Board think fit.

(6) Regulations under subsection (4) or (5) above shall apply in relation to transfers of value made, and other events occurring, on or after such day, after the day of The Stock Exchange reforms, as is specified in the regulations.

(7) The power to make regulations under subsection (4) or (5) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the Commons House of Parliament.

(8) In this section “the day of The Stock Exchange reforms” means the day on which the rule of The Stock Exchange that prohibits a person from carrying on business as both a broker and a jobber is abolished.

107.—(1) In section 234 of the 1984 Act (interest on instalments) the following shall be substituted for subsection (3)(c)— Changes in financial institutions: interest.
 “(c) any company whose business is wholly that of a market maker or is that of a discount house and (in either case) is carried on in the United Kingdom.”

(2) At the end of that section there shall be inserted—

“(4) In this section “market maker” means a person who—

(a) holds himself out at all normal times in compliance with the rules of The Stock Exchange as willing to buy and sell securities, stocks or shares at a price specified by him, and

(b) is recognised as doing so by the Council of The Stock Exchange.”

(3) Subsections (1) and (2) above apply in relation to chargeable transfers made, and other events occurring, on or after the day of The Stock Exchange reforms.

(4) The Board may by regulations provide that section 234(4) of the 1984 Act (as inserted by subsection (2) above) shall have effect—

(a) as if the reference to The Stock Exchange in paragraph (a) were to any recognised investment exchange (within the meaning of the Financial Services Act 1986) or to any of those exchanges specified in the regulations, and

(b) as if the reference to the Council of The Stock Exchange in paragraph (b) were to the investment exchange concerned.

(5) The Board may by regulations amend section 234 of the 1984 Act so as to secure that companies of a description set out in the regulations fall within section 234(3)(c); and the regulations may include such incidental and consequential provisions as the Board think fit.

PART V

(6) Regulations under subsection (4) or (5) above shall apply in relation to chargeable transfers made, and other events occurring, on or after such day, after the day of The Stock Exchange reforms, as is specified in the regulations.

(7) The power to make regulations under subsection (4) or (5) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the Commons House of Parliament.

(8) In this section “the day of The Stock Exchange reforms” has the same meaning as in section 106 above.

PART VI

OIL TAXATION

The on-shore/
off-shore
boundary.

108.—(1) For the purposes of the enactments relating to oil taxation, land lying between the landward boundary of the territorial sea and the shoreline of the United Kingdom (as defined below) shall be treated as part of the bed of the territorial sea of the United Kingdom and any reference in those enactments to the territorial sea or the subsoil beneath it shall be construed accordingly.

(2) Any reference to the United Kingdom in the enactments relating to oil taxation, where that reference is a reference to a geographical area, shall be treated as a reference to the United Kingdom exclusive of the land referred to in subsection (1) above and of any waters for the time being covering that land.

(3) In this section—

- (a) “the landward boundary of the territorial sea” means the line for the time being ordered by Her Majesty in Council to be the baseline from which the breadth of the territorial sea is measured; and
- (b) “the shoreline of the United Kingdom” means, subject to subsection (4) below, the high-water line along the coast, including the coast of all islands comprised in the United Kingdom.

(4) In the case of waters adjacent to a bay, as defined in the Territorial Waters Order in Council 1964, the shoreline means—

- (a) if the bay has only one mouth and the distance between the high-water lines of the natural entrance points of the bay does not exceed 5,000 metres, a straight line joining those high-water lines;

PART VI

- (b) if, because of the presence of islands, the bay has more than one mouth and the distances between the high-water lines of the natural entrance points of each mouth added together do not exceed 5,000 metres, a series of straight lines across each of the mouths drawn so as to join those high-water lines; and
- (c) if neither paragraph (a) nor paragraph (b) above applies, a straight line 5,000 metres in length drawn from high-water line to high-water line within the bay in such a manner as to enclose the maximum area of water that is possible with a line of that length.

(5) If, by virtue of this section, it becomes necessary at any time to establish the high-water line at any place, it shall be taken to be the line which, on the current Admiralty chart showing that place, is depicted as “the coastline”; and for this purpose,—

- (a) an Admiralty chart means a chart published under the superintendence of the Hydrographer of the Navy;
- (b) if there are two or more Admiralty charts of different scales showing the place in question and depicting the coastline, account shall be taken only of the largest scale chart; and
- (c) subject to paragraph (b) above, the current Admiralty chart at any time is that most recently published before that time.

(6) In this section “the enactments relating to oil taxation” means Part I of the Oil Taxation Act 1975 and any enactment 1975 c. 22, which is to be construed as one with that Part.

(7) This section shall be deemed to have come into force on 1st April 1986.

109.—(1) Where an election is made under this section and accepted by the Board, the market value for the purposes of the Oil Taxation Acts of any light gases to which the election applies shall be determined, not in accordance with paragraphs 2, 2A and 3 of Schedule 3 to the principal Act (value under a notional contract), but by reference to a price formula specified in the election; and, in relation to any such light gases, any reference to market value in any other provision of the Oil Taxation Acts shall be construed accordingly. Alternative valuation of light gases.

(2) No election may be made under this section in respect of light gases which are “ethane” as defined in subsection (6)(a) of section 134 of the Finance Act 1982 (alternative valuation of ethane used for petrochemical purposes) if the principal purpose for which the gases are being or are to be used is that specified 1982 c. 39.

PART VI

in subsection (2)(b) of the said section 134 (use for petrochemical purposes).

(3) Subject to subsection (4) below, an election under this section applies only to light gases—

- (a) which, during the period covered by the election, are either disposed of otherwise than in sales at arm's length or relevantly appropriated; and
- (b) which are not subject to fractionation between the time at which they are so disposed of or appropriated and the time at which they are applied or used for the purposes specified in the election.

(4) In any case where,—

- (a) at a time during the period covered by an election, a market value falls to be determined for light gases to which subsection (4)(b) or (5)(d) of section 2 of the principal Act applies (oil stocks at the end of chargeable periods), and
- (b) after the expiry of the chargeable period in question, the light gases are disposed of or appropriated as mentioned in subsection (3) above,

the market value of those light gases at the time referred to in paragraph (a) above shall be determined as if they were gases to which the election applies.

1982 c. 39.

(5) Schedule 18 to the Finance Act 1982 (which applies to elections under section 134 of that Act relating to ethane used or to be used for petrochemical purposes) shall have effect for supplementing this section but subject to the modifications in Schedule 21 to this Act (in which “the 1982 Schedule” means the said Schedule 18).

(6) This section shall be construed as one with Part I of the principal Act and in this section—

- (a) “light gases” means oil consisting of gas of which the largest component by volume over any chargeable period is methane or ethane or a combination of those gases and which—
 - (i) results from the fractionation of gas before it is disposed of or appropriated as mentioned in subsection (3)(a) above, or
 - (ii) before being so disposed of or appropriated, is not subjected to initial treatment or is subjected to initial treatment which does not include fractionation;

1975 c. 22.

- (b) “the principal Act” means the Oil Taxation Act 1975; and

(c) “the Oil Taxation Acts” means Part I of the principal Act and any enactment which is to be construed as one with that Part.

(7) In this section “fractionation” means the treatment of gas in order to separate gas of one or more kinds as mentioned in paragraph 2A(3) of Schedule 3 to the principal Act; and for the purposes of subsection (6)(a) above,—

- (a) the proportion of methane, ethane or a combination of the two in any gas shall be determined at a temperature of 15°C and at a pressure of one atmosphere; and
- (b) any component other than methane, ethane or liquified petroleum gas shall be disregarded.

110.—(1) Section 8 of the Oil Taxation Act 1983 (qualifying assets) shall have effect, and be deemed always to have had effect, subject to the amendments in subsections (2) and (3) below.

Attribution of certain receipts and expenditure between oil fields.
1983 c. 56.

(2) In subsection (3) (which determines the oil field to which are attributable tariff receipts or disposal receipts referable to a qualifying asset) after the word “above”, both where it occurs in paragraph (c) and also in the words following paragraph (c), there shall be inserted “and subsection (3A) below”.

(3) After subsection (3) there shall be inserted the following subsection—

“(3A) If development decisions were first made in relation to two or more oil fields on the same day, then, for the purposes of subsection (3)(c) above, it shall be conclusively presumed that the first of those decisions was made in relation to that one of those fields in connection with which it appeared—

- (a) at the time of the decision, or
- (b) if it is later, at the time the asset was acquired or brought into existence by the participator in question for use in connection with an oil field,

that the participator in question would make the most use of the asset.”

(4) Paragraph 6 of Schedule 1 to the Oil Taxation Act 1983 (attribution of allowable expenditure) shall have effect and be deemed always to have had effect with the addition of the following sub-paragraph—

“(3) Subsection (3A) of section 8 of this Act applies for the purposes of sub-paragraph (1) above as it applies for the purposes of subsection (3)(c) of that section.”

PART VI

PART VII

MISCELLANEOUS AND SUPPLEMENTARY

Broadcasting:
additional
payments by
programme
contractors.

1981 c. 68.

111.—(1) The Broadcasting Act 1981 shall have effect with respect to additional payments payable by programme contractors under that Act subject to the amendments made by Part I of Schedule 22 to this Act.

(2) The transitional provisions made by Part II of that Schedule shall have effect.

(3) This section shall be deemed to have come into force on 1st April 1986.

Limit for local
loans.

1968 c. 13.

112. In section 4(1) of the National Loans Act 1968 (which provides that the aggregate of any commitments of the Public Works Loan Commissioners in respect of undertakings to grant local loans and any amount outstanding in respect of the principal of such loans shall not exceed £28,000 million or such other sum not exceeding £35,000 million as the Treasury may specify by order) for the words “£28,000 million” and “£35,000 million” there shall be substituted respectively “£42,000 million” and “£50,000 million”.

“Securities”
for purposes of
Exchange
Equalisation
Account Act
1979.

1979 c. 30.

113.—At the end of section 3 of the Exchange Equalisation Account Act 1979 (investment of the funds of the Exchange Equalisation Account) there shall be added the following subsection—

“(4) Without prejudice to the reference in subsection (1)(b) above to special drawing rights, the reference in subsection (3) above to currency of any country includes a reference to units of account defined by reference to more than one currency.”

Short title,
interpretation,
construction
and repeals.

1970 c. 10.

114.—(1) This Act may be cited as the Finance Act 1986.

(2) In this Act “the Taxes Act” means the Income and Corporation Taxes Act 1970.

(3) Part II of this Act, so far as it relates to income tax, shall be construed as one with the Income Tax Acts, so far as it relates to corporation tax, shall be construed as one with the Corporation Tax Acts and, so far as it relates to capital gains tax, shall be construed as one with the Capital Gains Tax Act 1979.

1979 c. 14.

1891 c. 39.

(4) Part III of this Act shall be construed as one with the Stamp Act 1891.

1984 c. 51.

(5) Part V of this Act, other than section 100, shall be construed as one with the Capital Transfer Tax Act 1984.

PART VII

(6) The enactments and Orders specified in Schedule 23 to this Act are hereby repealed to the extent specified in the third column of that Schedule, but subject to any provision at the end of any Part of that Schedule.

SCHEDULES

Section 3(2), (3).

SCHEDULE 1

VEHICLES EXCISE DUTY: HACKNEY CARRIAGES AND
FARMERS' GOODS VEHICLES

PART I

PROVISION SUBSTITUTED FOR PART II OF SCHEDULE 2
TO THE ACTS OF 1971 AND 1972

Description of vehicle	Rate of duty
Hackney carriages	£ 52.50 with an additional £1.05 for each person above 20 (excluding the driver) for which the vehicle has seating capacity.

PART II

TABLES SUBSTITUTED IN PART II OF SCHEDULE 4
TO THE ACTS OF 1971 AND 1972

TABLE A(1)

RATES OF DUTY ON RIGID GOODS VEHICLES EXCEEDING 12 TONNES
PLATED GROSS WEIGHT

RATES FOR FARMERS' GOODS VEHICLES

Plated gross weight of vehicle		Rate of duty		
1. Exceeding	2. Not exceeding	3. Two axle vehicle	4. Three axle vehicle	5. Four or more axle vehicle
tonnes	tonnes	£	£	£
12	13	210	170	170
13	14	280	175	175
14	15	350	175	175
15	17	475	180	175
17	19	—	240	175
19	21	—	320	180
21	23	—	420	245
23	25	—	720	330
25	27	—	—	465
27	29	—	—	665
29	30.49	—	—	1,090

TABLE C(1)

**RATES OF DUTY ON TRACTOR UNITS EXCEEDING 12 TONNES PLATED
TRAIN WEIGHT AND HAVING ONLY 2 AXLES**

RATES FOR FARMERS' GOODS VEHICLES

Plated train weight of tractor unit		Rate of duty		
1. Exceeding	2. Not exceeding	3. For a tractor unit to be used with semi-trailers with any number of axles	4. For a tractor unit to be used only with semi-trailers with not less than two axles	5. For a tractor unit to be used only with semi-trailers with not less than three axles
tonnes	tonnes	£	£	£
12	14	235	215	215
14	16	290	220	220
16	18	330	220	220
18	20	385	220	220
20	22	435	270	220
22	23	465	300	220
23	25	530	365	225
25	26	530	405	265
26	28	530	500	345
28	29	555	555	390
29	31	765	765	495
31	33	1,115	1,115	780
33	34	1,230	1,230	1,150
34	36	1,405	1,405	1,405
36	38	1,580	1,580	1,580

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TABLE D(1)

**RATES OF DUTY ON TRACTOR UNITS EXCEEDING 12 TONNES PLATED
TRAIN WEIGHT AND HAVING THREE OR MORE AXLES**

RATES FOR FARMERS' GOODS VEHICLES

Plated train weight of tractor unit		Rate of duty		
1. Exceeding	2. Not exceeding	3. For a tractor unit to be used with semi-trailers with any number of axles	4. For a tractor unit to be used only with semi-trailers with not less than two axles	5. For a tractor unit to be used only with semi-trailers with not less than three axles
tonnes	tonnes	£	£	£
12	14	215	215	215
14	20	220	220	220
20	22	270	220	220
22	23	300	220	220
23	25	365	220	220
25	26	405	225	220
26	28	500	230	225
28	29	555	270	230
29	31	765	325	240
31	33	1,115	495	250
33	34	1,140	725	315
34	36	1,205	1,035	475
36	38	1,390	1,390	710

Section 3(7).

SCHEDULE 2

**VEHICLES EXCISE DUTY: MISCELLANEOUS
AMENDMENTS**

PART I

AMENDMENTS OF VEHICLES (EXCISE) ACT 1971

Additional days to be included in duration of certain licences

1971 c. 10.

1.—(1) In the Vehicles (Excise) Act 1971 (in this Part of this Schedule referred to as “the 1971 Act”), section 2A (power to modify duration of licences and rates of duty) as set out in paragraph 5 of Schedule 7 to that Act (transitional provisions) shall be amended as follows.

(2) In subsection (1) after paragraph (a) there shall be inserted the following paragraph—

“(aa) in the case of licences taken out on the first registration of vehicles of such description as may be so specified, periods exceeding by such number of days (not exceeding thirty) as may be determined by or under the order the periods for which the licence would otherwise have effect by virtue of section 2(1) above or any provision made under paragraph (a) above; or”.

(3) In subsection (2), in paragraph (a) of the proviso, for the words “other than one of twelve months” there shall be substituted the words “of a fixed number of months other than twelve or for a period of less than a month”.

Tower wagons used by street lighting authorities etc.

2. In section 4 of the 1971 Act (exemptions from duty) in subsection (2) for the definition of “tower wagon” there shall be substituted the following—

“ ‘tower wagon’ means a goods vehicle—

- (a) into which there is built, as part of the vehicle, any expanding or extensible contrivance designed for facilitating the erection, inspection, repair or maintenance of overhead structures or equipment, and
- (b) which is neither constructed nor adapted for use nor used for the conveyance of any load other than—
 - (i) such a contrivance and articles used in connection therewith, and
 - (ii) articles used in connection with the installation or maintenance, by means of such a contrivance, of materials or apparatus for lighting streets, roads or public places”.

Visiting forces

3. In section 7 of the 1971 Act (miscellaneous exemptions from duty) after subsection (3) there shall be inserted the following subsection—

“(3A) Regulations under this Act may provide that, in such cases, subject to such conditions and for such period as may be prescribed, a mechanically propelled vehicle shall not be chargeable with any duty under this Act if it has been imported by—

- (a) a person for the time being appointed to serve with any body, contingent or detachment of the forces of any prescribed country, being a body, contingent or detachment which is for the time being present in the United Kingdom on the invitation of Her Majesty’s Government in the United Kingdom, or
- (b) a member of any country’s military forces, except Her Majesty’s United Kingdom forces, who is for the time being appointed to serve in the United Kingdom under the orders of any prescribed organisation, or
- (c) a person for the time being recognised by the Secretary of State as a member of a civilian component of such a force as is mentioned in paragraph (a) above or as a civilian member of such an organisation as is mentioned in paragraph (b) above, or
- (d) any prescribed dependant of a person falling within paragraph (a), paragraph (b) or paragraph (c) above.”

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Trade licences

4.—(1) Section 16 of the 1971 Act (trade licences) shall be amended as follows.

(2) In subsection (1) (issue of trade licences)—

(a) at the end of paragraph (iii) (vehicles for which a manufacturer may use a trade licence) there shall be inserted the words “and all vehicles which are from time to time submitted to him by other manufacturers for testing on roads in the course of that business”; and

(b) at the beginning of paragraph (c) of the proviso (restrictions on use of trade licence) there shall be inserted the words “except in such circumstances as may be prescribed”.

(3) After subsection (1) there shall be inserted the following subsection—

“(1A) Subsection (1) above has effect in relation to an application made by a person who satisfies the Secretary of State that he intends to commence business as a motor trader or vehicle tester as it has effect in relation to an application made by a motor trader or vehicle tester.”

(4) In subsection (3) (which specifies the cases in which regulations may allow a vehicle to be used under a trade licence to carry a load) after paragraph (b) there shall be inserted the following paragraph—

“(b) in the case of a vehicle which is being delivered or collected, a load consisting of another vehicle used or to be used for travel from or to the place of delivery or collection; or”.

(5) Subsection (4) (duration of trade licence) shall be amended as follows—

(a) for the words “A trade licence”, including those words where they appear in the subsection as set out in paragraph 12 of Part I of Schedule 7 to the 1971 Act, there shall be substituted “Subject to subsections (4A) and (4B) below, a trade licence”;

(b) for paragraph (b) there shall be substituted—

“(b) for a period of six months”; and

(c) in the subsection as set out in paragraph 12 of Part I of Schedule 7 to the Act for the words from “except” to the end there shall be substituted “for a period of six months beginning with the first day of January or of July”.

(6) After subsection (4) there shall be inserted the following subsections—

“(4A) A trade licence taken out by a person who is not a motor trader or vehicle tester (having satisfied the Secretary of State as mentioned in subsection (1A) above) shall be for a period of six months only.

(4B) The Secretary of State may require that a trade licence taken out by a motor trader or vehicle tester who does not hold any existing trade licence shall be for a period of six months only.”

(7) Subsection (5) (fees) shall be amended as follows—

- (a) for the words “four months” and “eleven thirtieths” there shall be substituted respectively “six months” and “eleven twentieths”; and
- (b) in the subsection as set out in paragraph 12 of Part I of Schedule 7 to the Act, for the words “three months” and “eleven fortieths” there shall be substituted respectively “six months” and “eleven twentieths”.

(8) In subsection (8), in the definition of “motor trader”, for the words from “means” to “this section” there shall be substituted “means—

- (a) a manufacturer or repairer of, or dealer in, mechanically propelled vehicles, or
- (b) any person not falling within paragraph (a) above who carries on a business of such description as may be prescribed;

and a person shall be treated for the purposes of paragraph (a) above”.

Surrender of licences

5. In section 17(2) of the 1971 Act (surrender of licences) as set out in paragraph 13 of Part I of Schedule 7 to the Act, paragraph (a) and, in paragraph (b), the words from the beginning to “class” shall be omitted.

Removal of fee for duplicate registration document

6. Section 23 of the 1971 Act (regulations with respect to the transfer and identification of vehicles) shall be amended as follows—

- (a) in paragraph (f) (replacement documents) the words “and as to the fee payable in prescribed circumstances in respect of any replacement” shall be omitted; and
- (b) in the section as set out in paragraph 20 of Part I of Schedule 7 to the Act in subsection (1)(e) (replacement books) the words “and for the fee to be paid on the issue of a new registration book” shall be omitted.

PART II

AMENDMENTS OF VEHICLES (EXCISE) ACT (NORTHERN IRELAND) 1972

Additional days to be included in duration of certain licences

7.—(1) In the Vehicles (Excise) Act (Northern Ireland) 1972 (in this 1972 c. 10 (N.I.). Part of this Schedule referred to as “the 1972 Act”), section 2A (power to modify duration of licences and rates of duty) as set out in paragraph 5 of Schedule 9 to that Act (transitional provisions) shall be amended as follows.

(2) In subsection (1) for the words from “being” onwards there shall be substituted the following—

“being—

SCH. 2

- (a) periods of a fixed number of months (not exceeding fifteen) running from the beginning of the month in which the licence first has effect;
- (b) in the case of licences taken out on first registration of vehicles of such description as may be so specified, periods exceeding by such number of days (not exceeding thirty) as may be determined by or under the order the periods for which the licence would otherwise have effect by virtue of section 2(1) or any provision made under paragraph (a); or
- (c) in the case of vehicles of such description, or of such description and used in such circumstances, as may be specified, periods of less than a month."

(3) In subsection (3), for the words "other than one of twelve months" there shall be substituted the words "of a fixed number of months other than twelve or for a period of less than a month".

Tower wagons used by street lighting authorities etc.

8. In section 4 of the 1972 Act (exemptions from duty) in subsection (2) for the definition of "tower wagon" there shall be substituted the following—

“ ‘tower wagon’ means a goods vehicle—

- (a) into which there is built, as part of the vehicle, any expanding or extensible contrivance designed for facilitating the erection, inspection, repair or maintenance of overhead structures or equipment, and
- (b) which is neither constructed nor adapted for use nor used for the conveyance of any load other than—
 - (i) such a contrivance and articles used in connection therewith, and
 - (ii) articles used in connection with the installation or maintenance, by means of such a contrivance, of materials or apparatus for lighting streets, roads or public places”.

Trade licences

9.—(1) Section 16 of the 1972 Act (trade licences) shall be amended as follows.

(2) In subsection (1) (issue of trade licences) at the end of paragraph (c) (vehicles for which a manufacturer may use a trade licence) there shall be inserted the words “and all vehicles which are from time to time submitted to him by other manufacturers for testing on roads in the course of that business”.

(3) In subsection (2), at the beginning of paragraph (c) (restrictions on use of trade licence) there shall be inserted the words “except in such circumstances as may be prescribed”.

(4) After subsection (2) there shall be inserted the following subsection—

“(2A) Subsections (1) and (2) have effect in relation to an application made by a person who satisfies the Secretary of State that he intends to commence business as a motor trader or vehicle tester as they have effect in relation to an application made by a motor trader or vehicle tester.”

(5) In subsection (4) (which specifies the cases in which regulations may allow a vehicle to be used under a trade licence to carry a load) after paragraph (b) there shall be inserted the following paragraph—

“(bb) in the case of a vehicle which is being delivered or collected, a load consisting of another vehicle used or to be used for travel from or to the place of delivery or collection; or”.

(6) Subsection (5) (duration of trade licence) shall be amended as follows—

(a) for the words “A trade licence”, including those words where they appear in the subsection as set out in paragraph 12 of Part I of Schedule 9 to the 1972 Act, there shall be substituted “Subject to subsections (5A) and (5B), a trade licence”;

(b) for paragraph (b) there shall be substituted—
“(b) for a period of six months;” and

(c) in the subsection as set out in paragraph 12 of Part I of Schedule 9 to the Act for the words from “except” to the end there shall be substituted “for a period of six months beginning with the first day of January or of July”.

(7) After subsection (5) there shall be inserted the following subsections—

“(5A) A trade licence taken out by a person who is not a motor trader or vehicle tester (having satisfied the Secretary of State as mentioned in subsection (2A)) shall be for a period of six months only.

(5B) The Secretary of State may require that a trade licence taken out by a motor trader or vehicle tester who does not hold any existing trade licence shall be for a period of six months only.”

(8) Subsection (6) (fees) shall be amended as follows—

(a) for the words “four months” and “eleven thirtieths” there shall be substituted respectively “six months” and “eleven twentieths”; and

(b) in the subsection as set out in paragraph 12 of Part I of Schedule 9 to the Act, for the words “three months” and “eleven fortieths” there shall be substituted respectively “six months” and “eleven twentieths”.

(9) In subsection (10), in the definition of “motor trader”, for the words from “means” to “this section” there shall be substituted “means—

(a) a manufacturer or repairer of, or dealer in, mechanically propelled vehicles, or

(b) any person not falling within paragraph (a) above who carries on a business of such description as may be prescribed;

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and a person shall be treated for the purposes of paragraph (a)”.

Surrender of licences

10. In section 17(2) of the 1972 Act (surrender of licences) as set out in paragraph 13 of Part I of Schedule 9 to the Act, paragraph (a) and, in paragraph (b), the words from the beginning to “class” shall be omitted.

Removal of fee for duplicate registration document

11. Section 23 of the 1972 Act (regulations with respect to the transfer and identification of vehicles) shall be amended as follows—

- (a) in paragraph (f) (replacement documents) the words “and as to the fee payable in prescribed circumstances in respect of any replacement” shall be omitted; and
- (b) in the section as set out in paragraph 20 of Part I of Schedule 9 to the Act in subsection (1)(e) (replacement books) the words “and for the fee to be paid on the issue of a new registration book” shall be omitted.

Section 5.

SCHEDULE 3

WAREHOUSING REGULATIONS

1979 c.2.

1. Section 93 of the Customs and Excise Management Act 1979 (warehousing regulations) shall be amended in accordance with paragraphs 2 to 7 below.

2. There shall be added at the end of subsection (1) (matters which may be regulated) the words “and make provision with respect to goods which are to be warehoused or which have been lawfully permitted to be removed from a warehouse without payment of duty and with respect to the keeping, preservation and production of records and the furnishing of information.”

3. The following shall be inserted after subsection (2)(e)—

“(ee) providing that goods which are to be warehoused, or which have been lawfully permitted to be removed from a warehouse without payment of duty, are to be treated as if, for all or any prescribed purposes of the customs and excise Acts, they were warehoused;”.

4. The following shall be substituted for subsection (2)(g) (business records)—

“(g) imposing or providing for the imposition under the regulations of requirements on the occupier of a warehouse or the proprietor of goods in a warehouse or goods which have been in or are to be deposited in a warehouse to keep and preserve such

records as may be prescribed relating to his occupation of the warehouse or proprietorship of the goods;

(h) imposing or providing for the imposition under the regulations of requirements on such an occupier or proprietor to preserve all other records kept by him for the purposes of any relevant business or activity, except any records which (or records of a class which) the Commissioners specify as not needing preservation;

(j) imposing or providing for the imposition under the regulations of requirements on such an occupier or proprietor to produce or cause to be produced any records which he has been required to preserve by virtue of paragraph (g) or (h) above to an officer when required to do so for the purpose of allowing the officer to inspect them, to copy or take extracts from them or to remove them at a reasonable time and for a reasonable period;

(k) imposing or providing for the imposition under the regulations of requirements on such an occupier or proprietor to furnish the Commissioners with any information relating to any relevant business or activity which they specify as information which they think it is necessary or expedient for them to be given for the protection of the revenue;

(l) allowing a requirement to preserve any records which has been imposed by virtue of paragraph (h) above to be discharged by the preservation in a form approved by the Commissioners of the information contained in the records."

5. The following shall be inserted at the end of subsection (2)—

"In this subsection 'relevant business or activity' means, in relation to an occupier or proprietor, any business or activity of his which includes occupation of a warehouse or (as the case may be) proprietorship of goods in a warehouse or goods which have been in or are to be deposited in a warehouse, where the goods are of a kind in which the proprietor trades or deals."

6. In subsection (2A) (compensation for lost or damaged documents) for "(2)(g)" there shall be substituted "(2)(j)".

7. The following shall be substituted for subsection (7) (interpretation)—

"(7) In this section—

- (a) 'prescribed' means prescribed by warehousing regulations;
- (b) references to goods which are to be warehoused are references to goods which have been entered for warehousing on importation, which have been removed from a producer's premises for warehousing without payment of duty or which are to be warehoused on drawback."

8. In consequence of the amendments made by the preceding provisions of this Schedule, the following provisions of section 15 of the

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1979 c. 4.

Alcoholic Liquor Duties Act 1979 (which relate to regulations about distillers' warehouses) shall cease to have effect—

- (a) subsections (6A) and (6B), and
- (b) the words "restriction or requirement" in subsection (7) and in subsection (8).

Section 6.

SCHEDULE 4

EXTENSION TO NORTHERN IRELAND OF PROVISIONS OF BETTING AND GAMING DUTIES ACT 1981

PART I

AMENDMENTS OF THE BETTING AND GAMING DUTIES ACT 1981

General betting duty and pool betting duty

1.—(1) In section 1 (general betting duty) in subsection (1) for the words "Great Britain" there shall be substituted "the United Kingdom".

(2) In subsection (3) of that section after the words "Act 1963" there shall be inserted the words "or Article 37 of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985".

2.—(1) In section 6 (pool betting duty) for the words "Great Britain", wherever they occur, there shall be substituted "the United Kingdom".

(2) In subsection (3)(b) of that section—

(a) in sub-paragraph (i) after the words "Act 1976" there shall be inserted the words "or, as the case may be, Article 133 or 134 of, or paragraph 6 of Schedule 20 to, the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985";

(b) at the beginning of sub-paragraph (ii) there shall be inserted the words "in Great Britain"; and

(c) after that sub-paragraph there shall be added the following sub-paragraph—

"or

(iii) in Northern Ireland, in any society's lottery within the meaning of Article 2(2) of that Order which is not unlawful under that Order."

3.—(1) In section 9 (prohibitions for protection of revenue) for the words "Great Britain", wherever they occur, there shall be substituted "the United Kingdom".

(2) In subsection (3)(a) of that section the words "Northern Ireland or" and "of the Parliament of Northern Ireland or, as the case may be," shall be omitted.

4. In section 12(4) (interpretation of provisions relating to betting duties)—

- (a) before the definition of “meeting” there shall be inserted the following definitions—

“ ‘betting office licence’—

- (a) in Great Britain, has the meaning given by section 9(1) of the Betting, Gaming and Lotteries Act 1963, and
- (b) in Northern Ireland, means a bookmaking office licence as defined in Article 2(2) of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985;

‘bookmaker’—

- (a) in Great Britain, has the meaning given by section 55(1) of the said Act of 1963, and
- (b) in Northern Ireland, has the meaning given by Article 2(2) of the said Order of 1985;

and (in either case) the expression ‘bookmaking’ shall be construed accordingly;

‘bookmaker’s permit’—

- (a) in Great Britain, has the meaning given by section 2(1) of the said Act of 1963, and
- (b) in Northern Ireland, means a bookmaker’s licence as defined in Article 2(2) of the said Order of 1985;”;

- (b) after the definition of “promoter” there shall be inserted the following definitions—

“ ‘sponsored pool betting’ has the meaning given by section 55(1) of the said Act of 1963;

‘totalisator’ has the meaning given by section 55(1) of the said Act of 1963 and Article 2(2) of the said Order of 1985;

‘track’—

- (a) in Great Britain, has the meaning given by section 55(1) of the said Act of 1963, and
- (b) in Northern Ireland, has the meaning given by Article 2(2) of the said Order of 1985;”;

- (c) the words from “and ‘betting office licence’ ” to the end shall be omitted.

Bingo duty

5. In section 17(1) (charge of bingo duty) for the words “Great Britain” there shall be substituted “the United Kingdom”.

6. In section 19(2) (bingo played in more than one place)—

- (a) for the words “Great Britain”, in both places where they occur, there shall be substituted “the United Kingdom”; and

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- (b) the words “Northern Ireland or” and the words “the Parliament of Northern Ireland or, as the case may be,” shall be omitted.

7. In section 20(2) (interpretation of provisions relating to bingo duty) the definition of “Great Britain” shall be omitted and after the definition of “the promoter” there shall be inserted the following definition—

“‘United Kingdom’ includes the territorial waters of the United Kingdom;”.

General

8. In section 28 (recovery of duty by distress in England and Wales) for subsection (5) there shall be substituted—

“(5) This section extends to England and Wales and Northern Ireland only.”

9. In section 29 (recovery of duty by pointing in Scotland) for subsection (5) there shall be substituted—

“(5) This section extends to Scotland only.”

10.—(1) In section 35, for subsection (3) (extent) there shall be substituted—

“(3) The following provisions of this Act do not extend to Northern Ireland—

- (a) sections 13 to 16;
- (b) sections 29 and 30;
- (c) Schedule 2;
- (d) paragraph 15 of Schedule 4;

and sections 27 and 31 do not extend there in their application to the enactments relating to gaming licence duty.”

(2) Subsection (4) of that section shall be omitted.

Administration of betting duties

11.—(1) In Schedule 1 (betting duties) in paragraph 7 (production of records) after the words “Act 1963” there shall be inserted the words “or Schedule 8 to the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985”.

(2) In paragraph 15 of that Schedule—

- (a) in sub-paragraph (2) after the words “England or Wales” there shall be inserted the words “or Northern Ireland”;
- (b) in sub-paragraph (4) after the word “premises” there shall be inserted the words “in England, Wales or Scotland”; and
- (c) after that sub-paragraph there shall be inserted the following sub-paragraphs—

“(5) Subject to sub-paragraph (6) below, where under sub-paragraph (1) above a court orders that a betting office licence held by a person in respect of premises in Northern Ireland shall be forfeited and cancelled, no court of summary jurisdiction shall entertain an application by that person for the grant (or provisional grant) of a new betting office licence in respect of those premises or any other premises situated in the same petty sessions district as those premises made less than twelve months after that forfeiture and cancellation.

(6) Sub-paragraph (5) above—

- (a) shall not prejudice the right of such a person as is mentioned in that sub-paragraph to seek the renewal of any betting office licence (other than that which is forfeited) which he holds; and
- (b) applies notwithstanding anything in Article 12 of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985.”

Exemptions from, and administration of, bingo duty

12.—(1) In Schedule 3 in paragraph 2(1) (small-scale bingo) after the words “Act 1968” there shall be inserted the words “or under Chapter II of Part III of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985”.

(2) In paragraph 5 of that Schedule (small-scale amusements provided commercially) in sub-paragraph (1) after paragraph (a) there shall be inserted the following paragraph—

“(aa) on any premises in Northern Ireland in respect of which an amusement permit under Article 111 of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 or a pleasure permit under Article 157 of that Order has been granted;”.

(3) In paragraph 10(2) of that Schedule (registration of bingo-promoters) after the words “Act 1968” there shall be inserted the words “or under Chapter II of Part III of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985”.

PART II

CONSEQUENTIAL AMENDMENTS OF NORTHERN IRELAND LEGISLATION

13. In section 287(1)(a) of the Companies Act (Northern Ireland) 1960 c. 22 (N.I.) 1960 (preferential payments), for head (iv) there shall be substituted the following head—

“(iv) any amount due from the company at the relevant date by way of general betting duty or bingo duty, or by virtue of section 12(1) of the Betting and Gaming Duties Act 1981, which became due within 12 months next before that date;”.

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S.I. 1980/561
(N.I. 4).

14. In Article 19(a) of the Bankruptcy Amendment (Northern Ireland) Order 1980 (preferential payments), for head (v) there shall be substituted the following head—

“(v) any amount due from the bankrupt at the relevant date by way of general betting duty or bingo duty, or by virtue of section 12(1) of the Betting and Gaming Duties Act 1981, which became due within 12 months next before that date;”.

S.I. 1985/1204
(N.I. 11).

15.—(1) The Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 shall be amended as follows.

(2) In Article 7, after paragraph (4), there shall be inserted the following paragraph—

“(4A) In considering the fitness of any applicant to hold a bookmaker’s licence, the court shall have regard to—

- (a) any failure of the applicant or of any other person mentioned in paragraph (3)(b); and
- (b) where the applicant is a body corporate, any failure of any director of the applicant or of any other person mentioned in paragraph (4);

to pay any amount due from him or it by way of general betting duty or pool betting duty.”.

(3) In Article 61, after paragraph (4) there shall be inserted the following paragraph—

“(4A) In considering the fitness of any applicant to hold a bingo club licence, a court shall have regard to—

- (a) any failure of the applicant or of any other person mentioned in paragraph (3)(b); and
- (b) where the applicant is a body corporate, any failure of any director of the applicant or of any other person mentioned in paragraph (4);

to pay any amount due from him or it by way of bingo duty.”.

(4) In Article 174 (registration of licences, etc)—

(a) in paragraph (2), after head (g) there shall be inserted the following head—

“(gg) particulars of the forfeiture and cancellation of any bookmaking office licence in consequence of an order made under paragraph 15(1) of Schedule 1 to the Betting and Gaming Duties Act 1981;”;

(b) in paragraph (4), after head (b) there shall be inserted the following—

“or

(c) orders the forfeiture and cancellation of a book-making office licence under paragraph 15(1) of Schedule 1 to the Betting and Gaming Duties Act 1981;”.

(5) In the following provisions, namely—

- (a) Article 2(16), in so far as it is relevant for the purposes of the provisions mentioned in heads (b) and (c);
- (b) Article 185(3) and Schedule 7, in so far as those provisions relate to a bookmaker's licence, a bookmaking office licence or a bingo club licence; and
- (c) Schedules 1 to 6 and Schedules 9 and 10;

any reference to the sub-divisional commander of the police sub-division shall be construed as including a reference to the Collector of Customs and Excise for the area, and any reference to the police sub-division shall be construed as including a reference to the area for which the Collector is responsible.

PART III

SUBORDINATE LEGISLATION

16.—(1) Any regulations made under Schedule 1 (betting duties) to the Betting and Gaming Duties Act 1981, in so far as they have effect immediately before the betting commencement date, shall have effect on and after that date in relation to Northern Ireland as if—

- (a) that Act extended to Northern Ireland at the time when the regulations were made, and
- (b) the regulations were made in relation to Northern Ireland as well as to Great Britain.

(2) Any orders or regulations made under Schedule 3 (bingo duty) to that Act, in so far as they have effect immediately before the bingo commencement date, shall have effect on and after that date in relation to Northern Ireland as if—

- (a) that Act extended to Northern Ireland at the time when the orders or regulations were made, and
- (b) the orders or regulations were made in relation to Northern Ireland as well as to Great Britain.

SCHEDULE 5

Section 8(6).

LICENCES UNDER THE CUSTOMS AND EXCISE ACTS

General provisions as to payment of duty on excise licences

1. In section 101 of the Customs and Excise Management Act 1979 (grant of excise licences)—

- (a) in subsection (1), for the words “the appropriate duty” there shall be substituted “any appropriate duty”; and
- (b) in subsection (3), for the words “taken out” there shall be substituted “held” and for the words “in any one licence year” there shall be substituted “at any one time”.

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2. In sections 102(1) and 104(3) of the Customs and Excise Management Act 1979 (payment for and transfer of excise licences), for the words "the duty" there shall be substituted "any duty".

Licences to manufacture spirits

1979 c. 4.

3.—(1) Section 12 of the Alcoholic Liquor Duties Act 1979 (distillers' licences) shall be amended in accordance with this paragraph.

(2) At the end of subsection (4) there shall be added the words "and they may at any time revoke a licence in respect of any premises if, by reason of circumstances arising since the grant of the licence, they could by virtue of this subsection refuse to grant a licence in respect of those premises".

(3) At the end of subsection (5) there shall be added the words "and where the largest still so used on any premises in respect of which a licence is held is of less than that capacity, the Commissioners may revoke the licence or attach to it such conditions as they see fit to impose".

(4) After subsection (6) there shall be inserted the following subsection—

“(6A) If at any time, by reason of circumstances arising since the grant of a distiller's licence in respect of any premises, the Commissioners are not satisfied as mentioned in subsection (6) above, they may revoke the licence unless the distiller gives the undertaking mentioned in that subsection.”

(5) In subsection (9), for the words "to whom a licence has been granted upon his giving" there shall be substituted "who, in respect of a licence, has given".

Licences relating to hydrocarbon oil etc.

1979 c. 5.

4. In Schedule 3 to the Hydrocarbon Oil Duties Act 1979 (subjects for regulations under section 21 of that Act), in paragraphs 2, 13 and 18 (which relate to licences for the production etc. of hydrocarbon oil, petrol substitutes and road fuel gas respectively) for the words "Fixing the date of expiration of any such licence" there shall be substituted "Specifying the circumstances in which any such licence may be surrendered or revoked".

Licences to manufacture mechanical lighters

1979 c. 6.

5. In section 7 of the Matches and Mechanical Lighters Duties Act 1979 (regulations about mechanical lighters) in subsection (1) for paragraph (b) there shall be substituted—

“(b) for enabling licences granted under the regulations to be surrendered or revoked in such circumstances as are specified in the regulations;”.

SCHEDULE 6

Section 9.

CONSIDERATION FOR FUEL SUPPLIED FOR PRIVATE USE

1. This Schedule has effect to determine the consideration referred to in subsection (7) of section 9 of this Act in respect of any one vehicle; and in this Schedule—

- (a) “the principal section” means that section;
- (b) “the prescribed accounting period” means that in respect of supplies in which the consideration is to be determined; and
- (c) “the individual” means the individual to whom those supplies are treated as made.

2.—(1) Subject to paragraph 3 below, where the prescribed accounting period is a period of three months, the consideration appropriate to any vehicle is that specified in relation to a vehicle of the appropriate description in the second column of Table A below.

(2) Subject to paragraph 3 below, where the prescribed accounting period is a period of one month, the consideration appropriate to any vehicle is that specified in relation to a vehicle of the appropriate description in the third column of Table A below.

TABLE A

<i>Cylinder capacity of vehicle in cubic centimetres</i>	<i>3 month period</i>	<i>1 month period</i>
	£	£
1400 or less	120	40
More than 1400 but not more than 2000	150	50
More than 2000	225	75

3.—(1) If in the prescribed accounting period a vehicle is used by the individual referred to in subsection (7) of the principal section for the purposes of business travel to the extent of at least 4500 miles or, if the prescribed accounting period is a period of one month, 1500 miles, then paragraph 2 above shall have effect as if for any reference therein to Table A there were substituted a reference to Table B below.

(2) Where, by virtue of subsection (8) of the principal section, subsection (7) of that section has effect as if, in the prescribed accounting period, supplies of fuel for private use made in respect of two or more vehicles were made in respect of only one vehicle, sub-paragraph (1) above shall have effect as if the reference to a vehicle were a reference to those two or more vehicles taken together.

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(3) In this paragraph "business travel" means travelling which an individual is necessarily obliged to do in the performance of the duties of his employment, the partnership or, in the case of the taxable person himself, his business.

TABLE B

<i>Cylinder capacity of vehicle in cubic centimetres</i>	<i>3 month period</i>	<i>1 month period</i>
	£	£
1400 or less	60	20
More than 1400 but not more than 2000	75	25
More than 2000	113	38

4. The Treasury may by order taking effect from the beginning of any prescribed accounting period beginning after the order is made substitute a different Table for either of the Tables set out above.

5.—(1) Where, by virtue of subsection (8) of the principal section, subsection (7) of that section has effect as if, in the prescribed accounting period, supplies of fuel for private use made in respect of two or more vehicles were made in respect of only one vehicle, the consideration appropriate shall be determined as follows—

- (a) if each of the two or more vehicles falls within the same description of cubic capacity specified in Table A or Table B above, the Table in question shall apply as if only one of the vehicles were to be considered throughout the whole period; and
- (b) if one of those vehicles falls within a description of cubic capacity specified in those Tables which is different from the other or others the consideration shall be the aggregate of the relevant fractions of the consideration appropriate for each description of vehicle under the Table in question.

(2) For the purposes of sub-paragraph (1)(b) above, the relevant fraction in relation to any vehicle is that which the part of the prescribed accounting period in which fuel for private use was supplied in respect of that vehicle bears to the whole of that period.

6.—(1) In the case of a vehicle having an internal combustion engine with one or more reciprocating pistons, its cubic capacity for the purposes of Tables A and B above is the capacity of its engine as calculated for the purposes of the Vehicles (Excise) Act 1971 or the Vehicles (Excise) Act (Northern Ireland) 1972.

(2) In the case of a vehicle not falling within sub-paragraph (1) above, its cubic capacity shall be such as may be determined for the purposes of Tables A and B above by order by the Treasury.

SCHEDULE 7

Section 31.

CHARITIES: QUALIFYING EXPENDITURE, INVESTMENTS
AND LOANS

PART I

QUALIFYING EXPENDITURE

1.—(1) In the principal section “qualifying expenditure”, in relation to a chargeable period of a charity, means, subject to sub-paragraph (3) below, expenditure incurred in that period for charitable purposes only.

(2) For the purposes of the principal section (and sub-paragraph (1) above), where expenditure which is not actually incurred in a particular chargeable period properly falls to be charged against the income of that chargeable period as being referable to commitments (whether or not of a contractual nature) which the charity has entered into before or during that period, it shall be treated as incurred in that period.

(3) A payment made (or to be made) to a body situated outside the United Kingdom shall not be qualifying expenditure by virtue of this Part of this Schedule unless the charity concerned has taken such steps as may be reasonable in the circumstances to ensure that the payment will be applied for charitable purposes.

PART II

QUALIFYING INVESTMENTS

2. Investments specified in any of the following paragraphs of this Part of this Schedule are qualifying investments for the purposes of the principal section.

3. Any investment falling within Part I, Part II, apart from paragraph 13 (mortgages etc.), or Part III of Schedule I to the Trustee Investments Act 1961 c. 62.

4. Any investment in a common investment fund established under section 22 of the Charities Act 1960 or section 25 of the Charities Act 1960 c. 58. (Northern Ireland) 1964 or in any similar fund established for the exclusive benefit of charities by or under any enactment relating to any particular charities or class of charities. 1964 c. 33 (N.I.).

5. Any interest in land, other than an interest held as security for a debt of any description.

6. Shares in, or securities of, a company which are quoted on a recognised stock exchange (within the meaning of section 535 of the Taxes Act), or which are dealt in on the Unlisted Securities Market.

7.—(1) Units, or other shares of the investments subject to the trusts, of a unit trust scheme within the meaning of the Financial Services Act 1986.

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(2) Until the passing of the Financial Services Act 1986, the reference in sub-paragraph (1) above to that Act shall have effect as a reference to the Prevention of Fraud (Investments) Act 1958.

1958 c. 45.

8.—(1) Deposits with a recognised bank or licensed institution (within the meaning of the Banking Act 1979) in respect of which interest is payable at a commercial rate.

1979 c. 37.

(2) A deposit mentioned in sub-paragraph (1) above is not a qualifying investment if it is made as part of an arrangement under which a loan is made by the recognised bank or licensed institution to some other person.

1968 c. 44.

9. Certificates of deposit as defined in section 55(3) of the Finance Act 1968.

10.—(1) Any loan or other investment as to which the Board are satisfied, on a claim made to them in that behalf, that the loan or other investment is made for the benefit of the charity and not for the avoidance of tax (whether by the charity or any other person).

(2) The reference in sub-paragraph (1) above to a loan includes a loan which is secured by a mortgage or charge of any kind over land.

PART III

QUALIFYING LOANS

11. For the purposes of the principal section, a loan which is not made by way of investment is a qualifying loan if it consists of—

- (a) a loan made to another charity for charitable purposes only; or
- (b) a loan to a beneficiary of the charity which is made in the course of carrying out the purposes of the charity; or
- (c) money placed on a current account with a recognised bank or licensed institution (within the meaning of the Banking Act 1979) otherwise than as part of such an arrangement as is mentioned in paragraph 8(2) above; or
- (d) any other loan as to which the Board are satisfied, on a claim made to them in that behalf, that the loan is made for the benefit of the charity and not for the avoidance of tax (whether by the charity or any other person).

PART IV

ATTRIBUTION OF EXCESS NON-QUALIFYING EXPENDITURE TO EARLIER CHARGEABLE PERIODS

12. This part of this Schedule applies in the circumstances specified in subsection (6) of the principal section; and in this Part of this Schedule—

- (a) "the primary period" means the chargeable period of the charity concerned in which there is such an excess as is mentioned in that subsection;
- (b) "unapplied non-qualifying expenditure" means so much of the excess referred to in that subsection as does not exceed the non-qualifying expenditure of the primary period; and
- (c) "earlier period", in relation to an amount of unapplied non-qualifying expenditure, means any chargeable period of the charity concerned which ended not more than six years before the end of the primary period.

13.—(1) So much of the unapplied non-qualifying expenditure as is not shown by the charity to be the expenditure of non-taxable sums received by the charity in the primary period shall be treated in accordance with paragraph 14 below as non-qualifying expenditure of earlier periods.

(2) In sub-paragraph (1) above "non-taxable sums" means donations, legacies and other sums of a similar nature which, apart from any provision of the enactments conferring exemption from tax, are not within the charge to tax.

14.—(1) Where, in accordance with paragraph 13 above, an amount of unapplied non-qualifying expenditure (in this paragraph referred to as "the excess expenditure") falls to be treated as non-qualifying expenditure of earlier periods,—

- (a) it shall be attributed only to those earlier periods (if any) in which, apart from the attribution (but taking account of any previous operation of this paragraph) the relevant income and gains exceed the aggregate of the qualifying and non-qualifying expenditure incurred in that period; and
- (b) the amount to be attributed to any such earlier period shall not be greater than the excess of that period referred to in paragraph (a) above.

(2) Where there is more than one earlier period to which the excess expenditure can be attributed in accordance with sub-paragraph (1) above, it shall be attributed to later periods in priority to earlier periods.

(3) In so far as any of the excess expenditure cannot be attributed to earlier periods in accordance with this paragraph, it shall be disregarded for the purposes of subsection (6) of the principal section (and this Part of this Schedule).

15. All such adjustments shall be made, whether by way of the making of assessments or otherwise, as are required in consequence of the provisions of this Part of this Schedule.

SCHEDULE 8

PERSONAL EQUITY PLANS

1.—(1) The Treasury may make regulations providing that an individual who invests under a plan shall be entitled to relief from income tax and capital gains tax in respect of the investments.

(2) The regulations shall set out the conditions subject to which plans are to operate and the extent to which investors are to be entitled to relief from tax.

(3) In particular, the regulations may—

- (a) specify the description of individuals who may invest and the kind of investments they may make;
- (b) specify maximum investment limits and minimum periods for which investments are to be held;
- (c) provide that investments are to be held by persons (plan managers) on behalf of investors;
- (d) specify how relief from tax is to be claimed by, and granted to, investors or plan managers on their behalf;
- (e) provide that plans and plan managers must be such as are approved by the Board;
- (f) specify the circumstances in which approval may be granted and withdrawn.

2.—(1) The regulations may include provision that in prescribed circumstances—

- (a) an investor under a plan shall cease to be, and be treated as not having been, entitled to relief from tax in respect of the investments, and
- (b) he or the plan manager concerned (depending on the terms of the regulations) shall account to the Board for tax from which relief has already been given on the basis that the investor was so entitled.

(2) The regulations may include provision that an investor under a plan or the plan manager concerned (depending on the terms of the regulations) shall account to the Board for tax from which relief has been given in circumstances such that the investor was not entitled to it.

(3) The regulations may include provision adapting, or modifying the effect of, any enactment relating to income tax or to capital gains tax in order to—

- (a) secure that investors under plans are entitled to relief from tax in respect of investments;
- (b) secure that investors under plans cease to be, and are treated as not having been, so entitled;
- (c) secure that investors under plans or plan managers account for tax as mentioned in sub-paragraph (1) or (2) above.

(4) The regulations may provide that a person who is, or has at any time been, either an investor under a plan or a plan manager—

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- (a) shall comply with any notice which is served on him by the Board and which requires him within a prescribed period to make available for the Board's inspection documents (of a prescribed kind) relating to a plan or to investments which are or have been held under it;
- (b) shall, within a prescribed period of being required to do so by the Board, furnish to the Board information (of a prescribed kind) about a plan or about investments which are or have been held under it.
- (5) The regulations may include provision generally for the purpose of bringing plans into existence, and generally for the purpose of the administration of plans and the administration of income tax, corporation tax and capital gains tax in relation to them.
- (6) The words "Regulations under Schedule 8 to the Finance Act 1986" shall be added at the end of each column in the Table in section 98 of the Taxes Management Act 1970 (penalties for failure to furnish 1970 c. 9. information etc.).
- 3.—(1) The power to make regulations under this Schedule shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.
- (2) In this Schedule "prescribed" means prescribed by the regulations.

SCHEDULE 9

Section 40.

BUSINESS EXPANSION SCHEME

PART I

AMENDMENT OF SCHEDULE 5 TO FINANCE ACT 1983

1983 c. 28.

1.—(1) Schedule 5 to the Finance Act 1983 shall be amended as follows.

(2) Except where different provision is made by this Schedule, the amendments made by this Schedule have effect in relation to shares issued at any time after 18th March 1986.

Relevant period

2. In paragraph 2(7)(b), after "5" there shall be inserted "5A, 5B, 5C".

Research and development companies

3. In paragraph 2A—

(a) in sub-paragraph (1)(a), for the words from "from" to the end there shall be substituted the words "to be carried on by the

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company or by any subsidiary of the company and from which it is intended that a qualifying trade (to be so carried on) will be derived; or”;

- (b) in sub-paragraph (2) for the words from “at the time” to “by it; or” there shall be substituted the words “by the company or by any subsidiary of the company on the date on which the shares are issued, or begins so to be carried on immediately thereafter, and from which it is intended that a qualifying trade (to be so carried on) will be derived; or”;
- (c) in sub-paragraph (3), after the word “company” there shall be inserted the words “or (as the case may be) subsidiary”;
- and
- (d) in sub-paragraph (4), the words “and the words ‘by the company’ shall be omitted” shall be added at the end.

4.—(1) After paragraph 2A there shall be inserted the following paragraph—

“Modification of paragraph 2 in relation to oil exploration

2B.—(1) Where eligible shares in a company are issued for the purpose of enabling the company to raise money for oil exploration—

- (a) to be carried on by the company, or by any subsidiary of the company; and
- (b) from which it is intended that a qualifying trade (to be so carried on) will be derived;

paragraph 2 above shall apply in relation to the company with the modifications set out in this paragraph.

(2) For paragraph (b) of sub-paragraph (1) there shall be substituted the following paragraphs—

‘(b) those shares are issued to him for the purpose of raising money for oil exploration which—

(i) is being carried on by the company, or by any subsidiary of the company, on the date on which the shares are issued; or

(ii) begins so to be carried on immediately thereafter;

and from which it is intended that a qualifying trade (to be so carried on) will be derived;

- (c) throughout the period of three years beginning with that date, the company, or any subsidiary of the company, holds an exploration licence which was granted to it, or to another such subsidiary;
- (d) the exploration is carried out solely within the area to which the licence applies; and
- (e) on the date on which the shares are issued, neither the company nor any subsidiary of the company holds an appraisal licence or a development licence relating to that area or any part of that area.’

(3) After sub-paragraph (1) there shall be inserted the following sub-paragraph—

‘(1A) Where, at any time after the issue of the shares, but before the end of the period mentioned in paragraph (c) of sub-paragraph (2) above, the company, or any subsidiary of the company, comes to hold an appraisal licence or development licence which relates to the area, or any part of the area, to which the exploration licence relates, the exploration licence and that other licence shall be treated for the purposes of that paragraph as a single exploration licence.’

(4) For sub-paragraph (4) there shall be substituted the following sub-paragraph—

‘(4) The relief shall be given on a claim and shall not be allowed unless and until the company has carried on the exploration for four months’.

(5) In sub-paragraph (5), for the word ‘trade’ there shall be substituted the word ‘exploration’.

(6) In sub-paragraph (7)(b), for the words from ‘either’ to the end there shall be substituted the words ‘three years after that date’.

(7) A trade which consists to any substantial extent of oil extraction activities shall, if it would be a qualifying trade were it not for paragraph 6(2)(d) below, be treated as a qualifying trade for the purposes of this paragraph (including those of paragraph 2(1)(b) as modified).”

(2) This paragraph has effect in relation to shares issued at any time after the passing of this Act.

Individuals qualifying for relief

5.—(1) In paragraph 4, the following sub-paragraph shall be added at the end—

“(5) An individual who is at any time performing duties which are treated by virtue of section 184(3)(a) of the Taxes Act (Crown employees serving overseas) as performed in the United Kingdom shall be treated, for the purposes of this paragraph, as resident and ordinarily resident in the United Kingdom at that time.”

(2) This paragraph shall have effect in relation to shares issued on or after 6th April 1986.

Qualifying companies

6.—(1) Paragraph 5 shall be amended as follows.

(2) In sub-paragraph (1) the words “Subject to paragraph 5A below” shall be inserted at the beginning.

(3) After sub-paragraph (3) there shall be inserted the following sub-paragraph—

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“(3A) Where a company has one or more qualifying subsidiaries, it shall not be a qualifying company if the qualifying trade or trades carried on by the company and its subsidiaries, taken as a whole, are not carried out wholly or mainly in the United Kingdom”.

(4) Sub-paragraphs (8) to (11) shall cease to have effect.

7. The following paragraphs shall be inserted after paragraph 5—

“5A—(1) Subject to paragraph 5C below, a company is not a qualifying company if at any time during the relevant period—

(a) the value of the interests in land held by the company at that time; or

(b) where lower, the value of the interests in land which were held by the company immediately after the issue of the shares (adjusted in accordance with paragraph 5B below);

is greater than half the value of the company’s assets as a whole.

(2) For the purposes of this paragraph, the value of the interests in land held by a company on any date shall be arrived at by first aggregating the market value on that date of each of those interests and then deducting—

(a) the amount of any debts of the company which are secured on any of those interests (including any debt secured by a floating charge on property which comprises any of those interests);

(b) the amount of any unsecured debts of the company which do not fall due for payment before the expiry of the period of twelve months beginning with that date; and

(c) the amount paid up in respect of those shares of the company (if any) which carry a present or future preferential right to the company’s assets on its winding up.

(3) For the purposes of this paragraph, the value of a company’s assets as a whole shall be arrived at by first aggregating the market value of each of those assets and then deducting the amount of the debts and liabilities of the company.

(4) For the purposes of sub-paragraph (3) above, the amount paid up in respect of those shares of a company (if any) which carry a present or future preferential right to the company’s assets on its winding up shall be treated as a debt of the company, but otherwise a company’s share capital, share premium account and reserves shall not be treated for those purposes as debts or liabilities of the company.

(5) In this paragraph “interest in land” means any estate or interest in land, any right in or over land or affecting the use or disposition of land, and any right to obtain such an estate, interest or right from another which is conditional on that other’s ability to grant the estate, interest or right in question, except that it does not include—

- (a) the interest of a creditor (other than a creditor in respect of a rentcharge) whose debt is secured by a mortgage, an agreement for a mortgage or a charge of any kind over land; or
 - (b) in Scotland, the interest of a creditor in a charge or security of any kind over land.
- (6) In arriving at the value of any interest in land for the purposes of this paragraph—
- (a) it shall be assumed that there is no source of mineral deposits in the land of a kind which it would be practicable to exploit by extracting them from underground otherwise than by means of opencast mining or quarrying; and
 - (b) any borehole on the land shall be disregarded if it was made in the course of oil exploration.
- (7) Where a company is a member of a partnership which holds any interest in land—
- (a) that interest shall, for the purposes of this paragraph and paragraphs 5B and 5C below, be treated as an interest in land held by the company; but
 - (b) its value at any time shall, for those purposes, be taken to be such fraction of its value (apart from this subparagraph) as is equal to the fraction of the assets of the partnership to which the company would be entitled if the partnership were dissolved at that time.
- (8) Where a qualifying company has one or more subsidiaries, the company and its subsidiaries (“the group”) shall be treated as a single company for the purposes of this paragraph and paragraphs 5B and 5C below; but any debt owed by, or liability of, one member of the group to another shall be disregarded for those purposes.
- (9) The Treasury may by order made by statutory instrument amend sub-paragraph (1) above by substituting a different fraction for the fraction for the time being specified there; and any such order shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament.
- (10) Where a company has ceased to be a qualifying company in consequence of the operation of this paragraph, section 62(6) of Chapter II shall apply as if the relief was withdrawn in consequence of an event which occurred at the time when the company so ceased to be a qualifying company.

5B.—(1) For the purposes of paragraph 5A(1)(b) above, the value of the interests in land held by a company immediately after the issue of the shares in question (“the original interests”) shall be adjusted by—

(a) adding—

(i) the cost of any interests in land subsequently acquired by the company (“the later interests”); and

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- (ii) any expenditure (whenever payable) incurred by the company wholly and exclusively in enhancing the value of any of the original or later interests;
- (b) deducting any consideration for the disposal by the company of any of the original or later interests or for the grant by the company of any interest in land out of any of those interests; and
- (c) deducting any consideration otherwise derived by the company from its ownership of any of the original or later interests.

(2) Any sum which is received by a company by way of rent, or which is attributable to the use of any premises by the company, shall be disregarded for the purposes of sub-paragraph (1)(c) above.

(3) For the purposes of this paragraph—

- (a) the cost of an interest in land acquired by a company shall be taken to be the amount or value of the consideration given by the company, or on its behalf, wholly and exclusively for the acquisition of the interest;
- (b) consideration shall be brought into account without any discount for the postponement of the right to receive any part of it; and
- (c) the grant of an interest in land out of any of the original interests shall be treated as a disposal of the original interest in question.

(4) Where—

- (a) the interest of a company as lessee under a lease (“the lease”) falls to be valued at any time for the purposes of paragraph 5A above or the cost of acquiring that interest falls to be calculated for the purposes of this paragraph; and
- (b) the aggregate amount of the rent payable by the lessee under the lease before the end of the relevant period exceeds that which would be so payable under a lease of the premises at a full market rent (but otherwise on the same terms and conditions as the lease);

the value of the company’s interest at that time shall be calculated on the assumption that the aggregate amount payable as mentioned in paragraph (b) above is a nominal amount and, where the interest was acquired after the issue of the shares in question, it shall be assumed that the company paid the appropriate premium when acquiring the interest.

(5) In determining, for the purposes of this paragraph, the consideration for the disposal or acquisition of an interest in land, no account shall be taken in the first instance of any contingent liability assumed by the company or by any other person.

(6) If it is subsequently shown to the satisfaction of the Board that a contingent liability which was not taken into account in

determining the consideration for a disposal or acquisition has become enforceable and is being or has been enforced, such adjustment, whether by way of a further assessment or the discharge or repayment of tax or otherwise, shall be made as is required in consequence.

(7) Where the relief obtainable under sub-paragraph (6) above requires a discharge or repayment of tax, it shall be given on a claim to the Board and such a claim may be made at any time.

5C.—(1) Where a company raises any amount through the issue of eligible shares, paragraph 5A above—

- (a) shall not have effect to deny relief in relation to those shares if the aggregate of that amount and of all other amounts (if any) so raised within the period of twelve months ending with the date of that issue does not exceed £50,000; and
- (b) where that aggregate exceeds £50,000, shall have effect to deny relief only in relation to the excess.

(2) Where—

- (a) at any time within the relevant period, the company in question or any of its subsidiaries carries on any trade or part of a trade in partnership, or as a party to a joint venture, with one or more other persons; and
- (b) that other person, or at least one of those other persons, is a company;

the reference to £50,000, both in sub-paragraph (1)(a) and (1)(b) above, shall have effect as if it were a reference to—

£50,000

$\frac{\quad}{1 + A}$

“A” being the total number of companies (apart from the company in question or any of its subsidiaries) which are members of any such partnership or parties to any such joint venture during the relevant period.

(3) Where paragraph 5A, as read with this paragraph, requires a restriction to be placed on the relief given on claims in respect of shares issued to two or more individuals, the available relief shall be divided between them in proportion to the amounts which have been respectively subscribed by them for the shares to which their claims relate and which would, apart from the restriction, be eligible for the relief.

(4) A claimant who is dissatisfied with the manner in which the available relief is divided under this paragraph between him and any other claimant or claimants may apply to the appropriate Commissioners who shall, after giving the other claimant or claimants an opportunity to appear and be heard or to make representations in writing, determine the question for all the claimants in the same way as an appeal.

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(5) In this paragraph “the appropriate Commissioners” means—

- (a) in a case where the same body of General Commissioners has jurisdiction with respect to all the claimants, those Commissioners, unless all the claimants agree that the question should be determined by the Special Commissioners;
- (b) in a case where different bodies of General Commissioners have jurisdiction with respect to the claimants, such of those bodies as the Board may direct, unless all the claimants agree that the question should be determined by the Special Commissioners; and
- (c) in any other case, the Special Commissioners.

(6) In calculating the aggregate mentioned in sub-paragraph (1)(a) above in respect of any period of twelve months which begins on or before 18th March 1986, any amount raised by the issue of eligible shares on or before that date shall be disregarded.

Qualifying trades

8.—(1) Paragraph 6 shall be amended as follows.

(2) For sub-paragraph (2) there shall be substituted the following sub-paragraph—

“(2) The trade must not at any time in the relevant period consist of one or more of the following activities if that activity amounts, or those activities when taken together amount, to a substantial part of the trade—

- (a) dealing in commodities, shares, securities, land or futures;
- (b) dealing in goods otherwise than in the course of an ordinary trade of wholesale or retail distribution;
- (c) banking, insurance, money-lending, debt-factoring, hire-purchase financing or other financial activities;
- (d) oil extraction activities;
- (e) leasing (including letting ships on charter or other assets on hire) or receiving royalties or licence fees;
- (f) providing legal or accountancy services; or
- (g) providing services or facilities for any trade carried on by another person which consists to any substantial extent of activities within any of paragraphs (a) to (f) above and in which a controlling interest is held by a person who also has a controlling interest in the trade carried on by the company.”

(3) For sub-paragraph (2B) there shall be substituted the following sub-paragraphs—

“(2B) A trade shall not be treated as failing to comply with this paragraph by reason only of its consisting of letting ships, other than oil rigs or pleasure craft, on charter if—

- (a) every ship let on charter by the company carrying on the trade is beneficially owned by the company;
- (b) every ship beneficially owned by the company is registered in the United Kingdom;
- (c) throughout the relevant period the company is solely responsible for arranging the marketing of the services of its ships; and
- (d) the conditions mentioned in sub-paragraph (2C) below are satisfied in relation to every letting on charter by the company,

but where any of the requirements mentioned in paragraphs (a) to (d) above are not satisfied in relation to any lettings of such ships, the trade shall not thereby be treated as failing to comply with this paragraph if those lettings and any other activity of a kind falling within paragraph 6(2) above do not, when taken together, amount to a substantial part of the trade.

(2C) The conditions are that—

- (a) the letting is for a period not exceeding twelve months and no provision is made at any time (whether in the lease or otherwise) for extending it beyond that period otherwise than at the option of the lessee;
- (b) during the period of the letting there is no provision in force (whether made in the lease or otherwise) for the grant of a new letting to end, otherwise than at the option of the lessee, more than twelve months after that provision is made;
- (c) the letting is by way of a bargain made at arm's length between the company and a person who is not connected with it;
- (d) under the terms of the charter the company is responsible as principal—
 - (i) for taking, throughout the period of the charter, management decisions in relation to the ship, other than those of a kind generally regarded by persons engaged in trade of the kind in question as matters of husbandry; and
 - (ii) for defraying all expenses in connection with the ship throughout that period, or substantially all such expenses, other than those directly incidental to a particular voyage or to the employment of the ship during that period; and
- (e) no arrangements exist by virtue of which a person other than the company may be appointed to be responsible for the matters mentioned in paragraph (d) above on behalf of the company;

but this sub-paragraph shall have effect, in relation to any letting between the company in question and its subsidiary, or between it and another company of which it is a subsidiary or between it and a company which is a subsidiary of the same company of which it is a subsidiary, as if paragraph (c) were omitted.

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(4) For sub-paragraph (4) there shall be substituted the following sub-paragraphs—

“(4) For the purposes of sub-paragraph (2)(b) above—

- (a) a trade of wholesale distribution is one in which the goods are offered for sale and sold to persons for resale by them, or for processing and resale by them, to members of the general public for their use or consumption;
- (b) a trade of retail distribution is one in which the goods are offered for sale and sold to members of the general public for their use or consumption;
- (c) a trade is not an ordinary trade of wholesale or retail distribution if—
 - (i) it consists to a substantial extent of dealing in goods of a kind which are collected or held as an investment or of that activity and any other activity of a kind falling within paragraph 6(2) above, taken together; and
 - (ii) a substantial proportion of those goods are held by the company for a period which is significantly longer than the period for which a vendor would reasonably be expected to hold them while endeavouring to dispose of them at their market value;

and, in determining for the purposes of sub-paragraph (2)(b) whether a trade is an ordinary trade of wholesale or retail distribution, regard shall be had to the extent to which it has the features mentioned in Schedule 11 to the Finance Act 1981, those in Part I being regarded as indications that the trade is such an ordinary trade and those in Part II being regarded as indications of the contrary.

1981 c. 35.

(5) For the purposes of this paragraph a person has a controlling interest in a trade—

(a) in the case of a trade carried on by a company if—

- (i) he controls the company;
- (ii) the company is a close company for the purposes of the Corporation Tax Acts and he or an associate of his is a director of the company and the beneficial owner of, or able directly or through the medium of other companies or by any other indirect means to control, more than 30 per cent. of the ordinary share capital of the company; or
- (iii) not less than half of the trade could, in accordance with section 253(2) of the Taxes Act, be regarded as belonging to him;

(b) in any other case, if he is entitled to not less than half of the assets used for, or the income arising from, the trade.

(6) For the purposes of sub-paragraph (5) above there shall be attributed to any person any rights or powers of any other person who is an associate of his.

(7) References in this paragraph to a trade shall be construed without regard to so much of the definition of “trade” in section 526 (5) of the Taxes Act as relates to adventures or concerns in the nature of trade; but the foregoing provisions do not affect the construction of references in sub-paragraph (2)(g) or (5) above to a trade carried on by a person other than the company and those references shall be construed as including references to any business, profession or vocation.

(8) The Treasury may by order made by statutory instrument amend this paragraph in such manner as they consider expedient.

(9) Any order under sub-paragraph (8) above shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament.

(10) In this paragraph—

“film” means an original master negative of a film, an original master film disc or an original master film tape;

“oil rig” means any ship which is an offshore installation for the purposes of the Mineral Workings (Offshore Installations) Act 1971;

“pleasure craft” means any ship of a kind primarily used for sport or recreation; and

“sound recording” means, in relation to a film, its sound track, original master audio disc or, as the case may be, original master audio tape.”

(5) Sub-paragraph (2) above, so far as it relates to oil extraction, has effect in relation to shares issued at any time after the passing of this Act.

Disposal of shares

9.—(1) Paragraph 7 shall be amended as follows.

(2) The following sub-paragraph shall be inserted after sub-paragraph (1)—

“(1A) Where an option, the exercise of which would bind the grantor to purchase any shares, is granted to an individual during the relevant period, the individual shall not be entitled to any relief in respect of the shares to which the option relates.”

(3) In sub-paragraph (2), for the words “company shall” there shall be substituted the words “company, and any option of the kind mentioned in sub-paragraph (1A) above, shall”, and after the word “given”, in each place, there shall be inserted the words “(and not withdrawn)”.

(4) In sub-paragraph (2A) the words “(and not withdrawn)” shall be inserted after the word “given” and the words “(subject to sub-paragraph (2) above)” shall be inserted after the words “class shall”.

(5) The following sub-paragraph shall be substituted for sub-paragraph (4)—

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“(4) For the purposes of this paragraph and of Chapter II as applied by this paragraph—

- (a) references to a disposal of shares include references to the grant of an option the exercise of which would bind the grantor to sell the shares; and
- (b) shares in a company shall not be treated as being of the same class unless they would be so treated if dealt with on The Stock Exchange.”

(6) The amendment made by sub-paragraph (4) above, which is enacted for the avoidance of doubt, shall be deemed to have been incorporated in Schedule 5 to the Finance Act 1983 as originally enacted but otherwise this paragraph has effect in relation to options granted at any time after 18th March 1986.

1983 c. 28.

Value received from company

10.—(1) Paragraph 8 shall be amended as follows.

(2) In sub-paragraph (1), the words “Subject to paragraph 7 above” shall be inserted at the beginning.

(3) For sub-paragraph (2) there shall be substituted the following sub-paragraph—

“(2) Subject to sub-paragraph (3) below, section 58(2) to (4) and (6) to (9) of Chapter II shall apply but—

- (a) with the addition, at the end of subsection (2)(e), of the words ‘which has not been repaid in full before the issue of the shares in respect of which relief is claimed’;
- (b) with the substitution, in subsection (3), of a reference to paragraph 5(5) above for the reference to section 55(5); and
- (c) with the addition, at the end of subsection (4)(c), of the words ‘reduced by the amount of any repayment made before the issue of the shares in respect of which relief is claimed’.”

(4) The following sub-paragraph shall be added at the end—

“(4) Where relief to which an individual is entitled in respect of eligible shares is reduced by virtue of this paragraph, effect shall be given to the reduction by apportioning it, as between the eligible shares held by him, in such a way as appears to the inspector, or on an appeal to the Commissioners concerned, to be just and reasonable.”

(5) The amendment made by sub-paragraph (2) above, which is enacted for the avoidance of doubt, shall be deemed to have been incorporated in Schedule 5 to the Finance Act 1983 as originally enacted.

Value received by persons other than claimants

11.—(1) Paragraph 10 shall be amended as follows.

(2) In sub-paragraph (1)(b), after “thereby” there shall be inserted the words “withdrawn or reduced by virtue of paragraph 7 above or”.

(3) For sub-paragraph (5A) there shall be substituted the following sub-paragraph—

“(5A) Where relief to which an individual is entitled in respect of eligible shares is reduced by virtue of this paragraph, effect shall be given to the reduction by apportioning it as between the eligible shares held by him in such a way as appears to the inspector, or on an appeal to the Commissioners concerned, to be just and reasonable.”.

Parallel trades

12. After paragraph 10 there shall be inserted the following paragraph—

“Parallel trades

10A.—(1) An individual is not entitled to relief in respect of any shares in a company where, at the date mentioned in sub-paragraph (2) below—

- (a) he is one of a group of persons—
 - (i) who control the company; or
 - (ii) to whom belongs an interest amounting in the aggregate to more than a half share in the trade carried on by the company;
- (b) he is also an individual, or one of a group of persons—
 - (i) controlling another company; or
 - (ii) to whom belongs an interest amounting in the aggregate to more than a half-share in another trade; and
- (c) the trade carried on by the company, or a substantial part of it—
 - (i) is concerned with the same or similar types of property or parts thereof or provides the same or similar services or facilities; and
 - (ii) serves substantially the same or similar outlets or markets;

as the other trade or (as the case may be) the trade carried on by the other company.

- (2) The date mentioned in sub-paragraph (1) above is—
 - (a) the date on which the shares are issued; or
 - (b) if later, the date on which the company begins to carry on the trade.
- (3) For the purposes of sub-paragraph (1) above—
 - (a) the persons to whom a trade belongs, and (where a trade belongs to two or more persons) their respective shares

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in that trade, shall be determined in accordance with subsections (1)(a) and (b), (2) and (3) of section 253 of the Taxes Act; and

(b) any interest, rights or powers of a person who is an associate (as defined by section 67(1) of Chapter II) of another person shall be treated as those of that other person.

(4) For the purposes of this paragraph—

(a) references to a company's trade include references to the trade of any of its subsidiaries; and

(b) "trade", in the expressions "another trade", "other trade" and "trade carried on by the other company", includes any business, profession or vocation."

Claims

13. In paragraph 13, the following sub-paragraph shall be added at the end—

"(10) For the purposes of the provisions of the Taxes Management Act 1970 relating to appeals against decisions on claims, the refusal of the inspector to authorise the issue of a certificate under sub-paragraph (2) above shall be taken to be a decision refusing a claim made by the company."

Assessments for withdrawing relief

14. In paragraph 14(2)(a), for the words "or 10(1)" there shall be substituted the words "10(1) or 16A".

Information

15.—(1) After paragraph 15 there shall be inserted the following paragraph—

"15A.—(1) Where—

(a) a company has issued a certificate under paragraph 13(2) above in respect of any eligible shares in the company; and

(b) it appears to the company, or to any person connected with the company who has knowledge of the matter, that paragraph 5A above may have effect to deny relief in respect of those shares;

the company or (as the case may be) that person or (where it so appears to each of them) both the company and that person shall give notice in writing to the inspector setting out the particulars of the case.

(2) If the inspector has reason to believe that a person has not given a notice which he is required to give under sub-paragraph

(1) above, the inspector may by notice in writing require that person to furnish him within such time (not being less than sixty days) as may be specified in the notice with such information relating to the case as the inspector may reasonably require for the purposes of this Part.”

Capital gains tax

16.—(1) Paragraph 16 shall be amended as follows.

(2) For sub-paragraph (1) there shall be substituted the following sub-paragraph—

“(1) Where—

- (a) an individual to whom relief has been given in respect of eligible shares disposes of those shares (within the meaning of the Capital Gains Tax Act 1979); and 1979 c. 14.
- (b) the relief is not withdrawn;

any gain or loss which accrues to him on that disposal shall not be a chargeable gain or (as the case may be) allowable loss for the purposes of capital gains tax.”

(3) In sub-paragraph (3) after the word “given” in both places, there shall be inserted the words “(and not withdrawn)”.

(4) After sub-paragraph (3) there shall be inserted the following sub-paragraphs—

“(3A) Where section 44 of the Act of 1979 (disposals between husband and wife to be on a no gain/no loss basis) has applied to any eligible shares disposed of by an individual to his or her spouse (“the transferee”), sub-paragraph (1) above shall apply in relation to the subsequent disposal of the shares by the transferee to a third party.

(3B) Where section 85 (exchange of securities for those in another company) or 86 (reconstruction or amalgamation involving issue of securities) of the Act of 1979 would, but for this sub-paragraph, apply in relation to eligible shares in respect of which an individual has been given relief, that section shall apply only if the relief is withdrawn.”

Reorganisation of share capital

17.—(1) After paragraph 16 there shall be inserted the following paragraph—

“Reorganisation of share capital

16A.—(1) Where shares in respect of which relief has been given and not withdrawn have by virtue of any such allotment, otherwise than for payment, as is mentioned in section 77(2)(a) of the Capital

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1979 c. 14.

Gains Tax Act 1979 fallen to be treated under section 78 of that Act as the same asset as a new holding—

- (a) a disposal of the whole or part of the new holding shall be treated for the purposes of this Schedule as a disposal of the whole or a corresponding part of those shares; and
- (b) the new holding shall be treated for the purposes of paragraph 7(2) above as shares in respect of which relief has been given and not withdrawn.

(2) Sections 78 to 81 of the Act of 1979 shall not apply in relation to any ordinary shares in respect of which relief has been given if—

- (a) there is, by virtue of any such allotment for payment as is mentioned in section 77(2)(a) of that Act, a reorganisation affecting those shares; and
- (b) immediately following the reorganisation, the relief has not been withdrawn in respect of those shares or relief has been given in respect of the allotted shares and not withdrawn.

(3) Where—

- (a) any such reorganisation as is mentioned in sub-paragraph (2) above affects ordinary shares in respect of which relief has been given;
- (b) immediately before the reorganisation the relief had not been withdrawn; and
- (c) the amount of relief (or, where the relief has been reduced, the amount remaining) and the market value of the shares immediately before the reorganisation, exceeds their market value immediately after the reorganisation;

the relief shall be reduced by an amount equal to whichever is the smaller of those excesses.

(4) Sub-paragraph (3) above shall also apply where—

- (a) an individual who has received, or become entitled to receive, in respect of any ordinary shares in a company, a provisional allotment of shares in or debentures of the company disposes of his rights; and
- (b) sub-paragraph (3) would have applied (apart from this sub-paragraph) had those rights not been disposed of but an allotment of shares or debentures made to him.

(5) Where relief is reduced by virtue of sub-paragraph (3) above—

- (a) the sums allowable as deductions from the consideration in the computation, for the purposes of capital gains tax, of the gain or loss accruing to an individual on the disposal of any of the allotted shares or debentures shall be taken to include the amount of the reduction, apportioned between the allotted shares or (as the case

may be) debentures in such a way as appears to the inspector, or on appeal to the Commissioners concerned, to be just and reasonable; and

- (b) the sums so allowable on the disposal (in circumstances in which paragraph 16 above does not apply) of any of the shares referred to in sub-paragraph (3)(a) above shall be taken to be reduced by the amount mentioned in paragraph (a) above, similarly apportioned between those shares.”.

(2) Sub-paragraphs (1) to (3) of the inserted paragraph 16A have effect in relation to reorganisations occurring at any time after 18th March 1986 and sub-paragraph (5) of that paragraph has effect in relation to disposals made at any time after that date.

Application to subsidiaries

18. For sub-paragraph (1) of paragraph 17 there shall be substituted the following sub-paragraphs—

“(1) A qualifying company may, in the relevant period, have one or more subsidiaries if—

- (a) the conditions mentioned in sub-paragraph (1A) below are satisfied in respect of the subsidiary or (as the case may be) each subsidiary and, except as provided in sub-paragraph (1B) below, continue to be so satisfied until the end of the relevant period; and
- (b) the subsidiary or (as the case may be) each subsidiary exists wholly, or substantially wholly, for the purpose of carrying on one or more qualifying trades or is a property managing, or dormant, subsidiary.

(1A) The conditions are—

- (a) that the qualifying company, or another of its subsidiaries, possesses not less than 90 per cent. of the issued share capital of, and not less than 90 per cent. of the voting power in, the subsidiary;
- (b) that the qualifying company, or another of its subsidiaries, would in the event of a winding up of the subsidiary or in any other circumstances be beneficially entitled to receive more than 90 per cent. of the assets of the subsidiary which would then be available for distribution to equity holders of the subsidiary;
- (c) that the qualifying company or another of its subsidiaries is beneficially entitled to not less than 90 per cent. of any profits of the subsidiary which are available for distribution to equity holders of the subsidiary;
- (d) that no person other than the qualifying company or another of its subsidiaries has control of the subsidiary within the meaning of section 534 of the Taxes Act; and
- (e) that no arrangements are in existence by virtue of which the conditions in paragraphs (a) to (d) above could cease to be satisfied.

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(1B) The conditions shall not be regarded as ceasing to be satisfied by reason only of the subsidiary or the qualifying company being wound up, or dissolved without winding up, if—

- (a) it is shown that the winding up or dissolution is for bona fide commercial reasons and not part of a scheme or arrangement the main purpose, or one of the main purposes, of which is the avoidance of tax; and
- (b) the net assets (if any) of the subsidiary or, as the case may be, the qualifying company are distributed to its members or dealt with as bona vacantia before the end of the relevant period, or in the case of a winding up, the end (if later) of three years from the commencement of the winding up.

(1C) The conditions shall not be regarded as ceasing to be satisfied by reason only of the disposal by the qualifying company or (as the case may be) by another subsidiary, within the relevant period, of all its interest in the subsidiary if it is shown that the disposal is for bona fide commercial reasons and not part of a scheme or arrangement the main purpose or one of the main purposes of which is the avoidance of tax.

(1D) For the purposes of this paragraph—

- (a) a subsidiary of a qualifying company is a property managing subsidiary if it exists wholly, or substantially wholly, for the purpose of holding and managing property used by the qualifying company, or by any of its subsidiaries, for the purposes of—
 - (i) research and development from which it is intended that a qualifying trade to be carried on by the company or any of its subsidiaries will be derived; or
 - (ii) one or more qualifying trades so carried on;
- (b) a subsidiary is a dormant subsidiary if it has no profits for the purposes of corporation tax and no part of its business consists in the making of investments; and
- (c) the persons who are equity holders of a subsidiary and the percentage of the assets of a subsidiary to which an equity holder would be entitled shall be determined in accordance with paragraphs 1 and 3 of Schedule 12 to the Finance Act 1973, taking references in paragraph 3 to the first company as references to an equity holder and references to a winding up as including references to any other circumstances in which assets of the subsidiary are available for distribution to its equity holders.”.

1973 c. 51.

Miscellaneous

19.—(1) In paragraph 2(9), for the words “to (8A)” there shall be substituted the words “and (8)”.

(2) In paragraph 18(4), for the words “section 65(2)(c) of Chapter II” there shall be substituted the words “paragraph 17(1A)(e) above”.

Eligible shares held jointly

20. After paragraph 19 there shall be inserted the following paragraph—

“Eligible shares held jointly

19A. Where eligible shares are held on a bare trust for two or more beneficiaries, this Schedule shall have effect (with the necessary modifications) as if—

- (a) each beneficiary had subscribed as an individual for all of those shares; and
- (b) the amount subscribed by each beneficiary was equal to the total amount subscribed on the issue of those shares divided by the number of beneficiaries.”

Interpretation

21.—(1) Paragraph 20 shall be amended as follows.

(2) In sub-paragraph (2) the following definitions shall be inserted at the appropriate places—

“appraisal licence” means an appraisal licence incorporating the model clauses set out in Schedule 4 to the Petroleum (Production) (Landward Areas) Regulations 1984 or a Northern Ireland licence granted for the five year renewal term and includes in either case any modified appraisal licence; S.I. 1984/1832.

“development licence” means a development licence incorporating the model clauses set out in Schedule 5 to those regulations or a Northern Ireland licence granted for the thirty year renewal term and includes in either case any modified development licence;

“exploration licence” means an exploration licence incorporating the model clauses set out in Schedule 3 to those regulations or a Northern Ireland licence granted for the initial term and includes in either case any modified exploration licence;

“modified appraisal licence”, “modified development licence” and “modified exploration licence” mean, respectively, any appraisal licence, development licence or exploration licence in which any of the relevant model clauses have been modified or excluded by the Secretary of State or, in Northern Ireland, by the Department of Economic Development;

“Northern Ireland licence” means a licence granted under the Petroleum (Production) Act (Northern Ireland) 1964 and incorporating the model clauses set out in Schedule 2 to the Petroleum Production (Licences) Regulations (Northern Ireland) 1965, and in relation to such a licence the references above to “the initial term”, “the five year renewal term” and “the thirty year renewal term” shall be construed in accordance with Clause 2 of Schedule 2 to those regulations; 1964 c. 28
(N.I.)
S.R. & O.
(N.I.)
1965 No. 47.

“oil” and “oil extraction activities” have the same meaning as they have by virtue of section 19 of the Oil Taxation Act

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1975 c. 22.

1975, in Part II of that Act; and “oil exploration” means searching for oil.

(3) The following sub-paragraphs shall be added at the end—

“(3) For the purposes of this Schedule, the market value at any time of any asset shall be taken to be 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.

(4) References in this Schedule to relief given to an individual in respect of eligible shares, and to the withdrawal of such relief, include respectively references to relief given to him in respect of those shares at any time after he has disposed of them and references to the withdrawal of such relief at any such time.

(5) Any reference in paragraph 2 above, as modified by paragraph 2B above, to any licence being held by, or granted to, any person shall be read as including a reference to such a licence being held by, or (as the case may be) granted to, that person together with one or more other persons.

(6) The Treasury may by order made by statutory instrument amend any of the definitions set out in sub-paragraph (2) above which relate to licences under the Petroleum (Production) Act 1934 or under the Petroleum (Production) Act (Northern Ireland) 1964.

(7) Any order under sub-paragraph (6) above shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament.”.

1934 c. 36.

PART II

CONSEQUENTIAL AMENDMENTS

1970 c. 9.

22. In the Taxes Management Act 1970 the following section shall be inserted after section 47A—

“Special jurisdiction relating to Business Expansion Scheme. 47B. If and so far as the question in dispute on any appeal against the refusal of relief under Schedule 5 to the Finance Act 1983 (relief for investment in corporate trades), or against an assessment withdrawing any such relief, is a question of the value of an interest in land (within the meaning of paragraph 5A(5) of that Schedule), it shall be determined—

1983 c. 28.

(a) if the land is in England and Wales, on a reference to the Lands Tribunal;

(b) if the land is in Scotland, on a reference to the Lands Tribunal for Scotland; and

(c) if the land is in Northern Ireland, on a reference to the Lands Tribunal for Northern Ireland”.

23.—The Table in section 98 of the Act of 1970 (penalties) shall be amended as follows—

(a) at the appropriate place in the first column there shall be inserted—

“Paragraph 15A(2) of Schedule 5 to the Finance Act 1983”;
and

(b) at the appropriate place in the second column there shall be inserted—

“Paragraph 15A(1) of Schedule 5 to the Finance Act 1983”.

SCHEDULE 10

Section 42.

COMPANY RECONSTRUCTIONS

1.—(1) Section 252 of the Taxes Act (company reconstructions without change of ownership) shall be amended as follows.

(2) After subsection (3) (successor entitled to carry forward predecessor's loss) there shall be inserted—

“(3A) But where the amount of relevant liabilities exceeds the value of relevant assets, the successor shall be entitled to relief by virtue of subsection (3) above only if, and only to the extent that, the amount of that excess is less than the amount mentioned in that subsection.”

(3) In subsection (8) (apportionment of receipts or expenses in case of partial change) for the words from “any”, in the second place where it occurs, to the end there shall be substituted “such apportionments of receipts, expenses, assets or liabilities shall be made as may be just.”

(4) In subsection (9) (determination of manner of apportionment) for “sum” in each place where it appears there shall be substituted “item”.

2. The following shall be inserted at the end of section 253 of the Taxes Act (company reconstructions: supplemental)—

“(5) For the purposes of section 252(3A) above, relevant assets are—

- (a) assets which were vested in the predecessor immediately before it ceased to carry on the trade, which were not transferred to the successor and which, in a case where the predecessor was the predecessor on a previous application of section 252 above, were not by virtue of section 252(8) above apportioned to a trade carried on by the company which was the successor on that application, and
- (b) consideration given to the predecessor by the successor in respect of the change of company carrying on the trade;

and for the purposes of paragraph (b) above the assumption by the successor of any liabilities of the predecessor shall not be treated as the giving of consideration to the predecessor by the successor.

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(6) For the purposes of section 252(3A) above, relevant liabilities are liabilities which were outstanding and vested in the predecessor immediately before it ceased to carry on the trade, which were not transferred to the successor and which, in a case where the predecessor was the predecessor on a previous application of section 252 above, were not by virtue of section 252(8) above apportioned to a trade carried on by the company which was the successor on that application; but a liability representing the predecessor's share capital, share premium account, reserves or relevant loan stock is not a relevant liability.

(7) For the purposes of section 252(3A) above—

- (a) the value of assets (other than money) shall be taken to be the price which they might reasonably be expected to have fetched on a sale in the open market immediately before the predecessor ceased to carry on the trade, and
- (b) the amount of liabilities shall be taken to be their amount at that time.

(8) Where the predecessor transferred a liability to the successor but the creditor concerned agreed to accept settlement of part of the liability as settlement of the whole, the liability shall be treated for the purposes of subsection (6) above as not having been transferred to the successor except as to that part.

(9) A liability representing the predecessor's share capital, share premium account, reserves or relevant loan stock shall, for the purposes of subsection (6) above, be treated as not doing so if, in the period of one year ending with the day on which the predecessor ceased to carry on the trade, the liability arose on a conversion of a liability not representing its share capital, share premium account, reserves or relevant loan stock.

(10) Where a liability of the predecessor representing its relevant loan stock is not a relevant liability for the purposes of section 252(3A) above but is secured on an asset of the predecessor not transferred to the successor, the value of the asset shall, for the purposes of section 252(3A), be reduced by an amount equal to the amount of the liability.

(11) In this section "relevant loan stock" means any loan stock or similar security (whether secured or unsecured) except any in the case of which subsection (12) below applies.

(12) This subsection applies where, at the time the liability giving rise to the loan stock or other security was incurred, the person who was the creditor was carrying on a trade of lending money."

3. The following shall be inserted after sub-paragraph (5) of paragraph 17 of Schedule 9 to the Finance Act 1981 (restriction of carry forward of unused relief)—

"(5A) Where an amount for which a company is entitled to relief by virtue of section 252(3) of the Taxes Act (company reconstructions: successor's entitlement to carry forward predecessor's loss) is reduced by virtue of section 252(3A) of that Act, the

part of the amount in respect of which, by reason of the reduction, there is no relief shall for the purposes of this paragraph be taken to consist—

- (a) first of capital allowances for accounting periods of the predecessor ending not earlier than 14th November 1980;
- (b) next of relief under this Part of this Schedule, taking relief in respect of a later period of account before relief in respect of an earlier one;
- (c) next of losses incurred in the trade in accounting periods of the predecessor ending not earlier than 14th November 1980 (calculated without regard to capital allowances or relief falling within paragraphs (a) and (b) above) and including any losses treated under section 254(5) of the Taxes Act as incurred in such accounting periods; and
- (d) lastly of other losses, capital allowances and reliefs.

(5B) In sub-paragraph (5A) above ‘the predecessor’ has the same meaning as in section 252 of the Taxes Act.”.

SCHEDULE 11

Section 44.

ENTERTAINERS AND SPORTSMEN

Introduction

1. Where a person who is an entertainer or sportsman of a prescribed description performs an activity of a prescribed description in the United Kingdom (a relevant activity), this Schedule shall apply if he is not resident in the United Kingdom in the year of assessment in which the relevant activity is performed.

Payment of tax

2.—(1) Where a payment is made (to whatever person) and it has a connection of a prescribed kind with the relevant activity, the person by whom it is made shall on making it deduct out of it a sum representing income tax and shall account to the Board for the sum.

(2) The sum mentioned in sub-paragraph (1) above shall be such as is calculated in accordance with prescribed rules but shall in no case exceed the relevant proportion of the payment concerned; and “relevant proportion” here means a proportion equal to the basic rate of income tax for the year of assessment in which the payment is made.

(3) Where a transfer is made (to whatever person) and it has a connection of a prescribed kind with the relevant activity, the person by whom it is made shall account to the Board for a sum representing income tax.

(4) The sum mentioned in sub-paragraph (3) above shall be such as is calculated in accordance with prescribed rules but shall in no case exceed the relevant proportion of the value of what is transferred; and

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“relevant proportion” here means a proportion equal to the basic rate of income tax for the year of assessment in which the transfer is made.

(5) References in this paragraph and in the following provisions of this Schedule to a payment include references to a payment by way of loan of money.

(6) References in this paragraph and in the following provisions of this Schedule to a transfer do not include references to a transfer of money but, subject to that, include references to a temporary transfer (as by way of loan) and to a transfer of a right (whether or not a right to receive money).

(7) This paragraph shall not apply to payments or transfers of such a kind as may be prescribed.

3.—(1) Regulations may—

- (a) make provision enabling the Board to serve notices requiring persons who make payments or transfers to which paragraph 2 above applies to furnish to the Board particulars of a prescribed kind in respect of payments or transfers;
- (b) make provision requiring persons who make payments or transfers to which paragraph 2 above applies to make, at prescribed times and for prescribed periods, returns to the Board containing prescribed information about payments or transfers and the income tax for which those persons are accountable in respect of them;
- (c) make provision for the collection and recovery of such income tax, provision for assessments and claims to be made in respect of it, and provision for the payment of interest on it;
- (d) adapt, or modify the effect of, any enactment relating to income tax for the purpose of making any such provision as is mentioned in paragraphs (a) to (c) above.

(2) The words “Regulations under paragraph 3 of Schedule 11 to the Finance Act 1986” shall be added at the end of each column in the Table in section 98 of the Taxes Management Act 1970 (penalties for failure to furnish information etc.).

1970 c. 9.

4.—(1) Where in accordance with paragraphs 2 and 3 above a person pays a sum to the Board, they shall treat it as having been paid on account of a liability of another person to income tax or corporation tax; and the liability and the other person shall be such as are found in accordance with prescribed rules.

(2) Where the sum exceeds the liability concerned, the Board shall pay such of the sum as is appropriate to the other person mentioned in sub-paragraph (1) above.

(3) Where no liability is found as mentioned in sub-paragraph (1) above, the Board shall pay the sum to the person to whom the relevant payment or transfer was made; and here “the relevant payment or transfer” means the payment or transfer to which paragraph 2 above applies and which gave rise to the payment of the sum concerned to the Board.

(4) In construing references to a sum in sub-paragraphs (1) to (3) above, anything representing interest shall be ignored.

5. No obligation as to secrecy imposed by statute or otherwise shall preclude the Board or an authorised officer of the Board from disclosing to any person who appears to the Board to have an interest in the matter information which may be relevant to determining whether paragraph 2 above applies to a payment or transfer.

Activity treated as part of trade etc.

6.—(1) Where a payment is made (to whatever person) and it has a connection of the prescribed kind with the relevant activity, the activity shall be treated for the purposes of the Tax Acts as performed in the course of a trade, profession or vocation exercised by the entertainer or sportsman within the United Kingdom, to the extent that (apart from this paragraph) it would not be so treated.

(2) This paragraph shall not apply unless the payment is one to which paragraph 2 above applies.

(3) This paragraph shall not apply where the relevant activity is performed in the course of an office or employment.

(4) References in this paragraph to a payment include references to a transfer.

Income attributed to entertainer or sportsman

7.—(1) Where a payment is made to a person who fulfils a prescribed description but is not the entertainer or sportsman, and the payment has a connection of the prescribed kind with the relevant activity,—

(a) the entertainer or sportsman shall be treated for the purposes of the Tax Acts as the person to whom the payment is made, and

(b) the payment shall be treated for those purposes as made to him in the course of a trade, profession or vocation exercised by him within the United Kingdom (whether or not he would be treated as exercising such a trade, profession or vocation apart from this paragraph).

(2) Regulations may provide for the deduction, in computing any profits or gains of the entertainer or sportsman arising from the payment, of expenses incurred by other persons in relation to the payment.

(3) Regulations may provide that any liability to tax (whether of the entertainer or sportsman or of another person) which would, apart from this paragraph, arise in relation to the payment shall not arise or shall arise only to a prescribed extent.

(4) This paragraph shall not apply unless the payment is one to which paragraph 2 above applies.

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(5) This paragraph shall not apply in such circumstances as may be prescribed.

(6) References in this paragraph to a payment include references to a transfer.

Charge on profits or gains

8.—(1) Where income tax is chargeable under Case I or Case II of Schedule D on the profits or gains arising from payments (made to whatever person) and the payments have a connection of the prescribed kind with relevant activities of the entertainer or sportsman, such tax shall be charged—

- (a) as if those payments were received in the course of one trade, profession or vocation exercised by the entertainer or sportsman within the United Kingdom separately from any other trade, profession or vocation exercised by him, and
- (b) for each year of assessment, on the full amount of the profits or gains arising in the year from those payments.

(2) Regulations may—

- (a) provide for the apportionment of profits or gains between different trades, professions or vocations of the entertainer or sportsman;
- (b) provide for the apportionment between different years of assessment of the profits or gains arising from relevant activities of the entertainer or sportsman;
- (c) provide for losses sustained in any trade, profession or vocation of the entertainer or sportsman to be deducted from or set off against the profits or gains of another trade, profession or vocation of the entertainer or sportsman;
- (d) provide that prescribed provisions of the Tax Acts about losses, or about expenditure, shall not apply (or shall apply with prescribed modifications) in prescribed circumstances relating to the entertainer or sportsman.

(3) References in sub-paragraph (2)(a) and (c) above to a trade, profession or vocation of the entertainer or sportsman include references to that first mentioned in sub-paragraph (1)(a) above as well as to any other exercised by him.

(4) This paragraph shall not apply in the case of a payment unless it is one to which paragraph 2 above applies.

(5) References in this paragraph to a payment include references to a transfer.

Valuation etc.

9.—(1) A payment to which paragraph 2(1) above applies shall be treated for the purposes of the Tax Acts as not diminished by the sum mentioned in paragraph 2(1).

(2) Regulations may provide that for the purposes of the Tax Acts the value of what is transferred by a transfer to which paragraph 2(3) above applies shall be calculated in accordance with prescribed rules.

(3) In particular, the rules may include provision for the calculation of an amount representing the actual worth of what is transferred, for that amount to be treated as a net amount corresponding to a gross amount from which income tax at the basic rate has been deducted, and for the gross amount to be taken to be the value of what is transferred.

General

10. Regulations may make provision generally for giving effect to this Schedule.

11.—(1) In this Schedule “prescribed” means prescribed by regulations.

(2) Regulations under this Schedule may make different provision for different cases or descriptions of case.

(3) The power to make regulations under this Schedule shall be exercisable by the Treasury by statutory instrument subject to annulment in pursuance of a resolution of the Commons House of Parliament.

12. This Schedule shall have effect for the year 1987—88 and subsequent years of assessment.

SCHEDULE 12

Section 46.

PENSION SCHEME SURPLUSES

PART I

PAYMENTS TO EMPLOYERS

1.—(1) This paragraph applies where a payment is made to an employer out of funds which are or have been held for the purposes of a scheme which is or has at any time been an exempt approved scheme.

(2) An amount equal to 40 per cent. of the payment shall be recoverable by the Board from the employer.

(3) This paragraph applies whether or not the payment is made in pursuance of Part II of this Schedule.

(4) Paragraph 4 of Schedule 5 to the Finance Act 1970 (charge to tax on payments to employer) shall not apply to a payment to which this paragraph applies or would apply apart from sub-paragraph (5) or (6) below.

(5) This paragraph does not apply to a payment to the extent that, if this paragraph had not been enacted, the employer would have been

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exempt, or entitled to claim exemption, from income tax or corporation tax in respect of the payment.

(6) This paragraph does not apply where the employer is a charity; and “charity” here has the same meaning as in section 360 of the Taxes Act.

(7) This paragraph does not apply to any payment of any prescribed description.

(8) This paragraph does not apply to a payment made before the scheme became an exempt approved scheme.

(9) References in this paragraph to a payment include references to a transfer of assets or other transfer of money’s worth.

(10) In this paragraph “exempt approved scheme” means an exempt approved scheme within the meaning given by section 21(1) of the Finance Act 1970.

(11) This paragraph applies to a payment made after 18th March 1986 unless made as mentioned in sub-paragraph (12) or (13) below.

(12) This paragraph does not apply to a payment made in pursuance of the winding-up of the scheme where the winding-up commenced on or before 18th March 1986.

(13) This paragraph does not apply to a payment made in pursuance of an application which—

- (a) was made to the Board on or before 18th March 1986 and was not withdrawn before the making of the payment, and
- (b) sought the Board’s assurance that the payment would not lead to a withdrawal of approval under section 19(3) of the Finance Act 1970.

2.—(1) In relation to an amount recoverable as mentioned in paragraph 1(2) above, regulations may make any of the provisions mentioned in sub-paragraph (2) below; and for this purpose the amount shall be treated as if it were—

- (a) an amount of income tax chargeable on the employer under Case VI of Schedule D for the year of assessment in which the payment is made, or
- (b) where the employer is a company, an amount of corporation tax chargeable on the company for the accounting period in which the payment is made.

(2) The provisions are—

- (a) provision requiring the administrator of the scheme or the employer (or both) to furnish to the Board, in respect of the amount recoverable and of the payment concerned, information of a prescribed kind;
- (b) provision enabling the Board to serve a notice or notices requiring the administrator or employer (or both) to furnish to the Board, in respect of the amount and payment, particulars of a prescribed kind;

- (c) provision requiring the administrator to deduct out of the payment the amount recoverable and to account to the Board for it;
- (d) provision as to circumstances in which the employer may be assessed in respect of the amount recoverable;
- (e) provision that, in a case where the employer has been assessed in respect of the amount recoverable but has not paid it (or part of it) within a prescribed period, the administrator may be assessed and charged (in the employer's name) in respect of the amount (or part unpaid);
- (f) provision that, in a case where the amount recoverable (or part of it) has been recovered from the administrator by virtue of an assessment in the employer's name, the administrator is entitled to recover from the employer a sum equal to the amount (or part);
- (g) provision enabling the employer or administrator (as the case may be) to appeal against an assessment made on him in respect of the amount recoverable;
- (h) provision as to when any sum in respect of the amount recoverable is payable to the Board by the administrator or employer and provision requiring interest to be paid on any sum so payable;
- (i) provision that an amount paid to the Board by the administrator shall be treated as paid on account of the employer's liability under paragraph 1(2) above.

(3) For the purpose of giving effect to any provision mentioned in sub-paragraph (2)(a) or (b) above the words "Regulations under paragraph 2 of Schedule 12 to the Finance Act 1986" shall be added at the end of each column in the Table in section 98 of the Taxes Management Act 1970 (penalties for failure to furnish information etc.). 1970 c. 9.

(4) For the purpose of giving effect to any other provision mentioned in sub-paragraph (2) above, regulations under this paragraph may include provision applying (with or without modifications) provisions of the enactments relating to income tax and corporation tax.

(5) Subject to any provision of regulations under this paragraph—

- (a) a payment to which paragraph 1 above applies shall not be treated as a profit or gain brought into charge to income tax or corporation tax and shall not be treated as part of the employer's income for any purpose of the Taxes Act, and
- (b) the amount recoverable shall not be subject to any exemption or reduction (by way of relief, set-off or otherwise) or be available for set-off against other tax.

(6) If the employer is a company and a payment to which paragraph 1 above applies is made at a time not otherwise within an accounting period of the company, an accounting period of the company shall for the purposes of sub-paragraph (1)(b) above be treated as beginning immediately before the payment is made.

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3.—(1) In this Part of this Schedule “prescribed” means prescribed by regulations.

(2) The power to make regulations under this Part of this Schedule shall be exercisable by the Treasury by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.

PART II

REDUCTION OF SURPLUSES

4.—(1) The Board may make regulations providing for this Part of this Schedule to apply, as from a prescribed date, in relation to any exempt approved scheme of a prescribed kind.

(2) The Board may make regulations providing for prescribed provisions of this Part of this Schedule to apply, as from a prescribed date, in prescribed circumstances, and subject to any prescribed omissions or modifications, in relation to any exempt approved scheme of another prescribed kind.

(3) In this Part of this Schedule—

(a) “exempt approved scheme” has the meaning given by section 21(1) of the Finance Act 1970, and

(b) “prescribed” means prescribed by regulations made by the Board.

(4) The power to make regulations under this paragraph shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.

5.—(1) The administrator of a scheme in relation to which this Part of this Schedule applies shall, in prescribed circumstances and at a prescribed time, either produce to the Board a written valuation such as is mentioned in sub-paragraph (2) below or give to the Board a certificate such as is mentioned in sub-paragraph (3) below.

(2) The valuation must be a valuation of the assets held for the purposes of the scheme and the liabilities of the scheme, must be determined in accordance with prescribed principles and fulfil prescribed requirements, and must be signed by a person with qualifications of a prescribed kind.

(3) The certificate must state whether or not the value of the assets (as determined in accordance with prescribed principles) exceeds the value of the liabilities (as so determined) by a percentage which is more than the prescribed maximum, must be in a prescribed form, and must be signed by a person with qualifications of a prescribed kind.

(4) In section 98 of the Taxes Management Act 1970 (penalty for failure to produce documents etc.) the following shall be inserted at the end of the second column of the Table—

“Paragraph 5 of Schedule 12 to the Finance Act 1986”.

6.—(1) Subject to paragraph 7(4) below, where a valuation produced under paragraph 5 above shows, or a certificate given under that

paragraph states, that the value of the assets exceeds the value of the liabilities by a percentage which is more than the prescribed maximum, the administrator of the scheme shall within a prescribed period submit to the Board for their approval proposals which comply with sub-paragraph (2) below.

(2) The proposals must be proposals for reducing (or, subject to paragraph (b) below, eliminating) the excess in a way or ways set out in the proposals and falling within sub-paragraph (3) below; and they must be such as to secure that—

- (a) by the end of a prescribed period the percentage (if any) by which the value of the assets exceeds the value of the liabilities is no more than the prescribed maximum, and
- (b) if the way, or one of the ways, set out in the proposals falls within sub-paragraph (3)(a) below, there remains an excess which is of a level not less than the prescribed minimum.

(3) Subject to sub-paragraph (4) below, the permitted ways of reducing or eliminating the excess are—

- (a) making payments to an employer;
- (b) suspending for a period (of 5 years or less) set out in the proposals an employer's obligation to pay contributions under the scheme or reducing for such a period the amount of an employer's contributions under the scheme;
- (c) suspending for a period (of 5 years or less) set out in the proposals the obligation of employees to pay contributions under the scheme or reducing for such a period the amount of employees' contributions under the scheme;
- (d) improving existing benefits provided under the scheme;
- (e) providing new benefits under the scheme;
- (f) such other ways as may be prescribed.

(4) In prescribed circumstances sub-paragraph (3) above shall apply subject to such omissions or modifications as may be prescribed.

(5) Subject to paragraph 7(4) below, if the administrator of the scheme fails to submit proposals to the Board within the period mentioned in sub-paragraph (1) above, or if proposals submitted to them within that period are not approved by the Board within a further prescribed period, paragraph 10 below shall apply.

7.—(1) Where a valuation has been produced under paragraph 5 above, the Board may serve on the administrator of the scheme a notice requiring him to furnish the Board, within a prescribed period, with such particulars relating to the valuation as may be specified in the notice.

(2) Where a certificate has been given under paragraph 5 above, the Board may serve on the administrator of the scheme a notice requiring him to produce to the Board, within a prescribed period, a written valuation such as is mentioned in paragraph 5(2) above.

(3) Where a valuation has been produced in compliance with a notice served under sub-paragraph (2) above, the Board may serve on the

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administrator of the scheme a further notice requiring him to furnish the Board, within a prescribed period, with such particulars relating to the valuation as may be specified in the notice.

(4) Where a notice is served on the administrator of a scheme under sub-paragraph (1) or (2) above, paragraph 6(1) and (5) above shall cease to apply.

1970 c. 9.

(5) In section 98 of the Taxes Management Act 1970 the following shall be inserted at the end of the first column of the Table—

“Paragraph 7 of Schedule 12 to the Finance Act 1986”.

8.—(1) Where particulars have been furnished under paragraph 7 above, or a valuation has been produced under that paragraph, the Board shall, within a prescribed period, serve on the administrator of the scheme a notice—

- (a) stating that they accept the valuation produced under paragraph 5 or, as the case may be, 7 above, or
- (b) stating that they do not accept the valuation so produced, and specifying their estimate of the value of the liabilities of the scheme at the relevant time and their estimate of the value of the assets held for the purposes of the scheme at that time.

(2) For the purposes of sub-paragraph (1)(b) above, the relevant time is the time specified in the valuation produced under paragraph 5 or 7 above as the time by reference to which the values of the assets and liabilities are determined.

(3) Where—

- (a) in a case falling within sub-paragraph (1)(a) above, the valuation shows that the value of the assets exceeds the value of the liabilities by a percentage which is more than the prescribed maximum, or
- (b) in a case falling within sub-paragraph (1)(b) above, the value of the assets as estimated by the Board exceeds the value of the liabilities as so estimated by a percentage which is more than the prescribed maximum,

the administrator of the scheme shall within a prescribed period submit to the Board for their approval proposals which comply with paragraph 6(2) to (4) above.

(4) If the administrator of the scheme fails to submit proposals to the Board within the period mentioned in sub-paragraph (3) above, or if proposals submitted to them within that period are not approved by the Board within a further prescribed period, paragraph 10 below shall apply.

9.—(1) Where proposals are submitted to the Board under paragraph 6(1) or 8(3) above and they approve them within the further prescribed period mentioned in paragraph 6(5) or 8(4) above, the administrator of the scheme shall carry out the proposals within the period mentioned in paragraph 6(2) above.

(2) If the administrator fails to carry out the proposals within that period, paragraph 10 below shall apply.

10.—(1) Where this paragraph applies the Board may specify a percentage equivalent to the fraction—

- (a) whose numerator represents their estimate of the value of the liabilities of the scheme at the relevant time increased by a prescribed percentage, and
- (b) whose denominator represents their estimate of the value of the assets held for the purposes of the scheme at that time.

(2) For the purposes of this paragraph the relevant time is the time specified—

- (a) in the valuation produced or certificate given under paragraph 5 above, or
- (b) where a valuation has been produced under paragraph 7 above, in that valuation,

as the time by reference to which the values of the assets and liabilities are determined.

(3) Where a percentage has been so specified—

- (a) section 21(2) of the Finance Act 1970 (income tax exemption) 1970 c. 24. shall apply only to that percentage of any income derived in the relevant period from the assets held for the purposes of the scheme,
- (b) section 21(2A) of that Act (further income tax exemption) shall apply only to that percentage of any underwriting commissions applied in the relevant period for the purposes of the scheme,
- (c) section 21(7) of that Act (capital gains tax exemption) shall apply only to that percentage of any gain accruing on the disposal in the relevant period of any of those assets, and
- (d) section 26(1) of the Finance Act 1973 (charge to tax on certain 1973 c. 51. profits or gains) shall by virtue of section 26(1)(a) not apply only to that percentage of any profits or gains arising to the scheme in the relevant period.

(4) Sub-paragraphs (5) to (8) below shall apply where a percentage has been so specified, securities are transferred in the relevant period, and the transferor or transferee is such that, if he became entitled to any interest on them, exemption could be allowed under section 21(2) of the Finance Act 1970.

(5) Paragraph 32(1) and (2) of Schedule 23 to the Finance 1985 1985 c. 54. (accrued income scheme) shall not apply.

(6) Where, in consequence of sub-paragraph (5) above, section 73(2)(a) or (3)(b) of the 1985 Act applies, the sum concerned shall be treated as reduced by an amount equal to the specified percentage of itself.

(7) Where, in consequence of sub-paragraph (5) above, section 73(2)(b) or (3)(a) of the 1985 Act applies, the relief concerned shall be treated as reduced by an amount equal to the specified percentage of itself.

(8) For the purposes of section 74(5) of the 1985 Act, the amount of interest falling to be reduced by the amount of the allowance shall

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1970 c. 24.

be treated as the amount found after applying section 21(2) of the Finance Act 1970.

(9) In sub-paragraphs (4) to (8) above expressions which also appear in Chapter IV of Part II of the 1985 Act have the same meanings as in that Chapter.

(10) In this paragraph “the relevant period” means the period beginning at the relevant time and ending when it is proved to the satisfaction of the Board that the value of the assets (as determined in accordance with prescribed principles) exceeds the value of the liabilities (as so determined) by a percentage which is no more than the prescribed maximum.

11.—(1) The Board may make regulations providing that an appeal may be brought against a notice under paragraph 8(1)(b) above as if it were notice of the decision of the Board on a claim made by the administrator of the scheme concerned.

(2) Regulations under this paragraph may include—

- (a) provision that bringing an appeal shall suspend the operation of paragraph 8(3) and (4) above;
- (b) other provisions consequential on the provision that an appeal may be brought (including provisions modifying this Part of this Schedule).

(3) The power to make regulations under this paragraph shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.

Section 55.

SCHEDULE 13

MINERAL EXTRACTION: THE NEW CODE OF RELIEFS

PART I

PRELIMINARY

Defined terms

1.—(1) In this Schedule—

- “development” and “development order” have the meaning assigned to them by the relevant planning enactment;
- “mineral asset” means any mineral deposits or land comprising mineral deposits, or any interest in or right over such deposits or land;
- “mineral exploration and access” means searching for or discovering and testing the mineral deposits of any source or winning access to any such deposits;
- “planning permission” has the meaning assigned to it by the relevant planning enactment;
- “pre-trading expenditure on machinery or plant” shall be construed in accordance with paragraph 5 below;

“pre-trading exploration expenditure” shall be construed in accordance with paragraph 6 below;

“qualifying expenditure” shall be construed in accordance with Parts II and IV of this Schedule;

“the relevant planning enactment” means—

(a) in relation to land in England and Wales, section 290(1) of the Town and Country Planning Act 1971; 1971 c. 78.

(b) in relation to land in Scotland, section 275(1) of the Town and Country Planning (Scotland) Act 1972; and 1972 c. 52.

(c) in relation to land in Northern Ireland, Article 2(2) of the Planning (Northern Ireland) Order 1972; S.I. 1972/1634
(N.I. 17).

“source of mineral deposits” includes a mine, an oil well and a source of geothermal energy; and

“trade of mineral extraction” means a trade which consists of or includes the working of a source of mineral deposits.

(2) Any reference in this Schedule to mineral deposits is a reference to mineral deposits of a wasting nature and, in the case of a mineral asset which consists of or includes an interest in or right over mineral deposits or land, the asset shall not be regarded as situated in the United Kingdom unless the deposits or land are or is so situated.

(3) Any reference in this Schedule to assets representing any expenditure includes, in relation to expenditure on mineral exploration and access, any results obtained from any search, exploration or inquiry upon which the expenditure was incurred.

(4) Any reference in this Schedule to a chargeable period or its basis period is a reference to a chargeable period or, as the case may be, basis period beginning (or treated by virtue of section 55 of this Act as beginning) on or after 1st April 1986.

Application of Capital Allowances Act 1968 etc.

2.—(1) Chapter VI of Part I of the Capital Allowances Act 1968 1968 c. 3. (miscellaneous and general) applies for the purposes of this Schedule as if it were included in Chapter III of that Part.

(2) In section 77(4) of that Act, any reference to a specific provision of that Act includes a reference to Parts II to IV of this Schedule.

(3) In section 87(1) of that Act, at the end of the definition of “mineral deposits” there shall be added “and, for this purpose, geothermal energy, whether in the form of aquifers, hot dry rocks or otherwise, shall be treated as a natural deposit”.

(4) The provisions of this Schedule apply in relation to a share in an asset of any description as, by virtue of the application of section 87(4) of that Act, they apply to a part of an asset; and, for the purposes of those provisions, a share in an asset of any description shall be deemed to be used for the purposes of a trade so long as, and only so long as, the asset is used for those purposes.

(5) In the following provisions—

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- (a) sections 155(8), 180(7), 227(4), 252(2) and 352(4) of the Taxes Act,
- (b) the definition of "capital allowance" in section 526(5) of the Taxes Act,
- 1979 c. 14. (c) section 31(2) of the Capital Gains Tax Act 1979, and
- (d) the definition of "capital allowance" in subsection (4) of section 34 of the said Act of 1979,
- 1968 c. 3. any reference to the Capital Allowances Act 1968 or to Part I thereof includes a reference to Part III of this Schedule.

Time when expenditure is incurred

3.—(1) For the purposes of this Schedule, expenditure incurred for the purposes of a trade by a person about to carry it on shall be treated as if it had been incurred by him on the first day on which he does carry it on.

(2) Without prejudice to sub-paragraph (1) above, pre-trading expenditure on machinery or plant and pre-trading exploration expenditure shall be treated for the purposes of Part III of this Schedule as incurred on the first day on which the person who incurred the expenditure carries on a trade of mineral extraction.

PART II

QUALIFYING EXPENDITURE

General provisions

4.—(1) Subject to sub-paragraphs (2) to (5) below, in relation to a person carrying on a trade of mineral extraction, the following capital expenditure is qualifying expenditure, namely,—

- (a) expenditure on mineral exploration and access;
- (b) expenditure on the acquisition of a mineral asset;
- (c) expenditure on the construction of any works in connection with the working of a source of mineral deposits, being works which, when the source is no longer worked, are likely to be of little or no value to the person working it immediately before that time; and
- (d) where a source of mineral deposits is worked under a foreign concession, expenditure on the construction of works which, when the concession comes to an end, are likely to become valueless to the person working the source immediately before that time.

(2) Where expenditure falling within sub-paragraph (1)(a) above is incurred by any person before he begins to carry on a trade of mineral extraction, it shall not be qualifying expenditure except to the extent that paragraph 5 or paragraph 6 below provides.

(3) Part IV of this Schedule shall have effect to limit in certain cases the amount of expenditure which is qualifying expenditure.

(4) Except as provided by paragraph 5 below, expenditure on the provision of machinery or plant or on any asset which has been treated for any chargeable period as machinery or plant is not qualifying expenditure.

(5) The following expenditure is not qualifying expenditure by virtue of this paragraph—

- (a) any expenditure on the acquisition of the site of any such works as are referred to in sub-paragraph (1) above, or of rights in or over any such site;
- (b) any expenditure on works constructed wholly or mainly for subjecting the raw product of a source to any process, except a process designed for preparing the raw product for use as such;
- (c) any expenditure on buildings or structures provided for occupation by or for the welfare of workers;
- (d) any expenditure on a building where the whole of the building was constructed for use as an office; and
- (e) any expenditure on so much of a building or structure as was constructed for use as an office, unless the capital expenditure on the construction of the part of the building or structure constructed for use as an office was not more than one-tenth of the capital expenditure incurred on the construction of the whole building or structure.

(6) Where a person carrying on a trade of mineral extraction incurs expenditure on seeking any planning permission necessary to enable any mineral exploration and access to be undertaken at any place or any mineral deposits to be worked and that permission is not granted, the expenditure shall be treated for the purposes of this Schedule as expenditure on mineral exploration and access; and in this sub-paragraph “seeking”, in relation to planning permission, includes not only making any necessary application but also pursuing any appeal against a refusal of permission.

(7) In so far as any provision of this Schedule or of any other enactment is expressed to be about expenditure falling within sub-paragraph (1)(a) above or sub-paragraph (1)(b) above—

- (a) expenditure on the acquisition of, or of rights in or over, the site of a source, and
- (b) expenditure on the acquisition of, or of rights in or over, mineral deposits,

shall be treated as falling within sub-paragraph (1)(b) above and not within sub-paragraph (1)(a) above.

Pre-trading expenditure on machinery or plant which is sold etc.

5.—(1) This paragraph applies where—

- (a) capital expenditure is incurred by any person on the provision of machinery or plant; and
- (b) that expenditure falls within paragraph 4(1)(a) above; and

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- (c) that expenditure is so incurred before he begins to carry on a trade of mineral extraction; and
- (d) before he begins to carry on that trade, the machinery or plant is sold, demolished, destroyed or abandoned.

(2) Where this paragraph applies and there is such an excess of expenditure as is referred to in sub-paragraph (3) below, then, for the purposes of this Schedule the person concerned shall be treated as incurring qualifying expenditure equal to that excess on the first day on which he begins to carry on a trade of mineral extraction; and that qualifying expenditure is in this Schedule referred to as pre-trading expenditure on machinery or plant.

(3) Subject to sub-paragraph (4) below, the excess referred to in sub-paragraph (2) above is the amount by which the capital expenditure referred to in sub-paragraph (1) above exceeds any sale, insurance, salvage or compensation moneys resulting from the event mentioned in paragraph (d) of that sub-paragraph.

(4) If, in a case where this paragraph applies, the mineral exploration and access at the source in connection with which the machinery or plant was used ceased before the first day referred to in sub-paragraph (2) above, any capital expenditure which was incurred more than six years before that day shall be left out of account in determining the amount of any excess under sub-paragraph (3) above.

Pre-trading exploration expenditure

6.—(1) This paragraph applies to capital expenditure which—

- (a) is incurred by any person on mineral exploration and access at any source, and
- (b) is so incurred before he begins to carry on a trade of mineral extraction, and
- (c) is not incurred on the provision of machinery or plant.

(2) Where this paragraph applies to any capital expenditure and the mineral exploration and access is continuing at the source in question at the time when the person concerned begins to carry on a trade of mineral extraction, so much of the expenditure as exceeds any relevant capital sum received by him is qualifying expenditure.

(3) Where this paragraph applies to any capital expenditure and the mineral exploration and access has ceased at the source in question before the time when the person concerned begins to carry on a trade of mineral extraction, so much of that expenditure as was incurred within the six years ending at that time and exceeds any relevant capital sum received by him shall be treated as qualifying expenditure incurred on the first day on which he begins to carry on that trade.

(4) In relation to capital expenditure to which this paragraph applies, a relevant capital sum is a capital sum—

- (a) which is received by the person incurring the expenditure before he begins to carry on a trade of mineral extraction; and

(b) which is or, as the case may be, to the extent to which it is reasonably attributable to the incurring of the expenditure at the source in question.

(5) Expenditure which is qualifying expenditure by virtue of sub-paragraph (2) or sub-paragraph (3) above is in this Schedule referred to as pre-trading exploration expenditure.

*Contributions by mining concerns to public services etc.
outside the United Kingdom*

7.—(1) Subject to sub-paragraphs (2) and (3) below, expenditure incurred by a person carrying on a trade of mineral extraction outside the United Kingdom and consisting of contributions of capital sums to the cost of—

- (a) buildings to be occupied by persons employed at or in connection with the working of a source outside the United Kingdom, or
- (b) works for the supply of water, gas or electricity wholly or mainly to buildings occupied or to be occupied by persons so employed, or
- (c) works to be used in providing other services or facilities wholly or mainly for the welfare of persons so employed or their dependants,

is by virtue of this paragraph qualifying expenditure.

(2) Expenditure incurred by any person as mentioned in sub-paragraph (1) above is not qualifying expenditure unless—

- (a) it is incurred for the purposes of his trade of mineral extraction; and
- (b) when the source in question is no longer worked, the buildings or works concerned are likely to be of little or no value to the person working the source immediately before that time.

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

- (a) to expenditure resulting in the acquisition of an asset by the person incurring the expenditure; nor
- (b) to expenditure in respect of which an allowance may be made under any provision of the Tax Acts (other than this Schedule, section 61 of the Capital Allowances Act 1968 or any enactment which was re-enacted by that section).

Restoration expenditure

8.—(1) Where a person who has ceased to carry on a trade of mineral extraction incurs expenditure on the restoration of the site of a source to the working of which that trade related and all or any of that expenditure—

- (a) is incurred within the period of three years immediately following the last day on which he carried on that trade, and

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- (b) has not been deducted for the purposes of corporation tax or income tax in relation to that or any other trade carried on by him, and
- (c) is expenditure which, if it had been incurred while that trade was being carried on, either would have been qualifying expenditure by virtue of any of the preceding provisions of this Part of this Schedule or would have been allowable as a deduction in computing the profits or gains from that trade,

so much of that expenditure as falls within paragraphs (a) to (c) above and does not exceed the net cost of the restoration of the site shall be qualifying expenditure by virtue of this paragraph and shall be treated as incurred by him on the last day on which he carried on that trade.

(2) Any reference in this paragraph to the site of a source includes a reference to land used in connection with the working of the source.

(3) In this paragraph "restoration" includes landscaping and—

- (a) in relation to land in the United Kingdom, the carrying out of any works required by a condition subject to which planning permission for development consisting of the winning and working of minerals was granted; and
- (b) in relation to land outside the United Kingdom, the carrying out of any works required by any equivalent condition imposed under the law of the territory in which the land is situated.

(4) For the purpose of this paragraph, the net cost to any person of the restoration of the site of a source is the excess, if any, of expenditure falling within paragraphs (a) to (c) of sub-paragraph (1) above over any receipts which—

- (a) are attributable to the restoration (whether for spoil or other assets removed from the site or for tipping rights or otherwise); and
- (b) are received within the period of three years immediately following the last day on which the person concerned carried on a trade of mineral extraction.

(5) As respects the person by whom is incurred any expenditure which is qualifying expenditure by virtue of this paragraph,—

- (a) expenditure falling within paragraphs (a) to (c) of sub-paragraph (1) above (not only so much of it as constitutes qualifying expenditure) shall not be deductible in computing his income for any purpose of income tax or corporation tax; and
- (b) to the extent that any receipts are, under sub-paragraph (4) above, taken into account to determine the net cost of the restoration of the site of a source, those receipts shall not constitute income of his for any purpose of income tax or corporation tax.

(6) All such adjustments shall be made, whether by way of discharge or repayment of tax or otherwise, as may be required in consequence of the preceding provisions of this paragraph.

PART III

ALLOWANCES AND CHARGES

Writing-down and balancing allowances

9.—(1) Allowances shall be made in accordance with this paragraph to a person who carries on a trade of mineral extraction in respect of qualifying expenditure incurred by him for the purposes of that trade.

(2) Subject to sub-paragraph (4) below, for the chargeable period related to the incurring of the expenditure, there shall be made to the person incurring it an allowance equal to the appropriate percentage of the excess (if any) of that expenditure over any disposal receipts which he is required to bring into account by reference to that expenditure for that chargeable period.

(3) Subject to sub-paragraph (4) below, for each of the chargeable periods following that related to the incurring of the expenditure, there shall be made to the person incurring it an allowance equal to the appropriate percentage of the excess (if any) of that expenditure over the aggregate of—

- (a) the allowances made in respect of the expenditure for earlier chargeable periods by virtue of sub-paragraph (2) above and this sub-paragraph; and
- (b) any disposal receipts which he is or was required to bring into account by reference to that expenditure for the chargeable period in question and any earlier chargeable periods.

(4) For a chargeable period for which, in accordance with paragraph 12 below, a balancing allowance falls to be made to any person in respect of any expenditure, sub-paragraph (2), or, as the case may be, sub-paragraph (3) above shall have effect with the omission of the words “the appropriate percentage of”.

(5) Subject to sub-paragraph (6) below, in relation to expenditure which is qualifying expenditure falling within paragraph 4, paragraph 7 or paragraph 8 above, other than expenditure falling within paragraph 4(1)(b), the appropriate percentage is 25 and, in relation to all other qualifying expenditure, the appropriate percentage is 10.

(6) If a chargeable period or its basis period is part only of a year or if the period is a year of assessment but the trade has been carried on for part only of it, the percentage appropriate under sub-paragraph (5) above shall be correspondingly reduced.

Disposal receipts

10.—(1) In any case where—

- (a) qualifying expenditure has been incurred by any person on the provision of any assets (including the construction of any works), and
- (b) in any chargeable period or its basis period any of those assets is disposed of or otherwise permanently ceases (whether because of the discontinuance of the trade or for any other reason) to be used by him for the purposes of a trade of mineral extraction,

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he shall bring into account as a disposal receipt in respect of that expenditure for the chargeable period related to the disposal or, as the case may be, cessation the disposal value of any asset falling within paragraph (b) above.

(2) If, at any time after a mineral asset has been acquired by any person, it begins to be used (by him or any other person) in a way which constitutes development but is neither existing permitted development nor development for the purposes of a trade of mineral extraction carried on by him, the asset shall be treated as having permanently ceased, immediately before that time, to be used by him for the purposes of that trade; and for the purposes of this sub-paragraph, "existing permitted development" means—

- (a) development which, prior to the acquisition, had been or had begun to be lawfully carried out; and
- (b) any other development for which planning permission is granted by a development order made as a general order and in force at the time of the acquisition;

and sub-paragraph (3) of paragraph 16 below applies for the purposes of this sub-paragraph as it applies for the purposes of sub-paragraph (2) of that paragraph.

(3) Subject to paragraph 18 below, subsections (6) and (7) of section 44 of the Finance Act 1971 (disposal value of machinery or plant) shall apply to determine the disposal value of any asset falling within sub-paragraph (1) above, substituting a reference to that asset for any reference in those subsections to machinery or plant.

(4) In any case where—

- (a) qualifying expenditure has been incurred by any person, and
- (b) in any chargeable period or its basis period he receives any capital sum which, in whole or in part, it is reasonable to attribute to that expenditure, and
- (c) that capital sum does not fall to be brought into account as a disposal receipt by virtue of sub-paragraph (1) above,

he shall bring into account as a disposal receipt in respect of that expenditure for the chargeable period related to the receipt of that capital sum so much of it as is reasonably attributable to the expenditure.

Balancing charges : excess of allowances and disposal receipts over expenditure

11.—(1) If, for any chargeable period for which a person is required to bring into account a disposal receipt in respect of qualifying expenditure incurred by him, the aggregate of—

- (a) the disposal receipts in respect of that expenditure which he is required to bring into account for that period, and
- (b) any disposal receipts in respect of that expenditure which he was required to bring into account for earlier chargeable periods, and

- (c) the net amount of the allowances made to him for earlier chargeable periods under paragraph 9 above in respect of that expenditure,

exceeds the expenditure concerned, there shall be made on him a charge (in this Part of this Schedule referred to as a "balancing charge").

(2) In relation to any qualifying expenditure, the amount on which a balancing charge is made for a chargeable period shall be whichever is the less of—

- (a) the amount by which the aggregate referred to in sub-paragraph (1) above exceeds the expenditure; and
(b) the net amount of the allowances made as mentioned in paragraph (c) of that sub-paragraph.

(3) In relation to any chargeable period, the net amount of the allowances made to any person for earlier chargeable periods under paragraph 9 above in respect of expenditure incurred by him means the total of those allowances less the total of the amounts on which balancing charges have been made on him for earlier chargeable periods, being charges arising by reason of his bringing into account disposal receipts in respect of that expenditure.

Occasions of balancing allowances

12.—(1) For the chargeable period related to the permanent discontinuance of a trade of mineral extraction, any allowance to which the person carrying on that trade is entitled under paragraph 9 above in respect of qualifying expenditure incurred by him for the purposes of that trade shall be a balancing allowance.

(2) If in any chargeable period or its basis period a person carrying on a trade of mineral extraction permanently ceases to work particular mineral deposits (and sub-paragraph (1) above does not apply in respect of that period) any allowance to which he is entitled for that chargeable period under paragraph 9 above in respect of—

- (a) expenditure on mineral exploration and access which relates solely to those deposits, or
(b) expenditure on the acquisition of a mineral asset which consists of those deposits or any part of them,

shall be a balancing allowance.

(3) Where a person carrying on a trade of mineral extraction is for the time being entitled to two or more mineral assets which at any time were comprised in a single mineral asset or were otherwise derived from a single mineral asset, sub-paragraph (2) above shall not apply until such time as he permanently ceases to work the deposits comprised in all the mineral assets concerned taken together and, for this purpose, where a mineral asset relates to, but does not actually consist of mineral deposits, the deposits to which the asset relates shall be treated as comprised in the asset.

(4) If, in a case where sub-paragraph (1) of paragraph 10 above applies, neither sub-paragraph (1) nor sub-paragraph (2) above has

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effect in relation to the expenditure referred to in sub-paragraph (1)(a) of that paragraph, then for the chargeable period related to the disposal or cessation referred to in sub-paragraph (1)(b) of that paragraph, any allowance in respect of that expenditure shall be a balancing allowance.

(5) In relation to pre-trading expenditure on machinery or plant and pre-trading exploration expenditure falling within paragraph 6(3) above, any allowance under paragraph 9 above shall be a balancing allowance.

(6) If in any chargeable period or its basis period a person who has incurred qualifying expenditure on mineral exploration and access (including pre-trading exploration expenditure falling within paragraph 6(2) above) gives up the search, exploration or inquiry to which the expenditure related and does not carry on then or subsequently a trade of mineral extraction which consists of or includes the working of any mineral deposits to which the mineral exploration and access related, any allowance to which he is entitled for that chargeable period under paragraph 9 above in respect of that expenditure shall be a balancing allowance.

(7) In any case where—

- (a) a person has incurred expenditure consisting of contributions falling within paragraph 7 above to the cost of any buildings or works, and
- (b) in any chargeable period or its basis period the buildings or works permanently cease to be used for the purposes of, or in connection with, a trade of mineral extraction carried on by him,

then, without prejudice to sub-paragraph (1) above, any allowance to which he is entitled for that chargeable period under paragraph 9 above in respect of that expenditure shall be a balancing allowance.

(8) If in any chargeable period or its basis period any of the following events occurs in relation to assets representing any qualifying expenditure, namely—

- (a) the person by whom the expenditure was incurred loses possession of the assets in circumstances where it is reasonable to assume that the loss is permanent,
- (b) the assets cease to exist as such (as a result of destruction, dismantling or otherwise),
- (c) the assets begin to be used wholly or partly for purposes other than those of the trade of mineral extraction carried on by that person,

any allowance to which that person is entitled for that chargeable period under paragraph 9 above in respect of that expenditure shall be a balancing allowance.

Treatment of qualifying expenditure on mineral exploration and access

13. For the purposes of this Part of this Schedule, where a person is carrying on a trade of mineral extraction, qualifying expenditure

incurred by him in connection with that trade (whether before or after the trade began to be carried on) on mineral exploration and access shall be taken to be incurred for the purposes of the trade.

Demolition costs

14.—(1) The net cost to a person of the demolition of an asset representing qualifying expenditure shall, for the purposes of this Part of this Schedule, be added to that qualifying expenditure in determining the amount of any balancing allowance or balancing charge for the chargeable period related to the demolition of the asset.

(2) The cost or net cost to a person of the demolition of any asset shall not, if sub-paragraph (1) applies to it, be treated for the purposes of this Schedule as expenditure incurred in respect of any other asset by which that asset is replaced.

(3) Any reference in this paragraph to the net cost of the demolition of any asset is a reference to the excess (if any) of the cost of the demolition over any moneys received for the remains of the asset.

Manner of making allowances and charges

15. All allowances and charges falling to be made under this Part of this Schedule to or on any person shall be made to or on him in taxing his trade of mineral extraction.

PART IV

LIMITATIONS ON QUALIFYING EXPENDITURE ETC.

Expenditure on the acquisition of land: restriction of qualifying expenditure

16.—(1) In so far as capital expenditure falling within paragraph 4(1)(b) above consists of expenditure on the acquisition of an interest in land (whether in the United Kingdom or elsewhere) and that land includes a source of mineral deposits, so much of that expenditure as is equal to the undeveloped market value of the interest shall not constitute qualifying expenditure.

(2) In relation to the acquisition of an interest in land, the undeveloped market value means the consideration which at the time of the acquisition the interest might reasonably be expected to fetch on a sale in the open market on the assumptions—

- (a) that there is no source of mineral deposits on or in the land; and
- (b) that it is and will continue to be unlawful to carry out any development of the land other than—
 - (i) development which, at the time of the acquisition, has been or has begun to be lawfully carried out; and

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(ii) any other development for which planning permission is granted by a development order which is made as a general order and is in force at that time.

(3) In the application of sub-paragraph (2) above to the acquisition of an interest in land outside the United Kingdom,—

- (a) any question whether development has been or is being lawfully carried out shall be determined in accordance with the law of the territory in which the land is situated; and
- (b) any question whether development is of a character for which planning permission is granted by a general development order shall be determined as if the land were situated in England or Wales.

(4) In any case where—

- (a) the preceding provisions of this paragraph have effect to limit the amount of expenditure falling within paragraph 4(1)(b) above which is qualifying expenditure, and
- (b) the undeveloped market value of the interest in land in question includes the value of any buildings or other structures on the land, and
- (c) at the time of the acquisition of the interest in land or at any time thereafter, those buildings or structures cease permanently to be used for any purpose,

then at the time referred to in paragraph (c) above, the person who incurred the expenditure referred to in paragraph (a) above shall be treated as having incurred qualifying expenditure falling within paragraph 4(1)(b) above equal to the unrelieved value of the buildings or structures referred to in paragraph (b) above.

(5) In sub-paragraph (4) above “the unrelieved value” of buildings or structures falling within paragraph (b) thereof means the value of those buildings or structures determined as at the date of the acquisition of the interest in land (and without regard to any value properly attributable to the land on which the buildings or structures stand) less the excess of any allowances over balancing charges which the person treated by sub-paragraph (4) above as incurring expenditure has received in respect of the buildings or structures or assets therein under—

- (a) the Capital Allowances Act 1968;
- (b) Chapter I of Part III of the Finance Act 1971 (machinery or plant); and
- (c) section 55 of this Act.

(6) References in the preceding provisions of this paragraph to the time of the acquisition of an interest in land are not affected by paragraph 3 of this Schedule.

17. In any case where—

- (a) a person incurs capital expenditure falling within paragraph 4(1)(b) above on the acquisition of an asset which is or includes an interest in land, and

- (b) for chargeable periods previous to the chargeable period for which he first becomes entitled in respect of the expenditure to an allowance under paragraph 9 above, the person incurring the expenditure has been allowed, in respect of that land, any deductions under section 134 of the Taxes Act (deductions where premiums etc. taxable),

the expenditure shall be treated for the purposes of this Schedule as reduced by so much of those deductions as would have been excluded by subsection (5) of the said section 134 if the person concerned had been entitled to an allowance under paragraph 9 above (or, as the case may be, section 60 of the Capital Allowances Act 1968) for the previous chargeable periods referred to in sub-paragraph (b) above. 1968 c. 3.

Restriction of disposal receipts

18.—(1) Where a disposal receipt to be brought into account in respect of any expenditure for a chargeable period would, apart from this paragraph, be the disposal value of an interest in land (determined as mentioned in paragraph 10 (3) above), only so much of that disposal value as exceeds the undeveloped market value of the interest shall constitute a disposal receipt for the purposes of Part III of this Schedule.

(2) Sub-paragraphs (2) and (3) of paragraph 16 above shall apply to determine the undeveloped market value of an interest for the purposes of this paragraph as they would apply in relation to an acquisition of that interest at the time the disposal value falls to be determined.

Assets formerly owned by traders

19.—(1) Subject to sub-paragraph (2) below, paragraph 20 below applies where a person carrying on a trade of mineral extraction (in this paragraph referred to as “the buyer”) incurs capital expenditure in acquiring an asset (in this paragraph referred to as “the purchased asset”) from another person in circumstances falling within sub-paragraph (3) below.

(2) This paragraph and paragraph 20 below have effect subject to paragraph 22 below, and neither this paragraph, paragraph 20 nor paragraph 22 below applies if—

- (a) the purchased asset is a mineral asset situated in the United Kingdom; and
- (b) the capital expenditure incurred by the buyer consists of the payment of sums under a contract entered into by him before 16th July 1985.

(3) Subject to sub-paragraph (5) below, the circumstances referred to in sub-paragraph (1) above are—

- (a) that, in connection with a trade of mineral extraction carried on by him, the other person referred to in sub-paragraph (1) above incurred expenditure on the acquisition or bringing into existence of the purchased asset; or
- (b) that that other person has not incurred expenditure as mentioned in paragraph (a) above but, at any time prior to the

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buyer's acquisition, the purchased asset was owned by a person who, in connection with a trade of mineral extraction carried on by him, had incurred such expenditure as is mentioned in paragraph (a) above;

and, in a case where the purchased asset is a mineral asset situated in the United Kingdom, the reference in paragraph (b) above to a time prior to the buyer's acquisition does not include any time earlier than 1st April 1986.

(4) In this paragraph "the previous trader" means—

- (a) where the circumstances are as mentioned in paragraph (a) of sub-paragraph (3) above, the person referred to in that paragraph; and
- (b) where the circumstances are as mentioned in paragraph (b) of that sub-paragraph, the last person who, prior to the buyer's acquisition, incurred such expenditure as is mentioned in paragraph (a) thereof;

and, subject to sub-paragraphs (5) and (6) below, any reference in paragraph 20 below to the previous trader's qualifying expenditure is a reference to so much of the expenditure incurred by him on the acquisition or bringing into existence of the purchased asset as constituted his qualifying expenditure for the purposes of this Schedule.

(5) Any reference in sub-paragraphs (3) and (4) above to the purchased asset includes a reference—

- (a) to two or more assets which together make up the purchased asset; and
- (b) to an asset from which or, as the case may be, to two or more assets from the combination of which the purchased asset is derived.

(6) Where the previous trader in fact incurred expenditure on the acquisition or bringing into existence of one or more assets from which the purchased asset is derived, so much of that expenditure as was qualifying expenditure of his for the purposes of this Schedule and as it is just and reasonable to attribute to the purchased asset shall be taken to be the previous trader's qualifying expenditure.

Limitation of expenditure on asset by reference to previous acquisition

20.—(1) In this paragraph "the buyer's expenditure" means the capital expenditure incurred by him as mentioned in paragraph 19(1) above, less any amount of that expenditure which, by virtue of paragraph 16 above, does not constitute qualifying expenditure.

(2) If the previous trader did not become entitled to an allowance or liable to a balancing charge in respect of his qualifying expenditure, so much of the buyer's expenditure as does not exceed the amount of the previous trader's qualifying expenditure shall be the buyer's qualifying expenditure in respect of the acquisition of the purchased asset.

(3) If the previous trader became entitled to an allowance or liable to a balancing charge in respect of his qualifying expenditure, so much of the buyer's expenditure as does not exceed the residue of the previous trader's qualifying expenditure shall be the buyer's qualifying expenditure in respect of the acquisition of the purchased asset.

(4) In relation to the previous trader's qualifying expenditure, the residue referred to in sub-paragraph (3) above is that expenditure—

- (a) less the total of all allowances made to him in respect of that expenditure; and
- (b) plus the amount (if any) on which a balancing charge was made in respect of that expenditure.

(5) For the purposes of sub-paragraph (4) above, where the previous trader's qualifying expenditure is an amount attributed to the purchased asset on a just and reasonable basis in accordance with paragraph 19(6) above, any allowances and any balancing charge made by reference to a greater amount of expenditure shall be apportioned on the like basis.

(6) In this paragraph—

“allowance” means an allowance under paragraph 9 above;

“balancing charge” means a balancing charge under paragraph 11 above; and

“the buyer”, “the previous trader” and “the purchased asset” have the same meaning as in paragraph 19 above.

Part of expenditure on mineral asset treated as expenditure on mineral exploration and access

21.—(1) This paragraph applies where, in a case falling within sub-paragraph (1) of paragraph 19 above,—

- (a) the purchased asset is a mineral asset; and
- (b) part of the value of that asset is attributable to expenditure incurred by the previous trader on mineral exploration and access.

(2) Where this paragraph applies—

- (a) such part of the buyer's expenditure as it is just and reasonable to attribute to the part of the value referred to in sub-paragraph (1)(b) above (being no greater than the amount of the previous trader's expenditure on mineral exploration and access which is properly attributable to that part of the value) shall be treated for the purposes of Parts II and III of this Schedule as expenditure on mineral exploration and access and the remainder shall be treated for those purposes as expenditure on the acquisition of a mineral asset; and
- (b) if under Part II of the Capital Allowances Act 1968 (scientific research) allowances were made to the previous trader in taxing his trade, the existence of these allowances shall not affect the question whether any of his expenditure on the purchased asset was qualifying expenditure.

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(3) In this paragraph “the previous trader” and “the purchased asset” have the same meaning as in paragraphs 19 and 20 above, and “the buyer’s expenditure” has the same meaning as in paragraph 20 above.

Oil licences etc.

22.—(1) Where a person carrying on a trade of mineral extraction (in this paragraph referred to as “the buyer”) incurs capital expenditure falling within paragraph 4(1)(b) above in acquiring a Petroleum Act licence or any interest in such a licence, only so much of that expenditure as does not exceed the corresponding expenditure of the original licensee shall be the buyer’s qualifying expenditure.

1934 c. 36.

1964 c. 28. (N.I.).

1975 c. 22.

(2) In this paragraph a “Petroleum Act licence” means a licence under the Petroleum (Production) Act 1934 or the Petroleum (Production) Act (Northern Ireland) 1964 authorising the winning of oil, as defined in section 1 of the Oil Taxation Act 1975; and in relation to such a licence, “the original licensee” means the person to whom the licence was granted under the enactment in question.

(3) In relation to the acquisition of a Petroleum Act licence “the corresponding expenditure” of the original licensee is the amount of the payment made by him (whether before or after the passing of this Act) to the Secretary of State or, in Northern Ireland, to the Department of Economic Development for the purpose of obtaining the licence, and, in relation to an interest in such a licence, that corresponding expenditure is such portion of the amount of that payment as it is just and reasonable to attribute to that interest.

Transfer of mineral assets within a group

23.—(1) Subject to sub-paragraph (2) below, this paragraph applies where a company (in this paragraph referred to as “the transferee”) acquires a mineral asset from another company (in this paragraph referred to as “the transferor”) and either—

- (a) the transferor has control of the transferee or the transferee has control of the transferor, or
- (b) both the transferor and the transferee are under the control of another person.

(2) This paragraph does not apply—

1968 c. 3.

- (a) where the acquisition is a sale in respect of which an election is made under paragraph 4 of Schedule 7 to the Capital Allowances Act 1968; nor
- (b) where the mineral asset in question is, or is an interest in, a Petroleum Act licence as defined in paragraph 22 above;

but, subject to paragraph (a) above, this paragraph applies notwithstanding anything in paragraph 2 of the said Schedule 7.

(3) Subject to sub-paragraph (4) below, so much (if any) of the capital expenditure incurred by the transferee on the acquisition of

the mineral asset as exceeds the capital expenditure incurred by the transferor on the acquisition of the mineral asset by him shall be left out of account for the purposes of this Schedule (and, accordingly, if the transferee is carrying on a trade of mineral extraction, shall not be qualifying expenditure).

(4) Where the mineral asset acquired by the transferee consists of an interest or right granted by the transferor in a mineral asset acquired by him, the reference in sub-paragraph (3) above to the capital expenditure incurred by the transferor on the acquisition of the mineral asset by him shall be construed as a reference to so much of that expenditure as, on a just apportionment, is referable to the interest or right granted by the transferor.

(5) If the transferee is carrying on a trade of mineral extraction and the expenditure incurred by him on the acquisition of the mineral asset is expenditure falling within paragraph 16 above, any reference in that paragraph to the time of the acquisition of the interest in land is a reference to the time it was acquired by the transferor or, if there is a sequence of two or more acquisitions each of which falls within sub-paragraph (1) above, the time at which the interest was acquired by the company which was the transferor under the earliest of those acquisitions.

(6) If, in a case where sub-paragraph (5) above applies, there is a sequence of two or more acquisitions each of which falls within sub-paragraph (1) above,—

- (a) any expenditure which one of the companies involved in the sequence is treated as incurring under sub-paragraph (4) of paragraph 16 above shall be treated as incurred by the company which is the transferee from that company and by any subsequent transferee company in the sequence; and
- (b) the reference in sub-paragraph (5) of that paragraph to the person treated by sub-paragraph (4) thereof as incurring expenditure shall be construed as including a reference to any other company which, under paragraph (a) above, is treated as incurring that expenditure.

Assets formerly owned by non-traders

24. Where a person incurs expenditure on mineral exploration and access and, without having carried on a trade of mineral extraction, he sells any assets representing that expenditure, then, if the person who acquires the assets carries on such a trade, only so much of the price paid by him for the assets as does not exceed the amount of the seller's expenditure which is represented by the assets shall be qualifying expenditure for the purposes of this Schedule.

PART V

AMENDMENTS OF OTHER ENACTMENTS

25.—(1) In section 14(1) of the Capital Allowances Act 1968 after 1968 c.3. the words “of this Act” there shall be inserted “or Schedule 13 to the Finance Act 1986”.

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(2) In section 93 of that Act (scientific research: prevention of double allowances) at the end of subsection (1) there shall be inserted “and no allowance under Schedule 13 to the Finance Act 1986 shall be made in respect of any expenditure if it is expenditure in respect of which such a deduction may be allowed.”

(3) In paragraph 4 of Schedule 7 to that Act (election as to sales where one party has control of the other) at the end of sub-paragraph (2) there shall be added—

“(d) in the case of assets representing qualifying expenditure, within the meaning of Schedule 13 to the Finance Act 1986, the excess of that expenditure attributable to those assets over the aggregate of—

(i) any allowances made under that Schedule to the seller in respect of that expenditure before the sale; and

(ii) any disposal receipts which the seller has been required to bring into account by reference to that expenditure by reason of any event occurring before the sale.”

26. In section 134 of the Taxes Act (deductions where premiums etc. are taxable) at the end of subsection (5) there shall be added the words “and the reference in this subsection to an allowance under section 60 of the Capital Allowances Act 1968 includes a reference to an allowance under Part III of Schedule 13 to the Finance Act 1986 in respect of expenditure falling within paragraph 4(1)(b) of that Schedule”.

27. In section 174(8) of the Taxes Act for the words “Chapter III of Part I of the Capital Allowances Act 1968” there shall be substituted “Schedule 13 to the Finance Act 1986” and for the words “that Act” there shall be substituted “the Capital Allowances Act 1968”.

1985 c. 54.

28. In section 56 of the Finance Act 1985 (time when capital expenditure is incurred) at the end of subsection (1) and after the amendment made by section 57(10) of this Act there shall be added “and

(f) Schedule 13 to the Finance Act 1986”.

Section 55.

SCHEDULE 14

MINERAL EXTRACTION: OLD EXPENDITURE

Interpretation

1.—(1) In this Schedule—

“mineral asset” and “mineral exploration and access” have the same meaning as in Schedule 13 to this Act;

“new expenditure” and “old expenditure” have the same meaning as in the principal section;

“the new code of allowances” means subsections (5) to (7) of the principal section and Schedule 13 to this Act;

“the old code of allowances” has the same meaning as in the principal section;

“the principal section” means section 55 of this Act;

“the relevant day” means, subject to paragraph 2 below, 1st April 1986;

“trade of mineral extraction” has the same meaning as in Schedule 13 to this Act; and

“the 1968 Act” means the Capital Allowances Act 1968.

1968 c. 3.

(2) In relation to any item of old expenditure “outstanding balance” means, subject to the following provisions of this paragraph,—

(a) in the case of old expenditure falling within section 57 of the 1968 Act, so much of that expenditure as, if the old code of allowances had continued in force, would have been the residue of that expenditure in relation to a writing-down allowance under that section to be made for the chargeable period which, or the basis period of which, begins on the relevant day;

(b) in the case of old expenditure falling within section 60 of the 1968 Act, the excess referred to in subsection (3) of that section by reference to which, if the old code of allowances had continued in force, a writing-down allowance under that section would fall to be made for the chargeable period referred to in paragraph (a) above; and

(c) in the case of old expenditure falling within section 61 of the 1968 Act, so much of that expenditure as exceeds any writing-down allowances under that section made in respect of that expenditure for chargeable periods which, or the basis periods of which, ended before the relevant day.

(3) In determining the residue of expenditure mentioned in paragraph (a) of sub-paragraph (2) above, it shall be assumed that, in the chargeable period or its basis period referred to in that paragraph, no asset representing expenditure which is qualifying expenditure for the purposes of section 57 of the 1968 Act is sold, demolished or destroyed.

(4) In determining, in relation to the chargeable period referred to in paragraph (a) of sub-paragraph (2) above, the excess mentioned in paragraph (b) of that sub-paragraph—

(a) no account shall be taken of any capital sum accruing in that chargeable period or its basis period to the person to whom a writing-down allowance would fall to be made as mentioned in that paragraph; and

(b) it shall be assumed that that person does not cease to work the source in question in that chargeable period or its basis period.

Election to treat certain post March 1986 expenditure as old expenditure

2.—(1) This paragraph applies to expenditure—

(a) which is incurred in the year ending 31st March 1987 by a person carrying on a trade of mineral extraction; and

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- (b) which consists of the payment of sums under a contract entered into before 16th July 1985 by the person incurring the expenditure; and
- (c) in respect of which, but for the provisions of the principal section, an initial allowance would have been made to the person concerned under section 56 of the 1968 Act.

(2) If the person incurring the expenditure so elects, expenditure to which this paragraph applies shall be treated for the purposes of the principal section and Schedule 13 to this Act as not being new expenditure and the old code of allowances shall continue to apply to it until 31st March 1987.

(3) An election under this paragraph—

- (a) shall be made in writing to the inspector;
- (b) may not be made more than two years after the end of the chargeable period or its basis period in which the expenditure was incurred; and
- (c) shall be irrevocable;

and if different parts of the expenditure are incurred at different times, only that part of the expenditure which is first incurred on or after 1st April 1986 shall be taken into account for the purposes of paragraph (b) above.

(4) In relation to expenditure to which an election under this paragraph applies—

- (a) subsections (3) and (4) of the principal section shall have effect as if for any reference to 31st March 1986 or 1st April 1986 there were substituted a reference to 31st March 1987 or 1st April 1987 respectively; and
- (b) in this Schedule “the relevant day” means 1st April 1987.

Outstanding balances: general rules

3.—(1) If there is an outstanding balance in relation to any item of old expenditure, then, subject to the following provisions of this Schedule, for the purposes of the new code of allowances,—

- (a) an amount of expenditure equal to that balance shall be treated as expenditure incurred on the relevant day (and, accordingly, as new expenditure); and
- (b) that amount shall be taken to have been incurred for the same purposes as the item of old expenditure was incurred.

(2) If any item of old expenditure was incurred for more than one purpose, then, so far as may be necessary for the application of the new code of allowances, the outstanding balance of that expenditure shall be apportioned to those different purposes in such manner as may be just and reasonable and sub-paragraph (1) above shall apply separately in relation to the apportioned parts as if they were referable to different items of old expenditure.

Old expenditure with no outstanding balance

4.—(1) This paragraph applies to old expenditure—

- (a) in respect of which allowances were made under the old code of allowances, and
- (b) in respect of which there is no outstanding balance on the relevant day.

(2) Where this paragraph applies, the new code of allowances shall have effect as if—

- (a) the whole of the old expenditure had been incurred on the relevant day; and
- (b) under the appropriate provisions of the new code of allowances there had been made allowances equal to that expenditure;

and the provisions of the new code about disposal receipts shall have effect accordingly in relation to events happening on or after the relevant day.

Unrelieved expenditure on mineral exploration and access

5.—(1) This paragraph applies to old expenditure incurred on mineral exploration and access.

(2) If, immediately before the relevant day, no allowance had been made in respect of the expenditure under the old code of allowances, and on that day the mineral exploration and access at the source in connection with which the expenditure was incurred has not ceased, and either—

- (a) the person by whom the expenditure was incurred began to carry on a trade of mineral extraction before the relevant day, or
- (b) on or after the relevant day and before mineral exploration and access ceases at the source in question, the person by whom the expenditure was incurred begins to carry on a trade of mineral extraction,

then, subject to sub-paragraph (3) below, paragraph 5 or paragraph 6 of Schedule 13 to this Act or, as the case may be, subsection (5) of the principal section shall apply as if the expenditure were new expenditure and, if the expenditure was in fact incurred after the person concerned began to carry on a trade of mineral extraction, as if he had not begun to carry on that trade until the relevant day.

(3) Where sub-paragraph (2) above applies to any item of old expenditure which, apart from this sub-paragraph, would not fall to be treated as incurred on or after the relevant day, it shall (as new expenditure) be treated for the purposes of the new code of allowances as incurred on the relevant day.

Old expenditure on acquisition of mineral asset

6.—(1) This paragraph applies to old expenditure incurred on the acquisition of a mineral asset.

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(2) If, immediately before the relevant day, no allowance has been made in respect of the expenditure under the old code of allowances, the expenditure shall be treated for the purposes of the new code of allowances as having been incurred on the relevant day.

(3) Nothing in sub-paragraph (2) above shall affect the time as at which, under paragraph 16 of Schedule 13 to this Act, the undeveloped market value of an interest is to be determined.

(4) If sub-paragraph (2) above does not apply in relation to an item of old expenditure to which this paragraph applies,—

- (a) paragraph 16 of Schedule 13 to this Act shall not apply in relation to any amount which, by virtue of paragraph 3(1) above, is to be treated as expenditure incurred on the relevant day (and, accordingly, the whole of any such amount shall be qualifying expenditure for the purposes of the new code of allowances); and
- (b) in determining the amount of any disposal receipt which, by virtue of paragraph 3 or paragraph 4 above, falls to be brought into account in respect of that expenditure under Part III of Schedule 13 to this Act, paragraph 18 of that Schedule shall not apply (so that no deduction shall be made by reference to the undeveloped market value of the land).

Old expenditure on construction of certain works

7.—(1) This paragraph applies to old expenditure which does not fall within paragraph 5 above but which is incurred—

- (a) on the construction of any works in connection with the working of a source of mineral deposits, being works which, when the source is no longer worked, are likely to be of little or no value to the person working it immediately before that time; or
- (b) where a source of mineral deposits is worked under a foreign concession, on the construction of works which, when the concession comes to an end, are likely to become valueless to the person working the source immediately before that time.

(2) If, immediately before the relevant day, no allowance has been made in respect of the expenditure under the old code of allowances, the expenditure shall be treated for the purposes of the new code of allowances as having been incurred on the relevant day.

Balancing charges: old allowances to be brought into account

8.—(1) In any case where—

- (a) by virtue of any of the preceding provisions of this Schedule, the whole or any part of the outstanding balance of an item of old expenditure is treated for the purposes of Schedule 13 to this Act as qualifying expenditure, and
- (b) a balancing charge falls to be made under paragraph 11 of that Schedule in respect of that expenditure,

then, in determining the amount on which that charge falls to be made, sub-paragraph (2)(b) of the said paragraph 11 shall have effect as if it referred not only to allowances made as mentioned in sub-paragraph (1)(c) of that paragraph but also, subject to sub-paragraph (2) below, to allowances made in respect of the item of old expenditure under the old code of allowances.

(2) Where the qualifying expenditure in respect of which a balancing charge falls to be made represents part only of the outstanding balance of an item of old expenditure, the reference in sub-paragraph (1) above to allowances made in respect of that item shall be construed as a reference to such part of those allowances as it is just and reasonable to apportion to that part of the balance (having regard to the apportionment of the balance under paragraph 3(2) above).

SCHEDULE 15

Section 56.

AGRICULTURAL LAND AND BUILDINGS

Writing-down allowances

1.—(1) If a person having a major interest in any agricultural or forestry land incurs any capital expenditure on the construction of farmhouses, farm or forestry buildings, cottages, fences or other works, then, during a writing-down period of twenty-five years beginning on the first day of the chargeable period related to the incurring of the expenditure, there shall be made to him, subject to the following provisions of this Schedule, writing-down allowances of an aggregate amount equal to that expenditure.

(2) In any case where—

- (a) capital expenditure is incurred on the construction of any building, fence or other works, but
- (b) when the building, fence or other works comes to be used it is not used for the purposes of husbandry or forestry,

the expenditure shall be left out of account for the purposes of this Schedule and, accordingly, any writing-down allowance made in respect of the expenditure under sub-paragraph (1) above shall be withdrawn and all such assessments and adjustments of assessments shall be made as may be necessary to give effect to that withdrawal.

(3) In this Schedule a “major interest” in land means—

- (a) the fee simple estate in the land or an agreement to acquire that estate;
- (b) in Scotland, the estate or interest of the proprietor of the *dominium utile* (or, in the case of property other than feudal property, of the owner) and any agreement to acquire such an estate or interest, and
- (c) a lease.

(4) If an interest in land is conveyed or assigned by way of security and subject to a right of redemption, then, so long as such a right

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subsists, the interest held by the creditor shall be treated for the purposes of this Schedule as held by the person having that right.

(5) Any reference in the following provisions of this Schedule to a writing-down allowance is a reference to an allowance under subparagraph (1) above.

Expenditure qualifying for allowances

2.—(1) No expenditure shall be taken into account for the purposes of this Schedule unless it is incurred for the purposes of husbandry or forestry on the agricultural or forestry land referred to in paragraph 1 above.

(2) Where capital expenditure is incurred on a farmhouse, one-third only of that expenditure shall be taken into account for the purposes of this Schedule or, if the accommodation and amenities of the farmhouse are out of due relation to the nature and extent of the farm, such proportion thereof not greater than one-third as may be just.

(3) Where capital expenditure is incurred on any asset other than a farmhouse and the asset is to serve partly the purposes of husbandry or forestry and partly other purposes, such apportionment of the expenditure shall be made for the purposes of this Schedule as may be just.

Meaning of “the relevant interest”

3.—(1) Subject to the provisions of this paragraph, in this Schedule “the relevant interest” means, in relation to any expenditure falling within paragraph 1(1) above, the major interest in the agricultural or forestry land concerned to which the person who incurred the expenditure was entitled when he incurred it.

(2) Where, when he incurs expenditure falling within paragraph 1(1) above, a person is entitled to two or more major interests in the agricultural or forestry land concerned, and one of those interests is an interest which is in reversion on all the others, that interest is the relevant interest for the purposes of this Schedule.

(3) A major interest shall not cease to be the relevant interest for the purposes of this Schedule by reason of the creation of any lease (or other interest) to which the interest is subject; and where the relevant interest is a lease which is extinguished—

(a) by reason of the surrender thereof, or

(b) on the person entitled thereto acquiring the interest which is the reversion on the relevant interest,

then, unless a new lease of the land concerned is granted to take effect on the extinguishment of the former lease, the interest into which that lease merges shall thereupon become the relevant interest.

(4) In the application of this paragraph to Scotland “reversion” means the interest of a landlord in property subject to a lease.

Transfers of relevant interest

4.—(1) In any case where—

- (a) if a person (in this paragraph referred to as “the former owner”) continued to be the owner of the relevant interest in any land, he would be entitled to a writing-down allowance in respect of any expenditure, and
- (b) another person (in this paragraph referred to as “the new owner”) acquires the relevant interest in the whole or part of that land (whether by transfer, by operation of law or otherwise),

the former owner shall not be entitled to an allowance under this Schedule for any chargeable period of his after that related to the acquisition and the new owner shall be entitled to allowances under this Schedule for the chargeable period of his related to the acquisition and for subsequent chargeable periods falling within the writing-down period.

(2) If, in a case falling within sub-paragraph (1) above, the date of the acquisition occurs during a chargeable period of the former owner or its basis period, he shall be entitled only to an appropriate portion of an allowance for the chargeable period related to the acquisition and, similarly, if the date of the acquisition occurs during a chargeable period of the new owner or its basis period, he shall be entitled only to an appropriate portion of an allowance for the chargeable period (of his) related to the acquisition.

(3) Where the new owner acquires the relevant interest in part only of the land concerned, sub-paragraphs (1) and (2) above shall apply to so much only of the allowance as is properly referable to that part of the land as if it were a separate allowance.

(4) Where paragraph 3(3) above applies and the person who owns the interest into which the lease is merged is not the same as the person who owned the lease, the relevant interest shall be treated for the purposes of this Schedule as acquired by the owner of the interest into which the lease is merged.

(5) Where the relevant interest is a lease which comes to an end and paragraph 3(3) above does not apply, then, for the purposes of this Schedule,—

- (a) if a new lease is granted to a person who makes any payment to the outgoing lessee in respect of assets representing the expenditure in question, the new lease shall be treated as the same interest as the former lease and, accordingly, the relevant interest shall be treated as acquired by the incoming lessee; and
- (b) if a new lease is granted to the person who was the lessee under the former lease, the new lease shall be treated as the same interest as the former lease; and
- (c) in any other case, the former lease and the interest of the person who was the landlord under the former lease shall be treated as the same interest and, accordingly, the relevant interest shall be treated as acquired by that person.

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1968 c. 3.

(6) If, by virtue only of the operation of the preceding provisions of this paragraph and, where appropriate, section 75(2) of the Capital Allowances Act 1968, the total allowances which, apart from this sub-paragraph, would fall to be made under this Schedule in respect of any expenditure during the writing-down period appropriate to it would be less than the amount of that expenditure, then, for the chargeable period in which that writing-down period ends, the allowance in respect of that expenditure shall be increased to such amount as will secure that the total of the allowances equals the amount of that expenditure.

(7) This paragraph has effect subject to the following provisions of this Schedule.

Buildings etc. bought unused

5.—(1) This paragraph applies where expenditure falling within paragraph 1(1) above is expenditure on the construction of a building, fence or other works and, before the building, fence or works comes to be used, the relevant interest is sold.

(2) Where this paragraph applies—

- (a) the expenditure shall be left out of account for the purposes of this Schedule and, accordingly, any writing-down allowance made in respect of the expenditure shall be withdrawn and all such assessments and adjustments of assessments shall be made as may be necessary to give effect to that withdrawal;
- (b) paragraph 4 above shall not apply; and
- (c) the person who buys the relevant interest shall be treated for the purposes of this Schedule as having incurred, on the date when the purchase price becomes payable, expenditure falling within paragraph 1(1) above on the construction of the building, fence or other works.

(3) The expenditure referred to in sub-paragraph (2)(c) above is whichever is the lesser of—

- (a) the net price paid by the person concerned for the purchase of the relevant interest; and
- (b) the expenditure referred to in sub-paragraph (1) above.

(4) Where the relevant interest is sold more than once in circumstances falling within sub-paragraph (1) above, sub-paragraphs (2)(c) and (3) above shall have effect only in relation to the last of those sales.

Balancing allowances and charges

6.—(1) If, in respect of any expenditure falling within paragraph 1(1) above, a balancing event occurs in a chargeable period or its basis period and, apart from this paragraph, a person would be entitled to a writing-down allowance in respect of that expenditure for the chargeable period related to that event, no such allowance shall be made but an allowance or charge (in this paragraph referred to as a “balancing

allowance” or a “balancing charge”) shall, in the circumstances mentioned below, be made for that period to or, as the case may be, on the person entitled to the relevant interest immediately before that event occurs.

(2) In relation to any expenditure, the amount of any balancing allowance or charge shall be determined in accordance with the following provisions of this paragraph by reference to—

- (a) the residue of that expenditure, that is to say, the amount of that expenditure falling to be taken into account for the purposes of this Schedule less the aggregate of any writing-down allowances made in respect of it (whether or not to the person to or on whom the allowance or charge is to be made); and
- (b) subject to sub-paragraph (3) below, any sale, insurance, salvage or compensation moneys related to the event which gives rise to the balancing allowance or balancing charge.

(3) If, by virtue of sub-paragraph (2) or sub-paragraph (3) of paragraph 2 above only a portion of any expenditure falls to be taken into account for the purposes of this Schedule, any reference in the following provisions of this paragraph to sale, insurance, salvage or compensation moneys is a reference only to the like portion of those moneys.

(4) Where there are no sale, insurance, salvage or compensation moneys or where the residue of the expenditure immediately before the balancing event exceeds those moneys, a balancing allowance shall be made of an amount equal to that residue or, as the case may be, to the excess of it over those moneys.

(5) If the sale, insurance, salvage or compensation moneys exceed the residue of the expenditure immediately before the event, a balancing charge shall be made on an amount equal to that excess.

(6) Notwithstanding anything in sub-paragraph (5) above, in no case shall the amount on which a balancing charge is made on any person exceed the amount of the writing-down allowances made to him in respect of that expenditure before the balancing event.

(7) If a balancing event relates to—

- (a) the acquisition of the relevant interest in part only of the land in which it subsisted at the time the expenditure was incurred, or
- (b) only part of the building, fence or other works on the construction of which the expenditure was incurred,

the preceding provisions of this paragraph shall apply to so much of the expenditure as is properly attributable to the part of the land, building, fence or other works concerned, as if it were an item of expenditure separate from the rest.

(8) This paragraph has effect subject to paragraph 9 below.

Balancing events

7.—(1) Subject to sub-paragraph (2) below, in relation to expenditure (in this paragraph referred to as “the original expenditure”) for which, apart from paragraph 6 above, a person (in this paragraph referred to as “the former owner”) would be entitled to a writing-down allowance, the following events are balancing events for the purposes of this Schedule—

- (a) the acquisition of the relevant interest by another person (in this paragraph referred to as “the new owner”) as mentioned in paragraph 4 above; and
- (b) where any building, fence or other works on the construction of which the expenditure was incurred is demolished, destroyed or otherwise ceases to exist as such.

(2) An event falling within sub-paragraph (1) above is not a balancing event for the purposes of this Schedule unless an election is made with respect to that event by notice in writing given to the inspector not more than two years after the end of the chargeable period related to the occurrence of the event.

(3) Where, during the writing-down period applicable to the original expenditure, a balancing event falling within sub-paragraph (1)(a) above occurs, the amount of any writing-down allowances to which the new owner is entitled for chargeable periods which, or the basis periods for which, end after the balancing event shall be determined as if—

- (a) that part of the writing-down period applicable to the original expenditure which falls after the balancing event were itself the writing-down period in which the allowances in respect of that expenditure were to be made; and
- (b) subject to paragraph 9 below, the allowances were in respect of expenditure equal to the residue of the original expenditure (determined under paragraph 6(2)(a) above) immediately before the balancing event less the amount of any balancing allowance made to the former owner or, as the case may be, plus the amount on which any balancing charge was made on him by reason of the balancing event.

(4) Subject to sub-paragraph (5) below, an election under this paragraph shall be made as follows—

- (a) where the event falls within sub-paragraph (1)(a) above, jointly by the former owner and the new owner; and
- (b) where the event falls within sub-paragraph (1)(b) above, by the former owner.

(5) No election may be made under this paragraph if any person by whom that election should be made is not within the charge to tax in the United Kingdom; and no election may be made in relation to an acquisition falling within sub-paragraph (1)(a) above if it appears with respect to that acquisition, or with respect to transactions of which that acquisition is one, that the sole or main benefit which (apart from Schedule 7 to the Capital Allowances Act 1968) might have been expected to accrue to the parties or any of them was the obtaining of an allowance, or a greater allowance, under this Schedule.

Exclusion of land values etc.

8.—(1) Any reference in this Schedule to expenditure incurred on the construction of a building does not include any expenditure incurred on the acquisition of, or of rights in or over, any land.

(2) Without prejudice to any provision of Part I of the Capital Allowances Act 1968 relating to the apportionment of sale, insurance, salvage or compensation moneys, the sum paid on the sale of the relevant interest in a building, fence or other works or any other sale, insurance, salvage or compensation moneys payable in respect of any building, fence or other works shall, for the purposes of this Schedule, be deemed to be reduced by an amount equal to so much thereof as, on a just apportionment, is attributable to assets representing expenditure other than expenditure in respect of which an allowance can be made under this Schedule.

Special provisions as to certain sales

9.—(1) In its application in relation to any sale which is material for the purposes of this Schedule, Schedule 7 to the Capital Allowances Act 1968 (transactions between connected persons etc.) shall have effect with the omission—

- (a) of paragraph 4 (sales without change of control); and
- (b) of any reference to paragraph 4 or any provision thereof in any other paragraph of that Schedule.

(2) For the purposes of this Schedule and the provisions of the Capital Allowances Act 1968 which are relevant to this Schedule, any transfer of the relevant interest (in relation to any expenditure falling within paragraph 1(1) above) otherwise than by way of sale shall be treated as a sale of the interest for a price other than that which it would have fetched if sold on the open market.

(3) If Schedule 7 to the Capital Allowances Act 1968 would not, apart from this sub-paragraph, have effect in relation to a transfer treated as a sale by virtue of sub-paragraph (2) above, that Schedule shall have effect in relation to it as if it were a sale falling within paragraph 1(1)(a) of that Schedule.

Restriction of balancing allowances on sale of buildings

10.—(1) This paragraph has effect where—

- (a) the relevant interest in a building is sold subject to a subordinate interest; and
- (b) a balancing allowance under paragraph 6 above would, apart from this paragraph, fall to be made to the person who is entitled to the relevant interest immediately before the sale (in this paragraph referred to as “the former owner”) by virtue of the sale; and
- (c) either—

- (i) the former owner, the person to whom the relevant interest is sold and the grantee of the subordinate interest,

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or any two of them, are connected with each other within the terms of section 533 of the Taxes Act, or

(ii) it appears with respect to the sale or to the grant of the subordinate interest, or with respect to transactions including the sale or grant, that the sole or main benefit which, but for this paragraph, might have been expected to accrue to the parties or any of them was the obtaining of an allowance under this Schedule.

(2) For the purposes of paragraph 6 above the net proceeds to the former owner of the sale—

- (a) shall be taken to be increased by an amount equal to any premium receivable by him for the grant of the subordinate interest; and
- (b) where no rent, or no commercial rent, is payable in respect of the subordinate interest, shall be taken to be what those proceeds would have been if a commercial rent had been payable and the relevant interest had been sold in the open market (increased by any amount to be added under paragraph (a) of this sub-paragraph);

but the net proceeds of sale shall not by virtue of this sub-paragraph be taken to be greater than such amount as will secure that no balancing allowance falls to be made.

(3) Where sub-paragraph (2) above operates, in relation to a sale, to deny or reduce a balancing allowance in respect of any expenditure, paragraph 7(3) above shall have effect as if that balancing allowance had been made or, as the case may be, had not been reduced.

(4) In this paragraph—

“subordinate interest” means any interest in or right over the building in question (whether granted by the former owner or by somebody else);

“premium” includes any capital consideration except so much of any sum as corresponds to any amount of rent or profits falling to be computed by reference to that sum under section 80 of the Taxes Act (premium treated as rent or Schedule D profits);

“capital consideration” means consideration which consists of a capital sum or would be a capital sum if it had taken the form of a money payment;

“rent” includes any consideration which is not capital consideration;

“commercial rent” means such rent as may reasonably be expected to have been required in respect of the subordinate interest in question (having regard to any premium payable for the grant of the interest) if the transaction had been at arm’s length.

(5) Where the terms on which a subordinate interest is granted are varied before the sale of the relevant interest, any capital consideration for the variation shall be treated for the purposes of this paragraph as

a premium for the grant of the interest, and the question whether any and, if so, what rent is payable in respect of the interest shall be determined by reference to the terms as in force immediately before the sale.

Manner of making allowances and charges

11.—(1) Except as provided below, any allowance or charge made to or on any person under this Schedule shall be made to or on him in taxing his trade; and any reference in the following provisions of this paragraph to an allowance or charge of any description is a reference to an allowance or charge under this Schedule.

(2) Any allowance which falls to be made to a person for a chargeable period in which he is not carrying on a trade shall be made by way of discharge or repayment of tax.

(3) Any allowance which, under this paragraph, is to be made by way of discharge or repayment of tax shall be available primarily against agricultural income and forestry income and income which is the subject of a balancing charge.

(4) Effect shall be given to a balancing charge to be made on a person for a chargeable period in which he is not carrying on a trade,—

(a) if it is a charge to income tax, by making the charge under Case VI of Schedule D; and

(b) if it is a charge to corporation tax, by treating the amount on which the charge is to be made as agricultural income or forestry income.

SCHEDULE 16

Section 57.

NEW EXPENDITURE ON LEASED ASSETS AND ON CERTAIN VEHICLES

PART I

AMENDMENTS OF FINANCE ACT 1980, SECTIONS 64 TO 68

1980 c. 48.

1.—(1) In section 64, subsection (1) (exclusion of first-year allowances etc.) shall be omitted.

(2) In subsection (2)(a) of that section—

(a) the words “a first-year allowance could have been made to the lessee” shall be omitted; and

(b) after the words “in doing so” there shall be inserted “that expenditure would have fallen to be included, in whole or in part, in his qualifying expenditure for any chargeable period for the purposes of subsections (2), (2A) and (3) of section 44 of the Finance Act 1971 (writing-down allowances)”.

1971 c. 68.

(3) In subsection (6A) of that section for the words “first-year allowance” there shall be substituted “writing-down allowance of an

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1982 c. 39.

amount determined without regard to section 70(2) of the Finance Act 1982”.

(4) In subsection (8) of that section (the requisite period) at the beginning there shall be inserted “subject to subsection (8A) below” and for the word “four”, in each place where it occurs, there shall be substituted “ten”.

(5) After subsection (8) of that section there shall be inserted the following subsection—

“(8A) If the circumstances are such that machinery or plant is used for a qualifying purpose, subsection (8) above shall have effect as if each reference therein to ten years were a reference to four years”.

(6) Subsection (10) of that section shall be omitted.

(7) In subsection (11) of that section—

- (a) for the words from the beginning to “expenditure”, in the first place where it occurs, there shall be substituted “Where expenditure is incurred”;
- (b) for the words “if it” there shall be substituted “which”; and
- (c) for the words “plant; and so” there shall be substituted “plant, so”.

2.—(1) In section 65 (writing-down allowances etc. in case of leased assets) in subsection (1) for the words from the beginning to “leasing” there shall be substituted “Where section 70 of the Finance Act 1982 applies to expenditure on the provision of machinery or plant for leasing”.

(2) In subsection (6) of that section the words from the beginning to “1971; but” shall be omitted and for the words “that Schedule” there shall be substituted “Schedule 8 to the Finance Act 1971”.

1971 c. 68.

3. Sections 66 and 67 shall be omitted.

4.—(1) In section 68 (joint lessees), at the end of subsection (1) there shall be added “and—

- (a) at least one of the joint lessees is a person falling within paragraphs (a) and (b) of subsection (1) of section 70 of the Finance Act 1982; and
- (b) the leasing is not permitted leasing as defined in paragraph 7 of Schedule 16 to the Finance Act 1986”.

(2) In subsection (2) of that section—

- (a) for the words from the beginning to “shall not apply” there shall be substituted “If”;
- (b) the words “but if” shall be omitted; and
- (c) for the words “it shall be regarded as used for a qualifying purpose” there shall be substituted “the expenditure on the provision of the machinery or plant shall be treated as not falling within subsection (1) of the said section 70”.

(3) In subsection (3) of that section—

- (a) the words from “a first-year” to “in respect of” shall be omitted;
- (b) after the words “machinery or plant”, where they first occur, there shall be inserted “is treated as not falling within subsection (1) of section 70 of the Finance Act 1982”; 1982 c. 39.
- (c) for the words “and sections 65 and 66” there shall be substituted “the said section 70 and section 65 above”; and
- (d) in paragraph (b) after the word “expenditure” there shall be inserted “(falling within subsection (1) of the said section 70)” and after the word “plant” there shall be inserted “used otherwise than for a qualifying purpose”.
- (4) Subsections (4) to (8) of that section shall be omitted.

PART II

AMENDMENTS OF FINANCE ACT 1982, SECTION 70 AND SCHEDULE 11

5.—(1) In section 70, in subsection (1) (application of section to foreign leasing which is not short-term leasing) for the words “not short-term leasing” there shall be substituted “neither short-term leasing nor the leasing of a ship, aircraft or transport container which is used for a qualifying purpose by virtue of subsections (5) to (7) of section 64 of the Finance Act 1980”. 1980 c. 48.

(2) In subsection (2)(a) of that section (reference to section 65 of the Finance Act 1980) for the words in parenthesis there shall be substituted “(as amended by Part I of Schedule 16 to the Finance Act 1986)”.

(3) Subsection (3) of that section shall be omitted.

(4) In subsection (4) of that section,—

(a) the words “first-year allowances” shall be omitted; and

(b) for the words “as mentioned in subsection (3)(b) above” there shall be substituted “such that the machinery or plant in question is used otherwise than for a qualifying purpose, within the meaning of section 64 of the Finance Act 1980”.

(5) In subsection (5) of that section—

(a) the words “a first-year allowance” shall be omitted; and

(b) for the words “section 66 of the Finance Act 1980” there shall be substituted “paragraph 8 of Schedule 16 to the Finance Act 1986”.

(6) For subsection (6) of that section there shall be substituted the following subsection—

“(6) For the purposes of subsection (5) above, the allowances that have been made in respect of expenditure on any item of machinery or plant shall be determined as if that item were the only item of machinery or plant in respect of which section 44 of the Finance Act 1971 had effect.”

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(7) In subsection (7) of that section after the words "Finance Act 1980" there shall be inserted "(as amended by Part I of Schedule 16 to the Finance Act 1986)".

(8) In subsection (9) of that section,—

(a) for the words from "as, in a case" to "1980" there shall be substituted "as it has in section 64 of the Finance Act 1980 (as amended by Part I of Schedule 16 to the Finance Act 1986)";

(b) the words "and the provisions of Schedule 11 to this Act" shall be omitted; and

(c) at the end there shall be added "and

(c) as if the reference in subsection (5) of that section to a first-year allowance were a reference to a writing-down allowance".

6. In Schedule 11, paragraphs 3, 5 and 6 shall be omitted.

PART III

SUPPLEMENTARY PROVISIONS AS TO ASSETS LEASED OUTSIDE THE UNITED KINGDOM

Interpretation

7.—(1) In this Part of this Schedule—

(a) "the principal section" means section 70 of the Finance Act 1982;

(b) a "non-resident" means such a person as is referred to in paragraphs (a) and (b) of subsection (1) of the principal section;

(c) "normal writing-down allowance" means a writing-down allowance of an amount determined without regard to subsection (2) of the principal section;

(d) "permitted leasing" means short-term leasing or the leasing of a ship, aircraft or transport container which is used for a qualifying purpose by virtue of subsections (5) to (7) of section 64 of the Finance Act 1980; and

(e) "short-term leasing" has the meaning assigned to it by section 64(3) of the Finance Act 1980;

and other expressions have the same meaning as in the principal section.

(2) Where new expenditure has been incurred by any person, any reference in this Part of this Schedule to the new expenditure having qualified for a normal writing-down allowance is a reference to the expenditure having fallen to be included, in whole or in part, in that person's qualifying expenditure for any chargeable period for the purposes of subsections (2), (2A) and (3) of section 44 of the Finance Act 1971, as that section has effect with respect to expenditure which does not fall within subsection (1) of the principal section.

1982 c. 39.

1980 c. 48.

1971 c. 68.

Recovery of excess relief

8.—(1) Where new expenditure incurred by any person in providing machinery or plant has qualified for a normal writing-down allowance and the machinery or plant is at any time in the requisite period used for the purpose of being leased to a non-resident, otherwise than by permitted leasing,—

- (a) an amount equal to the excess relief shall, in relation to the person to whom the machinery or plant then belongs, be treated as if it were a balancing charge to be made on him for the chargeable period for which, or in the basis period for which, the machinery or plant is first so used; and
- (b) for the purposes of section 44 of the Finance Act 1971 (as it has effect with respect to expenditure which does not fall within subsection (1) of the principal section), an amount equal to the unused expenditure shall, in relation to that person, be treated as if it were a disposal value to be brought into account for the chargeable period referred to in paragraph (a) above; and
- (c) section 44 of the Finance Act 1971 (as it has effect as mentioned in paragraphs (a) to (e) of subsection (2) of the principal section) shall apply as if a sum equal to the aggregate of the amounts in paragraphs (a) and (b) above were qualifying expenditure of that person for the next chargeable period and, for the purpose of subsequently bringing any disposal value into account, as if the machinery or plant had always been used for the purposes of the separate trade.

(2) The excess relief is the excess, if any, of—

- (a) any normal writing-down allowances made in respect of the new expenditure for the chargeable period related to the incurring of the expenditure and any subsequent chargeable period up to and including that mentioned in sub-paragraph (1)(a) above, over
- (b) the maximum writing-down allowance or allowances that could have been made in respect of the expenditure for those chargeable periods if no normal writing-down allowance had been or could have been made.

(3) The unused expenditure is the amount by which the new expenditure incurred in providing the machinery or plant exceeds the allowances referred to in sub-paragraph (2)(a) above.

(4) For the purposes of sub-paragraph (2) above, the normal writing-down allowances that were made in respect of new expenditure on any item of machinery or plant shall be determined as if that item were the only item of machinery or plant in relation to which the said section 44 had effect.

(5) Where the person to whom any machinery or plant belongs at a time when it is first used for the purpose of being leased to a non-resident, otherwise than by permitted leasing, has acquired it as a result of a transaction which was, or a series of transactions each of which was, between connected persons and a normal writing-down allowance

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in respect of expenditure on the provision of the machinery or plant has been made to any of those persons—

- (a) sub-paragraph (2) above shall have effect as if it referred to that allowance and to the expenditure in respect of which it was made;
- (b) for the purposes of that sub-paragraph any consideration paid or received on a disposal of the machinery or plant between connected persons shall be disregarded; and
- (c) if a balancing allowance or balancing charge is made in respect of the machinery or plant there shall be made such adjustments of the total relief falling to be taken into account under paragraph (a) of that sub-paragraph as are just and reasonable in the circumstances;

1971 c. 68.

but this sub-paragraph does not apply where section 154(2), section 155(1) or section 252(2) of the Taxes Act or sub-paragraphs (a) and (b) of paragraph 13 of Schedule 8 to the Finance Act 1971 (succession to trades), applied on the occasion of the transaction or transactions in question.

(6) Where the person to whom any machinery or plant belongs at such a time as is mentioned in sub-paragraph (5) above acquired it as there mentioned and—

- (a) new expenditure incurred on the provision of the machinery or plant by any of the connected persons would have qualified for a normal writing-down allowance but such an allowance was not claimed or was disclaimed; and
- (b) a balancing allowance is made to any of those persons in respect of that expenditure,

this paragraph shall with the necessary modifications apply as it applies where a normal writing-down allowance has been made.

(7) If at any time in the requisite period a ship is used for the purpose of being leased to a non-resident, otherwise than by permitted leasing, then, without prejudice to the other provisions of this paragraph,—

- (a) no allowance shall be made in respect of it under sub-paragraph (5)(c) of paragraph 8A of Schedule 8 to the Finance Act 1971 for the chargeable period in which it is first so used or for any subsequent chargeable period;
- (b) nothing in sub-paragraphs (8) and (9) of that paragraph shall affect the operation of sub-paragraph (1) above; and
- (c) section 44 of that Act (as it has effect in accordance with section 65 of the Finance Act 1980) shall apply as if the amount of any allowance in respect of the ship which has been postponed under the said paragraph 8A and not made were qualifying expenditure for the next chargeable period after that in which the ship is first so used.

1980 c. 48.

(8) Section 533 of the Taxes Act (connected persons) applies for the purposes of this paragraph.

Joint lessees

9.—(1) Without prejudice to the operation of paragraph 8 above, the provisions of this paragraph have effect where new expenditure is incurred on the provision of machinery or plant which is leased as mentioned in subsection (1) of section 68 of the Finance Act 1980, and any reference in the following provisions of this paragraph to section 68 is a reference to that section. 1980 c. 48.

(2) Where, by virtue of subsection (2) of section 68, the whole or part of the new expenditure has qualified for a normal writing-down allowance and, at any time in the requisite period while it is leased as mentioned in that subsection—

- (a) no lessee uses the machinery or plant for the purposes of a trade or trades the profits or gains of which are chargeable to income tax or corporation tax, and
- (b) subsection (5) of the principal section does not apply at that time and has not applied at any earlier time,

paragraph 8 above and paragraph 10(2) below shall have effect as if the separate item of machinery or plant referred to in subsection (3)(a) of section 68 had at that time begun to be used for the purpose of being leased to a non-resident, otherwise than by permitted leasing.

(3) Where the whole or part of any new expenditure has qualified for a normal writing-down allowance and the machinery or plant is subsequently leased in the requisite period as mentioned in subsection (1) of section 68, sub-paragraph (2) above shall apply as if the whole of the expenditure had qualified for a normal writing-down allowance by virtue only of subsection (2) of that section.

(4) Where, by virtue of subsection (2) of section 68, the whole or part of the new expenditure has qualified for a normal writing-down allowance and, at the end of the requisite period, the machinery or plant in question is leased as mentioned in subsection (1) of that section but sub-paragraph (2) above has not had effect, then, if it appears that the extent to which the machinery or plant has been used for the purposes of such a trade or trades as are referred to in that sub-paragraph is less than that which was taken into account in determining the amount of the new expenditure which qualified for a normal writing-down allowance,—

- (a) paragraph 8 above shall have effect as if a part of the expenditure corresponding to the reduction in the extent of such use were expenditure on the provision of a separate item of machinery or plant used for the purpose of leasing to a non-resident, otherwise than by permitted leasing, on the last day of the requisite period; and
- (b) any disposal value subsequently brought into account in respect of the machinery or plant under section 44 of the Finance Act 1971 shall, instead of being apportioned in accordance with subsection (3) of section 68, be apportioned by reference to the extent of such use as determined at the end of that period. 1971 c. 68.

Information

10.—(1) Where new expenditure is incurred on the provision of machinery or plant and, before the expenditure has qualified for a normal writing-down allowance, it is used for leasing to a non-resident and that leasing is permitted leasing, a claim by a person other than a company for a writing-down allowance which takes account of that expenditure and a return by a company of profits in the computation of which a deduction is made on account of such an allowance shall be accompanied by a certificate to that effect, setting out the description of permitted leasing.

(2) If, after any new expenditure has qualified for a normal writing-down allowance, the machinery or plant in question is at any time in the requisite period used for the purpose of being leased to a non-resident, otherwise than by permitted leasing, the person to whom it belongs at that time shall give written notice of that fact to the inspector.

(3) Subject to sub-paragraph (6) below, notice under sub-paragraph (2) above shall be given within three months after the end of the chargeable period or its basis period in which the machinery or plant is first used for leasing as mentioned in that sub-paragraph.

(4) A certificate or notice given by any person under sub-paragraph (1) or sub-paragraph (2) above by reference to any chargeable period or its basis period shall specify the non-resident to whom the machinery or plant has been leased and shall specify all the items of machinery or plant (if more than one) in respect of which the person in question is required to give a certificate or notice under this paragraph by reference to that period.

(5) Subject to sub-paragraph (6) below, where new expenditure is incurred on the provision of machinery or plant which is leased as mentioned in section 68(1) of the Finance Act 1980, the lessor shall, within three months after the end of the chargeable period or its basis period in which the machinery or plant is first so leased, give written notice to the inspector specifying—

- (a) the names and addresses of the persons to whom the asset is jointly leased;
- (b) the portion of the new expenditure which is properly attributable to each of those persons; and
- (c) so far as it is within his knowledge, which of those persons is resident in the United Kingdom.

(6) If, at the end of the three months referred to in sub-paragraph (3) or sub-paragraph (5) above, the person required to give a notice under that sub-paragraph does not know and cannot reasonably be expected to know that any item of machinery or plant in respect of which he is required to give such a notice has been used or leased as mentioned in the sub-paragraph in question, he shall in respect of that item give the notice within thirty days of his coming to know that it has been so used or leased.

(7) In the Table in section 98 of the Taxes Management Act 1970 (penalties) at the end of the second column there shall be added—

“Paragraph 10 of Schedule 16 to the Finance Act 1986”.

PART IV

AMENDMENT OF FINANCE ACT 1980, SECTION 69

11. In section 69 (writing-down allowances etc. for cars) for the words from “any vehicle” onwards there shall be substituted “any mechanically propelled vehicle other than—

- (a) a vehicle of a construction primarily suited for the conveyance of goods or burden of any description;
 - (b) a vehicle of a type not commonly used as a private vehicle and unsuitable to be so used;
 - (c) a vehicle to which paragraph 10 of Schedule 8 to the Finance Act 1971 applies (expensive motor cars); and 1971 c. 68.
 - (d) subject to subsection (2) below, a vehicle provided wholly or mainly for hire to, or for the carriage of, members of the public in the ordinary course of a trade.
- (2) Subsection (1)(d) above applies to a vehicle only if—
- (a) the following conditions are satisfied—
 - (i) the number of consecutive days for which it is on hire to, or used for the carriage of, the same person will normally be less than 30; and
 - (ii) the total number of days for which it is on hire to, or used for the carriage of, the same person in any period of 12 months will normally be less than 90; or
 - (b) it is provided for hire to a person who will himself use it wholly or mainly for hire to, or the carriage of, members of the public in the ordinary course of a trade and in a manner complying with the conditions in paragraph (a) above.

(3) For the purposes of subsection (2) above, persons who are connected with each other shall be treated as the same person; and that subsection does not affect vehicles provided wholly or mainly as mentioned in section 64(12) above.”

SCHEDULE 17

Section 62.

SECURITIES: AMENDMENTS OF FINANCE ACT 1985

1985 c. 54.

1.—(1) The following shall be inserted at the end of paragraph 8 of Schedule 23 to the Finance Act 1985 (trustees)—

“(4) Sub-paragraph (1) above does not apply where the annual profits or gains are treated as received by the investment manager of a common investment fund for the time being designated as mentioned in section 413(1) of the Taxes Act (funds in court).

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(5) Where the income or part of the income derived in a year of assessment from such a common investment fund or its investments consists of interest on securities, the income or part (as the case may be) shall for the purposes of section 413(1)(a) of the Taxes Act be calculated by treating it as the amount it would be apart from section 74(5) of this Act, but reduced by an amount (if any) equal to the excess of A over B.

(6) In sub-paragraph (5) above—

A is the total amount of allowances to which, by virtue of section 74(4) of this Act, the investment manager of the fund is entitled in the year of assessment in respect of all securities comprised in the fund, and

B is the total amount of annual profits or gains which, by virtue of section 74(2) of this Act, he is treated as receiving in the year of assessment in respect of those securities.”

(2) Paragraph 8 shall be treated as having been enacted with sub-paragraphs (4) to (6).

2.—(1) Paragraph 15 of that Schedule (transfer of unrealised interest) shall be amended as follows.

(2) For sub-paragraph (5) there shall be substituted—

“(5) Section 75 of this Act applies for the purposes of this paragraph as if in subsection (1) the reference to section 73(2)(a) or (3)(a) were to sub-paragraph (2) or (3) above and references to the year of assessment in which the interest period ends were to the year in which the settlement day falls, and as if in subsection (2) the reference to section 73(2)(b) or (3)(b) were to sub-paragraph (4) above.”

(3) After sub-paragraph (7) there shall be inserted—

“(7A) Where sub-paragraph (4) above applies, section 33 of the Capital Gains Tax Act 1979 shall be disregarded in computing for capital gains tax purposes the gain accruing to the transferee if he disposes of the securities, but an amount equal to the amount of the unrealised interest shall be excluded from the sums mentioned in paragraph 33(5) below.”

(4) This paragraph applies where securities are transferred after 18th March 1986.

3.—(1) The following shall be inserted after paragraph 15 of that Schedule—

“Variable interest rate

15A.—(1) This paragraph applies to securities other than securities falling within sub-paragraph (2) or (4) below.

(2) Securities fall within this sub-paragraph if their terms of issue provide that throughout the period from issue to redemption (whenever redemption might occur) they are to carry interest at a rate which falls into one, and one only, of the following categories—

- (a) a fixed rate which is the same throughout the period;
- (b) a rate which bears to a standard published base rate the same fixed relationship throughout the period;
- (c) a rate which bears to a published index of prices the same fixed relationship throughout the period.

(3) In sub-paragraph (2)(c) above “published index of prices” means the retail prices index (within the meaning of section 24 of the Finance Act 1980) or any similar general index of prices which is published by, or by an agent of, the government of any territory outside the United Kingdom. 1980 c. 48.

(4) Securities fall within this sub-paragraph if they are deep discount securities and the rate of interest for each (or their only) interest period is equal to or less than the yield to maturity.

(5) In sub-paragraph (4) above “deep discount securities” and “yield to maturity” have the same meanings as in Schedule 9 to the Finance Act 1984; and for the purposes of that sub-paragraph the rate of interest for an interest period is, in relation to securities, the rate of return (expressed as a percentage) attributable to the interest applicable to them for the interest period. 1984 c. 43

(6) Sub-paragraphs (7) to (11) below apply if securities to which this paragraph applies are transferred at any time between the time they are issued and the time they are redeemed.

(7) If the securities are transferred without accrued interest they shall be treated for the purposes of this Chapter as transferred with accrued interest.

(8) The person entitled to the securities immediately before they are redeemed shall be treated for the purposes of this Chapter as transferring them with accrued interest on the day they are redeemed.

(9) Where there is a transfer as mentioned in sub-paragraph (6) above or by virtue of sub-paragraph (8) above, section 73 of this Act shall be construed as if the following were substituted for subsections (2)(b) and (3) to (8)—

“(3) In subsection (2)(a) above “the accrued amount” means such amount (if any) as an inspector decides is just and reasonable; and the jurisdiction of the General Commissioners or the Special Commissioners on any appeal shall include jurisdiction to review such a decision of the inspector.”

(10) Sub-paragraph (11) below applies where there is a transfer by virtue of sub-paragraph (8) above and the settlement day in relation to the transfer falls after the end of a period which would (by virtue of paragraph 3(3) and (4) above and apart from this paragraph) be the only or last interest period in relation to the securities.

(11) For the purposes of this Chapter the period beginning with the day following that interest period and ending with the settlement day shall be treated as an interest period in relation to the securities; and paragraph 3(4) above shall not apply to it.

Interest in default

15B.—(1) This paragraph applies where, because of any failure to fulfil the obligation to pay interest on securities, the value (on a day mentioned in paragraph 3(6) or (7)(a) above, as the case may be) of the right to receive the interest payable on them on that day is less than the interest so payable.

(2) Paragraph 3(6) or (7)(a), as the case may be, shall be construed as if the reference to that interest were to an amount equal to that value.

15C.—(1) Where securities are transferred as mentioned in paragraph 15(1) above and, because of any failure to fulfil the obligation to pay interest on them, the value (on the day of the transfer) of the right to receive the unrealised interest is less than the amount of the unrealised interest, paragraph 15 above shall have effect as modified by sub-paragraphs (2) to (6) below.

(2) In sub-paragraphs (2) and (3) for “the unrealised interest” there shall be substituted “amount A”.

(3) For sub-paragraph (4) there shall be substituted—

“(4) Where the transferee receives an amount by way of the unrealised interest (amount B) and that amount falls to be taken into account in computing tax charged for the chargeable period in which it is received, it shall for the purposes of the Tax Acts be treated as reduced by an amount (amount C) equal to—

- (a) nil, if amounts have been previously received by the transferee by way of the unrealised interest and their aggregate is equal to or greater than the value (on the day of the transfer to the transferee) of the right to receive the unrealised interest,
- (b) amount B, if that value is equal to or greater than amount B (aggregated with other amounts previously so received, if any),
- (c) that value, if no amount has been previously so received and that value is less than amount B, or
- (d) so much of that value as exceeds the aggregate of amounts previously so received, in any other case.”

(4) In sub-paragraph (7) for “the amount of the unrealised interest” there shall be substituted “amount A”.

(5) In sub-paragraph (7A) for “the amount of the unrealised interest” there shall be substituted “amount C”.

(6) The following shall be substituted for sub-paragraph (8)—

“(8) In this paragraph ‘amount A’ means, in a case where the transferor acquired the securities by a transfer on or after 28th February 1986 with the right to receive unrealised interest,—

- (a) an amount equal to amount D less amount E, or
- (b) if amount D is equal to or less than amount E, nil.

(9) In this paragraph 'amount A' means, in a case not falling within sub-paragraph (8) above, an amount equal to amount D.

(10) In this paragraph 'amount D' is an amount equal to the value (on the day of the transfer by the transferor) of the right to receive the unrealised interest.

(11) In this paragraph 'amount E' means, in a case where the transferor (as transferee) has received in respect of the securities an amount or amounts falling within sub-paragraph (4) above,—

- (a) an amount equal to amount F less the total received, or
- (b) if amount F is equal to or less than the total received, nil.

(12) In this paragraph 'amount E' means, in any other case, an amount equal to amount F.

(13) In this paragraph 'amount F' means an amount equal to the value (on the day of the transfer to the transferor) of the right to receive the unrealised interest.

(14) In determining for the purposes of this paragraph which securities of a particular kind a person has transferred, he is to be taken to have transferred securities of that kind which he acquired later before securities of that kind which he acquired earlier.

(15) Where the unrealised interest is payable in a currency other than sterling—

- (a) any amount received by way of the interest is for the purposes of this paragraph the sterling equivalent on the day it is received of the amount it would be apart from this sub-paragraph, and
- (b) the value (on the day of a transfer) of the right to receive the interest is for the purposes of this paragraph the sterling equivalent (on that day) of the value it would be apart from this sub-paragraph;

and for this purpose the sterling equivalent is to be calculated by reference to the London closing rate of exchange for the day concerned.””

(2) In consequence of sub-paragraph (1) above, in paragraph 4(4) of that Schedule after “14” there shall be inserted “, 15A(8)”.

(3) The reference in paragraph 15A(6) to a time of transfer is to a time falling after 18th March 1986; and sub-paragraph (2) above applies accordingly.

(4) Paragraphs 15B and 15C apply where securities are transferred after 18th March 1986.

4.—(1) The following shall be inserted after paragraph 32 of that Schedule—

“Building societies

32A.—(1) Sub-paragraphs (2) and (3) below apply where securities are transferred and the interest which falls due on them at the end of the interest period in which the settlement day falls is subject to arrangements under section 343 of the Taxes Act or to the provisions of regulations under subsection (1A) of that section; but those sub-paragraphs do not apply where the interest is subject to the provisions of those regulations and would on being paid (to whatever person) be a gross payment within the meaning of those regulations.

(2) Section 73(4) of this Act shall be construed as if the following were substituted for paragraphs (a) and (b)—

- “(a) if the securities are transferred under an arrangement by virtue of which the transferee accounts to the transferor separately for the consideration for the securities and for an amount equal to the grossed up equivalent of the interest (if any) accruing to the settlement day, an amount equal to that amount, and
- (b) in any other case, an amount equal to the accrued proportion of the grossed up equivalent of the interest applicable to the securities for the period.”

(3) Section 73(5) of this Act shall be construed as if the following were substituted for paragraphs (a) and (b)—

- “(a) if the securities are transferred under an arrangement by virtue of which the transferor accounts to the transferee for an amount equal to the grossed up equivalent of the interest (if any) accruing from the settlement day to the next interest payment day, an amount equal to that amount, and
- (b) in any other case, an amount equal to the rebate proportion of the grossed up equivalent of the interest applicable to the securities for the period.”

(4) Where the unrealised interest mentioned in paragraph 15 above is subject to arrangements under section 343 of the Taxes Act or to the provisions of regulations under subsection (1A) of that section, that paragraph shall be construed as if in sub-paragraphs (2), (3), (7) and (7A) “the unrealised interest” read “the grossed up equivalent of the unrealised interest”; but this does not apply where the unrealised interest is subject to the provisions of those regulations and would on being paid (to whatever person) be a gross payment within the meaning of those regulations.

(5) In calculating the grossed up equivalent of interest for the purposes of section 73(4)(b) and (5)(b) of this Act and paragraph 15(2), (3), (7) and (7A) above (as substituted or amended as mentioned in this paragraph) the interest shall, in a case where it is subject to the provisions of regulations under section 343(1A) of the Taxes Act, be treated as if it would, on being paid, not be a gross payment within the meaning of those regulations.

(6) For the purposes of the provisions of this Chapter mentioned in sub-paragraph (5) above the grossed up equivalent of interest is to be calculated by adding to the interest a sum found by applying the following formula—

$$\frac{S}{I + S} = R.$$

(7) In sub-paragraph (6) above—

S is the sum to be found,

I is the interest, and

R is the basic rate of income tax (expressed as a fraction) for the year of assessment in which the interest is payable.

32B.—(1) This paragraph applies where a sum is both interest mentioned in section 74(5) of this Act, paragraph 9(4) above or paragraph 39(4) below and dividends or interest in the case of which section 343(2)(b) or (3)(c) of the Taxes Act applies.

(2) In calculating the deduction of income tax as mentioned in section 343(2)(b) or (3)(c) any reduction mentioned in section 74(5), paragraph 9(4) or paragraph 39(4) shall be disregarded.

(3) The amount which is treated as reduced as mentioned in section 74(5), paragraph 9(4) or paragraph 39(4) shall be the amount the person concerned is treated as receiving by virtue of section 343(2)(b) or (3)(c) (rather than the interest which falls due).

Stock lending

32C.—(1) The effect of section 61(3) of the Finance Act 1986 (transfer for purposes of stock lending not taken into account in computing trade's profits or losses) shall be disregarded in construing section 75(1)(a) and (2)(a) of this Act.

(2) Where securities are transferred in circumstances such that by virtue of section 61(4) of the Finance Act 1986 any disposal and acquisition are disregarded for the purposes of capital gains tax, section 73(2) and (3) of this Act and paragraph 15 above do not apply."

(2) Paragraph 32A applies where securities are transferred after 18th March 1986.

(3) Paragraph 32B applies where interest falls due after 18th March 1986.

5.—(1) In paragraph 43 of that Schedule (manufactured dividends) for paragraph (c) of sub-paragraph (1) there shall be substituted—

"(c) any contract under which the securities are transferred to the seller, or the contract mentioned in paragraph (b) above, is one in the case of which section 477 of the Taxes Act (manufactured dividends) has effect and in relation to which the seller is the dividend manufacturer."

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(2) In sub-paragraphs (2) and (3) of paragraph 43 after the word “contract” (in each place) there shall be inserted the words “mentioned in sub-paragraph (1)(b) above”.

(3) This paragraph applies where the contract in relation to which the seller is the dividend manufacturer is made after 18th March 1986.

6.—(1) In paragraph 44 of that Schedule (information) in sub-paragraph (2) for the word “jobber” there shall be substituted the words “market maker”.

(2) After sub-paragraph (5) of paragraph 44 there shall be inserted—

“(5A) In this paragraph “market maker”, in relation to securities, means a person who—

(a) holds himself out at all normal times in compliance with the rules of The Stock Exchange as willing to buy and sell securities of the kind concerned at a price specified by him, and

(b) is recognised as doing so by the Council of The Stock Exchange.”

(3) Sub-paragraphs (1) and (2) above apply in relation to transactions on or after the day of The Stock Exchange reforms.

(4) The Board may by regulations provide that—

(a) sub-paragraphs (2) and (3) of paragraph 44 and paragraph (a) of sub-paragraph (5A) (as inserted by sub-paragraph (2) above) shall have effect as if references to The Stock Exchange were to any recognised investment exchange or to any of those exchanges specified in the regulations, and

(b) paragraph (b) of sub-paragraph (5A) shall have effect as if the reference to the Council of The Stock Exchange were to the investment exchange concerned.

(5) In sub-paragraph (4) above “recognised investment exchange” means a recognised investment exchange within the meaning of the Financial Services Act 1986.

(6) Regulations under sub-paragraph (4) above shall apply in relation to transactions effected on or after such day, after the day of The Stock Exchange reforms, as is specified in the regulations.

(7) The power to make regulations under sub-paragraph (4) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.

(8) In this paragraph “the day of The Stock Exchange reforms” means the day on which the rule of The Stock Exchange that prohibits a person from carrying on business as both a broker and a jobber is abolished.

SCHEDULE 18

Section 63.

SECURITIES: OTHER PROVISIONS

Sale and re-purchase of securities

1.—(1) In section 469 of the Taxes Act (sale and re-purchase of securities) the following shall be inserted after subsection (6)—

“(6A) Subsections (1) and (2) above shall not apply where—

- (a) the securities are Eurobonds or foreign government stock, and
- (b) the owner of the securities carries on a trade which consists wholly or partly in dealing in securities and the person who agrees to buy or acquire the securities carries on such a trade.

(6B) Subsection (4) above shall not apply where—

- (a) the securities are Eurobonds or foreign government stock, and
- (b) the person from whom the person there mentioned agrees to buy or acquire the securities carries on a trade which consists wholly or partly in dealing in securities.

(6C) In subsections (6A) and (6B) above—

“Eurobond” has the same meaning as in section 472(5) below, and

“foreign government stock” means stock which is issued by a government other than that of the United Kingdom and is denominated in a currency other than sterling.”

(2) Section 469 shall be treated as having been enacted with subsections (6A) to (6C).

(3) The reference in section 472(3) of the Taxes Act to a transaction which is to be left out of account by virtue of section 469(4) shall include a reference to a transaction which would fall to be so left out of account apart from section 469(6B).

(4) In section 469 the following shall be substituted for subsection (7)(b)—

“(b) ‘securities’ includes stocks and shares, except securities which are securities for the purposes of Chapter IV of Part II of the Finance Act 1985 (accrued income scheme etc.).”

1985 c. 54.

(5) Sub-paragraph (4) above applies where the owner mentioned in section 469(1) agrees to sell or transfer, or (as the case may be) the person mentioned in section 469(4) agrees to buy or acquire, on or after such day as the Board may appoint for the purposes of this paragraph by order made by statutory instrument; and paragraph 41 of Schedule 23 to the Finance Act 1985 (section 469(1) and (2) not to apply in certain circumstances) shall cease to have effect where the owner agrees to sell or transfer on or after that day.

Purchase and sale of securities

2.—(1) In section 471 of the Taxes Act (purchase and sale of securities) the following shall be substituted for subsection (6)(c)—

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“(c) ‘securities’ includes stocks and shares, except securities which are securities for the purposes of Chapter IV of Part II of the Finance Act 1985 (accrued income scheme etc.).”

1985 c. 54.

(2) Sub-paragraph (1) above applies where the first buyer purchases after 18th March 1986; and section 475(6) of the Taxes Act and paragraph 42 of Schedule 23 to the Finance Act 1985 shall cease to have effect where the first buyer purchases after that date.

3.—(1) In section 472 of the Taxes Act (dealers in securities) the following shall be substituted for subsection (2)—

“(2) Subsection (1) of this section shall not apply if the subsequent sale is carried out by the first buyer in the ordinary course of his business as a market maker in securities of the kind concerned.”

(2) At the end of that section there shall be inserted—

“(6) For the purposes of subsection (2) of this section a person is a market maker in securities of a particular kind if he—

- (a) holds himself out at all normal times in compliance with the rules of The Stock Exchange as willing to buy and sell securities of that kind at a price specified by him, and
- (b) is recognised as doing so by the Council of The Stock Exchange.”

(3) This paragraph applies where the subsequent sale is carried out by the first buyer on or after the day of The Stock Exchange reforms.

4.—(1) The Board may by regulations provide for all or any of the following—

- (a) that section 472(2) of the Taxes Act (as substituted by paragraph 3(1) above) shall not apply unless the subsequent sale is carried out in compliance with further conditions specified in the regulations;
- (b) that section 472(6) of that Act (as inserted by paragraph 3(2) above) shall have effect as if the reference to The Stock Exchange in paragraph (a) were to any recognised investment exchange or to any of those exchanges specified in the regulations, and as if the reference to the Council of The Stock Exchange in paragraph (b) were to the investment exchange concerned;
- (c) that for section 475(3) and (5) of that Act (which refer to The Stock Exchange Daily Official List) there shall be substituted such provisions as the Board think fit to take account of recognised investment exchanges.

(2) The regulations shall apply where the subsequent sale is carried out by the first buyer on or after such day, after the day of The Stock Exchange reforms, as is specified in the regulations.

Manufactured dividends

5.—(1) Section 477 of the Taxes Act (manufactured dividends) shall be amended as follows—

- (a) in subsection (1), in paragraph (a), for the words "the seller is required to pay to the purchaser" there shall be substituted the words "one of the parties to the contract (the dividend manufacturer) is required to pay to the other";
- (b) in that subsection, in paragraph (b) and the words following it, for the word "seller" (in each place) there shall be substituted the words "dividend manufacturer";
- (c) in subsection (3) after the word "sold" there shall be inserted the words "or purchased";
- (d) in subsection (4) for the word "seller" there shall be substituted the words "dividend manufacturer";
- (e) in subsection (5) for the words "seller under" there shall be substituted the words "dividend manufacturer in relation to" and for the word "seller" (in the other two places) there shall be substituted the words "dividend manufacturer".

(2) Sub-paragraph (1) above applies where the contract for the sale of securities is made after 18th March 1986.

6.—(1) Section 477 of the Taxes Act shall also be amended as provided by this paragraph.

(2) In subsection (3) for the word "jobber" (in the first place where it occurs) there shall be substituted the words "market maker" and for the word "jobber" (in the second place where it occurs) there shall be substituted the words "market maker in securities of the kind concerned".

(3) In subsection (6) the following shall be substituted for the definitions of "broker" and "jobber"—

" "broker", in relation to securities, means a member of The Stock Exchange who carries on his business in the United Kingdom and is not, at the time the contract for the sale of the securities is made, a market maker in securities of the kind concerned,

"market maker", in relation to securities of a particular kind, means a person who—

(a) holds himself out at all normal times in compliance with the rules of The Stock Exchange as willing to buy and sell securities of that kind at a price specified by him, and

(b) is recognised as doing so by the Council of The Stock Exchange,".

(4) Sub-paragraphs (2) and (3) above apply where the contract for the sale of securities is made on or after the day of The Stock Exchange reforms.

(5) The Board may by regulations provide that section 477(6) (as amended by sub-paragraph (3) above) shall have effect—

(a) as if references to The Stock Exchange in the definition of "broker" and in paragraph (a) of the definition of "market maker" were to any recognised investment exchange or to any of those exchanges specified in the regulations, and

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(b) as if the reference to the Council of The Stock Exchange in paragraph (b) of the definition of "market maker" were to the investment exchange concerned.

(6) Regulations under sub-paragraph (5) above shall apply where the contract for the sale of securities is made on or after such day, after the day of The Stock Exchange reforms, as is specified in the regulations.

Information

1970 c. 9.

7.—(1) In section 21 of the Taxes Management Act 1970 (stock jobbers' transactions) in subsections (1), (2) and (4) for the word "jobber" (in each place) there shall be substituted the words "market maker" and in subsection (5) for the word "jobbers" there shall be substituted the words "market makers".

(2) In subsection (7) of section 21 the following shall be substituted for the definitions of "broker" and "jobber"—

" "broker", in relation to securities, means a member of The Stock Exchange who carries on his business in the United Kingdom and is not a market maker in securities of the kind concerned;

"market maker", in relation to securities, means a person who—

(a) holds himself out at all normal times in compliance with the rules of The Stock Exchange as willing to buy and sell securities of the kind concerned at a price specified by him, and

(b) is recognised as doing so by the Council of The Stock Exchange;".

(3) Sub-paragraphs (1) and (2) above apply in relation to transactions effected on or after the day of The Stock Exchange reforms.

(4) The Board may by regulations provide that section 21(7) (as amended by sub-paragraph (2) above) shall have effect—

(a) as if references to The Stock Exchange in the definition of "broker" and in paragraph (a) of the definition of "market maker" were to any recognised investment exchange or to any of those exchanges specified in the regulations, and

(b) as if the reference to the Council of The Stock Exchange in paragraph (b) of the definition of "market maker" were to the investment exchange concerned.

(5) Regulations under sub-paragraph (4) above shall apply in relation to transactions effected on or after such day, after the day of The Stock Exchange reforms, as is specified in the regulations.

8.—(1) In section 25 of the Taxes Management Act 1970 (information: chargeable gains) in subsection (4) for the word "jobber" there shall be substituted the words "market maker".

(2) At the end of section 25 there shall be inserted—

"(10) In this section "market maker", in relation to shares or securities, means a person who—

- (a) holds himself out at all normal times in compliance with the rules of The Stock Exchange as willing to buy and sell shares or securities of the kind concerned at a price specified by him, and
- (b) is recognised as doing so by the Council of The Stock Exchange.”

(3) Sub-paragraphs (1) and (2) above apply in relation to transactions on or after the day of The Stock Exchange reforms.

(4) The Board may by regulations provide that—

- (a) subsections (4) and (5) of section 25 and paragraph (a) of subsection (10) (as inserted by sub-paragraph (2) above) shall have effect as if references to The Stock Exchange were to any recognised investment exchange or to any of those exchanges specified in the regulations, and
- (b) paragraph (b) of subsection (10) shall have effect as if the reference to the Council of The Stock Exchange were to the investment exchange concerned.

(5) Regulations under sub-paragraph (4) above shall apply in relation to transactions effected on or after such day, after the day of The Stock Exchange reforms, as is specified in the regulations.

Miscellaneous

9.—(1) The Board may by regulations—

- (a) substitute for section 477(3) of the Taxes Act a provision that section 477(1) shall not apply to such persons and in such circumstances as are specified in the substituted provision;
- (b) substitute for section 21(1) of the Taxes Management Act 1970 a provision that the Board may exercise the powers conferred by section 21 in such circumstances as are specified in the substituted provision; 1970 c. 9.
- (c) make such incidental and consequential provisions (which may include the amendment of other provisions of section 477 or section 21) as appear to the Board to be appropriate.

(2) So far as they relate to section 477, the regulations shall apply where the contract for the sale of securities is made on or after such day, after the day of The Stock Exchange reforms, as is specified in the regulations.

(3) So far as they relate to section 21, the regulations shall apply in relation to transactions effected on or after such day, after the day of The Stock Exchange reforms, as is specified in the regulations.

General

10.—(1) In this Schedule “the day of The Stock Exchange reforms” means the day on which the rule of The Stock Exchange that prohibits a person from carrying on business as both a broker and a jobber is abolished.

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(2) In this Schedule “recognised investment exchange” means a recognised investment exchange within the meaning of the Financial Services Act 1986.

(3) Any power to make regulations under this Schedule shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.

Section 101.

SCHEDULE 19

INHERITANCE TAX

PART I

AMENDMENTS OF 1984 ACT

1. After section 3 there shall be inserted the following section—

“Potentially
exempt
transfers.

3A.—(1) Any reference in this Act to a potentially exempt transfer is a reference to a transfer of value—

- (a) which is made by an individual on or after 18th March 1986; and
- (b) which, apart from this section, would be a chargeable transfer (or to the extent to which, apart from this section, it would be such a transfer); and
- (c) to the extent that it constitutes either a gift to another individual or a gift into an accumulation and maintenance trust or a disabled trust;

but this subsection has effect subject to any provision of this Act which provides that a disposition (or transfer of value) of a particular description is not a potentially exempt transfer.

(2) Subject to subsection (6) below, a transfer of value falls within subsection (1)(c) above, as a gift to another individual,—

- (a) to the extent that the value transferred is attributable to property which, by virtue of the transfer, becomes comprised in the estate of that other individual, otherwise than as settled property, or
- (b) so far as that value is not attributable to property which becomes comprised in the estate of another person, to the extent that, by virtue of the transfer, the estate of that other individual is increased, otherwise than by an increase in the value of settled property comprised in his estate.

(3) Subject to subsection (6) below, a transfer of value falls within subsection (1)(c) above, as a gift into an accumulation and maintenance trust or a disabled trust, to the extent that the value transferred is attributable to property which, by virtue of the transfer, becomes settled property to which section 71 or 89 of this Act applies.

(4) A potentially exempt transfer which is made seven years or more before the death of the transferor is an exempt transfer and any other potentially exempt transfer is a chargeable transfer.

(5) During the period beginning on the date of a potentially exempt transfer and ending immediately before—

(a) the seventh anniversary of that date, or

(b) if it is earlier, the death of the transferor,

it shall be assumed for the purposes of this Act that the transfer will prove to be an exempt transfer.

(6) Where, under any provision of this Act, tax is in any circumstances to be charged as if a transfer of value had been made, that transfer shall be taken to be a transfer which is not a potentially exempt transfer.”

2.—(1) In section 7 (rates of tax), in subsection (1)—

(a) at the beginning there shall be inserted the words “Subject to subsections (2), (4) and (5) below”;

(b) for the words “ten years” there shall be substituted “seven years”; and

(c) the word “appropriate” shall be omitted.

(2) For subsection (2) of that section there shall be substituted the following subsection—

“(2) Except as provided by subsection (4) below, the tax charged on the value transferred by a chargeable transfer made before the death of the transferor shall be charged at one-half of the rate or rates referred to in subsection (1) above.”

(3) In subsection (3) of that section for the words “each of the Tables” there shall be substituted “the Table”.

(4) After subsection (3) of that section there shall be inserted the following subsections—

“(4) Subject to subsection (5) below, subsection (2) above does not apply in the case of a chargeable transfer made at any time within the period of seven years ending with the death of the transferor but, in the case of a chargeable transfer made within that period but more than three years before the death, the tax charged on the value transferred shall be charged at the following percentage of the rate or rates referred to in subsection (1) above—

(a) where the transfer is made more than three but not more than four years before the death, 80 per cent;

(b) where the transfer is made more than four but not more than five years before the death, 60 per cent;

(c) where the transfer is made more than five but not more than six years before the death, 40 per cent; and

(d) where the transfer is made more than six but not more than seven years before the death, 20 per cent.

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(5) If, in the case of a chargeable transfer made before the death of the transferor, the tax which would fall to be charged in accordance with subsection (4) above is less than the tax which would have been chargeable (in accordance with subsection (2) above) if the transferor had not died within the period of seven years beginning with the date of the transfer, subsection (4) above shall not apply in the case of that transfer."

3.—(1) In section 8 (indexation) in subsection (1) for the words "new Tables for the Tables" there shall be substituted "a new Table for the Table".

(2) After subsection (1) of that section there shall be inserted the following subsection—

"(1A) For the purpose only of the application of Schedule 1 to this Act in accordance with subsection (1) above, a potentially exempt transfer which proves to be a chargeable transfer shall be assumed to be made on the date of the transferor's death."

(3) In subsection (2) of that section for the word "Tables", in each place where it occurs, there shall be substituted "Table" and for the words "they replace" there shall be substituted "it replaces".

(4) In subsection (4) of that section, for the word "Tables" there shall be substituted "Table".

4. In section 9 (transitional provisions on reduction of tax) for the words "new Tables" there shall be substituted "a new Table".

5. In section 19 (annual exemption), after subsection (3) there shall be inserted the following subsection—

"(3A) A transfer of value which is a potentially exempt transfer—

- (a) shall in the first instance be left out of account for the purposes of subsections (1) to (3) above; and
- (b) if it proves to be a chargeable transfer, shall for the purposes of those subsections be taken into account as if, in the year in which it was made, it was made later than any transfer of value which was not a potentially exempt transfer."

6. After section 26 there shall be inserted the following section—

"Potentially exempt transfer of property subsequently held for national purposes etc.

26A. A potentially exempt transfer which would (apart from this section) have proved to be a chargeable transfer shall be an exempt transfer to the extent that the value transferred by it is attributable to property which has been or could be designated under section 31(1) below and which, during the period beginning with the date of the transfer and ending with the death of the transferor,—

- (a) has been disposed of by sale by private treaty to a body mentioned in Schedule 3 to this Act or has been disposed of to such a body otherwise than by sale, or

(b) has been disposed of in pursuance of section 230 below.”

7. In section 30 (conditionally exempt transfers) after subsection (3) there shall be inserted the following subsections—

“(3A) The provisions of this section shall be disregarded in determining under section 3A above whether a transfer of value is a potentially exempt transfer.

(3B) No claim may be made under subsection (1) above with respect to a potentially exempt transfer until the transferor has died.

(3C) Subsection (1) above shall not apply to a potentially exempt transfer to the extent that the value transferred by it is attributable to property which has been disposed of by sale during the period beginning with the date of the transfer and ending with the death of the transferor.”

8.—(1) In section 31 (designation and undertakings) after subsection (1) there shall be inserted the following subsection—

“(1A) Where the transfer of value in relation to which the claim for designation is made is a potentially exempt transfer which (apart from section 30 above) has proved to be a chargeable transfer, the question whether any property is appropriate for designation under this section shall be determined by reference to circumstances existing after the death of the transferor.”

(2) After subsection (4F) of that section there shall be inserted the following subsection—

“(4G) In a case where—

(a) the transfer of value in question is a potentially exempt transfer which (apart from section 30 above) has proved to be a chargeable transfer, and

(b) at the time of the transferor's death an undertaking by such a person as is mentioned in section 30(1)(b) above given under paragraph 3(3) of Schedule 4 to this Act or under section 147 of the Capital Gains Tax Act 1979 is in force with respect to any property to which the value transferred by the transfer is attributable,

that undertaking shall be treated for the purposes of this Chapter as an undertaking given under section 30 above.”

9. In section 32 (chargeable events) in subsection (1) after the words “after the transfer” there shall be inserted “(or, if the transfer was a potentially exempt transfer, after the death of the transferor)”.

10. In section 32A (associated properties) in subsection (2) after the words “after the transfer” there shall be inserted “(or, if the transfer was a potentially exempt transfer, after the death of the transferor)”.

11.—(1) In section 33 (amount of charge in relation to conditionally exempt transfers) in subsection (1)(b)—

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- (a) in sub-paragraph (i) for the words “under the second Table in Schedule 1 to this Act” there shall be substituted “in accordance with section 7(2) above”; and
- (b) in sub-paragraph (ii) for the words “under the appropriate Table” there shall be substituted “in accordance with the appropriate provision of section 7 above”.
- (2) For subsection (2) of that section there shall be substituted the following subsections—
- “(2) For the purposes of subsection (1)(b)(ii) above the appropriate provision of section 7 above is—
- (a) if the conditionally exempt transfer by the relevant person was made on death (but the property was not treated as forming part of his estate immediately before his death only by virtue of section 102(3) of the Finance Act 1986), subsection (1) of section 7; and
- (b) in any other case, subsection (2) of section 7.
- (2A) The rate or rates of tax determined under subsection (1)(b)(i) above in respect of any chargeable event shall not be affected by the death of the relevant person after that event.”.
- (3) In subsection (7) of that section at the beginning there shall be inserted the words “Subject to subsection (8) below”.
- (4) After that subsection there shall be added the following subsection—
- “(8) Where after a conditionally exempt transfer of any property there is a potentially exempt transfer the value transferred by which is wholly or partly attributable to that property and either—
- (a) the potentially exempt transfer is a chargeable event with respect to the property, or
- (b) after the potentially exempt transfer, but before the death of the person who is the transferor in relation to the potentially exempt transfer, a chargeable event occurs with respect to the property,
- the tax charged in accordance with this section by reference to that chargeable event shall be allowed as a credit against any tax which may become chargeable, by reason of the potentially exempt transfer proving to be a chargeable transfer, on so much of the value transferred by that transfer as is attributable to the property; and subsection (7) above shall not apply with respect to any tax so becoming chargeable.”
12. In section 35 (conditional exemption on death before 7th April 1976) in subsection (3) for the words “section 33(7) above, the reference” there shall be substituted “section 33(7) and (8) above, references”, and for the words “includes a reference” there shall be substituted “include references”.
13. In section 38 (attribution of value to specific gifts) in subsection (6) after the words “section 5(5) above” there shall be inserted “or by virtue of section 103 of the Finance Act 1986” and at the end of that

subsection there shall be added “and, to the extent that any liability of the transferor is abated under the said section 103, that liability shall be treated as a specific gift”.

14. At the end of section 49 (treatment of interests in possession) there shall be added the following subsection—

“(3) Where a person becomes entitled to an interest in possession in settled property as a result of such a disposition as is mentioned in subsection (2) above, no transfer of value resulting from the giving of consideration as so mentioned shall be a potentially exempt transfer.”

15. In section 55 (reversionary interest acquired by beneficiary) at the end of subsection (2) there shall be added “and such a disposition is not a potentially exempt transfer”.

16.—(1) In section 66 (rate of ten-yearly charge) in subsection (3)(b) for the words “preceding ten years” there shall be substituted “preceding seven years”.

(2) For paragraph (c) of subsection (3) of that section there shall be substituted—

“(c) on which tax is charged in accordance with section 7(2) of this Act”.

(3) In subsection (5)(a) of that section for the word “ten” there shall be substituted “seven”.

17. In section 67 (added property etc.) in subsections (3)(b) and (4) for the word “ten” there shall be substituted “seven”.

18.—(1) In section 68 (rate before first ten-year anniversary) in subsection (4)(b) for the word “ten”, in both places where it occurs, there shall be substituted “seven”.

(2) For paragraph (c) of subsection (4) and for paragraph (c) of subsection (6) of that section there shall be substituted—

“(c) on which tax is charged in accordance with section 7(2) of this Act”.

(3) In subsection (6)(b) of that section—

(a) for the word “ten”, in the first place where it occurs, there shall be substituted “seven”; and

(b) in sub-paragraph (i) for the words “that period of ten years” there shall be substituted “the period of ten years ending with that day”.

19.—(1) In section 78 (conditionally exempt occasions) in subsection (4) for the words from “and the appropriate Table” to the end there shall be substituted “and the appropriate provision of section 7 for the purposes of section 33(1)(b)(ii) is, if the settlement was created on his death, subsection (1) and, if not, subsection (2).”

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(2) In subsection (5) of that section, in the substituted sub-paragraph (ii) for section 33(1)(b), for the words “under the appropriate Table” there shall be substituted “in accordance with the appropriate provision of section 7 above.”

20. At the end of section 98 (effect of alteration of capital of close company etc.) there shall be added the following subsection—

“(3) The disposition referred to in subsection (1) above shall be taken to be one which is not a potentially exempt transfer.”

21. After section 113 there shall be inserted the following sections—

“Transfers within seven years before death of transferor.

113A.—(1) Where any part of the value transferred by a potentially exempt transfer which proves to be a chargeable transfer would (apart from this section) be reduced in accordance with the preceding provisions of this Chapter, it shall not be so reduced unless the conditions in subsection (3) below are satisfied.

(2) Where—

(a) any part of the value transferred by any chargeable transfer, other than a potentially exempt transfer, is reduced in accordance with the preceding provisions of this Chapter, and

(b) the transfer is made within seven years of the death of the transferor,

then, unless the conditions in subsection (3) below are satisfied, the additional tax chargeable by reason of the death shall be calculated as if the value transferred had not been so reduced.

(3) The conditions referred to in subsections (1) and (2) above are—

(a) that the original property was owned by the transferee throughout the period beginning with the date of the chargeable transfer and ending with the death of the transferor; and

(b) that, in relation to a notional transfer of value made by the transferee immediately before the death, the original property would (apart from section 106 above) be relevant business property.

(4) If the transferee has died before the transferor, the reference in subsection (3) above to the death of the transferor shall have effect as a reference to the death of the transferee.

(5) If the conditions in subsection (3) above are satisfied only with respect to part of the original property, then,—

(a) in a case falling within subsection (1) above, only a proportionate part of so much of the value transferred as is attributable to the original property shall be reduced in accordance with the preceding provisions of this Chapter, and

- (b) in a case falling within subsection (2) above, the additional tax shall be calculated as if only a proportionate part of so much of the value transferred as was attributable to the original property had been so reduced.

(6) Where any shares owned by the transferee immediately before the death in question—

- (a) would under any of the provisions of sections 77 to 86 of the Capital Gains Tax Act 1979 be identified with the original property (or part of it), or 1979 c. 14.
- (b) were issued to him in consideration of the transfer of a business or interest in a business consisting of the original property (or part of it),

they shall be treated for the purposes of this section as if they were the original property (or that part of it).

(7) This section has effect subject to section 113B below.

(8) In this section—

‘the original property’ means the property which was relevant business property in relation to the chargeable transfer referred to in subsection (1) or subsection (2) above; and

‘the transferee’ means the person whose property the original property became on that chargeable transfer or, where on the transfer the original property became or remained settled property in which no qualifying interest in possession (within the meaning of Chapter III of Part III of this Act) subsists, the trustees of the settlement.

113B.—(1) Subject to subsection (2) below, this section applies where—

- (a) the transferee has disposed of all or part of the original property before the death of the transferor; and
- (b) the whole of the consideration received by him for the disposal has been applied by him in acquiring other property (in this section referred to as “the replacement property”).

(2) This section does not apply unless—

- (a) the replacement property is acquired, or a binding contract for its acquisition is entered into, within twelve months after the disposal of the original property (or, as the case may be, the part concerned); and
- (b) the disposal and acquisition are both made in transactions at arm’s length or on terms such as might be expected to be included in a transaction at arm’s length.

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(3) Where this section applies, the conditions in section 113A(3) above shall be taken to be satisfied in relation to the original property (or, as the case may be, the part concerned) if—

- (a) the replacement property is owned by the transferee immediately before the death of the transferor; and
- (b) throughout the period beginning with the date of the chargeable transfer and ending with the death (disregarding any period between the disposal and acquisition) either the original property or the replacement property was owned by the transferee; and
- (c) in relation to a notional transfer of value made by the transferee immediately before the death, the replacement property would (apart from section 106 above) be relevant business property.

(4) If the transferee has died before the transferor, any reference in subsections (1) to (3) above to the death of the transferor shall have effect as a reference to the death of the transferee.

(5) In any case where—

- (a) all or part of the original property has been disposed of before the death of the transferor or is excluded by section 113 above from being relevant business property in relation to the notional transfer of value referred to in section 113A(3)(b) above, and
- (b) the replacement property is acquired, or a binding contract for its acquisition is entered into, after the death of the transferor but within twelve months after the disposal of the original property or part, and
- (c) the transferor dies before the transferee,

subsection (3) above shall have effect with the omission of paragraph (a), and as if any reference to a time immediately before the death of the transferor or to the death were a reference to the time when the replacement property is acquired.

(6) Section 113A(6) above shall have effect in relation to the replacement property as it has effect in relation to the original property.

(7) Where a binding contract for the disposal of any property is entered into at any time before the disposal of the property, the disposal shall be regarded for the purposes of subsections (2)(a) and (5)(b) above as taking place at that time.

(8) In this section “the original property” and “the transferee” have the same meaning as in section 113A above.”

22. After section 124 there shall be inserted the following sections—

“Transfers within seven years before death of transferor.

124A.—(1) Where any part of the value transferred by a potentially exempt transfer which proves to be a chargeable transfer would (apart from this section) be reduced in accordance with the preceding provisions of this Chapter, it shall not be so reduced unless the conditions in subsection (3) below are satisfied.

(2) Where—

- (a) any part of the value transferred by any chargeable transfer, other than a potentially exempt transfer, is reduced in accordance with the preceding provisions of this Chapter, and
- (b) the transfer is made within seven years of the death of the transferor,

then, unless the conditions in subsection (3) below are satisfied, the additional tax chargeable by reason of the death shall be calculated as if the value transferred had not been so reduced.

(3) The conditions referred to in subsections (1) and (2) above are—

- (a) that the original property was owned by the transferee throughout the period beginning with the date of the chargeable transfer and ending with the death of the transferor (in this subsection referred to as “the relevant period”) and it is not at the time of the death subject to a binding contract for sale; and
- (b) except in a case falling within paragraph (c) below, that the original property is agricultural property immediately before the death and has been occupied (by the transferee or another) for the purposes of agriculture throughout the relevant period; and
- (c) where the original property consists of shares in or securities of a company, that throughout the relevant period the agricultural property to which section 116 above applied by virtue of section 122(1) above on the chargeable transfer was owned by the company and occupied (by the company or another) for the purposes of agriculture.

(4) If the transferee has died before the transferor, the reference in subsection (3) above to the death of the transferor shall have effect as a reference to the death of the transferee.

(5) If the conditions in subsection (3) above are satisfied only with respect to part of the original property, then,—

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- (a) in a case falling within subsection (1) above, only a proportionate part of so much of the value transferred as is attributable to the original property shall be reduced in accordance with the preceding provisions of this Chapter, and
- (b) in a case falling within subsection (2) above, the additional tax shall be calculated as if only a proportionate part of so much of the value transferred as was attributable to the original property had been so reduced.

(6) Where any shares owned by the transferee immediately before the death in question—

- (a) would under any of the provisions of sections 77 to 86 of the Capital Gains Tax Act 1979 be identified with the original property (or part of it), or
- (b) were issued to him in consideration of the transfer of agricultural property consisting of the original property (or part of it),

they shall be treated for the purposes of this section as if they were the original property (or that part of it).

(7) This section has effect subject to section 124B below.

(8) In this section—

‘the original property’ means the property which, in relation to the chargeable transfer referred to in subsection (1) or subsection (2) above, was either agricultural property to which section 116 above applied or shares or securities of a company owning agricultural property to which that section applied by virtue of section 122(1) above; and

‘the transferee’ means the person whose property the original property became on that chargeable transfer or, where on the transfer the original property became or remained settled property in which no qualifying interest in possession (within the meaning of Chapter III of Part III of this Act) subsists, the trustees of the settlement.

Application
of section
124A to
replacement
property.

124B.—(1) Subject to subsection (2) below, this section applies where—

- (a) the transferee has disposed of all or part of the original property before the death of the transferor; and
- (b) the whole of the consideration received by him for the disposal has been applied by him in acquiring other property (in this section referred to as “the replacement property”).

(2) This section does not apply unless—

- (a) the replacement property is acquired, or a binding contract for its acquisition is entered into, within

twelve months after the disposal of the original property (or, as the case may be, the part concerned); and

- (b) the disposal and acquisition are both made in transactions at arm's length or on terms such as might be expected to be included in a transaction at arm's length.

(3) Where this section applies, the conditions in section 124A(3) above shall be taken to be satisfied in relation to the original property (or, as the case may be, the part concerned) if—

- (a) the replacement property is owned by the transferee immediately before the death of the transferor and is not at that time subject to a binding contract for sale; and
- (b) throughout the period beginning with the date of the chargeable transfer and ending with the disposal, the original property was owned by the transferee and occupied (by the transferee or another) for the purposes of agriculture; and
- (c) throughout the period beginning with the date when the transferee acquired the replacement property and ending with the death, the replacement property was owned by the transferee and occupied (by the transferee or another) for the purposes of agriculture; and
- (d) the replacement property is agricultural property immediately before the death.

(4) If the transferee has died before the transferor, any reference in subsections (1) to (3) above to the death of the transferor shall have effect as a reference to the death of the transferee.

(5) In any case where—

- (a) all or part of the original property has been disposed of before the death of the transferor or is subject to a binding contract for sale at the time of the death, and
- (b) the replacement property is acquired, or a binding contract for its acquisition is entered into, after the death of the transferor but within twelve months after the disposal of the original property or part, and
- (c) the transferor dies before the transferee,

subsection (3) above shall have effect with the omission of paragraphs (a) and (c), and as if any reference to a time immediately before the death of the transferor were a reference to the time when the replacement property is acquired.

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(6) Section 124A(6) above shall have effect in relation to the replacement property as it has effect in relation to the original property.

(7) Where a binding contract for the disposal of any property is entered into at any time before the disposal of the property, the disposal shall be regarded for the purposes of subsections (2)(a) and (5)(b) above as taking place at that time.

(8) In this section “the original property” and “the transferee” have the same meaning as in section 124A above.”

23.—(1) In section 131 (relief in respect of additional tax payable on transfers within three years of death), in subsection (1) for the words from “(by virtue” to “transfer and” there shall be substituted “because of the transferor’s death within seven years of the transfer, tax becomes chargeable in respect of the value transferred by a potentially exempt transfer or (by virtue of section 7(4) above) additional tax becomes chargeable in respect of the value transferred by any other chargeable transfer and (in either case)”.

(2) In subsection (2) of that section for the words “the additional tax”, in each place where they occur, there shall be substituted “the tax or, as the case may be, additional tax”.

(3) After that subsection there shall be inserted the following subsection—

“(2A) Where so much of the value transferred as is attributable to the value, or agricultural value, of the transferred property is reduced by any percentage (in this subsection referred to as “the appropriate percentage”), in accordance with Chapter I or Chapter II of this Part of this Act, references in subsection (2) above to the market value of the transferred property at any time shall have effect—

- (a) in a case within Chapter I, as references to that market value reduced by the appropriate percentage; and
- (b) in a case within Chapter II, as references to that market value less the appropriate percentage of the agricultural value of the transferred property at that time.”

24. In section 142 (alteration of dispositions taking effect on death) at the end of subsection (5) there shall be added “or section 102 of the Finance Act 1986”.

25. Sections 148 and 149 (exemptions for mutual transfers) shall not apply if the donee’s transfer (as defined in section 148) is made on or after 18th March 1986.

26. In section 199 (liability for tax etc. on dispositions by transferor) for subsection (2) there shall be substituted the following subsection—

“(2) Subsection (1)(a) above shall apply in relation to—

- (a) the tax on the value transferred by a potentially exempt transfer; and

- (b) so much of the tax on the value transferred by any other chargeable transfer made within seven years of the transferor's death as exceeds what it would have been had the transferor died more than seven years after the transfer,

with the substitution for the reference to the transferor of a reference to his personal representatives."

27. In section 201 (liability for tax in respect of settled property), in subsection (2) for the words "three years", in each place where they occur, there shall be substituted "seven years".

28.—(1) In section 204 (limitation of liability), subsection (4) shall be omitted.

(2) In subsection (6)(a) of that section, after the word "transferor" there shall be inserted "or personal representative of the transferor".

(3) For subsection (7) of that section there shall be substituted the following subsections—

"(7) Where the tax exceeds what it would have been had the transferor died more than seven years after the transfer, subsection (6) above shall not apply in relation to the excess.

(8) A person liable by virtue of section 199(2) above for any tax as personal representative of the transferor shall be liable only to the extent that either—

(a) in consequence of subsections (2), (3) and (5) above, no person falling within paragraphs (b) to (d) of section 199(1) above is liable for the tax, or

(b) the tax remains unpaid twelve months after the end of the month in which the death of the transferor occurs,

and, subject to that, shall be liable only to the extent of the assets mentioned in subsection (1) above.

(9) Where by virtue of subsection (3) of section 102 of the Finance Act 1986 the estate of a deceased person is treated as including property which would not apart from that subsection form part of his estate, a person shall be liable under section 200(1)(a) above as personal representative for tax attributable to the value of that property only if the tax remains unpaid twelve months after the end of the month in which the death occurs and, subject to that, only to the extent of the assets mentioned in subsection (1) above."

29.—(1) In section 216 (delivery of accounts) in subsection (1) after paragraph (b) there shall be inserted the following paragraphs—

"(bb) is liable under section 199(1)(b) above for tax on the value transferred by a potentially exempt transfer which proves to be a chargeable transfer, or would be so liable if tax were chargeable on that value, or

(bc) is liable under section 200(1)(c) above for tax on the value transferred by a chargeable transfer made on death, so far as

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the tax is attributable to the value of property which, apart from section 102(3) of the Finance Act 1986, would not form part of the deceased's estate, or would be so liable if tax were chargeable on the value transferred on the death, or".

(2) In subsection (3) of that section after the words "his death" there shall be inserted "other than property which would not, apart from section 102(3) of the Finance Act 1986, form part of his estate".

(3) In subsection (6) of that section after paragraph (a) there shall be inserted the following paragraphs—

"(aa) in the case of an account to be delivered by a person within subsection (1)(bb) above, before the expiration of the period of twelve months from the end of the month in which the death of the transferor occurs;

(ab) in the case of an account to be delivered by a person within subsection (1)(bc) above, before the expiration of the period of twelve months from the end of the month in which the death occurs".

30.—(1) In section 226 (payment: general rules), in subsection (3) for the words "three years", in each place where they occur, there shall be substituted "seven years".

(2) After subsection (3) of that subsection there shall be inserted the following subsections—

"(3A) Without prejudice to subsection (3) above, the tax chargeable on the value transferred by a potentially exempt transfer which proves to be a chargeable transfer shall be due six months after the end of the month in which the transferor's death occurs.

(3B) So much (if any) of the tax chargeable on the value transferred by a chargeable transfer made under Chapter III of Part III of this Act within the period of seven years ending with the settlor's death as exceeds what it would have been had the settlor died more than seven years after the date of the transfer shall be due six months after the end of the month in which the death occurs."

31.—(1) In section 227 (payment by instalments) after subsection (1) there shall be inserted the following subsections—

"(1A) Subsection (1) above does not apply to tax payable on the value transferred by a potentially exempt transfer which proves to be a chargeable transfer, except to the extent that the tax is attributable to qualifying property which is owned by the transferee immediately before the death of the transferor (or, if earlier, his own death).

(1B) In subsection (1A) above "the transferee" means the person whose property the qualifying property became on the transfer or, where on the transfer the qualifying property became comprised in a settlement in which no qualifying interest in possession (within the meaning of Chapter III of Part III of this Act) subsists, the trustees of the settlement."

(2) In subsection (5) of that section after the words “subsection (1)(b) above” there shall be inserted “other than a case within subsection (1A) above where the transferee dies before the transferor”.

32. In section 233 (interest on unpaid tax) in subsection (2) for paragraphs (a) and (b) there shall be substituted—

- “(a) if the chargeable transfer was made on death or is a potentially exempt transfer, 9 per cent;
- (b) in any other case, 11 per cent;”

33.—(1) In section 236 (application of section 233 in special cases etc.), in subsection (1)(a), for the words “three years”, in each place where they occur, there shall be substituted “seven years”.

(2) After subsection (1) of that section there shall be inserted the following subsection—

“(1A) Section 233 above shall apply in relation to the amount (if any) by which—

- (a) the tax chargeable on the value transferred by a chargeable transfer made under Chapter III of Part III of this Act within the period of seven years ending with the settlor’s death,

exceeds

- (b) what that tax would have been had the settlor died more than seven years after the date of the transfer,

as if the chargeable transfer had been made on the death of the settlor.”

34. In section 237 (imposition of charge) after subsection (3) there shall be inserted the following subsection—

“(3A) In the case of a potentially exempt transfer which proves to be a chargeable transfer—

- (a) property concerned, or an interest in property concerned, which has been disposed of to a purchaser before the transferor’s death is not subject to the Inland Revenue charge, but
- (b) property concerned which has been otherwise disposed of before the death and property which at the death represents any property or interest falling within paragraph (a) above shall be subject to the charge;

and in this subsection “property concerned” means property to the value of which the value transferred by the transfer is wholly or partly attributable.”

35. In section 239 (certificates of discharge) after subsection (2) there shall be inserted the following subsection—

“(2A) An application under subsection (1) or (2) above with respect to tax which is or may become chargeable on the value transferred by a potentially exempt transfer may not be made before the expiration of two years from the death of the transferor

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(except where the Board think fit to entertain the application at an earlier time after the death)."

36. For Schedule 1 (rates of tax) there shall be substituted—

“SCHEDULE 1

TABLE OF RATES OF TAX

Portion of value		Rate of tax
Lower limit	Upper limit	Per cent
£	£	
0	71,000	Nil
71,000	95,000	30
95,000	129,000	35
129,000	164,000	40
164,000	206,000	45
206,000	257,000	50
257,000	317,000	55
317,000	—	60”.

37.—(1) In Schedule 2 (provisions applying on reduction of tax),—

- (a) for the words “new Tables”, wherever occurring, there shall be substituted “a new Table”; and
- (b) for the words “the Tables”, wherever occurring, there shall be substituted “the Table”.

(2) In paragraph (1)(b) of that Schedule for the word “come” there shall be substituted “comes”.

(3) After paragraph 1 of that Schedule there shall be inserted the following paragraph—

“Death within seven years of potentially exempt transfer

1A. Where a person who has made a potentially exempt transfer before a reduction dies after that reduction (or after that and one or more subsequent reductions) and within the period of seven years beginning with the date of the transfer, tax shall be chargeable by reason of the transfer proving to be a chargeable transfer only if, and to the extent that, it would have been so chargeable if the Table in Schedule 1 as substituted by that reduction (or by the most recent of those reductions) had applied to that transfer.”

(4) In paragraph 2 of that Schedule,—

- (a) for the words “three years”, wherever occurring, there shall be substituted “seven years”; and
- (b) after the words “chargeable transfer” there shall be inserted “(other than a potentially exempt transfer)”; and
- (c) the words “the first of” shall be omitted.

(5) In paragraph 3 of that Schedule, the words “the second of” shall be omitted.

(6) In paragraph 4 of that Schedule, the words “the first of” shall be omitted.

38.—(1) In Schedule 4 (maintenance funds for historic buildings etc.) in paragraph 14 (rate of charge) in sub-paragraphs (1) to (3), for the words “under the appropriate Table”, wherever occurring, there shall be substituted “in accordance with the appropriate provision of section 7 of this Act”.

(2) After sub-paragraph (1) of that paragraph there shall be inserted the following sub-paragraph—

“(1A) The rate or rates of tax determined under sub-paragraph (1) above in respect of any occasion shall not be affected by the death of the settlor after that occasion.”

(3) In sub-paragraph (6) of that paragraph for the words “ten years” there shall be substituted “seven years”.

(4) For sub-paragraph (9) of that paragraph there shall be substituted the following sub-paragraph—

“(9) For the purposes of sub-paragraph (1) above the appropriate provision of section 7 of this Act is subsection (2), and for the purposes of sub-paragraphs (2) and (3) above it is (if the settlement was made on death) subsection (1) and (if not) subsection (2).”

39. In Schedule 6 (transition from estate duty) in paragraph 4(3) after the words “sections 33(7)” there shall be inserted the words “and (8).”

PART II

TRANSITIONAL PROVISIONS

40.—(1) Notwithstanding that Part I of this Schedule has effect with respect to events occurring on or after 18th March 1986, where a death or other event occurs on or after that date, nothing in that Part shall affect the tax chargeable on a transfer of value occurring before that date.

(2) Sub-paragraph (1) above does not authorise the making of a claim under section 149 of the 1984 Act where the donee's transfer, as defined in section 148 of that Act, occurs on or after 18th March 1986.

41. Where tax is chargeable under section 32 or section 32A of the 1984 Act by reason of a chargeable event occurring on or after 18th March 1986 and the rate or rates at which it is charged fall to be determined under the provisions of section 33(1)(b)(ii) of the 1984 Act by reference to a death which occurred before that date, those provisions shall apply (subject to paragraph 5 of Schedule 2 to that Act) as if the amendments of section 7 of, and Schedule 1 to, that Act contained in Part I of this Schedule had been in force at the time of the death.

42. Where tax is chargeable under paragraph 8 of Schedule 4 to the 1984 Act on any occasion on or after 18th March 1986 and the rate

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at which it is charged falls to be determined under paragraph 14 of that Schedule by reference to a death which occurred before that date, that paragraph shall apply (subject to paragraph 6 of Schedule 2 to the 1984 Act) as if the amendments of section 7 of, and Schedule 1 to, the 1984 Act contained in Part I of this Schedule had been in force at the time of the death.

43.—(1) This paragraph applies if, in the case of a settlement,—

- (a) tax is charged under section 65 of the 1984 Act on an occasion falling on or after 18th March 1986; and
- (b) the rate at which tax is so charged falls to be determined under section 69 of that Act (rate between ten-year anniversaries) by reference to the rate (in this paragraph referred to as “the last ten-year rate”) at which tax was last charged under section 64 of that Act (or would have been charged apart from section 66(2) thereof); and
- (c) the most recent ten-year anniversary fell before 18th March 1986.

(2) For the purpose of determining the rate at which tax is charged on the occasion referred to in sub-paragraph (1)(a) above, it shall be assumed that the last ten-year rate was what that rate would have been if, immediately before the ten-year anniversary referred to in sub-paragraph (1)(c) above, the amendments of sections 66 and 67 of the 1984 Act contained in Part I of this Schedule had been in force.

(3) Where this paragraph applies, paragraph 3 of Schedule 2 to the 1984 Act shall have effect as if—

- (a) references to a reduction included references to a reduction by the substitution of a new Table in Schedule 1 to the 1984 Act; and
- (b) in relation to a reduction resulting from the substitution of such a new Table, the reference to the second of the Tables in Schedule 1 to the 1984 Act were a reference to a Table in which the rates of tax were one-half of those specified in the new Table.

(4) In this paragraph “ten-year anniversary” has the same meaning as in Chapter III of Part III of the 1984 Act.

44. In relation to a death on or after 18th March 1986, paragraph 2 of Schedule 2 to the 1984 Act (provisions applying on reduction of tax) shall have effect, in a case where the chargeable transfer in question was made before 18th March 1986, as if—

- (a) references to a reduction included references to a reduction by the substitution of a new Table in Schedule 1 to the 1984 Act; and
- (b) the Table in Schedule 1 to the Act was the first Table in that Schedule.

45. In relation to a disposal of trees or underwood on or after 18th March 1986, paragraph 4 of Schedule 2 to the 1984 Act shall have

effect, in a case where the death in question occurred before 18th March 1986, as mentioned in paragraphs (a) and (b) of paragraph 44 above.

46. Notwithstanding anything in section 3A of the 1984 Act, a transfer of value which is made on or after 1st July 1986 and which, by virtue of subsection (4) of section 49 of the Finance Act 1975 (transitional provision relating to estate duty deferment in respect of timber etc.), brings to an end the period during which estate duty is payable on the net moneys received from the sale of timber etc. is not a potentially exempt transfer. 1975 c. 7.

SCHEDULE 20

Section 102.

GIFTS WITH RESERVATION

Interpretation and application

1.—(1) In this Schedule—

“the material date”, in relation to any property means, in the case of property falling within subsection (3) of the principal section, the date of the donor’s death and, in the case of property falling within subsection (4) of that section, the date on which the property ceases to be property subject to a reservation;

“the principal section” means section 102 of this Act; and

“property subject to a reservation” has the same meaning as in the principal section.

(2) Any reference in this Schedule to a disposal by way of gift is a reference to such a disposal which is made on or after 18th March 1986.

(3) This Schedule has effect for the purposes of the principal section and the 1984 Act.

Substitutions and accretions

2.—(1) Where there is a disposal by way of gift and, at any time before the material date, the donee ceases to have the possession and enjoyment of any of the property comprised in the gift, then on and after that time the principal section and the following provisions of this Schedule shall apply as if the property, if any, received by the donee in substitution for that property had been comprised in the gift instead of that property (but in addition to any other property comprised in the gift).

(2) This paragraph does not apply if the property disposed of by the gift—

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- (a) becomes settled property by virtue of the gift; or
- (b) is a sum of money in sterling or any other currency.

(3) In sub-paragraph (1) above the reference to property received by the donee in substitution for property comprised in the gift includes in particular—

- (a) in relation to property sold, exchanged or otherwise disposed of by the donee, any benefit received by him by way of consideration for the sale, exchange or other disposition; and
- (b) in relation to a debt or security, any benefit received by the donee in or towards the satisfaction or redemption thereof; and
- (c) in relation to any right to acquire property, any property acquired in pursuance of that right.

(4) Where, at a time before the material date, the donee makes a gift of property comprised in the gift to him, or otherwise voluntarily divests himself of any such property otherwise than for a consideration in money or money's worth not less than the value of the property at that time, then, unless he does so in favour of the donor, he shall be treated for the purposes of the principal section and sub-paragraph (1) above as continuing to have the possession and enjoyment of that property.

(5) For the purposes of sub-paragraph (4) above—

- (a) a disposition made by the donee by agreement shall not be deemed to be made voluntarily if it is made to any authority who, when the agreement is made, is authorised by, or is or can be authorised under, any enactment to acquire the property compulsorily; and
- (b) a donee shall be treated as divesting himself, voluntarily and without consideration, of any interest in property which merges or is extinguished in another interest held or acquired by him in the same property.

(6) Where any shares in or debentures of a body corporate are comprised in a gift and the donee is, as the holder of those shares or debentures, issued with shares in or debentures of the same or any other body corporate, or granted any right to acquire any such shares or debentures, then, unless the issue or grant is made by way of exchange for the first-mentioned shares or debentures, the shares or debentures so issued, or the right granted, shall be treated for the purposes of the principal section and this Schedule as having been comprised in the gift in addition to any other property so comprised.

(7) In sub-paragraph (6) above the reference to an issue being made or right being granted to the donee as the holder of shares or debentures shall be taken to include any case in which an issue or grant is made to him as having been the holder of those shares or debentures, or is made to him in pursuance of an offer or invitation made to him as being or having been the holder of those shares or debentures, or of an offer or invitation in connection with which any preference is given to him as being or having been the holder thereof.

3.—(1) Where either sub-paragraph (3)(c) or sub-paragraph (6) of paragraph 2 above applies to determine, for the purposes of the principal section, the property comprised in a gift made by a donor—

- (a) the value of any consideration in money or money's worth given by the donee for the acquisition in pursuance of the right referred to in the said sub-paragraph (3)(c) or for the issue or grant referred to in the said sub-paragraph (6), as the case may be, shall be allowed as a deduction in valuing the property comprised in the gift at any time after the consideration is given, but
- (b) if any part (not being a sum of money) of that consideration consists of property comprised in the same or another gift from the donor and treated for the purposes of the 1984 Act as forming part of the donor's estate immediately before his death or as being attributable to the value transferred by a potentially exempt transfer made by him, no deduction shall be made in respect of it under this sub-paragraph.

(2) For the purposes of sub-paragraph (1) above, there shall be left out of account so much (if any) of the consideration for any shares in or debentures of a body corporate, or for the grant of any right to be issued with any such shares or debentures, as consists in the capitalisation of reserves of that body corporate, or in the retention by that body corporate, by way of set-off or otherwise, of any property distributable by it, or is otherwise provided directly or indirectly out of the assets or at the expense of that or any associated body corporate.

(3) For the purposes of sub-paragraph (2) above, two bodies corporate shall be deemed to be associated if one has control of the other or if another person has control of both.

Donee predeceasing the material date

4. Where there is a disposal by way of gift and the donee dies before the date which is the material date in relation to any property comprised in the gift, paragraphs 2 and 3 above shall apply as if—

- (a) he had not died and the acts of his personal representatives were his acts; and
- (b) property taken by any person under his testamentary dispositions or his intestacy (or partial intestacy) were taken under a gift made by him at the time of his death.

Settled gifts

5.—(1) Where there is a disposal by way of gift and the property comprised in the gift becomes settled property by virtue of the gift, paragraphs 2 to 4 above shall not apply but, subject to the following provisions of this paragraph, the principal section and the following provisions of this Schedule shall apply as if the property comprised in the gift consisted of the property comprised in the settlement on the material date, except in so far as that property neither is, nor represents, nor is derived from, property originally comprised in the gift.

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(2) If the settlement comes to an end at some time before the material date as respects all or any of the property which, if the donor had died immediately before that time, would be treated as comprised in the gift,—

- (a) the property in question, other than property to which the donor then becomes absolutely and beneficially entitled in possession, and
- (b) any consideration (not consisting of rights under the settlement) given by the donor for any of the property to which he so becomes entitled,

shall be treated as comprised in the gift (in addition to any other property so comprised).

(3) Where property comprised in a gift does not become settled property by virtue of the gift, but is before the material date settled by the donee, sub-paragraphs (1) and (2) above shall apply in relation to property comprised in the settlement as if the settlement had been made by the gift ; and for this purpose property which becomes settled property under any testamentary disposition of the donee or on his intestacy (or partial intestacy) shall be treated as settled by him.

(4) Where property comprised in a gift becomes settled property either by virtue of the gift or as mentioned in sub-paragraph (3) above, any property which—

- (a) on the material date is comprised in the settlement, and
- (b) is derived, directly or indirectly, from a loan made by the donor to the trustees of the settlement,

shall be treated for the purposes of sub-paragraph (1) above as derived from property originally comprised in the gift.

(5) Where, under any trust or power relating to settled property, income arising from that property after the material date is accumulated, the accumulations shall not be treated for the purposes of sub-paragraph (1) above as derived from that property.

Exclusion of benefit

6.—(1) In determining whether any property which is disposed of by way of gift is enjoyed to the entire exclusion, or virtually to the entire exclusion, of the donor and of any benefit to him by contract or otherwise—

- (a) in the case of property which is an interest in land or a chattel, retention or assumption by the donor of actual occupation of the land or actual enjoyment of an incorporeal right over the land, or actual possession of the chattel shall be disregarded if it is for full consideration in money or money's worth ;
- (b) in the case of property which is an interest in land, any occupation by the donor of the whole or any part of the land shall be disregarded if—

- (i) it results from a change in the circumstances of the donor since the time of the gift, being a change which was

unforeseen at that time and was not brought about by the donor to receive the benefit of this provision ; and

(ii) it occurs at a time when the donor has become unable to maintain himself through old age, infirmity or otherwise ; and

(iii) it represents a reasonable provision by the donee for the care and maintenance of the donor ; and

(iv) the donee is a relative of the donor or his spouse ;

(c) a benefit which the donor obtained by virtue of any associated operations (as defined in section 268 of the 1984 Act) of which the disposal by way of gift is one shall be treated as a benefit to him by contract or otherwise.

(2) Any question whether any property comprised in a gift was at any time enjoyed to the entire exclusion, or virtually to the entire exclusion, of the donor and of any benefit to him shall (so far as that question depends upon the identity of the property) be determined by reference to the property which is at that time treated as property comprised in the gift.

(3) In the application of this paragraph to Scotland, references to a chattel shall be construed as references to a corporeal moveable.

7.—(1) Where arrangements are entered into under which—

(a) there is a disposal by way of gift which consists of or includes, or is made in connection with, a policy of insurance on the life of the donor or his spouse or on their joint lives, and

(b) the benefits which will or may accrue to the donee as a result of the gift vary by reference to benefits accruing to the donor or his spouse (or both of them) under that policy or under another policy (whether issued before, at the same time as or after that referred to in paragraph (a) above),

the property comprised in the gift shall be treated for the purposes of the principal section as not enjoyed to the entire exclusion, or virtually to the entire exclusion, of the donor.

(2) In sub-paragraph (1) above—

(a) the reference in paragraph (a) to a policy on the joint lives of the donor and his spouse includes a reference to a policy on their joint lives and on the life of the survivor ; and

(b) the reference in paragraph (b) to benefits accruing to the donor or his spouse (or both of them) includes a reference to benefits which accrue by virtue of the exercise of rights conferred on either or both of them.

Agricultural property and business property

8.—(1) Where there is a disposal by way of gift of property which, in relation to the donor, is at that time—

(a) relevant business property within the meaning of Chapter I of Part V of the 1984 Act, or

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- (b) agricultural property, within the meaning of Chapter II of that Part, to which section 116 of that Act applies, or
- (c) shares or securities to which section 122(1) of that Act applies (agricultural property of companies),

and that property is property subject to a reservation, then, subject to the following provisions of this paragraph, any question whether, on the material transfer of value, relief is available by virtue of Chapter I or Chapter II of Part V of the 1984 Act and, if so, what is the appropriate percentage for the relief shall be determined as if, so far as it is attributable to the property comprised in the gift, that transfer were a transfer of value by the donee.

(2) For the purpose only of determining whether, on the transfer of value which, by virtue of sub-paragraph (1) above, the donee is assumed to make, the requirement of section 106 or, as the case may be, section 117 of the 1984 Act (minimum period of ownership or occupation) is fulfilled,—

- (a) ownership by the donor prior to the disposal by way of gift shall be treated as ownership by the donee ; and
- (b) occupation by the donor prior to the disposal and any occupation by him after that disposal shall be treated as occupation by the donee.

(3) Where the property disposed of by the gift consists of shares or securities falling within paragraph (c) of sub-paragraph (1) above, that sub-paragraph shall not apply unless—

- (a) section 116 of the 1984 Act applied in relation to the value transferred by the disposal, and
- (b) throughout the period beginning with the disposal and ending on the material date, the shares or securities are owned by the donee,

and for the purpose only of determining whether, on the transfer of value which, by virtue of sub-paragraph (1) above, the donee is assumed to make, the requirements of subsection (1) of section 123 of the 1984 Act are fulfilled, it shall be assumed that the requirement in paragraph (b) of that subsection (as to the ownership of the shares or securities) is fulfilled.

(4) In this paragraph, “the material transfer of value” means, as the case may require,—

- (a) the transfer of value under section 4 of the 1984 Act on the death of the donor ; or
- (b) the transfer of value under subsection (4) of the principal section on the property concerned ceasing to be subject to a reservation.

(5) If the donee dies before the material transfer of value, then, as respects any time after his death, any reference in the preceding provisions of this paragraph to the donee shall be construed as a reference to his personal representatives or, as the case may require, the person (if any) by whom the property, shares or securities concerned were taken under a testamentary disposition made by the donee or under his intestacy (or partial intestacy).

SCHEDULE 21

MODIFICATIONS OF FINANCE ACT 1982, SCHEDULE 18 IN
RELATION TO ELECTIONS UNDER SECTION 109 OF THIS ACTSection 109.
1982 c. 39.*General modifications*

1.—(1) For any reference in the 1982 Schedule to ethane there shall be substituted a reference to light gases, as defined in section 109 of this Act.

(2) Except as provided below, any reference in the 1982 Schedule to section 134 of the Finance Act 1982 shall be construed as a reference to section 109 of this Act.

Specific modifications

2.—(1) In paragraph 1 (provisions as to the election), in sub-paragraph (2)(b) for the words “and not exceeding fifteen years” there shall be substituted “or in the case of an election made before 31st December 1986, beginning on 1st July 1986” and for sub-paragraph (2)(d) there shall be substituted—

“(d) specify the purposes for which the light gases to which the election applies will be applied or used.”

(2) At the end of that paragraph there shall be inserted the following sub-paragraph—

“(4) If an election relates to light gases, then, in addition to the matters referred to in sub-paragraph (2) above, the election shall contain—

- (a) a description of the characteristics of the supply by which the disposal or appropriation is intended to be effected; and
- (b) if that supply is of such a description that, if it were under a contract at arm's length, it is reasonable to expect that the price of the gas would vary with the level of the supply, a description of the pattern of supply which the party or parties to the election consider most probable.”

3.—(1) In paragraph 2 (conditions for acceptance of an election) in sub-paragraph (1) after the words “and (3)” there shall be inserted “and paragraph 2A”.

(2) In sub-paragraph (2) of that paragraph, after the words “such that” there shall be inserted “subject to paragraphs 2A and 3A below”.

4. After paragraph 2 there shall be inserted the following paragraph—

“2A.—(1) The provisions of this paragraph apply if, having regard to the pattern of supply described in an election as mentioned in paragraph 1(4)(b) above, it is reasonable to assume that, under a contract for the sale at arm's length of the light gases to which the election applies, the consideration would include—

- (a) any such payments as are referred to in subsection (2) of section 114 of the Finance Act 1984 (“take or pay” 1984 c. 43. payments), or
- (b) any capacity payments, as defined in subsection (5) of that section.

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(2) The relevant contract—

- (a) shall be assumed to be for the delivery of gas according to the pattern of supply described in the election ; and
- (b) shall be assumed to contain provision for such of the payments referred to in sub-paragraph (1) above as are appropriate to that pattern of supply.

(3) Sub-paragraph (1) of paragraph 2 above shall have effect as if for the words following “sale at arm’s length” there were substituted “of the light gases to which the election applies, the total sums payable under the contract in respect of deliveries of gas in any chargeable period would not differ materially from the sums determined in accordance with the price formula specified in the election for gases disposed of or appropriated in that period; and if the Board are not so satisfied they shall reject the election”.

(4) The price formula specified in the election shall contain provisions for determining sums corresponding to such of the payments referred to in sub-paragraph (1) above as, by virtue of sub-paragraph (2) above, are assumed to be provided for by the relevant contract.”

5.—(1) In paragraph 3 (definition of “the relevant contract”) in paragraph (a) after the word “and”, in the first place where it occurs, there shall be inserted the words “which, subject to sub-paragraph (3) below” and in the words following paragraph (b) for the words from “is not” onwards, there shall be substituted “which, subject to paragraph 2A(2) above, is not necessarily a contract for the sale of light gases for the purposes specified in the election”.

(2) At the end of that paragraph there shall be added the following sub-paragraphs—

“(3) In the case of an election which relates to light gases which are “excluded oil”, as defined in section 10(1) of the principal Act, sub-paragraph (1)(a) above shall have effect with the omission of the words from “and which” to “date of the election”.

(4) Sub-paragraph (4) of paragraph 2A of Schedule 3 to the principal Act (assumptions as to consents in determining price under an arm’s length contract) shall apply for the purposes of paragraphs 2 and 2A above as it applies for the purposes of paragraph 2 of that Schedule, substituting a reference to a relevant contract (as defined above) for any reference to the contract mentioned in paragraph 2(2) of that Schedule.”

6. After paragraph 3 there shall be inserted the following paragraph—

“Market value where paragraph 2A applies

3A.—(1) Where an election is accepted by the Board and the price formula contains provision for the determination of sums as mentioned in paragraph 2A(4) above, then, for the purpose of determining the market value of gas to which the election applies,

section 114 of the Finance Act 1984 (which deals with the treatment of such payments as are referred to in paragraph 2A(1) above) shall have effect in relation to those sums and that gas as if—

- (a) those sums were part of the consideration under a contract for the sale of gas to which the election applies, and
- (b) that contract provided for delivery of the gas according to the pattern of supply described in the election,

and where the said section 114 has effect by virtue of this sub-paragraph, subsections (4), (6) and (7) of that section (which provide for and relate to the deemed delivery of one tonne of oil in certain periods) shall be treated for the purposes of the principal Act as providing for and relating to the deemed disposal or appropriation of one tonne of gas to which the election applies.

(2) Where sub-paragraph (1) above applies, the market value of the gas to which the election applies which is disposed of or appropriated in any chargeable period shall consist of—

- (a) such amount (if any) as is determined in accordance with the price formula by reference to the quantity of gas disposed of or appropriated in that chargeable period; and
- (b) any sums which, by virtue of sub-paragraph (1) above, either are treated as payments for gas supplied free of charge in that period or are treated as an additional element of the price received or receivable for gas disposed of or appropriated in that period.

(3) Where the market value of gas is determined as mentioned in sub-paragraph (2) above, any reference in the following provisions of this Schedule (however expressed) to the market value determined in accordance with the price formula is a reference to that value determined as mentioned in that sub-paragraph (that is to say, in accordance with the formula and section 114 of the Finance Act 1984 as applied by sub-paragraph (1) above).

(4) Where the market value of light gases to which an election applies is determined for a chargeable period as mentioned in sub-paragraph (2) above then, as respects a return for that period under paragraph 2 of Schedule 2 to the principal Act which is made by the participator who is the party or one of the parties to the election,—

- (a) sub-paragraphs (2)(a)(iii) and (2)(b)(ii) of that paragraph (which require information with respect to each delivery or relevant appropriation of oil in the period) shall not apply in relation to the light gases to which the election applies; and
- (b) there shall be included in his return a statement of the market value (determined as mentioned in sub-paragraph (2) above) of the light gases relevantly appropriated or disposed of by him in that period.

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(5) Notwithstanding that, under sub-paragraph (2) above, a market value is determined for all the gas disposed of or appropriated in a particular chargeable period, for the purposes of determining—

- (a) the market value referred to in section 2(5)(d) of the principal Act (stocks at the end of a period), and
- (b) the market value referred to in subsection (1) or, as the case may be, subsection (2) of section 14 of that Act (valuation for corporation tax purposes of oil disposed of or appropriated),

then, except in a case where the only gas disposed of or appropriated in a particular chargeable period is a single tonne which, by virtue of sub-paragraph (1) above, is treated as being disposed of or appropriated, the market value determined as mentioned in sub-paragraph (2) above shall be apportioned rateably to each quantity of gas disposed of or appropriated in that period.”

7. After paragraph 6 there shall be inserted the following paragraph—

“Price formula no longer appropriate for pattern of supply, etc.

6A—(1) In any case where it appears to the Board—

- (a) that light gases to which an election applies are being disposed of or appropriated in a manner, to an extent or by a pattern of supply which is different from that which was taken into consideration in the acceptance of the election, and
- (b) that if, at the time the Board were considering whether the election should be accepted, they had taken into account as a probability the manner, extent or pattern of supply by which the gases are in fact being disposed of, they would have rejected the election,

then, subject to sub-paragraph (4) below, the election shall not have effect with respect to any chargeable period beginning after the date on which the Board give notice under this paragraph to each of the parties to the election.

(2) Without prejudice to the generality of sub-paragraph (1) above, if at any time in a chargeable period the extent to which gases to which an election applies are disposed of or relevantly appropriated (including the case where none is so disposed of or appropriated) is such that, if the gas were being delivered under a contract at arms’s length,—

- (a) the seller would be likely to incur financial penalties by reason of a failure to meet requirements arising from the pattern of supply described in the election, and
- (b) those penalties would not be insubstantial,

that shall be a ground for the Board to give notice under this paragraph.

(3) A notice under this paragraph shall state that, by reason of the matters referred to in sub-paragraph (1) above, the Board are no longer satisfied that the price formula specified in the election is appropriate to the disposals or appropriations actually being made of gases to which the election applies.

(4) If, within the period of three months beginning on the date of a notice under this paragraph, the party or parties to the election give notice in writing to the Board—

(a) specifying a new price formula taking account of the manner, extent or pattern of supply by which the gases to which the election applies are being disposed of or appropriated, and

(b) containing, if appropriate, a description of the changed pattern of supply which, at the time of the notice, the party or parties to the election consider most probable, then, if that new price formula is accepted by the Board in accordance with paragraph 7 below, so much of sub-paragraph (1) above as provides that the election shall not have effect with respect to certain periods shall not apply.

(5) If notice has been given under sub-paragraph (4) above and a new price formula has been accepted as mentioned in that sub-paragraph, then, for the purpose of determining, for any chargeable period beginning after the date on which the Board gave notice as mentioned in sub-paragraph (1) above, the market value of light gases to which the election applies, section 109 of the Finance Act 1986 shall have effect as if the new price formula were the formula specified in the election.”

8.—(1) In paragraph 7 (acceptance or rejection of new price formula) in sub-paragraph (2) after the words “paragraph 3” there shall be inserted “and, where appropriate, paragraphs 2A and 3A”; and at the end of paragraph (b) of that sub-paragraph there shall be inserted “or

(c) a new price formula specified in a notice under paragraph 6A(4) above”;

and for the words from “were specified” onwards there shall be substituted “had been specified in, and at the time of, the election and as if the circumstances giving rise to the new price formula had been in contemplation at that time”.

(2) In sub-paragraph (5) of that paragraph, after “6(5)(b)” there shall be inserted “or paragraph 6A(4)”.

9.—(1) In paragraph 8 (appeals) in sub-paragraph (1) after paragraph (d) there shall be inserted the following paragraph—

“(dd) under paragraph 6A above, that a price formula is no longer appropriate”.

(2) In sub-paragraph (4)(b) of that paragraph after “6(1)(b)” there shall be inserted “or paragraph 6A”.

10. In paragraph 9 (returns)—

(a) after “6(1)(b)” there shall be inserted “or paragraph 6A”; and

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- (b) for the words "section 134(3) of this Act" there shall be substituted "section 109(4) of the Finance Act 1986"; and
- (c) in paragraph (b) after "6" there shall be inserted "or paragraph 6A".

11.—(1) In paragraph 11 (interpretation) sub-paragraph (1) shall be omitted.

(2) In sub-paragraph (2) of that paragraph the words from "to an election" to "and any reference" shall be omitted.

(3) In sub-paragraph (4) of that paragraph for the words "section 134(2)(a) of this Act" there shall be substituted "section 109(3)(a) of the Finance Act 1986".

Section 111.

SCHEDULE 22

BROADCASTING: ADDITIONAL PAYMENTS BY
PROGRAMME CONTRACTORS

PART I

AMENDMENT OF BROADCASTING ACT 1981

1981 c. 68.

1.—(1) Section 32 of the Broadcasting Act 1981 (rental payments by programme contractors) shall be amended as follows.

(2) The following Table shall be substituted for the Table in subsection (4)—

"TABLE
RATES OF ADDITIONAL PAYMENTS

	<i>Rate for determining amount of additional payments</i>
<i>First category profits</i>	
For so much of the first category profits for the accounting period as does not exceed the free slice for those profits.	Nil.
For so much of the first category profits for the accounting period as exceeds the free slice for those profits.	The first category rate.
<i>Second category profits</i>	
For so much of the second category profits for the accounting period as does not exceed the free slice for those profits.	Nil.
For so much of the second category profits for the accounting period as exceeds the free slice for those profits.	The second category rate."

(3) After subsection (4) there shall be inserted the following subsection—

“(4A) For the purposes of this section—

“first category profits” and “second category profits” shall be determined in accordance with the provisions of Schedule 4 to this Act ;

“first category rate” means—

(a) in relation to additional payments payable by virtue of subsection (1)(b)—

(i) nil, in the case of persons who are DBS programme contractors or DBS teletext contractors ; and

(ii) 45 per cent, in any other case ; and

(b) in relation to additional payments payable by virtue of subsection (2)(b), nil ;

“free slice” means—

(a) in relation to first category profits, £800,000 or 2.8 per cent. of the advertising receipts for the accounting period (whichever is the greater) ; and

(b) in relation to second category profits, the amount (if any) by which the free slice in relation to first category profits exceeds the first category profits for the accounting period ; and

“second category rate” means—

(a) in relation to additional payments payable by virtue of subsection (1)(b)—

(i) nil, in the case of persons who are DBS programme contractors or DBS teletext contractors ; and

(ii) 22.5 per cent. in any other case ; and

(b) in relation to additional payments payable by virtue of subsection (2)(b), nil.”

(4) In subsection (5) for the words from “sum”, where it first occurs, to “above” there shall be substituted the words “relevant sum mentioned in subsection (4A)”.

(5) In subsection (8) for the words “subsections (4)” there shall be substituted the words “any of the provisions of subsections (4), (4A)”.

(6) In subsection (9)—

(a) the words “to amend subsections (4) and (5)” shall be omitted;

(b) for the words “those subsections”, where they first occur, there shall be substituted the words “the provisions in question”;

(c) for the words “those subsections”, where they next occur, there shall be substituted the words “those provisions”; and

(d) for paragraph (c) there shall be substituted the following paragraphs—

“(c) only in their application in relation to first category profits of all, or specified, kinds ;

(d) only in their application in relation to second category profits of all, or specified, kinds ; or

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(e) differently in their application as mentioned in paragraphs (a) to (d) respectively”.

2.—(1) Section 34 of the Act of 1981 (instalments payable on account by programme contractors in respect of additional payments) shall be amended as follows.

(2) In subsection (2)(b) the words from “when the” to the end shall be omitted.

(3) For subsection (3) there shall be substituted the following subsection—

“(3) Where any amount falls to be paid to a programme contractor to adjust any overpayment made by him, that amount shall be paid to him—

- (a) if the contract is for the supply of programmes to be broadcast for reception in areas or localities all of which are in Great Britain, out of the Consolidated Fund of the United Kingdom;
- (b) if the contract is for the supply of programmes to be broadcast for reception in areas or localities all of which are in Northern Ireland, out of the Consolidated Fund of Northern Ireland; and
- (c) if the contract is one which falls within subsection (2) of section 33, out of each of those Funds, apportioned in the same way as receipts are apportioned under subsection (3)(c) of that section.”

3.—(1) Section 35 of the Act of 1981 (provision for supplementing additional payments) shall be amended as follows.

(2) In paragraph (a) of subsection (1) the words “or is” shall be inserted after the word “is”, where it last occurs.

(3) For paragraph (b) of that subsection there shall be substituted the following paragraph—

“(b) the deficiency is, or would be, wholly or mainly attributable to either or both of the following—

- (i) excessive expenditure forming part of the expenditure by reference to which those additional payments fall to be calculated;
- (ii) in the case of second category profits, the receipt of consideration for the provision of any programme which is less than that which the contractor would have received had the transaction in question been in all respects at arm’s length.”

(4) In subsection (4), for the words “the accounting period to which it relates” there shall be substituted the words “the period of six months beginning with the date on which the programme contractor furnishes to the Authority, in accordance with the terms of his contract as a programme contractor, a copy of his audited accounts for the accounting period to which the order relates”.

(5) After subsection (2) there shall be inserted the following subsection—

“(2A) In determining, for the purposes of subsection (1) of this section, whether in the case of a programme contractor any consideration received by him for the provision of any programme is less than that which the contractor would have received had the transaction in question been in all respects at arm’s length, the Authority or the Secretary of State, as the case may be, shall have regard to such matters as they or he may consider relevant, and in particular to any available information as to—

- (a) the consideration received for the provision by the contractor of the programme in other comparable markets;
- (b) the consideration received by that or any other programme contractor for the provision of other comparable programmes in the same market.”

4. For paragraph 2 of Schedule 4 to the Act of 1981 there shall be substituted the following paragraphs—

“2. A programme contractor’s first category profits for an accounting period shall be ascertained in accordance with paragraph 2A and his second category profits for that accounting period shall be ascertained in accordance with paragraph 2B.

First category profits

2A.—(1) First category profits shall consist of the excess of relevant first category income over relevant first category expenditure.

(2) In this Schedule “relevant first category income” means—

- (a) in relation to any programme contractor other than a DBS programme contractor or DBS teletext contractor, any income of his which is attributable to the provision by him of any programme for broadcasting on ITV, the Fourth Channel or a local sound broadcasting service (whether that programme is provided in the first place to the Authority or to any other person); and
- (b) in relation to any DBS programme contractor or DBS teletext contractor, any income of his which is attributable to the provision by him to the Authority, in accordance with the terms of his contract as a DBS programme contractor or (as the case may be) DBS teletext contractor, of any programme for broadcasting in the Authority’s DBS service to which his contract with the Authority relates.

(3) Without prejudice to the generality of sub-paragraph (2), “relevant first category income” includes—

- (a) advertising receipts;
- (b) income attributable directly or indirectly to any publication whose content (other than advertising) is wholly, or mainly, connected with programme schedules and scheduled programmes; and
- (c) such part of any income which—
 - (i) accrues to any subsidiary of the programme contractor concerned; and

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- (ii) would be relevant first category income of that contractor if he and the subsidiary were a single programme contractor;

as, in the opinion of the Authority, should be attributed to the contractor as reflecting his financial interest in the subsidiary.

(4) In this Schedule “relevant first category expenditure” means any expenditure of the programme contractor concerned which is properly chargeable to revenue account and which is incurred in connection with the provision by him of—

- (a) programmes of a kind mentioned in sub-paragraph (2)(a), in the case of a contractor who is not a DBS programme contractor or DBS teletext contractor; or
- (b) programmes of a kind mentioned in sub-paragraph (2)(b), in the case of a DBS programme contractor or DBS teletext contractor.

(5) Without prejudice to the generality of sub-paragraph (4), “relevant first category expenditure” includes—

- (a) expenditure in connection with the sale of rights to insert advertisements in programmes;
- (b) expenditure in connection with any publication whose content (other than advertising) is wholly, or mainly, connected with programme schedules and scheduled programmes;
- (c) such part of any expenditure which—
 - (i) is incurred by any subsidiary of the programme contractor concerned; and
 - (ii) would be relevant first category expenditure of that contractor if he and the subsidiary were a single programme contractor;

as, in the opinion of the Authority, should be attributed to the contractor as reflecting his financial interest in the subsidiary; and

- (d) in the case of a DBS programme contractor or DBS teletext contractor, any expenditure incurred by him in connection with the provision of the satellite transponder.

(6) In ascertaining relevant first category income or relevant first category expenditure no account shall be taken of interest on any loan.

(7) Where relevant first category income consists of advertising receipts, it shall be attributed to accounting periods in accordance with the foregoing provisions of this Schedule and the same principle shall be followed in relating other items of relevant first category income, and items of relevant first category expenditure, to accounting periods.

(8) In this paragraph “programme” means—

- (a) in the application of this Schedule in relation to the additional payments mentioned in section 32(1)(b), a television programme; and
- (b) in its application in relation to the additional payments mentioned in section 32(2)(b), a local sound broadcast.

Second category profits

2B.—(1) Second category profits shall consist of the excess of relevant second category income over relevant second category expenditure.

(2) In this Schedule “relevant second category income” means any income of the programme contractor concerned which is not relevant first category income but which accrues to him in connection (directly or indirectly) with the provision by him, for broadcasting, distribution or showing (whether or not within the United Kingdom)—

(a) in the case of a programme contractor other than a DBS programme contractor or DBS teletext contractor, of any programme provided by him for broadcasting on ITV, the Fourth Channel or a local sound broadcasting service, or intended by him to be so provided; or

(b) in the case of a DBS programme contractor or DBS teletext contractor, of any programme broadcast in the Authority’s DBS service to which his contract with the Authority relates, or intended to be so broadcast.

(3) Without prejudice to the generality of sub-paragraph (2), “relevant second category income” includes any income which—

(a) accrues to any person connected with the programme contractor concerned; and

(b) would be relevant second category income of that contractor if he and that person were a single programme contractor.

(4) In this Schedule “relevant second category expenditure” means any expenditure properly chargeable to revenue account which is not relevant first category expenditure but which is incurred by the programme contractor concerned in connection (directly or indirectly) with the provision by him of any programme of a kind mentioned in sub-paragraph (2)(a) or (as the case may be) (b) above.

(5) Without prejudice to the generality of sub-paragraph (4) above, “relevant second category expenditure” includes any expenditure which—

(a) is incurred by any person connected with the programme contractor concerned; and

(b) would be relevant second category expenditure of that contractor if he and that person were a single programme contractor.

(6) In ascertaining relevant second category income or relevant second category expenditure no account shall be taken of interest on any loan.

(7) Items of relevant second category income and items of relevant second category expenditure shall be attributed to accounting periods in accordance with the foregoing provisions of this Schedule.

(8) In this paragraph “programme” means—

(a) in the application of this Schedule in relation to the additional payments mentioned in section 32(1)(b), a television programme; and

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- (b) in its application in relation to the additional payments mentioned in section 32(2)(b), a local sound broadcast.

Carry forward of certain losses

2C.—(1) Where, in any accounting period, the relevant first category expenditure of a programme contractor exceeds his relevant first category income sub-paragraph (3) shall apply.

(2) Where, in any accounting period, the relevant second category expenditure of a programme contractor exceeds his relevant second category income sub-paragraph (4) shall apply.

(3) Where this sub-paragraph applies—

- (a) the excess shall, if the programme contractor has any relevant second category profits for the accounting period, be set against relevant second category income for that period as if the excess were relevant second category expenditure; and
- (b) if any part of the excess then remains it shall be carried forward to the following accounting period and treated as relevant first category expenditure for that period.

(4) Where this sub-paragraph applies—

- (a) the excess shall, if the programme contractor has any relevant first category profits for the accounting period, be set against relevant first category income for that period as if the excess were relevant first category expenditure; and
- (b) if any part of the excess then remains it shall be carried forward to the following accounting period and treated as relevant second category expenditure for that period.

(5) When a programme contractor's contract with the Authority comes to an end, no losses incurred at any time during the currency of that contract may be carried forward under this paragraph and set against income attributable to any subsequent contract between him and the Authority."

5. In paragraph 3 of Schedule 4 to the Act of 1981—

- (a) in sub-paragraph (1)(a), for the words "relevant income and relevant expenditure" there shall be substituted the words "income and expenditure of any category" and for the words "the profits" there shall be substituted the words "relevant category of profits"; and
- (b) in sub-paragraph (1)(b), for the words "the profits" there shall be substituted the words "any category of profits".

6. In paragraph 4(1) of Schedule 4 to the Act of 1981, after the word "profits", in paragraph (b) there shall be inserted—

"or

(bb) the category in which any profits fall,".

7. In paragraph 7 of Schedule 4 to the Act of 1981, the following sub-paragraph shall be inserted after sub-paragraph (1)—

“(1A) Without prejudice to the generality of sub-paragraph (1) above, the duty imposed on the Authority by that sub-paragraph includes the duty to impose, so far as is reasonably practicable, such requirements as will enable the Authority to determine the amounts (if any) which, in relation to any programme contractor, are to be treated as relevant second category income and relevant secondary category expenditure by virtue, respectively, of sub-paragraphs (3) and (5) of paragraph 2B.”

8.—(1) Paragraph 9 of Schedule 4 to the Act of 1981 shall be amended as follows.

(2) In sub-paragraph (1), the following shall be substituted for the definition of subsidiary—

“subsidiary”, in relation to any person, means a company in which that person (whether alone or jointly with one or more persons and whether directly or through one or more nominees) holds, or is beneficially entitled to, 10 per cent. or more of the equity share capital, or possesses 10 per cent. or more of the voting power”.

(3) The following sub-paragraphs shall be added at the end—

“(3) For the purposes of this Schedule a person shall be taken to be connected with a programme contractor—

- (a) if he is a subsidiary of the contractor;
- (b) where the contractor is a company, if he is a person who (whether alone or jointly with one or more persons and whether directly or through one or more nominees) holds, or is beneficially entitled to, 10 per cent. or more of the equity share capital, or possesses 10 per cent. or more of the voting power; or
- (c) where any other person is connected with the contractor concerned by virtue of paragraph (b) above, if he is a company in which that other person (whether alone or jointly with one or more persons and whether directly or through one or more nominees) holds, or is beneficially entitled to, 10 per cent. or more of the equity share capital, or possesses 10 per cent. or more of the voting power;

but does not include any person whose trade consists wholly or mainly of the distribution of programmes by wireless telegraphy or cable.

(4) Where the same person falls within more than one category of programme contractor, the definitions of “first category rate” and “second category rate” in section 32(4A) shall not have the effect of applying the lower or lowest rate in respect of all of his first category profits or (as the case may be) all of his second category profits but, subject to section 32(6), those profits shall be apportioned, and the provisions of this Act applied, in such manner as the Authority consider appropriate with a view to securing that the overall amount payable by him by way of additional payments is, as near as may be, equal to the aggregate of the amounts which would be so payable if there were as many separate programme contractors as there are categories of programme contractor within which he falls.”

PART II

TRANSITIONAL PROVISIONS

9.—(1) In this paragraph—

1981 c. 68.

“new statutory provisions” means the provisions of the Broadcasting Act 1981 as amended by this Act; and

“existing statutory provisions” means the provisions of that Act as they had effect immediately before the passing of this Act.

(2) Any contract between the Authority and a programme contractor which is in force immediately before the passing of this Act shall, until it is varied or superseded by a further contract between them or expires or is otherwise terminated (whichever first occurs) be deemed to be modified by virtue of this Schedule so as—

- (a) to substitute provisions in conformity with the new statutory provisions for so much of the contract as is in accordance with the existing statutory provisions and is not in conformity with the new statutory provisions, and
- (b) to incorporate in the contract such additional provisions as a contract between the Authority and a programme contractor is required to include in accordance with the new statutory provisions;

and (subject to paragraph 4 of Schedule 4 to the Act of 1981) any provisions of the contract which provide for arbitration as to any matters contained in the contract in accordance with the existing statutory provisions shall be construed as making the like provision for arbitration in relation to matters deemed to be included in the contract by virtue of this sub-paragraph.

(3) Where it appears to the Authority that the new statutory provisions call for the inclusion of additional terms in any such contract, but do not afford sufficient particulars of what those terms should be, the Authority may, after consulting the programme contractor, decide what those terms are to be.

(4) This paragraph shall not be taken to have effect in relation to any contract entered into by a programme contractor and any person other than the Authority before the passing of this Act.

10.—(1) This paragraph applies in relation to any accounting period of a programme contractor which begins before 1st April 1986 and ends after 31st March 1986 (“the accounting period”).

(2) The additional payments payable by the programme contractor under section 32 of the Act of 1981 in relation to his profits for the accounting period shall be the aggregate of the following amounts—

- (a) the amount payable by him on the assumption—
 - (i) that section 111 of this Act was not in force at any time during the accounting period; and

(ii) that his profits for the accounting period were reduced by multiplying them

by $\frac{X}{X + Y}$; and

(b) the amount payable by him on the assumption that that section was in force throughout the accounting period and that both his first category profits for that period and his second category profits for that period were reduced by multiplying them

by $\frac{Y}{X + Y}$

where (taking any odd four days or more as a week)

X is the number of weeks in the accounting period falling before 1st April 1986; and

Y is the number of weeks in the accounting period falling after 31st March 1986.

(3) For the purposes of the application of paragraph 2C of Schedule 4 to the Act of 1981 in relation to losses incurred by the programme contractor during the accounting period, those losses shall be reduced by multiplying them

by $\frac{Y}{X + Y}$

where X and Y have the same meaning as in sub-paragraph (2) above.

SCHEDULE 23

Section 114.

REPEALS

PART I

CUSTOMS AND EXCISE: MISCELLANEOUS

Chapter	Short title	Extent of repeal
1979 c. 4	The Alcoholic Liquor Duties Act 1979.	In section 15, subsections (6A) and (6B), in subsection (7) the words "restriction or requirement" and in subsection (8) the words "restriction or requirement". In section 46(2), the word "accidentally".
1981 c. 35.	The Finance Act 1981.	In Schedule 8, paragraphs 2(b) and 14(b).
1985 c. 54.	The Finance Act 1985.	Section 2.

PART II
VEHICLES EXCISE DUTY

Chapter	Short title	Extent of repeal
1971 c. 10	The Vehicles (Excise) Act 1971.	<p>In section 23(f), the words from “and as” to “replacement”.</p> <p>In paragraph 13 of Part I of Schedule 7, in the text of section 17(2) as modified, paragraph (a) and, in paragraph (b), the words from the beginning to “class”.</p> <p>In paragraph 20 of Part I of Schedule 7, in the text of section 23 as modified, in subsection (1)(e) the words from “and for” to “book”.</p>
1972 c. 10 (N.I.).	The Vehicles (Excise) Act (Northern Ireland) 1972.	<p>In section 23(f), the words from “and as” to “replacement”.</p> <p>In paragraph 13 of Part I of Schedule 9, in the text of section 17(2) as modified, paragraph (a) and, in paragraph (b), the words from the beginning to “class”.</p> <p>In paragraph 20 of Part I of Schedule 9, in the text of section 23 as modified, in subsection (1)(e) the words from “and for” to “book”.</p>

The repeals in paragraph 13 of Part I of Schedule 7 to the Vehicles (Excise) Act 1971 and paragraph 13 of Part I of Schedule 9 to the Vehicles (Excise) Act (Northern Ireland) 1972 do not have effect with respect to the surrender of licences taken out before 1st January 1987.

PART III
BETTING AND GAMING DUTIES

Chapter or Number	Short title	Extent of repeal
1972 c. 11 (N.I.).	The Miscellaneous Transferred Excise Duties Act (Northern Ireland) 1972.	Part III. In section 72(2), the words from the beginning to "Schedule 2".
1974 c. 30.	The Finance Act 1974.	Schedules 1 and 2. Section 2(2) (as it remains in force in relation to Northern Ireland).
1981 c. 63.	The Betting and Gaming Duties Act 1981.	In section 9(3)(a), the words "Northern Ireland or" and the words "of the Parliament of Northern Ireland or, as the case may be,". In section 12(4), the words from "and 'betting office licence'" to the end. In section 19(2) the words "Northern Ireland or" and the words "the Parliament of Northern Ireland or, as the case may be,". In section 20(2), the definition of "Great Britain".
1985 c. 54, S.I. 1985/1204 (N.I. 11).	The Finance Act 1985. The Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985.	Section 35(4). In Schedule 5, paragraph 8. In Schedule 19, paragraphs 11 to 15 and 17.

These repeals—

- (a) so far as they relate to general betting duty or pool betting duty, come into force on the betting commencement date (as defined in section 6 of this Act), but do not affect duty in respect of bets made before that date; and
- (b) so far as they relate to bingo duty, come into force on the bingo commencement date (as so defined).

PART IV
LICENCES UNDER THE CUSTOMS AND EXCISE ACTS

Chapter	Short title	Extent of repeal
1979 c. 4.	The Alcoholic Liquor Duties Act 1979.	In section 4(3), in the Table, the words "licence year". Section 12(2) and (3). Section 18(3) and (4). In section 25(1)(b), the words "has in his possession or". Section 47(3) and (4). Section 48(2) and (3). Section 54(3). Section 55(3). In section 56(1)(a), the word "renewal". Section 75(3) and (4). Section 81. Section 83.
1979 c. 6.	The Matches and Mechanical Lighters Duties Act 1979.	Section 2(2) and (3).

PART V
INCOME TAX AND CORPORATION TAX: GENERAL

Chapter	Short title	Extent of repeal
1970 c. 10.	The Income and Corporation Taxes Act 1970.	In section 457(1A), the words from "and does not" to the end.
1972 c. 41.	The Finance Act 1972.	In Schedule 8, paragraph 12. In section 100(6), the words from "if the limit" to "the relevant income and". Section 103(1) to (3). Section 107(3).
1974 c. 30.	The Finance Act 1974.	Section 22(2). Section 37(2).
1977 c. 36.	The Finance Act 1977.	In section 32(6), paragraph (b), and in paragraph (c) the words "or (b)".
1980 c. 48.	The Finance Act 1980.	In Schedule 10, paragraphs 2 and 22.
1983 c. 28.	The Finance Act 1983.	In Schedule 5, paragraph 5(8) to (11) and paragraph 7(3).
1984 c. 43. 1985 c. 54.	The Finance Act 1984. The Finance Act 1985.	Section 20(1) and (2). Section 49.

1. The repeal in section 457(1A) of the Income and Corporation Taxes Act 1970 and the repeal of section 49 of the Finance Act 1985 have effect for the year 1986-87 and subsequent years of assessment.

2. Subject to section 45(4) of this Act, the repeal in Schedule 8 to the Income and Corporation Taxes Act 1970 does not have effect with respect to any payment which, under section 187(4) of that Act, is treated as income received before 4th June 1986.

3. The repeal in section 100(6) of the Finance Act 1972 has effect with respect to accounting periods beginning on or after 3rd June 1986.

4. The repeal of section 107(3) of the Finance Act 1972 has effect where a company ceases to carry on a trade, or part of a trade, after 18th March 1986, subject to the application of section 42(3) of this Act with the words "the repeal does not" substituted for "those amendments do not".

5. The repeal of section 22(2) of the Finance Act 1974 has effect for the year 1986–87 and subsequent years of assessment.

6. The repeals in section 32(6) of the Finance Act 1977 have effect for the year 1984–85 and subsequent years of assessment.

7. The repeals in Schedule 5 to the Finance Act 1983 have effect in relation to shares issued at any time after 18th March 1986.

8. The repeals in section 20 of the Finance Act 1984 do not have effect with respect to any financial year ending before 1st April 1986.

PART VI

INCOME TAX AND CORPORATION TAX: CAPITAL ALLOWANCES

Chapter	Short title	Extent of repeal
1968 c. 3.	The Capital Allowances Act 1968.	Sections 51 to 66. Section 68. In section 70(3), the words from "and, in the case of" to "direct". Section 74(6). In section 75(1), the word "61". Section 78(3). In section 79(4), the words "and section 65(1)". In section 83(1), the words "or section 56". In section 85(1)(c), the words "other than section 60". Schedules 5 and 6. In Schedule 7, paragraph 4(2)(c).
1971 c. 68.	The Finance Act 1971.	Section 52.
1973 c. 51.	The Finance Act 1973.	Section 31(6)(c).
1978 c. 42.	The Finance Act 1978.	Section 39.
1985 c. 54.	The Finance Act 1985.	Section 62.

1. The repeals of sections 68 and 74(6) of the Capital Allowances Act 1968 and section 39 of the Finance Act 1978 do not have effect with respect to expenditure incurred before 1st April 1986 nor with

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respect to expenditure under existing contracts, as defined in section 56(2) of this Act.

2. The remaining repeals, apart from the repeal of section 62 of the Finance Act 1985, have effect subject to the provisions of Schedule 14 to this Act.

PART VII
CAPITAL GAINS

Chapter	Short title	Extent of repeal
1984 c. 43.	The Finance Act 1984.	In Schedule 13, paragraphs 2 and 3.
1985 c. 54.	The Finance Act 1985.	Section 67(1).

These repeals have effect with respect to disposals on or after 2nd July 1986.

PART VIII
SECURITIES

Chapter	Short title	Extent of repeal
1970 c. 10.	The Income and Corporation Taxes Act 1970.	Section 475(6).
1985 c. 54.	The Finance Act 1985.	In Schedule 23, paragraphs 41 and 42.

These repeals have effect in accordance with paragraphs 1(5) and 2(2) of Schedule 18 to this Act.

PART IX
STAMP DUTY
(1) RECONSTRUCTIONS ETC.

Chapter	Short title	Extent of repeal
1927 c. 10.	The Finance Act 1927.	Section 55.
1928 c. 17.	The Finance Act 1928.	Section 31.
1928 c. 9 (N.I.).	The Finance Act (Northern Ireland) 1928.	Section 4.
1936 c. 23 (N.I.).	The Finance (Companies' Stamp Duty) Act (Northern Ireland) 1936.	Section 1.
1980 c. 48.	The Finance Act 1980.	In Schedule 18, paragraph 12(1) and (1A).
1985 c. 54.	The Finance Act 1985.	Sections 78, 79 and 80.
1986 c. 41.	The Finance Act 1986.	Section 73.

(2) LOAN CAPITAL

Chapter	Short title	Extent of repeal
1963 c. 25.	The Finance Act 1963.	In section 62, subsections (2) and (6).
1963 c. 22 (N.I.).	The Finance Act (Northern Ireland) 1963.	In section 11, subsections (2) and (5).
1967 c. 54.	The Finance Act 1967.	Section 29.
1967 c. 20 (N.I.).	The Finance Act (Northern Ireland) 1967.	Section 6.
1974 c. 30.	The Finance Act 1974.	In Schedule 11, paragraphs 5 and 15. In Schedule 12, paragraphs 7 and 8.
1976 c. 40.	The Finance Act 1976.	Section 126.
1980 c. 48.	The Finance Act 1980.	Section 96.
1981 c. 35.	The Finance Act 1981.	Section 109.

(3) BEARER LETTERS OF ALLOTMENT ETC.

Chapter	Short title	Extent of repeal
1891 c. 39.	The Stamp Act 1891.	In Schedule 1, in the heading "Bearer Instrument", paragraph 2 of the exemptions.

(4) CHANGES IN FINANCIAL INSTITUTIONS

Chapter or Number	Short title	Extent of repeal
1920 c. 18.	The Finance Act 1920.	Section 42.
1961 c. 36.	The Finance Act 1961.	Section 34.
1961 c. 10 (N.I.).	The Finance Act (Northern Ireland) 1961.	Section 4.
1973 c. 51.	The Finance Act 1973.	In Schedule 21, paragraphs 1 and 3.
S.I. 1973/1323 (N.I. 18).	The Finance (Miscellaneous Provisions) (Northern Ireland) Order 1973.	In Schedule 3, paragraphs 1 and 3.
1976 c. 40.	The Finance Act 1976.	In section 127, in subsection (1) the words "which is executed for the purposes of a stock exchange transaction", subsections (2) and (3), in subsection (5) the definitions of "jobber" and "stock exchange transaction", and in subsection (7) the words "and this section".
1980 c. 48.	The Finance Act 1980.	Section 100.

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1. The repeals under (1) above have effect in relation to any instrument executed in pursuance of a contract made on or after the day on which the rule of The Stock Exchange that prohibits a person from carrying on business as both a broker and a jobber is abolished.

2. The repeals under (2) above have effect in relation to any instrument to which section 79 of this Act applies.

3. The repeals under (4) above have effect as provided by the Treasury by order made by statutory instrument, and different provision may be made for different repeals.

PART X

INHERITANCE TAX

Chapter	Short title	Extent of repeal
1984 c. 51.	The Capital Transfer Tax Act 1984.	<p>In section 7(1)(a), the word "appropriate".</p> <p>Sections 148 and 149.</p> <p>In section 167(2), the words from "and shall not" to the end.</p> <p>Section 204(4).</p> <p>In section 236(3), the words "149".</p> <p>In Schedule 2, in paragraphs 2 and 4, the words "the first of", in paragraph 3 the words "the second of", and paragraph 7.</p>

1. The repeals of sections 148 and 149 of the Capital Transfer Tax Act 1984 and in sections 167 and 236 of, and Schedule 2 to, that Act have effect where the donee's transfer was made on or after 18th March 1986.

2. The remaining repeals have effect with respect to transfers of value made, and other events occurring, on or after 18th March 1986.

PART XI

BROADCASTING: ADDITIONAL PAYMENTS BY PROGRAMME CONTRACTORS

Chapter	Short title	Extent of repeal
1981 c. 68.	The Broadcasting Act 1981.	In section 32(9), the words "to amend subsections (4) and (5)". In section 34(2)(b), the words from "when the" to the end. In section 35(2)(a) and (b), the word "relevant".
1984 c. 46.	The Cable and Broadcasting Act 1984.	Section 40(3).

These repeals shall be deemed to have come into force on 1st April 1986.

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