Finance Bill

EUROPEAN CONVENTION ON HUMAN RIGHTS

Lord Agnew of Oulton has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the Finance Bill are compatible with the Convention rights.

Finance Bill

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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.

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 to 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 1

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

Income tax charge, rates etc

1 Income tax charge for tax year 2021-22

Income tax is charged for the tax year 2021-22. *5*

2 Main rates of income tax for tax year 2021-22

For the tax year 2021-22 the main rates of income tax are as follows—

(a) the basic rate is 20%,
(b) the higher rate is 40%, and
(c) the additional rate is 45%. *10*

3 Default and savings rates of income tax for tax year 2021-22

(1) For the tax year 2021-22 the default rates of income tax are as follows—
(a) the default basic rate is 20%,
(b) the default higher rate is 40%, and
(c) the default additional rate is 45%.

(2) For the tax year 2021-22 the savings rates of income tax are as follows—
(a) the savings basic rate is 20%,
(b) the savings higher rate is 40%, and
(c) the savings additional rate is 45%.

4 Starting rate limit for savings for tax year 2021-22

(1) For the tax year 2021-22, the amount specified in section 12(3) of ITA 2007 (the starting rate limit for savings) is "£5,000".

(2) Accordingly, section 21 of that Act (indexation) does not apply in relation to the starting rate limit for savings for that tax year.

5 Basic rate limit and personal allowance for future tax years

(1) For the tax years 2022-23, 2023-24, 2024-25 and 2025-26, the amount specified in section 10(5) of ITA 2007 (basic rate limit) is "£37,700".

(2) For the tax years 2022-23, 2023-24, 2024-25 and 2025-26, the amount specified in section 35(1) of ITA 2007 (personal allowance) is "£12,570".

(3) Accordingly—
(a) section 21 of ITA 2007 (indexation of basic rate limit) does not apply in relation to the basic rate limit, and
(b) section 57 of ITA 2007 (indexation of allowances) does not apply in relation to the amount specified in section 35(1) of that Act,

for the tax years 2022-23, 2023-24, 2024-25 and 2025-26.

Corporation tax charge and rates

6 Charge and main rate for financial years 2022 and 2023

(1) Corporation tax is charged for the financial years 2022 and 2023.

(2) The main rate of corporation tax—
(a) is 19% for the financial year 2022, and
(b) is 25% for the financial year 2023.

7 Small profits rate chargeable on companies from 1 April 2023

(1) Schedule 1 contains the following provision (with effect from 1 April 2023)—
(a) provision for corporation tax to be charged at the standard small profits rate on profits that are not ring fence profits,
(b) provision for marginal relief to be given by reference to the standard marginal relief fraction,
(c) provision making corresponding amendments to Chapter 3A of Part 8 of CTA 2010 (corporation tax rates on ring fence profits), and

(d) provision making other consequential amendments to provision made by the Corporation Tax Acts.

(2) For the financial year 2023—
(a) the standard small profits rate is 19%, and
(b) the standard marginal relief fraction is 3/200ths.

Rate of diverted profits tax

8 Increase in the rate of diverted profits tax

(1) In section 79 of FA 2015 (charge to diverted profits tax)—
(a) in subsection (2)(a) (which sets the rate in a standard case), and
(b) in subsections (3) and (3A) (which contain modifications of the rate in the case of ring fence profits or banking surcharge profits),
for "25%" substitute "31%".

(2) The amendments made by this section have effect for accounting periods beginning on or after 1 April 2023.

(3) The remaining provisions of this section deal with a case where a company has an accounting period (a "straddling period") beginning before 1 April 2023 and ending on or after that date.

(4) For the purpose of calculating the amount of diverted profits tax chargeable on a company for the straddling period—
(a) so much of the straddling period as falls before 1 April 2023, and
(b) so much of it as falls on or after that date,
are to be treated as separate accounting periods.

(5) If it is necessary to apportion an amount for the straddling period to the two separate accounting periods, the apportionment is to be made on a time basis according to the respective lengths of the separate accounting periods.

Capital allowances: super-deductions etc

9 Super-deductions and other temporary first-year allowances

(1) Part 2 of CAA 2001 has effect as if—
(a) in section 39 (first-year allowances available for certain types of qualifying expenditure only) a reference to this section were included in the list of provisions describing first-year qualifying expenditure, and
(b) in the Table in section 52(3) (amount of first-year allowances), at the end there were inserted—

"Expenditure qualifying under section 9(2) of FA 2021	130%
Expenditure qualifying under section 9(3) of that Act	50%
Expenditure qualifying under section 9(4) of that Act	100%".

(2) Expenditure is qualifying under this subsection if—

(a) it is incurred on or after 1 April 2021 but before 1 April 2023,
(b) it is incurred by a company within the charge to corporation tax,
(c) it is expenditure on plant or machinery which is unused and not second-hand,
(d) it is not within any of the general exclusions in section 46(2) of CAA 2001,
(e) it is not special rate expenditure, and
(f) it is not expenditure on the provision of plant or machinery for use wholly or partly for the purposes of a ring fence trade.

Expenditure qualifying under this subsection is referred to as "super-deduction expenditure" and a first-year allowance made as a result of expenditure qualifying under this subsection is referred to as a "super-deduction".

(3) Expenditure is qualifying under this subsection if—
(a) it is special rate expenditure,
(b) it is incurred on or after 1 April 2021 but before 1 April 2023,
(c) it is incurred by a company within the charge to corporation tax,
(d) it is expenditure on plant or machinery which is unused and not second-hand, and
(e) it is not within any of the general exclusions in section 46(2) of CAA 2001.

Expenditure qualifying under this subsection is referred to as "SR allowance expenditure" and a first-year allowance made as a result of expenditure qualifying under this subsection is referred to as an "SR allowance".

(4) Expenditure is qualifying under this subsection if—
(a) it is expenditure on the provision of plant or machinery for use partly for the purposes of a ring fence trade and partly for the purposes of another qualifying activity,
(b) it is incurred on or after 1 April 2021 but before 1 April 2023,
(c) it is incurred by a company within the charge to corporation tax,
(d) it is not within any of the general exclusions in section 46(2) of CAA 2001, and
(e) it is not special rate expenditure.

(5) A first-year allowance made as a result of expenditure qualifying under subsection (4) is to be allocated between the ring fence trade and the other qualifying activity on a just and reasonable basis.

(6) This section has effect as if it were contained in Chapter 4 of Part 2 of CAA 2001 (which, among other things, means that sections 5 and 50 of that Act are relevant for the purpose of determining when expenditure is incurred).

(7) For the purpose of determining when expenditure is incurred for the purpose of subsection (2)(a) or (3)(b), if an amount of expenditure is incurred as a result of a contract entered into before 3 March 2021—
(a) section 5 of CAA 2001 does not apply, and
(b) the expenditure is instead treated for that purpose as incurred when the contract was entered into (whether or not an unconditional obligation to pay it arises on or after that date).

(8) For the purpose of determining whether a person is entitled to a super-deduction or an SR allowance, section 67 of CAA 2001 (plant or

machinery treated as owned by person entitled to benefit of contract, etc) applies as if for subsection (1)(b) of that section there were substituted—

"(b) the expenditure is incurred under a contract in respect of which Conditions A and B in section 1129 of CTA 2010 (definition of hire-purchase agreement) are met on the basis that—

(i) the "goods" referred to in those conditions are the plant or machinery, and

(ii) the person to whom they are bailed or hired is the person who incurs the expenditure."

(9) General exclusion 6 in section 46(2) of CAA 2001 (expenditure on provision of plant or machinery for leasing) does not prevent expenditure being super-deduction expenditure or SR allowance expenditure if the plant or machinery is provided for leasing under an excluded lease of background plant or machinery for a building (as defined by section 70R of that Act).

(10) Section 130(1) of CAA 2001 (postponement of first-year allowances on the provision of a ship) does not apply in relation to a super-deduction or an SR allowance.

(11) In this section "ring fence trade" means a ring fence trade in respect of which tax is chargeable under section 330(1) of CTA 2010 (supplementary charge in respect of ring fence trades).

10 Further provision about super-deductions etc

(1) Sections 11 to 14 contain further provision in connection with super-deductions and SR allowances.

(2) Section 11 contains provision that modifies the percentage that as a result of section 9(1)(b) would otherwise apply to—

(a) super-deduction expenditure incurred in a chargeable period that ends on or after 1 April 2023;

(b) an additional VAT liability accruing in a chargeable period that ends on or after 1 April 2023 that is regarded as super-deduction expenditure as a result of section 236(2) of CAA 2001 (additional VAT liability generates first-year allowance).

(3) Section 12 contains provision about the disposal of plant or machinery in respect of which a super-deduction was made and section 13 contains similar provision in relation to plant or machinery in respect of which an SR allowance was made.

(4) Section 14 contains provision about counteracting tax advantages in connection with super-deductions and SR allowances (but see also Chapter 17 of Part 2 of CAA 2001 which contains other provisions about anti-avoidance).

(5) Sections 11, 12 and 13 have effect as if they were contained in Chapter 5 of Part 2 of CAA 2001 (allowances and charges).

(6) In this section, and in sections 11 to 14—

"super-deduction expenditure" and "super-deduction" are to be construed in accordance with section 9(2);

"SR allowance expenditure" and "SR allowance" are to be construed in accordance with section 9(3);

"additional VAT liability" has the meaning given by section 547(1) of CAA 2001.

11 Reduced super-deduction

(1) Subsection (2) applies where a person incurs super-deduction expenditure in a chargeable period ("the relevant period") that ends on or after 1 April 2023. 5

(2) Where this subsection applies, section 9(1)(b) applies as if for "130%" there were substituted the relevant percentage.

(3) Subsection (4) applies where a person becomes entitled in a chargeable period ("the relevant period") that ends on or after 1 April 2023 to a super-deduction as a result of section 236(2) in respect of an additional VAT liability that is regarded (as a result of that section) as super-deduction expenditure. 10

(4) Where this subsection applies, section 9(1)(b) applies as if for "130%" there were substituted—

(a) where the person becomes entitled to the super-deduction before 1 April 2023, the relevant percentage, or 15

(b) otherwise, "100%".

(5) For the purposes of subsections (2) and (4)(a), the relevant percentage is X% where X is determined by—

(a) dividing the number of days in the relevant period before 1 April 2023 by the total number of days in that period, 20

(b) multiplying that amount by 30, and

(c) adding 100 to the result.

12 Disposal of assets where super-deduction made

(1) This section applies to plant or machinery in respect of which a person incurred super-deduction expenditure if a super-deduction was made in respect of some or all of that expenditure. 25

(2) Where a disposal event occurs in relation to plant or machinery to which this section applies, the person who incurred relevant super-deduction expenditure in respect of it is liable to a balancing charge for the chargeable period in which the event occurs (whether or not the person is also liable to any other balancing charge for that period). 30

(3) The amount of the balancing charge is, subject to subsection (6), the relevant proportion of the disposal value of the plant or machinery (see sections 61 to 63 of CAA 2001 which, among other provisions of Part 2 of that Act, contain provision about disposal values). 35

(4) The relevant proportion is determined by dividing the amount of relevant super-deduction expenditure incurred in respect of the plant or machinery by the amount of total relevant expenditure in relation to it.

(5) For the purposes of this section—

super-deduction expenditure is "relevant" if a super-deduction was made in respect of it; 40

"total relevant expenditure" in relation to plant or machinery means the sum of the following expenditure incurred in respect of it—

(a) relevant super-deduction expenditure;

(b) any expenditure in respect of which any other first-year allowance was made;

(c) any expenditure that was allocated to a pool for any chargeable period (including for the period in which the disposal event occurs).

(6) If the disposal event occurs in a chargeable period that commenced before 1 April 2023 the amount of the balancing charge is the amount determined under subsection (3) multiplied by the relevant factor.

(7) The relevant factor is 1.3 if the chargeable period ends before 1 April 2023.

(8) If the chargeable period ends on or after 1 April 2023, the relevant factor is determined by—

(a) dividing the number of days in the period before 1 April 2023 by the total number of days in that period,

(b) multiplying that amount by 0.3, and

(c) adding 1 to the result.

(9) The balance of an amount of super-deduction expenditure in respect of which a super-deduction is made after deducting that super-deduction is to be treated as nil for the purposes of section 58(5)(b) and (6) of CAA 2001 (allocation of balance of first-year qualifying expenditure to a pool).

(10) In relation to the chargeable period in which the disposal event occurred, TDR (see section 55(1)(b) of CAA 2001) for the pool to which the relevant super-deduction expenditure was allocated is to be reduced by the relevant proportion of the disposal value of the plant or machinery.

(11) Section 135(1) of CAA 2001 (claim for deferment of balancing charges) does not apply in relation to a disposal event in respect of a ship to which this section applies.

(12) This section has effect in relation to disposals occurring on or after 1 April 2021.

13 Disposal of assets where SR allowance made

(1) This section applies to plant or machinery in respect of which a person incurred SR allowance expenditure in a chargeable period ("the allowance period") if an SR allowance was made in respect of some or all of that expenditure.

(2) Where a disposal event occurs in relation to plant or machinery to which this section applies, the person who incurred relevant SR expenditure in respect of it is liable to a balancing charge for the chargeable period in which the event occurs (whether or not the person is also liable to any other balancing charge for that period).

(3) The amount of the balancing charge is the relevant proportion of the disposal value of the plant or machinery (see sections 61 to 63 of CAA 2001 which, among other provisions of Part 2 of that Act, contain provision about disposal values).

(4) The relevant proportion is determined by—

(a) dividing the amount of relevant SR allowance expenditure incurred in respect of the plant or machinery by 2, and

(b) dividing that amount by the amount of total relevant expenditure in relation to the plant or machinery.

(5) For the purposes of this section—

SR allowance expenditure is "relevant" if an SR allowance was made in respect of it;

"total relevant expenditure" in relation to plant or machinery means the sum of the following expenditure incurred in respect of it—

(a) relevant SR allowance expenditure,

(b) any expenditure in respect of which any other first-year allowance was made, and

(c) any expenditure that is not relevant SR allowance expenditure that was allocated to a pool for any chargeable period (including for the period in which the disposal event occurs).

(6) In relation to the chargeable period in which the disposal event occurred, TDR (see section 55(1)(b) of CAA 2001) for the pool to which the SR allowance expenditure in respect of the plant or machinery was allocated is to be reduced by the amount of the balancing charge.

(7) Section 135(1) of CAA 2001 (claim for deferment of balancing charges) does not apply in relation to a disposal event in respect of a ship to which this section applies.

(8) This section has effect in relation to disposals occurring on or after 1 April 2021.

14 Counteraction where arrangements are contrived etc

(1) Any relevant tax advantage that would (in the absence of this section) be obtained as a result of relevant arrangements is to be counteracted by the making of such adjustments as are just and reasonable.

(2) A tax advantage is "relevant" if that advantage is connected with a super-deduction or an SR allowance (for example, the obtaining of such a first-year allowance or the avoidance of a balancing charge under section 12 or 13).

(3) Arrangements are "relevant" if—

(a) the purpose, or one of the main purposes, of the arrangements is to obtain a relevant tax advantage, and

(b) it is reasonable, taking account of all the relevant circumstances—

(i) to conclude that the arrangements are, or include steps that are, contrived, abnormal or lacking a genuine commercial purpose, or

(ii) to regard the arrangements as circumventing the intended limits of relief under CAA 2001 or otherwise exploiting shortcomings in that Act.

(4) Any adjustments required to be made under this section (whether or not by an officer of Revenue and Customs) may be made by way of—

(a) an assessment,

(b) the modification of an assessment,

(c) amendment or disallowance of a claim (whether a claim for a first-year allowance or otherwise),

or otherwise.

(5) In this section—

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

"tax advantage" is to be construed in accordance with section 577(4) of CAA 2001.

(6) This section has effect in relation to any relevant arrangements entered into on or after 3 March 2021.

Capital allowances: other measures

15 Extension of temporary increase in annual investment allowance

(1) In section 32(1) of FA 2019 (which increases the maximum amount of the annual investment allowance to £1,000,000 for the period of two years beginning with 1 January 2019), for "two years" substitute "three years".

(2) In consequence of the amendment made by subsection (1)—

(a) in section 32(2) of that Act, for "2021" substitute "2022",

(b) in paragraph 2 of Schedule 13 to that Act and the heading before that paragraph, for "2021" (in each place) substitute "2022",

(c) in paragraph 3(3)(b) of that Schedule, for "two years" substitute "three years", and

(d) in the heading for that Schedule, for "2021" substitute "2022".

16 Meaning of "general decommissioning expenditure"

(1) Chapter 13 of Part 2 of CAA 2001 (plant and machinery allowances: provisions affecting mining and oil industries) is amended as follows.

(2) Section 163 (meaning of "general decommissioning expenditure" for purposes of sections 164 and 165) is amended as follows.

(3) In subsection (1), at the end of paragraph (a), omit "or" and insert—

"(aa) the condition in subsection (3AB) is met, or".

(4) In subsection (2), for "that is" substitute "paragraphs (a) and (b) of subsection (1) are".

(5) In subsection (3A)—

(a) in the words before paragraph (a), omit "in complying with";

(b) in paragraph (a), at the beginning insert "in complying with";

(c) in paragraph (b)—

(i) at the beginning insert "in complying with";

(ii) at the end omit "or";

(d) in paragraph (c)—

(i) at the beginning insert "in complying with";

(ii) at the end insert ", or

(d) otherwise in anticipation of a decommissioning measure."

(6) After subsection (3A) insert—

"(3AA) For the purposes of subsection (3A)(d), expenditure is incurred otherwise in anticipation of a decommissioning measure if it is incurred—

(a) in preserving plant or machinery, the reuse or demolition of which it is reasonable to anticipate will be authorised or required by an approved abandonment programme, a condition to which the approval of such a programme will be subject or a condition or agreement described in subsection (3A)(c), or

(b) in doing something else which it is reasonable to anticipate will be authorised or required by an approved abandonment programme, a condition to which the approval of such a programme will be subject or a condition or agreement described in subsection (3A)(c)."

(7) After subsection (3AA) (inserted by subsection (6) of this section) insert—

"(3AB) The condition in this subsection is met if—

(a) the expenditure was incurred—

(i) in preparing an abandonment programme for approval, or

(ii) in preparing for the imposition of a condition by, or the making of an agreement with, the Secretary of State before the approval of an abandonment programme, and

(b) it is reasonable to anticipate that the approved abandonment programme, the condition imposed or the agreement made, as the case may be, will wholly or mainly relate to the decommissioning of plant or machinery to which subsection (3) applies."

(8) In each of subsections (4ZA) and (4ZB), for "subsection (1)" substitute "subsection (1)(a) or (b)".

(9) After section 163 insert—

"163A Expenditure in anticipation of approval of abandonment programme

(1) Expenditure to which section 163(3A)(d) applies by virtue of section 163(3AA)(b) is to be treated as never having been general decommissioning expenditure for the purposes of sections 164 and 165 unless, before the end of the relevant period, condition A or condition B is met in relation to the expenditure.

(2) Condition A is that—

(a) an abandonment programme is approved, and

(b) the programme, or a condition to which the approval of the programme was subject, authorises or requires the decommissioning of the plant or machinery to which the expenditure relates.

(3) Condition B is that—

(a) a condition is imposed by the Secretary of State, or an agreement is made with the Secretary of State, before the approval of an abandonment programme, and

(b) the condition or, as the case may be, the agreement authorises or requires the decommissioning of the plant or machinery to which the expenditure relates.

(4) For the purposes of this section "the relevant period" means the period—

(a) beginning with the day on which the expenditure was incurred, and

(b) ending with the fifth anniversary of the last day of the accounting period in which the expenditure was incurred.

(5) All such assessments and adjustments of assessments are to be made as are necessary to give effect to subsection (1).

(6) If a person who has made a return becomes aware that, after making it, anything in it has become incorrect because of the operation of this section, the person must give notice to an officer of Revenue and Customs specifying how the return needs to be amended.

(7) A notice under subsection (6) must be given within 3 months beginning with the day on which the person first became aware that anything in the return had become incorrect because of the operation of this section.

(8) In this section, "abandonment programme", "approval" and "approved" (in relation to an abandonment programme) have the same meaning as in Part 4 of the Petroleum Act 1998."

(10) The amendments made by this section have effect in relation to expenditure incurred on or after 3 March 2021.

17 Extensions of plant or machinery leases for reasons related to coronavirus

(1) In Part 2 of CAA 2001, Chapter 6A (interpretation of provisions about long funding leases) has effect subject to the following modifications.

(2) Section 70YB (long funding operating lease: extension of term of lease) has effect as if, in subsection (1), at the beginning there were inserted "Subject to section 70YCA (extension of term of lease for reasons related to coronavirus),".

(3) Section 70YC (extension of term of lease that is not a long funding lease) has effect as if, in subsection (1), at the beginning there were inserted "Subject to section 70YCA (extension of term of lease for reasons related to coronavirus),".

(4) That Chapter has effect as if after section 70YC there were inserted—

"70YCA Extension of term of lease for reasons related to coronavirus

(1) Sections 70YB(1) and 70YC(1) (extension of lease terms) do not apply in any case where subsection (2) applies (but see subsection (3)).

(2) This subsection applies where, in relation to a relevant lease—

(a) on or after 1 January 2020, there is (or was) a change in the payments under the lease that would have been payable on or before 30 June 2021,

(b) the effect of the change is that the term of the lease is extended (and, were it not for this section, section 70YB(1) or 70YC(1) would apply),

(c) the change would not have been made if it were not for coronavirus,

(d) after the change, the consideration for the lease is substantially the same as, or less than, the consideration for the lease before the change,

(e) there is no other substantive change to the terms of the lease, and

(f) the lessor and lessee have not made any arrangement in connection with any changes to capital allowances relating to the lease and arising as a result of the change mentioned in paragraph (a).

(3) But subsection (2) does not apply where, in relation to a relevant lease, the lessor or the lessee elects that subsection (2) does not apply.

(4) The Treasury may by regulations substitute for the second date for the time being specified in subsection (2)(a) such other date as they consider appropriate.

(5) In this section—

"coronavirus" has the same meaning as in the Coronavirus Act 2020 (see section 1(1) of that Act);

"relevant lease" means—

(a) a long funding operating lease, or

(b) a plant or machinery lease that is not a long funding lease.

70YCB Elections under section 70YCA

(1) An election under section 70YCA must be made by notice to an officer of Revenue and Customs no later than the end of the period of 21 months beginning with the day after the day on which the change mentioned in section 70YCA(2)(a) occurred.

(2) But an election under that section is of no effect unless—

(a) the party making the election notifies the other party to the lease of the election, and

(b) the notice under subsection (1) is accompanied by a copy of the notification given to the other party.

(3) A notice under subsection (1) must include such information as may be specified (whether generally or specifically) by an officer of Revenue and Customs.

(4) An election under section 70YCA is irrevocable.

(5) Where a party to the lease makes or amends a tax return for a period in which the change mentioned in section 70YCA(2)(a) occurred, that party must include with that return or amended return a copy of any election made under that section in respect of the lease.

(6) The following provisions do not apply to an election under section 70YCA—

(a) section 42 of, and Schedule 1A to, TMA 1970 (claims and elections for income tax purposes);

(b) paragraphs 54 to 60 of Schedule 18 to FA 1998 (claims and elections for corporation tax purposes).

(7) References in this section to a tax return, in the case of an election for the purposes of a trade, profession or business carried on by persons in partnership, are to be read, in relation to those persons, as references to a return under section 12AA of TMA 1970 (partnership returns)."

Reliefs for business 5

18 Temporary extension of periods to which trade losses may be carried back

Schedule 2 contains provision for a temporary extension of the periods to which trade losses may be carried back.

19 R&D tax credits for SMEs

(1) Schedule 3 makes provision about the amount of the tax credit to which a company may be entitled under Chapter 2 of Part 13 of CTA 2009 (relief for cost of research and development incurred by small and medium-sized enterprises). 10

(2) Schedule 4 makes corresponding provision for Northern Ireland companies within the meaning of Part 8B of CTA 2010 (trading profits taxable at the Northern Ireland rate). 15

20 Extension of social investment tax relief for further two years

In—

(a) section 257K(1)(a)(iii) of ITA 2007 (date by which investment must be made to qualify for social investment tax relief), and 20

(b) paragraphs 1(3)(b) and 2(2)(b) of Schedule 8B to TCGA 1992 (date by which gains re-invested in social enterprises must accrue to qualify for hold-over relief),

for "6 April 2021" substitute "6 April 2023".

Employment income 25

21 Workers' services provided through intermediaries

(1) Chapter 10 of Part 2 of ITEPA 2003 (workers' services provided through intermediaries to public authorities or medium or large clients) is amended as follows.

(2) In section 61N (worker treated as receiving earnings from employment)— 30

(a) in subsection (3), for "and 61V" substitute ", 61V and 61WA";

(b) in subsection (5), for "section 61V" substitute "sections 61V and 61WA";

(c) in subsection (5A), in the words before paragraph (a), for "and 61V" substitute ", 61V and 61WA".

(3) In section 61O (conditions where intermediary is a company)— 35

(a) in subsection (1), for paragraph (b) substitute—

"(b) subsection (1A) or (1B) is satisfied.";

(b) after subsection (1) insert—

"(1A) This subsection is satisfied where the worker has a material interest in the intermediary.

(1B) This subsection is satisfied where—

(a) the worker has a non-material interest in the intermediary,

(b) the worker—

(i) has received,

(ii) has rights which entitle, or which in any circumstances would entitle, the worker to receive, or

(iii) expects to receive,

a chain payment from the intermediary, and

(c) the chain payment does not, or will not, wholly constitute employment income of the worker (apart from as a result of this Chapter).";

(c) after subsection (4) insert—

"(4A) The worker is treated as having a non-material interest in the intermediary if—

(a) the worker, alone or with one or more associates of the worker, or

(b) an associate of the worker, with or without other associates of the worker,

has a non-material interest in the intermediary.

(4B) For this purpose a non-material interest means—

(a) beneficial ownership of, or the ability to control, directly or through the medium of other companies or by any other indirect means, 5% or less of the ordinary share capital of the company,

(b) possession of, or entitlement to acquire, rights entitling the holder to receive 5% or less of any distributions that may be made by the company, or

(c) where the company is a close company, possession of, or entitlement to acquire, rights that would in the event of the winding up of the company, or in any other circumstances, entitle the holder to receive 5% or less of the assets that would then be available for distribution among the participators.

(4C) In subsection (4B)(c) "participator" has the meaning given by section 454 of CTA 2010."

(4) In section 61S(4) (deductions from chain payments), for "services-provider" substitute "relevant person".

(5) In section 61T(3) (client-led status disagreement process), for "section 61V" substitute "sections 61V and 61WA".

(6) In section 61U (information to be provided by worker and consequences of failure)—

(a) in the heading, after "worker" insert "or intermediary";

(b) in subsection (1), for "the worker" substitute "the relevant person";
(c) in subsection (2), for "the worker" substitute "the relevant person";
(d) in subsection (3), after "In this section" insert "—

"relevant person" means the worker or, in a case where the worker has not complied with subsection (1), the intermediary;". *5*

(7) In section 61V (consequences of providing fraudulent information)—

(a) in subsection (2), in the words before paragraph (a), for "services-provider" substitute "relevant person (or if more than one, the first relevant person) in relation to whom the fraudulent documentation condition is met"; *10*
(b) in subsection (3), for "involves the services-provider" substitute "may involve a services-provider";
(c) in subsection (5), after paragraph (c) insert—

"(d) a person in the chain who is resident in the United Kingdom or has a place of business in the United Kingdom." *15*

(8) After section 61W insert—

"61WA Anti-avoidance

(1) This section applies if in any case at least one relevant person in a chain participates in a relevant avoidance arrangement. *20*

(2) An arrangement is a "relevant avoidance arrangement" if its main purpose, or one of its main purposes, is to secure a tax advantage by securing that at least one of the conditions mentioned in section 61O or 61P is not met in relation to an intermediary.

(3) Section 61N(3) has effect as if the reference to the fee-payer were a reference to the participating person, but— *25*

(a) section 61N(4) continues to have effect as if the reference to the fee-payer were a reference to the deemed employer, and
(b) Step 1 of section 61Q(1) continues to have effect as referring to the chain payment made by the deemed employer. *30*

(4) The participating person is—

(a) in a case where only one relevant person participates in the arrangement, that person;
(b) in any other case the highest relevant person in the chain who participated in the arrangement and from whom HMRC considers there is a realistic prospect of recovering, within a reasonable period, the amount of tax that would have been paid (or not repaid) in the absence of the arrangement. *35*

(5) Subsection (3) has effect even though that may involve a participating person being treated as both employer and employee in relation to the deemed employment under section 61N(3). *40*

(6) In this section—

"arrangement" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable); *45*

"deemed employer" means a person who would, but for this section, be treated by section 61N(3) as making a payment to the worker;

"relevant person" means—

(a) the worker;

(b) a person who is resident in the United Kingdom or who has a place of business in the United Kingdom;

"tax" means income tax (and "tax advantage" is to be construed accordingly");

"tax advantage" includes—

(a) avoidance or reduction of a charge to tax or an assessment to tax,

(b) repayment or increased repayment of tax,

(c) avoidance of a possible assessment to tax, and

(d) deferral of a payment of tax or advancement of a repayment of tax."

(9) In section 688AA(2)(a) (workers' services provided through intermediaries: recovery of PAYE), after "to a worker" insert "(other than by virtue of section 61WA)".

(10) The amendments made by this section have effect in relation to deemed direct payments treated as made on or after 6 April 2021.

22 Payments on termination of employment

(1) Section 27 of ITEPA 2003 (UK-based earnings for year when employee not resident in UK) is amended in accordance with subsections (2) to (5).

(2) In subsection (1)—

(a) omit the "or" at the end of paragraph (a), and

(b) at the end of paragraph (b) insert ", or

(c) general earnings to which section 402B (termination payments, and other benefits, that cannot benefit from the section 403 threshold, to be treated as earnings) applies."

(3) In subsection (2), for "(1)" substitute "(1)(a) or (b)".

(4) After subsection (2) insert—

"(2A) The percentage of the general earnings within subsection (1)(c) that are an amount of "taxable earnings" from the employment in the tax year in which they are received is given by—

$$\frac{A}{B} x 100$$

where—

B is the total amount of general earnings from the employment that it is reasonable to assume the employee would have received in respect of the post-employment notice period (within the meaning given by section 402E(5)) if the employee's

employment had not been terminated until the end of that period, and

A is the total amount of those general earnings that it is reasonable to assume would have been taxable earnings by virtue of subsection (1)(a) or (b)." *5*

(5) In subsection (3), for "Subsection (2) applies" substitute "Subsections (2) and (2A) apply".

(6) In section 402B of ITEPA 2003 (termination payments, and other benefits, that cannot benefit from the section 403 threshold, to be treated as earnings), in subsection (1)— *10*

(a) the words from "is treated" to the end become paragraph (a), and

(b) after that paragraph insert ", but

(b) is not capable of being an amount to which section 27 applies by virtue of subsection 1(a) or (b) of that section (UK-based taxable earnings for year when employee not resident in UK)." *15*

(7) In section 402D of ITEPA 2003 (post-employment notice pay)—

(a) in subsection (3), for "and (6)" substitute ", (6) and (6A)";

(b) in subsection (6), after "month, " insert "the employee's basic pay is paid in equal monthly instalments,"; *20*

(c) after subsection (6) insert—

"(6A) In any other case where the last pay period of the employee to end before the trigger date is a month and the employee's basic pay is paid in equal monthly instalments, then—

BP is the employee's basic pay from the employment in respect of the last pay period of the employee to end before the trigger date, *25*

P is 30.42, and

D is the number of days in the post-employment notice period." *30*

(8) The amendments made by this section have effect in relation to general earnings to which section 402B of ITEPA 2003 applies that are paid—

(a) on or after 6 April 2021, and

(b) in connection with a termination of employment that takes place on or after that date. *35*

23 Cash equivalent benefit of a zero-emissions van

(1) Section 155 of ITEPA 2003 (cash equivalent of the benefit of a van) is amended in accordance with subsections (2) and (3).

(2) In subsection (1B)—

(a) in paragraph (a), for "2021-22" substitute "2020-21"; *40*

(b) omit the "and" at the end of that paragraph;

(c) after that paragraph insert—

"(aa) if the van cannot in any circumstances emit CO_2 by being driven and the tax year is 2021-22 or a subsequent tax year, the cash equivalent is nil, and". *45*

(3) In subsection (1C) omit paragraph (g).

(4) In section 170 of ITEPA 2003 (orders etc relating to Chapter 6 of Part 3 of ITEPA 2003), in subsection (1A)—
  (a) in paragraph (b), after "zero-emission van" insert "in tax years 2015-16 to 2020-21";
  (b) omit the "and" at the end of that paragraph;
  (c) after that paragraph insert—
    "(ba) section 155(1B)(aa) (cash equivalent for zero-emissions vans in tax year 2021-22 and subsequent tax years), and".

24 Enterprise management incentives

In FA 2020, for section 107 substitute—

"107 Enterprise management incentives

(1) Schedule 5 to ITEPA 2003 (enterprise management incentives) is modified in accordance with subsections (2) and (3).

(2) Paragraph 26 (requirement as to commitment of working time) has effect as if, in sub-paragraph (3)—
  (a) the "or" at the end of paragraph (c) were omitted, and
  (b) at the end of paragraph (d), there were inserted ", or
    (e) not being required to work for reasons connected with coronavirus disease (within the meaning given by section 1(1) of the Coronavirus Act 2020)."

(3) Paragraph 27 (meaning of "working time") has effect as if, in sub-paragraph (1)(b), for "(d)" there were substituted "(e)".

(4) Section 535 of ITEPA 2003 (disqualifying events relating to employee in relation to enterprise management incentives) has effect as if, in the closing words of subsection (3), for "(d)" there were substituted "(e)".

(5) The modifications made by this section have effect in relation to the period—
  (a) beginning with 19 March 2020, and
  (b) ending with 5 April 2022."

25 Cycles and cyclist's safety equipment

(1) If a cycle, or cyclist's safety equipment, was first provided for an employee before 21 December 2020, Condition B in section 244(3) of ITEPA 2003 (requirement that cycle or cyclist's safety equipment is used mainly for commuting etc) is treated as met in relation to the provision for that employee of that cycle or equipment for the period commencing with 16 March 2020 and ending with 5 April 2022.

(2) In this section "cycle" and "cyclist" have the meanings they have in section 244 of ITEPA 2003 (see subsection (5) of that section).

26 Exemption for coronavirus tests

(1) No liability to income tax arises in respect of—

(a) the provision to an employee of a coronavirus test, or
(b) the payment or reimbursement, to or in respect of an employee, of the cost of such a test.

(2) In this section "coronavirus test" means a test which detects the presence of a viral antigen or viral ribonucleic acid (RNA) specific to severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2). *5*

(3) This section has effect as if it were contained in Part 4 of ITEPA 2003 (employment income: exceptions).

(4) This section has effect in relation to the tax years 2020-21 and 2021-22 (and to the extent the relief provided for by the Income Tax (Exemption of Minor Benefits) (Coronavirus) Regulations 2020 (S.I. 2020/1293) is provided for by this section, it supersedes those regulations). *10*

(5) The Treasury may by regulations provide that this section is also to have effect in relation to such subsequent tax years as may be specified in the regulations.

27 Optional remuneration arrangements: statutory parental bereavement pay *15*

(1) In Schedule 2 to FA 2017 (optional remuneration arrangements), in paragraph 62(9), for "or statutory shared parental pay" substitute ", statutory shared parental pay or statutory parental bereavement pay".

(2) That Schedule has effect, and is to be deemed always to have had effect, with the amendment made by subsection (1). *20*

Pensions

28 Freezing the standard lifetime allowance

Section 218(2C) and (2D) of FA 2004 (indexation of standard lifetime allowance) do not apply in relation to the standard lifetime allowance for the tax years 2021-22, 2022-23, 2023-24, 2024-25 and 2025-26 (so that the amount of the standard lifetime allowance for each of those tax years remains at the amount for the tax year 2020-21, namely £1,073,100). *25*

29 Collective money purchase benefits

Schedule 5 contains amendments of Part 4 of FA 2004 (pension schemes etc) relating to collective money purchase benefits. *30*

Construction industry scheme

30 Construction industry scheme

(1) Schedule 6 contains provision amending Chapter 3 of Part 3 of FA 2004 (construction industry scheme).

(2) In particular, the Schedule makes provision about— *35*
(a) contractors,
(b) deductions on account of tax from contract payments,
(c) the treatment of sums deducted, and
(d) penalties.

Coronavirus support payments etc

31 Covid-19 support scheme: working households receiving tax credits

(1) This section applies to a payment which—
  (a) is made by Her Majesty's Revenue and Customs in the exercise of a function which they have as a result of a direction given by the Treasury under section 76 of the Coronavirus Act 2020, and
  (b) is made to a person by reason of the person's receipt of any tax credit specified in the direction on a date so specified.

(2) No liability to income tax arises in respect of a payment to which this section applies.

(3) But subsection (2) does not prevent the application of paragraph 8 of Schedule 16 to FA 2020 (charge to income tax where person not entitled to coronavirus support payment) in relation to a payment to which this section applies.

32 Self-employment income support scheme

(1) In section 106 of FA 2020 (taxation of coronavirus support payments), in subsection (3)—
  (a) after "provision about" insert "(including provision modifying)";
  (b) for "(2)(c)" substitute "(2)(b)".

(2) In paragraph 3(3) of Schedule 16 to FA 2020 (self-employment income support scheme payments to be treated as receipts of the tax year 2020-21), for "2020-21" substitute "in which the payment was received".

(3) In paragraph 8 of that Schedule (charge if person not entitled to coronavirus support payment)—
  (a) in sub-paragraph (3)—
    (i) in the words before paragraph (a), after "scheme" insert "or the self-employment income support scheme";
    (ii) in paragraph (b), before "because" insert "in the case of a payment made under the coronavirus job retention scheme,";
  (b) in sub-paragraph (4)(a), after "scheme" insert "or the self-employment income support scheme".

(4) The amendments made by subsections (2) and (3) have effect in relation to coronavirus support payments received on or after 6 April 2021.

(5) In this section "coronavirus support payment" has the meaning it has in Schedule 16 to FA 2020 (see section 106(2) and (5) of that Act).

33 Deduction where business rates etc repaid

(1) This section applies if—
  (a) a person ("A") carrying on a business would, but for a coronavirus support arrangement, have incurred a liability to pay a charge to a public authority,
  (b) an expense incurred in discharging that liability would have been deductible in calculating the profits of the business for the purposes of income tax or corporation tax, and

(c) an amount in respect of some or all of that liability is paid to that or any other public authority.

(2) In calculating the profits of the business of A for those purposes—
(a) a deduction is allowed for the amount paid, and
(b) that amount is treated as if it had been paid in the period in which the charge would have been due and payable.

(3) No deduction is otherwise allowed for the amount paid in calculating the profits of the business of any person for those purposes (including where the amount was paid by a person other than A).

(4) For the purposes of this section "coronavirus support arrangement" means an arrangement where—
(a) a liability in respect of non-domestic rates, or
(b) such other liability in respect of a charge payable to a public authority as may be specified in regulations made by the Treasury,
is waived, or reduced, for purposes connected with the provision of support to businesses in connection with coronavirus.

(5) Regulations under subsection (4)(b) may have retrospective effect.

(6) In this section "coronavirus" has the meaning it has in the Coronavirus Act 2020 (see section 1 of that Act).

(7) This section has effect in relation to payments whether made before or after the passing of this Act.

Exemptions from income tax

34 Repeal of provisions relating to the Interest and Royalties Directive

(1) The following provisions are repealed—
(a) sections 757 to 767 of ITTOIA 2005 (exemption from income tax for certain interest and royalty payments) and the italic heading before those sections, and
(b) sections 914 to 917 of ITA 2007 (discretion to make royalty payments gross) and the italic heading before those sections;
and the remainder of this section makes amendments consequential on the repeal of those provisions.

(2) In section 98 of TMA 1970 (special returns, etc)—
(a) in subsection (4A)(b) omit ", (4DA)", and
(b) omit subsection (4DA).

(3) In paragraph 3 of Schedule 18 to FA 1998 (company tax return), in sub-paragraph (5) for ", 912, 914 and 915" substitute "and 912".

(4) In ITTOIA 2005—
(a) in section 369 (charge to tax on interest), in subsection (3) omit paragraph (f) (and the "and" before it),
(b) in section 578 (contents of chapter), in subsection (2)—
(i) for "exemptions" substitute "an exemption",
(ii) for "sections" substitute "section",
(iii) omit "and 758 (certain interest and royalty payments)", and

(c) in section 683 (charge to tax on payments not otherwise charged), in subsection (4) omit paragraph (h).

(5) In section 100 of FA 2015 (diverted profits tax: credits for tax on the same profits)—

(a) in subsection (4C)(c) for "relevant provision" substitute "double taxation arrangements (as defined by section 2(4) of TIOPA 2010)", and

(b) omit subsection (4E).

(6) In section 42(9) of FA 2016 (section 758 of ITTOIA 2005 not to apply to certain royalty payments)—

(a) in paragraph (b), at the end insert "under arrangements (within the meaning of section 917A of ITA 2007) entered into before that day",

(b) omit paragraph (c) (but not the "and" at the end of it), and

(c) for the words after paragraph (d) substitute "the arrangements are to be regarded as DTA tax avoidance arrangements for the purposes of section 917A of ITA 2007".

(7) In consequence of the repeal of section 762 of ITTOIA 2005 made by subsection (1), the Exemption From Tax For Certain Interest Payments Regulations 2004 (S.I. 2004/2622) are revoked (and, accordingly, exemption notices issued in accordance with those regulations are cancelled).

(8) The amendments made by this section have effect in relation to—

(a) payments made on or after 1 June 2021, and

(b) payments made in disqualifying circumstances on or after 3 March 2021 but before 1 June 2021.

(9) A payment is made in "disqualifying circumstances" if it is made directly or indirectly in consequence of, or otherwise in connection with, any arrangements the main purpose, or one of the main purposes, of which is to secure that the provisions mentioned in subsection (1)(a) or (b) continue to have effect in relation to it.

(10) For this purpose "arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).

35 Payments made to victims of modern slavery etc

(1) A payment that meets conditions A to C is to be regarded as a "qualifying payment" for the purposes of paragraph 3(1) and (2) of Schedule 15 to FA 2020 (exemption from income tax).

(2) Condition A is that the payment is made by or on behalf of a public authority.

(3) Condition B is that the payment is made to a person in respect of whom—

(a) there are reasonable grounds to believe the person may be a victim of slavery or human trafficking, and

(b) no conclusive determination has been made identifying the person as a victim for the purposes of Article 10 of the Trafficking Convention.

(4) Condition C is that the payment is made for the purposes of providing the person assistance or support of the kind mentioned in Article 12 of the Trafficking Convention (as contemplated by Article 10).

(5) In this section—

(a) "the Trafficking Convention" means the Council of Europe Convention on Action against Trafficking in Human Beings (done at Warsaw on 16 May 2005);

(b) "public authority" includes any person certain of whose functions are functions of a public nature.

(6) This section has effect in relation to qualifying payments received on or after 1 April 2009.

Miscellaneous corporation tax measures

36 Hybrid and other mismatches

Schedule 7 makes amendments to Part 6A of TIOPA 2010 (hybrid and other mismatches).

37 Relief for losses etc

Schedule 8 makes provision about corporation tax relief for losses and other amounts.

38 Corporate interest restriction: minor amendments

(1) Part 10 of TIOPA 2010 (corporate interest restriction) is amended as follows.

(2) In section 452 (Real Estate Investment Trusts), after subsection (2) insert—

"(2A) In applying subsection (2) and giving effect to the remainder of this section, the company is treated, at all times in the accounting period, as carrying on a residual business within the charge to corporation tax (and, accordingly, amounts falling to be brought into account in the accounting period as a result of this section are within the charge to corporation tax)."

(3) The amendment made by subsection (2) is treated as having come into force on 21 July 2020.

(4) In Schedule 7A (interest restriction returns), after paragraph 29 insert—

"29A(1) Liability to a penalty under paragraph 29 does not arise if the company has a reasonable excuse for failing to submit the return by the filing date.

(2) If the company has a reasonable excuse for the failure but the excuse has ceased, the company is to be treated as having continued to have the excuse if the return is submitted without unreasonable delay after the excuse ceased."

(5) That Schedule has effect, and is to be deemed always to have had effect, with the amendment made by subsection (4).

39 Northern Ireland Housing Executive

(1) In CTA 2010, after section 987B insert—

"Northern Ireland Housing Executive

987C Northern Ireland Housing Executive

The Northern Ireland Housing Executive is not liable to corporation tax." 5

(2) The amendment made by this section has effect in relation to accounting periods beginning on or after 1 April 2020.

Capital gains tax

40 Annual exempt amount 10

Section 1L of TCGA 1992 (which provides for an increase in the annual exempt amount to reflect increases in CPI) does not apply for the tax years 2021-22, 2022-23, 2023-24, 2024-25 and 2025-26 (so that the annual exempt amount for each of those tax years remains at £12,300).

41 Hold-over relief for foreign-controlled companies 15

(1) In section 167 of TCGA 1992 (gifts to foreign-controlled companies), in subsection (2)(b), at the beginning insert "is or".

(2) The amendment made by subsection (1) has effect in relation to a disposal made on or after 6 April 2021.

PART 2 20

PLASTIC PACKAGING TAX

Introductory

42 Plastic packaging tax

(1) A tax called "plastic packaging tax" is to be charged in accordance with this Part. 25

(2) The Commissioners are responsible for the collection and management of plastic packaging tax.

Charging of plastic packaging tax

43 Charge to plastic packaging tax

(1) The charge to plastic packaging tax arises when a chargeable plastic packaging component is— 30
   (a) produced in the United Kingdom by a person acting in the course of a business, or
   (b) imported into the United Kingdom on behalf of such a person.

(2) The reference in subsection (1) to "a business" includes any activity of a government department or other public authority, or of a charity, that is carried out for commercial purposes.

(3) Subsection (1) is subject to section 52 (exempt plastic packaging components).

44 Liability to pay plastic packaging tax

(1) Where the charge to plastic packaging tax arises in respect of a chargeable plastic packaging component by virtue of section 43(1)(a), the person who produces the component is liable to pay the amount charged.

(2) Where the charge arises in respect of a chargeable plastic packaging component by virtue of section 43(1)(b), the person on whose behalf the component is imported is liable to pay the amount charged.

45 Rate

(1) Plastic packaging tax is charged at the rate of £200 per metric tonne of chargeable plastic packaging components of a single specification.

(2) The amount charged on part of a tonne is the proportionately reduced amount.

46 Payment

(1) Plastic packaging tax is to be paid by reference to accounting periods determined in accordance with regulations under section 61(1) (regulations about the payment, collection and recovery of plastic packaging tax).

(2) References in this Part to "accounting periods" are to those accounting periods.

Interpretation of main terms etc

47 Chargeable plastic packaging components

(1) A plastic packaging component is chargeable if—
  (a) the proportion of recycled plastic in the component, when measured by weight, is less than 30% of the total amount of plastic in the component, and
  (b) it is finished.

(2) A plastic packaging component is taken to fall within subsection (1)(a) unless it is shown that it does not.

(3) For the purposes of this Part, a component is "finished" if it has undergone—
  (a) its last substantial modification, or
  (b) in the case of a component that undergoes a substantial modification when it is packed or filled, its last substantial modification before being packed or filled,

  even if waste or surplus material remains attached to it.

(4) Accordingly, for the purposes of this Part, waste or surplus material that remains attached to a component after its last substantial modification is not to be treated as part of the component.

(5) The Commissioners may by regulations make provision about—

(a) the methodology to be used, or the information or evidence required, to satisfy them that a plastic packaging component does not fall within subsection (1)(a);
(b) the meaning of "substantial modification".

48 Meaning of "plastic packaging component"

(1) A "packaging component" is a product that is designed to be suitable for use, whether alone or in combination with other products, in the containment, protection, handling, delivery or presentation of goods at any stage in the supply chain of the goods from the producer of the goods to the user or consumer.

(2) Subject to section 52, it does not matter why a component within this definition is produced or imported (for example, whether it is produced or imported for use in the supply chain of the goods or by a user or consumer).

(3) A "plastic packaging component" is a packaging component that contains more plastic, when measured by weight, than any other single substance listed in regulations under subsection (7)(a).

(4) A packaging component that contains plastic is taken to be a plastic packaging component unless it is shown that it is not such a component.

(5) The Treasury may by regulations amend the meaning of "packaging component" by—
(a) adding descriptions of products, or
(b) removing descriptions of products.

(6) Regulations under subsection (5) may amend this Part.

(7) The Commissioners may by regulations—
(a) list substances for the purposes of subsection (3);
(b) make provision about the methodology to be used, or the information or evidence required, to satisfy them that a packaging component that contains plastic is not a plastic packaging component.

49 Meaning of "plastic" and "recycled plastic"

(1) "Plastic" means a material consisting of a polymer, other than a cellulose-based polymer that has not been chemically modified, to which additives or other substances may have been added.

(2) "Recycled plastic" is plastic that has been reprocessed from recovered material by means of a chemical or manufacturing process, other than organic recycling, so that it can be used either for its original purpose or for other purposes.

(3) "Organic recycling" means the aerobic or anaerobic treatment, under controlled conditions and using micro-organisms, of biodegradable matter, which produces stabilised organic residues or methane.

(4) "Recovered material" is pre-consumer plastic or post-consumer plastic that—
(a) has been collected and recovered as a material input, in lieu of new primary material, for a recycling or a manufacturing process, and
(b) would otherwise have been disposed of as waste or used for energy recovery.

(5) "Pre-consumer plastic" is plastic that is—
  (a) recovered from waste generated in a manufacturing process, and
  (b) processed by a reprocessing facility,
but does not include plastic that is reused in the same process in which it was generated as scrap and from which it was recovered. *5*

(6) "Post-consumer plastic" is plastic—
  (a) that is generated by households or by commercial, industrial or institutional facilities in their role as end-users of the product, and
  (b) that can no longer be used for its intended purpose.
This includes returns of plastic from the distribution chain. *10*

(7) Plastic is not to be taken as recycled plastic unless it is shown that it is recycled plastic.

(8) The Treasury may by regulations amend the meaning of "plastic" and "recycled plastic".

(9) Regulations under subsection (8) may amend this Part. *15*

(10) The Commissioners may by regulations make provision about the methodology to be used, or the information or evidence required, to satisfy them that plastic is recycled plastic.

50 Time of importation

(1) A chargeable plastic packaging component is imported into the United Kingdom— *20*
  (a) in the case of a component that is subject to customs formalities within the meaning given by section 1(1) of CEMA 1979, as soon as all such formalities have been complied with in respect of the component, and
  (b) in any other case, at the time of importation for the purposes of the customs and excise Acts. *25*

(2) This section is subject to section 76 (Isle of Man: import and export of chargeable plastic packaging components).

Deferrals, exemptions and credits

51 Plastic packaging components intended for export *30*

(1) A person's liability under section 44 to pay an amount by way of plastic packaging tax in relation to a plastic packaging component is—
  (a) deferred for as long as the direct export condition is met in relation to the component;
  (b) cancelled if the direct export condition ceases to be met in relation to the component as a result of it being exported from the United Kingdom before the end of the deferral period in accordance with regulations made by the Commissioners. *35*

(2) The direct export condition is met in relation to a component at any time if—
  (a) the time is within the deferral period; *40*
  (b) the person who is liable to pay the tax ("the liable person") intends to export it (and has intended to export it at all times since it was produced or imported);

(c) any other conditions or requirements specified in regulations made by the Commissioners are met.

(3) If the Commissioners are not satisfied of any matter within subsection (2) in relation to a component they may—

(a) in a case where they are satisfied that the direct export condition was met but no longer is, notify the liable person that the condition is to be taken to have ceased to be met in relation to that component from a date specified in the notification, or

(b) in any other case, notify the liable person that the direct export condition is to be taken never to have been met in relation to that component.

(4) The consequence of notification is that liability to pay an amount by way of plastic packaging tax—

(a) in a case within subsection (3)(a), ceases to be deferred in accordance with subsection (1)(a) with effect from such date as the Commissioners may specify in the notification, or

(b) in a case within subsection (3)(b), is taken never to have been deferred in accordance with subsection (1)(a).

(5) The deferral period in relation to a component is the period of 12 months beginning with the day on which the component is produced or imported.

(6) This section does not apply to plastic packaging components that are used in the removal of goods from the United Kingdom and that are—

(a) transport packaging or tertiary packaging within the meaning of regulation 3(2)(c) of the Packaging (Essential Requirements) Regulations 2015 (S.I. 2015/1640), or

(b) road, rail, ship and air containers.

(7) This section is subject to section 76 (Isle of Man: import and export of chargeable plastic packaging components).

52 Exempt plastic packaging components

(1) No charge to plastic packaging tax arises by virtue of section 43(1)(b) in relation to plastic packaging components that are used in the delivery of goods into the United Kingdom and that are—

(a) transport packaging or tertiary packaging within the meaning of regulation 3(2)(c) of the Packaging (Essential Requirements) Regulations 2015 (S.I. 2015/1640), or

(b) road, rail, ship and air containers.

(2) No charge to plastic packaging tax arises in relation to plastic packaging components if subsection (3), (4) or (6) applies to them.

(3) This subsection applies to plastic packaging components if they are stores within the meaning of CEMA 1979 (see section 1 of that Act).

(4) This subsection applies to plastic packaging components if they are produced or imported for use in the immediate packaging of a medicinal product.

(5) In subsection (4)—

"immediate packaging", in relation to a medicinal product, has the meaning given by regulation 8(1) of the Human Medicines Regulations 2012 (S.I. 2012/1916);

"medicinal product" has the meaning given by regulation 2(1) of those Regulations. *5*

(6) This subsection applies to plastic packaging components if—

(a) before or as soon as they have been produced or imported they are permanently designated or set aside for use other than in the containment, protection, handling, delivery or presentation of goods, and *10*

(b) the producer or person on whose behalf they were imported keeps a record of that designation or setting aside.

(7) The Treasury may by regulations make provision creating further exemptions from plastic packaging tax.

53 Tax credits *15*

(1) The Commissioners may by regulations make provision in relation to cases where after a person has become liable to pay plastic packaging tax in respect of a prescribed plastic packaging component (the "charged component"), that component is—

(a) exported from the United Kingdom; *20*

(b) converted into a different packaging component.

(2) The provision that may be made is provision—

(a) for the person to be entitled to a tax credit in respect of any plastic packaging tax charged on the charged component;

(b) for the tax credit to be brought into account when the person is accounting for plastic packaging tax due from the person for the prescribed accounting period or periods; *25*

(c) for the person to be entitled to a repayment of plastic packaging tax (instead of a tax credit) in prescribed cases.

(3) Regulations under this section may (among other things) make provision— *30*

(a) for any entitlement to a tax credit to be conditional on the making of a claim by the person, and specifying the period within which and the manner in which a claim may be made;

(b) for any entitlement to a tax credit or to bring a tax credit into account to be— *35*

(i) conditional on compliance with prescribed requirements;

(ii) subject to prescribed minimum or maximum amounts;

(c) specifying circumstances in which, and criteria for determining the period for which, the person is or is not entitled to a tax credit;

(d) requiring a claim for a tax credit to be evidenced and quantified by reference to prescribed records and other documents; *40*

(e) requiring a person claiming any entitlement to a tax credit to keep, for the prescribed period and in the prescribed form and manner, those records and documents and a record of prescribed information relating to the claim; *45*

(f) for the withdrawal of a tax credit where any requirement of the regulations is not complied with;

(g) about adjustments of liability for plastic packaging tax in connection with entitlement or withdrawal of an entitlement to a tax credit in prescribed circumstances;

(h) about the treatment of a tax credit where the person ceases to carry on a business or otherwise is no longer liable to plastic packaging tax;

(i) for anything falling to be determined in accordance with the regulations to be determined by reference to a direction given in accordance with the regulations by the Commissioners;

(j) about the meaning of "converted" for the purposes of subsection (1)(b).

(4) In this section, "prescribed" means specified in or under, or determined in accordance with provision made in or under, regulations under this section.

Registration

54 The register

(1) The Commissioners must establish and maintain a register for the purposes of collecting and managing plastic packaging tax.

(2) The register may contain such information as the Commissioners think is required for those purposes.

(3) The Commissioners may publish, by such means as they think fit, any information which—

(a) is derived from the register, and

(b) is within any of the descriptions in subsection (4),

apart from information relating to a registration which is subject to an outstanding appeal.

(4) The descriptions are—

(a) the names of registered persons;

(b) particulars of sites at which registered persons carry on business;

(c) registration numbers assigned to registered persons;

(d) where the registered person is a body corporate that is a member of a group—

(i) the fact that it is a member of a group,

(ii) the names of the other bodies corporate that are members of the group, and

(iii) particulars of any sites at which those other bodies carry on business.

(5) Subject to subsection (6), information may be published in accordance with this section despite any obligation not to disclose the information that would otherwise apply.

(6) Nothing in this section authorises a disclosure of information which contravenes the data protection legislation (but in determining whether a disclosure would do so, take into account the powers conferred by this section).

(7) In this Part—

"data protection legislation" has the meaning given by section 3(9) of the Data Protection Act 2018;

"the register" means the register under subsection (1) and references to registration are to registration in it.

55 Liability to register: producers and importers

(1) A person (P) who—
  (a) produces finished plastic packaging components, or
  (b) on whose behalf finished plastic packaging components are imported,
becomes liable to be registered on a given day if subsection (2) applies in relation to P on that day.

(2) This subsection applies—
  (a) on any day, where there are reasonable grounds for believing that the amount of finished plastic packaging components that will be produced by, or imported on behalf of, P within the period of 30 days beginning with that day will equal or exceed 10 metric tonnes, or
  (b) on the first day of any calendar month, where the amount of finished plastic packaging components produced by, or imported on behalf of, P over the 12 months ending with the day before that day equals or exceeds 10 metric tonnes.

(3) Finished plastic packaging components to which section 52(1) or (3) applies are not to be taken into account for the purposes of subsection (2).

(4) In the application of subsection (2)(b) to the first day of a month falling within the year beginning with 1 April 2022, that paragraph has effect as if for "over the 12 months" there were substituted "during the period beginning with 1 April 2022 and".

56 Notification of liability and registration

(1) A person who becomes liable to be registered under section 55 must notify the Commissioners of the liability before the end of the notification period.

(2) The "notification period" is the period of 30 days beginning with the day on which the liability arises.

(3) Where the Commissioners are satisfied that a person is liable to be registered (whether or not the person has notified liability under subsection (1)), the Commissioners must register the person with effect from the day on which the liability arises.

(4) Where an unincorporated body (other than a partnership) is registered in the name of the body concerned, no account is to be taken of any change in its members in determining how any provision of or under this Part applies in relation to the body.

(5) The Commissioners may by regulations make provision—
  (a) about the form and manner in which a notification under this section is to be given;
  (b) about the information to be contained in or provided with a notification under this section;
  (c) for the Commissioners to require further information from a person in connection with that person's registration;

(d) requiring notifications and other communications with the Commissioners in connection with registration to be made electronically.

57 Cancellation of registration

(1) A registration under section 56 may be cancelled only in accordance with this section.

(2) The Commissioners may cancel a person's registration if—
(a) the person requests the cancellation, and
(b) the person satisfies the Commissioners that the person does not, on the day of the request, meet the liability condition.

(3) The Commissioners may cancel a person's registration if they are satisfied that the person does not meet the liability condition and has not met the liability condition for a period of at least 12 months.

(4) The Commissioners may cancel a person's registration if they are satisfied that the person did not meet the liability condition on the day on which the person was registered, and has not at any subsequent time met the liability condition.

(5) A cancellation under subsection (2) is to be made with effect from—
(a) the day on which the request is made, or
(b) such later day as may be agreed between the Commissioners and that person.

(6) A cancellation under subsection (3) is to be made with effect from—
(a) the day on which the person ceased to meet the liability condition, or
(b) such later day as may be agreed between the Commissioners and that person.

(7) A cancellation under subsection (4) is to be made with effect from the day on which the person was registered.

(8) But the Commissioners must not cancel a person's registration under subsection (2) or (3) if—
(a) there are outstanding amounts of plastic packaging tax, or amounts recoverable as plastic packaging tax, due from that person, or
(b) there are one or more outstanding returns for the purposes of plastic packaging tax due from that person.

(9) The Commissioners may decline to cancel a person's registration on any day if they reasonably believe that the person will become liable to be registered under section 55 during the period of 12 months beginning with that day.

(10) For the purposes of this section, a person meets the liability condition on a particular day if—
(a) the condition in section 55(2)(a) is met in relation to that person on that day,
(b) the day is the first day of a month and the condition in section 55(2)(b) is met in relation to that person on that day, or
(c) the day is in the same month as a day on which the condition in section 55(2)(b) was met in relation to that person.

58 Correction of the register

(1) The Commissioners may by regulations make provision about the correction of entries in the register.

(2) Regulations under subsection (1) may make provision for requiring persons who are, or are liable to be, registered to notify the Commissioners of changes in circumstances which are relevant to the register.

Secondary liability and joint and several liability notices

59 Notices imposing secondary or joint and several liability

Schedule 9 makes provision about notices that may in certain circumstances—

(a) impose secondary liability on a person in respect of an amount of plastic packaging tax which another person has failed to pay, or

(b) make one person jointly and severally liable with another person in respect of some or all of the other person's liability to pay plastic packaging tax in respect of a period of time in the future.

Administration and enforcement

60 Measurement of weight etc

(1) The Commissioners may by regulations make provision for and about the measurement of weight for the purposes of plastic packaging tax.

(2) The regulations may (among other things) include provision about—

(a) how weight is to be measured;

(b) the time in relation to which weight is to be measured;

(c) how weight is to be evidenced;

(d) agreements between the Commissioners and particular persons about how weight is to be measured or evidenced, including provision for the Commissioners to disregard the terms of an agreement in circumstances set out in the regulations;

(e) the Commissioners making their own assessment or best judgement of weight in relation to plastic packaging components and substituting that assessment or judgement for the assessment or judgement of any other person;

(f) the Commissioners inspecting or weighing plastic packaging components or samples;

(g) the assessment of weight by the Commissioners being based on estimates or assumptions.

61 Payment, collection, recovery

(1) The Commissioners may by regulations make provision about the payment, collection and recovery of amounts for the purposes of plastic packaging tax.

(2) Regulations under subsection (1) may (among other things)—

(a) make provision for determining the accounting periods by reference to which payments are to be made;

(b) require persons who are registered or who are liable to be registered under section 55 ("relevant persons") to keep accounts for the purposes of plastic packaging tax in a specified form and manner;

(c) require relevant persons to make returns for the purposes of plastic packaging tax;

(d) make provision about the times at which payments of plastic packaging tax are to be made and methods of payment;

(e) require the amounts payable by reference to accounting periods to be calculated by or under the regulations;

(f) make provision about the payment, collection and recovery of amounts payable by a person as a result of a secondary liability and assessment notice or a joint and several liability notice;

(g) make provision for the correction of errors made in accounting for plastic packaging tax.

(3) Provision may be made by or under regulations under subsection (2)(c) about—

(a) the form and manner of making returns;

(b) the information to be included in returns;

(c) declarations about the truth of information in returns;

(d) the periods by reference to which returns are to be made;

(e) timing.

(4) Schedule 10 makes provision about recovery and overpayments.

62 Reviews and appeals

Schedule 11 makes provision about reviews and appeals.

63 Records

(1) The Commissioners may by regulations require persons—

(a) to keep, for purposes connected with plastic packaging tax, records of specified matters, and

(b) to preserve records for a specified period.

(2) A duty under regulations under subsection (1) to preserve records may be discharged by preserving them, or the information contained in them, in any form and by any means, subject to any conditions or exceptions specified in the regulations.

(3) The period specified in regulations under subsection (1) may not exceed 6 years beginning with the end of the accounting period to which the records relate.

(4) The Commissioners may direct a person who is, or is liable to be, registered under this Part or to whom a secondary liability and assessment notice or a joint and several liability notice has been given —

(a) to keep such records as are specified in the direction;

(b) to preserve those records for a specified period.

(5) The Commissioners may not give a direction under subsection (4) unless they have reasonable grounds for believing that the records specified in the

direction might assist in identifying chargeable plastic packaging components in respect of which plastic packaging tax might not be paid.

(6) A direction under subsection (4)—
  (a) must be in writing,
  (b) must specify the consequences under section 80 of a failure to comply with a requirement imposed under that section, and
  (c) may be revoked or replaced by a further direction.

(7) The period specified in a direction under subsection (4)(b) may not exceed 6 years.

64 Information and evidence

Schedule 12 makes provision about the collection and sharing of information and about evidence.

65 Security for tax

(1) The Commissioners may by regulations prescribe circumstances in which a person who is liable to be registered under section 55 may be required to give security (or further security) of such amount and in such manner as the Commissioners may determine for the payment of any plastic packaging tax due, or which may become due, from the person.

(2) The Commissioners may only exercise the power in subsection (1) if they consider it is necessary for the protection of the revenue.

66 Unincorporated bodies

The Commissioners may by regulations make provision in relation to a business which is carried on by a partnership or by another unincorporated body specifying by what person anything required by or under this Part to be done by a person is to be done.

67 Service

(1) Anything required to be given to a person ("P") by or under a provision of this Part may be given by sending it to P or to P's representative by post, addressed to that person's last known address.

(2) Anything given to P's representative is to be treated as having been given to P.

(3) In this section, "representative", in relation to P, means—
  (a) any of P's personal representatives;
  (b) any person holding office as receiver in relation to P or any of P's property;
  (c) P's trustee in bankruptcy or liquidator;
  (d) a trustee (or interim trustee) in a sequestration of P's estate under the Bankruptcy (Scotland) Act 2016;
  (e) any other person acting in a representative capacity in relation to P (including under section 69).

Miscellaneous

68 Statements for business customers

(1) A person who—
  (a) supplies to a business customer a plastic packaging component in respect of which a charge to plastic packaging tax has arisen, and
  (b) is liable to pay plastic packaging tax on that component,

must, when invoicing that customer in respect of that component, include with that invoice a statement of the amount of plastic packaging tax arising in relation to that component (a "PPT statement").

(2) The reference in subsection (1)(a) to supplying a plastic packaging component to a business customer includes supplying that component by virtue of supplying other goods, such as goods that are contained within the component.

(3) A PPT statement must contain such particulars as the Commissioners may prescribe in regulations.

(4) In this section, "business customer" means a person who is supplied with a plastic packaging component in the course of their carrying out a business (within the meaning of section 43(2)).

69 Tax representatives of non-resident taxpayers

(1) The Commissioners may by regulations make provision requiring that every non-resident taxpayer appoint a person resident in the United Kingdom to act as the taxpayer's tax representative for the purposes of plastic packaging tax.

(2) Regulations under subsection (1) may, in particular, make provision—
  (a) requiring notification to be given to the Commissioners where a person becomes a non-resident taxpayer;
  (b) requiring notification to be given to the Commissioners where a person appoints a person as a tax representative;
  (c) for the appointment of a person as a tax representative to take effect only where the person appointed is approved by the Commissioners;
  (d) authorising the Commissioners to give a direction requiring the replacement of a tax representative;
  (e) about the circumstances in which a person ceases to be a tax representative and about the withdrawal by the Commissioners of their approval of a tax representative;
  (f) enabling a tax representative to act on behalf of the person for whom they are the tax representative through an agent of the representative;
  (g) for the purposes of any provision made by virtue of paragraphs (a) to (f) regulating the procedure to be followed in any case and imposing requirements as to the information and other particulars to be provided to the Commissioners;
  (h) as to the time at which things done under or for the purposes of the regulations are to take effect.

(3) The tax representative of a non-resident taxpayer—
  (a) may act on the non-resident taxpayer's behalf for the purposes of any provision relating to plastic packaging tax, and

(b) is under a duty, except to such extent as the Commissioners may by regulations otherwise provide, to secure the non-resident taxpayer's compliance with, and discharge of, the obligations and liabilities to which the non-resident taxpayer is subject by virtue of any provision relating to plastic packaging tax (including obligations and liabilities arising or incurred before the representative was appointed).

(4) A person who is or has been the tax representative of a non-resident taxpayer is personally liable—

(a) in respect of any failure to secure compliance with, or the discharge of, any obligation or liability to which subsection (3)(b) applies while they are or were the non-resident taxpayer's tax representative, and

(b) in respect of anything done in the course of, or for purposes connected with, acting on the non-resident taxpayer's behalf,

as if the obligations and liabilities to which subsection (3)(b) applies were imposed jointly and severally on the tax representative and the non-resident taxpayer.

(5) A tax representative is not liable by virtue of this section to be registered for the purposes of plastic packaging tax; but the Commissioners may by regulations—

(a) require the registration of the names of tax representatives against the names of the non-resident taxpayers of whom they are the representatives;

(b) make provision for the deletion of the names of persons who cease to be tax representatives.

(6) A tax representative is not, by virtue of this section, guilty of an offence except in so far as—

(a) they consented to, or connived in, the commission of the offence by the non-resident taxpayer;

(b) the commission of the offence by the non-resident taxpayer is attributable to any neglect on the part of the tax representative;

(c) the offence consists in a contravention by the tax representative of an obligation which, by virtue of this section, is imposed both on the tax representative and on the non-resident taxpayer.

(7) In this section "non-resident taxpayer" means a person who—

(a) is, or is liable to be, registered under this Part, and

(b) is not resident in the United Kingdom.

(8) For the purposes of subsection (7), a person is resident in the United Kingdom at any time if, at that time—

(a) that person has an established place of business in the United Kingdom;

(b) that person has a usual place of residence in the United Kingdom;

(c) that person is a firm or unincorporated body which (without being resident in the United Kingdom by virtue of paragraph (a)) has amongst its partners or members at least one individual with a usual place of residence in the United Kingdom.

70 Adjustment of contracts

(1) Subsection (2) applies where—

(a) a person (S) supplies a chargeable plastic packaging component that S has produced, or that was imported on behalf of S, to another person (P) under a contract,

(b) a payment falls to be made under the contract for the supply of the component, and

(c) after the making of the contract—

(i) plastic packaging tax becomes chargeable on the component, or

(ii) there is a change in the plastic packaging tax chargeable on the component.

(2) Unless the contract otherwise provides, S may adjust the amount of the payment mentioned in subsection (1)(b) so as to reflect the tax chargeable on the component.

(3) Subsection (4) applies where a person (S) supplies another person (P) with a chargeable plastic packaging component under a contract.

(4) Unless the contract provides otherwise, S may adjust the contract so that if P subsequently converts the component into a different chargeable plastic packaging component, P must provide S with information about the conversion.

(5) For the purposes of subsections (1) and (3), it is immaterial—

(a) when the contract was made;

(b) whether the contract also provides for other matters.

71 Groups of companies

(1) Subsection (2) applies where a body corporate (P) is liable to pay an amount of plastic packaging tax (or an amount recoverable on the basis that it is an amount of plastic packaging tax)—

(a) in respect of plastic packaging components produced by, or imported on behalf of, P, or

(b) by virtue of a secondary liability and assessment notice or a joint and several liability notice,

at the time P is a member of a group.

(2) For the purposes of this Part, the representative member of the group is to be treated as if it were liable to pay the amount instead of P.

(3) All the bodies corporate who are treated as members of a group when any amount becomes due from the representative member, together with any bodies corporate who become treated as members of the group while any such amount remains unpaid, are jointly and severally liable for the amount due from the representative member.

(4) For the purposes of this Part—

(a) a body corporate is to be treated as a member of a group at any time in relation to which it falls to be treated as such in accordance with provision made by Schedule 13, and

(b) the representative member of a group at any time is the body corporate which falls to treated as such in accordance with that Schedule.

(5) Schedule 13 makes provision about applications by two or more bodies corporate to be treated as members of the same group for the purposes of this Part.

72 Prevention of artificial separation of business activities: directions

(1) This section, and section 73, apply for the purpose of preventing the maintenance or creation of any artificial separation of business activities carried on by two or more persons from resulting in an avoidance of plastic packaging tax.

(2) The Commissioners may make a direction under this section naming any person only if they are satisfied that—

(a) the person is producing or importing, or has produced or imported, chargeable plastic packaging components,

(b) the activities in the course of which the person produces or imports, or produced or imported, chargeable plastic packaging components form only part of certain activities, the other activities being carried on concurrently or previously (or both) by one or more other persons,

(c) the activities carried on by those persons have been, or are, artificially separated, having regard to whether the persons carrying on those activities are connected within the meaning of section 1122 of CTA 2010 ("connected" persons), and

(d) if all the activities of those persons were taken into account, a single person carrying on that business would at the time of the direction be liable to be registered by virtue of section 55.

(3) Subsection (4) applies where, after making a direction under this section that specifies a description of business, it appears to the Commissioners that a person (P) who was not named in that direction is producing or importing, or has produced or imported, chargeable plastic packaging components in the course of activities which should be regarded as part of the activities of that business.

(4) The Commissioners may make a supplementary direction referring to the earlier direction and the description of business specified in it and adding P's name to those of the persons named in the earlier direction with effect from—

(a) the date on which P began to produce or import those components, or

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

(5) If, immediately before a direction (including a supplementary direction) is made under this section, any person named in the direction is registered under this Part, the person ceases to be liable to be so registered with effect from 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) A direction under this section must be given to each person named in it.

73 Prevention of artificial separation of business activities: effect of directions

(1) For the purposes of this Part, where a direction is made under section 72—

(a) the persons named in the direction are to be treated as a single taxable person carrying on the activities of a business described in the direction;

(b) the taxable person is liable to be registered under this Part with effect from—
  (i) the date of the direction, or
  (ii) such later date as may be specified in the direction;

(c) the taxable person is to be registrable in such name as—
  (i) the persons named in the direction may jointly nominate in writing to the Commissioners not later than 14 days after the date of the direction, or
  (ii) if no such name is nominated, in such name as may be specified in the direction;

(d) any production or import of chargeable plastic packaging components by or on behalf of one of the constituent members in the course of the activities of the taxable person is to be treated as production by or import on behalf of that person;

(e) each of the constituent members is to be jointly and severally liable for any plastic packaging tax due from the taxable person;

(f) any failure by the taxable person to comply with any requirement imposed by or under this Part is to be treated as a failure by each of the constituent members severally;

(g) subject to the preceding paragraphs, for the purposes of this Part the constituent members are to 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 are to be determined accordingly.

(2) Subsection (3) applies where—
  (a) it appears to the Commissioners that any person (P) who is one of the constituent members should no longer be regarded as such for the purposes of subsection (1)(e) and (f), and
  (b) the Commissioners give notice to that effect.

(3) P is not liable by virtue of subsection (1)(e) and (f) for anything done after the date specified in that notice (and accordingly on that date P is to be treated as having ceased to be a member of the partnership referred to in subsection (1)(g)).

(4) In subsections (1) and (2), the "constituent members" means, in relation to a business specified in a direction under section 72, the persons named in the direction, together with any person named in a supplementary direction relating to that business (together being the persons who are to be treated as the taxable person).

74 Death, incapacity or insolvency of person carrying on a business: regulations

(1) The Commissioners may by regulations make provision for the purposes of plastic packaging tax in relation to cases where a person carries on the business of—
  (a) an individual who has died or become incapacitated;
  (b) a person (whether or not an individual) who is subject to an insolvency procedure (as defined in the regulations).

(2) Provision may be made by regulations under this section—
  (a) requiring the person who is carrying on the business (P) to inform the Commissioners that P is carrying on the business and of the event that has led to P carrying it on;

(b) allowing P to be treated for a limited time as if P and the person who has died, become incapacitated or is subject to an insolvency procedure were the same person;

(c) about such other matters as the Commissioners think fit for securing continuity in the application of this Part in cases to which the regulations apply.

75 Transfer of business as a going concern: regulations

(1) The Commissioners may by regulations make provision for the purposes of plastic packaging tax in relation to cases where any business carried on by a person (P) is transferred to another person (T) as a going concern.

(2) Regulations under this section may (among other things) make—

(a) provision requiring P to inform the Commissioners of the transfer;

(b) provision for P's liabilities and duties under this Part to become, to such extent as may be provided by the regulations, liabilities and duties of T;

(c) provision for any right of either P or T to a tax credit or repayment of plastic packaging tax to be satisfied by allowing the credit or making the repayment to the other;

(d) provision as to the preservation of any records or accounts relating to the business which, by virtue of any regulations under section 63, are required to be preserved for any period after the transfer;

(e) such other provision as the Commissioners think fit for securing continuity in the application of this Part in cases to which the regulations apply.

(3) Regulations under this section may provide that no such provision as is mentioned in subsection (2)(b) or (c) has effect in relation to any transferor or transferee unless an application for the purpose has been made by them under the regulations.

76 Isle of Man: import and export of chargeable plastic packaging components

(1) Subsections (2) and (3) apply if—

(a) a chargeable plastic packaging component is imported into the United Kingdom from the Isle of Man, and

(b) a charge corresponding to plastic packaging tax (the "corresponding charge") has arisen in relation to the component under the law of the Isle of Man.

(2) If the corresponding charge has arisen at a rate equal to, or greater than, the United Kingdom rate, the component is to be treated as not being imported into the United Kingdom for the purposes of plastic packaging tax.

(3) If the corresponding charge has arisen at a rate lower than the United Kingdom rate, the amount of plastic packaging tax charged under this Part in relation to the component is to be reduced by an amount equal to the corresponding charge.

(4) "The United Kingdom rate" in relation to a chargeable plastic packaging component is the rate of plastic packaging tax that would (apart from this section) be chargeable in relation to the component under this Part.

(5) For the purposes of provision made by or under sections 51 and 53, a chargeable plastic packaging component is to be treated as not being exported from the United Kingdom if it is exported from the United Kingdom to the Isle of Man.

(6) For the purposes of determining, in accordance with section 50, when a chargeable plastic packaging component is imported into the United Kingdom from the Isle of Man, section 8 of the Isle of Man Act 1979 (removal of goods from the Isle of Man) is to have effect as if, in subsection (2), at the end of paragraph (c), there were inserted "; or

(d) goods which are chargeable plastic packaging components for the purposes of plastic packaging tax."

Offences and penalties

77 Fraudulent evasion

(1) A person commits an offence if the person is knowingly concerned in, or in the taking of steps with a view to, the fraudulent evasion (by that person or another person) of plastic packaging tax.

(2) The reference in subsection (1) to the evasion of plastic packaging tax includes reference to obtaining, in circumstances where there is no entitlement to it—

(a) a tax credit;

(b) a repayment of plastic packaging tax.

(3) A person guilty of an offence under this section is liable—

(a) on summary conviction in England and Wales—

(i) to imprisonment for a term not exceeding 12 months,

(ii) to a fine not exceeding £20,000 or (if greater) three times the total of the amounts of plastic packaging tax that were, or were intended to be, evaded, or

(iii) to both;

(b) on summary conviction in Scotland—

(i) to imprisonment for a term not exceeding 12 months,

(ii) to a fine not exceeding the statutory maximum or (if greater) three times the total of the amounts of plastic packaging tax that were, or were intended to be, evaded, or

(iii) to both;

(c) on summary conviction in Northern Ireland—

(i) to imprisonment for a term not exceeding 6 months,

(ii) to a fine not exceeding the statutory maximum or (if greater) three times the total of the amounts of plastic packaging tax that were, or were intended to be, evaded, or

(iii) to both;

(d) on conviction on indictment—

(i) to imprisonment for a term not exceeding 7 years,

(ii) to a fine, or

(iii) to both.

(4) For the purposes of subsection (3), the amounts of plastic packing tax that were, or were intended to be, evaded are to be taken as including—

(a) the amount of any tax credit, and
(b) the amount of any repayment of plastic packaging tax,

which was, or was intended to be, obtained in circumstances when there was no entitlement to it.

(5) In determining for the purposes of subsection (3) the amounts of plastic packaging tax that were, or were intended to be, evaded, no account is to be taken of the extent to which any liability to tax of a person would be, or would have been, reduced by the amount of any tax credit or repayment of plastic packaging tax to which the person was, or would have been, entitled.

(6) In relation to an offence committed before the commencement of paragraph 24(2) of Schedule 22 to the Sentencing Act 2020, the reference in subsection (3)(a)(i) to 12 months is to be read as a reference to 6 months.

78 Misstatements

(1) A person commits an offence if, for purposes connected with plastic packaging tax, the person—
(a) produces or provides, causes to be produced or provided, or otherwise makes use of any document which is false in a material particular, and
(b) does so intending to deceive any person or to secure that a machine will respond to the document as if it were a true document.

(2) A person commits an offence if, in providing any information under any provision made by or under this Part the person—
(a) makes a statement which the person knows to be false in a material particular, or
(b) recklessly makes a statement which is false in a material particular.

(3) A person guilty of an offence under this section is liable (subject to subsection (4))—
(a) on summary conviction in England and Wales—
(i) to imprisonment for a term not exceeding 6 months,
(ii) to a fine not exceeding £20,000, or
(iii) to both;
(b) on summary conviction in Scotland—
(i) to imprisonment for a term not exceeding 6 months,
(ii) to a fine not exceeding the statutory maximum, or
(iii) to both;
(c) on summary conviction in Northern Ireland—
(i) to imprisonment for a term not exceeding 6 months,
(ii) to a fine not exceeding the statutory maximum, or
(iii) to both;
(d) on conviction on indictment—
(i) to imprisonment for a term not exceeding 7 years,
(ii) to a fine, or
(iii) to both.

(4) In the case of an offence under this section where—
(a) the document referred to in subsection (1) is a return required under any provision made by or under this Part of this Act, or

(b) the information referred to in subsection (2) is contained in or otherwise relevant to such a return,

the maximum amount of the fine on summary conviction is the greater of £20,000 or the statutory maximum (as the case may be), and the amount equal to three times the sum of the amounts (if any) by which the return underestimates any person's liability to plastic packaging tax.

(5) In subsection (4) the reference to the amount by which a person's liability to plastic packaging tax is understated is the sum of—

(a) the amount (if any) by which the person's gross liability was understated, and

(b) the amount (if any) by which any entitlements of the person to tax credits and repayments of plastic packaging tax were overstated.

(6) In subsection (5) "gross liability" means liability to plastic packaging tax before any deduction is made in respect of—

(a) any entitlement to any tax credits, or

(b) any repayment of plastic packaging tax.

79 Conduct involving evasions or misstatements

(1) A person commits an offence if the person's conduct during any particular period must have involved the person committing one or more offences under section 77 or 78.

(2) For the purposes of any proceedings for an offence under this section it is immaterial whether the particulars of the offence or offences that must have been committed are known.

(3) A person guilty of an offence under this section is liable (subject to subsection (4))—

(a) on summary conviction in England and Wales—

(i) to imprisonment for a term not exceeding 6 months,

(ii) to a fine not exceeding £20,000, or

(iii) to both;

(b) on summary conviction in Scotland—

(i) to imprisonment for a term not exceeding 6 months,

(ii) to a fine not exceeding the statutory maximum, or

(iii) to both;

(c) on summary conviction in Northern Ireland—

(i) to imprisonment for a term not exceeding 6 months,

(ii) to a fine not exceeding the statutory maximum, or

(iii) to both;

(d) on conviction on indictment—

(i) to imprisonment for a term not exceeding 7 years,

(ii) to a fine, or

(iii) to both.

(4) In the case of any offence under this section, the maximum amount of the fine on summary conviction is the greater of £20,000 or the statutory maximum (as the case may be), and the amount equal to three times the sum of the amounts of plastic packaging tax which are shown to be amounts that were or were intended to be evaded by the conduct in question.

(5) For the purposes of subsection (4), the amounts of plastic packaging tax that were, or were intended to be, evaded are to be taken as including—
  (a) the amount of any tax credit, and
  (b) the amount of any repayment of plastic packaging tax,
which was, or was intended to be, obtained in circumstances when there was no entitlement to it.

(6) In determining for the purposes of subsection (4) the amounts of plastic packaging tax that were, or were intended to be, evaded, no account is to be taken of the extent to which any liability to tax of a person would be, or would have been, reduced by the amount of any tax credit or repayment of plastic packaging tax to which the person was, or would have been, entitled.

80 Penalty for contravening relevant requirements

(1) Where a person (P) fails to comply with a relevant requirement, P is liable to—
  (a) a fixed penalty of £500, and
  (b) a daily penalty of £40 for each day, after the first, on which the person continues to fail to comply.

(2) Where P is liable to a daily penalty in respect of a continuing failure to comply with a relevant requirement P is not liable to a further fixed penalty in respect of that failure.

(3) P is not liable to a penalty under this section in respect of an act or omission in respect of which P—
  (a) has been convicted of an offence, or
  (b) is liable to a penalty other than under this section.

(4) P is not liable to a penalty under this section if P satisfies the Commissioners or (on appeal) the appeal tribunal within the meaning of Schedule 11 that there is a reasonable excuse for the failure.

(5) For the purposes of subsection (4)—
  (a) an insufficiency of funds is not a reasonable excuse, unless it is attributable to events outside P's control,
  (b) where P relies on any other person to do anything, that is not a reasonable excuse unless P took reasonable care to avoid the failure, and
  (c) where P had a reasonable excuse for the failure but the excuse has ceased, P is to be treated as having continued to have the excuse if the failure is remedied without unreasonable delay after the excuse ceased.

(6) Where P is liable to a penalty under this section—
  (a) the Commissioners or, on appeal, the appeal tribunal within the meaning of Schedule 11, may reduce the penalty to such amount (including nil) as they think proper;
  (b) on an appeal relating to any penalty reduced by the Commissioners, the appeal tribunal may cancel the whole or any part of the Commissioners' reduction.

(7) In this section, "relevant requirement" means an obligation or a requirement imposed by or under—
  (a) section 58 (variation and correction of the register);
  (b) section 61 (payment, collection and recovery);

(c) section 63 (records);
(d) section 65 (security for tax);
(e) section 68 (statements);
(f) section 69 (tax representatives);
(g) section 74 (death, incapacity or insolvency of person carrying on a business);
(h) section 75 (transfer of business as a going concern);
(i) Schedule 9 (secondary liability and assessment notices and joint and several liability notices);
(j) Schedule 13 (groups of companies).

(8) The Treasury may by regulations amend subsection (1) so as to substitute for the amounts for the time being specified there amounts taking account of inflation.

(9) The Treasury may by regulations amend subsection (7) so as to add or remove a requirement relating to plastic packaging tax as a "relevant requirement".

(10) Schedule 14 makes provision about the assessment of penalties under this section.

81 Criminal proceedings

Sections 145 to 155 of CEMA 1979 (proceedings for offences, mitigation of penalties and certain other matters) apply in relation to offences under this Part as they apply in relation to offences under the customs and excise Acts.

General

82 Minor and consequential amendments

Schedule 15 makes minor and consequential amendments to other legislation.

83 Interpretation

In this Part—

"accounting period" has the meaning given by section 46(2);

"chargeable plastic packaging component" is to be construed in accordance with section 47;

"the Commissioners" means the Commissioners for Her Majesty's Revenue and Customs;

"the customs and excise Acts" has the same meaning as in CEMA 1979 (see section 1(1) of that Act);

"finished" has the meaning given by section 47(3);

"HMRC" means Her Majesty's Revenue and Customs;

"imported" is to be construed in accordance with section 50;

"joint and several liability notice" has the meaning that it has in Part 2 of Schedule 9;

"packaging component" and "plastic packaging component" are to be construed in accordance with section 48;

"plastic" and "recycled plastic" are to be construed in accordance with section 49;

"the register" means the register under section 54(1) (and references to registration are to registration in that register);

"secondary liability and assessment notice" has the meaning that it has in Part 1 of Schedule 9;

"tax credit", unless the context requires otherwise, means a tax credit in accordance with regulations under section 53.

84 Regulations

(1) Regulations under this Part—

(a) may make different provision for different purposes;

(b) may include incidental, consequential, supplementary, transitional or transitory provision.

(2) Regulations under this Part may make provision by reference to things specified in a notice that is—

(a) published by the Commissioners in accordance with the regulations, and

(b) not withdrawn by a further notice.

(3) Any power of the Commissioners to make regulations under this Part may instead be exercised by the Treasury.

(4) Regulations under this Part are to be made by statutory instrument.

(5) A statutory instrument containing regulations under the following provisions is subject to the made affirmative procedure—

(a) section 48(5) (meaning of "packaging component");

(b) section 49(8) (meaning of "plastic" and "recycled plastic");

(c) section 52 (exempt plastic packaging components);

(d) section 80(8) or (9) (penalties for contravening relevant requirements).

(6) Any other statutory instrument containing regulations under this Part is subject to annulment in pursuance of a resolution of the House of Commons ("the negative procedure").

(7) But subsection (6) does not apply to a statutory instrument containing only regulations under section 85 (commencement of this Part).

(8) Where a statutory instrument under this Act is subject to "the made affirmative procedure"—

(a) it must be laid before the House of Commons after being made, and

(b) it ceases to have effect at the end of the period of 28 sitting days beginning with the day on which the instrument is made, unless within that period the instrument is approved by a resolution of the House of Commons.

(9) Where regulations cease to have effect as a result of subsection (8), that does not—

(a) affect anything previously done under the regulations, or

(b) prevent the making of new regulations.

(10) Any provision that may be included in regulations in a statutory instrument under this Act subject to the negative procedure may be included in regulations in a statutory instrument subject to the made affirmative procedure.

(11) In this section, "sitting day" means a day on which the House of Commons is sitting (and a day is only a day on which the House of Commons is sitting if the House begins to sit on that day).

85 Commencement etc

(1) This Part—
  (a) comes into force on such day as the Treasury may by regulations appoint, and
  (b) has effect in relation to packaging components that are produced in the United Kingdom or imported into the United Kingdom on or after 1 April 2022.

(2) Regulations under this section may appoint different days for different purposes.

PART 3

OTHER TAXES

Inheritance tax

86 Rate bands etc for tax years 2021-22 to 2025-26

Sections 8 and 8D(7) of IHTA 1984 (indexation of rate bands, residential enhancement and taper threshold) do not have effect by virtue of any difference between—
  (a) the consumer prices index for the month of September in 2020, 2021, 2022, 2023 or 2024, and
  (b) that index for the previous September.

Stamp duty land tax

87 Temporary period for reduced rates on residential property

(1) The Stamp Duty Land Tax (Temporary Relief) Act 2020 is amended as follows.

(2) In section 1 (reduced rates of SDLT on residential property for a temporary period)—
  (a) in subsection (1)(b) (which specifies the end of that temporary period), for "31 March 2021" substitute "30 June 2021",
  (b) in subsections (1) and (6)(a), for "temporary" substitute "initial temporary", and
  (c) in the heading, for "a temporary" substitute "an initial temporary".

(3) After that section insert—

"1A Further period for reduced rates of SDLT on residential property

(1) This section makes modifications of Part 4 of the Finance Act 2003 in relation to any land transaction the effective date of which falls in the period ("the further temporary relief period")—
  (a) beginning with 1 July 2021, and
  (b) ending with 30 September 2021.

(2) Section 55(1B) (amount of stamp duty land tax chargeable: general) has effect as if for Table A there were substituted—

"TABLE A: RESIDENTIAL

Part of relevant consideration	*Percentage*
So much as does not exceed £250,000	0%
So much as exceeds £250,000 but does not exceed £925,000	5%
So much as exceeds £925,000 but does not exceed £1,500,000	10%
The remainder (if any)	12%".

(3) Schedule 4ZA (higher rates of stamp duty land tax for additional dwellings etc) has effect as if for the Table A in section 55(1B) mentioned in paragraph 1(2) there were substituted—

"TABLE A: RESIDENTIAL

Part of relevant consideration	*Percentage*
So much as does not exceed £250,000	3%
So much as exceeds £250,000 but does not exceed £925,000	8%
So much as exceeds £925,000 but does not exceed £1,500,000	13%
The remainder (if any)	15%".

(4) Paragraph 2(3) of Schedule 5 (amount of SDLT chargeable in respect of rent) has effect as if for Table A there were substituted—

"TABLE A: RESIDENTIAL

Rate bands	*Percentage*
£0 to £250,000	0%
Over £250,000	1%".

(5) In a case where—

(a) as a result of section 44(4) of the Finance Act 2003 the effective date of a land transaction falls in the further temporary relief period, and

(b) the contract concerned is completed by a conveyance after that period ends,

section 44(8) of that Act is not to apply in relation to that conveyance if the sole reason that (but for this subsection) it would have applied is that the modifications made by this section have no effect in relation to that conveyance.

(6) Section 44(10) of the Finance Act 2003 applies for the purposes of subsection (5)."

88 Increased rates for non-resident transactions

Schedule 16 makes provision for increased rates of stamp duty land tax in respect of non-resident transactions.

89 Relief from higher rate charge for certain housing co-operatives etc

(1) In Schedule 4A to FA 2003 (higher rate of SDLT for certain transactions), after paragraph 5F insert—

"Qualifying housing co-operatives

5FA Paragraph 3 does not apply to a chargeable transaction so far as its subject-matter consists of a higher threshold interest that is acquired by a company on a day on which the company is a qualifying housing co-operative for the purposes of section 150(3A) of the Finance Act 2013 (relief from ATED)."

(2) In that Schedule, after paragraph 5K insert—

"5L (1) This paragraph applies where relief under paragraph 5FA (qualifying housing co-operatives) has been allowed in respect of a higher threshold interest forming the whole or part of the subject-matter of a chargeable transaction.

(2) References in this paragraph to a qualifying housing body are to—

(a) a company that is a qualifying housing co-operative for the purposes of section 150(3A) of the Finance Act 2013 (relief from ATED),

(b) a registered provider of social housing, or

(c) a registered social landlord.

(3) The relief under paragraph 5FA is withdrawn (subject to sub-paragraph (4)) if—

(a) on any day in the period of three years beginning with the effective date of the chargeable transaction ("the control period"), the purchaser is not a qualifying housing body, and

(b) immediately before the first day on which that is the case the purchaser still holds the higher threshold interest or holds a chargeable interest derived from it.

(4) If, on any day in the control period, the purchaser is not a qualifying housing body because it ceases to exist (whether by virtue of a conversion into, or amalgamation with, another person or for any other reason), relief is not to be withdrawn under this paragraph unless—

(a) another person ("the first successor") has succeeded to the engagements of the purchaser, and

(b) condition A or condition B is met (and if condition B is met, subject to sub-paragraph (7)).

(5) Condition A is that, on the day the first successor succeeds to the engagements of the purchaser ("the day of succession"), the first successor is not a qualifying housing body.

(6) Condition B is that—

(a) on any day in the part of the control period that falls after the day of succession, the first successor is not a qualifying housing body, and

(b) immediately before the first day on which that is the case the first successor still holds the higher threshold interest or holds a chargeable interest derived from it.

(7) If condition B is met because the first successor ceases to exist (whether by virtue of a conversion into, or amalgamation with, another person or for any other reason), relief is not to be withdrawn under this paragraph unless it would have been withdrawn by virtue of sub-paragraph (4) if references in sub-paragraphs (4) to (6)—

(a) to the purchaser were references to the first successor, and

(b) to the first successor were references to the person who has succeeded to the engagements of the first successor ("the second successor").

(8) Sub-paragraph (7) is to apply to the second successor as it applies to the first successor, and so on, subject to the necessary modifications."

(3) Schedule 17 contains minor and consequential amendments of Part 4 of FA 2003 (stamp duty land tax).

(4) The amendments made by this section and Schedule 17 have effect in relation to any land transaction of which the effective date is 3 March 2021 or a later date.

Annual tax on enveloped dwellings

90 Relief for certain housing co-operatives

(1) In section 150 of FA 2013 (providers of social housing)—

(a) after subsection (3) insert—

"(3A) A day in a chargeable period is relievable in relation to a single-dwelling interest if on that day a qualifying housing co-operative (as defined by section 150A) is entitled to the interest.", and

(b) in the heading, at the end insert "etc".

(2) After that section insert—

"150A Meaning of "qualifying housing co-operative"

(1) A company is a "qualifying housing co-operative" for the purposes of section 150(3A) on any day if on that day—
  (a) it is a housing association within the meaning of—
    (i) the Housing Associations Act 1985, or
    (ii) Part 2 of the Housing (Northern Ireland) Order 1992 (S.I. 1992/1725 (N.I. 15)),
  (b) it is a registered society within the meaning of—
    (i) the Co-operative and Community Benefit Societies Act 2014, or
    (ii) the Co-operative and Community Benefit Societies Act (Northern Ireland) 1969, and
  (c) the rules of the association comply with subsection (2).

(2) The rules of the association—
  (a) must restrict membership to persons who are tenants, or prospective tenants, of the association,
  (b) must preclude the granting or assignment of tenancies to persons other than members,
  (c) must prevent members from transferring any of their shares,
  (d) must prevent members from receiving any more than the nominal value of their shares on a return of share capital, and
  (e) must confer on members equal voting rights."

(3) The amendments made by this section have effect in relation to—
  (a) the chargeable period beginning with 1 April 2021 and all subsequent chargeable periods;
  (b) the chargeable period beginning with 1 April 2020 but only in relation to a person and a single-dwelling interest falling within case A or case B.

(4) Case A is that the first day in the chargeable period on which the person is within the charge with respect to the single-dwelling interest is on or after 3 March 2021.

(5) Case B is that the person was within the charge with respect to the single-dwelling interest on one or more days in the chargeable period before 3 March 2021 but has not delivered an annual tax on enveloped dwellings return for the period with respect to the interest by 3 March 2021.

(6) For the purposes of subsections (3) to (5), "single-dwelling interest", "within the charge" and "annual tax on enveloped dwellings return" have the same meanings that they have for the purposes of Part 3 of FA 2013.

91 Repayment to certain housing co-operatives: 2020-21 chargeable period

(1) A claim for repayment of annual tax on enveloped dwellings paid, before 3 March 2021, by or on behalf of a chargeable person with respect to a single-dwelling interest may be made by the person for each day (if any) in the chargeable period beginning with 1 April 2020 on which—

(a) the person was within the charge with respect to the interest and not treated as being outside the charge by virtue of section 132(2) of FA 2013 (effect of reliefs under sections 133 to 150), and

(b) a qualifying housing co-operative was entitled to the interest.

(2) For the purposes of a claim under this section with respect to a single-dwelling interest—

(a) a company is a qualifying housing co-operative on any day if on that day it would have been a qualifying housing co-operative for the purposes of section 150(3A) of FA 2013 (if sections 150(3A) and 150A of FA 2013 (inserted by section 90) had been in force on that day);

(b) each day on which the conditions in subsection (1)(a) and (b) are met with respect to the interest is a "relievable day";

(c) references to "the relevant return" are to the annual tax on enveloped dwellings return for the chargeable period beginning with 1 April 2020 with respect to the interest.

(3) Where a claim is made under this section with respect to a single-dwelling interest, HMRC must repay the total of the daily amounts for all the relievable days.

(4) A claim under this section must be made by amending the relevant return under paragraph 3 of Schedule 33 to FA 2013 on the same basis as it would have been amended if, on each of the relievable days, the chargeable person had been entitled to claim the type of relief numbered 8 in the table in section 159A(9) of FA 2013.

(5) Terms used in this section and in Part 3 of FA 2013 have the same meaning in this section as in that Part.

Value added tax

92 Extension of temporary 5% reduced rate for hospitality and tourism sectors

In Articles 2 and 5 of the Value Added Tax (Reduced Rate) (Hospitality and Tourism) (Coronavirus) Order 2020 (S.I. 2020/728), for "31st March 2021" substitute "30th September 2021".

93 Temporary 12.5% reduced rate for hospitality and tourism sectors

(1) The modifications made by Articles 3 and 4 of the Value Added Tax (Reduced Rate) (Hospitality and Tourism) (Coronavirus) Order 2020 (S.I. 2020/728) ("the Reduced Rate Order") continue to have effect (despite Article 2 of that Order) during the relevant period.

(2) During that period, in relation to a supply that is of a description within Groups 14 to 16 in Part 2 of Schedule 7A to VATA 1994, the reference in section 29A(1) of that Act to "5 per cent" is to be read as a reference to "12.5 per cent" (and any reference elsewhere in that Act to a rate of 5% in the context of a supply of a description specified in Schedule 7A is to be read accordingly).

(3) The modifications made by Article 6 of the Reduced Rate Order also continue to have effect (despite Article 5 of that Order) during the relevant period, but subject to the modifications in subsection (4).

(4) The modifications to Article 6 of the Reduced Rate Order mentioned in subsection (3) are—
  (a) as if in paragraph (a), for "4.5" there were substituted "8.5";
  (b) as if in paragraph (b), for "0" there were substituted "5.5";
  (c) as if in paragraph (c), for "1" there were substituted "4". 5

(5) The relevant period means the period—
  (a) beginning with the day after the day on which the modifications made by Articles 3, 4 and 6 of the Reduced Rate Order would otherwise cease to apply by virtue of the ending of the periods mentioned in Articles 2 and 5 of that Order (whether in accordance with section 92 or any regulations made under section 26B or 29A(3) of VATA 1994), and 10
  (b) ending on 31 March 2022.

(6) The Treasury may by regulations—
  (a) repeal subsections (1) to (5);
  (b) amend subsection (5) so as to substitute for the period for the time being mentioned there such other period as they consider appropriate. 15

(7) A statutory instrument containing regulations under subsection (6) that would increase the rate of value added tax to be charged on a supply must be laid before the House of Commons after being made and, unless approved by that House before the end of the period of 28 days beginning with the date on which the instrument is made, ceases to have effect at the end of that period. 20

(8) Any other statutory instrument containing regulations under subsection (6) is subject to annulment in pursuance of a resolution of the House of Commons.

(9) The fact that a statutory instrument ceases to have effect as a result of subsection (7) does not affect— 25
  (a) anything previously done under the instrument, or
  (b) the making of a new instrument.

(10) In calculating the period of 28 days mentioned in subsection (7), no account is to be taken of any time—
  (a) during which Parliament is dissolved or prorogued, or 30
  (b) during which the House of Commons is adjourned for more than four days.

94 Extending digital record-keeping for VAT purposes to all businesses

In paragraph 6 of Schedule 11 to VATA 1994 (duty of taxable person to keep records), omit sub-paragraphs (7) to (9). 35

95 Distance selling: Northern Ireland

(1) In Schedule 18, which makes provision in relation to the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement about value added tax and distance selling—
  (a) Part 1 makes provision amending— 40
    (i) the criteria for registration under Part 9 of Schedule 9ZA to VATA 1994 (value added tax on acquisitions in Northern Ireland from member States: registration in respect of distance sales), and

(ii) the application of the place of supply rules in Part 5 of Schedule 9ZB to VATA 1994 (goods removed to or from Northern Ireland: rules relating to particular supplies);

(b) Part 2 makes provision implementing the European Union schemes known as the One Stop Shop ("OSS") and the Import One Stop Shop ("IOSS");

(c) Part 3 makes provision amending Schedule 9ZC to VATA 1994 (online sales by overseas persons and low value importations: modifications relating to the Northern Ireland Protocol) to omit Part 2 of that Schedule (modifications of the Value Added Tax (Imported Goods) Relief Order 1984);

(d) Part 4 makes provision about supplies of goods by persons established outside the United Kingdom that are facilitated by online marketplaces.

(2) The Treasury may by regulations made by statutory instrument make such provision as they consider appropriate in consequence of this section or Schedule 18, including provision amending, repealing or revoking any provision of an Act whenever passed or made (including this Act and any Act amended by it).

(3) The Treasury may by regulations made by statutory instrument make such transitional, transitory, saving, supplementary or incidental provision as they consider appropriate in connection with the coming into force of this section or Schedule 18.

(4) Regulations under subsections (2) and (3) may (among other things)—

(a) confer on a person specified in the regulations a discretion to do anything under, or for the purposes of, the regulations;

(b) make provision by reference to things specified in a notice published in accordance with the regulations;

(c) make different provision for different purposes or areas.

(5) A statutory instrument that—

(a) contains (whether alone or with other provision) regulations under subsection (2), and

(b) is not subject to any requirement under section 96 that the instrument be laid before, and approved by a resolution of, the House of Commons after being made,

is subject to annulment in pursuance of a resolution of the House of Commons.

(6) This subsection and the following provisions come into force on the day on which this Act is passed—

(a) subsection (1) and Schedule 18 so far as making provision for anything to be done by regulations, directions or public notice, and

(b) subsections (2) to (5), (7) and (8).

(7) Subsection (1) and Schedule 18 come into force for all remaining purposes on such day as the Treasury may by regulations made by statutory instrument appoint.

(8) Regulations under subsection (7) may appoint different days for different purposes.

96 Distance selling: power to make further provision

(1) The Treasury may by regulations made by statutory instrument make such provision relating to value added tax as they consider appropriate in relation to the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement—

(a) for the purposes of, or in connection with, giving effect to Council Directive (EU) 2017/2455 of 5 December 2017 amending Directive 2006/112/EC and Directive 2009/132/EC as regards certain value added tax obligations for supplies of services and distance sales of goods, or

(b) otherwise for the purposes of dealing with matters arising out of, or related to, that Directive.

(2) No regulations may be made under this section on or after 1 April 2024.

(3) Regulations under this section—

(a) may make any such provision as might be made by an Act of Parliament, including provision amending or repealing any provision of this Act, but

(b) may not make provision taking effect from a date earlier than that of the making of the regulations.

(4) A statutory instrument containing (whether alone or with other provision) regulations under this section that amend or repeal any Act of Parliament must be laid before the House of Commons after being made.

(5) Regulations contained in a statutory instrument laid before the House of Commons under subsection (4) cease to have effect at the end of the period of 28 days beginning with the day on which the instrument is made unless, during that period, the instrument is approved by a resolution of the House of Commons.

(6) In calculating the period of 28 days, no account is to be taken of any whole days that fall within a period during which—

(a) Parliament is dissolved or prorogued, or

(b) the House of Commons is adjourned for more than four days.

(7) If regulations cease to have effect as a result of subsection (5), that does not—

(a) affect the validity of anything previously done under or by virtue of the instrument, or

(b) prevent the making of new regulations.

(8) A statutory instrument containing (whether alone or with other provision) regulations under this section to which subsection (4) does not apply is subject to annulment in pursuance of a resolution of the House of Commons.

(9) This section comes into force on the day on which this Act is passed.

97 Supply of imported works of art etc

(1) In Schedule 6 to VATA 1994 (valuation: special cases), after paragraph 11 insert—

"11A(1) Sub-paragraph (2) applies to goods that—

(a) fall within subsection (5) of section 21 (works of art etc), and

(b) are treated as supplied in the United Kingdom as a result of section 7(5B) (importation of consignments with an intrinsic value not exceeding £135).

(2) The value of a supply of goods to which this sub-paragraph applies is to be taken to be an amount equal to 25% of the amount that, apart from this sub-paragraph, would be its value for the purposes of this Act.

(3) An order under section 2(2) may contain provision making such alteration of the percentage for the time being specified in sub-paragraph (2) as the Treasury consider appropriate in consequence of any increase or decrease by that order of the rate of VAT."

(2) The amendment made by subsection (1) has effect in relation to supplies made on or after IP completion day.

98 Continuing effect of principle preventing the abuse of the VAT system

(1) In section 42 of TCTA 2018 (EU law relating to VAT), after subsection (4) insert—

"(4A) Accordingly, that principle may continue to be relied upon in determining any matter relating to value added tax (including in determining the effect of any provision made by or under an enactment)."

(2) That section has effect, and is to be deemed always to have had effect, with the amendment made by subsection (1).

99 Deferring VAT payment by reason of the coronavirus emergency

(1) Schedule 19 makes provision about—

(a) powers of the Commissioners for Her Majesty's Revenue and Customs to agree that payment of sums to meet liabilities described in article 5 of the Finance Act 2008, Section 135 (Coronavirus) Order 2020 (S.I. 2020/934) ("the Coronavirus Order 2020") may be further deferred,

(b) surcharges arising on such sums, and

(c) a penalty payable in connection with non-payment of such sums.

(2) Subsection (1) and Schedule 19 are to be treated as having come into force on 9 March 2021.

(3) The Treasury may by regulations repeal paragraphs 4 to 11 of Schedule 19 (penalty) where they consider it appropriate to do so by reason of circumstances arising as a result of the emergency specified in article 2 of the Coronavirus Order 2020.

(4) Regulations made under subsection (3)—

(a) must make provision for the repayment of amounts paid in respect of penalties under Schedule 19, and

(b) may make other transitional provision.

(5) Regulations under this section are to be made by statutory instrument.

(6) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of the House of Commons.

100 Refunds to S4C

(1) In section 33(3) of the Value Added Tax Act 1994 (refunds of VAT in certain cases), after paragraph (i) insert— *5*

"(ia) S4C;".

(2) The amendment made by this section has effect in relation to supplies made, and acquisitions and importations taking place, on or after 1 April 2021.

Customs duty

101 Steel removed to Northern Ireland *10*

Schedule 20 contains amendments of the Customs (Northern Ireland) (EU Exit) Regulations 2020 (S.I. 2020/1605) in connection with the removal of certain steel products to Northern Ireland.

Fuel duties

102 Restriction of use of rebated diesel and biofuels *15*

(1) Schedule 21 makes—

(a) provision amending HODA 1979 to restrict the use of rebated diesel and biofuels to specified categories of machines, and

(b) related provision.

(2) Schedule 21 come into force on 1 April 2022. *20*

(3) The Treasury may by regulations make such consequential, supplementary, incidental, transitional, transitory or saving provision as the Treasury consider appropriate in connection with the coming into force of Schedule 21.

(4) Regulations under subsection (3) may—

(a) amend, repeal or revoke provision made by or under an Act passed before this Act; *25*

(b) make different provision for different purposes or areas.

(5) Regulations under subsection (3) are to be made by statutory instrument.

(6) A statutory instrument containing regulations under subsection (3) is subject to annulment in pursuance of a resolution of the House of Commons. *30*

(7) In Schedule 11 to FA 2020 (amendments of HODA 1979 relating to private pleasure craft), in paragraph 21 (power to make consequential amendments), after "enactment" insert ", including Schedule 21 to FA 2021,".

Tobacco products duty

103 Rates of tobacco products duty

(1) In Schedule 1 to TDPA 1979 (table of rates of tobacco products duty), for the Table substitute—

"TABLE

1 Cigarettes	An amount equal to the higher of— (a) 16.5% of the retail price plus £244.78 per thousand cigarettes, or (b) £320.90 per thousand cigarettes.
2 Cigars	£305.32 per kilogram
3 Hand-rolling tobacco	£271.40 per kilogram
4 Other smoking tobacco and chewing tobacco	£134.24 per kilogram
5 Tobacco for heating	£251.60 per kilogram"

(2) In consequence of the provision made by subsection (1), the Tobacco Products Duty (Alteration of Rates) Order 2020 (S.I. 2020/1256) is revoked.

Vehicle taxes

104 Rates for light passenger or light goods vehicles, motorcycles etc

(1) Schedule 1 to VERA 1994 (annual rates of vehicle excise duty) is amended as follows.

(2) In paragraph 1 (general rate)—
   (a) in sub-paragraph (2) (vehicle not covered elsewhere in Schedule with engine cylinder capacity exceeding 1,549cc), for "£270" substitute "£280", and
   (b) in sub-paragraph (2A) (vehicle not covered elsewhere in Schedule with engine cylinder capacity not exceeding 1,549cc), for "£165" substitute "£170".

(3) In paragraph 1B (graduated rates for light passenger vehicles registered before 1 April 2017), for the Table substitute—

"CO_2 emissions figure		*Rate*	
(1)	*(2)*	*(3)*	*(4)*
Exceeding	*Not exceeding*	*Reduced rate*	*Standard rate*
g/km	*g/km*	*£*	*£*
100	110	10	20
110	120	20	30
120	130	120	130
130	140	145	155
140	150	160	170
150	165	200	210
165	175	240	250
175	185	265	275
185	200	305	315
200	225	330	340
225	255	575	585
255	—	590	600".

(4) In the sentence immediately following the Table in that paragraph, for paragraphs (a) and (b) substitute—

"(a) in column (3), in the last two rows, "330" were substituted for "575" and "590", and

(b) in column (4), in the last two rows, "340" were substituted for "585" and "600"."

(5) In paragraph 1GC (graduated rates for first licence for light passenger vehicles registered on or after 1 April 2017), for Table 1 (vehicles other than higher rate diesel vehicles) substitute—

"CO_2 emissions figure		*Rate*	
(1)	*(2)*	*(3)*	*(4)*
Exceeding	*Not exceeding*	*Reduced rate*	*Standard rate*
g/km	*g/km*	*£*	*£*
0	50	0	10
50	75	15	25

"CO_2 emissions figure		*Rate*	
(1)	*(2)*	*(3)*	*(4)*
Exceeding	*Not exceeding*	*Reduced rate*	*Standard rate*
g/km	*g/km*	*£*	*£*
75	90	105	115
90	100	130	140
100	110	150	160
110	130	170	180
130	150	210	220
150	170	545	555
170	190	885	895
190	225	1335	1345
225	255	1900	1910
255	—	2235	2245"

(6) In that paragraph, for Table 2 (higher rate diesel vehicles) substitute—

"CO_2 emissions figure		*Rate*
(1)	*(2)*	*(3)*
Exceeding	*Not exceeding*	*Rate*
g/km	*g/km*	*£*
0	50	25
50	75	115
75	90	140
90	100	160
100	110	180
110	130	220
130	150	555
150	170	895
170	190	1345

"CO_2 emissions figure		*Rate*
(1)	*(2)*	*(3)*
Exceeding	*Not exceeding*	*Rate*
g/km	*g/km*	*£*
190	225	1910
225	255	2245
255	—	2245".

(7) In paragraph 1GD(1) (rates for any other licence for light passenger vehicles registered on or after 1 April 2017)—

(a) in paragraph (a) (reduced rate), for "£140" substitute "£145", and

(b) in paragraph (b) (standard rate), for "£150" substitute "£155".

(8) In paragraph 1GE(2) (rates for light passenger vehicles registered on or after 1 April 2017 with a price exceeding £40,000)—

(a) in paragraph (a), for "£465" substitute "£480", and

(b) in paragraph (b), for "£475" substitute "£490".

(9) In paragraph 1J(a) (rates for light goods vehicles that are not pre-2007 or post-2008 lower emission vans), for "£265" substitute "£275".

(10) In paragraph 2(1) (rates for motorcycles)—

(a) in paragraph (a) (engine cylinder capacity not exceeding 150cc), for "£20" substitute "£21",

(b) in paragraph (b) (motorbicycles with engine cylinder capacity exceeding 150cc but not exceeding 400cc), for "£44" substitute "£45",

(c) in paragraph (c) (motorbicycles with engine cylinder capacity exceeding 400cc but not exceeding 600cc), for "£67" substitute "£69", and

(d) in paragraph (d) (other cases), for "£93" substitute "£96".

(11) The amendments made by this section have effect in relation to licences taken out on or after 1 April 2021.

105 Rebates where higher rate of duty paid

(1) Section 19 of VERA 1994 (rebates of vehicle excise duty) is amended as follows.

(2) In subsection (3A) for "subsection (3B)" substitute "subsections (3B) and (3C)".

(3) After subsection (3B) insert—

"(3C) Where the annual rate of duty chargeable on a vehicle licence at the time when it was taken out is determined in accordance with

paragraph 1GE(2) of Schedule 1 (higher rates of duty: vehicles with a price exceeding £40,000) the relevant amount is given by—

$$\frac{(H \times R) + (L \times P)}{12}$$

where—

H is the annual rate of duty chargeable on the licence at the time when it was taken out;

R is the number of complete months (if any) of that part of the currency of the licence which is unexpired—

(a) in respect of which the rebate condition is satisfied, and

(b) which are within the period of six years beginning with the day of registration;

L is the annual rate of duty that would have been chargeable on the licence at the time when it was taken out if that time had been after the period of six years beginning with the day of registration;

P is the number of complete months (if any) of that part of the currency of the licence which is unexpired—

(a) in respect of which the rebate condition is satisfied, and

(b) which are not within R.

(3D) In subsection (3C) the "day of registration" means the day on which the vehicle in respect of which the licence is in force was first registered under this Act or under the law of a country or territory outside the United Kingdom."

(4) The amendments made by this section have effect in relation to cases where a rebate condition (within the meaning of section 19 of VERA 1994) is satisfied on or after 1 April 2021.

106 HGV road user levy (extension of suspension)

In section 88 of FA 2020 (suspension of HGV road user levy), in subsection (3), for "12" substitute "24".

Air passenger duty

107 Rates of air passenger duty from 1 April 2022

(1) In section 30(4A) of FA 1994 (air passenger duty: long haul rates)—

(a) in paragraph (a), for "£82" substitute "£84", and

(b) in paragraph (b), for "£180" substitute "£185".

(2) The amendments made by this section have effect in relation to the carriage of passengers beginning on or after 1 April 2022.

Gaming duty

108 Amounts of gross gaming yield charged to gaming duty

(1) In section 11(2) of FA 1997 (rates of gaming duty), for the table substitute—

"TABLE

Part of gross gaming yield	Rate
The first £2,548,500	15%
The next £1,757,000	20%
The next £3,077,000	30%
The next £6,494,500	40%
The remainder	50%".

(2) The amendment made by this section has effect in relation to accounting periods beginning on or after 1 April 2021.

Environmental taxes

109 Rates of climate change levy from 1 April 2022 to 31 March 2023

(1) Paragraph 42 of Schedule 6 to FA 2000 (climate change levy: amount payable by way of levy) is amended as follows.

(2) In sub-paragraph (1), for the table substitute—

"TABLE

Taxable commodity supplied	*Rate at which levy payable if supply is not a reduced-rate supply*
Electricity	£0.00775 per kilowatt hour
Gas supplied by a gas utility or any gas supplied in a gaseous state that is of a kind supplied by a gas utility	£0.00568 per kilowatt hour
Any petroleum gas, or other gaseous hydrocarbon, supplied in a liquid state	£0.02175 per kilogram
Any other taxable commodity	£0.04449 per kilogram".

(3) In sub-paragraph (1)(c) (reduced-rate supplies in respect of any taxable commodity other than electricity or petroleum gas, or other gaseous hydrocarbon, supplied in a liquid state), for "17" substitute "14".

(4) In consequence of the amendment made by subsection (3), in the definition of "r" in the Notes to paragraph 2 of Schedule 1 to the Climate Change Levy (General) Regulations 2001, for "0.83" substitute "0.86".

(5) The amendments made by this section have effect in relation to supplies treated as taking place on or after 1 April 2022 but before 1 April 2023.

110 Rates of climate change levy from 1 April 2023

(1) Paragraph 42 of Schedule 6 to FA 2000 (climate change levy: amount payable by way of levy) is amended as follows.

(2) In sub-paragraph (1), for the table substitute—

"TABLE

Taxable commodity supplied	*Rate at which levy payable if supply is not a reduced-rate supply*
Electricity	£0.00775 per kilowatt hour
Gas supplied by a gas utility or any gas supplied in a gaseous state that is of a kind supplied by a gas utility	£0.00672 per kilowatt hour
Any petroleum gas, or other gaseous hydrocarbon, supplied in a liquid state	£0.02175 per kilogram
Any other taxable commodity	£0.05258 per kilogram".

(3) In sub-paragraph (1)(c) (reduced-rate supplies in respect of any taxable commodity other than electricity or petroleum gas, or other gaseous hydrocarbon, supplied in a liquid state), as amended by section 109(3), for "14" substitute "12".

(4) In consequence of the amendment made by subsection (3), in the definition of "r" in the Notes to paragraph 2 of Schedule 1 to the Climate Change Levy (General) Regulations 2001, as amended by section 109(4), for "0.86" substitute "0.88".

(5) The amendments made by this section have effect in relation to supplies treated as taking place on or after 1 April 2023.

111 Rates of landfill tax

(1) Section 42 of FA 1996 (amount of landfill tax) is amended as follows.

(2) In subsection (1)(a) (standard rate), for "£94.15" substitute "£96.70"

(3) In subsection (2) (reduced rate for certain disposals), in the words after paragraph (b)—
   (a) for "£94.15" substitute "£96.70", and
   (b) for "£3" substitute "£3.10".

(4) The amendments made by this section have effect in relation to disposals made (or treated as made) on or after 1 April 2021.

112 Repeal of carbon emissions tax

(1) In FA 2019, omit Part 3 (carbon emissions tax).

(2) In FA 2020, omit section 95 and Schedule 12 (carbon emissions tax). 5

PART 4

MISCELLANEOUS AND FINAL

Freeports

113 Designation of freeport tax sites

(1) The Treasury may by regulations designate an area in Great Britain as a special area for the purposes of— 10
   (a) Part 2 of CAA 2001 (plant and machinery allowances),
   (b) Part 2A of CAA 2001 (structures and buildings allowances), and
   (c) where the area is in England, Part 4 of FA 2003 (stamp duty land tax).

(2) An area may only be designated by regulations under this section if, at the time the regulations are made— 15
   (a) the area is situated in a freeport, or
   (b) the Treasury consider that the area is being used, or is likely to be used, for purposes connected with activities carried on, or likely to be carried on, in a freeport. 20

(3) An area designated under this section is to be known as a "freeport tax site".

(4) Regulations under this section must specify the date on which the designation takes effect.

(5) In this section, "freeport" means an area which is identified as a freeport in a document published by, or with the consent of, the Treasury for the purposes of this section (and not withdrawn). 25

(6) Any regulations made by the Treasury in reliance on a resolution under section 1 of the Provisional Collection of Taxes Act 1968 and in force immediately before the passing of this Act which make a designation described in subsections (1) and (2) have effect as if validly made under this section. 30

114 Capital allowances for freeport tax sites

(1) Schedule 22 makes provision about capital allowances for expenditure incurred in connection with freeport tax sites.

(2) In that Schedule —
   (a) Part 1 provides for a first-year allowance under Part 2 of CAA 2001 (plant and machinery allowances), 35
   (b) Part 2 provides for a different rate of allowance under Part 2A of CAA 2001 (structures and buildings allowances), and
   (c) Part 3 contains related amendments.

115 Relief from stamp duty land tax for freeport tax sites

Schedule 23 provides for relief under Part 4 of FA 2003 in the case of transactions relating to land in a freeport tax site.

Penalties

116 Penalties for failure to make returns etc *5*

(1) Schedule 24 contains provision for imposing penalties on persons in respect of failures to make certain returns.

(2) Schedule 25 contains provision for imposing penalties on persons who, by failing to make certain returns, deliberately withhold information which would enable or assist HMRC to assess that person's liability to tax. *10*

(3) Schedules 24 and 25 come into force on such day as the Treasury may by regulations appoint.

(4) Different days may be appointed for different purposes.

(5) The Treasury may by regulations make transitional, transitory or saving provision in connection with the coming into force of any provision in Schedules 24 and 25. *15*

(6) The power to make regulations under subsection (5) includes power to make different provision for different purposes.

(7) Regulations under this section are to be made by statutory instrument.

117 Penalties for failure to pay tax *20*

(1) Schedule 26 contains provision for imposing penalties on persons in respect of failures to make certain payments on time.

(2) Schedule 26 comes into force on such day as the Treasury may by regulations appoint.

(3) Different days may be appointed for different purposes. *25*

(4) The Treasury may by regulations make transitional, transitory or saving provision in connection with the coming into force of any provision in Schedule 26.

(5) The power to make regulations under subsection (4) includes power to make different provision for different purposes. *30*

(6) Regulations under this section are to be made by statutory instrument.

118 Penalties for failure to make returns etc or pay tax: consequential provision

(1) Schedule 27 contains amendments that are consequential on Schedules 24 to 26.

(2) Schedule 27 comes into force on such day as the Treasury may by regulations appoint. *35*

(3) Different days may be appointed for different purposes.

(4) The Treasury may by regulations make transitional, transitory or saving provision in connection with the coming into force of any provision in Schedule 27.

(5) The Treasury may by regulations make provision that is consequential on Schedules 24 to 26.

(6) Regulations under subsection (5) may—
  (a) include provision amending, repealing or revoking any provision of an Act or subordinate legislation whenever passed or made (including this Act and any Act amended by it);
  (b) make supplementary, incidental, transitional, transitory or saving provision.

(7) In subsection (6) "subordinate legislation" has the same meaning as in the Interpretation Act 1978.

(8) The power to make regulations under subsection (4) or (5) includes power to make different provision for different purposes.

(9) Regulations under this section are to be made by statutory instrument.

(10) A statutory instrument containing (whether alone or with other provision) regulations under subsection (5) that amend or repeal provision made by an Act is subject to annulment in pursuance of a resolution of the House of Commons.

119 Follower notice penalties

Schedule 28 makes provision in relation to penalties to which a person may be liable after a follower notice has been given under Chapter 2 of Part 4 of FA 2014.

Interest

120 Late payment interest and repayment interest: VAT

(1) Schedule 29 contains amendments of FA 2009 relating to late payment interest, repayment interest and VAT.

(2) Schedule 29 comes into force on such day as the Treasury may by regulations appoint.

(3) Different days may be appointed for different purposes.

(4) The Treasury may by regulations make transitional, transitory or saving provision in connection with the coming into force of any provision in Schedule 29.

(5) The Treasury may by regulations make provision that is consequential on Schedule 29.

(6) Regulations under subsection (5) may—
  (a) include provision amending, repealing or revoking any provision of an Act or subordinate legislation whenever passed or made (including this Act and any Act amended by it);

(b) make supplementary, incidental, transitional, transitory or saving provision.

(7) In subsection (6) "subordinate legislation" has the same meaning as in the Interpretation Act 1978.

(8) The power to make regulations under subsection (4) or (5) includes power to make different provision for different purposes. *5*

(9) Regulations under this section are to be made by statutory instrument.

(10) A statutory instrument containing (whether alone or with other provision) regulations under subsection (5) that amend or repeal provision made by an Act is subject to annulment in pursuance of a resolution of the House of Commons. *10*

Avoidance

121 Promoters of tax avoidance schemes

(1) Part 5 of FA 2014 (promoters of tax avoidance schemes) is amended in accordance with Schedule 30. *15*

(2) Part 1 of that Schedule contains—

(a) amendments about "stop notices", which prohibit the promotion of arrangements of a description specified in the notice, and

(b) amendments about the application of Schedule 36 to FA 2008 (information and inspection powers) in connection with Part 5 of FA 2014. *20*

(3) Part 2 of that Schedule contains amendments in connection with providing for persons (whether or not they carry on a business) to be treated as carrying on business as a promoter as a result of their connection to other persons.

(4) Part 3 of that Schedule contains amendments about powers to give a person a conduct notice or monitoring notice as a result of the transfer of a business, a part of a business, or property of a business to that person. *25*

(5) Part 4 of that Schedule contains miscellaneous amendments of Part 5 of FA 2014.

(6) The amendments made by that Schedule, other than the amendments made by paragraphs 20, 21 and 27 of that Schedule, have effect— *30*

(a) from the day on which this Act is passed, and

(b) for the purposes of determining whether a person meets a threshold condition (within the meaning of Part 5 of FA 2014), or a condition in subsections (11) to (13) of Section 237A of FA 2014, in a period of three years ending on or after that day. *35*

122 Disclosure of tax avoidance schemes

Schedule 31 makes provision about the disclosure of tax avoidance schemes.

123 Penalties for enablers of defeated tax avoidance

(1) Schedule 16 to F(No.2)A 2017 (penalties for enablers of defeated tax avoidance) is amended as follows.

(2) In paragraph 21 (special provision about assessment for multi-user schemes)—

(a) in sub-paragraph (1)(c), for ", the required percentage of relevant defeats has not been reached" substitute "(other than a tribunal or court defeat), neither condition 1 nor condition 2 has been met";

(b) in sub-paragraph (2), for "the required percentage of relevant defeats is reached" substitute "condition 1 or condition 2 is met";

(c) after sub-paragraph (2) insert—

"(2A) Condition 1 is that a defeat that is a tribunal or court defeat is incurred in the case of at least one of the number of related arrangements implementing the proposal.

(2B) Condition 2 is that the required number or percentage of relevant defeats is reached.

(2C) For the purposes of this paragraph, a defeat incurred in respect of arrangements is a "tribunal or court defeat" if—

(a) condition A (in paragraph 5) is met and the adjustments mentioned in paragraph 5(2) have been confirmed by a tribunal or court, or

(b) condition B (in paragraph 6) is met and the assessment mentioned in paragraph 6(2) has been confirmed by a tribunal or court.

(2D) An adjustment or assessment (as the case may be) has been confirmed by a tribunal or court if the First-tier Tribunal, the Upper Tribunal or a court has determined in proceedings before it that the adjustment or assessment in question should not be varied.

(2E) For the purposes of sub-paragraph (2D), disregard variations that do not substantively alter the basis of the adjustment or assessment in question.";

(d) in sub-paragraph (3)—

(i) after "required" insert "number or";

(ii) for the words from "defeats have" to the end of the sub-paragraph substitute "—

(a) the number of related arrangements implementing the proposal is fewer than 21 and defeats have been incurred in the case of 50% or more of those arrangements;

(b) the number of related arrangements implementing the proposal is more than 20 but fewer than 44 and defeats have been incurred in the case of 11 or more of those arrangements;

(c) the number of related arrangements implementing the proposal is more than 43 but fewer than 200 and defeats have been incurred in the case of 25% or more of those arrangements;

(d) the number of related arrangements implementing the proposal is 200 or more and defeats have been incurred in the case of 50 or more of those arrangements."

(3) In paragraph 22 (time limit for assessment)—

(a) in sub-paragraph (3)—

(i) in paragraph (a), for "the required percentage of defeats was reached" substitute "condition 1 or condition 2 was met";

(ii) for paragraph (b) substitute—

"(b) condition 1 or condition 2 has been met,";

(iii) in paragraph (ii) for "that required percentage was reached" substitute "the first of condition 1 or condition 2 was met";

(b) in sub-paragraph (4), in the words after paragraph (b), for "the required percentage of relevant defeats is reached" substitute "condition 1 or condition 2 is met".

(4) In paragraph 40 (information and inspection powers: application of Schedule 36 to FA 2008)—

(a) for sub-paragraph (1) substitute—

"(1) Schedule 36 to FA 2008 (information and inspection powers) applies for the purpose of—

(a) checking a relevant person's position as regards liability for a penalty under paragraph 1 in relation to particular tax arrangements;

(b) ascertaining the identity of any other person who has or may have enabled those arrangements,

as it applies for the purpose of checking a person's tax position, subject to the modifications in paragraphs 41 to 43.";

(b) in sub-paragraph (2), in the definition of "relevant person", at the end of the definition insert "(or will become or may become so liable if T incurs a defeat)";

(c) after sub-paragraph (2) insert—

"(3) References in this paragraph and paragraphs 41 and 42 to a person who has or may have enabled particular tax arrangements are to be read in accordance with Part 4 of this Schedule (persons who "enabled" the arrangements), save that—

(a) references in that Part to the arrangements mentioned in paragraph 1 (however expressed) are to be read as references to the particular tax arrangements, and

(b) references in that Part to "T" are to be read as references to the person who entered into the particular tax arrangements."

(5) In paragraph 41 (general modifications of Schedule 36 to FA 2008 as applied)—

(a) in the words before sub-paragraph (a), for "the purpose" substitute "a purpose";

(b) in sub-paragraph (d), for the words from "the investigation" to the end of the sub-paragraph substitute "—

(i) the investigation of the relevant person's position as regards liability for a penalty

under paragraph 1 in relation to particular tax arrangements, or (as the case may be)

(ii) the identification of any other person who has or may have enabled those arrangements, and". 5

(6) In paragraph 42 (specific modifications of Schedule 36 to FA 2008 as applied)—

(a) in sub-paragraph (1)—

(i) for "the purpose" substitute "a purpose";

(ii) for "(2)" substitute "(1A)";

(b) after sub-paragraph (1) insert— 10

"(1A) Paragraph 1 (taxpayer notices) has effect as if the reference to checking the taxpayer's tax position (as modified by paragraph 41 of this Schedule) included a reference to ascertaining the identity of any other person who has or may have enabled the particular tax arrangements in relation to which the relevant person's position as regards liability to a penalty under paragraph 1 is to be checked. 15

(1B) Paragraph 10 (power to inspect business premises etc) has effect as if the reference to checking that person's tax position (as modified by paragraph 41 of this Schedule) included a reference to ascertaining the identity of any other person who has or may have enabled the particular tax arrangements in relation to which the relevant person's position as regards liability to a penalty under paragraph 1 is to be checked."; 20

(c) after sub-paragraph (2) insert— 25

"(2A) Paragraph 25 (tax advisers) is treated as omitted."

(7) In paragraph 43 (exclusion of paragraphs 50 and 51 of Schedule 36 to FA 2008), for "the purpose" substitute "a purpose".

(8) In paragraph 48 (restrictions on power to publish information about persons who have incurred a penalty)— 30

(a) in sub-paragraph (1), omit paragraph (c);

(b) in sub-paragraph (2), for "(1)(c) and (d)" substitute "(1)(d)";

(c) omit sub-paragraph (3).

(9) The amendments made by subsections (2) and (3) do not have effect in relation to a person who is liable to a penalty under paragraph 1 of Schedule 16 to F(No.2)A 2017 solely by reason of actions of the person carried out before the day on which this Act is passed. 35

(10) Where the amendments made by subsections (2) and (3) have effect, in determining whether condition 1 or 2 is met in relation to particular tax arrangements, account may be taken of defeats incurred in the case of other related arrangements before the day on which this Act is passed. 40

(11) For the purposes of subsection (10), "condition 1", "condition 2", "defeat" and "related arrangements" have the same meanings as in paragraph 21 of Schedule 16 to F(No.2)A 2017 (as amended by subsection (2)).

(12) The amendments made by subsections (4) to (7) have effect for a purpose mentioned in paragraph (a) or (b) of paragraph 40(1) of Schedule 16 to F(No.2)A 2017 (as substituted by subsection (4)(a)) in relation to tax 45

arrangements whenever entered into (whether before or after the passing of this Act).

(13) The amendments made by subsection (8) do not have effect in relation to a person who incurs a penalty under paragraph 1 of Schedule 16 to F(No.2)A 2017 whose liability to the penalty arose solely by reason of actions of the person carried out before the day on which this Act is passed.

124 The GAAR and partnerships

(1) Schedule 32 makes provision about the operation of the general anti-abuse rule in relation to partnerships.

(2) The amendments made by the Schedule have effect in relation to tax arrangements (within the meaning of Part 5 of FA 2013) entered into at any time (whether before or after the passing of this Act).

Conditionality

125 Licensing authorities: requirements to give or obtain tax information

(1) Schedule 33 contains provision requiring licensing authorities, before considering an application for an authorisation to which that Schedule applies—
   (a) in the case of a first-time application, to give the applicant information relating to tax compliance, and
   (b) in the case of any other application, to obtain from HMRC confirmation that the applicant has given HMRC information relating to tax compliance.

(2) Schedule 33 has effect in relation to applications made on or after 4 April 2022.

HMRC powers

126 Financial institution notices

(1) Schedule 36 to FA 2008 (information and inspection powers) is amended as follows.

(2) After paragraph 4 insert—

"Power to obtain information and documents from financial institutions

4A (1) An officer of Revenue and Customs may by notice in writing require a financial institution—
   (a) to provide information, or
   (b) to produce a document,
   if conditions A and B are met.

(2) Condition A is that the information or document is, in the reasonable opinion of the officer giving the notice, of a kind that it would not be onerous for the institution to provide or produce.

(3) Condition B is that the information or document is reasonably required by the officer—

(a) for the purpose of checking the tax position of another person whose identity is known to the officer ("the taxpayer"), or
(b) for the purpose of collecting a tax debt of the taxpayer.

(4) In this Schedule, "financial institution notice" means a notice under this paragraph.

(5) A financial institution notice may be given by an officer of Revenue and Customs only if—
(a) the officer is an authorised officer of Revenue and Customs, or
(b) an authorised officer of Revenue and Customs has agreed to the giving of the notice.

(6) A financial institution notice must name the taxpayer to whom it relates.

(7) An officer of Revenue and Customs—
(a) must give a copy of a financial institution notice to the taxpayer to whom it relates, and
(b) must give the taxpayer a summary of the reasons why an officer of Revenue and Customs requires the information and documents.

(8) An application (without notice) may be made to the tribunal by, or with the agreement of, an authorised officer of Revenue and Customs to disapply any of the requirements under sub-paragraph (6) or (7).

(9) The tribunal must grant the application to disapply the requirement under sub-paragraph (6) if it is satisfied that the officer has reasonable grounds for believing that naming the taxpayer might seriously prejudice the assessment or collection of tax.

(10) The tribunal must grant the application to disapply a requirement under sub-paragraph (7) if it is satisfied that complying with the requirement might prejudice the assessment or collection of tax."

(3) In paragraph 6 (notices)—
(a) in sub-paragraph (1), after "2," insert "4A,";
(b) in sub-paragraph (4), after "4" insert ", 4A".

(4) After paragraph 61 insert—

"Financial institution

61ZA(1) In this Schedule "financial institution" means—
(a) a financial institution under the CRS other than one which is such an institution because (and only because) it is an investment entity within section VIII (A)(6)(b) of the CRS, or
(b) a person who issues credit cards.

(2) In this paragraph "the CRS" means the common reporting standard for automatic exchange of financial account information developed by the Organisation for Economic Co-operation and Development, as that standard has effect from time to time."

(5) As soon as reasonably practicable after the end of each financial year, the Commissioners for Her Majesty's Revenue and Customs must provide the Treasury with—
  (a) information about the number of financial institution notices given during that financial year, and
  (b) such other information (if any) relating to financial institution notices as the Treasury may reasonably require.

(6) Information received under subsection (5) must be included in a report laid before the House of Commons by the Treasury.

(7) The report mentioned in subsection (6) must be laid not later than 31 January following the end of the financial year to which the information relates.

(8) For the purposes of subsections (5) to (7)—
  "financial institution notice" means a notice under paragraph 4A of Schedule 36 to FA 2008;
  each of the following is a "financial year"—
    (a) the period beginning with the date on which this Schedule comes into force and ending with 31 March 2022, and
    (b) each successive period of 12 months.

(9) The amendments made by subsections (2) to (4) have effect—
  (a) for the purpose of checking the tax position of a taxpayer as regards periods or tax liabilities whenever arising, or
  (b) for the purpose of collecting a tax debt of a taxpayer whenever arising.

127 Collection of tax debts

(1) Schedule 36 to FA 2008 (information and inspection powers) is amended as follows.

(2) In paragraph 1(1) (taxpayer notices), at the end insert "or for the purpose of collecting a tax debt of the taxpayer".

(3) In paragraph 2(1) (third party notices), at the end insert "or for the purpose of collecting a tax debt of the taxpayer".

(4) In paragraph 5(2) (persons whose identities are not known), after "tax position of" insert "or for the purpose of collecting a tax debt of".

(5) In paragraph 5A (persons whose identity can be ascertained)—
  (a) in sub-paragraph (2), at the end insert "or for the purpose of collecting a tax debt of the taxpayer", and
  (b) in sub-paragraph (7), after "tax position of", in both places, insert ", or for the purpose of collecting a tax debt of,".

(6) After paragraph 63 insert—

"Tax debts: collection

63A (1) In this Schedule a reference to collecting a tax debt of a person is a reference to taking any steps for, or in connection with, the recovery of—
    (a) an amount of tax due from the person, or

(b) any other amount due from the person in connection with any tax.

(2) It does not matter whether or not another person is, or has been, at any time liable to pay the tax or other amount."

(7) After paragraph 63A (inserted by subsection (6)) insert— 5

"Tax debts: extended meaning of "relevant foreign tax"

63B Where this Schedule applies for the purpose of collecting a tax debt of a person, "relevant foreign tax" is to be taken to include (in addition to what is mentioned in paragraph 63(4)) any tax or duty which is covered by the provisions for the exchange of information under Council Directive 2010/24/EU of 16 March 2010 concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures (as it had effect immediately before IP completion day)." 10

(8) The amendments made by this section have effect for the purpose of collecting a tax debt of a person whenever arising. 15

128 Miscellaneous amendments of Schedule 36 to FA 2008

Schedule 34 makes miscellaneous amendments of Schedule 36 to FA 2008 (information and inspection powers).

129 International arrangements for exchanging information on the gig economy 20

(1) The Treasury may by regulations make such provision as they consider appropriate for the purpose of giving effect to—

(a) the OECD Model Rules for Reporting by Platform Operators with respect to Sellers in the Sharing and Gig Economy, published on 3 July 2020 ("the Model Rules"); 25

(b) any other international agreement or arrangements to which the United Kingdom is a party that make provision corresponding, or similar, to that made by the Model Rules.

(2) References in subsection (1) to the Model Rules, agreements or arrangements include those Model Rules, agreements or arrangements as modified or supplemented from time to time. 30

(3) Regulations under this section may (among other things)—

(a) make provision about penalties for failure to comply with the regulations;

(b) provide that a reference in the regulations to, or to a provision of, the Model Rules or an agreement or arrangement to which subsection (1) refers is to be construed as a reference to the Model Rules, agreement or arrangement, or provision, as amended from time to time; 35

(c) make consequential, supplementary, incidental, transitional or saving provision (including amending, repealing or revoking an enactment whenever passed or made). 40

(4) Regulations under this section are to be made by statutory instrument.

(5) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of the House of Commons.

130 Unauthorised removal or disposal of seized goods

(1) In Schedule 3 to CEMA 1979 (provisions relating to forfeiture), after paragraph 17 insert— *5*

"Unauthorised removal or disposal: penalties etc

18 (1) This paragraph applies where a thing is seized as liable to forfeiture and, with the agreement of a person within sub-paragraph (2) ("the responsible person"), the thing remains at the place where it is first seized. *10*

(2) A person is within this sub-paragraph if the person is—
(a) the person whose offence or suspected offence occasioned the seizure,
(b) the owner or any of the owners of the thing seized or any servant or agent of such an owner, *15*
(c) a person who has (or appears to have) possession or control over the thing being seized,
(d) in the case of any thing seized on a ship or aircraft, the master or commander,
(e) in the case of any thing seized on any other vehicle, the vehicle operator, or *20*
(f) a person whom the person who seizes the thing reasonably believes to be a person within any of paragraphs (a) to (e).

(3) Where the thing is deemed to be seized as liable to forfeiture under paragraph 2(3) of Schedule 2A— *25*
(a) the offence or suspected offence that occasioned its detention is to be treated, for the purpose of sub-paragraph (2)(a), as having occasioned its seizure, and
(b) sub-paragraph (2)(f) has effect as if the reference to the person who seizes the thing were a reference to any officer of Revenue and Customs. *30*

(4) If the responsible person fails to prevent the unauthorised removal or disposal of the thing from the place where it is seized, that failure attracts a penalty under section 9 of the Finance Act 1994 (civil penalties). *35*

(5) The removal or disposal of the thing is unauthorised unless it is done with the permission of a proper officer of Revenue and Customs.

(6) Where any duty of excise is payable in respect of the thing—
(a) the penalty is to be calculated by reference to the amount of that duty (whether it has been paid or not), and *40*
(b) section 9 of the Finance Act 1994 has effect as if in subsection (2)(a) the words "5 per cent of" were omitted.

(7) If no duty of excise is payable in respect of the thing, that section has effect as if the penalty provided for by subsection (2)(b) of that section were whichever is the greater of— *45*

(a) the value of the thing at the time when it was first seized, or
(b) £250.

19 (1) This paragraph applies where—
(a) a thing is seized at a revenue trader's premises,
(b) the thing is liable to forfeiture under the customs and excise Acts, and
(c) without the permission of a proper officer of Revenue and Customs, the thing is removed from the trader's premises, or otherwise disposed of, by any person.

(2) The Commissioners may seize as liable to forfeiture goods of equivalent value to the thing from the revenue trader's stock.

(3) For the purposes of this paragraph, a revenue trader's premises include any premises used to hold or store anything for the purposes of the revenue trader's trade, regardless of who owns or occupies the premises."

(2) The amendments made by this section have effect in relation to a thing seized as liable to forfeiture on or after the day on which this Act is passed.

131 Temporary approvals etc pending review or appeal

(1) In Chapter 2 of Part 1 of FA 1994 (customs and excise: appeals and penalties), after section 16 insert—

"16A Temporary approvals etc pending review or appeal: eligibility

(1) Section 16B applies where HMRC notify P of an approval decision and—
(a) HMRC are required to review the decision under section 15C or 15E, or
(b) the decision, or the decision on a review under that section, has been appealed to an appeal tribunal under section 16.

(2) An approval decision is a decision as to whether or not, and in which respects, any person or place (as the case may be) is to be or is to continue to be—
(a) approved under section 92 of CEMA 1979 (warehousekeepers and owners of warehouses goods regime: approval of excise warehouses);
(b) approved and registered under section 100G of CEMA 1979 by virtue of—
(i) regulation 3 of the Warehousekeepers and Owners of Warehoused Goods Regulations 1999 (S.I. 1999/1278) (authorized warehousekeepers);
(ii) regulation 5 of those Regulations (registered owners);
(iii) regulation 6 of those Regulations (duty representatives);
(iv) regulation 4 of the Hydrocarbon Oil (Registered Dealers in Controlled Oil) Regulations 2002 (S.I. 2002/3057) (registered dealers in controlled oil);
(c) approved and registered to carry on a controlled activity under section 88C ALDA 1979 (alcohol wholesalers registration scheme);

(d) approved to carry on a controlled activity under section 8L of TPDA 1979 (raw tobacco scheme);

(e) approved and registered under section 49 F(No.2)A 2017 (fulfilment houses due diligence scheme);

(f) licensed to carry out a regulated activity under the Tobacco Products Manufacturing Machinery (Licensing Scheme) Regulations 2018 (S.I. 2018/75) (tobacco machinery scheme).

(3) The Commissioners may by regulations made by statutory instrument amend subsection (2) so as to add, vary or remove a paragraph of that subsection.

(4) A statutory instrument containing regulations under subsection (3) is subject to annulment in pursuance of a resolution of the House of Commons.

16B Temporary approvals etc pending review or appeal: process

(1) On an application by P, HMRC may grant temporary approval if they are satisfied that—

(a) P has demonstrated that if temporary approval were not granted the review or appeal in respect of the approval decision, or the appeal from a decision on review of that decision, would be rendered nugatory by virtue of P being unable to continue as a going concern or otherwise, and

(b) it is appropriate in all the circumstances to grant temporary approval (despite the approval decision).

(2) In determining whether it would be appropriate to grant temporary approval, HMRC must have regard to—

(a) the prospect of the review or appeal in respect of the approval decision, or appeal from a decision on review of that decision, being determined in P's favour;

(b) any alternative steps available to, and taken by, P to protect P's position pending the final determination of the review or appeal;

(c) whether P has acted expeditiously in requiring the review or in bringing and progressing the appeal.

(3) Subject to any provision made in regulations under section 16C, temporary approval has effect as an approval, registration or licence (as the case may be) under the relevant provision listed in section 16A(2) that—

(a) commences on the day on which the application for temporary approval is granted,

(b) expires on the day determined in accordance with subsection (4), and

(c) is subject to any conditions or restrictions imposed on the temporary approval.

(4) The day on which a temporary approval expires is—

(a) in a case where the approval decision is cancelled on a review, the day on which it is cancelled;

(b) in a case where the approval decision is upheld on a review, the last day on which an appeal could be brought against that

decision (ignoring any possibility of an appeal brought out of time with permission), unless paragraph (4)(c) applies;

(c) in a case where an appeal (other than an appeal brought out of time with permission) is brought in respect of an approval decision or a decision on a review of that decision, the day on which the appeal is finally determined.

(5) HMRC may revoke a temporary approval, or vary the conditions or restrictions to which it is subject, if they are satisfied that a change in circumstances justifies doing so.

(6) HMRC may by notice published in such form as HMRC considers appropriate make provision about the timing, form, content and determination of applications under subsection (1).

(7) Subsection (8) applies if HMRC—

(a) refuse an application under subsection (1),

(b) grant an application under that subsection subject to conditions or restrictions,

(c) vary the conditions or restrictions to which a temporary approval is subject, or

(d) revoke a temporary approval, and

the approval decision, or the decision on a review of that decision under section 15C or 15E, has been appealed to an appeal tribunal under section 16.

(8) If, on an application by P, the appeal tribunal decides that HMRC should not have (as the case may be)—

(a) refused the application,

(b) granted the application subject to particular conditions or restrictions,

(c) varied the conditions or restrictions to which the temporary approval is subject, or

(d) revoked the temporary approval,

the appeal tribunal may order HMRC to make any decision that it would have been open to HMRC to make under this section.

(9) If the appeal tribunal makes an order under subsection (8), HMRC or P may apply to the appeal tribunal to vary or revoke that order.

(10) HMRC must notify P of any decision to grant or revoke a temporary approval or to vary the conditions or restrictions to which such approval is subject.

16C Temporary approvals etc pending review or appeal: modifications

(1) The Commissioners may by regulations make such provision as they consider appropriate in consequence of provision made in sections 16A and 16B (including by virtue of regulations under section 16A(3)).

(2) Regulations under this section may amend, repeal, revoke or otherwise modify any enactment.

(3) Regulations under this section are to be made by statutory instrument.

(4) A statutory instrument containing regulations under this section which amend, repeal or modify the application of an Act of Parliament must

be laid before the House of Commons after being made and, unless approved by that House before the end of the period of 28 days beginning with the date on which the instrument is made, ceases to have effect at the end of that period.

(5) Any other statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of the House of Commons.

(6) The fact that a statutory instrument ceases to have effect as a result of subsection (4) does not affect—

(a) anything previously done under the instrument, or

(b) the making of a new instrument.

(7) In calculating the period of 28 days mentioned in subsection (4), no account is to be taken of any time—

(a) during which Parliament is dissolved or prorogued, or

(b) during which the House of Commons is adjourned for more than four days.

(8) In this section "enactment" includes an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978."

(2) In section 16A(1) of FA 1994 (inserted by subsection (1) of this section), the reference to HMRC notifying P of an approval decision includes a reference to HMRC having notified P of such a decision before the coming into force of this section.

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

Banking

132 Replacement of LIBOR with incremental borrowing rate

(1) In section 70O of CAA 2001 (funding leases: the lease payments test)—

(a) in subsection (4)(b), for "1% above LIBOR" substitute "the incremental borrowing rate";

(b) for subsection (5) substitute—

"(5) For this purpose, the incremental borrowing rate has the same meaning as it has for accounting purposes.

(6) The Treasury may by regulations amend this section for the purpose of replacing references to the incremental borrowing rate with references to another rate."

(2) In section 228MB of CAA 2001 (plant or machinery leases: present value of asset)—

(a) in subsection (3), for "1% above LIBOR" substitute "the incremental borrowing rate";

(b) for subsection (4) substitute—

"(4) For this purpose, the incremental borrowing rate has the same meaning as it has for accounting purposes.

(5) The Treasury may by regulations amend this section for the purpose of replacing references to the incremental borrowing rate with references to another rate."

(3) In section 437C of CTA 2010 (plant or machinery lease: present value of lease)—

(a) in subsection (6), for "1% above LIBOR" substitute "the incremental borrowing rate";

(b) for subsection (7) substitute—

"(7) For this purpose, the incremental borrowing rate has the same meaning as it has for accounting purposes.

(7A) The Treasury may by regulations amend this section for the purpose of replacing references to the incremental borrowing rate with references to another rate."

(4) Subsection (1) has effect in relation to leases the inception of which (within the meaning of section 70YI of CAA 2001) is on or after 1 January 2022.

(5) Subsection (2) has effect in relation to leases entered into on or after 1 January 2022.

(6) Subsection (3) has effect in cases where the relevant time for the purposes of section 437C of CTA 2010 is on or after 1 January 2022.

133 Tax consequences of reform etc of LIBOR and other reference rates

(1) The Treasury may by regulations make provision about the tax consequences of things done in anticipation of or in connection with—

(a) the reform or discontinuance of LIBOR, or

(b) the reform or discontinuance of another reference rate.

(2) Regulations under this section may, for example, make provision—

(a) changing the tax treatment of transactions (including by disregarding a transaction or treating a transaction as taking place at a different time or to a different extent);

(b) changing the tax treatment of amounts (including by disregarding an amount or treating an amount as larger or smaller than it actually is).

(3) Regulations under this section may include retrospective provision.

(4) Where regulations under this section do so—

(a) they must include provision conferring power on a person to make an election for no provision of the regulations to have retrospective effect in the person's case;

(b) they may include provision conferring power on a person to make such other election limiting the retrospective effect of the regulations in the person's case as is specified in the regulations.

(5) Regulations that include provision for an election mentioned in subsection (4)—

(a) must include provision about how the election is to be made, and

(b) may include provision for a time limit within which the election is to be made.

(6) Regulations under this section may—

(a) apply an enactment (with or without modifications) or disapply an enactment, or
(b) amend, repeal or revoke an enactment.

(7) Regulations under this section may—
(a) make different provision for different cases or purposes, and
(b) include incidental, consequential, supplementary or transitional provision.

(8) Regulations under this section are to be made by statutory instrument.

(9) No regulations may be made under this section unless a draft of the statutory instrument containing them has been laid before and approved by a resolution of the House of Commons.

(10) In this section—
"enactment" includes an enactment contained in subordinate legislation (within the meaning of the Interpretation Act 1978);
"reference rate" means a published rate used to set interest rates for financial instruments;
"tax" includes stamp duty.

(11) The power conferred by this section is not exercisable after 31 December 2023, except for the purpose of revoking regulations made under it on or before that date.

134 Powers of the Treasury to amend legislation relating to banks

(1) In section 133N of CTA 2009 (powers to amend provisions relating to banking companies), after subsection (3) insert—

"(3A) Regulations under this section made on or before 30 June 2022 may have retrospective effect in relation to any time on or after 1 January 2022."

(2) Chapter 2 of Part 7A of CTA 2010 (banking companies: key definitions) is amended as follows.

(3) For the italic heading before section 269BE (power to make consequential changes) substitute "Powers to amend".

(4) In section 269BE—
(a) for the heading substitute "Powers to amend";
(b) after subsection (1) insert—

"(1A) The Treasury may by regulations—
(a) amend sections 269B to 269BD;
(b) amend other provisions of this Part in consequence of provision made under paragraph (a).

(1B) Regulations under this section may include transitional provision.

(1C) Regulations under this section made on or before 30 June 2022 may have retrospective effect in relation to any accounting period ending on or after 1 January 2022.

(1D) A statutory instrument containing (whether alone or with other provision) regulations under subsection (1A) may not be made unless a draft of the instrument has been laid before and approved by a resolution of the House of Commons."

(5) Part 9 of Schedule 19 to FA 2011 (the bank levy: power to make consequential changes) is amended as follows.

(6) For the Part heading substitute "Powers to amend".

(7) In paragraph 81—

(a) after sub-paragraph (1) insert—

"(1A) The Treasury may by regulations made by statutory instrument—

(a) amend Part 8 of this Schedule (definitions);

(b) amend other Parts of this Schedule in consequence of provision made under paragraph (a)."

(1B) An order under sub-paragraph (1) or regulations under sub-paragraph (1A) may include transitional provision.";

(b) in sub-paragraph (2)—

(i) in the words before paragraph (a), for "this paragraph" substitute "sub-paragraph (1)";

(ii) omit paragraph (b);

(iii) at the end insert—

"(c) in the case of an order made on or before 30 June 2022, in relation to any chargeable period ending on or after 1 January 2022.";

(c) after sub-paragraph (2) insert—

"(2A) Regulations under sub-paragraph (1A) made on or before 30 June 2022 may have retrospective effect in relation to any chargeable period ending on or after 1 January 2022.";

(d) in sub-paragraph (3), for "an order under this paragraph" substitute "only an order under sub-paragraph (1)";

(e) after sub-paragraph (3) insert—

"(4) Any other statutory instrument containing provision made under this paragraph may not be made unless a draft of the instrument has been laid before and approved by a resolution of the House of Commons."

Other

135 Interpretation

In this Act the following abbreviations are references to the following Acts—

CAA 2001	Capital Allowances Act 2001
CEMA 1979	Customs and Excise Management Act 1979

CRCA 2005	Commissioners for Revenue and Customs Act 2005	
CTA 2009	Corporation Tax Act 2009	
CTA 2010	Corporation Tax Act 2010	
CT(NI)A 2015	Corporation Tax (Northern Ireland) Act 2015	*5*
FA followed by a year	Finance Act of that year	
F(No.2)A or F(No.3)A followed by a year	Finance (No.2) Act or Finance (No.3) Act of that year	
HODA 1979	Hydrocarbon Oil Duties Act 1979	*10*
IHTA 1984	Inheritance Tax Act 1984	
ITA 2007	Income Tax Act 2007	
ITEPA 2003	Income Tax (Earnings and Pensions) Act 2003	
ITTOIA 2005	Income Tax (Trading and Other Income) Act 2005	*15*
TCGA 1992	Taxation of Chargeable Gains Act 1992	
TCTA 2018	Taxation (Cross-border Trade) Act 2018	
TIOPA 2010	Taxation (International and Other Provisions) Act 2010	*20*
TMA 1970	Taxes Management Act 1970	
TPDA 1979	Tobacco Products Duty Act 1979	
VATA 1994	Value Added Tax Act 1994	
VERA 1994	Vehicle Excise and Registration Act 1994	*25*

136 Short title

This Act may be cited as the Finance Act 2021.

SCHEDULES

SCHEDULE 1

Section 7

SMALL PROFITS RATE FOR NON-RING FENCE PROFITS

PART 1

SMALL PROFITS RATE

1 CTA 2010 is amended as follows.

2 In section 3 (corporation tax rates), for subsection (2) substitute—

"(2) Subsection (1) is subject to—

(a) section 18A (which provides for tax to be charged at the standard small profits rate instead of the main rate in certain cases), and

(b) any other provision of the Corporation Tax Acts which provides for corporation tax to be charged at a different rate."

3 Before Part 4 insert the following as a new Part 3A—

"PART 3A

COMPANIES WITH SMALL PROFITS

The standard small profits rate for non-ring fence profits

18A Profits charged at the standard small profits rate

(1) Corporation tax is charged at the standard small profits rate on a company's taxable total profits of an accounting period which are not ring fence profits if—

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

(b) it is not a close investment-holding company in the period, and

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

(2) In this Act "the standard small profits rate" means a rate that—

(a) is lower than the main rate, and

(b) is set by Parliament for the financial year as the standard small profits rate.

(3) In this Part "ring fence profits" has the same meaning as in Part 8 (see section 276).

(4) In the case of a company with ring fence profits, see section 279A(3) (small ring fence profits rate chargeable on ring fence profits).

Marginal relief

18B Marginal relief for companies without ring fence profits

(1) This section applies if—
  (a) a company is UK resident in an accounting period,
  (b) it is not a close investment-holding company in the period,
  (c) its augmented profits of the accounting period exceed the lower limit but do not exceed the upper limit, and
  (d) its augmented profits of the accounting period do not include any ring fence profits.

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

$$F \times (U - A) \times \frac{N}{A}$$

where—
  F is the standard marginal relief fraction,
  U is the upper limit,
  A is the amount of the augmented profits, and
  N is the amount of the taxable total profits.

(3) In this Act "the standard marginal relief fraction" means the fraction set by Parliament for the financial year as the standard marginal relief fraction for the purposes of this Part.

18C Marginal relief for companies with ring fence profits

In the case of a company with ring fence profits—
  (a) see section 279B (if the company's augmented profits of an accounting period consist exclusively of ring fence profits), and
  (b) see section 279C (if the company's augmented profits of an accounting period consist of both ring fence profits and other profits).

The lower limit and the upper limit

18D The lower limit and the upper limit

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

(2) If C has no associated company in the accounting period—
  (a) the lower limit is £50,000, and
  (b) the upper limit is £250,000.

(3) If C has one or more associated companies in the accounting period—

(a) the lower limit is—

$$\frac{£50,000}{(1 + N)}$$

(b) the upper limit is—

$$\frac{£250,000}{(1 + N)}$$

where N is the number of those associated companies. *5*

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

18E Associated companies

(1) For the purposes of section 18D, a company is another company's associated company in an accounting period if it is an associated company (see subsection (4)) for any part of the accounting period. *10*

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

(3) But an associated company is ignored for the purposes of section 18D if— *15*

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

(b) it was an associated company for part only of the accounting period and has not carried on a trade or business at any time in that part of the accounting period. *20*

(4) For the purposes of this Part, a company is an associated company of another at any time when—

(a) one of the two has control of the other, or

(b) both are under the control of the same person or persons. *25*

(5) In subsection (4) "control" has the same meaning as in Part 10 (see sections 450 and 451).

(6) In this section—

(a) subsection (3) is subject to section 18F, and

(b) subsections (4) and (5) are subject to sections 18G to 18J. *30*

18F Section 18E(3): treatment of certain non-trading companies

(1) Subsection (2) applies if a company carries on a business of making investments in an accounting period and throughout the period the company—

(a) carries on no trade, *35*

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

(c) is a passive company.

(2) The company is treated for the purposes of section 18E(3) as not carrying on a business at any time in the accounting period.

(3) A company is a passive company throughout an accounting period only if the following requirements are met— *40*

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

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

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

(i) the redistribution condition is met (see subsection (4)), and

(ii) the dividends are exempt distributions of a qualifying kind received by it (see subsection (5)),

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

(e) no expenses of management of the business mentioned in subsection (1) are referable to that period, and

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

(4) The redistribution condition is that—

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

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

(5) For the purposes of this section a distribution is an "exempt distribution of a qualifying kind" if—

(a) it is a distribution for the purposes of the Corporation Tax Acts because (and only because) it falls within paragraph A, B, G or H in section 1000(1), and

(b) it is exempt for the purposes of Part 9A of CTA 2009 (company distributions).

(6) If income arises to a company in an accounting period in the form of a dividend and the requirement in subsection (3)(c) is met in respect of the income—

(a) neither the dividend nor any asset representing it is treated as an asset of the company in that accounting period for the purposes of subsection (3)(a), and

(b) no right of the company to receive the dividend is treated as an asset of the company for the purposes of subsection (3)(a) in that period or any earlier accounting period.

18G Attribution to persons of rights and powers of their partners

(1) This section applies if—

(a) it is necessary to determine in accordance with section 18E(4) and (5) whether a company is an associated company of another company, and

(b) the relationship between the two companies is not one of substantial commercial interdependence.

(2) In the application of section 451 (meaning of "control": rights to be attributed) for the purposes of the determination, any person to whom rights and duties fall to be attributed under subsections (4) and (5) of that section is to be treated, for the purposes of those subsections, as having no associates.

(3) The Treasury may by regulations prescribe factors that are to be taken into account in determining whether a relationship between two companies amounts to substantial commercial interdependence for the purposes of this section.

18H Associated companies: fixed-rate preference shares *5*

(1) In determining for the purposes of section 18E(4) whether a company is under the control of another, fixed-rate preference shares held by a company are ignored if the company holding them—
  (a) is not a close company,
  (b) takes no part in the management or conduct of the company which issued the shares, or in the management or conduct of its business, and *10*
  (c) subscribed for the shares in the ordinary course of a business which includes the provision of finance.

(2) In this section "fixed-rate preference shares" means shares which— *15*
  (a) were issued wholly for new consideration,
  (b) do not carry any right either to conversion into shares or securities of any other description or to the acquisition of any additional shares or securities, and
  (c) do not carry any right to dividends other than dividends which— *20*
    (i) are of a fixed amount or at a fixed rate per cent of the nominal value of the shares, and
    (ii) together with any sum paid on redemption, represent no more than a reasonable commercial return on the consideration for which the shares were issued. *25*

(3) In subsection (2)(a) "new consideration" has the meaning given by section 1115.

18I Association through a loan creditor

(1) A company ("A") is not under the control of another company ("B") for the purposes of section 18E(4) if— *30*
  (a) B is a loan creditor of A,
  (b) there is no other connection between A and B, and
  (c) either—
    (i) B is not a close company, or *35*
    (ii) B's relationship to A as a loan creditor arose in the ordinary course of a business which B carries on.

(2) Subsection (3) applies if—
  (a) two companies ("A" and "B") are controlled by the same person who is a loan creditor of each of them, *40*
  (b) there is no other connection between A and B, and
  (c) either—
    (i) the loan creditor is a company which is not a close company, or
    (ii) the loan creditor's relationship to each of A and B as a loan creditor arose in the ordinary course of a business which the loan creditor carries on. *45*

(3) In determining for the purposes of this Part whether A and B are associated with each other, rights which the loan creditor has as a loan creditor of A, or as a loan creditor of B, are ignored.

(4) In subsection (2)(a) "control" has the same meaning as in section 18E(4).

(5) In this section—
  (a) "connection" includes a connection in the past as well as a connection in the present, and
  (b) references to a connection between two companies include any dealings between them.

(6) In this section references to a loan creditor of a company are to be read in accordance with section 453.

18J Association through a trustee

(1) Subsection (2) applies if—
  (a) two companies ("A" and "B") are controlled by the same person by virtue of rights or powers (or both) held in trust by that person, and
  (b) there is no other connection between A and B.

(2) In determining for the purposes of this Part whether A and B are associated with each other, the rights and powers mentioned in subsection (1)(a) are ignored.

(3) In subsection (1)—
  (a) "control" has the same meaning as in section 18E(4),
  (b) "connection" includes a connection in the past as well as a connection in the present, and
  (c) the reference to a connection between A and B includes any dealings between them.

Supplementary

18K Power to obtain information

(1) This section applies if a company ("the issuing company") appears to an officer of Revenue and Customs to be a close company.

(2) The officer may, for the purposes of this Part, by notice require the issuing company to provide the officer with—
  (a) particulars of any bearer securities issued by the company,
  (b) the names and addresses of the persons to whom the securities were issued, and
  (c) details of the amounts issued to each person.

(3) The officer may, for the purposes of this Part, by notice require—
  (a) any person to whom bearer securities were issued by the company, or
  (b) any person to or through whom bearer securities issued by the company were subsequently sold or transferred,

to provide any further information that the officer reasonably requires with a view to enabling the officer to find out the names and addresses of the persons beneficially interested in the securities.

(4) In this section—

"loan creditor" has the meaning given by section 453, and

"securities" includes—

(a) shares, stocks, bonds, debentures and debenture stock, and

(b) any promissory note or other instrument evidencing indebtedness to a loan creditor of the company.

18L Meaning of "augmented profits"

(1) For the purposes of this Part a company's "augmented profits" of an accounting period are—

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

(b) any exempt distributions of a qualifying kind received by the company ("R") that are not excluded.

(2) For the purposes of this section a distribution is an "exempt distribution of a qualifying kind" if—

(a) it is a distribution for the purposes of the Corporation Tax Acts because (and only because) it falls within paragraph A, B, G or H in section 1000(1), and

(b) it is exempt for the purposes of Part 9A of CTA 2009 (company distributions).

(3) For the purposes of this section a distribution which R receives from a company ("C") is excluded if—

(a) C is a 51% subsidiary of R or of a company of which R is a 51% subsidiary, or

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

(4) Section 18M—

(a) makes further provision for determining whether a company is a 51% subsidiary of another for the purposes of subsection (3), and

(b) defines expressions used in that subsection.

18M Interpretation of section 18L(3)

(1) This section applies for the purposes of section 18L(3).

(2) In addition to meeting the requirements of section 1154(2), a company ("A") is a 51% subsidiary of another company ("B") only at times when—

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

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

(3) In determining whether or not a company is a 51% subsidiary of another company ("C"), C is treated as not owning share capital if—

(a) it owns the share capital indirectly,
(b) the share capital is owned directly by a company ("D"), and
(c) a profit on the sale of the shares would be a trading receipt for D.

(4) A company is a "trading company" if its business consists wholly or mainly of carrying on one or more trades. *5*

(5) A company is a "relevant holding company" if its business consists wholly or mainly of holding shares in or securities of trading companies (as defined by subsection (4)) that are its 90% subsidiaries. *10*

(6) A company is a "quasi-subsidiary" of R if—
(a) it is owned by a consortium of which R is a member,
(b) it is not a 75% subsidiary of any company, and
(c) no arrangements of any kind (whether in writing or not) exist as a result of which it could become a 75% subsidiary of any company. *15*

(7) A company is owned by a consortium if at least 75% of the company's ordinary share capital is beneficially owned by two or more companies each of which—
(a) beneficially owns at least 5% of that capital, *20*
(b) would be beneficially entitled to at least 5% of any profits available for distribution to equity holders of the company, and
(c) would be beneficially entitled to at least 5% of any asset of the company available for distribution to its equity holders on a winding up. *25*

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

(9) Chapter 6 of Part 5 (equity holders and profits or assets available for distribution) applies for the purposes of this section as it applies for the purposes of section 151(4)(a) and (b). *30*

18N Close investment-holding companies

(1) For the purposes of this Part, a close company ("the candidate company") is a close investment-holding company in an accounting period unless throughout the period it exists wholly or mainly for one or more of the permitted purposes set out in subsection (2). *35*

There is an exception to this rule in subsection (5).

(2) The candidate company exists for a permitted purpose so far as it exists—
(a) for the purpose of carrying on a trade or trades on a commercial basis, *40*
(b) for the purpose of making investments in land, or estates or interests in land, in cases where the land is, or is intended to be, let commercially (see subsection (3)),
(c) for the purpose of holding shares in and securities of, or making loans to, one or more companies each of which— *45*
(i) is a qualifying company, or

(ii) falls within subsection (4),

(d) for the purpose of co-ordinating the administration of two or more qualifying companies,

(e) for the purpose of the making of investments as mentioned in paragraph (b)—

(i) by one or more qualifying companies, or

(ii) by a company which has control of the candidate company, or

(f) for the purpose of a trade or trades carried on on a commercial basis—

(i) by one or more qualifying companies, or

(ii) by a company which has control of the candidate company.

(3) For the purposes of subsection (2)(b), any letting of land is taken to be commercial unless the land is let to—

(a) a person connected with the candidate company ("a connected person"), or

(b) a person who is—

(i) the spouse or civil partner of a connected person,

(ii) a relative of a connected person, or the spouse or civil partner of a relative of a connected person,

(iii) a relative of the spouse or civil partner of a connected person, or

(iv) the spouse or civil partner of a relative of the spouse or civil partner of the connected person.

(4) A company falls within this subsection (see subsection (2)(c)(ii)) if—

(a) it is under the control of the candidate company or of a company which has control of the candidate company, and

(b) it exists wholly or mainly for the purpose of holding shares in or securities of, or of making loans to, one or more qualifying companies.

(5) If a company is wound up and was not a close investment-holding company in the accounting period that ends (by virtue of section 12(2) of CTA 2009) immediately before the winding up starts, the company is not treated for the purposes of this Part as being a close investment-holding company in the subsequent accounting period.

(6) In this section "qualifying company" means a company which—

(a) is under the control of the candidate company or of a company which has control of the candidate company, and

(b) exists wholly or mainly for either or both of the purposes mentioned in subsection (2)(a) or (b).

(7) In this section—

"control" has the meaning given by section 450, and

"relative" means brother, sister, ancestor or lineal descendant."

PART 2

AMENDMENTS OF CHAPTER 3A OF PART 8 OF CTA 2010

4 Chapter 3A of Part 8 of CTA 2010 (rates at which corporation tax is charged on ring fence profits) is amended as follows.

5 In section 279A (corporation tax rates on ring fence profits), in subsection (3), after paragraph (a) but before the "and" at the end of that paragraph insert—

"(ab) it is not a close investment-holding company in the period,".

6 In section 279B (company with only ring fence profits)—

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

"(ab) it is not a close investment-holding company in the period,",

(b) in subsection (2), in the definition of "R", for "marginal" substitute "ring fence marginal", and

(c) in subsection (3), for "marginal" substitute "ring fence marginal".

7 (1) Section 279C (company with ring fence profits and other profits) is amended as follows.

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

"(ab) it is not a close investment-holding company in the period,".

(3) For subsection (2) substitute—

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

(a) the sum equal to the ring fence marginal relief fraction of the ring fence amount, and

(b) the sum equal to the standard marginal relief fraction of the remaining amount."

8 After section 279D insert—

"279DA The remaining amount

(1) In section 279C "the remaining amount" means the amount given by the formula—

$$(UZ - AZ) \times \frac{NZ}{AZ}$$

(2) In this section—

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

$$\frac{AZ}{A}$$

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

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

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

9 (1) Section 279E (the lower limit and the upper limit) is amended as follows.

(2) In subsection (2)—

(a) in the opening words, for "If no company is a related 51% group company of A" substitute "If A has no associated company",

(b) in paragraph (a), for "£300,000" substitute "£50,000", and

(c) in paragraph (b), for "£1,500,000" substitute "£250,000".

(3) In subsection (3)—

(a) in the opening words, for "If one or more companies are related 51% group companies of A" substitute "If A has one or more associated companies",

(b) in paragraph (a), for "£300,000" substitute "£50,000", and

(c) in paragraph (b), for "£1,500,000" substitute "£250,000".

10 After section 279E insert—

"Supplementary

279EA Interpretation etc

(1) The rules in Part 3A (see sections 18E to 18J) which apply for determining whether a company is another company's associated company in an accounting period for the purposes of section 18D apply for the purposes of section 279E.

(2) Section 18K (power to obtain information) applies for the purposes of this Part as it applies for the purposes of Part 3A.

(3) For the purposes of this Chapter—

"augmented profits" has the same meaning as in Part 3A (see sections 18L and 18M), and

"close investment-holding company" has the same meaning as in that Part (see section 18N)."

11 Omit sections 279F to 279H (meaning of "related 51% group company" etc).

PART 3

CONSEQUENTIAL AMENDMENTS

FA 1998

12 In Schedule 18 to FA 1998 (company tax returns, assessments and related matters), in paragraph 8(1) (calculation of tax payable), in the second step, for "Chapter 3A of Part 8 of the Corporation Tax Act 2010 (marginal relief for companies with small ring fence profits etc)" substitute "Part 3A or Chapter 3A of Part 8 of the Corporation Tax Act 2010 (marginal relief for companies with small profits)".

Corporation Tax (Instalment Payments) Regulations 1998

13 (1) The Corporation Tax (Instalment Payments) Regulations 1998 (interpretation) are amended as follows.

(2) In regulation 2 (interpretation)—

(a) in paragraph (1), omit the entry for "related 51% group company",

(b) in paragraph (2), for "section 279G" substitute "sections 18L and 18M", and

(c) after that paragraph insert—

"(2A) The rules in Part 3A of CTA 2010 (see sections 18E to 18J) which apply for determining whether a company is another company's associated company in an accounting period for the purposes of section 18D of that Act apply for the purposes of these Regulations."

(3) In regulations 3 and 3A (large and very large companies), for "related 51% group" (in each place) substitute "associated".

FA 2000

14 In Schedule 22 to FA 2000 (tonnage tax), in paragraph 57(6)(a) (exclusion of relief or set-off against tax liability), for "Chapter 3A of Part 8 of CTA 2010 (marginal relief for companies with small ring fence profits)" substitute "Part 3A or Chapter 3A of Part 8 of the Corporation Tax Act 2010 (marginal relief for companies with small profits)".

CAA 2001

15 CAA 2001 is amended as follows.

16 (1) Section 99 (long-life assets: the monetary limit) is amended as follows.

(2) In subsection (4)—

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

(b) in the definition of "N", for "number of related 51% group" substitute "number of associated".

(3) After that subsection insert—

"(4A) The rules in Part 3A of CTA 2010 (see sections 18E to 18J) which apply for determining whether a company is another company's associated company in an accounting period for the purposes of section 18D of that Act apply for the purposes of subsection (4)."

17 In Part 2 of Schedule 1 (defined expressions), omit the entry for "related 51% group company".

CTA 2010

18 CTA 2010 is amended as follows.

19 In section 1(2) (overview of Act)—

(a) for "Parts 4" substitute "Parts 3A", and
(b) before paragraph (b) insert—
"(a) relief for companies with small profits (other than ring-fence profits) (see Part 3A),".

20 (1) Section 357BN (profits arising from the exploitation of patents etc: small claims treatment) is amended as follows.

(2) In subsection (7)—
(a) in paragraph (a), for "no company is a related 51% group company of the company" substitute "the company has no associated company",
(b) in paragraph (b), for "one or more companies are related 51% group companies of the company" substitute "the company has one or more associated companies", and
(c) in the definition of "N", for "those related 51% group" substitute "those associated".

(3) After subsection (8) insert—

"(9) The rules in Part 3A (see sections 18E to 18J) which apply for determining whether a company is another company's associated company in an accounting period for the purposes of section 18D apply for the purposes of this section."

21 (1) Section 357BNB (profits arising from the exploitation of patents etc: small claims figure election) is amended as follows.

(2) In subsection (6), for "no company is a related 51% group company of the company" substitute "the company has no associated company".

(3) In subsection (7)—
(a) for "one or more companies are related 51% group companies of the company" substitute "the company has one or more associated companies", and
(b) in the definition of "N", for "those related 51% group" substitute "those associated".

(4) After subsection (9) insert—

"(10) The rules in Part 3A (see sections 18E to 18J) which apply for determining whether a company is another company's associated company in an accounting period for the purposes of section 18D apply for the purposes of this section."

22 In section 534 (REITs: profits), after subsection (2) insert—

"(3) Profits which—
(a) arise from the residual business of a UK company which is, or is a member of, a UK REIT, and
(b) are charged to corporation tax,

are to be charged at a rate determined without reference to sections 18A and 18B (companies with small profits)."

23 In section 535 (REITs: gains), after subsection (5) insert—

"(6) Gains which—

(a) accrue to residual business of a company which is, or is a member of, a UK REIT, and

(b) are charged to corporation tax,

are to be charged at a rate determined without reference to sections 18A and 18B (companies with small profits)."

24 In section 543 (REITs: financing-cost ratio), after subsection (4) insert—

"(5) Accordingly, it is charged to corporation tax at the main rate of corporation tax."

25 In section 551 (REITs: distribution to holder of excessive rights), after subsection (5) insert—

"(6) Accordingly, it is charged to corporation tax at the main rate of corporation tax."

26 In section 564 (REITs: breach of condition as to distribution of profits), after subsection (3) insert—

"(4) Accordingly, it is charged to corporation tax at the main rate of corporation tax."

27 In section 614 (open-ended investment companies: applicable corporation tax rate), at the end insert "(and sections 18A and 18B (relief for companies with small profits) do not apply)".

28 In section 618 (authorised unit trusts: applicable corporation tax rate), at the end insert "(and sections 18A and 18B (relief for companies with small profits) do not apply)".

29 For section 627 substitute—

"627 Meaning of "main rate of corporation tax" for companies with ring fence profits or small profits

(1) This section applies if corporation tax chargeable on any profits of a company for a financial year—

(a) is to be charged at the main ring fence profits rate,

(b) is to be charged at the standard small profits rate or the small ring profits rate, or

(c) is to be reduced by reference to the standard marginal relief fraction or the ring fence marginal relief fraction (within the meaning of Part 3A or Chapter 3A of Part 8).

(2) References in this Chapter to the main rate of corporation tax are to be taken, so far as relating to profits charged at any of the rates mentioned in subsection (1)(a) or (b), as references to the rate or rates concerned.

(3) References in this Chapter to the main rate of corporation tax are, if corporation tax is reduced as mentioned in subsection (1)(c), to be taken as including references to the fraction or fractions concerned (and with references to a rate being "fixed" or "proposed" read accordingly as references to the fraction or fractions concerned being fixed or proposed)."

30 In section 1119 (Corporation Tax Acts definitions), omit the definition of "related 51% group company".

31 In Schedule 4 (index of defined expressions)—

(a) insert the following entries at the appropriate places—

"close investment-holding company (in Part 3A or Chapter 3A of Part 8)	section 18N (including as applied by section 279EA)"
"the standard marginal relief fraction	section 18B"
"the standard small profits rate	section 18A",

(b) in the entry for "augmented profits"—

(i) in the first column, before "Chapter 3A" insert "Part 3A or", and

(ii) in the second column, for "section 279G" substitute "sections 18L and 18M (including as applied by section 279EA)",

(c) in the entry for "the lower limit"—

(i) in the first column, before "Chapter 3A" insert "Part 3A or", and

(ii) in the second column, after "section" insert "18D or",

(d) in the entry for "the marginal relief fraction", in the first column, for "marginal" substitute "ring fence marginal" (and, accordingly, move the entry to the appropriate place),

(e) omit the entry for "related 51% group company",

(f) for the entries for "ring fence profits" (in Parts 3 and 8) substitute—

"ring fence profits (in Part 3A or 8)	section 276 (including as applied by section 18A)", and

(g) in the entry for "the upper limit"—

(i) in the first column, before "Chapter 3A" insert "Part 3A or", and

(ii) in the second column, after "section" insert "18D or".

FA 2012

32 In section 102 of FA 2012 (policyholders' rate of tax on policyholders' share of I - E profit), at the end insert—

"(5) The policyholders' share of the I - E profit for an insurance company's accounting period is to be left out of account in determining for the purposes of Part 3A of CTA 2010 (companies with small profits)—

(a) the augmented profits of the company for the accounting period, and
(b) the taxable total profits of the company for the accounting period."

PART 4

COMMENCEMENT ETC

Commencement

33 The amendments made by paragraphs 13, 16, 17, 20 and 21 have effect in relation to accounting periods beginning on or after 1 April 2023.

34 (1) The other amendments made by this Schedule have effect for the financial year 2023 and subsequent financial years.

(2) In the case of an accounting period (a "straddling period") beginning before 1 April 2023 and ending on or after date, those other amendments have effect as if the different parts of the straddling period falling in the different financial years were separate accounting periods.

(3) For this purpose all necessary apportionments are to be made between the two separate accounting periods.

Power to make further consequential amendments

35 (1) The Treasury may by regulations make such provision as they consider appropriate in consequence of the provision made by this Schedule.

(2) The regulations—
(a) may amend any provision of the Corporation Tax Acts or any other enactment, and
(b) may contain incidental, supplemental, consequential or transitional provision.

SCHEDULE 2

Section 18

TEMPORARY EXTENSION OF PERIODS TO WHICH TRADE LOSSES MAY BE CARRIED BACK

PART 1

INCOME TAX

Relief for trade losses made in tax year 2020-21

1 (1) A person who has made a loss in a trade in the tax year 2020-21 may make a claim for relief under this paragraph if—
(a) some or all of the loss ("the section 64 amount") is an amount in respect of which the person is entitled to make a claim under section 64 of ITA 2007 (trade loss relief against general income) or would be so entitled were there sufficient income from which to deduct it, and
(b) condition A or B is met.

(2) Condition A is that the person makes a claim under section 64 of ITA 2007 for relief in respect of the section 64 amount for either or both of the tax years 2019-20 and 2020-21.

(3) Condition B is that the person's total income for the tax years 2019-20 and 2020-21—
   (a) is nil, or
   (b) does not include any income from which a deduction could be made in pursuance of a claim under section 64 of ITA 2007 in respect of the section 64 amount.

(4) The amount of the loss that may be relieved under this paragraph ("the deductible amount") is—
   (a) if condition A is met, so much of the section 64 amount as cannot be relieved pursuant to the claim under section 64 of ITA 2007;
   (b) if condition B is met, the whole of the section 64 amount.

   But see sub-paragraph (9) (limit on total deductions under this paragraph).

(5) A claim for relief under this paragraph is for the deductible amount to be deducted (in accordance with whichever is applicable of sub-paragraphs (7) and (8)) in calculating the person's net income for one or more of the tax years 2017-18, 2018-19 and 2019-20 at Step 2 of the calculation in section 23 of ITA 2007 (which applies as if this paragraph were a provision listed in section 24 of that Act).

(6) A deduction is to be made only from the profits of the trade (and accordingly subsection (2) of section 25 of ITA 2007 has effect as if this sub-paragraph were included in subsection (3) of that section).

(7) This sub-paragraph explains how the deductions are to be made in a case where the person makes a claim under section 64 of ITA 2007 for relief in respect of the section 64 amount for the tax year 2019-20.

   Step 1

   Deduct the deductible amount from the profits of the trade for the tax year 2018-19.

   Step 2

   Deduct from the profits of the trade for the tax year 2017-18 so much of the deductible amount as has not been deducted under Step 1.

(8) This sub-paragraph explains how the deductions are to be made in any other case.

   Step 1

   Deduct the deductible amount from the profits of the trade for the tax year 2019-20.

   Step 2

   Deduct from the profits of the trade for the tax year 2018-19 so much of the deductible amount as has not been deducted under Step 1.

   Step 3

   Deduct from the profits of the trade for the tax year 2017-18 so much of the deductible amount as has not been deducted under Step 1 or 2.

(9) The total amount that may be deducted in accordance with sub-paragraph (7), or in accordance with Steps 2 and 3 in sub-paragraph (8), is limited to £2,000,000.

(10) A claim for relief under this paragraph must be made on or before the first anniversary of the normal self-assessment filing date for the tax year 2020-21.

Relief for trade losses made in tax year 2021-22

2 (1) A person who has made a loss in a trade in the tax year 2021-22 may make a claim for relief under this paragraph if—
(a) some or all of the loss ("the section 64 amount") is an amount in respect of which the person is entitled to make a claim under section 64 of ITA 2007 (trade loss relief against general income) or would be so entitled were there sufficient income from which to deduct it, and
(b) condition A or B is met.

(2) Condition A is that the person makes a claim under section 64 of ITA 2007 for relief in respect of the section 64 amount for either or both of the tax years 2020-21 and 2021-22.

(3) Condition B is that the person's total income for the tax years 2020-21 and 2021-22—
(a) is nil, or
(b) does not include any income from which a deduction could be made in pursuance of a claim under section 64 of ITA 2007 in respect of the section 64 amount.

(4) The amount of the loss that may be relieved under this paragraph ("the deductible amount") is—
(a) if condition A is met, so much of the section 64 amount as cannot be relieved pursuant to the claim under section 64 of ITA 2007;
(b) if condition B is met, the whole of the section 64 amount.
But see sub-paragraph (9) (limit on total deductions under this paragraph).

(5) A claim for relief under this paragraph is for the deductible amount to be deducted (in accordance with whichever is applicable of sub-paragraphs (7) and (8)) in calculating the person's net income for one or more of the tax years 2018-19, 2019-20 and 2020-21 at Step 2 of the calculation in section 23 of ITA 2007 (which applies as if this paragraph were a provision listed in section 24 of that Act).

(6) A deduction is to be made only from the profits of the trade (and accordingly subsection (2) of section 25 of ITA 2007 has effect as if this sub-paragraph were included in subsection (3) of that section).

(7) This sub-paragraph explains how the deductions are to be made in a case where the person makes a claim under section 64 of ITA 2007 for relief in respect of the section 64 amount for the tax year 2020-21.
Step 1
Deduct the deductible amount from the profits of the trade for the tax year 2019-20.
Step 2
Deduct from the profits of the trade for the tax year 2018-19 so much of the deductible amount as has not been deducted under Step 1.

(8) This sub-paragraph explains how the deductions are to be made in any other case.

Step 1

Deduct the deductible amount from the profits of the trade for the tax year 2020-21.

Step 2

Deduct from the profits of the trade for the tax year 2019-20 so much of the deductible amount as has not been deducted under Step 1.

Step 3

Deduct from the profits of the trade for the tax year 2018-19 so much of the deductible amount as has not been deducted under Step 1 or 2.

(9) The total amount that may be deducted in accordance with sub-paragraph (7), or in accordance with Steps 2 and 3 in sub-paragraph (8), is limited to £2,000,000.

(10) A claim for relief under this paragraph must be made on or before the first anniversary of the normal self-assessment filing date for the tax year 2021-22.

Further provision about relief under paragraph 1 or 2

3 (1) The following sections of ITA 2007 apply in relation to relief under paragraph 1 or 2 as they apply in relation to relief under section 64 of that Act—

(a) sections 66 to 70 (restrictions on relief under section 64),

(b) sections 74ZA to 74D (general restrictions on relief),

(c) section 74E (no relief where cash basis used to calculate losses),

(d) sections 75 to 79 (restrictions on relief under section 64 and early trade losses relief in relation to capital allowances), and

(e) section 80 (restrictions on those reliefs in relation to ring fence income).

(2) Paragraphs 1 and 2 apply to professions and vocations as they apply to trades.

(3) Paragraphs 1 and 2 are subject to paragraph 2 of Schedule 1B to TMA 1970 (claims to loss relief involving 2 or more years).

(4) Sections 61 to 63 of ITA 2007 (meaning of "making a loss in a tax year" etc and prohibition against double counting) have effect as if paragraphs 1 and 2 were included in Chapter 2 of Part 4 of that Act.

(5) The reference in paragraph 3(1) of Schedule 2 to the Social Security Contributions and Benefits Act 1992 and Social Security Contributions and Benefits (Northern Ireland) Act 1992 (levy of Class 4 contributions with income tax) to section 64 of ITA 2007 includes paragraphs 1 and 2.

PART 2

CORPORATION TAX

Relief for trade losses incurred in accounting periods ending in financial year 2020 or 2021

4 (1) Sections 37(3)(b) and 38(1) and (3) of CTA 2010 (relief for trade losses against profits of same or earlier accounting period) have effect in relation to any

loss to which this paragraph applies as if references to 12 months were references to 3 years (but subject as follows).

(2) This paragraph applies to any loss incurred by a company in a trade in a relevant accounting period.

(3) In this paragraph "relevant accounting period" means an accounting period that ends in the period beginning with 1 April 2020 and ending with 31 March 2022.

(4) Sub-paragraph (5) applies where—

(a) a loss incurred by a company in a relevant accounting period ("the relevant loss") is, to any extent, relievable under section 37 of CTA 2010 by virtue of this paragraph, and

(b) some but not all of the relevant loss is also relievable under that section by virtue of section 40 of that Act (ring fence trades: extension of periods for which relief may be given).

(5) A claim for relief under section 37 of CTA 2010 by virtue of this paragraph in respect of the relevant loss is treated, so far as possible, as being made in respect of the part of the loss that is not relievable as mentioned in sub-paragraph (4)(b).

(6) Section 42 of CTA 2010 (ring fence trades: further extension of period of relief) has effect as if—

(a) in subsection (1)(b), the reference to section 39 or 40 of that Act included a reference to this paragraph;

(b) in subsection (8), in the definition of "3 year relief period", the reference to section 39 or 40 of that Act included a reference to this paragraph.

Cap on claims by company that is not a member of a 2020 group or 2021 group

5 (1) A 2020 claim may be made by a company that is not a member of a 2020 group only if the total amount of relief given as a result of the claim, when added to the total amount of relief given as a result of any other 2020 claims already made by the company, is under £2,000,000.

(2) A 2021 claim may be made by a company that is not a member of a 2021 group only if the total amount of relief given as a result of the claim, when added to the total amount of relief given as a result of any other 2021 claims already made by the company, is under £2,000,000.

Non-de minimis claims to be made after end of financial year

6 (1) A non-de minimis 2020 claim may not be made by a company (whether or not it is a member of a 2020 group) at any time before 31 March 2021.

(2) A non-de minimis 2021 claim may not be made by a company (whether or not it is a member of a 2021 group) at any time before 31 March 2022.

Non-de minimis claims to be made in company tax return

7 (1) A non-de minimis claim must be made in the company tax return (whether as originally made or by amendment) for the accounting period in which the loss in respect of which the claim is made is incurred.

(2) The company tax return for any earlier accounting period affected by the claim is treated as amended accordingly.

Meaning of "de minimis claim" etc

8 (1) For the purposes of this Part of this Schedule, a 2020 claim is a "de minimis 2020 claim" if—
(a) the total amount of relief given as a result of the claim, when added to the total amount of relief given as a result of any other 2020 claims already made by the company, is under £200,000, and
(b) the condition in paragraph (a) would still be met on the assumptions in sub-paragraph (3).

(2) For the purposes of this Part of this Schedule, a 2021 claim is a "de minimis 2021 claim" if—
(a) the total amount of relief given as a result of the claim, when added to the total amount of relief given as a result of any other 2021 claims already made by the company, is under £200,000, and
(b) the condition in paragraph (a) would still be met on the assumptions in sub-paragraph (3).

(3) The assumptions are—
(a) that the company makes all claims available to it (if any) for allowances under CAA 2001, or any other provision of the Corporation Tax Acts, that would result in an increase in the amount of the loss in respect of which the claim in question is made;
(b) that the company does not surrender any amount under Part 5 of CTA 2010 (group relief);
(c) that the claim in question is for all of the relief available to the company under section 37 of CTA 2010 by virtue of paragraph 4 in relation to the loss in respect of which the claim is made.

(4) In this Part of this Schedule—
(a) "non-de minimis 2020 claim" means a 2020 claim that is not a de minimis 2020 claim;
(b) "non-de minimis 2021 claim" means a 2021 claim that is not a de minimis 2021 claim;
(c) "de minimis claim" means a 2020 de minimis claim or a 2021 de minimis claim;
(d) "non-de minimis claim" means a non-de minimis 2020 claim or a non-de minimis 2021 claim.

Cap on non-de minimis claims by company that is a member of a 2020 group or 2021 group

9 (1) A non-de minimis 2020 claim may be made by a company that is a member of a 2020 group only if the total amount of relief given as a result of each of the following claims is, in aggregate, less than £2,000,000—
(a) the claim in question;
(b) any other 2020 claims made by the company (including any de minimis claims);
(c) any 2020 claims made by other members of the 2020 group (including any de minimis claims).

(2) A non-de minimis 2021 claim may be made by a company that is a member of a 2021 group only if the total amount of relief given as a result of each of the following claims is, in aggregate, less than £2,000,000—
  (a) the claim in question;
  (b) any other 2021 claims made by the company (including any de minimis claims);
  (c) any 2021 claims made by other members of the 2021 group (including any de minimis claims).

Non-de minimis claims by group company to conform with statement

10 (1) A non-de minimis 2020 claim may be made by a company that is a member of a 2020 group only if—
  (a) a 2020 loss carry-back allocation statement has been submitted on behalf of the group in accordance with regulations under paragraph 11, and
  (b) the claim is for an amount specified in that statement in accordance with those regulations.

(2) A non-de minimis 2021 claim may be made by a company that is a member of a 2021 group only if—
  (a) a 2021 loss carry-back allocation statement has been submitted on behalf of the group in accordance with regulations under paragraph 11, and
  (b) the claim is for an amount specified in that statement in accordance with those regulations.

Loss carry-back allocation statements

11 (1) The Commissioners must by regulations make provision—
  (a) requiring a statement ("a 2020 loss carry-back allocation statement") to be submitted to HMRC on behalf of a 2020 group for the purpose of determining the non-de minimis 2020 claims that may be made by members of the group in compliance with paragraphs 9 and 10;
  (b) requiring a statement ("a 2021 loss carry-back allocation statement") to be submitted to HMRC on behalf of a 2021 group for the purpose of determining the non-de minimis 2021 claims that may be made by members of the group in compliance with paragraphs 9 and 10.

(2) The regulations may, in particular, include provision about—
  (a) the nomination by members of a 2020 group or 2021 group of a member of the group to submit a loss carry-back allocation statement on behalf of the group;
  (b) the contents of a loss carry-back allocation statement;
  (c) when a loss carry-back allocation statement is to be submitted;
  (d) when and how a loss carry-back allocation statement may or must be amended on behalf of a 2020 group or 2021 group;
  (e) when and how a loss carry-back allocation statement may be amended by an officer of HMRC;
  (f) the amendment of company tax returns in consequence of a loss carry-back allocation statement (including provision altering time limits that would otherwise apply);

(g) the recovery of overpaid relief (including provision allowing an assessment to tax to be made).

(3) The reference in sub-paragraph (2)(g) to overpaid relief is to an amount paid to a company by HMRC where—

(a) the payment is a repayment of tax made in consequence of a 2020 claim or 2021 claim,

(b) the loss carry-back allocation statement is amended in accordance with regulations under this paragraph, and

(c) as a result of the amendment, the claim no longer meets the condition in paragraph 10(1)(b) or (as the case may be) paragraph 10(2)(b) (claim to conform with loss carry-back allocation statement).

(4) In this paragraph—

"HMRC" means Her Majesty's Revenue and Customs;

"a loss carry-back allocation statement" means a 2020 loss carry-back allocation statement or a 2021 loss carry-back allocation statement.

Anti-avoidance

12 (1) A company may not make a 2020 claim if—

(a) at any time in the period beginning with 1 April 2020 and ending with 31 March 2021 the company is a member of a group,

(b) the company ceases to be a member of that group at any time in that period, and

(c) the main purpose, or one of the main purposes, of the company's ceasing to be a member of the group is to increase the total amount of relief given as a result of a 2020 claim.

(2) A company may not make a 2021 claim if—

(a) at any time in the period beginning with 1 April 2021 and ending with 31 March 2022 the company is a member of a group,

(b) the company ceases to be a member of that group at any time in that period, and

(c) the main purpose, or one of the main purposes, of the company's ceasing to be a member of the group is to increase the total amount of relief given as a result of a 2021 claim.

(3) In this paragraph "group" has the meaning given by section 269ZZB of CTA 2010 (meaning "group" in Part 7ZA of CTA 2010).

Interpretation

13 (1) In this Part of this Schedule—

"2020 claim" means a claim for relief under section 37 of CTA 2010 by virtue of paragraph 4 that is made in respect of a loss incurred in an accounting period that ends in the period beginning with 1 April 2020 and ending with 31 March 2021;

"2021 claim" means a claim for relief under section 37 of CTA 2010 by virtue of paragraph 4 that is made in respect of a loss incurred in an accounting period that ends in the period beginning with 1 April 2021 and ending with 31 March 2022;

"2020 group" means two or more companies which, at the end of 31 March 2021, are a group within the meaning given by section 269ZZB of CTA 2010 (meaning of "group");

"2021 group" means two or more companies which, at the end of 31 March 2022 are a group within the meaning given by section 269ZZB of CTA 2010 (meaning of "group");

"a 2020 loss carry-back allocation statement" has the meaning given by paragraph 11(1)(a);

"a 2021 loss carry-back allocation statement" has the meaning given by paragraph 11(1)(b);

"the Commissioners" means the Commissioners for Her Majesty's Revenue and Customs;

"de minimis claim" and related expressions have the meanings given by paragraph 8.

(2) A reference in this Part of this Schedule to the total amount of relief given as a result of a 2020 claim or 2021 claim—

(a) is to the amount of the deduction or (as the case may be) the total of the deductions made under section 37(3) of CTA 2010 as a result of the claim, but

(b) does not include a deduction that would have been made under that provision as a result of the claim if sections 37 and 38 of that Act applied disregarding the modifications made by paragraph 4.

Power to modify

14 (1) The Commissioners may by regulations amend or otherwise modify the following provisions of this Part of this Schedule—

(a) paragraph 6 (non-de minimis claims to be made after financial year);

(b) paragraph 7 (non-de minimis claims to be made in tax return);

(c) paragraph 8(3) (assumptions in determining if claim is de minimis).

(2) Regulations under this paragraph may include supplementary, incidental, consequential or transitional provision (including provision amending or otherwise modifying a provision of this Part of this Schedule not mentioned in sub-paragraph (1)).

(3) Regulations under this paragraph are of no effect in relation to a 2020 claim or 2021 claim made before the regulations come into force.

(4) No regulations under this paragraph may be made after 31 March 2023.

SCHEDULE 3

Section 19

R&D TAX CREDITS FOR SMEs

Introductory

1 Chapter 2 of Part 13 of CTA 2009 (relief for cost of research and development incurred by small and medium-sized enterprises) is amended as follows.

Cap on amount of tax credit

2 (1) Section 1058 (amount of tax credit) is amended as follows.

(2) In subsection (1)—

(a) in the words before paragraph (a), after "period is" insert "the lesser of";

(b) at the end of paragraph (a) insert "and

(aa) the amount given by subsection (1A)."

(3) After subsection (1), insert—

"(1A) The amount given by this subsection is the sum of—

(a) £20,000, and

(b) the amount produced by multiplying by three ("the multiplier") the company's relevant expenditure on workers for payment periods ending in the accounting period (see section 1058A).

(1B) If the accounting period is less than 12 months, the amount specified in subsection (1A)(a) is proportionately reduced.

(1C) Subsection (1)(aa) does not apply if section 1058D (exceptions to tax credit cap) applies in relation to the company for the accounting period."

(4) For subsection (2) substitute—

"(2) The Treasury may by regulations—

(a) replace the percentage for the time being specified in subsection (1)(a) with a different percentage;

(b) replace the amount for the time being specified in subsection (1A)(a) with a different amount;

(c) replace the multiplier for the time being specified in subsection (1A)(b) with a different multiplier."

3 After section 1058 insert—

"1058A Relevant expenditure on workers

(1) For the purposes of section 1058, the amount of a company's relevant expenditure on workers for a payment period is the sum of—

(a) the total amount of the company's PAYE and NIC liabilities for the payment period (see section 1058B) less any amount deducted in accordance with section 1058C (avoiding double counting of PAYE and NIC liabilities),

(b) if the company is connected with another company and has incurred qualifying expenditure on externally provided workers (see section 1127), the relevant portion of any staffing costs for the payment period incurred by the connected company in providing any of those workers for the company (see subsection (2)), and

(c) if the company is connected with another company and has incurred qualifying expenditure on contracted out research and development (see section 1053), any staffing costs for the payment period incurred by the connected company in

undertaking any of that contracted out research and development on behalf of the company (see subsection (3)).

(2) The relevant portion of any staffing costs for a payment period incurred by a connected company in providing externally provided workers for a company is the sum of the amounts to be determined in the case of each of those workers as follows—

Step 1

Calculate the amount of expenditure that—

(a) has been incurred by the connected company in providing the externally provided worker for the company,

(b) has been incurred on staffing costs (see section 1123), and

(c) forms part of the total amount of the connected company's PAYE and NIC liabilities for the payment period.

Step 2

Calculate the percentage ("the appropriate percentage") given by—

$$\frac{R}{T} \times 100$$

where—

R is the amount of the company's qualifying expenditure on the externally provided worker that has been taken into account in calculating the amount of the company's qualifying Chapter 2 expenditure (see section 1051) for the payment period, and

T is the total amount of the company's qualifying expenditure on the externally provided worker (see section 1127) for the payment period.

Step 3

The amount to be determined in the case of the externally provided worker is the appropriate percentage of the amount given by step 1.

(3) The staffing costs for a payment period incurred by a connected company in undertaking contracted out research and development on behalf of a company is the amount of expenditure that—

(a) has been incurred by the connected company in undertaking relevant research and development on behalf of the company,

(b) has been incurred on staffing costs (see section 1123), and

(c) forms part of the total amount of the connected company's PAYE and NIC liabilities for the payment period.

(4) If, for the purposes of step 1(c) of subsection (2) or paragraph (c) of subsection (3), it is necessary to calculate the amount of a connected company's PAYE and NIC liabilities for a payment period that falls within (but is shorter than) the connected company's payment period, the total amount for the connected company's payment period is proportionately reduced.

1058B Total amount of company's PAYE and NIC liabilities

(1) For the purposes of section 1058A, the total amount of a company's PAYE and NIC liabilities for a payment period is the sum of—

(a) amount A, and

(b) amount B.

(2) Amount A is the amount of income tax for which the company is required to account to an officer of Revenue and Customs for the payment period under PAYE regulations.

(3) In calculating amount A disregard any deduction the company is authorised to make in respect of—
(a) child tax credit;
(b) working tax credit.

(4) Amount B is the amount of Class 1 national insurance contributions for which the company is required to account to an officer of Revenue and Customs for the payment period.

(5) In calculating amount B disregard any deduction the company is authorised to make in respect of—
(a) statutory maternity pay;
(b) statutory adoption pay;
(c) statutory paternity pay;
(d) statutory shared parental pay;
(e) statutory parental bereavement pay;
(f) child tax credit;
(g) working tax credit.

1058C Avoiding double counting of PAYE and NIC liabilities

When determining for the purposes of section 1058 a company's relevant expenditure on workers for a payment period (see section 1058A), deduct the following from the total amount of the company's PAYE and NIC liabilities for the payment period—
(a) the relevant portion of any staffing costs for the payment period incurred by the company in providing externally provided workers for a connected company (within the meaning given by section 1058A(2));
(b) any staffing costs for the payment period incurred by the company in undertaking contracted out research and development on behalf of a connected company (within the meaning given by section 1058A(3)).

1058D Exceptions to tax credit cap

(1) This section applies (and accordingly, section 1058(1)(aa) does not apply) in relation to a company for an accounting period if the company meets conditions A and B.

(2) A company meets condition A for an accounting period if, during the period, the company is engaged in—
(a) taking, or preparing to take, steps in order that relevant intellectual property will be created by it,
(b) creating relevant intellectual property, or
(c) performing a significant amount of management activity in relation to relevant intellectual property it holds.

(3) For the purposes of subsection (2)—

(a) a company is only engaged in an activity mentioned in paragraph (a), (b) or (c) of subsection (2) if the activity is wholly or mainly undertaken by employees of the company;

(b) intellectual property is "relevant" intellectual property in relation to a company if the whole or the greater part (in terms of value) of it is created by the company;

(c) intellectual property is created by a company if it is created in circumstances in which the right to exploit it vests in the company (whether alone or jointly with others).

(4) For the purposes of this section—

"intellectual property" means—

(a) any patent, trade mark, registered design, copyright, design right or plant breeder's right,

(b) any rights under the law of a country or territory outside the United Kingdom which correspond or are similar to those falling within paragraph (a), or

(c) any information or technique not protected by a right within paragraph (a) or (b) but having industrial, commercial or other economic value;

"management activity", in relation to intellectual property, means formulating plans and making decisions in relation to the development or exploitation of the intellectual property.

(5) A company meets condition B for an accounting period if the amount given by subsection (6) (if any) does not exceed 15% of the company's qualifying Chapter 2 expenditure (see section 1051) for the period.

(6) The amount given by this subsection is the sum of the following incurred by the company in the period—

(a) qualifying expenditure on externally provided workers (see section 1127), where the company, the staff provider and (if different) the staff controller (or staff controllers)—

(i) are all connected (see section 1129), or

(ii) have jointly elected (under section 1130) that section 1129 is to apply to them as if they were all connected;

(b) qualifying expenditure on contracted out research and development (see section 1053) where the company and the sub-contractor—

(i) are connected (see section 1134), or

(ii) have jointly elected (under section 1135) that section 1134 is to apply to them as if they were connected.

(7) The Treasury may by regulations replace the percentage for the time being specified in subsection (5) with a different percentage."

Commencement

4 The amendments made by this Schedule have effect in relation to accounting periods beginning on or after 1 April 2021.

SCHEDULE 4

Section 19

R&D TAX CREDITS FOR SMEs: NORTHERN IRELAND COMPANIES

Cap on amount of tax credit

1 In Chapter 9 of Part 8B of CTA 2010 (research and development expenditure), section 357PD (amount of tax credit under section 1054 of CTA 2009) is amended in accordance with paragraphs 2 to 5.

2 For subsection (2) substitute—

"(2) The amount of the R&D tax credit to which the company is entitled for the accounting period is, where the company has a Northern Ireland Chapter 2 surrenderable loss but does not have a mainstream Chapter 2 surrenderable loss, the lesser of—

(a) the amount of the Northern Ireland Chapter 2 surrenderable loss multiplied by the relevant percentage, and

(b) the amount given by section 1058(1A) of CTA 2009.

(2A) Subsection (2)(b) does not apply if section 1058D of CTA 2009 (exceptions to tax credit cap) applies in relation to the company for the accounting period."

3 For subsection (3) substitute—

"(3) The amount of the R&D tax credit to which the company is entitled for the accounting period is, where the company has a mainstream Chapter 2 surrenderable loss but does not have a Northern Ireland Chapter 2 surrenderable loss, the lesser of—

(a) the amount of the mainstream Chapter 2 surrenderable loss multiplied by the percentage specified in section 1058(1)(a) of CTA 2009, and

(b) the amount given by section 1058(1A) of CTA 2009.

(3A) Subsection (3)(b) does not apply if section 1058D of CTA 2009 (exceptions to tax credit cap) applies in relation to the company for the accounting period."

4 In subsection (4), for the words from "sum of" to the end, substitute "lesser of—

(a) the sum of—

(i) the amount of the Northern Ireland Chapter 2 surrenderable loss multiplied by the relevant percentage, and

(ii) the amount of the mainstream Chapter 2 surrenderable loss multiplied by the percentage specified in section 1058(1)(a) of CTA 2009, and

(b) the amount given by section 1058(1A) of CTA 2009."

5 After subsection (4) insert—

"(4A) Subsection (4)(b) does not apply if section 1058D of CTA 2009 (exceptions to tax credit cap) applies in relation to the company for the accounting period."

Commencement

6 Section 5(4) to (6) of CT(NI)A 2015 (commencement) has effect as if references to Part 8B of CTA 2010 were to that Part as amended by this Schedule.

SCHEDULE 5

Section 29 *5*

PENSION SCHEMES: COLLECTIVE MONEY PURCHASE BENEFITS

PART 1

AMENDMENTS OF PART 4 OF FA 2004

1 Part 4 of FA 2004 is amended in accordance with paragraphs 2 to 23.

2 (1) Section 152 (meaning of "arrangement") is amended as follows. *10*

(2) In subsection (2), after "cash balance benefits" insert ", collective money purchase benefits".

(3) After subsection (3) insert—

"(3A) For the purposes of this Part a money purchase arrangement is a "collective money purchase arrangement" at any time if, at that time, all the benefits that may be provided to or in respect of the member under the arrangement are collective money purchase benefits." *15*

(4) After subsection (4) insert—

"(4A) The reference in subsection (4) to an amount available for the provision of benefits to or in respect of the member includes, in relation to a collective money purchase arrangement, an amount available for the provision of benefits to or in respect of members collectively." *20*

(5) In subsection (5)—

(a) the words after "means benefits" become paragraph (a); *25*

(b) at the end of that paragraph insert ", and";

(c) after that paragraph insert—

"(b) that are not collective money purchase benefits."

(6) After that subsection insert—

"(5A) In this Part "collective money purchase benefits" means benefits that are collective money purchase benefits within the meaning of Part 1 or 2 of the Pension Schemes Act 2021." *30*

(7) In subsection (8), for the words from "two or three" to the end substitute "two, three or four of the varieties specified in subsection (10)".

(8) In subsection (9)— *35*

(a) for "those varieties of benefits" substitute "the varieties of benefits specified in subsection (10)";

(b) for "two or three" (in both places those words occur) substitute "two, three or four".

(9) After that subsection insert—

"(10) The varieties of benefits mentioned in subsections (8) and (9) are—

(a) cash balance benefits,

(b) collective money purchase benefits,

(c) money purchase benefits that are neither cash balance benefits nor collective money purchase benefits, and

(d) defined benefits."

3 (1) In section 165 (pension rules), subsection (1) is amended as follows.

(2) In pension rule 3, after "defined benefits arrangement" insert "or a collective money purchase arrangement".

(3) In pension rule 4, after "money purchase arrangement" insert "that is not a collective money purchase arrangement".

4 (1) In section 167 (pension death benefit rules), subsection (1) is amended as follows.

(2) In pension death benefit rule 2, after "defined benefits arrangement" insert "or a collective money purchase arrangement".

(3) In pension death benefit rule 3, after "money purchase arrangement" insert "that is not a collective money purchase arrangement".

5 (1) Section 172C (allocation of unallocated employer contributions) is amended as follows.

(2) In subsection (2)—

(a) in paragraph (a), after "cash balance arrangement" insert "or a collective money purchase arrangement";

(b) in paragraph (b), for "other than cash balance benefits" substitute "that are not cash balance benefits or collective money purchase benefits".

6 (1) Section 182 (unauthorised borrowing: money purchase arrangements) is amended as follows.

(2) In the heading, at the end insert "other than collective money purchase arrangements".

(3) In subsection (1), after "money purchase arrangement" insert "that is not a collective money purchase arrangement".

(4) In subsection (8), after "defined benefits" insert "or collective money purchase benefits".

7 (1) Section 183 (effect of unauthorised borrowing: money purchase arrangements) is amended as follows.

(2) In the heading, at the end insert "other than collective money purchase arrangements".

8 (1) Section 184 (unauthorised borrowing: other arrangements) is amended as follows.

(2) In subsection (1), for "arrangement which is not a money purchase arrangement" substitute "relevant arrangement".

(3) After subsection (1) insert—

"(1A) In this section "relevant arrangement" means an arrangement that—
(a) is not a money purchase arrangement, or
(b) is a collective money purchase arrangement."

(4) In subsection (2), in the definition of APB, for "arrangements which are not money purchase arrangements" substitute "relevant arrangements".

(5) In subsection (3), in paragraphs (a) and (b), for "not money purchase arrangements" substitute "relevant arrangements".

9 (1) Section 212 (valuation of uncrystallised rights for purposes of section 210) is amended as follows.

(2) In subsection (3)—
(a) in paragraph (b), for "other than a cash balance arrangement" substitute "that is neither a cash balance arrangement nor a collective money purchase arrangement";
(b) in paragraph (c), after "defined benefits arrangement" insert "or a collective money purchase arrangement".

(3) For subsections (7) to (10) substitute—

"(7) If this subsection applies, the value of the member's uncrystallised rights under the arrangement on the date ("the hybrid value") is to be calculated by taking the following steps—

Step 1

In relation to each relevant variety of benefits, calculate (in accordance with the preceding provisions of this section) the value of the member's uncrystallised rights on the date, assuming that benefits of that variety are provided under the arrangement.

Step 2

The hybrid value is the higher or highest of the amounts determined under step 1."

(8) For the purposes of this section a variety of benefits is "relevant" in relation to a hybrid arrangement if, in any circumstances, benefits of that variety may be provided under the arrangement.

(9) In this section "variety of benefits" means a variety of benefits specified in section 152(10)."

10 (1) Section 216 (benefit crystallisation events and amounts crystallised) is amended as follows.

(2) In subsection (1), in the table, in column 1—
(a) in benefit crystallisation event 5, after "defined benefit arrangement" insert ", or a collective money purchase arrangement,";
(b) in benefit crystallisation event 5B, after "money purchase arrangement" insert ", other than a collective money purchase arrangement,".

11 (1) Section 223 (non-residence: other arrangements) is amended as follows.

(2) In subsection (5)—

(a) after paragraph (a) insert—

"(aa) what would be the other money purchase arrangement non-residence factor (under that section) if the arrangement were a collective money purchase arrangement,";

(b) in paragraph (b), for "any other sort of money purchase arrangement" substitute "a money purchase arrangement other than a cash balance arrangement or a collective money purchase arrangement".

12 (1) Section 226 (overseas scheme transfers: other arrangements) is amended as follows.

(2) In subsection (5)—

(a) after paragraph (a) insert—

"(aa) what would be the other money purchase relevant relievable amount (under that section) if that arrangement had been a collective money purchase arrangement,";

(b) in paragraph (b), for "any other sort of money purchase arrangement" substitute "a money purchase arrangement other than a cash balance arrangement or a collective money purchase arrangement".

13 (1) Section 227B (the alternative chargeable amount) is amended as follows.

(2) In subsection (2), for "AA" (in both places it occurs) substitute "X".

(3) In subsection (5), in paragraph (b)(i), after "A" insert ", AA".

(4) In subsection (5), in paragraph (b)(ii)—

(a) after "greater" insert "or greatest";

(b) after "A" insert ", AA";

(c) for "both" substitute "at least two of those amounts".

(5) In subsection (5), in the closing words—

(a) after "A" (in both places it occurs) insert ", AA";

(b) after "greater" insert "or greatest".

14 (1) Section 227C (meaning of "money-purchase input sub-total") is amended as follows.

(2) In subsection (1)(b)(ii), after "A" insert ", AA".

15 (1) Section 227D (pension input amounts in respect of certain hybrid arrangements) is amended as follows.

(2) In subsection (2)(a)—

(a) after "greater" insert "or greatest";

(b) after "A" insert ", AA".

16 (1) Section 227F (pension input periods in which rights are first flexibly accessed) is amended as follows.

(2) In subsection (5)(b), after "input amount" insert "AA or".

17 (1) Section 227G (when pension rights are first flexibly accessed) is amended as follows.

(2) In subsection (9)(a), for "money purchase" substitute "relevant".

(3) After subsection (9) insert—

"(9A) In subsection (9), "relevant arrangement" means a money purchase arrangement that is not a collective money purchase arrangement."

18 (1) Section 237 (hybrid arrangements) is amended as follows.

(2) In subsection (1), after "amounts A," insert "AA,".

(3) After subsection (3) insert—

"(3A) Input amount AA is what would be the pension input amount under section 233 if the benefits provided to or in respect of the individual under the arrangement were collective money purchase benefits."

(4) In subsection (4), for "other money purchase benefits" substitute "money purchase benefits that are not cash balance benefits or collective money purchase benefits".

19 In section 280 (abbreviations and general index), in the table in subsection (2) insert at the appropriate places—

"collective money purchase arrangement	section 152(3A)"
"collective money purchase benefits	section 152(5A)".

20 (1) Schedule 28 (authorised pensions: supplementary) is amended as follows.

(2) In paragraph 2 (scheme pension), after sub-paragraph (8) insert—

"(9) Where, under a collective money purchase arrangement—

(a) a scheme pension has become payable to the member, and

(b) the member subsequently becomes entitled to income payable by virtue of section 36(7)(b) or 87(7)(b) of the Pension Schemes Act 2021 (periodic income paid while pursuing continuity option 1),

the income so payable is to be treated for the purposes of this Part as a continuation of the scheme pension.

(10) Where, under a collective money purchase arrangement—

(a) the member becomes entitled to income payable by virtue of section 36(7)(b) or 87(7)(b) of the Pension Schemes Act 2021 (periodic income paid while pursuing continuity option 1), and

(b) no scheme pension was previously payable to the member,

the income so payable is to be treated for the purposes of this Part as a scheme pension."

(3) In paragraph 2A (scheme pension), after sub-paragraph (3) insert—

"(3A) But for the purposes of sub-paragraph (2)(b), no substantial reduction occurs in the rate of a pension if—

(a) the pension is payable in respect of a collective money purchase arrangement, and

(b) the reduction is in accordance with the rules of the scheme."

21 (1) Schedule 29 (authorised lump sums - supplementary) is amended as follows.

(2) In paragraph 1 (pension commencement lump sum)—

(a) in sub-paragraph (1)(f), for "sub-paragraph (4)" substitute "sub-paragraphs (4) and (4A)";

(b) after sub-paragraph (4) insert—

"(4A) A lump sum is an excluded lump sum if—

(a) the pension in connection with which the member becomes entitled to it is income withdrawal, and

(b) the sums or assets designated as available for the payment of the pension were sums or assets out of which benefits were provided under a collective money purchase arrangement."

(3) In paragraph 2 (pension commencement lump sum), in sub-paragraph (6B), after "money purchase arrangement" insert "that is not a collective money purchase arrangement".

(4) In paragraph 3 (pension commencement lump sum: definition of "the applicable amount" for the purposes of paragraph 2(5))—

(a) in sub-paragraph (6), after "defined benefits arrangement" insert "or a collective money purchase arrangement";

(b) in sub-paragraph (7A), after "money purchase arrangement" insert "that is not a collective money purchase arrangement".

(5) In paragraph 4A (uncrystallised funds pension lump sum), in sub-paragraph (1)(a), after "money purchase arrangement" insert "that is not a collective money purchase arrangement".

(6) In paragraph 7 (trivial commutation lump sum), in sub-paragraph (1)—

(a) in paragraph (aa)—

(i) after "defined benefits arrangement," insert "or in respect of a collective money purchase arrangement,";

(ii) after "under a money purchase arrangement" insert "that is not a collective money purchase arrangement";

(iii) for "or partly in respect of the former and partly in respect of the latter" substitute "or in respect of any combination of such arrangements and scheme pensions";

(b) in paragraph (d), after "defined benefits" insert ", and any entitlement to collective money purchase benefits,".

22 (1) Schedule 32 (benefit crystallisation events - supplementary) is amended as follows.

(2) Before paragraph 3 (but after the italic cross heading preceding it) insert—

"2B (1) This paragraph applies for the purposes of benefit crystallisation event 1 where—

(a) the designation was in connection with the winding-up of the scheme, and

(b) the sums or assets designated were sums or assets out of which benefits were provided under a collective money purchase arrangement.

(2) The amount crystallised by the event is to be reduced by the amount (or an appropriate proportion of the amount) previously crystallised on the individual becoming entitled to a scheme pension under the collective money purchase arrangement."

(3) Omit paragraph 5 (benefit crystallisation events 1 and 5: hybrid arrangements) together with the italic cross heading preceding it.

(4) Paragraph 10 (benefit crystallisation event 3: excepted circumstances) is amended in accordance with sub-paragraphs (5) to (7).

(5) Before sub-paragraph (1) insert—

"(A1) For the purposes of benefit crystallisation event 3 "excepted circumstances" exist if condition A or B is met."

(6) In sub-paragraph (1)—

(a) for the opening words substitute "Condition A is that—";

(b) before paragraph (a) insert—

"(za) the entitlement to payment of a scheme pension at an increased annual rate is under an arrangement that is not a collective money purchase arrangement,";

(c) in paragraph (a) omit "that";

(d) in paragraph (b) omit "that" the first time it occurs.

(7) After sub-paragraph (4) insert—

"(5) Condition B is that—

(a) the entitlement to payment of a scheme pension at an increased annual rate is under an arrangement that is a collective money purchase arrangement, and

(b) at the time when the annual rate of the individual's pension is increased, all the scheme pensions being paid under collective money purchase arrangements are increased at the same rate."

(8) After paragraph 14 insert—

"*Benefit crystallisation events 5 and 5B: hybrid arrangements*

14ZA(1) This paragraph applies where, immediately before the individual reaches the age of 75 ("the relevant time"), there is under any of the relevant pension schemes a hybrid arrangement relating to the individual.

(2) If defined benefits or collective money purchase benefits are a relevant variety of benefits, benefit crystallisation event 5 applies in relation to that variety of benefits as if, at the relevant time, circumstances were such that benefits of that variety were to be provided under the arrangement.

(3) If cash balance benefits, or money purchase benefits that are neither cash balance benefits nor collective money purchase

benefits, are a relevant variety of benefits, benefit crystallisation event 5B applies in relation to that variety of benefits as if, at the relevant time, circumstances were such that benefits of that variety were to be provided under the arrangement.

(4) The amount crystallised on the individual reaching the age of 75 is the greater or (as the case may be) greatest of the amounts crystallised by the benefit crystallisation event or events applying by virtue of sub-paragraphs (2) and (3).

(5) For the purposes of this paragraph a variety of benefits is "relevant" in relation to a hybrid arrangement if, in any circumstances, benefits of that variety may be provided under the arrangement.

(6) In this paragraph "variety of benefits" means a variety of benefits specified in section 152(10)."

(9) After paragraph 14ZA insert—

"*Benefit crystallisation event 5A: "amounts crystallised by benefit crystallisation event 1"*

14ZB In determining, for the purposes of benefit crystallisation event 5A, an amount crystallised by benefit crystallisation event 1 in relation to the arrangement and the individual, any reduction made for the purposes of that crystallisation event under paragraph 2B (prevention of overlap) is to be disregarded."

23 (1) Schedule 36 (transitional provision and savings) is amended as follows.

(2) In paragraph 29 (lump sum rights exceeding £375,000: primary and enhanced protection), in sub-paragraph (3)—

(a) in the substitute paragraph 3(6) of Schedule 29, after "defined benefits arrangement" insert "or a collective money purchase arrangement";

(b) in the substitute paragraph 3(7A) of Schedule 29, after "money purchase arrangement" insert "that is not a collective money purchase arrangement".

(3) In paragraph 34 (entitlement to lump sums exceeding 25% of uncrystallised rights), in sub-paragraph (2), in the substitute paragraph 2(7AA) of Schedule 29, after "money purchase arrangement" insert "that is not a collective money purchase arrangement".

24 (1) In the Registered Pension Schemes (Transfer of Sums and Assets) Regulations 2006 (S.I. 2006/499), regulation 12 (member's drawdown pension fund or flexi-access pension fund) is amended as follows.

(2) In Table 3, after the entry for section 216(1), benefit crystallisation event 1 insert—

"Section 216(1), benefit crystallisation event 5A (benefit crystallisation event on individual reaching the age of 75, having sums or assets designated as available for the payment of a drawdown pension)	To determine, for the purposes of benefit crystallisation event 5A, the aggregate of amounts crystallised by benefit crystallisation event 1 by reference to the old arrangement (so that, in an appropriate case, paragraph 14ZB of Schedule 32 applies)."

PART 2

COMMENCEMENT

25 (1) The amendments made by this Schedule come into force on such day as the Treasury may by regulations appoint.

(2) The Treasury may by regulations make transitional or saving provision in connection with the coming into force of any provision of this Schedule.

(3) Regulations under this paragraph are to be made by statutory instrument.

SCHEDULE 6

Section 30

CONSTRUCTION INDUSTRY SCHEME: AMENDMENTS

Introductory

1 Chapter 3 of Part 3 of FA 2004 (construction industry scheme) is amended as follows.

Contractors

2 (1) Section 59 of FA 2004 (contractors) is amended as follows.

(2) In subsection (1), for paragraph (l) substitute—

"(l) a person carrying on a business at any time if, in the period of one year ending with that time, the person's expenditure on construction operations exceeds £3,000,000."

(3) For subsections (2) and (3) substitute—

"(2) But this section only applies to a body or person falling within any of paragraphs (b) to (fa) or (h) to (k) of subsection (1) at any time if, in the period of one year ending with that time, the body or person's expenditure on construction operations exceeds £3,000,000.

(3) Where the condition in subsection (1)(l) or (2) is met in relation to a body or person at any time, the body or person may elect for the condition to be treated as no longer being met if, at that time, the body or person is not expected to make any further expenditure on construction operations.

(3A) Where the condition in subsection (1)(l) or (2) ceases to be met in relation to a body or person at any time, the body or person may elect for the condition to be treated as continuing to be met until the body or person is not expected to make any further expenditure on construction operations. 5

(3B) Subsections (3) and (3A) do not prevent the condition in subsection (1)(l) or (2) from being met again in relation to the body or person."

3 (1) This paragraph applies where—

(a) the condition in section 59(1)(l) or (2) of FA 2004 was met in relation to a body or person immediately before the amendments made by paragraph 2 come into force, and 10

(b) on the coming into force of those amendments, that condition would (but for sub-paragraph (2)) cease to be met in relation to the body or person.

(2) The condition in section 59(1)(l) or (2) of FA 2004 (as the case may be) is treated as continuing to be met in relation to the body or person until the body or person is not expected to make any further expenditure on construction operations (within the meaning given by section 74 of FA 2004). 15

Deductions for materials

4 In section 61(1) of FA 2004 (deductions on account of tax from contract payments), for "any other person" substitute "the sub-contractor". 20

Grace period

5 In section 61 of FA 2004 (deductions on account of tax from contract payments), after subsection (3) insert—

"(4) Subsection (5) applies where the contractor is a person falling within section 59(1)(l). 25

(5) An officer of Revenue and Customs may, if the officer considers it appropriate to do so, by notice in writing—

(a) exempt the contractor from the requirement to deduct sums from contract payments under subsection (1) for a specified period; 30

(b) treat the contractor as if such an exemption had applied in relation to—

(i) specified contract payments made before the date of the notice, or 35

(ii) contract payments made during a specified period before the date of the notice.

(6) The period referred to in subsection (5)(a)—

(a) must not exceed 90 days, but

(b) may be extended by one or more further notices under subsection (5). 40

(7) In subsection (5) "specified" means specified in the notice."

Restrictions on set-off

6 (1) Section 62 of FA 2004 (treatment of sums deducted) is amended as follows.

(2) After subsection (3) insert—

"(3A) Regulations under subsection (3) may include provision authorising an officer of Revenue and Customs to— *5*

(a) correct an error or omission relating to a set-off claim;

(b) remove a set-off claim;

(c) prohibit a person from making a further set-off claim, for a specified period or indefinitely.

(3B) Regulations under subsection (3) that include provision of the kind mentioned in subsection (3A) may, for example, include provision— *10*

(a) allowing the things mentioned in subsection (3A)(a) to (c) to be done by amending a return (including a return not made under the regulations) or otherwise;

(b) allowing a set-off claim to be removed where the claimant is not eligible to make the claim (including where the claimant is not a company, not a sub-contractor, or is registered for gross payment); *15*

(c) requiring information to be given to the Commissioners of Revenue and Customs, at such times as may be specified in the regulations. *20*

(3C) In subsections (3A) and (3B), "set-off claim" means a claim for treating a sum deducted under section 61 as paid on account of any relevant liabilities."

(3) In subsection (4), for "subsection (3)" substitute "this section". *25*

Penalties

7 For section 72 of FA 2004 (penalties) substitute—

"72 Penalties

(1) This section applies in a case within subsection (2), (3) or (4).

(2) A case is within this subsection if a person ("A")— *30*

(a) makes a statement, or furnishes a document, which A knows to be false in a material particular, or

(b) recklessly makes a statement, or furnishes a document, which is false in a material particular,

for the purpose of becoming registered for gross payment or for payment under deduction. *35*

(3) A case is within this subsection if a person ("A") who exercises influence or control over another person ("B") or is in a position to do so —

(a) makes a statement, or furnishes a document, which A knows to be false in a material particular, or *40*

(b) recklessly makes a statement, or furnishes a document, which is false in a material particular,

for the purpose of enabling or facilitating B to become registered for gross payment or for payment under deduction.

(4) A case is within this subsection if a person ("A") who exercises influence or control over another person ("B") or is in a position to do so—

(a) encourages B to make a statement, or furnish a document, which A knows to be false in a material particular, or

(b) encourages B to make a statement or furnish a document—

(i) which is false in a material particular, and

(ii) where A is reckless as to whether the statement or document is false in a material particular,

for the purpose of enabling or facilitating B to become registered for gross payment or for payment under deduction.

(5) In a case where this section applies, A is liable to a penalty not exceeding £3,000."

Commencement

8 (1) The amendments made by this Schedule have effect for the tax year 2021-22 and subsequent tax years.

(2) But the amendment made by paragraph 7 has no effect in relation to a statement made, or document furnished, before 6 April 2021.

SCHEDULE 7

Section 36

HYBRID AND OTHER MISMATCHES

PART 1

MEANING OF "TAX"

1 After section 259B(3) of TIOPA 2010 insert—

"(3ZA) A tax is not within paragraph (a) or (b) of subsection (2) so far as it is charged on income that—

(a) has arisen to an entity that—

(i) is not subject to the tax (as regards that income), and

(ii) is, under the law of the territory referred to in that subsection, regarded as being a person for the purposes of the tax, but

(b) is to be brought into account for the purposes of that tax by a different entity."

PART 2

CHAPTER 3 MISMATCHES: RELEVANT DEBT RELIEF CIRCUMSTANCES

2 Part 6A of TIOPA is amended as follows.

3 In section 259CB (hybrid or otherwise impermissible deduction/non-

inclusion mismatches and their extent), for subsection (3) substitute—

"(3) So far as the excess arises—

(a) by reason of a relevant debt relief provision, or

(b) in relevant debt relief circumstances,

it is to be taken not to arise by reason of the terms, or any other feature, of the financial instrument (whether or not it would have arisen by reason of the terms, or any other feature, of the financial instrument regardless)."

4 In section 259CC (interpretation of section 259CB), after subsection (3) insert—

"(3A) To determine whether excess arises in "relevant debt relief circumstances" see sections 259NEB to 259NEF."

5 After section 259NEA insert—

"Relevant debt relief circumstances

259NEB Relevant debt relief circumstances: introductory

(1) This section applies for the purposes of section 259CB(3).

(2) Excess arises in "relevant debt relief circumstances" if (and only if)—

(a) the payment or quasi-payment mentioned in section 259CB(2) comprises the release of a liability to pay an amount under a debtor relationship (within the meaning given by section 302(6) of CTA 2009), and

(b) the circumstances in section 259NEC, 259NED, 259NEE, or 259NEF apply.

(3) For the purposes of those sections references to—

(a) "the relevant release" means the release of liability mentioned in subsection (2)(a),

(b) "loan relationship" is to be construed in accordance with section 302 of CTA 2009,

(c) "amortised cost basis of accounting" is to be construed in accordance with section 313(4) and (4A) of that Act,

(d) "connected companies relationship" is to be construed in accordance with section 348 of that Act, and

(e) "deemed release" and "relevant rights" are to be construed in accordance with section 358(3) to (4A) of that Act.

259NEC Release of debts

(1) This section is to be read with section 259NEB (relevant debt relief circumstances: introductory).

(2) The circumstances in this section are—

(a) the relevant release takes place in an accounting period for which an amortised cost basis of accounting is used in respect of the debtor relationship, and

(b) condition A, B, C, D or E is met.

(3) Condition A is that the release is part of a statutory insolvency arrangement (within the meaning of section 1319 of CTA 2009).

(4) Condition B is that the release is not a release of relevant rights and is—
  (a) in consideration of shares forming part of the ordinary share capital of a payee, or
  (b) in consideration of any entitlement to such shares.

(5) Condition C is that—
  (a) a payee meets one of the insolvency conditions (see subsection (8)), and
  (b) the debtor relationship is not a connected companies relationship.

(6) Condition D is that the release is in consequence of the making of a mandatory reduction instrument or a third country instrument or the exercise of a stabilisation power under Part 1 of the Banking Act 2009.

(7) Condition E is that—
  (a) the release is neither a deemed release nor a release of relevant rights, and
  (b) immediately before the release, it is reasonable to assume that, without the release and any arrangements of which the release forms part, there would be a material risk that at some time within the next 12 months a payee would be unable to pay its debts.

(8) For the purposes of this section a company meets the insolvency conditions if—
  (a) it is in insolvent liquidation,
  (b) it is in insolvent administration,
  (c) it is in insolvent administrative receivership,
  (d) an appointment of a provisional liquidator is in force in relation to the company under section 135 of the Insolvency Act 1986 or Article 115 of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)), or
  (e) under the law of a country or territory outside the United Kingdom circumstances corresponding to those mentioned in paragraph (a), (b), (c) or (d) exist.

(9) Section 323(A1) of CTA 2009 applies for the interpretation of subsection (7)(b); and the rest of that section applies for the interpretation of subsection (8).

259NED Release of connected companies debts

(1) This section is to be read with section 259NEB (relevant debt relief circumstances: introductory).

(2) The circumstances in this section are—
  (a) the relevant release takes place in an accounting period for which—
    (i) an amortised cost basis of accounting is used in respect of the debtor relationship, and
    (ii) the debtor relationship is a connected companies relationship, and

(b) the release is neither—
(i) a deemed release, nor
(ii) a release of relevant rights.

259NEE Release of connected companies debts during creditor's insolvency

(1) This section is to be read with section 259NEB (relevant debt relief circumstances: introductory).

(2) The circumstances in this section are—
(a) the relevant release takes place in an accounting period for which an amortised cost basis of accounting is used in respect of the debtor relationship,
(b) condition A, B, C, D or E in section 357 of CTA 2009 is met in relation to the payer,
(c) immediately before the time when any of those conditions was first met the debtor relationship was a connected companies relationship, and
(d) immediately after that time it was not such a relationship.

259NEF Corporate rescue: debt released shortly after connection arises

(1) This section is to be read with section 259NEB (relevant debt relief circumstances: introductory).

(2) The circumstances in this section are—
(a) the relevant release takes place within 60 days of the payer and a payee becoming connected with one another (within the meaning of section 363 of CTA 2009), and
(b) the corporate rescue conditions are met.

(3) The corporate rescue conditions are—
(a) that the payer and the payee became connected as a result of an arm's length transaction, and
(b) immediately before the payer and the payee became connected it was reasonable to assume that, without the connection and any arrangements of which the connection forms part, there would be a material risk that at some point within the next 12 months the payee would have been unable to pay its debts.

(4) For the purposes of subsection (3)(b), a payee is unable to pay its debts if—
(a) it is unable to pay its debts as they fall due, or
(b) the value of its assets is less than the amount of its liabilities, taking into account its contingent and prospective liabilities."

PART 3

CHAPTER 3 MISMATCHES: INVESTMENT TRUSTS

6 Chapter 3 of Part 6A of TIOPA is amended as follows.

7 In section 259CB (hybrid or otherwise impermissible deduction/non-inclusion mismatches and their extent)—

(a) after subsection (3) (as substituted by paragraph 3) insert—

"(3A) So far as the excess arises by reason of an interest distribution designation, it is to be taken not to arise by reason of the terms, or any other feature, of the financial instrument (whether or not it would have arisen by reason of the terms, or any other feature, of the financial instrument regardless of that designation).", and

(b) in subsection (4), in the opening words, for "that and subsection" substitute "subsections (3), (3A) and".

8 In section 259CC (interpretation of section 259CB), after subsection (3A) (as inserted by paragraph 4) insert—

"(3B) An "interest distribution designation" means a designation made under regulation 5(2) of the Investment Trusts (Dividends) (Optional Treatment as Interest Distributions) Regulations 2009 (S.I. 2009/2034)."

PART 4

DEEMED DUAL INCLUSION INCOME

9 Part 6A of TIOPA 2010 (hybrid and other mismatches) is amended as follows.

10 (1) Chapter 5 (hybrid payer deduction/non-inclusion mismatches) is amended as follows.

(2) In section 259EC (counteraction where the hybrid payer is within the charge to corporation tax for the payment period), in subsection (4) omit "arises in connection with the arrangement mentioned in section 259EA(2) and".

(3) After subsection (5) insert—

"(6) For the purposes of subsection (4)(b) the reference to ordinary income of an investor in the payer for a permitted taxable period for the purposes of any tax charged under the law of an investor jurisdiction is taken to include a reference to an amount that meets the following requirements.

(7) The requirements are that—

(a) the amount may not be deducted under the law of any territory from the income of any person for the purposes of calculating taxable profits for a relevant taxable period;

(b) in the case of a person resident for tax purposes in a zero-tax territory, the amount could not be deducted from the income of the person for the purposes of calculating taxable profits for a relevant taxable period if the person were resident in the United Kingdom for tax purposes; and

(c) under the law of the investor jurisdiction, the amount could be deducted from the income of the investor in the hybrid payer for the purposes of calculating the investor's taxable profits for a relevant taxable period if the following assumptions were made.

(8) The assumptions are that, for the purposes of identifying the recipient of the amount for tax purposes in the investor jurisdiction—

(a) condition B in section 259BE(3) was not met by the hybrid payer as respects the investor jurisdiction, and

(b) as a result of that, the hybrid payer was not a hybrid entity as respects the investor jurisdiction.

(9) In subsection (7), "zero-tax territory", in relation to a person, means a territory in which the person—

(a) is not within the charge to tax, or

(b) is within the charge to tax at a nil rate.

(10) Section 259B(5) (determination of residence where no concept of residence for tax purposes exists) applies to the reference in subsection (7)(b) to a person's residence for tax purposes in a zero-tax territory as it applies to references to a person's residence for tax purposes in Chapter 8 or 11.

(11) A taxable period of an investor or another person is "relevant" for the purposes of subsection (7) if—

(a) the period begins before the end of 12 months after the end of the accounting period mentioned in subsection (4)(a), or

(b) where the period begins after that, it is just and reasonable for the question of whether the amount concerned may or could be deducted in calculating taxable profits to be determined by reference to that taxable period rather than an earlier period."

(4) In section 259ED(9) (counteraction where a payee is within the charge to corporation tax) omit "arises in connection with the arrangement mentioned in section 259EA(2) and".

11 (1) Chapter 6 (deduction/non-inclusion mismatches relating to transfers by permanent establishments) is amended as follows.

(2) In section 259FB (counteraction of the excessive PE deduction), after subsection (4) insert—

"(5) For the purposes of subsection (3)(b) the reference to ordinary income of the company for a permitted taxable period for the purposes of a tax charged under the law of the parent jurisdiction is taken to include a reference to excessive PE inclusion income of the company.

(6) Section 259FC defines "excessive PE inclusion income" of the company for this purpose."

(3) After section 259FB insert—

"259FC Meaning of excessive PE inclusion income

"(1) In section 259FB(5), "excessive PE inclusion income" of the company means—

(a) where paragraph (a) of subsection (4) applies, the PE inclusion income of the company, or

(b) where paragraph (b) of that subsection applies, the PE inclusion income of the company so far as it is reasonable to suppose that it exceeds the aggregate effect on taxable profits.

(2) For this purpose, "PE inclusion income" of the company means an amount in respect of which conditions A and B are met.

(3) Condition A is that the amount is in respect of a transfer of money or money's worth from the company in the parent jurisdiction to the company in the United Kingdom that—

(a) is actually made, or

(b) is (in substance) treated as being made for corporation tax purposes.

(4) Condition B is that it is reasonable to suppose that—

(a) the circumstances giving rise to the amount will not result in—

(i) a reduction in the taxable profits of the company for a relevant taxable period, or

(ii) an increase in a loss made by the company for a relevant taxable period,

for the purposes of a tax charged under the law of the parent jurisdiction, or

(b) those circumstances will result in such a reduction or increase for one or more relevant taxable periods, but the amount exceeds the aggregate effect on taxable profits.

(5) "The aggregate effect on taxable profits" is the sum of—

(a) any reductions, resulting from the circumstances giving rise to the amount, in the taxable profits of the company, for a relevant taxable period, for the purposes of a tax charged under the law of the parent jurisdiction, and

(b) any amounts by which a loss made by the company, for a relevant taxable period, for the purposes of a tax charged under the law of the parent jurisdiction, is increased as a result of the circumstances giving rise to the amount.

(6) For the purposes of subsections (4) and (5), any reduction in taxable profits or increase of losses is to be ignored in any case where tax is charged at a nil rate under the law of the parent jurisdiction.

(7) A taxable period of the company is "relevant" for the purposes of subsections (4) and (5) if—

(a) the period begins before the end of 12 months after the end of the accounting period mentioned in section 259FB(3)(a), or

(b) where the period begins after that, it is just and reasonable for the question of whether the circumstances giving rise to the amount will result in a reduction in taxable profits or an increase in a loss to be determined by reference to that taxable period rather than an earlier period."

12 (1) Chapter 9 (hybrid entity double deduction mismatches) is amended as follows.

(2) In section 259IC (counteraction where the hybrid entity is within the charge to corporation tax), in subsection (4), for the words from "unless" to the end substitute "unless it is deducted from dual inclusion income for that period."

(3) After section 259IC insert—

"259ICA Deemed dual inclusion income for the purposes of section 259IC

(1) For the purposes of section 259IC(10)(b) the reference to ordinary income of an investor in the hybrid entity for a permitted taxable period for the purposes of any tax charged under the law of an investor jurisdiction is taken to include a reference to an amount that meets the following requirements.

(2) The requirements are that—

(a) the amount may not be deducted under the law of any territory from the income of any person for the purposes of calculating taxable profits for a relevant taxable period;

(b) in the case of a person resident for tax purposes in a zero-tax territory, the amount could not be deducted from the income of the person for the purposes of calculating taxable profits for a relevant taxable period if the person were resident in the United Kingdom for tax purposes; and

(c) under the law of the investor jurisdiction, the amount could be deducted from the income of the investor in the hybrid entity for the purposes of calculating the investor's taxable profits for a relevant taxable period if the following assumptions were made.

(3) The assumptions are that, for the purposes of identifying the recipient of the amount for tax purposes in the investor jurisdiction, it is assumed that—

(a) condition B in section 259BE(3) was not met by the hybrid entity as respects the investor jurisdiction, and

(b) as a result of that, the hybrid entity was not a hybrid entity as respects the investor jurisdiction.

(4) In subsection (2), "zero-tax territory", in relation to a person, means a territory in which the person—

(a) is not within the charge to tax, or

(b) is within the charge to tax at a nil rate.

(5) Section 259B(5) (determination of residence where no concept of residence for tax purposes exists) applies to the reference in subsection (2)(b) to a person's residence for tax purposes in a zero-tax territory as it applies to references to a person's residence for tax purposes in Chapter 8 or 11.

(6) A taxable period of an investor or another person is "relevant" for the purposes of subsection (2) if—

(a) the period begins before the end of 12 months after the end of the accounting period mentioned in section 259IC(10)(a), or

(b) where the period begins after that, it is just and reasonable for the question of whether the amount concerned may or could be deducted in calculating taxable profits to be determined

by reference to that taxable period rather than an earlier period."

(4) Omit section 259ID (section 259ID income for the purposes of section 259IC).

13 (1) Chapter 10 (dual territory double deduction cases) is amended as follows.

(2) In section 259JD (counteraction where mismatch arises because of a relevant multinational and is not counteracted in the parent jurisdiction), after subsection (9) insert—

"(10) For the purposes of subsection (8)(b) the reference to ordinary income of the company for a permitted taxable period for the purposes of a tax charged under the law of a territory outside the United Kingdom is taken to include a reference to excessive PE inclusion income of the company.

(11) Section 259JE defines "excessive PE inclusion income" of the company for this purpose."

(3) After section 259JD insert—

"259JE Meaning of excessive PE inclusion income

"(1) In section 259JD(10), "excessive PE inclusion income" of the company means—

(a) where paragraph (a) of subsection (4) applies, the PE inclusion income of the company, or

(b) where paragraph (b) of that subsection applies, the PE inclusion income of the company so far as it is reasonable to suppose that it exceeds the aggregate effect on taxable profits.

(2) For this purpose, "PE inclusion income" of a company for an accounting period means an amount in respect of which conditions A and B are met.

(3) Condition A is that the amount is in respect of a transfer of money or money's worth from the company in the parent jurisdiction to the company in the United Kingdom that—

(a) is actually made, or

(b) is (in substance) treated as being made for corporation tax purposes.

(4) Condition B is that it is reasonable to suppose that—

(a) the circumstances giving rise to the amount will not result in—

(i) a reduction in the taxable profits of the company for a relevant taxable period, or

(ii) an increase in a loss made by the company for a relevant taxable period,

for the purposes of a tax charged under the law of the parent jurisdiction, or

(b) those circumstances will result in such a reduction or increase for one or more relevant taxable periods, but the amount exceeds the aggregate effect on taxable profits.

(5) "The aggregate effect on taxable profits" is the sum of—

(a) any reductions, resulting from the circumstances giving rise to the amount, in the taxable profits of the company, for a relevant taxable period, for the purposes of a tax charged under the law of the parent jurisdiction, and

(b) any amounts by which a loss made by the company, for a relevant taxable period, for the purposes of a tax charged under the law of the parent jurisdiction, is increased as a result of the circumstances giving rise to the amount.

(6) For the purposes of subsections (4) and (5), any reduction in taxable profits or increase of losses is to be ignored in any case where tax is charged at a nil rate under the law of the parent jurisdiction.

(7) A taxable period of the company is "relevant" for the purposes of subsections (4) and (5) if—

(a) the period begins before the end of 12 months after the end of the accounting period mentioned in section 259JD(8)(a), or

(b) where the period begins after that, it is just and reasonable for the question of whether the circumstances giving rise to the amount will result in a reduction in taxable profits or an increase in a loss to be determined by reference to that taxable period rather than an earlier period."

PART 5

DEEMED DUAL INCLUSION INCOME: ANTI-AVOIDANCE

14 In Chapter 13 of Part 6A of TIOPA 2010 (hybrid and other mismatches: anti-avoidance), in section 259M(4) (countering the effect of avoidance arrangements), omit the "or" after paragraph (a) and after paragraph (b) insert ", or

(c) the person does anything which, to any extent, results in an amount being treated as dual inclusion income of that person under any provision of this Part."

PART 6

ALLOCATION OF DUAL INCLUSION INCOME WITHIN GROUP

15 (1) Part 6A of TIOPA 2010 is amended as follows.

(2) In section 259A (overview of Part), after subsection (16) insert—

"(16A) Chapter 12A contains provision allowing surplus dual inclusion income to be allocated within a group of companies."

(3) After Chapter 12 insert—

"CHAPTER 12A

ALLOCATION OF DUAL INCLUSION INCOME WITHIN GROUP

Introduction

259ZM Overview of Chapter *5*

(1) This Chapter contains provision that allows surplus dual inclusion income to be allocated within a group of companies.

(2) Section 259ZMA contains the conditions that must be met for this Chapter to apply.

(3) Subsection (2) of that section defines "the DII surplus" and subsection (3) of that section defines "the DII shortfall". *10*

(4) Sections 259ZMB to 259ZMD contain provision allowing the unused part of the DII surplus of one company to be treated as dual inclusion income of another company in the same group, where it can be matched against the unused part of the DII shortfall of the other company. *15*

(5) Section 259ZME identifies when companies are in the same group.

Application of Chapter

259ZMA Circumstances in which Chapter applies

(1) This Chapter applies if conditions A to E are met. *20*

(2) Condition A is that, for an accounting period ("the surplus period"), the dual inclusion income of a company ("company A") exceeds its counteraction amount.

In this Chapter, the amount of the excess is referred to as "the DII surplus". *25*

(3) Condition B is that, for an accounting period ("the shortfall period"), the counteraction amount of another company ("company B") exceeds its dual inclusion income.

In this Chapter, the amount of the excess is referred to as "the DII shortfall". *30*

(4) See section 259ZMF for the meanings of "dual inclusion income" and "counteraction amount".

(5) Condition C is that there is a period ("the overlapping period") that is common to both the surplus period and the shortfall period (and see subsections (8) and (9)). *35*

(6) Condition D is that there is a time during the overlapping period when both company A and company B are within the charge to corporation tax.

(7) Condition E is that there is a time during the overlapping period when company A and company B are members of the same group of companies (see section 259ZME).

(8) Subsection (9) applies if, during any part of the overlapping period—
  (a) either company A or company B is not within the charge to corporation tax, or
  (b) company A and company B are not members of the same group of companies.

(9) That part is treated as not forming part of the overlapping period but instead as—
  (a) forming part of the surplus period that is not included in the overlapping period, and
  (b) forming part of the shortfall period that is not included in the overlapping period.

Allocation of DII surplus

259ZMB Claims for allocation of DII surplus

(1) Company B may make a claim (an "allocation claim") for all or part of the unused part of the DII surplus of company A for the overlapping period (see section 259ZMC) to be allocated to company B for the shortfall period, if the following requirements are met.

Requirement 1

Company A consents to the allocation claim.

Requirement 2

The allocation claim identifies the amount of the DII surplus to which it relates.

Requirement 3

Company B has an amount of ordinary income for the shortfall period ("matchable income") that—
  (a) is not dual inclusion income, and
  (b) is equal to or exceeds the amount of the DII surplus to which the allocation claim relates.

Requirement 4

The allocation claim identifies the amount of matchable income to which the claim relates.

Requirement 5

The amount of matchable income to which the claim relates—
  (a) is equal to the amount of the DII surplus to which the claim relates, and
  (b) does not exceed the unused part of the DII shortfall of company B for the shortfall period (see section 259ZMD).

(2) If company B makes an allocation claim—
  (a) the amount of company A's dual inclusion income for the surplus period is reduced by the amount of matchable income to which the claim relates, and
  (b) the amount of matchable income to which the claim relates is treated in relation to company B as if the following assumptions were made.

(3) The assumptions are that—
  (a) things done by or to company A in relation to that amount are treated as done by or to company B, and
  (b) all other factual circumstances (or circumstances treated as existing as a result of any provision made by this Part) in relation to that amount are unchanged.

259ZMC The unused part of the DII surplus

(1) This section identifies the unused part of the DII surplus of company A for the overlapping period, for the purposes of an allocation claim made by company B ("the current allocation claim").

(2) The unused part of the DII surplus of company A for the overlapping period is the amount equal to—
  (a) the DII surplus for the overlapping period (see subsection (3)), less
  (b) the amount of prior allocations for that period (see subsections (4) to (7)).

(3) To determine the DII surplus for the overlapping period—
  (a) take the proportion of the surplus period included in the overlapping period, and
  (b) apply that proportion to the DII surplus for the surplus period.

The DII surplus for the overlapping period is the amount given as a result of paragraph (b).

(4) To determine the amount of prior allocations for the overlapping period—
  (a) identify any prior allocation claims for the purposes of this section (see subsection (5)), and
  (b) take the steps set out in subsection (6) in relation to each such claim.

The amount of prior allocations for the overlapping period is the total of the previously used amounts given at Step 3 in subsection (6) for all the prior allocation claims.

(5) An allocation claim is a prior allocation claim for the purposes of this section if—
  (a) it is an allocation claim made by a company in respect of all or part of the DII surplus of company A for the surplus period,
  (b) it is made before the current allocation claim, and
  (c) it has not been withdrawn.

(6) These are the steps referred to in subsection (4)(b) to be taken in relation to each prior allocation claim.

Step 1

Identify the overlapping period for the prior allocation claim.

Step 2

Identify any period that is common to the overlapping period for the current allocation claim and the overlapping period for the prior allocation claim.

If there is a common period, go to Step 3.

If there is no common period, there is no previously allocated amount in relation to the prior allocation claim (and ignore Step 3).

Step 3

Determine the previously allocated amount of the DII surplus in relation to the prior allocation claim (see subsection (7)).

(7) To determine the previously allocated amount of the DII surplus in relation to the prior allocation claim—

(a) take the proportion of the overlapping period for the prior allocation claim that is included in the common period identified at Step 2 in subsection (6) in relation to that claim, and

(b) apply that proportion to the amount of the DII surplus allocated on the prior allocation claim.

The previously allocated amount of the DII surplus in relation to the prior allocation claim is the amount given as a result of paragraph (b).

(8) If two or more allocation claims are made at the same time, for the purposes of this section treat the claims as made—

(a) in such order as the companies making them may jointly elect, or

(b) if no such election is made, in such order as an officer of Revenue and Customs may direct.

(9) For the purposes of Step 3 in subsection (6), the amount of the DII surplus allocated on a prior allocation claim is determined on the basis that an amount is allocated on the claim before it is allocated on a later claim.

(10) If the use of the proportion mentioned in subsection (3) or (7) would, in the circumstances of a particular case, produce a result that is unjust or unreasonable, the proportion is to be modified so far as necessary to produce a result that is just and reasonable.

259ZMD The unused part of the DII shortfall

(1) This section identifies the unused part of the DII shortfall of company B for the shortfall period, for the purposes of an allocation claim made by company B ("the current allocation claim").

(2) The unused part of the DII shortfall of company B for the shortfall period is the amount equal to—

(a) the DII shortfall for the shortfall period, less

(b) the amount of prior matches for the shortfall period (see subsections (3) to (5)).

(3) To determine the amount of prior matches for the shortfall period—

(a) identify any prior allocation claims for the purposes of this section (see subsection (4)), and

(b) determine the previously matched amount of the DII shortfall in relation to each prior allocation claim (see subsection (5)).

The amount of prior matches for the shortfall period is the total of the previously matched amounts of the DII shortfall in relation to all the prior allocation claims.

(4) An allocation claim is a prior allocation claim for the purposes of this section if—
  (a) it is an allocation claim made by company B for the shortfall period,
  (b) it is made before the current allocation claim, and
  (c) it has not been withdrawn.

(5) The previously matched amount of the DII shortfall in relation to a prior allocation claim is the amount that is treated as dual inclusion income of company B for the shortfall period as a result of the claim (see section 259ZMB(3)(a)).

(6) If two or more allocation claims are made at the same time, for the purposes of this section treat the claims as made—
  (a) in such order as company B may elect, or
  (b) if no such election is made, in such order as an officer of Revenue and Customs may direct.

(7) For the purposes of subsection (3)(b), the amount of the DII shortfall matched in relation to a prior allocation claim is determined on the basis that an amount is matched on the claim before it is matched on a later claim.

Groups

259ZME Groups of companies

(1) For the purposes of this Chapter, company A and company B are members of the same group of companies if—
  (a) one is a 75% subsidiary of the other, or
  (b) both are 75% subsidiaries of a third company.

(2) In subsection (1), "75% subsidiary" has the same meaning as in Part 5 of CTA 2010 (group relief) (see section 151 of that Act).

(3) Sections 154, 155A, 155B and 156 of CTA 2010 (members of group of companies: arrangements for transfers of companies) apply for the purposes of this Chapter as they apply for the purposes of Part 5 of CTA 2010, but as if references to a surrenderable amount were to the DII surplus.

"Dual inclusion income" and "counteraction amount"

259ZMF Meaning of "dual inclusion income" and "counteraction amount"

(1) This section applies for the purposes of this Chapter.

(2) The "dual inclusion income" of a company for an accounting period means the amount of any income that is dual inclusion income of the company for that period for the purposes of any provision of this Part.

(3) An amount of income that is dual inclusion income of a company for the purposes of more than one provision of this Part is not counted more than once for the purposes of subsection (2).

(4) The "counteraction amount" of a company for an accounting period means the total of all the following amounts that are applicable to the company for that period—

(a) the restricted deduction, within the meaning given by section 259EC(2);

(b) where section 259ED applies and there is only one payee, the relevant amount, within the meaning given by section 259ED(3);

(c) where section 259ED applies and there is more than one payee, the payee's share of the relevant amount, within the meaning given by section 259ED(3) and (6);

(d) the excessive PE deduction, within the meaning given by section 259FA(8);

(e) where section 259IB applies, the hybrid entity double deduction amount, within the meaning given by section 259IA(4);

(f) where section 259IC applies, the restricted deduction, within the meaning given by section 259IC(3);

(g) the dual territory double deduction amount, within the meaning given by section 259JA(5), reduced by the amount of the impermissible overseas deduction (if any), within the meaning given by section 259JC(2);

(h) a dual territory double deduction, within the meaning given by section 259KB(2);

(i) an excessive PE deduction, within the meaning given by section 259KB(3) to (5)."

16 In Schedule 18 to FA 1998 (company tax returns, assessments and related matters), after Part 8 insert—

"PART 8A

CLAIMS FOR ALLOCATION OF SURPLUS DUAL INCLUSION INCOME

Introduction

77B (1) This Part of this Schedule applies to allocation claims under Chapter 12A of Part 6A of TIOPA 2010 (hybrid and other mismatches: allocation of dual inclusion income within group).

(2) Expressions used in this Part of this Schedule and in that Chapter have the same meaning in this Part of this Schedule as they have in that Chapter.

Claims to be included in company tax return

77C (1) An allocation claim must be made by being included in the company tax return of the claimant company ("company B") for the shortfall period.

(2) It may be included in the return originally made or by amendment.

Consent to allocation claim

77D (1) In accordance with Requirement 1 in section 259ZMB of TIOPA 2010, an allocation claim in respect of all or part of the DII surplus of a company ("company A") requires the company's consent.

(2) The necessary consent must be given—
(a) by notice in writing,
(b) to an officer of Revenue and Customs,
(c) at or before the time the allocation claim is made.
Otherwise the allocation claim is ineffective.

(3) An allocation claim by company B is ineffective unless it is accompanied by a copy of the notice of consent to the allocation claim given by company A.

Notice of consent

77E (1) Notice of consent to an allocation claim given by company A must contain all the following details—
(a) the name of company A;
(b) the name of company B;
(c) the amount of the DII surplus to be allocated to company B;
(d) the accounting period of company A which is the surplus period.

(2) Notice of consent may not be amended, but it may be withdrawn and replaced by another notice of consent.

(3) Notice of consent may be withdrawn by notice to an officer of Revenue and Customs.

(4) Except where the consent is withdrawn under paragraph 77I (withdrawal in consequence of reduction of DII surplus), the notice of withdrawal must be accompanied by a notice signifying the consent of company B to the withdrawal.
Otherwise the notice of withdrawal is ineffective.

(5) Company B must, so far as it may do so, amend its company tax return for the accounting period for which the allocation claim was made so as to reflect the withdrawal of consent.

Notice of consent requiring amendment of return

77F (1) Where company A gives notice of consent to an allocation claim in respect of all or part of an accounting period after filing its company tax return for the accounting period, company A must amend its company tax return for the accounting period so as to reflect the notice of consent.

(2) The time limits otherwise applicable to amendment of a company tax return do not prevent an amendment being made under sub-paragraph (1).

(3) If company A fails to comply with sub-paragraph (1), the notice of consent is ineffective.

Withdrawal or amendment of allocation claim

77G (1) An allocation claim may be withdrawn by company B only by amending its company tax return.

(2) An allocation claim may not be amended, but must be withdrawn and replaced by another allocation claim.

Time limit for allocation claims

77H (1) An allocation claim may be made or withdrawn at any time up to whichever is the last of the following dates—

(a) the first anniversary of the filing date for the company tax return of company B for the accounting period for which the claim is made;

(b) if notice of enquiry is given into that return, 30 days after the enquiry is completed;

(c) if after such an enquiry an officer of Revenue and Customs amends the return under paragraph 34(2), 30 days after notice of the amendment is issued;

(d) if an appeal is brought against such an amendment, 30 days after the date on which the appeal is finally determined.

(2) An allocation claim may be made or withdrawn at a later time if an officer of Revenue and Customs allows it.

(3) The time limits otherwise applicable to amendment of a company tax return do not apply to an amendment to the extent that it makes or withdraws an allocation claim within the time allowed by or under this paragraph,

(4) The references in sub-paragraph (1) to an enquiry into a company tax return do not include an enquiry restricted to a previous amendment making or withdrawing a claim.

(5) An enquiry is so restricted if—

(a) the scope of the enquiry is limited as mentioned in paragraph 25(2), and

(b) the amendment giving rise to the enquiry consisted of the making or withdrawing of an allocation claim.

Reduction in DII surplus

77I (1) This paragraph applies if, after company A has given one or more notices of consent to an allocation claim or claims, the unused part of the DII surplus of company A is reduced to less than the amount stated in the notice of consent, or the total of the amounts stated in the notices of consent.

(2) Company A must within 30 days withdraw the notice of consent, or as many of the notices of consent as is necessary to bring the total amount of the DII surplus to which the claim or claims relate within the new unused part of the DII surplus of company A.

(3) Company A may give one or more new notices of consent.

(4) Company A must give notice in writing of the withdrawal of consent, and send a copy of any new notice of consent—
  (a) to each of the companies affected, and
  (b) to an officer of Revenue and Customs.

(5) If company A fails to act in accordance with sub-paragraph (2), an officer of Revenue and Customs may by notice to company A give such directions as the officer thinks fit as to which notice or notices are to be ineffective or are to have effect in a lesser amount.

(6) The power in sub-paragraph (5) must not be exercised to any greater extent than is necessary to secure that the total amount stated in the notice or notices is consistent with the unused part of the DII surplus of company A.

(7) An officer of Revenue and Customs must at the same time send a copy of the notice to each company affected by the exercise of the power.

(8) A company which receives—
  (a) notice of the withdrawal of consent, or a copy of a new notice of consent, under sub-paragraph (4), or
  (b) a copy of a notice containing directions by an officer of Revenue and Customs under sub-paragraph (7),

  must, so far as it may do so, amend its company tax return for the accounting period for which the claim is made so that it is consistent with the new position with regard to consent to an allocation claim.

(9) An appeal may be brought by company A against any directions given by an officer of Revenue and Customs under sub-paragraph (5).

(10) Notice of appeal must be given—
  (a) in writing,
  (b) within 30 days after the notice containing the directions was issued, and
  (c) to the officer of Revenue and Customs by whom the notice was given.

Assessments on other companies

77J (1) This paragraph applies where, after company A has given notice of consent to an allocation claim, company B has become liable to tax in consequence of receiving—
  (a) notice of the withdrawal of consent, or a copy of a new notice of consent, under paragraph 77I(4), or
  (b) a copy of a notice containing directions by an officer of Revenue and Customs under paragraph 77I(7).

(2) If any of the tax is unpaid 6 months after company B's time limit for allocation claims, an officer of Revenue and Customs may make an assessment to tax in the name of company B on any other company that has benefited as a result of the consent given by company A.

(3) The assessment may not be made more than two years after that time limit.

(4) The amount of the assessment must not exceed—
  (a) the amount of the unpaid tax, or
  (b) if less, the amount of tax which the other company saves by virtue of the consent.

(5) A company assessed to an amount of tax under sub-paragraph (2) is entitled to recover from company B—
  (a) a sum equal to that amount, and
  (b) any interest on that amount which it has paid under section 87A of the Taxes Management Act 1970 (interest on unpaid corporation tax).

(6) For the purposes of this paragraph, company B's time limit for allocation claims is the last of the dates mentioned in paragraph 77H(1) on which company B could make or withdraw an allocation claim for the accounting period for which the claim in question is made.

Assessment to recover excessive amount claimed

77K (1) If an officer of Revenue and Customs discovers that any amount which is the subject of an allocation claim is or has become excessive, the officer may make an assessment to tax in the amount which in the officer's opinion ought to be charged.

(2) This power is without prejudice to—
  (a) the power to make a discovery assessment under paragraph 41(1);
  (b) the making of all such adjustments by way of discharge or repayment of tax or otherwise as may be required where an amount claimed by company B on an allocation claim is excessive or company A has given consent to an allocation claim in respect of a corresponding amount.

(3) If an assessment under this paragraph is made because company B fails, or is unable, to amend its company tax return under paragraph 77I(8), the assessment is not out of time if it is made within one year from—
  (a) the date on which company A gives notice of the withdrawal of consent, or (if later) sends a copy of a new notice of consent, to company B under paragraph 77I(4), or
  (b) the date on which an officer of Revenue and Customs sends company B a copy of a notice containing the officer's direction under paragraph 77I(7).

Joint amended returns

77L (1) The Treasury may by regulations make provision for arrangements under which—

(a) an allocation claim may be made without being accompanied by a copy of the notice of consent to the claim given by company A, provided authority for the claim being so made is given by a company which is authorised in relation to company B as mentioned in paragraph (b), and

(b) one company may be authorised to act on behalf of two or more companies in the same group in amending their company tax returns for the purpose of making an allocation claim or giving consent to an allocation claim or revising the amount to which an allocation claim or consent relates.

(2) Regulations under this paragraph may add to, exclude or modify the operation of any provisions of this Part of this Schedule to such extent as the Treasury think necessary or expedient for the purpose of, or in connection with, such arrangements.

(3) Provision may in particular be made—

(a) altering the conditions for making and withdrawing allocation claims, and

(b) giving an officer of revenue and Customs power to recover from the authorised company or another company in the group any amount which might be recovered from company B by an assessment under paragraph 77K."

PART 7

FINANCING COST OF LOAN CAPITAL

17 (1) Chapter 6 of Part 6A of TIOPA 2010 (hybrid and other mismatches: deduction/non-inclusion mismatches relating to transfers by permanent establishments) is amended in accordance with sub-paragraph (2).

(2) In section 259FA(4) (circumstances in which the Chapter applies), omit the "and" after paragraph (a) and after paragraph (b) insert ", and

(c) is not in respect of the financing cost of loan capital which the permanent establishment is assumed to have by virtue of section 21(2) of CTA 2009 for the purpose of applying subsection (1) of that section (the separate enterprise principle)."

PART 8

CHAPTERS 9 AND 10: CARRY FORWARD OF ILLEGITIMATE OVERSEAS DEDUCTION

18 (1) Part 6A of TIOPA is amended as follows.

(2) In section 259IC (counteraction where hybrid entity is within charge to corporation tax), in subsection (8), after "person" insert "other than an investor in the hybrid entity".

(3) In section 259JB (counteraction where mismatch arises because of a dual resident company), in subsection (6), after "person" insert "other than the company".

(4) In section 259JD (counteraction where mismatch arises because of a relevant multinational and is not counteracted in the parent jurisdiction), in subsection (6), after "person" insert "other than the company".

PART 9

IMPORTED MISMATCHES

19 Chapter 11 of Part 6A of TIOPA (imported mismatches) is amended as follows.

20 In section 259K (overview of chapter), after subsection (4A) insert—

"(4B) Section 259KE sets a limit on reductions under section 259KC."

21 (1) Section 259KA (circumstances in which Chapter) is amended as follows.

(2) For subsection (7) substitute—

"(7) Condition E is that it is reasonable to suppose that the relevant mismatch is not capable of counteraction.

(7A) A relevant mismatch is capable of counteraction to the extent it is capable of being considered, for the purposes of determining the tax treatment of a person, other than P, under the law of a territory that is OECD mismatch compliant.

(7B) If a proportion of the relevant mismatch is not capable of being so considered under the law of any such territory—

(a) Condition E is met in relation to that proportion, and

(b) the remainder of the relevant mismatch is to be ignored for the purposes of this Part.

(7C) A determination about the extent to which a relevant mismatch is capable of being so considered is to be made on a just and reasonable basis.

(7D) A territory is OECD mismatch compliant if under the law of that territory effect is given to the Final Report on Neutralising the Effects of Hybrid Mismatch Arrangements published by the Organisation for Economic Cooperation and Development on 5 October 2015 or any replacement or supplementary publication (within the meaning of section 259BA(3))."

(3) Omit subsection (8).

(4) After subsection (9)(a) for "as the payer, or a payee" substitute "as a payee".

22 In section 259KC(2A), at the end insert "and section 259KE (limit on reduction under section 259KC)".

23 After section 259KD insert—

"259KE Limit on reduction under section 259KC

(1) This section applies where, in relation to the imported mismatch payment, the relevant deduction that may be deducted from P's income for a payment period is to be reduced under section 259KC.

(2) The reduction is not to exceed the amount that the relevant mismatch would have been if the amount of the mismatch payment had been equal to the amount of the imported mismatch payment."

PART 10

MEANING OF "ACT TOGETHER"

24 (1) Section 259ND of TIOPA 2010 (meaning of "50% investment" and "25% investment") is amended as follows.

(2) For subsection (7) substitute—

"(7) P is to be taken to "act together" with T in relation to U if (and only if) subsection (7A) or (7B) applies.

(7A) This subsection applies if—

(a) P and T are party to a partnership agreement that—

(i) it is reasonable to suppose is designed to affect the value of any of T's rights or interest in relation to U, or

(ii) relates to the exercise of any of T's rights in relation to U, or

(b) the same person manages—

(i) some or all of P's rights or interests in relation to U, and

(ii) some or all of T's rights or interests in relation to U.

(7B) This subsection applies if P has a relevant investment in U and—

(a) P and T are connected (within the meaning given by section 163),

(b) for the purposes of influencing the conduct of U's affairs—

(i) P is able to secure that T acts in accordance with P's wishes,

(ii) T can reasonably be expected to act, or typically acts, in accordance with P's wishes,

(iii) T is able to secure that P acts in accordance with T's wishes, or

(iv) P can reasonably be expected to act, or typically acts, in accordance with T's wishes, or

(c) P and T are party to any arrangement that—

(i) it is reasonable to suppose is designed to affect the value of any of T's rights or interests in relation to U, or

(ii) relates to the exercise of any of T's rights in relation to U.

(7C) To determine whether P has a "relevant investment" in U at a particular time, subsections (3) and (4) apply but as if—

(a) for "an X%", in both places, there were substituted "a relevant", and

(b) for "X% or more", in each place, there were substituted "greater than 5%". *5*

(7D) For that purpose—

(a) subsection (6) is to be ignored, and

(b) P's rights and interests are to be aggregated with the rights and interests of persons connected to P (within the meaning given by section 1122 of CTA 2010, ignoring subsection (4) of that section)." *10*

(3) In subsection (8)—

(a) omit "But", and

(b) for "paragraph (d) of subsection (7)" substitute "paragraph (b) of subsection (7A)". *15*

PART 11

EXEMPT INVESTORS IN HYBRID ENTITIES

25 Part 6A of TIOPA 2010 is amended as follows.

26 In section 259BC (the basic rules), after subsection (8) insert— *20*

"(8A) Income is to be treated as "ordinary income" if it would fall to be brought into account for the purpose of calculating taxable profits of a person but for the fact that the person is a qualifying institutional investor (and, if the person is based in a territory under the law of which there is no relevant tax on income of the kind in question, if the territory had such a tax). *25*

For the meaning of "qualifying institutional investor" see section 259NDA."

27 (1) Section 259EB (hybrid payer deduction/non-inclusion mismatches and their extent) is amended in accordance with sub-paragraphs (2) and (3). *30*

(2) In subsection (3), at the beginning insert "Subject to subsections (4A) to (4C)".

(3) After subsection (4), insert—

"(4A) No excess is to be taken to arise by reason of a hybrid payer being a hybrid entity for the purposes of subsection (1)(b) so far as it is attributable to a qualifying institutional investor based in a territory under the law of which— *35*

(a) the income or profits of the hybrid entity are treated as income and profits of the investor, or

(b) the hybrid entity is not regarded as a distinct and separate person to the investor. *40*

(4B) Excess is attributable to such a qualifying institutional investor to the extent that ordinary income (arising by reason of the payment or quasi-payment) would fall to be brought into account by the investor if— *45*

(a) where subsection (4A)(a) applies, under the law of the territory the income or profits of the hybrid entity were not treated as income and profits of the investor, and

(b) where subsection (4A)(b) applies, under the law of the territory the hybrid entity were regarded as a distinct and separate person to the investor.

(4C) To determine if a "qualifying institutional investor" is "based" in a particular territory for the purposes of subsections (4A) and (4B) see section 259NDA."

28 In section 259GB (hybrid payee deduction/non-inclusion mismatches and their extent), after subsection (2) insert—

"(2A) No excess is to be taken to arise by reason of a hybrid payee being a hybrid entity for the purposes of subsection (1)(b) so far as it is attributable to a qualifying institutional investor based in a territory under the law of which—

(a) the income or profits of the hybrid entity are not treated as income or profits of the investor, or

(b) the hybrid entity is regarded as a distinct and separate person to the investor.

(2B) Excess is attributable to such a qualifying institutional investor to the extent that ordinary income (arising by reason of the payment or quasi-payment) would fall to be brought into account by the investor if—

(a) where subsection (2A)(a) applies, under the law of the territory the income or profits of the hybrid entity were treated as income or profits of the investor, and

(b) where subsection (2A)(b) applies, under the law of the territory the hybrid entity were not regarded as a distinct and separate person to the investor.

(2C) To determine if a "qualifying institutional investor" is "based" in a particular territory for the purposes of subsections (2A) and (2B) see section 259NDA."

29 After section 259ND insert—

"Qualifying institutional investors etc

259NDA Meaning of "qualifying institutional investor" etc

(1) This section has effect for the purposes of this Part.

(2) References to "qualifying institutional investor" have the meaning given by paragraph 30A of Schedule 7AC to TCGA 1992.

(3) A qualifying institutional investor is "based" in a territory—

(a) if it is resident for tax purposes in the territory, or

(b) where it is not resident anywhere for tax purposes, if it is established in the territory."

PART 12

INTERACTION WITH PART 4 OF TIOPA 2010

30 TIOPA 2010 is amended as follows.

31 In Part 4 (transfer pricing), after section 192 insert—

"192A Provision for cases within Part 6A

(1) Subsection (2) applies to the extent that—

(a) there is an amount to be deducted in respect of a payment by the issuing company under the security,

(b) that amount is required to be reduced (whether or not to nil) under section 147(3) or (5),

(c) the guarantor company makes a claim under section 192(1) in respect of that reduction, and

(d) as regards the payment, provision in Part 6A would, but for the reduction, apply in relation to the tax treatment of the issuing company ("the relevant tax treatment").

(2) The relevant tax treatment is to apply in relation to the guarantor company."

32 In Chapter 11 of Part 6A (imported mismatches), in section 259K (overview of chapter), after subsection (4B) (as inserted by paragraph 20) insert—

"(4C) Section 259KF contains provision for cases also falling within Part 4 (transfer pricing)."

33 After section 259KE (as inserted by paragraph 23) insert—

"259KF Provision for cases within Part 4

(1) This section applies where, in calculating the profits and losses of P for tax purposes, the amount to be deducted in respect of the imported mismatch payment is required to be reduced (whether or not to nil) under section 147(3) or (5) (tax calculations to be based on arm's length, not actual, provision).

(2) For the purposes of section 259KC(2), the amount of the relevant mismatch is to be determined as if the mismatch payment was reduced by the same proportion as the reduction mentioned in subsection (1).

(3) For the purposes of section 259KC(3)—

(a) the amount of the relevant mismatch is taken to be the amount it would have been had the arm's length provision been made or imposed instead of the actual provision in relation to the imported mismatch payment (making such assumptions as to the amount of the mismatch payment as are reasonable in the circumstances), and

(b) P's share of the relevant mismatch is to be determined accordingly.

(4) In subsection (3) "the arm's length provision" and "the actual provision" are to be construed in accordance with section 147(1)."

PART 13

SECURITISATION COMPANIES

34 After section 259NE of TIOPA 2010 insert—

"*Securitisation companies*

259NEZA Securitisation companies 5

(1) If the tax treatment of a securitisation company would (apart from this section) fall to be adjusted by virtue of provision in this Part, the provision is to be treated as of no effect as regards that company (and accordingly, no such adjustment may be made).

(2) In this section— 10

"securitisation company" means a company to which specified regulations apply;

"specified regulations" has the meaning given by regulation 2 of the Taxation of Securitisation Companies Regulations 2006 (S.I. 2006/3296)." 15

PART 14

TRANSPARENT FUNDS

35 (1) Part 6A of TIOPA 2010 is amended as follows.

(2) In section 259A (overview of Part), after subsection (17) insert—

"(17A) Chapter 13A makes provision about the application of Chapters 3, 4, 5, 7, 9 and 11 in cases involving transparent funds (within the meaning of that Chapter)." 20

(3) After Chapter 13 insert—

"CHAPTER 13A

SPECIAL PROVISION CONCERNING TRANSPARENT FUNDS 25

259MA Meaning of "transparent fund"

(1) In this Chapter "transparent fund" means a collective investment scheme, or an AIF (that is not a collective investment scheme), if—

(a) were all of the profits or income of the fund to arise from sources inside the United Kingdom and 30

(b) were all of its participants within the charge to income tax,

its profits or income would be profits or income of its participants for the purposes of that tax.

(2) In this section—

"AIF" has the meaning given by regulation 3 of the Alternative Investment Fund Managers Regulations 2013 (S.I. 2013/1773); 35

"collective investment scheme" has the meaning given by section 235 of the Financial Services and Markets Act 2000;

"participant", in relation to a transparent fund, means a person who—

(a) takes part in the arrangements constituting the fund, whether by becoming the owner of, or of any part of, the property that is the subject of the arrangements or otherwise, and

(b) does not have day-to-day control over the management of the property, whether or not they have the right to be consulted or to give directions.

259MB Application of Chapters 3, 4, 5 and 7

(1) This section applies where—

(a) Chapter 3, 4, 5 or 7 applies in respect of a payment or quasi-payment,

(b) the relevant structured arrangement condition is not met, and

(c) it is reasonable to suppose that a proportion of the payment or quasi-payment is attributable to a person as a result of that person's interest (direct or indirect) in a transparent fund that is the primary fund in relation to that person.

(2) For the purposes of this section, a proportion of a payment or quasi-payment is attributable to a person if, as a result of that payment or quasi-payment—

(a) ordinary income arises to that person, or

(b) would arise if the person were resident for tax purposes in the United Kingdom.

(3) The primary fund in relation to a person is—

(a) where the income arises or would arise because of an indirect interest the person has in a transparent fund as a result of another transparent fund, or a series of transparent funds, having an interest in that first fund, that first fund, or

(b) where the income arises or would arise because of a direct or indirect interest the person has in a single transparent fund, that fund.

(4) The relevant structured arrangement condition is the condition—

(a) where Chapter 3 applies, in section 259CA(6)(c),

(b) where Chapter 4 applies, in section 259DA(6)(c),

(c) where Chapter 5 applies, in section 259EA(7)(c), and

(d) where Chapter 7 applies, in section 259GA(7)(c).

(5) The Chapter in question applies subject to subsection (6).

(6) If it is reasonable to suppose that the proportion of the payment or quasi-payment that is attributable to a person as a result of the person's interest in the primary fund is less than 10% of the relevant amount, that proportion is to be ignored for the purposes of determining the extent of a mismatch under the Chapter in question.

(7) For the purposes of subsection (6) "the relevant amount" means the amount of ordinary income that it would, on the relevant assumption, have been reasonable to expect to arise to the primary fund as a result of—

(a) in the case of a payment, the payment, or
(b) in the case of a quasi payment, the circumstances giving rise to the relevant deduction (see section 259BB(2)).

(8) The relevant assumption is that the primary fund were a person to whom ordinary income would arise as a result of that payment or those circumstances.

(9) Where a person to whom a proportion of the payment or quasi-payment is attributable as a result of the person's interest in the primary fund is connected (within the meaning given by section 1122 of CTA 2010, ignoring subsections (4) and (7) of that section) to another person to whom a proportion is attributable as a result of that person's interest in that same fund, the rights and interests of those persons are to be aggregated (and accordingly if the proportion attributable between them is 10% or more of the relevant amount, that proportion is not to be ignored).

259MC Application of Chapter 9

(1) This section applies where—
(a) Chapter 9 applies in relation to a hybrid entity double deduction amount (see section 259IA(4)) in respect of an investor in a hybrid entity,
(b) the condition in section 259IA(6)(b) is not met, and
(c) that investor in the hybrid entity is an investor in it as a result of an interest (direct or indirect) it has in a transparent fund ("the relevant fund") that directly holds an interest in—
(i) the hybrid entity, or
(ii) another entity that is not a transparent fund and which holds a direct or indirect interest in the hybrid entity.

(2) Chapter 9 applies subject to subsection (3).

(3) If it is reasonable to suppose that—
(a) some or all of the hybrid entity double deduction amount that relates to the investor arises as a result of the investor's interest in the relevant fund, and
(b) the amount that arises as a result of that interest ("the relevant amount") is less than 10% of the potential double deduction amount,

the relevant amount is to be ignored for the purposes of determining the extent of a mismatch under that Chapter.

(4) In this section "potential double deduction amount" means the hybrid double deduction amount that would arise in relation to the relevant fund if it were an investor in the hybrid entity.

(5) Where the investor is connected (within the meaning given by section 1122 of CTA 2010, ignoring subsections (4) and (7) of that section) to another investor with an interest in the relevant fund, the rights and interests of those investors are to be aggregated (and accordingly, if the sum of the relevant amounts in respect of each of them is 10% or more of the potential double deduction amount, that proportion is not to be ignored).

259MD Application of Chapter 11

(1) Subsection (2) applies where—

(a) Chapter 11 applies as a result of sub-paragraph (i), (ii), (iii) or (iv) of section 259KA(6)(a) applying as a result of a payment or quasi-payment to which section 259MB would apply if the Chapter corresponding to that sub-paragraph applied in relation to that payment or quasi-payment, and

(b) the condition in section 259KA(9)(c) is not met.

(2) Where this subsection applies, section 259MB(6) applies for the purposes of determining the extent of a relevant mismatch under Chapter 11.

(3) The Chapters corresponding to the sub-paragraphs of section 269KA(6)(a) mentioned in subsection (1) are as follows—

Sub-paragraph (i)	Chapter 3
Sub-paragraph (ii)	Chapter 4
Sub-paragraph (iii)	Chapter 5
Sub-paragraph (iv)	Chapter 7

(4) Subsection (5) applies where—

(a) Chapter 11 applies as a result of section 259KA(6)(a)(vi) applying as a result of a hybrid double deduction amount to which section 259MC would apply if Chapter 9 applied in relation to that amount, and

(b) the condition in section 259KA(9)(c) is not met.

(5) Where this subsection applies, section 259MC(3) applies for the purposes of determining the extent of a relevant mismatch under Chapter 11."

PART 15

COMMENCEMENT

36 Part 6A of TIOPA 2010 has effect, and is deemed always to have had effect—

(a) with the amendments contained in Parts 2 to 3, 7, 10 and 13 of this Schedule, and

(b) with the amendment made by paragraph 26 so far as it applies in relation to a qualifying institutional investor that is an investment trust.

37 The amendments made by Parts 1, 4, 5, 8, 9, 11, 12 and 14 of this Schedule (except that made by paragraph 26 so far as it applies by virtue of paragraph 36(b)) have effect—

(a) in the case of their application to Chapter 6 of Part 6A of TIOPA 2010, in relation to excessive deductions in relation to which the relevant PE period begins on or after the day on which this Act is passed,

(b) in the case of their application to Chapter 9 or 10 of Part 6A of TIOPA 2010, in relation to accounting periods beginning on or after that date, and

(c) in the case of their application to any other Chapter of Part 6A of TIOPA 2010, in relation to—

(i) payments made on or after that date, or

(ii) quasi-payments in relation to which the payment period begins on or after that date.

38 (1) For the purposes of paragraph 37, where there is a straddling period—

(a) so much of the straddling period as falls before the day on which this Act is passed, and so much of it as falls on or after that date, are to be treated as separate accounting periods or taxable periods (as the case may be), and

(b) if it is necessary to apportion an amount for the straddling period to the two separate periods, it is to be apportioned—

(i) on a time basis, according to the respective length of the separate periods, or

(ii) if that would produce a result that is unjust or unreasonable, on a just and reasonable basis.

(2) A "straddling period" is an accounting period or payment period (as the case may be) beginning before the day on which this Act is passed and ending on or after that date.

39 (1) Notwithstanding paragraph 37, a taxpayer may make an election (a "Part 4 retrospection election") that the amendments made by Part 4 of this Schedule are to be deemed always to have had effect in relation to the taxpayer.

(2) A Part 4 retrospection election must be made on or before 31 December 2021.

(3) Sub-paragraphs (4) to (9) apply where a Part 4 retrospection election is made by a taxpayer.

(4) The taxpayer may, in consequence of the Part 4 retrospection election, make reasonable adjustments to claims, returns and elections made before the Part 4 retrospection election.

(5) Any such adjustments must be made on or before 31 December 2021 but, subject to that, the time limits otherwise applicable to amending or withdrawing the claim, return or election in question do not prevent an adjustment being made under sub-paragraph (4).

(6) Sub-paragraph (7) applies where—

(a) before the Part 4 retrospection election is made, the taxpayer has made a group relief claim, and

(b) under sub-paragraph (4), the taxpayer withdraws the group relief claim, or withdraws the group relief claim and replaces it with a group relief claim for a lesser amount.

(7) The surrendering company may make such adjustments to claims, returns and elections made before the Part 4 retrospection election as are reasonably necessary in consequence of the withdrawal, or the withdrawal and replacement, of the group relief claim.

(8) Any such adjustments must be made on or before 31 December 2021 but, subject to that, the time limits otherwise applicable to amending or withdrawing the claim, return or election in question do not prevent an adjustment being made under sub-paragraph (7).

(9) In sub-paragraphs (6) to (8)—

"group relief claim" means—

(a) a claim for group relief under Part 5 of CTA 2010, or

(b) a claim for group relief for carried-forward losses under Part 5A of CTA 2010;

"surrendering company" has the same meaning as in Part 5 or 5A (as the case may be) of CTA 2010.

40 (1) Part 6 of this Schedule (allocation of dual inclusion income within group) has effect in relation to accounting periods of a claimant company that begin on or after 1 January 2021.

(2) A "claimant company" is a company that makes an allocation claim for the purposes of Chapter 12A of Part 6A of TIOPA 2010 (inserted by Part 6 of this Schedule).

(3) For the purposes of sub-paragraph (1), where there is a straddling period—

(a) so much of the straddling period as falls before 1 January 2021, and so much of it as falls on or after that date, are to be treated as separate accounting periods, and

(b) if it is necessary to apportion an amount for the straddling period to the two separate periods, it is to be apportioned—

(i) on a time basis, according to the respective length of the separate periods, or

(ii) if that would produce a result that is unjust or unreasonable, on a just and reasonable basis.

(4) A "straddling period" is an accounting period beginning before 1 January 2021 and ending on or after that date.

SCHEDULE 8

Section 37

RELIEF FROM CORPORATION TAX FOR LOSSES AND OTHER AMOUNTS

PART 1

ALLOCATION OF DEDUCTIONS ALLOWANCE OF FORMER GROUPS

1 Part 7ZA of CTA 2010 (restrictions on deductions for carried-forward losses and other amounts) is amended as follows.

2 After section 269ZS (group deductions allowance and the nominated company) insert—

"269ZSA Group allowance nomination: former groups

(1) This section applies where—

(a) a group ceases to be a group for the purposes of this Part (because the companies that were members of the group no longer together meet the condition in section 269ZZB(2)), and

(b) immediately before the group ceased to be a group for the purposes of this Part—

(i) two or more members of the group were companies within the charge to corporation tax, and

(ii) no group allowance nomination under section 269ZS had effect in relation to the group.

(2) All the companies that were, immediately before the group ceased to be a group for the purposes of this Part, members of the group and within the charge to corporation tax may together nominate ("the group allowance nomination") one of their number ("the nominated company") for the purposes of this Part.

(3) It is irrelevant for the purposes of subsection (2) whether or not the companies (including the nominated company) are within the charge to corporation tax when the nomination is made.

(4) A group allowance nomination under this section has effect during the period—

(a) beginning with the date on which it is stated to take effect (see section 269ZS(5), as it has effect by virtue of subsection (5)(a) of this section), and

(b) ending immediately before the group ceased to be a group for the purposes of this Part.

(5) For the purposes of this Part, treat a group allowance nomination under this section as a group allowance nomination under section 269ZS, but that section is to apply to a group allowance nomination under this section subject to the following modifications—

(a) section 269ZS(5) has effect as if, for the words in brackets, there were substituted "(which must be earlier than the date on which the group ceased to be a group for the purposes of this Part)";

(b) section 269ZS(6) has effect as if, for the words "is, when the nomination is made", there were substituted "was, immediately before the group ceased to be a group for the purposes of this Part";

(c) section 269ZS(7) does not apply (but see subsection (4) of this section);

(d) in section 269ZS(8), ignore references to the revocation of a group allowance nomination (however expressed).

(6) Only one group allowance nomination under this section may be made in respect of a group."

3 After section 269ZV (group allowance allocation statement: requirements and effects) insert—

"269ZVA Group allowance allocation statement: former groups

(1) This section applies where—

(a) a group ceases to be a group for the purposes of this Part (because the companies that were members of the group no longer together meet the condition in section 269ZZB(2)), and

(b) immediately before the group ceased to be a group for the purposes of this Part, a group allowance nomination had effect in relation to the group (including a group allowance nomination made after that event under section 269ZSA).

(2) Sections 269ZT to 269ZV have effect subject to the following modifications—

(a) section 269ZT(2)(a) does not apply to the company that was the nominated company under the group allowance nomination mentioned in subsection (1)(b) (accordingly, that company may submit a group allowance allocation statement under section 269ZT);

(b) for the purposes of sections 269ZT(2)(b), 269ZU(2) and 269ZV(7) and (8), treat the company that was the nominated company under the group allowance nomination mentioned in subsection (1)(b) as the company that is, for the time being, the nominated company in relation to the group;

(c) section 269ZV(5A) has effect as if the reference to a listed company that is the ultimate parent of a group were to a listed company that was the ultimate parent of the group immediately before the group ceased to be a group for the purposes of this Part."

PART 2

OTHER AMENDMENTS OF CTA 2010

Amendments of section 137 of CTA 2010

4 In section 137 of CTA 2010 (deductions from total profits for claims for group relief), in subsection (5)—

(a) omit paragraph (d);

(b) at the end insert—

"(e) of a type to which section 269ZB(2), 269ZBA(2), 269ZC(2) or 269ZD(2) of Part 7ZA (restrictions on deductions for carried-forward losses and other amounts) could apply."

Amendments of Part 5A of CTA 2010

5 Part 5A of CTA 2010 (group relief for carried-forward losses) is amended as follows.

6 In section 188BE (restriction on surrendering losses etc where surrendering company could use them itself), for the existing text substitute—

"The surrendering company may not surrender under this Chapter any loss or other amount carried forward to the surrender period to the extent that the loss or other amount could be deducted from the total profits of the company for the period at Step 2 of section 4(2)."

7 (1) Section 188DD (claimant company's relevant maximum for overlapping period) is amended as follows.

(2) In subsection (3), for "269ZD(6)" substitute "269ZDA".

(3) In subsection (3A)—

(a) in paragraph (a), for "qualifying trading profits and qualifying non-trading profits" substitute "modified total profits";

(b) in paragraph (b), for "in determining" substitute "which could be relieved against".

Amendments of Part 7ZA of CTA 2010

8 Part 7ZA of CTA 2010 is amended as follows.

9 In section 269ZF(3) (steps for determining a company's qualifying trading profits, qualifying non-trading income profits and qualifying chargeable gains), in paragraph (2) of step 2—

(a) for "sum," substitute "sum—

(a) ";

(b) at the end insert ", and

(b) ignore any amount (or any part of any amount) which could be relieved against the company's total profits of the accounting period on the making of a claim in respect of the amount (or part) if a claim is not in fact made in respect of it."

10 In section 269ZFA ("relevant profits" for purposes of section 269ZD), in subsection (1), after paragraph (b) insert—

"But if the allowance mentioned in paragraph (b) exceeds the profits mentioned in paragraph (a), the company's "relevant profits" for the accounting period are nil."

11 (1) Section 269ZT (group allowance allocation statement: submission) is amended as follows.

(2) In subsection (1), for "and (3)" substitute "to (3A)".

(3) After subsection (3) insert—

"(3A) A company need not submit a group allowance allocation statement to HMRC for an accounting period if the statement would, if submitted, allocate no amount of group deductions allowance in accordance with section 269ZV(3)(f)."

(4) In subsection (4), for the words from "before" to the end substitute "on or before whichever is the latest of the following dates—

(a) the first anniversary of the filing date for the company tax return for the accounting period to which the statement relates;

(b) if notice of enquiry (within the meaning of Schedule 18 to FA 1998) is given into a company tax return of a company for an accounting period for which an amount of group deductions allowance is, or could be, allocated by the statement, 30 days after the enquiry is completed;

(c) if, after such an enquiry, an officer of Revenue and Customs amends the return under paragraph 34(2) of that Schedule, 30 days after the notice of amendment is issued;

(d) if an appeal is brought against such an amendment, 30 days after the date on which the appeal is finally determined." *5*

12 In section 269ZV(5) (maximum amount of group deductions allowance that may be allocated to a listed company by a group allowance allocation statement)—

(a) In the definition of "DAP"—

(i) in paragraph (a), after "period" insert "on which the nominee was the nominated company in relation to the group"; *10*

(ii) in paragraph (b), after "which the" insert "listed";

(b) in the definition of "DNAP", after "period" insert "on which the nominee was the nominated company in relation to the group".

Amendments of Chapter 7 of Part 14 of CTA 2010 *15*

13 Chapter 7 of Part 14 of CTA 2010 (meaning of "change in the ownership of a company") is amended as follows.

14 In section 719(4A) (certain acquisitions giving rise to a change in the ownership of a company) for "2D" substitute "2E".

15 In section 721(4) (things other than ordinary share capital that may be taken into account in determining change in ownership), after "2D," insert "2E,". *20*

PART 3

COMMENCEMENT AND TRANSITIONAL PROVISION

Commencement

16 (1) The amendments made by paragraphs 2 and 3 have effect in relation to accounting periods beginning on or after 1 April 2017. *25*

(2) Where a company has an accounting period beginning before 1 April 2017 and ending on or after that date ("the straddling period")—

(a) so much of the straddling period as falls before 1 April 2017, and so much of that period as falls on or after that date, are treated as separate accounting periods, and *30*

(b) where it is necessary to apportion an amount for the straddling period to the two separate accounting periods, it is to be apportioned—

(i) in accordance with section 1172 of CTA 2010 (time basis), or *35*

(ii) if that method would produce a result that is unjust or unreasonable, on a just and reasonable basis.

17 The amendments made by paragraphs 4, 6 and 11 have effect in relation to accounting periods beginning on or after 1 April 2021.

18 The amendments made by paragraph 7 have effect as if they had been made by Schedule 4 to FA 2020 (see Part 3 of that Schedule). *40*

19 The amendments made by paragraphs 9 and 10 are to be treated as having always had effect.

20 The amendments made by paragraph 12 have effect in relation to a group allowance allocation statement submitted under section 269ZT or 269ZU of CTA 2010 in respect of an accounting period beginning on or after 1 April 2021.

21 The amendments made by paragraphs 14 and 15 have effect in relation to an acquisition that takes place on or after 1 April 2021.

Transitional provision

22 (1) This paragraph applies where—
(a) section 269ZSA of CTA 2010 (inserted by paragraph 2 of this Schedule) applies in relation to a group (see section 269ZSA(1)),
(b) the group ceased to be a group for the purposes of Part 7ZA of CTA 2010 before the date on which this Act is passed, and
(c) one or more (but not all) of the companies that were, immediately before the group ceased to be a group for those purposes, members of the group and within the charge to corporation tax (the "former group companies") no longer exist.

(2) If two or more of the former group companies still exist—
(a) section 269ZSA(2) of CTA 2010 has effect as if the reference to all the companies mentioned in that provision were to all the former group companies that still exist;
(b) section 269ZS(6) of CTA 2010, as it has effect by virtue of section 269ZSA(5)(b) of that Act, has effect as if the reference to each company mentioned in that provision were to each former group company that still exists.

(3) If only one of the former group companies still exists—
(a) section 269ZSA(2) of CTA 2010 has effect as if it enabled that company to nominate itself for the purposes of Part 7ZA of that Act;
(b) section 269ZS(6) of CTA 2010, as it has effect by virtue of section 269ZSA(5)(b) of that Act, has effect as if it provided that a group allowance nomination is of no effect unless it is signed by the appropriate person on behalf of that company.

23 (1) This paragraph applies where, in a case to which section 269ZVA of CTA 2010 (inserted by paragraph 3 of this Schedule) applies—
(a) the company that was the nominated company under the group allowance nomination mentioned in section 269ZVA(1)(b) of CTA 2010 must submit a group allowance allocation statement to HMRC (under section 269ZT of that Act, as that section has effect by virtue of section 269ZVA of that Act), and
(b) the date given by section 269ZT(4) of CTA 2010, as the date on or before which the statement must be received by HMRC, is earlier than 31 March 2022.

(2) For the purposes of Part 7ZA of CTA 2010, section 269ZT(4) of that Act is satisfied if the statement is received by HMRC on or before 31 March 2022.

SCHEDULE 9

Section 59

PLASTIC PACKAGING TAX: SECONDARY LIABILITY AND ASSESSMENT NOTICES AND JOINT AND SEVERAL LIABILITY NOTICES

PART 1

SECONDARY LIABILITY AND ASSESSMENT NOTICES

Effect of secondary liability and assessment notice

1 A secondary liability and assessment notice given to a person ("R") makes that person liable to pay an amount which is equal to or less than an amount of plastic packaging tax which another person ("P") is liable to pay in relation to an accounting period of P (the "relevant time") but which P has failed to pay on or before the date on which the amount became due and payable.

Test for giving a secondary liability and assessment notice

2 (1) The Commissioners may give a secondary liability and assessment notice to R if they consider that—
  (a) R is acting in the course of a related business, and
  (b) sub-paragraph (2) or (3) applies to R.

(2) This sub-paragraph applies to R if—
  (a) R is or has been concerned in, or in the taking of steps with a view to, P failing to pay plastic packaging tax, and
  (b) R knows or ought to know that R is or was so concerned.

(3) This sub-paragraph applies to R if—
  (a) R is or has been involved in transporting, storing or otherwise dealing with a chargeable plastic packaging component, and
  (b) R knows or ought to know that P has failed to pay plastic packaging tax which P is liable to pay in respect of the component.

(4) The Commissioners may—
  (a) by regulations make provision about the factors which they may take into account in considering whether they may give a secondary liability and assessment notice to R;
  (b) issue directions about those factors.

(5) The Commissioners may—
  (a) give R more than one secondary liability and assessment notice in relation to the same relevant time;
  (b) give R a secondary liability and assessment notice whether or not P has asked HMRC to review, or has appealed against, a decision that P is liable to pay some or all of the amount of plastic packaging tax which P has failed to pay as mentioned in paragraph 1.

Content of secondary liability and assessment notice

3 (1) A secondary liability and assessment notice must—

(a) set out why the Commissioners consider that it is appropriate to give a secondary liability and assessment notice to R under paragraph 2(1);
(b) specify the amount which the Commissioners have assessed that P has failed to pay as mentioned in paragraph 1;
(c) specify the amount which the Commissioners have assessed that R is liable to pay;
(d) specify how and when R must pay;
(e) specify how late payment interest will accrue if R does not make the payment by the date on which it is due and payable;
(f) set out how the Commissioners assessed the amount which R is required to pay.

(2) The amount must be an amount which the Commissioners consider just and reasonable, having regard in particular to their reasons for considering that paragraph 2(2) or (3) applies to R.

(3) The Commissioners must publish guidance on the matters which they will take into account when determining whether an amount is just and reasonable.

(4) A secondary liability and assessment notice may not require R to pay an amount before the end of the period of 30 days beginning with the day on which the notice is given to R.

(5) An amount assessed and notified to R in a secondary liability and assessment notice is recoverable on the basis that it is an amount of plastic packaging tax due from R.

(6) But sub-paragraph (5) does not apply if, or to the extent that, the assessment has been withdrawn or reduced.

Copy of notice to be given to P

4 When the Commissioners give a secondary liability and assessment notice to R, they must, as soon as practicable, give a copy of that notice to P.

Application to revoke or reduce amount

5 (1) R may apply to the Commissioners to—
(a) revoke a secondary liability and assessment notice, on the grounds that R took all reasonable steps to establish that P had paid or intended to pay all the plastic packaging tax which P was liable to pay in relation to the relevant time, or
(b) reduce the amount which R is required to pay by a secondary liability and assessment notice, on the grounds that the amount is not just and reasonable.

(2) The Commissioners may by regulations make provision about—
(a) the steps which are to be regarded as reasonable for the purposes of sub-paragraph (1)(a);
(b) applications for the purposes of sub-paragraph (1).

(3) The regulations may (among other things) make provision about information that must be supplied as part of an application.

(4) The Commissioners must notify R of their decision in response to an application under sub-paragraph (1) within the period of 30 days beginning with the day on which they receive the application.

(5) If the Commissioners decide to reduce the amount which R is required to pay, the notification of their decision must specify—
  (a) the new amount which R is liable to pay, and
  (b) how and when R must pay.

(6) R may not be required to pay the new amount before the end of the period of 30 days beginning with the day on which the notification is given to R.

(7) The Commissioners must repay any amount which R has paid in excess of the new amount.

Limitation on secondary liability

6 (1) The Commissioners may not give a secondary liability and assessment notice to R in respect of an amount of plastic packaging tax after the end of the period of 2 years beginning with—
  (a) the day after the last day of the accounting period by reference to which P was liable to pay the amount, or, if later,
  (b) the day on which a court or tribunal finally determines that P is liable to pay the amount.

(2) But in a case involving a loss of tax brought about deliberately by R or P (whether acting alone or with another person) sub-paragraph (1) has effect as if the reference to 2 years were to 20 years.

Reduction of amount where P's liability is reduced

7 (1) Where the amount which P is liable to pay in relation to the relevant time is reduced for any reason the Commissioners must consider whether to reduce the amount which R is liable to pay.

(2) If the Commissioners decide to reduce or cancel the amount which R is liable to pay, they must, within the period of 30 days beginning with the day on which they make their decision—
  (a) inform R of the new amount which R is liable to pay (if any), and
  (b) repay any amount which R has paid in excess of the new amount.

(3) The new amount must be such amount as the Commissioners consider just and reasonable, having regard in particular to their reasons for considering that paragraph 2(2) or (3) applies to R.

(4) Where P's liability to pay in relation to the relevant time is cancelled, the Commissioners must, within the period of 30 days beginning with the day on which that happens—
  (a) notify R that the secondary liability and assessment notice is revoked, and
  (b) repay any amount which R has paid.

No double payment

8 (1) R may not be required to pay any amount by a secondary liability and assessment notice if or to the extent that P has paid the amount mentioned in paragraph 1.

(2) P may not be required to pay the amount mentioned in paragraph 1 if or to the extent that R has paid an amount referable to that amount. 5

PART 2

JOINT AND SEVERAL LIABILITY NOTICES

Effect of joint and several liability notice

9 A joint and several liability notice given to a person ("R") makes that person jointly and severally liable to pay plastic packaging tax that another person ("P") will be liable to pay in respect of so much of any accounting period of P as falls within the period of two years beginning with— 10

(a) the day on which the notice is given to R, or

(b) if a joint and several liability notice is given to R at a time when another joint and several liability notice already has effect in relation to R, the day after the day on which the previous notice ceases to have effect. 15

Test for giving joint and several liability notice

10 (1) The Commissioners may give a joint and several liability notice to R if the Commissioners consider that— 20

(a) R is acting in the course of a related business, and

(b) sub-paragraph (2) or (3) applies to R.

(2) This sub-paragraph applies to R if—

(a) R is concerned in, or in the taking of steps with a view to, P not paying plastic packaging tax, and 25

(b) R knows or ought to know that R is so concerned.

(3) This sub-paragraph applies to R if—

(a) R is involved in transporting, storing or otherwise dealing with a chargeable plastic packaging component in respect of which P is or will be liable to pay plastic packaging tax, 30

(b) P has not paid that tax in respect of that component, and

(c) P intends not to pay that tax in respect of that component.

(4) The Commissioners may—

(a) by regulations make provision about the factors which they may take into account in considering whether they may give a joint and several liability notice to R; 35

(b) issue directions about those factors.

Content of joint and several liability notice

11 A joint and several liability notice must— 40

(a) state that R is jointly and severally liable with P to pay any plastic packaging tax that P is liable to pay in respect of so much of any accounting period of P as falls within the period of two years determined in accordance with paragraph 9, and

(b) set out why the Commissioners consider that it is appropriate to give a joint and several liability notice to R under paragraph 10(1), including whether the Commissioners consider that paragraph 10(2) or (3) (or both) applies to R.

Copy of notice to be given to P

12 When the Commissioners give a joint and several liability notice to R, they must, as soon as practicable, give a copy of that notice to P.

Revocation

13 (1) After being given a joint and several liability notice R must notify the Commissioners if paragraph 10(2)(a) or, as the case may be, (3)(a) (or both), does not apply or ceases to apply to R, including as a result of R ceasing to have dealings with P, at any time within the period of two years mentioned in paragraph 9.

(2) If—

(a) R notifies the Commissioners under sub-paragraph (1) within the period of 30 days beginning with the day on which R is given the joint and several liability notice (the "cancellation period"), and

(b) as a result of the notification the Commissioners consider that paragraph 10(2)(a) or, as the case may be, (3)(a), does not apply to R, including as a result of R ceasing to have dealings with P during the cancellation period,

the Commissioners must notify R that the joint and several liability notice is revoked with the result that R is not liable to pay any plastic packaging tax as mentioned in paragraph 9.

(3) If R does not notify the Commissioners under sub-paragraph (1), or notifies them only after the end of the cancellation period, R must be treated in relation to the period of liability as—

(a) knowing that R is concerned in, or in the taking of steps with a view to, P not paying plastic packaging tax as mentioned in paragraph 10(2), or

(b) knowing that P has not paid and intends not to pay tax as mentioned in paragraph 10(3).

(4) The period of liability is—

(a) if R does not notify the Commissioners under sub-paragraph (1) within the period of two years mentioned in paragraph 9, that period of two years, or

(b) if R does notify the Commissioners under sub-paragraph (1) within that period of two years but after the cancellation period, and as a result of the notification the Commissioners accept that paragraph 10(2)(a) or, as the case may be, (3)(a), does not apply to R—

(i) the cancellation period, or,

(ii) if the Commissioners consider that paragraph 10(2)(a) or, as the case may be, (3)(a), applied to R after the cancellation

period, the period beginning with the day on which the joint and several liability notice was given to R and ending with the day on which the Commissioners consider that paragraph 10(2)(a) or, as the case may be, (3)(a), ceased to apply to R.

(5) The Commissioners must inform R and P of the result of a notification under sub-paragraph (1) within the period of 30 days beginning with the day on which they are given the notification.

14 (1) P may apply to the Commissioners to revoke a joint and several liability notice given to R, on the ground that the Commissioners were wrong to consider that paragraph 10(2) or (3) applies to R so far as relating to anything done or not done by, or any intention of, P.

(2) An application under sub-paragraph (1) must be made within the period of 30 days beginning with the day on which the Commissioners give a copy of the notice to P.

(3) The Commissioners must notify R and P of their decision in response to an application under sub-paragraph (1) within the period of 30 days beginning with the day on which they receive the application.

15 (1) The Commissioners may by regulations make further provision about—
(a) notifications for the purposes of paragraph 13(1);
(b) applications for the purposes of paragraph 14(1).

(2) The regulations may (among other things) make provision about information that must be supplied as part of the notification or application.

Assessments of liability

16 (1) Where P is liable to pay an amount of plastic packaging tax, the Commissioners may assess that R is liable to pay an amount equal to or less than the amount due from P.

(2) Where such an assessment is made, the Commissioners must notify R of—
(a) the amount due from P;
(b) the amount assessed as due from R;
(c) how the Commissioners assessed the amount due from R;
(d) the date by which payment must be made;
(e) how payment must be made;
(f) how late payment interest will accrue if R does not make the payment by the date on which it is due and payable.

(3) The amount assessed as due from R must be an amount which the Commissioners consider just and reasonable, having regard in particular to—
(a) their reasons for considering that paragraph 10(2) or (3) applies to R, and
(b) the requirement mentioned in paragraph 13(3) (requirement to treat R as knowingly involved in P's failure to pay tax).

(4) The Commissioners must publish guidance on the matters which they will take into account when determining whether an amount is just and reasonable.

(5) The date by which payment must be made may not be before the end of the period of 30 days beginning with the day on which R is notified in accordance with sub-paragraph (2).

(6) An amount may be assessed and notified to R even if R has made a notification under paragraph 13(1) (and the Commissioners must repay any amount that is subsequently found to have been overpaid).

Adjustments

17 (1) Where an assessment to P is withdrawn or reduced, or P's liability in respect of plastic packaging tax is otherwise adjusted, the Commissioners may determine that R's liability is to be cancelled or reduced, or otherwise adjusted, in whatever way they consider just and reasonable, having regard in particular to their reasons for considering that paragraph 10(2) or (3) applies to R.

(2) If the Commissioners decide to reduce or cancel the amount which R is liable to pay, or make any other adjustment to the assessment to R, they must, within the period of 30 days beginning with the day on which they make their decision—

(a) inform R of the new amount which R is liable to pay (if any), and

(b) repay any amount which R has paid in excess of the new amount.

Limitation on assessments

18 R may not be notified of any assessment under paragraph 16(2) or of any increase in an assessment under paragraph 4(2) of Schedule 10 in respect of an amount after the end of the period of 2 years beginning with—

(a) the day after the last day of the accounting period by reference to which P was liable to pay the amount, or, if later,

(b) the day on which a court or tribunal finally determines that P is liable to pay the amount.

No double payment

19 R may not be required to pay plastic packaging tax if or to the extent that P has paid it (and vice versa).

PART 3

APPLICATION OF SCHEDULE 10

20 (1) Schedule 10 applies with any necessary modifications, and subject as follows, in relation to any amount which R is liable to pay as a result of a secondary liability and assessment notice or a joint and several liability notice.

(2) Paragraphs 4 to 6 of that Schedule apply in relation to an assessment under paragraph 16(1) of this Schedule as they apply to an assessment under paragraph 2(2) of that Schedule, except that paragraph 6 applies as if, in sub-paragraph (2), "4" were "2".

PART 4

INTERPRETATION

Interpretation: related businesses

21 In this Schedule—

(a) "related business" means a business that is—

(i) involved in the production or importation of chargeable plastic packaging components by P, including in the transportation or storage of the components, or in the manufacture or supply of raw or processed materials used in, or in the production of, the components,

(ii) supplied, whether directly or indirectly, with chargeable plastic packaging components produced or imported by P, or

(iii) involved in the marketing or sale of chargeable plastic packaging components by P as an operator of an online marketplace or fulfilment business, and

(b) references to acting in the course of a related business include—

(i) in relation to a business that is carried on by a body corporate, being a director, manager, secretary, chief executive or member of the committee of management, or a person purporting to act in such a capacity, and

(ii) in relation to a business that is carried on by an unincorporated association, being an officer of the association or a member of its governing body, or a person purporting to act in such a capacity.

Interpretation: general

22 (1) In this Schedule—

(a) references to "R" and "P" have the meanings given by paragraph 1, in relation to secondary liability and assessment notices, or 9, in relation to joint and several liability notices;

(b) references to P paying, failing to pay or being liable to pay an amount of plastic packaging tax are references to P paying, failing to pay or being liable to pay in accordance with provisions of or under this Part apart from this Schedule;

(c) references to an amount of plastic packaging tax which P is liable to pay include references to an amount which P would have been liable to pay but for anything done, or not done, by R.

(2) In this Schedule—

"fulfilment business" means a business that stores or packs goods that are owned by another person with a view to sale by that person;

"online marketplace" means a website, or any other means by which information is made available over the internet, which facilitates the sale of goods through the website or other means by persons other than the operator (whether or not the operator also sells goods through the marketplace);

"operator" means the person who controls access to, and the contents of, the online marketplace or the fulfilment business.

(3) The Commissioners may by regulations—

(a) provide that goods offered for sale in circumstances specified in the regulations are or are not to be treated, for the purposes of this Schedule, as having been offered through an online marketplace or a fulfilment business;

(b) amend this paragraph so as to alter the definitions of "online marketplace", "operator" and "fulfilment business". *5*

SCHEDULE 10

Section 61

PLASTIC PACKAGING TAX: RECOVERY AND OVERPAYMENTS

PART 1

RECOVERY *10*

Recovery as a debt due

1 Plastic packaging tax is recoverable as a debt due to the Crown.

Assessments of amounts of plastic packaging tax due

2 (1) Sub-paragraph (2) applies where it appears to the Commissioners—

(a) that any period is an accounting period by reference to which a person who is registered or who is liable to be registered is liable to pay plastic packaging tax, *15*

(b) that an amount of plastic packaging tax for which that person is liable to account by reference to that period has become due, and

(c) that there has been a relevant default by that person (see sub-paragraph (3)). *20*

(2) The Commissioners—

(a) may—

(i) in a case where the amount of plastic packaging tax due from the person for that period cannot be ascertained, assess the amount due from the person for that period to the best of their judgement; *25*

(ii) in any other case, assess the amount due from the person for that period, and

(b) where such an assessment is made, must notify the person of that amount. *30*

(3) The following are "relevant defaults"—

(a) a failure to comply with a requirement of regulations under section 58;

(b) a failure to make a return required to be made by regulations under section 61; *35*

(c) a failure to keep documents, or provide facilities, necessary to verify returns required by those regulations;

(d) the making, in purported compliance with a requirement of those regulations, of an incomplete or incorrect return; *40*

(e) a failure to comply with a requirement imposed by or under section 63;

(f) a failure to provide the Commissioners with complete or accurate information in complying with any requirement imposed by or under this Part;

(g) an unreasonable delay in complying with a requirement, where the failure to comply would be a default within any of paragraphs (a) to (f).

(4) Where it appears to the Commissioners that a default falling within sub-paragraph (3) is a default by a person (A) on whom the requirement to make a return is imposed in A's capacity as the representative of another person (B), sub-paragraph (1)(b) applies as if the reference to the amount of plastic packaging tax due included a reference to any plastic packaging tax due from B.

3 (1) Sub-paragraph (2) applies where—

(a) the Commissioners have made an assessment for an accounting period as a result of a person's failure to make a return for that period,

(b) the plastic packaging tax assessed has been paid but no proper return has been made for that period, and

(c) as a result of a failure to make a return for a later accounting period, the Commissioners make another assessment ("the later assessment") under paragraph 2 in relation to the later period.

(2) The Commissioners may, if they consider it appropriate in light of the absence of a proper return for the earlier period, specify in the later assessment an amount of plastic packaging tax due that is greater than the amount that they would have considered to be appropriate had they had regard only to the later period.

Supplementary assessments

4 (1) Sub-paragraph (2) applies where—

(a) an assessment has been notified to a person under paragraph 2(2), and

(b) it appears to the Commissioners that the amount which ought to have been assessed as due exceeds the amount that has already been assessed.

(2) The Commissioners—

(a) may make a supplementary assessment of the amount of plastic packaging tax due from the person to the best of their judgement, and

(b) where such an assessment is made, must notify the person of that amount.

Further provision about assessments under paragraphs 2 and 4

5 (1) An amount assessed and notified to a person under paragraph 2 or 4 is recoverable on the basis that it is an amount of plastic packaging tax due from that person.

(2) But sub-paragraph (1) does not apply if, or to the extent that, the assessment has been withdrawn or reduced.

Time limits for assessments

6 (1) An assessment under paragraph 2 or 4 may not be made after the relevant time.

(2) Except in a case within sub-paragraph (3) the relevant time is the earlier of—
(a) the end of the period of 4 years from the end of the accounting period to which the assessment relates, or
(b) the end of the period of 1 year beginning with the day on which evidence of facts, sufficient in the opinion of the Commissioners to justify the making of the assessment, comes to their knowledge.

(3) Where an assessment of an amount due from a person is made in a case involving loss of plastic packaging tax—
(a) brought about deliberately by the person, or
(b) attributable to a failure by the person to comply with a requirement of section 55 or a requirement of regulations under section 58,

the relevant time is the end of the period of 20 years from the end of the accounting period to which the assessment relates.

(4) In sub-paragraph (3) the reference to a loss brought about by a person includes a reference to a loss brought about by another person acting on behalf of that person.

PART 2

REPAYMENTS

Repayments of overpaid tax

7 (1) This paragraph applies where a person (P) has paid an amount to the Commissioners by way of plastic packaging tax which was not tax due.

(2) The Commissioners are liable, on the making of a claim by P, to repay the amount.

(3) The Commissioners may by regulations make provision about—
(a) the form and manner of a claim;
(b) the information required in support of a claim.

(4) Except as provided by this paragraph, the Commissioners are not liable to repay any amount paid by way of plastic packaging tax by reason of the fact that it was not tax due.

(5) This paragraph is subject to paragraph 8.

Supplementary provision about repayment etc

8 (1) The Commissioners are not liable, on any claim for a repayment of plastic packaging tax, to repay any amount—
(a) paid more than 4 years before the making of the claim;
(b) if, or to the extent that, any person has become entitled to a tax credit in respect of that amount.

(2) It is a defence to any claim for repayment of an amount of plastic packaging tax that the repayment of that amount would unjustly enrich the claimant.

9 (1) This paragraph applies where—
(a) an amount has been paid by way of plastic packaging tax which (apart from paragraph 8(2)) would fall to be repaid to a person (P), and
(b) the whole or a part of the cost of the payment of that amount to the Commissioners has, for practical purposes, been borne by a person other than P.

(2) Where loss or damage has been, or may be, incurred by P as a result of mistaken assumptions made in P's case about the operation of any provisions relating to plastic packaging tax, that loss or damage is to be disregarded, except to the extent of the quantified amount, in the making of a relevant determination.

(3) In sub-paragraph (2)—
(a) "the quantified amount" means the amount (if any) which is shown by P to constitute the amount that would appropriately compensate P for loss or damage shown by P to have resulted, for any business carried on by P, from the making of the mistaken assumptions;
(b) a "relevant determination" means a determination for the purposes of paragraph 8(2) as to—
(i) whether or to what extent the repayment of an amount would enrich P, or
(ii) whether or to what extent any enrichment of P would be unjust.

(4) The reference in sub-paragraph (2) to provisions relating to plastic packaging tax is a reference to—
(a) any provision made by or under any enactment which relates to the tax or to any matter connected with it, or
(b) any notice published by the Commissioners under or for the purposes of any such provision.

Reimbursement arrangements

10 (1) The Commissioners may by regulations make provision for reimbursement arrangements to be disregarded for the purposes of paragraph 8(2) except where the arrangements—
(a) contain such provision as may be required by the regulations, and
(b) are supported by such undertakings to comply with the provisions of the arrangements as may be required by the regulations to be given to the Commissioners.

(2) In this paragraph "reimbursement arrangements" means arrangements for the purposes of a claim to a repayment of plastic packaging tax which—
(a) are made by a person for the purpose of securing that the person is not unjustly enriched by the repayment of any amount in pursuance of the claim, and
(b) provide for the reimbursement of a person who has for practical purposes borne the whole or any part of the cost of the original payment of that amount to the Commissioners.

(3) Regulations under this paragraph may (among other things) make provision requiring reimbursement arrangements to contain provision—

(a) requiring a reimbursement for which the arrangements provide to be made within a specified period after the repayment to which it relates;

(b) for the repayment of amounts to the Commissioners where those amounts are not reimbursed in accordance with the arrangements;

(c) requiring interest paid by the Commissioners on any amount repaid by them to be treated in the same way as that amount for the purposes of any requirement under the arrangements to make reimbursement or to repay the Commissioners;

(d) requiring records of a specified description relating to the arrangements to be kept and produced to the Commissioners, or to an officer of HMRC;

(e) imposing obligations on specified persons for the purposes of provision made under paragraphs (a) to (d).

(4) Regulations under this paragraph may—

(a) make provision about the form, manner and timing of undertakings given to the Commissioners in accordance with the regulations;

(b) provide for those matters to be determined by the Commissioners in accordance with the regulations.

Assessment for excessive repayment

11 (1) Sub-paragraph (3) applies where—

(a) an amount has been paid at any time to a person by way of a repayment of plastic packaging tax, and

(b) the amount paid exceeded the amount which the Commissioners were liable at that time to repay to that person.

(2) Sub-paragraph (3) also applies where a person is liable to pay any amount to the Commissioners in pursuance of an obligation imposed by regulations under paragraph 10(3)(b), (c) or (e).

(3) The Commissioners may—

(a) to the best of their judgement, assess the amount of the excess (in a case within sub-paragraph (1)) or the amount due (in a case within sub-paragraph (2)), and

(b) where such an assessment is made, notify the amount to the person.

(4) Subject to sub-paragraph (5), where—

(a) an assessment is made on any person under this paragraph in respect of a repayment of plastic packaging tax, and

(b) the Commissioners have power under Part 1 of this Schedule to make an assessment on that person as to an amount of plastic packaging tax due from that person,

the assessments may be combined and notified to the person as one assessment.

(5) A notice of a combined assessment under sub-paragraph (4) must separately identify the amount being assessed in respect of repayments of plastic packaging tax.

Supplementary assessments

12 (1) Sub-paragraph (2) applies where—

(a) an assessment has been notified to a person under paragraph 11, and
(b) it appears to the Commissioners that the amount which ought to have been assessed as due exceeds the amount that has already been assessed.

(2) The Commissioners may—
(a) on or before the last day on which the assessment under paragraph 11 could have been made, make a supplementary assessment of the amount of plastic packaging tax due from the person, and
(b) where such a supplementary assessment is made, notify the amount to that person.

Further provision about assessments under paragraphs 11 and 12

13 (1) Where an amount has been assessed and notified to a person under paragraph 11 or 12, it is recoverable on the basis that it is an amount of plastic packaging tax due from that person.

(2) But sub-paragraph (1) does not have effect if, or to the extent that, the assessment has been withdrawn or reduced.

Time limit for assessments

14 An assessment under paragraph 11 or 12 may not be made more than 2 years after evidence of facts sufficient in the opinion of the Commissioners to justify making the assessment comes to their knowledge.

SCHEDULE 11

Section 62

PLASTIC PACKAGING TAX: REVIEWS AND APPEALS

PART 1

APPEALABLE DECISIONS ETC

Appealable decisions etc

1 (1) A person may appeal against a decision of the Commissioners or an officer of HMRC in respect of any of the following matters—
(a) whether or not a person is liable to pay an amount of plastic packaging tax;
(b) the amount of plastic packaging tax payable by a person;
(c) the registration, or cancellation of registration, of a person under this Part for the purposes of plastic packaging tax;
(d) the issuing of a secondary liability and assessment notice under paragraph 2 of Schedule 9;
(e) a refusal to revoke a secondary liability and assessment notice under paragraph 5 of Schedule 9;
(f) the issuing of a joint and several liability notice under paragraph 10 of Schedule 9;
(g) a refusal to revoke a joint and several liability notice under paragraph 13 or 14 of Schedule 9;

(h) a decision about the date on which the revocation of a joint and several liability notice is to have effect in accordance with a notification given under paragraph 13 of Schedule 9;

(i) a person's entitlement to a tax credit, the withdrawal of a tax credit, the amount of a tax credit or the period for which a tax credit is to be brought into account under regulations under section 53;

(j) a decision to require any security under regulations under section 65 or as to its amount;

(k) whether the Commissioners are liable to repay an amount to a person under paragraph 7(2) of Schedule 10 or the amount of such a repayment;

(l) whether or not the repayment of an amount under that paragraph is excessive (see paragraph 11 of that Schedule);

(m) the amount that a person is liable to pay the Commissioners in pursuance of an obligation imposed by regulations under paragraph 10(3)(b), (c) and (e) of that Schedule;

(n) whether or not a person is liable to a penalty under this Part or in respect of this Part or the amount of such a penalty;

(o) the period by reference to which payments of plastic packaging tax are to be made.

(2) A person may also appeal against the following determinations and directions of the Commissioners or an officer of HMRC—

(a) a determination that a packaging component—

(i) is a plastic packaging component;

(ii) is chargeable;

(b) a direction under section 63(4);

(c) a determination or direction by the Commissioners under regulations under section 69—

(i) that a person must appoint a tax representative;

(ii) not to approve the appointment of a tax representative;

(iii) withdrawing their approval of a tax representative;

(iv) requiring the replacement of a tax representative;

(d) the giving of a direction or supplementary direction by the Commissioners under section 72(2) or (4);

(e) a determination in respect of an application under regulations under section 74 or 75;

(f) a direction given to the person under paragraph 2(4)(b) or 10(4)(b) of Schedule 9;

(g) a determination on an application under Schedule 13 for group treatment or a determination by the Commissioners to terminate group treatment under that Schedule.

2 In Parts 2 and 3 of this Schedule, references to a decision include references to a determination and a direction.

PART 2

REVIEWS

Offer of review

3 (1) HMRC must offer a person (P) a review of a decision that has been notified to P if an appeal in respect of the decision may be brought under paragraph 1.

(2) The offer of the review must be made by notice given to P at the same time as the decision is notified to P.

(3) This paragraph does not apply to the notification of the conclusions of a review.

Right to require review

4 (1) Any person (other than P) who has the right of appeal under paragraph 1 against a decision may require HMRC to review that decision if the person has not appealed to the appeal tribunal under that paragraph.

(2) A notification that such a person requires a review must be made within the period of 30 days beginning with the day on which that person became aware of the decision.

Review by HMRC

5 (1) HMRC must review a decision if—

(a) they have offered a review of the decision under paragraph 3, and

(b) P notifies HMRC accepting the offer within the period of 30 days beginning with the date of the document notifying P of the decision.

(2) But P may not notify acceptance of the offer if P has already appealed to the appeal tribunal under paragraph 1.

(3) HMRC must also review a decision if a person other than P notifies them under paragraph 4.

(4) HMRC may not review a decision if P, or another person, has appealed to the appeal tribunal under paragraph 1 in respect of the decision.

Extensions of time for requiring review

6 (1) If under paragraph 3 HMRC have offered P a review of a decision, HMRC may within the period for requiring a review notify P that that period is extended.

(2) If under paragraph 4 another person may require HMRC to review a matter, HMRC may within the period for requiring a review notify the other person that that period is extended.

(3) If notice is given the period for requiring a review is extended to the end of the period of 30 days beginning with—

(a) the date of the notice, or

(b) any other date set out in the notice or a further notice.

(4) In this paragraph, "period for requiring a review" means—
  (a) the period of 30 days referred to in—
    (i) paragraph 5(1)(b)(in a case falling within sub-paragraph (1)), or
    (ii) paragraph 4(2) (in a case falling within sub-paragraph (2)), or
  (b) if notice has been given under sub-paragraph (1) or (2), that period as extended (or as most recently extended) in accordance with sub-paragraph (3).

Review out of time

7 (1) This paragraph applies if—
  (a) HMRC have offered a review of a decision under paragraph 3 and P does not accept the offer within the time allowed under paragraph 5(1)(b) or 6(3), or
  (b) a person who requires a review under paragraph 4 does not notify HMRC within the time allowed under paragraph 4(2) or 6(3).

(2) HMRC must review the decision under paragraph 5 if—
  (a) after the time allowed, P, or the other person, notifies HMRC in writing requesting a review out of time,
  (b) HMRC are satisfied that P, or the other person, had a reasonable excuse for not accepting the offer or requiring a review within the time allowed, and
  (c) HMRC are satisfied that P, or the other person, made the request without unreasonable delay after the excuse had ceased to apply.

(3) But HMRC shall not review a decision if P, or another person, has appealed to the appeal tribunal under paragraph 1 in respect of the decision.

Nature of review etc

8 (1) This paragraph applies if HMRC are required to undertake a review under paragraph 5 or 7.

(2) The nature and extent of the review are to be such as appear appropriate to HMRC in the circumstances.

(3) For the purposes of sub-paragraph (2), HMRC must, in particular, have regard to steps taken before the beginning of the review—
  (a) by HMRC in reaching the decision, and
  (b) by any person in seeking to resolve disagreement about the decision.

(4) The review must take account of any representations made by P, or the other person, at a stage which gives HMRC a reasonable opportunity to consider them.

(5) The review may conclude that the decision is to be—
  (a) upheld,
  (b) varied, or
  (c) cancelled.

(6) HMRC must give P, or the other person, notice of the conclusions of the review and their reasoning within—
  (a) the period of 45 days beginning with the relevant date, or

(b) such other period as HMRC and P, or HMRC and the other person, may agree.

(7) In sub-paragraph (6), "the relevant date" means—

(a) in a case falling within paragraph 3, the date HMRC received P's notification accepting the offer of a review,

(b) in a case falling within paragraph 4, the date HMRC received notification from another person requiring a review, or

(c) in a case falling within paragraph 7, the date on which HMRC decided to undertake the review.

(8) Where HMRC are required to undertake a review but do not give notice of the conclusions within the period specified in sub-paragraph (6), the review is to be treated as having concluded that the decision is upheld.

(9) If sub-paragraph (8) applies, HMRC must notify P, or the other person, of the conclusion which the review is treated as having reached.

PART 3

APPEALS

"Appeal tribunal"

9 In this Schedule "appeal tribunal" means the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal.

Bringing of appeals

10 (1) An appeal under paragraph 1 is to be made to the appeal tribunal before—

(a) the end of the period of 30 days beginning with—

(i) in a case where P is the appellant, the date of the document notifying P of the decision to which the appeal relates, or

(ii) in a case where a person other than P is the appellant, the day on which that person becomes aware of the decision, or

(b) if later, the end of the period for requiring a review (within the meaning of paragraph 6).

(2) But that is subject to sub-paragraphs (3) to (5).

(3) In a case where HMRC are required to undertake a review under paragraph 5—

(a) an appeal may not be made until the conclusion date, and

(b) any appeal is to be made within the period of 30 days beginning with that date.

(4) In a case where HMRC are requested to undertake a review under paragraph 7—

(a) an appeal may not be made to the appeal tribunal—

(i) unless HMRC have notified P, or the other person, as to whether or not a review will be undertaken, and

(ii) if HMRC have notified P, or the other person, that a review will be undertaken, until the conclusion date;

(b) any appeal where paragraph (a)(ii) applies is to be made within the period of 30 days beginning with the conclusion date;

(c) if HMRC have notified P, or the other person, that a review will not be undertaken, an appeal may be made only if the appeal tribunal gives permission to do so.

(5) In a case where paragraph 8(8) applies, an appeal may be made at any time from the end of the period specified in paragraph 8(6) to the date 30 days after the conclusion date.

(6) An appeal may be made after the end of any period specified in this paragraph if the appeal tribunal gives permission to do so.

(7) In this paragraph, "conclusion date" means the date of the document notifying the conclusions of the review.

Further provision about appeals

11 (1) An appeal relating to a decision that an amount is due from a person may not be considered by the appeal tribunal unless the amount which HMRC have determined to be due has been paid or deposited with HMRC.

(2) But sub-paragraph (1) does not apply if—

(a) HMRC are satisfied or, if HMRC are not satisfied but the appeal tribunal have decided, on the application of the appellant, that the requirement to pay or deposit the amount would cause the appellant to suffer hardship, and

(b) the appellant has paid or deposited such other amount (if any) by way of security as HMRC or, as the case may be, the appeal tribunal consider appropriate.

(3) Notwithstanding the provisions of sections 11 and 13 of the Tribunals, Courts and Enforcement Act 2007, the decision of the appeal tribunal as to the issue of hardship is final.

Determinations on appeal

12 (1) Where, on an appeal under paragraph 1—

(a) it is found that an assessment of the appellant is an assessment for an amount that is less than it ought to have been, and

(b) the appeal tribunal give a direction specifying the correct amount,

the assessment has effect as an assessment of the amount specified in the direction and (without prejudice to any power under this Schedule to reduce the amount of interest payable on the amount of an assessment) as if it were an assessment notified to the appellant in that amount at the same time as the original assessment.

(2) On an appeal under paragraph 1, the powers of the appeal tribunal in relation to any decision of the Commissioners includes a power, where the tribunal allow an appeal on the ground that the Commissioners could not reasonably have arrived at the decision, either—

(a) to direct that the decision, so far as it remains in force, is to cease to have effect from such time as the tribunal may direct, or

(b) to require the Commissioners to conduct, in accordance with the directions of the tribunal, a review or a further review of the original decision as appropriate.

(3) Where, on an appeal under paragraph 1, the appeal tribunal find that a liability to a penalty or to an amount of interest arises, the tribunal must not give any direction for the modification of the amount payable in respect of that liability except—
  (a) in exercise of a power conferred on the tribunal by section 80(6) (penalties), or
  (b) for the purpose of making the amount payable conform to the amount due in accordance with this Part.

(4) Sections 85 and 85B of the Value Added Tax Act 1994 (settling of appeals by agreement and payment of tax where there is a further appeal) have effect as if—
  (a) the references to section 83 of that Act included references to paragraph 1 of this Schedule, and
  (b) the references to value added tax included references to plastic packaging tax.

SCHEDULE 12

Section 64

PLASTIC PACKAGING TAX: INFORMATION AND EVIDENCE

PART 1

INFORMATION

Power to take samples

1 (1) An authorised person may at any time take such samples from a product as the person requires for the purpose of determining how the product ought to be treated, or ought to have been treated, for the purposes of plastic packaging tax.

(2) A sample may only be taken under this paragraph if the authorised person—
  (a) has reasonable cause to believe that the product is a chargeable plastic packaging component, and
  (b) considers it necessary for the protection of the revenue against mistake or fraud.

(3) A sample taken under this paragraph must be disposed of in such manner as the Commissioners may direct.

(4) In this paragraph "authorised person" means a person acting under the authority of the Commissioners.

Disclosure of information

2 (1) The Commissioners may disclose information obtained or held by them in, or in connection with, their functions in relation to plastic packaging tax to—
  (a) the Secretary of State;
  (b) the Environment Agency;
  (c) the Scottish Environmental Protection Agency;
  (d) Natural Resources Wales;
  (e) the Medicines and Healthcare Products Regulatory Agency;

(f) the Department of Agriculture, Environment and Rural Affairs in Northern Ireland or any agency thereof;

(g) an authorised officer of a person listed in paragraphs (a) to (f).

(2) Information may only be disclosed under sub-paragraph (1) for the purpose of assisting a person listed in paragraphs (a) to (g) of that sub-paragraph in the performance of their duties.

(3) A person listed in sub-paragraph (1)(a) to (g) may disclose information to the Commissioners, or to an authorised officer of the Commissioners, for the purposes of assisting the Commissioners in the performance of their duties relating to plastic packaging tax.

(4) No charge may be made for any disclosure made by virtue of this paragraph.

(5) Nothing in this paragraph permits the disclosure of information which, although disclosed in compliance with this paragraph, would contravene the data protection legislation.

(6) In this paragraph "data protection legislation" has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act).

(7) References in this paragraph to an authorised officer of any person are to any person who has been designated by the principal as a person to and by whom information may be disclosed by virtue of this paragraph.

PART 2

EVIDENCE

Evidence by certificate

3 (1) A certificate of the Commissioners that—

(a) a person was or was not at any time registered, or

(b) that a return required by regulations under section 61 has not been made or had not been made at any time,

is, in any proceedings evidence, or in proceedings in Scotland sufficient evidence, of that fact.

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

(3) In any proceedings any document purporting to be a certificate under sub-paragraph (1) or (2) is to be taken to be such a certificate unless the contrary is shown.

Inducements to provide information

4 (1) This paragraph applies to—

(a) criminal proceedings against a person in respect of an offence in connection with or in relation to plastic packaging tax;

(b) proceedings against a person for the recovery of a sum due in connection with or in relation to plastic packaging tax.

(2) A statement made, or a document produced, by or on behalf of the person is not inadmissible in proceedings to which this paragraph applies only by reason that—
  (a) a matter falling within sub-paragraph (3) or (4) was drawn to that person's attention, and
  (b) the person was, or may have been, induced to make the statement or provide the document as a result.

(3) The matters falling within this sub-paragraph are—
  (a) that, in relation to plastic packaging tax, the Commissioners may assess an amount due by way of a penalty instead of instituting criminal proceedings;
  (b) that it is the practice of the Commissioners (without giving any undertaking as to whether they will make such an assessment in any case) to be influenced by whether a person—
    (i) has made a full confession of any dishonest conduct to which the person has been, or is, a party;
    (ii) has otherwise co-operated fully with any investigation.

(4) The matter falling within this sub-paragraph is the fact that the Commissioners or, on appeal, an appeal tribunal have power by or under this Part to reduce a penalty.

SCHEDULE 13

Section 71

PLASTIC PACKAGING TAX: GROUPS OF COMPANIES

Bodies eligible for group treatment

1 (1) Two or more bodies are eligible to be treated as members of the same group for the purposes of this Part ("eligible bodies") if—
  (a) they are all bodies corporate,
  (b) at least one of the bodies has an established place of business in the United Kingdom, and
  (c) they are all under the same control.

(2) A body is eligible to be the representative member of a group if the body—
  (a) is resident in the United Kingdom, or
  (b) has a permanent establishment in the United Kingdom.

(3) A body is not an eligible body in relation to a group if it is a member of another group.

2 For the purposes of paragraph 1—
  (a) two or more bodies are under the same control if—
    (i) one of them controls each of the others,
    (ii) one person (whether a body corporate or an individual) controls all of them, or
    (iii) two or more individuals carrying on a business in partnership control all of them;
  (b) a body corporate controls another body corporate only if—
    (i) it is empowered by statute to control that body's activities, or

(ii) it is that body's holding company within the meaning of section 1159 of and Schedule 6 to the Companies Act 2006;

(c) an individual controls, or individuals control, a body corporate only if they would be that body's holding company within the meaning of those provisions, if they were a company.

Application for group treatment

3 (1) Two or more eligible bodies may apply to the Commissioners to be treated as members of the same group from the time specified in the application (the "specified time").

(2) An application under this paragraph must specify which body is to be the representative member.

(3) The "specified time" means the beginning of the accounting period specified in the application but the period specified must not be before the beginning of the period in which the application is made.

4 (1) The Commissioners may only refuse an application under paragraph 3 if—

(a) it appears to them that the application—

(i) has been made in respect of a body that is not an eligible body, or

(ii) specifies as the representative body a body that is not eligible to be the representative body, or

(b) they consider it necessary to refuse the application for the protection of the revenue.

(2) But the Commissioners may not refuse an application on the basis of sub-paragraph (1)(b) after the end of the period of 90 days beginning with the day on which the application is received by them.

Applications to modify group treatment

5 (1) Where two or more bodies are treated as members of the same group, the representative member may apply to the Commissioners to—

(a) treat another eligible body as a member of the group,

(b) change which member of the group is the representative member,

(c) exclude a member of the group, or

(d) terminate the treatment of the members as members of a group,

from the time specified in the application (the "specified time").

(2) The "specified time" means the beginning of the accounting period specified in the application but the period specified must not be a period before the period in which the application is made.

6 (1) The Commissioners may only refuse an application under paragraph 5(1)(a) or (1)(b) if they consider it necessary to refuse the application for the protection of the revenue.

(2) The Commissioners may only refuse an application under paragraph 5(1)(c) or (1)(d) if—

(a) the case does not fall within paragraph 8, and

(b) they consider it necessary to refuse the application for the protection of the revenue.

Applications relating to group treatment

7 Any application under this Schedule in respect of any bodies corporate must be made by—
(a) one of those bodies, or
(b) the person controlling those bodies.

Termination of group treatment by the Commissioners

8 The Commissioners may, by notice given to the members of the group concerned, terminate the treatment of any body corporate as a member of the group from the time specified in the notice where—
(a) it appears to the Commissioners that the body is not an eligible body in relation to the group, or
(b) the Commissioners consider it necessary to do so for the protection of the revenue.

9 Where—
(a) a body corporate ceases to be treated as a member of a group under paragraph 5(1)(c) or 8,
(b) immediately before that time the body was the representative member of the group,
(c) immediately after that time there are two or more bodies corporate who will continue to be treated as members of the group, and
(d) none of those bodies becomes the representative member under paragraph 5(1)(b),

the Commissioners must, by notice given to such one of the bodies mentioned in paragraph (c) as the Commissioners consider appropriate, substitute that body as the representative member from the time specified in the notice.

10 (1) The time specified in a notice under paragraph 8(a) may be a time before the giving of the notice but must not be before the time when the body ceased to be an eligible body.

(2) The time specified in a notice under paragraph 8(b) must not be a time before the day on which the notice is given to the members.

(3) The time specified in a notice under paragraph 9 may be a time before the giving of the notice.

Notifications relating to group treatment

11 (1) Where two or more bodies are treated as members of the same group and one of those bodies ceases to be an eligible body, that body must so notify the Commissioners.

(2) A body corporate designated as a representative member of a group must not cease to have an established place of business in the United Kingdom without first notifying the Commissioners.

Regulations about applications and notifications

12 (1) The Commissioners may by regulations make provision about—

(a) the timing of applications under this Schedule (including conferring power on the Commissioners to extend the time for making such applications);
(b) the form and manner of such applications;
(c) the information and particulars to be contained in or provided in connection with such applications.

(2) The Commissioners may also by regulations make provision requiring a person who has made an application under this Schedule to notify the Commissioners if any of the information contained in or provided in connection with the application is or becomes inaccurate.

(3) Sub-paragraph (1) applies in relation to notifications by the Commissioners under this Schedule as it applies in relation to applications under this Schedule.

SCHEDULE 14

Section 80

PLASTIC PACKAGING TAX: ASSESSMENT OF PENALTIES UNDER SECTION 80

Interpretation

1 In this Schedule "penalty" means a penalty under section 80 (penalty for contravening relevant requirements).

Assessment etc of penalty

2 Where a person is liable to a penalty, the Commissioners—
(a) may assess the amount of that penalty, and
(b) where such an assessment is made, must notify the person of that amount.

3 (1) Sub-paragraph (2) applies where—
(a) the Commissioners have made an assessment of a penalty, and
(b) it appears to the Commissioners that the amount which ought to have been assessed exceeds the amount that has already been assessed.

(2) The Commissioners—
(a) may make a supplementary assessment of the amount of the penalty, and
(b) where such an assessment is made, must notify the person of that amount.

Further provision about assessments under paragraphs 2 and 3

4 (1) An amount assessed and notified to a person under paragraph 2 or 3 is recoverable on the basis that it is an amount of plastic packaging tax due from that person.

(2) But sub-paragraph (1) does not apply if, or to the extent that, the assessment has been withdrawn or reduced.

5 The fact that an act or omission giving rise to a penalty has ceased before an assessment is made under paragraph 2 or 3 does not affect the power of the Commissioners to make such an assessment.

6 (1) Sub-paragraph (2) applies where—
(a) the Commissioners assess a person to an amount due by way of a penalty under paragraph 2 or 3, and
(b) the person is also assessed under Schedule 10 for an accounting period to which the act or omission attracting the penalty is referable.

(2) The assessments under paragraph 2 or 3 and Schedule 10 may be combined and notified to the person as one assessment.

(3) A notice of a combined assessment under sub-paragraph (2) must separately identify the penalty being assessed.

Assessment etc of daily penalties

7 (1) Where an assessment is made under paragraph 2 or 3 to an amount of a penalty to which any person is liable, the notification of that amount must specify a time, not later than the end of the day of the giving of the notification, to which the amount of any daily penalty is calculated.

(2) For the purposes of sub-paragraph (1) "daily penalty" means a penalty imposed under section 80(1)(b).

(3) If further penalties accrue in respect of a continuing failure after that date, a further assessment or further assessments may be made under paragraph 2 or 3 in respect of the amounts so accruing.

8 (1) Sub-paragraph (2) applies where—
(a) an assessment to a penalty is made specifying a date for the purposes of paragraph 7(1) above, and
(b) the failure in question is remedied within such period as may for the purposes of this sub-paragraph have been notified by the Commissioners to the person liable for the penalty.

(2) The failure is to be deemed for the purposes of any further liability to a penalty to have been remedied on the specified date.

Time limits for assessments

9 (1) An assessment under paragraph 2 or 3 may not be made after the end of the relevant period.

(2) Except in a case within sub-paragraph (3) the relevant period is the period of 4 years from the act or omission to which the penalty relates.

(3) Where an assessment under paragraph 2 or 3 is made in a case involving loss of plastic packaging tax—
(a) brought about deliberately by the person, or
(b) attributable to a failure by the person to comply with a requirement of section 55 or a requirement of regulations under section 58,

the relevant period is the period of 20 years from the act or omission to which the penalty relates.

(4) In sub-paragraph (3) the reference to a loss brought about by a person includes a reference to a loss brought about by another person acting on behalf of that person.

SCHEDULE 15

Section 82

PLASTIC PACKAGING TAX: AMENDMENTS OF OTHER LEGISLATION

PART 1

PENALTIES

Failure to notify etc

1 (1) Schedule 41 to FA 2008 (penalties: failure to notify etc) is amended as follows.

(2) In the Table in paragraph 1, after the entries relating to insurance premium tax, insert—

"Plastic packaging tax	Obligation under section 56 of FA 2021 (obligation to give notice of liability to be registered)."

(3) In paragraph 7(9) (potential lost revenue), in the opening words, after "insurance premium tax," insert "plastic packaging tax ,".

Failure to comply with requirements relating to returns

2 (1) Schedule 55 to FA 2009 (penalty for failure to make returns etc) is amended as follows.

(2) In paragraph 1(4), in the definition of "penalty date" for "13A" substitute "13B".

(3) In the table in paragraph 1, after item 13A insert—

"13B	Plastic packaging tax	Return under regulations under section 61 of FA 2021".

3 (1) In Schedule 10 to F(No.3)A 2010 (which prospectively amends Schedule 55 to FA 2009 (penalties for failure to make returns etc)) in paragraph 7, in the inserted paragraph 13A(1), after "13A" insert ", 13B".

(2) The amendments to Schedule 55 to FA 2009 made by Schedule 10 to F(No.3)A 2010 (including the amendment made by sub-paragraph (1)) are taken to have come into force for the purposes of plastic packaging tax on the day on which this paragraph comes into force.

Failure to make payment on time

4 In Schedule 56 to FA 2009, in the Table in paragraph 1 (penalty for failure to make payments on time)—

(a) after item 11A insert—

"11AA	Plastic packaging tax	Amount payable under regulations under section 61 of FA 2021	The date determined by or under regulations under section 61 of FA 2021 as the date by which the amount must be paid
11AB	Plastic packaging tax	Amount payable by virtue of secondary liability and assessment notice or joint and several liability notice under Schedule 9 to FA 2021	The date determined in accordance with Schedule 9 to FA 2021 as the date by which the amount must be paid";

(b) after item 16A insert—

"16AA	Plastic packaging tax	Amount assessed under Schedule 10 to FA 2021	The date by which the amount would have been required to be paid if it had been shown in the return".

5 (1) In Schedule 11 to F(No.3)A 2010 (which prospectively amends Schedule 56 to FA 2009 (penalties for failure to make payments)), in paragraph 2—

(a) in sub-paragraph (13)(a), in the substituted text of item 23 in the Table in paragraph 1 of Schedule 56 to FA 2009, in columns 1 and 2, for "or 11A" substitute ", 11A or 11B";

(b) in sub-paragraph (14)(a), in the substituted text of item 24 in the Table in paragraph 1 of Schedule 56 to FA 2009, for "or 11A" substitute ", 11A or 11B".

(2) The amendments to Schedule 56 to FA 2009 made by Schedule 11 to F(No.3)A 2010 (including the amendments made by this paragraph) are

taken to have come into force for the purposes of plastic packaging tax on the day on which paragraph 4 of this Schedule comes into force.

Errors in documents

6 In Schedule 24 to FA 2007 (penalties for errors), in the Table in paragraph 1, after the entry relating to the statement under section 1(1)(a) of the Petroleum Revenue Tax Act 1980, insert— *5*

"Plastic packaging tax	Return under regulations under section 61 of FA 2021."

Failure to disclose tax avoidance schemes *10*

7 In Schedule 17 to F(No.2)A 2017 (disclosure of tax avoidance schemes: indirect taxes), in paragraph 2(1), after "landfill tax" insert—

"plastic packaging tax".

Modifications

8 (1) Paragraph 16(1) of Schedule 41 to FA 2008 (penalties: failure to notify etc) has effect in its application to plastic packaging tax as if for "shall" there were substituted "may". *15*

(2) The following provisions have effect in their application to plastic packaging tax as if in each case for "must" there were substituted "may"—

(a) paragraph 18(1) of Schedule 55 to FA 2009 (penalty for failure to make returns etc); *20*

(b) paragraph 11(1) of Schedule 56 to FA 2009 (penalty for failure to make payments on time).

PART 2

MISCELLANEOUS *25*

Provisional collection of plastic packaging tax

9 In section 1(1) of the Provisional Collection of Taxes Act 1968 (temporary statutory effect of House of Commons resolutions affecting income tax etc) after "digital services tax," insert "plastic packaging tax,".

Isle of Man *30*

10 In section 1(1) of the Isle of Man Act 1979 (common duties), at the end insert ";

(g) plastic packaging tax chargeable under the law of the United Kingdom or the Isle of Man."

HMRC powers to obtain information etc *35*

11 (1) Schedule 36 to FA 2008 (powers to obtain information etc) is amended as follows.

(2) In the Table in paragraph 61A (involved third parties), after item 12 insert—

"13	A person involved (in any capacity) in the production, or importation to or exportation from the United Kingdom, of packaging components (within the meaning of section 48 of FA 2021) or in connected activities	Documents relating to matters in which the person is or has been involved	Plastic packaging tax
14	A person involved (in any capacity) in the purchase or sale of plastic packaging components (within the meaning of section 48 of FA 2021) or of goods packaged in such components	Documents relating to matters in which the person is or has been involved	Plastic packaging tax"

(3) In paragraph 63(1) (meaning of "tax"), after paragraph (i) insert—

"(iza) plastic packaging tax,".

Interest

12 In Schedule 53 to FA 2009 (late payment interest) after paragraph 11C insert—

"Plastic packaging tax due from unregistered persons

11D (1) This paragraph applies where an amount of plastic packaging tax is due from a person (P) in respect of a period during which P meets the liability condition but was not registered.

(2) The late payment interest start date in respect of the amount is the date which would have been the late payment interest date in respect of that amount if P had been registered when P first became liable to be registered.

(3) For the purposes of this paragraph P meets the "liability condition" at a particular time if—

(a) at the end of the preceding month, the condition in section 55(2)(b) of FA 2021 (liability to register) is met in relation to P, or

(b) at that time, the condition in section 55(2)(a) of that Act is met in relation to P."

Serial tax avoidance

13 In Schedule 18 to FA 2016 (serial tax avoidance), in paragraph 4(2), after "landfill tax" insert—

"plastic packaging tax".

SCHEDULE 16

Section 88

SDLT: INCREASED RATES FOR NON-RESIDENT TRANSACTIONS

Amendments of FA 2003

1 In FA 2003, Part 4 (stamp duty land tax) is amended as follows.

2 After section 75 insert—

"Increased rates for non-resident transactions

75ZA Increased rates for non-resident transactions

(1) In its application for the purpose of determining the amount of tax chargeable in respect of a chargeable transaction that is a non-resident transaction, this Part has effect as if 2% were added to each rate specified in the rate-specifying provisions.

(2) The "rate-specifying provisions" are—

(a) in section 55(1B), Table A;
(b) in Schedule 4ZA, in paragraph 1(2), Table A;
(c) in Schedule 4A, paragraph 3(1)(a);
(d) in Schedule 5, in paragraph 2(3), Table A;
(e) in Schedule 6ZA, in paragraph 4, Table A;
(f) in section 74(1A), Step 4.

(3) Schedule 9A defines "non-resident transaction" and makes further provision in connection with this section.

Anti-avoidance".

3 In section 101 (unit trust schemes), in subsection (7), at the end insert ", or Schedule 9A (increased rates for non-resident transactions)."

4 In section 122 (index of defined expressions), in the table, at the appropriate place insert—

"non-resident transaction	Schedule 9A, paragraph 2"

5 After Schedule 9 insert—

"SCHEDULE 9A Section 75ZA

INCREASED RATES FOR NON-RESIDENT TRANSACTIONS

PART 1

INTRODUCTION

1 This Schedule is arranged as follows—

(a) Part 2 explains how to determine for the purposes of this Part of this Act whether a chargeable transaction is a "non-resident transaction";

(b) Part 3 explains how to determine for the purposes of this Schedule whether an individual is "non-resident" in relation to a chargeable transaction;

(c) Part 4 explains how to determine for the purposes of this Schedule whether a company is "non-resident" in relation to a chargeable transaction;

(d) Part 5 contains special rules applying in relation to particular purchasers and transactions;

(e) Part 6 contains supplementary provision.

PART 2

MEANING OF "NON-RESIDENT TRANSACTION"

Meaning of "non-resident transaction"

2 (1) A chargeable transaction is a "non-resident transaction" for the purposes of this Part of this Act if—

(a) the purchaser is, or (if there is more than one) the purchasers include, a person who is non-resident in relation to the transaction,

(b) the main subject-matter of the transaction consists of—

(i) a major interest in one or more dwellings, or

(ii) a major interest in one or more dwellings and other property,

(c) that major interest, at the beginning of the effective date of the transaction, is not a term of years absolute or leasehold estate that has 7 years or less to run, and

(d) the de minimis threshold is exceeded.

(2) A reference in sub-paragraph (1)(b) or (c) to a major interest in a dwelling includes an undivided share in a major interest in a dwelling.

(3) For the purposes of sub-paragraph (1)(d), the de minimis threshold is exceeded if—

(a) in a case in which the chargeable consideration for the transaction does not consist of or include rent, the chargeable consideration for the transaction is £40,000 or more;

(b) in a case in which the chargeable consideration for the transaction consists of or includes rent—

(i) the chargeable consideration other than rent is £40,000 or more, or

(ii) the annual rent is £1,000 or more.

(4) In sub-paragraph (3) "annual rent" in relation to a transaction, means the average annual rent over the term of the lease to which the transaction relates or, if—

(a) different amounts of rents are payable for different parts of the term, and

(b) those amounts (or any of them) are ascertainable at the effective date of the transaction,

the average annual rent over the period for which the highest ascertainable rent is payable.

(5) For provision modifying sub-paragraph (1)(a) in its application to chargeable transactions of particular descriptions, see—

paragraph 13 (bare trust acquiring new lease);

paragraph 14 (purchases by certain settlements).

(6) Sub-paragraph (1) is subject to paragraph 17 (completion of contract previously substantially performed).

PART 3

"NON-RESIDENT" IN RELATION TO A CHARGEABLE TRANSACTION: INDIVIDUALS

Whether individual "non-resident" in relation to a chargeable transaction

3 For the purposes of this Schedule, an individual is "non-resident" in relation to a chargeable transaction if the individual is not UK resident in relation to the transaction (see paragraphs 4 and 5).

Whether individual "UK resident" in relation to a chargeable transaction: basic rule

4 (1) For the purposes of this Schedule, an individual is "UK resident" in relation to a chargeable transaction if the individual is present in the United Kingdom on at least 183 days during any continuous period of 365 days that falls within the relevant period.

(2) "The relevant period" means the period that—

(a) begins with the day 364 days before the effective date of the chargeable transaction, and

(b) ends with the day 365 days after the effective date of the chargeable transaction.

(3) This paragraph does not apply in relation to a chargeable transaction to which paragraph 5 applies.

(4) References in this paragraph to an individual being present in the United Kingdom on a day are to the individual being present in the United Kingdom at the end of that day.

(5) This paragraph is subject to paragraph 12 (spouses and civil partners of UK residents).

Whether individual "UK resident" in relation to a chargeable transaction: special cases

5 (1) For the purposes of this Schedule, an individual is "UK resident" in relation to a chargeable transaction to which this paragraph applies if the individual is present in the United Kingdom on at least 183 days during the period that—

(a) begins with the day 364 days before the effective date of the chargeable transaction, and

(b) ends with the effective date of the chargeable transaction.

(2) This paragraph applies to a chargeable transaction if any of conditions A to C is met in relation to the transaction.

(3) Condition A is that the purchaser is, or (if there is more than one) the purchasers include—

(a) a company, or

(b) a person acting as a trustee of a unit trust scheme.

(4) Condition B is that the purchaser is, or (if there is more than one) the purchasers include, an individual who is treated as entering into the transaction by virtue of paragraph 2 of Schedule 15 (transaction entered into for the purposes of a partnership treated as entered into by partners).

(5) Condition C is that—

(a) the purchaser is, or (if there is more than one) the purchasers include, an individual who is acting as a trustee of a settlement, and

(b) under the terms of the settlement no beneficiary is entitled—

(i) to occupy the dwelling or dwellings for life, or

(ii) to income earned in respect of the dwelling or dwellings.

(6) References in this paragraph to an individual being present in the United Kingdom on a day are to the individual being present in the United Kingdom at the end of that day.

(7) This paragraph is subject to paragraph 12 (spouses and civil partners of UK residents).

Crown employment

6 (1) For the purposes of paragraphs 4 and 5, an individual is (subject to sub-paragraph (3)) treated as present in the United Kingdom at the end of a day if at that time the individual—

(a) is in Crown employment, and

(b) is present in a country or territory outside the United Kingdom for the purpose of performing activities in the course of that employment.

(2) For the purposes of paragraphs 4 and 5, an individual is (subject to sub-paragraph (3)) treated as present in the United Kingdom at the end of a day if at that time the individual—

(a) is the spouse or civil partner of an individual who is treated as present in the United Kingdom at the end of that day under sub-paragraph (1), and
(b) is living with that spouse or civil partner.

(3) Sub-paragraph (1) or (2) applies in relation to an individual only if a claim that it should so apply is included in a land transaction return or an amendment of such a return.

(4) "Crown employment" means employment under the Crown—
(a) which is of a public nature, and
(b) the earnings from which are payable out of the public revenue of the United Kingdom or of Northern Ireland.

(5) Section 1011 of the Income Tax Act 2007 (references to married persons, or civil partners, living together) applies for the purposes of this paragraph.

PART 4

"NON-RESIDENT" IN RELATION TO A CHARGEABLE TRANSACTION: COMPANIES

Whether company is "non-resident" in relation to a chargeable transaction

7 (1) For the purposes of this Schedule a company is "non-resident" in relation to a chargeable transaction if either of the following conditions is met.

(2) The first condition is that, on the effective date of the chargeable transaction, the company is not UK resident for the purposes of the Corporation Tax Acts (see Chapter 3 of Part 2 of CTA 2009).

(3) The second condition is that, on the effective date of the chargeable transaction, the company (though UK resident for the purposes of the Corporation Tax Acts)—
(a) is a close company (see paragraph 8),
(b) meets the non-UK control test in relation to the transaction (see paragraphs 9 and 10), and
(c) is not an excluded company (see paragraph 11).

(4) This paragraph is subject to—
(a) paragraph 15 (co-ownership authorised contractual schemes);
(b) paragraph 16 (alternative property finance).

Meaning of "close company"

8 (1) For the purposes of this Schedule, a company is a "close company" if it is a close company within the meaning given by Chapter 2 of Part 10 of CTA 2010 (basic definitions), applying that Chapter subject to the following modifications.

(2) Section 444 (companies involved with close companies) applies as if condition A in that section were omitted.

(3) Section 446 (particular types of quoted company not treated as close) is treated as omitted.

Non-UK control

9 (1) For the purposes of this Schedule, a company meets the "non-UK control test" in relation to a chargeable transaction if it is a close company within the meaning given by Chapter 2 of Part 10 of CTA 2010 (basic definitions), applying that Chapter subject to the following modifications.

(2) Section 439 ("close company") applies as if—

(a) references to a participator were to a relevant participator, and

(b) references to five or fewer participators were to any number of relevant participators.

(3) In sub-paragraph (2), "relevant participator" means a participator (within the meaning given by Chapter 2 of Part 10 of CTA 2010) who—

(a) is non-resident in relation to the chargeable transaction (within the meaning of this Schedule), and

(b) is not a general partner in a limited partnership.

(4) Section 444 (companies involved with close companies) applies as if condition A in that section were omitted.

(5) Section 446 (particular types of quoted company not treated as close) is treated as omitted.

(6) Section 451 (attribution of rights and powers) has effect subject to the limitations set out in paragraph 10.

(7) The reference in sub-paragraph (3)(b) to a general partner does not include a general partner who possesses, or is entitled to acquire, rights that entitle the general partner, in the event of the winding up of the company or in any other circumstances, to receive more than 1% of the assets of the company which would then be available for distribution among its members.

Non-UK control: attribution of rights and powers

10 (1) This paragraph sets out limitations on the rights and powers of a person (A) that, apart from this paragraph, would be capable of being attributed to another person (B) under section 451(4) of CTA 2010, as that provision applies for the purposes of paragraph 9(1).

(2) Where A and B are partners in a partnership, no rights and powers of A may be attributed to B under paragraph (c) or (d) of section 451(4) of CTA 2010 by virtue of that fact.

(3) Where—

(a) A and B are spouses or civil partners of each other,

(b) A and B are living together, and

(c) A is UK resident in relation to the chargeable transaction,

no rights and powers of A may be attributed to B under paragraph (c) or (d) of section 451(4) of CTA 2010 by virtue of the fact mentioned in paragraph (a).

(4) Where A's or B's interest in a company is de minimis, no rights and powers of A in relation to the company may be attributed to B under any of paragraphs (a) to (d) of section 451(4) of CTA 2010.

(5) For this purpose, a person's interest in a company is "de minimis" if—

(a) the proportion of the share capital or issued share capital in the company that the person possesses or is entitled to acquire is less than 5%,

(b) the proportion of the voting rights in the company that the person possesses or is entitled to acquire is less than 5%,

(c) the issued share capital in the company that the person possesses or is entitled to acquire would, on the assumption that the whole of the income of the company were distributed among the participators, entitle the person to receive less than 5% of the income so distributed, and

(d) the person's rights in the company entitle the person, in the event of the winding up of the company or in any other circumstances, to less than 5% of the assets of the company which would then be available for distribution among the participators.

(6) Any rights A has as a loan creditor are to be disregarded for the purposes of the assumption in sub-paragraph (5)(c).

(7) Section 1011 of the Income Tax Act 2007 (references to married persons, or civil partners, living together) applies for the purposes of this paragraph.

Excluded companies

11 (1) A company is an "excluded company" for the purposes of paragraph 7(3)(c) if it is any of the following—

(a) a PAIF;

(b) a body corporate that is a 51% subsidiary of PAIF;

(c) a company UK REIT;

(d) a company that is a member of a group UK REIT;

(e) a company acting as a trustee of a settlement.

(2) In this paragraph—

(a) "PAIF" means a body corporate that is a property AIF for the purposes of Schedule 7A to this Act by virtue of paragraph 2(2) of that Schedule;

(b) "51% subsidiary" has the same meaning as in the Corporation Tax Acts (see Chapter 3 of Part 24 of CTA 2010);

(c) "company UK REIT" has the same meaning as in Part 12 of CTA 2010 (see section 524(5) of that Act);

(d) "group UK REIT" has the same meaning as in Part 12 of CTA 2010 (see section 523(5) of that Act).

PART 5

SPECIAL RULES FOR PARTICULAR PURCHASERS AND TRANSACTIONS

Spouses and civil partners of UK residents

12 (1) This paragraph applies where—
(a) there are two or more purchasers in relation to a chargeable transaction who are or will be jointly entitled to the interest acquired, and
(b) the following conditions are met in relation to those purchasers.

(2) The conditions are—
(a) that, on the effective date of the transaction, the purchasers, or (if there are more than two) two of them, are spouses or civil partners of each other;
(b) that, on the effective date of the transaction, those spouses or civil partners are living together;
(c) that one of those spouses or civil partners is UK resident in relation to the chargeable transaction;
(d) that (apart from this paragraph) one of those spouses or civil partners is non-resident in relation to the chargeable transaction;
(e) that neither of the spouses or civil partners is acting as a trustee of a settlement.

(3) For the purposes of this Schedule, the spouse or civil partner mentioned in sub-paragraph (2)(d) is UK resident in relation to the chargeable transaction.

(4) Section 1011 of the Income Tax Act 2007 (references to married persons, or civil partners, living together) applies for the purposes of this paragraph.

Bare trust acquiring new lease

13 (1) Sub-paragraph (2) applies to a chargeable transaction if—
(a) the purchaser is, or (if there is more than one) the purchasers include, a person (P) who is acting as a trustee of a bare trust, and
(b) paragraph 3(3) of Schedule 16 (trustee of bare trust granted a lease treated as purchaser of the whole of the interest acquired) applies in relation to P.

(2) In determining for the purposes of this Part of this Act whether the chargeable transaction is a "non-resident transaction", paragraph 2(1)(a) (condition that purchaser be non-resident) has effect as if a reference to the purchaser or purchasers—
(a) included the beneficiary or beneficiaries of the bare trust, and
(b) did not include P.

Purchase by settlement if beneficiary entitled to occupy, or to income from, dwelling

14 (1) Sub-paragraph (2) applies to a chargeable transaction if—
(a) the purchaser is, or (if there is more than one) the purchasers include, a person (P) who is acting as a trustee of a settlement, and
(b) under the terms of the settlement a beneficiary is entitled—
(i) to occupy the dwelling or dwellings for life, or
(ii) to income earned in respect of the dwelling or dwellings.

(2) In determining for the purposes of this Part of this Act whether the chargeable transaction is a "non-resident transaction", paragraph 2(1)(a) (condition that purchaser be non-resident) has effect as if a reference to the purchaser or purchasers—
(a) included the beneficiary or beneficiaries of the settlement, and
(b) did not include P.

(3) In this paragraph "settlement" does not include a settlement under a unit trust scheme.

Co-ownership authorised contractual schemes

15 (1) Subject to sub-paragraph (2), a co-ownership authorised contractual scheme is not "non-resident" in relation to any chargeable transaction.

(2) A collective investment scheme that is a co-ownership authorised contractual scheme by virtue of section 102A(7) (EEA schemes) is "non-resident" in relation to all chargeable transactions.

Alternative property finance

16 (1) Sub-paragraph (2) applies in relation to a chargeable transaction within section 71A(1)(a) (purchase of land by financial institution as part of alternative property finance arrangements).

(2) The financial institution that enters into the transaction is "non-resident" in relation to the transaction if and only if the person with whom it enters into the arrangements mentioned in section 71A(1) is non-resident in relation to the transaction.

(3) Sub-paragraph (4) applies in relation to a chargeable transaction within section 73(1)(a)(i) (purchase of land by financial institution as part of alternative property finance arrangements).

(4) The financial institution that enters into the transaction is "non-resident" in relation to the transaction if and only if the person with whom it enters into the arrangements mentioned in section 73(1) is non-resident in relation to the transaction.

Completion of contract previously substantially performed

17 In a case within section 44(8) (contract substantially performed and subsequently completed by a conveyance) the later of the

notifiable transactions mentioned in that provision is a "non-resident transaction" for the purposes of this Part if and only if the earlier of those notifiable transactions is a non-resident transaction for the purposes of this Part.

PART 6

SUPPLEMENTARY PROVISION

Completion of land transaction return

18 (1) Sub-paragraph (2) applies in relation to a land transaction return in respect of a chargeable transaction if—

(a) in order to determine whether the chargeable transaction is a non-resident transaction, it is necessary to determine whether one or more individuals are UK resident in relation to the transaction under paragraph 4(1), and

(b) that individual or any of those individuals, at the beginning of the day on which the land transaction return is delivered, has not yet met the condition in that provision (but might turn out to do so depending on their residence during the remainder of the relevant period).

(2) The land transaction return must be prepared on the assumption that the individual or (as the case may be) each of the individuals is resident outside the United Kingdom throughout the period—

(a) beginning with the day on which the land transaction return is delivered, and

(b) ending at the end of the relevant period.

(3) In this paragraph "the relevant period" has the same meaning as in paragraph 4(1).

Amendment of return where individual becomes UK resident after return delivered

19 (1) Sub-paragraph (2) applies where—

(a) a land transaction return in respect of a chargeable transaction is prepared on the assumption mentioned in paragraph 18(2), and

(b) the individual or (as the case may be) each of the individuals in respect of whom the assumption was made subsequently meets the condition in paragraph 4(1) (with the result that the transaction is not a non-resident transaction).

(2) The land transaction return may be amended, at any time before the end of the period of 2 years beginning with the day after the effective date of the transaction, to take account of the fact that the transaction is not a non-resident transaction.

(3) Where a land transaction return is amended under sub-paragraph (2), paragraph 6(2A) of Schedule 10 (notice of amendment of return to be accompanied by the contract for the transaction etc) does not apply in relation to the amendment.

What counts as a dwelling

20 (1) This paragraph sets out rules for determining what counts as a dwelling for the purposes of this Schedule.

(2) A building or part of a building counts as a dwelling if—
(a) it is used or suitable for use as a single dwelling, or
(b) it is in the process of being constructed or adapted for such use.

(3) Land that is, or is to be, occupied or enjoyed with a dwelling as a garden or grounds (including any building or structure on that land) is taken to be part of that dwelling.

(4) Land that subsists, or is to subsist, for the benefit of a dwelling is taken to be part of that dwelling.

(5) The main subject-matter of a transaction is also taken to consist of or include an interest in a dwelling if—
(a) substantial performance of a contract constitutes the effective date of that transaction by virtue of a relevant deeming provision,
(b) the main subject-matter of the transaction consists of or includes an interest in a building, or a part of a building, that is to be constructed or adapted under the contract for use as a single dwelling, and
(c) construction or adaptation of the building, or part of a building, has not begun by the time the contract is substantially performed.

(6) In sub-paragraph (5)—
"contract" includes any agreement;
"relevant deeming provision" means any of sections 44 to 45A or paragraph 5(1) or (2) of Schedule 2A or paragraph 12A of Schedule 17A;
"substantially performed" has the same meaning as in section 44.

(7) A building or part of a building used for a purpose specified in section 116(2) or (3) is not used as a dwelling for the purposes of sub-paragraph (2) or (5).

(8) Where a building or part of a building is used for a purpose mentioned in sub-paragraph (7), no account is to be taken for the purposes of sub-paragraph (2) of its suitability for any other use.

Interpretation

21 In this Schedule—
"CTA 2009" means the Corporation Tax Act 2009;
"CTA 2010" means the Corporation Tax Act 2010.

Power to modify this Schedule

22 (1) The Treasury may by regulations amend or otherwise modify this Schedule for the purpose of preventing certain chargeable

transactions from being non-resident transactions for the purposes of this Schedule.

(2) The provision which may be included in regulations under this paragraph by reason of section 114(6)(c) includes incidental or consequential provision which may cause a chargeable transaction to be a non-resident transaction for the purposes of this Schedule."

Commencement

6 (1) The amendments made by this Schedule have effect in relation to any land transaction of which the effective date is, or is after, the commencement date.

(2) But those amendments do not have effect in relation to—

(a) a transaction effected in pursuance of a contract entered into and substantially performed before the commencement date, or

(b) a transaction that—

(i) is entered into pursuant to a contract entered into before 11 March 2020, and

(ii) is not excluded for the purposes of this paragraph.

(3) A transaction is excluded for the purposes of paragraph (b) of sub-paragraph (2) if—

(a) there is any variation of the contract, or assignment of rights under the contract, on or after 11 March 2020,

(b) the transaction is effected in consequence of the exercise on or after that date of any option, right of pre-emption or similar right, or

(c) on or after that date there is an assignment, subsale or other transaction relating to the whole or part of the subject-matter of the contract as a result of which a person other than the purchaser under the contract becomes entitled to call for a conveyance.

(4) In this paragraph "the commencement date" means 1 April 2021.

SCHEDULE 17

Section 89

SDLT (RELIEF FROM HIGHER RATE CHARGE FOR CERTAIN HOUSING CO-OPERATIVES ETC): MINOR AND CONSEQUENTIAL AMENDMENTS

1 Part 4 of FA 2003 (stamp duty land tax) is amended in accordance with this Schedule.

2 (1) Section 81 (further return where relief withdrawn) is amended as follows.

(2) For subsection (1A) substitute—

"(1A) Where relief is withdrawn to any extent under—

(a) any of paragraphs 5G to 5L of Schedule 4A (relief from higher rate under Schedule 4A (higher rate for certain transactions)),

(b) paragraph 6 of Schedule 7A (PAIF seeding relief), or

(c) paragraph 14 or 16 of Schedule 7A (COACS seeding relief),

the purchaser must deliver a further return before the end of the period of 30 days after the relevant date."

(3) In subsection (1B), after paragraph (e) insert—

"(ea) in the case of relief under paragraph 5FA of that Schedule (qualifying housing co-operatives), the date determined in accordance with subsection (1C);".

(4) After subsection (1B) insert—

"(1C) For the purposes of subsection (1B)(ea) (relief under paragraph 5FA of Schedule 4A withdrawn because the conditions in paragraph 5L(3) of that Schedule are met), the date is—

(a) where paragraph 5L(4) of Schedule 4A does not apply, the first day in the period mentioned in paragraph 5L(3)(a) of that Schedule on which the purchaser is not a qualifying housing body;

(b) where paragraph 5L(4) or (7) of that Schedule applies and relief is withdrawn because condition A in paragraph 5L(5) of that Schedule is met, the day of succession of the relevant successor;

(c) where paragraph 5L(4) or (7) of that Schedule applies and relief is withdrawn because condition B in paragraph 5L(6) of that Schedule is met, the first day in the part of the control period that falls after the day of succession of the relevant successor on which the relevant successor is not a qualifying housing body.

(1D) Where relief is withdrawn to any extent under paragraph 5L of Schedule 4A in a case to which paragraph 5L(4) or (7) applies, the reference in subsection (1A) to the purchaser is to be read as a reference to the relevant successor."

(5) For subsection (3) substitute—

"(3) The provisions of Schedule 10 (returns, assessments and other matters) apply for the purposes of this section with the following modifications—

(a) references to a return under section 76 (general requirement to deliver land transaction return) are to be read as references to a return under subsection (1) or (1A);

(b) references to the transaction to which a return relates are to be read as references to the withdrawal of relief in respect of which the return is required under subsection (1) or (1A);

(c) references to a chargeable transaction to which (as yet) no return relates are to be read as references to the withdrawal of relief under any of the provisions mentioned in subsection (1) or (1A);

(d) references to the effective date of a transaction—

(i) in relation to the withdrawal of relief under any of the provisions mentioned in subsection (1), are to be read as references to the date on which the disqualifying event occurs, and

(ii) in relation to the withdrawal of relief under any of the provisions mentioned in subsection (1A), are to be read as references to the relevant date (see subsections (1B) and (1C));

(e) where, by virtue of subsection (1D), a return is to be made by the relevant successor, references to the purchaser are to be read as references to the relevant successor;

(f) paragraph 36(5A) is to be read as if it also permitted an appeal under paragraph 35(1)(e) on the ground that no further return is required."

(6) Omit subsection (5).

(7) At the end insert—

"(6) In subsections (1C), (1D) and (3)(e) (which relate to the withdrawal of relief under paragraph 5L of Schedule 4A) "the relevant successor" means the person who is the most recent successor in the chain of succession at the time relief is withdrawn (and that person could be the first successor, the second successor or a subsequent successor).

(7) Terms used in subsections (1C) and (6) which are defined for the purposes of paragraph 5L of Schedule 4A have the same meaning in those subsections as they have in that paragraph."

3 (1) Section 81ZA (alternative finance arrangements: return where relief withdrawn) is amended as follows.

(2) In subsection (1), for "or 6H" substitute ", 6H or 6I".

(3) For subsection (2) substitute—

"(2) The provisions of Schedule 10 (returns, assessments and other matters) apply for the purposes of this section with the following modifications—

(a) references to a return under section 76 (general requirement to deliver land transaction return) are to be read as references to a return under subsection (1);

(b) references to the transaction to which a return relates are to be read as references to the withdrawal of relief in respect of which the return is required under subsection (1);

(c) references to a chargeable transaction to which (as yet) no return relates are to be read as references to the withdrawal of relief under any of the provisions mentioned in subsection (1);

(d) references to the effective date of a transaction are to be read as references to the date of the disqualifying event;

(e) references to the purchaser are to be read as references to the relevant person so far as that is necessary as a result of subsection (1) of this section or section 85(3) (payment of additional tax by relevant person where relief withdrawn);

(f) paragraph 36(5A) is to be read as if it also permitted an appeal under paragraph 35(1)(e) on the ground that no further return is required."

(4) In subsection (3), for the words from "the first day" to the end substitute "—

(a) where the relief was given under paragraph 5, 5B, 5C, 5D or 5F of Schedule 4A, the first day in the control period on which a relevant requirement was not met;

(b) where the relief was given under paragraph 5FA of Schedule 4A, the date determined in accordance with subsection (5A)."

(5) In subsections (4) and (5), for "subsection (3)" substitute "subsection (3)(a)".

(6) After subsection (5) insert—

"(5A) For the purposes of subsection (3)(b) (relief withdrawn because the conditions in paragraph 6I(2) of Schedule 4A are met), the date is—

(a) where paragraph 6I(3) of Schedule 4A does not apply, the first day in the period mentioned in paragraph 6I(2)(a) of that Schedule on which the relevant person is not a qualifying housing body;

(b) where paragraph 6I(3) or (6) of that Schedule applies and relief is withdrawn because condition A in paragraph 6I(4) of that Schedule is met, the day of succession of the relevant successor;

(c) where paragraph 6I(3) or (6) of that Schedule applies and relief is withdrawn because condition B in paragraph 6I(5) of that Schedule is met, the first day in the part of the control period that falls after the day of succession of the relevant successor on which the relevant successor is not a qualifying housing body."

(7) In subsection (6), for the definition of "the relevant person" substitute—

""the relevant person" means—

(a) the person (other than the financial institution) who entered into the arrangements in question, or

(b) where relief is withdrawn to any extent under paragraph 6I of Schedule 4A in a case to which paragraph 6I(3) or (6) applies, the relevant successor;

"the relevant successor" means the person who is the most recent successor in the chain of succession at the time relief is withdrawn (and that person could be the first successor, the second successor or a subsequent successor)."

(8) After subsection (6) insert—

"(7) Terms used in subsection (5A), and in the definition of "the relevant successor" in subsection (6), which are defined for the purposes of paragraph 6I of Schedule 4A have the same meaning in those provisions as they have in that paragraph."

4 (1) Section 85 (liability for tax) is amended as follows.

(2) After subsection (2) insert—

"(2A) Where relief is withdrawn to any extent under paragraph 5L of Schedule 4A (qualifying housing co-operatives) in a case to which paragraph 5L(4) or (7) applies—

(a) subsection (1) does not apply in relation to the additional tax payable as a result of the withdrawal of the relief, and

(b) the relevant successor is liable to pay that additional tax.

(2B) In subsection (2A) "the relevant successor" has the same meaning as it has in subsections (1C), (1D) and (3)(e) of section 81 (see subsections (6) and (7) of that section)."

(3) In subsection (3), for "and 6H" substitute ", 6H and 6I".

(4) In subsection (4), for the words from "means" to the end substitute "has the same meaning as in section 81ZA (see subsections (6) and (7) of that section)".

5 (1) Section 86 (payment of tax) is amended as follows.

(2) In subsection (2)(za), for "5K" substitute "5L".

(3) In subsection (2A), for "and 6H" substitute ", 6H and 6I".

6 In section 87(3) (interest on unpaid tax)—

(a) in paragraph (za), for "5K" substitute "5L";

(b) after paragraph (za) insert—

"(zb) in the case of an amount payable because relief is withdrawn under any of paragraphs 6D, 6F, 6G, 6H and 6I of Schedule 4A, the date which is the date of the disqualifying event for the purposes of section 81ZA (see subsection (3) of that section);".

7 (1) Schedule 4A (stamp duty land tax: higher rate for certain transactions) is amended as follows.

(2) In paragraph 2(6)(a)—

(a) for "5K" substitute "5L";

(b) for "6H" substitute "6I".

(3) In paragraph 6A—

(a) in sub-paragraph (4), for "and 5F(1)" substitute ", 5F(1) and 5FA";

(b) in sub-paragraph (5), for "or 5F(1)" substitute ", 5F(1) or 5FA".

(4) In paragraph 6C(2)(b), for "and 5F(1)" substitute ", 5F(1) and 5FA".

(5) After paragraph 6H insert—

"6I (1) This paragraph applies where relief under paragraph 5FA (qualifying housing co-operatives) has been allowed, in accordance with paragraph 6A(4), in relation to the purchase of a major interest in land.

(2) The relief is withdrawn (subject to sub-paragraph (3)) if—

(a) on any day in the period of three years beginning with the effective date of the first transaction ("the control period"), the relevant person is not a qualifying housing body, and

(b) immediately before the first day on which that is the case the relevant person holds a relevant interest (whether jointly, or in common, or otherwise).

(3) If, on any day in the control period, the relevant person is not a qualifying housing body because it ceases to exist (whether by virtue of a conversion into, or amalgamation with, another person or for any other reason), relief is not to be withdrawn under this paragraph unless—

(a) another person ("the first successor") has succeeded to the engagements of the relevant person, and

(b) condition A or condition B is met (and if condition B is met, subject to sub-paragraph (6)).

(4) Condition A is that, on the day the first successor succeeds to the engagements of the relevant person ("the day of succession"), the first successor is not a qualifying housing body.

(5) Condition B is that—

(a) on any day in the part of the control period that falls after the day of succession, the first successor is not a qualifying housing body, and

(b) immediately before the first day on which that is the case the first successor still holds a relevant interest (whether jointly, or in common, or otherwise).

(6) If condition B is met because the first successor ceases to exist (whether by virtue of a conversion into, or amalgamation with, another person or for any other reason), relief is not to be withdrawn under this paragraph unless it would have been withdrawn by virtue of sub-paragraph (3) if references in sub-paragraphs (3) to (5)—

(a) to the relevant person were references to the first successor, and

(b) to the first successor were references to the person who has succeeded to the engagements of the first successor ("the second successor").

(7) Sub-paragraph (6) is to apply to the second successor as it applies to the first successor, and so on, subject to the necessary modifications.

(8) In this paragraph—

(a) "qualifying housing body" means—

(i) a company that is a qualifying housing co-operative for the purposes of section 150(3A) of the Finance Act 2013 (relief from ATED),

(ii) a registered provider of social housing, or

(iii) a registered social landlord;

(b) "relevant interest" has the same meaning as in paragraph 6D;

(c) "the relevant person" means the person (other than the financial institution) who enters into the arrangements mentioned in section 71A(1) or 73(1);

(d) references to a major interest include an undivided share in a major interest in land."

(6) In paragraph 9, in the definition of "financial institution", for "6H" substitute "6I".

8 In Schedule 10 (returns, assessments and other matters), in paragraph 12(2A) (notice of enquiry)—

(a) in paragraph (b), omit "in respect of the same land transaction";

(b) in the words after paragraph (b), for "land transaction" substitute "return".

SCHEDULE 18

Section 95

VAT AND DISTANCE SELLING: NORTHERN IRELAND

PART 1

AMENDMENTS TO SCHEDULES 9ZA AND 9ZB TO VATA 1994

Amendments to Part 9 of Schedule 9ZA to VATA 1994

1 Part 9 of Schedule 9ZA to VATA 1994 (value added tax on acquisitions in Northern Ireland from Member States: registration in respect of distance sales) is amended as follows.

2 (1) Paragraph 48 (liability to be registered) is amended as follows.

(2) In sub-paragraph (1), in the words after paragraph (b), for "on any day" to the end substitute "—

(i) in a case where sub-paragraph (1A) applies, on a day determined in accordance with sub-paragraph (1B), or

(ii) in a case where sub-paragraph (1A) does not apply, on any day when the person makes a relevant supply."

(3) After that sub-paragraph insert—

"(1A) This sub-paragraph applies where —

(a) the person has a single place of establishment, or (where the person does not have a place of establishment) a single place where the person has a permanent address or where the person usually resides, and

(b) that place is in a member State or Northern Ireland.

(1B) The person becomes liable to be registered on any day in a given year if—

(a) in the period beginning with 1 January of that year and ending with that day, the person makes a relevant supply, and

(b) in that period, or in the period beginning with 1 January and ending with 31 December of the year before the year in which that day falls, the person makes European supplies whose value exceeds £8,818."

(4) Omit sub-paragraphs (6) and (7).

(5) At the end insert—

"(8) For the purposes of this paragraph, a supply of goods or services is a "European supply" if it is—

(a) a supply of services listed in Article 58(1) of the VAT Directive to a person who is not a taxable person and who is established, or (where the person does not have a place of establishment) who has a permanent address or who usually resides, in a member State or Northern Ireland and that is not the place mentioned in sub-paragraph (1A)(a) (that is, the place in which the person supplying the services is established etc), or

(b) a supply of goods that would be an "intra-Community distance sale of goods" within the meaning given by Article 14(4) of the VAT Directive if references in that Article to a "Member State" were read as if they included a reference to Northern Ireland (and references to a "third country" and "third territory" were read accordingly as including Great Britain) involving the removal of goods to a member State or Northern Ireland and that is not the place mentioned in sub-paragraph (1A)(a) (that is, the place in which the person supplying the goods is established etc).

(9) For the purposes of sub-paragraph (8)(a), a person is not a taxable person if they are not liable or entitled to register for VAT in accordance with the law of the place where the person to whom the services are supplied is established, has their permanent address or usually resides.

(10) In sub-paragraph (8), "the VAT Directive" means Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax."

3 (1) Paragraph 49 (ceasing to be liable to be registered) is amended as follows.

(2) In sub-paragraph (1)—

(a) in the words before paragraph (a), after "this Schedule" insert "by virtue of paragraph 48(1)(i)";

(b) in paragraph (a), for "the relevant supplies" substitute "European supplies";

(c) in paragraph (b), for "relevant supplies" substitute "European supplies";

(d) in paragraphs (a) and (b), for "£70,000" in both places it occurs substitute "£8,818".

(3) After that sub-paragraph insert—

"(1A) A person who has become liable to be registered under this Part of this Schedule by virtue of paragraph 48(1)(ii) ceases to be so liable by virtue of that paragraph if at any time paragraph 48(1A) applies in relation to that person.

(1B) A person who has become liable to be registered under this Part of this Schedule by virtue of paragraph 48(3) ceases to be so liable by virtue of that paragraph if at any time the Commissioners are satisfied that the person—

(a) has ceased to make supplies as mentioned in that paragraph, and

(b) will not make such supplies within the period of one year beginning with the day on which the Commissioners are notified or otherwise become aware that the person has ceased to make them."

(4) In sub-paragraph (2) after "But" insert "—

(a) the fact that a person ceases to be liable to be registered under this Part of this Schedule by virtue of one provision does not prevent the person being liable to be registered under this Part of this Schedule by virtue of another provision, and

(b) ".

(5) After sub-paragraph (2) insert—

"(3) Sub-paragraphs (8) to (10) of paragraph 48 apply for the purposes of this paragraph as they apply for the purposes of that paragraph." 5

Amendments to Part 5 of Schedule 9ZB to VATA 1994

4 In Part 5 of Schedule 9ZB to VATA 1994 (goods removed to or from Northern Ireland: rules relating to particular supplies), in paragraph 29 (distance selling between EU and Northern Ireland: place of supply)—

(a) in sub-paragraph (1)(c)— 10

(i) omit the "or" at the end of paragraph (i);

(ii) for the "and" at the end of paragraph (ii) substitute "or";

(iii) after that paragraph insert—

"(iii) is registered under the OSS scheme or a non-UK scheme (within the meaning of Schedule 9ZD), and"; 15

(b) in sub-paragraph (3), after "paragraph 48(2)" insert "of Schedule 9ZA".

PART 2

AMENDMENTS RELATING TO THE ONE STOP SHOP AND IMPORT ONE STOP SHOP SCHEMES 20

5 In section 40A of VATA 1994 (Northern Ireland Protocol) after subsection (3) insert—

"(4) Schedule 9ZD—

(a) establishes a special accounting scheme ("the OSS scheme") for use by persons making intra-Community distance sales of goods from Northern Ireland to member States, and 25

(b) makes provision about corresponding schemes in member States.

(5) Schedule 9ZE—

(a) establishes a special accounting scheme ("the IOSS scheme") for use by persons supplying imported goods to Northern Ireland or into the European Union, and 30

(b) makes provision about corresponding schemes in member States.

(6) Schedule 9ZF makes provision modifying other provisions of this Act and other enactments in connection with the provision made in Schedules 9ZD and 9ZE. 35

(7) The Treasury may by regulations—

(a) amend Schedules 9ZD and 9ZE, and

(b) amend Parts 1 and 2 of Schedule 9ZF, 40

(including by inserting provision modifying any provision of an Act whenever passed or made).

(8) The Commissioners may by regulations—

(a) amend Part 3 of Schedule 9ZF (including by inserting provision modifying any provision of an Act whenever passed or made), and

(b) make such further provision as they consider appropriate about the administration, collection or enforcement of value added tax due under Schedules 9ZD and 9ZE.

(9) Regulations under subsections (7) and (8) may—

(a) confer on a person specified in the regulations a discretion to do anything under, or for the purposes of, the regulations;

(b) make provision by reference to things specified in a notice published in accordance with the regulations;

(c) make consequential, transitional, transitory, saving, supplementary or incidental provision."

6 After Schedule 9ZC to VATA 1994 insert—

"SCHEDULE 9ZD Section 40A

DISTANCE SELLING OF GOODS FROM NORTHERN IRELAND: SPECIAL ACCOUNTING SCHEME

PART 1

INTRODUCTION

Overview

1 In this Schedule—

(a) Parts 2 and 3 establish a special accounting scheme (the One Stop Shop scheme, referred to in this Schedule as the "OSS scheme") which may be used by persons making intra-Community distance sales of goods from Northern Ireland to member States;

(b) Part 4 is about persons participating in schemes in member States that correspond to the OSS scheme;

(c) Part 5 is about the collection of non-UK VAT in relation to such corresponding schemes;

(d) Part 6 is about appeals;

(e) Part 7 contains definitions.

"Scheme supply"

2 For the purposes of this Schedule, "scheme supply" means a supply of goods that would be an "intra-Community distance sale of goods" within the meaning given by Article 14(4) of the VAT Directive if references in that Article to a "Member State" were read as if they included a reference to Northern Ireland (and references to a "third country" and "third territory" were read accordingly as including Great Britain).

PART 2

REGISTRATION

The register

3 Persons registered under the OSS scheme are to be registered in a single register kept by the Commissioners for the purposes of the scheme.

Persons who may be registered

4 (1) A person ("P") may register under the OSS scheme if—
(a) P makes or intends to make one or more scheme supplies in the course of a business that P carries on,
(b) one of the following applies—
(i) P's business is established in Northern Ireland,
(ii) P's business is not established in Northern Ireland or a member State but P has a fixed establishment in Northern Ireland, or
(iii) P's business is not established in Northern Ireland or a member State and P does not have a fixed establishment in Northern Ireland, but P makes or intends to make scheme supplies from Northern Ireland to a member State and does not have a fixed establishment in a member State, and
(c) P is not barred from registering by—
(i) sub-paragraph (2),
(ii) the second or third paragraph of Article 369a(2) of the VAT Directive, or
(iii) any provision of the Implementing Regulation.

(2) P may not be registered under the OSS scheme if they are a participant in a non-UK scheme (see para 38(1)).

(3) P must register under the OSS scheme if P intends to account for VAT on scheme supplies even if P is otherwise registered under this Act.

Becoming registered

5 (1) The Commissioners must register a person ("P") under the OSS scheme if P—
(a) satisfies them that the requirements for registration are met (see paragraph 4), and
(b) makes a request in accordance with this paragraph (a "registration request").

(2) A registration request must state—
(a) P's name and postal and electronic addresses (including any websites),
(b) whether or not P has begun to make scheme supplies and (if so) the date on which P began to do so, and

(c) whether or not P has previously been identified under a non-UK scheme and (if so) the date on which P was first identified under the scheme concerned.

(3) A registration request must—

(a) contain any further information, and any declaration about its contents, that the Commissioners may by regulations require, and

(b) be made by such electronic means, and in such manner, as the Commissioners may direct (by means of a notice published by them or otherwise) or may by regulations require.

Date on which registration takes effect

6 Where a person ("P") is registered under this Schedule, P's registration takes effect on the date determined in accordance with Article 57d of the Implementing Regulation.

Further provision about registration

7 The Commissioners may, by means of a notice published by them, make further provision about registration under this Schedule.

Notification of changes etc

8 (1) A person ("P") registered under the OSS scheme must inform the Commissioners of the date when P first makes scheme supplies (unless P has already given the Commissioners that information under paragraph 5(2)(b)).

(2) That information, and any information P is required to give under Article 57h of the Implementing Regulation (notification of certain changes), must be communicated by such electronic means, and in such manner, as the Commissioners may direct (by means of a notice published by them or otherwise) or may by regulations require.

Cancellation of registration

9 The Commissioners must cancel the registration of a person ("P") under the OSS scheme if—

(a) P has ceased to make, or no longer intends to make, scheme supplies and has notified the Commissioners of that fact;

(b) the Commissioners otherwise determine that P has ceased to make, or no longer intends to make, such supplies;

(c) P has ceased to satisfy any of the other requirements for registration in paragraph 4(1) and has notified the Commissioners of that fact,

(d) the Commissioners otherwise determine that P has ceased to satisfy any of those conditions, or

(e) the Commissioners determine that P has persistently failed to comply with P's obligations in or under this Schedule or the Implementing Regulation.

PART 3

LIABILITY, RETURNS, PAYMENT ETC

Liability to pay non-UK VAT to Commissioners

10 (1) This paragraph applies where a person ("P") —
(a) makes a scheme supply, and
(b) is registered under the OSS scheme when the supply is made.

(2) P is liable to pay to the Commissioners the gross amount of VAT on the supply.

(3) The reference in sub-paragraph (2) to the gross amount of VAT on the supply is to the amount of VAT charged on the supply in accordance with the law of the member State in which the supply is treated as made, without any deduction of VAT pursuant to Article 168 of the VAT Directive.

OSS scheme returns

11 (1) A person ("P") who is or has been registered under the OSS scheme must submit a return (an "OSS scheme return") to the Commissioners for each reporting period.

(2) Each quarter for the whole or part of which P is registered under the OSS scheme is a "reporting period" for P.

OSS scheme returns: further requirements

12 (1) An OSS scheme return is to be made out in sterling.

(2) Any conversion from one currency into another for the purposes of sub-paragraph (1) is to be made using the exchange rates published by the European Central Bank —
(a) for the last day of the reporting period to which the OSS scheme return relates, or
(b) if no such rate is published for that day, for the next day for which such a rate is published.

(3) An OSS scheme return —
(a) must be submitted to the Commissioners before the end of the month following the month in which the last day of the reporting period to which it relates falls;
(b) must be submitted by such electronic means, and in such form and manner, as the Commissioners may direct (by means of a notice published by them or otherwise) or may by regulations require.

Payment

13 (1) A person who is required to submit an OSS scheme return must pay, by the deadline for submitting the return, the amounts required in accordance with paragraph 10 in respect of scheme supplies made in the reporting period to which the return relates.

(2) A payment under this paragraph must be made in such manner as the Commissioners may direct (by means of a notice published by them or otherwise) or may by regulations require.

Availability of records

14 (1) A person ("P") who is registered under the OSS scheme must make available to the Commissioners, on request, any obligatory records P is keeping of transactions entered into by P while registered under the scheme.

(2) The records must be made available by electronic means.

(3) In sub-paragraph (1) "obligatory records" means records kept in accordance with an obligation imposed in accordance with Article 369k of the VAT Directive.

Amounts required to be paid to member States

15 Section 44 of the Commissioners for Revenue and Customs Act 2005 (requirement to pay receipts into the Consolidated Fund) does not apply to any money received for or on account of VAT that is required to be paid to a member State under Article 46 of Council Regulation (EU) No 904/2010.

PART 4

PERSONS REGISTERED UNDER NON-UK SPECIAL ACCOUNTING SCHEMES

Meaning of "a non-UK scheme"

16 (1) In this Schedule "a non-UK scheme" means any provision of the law of a member State which implements Section 3 of Chapter 6 of Title XII of the VAT Directive.

(2) In relation to a non-UK scheme, references to the "administering member State" are to the member State under whose law the scheme is established.

Exemption from requirement to register under this Act

17 (1) A participant in a non-UK scheme is not required to be registered under this Act by virtue of making scheme supplies in respect of which the participant is required to make returns under that other scheme.

(2) Sub-paragraph (1) overrides any contrary provision in this Act.

(3) Where a participant in a non-UK scheme who is not registered under this Act ("the unregistered person") makes relevant supplies, it is to be assumed for all purposes of this Act relating to the determination of—

(a) whether or not VAT is chargeable under this Act on those supplies,

(b) how much VAT is chargeable under this Act on those supplies,

(c) the time at which those supplies are treated as taking place, and

(d) any other matter that the Commissioners may specify by regulations,

that the unregistered person is registered under this Act.

(4) Scheme supplies made by the unregistered person are "relevant supplies" if—

(a) the value of the supplies must be accounted for in a return required to be made by the unregistered person under a non-UK scheme, and

(b) the supplies are treated as made in the United Kingdom.

De-registration

18 (1) Sub-paragraph (2) applies where a person ("P") who is registered under Schedule 1A or Part 9 of Schedule 9ZA—

(a) satisfies the Commissioners that P intends to apply for identification under a non-UK scheme, and

(b) asks the Commissioners to cancel P's registration under Schedule 1A or Part 9 of Schedule 9ZA (as the case may be).

(2) The Commissioners may cancel P's registration under Schedule 1A or Part 9 of Schedule 9ZA (as the case may be) with effect from—

(a) the day on which the request is made, or

(b) a later date agreed between P and the Commissioners.

Scheme participants who are also registered under this Act

19 (1) A person ("P") who—

(a) is a participant in a non-UK scheme, and

(b) is also registered, or required to be registered, under this Act,

is not required to discharge any obligation placed on them as a taxable person, to the extent that the obligation relates to relevant supplies.

(2) The reference in sub-paragraph (1) to an obligation placed on P as a taxable person is to an obligation—

(a) to which P is subject under or by virtue of this Act, and

(b) to which P would not be subject if P was neither registered nor required to be registered under this Act.

(3) A supply made by a participant in a non-UK scheme is a "relevant supply" if—

(a) the value of the supply must be accounted for in a return required to be made by the participant under that scheme, and

(b) the supply is treated as made in the United Kingdom.

(4) The Commissioners may by regulations specify cases in relation to which sub-paragraph (1) is not to apply.

(5) In section 25(2) (deduction of input tax from output tax by a taxable person) the reference to output tax that is due from the taxable person does not include any VAT that the taxable person is liable under a non-UK scheme to pay to the tax authorities for the administering member State. *5*

Value of supplies to connected persons

20 In paragraph 1 of Schedule 6 (valuation: supply to connected person at less than market value) the reference to a supply made by a taxable person is to be read as including a scheme supply that is made by a participant in a non-UK scheme (and is treated as made in the United Kingdom). *10*

Refund of VAT on supplies of goods and services supplied to scheme participant

21 The power of the Commissioners to make regulations under section 39 (repayment of VAT to those in business overseas) includes power to make provision for giving effect to the second sentence of Article 369j of the VAT Directive (which provides for VAT on certain supplies to participants in special accounting schemes to be refunded in accordance with Directive 2008/9/EC). *15*

PART 5

COLLECTION OF NON-UK VAT *20*

Assessments: general modifications of section 73

22 (1) For the purposes of this Schedule, section 73 (failure to make returns etc) is to be read as if—

(a) the reference in subsection (1) of that section to returns required under this Act included relevant non-UK returns, and *25*

(b) references in that section to a prescribed accounting period included a tax period.

(2) See also the modifications in paragraph 23.

(3) In this Schedule "relevant non-UK return" means a non-UK return (see paragraph 38(1)) that is required to be made (wholly or partly) in respect of scheme supplies that are treated as made in the United Kingdom. *30*

Assessments in connection with increase in consideration: modifications

23 (1) Sub-paragraphs (2) to (4) make modifications of sections 73 and 76 which— *35*

(a) have effect for the purposes of this Schedule, and

(b) are in addition to any other modifications of those sections made by this Schedule.

(2) Section 73 has effect as if, after subsection (3), there were *40*

inserted—

"(3A) Where a person has failed to make an amendment or notification that the person is required to make under paragraph 33 of Schedule 9ZD in respect of an increase in the consideration for a UK supply (as defined in paragraph 33(7)), the Commissioners may assess the amount of VAT due from the person as a result of the increase to the best of their judgement and notify it to the person.

(3B) An assessment under subsection (3A)—

(a) is of VAT due for the tax period mentioned in paragraph 33(1)(a) of Schedule 9ZD;

(b) must be made within the time limits provided for in section 77, and must not be made after the end of the period of—

(i) 2 years after the end of the tax period referred to in paragraph 33(1)(a) of Schedule 9ZD, or if later,

(ii) one year after evidence of facts sufficient in the opinion of the Commissioners to justify making the assessment comes to their knowledge.

(3C) Subject to section 77, where further evidence such as is mentioned in subsection (3B)(b)(ii) comes to the Commissioners' knowledge after they have made an assessment under subsection (3A), another assessment may be made under that subsection, in addition to any earlier assessment."

(3) The reference in section 73(9) to subsection (1) of that section is taken to include a reference to section 73(3A) (treated as inserted by sub-paragraph (2)).

(4) Section 76 (assessment of amounts due by way of penalty, interest or surcharge) is to be read as if the reference in subsection (5) of that section to section 73(1) included a reference to section 73(3A) (treated as inserted by sub-paragraph (2)).

Assessments: consequential modifications

24 References to prescribed accounting periods in the following provisions are to be read in accordance with the modifications made by paragraphs 22 and 23—

(a) section 74 (interest on VAT recovered or recoverable by assessment);

(b) section 76 (assessment of amounts due by way of penalty, interest or surcharge);

(c) section 77 (assessments: time limits etc).

Deemed amendments of relevant non-UK returns

25 (1) Where a person who has made a relevant non-UK return makes a claim under paragraph 31(7)(b) (overpayments) in relation to an

error in the return, the relevant non-UK return is taken for the purposes of this Act to have been amended by the information in the claim.

(2) Where a person who has made a relevant non-UK return gives the Commissioners a notice relating to the return under paragraph 33(2)(b) (increase or decrease in consideration), the relevant non-UK return is taken for the purposes of this Act to have been amended by that information.

(3) Where (in a case not falling within sub-paragraph (1) or (2)) a person who has made a relevant non-UK return notifies the Commissioners (after the expiry of the period during which the non-UK return may be amended under Article 61 of the Implementing Regulation) of a change that needs to be made to the return to correct an error, or rectify an omission, in it, the relevant non-UK return is taken for the purposes of this Act to have been amended by that information.

Interest on VAT: "reckonable date"

26 (1) Sub-paragraph (2) states the "reckonable date" for the purposes of section 74(1) and (2) for any case where an amount carrying interest under that section—

(a) is an amount assessed under section 73(2) (refunds etc) in reliance on paragraph 22, or that could have been so assessed, and

(b) was correctly paid or credited to the person, but would not have been paid or credited to the person had the facts been as they later turn out to be.

(2) The "reckonable date" is the first day after the end of the tax period in which the events occurred as a result of which the Commissioners were authorised to make the assessment (that was or could have been made) under section 73(2).

(3) Sub-paragraph (4) states the "reckonable date" for any other case where an amount carrying interest under section 74 is assessed under section 74(1) or (2) in reliance on paragraph 22, or could have been so assessed.

(4) The "reckonable date" is taken to be the latest date by which a non-UK return was required to be made for the tax period to which the amount assessed relates.

(5) Where section 74(1) or (2) (interest on VAT recovered or recoverable by assessment) applies in relation to an amount assessed under section 73(3A) (treated as inserted by paragraph 23(2)), the "reckonable date" for the purposes of section 74(1) or (2) is taken to be the day after the end of the tax period referred to in paragraph 33(2).

Default surcharge: notice of special surcharge period

27 (1) A person who is required to make a relevant non-UK return for a tax period is regarded for the purposes of this paragraph and

paragraph 28 as being in default in respect of that period if either—

(a) conditions 1A and 2A are met, or

(b) conditions 1B and 2B are met,

(but see also paragraph 29).

(2) The conditions are as follows—

(a) condition 1A is that the tax authorities for the administering member State have not received the return by the deadline for submitting it;

(b) condition 2A is that those tax authorities have, in accordance with Article 60a of the Implementing Regulation, issued a reminder of the obligation to submit the return;

(c) condition 1B is that, by the deadline for submitting the return, those tax authorities have received the return but have not received the amount of VAT shown on the return as payable by the person in respect of the tax period;

(d) condition 2B is that those tax authorities have, in accordance with Article 60a of the Implementing Regulation, issued a reminder of the VAT outstanding.

(3) The Commissioners may serve on a person who is in default in respect of a tax period a notice (a "special surcharge liability notice") specifying a period—

(a) ending on the first anniversary of the last day of that tax period, and

(b) beginning on the date of the notice.

(4) A period specified under sub-paragraph (3) is a "special surcharge period".

(5) If a special surcharge liability notice is served in respect of a tax period which ends on or before the day on which an existing special surcharge period ends, the special surcharge period specified in that notice must be expressed as a continuation of the existing special surcharge period (so that the existing period and its extension are regarded as a single special surcharge period).

Further default after service of notice

28 (1) If a person on whom a special surcharge liability notice has been served—

(a) is in default in respect of a tax period ending within the special surcharge period specified in (or extended by) that notice, and

(b) has outstanding special scheme VAT for that tax period,

the person is to be liable to a surcharge of the amount given by sub-paragraph (2).

(2) The surcharge is equal to whichever is the greater of—

(a) £30, and

(b) the specified percentage of the person's outstanding special scheme VAT for the tax period.

(3) The specified percentage depends on whether the tax period is the first, second or third etc period in respect of which the person is in default and has outstanding special scheme VAT, and is—
  (a) for the first such tax period, 2%;
  (b) for the second such tax period, 5%;
  (c) for the third such tax period, 10%;
  (d) for each such tax period after the third, 15%.

(4) "Special scheme VAT", in relation to a person, means VAT that the person is liable to pay to the tax authorities for the administering member State under a non-UK scheme in respect of scheme supplies treated as made in the United Kingdom.

(5) A person has "outstanding special scheme VAT" for a tax period if some or all of the special scheme VAT for which the person is liable in respect of that period has not been paid by the deadline for the person to submit a non-UK return for that period (and the amount unpaid is referred to in sub-paragraph (2)(b) as "the person's outstanding special scheme VAT" for the tax period).

Default surcharge: exceptions for reasonable excuse etc

29 (1) A person who would otherwise have been liable to a surcharge under paragraph 28(1) is not to be liable to the surcharge if the person satisfies the Commissioners or, on appeal, the tribunal that, in the case of a default which is material to the surcharge—
  (a) the non-UK return or, as the case may be, the VAT shown on that return, was despatched at such a time and in such manner that it was reasonable to expect that it would be received by the tax authorities for the administering member State within the appropriate time limit, or
  (b) there is a reasonable excuse for the return or the VAT not having been so despatched.

(2) Where sub-paragraph (1) applies to a person—
  (a) the person is treated as not having been in default in respect of the tax period in question, and
  (b) accordingly, any special surcharge liability notice the service of which depended on that default is regarded as not having been served.

(3) A default is "material" to a surcharge if—
  (a) it is the default which gives rise to the surcharge, under paragraph 28(1), or
  (b) it is a default which was taken into account in the service of the special surcharge liability notice on which the surcharge depends and the person concerned has not previously been liable to a surcharge in respect of a tax period ending within the special surcharge period specified in or extended by that notice.

(4) A default is left out of account for the purposes of paragraphs 27(3) and 28(1) if—

(a) the conduct by virtue of which the person is in default is also conduct falling within section 69(1) (breaches of regulatory provisions), and

(b) by reason of that conduct the person concerned is assessed to a penalty under that section.

(5) If the Commissioners, after consultation with the Treasury, so direct, a default in respect of a tax period specified in the direction is to be left out of account for the purposes of paragraphs 27(3) and 28(1).

(6) Section 71(1) (meaning of "reasonable excuse") applies for the purposes of this paragraph as it applies for the purposes of sections 59 to 70.

Interest in certain cases of official error

30 (1) Section 78 (interest in certain cases of official error) applies as follows in relation to a case where, due to an error on the part of the Commissioners—

(a) a person has accounted under a non-UK scheme for an amount by way of UK VAT that was not UK VAT due from the person, and as a result the Commissioners are liable under paragraph 31 to pay (or repay) an amount to the person, or

(b) (in a case not falling within paragraph (a)), a person has paid, in accordance with an obligation under a non-UK scheme, an amount by way of UK VAT that was not UK VAT due from the person and which the Commissioners are in consequence liable to repay to the person.

(2) Section 78 has effect as if the condition in section 78(1)(a) were met in relation to that person.

(3) In the application of section 78 as a result of this paragraph, section 78(12)(b) is read as providing that any reference in that section to a return is to a return required to be made under a non-UK scheme.

(4) In section 78, as it applies as a result of this paragraph, "output tax" has the meaning that expression would have if the reference in section 24(2) to a "taxable person" were to a "person".

Overpayments

31 (1) A person may make a claim if the person—

(a) has made a non-UK return for a tax period relating wholly or partly to scheme supplies treated as made in the United Kingdom,

(b) has accounted to the tax authorities for the administering member State for VAT in respect of those supplies, and

(c) in doing so has brought into account as UK VAT due to those authorities an amount ("the overpaid amount") that was not UK VAT due to them.

(2) A person may make a claim if the person has, as a participant in a non-UK scheme, paid (to the tax authorities for the administering member State or to the Commissioners) an amount by way of UK VAT that was not UK VAT due ("the overpaid amount"), otherwise than in the circumstances mentioned in sub-paragraph (1)(c).

(3) A person who is or has been a participant in a non-UK scheme may make a claim if the Commissioners—

(a) have assessed the person to VAT for a tax period, and

(b) in doing so, have brought into account as VAT an amount ("the amount not due") that was not VAT due.

(4) Where a person makes a claim under sub-paragraph (1) or (2), the Commissioners must repay the overpaid amount to the person.

(5) Where a person makes a claim under sub-paragraph (3), the Commissioners must credit the person with the amount not due.

(6) Where—

(a) as a result of a claim under sub-paragraph (3) an amount is to be credited to a person, and

(b) after setting any sums against that amount under or by virtue of this Act, some or all of the amount remains to the person's credit,

the Commissioners must pay (or repay) to the person so much of the amount as remains to the person's credit.

(7) The reference in sub-paragraph (1) to a claim is to a claim made—

(a) by correcting, in accordance with Article 61 of the Implementing Regulation, the error in the non-UK return mentioned in sub-paragraph (1)(a), or

(b) (after the expiry of the period during which the non-UK return may be amended under Article 61) to the Commissioners.

(8) Sub-paragraphs (1) and (2) do not require any amount to be repaid except to the extent that is required by Article 63 of the Implementing Regulation.

Overpayments: supplementary

32 (1) In section 80 (credit for, or repayment of, overstated or overpaid VAT), subsections (3) to (3C) (unjust enrichment) and (4A), (4C) and (6) (recovery by assessment of amounts wrongly credited) have effect as if—

(a) a claim—

(i) under paragraph 31(1) were a claim under section 80(1),

(ii) under paragraph 31(2) were a claim under section 80(1B), and

(iii) under paragraph 31(3) were a claim under section 80(1A);

(b) references in that section to a prescribed accounting period included a tax period.

(2) In section 80(3) to (3C), (4A), (4C) and (6), as modified by sub-paragraph (1), references to the crediting of amounts are to be read as including the payment of amounts.

(3) The Commissioners are not liable to repay the overpaid amount on a claim made—
  (a) under paragraph 31(2), or
  (b) as mentioned in paragraph 31(7)(b),
if the claim is made more than 4 years after the relevant date.

(4) On a claim made under paragraph 31(3), the Commissioners are not liable to credit the amount not due if the claim is made more than 4 years after the relevant date.

(5) The "relevant date" is—
  (a) in the case of a claim under paragraph 31(1), the end of the tax period mentioned in paragraph 31(1)(a), except in the case of a claim resulting from an incorrect disclosure;
  (b) in the case of a claim under paragraph 31(1) resulting from an incorrect disclosure, the end of the tax period in which the disclosure was made;
  (c) in the case of a claim under paragraph 31(2), the date on which the payment was made;
  (d) in the case of a claim under paragraph 31(3), the end of the quarter in which the assessment was made.

(6) A person makes an "incorrect disclosure" where—
  (a) the person discloses to the tax authorities in question (whether the Commissioners or the tax authorities for the administering member State) that the person has not brought into account for a tax period an amount of UK VAT due for the period ("the disclosed amount"),
  (b) the disclosure is made in a later tax period, and
  (c) some or all of the disclosed amount is not in fact VAT due.

Increase or decrease in consideration for a supply

33 (1) This paragraph applies where—
  (a) a person makes a non-UK return for a tax period ("the affected tax period") relating (wholly or partly) to a UK supply, and
  (b) after the return has been made the amount of the consideration for the UK supply increases or decreases.

(2) The person must, in the tax period in which the increase or decrease is accounted for in the person's business accounts—
  (a) amend the non-UK return to take account of the increase or decrease, or
  (b) (if the period during which the person is entitled under Article 61 of the Implementing Regulation to amend the non-UK return has expired) notify the Commissioners of the adjustment needed to the figures in the non-UK return because of the increase or decrease.

(3) Where the change to which an amendment or notice under sub-paragraph (2) relates is an increase in the consideration for a UK supply, the person must pay to the tax authorities for the administering member State (in accordance with Article 62 of the Implementing Regulation) or, in a case falling within sub-paragraph (2)(b), the Commissioners, the difference between—

(a) the amount of VAT that was chargeable on the supply before the increase in consideration, and

(b) the amount of VAT that is chargeable in respect of the whole of the increased consideration for the supply.

(4) Where the change to which an amendment or notice under sub-paragraph (2) relates is a decrease in the consideration for a UK supply, the amendment or notice has effect as a claim; and where a claim is made the Commissioners must repay any VAT paid by the person that would not have been VAT due from the person had the consideration for the supply always been the decreased amount.

(5) The Commissioners may by regulations specify—

(a) the latest time by which, and the form and manner in which, a claim or other notice under sub-paragraph (2)(b) must be given;

(b) the latest time by which, and the form in which, a payment under sub-paragraph (3) must be made in a case within sub-paragraph (2)(b).

(6) A payment made under sub-paragraph (3) in a case within sub-paragraph (2)(a) must be made before the end of the tax period referred to in sub-paragraph (2).

(7) In this paragraph "UK supply" means a scheme supply that is treated as made in the United Kingdom.

Bad debts

34 Where a participant in a non-UK scheme—

(a) has submitted a non-UK return to the tax authorities for the administering member State, and

(b) amends the return to take account of the writing-off as a bad debt of the whole or part of the consideration for a scheme supply that is treated as made in the United Kingdom,

the amending of the return may be treated as the making of a claim to the Commissioners for the purposes of section 36(2) (bad debts: claim for refund of VAT).

Penalties for errors: disclosure

35 Where a person corrects a non-UK return in a way that constitutes telling the tax authorities for the administering member State about—

(a) an inaccuracy in the return,

(b) a supply of false information, or

(c) a withholding of information,

the person is regarded as telling HMRC about that for the purposes of paragraph 9 of Schedule 24 to the Finance Act 2007.

Set-offs

36 Where a participant in a non-UK scheme is liable to pay UK VAT to the tax authorities for the administering member State in accordance with the scheme, the UK VAT is regarded for the purposes of section 130(6) of the Finance Act 2008 (set-off) as payable to the Commissioners.

PART 6

APPEALS

37 (1) An appeal lies to the tribunal with respect to any of the following—

(a) a refusal to register a person under the OSS scheme;

(b) the cancellation of the registration of any person under the OSS scheme;

(c) a refusal to make a repayment under paragraph 31 (overpayments), or a decision by the Commissioners as to the amount of a repayment due under that provision;

(d) a refusal to make a repayment under paragraph 33(4) (decrease in consideration);

(e) any liability to a surcharge under paragraph 28 (default surcharge).

(2) Part 5 of this Act (reviews and appeals), and any order or regulations under that Part, have effect as if an appeal under this paragraph were an appeal which lies to the tribunal under section 83(1) (but not under any particular paragraph of that subsection).

(3) Where the Commissioners have made an assessment under section 73 in reliance on paragraph 22 or 23—

(a) section 83(1)(p)(i): (appeals against assessments under section 73(1) etc) applies as if the relevant non-UK return were a return under this Act, and

(b) the references in section 84(3) and (5) to the matters mentioned in section 83(1)(p) are to be read accordingly.

PART 7

INTERPRETATION

38 (1) In this Schedule—

"administering member State", in relation to a non-UK scheme, has the meaning given by paragraph 16(2);

"the Implementing Regulation" means Council Implementing Regulation (EU) No 282/2011;

"non-UK return" means a return required to be made, for a tax period, under a non-UK scheme;

"non-UK scheme" has the meaning given by paragraph 16(1);

"OSS scheme" has the meaning given by paragraph 1(a);

"OSS scheme return" has the meaning given by paragraph 11(1);

"participant", in relation to a non-UK scheme, means a person who is identified under that scheme;

"relevant non-UK return" has the meaning given by paragraph 22(3);

"reporting period" is to be read in accordance with paragraph 11(2);

"scheme supply" has the meaning given by paragraph 2;

"tax period" means a period for which a person is required to make a return under a non-UK scheme;

"UK VAT" means VAT in respect of scheme supplies treated as made in the United Kingdom;

"the VAT Directive" means Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax.

(2) In relation to a non-UK scheme (or a non-UK return), references in this Schedule to "the tax authorities" are to the tax authorities for the member State under whose law the scheme is established.

(3) References in this Schedule to scheme supplies being "treated as made" in the United Kingdom are to their being treated as made in the United Kingdom by paragraph 29(1) of Schedule 9ZB.

SCHEDULE 9ZE 40A

DISTANCE SELLING OF GOODS IMPORTED TO NORTHERN IRELAND: SPECIAL ACCOUNTING SCHEME

PART 1

INTRODUCTION

Overview

1 In this Schedule—

(a) Parts 2 and 3 establish a special accounting scheme (the Import One Stop Shop scheme, referred to in this Schedule as the "IOSS scheme") which may be used by certain persons making supplies of goods to Northern Ireland or into the European Union from countries or territories other than Northern Ireland or member States;

(b) Part 4 makes provision about the collection of UK VAT on such supplies;

(c) Part 5 makes provision about IOSS representatives;

(d) Part 6 makes supplementary provision;

(e) Part 7 is about appeals;

(f) Part 8 contains definitions.

Qualifying supplies of goods

2 (1) For the purposes of this Schedule, a supply of goods is a "qualifying supply of goods" if—

(a) the supply is a distance sale of goods imported from third territories or third countries for the purposes of the second paragraph of Article 14(4) of the VAT Directive (as modified by sub-paragraph (2)),

(b) the intrinsic value of the consignment of which the goods are part is not more than £135, and

(c) the consignment of which the goods are part does not contain goods of a class or description subject to any duty of excise, whether or not those goods are in fact chargeable with that duty, and whether or not that duty has been paid on those goods.

(2) For the purposes of sub-paragraph (1)(a), the second paragraph of Article 14(4) of the VAT Directive is to be read as if after "Member State" there were inserted "or Northern Ireland".

PART 2

REGISTRATION

The register

3 Persons registered under the IOSS scheme are to be registered in a single register kept by the Commissioners for the purposes of the scheme.

Persons who may be registered

4 A person ("P") may register under the IOSS scheme if—

(a) P makes or intends to make one or more qualifying supplies of goods in the course of a business that P carries on,

(b) one of the following applies—

(i) P is established in Northern Ireland,

(ii) P is established in a country or territory with which the EU has concluded an agreement making provision corresponding or similar to that contained in Council Directive 2010/24/EU or Regulation (EU) No 904/2010, or

(iii) P is represented by an IOSS representative established in Northern Ireland (see Part 5),

(c) P is not identified under any provision of the law of a member State which implements Section 4 of Chapter 6 of Title XII of the VAT Directive, and

(d) P is not barred from registering by—

(i) the second paragraph of Article 369l(3) of the VAT Directive, or

(ii) any provision of the Implementing Regulation.

Becoming registered

5 (1) The Commissioners must register a person ("P") under the IOSS scheme if P—

(a) satisfies them that the requirements for registration are met (see paragraph 4), and

(b) makes a request in accordance with this paragraph (a "registration request").

(2) A registration request must state—

(a) P's name and postal and electronic addresses (including any websites);

(b) the number (if any) P has been allocated by the tax authorities in the country in which P belongs;

(c) the date on which P began, or intends to begin, making qualifying supplies of goods.

(3) A registration request must include a statement—

(a) that P is not established in a member State, or

(b) that P is so established, but is represented by an IOSS representative established in Northern Ireland.

(4) A registration request must—

(a) contain any further information, and any declaration about its contents, that the Commissioners may by regulations require, and

(b) be made by such electronic means, and in such manner, as the Commissioners may direct (by means of a notice published by them or otherwise) or may by regulations require.

Date on which registration takes effect

6 Where a person ("P") is registered under this Schedule, P's registration takes effect on the date determined in accordance with Article 57d of the Implementing Regulation.

Further provision about registration

7 (1) Where the Commissioners register a person under the IOSS scheme who is an IOSS representative the Commissioners must also register under the IOSS scheme each person represented by the representative.

(2) The Commissioners may, by means of a notice published by them, make further provision about registration under this Schedule.

Notification of changes etc

8 A notification under Article 57h of the Implementing Regulation (notification of certain changes) must be given by such electronic means, and in such manner, as the Commissioners may direct (by means of a notice published by them or otherwise) or may by regulations prescribe.

Cancellation of registration

9 The Commissioners must cancel the registration of a person ("P") under the IOSS scheme if—

(a) P has ceased to make, or no longer intends to make, qualifying supplies of goods and has notified the Commissioners of that fact,

(b) the Commissioners otherwise determine that P has ceased to make, or no longer intends to make, such supplies,

(c) P has ceased to satisfy any of the other conditions for registration in paragraph 4 and has notified the Commissioners of that fact,

(d) the Commissioners otherwise determine that P has ceased to satisfy any of those conditions,

(e) the Commissioners determine that P has persistently failed to comply with P's obligations in or under this Schedule or the Implementing Regulation, or

(f) any of the circumstances described in article 369r(3)(a) to (e) of the VAT Directive occur in relation to P.

PART 3

LIABILITY, RETURNS, PAYMENT ETC

Liability to pay VAT to Commissioners

10 (1) This paragraph applies where a person ("P") –

(a) makes a qualifying supply of goods, and

(b) is registered under the IOSS scheme when the supply is made.

(2) P is liable to pay to the Commissioners the VAT on the supply under and in accordance with this Schedule.

(3) The amount of VAT which a person is liable to pay on the supply is to be determined in accordance with sub-paragraphs (4) to (6), without any deduction of VAT pursuant to Article 168 of the VAT Directive.

(4) If the supply is treated as made in the United Kingdom, the amount is the amount of VAT charged on the supply under this Act (see paragraph 34(2)) and that amount is to be regarded for the purposes of this Act as VAT charged in accordance with this Act.

(5) In a case where sub-paragraph (4) applies and –

(a) P has a business establishment, or some other fixed establishment, in the United Kingdom in relation to a business carried on by P, and

(b) P is not registered, or liable to be registered, under Schedule 1,

no VAT is chargeable on the supply under this Act.

(6) If the supply is treated as made in a member State, the amount is the amount of VAT charged on the supply in accordance with the law of that member State.

IOSS scheme returns

11 (1) A person ("P") who is, or has been, registered under this Schedule must submit a return (an "IOSS scheme return") to the Commissioners for each reporting period.

(2) Each month for the whole or any part of which P is registered under this Schedule is a "reporting period" for P.

IOSS scheme returns: further requirements

12 (1) An IOSS scheme return is to be made out in sterling.

(2) Any conversion from one currency into another for the purposes of sub-paragraph (1) is to be made using the exchange rates published by the European Central Bank—

(a) for the last day of the reporting period to which the IOSS scheme return relates, or

(b) if no such rate is published for that day, for the next day for which such a rate is published.

(3) An IOSS scheme return—

(a) must be submitted to the Commissioners before the end of the calendar month following the month in which the last day of the reporting period to which it relates falls;

(b) must be submitted by such electronic means, and in such form and manner, as the Commissioners may direct (by means of a notice published by them or otherwise) or may by regulations require.

Payment

13 (1) A person who is required to submit an IOSS scheme return must pay, by the deadline for submitting the return, the amounts required in accordance with paragraph 10 in respect of qualifying supplies of goods made in the reporting period to which the return relates.

(2) A payment under this paragraph must be made in such manner as the Commissioners may direct (by means of a notice published by them or otherwise) or may by regulations require.

Availability of records

14 (1) A person ("P") who is registered under the IOSS scheme must make available to the Commissioners, on request, any obligatory records P is keeping of transactions entered into by P while registered under the scheme.

(2) The records must be made available by electronic means.

(3) In sub-paragraph (1) "obligatory records" means records kept in accordance with an obligation imposed in accordance with Article 369x of the VAT Directive.

Amounts required to be paid to member States

15 Section 44 of the Commissioners for Revenue and Customs Act 2005 (requirement to pay receipts into the Consolidated Fund) does not apply to any money received for or on account of VAT that is required to be paid to a member State under Article 46 of Council Regulation (EU) No 904/2010.

PART 4

COLLECTION ETC OF UK VAT

Assessments: general modifications of section 73

16 (1) For the purposes of this Schedule, section 73 (failure to make returns etc) is to be read as if—
  (a) the reference in subsection (1) of that section to returns required under this Act included relevant special scheme returns, and
  (b) references in that section to a prescribed accounting period included a tax period.

(2) See also the modifications in paragraph 17.

(3) In this Schedule "relevant special scheme return" means a special scheme return (see paragraph 43(1)) that is required to be made (wholly or partly) in respect of qualifying supplies of goods that are treated as made in the United Kingdom.

Assessments in connection with increase in consideration: modifications

17 (1) Sub-paragraphs (2) to (4) make modifications of sections 73 and 76 which—
  (a) have effect for the purposes of this Schedule, and
  (b) are in addition to any other modifications of those sections made by this Schedule.

(2) Section 73 has effect as if, after subsection (3), there were inserted—

"(3A) Where a person has failed to make an amendment or notification that the person is required to make under paragraph 27 of Schedule 9ZE in respect of an increase in the consideration for a UK supply (as defined in paragraph 27(7)), the Commissioners may assess the amount of VAT due from the person as a result of the increase to the best of their judgement and notify it to the person.

(3B) An assessment under subsection (3A)—
  (a) is of VAT due for the tax period mentioned in paragraph 27(1)(a) of Schedule 9ZE;
  (b) must be made within the time limits provided for in section 77, and must not be made after the end of the period of—

(i) 2 years after the end of the tax period referred to in paragraph 27(1)(a), or if later,

(ii) one year after evidence of facts sufficient in the opinion of the Commissioners to justify making the assessment comes to their knowledge.

(3C) Subject to section 77, where further evidence such as is mentioned in subsection (3B)(b)(ii) comes to the Commissioners' knowledge after they have made an assessment under subsection (3A), another assessment may be made under that subsection, in addition to any earlier assessment."

(3) The reference in section 73(9) to subsection (1) of that section is taken to include a reference to section 73(3A) (treated as inserted by sub-paragraph (2)).

(4) Section 76 (assessment of amounts due by way of penalty, interest or surcharge is to be read as if the reference in subsection (5) of that section to section 73(1) included a reference to section 73(3A) (treated as inserted by sub-paragraph (2)).

Assessments: consequential modifications

18 References to prescribed accounting periods in the following provisions are to be read in accordance with the modifications made by paragraphs 16 and 17—

(a) section 74 (interest on VAT recovered or recoverable by assessment);

(b) section 76 (assessment of amounts due by way of penalty, interest or surcharge);

(c) section 77 (assessments: time limits etc).

Deemed amendments of relevant non-UK returns

19 (1) Where a person who has made a relevant special scheme return makes a claim under paragraph 25(7)(b) (overpayments) in relation to an error in the return, the relevant special scheme return is taken for the purposes of this Act to have been amended by the information in the claim.

(2) Where a person who has made a relevant special scheme return gives the Commissioners a notice relating to the return under paragraph 27(2)(b) (increase or decrease in consideration), the relevant special scheme return is taken for the purposes of this Act to have been amended by that information.

(3) Where (in a case not falling within sub-paragraph (1) or (2)) a person who has made a relevant special scheme return notifies the Commissioners (after the expiry of the period during which the special scheme return may be amended under Article 61 of the Implementing Regulation) of a change that needs to be made to the return to correct an error, or rectify an omission, in it, the relevant special scheme return is taken for the purposes of this Act to have been amended by that information.

Interest on VAT: "reckonable date"

20 (1) Sub-paragraph (2) states the "reckonable date" for the purposes of section 74(1) and (2) for any case where an amount carrying interest under that section—

(a) is an amount assessed under section 73(2) (refunds etc) in reliance on paragraph 16, or that could have been so assessed, and

(b) was correctly paid or credited to the person, but would not have been paid or credited to the person had the facts been as they later turn out to be.

(2) The "reckonable date" is the first day after the end of the tax period in which the events occurred as a result of which the Commissioners were authorised to make the assessment (that was or could have been made) under section 73(2).

(3) Sub-paragraph (4) states the "reckonable date" for any other case where an amount carrying interest under section 74 is assessed under section 74(1) or (2) in reliance on paragraph 16, or could have been so assessed.

(4) The "reckonable date" is taken to be the latest date by which a non-UK return was required to be made for the tax period to which the amount assessed relates.

(5) Where section 74(1) or (2) (interest on VAT recovered or recoverable by assessment) applies in relation to an amount assessed under section 73(3A) (treated as inserted by paragraph 17(2)), the "reckonable date" for the purposes of section 74(1) or (2) is taken to be the day after the end of the tax period referred to in paragraph 27(2).

Default surcharge: notice of special surcharge period

21 (1) A person who is required to make a relevant special scheme return for a tax period is regarded for the purposes of this paragraph and paragraph 22 as being in default in respect of that period if either—

(a) conditions 1A and 2A are met, or

(b) conditions 1B and 2B are met,

(but see also paragraph 23).

(2) The conditions are as follows—

(a) condition 1A is that the tax authorities for the administering member State have not received the return by the deadline for submitting it;

(b) condition 2A is that those tax authorities have, in accordance with Article 60a of the Implementing Regulation, issued a reminder of the obligation to submit the return;

(c) condition 1B is that, by the deadline for submitting the return, those tax authorities have received the return but have not received the amount of VAT shown on the return as payable by the person in respect of the tax period;

(d) condition 2B is that those tax authorities have, in accordance with Article 60a of the Implementing Regulation, issued a reminder of the VAT outstanding.

(3) The Commissioners may serve on a person who is in default in respect of a tax period a notice (a "special surcharge liability notice") specifying a period—
(a) ending on the first anniversary of the last day of that tax period, and
(b) beginning on the date of the notice.

(4) A period specified under sub-paragraph (3) is a "special surcharge period".

(5) If a special surcharge liability notice is served in respect of a tax period which ends on or before the day on which an existing special surcharge period ends, the special surcharge period specified in that notice must be expressed as a continuation of the existing special surcharge period (so that the existing period and its extension are regarded as a single special surcharge period).

Further default after service of notice

22 (1) If a person on whom a special surcharge liability notice has been served—
(a) is in default in respect of a tax period ending within the special surcharge period specified in (or extended by) that notice, and
(b) has outstanding special scheme VAT for that tax period,
the person is to be liable to a surcharge of the amount given by sub-paragraph (2).

(2) The surcharge is equal to whichever is the greater of—
(a) £30, and
(b) the specified percentage of the person's outstanding special scheme VAT for the tax period.

(3) The specified percentage depends on whether the tax period is the first, second or third etc period in respect of which the person is in default and has outstanding special scheme VAT, and is—
(a) for the first such tax period, 2%;
(b) for the second such tax period, 5%;
(c) for the third such tax period, 10%;
(d) for each such tax period after the third, 15%.

(4) "Special scheme VAT", in relation to a person, means VAT that the person is liable to pay to the tax authorities for the administering member State under a special scheme in respect of qualifying supplies of goods treated as made in the United Kingdom.

(5) A person has "outstanding special scheme VAT" for a tax period if some or all of the special scheme VAT for which the person is liable in respect of that period has not been paid by the deadline for the person to submit a special scheme return for that period (and the amount unpaid is referred to in sub-paragraph (2)(b) as

"the person's outstanding special scheme VAT" for the tax period).

Default surcharge: exceptions for reasonable excuse etc

23 (1) A person who would otherwise have been liable to a surcharge under paragraph 22(1) is not to be liable to the surcharge if the person satisfies the Commissioners or, on appeal, the tribunal that, in the case of a default which is material to the surcharge—

(a) the special scheme return or, as the case may be, the VAT shown on that return, was despatched at such a time and in such manner that it was reasonable to expect that it would be received by the tax authorities for the administering member State within the appropriate time limit, or

(b) there is a reasonable excuse for the return or the VAT not having been so despatched.

(2) Where sub-paragraph (1) applies to a person—

(a) the person is treated as not having been in default in respect of the tax period in question, and

(b) accordingly, any special surcharge liability notice the service of which depended on that default is regarded as not having been served.

(3) A default is "material" to a surcharge if—

(a) it is the default which gives rise to the surcharge, under paragraph 22(1), or

(b) it is a default which was taken into account in the service of the special surcharge liability notice on which the surcharge depends and the person concerned has not previously been liable to a surcharge in respect of a tax period ending within the special surcharge period specified in or extended by that notice.

(4) A default is left out of account for the purposes of paragraphs 21(3) and 22(1) if—

(a) the conduct by virtue of which the person is in default is also conduct falling within section 69(1) (breaches of regulatory provisions), and

(b) by reason of that conduct the person concerned is assessed to a penalty under that section.

(5) If the Commissioners, after consultation with the Treasury, so direct, a default in respect of a tax period specified in the direction is to be left out of account for the purposes of paragraphs 21(3) and 22(1).

(6) Section 71(1) (meaning of "reasonable excuse") applies for the purposes of this paragraph as it applies for the purposes of sections 59 to 70.

Interest in certain cases of official error

24 (1) Section 78 (interest in certain cases of official error) applies as follows in relation to a case where, due to an error on the part of the Commissioners—

(a) a person has accounted under a special scheme for an amount by way of UK VAT that was not UK VAT due from the person, and as a result the Commissioners are liable under paragraph 25 to pay (or repay) an amount to the person, or

(b) (in a case not falling within paragraph (a)), a person has paid, in accordance with an obligation under a special scheme, an amount by way of UK VAT that was not UK VAT due from the person and which the Commissioners are in consequence liable to repay to the person.

(2) Section 78 has effect as if the condition in section 78(1)(a) were met in relation to that person.

(3) In the application of section 78 as a result of this paragraph, section 78(12)(b) is read as providing that any reference in that section to a return is to a return required to be made under a non-UK special scheme.

(4) In section 78, as it applies as a result of this section, "output tax" has the meaning that expression would have if the reference in section 24(2) to a "taxable person" were to a "person".

Overpayments

25 (1) A person may make a claim if the person—

(a) has made a special scheme return for a tax period relating wholly or partly to qualifying supplies of goods treated as made in the United Kingdom,

(b) has accounted to the tax authorities for the administering member State for VAT in respect of those supplies, and

(c) in doing so has brought into account as UK VAT due to those authorities an amount ("the overpaid amount") that was not UK VAT due to them.

(2) A person may make a claim if the person has, as a participant in a special scheme, paid (to the tax authorities for the administering member State or to the Commissioners) an amount by way of UK VAT that was not UK VAT due ("the overpaid amount"), otherwise than in the circumstances mentioned in sub-paragraph (1)(c).

(3) A person who is or has been a participant in a special scheme may make a claim if the Commissioners—

(a) have assessed the person to VAT for a tax period, and

(b) in doing so, have brought into account as VAT an amount ("the amount not due") that was not VAT due.

(4) Where a person makes a claim under sub-paragraph (1) or (2), the Commissioners must repay the overpaid amount to the person.

(5) Where a person makes a claim under sub-paragraph (3), the Commissioners must credit the person with the amount not due.

(6) Where—

(a) as a result of a claim under sub-paragraph (3) an amount is to be credited to a person, and

(b) after setting any sums against that amount under or by virtue of this Act, some or all of the amount remains to the person's credit,

the Commissioners must pay (or repay) to the person so much of the amount as remains to the person's credit.

(7) The reference in sub-paragraph (1) to a claim is to a claim made—

(a) by correcting, in accordance with Article 61 of the Implementing Regulation, the error in the special scheme return mentioned in sub-paragraph (1)(a), or

(b) (after the expiry of the period during which the special scheme return may be amended under Article 61) to the Commissioners.

(8) Sub-paragraphs (1) and (2) do not require any amount to be repaid except to the extent that is required by Article 63 of the Implementing Regulation.

Overpayments: supplementary

26 (1) In section 80 (credit for, or repayment of, overstated or overpaid VAT), subsections (3) to (3C) (unjust enrichment) and (4A), (4C) and (6) (recovery by assessment of amounts wrongly credited) have effect as if—

(a) a claim—

(i) under paragraph 25(1) were a claim under section 80(1),

(ii) under paragraph 25(2) were a claim under section 80(1B), and

(iii) under paragraph 25(3) were a claim under section 80(1A);

(b) references in that section to a prescribed accounting period included a tax period.

(2) In section 80(3) to (3C), (4A), (4C) and (6), as modified by sub-paragraph (1), references to the crediting of amounts are to be read as including the payment of amounts.

(3) The Commissioners are not liable to repay the overpaid amount on a claim made—

(a) under paragraph 25(2), or

(b) as mentioned in paragraph 25(7)(b),

if the claim is made more than 4 years after the relevant date.

(4) On a claim made under paragraph 25(3), the Commissioners are not liable to credit the amount not due if the claim is made more than 4 years after the relevant date.

(5) The "relevant date" is—

(a) in the case of a claim under paragraph 25(1), the end of the tax period mentioned in paragraph 25(1)(a), except in the case of a claim resulting from an incorrect disclosure;

(b) in the case of a claim under paragraph 25(1) resulting from an incorrect disclosure, the end of the tax period in which the disclosure was made;

(c) in the case of a claim under paragraph 25(2), the date on which the payment was made;

(d) in the case of a claim under paragraph 25(3), the end of the quarter in which the assessment was made.

(6) A person makes an "incorrect disclosure" where—

(a) the person discloses to the tax authorities in question (whether the Commissioners or the tax authorities for the administering member State) that the person has not brought into account for a tax period an amount of UK VAT due for the period ("the disclosed amount"),

(b) the disclosure is made in a later tax period, and

(c) some or all of the disclosed amount is not in fact VAT due.

Increase or decrease in consideration for a supply

27 (1) This paragraph applies where—

(a) a person makes a special scheme return for a tax period ("the affected tax period") relating (wholly or partly) to a UK supply, and

(b) after the return has been made the amount of the consideration for the UK supply increases or decreases.

(2) The person must, in the tax period in which the increase or decrease is accounted for in the person's business accounts—

(a) amend the special scheme return to take account of the increase or decrease, or

(b) (if the period during which the person is entitled under Article 61 of the Implementing Regulation to amend the special scheme return has expired) notify the Commissioners of the adjustment needed to the figures in the special scheme return because of the increase or decrease.

(3) Where the change to which an amendment or notice under sub-paragraph (2) relates is an increase in the consideration for a UK supply, the person must pay to the tax authorities for the administering member State (in accordance with Article 62 of the Implementing Regulation) or, in a case falling within sub-paragraph (2)(b), the Commissioners, the difference between—

(a) the amount of VAT that was chargeable on the supply before the increase in consideration, and

(b) the amount of VAT that is chargeable in respect of the whole of the increased consideration for the supply.

(4) Where the change to which an amendment or notice under sub-paragraph (2) relates is a decrease in the consideration for a UK supply, the amendment or notice has effect as a claim; and where

a claim is made the Commissioners must repay any VAT paid by the person that would not have been VAT due from the person had the consideration for the supply always been the decreased amount.

(5) The Commissioners may by regulations specify—
  (a) the latest time by which, and the form and manner in which, a claim or other notice under sub-paragraph (2)(b) must be given;
  (b) the latest time by which, and the form in which, a payment under sub-paragraph (3) must be made in a case within sub-paragraph (2)(b).

(6) A payment made under sub-paragraph (3) in a case within sub-paragraph (2)(a) must be made before the end of the tax period referred to in sub-paragraph (2).

(7) In this paragraph "UK supply" means a qualifying supply of goods that is treated as made in the United Kingdom.

Bad debts

28 Where a participant in a special scheme—
  (a) has submitted a special scheme return to the tax authorities for the administering member State, and
  (b) amends the return to take account of the writing-off as a bad debt of the whole or part of the consideration for a qualifying supply of goods that is treated as made in the United Kingdom,

the amending of the return may be treated as the making of a claim to the Commissioners for the purposes of section 36(2) (bad debts: claim for refund of VAT).

Penalties for errors: disclosure

29 Where a person corrects a special scheme return in a way that constitutes telling the tax authorities for the administering member State about—
  (a) an inaccuracy in the return,
  (b) a supply of false information, or
  (c) a withholding of information,

the person is regarded as telling HMRC about that for the purposes of paragraph 9 of Schedule 24 to the Finance Act 2007 (reductions for disclosure).

Set-offs

30 Where a participant in a special scheme is liable to pay UK VAT to the tax authorities for the administering member State in accordance with the scheme, the UK VAT is regarded for the purposes of section 130(6) of the Finance Act 2008 (set-off) as payable to the Commissioners.

PART 5

IOSS REPRESENTATIVES

Eligibility and representation

31 (1) A person may register as an IOSS representative for the purposes of the IOSS scheme if the person is established in Northern Ireland.

(2) A person may not be represented by more than one IOSS representative at a time.

Register

32 (1) Before a person ("R") can be registered as an IOSS representative, R must provide to the Commissioners the information required by Article 369p(2) and (3) of the VAT Directive.

(2) The Commissioners may by regulations or by means of a notice published by them make further provision about the registration of a person as an IOSS representative.

(3) The provision that may be made under sub-paragraph (2) includes provision—

(a) requiring the registration of the names of IOSS representatives against the names of the person (or persons) they represent in the register kept for the purposes of this Schedule;

(b) imposing requirements to be met before a person may be registered in that register as an IOSS representative or before such registration may be cancelled;

(c) making it the duty of an IOSS representative, for the purposes of registration, to notify the Commissioners, within such period as may be prescribed, that the representative's appointment has taken effect or has ceased to have effect;

(d) allowing the Commissioners to refuse to register a person as an IOSS representative, or to cancel a person's registration as an IOSS representative, in such circumstances as may be specified in the regulations;

(e) as to the manner and circumstances in which a person is to be appointed, or is to be treated as having ceased to be, an IOSS representative;

(f) about the making or deletion of entries relating to IOSS representatives in the register kept for the purposes of this Schedule.

Duties and obligations

33 Where a person registered under the IOSS scheme ("P") is represented by an IOSS representative ("R"), R—

(a) may act on P's behalf in relation to the IOSS scheme,

(b) must secure (where appropriate by acting on P's behalf) P's compliance with and discharge of the obligations and

liabilities to which P is subject by virtue of or under this Schedule, and

(c) is personally liable in respect of—

(i) any failure to secure P's compliance with or discharge of any such obligation or liability, and

(ii) anything done for purposes connected with acting on P's behalf,

as if the obligations and liabilities imposed on P were imposed jointly and severally on R and P.

PART 6

SUPPLEMENTARY PROVISION

Registration under this Act

34 (1) Notwithstanding any provision in this Act to the contrary (apart from paragraph 1(1A) of Schedule 1 as it has effect in accordance with paragraph 7 of Schedule 9ZF), a participant in the special scheme is not required to be registered under this Act by virtue of making qualifying supplies of goods.

(2) Where a participant in the special scheme ("the scheme participant") makes relevant supplies, it is to be assumed for all purposes of this Act relating to the determination of—

(a) whether or not VAT is chargeable under this Act on those supplies,

(b) how much VAT is chargeable under this Act on those supplies, and

(c) any other matter that the Commissioners may specify by regulations,

that the scheme participant is registered under this Act.

(3) Supplies of scheme services made by the scheme participant are "relevant supplies" if—

(a) the value of the supplies must be accounted for in a special scheme return, and

(b) the supplies are treated as made in the United Kingdom.

(4) References in this Schedule to a person being registered under this Act do not include a reference to that person being registered under the IOSS scheme.

De-registration

35 Where a person ("P") who is registered under Schedule 1 or 1A solely by virtue of the fact that P makes or intends to make qualifying supplies of goods satisfies the Commissioners that P intends to apply for—

(a) registration under this Schedule, or

(b) identification under any provision of the law of another member State which implements Section 4 of Chapter 6 of Title XII of the VAT Directive,

the Commissioners may, if P so requests, cancel P's registration under Schedule 1 or, as the case may be, 1A with effect from the day on which the request is made or from such later date as may be agreed between P and the Commissioners.

Scheme participants who are also registered under this Act

36 (1) A person who—
(a) is a participant in a special scheme, and
(b) is also registered, or required to be registered, under this Act,
is not required to discharge any obligation placed on the person as a taxable person, so far as the obligation relates to relevant supplies unless the obligation is an input tax obligation.

(2) The reference in sub-paragraph (1) to an obligation placed on the person as a taxable person is to an obligation—
(a) to which the person is subject under or by virtue of this Act, and
(b) to which the person would not be subject if the person were neither registered nor required to be registered under this Act.

(3) A supply made by a participant in a special scheme is a "relevant supply" if—
(a) the value of the supply must be accounted for in a return required to be made by the participant under the special scheme, and
(b) the supply is treated as made in the United Kingdom.

(4) In section 25(2) (deduction of input tax from output tax by a taxable person) the reference to output tax that is due from the taxable person does not include any VAT that the taxable person is liable under a special scheme to pay to the tax authorities for the administering member State.

(5) In this paragraph, "input tax obligation" means an obligation imposed on a taxable person relating to a claim to deduct under section 25(2) or to the payment of a VAT credit.

No import VAT chargeable on qualifying supplies of goods

37 No charge to VAT occurs on the importation of goods into the United Kingdom as a result of their entry into Northern Ireland, or their removal to Northern Ireland from Great Britain, where—
(a) that importation is in the course of a supply of those goods which is a qualifying supply of goods, and
(b) the person making the supply is registered under the IOSS scheme.

Time and place of supply of goods

38 (1) Sub-paragraphs (3) and (4) apply (instead of sections 6 and 7) for the purposes of determining when and where a supply of goods within sub-paragraph (2) takes place.

(2) A supply of goods is within this sub-paragraph where—
  (a) the supply of those goods is a qualifying supply of goods,
  (b) the supply is not facilitated by an online marketplace,
  (c) the person making the supply is registered under the IOSS scheme, and
  (d) the goods are supplied to a person in Northern Ireland or a member State.

(3) The supply of goods is to be treated as taking place at the time when payment for the goods has been accepted, within the meaning of Article 61b of the Implementing Regulation.

(4) The goods are to be treated as supplied—
  (a) in the case of goods supplied to a person in Northern Ireland, in the United Kingdom;
  (b) in the case of goods supplied to a person in a member State, in that member State.

Place of supply of goods: supplies facilitated by online marketplaces

39 (1) Sub-paragraph (2) applies (instead of section 6) to a supply of goods deemed to have taken place by section 5B(2)(a) or (b) as it has effect in accordance with paragraph 1B of Schedule 9ZC.

(2) The supply of goods is to be treated as taking place at the time when payment for the goods has been accepted within the meaning of Article 41a of the Implementing Regulation.

(3) Sub-paragraph (4) applies (instead of section 7) to a supply of goods deemed to have taken place by section 5B(2)(a) where the operator of the online marketplace that facilitated the supply of goods from P to R (within the meaning of that section) is registered under the IOSS scheme.

(4) The supply of goods is to be treated as taking place outside the United Kingdom.

(5) Sub-paragraph (6) applies (instead of section 7) to a supply of goods deemed to have taken place by section 5B(2)(b) where the operator of the online marketplace that facilitated the supply of goods from P to R (within the meaning of that section) is registered under the IOSS scheme.

(6) The supply of goods is to be treated as taking place in the United Kingdom.

VAT representatives

40 Section 48(1ZA) (VAT representatives) does not permit the Commissioners to direct a participant in the special scheme to appoint a VAT representative.

Refund of UK VAT

41 (1) Part 21 of the Value Added Tax Regulations 1995 (S.I. 1995/2518) has effect in relation to a person registered under the IOSS scheme

as it applies to a trader (within the meaning of those Regulations) subject to the following modifications.

(2) Regulation 186 (repayments of VAT) has effect as if after "imported by him into the United Kingdom" there were inserted "by virtue of their entry into Northern Ireland". *5*

(3) That Part has effect as if regulations 187, 188(1) and 188(2)(b) were omitted (VAT representatives and persons to whom Part 21 applies).

PART 7

APPEALS *10*

Appeals

42 (1) An appeal lies to the tribunal with respect to any of the following—

(a) a refusal to register a person under the IOSS scheme;

(b) the cancellation of the registration of any person under the IOSS scheme; *15*

(c) a refusal to make a repayment under paragraph 25 (overpayments), or a decision by the Commissioners as to the amount of a repayment due under that provision;

(d) a refusal to make a repayment under paragraph 27(4) (decrease in consideration); *20*

(e) any liability to a surcharge under paragraph 22 (default surcharge).

(2) Part 5 of this Act (reviews and appeals), and any order or regulations under that Part, have effect as if an appeal under this paragraph were an appeal which lies to the tribunal under section 83(1) (but not under any particular paragraph of that subsection). *25*

(3) Where the Commissioners have made an assessment under section 73 in reliance on paragraph 16 or 17—

(a) section 83(1)(p)(i) (appeals against assessments under section 73(1) etc) applies as if the special scheme return were a return under this Act, and *30*

(b) the references in section 84(3) and (5) to the matters mentioned in section 83(1)(p) are to be read accordingly.

PART 8 *35*

INTERPRETATION

Interpretation

43 (1) In this Schedule—

"administering member State", in relation to a special scheme, means the member State under whose law the scheme is established; *40*

"the Implementing Regulation" means Council Implementing Regulation (EU) No 282/2011;

"IOSS scheme" has the meaning given by paragraph 1(a);

"IOSS scheme return" has the meaning given by paragraph 11(1);

"participant in the special scheme" means a person who—

(a) is registered under the IOSS scheme, or

(b) is identified under any provision of the law of another member State which implements Section 4 of Chapter 6 of Title XII of the VAT Directive;

"qualifying supply of goods" has the meaning given by paragraph 2;

"registration request" is to be construed in accordance with paragraph 5(1)(b);

"relevant special scheme return" has the meaning given by paragraph 16(3);

"reporting period" is to be read in accordance with paragraph 11(2);

"special scheme" means—

(a) the accounting scheme under this Schedule, or

(a) any other scheme, under the law of another member State, implementing Section 4 of Chapter 6 of Title XII of the VAT Directive;

"special scheme return" means—

(a) an IOSS scheme return, or

(b) a value added tax return submitted to the tax authorities of another member State;

"tax period" means—

(a) a reporting period (under the accounting scheme under this Schedule), or

(b) any other period for which a person is required to make a return under a special scheme;

"UK VAT" means VAT which a person is liable to pay (whether in the United Kingdom or a member State) in respect of qualifying supplies treated as made in the United Kingdom at a time when the person is or was a participant in the special scheme;

"value added tax return", in relation to a member State, means any value added tax return required to be submitted under any provision of the law of that member State which implements Article 369s of the VAT Directive;

"the VAT Directive" means Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax.

(2) References in this Schedule to qualifying supplies of goods being "treated as made"—

(a) in the United Kingdom are to their being treated as made in the United Kingdom by paragraph 38 or 39;

(b) in a member State are to their being treated as made in that member State by virtue of any provision of the law of that member State which gives effect to Article 33(c) of the VAT Directive.

SCHEDULE 9ZF

40A

MODIFICATIONS ETC IN CONNECTION WITH SCHEDULES 9ZD AND 9ZE

PART 1

MODIFICATIONS OF THIS ACT

1 This Act has effect subject to the following modifications.

2 In section 4 (scope of VAT on taxable supplies), after subsection (1) insert—

"(1A) But a person is not a "taxable person" for the purposes of subsection (1) merely by virtue of the person being registered under Schedule 9ZD (the OSS scheme)."

3 (1) Section 76 (assessment of amounts due by way of penalty, interest or surcharge) has effect subject to the following modifications.

(2) Subsection (1)(a) has effect as if for "or 59A," there were substituted ", section 59A, paragraph 28 of Schedule 9ZD or paragraph 22 of Schedule 9ZE,".

(3) That section has effect as if after subsection (3) there were inserted—

"(3A) In the case of a surcharge under paragraph 28 of Schedule 9ZD or paragraph 22 of Schedule 9ZE, the assessment under this section is of an amount due in respect of "the relevant period", that is to say, the tax period (see section 76A) in respect of which the person is in default and in respect of which the surcharge arises."

4 This Act has effect as if after section 76 there were inserted—

"76A Section 76: cases involving special accounting schemes

(1) References in section 76 to a prescribed accounting period are to be read as including a tax period so far as that is necessary for the purposes of the references in section 76(1)(a) to paragraph 28 of Schedule 9ZD and paragraph 22 of Schedule 9ZE (assessment of surcharge in certain cases involving special accounting schemes).

(2) References in section 77 to a prescribed accounting period are to be read accordingly.

(3) In this section and section 76 "tax period" means a tax period as defined in paragraph 38 of Schedule 9ZD or paragraph 43 of Schedule 9ZE, as the case may be."

5 Section 80 (credit for, or repayment of, overstated or overpaid VAT) has effect as if in subsection (7), after "this section" there were inserted "(and paragraph 31 of Schedule 9ZD and paragraph 25 of Schedule 9ZE)".

6 Section 84 (further provision about appeals) has effect as if in subsection (6), after "section 70" there were inserted "or (as the

case may be) paragraph 28 of Schedule 9ZD or paragraph 22 of Schedule 9ZE".

7 Schedule 1 (registration in respect of taxable supplies: UK establishment) has effect as if in paragraph 1 (liability to be registered), after sub-paragraph (1) there were inserted—

"(1A) Where the person is UK-established and registered under Schedule 9ZE, in determining the value of a person's supplies for the purpose of sub-paragraph (1), any qualifying supply of goods (within the meaning of that Schedule) made by the person that is treated as supplied in the United Kingdom by virtue of paragraph 38 of that Schedule is to be taken into account."

8 Schedule 1A (registration in respect of taxable supplies: non-UK establishment) has effect as if after paragraph 11 there were inserted—

"12 Paragraphs 8 to 11 are subject to paragraph 18 of Schedule 9ZD and paragraph 35 of Schedule 9ZE (cancellation of registration of persons seeking to be registered under the Schedule concerned)."

PART 2

MODIFICATIONS ETC OF OTHER ACTS

Finance Act 2007

9 In Schedule 24 to FA 2007, Part 1 (error in taxpayer's document) has effect as if—

(a) in the table, after the entry relating to a VAT return, statement or declaration in connection with a claim there were inserted—

"VAT	Return under a special accounting scheme.";

(b) before sub-paragraph (5) there were inserted—

"(4A) In this paragraph "return under a special accounting scheme" means any of the following, so far as relating to supplies of goods treated as made in the United Kingdom—

(a) an OSS scheme return or a relevant non-UK return under Schedule 9ZD to VATA 1994 (see paragraphs 11 and 22(3) of that Schedule);

(b) a relevant special scheme return under Schedule 9ZE to VATA 1994 (see paragraphs 11 and 16(3) of that Schedule)."

Finance Act 2009

10 FA 2009 has effect subject to the following modifications.

11 Section 101 (late payment interest on sums due to HMRC) has effect as if after subsection (9) there were inserted—

"10 The reference in subsection (1) to amounts payable to HMRC includes—

(a) amounts of UK VAT payable under a non-UK scheme;

(b) amounts of UK VAT payable under a special scheme;

and references in Schedule 53 to amounts due or payable to HMRC are to be read accordingly.

11 In subsection (10)—

(a) expressions used in paragraph (a) have the same meaning as in Schedule 9ZD to VATA 1994 (the OSS scheme);

(b) expressions used in paragraph (b) have the same meaning as in Schedule 9ZE to VATA 1994 (the IOSS scheme)."

12 Section 108 (suspension of penalties during currency of agreement for deferred payment) has effect as if in the table in subsection (5), in the entry relating to value added tax, in the second column, after "1994" there were inserted, "or under paragraph 28 of Schedule 9ZD or paragraph 22 of Schedule 9ZE, to that Act".

Taxation (Cross-border Trade) Act 2018

13 (1) Section 54 of the Taxation (Cross-border Trade) Act 2018 (prohibition on collection of certain taxes or duties on behalf of country or territory without reciprocity) does not apply in relation to VAT collected by HMRC under Schedules 9ZD or 9ZE.

(2) But sub-paragraph (1) is not to be read as having any bearing on whether or not, in the absence of that sub-paragraph, accounting for VAT collected under those Schedules would otherwise have been authorised.

PART 3

MODIFICATIONS OF SECONDARY LEGISLATION

Value Added Tax Regulations 1995

14 The Value Added Tax Regulations 1995 (S.I. 1995/2518) have effect subject to the following modifications.

15 In Part 5A (reimbursement arrangements), regulation 43A (interpretation of Part 5A) has effect as if, in the definition of "claim", after paragraph (a) there were inserted—

"(b) a claim made under paragraph 31 of Schedule 9ZD, or paragraph 25 of Schedule 9ZE, to the Act (claims which

have effect for the purpose of section 80(3) of the Act as if they were section 80 claims)."

16 (1) Part 19 (bad debt relief (the new scheme)) has effect subject to the following modifications.

(2) Regulation 165 (interpretation of Part 19) has effect as if—

(a) in the definition of "claim", after "regulations 166" there were inserted "or 166A";

(b) in the definition of "return", after "regulation 25" there were inserted "but "relevant non-UK return" has the meaning given by paragraph 22(3) of Schedule 9ZD to the Act and "relevant special scheme return" has the meaning given by paragraph 16(3) of Schedule 9ZE to the Act";

(c) at the appropriate place there were inserted—

""tax period" has the meaning given by paragraph 38 of Schedule 9ZD or paragraph 43 of Schedule 9ZE (as the case may be) to the Act".

(3) Regulation 166 (the making of a claim to the Commissioners) has effect as if, at the beginning of paragraph (1) there were inserted "Subject to regulation 166A, and".

(4) That Part has effect as if after regulation 166 there were inserted—

"166AA The making of a claim to the Commissioners: special accounting schemes

(1) This regulation applies where the VAT on the relevant supply was accounted for on a relevant non-UK return or a relevant special scheme return.

(2) Where this regulation applies, the claimant must make the claim by—

(a) amending, in accordance with Article 61 of the Implementing Regulation, that relevant non-UK return or relevant special scheme return, or

(b) (where the period during which a person is entitled to make such an amendment has expired) notifying the Commissioners of the claim in writing in English."

(5) Regulation 168 (records required to be kept by the claimant) has effect as if after paragraph (3) there were inserted—

"(4) Where regulation 166AA applies, "prescribed accounting period" in this regulation is to be read as "tax period"."

(6) Regulation 171 (repayment of a refund) has effect as if at—

(a) at the beginning of paragraph (1) there were inserted "Subject to regulation 171A,";

(b) at the beginning of paragraph (2) there were inserted "Subject to regulation 171B,";

(c) at the beginning of paragraph (3) there were inserted "subject to regulation 171B and,".

(7) Those Regulations have effect as if after regulation 171 there were

inserted—

"171A Calculation of repayment where reduction in consideration: special accounting schemes

In a case falling within sub-paragraph (b)(iii) of regulation 171(1) where the VAT on the relevant supply was accounted for on a relevant non-UK return or a relevant special scheme return, the amount to be repaid is such an amount as is equal to the amount by which the VAT chargeable on the relevant supply is reduced.

171B Timing and method of repayments: special accounting schemes

(1) Where—

(a) the VAT on the relevant supply was accounted for on a relevant non-UK return or a relevant special scheme return, and

(b) a repayment is required by regulation 171(1),

that repayment must be made no later than twenty days after the end of the tax period in which the payment for the relevant supply is received or the reduction in consideration is accounted for in the claimant's business accounts.

(2) Where—

(a) the VAT on the relevant supply was accounted for on a relevant non-UK return or a relevant special scheme return, and

(b) a repayment is required by regulation 171(3),

that repayment must be made no later than twenty days after the end of the tax period in which the failure to comply first occurred.

(3) In either case the repayment must be made by—

(a) amending the relevant non-UK return or the relevant special scheme return for the tax period in which the VAT on the relevant supply was brought into account, or

(b) (where the relevant period has expired) sending the sum due to the Commissioners.

(4) In sub-paragraph (3)(b), the "relevant period" is the period of 3 years beginning with the day on which the relevant non-UK return or the relevant special scheme return for the tax period in which the VAT on the relevant supply was brought into account was required to be submitted."

17 (1) Part 20A of those Regulations (Repayments to EU traders incurring VAT on goods in Northern Ireland) has effect subject to the following modifications.

(2) Regulation 184D has effect as if, in the alternative version of regulation 173B(2)(c), after "Northern Ireland" there were inserted ", unless it is a supply or importation—

(a) that is a scheme supply for the purposes of Schedule 9ZD to the Act, and

(b) that is made by a person who is registered under that Schedule when the supply is made";

(3) Regulation 184I has effect as if, in the alternative version of regulation 173L(2), after "Northern Ireland" there were inserted ", unless it is a supply—

(a) that is a scheme supply for the purposes of Schedule 9ZD of the Act, and

(b) that is made by a person who is registered under that Schedule when the supply is made".

18 The Regulations have effect as if after regulation 213 there were inserted—

"PART 26

UK OSS AND IOSS SPECIAL ACCOUNTING SCHEMES: REGISTRATION, NOTIFICATION OF CHANGES AND RETURNS

214 Interpretation

(1) In this Part—

"applicant" means a person making a registration request under paragraph 5 of Schedule 9ZD or paragraph 5 of Schedule 9ZE to the Act;

"principal VAT Directive" means Council Directive 2006/112/EC of 28 November on the common system of value added tax;

"relevant place" means Northern Ireland or a member State.

(2) In regulations 215 and 216, references to a number allocated under Article 362 of the principal VAT Directive mean a number allocated at any time under that Article.

215 Registration requests: OSS scheme

A registration request under paragraph 5 of Schedule 9ZD to the Act must contain details of—

(a) any VAT identification number or tax reference number by which the applicant is identified for VAT purposes by any relevant place in accordance with Article 214, Article 239 or Article 240 of the principal VAT Directive, and the name of that relevant place,

(b) any number previously allocated to the applicant by a member State or the United Kingdom under Article 362 of the principal VAT Directive, or otherwise for the purposes of Article 369d of the principal VAT Directive, and the name of that relevant place,

(c) where the applicant has previously been identified under a non-UK scheme (within the meaning of Schedule 9ZD to the Act), the date the applicant ceased to be so identified,

(d) whether the applicant is treated as a member of a group under any of sections 43A to 43D of the Act, and

(e) the name of any relevant place in which the applicant has a fixed establishment, and the address of each such fixed establishment.

216 Registration requests: IOSS scheme

A registration request under paragraph 5 of Schedule 9ZE to the Act must contain details of—

(a) any VAT identification number or tax reference number by which the applicant is identified for VAT purposes by any relevant place in accordance with Article 214, Article 239 or Article 240 of the principal VAT Directive, and the name of that relevant place, and

(b) any number previously allocated to the applicant by a member State or the United Kingdom under Article 362 of the principal VAT Directive, or otherwise for the purposes of Article 369q of the principal VAT Directive, and the name of that relevant place.

217 Registration requests: declaration

A registration request under paragraph 5 of Schedule 9ZD or paragraph 5 of Schedule 9ZE to the Act must also contain a declaration by the applicant that the information the applicant has provided in the registration request is accurate and complete to the best of the applicant's knowledge.

218 Requirement to use electronic portal

The following communications must be made by using the electronic portal set up by the Commissioners for the purposes of implementing Sections 3 and 4 of Chapter 6 of Title XII to the principal VAT Directive—

(a) a registration request under paragraph 5 of Schedule 9ZD or paragraph 5 of Schedule 9ZE to the Act;

(b) the information required by paragraph 8 of Schedule 9ZD or paragraph 8 of Schedule 9ZE to the Act;

(c) a return required under paragraph 11 of Schedule 9ZD or paragraph 11 of Schedule 9ZE to the Act.

PART 27

NON-UK OSS AND IOSS SPECIAL ACCOUNTING SCHEMES: ADJUSTMENTS, CLAIMS AND ERROR CORRECTION

219 Meaning of "tax period"

In this Part, "tax period" has the meaning given by paragraph 38 of Schedule 9ZD or paragraph 43 of Schedule 9ZE (as the case may be) to the Act.

219A Amending a special accounting scheme return

(1) Any amendment to a return under a special accounting scheme for a tax period in which a relevant supply was brought into account must—

(a) be made in a subsequent return under a special accounting scheme of the same type,

(b) be made before the end of the period of three years beginning with the day on which the return for the tax period in which the relevant supply was brought into account was required to be submitted, and

(c) include details of—

(i) the member State in which the relevant supply was made;

(ii) the tax period to which the amendment relates;

(iii) the amount of VAT concerned.

(2) In this regulation, "return under a special accounting scheme" means any of the following, so far as relating to supplies of goods treated as made in the United Kingdom—

(a) an OSS scheme return or a relevant non-UK return under Schedule 9ZD to the Act (see paragraphs 11 and 22(3) of that Schedule);

(b) an IOSS scheme return or a relevant special scheme return under Schedule 9ZE to VATA 1994 (see paragraphs 11 and 16(3) of that Schedule).

220 Correction of errors on non-UK and special scheme returns more than 3 years after the date the original return was required to be made

(1) In this regulation "notice" means a notice given under paragraph 25(3) of Schedule 9ZD or paragraph 19(3) of Schedule 9ZE to the Act.

(2) A person giving a notice (P) must do so—

(a) no later than 4 years after the end of the tax period in respect of which the return identified in the notice was required to be made; and

(b) in writing in English.

(3) P must also provide such documentary evidence in support of the notice as P possesses.

221 Claims in respect of overpaid VAT

(1) A person making a claim under paragraph 31(1) of Schedule 9ZD, or paragraph 25(1) of Schedule 9ZE, to the Act must provide to the Commissioners at the time of making the claim a statement in writing in English explaining how the claim is calculated.

(2) A person making a claim under any other provision of paragraph 31 of Schedule 9ZD, or paragraph 25 of Schedule 9ZE to the Act must—

(a) make that claim to the Commissioners, and

(b) provide to the Commissioners at the time of making the claim a statement in writing in English explaining how the claim is calculated.

222 Increases or decreases in consideration occurring more than 3 years after the end of the affected tax period

(1) A claim or other notice made under paragraph 33(2)(b) of Schedule 9ZD or paragraph 27(2)(b) of Schedule 9ZE to the Act must be made in writing in English.

(2) A person making a payment—

(a) under paragraph 33(3) of Schedule 9ZD to the Act in a case falling within paragraph 33(2)(b) of that Schedule, or

(b) under paragraph 27(3) of Schedule 9ZE to the Act in a case falling within paragraph 27(2)(b) of that Schedule,

must do so no later than twenty days after the end of the tax period in which the increase in consideration is accounted for in the person's business accounts.

223 Scheme participants who are also taxable persons: disapplication of paragraph 19(1)

(1) Paragraph 19(1) of Schedule 9ZD to the Act is not to apply in the case of an input tax obligation.

(2) In this regulation "input tax obligation" means an obligation imposed on a taxable person relating to a claim to deduction under section 25(2) of the Act or to payment of a VAT credit."

PART 3

OMISSION OF PART 2 OF SCHEDULE 9ZC TO VATA 1994

7 In Schedule 9ZC to VATA 1994 (online sales by overseas persons and low value importations: modifications relating to the Northern Ireland Protocol) omit Part 2 (modifications of the Value Added Tax (Imported Goods) Relief Order 1984).

PART 4

AMENDMENTS RELATING TO SUPPLIES OF GOODS BY PERSONS ESTABLISHED OUTSIDE THE UNITED KINGDOM THAT ARE FACILITATED BY ONLINE MARKETPLACES

8 (1) Schedule 9ZC to VATA 1994 is amended as follows.

(2) Before paragraph 2 insert—

"1B This Act has effect as if after section 5A there were inserted—

"5B Supplies of goods in Northern Ireland facilitated by online marketplaces: deemed supply

(1) This section applies where—

(a) a person ("P") makes a taxable supply of goods in the course or furtherance of a business to another person ("R"),

(b) the supply is facilitated by an online marketplace, and

(c) either the IOSS scheme condition or the Union goods condition is met.

(2) For the purposes of this Act—

(a) P is to be treated as having supplied the goods to the operator of the online marketplace, and

(b) the operator is to be treated as having supplied the goods to R in the course or furtherance of a business carried on by the operator.

(3) The IOSS scheme condition is met where—

(a) R belongs in Northern Ireland and is not a taxable person,

(b) the supply is a qualifying supply of goods within the meaning of Schedule 9ZE, and

(c) the operator of the online marketplace is registered under that Schedule.

(4) But the IOSS scheme condition is not met where—

(a) P is established in the United Kingdom, and

(b) the supply involves the removal of goods from Great Britain to Northern Ireland.

(5) The Union goods condition is met where—

(a) P is not established in Northern Ireland or a member State,

(b) R either—

(i) belongs in Northern Ireland and is not a taxable person, or

(ii) belongs in a member State and is not liable or entitled to be registered for VAT in accordance with the law of that member State, and

(c) the supply is a supply of Union goods that are located in Northern Ireland at the time they are supplied.

(6) But the Union goods condition is not met where—

(a) P is established in Great Britain, and

(b) R belongs in Northern Ireland.

(7) In this section, "Union goods" has the same meaning as in Regulation (EU) 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (see Article 5(23) of that Regulation).""

(3) After paragraph 2 insert—

"2A In Part 2 of Schedule 8 (zero-rating: the groups), Group 21 (online marketplaces: deemed supply) has effect as if after Item 1 there were inserted—

"2 A supply by a person not established in Northern Ireland or a member State that is deemed to be a supply to an operator of an online marketplace by virtue of section 5B (as it has effect in accordance with paragraph 1B of this Schedule).""

(4) In paragraph 3, after sub-paragraph (1) insert—

"(1A) Sub-paragraph (1) has effect as if at the start there were inserted "Subject to paragraph 6ZA,".

(5) After paragraph 3 insert—

"3A Schedule 11 has effect as if after paragraph 6 there were inserted—

"6ZA(1) An operator of an online marketplace must preserve and make available records relating to a relevant taxable supply in accordance with the requirements of Article 242a of the VAT Directive and Article 54c of the Implementing Regulation.

(2) In this paragraph—

"the Implementing Regulation" has the same meaning as in Schedule 9ZE;

"relevant taxable supply" means a supply of goods where that supply is deemed to be a supply by an operator of an online marketplace by virtue of section 5B (as it has effect in accordance with paragraph 1B of this Schedule);

"the VAT Directive" has the same meaning as in Schedule 9ZE.""

3B (1) Sub-paragraph (2) applies (instead of section 6) to a supply of goods deemed to have taken place by section 5B(2)(a) or (b) (as it has effect in accordance with paragraph 1B of this Schedule).

(2) The supply of goods is to be treated as taking place at the time when payment for the goods has been accepted within the meaning of Article 41a of the Implementing Regulation.

(3) In this paragraph, "the Implementing Regulation" has the same meaning as in Schedule 9ZE."

(6) Before Part 3 insert—

"PART 2A

MODIFICATION OF THE VALUE ADDED TAX REGULATIONS 1995

5A (1) In the Value Added Tax Regulations 1995 (S.I. 1995/2518), Part 3 (VAT invoices and other invoicing requirements) has effect subject to the following modifications.

(2) In regulation 13 (obligation to provide a VAT invoice), paragraph (1C) has effect as if—

(a) in sub-paragraph (a), after "section 5A" there were inserted "or 5B (as it has effect in accordance with paragraph 1B of Schedule 9ZC to the Act)";

(b) in sub-paragraph (b), after "section 7(5B) of" there were inserted ", or paragraph 38 of Schedule 9ZE to,".

(3) In regulation 13A (electronic invoicing), paragraph (5) has effect as if—

(a) in sub-paragraph (a), after "section 5A" there were inserted "or 5B (as it has effect in accordance with paragraph 1B of Schedule 9ZC to the Act)";

(b) in sub-paragraph (b), after "section 7(5B) of" there were inserted ", or paragraph 38 of Schedule 9ZE to,".

(4) Regulation 16B (retailers' and simplified invoices: exceptions), has effect as if—

(a) in sub-paragraph (a), after "section 5A" there were inserted "or 5B (as it has effect in accordance with paragraph 1B of Schedule 9ZC to the Act)";

(b) in sub-paragraph (b), after "section 7(5B) of" there were inserted ", or paragraph 38 of Schedule 9ZE to,"."

SCHEDULE 19

Section 99

DEFERRING VAT PAYMENT BY REASON OF THE CORONAVIRUS EMERGENCY

Definitions

1 In this Schedule—

"the Commissioners" means the Commissioners for Her Majesty's Revenue and Customs;

"HMRC" means Her Majesty's Revenue and Customs;

"relevant VAT sum" means a sum to meet all or part of a liability described in article 5 of the Finance Act 2008, Section 135 (Coronavirus) Order 2020 (S.I. 2020/934).

Power to agree to further defer payment

2 (1) The Commissioners (having agreed that payment of relevant VAT sums may be deferred until 31 March 2021) may—

(a) agree that payment of a relevant VAT sum may be further deferred, and

(b) make such arrangements as they consider appropriate for persons to pay relevant VAT sums.

(2) The period for which payment is further deferred under sub-paragraph (1) may be different for different cases.

(3) Arrangements made under sub-paragraph (1) may, among other things—

(a) require that, in order to participate in the arrangements, a person must meet specified conditions,

(b) require or enable a sum to be paid in instalments, including instalments of different amounts, and

(c) make different provision for different cases.

(4) Nothing in sub-paragraphs (1) to (3) affects the powers otherwise available to the Commissioners in connection with the collection and management of relevant VAT sums or other sums.

No surcharge

3 No liability to a surcharge on a relevant VAT sum arises under section 59 of VATA 1994 (the default surcharge).

Penalty

4 (1) A person who is liable to pay a relevant VAT sum is liable to a penalty if the person—
(a) fails to pay the sum on or before 30 June 2021, and
(b) fails to enter into payment arrangements in respect of the sum on or before that day.

(2) In sub-paragraph (1), "payment arrangements" means arrangements with HMRC (whether general or individually tailored) under which the sum is to be paid and includes arrangements entered into before this Schedule comes into force.

(3) A person is not liable to a penalty under this Schedule in respect of a relevant VAT sum if the person satisfies HMRC or, on appeal, a tribunal that there is a reasonable excuse for the failures described in sub-paragraph (1)(a) and (b).

(4) In sub-paragraph (3), "tribunal" has the same meaning as in VATA 1994 (see section 82 of that Act).

Amount of penalty

5 The amount of the penalty under this Schedule is 5% of so much of the relevant VAT sum as has not been paid immediately before the day on which the amount due by way of penalty is assessed under paragraph 6(1).

Assessment of penalty

6 (1) Where a person is liable to a penalty under this Schedule, HMRC may assess the amount due by way of penalty and notify it to the person (subject to sub-paragraph (4)).

(2) If it appears to HMRC that the amount that ought to have been assessed in an assessment under sub-paragraph (1) exceeds the amount that was assessed, HMRC may make a supplementary assessment of the amount of the excess and notify it to the person (subject to sub-paragraph (4)).

(3) If it appears to HMRC that the amount that was assessed in an assessment under sub-paragraph (1) exceeds the amount that ought to have been assessed, HMRC may, by notice to the person, amend the assessment so as to reduce the amount due.

(4) An assessment under sub-paragraph (1) or (2) may not be made after the end of the period of 2 years beginning with the time when facts sufficient in the opinion of HMRC to indicate that the person had failed as described in paragraph 4(1)(a) and (b) came to HMRC's knowledge.

(5) An amendment under sub-paragraph (3) may be made after the last day on which the assessment in question could have been made.

Payment of penalty

7 (1) A penalty under this Schedule must be paid before the end of the period of 30 days beginning with the day on which notification of the assessment of the penalty under paragraph 6(1) is issued.

(2) Where HMRC make a supplementary assessment under paragraph 6(2), the additional amount must be paid before the end of the period of 30 days beginning with the day on which they issue the notification of that assessment.

(3) Where HMRC amend an assessment under paragraph 6(3) that does not affect when the penalty must be paid.

Recovery of penalty

8 (1) If an amount is assessed and notified to a person under this Schedule then unless, or except to the extent that, the assessment is withdrawn or reduced, the amount is recoverable as if it were VAT due from the person.

(2) In sub-paragraph (1), "VAT" has the same meaning as in VATA 1994 (see section 96 of that Act).

Reviews and appeals

9 (1) Part 5 of VATA 1994 (reviews and appeals) has effect in relation to—

(a) any liability to a penalty under this Schedule, and

(b) the amount of a penalty under this Schedule,

as if those matters were listed in section 83(1) of that Act.

(2) Section 84(3), (3B) and (3C) of that Act (requirement to deposit sum payable with HMRC) have effect in relation to appeals against decisions with respect to those matters.

Double jeopardy

10 A person is not liable to a penalty under this Schedule in respect of a failure in respect of which the person has been convicted of an offence.

Notifications etc

11 (1) Section 98 of VATA 1994 (service of notices) applies to notices and notifications to be given under this Schedule as it applies to notices and notifications to be given under that Act.

(2) For the purposes of this Schedule, a notice or notification given to a personal representative, trustee in bankruptcy, trustee in sequestration, receiver, liquidator or other representative of a person is to be treated as having been given to that person.

(3) In sub-paragraph (2), "trustee in sequestration" has the same meaning as in VATA 1994 (see section 96 of that Act).

SCHEDULE 20

Section 101

CUSTOMS DUTY: STEEL PRODUCTS

1 The Customs (Northern Ireland) (EU Exit) Regulations 2020 (S.I. 2020/1605) are amended in accordance with this Schedule.

Duty on certain steel products imported on or after 3 March 2021

2 (1) After regulation 7 insert—

"7A Amount of section 30A(3) duty for certain steel products

(1) This regulation applies to goods if—

(a) they are imported into the United Kingdom as a result of their entry into Northern Ireland,

(b) they are not relevant goods,

(c) they are not Union goods,

(d) the origin of the goods (as determined in accordance with the provisions of Union customs legislation in force relating to non-preferential origin) is neither in the United Kingdom nor in the European Union,

(e) they are declared, in accordance with Union customs legislation, for a procedure corresponding to the free-circulation procedure or the authorised use procedure,

(f) they would (ignoring this regulation) have been subject to the EU steel safeguarding measure, and

(g) if they had instead been imported into a member State they would have benefitted from tariff-rate quota in relation to that measure.

(2) For the purpose of determining the amount of duty charged under section 30A(3) of the Act in respect of goods to which this regulation applies—

(a) the EU steel regulation does not apply, and

(b) the steel safeguards notice applies as if references to import duty were to duty charged under section 30A(3)."

(2) In regulation 8 (determination of section 30A charge), after "7" insert ", 7A".

(3) In regulation 9 (relief from section 30A duty), in sub-paragraph (c)—

(a) for "regulation" substitute "regulations";

(b) after "7" insert "and 7A".

(4) The amendments made by this paragraph—

(a) have effect in relation to goods declared on or after 3 March 2021, in accordance with Union customs legislation, for a procedure corresponding to the free-circulation procedure or the authorised use procedure, and

(b) have effect as if made under section 30B of TCTA 2018 (and may be amended or revoked accordingly).

Duty on certain steel products imported before 3 March 2021

3 (1) Before regulation 8 insert—

"7B Amount of section 30A(3) duty for certain steel products before 3 March 2021

(1) This regulation applies to goods if—

(a) they are imported into the United Kingdom as a result of their entry into Northern Ireland,

(b) they are declared before 3 March 2021, in accordance with Union customs legislation, for a procedure corresponding to the free-circulation procedure or the authorised use procedure,

(c) they are not relevant goods,

(d) they are not Union goods,

(e) the origin of the goods (as determined in accordance with the provisions of Union customs legislation in force relating to non-preferential origin) is neither in the United Kingdom nor in the European Union,

(f) they would (ignoring this regulation) have been subject to an EU steel safeguarding measure,

(g) if they had instead been imported into a member State they would have benefitted from tariff-rate quota in relation to that measure, and

(h) they would not have been subject to a domestic steel safeguarding measure (whether they would have benefited from a quota or were otherwise not subject to the measure) if—

(i) the goods had been declared for the free-circulation procedure or the authorised use procedure in Great Britain, and

(ii) that declaration had been accepted at the same time as the actual declaration was accepted.

(2) Where the person declaring the goods makes a relevant claim that is accepted by HMRC, the EU steel regulation does not apply for the purpose of determining the amount of duty charged under section 30A(3) of the Act in respect of the goods.

(3) In this regulation "relevant claim" means a claim made in accordance with the procedure set out in the steel notice provided all conditions in that notice are complied with."

(2) In regulation 8 (determination of section 30A charge), before "and 9" insert ", 7B".

(3) The amendments made by this paragraph—

(a) have effect in relation to goods declared on or after IP completion day, in accordance with Union customs legislation, for a procedure corresponding to the free-circulation procedure or the authorised use procedure, and

(b) have effect as if made under section 30B of TCTA 2018 (and may be amended or revoked accordingly).

Duty on certain steel products removed to Northern Ireland on or after 3 March 2021

4 (1) After regulation 13 insert—

"13A Amount of section 40A(1) duty for certain steel products

(1) This regulation applies to goods if—

(a) they are removed to Northern Ireland from Great Britain,

(b) they are declared, in accordance with Union customs legislation, for a procedure corresponding to the free-circulation procedure or the authorised use procedure,
(c) they are not relevant goods,
(d) they are not Union goods,
(e) they are not domestic goods,
(f) they are not goods to which regulation 11 applies,
(g) the origin of the goods (as determined in accordance with the provisions of Union customs legislation in force relating to non-preferential origin) is neither in the United Kingdom nor in the European Union,
(h) they would (ignoring this regulation) have been subject to an EU steel safeguarding measure, and
(i) if they had instead been imported into a member State they would have benefitted from tariff-rate quota in relation to that measure.

(2) For the purpose of determining the amount of duty charged under section 40A(1) of the Act in respect of goods to which this regulation applies—
(a) the EU steel regulation does not apply, and
(b) the steel safeguards notice applies as if references to import duty were to duty charged under section 40A(1)."

(2) In regulation 14 (determination of section 40A charge), after "13," insert "13A,".

(3) In regulation 16 (relief from section 40A duty), in paragraph (1)(c)—
(a) for "regulation" substitute "regulations";
(b) after "13" insert "and 13A".

(4) The amendments made by this paragraph—
(a) have effect in relation to goods declared on or after 3 March 2021, in accordance with Union customs legislation, for a procedure corresponding to the free-circulation procedure or the authorised use procedure, and
(b) have effect as if made under section 40B of TCTA 2018 (and may be amended or revoked accordingly).

Duty on certain steel products removed to Northern Ireland after IP completion day

5 (1) Before regulation 14 insert—

"13B Amount of section 40A(1) duty for certain domestic steel products

(1) This regulation applies to goods if—
(a) they are removed to Northern Ireland from Great Britain,
(b) they are declared, in accordance with Union customs legislation, for a procedure corresponding to the free-circulation procedure or the authorised use procedure,
(c) they are domestic goods,
(d) they are not relevant goods,
(e) they are not Union goods,
(f) they are not goods to which regulation 11 applies,

(g) the origin of the goods (as determined in accordance with the provisions of Union customs legislation in force relating to non-preferential origin) is neither in the United Kingdom nor in the European Union,

(h) they would (ignoring this regulation) have been subject to an EU steel safeguarding measure, and

(i) if they had instead been imported into a member State they would have benefitted from tariff-rate quota in relation to that measure.

(2) Where the person declaring the goods makes a relevant claim that is accepted by HMRC, the EU steel regulation does not apply for the purpose of determining the amount of duty charged under section 40A(1) of the Act in respect of the goods.

(3) In this regulation "relevant claim" means a claim—

(a) made in accordance with a procedure specified in a notice given by HMRC Commissioners, or

(b) if no such notice is in force, made in accordance with the procedure set out in the steel notice provided all conditions in that notice are complied with.

(4) HMRC Commissioners may by notice provide that a person who makes a relevant claim of the type mentioned in paragraph (3)(a) must notify the Secretary of State of the making of the claim.

(5) The notice may provide—

(a) that specified information must be included in the notification to the Secretary of State;

(b) for the form and manner in which such a notification must be given;

(c) that such a notification must be given within such period as is specified in the notice.

(6) A notice under paragraph (3)(a) or (4)—

(a) must be published;

(b) may be withdrawn;

(c) may be amended from time to time.

13C Amount of section 40A(1) duty for certain steel products before 3 March 2021

(1) This regulation applies to goods if—

(a) they are removed to Northern Ireland from Great Britain,

(b) they are declared before 3 March 2021, in accordance with Union customs legislation, for a procedure corresponding to the free-circulation procedure or the authorised use procedure,

(c) they are not domestic goods,

(d) they are not relevant goods,

(e) they are not Union goods,

(f) they are not goods to which regulation 11 applies,

(g) the origin of the goods (as determined in accordance with the provisions of Union customs legislation in force relating to

non-preferential origin) is neither in the United Kingdom nor in the European Union,

(h) they would (ignoring this regulation) have been subject to an EU steel safeguarding measure,

(i) if they had instead been imported into a member State they would have benefitted from tariff-rate quota in relation to that measure, and

(j) they would not have been subject to a domestic steel safeguarding measure (whether they would have benefited from a quota or were otherwise not subject to the measure) if—

(i) the goods had been declared for the free-circulation procedure or the authorised use procedure in Great Britain, and

(ii) that declaration had been accepted at the same time as the actual declaration was accepted.

(2) Where the person declaring the goods makes a relevant claim that is accepted by HMRC, the EU steel regulation does not apply for the purpose of determining the amount of duty charged under section 40A(1) of the Act in respect of the goods.

(3) In this regulation "relevant claim" means a claim made in accordance with the procedure set out in the steel notice provided all conditions in that notice are complied with."

(2) In regulation 14 (determination of section 40A charge), before "15" insert "13B, 13C,".

(3) The amendments made by this paragraph—

(a) have effect in relation to goods declared on or after IP completion day, in accordance with Union customs legislation, for a procedure corresponding to the free-circulation procedure or the authorised use procedure, and

(b) have effect as if made under section 40B of TCTA 2018 (and may be amended or revoked accordingly).

Interpretation

6 (1) In regulation 3 (interpretation of Part 2), at the appropriate places insert—

""domestic steel safeguarding measure" means an additional rate of duty payable as a result of the steel safeguards notice (and goods are subject to that measure if that additional rate is payable in respect of the goods);";

""EU steel safeguarding measure" means an additional rate of duty payable as a result of Article 1 of the EU steel regulation (and goods are subject to that measure if that additional rate is payable in respect of the goods);";

""EU steel regulation" means Commission Implementing Regulation (EU) 2019/159 as it may be amended, or replaced, from time to time;";

""steel notice" means the notice on movements of steel into Northern Ireland published by HMRC on 3 March 2021;";

""steel safeguards notice" means Taxation Notice 2020/06: safeguard measures on certain steel products – application of tariff rate quotas published on 30 September 2020 by the Secretary of State, as that notice may be amended, or replaced, from time to time;". 5

(2) The amendments made by this paragraph—
(a) are treated as having come into force on IP completion day, and
(b) have effect as if made under sections 30B and 40B of TCTA 2018 (and may be amended or revoked accordingly).

Power to extend application of the regulations to other goods 10

7 Where provision inserted by this Schedule—
(a) relates to particular goods, and
(b) is to have effect as if made under a power conferred by TCTA 2018,
that power may (amongst other things) be exercised to make similar provision relating to other goods, including provision having retrospective 15 effect provided any such retrospective provision does not impose or increase taxation.

SCHEDULE 21

Section 102

RESTRICTION OF USE OF REBATED DIESEL AND BIOFUELS

1 HODA 1979 is amended as follows. 20

2 In section 6AA (excise duty on biodiesels), in subsection (2)—
(a) after paragraph (a) insert—
"(aa) for heating,";
(b) in paragraph (b), for "so used" substitute "used as mentioned in paragraph (a) or (aa)". 25

3 (1) In section 6AB (excise duty on blends of biodiesel and heavy oils), in subsection (4A), for "other than as fuel for road vehicles" substitute "as fuel for excepted machines".

(2) If paragraph 2 of Schedule 11 to FA 2020 has come into force in relation to any part of the United Kingdom before this Schedule comes into force then, 30 in relation to that part, in sub-paragraph (1) of this paragraph, after "vehicles" insert "etc".

4 In section 6A (fuel substitutes), in subsection (2)—
(a) at the end of paragraph (a) (but before the "or") insert—
"(aa) for heating;"; 35
(b) in paragraph (b), for "so used" substitute "used as mentioned in paragraph (a) or (aa)".

5 (1) In section 12 (rebate not allowed on fuel for road vehicles)—
(a) in the heading, for "for road vehicles" substitute "other than for excepted machines"; 40
(b) in subsection (1), for "for a road vehicle" substitute "other than for an excepted machine";

(c) after subsection (2) insert—

"(2ZA) Except as mentioned in subsection (2), no heavy oil on whose delivery for home use rebate has been allowed under section 11(1)(a) or (b) may—

(a) be used as fuel other than for an excepted machine, or

(b) taken into any vehicle, vessel, machine or appliance, other than an excepted machine, as fuel."

(2) If paragraph 3 of Schedule 11 to FA 2020 has come into force in relation to any part of the United Kingdom before this Schedule comes into force then, in relation to that part—

(a) in sub-paragraph (1)(a) of this paragraph, after "vehicles" insert "etc";

(b) in sub-paragraph (1)(b) of this paragraph, after "vehicle" insert "or as fuel for propelling a private pleasure craft".

6 (1) Section 13 (penalties for contravention of section 12) is amended as follows.

(2) In subsection (1)—

(a) in paragraph (a), for "section 12(2)" substitute "subsection (2) or (2ZA) of section 12";

(b) in paragraph (b)—

(i) for "road vehicle" substitute "vehicle, vessel, machine or appliance";

(ii) for "that subsection" substitute "either of those subsections".

(3) In subsection (1A)—

(a) in the words before paragraph (a)—

(i) for "road vehicle" substitute "vehicle, vessel, machine or appliance";

(ii) after "12(2)" insert "or (2ZA)";

(b) in paragraph (a), for "road vehicle" substitute "vehicle, vessel, machine or appliance".

(4) In subsection (2)—

(a) the words from "if a payment" to "that subsection" become paragraph (a);

(b) for the words after that paragraph substitute ", or

(b) contravene subsection (2ZA) of section 12,

the supplying of the oil attracts a penalty under section 9 of the Finance Act 1994 (civil penalties)."

(5) In subsection (3)—

(a) in paragraph (a), after "(2)" insert "or (2ZA)";

(b) in paragraph (b), for the words from "if a payment" to the end substitute "contravene —

(i) subsection (2) of that section, if a payment under that subsection were not made in respect of the oil, or

(ii) subsection (2ZA) of that section,".

(6) In subsection (4), after "section 12 above" insert "or into any other vehicle, vessel, machine or appliance in contravention of subsection (2ZA) of that section".

(7) In subsection (6)—

(a) in paragraph (a), for "section 12(2) above" substitute "subsection (2) of section 12 above or into any other vehicle, vessel, machine or appliance other than an excepted machine as mentioned in subsection (2ZA) of that section,";

(b) in paragraph (b), for the words from "a vehicle" to the end substitute "a vehicle, vessel, machine or appliance at a time when it is an excepted machine and remaining in that vehicle, vessel, machine or appliance as part of its fuel supply at a later time when it ceases to be an excepted machine".

7 (1) In section 13ZB (restrictions on supply of certain heavy oil for heating etc), in subsection (5), in the definition of "prohibited use", for "for a road vehicle" substitute "other than for an excepted machine".

(2) If paragraph 4 of Schedule 11 to FA 2020 has come into force in relation to any part of the United Kingdom before this Schedule comes into force then, in relation to that part, in sub-paragraph (1) of this paragraph, after "vehicle" insert "or as fuel for a private pleasure craft".

8 (1) Section 13AA (restrictions on use of rebated kerosene) is amended as follows.

(2) In subsection (1), for paragraphs (a) and (b) substitute "an excepted machine other than an excepted machine used for heating".

(3) In subsection (2), for paragraphs (a), (b) and (c) substitute—

"(a) be used as fuel for an excepted machine other than an excepted machine used for heating, or

(b) be taken into the fuel supply of an excepted machine other than an excepted machine used for heating."

9 In section 13AB (penalty for contravention of section 13AA), in subsection (2), in the words before paragraph (a), omit "of an engine".

10 (1) Section 14A (rebate on biodiesel used other than as fuel for road vehicles etc) is amended as follows.

(2) In the heading, for "other than as fuel for road vehicles etc" substitute "as fuel for excepted machines".

(3) In subsection (1)—

(a) in paragraph (a), for "for a road vehicle" substitute "other than for an excepted machine";

(b) omit paragraph (aa);

(c) in paragraph (b), for "used as mentioned in paragraph (a) or (aa)" substitute "other than a substance used as fuel for an excepted machine".

(4) Omit subsection (4).

11 (1) Section 14B (rebate on bioblend used other than as fuel for road vehicles) is amended as follows.

(2) In the heading, for "other than as fuel for road vehicles" substitute "as fuel for excepted machines".

(3) In subsection (1)(a)—
  (a) in sub-paragraph (i), for "for a road vehicle" substitute "other than for an excepted machine";
  (b) in sub-paragraph (ii), for "so used" substitute "other than a substance used as fuel for an excepted machine".

(4) In subsection (1)(b)(i), for the words from "fuel" to "of" substitute "mentioned in".

(5) If paragraph 6 of Schedule 11 to FA 2020 has come into force in relation to any part of the United Kingdom before this Schedule comes into force then, in relation to that part—
  (a) in sub-paragraph (2) of this paragraph, after "vehicles" insert "etc";
  (b) after sub-paragraph (3)(a) of this paragraph insert—
    "(aa) omit sub-paragraph (ia);";
  (c) in sub-paragraph (3)(b) of this paragraph, for "so used" substitute "used as mentioned in sub-paragraph (i) or (ia)".

12 (1) Section 14C (restrictions on use of rebated diesel and bioblend) is amended as follows.

(2) In subsection (1)—
  (a) in paragraph (a), for "for a road vehicle" substitute "other than for an excepted machine";
  (b) in paragraph (b), for "so used" substitute "other than a substance used as fuel for an excepted machine";
  (c) for subsections (c) and (d) substitute ", or
    (c) taken into the fuel supply of any engine that is not the engine of an excepted machine as fuel or as an additive or extender in any substance used as fuel."

(3) In subsection (2)—
  (a) in paragraph (a), for the words from "fuel" to "of" substitute "mentioned in";
  (b) in paragraph (c), for "such an engine" substitute "an engine used as mentioned in section 13AA(1)".

(4) Omit subsection (4A).

(5) If paragraph 7 of Schedule 11 to FA 2020 has come into force in relation to any part of the United Kingdom before this Schedule comes into force then, in relation to that part, in sub-paragraph (2)(c) of this paragraph—
  (a) for "subsections (c) and (d)" substitute "subsection (c)";
  (b) omit ", or".

13 (1) Section 14D (penalties for misuse of rebated biodiesel or bioblend) is amended as follows.

(2) In subsection (1)—
  (a) in the words before paragraph (a), for "a road vehicle" substitute "a fuel supply";
  (b) in paragraph (b), for "vehicle" substitute "fuel supply".

(3) In subsection (2)(b), for "vehicle or the fuel supply of an engine" substitute "fuel supply".

(4) In subsection (3)(b), for "vehicle or the fuel supply of an engine" substitute "fuel supply".

14 Omit section 14E (rebated heavy oil and bioblend: private pleasure craft).

15 Omit section 14F (penalties for contravention of section 14E).

16 (1) Section 19 (fuel used in fishing boats etc) is amended as follows.

(2) In the heading, for "fishing boats" substitute "lifeboats".

(3) In subsection (3), omit "less any rebate allowed in respect of the duty".

17 (1) In section 20AAA (mixing of rebated oil), in subsection (4)(a), for "for a road vehicle" substitute "other than for an excepted machine".

(2) If paragraph 10 of Schedule 11 to FA 2020 has come into force in relation to any part of the United Kingdom before this Schedule comes into force then, in relation to that part, in sub-paragraph (1) of this paragraph, after "vehicle" insert "or as fuel for propelling a private pleasure craft".

18 (1) In section 24 (control of use of duty-free and rebated oil), after subsection (3) insert—

"(3A) Subsection (3) does not apply to heavy oil, biodiesel or bioblend used in any vehicle, vessel, machine or appliance if it is proved to the satisfaction of the Commissioners that the heavy oil, biodiesel or bioblend was taken into the vehicle, vessel, machine or appliance in accordance with the law of the place where it was taken in."

(2) If paragraph 11 of Schedule 11 to FA 2020 has come into force in relation to any part of the United Kingdom before this Schedule comes into force then, in relation to that part, in sub-paragraph (1) of this paragraph, for "after subsection (3) insert" substitute "for subsection (3A) substitute".

19 (1) Section 24A (penalties for misuse of marked oil) is amended as follows.

(2) In subsection (1), for "a road vehicle" substitute "other than for an excepted machine".

(3) In subsection (3), for "for road vehicles or for road vehicles of a particular description" substitute "other than for excepted machines".

(4) In subsection (7) for the words from "road vehicle" to "the vehicle" substitute "vehicle, vessel, machine or appliance other than an excepted machine".

20 (1) Section 27 (interpretation) is amended as follows.

(2) In subsection (1)—

(a) after the definition of "controlled oil" insert—

"excepted machine" means a vehicle, vessel, machine or appliance that is of a description given in Schedule 1A;";

(b) omit the definition of "excepted vehicle";

(c) in the definition of "road vehicle" for "excepted vehicle" substitute "vehicle that is an excepted machine".

(3) In subsection (1ZA)—

(a) in the words before paragraph (a), after "vehicle" insert ", vessel, machine or appliance";

(b) in paragraph (a), after "vehicle" insert "or vessel, or, as the case may be, for powering the machine or appliance";

(c) at the end of paragraph (a) (but before the "or" at the end of that paragraph) insert—

"(aa) in relation to an appliance that contains a furnace or boiler for use in a heating system, that furnace or boiler,";

(d) for paragraph (b) substitute—

"(b) an engine, furnace or boiler which draws fuel from the same supply as an engine or, as the case may be, furnace or boiler, within paragraph (a) or (aa)."

(4) In subsection (1ZB)—

(a) after "into a vehicle" insert ", vessel, machine or appliance";

(b) after "into the vehicle" insert ", vessel, machine or appliance";

(c) the words from "from which the engine" to the end become paragraph (a);

(d) in that paragraph, after "propelling the vehicle" insert "or vessel or, as the case may be, for powering the machine or appliance,";

(e) after that paragraph insert ", or

(b) in relation to an appliance that contains a furnace or boiler for use in a heating system, from which the furnace or boiler draws fuel."

(5) In subsection (1ZC)—

(a) in the words before paragraph (a)—

(i) after "vehicle" insert ", vessel, machine or appliance,";

(ii) after "engine" insert ", furnace or boiler";

(b) in paragraph (a), for "or engine" substitute ", vessel, machine or appliance, or of the engine, furnace or boiler";

(c) in paragraph (b), for "or engine" substitute ", vessel, machine or appliance, or of the engine, furnace or boiler".

(6) In subsection (1ZD)—

(a) omit "appliances and";

(b) after "vehicles" insert ", vessels, machines or appliances".

21 Omit Schedule 1 (excepted vehicles).

22 Before Schedule 2 insert—

"SCHEDULE 1A section 27(1)

EXCEPTED MACHINES

1 Any vehicle, vessel, machine or appliance of one of the following descriptions is an "excepted machine" for the purposes of this Act.

Agricultural vehicle

2 (1) An agricultural vehicle at a time when it is used for—

(a) purposes relating to agriculture, horticulture, pisciculture or forestry,
(b) cutting verges bordering public roads,
(c) cutting hedges or trees bordering public roads or bordering verges which border public roads, or
(d) clearing or otherwise dealing with frost, ice, snow or flooding,

including when it is going to or from the place where it is to be or has been used for any of those purposes.

(2) An agricultural vehicle that is used for any purpose on land where it is kept and used for purposes relating to agriculture, horticulture, pisciculture or forestry.

(3) An agricultural vehicle kept and used on a golf course or on land maintained by a community amateur sports club.

(4) An agricultural vehicle used in any other circumstances provided—
(a) it is not being used on a public road, and
(b) it uses fuel gas for fuel.

(5) In this paragraph, "an agricultural vehicle" means—
(a) a tractor;
(b) a vehicle designed and constructed primarily for use otherwise than on roads which—
(i) has a revenue weight not exceeding 1,000 kilograms, and
(ii) is designed and constructed to seat only the driver;
(c) any vehicle that is an exempt vehicle for the purposes of paragraph 20A of Schedule 2 to that Act (vehicles used for purposes relating to agriculture, horticulture or forestry);
(d) any other vehicle designed and constructed to be used for purposes relating to agriculture, horticulture, pisciculture or forestry.

Special vehicles

3 (1) A special vehicle at a time when it is used—
(a) for purposes relating to agriculture, horticulture, pisciculture or forestry, including when it is going to or from the place where it is to be or has been used for such purposes, or
(b) on a golf course or on land maintained by a community amateur sports club.

(2) A special vehicle used in any other circumstances provided it uses fuel gas for fuel.

(3) In this paragraph, a "special vehicle" is a vehicle of any weight but otherwise designed, constructed and used as mentioned in Part 4 of Schedule 1 to the Vehicle Excise and Registration Act 1994.

Unlicensed vehicles

4 (1) An unlicensed vehicle at a time when it is used—
(a) for purposes relating to agriculture, horticulture, pisciculture or forestry,
(b) on a golf course or on land maintained by a community amateur sports club, or
(c) on land occupied by a travelling fair or travelling circus.

(2) An unlicensed vehicle used in any other circumstances provided it uses fuel gas for fuel.

(3) In this paragraph, "unlicensed vehicle" means a vehicle that is—
(a) unlicensed for the purposes of section 22(1D) of the Vehicle Excise and Registration Act 1994,
(b) kept by a person who has complied with such requirements relating to the vehicle as are prescribed for the time being in regulations under that section, and
(c) not used or kept on a public road.

Trains etc

5 Any vehicle designed to be operated on a railway within the meaning of section 67(1) of the Transport and Works Act 1992.

Vessels

6 (1) Any vessel other than a vessel in Northern Ireland that is a private pleasure craft.

(2) Any machine or appliance that is permanently on a vessel within sub-paragraph (1).

(3) Any machine or appliance that is permanently on a private pleasure craft in Northern Ireland, but that draws fuel from a supply other than the supply from which the engine provided for propelling the private pleasure craft draws fuel.

(4) In this paragraph, references to Northern Ireland do not include any of the territorial sea of the United Kingdom that is adjacent to Northern Ireland.

Mowing machines

7 A machine designed only for mowing grass at a time when it is used on—
(a) land maintained for purposes relating to agriculture, horticulture, pisciculture or forestry;
(b) a golf course or on land maintained by a community amateur sports club;
(c) land occupied by a travelling fair or travelling circus.

Other machines or appliances

8 (1) A machine or appliance that is not a vehicle or vessel at a time when it is used—
(a) for purposes relating to agriculture, horticulture, pisciculture or forestry;
(b) on a golf course or on land maintained by a community amateur sports club;
(c) to operate or maintain equipment in a travelling fair or travelling circus;
(d) for heating, or to generate electricity, for premises that are not used for commercial purposes.

(2) For the purposes of sub-paragraph (1)(d), caravans used for the accommodation of those who travel with a travelling fair or travelling circus are to be treated as premises that are not used for commercial purposes.

Interpretation

9 (1) In this Schedule—
"caravan" has the meaning given by section 29(1) of the Caravan Sites and Control of Development Act 1960;
"community amateur sports club" has the meaning given by section 658 of the Corporation Tax Act 2010;
"fair" means a fair consisting wholly or principally of the provision of amusements;
"fuel gas" means any substance which would be road fuel gas within the meaning given by section 5(1) if it were for use as fuel in a road vehicle;
"golf course" includes driving range (whether or not on the site of a golf course).

(2) In this Schedule, references to a vehicle being used—
(a) on a golf course, or
(b) on land maintained by a community amateur sports club,
include references, when two parts of the golf course or land are on either side of a road, to the vehicle going between the two parts by the shortest practicable route.

(3) In this Schedule, a fair or circus is a travelling fair or circus if—
(a) it is provided or operated wholly or principally by persons who travel from place to place for the purpose of providing or operating fairs or circuses, and
(b) it is held at a place no part of which has been used for the provision of that fair or (as the case may be) circus on more than 27 days in the same calendar year."

23 (1) Schedule 4 (subjects for regulations under section 24) is amended as follows.

(2) In paragraph 19, for "road vehicle" substitute "vehicle, vessel, machine or appliance".

(3) In paragraph 20, at the end insert ", vessel, machine or appliance".

(4) In paragraph 21—
  (a) for "(other" substitute "(including places of any description, and in particular tents or movable structures, other";
  (b) after "vehicles" insert ", vessels, machines or appliances";
  (c) after "any vehicle" insert ", vessel, machine or appliance". *5*

(5) If paragraph 13 of Schedule 11 to FA 2020 has come into force in relation to any part of the United Kingdom before this Schedule comes into force then, in relation to that part—
  (a) in sub-paragraph (2) of this paragraph, after "road vehicle" insert "or a vessel"; *10*
  (b) in sub-paragraph (3) of this paragraph, for the words from "at the end" to the end substitute "for "or a vessel" substitute ", vessel, machine or appliance"";
  (c) for sub-paragraph (4)(b) of this paragraph substitute—
    "(b) for "or vessels" substitute ", vessels, machines or appliances";"; *15*
  (d) for sub-paragraph (4)(c) of this paragraph substitute—
    "(c) for "or vessel" substitute ", vessel, machine or appliance".

24 (1) In Schedule 5 (sampling), in paragraph 7, after "vehicle" insert ", vessel, machine or appliance". *20*

(2) If paragraph 14 of Schedule 11 to FA 2020 has come into force in relation to any part of the United Kingdom before this Schedule comes into force then, in relation to that part, in sub-paragraph (1) of this paragraph, for the words from "after" to the end substitute "for "or a vessel" substitute ", vessel, machine or appliance"". *25*

SCHEDULE 22

Section 114

CAPITAL ALLOWANCES FOR FREEPORT TAX SITES

PART 1

FIRST-YEAR ALLOWANCE FOR PLANT AND MACHINERY *30*

1 Part 2 of CAA 2001 (plant and machinery allowances) is amended as follows.

2 In section 39 (first-year allowances available for certain types of qualifying expenditure only), at the end insert—

"section 45O	expenditure on plant and machinery for use in freeport tax sites."

35

3 After section 45N insert—

"45O Expenditure on plant and machinery for use in freeport tax sites

(1) Expenditure incurred by a company on the provision of plant or machinery is first-year qualifying expenditure if conditions A to E are met.

(2) Condition A is that the plant or machinery is for use primarily in an area which, at the time the expenditure is incurred, is a freeport tax site.

(3) Condition B is that the plant or machinery is unused and is not second-hand.

(4) Condition C is that the expenditure is incurred for the purposes of a qualifying activity within section 15(1)(a) or (f).

(5) Condition D is that the expenditure is incurred on or before 30 September 2026.

(6) Condition E is that the company is within the charge to corporation tax.

(7) This section is subject to—

regulations under section 45P,

section 45Q (exclusion of plant or machinery partly for use outside freeport tax sites),

section 45R (effect of plant or machinery subsequently being primarily for use outside freeport tax sites), and

section 46 (general exclusions).

45P Power to amend conditions

(1) The Treasury may by regulations change the conditions that must be met in order for expenditure to be first-year qualifying expenditure under section 45O (whether by adding, removing or altering conditions).

(2) Regulations under this section may not remove the requirement for the plant or machinery to be for use primarily in an area which, at the time the expenditure is incurred, is a freeport tax site.

(3) Regulations under this section may, among other things—

(a) make provision by reference to the expenditure, the plant or machinery, the company that incurred the expenditure or a person who is or has been connected with that company;

(b) impose conditions relating to accounts or other records;

(c) impose other conditions requiring a person to take steps specified in the regulations;

(d) make different provision for different purposes;

(e) include incidental, supplementary, consequential, transitional or transitory provision.

(4) Regulations under this section—

(a) may amend, repeal or otherwise modify section 45O and other provisions of this Part, and

(b) where made under subsection (3)(e), may amend, repeal or otherwise modify other provisions of this Act or provisions of another Act.

45Q Exclusion of plant or machinery partly for use outside freeport tax sites

(1) This section applies if—
(a) at the time when expenditure on plant or machinery is incurred, the company incurring it intends the plant or machinery to be used partly in an area which is not a freeport tax site, and
(b) the main purpose, or one of the main purposes, for which a person is party to the relevant arrangements is the obtaining of a first-year allowance, or a greater first-year allowance, in respect of the part of the expenditure that is attributable to that intended use in an area which is not a freeport tax site (the "non-freeport part" of the expenditure).

(2) The non-freeport part of the expenditure is not first-year qualifying expenditure under section 45O.

(3) For the purposes of this section, the non-freeport part of the expenditure is to be determined on a just and reasonable basis.

(4) In this section, "the relevant arrangements" means—
(a) the transaction under which the expenditure on the plant or machinery is incurred, and
(b) any scheme or arrangements of which that transaction forms part.

45R Effect of plant or machinery subsequently being primarily for use outside freeport tax sites

(1) Expenditure on the provision of plant or machinery is to be treated as never having been first-year qualifying expenditure under section 45O if, at any relevant time—
(a) the primary use to which the plant or machinery is put is other than in an area which, at the time the expenditure was incurred, was a freeport tax site, or
(b) the plant or machinery is held for use otherwise than primarily in an area which was a freeport tax site at that time.

(2) "Relevant time" means a time within the relevant period when the plant or machinery is owned by—
(a) the company that incurred the expenditure, or
(b) a person who is, or at any time in that period has been, connected with that company.

(3) "The relevant period" means the period of 5 years beginning with—
(a) the day on which the plant or machinery in question is first brought into use for the purposes of a qualifying activity carried on by the company, or
(b) if earlier, the day on which it is first held for such use.

(4) All such assessments and adjustments of assessments are to be made as are necessary to give effect to subsection (1).

(5) If a person who has made a return becomes aware that, after making it, anything in it has become incorrect because of the operation of this section, that person must give notice to an officer of Revenue and Customs specifying how the return needs to be amended.

(6) The notice must be given within 3 months beginning with the day on which the person first became aware that anything in the return had become incorrect because of the operation of this section."

4 In section 46(1) (general exclusions applying to first-year qualifying expenditure), at the end insert—

"section 45O	(expenditure on plant and machinery for use in freeport tax sites)."

5 In section 52(3) (amount of first-year allowances), in the Table, at the end insert—

"Expenditure qualifying under section 45O (expenditure on plant and machinery for use in freeport tax sites)	100%".

PART 2

STRUCTURES AND BUILDINGS ALLOWANCES

6 Part 2A of CAA 2001 (structures and buildings allowances) is amended as follows.

7 (1) Section 270AA (structures and buildings allowances) is amended as follows.

(2) In subsection (2)(b)(ii), for "the period of 33 1/3 years" substitute "the period of the length specified in subsection (2A),".

(3) After that subsection insert—

"(2A) The length of the period referred to in subsection (2)(b)(ii) is—

(a) in the case of freeport qualifying expenditure, 10 years, and

(b) in the case of other qualifying expenditure, 33 1/3 years."

(4) In subsection (5), for "3% of the qualifying expenditure" substitute "—

(a) in the case of freeport qualifying expenditure, 10% of the expenditure, and

(b) in the case of other qualifying expenditure, 3% of the expenditure."

(5) In subsection (6), after "section—" insert—

""freeport qualifying expenditure" has the meaning given by section 270BNA;".

8 In section 270BJ (expenditure on renovation, conversion or incidental

repairs), after subsection (2) insert—

"(2A) For the purposes of subsection (1), in relation to a building or structure that has been brought into use at a time when the area in which the building or structure is situated was not a freeport tax site, section 270BNA(2) and (7) have effect as if the renovation or conversion of, or repairs to, part of the building or structure were the construction of that part for the first time."

9 In section 270BK(3) (preparation of sites), for "and 270AB" substitute ", 270AB and 270BNA(2) and (7)".

10 After section 270BN insert—

"CHAPTER 2A

FREEPORT QUALIFYING EXPENDITURE

270BNA Meaning of "freeport qualifying expenditure"

(1) In this Part, qualifying expenditure incurred on the construction or acquisition of a building or structure is "freeport qualifying expenditure" if conditions A to E are met.

(2) Condition A is that construction of the building or structure begins at a time when the area in which the building or structure is situated is a freeport tax site.

(3) Condition B is that the building or structure is first brought into qualifying use by the person entitled to the allowance under this Part—
  (a) at a time when the area in which the building or structure is situated is a freeport tax site, and
  (b) on or before 30 September 2026.

(4) Condition C is that the qualifying expenditure is incurred—
  (a) at a time when the area in which the building or structure is situated is a freeport tax site, and
  (b) on or before 30 September 2026.

(5) Condition D is that the person who incurs the qualifying expenditure is within the charge to income tax or corporation tax when it is incurred.

(6) Condition E is that an allowance statement—
  (a) made for the purposes of section 270IA by the person who incurred the qualifying expenditure, and
  (b) relied on for the purposes of the first valid claim for an allowance under this Part in respect of that expenditure,

states that the person wants the expenditure to be freeport qualifying expenditure.

(7) For the purposes of subsection (2), the construction of a building or structure is treated as beginning when the first contract for works to be carried out in the course of the construction of that particular building or structure (whether or not the contract also relates to the construction of other buildings or structures) is entered into.

(8) This section is subject to regulations under section 270BNC.

270BNB Apportionment

(1) Subsection (2) applies if, on the later of—
  (a) the day on which the building or structure is first brought into non-residential use, and
  (b) the day on which the qualifying expenditure is incurred,

a building or structure is situated only partly in an area that is a freeport tax site.

(2) Only so much of the qualifying expenditure as, on a just and reasonable apportionment, is attributable to the part situated in the freeport tax site is to be treated as freeport qualifying expenditure.

(3) Subsection (4) applies if a building or structure is first brought into qualifying use by the person entitled to the allowance under this Part partly on or before 30 September 2026 and partly after that date.

(4) Only so much of the qualifying expenditure as, on a just and reasonable apportionment, is attributable to the part first brought into qualifying use by that person on or before that date is to be treated as freeport qualifying expenditure.

270BNC Power to amend meaning of "freeport qualifying expenditure"

(1) The Treasury may by regulations change the conditions that must be met in order for qualifying expenditure to be "freeport qualifying expenditure" for the purposes of this Part (whether by adding, removing or altering conditions).

(2) Regulations under this section—
  (a) may not remove the requirement for the building or structure to be situated in an area that is a freeport tax site, but
  (b) may alter the time when that requirement must be satisfied.

(3) Regulations under this section may, among other things—
  (a) make provision by reference to the expenditure, the building or structure, the person who incurred the expenditure or a person who is or has been connected with that person;
  (b) impose conditions relating to accounts or other records;
  (c) impose other conditions requiring a person to take steps specified in the regulations;
  (d) make different provision for different purposes;
  (e) include incidental, supplementary, consequential, transitional or transitory provision.

(4) Regulations under this section—
  (a) may amend, repeal or otherwise modify section 270BNA and other provisions of this Part, and
  (b) where made under subsection (3)(e), may amend, repeal or otherwise modify other provisions of this Act or provisions of another Act."

11 (1) Section 270EB (multiple uses) is amended as follows.

(2) In subsection (2), for "3%" substitute "the relevant percentage".

(3) After subsection (3) insert—

"(3A) For the purposes of subsection (2), "the relevant percentage" means the percentage specified in section 270AA(5)."

12 In section 270IA(4) (evidence of qualifying expenditure etc), after subsection (4) insert—

"(5) Where the qualifying expenditure described in subsection (4)(b) consists of or includes freeport qualifying expenditure (as defined in section 270BNA), a statement is not an allowance statement unless it states the amount of the freeport qualifying expenditure."

PART 3

RELATED AMENDMENTS

TMA 1970

13 In section 98 of TMA 1970 (penalty for failure to provide information etc), in the second column of the Table, in the entry relating to CAA 2001, after "45G(4) and (5)," insert "45R(5) and (6),".

CAA 2001

14 CAA 2001 is amended as follows.

15 (1) Section 3 (claims for capital allowances) is amended as follows.

(2) After subsection (2) insert—

"(2ZZA) Any claim for a first-year allowance under section 45O (expenditure on plant and machinery for use in freeport tax sites) must include, or be accompanied by, such information as Her Majesty's Revenue and Customs may require."

(3) In subsection (2ZA)—

(a) after "allowances)" insert "—

(a) ", and

(b) at the end insert ", and

(b) where it relates to freeport qualifying expenditure (as defined in section 270BNA), must include, or be accompanied by, such information as Her Majesty's Revenue and Customs may require."

16 (1) Section 570B (orders and regulations) is amended as follows.

(2) In subsection (3), for "70YJ" substitute "45P, 70YJ or 270BNC".

(3) After that subsection insert—

"(4) An instrument containing regulations under section 45P or 270BNC must be laid before the House of Commons after being made.

(5) If the regulations are not approved by the House of Commons before the end of the period of 28 days beginning with the day on which they are made, they cease to have effect at the end of that period (if they have not already ceased to have effect under subsection (6)).

(6) If, on any day during that period of 28 days, the House of Commons, in proceedings on a motion that (or to the effect that) the regulations be approved, comes to a decision rejecting the regulations, they shall cease to have effect at the end of that day.

(7) In reckoning any such period of 28 days, no account is to be taken of any time during which—
  (a) Parliament is prorogued or dissolved, or
  (b) the House of Commons is adjourned for more than four days.

(8) Where regulations cease to have effect under subsection (6), their ceasing to have effect is without prejudice to anything done in reliance on them."

17 After section 573 insert—

"573A Freeport tax sites

In this Act, "freeport tax site" means an area for the time being designated under section 113 of the Finance Act 2021."

18 In Part 2 of Schedule 1 to CAA 2001 (defined expressions), at the appropriate place insert—

"freeport tax site	section 573A".

SCHEDULE 23

Section 115

RELIEF FROM STAMP DUTY LAND TAX FOR FREEPORT TAX SITES

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

2 After section 61 insert—

"61A Relief for freeport tax sites

(1) Schedule 6C provides for relief in the case of transactions relating to land in a freeport tax site.

(2) In that Schedule—
  (a) Part 1 contains definitions,
  (b) Part 2 makes provision about the relief,
  (c) Part 3 makes provision about the withdrawal of the relief,
  (d) Part 4 makes provision about cases involving alternative finance arrangements, and
  (e) Part 5 confers power to change the cases in which the relief is available.

(3) Relief under that Schedule is available only in relation to a land transaction with an effective date falling on or before 30 September 2026.

(4) Any relief under that Schedule must be claimed in a land transaction return or an amendment of such a return.

(5) A claim for relief under that Schedule must—
(a) be made on or before 14 October 2027, and
(b) include, or be accompanied by, such information as HMRC may require.

(6) In this section and Schedule 6C, "freeport tax site" means an area for the time being designated under section 113 of the Finance Act 2021."

3 In section 81 (further return where relief withdrawn)—
(a) in subsection (1A) (as substituted by Schedule 17 to this Act), after paragraph (a) insert—
"(aa) Part 3 of Schedule 6C (relief for freeport tax sites), other than in a case to which paragraph 11 of that Schedule (alternative finance arrangements) applies,",
(b) in subsection (1B), after paragraph (ea) (inserted by Schedule 17 to this Act) insert—
"(eb) in the case of relief under Schedule 6C (relief for freeport tax sites), the last day in the control period on which the qualifying freeport land is used exclusively in a qualifying manner;", and
(c) after subsection (4) insert—

"(4A) Terms used in paragraph (eb) of subsection (1B) which are defined for the purposes of Schedule 6C have the same meaning in that paragraph as they have in that Schedule.

(4B) Paragraph 10 of Schedule 6C applies for the purposes of subsection (1B)(eb) as it applies for the purposes of paragraph 8 of that Schedule."

4 In section 81ZA (alternative finance arrangements: return where relief withdrawn)—
(a) in subsection (1), after "arrangements)" insert "or under Part 3 of Schedule 6C (relief for freeport tax sites) in a case to which paragraph 11 of that Schedule (alternative finance arrangements) applies",
(b) in subsection (3) (as substituted by Schedule 17 to this Act), at the end insert—
"(c) where the relief was given under Part 2 of Schedule 6C, the last day in the control period on which the qualifying freeport land is used exclusively in a qualifying manner.", and
(c) after subsection (6) insert—

"(6A) Terms used in paragraph (c) of subsection (3) which are defined for the purposes of Schedule 6C have the same meaning in that paragraph as they have in that Schedule (as modified by paragraph 11 of that Schedule).

(6B) Paragraph 10 of Schedule 6C (as modified by paragraph 11 of that Schedule) applies for the purposes of subsection (3)(c) as it applies for the purposes of paragraph 8 of that Schedule."

5 In section 85(3) (liability for tax), after "arrangements)" insert "or under Part 3 of Schedule 6C (relief for freeport tax sites) in a case to which paragraph 11 of that Schedule (alternative finance arrangements) applies"."

6 In section 86 (payment of tax)—

(a) in subsection (2), after paragraph (za) insert—

"(zb) Part 3 of Schedule 6C (relief for freeport tax sites), other than in a case to which paragraph 11 of that Schedule (alternative finance arrangements) applies,", and

(b) in subsection (2A), after "arrangements)" insert "or under Part 3 of Schedule 6C (relief for freeport tax sites) in a case to which paragraph 11 of that Schedule (alternative finance arrangements) applies".

7 In section 87(3) (interest on unpaid tax), after paragraph (aza) insert—

"(azaa) in the case of an amount payable because relief is withdrawn under Part 3 of Schedule 6C (relief for freeport tax sites), other than in a case to which paragraph 11 of that Schedule (alternative finance arrangements) applies, the date which is the relevant date for the purposes of section 81(1A);

(azab) in the case of an amount payable because relief is withdrawn under Part 3 of Schedule 6C (relief for freeport tax sites) in a case to which paragraph 11 of that Schedule (alternative finance arrangements) applies, the date which is the date of the disqualifying event for the purposes of section 81ZA (see subsection (3) of that section);".

8 After Schedule 6B insert—

"SCHEDULE 6C

STAMP DUTY LAND TAX: RELIEF FOR FREEPORT TAX SITES

PART 1

QUALIFYING FREEPORT LAND

Transaction land

1 In this Schedule, "transaction land", in relation to a land transaction, means land a chargeable interest in which is the subject matter of the transaction.

Qualifying freeport land

2 For the purposes of this Schedule, transaction land is "qualifying freeport land" if, on the effective date of the transaction—

(a) it is situated in a freeport tax site, and

(b) the purchaser intends it to be used exclusively in a qualifying manner.

Use of land in a qualifying manner

3 (1) For the purposes of this Schedule, transaction land is used in a qualifying manner if—

(a) it is used by the purchaser or a connected person in the course of a commercial trade or profession,

(b) it is developed or redeveloped by the purchaser or a connected person for use (by any person) in the course of a commercial trade or profession,

(c) it is exploited by the purchaser or a connected person, in the course of a commercial trade or profession, as a source of rents or other receipts (other than excluded rents), or

(d) it is used in two or more of the ways described in paragraphs (a) to (c).

(2) But land is not used in a qualifying manner to the extent that it is—

(a) used as a dwelling or as the garden or grounds of a dwelling,

(b) developed or redeveloped to become residential property,

(c) exploited as a source of rents or other receipts payable by a person using the land as a dwelling or as the garden or grounds of a dwelling, or

(d) held (as stock of the business) for resale without development or redevelopment.

(3) For the purposes of this paragraph, use of land in the course of a commercial trade or profession includes use of land for a purpose that is ancillary to the use of other land which—

(a) is situated in a freeport tax site, and

(b) is being used, or developed or redeveloped, in the course of a commercial trade or profession.

(4) The references in sub-paragraph (2) to land used as the garden or grounds of a dwelling include a building or structure on the land.

(5) The references in this paragraph to doing something in the course of a commercial trade or profession include doing something in the course of a property rental business.

(6) In this paragraph—

"commercial", in relation to a trade or profession, means carried on—

(a) on a commercial basis, and

(b) with a view to profit;

"excluded rents" has the same meaning as in section 133 of the Finance Act 2013;

"property rental business" means a property business as defined in Chapter 2 of Part 3 of the Income Tax (Trading and Other Income) Act 2005.

Connected persons

4 (1) In this Schedule, "connected person" means a person who is connected with the purchaser.

(2) Section 1122 of the Corporation Tax Act 2010 (connected persons) has effect for the purposes of this paragraph.

PART 2

THE RELIEF

Exemption

5 (1) This paragraph applies to a land transaction if at least 90% of the chargeable consideration for the transaction is attributable to qualifying freeport land.

(2) The transaction is exempt from charge.

Other relief

6 (1) This paragraph applies to a land transaction if the proportion of the chargeable consideration for the transaction that is attributable to qualifying freeport land ("the relevant proportion") is less than 90% but at least 10%.

(2) The tax chargeable in respect of the transaction is reduced by the relevant proportion.

Attributing chargeable consideration to land

7 (1) For the purposes of this Schedule, the consideration attributable to qualifying freeport land must be determined on a just and reasonable basis.

(2) Sub-paragraphs (3) and (4) apply if less than 100% of the chargeable consideration attributable to transaction land situated in a freeport tax site ("the freeport consideration") is attributable to land that satisfies the condition in paragraph 2(b).

(3) If at least 90% of the freeport consideration is attributable to land that satisfies the condition in paragraph 2(b) then, for the purposes of this Schedule, all of the freeport consideration is to be treated as being attributable to qualifying freeport land.

(4) If less than 10% of the freeport consideration is attributable to land that satisfies the condition in paragraph 2(b) then, for the purposes of this Schedule, all of the freeport consideration is to be treated as not being attributable to qualifying freeport land.

PART 3

WITHDRAWAL OF RELIEF

Withdrawal of relief

8 (1) This paragraph applies where relief under Part 2 of this Schedule has been allowed in respect of a land transaction.

(2) The relief is withdrawn if, at any time during the control period, the qualifying freeport land is not used exclusively in a qualifying manner.

(3) But the relief is not withdrawn where, because of a change in circumstances that is unforeseen and beyond the purchaser's control, it is not reasonable to expect the qualifying freeport land to be used exclusively in a qualifying manner at that time.

(4) Where, at a time during the control period, the use of all or part of the qualifying freeport land in a qualifying manner has not yet begun, that land, or that part of the land, is to be treated as being used exclusively in a qualifying manner if reasonable steps are being taken to ensure that it is used in that manner.

(5) Where, at a time during the control period, the use of all or part of the qualifying freeport land in a qualifying manner has ceased, that land, or that part of the land, is to be treated as being used exclusively in a qualifying manner if reasonable steps are being taken—

(a) to ensure that it is used in that manner, or

(b) to dispose of all chargeable interests in that land, or that part of the land, that are held by the purchaser and connected persons in a timely manner.

The control period

9 (1) In this Schedule, "the control period", in relation to a land transaction, means the shorter of—

(a) the period of three years beginning with the effective date of that transaction, and

(b) the period beginning with the effective date of that transaction and ending with the effective date of the final transaction.

(2) For the purposes of this paragraph, a land transaction is "the final transaction" if, immediately after the effective date of the transaction, neither the purchaser nor a connected person holds a chargeable interest in the qualifying freeport land (whether as a result of that transaction alone or as a result of that transaction and other land transactions).

Disposal of interest in part of qualifying freeport land during control period

10 (1) This paragraph applies where the purchaser ceases to hold a chargeable interest in part of the qualifying freeport land during the control period.

(2) The references in paragraphs 8 and 9 to the qualifying freeport land are to be treated as references only to the part of the qualifying freeport land in relation to which the purchaser still holds a chargeable interest (whether the chargeable interest acquired in the land transaction in respect of which relief was allowed under Part 2 of this Schedule or another chargeable interest).

PART 4

ALTERNATIVE FINANCE ARRANGEMENTS

Cases involving alternative finance arrangements

11 (1) This paragraph applies where either of the following applies—
(a) section 71A (land sold to financial institution and leased to person), or
(b) section 73 (land sold to financial institution and re-sold to person).

(2) This paragraph applies for the purposes of determining—
(a) whether relief is available under Part 2 of this Schedule for the first transaction, and
(b) whether relief allowed for the first transaction is withdrawn under Part 3 of this Schedule.

(3) For those purposes this Schedule has effect as if—
(a) references to the purchaser were references to the relevant person, and
(b) the reference in paragraph 3(2)(d) to land held (as stock of the business) for resale without development or redevelopment were a reference to land held in that manner by the relevant person.

(4) The first transaction does not qualify for relief under Part 2 of this Schedule except where it does so by virtue of this paragraph.

(5) In this paragraph—
"the first transaction" has the same meaning as in section 71A or 73 (as appropriate);
"the relevant person" means the person, other than the financial institution, who entered into the arrangements mentioned in section 71A(1) or 73(1) (as appropriate).

PART 5

POWER TO CHANGE WHEN RELIEF IS AVAILABLE

Power to change the cases in which relief is available

12 (1) The Treasury may by regulations—
(a) amend the meaning of "qualifying freeport land",
(b) add other conditions that must be met in order for relief to be available under this Schedule, and
(c) amend or remove conditions added under paragraph (b).

(2) Regulations under this paragraph may not remove the requirement for land to be situated in a freeport tax site.

(3) Regulations under this paragraph may, among other things—
(a) make provision by reference to the land, the land transaction, the purchaser or connected persons;
(b) impose conditions relating to accounts or other records;

(c) impose other conditions requiring a person to take steps specified in the regulations.

(4) Regulations under this paragraph—

(a) may amend, repeal or otherwise modify provisions of this Schedule, and

(b) where made in reliance on section 114(6)(c), may amend, repeal or otherwise modify other provisions of this Act.

Approval of regulations

13 (1) An instrument containing regulations under paragraph 12 must be laid before the House of Commons after being made.

(2) If the regulations are not approved by the House of Commons before the end of the period of 28 days beginning with the day on which they are made, they cease to have effect at the end of that period (if they have not already ceased to have effect under sub-paragraph (3)).

(3) If, on any day during that period of 28 days, the House of Commons, in proceedings on a motion that (or to the effect that) the regulations be approved, comes to a decision rejecting the regulations, they shall cease to have effect at the end of that day.

(4) In reckoning any such period of 28 days, no account is to be taken of any time during which—

(a) Parliament is prorogued or dissolved, or

(b) the House of Commons is adjourned for more than four days.

(5) Where regulations cease to have effect under sub-paragraph (3), their ceasing to have effect is without prejudice to anything done in reliance on them."

SCHEDULE 24

Section 116

PENALTIES FOR FAILURE TO MAKE RETURNS ETC

PART 1

INTRODUCTION

Introduction

1 (1) This Schedule provides for a person who fails to make a return to be liable to penalty points and penalties.

(2) This Part of this Schedule—

(a) identifies groups of returns, and the returns falling within each group, and

(b) makes provision about the interpretation of this Schedule.

(3) Part 2 of this Schedule provides for a person to be liable to penalty points, and penalties, in respect of each group of returns.

(4) Part 3 of this Schedule makes supplementary provision.

Returns

2 (1) The Table identifies, for each item listed in column 1 of the Table, one or more groups of returns (according to the frequency with which returns are required to be made).

Item	*Tax*	*Groups of returns*		
		Column A (groups of annual etc returns)	*Column B (groups of quarterly etc returns)*	*Column C (groups of monthly etc returns)*
1	Income tax or capital gains tax (persons other than trustees or partnerships)	This group applies where there is no requirement to provide information under regulations under paragraph 7 of Schedule A1 to TMA 1970. (1) Return under section 8 of TMA 1970 (2) Accounts, statement or document required under section 8(1AB)(b) of TMA 1970	This group applies where there is a requirement to provide information under regulations under paragraph 7 of Schedule A1 to TMA 1970. (1) Return under section 8 of TMA 1970 (2) Accounts, statement or document required under section 8(1AB)(b) of TMA 1970 (3) Statement under regulations under paragraph 8 of Schedule A1 to TMA 1970 (4) Information required to be provided under regulations under paragraph 7 of Schedule A1 to TMA 1970	-

Item	*Tax*	*Groups of returns*		
		Column A (groups of annual etc returns)	*Column B (groups of quarterly etc returns)*	*Column C (groups of monthly etc returns)*
2	Income tax or capital gains tax (trustees)	This group applies where there is no requirement to provide information under regulations under paragraph 7 of Schedule A1 to TMA 1970. (1) Return under section 8A of TMA 1970 (2) Accounts, statement or document required under section 8A(1AB)(b) of TMA 1970	This group applies where there is a requirement to provide information under regulations under paragraph 7 of Schedule A1 to TMA 1970. (1) Return under section 8A of TMA 1970 (2) Accounts, statement or document required under section 8A(1AB)(b) of TMA 1970 (3) Statement under regulations under paragraph 8 of Schedule A1 to TMA 1970 (4) Information required to be provided under regulations under paragraph 7 of Schedule A1 to TMA 1970	-
3	Income tax or corporation tax (partnerships)	This group applies where there is no requirement to provide information under regulations under paragraph 7 of Schedule A1 to TMA 1970. (1) Return under section 12AA(2)(a) or (3)(a) of TMA 1970 (2) Accounts, statement or document required under section 12AA(2)(b) or (3)(b) of TMA 1970	This group applies where there is a requirement to provide information under regulations under paragraph 7 of Schedule A1 to TMA 1970. (1) Return under regulations under paragraph 10 of Schedule A1 to TMA 1970 (2) Information required to be provided under regulations under paragraph 7 of Schedule A1 to TMA 1970	-

Item	*Tax*	*Groups of returns*		
		Column A (groups of annual etc returns)	*Column B (groups of quarterly etc returns)*	*Column C (groups of monthly etc returns)*
4	Value added tax	(1) Return under regulation 50 of the Value Added Tax Regulations 1995 (S.I. 1995/2518) for a current accounting year (2) Return under regulation 25(1)(c) of those regulations for a period which is more than 20 weeks, and is the period for which returns are (or are to be) usually made by the person in question	(1) Return under regulation 25(1) of the Value Added Tax Regulations 1995 (S.I. 1995/2518), other than a return under regulation 25(1)(a), (b) or (c) (2) Return under regulation 25(1)(c) of those regulations for a period which is more than 8 weeks but not more than 20 weeks, and is the period for which returns are (or are to be) usually made by the person in question	(1) Return under regulation 25(1)(a) of the Value Added Tax Regulations 1995 (S.I. 1995/2518) (2) Return under regulation 25(1)(c) of those regulations for a period which is not more than 8 weeks, and is the period for which returns are (or are to be) usually made, or a period for which returns are (or are to be) regularly made, by the person in question

(2) Where an entry in column A, B or C of the Table which refers to legislation uses terms used in the legislation, the terms have the same meaning in the entry as in the legislation.

(3) Before the coming into force of paragraph 3 of Schedule 14 to F(No.2)A 2017, the references in the Table to section 8(1AB)(b) of TMA 1970 are to be read as references to section 8(1)(b) of TMA 1970.

(4) Before the coming into force of paragraph 4 of Schedule 14 to F(No.2)A 2017, the references in the Table to section 8A(1AB)(b) of TMA 1970 are to be read as references to section 8A(1)(b) of TMA 1970.

Interpretation

3 (1) This paragraph applies for the interpretation of this Schedule.

(2) References to the Table are to the Table in paragraph 2 (unless otherwise specified).

(3) References to "return" include any return, information, statement, account or other document specified in column A, B or C of the Table.

(4) Each entry in Column A, B or C of the Table is a "group" of returns, and references to returns in or belonging to a group of returns are to be read accordingly.

(5) References to group 1A are to the group of returns in item 1, column A, to group 1B are to the group of returns in item 1, column B, and so on.

(6) Each numbered paragraph in group 1B, 2B or 3B is a "digital reporting sub-group" of returns, and references to returns in or belonging to a digital reporting sub-group of returns are to be read accordingly.

(7) References to digital reporting sub-group (1) of group 1B are to the returns in paragraph (1) in item 1, column B, to digital reporting sub-group (2) of group 1B are to the returns in paragraph (2) in item 1, column B, and so on.

(8) Any reference to making a return includes a reference to filing, delivering or submitting a return.

(9) "Due date", in relation to a return, means the date by which it is required to be made.

(10) A failure to make a return on or before the due date is treated as occurring on the day after the due date.

(11) "HMRC" means Her Majesty's Revenue and Customs.

Application of Schedule to persons with multiple businesses etc

4 (1) Sub-paragraphs (2) to (4) apply for the interpretation of this Schedule where a person—

(a) carries on more than one business, and

(b) in relation to two or more of those businesses (the "relevant businesses"), is required to make returns belonging to the same group of returns.

(2) If the group of returns mentioned in sub-paragraph (1)(b) is group 1A, 2A, 3A, 4A, 4B or 4C, the person makes a single return belonging to that group for all of the relevant businesses and so there is a single group of returns of that description for those businesses.

(3) If the group of returns mentioned in sub-paragraph (1)(b) is group 1B, 2B or 3B, there is a single group of returns of that description for all of the relevant businesses notwithstanding that the person makes separate returns belonging to that group for each of the relevant businesses.

(4) Where there is a single group of returns of a particular description for two or more relevant businesses (see sub-paragraphs (2) and (3))—

(a) the person has a single liability for points and penalties for those businesses;

(b) any change to the number of relevant businesses does not affect the continuity of the group of returns or the penalty points that the person has for the group of returns.

(5) For the purposes of this Schedule, references to a person who carries on more than one business include references to a person who is treated as carrying on more than one business by section 43(1) of VATA 1994 (groups of companies).

(6) If a body corporate carries on a business in several divisions and the registration of the body corporate under VATA 1994 is in the names of those divisions, such that the body corporate makes separate returns belonging to group 4A, 4B or 4C for each of those divisions—

(a) there is a separate group of returns of that description for each division, and

(b) the body corporate has a separate liability for points and penalties for each division.

(7) Accordingly, it follows from sub-paragraph (6) that where, in paragraph 5—

(a) a limit on a person's liability to penalty points for a group of returns is specified, the limit applies separately in relation to the group of returns of that description for each division, and

(b) a maximum number of penalty points for a group of returns is specified, the maximum applies separately in relation to the group of returns of that description for each division.

PART 2

LIABILITY TO A PENALTY

Liability to penalty points

5 (1) If a person fails to make a return on or before the due date, the person is liable to one penalty point for the group of returns to which the return belongs (but see sub-paragraphs (2) to (8)).

(2) A person is not liable to more than one penalty point per month for each of the following groups of returns, even if in that month there is more than one failure to make a return in that group on or before the due date—

(a) group 1A, 2A or 3A;

(b) group 4A, 4B or 4C.

(3) A person is not liable to more than one penalty point per month in respect of a failure to make a return in a digital reporting sub-group of returns, even if in that month there is more than one failure to make a return in that digital reporting sub-group on or before the due date.

(4) For the purposes of sub-paragraph (3), digital reporting sub-groups (1) and (2) of group 1B or 2B are to be treated as a single digital reporting sub-group.

(5) If—

(a) a person carries on more than one business and in relation to two or more of those businesses is required to make returns belonging to digital reporting sub-group (4) of group 1B or 2B or digital reporting sub-group (2) of group 3B, and

(b) the due dates for the returns belonging to the digital reporting sub-group in question do not all fall within the same month of a calendar quarter,

sub-paragraph (3) is to be read in relation to that digital reporting sub-group as if references to a month were references to a calendar quarter.

(6) "Calendar quarter" means a period of 3 months beginning with 1 January, 1 April, 1 July or 1 October.

(7) If there is more than one failure in a month or calendar quarter (as the case may be) to make a return in a group of returns, or in a digital reporting sub-group of returns, on or before the due date (see sub-paragraphs (2), (3) and (5)), the one penalty point for the month or calendar quarter to which the person is liable by virtue of this paragraph is for all of those failures.

(8) A person is not liable to a penalty point for a group of returns if the person already has the maximum number of penalty points for that group of returns.

(9) The maximum number of penalty points for a group of returns is—

(a) if the group is in Column A of the Table, 2 points,

(b) if the group is in Column B of the Table, 4 points, and
(c) if the group is in Column C of the Table, 5 points.

(10) See paragraphs 19 to 21 for further rules about liability to a penalty point.

Award of penalty points

6 (1) Where a person is liable to a penalty point for a group of returns, HMRC may award the person a penalty point for that group.

(2) Where HMRC award a penalty point they must notify the person, and state in the notice—
(a) the failure (or failures) in respect of which the penalty point is awarded, and
(b) the group of returns for which the penalty point is awarded.

(3) HMRC may not award a penalty point after—
(a) the later of date A and (where it applies) date B, or
(b) where the penalty point is to be awarded in respect of a failure (or failures) to make, on or before the due date, a return in digital reporting sub-group (3) or (4) of group 1B or 2B or digital reporting sub-group (2) of group 3B, the later of date A and (where it applies) date C.

(4) Date A is the end of the period of x weeks beginning with—
(a) if the penalty point is to be awarded in respect of a single failure, the day on which the failure occurred;
(b) if the penalty point is to be awarded in respect of more than one failure in the same month or, as the case may be, the same calendar quarter (see paragraph 5(7)), the day on which the latest of those failures occurred.

(5) In sub-paragraph (4) "x weeks" means—
(a) if the group of returns is in Column A of the Table, 48 weeks,
(b) if the group of returns is in Column B of the Table, 11 weeks, and
(c) if the group of returns is in Column C of the Table, 2 weeks.

(6) Date B is the last day of the period of 12 months beginning with—
(a) the end of the appeal period for the assessment of the liability to tax which would have been shown in the relevant return, or
(b) if there is no such assessment, the date on which that liability is ascertained or it is ascertained that the liability is nil.

(7) In sub-paragraph (6)(a)—
"appeal period" means the period during which—
(a) an appeal could be brought (ignoring any possibility of an appeal out of time), or
(b) an appeal that has been brought has not been determined or withdrawn;
"relevant return" means—
(a) if the penalty point is to be awarded in respect of a single failure to make a return on or before the due date, that return;
(b) if the penalty point is to be awarded in respect of more than one failure to make a return, on or before the due date, in the

same month or, as the case may be, the same calendar quarter (see paragraph 5(7)), the return for which there was the latest due date in the period in question.

(8) If more than one return is the relevant return by virtue of paragraph (b) of the definition of "relevant return" in sub-paragraph (7) and the same day is not date B in relation to all of those returns, treat date B as being the latest of those days.

(9) Date C—

(a) applies where, on date A, it was not reasonable to expect HMRC to be aware that the person was required to make the return (or the returns), and

(b) is the last day of the period of 12 months beginning with the first day on which it was reasonable to expect HMRC to be aware that the person was required to make the return (or one of the returns).

(10) For the purposes of this Schedule, a person "has" a penalty point if HMRC has awarded the person the penalty point, the penalty point or liability to it has not been cancelled and the penalty point has not expired.

Expiry of individual penalty points

7 (1) A penalty point for a group of returns expires at the end of the relevant period, unless immediately before the end of that period the person has the maximum number of penalty points for that group of returns.

(2) The relevant period is—

(a) the period of 24 months beginning with the first day of the month after the month in which the failure or failures, in respect of which the point was awarded, occurred, or

(b) where paragraph 6(3)(b) applied to the award of the point and the point was awarded after date A and on or before date C, the period of 24 months beginning with the day after the day on which the point was awarded.

(3) Where the penalty point was awarded in respect of more than one failure by virtue of paragraph 5(5), the references in sub-paragraph (2)(a) to a month are to be read as references to a calendar quarter.

(4) In this paragraph—

"calendar quarter" has the meaning given by paragraph 5(6);

"date A" and "date C" have the meanings given by paragraph 6.

Expiry of all penalty points for a group of returns

8 (1) Each of a person's penalty points for a group of returns expires at the beginning of the first day on which both condition A and condition B are met.

(2) Condition A is that the person has made each return in the group on or before its due date for the relevant length of time (or longer).

(3) The relevant length of time is x months beginning with the first day of the month after the month in which the most recent failure to make a return in the group on or before its due date occurred.

(4) In sub-paragraph (3) "x months" means—
  (a) if the group of returns is in Column A of the Table, 24 months,
  (b) if the group of returns is in Column B of the Table, 12 months, and
  (c) if the group of returns is in Column C of the Table, 6 months.

(5) Condition B is met on any day if the person has made all the returns in the group whose due date fell in the period of 24 months ending with the previous day (whether or not those returns were made on or before their due date).

(6) Where each of a person's penalty points for a group of returns expires under this paragraph, HMRC must notify the person.

Penalty points: effect of moving between groups of returns

9 (1) Paragraphs 10 to 13 apply where, in relation to any item in the Table, a person—
  (a) ceases to be required to make returns in a group of returns specified in relation to that item in one column of the Table (the "old" group of returns), and
  (b) instead becomes required to make returns in a group of returns specified in relation to that item in another column of the Table (the "new" group of returns),

  (for example, where a person ceases to be required to make returns in group 1A and instead becomes required to make returns in group 1B).

(2) But where the returns in the old group of returns relate to a business or businesses carried on by the person, paragraphs 10 to 13 apply only if the returns in the new group of returns also relate to that business or all of those businesses.

10 (1) This paragraph applies to determine the penalty points the person has for the new group of returns, on becoming required to make returns for the new group of returns.

(2) If the person has no penalty points for the old group of returns, the person has no penalty points for the new group of returns.

(3) If the person has penalty points for the old group of returns, the number of penalty points the person has for the new group of returns is determined by taking the number of penalty points the person has for the old group of returns and adjusting it in accordance with the table below.

(4) If the adjustment gives a number of less than zero, treat the adjusted number of penalty points as zero.

Column in which old group of returns falls	*Column in which new group of returns falls*	*Adjustment*
Column A	Column B	Add 2 penalty points
	Column C	Add 3 penalty points
Column B	Column A	Deduct 2 penalty points
	Column C	Add 1 penalty point

Column in which old group of returns falls	*Column in which new group of returns falls*	*Adjustment*
Column C	Column A	Deduct 3 penalty points
	Column B	Deduct 1 penalty point

11 (1) This paragraph applies if the adjusted number of penalty points for the new group of returns is greater than zero, but less than the actual number of penalty points for the old group of returns.

(2) Treat the person as having, for the new group of returns, the penalty points which were awarded in respect of the x most recent relevant failures (but if a single penalty point was awarded in respect of more than one relevant failure, for the purposes of this sub-paragraph treat those relevant failures as a single relevant failure).

(3) "X" is the adjusted number of penalty points for the new group of returns.

(4) Treat the penalty points in respect of the other relevant failures as having expired (so that the person has no penalty points for the old group of returns).

(5) In this paragraph "relevant failure" means a failure to make a return in the old group of returns on or before its due date, in respect of which a penalty point was awarded.

12 (1) This paragraph applies if the adjusted number of penalty points for the new group of returns is greater than the actual number of penalty points for the old group of returns.

(2) Treat all the penalty points for the old group of returns as penalty points for the new group of returns.

(3) Treat the additional penalty points as having been awarded in respect of relevant failures occurring on the same day as the most recent relevant failure.

(4) For this purpose the additional penalty points are the penalty points added by way of adjustment to the actual number of penalty points for the old group of returns.

(5) In this paragraph "relevant failure" means a failure to make a return in the old group of returns on or before its due date, in respect of which a penalty point was awarded.

13 (1) Paragraph 8 applies in relation to the new group of returns with the following modifications.

(2) Sub-paragraph (3) applies as if for the words from "month in which" to the end there were substituted "first month for all or part of which a return in the new group of returns is required to be made".

(3) The reference in sub-paragraph (5) to returns in the group includes returns in the old group of returns.

Penalty points: effect of change of representative member of VAT group

14 (1) This paragraph applies where—

(a) a person is replaced as the representative member of a group ("the former representative member") by another member of the group ("the new representative member") under section 43B of VATA 1994, and

(b) the former representative member has penalty points for the group of 4A, 4B or 4C returns for the businesses that were treated by section 43(1) of VATA 1994 as being carried on by the former representative member (and are now treated by that section as being carried on by the new representative member).

(2) Where this paragraph applies, treat the new representative member as having the penalty points that the former representative member has for the group of returns.

Liability to penalties

15 (1) If a person fails to make a return on or before the due date and condition A or condition B is met, the person is liable to a penalty (but see sub-paragraphs (5) and (9)).

(2) Condition A is that—

(a) the person is awarded a penalty point in respect of the failure (including where the penalty point is awarded in respect of the failure and another failure or other failures), and

(b) on being awarded that penalty point, or on being awarded after that failure a penalty point in respect of an earlier failure (or earlier failures), the person has the maximum number of penalty points for the group of returns to which the return belongs.

(3) Condition B is that the failure occurs on a day on which the person has the maximum number of penalty points for the group of returns to which the return belongs.

(4) The amount of a penalty under this paragraph is £200.

(5) A person is not liable to more than one penalty per month in respect of a failure to make a return in a digital reporting sub-group of returns, even if in that month there is more than one failure to make a return in that digital reporting sub-group on or before the due date.

(6) For the purposes of sub-paragraph (5), digital reporting sub-groups (1) and (2) of group 1B or 2B are to be treated as a single digital reporting sub-group.

(7) If—

(a) a person carries on more than one business and in relation to two or more of those businesses is required to make returns belonging to digital reporting sub-group (4) of group 1B or 2B or digital reporting sub-group (2) of group 3B, and

(b) the due dates for the returns belonging to the digital reporting sub-group in question do not all fall within the same month of a calendar quarter,

sub-paragraph (5) is to be read in relation to that digital reporting sub-group as if references to a month were references to a calendar quarter.

(8) "Calendar quarter" means a period of 3 months beginning with 1 January, 1 April, 1 July or 1 October.

(9) If there is more than one failure in a month or calendar quarter (as the case may be) to make a return in a digital reporting sub-group of returns on or before the due date (see sub-paragraphs (5) and (7)), the one penalty for the month or calendar quarter to which the person is liable by virtue of this paragraph is for all of those failures. 5

(10) See paragraphs 19 to 21 for further rules about liability to a penalty.

Assessments

16 (1) Where a person is liable to a penalty under this Schedule HMRC may assess the penalty.

(2) Where HMRC assess a penalty they must— 10
(a) notify the person, and
(b) state in the notice the failure (or, where paragraph 15(9) applies, the failures) for which the person is liable to a penalty.

(3) Where a person is liable to a penalty because condition A in paragraph 15 is met, notice of an assessment of the penalty may not be issued before (but 15 may be issued at the same time as) notice under paragraph 6 of the award of the penalty point as a result of which the person is liable to the penalty.

(4) A penalty under this Schedule must be paid before the end of the period of 30 days beginning with the day on which notification of the penalty is issued. 20

(5) An assessment of a penalty under this Schedule—
(a) is to be treated for procedural purposes in the same way as an assessment to the tax concerned (except in respect of a matter expressly provided for in this Schedule),
(b) may be enforced as if it were an assessment to the tax concerned, and 25
(c) may be combined with an assessment to the tax concerned.

Time limit for assessments

17 (1) An assessment of a penalty under this Schedule may not be made after—
(a) the later of date A and (where it applies) date B, or
(b) where the penalty is to be assessed in respect of a failure (or failures) 30 to make, on or before the due date, a return in digital reporting sub-group (3) or (4) of group 1B or 2B or digital reporting sub-group (2) of group 3B, the later of date A and (where it applies) date C.

(But see sub-paragraphs (7) and (8).)

(2) Date A is the end of the period of 2 years beginning with— 35
(a) if the penalty is to be assessed in respect of a single failure, the day on which the failure occurred;
(b) if the penalty is to be assessed in respect of more than one failure in the same month or, as the case may be, the same calendar quarter (see paragraph 15(9)), the day on which the latest of the failures 40 occurred.

(3) Date B is the last day of the period of 12 months beginning with—
(a) the end of the appeal period for the assessment of the liability to tax which would have been shown in the relevant return, or

(b) if there is no such assessment, the date on which that liability is ascertained or it is ascertained that the liability is nil.

(4) In sub-paragraph (3)(a)—

"appeal period" means the period during which—

(a) an appeal could be brought (ignoring any possibility of an appeal out of time), or

(b) an appeal that has been brought has not been determined or withdrawn;.

"relevant return" means—

(a) if the penalty is to be assessed in respect of a single failure to make a return on or before the due date, that return;

(b) if the penalty is to be assessed in respect of more than one failure to make a return, on or before the due date, in the same month or, as the case may be, the same calendar quarter (see paragraph 15(9)), the return for which there was the latest due date in the period in question.

(5) If more than one return is the relevant return by virtue of paragraph (b) of the definition of "relevant return" in sub-paragraph (4) and the same day is not date B in relation to all of those returns, treat date B as being the latest of those days.

(6) Date C—

(a) applies where, on date A, it was not reasonable to expect HMRC to be aware that the person was required to make the return (or the returns), and

(b) is the last day of the period of 12 months beginning with the first day on which it was reasonable to expect HMRC to be aware that the person was required to make the return (or one of the returns).

(7) Sub-paragraph (8) applies where—

(a) a person is liable to a penalty in respect of a failure to make a return because condition A in paragraph 15 is met,

(b) that condition is only met because the person has the maximum number of penalty points for the group of returns to which the return belongs on being awarded after that failure a penalty point in respect of an earlier failure (or earlier failures), and

(c) when the penalty point is awarded in respect of the earlier failure (or earlier failures) an assessment of the penalty to which the person is liable may no longer be made because of sub-paragraph (1).

(8) Where this sub-paragraph applies—

(a) sub-paragraph (1) does not apply, and

(b) the assessment of the penalty may instead be made during the period of 12 months beginning with the first day on which it was reasonable to expect HMRC to be aware of the earlier failure (or one of the earlier failures).

Power to amend figures by regulations

18 (1) The Commissioners for HMRC may by regulations—

(a) amend paragraph 5(9) so as to increase or reduce the maximum number of penalty points for a group of returns;

(b) amend paragraph 8(4) so as to increase or reduce the number of months;

(c) amend paragraph 8(5) so as to increase or reduce the number of months;

(d) amend paragraph 15(4) so as to increase or reduce the amount of the penalty.

(2) Regulations under sub-paragraph (1)(a) may also amend column 3 of the table in paragraph 10.

(3) Regulations under this paragraph—

(a) are to be made by statutory instrument;

(b) may include transitional, transitory and saving provision.

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

PART 3

SUPPLEMENTARY PROVISION

Reasonable excuse

19 (1) Liability to a penalty point or a penalty under this Schedule does not arise in respect of a failure to make a return if the person satisfies HMRC (or on appeal, the tribunal) that the person had a reasonable excuse for the failure.

(2) For this purpose—

(a) an insufficiency of funds is not a reasonable excuse unless attributable to events outside the person's control,

(b) where the person relies on another person to do anything, that is not a reasonable excuse unless the first person took reasonable care to avoid the failure, and

(c) where the person had a reasonable excuse for the failure but the excuse has ceased, the person is to be treated as having continued to have the excuse if the failure is remedied without unreasonable delay after the excuse ceased.

(3) In this paragraph "tribunal" means the First-tier Tribunal or Upper Tribunal (as appropriate by virtue of paragraph 23(1)).

Double jeopardy

20 A person is not liable to a penalty point or a penalty under this Schedule in respect of a failure in respect of which the person has been convicted of an offence.

Withdrawal of notice to make a return

21 (1) This paragraph applies where—

(a) a person is liable to a penalty point or a penalty under this Schedule in relation to a failure to make a return in paragraph (1) or (2) of group 1A or 1B, and

(b) HMRC decide (on the request of the person or otherwise) to give the person a notice under section 8B of TMA 1970 withdrawing a notice under section 8 of that Act.

(2) This paragraph also applies where—

(a) the trustees of a settlement are, as a deemed single person (see paragraph 26), liable to a penalty point or a penalty under this Schedule in relation to a failure to make a return in paragraph (1) or (2) of group 2A or 2B, and

(b) HMRC decide (on the request of a trustee of the settlement or otherwise) to give a trustee of the settlement a notice under section 8B of TMA 1970 withdrawing a notice under section 8A of that Act.

(3) This paragraph also applies where—

(a) the partners in a partnership are, as a deemed single person (see paragraph 25), liable to a penalty point or a penalty under this Schedule in relation to a failure to make a return in paragraph (1) or (2) of group 3A, and

(b) HMRC decide, on a request by a partner in the partnership under section 12AAA of TMA 1970, to give a notice under that section withdrawing a notice under section 12AA of that Act.

(4) The notice under section 8B or 12AAA of TMA 1970 may include provision cancelling liability to the penalty point or the penalty.

Appeals

22 A person may appeal against a decision of HMRC under this Schedule—

(a) that the person is liable to a penalty point, or

(b) that a penalty is payable by the person.

23 (1) An appeal under paragraph 22 is to be treated in the same way as an appeal against an assessment to the tax concerned (including by the application of any provision about bringing the appeal by notice to HMRC, about HMRC's review of the decision or about determination of the appeal by the First-tier Tribunal or Upper Tribunal).

(2) Sub-paragraph (1) does not apply—

(a) so as to require the person to pay a penalty before an appeal against the assessment of the penalty is determined, or

(b) in respect of any other matter expressly provided for by this Schedule.

24 (1) On an appeal under paragraph 22 that is notified to the tribunal, the tribunal may—

(a) where the appeal is under paragraph 22(a), affirm or cancel HMRC's decision that the person is liable to the penalty point;

(b) where the appeal is under paragraph 22(b), affirm or cancel HMRC's decision that the penalty is payable by the person.

(2) Where the appeal is under paragraph 22(b), the tribunal may also affirm or cancel HMRC's decision that the person was liable to any of the penalty points by virtue of which the person was liable to the penalty.

(3) Sub-paragraph (2)—

(a) applies in relation to a penalty point even if the time limit for appealing against it expired before the appeal under paragraph 22(b) was brought;

(b) does not apply in relation to a penalty point if HMRC's decision that the person was liable to the penalty point was affirmed on an earlier appeal.

(4) Sub-paragraph (5) applies if—

(a) on an appeal under paragraph 22(b), the tribunal—

(i) cancels a decision that a penalty is payable by a person, and

(ii) cancels a decision that the person was liable to a penalty point, for a group of returns, by virtue of which the person was liable to the penalty,

(b) after the penalty point mentioned in paragraph (a)(ii) was given by HMRC and before the decision mentioned in that paragraph was cancelled, the person failed to make a return in the same group on or before the due date, and

(c) at the time the failure occurred, the person already had the maximum number of penalty points for that group of returns (see paragraph 5(8)).

(5) HMRC may award a penalty point in respect of the failure before the end of the period of 12 months beginning with the day after the tribunal's decision on the appeal (and paragraph 6(3) does not apply).

(6) In this paragraph "tribunal" means the First-tier Tribunal or Upper Tribunal (as appropriate by virtue of paragraph 23(1)).

Partnerships

25 (1) For the purposes of this Schedule—

(a) the partners in a partnership are together to be treated as if they were a single person (distinct from the persons who are partners in the partnership);

(b) a failure by one or more partners in the partnership to make a return on or before the due date is to be treated as a failure by the deemed single person referred to in paragraph (a);

(c) other things done by or in relation to a partner in the partnership are also to be treated as done by or in relation to that deemed single person.

(2) The deemed single person referred to in paragraph (a) is to be treated as continuing in existence even if there is a change in the partnership.

(3) Where the deemed single person referred to in paragraph (a) is assessed to a penalty, every relevant partner is jointly and severally liable for the penalty.

(4) For the purposes of sub-paragraph (3)—

(a) "relevant partner" means a person who is a partner in the partnership on the day on which the penalty is assessed;

(b) a person is a relevant partner even if the person was not a partner in the partnership when liability was incurred to one or more of the penalty points by virtue of which liability to the penalty arose;

(c) the relevant partners are jointly and severally liable for the penalty even if none of them were partners in the partnership when liability was incurred to the penalty points by virtue of which liability to the penalty arose.

Settlements *5*

26 (1) For the purposes of this Schedule—

(a) the trustees of a settlement are together to be treated as if they were a single person (distinct from the persons who are trustees of the settlement);

(b) a failure by one or more trustees of the settlement to make a return on or before the due date is to be treated as a failure by the deemed single person referred to in paragraph (a); *10*

(c) other things done by or in relation to a trustee of the settlement are also to be treated as done by or in relation to that deemed single person. *15*

(2) The deemed single person referred to in paragraph (a) is to be treated as continuing in existence even if there is a change in the trustees of the settlement.

(3) Where the deemed single person referred to in paragraph (a) is assessed to a penalty, every relevant trustee is jointly and severally liable for the penalty. *20*

(4) For the purposes of sub-paragraph (3)—

(a) "relevant trustee" means a person who is a trustee of the settlement on the day on which the penalty is assessed;

(b) a person is a relevant trustee even if the person was not a trustee of the settlement when liability was incurred to one or more of the penalty points by virtue of which liability to the penalty arose; *25*

(c) the relevant trustees are jointly and severally liable for the penalty even if none of them were trustees of the settlement when liability was incurred to the penalty points by virtue of which liability to the penalty arose. *30*

SCHEDULE 25

Section 116

PENALTIES FOR DELIBERATELY WITHHOLDING INFORMATION

PART 1

INTRODUCTION *35*

Introduction

1 (1) This Schedule provides for penalties to be payable by a person who, by failing to make a return listed in the third column of the Table below on or before the due date, deliberately withholds information which would enable or assist HMRC to assess the person's liability to tax. *40*

(2) Paragraph 20 provides for this Schedule to apply with modifications where the return relates to a partnership.

	Tax to which return relates	*Return*
1	Income tax or capital gains tax	(1) Return under section 8 of TMA 1970 (2) Accounts, statement or document required under section 8(1AB)(b) of TMA 1970
2	Income tax or capital gains tax	(1) Return under section 8A of TMA 1970 (2) Accounts, statement or document required under section 8A(1AB)(b) of TMA 1970
3	Income tax or corporation tax	(1) Return under section 12AA(2)(a) or (3)(a) of TMA 1970 (2) Accounts, statement or document required under section 12AA(2)(b) or (3)(b) of TMA 1970
4	Income tax or corporation tax	Return under regulations under paragraph 10 of Schedule A1 to TMA 1970

(3) Before the coming into force of paragraph 3 of Schedule 14 to F(No.2)A 2017, the reference in the Table to section 8(1AB)(b) of TMA 1970 is to be read as a reference to section 8(1)(b) of TMA 1970.

(4) Before the coming into force of paragraph 4 of Schedule 14 to F(No.2)A 2017, the reference in the Table to section 8A(1AB)(b) of TMA 1970 is to be read as a reference to section 8A(1)(b) of TMA 1970.

Interpretation

2 (1) This paragraph applies for the interpretation of this Schedule.

(2) "Return" means any return, statement, account or other document specified in the third column of the Table in paragraph 1.

(3) Any reference to making a return includes a reference to filing, delivering or submitting a return.

(4) "Due date", in relation to a return, means the date by which it is required to be made.

(5) "HMRC" means Her Majesty's Revenue and Customs.

PART 2

LIABILITY TO A PENALTY

Penalty for deliberately withholding information

3 (1) A person who fails to make a return on or before the due date is liable to a penalty under this paragraph if (and only if) the condition in sub-paragraph (2) is met.

(2) The condition is that at any time (including any time after the due date), by failing to make the return, the person deliberately withholds information which would enable or assist HMRC to assess the person's liability to tax.

(3) If the withholding of the information is deliberate and concealed, the penalty is—
  (a) the relevant percentage of any liability to tax which would have been shown in the return in question, or
  (b) if the amount in paragraph (a) is less than £300, £300.

(4) For the purposes of sub-paragraph (3)(a) the relevant percentage is—
  (a) for the withholding of category 1 information, 100%,
  (b) for the withholding of category 2 information, 150%, and
  (c) for the withholding of category 3 information, 200%.

(5) If the withholding of the information is deliberate but not concealed, the penalty is—
  (a) the relevant percentage of any liability to tax which would have been shown in the return in question, or
  (b) if the amount in paragraph (a) is less than £300, £300.

(6) For the purposes of sub-paragraph (5)(a) the relevant percentage is—
  (a) for the withholding of category 1 information, 70%,
  (b) for the withholding of category 2 information, 105%, and
  (c) for the withholding of category 3 information, 140%.

(7) Paragraph 4 explains the categories of information.

(8) The withholding of information by a person is—
  (a) deliberate and concealed, if the person deliberately withholds the information and makes arrangements to conceal the fact that the information has been withheld;
  (b) deliberate but not concealed, if the person deliberately withholds the information but does not make arrangements to conceal the fact that the information has been withheld.

(9) See paragraphs 15 and 16 for further rules about liability to a penalty.

Categories of information

4 (1) Information is category 1 information if—
  (a) it involves a domestic matter, or
  (b) it involves an offshore matter and the territory in question is a category 1 territory.

(2) Information is category 2 information if—
  (a) it involves an offshore matter or an offshore transfer,
  (b) the territory in question is a category 2 territory, and
  (c) it is information which would enable or assist HMRC to assess the person's liability to the tax in question.

(3) Information is category 3 information if—
  (a) it involves an offshore matter or an offshore transfer,
  (b) the territory in question is a category 3 territory, and
  (c) it is information which would enable or assist HMRC to assess the person's liability to the tax in question.

(4) Information "involves an offshore matter" if the liability to tax which would have been shown in the return includes a liability to tax charged on or by reference to—
  (a) income arising from a source in a territory outside the UK,
  (b) assets situated or held in a territory outside the UK,
  (c) activities carried on wholly or mainly in a territory outside the UK, or
  (d) anything having effect as if it were income, assets or activities of a kind described above.

(5) Information "involves an offshore transfer" if—
  (a) it does not involve an offshore matter,
  (b) it is information which would enable or assist HMRC to assess the person's liability to the tax in question,
  (c) by failing to make the return, the person deliberately withholds the information (whether or not the withholding of the information is also concealed), and
  (d) the applicable condition in paragraph 6 is satisfied.

(6) Information "involves a domestic matter" if it does not involve an offshore matter or an offshore transfer.

(7) If the information which the person withholds falls into more than one category—
  (a) the person's failure to make the return is to be treated for the purposes of this Schedule as if it were separate failures, one for each category of information according to the matters or transfers which the information involves, and
  (b) for each separate failure, the liability to tax which would have been shown in the return in question is taken to be such share of the liability to tax which would have been shown in the return mentioned in paragraph (a) as is just and reasonable.

(8) For the purposes of this Schedule—
  (a) paragraph 21A of Schedule 24 to FA 2007 (classification of territories) has effect, but
  (b) an order under that paragraph does not apply to a failure if the due date is before the date on which the order comes into force.

(9) In this paragraph and paragraph 6—
  (a) "assets" has the meaning given in section 21(1) of TCGA 1992, but also includes sterling;
  (b) "UK" means the United Kingdom, including the territorial sea of the United Kingdom.

Power to make changes relating to categories of information by regulations

5 (1) The Treasury may by regulations amend this Part of this Schedule so as to—
  (a) add, amend or remove categories of information for the purposes of determining the amount of a penalty under paragraph 3;
  (b) amend the relevant percentage specified in that paragraph for the withholding of information in any category.

(2) Regulations under this paragraph may include consequential provision, including provision amending, repealing or revoking any provision of an

Act or subordinate legislation whenever passed or made (including this Act and any Act amended by it).

(3) In sub-paragraph (2) "subordinate legislation" has the same meaning as in the Interpretation Act 1978.

Offshore transfers 5

6 (1) This paragraph makes provision in relation to offshore transfers.

(2) Where the liability to tax which would have been shown in the return is a liability to income tax, the applicable condition is satisfied if the income on or by reference to which the tax is charged, or any part of the income—

(a) is received in a territory outside the UK, or 10

(b) is transferred before the relevant date to a territory outside the UK.

(3) Where the liability to tax which would have been shown in the return is a liability to capital gains tax, the applicable condition is satisfied if the proceeds of the disposal on or by reference to which the tax is charged, or any part of the proceeds— 15

(a) are received in a territory outside the UK, or

(b) are transferred before the relevant date to a territory outside the UK.

(4) In the case of a transfer falling within sub-paragraph (2)(b) or (3)(b), references to the income or proceeds transferred are to be read as including references to any assets derived from or representing the income or 20 proceeds.

(5) In relation to an offshore transfer, the territory in question for the purposes of paragraph 4 is the highest category of territory by virtue of which the information involves an offshore transfer.

(6) "Relevant date" means the date on which the person becomes liable to a 25 penalty under this Schedule.

Reductions for disclosure

7 (1) Paragraph 8 provides for reductions in the penalty under this Schedule where the person discloses information which has been withheld by a failure to make a return ("relevant information"). 30

(2) A person discloses relevant information that involves a domestic matter by—

(a) telling HMRC about it,

(b) giving HMRC reasonable help in quantifying any tax unpaid by reason of its having been withheld, and 35

(c) allowing HMRC access to records for the purpose of checking how much tax is so unpaid.

(3) A person discloses relevant information that involves an offshore matter or an offshore transfer by—

(a) telling HMRC about it, 40

(b) giving HMRC reasonable help in quantifying any tax unpaid by reason of its having been withheld,

(c) allowing HMRC access to records for the purpose of checking how much tax is so unpaid, and

(d) providing HMRC with additional information.

(4) The Treasury must make regulations setting out what is meant by "additional information" for the purposes of sub-paragraph (3)(d).

(5) Disclosure of relevant information—

(a) is "unprompted" if made at a time when the person has no reason to believe that HMRC have discovered or are about to discover the relevant information, and

(b) otherwise, is "prompted".

(6) In relation to disclosure "quality" includes timing, nature and extent.

(7) Paragraph 4(4) to (6) applies to determine whether relevant information involves an offshore matter, an offshore transfer or a domestic matter.

8 (1) If a person who would otherwise be liable to a penalty of a percentage shown in column 1 of the Table in this paragraph (a "standard percentage") has made a disclosure, HMRC must reduce the standard percentage to one that reflects the quality of the disclosure.

(2) But the standard percentage may not be reduced to a percentage that is below the minimum shown for it—

(a) in the case of a prompted disclosure, in column 2 of the Table, and

(b) in the case of an unprompted disclosure, in column 3 of the Table.

Standard percentage	*Minimum percentage for prompted disclosure*	*Minimum percentage for unprompted disclosure*
70%	45%	30%
100%	60%	40%
105%	62.5%	40%
140%	80%	50%
150%	85%	55%
200%	110%	70%

(3) But HMRC must not under this paragraph reduce a penalty below £300.

Special reduction

9 (1) If HMRC think it right because of special circumstances, they may reduce a penalty under this Schedule.

(2) In sub-paragraph (1) "special circumstances" does not include—

(a) ability to pay, or

(b) the fact that a potential loss of revenue from a taxpayer is balanced by a potential over-payment by a taxpayer.

(3) In sub-paragraph (1) the reference to reducing a penalty includes a reference to—

(a) staying a penalty, and

(b) agreeing a compromise in relation to proceedings for a penalty.

Interaction with other penalties

10 (1) This paragraph applies where—
(a) a person is liable to a penalty under this Schedule in respect of a failure, and
(b) the amount of the penalty is the amount in paragraph 3(3)(a) or 3(5)(a).

(2) The amount of that penalty is to be reduced by the amount of any other penalty incurred by the person, the amount of which is determined by reference to the same liability to tax.

(3) In sub-paragraph (2), the reference to "any other penalty" does not include—
(a) a penalty under Schedule 26 (penalties for failure to pay tax),
(b) a penalty under Schedule 56 to FA 2009 (penalty for late payment of tax), or
(c) a penalty under Part 4 of FA 2014 (penalty where corrective action not taken after follower notice etc.).

Determination of penalty where no return made

11 (1) For the purposes of a penalty under this Schedule references to a liability to tax which would have been shown in a return are references to the amount which, if a complete and accurate return had been delivered on the due date, would have been shown to be due or payable by the taxpayer in respect of the tax concerned for the period to which the return relates.

(2) In the case of a penalty which is assessed at a time before the person makes the return to which the penalty relates, HMRC may either—
(a) proceed on the assumption that the amount in paragraph 3(3)(a) is less than the amount in paragraph 3(3)(b), or the amount in paragraph 3(5)(a) is less than the amount in paragraph 3(5)(b), or
(b) determine the amount mentioned in sub-paragraph (1) to the best of HMRC's information and belief.

(3) If the person subsequently makes a return, the penalty must be re-assessed by reference to the amount of tax shown to be due and payable in that return (but subject to any amendments or corrections to the return).

Assessments

12 (1) Where a person is liable to a penalty under this Schedule HMRC may assess the penalty.

(2) Where HMRC assess a penalty they must—
(a) notify the person, and
(b) state in the notice the failure (or failures) for which the person is liable to a penalty.

(3) A penalty under this Schedule must be paid before the end of the period of 30 days beginning with the day on which notification of the penalty is issued.

(4) An assessment of a penalty under this Schedule—

(a) is to be treated for procedural purposes in the same way as an assessment to tax (except in respect of a matter expressly provided for in this Schedule),
(b) may be enforced as if it were an assessment to tax, and
(c) may be combined with an assessment to tax.

Supplementary assessments

13 (1) A supplementary assessment may be made in respect of a penalty under this Schedule if an earlier assessment—
(a) is based on a liability to tax that would have been shown in a return, and that liability is found by HMRC to be an underestimate, or
(b) is based on a liability to tax that is found by HMRC to be insufficient.

(2) Sub-paragraph (3) applies if an assessment in respect of a penalty—
(a) is based on a liability to tax that would have been shown in a return, and that liability is found by HMRC to be an overestimate, or
(b) is based on a liability to tax that is found by HMRC to be excessive.

(3) HMRC may by notice to the person amend the assessment so that it is based upon the correct amount.

(4) An amendment under sub-paragraph (3)—
(a) does not affect when the penalty must be paid;
(b) may be made after the last day on which the assessment in question could have been made under paragraph 14.

Time limit for assessments

14 (1) An assessment of a penalty under this Schedule may not be made after the later of Date A and (where it applies) Date B.

(2) Date A is the end of the period of 2 years beginning with the due date.

(3) Date B is the last day of the period of 12 months beginning with—
(a) the end of the appeal period for the assessment of the liability to tax which would have been shown in the return, or
(b) if there is no such assessment, the date on which that liability is ascertained or it is ascertained that the liability is nil.

(4) In sub-paragraph (3)(a) "appeal period" means the period during which—
(a) an appeal could be brought (ignoring any possibility of an appeal out of time), or
(b) an appeal that has been brought has not been determined or withdrawn.

(5) Sub-paragraph (1) does not apply to a re-assessment under paragraph 11(3).

(6) A re-assessment under that paragraph must be made before the end of the period of 2 years beginning with the day on which the return is made.

PART 3

SUPPLEMENTARY PROVISION

Double jeopardy

15 A person is not liable to a penalty under this Schedule in respect of a failure or action in respect of which the person has been convicted of an offence. *5*

Withdrawal of notice to make a return

16 (1) This paragraph applies where—
(a) a person is liable to a penalty under this Schedule in relation to a failure to make a return within item 1 or 2 in the Table in paragraph 1, and *10*
(b) HMRC decide (on the request of the person or otherwise) to give the person a notice under section 8B of TMA 1970 withdrawing a notice under section 8 or 8A of that Act.

(2) This paragraph also applies where—
(a) a person is liable to a penalty under this Schedule in relation to a failure to make a return within item 3 in the Table in paragraph 1, and *15*
(b) HMRC decide (on a request under section 12AAA of TMA 1970) to give a notice under that section withdrawing a notice under section 12AA of that Act. *20*

(3) The notice under section 8B or 12AAA of TMA 1970 may include provision under this paragraph cancelling liability to the penalty from the date specified in the notice.

Appeals

17 (1) A person may appeal against a decision of HMRC that a penalty is payable by the person. *25*

(2) A person may appeal against a decision of HMRC as to the amount of a penalty payable by the person.

18 (1) An appeal under paragraph 17 is to be treated in the same way as an appeal against an assessment to the tax concerned (including by the application of any provision about bringing the appeal by notice to HMRC, about HMRC's review of the decision or about determination of the appeal by the First-tier Tribunal or Upper Tribunal). *30*

(2) Sub-paragraph (1) does not apply—
(a) so as to require the person to pay a penalty before an appeal against the assessment of the penalty is determined, or *35*
(b) in respect of any other matter expressly provided for by this Schedule.

19 (1) On an appeal under paragraph 17(1) that is notified to the tribunal, the tribunal may affirm or cancel HMRC's decision that a penalty is payable by the person. *40*

(2) On an appeal under paragraph 17(2) that is notified to the tribunal, the tribunal may—
  (a) affirm HMRC's decision, or
  (b) substitute for HMRC's decision another decision that HMRC had power to make.

(3) If the tribunal substitutes its decision for HMRC's decision in relation to a penalty under this Schedule, the tribunal may rely on paragraph 9—
  (a) to the same extent as HMRC (which may mean applying the same percentage reduction as HMRC to a different starting point), or
  (b) to a different extent, but only if the tribunal thinks that HMRC's decision in respect of the application of paragraph 9 was flawed.

(4) In sub-paragraph (3)(b) "flawed" means flawed when considered in the light of the principles applicable in proceedings for judicial review.

(5) In this paragraph "tribunal" means the First-tier Tribunal or Upper Tribunal (as appropriate by virtue of paragraph 18(1)).

Partnerships

20 (1) This paragraph applies where—
  (a) the representative partner, or a successor of the representative partner, fails to make a return falling within item 3 in the Table in paragraph 1, or
  (b) the nominated partner fails to make a return falling within item 4 in that Table.

(2) In determining whether the representative partner, a successor of the representative partner or the nominated partner (as the case may be) is liable to a penalty under paragraph 3, the condition in sub-paragraph (2) of that paragraph is to be read as if the reference to the person's liability to tax was a reference to the liability to tax of any relevant partner.

(3) If a representative partner, a successor of a representative partner or a nominated partner is liable to a penalty under paragraph 3, every relevant partner is liable to a penalty under that paragraph.

(4) The amount of the penalty to which the representative partner, a successor of the representative partner, the nominated partner or a relevant partner is liable is £300 (and accordingly paragraphs 3(3) to (8), 4 to 8, 10, 11 and 13 do not apply).

(5) An appeal under paragraph 17 in connection with a penalty payable by virtue of this paragraph may be brought only by—
  (a) the representative partner or a successor of the representative partner, in a case within sub-paragraph (1)(a), or
  (b) the nominated partner, in a case within sub-paragraph (1)(b).

(6) Where such an appeal is brought in connection with a penalty payable in respect of a failure, the appeal is to be treated as if it were an appeal in connection with every penalty payable in respect of that failure.

(7) In this paragraph—
  "nominated partner" has the meaning given by paragraph 5(5) of Schedule A1 to TMA 1970;

"relevant partner" means a person who was a partner in the partnership to which the return relates at any time during the period in respect of which the return was required;

"representative partner" means a person who has been required by a notice served under or for the purposes of section 12AA(2) or (3) of TMA 1970 to deliver any return;

"successor" has the meaning given by section 12AA(11) of TMA 1970.

Regulations: supplementary provision

21 (1) Regulations under this Schedule are to be made by statutory instrument.

(2) Regulations under this Schedule may include transitional, transitory and saving provision.

(3) A statutory instrument containing regulations under this Schedule is subject to annulment in pursuance of a resolution of the House of Commons.

SCHEDULE 26

Section 117

PENALTIES FOR FAILURE TO PAY TAX

PART 1

INTRODUCTION

Introduction

1 This Schedule makes provision for penalties to be payable by a person who, in relation to a tax dealt with by one of the following tables, fails to pay an amount specified in column 2 of the table ("the tax due") on or before the date specified in column 3 of the table ("the specified date").

Income tax or capital gains tax		
1	Amount of income tax or capital gains tax payable under section 55 of TMA 1970	The date determined in accordance with section 55 of TMA 1970 as the date by which the amount must be paid
2	Amount of income tax or capital gains tax payable under section 59B(3) or (4) of TMA 1970	The date specified in section 59B(3) or (4) of TMA 1970 as the date by which the amount must be paid
3	Amount of income tax or capital gains tax payable under section 59B(5) or (6) of TMA 1970	The date specified in section 59B(5) or (6) of TMA 1970 as the date by which the amount must be paid
4	Amount of income tax or capital gains tax payable under section 59B(5A) of TMA 1970	The date specified in section 59B(5A) of TMA 1970 as the date by which the amount must be paid
5	Amount of income tax or capital gains tax payable under section 59BA(4) or (5) of TMA 1970	The date specified in section 59BA(4) or (5) of TMA 1970 as the date by which the amount must be paid
6	Amount of income tax payable under regulations under section 244L(2)(a) of FA 2004	The due date determined by or under the regulations

Income tax or capital gains tax		
7	Amount of income tax shown in a return under section 254(1) of FA 2004	The date specified in section 254(5) of FA 2004 as the date by which the amount must be paid
8	Amount of income tax or capital gains tax (not within item 4) shown in an assessment or determination made by HMRC in default of a return (see paragraph 3)	The date by which the amount would have been required to be paid if it had been shown in the return in question
9	Amount of income tax or capital gains tax (not within item 1 or 3) shown in an amendment or correction of a return	The later of— (a) the date by which the amount must be paid, and (b) the date on which the amendment or correction is made
10	Amount of income tax or capital gains tax (not within item 1 or 3) shown in an assessment or determination made by HMRC otherwise than in default of a return (see paragraph 3)	The later of— (a) the date by which the amount must be paid, and (b) the date on which the assessment or determination is made

Value added tax		
1	Amount of value added tax payable under section 25(1) of VATA 1994 (except an amount within item 2, 3, 4 or 5)	The date determined by or under regulations under section 25 of VATA 1994 as the date by which the amount must be paid
2	Amount of value added tax payable under section 25(1) of VATA 1994 which is an instalment of an amount due in respect of a period of 9 months or more ("amount A")	The date by which any balancing payment, or other outstanding payment due in respect of amount A, must be paid
3	Amount of value added tax shown in an assessment made by HMRC in default of a return (see paragraph 3)	The date by which the amount would have been required to be paid if it had been shown in the return in question
4	Amount of value added tax shown in an amendment or correction of a return	The date falling 30 days after the date on which the amendment or correction is made
5	Amount of value added tax shown in an assessment made by HMRC otherwise than in default of a return (see paragraph 3)	The date falling 30 days after the date on which the assessment is made

2 In this Schedule, "HMRC" means Her Majesty's Revenue and Customs.

Assessments and determinations in default of return

3 (1) This paragraph applies for the interpretation of the tables in paragraph 1.

(2) An assessment or determination by HMRC is made in default of a return if it is made where—

(a) a person is required to make or deliver a return which falls within—

(i) any group of returns in the Table in paragraph 2 of Schedule 24, or

(ii) any item in the Table in paragraph 1 of Schedule 55 to FA 2009,

(b) that person fails to make or deliver the return on or before the date by which it is required to be made or delivered, and

(c) if the return had been made or delivered as required, the return would have shown that an amount falling within the relevant table in paragraph 1 was due and payable.

(3) An assessment or determination by HMRC is made otherwise than in default of a return if it is made otherwise than as described in sub-paragraph (2).

PART 2

LIABILITY TO A PENALTY

No penalty if payment in full before end of 15 day period

4 No penalty is payable if—
(a) the tax due is paid in full before the end of the 15 day period, or
(b) the 15 day time to pay condition is met,
(but see paragraph 7).

First penalty: tax remains due at end of 15 day period

5 (1) A penalty is payable under this paragraph if—
(a) the tax due is not paid in full before the end of the 15 day period, and
(b) the 15 day time to pay condition is not met.

(2) If the tax due is paid in full after the end of the 15 day period but before the end of the 30 day period, the amount of the penalty is amount A.

(3) If the tax due is not paid in full before the end of the 30 day period, the amount of the penalty is—
(a) if the 30 day time to pay condition is met, amount A, and
(b) if the 30 day time to pay condition is not met, the total of amount A and amount B,
(but see paragraph 7).

(4) Amount A is 2% of so much of the tax due as is unpaid at the end of the 15 day period.

(5) Amount B is 2% of so much of the tax due as is unpaid at the end of the 30 day period.

Meaning of "15 day time to pay condition" and "30 day time to pay condition"

6 (1) The 15 day time to pay condition is met if a time to pay agreement is made (whether before or after the end of the 15 day period) as a result of proposals for paying the tax due made by the person before the end of the 15 day period.

(2) The 30 day time to pay condition is met if a time to pay agreement is made (whether before or after the end of the 30 day period) as a result of proposals for paying the tax due made by the person after the end of the 15 day period, but before the end of the 30 day period.

First penalty: effect of breaking time to pay agreement

7 (1) This paragraph applies where—

(a) the 15 day time to pay condition or the 30 day time to pay condition is met, and

(b) the person breaks the time to pay agreement by virtue of which the condition was met.

(2) If HMRC give the person notice that a penalty is payable under paragraph 5, a penalty is payable under that paragraph as if the condition in question had never been met.

Second penalty: tax remains due at end of 30 day period

8 (1) A penalty is payable under this paragraph if any amount of the tax due is unpaid at the end of the 30 day period.

(2) The amount of the penalty is calculated by applying the penalty rate, during the further penalty period, to so much of the tax due as is from time to time unpaid.

(3) The penalty rate is 4% per annum.

(4) The further penalty period is the period—

(a) beginning with the day after the last day of the 30 day period, and

(b) ending with the day on which the tax due is paid in full.

(5) But if a time to pay agreement has effect during the further penalty period, the further penalty period does not include the period—

(a) beginning with the relevant day, and

(b) ending with the day on which the tax due is paid in full,

(but see paragraph 9).

(6) The relevant day is the day on which the person makes the proposals to HMRC for paying the tax due, as a result of which the time to pay agreement is made.

Second penalty: effect of breaking time to pay agreement

9 (1) This paragraph applies where—

(a) a time to pay agreement has effect during the further penalty period, and

(b) the person breaks the time to pay agreement.

(2) If HMRC give the person notice that a penalty is payable under paragraph 8, a penalty is payable under that paragraph as if the time to pay agreement had never had effect.

Interpretation of Part 2

10 (1) This paragraph gives the meaning of terms used in this Part of this Schedule.

(2) The "15 day period", in relation to tax due, is the period of 15 days beginning with the day after the specified date.

(3) The "30 day period", in relation to tax due, is the period of 30 days beginning with the day after the specified date.

(4) A "time to pay agreement" is an agreement between HMRC and a person that payment of an amount of tax due (the "deferred amount") may be deferred for a period (the "deferral period").

(5) A person breaks a time to pay agreement if—
  (a) the person fails to pay the deferred amount when the deferral period ends, or
  (b) the deferral is subject to the person complying with a condition (including a condition that part of the deferred amount be paid during the deferral period) and the person fails to comply with it.

(6) If a time to pay agreement is varied at any time by a further agreement between the person and HMRC, references in this Schedule to the agreement include the agreement as varied.

Power to amend figures by regulations

11 The Commissioners for HMRC may by regulations amend this Part of this Schedule so as to—
  (a) change references to 15 days (or to another number of days resulting from the previous exercise of powers under this sub-paragraph) to references to a greater or lesser number of days;
  (b) change references to 30 days (or to another number of days resulting from the previous exercise of powers under this sub-paragraph) to references to a greater or lesser number of days;
  (c) increase or reduce the percentage specified in paragraph 5(4);
  (d) increase or reduce the percentage specified in paragraph 5(5);
  (e) increase or reduce the percentage specified in paragraph 8(3).

PART 3

SUPPLEMENTARY PROVISION

Reasonable excuse

12 (1) Liability to a penalty under this Schedule does not arise in respect of a failure to make a payment if the person satisfies HMRC (or on appeal, the tribunal) that the person had a reasonable excuse for the failure.

(2) For this purpose—
  (a) an insufficiency of funds is not a reasonable excuse unless attributable to events outside the person's control,
  (b) where the person relies on another person to do anything, that is not a reasonable excuse unless the first person took reasonable care to avoid the failure, and
  (c) where the person had a reasonable excuse for the failure but the excuse has ceased, the person is to be treated as having continued to have the excuse if the failure is remedied without unreasonable delay after the excuse ceased.

(3) In this paragraph "tribunal" means the First-tier Tribunal or Upper Tribunal (as appropriate by virtue of paragraph 20(1)).

Special reduction

13 (1) If HMRC think it right because of special circumstances, they may reduce a penalty under this Schedule.

(2) In sub-paragraph (1) "special circumstances" does not include—
(a) ability to pay, or
(b) the fact that a potential loss of revenue from a taxpayer is balanced by a potential over-payment by a taxpayer.

(3) In sub-paragraph (1) the reference to reducing a penalty includes a reference to—
(a) staying a penalty, and
(b) agreeing a compromise in relation to proceedings for a penalty.

Double jeopardy

14 A person is not liable to a penalty under this Schedule in respect of a failure in respect of which the person has been convicted of an offence.

Interaction with other penalties

15 In the application of the following provisions, no account is to be taken of a penalty under this Schedule—
(a) section 97A of TMA 1970 (multiple penalties),
(b) paragraph 12(2) of Schedule 24 to FA 2007 (interaction with other penalties), and
(c) paragraph 15(1) of Schedule 41 to FA 2008 (interaction with other penalties).

Assessments

16 (1) Where a person is liable to a penalty under this Schedule HMRC may assess the penalty.

(2) HMRC may by regulations make provision for HMRC to assess a penalty under paragraph 8 at times or intervals before the end of the further penalty period.

(3) Where HMRC assess a penalty they must notify the person and state in the notice—
(a) the failure to pay the tax due, for which the person is liable to the penalty,
(b) the amount of the penalty, and
(c) how that amount has been calculated (including the period to which the penalty relates).

(4) A penalty under this Schedule must be paid before the end of the period of 30 days beginning with the day on which notification of the penalty is issued.

(5) An assessment of a penalty under this Schedule—
(a) is to be treated for procedural purposes in the same way as an assessment to tax (except in respect of a matter expressly provided for in this Schedule),

(b) may be enforced as if it were an assessment to tax, and
(c) may be combined with an assessment to tax.

17 (1) A supplementary assessment may be made in respect of a penalty if an earlier assessment is based on an amount of tax due and payable that is found by HMRC to be an underestimate or insufficient. *5*

(2) If an assessment in respect of a penalty is based on an amount of tax due or payable that is found by HMRC to be excessive, HMRC may by notice amend the assessment so that it is based upon the correct amount.

(3) An amendment under sub-paragraph (2)—
(a) does not affect when the penalty must be paid; *10*
(b) may be made after the last day on which the assessment in question could have been made under paragraph 18.

Time limit for assessments

18 (1) An assessment of a penalty under this Schedule in respect of any amount must be made on or before the later of date A and (where it applies) date B. *15*

(2) Date A is the last day of the period of 2 years beginning with the date specified in or for the purposes of column 3 of the relevant table in paragraph 1 (that is to say, the last date on which payment may be made without incurring a penalty).

(3) Date B is the last day of the period of 12 months beginning with— *20*
(a) the end of the appeal period for the assessment of the amount of tax in respect of which the penalty is assessed, or
(b) if there is no such assessment, the date on which that amount of tax is ascertained.

(4) In sub-paragraph (3)(a) "appeal period" means the period during which— *25*
(a) an appeal could be brought (ignoring any possibility of an appeal out of time), or
(b) an appeal that has been brought has not been determined or withdrawn.

Appeals *30*

19 (1) A person may appeal against a decision of HMRC that the person is liable to a penalty under this Schedule.

(2) A person liable to a penalty under this Schedule may appeal against a decision of HMRC as to the amount of the penalty.

20 (1) An appeal under paragraph 19 is to be treated in the same way as an appeal against an assessment to the tax concerned (including by the application of any provision about bringing the appeal by notice to HMRC, about HMRC's review of the decision or about determination of the appeal by the First-tier Tribunal or Upper Tribunal). *35*

(2) Sub-paragraph (1) does not apply— *40*
(a) so as to require the person to pay a penalty before an appeal against the assessment of the penalty is determined, or
(b) in respect of any other matter expressly provided for by this Schedule.

21 (1) On an appeal under paragraph 19(1) that is notified to the tribunal, the tribunal may affirm or cancel HMRC's decision.

(2) On an appeal under paragraph 19(2) that is notified to the tribunal, the tribunal may—

(a) affirm HMRC's decision, or

(b) substitute for HMRC's decision another decision that HMRC had power to make.

(3) If the tribunal substitutes its decision for HMRC's decision in relation to a penalty under this Schedule, the tribunal may rely on paragraph 13—

(a) to the same extent as HMRC (which may mean applying the same percentage reduction as HMRC to a different starting point), or

(b) to a different extent, but only if the tribunal thinks that HMRC's decision in respect of the application of paragraph 13 was flawed.

(4) In sub-paragraph (3)(b)"flawed" means flawed when considered in the light of the principles applicable in proceedings for judicial review.

(5) In this paragraph "tribunal" means the First-tier Tribunal or Upper Tribunal (as appropriate by virtue of paragraph 20(1)).

Regulations: supplementary provision

22 (1) Regulations under this Schedule are to be made by statutory instrument.

(2) A statutory instrument containing regulations under paragraph 11 (powers to amend Part 2) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the House of Commons.

(3) A statutory instrument containing regulations under paragraph 16 (assessments) is subject to annulment in pursuance of a resolution of the House of Commons.

(4) Regulations under this Schedule may include transitional, transitory and saving provision.

SCHEDULE 27

Section 118

SCHEDULES 24 TO 26: CONSEQUENTIAL PROVISION

Taxes Management Act 1970

1 TMA 1970 is amended as follows.

2 For section 8B(8) (withdrawal of notice to file personal or trustee return) substitute—

"(8) See paragraph 21 of Schedule 24 and paragraph 16 of Schedule 25 to the Finance Act 2021 as to the cancellation of liabilities under those Schedules by including provision in a notice under this section."

3 For section 12AAA(9) (withdrawal of notice to file partnership return)

substitute—

"(9) See paragraph 21 of Schedule 24 and paragraph 16 of Schedule 25 to the Finance Act 2021 as to the cancellation of liabilities under those Schedules by including provision in a notice under this section."

4 In section 49E (nature of review etc), after subsection (5) insert—

"(5A) See section 49EA concerning additional conclusions a review can reach in the case of penalties under Schedule 24 to the Finance Act 2021."

5 After section 49E insert—

"49EA Nature of review: penalties under Schedule 24 to FA 2021

(1) This section applies if—
  (a) notice of appeal has been given to HMRC under paragraph 22(b) of Schedule 24 to the Finance Act 2021 in respect of a penalty, and
  (b) HMRC are required to review the matter in question under section 49B or 49C (which apply to the appeal by virtue of paragraph 23(1) of that Schedule).

(2) The review may also conclude that HMRC's view that the appellant was liable to any of the penalty points by virtue of which the appellant was liable to the penalty is to be—
  (a) upheld, or
  (b) cancelled.

(3) Subsection (2) applies in relation to a penalty point even if the time limit for appealing against it expired before notice of appeal in respect of the penalty was given.

(4) Subsection (2) does not apply in relation to a penalty point if—
  (a) it was concluded on an earlier review under section 49B or 49C that HMRC's view that the appellant was liable to the penalty point was to be upheld, or
  (b) HMRC's decision that the appellant was liable to the penalty point has been affirmed on appeal."

6 After section 49F insert—

"49FA Effect of conclusions of review: penalties under Schedule 24 to FA 2021

(1) If the conclusions of a review include conclusions reached by virtue of section 49EA and the conclusions of the review are final, sub-paragraphs (4) and (5) of paragraph 24 of Schedule 24 to the Finance Act 2021 apply but with the following modifications—
  (a) references to the appeal under paragraph 22(b) of that Schedule are to be read as references to the review under section 49B or 49C (as the case may be),
  (b) references to the tribunal are to be read as references to HMRC, and
  (c) references to cancelling a decision are to be read as references to concluding that HMRC's view is to be cancelled.

(2) For the purposes of subsection (1) the conclusions of a review are to be treated as final only if the post-review period has ended and the appellant did not notify the appeal to the tribunal within that period.

(3) In subsection (2) "post-review period" has the same meaning as in section 49G (see subsection (5) of that section)." 5

7 In section 69 (recovery of penalty or interest), in subsection (1)—

(a) after paragraph (a) insert—

"(aa) penalties imposed under Schedule 26 to the Finance Act 2021;";

(b) omit paragraph (b). 10

8 In section 103ZA (disapplication of sections 100 to 103 in the case of certain penalties)—

(a) omit the "or" at the end of paragraph (k);

(b) after paragraph (l) insert—

"(m) Schedule 24 to the Finance Act 2021 (penalties for failure to make returns etc), 15

(n) Schedule 25 to that Act (penalties for deliberately withholding information), or

(o) Schedule 26 to that Act (penalties for failure to pay tax)." 20

9 (1) Section 107A (relevant trustees) is amended as follows.

(2) In subsection (2)—

(a) in paragraph (a), after "Schedule 22 to the Finance Act 2016" insert "or Schedule 25 to the Finance Act 2021";

(b) in paragraph (c)— 25

(i) after "Schedule 56 to the Finance Act 2009" insert "or Schedule 26 to the Finance Act 2021";

(ii) for "that Act" substitute "the Finance Act 2009".

(3) In subsection (3)—

(a) omit paragraph (a); 30

(b) in paragraph (c)—

(i) in sub-paragraph (i), for "1, 3C, 12, 18 or 19" substitute "3C";

(ii) omit sub-paragraph (ii) (but not the "or" at the end of that sub-paragraph);

(iii) in sub-paragraph (iii), omit "or (ii)"; 35

(c) after paragraph (d) insert—

"(e) in relation to—

(i) a penalty under Schedule 26 to the Finance Act 2021 (penalties for failure to pay tax), or

(ii) interest under section 101 of the Finance Act 2009 on a penalty within sub-paragraph (i), 40

the end of the specified date as defined in paragraph 1 of Schedule 26 to the Finance Act 2021;".

Income and Corporation Taxes Act 1988

10 In section 824 of the Income and Corporation Taxes Act 1988 (repayment supplements: individuals and others), in subsection (1)—
(a) omit paragraph (c);
(b) in paragraph (d), for "that Act" substitute "the Finance Act 2009 or Schedules 24 to 26 to the Finance Act 2021." *5*

Social Security Contributions and Benefits Act 1992

11 The Social Security Contributions and Benefits Act 1992 is amended as follows.

12 In section 11A (application of certain provisions of the Income Tax Acts in relation to Class 2 contributions under section 11(2)), after subsection (1)(ea) insert— *10*
"(eb) Schedules 24 and 25 to the Finance Act 2021 (penalties for failure to make returns etc or for deliberately withholding information);". *15*

13 In section 16(1) (application of Income Tax Acts and destination of Class 4 contributions), at the end of paragraph (e) insert "and
(f) the provisions of Schedules 24 and 25 to the Finance Act 2021 (penalties for failure to make returns etc or for deliberately withholding information),". *20*

Social Security Contributions and Benefits (Northern Ireland) Act 1992

14 In section 11A of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (application of certain provisions of the Income Tax Acts in relation to Class 2 contributions under section 11(2)), after subsection (1)(ea) insert— *25*
"(eb) Schedules 24 and 25 to the Finance Act 2021 (penalties for failure to make returns etc or for deliberately withholding information);".

Value Added Tax Act 1994

15 VATA 1994 is amended as follows. *30*

16 In the italic heading before section 59, omit "Default surcharge and other".

17 Omit sections 59 to 59B (default surcharge).

18 (1) Section 69 (breaches of regulatory provisions) is amended as follows.

(2) In subsection (4)(a), for "for a surcharge under section 59 or 59A" substitute "to a penalty point or a penalty under Schedule 24 to the Finance Act 2021". *35*

(3) In subsection (9)—
(a) omit paragraph (b) and the "or" at the end of that paragraph;
(b) after paragraph (c) insert "or
(d) a person is awarded a penalty point or assessed to a penalty under Schedule 24 to the Finance Act 2021,". *40*

19 In section 71 (construction of sections 59 to 70), in the heading and in subsections (1) and (2), for "59" substitute "60".

20 (1) Section 76 (assessment of amounts due by way of penalty, interest or surcharge) is amended as follows.

(2) In the heading, for "penalty, interest or surcharge" substitute "penalty or interest".

(3) In subsection (1)—
(a) omit paragraph (a) and the "or" at the end of that paragraph;
(b) in the words after paragraph (d), for "penalty, interest or surcharge" substitute "penalty or interest".

(4) In subsection (3)—
(a) in the words before paragraph (a), for "penalties, interest and surcharge" substitute "penalties and interest";
(b) omit paragraph (a).

(5) In subsection (4), for "penalty, interest or surcharge", in both places, substitute "penalty or interest".

(6) In subsection (5), for "penalty, interest or surcharge", in both places, substitute "penalty or interest".

21 In section 77 (assessments: time limits and supplementary assessments), in subsections (2), (3) and (5), for "penalty, interest or surcharge" substitute "penalty or interest".

22 In section 81 (interest given by way of credit and set-off of credits), in subsections (3)(b) and (3A)(c), for "penalty, interest or surcharge" substitute "penalty or interest".

23 In section 83 (appeals), in subsection (1)—
(a) in paragraph (n)—
(i) omit "or surcharge";
(ii) for "59" substitute "60";
(b) in paragraph (q), for "penalty, interest or surcharge" substitute "penalty or interest".

24 In section 83F (nature of review etc), after subsection (5) insert—

"(5A) See section 83FA concerning additional conclusions a review can reach in the case of penalties under Schedule 24 to the Finance Act 2021."

25 After section 83F insert—

"83FA Nature of review: penalties under Schedule 24 to FA 2021

(1) This section applies if HMRC are required, by virtue of paragraph 23(1) of Schedule 24 to the Finance Act 2021, to undertake a review under section 83C or 83E of a penalty decision in respect of which an appeal lies under paragraph 22(b) of that Schedule.

(2) The review may also conclude that HMRC's decision that P was liable to any of the penalty points by virtue of which P was liable to the penalty in respect of which the appeal lies is to be—
(a) upheld, or

(b) cancelled.

(3) Subsection (2) applies in relation to a penalty point even if the time limit for appealing against it expired before the relevant date.

(4) Subsection (2) does not apply in relation to a penalty point if—

(a) it was concluded on an earlier review required to be undertaken under section 83C or 83E that HMRC's decision that P was liable to the penalty point was to be upheld, or

(b) HMRC's decision that P was liable to the penalty point has been affirmed on appeal.

(5) In subsection (3) "relevant date" has the same meaning as in section 83F(6) (see section 83F(7))."

26 After section 83FA (inserted by paragraph 25) insert—

"83FB Effect of conclusions of review: penalties under Schedule 24 to FA 2021

(1) If the conclusions of a review include conclusions reached by virtue of section 83FA and the conclusions of the review are final, sub-paragraphs (4) and (5) of paragraph 24 of Schedule 24 to the Finance Act 2021 apply but with the following modifications—

(a) references to the appeal under paragraph 22(b) of that Schedule are to be read as references to the review required to be undertaken under section 83C or 83E (as the case may be),

(b) references to the tribunal are to be read as references to HMRC, and

(c) references to cancelling a decision are to be read as references to concluding that HMRC's decision is to be cancelled.

(2) For the purposes of subsection (1) the conclusions of a review are to be treated as final only if the period specified in subsection (3)(b), (4)(b) or (5) of section 83G for appealing the reviewed decision has ended and no appeal has been made within that period."

27 In section 84 (further provisions relating to appeals), in subsection (6)—

(a) for "penalty, interest or surcharge" substitute "penalty or interest";

(b) for "59" substitute "60".

28 In Schedule 13 (transitional provisions and savings), omit paragraph 14.

Income Tax (Trading and Other Income) Act 2005

29 ITTOIA 2005 is amended as follows.

30 In the italic heading before section 54, for ", interest and VAT surcharges" substitute "and interest".

31 In section 54 (penalties, interest and VAT surcharges)—

(a) in the heading, for ", interest and VAT surcharges" substitute "and interest";

(b) omit subsection (3).

32 In section 272 (application of trading income rules: GAAP), in the table in subsection (2), in the entry for section 54, in the second column, for ", interest and VAT surcharges" substitute "and interest".

33 In section 272ZA (application of trading income rules: cash basis), in the table in subsection (1), in the entry for section 54, in the second column, for ", interest and VAT surcharges" substitute "and interest".

34 In the italic heading before section 869, for ", interest and VAT surcharges" substitute "and interest".

35 In section 869 (penalties, interest and VAT surcharges: non trades etc)—
(a) in the heading, for ", interest and VAT surcharges" substitute "and interest";
(b) omit subsection (5).

Corporation Tax Act 2009

36 In section 1303 of CTA 2009 (penalties, interest and VAT surcharges)—
(a) in the heading, for ", interest and VAT surcharges" substitute "and interest";
(b) omit subsection (3).

Finance Act 2009

37 FA 2009 is amended as follows.

38 In section 108 (suspension of penalties during currency of agreement for deferred payment), in subsection (5), in the Table, omit the entry for value added tax.

39 (1) Schedule 55 (penalty for failure to make returns etc) is amended as follows.

(2) In paragraph 1—
(a) in sub-paragraph (4), in the definition of "penalty date", for "1 to 3" substitute "2A";
(b) in the Table, omit items 1, 2 and 3.

(3) In paragraph 2 (as substituted by paragraph 3 of Schedule 10 to F(No.3)A 2010), in sub-paragraph (1)(a), for "1 to 5" substitute "2A, 4, 4A, 5".

(4) Omit paragraphs 17A and 17B (cancellation of penalty) and the italic heading before those paragraphs.

(5) Omit paragraph 25 (partnerships) and the italic heading before that paragraph.

(6) Until the coming into force of paragraph 3 of Schedule 10 to F(No.3)A 2010, paragraph 2 of Schedule 55 to FA 2009 has effect as if for "1 to 3" there were substituted "2A".

40 (1) Schedule 56 (penalty for failure to make payments on time) is amended as follows.

(2) In paragraph 1, in the Table—
(a) omit items 1, 3, 3A, 12, 18 and 19;
(b) omit items 6A and 6B (inserted by paragraph 2(7) of Schedule 11 to F(No.3)A 2010);

(c) omit item 13A (inserted by paragraph 2(9) of Schedule 11 to F(No.3)A 2010);

(d) in item 17—

(i) in column 2, for "1" substitute "2, 3B";

(ii) in column 3, for "12" substitute "13";

(e) in item 23—

(i) in column 2, for "1 to 6A" (as substituted by paragraph 2(13)(a) of Schedule 11 to F(No.3)A 2010) substitute "2, 3B to 6";

(ii) in column 3—

(a) omit the words in brackets;

(b) for "1 to 6A" (as substituted by paragraph 2(13)(a) of Schedule 11 to F(No.3)A 2010) substitute "2, 3B to 6";

(f) in item 24—

(i) in column 2, for "1 to 6A" (as substituted by paragraph 2(14)(a) of Schedule 11 to F(No.3)A 2010) substitute "2, 3B to 6";

(ii) in column 3 omit the words in brackets.

(3) In paragraph 2(c), for "1" substitute "2 and 3B".

(4) In paragraph 3—

(a) in sub-paragraph (1)(a)—

(i) omit "1, 3,";

(ii) omit "6B," (as substituted by paragraph 5(3) of Schedule 11 to F(No.3)A 2010);

(iii) for "12" (as substituted by paragraph 5(3) of Schedule 11 to F(No.3)A 2010) substitute "13";

(b) in sub-paragraph (1)(b) omit "6A," (as substituted by paragraph 5(4)(a) of Schedule 11 to F(No.3)A 2010);

(c) omit sub-paragraphs (1)(d) and (1A) (as inserted by paragraph 5(5) and (6) of Schedule 11 to F(No.3)A 2010).

(5) In paragraph 8A (inserted by paragraph 7 of Schedule 11 to F(No.3)A 2010)—

(a) in sub-paragraph (1), omit "6A,";

(b) omit sub-paragraphs (2) and (3).

(6) In paragraph 8F (inserted by paragraph 7 of Schedule 11 to F(No.3)A 2010)—

(a) in sub-paragraph (1) omit "6A,";

(b) omit sub-paragraph (2).

(7) Omit paragraph 8K and the italic heading before that paragraph and omit paragraph 8 of Schedule 11 to F(No.3)A 2010 that inserted them.

(8) Until the coming into force of paragraph 2(13)(a) of Schedule 11 to F(No.3)A 2010, item 23 in the Table in paragraph 1 of Schedule 56 to FA 2009 has effect as if, in columns 2 and 3, for "1" there were substituted "2, 3B".

(9) Until the coming into force of paragraph 2(14)(a) of Schedule 11 to F(No.3)A 2010, item 24 in the Table in paragraph 1 of Schedule 56 to FA 2009 has effect as if, in column 2, for "1" there were substituted "2, 3B".

Finance Act 2012

41 In Schedule 38 to FA 2012 (tax agents: dishonest conduct), in paragraph 34(1)—

(a) omit the "or" at the end of paragraph (b);

(b) at the end of paragraph (c), insert ", or

(d) Schedule 24 (penalties for failure to make returns etc) or Schedule 25 (penalties for deliberately withholding information) to FA 2021."

Finance Act 2013

42 In Schedule 43C to FA 2013 (penalty under section 212A: supplementary provision), in paragraph 8—

(a) in sub-paragraph (3)(b), after "Schedule 55 to FA 2009" insert ", or sub-paragraph (3)(b) or (5)(b) of paragraph 3 or paragraph 20(4) of Schedule 25 to FA 2021";

(b) in sub-paragraph (5)—

(i) omit the "or" at the end of paragraph (c);

(ii) at the end of paragraph (d) insert ", or

(e) Schedule 25 to FA 2021 (penalties for deliberately withholding information).";

(c) in sub-paragraph (6)—

(i) in paragraph (a)—

(a) omit the "or" at the end of sub-paragraph (ii);

(b) at the end of sub-paragraph (iii) insert "or

(iv) paragraph 3(4)(c) of Schedule 25 to FA 2021,";

(ii) in paragraph (b)—

(a) omit the "or" at the end of sub-paragraph (ii);

(b) at the end of sub-paragraph (iii) insert "or

(iv) paragraph 3(4)(b) of Schedule 25 to FA 2021,";

(iii) in paragraph (c)—

(a) omit the "or" at the end of sub-paragraph (ii);

(b) at the end of sub-paragraph (iii) insert "or

(iv) paragraph 3(6)(c) of Schedule 25 to FA 2021,";

(iv) in paragraph (d)—

(a) omit the "or" at the end of sub-paragraph (ii);

(b) at the end of sub-paragraph (iii), for "and" substitute "or

(iv) paragraph 3(6)(b) of Schedule 25 to FA 2021, and".

Finance Act 2014

43 In section 212 of FA 2014 (aggregate penalties)—

(a) in subsection (2)(b), after "Schedule 55 to FA 2009" insert "or paragraph 3(3)(b) or (5)(b) or 20(4) of Schedule 25 to FA 2021";

(b) in subsection (4)—

(i) omit the "or" at the end of paragraph (d);
(ii) at the end of paragraph (e) insert ", or
(f) Schedule 25 to FA 2021 (penalties for deliberately withholding information).";

(c) in subsection (5)—
(i) omit the "or" at the end of paragraph (a)(ii);
(ii) at the end of paragraph (a)(iii) insert "or
(iv) paragraph 3(4)(c) of Schedule 25 to FA 2021,";
(iii) omit the "or" at the end of paragraph (b)(ii);
(iv) at the end of paragraph (b)(iii) insert "or
(iv) paragraph 3(4)(b) of Schedule 25 to FA 2021,";
(v) at the end of paragraph (c)(iii) insert "or
(iv) paragraph 3(6)(c) of Schedule 25 to FA 2021,";
(vi) in paragraph (d)(iii), for "and" substitute "or
(iv) paragraph 3(6)(b) of Schedule 25 to FA 2021, and".

Finance Act 2015

44 (1) Schedule 21 to FA 2015 (penalties in connection with offshore asset moves) is amended as follows.

(2) In paragraph 1(2), at the beginning of paragraph (b) insert "where the original penalty is a penalty specified in paragraph (a), (b), (c) or (d) of paragraph 2,".

(3) In paragraph 2—
(a) omit the "and" at the end of paragraph (c);
(b) at the end of paragraph (d) insert ", and
(e) a penalty under paragraph 3 of Schedule 25 to FA 2021 (penalties for deliberately withholding information), where the tax at stake is income tax or capital gains tax."

(4) In paragraph 5—
(a) in sub-paragraph (4), in the words before paragraph (a)—
(i) after "original penalty is" insert "a penalty under paragraph 6 of Schedule 55 to FA 2009";
(ii) for "Schedule 55 to FA 2009" substitute "that Schedule";
(b) after sub-paragraph (5) insert—

"(6) Where the original penalty is a penalty under paragraph 3 of Schedule 25 to FA 2021 for a failure to make a return or deliver a document specified in the table in paragraph 1 of that Schedule, the relevant time is, if the tax at stake is income tax or capital gains tax, the beginning of the tax year to which the return or document relates."

Finance Act 2016

45 FA 2016 is amended as follows.

46 In section 167 (simple assessments), omit subsections (3) and (4).

47 (1) Schedule 20 (penalties for enablers of offshore tax evasion or non-compliance) is amended as follows.

(2) In paragraph 1(4), after paragraph (d) insert—

"(e) a penalty under paragraph 3 of Schedule 25 to FA 2021 (penalties for deliberately withholding information) involving offshore activity."

(3) In paragraph 3(3)—

(a) omit the "or" at the end of paragraph (b);

(b) at the end of paragraph (c) insert "or

(d) the liability to tax which would have been shown on the return (within the meaning of Schedule 25 to FA 2021),";

(c) in the words after paragraph (d) (as inserted above), for "or paragraph 6 of Schedule 55" substitute ", paragraph 6 of Schedule 55 or paragraph 3 of Schedule 25".

(4) In paragraph 4(3)(b), after "Schedule 55 to FA 2009" insert "or paragraph 3 of Schedule 25 to FA 2021".

(5) In paragraph 5, after sub-paragraph (4) insert—

"(5) In the case of a penalty under paragraph 3 of Schedule 25 to FA 2021 involving offshore activity, the potential lost revenue is the liability to tax which would have been shown in the return in question (within the meaning of that Schedule)."

48 (1) Schedule 22 (asset-based penalty for offshore inaccuracies and failures) is amended as follows.

(2) In paragraph 2—

(a) in sub-paragraph (1), for "or (4A)" substitute ", (4A) or (4B)";

(b) in sub-paragraph (4A), in the words before paragraph (a), for "paragraph" substitute "sub-paragraph";

(c) after sub-paragraph (4A), insert—

"(4B) A penalty falls within this sub-paragraph if—

(a) it is imposed under paragraph 3 of Schedule 25 to FA 2021 (penalties for deliberately withholding information),

(b) it is imposed for the withholding of information involving an offshore matter or an offshore transfer, and

(c) the tax at stake is (or includes) capital gains tax or asset-based income tax."

(3) After paragraph 3(4), insert—

"(4A) Where a standard offshore tax penalty is imposed under paragraph 3 of Schedule 25 to FA 2021 for a failure to make a

return or deliver a document listed in the table in paragraph 1 of that Schedule, the tax year to which that penalty relates is, if the tax at stake is income tax or capital gains tax, the tax year to which the return or document relates."

(4) In paragraph 5—
  (a) in sub-paragraph (1)(b), after "Schedule 55 to FA 2009" insert "or Schedule 25 to FA 2021";
  (b) in sub-paragraph (2)(a), for "or paragraph 6 of Schedule 55 to FA 2009" substitute ", paragraph 6 of Schedule 55 to FA 2009 or paragraph 3 of Schedule 25 to FA 2021".

(5) In paragraph 19(2), for "or Part 1 of Schedule 18 to FA 2017" substitute ", Part 1 of Schedule 18 to F(No.2)A 2017 or Schedule 25 to FA 2021".

49 In Schedule 23 (simple assessments), omit paragraph 9.

Finance Act 2017

50 In Schedule 4 to FA 2017 (pensions: offshore transfers), omit paragraph 20.

Finance (No. 2) Act 2017

51 In Schedule 18 to F(No.2)A 2017 (requirement to correct certain offshore tax non-compliance), in paragraph 15(2)(b), after "Schedule 55 to FA 2009" insert "or of paragraph 11 of Schedule 25 to FA 2021, as the case may be".

SCHEDULE 28

Section 119

FOLLOWER NOTICE PENALTIES

PART 1

AMENDMENT OF CHAPTER 2 OF PART 4 OF FA 2014

1 Chapter 2 of Part 4 of FA 2014 (follower notices) is amended as follows.

Additional penalty for unreasonable tax appeal

2 After section 208 (penalty if corrective action not taken in response to follower notice) insert—

"208A Additional penalty for unreasonable tax appeal

(1) In the case of a follower notice given by virtue of section 204(2)(a) in relation to a tax enquiry into a return or claim made by P, this section applies where—
  (a) P makes a tax appeal addressed to the tribunal in relation to the return or claim, and
  (b) P is assessed to a penalty under section 208.

(2) In the case of a follower notice given by virtue of section 204(2)(b) in relation to a tax appeal made by P, this section applies where—
  (a) the tax appeal is addressed to the tribunal, and

(b) P is assessed to a penalty under section 208.

(3) P is liable to pay a penalty (in addition to the penalty under section 208) if P or P's representative is found to have acted unreasonably in bringing or conducting relevant proceedings.

(4) For the purposes of subsection (3), P or P's representative is found to have acted unreasonably in bringing or conducting relevant proceedings if (and only if) subsection (5) or (6) applies.

(5) This subsection applies if—
- (a) the proceedings are struck out—
  - (i) because there is no reasonable prospect of P's case, or part of it, succeeding, or
  - (ii) because of something that P or P's representative has done (or not done),
- (b) the appeal period has ended, and
- (c) the proceedings have not been reinstated or (where the strike out was not automatic) the decision to strike out the proceedings has not been set aside or overturned on appeal.

(6) This subsection applies if—
- (a) on an application by HMRC, the tribunal to which the proceedings are addressed makes a declaration that P or P's representative acted unreasonably in bringing or conducting the proceedings,
- (b) the appeal period has ended, and
- (c) the decision to make the declaration has not been set aside or overturned on appeal.

(7) The powers of the tribunal in relation to relevant proceedings are to be taken to include the power to make a declaration for the purposes of subsection (6)(a).

(8) For the purposes of this section, the following are "relevant proceedings" in relation to P—
- (a) where the whole of the proceedings on P's tax appeal relate to the chosen arrangements, the whole of those proceedings;
- (b) where part only of the proceedings on P's tax appeal relates to the chosen arrangements, that part of those proceedings;
- (c) proceedings before the Upper Tribunal on any further appeal by P in relation to relevant proceedings within paragraph (a) or (b) (where those proceedings were determined by the First-tier Tribunal).

(9) For the purposes of subsection (8), P's tax appeal is the tax appeal mentioned in subsection (1)(a) or (2)(a) (as the case may be).

(10) For the purposes of this section, "the appeal period" is—
- (a) the period during which an appeal could be brought against the striking out of the proceedings or, as the case may be, the decision to make the declaration under subsection (6)(a) (ignoring any possibility of an appeal out of time), or
- (b) where an appeal mentioned in paragraph (a) has been brought, the period during which that appeal has not been finally determined, withdrawn or otherwise disposed of.

(11) For the purposes of subsection (10), an appeal includes an application to reinstate proceedings that have been struck out or for the tribunal to set aside its decision.

(12) In this section, "tribunal" means the First-tier Tribunal or Upper Tribunal." *5*

Amount of a section 208 or 208A penalty

3 (1) Section 209 (amount of a section 208 penalty) is amended as follows.

(2) In the heading, after "208" insert "or 208A".

(3) In subsection (1), for "50%" substitute "30%".

(4) After subsection (1) insert— *10*

"(1A) The penalty under section 208A is 20% of the value of the denied advantage."

(5) In subsection (3)—

(a) in the words before paragraph (a), for "specified time" substitute "relevant time"; *15*

(b) in the words after paragraph (b), after "(1)" insert ", (1A)".

(6) After subsection (3) insert—

"(4) The "relevant time" means—

(a) in the case of a penalty under section 208, the specified time;

(b) in the case of a penalty under section 208A, the day after the end of the appeal period. *20*

(5) "The appeal period" has the same meaning for the purposes of this section as it has for the purposes of section 208A (see section 208A(10) and (11))."

Assessment of a section 208A penalty *25*

4 After section 211 (assessment of a section 208 penalty) insert—

"211A Assessment of a section 208A penalty

(1) Where a person is liable for a penalty under section 208A, HMRC must—

(a) assess the penalty, *30*

(b) notify the person who is liable for the penalty, and

(c) state in the notice a tax period in respect of which the penalty is assessed.

(2) A penalty under section 208A must be paid before the end of the period of 30 days beginning with the day on which the person is notified of the penalty under subsection (1). *35*

(3) Subsection (4) of section 211 applies to an assessment under this section as it applies to an assessment under that section.

(4) An assessment of a penalty under section 208A must be made before the end of the period of 90 days beginning with the day after the end of the appeal period. *40*

(5) "The appeal period" has the same meaning for the purposes of this section as it has for the purposes of section 208A (see section 208A(10) and (11))."

Aggregate penalties

5 (1) Section 212 (aggregate penalties) is amended as follows. 5

(2) In subsection (2), after "(1)(b) and (c)" insert "and any penalty under section 208A that is additional to the penalty mentioned in subsection (1)(b)".

(3) In subsection (3), after "208" insert "or 208A".

Alteration of assessment of a section 208 or 208A penalty

6 (1) Section 213 (alteration of assessment of a section 208 penalty) is amended as follows. 10

(2) In the heading, after "208" insert "or 208A".

(3) In subsection (1), after "211(2)" insert "or 211A(1)".

Cancellation of a section 208A penalty

7 In section 214 (appeal against a section 208 penalty), after subsection (8) insert— 15

"(8A) If the tribunal cancels a decision of HMRC that a penalty is payable by P under section 208, any penalty additional to that penalty to which P is liable under section 208A is also cancelled."

Appeal against a section 208A penalty 20

8 After section 214 insert—

"214A Appeal against a section 208A penalty

(1) P may appeal against a decision of HMRC that a penalty is payable by P under section 208A.

(2) P may appeal against a decision of HMRC as to the amount of a penalty payable by P under section 208A. 25

(3) An appeal under subsection (1) may be made only on one or more of the following grounds—

(a) that section 208A did not apply when the decision was made or no longer applies; 30

(b) that the condition in section 208A(3) was not met when the decision was made or is no longer met;

(c) that the penalty was not assessed before the end of the period mentioned in section 211A(4).

(4) An appeal under this section must be made within the period of 30 days beginning with the day on which notification of the penalty is given under section 211A. 35

(5) On an appeal under subsection (1), the tribunal may affirm or cancel HMRC's decision.

(6) On an appeal under subsection (2), the tribunal may—
  (a) affirm HMRC's decision, or
  (b) substitute for HMRC's decision another decision that HMRC had power to make.

(7) Subsections (5) to (7) of section 214 apply to an appeal under this section as they apply to an appeal under that section.

(8) In this section "tribunal" has the meaning it has for the purposes of section 214 (see section 214(5) and (11))."

PART 2

AMENDMENTS CONSEQUENTIAL ON PART 1

FA 2014

9 FA 2014 is amended as follows.

10 In the heading of Schedule 30 (section 208 penalty: value of the denied advantage), after "208" insert "or 208A".

11 In Schedule 31 (follower notices and partnerships), after paragraph 4 insert—

"Additional penalty for unreasonable tax appeal

4A Section 208A(3) applies, in relation to a partnership follower notice, as if the first reference to P were to each relevant partner."

12 (1) In Schedule 31, paragraph 5 is amended as follows.

(2) In sub-paragraph (2)—
  (a) in paragraph (a), for "20%" substitute "12%";
  (b) after paragraph (a), insert—
    "(aa) the total amount of the penalties under section 208A(3) for which the relevant partners are liable is 8% of the value of the denied advantage,";
  (c) in paragraph (b), after "the penalty" insert "under section 208(2) or 208A(3) (as modified by this paragraph)".

(3) In sub-paragraph (5), after "penalties" insert "under section 208(2) (as modified by this paragraph)".

(4) In sub-paragraph (6), after "paragraph 4(2)" insert "or 4A".

(5) In sub-paragraph (7)(a), after "penalties" insert "under section 208(2)".

(6) After sub-paragraph (9), insert—

"(9A) The right of appeal under section 214A extends to—
  (a) a decision that penalties under section 208A(3) are payable by the relevant partners by virtue of this paragraph, and
  (b) a decision as to the total amount of those penalties payable by those partners,

but not to a decision as to the appropriate share of, or the amount of a penalty payable by, a relevant partner.

(9B) Section 214A(3) applies to an appeal by virtue of sub-paragraph (9A)(a) as it applies to an appeal under section 214A(1).

(9C) Section 214A(5) applies to an appeal by virtue of sub-paragraph (9A)(a), and section 214A(6) to an appeal by virtue of sub-paragraph (9A)(b)."

(7) In sub-paragraph (11), after "(2)(a)" insert "and (aa)".

National Insurance Contributions Act 2015

13 (1) In Schedule 2 to the National Insurance Contributions Act 2015, paragraph 20 (recovery of penalties under Part 4 of FA 2014) is amended as follows.

(2) In sub-paragraph (1), after "208" insert ", 208A".

(3) In sub-paragraph (3), after "208" insert "or 208A".

PART 3

AMENDMENT OF SCHEDULE 20 TO FA 2015

14 In Schedule 20 to FA 2015 (penalties in connection with offshore matters and offshore transfers), after paragraph 20 insert—

"Follower notices: aggregate penalties

21 (1) Section 212(5) of FA 2014 (follower notices: aggregate penalties) is amended as follows.

(2) After paragraph (b) insert—

"(ba) 125% in a case where neither paragraph (a) nor paragraph (b) applies and at least one of the penalties is determined by reference to the percentage in—

(i) paragraph 4(2)(c) of Schedule 24 to FA 2007,

(ii) paragraph 6(2)(a) of Schedule 41 to FA 2008, or

(iii) paragraph 6(3A)(a) of Schedule 55 to FA 2009,".

(3) In paragraph (c), for "neither paragraph (a) nor paragraph (b) applies" substitute "none of paragraphs (a) to (ba) applies".

(4) In paragraph (d), for "none of paragraphs (a), (b) and (c) applies" substitute "none of paragraphs (a) to (c) applies"."

PART 4

COMMENCEMENT

15 The amendments made by Parts 1 and 2 of this Schedule have effect where a penalty under section 208 of FA 2014 is assessed, under section 211 of that Act, on or after the day on which this Schedule comes into force.

16 The reference in section 120(2) of FA 2015 (commencement) to Schedule 20 to that Act is to be read as a reference to Schedule 20 as amended by Part 3 of this Schedule.

SCHEDULE 29

Section 120

LATE PAYMENT INTEREST AND REPAYMENT INTEREST: VAT

1 FA 2009 is amended as follows.

2 In section 102(4) (repayment interest on sums to be paid by HMRC)—
(a) omit the "and" at the end of paragraph (a);
(b) after paragraph (a) insert—
"(aa) Part 2A makes special provision as to the period for which an amount of VAT credit carries interest, and".

3 (1) Schedule 54 (repayment interest) is amended as follows.

(2) In Part 2, after paragraph 12B insert—

"VAT payments on account

12C (1) This paragraph applies in the case of a repayment of the amount by which—
(a) the total amount of payments on account made in respect of a prescribed accounting period, exceeds
(b) the amount of VAT payable in respect of that accounting period.

(2) The repayment interest start date is the date on which the VAT return for the prescribed accounting period is due.

(3) In this paragraph—
"payment on account" means a payment on account required under section 28 of VATA 1994;
"prescribed accounting period" has the same meaning as in VATA 1994;
"VAT return" means a return required to be made by regulations under VATA 1994."

(3) After Part 2 insert—

"PART 2A

VAT: SPECIAL PROVISION AS TO PERIOD FOR WHICH AMOUNT CARRIES INTEREST

12D In this Part of this Schedule—
"prescribed accounting period" has the same meaning as in VATA 1994;
"relevant VAT return" means the VAT return for the prescribed accounting period to which the VAT credit relates;
"VAT credit" has the same meaning as in VATA 1994;
"VAT return" means a return required to be made by regulations under VATA 1994.

12E (1) An amount of VAT credit does not carry interest for any period during which—

(a) a VAT return required to be made on or before the date on which the relevant VAT return is made has not been made, or

(b) there is a failure to comply with a requirement imposed under paragraph 4(1) or (1A) of Schedule 11 to VATA 1994 (production of evidence and giving of security).

(2) The period referred to in sub-paragraph (1)(b)—

(a) begins on the date when written notice requiring production of evidence or the giving of security is given by HMRC, and

(b) ends on the date when HMRC receive the required evidence or the required security."

4 (1) Schedule 54A (further provision as to late payment interest and repayment interest) is amended as follows.

(2) After the Schedule heading insert—

"PART 1

CORPORATION TAX"

(so that the existing text of the Schedule becomes Part 1 of the Schedule).

(3) At the end of the Schedule insert—

"PART 2

VALUE ADDED TAX

Interpretation

5 In this Part of this Schedule—

"assessment" has the same meaning as in paragraph 3 of Schedule 53;

"prescribed accounting period" has the same meaning as in VATA 1994;

"VAT credit" has the same meaning as in VATA 1994.

Certain amounts of repayment interest recoverable as late payment interest

6 Where each of conditions A to C is met, an amount of repayment interest that—

(a) has been paid to a person, but

(b) ought not to have been paid (see condition C),

may be recovered from the person as if it were late payment interest.

7 (1) Condition A is that repayment interest has been paid to the person on a VAT credit for a prescribed accounting period.

(2) Condition B is that (whether or not a previous assessment has been made), an assessment or amendment of an assessment is made of the amount of value added tax payable by the person for that prescribed accounting period.

(3) Condition C is that as a result of the assessment or amendment of an assessment, it appears to HMRC that some or all of the repayment interest ought not to have been paid.

Common period rules for value added tax

8 (1) This paragraph applies where there is a common period in relation to a person (see sub-paragraph (2)).

(2) A common period in relation to a person is any period during which—

(a) an amount of value added tax that carries late payment interest is due and payable by the person ("the overdue payment"), and

(b) an amount of VAT credit that carries repayment interest is payable to the person ("the VAT credit").

(3) During the common period—

(a) the overdue payment is to be treated as carrying late payment interest only on the amount (if any) by which the overdue payment exceeds the VAT credit, and

(b) the VAT credit is to be treated as carrying repayment interest only on the amount (if any) by which the VAT credit exceeds the overdue payment."

SCHEDULE 30

Section 121

AMENDMENTS OF PART 5 OF FA 2014

PART 1

STOP NOTICES AND INFORMATION & INSPECTION POWERS

1 After section 236 (of FA 2014) insert—

"Stop notices

236A Power to give stop notices

(1) An authorised officer may give a person a notice (a "stop notice") if the authorised officer suspects that the recipient promotes, or has promoted, arrangements of a description specified in the notice or proposals for such arrangements.

(2) A description of arrangements may be specified in a stop notice only if the authorised officer considers that—

(a) condition A and any of conditions B and C are met, or

(b) conditions B and D are met.

(3) Condition A is that arrangements of that description—

(a) would, if the arrangements had been implemented before 5 April 2019, have been likely to—

(i) cause a person to be treated as taking a relevant step for the purposes of Part 7A of ITEPA 2003 by virtue of paragraph 1(1) of Schedule 11 to F(No.2)A 2017 (loan charge: employment income), or

(ii) cause a relevant benefit to be treated as arising for the purposes of section 23A to 23H of ITTOIA 2005 by virtue of paragraph 1 of Schedule 12 to F(No.2)A 2017 (loan charge: trading income),

(b) would be the same, or similar, in form or effect to arrangements or proposed arrangements to which a reference number has been allocated under section 311 of FA 2004 or paragraph 22 of Schedule 17 to F(No.2)A 2017,

(c) would be the same, or similar, in form or effect to arrangements in relation to which a person has been given a follower notice under section 204 (circumstances in which a follower notice may be given), or

(d) would be the same, or similar, in form or effect to arrangements of a description specified in regulations made by the Commissioners under this section.

(4) Condition B is that—

(a) arrangements of that description, or proposals for such arrangements, have been, or are likely to be, marketed (in any manner, whether by the recipient of the stop notice or otherwise) as capable of enabling a person to obtain a particular tax advantage, and

(b) it is more likely than not that arrangements of that description are not capable of enabling that advantage to be obtained.

(5) Condition C is that condition A is met as a result of the allocation of a reference number under section 311 of FA 2004 or paragraph 22 of Schedule 17 to F(No.2)A 2017 in relation to arrangements or proposed arrangements (the "reference arrangements") and—

(a) HMRC has required any person to provide information or documents under section 310A or 311C of FA 2004 or paragraph 19 or 22C of Schedule 17 to F(No.2)A 2017 in relation to the reference arrangements and that person has not complied with that requirement, or

(b) HMRC has made an application to the tribunal under section 308A(2) of FA 2004 or paragraph 16 of Schedule 17 to F(No.2)A 2017 in relation to the reference arrangements.

(6) Condition D is that—

(a) arrangements of that description or proposals for such arrangements would be relevant arrangements or relevant proposals (see section 234), and

(b) the recipient of the notice is subject to a conduct notice or a monitoring notice.

(7) For the purposes of this section, and sections 236B to 236K and 272A, a person promotes arrangements or a proposal for arrangements if the person does anything in connection with those arrangements or that proposal that would, if those arrangements or that proposal were relevant arrangements or a relevant proposal, cause the person

to be carrying on a business as a promoter, or to be treated as such, for the purposes of this Part.

236B Effect of stop notices

(1) A person subject to a stop notice must not promote—
  (a) any arrangements that meet the description specified in the notice or that have a similar form or effect to arrangements of that description, or
  (b) any proposal for such arrangements.

(2) A person is subject to a stop notice for the purposes of this Part if—
  (a) the person is the recipient of the notice;
  (b) the person is a body corporate or partnership that the recipient of the notice controls or has significant influence over;
  (c) the person controls or has significant influence over a body corporate or partnership that is the recipient of the notice;
  (d) the recipient of the notice makes a relevant transfer to the person.

(3) If the recipient of a stop notice controls or has significant influence over a person that is a body corporate or partnership, the recipient must—
  (a) within 5 days of the giving of the notice, give a copy of the notice to that person, and
  (b) within 15 days of the giving of the notice, provide HMRC with the information mentioned in subsection (6) in relation to that person.

(4) If the recipient of a stop notice is a body corporate or partnership, it must—
  (a) within 5 days of the giving of the notice, give a copy of the notice to each person who controls or has significant influence over it, and
  (b) within 15 days of the giving of the notice, provide HMRC with the information mentioned in subsection (6) in relation to each such person.

(5) If the recipient of a stop notice makes a relevant transfer to a person, the recipient must—
  (a) before making the transfer, give a copy of the notice to that person, and
  (b) within 15 days of making the transfer, provide HMRC with the information mentioned in subsection (6) in relation to that person.

(6) The information referred to in subsections (3)(b), (4)(b) and (5)(b) in relation to a person is—
  (a) the person's name;
  (b) any name under which the person carries on a business and any previous name or pseudonym known by the recipient of the stop notice;
  (c) the person's business address or registered office.

(7) An authorised officer may give a copy of a stop notice to any person the officer considers the recipient of the notice is obliged to give a copy to as a result of subsection (3)(a), (4)(a) or (5)(b) (but this does not affect the obligation of the recipient to do so).

(8) Sub-paragraphs (5) to (11) of paragraph 13A of Schedule 34 (meaning of "control" and "significant influence") apply to this section as they apply to Part 2 of that Schedule. *5*

(9) In this section "relevant transfer" has the meaning it has in paragraph 5 of Schedule 33A (promotion structures).

236C Quarterly returns *10*

(1) A person subject to a stop notice must provide a return to HMRC containing the information described in subsection (4) for each relevant period.

(2) The first relevant period is the 3 month period commencing on the day the stop notice was given to its recipient. *15*

(3) Each successive 3 month period that commences within the period of 3 years commencing on that day is a relevant period.

(4) The information that must be contained in a return under subsection (1) is—

(a) the number (which may be nil) of relevant clients of the person subject to the stop notice in the relevant period to which the return relates, *20*

(b) if the return is the return for the first relevant period, the number (which may be nil) of relevant clients of the person in the period ending with the commencement of the first relevant period, *25*

(c) in respect of each relevant client—

(i) the client's name and address,

(ii) the unique taxpayer reference number (if any) allocated to the client by HMRC, and *30*

(iii) the client's national insurance number (if any),

(d) any name by which any such arrangements or proposal is known or is marketed.

(5) For the purposes of this section, a person ("C") is a "relevant client" of a person subject to a stop notice ("P") in a period if at any time during that period— *35*

(a) P has made a firm approach to C in relation to a proposal for arrangements that fall within the description specified in the stop notice;

(b) P has made the proposal available for implementation by C; *40*

(c) P has provided services to C in relation to arrangements falling within the description specified in the stop notice, or in relation to a proposal for such arrangements.

(6) If the person does not have the information referred to in subsection (4)(c)(ii) or (iii) in respect of a relevant client, the return must instead include a statement of that fact. *45*

(7) A return for a relevant period must be provided to HMRC before the end of the period of 15 days commencing on the last day of the relevant period.

(8) An authorised officer may by notice to a person subject to the obligation to make a return under sub-paragraph (1) provide for that obligation to cease to have effect in relation to that person from such time as may be specified in the notice.

236D Withdrawal of stop notices

(1) A person subject to a stop notice may make a request for the notice to cease to have effect in relation to that person if the person—
  (a) does not intend to promote, and has not promoted, arrangements that fall within the description of arrangements specified in the notice or proposals for such arrangements,
  (b) considers that the conditions for specifying the description of arrangements (see section 236A(2)) were not met, or
  (c) considers that there are other reasons for it to cease to have effect.

(2) A request under subsection (1) must—
  (a) be made in writing to an authorised officer,
  (b) be made before the end of the period of 30 days beginning with the day on which the stop notice was given,
  (c) contain an explanation of the basis for the request, and
  (d) be accompanied by such evidence to support that explanation as is reasonable to provide in the circumstances.

(3) The authorised officer to whom the request is made must decide whether or not the notice is to cease to have effect in relation to the person who made the request.

(4) The authorised officer must give the person who made the request a notice setting out the officer's decision ("a decision notice") before the end of the period of 45 days beginning with the day on which the request was received.

(5) If at the end of that period the authorised officer has not given a decision notice, the stop notice ceases to have effect in relation to the person who made the request.

(6) An authorised officer may also determine that a stop notice is to cease to have effect in relation to a person who has not made a request under subsection (1) by giving the person a notice ("a withdrawal notice").

(7) A decision notice or a withdrawal notice that provides for a stop notice to cease to have effect in relation to a person must specify the date on which it ceases to have effect in relation to that person, which may be earlier or later than the date on which the decision notice or withdrawal notice is given.

236E Appeal against decision not to withdraw stop notice

(1) A person may appeal against a refusal by an authorised officer to grant a request that a stop notice cease to have effect in relation to that person.

(2) Notice of appeal must be given—
  (a) in writing to the officer who gave the decision notice under section 236D(4), and
  (b) within the period of 30 days beginning with the day on which the decision notice was given.

(3) The notice of appeal must state the grounds of appeal.

(4) The grounds of appeal that may be stated are the same as the grounds on which a person may request that a stop notice cease to have effect as mentioned in section 236D(1).

(5) On an appeal that is notified to the tribunal, the tribunal may—
  (a) confirm the refusal, or
  (b) direct that the stop notice is to cease to have effect in relation to a person from such date as the tribunal consider appropriate (which may be earlier or later than the date on which the tribunal makes that direction).

(6) Subject to this section, the provisions of Part 5 of TMA 1970 relating to appeals have effect in relation to an appeal under this section.

236F Suspension of stop notice pending appeal

(1) A person who makes an appeal under section 236E may make a suspension request.

(2) A "suspension request" is a request that a stop notice which is the subject of an appeal under that section is to cease to have effect in relation to the person making the request until the appeal has been determined, withdrawn or otherwise disposed of.

(3) A suspension request must—
  (a) be made in writing to the authorised officer to whom the notice of appeal was given,
  (b) contain an explanation of the basis for the request, and
  (c) be accompanied by such evidence to support that explanation as is reasonable to provide in the circumstances.

(4) The authorised officer to whom the suspension request is made must decide whether or not the notice is to cease to have effect in relation to the person who made the request until the appeal has been determined, withdrawn or otherwise disposed of.

(5) When deciding whether or not to grant a suspension request, the officer must have regard to the need to protect—
  (a) the public revenue, and
  (b) persons to whom arrangements or proposals for arrangements of the description specified in the stop notice might be marketed.

(6) The authorised officer must give the person who made the suspension request a notice setting out the officer's decision ("a suspension decision notice") before the end of the period of 30 days beginning with the day on which the request was received.

(7) If at the end of that period the authorised officer has not given a suspension decision notice, the stop notice ceases to have effect in relation to the person who made the request until either—
  (a) the officer gives a decision notice that provides that the suspension request is not to be granted, or
  (b) the appeal has been determined, withdrawn or otherwise disposed of.

236G Automatic withdrawal of certain stop notices

(1) This section applies to a stop notice if—
  (a) condition A in section 236A was met in relation to the giving of that notice as a result of the allocation of a reference number under section 311 of FA 2004 or paragraph 22 of Schedule 17 to F(No.2)A 2017, and
  (b) that reference number has been withdrawn.

(2) Where this section applies to a stop notice, it ceases to have effect in relation to every person who is subject to it from the time when the reference number in question was withdrawn.

(3) HMRC must give a notice to—
  (a) each person who has been given a stop notice to which this section applies, and
  (b) every other person that HMRC is aware was subject to that notice.

(4) A notice given under subsection (3) must state the reason for the withdrawal of the reference number in question and may contain such further explanation as HMRC consider appropriate (for example, it may contain HMRC's view of the arrangements or proposed arrangements to which the reference number relates).

236H Publication

(1) An authorised officer may publish—
  (a) the fact that a person is subject to a stop notice;
  (b) details of any arrangements or proposal for arrangements promoted by that person that the officer considers meet the description specified in the notice.

(2) Publication under subsection (1) may also include the following information about the person—
  (a) the person's name;
  (b) the person's business address or registered office;
  (c) any other information that the authorised officer considers it appropriate to publish in order to make clear the person's identity.

(3) The reference in subsection (2)(a) to the person's name includes any name under which the person carries on a business and any previous name or pseudonym.

(4) Publication of information about a person subject to a stop notice may not take place before the end of the appeal period, but an authorised officer may, at any time after the notice is given, publish the description of arrangements or proposal for arrangements specified in the notice and the fact that arrangements of that description are subject to a stop notice.

(5) The "appeal period" means—
  (a) the period during which a request under section 236D(1) (withdrawal of stop notices) could be made,
  (b) where such a request was made, the period during which an appeal to the tribunal against a decision notice under section 236D(4) could be brought under section 236E, or
  (c) where an appeal mentioned in paragraph (b) has been brought, the period during which the proceedings on that appeal to the tribunal have not been determined, withdrawn or otherwise disposed of.

(6) For the purposes of subsection (5)(c), reference to proceedings on an appeal to the tribunal do not include any proceedings on appeal from the tribunal.

236I Publication where stop notice automatically withdrawn

(1) Where an authorised officer has published anything under section 236H in relation to a stop notice that has ceased to have effect as a result of section 236G, an authorised officer must publish—
  (a) the fact it has ceased to have effect;
  (b) the reason for the withdrawal of the reference number in question (see section 236G(1));
  (c) such further explanation as HMRC consider appropriate.

(2) Where an authorised officer is required to publish information as a result of subsection (1), the officer may also publish information about the persons who were subject to such a stop notice (including the information mentioned in section 236H(1) and (2)).

236J Disclosure to clients and intermediaries

(1) A person ("P") subject to a stop notice who (at any time) has promoted arrangements falling within the description specified in that notice, or has promoted a proposal for such arrangements, must give a notice to—
  (a) each of P's clients in relation to those arrangements or that proposal, and
  (b) each person who P could reasonably be expected to know is an intermediary in relation to any such proposal.

(2) The notice must—
  (a) set out the fact that a person is subject to a stop notice,
  (b) set out the fact that the arrangements or proposed arrangements the recipient of the notice is a client or intermediary in relation to meets the description of arrangements specified in the notice, and
  (c) be accompanied with a copy of the stop notice.

(3) A person ("C") is a client of P if—
  (a) P has made a firm approach to C in relation to a proposal for arrangements that fall within the description specified in the stop notice,
  (b) P has made the proposal available for implementation by C, or
  (c) P has provided services to C in relation to arrangements falling within the description specified in the stop notice, or in relation to a proposal for such arrangements.

(4) A notice under this section must be given—
  (a) to each person who was a client of P on or before the day on which P became aware that P was subject to the notice, within 5 days of that day;
  (b) to each person that P could reasonably be expected to know was an intermediary in relation to the proposal in question on or before the day on which P became aware that P was subject to the notice, within 5 days of that day;
  (c) to each person that P subsequently becomes aware is an intermediary in relation to the proposal in question, within 5 days of P becoming so aware.

236K Notification of interested persons by HMRC

(1) This section applies if an authorised officer suspects that a person subject to a stop notice has failed to comply with section 236B(1).

(2) Where this section applies, the officer may provide a copy of the stop notice to any person the officer considers might be affected by that failure or the giving of the stop notice (for example, any person who is a client of the person who failed to comply with section 236B(1) or who otherwise makes use of arrangements that must not be promoted as a result of the stop notice).

(3) Where the officer provides a copy of a stop notice to a person under subsection (2) the officer may also provide any of the following information to that person—
  (a) the name of the person who failed to comply with section 236B(1);
  (b) the business address or registered office of that person;
  (c) any other information that the authorised officer considers it appropriate to provide in order to make clear the identity of that person;
  (d) details of any arrangements or proposal for arrangements promoted by that person that meet the description specified in it;
  (e) an explanation of the effect of the stop notice;
  (f) an explanation of why the stop notice was given."

2 (1) Section 245 (withdrawal of monitoring notice) is amended as follows.

(2) In subsection (5)(c), after "Part" insert "(including any obligations connected with any stop notice the person is subject to)".

(3) After subsection (8) insert—

"(8A) For the purposes of determining whether a person should be given a follow-on conduct notice, the meeting of the condition in paragraph 12 of Schedule 34 (stop notices) by the person at a time when they are subject to a monitoring notice is to be regarded as significant by the authorised officer making the determination (see section 237(5))."

3 Omit section 262 (information required for monitoring compliance with conduct notice).

4 After section 272 insert—

"272A Application of Schedule 36 FA 2008 powers

(1) Schedule 36 to FA 2008 (information and inspection powers) applies for a relevant purpose in relation to a relevant person as it applies for the purpose of checking the tax position of a person as if—

(a) any provisions which can have no application for that purpose were omitted (for example, paragraphs 10A, 11, 12A and 12B);

(b) references to "the taxpayer" were to "the relevant person";

(c) references to prejudice to the assessment or collection of tax included prejudice to the fulfilment of a relevant purpose;

(d) references to "business documents" included any documents (or copies of documents) in connection with any relevant arrangements or relevant proposal;

(e) references to a pending appeal relating to tax were to a pending appeal by the relevant person under this Part;

(f) in paragraph 13, after "paragraph 39" there were inserted "of this Schedule and paragraph 2(3A) of Schedule 35 to FA 2014";

(g) paragraphs 21 to 21B were omitted;

(h) paragraph 25 were omitted;

(i) in paragraph 29(1) for "a taxpayer", in the first place it occurs, there were substituted "a relevant person";

(j) Part 7 (penalties) were omitted (but see Schedule 35 of this Act).

(2) A person is "relevant" if—

(a) the officer suspects that the person carries on, or has in the past carried on, a business as a promoter in relation to a relevant proposal or relevant arrangements and—

(i) the officer suspects that the person has met a threshold condition,

(ii) the officer suspects the person could be given a defeat notice, or

(iii) the officer suspects the person promotes, or has promoted, arrangements, or proposals for such arrangements, of a description that the officer suspects could be specified in a stop notice,

(b) the officer suspects that—

(i) the person made a relevant transfer, or

(ii) the person is a person to whom a relevant transfer was made, or

(c) the person is, or was, subject to a stop notice, conduct notice or monitoring notice.

(3) The following are "relevant purposes" in relation to a relevant person—

(a) determining whether the relevant person carries on or has in the past carried on a business as a promoter in relation to a relevant proposal or relevant arrangements;

(b) determining whether the relevant person has met a threshold condition;

(c) determining whether the relevant person could be given a defeat notice;

(d) determining whether the person has provided false or misleading information or documents in relation to a stop notice, conduct notice or monitoring notice;

(e) determining whether arrangements, or proposals for such arrangements, that an officer suspects are promoted by the relevant person are of a description that could be specified in a stop notice;

(f) enabling HMRC to understand the operation of arrangements, or proposals for such arrangements, that an officer suspects are promoted by the relevant person;

(g) identifying any other person who has a connection with the relevant person that results (whether solely because of that connection or otherwise) in the relevant person being a member of a promotion structure;

(h) determining whether the relevant person made a relevant transfer, and if so to whom;

(i) determining whether a relevant transfer was made to the relevant person, and if so by whom;

(j) monitoring compliance with any stop notice, conduct notice or monitoring notice the relevant person is subject to.

(4) In this section—

(a) reference to compliance with a stop notice, conduct notice or monitoring notice includes compliance with any provisions of this Part that a person subject to such a notice must comply with;

(b) reference to a person "promoting" is to be construed in accordance with section 236A(7);

(c) "relevant transfer" has the meaning it has in paragraph 5 of Schedule 33A (promotion structures)."

5 (1) Section 273 (confidentiality) is amended as follows.

(2) In subsection (1) before paragraph (a) insert—

"(za) a person subject to a stop notice,

(zb) arrangements or proposals for arrangements of a description specified in a stop notice in relation to which a person subject to a stop notice is a promoter,".

(3) In subsection (2)—

(a) in the words before paragraph (a)—
  (i) after "client"" insert ", in relation to a person mentioned in paragraph (za), (zb), (a) or (b) of subsection (1),";
  (ii) for "monitored promoter mentioned in subsection (1)(a) or (b)" substitute "person so mentioned";
(b) in paragraphs (a) and (b), for "a relevant", in both places it occurs, substitute "an applicable";
(c) in paragraph (c), for "relevant" substitute "applicable".

(4) In subsection (3)—
(a) for "a relevant" substitute "an applicable";
(b) for "monitored promoter mentioned in subsection (1)(a) or (b)" substitute "person mentioned in paragraphs (za), (zb), (a) or (b) of subsection (1)".

(5) In subsection (4), for "relevant", in each place it occurs, substitute "applicable".

(6) After that subsection insert—

"(5) Nothing in this section authorises a disclosure of information that would contravene the data protection legislation (but in determining whether a disclosure would do so, take into account this section).

(6) For the purposes of this section, a person mentioned in subsection (1)(za) or (zb) is a promotor of arrangements or a proposal for arrangements if the person would be a promoter of those arrangements or proposal if those arrangements or that proposal were relevant arrangements or a relevant proposal (see section 235(2) to (6) and any regulations made under section 235(6)).

(7) In this section—
"applicable arrangements" means—
(a) in relation to a disclosure falling within subsection (1)(za) or (zb), arrangements falling within the description specified in the stop notice to which the disclosure relates, or
(b) in relation to a disclosure falling within subsection (1)(a) or (b), relevant arrangements;
"applicable proposal" means—
(a) in relation to a disclosure falling within subsection (1)(za) or (zb), a proposal for arrangements falling within the description specified in the stop notice to which the disclosure relates, or
(b) in relation to a disclosure falling within subsection (1)(a) or (b), a relevant proposal;
"the data protection legislation" has the same meaning as in the Data Protection Act 2018 (see section 3(9) of that Act)."

6 In section 283 (interpretation of Part 5), in subsection (1), at the appropriate place insert—
""stop notice" means a notice given under section 236A(1);
"subject to a stop notice", in relation to a person, is to be construed in accordance with section 236B(2);".

7 In Schedule 34 (threshold conditions)—

(a) for the italic heading before paragraph 12 substitute "Stop notices";

(b) for that paragraph substitute—

"12 A person meets this condition if the person is subject to a stop notice and fails to comply with—

(a) section 236B(1) (promotion of arrangements or proposal of a description specified in a stop notice),

(b) section 236C(1) (duty to make return to HMRC), or

(c) any obligations of the person under Schedule 36 to FA 2008 as it has effect as a result of section 272A (information and inspection powers)."

8 (1) Schedule 35 (penalties) is amended as follows.

(2) In paragraph 1—

(a) before paragraph (a) insert—

"(za) section 236C(1) (duty to make return to HMRC);";

(b) omit paragraph (g);

(c) after paragraph (h) insert—

"(i) paragraph 1, 2, 5 or 5A of Schedule 36 of FA 2008 (information and inspection powers) as it has effect as a result of section 272A."

(3) In paragraph 2—

(a) in sub-paragraph (1)—

(i) the words from "fails" to the end become paragraph (a);

(ii) in that paragraph, for "provision" substitute "duty";

(iii) after that paragraph insert ", or—

"(b) deliberately obstructs an officer of Revenue and Customs in the course of an inspection under paragraph 10 of Schedule 36 to FA 2008, as it has effect as a result of section 272A, that has been approved by the tribunal is liable to a penalty not exceeding the relevant amount (see sub-paragraph (3A)).";

(b) in that sub-paragraph, in the Table, before the first entry insert—

"Section 236B(1) (promotion of arrangements or proposal of a description specified in a stop notice)	the relevant amount (see subparagraphs (2A) and (2B))
Section 236B(3)(a), (4)(a) or (5)(a) (requirement to notify persons who are subject to a stop notice)	£10,000
Section 236B(3)(b), (4)(b) or (5)(b) (requirement to notify HMRC of persons who are subject to a stop notice)	£25,000
Section 236C(1) (duty to make return to HMRC)	£5,000
Section 236J(1) (requirement to notify clients and intermediaries of stop notice)	£5,000";

(c) in that Table, at the end insert—

"Duty to comply with a notice given under paragraph 1 of Schedule 36 to FA 2008 as it has effect as a result of section 272A	the relevant amount (see sub-paragraph (3A))
Duty to comply with a notice given under paragraph 2, 5 or 5A of Schedule 36 to FA 2008 as it has effect as a result of section 272A	the relevant amount (see sub-paragraph (3B))";

(d) in that Table—
  (i) in the heading of the first column, after "Provision" insert "or duty";
  (ii) omit the entry relating to section 262 (duty to provide information required to monitor compliance with conduct notice);

(e) after sub-paragraph (1) insert—

"(1A) In relation to a failure to comply with section 236C(1) the maximum penalty specified in column 2 of the Table is a maximum penalty which may be imposed—
  (a) in respect of each failure to provide the required information or statement (see section 236C(6)) about a relevant client (within the meaning given by that section), and
  (b) for each day on which a complete return is not provided after the end of the period within which it must be provided (see section 236C(7)).";

(f) in sub-paragraph (2), after "section" insert "236B(3), (4) or (3), 236J(1),";

(g) after sub-paragraph (2) insert—

"(2A) In relation to a failure to comply with section 236B(1), the "relevant amount" is the sum of—
  (a) £100,000 in respect of one or more failures relating to a particular stop notice, and
  (b) £5,000 for each person to whom arrangements of a description specified in that stop notice, or a proposal for such arrangements, were promoted (within the meaning it has in that section).

(2B) Where a person fails to comply with section 236B(1) at a time when the person, or another person who the person controls or has significant influence over, is subject to a monitoring notice, sub-paragraph (2A) applies as if—
  (a) in paragraph (a), for "£100,000" there were substituted "£250,000", and
  (b) in paragraph (b), for "£5,000" there were substituted "£10,000".

(2C) If the maximum penalty that would apply as a result of sub-paragraph (2B) in a particular case appears

inappropriately low after taking account of the considerations in sub-paragraph (4), sub-paragraph (2B)(a) applies as if for "£250,000" there were substituted "£1,000,000".";

(h) after sub-paragraph (3) insert—

"(3A) Where a person fails to comply with a notice given under paragraph 1 of Schedule 36 to FA 2008 (as it has effect as a result of section 272A) or deliberately obstructs an officer of Revenue and Customs in the course of an inspection under paragraph 10 of that Schedule (as it has effect as a result of that section) that has been approved by the tribunal, the "relevant amount" is—

(a) in the case of a failure by a person who was subject to a monitoring notice at the time of the failure, or who had control of or had significant influence over such a person, £1,000,000, and

(b) in any other case, £5,000.

(3B) In relation to a failure to comply with a notice given under paragraph 2, 5 or 5A of that Schedule as it has effect as a result of section 272A, the "relevant amount" is the amount for the time being specified in paragraph 39(2) of that Schedule.";

(i) in sub-paragraph (4)—

(i) in paragraph (a)—

(a) for "to comply with section 255 or 257" substitute "relating to any arrangements or proposal promoted by a person";

(b) for the words from "monitored proposal, arrangements" to the end substitute "those arrangements or that proposal";

(ii) in paragraph (b)—

(a) for the words from "the case" to "(5)" substitute "such a case";

(b) omit "by the person";

(c) omit "monitored" in both places;

(d) after "proposal" insert "(including, where the person liable to the penalty is the promoter of those arrangements or that proposal, any advantage that was gained or sought to be gained by the persons to whom the arrangements or proposal were promoted)";

(j) after sub-paragraph (4) insert—

"(5) The references in sub-paragraph (4) to arrangements or a proposal being "promoted" are to be construed in accordance with section 236A(7).

(6) Sub-paragraphs (5) to (11) of paragraph 13A of Schedule 34 (meaning of "control" and "significant influence") apply to this paragraph as they apply to Part 2 of that Schedule."

(4) In paragraph 3, in sub-paragraph (1), after "information duty" insert ", other than a duty arising under section 236C(1),".

(5) In paragraph 4—

(a) in sub-paragraph (1)(a), after "information duty" insert "or a requirement to provide evidence under section 236D(2)(d) or 236F(3)(c)";

(b) in sub-paragraph (8)—

(i) in paragraph (a), after "258" insert ", or under Schedule 36 to FA 2008 as it has effect as a result of section 272A in a case where the person required to provide the information or produce the document was at the time subject to a monitoring notice;

(ii) in paragraph (c)—

(a) after "section" insert "236C(1), 236D(2)(d), 236F(3)(c),";

(b) omit ", 262";

(c) after "263" insert "or under Schedule 36 to FA 2008 as it has effect as a result of section 272A in a case not falling within paragraph (a)";.

(6) In paragraph 6(1) in sub-paragraph (1) for ", 257 or 262" substitute "or 257 or under Schedule 36 of FA 2008 as it has effect as a result of section 272A".

(7) In paragraph 7—

(a) in sub-paragraph (1), for "255, 257 or 262" substitute "section 255 or 257, or under Schedule 36 of FA 2008 as it has effect as a result of section 272A,";

(b) in sub-paragraph (2), in paragraph (b), for "255, 257 or 262" substitute "section 255 or 257, or under Schedule 36 of FA 2008 as it has effect as a result of section 272A,".

(8) In paragraph 10, in paragraph (b)—

(a) the words from "a penalty under paragraph 3" to the end become sub-paragraph (i);

(b) after that sub-paragraph insert—

"(ii) a penalty in respect of a failure to comply with section 236B(1) unless an officer of Revenue and Customs authorised for the purposes of section 100 of TMA 1970 considers that paragraph 2(2C) of this Schedule applies in relation to that failure;

(iii) a penalty in respect of a failure to comply with section 236B(3), (4) or (3), 236C(1) or 236J(1);

(iv) a penalty in respect of a failure to comply with a notice given under paragraph 1 of Schedule 36 to FA 2008 as it has effect as a result of section 272A unless paragraph 2(3A)(a) of this Schedule applies in relation to that failure;

(v) a penalty in respect of a failure to comply with a notice given under paragraph 2, 5 or 5A of Schedule 36 to FA 2008 as it has effect as a result of section 272A."

PART 2

PROMOTION STRUCTURES

9 In section 235 (carrying on a business "as a promoter"), after subsection (1) insert—

"(1A) For the purposes of this Part, a person is treated as carrying on a business as a promoter if the person is a member of a promotion structure (whether or not the person carries on a business).

Schedule 33A describes the cases in which a person is a member of a promotion structure."

10 After Schedule 33 insert—

"SCHEDULE 33A Section 235

PROMOTION STRUCTURES

Cases in which a person is a member of a promotion structure.

1 A person ("A") is a member of a promotion structure if A falls within—

(a) the case described in paragraph 2 (multiple entity promoter),

(b) the case described in paragraph 3 (acting for a non-resident promoter),

(c) the case described in paragraph 4 (control of another promoter), or

(d) the case described in paragraph 5 (transfer of promotion business).

Multiple entity promoter

2 (1) A falls within this case if—

(a) A and one or more other persons carry out activities between them that if carried out by a single person would cause that person to be a promoter within the meaning of section 235(2) or (3), and

(b) each of the persons carrying out those activities is closely related to at least one other of those persons.

(2) A person ("D") is closely related to another person ("E") if—

(a) D is able to secure that E acts in accordance with D's wishes (or vice versa),

(b) E typically acts in accordance with D's wishes,

(c) it is reasonable to expect that E will act in accordance with D's wishes,

(d) a third person is able to secure that D and E act in accordance with the third person's wishes,

(e) D and E typically act in accordance with a third person's wishes,

(f) it is reasonable to expect that D and E will act in accordance with a third person's wishes, or

(g) the 50% investment condition is met in relation to D and E.

(3) The 50% investment condition is met in relation to D and E if—
(a) D has a 50% investment in E (or vice versa), or
(b) a third person has a 50% investment in each of D and E.

(4) Subsections (3) to (9) of section 259ND of TIOPA 2010 apply for the purposes of determining whether a person has a "50% investment" in another person, and references in those subsections to X% are to be read as references to 50%.

Acting for a non-resident promoter

3 (1) A falls within this case if A acts under the instruction or guidance of a person ("O") who carries on a business as a promoter and who is resident outside the United Kingdom, and—
(a) A does any of the things mentioned in sub-paragraph (2) under that instruction or guidance, or
(b) A receives remuneration (of any kind) from O in connection with the business carried on by O.

(2) The things referred to in sub-paragraph (1)(a) are—
(a) being a promoter;
(b) facilitating any activity by virtue of which a person would be a promoter (for example, by facilitating the organisation of relevant arrangements or by facilitating the making of a relevant proposal available for implementation).

(3) For the purposes of sub-paragraph (1)(b), reference to A receiving remuneration from O includes—
(a) A receiving any payment or benefit as a consequence of instructions given by O (whether or not O is the source of that payment or benefit);
(b) A receiving any payment or benefit as a consequence of any arrangements that O made or participated in the making of, or that are referable to the business carried on by O (which may include relevant arrangements, or arrangements implementing a relevant proposal, promoted by O or which are otherwise referable to that business).

(4) For the purposes of this paragraph a person is a promoter if the person meets the description of a promoter in section 235(2) or (3) (whether or not the person carries on a business).

Control of another promoter

4 (1) A falls within this case if—
(a) A is an individual who controls, or has significant influence over, a body corporate or a partnership ("B") that carries on a business as a promoter, and
(b) A meets the personal condition or the corporate condition.

(2) The personal condition is that, at any time after A first controlled or had significant influence over B—

(a) A was subject to a disqualification order or disqualification undertaking under the Company Directors Disqualification Act 1986 or the Company Directors Disqualification (Northern Ireland) Order 2002 (S.I. 2002/3150 (N.I. 4)),

(b) A was bankrupt, or A's estate had been sequestrated under the Bankruptcy (Scotland) Act 2016,

(c) A was the subject of an individual voluntary arrangement under Part 8 of the Insolvency Act 1986,

(d) A's estate was subject to a protected trust deed (see section 163 of the Bankruptcy (Scotland) Act 2016),

(e) A was subject to a bankruptcy restrictions order or an interim bankruptcy restrictions order,

(f) A was subject to a debt relief order, or

(g) A was subject to a debt relief restrictions order or interim debt relief restrictions order.

(3) The corporate condition is that at any time A controlled, or had significant influence over, a person (other than B) that carried on business as a promotor that was—

(a) a body corporate or a partnership that was dissolved or became insolvent

(b) a body corporate that became dormant,

(c) a company formed and registered under the Companies Act 2006 (see section 1 of that Act) that made an application under section 1003 of that Act to strike the company's name off the register, or

(d) a company formed and registered under that Act in respect of which the registrar (within the meaning of that Act) has published a notice under section 1000(3) or 1001(1) of that Act, if two months have passed since the publication of that notice.

(4) For the purposes of this paragraph, the circumstances in which a body corporate or partnership becomes insolvent include—

(a) if a company voluntary arrangement takes effect under Part 1 of the Insolvency Act 1986,

(b) if an administration application (within the meaning of Schedule B1 to that Act) is made or a receiver or manager, or an administrative receiver, is appointed,

(c) on the commencement of a creditor's voluntary winding up (within the meaning of Part 4 of that Act) or a winding up by the court under Chapter 6 of that Part,

(d) if a compromise or arrangement takes effect under Part 26 of the Companies Act 2006,

(e) if a bank insolvency order takes effect under Part 2 of the Banking Act 2009,

(f) if a bank administration order takes effect under Part 3 of that Act, or

(g) on the occurrence of any corresponding circumstances which have effect under or as a result of the law of Scotland or Northern Ireland or a country or territory outside the United Kingdom.

(5) For the purposes of this paragraph, a body corporate is dormant if—

(a) in the case of a body corporate incorporated in the United Kingdom, it is dormant within the meaning given by section 1169 of the Companies Act 2006, or

(b) in any other case, it would be dormant within the meaning of that section if the body corporate were incorporated in the United Kingdom.

(6) Sub-paragraphs (5) to (11) of paragraph 13A of Schedule 34 (meaning of "control" and "significant influence") apply to this paragraph as they apply to Part 2 of that Schedule.

(7) In this paragraph—

"bankruptcy restrictions order" or "interim bankruptcy restrictions order" means such an order (or as the case may be, undertaking) under—

(a) Schedule 4A to the Insolvency Act 1986,

(b) Schedule 2A to the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)), or

(c) Part 13 of the Bankruptcy (Scotland) Act 2016 (asp 21);

"debt relief order" means such an order under—

(a) Part 7A of the Insolvency Act 1986, or

(b) Part 7A of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19));

"debt relief restrictions order" or "interim debt relief restrictions order" means such an order (or as the case may be, undertaking) under—

(a) Schedule 4ZB to the Insolvency Act 1986, or

(b) Schedule 2ZB to the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)).

Transfer of promotion business

5 (1) A falls within this case if—

(a) there has been a relevant transfer to A, or

(b) there has been a relevant transfer to a body corporate or partnership that A controls, or has significant influence over.

(2) For the purposes of sub-paragraph (1) "relevant transfer" means a transfer of—

(a) the whole of the business of a person carrying on business as a promoter;

(b) any part of such a business that relates to the promotion of relevant arrangements or relevant proposals;

(c) property, rights or liabilities of such a business that are connected with the promotion of relevant arrangements or relevant proposals.

(3) In sub-paragraph (2) "transfer" means any transfer in substance (whether or not the transfer is formal or for consideration, and whether or not the transfer is direct).

(4) Sub-paragraphs (5) to (11) of paragraph 13A of Schedule 34 (meaning of "control" and "significant influence") apply to this paragraph as they apply to Part 2 of that Schedule."

11 In section 237 (duty to give conduct notice), after subsection (8) insert—

"(8A) Where the authorised officer is required to make a determination under subsection (5), the officer must determine that the meeting of the condition (or if more than one is met, all of them) should be regarded as significant if P falls within the case described in paragraph 2 of Schedule 33A (multiple entity promoter)."

12 In section 237A (duty to give conduct notice: defeat of promoted arrangement) after subsection (3B) (as inserted by paragraph 22(2) of this Schedule) insert—

"(3C) If a person meets a condition in subsection (11), (12) or (13) and the person falls within the case described in paragraph 2 of Schedule 33A (multiple entity promoter), the authorised officer must determine (whether under subsection (1) or (3)(a) or (b)) that the meeting of the condition should be regarded as significant."

13 In section 250 (allocation of promoter reference number), in subsection (2)—

(a) omit the "and" at the end of paragraph (a);

(b) after that paragraph insert—

"(aa) any person who HMRC know falls within the case described in paragraph 3 of Schedule 33A by virtue of acting under the instruction or guidance of the monitored promoter, and".

14 (1) Section 251 (duty of monitored promoter to notify clients and intermediaries of number) is amended as follows.

(2) In the heading for "and intermediaries" substitute "etc".

(3) In subsection (2)—

(a) omit the "and" at the end of paragraph (c);

(b) after that paragraph insert—

"(ca) any person who falls within the case described in paragraph 3 of Schedule 33A by virtue of acting under the instruction or guidance of the monitored promoter, and".

15 (1) Section 252 (duty of those notified to notify others of promoter's number) is amended as follows.

(2) After subsection (4) insert—

"(4A) Where the notified client is a person who falls within the case described in paragraph 3 of Schedule 33A by virtue of acting under the instruction or guidance of the monitored promoter concerned, the notified client must also, within 30 days, provide the promoter reference number to—

(a) any person to whom the notified client has, since the monitoring notice in relation to the monitored promoter concerned took effect, communicated, for the purposes of any business (whether carried on by the notified client or

not), information about a relevant proposal of the monitored promoter, and

(b) any person who the notified client might reasonably be expected to know has, since that monitoring notice took effect, entered into, or is likely to enter into, transactions forming part of relevant arrangements in relation to which that monitored promoter is a promoter."

(3) In subsection (5), for "Subsection (2) or (4) does not" substitute "None of subsections (2), (4) or (4A)".

16 In section 258 (duty of person dealing with non-resident monitored promoter), in subsection (3)—

(a) omit the "and" at the end of paragraph (a);

(b) after that paragraph insert—

"(aa) any person who falls within the case described in paragraph 3 of Schedule 33A by virtue of acting under the instruction or guidance of the monitored promoter, and".

17 (1) Section 260 (intermediaries: duty to provide information about clients) is amended as follows.

(2) In the heading, after "Intermediaries" insert "etc".

(3) In subsection (1)—

(a) the words from "a person" to the end become paragraph (a);

(b) at the end of that paragraph insert ";

(b) a person who falls within the case described in paragraph 3 of Schedule 33A by virtue of acting under the instruction or guidance of the monitored promoter."

(4) In subsection (3)(a) for "the intermediary" substitute "the person to whom the notice is given".

(5) In subsection (5)—

(a) in the words before paragraph (a), for "the intermediary" substitute "the person to whom the notice under subsection (1) is given ("R")";

(b) in paragraph (a), for "the intermediary" substitute "R".

(6) In subsection (6) for "the intermediary", in each place it occurs, substitute "R".

18 In section 283 (interpretation)—

(a) in subsection (1), at the appropriate place insert—

""promotion structure" is to be construed in accordance with section 235(1A) and Schedule 33A;";

(b) after subsection (3) insert—

"(4) Any reference in this Part to a person's activities as a promoter includes—

(a) if the person falls within the case described in paragraph 2 of Schedule 33A, the activities carried out by the person and other persons by virtue of which the person falls within the case,

(b) if the person falls within the case described in paragraph 3 of that Schedule, activities carried out under the instruction or guidance of a person who carries on business as a promoter,

(c) if the person falls within the case described in paragraph 4 of that Schedule, the activities of the body corporate or partnership that the person controls, and

(d) if the person falls within the case described in paragraph 5 by virtue of sub-paragraph (1)(b) of that paragraph, the activities of the body corporate or partnership that the person controls."

19 In Schedule 34 (threshold conditions) in paragraph 13B, in sub-paragraph (5), after "individual" insert "who does not fall within the case described in paragraph 4 or 5 of Schedule 33A".

PART 3

CONDUCT AND MONITORING NOTICES: TRANSFEREES

Conduct notices: transferees

20 (1) After section 239 insert—

"239A Conduct notices: transferees

(1) This section applies if an authorised officer becomes aware at any time that a person to whom a conduct notice has been given ("P") has made a relevant transfer within the meaning of paragraph 5 of Schedule 33A (promotion structures) to another person ("D").

(2) The authorised officer may give D a conduct notice.

(3) If the proposed terms of the conduct notice to be given to D are the same as the terms of the conduct notice given to P, section 238(2) (content of conduct notice: opportunity to comment) does not apply in relation to the proposed terms.

(4) If the proposed terms of the conduct notice to be given to D differ from the terms of the conduct notice given to P, section 238(2) applies in relation to the proposed terms as if the reference in that provision to "the proposed terms of the notice" were a reference to the differences between the proposed terms of the conduct notice to be given to D and the terms of the conduct notice given to P.

(5) Where a person is given a conduct notice under this section, but considers that they were not a person to whom a relevant transfer was made (such that this section applies), they may make representations to that effect to the authorised officer.

(6) If (in light of those representations) the authorised officer considers that this section did not apply at the time the conduct notice was given, the officer must withdraw the notice."

(2) The amendment made by this paragraph has effect in relation to relevant transfers made on or after the day on which this Act is passed.

Monitoring notices: transferees

21 (1) After section 244 insert—

"244A Monitoring notices: transferees

(1) This section applies if an authorised officer becomes aware at any time that a person to whom a monitoring notice has been given ("P") has made a relevant transfer within the meaning of paragraph 5 of Schedule 33A (promotion structures) to another person ("D").

(2) The authorised officer may give D a monitoring notice.

(3) Where a person is given a monitoring notice under this section, but considers that they were not a person to whom a relevant transfer was made (such that this section applies), they may make representations to that effect to the authorised officer.

(4) If (in light of those representations) the authorised officer considers that this section did not apply at the time the monitoring notice was given, the officer must withdraw the notice.

(5) Subsections (2) to (4) of section 244 (monitoring notice: content and issuing) apply in relation to a monitoring notice given under subsection (2) of this section as they apply to a monitoring notice given under subsection (1) of that section, but as if the reference in subsection (3)(a) of that section to "the person" were a reference to P."

(2) In section 248 (publication by HMRC), in subsection (2)(c), for "mentioned in section 242(1)(a)" substitute "as a promoter which the monitored promoter is carrying on".

(3) The amendments made by this paragraph have effect in relation to relevant transfers made on or after the day on which this Act is passed.

PART 4

MISCELLANEOUS AMENDMENTS

Conduct notices: significance of conditions

22 (1) In section 237 (duty to give conduct notices)—

(a) in subsection (5), in paragraph (b)—

(i) omit sub-paragraph (i) (and the "and" after it);

(ii) in sub-paragraph (ii), for "(or conditions)" substitute "(or, if more than one condition is met, the meeting of all of those conditions, taken together)";

(b) after that subsection insert—

"(5A) In determining under subsection (5)(b) whether or not P's meeting of the condition (or conditions) should be regarded as significant, the authorised officer must determine whether the meeting of that condition (or those conditions taken together) by the person mentioned in subsection (1A)(a) should be regarded as significant in view of the purposes of this Part.

(5B) If the officer determines that the meeting of the condition (or those conditions) by that person should be regarded as significant, the officer must determine that P's meeting of that condition (or those conditions) should be regarded as significant.";

(c) in subsection (7A)—

(i) in the words before paragraph (a) omit "both";

(ii) omit paragraph (a) (and the "and" after it).

(2) In section 237A (duty to give conduct notices: defeat of promoted arrangements)—

(a) in subsection (3) omit paragraph (a) (and the "and" after it);

(b) after that subsection insert—

"(3A) In determining under subsection (3) whether or not P's meeting of the condition should be regarded as significant, the authorised officer must determine whether the meeting of that condition by the person mentioned in subsection (2)(a) should be regarded as significant in view of the purposes of this Part.

(3B) If the officer determines that the meeting of the condition by that person should be regarded as significant, the officer must determine that P's meeting of that condition should be regarded as significant.";

(c) in subsection (9) omit paragraph (a) (and the "and" after it).

Conduct notices: regular provision of information

23 In section 238 (content of conduct notices), in subsection (3), at the end insert—

"(h) to ensure that the recipient provides such information or documents to HMRC as are required for the purpose of monitoring whether and to what extent the recipient is complying with any of the conditions in the notice."

Conduct notices: withdrawal

24 (1) Section 240 (amendment or withdrawal of conduct notice) is amended as follows.

(2) In the heading, for "or withdrawal" substitute ", withdrawal or reissue".

(3) In subsection (3), omit paragraph (b) (and the "and" before it).

(4) After subsection (3) insert—

"(4) An authorised officer may (instead of amending the notice) withdraw the notice and give a new conduct notice."

Conduct notices: duration

25 In section 241 (duration of conduct notice)—

(a) in subsection (2)—

(i) in paragraph (a), for "the period of two years" substitute "the relevant period";

(ii) omit the "or" at the end of paragraph (a);

(iii) omit paragraph (b);

(b) after subsection (2) insert—

"(2A) But where a new conduct notice was given under section 240(4) that has a commencement date that is later than 12 months before the end of the relevant period in relation to the original notice, that new notice ceases to have effect at the end of the relevant period in relation to the original notice.";

(c) after subsection (4) insert—

"(4A) For the purposes of subsection (2)(a), the relevant period in relation to a conduct notice is calculated in accordance with this table—

If the authorised officer is aware that the person to whom the notice is given meets	*the relevant period is such period as may be notified in accordance with subsection (4B) or (4C) up to*
1 ordinary condition	2 years
2 ordinary conditions	4 years
3 or more ordinary conditions	5 years
1 significant condition	3 years
1 significant condition and 1 or more other significant or ordinary conditions	5 years

Subsection (4E) makes provision for the relevant period to be extended in certain circumstances.

(4B) When an authorised officer gives a person a conduct notice the officer must notify the person of the relevant period calculated by reference to the conditions which the officer is aware the person has met at that time.

(4C) If an authorised officer becomes aware that a person in relation to whom a conduct notice has effect has met one or more conditions which were not taken into account when the relevant period was calculated at the time the notice was given, the officer may give the person a notice—

(a) stating that the relevant period has been recalculated to take account of the additional conditions, and

(b) notifying the person of —

(i) the new relevant period as recalculated in accordance with the table in subsection (4A), and

(ii) the new date at the end of which the conduct notice will cease to have effect.

(4D) For the purposes of the table in subsection (4A)—

(a) a condition is significant if it is—

(i) a threshold condition listed in section 237(9), or

(ii) a condition in section 237A(11), (12) or (13) in respect of which an authorised officer makes a determination (whether in accordance with section 237A(1) or (2) or for the purposes of this paragraph) that meeting the condition should be regarded as significant in view of the purposes of this Part, and

(b) a condition is ordinary if it is a threshold condition not listed in section 237(9).

(4E) In calculating the relevant period for the purposes of subsection (2)(a) no account is to be taken of any day on all or part of which the effect of the conduct notice in question has been suspended by an authorised officer.

(4F) Where an authorised officer suspends the effect of a conduct notice, the officer must, as soon as practicable, notify the person to whom the notice was given of the suspension.

(4G) Where an authorised officer determines that the effect of a conduct notice should be resumed, the officer must, as soon as practicable, notify the person to whom the notice was given—

(a) that its effect has been resumed,

(b) of the number of days that are not to be taken into account in calculating the relevant period in accordance with subsection (4E), and

(c) of the new date at the end of which the relevant period is expected to end.

(4H) Where a conduct notice has been given to a person and the person is subsequently given a notice under paragraph 1 of Schedule 36 of FA 2008 as it has effect as a result of section 272A (power to obtain information and documents), in calculating the relevant period for the purposes of subsection (2)(a) no account is to be taken of any day on which the person has not complied with that notice.

(4I) For the purposes of subsection (4H), a person has not complied with a notice given under that paragraph on each day—

(a) beginning with the day after the last day on which the person could have complied with the notice, and

(b) ending with the day before the day (or, if more than one, the last day) on which the person provides the information or produces the documents required by the notice.

(4J) As soon as reasonably practicable after the day mentioned in subsection (4I)(b), an authorised officer must give the person to whom the conduct notice was given notice of—

(a) the number of days that are not to be taken into account in calculating the relevant period, and

(b) of the new date at the end of which the relevant period is expected to end."

Defeat notices

26 In section 241A (defeat notices), in subsection (4), for "come to the attention of HMRC" substitute "first come to the attention of an authorised officer".

Monitoring notices: applications to tribunal

27 (1) In section 242 (monitoring notices: duty to apply to tribunal), in subsection (1)—

(a) in paragraph (b)—

(i) the words from "has failed" to the end become sub-paragraph (i);

(ii) at the end of that sub-paragraph insert ", or

(ii) has provided false or misleading information or documents in relation to the notice,";

(b) in the words after paragraph (b), after "the authorised officer must" insert ", within the period of 12 months beginning with the day on which the authorised officer makes the determination,".

(2) After subsection (1) insert—

"(1A) Where subsection (1B) applies, an authorised officer, or an officer of Revenue and Customs with the approval of an authorised officer, may apply to the tribunal for approval to give a person ("P") a monitoring notice.

(1B) This subsection applies where—

(a) within the period of 6 years after a conduct notice ceases to have effect in relation to P, the officer mentioned in subsection (1A) determines that P—

(i) failed to comply with one or more conditions in the notice, or

(ii) provided false or misleading information or documents in relation to the notice, and

(b) the officer could not reasonably have been expected to make the determination when the conduct notice had effect.

(1C) An application under subsection (1A) may not be made after the period of 12 months beginning with the day on which the officer makes the determination mentioned in subsection (1B)(a).

(1D) Where subsection (1E) applies, an authorised officer, or an officer of Revenue and Customs with the approval of an authorised officer, may apply to the tribunal for approval to give a person ("D") a monitoring notice.

(1E) This subsection applies where—

(a) at any time before the end of the period of 6 years after a conduct notice ceases to have effect in relation to a person ("P"), an authorised officer determines (whether before or after the notice ceases to have effect) that P—

(i) failed to comply with one or more conditions in the notice, or

(ii) provided false or misleading information or documents in relation to the notice,

(b) before the end of that period, the authorised officer becomes aware that P has made a relevant transfer within the meaning of paragraph 5 of Schedule 33A (promotion structures) to D (whether before or after the notice ceases to have effect), and

(c) the officer could not reasonably have been expected—

(i) to apply to the tribunal for approval to give P a monitoring notice, or

(ii) to give P a monitoring notice following such an application,

before the relevant transfer took place.

(1F) For the purposes of an application under subsection (1D), any act or omission of P by reference to which the determination mentioned in subsection (1E)(a) was made is to be treated as an act or omission of D.

(1G) An application under subsection (1D) may not be made after the period of 12 months beginning with the day on which the officer makes the determination mentioned in subsection (1E)(a)."

(3) The amendments made by this paragraph have effect in relation to—

(a) conduct notices that cease to have effect on or after the day on which this Act is passed, and

(b) relevant transfers made on or after that day.

Threshold conditions

28 Schedule 34 (threshold conditions) is amended as follows.

29 (1) Paragraph 5 (non-compliance with Part 7 of FA 2004) is amended in accordance with sub-paragraphs (2) to (7).

(2) In the heading, for "Part 7 of FA 2004" substitute "avoidance disclosure requirements".

(3) Before sub-paragraph (1) insert—

"(A1) A person meets this condition if the person fails to comply with any of the following provisions of—

(a) Part 7 of FA 2004 (disclosure of tax avoidance schemes);

(b) Schedule 17 to F(No. 2)A 2017 (disclosure of tax avoidance schemes: VAT and other indirect taxes)."

(4) In sub-paragraph (1)—

(a) for the words before paragraph (a) substitute "The provisions of Part 7 of FA 2004 are—";

(b) after paragraph (c) insert—

"(ca) section 310C (duty of promoter to provide updated information);

(cb) section 312(2) (duty of promoter to notify client of reference number);";

(c) after paragraph (d) insert—

"(e) section 316A (duty to provide additional information)."

(5) After sub-paragraph (1) insert—

"(1A) The provisions of Schedule 17 to F(No.2)A 2017 are—

(a) paragraph 11(1) (duty of promoter in relation to notifiable proposals);

(b) paragraph 21(3) (duty of promoter to provide updated information);

(c) paragraph 23(2) (duty of promoter to notify client of reference number);

(d) paragraph 27(3) (duty of promoter to provide details of clients);

(e) paragraph 33 (duty to provide additional information)."

(6) In sub-paragraph (2)—

(a) for "sub-paragraph (1)" substitute "sub-paragraphs (1) and (1A)";

(b) for "that sub-paragraph" substitute "any of those sub-paragraphs".

(7) In sub-paragraph (4), after "TMA 1970" insert "or paragraph 48 of Schedule 17 to F(No.2)A 2017".

30 In paragraph 7—

(a) before the existing text, insert—

"(1) A person meets this condition if one or more of sub-paragraphs (2) to (4) apply in respect of the person.";

(b) the existing text becomes sub-paragraph (2);

(c) in that sub-paragraph (2), for "A person meets this condition if" substitute "This sub-paragraph applies in respect of a person if";

(d) after that sub-paragraph, insert—

"(3) This sub-paragraph applies in respect of a person ("P") if—

(a) another person has been given, in respect of arrangements in relation to which P is a promoter ("the promoted arrangements")—

(i) a pooled arrangements opinion notice, under paragraph 6(2) of Schedule 43A to FA 2013, or

(ii) a bound arrangements opinion notice under paragraph 6(4) of that Schedule,

(b) the notice in question sets out a report prepared by HMRC of an opinion of the GAAR Advisory Panel in relation to the promoted arrangements that is contained in one or more opinion notices given under paragraph 11(3)(b) of Schedule 43 to FA 2013 or paragraph 6(4)(b) of Schedule 43B to FA 2013, and

(c) the opinion notice, or the opinion notices taken together, either—

(i) state the joint opinion of all the members of the sub-panel arranged under Schedule 43 or 43B, as the case may be, or

(ii) state the opinion of two or more members of the sub-panel.

(4) This sub-paragraph applies in respect of a person if—

(a) arrangements in relation to which the person is a promoter ("the promoted arrangements") are equivalent within the meaning of paragraph 24(3) of Schedule 16 to F(No. 2)A 2017 to arrangements that have been referred to the GAAR Advisory Panel under paragraph 26 of that Schedule,

(b) one or more opinion notices are given under paragraph 34(3)(b) of Schedule 16 to F(No.2)A 2017 that apply to the promoted arrangements for the purposes of Part 7 of that Schedule, and

(c) the notice, or the notices taken together, either—

(i) state the joint opinion of all the members of the sub-panel arranged under that Schedule, or

(ii) state the opinion of two or more members of that sub-panel."

31 In paragraph 10 (exercise of information powers)—

(a) in sub-paragraph (1), for the words from "an information notice" to the end substitute "a requirement imposed by a notice or order given under any of the following provisions—

(a) section 308A, 310A, 313ZB, 313A and 313B of FA 2004;

(b) paragraphs 1, 2, 5 and 5A of Schedule 36 to FA 2008;

(c) paragraphs 16, 19, 28, 29 and 30 of Schedule 17 to F(No.2)A 2017.

(b) in sub-paragraph (2), after "notice" insert "or order".

SCHEDULE 31

Section 122

DISCLOSURE OF TAX AVOIDANCE SCHEMES

PART 1

AMENDMENTS OF PART 7 OF FA 2004

1 Part 7 of FA 2004 (disclosure of tax avoidance schemes) is amended as follows.

2 Before section 306 insert—

"305A Introduction

(1) This Part makes provision about the disclosure of information in relation to arrangements, or proposed arrangements, that enable, or might be expected to enable, a person to obtain a tax advantage.

(2) Among other things, this Part—

(a) imposes duties to provide information to HMRC (and others);

(b) allows HMRC to allocate reference numbers in relation to arrangements and proposed arrangements (in cases where the disclosure duties have been complied with and in other cases);

(c) makes provision about publication of information about arrangements and proposed arrangements, and persons involved in their supply;

(d) makes provision about penalties."

3 In section 307(4A) (meaning of "makes a firm approach"), omit "notifiable" in both places.

4 After section 310C insert—

"310D Notice of potential allocation of reference number: arrangements and proposals suspected of being notifiable

(1) This section applies where—

(a) HMRC have become aware that—

(i) a transaction forming part of arrangements has been entered into,

(ii) a firm approach has been made to a person in relation to a proposal for arrangements, with a view to making the proposal available for implementation, or

(iii) a proposal for arrangements is made available for implementation, and

(b) HMRC have reasonable grounds for suspecting that the arrangements are notifiable, or the proposal is notifiable.

(2) HMRC may issue a notice to a person explaining that, unless the person is able to satisfy HMRC, before the end of the notice period, that the arrangements are not notifiable or (as the case may be) the proposal is not notifiable, HMRC may allocate a reference number to the arrangements or (in the case of a proposal) the proposed arrangements.

(3) But HMRC may not issue a notice under this section before the end of the period of 15 days beginning with the day on which they first become aware that the condition in paragraph (a)(i), (ii) or (iii) of subsection (1) is met.

(4) A notice under this section must be issued to any person who, on the day the notice is issued, HMRC reasonably suspect to be a promoter in relation to the arrangements or proposal.

(5) A notice under this section may be issued to any other person who HMRC reasonably suspect to be involved in the supply of the arrangements or proposed arrangements."

5 For section 311 substitute—

"311 Allocation of reference number to arrangements

(1) This section applies in—
  (a) a subsection (2) case, or
  (b) a subsection (3) case.

(2) A "subsection (2) case" is a case where a person complies, or purports to comply, with section 308(1) or (3), 309(1) or 310 in relation to a notifiable proposal or notifiable arrangements.

(3) A "subsection (3) case" is a case where—
  (a) notice in relation to arrangements or a proposal has been issued in accordance with section 310D (notice of potential allocation of reference number),
  (b) the notice period has expired, and
  (c) the person to whom the notice was given has failed to satisfy HMRC, before the expiry of the notice period, that the arrangements are not notifiable or (as the case may be) that the proposal is not notifiable.

(4) "The notice period" means—
  (a) the period of 30 days beginning with the day on which the notice under section 310D is issued, or
  (b) such longer period as HMRC may direct.

(5) HMRC may allocate a reference number to the arrangements or, in the case of a proposal, the proposed arrangements, subject to subsection (6).

(6) HMRC may not allocate a reference number to arrangements or proposed arrangements after the time limit for doing so.

(7) The time limit for allocating a reference number is—
  (a) in a subsection (2) case, the end of the period of 90 days beginning with the compliance, or purported compliance, with section 308(1) or (3), 309(1) or 310, as the case may be;
  (b) in a subsection (3) case, the end of the period of one year beginning with the day after the end of the notice period (see subsection (4)).

(8) HMRC may at any time withdraw a reference number allocated to arrangements in a subsection (3) case.

(9) The allocation of a reference number to arrangements or proposed arrangements is not to be regarded as constituting an indication by HMRC that the arrangements could as a matter of law result in the obtaining by any person of a tax advantage.

311A Duty of HMRC to notify persons of reference number

(1) If a reference number is allocated in a case within section 311(2), HMRC must notify the following of the number—

(a) the person who has complied, or purported to comply, with section 308(1) or (3), 309(1) or 310, and

(b) where the person has complied, or purported to comply, with section 308(1) or (3), any other person—

(i) who is a promoter in relation to the proposal (or arrangements implementing it) or the arrangements (or a proposal implemented by them), and

(ii) whose identity and address have been notified to HMRC by the person who complied, or purported to comply, with section 308(1) or (3).

(2) If a reference number is allocated in a case within section 311(3), HMRC must notify the following of the number—

(a) any person who HMRC reasonably suspect to be, or to have been, a promoter in relation to the arrangements or the proposed arrangements, and

(b) any other person who HMRC reasonably suspect to be, or to have been, involved in the supply of the arrangements or the proposed arrangements.

(3) The duty in subsection (2) applies irrespective of whether the notice under section 310D as a result of which the reference number was allocated has been issued to the person concerned.

311B Right of appeal: section 311(3) case

(1) This section applies where HMRC have allocated a reference number to arrangements or proposed arrangements in a case within section 311(3).

(2) A person who has been notified of the reference number may appeal to the tribunal against its allocation.

(3) An appeal under this section may be brought only on the following grounds—

(a) that, in issuing the notice under section 310D as a result of which the reference number was allocated, HMRC did not act in accordance with that section;

(b) that, in allocating the reference number, HMRC did not act in accordance with section 311;

(c) that the arrangements are not in fact notifiable arrangements or, in the case of proposed arrangements, that the proposal for the arrangements is not in fact a notifiable proposal.

(4) Notice of appeal under this section must be given to the tribunal in writing before the end of the period of 30 days beginning with the day on which the person is notified of the number by HMRC.

(5) Notice may be given after that time if the tribunal give permission.

(6) The notice of appeal must specify the grounds of appeal.

(7) On an appeal under this section, the tribunal may affirm or cancel HMRC's decision.

(8) If the tribunal cancel HMRC's decision, HMRC must withdraw the reference number.

(9) Bringing an appeal under this section does not prevent—
(a) a power conferred by this Part from being exercised, or
(b) a duty imposed by this Part from continuing to apply.

311C Duty to provide further information requested by HMRC: section 311(3) case

(1) This section applies where HMRC have allocated a reference number to arrangements or proposed arrangements in a case within section 311(3).

(2) HMRC may require a relevant person to provide—
(a) specified information about the arrangements or proposed arrangements;
(b) documents relating to the arrangements or proposed arrangements.

(3) In subsection (2), "relevant person" means—
(a) any person who HMRC reasonably suspect to be, or to have been, a promoter in relation to the arrangements or the proposed arrangements;
(b) any other person who HMRC reasonably suspect to be, or to have been, involved in the supply of the arrangements or the proposed arrangements

(4) HMRC may require information or documents only if they have reasonable grounds for suspecting that the information or documents will assist them in considering the arrangements or proposed arrangements.

(5) Where HMRC impose a requirement on a person under subsection (2), the person must comply with the requirement before the end of—
(a) the period of 10 working days beginning with the day on which HMRC imposed the requirement, or
(b) such longer period as HMRC may direct."

6 (1) Section 312 (duty of promoter to notify client of reference number) is amended as follows.

(2) In the heading, at the end insert ": section 311(2) case"

(3) In subsection (2)—
(a) after "any reference number" insert "allocated in a case within section 311(2)";
(b) for "one reference number" substitute "one such reference number".

7 After section 312 insert—

"312ZA Duty to notify client of reference number: section 311(3) case

(1) This section applies where a person is providing (or has provided) services to another person ("the client") in connection with arrangements or proposed arrangements.

(2) The person must, before the end of the period of 30 days beginning with the relevant date, provide the client with prescribed information relating to any reference number allocated in a case

within section 311(3) (or, if more than one, any one such reference number) that has been notified to the person (whether by HMRC or any other person) in relation to—

(a) the arrangements or proposed arrangements, or

(b) any arrangements substantially the same as the arrangements or proposed arrangements (whether involving the same or different parties).

(3) In subsection (2), "the relevant date" means the date on which the person has been notified of the reference number.

(4) HMRC may give notice that, in relation to arrangements or proposed arrangements specified in the notice, no person is under the duty imposed by subsection (2) after the date specified in the notice."

8 (1) Section 312A (duty of client to notify parties of reference number) is amended as follows.

(2) In subsection (1)—

(a) after "prescribed information" insert "under section 312";

(b) for "allocated to the notifiable arrangements or proposed notifiable arrangements" substitute "allocated to—

(a) the notifiable arrangements or proposed notifiable arrangements, or

(b) any arrangements substantially the same as the notifiable arrangements or proposed notifiable arrangements."

(3) After subsection (1) insert—

"(1A) This section also applies where a person (a "client") to whom a person is providing (or has provided) services in connection with arrangements or proposed arrangements receives prescribed information under section 312ZA relating to the reference number allocated to—

(a) the arrangements or proposed arrangements, or

(b) any arrangements substantially the same as the arrangements or proposed arrangements."

(4) In subsection (4), for "notifiable arrangements or a notifiable proposal" substitute "arrangements or a proposal".

9 (1) Section 312B (duty of client to provide information to promoter) is amended as follows.

(2) In the heading, omit "to promoter".

(3) For subsection (1) substitute—

"(1) This section applies where a person ("the client") has been provided with information under section 312(2) or 312ZA(2) (prescribed information about reference number)."

(4) In subsection (2), for "promoter" substitute "person who provided the information".

10 (1) Section 313 (duty of parties to notifiable arrangements to notify Board of number etc) is amended as follows.

(2) For the heading substitute "Duty of parties to notify HMRC of reference number etc".

(3) In subsection (1), omit "notifiable".

(4) In subsection (2), for "any notifiable arrangements" substitute "arrangements of any description". *5*

(5) In subsection (5), omit "notifiable".

11 (1) Section 313ZA (duty to provide details of clients) is amended as follows.

(2) In subsection (1), for paragraphs (a) and (b) substitute—

"(a) the promoter is subject to the requirement under section 312(2) to provide to the client prescribed information relating to the reference number allocated to— *10*

(i) the arrangements, or

(ii) any arrangements substantially the same as the arrangements, or

(b) the promoter has failed to comply with section 308(1) or (3) in relation to the notifiable arrangements (or the notifiable proposal for them) but would be subject to that requirement if a reference number had been allocated to— *15*

(i) the notifiable arrangements, or

(ii) any arrangements substantially the same as the arrangements". *20*

(3) After subsection (1) insert—

"(1A) This section also applies where—

(a) a person ("the provider") is providing (or has provided) services to another person ("the client") in connection with arrangements or proposed arrangements, and *25*

(b) the provider is subject to the requirement under section 312ZA(2) to provide to the client prescribed information relating to the reference number allocated to—

(i) the arrangements or proposed arrangements, or *30*

(ii) any arrangements substantially the same as the arrangements or proposed arrangements."

(4) Omit subsection (2).

(5) In subsection (3), after "promoter" insert "or (as the case may be) provider".

(6) For subsection (4) substitute— *35*

"(4) In subsection (3) "the relevant period" means—

(a) in a case within subsection (1), such period as is prescribed and is a period during which the promoter is or would be subject to the requirement mentioned in that subsection;

(b) in a case within subsection (1A), such period as is prescribed and is a period during which the provider is or would be subject to the requirement mentioned in that subsection." *40*

(7) After subsection (5) insert—

"(6) The provider need not comply with subsection (3) in relation to any arrangements at any time after HMRC have given notice under section 312ZA(4) in relation to the arrangements."

12 (1) Section 313ZB (enquiry following disclosure of client details) is amended as follows.

(2) In subsection (1), for paragraph (a) substitute—

"(a) a person ("the service provider") is providing or has provided services to another person ("the client") in connection with arrangements or proposed arrangements,

(aa) the service provider has provided HMRC with information in relation to the client under section 313ZA(3), and".

(3) In subsection (2), for "promoter", in both places, substitute "service provider".

(4) In subsection (3), for "promoter" substitute "service provider".

13 (1) Section 313ZC (duty of employer to notify HMRC of details of employees etc) is amended as follows.

(2) For subsection (2) substitute—

"(2) Condition A is that—

(a) a person who is a promoter in relation to notifiable arrangements or a notifiable proposal is providing (or has provided) services in connection with the arrangements or proposal to a person ("the client"), or

(b) a person is providing (or has provided) services in connection with arrangements or a proposal to a person ("the client")."

(3) In subsection (3), after "312(2)" insert "or 312ZA(2)".

(4) In subsection (4), omit "notifiable", in both places.

(5) In subsection (6)—

(a) omit "notifiable", in both places;

(b) after "312(6)" insert ", 312ZA(4)".

14 In section 316 (information to be provided in form and manner specified by HMRC), in subsection (2)—

(a) after "310C," insert "311C,";

(b) after "312(2)," insert "312ZA(2),".

15 In section 316A (duty to provide additional information), in subsections (1) and (2), after "312(2)" insert ", 312ZA(2)".

16 (1) Section 316C (publication by HMRC) is amended as follows.

(2) For subsection (1) substitute—

"(1) HMRC may publish information about—

(a) any arrangements, or proposed arrangements, to which a reference number is allocated under section 311;

(b) where the reference number is allocated in a case within section 311(2), any person who is a promoter in relation to the arrangements or, in the case of proposed arrangements, the proposal;

(c) where the reference number is allocated in a case within section 311(3), any person who is or has been—

(i) a promoter in relation to the arrangements or proposed arrangements, or

(ii) otherwise involved in the supply of the arrangements or proposed arrangements."

(3) In subsection (2)—

(a) in paragraph (a)—

(i) after "(1)(b)" insert "or (c)";

(ii) for "308, 309 or 310" substitute "any provision of this Part";

(b) for paragraph (b) substitute—

"(b) any ruling of a court or tribunal relating to—

(i) arrangements within subsection (1)(a);

(ii) a person within subsection (1)(b), in that person's capacity as a promoter;

(iii) a person within subsection (1)(c), in that person's capacity as a promoter or a person otherwise involved in the supply of arrangements or proposed arrangements;";

(c) in paragraph (c), omit "notifiable";

(d) in paragraph (e), after "(1)(b)" insert "or (c)".

(4) In subsection (4), omit "notifiable".

(5) After subsection (4) insert—

"(4A) No information may be published under this section in respect of a person involved in the supply of arrangements or proposed arrangements where there are reasonable grounds for believing that the person's involvement is limited to activities subject to legal professional privilege."

(6) In subsection (5)—

(a) for "who is a promoter within subsection (1)(b)" substitute "within subsection (1)(b) or (c)";

(b) for "as a promoter" substitute "as a promoter or a person involved in the supply of arrangements or proposed arrangements".

(7) In subsection (6), for "a promoter within subsection (1)(b)" substitute "a person within subsection (1)(b) or (c)".

(8) After subsection (6) insert—

"(6A) Where the reference number is allocated in a case within section 311(3)—

(a) information that identifies a person within subsection (1)(c) may not be published for the first time after the end of the period of one year beginning with the day on which the reference number is allocated;

(b) no information that identifies a person within subsection (1)(c) may be published (or continue to be published) after the end of the period of one year beginning with the day on which it is first published.

(6B) In determining a period of one year for the purposes of subsection (6A)(a) or (b), no account is to be taken of any period during which HMRC are prohibited from publishing the information because of proceedings before a court or tribunal."

17 In section 316D (section 316C: subsequent judicial rulings), in subsection (1)(a), omit "notifiable", in both places.

18 In section 318(1) (interpretation of Part 7), for the definition of "reference number" substitute—

""reference number" means a reference number allocated under section 311;".

PART 2

AMENDMENTS OF SCHEDULE 17 TO F(NO.2)A 2017

19 Schedule 17 to F(No.2)A 2017 (disclosure of tax avoidance schemes: VAT and other indirect taxes) is amended as follows.

20 Before Part 1 insert—

"PART A1

INTRODUCTION

A1 (1) This Schedule makes provision about the disclosure of information in relation to arrangements, or proposed arrangements, that enable, or might be expected to enable, a person to obtain a tax advantage in relation to VAT or another indirect tax.

(2) Among other things, this Schedule—

(a) imposes duties to provide information to HMRC (and others);

(b) allows HMRC to allocate reference numbers in relation to arrangements and proposed arrangements (in cases where the disclosure duties have been complied with and in other cases);

(c) makes provision about publication of information about arrangements and proposed arrangements, and persons involved in their supply;

(d) makes provision about penalties."

21 In paragraph 10(1) (meaning of "makes a firm approach"), omit "notifiable".

22 After paragraph 21 insert—

Notice of potential allocation of reference number: arrangements and proposals suspected of being notifiable

21A (1) This paragraph applies where—

(a) HMRC have become aware that—
(i) a transaction forming part of arrangements has been entered into,
(ii) a firm approach has been made to a person in relation to a proposal for arrangements, with a view to making the proposal available for implementation, or
(iii) a proposal for arrangements is made available for implementation, and
(b) HMRC have reasonable grounds for suspecting that the arrangements are notifiable, or the proposal is notifiable.

(2) HMRC may issue a notice to a person explaining that, unless the person is able to satisfy HMRC, before the end of the notice period, that the arrangements are not notifiable or (as the case may be) the proposal is not notifiable, HMRC may allocate a reference number to the arrangements or (in the case of a proposal) the proposed arrangements.

(3) But HMRC may not issue a notice under this paragraph before the end of the period of 15 days beginning with the day on which they first become aware that the condition in paragraph (a)(i), (ii) or (iii) of sub-paragraph (1) is met.

(4) A notice under this paragraph must be issued to any person who, on the day the notice is issued, HMRC reasonably suspect to be a promoter in relation to the arrangements or proposal.

(5) A notice under this paragraph may be issued to any other person who HMRC reasonably suspect to be involved in the supply of the arrangements or proposed arrangements."

23 For paragraph 22 (and the italic heading before it) substitute—

"Allocation of reference number to arrangements

22 (1) This paragraph applies in—
(a) a sub-paragraph (2) case, or
(b) a sub-paragraph (3) case.

(2) A "sub-paragraph (2) case" is a case where a person complies, or purports to comply, with paragraph 11(1), 12(1), 17(2) or 18(2) in relation to a notifiable proposal or notifiable arrangements.

(3) A "sub-paragraph (3) case" is a case where—
(a) notice in relation to arrangements or a proposal has been issued in accordance with paragraph 21A (notice of potential allocation of reference number),
(b) the notice period has expired, and
(c) the person to whom the notice was given has failed to satisfy HMRC, before the expiry of the notice period, that the arrangements are not notifiable or (as the case may be) that the proposal is not notifiable.

(4) "The notice period" means—

(a) the period of 30 days beginning with the day on which the notice under paragraph 21A is issued, or
(b) such longer period as HMRC may direct.

(5) HMRC may allocate a reference number to the arrangements or, in the case of a proposal, the proposed arrangements, subject to sub-paragraph (6).

(6) HMRC may not allocate a reference number to arrangements or proposed arrangements after the time limit for doing so.

(7) The time limit for allocating a reference number is—
(a) in a sub-paragraph (2) case, the end of the period of 90 days beginning with the compliance, or purported compliance, with paragraph 11(1), 12(1), 17(2) or 18(2), as the case may be;
(b) in a sub-paragraph (3) case, the end of the period of one year beginning with the day after the end of the notice period (see sub-paragraph (4)).

(8) HMRC may at any time withdraw a reference number allocated to arrangements in a sub-paragraph (3) case.

(9) The allocation of a reference number to arrangements or proposed arrangements is not to be regarded as constituting an indication by HMRC that the arrangements could as a matter of law result in the obtaining by any person of a tax advantage.

Duty of HMRC to notify persons of reference number

22A (1) If a reference number is allocated in a case within paragraph 22(2), HMRC must notify the following of the number—
(a) the person who has complied, or purported to comply, with paragraph 11(1), 12(1), 17(2) or 18(2), and
(b) where the person has complied, or purported to comply, with paragraph 11(1) or 12(1), any other person—
(i) who is a promoter in relation to the proposal (or arrangements implementing it) or the arrangements (or a proposal implemented by them), and
(ii) whose identity and address have been notified to HMRC by the person who complied, or purported to comply, with paragraph 11(1) or 12(1).

(2) If a reference number is allocated in a case within paragraph 22(3), HMRC must notify the following of the number—
(a) any person who HMRC reasonably suspect to be, or to have been, a promoter in relation to the arrangements or the proposed arrangements, and
(b) any other person who HMRC reasonably suspect to be, or to have been, involved in the supply of the arrangements or the proposed arrangements.

(3) The duty in sub-paragraph (2) applies irrespective of whether the notice under paragraph 21A as a result of which the reference number was allocated has been issued to the person concerned.

Right of appeal: paragraph 22(3) case

22B (1) This paragraph applies where HMRC have allocated a reference number to arrangements or proposed arrangements in a case within paragraph 22(3).

(2) A person who has been notified of the reference number may appeal to the tribunal against its allocation.

(3) An appeal under this paragraph may be brought only on the following grounds—

(a) that, in issuing the notice under paragraph 21A as a result of which the reference number was allocated, HMRC did not act in accordance with that paragraph;

(b) that, in allocating the reference number, HMRC did not act in accordance with paragraph 22;

(c) that the arrangements are not in fact notifiable arrangements or, in the case of proposed arrangements, that the proposal for the arrangements is not in fact a notifiable proposal.

(4) Notice of appeal under this paragraph must be given to the tribunal in writing before the end of the period of 30 days beginning with the day on which the person is notified of the number by HMRC.

(5) Notice may be given after that time if the tribunal give permission.

(6) The notice of appeal must specify the grounds of appeal.

(7) On an appeal under this paragraph, the tribunal may affirm or cancel HMRC's decision.

(8) If the tribunal cancel HMRC's decision, HMRC must withdraw the reference number.

(9) Bringing an appeal under this paragraph does not prevent—

(a) a power conferred by this Part of this Schedule from being exercised, or

(b) a duty imposed by this Part of this Schedule from continuing to apply.

Duty to provide further information requested by HMRC: paragraph 22(3) case

22C (1) This paragraph applies where HMRC have allocated a reference number to arrangements or proposed arrangements in a case within paragraph 22(3).

(2) HMRC may require a relevant person to provide—

(a) specified information about the arrangements or proposed arrangements;

(b) documents relating to the arrangements or proposed arrangements.

(3) In sub-paragraph (2), "relevant person" means—

(a) any person who HMRC reasonably suspect to be, or to have been, a promoter in relation to the arrangements or the proposed arrangements;

(b) any other person who HMRC reasonably suspect to be, or to have been, involved in the supply of the arrangements or the proposed arrangements

(4) HMRC may require information or documents only if they have reasonable grounds for suspecting that the information or documents will assist them in considering the arrangements or proposed arrangements.

(5) Where HMRC impose a requirement on a person under sub-paragraph (2), the person must comply with the requirement before the end of—

(a) the period of 10 working days beginning with the day on which HMRC imposed the requirement, or

(b) such longer period as HMRC may direct."

24 In the italic heading before paragraph 23, at the end insert ": paragraph 22(2) case".

25 (1) Paragraph 23 (duty of promoter to notify client of reference number) is amended as follows.

(2) In sub-paragraph (2)—

(a) after "any reference number" insert "allocated in a case within paragraph 22(2)";

(b) for "one reference number" substitute "one such reference number".

26 After paragraph 23 insert—

"Duty to notify client of reference number: paragraph 22(3) case

23A (1) This paragraph applies where a person is providing (or has provided) services to any person ("the client") in connection with arrangements or proposed arrangements.

(2) The person must, before the end of the period of 30 days beginning with the relevant date, provide the client with prescribed information relating to any reference number allocated in a case within paragraph 22(3) (or, if more than one, any one such reference number) that has been notified to the person (whether by HMRC or any other person) in relation to—

(a) the arrangements or proposed arrangements, or

(b) any arrangements substantially the same as the arrangements or proposed arrangements (whether involving the same or different parties).

(3) "The relevant date" means the date on which the person has been notified of the reference number.

(4) HMRC may give notice that, in relation to arrangements or proposed arrangements specified in the notice, no person is under the duty under sub-paragraph (2) after the date specified in the notice."

27 (1) Paragraph 24 (duty of client to notify parties of reference number) is amended as follows.

(2) In sub-paragraph (1)—

(a) omit "who is a promoter in relation to notifiable arrangements or a notifiable proposal";

(b) for "the arrangements or proposal" substitute "arrangements or a proposal".

(3) For sub-paragraph (2) substitute—

"(2) Sub-paragraph (3) applies where—

(a) the client receives prescribed information under paragraph 23 relating to the reference number allocated to—

(i) the arrangements or proposed arrangements, or

(ii) any arrangements substantially the same as the arrangements or proposed arrangements; or

(b) the client receives prescribed information under paragraph 23A relating to the reference number allocated to—

(i) the arrangements or proposed arrangements, or

(ii) any arrangements substantially the same as the arrangements or proposed arrangements."

(4) In sub-paragraph (4)(a), for "notifiable arrangements or proposed notifiable arrangements" substitute "the arrangements or proposed arrangements".

(5) In sub-paragraph (4)(b), for "by the promoter under paragraph 23" substitute "under paragraph 23 or (as the case may be) paragraph 23A".

(6) In sub-paragraph (5), for "notifiable arrangements or a notifiable proposal" substitute "arrangements or a proposal".

28 In the italic heading before paragraph 25, omit "to promoter".

29 (1) Paragraph 25 (duty of client to provide information to promoter) is amended as follows.

(2) For sub-paragraph (1) substitute—

"(1) This paragraph applies where a person ("the client") has been provided with information under paragraph 23(2) or 23A(2) (prescribed information about reference number)."

(3) In sub-paragraph (2), for "promoter" substitute "person who provided the information".

30 For the italic heading before paragraph 26 substitute "Duty of parties to notify HMRC of reference number etc".

31 (1) Paragraph 26 (duty of parties to notifiable arrangements to notify HMRC of number etc) is amended as follows.

(2) In sub-paragraph (1), omit "notifiable".

(3) In sub-paragraph (1)(a), after "23" insert ", 23A".

(4) In sub-paragraph (2), for "any notifiable arrangements" substitute "arrangements of any description".

(5) In sub-paragraph (5), omit "notifiable".

32 In the italic heading before paragraph 27 omit "of promoter".

33 (1) Paragraph 27 (duty of promoter to provide details of clients) is amended as follows.

(2) In sub-paragraph (1), for paragraphs (a) and (b) substitute—

"(a) the promoter is subject to the requirement under paragraph 23(2) to provide to the client prescribed information relating to the reference number allocated to—

(i) the arrangements, or

(ii) any arrangements substantially the same as the arrangements; or

(b) the promoter has failed to comply with paragraph 11(1) or 12(1) in relation to the notifiable arrangements (or the notifiable proposal for them) but would be subject to that requirement if a reference number had been allocated to—

(i) the notifiable arrangements, or

(ii) any arrangements substantially the same as the arrangements."

(3) After sub-paragraph (1) insert—

"(1A) This paragraph also applies where—

(a) a person ("the provider") is providing (or has provided) services to another person ("the client") in connection with arrangements or proposed arrangements, and

(b) the provider is subject to the requirement under paragraph 23A(2) to provide to the client prescribed information relating to the reference number allocated to—

(i) the arrangements or proposed arrangements, or

(ii) any arrangements substantially the same as the arrangements or proposed arrangements."

(4) Omit sub-paragraph (2).

(5) In sub-paragraph (3), after "promoter" insert "or (as the case may be) provider".

(6) For sub-paragraph (4) substitute—

"(4) In sub-paragraph (3) "the relevant period" means—

(a) in a case within sub-paragraph (1), such period as is prescribed and is a period during which the promoter is or would be subject to the requirement mentioned in that sub-paragraph;

(b) in a case within sub-paragraph (1A), such period as is prescribed and is a period during which the provider is or would be subject to the requirement mentioned in that sub-paragraph."

(7) After sub-paragraph (5) insert—

"(6) The provider need not comply with sub-paragraph (3) in relation to any arrangements at any time after HMRC have given notice under paragraph 23A(4) in relation to the arrangements."

34 (1) Paragraph 28 (enquiry following disclosure of client details) is amended as follows.

(2) In sub-paragraph (1), for paragraph (a) substitute—

"(a) a person ("the service provider") is providing or has provided services to another person ("the client") in connection with arrangements or proposed arrangements,

(aa) the service provider has provided HMRC with information in relation to the client under paragraph 27(3), and".

(3) In sub-paragraph (2), for "promoter", in both places, substitute "service provider".

(4) In sub-paragraph (3), for "promoter" substitute "service provider".

(5) In sub-paragraph (4) for "promoter" substitute "service provider".

35 In paragraph 33 (duty to provide additional information), in sub-paragraphs (1) and (2), after "23(2)" insert ", 23A(2)".

36 In paragraph 34 (information to be provided in form and manner specified by HMRC), in sub-paragraph (2)—

(a) after "21(3)," insert "22C,";

(b) after "23(2)," insert "23A(2),".

37 (1) Paragraph 36 (publication by HMRC) is amended as follows.

(2) For sub-paragraph (1) substitute—

"(1) HMRC may publish information about—

(a) any arrangements, or proposed arrangements, to which a reference number is allocated under paragraph 22;

(b) where the reference number is allocated in a case within paragraph 22(2), any person who is a promoter in relation to the arrangements or, in the case of proposed arrangements, the proposal;

(c) where the reference number is allocated in a case within paragraph 22(3), any person who is or has been—

(i) a promoter in relation to the arrangements or proposed arrangements, or

(ii) otherwise involved in the supply of the arrangements or proposed arrangements."

(3) In sub-paragraph (2)—

(a) in paragraph (a)—

(i) after "(1)(b)" insert "or (c)";

(ii) for "11, 12, 17 or 18" substitute "any provision of this Part";

(b) for paragraph (b) substitute—

"(b) any ruling of a court or tribunal relating to—

(i) arrangements within sub-paragraph (1)(a);

(ii) a person within sub-paragraph (1)(b), in that person's capacity as a promoter;

(iii) a person within sub-paragraph (1)(c), in that person's capacity as a promoter or a person otherwise involved in the supply of arrangements or proposed arrangements;";

(c) in paragraph (c), omit "notifiable";

(d) in paragraph (d), after "(1)(b)" insert "or (c)".

(4) In sub-paragraph (4), omit "notifiable".

(5) After sub-paragraph (4), insert—

"(4A) No information may be published under this paragraph in respect of a person involved in the supply of arrangements or proposed arrangements where there are reasonable grounds for believing that the person's involvement is limited to activities subject to legal professional privilege."

(6) In sub-paragraph (5)—

(a) for "who is a promoter within sub-paragraph (1)(b)" substitute "within sub-paragraph (1)(b) or (c)";

(b) for "as a promoter" substitute "as a promoter or a person involved in the supply of arrangements or proposed arrangements".

(7) In sub-paragraph (6), for "a promoter within sub-paragraph (1)(b)" substitute "a person within sub-paragraph (1)(b) or (c)".

(8) After sub-paragraph (6) insert—

"(7) Where the reference number is allocated in a case within paragraph 22(3)—

(a) information that identifies a person within sub-paragraph (1)(b) or (c) may not be published for the first time after the end of the period of one year beginning with the day on which the reference number is allocated;

(b) no information that identifies a person within sub-paragraph (1)(b) or (c) may be published (or continue to be published) after the end of the period of one year beginning with the day on which it is first published.

(8) In determining a period of one year for the purposes of sub-paragraph (7)(a) or (b), no account is to be taken of any period during which HMRC are prohibited from publishing the information because of proceedings before a court or tribunal."

38 In paragraph 37 (paragraph 36: subsequent judicial rulings), in sub-paragraph (1)(a), omit "notifiable", in both places.

39 (1) Paragraph 39 (penalty for failure to comply with duties under Part 1 of Schedule) is amended as follows.

(2) In sub-paragraph (1)(a)(i), for "or 19" substitute ", 19 or 22C".

(3) In sub-paragraph (2)—

(a) after paragraph (f) insert—

"(fa) paragraph 22C (duty to provide further information requested by HMRC: paragraph 22(3) case);";

(b) after paragraph (g) insert—

"(ga) paragraph 23A(2) (duty to notify client of reference number: paragraph 22(3) case)".

(4) In sub-paragraph (4), in the table, at the end insert—

"A failure to comply with paragraph 22C	The first day after the end of the period before the end of which the person must comply with paragraph 22C"

40 In paragraph 40 (penalties: supplementary), in sub-paragraph (2), after paragraph (a) (but before the "and" immediately after it) insert—

"(aa) in the case of a penalty for a person's failure to comply with paragraph 22C, to the amount of any fees received, or likely to have been received, by the person in connection with the arrangements, the proposed arrangements or the proposal,".

41 In paragraph 57(1) (interpretation of Schedule), for the definition of "reference number" substitute—

""reference number" means a reference number allocated under paragraph 22;".

PART 3

OTHER AMENDMENTS

42 (1) Section 98C of TMA 1970 (notification under Part 7 of FA 2004: penalties) is amended as follows.

(2) In subsection (1)(a)(i), for "or (ca)" substitute ", (ca) or (cc)".

(3) In subsection (2)—

(a) after paragraph (cb) insert—

"(cc) section 311C (duty to provide further information requested by HMRC: section 311(3) case);";

(b) after paragraph (d) insert—

"(dza) section 312ZA(2) (duty to notify client of reference number: section 311(3) case);".

(4) In subsection (2ZA)(b), at the beginning insert "(subject to subsection (2ZAB))".

(5) In subsection (2ZA), in the table, at the end insert—

"A failure to comply with section 311C	The first day after the end of the period before the end of which the person must comply with section 311C"

(6) After subsection (2ZA) insert—

"(2ZAA) Subsection (2ZAB) applies where—

(a) a person fails to comply with a provision mentioned in subsection (2)(a), (b) or (c) in respect of arrangements or proposed arrangements, and

(b) a reference number is subsequently allocated to the arrangements or proposed arrangements in a case within section 311(3) of the Finance Act 2004 (case where notice given under section 310D)).

(2ZAB) Where this subsection applies, the failure to comply is taken for the purposes of this section to have ceased on the day before the reference number is allocated, if it has not already ceased."

(7) In subsection (2ZB), after paragraph (a) (but before the "and" immediately after it) insert—

"(aa) in the case of a penalty for a person's failure to comply with section 311C, to the amount of any fees received, or likely to have been received, by the person in connection with the arrangements, the proposed arrangements or the proposal,".

43 (1) Chapter 3 of Part 4 of FA 2014 (accelerated payment) is amended as follows.

(2) In section 219 (circumstances in which an accelerated payment notice may be given)—

(a) in subsection (5)(a), omit "notifiable";

(b) in subsection (5)(b), omit "notifiable" in each place;

(c) in subsection (5)(c)—

(i) for "the promoter" substitute "a person";

(ii) after "312(2)" insert "or 312ZA(2)";

(iii) omit "notifiable";

(d) in subsection (6)—

(i) omit "notifiable";

(ii) after "312(6)" insert "or 312ZA(4)";

(iii) for "promoters" substitute "persons".

(3) In section 227 (withdrawal, modification or suspension of accelerated payment notice), for subsection (5) substitute—

"(5) Where an accelerated payment notice is given by virtue of the Condition C requirement in section 219(4)(b), and—

(a) under section 311(8) or 311B(8) of FA 2004, HMRC withdraw the reference number allocated to the chosen arrangements, or to proposed arrangements implemented by the chosen arrangements, or

(b) HMRC give notice under section 312(6) or 312ZA(4) of FA 2004, with the result that persons are no longer under the duty in section 312(2) or (as the case may be) section 312ZA(2) of that Act in relation to the chosen arrangements,

HMRC must withdraw the accelerated payment notice, to the extent that it was given by virtue of the Condition C requirement."

PART 4

COMMENCEMENT

44 This Schedule comes into force on the day on which this Act is passed ("the commencement date"), subject to paragraphs 45 and 46.

45 (1) Section 310D of FA 2004 (inserted by paragraph 4) applies only in relation to transactions entered into, firm approaches made, and proposals that are made available for implementation, on or after the commencement date.

(2) So far as applicable to a person who is not a promoter in relation to the arrangements or proposed arrangements, section 312ZA of FA 2004 (inserted by paragraph 7) applies only where a person is providing, or has provided, services to the client (within the meaning of that section) on or after the commencement date.

(3) Section 316C(1)(c) of FA 2004 (inserted by paragraph 16(2)) applies—

(a) in relation to a person who is or was a promoter in relation to arrangements or proposed arrangements, regardless of when that is or was the case, and

(b) in relation to a person who is otherwise involved in the supply of arrangements or proposed arrangements, only where the person is so involved on or after the commencement date.

(4) Expressions used in this paragraph and Part 7 of FA 2004 have the same meaning in this paragraph as they have in that Part.

46 (1) Paragraph 21A of Schedule 17 to F(No.2)A 2017 (inserted by paragraph 22) applies only in relation to transactions entered into, firm approaches made, and proposals that are made available for implementation, on or after the commencement date.

(2) So far as applicable to a person who is not a promoter in relation to the arrangements or proposed arrangements, paragraph 23A of Schedule 17 to F(No.2)A 2017 (inserted by paragraph 26) applies only where a person is providing, or has provided, services to the client (within the meaning of that paragraph) on or after the commencement date.

(3) Paragraph 36(1)(c) of Schedule 17 to F(No.2)A 2017 (inserted by paragraph 37(2)) applies—

(a) in relation to a person who is or was a promoter in relation to arrangements or proposed arrangements, regardless of when that is or was the case, and

(b) in relation to a person who is otherwise involved in the supply of arrangements or proposed arrangements, only where the person is so involved on or after the commencement date.

(4) Expressions used in this paragraph and Schedule 17 to F(No.2)A 2017 have the same meaning in this paragraph as they have in that Schedule.

SCHEDULE 32

Section 124

THE GAAR AND PARTNERSHIPS

PART 1

NEW SCHEDULE TO FA 2013

1 After Schedule 43C of FA 2013 insert—

"SCHEDULE 43D

Section 209

THE GAAR AND PARTNERSHIPS

PART 1

GENERAL

Introductory

1 (1) This Schedule makes provision about the operation of the general anti-abuse rule in relation to partnerships.

(2) This Schedule applies where—

(a) a return is made under section 12AA of TMA 1970 (a "section 12AA partnership return"), or

(b) a return is made in accordance with regulations under paragraph 10 of Schedule A1 to TMA 1970 (a "Schedule A1 partnership return").

Meaning of "the responsible partner"

2 In this Schedule, "the responsible partner" means—

(a) in relation to the making of a section 12AA partnership return, the person who delivered the return or their successor (within the meaning of section 12AA(11) of TMA 1970);

(b) in relation to the making of a Schedule A1 partnership return, the nominated partner (within the meaning of paragraph 5 of Schedule A1 to TMA 1970).

Partnership return made on basis that tax advantage arises

3 (1) For the purposes of this Schedule, a partnership return is regarded as made on the basis that a particular tax advantage arises (or might arise) to a partner from particular arrangements if—

(a) it is made on the basis that an increase or reduction in one or more of the amounts mentioned in section 12AB(1) of TMA 1970 (amounts in the partnership statement in a partnership return) results (or might result) from those arrangements, and

(b) that increase or reduction results (or might result) in that tax advantage for the partner.

(2) In sub-paragraph (1) and in the following provisions of this Schedule "partnership return" means a section 12AA partnership return or a Schedule A1 partnership return.

PART 2

PROTECTIVE GAAR NOTICES

Power to give protective GAAR notice to responsible partner

4 (1) If an officer of Revenue and Customs considers, in relation to a partnership—

(a) that a partnership return has been made on the basis that a tax advantage arises (or might arise) to one or more partners from tax arrangements that are abusive, and

(b) that, on the assumption that the advantage does arise from tax arrangements that are abusive, it ought to be counteracted under section 209,

the officer may give a written notice to that effect (a "protective GAAR notice") to the responsible partner.

(2) Subsections (2) to (9) of section 209AA apply in relation to a protective GAAR notice given under this paragraph as they apply in relation to a protective GAAR notice given under that section, subject to the modifications in sub-paragraphs (3) and (4).

(3) Section 209AA(3) is to be read as if—

(a) for "a return made by the person, and" there were substituted "the partnership return", and

(b) paragraph (b) were omitted.

(4) Section 209AA(8) is to be read as if, for "212A", there were substituted "212B".

PART 3

NOTICES OF PROPOSED COUNTERACTION

Power to give notice of proposed counteraction to responsible partner

5 (1) If a designated HMRC officer considers that, in relation to a partnership—

(a) a partnership return has been made on the basis that a tax advantage has arisen to one or more partners from tax arrangements that are abusive, and

(b) the tax advantage ought to be counteracted under section 209,

the officer may give the responsible partner a written notice under this paragraph.

(2) A partner who appears to a designated HMRC officer to fall within sub-paragraph (1)(a) is a "relevant partner" for the purposes of this Part of this Schedule.

(3) The notice must—

(a) specify each relevant partner, the arrangements and the tax advantage,

(b) explain why the officer considers that a tax advantage has arisen to each relevant partner from tax arrangements that are abusive,

(c) set out the counteraction that the officer considers ought to be taken,

(d) inform the responsible partner of the period for making representations under paragraph 4 of Schedule 43, and

(e) explain the effect of—

(i) paragraphs 5 and 6 of Schedule 43, and

(ii) sections 209(8) and 212B.

(4) The notice may set out steps that may be taken to avoid the proposed counteraction.

(5) If, after the notice has been given, it appears to a designated HMRC officer that the tax advantage has not in fact arisen to a partner specified in the notice, the officer must amend the notice accordingly.

(6) Where a designated HMRC officer so amends a notice—

(a) it is treated as having been given in the amended form, and

(b) the officer may take such other steps as the officer considers appropriate.

Effect of giving a notice under paragraph 5

6 Where an officer gives a notice under paragraph 5 in respect of a tax advantage, this Part of this Act has effect in relation to the tax advantage with the modifications in paragraph 7.

Modifications to Schedule 43

7 (1) Schedule 43 (procedural requirements) has effect with the following modifications.

(2) Schedule 43 is to be read as if paragraphs 1A and 3 were omitted.

(3) References to a notice given under paragraph 3 of Schedule 43 are to be read as if they were to a notice given under paragraph 5 of this Schedule.

(4) In paragraphs 4 and 6 to 12, references to the taxpayer are to be read as if they were to the responsible partner.

(5) Schedule 43 is to be read as if, for paragraphs 4A and 4B (and the headings before those paragraphs), there were substituted—

"Corrective action taken by the responsible partner

4A (1) Where, in respect of a partnership—

(a) a designated HMRC officer gives a notice under paragraph 5 of Schedule 43D in respect of a tax advantage arising to one or more partners,

(b) the closed period mentioned in section 209(8) has not begun, and

(c) the responsible partner—

(i) amends a partnership return or claim to counteract the tax advantage, and

(ii) notifies HMRC of that fact,

the matter is not to be referred to the GAAR Advisory Panel.

(2) Where a tax enquiry is in progress, no enactment limiting the time during which amendments may be made to returns or claims operates to prevent the responsible partner taking the action mentioned in sub-paragraph (1)(c)(i) and (ii) before the enquiry is closed.

(3) No appeal may be brought, by virtue of a provision mentioned in sub-paragraph (4), against an amendment made by a closure notice in respect of a tax enquiry, to the extent that the amendment takes into account an amendment made by the responsible partner to a return or claim as mentioned in sub-paragraph (1)(c).

(4) The provisions are—

(a) section 31(1)(b) or (c) of TMA 1970,

(b) paragraph 9 of Schedule 1A to TMA 1970.

Corrective action by relevant partners

4B (1) Where, in respect of a partnership—

(a) a designated HMRC officer gives a notice under paragraph 5 of Schedule 43D in respect of a tax advantage arising to one or more partners,

(b) the closed period mentioned in section 209(8) has not begun, and

(c) a partner mentioned in paragraph (a) takes all necessary action to enter into an agreement with HMRC (in writing) for the purpose of relinquishing the tax advantage,

the partner is not to be treated as a relevant partner for the purposes of Part 3 of Schedule 43D.

(2) As soon as is practicable after the beginning of the closed period, the notice given under paragraph 5 of Schedule 43D must be amended by a designated HMRC officer so each partner to whom sub-paragraph (1) applies is no longer specified in it.

(3) Where a notice is amended in accordance with sub-paragraph (2), the notice is treated as having been given in the amended form.

(4) If a partner to whom sub-paragraph (1) applies fails to enter into the written agreement, HMRC may proceed as if that sub-paragraph had not applied in relation to the

partner (and accordingly, as if the partner were a relevant partner).

Referral to GAAR Advisory Panel

4C Paragraph 5 and 6 apply if, immediately before the beginning of the closed period mentioned in section 209(8)—

(a) the responsible partner has not taken the action described in paragraph 4A(1)(c), and

(b) there is at least one relevant partner."

Notices may be given on assumption that tax advantage does arise

8 (1) A designated HMRC officer may give a notice, or do anything else, under this Part of this Schedule where the officer considers that a tax advantage might have arisen.

(2) Accordingly, any notice given by a designated HMRC officer under paragraph 5 may be expressed to be given on the assumption that the tax advantage does arise (without agreeing that it does).

HMRC officers

9 Anything that may or must be done by a given designated HMRC officer under this Part of this Schedule may be done instead by any other designated HMRC officer.

PART 4

POOLING NOTICES AND NOTICES OF BINDING

Power to give pooling notice or notice of binding to responsible partner

10 (1) If a designated HMRC officer—

(a) has the power to give to a person ("R") a pooling notice under paragraph 1(3) or a notice of binding under paragraph 2(2) of Schedule 43A in respect of a tax advantage arising from tax arrangements ("R's arrangements"), and

(b) considers that a partnership return has been made on the basis that the tax advantage has arisen to R, or to R and one or more of R's partners, from R's arrangements,

the officer may give the pooling notice or notice of binding to the responsible partner under this paragraph.

(2) A partner (including R) who appears to a designated HMRC officer to fall within sub-paragraph (1)(b) is a "relevant partner" for the purposes of this Part of this Schedule.

(3) If, after the notice has been given, it appears to a designated HMRC officer that the tax advantage has not in fact arisen to a partner specified in the notice, the officer must amend the notice accordingly.

(4) Where a designated HMRC officer so amends the notice—
  (a) it is treated as having been given in the amended form, and
  (b) the officer may take such other steps as the officer considers appropriate.

(5) The officer may not give a pooling notice under this paragraph if a notice under paragraph 5 has been given in respect of R's arrangements.

(6) The officer may not give a notice of binding under this paragraph if, in respect of R's arrangements, one of the following notices has been given—
  (a) a pooling notice under this paragraph, or
  (b) a notice under paragraph 5.

Effect of giving notice under paragraph 10

11 Where a pooling notice or notice of binding is given to the responsible partner under paragraph 10, this Part of this Act has effect in relation to the tax advantage with the modifications in paragraphs 12 and 13.

Modifications to Schedule 43A

12 (1) Schedule 43A (procedural requirements: pooling notices and notices of binding) has effect with the following modifications.

(2) Paragraph 1 is to be read as if, in sub-paragraph (3A), after "lead arrangements" there were inserted "(whether under this Schedule or Schedule 43D)".

(3) Paragraph 3 is to be read as if—
  (a) in sub-paragraph (2)(a), after "specify" there were inserted "each relevant partner,",
  (b) in sub-paragraph (2)(c), for "R" there were substituted "each relevant partner", and
  (c) in sub-paragraph (3), for "R may" there were substituted "may be taken",

(4) Schedule 43A is to be read as if, for paragraph 4 (and the heading before it), there were substituted—

"*Corrective action by responsible partner*

4 (1) Where, in respect of a partnership—
  (a) a designated HMRC officer gives a pooling notice or notice of binding under paragraph 10 of Schedule 43D in respect of a tax advantage arising to one or more partners,
  (b) the closed period mentioned in section 209(9) has not begun, and
  (c) the responsible partner—
    (i) amends a partnership return or claim to counteract the tax advantage, and
    (ii) notifies HMRC of that fact,

the responsible partner is treated for the purposes of paragraphs 6 to 9 and Schedule 43B as not having been given the notice in question.

(2) Where a tax enquiry is in progress, no enactment limiting the time during which amendments may be made to returns or claims operates to prevent the responsible partner taking the action mentioned in sub-paragraph (1) before the enquiry is closed.

(3) No appeal may be brought, by virtue of a provision mentioned in sub-paragraph (4), against an amendment made by a closure notice in respect of a tax enquiry, to the extent that the amendment takes into account an amendment made by the responsible partner to a return or claim as mentioned in sub-paragraph (1)(c).

(4) The provisions are—

(a) section 31(1)(b) or (c) of TMA 1970,

(b) paragraph 9 of Schedule 1A to TMA 1970.

Corrective action by relevant partners

4A (1) Where, in respect of a partnership—

(a) a designated HMRC officer gives a pooling notice or notice of binding under paragraph 10 of Schedule 43D in respect of a tax advantage arising to one or more partners,

(b) the closed period mentioned in section 209(9) has not begun, and

(c) a partner mentioned in paragraph (a) takes all necessary action to enter into an agreement with HMRC (in writing) for the purpose of relinquishing the tax advantage,

the partner is not to be treated as a relevant partner for the purposes of Part 4 of Schedule 43D.

(2) As soon as is practicable after the beginning of the closed period, the pooling notice or notice of binding must be amended by a designated HMRC officer so each partner to whom sub-paragraph (1) applies is no longer specified in it.

(3) Where a notice is amended in accordance with sub-paragraph (2), the notice is treated for the purposes of paragraphs 6 to 9 and Schedule 43B as having been given in the amended form.

(4) If a partner to whom sub-paragraph (1) applies fails to enter into the written agreement, HMRC may proceed as if that sub-paragraph had not applied in relation to the partner (and accordingly, as if the partner were a relevant partner)."

(5) Paragraph 7(3)(a) is to be read as if "to the person" were omitted.

(6) Paragraph 8(1) is to be read as if for "paragraph 1(3)" there were substituted "paragraph 10 of Schedule 43D."

(7) Paragraph 10(b) is to be read as if for "the person concerned" there were substituted "the responsible partner".

(8) Paragraph 9(1)(a) is to be read as if for "paragraph 2" there were substituted "paragraph 10 of Schedule 43D". *5*

(9) Paragraph 11(c) is to be read as if "to a person" were omitted.

Modifications to Schedule 43B

13 (1) Schedule 43B to FA 2013 (procedural requirements: generic referral of tax arrangements) has effect with the modifications in sub-paragraph (2). *10*

(2) Paragraph 1 is to be read as if—

(a) in sub-paragraph (1)(a), for "paragraph 1(3) of Schedule 43A" there were substituted "paragraph 10 of Schedule 43D", *15*

(b) for the words before sub-paragraph (b)(i), there were substituted "the relevant corrective action has been taken before", and

(c) after sub-paragraph (5), there were inserted—

"(6) For the purposes of sub-paragraph (1)(b) the "relevant corrective action" is taken if (and only if) in respect of the tax advantage arising out of the lead arrangements— *20*

(a) the responsible partner has taken the action mentioned in paragraph 4A(1)(c) of Schedule 43, or

(b) each of the relevant partners in question have taken the action described in paragraph 4B(1)(c) of that Schedule." *25*

Notices may be given on assumption that tax advantage does arise

14 (1) A designated HMRC officer may give a notice, or do anything else, under this Part of this Schedule where the officer considers that a tax advantage might have arisen. *30*

(2) Accordingly, any notice given by a designated HMRC officer under paragraph 10 may be expressed to be given on the assumption that the tax advantage does arise (without agreeing that it does). *35*

HMRC officers

15 Anything that may or must be done by a given designated HMRC officer under this Part of this Schedule may be done instead by any other designated HMRC officer."

PART 2

MINOR AND CONSEQUENTIAL AMENDMENTS TO PART 5 OF FA 2013

2 Part 5 of FA 2013 is amended as follows.

3 (1) Section 209 (counteracting tax advantages) is amended as follows.

(2) In subsection (5), for "the person to whom the tax advantage would arise" substitute "anyone else".

(3) After subsection (6) insert—

"(6A) The procedural requirements mentioned in subsection (6)(a) include any procedural requirements which apply under or by virtue of Schedule 43D (which makes provision in relation to partnerships)."

(4) For subsections (8) and (9) substitute—

"(8) Where a matter is referred to the GAAR Advisory Panel under paragraph 5 or 6 of Schedule 43 in relation to any tax arrangements, no GAAR-related adjustments may be made in the period ("the closed period") that—

(a) begins with the 31st day after the end of the 45 day period mentioned in paragraph 4(1) of Schedule 43, and

(b) ends immediately before the day on which the notice under paragraph 12 of Schedule 43 is given in relation to the tax arrangements.

(9) Where a pooling notice or notice of binding has been given in relation to any tax arrangements, no GAAR-related adjustments may be made in the period ("the closed period") that—

(a) begins with the 31st day after the day on which the notice is given, and

(b) ends immediately before the day on which a notice under paragraph 8(2) or 9(2) of Schedule 43A, or a notice under paragraph 8(2) of Schedule 43B, is given in relation to the tax arrangements (as the case may be)."

(5) In subsection (10)(a), after "43" insert "or paragraph 5 of Schedule 43D."

4 After section 209AB insert—

"209ABA Adjustments under section 209: notices under Schedule 43D

(1) This section applies in the case of any particular adjustments in respect of a particular period or matter ("the adjustments concerned") if, in relation to a partnership—

(a) the responsible partner is given a notice under paragraph 5 or 10 of Schedule 43D ("the Schedule 43D notice") that specifies the adjustments concerned (whether or not other adjustments are specified),

(b) the Schedule 43D notice is given within the relevant time limit applicable to the adjustments concerned, and

(c) the adjustments concerned have not been specified in a protective GAAR notice given before the time at which the Schedule 43D notice is given.

(2) The Schedule 43D notice is given within the relevant time limit if—

(a) it is given within the ordinary assessing time limit applicable to the adjustments concerned, or

(b) in a case where a tax enquiry is in progress into a partnership return made by the responsible partner and the particular adjustments concerned relate to the matters contained in the return, it is given no later than the time when the enquiry is completed.

(3) The adjustments concerned have effect as if they are made by virtue of section 209.

(4) If, in the case of the specified adjustments (whether made by virtue of section 209 or otherwise)—

(a) notice of appeal is not given or notice of appeal is given but the appeal is subsequently withdrawn or determined by agreement, and

(b) no final GAAR counteraction notice is given,

the Schedule 43D notice has effect for all purposes (other than the purposes of section 212B) as if it had been given as a final GAAR counteraction notice (and, accordingly, as if the GAAR procedural requirements had been complied with).

(5) In any case not falling within subsection (4)—

(a) the adjustments concerned have no effect (so far as they are made by virtue of section 209) unless they (or lesser adjustments) are subsequently specified in a final GAAR counteraction notice, but

(b) the giving of the Schedule 43D notice is treated as meeting the requirements of section 209(6)(b) in the case of that final GAAR counteraction notice.

(6) In subsection (1) "protective GAAR notice" means a protective GAAR notice given under section 209AA or paragraph 4 of Schedule 43D.

(7) In this section "the responsible partner" and "partnership return" have the same meaning as in Schedule 43D."

5 (1) Section 209AC (sections 209AA and 209AB: definitions) is amended as follows.

(2) In the heading for "and 209AB" substitute "to 209ABA".

(3) In subsection (1)—

(a) in the opening words for "and 209AB" substitute "to 209ABA",

(b) in the definition of "GAAR procedural requirements" for "or 43B" substitute ", 43B, or (as the case may be) 43D", and

(c) in the definition of "lesser adjustments" after "Schedule 43 or 43A notice" insert "(within the meaning of section 209AB) or the Schedule 43D notice (within the meaning of section 209ABA)".

(4) In subsection (2) for "and 209AB" substitute "to 209ABA".

6 In section 210 (consequential relieving adjustments)—

(a) in subsection (1)(b) omit "by the taxpayer", and

(b) for subsection (10) substitute—

"(10) For the purposes of subsection (1)(b), HMRC must be notified—

(a) in a case where Schedule 43D applies, by the responsible partner (within the meaning of that Schedule), and

(b) in any other case, by the person to whom the tax advantage would have arisen."

7 In section 212A (penalty), in subsection (1)(c)(ii) for "paragraph (c)" substitute "paragraph (b)".

8 After section 212A insert—

"212B Penalty: partnerships

(1) This section applies if, in respect of a partnership—

(a) the responsible partner has been given a notice under—

(i) paragraph 12 of Schedule 43,

(ii) paragraph 8 or 9 of Schedule 43A, or

(iii) paragraph 8 of Schedule 43B,

stating that a tax advantage is to be counteracted, and

(b) the tax advantage, so far as arising to a partner (P) in the partnership, has been counteracted by the making of adjustments under section 209.

(2) P is liable to pay a penalty of an amount equal to 60% of the value of the counteracted tax advantage.

(3) Schedule 43C—

(a) gives the meaning of "the value of the counteracted tax advantage", and

(b) makes other provision in relation to penalties under this section.

(4) For the meaning of "the responsible partner" see paragraph 2 of Schedule 43D."

9 In section 214(1)—

(a) in the entry for "notice of binding" after "43A" insert "or paragraph 10 of Schedule 43D (as the case may be)",

(b) in the entry for "pooling notice" for "paragraph 1(4) of Schedule 43A" insert "paragraph 1(3) of Schedule 43A or paragraph 10 of Schedule 43D (as the case may be);", and

(c) omit the entry for "tax appeal".

10 (1) Schedule 43 (general anti-abuse rule: procedural requirements) is amended as follows.

(2) Omit paragraph 1A.

(3) In paragraph 4A(3)(b) omit the words from the beginning to "that notice,".

(4) In paragraph 4A(7)—

(a) at the beginning insert "Where a tax enquiry is in progress,", and
(b) omit "(whether or not before the specified time)".

(5) In paragraph 13(1) omit "to the taxpayer".

(6) After paragraph 13 insert—

"HMRC officers 5

14 Anything that may or must be done by a given designated HMRC officer under this Schedule may be done instead by any other designated HMRC officer."

11 (1) Schedule 43A (procedural requirements: pooling notices and notices of binding) is amended as follows. 10

(2) In paragraph 1(1), after "43" insert ", or paragraph 5 of Schedule 43D,".

(3) In paragraph 4(7), at the beginning insert "Where a tax enquiry is in progress,".

(4) In paragraph 12(1), omit "to the person concerned".

12 (1) Schedule 43B (procedural requirements: generic referral of tax arrangements) is amended as follows. 15

(2) In paragraph 2(1)(a), after "43" insert "or paragraph 5 of Schedule 43D (as the case may be)".

(3) In paragraph 3—
(a) in sub-paragraph (3)(a), after "43" insert "or paragraph 5 of Schedule 43D (as the case may be)", 20
(b) in sub-paragraph (3A), after "43" insert "or paragraph 5 of Schedule 43D", and
(c) in sub-paragraph (3A) omit "(by virtue of paragraph 4A of that Schedule)". 25

(4) In paragraph 9(1), omit "to the person concerned".

13 (1) Schedule 43C (penalty under section 212A: supplementary provision) is amended as follows.

(2) In the heading after "212A" insert "or 212B".

(3) In paragraph 1, for "section 212A" substitute "sections 212A and 212B" 30

(4) In paragraph 2—
(a) for sub-paragraph (1), substitute—

"(1) The "value of the counteracted tax advantage" is—
(a) for a penalty under section 212A, the additional amount due or payable in respect of tax as a result of the counteraction mentioned in subsection (1)(d) of that section, and 35
(b) for a penalty under section 212B, the additional amount due or payable in respect of tax (by the partner in question) as a result of the counteraction mentioned in subsection (1)(b) of that section.", 40

(b) for "section 212A(1)(c)" substitute "section 212A(1)(d) or as result of the counteraction mentioned in 212B(1)(b) (as the case may be)", and

(c) in sub-paragraph (5), for "the", in the second place it occurs, substitute "a".

(5) In paragraph 3(1) omit "mentioned in section 212A(1)(b) ("the tax advantage")". 5

(6) In paragraph 4(1), after "212A" insert "or 212B (as the case may be)".

(7) In paragraph 5—

(a) in sub-paragraph (1), after "212A" insert "or 212B (as the case may be)", and 10

(b) in sub-paragraph (2), for paragraph (a) substitute—

"(a) notify—

(i) where the penalty is under section 212A, the person who is liable for it;

(ii) where the penalty is under section 212B, the person who is liable for it and the responsible partner.", and 15

(c) in sub-paragraph (5), after "section 212A(1)(d)" insert "or section 212B(1)(b) (as the case may be)".

(8) In paragraph 8— 20

(a) in sub-paragraph (1)(b), after "212A" insert "or 212B (as the case may be)", and

(b) in sub-paragraph (4), after "212A" insert "or 212B".

(9) In paragraph 9—

(a) in sub-paragraph (1)(a), after "212A" insert "or 212B", and 25

(b) after sub-paragraph (1) insert—

"(1A) Where the penalty is under section 212B, an appeal against it must be brought by the responsible partner."

(10) In paragraph 10(1), after section 212A insert "or 212B".

SCHEDULE 33

Section 125 30

LICENSING AUTHORITIES: REQUIREMENTS TO GIVE OR OBTAIN TAX INFORMATION

Meaning of "authorisation", "authorised activity" and "licensing authority" etc

1 (1) In this Schedule—

(a) "authorisation" means an authorisation mentioned in the first column of the table in sub-paragraph (2); 35

(b) "authorised activity" means the activity authorised by an authorisation (described, for ease of reference, in the second column of the table);

(c) "licensing authority" means the person who grants an authorisation (described, for ease of reference, in the third column of the table); 40

(d) references to the "category" of an authorisation or authorised activity are to the category assigned to it in the fourth column of the table.

(2) Here is the table—

Authorisation	*Authorised activity*	*Licensing authority*	*Category*
A licence under section 46 of TPCA 1847	Driving a hackney carriage	The Commissioners (within the meaning of TPCA 1847)	1
A licence under section 8 of MPCA 1869	Driving a hackney carriage (London)	Transport for London	1
A licence under section 9 of PCCA 1975	Driving a private hire vehicle (Plymouth)	Plymouth City Council	1
A licence under section 51 of LG(MP)A 1976	Driving a private hire vehicle	A district council (within the meaning of Part 2 of LG(MP)A 1976)	1
A licence under section 13 of PHV(L)A 1998	Driving a private hire vehicle (London)	The licensing authority (within the meaning of PHV(L)A 1998)	1
A licence under section 13 of PCCA 1975	Operating a private hire vehicle (Plymouth)	Plymouth City Council	2
A licence under section 55 of LG(MP)A 1976	Operating a private hire vehicle	A district council (within the meaning of Part 2 of LG(MP)A 1976)	2
A licence under section 3 of PHV(L)A 1998	Operating a private hire vehicle (London)	The licensing authority (within the meaning of PHV(L)A 1998)	2
A site licence under SMDA 2013 (see section 2 of that Act)	Carrying on business as a scrap metal dealer at a site	A local authority (within the meaning of SMDA 2013)	3
A collector's licence under SMDA 2013 (see section 2 of that Act)	Carrying on business as a scrap metal dealer as a mobile collector	A local authority (within the meaning of SMDA 2013)	4

(3) In the table—

"LG(MP)A 1976" means the Local Government (Miscellaneous Provisions) Act 1976;

"MPCA 1869" means the Metropolitan Public Carriage Act 1869;

"PCCA 1975" means the Plymouth City Council Act 1975;

"PHV(L)A 1998" means the Private Hire Vehicles (London) Act 1998;

"SMDA 2013" means the Scrap Metal Dealers Act 2013;

"TPCA 1847" means the Town Police Clauses Act 1847.

First-time application: licensing authority required to give information about tax compliance

2 (1) Sub-paragraph (2) applies where—
(a) an individual or company applies to a licensing authority for an authorisation, and
(b) the application is a first-time application.

(2) The licensing authority may not consider the application until it has—
(a) drawn the applicant's attention to such guidance relating to tax compliance as is for the time being specified for the purposes of this paragraph by the HMRC Commissioners,
(b) obtained confirmation from the applicant that the applicant is aware of the contents of that guidance, and
(c) drawn the applicant's attention to the powers of officers of HMRC to obtain information from the licensing authority about the applicant arising under—
(i) Schedule 36 to FA 2008 (information and inspection powers), and
(ii) Schedule 23 to FA 2011 (data-gathering powers).

(3) For the purposes of this Schedule an application for an authorisation is a "first-time" application if the applicant—
(a) has not previously been granted a relevant authorisation, or
(b) has previously been granted a relevant authorisation, but no relevant authorisation has been in effect in relation to the person for a period of one year ending with the date on which the application is made.

(4) For the purposes of sub-paragraph (3) an authorisation is "relevant" if—
(a) it is the authorisation to which the application in question relates, or
(b) it is in the same category as that authorisation.

Renewed application: licensing authority required to obtain confirmation of tax check

3 (1) Sub-paragraph (2) applies where—
(a) an individual or company applies to a licensing authority for an authorisation, and
(b) the application is not a first-time application.

(2) The licensing authority may not consider the application unless it has—
(a) requested confirmation from HMRC that the applicant has, within the required period, completed a tax check in relation to the authorised activity in question, and
(b) obtained that confirmation from HMRC.

(3) Sub-paragraph (2) is subject to paragraph 6 (no requirement to confirm completion of tax check where HMRC in default).

(4) For the purposes of this Schedule "the required period", in relation to an application, means the period of 120 days ending with the day on which the request under sub-paragraph (2)(a) is made in relation to the application.

HMRC required to make arrangements in connection with tax checks

4 (1) HMRC must make arrangements (whether by means of a website or otherwise) for—
(a) enabling tax checks to be undertaken by persons who have applied, or who propose to apply, for an authorisation,
(b) enabling licensing authorities to make, and HMRC to respond to, requests under paragraph 3(2)(a) (requests for confirmation of completed tax check), and

(2) HMRC must make arrangements (whether by means of a website or otherwise) for enabling licensing authorities to confirm the availability during any period of arrangements made pursuant to sub-paragraph (1)(a).

Tax checks

5 (1) For the purposes of this Schedule a person undertakes a "tax check" in relation to an authorised activity by doing the following in accordance with arrangements made pursuant to paragraph 4(1)(a)—
(a) giving HMRC such information as HMRC may reasonably request in order to be satisfied that the person has complied with any obligation of the person to give a notice of liability in respect of the relevant period,
(b) if the person has delivered a tax return to HMRC in respect of the relevant period, confirming to HMRC whether or not the return included information relating to relevant authorised activity income, and
(c) giving HMRC such information as HMRC may reasonably request in order to assess the effectiveness of this Schedule in improving the tax compliance of persons carrying on authorised activities.

(2) The information that HMRC may request a person to give under sub-paragraph (1)(a) and (c) includes, in particular—
(a) the person's name and other information enabling the person to be identified (such as an individual's or company's Unique Taxpayer Reference, an individual's date of birth or national insurance number, or a company's registered number);
(b) the authorised activity in respect of which the person has applied, or proposes to apply, for authorisation ("the authorised activity");
(c) information about the person's existing or previous authorisations in respect of the authorised activity or authorised activities in the same category as that activity (such as length or date of expiry).

(3) A tax check undertaken by a person in relation to an authorised activity—
(a) is "initiated" on the earlier of—
(i) the first day on which HMRC receive any information in response to a request under sub-paragraph (1)(a) and (c), and
(ii) in a case in which the person is required to give the confirmation mentioned in sub-paragraph (1)(b), the day on which HMRC receive that confirmation;
(b) is "completed" on the day on which HMRC indicates to the person that they are satisfied that they have received—
(i) all of the information requested under sub-paragraph (1)(a) and (c), and

(ii) in a case in which the person is required to give the confirmation mentioned in sub-paragraph (1)(b), that confirmation.

(4) In this paragraph—

"notice of liability" means—

(a) a notice under section 7 of TMA 1970 (notice of liability to income tax), or

(b) a notice under paragraph 2 of Schedule 18 to FA 1998 (duty to give notice of chargeability to corporation tax);

"relevant authorised activity income" means income that arose from the authorised activity or an authorised activity in the same category as that activity;

"the relevant period" means—

(a) in relation to a notice of liability or tax return under TMA 1970, the most recent tax year to have ended 6 months or more before the day on which the tax check is initiated;

(b) in relation to a notice of liability or tax return under Schedule 18 to FA 1998, the most recent accounting period of the company to have ended 12 months or more before the day on which the tax check is initiated;

"tax return" means—

(a) a return required to be made under section 8 of TMA 1970 (personal return), or

(b) a return required to be made under paragraph 3 of Schedule 18 to FA 1998 (company tax return).

Requirement to confirm completion of tax check ceases to apply if HMRC in default

6 (1) Paragraph 3(2) (requirement of licensing authority to request and receive confirmation that applicant has completed tax check before considering application) ceases to apply in relation to an application if either of the following conditions is met.

(2) The first condition is that—

(a) at any time after the application is made, the licensing authority requests the applicant to give it further information for the purpose of enabling it to make a request, or make a further request, under paragraph 3(2)(a) (request for confirmation of completed tax check) in relation to the application,

(b) the applicant notifies the licensing authority that arrangements made pursuant to paragraph 4(1)(a) (HMRC arrangements for enabling tax checks to be undertaken) were unavailable throughout—

(i) the period of 5 days beginning with the day on which the request under paragraph (a) was made, or

(ii) such later period of 5 days as the applicant specifies, and

(c) the licensing authority verifies, in accordance with arrangements made pursuant to paragraph 4(2), the information notified to the licensing authority under paragraph (b).

(3) The second condition is that—

(a) arrangements made pursuant to paragraph 4(1)(b) (HMRC arrangements for confirming tax check status) are unavailable throughout—
  (i) the period of 5 days beginning with the day on which the licensing authority first attempts to make use of them for the purposes of the application, or
  (ii) any later period of 5 days, and
(b) as a result, the licensing authority is prevented from making a request under paragraph 3(2)(a) (request for confirmation of completed tax check) in relation to the application that it would otherwise have made in that period.

Disclosure of information

7 (1) HMRC (or anyone acting on their behalf) may, for the purpose mentioned in sub-paragraph (2), disclose to a licensing authority (or anyone acting on their behalf) any confirmation or other information given to HMRC in the course of a tax check.

(2) The purpose is to enable or assist the licensing authority or HMRC to comply with this Schedule.

(3) A person who receives information as a result of this paragraph—
  (a) may use it only for the purpose of complying with this Schedule, and
  (b) may not further disclose it without the consent of the HMRC Commissioners (which may be general or specific).

(4) If—
  (a) a person discloses information in contravention of sub-paragraph (3)(b), and
  (b) the information relates to a person whose identity is specified in, or can be deduced from, the disclosure,

section 19 of CRCA 2005 (offence of wrongful disclosure) applies in relation to that disclosure as it applies in relation to a disclosure in contravention of section 20(9) of that Act.

(5) Nothing in this paragraph authorises a disclosure of information if the disclosure would contravene the data protection legislation or is prohibited by the investigatory powers legislation (but in determining whether a disclosure would do either of those things, the power conferred by sub-paragraph (1) is to be taken into account).

(6) In sub-paragraph (5)—
  "the data protection legislation" has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);
  "the investigatory powers legislation" means Parts 1 to 7 and Chapter 1 of Part 9 of the Investigatory Powers Act 2016.

(7) Nothing in this section limits the circumstances in which information may be disclosed under section 18(2) of CRCA 2005 or under any other enactment or rule of law.

Regulations

8 (1) The HMRC Commissioners may by regulations make provision about—

(a) the form or manner in which any information may or must be requested, or given, for the purposes of this Schedule;
(b) when any information is to be regarded for the purposes of this Schedule as having been requested, given or obtained;
(c) the retention or copying of any information obtained by a licensing authority (or anyone acting on its behalf) under this Schedule.

(2) References in sub-paragraph (1) to information include—
(a) the confirmation mentioned in paragraph 2(2)(b), 3(2) or 5(1)(b), and
(b) the indication mentioned in paragraph 5(3).

(3) Regulations under sub-paragraph (1) may—
(a) make provision which applies generally or only for specified cases or purposes;
(b) make different provision for different cases or purposes;
(c) include incidental, consequential, transitional or transitory provision;
(d) confer a discretion on HMRC.

(4) The HMRC Commissioners may by regulations amend any of the following provisions by substituting a different number of days for that for the time being specified in it—
(a) paragraph 3(4) (length of period after which tax check expires);
(b) sub-paragraphs (i) and (ii) of paragraph 6(2)(b) (length of period throughout which HMRC systems must be unavailable to applicant for waiver of requirement for tax check);
(c) sub-paragraphs (i) and (ii) of paragraph 6(3)(a) (length of period throughout which HMRC systems must be unavailable to licensing authority for waiver of requirement for tax check).

(5) Regulations under this paragraph are to be made by statutory instrument.

(6) A statutory instrument containing regulations under this paragraph is subject to annulment in pursuance of a resolution of the House of Commons.

Interpretation

9 In this Schedule—

"authorisation" has the meaning given by paragraph 1;

"authorised activity" has the meaning given by paragraph 1;

"category", in relation to an authorisation or authorised activity, has the meaning given by paragraph 1;

"company" has the same meaning as in the Corporation Tax Acts (see section 1121 of CTA 2010);

"completed", in relation to a tax check, has the meaning given by paragraph 5(3);

"first-time", in relation to an application for an authorisation, has the meaning given by paragraph 2(3);

"HMRC" means Her Majesty's Revenue and Customs;

"HMRC Commissioners" means the Commissioners for Her Majesty's Revenue and Customs;

"initiated", in relation to a tax check, has the meaning given by paragraph 5(3);

"licensing authority" has the meaning given by paragraph 1;

"the required period", in relation to an application for an authorisation, has the meaning given by paragraph 3(4);

"tax check" has the meaning given by paragraph 5(1);

"tax compliance" means compliance with obligations under the Tax Acts.

Partnerships

10 (1) A reference in this Schedule to an individual or company applying for an authorisation includes a reference to that individual or company applying, in their capacity as a partner in a partnership, for an authorisation of the partnership.

(2) In relation to an application for an authorisation of the kind mentioned in sub-paragraph (1)—

(a) the reference to the applicant in paragraph 2(3) (meaning of "first-time" application) is to the partnership;

(b) any other reference in this Schedule to the applicant is to the individual or company who makes the application.

(3) In this paragraph—

(a) "partnership" includes a limited liability partnership that is carrying on a business with a view to profit, and

(b) "partner" includes a member of such a body.

Consequential amendments

11 (1) In the Transport Act 1985, section 17 (London taxi driver licensing: appeals) is amended in accordance with sub-paragraphs (2) and (3).

(2) In subsection (7) after "shall" insert "(subject to subsections (12) to (14))".

(3) After subsection (11) insert—

(12) Subsection (13) applies where—

(a) the application mentioned in subsection (7) is an application for a licence under section 8 of the Metropolitan Public Carriage Act 1869 (taxi driver licences),

(b) at any time after the application is made, the licensing authority requests the applicant to give it further information for the purpose of enabling it to make a request, or make a further request, under paragraph 3(2)(a) of Schedule 33 to the Finance Act 2021 (request for confirmation of completed tax check) in relation to the application, and

(c) at the end of the relevant period, the licensing authority continues to be prevented from considering the application by virtue of paragraph 3(2) of that Schedule to that Act.

(13) The existing licence mentioned in subsection (7) expires at the end of the relevant period.

(14) In subsections (12) and (13) "the relevant period" means—

(a) the period of 28 days beginning with the day on which the request under subsection (12)(b) is made, or

(b) if the final day of that period is earlier than the day on which (disregarding subsections (7) and (13)) the existing licence mentioned in subsection (7) expires, the period ending with that later day."

(4) In the Scrap Metal Dealers Act 2013, in Schedule 1 (further provision about licences), paragraph 1 (term of licence) is amended in accordance with sub-paragraphs (5) and (6).

(5) In sub-paragraph (2), after paragraph (a) insert—

"(aa) if—

(i) at any time after the application is made, the local authority requests the applicant to give it further information for the purpose of enabling it to make a request, or make a further request, under paragraph 3(2)(a) of Schedule 33 to the Finance Act 2021 (request for confirmation of completed tax check) in relation to the application, and

(ii) at the end of the relevant period, the local authority continues to be prevented from considering the application by virtue of paragraph 3(2) of that Schedule to that Act,

the licence expires at the end of that period;".

(6) After sub-paragraph (2) insert—

"(2A) In sub-paragraph (2)(aa) "the relevant period" means—

(a) the period of 28 days beginning with the day on which the request under sub-paragraph (2)(aa)(i) is made, or

(b) if the final day of that period is earlier than the day on which (disregarding sub-paragraph (2)) the licence expires, the period ending with that later day."

SCHEDULE 34

Section 128

INFORMATION POWERS: MISCELLANEOUS AMENDMENTS

1 Schedule 36 to FA 2008 (information and inspection powers) is amended as follows.

Disclosure of third party or financial institution notice

2 After paragraph 51 insert—

"Disclosure of third party or financial institution notice

51A (1) This paragraph applies if—

(a) a person ("P") is given a third party notice or financial institution notice ("the notice"), and

(b) the tribunal has disapplied the requirement in paragraph 4(1) or 4A(7)(a) (as the case may be) to give a copy of the notice to the taxpayer to whom it relates.

(2) The notice may include a requirement that P must not disclose the notice, or anything relating to it, to—
  (a) the taxpayer to whom the notice relates, or
  (b) any other person, except for a purpose relating to compliance with the notice.

(3) A requirement imposed under sub-paragraph (2) has effect for a period of 12 months beginning with the day on which P is given the notice unless, before the end of that period—
  (a) the requirement is withdrawn in accordance with sub-paragraph (4), or
  (b) the period is extended in accordance with sub-paragraph (5).

(4) An officer of Revenue and Customs may, by notice in writing to P, withdraw a requirement imposed under sub-paragraph (2).

(5) An officer of Revenue and Customs may—
  (a) by notice in writing to P, extend the period for which a requirement imposed under sub-paragraph (2) has effect for a further period of 12 months (beginning with the day after the last day of the previous period), and
  (b) do so on one or more occasions.

(6) An officer of Revenue and Customs may act under sub-paragraph (4) or (5) only if—
  (a) the officer is an authorised officer of Revenue and Customs, or
  (b) an authorised officer of Revenue and Customs has agreed to the withdrawal of the requirement or the extension of the period (as the case may be).

(7) An authorised officer of Revenue and Customs may only extend, or agree to the extension of, a period under sub-paragraph (5) if that officer has reasonable grounds for believing that not doing so might prejudice the assessment or collection of tax.

51B (1) A person who breaches a requirement imposed under paragraph 51A (not to disclose a notice or anything relating to it) is liable to a penalty of £1,000.

(2) If a person becomes liable for a penalty under sub-paragraph (1)—
  (a) HMRC may assess the penalty, and
  (b) if they do so, they must notify the person.

(3) The assessment must be made within the period of 12 months beginning with the date on which the breach of the requirement first came to the attention of an officer of Revenue and Customs.

(4) Paragraph 41 applies in relation to the sum specified in sub-paragraph (1) above as it applies in relation to the sums mentioned in paragraph 41(1) but as if—
  (a) the reference in paragraph 41(2)(a) to this Act were to FA 2021, and

(b) paragraph 41(3) prevented the regulations from applying to any breach committed before the date on which the regulations come into force.

51C (1) A person may appeal a decision of an officer of Revenue and Customs that a penalty is payable by the person under paragraph 51B.

(2) Paragraph 48 (procedure on appeal against penalty) applies in relation to an appeal under this paragraph as it applies in relation to an appeal under paragraph 47(1)(a) but as if the reference to the notification under paragraph 46 were to the notification under paragraph 51B(2)(b).

(3) Paragraph 49 (enforcement of penalty) applies in relation to a penalty under paragraph 51B as it applies in relation to a penalty under paragraph 39 but as if the reference to the notification under paragraph 46 were to the notification under paragraph 51B(2)(b)."

Increased daily default penalty

3 The existing text of paragraph 47 (right to appeal against penalty) is renumbered as sub-paragraph (1) and after that sub-paragraph as renumbered insert—

"(2) But sub-paragraph (1)(b) does not give a right of appeal against the amount of an increased daily penalty payable as a result of paragraph 49A."

4 In paragraph 48 (procedure on appeal against penalty)—

(a) in sub-paragraph (3), for "paragraph 47(a)" substitute "paragraph 47(1)(a)", and

(b) in sub-paragraph (4), for "paragraph 47(b)" substitute "paragraph 47(1)(b)".

5 (1) Paragraph 49A (increased daily penalty) is amended as follows.

(2) In sub-paragraph (1)(c), for "imposed" substitute "assessable".

(3) In sub-paragraph (2), for "imposed" substitute "assessable".

(4) For sub-paragraphs (3) and (4) substitute—

"(3) If the tribunal decides that an increased daily penalty should be assessable—

(a) the tribunal must determine the day from which the increased daily penalty is to apply and the maximum amount of that penalty ("the new maximum amount"), and

(b) from that day, paragraph 40(2) has effect in the person's case as if the new maximum amount were substituted for the amount for the time being specified there.

(4) The new maximum amount may not be more than £1,000."

(5) In sub-paragraph (5), in the opening words, for "the amount" substitute "the new maximum amount".

(6) In sub-paragraph (6), at the end insert "but as if the reference in paragraph 41(2)(a) to this Act were to FA 2021".

6 (1) Paragraph 49B is amended as follows.

(2) In sub-paragraph (1), for "a person becomes liable to a penalty" substitute "the tribunal makes a determination".

(3) In sub-paragraph (2), for the words from "the day" to the end substitute "the new maximum amount and the day from which it applies". *5*

(4) Omit sub-paragraph (3).

7 Omit paragraph 49C.

Power to give taxpayer notice following land transaction return

8 (1) Paragraph 21A (taxpayer notices following land transaction return) is amended as follows. *10*

(2) In sub-paragraph (2), for "A to C" substitute "A to D".

(3) After sub-paragraph (6) insert—

"(7) Condition D is that relief from stamp duty land tax has been given in respect of the transaction and the notice is given for the purpose of checking whether— *15*

(a) the relief is withdrawn to any extent under a provision mentioned in section 81 or 81ZA of FA 2003, or

(b) paragraph 6 of Schedule 6B to FA 2003 (transfers involving multiple dwellings) applies.

(8) Where condition D is met (and not any of conditions A to C), a taxpayer notice may not be given by virtue of this paragraph after the end of the period of 4 years beginning with the effective date of the transaction (but see sub-paragraph (9) in relation to PAIF seeding relief and COACS seeding relief). *20*

(9) Where condition D is met because the notice is given for the purpose of checking whether the relief is withdrawn to any extent under a paragraph of Schedule 7A to FA 2003 (PAIF seeding relief and COACS seeding relief), the reference in sub-paragraph (8) to the effective date of the transaction is to be read as a reference to the first day of the control period within the meaning of that Schedule (see paragraph 21 of that Schedule). *25* *30*

(10) "Effective date" has the same meaning for the purposes of sub-paragraph (8) as for the purposes of Part 4 of FA 2003 (see section 119 of that Act)."

Commencement *35*

9 The amendments made by paragraph 8 have effect whenever the land transaction return under section 76 of FA 2003 was delivered.

Finance Bill

A

B I L L

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.

Brought from the Commons on 25th May 2021

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