VALUE ADDED TAX ACT 1996
## VALUE ADDED TAX ACT 1996

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PART I – THE CHARGE TO TAX

Imposition and rate of VAT

1 Value added tax

[P1994/23/1; 1973/1/1(1), 2(3), 2A(4), 2B(1)]

(1) Value added tax shall be charged in accordance with the provisions of this Act —
   (a) on the supply of goods and services in the Island (including anything treated as such a supply);
   (b) on the acquisition in the Island from member States of any goods; and
   (c) on the importation of goods from places outside the member States into the Island,

and references in this Act to VAT are references to value added tax.

(2) VAT on any supply of goods or services is a liability of the person making the supply and (subject to provisions about accounting and payment) becomes due at the time of supply.

(3) VAT on any acquisition of goods from a member State is a liability of the person who acquires the goods and (subject to provisions about accounting and payment) becomes due at the time of acquisition.

(4) VAT on the importation of goods from places outside the member States into the Island shall be charged and payable as if it were a duty of customs.
2 Rate of VAT

(P1994/23/2; 1973/1/9(1))

(1) Subject to the following provisions of this section and to the provisions of section 29A and to any orders under sections 96 and 98, VAT shall be charged at the rate of 20% and shall be charged —

(a) on the supply of goods or services, by reference to the value of the supply as determined under this Act;

(b) on the acquisition of goods from a member State, by reference to the value of the acquisition as determined under this Act; and

(c) on the importation of goods from a place outside the member States, by reference to the value of the goods as determined under this Act.¹

(2) VAT charged on —

(a) any supply for the time being falling within paragraph 1 of Part I of Schedule 1; or

(b) any equivalent acquisition or importation,

shall be charged at the rate of 5 per cent.²

(3) The reference in subsection (2) to an equivalent acquisition or importation, in relation to any supply for the time being falling within paragraph 1 of Schedule 1, is a reference (as the case may be) to —

(a) any acquisition from a member State of goods the supply of which would be such a supply; or

(b) any importation from a place outside the member States of any such goods.

(4) VAT charged on so much of any supply as falls within paragraph 5 of Schedule 1 shall be charged at the rate of 5 per cent.

(5) The Treasury may by order vary Schedule 1 by adding to or deleting from it any description of supply for the time being specified in it or by varying any other provision for the time being contained in it.

3 Taxable persons and registration

(P1994/23/3; 1973/1/2C)

(1) A person is a taxable person for the purposes of this Act while he is, or is required to be, registered under this Act.

(2) Schedules 2, 3, 3A and 4 shall have effect with respect to registration.³

(3) Persons registered under any of those Schedules shall be registered in a single register kept by the Treasury for the purposes of this Act; and, accordingly, references in this Act to being registered under this Act are references to being registered under any of those Schedules.
(4) The Treasury may by regulations make provision as to the inclusion and correction of information in that register with respect to the Schedule under which any person is registered.

Supply of goods or services

3A Supply of electronic services in member States: special accounting scheme

Schedule 3B (scheme enabling persons who supply electronically supplied services, telecommunication services or broadcasting services in a member State, but who are not established in a member State, to account for and pay VAT in the Island on those supplies) has effect.4

4 Scope of VAT on taxable supplies

[P1994/23/4; 1973/1/2(1) and (2)]

(1) VAT shall be charged on any supply of goods or services made in the Island, where it is a taxable supply made by a taxable person in the course or furtherance of any business carried on by him.

(2) A taxable supply is a supply of goods or services made in the Island, other than an exempt supply.

5 Meaning of “supply”: alteration by Treasury order

[P1994/23/5; 1973/1/6]

(1) Schedule 5 applies for determining what is, or is to be treated as, a supply of goods or a supply of services.

(2) Subject to any provision made by that Schedule and to orders made by the Treasury under subsections (3) to (6) —

(a) “supply” in this Act includes all forms of supply, but not anything done otherwise than for a consideration;

(b) anything which is not a supply of goods but is done for a consideration (including, if so done, the granting, assignment or surrender of any right) is a supply of services.

(3) The Treasury may by order provide with respect to any description of transaction —

(a) that it is to be treated as a supply of goods and not as a supply of services; or

(b) that it is to be treated as a supply of services and not as a supply of goods; or

(c) that it is to be treated as neither a supply of goods nor a supply of services;
and without prejudice to the foregoing, such an order may provide that paragraph 5(4) of Schedule 5 is not to apply, in relation to goods of any prescribed description used or made available for use in prescribed circumstances, so as to make that a supply of services under that subparagraph and may provide that paragraph 6 of that Schedule shall not apply, in such circumstances as may be described in the order, so as to make a removal of assets a supply of goods under that paragraph.

(4) Without prejudice to subsection (3), the Treasury may by order make provision for securing with respect to services of any description specified in the order, that where —

(a) a person carrying on a business does anything which is not a supply of services but would, if done for a consideration, be a supply of services of a description specified in the order; and

(b) such other conditions as may be specified in the order are satisfied,
such services are treated for the purposes of this Act as being supplied by him in the course or furtherance of that business.

(5) The Treasury may by order make provision for securing, subject to any exceptions provided for by or under the order, that where in such circumstances as may be specified in the order goods of a description so specified are taken possession of or produced by a person in the course or furtherance of a business carried on by him and —

(a) are neither supplied to another person nor incorporated in other goods produced in the course or furtherance of that business; but

(b) are used by him for the purpose of a business carried on by him,
the goods are treated for the purposes of this Act as being both supplied to him for the purpose of that business and supplied by him in the course or furtherance of it.

(6) The Treasury may by order make provision for securing, with respect to services of any description specified in the order, that where —

(a) a person, in the course or furtherance of a business carried on by him, does anything for the purpose of that business which is not a supply of services but would, if done for a consideration, be a supply of services of a description specified in the order; and

(b) such other conditions as may be specified in the order are satisfied,
such services are treated for the purposes of this Act as being both supplied to him for the purpose of that business and supplied by him in the course or furtherance of it.

(7) For the purposes of this section, where goods are manufactured or produced from any other goods those other goods shall be treated as incorporated in the first-mentioned goods.
(8) An order under subsection (4) or (6) may provide for the method by which the value of any supply of services which is treated as taking place by virtue of the order is to be calculated.

6 Time of supply

[P1994/23/6; 1973/1/7]

(1) This section shall apply, subject to sections 18, 18B and 18C, for determining the time when a supply of goods or services is to be treated as taking place for the purposes of the charge to VAT.5

(2) Subject to subsections (4) to (14), a supply of goods shall be treated as taking place —

(a) if the goods are to be removed, at the time of the removal;

(b) if the goods are not to be removed, at the time when they are made available to the person to whom they are supplied;

(c) if the goods (being sent or taken on approval or sale or return or similar terms) are removed before it is known whether a supply will take place, at the time when it becomes certain that the supply has taken place, but not later than 12 months after the removal.

(3) Subject to subsections (4) to (14), a supply of services shall be treated as taking place at the time when the services are performed.

(4) If, before the time applicable under subsection (2) or (3), the person making the supply issues a VAT invoice in respect of it or if, before the time applicable under subsection (2)(a) or (b) or (3), he receives a payment in respect of it, the supply shall, to the extent covered by the invoice or payment, be treated as taking place at the time the invoice is issued or the payment is received.

(5) If, within 14 days after the time applicable under subsection (2) or (3), the person making the supply issues a VAT invoice in respect of it, then, unless he has notified the Treasury in writing that he elects not to avail himself of this subsection, the supply shall (to the extent that it is not treated as taking place at the time mentioned in subsection (4)) be treated as taking place at the time the invoice is issued.

(6) The Treasury may, at the request of a taxable person, direct that subsection (5) shall apply in relation to supplies made by him (or such supplies made by him as may be specified in the direction) as if for the period of 14 days there were substituted such longer period as may be specified in the direction.

(7) Where any supply of goods involves both —

(a) the removal of the goods from the Island; and

(b) their acquisition in a member State by a person who is liable for VAT on the acquisition in accordance with provisions of the law of
that member State corresponding, in relation to that member State, to the provisions of section 10,

subsections (2), (4) to (6) and (10) to (12) shall not apply and the supply shall be treated for the purposes of this Act as taking place on whichever is the earlier of the days specified in subsection (8).

(8) The days mentioned in subsection (7) are —

(a) the 15th day of the month following that in which the removal in question takes place; and

(b) the day of the issue, in respect of the supply, of a VAT invoice or of an invoice of such other description as the Treasury may by regulations prescribe.

(9) [Repealed]¹

(10) The Treasury may, at the request of a taxable person, by direction alter the time at which supplies made by him (or such supplies made by him as may be specified in the direction) are to be treated as taking place, either —

(a) by directing those supplies to be treated as taking place —

(i) at times or on dates determined by or by reference to the occurrence of some event described in the direction; or

(ii) at times or on dates determined by or by reference to the time when some event so described would in the ordinary course of events occur,

the resulting times or dates being in every case earlier than would otherwise apply; or

(b) by directing that, notwithstanding subsections (5) and (6), those supplies shall (to the extent that they are not treated as taking place at the time mentioned in subsection (4)) be treated as taking place —

(i) at the beginning of the relevant working period (as defined in his case in and for the purposes of the direction); or

(ii) at the end of the relevant working period (as so defined).

(11) Where goods are treated as supplied by an order under section 5(5), the supply is treated as taking place when they are appropriated to the use mentioned in that subsection.

(12) Where there is a supply of goods by virtue only of paragraph 5(1) of Schedule 5, the supply is treated as taking place when the goods are transferred or disposed of as mentioned in that paragraph.

(13) Where there is a supply of services by virtue only of paragraph 5(4) of Schedule 5, the supply is treated as taking place when the goods are appropriated to the use mentioned in that paragraph.
(14) The Treasury may by regulations make provision with respect to the time at which (notwithstanding subsections (2) to (8) and (11) to (13) or section 55(4)) a supply is to be treated as taking place in cases where —
(a) it is a supply of goods or services for a consideration the whole or part of which is determined or payable periodically, or from time to time, or at the end of any period; or
(b) it is a supply of goods for a consideration the whole or part of which is determined at the time when the goods are appropriated for any purpose; or
(c) there is a supply to which section 55 applies; or
(d) there is a supply of services by virtue of paragraph 5(4) of Schedule 5 or an order under section 5(4),

and for any such case as is mentioned in this subsection, provide for goods or services to be treated as separately and successively supplied at prescribed times or intervals.

(14A) This section and any regulations under this section or section 8(4) shall have effect subject to section 94A.7

(15) In this Act, “VAT invoice” means such an invoice as is required under paragraph 2A of Schedule 12, or would be so required if the person to whom the supply is made were a person to whom such an invoice should be issued.8

7 Place of supply of goods

[PI994/23/7; 1973/1/8 and 9(1) and (5)]

(1) This section shall apply (subject to sections 14, 18 and 18B) for determining, for the purposes of this Act, whether goods are supplied in the Island.9

(2) Subject to the following provisions of this section, if the supply of any goods does not involve their removal from or to the Island they shall be treated as supplied in the Island if they are in the Island and otherwise shall be treated as supplied outside the Island.

(3) Goods shall be treated —
(a) as supplied in the Island where their supply involves their installation or assembly at a place in the Island to which they are removed; and
(b) as supplied outside the Island where their supply involves their installation or assembly at a place outside the Island to which they are removed.

(4) Goods whose place of supply is not determined under any of the preceding provisions of this section shall be treated as supplied in the Island where —
(a) the supply involves the removal of the goods to the Island by or under the directions of the person who supplies them;

(b) the supply is a transaction in pursuance of which the goods are acquired in the Island from a member State by a person who is not a taxable person;

(c) the supplier —
   (i) is liable to be registered under Schedule 3; or
   (ii) would be so liable if he were not already registered under this Act or liable to be registered under Schedule 2 or Schedule 2A; and

(d) the supply is neither a supply of goods consisting in a new means of transport nor anything which is treated as a supply for the purposes of this Act by virtue only of paragraph 5(1) or 6 of Schedule 5.

(5) Goods whose place of supply is not determined under any of the preceding provisions of this section and which do not consist in a new means of transport shall be treated as supplied outside the Island where —

(a) the supply involves the removal of the goods, by or under the directions of the person who supplies them, to a member State;

(b) the person who makes the supply is taxable in a member State; and

(c) provisions of the law of that member State corresponding, in relation to that member State, to the provisions made by subsection (4) make that person liable to VAT on the supply;

but this subsection shall not apply in relation to any supply in a case where the liability mentioned in paragraph (c) depends on the exercise by any person of an option in the Island corresponding to such an option as is mentioned in paragraph 1(2) of Schedule 3, unless that person has given, and has not withdrawn, a notification to the Treasury that he wishes his supplies to be treated as taking place outside the Island where they are supplies in relation to which the other requirements of this subsection are satisfied.

(6) Goods whose place of supply is not determined under any of the preceding provisions of this section shall be treated as supplied in the Island where —

(a) their supply involves their being imported from a place outside the member States; and

(b) the person who supplies them is the person by whom, or under whose directions, they are so imported.

(7) Goods whose place of supply is not determined under any of the preceding provisions of this section but whose supply involves their removal to or from the Island shall be treated —
(a) as supplied in the Island where their supply involves their removal from the Island without also involving their previous removal to the Island; and
(b) as supplied outside the Island in any other case.

(8) For the purposes of the preceding provisions of this section, where goods, in the course of their removal from a place in the Island to another place in the Island, leave and re-enter the Island the removal shall not be treated as a removal from or to the Island.

(9) The Treasury may by regulations provide that a notification for the purposes of subsection (5) is not to be given or withdrawn except in such circumstances, and in such form and manner, as may be prescribed.

(10) [Repealed]

(11) The Treasury may by order provide, in relation to goods generally or to particular goods specified in the order, for varying the rules for determining where a supply of goods is made.

7A Place of supply of services

(1) This section shall apply for determining, for the purposes of this Act, the country in which services are supplied.

(2) A supply of services is to be treated as made —
(a) in a case in which the person to whom the services are supplied is a relevant business person, in the country in which the recipient belongs; and
(b) otherwise, in the country in which the supplier belongs.

(3) The place of supply of a right to services is the same as that in which the supply of services would be treated as made if made by the supplier of the right to the recipient of the right (whether or not the right is exercised); and for this purpose a right to services includes any right, option or priority with respect to the supply of services and an interest deriving from a right to services.

(4) For the purposes of this Act a person is a relevant business person in relation to a supply of services if the person —
(a) is a taxable person within the meaning of Article 9 of Council Directive 2006/112/EC [OJ L.347, 11.12.2006, p.1];
(b) is registered under this Act;
(c) is identified for the purposes of VAT in accordance with the law of a member State other than the United Kingdom; or
(d) is registered under an Act of Parliament for the purposes of value added tax;
and the services are received by the person otherwise than wholly for private purposes.

(5) Subsection (2) has effect subject to Schedule 4A.

(6) The Treasury may by order —
   (a) amend subsection (4);
   (b) amend Schedule 4A; or
   (c) otherwise make provision for exceptions from either or both of the paragraphs of subsection (2).

(7) An order under subsection (6) may include incidental, supplemental, consequential and transitional provision.

8 Reverse charge on supplies received from abroad
[1994/23/8; 1973/1/8B]

(1) Where services are supplied by a person who belongs in a country other than the Island or the United Kingdom in circumstances in which this subsection applies, this Act has effect as if (instead of there being a supply of the services by that person) —
   (a) there were a supply of the services by the recipient in the Island in the course or furtherance of a business carried on by the recipient;
   and
   (b) that supply were a taxable supply.

(2) Subsection (1) above applies if —
   (a) the recipient is a relevant business person who belongs in the Island; and
   (b) the place of supply of the services is inside the Island,

and, where the supply of the services is one to which any paragraph of Part 1 or 2 of Schedule 4A applies, the recipient is registered under this Act.

(3) Supplies which are treated as made by the recipient under subsection (1) are not to be taken into account as supplies made by him when determining any allowance of input tax in his case under section 26(1).

(4) In applying subsection (1), the supply of services treated as made by the recipient shall be assumed to have been made at a time to be determined in accordance with regulations prescribing rules for attributing a time of supply in cases within that subsection.

(4A) Subsection (1) does not apply to services of any of the descriptions specified in Schedule 10.

(5) The Treasury may by order amend subsection (4A) by altering the descriptions of services specified in that subsection.
(6) [Repealed]¹⁹

(7) The power of the Treasury by order to amend subsection (4A) shall include power to make such incidental, supplemental, consequential and transitional provision in connection with any amendment of that subsection as it thinks fit.²⁰

(8) Without prejudice to the generality of subsection (7), the provision that may be made under that subsection includes —

(a) provision making such modifications of section 43(2A) to (2E) as the Treasury may think fit in connection with any amendment of subsection (4A); and²¹

(b) provision modifying the effect of any regulations under subsection (4) in relation to any services added to that subsection.²²

9 **Place where supplier or recipient of services belongs**

(1) This section has effect for determining for the purposes of section 7A (or Schedule 4A) or section 8, in relation to any supply of services, whether a person who is the supplier or recipient belongs in one country or another.

(2) A person who is a relevant business person is to be treated as belonging in the relevant country.

(3) In subsection (2) “the relevant country” means —

(a) if the person has a business establishment, or some other fixed establishment in a country (and none in any other country), that country;

(b) if the person has a business establishment, or some other fixed establishment or establishments, in more than one country, the country in which the relevant establishment is; and

(c) otherwise, the country in which the person’s usual place of residence or permanent address is.²³

(4) In subsection (3)(b) “relevant establishment” means whichever of the person’s business establishment or other fixed establishments, is most directly concerned with the supply.

(5) A person who is not a relevant business person is to be treated as belonging —

(a) in the country in which the person’s usual place of residence or permanent address is (except in the case of a body corporate or other legal person);²⁴

(b) in the case of a body corporate or other legal person, in the country in which the place where it is established is.²⁵ ²⁶

(6) The reference in subsection (5)(b) to the place where a body corporate or other legal person “is established” is to be read in accordance with Article
13a of Implementing Regulation (EU) No 282/2011 (which is inserted by Council Implementing Regulation (EU) No 1042/2013).

9A  Reverse charge on gas, electricity, heat or cooling supplied by persons outside the Island and United Kingdom

(1) This section applies if relevant goods are supplied —
   (a) by a person who is outside the Island and United Kingdom,
   (b) to a person who is registered under this Act,

for the purposes of any business carried on by the recipient.

(2) The same consequences follow under this Act (and particularly so much as charges VAT on a supply and entitles a taxable person to credit for input tax) as if —
   (a) the recipient had himself supplied the relevant goods in the course or furtherance of his business, and
   (b) that supply were a taxable supply.

(3) But supplies which are treated as made by the recipient under subsection (2) are not to be taken into account as supplies made by him when determining any allowance of input tax in his case under section 26(1).

(4) In applying subsection (2) the supply of relevant goods treated as made by the recipient shall be assumed to have been made at a time to be determined in accordance with regulations prescribing rules for attributing a time of supply in cases to which this section applies.

(5) “Relevant goods” means —
   (a) gas supplied through a natural gas system situated within the territory of a member State or any network connected to such a system;
   (b) electricity; and
   (c) heat or cooling supplied through a network.

(6) Whether a person is outside the Island and United Kingdom is to be determined in accordance with an order made by the Treasury.
Acquisition of goods from member States

10 Scope of VAT on acquisitions from member States
[P1973/1/2A(1) to (3); P1994/23/10]

(1) VAT shall be charged on any acquisition from a member State of any goods where —
   (a) the acquisition is a taxable acquisition and takes place in the Island;
   (b) the acquisition is otherwise than in pursuance of a taxable supply; and
   (c) the person who makes the acquisition is a taxable person or the goods are subject to a duty of excise or consist in a new means of transport.

(2) An acquisition of goods from a member State is a taxable acquisition if —
   (a) it falls within subsection (3) or the goods consist in a new means of transport; and
   (b) it is not an exempt acquisition.

(3) An acquisition of goods from a member State falls within this subsection if —
   (a) the goods are acquired in the course or furtherance of —
      (i) any business carried on by any person; or
      (ii) any activities carried on otherwise than by way of business by any body corporate or by any club, association, organisation or other unincorporated body;
   (b) it is the person who carries on that business or, as the case may be, those activities who acquires the goods; and
   (c) the supplier —
      (i) is taxable in a member State at the time of the transaction in pursuance of which the goods are acquired; and
      (ii) in participating in that transaction, acts in the course or furtherance of a business carried on by him.

11 Meaning of acquisition of goods from a member State
[1973/1/8BA; P1994/23/11]

(1) Subject to the provisions of this section, references in this Act to the acquisition of goods from a member State shall be construed as references to any acquisition of goods in pursuance of a transaction in relation to which the following conditions are satisfied, that is to say —
   (a) the transaction is a supply of goods (including anything treated for the purposes of this Act as a supply of goods); and
(b) the transaction involves the removal of the goods from a member State;

and references in this Act, in relation to such an acquisition, to the supplier shall be construed accordingly.

(2) It shall be immaterial for the purposes of subsection (1) whether the removal of the goods from the member State is by or under the directions of the supplier or by or under the directions of the person who acquires them or any other person.

(3) Where the person with the property in any goods does not change in consequence of anything which is treated for the purposes of this Act as a supply of goods, that supply shall be treated for the purposes of this Act as a transaction in pursuance of which there is an acquisition of goods by the person making it.

(4) The Treasury may by order provide with respect to any description of transaction that the acquisition of goods in pursuance of a transaction of that description is not to be treated for the purposes of this Act as the acquisition of goods from a member State.

12 Time of acquisition

[1973/1/8BB; P1994/23/12]

(1) Subject to sections 18 and 18B and any regulations under subsection (3), where goods are acquired from a member State, the acquisition shall be treated for the purposes of this Act as taking place on whichever is the earlier of —

(a) the 15th day of the month following that in which the event occurs which, in relation to that acquisition, is the first relevant event for the purposes of taxing the acquisition; and

(b) the day of the issue, in respect of the transaction in pursuance of which the goods are acquired, of an invoice of such a description as the Treasury may by regulations prescribe.32

(2) For the purposes of this Act the event which, in relation to any acquisition of goods from a member State, is the first relevant event for the purposes of taxing the acquisition is the first removal of the goods which is involved in the transaction in pursuance of which they are acquired.

(3) The Treasury may by regulations make provision with respect to the time at which an acquisition is to be treated as taking place in prescribed cases where the whole or part of any consideration comprised in the transaction in pursuance of which the goods are acquired is determined or payable periodically, or from time to time, or at the end of a period; and any such regulations may provide, in relation to any case to which they apply, for goods to be treated as separately and successively acquired at prescribed times or intervals.
13  **Place of acquisition**

[1973/1/8BC; P1994/23/13]

(1) This section shall apply (subject to sections 18 and 18B) for determining for the purposes of this Act whether goods acquired from a member State are acquired in the Island.\(^{33}\)

(2) The goods shall be treated as acquired in the Island if they are acquired in pursuance of a transaction which involves their removal to the Island and does not involve their removal from the Island, and (subject to the following provisions of this section) shall otherwise be treated as acquired outside the Island.

(3) Subject to subsection (4), the goods shall be treated as acquired in the Island if they are acquired by a person who, for the purposes of their acquisition, makes use of a number assigned to him for the purposes of VAT in the Island.

(4) Subsection (3) shall not require any goods to be treated as acquired in the Island where it is established, in accordance with regulations made by the Treasury for the purposes of this section that VAT —

   (a) has been paid in a member State on the acquisition of those goods; and

   (b) fell to be paid by virtue of provisions of the law of that member State corresponding, in relation to that member State, to the provision made by subsection (2).

(5) The Treasury may by regulations make provision for the purposes of this section —

   (a) for the circumstances in which a person is to be treated as having been assigned a number for the purposes of VAT in the Island;

   (b) for the circumstances in which a person is to be treated as having made use of such a number for the purposes of the acquisition of any goods; and

   (c) for the refund, in prescribed circumstances, of VAT paid in the Island on acquisitions of goods in relation to which the conditions specified in subsection (4)(a) and (b) are satisfied.

14  **Acquisitions from persons belonging in member States**

[1973/1/8BD; P1994/23/14]

(1) Subject to subsection (3), where —

   (a) a person (“the original supplier”) makes a supply of goods to a person who belongs in a member State (“the intermediate supplier”);

   (b) that supply involves the removal of the goods from a member State and their removal to the Island but does not involve the removal of the goods from the Island;
(c) both that supply and the removal of the goods to the Island are for the purposes of the making of a supply by the intermediate supplier to another person ("the customer") who is registered under this Act;

(d) neither of those supplies involves the removal of the goods from a member State in which the intermediate supplier is taxable at the time of the removal without also involving the previous removal of the goods to that member State; and

(e) there would be a taxable acquisition by the customer if the supply to him involved the removal of goods from a member State to the Island,

the supply by the original supplier to the intermediate supplier shall be disregarded for the purposes of this Act and the supply by the intermediate supplier to the customer shall be treated for the purposes of this Act, other than Schedule 4, as if it did involve the removal of the goods from a member State to the Island.

(2) Subject to subsection (3), where —

(a) a person belonging in a member State makes such a supply of goods to a person who is registered under this Act as involves their installation or assembly at a place in the Island to which they are removed; and

(b) there would be a taxable acquisition by the registered person if that supply were treated as not being a taxable supply but as involving the removal of the goods from a member State to the Island,

that supply shall be so treated except for the purposes of Schedule 4.

(3) Neither subsection (1) nor subsection (2) shall apply in relation to any supply unless the intermediate supplier or, as the case may be, the person making the supply complies with such requirements as to the furnishing (whether before or after the supply is made) of invoices and other documents, and of information, to —

(a) the Treasury, and

(b) the person supplied,

as the Treasury may by regulations prescribe; and regulations under this subsection may provide for the times at which, and the form and manner in which, any document or information is to be furnished and for the particulars which it is to contain.

(4) Where this section has the effect of treating a taxable acquisition as having been made, section 12(1) shall apply in relation to that acquisition with the omission of the words from "whichever" to "acquisition; and" at the end of paragraph (a).

(5) For the purposes of this section a person belongs in a member State if —
(a) he does not have any business establishment or other fixed establishment in the Island and does not have his usual place of residence in the Island;
(b) he is neither registered under this Act and is not required to be so registered;
(c) he does not have a VAT representative and is not for the time being required to appoint one; and
(d) he is taxable in a member State;

but, in determining for the purposes of paragraph (b) whether a person is required to be registered under this Act, there shall be disregarded any supplies which, if he did belong in a member State and complied with the requirements prescribed under subsection (3), would fall to be disregarded by virtue of this section.

(6) Without prejudice to section 13(4), where —

(a) any goods are acquired from a member State in a case which corresponds, in relation to a member State, to the case specified in relation to the Island in subsection (1); and
(b) the person who acquires the goods is registered under this Act and would be the intermediate supplier in relation to that corresponding case,

the supply to him of those goods and the supply by him of those goods to the person who would be the customer in that corresponding case shall both be disregarded for the purposes of this Act, other than for the purposes of the information provisions referred to in section 90(7).

(7) References in this section to a person being taxable in a member State shall not include references to a person who is so taxable by virtue only of provisions of the law of a member State corresponding to the provisions of this Act by virtue of which a person who is not registered under this Act is a taxable person if he is required to be so registered.

(8) This section does not apply in relation to any supply of goods by an intermediate supplier to whom the goods were supplied before 1st August 1993.

Importation of goods from outside the member States

15 General provisions relating to imported goods
[1973/1/2B(2)-(4); P1994/23/15]

(1) For the purposes of this Act goods are imported from a place outside the member States into the Island where —

(a) having been removed from a place outside the member States, they enter the territory of the European Union,\(^34\)
(b) they enter that territory by being removed to the Island after entering that territory; and

(c) the circumstances are such that it is on their removal to the Island or subsequently while they are in the Island that any EU customs debt in respect of duty on their entry into the territory of the European Union would be incurred.\(^\text{35}\)

(2) Accordingly —

(a) goods shall not be treated for the purposes of this Act as imported at any time before an EU customs debt in respect of duty on their entry into the territory of the European Union would be incurred, and\(^\text{36}\)

(b) the person who is to be treated for the purposes of this Act as importing any goods from a place outside the member States is the person who would be liable to discharge any such EU customs debt.\(^\text{37}\)

(3) Subsections (1) and (2) shall not apply, except in so far as the context otherwise requires or provision to the contrary is contained in regulations under section 16(1), for construing any references to importation or to an importer in any enactment or subordinate legislation applied for the purposes of this Act by section 16(1).

16 Application of customs enactments

[1973/1/17(1); P1994/23/16(1)]

Subject to such exceptions and adaptations as the Treasury may by regulations prescribe and except where the contrary intention appears —

(a) the provision made by or under the Customs and Excise Acts 1986 and the other statutory provisions for the time being having effect generally in relation to duties of customs and excise charged on the importation of goods into the Island; and

(b) the EU legislation for the time being having effect in relation to EU customs duties charged on goods entering the territory of the European Union,\(^\text{38}\)

shall apply (so far as relevant) in relation to any VAT chargeable on the importation of goods from places outside the member States as they apply in relation to any such duty of customs or excise or, as the case may be, EU customs duties.\(^\text{39}\)

17 Free zone regulations

[1973/1/17(1); 1986/34/103(1), 104(1),(3) and (4); P1994/23/17]

(1) This section applies in relation to VAT chargeable on the importation of goods from places outside the member States; and in this section “free zone” has the meaning given by section 102(2) of the Management Act.
Subject to any contrary provision made by any EU provision relating to VAT which is directly applicable in the United Kingdom, goods which are chargeable with VAT may be moved into a free zone and may remain as free zone goods without payment of VAT.

The Treasury may by regulations (“free zone regulations”) make provision with respect to the movement of goods into, and the removal of goods from, any free zone and the keeping, securing and treatment of goods which are within a free zone, and subject to any provision of the regulations, “free zone goods” means goods which are within a free zone.

Without prejudice to the generality of subsection (3), free zone regulations may make provision —

(a) for enabling the Treasury to allow goods to be removed from a free zone without payment of VAT in such circumstances and subject to such conditions as it may determine;

(b) for determining where any VAT becomes payable in respect of goods which cease to be free zone goods —

(i) the rates of any VAT applicable; and

(ii) the time at which those goods cease to be free zone goods;

(c) for determining for the purpose of enabling VAT to be charged in respect of free zone goods in a case where a person wishes to pay that VAT notwithstanding that the goods will continue to be free zone goods, the rate of VAT to be applied; and

(d) permitting free zone goods to be destroyed without payment of VAT in such circumstances and subject to such conditions as the Treasury may determine.

The Treasury, with respect to free zone goods or the movement of goods into any free zone, may by regulations make provision —

(a) for relief from the whole or part of any VAT chargeable on the importation of goods into the Island in such circumstances as it may determine;

(b) in place of, or in addition to, any provision made by section 6 or any other statutory provision, for determining the time when a supply of goods which are or have been free zone goods is to be treated as taking place for the purposes of the charge to VAT; and

(c) as to the treatment, for the purposes of VAT, of goods which are manufactured or produced within a free zone from other goods or which have other goods incorporated in them while they are free zone goods.
Goods subject to a warehousing regime

18  Place and time of acquisition or supply  
[1973/1/27; P1994/23/18]

(1) Where —

(a) any goods have been removed from a place outside the member States and have entered the territory of the European Union;\(^\text{41}\)

(b) the material time for any acquisition of those goods from a member State or for any supply of those goods is while they are subject to a warehousing regime and before the duty point; and

(c) those goods are not mixed with any dutiable goods which were produced or manufactured in the Island or acquired from a member State,

then the acquisition or supply mentioned in paragraph (b) shall be treated for the purposes of this Act as taking place outside the Island.

(1A) The Treasury may by regulations prescribe circumstances in which subsection (1) shall not apply.\(^\text{42}\)

(2) Subsection (3) applies where —

(a) any dutiable goods are acquired from a member State; or

(b) any person makes a supply of —

(i) any dutiable goods which were produced or manufactured in the Island or acquired from a member State; or

(ii) any goods comprising a mixture of goods falling within sub-paragraph (i) and other goods.

(3) Where this subsection applies and the material time for the acquisition or supply mentioned in subsection (2) is while the goods in question are subject to a warehousing regime and before the duty point, that acquisition or supply shall be treated for the purposes of this Act as taking place outside the Island if the material time for any subsequent supply of those goods is also while the goods are subject to the warehousing regime and before the duty point.

(4) Where the material time for any acquisition or supply of any goods in relation to which subsection (3) applies is while the goods are subject to a warehousing regime and before the duty point but the acquisition or supply nevertheless falls, for the purposes of this Act, to be treated as taking place in the Island —

(a) that acquisition or supply shall be treated for the purposes of this Act as taking place at the earlier of the following times, that is to say, the time when the goods are removed from the warehousing regime and the duty point; and
(b) in the case of a supply, any VAT payable on the supply shall be paid (subject to any regulations under subsection (5)) —

(i) at the time when the supply is treated as taking place under paragraph (a); and

(ii) by the person by whom the goods are so removed or, as the case may be, together with the duty or agricultural levy, by the person who is required to pay the duty or levy.

(5) The Treasury may by regulations make provision for enabling a taxable person to pay the tax he is required to pay by virtue of paragraph (b) of subsection (4) at a time later than that provided for by that paragraph.\(^{43}\)

(5A) Regulations under subsection (5) may in particular make provision for either or both of the following —

(a) for the taxable person to pay the tax together with the tax chargeable on other supplies by him of goods and services;

(b) for the taxable person to pay the tax together with any duty of excise deferment of which has been granted to him under section 134 of the Customs and Excise Management Act 1986;

and they may make different provision for different descriptions of taxable person and for different descriptions of goods.\(^{44}\)

(6) In this section —

“dutiable goods” means any goods which are subject —

(a) to a duty of excise; or

(b) in accordance with any provision for the time being having effect for transitional purposes in connection with the accession of any State to the European Union, to any EU customs duty or agricultural levy of the European Union;\(^{45}\)

“the duty point”, in relation to any goods, means —

(a) in the case of goods which are subject to a duty of excise, the time when the requirement to pay the duty on those goods takes effect; and

(b) in the case of goods which are not so subject, the time when any EU customs debt in respect of duty on the entry of the goods into the territory of the European Union would be incurred or, as the case may be, the corresponding time in relation to any such duty or levy as is mentioned in paragraph (b) of the definition of dutiable goods;\(^{46}\)

“material time” —

(a) in relation to any acquisition or supply the time of which is determined in accordance with regulations under section 6(14) or 12(3), means such time as may be prescribed for the purpose of this section by those regulations;
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(b) in relation to any other acquisition, means the time of the event which, in relation to the acquisition, is the first relevant event for the purposes of taxing it; and

(c) in relation to any other supply, means the time when the supply would be treated as taking place in accordance with subsection (2) of section 6 if paragraph (c) of that subsection were omitted;

“warehouse” means any warehouse where goods may be stored in the Island or any member State without payment of any one or more of the following, that is to say —

(a) EU customs duty;\(^{47}\)

(b) any agricultural levy of the European Union;\(^{48}\)

(c) VAT on the importation of the goods into the Island or any member State;

(d) any duty of excise or any duty which is equivalent in a member State to a duty of excise.

(7) References in this section to goods being subject to a warehousing regime is a reference to goods being kept in a warehouse or being transported between warehouses (whether in the same or different member States) without the payment in a member State of any duty, levy or VAT; and references to the removal of goods from a warehousing regime shall be construed accordingly.

(8) In subsection (7) “member States” shall be treated as including the Island.

18A Fiscal warehousing

(1) The Treasury may, if it appears to it proper, upon application approve any registered person as a fiscal warehousekeeper; and such approval shall be subject to such conditions as it shall impose.

(2) Subject to those conditions and to regulations made under section 18F such a person shall be entitled to keep a fiscal warehouse.

(3) “Fiscal warehouse” means such place in the Island in the occupation or under the control of the fiscal warehousekeeper, not being retail premises, as he shall notify to the Treasury in writing; and such a place shall become a fiscal warehouse on receipt by the Treasury of that notification or on the date stated in it as the date from which it is to have effect, whichever is the later, and subject to subsection (6), shall remain a fiscal warehouse so long as it is in the occupation or under the control of the fiscal warehousekeeper or until he shall notify the Treasury in writing that it is to cease to be a fiscal warehouse.

(4) The Treasury may in considering an application by a person to be a fiscal warehousekeeper take into account any matter which it considers relevant, and may without prejudice to the generality of that provision take into account all or any one or more of the following —
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(a) his record of compliance and ability to comply with the requirements of this Act and regulations made hereunder;

(b) his record of compliance and ability to comply with the requirements of the customs and excise Acts (as defined in the Management Act) and regulations made thereunder;

(c) his record of compliance and ability to comply with EU customs provisions;

(d) his record of compliance and ability to comply with the requirements of member States relating to VAT and duties equivalent to duties of excise;

(e) if the applicant is a company the records of compliance and ability to comply with the matters set out at (a) to (d) of its directors, persons connected with its directors, its managing officers, any shadow directors or any of those persons, and, if it is a close company, the records of compliance and ability to comply with the matters set out at (a) to (d) of the beneficial owners of the shares of the company or any of them; and

(f) if the applicant is an individual the records of compliance and ability to comply with the matters set out at (a) to (d) of any company of which he is or has been a director, managing officer or shadow director or, in the case of a close company, a shareholder or the beneficial owner of shares.

For the purposes of paragraphs (e) and (f) “connected” shall have the meaning given by section 24(7), “managing officer” the meaning given by section 61(6), and “shadow director” means a person in accordance with whose directions or instructions the directors of the company are accustomed to act. However, a person is not deemed a shadow director by means only that the directors act on advice given by him in a professional capacity. “Close company” has the same meaning (with the necessary modifications) as given by the Income and Corporation Taxes Act 1988, an Act of Parliament.

(5) Subject to subsection (6), a person approved under subsection (1) shall remain a fiscal warehousekeeper until he ceases to be a registered person or until he shall notify the Treasury in writing that he is to cease to be a fiscal warehousekeeper.

(6) The Treasury may if it considers it appropriate from time to time —

(a) impose conditions on a fiscal warehousekeeper in addition to those conditions, if any, which it imposed under subsection (1), and vary or revoke any conditions previously imposed;

(b) withdraw approval of any person as a fiscal warehousekeeper, and

(c) withdraw fiscal warehouse status from any premises.
(7) Any application by or on behalf of a person to be a fiscal warehousekeeper shall be in writing in such form as the Treasury may direct and shall be accompanied by such information as it shall direct.

(8) Any approval by the Treasury under subsection (1), and any withdrawal of approval or other act by it under subsection (6), shall be notified by it to the fiscal warehousekeeper in writing and shall take effect on such notification being made or on any later date specified for the purpose in the notification.

(9) Without prejudice to the provisions of section 43 concerning liability for VAT, in subsections (1) and (2) “registered person” includes any person who under that section is for the time being treated as a member of a group.\(^{50}\)\(^{51}\)

18B Fiscally warehoused goods: relief

(1) Subsections (3) and (4) apply where —
   (a) there is an acquisition of goods from a member State;
   (b) those goods are eligible goods;
   (c) either —
      (i) the acquisition takes place while the goods are subject to a fiscal warehousing regime; or
      (ii) after the acquisition but before the supply, if any, of those goods which next occurs, the acquirer causes the goods to be placed in a fiscal warehousing regime; and
   (d) the acquirer, not later than the time of the acquisition, prepares and keeps a certificate that the goods are subject to a fiscal warehousing regime, or (as the case may be) that he will cause paragraph (c)(ii) to be satisfied; and the certificate shall be kept for such period as the Treasury may by regulations specify.\(^{52}\)

(2) Subsections (3) and (4) also apply where —
   (a) there is a supply of goods;
   (b) those goods are eligible goods;
   (c) either —
      (i) that supply takes place while the goods are subject to a fiscal warehousing regime; or
      (ii) after that supply but before the supply, if any, of those goods which next occurs, the person to whom the former supply is made causes the goods to be placed in a fiscal warehousing regime;
   (d) in a case falling within paragraph (c)(ii), the person to whom the supply is made gives the supplier, not later than the time of the
supply, a certificate that he will cause paragraph (c)(ii) to be satisfied; and

(e) the supply is not a retail transaction.

(2A) A certificate under subsection (1)(d) or (2)(d) must be in such form as may be specified by regulations or by the Treasury in accordance with regulations.

(3) The acquisition or supply in question shall be treated for the purposes of this Act as taking place outside the Island if any subsequent supply of those goods is while they are subject to the fiscal warehousing regime.

(4) Where subsection (3) does not apply and the acquisition or supply in question falls, for the purposes of this Act, to be treated as taking place in the Island, that acquisition or supply shall be treated for the purposes of this Act as taking place when the goods are removed from the fiscal warehousing regime.

(5) Where —

(a) subsection (4) applies to an acquisition or a supply,
(b) the acquisition or supply is taxable and not zero-rated, and
(c) the acquirer or supplier is not a taxable person but would be were it not for paragraph 1(9) of Schedule 2, paragraph 1(7) of Schedule 3 and paragraph 1(6) of Schedule 4 or any of those provisions,

VAT shall be chargeable on that acquisition or supply notwithstanding that the acquirer or the supplier is not a taxable person.

(6) In this section “eligible goods” means goods —

(a) of a description falling within Schedule 5A;
(b) upon which any import duties, as defined in article 4(10) of the Community Customs Code of 12th October 1992 (Council Regulation (EEC) No. 2913/92), either have been paid or have been deferred under article 224 of that Code or regulations made under section 42 of the Management Act;
(c) (in the case of goods imported from a place outside the member States) upon which any VAT chargeable under section 1(1)(c) has been either paid or deferred in accordance with EU customs provisions, and
(d) (in the case of goods subject to a duty of excise) upon which that duty has been either paid or deferred under section 134 of the Management Act.

(7) For the purposes of this section, apart from subsection (4), an acquisition or supply shall be treated as taking place at the material time for the acquisition or supply.

(8) The Treasury may by order vary Schedule 5A by adding to or deleting from it any goods or varying any description of any goods.
18C Warehouses and fiscal warehouses: services

Where —

(a) a taxable person makes a supply of specified services;

(b) those services are wholly performed on or in relation to goods while those goods are subject to a warehousing or fiscal warehousing regime;

(c) (except where the services are the supply by an occupier of a warehouse or a fiscal warehousekeeper of warehousing or fiscally warehousing the goods) the person to whom the supply is made gives the supplier a certificate that the services are so performed;\(^57\)

(d) the supply of services would (apart from this section) be taxable and not zero-rated; and

(e) the supplier issues to the person to whom the supply is made an invoice of such a description as the Treasury may by regulations prescribe,

his supply shall be zero-rated.

18C(1A) A certificate under subsection (1)(c) must be in such form as may be specified by regulations or by the Treasury in accordance with regulations.\(^58\)

(2) If a supply of services is zero-rated under subsection (1) (“the zero-rated supply of services”) then, unless there is a supply of the goods in question the material time for which is —

(a) while the goods are subject to a warehousing or fiscal warehousing regime, and

(b) after the material time for the zero-rated supply of services,

subsection (3) shall apply.

(3) Where this subsection applies —

(a) a supply of services identical to the zero-rated supply of services shall be treated for the purposes of this Act as being, at the time the goods are removed from the warehousing or fiscal warehousing regime or (if earlier) at the duty point, both made (for the purposes of his business) to the person to whom the zero-rated supply of services was actually made and made by him in the course or furtherance of his business,

(b) that supply shall have the same value as the zero-rated supply of services,

(c) that supply shall be a taxable (and not a zero-rated) supply, and

(d) VAT shall be charged on that supply even if the person treated as making it is not a taxable person.

(4) In this section “specified services” means —

\(^57\) See subsection (2).

\(^58\) See subsection (3).
(a) services of an occupier of a warehouse or a fiscal warehousekeeper of keeping the goods in question in a warehousing or fiscal warehousing regime;

(b) in relation to goods subject to a warehousing regime, services of carrying out on the goods operations which are permitted to be carried out under EU customs provisions or warehousing regulations as the case may be; and^99

(c) in relation to goods subject to a fiscal warehousing regime, services of carrying out on the goods any physical operations (other than any prohibited by regulations made under section 18F), for example, and without prejudice to the generality of the foregoing words, preservation and repacking operations.^60

18D Removal from warehousing: accountability

(1) This section applies to any supply to which section 18B(4) or section 18C(3) applies (supply treated as taking place on removal or duty point) and any acquisition to which section 18B(5) applies (acquisition treated as taking place on removal where acquirer not a taxable person).

(2) Any VAT payable on the supply or acquisition shall (subject to any regulations under subsection (3)) be paid —

(a) at the time when the supply or acquisition is treated as taking place under the section in question; and

(b) by the person by whom the goods are removed or, as the case may be, together with the excise duty, by the person who is required to pay that duty.

(3) The Treasury may by regulations make provision for enabling a taxable person to pay the VAT he is required to pay by virtue of subsection (2) at a time later than that provided by that subsection; and it may make different provisions for different descriptions of taxable persons and for different descriptions of goods and services.^61

18E Deficiency in fiscally warehoused goods

(1) This section applies where goods have been subject to a fiscal warehousing regime and, before being lawfully removed from the fiscal warehouse, they are found to be missing or deficient.

(2) In any case where this section applies, unless it is shown to the satisfaction of the Treasury that the absence of or deficiency in the goods can be accounted for by natural waste or other legitimate cause, the Treasury may require the fiscal warehousekeeper to pay immediately in respect of the missing goods or of the whole or any part of the deficiency, as it sees fit, the VAT that would have been chargeable.
(3) In subsection (2) “VAT that would have been chargeable” means VAT that would have been chargeable on a supply of the missing goods, or the amount of the goods by which the goods are deficient, taking place at the time immediately before the absence arose or the deficiency occurred, if the value of that supply were the open market value; but where that time cannot be ascertained to the Treasury’s satisfaction, that VAT shall be the greater of the amounts of VAT which would have been chargeable on a supply of those goods —

(a) if the value of that supply were the highest open market value during the period (the relevant period) commencing when the goods were placed in the fiscal warehousing regime and ending when the absence or deficiency came to the notice of the Treasury, or

(b) if the rate of VAT chargeable on that supply were the highest rate chargeable on a supply of such goods during the relevant period and the value of that supply were the highest open market value while that rate prevailed.

(4) This section has effect without prejudice to any penalty incurred under any other provision of this Act or regulations made under it.62

18F Sections 18A to 18E: supplementary

(1) In sections 18A to 18E and this section —

“duty point” has the meaning given by section 18(6);

“eligible goods” has the meaning given by section 18B(6);

“fiscal warehouse” means a place notified to the Treasury under section 18A(3) and from which such status has not been withdrawn;

“fiscal warehousekeeper” means a person approved under section 18A(1);

“material time” —

(a) in relation to any acquisition or supply the time of which is determined in accordance with regulations under section 6(14) or 12(3), means such time as may be prescribed for the purpose of this section by those regulations;

(b) in relation to any other acquisition, means the time when goods reach the destination to which they are despatched from the member State in question;

(c) in relation to any other supply of goods, means the time when the supply would be treated as taking place in accordance with subsection (2) of section 6 if paragraph (c) of that subsection were omitted; and

(d) in relation to any other supply of services, means the time when the services are performed;
“warehouse”, except in the expression “fiscal warehouse”, has the meaning given by section 18(6);

“warehousing regulations” has the same meaning as in the Management Act.

(2) Any reference in sections 18A to 18E or this section to goods being subject to a fiscal warehousing regime is, subject to any regulations made under subsection (8)(e), a reference to eligible goods being kept in a fiscal warehouse or being transferred between fiscal warehouses in accordance with such regulations; and any reference to the removal of goods from a fiscal warehousing regime shall be construed accordingly.

(3) Subject to subsection (2), any reference in sections 18C and 18D to goods being subject to a warehousing regime or to the removal of goods from a warehousing regime shall have the same meaning as in section 18(7).

(4) Where as a result of an operation on eligible goods subject to a fiscal warehousing regime they change their nature but the resulting goods are also eligible goods, the provisions of sections 18B to 18E and this section shall apply as if the resulting goods were the original goods.

(5) Where as a result of an operation on eligible goods subject to a fiscal warehousing regime they cease to be eligible goods, on their ceasing to be so sections 18B to 18E shall apply as if they had at that time been removed from the fiscal warehousing regime; and for that purpose the proprietor of the goods shall be treated as if he were the person removing them.

(6) Where —

(a) any person ceases to be a fiscal warehousekeeper; or

(b) any premises cease to have fiscal warehouse status,

sections 18B to 18E and this section shall apply as if the goods of which he is the fiscal warehousekeeper, or the goods in the fiscal warehouse, as the case may be, had at that time been removed from the fiscal warehousing regime; and for that purpose the proprietor of the goods shall be treated as if he were the person removing them.

(7) The Treasury may make regulations governing the deposit, keeping, securing and treatment of goods in a fiscal warehouse, and the removal of goods from a fiscal warehouse.

(8) Regulations may, without prejudice to the generality of subsection (7), include provisions —

(a) in relation to —

(i) goods which are, have been or are to be subject to a fiscal warehousing regime,

(ii) other goods which are, have been or are to be kept in fiscal warehouses,

(iii) fiscal warehouse premises, and

(iv) fiscal warehousekeepers and their businesses,
as to the keeping, preservation and production of records and the furnishing of returns and information by fiscal warehousekeepers and any other persons;

(b) requiring goods deposited in a fiscal warehouse to be produced to or made available for inspection by an authorised person on request by him;

(c) prohibiting the carrying out on fiscally warehoused goods of such operations as it may prescribe;

(d) regulating the transfer of goods from one fiscal warehouse to another;

(e) concerning goods which, though kept in a fiscal warehouse, are not eligible goods or are not intended by a relevant person to be goods in respect of which reliefs are to be enjoyed under sections 18A to 18E and this section;

(f) prohibiting the fiscal warehousekeeper from allowing goods to be removed from the fiscal warehousing regime without payment of any VAT payable under section 18D on or by reference to that removal and, if in breach of that prohibition he allows goods to be so removed, making him liable for the VAT jointly and severally with the remover,

and may contain such incidental or supplementary provisions as the Treasury thinks necessary or expedient.

(9) Regulations may make different provision for different cases, including different provision for different fiscal warehousekeepers or descriptions of fiscal warehousekeeper, for fiscal warehouses of different descriptions or for goods of different classes or descriptions or of the same class or description in different circumstances.\(^63\)

Fulfilment businesses

18G Carrying on a third country goods fulfilment business

[P2017/32/48]

(1) For the purposes of sections 18G to 18N and Schedule 5B a person carries on a third country goods fulfilment business if the person, by way of business —

(a) stores third country goods which are owned by a person who is not established in a member State; or

(b) stores third country goods on behalf of a person who is not established in a member State;

at a time when the conditions in subsection (2) are met in relation to the goods.

(2) The conditions are that —
(a) there has been no supply of the goods in the Island for the purposes of this Act; and
(b) the goods are being offered for sale in the Island or elsewhere.

(3) But a person does not carry on a third country goods fulfilment business if the person’s activities within subsection (1) are incidental to the carriage of the goods.

(4) Goods are “third country” goods if they have been imported from a place outside the member States within the meaning of section 15 of this Act.

(5) Whether a person is established in a member State is to be determined in accordance with Article 10 of Council Implementing Regulation (EU) No 282/2011 of 15 March 2011 laying down implementing measures for Directive 2006/112/EEC on the common system of value added tax.3

18H Requirement for approval
[P2017/32/49]

(1) A person may not carry on a third country goods fulfilment business otherwise than in accordance with an approval given by the Treasury under this section.

(2) The Treasury may approve a person to carry on a third country goods fulfilment business only if it is satisfied that the person is a fit and proper person to carry on the business.

(3) The Treasury may approve a person to carry on a third country goods fulfilment business for such periods and subject to such conditions or restrictions as it may think fit or as it may by regulations made by it prescribe.

(4) The Treasury may at any time for reasonable cause vary the terms of, or revoke, an approval under this section.

(5) For sections 18G to 18N “approved person” means a person approved under this section to carry on a third country goods fulfilment business.65

18I Register of approved persons
[P2017/32/50]

(1) The Treasury must maintain a register of approved persons.

(2) The register is to contain such information relating to approved persons as the Treasury considers appropriate.

(3) The Treasury may make publicly available such information contained in the register as it considers necessary to enable those who deal with a person who carries on a third country goods fulfilment business to

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determine whether the person in question is an approved person in relation to that activity.

(4) The information may be made available by such means (including the internet) as the Treasury considers appropriate.66

18J Disclosure of information by the Treasury
[P2017/32/52]
(1) The Treasury may disclose to an approved person information held by it, but only for the purpose mentioned in subsection (2).

(2) The purpose is to assist the approved person in complying with obligations imposed on that person by virtue of section 18N.

(3) An approved person to whom information is disclosed under subsection (1) —
(a) may use the information only for the purpose of complying with obligations imposed on that person by virtue of section 18N; and
(b) may not further disclose the information except with the consent of the Treasury.67

18K Offence
[P2017/32/53]
(1) A person who —
(a) carries on a third country goods fulfilment business; and
(b) is not an approved person;
commits an offence.

(2) In proceedings for an offence under subsection (1) it is a defence to show that the person did not know, and had no reasonable grounds to suspect, that the person —
(a) was carrying on a third country goods fulfilment business; or
(b) was not an approved person.

(3) A person is taken to have shown the fact mentioned in subsection (2) if —
(a) sufficient evidence of that fact is adduced to raise an issue with respect to it; and
(b) the contrary is not proved beyond reasonable doubt.

(4) A person guilty of an offence under this section is liable on summary conviction to custody for a term not exceeding 6 months, or to a fine, or to both.

(5) A person guilty of an offence under this section is liable on conviction on information to custody for a term not exceeding 7 years, or to a fine, or to both.68
18L Forfeiture

[P2017/32/54]

(1) If a person —
(a) carries on a third country goods fulfilment business; and
(b) is not an approved person;

any goods within subsection (2) are liable to forfeiture under the Customs and Excise Management Act 1986.

(2) Goods are within this subsection if —
(a) they are stored by the person; and
(b) their storage by the person constitutes, or has constituted, the carrying on of a third country goods fulfilment business by the person.69

18M Penalties

[P2017/32/55(1)]

Schedule 5B provides for a penalty to be payable by a person who carries on a third country goods fulfilment business and is not an approved person.70

18N Sections 18G to 18M: Supplementary

[P2017/32/51, 55, 57 & 58]

(1) The Treasury may by regulations make provision —
(a) regulating the approval and registration of persons under sections 18G to 18I;
(b) regulating the variation or revocation of any such approval or registration, or of any condition or restriction to which such an approval or registration is subject;
(c) about the register maintained under section 18I;
(d) regulating the carrying on of a third country goods fulfilment business; and
(e) imposing obligations on approved persons.

(2) The regulations may, in particular, make provision —
(a) requiring applications, and other communications with the Treasury, to be made electronically;
(b) as to the procedure for the approval and registration of bodies corporate which are members of the same group;
(c) requiring approved persons to keep and make available for inspection such records as may be prescribed by or under the regulations.

(3) The Treasury may make regulations (“penalty regulations”) imposing a penalty for the contravention of —
(a) any condition or restriction imposed under sections 18G to 18N;
(b) regulations under sections 18G to 18N.

(4) The penalty regulations may make provision for the assessment and recovery of a penalty imposed by the regulations.

(5) The amount of a penalty imposed by the penalty regulations is to be specified in the regulations, but must not exceed £3,000.

(6) The Treasury may by regulations make provision for corporate bodies which are members of the same group to be jointly and severally liable for any penalties imposed under —
(a) Schedule 5B; or
(b) the penalty regulations.

(7) Regulations under sections 18G to 18N 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 the Treasury;
(e) make provision by reference to a notice to be published by the Treasury.

(8) For the purposes of section 18G to 18N two or more bodies corporate are members of a group if —
(a) one of them controls each of the others;
(b) one person (whether a body corporate or an individual) controls all of them; or
(c) two or more individuals carrying on a business in partnership control all of them.

(9) A body corporate is to be taken to control another body corporate if —
(a) it is empowered by or under legislation to control that body’s activities; or
(b) it is that body’s holding company within the meaning of section 1(4) of the Companies Act 1974.

(10) An individual or individuals are to be taken to control a body corporate if the individual or individuals (were the individual or individuals a company) would be that body’s holding company within the meaning of section 1 of the Companies Act 1974.71
Determination of value

19 Value of supply of goods or services
[1973/1/10; P1994/23/19]

(1) For the purposes of this Act the value of any supply of goods or services shall, except as otherwise provided by or under this Act, be determined in accordance with this section and Schedule 7, and for those purposes subsections (2) to (4) have effect subject to that Schedule.

(2) If the supply is for a consideration in money its value shall be taken to be such amount as, with the addition of the VAT chargeable, is equal to the consideration.

(3) If the supply is for a consideration not consisting or not wholly consisting of money, its value shall be taken to be such amount in money as, with the addition of the VAT chargeable, is equivalent to the consideration.

(4) Where a supply of any goods or services is not the only matter to which a consideration in money relates, the supply shall be deemed to be for such part of the consideration as is properly attributable to it.

(5) For the purposes of this Act the open market value of a supply of goods or services shall be taken to be the amount that would fall to be taken as its value under subsection (2) if the supply were for such consideration in money as would be payable by a person standing in no such relationship with any person as would affect that consideration.

20 Valuation of acquisitions from member States
[1973/1/10A; P1994/23/20]

(1) Subject to section 18C, for the purposes of this Act the value of any acquisition of goods from a member State shall be taken to be the value of the transaction in pursuance of which they are acquired.

(2) Where goods are acquired from a member State otherwise than in pursuance of a taxable supply, the value of the transaction in pursuance of which they are acquired shall be determined for the purposes of subsection (1) in accordance with this section and Schedule 8, and for those purposes —

(a) subsections (3) to (5) have effect subject to Schedule 8; and

(b) section 19 and Schedule 7 shall not apply in relation to the transaction.

(3) If the transaction is for a consideration in money, its value shall be taken to be such amount as is equal to the consideration.

(4) If the transaction is for a consideration not consisting or not wholly consisting of money, its value shall be taken to be such amount in money as is equivalent to the consideration.
(5) Where a transaction in pursuance of which goods are acquired from a member State is not the only matter to which a consideration in money relates, the transaction shall be deemed to be for such part of the consideration as is properly attributable to it.

21 Value of imported goods

[1973/1/11; P1994/23/21]

(1) For the purposes of this Act, the value of goods imported from a place outside the member States shall (subject to subsections (2) to (4)) be determined according to the rules applicable in the case of EU customs duties, whether or not the goods in question are subject to any such duties.\(^{23}\)

(2) For the purposes of this Act, the value of any goods imported from a place outside the member States shall subject to subsection (2A) be taken to include the following so far as they are not already included in that value in accordance with the rules mentioned in subsection (1), that is to say —

(a) all taxes, duties and other charges levied either outside or, by reason of importation, within the Island (except VAT);

(b) all incidental expenses, such as commission, packing, transport and insurance costs, up to the goods’ first destination in the Isle of Man and the United Kingdom; and\(^{24}\)

(c) if at the time of the importation of the goods from a place outside the member States a further destination for the goods is known, and that destination is within the Isle of Man, the United Kingdom or a member State, all such incidental expenses in so far as they result from the transport of the goods to that other destination;\(^{25}\)

and in this subsection “the goods’ first destination” means the place mentioned on the consignment note or any other document by means of which the goods are imported into the Isle of Man and the United Kingdom, or in the absence of such documentation it means the place of the first transfer of cargo in the Isle of Man and the United Kingdom.\(^{26}\)

(2A) Where —

(a) any goods falling within subsection (5) are sold by auction at a time when they are subject to the procedure specified in subsection (2B), and

(b) arrangements made by or on behalf of the purchaser of the goods following the sale by auction result in the importation of the goods from a place outside the member States,

the value of the goods shall not be taken for the purposes of this Act to include, in relation to that importation, any commission or premium payable to the auctioneer in connection with the sale of the goods.\(^{27}\)
(2B) That procedure is the customs procedure for temporary importation with total relief from import duties provided for in Articles 137 to 141 of Council Regulation 2913/92/EEC of 12 October 1992 establishing the Community Customs Code [OJL302, 12.10.1992, p.1].

(3) Subject to subsection (2), where —

(a) goods are imported from a place outside the member States for a consideration which is or includes a price in money payable as on the transfer of property;

(b) the terms on which those goods are so imported allow a discount for prompt payment of that price;

(c) those terms do not include provision for payment of that price by instalments; and

(d) payment of that price is made in accordance with those terms so that the discount falls to be allowed,

the value of the goods shall be taken for the purposes of this Act to be reduced by the amount of the discount.

(4) Subject to subsection (6D), for the purposes of this Act, the value of any goods falling within subsection (5) which are imported from a place outside the member States shall be taken to be an amount equal to 25 per cent. of the amount which, apart from this subsection, would be their value for those purposes.

(5) The goods that fall within this subsection are —

(a) any work of art;

(b) any antique, not falling within paragraph (a) or (c), that is more than one hundred years old;

(c) any collection or collector’s piece that is of zoological, botanical, mineralogical, anatomical, historical, archaeological, palaeontological, ethnographic, numismatic or philatelic interest.

(6) In this section “work of art” means, subject to subsections (6A) and (6B) —

(a) any mounted or unmounted painting, drawing, collage, decorative plaque or similar picture that was executed by hand;

(b) any original engraving, lithograph or other print which —

(i) was produced from one or more plates executed by hand by an individual who executed them without using any mechanical or photomechanical process; and

(ii) either is the only one produced from the plate or plates or is comprised in a limited edition;

(c) any original sculpture or statuary, in any material;

(d) any sculpture cast which —
(i) was produced by or under the supervision of the individual who made the mould or became entitled to it by succession on the death of that individual; and

(ii) either is the only cast produced from the mould or is comprised in a limited edition;

(e) any tapestry or other hanging which —

(i) was made by hand from an original design; and

(ii) either is the only one made from the design or is comprised in a limited edition;

(f) any ceramic executed by an individual and signed by him;

(g) any enamel on copper which —

(i) was executed by hand;

(ii) is signed either by the person who executed it or by someone on behalf of the studio where it was executed;

(iii) either is the only one made from the design in question or is comprised in a limited edition; and

(iv) is not comprised in an article of jewellery or an article of a kind produced by goldsmiths or silversmiths;

(h) any mounted or unmounted photograph which —

(i) was printed by or under the supervision of the photographer;

(ii) is signed by him; and

(iii) either is the only print made from the exposure in question or is comprised in a limited edition.\textsuperscript{81}

(6A) The following do not fall within subsection (5) by virtue of subsection (6)(a), that is to say —

(a) any technical drawing, map or plan;

(b) any picture comprised in a manufactured article that has been hand-decorated; or

(c) anything in the nature of scenery, including a backcloth.\textsuperscript{82}

(6B) An item comprised in a limited edition shall be taken to be so comprised for the purposes of subsection (6)(d) to (h) only if —

(a) in the case of sculpture casts —

(i) the edition is limited so that the number produced from the same mould does not exceed eight; or

(ii) the edition comprises a limited edition of nine or more cases made before 1st January 1989 which the Treasury has directed should be treated, in the exceptional circumstances of the case, as a limited edition for the purposes of subsection (6)(d);
(b) in the case of tapestries and hangings, the edition is limited so that the number produced from the same design does not exceed eight;

(c) in the case of enamels on copper —
   (i) the edition is limited so that the number produced from the same design does not exceed eight; and
   (ii) each of the enamels in the edition is numbered and signed as mentioned in subsection (6)(g)(ii);

(d) in the case of photographs —
   (i) the edition is limited so that the number produced from the same exposure does not exceed thirty; and
   (ii) each of the prints in the edition is numbered and is signed as mentioned in subsection (6)(h)(ii).

(6C) For the purposes of this section a collector’s piece is of philatelic interest if —
   (a) it is a postage or revenue stamp, a postmark, a first-day cover or an item of pre-stamped stationery; and
   (b) it is franked or (if unfranked) it is not legal tender and is not intended for use as such.

(6D) Subsection (4) does not apply in the case of any goods imported from outside the member States if —
   (a) the whole of the VAT chargeable on their importation falls to be relieved by virtue of an order under section 37(1); or
   (b) they were exported from the Island during the period of twelve months ending with the date of their importation,

   in circumstances where the exportation and subsequent importation were effected to obtain the benefit of that subsection.

22 [Repealed]

23 Value of supplies involving relevant machine games

(1) If a person plays a relevant machine game, then for the purposes of VAT the amount paid by the person is to be treated as consideration for a supply of services to that person.

(2) “Relevant machine game” is defined in section 23A.

(3) The value to be taken as the value of supplies made by a person (“the supplier”) in the circumstances mentioned in subsection (1) in any period is to be determined as if the consideration for the supplies were reduced by an amount equal to X.
(4) \( X \) is the amount (if any) paid out in that period by way of winnings in respect of relevant machine games made available by the supplier (whether the games were played in the same period or an earlier one).

(5) \( X \) does not include any winnings paid out to the supplier or a person acting on the supplier’s behalf.

(6) Inserting a token into a machine on which a relevant machine game is played is to be treated for the purposes of subsection (1) as the payment of an amount equal to that for which the token can be obtained.

(7) Providing a specified kind of token by way of winnings is to be treated for the purposes of subsection (4) as the payment out of an amount by way of winnings equal to the value of the token.

(8) A specified kind of token is —
   (a) a token that can be inserted into the same machine to enable games to be played on the machine; or
   (b) a token that is not of such a kind but can be exchanged for money.

(9) The value of a specified kind of token is —
   (a) for a token within subsection (8)(a), an amount equal to that for which the token can be obtained; and
   (b) for a token within subsection (8)(b), an amount equal to that for which the token can be exchanged.

(10) If it is not reasonably practicable to attribute payments and winnings to relevant machine games or to apportion them between relevant machine games and other games or other activities, any attribution or apportionment is to be done on a just and reasonable basis.

(11) For the purposes of this section, a person plays a game if the person participates in the game —
   (a) whether or not there are other participants in the game; and
   (b) whether or not a computer generates images or data taken to represent the actions of other participants in the game.

23A Meaning of “relevant machine game”

(1) A “relevant machine game” is a game (whether of skill or chance or both) that —
   (a) is played on a machine for a prize; and
   (b) is not excluded by subsection (2).

(2) A game is excluded by this section if —
   (a) takings and payouts in respect of it are taken into account in determining any charge to machine games duty or are exempt from machine games duty or would be so taken into account but for an exemption specified in an order made under paragraph 8 of
Schedule 24 to the Finance Act 2012 (of Parliament), as it has effect in the Island;4

(b) it involves betting on future real events; or

(c) lottery duty is charged on the taking of a ticket or chance in it or would be so charged but for an express exception.

(3) In this section —

“game” does not include a sport;

“lottery duty” means the duty of excise charged under section 24 of the Finance Act 1993 (of Parliament), as it has effect in the Island;5

“machine” means any apparatus that uses or applies mechanical power, electrical power or both;

“prize”, in relation to a game, does not include the opportunity to play the game again;

“real game of chance” means a game of chance that is non-virtual.

(4) The Treasury may by order amend this section.88

Payment of VAT by taxable persons

24 Input tax and output tax

[1973/1/3(3), (3A), (3B), (5), (8) and (10); P1994/23/24]

(1) Subject to the following provisions of this section, “input tax”, in relation to a taxable person, means the following tax, that is to say —

(a) VAT under this Act on the supply to him of any goods or services;

(b) VAT on the acquisition by him from a member State of any goods; and

(c) VAT paid or payable by him on the importation of any goods from a place outside the member States,

being (in each case) goods or services used or to be used for the purpose of any business carried on or to be carried on by him.

(2) Subject to the following provisions of this section, “output tax”, in relation to a taxable person, means VAT on supplies which he makes or on the acquisition by him from a member State of goods (including VAT which is also to be counted as input tax by virtue of subsection (1)(b)).

(3) [Repealed]89

(4) The Treasury may by order provide with respect to any description of goods or services that, where goods or services of that description are supplied to a person who is not a taxable person, they shall, in such

4 2012 c.14 (of Parliament), as applied in the Island by SD665/12.
5 1993 c.34 (of Parliament), as applied in the Island by SD508/99
circumstances as may be specified in the order, be treated for the purposes of subsections (1) and (2) as supplied to such other person as may be determined in accordance with the order.

(5) Where goods or services supplied to a taxable person, goods acquired by a taxable person from a member State or goods imported by a taxable person from a place outside the member States are used or to be used partly for the purposes of a business carried on or to be carried on by him and partly for other purposes —

(a) VAT on supplies, acquisitions and importations shall be apportioned so that so much as is referable to the taxable person’s business purposes is counted as that person’s input tax; and

(b) the remainder of that VAT (“the non-business VAT”) shall count as that person’s input tax only to the extent (if any) provided for by regulations under subsection (6)(e).

(5A) For the purposes of subsections (1) and (5), a relevant asset held for the purposes of a business carried on or to be carried on by a taxable person is not, in any circumstances, to be regarded as used or to be used for the purposes of the business if, and to the extent that it is used for that person’s private use or the private use of that person’s staff.

(5B) In subsection (5A), “relevant asset” means —

(a) any interest in land;

(b) any building or part of a building;

(c) any civil engineering work or part of such a work;

(d) any goods incorporated or to be incorporated in a building or civil engineering work (whether by being installed as fixtures or fittings or otherwise);

(e) any ship, boat or other vessel; or

(f) any aircraft.

(6) Regulations may provide —

(a) for VAT under this Act on the supply of goods or services to a taxable person, VAT on the acquisition of goods by a taxable person from member States and VAT paid or payable by a taxable person on the importation of goods from places outside the member States to be treated as his input tax only if and to the extent that the charge to VAT under this Act is evidenced and quantified by reference to such documents or other information as may be specified in the regulations or the Treasury may direct either generally or in particular cases or classes of cases;

(b) for a taxable person to count as his input tax, in such circumstances, to such extent and subject to such conditions as may be prescribed, VAT under this Act on the supply to him of goods or services or on the acquisition of goods by him from a member State or paid by
him on the importation of goods from places outside the member
States notwithstanding that he was not a taxable person at the time
of the supply, acquisition or payment;

(c) for a taxable person that is a body corporate to count as its input
tax, in such circumstances, to such extent and subject to such
conditions as may be prescribed, VAT under this Act on the supply,
acquisition or importation of goods before the company’s
incorporation for appropriation to the company or its business or
on the supply of services before that time for its benefit or in
connection with its incorporation;

(d) in the case of a person who has been, but is no longer, a taxable
person, for him to be paid by the Treasury the amount of any VAT
on a supply of services made to him for the purposes of the
business carried on by him when he was a taxable person;

(e) in cases where an apportionment is made under subsection (5), for
the non-business VAT to be counted as the taxable person’s input
tax for the purpose of any provision made by or under section 26
in such circumstances, to such extent and subject to such conditions
as may be prescribed.\textsuperscript{94}

(6A) Regulations under subsection (6) may contain such supplementary,
incidental, consequential and transitional provisions as appear to the
Treasury to be necessary or expedient.\textsuperscript{95}

(7) [Repealed]\textsuperscript{96}

25 Payment by reference to accounting periods and credit for input tax
against output tax

[1973/1/3(1), (2), (5), (6), (6A), (7) and (9); P1994/23/25]

(1) A taxable person shall —

(a) in respect of supplies made by him, and

(b) in respect of the acquisition by him from member States of any
goods,

account for and pay VAT by reference to such periods (in this Act referred
to as “prescribed accounting periods”) at such time and in such manner as
may be determined by or under regulations.

(2) Subject to the provisions of this section, he is entitled at the end of each
prescribed accounting period to credit for so much of his input tax as is
allowable under section 26, and then to deduct that amount from any
output tax that is due from him.

(3) If either no output tax is due at the end of the period, or the amount of the
credit exceeds that of the output tax then, subject to subsections (4) and
(5), the amount of the credit or, as the case may be, the amount of the
excess shall be paid to the taxable person by the Treasury; and an amount
which is due under this subsection is referred to in this Act as a “VAT credit”.

(4) The whole or any part of the credit may, subject to and in accordance with regulations, be held over to be credited in and for a subsequent period; and the regulations may allow for it to be so held over either on the taxable person’s own application or in accordance with general or special directions given by the Treasury from time to time.

(5) Where at the end of any period a VAT credit is due to a taxable person who has failed to submit returns for any earlier period as required by this Act, the Treasury may withhold payment of the credit until he has complied with that requirement.

(6) A deduction under subsection (2) and payment of a VAT credit shall not be made or paid except on a claim made in such manner and at such time as may be determined by or under regulations; and, in the case of a person who has made no taxable supplies in the period concerned or any previous period, payment of a VAT credit shall be made subject to such conditions (if any) as the Treasury thinks fit to impose, including conditions as to repayment in specified circumstances.

(7) The Treasury may by order provide, in relation to such supplies, acquisitions and importations as the order may specify, that VAT under this Act charged on them is to be excluded from any credit under this section; and —

(a) any such provision may be framed by reference to the description of goods or services supplied or goods acquired or imported, the person by whom they are supplied, acquired or imported or to whom they are supplied, the purposes for which they are supplied, acquired or imported, or any circumstances whatsoever; and

(b) such an order may contain provision for consequential relief from output tax.

26 Input tax allowable under section 25

[1973/1/4; P1994/23/26]

(1) The amount of input tax for which a taxable person is entitled to credit at the end of any period shall be so much of the input tax for the period (that is input tax on supplies, acquisitions and importations in the period) as is allowable by or under regulations as being attributable to supplies within subsection (2).

(2) The supplies within this subsection are the following supplies made or to be made by the taxable person in the course or furtherance of his business —

(a) taxable supplies;

(b) supplies outside the Island which would be taxable supplies if made in the Island;
(c) such other supplies outside the Island and such exempt supplies as the Treasury may by order specify for the purposes of this subsection.

(3) The Treasury shall make regulations for securing a fair and reasonable attribution of input tax to supplies within subsection (2), and any such regulations may provide for —

(a) determining a proportion by reference to which input tax for any prescribed accounting period is to be provisionally attributed to those supplies;

(b) adjusting, in accordance with a proportion determined in like manner for any longer period comprising two or more prescribed accounting periods or parts thereof, the provisional attribution for any of those periods;

(c) the making of payments in respect of input tax, by the Treasury to a taxable person (or a person who has been a taxable person) or by a taxable person (or a person who has been a taxable person) to the Treasury, in cases where events prove inaccurate an estimate on the basis of which an attribution was made; and

(d) preventing input tax on a supply which, under or by virtue of any provision of this Act, a person makes to himself from being allowable as attributable to that supply.

(4) Regulations under subsection (3) may contain such incidental, supplementary, consequential and transitional provisions as appear to the Treasury necessary or expedient. 97

26AA Disallowance of input tax where consideration not paid

(1) Where —

(a) a person has become entitled to credit for any input tax, and

(b) the consideration for the supply to which that input tax relates, or any part of it, is unpaid at the end of the period of 6 months following the relevant date,

he shall be taken, as from the end of that period, not to have been entitled to credit for input tax in respect of the VAT that is referable to the unpaid consideration or part.

(1A) Subsection (1) is subject to section 26AAB (disapplication of disallowance under section 26AA in insolvency). 98

(2) For the purposes of subsection (1) “the relevant date”, in relation to any sum representing consideration for a supply, is —

(a) the date of the supply, or

(b) if later, the date on which the sum became payable.
Regulations may make such supplementary, incidental, consequential or transitional provisions as appear to the Treasury to be necessary or expedient for the purposes of this section.

Regulations under this section may in particular —

(a) make provision for restoring the whole or any part of an entitlement to credit for input tax where there is a payment after the end of the period mentioned in subsection (1);

(b) make rules for ascertaining whether anything paid is to be taken as paid by way of consideration for a particular supply;

(c) make rules dealing with particular cases, such as those involving payment of part of the consideration or mutual debts.

Regulations under this section may make different provision for different circumstances.

Section 6 shall apply for determining the time when a supply is to be treated as taking place for the purposes of construing this section.

26AAB Disapplication of disallowance under section 26AA in insolvency

Section 26AA(1) does not apply to a person in relation to credit for input tax which relates to a supply where —

(a) at the time of the supply, no insolvency procedure had effect in relation to the person;

(b) at any time during the relevant period, an insolvency procedure had effect in relation to that person (“the insolvent person”); and

(c) the Treasury has been notified in writing of the insolvency procedure mentioned in paragraph (b) by or on behalf of a person authorised to deal with the insolvent person’s affairs.

But where the insolvency procedure mentioned in subsection (1)(b) is a bankruptcy order or, award of sequestration and that bankruptcy order is annulled or, that award of sequestration is recalled —

(a) the disapplication of section 26AA(1) by subsection (1) above ceases to have effect; and

(b) the person to which the bankruptcy order, or award of sequestration relates is to be taken for the purposes of section 26AA(1) as not being entitled to the credit for the input tax concerned as from whichever is the later of —

(i) the end of the relevant period; and

(ii) the date on which the bankruptcy order was annulled, or the award of sequestration recalled.

Where the person mentioned in section 26AA(1) is entitled as a member of a partnership to credit for input tax this section has effect as if —
(a) the references in subsections (1)(a) and (b) to “the person” and “that person” were references to the partnership;

(b) the reference in subsection (1)(c) to “the insolvent person’s affairs” was a reference to the insolvent partnership’s affairs; and

(c) the reference in subsection (2)(b) to “the person”, in connection with a bankruptcy order was a reference to the person who is a member of the partnership to which the bankruptcy order relates.

(4) Subsection (1) does not apply where the insolvency procedure referred to in subsection (1)(b) has effect as part of, or as a consequence of, arrangements where the main purpose, or one of the main purposes, of those arrangements is to obtain a tax advantage by the operation of this section.

(5) Regulations may make such supplementary, incidental, consequential or transitional provisions as appear to the Treasury to be necessary or expedient for the purposes of this section.

(6) For the purposes of this section “the relevant period”, in relation to a supply, is the period beginning immediately after the supply took place and ending six months after —

(a) the date of that supply; or

(b) if later, the date on which the relevant part of the consideration for the supply is payable.

(7) For the purposes of subsection (6) the relevant part of the consideration is the part of the consideration referable to the credit for input tax which would (ignoring the effect of this section) be disallowed under section 26AA(1).

(8) For the purposes of this section an insolvency procedure has effect in relation to a person at a time when any of the following apply —

(a) when a bankruptcy order, winding-up order, administration order or award of sequestration has been made in relation to that person and has not been discharged or the administration order has not ceased to have effect;

(b) when that person is put into administrative receivership within the meaning of section 251 of the Insolvency Act 1986 (an Act of Parliament)\(^6\) or article 5 of the Insolvency (Northern Ireland) Order 1987\(^7\);

(c) when that person, being a corporation, passes a resolution for voluntary winding up and that person has not been dissolved or the winding-up order has not been stayed;

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\(^6\) 1986 c.45 (of Parliament)

\(^7\) SI 1989/2405 (N.I. 19)
(d) when any voluntary arrangement approved in accordance with Part I or VIII of the Insolvency Act 1986 (an Act of Parliament), or Part II or Chapter II of Part VIII of the Insolvency (Northern Ireland) Order 1989, has come into force in relation to that person and that voluntary arrangement has not come to an end prematurely;

(e) a compromise or arrangement sanctioned by the court and delivered to the registrar in accordance with section 899 of the Companies Act 2006 (an Act of Parliament) is in place in relation to that person;\(^{100}\)

(f) when that person’s estate becomes vested in any other person as that person’s trustee under a trust deed or a deed of arrangement.

(9) In this section, “tax advantage” has the same meaning as in Schedule 11A (disclosure of avoidance schemes).

(10) Section 6 (time of supply) applies for determining the time when a supply is to be treated as taking place for the purposes of construing this section.\(^{101}\)

26AB Adjustment of output tax in respect of supplies under section 55A

(1) This section applies if —

(a) a person is, as a result of section 26AA, taken not to have been entitled to any credit for input tax in respect of any supply, and

(b) the supply is one in respect of which the person is required under section 55A(6) to account for and pay VAT.

(2) The person is entitled to make an adjustment to the amount of VAT which he is required to account for and pay.

(3) The amount of the adjustment is to be equal to the amount of the credit for the input tax to which the person is taken not to be entitled.

(4) Regulations may make such supplementary, incidental, consequential or transitional provisions as appear to the Treasury to be necessary or expedient for the purposes of this section.

(5) Regulations under this section may in particular —

(a) make provision for the manner in which, and the period for which, the adjustment is to be given effect,

(b) require the adjustment to be evidenced and quantified by reference to such records and other documents as may be specified by or under the regulations,

(c) require the person entitled to the adjustment to keep, for such period and in such form and manner as may be so specified, those records and documents,
(d) make provision for readjustments if any credit for input tax is restored under section 26AA.

(6) Regulations under this section may make different provision for different circumstances. 102

26A Flat-rate scheme

(1) The Treasury may by regulations make provision under which, where a taxable person so elects, the amount of his liability to VAT in respect of his relevant supplies in any prescribed accounting period shall be the appropriate percentage of his relevant turnover for that period.

A person whose liability to VAT is to any extent determined as mentioned above is referred to in this section as participating in the flat-rate scheme.

(2) For the purposes of this section —

(a) a person’s “relevant supplies” are all supplies made by him except supplies made at such times or of such descriptions as may be specified in the regulations;

(b) the “appropriate percentage” is the percentage so specified for the category of business carried on by the person in question;

(c) a person’s “relevant turnover” is the total of —

(i) the value of those of his relevant supplies that are taxable supplies, together with the VAT chargeable on them, and

(ii) the value of those of his relevant supplies that are exempt supplies.

(3) The regulations may designate certain categories of business as categories in relation to which the references in subsection (1) to liability to VAT are to be read as references to entitlement to credit for VAT.

(4) The regulations may provide for persons to be eligible to participate in the flat-rate scheme only in such cases and subject to such conditions and exceptions as may be specified in, or determined by or under, the regulations.

(5) Subject to such exceptions as the regulations may provide for, a participant in the flat-rate scheme shall not be entitled to credit for input tax.

This is without prejudice to subsection (3).

(6) The regulations may —

(a) provide for the appropriate percentage to be determined by reference to the category of business that a person is expected, on reasonable grounds, to carry on in a particular period;

(b) provide, in such circumstances as may be prescribed, for different percentages to apply in relation to different parts of the same prescribed accounting period;
(c) make provision for determining the category of business to be regarded as carried on by a person carrying on businesses in more than one category.

(7) The regulations may provide for the following matters to be determined in accordance with notices published by the Treasury —

(a) when supplies are to be treated as taking place for the purposes of ascertaining a person’s relevant turnover for a particular period;

(b) the method of calculating any adjustments that fall to be made in accordance with the regulations in a case where a person begins or ceases to participate in the flat-rate scheme.

(8) The regulations may make provision enabling the Treasury —

(a) to authorise a person to participate in the flat-rate scheme with effect from —

(i) a day before the date of his election to participate, or

(ii) a day that is not earlier than that date but is before the date of the authorisation;

(b) to direct that a person shall cease to be a participant in the scheme with effect from a day before the date of the direction.

The day mentioned in paragraph (a)(i) may be a day before the date on which the regulations come into operation.

(9) Regulations under this section —

(a) may make different provision for different circumstances;

(b) may make such incidental, supplemental, consequential or transitional provision as the Treasury thinks fit, including provision disapplying or applying with modifications any provision contained in or made under this Act.103

27 Goods imported for private purposes
[GC171/77/3(1)-(4) and (6); P1994/23/27]

(1) Where goods are imported by a taxable person or a person defined as such under this Act from a place outside the member States and —

(a) at the time of importation they belong wholly or partly to another person; and

(b) the purposes for which they are to be used include private purposes either of himself or of the other,

VAT under this Act paid or payable by the taxable person or a person defined as such under this Act on the importation of the goods shall not be regarded as input tax to be deducted or credited under section 25; but he may make a separate claim to the Treasury for it to be repaid.
(2) The Treasury shall allow the claim if it is satisfied that to disallow it would result, in effect, in a double charge to VAT under this Act; and where it allows it the Treasury shall do so only to the extent necessary to avoid the double charge.

(3) In considering a claim under this section, the Treasury shall have regard to the circumstances of the importation and, so far as appearing to it to be relevant, things done with, or occurring in relation to, the goods at any subsequent time.

(4) Any amount allowed by the Treasury on the claim shall be paid by it to the taxable person.

(5) The reference above to a person’s private purposes is to purposes which are not those of any business carried on by him.

28 Payments on account of VAT
[1973/1/37F; P1994/23/28]

(1) The Treasury may by order provide that a taxable person of a description specified in the order shall be under a duty —

(a) to pay, on account of any VAT he may become liable to pay in respect of a prescribed accounting period, amounts determined in accordance with the order, and

(b) to do so at such times as are so determined.

(2) Where an order is made under this section, the Treasury may make regulations containing such supplementary, incidental or consequential provisions as appear to the Treasury to be necessary or expedient.

(2AA) An order under this section may provide for the matters with respect to which an appeal under section 83 lies to a tribunal to include such decisions of the Treasury under that or any other order under this section as may be specified in the order.¹⁰⁴

(2A) The Treasury may give directions, to persons who are or may become liable by virtue of any order under this section to make payments on account of VAT, about the manner in which they are to make such payments; and where such a direction has been given to any person and has not subsequently been withdrawn, any duty of that person by virtue of such an order to make such a payment shall have effect as if it included a requirement for the payment to be made in the manner directed.¹⁰⁵

(3) A provision of an order or regulations under this section may be made in such way as the Treasury thinks fit (whether by amending provisions of or made under the enactments relating to VAT or otherwise).

29 Invoices provided by recipients of goods or services
[1973/1/31(7); P1994/23/29]

Where —
(a) a taxable person ("the recipient") provides a document to himself which purports to be an invoice in respect of a taxable supply of goods or services to him by another taxable person; and

(b) that document understates the VAT chargeable on the supply, the Treasury may, by notice served on the recipient and on the supplier, elect that the amount of VAT understated by the document shall be regarded for all purposes as VAT due from the recipient and not from the supplier.

PART II – RELIEFS, EXEMPTIONS AND REPAYMENTS

Reliefs etc generally available

29A Reduced rate

(1) VAT charged on —

(a) any supply that is of a description for the time being specified in Schedule 1, or

(b) any equivalent acquisition or importation,

shall be charged at the rate of 5 per cent.

(2) The reference in subsection (1) to an equivalent acquisition or importation, in relation to any supply that is of a description for the time being specified in Schedule 1, is a reference (as the case may be) to —

(a) any acquisition from a member State of goods the supply of which would be such a supply; or

(b) any importation from a place outside the member States of any such goods.

(3) The Treasury may by order vary Schedule 1 by adding to or deleting from it any description of supply or by varying any description of supply for the time being specified in it.

(4) The power to vary Schedule 1 conferred by subsection (3) may be exercised so as to describe a supply of goods or services by reference to matters unrelated to the characteristics of the goods or services themselves.

In the case of a supply of goods, those matters include, in particular, the use that has been made of the goods.¹⁰⁶

30 Zero-rating

[1973/1/12; P1994/23/30]

(1) Where a taxable person supplies goods or services and the supply is zerorated, then, whether or not VAT would be chargeable on the supply apart from this section —
(a) no VAT shall be charged on the supply; but
(b) it shall in all other respects be treated as a taxable supply;

and accordingly the rate at which VAT is treated as charged on the supply shall be nil.

(2) A supply of goods or services is zero-rated by virtue of this subsection if the goods or services are of a description for the time being specified in Schedule 9 or the supply is of a description for the time being so specified.

(2A) A supply by a person of services which consist of applying a treatment or process to another person’s goods is zero-rated by virtue of this subsection if by doing so he produces goods, and either —

(a) those goods are of a description for the time being specified in Schedule 4; or
(b) a supply by him of those goods to the person to whom he supplies the services would be of a description so specified.  

(3) Where goods of a description for the time being specified in Schedule 9, or of a description forming part of a description of supply for the time being so specified, are acquired in the Island from a member State or imported from a place outside the member States, no VAT shall be chargeable on their acquisition or importation, except as otherwise provided in that Schedule.

(4) The Treasury may by order vary Schedule 9 by adding to or deleting from it any description or by varying any description for the time being specified in it.

(5) The export of any goods by a charity to a place outside the member States shall for the purposes of this Act be treated as a supply made by the charity —

(a) in the Isle of Man and the United Kingdom, and
(b) in the course or furtherance of a business carried on by the charity.  

(6) A supply of goods is zero-rated by virtue of this subsection if the Treasury is satisfied that the person supplying the goods —

(a) has exported them to a place outside the member States from the Island; or
(b) has shipped them for use as stores on a voyage or flight to an eventual destination outside the Island, or as merchandise for sale by retail to persons carried on such a voyage or flight in a ship or aircraft,

and in either case if such other conditions, if any, as may be specified in regulations or the Treasury may impose are fulfilled.
(7) Subsection (6)(b) shall not apply in the case of goods shipped for use as stores on a voyage or flight to be made by the person to whom the goods were supplied and to be made for a purpose which is private.

(8) The Treasury may by regulations provide for the zero-rating of supplies of goods, or of such goods as may be specified in the regulations, in cases where —

(a) the Treasury is satisfied that the goods have been or are to be exported to a place outside the member States or that the supply in question involves both —

(i) the removal of the goods from the Island; and

(ii) their acquisition in a member State by a person who is liable for VAT on the acquisition in accordance with provisions of the law of that member State corresponding, in relation to that member State, to the provisions of section 10; and

(b) such other conditions, if any, as may be specified in the regulations or the Treasury may impose are fulfilled.

(8A) Regulations may provide for the zero-rating of supplies of goods, or of such goods as may be specified in regulations, in cases where —

(a) the Treasury is satisfied that the supply in question involves both —

(i) the removal of the goods from a fiscal warehousing regime within the meaning of section 18F (2); and

(ii) their being placed in a warehousing regime in a member State, or in such member State or States as may be prescribed, where that regime is established by provisions of the law of that member State corresponding, in relation to that member State, to the provisions of sections 18A and 18B; and

(b) such other conditions, if any, as may be specified in the regulations or the Treasury may impose are fulfilled.

(9) The Treasury may by regulations provide for the zero-rating of a supply of services which is made where goods are let on hire and the Treasury is satisfied that the goods have been or are to be removed from the Island during the period of the letting, and such other conditions, if any, as may be specified in the regulations or the Treasury may impose are fulfilled.

(10) Where the supply of any goods has been zero-rated by virtue of subsection (6) or in pursuance of regulations made under subsection (8), (8A) or (9) and —

(a) the goods are found in the Island after the date on which they were alleged to have been or were to be exported or shipped or otherwise removed from the Island; or
(b) any condition specified in the relevant regulations under subsection (6), (8), (8A) or (9) or imposed by the Treasury is not complied with,

and the presence of the goods in the Island after that date or the non-observance of the condition has not been authorised for the purposes of this subsection by the Treasury, the goods shall be liable to forfeiture under the Management Act and the VAT that would have been chargeable on the supply but for the zero-rating shall become payable forthwith by the person to whom the goods were supplied or by any person in whose possession the goods are found in the Island; but the Treasury may, if it thinks fit, waive payment of the whole or part of that VAT.

31 Exempt supplies and acquisitions

A supply of goods or services is an exempt supply if it is of a description for the time being specified in Schedule 10 and an acquisition of goods from a member State is an exempt acquisition if the goods are acquired in pursuance of an exempt supply.

The Treasury may by order vary Schedule 10 by adding to or deleting from it any description of supply or by varying any description of supply for the time being specified in it, and the Schedule may be varied so as to describe a supply of goods by reference to the use which has been made of them or to other matters unrelated to the characteristics of the goods themselves.

The Treasury may by regulations make an exemption of a group 15 supply of a description specified in the regulations subject to conditions.

In subsection (3) “group 15 supply ” means a supply falling within Group 15 of Schedule 10.

32 Relief on supply of certain second-hand goods

The Treasury may by order make provision for securing a reduction of the VAT chargeable on the supply of goods of such description as may be specified in the order in cases where no VAT was chargeable on a previous supply of the goods and such other conditions are satisfied as may be specified in the order or as may be imposed by the Treasury in pursuance of the order.

The amount of the reduction that may be secured by an order under this section shall not exceed the amount of VAT that would have been chargeable on the previous supply had VAT been chargeable on it at the same rate as that at which the VAT to be reduced would be chargeable but for the reduction.
(3) An order under this section making provision for reducing the VAT chargeable on the supply of goods of any description may include provision —

(a) for giving relief from the VAT chargeable under this Act on the acquisition of goods of that description from a member State or the importation of goods of that description from a place outside the member States; and

(b) for securing the like reduction where no VAT was chargeable on the acquisition of goods of that description from a member State or the importation of goods of that description from a place outside the member States as where no VAT was chargeable on a previous supply of the goods.

(4) An order under this section may extend to cases where the previous supply or the acquisition or importation took place before VAT was chargeable on any supply, acquisition or importation.

(5) The preceding provisions of this section shall, with the necessary modifications, apply in relation to cases where consequential relief from VAT was given on a previous supply by an order under section 25(7) but the relief did not extend to the whole amount of the VAT.

(6) An order under this section may make different provision for goods of different descriptions and for different circumstances.

(7) In this section references to a supply on which no VAT was chargeable include references to a transaction treated by virtue of an order under section 5(3) as neither a supply of goods nor a supply of services.

(8) This section shall cease to have effect on such day as the Treasury may by order appoint.¹¹⁴

33 Refunds of VAT in certain cases

[1973/1/15; P1994/23/33]

(1) Subject to the following provisions of this section, where —

(a) VAT is chargeable under this Act on the supply of goods or services to a body to which this section applies, on the acquisition of any goods by such a body from a member State or on the importation of any goods by such a body from a place outside the member States, and

(b) the supply, acquisition or importation is not for the purpose of any business carried on by the body,

the Treasury shall, on a claim made by the body at such time and in such form and manner as the Treasury may determine, refund to it the amount of the VAT so chargeable.

(2) Where goods or services so supplied to or acquired or imported by the body cannot be conveniently distinguished from goods or services
supplied to or acquired or imported by it for the purpose of a business
carried on by it, the amount to be refunded under this section shall be such
amount as remains after deducting from the whole of the VAT chargeable
under this Act on any supply to or acquisition or importation by the body
such proportion thereof as appears to the Treasury to be attributable to the
carrying on of the business; but where —

(a) such VAT so attributable is or includes VAT attributable, in
accordance with regulations under section 26, to exempt supplies
by the body, and

(b) such VAT attributable to the exempt supplies is in the opinion of
the Treasury an insignificant proportion of such VAT so
chargeable,

it may include it in the VAT refunded under this section.

(3) The bodies to which this section applies are —

(a) a local authority;

(b) a Government department or statutory board, other than one
designated under section 41(6);

(c) a general lighthouse authority within the meaning of Part XI of the
Merchant Shipping Act 1894 (an Act of Parliament);

(d) an institution established for charitable purposes that was
previously an Endowments Committee constituted under the
Third Schedule to the National Assistance (Isle of Man) Act 1951;¹¹⁵

(e) a joint board established by virtue of an order under section 7 of
the Local Government Act 1985;

(f) any body specified for the purposes of this section by an order
made by the Treasury,

and in this subsection “local authority” includes a local authority lawfully
exercising its statutory powers outside its district.

(4) No VAT under this Act shall be refunded under this section to a general
lighthouse authority which in the opinion of the Treasury is attributable
to activities other than those concerned with the provision, maintenance
or management of lights or other navigational aids.

(5) No VAT shall be refunded under this section to a nominated news
provider which in the opinion of the Treasury is attributable to activities
other than the provision of news programmes for broadcasting by holders
of regional Channel 3 licences (within the meaning of Part I of the
Broadcasting Act 1990 (an Act of Parliament)).

(6) References in this section to VAT chargeable do not include any VAT
which, by virtue of any order under section 25(7), is excluded from credit
under that section.
33A Refunds of VAT to museums and galleries

(1) Subsections (2) to (5) apply where —
   (a) VAT is chargeable on —
      (i) the supply of goods or services to a body to which this section applies,
      (ii) the acquisition of any goods by such a body from a member State, or
      (iii) the importation of any goods by such a body from a place outside the member States,
   (b) the supply, acquisition or importation is attributable to the provision by the body of free rights of admission to a relevant museum or gallery, and
   (c) the supply is made, or the acquisition or importation takes place, on or after 1st April 2001.

(2) The Treasury shall, on a claim made by the body in such form and manner as the Treasury may determine, refund to the body the amount of VAT so chargeable.

(3) The claim must be made before the end of the claim period.

(4) Subject to subsection (5), “the claim period” is —
   (a) 3 years beginning with the day on which the supply is made or the acquisition or importation takes place when that day is on or before 31 March 2006; or
   (b) 4 years beginning with the day on which the supply is made or the acquisition or importation takes place when that day is on or after 1 April 2006.

(5) If the Treasury so determine, the claim period is such shorter period beginning with that day as the Treasury may determine.

(6) Subsection (7) applies where goods or services supplied to, or acquired or imported by, a body to which this section applies that are attributable to free admissions cannot conveniently be distinguished from goods or services supplied to, or acquired or imported by, the body that are not attributable to free admissions.

(7) The amount to be refunded on a claim by the body under this section shall be such amount as remains after deducting from the VAT related to the claim such proportion of that VAT as appears to the Treasury to be attributable otherwise than to free admissions.

(8) For the purposes of subsections (6) and (7) —
   (a) goods or services are, and VAT is, attributable to free admission if they are, or it is, attributable to the provision by the body of free rights of admission to a relevant museum or gallery;
(b) the VAT related to a claim is the whole of the VAT chargeable on —
   (i) the supplies to the body, and
   (ii) the acquisitions and importations by the body,
       to which the claim relates.

(9) The Treasury may by order —
   (a) specify a body as being a body to which this section applies;
   (b) when specifying a body under paragraph (a), specify any museum or gallery that, for the purposes of this section, is a “relevant” museum or gallery in relation to the body;
   (c) specify an additional museum or gallery as being, for the purposes of this section, a “relevant” museum or gallery in relation to a body to which this section applies;
   (d) when specifying a museum or gallery under paragraph (b) or (c), provide that this section shall have effect in the case of the museum or gallery as if in subsection (1)(c) there were substituted for 1st April 2001 a later date specified in the order.

(10) References in this section to VAT do not include any VAT which, by virtue of any order under section 25(7), is excluded from credit under that section.\footnote{117}

33B Refunds of VAT to charities within section 33C

(1) This section applies to a charity that falls within any of the descriptions in section 33C.

   A charity to which this section applies is referred to in this section as a “qualifying charity”.

(2) This section applies where —
   (a) VAT is chargeable on —
      (i) the supply of goods or services to a qualifying charity;
      (ii) the acquisition of any goods from a member State by a qualifying charity; or
      (iii) the importation of any goods from a place outside the member States by a qualifying charity; and
   (b) the supply, acquisition or importation is not for the purpose of any business carried on by the qualifying charity.

(3) The Treasury shall, on a claim made by the qualifying charity at such time and in such form and manner as the Treasury may determine, refund to the qualifying charity the amount of the VAT so chargeable.

(4) A claim under subsection (3) in respect of a supply, acquisition or importation must be made before the end of the period of 4 years...
beginning with the day on which the supply is made or the acquisition or importation takes place.

(5) Subsection (6) applies where goods or services supplied to, or acquired or imported by, a qualifying charity otherwise than for the purpose of any business carried on by the qualifying charity cannot be conveniently distinguished from goods or services supplied to, or acquired or imported by, the qualifying charity for the purpose of such a business.

(6) The amount to be refunded under this section is such amount as remains after deducting from the whole of the VAT chargeable on any supply to, or acquisition or importation by, the qualifying charity such proportion of that VAT as appears to the Treasury to be attributable to the carrying on of the business.

(7) References in this section to VAT do not include any VAT which, by virtue of an order under section 25(7), is excluded from credit under section 25.\textsuperscript{118}

33C Charities to which section 33B applies

\textit{Palliative care charities}

(1) “Palliative care charity” means a charity the main purpose of which is the provision of palliative care at the direction of, or under the supervision of, a medical professional to persons who are in need of such care as a result of having a terminal illness.

(2) In subsection (1) “medical professional” means —

(a) a registered medical practitioner, or

(b) a registered nurse.

\textit{Air ambulance charities}

(3) “Air ambulance charity” means a charity the main purpose of which is to provide an air ambulance service in pursuance of arrangements made by, or at the request of, the Department of Health and Social Care.

\textit{Search and rescue charities}

(4) “Search and rescue charity” means a charity that meets condition A or B.

(5) For the purposes of subsection (4), condition A is that —

(a) the main purpose of the charity is to carry out search and rescue activities in —

(i) the Island;

(ii) the area of sea within the seaward limits of the territorial sea adjacent to the Island, as construed in accordance with the provisions of section 1 of the Territorial Sea Act 1987 (an Act
(iii) the Irish Sea.

(b) the search and rescue activities carried out by the charity are co-ordinated by a relevant authority.

(6) For the purposes of subsection (4), condition B is that the main purpose of the charity is to support, develop and promote the activities of a charity which meets condition A.

(7) For the purposes of subsection (5) —

“search and rescue activities” means searching for, and rescuing, persons who are, or may be, at risk of death or serious injury;

“relevant authority” means —

(a) the Department of Infrastructure;

(b) the Department of Home Affairs;

(c) the Isle of Man Constabulary;

(d) the Isle of Man Fire and Rescue Service; or

(e) any other person or body specified for the purposes of subsection (5) by an order made by the Treasury.

**Medical courier charities**

(8) “Medical courier charity” means a charity that meets condition A or B.

(9) For the purposes of subsection (8), condition A is that the main purpose of the charity is to provide services for the transportation of items intended for use for medical purposes, including in particular —

(a) blood;

(b) medicines and other medical supplies;

(c) items relating to people who are undergoing medical treatment.

(10) For the purposes of subsection (8), condition B is that the main purpose of the charity is to support, develop and promote the activities of the charity which meets condition A.

(11) In subsection (9) “item” includes any substance.¹¹⁹

### 34 Capital goods

[1973/1/28; P1994/23/34]

(1) The Treasury may by order make provision for the giving of relief, in such cases, to such extent and subject to such exceptions as may be specified in the order, from VAT paid on the supply, acquisition or importation for the purpose of a business carried on by any person of machinery or plant or any specified description of machinery or plant in cases where that VAT
or part of that VAT cannot be credited under section 25 and such other conditions are satisfied as may be specified in the order.

(2) Without prejudice to the generality of subsection (1), an order under this section may provide for relief to be given by deduction or refunding of VAT and for aggregating or excluding the aggregation of value where goods of the same description are supplied, acquired or imported together.

35 Refund of VAT to persons constructing certain buildings

[1973/1/15A; P1994/23/35]

(1) Where —

(a) a person carries out works to which this section applies,
(b) his carrying out of the works is lawful and otherwise than in the course or furtherance of any business, and
(c) VAT is chargeable on the supply, acquisition or importation of any goods used by him for the purposes of the works,

the Treasury shall, on a claim made in that behalf, refund to that person the amount of VAT so chargeable.

(1A) The works to which this section applies are —

(a) the construction of a building designed as a dwelling or number of dwellings;
(b) the construction of a building for use solely for a relevant residential purpose or relevant charitable purpose; and
(c) a residential conversion.

(1B) For the purposes of this section goods shall be treated as used for the purposes of works to which this section applies by the person carrying out the works in so far only as they are building materials which, in the course of the works, are incorporated in the building in question or its site.

(1C) Where —

(a) a person (“the relevant person”) carries out a residential conversion by arranging for any of the work of the conversion to be done by another (“a contractor”),
(b) the relevant person’s carrying out of the conversion is lawful and otherwise than in the course or furtherance of any business,
(c) the contractor is not acting as an architect, surveyor or consultant or in a supervisory capacity, and
(d) VAT is chargeable on services consisting in the work done by the contractor,

the Treasury shall, on a claim made in that behalf, refund to the relevant person the amount of VAT so chargeable.
(1D) For the purposes of this section, works constitute a residential conversion for the purposes of this section to the extent that they consist in the conversion of a non-residential building, or a non-residential part of a building, into —

(a) a building designed as a dwelling or a number of dwellings;

(b) a building intended for use solely for a relevant residential purpose; or

(c) anything which would fall within paragraph (a) or (b) if different parts of a building were treated as separate buildings.124

(2) The Treasury shall not be required to entertain a claim for a refund of VAT under this section unless the claim —

(a) is made within such time and in such form and manner, and

(b) contains such information, and

(c) is accompanied by such documents, whether by way of evidence or otherwise,

as may be specified by regulations or by the Treasury in accordance with regulations.125

(3) This section shall have effect —

(a) as if the reference in subsection (1) to the VAT chargeable on the supply of any goods included a reference to VAT chargeable on the supply in accordance with the law of a member State; and

(b) in relation to VAT chargeable in accordance with the law of a member State, as if references to refunding VAT to any person were references to paying that person an amount equal to the VAT chargeable in accordance with the law of that member State,

and the provisions of this Act and of any other enactment or subordinate legislation (whenever passed or made) so far as they relate to a refund under this section shall be construed accordingly.

(4) The notes to Group 5 of Schedule 9 shall apply for construing this section as they apply for construing that Group but this is subject to subsection (4A).126

(4A) The meaning of “non-residential” given by Note (7A) of Group 5 of Schedule 9 (and not that given by Note (7) of that Group) applies for the purposes of this section but as if —

(a) references in that Note to item 3 of that Group were references to this section, and

(b) paragraph (b)(iii) of that Note were omitted.127

(5) The power of the Treasury by order under section 30 to vary Schedule 9 shall include —
(a) power to apply any variation made by the order for the purposes of this section; and
(b) power to make such consequential modifications of this section as it may think fit.\textsuperscript{128}

### 36 Bad debts

[1973/1/15C; P1994/23/36]

(1) Subsection (2) applies where —

(a) a person has supplied goods or services and has accounted for and paid VAT on the supply,\textsuperscript{129}

(b) the whole or any part of the consideration for the supply has been written off in his accounts as a bad debt, and

(c) a period of 6 months (beginning with the date of the supply) has elapsed.

(2) Subject to the following provisions of this section and to regulations under it the person shall be entitled, on making a claim to the Treasury, to a refund of the amount of VAT chargeable by reference to the outstanding amount.

(3) In subsection (2), “the outstanding amount” means —

(a) if at the time of the claim no part of the consideration written off in the claimant’s accounts as a bad debt has been received, an amount equal to the amount of the consideration so written off;

(b) if at that time any part of the consideration so written off has been received, an amount by which that part is exceeded by the amount of the consideration written off;

and in this subsection “received” means received either by the claimant or, except in such circumstances as may be prescribed, by a person to whom has been assigned a right to receive the whole or any part of the consideration written off.\textsuperscript{130}

(3A) For the purposes of this section, where the whole or any part of the consideration for the supply does not consist of money, the amount in money that shall be taken to represent any non-monetary part of the consideration shall be so much of the amount made up of —

(a) the value of the supply, and

(b) the VAT charged on the supply,

as is attributable to the non-monetary consideration in question.\textsuperscript{131}

(4) A person shall not be entitled to a refund under subsection (2) unless —

(a) the value of the supply is equal to or less than its open market value.

(b) [Repealed]\textsuperscript{132}
(4A) [Repealed]\(^{133}\)

(5) Regulations under this section may —

(a) require a claim to be made at such time and in such form and manner as may be specified by or under the regulations;

(b) require a claim to be evidenced and quantified by reference to such records and other documents as may be so specified;

(c) require the claimant to keep, for such period and in such form and manner as may be so specified, those records and documents and a record of such information relating to the claim and to anything subsequently received by way of consideration as may be so specified;\(^ {134}\)

(d) require the repayment of a refund allowed under this section where any requirement of the regulations is not complied with;

(e) require the repayment of the whole or, as the case may be, an appropriate part of a refund allowed under this section where any part (or further part) of the consideration written off in the claimant’s accounts as a bad debt is subsequently received either by the claimant or, except in such circumstances as may be prescribed, by a person to whom has been assigned a right to receive the whole or any part of that consideration;\(^ {135}\)

(ea) [Repealed]\(^ {136}\)

(f) include such supplementary, incidental, consequential or transitional provisions as appear to the Treasury to be necessary or expedient for the purposes of this section;

(g) make different provision for different circumstances.

(6) The provisions which may be included in regulations by virtue of subsection (5)(f) may include rules for ascertaining —

(a) whether, when and to what extent consideration is to be taken to have been written off in accounts as a bad debt;

(b) whether anything received is to be taken as received by way of consideration for a particular supply;\(^ {137}\)

(c) whether, and to what extent, anything received is to be taken as received by way of consideration written off in accounts as a bad debt.\(^ {138}\)

(7) The provisions which may be included in regulations by virtue of subsection (5)(f) may include rules dealing with particular cases, such as those involving receipt of part of the consideration or mutual debts; and in particular such rules may vary the way in which the following amounts are to be calculated —

(a) the outstanding amount mentioned in subsection (2), and
36A Relief from VAT on acquisition if importation would attract relief

(1) The Treasury may by order make provision for relieving from VAT the acquisition from a member State of any goods if, or to the extent that, relief from VAT would be given by an order under section 37 if the acquisition were an importation from a place outside the member States.

(2) An order under this section may provide for relief to be subject to such conditions as appear to the Treasury to be necessary or expedient. These may —

(a) include conditions prohibiting or restricting the disposal of or dealing with the goods concerned;

(b) be framed by reference to the conditions to which, by virtue of any order under section 37 in force at the time of the acquisition, relief under such an order would be subject in the case of an importation of the goods concerned.

(3) Where relief from VAT given by an order under this section was subject to a condition that has been breached or not complied with, the VAT shall become payable at the time of the breach or, as the case may be, at the latest time allowed for compliance.

37 Relief from VAT on importation of goods

[1973/1/16; P1994/23/37]

(1) The Treasury may by order make provision for giving relief from the whole or part of the VAT chargeable on the importation of goods from places outside the member States, subject to such conditions (including conditions prohibiting or restricting the disposal of or dealing with the goods) as may be imposed by or under the order, if and so far as the relief appears to the Treasury to be necessary or expedient, having regard to any international agreement or arrangements.

(2) In any case where —
(a) it is proposed that goods which have been imported from a place outside the member States by any person ("the original importer") with the benefit of relief under subsection (1) shall be transferred to another person ("the transferee"), and

(b) on an application made by the transferee, the Treasury directs that this subsection shall apply,

this Act shall have effect as if, on the date of the transfer of the goods (and in place of the transfer), the goods were exported by the original importer and imported by the transferee and, accordingly, where appropriate, provision made under subsection (1) shall have effect in relation to the VAT chargeable on the importation of the goods by the transferee.

(3) The Treasury may by regulations make provision for remitting or repaying, if it thinks fit, the whole or part of the VAT chargeable on the importation of any goods from places outside the member States which are shown to its satisfaction to have been previously exported from the Island or removed from any member State.

(4) The Treasury may by regulations make provision for remitting or repaying the whole or part of the VAT chargeable on the importation of any goods from places outside the member States if it is satisfied that the goods have been or are to be re-exported or otherwise removed from the Island and it thinks fit to do so in all the circumstances and having regard —

(a) to the VAT chargeable on the supply of like goods in the Island;

(b) to any VAT which may have become chargeable in a member State in respect of the goods.

38 Importation of goods by taxable persons
[1973/1/18; P1994/23/38]

The Treasury may by regulations make provision for enabling goods imported from a place outside the member States by a taxable person under this Act in the course or furtherance of any business carried on by him to be delivered or removed, subject to such conditions or restrictions as the Treasury may impose for the protection of the revenue, without payment of the VAT chargeable on the importation, and for that VAT to be accounted for together with the VAT chargeable on the supply of goods or services by him or on the acquisition of goods by him from member States.

39 Repayment of VAT to those in business overseas
[1973/1/5; P1994/23/39]

(1) The Treasury may, by means of a scheme embodied in regulations, provide for the repayment, to persons to whom this section applies, of VAT under this Act on supplies to them in the Island or on the importation
of goods by them from places outside the member States which would be input tax of theirs if they were taxable persons in the Island.

(2) This section —
(a) applies to persons carrying on business in a member State, and
(b) shall apply also to persons carrying on business in other countries, if, pursuant to any EU Directive, rules are adopted by the Council of the Communities about refunds of VAT to persons established elsewhere than in the member States,

but does not apply to persons carrying on business in the Island.\textsuperscript{143}

(3) Repayment shall be made in such cases and to such extent only, and subject to such conditions, as the scheme may prescribe (being conditions specified in the regulations or imposed by the Treasury either generally or in particular cases); and the scheme may provide —

(za) for claims to be made in such form and manner as may be specified in the scheme or by the Treasury in accordance with the scheme;\textsuperscript{144}

(a) for claims and repayments to be made only through agents in the Island;

(b) either generally or for specified purposes —
(i) for the agents to be treated under this Act as if they were taxable persons; and
(ii) for treating claims as if they were returns under this Act in respect of such period as may be prescribed and repayments as if they were repayments of input tax;\textsuperscript{145}

(ba) for and in connection with the payment of interest to or by the Treasury (including in relation to the repayment of interest wrongly paid), and\textsuperscript{146}

(c) for generally regulating —
(i) the time by which claims must be made, and
(ii) the methods by which the amount of any repayment is to be determined and the repayment is to be made.\textsuperscript{147 148}

39A Applications for forwarding of VAT repayment claims to member States


(a) supplies to them in that member State; or

(b) the importation of goods by them into that member State from places outside the member States.\textsuperscript{149}
40 Refunds in relation to new means of transport supplied to member States
[1973/1/15D; P1994/25/40]

(1) Subject to subsection (2), where a person who is not a taxable person makes such a supply of goods consisting in a new means of transport as involves the removal of the goods to a member State, the Treasury shall, on a claim made in that behalf, refund to that person, as the case may be —

(a) the amount of any VAT on the supply of that means of transport to that person, or

(b) the amount of any VAT paid by that person on the acquisition of that means of transport from a member State or on its importation from a place outside the member States.

(2) The amount of VAT refunded under this section shall not exceed the amount that would have been payable on the supply involving the removal if it had been a taxable supply by a taxable person and had not been zero-rated.

(3) The Treasury shall not be entitled to entertain a claim for refund of VAT under this section unless the claim —

(a) is made within such time and in such form and manner;

(b) contains such information; and

(c) is accompanied by such documents, whether by way of evidence or otherwise,

as the Treasury may by regulations prescribe.

PART III – APPLICATION OF ACT IN PARTICULAR CASES

41 Application to the Crown
[1973/1/19; P1994/23/41]

(1) This Act shall apply in relation to taxable supplies by the Crown as it applies in relation to taxable supplies by taxable persons.

(2) [Repealed]150

(3) Where VAT is chargeable on the supply of goods or services to a Government authority, on the acquisition of any goods by a Government authority from a member State or on the importation of any goods by a Government authority from a place outside the member States and the supply, acquisition or importation is not for the purpose —

(a) of any business carried on by the authority, or

(b) of a supply by the authority which, by virtue of section 41A, is treated as a supply in the course or furtherance of a business,
then, if and to the extent that the Treasury so direct and subject to subsection (4), the Treasury shall, on a claim made by the authority at such time and in such form and manner as the Treasury may determine, refund to it the amount of the VAT so chargeable.  

(4) The Treasury may make the refunding of any amount due under subsection (3) conditional upon compliance by the claimant with requirements with respect to the keeping, preservation and production of records relating to the supply, acquisition or importation in question.

(5) For the purposes of this section goods or services obtained by one Government authority from another Government authority shall be treated, if and to the extent that the Treasury so direct, as supplied by that other authority.

(6) In this section “Government authority” includes a Government department, a statutory board and any person exercising functions on behalf of such a department or board, and any part of a Government authority designated for the purposes of this subsection by a direction of the Treasury.

41A Supply of goods or services by public bodies

(1) This section applies where goods or services are supplied by a body mentioned in Article 13(1) of the VAT Directive (status of public bodies as taxable persons) in the course of activities or transactions in which it is engaged as a public authority.

(2) If the supply is in respect of an activity listed in Annex I to the VAT Directive (activities in respect of which public bodies are to be taxable persons), it is to be treated for the purposes of this Act as a supply in the course or furtherance of a business unless it is on such a small scale as to be negligible.

(3) If the supply is not in respect of such an activity, it is to be treated for the purposes of this Act as a supply in the course or furtherance of a business if (and only if) not charging the VAT on the supply would lead to a significant distortion of competition.


42 Local authorities

[1973/1/20; P1994/23/42]

(1) An authority which makes taxable supplies is liable to be registered under this Act, whatever the value of the supplies; and accordingly Schedule 2 shall apply, in a case where the value of the taxable supplies made by an authority in any period of one year does not exceed the sum for the time
being specified in paragraph 1(1)(a) of that Schedule, as if that value exceeded that sum.

(2) In this section “authority” means a local authority as described in section 33(3) and such committee and boards as are referred to in paragraphs (d) and (e) of that section.

43 Groups of companies
[1973/1/21; P1994/23/43]

(1) Where under sections 43A to 43E any persons are treated as members of a group, any business carried on by a member of the group shall be treated as carried on by the representative member, and —

(a) any supply of goods or services by a member of the group to another member of the group shall be disregarded; and

(b) any supply which is a supply to which paragraph (a) does not apply and is a supply of goods or services by or to a member of the group shall be treated as a supply by or to the representative member; and

(c) any VAT paid or payable by a member of the group on the acquisition of goods from a member State or on the importation of goods from a place outside the member States shall be treated as paid or payable by the representative member and the goods shall be treated —

(i) in the case of goods acquired from a member State, for the purposes of section 73(7); and

(ii) in the case of goods imported from a place outside the member States, for those purposes and the purposes of section 38, as acquired or, as the case may be, imported by the representative member,

and all members of the group shall be liable jointly and severally for any VAT due from the representative member.

(1A) Where —

(a) it is material, for the purposes of any provision made by or under this Act (“the relevant provision”) whether the person by or to whom a supply is made, or the person by whom goods are acquired or imported, is a person of a particular description,

(b) paragraph (b) or (c) of subsection (1) applies to any supply, acquisition or importation, and

(c) there is a difference that would be material for the purposes of the relevant provision between —

(i) the description applicable to the representative member, and
(ii) the description applicable to the person who (apart from this section) would be regarded for the purposes of this Act as making the supply, acquisition or importation or, as the case may be, as being the person to whom the supply is made, the relevant provision shall have effect in relation to that supply, acquisition or importation as if the only description applicable to the representative member were the description in fact applicable to that person.

(1B) Subsection (1A) does not apply to the extent that what is material for the purposes of the relevant provision is whether a person is a taxable person.

(2) An order under section 5(5) or (6) may make provision for securing that any goods or services which, if all the members of the group were one person, would fall to be treated under that section as supplied to and by that person, are treated as supplied to and by the representative member and may provide for that purpose that the representative member is to be treated as a person of such description as may be determined under the order.

(2A) A supply made by a member of a group (“the supplier”) to another member of the group (“the Island member”) shall not be disregarded under subsection (1)(a) if —

(a) it would (if there were no group) be a supply of services to which section 7A(2)(a) applies made to a person belonging in the Island; the supplier has been supplied (whether or not by a person belonging in the Island) with any services which do not fall within any of the descriptions specified in Schedule 10 and section 7A(2)(a) applied to the supply; the supplier belonged outside the Island when it was supplied with the services mentioned in paragraph (c); and the services so mentioned have been used by the supplier for making the supply to the Island member.

(2B) Subject to subsection (2C), where a supply is excluded by virtue of subsection (2A) from the supplies that are disregarded in pursuance of subsection (1)(a), all the same consequences shall follow under this Act as if that supply —

(a) were a taxable supply in the Island by the representative member to itself, and

(b) without prejudice to that, were made by the representative member in the course or furtherance of its business.
(2C) Except in so far as the Treasury may by regulations otherwise provide, a supply which is deemed by virtue of subsection (2B) to be a supply by the representative to itself —

(a) shall not be taken into account as a supply made by the representative member when determining any allowance of input tax under section 26(1) in the case of the representative member;

(b) shall be deemed for the purposes of paragraph 1 of Schedule 7 to be a supply in the case of which the person making the supply and the person supplied are connected within the meaning of section 119C of the Income Tax Act 1970 (connected persons); and

(c) subject to paragraph (b) and paragraph 8A of Schedule 7, shall be taken to be a supply the value and time of which are determined as if it were a supply of services which is treated by virtue of section 8 as made by the person by whom the services are received.163 164

(2D) For the purposes of subsection (2A) where —

(a) there has been a supply of the assets of a business of a person ("the transferor") to a person to whom the whole or any part of that business was transferred as a going concern ("the transferee"),

(b) that supply is either —

(i) a supply falling to be treated, in accordance with an order under section 5(3), as being neither a supply of goods nor a supply of services, or

(ii) a supply that would have fallen to be so treated if it had taken place in the Island, and

(c) the transferor was supplied with services at a time before the transfer when the transferor belonged outside the Island and section 7A(2)(a) applied to the supply,165

those services, so far as they are used by the transferee for making any supply to which section 7A(2)(a) applies, shall be deemed to have been supplied to the transferee at a time when the transferee belonged outside the Island.166

(2E) Where, in the case of a supply of assets falling within paragraphs (a) and (b) of subsection (2D) —

(a) the transferor himself acquired any of the assets in question by way of a previous supply of assets falling within those paragraphs, and

(b) there is a supply to which section 7A(2)(a) applies of services which, if used by the transferor for making such a supply, would be deemed by virtue of that subsection to have been supplied to the transferor at a time when he belonged outside the Island,167

that subsection shall have effect, notwithstanding that the services have not been so used by the transferor, as if the transferor were a person to whom those services were supplied and as if he were a person belonging
outside the Island at the time of their deemed supply to him; and this subsection shall apply accordingly through any number of successive supplies of assets falling within paragraphs (a) and (b) of that subsection.\textsuperscript{168}

(3) to (8) [Repealed]\textsuperscript{169}

(9) Schedule 9A (which makes provision for ensuring that this section is not used for tax avoidance) shall have effect.\textsuperscript{170}

43A Groups: eligibility

(1) Two or more bodies corporate are eligible to be treated as members of a group if —

(a) one of them controls each of the others,

(b) one person (whether a body corporate or an individual) controls all of them, or

(c) two or more individuals carrying on a business in partnership control all of them.\textsuperscript{171}

(2) [Repealed]\textsuperscript{172}

(3) [Repealed]\textsuperscript{173}

(4) An individual carrying on a business and one or more bodies corporate are eligible to be treated as members of a group if the individual —

(a) controls the body corporate or all of the bodies corporate; and

(b) is established, or has a fixed establishment, in the Island or the United Kingdom in relation to the business.\textsuperscript{174}

(5) Two or more relevant persons carrying on a business in partnership (“the partnership”) and one or more bodies corporate are eligible to be treated as members of a group if the partnership —

(a) controls the body corporate or all of the bodies corporate; and

(b) is established, or has a fixed establishment, in the Island or the United Kingdom in relation to the business.\textsuperscript{175}

(6) In this section —

(a) “body corporate” means a body corporate which is established or has a fixed establishment in the Island or the United Kingdom; and

(b) “relevant person” means an individual, a body corporate or a partnership.\textsuperscript{176}

(7) Section 43AZA contains provision for determining for the purposes of this section whether a body corporate, individual or partnership controls a body corporate.\textsuperscript{177 178}
43AZA Section 43A: control test

(1) This section applies for the purposes of section 43A (and expressions used in this section have the same meaning as in that section).

(2) A body corporate (“X”) controls another body corporate (“Y”) if —
   (a) X is empowered by statute to control Y’s activities; or
   (b) X is Y’s holding company.

(3) An individual (“Z”) controls a body corporate if Z would, were Z a company, be the body corporate’s holding company.

(4) Two or more relevant persons carrying on a business in partnership (“the partnership”) control a body corporate if the partnership would, were it a company, be the body corporate’s holding company.

(5) In this section, “holding company” has the meaning given within the meaning of section 1 of the Companies Act 1974.179

43AA Power to alter eligibility for grouping

(1) The Treasury may by order provide for sections 43A and 43AZA to have effect with specified modifications in relation to a specified class of person.180

(2) An order under subsection (1) may, in particular —
   (a) make provision by reference to generally accepted accounting practice;
   (b) define generally accepted accounting practice for that purpose by reference to a specified document or instrument (and may provide for the reference to be read as including a reference to any later document or instrument that amends or replaces the first);
   (c) adopt any statutory or other definition of generally accepted accounting practice (with or without modification);
   (d) make provision by reference to what would be required or permitted by generally accepted accounting practice if accounts, or accounts of a specified kind, were prepared for a person.

(3) An order under subsection (1) may also, in particular, make provision by reference to —
   (a) the nature of a person;
   (b) past or intended future activities of a person;
   (c) the relationship between a number of persons;
   (d) the effect of including a person within a group or of excluding a person from a group.

(4) An order under subsection (1) may —
(a) make provision which applies generally or only in specified circumstances;
(b) make different provision for different circumstances;
(c) include supplementary, incidental, consequential or transitional provision.

43B Groups: applications

(1) This section applies where an application is made to the Treasury for two or more persons who are eligible by virtue of section 43A, to be treated as members of a group.

(2) This section also applies where two or more persons are treated as members of a group and an application is made to the Treasury —
   (a) for another person who is eligible by virtue of section 43A to be treated, as a member of a group, to be treated as a member of the group,
   (b) for a person to cease to be treated as a member of the group,
   (c) for a member to be substituted as the group’s representative member, or
   (d) for the persons no longer to be treated as members of a group.

(3) An application with respect to persons —
   (a) must be made by one of them or by the person controlling them, and
   (b) in the case of an application for the persons to be treated as a group, must appoint one of them as the representative member.

(4) Where this section applies in relation to an application it shall, subject to subsection (6), be taken to be granted with effect from —
   (a) the day on which the application is received by the Treasury, or
   (b) such earlier or later time as the Treasury may allow.

(5) The Treasury may refuse an application, within the period of 90 days starting with the day on which it was received by it, if it appears to it —
   (a) in the case of an application such as is mentioned in subsection (1), that the persons are not eligible by virtue of section 43A to be treated as members of a group,
   (b) in the case of an application such as is mentioned in subsection (2)(a) of this section, that the person is not eligible by virtue of section 43A to be treated as a member of a group, or
   (c) in any case, that refusal of the application is necessary for the protection of the revenue.
(6) If the Treasury refuse an application it shall be taken never to have been granted.\textsuperscript{191}

\textbf{43C Groups: termination of membership}

(1) The Treasury may, by notice given to a person, terminate its treatment as a member of a group from a date —
   \begin{enumerate} \itemsep1pt
   \item which is specified in the notice, and
   \item which is, or falls after, the date on which the notice is given.\textsuperscript{192}
   \end{enumerate}

(2) The Treasury may give notice under subsection (1) only if it appears to it necessary for the protection of the revenue.

(3) Where —
   \begin{enumerate} \itemsep1pt
   \item a person is treated as a member of a group, and\textsuperscript{193}
   \item it appears to the Treasury that the person is not, or is no longer, eligible under section 43A to be treated as a member of the group,\textsuperscript{194}
   \end{enumerate}
   the Treasury shall, by notice given to the person, terminate its treatment as a member of the group from a date to be specified in the notice.\textsuperscript{195}

(4) The date specified in a notice under subsection (3) may be earlier than the date on which the notice is given but it shall not be earlier than —
   \begin{enumerate} \itemsep1pt
   \item the first date on which, in the opinion of the Treasury, the person was not eligible to be treated as a member of the group, or\textsuperscript{196}
   \item the date on which, in the opinion of the Treasury, the person ceased to be eligible to be treated as a member of the group.\textsuperscript{197} \textsuperscript{198}
   \end{enumerate}

\textbf{43D Groups: transitional arrangement}

(1) Where, immediately before this section comes into operation, two or more bodies corporate are treated as members of a group by virtue of the old law —
   \begin{enumerate} \itemsep1pt
   \item they shall continue to be treated as members of a group, and
   \item in their treatment as members of a group after this article comes into operation, they shall be treated as if any application under the old law by virtue of which they are treated as members of a group had been an equivalent application under the new law.
   \end{enumerate}

(2) Where an application under section 43 of the Act is received by the Treasury and has neither taken effect nor been refused before the day on which this section comes into operation, the old law shall apply to determine whether the application is to take effect; but where it is determined under this section that an application is to take effect —
   \begin{enumerate} \itemsep1pt
   \item it shall be treated as if it were an equivalent application under the new law, and
   \end{enumerate}
(b) it shall be taken to have been granted under the new law at the time
when it would have taken effect in accordance with the old law.

(3) In a case to which subsection (1) or (2) applies, the power under
section 43C(3) shall not be used to terminate the treatment of a body
corporate as a member of a group —
(a) on the ground that the body corporate is not established, and does
not have a fixed establishment, in the Island, and
(b) from a date before 1 January 2000.

(4) Where an application which purports to be an application under the old
law is received by the Treasury after the day on which this section comes
into operation —
(a) it shall be treated as if it were an application under the new law,
and
(b) section 43B of the new law shall apply notwithstanding any
provision in the application for a date from which it is to take effect.

(5) In this section —
“the old law” means sections 43, 83 and 84 of, and Schedule 9A to the Act as they
have effect without the amendments in article 6 of the Value Added Tax
Act 1996 (Amendment) Order 1999;
“the new law” means sections 43 to 43C, 83 and 84 of, and Schedule 9A to the Act
as they have effect by virtue of article 6 of the Value Added Tax Act 1996
(Amendment) (No. 2) Order 1999.199

43E Groups: duplication

(1) A person may not be treated as a member of more than one group at a
time.200

(2) A person who is a member of one group is not eligible by virtue of
section 43A to be treated as a member of another group.201

(3) If —
(a) an application under section 43B(1) would have effect from a time
in accordance with section 43B(4), but
(b) at that time one or more of the persons specified in the application
is a member of a group (other than that to which the application
relates),202
the application shall have effect from that time, but with the exclusion of
the person or persons mentioned in paragraph (b).203

(4) If —
(a) an application under section 43B(2)(a) would have effect from a
time in accordance with section 43B(4), but
(b) at that time the person specified in the application is a member of a group (other than that to which the application relates), the application shall have no effect. 204

(5) Where a person is a subject of two or more applications under section 43B(1) or (2)(a) that have not been granted or refused, the applications shall have no effect. 205 206

44 Supplies to groups
[1973/1/21A; P1994/23/44]

(1) Subject to subsections (2) to (4), subsection (5) applies where —

(a) a business, or part of a business, carried on by a taxable person is transferred as a going concern to a person treated as a member of a group under section 43; 207

(b) on the transfer of the business or part, chargeable assets of the business are transferred to the person; and 208

(c) the transfer of the assets is treated by virtue of section 5(3)(c) as neither a supply of goods nor a supply of services.

(2) Subsection (5) shall not apply if the representative member of the group is entitled to credit for the whole of the input tax on supplies to it and acquisitions and importations by it —

(a) during the prescribed accounting period in which the assets are transferred, and

(b) during any longer period to which regulations under section 26(3)(b) relate and in which the assets are transferred.

(3) Subsection (5) shall not apply if the Treasury is satisfied that the assets were assets of the taxable person transferring them more than 3 years before the day on which they are transferred.

(4) Subsection (5) shall not apply to the extent that the chargeable assets consist of capital items in respect of which regulations made under section 26(3) and (4), and in force when the assets are transferred, provide for adjustment to the deduction of input tax.

(5) The chargeable assets shall be treated for the purposes of this Act as being, on the day on which they are transferred, both supplied to the representative member of the group for the purpose of its business and supplied by that member in the course or furtherance of its business.

(6) A supply treated under subsection (5) as made by a representative member shall not be taken into account as a supply made by him when determining the allowance of input tax in his case under section 26.

(7) The value of a supply treated under subsection (5) as made to or by a representative member shall be taken to be the open market value of the chargeable assets.
(8) For the purposes of this section, the open market value of any chargeable assets shall be taken to be the price that would be paid on a sale (on which no VAT is payable) between a buyer and a seller who are not in such a relationship as to affect the price.

(9) The Treasury may reduce the VAT chargeable by virtue of subsection (5) in a case where it is satisfied that the person by whom the chargeable assets are transferred has not received credit for the full amount of input tax arising on the supply to or acquisition or importation by him of the chargeable assets.

(10) For the purposes of this section, assets are chargeable assets if their supply in the Island by a taxable person in the course or furtherance of his business would be a taxable supply (and not a zero-rated supply).

45 Partnerships

[1973/1/22; P1994/23/45]

(1) The registration under this Act of persons —
   (a) carrying on a business in partnership, or
   (b) carrying on in partnership any other activities in the course or furtherance of which they acquire goods from member States, may be in the name of the firm; and no account shall be taken, in determining for any purpose of this Act whether goods or services are supplied to or by such persons or are acquired by such persons from a member State, of any change in the partnership.

(2) Without prejudice to section 38 of the Partnership Act 1909 (rights of persons dealing with firm against apparent members of firm), until the date on which a change in the partnership is notified to the Treasury a person who has ceased to be a member of a partnership shall be regarded as continuing to be a partner for the purposes of this Act and, in particular, for the purpose of any liability for VAT on the supply of goods or services by the partnership or on the acquisition of goods by the partnership from a member State.

(3) Where a person ceases to be a member of a partnership during a prescribed accounting period (or is treated as so doing by virtue of subsection (2)) any notice, whether of assessment or otherwise, which is served on the partnership and relates to, or to any matter arising in, that period or any earlier period during the whole or part of which he was a member of the partnership shall be treated as served also on him.

(4) Without prejudice to section 18 of the Partnership Act 1909 (notice to acting partner to be notice to the firm) any notice, whether of assessment or otherwise, which is addressed to a partnership by the name in which it is registered by virtue of subsection (1) and is served in accordance with this Act shall be treated for the purposes of this Act as served on the
partnership and, accordingly, where subsection (3) applies, as served also on the former partner.

(5) Subsections (1) and (3) shall not affect the extent to which, under section 11 of the Partnership Act 1909, a partner is liable for VAT owed by the firm; but where a person is a partner in a firm during part only of a prescribed accounting period, his liability for VAT on the supply by the firm of goods or services during that accounting period or on the acquisition during that period by the firm of any goods from a member State shall be such proportion of the firm’s liability as may be just.

46 Business carried on in divisions or by unincorporated bodies, personal representatives etc

[1973/1/23; P1994/23/46]

(1) The registration under this Act of a body corporate carrying on a business in several divisions may, if the body corporate so requests and the Treasury sees fit, be in the names of those divisions.

(2) The Treasury may by regulations make provision for determining by what persons anything required by or under this Act to be done by a person carrying on a business is to be done where a business is carried on in partnership or by a club, association or organisation the affairs of which are managed by its members or a committee or committees of its members.

(3) The registration under this Act of any such club, association or organisation may be in the name of the club, association or organisation; and in determining whether goods or services are supplied to or by such a club, association or organisation or whether goods are acquired by such a club, association or organisation from a member State, no account shall be taken of any change in its members.

(4) The Treasury may by regulations make provision for persons who carry on a business of a taxable person who has died or become bankrupt or incapacitated to be treated for a limited time as taxable persons, and for securing continuity in the application of this Act in cases where persons are so treated.

(5) In relation to a company which is a taxable person, the reference in subsection (4) to the taxable person having become bankrupt or incapacitated shall be construed as a reference to its being in liquidation or receivership.

(6) References in this section to a business include references to any other activities in the course or furtherance of which any body corporate or any club, association, organisation or other unincorporated body acquires goods from a member State.
47 Agents etc

[1973/1/24; P1994/23/47]

(1) Where —

(a) goods are acquired from a member State by a person who is not a taxable person and a taxable person acts in relation to the acquisition, and then supplies the goods as agent for the person by whom they are so acquired; or

(b) goods are imported from a place outside the member States by a taxable person who supplies them as agent for a person who is not a taxable person,

then, if the taxable person acts in relation to the supply in his own name, the goods shall be treated for the purposes of this Act as acquired and supplied or, as the case may be, imported and supplied by the taxable person as principal.200

(2) For the purposes of subsection (1) a person who is not resident in the Island and whose place or principal place of business is outside the Island may be treated as not being a taxable person if as a result he will not be required to be registered under this Act.

(2A) Where, in the case of any supply of goods to which subsection (1) does not apply, goods are supplied through an agent who acts in his own name, the supply shall be treated both as a supply to the agent and as a supply by the agent.210

(3) Where services, other than electronically supplied services and telecommunications services, are supplied through an agent who acts in his own name the Treasury may, if it thinks fit, treat the supply both as a supply to the agent and as a supply by the agent.211

(4) Where electronically supplied services or telecommunication services are supplied through an agent, the supply is to be treated both as a supply to the agent and as a supply by the agent.212

(5) For the purposes of subsection (4) “agent” means a person (“A”) who acts in A’s own name but on behalf of another person within the meaning of Article 28 of Council Directive 2006/112/EC on the common system of value added tax.213

(6) In this section “electronically supplied services” and “telecommunication services” have the same meaning as in Schedule 4A.214

48 VAT representatives and security

[1973/1/24A; P1994/23/48]

(1) Subsection (1ZA) applies where any person —

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(a) is a taxable person for the purposes of this Act or, without being a taxable person, is a person who makes taxable supplies or who acquires goods in the Island from one or more member States;

(b) is not established, and does not have any fixed establishment, in the Island;²¹⁶

(ba) is established in a country or territory in respect of which it appears to the Treasury that the condition specified in subsection (1A) is satisfied; and²¹⁷

(c) in the case of an individual, does not have his usual place of residence or permanent address in the Island.²¹⁸ ²¹⁹

(1ZA) The Treasury may direct the person to secure that there is an Island-established person who is —

(a) appointed to act on the person’s behalf in relation to VAT; and

(b) registered against the name of the person in accordance with any regulations under subsection (4).²²⁰

(1A) The condition mentioned in subsection (1)(ba) is that —

(a) the country or territory is neither a member State nor a part of a member State, and

(b) there is no provision for mutual assistance between the Island and the country or territory similar in scope to the assistance provided for between the Island and each member State by the mutual assistance provisions.²²¹

(1B) In subsection (1A) “the mutual assistance provisions” means —

(aa) section 77B (international tax enforcement arrangements);²²²

(a) section 77A of this Act, and

(b) Council Regulation (EU) No 904/2010 of 7 October 2010 on administrative cooperation and combating fraud in the field of value added tax.²²³ ²²⁴

(2) With the agreement of the Treasury, a person —

(a) who has not been given a direction under subsection (1ZA), and²²⁵

(b) in relation to whom the conditions specified in paragraphs (a), (b) and (c) of subsection (1) are satisfied,²²⁶

may appoint an Island-established person to act on his behalf in relation to VAT.²²⁷

(2A) In this Act “VAT representative” means a person appointed under subsection (1ZA) or (2).²²⁸

(3) Where any person is appointed under this section to be the VAT representative of another (“his principal”), then, subject to subsections (4) to (6), the VAT representative —
Section 48A

shall be entitled to act on his principal’s behalf for any of the purposes of this Act, of any other statutory provision (whenever passed) relating to VAT;

shall, subject to such provisions as may be made by the Treasury by regulations, secure (where appropriate by acting on his principal’s behalf) his principal’s compliance with and discharge of the obligations and liabilities to which his principal is subject by virtue of this Act, or any such other statutory provision; and

shall be personally liable in respect of —

(i) any failure to secure his principal’s compliance with or discharge of any such obligation or liability; and

(ii) anything done for purposes connected with acting on his principal’s behalf,
as if the obligations and liabilities imposed on his principal were imposed jointly and severally on the VAT representative and his principal.

A VAT representative shall not be liable by virtue of subsection (3) himself to be registered under this Act, but regulations made by the Treasury may —

require the registration of the names of VAT representatives against the names of their principals in any register kept for the purposes of this Act;

make it the duty of a VAT representative, for the purposes of registration, to notify the Treasury, within such period as may be prescribed, that his appointment has taken effect or has ceased to have effect;

give the Treasury power to refuse to register a person as a VAT representative, or to cancel a person’s registration as a VAT representative, in such circumstances as may be specified in the regulations.

Regulations under subsection (4) may require a notification under that subsection to be made in such form and manner, and to contain such particulars, as may be specified in the regulations or by the Treasury in accordance with the regulations.

A VAT representative shall not by virtue of subsection (3) be guilty of any offence except in so far as —

the VAT representative has consented to, or connived in, the commission of the offence by his principal;

the commission of the offence by his principal is attributable to any neglect on the part of the VAT representative; or

the offence consists in a contravention by the VAT representative of an obligation which, by virtue of that subsection, is imposed both on the VAT representative and on his principal.
(6) The Treasury may by regulations make provision as to the manner and circumstances in which a person is to be appointed, or is to be treated as having ceased to be, another’s VAT representative; and regulations under this subsection may include such provision as the Treasury thinks fit for the purposes of subsection (4) with respect to the making or deletion of entries in any register.

(7) The Treasury may require a person in relation to whom the conditions specified in paragraphs (a), (b) and (c) of subsection (1) are satisfied to provide such security, or further security, as it may think appropriate for the payment of any VAT which is or may become due from him.\textsuperscript{231}

(7A) A sum required by way of security under subsection (7) shall be deemed for the purposes of paragraph 5(4) to (6) of Schedule 12 (recovery of VAT etc.) and any regulations under those paragraphs to be recoverable as if it were VAT due from the person who is required to provide it.\textsuperscript{232}

(7B) A direction under subsection (1ZA) —
   (a) may specify a time by which it (or any part of it) must be complied with;
   (b) may be varied;
   (c) continues to have effect (subject to any variation) until it is withdrawn or the conditions specified in subsection (1) are no longer satisfied.\textsuperscript{233}

(7C) A requirement under subsection (7) —
   (a) may specify a time by which it (or any part of it) must be complied with;
   (b) may be varied;
   (c) continues to have effect (subject to any variation) until it is withdrawn.\textsuperscript{234}

(8) For the purposes of this Act a person shall not be treated as having been directed to appoint a VAT representative, or as having been required to provide security under subsection (7), unless the Treasury have either —
   (a) served notice of the direction or requirement on him; or
   (b) taken all such other steps as appear to it to be reasonable for bringing the direction or requirement to his attention.

(9) For the purposes of subsections (1ZA) and (2) —
   (a) a person is Island-established if the person is established, or has a fixed establishment, in the Island, and
   (b) an individual is also Island-established if the person’s usual place of residence or permanent address is in the Island.\textsuperscript{235}
49 Transfers of going concerns


(1) Where a business, or part of a business, carried on by a taxable person is transferred to another person as a going concern, then —

(a) for the purpose of determining whether the transferee is liable to be registered under this Act he shall be treated as having carried on the business or part of the business before as well as after the transfer and supplies by the transferor shall be treated accordingly.\(^{236}\)

(b) [Repealed]\(^{237}\)\(^{238}\)

(2) Without prejudice to subsection (1), the Treasury may by regulations make provision for securing continuity in the application of this Act in cases where a business, or part of a business, carried on by a taxable person is transferred to another person as a going concern and the transferee is registered under this Act in substitution for the transferor.\(^{239}\)

(2A) Regulations under subsection (2) may, in particular, provide for the duties under this Act of the transferor to preserve records relating to the business or part of the business for any period after the transfer to become duties of the transferee unless the Treasury, at the request of the transferor, otherwise directs.\(^{240}\)

(3) Regulations under subsection (2) may, in particular, provide —

(a) for liabilities and duties under this Act (excluding sections 59 to 70) of the transferor (other than the duties mentioned in subsection (2A)) to become, to such extent as may be provided by the regulations, liabilities and duties of the transferee; and\(^{241}\)

(b) for any right of either of them to repayment or credit in respect of VAT to be satisfied by making a repayment or allowing a credit to the other,

but no such provision as is mentioned in paragraph (a) or (b) shall have effect in relation to any transferor and transferee unless an application in that behalf has been made by them under the regulations.

(4) Subsection (5) applies where —

(a) a business, or part of a business, carried on by a taxable person is transferred to another person as a going concern, and

(b) the transferor continues to be required under this Act to preserve for any period after the transfer any records relating to the business or part of the business.\(^{242}\)

(5) So far as is necessary for the purpose of complying with the transferee’s duties under this Act, the transferee (“E”) may require the transferor —
(a) to give to E, within such time and in such form as E may reasonably require, such information contained in the documents as E may reasonably specify,

(b) to give to E, within such time and in such form as E may reasonably require, such copies of documents forming part of the records as E may reasonably specify, and

(c) to make the records available for E’s inspection at such time and place as E may reasonably require (and permit E to take copies of, or make extracts from, them).\textsuperscript{243}

(6) Where a business, or part of a business, carried on by a taxable person is transferred to another person as a going concern, the Treasury may disclose to the transferee any information relating to the business when it was carried on by the transferor for the purpose of enabling the transferee to comply with the transferee’s duties under this Act.\textsuperscript{244}

50 Terminal markets

[1973/1/26; P1994/23/50]

(1) The Treasury may by order make provision for modifying the provisions of this Act in their application to dealings on terminal markets and such persons ordinarily engaged in such dealings as may be specified in the order, subject to such conditions as may be so specified.

(2) Without prejudice to the generality of subsection (1), an order under this section may include provision —

(a) for zero-rating the supply of any goods or services or for treating the supply of any goods or services as exempt;

(b) for the registration under this Act of any body of persons representing persons ordinarily engaged in dealing on a terminal market and for disregarding such dealings by persons so represented in determining liability to be registered under this Act, and for disregarding such dealings between persons so represented for all the purposes of this Act;

(c) for refunding, to such persons as may be specified by or under the order, input tax attributable to such dealings on a terminal market as may be so specified,

and may contain such incidental and supplementary provisions as appear to the Treasury to be necessary or expedient.

50A Margin schemes

(1) The Treasury may by order provide, in relation to any such description of supplies to which this section applies as may be specified in the order, for a taxable person to be entitled to opt that, where he makes supplies of that
description, tax is to be charged by reference to the profit margin on the 
supplies, instead of by reference to their value.

(2) This section applies to the following supplies, that is to say —
   (a) supplies of works of art, antiques or collectors’ items;
   (b) supplies of motor vehicles;
   (c) supplies of second-hand goods; and
   (d) any supply of goods through a person who acts as an agent, but in 
his own name, in relation to the supply.

(3) An option for the purposes of an order under this section shall be 
exercisable, and may be withdrawn, in such manner as may be required 
by such an order.

(4) Subject to subsection (7), the profit margin on a supply to which this 
section applies shall be taken, for the purposes of an order under this 
section, to be equal to the amount (if any) by which the price at which the 
person making the supply obtained the goods in question is exceeded by 
the price at which he supplies them.

(5) For the purposes of this section the price at which a person has obtained 
any goods and the price at which he supplies them shall each be calculated 
in accordance with the provisions contained in an order under this section; 
and such an order may, in particular, make provision stipulating the 
extent to which any tax charged on a supply, acquisition or importation of 
goods is to be treated as included in the price at which those goods have 
been obtained or are supplied.

(6) An order under this section may provide that the consideration for any 
services supplied in connection with a supply of goods by a person who 
acts as an agent, but in his own name, in relation to the supply of the goods 
is to be treated for the purposes of any such order as an amount to be taken 
into account in computing the profit margin on the supply of the goods, 
instead of being separately chargeable to tax as comprised in the value of 
the services supplied.

(7) An order under this section may provide for the total profit margin on all 
the goods or a particular description supplied by a person in any 
prescribed accounting period to be calculated by —
   (a) aggregating all the prices at which that person obtained goods of 
that description in that period together with any amount carried 
forward to that period in pursuance of paragraph (d);
   (b) aggregating all the prices at which he supplies goods of that 
description in that period;
   (c) treating the total profit margin on goods supplied in that period as 
being equal to the amount (if any) by which, for that period, the 
aggregate calculated in pursuance of paragraph (a) is exceeded by 
the aggregate calculated in pursuance of paragraph (b); and
(d) treating any amount by which, for that period, the aggregate calculated in pursuance of paragraph (b) is exceeded by the aggregate calculated in pursuance of paragraph (a) as an amount to be carried forward to the following prescribed accounting period so as to be included, for the period to which it is carried forward, in any aggregate falling to be calculated in pursuance of paragraph (a).

(8) An order under this section may —

(a) make different provision for different cases; and

(b) make provisions of the order subject to such general or special directions as may, in accordance with the order, be given by the Treasury with respect to any matter to which the order relates.

51 Buildings and land
[1973/1/27A; P1994/23/51]

(1) Schedule 11 shall have effect with respect to buildings and land.

(2) The Treasury may by order amend Schedule 11.

51A [Repealed]246

51B Face-value vouchers issued before 1 January 2019247

(1) Schedule 10A shall have effect with respect to face-value vouchers.248

(2) Schedule 10A does not have effect with respect to a face value voucher (within the meaning of that Schedule) issued on or after 1 January 2019.249

51C Vouchers issued on or after 1 January 2019

(1) Schedule 10B makes provision about the VAT treatment of vouchers.

(2) Schedule 10B has effect with respect to a voucher (within the meaning of that Schedule) issued on or after 1 January 2019.251

51D Postage stamps issued on or after 1 January 2019

(1) The issue of a postage stamp, and any subsequent transfer of it, is a supply of services for the purposes of this Act.

(2) The consideration for the issue or subsequent transfer of a postage stamp is to be disregarded for the purposes of this Act, except to the extent (if any) that it exceeds the face value of the stamp.

(3) The “face value” of the stamp is the amount stated on or recorded in the stamp or the terms and conditions governing its use.
(4) This section has effect with respect to postage stamps issued on or after 1 January 2019.252

52 Trading stamp schemes
[1973/1/29; P1994/23/52]
The Treasury may by regulations modify sections 19 and 20 and Schedules 7 and 8 for the purpose of providing (in place of the provision for the time being contained in those sections and Schedules) for the manner of determining for the purposes of this Act the value of —

(a) a supply of goods, or
(b) a transaction in pursuance of which goods are acquired from a member State,
in a case where the goods are supplied or acquired under a trading stamp scheme or under any scheme of an equivalent description which is in operation in a member State.

53 Tour operators
[1973/1/29A; P1994/23/53]
(1) The Treasury may by order modify the application of this Act in relation to supplies of goods or services by tour operators or in relation to such of those supplies as may be determined by or under the order.

(2) Without prejudice to the generality of subsection (1), an order under this section may make provision —

(a) for two or more supplies of goods or services by a tour operator to be treated as a single supply of services;
(b) for the value of that supply to be ascertained, in such manner as may be determined by or under the order, by reference to the difference between sums paid or payable to and sums paid or payable by the tour operator;
(c) for account to be taken, in determining the VAT chargeable on that supply, of the different rates of VAT that would have been applicable apart from this section;
(d) excluding any person from the application of section 43;253
e) as to the time when a supply is to be treated as taking place.

(3) In this section “tour operator” includes a travel agent acting as principal and any other person providing for the benefit of travellers services of any kind commonly provided by tour operators or travel agents.
54 Farmers etc

[1973/1/29B; P1994/23/54]

(1) The Treasury may, in accordance with such provision as may be contained in regulations made by it, certify for the purposes of this section any person who satisfies them —
   (a) that he is carrying on a business involving one or more designated activities;
   (b) that he is of such a description and has complied with such requirements as may be prescribed; and
   (c) where an earlier certification of that person has been cancelled, that more than the prescribed period has elapsed since the cancellation or that such other conditions as may be prescribed are satisfied.

(2) Where a person is for the time being certified under this section, then (whether or not that person is a taxable person) so much of any supply by him of any goods or services as, in accordance with provision contained in regulations, is allocated to the relevant part of his business shall be disregarded for the purpose of determining whether he is, has become or has ceased to be liable or entitled to be registered under Schedule 2 or is, has become or has ceased to be liable to be registered under Schedule 2A.254

(3) The Treasury may by regulations provide for an amount included in the consideration for any taxable supply which is made —
   (a) in the course or furtherance of the relevant part of his business by a person who is for the time being certified under this section;
   (b) at a time when that person is not a taxable person; and
   (c) to a taxable person,
   to be treated, for the purpose of determining the entitlement of the person supplied to credit under sections 25 and 26, as VAT on a supply to that person.

(4) The amount which, for the purposes of any provision made under subsection (3), may be included in the consideration for any supply shall be an amount equal to such percentage as the Treasury may by order specify of the sum which, with the addition of that amount, is equal to the consideration for the supply.

(5) The Treasury’s power by regulations under section 39 to provide for the repayment to persons to whom that section applies of VAT which would be input tax of theirs if they were taxable persons in the Island includes power to provide for the payment to persons to whom that section applies of sums equal to the amounts which, if they were taxable persons in the Island, would be input tax of theirs by virtue of regulations under this section; and references in that section, or in any other enactment, to a repayment of VAT shall be construed accordingly.
(6) Regulations under this section may provide —
(a) for an application for certification under this section, or for the cancellation of any such certification, to be made in the form and manner specified in the regulations or by the Treasury in accordance with the regulations;
(b) for the cases and manner in which the Treasury may cancel a person's certification;
(c) for entitlement to a credit such as is mentioned in subsection (3) to depend on the issue of an invoice containing such particulars as may be prescribed, or as may be notified by the Treasury in accordance with provision contained in regulations; and
(d) for the imposition on certified persons of obligations with respect to the keeping, preservation and production of such records as may be prescribed and of obligations to comply with such requirements with respect to any of those matters as may be so notified;
and regulations made under paragraph (b) may confer on the Treasury power, if it thinks fit, to refuse to cancel a person's certification, and to refuse to give effect to any entitlement of that person to be registered, until the end of such period after the grant of certification as may be prescribed.

(7) In this section references, in relation to any person, to the relevant part of his business are references —
(a) where the whole of his business relates to the carrying on of one or more designated activities, to that business; and
(b) in any other case, to so much of his business as does so relate.

(8) In this section "designated activities" means such activities, being activities carried on by a person who, by virtue of carrying them on, falls to be treated as a farmer for the purposes of Article 25 of the directive of the Council of the European Communities dated 17th May 1977 No. 77/388/EEC (common flat-rate scheme for farmers), as the Treasury may by order designate.

55 Customers to account for tax on supplies of gold etc
[1973/1/29C; P1994/23/55]

(1) Where any person makes a supply of gold to another person and that supply is a taxable supply but not a zero rated supply, the supply shall be treated for the purposes of Schedules 2 and 2A —
(a) as a taxable supply of that other person (as well as a taxable supply of the person who makes it); and
(b) in so far as that other person is supplied in connection with the carrying on by him of any business, as a supply made by him in the course or furtherance of that business;
but nothing in paragraph (b) shall require any supply to be disregarded for the purposes of Schedule 2 on the grounds that it is a supply of capital assets of that other person's business.\textsuperscript{256}

(2) Where a taxable person makes a supply of gold to a person who —

(a) is himself a taxable person at the time when the supply is made; and

(b) is supplied in connection with the carrying on by him of any business,

it shall be for the person supplied, on the supplier’s behalf, to account for and pay tax on the supply, and not for the supplier.

(3) So much of this Act and of any other statutory provision as has effect for the purposes of, or in connection with, the enforcement of any obligation to account for and pay VAT shall apply for the purposes of this section in relation to any person who is required under subsection (2) to account for and pay any VAT as if that VAT were VAT on a supply made by him.

(4) Section 6(4) to (10) shall not apply for determining when any supply of gold is to be treated as taking place.

(5) References in this section to a supply of gold are references to —

(a) any supply of goods consisting in fine gold, in gold grain of any purity or in gold coins of any purity;\textsuperscript{257}

(b) any supply of goods containing gold where the consideration for the supply (apart from any VAT) is, or is equivalent to, an amount which does not exceed, or exceeds by no more than a negligible amount, the open market value of the gold contained in the goods; or

(c) any supply of services consisting in the application to another person’s goods of a treatment or process which produces goods a supply of which would fall within paragraph (a).\textsuperscript{258}

(6) The Treasury may by order provide for this section to apply, as it applies to the supplies specified in subsection (5), to such other supplies of —

(a) goods consisting in or containing any precious or semi-precious metal or stones; or

(b) services relating to, or to anything containing, any precious or semi-precious metal or stones,

as may be specified in the order.

55A Customers to account for tax on supplies of goods or services of a kind used in missing trader intra-EU fraud\textsuperscript{259}

(1) Subsection (3) applies if —
Section 55A

Value Added Tax Act 1996

(a) a taxable (but not a zero-rated) supply of goods or services ("the relevant supply") is made to a person ("the recipient").

(b) the relevant supply is of goods or services to which this section applies (see subsection (9)).

(c) the relevant supply is not an excepted supply (see subsection (10)), and

(d) the total value of the relevant supply, and of corresponding supplies made to the recipient in the month in which the relevant supply is made, exceeds £1,000 ("the disregarded amount").

(2) For this purpose a "corresponding supply" means a taxable (but not a zero-rated) supply of goods or services which —

(a) is a supply of goods or services to which this section applies, and

(b) is not an excepted supply.

(3) The relevant supply, and the corresponding supplies made to the recipient in the month in which the relevant supply is made, are to be treated for the purposes of Schedules 2 and 2A —

(a) as taxable supplies of the recipient (as well as taxable supplies of the person making them), and

(b) in so far as the recipient is supplied in connection with the carrying on by him of any business, as supplies made by him in the course or furtherance of that business,

but the relevant supply, and those corresponding supplies, are to be so treated only in so far as their total value exceeds the disregarded amount.

(4) Nothing in subsection (3)(b) requires any supply to be disregarded for the purposes of Schedule 2 on the grounds that it is a supply of capital assets of the recipient’s business.

(5) For the purposes of subsections (1) and (3), the value of a supply is determined on the basis that no VAT is chargeable on the supply.

(6) If —

(a) a taxable person makes a supply of goods or services to a person ("the recipient") at any time,

(b) the supply is of goods or services to which this section applies and is not an excepted supply, and

(c) the recipient is a taxable person at that time and is supplied in connection with the carrying on by him of any business,

it is for the recipient, on the supplier’s behalf, to account for and pay tax on the supply and not for the supplier.
The relevant enforcement provisions apply for the purposes of this section, in relation to any person required under subsection (6) to account for and pay any VAT, as if that VAT were VAT on a supply made by him.

For this purpose “the relevant enforcement provisions” means so much of —

(a) this Act and any other enactment, and
(b) any subordinate legislation,
as has effect for the purposes of, or in connection with the enforcement of, any obligation to account for and pay VAT.

For the purposes of this section, goods or services are goods or services to which this section applies if they are of a description specified in an order made by the Treasury.267

An order made under subsection (9) may modify the application of subsection (3) in relation to any description of goods or services specified in the order.268

For the purposes of this section, an “excepted supply” means a supply which is of a description specified in, or determined in accordance with, provision contained in an order made by the Treasury.

Any order made under subsection (10) may describe a supply of goods or services by reference to —

(a) the use which has been made of the goods or services, or269
(b) other matters unrelated to the characteristics of the goods or services themselves.270 271

The Treasury may by order substitute for the sum for the time being specified in subsection (1)(d) such greater sum as it thinks fit.

The Treasury may by order make such amendments of any provision of this Act as it considers necessary or expedient for the purposes of this section or in connection with this section.

But no order may be made under this subsection on or after 22nd March 2009.272
PART IV – ADMINISTRATION, COLLECTION AND ENFORCEMENT

General administrative provisions

58 General provisions relating to the administration and collection of VAT
[PI994/23/58]
Schedule 12 shall have effect, subject to section 90(6), with respect to the administration, collection and enforcement of VAT.

58A Disclosure of avoidance schemes
(1) Schedule 11A (which imposes disclosure requirements relating to the use of schemes for avoiding VAT) shall have effect, subject to subsection (3).
(2) Schedule 11B (which imposes disclosure requirements relating to the use of schemes for avoiding VAT) shall have effect with effect from 1 May 2019.
(3) In consequence of subsection (2), Schedule 11A ceases to have effect to require a person to disclose any scheme which —
   (a) is first entered into by that person on or after 1 May 2019;
   (b) constitutes notifiable arrangements under Schedule 11B; or
   (c) implements proposals which are notifiable proposals under Schedule 11B.
(4) No scheme or proposed scheme may be notified to the Treasury under paragraph 9 of Schedule 11A (voluntary notification of schemes) on or after 1 May 2019. 278

58B Power to provide for use of electronic communications
(1) Regulations may be made, in accordance with this section, for facilitating the use of electronic communications for —
   (a) the delivery of information the delivery of which is authorised or required by or under any legislation relating to value added tax;
   (b) the making of payments under any such legislation.
(2) For the purposes of this section provision for facilitating the use of electronic communications includes any of the following —
(a) provision authorising persons to use electronic communications for the delivery of information to the Treasury, or for the making of payments to the Treasury;

(b) provision requiring electronic communications to be used for the making to the Treasury of payments due from persons using such communications for the delivery of information to the Treasury;

(c) provision authorising the Treasury to use electronic communications for the delivery of information to other persons or for the making of any payments;

(d) provision as to the electronic form to be taken by any information that is delivered to the Treasury using electronic communications;

(e) provision requiring persons to prepare and keep records of information delivered to the Treasury by means of electronic communications, and of payments made to the Treasury by any such means;

(f) provision for the production of the contents of records kept in accordance with any regulations under this section;

(g) provision imposing conditions that must be complied with in connection with any use of electronic communications for the delivery of information or the making of any payment;

(h) provision, in relation to cases where use is made of electronic communications, for treating information as not having been delivered, or a payment as not having been made, unless conditions imposed by any such regulations are satisfied;

(i) provision, in relation to such cases, for determining the time when information is delivered or a payment is made;

(j) provision, in relation to such cases, for determining the person by whom information is to be taken to have been delivered or by whom a payment is to be taken to have been made;

(k) provision, in relation to cases where information is delivered by means of electronic communications, for authenticating whatever is delivered.

(3) The power to make provision under this section for facilitating the use of electronic communications shall also include power to make such provision as the Treasury thinks fit (including provision for the application of conclusive or other presumptions) as to the manner of proving for any purpose —

(a) whether any use of electronic communications is to be taken as having resulted in the delivery of information or the making of a payment;

(b) the time of delivery of any information for the delivery of which electronic communications have been used;
the time of the making of any payment for the making of which electronic communications have been used;

d) the person by whom information delivered by means of electronic communications was delivered;

e) the contents of anything so delivered;

f) the contents of any records;

g) any other matter for which provision may be made by regulations under this section.

(4) Regulations under this section may —

(a) allow any authorisation or requirement for which such regulations may provide to be given or imposed by means of a specific or general direction given by the Treasury;

(b) provide that the conditions of any such authorisation or requirement are to be taken to be satisfied only where the Treasury is satisfied as to specified matters;

(c) allow a person to refuse to accept delivery of information in an electronic form or by means of electronic communications except in such circumstances as may be specified in or determined under the regulations;

(d) allow or require use to be made of intermediaries in connection with —

(i) the delivery of information, or the making of payments, by means of electronic communications; or

(ii) the authentication or security of anything transmitted by any such means.

(5) Power to make provision by regulations under this section shall include power —

(a) to provide for a contravention of, or any failure to comply with, a specified provision of any such regulations to attract a penalty of a specified amount not exceeding £1,000;

(b) to provide that specified enactments relating to penalties imposed for the purposes of matters relating to value added tax (including enactments relating to assessments, review and appeal) are to apply, with or without modifications, in relation to penalties under such regulations;

(c) to make different provision for different cases;

(d) to make such incidental, supplemental, consequential and transitional provision in connection with any provision contained in any such regulations as the persons exercising the power think fit.
(6) References in this section to the delivery of information include references to any of the following (however referred to) —

(a) the production or furnishing to a person of any information, account, record or document;
(b) the giving, making, issue or surrender to, or service on, any person of any notice, notification, statement, declaration, certificate or direction;
(c) the imposition on any person of any requirement or the issue to any person of any request;
(d) the making of any return, claim, election or application;
(e) the amendment or withdrawal of anything mentioned in paragraphs (a) to (d).

(7) In this section —

“electronic communications” includes any communications by means of a telecommunication system (within the meaning of the Telecommunications Act 1984);
“legislation" means any statutory provision or EU legislation that applies to the Island by virtue of an order under section 1(3)(g) of the Customs and Excise Act 1993;276
“payment” includes a repayment;
“records” includes records in electronic form.277

58C Use of electronic communications under other provisions

(1) Without prejudice to section 58B, where any power to make subordinate legislation for or in connection with the delivery of information or the making of payments is conferred in relation to any matter relating to value added tax on the Treasury, that power shall be taken (to the extent that it would not otherwise be so taken) to include power to make any such provision in relation to the delivery of that information or the making of those payments as could be made by any person by regulations in exercise of a power conferred by that section.

(2) Provision made in exercise of the powers conferred by section 58B or subsection (1) shall have effect notwithstanding so much of any enactment or subordinate legislation as (apart from the provision so made) would require —

(a) any information to be delivered, or
(b) any amount to be paid,

in a form or manner that would preclude the use of electronic communications for its delivery or payment, or the use in connection with its delivery or payment of an intermediary.
(3) Expressions used in this section and section 58B have the same meanings in this section as in that section.278

58D Payment by cheque

The Treasury may make regulations providing for a payment to it in respect of value added tax made by cheque to be treated as made when the cheque clears, as defined in the regulations.279

Default surcharges and other penalties and criminal offences

59 The default surcharge

[1973/1/31B; P1994/23/59]

(1) Subject to subsection (1A) if, by the last day on which a taxable person is required in accordance with regulations under this Act to furnish a return for a prescribed accounting period —

(a) the Treasury has not received that return, or

(b) the Treasury has received that return but have not received the amount of VAT shown on the return as payable by him in respect of that period,

then that person shall be regarded for the purposes of this section as being in default in respect of that period.280

(1A) A person shall not be regarded for the purposes of this section as being in default in respect of any prescribed accounting period if that period is one in respect of which he is required by virtue of any order under section 28 to make any payment on account of VAT.281

(2) Subject to subsections (9) and (10), subsection (4) applies in any case where —

(a) a taxable person is in default in respect of a prescribed accounting period; and

(b) the Treasury serves notice on the taxable person (a “surcharge liability notice”) specifying as a surcharge period for the purposes of this section a period ending on the first anniversary of the last day of the period referred to in paragraph (a) and beginning, subject to subsection (3), on the date of the notice.

(3) If a surcharge liability notice is served by reason of a default in respect of a prescribed accounting period and that period ends at or before the expiry of an existing surcharge period already notified to the taxable person concerned, the surcharge period specified in that notice shall be expressed as a continuation of the existing surcharge period and, accordingly, for the purposes of this section, that existing period and its extension shall be regarded as a single surcharge period.
(4) Subject to subsections (7) to (10), if a taxable person on whom a surcharge liability notice has been served —

(a) is in default in respect of a prescribed accounting period ending within the surcharge period specified in (or extended by) that notice, and

(b) has outstanding VAT for that prescribed accounting period,

he shall be liable to a surcharge equal to whichever is the greater of the following, namely, the specified percentage of his outstanding VAT for that prescribed accounting period and £30.

(5) Subject to subsections (7) to (10), the specified percentage referred to in subsection (4) shall be determined in relation to a prescribed accounting period by reference to the number of such periods in respect of which the taxable person is in default during the surcharge period and for which he has outstanding VAT, so that —

(a) in relation to the first such prescribed accounting period, the specified percentage is 2 per cent;

(b) in relation to the second such period, the specified percentage is 5 per cent;

(c) in relation to the third such period, the specified percentage is 10 per cent; and

(d) in relation to each such period after the third, the specified percentage is 15 per cent.

(6) For the purposes of subsections (4) and (5) a person has outstanding VAT for a prescribed accounting period if some or all of the VAT for which he is liable in respect of that period has not been paid by the last day on which he is required (as mentioned in subsection (1)) to make a return for that period; and the reference in subsection (4) to a person’s outstanding VAT for a prescribed accounting period is to so much of the VAT for which he is so liable as has not been paid by that day.

(7) If a person who, apart from this subsection, would be liable to a surcharge under subsection (4) satisfies the Treasury or, on appeal, the Tribunal that, in the case of a default which is material to the surcharge —

(a) the return or, as the case may be, the VAT shown on the return was dispatched at such a time and in such a manner that it was reasonable to expect that it would be received by the Treasury within the appropriate time limit, or

(b) there is a reasonable excuse for the return or VAT not having been so dispatched,

he shall not be liable to the surcharge and for the purposes of the preceding provisions of this section he shall be treated as not having been in default in respect of the prescribed accounting period in question (and,
accordingly, any surcharge liability notice the service of which depended upon that default shall be deemed not to have been served).

(8) For the purposes of subsection (7), a default is material to a surcharge if —
(a) it is the default which, by virtue of subsection (4), gives rise to the surcharge; or
(b) it is a default which was taken into account in the service of the surcharge liability notice upon which the surcharge depends and the person concerned has not previously been liable to a surcharge in respect of a prescribed accounting period ending within the surcharge period specified in or extended by that notice.

(9) In any case where —
(a) the conduct by virtue of which a person is in default in respect of a prescribed accounting period is also conduct falling within section 69(1), and
(b) by reason of that conduct, the person concerned is assessed to a penalty under that section,
the default shall be left out of account for the purposes of subsections (2) to (5).

(10) If the Treasury so directs, a default in respect of a prescribed accounting period specified in the direction shall be left out of account for the purposes of subsections (2) to (5).

(11) For the purposes of this section references to a thing’s being done by any day include references to its being done on that day.282

59A Default surcharge: payments on account

(1) For the purposes of this section a taxable person shall be regarded as in default in respect of any prescribed accounting period if the period is one in respect of which he is required, by virtue of an order under section 28, to make any payment on account of VAT and either —
(a) a payment which he is so required to make in respect of that period has not been received in full by the Treasury by the day on which it became due; or
(b) he would, but for section 59(1A), be in default in respect of that period for the purposes of section 59.

(2) Subject to subsections (10) and (11), subsection (4) applies in any case where —
(a) a taxable person is in default in respect of a prescribed accounting period; and
(b) the Treasury serve notice on the taxable person (a “surcharge liability notice”) specifying as a surcharge period for the purposes of this section a period which —
(i) begins, subject to subsection (3), on the date of the notice; and

(ii) ends on the first anniversary of the last day of the period referred to in paragraph (a).

(3) If —

(a) a surcharge liability notice is served by reason of a default in respect of a prescribed accounting period, and

(b) that period ends at or before the expiry of an existing surcharge period already notified to the taxable person concerned,

the surcharge period specified in that notice shall be expressed as a continuation of the existing surcharge period; and, accordingly, the existing period and its extension shall be regarded as a single surcharge period.

(4) Subject to subsections (7) to (11), if —

(a) a taxable person on whom a surcharge liability notice has been served is in default in respect of a prescribed accounting period,

(b) that prescribed accounting period is one ending within the surcharge period specified in (or extended by) that notice, and

(c) the aggregate value of his defaults in respect of that prescribed accounting period is more than nil,

that person shall be liable to a surcharge equal to whichever is the greater of £30 and the specified percentage of the aggregate value of his defaults in respect of that prescribed accounting period.

(5) Subject to subsections (7) to (11), the specified percentage referred to in subsection (4) shall be determined in relation to a prescribed accounting period by reference to the number of such periods during the surcharge period which are periods in respect of which the taxable person is in default and in respect of which the value of his defaults is more than nil, so that —

(a) in relation to the first such prescribed accounting period, the specified percentage is 2 per cent.;

(b) in relation to the second such period, the specified percentage is 5 per cent.;

(c) in relation to the third such period, the specified percentage is 10 per cent.; and

(d) in relation to each such period after the third, the specified percentage is 15 per cent.

(6) For the purposes of this section the aggregate value of a person’s defaults in respect of a prescribed accounting period shall be calculated as follows —
(a) where the whole or any part of a payment in respect of that period on account of VAT was not received by the Treasury by the day on which it became due, an amount equal to that payment or, as the case may be, to that part of it shall be taken to be the value of the default relating to that payment;

(b) if there is more than one default with a value given by paragraph (a), those values shall be aggregated;

(c) the total given by paragraph (b), or (where there is only one default) the value of the default under paragraph (a), shall be taken to be the value for that period of that person’s defaults on payments on account;

(d) the value of any default by that person which is a default falling within subsection (l)(b) shall be taken to be equal to the amount of any outstanding VAT less the amount of unpaid payments on account; and

(e) the aggregate value of a person’s defaults in respect of that period shall be taken to be the aggregate of —

(i) the value for that period of that person’s defaults (if any) on payments on account; and

(ii) the value of any default of his in respect of that period that falls within subsection (l)(b).

(7) In the application of subsection (6) for the calculation of the aggregate value of a person’s defaults in respect of a prescribed accounting period —

(a) the amount of outstanding VAT referred to in paragraph (d) of that subsection is the amount (if any) which would be the amount of that person’s outstanding VAT for that period for the purposes of section 59(4); and

(b) the amount of unpaid payments on account referred to in that paragraph is the amount (if any) equal to so much of any payments on account of VAT (being payments in respect of that period) as has not been received by the Treasury by the last day on which that person is required (as mentioned in section 59(1)) to make a return for that period.

(8) If a person who, apart from this subsection, would be liable to a surcharge under subsection (4) satisfies the Treasury or, on appeal, a tribunal —

(a) in the case of a default that is material for the purposes of the surcharge and falls within subsection (l)(a) —

(i) that the payment on account of VAT was despatched at such a time and in such a manner that it was reasonable to expect that it would be received by the Treasury by the day on which it became due, or

(ii) that there is a reasonable excuse for the payment not having been so despatched, or
(b) in the case of a default that is material for the purposes of the surcharge and falls within subsection (1)(b), that the condition specified in section 59(7)(a) or (b) is satisfied as respects the default, he shall not be liable to the surcharge and for the purposes of the preceding provisions of this section he shall be treated as not having been in default in respect of the prescribed accounting period in question (and, accordingly, any surcharge liability notice the service of which depended upon that default shall be deemed not to have been served).

(9) For the purposes of subsection (8), a default is material to a surcharge if —

(a) it is the default which, by virtue of subsection (4), gives rise to the surcharge; or

(b) it is a default which was taken into account in the service of the surcharge liability notice upon which the surcharge depends and the person concerned has not previously been liable to a surcharge in respect of a prescribed accounting period ending within the surcharge period specified in or extended by that notice.

(10) In any case where —

(a) the conduct by virtue of which a person is in default in respect of a prescribed accounting period is also conduct falling within section 69(1), and

(b) by reason of that conduct, the person concerned is assessed to a penalty under section 69,

the default shall be left out of account for the purposes of subsections (2) to (5).

(11) If the Treasury so directs, a default in respect of a prescribed accounting period specified in the direction shall be left out of account for the purposes of subsections (2) to (5).

(12) For the purposes of this section the Treasury shall be taken not to receive a payment by the day on which it becomes due unless it is made in such a manner as secures (in a case where the payment is made otherwise than in cash) that, by the last day for the payment of that amount, all the transactions can be completed that need to be completed before the whole amount of the payment becomes available to the Treasury.

(13) In determining for the purposes of this section whether any person would, but for section 59(1A), be in default in respect of any period for the purposes of section 59, subsection (12) shall be deemed to apply for the purposes of section 59 as it applies for the purposes of this section.

(14) For the purposes of this section references to a thing’s being done by any day include references to its being done on that day.\textsuperscript{283}
59B Relationship between sections 59 and 59A

(1) This section applies in each of the following cases, namely —

(a) where a section 28 accounting period ends within a surcharge period begun or extended by the service on a taxable person (whether before or after the coming into force of section 59A) of a surcharge liability notice under section 59; and

(b) where a prescribed accounting period which is not a section 28 accounting period ends within a surcharge period begun or extended by the service on a taxable person of a surcharge liability notice under section 59A.

(2) In a case falling within subsection (1)(a) section 59A shall have effect as if —

(a) subject to paragraph (b), the section 28 accounting period were deemed to be a period ending within a surcharge period begun or, as the case may be, extended by a notice served under section 59A; but

(b) any question —

(i) whether a surcharge period was begun or extended by the notice, or

(ii) whether the taxable person was in default in respect of any prescribed accounting period which was not a section 28 accounting period but ended within the surcharge period begun or extended by that notice,

were to be determined as it would be determined for the purposes of section 59.

(3) In a case falling within subsection (1)(b) section 59 shall have effect as if —

(a) subject to paragraph (b), the prescribed accounting period that is not a section 28 accounting period were deemed to be a period ending within a surcharge period begun or, as the case may be, extended by a notice served under section 59;

(b) any question —

(i) whether a surcharge period was begun or extended by the notice, or

(ii) whether the taxable person was in default in respect of any prescribed accounting period which was a section 28 accounting period but ended within the surcharge period begun or extended by that notice,

were to be determined as it would be determined for the purposes of section 59A; and

(c) that person were to be treated as having had outstanding VAT for a section 28 accounting period in any case where the aggregate
value of his defaults in respect of that period was, for the purposes of section 59A, more than nil.

(4) In this section “a section 28 accounting period”, in relation to a taxable person, means any prescribed accounting period ending on or after 29th April 1996 in respect of which that person is liable by virtue of an order under section 28 to make any payment on account of VAT.²⁸⁴

60 VAT evasion: conduct involving dishonesty²⁸⁵

[1973/1/38A and 40B; P1994/23/60]

(1) In any case where —

(a) for the purpose of evading VAT, a person does any act or omits to take any action, and

(b) his conduct involves dishonesty (whether or not it is such as to give rise to criminal liability),

he shall be liable, subject to subsection (6), to a penalty equal to the amount of VAT evaded or, as the case may be, sought to be evaded, by his conduct.

(2) The reference in subsection (1)(a) to evading VAT includes a reference to obtaining any of the following sums —

(a) a refund under any regulations made by virtue of section 13(5);  
(b) a VAT credit;  
(c) a refund under section 35, 36 or 40 of this Act or section 15B of the 1973 Act; and  
(d) a repayment under section 39,

in circumstances where the person concerned is not entitled to that sum.

(3) The reference in subsection (1) to the amount of the VAT evaded or sought to be evaded by a person’s conduct shall be construed —

(a) in relation to VAT itself or a VAT credit as a reference to the aggregate of the amount (if any) falsely claimed by way of credit for input tax and the amount (if any) by which output tax was falsely understated; and

(b) in relation to the sums referred to in subsection (2)(a), (c) and (d), as a reference to the amount falsely claimed by way of refund or repayment.

(4) Statements made or documents produced by or on behalf of a person shall not be inadmissible in any such proceedings as are mentioned in subsection (5) by reason only that it has been drawn to his attention —

(a) that, in relation to VAT, the Treasury may assess an amount due by way of a civil penalty instead of instituting criminal proceedings and, though no undertaking can be given as to whether the Treasury will make such an assessment in the case of any person, it is its practice to be influenced by the fact that a person has made a
Section 61A

full confession of any dishonest conduct to which he has been a
party and has given full facilities for investigation, and
(b) that the Treasury or, on appeal, the Tribunal has power under
section 70 to reduce a penalty under this section,
and that he was or may have been induced thereby to make the statements
or produce the documents.

(5) The proceedings mentioned in subsection (4) are —
(a) any criminal proceedings against the person concerned in respect
of any offence in connection with or in relation to VAT, and
(b) any proceedings against him for the recovery of any sum due from
him in connection with or in relation to VAT.

(6) Where, by reason of conduct falling within subsection (1), a person is
convicted of an offence (whether under this Act or otherwise), that
conduct shall not also give rise to liability to a penalty under this section.

(7) On an appeal against an assessment to a penalty under this section, the
burden of proof as to the matters specified in subsection (1)(a) and (b) shall
lie upon the Treasury.] 286

61 [Repealed] 287

62 Incorrect certificates as to zero-rating etc
[1973/1/38H; P1994/23/62]

(1) Subject to subsections (3) and (4), where —
(a) a person to whom one or more supplies are, or are to be, made —
(i) gives to the supplier a certificate that the supply or supplies
fall, or will fall, wholly or partly within paragraph 1 of
Schedule 1, Group 5 or 6 of Schedule 9 or Group 1 of
Schedule 10, or
(ii) gives to the supplier a certificate for the purposes of
section 18B(2)(d) or 18C(1)(c), and
(b) the certificate is incorrect,
the person giving the certificate shall be liable to a penalty. 288

(1A) Subject to subsections (3) and (4), where —
(a) a person who makes, or is to make, an acquisition of goods from a
member State prepares a certificate for the purposes of
section 18B(1)(d), and
(b) the certificate is incorrect,
the person preparing the certificate shall be liable to a penalty. 289

(1B) Where —
(a) a person gives a certificate for the purposes of Note (4R) to Group 12 of Schedule 9 with respect to a supply of a motor vehicle; and

(b) the certificate is incorrect;

the person giving the certificate is to be liable to a penalty.\(^{290}\)

(2) The amount of the penalty shall be equal to —

(a) in a case where the penalty is imposed by virtue of subsection (1), the difference between —

(i) the amount of VAT which would have been chargeable on the supply or supplies if the certificate had been correct; and

(ii) the amount of VAT actually chargeable;

(b) in the case where it is imposed by virtue of subsection (1A), the amount of VAT actually chargeable on the acquisition.

(c) in a case where it is imposed by virtue of subsection (1B), the difference between —

(i) the amount of the VAT which would have been chargeable on the supply if the certificate had been correct; and

(ii) the amount of VAT actually chargeable.\(^{291} \, 292\)

(3) The giving or preparing of a certificate shall not give rise to a penalty under this section if the person who gave or prepared it satisfies the Treasury or, on appeal, the Tribunal that there is a reasonable excuse for his having given or prepared it.\(^{293}\)

(4) Where by reason of giving or preparing a certificate a person is convicted of an offence (whether under this Act or otherwise), the giving or preparing of the certificate shall not also give rise to a penalty under this section.\(^{294}\)

63 and 64 [Repealed]\(^{295}\)

65 Inaccuracies in EC sales statements or in statements relating to section 55A

[1973/1/38I; P1994/23/65]

(1) Where —

(a) an EC sales statement containing a material inaccuracy has been submitted by any person to the Treasury;

(b) the Treasury has, within 6 months of discovering the inaccuracy, issued that person with a written warning identifying that statement and stating that future inaccuracies might result in the service of a notice for the purposes of this section;
(c) another EC sales statement containing a material inaccuracy (“the second inaccurate statement”) has been submitted by that person to the Treasury;

(d) the submission date for the second inaccurate statement fell within the period of 2 years beginning with the day after the warning was issued;

(e) the Treasury has, within 6 months of discovering the inaccuracy in the second inaccurate statement, served that person with a notice identifying that statement and stating that future inaccuracies will attract a penalty under this section;

(f) yet another EC sales statement containing a material inaccuracy is submitted by that person to the Treasury; and

(g) the submission date for the statement falling within paragraph (f) is not more than 2 years after the service of the notice or the date on which any previous statement attracting a penalty was submitted by that person to the Treasury,

that person shall be liable to a penalty of £100 in respect of the statement so falling.

(2) Subject to subsections (3) and (4), an EC sales statement shall be regarded for the purposes of this section as containing a material inaccuracy if, having regard to the matters required to be included in the statement, the inclusion or omission of any information from the statement is misleading in any material respect.

(3) An inaccuracy contained in an EC sales statement shall not be regarded as material for the purposes of this section if —

(a) the person who submitted the statement satisfies the Treasury or, on appeal, the Tribunal that there is a reasonable excuse for the inaccuracy; or

(b) at a time when he had no reason to believe that enquiries were being made by the Treasury into his affairs, that person furnished the Treasury with full information with respect to the inaccuracy.

(4) Where, by reason of the submission of a statement containing a material inaccuracy by any person, that person is convicted of an offence (whether under this Act or otherwise), the inaccuracy to which the conviction relates shall be regarded for the purposes of this section as not being material.

(5) Where the only statement identified in a warning or notice served for the purposes of subsection (1)(b) or (e) is one which (whether by virtue of either or both of subsections (3) and (4) or otherwise) is regarded as containing no material inaccuracies, that warning or notice shall be deemed not to have been issued or served for those purposes.

(6) In this section —
“EC sales statement” means any statement which is required to be submitted to the Treasury in accordance with regulations under paragraph 2(3) of Schedule 12; and

“submission date”, in relation to such a statement, means whichever is the earlier of the last day for the submission of the statement to the Treasury in accordance with those regulations and the day on which it was in fact submitted to the Treasury.

(7) This section applies in relation to a statement which is required to be submitted to the Treasury in accordance with regulations under paragraph 2(3A) of Schedule 12 as it applies in relation to an EC sales statement.296

66 Failure to submit EC sales statement or statement relating to section 55A
[1973/1/38; P1994/23/66]

(1) If, by the last day on which a person is required in accordance with regulations under this Act to submit to the Treasury an EC sales statement for any prescribed period, the Treasury has not received that statement, that person shall be regarded for the purposes of this section as being in default in relation to that statement until it is submitted.

(2) Where any person is in default in respect of any EC sales statement the Treasury may serve notice on him stating —

(a) that he is in default in relation to the statement specified in the notice;

(b) that (subject to the liability mentioned in paragraph (d)) no action will be taken if he remedies the default before the end of the period of 14 days beginning with the day after the service of the notice;

(c) that if the default is not so remedied, that person will become liable in respect of his default to penalties calculated on a daily basis from the end of that period in accordance with the following provisions of this section; and

(d) that the person will become liable, without any further notices being served under this section, to penalties under this section if he commits any more defaults before a period of 12 months has elapsed without his being in default.

(3) Where a person has been served with a notice under subsection (2), he shall become liable under this section —

(a) if the statement to which the notice relates is not submitted before the end of the period of 14 days beginning with the day after the service of the notice, to a penalty in respect of that statement; and

(b) whether or not that statement is so submitted, to a penalty in respect of any EC sales statement the last day for the submission of
which is after the service and before the expiry of the notice and in relation to which he is in default.

(4) For the purposes of this section a notice served on any person under subsection (2) shall continue in force —

(a) except in a case falling within paragraph (b), until the end of the period of 12 months beginning with the day after the service of the notice; and

(b) where at any time in that period of 12 months that person is in default in relation to any EC sales statement other than one in relation to which he was in default when the notice was served, until a period of 12 months has elapsed without that person becoming liable to a penalty under this section in respect of any EC sales statement.

(5) The amount of any penalty to which a person who has been served with a notice under subsection (2) is liable under this section shall be whichever is the greater of £50 and —

(a) in the case of a liability in respect of the statement to which the notice relates, a penalty of £5 for every day for which the default continues after the end of the period of 14 days mentioned in subsection (3)(a), up to a maximum of 100 days; and

(b) in the case of a liability in respect of any other statement, a penalty of the relevant amount for every day for which the default continues, up to a maximum of 100 days.

(6) In subsection (5)(b) “the relevant amount”, in relation to a person served with a notice under subsection (2), means —

(a) £5, where (that person not having been liable to a penalty under this section in respect of the statement to which the notice relates) the statement in question is the first statement in respect of which that person has become liable to a penalty while the notice has been in force;

(b) £10, where the statement in question is the second statement in respect of which he has become so liable while the notice has been in force (counting the statement to which the notice relates where he has become liable in respect of that statement); and

(c) £15 in any other case.

(7) If a person who, apart from this subsection, would be liable to a penalty under this section satisfies the Treasury or, on appeal, the Tribunal, that —

(a) an EC sales statement has been submitted at such a time and in such a manner that it was reasonable to expect that it would be received by the Treasury within the appropriate time limit; or

(b) there is a reasonable excuse for such a statement not having been dispatched,
he shall be treated for the purposes of this section and sections 59 to 65 and 67 to 71, 73, 75 and 76 and Schedule 24 to the Finance Act 2007 (c.11 of Parliament, as it has effect in the Island) as not having been in default in relation to that statement and, accordingly, he shall not be liable to any penalty under this section or that Schedule in respect of that statement and any notice served under subsection (2) exclusively in relation to the failure to submit that statement shall have no effect for the purposes of this section.\textsuperscript{297}

(8) If it appears to the Treasury that there has been a change in the value of money since 1st January 1993 or, as the case may be, the last occasion when the sums specified in subsections (5) and (6) were varied, it may by order substitute for the sums for the time being specified in those subsections such other sums as appears to it to be justified by the change; but an order under this section shall not apply to any default in relation to a statement the last day for the submission of which was before the order comes into force.

(9) In this section “EC sales statement” means any statement which is required to be submitted to the Treasury in accordance with regulations under paragraph 2(3) of Schedule 12.

(10) This section applies in relation to a statement which is required to be submitted to the Treasury in accordance with regulations under paragraph 2(3A) of Schedule 12 as it applies in relation to an EC sales statement.\textsuperscript{298}

67 Failure to notify and unauthorised issue of invoices
[1973/1/38C(1)-(5); P1994/23/67]

(1) In any case where —

\begin{itemize}
  \item[(a)] a person fails to comply with any of paragraphs 5, 6, 7, and 14(2) and (3) of Schedule 2, with paragraph 3 of Schedule 3, paragraph 3, 5 or 7(2) or (3) of Schedule 3A or with paragraph 3 or 8(2) of Schedule 4, or\textsuperscript{299}
  \item[(b)] a person fails to comply with a requirement of regulations under paragraph 2(4) of Schedule 12, or
  \item[(c)] an unauthorised person issues one or more invoices showing an amount as being VAT or as including an amount attributable to VAT,
\end{itemize}

he shall be liable, subject to subsections (8) and (9), to a penalty equal to the specified percentage of the relevant VAT or, if it is greater or the circumstances are such that there is no relevant VAT, to a penalty of £50.

(2) In subsection (1)(c), “an unauthorised person” means anyone other than —

\begin{itemize}
  \item[(a)] a person registered under this Act; or
\end{itemize}
(b) a body corporate treated for the purposes of section 43 as a member of a group; or

(c) a person treated as a taxable person under regulations made under section 46(4); or

(d) a person authorised to issue an invoice under regulations made under paragraph 2(12) of Schedule 12; or

(e) a person acting on behalf of the Crown.

(3) In subsection (1), “relevant VAT” means (subject to subsections (5) and (6)) —

(a) in relation to a person’s failure to comply with paragraph 5, 6 or 7 of Schedule 2, paragraph 3 of Schedule 3, paragraph 3 or 4 of Schedule 3A or paragraph 3 of Schedule 4, the VAT (if any) for which he is liable for the period beginning on the date with effect from which he is, in accordance with that paragraph, required to be registered and ending on the date on which the Treasury received notification of, or otherwise became fully aware of, his liability to be registered; and

(b) in relation to a person’s failure to comply with sub-paragraph (2) or (3) of paragraph 14 of Schedule 2, with sub-paragraph (2) or (3) of paragraph 7 of Schedule 3A or with sub-paragraph (2) of paragraph 8 of Schedule 4, the VAT (if any) for which, but for any exemption from registration, he would be liable for the period beginning on the date of the change or alteration referred to in that sub-paragraph and ending on the date on which the Treasury received notification of, or otherwise became fully aware of, that change or alteration; and

(c) in relation to a person’s failure to comply with a requirement of regulations under paragraph 2(4) of Schedule 12, the VAT on the acquisition to which the failure relates; and

(d) in relation to the issue of one or more invoices as are referred to in subsection (1)(c), the amount which is, or the aggregate of the amounts which are —

(i) shown on the invoice or invoices as VAT, or

(ii) to be taken as representing VAT.

(4) For the purposes of subsection (1) the specified percentage is —

(a) 5 per cent. where the relevant VAT is given by subsection (3)(a) or (b) and the period referred to in that paragraph does not exceed 9 months or where the relevant VAT is given by subsection (3)(c) and the failure in question did not continue for more than 3 months;

(b) 10 per cent. where that VAT is given by subsection (3)(a) or (b) and the period so referred to exceeds 9 months but does not exceed 18 months or where that VAT is given by subsection (3)(c) and the
failure in question continued for more than 3 months but did not continue for more than 6 months; and

(c) 15 per cent. in any other case.

(5) Where —

(a) the amount of VAT which (apart from this subsection) would be treated for the purposes of subsection (1) as the relevant VAT in relation to a failure mentioned in subsection (3)(a) includes VAT on an acquisition of goods from a member State; and

(b) the Treasury is satisfied that VAT has been paid under the law of a member State on the supply in pursuance of which those goods were acquired,

then, in the determination of the amount of the relevant VAT in relation to that failure, an allowance shall be made for the VAT paid under the law of that member State; and the amount of the allowance shall not exceed the amount of VAT due on the acquisition but shall otherwise be equal to the amount of VAT which the Treasury is satisfied has been paid on that supply under the law of that member State.

(6) Where —

(a) the amount of VAT which (apart from this subsection) would be treated for the purposes of subsection (1) as the relevant VAT in relation to a failure mentioned in subsection (3)(a) includes VAT chargeable by virtue of section 7(4) on any supply; and

(b) the Treasury is satisfied that VAT has been paid under the law of a member State on that supply,

then, in the determination of the amount of the relevant VAT in relation to that failure, an allowance shall be made for the VAT paid under the law of the member State; and the amount of the allowance shall not exceed the amount of VAT chargeable by virtue of section 7(4) on that supply but shall otherwise be equal to the amount of VAT which the Treasury is satisfied has been paid on that supply under the law of that member State.

(7) This section shall have effect in relation to any invoice which —

(a) for the purposes of any provision made under section 54(3) shows an amount as included in the consideration for any supply, and

(b) either —

(i) fails to comply with the requirements of any regulations under that section; or

(ii) is issued by a person who is not for the time being authorised to do so for the purposes of that section,

as if the person issuing the invoice were an unauthorised person and that amount were shown on the invoice as an amount attributable to VAT.
Conduct falling within subsection (1) shall not give rise to liability to a penalty under this section if the person concerned satisfies the Treasury or, on appeal, the Tribunal that there is a reasonable excuse for his conduct.

Where, by reason of conduct falling within subsection (1) —

(a) a person is convicted of an offence (whether under this Act or otherwise), or

(b) a person is assessed to a penalty under section 60,

that conduct shall not also give rise to liability to a penalty under this section.

If it appears to the Treasury that there has been a change in the value of money since 25th July 1985 or, as the case may be, the last occasion when the power conferred by this subsection was exercised, it may by order substitute for the sum for the time being specified in subsection (1) such other sum as appears to it to be justified by the change.

An order under subsection (10) shall not apply in relation to a failure to comply which ended on or before the date on which the order comes into force.

68 Breaches of walking possession agreements
[1973/1/38D(1)-(4); P1994/23/68]

This section applies where —

(a) in accordance with regulations under paragraph 5(4) of Schedule 12, a distress is authorised to be levied on the goods and chattels of a person (a “person in default”) who has refused or neglected to pay any VAT due or any amount recoverable as if it were VAT due, and

(b) the person levying the distress and the person in default have entered into a walking possession agreement, as defined in subsection (2).

In this section a “walking possession agreement” means an agreement under which, in consideration of the property distrained upon being allowed to remain in the custody of the person in default and of the delaying of its sale, the person in default —

(a) acknowledges that the property specified in the agreement is under distraint and held in walking possession; and

(b) undertakes that, except with the consent of the Treasury and subject to such conditions as it may impose, he will not remove or allow the removal of any of the specified property from the premises named in the agreement.

Subject to subsection (4), if the person in default is in breach of the undertaking contained in a walking possession agreement, he shall be
liable to a penalty equal to half of the VAT or other amount referred to in subsection (1)(a).

(4) The person in default shall not be liable to a penalty under subsection (3) if he satisfies the Treasury or, on appeal, the Tribunal that there is a reasonable excuse for the breach in question.

69 Breaches of regulatory provisions

If a person fails to comply with a regulatory requirement, that is to say, a requirement imposed under —

(a) paragraph 11 or 12 of Schedule 2, paragraph 7 of Schedule 2A, paragraph 5 of Schedule 3, paragraph 5 of Schedule 3A or paragraph 5 of Schedule 4; or

(b) any regulations made under section 48 requiring a VAT representative, for the purposes of registration, to notify the Treasury that his appointment has taken effect or has ceased to have effect; or

(ba) paragraph 2(3B) of Schedule 12; or

(c) paragraph 8(1) or 9 of Schedule 12; or

(d) any regulations or rules made under this Act, other than rules made under paragraph 6 of Schedule 13; or

(e) any order made by the Treasury under this Act; or

(f) section 18A in the form of a condition imposed by the Treasury under subsection (1) or (6) of that section; or

(g) section 77F (display of VAT registration numbers on online marketplaces),

he shall be liable, subject to subsection (8) and (9) and section 76(6), to a penalty equal to the prescribed rate multiplied by the number of days on which the failure continues (up to a maximum of 100) or, if it is greater, to a penalty of £50.

(2) If any person fails to comply with a requirement to preserve records imposed under paragraph 8(3) of Schedule 12, he shall be liable, subject to the following provisions of this section, to a penalty of £500.

(3) Subject to subsection (4), in relation to a failure to comply with any regulatory requirement, the prescribed rate shall be determined by reference to the number of occasions in the period of 2 years preceding the beginning of the failure in question on which the person concerned has previously failed to comply with that requirement and, subject to the following provisions of this section, the prescribed rate shall be —

(a) if there has been no such previous occasion in that period, £5; and

(b) if there has been only one such occasion in that period, £10; and
(c) in any other case, £15.

(4) For the purposes of subsection (3)—

(a) a failure to comply with any regulatory requirement shall be disregarded if, as a result of the failure, the person concerned became liable for a surcharge under section 59 or 59A;\(^\text{108}\)

(b) a continuing failure to comply with any such requirement shall be regarded as one occasion of failure occurring on the date on which the failure began;

(c) if the same omission gives rise to a failure to comply with more than one such requirement, it shall nevertheless be regarded as the occasion of only one failure; and

(d) in relation to a failure to comply with a requirement imposed by regulations as to the furnishing of a return or as to the payment of VAT, a previous failure to comply with such a requirement as to either of those matters shall be regarded as a previous failure to comply with the requirement in question.

(5) Where the failure referred to in subsection (1) consists—

(a) in not paying the VAT due in respect of any period within the time required by regulations under section 25(1), or

(b) in not furnishing a return in respect of any period within the time required by regulations under paragraph 2(1) of Schedule 12,

the prescribed rate shall be whichever is the greater of that which is appropriate under subsection (3)(a) to (c) and an amount equal to one-sixth, one-third or one-half of 1 per cent. of the VAT due in respect of that period, the appropriate fraction being determined according to whether subsection (3)(a), (b) or (c) is applicable.

(6) For the purposes of subsection (5), the VAT due—

(a) if the person concerned has furnished a return, shall be taken to be the VAT shown in the return as that for which he is accountable in respect of the period in question, and

(b) in any other case, shall be taken to be such VAT as has been assessed for that period and notified to him under section 73(1).

(7) If it appears to the Treasury that there has been a change in the value of money since 25th July 1985 or, as the case may be, the last occasion when the power conferred by this subsection was exercised, it may by order substitute for the sums for the time being specified in subsections (2) and (3)(a) to (c) such other sums as appears to it to be justified by the change; but an order under this subsection shall not apply to a failure which began before the date on which the order comes into force.

(8) A failure by any person to comply with any regulatory requirement or the requirement referred to in subsection (2) shall not give rise to liability to a penalty under this section if the person concerned satisfies the Treasury
or, on appeal, the Tribunal that there is a reasonable excuse for the failure; and a failure in respect of which the Treasury or Tribunal have been so satisfied shall be disregarded for the purposes of subsection (3).

(9) Where, by reason of conduct falling within subsection (1) or (2) —

(a) a person is convicted of an offence (whether under this Act or otherwise), or

(b) a person is assessed to a surcharge under section 59 or 59A, or

(c) a person is assessed to a penalty under section 60 or 63 or a penalty under Schedule 24 to the Finance Act 2007 (c.11 of Parliament, as it has effect in the Island),

that conduct shall not also give rise to liability to a penalty under this section.

(10) This section applies in relation to failures occurring before as well as after the commencement of this Act, and for that purpose any reference to any provision of this Act includes a reference to the corresponding provision of the enactments repealed by this Act.

69A Breach of record-keeping requirements etc in relation to transactions in gold

(1) This section applies where a person fails to comply with a requirement of regulations under section 94B of the Act (gold: duties to keep records or provide information).

Where this section applies, the provisions of section 69 do not apply.

(2) A person who fails to comply with any such requirement is liable to a penalty not exceeding 17.5% of the value of the transactions to which the failure relates.

(3) For the purposes of assessing the amount of any such penalty, the value of the transactions to which the failure relates shall be determined by the Treasury to the best of its judgement and notified by it to the person liable.

(4) No assessment of a penalty under this section shall be made more than 2 years after evidence of facts sufficient in the opinion of the Treasury to justify the making of the assessment comes to its knowledge.

(5) The reference in subsection (4) to facts sufficient to justify the making of the assessment is to facts sufficient —

(a) to indicate that there had been a failure to comply with any such requirement as is referred to in subsection (1), and

(b) to determine the value of the transactions to which the failure relates.

(6) A failure by any person to comply with any such requirement as is mentioned in subsection (1) shall not give rise to a liability to a penalty
under this section if the person concerned satisfies the Treasury or, on appeal, a tribunal, that there is a reasonable excuse for the failure.

(7) Where by reason of conduct falling within subsection (1) a person —
   (a) is assessed to a penalty under section 60 or a penalty for a deliberate inaccuracy under Schedule 24 to the Finance Act 2007 (c.11 of Parliament, as it has effect in the Island), or
   (b) is convicted of an offence (whether under this Act or otherwise),
that conduct shall not also give rise to a penalty under this section.

69B Breach of record-keeping requirements imposed by directions

(1) If any person fails to comply with a requirement imposed under paragraph 8A(1) of Schedule 12 the person is liable to pay a penalty.

(2) The amount of the penalty is equal to £200 multiplied by the number of days on which the failure continues (up to a maximum of 30 days).

(3) If any person fails to comply with a requirement to preserve records imposed under paragraph 8A(6) of Schedule 12, the person is liable to a penalty of £500.

(4) If it appears to the Treasury that there has been a change in the value of money since —
   (a) the day on which the Value Added Tax Act 1996 (Amendment) Order 2006 [SD591/06] is passed, or
   (b) (if later) the last occasion when the power conferred by this subsection was exercised,
it may by order substitute for the sums for the time being specified in subsections (2) and (3) such other sums as appear to it to be justified by the change.

(5) But any such order does not apply to a failure which began before the date on which the order comes into operation.

(6) A failure by any person to comply with any requirement mentioned in subsection (1) or (3) does not give rise to a liability to a penalty under this section if the person concerned satisfies —
   (a) the Treasury, or
   (b) on appeal, the tribunal,
that there is a reasonable excuse for the failure.

(7) If by reason of conduct falling within subsection (1) or (3) a person —
   (a) is assessed to a penalty under section 60 or a penalty for a deliberate inaccuracy under Schedule 24 to the Finance Act 2007 (c.11 of Parliament, as it has effect in the Island), or
   (b) is convicted of an offence (whether under this Act or otherwise),
that conduct does not also give rise to a penalty under this section.314

69C Transactions connected with VAT fraud

(1) A person ("T") is liable to a penalty where —
   (a) T has entered into a transaction involving the making of a supply by or to T ("the transaction"); and
   (b) conditions A to C are satisfied.

(2) Condition A is that the transaction was connected with the fraudulent evasion of VAT by another person (whether occurring before or after T entered into the transaction).

(3) Condition B is that T knew or should have known that the transaction was connected with the fraudulent evasion of VAT by another person.

(4) Condition C is that the Treasury has issued a decision ("the denial decision") in relation to the supply which —
   (a) prevents T from exercising or relying on a VAT right in relation to the supply;
   (b) is based on the facts which satisfy conditions A and B in relation to the transaction; and
   (c) applies a relevant principle of EU case law (whether or not in circumstances that are the same as the circumstances in which any relevant case was decided by the European Court of Justice).

(5) In this section "VAT right" includes the right to deduct input tax, the right to apply a zero rate to international supplies and any other right connected with VAT in relation to a supply.

(6) The relevant principles of EU case law for the purposes of this section are the principles established by the European Court of Justice in the following cases —
   (a) Joined Cases C-439/04 and C-440/04 Axel Kittel v. Belgian State; Belgium v. Recolta Recycling (denial of right to deduct input tax); and
   (b) Case C-273/11 Mecsek-Gabona Kft v. Nemzeti Ado- es Vamhivatal Deldunantuli Regionalis Ado Foigazgatosaga (denial of right to zero rate);

as developed or extended by that Court (whether before or after the coming into operation of this section) in other cases relating to the denial or refusal of a VAT right in order to prevent abuses of the VAT system.

(7) The penalty payable under this section is 30% of the potential lost VAT.

(8) The potential lost VAT is —
   (a) the additional VAT which becomes payable by T as a result of the denial decision;
   (b) the VAT which is not repaid to T as a result of that decision; or
(c) in a case where as a result of that decision VAT is not repaid to T and additional VAT becomes payable by T, the aggregate of the VAT that is not repaid and the additional VAT.

(9) Where T is liable to a penalty under this section the Treasury may assess the amount of the penalty and notify it to T accordingly.

(10) No assessment of a penalty under this section may be made more than 2 years after the denial decision is issued.

(11) The assessment of a penalty under this section may be made immediately after the denial decision is made (and notice of the assessment may be given to T in the same document as the notice of the decision).

(12) Where by reason of actions involved in making a claim to exercise or rely on a VAT right in relation to a supply T —
   (a) is liable to a penalty for an inaccuracy under paragraph 1 of Schedule 24 to the Finance Act 2007 (of Parliament)\(^9\), as it has effect in the Island, for which T has been assessed (and the assessment has not been successfully appealed against by T or withdrawn); or
   (b) is convicted of an offence (whether under this Act or otherwise); those actions do not give rise to liability to a penalty under this section.

(13) This section does not apply in relation to transactions entered into before this section comes into operation.\(^{315}\)

### 69D Penalties under section 69C: officer’s liability

(1) Where —
   (a) a company is liable to a penalty under section 69C; and
   (b) the actions of the company which give rise to that liability were attributable to an officer of the company (“the officer”);

   the officer is liable to pay such portion of the penalty (which may be equal to or less than 100%) as the Treasury may specify in a notice given to the officer (a “decision notice”).

(2) Before giving the officer a decision notice the Treasury must —
   (a) inform the officer that they are considering doing so; and
   (b) afford the officer the opportunity to make representations about whether a decision notice should be given or the portion that should be specified.

(3) A decision notice —
   (a) may not be given before the amount of the penalty due from the company has been assessed (but it may be given immediately after that has happened); and

\(^9\) Schedule 24 to the Finance Act 2007 was applied in the Island by SD 638/08.
(b) may not be given more than 2 years after the denial decision relevant to that penalty was issued.

(4) Where the Treasury has specified a portion of the penalty in a decision notice given to the officer —

(a) section 70 applies to the specified portion as to a penalty under section 69C;

(b) the officer must pay the specified portion before the end of the period of 30 days beginning with the day on which the notice is given;

(c) section 76(9) applies as if the decision notice were an assessment notified under section 76; and

(d) a further decision notice may be given in respect of a portion of any additional amount assessed in an additional assessment.

(5) The Treasury may not recover more than 100% of the penalty through issuing decision notices in relation to 2 or more persons.

(6) A person is not liable to pay an amount by virtue of this section if the actions of the company concerned are attributable to the person by reference to conduct for which the person has been convicted of an offence.

In this subsection “conduct” includes omissions.

(7) In this section “company” means a body corporate (including a limited partnership that has elected to have legal personality for the purposes of section 48B of the Partnership Act 1909) or unincorporated association but does not include a partnership, a local authority or a local authority association.

(8) In its application to a body corporate (other than a limited partnership that has elected to have legal personality for the purpose of section 48B of the Partnership Act 1909), “officer” means —

(a) a director;

(b) a manager;

(c) the registered agent or a member of a limited liability company; or

(d) a secretary.

(9) In its application to a limited partnership that has elected to have legal personality for the purposes of section 48B of the Partnership Act 1909, “officer” means a member.

(10) In its application in any other case, “officer” means —

(a) a director;

(b) a manager;

(c) a secretary; or

(d) any other person managing or purporting to manage any of the company’s affairs.
Publication of details of persons liable to penalties under section 69C

(1) The Treasury may publish information about a person if —
(a) in consequence of an investigation the person has been found liable to one or more penalties under section 69C (the amount of which has been assessed); and
(b) the potential lost VAT in relation to the penalty (or the aggregate of the potential lost VAT in relation to each of the penalties) exceeds £50,000.

(2) The information that may be published under subsection (1) is —
(a) the person’s name (including any trading name, previous name or pseudonym);
(b) the person’s address (or registered office);
(c) the nature of any business carried on by the person;
(d) the amount of the penalty or penalties in question;
(e) the periods or times to which the actions giving rise to the penalty or penalties relate;
(f) any other information that the Treasury considers it appropriate to publish in order to make clear the person’s identity.

(3) In a case where —
(a) the requirements in subsection (1)(a) and (b) are met in relation to a penalty or penalties for which a company is liable;
(b) information about the company is published by virtue of this section;
(c) a person (“the officer”) has been given a decision notice under section 69D specifying a portion of the penalty (or, if there is more than one penalty, of any of the penalties) payable by the company as a portion which the officer is liable to pay; and
(d) the amount (or, if the decision notice specifies portions of more than one penalty, the aggregate amount) which the officer is liable to pay under the decision notice exceeds £25,000;

the Treasury may publish information about the officer.

(4) The information that may be published under subsection (3) is —
(a) the officer’s name;
(b) the officer’s address;
(c) the officer’s position (or former position) in the company;
(d) the amount of any penalty imposed on the company of which a portion is payable by the officer under the decision notice and the portion so payable;
(e) the periods or times to which the actions giving rise to any such penalty relate;
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(f) any other information that the Treasury considers it appropriate to publish in order to make clear the officer's identity.

(5) Information published under this section may be published in any manner that the Treasury considers appropriate.

(6) Before publishing any information under this section the Treasury must —

(a) inform the person or officer to which it relates that it is considering doing so (in the case of an officer, on the assumption that it publishes information about the company); and

(b) afford the person or officer the opportunity to make representations about whether it should be published.

(7) No information may be published under subsection (1) before the day on which the penalty becomes final or, where more than one penalty is involved, the latest day on which any of the penalties becomes final.

(8) No information may be published under subsection (1) for the first time after the end of the period of one year beginning with that day.

(9) No information may be published under subsection (3) before whichever is the later of —

(a) the day mentioned in subsection (7); and

(b) the day on which the decision notice given to the officer becomes final.

(10) No information may be published under subsection (3) for the first time after the end of the period of one year beginning with the later of the 2 days mentioned in subsection (9).

(11) No information may be published (or continue to be published) under subsection (1) or (3) after the end of the period of 3 years beginning with the day mentioned in subsection (7).

(12) For the purposes of this section a penalty or a decision notice becomes final when the time for any appeal or further appeal relating to it expires or, if later, any appeal or final appeal relating to it is finally determined.

(13) The Treasury may by regulations —

(a) amend subsection (1) to vary the amount for the time being specified in paragraph (b); or

(b) amend subsection (3) to vary the amount for the time being specified in paragraph (d).

70 Mitigation of penalties under sections 60, 63, 64, 67, 69A and 69C

[1973/1/38K, 38B(8)(a) and 38C(6)(a); P1994/23/70]

(1) Where a person is liable to a penalty under section 60, 63, 64, 67, 69A or 69C or under paragraph 10 of Schedule 11A, the Treasury or, on appeal,
the Tribunal may reduce the penalty to such amount (including nil) as it thinks proper.\( ^{319} \)

(2) In the case of a penalty reduced by the Treasury under subsection (1), the Tribunal, on an appeal relating to the penalty, may cancel the whole or any part of the reduction made by the Treasury.

(3) None of the matters specified in subsection (4) shall be matters which the Treasury or the Tribunal shall be entitled to take into account in exercising their powers under this section.

(4) Those matters are —

(a) the insufficiency of the funds available to any person for paying any VAT due or for paying the amount of the penalty;

(b) the fact that there has, in the case in question or in that case taken with any other cases, been no or no significant loss of VAT;

(c) the fact that the person liable to the penalty or a person acting on his behalf has acted in good faith.

(5) In the application of subsections (3) and (4) in relation to a penalty under section 69C, subsection (4) has effect with the omission of paragraphs (b) and (c).\( ^{320} \)

71 **Construction of sections 59 to 70**

[1973/1/31B(10), 38B(8), 38C(6), 38D(5), 38E(8); P1994/23/71]

(1) For the purpose of any provision of sections 59 to 70 which refers to a reasonable excuse for any conduct —

(a) an insufficiency of funds to pay any VAT due is not a reasonable excuse; and

(b) where reliance is placed on any other person to perform any task, neither the fact of that reliance nor any dilatoriness or inaccuracy on the part of the person relied upon is a reasonable excuse.

(2) In relation to a prescribed accounting period, any reference in sections 59 to 69 to credit for input tax includes a reference to any sum which, in a return for that period, is claimed as a deduction from VAT due.

72 **Offences**

[1973/1/38; P1994/23/72]

(1) If any person is knowingly concerned in, or in the taking of steps with a view to, the fraudulent evasion of VAT by him or any other person, he shall be liable —

(a) on summary conviction, to a fine not exceeding £5,000 or three times the amount of the VAT, whichever is the greater, or to imprisonment for a term not exceeding 6 months or to both; or
(b) on conviction on information, to a fine or to imprisonment for a term not exceeding 7 years or to both.

(2) Any reference in subsection (1) or subsection (8) to the evasion of VAT includes a reference to the obtaining of —

(a) the payment of a VAT credit; or
(b) a refund under section 35, 36 or 40 of this Act or section 15B of the 1973 Act; or
(c) a refund under any regulations made under section 13(5); or
(d) a repayment under section 39;

and any reference in those subsections to the amount of the VAT shall be construed —

(i) in relation to VAT itself or a VAT credit, as a reference to the aggregate of the amount (if any) falsely claimed by way of credit for input tax and the amount (if any) by which output tax was falsely understated, and

(ii) in relation to a refund or repayment falling within paragraph (b), (c) or (d), as a reference to the amount falsely claimed by way of refund or repayment.

(3) If any person —

(a) with intent to deceive produces, furnishes or sends for the purposes of this Act or otherwise makes use for those purposes of any document which is false in a material particular; or
(b) in furnishing any information for the purposes of this Act makes any statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular,

he shall be liable —

(i) on summary conviction, to a fine not exceeding £5,000 or, where subsection (4) or (5) applies, to the alternative penalty specified in that subsection if it is greater, or to imprisonment for a term not exceeding 6 months or to both; or

(ii) on conviction on information, to a fine or to imprisonment for a term not exceeding 7 years or to both.

(4) In any case where —

(a) the document referred to in subsection (3)(a) is a return required under this Act, or
(b) the information referred to in subsection (3)(b) is contained in or otherwise relevant to such a return,

the alternative penalty referred to in subsection (3)(i) is a penalty equal to three times the aggregate of the amount (if any) falsely claimed by way of
credit for input tax and the amount (if any) by which output tax was falsely understated.

(5) In any case where —

(a) the document referred to in subsection (3)(a) is a claim for a refund under section 35, 36 or 40 of this Act or section 15B of the 1973 Act, for a refund under any regulations made by virtue of section 13(5) or for a repayment under section 39, or

(b) the information referred to in subsection (3)(b) is contained in or otherwise relevant to such a claim,

the alternative penalty referred to in subsection (3)(i) is a penalty equal to 3 times the amount falsely claimed.

(6) The reference in subsection (3)(a) to furnishing, sending or otherwise making use of a document which is false in a material particular, with intent to deceive, includes a reference to furnishing, sending or otherwise making use of such a document, with intent to secure that a machine will respond to the document as if it were a true document.

(7) Any reference in subsection (3)(a) or (6) to producing, furnishing or sending a document includes a reference to causing a document to be produced, furnished or sent.

(8) Where a person’s conduct during any specified period must have involved the commission by him of one or more offences under the preceding provisions of this section, then, whether or not the particulars of that offence or those offences are known, he shall, by virtue of this subsection, be guilty of an offence and liable —

(a) on summary conviction, to a fine not exceeding £5,000 or, if greater, 3 times the amount of any VAT that was or was intended to be evaded by his conduct, or to imprisonment for a term not exceeding 6 months or to both, or

(b) on conviction on information to a fine or to imprisonment for a term not exceeding 7 years or to both.

(9) Where an authorised person has reasonable grounds for suspecting that an offence has been committed under the preceding provisions of this section, he may arrest anyone whom he has reasonable grounds for suspecting to be guilty of the offence.

(10) If any person acquires possession of or deals with any goods, or accepts the supply of any services, having reason to believe that VAT on the supply of the goods or services, on the acquisition of the goods from a member State or on the importation of the goods from a place outside the member States has been or will be evaded, he shall be liable on summary conviction to a fine not exceeding £5,000 or three times the amount of the VAT, whichever is the greater.
(11) If any person supplies or is supplied with goods or services in contravention of paragraph 4(2) of Schedule 12, he shall be liable on summary conviction to a fine not exceeding £5,000.321

(12) Subject to subsection (13), sections 152 to 162 of the Management Act (proceedings for offences, mitigation of penalties and certain other matters) shall apply in relation to offences under this Act (which include any act or omission in respect of which a penalty is imposed) and penalties imposed under this Act as they apply in relation to offences and penalties under the customs and excise Acts as defined in that Act; and accordingly in section 161(2) as it applies by virtue of this subsection the reference to duty shall be construed as a reference to VAT.

(13) In subsection (12) the references to penalties do not include references to penalties under sections 60 to 70.

Assessments of VAT and other payments due

73 Failure to make returns etc
[1973/1/31(1)-(1B); GC 119/76/4(2) and (3); P1994/23/73]

(1) Where a person has failed to make any returns required under this Act (or under any provision repealed by this Act) or to keep any documents and afford the facilities necessary to verify such returns or where it appears to the Treasury that such returns are incomplete or incorrect, it may assess the amount of VAT due from him to the best of its judgment and notify it to him.

(2) In any case where, for any prescribed accounting period, there has been paid or credited to any person —
(a) as being a repayment or refund of VAT, or
(b) as being due to him as a VAT credit,

an amount which ought not to have been so paid or credited, or which would not have been so paid or credited had the facts been known or been as they later turn out to be, the Treasury may assess that amount as being VAT due from him for that period and notify it to him accordingly.

(3) An amount —
(a) which has been paid to any person as being due to him as a VAT credit, and
(b) which, by reason of the cancellation of that person’s registration under paragraph 13(2) to (6) of Schedule 2, paragraph 9 or 11 of Schedule 2A, paragraph 6(2) of Schedule 3, paragraph 6(1) or (2) of Schedule 3A or paragraph 6(2) or (3) of Schedule 4 ought not to have been so paid,322

may be assessed under subsection (2) notwithstanding that cancellation.
(4) Where a person is assessed under subsections (1) and (2) in respect of the same prescribed accounting period the assessments may be combined and notified to him as one assessment.

(5) Where the person failing to make a return, or making a return which appears to the Treasury to be incomplete or incorrect, was required to make the return as a personal representative, trustee in bankruptcy, interim or permanent trustee, receiver, liquidator or person otherwise acting in a representative capacity in relation to another person, subsection (1) shall apply as if the reference to VAT due from him included a reference to VAT due from that other person.

(6) An assessment under subsection (1), (2) or (3) of an amount of VAT due for any prescribed accounting period must be made within the time limits provided for in section 77 and shall not be made after the later of the following —

(a) 2 years after the end of the prescribed accounting period; or

(b) one year after evidence of facts, sufficient in the opinion of the Treasury to justify the making of the assessment, comes to its knowledge,

but (subject to that section) where further such evidence comes to the Treasury’s knowledge after the making of an assessment under subsection (1), (2) or (3), another assessment may be made under that subsection, in addition to any earlier assessment.

(6A) In the case of an assessment under subsection (2), the prescribed accounting period referred to in subsection (6)(a) and in section 77(1)(a) is the prescribed accounting period in which the repayment or refund of VAT, or the VAT credit, was paid or credited.\(^323\)

(7) Where a taxable person —

(a) has in the course or furtherance of a business carried on by him, been supplied with any goods, acquired any goods from a member State or otherwise obtained possession or control of any goods, or

(b) has, in the course or furtherance of such a business, imported any goods from a place outside the member States,

the Treasury may require him from time to time to account for the goods; and if he fails to prove that the goods have been or are available to be supplied by him or have been exported or otherwise removed from the Island without being exported or so removed by way of supply or have been lost or destroyed, it may assess to the best of its judgment and notify to him the amount of VAT that would have been chargeable in respect of the supply of the goods if they had been supplied by him.

(7A) Where a fiscal warehousekeeper has failed to pay VAT required by the Treasury under section 18E(2), the Treasury may assess to the best of its judgment the amount of that VAT due from him and notify it to him.\(^324\)
(7B) Where it appears to the Treasury that goods have been removed from a warehouse or fiscal warehouse without payment of the VAT payable under section 18(4) or section 18D on that removal, it may assess to the best of its judgment the amount of VAT due from the person removing the goods or other person liable and notify it to him.

(8) In any case where —

(a) as a result of a person’s failure to make a return for a prescribed accounting period, the Treasury has made an assessment under subsection (1) for that period,

(b) the VAT assessed has been paid but no proper return has been made for the period to which the assessment related, and

(c) as a result of a failure to make a return for a later prescribed accounting period, being a failure by a person referred to in paragraph (a) or a person acting in a representative capacity in relation to him, as mentioned in subsection (5), the Treasury find it necessary to make another assessment under subsection (1),

then, if the Treasury thinks fit, having regard to the failure referred to in paragraph (a), it may specify in the assessment referred to in paragraph (c) an amount of VAT greater than that which it would otherwise have considered to be appropriate.

(9) Where an amount has been assessed and notified to any person under subsection (1), (2), (3), (7), (7A) or (7B) it shall, subject to the provisions of this Act as to appeals, be deemed to be an amount of VAT due from him and may be recovered accordingly, unless, or except to the extent that, the assessment has subsequently been withdrawn or reduced.

(10) For the purposes of this section notification to a personal representative, trustee in bankruptcy, interim or permanent trustee, receiver, liquidator or person otherwise acting as aforesaid shall be treated as notification to the person in relation to whom he so acts.

74 Interest on VAT recovered or recoverable by assessment

[1973/1/31A; P1994/23/74]

(1) Subject to section 76(8), where an assessment is made under any provision of section 73 and, in the case of an assessment under section 73(1) at least one of the following conditions is fulfilled, namely —

(a) the assessment relates to a prescribed accounting period in respect of which either —

(i) a return has previously been made, or

(ii) an earlier assessment has already been notified to the person concerned,
(b) the assessment relates to a prescribed accounting period which exceeds 3 months and begins on the date with effect from which the person concerned was, or was required to be, registered,

(c) the assessment relates to a prescribed accounting period at the beginning of which the person concerned was, but should no longer have been, exempted from registration under paragraph 14(1) of Schedule 2, under paragraph 13 of Schedule 2A, under paragraph 7 of Schedule 3A or under paragraph 8 of Schedule 4,\(^{327}\)

the whole of the amount assessed shall, subject to subsection (3), carry interest at the prescribed rate from the reckonable date until payment.\(^{328}\)

(2) In any case where —

(a) the circumstances are such that an assessment falling within subsection (1) could have been made, but

(b) before such an assessment was made the VAT due or other amount concerned was paid (so that no such assessment was necessary),

the whole of the amount paid shall, subject to subsection (3), carry interest at the prescribed rate from the reckonable date until the date on which it was paid.

(3) Where (apart from this subsection) —

(a) the period before the assessment in question for which any amount would carry interest under subsection (1); or

(b) the period for which any amount would carry interest under subsection (2),

would exceed 3 years, the part of that period for which that amount shall carry interest under that subsection shall be confined to the last 3 years of that period.

(4) Where an unauthorised person, as defined in paragraph 2(3) of Schedule 41 to the Finance Act 2008 (c.9 of Parliament, as it has effect in the Island), issues an invoice showing an amount as being VAT or as including an amount attributable to VAT, the amount which is shown as VAT or, as the case may be, is to be taken as representing VAT shall carry interest at the prescribed rate from the date of the invoice until payment.\(^{329}\)

(5) The references in subsections (1) and (2) to the reckonable date shall be construed as follows —

(a) where the amount assessed or paid is such an amount as is referred to in section 73(2)(a) or (b), the reckonable date is the seventh day after the day on which a written instruction was issued by the Treasury directing the making of the payment of the amount which ought not to have been repaid or paid to the person concerned; and
(b) in all other cases the reckonable date is the latest date on which (in accordance with regulations under this Act) a return is required to be made for the prescribed accounting period to which the amount assessed or paid relates; and

(c) in the case of an amount assessed under section 73(7) the sum assessed shall be taken for the purposes of paragraph (b) to relate to the period for which the assessment was made;

and interest under this section shall run from the reckonable date even if that date is a non-business day, within the meaning of section 92 of the Bills of Exchange Act 1883.

(6) In this section “the prescribed rate” means such rate as may be prescribed by order made by the Treasury; and such an order —

(a) may prescribe different rates for different purposes; and

(b) shall apply to interest for periods beginning on or after the date when the order is expressed to come into force, whether or not interest runs from before that date.

75 Assessments in cases of acquisitions of certain goods by non-taxable persons

[1973/1/31F; P1994/23/75]

(1) Where a person who has, at a time when he was not a taxable person, acquired in the Island from a member State any goods subject to a duty of excise or consisting in a new means of transport and —

(a) notification of that acquisition has not been given to the Treasury by the person who is required to give one by regulations under paragraph 2(4) of Schedule 12 (whether before or after the commencement of this Act);

(b) the Treasury is not satisfied that the particulars relating to the acquisition in any notification given to it are accurate and complete; or

(c) there has been a failure to supply the Treasury with the information necessary to verify the particulars contained in any such notification,

it may assess the amount of VAT due on the acquisition to the best of its judgment and notify its assessment to that person.

(2) An assessment under this section must be made within the time limits provided for in section 77 and shall not be made after whichever is the later of the following —

(a) 2 years after the time when a notification of the acquisition of the goods in question is given to the Treasury by the person who is required to give one by regulations under paragraph 2(4) of Schedule 12;
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(b) one year after evidence of the facts, sufficient in the opinion of the Treasury to justify the making of the assessment, comes to its knowledge,

but (subject to section 77) where further such evidence comes to the Treasury’s knowledge after the making of an assessment under this section, another assessment may be made under this section, in addition to any earlier assessment.

(3) Where an amount has been assessed and notified to any person under this section, it shall, subject to the provisions of this Act as to appeals, be deemed to be an amount of VAT due from him and may be recovered accordingly, unless, or except to the extent that, the assessment has subsequently been withdrawn or reduced.

(4) For the purposes of this section, notification to a personal representative, trustee in bankruptcy, interim or permanent trustee, receiver, liquidator or person otherwise acting in a representative capacity in relation to the person who made the acquisition in question shall be treated as notification to the person in relation to whom he so acts.

76 Assessment of amounts due by way of penalty, interest or surcharge

[1973/1/31D; GC119/76/4(3); P1994/23/76]

(1) Where any person is liable —

(a) to a surcharge under section 59, 59A or paragraph 16F of Schedule 3B, or 310

(b) to a penalty under any of sections 60 to 69C, or 311

(c) for interest under section 74,

the Treasury may, subject to subsection (2), assess the amount due by way of penalty, interest or surcharge, as the case may be, and notify it to him accordingly; and the fact that any conduct giving rise to a penalty under any of sections 60 to 69C may have ceased before an assessment is made under this section shall not affect the power of the Treasury to make such an assessment. 332

(2) Where a person is liable to a penalty under section 69 for any failure to comply with such a requirement as is referred to in subsection (1)(c) to (e) of that section, no assessment shall be made under this section of the amount due from him by way of such penalty unless, within the period of 2 years preceding the assessment, the Treasury has issued him with a written warning of the consequences of a continuing failure to comply with that requirement.

(3) In the case of the penalties, interest and surcharge referred to in the following paragraphs, the assessment under this section shall be of an amount due in respect of the prescribed accounting period which in the paragraph concerned is referred to as “the relevant period” —
(a) in the case of a surcharge under section 59 or 59A, the relevant period is the prescribed accounting period in respect of which the taxable person is in default and in respect of which the surcharge arises;\textsuperscript{333}

(b) in the case of a penalty under section 60 relating to the evasion of VAT, the relevant period is the prescribed accounting period for which the VAT evaded was due;

(c) in the case of a penalty under section 60 relating to the obtaining of the payment of a VAT credit, the relevant period is the prescribed accounting period in respect of which the payment was obtained;

(d) in the case of a penalty under section 63, the relevant period is the prescribed accounting period for which liability to VAT was understated or, as the case may be, for which entitlement to a VAT credit was overstated; and

(e) in the case of interest under section 74, the relevant period is the prescribed accounting period in respect of which the VAT (or amount assessed as VAT) was due.

(3A) In the case of a surcharge under paragraph 16F of Schedule 3B, 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.\textsuperscript{334}

(4) In any case where the amount of any penalty, interest or surcharge falls to be calculated by reference to VAT which was not paid at the time it should have been and that VAT (or the supply which gives rise to it) cannot be readily attributed to any one or more prescribed accounting periods, it shall be treated for the purposes of this Act as VAT due for such period or periods as the Treasury may determine to the best of its judgment and notify to the person liable for the VAT and penalty, interest or surcharge.

(5) Where a person is assessed under this section to an amount due by way of any penalty, interest or surcharge falling within subsection (3) or (3A) and is also assessed under section 73(1), (2), (7), (7A) or (7B) for the prescribed accounting period which is the relevant period under subsection (3) or (3A), the assessments may be combined and notified to him as one assessment, but the amount of the penalty, interest or surcharge shall be separately identified in the notice.\textsuperscript{335}

(6) An assessment to a penalty under section 67 by virtue of subsection (1)(b) of that section may be combined with an assessment under section 75 and the 2 assessments notified together but the amount of the penalty shall be separately identified in the notice.

(7) In the case of an amount due by way of penalty under section 66 or 69 or interest under section 74 —
(a) a notice of assessment under this section shall specify a date, being
not later than the date of the notice, to which the aggregate amount
of the penalty which is assessed or, as the case may be, the amount
of interest is calculated; and
(b) if the penalty or interest continues to accrue after that date, a
further assessment or assessments may be made under this section
in respect of amounts which so accrue.

(8) If, within such period as may be notified by the Treasury to the person
liable to a penalty under section 66 or 69 or for interest under section 74 —
(a) a failure or default falling within section 66(1) or 69(1) is remedied,
or
(b) the VAT or other amount referred to in section 74(1) is paid,
it shall be treated for the purposes of section 66 or 69 or, as the case may
be, section 74 as paid or remedied on the date specified as mentioned in
subsection (7)(a) of this section.

(9) If an amount is assessed and notified to any person under this section, then
unless, or except to the extent that, the assessment is withdrawn or
reduced, that amount shall be recoverable as if it were VAT due from him.

(10) For the purposes of this section, notification to a personal representative,
trustee in bankruptcy, interim or permanent trustee, receiver, liquidator
or person otherwise acting in a representative capacity in relation to
another shall be treated as notification to the person in relation to whom
he so acts.

76A Section 76: cases involving special accounting schemes

(1) References in section 76 to a prescribed accounting period are to be read
as including a tax period so far as that is necessary for the purposes of the
references in section 76(1)(a) to paragraph 16F of Schedule 3B (further
default after services of notice).

(2) References in section 77 to a prescribed accounting period are to be read
accordingly.

(3) In this section and section 76 “tax period” means a tax period as defined
in paragraph 23(1) of Schedule 3B.

77 Assessments: time limits and supplementary assessments

[1973/1/31E; P1994/23/77]

(1) Subject to the provisions of this section, an assessment under section 73,
75 or 76, shall not be made —
(a) more than 3 years after the end of the prescribed accounting period
or importation or acquisition concerned where this occurred on or
before 31 March 2006.
(b) more than 4 years after the end of the prescribed accounting period or importation or acquisition concerned where this occurred on or after 1 April 2006; or

(c) in the case of an assessment under section 76 of an amount due by way of a penalty which is not among those referred to in subsection (3) of that section —

(i) 3 years after the event giving rise to the penalty where that event occurred on or before 31 March 2006; or

(ii) 4 years after the event giving rise to the penalty where that event occurred on or after 1 April 2006.

(2) Subject to subsection (5), an assessment under section 76 of an amount due by way of any penalty, interest or surcharge referred to in subsection (3) or (3A) of that section may be made at any time before the expiry of the period of 2 years beginning with the time when the amount of VAT due for the prescribed accounting period concerned has been finally determined.

(2A) Subject to subsection (5), an assessment under section 76 of a penalty under section 65 or 66 may be made at any time before the expiry of 2 years beginning with the time when facts sufficient in the opinion of the Treasury to indicate, as the case may be —

(a) that the statement in question contained a material inaccuracy, or

(b) that there had been a default within the meaning of section 66(1),
came to the Treasury’s knowledge.

(3) In relation to an assessment under section 76, any reference in subsection (1) or (2) to the prescribed accounting period concerned is a reference to that period which, in the case of the penalty, interest or surcharge concerned, is the relevant period referred to in subsection (3) or (3A) of that section.

(4) In any case falling within subsection (4A), an assessment of a person (“P”), or of an amount payable by P, may be made at any time not more than 20 years after the end of the prescribed accounting period or the importation, acquisition or event giving rise to the penalty, as appropriate (subject to subsection (5)).

(4A) Those cases are —

(a) a case involving a loss of VAT brought about deliberately by P (or by another person acting on P’s behalf),

(b) a case in which P has participated in a transaction knowing that it was part of arrangements of any kind (whether or not legally enforceable) intended to bring about a loss of VAT,

(c) a case involving a loss of VAT attributable to a failure by P to comply with a notification obligation, and
(d) a case involving a loss of VAT attributable to a scheme in respect of which P has failed to comply with an obligation under paragraph 6 of Schedule 12A.345

(4B) In subsection (4A) the references to a loss of tax brought about deliberately by P or another person include a loss that arises as a result of a deliberate inaccuracy in a document given to the Treasury by that person.346

(4C) In subsection (4A)(c) “notification obligation” means an obligation under —

(a) paragraph 5, 6, 7 or 14(2) or (3) of Schedule 2,
(b) paragraph 3 of Schedule 3,
(c) paragraph 3, 4 or 7(2) or (3) of Schedule 3A,
(d) paragraph 3 or 8(2) of Schedule 4, and
(e) regulations under paragraph 2(4) of Schedule 12.348

(5) Where, after a person’s death, the Treasury proposes to assess a sum as due by reason of some conduct (howsoever described) of the deceased, including a sum due by way of penalty, interest or surcharge —

(a) the assessment shall not be made more than 4 years after the death,349
(b) [Repealed]350

(6) If, otherwise than in circumstances falling within section 73(6)(b) or 75(2)(b), it appears to the Treasury that the amount which ought to have been assessed in an assessment under that section or under section 76 exceeds the amount which was so assessed, then —

(a) under the like provision as that assessment was made, and
(b) on or before the last day on which that assessment could have been made,

the Treasury may make a supplementary assessment of the amount of the excess and shall notify the person concerned accordingly.

 Liability for unpaid VAT of another

77AA Joint and several liability of traders in supply chain where tax unpaid

(1) This section applies to goods which fall within any one or more of the following descriptions —

(a) any equipment made or adapted for use as a telephone and any other equipment made or adapted for use in connection with telephones or telecommunication;351
(b) any equipment made or adapted for use as a computer and any other equipment made or adapted for use in connection with computers or computer systems (including, in particular, positional determination devices for use with satellite navigation systems);\textsuperscript{352}

(c) any other electronic equipment made or adapted for use by individuals for the purposes of leisure, amusement or entertainment and any other equipment made or adapted for use in connection with any such electronic equipment;\textsuperscript{353}

and in this subsection “other equipment” includes parts, accessories and software.\textsuperscript{354}

(2) Where —

(a) a taxable supply of goods to which this section applies has been made to a taxable person, and

(b) at the time of the supply the person knew or had reasonable grounds to suspect that some or all of the VAT payable in respect of that supply, or on any previous or subsequent supply of those goods, would go unpaid,

the Treasury may serve on him a notice specifying the amount of the VAT so payable that is unpaid, and stating the effect of the notice.

(3) The effect of a notice under this section is that —

(a) the person served with the notice, and

(b) the person liable, apart from this section, for the amount specified in the notice,

are jointly and severally liable to the Treasury for that amount.

(4) For the purposes of subsection (2) the amount of VAT that is payable in respect of a supply is the lesser of —

(a) the amount chargeable on the supply, and

(b) the amount shown as due on the supplier’s return for the prescribed accounting period in question (if he has made one) together with any amount assessed as due from him for that period (subject to any appeal by him).

(5) The reference in subsection (4)(b) to assessing an amount as due from a person includes a reference to the case where, because it is impracticable to do so, the amount is not notified to him.

(6) For the purposes of subsection (2), a person shall be presumed to have reasonable grounds for suspecting matters to be as mentioned in paragraph (b) of that subsection if the price payable by him for the goods in question —

(a) was less than the lowest price that might reasonably be expected to be payable for them on the open market, or
(b) was less than the price payable on any previous supply of those goods.

(7) The presumption provided for by subsection (6) is rebuttable on proof that the low price payable for the goods was due to circumstances unconnected with failure to pay VAT.

(8) Subsection (6) is without prejudice to any other way of establishing reasonable grounds for suspicion.

(9) The Treasury may by order amend subsection (1).\(^{355}\)

(9A) The Treasury may by order amend this section in order to extend or otherwise alter the circumstances in which a person shall be presumed to have reasonable grounds for suspecting matter is to be as mentioned in subsection (2)(b).\(^{356}\)

(9B) Any order under this section may make such incidental, supplemental, consequential or transitional provision as the Treasury thinks fit.\(^{357}\)

(10) For the purposes of this section —

(a) "goods" includes services;

(b) an amount of VAT counts as unpaid only to the extent that it exceeds the amount of any refund due.\(^{358}\)

77A Mutual assistance

(1) The Treasury may, subject to the provisions of subsections (2) to (14), cooperate with a member State of the European Union with regard to the exchange of information and the recovery of value added tax claimed by the competent authority of the member State.\(^{359}\)

(2) No obligation to secrecy imposed by statute or otherwise shall preclude the Treasury or an officer —

(a) from disclosing to the competent authority of a member State any information in relation to value added tax which may be disclosed by a member State by virtue of Council of the European Union Regulation No. 904/2010/EU [OJ L268, 12.10.2010, p.5].\(^{360}\)

(b) from disclosing information that is required to be disclosed to the competent authority in a member State by virtue of Council of the European Union Directive No. 2010/24/EU [OJ No. L84, 31.3.2010, p.1] (in this section called the “Mutual Assistance Recovery Directive”).\(^{361}\)

(c) from disclosing information for the purposes of a request made by the Treasury under the Mutual Assistance Recovery Directive for the enforcement in a member State of an amount claimed by the Treasury in the Island.\(^{362}\)
(3) Neither the Treasury nor an officer shall disclose any information in pursuance of subsection (2) unless satisfied that the competent authorities of the member State are bound by, or have undertaken to observe, rules of confidentiality with respect to the information which are not less strict than those applying to it in the Island.

(4) Neither the Treasury nor an officer shall disclose any information by virtue of subsection (2) unless the Treasury is satisfied that similar provisions exist in the member State in question in respect of value added tax which may be disclosed by that member State to another member State by virtue of Council of the European Union Regulation No. 904/2010/EU.363

(5) Nothing in this section shall permit the Treasury or an officer to authorise the use of information disclosed by virtue of subsection (2) other than for the purposes of the administration of value added tax or to facilitate legal proceedings for failure to observe the laws of the receiving member State in respect of value added tax.

(6) to (13) [Repealed]364

(14) In this section —

“the Act of Accession 2003” [Repealed]365

“competent authority” has the same meaning as in the Directive of the Council of the European Communities dated 7 October 2003 No. 1798/2003/EC, and “competent authorities” and “authority” shall be construed accordingly;366

“information” means information or documents;367

“member State” has the same meaning as in section 1(1) of the European Communities (Isle of Man) Act 1973;

“officer” has the same meaning as in section 184(1) of the Customs and Excise Management Act 1986.368

77B International tax enforcement arrangements

(1) If the Treasury by order declares that —

(a) arrangements relating to international tax enforcement of a relevant tax which is specified in the order have been made in relation to any country or territory outside the Island; and

(b) it is expedient that those arrangements have effect, those arrangements have effect (and do so in spite of anything in any enactments or instrument).

(2) For the purposes of subsection (1) arrangements relate to international tax enforcement if they relate to any or all of the following —
(a) the exchange of documents or information foreseeably relevant to the administration, enforcement or recovery of a relevant tax;

(b) the recovery of debts relating to a relevant tax;

(c) the service of documents relating to a relevant tax.

(3) In this section, “a relevant tax” means a value added tax or a tax which is specified in an order made under subsection (1).

(4) Where any arrangements have effect by virtue of this section, no obligation of secrecy (whether imposed by statute or otherwise) —

(a) prevents any minister, member or officer of a Department or any member of a Statutory Board, or person with responsibilities in any Department or Statutory Board, from disclosing to the Treasury or any officer any document or information that is authorised to be disclosed in accordance with the arrangements to any authorised officer of the authorities of any country or the territory in relation to which the arrangements have been made; or

(b) prevents the Treasury or any officer from disclosing to any such authorised officer any document or information which is authorised to be so disclosed in accordance with the arrangements.

(5) But neither the Treasury nor any officer may make disclosure in pursuance of any arrangements having effect by virtue of this section to any authorised officer of the authorities of any country or territory in relation to which the arrangements have been made unless satisfied that the authorities of the country or territory concerned are bound by, or have undertaken to observe, rules of confidentiality with respect to the information that are not less strict than those applying to it in the Island.

(6) An order made under this section revoking an earlier such order may contain any transitional provisions that appear appropriate.\textsuperscript{360}

\textit{Online marketplaces}\textsuperscript{379}

\textbf{77C Joint and several liability: sellers identified as non-compliant by the Treasury}\textsuperscript{371}

(1) This section applies where a person ("P") —

(a) makes taxable supplies of goods through an online marketplace; and

(b) fails to comply with any requirement imposed on P by or under this Act (whether or not it relates to those supplies).\textsuperscript{372}

(2) The Treasury may give the person who is the operator of the online marketplace ("the operator") a notice —

(a) stating that, unless the operator secures the result mentioned in subsection (3), subsection (5) will apply; and
(b) explaining the effect of subsection (5).

(3) The result referred to in subsection (2)(a) is that P does not offer goods for sale through the online marketplace at any time between —
(a) the end of such period as may be specified in the notice; and
(b) the notice ceasing to have effect.

(4) If the operator does not secure the result mentioned in subsection (3), subsection (5) applies.

(5) The operator is jointly and severally liable to the Treasury for the amount of VAT payable by P in respect of all taxable supplies of goods made by P through the online marketplace in the period for which the notice has effect.

(6) A notice under subsection (2) (“the liability notice”) has effect for the period beginning with the day after the day on which it is given, and ending —
(a) with the day specified in a notice given by the Treasury under subsection (7); or
(b) in accordance with subsection (8).

(7) The Treasury may at any time give the operator a notice stating that the period for which the liability notice has effect ends with the day specified in the notice.

(8) If the person to whom the liability notice is given ceases to be the operator of the online marketplace, the liability notice ceases to have effect at the end of —
(a) the day on which the person ceases to be an operator; or
(b) (if later) the day on which the person notifies the Treasury that the person is no longer an operator.

(9) In this section —

“online marketplace” means a website, or any other means by which information is made available over the internet, through which persons other than the operator are able to offer goods for sale (whether or not the operator also does so);

“operator”, in relation to an online marketplace, means the person who controls access to, and the contents of, the online marketplace.

(10) [Repealed] 373

(11) The Treasury may by regulations provide that supplies made or goods offered for sale in circumstances specified in the regulations are, or are not, to be treated for the purposes of this section as having been made or offered through an online marketplace.

(12) The Treasury may by regulations amend this section so as to alter the meaning of —
“online marketplace”; and
“operator”. 374 375

77CA Joint and several liability: non-Island sellers in breach of Schedule 2A registration requirement

(1) This section applies where —
   (a) a person (“P”) who makes taxable supplies of goods through an online marketplace is in breach of a Schedule 2A registration requirement; and
   (b) the operator of the online marketplace knows, or should know, that P is in breach of a Schedule 2A registration requirement.

(2) If the operator of the online marketplace does not secure the result in subsection (3), subsection (4) applies.

(3) The result referred to in subsection (2) is that P does not offer goods for sale through the online marketplace in any period between —
   (a) the end of the period of 60 days beginning with the day on which the operator first knew, or should have known, that P was in breach of a Schedule 2A registration requirement; and
   (b) P ceasing to be in breach of a Schedule 2A registration requirement.

(4) The operator is jointly and severally liable to the Treasury for the amount of VAT payable by P in respect of all taxable supplies of goods made by P through the online marketplace in the relevant period.

(5) The relevant period is the period —
   (a) beginning with the day on which the operator first knew, or should have known, that P was in breach of a Schedule 2A registration requirement; and
   (b) ending with P ceasing to be in breach of a Schedule 2A registration requirement.

(6) But if the operator has been given a notice under section 77C in respect of P, the relevant period does not include —
   (a) any period for which the operator is jointly and severally liable for the amount mentioned in subsection (4) by virtue of section 77C; or
   (b) if the operator secures the result mentioned in section 77C(3), the period beginning with the day on which the operator is given the notice and ending with the day on which the operator secures that result.

(7) P is in breach of a Schedule 2A registration requirement if P is liable to be registered under Schedule 2A to this Act, but is not so registered.

(8) In this section “online marketplace” and “operator”, in relation to an online marketplace, have the same meaning as in section 77C. 376
77D Joint and several liability under section 77C or 77CA: assessments

(1) The Treasury may assess the amount of VAT due from the operator of an online marketplace by virtue of section 77C or 77 CA to the best of its judgment and notify it to the operator.

(2) Subject to subsections (3) to (6), an assessment may be made for such period or periods as the Treasury considers appropriate.

(3) An assessment for any month may not be made after the end of —
   (a) 2 years after the end of that month; or
   (b) (if later) one year after evidence of facts, sufficient in the opinion of the Treasury to justify the making of an assessment for that month, comes to its knowledge.

(4) Subsection (5) applies if, after the Treasury has made an assessment for a period, evidence of facts sufficient in the opinion of the Treasury to justify the making of a further assessment for that period comes to its knowledge.

(5) The Treasury may, no later than one year after that evidence comes to its knowledge, make a further assessment for that period (subject to subsection (6)).

(6) An assessment or further assessment for a month may not be made more than 4 years after the end of the month.

(7) An amount which has been assessed and notified to a person under this section is deemed to be an amount of VAT due from the person and may be recovered accordingly (unless, or except to the extent that, the assessment is subsequently withdrawn or reduced).

(8) Subsection (7) is subject to the provisions of this Act as to appeals.

(9) In this section “online marketplace” and “operator”, in relation to an online marketplace, have the same meaning as in section 77C.

77E Joint and several liability under section 77C or 77CA: interest

(1) If an amount assessed under section 77C is not paid before the end of the period of 30 days beginning with the day on which notice of the assessment is given, the amount assessed carries interest from the day on which the notice of assessment is given until payment.

(2) Interest under this section is payable at the rate applicable under section 197 (setting of rates of interest) of the Finance Act 1996 (as it has effect in the Island).

(3) Where the operator of an online marketplace is liable for interest under this section the Treasury may assess the amount due and notify it to the operator.

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10 Section 197 was applied in the Island by SD 493/96, and has been subsequently amended by SD 217/09.
(4) A notice of assessment under this section must specify a date (not later than the date of the notice) to which the interest is calculated.

(5) A further assessment or assessments may be made under this section in respect of any interest accrued after that date.

(6) An amount of interest assessed and notified to the operator of an online marketplace under this section is recoverable as if it were VAT due from the operator (unless, or except to the extent that, the assessment is withdrawn or reduced).

(7) In this section “online marketplace” and “operator”, in relation to an online marketplace, have the same meaning as in section 77C.\(^{382}\)\(^{383}\)

### 77F Display of VAT registration numbers

(1) This section applies where a person (“P”) offers, or proposes to offer, goods for sale through an online marketplace.

(2) The operator of the online marketplace must take reasonable steps to check that —

(a) any number provided to the operator (by P or another person) as P’s VAT registration number is valid; and

(b) any number displayed on the online marketplace as P’s VAT registration number (under subsection (3) or otherwise) is valid.

(3) If a number is provided to the operator (by P or another person) as P’s VAT registration number and the number is valid, the operator must secure that it is displayed on the online marketplace as P’s VAT registration number no later than the time mentioned in subsection (4).

(4) The time is —

(a) the end of the period of 10 days beginning with the day on which the operator is provided with the number; or

(b) if the number is provided before P offers goods for sale through the online marketplace, the later of —

   (i) the end of the period in paragraph (a); and

   (ii) the end of the day on which P first offers goods for sale through the online marketplace.

(5) If the operator becomes aware that a number displayed on the online marketplace as P’s VAT registration number (under subsection (3) or otherwise) is not valid, the operator must secure that it is removed from the online marketplace before the end of the relevant period.

(6) The relevant period is the period of 10 days beginning with the day on which the operator first became aware that the number was not valid.
(7) A number is provided or displayed as P’s VAT registration number only if it is provided or displayed in connection with P offering, or proposing to offer, goods for sale through the online marketplace.

(8) A number provided or displayed as P’s VAT registration number is valid only if —
   (a) P is registered under this Act; and
   (b) the number is P’s VAT registration number.

(9) In this section —
   “online marketplace” and “operator”, in relation to an online marketplace, have the same meaning as in section 77C;
   “VAT registration number” means the number allocated by the Treasury to a person registered under this Act.\(^384\)

Interest, repayment supplements etc payable by Treasury

78 Interest in certain cases of official error
[1973/1/37D; P1994/23/78]

(1) Where, due to an error on the part of the Treasury, a person has —
   (a) accounted to it for an amount by way of output tax which was not output tax due from him and, as a result, it is liable under section 80(2A) to pay (or repay) an amount to that person, or\(^385\)
   (b) failed to claim credit under section 25 for an amount for which he was entitled so to claim credit and which it is in consequence liable to pay to him, or
   (c) (otherwise than in a case falling within paragraph (a) or (b)) paid to it by way of VAT an amount that was not VAT due and which it is in consequence liable to repay to him, or
   (d) suffered delay in receiving payment of an amount due to him from it in connection with VAT,

then, if and to the extent that they would not be liable to do so apart from this section, it shall pay interest to him on that amount for the applicable period, but subject to the provisions of this section.

(1A) In subsection (1) —
   (a) references to an amount which the Treasury is liable in consequence of any matter to pay or repay to any person are references, where a claim for the payment or repayment has to be made, to only so much of that amount as is the subject of a claim that the Treasury is required to satisfy or have satisfied; and
   (b) the amounts referred to in paragraph (d) do not include any amount payable under this section.\(^386\)
(2) Nothing in subsection (1) requires the Treasury to pay interest —
(a) on any amount which falls to be increased by a supplement under section 79; or
(b) where an amount is increased under that section, on so much of the increased amount as represents the supplement.

(3) Interest under this section shall be payable at such rates as may from time to time be prescribed by order made by the Treasury; and any such order —
(a) may prescribe different rates for different purposes;
(b) shall apply to interest for periods beginning on or after the date on which the order is expressed to come into force, whether or not interest runs from before that date; and
(c) either itself specify a rate of interest or makes provision for any such rate to be determined, and to change from time to time, by reference to such rate or the average of such rates as may be referred to in the order,\(^{387}\)
(d) provide for rates to be reduced below, or increased above, what they otherwise would be by specified amounts or by reference to specified formulae,\(^{388}\)
(e) provide for rates arrived at by reference to averages or formulae to be rounded up or down,\(^{389}\)
(f) provide for circumstances in which changes of rates of interest are or are not to take place, and\(^{390}\)
(g) provide that changes of rates are to have effect for periods beginning on or after a day determined in accordance with the order in relation to interest running from before that day, as well as in relation to interest running from, or from after, that day,\(^{391}\)

and the first such order may prescribe, for cases where interest runs from before the date on which that order is expressed to come into force, rates for periods ending before that date.

(4) The “applicable period” in a case falling within subsection (1)(a) or (b) is the period —
(a) beginning with the appropriate commencement date, and
(b) ending with the date on which the Treasury authorises payment of the amount on which the interest is payable.

(5) In subsection (4), the “appropriate commencement date” —
(a) in a case where an amount would have been due from the person by way of VAT in connection with the relevant return, had his input tax and output tax been as stated in that return, means the date on which the Treasury received payment of that amount; and
(b) in a case where no such payment would have been due from him in connection with that return, means the date on which the Treasury would, apart from the error, have authorised payment of the amount on which the interest is payable;

and in this subsection “the relevant return” means the return in which the person accounted for, or (as the case may be) ought to have claimed credit for, the amount on which the interest is payable.

(6) The “applicable period” in a case falling within subsection (1)(c) is the period —

(a) beginning with the date on which the payment is received by the Treasury, and

(b) ending with the date on which it authorises payment of the amount on which the interest is payable.

(7) The “applicable period” in a case falling within subsection (1)(d) is the period —

(a) beginning with the date on which, apart from the error, the Treasury might reasonably have been expected to authorise payment of the amount on which the interest is payable, and

(b) ending with the date on which it in fact authorises payment of that amount.

(8) In determining in accordance with subsection (4), (6) or (7) the applicable period for the purposes of subsection (1), there shall be left out of account any period by which the Treasury’s authorisation of the payment of interest is delayed by the conduct of the person who claims the interest.\textsuperscript{392}

(8A) The reference in subsection (8) to a period by which the Treasury’s authorisation of the payment of interest is delayed by the conduct of the person who claims it includes, in particular, any period which is referable to —

(a) any unreasonable delay in the making of the claim for interest or in the making of any claim for the payment or repayment of the amount on which interest is claimed;

(b) any failure by that person or a person acting on his behalf or under his influence to provide the Treasury —

(i) at or before the time of the making of a claim, or

(ii) subsequently in response to a request for information by the Treasury,

with all the information required by it to enable the existence and amount of the claimant’s entitlement to a payment or repayment, and to interest on that payment or repayment, to be determined; and

(c) the making, as part of or in association with either —
(i) the claim for interest, or
(ii) any claim for the payment or repayment of the amount on which interest is claimed,

of a claim to anything to which the claimant was not entitled. 393

(9) In determining for the purposes of subsection (8A) whether any period of delay is referable to a failure by any person to provide information in response to a request by the Treasury, there shall be taken to be so referable, except so far as may be prescribed, any period which —

(a) begins with the date on which the Treasury requires that person information which it reasonably considers relevant to the matter to be determined; and

(b) ends with the earliest date on which it would be reasonable for the Treasury to conclude —

(i) that it has received a complete answer to its request for information;

(ii) that it has received all that it needs in answer to that request;

or

(iii) that it is unnecessary for it to be provided with any information in answer to that request. 394

(10) The Treasury shall only be liable to pay interest under this section on a claim made in writing for that purpose.

(11) A claim under this section shall not be made more than —

(a) 3 years after the end of the applicable period to which it relates where this was on or before 31 March 2006; or

(b) 4 years after the end of the applicable period to which it relates where this was on or after 1 April 2006. 395

(12) In this section —

(a) references to the authorisation by the Treasury of the payment of any amount include references to the discharge by way of set-off (whether under section 81(3) or otherwise) of the Treasury’s liability to pay that amount; and 396

(b) any reference to a return is a reference to a return required to be made in accordance with paragraph 2 of Schedule 12.

(13) This section confers a right to interest in respect of periods before as well as after its coming into force.

78A Assessment for interest overpayments

(1) Where —

(a) any amount has been paid to any person by way of interest under section 78, but
(b) that person was not entitled to that amount under that section, 
the Treasury may, to the best of its judgement, assess the amount so paid 
to which that person was not entitled and notify it to him.

(2) An assessment made under subsection (1) shall not be made more than 
two years after the time when evidence of facts sufficient in the opinion of 
of the Treasury to justify the making of the assessment comes to the 
knowledge of the Treasury.

(3) Where an amount has been assessed and notified to any person under 
subsection (1), that amount shall be deemed (subject to the provisions of 
this Act as to appeals) to be an amount of VAT due from him and may be 
recovered accordingly.

(4) Subsection (3) does not have effect if or to the extent that the assessment 
in question has been withdrawn or reduced.

(5) An assessment under subsection (1) shall be a recovery assessment for the 
purposes of section 84(3A).

(6) Sections 74 and 77(6) apply in relation to assessments under subsection (1) 
as they apply in relation to assessments under section 73 but as if the 
reference in subsection (1) of section 74 to the reckonable date were a 
reference to the date on which the assessment is notified.

(7) Where by virtue of subsection (6) any person is liable to interest under 
section 74 —
(a) section 76 shall have effect in relation to that liability with the 
omission of subsections (2) to (6); and
(b) section 77, except subsection (6), shall not apply to an assessment 
of the amount due by way of interest;

and (without prejudice to the power to make assessments for interest for 
later periods) the interest to which any assessment made under section 76 
by virtue of paragraph (a) may relate shall be confined to interest for a 
period of no more than two years ending with the time when the 
assessment to interest is made.

(8) For the purposes of this section notification to a personal representative, 
trustee in bankruptcy, interim or permanent trustee, receiver, liquidator 
or person otherwise acting in a representative capacity in relation to 
another shall be treated as notification to the person in relation to whom 
he so acts. 397

79 Repayment supplement in respect of certain delayed payments or 
refunds
[1973/1/31C; P1994/23/79]

(1) In any case where —
(a) a person is entitled to a VAT credit, or
Section 79A

Value Added Tax Act 1996

(a) a body which is registered and to which section 33 applies is entitled to a refund under that section, or

(b) a body which is registered and to which section 33A applies is entitled to a refund under that section, or

(c) a charity which is registered is entitled to a refund under section 33B;

and the conditions mentioned in subsection (2) are satisfied, the amount which, apart from this section, would be due by way of that payment or refund shall be increased by the addition of a supplement equal to 5 per cent. of that amount or £50, whichever is the greater.

(2) The said conditions are —

(a) that the requisite return or claim is received by the Treasury not later than the last day on which it is required to be furnished or made, and

(b) that a written instruction directing the making of the payment or refund is not issued by the Treasury within the relevant period,

(c) that the amount shown on that return or claim as due by way of payment or refund does not exceed the payment or refund which was in fact due by more than 5 per cent. of that payment or refund or £250, whichever is the greater.

(2A) The relevant period in relation to a return or claim is the period of 30 days beginning with the later of —

(a) the day after the last day of the prescribed accounting period to which the return or claim relates, and

(b) the date of the receipt by the Treasury of the return or claim.

(3) Regulations may provide that, in computing the period of 30 days referred to in subsection (2A), there shall be left out of account periods determined in accordance with the regulations and referable to —

(a) the raising and answering of any reasonable inquiry relating to the requisite return or claim,

(b) the correction by the Treasury of any errors or omissions in that return or claim, and

(c) in the case of a payment, the following matters, namely —

(i) any such continuing failure to submit returns as is referred to in section 25(5), and

(ii) compliance with any such condition as is referred to in paragraph 4(1) of Schedule 12.

(4) In determining for the purposes of regulations under subsection (3) whether any period is referable to the raising and answering of such an
inquiry as is mentioned in that subsection, there shall be taken to be so referable any period which —

(a) begins with the date on which the Treasury first considers it necessary to make such an inquiry, and

(b) ends with the date on which the Treasury —

(i) satisfies itself that it has received a complete answer to the inquiry, or

(ii) determines not to make the inquiry or, if it has made it, not to pursue it further,

but excluding so much of that period as may be prescribed; and it is immaterial whether any inquiry is in fact made or whether it is or might have been made of the person or body making the requisite return or claim or of an authorised person or of some other person.

(5) Except for the purpose of determining the amount of the supplement —

(a) a supplement paid to any person under subsection (1)(a) shall be treated as an amount due to him by way of credit under section 25(3), and

(b) a supplement paid to any body under subsection (1)(b) shall be treated as an amount due to it by way of refund under section 33, and

(c) a supplement paid to any body under subsection (1)(c) shall be treated as an amount due to it by way of refund under section 33A, and

(d) a supplement paid to a charity under subsection (1)(d) shall be treated as an amount due to the charity by way of a refund under section 33B.

(6) In this section “requisite return or claim” means —

(a) in relation to a payment, the return for the prescribed accounting period concerned which is required to be furnished in accordance with regulations under this Act, and

(b) in relation to a refund, the claim for that refund which is required to be made in accordance with the Treasury’s determination under section 33 or (as the case may be) the Treasury’s determination under, and the provisions of, section 33A or 33B.

(7) If the Treasury by order so direct, any period specified in the order shall be disregarded for the purpose of calculating the period of 30 days referred to in subsection (2A).
80 Credit for, or repayment of, overstated or overpaid VAT  
[1973/1/5A; P1994/23/80]

(1) Where a person —
(a) has accounted to the Treasury for VAT for a prescribed accounting period (whenever ended), and
(b) in doing so, has brought into account as output tax an amount that was not output tax due,

the Treasury shall be liable to credit the person with that amount.\(^{407}\)

(1A) Where the Treasury —
(a) has assessed a person to VAT for a prescribed accounting period (whenever ended), and
(b) in doing so, has brought into account as output tax an amount that was not output tax due,

it shall be liable to credit the person with that amount.\(^{408}\)

(1B) Where a person has for a prescribed accounting period (whenever ended) paid to the Treasury an amount by way of VAT that was not VAT due to it, otherwise than as a result of —
(a) an amount that was not output tax due being brought into account as output tax, or
(b) an amount of input tax allowable under section 26 not being brought into account,

the Treasury shall be liable to repay to that person the amount so paid.\(^{409}\)

(2) The Treasury shall only be liable to credit or repay an amount under this section on a claim being made for the purpose.\(^{410}\)

(2A) Where —
(a) as a result of a claim under this section by virtue of subsection (1) or (1A) an amount falls to be credited to a person, and
(b) after setting any sums against it under or by virtue of this Act, some or all of that amount remains to his credit,

the Treasury shall be liable to pay (or repay) to that person so much of that amount as so remains.\(^{411}\)

(3) It shall be a defence, in relation to a claim under this section by virtue of subsection (1) or (1A), that the crediting of an amount would unjustly enrich the claimant.\(^{412}\)

(3A) Subsection (3B) applies for the purposes of subsection (3) where —
(a) an amount would (apart from subsection (3)) fall to be credited under subsection (1) or (1A) to any person (“the taxpayer”), and
(b) the whole or a part of the amount brought into account as mentioned in paragraph (b) of that subsection has, for practical purposes, been borne by a person other than the taxpayer. 413

(3B) Where, in a case to which this subsection applies, loss or damage has been or may be incurred by the taxpayer as a result of mistaken assumptions made in his case about the operation of any VAT provisions, that loss or damage shall be disregarded, except to the extent of the quantified amount, in the making of any determination —

(a) of whether and to what extent the crediting of an amount to the taxpayer would enrich him, or 414

(b) of whether and to what extent any enrichment of the taxpayer would be unjust. 415

(3C) In subsection (3B) —

“the quantified amount” means the amount (if any) which is shown by the taxpayer to constitute the amount that would appropriately compensate him for loss or damage shown by him to have resulted, for any business carried on by him, from the making of the mistaken assumptions; and

“VAT provisions” means the provisions of —

(a) any statutory provision or EU legislation (whether or not still in force) which relates to VAT or to any matter connected with VAT; or 416

(b) any notice published by the Treasury under or for the purposes of any such enactment or subordinate legislation. 417

(4) The Treasury shall be liable on a claim under this section —

(a) to credit an amount to a person under subsection (1) or (1A); or

(b) to repay any amount to a person under subsection (1B),

if the claim is made more than —

(i) 3 years after the relevant date where this is on or before 31 March 2006, or

(ii) 4 years after the relevant date where this is on or after 1 April 2006. 418

(4ZA) The relevant date is —

(a) in the case of a claim by virtue of subsection (1), the end of the prescribed accounting period mentioned in that subsection, unless paragraph (b) applies;

(b) in the case of a claim by virtue of subsection (1) in respect of an erroneous voluntary disclosure, the end of the prescribed accounting period in which the disclosure was made;

(c) in the case of a claim by virtue of subsection (1A) in respect of an assessment issued on the basis of an erroneous voluntary
disclosure, the end of the prescribed accounting period in which the disclosure was made;

d) in the case of a claim by virtue of subsection (1A) in any other case, the end of the prescribed accounting period in which the assessment was made;

e) in the case of a claim by virtue of subsection (1B), the date on which the payment was made.

In the case of a person who has ceased to be registered under this Act, any reference in paragraphs (b) to (d) to a prescribed accounting period includes a reference to a period that would have been a prescribed accounting period had the person continued to be registered under this Act. 419

(4ZB) For the purposes of this section the cases where there is an erroneous voluntary disclosure are those cases where —

(a) a person discloses to the Treasury that they have not brought into account for a prescribed accounting period (whenever ended) an amount of output tax due for the period;

(b) the disclosure is made in a later prescribed accounting period (whenever ended); and

(c) some or all of the amount is not output tax due. 420

(4A) Where —

(a) an amount has been credited under subsection (1) or (1A) to any person at any time on or after 26th May 2005, and

(b) the amount so credited exceeded the amount which the Treasury was liable at that time to credit to that person,

the Treasury may, to the best of its judgement, assess the excess credited to that person and notify it to that person. 421

(4AA) An assessment under subsection (4A) shall not be made more than 2 years after the later of —

(a) the end of the prescribed accounting period in which the amount was credited to the person, and

(b) the time when evidence of facts sufficient in the opinion of the Treasury to justify the making of the assessment comes to the knowledge of the Treasury. 422

(4B) [Repealed] 423

(4C) Subsections (3) to (8) of section 78A apply in the case of an assessment under subsection (4A) as they apply in the case of an assessment under section 78A(1). 424

(4D) Without prejudice to the generality of paragraph 1(2) of Schedule 14 to the Act (transitional provision), the references in subsection (4) to a claim
under that section include references to a claim first made under section 5A of the Value Added Tax and Other Taxes Act 1973.\(^{425}\)

(5) [Repealed]\(^ {426}\)

(6) A claim under this section shall be made in such form and manner and shall be supported by such documentary evidence as the Treasury prescribes by regulations; and regulations under this subsection may make different provision for different cases.

(7) Except as provided by this section (and paragraph 16I of Schedule 3B), the Treasury shall not be liable to credit or repay any amount accounted for or paid to it by way of VAT that was not VAT due to it.\(^ {427}\)

(8) Subsection (4) applies as respects the making of any repayment on or after 18th July 1996 on a claim under this section if —

(a) legal proceedings for questioning any decision (“the disputed decision”) of the Treasury, or of an officer of the Treasury, were brought by any person at any time before that date,

(b) a determination has been or is made in those proceedings that the disputed decision was wrong or should be set aside,

(c) the claim is one made by that person at a time after the proceedings were brought (whether before or after the making of the determination), and

(d) the claim relates to —

(i) an amount paid by that person to the Treasury on the basis of the disputed decision, or

(ii) an amount paid by that person to the Treasury before the relevant date (including an amount paid before the making of the disputed decision) on grounds which, in all material respects, correspond to those on which that decision was made.

(e) In this subsection “legal proceedings” means any proceedings before a court or tribunal.\(^ {428}\)

(9) Where this subsection applies in the case of any claim —

(a) subsection (4) of this section shall not apply, and shall be taken never to have applied, in relation to so much of that claim as relates to an amount falling within subsection (8)(d)(i) or (ii), but

(b) the Treasury shall not be liable on that claim, and shall be taken never to have been liable on that claim, to repay any amount so falling which was paid to it more than three years before the proceedings mentioned in subsection (8)(a) were brought.\(^ {429}\)

(10) In subsection (8)(d) —
(a) the reference to the relevant date is a reference to whichever is the earlier of 18th July 1996 and the date of the making of the determination in question; and

(b) the reference to an amount paid on the basis of a decision, or on any grounds, includes an amount so paid on terms (however expressed) which questioned the correctness of the decision or, as the case may be, of those grounds. 430

(11) Nothing contained in —

(a) any regulations under section 25(1) of, or paragraph 2 of Schedule 12 to, the Act relating to the correction of errors or the making of adjustments, or

(b) any requirement imposed under any such regulations,

shall be taken, in relation to any time on or after 18th July 1996, to have conferred an entitlement on any person to receive, by way of repayment, any amount to which he would not have had any entitlement on a claim under section 80 of the Act. 431

80AA Old VAT claims: extended time limits

(1) The requirement previously in section 80(4) of the Act that a claim under that section be made within 3 years of the relevant date does not apply to a claim in respect of an amount brought into account, or paid, for a prescribed accounting period ending before 4 December 1996 if the claim is made before 1 April 2009.

(2) The requirement in section 25(6) of the Act that a claim for deduction of input tax be made at such time as may be determined by or under regulations does not apply to a claim for deduction of input tax that became chargeable, and in respect of which the claimant held the required evidence, in a prescribed accounting period ending before 1 May 1997 if the claim is made before 1 April 2009.

(3) In this article, “the required evidence” means the evidence of the charge to value added tax specified in or under regulation 29(2) of the Value Added Tax Regulations 1996. 432

80A Arrangements for reimbursing customers

(1) The Treasury may by regulations make provision for reimbursement arrangements made by any person to be disregarded for the purposes of section 80(3) 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 Treasury.
(2) In this section “reimbursement arrangements” means any arrangements for the purposes of a claim under section 80 which —
   (a) are made by any person for the purpose of securing that he is not unjustly enriched by the crediting of any amount in pursuance of the claim; and\(^{433}\)
   (b) provide for the reimbursement of persons who have for practical purposes borne the whole or any part of the amount brought into account as mentioned in paragraph (b) of subsection (1) or (1A) of that section.\(^{434}\)

(3) Without prejudice to the generality of subsection (1), the provision that may be required by regulations under this section to be contained in reimbursement arrangements includes —
   (a) provision requiring a reimbursement for which the arrangements provide to be made within such period after the crediting of the amount to which it relates as may be specified in the regulations;\(^{435}\)
   (b) provision for cases where an amount is credited but an equal amount is not reimbursed in accordance with the arrangements;\(^{436}\)
   (c) provision requiring interest paid by the Treasury on any amount paid (or repaid) by it 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 Treasury;\(^{437}\)
   (d) provision requiring such records relating to the carrying out of the arrangements as may be described in the regulations to be kept and produced to the Treasury, or to an officer of theirs.

(4) Regulations under this section may impose obligations on such persons as may be specified in the regulations —
   (a) to make the repayments, or give the notifications, to the Treasury that they are required to make or give in pursuance of any provisions contained in any reimbursement arrangements by virtue of subsection (3)(b) or (c);\(^{438}\)
   (b) to comply with any requirements contained in any such arrangements by virtue of subsection (3)(d).

(5) Regulations under this section may make provision for the form and manner in which, and the times at which, undertakings are to be given to the Treasury in accordance with the regulations; and any such provision may allow for those matters to be determined by the Treasury in accordance with the regulations.

(6) Regulations under this section may —
   (a) contain any such incidental, supplementary, consequential or transitional provision as appears to the Treasury to be necessary or expedient; and
(b) make different provision for different circumstances.

(7) Regulations under this section may have effect (irrespective of when the claim for credit was made) for the purposes of the crediting of any amount by the Treasury after the time when the regulations are made; and, accordingly, such regulations may apply to arrangements made before that time.\(^{439}\)

80B Assessments of amounts due under section 80A arrangements

(1) Where any person is liable to pay any amount to the Treasury in pursuance of an obligation imposed by virtue of section 80A(4)(a), the Treasury may, to the best of its judgement, assess the amount due from that person and notify it to him.

(1A) Where —

(a) an amount ("the gross credit") has been credited to any person under subsection (1) or (1A) of section 80,

(b) any sums were set against that amount, in accordance with subsection (2A) of that section, and

(c) the amount reimbursed in accordance with the reimbursement arrangements was less than the gross credit,

subsection (1B) applies.\(^ {440}\)

(1B) In any such case —

(a) the person shall cease to be entitled to so much of the gross credit as exceeds the amount so reimbursed, and

(b) the Treasury may, to the best of its judgement, assess the amount due from that person and notify it to that person,

but an amount shall not be assessed under this subsection to the extent that the person is liable to pay it to the Treasury as mentioned in subsection (1).\(^ {441}\)

(1C) In determining the amount that a person is liable to pay as mentioned in subsection (1), any amount reimbursed in accordance with the reimbursement arrangements shall be regarded as first reducing so far as possible the amount that the person would have been liable so to pay, but for the reimbursement of that amount.\(^ {442}\)

(1D) For the purposes of this section, nil is an amount.\(^ {443}\)

(1E) Any reference in any other provision of this Act to an assessment under subsection (1) includes, if the context so admits, a reference to an assessment under subsection (1B).\(^ {444}\)

(2) Subsections (2) to (8) of section 78A apply in the case of an assessment under subsection (1) as they apply in the case of an assessment under section 78A(1).\(^ {445}\)
81 Interest given by way of credit and set-off of credits
[1973/1/37E and 3(5A), (5B) and (5C); P1994/23/81]

(1) Any interest payable by the Treasury (whether under a statutory provision or instrument or otherwise) to a person on a sum due to him under or by virtue of any provision of this Act shall be treated as an amount due by way of credit under section 25(3).

(2) Subsection (1) shall be disregarded for the purpose of determining a person's entitlement to interest or the amount of interest to which he is entitled.

(3) Subject to subsection (1), in any case where —
   (a) an amount is due from the Treasury to any person under any provision of this Act, and
   (b) that person is liable to pay a sum by way of VAT, penalty, interest or surcharge,
the amount referred to in paragraph (a) shall be set against the sum referred to in paragraph (b) and, accordingly, to the extent of the set-off, the obligations of the Treasury and the person concerned shall be discharged.

(3A) Where —
   (a) the Treasury is liable to pay or repay any amount to any person under this Act,
   (b) that amount falls to be paid or repaid in consequence of a mistake previously made about whether or to what extent amounts were payable under this Act to or by that person, and
   (c) by reason of that mistake a liability of that person to pay a sum by way of VAT, penalty, interest or surcharge was not assessed, was not enforced or was not satisfied,
any limitation on the time within which the Treasury is entitled to take steps for recovering that sum shall be disregarded in determining whether that sum is required by subsection (3) to be set against the amount mentioned in paragraph (a).

(4) Subsection (3) shall not require any such amount as is mentioned in paragraph (a) of that subsection ("the credit") to be set against any such sum as is mentioned in paragraph (b) of that subsection ("the debit") in any case where —
   (a) an insolvency procedure has been applied to the person entitled to the credit;
   (b) the credit became due after that procedure was so applied; and
   (c) the liability to pay the debit either arose before that procedure was so applied or (having arisen afterwards) relates to, or to matters
occurring in the course of, the carrying on of any business at times before the procedure was so applied.\textsuperscript{447}

(4A) Subject to subsection (4B), the following are the times when an insolvency procedure is to be taken, for the purposes of this section, to be applied to any person, that is to say —

(a) when a bankruptcy order, winding-up order, administration order or award of sequestration is made in relation to that person;

(b) when that person is put into administrative receivership;

(c) when that person, being a corporation, passes a resolution for voluntary winding up;

(d) when any voluntary arrangement approved in accordance with Part I or VIII of the Insolvency Act 1986 (of Parliament), or Part II or Chapter II of Part VIII of the Insolvency (Northern Ireland) Order 1989, comes into force in relation to that person;

(e) when a deed of arrangement registered in accordance with the Deeds of Arrangement Act 1914 (of Parliament) or Chapter I of Part VIII of the Order of 1989 takes effect in relation to that person;

(f) when that person’s estate becomes vested in any other person as that person’s trustee under a trust deed or a deed of arrangement.\textsuperscript{448}

(4B) In this section references, in relation to any person, to the application of an insolvency procedure to that person shall not include —

(a) the making of a bankruptcy order, winding-up order, administration order or award of sequestration at a time when any such arrangement or deed as is mentioned in subsection (4A)(d) to (f) is in force in relation to that person;

(b) the making of a winding-up order at any of the following times, that is to say —

(i) immediately upon the discharge of an administration order made in relation to that person;

(ii) when that person is being wound up voluntarily;

(iii) when that person is in administrative receivership; or

(c) the making of an administration order in relation to that person at any time when that person is in administrative receivership.\textsuperscript{449}

(4C) In this section, references to the application of an insolvency procedure to a person do not include —

(a) the application of an insolvency procedure to a person at a time when another insolvency procedure applies to the person, or

(b) the application of an insolvency procedure to a person immediately upon another insolvency procedure ceasing to have effect.\textsuperscript{450}
81A Transitional provisions for set-offs

(1) Where —

(a) at any time before 4th December 1996, any person ("the taxpayer") became liable to pay any sum ("the relevant sum") to the Treasury by way of VAT, penalty, interest or surcharge,

(b) at any time on or after 18th July 1996 and before 4th December 1996 an amount was set against the whole or any part of the relevant sum,

(c) the amount set against that sum was an amount which is treated under section 80 of the Act as not having been due from the Treasury at the time when it was set against that sum, and

(d) as a consequence, the taxpayer’s liability to pay the whole or a part of the relevant sum falls to be treated as not having been discharged in accordance with section 81(3) of the Act,

the Treasury may, to the best of its judgement, assess the amount of the continuing liability of the taxpayer and notify it to him.

(2) In subsection (1) the reference to the continuing liability of the taxpayer is a reference to so much of the liability to pay the relevant sum as —

(a) would have been discharged if the amount mentioned in subsection (1)(b) had been required to be set against the relevant sum in accordance with section 81(3) of the Act, but

(b) falls, by virtue of section 80 of the Act, to be treated as not having been discharged in accordance with section 81(3) of the Act.

(3) The taxpayer’s only liabilities under the Act in respect of his failure, on or after the time mentioned in subsection (1)(b), to pay an amount assessable under this section shall be —

(a) his liability to be assessed for that amount under this section; and

(b) liabilities arising under the following provisions of this section.

(4) Subsections (2) to (8) of section 78A of the Act apply in the case of an assessment under subsection (1) as they apply in the case of an assessment under section 78A(1) of the Act.

(5) The Act shall have effect as if the matters specified in section 83 of the Act (matters subject to appeal) included an assessment under this section and the amount of such an assessment.

(6) Nothing contained in —

(a) any regulations under section 25(1) of, or paragraph 2 of Schedule 12 to, the Act relating to the correction of errors or the making of adjustments, or

(b) any requirement imposed under any such regulations,
shall be taken, in relation to any time on or after 18th July 1996, to have conferred on any person any entitlement, otherwise than in accordance with section 81(3) of the Act, to set any amount, as an amount due from the Treasury, against any sum which that person was liable to pay to the Treasury by way of VAT, penalty, interest or surcharge.\footnote{451}

**PART V – REVIEWS AND APPEALS\footnote{452}**

**82 Appeal Tribunal**

[1973/1/40(1); P1994/23/82; P1994/9/7]

(1) Any reference in this Act to the Tribunal is a reference to the Tribunal constituted in accordance with Schedule 13, and that Schedule shall have effect generally with respect to appointments to and the procedure and administration of the Tribunal.

(2) The Tribunal shall have jurisdiction in relation to matters relating to VAT conferred upon it by this Part and jurisdiction in relation to matters relating to customs and excise conferred by statutory provisions relating to customs or excise.

**83 Appeals**

[1973/1/38F(6) and 40(1); P1994/23/83; P1994/9/7]

(1) Subject to sections 83G and 84, an appeal shall lie to the Tribunal with respect to any of the following matters —

(a) the registration or cancellation of registration of any person under this Act;

(b) the VAT chargeable on the supply of any goods or services, on the acquisition of goods from a member State or, subject to section 84(9), on the importation of goods from a place outside the member States;

(c) the amount of any input tax which may be credited to a person;

(d) any claim for a refund under any regulations made by virtue of section 13(5);

(da) a decision of the Treasury under section 18A —

(i) as to whether or not a person is to be approved as a fiscal warehousekeeper or the conditions from time to time subject to which he is so approved;

(ii) for the withdrawal of any such approval; or

(iii) for the withdrawal of fiscal warehouse status from any premises;\footnote{453}

(db) any decision of the Treasury for the purposes of sections 18G to 18M (fulfilment businesses) as to —
whether or not, and in which respect, any person is to be, or continue to be, approved and registered; or

(ii) the conditions or restrictions subject to which any person is approved and registered;\textsuperscript{454}

\(\text{(dc)}\) any decision of the Treasury that a person is liable to a penalty, or as to the amount of a person’s liability under section 18M or Schedule 5B;\textsuperscript{455}

\(\text{(e)}\) the proportion of input tax allowable under section 26;

\(\text{(ea)}\) a decision of the Treasury —

(i) refusing or withdrawing authorisation for a person’s liability to pay VAT (or entitlement to credit for VAT) to be determined as mentioned in subsection (1) of section 26A;

(ii) as to the appropriate percentage or percentages (within the meaning of that section) applicable in a person’s case;\textsuperscript{456}

\(\text{(f)}\) a claim by a taxable person under section 27;

\(\text{(fa)}\) a decision contained in a notification under paragraph (4) of article 12A of the Value Added Tax (Payments on Account) (No. 2) Order 1993 that an election under paragraph (1) of that article shall cease to have effect;\textsuperscript{457}

\(\text{(g)}\) the amount of any refunds under section 35;

\(\text{(h)}\) a claim for a refund under section 36 or section 15B of the 1973 Act;

\(\text{(ha)}\) any decision of the Treasury to refuse to make a repayment under a scheme under section 39;\textsuperscript{458}

\(\text{(j)}\) the amount of any refunds under section 40;

\(\text{(k)}\) the refusal of an application such as is mentioned in section 43B(1) or (2);\textsuperscript{459}

\(\text{(ka)}\) the giving of a notice under section 43C(1) or (3);\textsuperscript{460}

\(\text{(l)}\) the requirement of any security under section 48(7) or paragraph 4(1A), (2) or (3) of Schedule 12;\textsuperscript{461}

\(\text{(m)}\) any refusal or cancellation of certification under section 54 or any refusal to cancel such certification;

\(\text{(n)}\) any liability to a penalty or surcharge by virtue of any of sections 59 to 69B;\textsuperscript{462}

\(\text{(na)}\) any liability to a penalty under section 69C, any assessment of a penalty under that section or the amount of such an assessment;\textsuperscript{463}

\(\text{(nb)}\) the giving of a decision notice under section 69D or the portion of a penalty assessed under section 69C which is specified in such a notice;\textsuperscript{464}

\(\text{(o)}\) a decision of the Treasury under section 61 (in accordance with section 61(5));
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(p) an assessment —
   (i) under section 73(1) or (2) in respect of a period for which the appellant has made a return under this Act; or
   (ii) under subsections (7), (7A) or (7B) of that section; or
   (iii) under section 75;
   or the amount of such an assessment;

(q) the amount of any penalty, interest or surcharge specified in an assessment under section 76;

(r) the making of an assessment on the basis set out in section 77(4);

(ra) any liability arising by virtue of section 77AA;

(rb) an assessment under section 77D or the amount of such an assessment;

(s) any liability of the Treasury to pay interest under section 78 or the amount of interest so payable;

(sa) an assessment under section 78A(1) or the amount of such an assessment;

(t) a claim for the crediting or repayment of an amount under section 80, an assessment under subsection (4A) of that section or the amount of such an assessment;

(ta) an assessment under section 80B(1) or (1B) or the amount of such an assessment;

(u) any direction or supplementary direction made under paragraph 2 of Schedule 2;

(v) any direction under paragraph 1, 1A, 2 or 8A of Schedule 7 or under paragraph 2 of Schedule 3 to the 1973 Act;

(w) any direction under paragraph 1 of Schedule 8;

(wa) any direction or assessment under Schedule 9A;

(wb) any refusal of the Treasury to grant any permission under, or otherwise to exercise in favour of a particular person any power conferred by, any provision of Part 1 of Schedule 11;

(x) any refusal to permit the value of supplies to be determined by a method described in a notice published under paragraph 2(6) of Schedule 12;

(y) any refusal of authorisation or termination of authorisation in connection with the scheme made under paragraph 2(7) of Schedule 12;

(z) any conditions imposed by the Treasury in a particular case by virtue of paragraph 2B(2)(c) or 3(1) of Schedule 12;

(zza) a direction under paragraph 8A of Schedule 12;
(za) a decision of the Treasury on a review under regulation 14 of the Anti-Money Laundering (Money Service Businesses) Regulations 2002;\(^\text{476}\)

(zb) a direction under paragraph 8 of Schedule 11A,\(^\text{477}\)

(zc) any liability to a penalty under paragraph 10(1) of Schedule 11A, any assessment under paragraph 12(1) of that Schedule or the amount of such an assessment;\(^\text{478}\)

(zd) a decision of the Treasury about the application of any provision of regulations under paragraph 2 or 8 of Schedule 12 which —

(i) requires returns to be made or information to be submitted by electronic communications; or

(ii) requires records to be kept or preserved in electronic form, including in particular a decision as to whether such a requirement applies).\(^\text{479}\)

(zz) matters relating to customs, excise or agricultural levies of the European Union where jurisdiction is conferred on the Tribunal by any statutory provision.\(^\text{480}\)

(2) In the following provisions of this Part, a reference to a decision with respect to which an appeal under this section lies, or has been made, includes any matter listed in subsection (1) whether or not described there as a decision.\(^\text{481 482}\)

83A Offer of review

(1) The Treasury must offer a person (P) a review of a decision that has been notified to P if an appeal lies under section 83 in respect of the decision.

(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 section does not apply to the notification of the conclusions of a review.\(^\text{483}\)

83B Right to require review

(1) Any person (other than P) who has the right of appeal under section 83 against a decision may require the Treasury to review that decision if that person has not appealed to the tribunal under section 83G.

(2) A notification that such a person requires a review must be made within 30 days of that person becoming aware of the decision.\(^\text{484}\)

83C Review by the Treasury

(1) The Treasury must review a decision if —

(a) it has offered a review of the decision under section 83A; and
(b) P notifies the Treasury accepting the offer within 30 days from the date of the document containing the notification of the offer.

(2) But P may not notify acceptance of the offer if P has already appealed to the tribunal under section 83G.

(3) The Treasury must review a decision if a person other than P notifies it under section 83B.

(4) The Treasury shall not review a decision if P, or another person, has appealed to the tribunal under section 83G in respect of the decision.485

83D Extensions of time

(1) If under section 83A the Treasury has offered P a review of a decision, the Treasury may within the relevant period notify P that the relevant period is extended.

(2) If under section 83B another person may require the Treasury to review a matter, the Treasury may within the relevant period notify the other person that the relevant period is extended.

(3) If notice is given the relevant period is extended to the end of 30 days from —
   (a) the date of the notice; or
   (b) any other date set out in the notice or a further notice.

(4) In this section “relevant period” means —
   (a) the period of 30 days referred to in —
      (i) section 83C(1)(b) (in a case falling within subsection (1)); or
      (ii) section 83B(2) (in a case falling within subsection (2)); or
   (b) if notice has been given under subsection (1) or (2), that period as extended (or as most recently extended) in accordance with subsection (3).486

83E Review out of time

(1) This section applies if —
   (a) the Treasury have offered a review of a decision under section 83A and P does not accept the offer within the time allowed under section 83C(1)(b) or 83D(3); or
   (b) a person who requires a review under section 83B does not notify the Treasury within the time allowed under that section or section 83D(3).

(2) The Treasury must review the decision under section 83C if —
   (a) after the time allowed, P, or the other person, notifies the Treasury in writing requesting a review out of time;
(b) the Treasury is satisfied that P, or the other person, had a reasonable excuse for not accepting the offer or requiring review within the time allowed, and
(c) the Treasury is satisfied that P, or the other person, made the request without unreasonable delay after the excuse had ceased to apply.

(3) The Treasury shall not review a decision if P, or another person, has appealed to the tribunal under section 83G in respect of the decision.\textsuperscript{487}

\section*{83F Nature of review etc}

(1) This section applies if the Treasury is required to undertake a review under section 83C or 83E.

(2) The nature and extent of the review are to be such as appear appropriate to the Treasury in the circumstances.

(3) For the purpose of subsection (2), the Treasury must, in particular, have regard to steps taken before the beginning of the review —
\begin{enumerate}[a)]  
\item by the Treasury in reaching the decision; and
\item by any person in seeking to resolve disagreement about the decision.
\end{enumerate}

(4) The review must take account of any representations made by P, or the other person, at a stage which gives the Treasury a reasonable opportunity to consider them.

(5) The review may conclude that the decision is to be —
\begin{enumerate}[a)]  
\item upheld;
\item varied; or
\item cancelled.
\end{enumerate}

(6) The Treasury must give P, or the other person, notice of the conclusions of the review and their reasoning within —
\begin{enumerate}[a)]  
\item a period of 45 days beginning with the relevant date; or
\item such other period as the Treasury and P, or the other person, may agree.
\end{enumerate}

(7) In subsection (6) “relevant date” means —
\begin{enumerate}[a)]  
\item the date the Treasury received P’s notification accepting the offer of a review (in a case falling within section 83A); or
\item the date the Treasury received notification from another person requiring review (in a case falling within section 83B); or
\item the date on which the Treasury decided to undertake the review (in a case falling within section 83E).
(8) Where the Treasury is required to undertake a review but does not give notice of the conclusions within the time period specified in subsection (6), the review is to be treated as having concluded that the decision is upheld.

(9) If subsection (8) applies, the Treasury must notify P or the other person of the conclusion which the review is treated as having reached.\textsuperscript{488}

83G Bringing of appeals

(1) An appeal under section 83 is to be made to the 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 the decision to which the appeal relates; or

(ii) in a case where a person other than P is the appellant, the date that person becomes aware of the decision; or

(b) if later, the end of the relevant period (within the meaning of section 83D).

(2) But that is subject to subsections (3) to (5).

(3) In a case where the Treasury are required to undertake a review under section 83C —

(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 the conclusion date.

(4) In a case where the Treasury is requested to undertake a review in accordance with section 83E —

(a) an appeal may not be made to the tribunal —

(i) unless the Treasury has notified P, or the other person, as to whether or not a review will be undertaken; and

(ii) if the Treasury has 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; and

(c) if the Treasury has notified P, or the other person, that a review will not be undertaken, an appeal may only be made if the tribunal gives permission to do so.\textsuperscript{489}

(5) In a case where section 83F(8) applies, an appeal may be made at any time from the end of the period specified in section 83F(6) to the date 30 days after the conclusion date.

(6) An appeal may be made after the end of the period specified in subsection (1), (3)(b), (4)(b) or (5) if the tribunal gives permission to do so.

(7) In this section “conclusion date” means the date of the document notifying the conclusions of the review.\textsuperscript{490}
Further provisions relating to appeals

Section 84A

(1) References in this section to an appeal are references to an appeal under section 83.

(2) [Repealed] 491

(3) Subject to subsections (3B) and (3C), where the appeal is against a decision with respect to any of the matters mentioned in section 83(1)(b), (n), (p), (q), (ra), (rb) or (zb), it shall not be entertained unless the amount which the Treasury has determined to be payable as VAT has been paid or deposited with it. 492

(3A) Subject to subsections (3B) and (3C), where the appeal is against an assessment which is a recovery assessment for the purposes of this subsection, or against the amount of such an assessment, it shall not be entertained unless the amount notified by the assessment has been paid or deposited with the Treasury. 493

(3B) In a case where the amount determined to be payable as VAT or the amount notified by the recovery assessment has not been paid or deposited an appeal shall be entertained if —

(a) the Treasury is satisfied (on the application of the appellant); or

(b) the tribunal decides (the Treasury not being so satisfied and on the application of the appellant),

that the requirement to pay or deposit the amount determined would cause the appellant to suffer hardship. 494

(3C) The decision of the tribunal as to the issue of hardship is final. 495

(4) Subject to subsection (11), where —

(a) there is an appeal against a decision of the Treasury with respect to, or to so much of any assessment as concerns, the amount of input tax that may be credited to any person or the proportion of input tax allowable under section 26, and

(b) that appeal relates, in whole or in part, to any determination by the Treasury —

(i) as to the purposes for which any goods or services were or were to be used by any person, or

(ii) as to whether or to what extent that matters to which any input tax was attributable were or included matters other than the making of supplies within section 26(2), and

(c) VAT for which, in pursuance of that determination, there is no entitlement to a credit is VAT on the supply, acquisition or importation of something in the nature of a luxury, amusement or entertainment,
the Tribunal shall not allow the appeal or, as the case may be, so much of it as relates to that determination unless it considers that the determination is one which it was unreasonable to make or which it would have been unreasonable to make if information brought to the attention of the Tribunal that could not have been brought to the attention of the Treasury had been available to be taken into account when the determination was made.

(4A) Where an appeal is brought against the refusal of an application such as is mentioned in section 43B(1) or (2) on the grounds stated in section 43B(5)(c) —

(a) the Tribunal shall not allow the appeal unless it considers that the Treasury could not have reasonably been satisfied that there were grounds for refusing the application,

(b) the refusal shall have effect pending the determination of the appeal, and

(c) if the appeal is allowed, the refusal shall be deemed not to have occurred.

(4B) Where an appeal is brought against the giving of a notice under section 43C(1) or (3) —

(a) the notice shall have effect pending the determination of the appeal, and

(b) if the appeal is allowed, the notice shall be deemed never to have had effect.

(4C) Where an appeal is brought against the giving of a notice under section 43C(1), the Tribunal shall not allow the appeal unless it considers that the Treasury could not have reasonably been satisfied that there were grounds for giving the notice.

(4D) Where —

(a) an appeal is brought against the giving of a notice under section 43C(3), and

(b) the grounds of appeal relate wholly or partly to the date specified in the notice,

the Tribunal shall not allow the appeal in respect of the date unless it considers that the Treasury could not have reasonably been satisfied that it was appropriate.

(4E) Where an appeal is brought —

(a) against such a decision as is mentioned in section 83(1)(ea), or

(b) to the extent that it is based on such a decision, against an assessment,
the tribunal shall not allow the appeal unless it considers that the Treasury could not reasonably have been satisfied that there were grounds for the decision.\(^{501}\)

(4F) Where an appeal is brought against a requirement imposed under paragraph 4(2)(b) of Schedule 12 that a person give security, the tribunal shall allow the appeal unless the Treasury satisfies the tribunal that —

(a) there has been an evasion of, or an attempt to evade, VAT in relation to goods or services supplied to or by that person, or

(b) it is likely, or without the requirement for security it is likely, that VAT in relation to such goods or services will be evaded.\(^{502}\)

(4G) A reference in subsection (4F) to evading VAT includes a reference to obtaining a VAT credit that is not due or a VAT credit in excess of what is due.\(^{503}\)

(5) Where, on an appeal against a decision with respect to any of the matters mentioned in section 83(1)(p) or (rb) —

(a) it is found that the amount specified in the assessment is less than it ought to have been, and

(b) the Tribunal gives a direction specifying the correct amount,

the assessment shall have effect as an assessment of the amount specified in the direction, and that amount shall be deemed to have been notified to the appellant.\(^{504}\)

(6) Without prejudice to section 70 or paragraph 16F of Schedule 3B, nothing in section 83(1)(q) shall be taken to confer on the Tribunal any power to vary an amount assessed by way of penalty, interest or surcharge except in so far as it is necessary to reduce it to the amount which is appropriate under sections 59 to 70; and in this subsection “penalty” includes an amount assessed by virtue of section 61(3) or (4)(a).\(^{505}\)

(6A) Without prejudice to section 70, nothing in section 83(1)(zb) shall be taken to confer on a tribunal any power to vary an amount assessed by way of penalty except in so far as it is necessary to reduce it to the amount which is appropriate under paragraph 11 of Schedule 11A.\(^{506}\)

(7) Where there is an appeal against a decision to make such a direction as is mentioned in section 83(1)(u), the Tribunal shall not allow the appeal unless it considers that the Treasury could not reasonably have been satisfied that there were grounds for making the direction.\(^{507}\)

(7A) Where there is an appeal against a decision to make such a direction as is mentioned in section 83(1)(wa), the cases in which the Tribunal shall allow the appeal shall include (in addition to the case where the conditions for the making of the direction were not fulfilled) the case where the tribunal are satisfied, in relation to the relevant event by reference to which the direction was given, that —
(a) the change in the treatment of the body corporate, or
(b) the transaction in question,

had as its main purpose or, as the case may be, as each of its main purposes a genuine commercial purpose unconnected with the fulfilment of the condition specified in paragraph 1(3) of Schedule 9A.508

(7ZA) Where there is an appeal against such a refusal as is mentioned in section 83(1)(wb) —

(a) the tribunal shall not allow the appeal unless it considers that the Treasury could not reasonably have been satisfied that there were grounds for the refusal, and
(b) the refusal shall have effect pending the determination of the appeal.509

(7B) Where there is an appeal against a decision to make such a direction as is mentioned in section 83(1)(zza) —

(a) the tribunal shall not allow the appeal unless it considers that the Treasury could not reasonably have been satisfied that there were grounds for making the direction;
(b) the direction shall have effect pending the determination of the appeal.510

(8) [Repealed]511

(9) No appeal shall lie under this section with respect to the subject-matter of any decision which by virtue of section 16 is a decision to which section 14 or 15A of the Finance Act 1994 (decisions subject to review) (an Act of Parliament) as it has effect in the Island applies unless the decision —

(a) relates exclusively to one or both of the following matters, namely whether or not section 30(3) applies in relation to the importation of the goods in question and (if it does not) the rate of tax charged on those goods; and
(b) is not one in respect of which notice has been given to the Treasury under section 14 of that Act requiring it to review it; and512
(c) a review is not being undertaken following a request under section 14A of that Act; and513
(d) a review is not being undertaken under section 15 of that Act as a consequence of section 15B(3), 15C(3) or 15E(3) of that Act.514 515

(10) Where an appeal is against a decision of the Treasury which depended upon a prior decision taken by it in relation to the appellant, the fact that the prior decision is not within section 83 shall not prevent the Tribunal from allowing the appeal on the ground that it would have allowed an appeal against the prior decision.
(11) Subsection (4) shall not apply in relation to any appeal relating to the input tax that may be credited to any person at the end of a prescribed accounting period beginning before 27th July 1993.

85 Settling appeals by agreement

[1973/1/40A; P1994/23/85]

(1) Subject to the provisions of this section, where a person gives notice of appeal under section 83 and, before the appeal is determined by the Tribunal, the Treasury and the appellant come to an agreement (whether in writing or otherwise) under the terms of which the decision under appeal is to be treated —

(a) as upheld without variation, or
(b) as varied in a particular manner, or
(c) as discharged or cancelled,

the like consequences shall ensue for all purposes as would have ensued if, at the time when the agreement was come to, the Tribunal had determined the appeal in accordance with the terms of the agreement.\footnote{516}

(2) Subsection (1) shall not apply where, within 30 days from the date when the agreement was come to, the appellant gives notice in writing to the Treasury that he desires to repudiate or resile from the agreement.

(3) Where an agreement is not in writing —

(a) the preceding provisions of this section shall not apply unless the fact that an agreement was come to, and the terms agreed, are confirmed by notice in writing given by the Treasury to the appellant or by the appellant to the Treasury, and

(b) references in those provisions to the time when the agreement was come to shall be construed as references to the time of the giving of that notice of confirmation.

(4) Where —

(a) a person who has given a notice of appeal notifies the Treasury, whether orally or in writing, that he desires not to proceed with the appeal; and

(b) 30 days have elapsed since the giving of the notification without the Treasury giving to the appellant notice in writing indicating that it is unwilling that the appeal should be treated as withdrawn,

the preceding provisions of this section shall have effect as if, at the date of the appellant’s notification, the appellant and the Treasury had come to an agreement, orally or in writing, as the case may be, that the decision under appeal should be upheld without variation.

(5) References in this section to an agreement being come to with an appellant and the giving of notice or notification to or by an appellant include
Section 85A  
Value Added Tax Act 1996

references to an agreement being come to with, and the giving of notice or notification to or by, a person acting on behalf of the appellant in relation to the appeal.

85A  Payment of tax on determination of appeal

(1) This section applies where the tribunal has determined an appeal under section 83.

(2) Where on the appeal the tribunal has determined that —
   (a) the whole or part of any disputed amount paid or deposited is not due; or
   (b) the whole or part of any VAT credit due to the appellant has not been paid,

so much of that amount, or of that credit, as the tribunal determines not to be due or not to have been paid shall be paid or repaid with interest at the rate applicable under section 197 of the Finance Act 1996 (of Parliament), as it has effect in the Island.

(3) Where on the appeal the tribunal has determined that —
   (a) the whole or part of any disputed amount not paid or deposited is due, or
   (b) the whole or part of any VAT credit paid was not payable,

so much of that amount, or of that credit, as the tribunal determines to be due or not payable shall be paid or repaid to the Treasury with interest at the rate applicable under section 197 of the Finance Act 1996 (of Parliament).

(4) Nothing in this section requires the Treasury to pay interest —
   (a) on any amount which falls to be increased by a supplement under section 79 (repayment supplement in respect of certain delayed payments or refunds); or
   (b) where an amount is increased under that section, on so much of the increased amount as represents the supplement.517

85B  Payment of tax where there is a further appeal

(1) Where a party makes a further appeal, notwithstanding that the further appeal is pending, value added tax or VAT credits, or a credit of overstated or overpaid value added tax shall be payable or repayable in accordance with the determination of the tribunal or court against which the further appeal is made.

(2) But if the amount payable or repayable is altered by the order or judgment or the tribunal or court on the further appeal —
(a) if too much value added tax has been paid or the whole or part of any VAT credit due to the appellant has not been paid the amount overpaid or not paid shall be refunded with such interest, if any, as the tribunal or court may allow; and

(b) if too little value added tax has been charged or the whole or part of any VAT credit paid was not payable so much of the amount as the tribunal or court determines to be due or not payable shall be due or repayable, as appropriate, at the expiration of a period of thirty days beginning with the date on which the Treasury issues to the other party a notice of the total amount payable in accordance with the order or judgment of that tribunal or court.

(3) If, on the application of the Treasury, the relevant tribunal or court considers it necessary for the protection of the revenue, subsection (1) shall not apply and the relevant tribunal or court may —

(a) give permission to withhold any payment or repayment; or

(b) require the provision of adequate security before payment or repayment is made.

(4) If, on the application of the original appellant, the Treasury is satisfied that financial extremity might be reasonably expected to result if payment or repayment is required or withheld as appropriate, the Treasury may do one or more of the things listed in subsection (6).

(5) If on the application of the original appellant, the relevant tribunal or court decides that —

(a) the original appellant has applied to the Treasury under subsection (4);

(b) the Treasury has decided that application;

(c) financial extremity might be reasonably expected to result from that decision by the Treasury,

the relevant tribunal or court may replace, vary or supplement the decision by the Treasury by doing one or more of the things listed in subsection (6).

(6) These are the things which the Treasury or the relevant tribunal or court may do under subsection (4) or (5) —

(a) decide how much, if any, of the amount under appeal should be paid or repaid as appropriate;

(b) require the provision of adequate security from the original appellant;

(c) stay the requirement to pay or repay under subsection (1).

(7) Subsections (3) to (6) cease to have effect when the further appeal has been determined.

(8) In this section —
“adequate security” means security that is of such amount and given in such manner —

(a) as the tribunal or court may determine (in a case falling within subsection (3) or (5)); or

(b) as the Treasury considers adequate to protect the revenue (in a case falling within subsection (4));

“further appeal” means an appeal against —

(a) the tribunal’s determination of an appeal under section 83; or

(b) a decision of a court that arises (directly or indirectly) from that determination;

“original appellant” means the person who made the appeal to the tribunal under section 83;

“relevant tribunal or court” means the tribunal or court from which permission or leave to appeal is sought.518

86 Appeals to High Court

[P1973/1/Sch.6 Part II; P1994/23/86; S.I. 1986 no. 2288]

If any party to proceedings before the Tribunal is dissatisfied in point of law with a decision of the Tribunal he may appeal from the Tribunal to the Staff of Government Division.

87 Enforcement of certain Tribunal decisions

[1973/1/40D; P1994/23/87(3)-(5)]

(1) Subsection (2) shall apply in relation to the decision of the Tribunal on an appeal under section 83 where —

(a) any amount is, or is recoverable as, VAT due from any person, as a result of the decision, whether with or without an award of costs to the Treasury;

(b) any amount is, or is recoverable as, a duty of customs or excise or as an agricultural levy of the European Union due from any person, as a result of the decision, whether with or without an award of costs to the Treasury; or519

(c) any costs are awarded to the Treasury by the decision.

(2) Where this subsection applies, payment of the amount mentioned in subsection (1)(a) or (b) or, as the case may be, the amount of the costs mentioned in subsection (1)(c) may be enforced by a Coroner as if the decision was an execution issued by the High Court.

(3) Any reference in this section to a decision of the Tribunal includes a reference to an order (however described) made by the Tribunal for giving effect to a decision.
PART VI – SUPPLEMENTARY PROVISIONS

Change in rate of VAT etc and disclosure of information

88 Supplies spanning change of rate etc
[GC80/83/4; P1994/23/88]

(1) This section applies where there is a change in the rate of VAT in force under section 2 or in the descriptions of exempt or zero-rated supplies or exempt or zero-rated acquisitions.

(2) Where —

(a) a supply affected by the change would, apart from section 6(4), (5), (6) or (10), be treated under section 6(2) or (3) as made wholly or partly at a time when it would not have been affected by the change; or

(b) a supply not so affected would apart from section 6(4), (5), (6) or (10) be treated under section 6(2) or (3) as made wholly or partly at a time when it would have been so affected,

the rate at which VAT is chargeable on the supply, or any question whether it is zero-rated or exempt, shall if the person making it so elects be determined without regard to section 6(4), (5), (6) or (10).

(3) Any power to make regulations under this Act with respect to the time when a supply is to be treated as taking place shall include power to provide for this section to apply as if the references in subsection (2) to section 6(4), (5), (6) or (10) included references to specified provisions of the regulations.

(4) Where —

(a) any acquisition of goods from a member State which is affected by the change would not have been affected (in whole or in part) if it had been treated as taking place at the time of the event which, in relation to that acquisition, is the first relevant event for the purposes of taxing the acquisition; or

(b) any acquisition of goods from a member State which is not so affected would have been affected (in whole or in part) if it had been treated as taking place at the time of that event,

the rate at which VAT is chargeable on the acquisition, or any question whether it is zero-rated or exempt, shall, if the person making the acquisition so elects, be determined as at the time of that event.

(5) Regulations under paragraph 2A of Schedule 12 may make provision for the replacement or correction of any VAT invoice which —

(a) relates to a supply in respect of which an election is made under this section, but
(b) was issued before the election was made.\footnote{520}

(6) No election may be made under this section in respect of a supply to which paragraph 7 of Schedule 5 or paragraph 2B(4) of Schedule 12 applies.\footnote{521}

(7) References in this section to an acquisition being zero-rated are references to an acquisition of goods from a member State being one in relation to which section 30(3) provides for no VAT to be chargeable.

\section{Adjustments of contracts on changes in VAT}

\footnote{1973/1/41; P1994/23/89}

(1) Where, after the making of a contract for the supply of goods or services and before the goods or services are supplied, there is a change in the VAT charged on the supply, then, unless the contract otherwise provided, there shall be added to or deducted from the consideration for the supply an amount equal to the change.

(2) Subsection (1) shall apply in relation to a tenancy or lease as it applies in relation to a contract except that a term of a tenancy or lease shall not be taken to provide that the rule contained in that subsection is not to apply in the case of the tenancy or lease if the term does not refer specifically to VAT or this section.

(3) References in this section to a change in the VAT charged on a supply include references to a change to or from no VAT being charged on the supply (including a change attributable to the making of an option to tax any land under Part 1 of Schedule 11).\footnote{522}

\section{Interpretative provisions}

\section{Taxation under the laws of member States etc}

\footnote{1973/1/42A; P1994/23/92}

(1) Subject to the following provisions of this section, references in this Act, in relation to a member State, to the law of that member State shall be construed as confined to so much of the law of that member State as for the time being has effect for the purposes of any EU instrument relating to VAT.\footnote{523}

(2) Subject to the following provisions of this section —

(a) references in this Act to a person being taxable in a member State are references to that person being taxable under so much of the law of that member State as makes provision for purposes corresponding, in relation to that member State, to the purposes of so much of this Act as makes provision as to whether a person is a taxable person; and

(b) references in this Act to goods being acquired by a person in a member State are references to goods being treated as so acquired
in accordance with provisions of the law of that member State corresponding, in relation to that member State, to so much of this Act as makes provision for treating goods as acquired in the Island from a member State.

(3) Without prejudice to subsection (5), the Treasury may by regulations make provision for the manner in which any of the following are to be or may be proved for any of the purposes of this Act, that is to say —

(a) the effect of any provisions of the law of any member State;
(b) that provisions of any such law correspond or have a purpose corresponding, in relation to any member State, to or to the purpose of any provision of this Act.

(4) The Treasury may be regulations provide —

(a) for a person to be treated for prescribed purposes of this Act as taxable in a member State only where he has given such notification, and furnished such other information, to the Treasury as may be prescribed;
(b) for the form and manner in which any notification or information is to be given or furnished under the regulations and the particulars which it is to contain;
(c) for the proportion of any consideration for any transaction which is to be taken for the purposes of this Act as representing a liability, under the law of a member State, for VAT to be conclusively determined by reference to such invoices or in such other manner as may be prescribed.

(5) In any proceedings (whether civil or criminal), a certificate of the Treasury —

(a) that a person was or was not, at any date, taxable in a member State; or
(b) that any VAT payable under the law of a member State has or has not been paid,

shall be sufficient evidence of that fact until the contrary is proved, and any document purporting to be a certificate under this subsection shall be deemed to be such a certificate until the contrary is proved.

(6) Without prejudice to the generality of any of the powers of the Treasury under the relevant information provisions, those powers shall, for the purpose of facilitating compliance with any EU obligations created by the application of an EU instrument under section 1(3)(g) of the Customs and Excise Act 1993, be exercisable with respect to matters that are relevant to a charge to VAT under the law of a member State, as they are exercisable with respect to matters that are relevant for any of the purposes of this Act.\textsuperscript{524}
(7) The reference in subsection (6) to the relevant information provisions is a reference to the provisions of section 73(7) and Schedule 12 relating to —
   (a) the keeping of accounts;
   (b) the making of returns and the submission of other documents to the Treasury;
   (c) the production, use and contents of invoices;
   (d) the keeping and preservation of records; and
   (e) the furnishing of information and the production of documents.

91 Territories included in references to member States etc
[1973/1/42B; P1994/23/93]
(1) The Treasury may by regulations provide for the territory of the European Union, or for the member States, to be treated for any of the purposes of this Act as including or excluding such territories as may be prescribed.\textsuperscript{525}

(2) Without prejudice to the generality of the powers conferred by subsection (1) and section 16, the Treasury may, for any of the purposes of this Act, by regulations provide for prescribed provisions of any customs and excise legislation to apply in relation to cases where any territory is treated under subsection (1) as excluded from the territory of the European Union, with such exceptions and adaptations as may be prescribed.\textsuperscript{526}

(3) In subsection (2) the reference to customs and excise legislation is a reference to any enactment or subordinate or EU legislation (whenever passed, made or adopted) which has effect in relation to, or to any assigned matter connected with, the importation or exportation of goods.\textsuperscript{527}

(4) In subsection (3) “assigned matter” has the same meaning as in the Management Act.

92 Meaning of “business” etc
[1973/1/43; P1994/23/94]
(1) In this Act, “business” includes any trade, profession or vocation.

(2) Without prejudice to the generality of anything else in this Act, the following are deemed to be the carrying on of a business —
   (a) the provision by a club, association or organisation (for a subscription or other consideration) of the facilities or advantages available to its members; and
   (b) the admission, for a consideration, of persons to any premises.

(3) [Repealed]\textsuperscript{528}
(4) Where a person, in the course or furtherance of a trade, profession or vocation, accepts any office, services supplied by him as the holder of that office are treated as supplied in the course or furtherance of the trade, profession or vocation.

(5) Anything done in connection with the termination or intended termination of a business is treated as being done in the course or furtherance of that business.

(6) The disposition of a business, or part of a business, as a going concern, or of the assets or liabilities of the business or part of the business (whether or not in connection with its reorganisation or winding up), is a supply made in the course or furtherance of the business.

93  Meaning of “new means of transport”  
[1973/1/43A; P1994/23/95]

(1) In this Act “means of transport” in the expression “new means of transport” means, subject to subsection (2), any of the following, that is to say —

(a) any ship exceeding 7.5 metres in length;
(b) any aircraft the take-off weight of which exceeds 1550 kilograms;
(c) any motorised land vehicle which —
   (i) has an engine with a displacement or cylinder capacity exceeding 48 cubic centimetres; or
   (ii) is constructed or adapted to be electrically propelled using more than 7.2 kilowatts.

(2) A ship, aircraft or motorised land vehicle does not fall within subsection (1) unless it is intended for the transport of persons or goods.

(3) For the purposes of this Act a means of transport shall be treated as new, in relation to any supply or any acquisition from a member State, at any time unless at that time —

(a) the period that has elapsed since its first entry into service is —
   (i) in the case of a ship or aircraft, a period of more than 3 months; and
   (ii) in the case of a land vehicle, a period of more than 6 months; and

(b) it has, since its first entry into service, travelled under its own power —
   (i) in the case of a ship, for more than 100 hours;
   (ii) in the case of an aircraft, for more than 40 hours; and
   (iii) in the case of a land vehicle, for more than 6000 kilometres.

(4) The Treasury may by order vary this section —
(a) by adding or deleting any ship, aircraft or vehicle of a description specified in the order to or from those which are for the time being specified in subsection (1); and

(b) by altering, omitting or adding to the provisions of subsection (3) for determining whether a means of transport is new.

(5) The Treasury may by regulations make provision specifying the circumstances in which a means of transport is to be treated for the purposes of this section as having first entered into service.

93A Charities: definitions

(1) For the purposes of this Act, “charity” means a body of persons or a trust that —

(a) is established for charitable purposes only;

(b) meets the jurisdiction condition in section 93B;

(c) meets the registration condition in section 93C; and

(d) meets the management condition in section 93D.

(2) For the purposes of this Act —

“charitable company” means a charity that is a body of persons; and

“charitable trust” means a charity that is a trust.

(3) Subsections (1) and (2) are subject to any express provision to the contrary.

(4) For the meaning of “charitable purpose”, see section 14 of the Charities Act 1962, which applies regardless of where the body of persons or trust in question is established.530

93B Charities: jurisdiction condition

(1) A body of persons or trust meet the jurisdiction condition if it falls to be subject to the control of —

(a) a court in the Island in the exercise of its jurisdiction with respect to charities; or

(b) any other court in the exercise of a corresponding jurisdiction under the law of a relevant territory.

(2) In subsection (1), “a relevant territory” means —

(a) the United Kingdom;

(b) a member State; or

(c) a territory specified in regulations made by the Treasury.531

93C Charities: registration condition

(1) A body of persons or trust meets the registration condition if —
(a) in the case of a body of persons or trust that is a charity within the meaning of the Charities Act 1962, condition A is met; and  
(b) in the case of any other body of persons or trust, condition B is met.

(2) Condition A is that the body of persons or trust is one which is subject to the requirements contained in section 2 of the Charities Registration Act 1989.

(3) Condition B is that the body of persons or trust has —

(a) complied with any requirement to be registered in the register of charities kept under section 3 of the Charities Act 1993 (an Act of Parliament); or  

(b) complied with any requirement under the laws of a territory outside the Island to be registered in a register corresponding to that mentioned in paragraph (2).

93D Charities: management conditions

(1) A body of persons or trust meets the management condition if its managers are fit and proper persons to be manager of the body or trust.

(2) In this section, “managers”, in relation to a body of persons or trust, means the persons having the general control and management of the administration of the body or trust.

93E Charities: periods over which management conditions treated as met

(1) This section applies in relation to any period throughout which the management condition is not met.

(2) The management condition is treated as met throughout the period if the Treasury considers that —

(a) the failure to meet the management condition has not prejudiced the charitable purposes of the body or trust; or  

(b) it is just and reasonable in all the circumstances for the conditions to be treated as met throughout the period.

93F Charities: publication of names and addresses of bodies or trusts regarded by the Treasury as charities

The Treasury may publish the name and address of any body of persons or trust that appears to it to meet, or at any time to have met, the definition of a charity in section 93A.

93G Charities: power to make further consequential provision

(1) The Treasury may by order make such further consequential, incidental, supplemental, transitional or transitory provision or saving as appears
appropriate in consequence of, or otherwise in connection with sections 93A to 93F.

(2) An order under this section may make provision repealing, revoking or otherwise amending any enactment or instrument (whenever enacted or made).\(^{536}\)

94 Other interpretative provisions

[1973/1/44; P1994/23/96]

(1) In this Act —

“the 1973 Act” means the Value Added Tax and Other Taxes Act 1973;

“member State” (except in the expression “outside the member States”) means, subject to regulations under section 91(1) or 97(2)(h), any member State of the European Union other than the United Kingdom;\(^{537}\)

“authorised person” means any person acting under the authority of the Treasury;

“Commissioners” means the Commissioners of Customs and Excise or, following their appointment, the Commissioners of Revenue and Customs;\(^{538}\)

“Community” means the European Community;

“Crown” means the Crown in right of the Government of the Island;

“fee simple” includes the estate known as a customary fee simple;

“invoice” includes any document similar to an invoice;

“input tax” has the meaning given by section 24;

“interim trustee” has the same meaning as in the Bankruptcy (Scotland) Act 1985;

“major interest”, in relation to land, means the fee simple or a tenancy for a term certain exceeding 21 years;

“the Management Act” means the Customs and Excise Management Act 1986;

“money” includes currencies other than sterling;

“output tax” has the meaning given by section 24;

“permanent trustee” has the same meaning as in the Bankruptcy (Scotland) Act 1985;

“prescribed” means prescribed by regulations;

“prescribed accounting period” has the meaning given by section 25(1);

“quarter” means a period of 3 months ending at the end of March, June, September or December;

“regulations” means regulations made by the Treasury under this Act;

“relevant business person” has the meaning given by section 7A(4);\(^{539}\)
“ship” includes hovercraft;
“tax” means VAT;
“taxable acquisition” has the meaning given by section 10(2);
“taxable person” means a person who is a taxable person under section 3;
“taxable supply” has the meaning given by section 4(2);
“Tribunal” has the meaning given by section 82;
“U.K. Act” means the Value Added Tax Act 1994;
“VAT” means value added tax charged in accordance with this Act or, where the context requires, with the law of a member State;
“VAT credit” has the meaning given by section 25(3);
“VAT invoice” has the meaning given by section 6(15);
“VAT representative” has the meaning given by section 48.

(2) Any reference in this Act to being registered shall be construed in accordance with section 3(3).

(3) Subject to section 91 —
(a) the question whether or not goods have entered the territory of the European Union;
(b) the time when any EU customs debt in respect of duty on the entry of any goods into the territory of the European Union would be incurred;
(c) the person by whom any such debt would fall to be discharged,

shall for the purposes of this Act be determined (whether or not the goods in question are themselves subject to any such duties) according to the EU legislation applicable to goods which are in fact subject to such duties.

(4) Any reference in this Act to the amount of any duty of excise on any goods shall be taken to be a reference to the amount of duty charged on those goods with any addition or deduction falling to be made under section 1 of the Excise Duties (Surcharges or Rebates) Act 1986.

(5) The question whether, in relation to any supply of services, the supplier or the recipient of the supply belongs in one country or another shall be determined in accordance with section 9.

(6) Schedules 9 and 10 shall be interpreted in accordance with the notes contained in those Schedules; and accordingly the powers conferred by this Act to vary those Schedules include a power to add to, delete or vary those notes.

(7) The descriptions of Groups in those Schedules are for ease of reference only and shall not affect the interpretation of the descriptions of items in those Groups.
(7A) Where —
(a) the grant of any interest, right, licence or facilities gives rise for the purposes of this Act to supplies made at different times after the making of the grant, and
(b) a question whether any of those supplies is zero-rated or exempt falls to be determined according to whether or not the grant is a grant of a description specified in Schedule 9 or 10 or any of paragraphs 5 to 11 of Schedule 11, that question shall be determined according to whether the description is applicable as at the time of supply, rather than by reference to the time of the grant.

(7AA) Notwithstanding subsection (7A) —
(a) item 1 of Group 1 of Schedule 10 does not make exempt any supply that arises for the purposes of this Act from the prior grant of a fee simple falling within paragraph (a) of that item; and
(b) that paragraph does not prevent the exemption of a supply that arises for the purposes of this Act from the prior grant of a fee simple not falling within that paragraph.

(7B) Provisions corresponding to those contained in subsection (7A) shall be deemed to have had effect since 1st March 1996 and any provisions about to come into force of any amendment of the Act shall be deemed to have had effect accordingly.

(8) References in this Act to the Island include the territorial sea of the Island.

(9) The interpretations, decisions and rulings contained in EU legislation applied to the Island by means of the Value Added Tax (Community Instrument) (Application) Order 2006 [SD113/06] shall apply for the purposes of the application and operation of this Act.

Supplementary provisions

94A Place of supply orders: transitional provision

(1) This section shall have effect for the purpose of giving effect to any order made under section 7A(6), if —
(a) the order provides for services of a description specified in the order to be treated as supplied in the Island;
(b) the services would not have fallen to be so treated apart from the order;
(c) the services are not services that would have fallen to be so treated under any provision re-enacted in the order; and
(d) the order is expressed to come into force in relation to services supplied on or after a date specified in the order (“the commencement date”).

(2) Invoices and other documents provided to any person before the commencement date shall be disregarded in determining the time of the supply of any services which, if their time of supply were on or after the commencement date would be treated by virtue of the order as supplied in the Island.

(3) If there is a payment in respect of any services of the specified description that was received by the supplier before the commencement date, so much (if any) of that payment as relates to times on or after that date shall be treated as if it were a payment received on the commencement date.

(4) If there is a payment in respect of services of the specified description that is or has been received by the supplier on or after the commencement date, so much (if any) of that payment as relates to times before that date shall be treated as if it were a payment received before that date.

(5) Subject to subsection (6), a payment in respect of any services shall be taken for the purposes of this section to relate to the time of the performance of those services.

(6) Where a payment is received in respect of any services the performance of which takes place over a period a part of which falls before the commencement date and a part of which does not —

(a) an apportionment shall be made, on a just and reasonable basis, of the extent to which the payment is attributable to so much of the performance of those services as took place before that date;

(b) the payment shall, to that extent, be taken for the purposes of this section to relate to a time before that date; and

(c) the remainder, if any, of the payment shall be taken for those purposes to relate to times on or after that date.

94AA VAT: place of supply orders: disapplication of transitional provision

(1) Section 94A of the Act (place of supply orders: transitional provision) is to be ignored for the purpose of giving effect to any new order under section 7A(6) of the Act which —

(a) is expressed as having effect in relation to supplies made on or after 1 January 2015; and

(b) makes provision about the place of supply of electronically supplied services, telecommunication services and radio and television broadcasting services.

(2) In subsection (1), “new order” means an order made on or after 1 November 2014.
(3) Subsection (1) applies only so far as the order makes provision about supplies to which Article 2 of Council Implementing Regulation (EU) No 1042/2013 (transitional provision for changes in the law affecting electronically supplied, telecommunication and radio and television broadcasting services) applies.\(^{551}\)

### 94B Gold

(1) Notwithstanding the words preceding paragraph (a) in section 26(3) (input tax allowable against output tax), regulations which —

(a) are made under section 26(3), and

(b) have effect in respect of exempt supplies which relate to gold,

may provide that input tax is allowable, as being attributable to the supplies, only in relation to specified matters.

(2) An order under section 31(2) of the Act (exempt supplies and acquisitions) which provides for certain supplies which relate to gold to be exempt supplies may —

(a) provide that a supply which would be an exempt supply by virtue of the order shall, if the supplier so chooses, be a taxable supply;

(b) make provision by reference to notices to be published by the Treasury.

(3) An order under section 37(1) of the Act (relief on importation of goods) which gives relief from VAT on certain importations of gold may make provision by reference to notices to be published by the Treasury.

(4) Provision made by virtue of subsections (2) or (3) may be expressed —

(a) to apply only in specified circumstances;

(b) to apply subject to compliance with specified conditions (which may include conditions relating to general or specific approval of the Treasury).

(5) Regulations may —

(a) require specified persons to keep specified records in relation to specified transactions concerning gold;

(b) require specified persons to give specified information to the Treasury about specified transactions concerning gold;

(c) provide for paragraph 12(2) of Schedule 12 (entry and inspection of premises) to apply in relation to specified transactions concerning gold as it applies in relation to the supply of goods under taxable supplies.

(6) The provisions of this Act (including, in particular, section 95 and paragraphs 8(2) to (4) of Schedule 12) shall apply in relation to regulations made under paragraph (5), and to records kept in pursuance of those
regulations, as they apply to regulations made under paragraph 8(1) of Schedule 12 and to records kept in pursuance of those regulations.552

95 Public documents
[1973/1/50 and 51]

(1) Except as referred to in subsection (3), a public document made by the Treasury under this Act shall be laid before Tynwald as soon as practicable after it is made, and if Tynwald at the sitting at which such public document is laid or at the next following sitting resolves that the public document shall be annulled, the public document shall thereupon cease to have effect.

(2) A public document made by the Treasury under this Act may, in so far as the Treasury considers it necessary that such public document conforms with provision made for the United Kingdom by statutory instrument under an Act of Parliament, be made retrospective and shall take effect on such day or days as may be specified in the public document and different days may be appointed for different purposes and different provisions of the public document.

(3) An order to which this subsection applies shall be laid before Tynwald as soon as practicable after it is made, and if Tynwald at the sitting at which the order is laid or at the next following sitting fails to approve the order the order shall thereupon cease to have effect.

(4) Subject to subsection (5), subsection (3) applies to —

(a) an order under section 5(4), 7A(6) or 28;553
(b) an order as a result of which goods of any description become goods to which section 22(3) applies;
(c) an order under this Act making provision —
   (i) for increasing the rate of VAT in force under section 2 at the time of the making of the order;554
   (ii) for excluding any VAT from credit under section 25;
   (iia) for varying Schedule 1 so as to cause VAT to be charged on a supply at the rate in force under section 2 instead of that in force under section 29A;555
   (iii) for varying Schedule 9 or 10 so as to abolish the zero-rating of a supply or to abolish the exemption of a supply without zero-rating it;
   (ca) an order under section 43AA(1) if as a result of the order any persons would cease to be eligible to be treated as members of a group;556
   (d) an order under section 51, except one making only such amendments as are necessary or expedient in consequence of provisions of an order under this Act which —
(i) vary Schedule 1, 9 or 10; but

(ii) are not within paragraph (c);

(e) an order under section 54(4) or (8);

(ea) an order under section 55A(13);

(eb) an order under section 77AA(9) or (9A);

(f) an order under section 96 or 97;

(fa) an order made under paragraph 3(4) of Schedule 10A;

(g) an order under paragraph 3 or 4 of Schedule 11A;

(h) an order under paragraph B1, C1(4), 1A(7), 2A(4) or 8A(7) of Schedule 7.

(5) Subsection (3) shall not apply to an order under section 53.

(6) A public document, other than an order appointing a day for the commencement of this Act, made by the Treasury under this Act may, in so far as the Treasury considers it necessary that such order shall conform with any resolution, rule, regulation or order made under the U.K. Act, or any other Act of Parliament relating to VAT in force at the time of the making of the first mentioned order, be made retrospective and shall take effect on such day or days as may be specified in the order and different days may be appointed for different purposes and different provisions of the order.

(7) The references to an Act of Parliament in this section includes a reference to a resolution of Parliament having statutory effect as if contained in an Act of Parliament.

96 Power to amend or repeal the Act by order
[1973/1/52]

(1) The Treasury may by order add to, amend or repeal any of the provisions of this Act in such manner as the Treasury thinks expedient for the purpose of making this Act conform to any Act of Parliament (including any resolution of Parliament having statutory effect as if contained in an Act of Parliament) relating to VAT.

(2) An order made under this section shall apply in respect of the rate of VAT as it does in respect of any other provisions of this Act but such power shall not prejudice the power of the Treasury to make orders under section 97.

97 Agreements with United Kingdom
[1973/1/21(5A)-(5C); P1979/58/6]

(1) For the purpose of giving effect to any Agreement between the government of the Island and the government of the United Kingdom
whereby both countries are to be treated as a single area for the purposes of VAT charged under this Act and VAT charged under the corresponding Act of Parliament, the Treasury may by order make provision for securing that VAT is charged under this Act as if all or any of the references in it to the Island included both the Island and the United Kingdom but so that VAT is not charged under both Acts in respect of the same transaction.

(2) An order under this section may make provision —

(a) for determining, or enabling the Treasury after consultation with the Commissioners to determine, under which Act a person is to be registered and for transferring a person registered under one Act to the register kept under the other;\textsuperscript{564}

(b) for treating a person who is a taxable person for the purposes of the Act of Parliament as a taxable person for all or any of the purposes of this Act;

(c) for extending any reference in this Act to VAT under this Act so as to include VAT under that Act;

(d) for treating any requirement imposed by or under either Act as a requirement imposed by or under the other;

(e) for treating any permission, direction, notice, determination or other thing given, made or done under the Act of Parliament by the Commissioners as given, made or done by the Treasury under this Act;\textsuperscript{565}

(f) for enabling the Treasury to determine for the purposes of section 43 which member of a group is to be the representative member in cases where supplies are made both in the Island and the United Kingdom;

(g) for modifying or excluding, as respects goods removed from the United Kingdom to the Island or from the Island to the United Kingdom, any provision relating to importation or exportation contained in this Act or in the customs and excise Acts as applied by this Act;

(h) for modifying any reference in this Act to the European Union, a member State or the member States;\textsuperscript{566}

(i) equivalent to sections 3, 4, 5, 10 and 12 of the Isle of Man Act 1979 (an Act of Parliament) in relation to the recovery in the Island of amounts due under the Value Added Tax Act 1994 (of Parliament), the enforcement of U.K. judgements for amounts due under that Act, reciprocal arrangements relating to criminal proceedings under that Act or this Act, evidence and exchange of information;

(j) for any supplementary, incidental or transitional matter.

(3) An order under this section may make such modifications of any statutory provision relating to VAT as appears to the Treasury to be necessary or expedient for the purposes of the order.
(4) While an order under this section is in force and without prejudice to the powers conferred by the foregoing provisions —

(a) section 30(10) (forfeiture of zero-rated goods) shall have effect as if the reference to goods zero-rated under the regulations there mentioned included a reference to goods zero-rated under any corresponding regulations made under the Act of Parliament;

(b) paragraph 12(3) of Schedule 12 (search of premises where offence is suspected) shall have effect as if the references to an offence in connection with VAT included references to an offence in connection with the VAT charged under the Act of Parliament; ⁵⁶⁷

(c) section 72(8) (course of conduct involving offences) shall have effect as if the reference to offences under the provisions there mentioned included a reference to offences under the corresponding provisions of the Act of Parliament.

98 Power of Treasury to vary or abolish rates of VAT
[1973/1/53]
The Treasury may by order vary or abolish the rates of VAT chargeable by virtue of this Act.

99 Service of notices
[1973/1/42; P1994/23/98]
Any notice, notification, requirement or demand to be served on, given to or made of any person for the purposes of this Act may be served, given or made by sending it by post in a letter addressed to that person or his VAT representative at the last or usual residence or place of business of that person or representative.

100 Information for the public
The Treasury shall, to such extent as it considers reasonable and practicable, —

(a) provide general advice to members of the public as to the operation and administration of VAT; and

(b) make available to taxable persons information and explanatory materials as to the operation and administration of VAT.

101 Savings and transitional provisions, consequential amendments and repeals
[P1994/23/100]
(1) Schedule 14 (savings and transitional provisions) shall have effect.

(2) The enactments specified in Schedule 15 are amended in accordance with that Schedule.

(3) The enactments specified in Schedule 16 are repealed to the extent mentioned in the third column of that Schedule.
(4) This section is without prejudice to the operation of sections 15 and 16 of the *Interpretation Act 1976* (which relate to the effect of repeals and substituting provisions).

102 Commencement

[P1994/23/101]

(1) This Act shall come into force on such day as may be appointed by order made by the Treasury and Part I shall have effect in relation to the charge to VAT on supplies, acquisitions and importations in prescribed accounting periods ending on or after that date.\(^{568}\)

(2) Without prejudice to section 16 of the *Interpretation Act 1976* (continuation of proceedings under repealed enactments) except in so far as it enables proceedings to be continued under repealed enactments, section 72 shall have effect on the commencement of this Act to the exclusion of section 38 of the 1973 Act.

(3) Without prejudice to Schedule 14, an order under subsection (1) may contain such transitional and saving provisions as the Treasury thinks expedient.

103 Short title

This Act may be cited as the Value Added Tax Act 1996.
Schedule 1

CHARGE AT REDUCED RATE

Section 29A

PART I – INDEX TO REDUCED-RATE SUPPLIES OF GOODS AND SERVICES

Caravans
Children’s car seats
Contraceptive products
Domestic fuel or power
Energy-saving materials: installation
Heating equipment, security goods and gas supplies: grant-funded installation or connection
Installation of mobility aids for the elderly
Residential renovations and alterations
Residential conversions
Smoking cessation product
Supply of sleeping accommodation
Welfare advice or information
Women’s sanitary products

PART II – THE GROUPS

GROUP 1 - SUPPLIES OF DOMESTIC FUEL OR POWER

Item No.

1. Supplies for qualifying use of —
   (a) coal, coke or other solid substances held out for sale solely as fuel;
   (b) coal gas, water gas, producer gases or similar gases;
   (c) petroleum gases, or other gaseous hydrocarbons, whether in a gaseous or liquid state;
   (d) fuel oil, gas oil or kerosene; or
   (e) electricity, heat or air-conditioning.

Notes:

Matters included or not included in the supplies

1. (1) Item 1(a) shall be deemed to include combustible materials put up for sale for kindling fires but shall not include matches.
(2) Item 1(b) and (c) shall not include any road fuel gas (within the meaning of the Hydrocarbon Oil Duties Act 1986) on which a duty of excise has been charged or is chargeable.

(3) Item 1(d) shall not include hydrocarbon oil on which a duty of excise has been or is to be charged without relief from, or rebate of, such duty by virtue of the provisions of the Hydrocarbon Oil Duties Act 1986.

Meaning of “fuel oil”, “gas oil” and “kerosene”

2. (1) In this Group “fuel oil” means heavy oil which contains in solution an amount of asphaltenes of not less than 0.5 per cent. or which contains less than 0.5 per cent. but not less than 0.1 per cent. of asphaltenes and has a closed flash point not exceeding 150°C.

(2) In this Group “gas oil” means heavy oil of which not more than 50 per cent. by volume distils at a temperature not exceeding 240°C and of which more than 50 per cent. by volume distils at a temperature not exceeding 340°C.

(3) In this Group “kerosene” means heavy oil of which more than 50 per cent. by volume distils at a temperature not exceeding 240°C.

(4) In this paragraph “heavy oil” has the same meaning as in the Hydrocarbon Oil Duties Act 1986.

Meaning of “qualifying use”

3. In this Group “qualifying use” means —

   (a) domestic use; or
   (b) use by a charity otherwise than in the course or furtherance of a business.

Supplies only partly for qualifying use

4. For the purposes of this Group, where there is a supply of goods partly for qualifying use and partly not —

   (a) if at least 60 per cent. of the goods are supplied for qualifying use, the whole supply shall be treated as a supply for qualifying use; and
   (b) in any other case, an apportionment shall be made to determine the extent to which the supply is a supply for a qualifying use.

Supplies deemed to be for domestic use

5. For the purposes of this Group the following supplies are always for domestic use —

   (a) a supply of not more than one tonne of coal or coke held out for sale as domestic fuel;
(b) a supply of wood, peat or charcoal not intended for sale by the recipient;

(c) a supply to a person at any premises of piped gas (that is, gas within item 1(b), or petroleum gas in a gaseous state, provided through pipes) where the gas (together with any other piped gas provided to him at the premises by the same supplier) was not provided at a rate exceeding 150 therms a month or, if the supplier charges for the gas by reference to the number of kilowatt hours supplied, 4397 kilowatt hours a month;

(d) a supply of petroleum gas in a liquid state where the gas is supplied in cylinders the net weight of each of which is less than 50 kilogrammes and either the number of cylinders supplied is 20 or fewer or the gas is not intended for sale by the recipient;

(e) a supply of petroleum gas in a liquid state, otherwise than in cylinders, to a person at any premises at which he is not able to store more than two tonnes of such gas;

(f) a supply of not more than 2,300 litres of fuel oil, gas oil or kerosene;

(g) a supply of electricity to a person at any premises where the electricity (together with any other electricity provided to him at the premises by the same supplier) was not provided at a rate exceeding 1000 kilowatt hours a month.

Other supplies that are for domestic use

6. For the purposes of this Group supplies not within paragraph 5 are for domestic use if and only if the goods supplied are for use in —

(a) a building, or part of a building, that consists of a dwelling or number of dwellings;

(b) a building, or part of a building, used for a relevant residential purpose;

(c) self-catering holiday accommodation;

(d) a caravan; or

(e) a houseboat.

Interpretation of paragraph 6

7. (1) For the purposes of this Group, “use for a relevant residential purpose” means use as —

(a) a home or other institution providing residential accommodation for children,

(b) a home or other institution providing residential accommodation with personal care for persons in need of personal care by reason
of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder,

(c) a hospice,
(d) residential accommodation for students or school pupils,
(e) residential accommodation for members of any of the armed forces,
(f) a monastery, nunnery or similar establishment, or
(g) an institution which is the sole or main residence of at least 90 per cent. of its residents,

except use as a hospital, a prison or similar institution or an hotel or inn or similar establishment.

(2) For the purposes of this Group “self-catering holiday accommodation” includes any accommodation advertised or held out as such.

(3) In paragraph 6 “houseboat” means a boat or other floating decked structure designed or adapted for use solely as a place of permanent habitation and not having means of, or capable of being readily adapted for, self-propulsion, unless the oil is —

(a) kerosene in respect of which a relevant declaration has been made under section 13AC(3) of that Act (use of rebated kerosene for private pleasure-flying); or
(b) oil in respect of which a relevant declaration has been made under section 14E(3) of that Act (use of rebated heavy oil for private pleasure craft).

GROUP 2 - INSTALLATION OF ENERGY-SAVING MATERIALS

Item No.

1. The supply of services of installing energy-saving materials in residential accommodation, where the energy-saving materials are not supplied by the person supplying the services.

2. The supply of services of installing energy-saving materials in residential accommodation, including the energy-saving materials installed, where —

(a) the supply is made to a qualifying person and the residential accommodation is the qualifying person’s sole or main residence;
(b) the supply is made to a relevant housing association; or
(c) the residential accommodation is a building, or part of a building, used solely for a relevant residential purpose.

3. The supply, in a case not falling within item 2, of services of installing energy-saving materials in residential accommodation, including the energy-saving materials installed (but see Note A1).
Notes:

**Restriction on item 3**

A1. (1) Item 3 does not apply to a supply so far as relating to the energy-saving materials installed if the open market value of the supply of the materials exceeds 60% of the cost of the total supply to the person to whom it is made.

(2) In this Note, the reference to cost is to cost net of VAT.\(^{574}\)

**Meaning of “energy-saving materials”**

1. For the purposes of this Group “energy-saving materials” means any of the following —
   - (a) insulation for walls, floors, ceilings, roofs or lofts or for water tanks, pipes or other plumbing fittings;
   - (b) draught stripping for windows and doors;
   - (c) central heating system controls (including thermostatic radiator valves);
   - (d) hot water system controls;
   - (e) solar panels;
   - (f) [Repealed]\(^{575}\)
   - (g) [Repealed]\(^{576}\)
   - (h) ground source heat pumps\(^{577}\)
   - (i) air source heat pumps\(^{578}\)
   - (j) micro combined heat and power units\(^{579}\)
   - (k) boilers designed to be fuelled solely by wood, straw or similar vegetal matter\(^{580}\)

**Meaning of “residential accommodation”**

2. (1) For the purposes of this Group “residential accommodation” means —
   - (a) a building, or part of a building, that consists of a dwelling or a number of dwellings;
   - (b) a building, or part of a building used for a relevant residential purpose;
   - (c) a caravan used as a place of permanent habitation; or
   - (d) a houseboat.

(2) For the purposes of this Group “use for a relevant residential purpose” has the same meaning as it has for the purposes of Group 1 (see paragraph 7(1) of the Notes to that Group).
(3) In sub-paragraph (1)(d) “houseboat” has the meaning given by paragraph 7(3) of the Notes to Group 1.

Meaning of “use for a relevant charitable purpose”

3. [Repealed]^{581}

Meaning of “qualifying person”

4. For the purposes of this Group “qualifying person” has the same meaning as it has for the purposes of Group 3 (see paragraph 6 of the Notes to that Group).^{582}

Meaning of “relevant housing association”

5. For the purposes of this Group “relevant housing association” has the meaning given by Note (21) of Group 5 of Schedule 9 (zero-rating: construction of buildings etc.).^{583}

GROUP 3 - GRANT-FUNDED INSTALLATION OF HEATING EQUIPMENT OR SECURITY GOODS OR CONNECTION OF GAS SUPPLY

Item No.

1. Supplies to a qualifying person of any services of installing heating appliances in the qualifying person’s sole or main residence.

2. Supplies of heating appliances made to a qualifying person by a person who installs those appliances in the qualifying person’s sole or main residence.

3. Supplies to a qualifying person of services of connecting, or reconnecting, a mains gas supply to the qualifying person’s sole or main residence.

4. Supplies of goods made to a qualifying person by a person connecting, or reconnecting, a mains gas supply to the qualifying person’s sole or main residence, being goods whose installation is necessary for the connection, or reconnection, or the mains gas supply.

5. Supplies to a qualifying person of services of installing, maintaining or repairing a central heating system in the qualifying person’s sole or main residence.

6. Supplies of goods made to a qualifying person by a person installing, maintaining or repairing a central heating system in the qualifying person’s sole or main residence, being goods whose installation is necessary for the installation, maintenance or repair of the central heating system.

7. Supplies consisting in the leasing of goods that form the whole or part of a central heating system installed in the sole or main residence of a qualifying person.

8. Supplies of goods that form the whole or part of a central heating system installed in a qualifying person’s sole or main residence and that, immediately before being
supplied, were goods leased under arrangements such that the consideration for the supplies consisting in the leasing of the goods was, in whole or in part, funded by a grant made under a relevant scheme.

8A. Supplies to a qualifying person of services of installing, maintaining or repairing a renewable source heating system in the qualifying person’s sole or main residence.\footnote{8A}

8B. Supplies of goods made to a qualifying person by a person installing, maintaining or repairing a renewable source heating system in the qualifying person’s sole or main residence, being goods whose installation is necessary for the installation, maintenance or repair of the system.\footnote{8B}

9. Supplies to a qualifying person of services of installing qualifying security goods in the qualifying person’s sole or main residence.

10. Supplies of qualifying security goods made to a qualifying person by a person who installs those goods in the qualifying person’s sole or main residence.

Notes:

Supply only included so far as grant-funded

1. (1) Each of items 1 to 7 and 8A to 10 applies to a supply only to the extent that the consideration for the supply is, or is to be, funded by a grant made under a relevant scheme.\footnote{1}

(2) Item 8 applies to a supply only to the extent that the consideration for the supply —

(a) is, or is to be, funded by a grant made under a relevant scheme; or

(b) is a payment becoming due only by reason of the termination (whether by the passage of time or otherwise) of the leasing of the goods in question.

Meaning of “relevant scheme”

2. (1) For the purposes of this Group a scheme is a “relevant scheme” if it is one which satisfies the conditions specified in this paragraph.

(2) The first condition is that the scheme has as one of its objectives the funding of the installation of energy-saving materials in the homes of any persons who are qualifying persons.

(3) The second condition is that the scheme disburses, whether directly or indirectly, its grants in whole or in part out of funds made available to it in order to achieve that objective —

(a) by a Department or Statutory Board, or

(b) by a local authority.
Apportionment of grants that also cover other supplies

3. Where a grant is made under a relevant scheme in order —
   (a) to fund a supply of a description to which any of items 1 to 10 applies (“the relevant supply”), and
   (b) also to fund a supply to which none of those items applies (“the non-relevant supply”),

the proportion of the grant that is to be attributed, for the purposes of paragraph 1, to be relevant supply shall be the same proportion as the consideration reasonably attributable to that supply bears to the consideration for that supply and for the non-relevant supply.

Meaning of “heating appliances”

4. For the purposes of items 1 and 2 “heating appliances” means any of the following —
   (a) gas-fired room heaters that are fitted with thermostatic controls;
   (b) electric storage heaters;
   (c) closed solid fuel fire cassettes;
   (d) electric dual immersion water heaters with factory-insulated hot water tanks;\(^{\text{587}}\)
   (e) gas-fired boilers;
   (f) oil-fired boilers;
   (g) radiators.

Meaning of “central heating system”

4A. For the purposes of items 5 to 8 “central heating system” includes a system which generates electricity.\(^{\text{588}}\)

Meaning of “renewable source heating system”

4B. For the purposes of items 8A and 8B “renewable source heating system” means a space or water heating system which uses energy from —
   (a) renewable sources, including solar, wind and hydroelectric power, or
   (b) near renewable resources, including ground and air heat.\(^{\text{589}}\)

Meaning of “qualifying security goods”

5. For the purposes of items 9 and 10 “qualifying security goods” means any of the following —
   (a) locks or bolts for windows;
(b) locks, bolts or security chains for doors;
(c) spy holes;
(d) smoke alarms.

Meaning of “qualifying person”

6. (1) For the purposes of this Group, a person to whom a supply is made is “a qualifying person” if at the time of the supply he —
   (a) is aged 60 or over; or
   (b) is in receipt of one or more of the benefits mentioned in subparagraph (2).

(2) Those benefits are —
   (a) disability living allowance under Part III of the Contributions and Benefits Act;
   (b) disability living allowance under Part VII of the Contributions and Benefits Act;
   (c) family income supplement under Part VII of the Contributions and Benefits Act;
   (d) an income-based jobseekers’ allowance within the meaning of section 1(4) of the Jobseekers Act 1995 (an Act of Parliament), as it has effect in the Island;
   (e) income support under Part VII of the Social Security Contributions and Benefits Act 1992 (as that Act has effect in the Island);
   (f) disablement pension under Part V of the Contributions and Benefits Act, which is payable at the increased rate provided for under section 104 (constant attendance allowance) of the Act concerned; and
   (g) war disablement pension under the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983, which is payable at the increased rate provided for under article 14 (constant attendance allowance) or article 26 (mobility supplement) of that Order.

(3) In sub-paragraph (2) “the Contributions and Benefits Act” means the Social Security Contributions and Benefits Act 1992 (an Act of Parliament, as it has effect in the Island).

GROUP 4 - WOMEN’S SANITARY PRODUCTS

Item No.

1. Supplies of women’s sanitary products.

Notes:
Meaning of “women’s sanitary products”

1. (1) In this Group “women’s sanitary products” means women’s sanitary products of any of the following descriptions —
   (a) subject to sub-paragraph (2), products that are designed, and marketed, as being solely for use for absorbing, or otherwise collecting, lochia or menstrual flow;
   (b) panty liners, other than panty liners that are designed as being primarily for use as incontinence products;
   (c) sanitary belts.

   (2) Sub-paragraph (1)(a) does not include protective briefs or any other form of clothing.

GROUP 5 - CHILDREN’S CAR SEATS

Item No.

1. Supplies of children’s car seats.

Notes:

Meaning of “children’s car seats”

1. (1) For the purposes of this Group, the following are “children’s car seats”—
   (a) a safety seat;
   (aa) a related base unit for a safety seat;\textsuperscript{590}
   (b) the combination of a safety seat and related wheeled framework;
   (c) a booster seat;
   (d) a booster cushion.

   (2) In this Group “child” means a person aged under 14 years.

Meaning of “safety seat”

2. In this Group “safety seat” means a seat —
   (a) designed to be sat in by a child in a road vehicle;
   (b) designed so that, when in use in a road vehicle, it can be restrained in one or more of the following ways —
      (i) by a seat belt fitted in the vehicle, or
      (ii) by belts, or anchorages, that form part of the seat being attached to the vehicle, or
      (iii) by a related base unit; and\textsuperscript{591}
incorporating an integral harness, or integral impact shield, for restraining a child seated in it.

**Meaning of “related base unit”**

2A. In this Group, “related base unit” means a base unit which is designed solely for the purpose of attaching a safety seat securely in a road vehicle by means of anchorages that form part of the base unit and which, when in use in a road vehicle, can be restrained in one or more of the following ways —

(a) by a seat belt fitted in the vehicle, or
(b) by permanent anchorage points in the vehicle; or
(c) by belts attached to permanent anchorage points in the vehicle.\(^{592}\)

**Meaning of “related wheeled framework”**

3. For the purposes of this Group, a wheeled framework is “related” to a safety seat if the framework and the seat are each designed so that —

(a) when the seat is not in use in a road vehicle it can be attached to the framework, and
(b) when the seat is so attached, the combination of the seat and the framework can be used as a child’s pushchair.

**Meaning of “booster seat”**

4. In this Group “booster seat” means a seat designed —

(a) to be sat in by a child in a road vehicle, and
(b) so that, when in use in a road vehicle, it and a child seated in it can be restrained by a seat belt fitted in the vehicle.

**Meaning of “booster cushion”**

5. In this Group “booster cushion” means a cushion designed —

(a) to be sat on by a child in a road vehicle, and
(b) so that a child seated on it can be restrained by a seat belt fitted in the vehicle.

GROUP 6 - RESIDENTIAL CONVERSIONS

Item No.

1. The supply, in the course of a qualifying conversion, of qualifying services related to the conversion.

2. The supply of building materials if —
(a) the materials are supplied by a person who, in the course of a qualifying conversion, is supplying qualifying services related to the conversion, and

(b) those services include the incorporation of the materials in the building concerned or its immediate site.

Notes:

_Supplies only partly within item 1_

1. (1) Sub-paragraph (2) applies where a supply of services is only in part a supply to which item 1 applies.

   (2) The supply, to the extent that it is one to which item 1 applies, is to be taken to be a supply to which item 1 applies.

   (3) An apportionment may be made to determine that extent.

_Meaning of “qualifying conversion”_

2. (1) A “qualifying conversion” means —

   (a) a changed number of dwellings conversion (see paragraph 3);
   (b) a house in multiple occupation conversion (see paragraph 5); or
   (c) a special residential conversion (see paragraph 7).

   (2) Sub-paragraph (1) is subject to paragraphs 9 and 10.

_Meaning of “changed number of dwellings conversion”_

3. (1) A “changed number of dwellings conversion” is —

   (a) a conversion of premises consisting of a building where the conditions specified in this paragraph are satisfied, or
   (b) a conversion of premises consisting of a part of a building where those conditions are satisfied.

   (2) The first condition is that after the conversion the premises being converted contain a number of single household dwellings that is —

       (a) different from the number (if any) that the premises contain before the conversion, and
       (b) greater than, or equal to, one.

   (3) The second condition is that there is no part of the premises being converted that is a part that after the conversion contains the same number of single household dwellings (whether zero, one or two or more) as before the conversion.
Meaning of “single household dwelling” and “multiple occupancy dwelling”

4. (1) For the purposes of this Group “single household dwelling” means a dwelling —
   (a) that is designed for occupation by a single household, and
   (b) in relation to which the conditions set out in sub-paragraph (3) are satisfied.

   (2) For the purposes of this Group “multiple occupancy dwelling” means a dwelling —
   (a) that is designed for occupation by a single household,
   (aa) that is not to any extent used for a relevant residential purpose,
   (b) in relation to which the conditions set out in sub-paragraph (3) are satisfied.

   (3) The conditions are —
   (a) that the dwelling consists of self-contained living accommodation,
   (b) that there is no provision for direct internal access from the dwelling to any other dwelling or part of a dwelling,
   (c) that the separate use of the dwelling is not prohibited by the terms of a covenant, statutory planning consent or similar provision, and
   (d) that the separate disposal of the dwelling is not prohibited by any such terms.

   (4) For the purposes of this paragraph, a dwelling “is designed” for occupation of a particular kind if it is so designed —
   (a) as a result of having been originally constructed for occupation of that kind and not having been subsequently adapted for occupation of any other kind, or
   (b) as a result of adaptation.

Meaning of “house in multiple occupation conversion”

5. (1) A “house in multiple occupation conversion” is —
   (a) a conversion of premises consisting of a building where the condition specified in sub-paragraph (2) is satisfied, or
   (b) a conversion of premises consisting of a part of a building where that condition is satisfied.

   (2) The condition is that —
   (a) before the conversion the premises being converted do not contain any multiple occupancy dwellings,
   (b) after the conversion those premises contain only a multiple occupancy dwelling or two or more such dwellings, and
the use to which those premises are intended to be put after the conversion is not to any extent use for a relevant residential purpose.

Meaning of “use for a relevant residential purpose”

6. For the purposes of this Group “use for a relevant residential purpose” means use as —

(a) a home or other institution providing residential accommodation for children,
(b) a home or other institution providing residential accommodation with personal care for persons in need of personal care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder,
(c) a hospice,
(d) residential accommodation for students or school pupils,
(e) residential accommodation for members of any of the armed forces,
(f) a monastery, nunnery or similar establishment, or
(g) an institution which is the sole or main residence of at least 90 per cent. of its residents,

except use as a hospital, prison or similar institution or an hotel, inn or similar establishment.

Meaning of “special residential conversion”

7. (1) A “special residential conversion” is a conversion of premises consisting of —

(a) a building or two or more buildings,
(b) a part of a building or two or more parts of buildings, or
(c) a combination of —
   (i) a building or two or more buildings, and
   (ii) a part of a building or two or more parts of buildings,

where the conditions specified in this paragraph are satisfied.

(2) The first condition is that —

(a) the use to which the premises being converted were last put before the conversion was not to any extent use for a relevant residential purpose, and
(b) those premises are intended to be used solely for a relevant residential purpose after the conversion.595

(3) to (5) [Repealed]596
(6) The second condition is that, where the relevant residential purpose for which the premises are intended to be used is an institutional purpose, the premises being converted must be intended to form after the conversion the entirety of an institution used for that purpose.\textsuperscript{597}

(7) In sub-paragraph (6) “institutional purpose” means a purpose within paragraph 6(a) to (c), (f) or (g).

Special residential conversions: reduced rate only for supplies made to intended user of converted accommodation

8. (1) This paragraph applies where the qualifying conversion concerned is a special residential conversion.

(2) Item 1 or 2 does not apply to a supply unless —
   (a) it is made to a person who intends to use the premises being converted for the relevant residential purpose, and
   (b) before it is made, the person to whom it is made has given to the person making it a certificate that satisfies the requirements in sub-paragraph (3).

(3) Those requirements are that the certificate —
   (a) is in such form as may be specified in a notice published by the Treasury, and
   (b) states that the conversion is a special residential conversion.

(4) In sub-paragraph (2)(a) “the relevant residential purpose” means the purpose within paragraph 6 for which the premises being converted are intended to be used after the conversion.

“Qualifying conversion” includes related garage works

9. (1) A qualifying conversion includes any garage works related to the —
   (a) changed number of dwellings conversion,
   (b) house in multiple occupation conversion, or
   (c) special residential conversion,

concerned.

(2) In this paragraph “garage works” means —
   (a) the construction of a garage, or
   (b) a conversion of a non-residential building, or of a non-residential part of a building; that results in a garage.

(3) For the purposes of sub-paragraph (1), garage works are “related” to a conversion if —
   (a) they are carried out at the same time as the conversion, and
(b) the resulting garage is intended to be occupied with —
   (i) where the conversion concerned is a changed number of
dwellings conversion, a single household dwelling that will
after the conversion be contained in the building, or part of
a building, being converted,
   (ii) where the conversion concerned is a house in multiple
occupation conversion, a multiple occupancy dwelling that
will after the conversion be contained in the building, or
part of a building, being converted, or
   (iii) where the conversion concerned is a special residential
conversion, the institution or other accommodation
resulting from the conversion.

(4) In sub-paragraph (2) “non-residential” means neither designed, nor
adapted, for use —
   (a) as a dwelling or two or more dwellings, or
   (b) for a relevant residential purpose.

Conversion not “qualifying” if planning consent and building control approval not
obtained

10. (1) A conversion is not a qualifying conversion if any statutory planning
consent needed for the conversion has not been granted.

    (2) A conversion is not a qualifying conversion if any statutory building
control approval needed for the conversion has not been granted.

Meaning of “supply of qualifying services”

11. (1) In the case of a conversion of a building, “supply of qualifying services”
means a supply of services that consists in —
   (a) the carrying out of works to the fabric of the building, or
   (b) the carrying out of works within the immediate site of the building
that are in connection with —
      (i) the means of providing water, power, heat or access to the
building,
      (ii) the means of providing drainage or security for the
building, or
      (iii) the provision of means of waste disposal for the building.

    (2) In the case of a conversion of part of a building, “supply of qualifying
services” means a supply of services that consists in —
       (a) the carrying out of works to the fabric of the part, or
       (b) the carrying out of works to the fabric of the building, or within the
immediate site of the building, that are in connection with —
(i) the means of providing water, power, heat or access to the part,
(ii) the means of providing drainage or security for the part, or
(iii) the provision of means of waste disposal for the part.

(3) In this paragraph —
(a) references to the carrying out of works to the fabric of a building do not include the incorporation, or installation as fittings, in the building of any goods that are not building materials;
(b) references to the carrying out of works to the fabric of a part of a building do not include the incorporation, or installation as fittings, in the part of any goods that are not building materials.

Meaning of “building materials”

12. In this Group “building materials” has the meaning given by Notes (22) and (23) of Group 5 to Schedule 9 (zero-rating of construction and conversion of buildings).

GROUP 7 - RESIDENTIAL RENOVATIONS AND ALTERATIONS

Item No.

1. The supply, in the course of the renovation or alteration of qualifying residential premises, of qualifying services relate[d] to the renovation or alteration.

2. The supply of building materials if —

(a) the materials are supplied by a person who, in the course of the renovation or alteration of qualifying residential premises, is supplying qualifying services related to the renovation or alteration, and

(b) those services include the incorporation of the materials in the premises concerned or their immediate site.

Notes:

Supplies only partly within item 1

1. (1) Sub-paragraph (2) applies where a supply of services is only in part a supply to which item 1 applies.

(2) The supply, to the extent that it is one to which item 1 applies, is to be taken to be a supply to which item 1 applies.

(3) An apportionment may be made to determine that extent.

Meaning of “alteration” and “qualifying residential premises”

2. (1) For the purposes of this Group —
“alteration” includes extension;

“qualifying residential premises” means —
(a) a single household dwelling,
(b) a multiple occupancy dwelling, or
(c) a building, or part of a building, which, when it was last lived in, was used for a relevant residential purpose.

(2) Where a building, when it was last lived in, formed part of a relevant residential unit then, to the extent that it would not be so regarded otherwise, the building shall be treated as having been used for a relevant residential purpose.

(3) A building forms part of a relevant residential unit at any time when —
(a) it is one of a number of buildings on the same site, and
(b) the buildings are used together as a unit for a relevant residential purpose.

(4) The following expressions have the same meaning in this Group as they have in Group 6 —

“multiple occupancy dwelling” (paragraph 4(2) of the Notes to that Group);
“single household dwelling” (paragraph 4(1) of the Notes);
“use for a relevant residential purpose” (paragraph 6 of the Notes).

Items 1 and 2 only apply where premises have been empty for at least 2 years

3. (1) Item 1 or 2 does not apply to a supply unless —
(a) the first empty home condition is satisfied, or
(b) if the premises are a single household dwelling, either of the empty home conditions is satisfied.

(2) The first “empty home condition” is that neither —
(a) the premises concerned, nor
(b) where those premises are a building, or part of a building, which, when it was last lived in, formed part of a residential unit, any of the other buildings that formed part of the unit, have been lived in during the period of 2 years ending with the commencement of the relevant works.

(3) The second “empty home condition” is that —
(a) the dwelling was not lived in during a period of at least 2 years;
(b) the person, or one of the persons, whose beginning to live in the dwelling brought that period to an end was a person who (whether alone or jointly with another or others) acquired the dwelling at a time —
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(i) not later than the end of that period, and
(ii) when the dwelling had been not lived in for at least 2 years.\(^607\)

(c) no works by way of renovation or alteration were carried out to the dwelling during the period of 2 years ending with the acquisition;\(^608\)

(d) the supply is made to a person who is —
   (i) the person, or one of the persons, whose beginning to live in the property brought to an end the period mentioned in paragraph (a), and
   (ii) the person, or one of the persons, who acquired the dwelling as mentioned in paragraph (b); and

(e) the relevant works are carried out during the period of one year beginning with the day of the acquisition.

(4) In this paragraph “the relevant works” means —
   (a) where the supply is of the description set out in item 1, the works that constitute the services supplied;
   (b) where the supply is of a description set out in item 2, the works by which the materials concerned are incorporated in the premises concerned or their immediate site.\(^609\)

(5) In sub-paragraph (3), references to a person acquiring a dwelling are to that person having a major interest in the dwelling granted, or assigned, to him for a consideration.

*Items 1 and 2 apply to related garage works*

3A. (1) For the purposes of this Group a renovation or alteration of any premises includes any garage works related to the renovation or alteration.

(2) In this paragraph “garage works” means —
   (a) the construction of a garage,
   (b) the conversion of a building, or of a part of a building, that results in a garage, or
   (c) the renovation or alteration of a garage.

(3) For the purposes of sub-paragraph (1), garage works are “related” to a renovation or alteration if —
   (a) they are carried out at the same time as the renovation or alteration of the premises concerned, and
   (b) the garage is intended to be occupied with the premises.\(^610\)
Items 1 and 2 only apply if planning consent and building control approval obtained

4. (1) Item 1 or 2 does not apply to a supply unless any statutory planning consent needed for the renovation or alteration has been granted.
   
(2) Item 1 or 2 does not apply to a supply unless any statutory building control approval needed for the renovation or alteration has been granted.

Items 1 and 2 only apply if building used for relevant residential purpose is subsequently used solely for that purpose

4A. (1) Item 1 or 2 does not apply to a supply if the premises in question are a building, or part of a building, which, when it was last lived in, was used for a relevant residential purpose unless —
   
(a) the building or part is intended to be used solely for such a purpose after the renovation or alteration, and
   
(b) before the supply is made the person to whom it is made has given the person making it a certificate stating that intention.
   
(2) Where a number of buildings on the same site are —
   
(a) renovated or altered at the same time, and
   
(b) intended to be used together as a unit solely for a relevant residential purpose,

then each of those buildings, to the extent that it would not be so regarded otherwise, shall be treated as intended for use solely for a relevant residential purpose.\textsuperscript{611}

Meaning of “supply of qualifying services”

5. (1) “\textit{Supply of qualifying services}” means a supply of services that consists in —
   
(a) the carrying out of works to the fabric of the premises, or\textsuperscript{612}
   
(b) the carrying out of works within the immediate site of the premises that are in connection with —
   
(i) the means of providing water, power, heat or access to the premises,\textsuperscript{613}
   
(ii) the means of providing drainage or security for the premises, or\textsuperscript{614}
   
(iii) the provision of means of waste disposal for the premises.\textsuperscript{615}  \textsuperscript{616}
   
(2) In sub-paragraph (1)(a), the reference to the carrying out of works to the fabric of the premises does not include the incorporation, or installation as fittings, in the premises of any goods that are not building materials.\textsuperscript{617}
Meaning of “building materials”

6. In this Group “building materials” has the meaning given by Notes (22) and (23) of Group 5 to Schedule 9 (zero-rating of construction and conversion of buildings).

GROUP 8 - SUPPLY OF SLEEPING ACCOMMODATION

Item No.

1. The supplies falling within this Group are supplies of accommodation provided in —
   (a) hotels, guest-houses or hostels;
   (b) self-catering holiday dwellings of any description;
   (c) holiday or recreation camps or centres;
   (d) caravan sites or caravan parks, including the provision of pitches for caravans;
   (e) camp sites, including the provision of pitches for tents;
   (f) other similar establishments,

which are situated in the Island or the territorial waters adjacent to the Island.

GROUP 9 - CONTRACEPTIVE PRODUCTS

Item No.

1. Supplies of contraceptive products, other than relevant exempt supplies.

Notes:

Meaning of “contraceptive products”

1. In this Group, “contraceptive product” means any product designed for the purposes of human contraception, but does not include any product designed for the purpose of monitoring fertility.

Meaning of “relevant exempt supplies”

2. In this Group, “relevant exempt supplies” means supplies which fall within item 4 of Group 7 of Schedule 10 (exempt supplies of goods in any hospital etc in connection with medical or surgical treatment etc).

GROUP 10 - WELFARE ADVICE OR INFORMATION

Item No.

1. Supplies of welfare advice or information by —
   (a) a charity, or
(b) a state-regulated private welfare institution or agency.

Notes:

Meaning of “welfare advice or information”

1. In this Group, “welfare advice or information” means advice or information which directly relates to —
   (a) the physical or mental welfare of elderly, sick, distressed or disabled persons, or
   (b) the care or protection of children and young persons.

Meaning of “state-regulated”

2. For the purposes of this Group, “state-regulated” has the same meaning as in Group 7 (health and welfare) of Schedule 10 (see Note (7) of that Group).

Supplies not included in item 1

3. Item 1 does not include —
   (a) supplies that would be exempt by virtue of Group 6 of Schedule 10 (education) if they were made by an eligible body within the meaning of that Group,
   (b) supplies of goods, unless the goods are supplied wholly or almost wholly for the purpose of conveying the advice or information, or
   (c) supplies of advice or information provided solely for the benefit of a particular individual or according to his personal circumstances.

GROUP 11 - INSTALLATION OF MOBILITY AIDS FOR THE ELDERLY

Item No.

1. The supply of services of installing mobility aids for use in domestic accommodation by a person who, at the time of the supply, is aged 60 or over.

2. The supply of mobility aids by a person installing them for use in domestic accommodation by a person who, at the time of the supply, is aged 60 or over.

Notes:

Meaning of “mobility aids”

1. For the purposes of this Group, “mobility aids” means any of the following —
   (a) grab rails;
   (b) ramps;
   (c) stair lifts;
(d) bath lifts;
(e) built-in shower seats or showers containing built-in shower seats;
(f) walk-in baths fitted with sealable doors.

*Meaning of “domestic accommodation”*

2. For the purposes of this Group, “domestic accommodation” means a building, or part of a building, that consists of a dwelling or a number of dwellings.\(^{618}\)

**GROUP 12 - SMOKING CESSATION PRODUCTS**

**Item No.**

1. Supplies of pharmaceutical products designed to help people to stop smoking tobacco.\(^{619}\)

**GROUP 13 - CARAVANS**

**Item No**

1. Supplies of caravans which exceed the limits of size of a trailer for the time being permitted to be towed on roads by a motor vehicle having a maximum gross weight of 3,500 kilogrammes.

2. The supply of such services as are described in paragraph 1(1) or 5(4) of Schedule 5 in respect of a caravan within item 1.

**Note:**

This Group does not include —

(a) removable contents other than goods of a kind mentioned in item 4 of Group 5 of Schedule 9; or

(b) the supply of accommodation in a caravan.\(^{620}\)

**Schedule 1A\(^{621}\)**

**SUPPLEMENTARY CHARGE AND MINOR AMENDMENTS**

**PART 1 – SUPPLEMENTARY CHARGE TO VAT**

**1 The charge**

(1) There is a supplementary charge on a supply of goods or services that is treated as taking place on or after 25 November 2008 if —

(a) the supply spans the date of the VAT change;

(b) it is subject to VAT at the rate in force under section 2 of the Act;
(c) the person to whom the supply is made is not entitled under the Act to credit for, or the repayment or refund of, all of the VAT on the supply, and

(d) a relevant condition is met.

(2) In this Schedule, “the date of the VAT change” means 1 January 2010.

(3) For the cases in which a supply, other than the grant of a right to goods or services spans the date of the VAT change and the relevant conditions in relation to such a supply, see paragraph 2.

(4) For the cases in which a supply consisting of the grant of a right to goods or services spans the date of the VAT change and the relevant conditions in relation to such a supply, see paragraph 3.

(5) Sub-paragraph (1) has effect subject to the exceptions made by or under Part 2.

(6) In this Schedule —

Part 3 contains provision about liability for, and the amount of, a supplementary charge under this Schedule;

Part 4 contains special provision about listed supplies; and

Part 5 contains provision about administration and interpretation.

2 Supply spanning the date of the VAT change

(1) For the purposes of this Schedule, a supply of goods or services spans the date of the VAT change where —

(a) by virtue of the issue of a VAT invoice or the receipt of a payment by the person making the supply (“the supplier”), the supply is treated as taking place before the date of the VAT change; but

(b) the basic time of supply (see paragraph 4) is on or after the date of the VAT change.

(2) The relevant conditions are —

(a) in relation to a supply that is within sub-paragraph (1)(a) by virtue of the issue of a VAT invoice, conditions A to D; and

(b) in relation to a supply that is within sub-paragraph (1)(a) by virtue of the receipt of a payment, conditions A to C.

(3) Condition A is that the supplier and the person to whom the supply is made are connected with each other at any time in the period —

(a) beginning with the day on which the supply is treated as taking place; and

(b) ending on the date of the VAT change.

(4) Paragraph 5 modifies condition A in cases involving a series of supplies.

(5) Condition B is that the aggregate of the following is more than £100,000 —
(a) the relevant consideration for the supply; and
(b) the relevant consideration for every related supply of goods or services (including every related grant of a right to goods or services) that spans the date of the VAT change (see paragraph 6).

(6) Condition C is that a prepayment in respect of the supply is financed by the supplier or a person connected with the supplier (see paragraph 7).

(7) In sub-paragraph (6) “prepayment”, in respect of a supply, means a payment that is received by the supplier before the basic time of supply.

(8) Condition D is that full payment of the amount shown on the VAT invoice referred to in sub-paragraph (1)(a) is not due before the end of the period of 6 months beginning with the date on which the invoice is issued.

(9) This paragraph does not apply in relation to a supply consisting of the grant of a right to goods or services (see paragraph 3).

3 Grant of right spanning the date of the VAT change

(1) For the purposes of this Schedule, a supply consisting of the grant by a person (“the grantor”) of a right to goods or services spans the date of the VAT change where —

(a) that supply is treated as taking place before the date of the VAT change;
(b) the goods or services are to be supplied at a discount or free of charge; and
(c) the basic time of supply for the supply of some or all of the goods or services (see paragraph 4) is on or after the date of the VAT change.

(2) In relation to the grant of the right, the relevant conditions are conditions A to C.

(3) Condition A is that the grantor and the person to whom the right is granted are connected with each other at any time in the period —

(a) beginning with the day on which the supply consisting of the grant of the right is treated as taking place; and
(b) ending on the date of the VAT change or, if the right is exercised (entirely or partly) on a later date, that date (or, if more than one, the first of those dates).

(4) Paragraph 5 modifies condition A in cases involving a series of supplies.

(5) Condition B is that the aggregate of the following is more than £100,000 —

(a) the relevant consideration for the grant of the right; and
(b) the relevant consideration for every related supply of goods or services (including every related grant of a right to goods or services) that spans the date of the VAT change (see paragraph 6).
(6) Condition C is that the payment made in respect of the grant of the right is financed by the grantor or a person connected with the grantor (see paragraph 7).

(7) In this Schedule references to a right to goods or services include —
   (a) any right or option with respect to such goods or services; and
   (b) any interest deriving from such a right or option.

4 “Basic time of supply”

(1) In this Schedule the “basic time of supply” is the time given by subsection (2) or (3) of section 6 of the Act (disregarding subsections (4) to (14) of that section).

(2) Sub-paragraph (1) does not apply in relation to listed supplies (see Part 4 of this Schedule).

5 Series of supplies

(1) This paragraph applies where —
   (a) the supply or grant of a right referred to in paragraph 2 or 3 (the “affected supply or grant”) is one of a series of supplies of, or grants of a right to, the same or substantially the same goods or services; and
   (b) each of the supplies, and the grants of a right, in the series was or will be made in the expectation that the affected supply or grant would or will take place.

(2) In condition A in paragraphs 2 and 3, the references to the supplier and the grantor include any person who makes one of the supplies or grants one of the rights in the series.

6 “Relevant consideration” and “related” supplies

(1) This paragraph applies for the purposes of condition B in paragraphs 2 and 3.

(2) “Relevant consideration” means —
   (a) in relation to a supply that is within paragraph 2(1) by virtue of the issue of a VAT invoice, the amount shown on that invoice;
   (b) in relation to a supply that is within paragraph 2(1) by virtue of the receipt of a payment, the amount of that payment; and
   (c) in relation to a grant of a right to goods or services within paragraph 3(1), the consideration for the grant of the right;

but does not include any amount in respect of VAT.
(3) A supply within paragraph 2(1), or a grant of a right within paragraph 3(1), is related to another such supply or grant if they are both made as part of the same scheme.

(4) “Scheme” includes any arrangements, transaction or series of transactions.

7 Financing

(1) This paragraph applies for the purposes of condition C in paragraphs 2 and 3.

(2) A payment is financed by a person if, directly or indirectly, the person —

(a) provides funds to enable the person to whom the supply is made to make the whole or part of the payment (whether the funds are provided before or after the payment is made);

(b) procures the provision of such funds by another person;

(c) provides funds for discharging (in whole or in part) any liability that has been or may be incurred by any person for or in connection with raising funds to enable the person to whom the supply is made to make the payment; or

(d) procures that any such liability is or will be discharged (in whole or in part) by another person.

(3) In sub-paragraph (2) the references to providing funds for a purpose are to —

(a) making a loan of funds that are or are to be used for that purpose;

(b) providing a guarantee or other security in relation to such a loan;

(c) providing consideration for the issue of shares or other securities issued wholly or partly for raising those funds;

(d) providing consideration for the acquisition by any person of any such shares or securities; or

(e) any other transfer of assets or value as a consequence of which any of those funds are made available for that purpose.

8 Connected persons

Section 119C (connected persons) of the Income Tax Act 1970 applies for the purposes of this Schedule.

9 Receipt of payments

In this Schedule a reference to receipt of a payment by the person making a supply or granting a right (however expressed) includes a reference to receipt by a person to whom a right to receive it has been assigned.
10 Supplies treated as taking place before 31 March 2009

In relation to supplies treated as taking place before 31 March 2009, this Schedule has effect as if —

(a) paragraphs 2(5), 3(5) and (6) (condition B) and all references to condition B were omitted;

(b) in paragraph 2(6) (condition C), the words “or a person connected with the supplier” were omitted; and

(c) in paragraph 3(6) (condition C), the words “or a person connected with the grantor” were omitted.

PART 2 – EXCEPTIONS

11 Letting etc of assets

(1) This paragraph applies in relation to a supply within paragraph 2 which arises from the letting, hiring or rental of assets.

(2) There is no supplementary charge under this Schedule if —

(a) the period to which the VAT invoice or payment referred to in paragraph 2(1) relates does not exceed 12 months; and

(b) the VAT invoice is issued, or the payment is received, in accordance with normal practice in relation to the letting, hiring or rental of such assets.

12 Condition B cases involving normal commercial practice

There is no supplementary charge under this Schedule on a supply of goods or services within paragraph 2 or a grant of a right to goods or services within paragraph 3 if —

(a) the only relevant condition met is condition B; and

(b) the supply is made, or the right is granted, in accordance with normal commercial practice in relation to the supply of, or the grant of a right to, such goods or services.

13 Normal commercial practice

In this Part “normal commercial practice” means normal commercial practice at a time when an increase in the rate of VAT in force under section 2 of Value Added Tax Act 1996 is not expected.

14 Further exceptions

(1) The Treasury may by order provide that there is no supplementary charge under this Schedule on supplies (including grants of rights to goods or services) of a description specified in the order.
(2) An order under this paragraph may make provision having effect in relation to supplies of goods or services that are treated as taking place on or after 25 November 2008 or a later date.

PART 3 – LIABILITY AND AMOUNT

15 Liability

(1) A supplementary charge under this Schedule on a supply within paragraph 2 —

(a) is a liability of the supplier (subject to sub-paragraph (3)); and

(b) becomes due on the date of the VAT change (rather than at the time of supply).

(2) A supplementary charge under this Schedule on a supply consisting of the grant of a right to goods or services within paragraph 3 —

(a) is a liability of the grantor (subject to sub-paragraph (3)); and

(b) becomes due on the first occasion on or after the date of the VAT change on which the right is exercised (rather than at the time the right is granted).

(3) If, on the date on which the supplementary charge becomes due, the person who would be liable to pay the charge under sub-paragraph (1) or (2) —

(a) is not a taxable person; but

(b) is treated as a member of a group under sections 43A to 43D of the Act;

the supplementary charge is a liability of the representative member of the group.

16 Amount

(1) The amount of the supplementary charge on a supply within paragraph 2 is equal to the difference between —

(a) the amount of VAT chargeable on the supply apart from this Schedule; and

(b) the amount of VAT that would be chargeable on the supply if it were subject to VAT at the rate of 17.5%.

(2) The amount of the supplementary charge on a grant of a right to goods or services within paragraph 3 is equal to the difference between —

(a) the amount of VAT chargeable on the grant of the right apart from this Schedule; and

(b) the amount of VAT that would be chargeable on the grant of the right if it were subject to VAT at the rate of 17.5%.
(3) However, if the basic time of supply for some of those goods and services is before the date of the VAT change, sub-paragraph (2) has effect as if the references to the amount of VAT chargeable and to the amount of VAT that would be chargeable were references to the relevant proportion of each of those amounts.

(4) “The relevant proportion” is —

\[
P \quad \frac{W}{W}
\]

where —

P is so much of the consideration for the grant of the right as is attributable on a just and reasonable basis to a right to the goods and services for which the basic time of supply is on or after the date of the VAT change; and

W is the whole of the consideration for the grant of the right.

PART 4 – LISTED SUPPLIES

17 “Listed supply”

(1) In this Schedule “listed supply” means a supply falling within sub-paragraph (2) —

(a) which is made for a consideration the whole or part of which is determined or payable periodically or from time to time; and

(b) which is treated as taking place by virtue of the issue of a VAT invoice or the receipt of a payment by the person making the supply.

(2) The following supplies fall within this sub-paragraph —

(a) a supply of services;

(b) a supply arising from the grant of a major interest in land;

(c) a supply of water other than —

(i) distilled water, deionised water or water of similar purity; or

(ii) bottled water;

(d) a supply of —

(i) coal gas, water gas, producer gases or similar gases; or

(ii) petroleum gases, or other gaseous hydrocarbons, in a gaseous state;

(e) a supply of power, heat, refrigeration or ventilation; and

(f) a supply of goods together with services in the course of the construction, alteration, demolition, repair or maintenance of a building or civil engineering work.
18 “Basic time of supply”: listed supplies

(1) For the purposes of this Schedule, in relation to a listed supply, the “basic time of supply” is the end of the period to which the VAT invoice or payment mentioned in paragraph 18(1) relates, except as provided in sub-paragraphs (2) and (4).

(2) Where the person making the supply issues an invoice —

(a) in respect of part of the listed supply to which the VAT invoice or payment mentioned in paragraph 18(1) relates; and

(b) for a period (a “billing period”) ending before the end of the period to which that VAT invoice or payment relates;

the “basic time of supply”, in relation to that part of the supply, is the end of the billing period.

(3) For the purposes of sub-paragraph (2), the listed supply (and the consideration for the supply) must be apportioned between periods on a just and reasonable basis.

(4) Where a listed supply is treated as taking place by virtue of —

(a) the issue by the person making the supply of a VAT invoice relating to a premium for the grant of a tenancy or lease; or

(b) the receipt by the person making the supply of such a premium;

the “basic time of supply” is the date of the grant of the tenancy or lease.

PART 5 – ADMINISTRATION AND INTERPRETATION

19 Person ceasing to be a taxable person before supplementary charge due

(1) This paragraph applies if, on the date on which a supplementary charge under this Schedule becomes due (the “due date”), the person who is liable to pay the charge under paragraph 14 is not a taxable person.

(2) The supplementary charge must be accounted for by that person in accordance with the Act (and regulations made under that Act) as if it were VAT due in the last period for which the person was required to make a return by or under the Act.

(3) If an amount assessed as due by way of supplementary charge under this Schedule would (in the absence of this sub-paragraph) carry interest from a date earlier than the due date, it is to be treated as only carrying interest from the due date.

20 Adjustment of contracts following the VAT change

(1) This paragraph applies where —

(a) a contract for the supply of goods or services is made before the date of the VAT change; and

(b) there is a supplementary charge under this Schedule on the supply.
(2) The consideration for the supply is to be increased by an amount equal to the supplementary charge, unless the contract provides otherwise.

21 Invoices

Regulations under paragraph 2A of Schedule 12 to this Act (VAT invoices) may make provision about the provision, replacement or correction of invoices in connection with a supplementary charge under this Schedule.

22 Interpretation: general

In this Schedule —

(a) “treated as taking place” means treated as taking place for the purposes of the charge to VAT, and

(b) references to the person by or to whom a supply is made (however expressed) are to the person by or to whom the supply is treated as being made for the purposes of the Act.

Schedule 1B

SUPPLEMENTARY CHARGE AND MINOR AMENDMENTS

PART 1 – SUPPLEMENTARY CHARGE TO VAT

1 The charge

(1) There is a supplementary charge on a supply of goods or services that is treated as taking place on or after 22 June 2010 if —

(a) the supply spans the date of the VAT change;

(b) it is subject to VAT at the rate in force under section 2 of the Act;

(c) the person to whom the supply is made is not entitled under the Act to credit for, or the repayment or refund of, all of the VAT on the supply, and

(d) a relevant condition is met.

(2) In this Schedule, “the date of the VAT change” means 4 January 2011.

(3) For the cases in which a supply, other than the grant of a right to goods or services spans the date of the VAT change and the relevant conditions in relation to such a supply, see paragraph 2.

(4) For the cases in which a supply consisting of the grant of a right to goods or services spans the date of the VAT change and the relevant conditions in relation to such a supply, see paragraph 3.

(5) Sub-paragraph (1) has effect subject to the exceptions made by or under Part 2.
(6) In this Schedule —

Part 3 contains provision about liability for, and the amount of, a supplementary charge under this Schedule;

Part 4 contains special provision about listed supplies; and

Part 5 contains provision about administration and interpretation.

(7) A supplementary charge under this Schedule is to be treated for all purposes as if it were value added tax charged in accordance with the Act.

2 Supply spanning the date of the VAT change

(1) For the purposes of this Schedule, a supply of goods or services spans the date of the VAT change where —

(a) by virtue of the issue of a VAT invoice or the receipt of a payment by the person making the supply (“the supplier”), the supply is treated as taking place before the date of the VAT change; but

(b) the basic time of supply (see paragraph 4) is on or after the date of the VAT change.

(2) The relevant conditions are —

(a) in relation to a supply that is within sub-paragraph (1)(a) by virtue of the issue of a VAT invoice, conditions A to D; and

(b) in relation to a supply that is within sub-paragraph (1)(a) by virtue of the receipt of a payment, conditions A to C.

(3) Condition A is that the supplier and the person to whom the supply is made are connected with each other at any time in the period —

(a) beginning with the day on which the supply is treated as taking place; and

(b) ending on the date of the VAT change.

(4) Paragraph 5 modifies condition A in cases involving a series of supplies.

(5) Condition B is that the aggregate of the following is more than £100,000 —

(a) the relevant consideration for the supply; and

(b) the relevant consideration for every related supply of goods or services (including every related grant of a right to goods or services) that spans the date of the VAT change (see paragraph 6).

(6) Condition C is that a prepayment in respect of the supply is financed by the supplier or a person connected with the supplier (see paragraph 7).

(7) In sub-paragraph (6) “prepayment”, in respect of a supply, means a payment that is received by the supplier before the basic time of supply.

(8) Condition D is that full payment of the amount shown on the VAT invoice referred to in sub-paragraph (1)(a) is not due before the end of the period of 6 months beginning with the date on which the invoice is issued.
(9) This paragraph does not apply in relation to a supply consisting of the grant of a right to goods or services (see paragraph 3).

3 Grant of right spanning the date of the VAT change

(1) For the purposes of this Schedule, a supply consisting of the grant by a person ("the grantor") of a right to goods or services spans the date of the VAT change where —

(a) that supply is treated as taking place before the date of the VAT change;
(b) the goods or services are to be supplied at a discount or free of charge; and
(c) the basic time of supply for the supply of some or all of the goods or services (see paragraph 4) is on or after the date of the VAT change.

(2) In relation to the grant of the right, the relevant conditions are conditions A to C.

(3) Condition A is that the grantor and the person to whom the right is granted are connected with each other at any time in the period —

(a) beginning with the day on which the supply consisting of the grant of the right is treated as taking place; and
(b) ending on the date of the VAT change or, if the right is exercised (entirely or partly) on a later date, that date (or, if more than one, the first of those dates).

(4) Paragraph 5 modifies condition A in cases involving a series of supplies.

(5) Condition B is that the aggregate of the following is more than £100,000 —

(a) the relevant consideration for the grant of the right; and
(b) the relevant consideration for every related supply of goods or services (including every related grant of a right to goods or services) that spans the date of the VAT change (see paragraph 6).

(6) Condition C is that the payment made in respect of the grant of the right is financed by the grantor or a person connected with the grantor (see paragraph 7).

(7) In this Schedule references to a right to goods or services include —

(a) any right or option with respect to such goods or services; and
(b) any interest deriving from such a right or option.

4 “Basic time of supply”

(1) In this Schedule the “basic time of supply” is the time given by subsection (2) or (3) of section 6 of the Act (disregarding subsections (4) to (14) of that section).
5 Series of supplies

(1) This paragraph applies where —

(a) the supply or grant of a right referred to in paragraph 2 or 3 (the “affected supply or grant”) is one of a series of supplies of, or grants of a right to, the same or substantially the same goods or services; and

(b) each of the supplies, and the grants of a right, in the series was or will be made in the expectation that the affected supply or grant would or will take place.

(2) In condition A in paragraphs 2 and 3, the references to the supplier and the grantor include any person who makes one of the supplies or grants one of the rights in the series.

6 “Relevant consideration” and “related” supplies

(1) This paragraph applies for the purposes of condition B in paragraphs 2 and 3.

(2) “Relevant consideration” means —

(a) in relation to a supply that is within paragraph 2(1) by virtue of the issue of a VAT invoice, the amount shown on that invoice;

(b) in relation to a supply that is within paragraph 2(1) by virtue of the receipt of a payment, the amount of that payment; and

(c) in relation to a grant of a right to goods or services within paragraph 3(1), the consideration for the grant of the right;

but does not include any amount in respect of VAT.

(3) A supply within paragraph 2(1), or a grant of a right within paragraph 3(1), is related to another such supply or grant if they are both made as part of the same scheme.

(4) “Scheme” includes any arrangements, transaction or series of transactions.

7 Financing

(1) This paragraph applies for the purposes of condition C in paragraphs 2 and 3.

(2) A payment is financed by a person if, directly or indirectly, the person —

(a) provides funds to enable the person to whom the supply is made to make the whole or part of the payment (whether the funds are provided before or after the payment is made);
(b) procures the provision of such funds by another person;

(c) provides funds for discharging (in whole or in part) any liability that has been or may be incurred by any person for or in connection with raising funds to enable the person to whom the supply is made to make the payment; or

(d) procures that any such liability is or will be discharged (in whole or in part) by another person.

(3) In sub-paragraph (2) the references to providing funds for a purpose are to —

(a) making a loan of funds that are or are to be used for that purpose;

(b) providing a guarantee or other security in relation to such a loan;

(c) providing consideration for the issue of shares or other securities issued wholly or partly for raising those funds;

(d) providing consideration for the acquisition by any person of any such shares or securities; or

(e) any other transfer of assets or value as a consequence of which any of those funds are made available for that purpose.

8 Connected persons

Section 119C (connected persons) of the Income Tax Act 1970 applies for the purposes of this Schedule.

9 Receipt of payments

In this Schedule a reference to receipt of a payment by the person making a supply or granting a right (however expressed) includes a reference to receipt by a person to whom a right to receive it has been assigned.

PART 2 – EXCEPTIONS

10 Letting etc of assets

(1) This paragraph applies in relation to a supply within paragraph 2 which arises from the letting, hiring or rental of assets.

(2) There is no supplementary charge under this Schedule if —

(a) the period to which the VAT invoice or payment referred to in paragraph 2(1) relates does not exceed 12 months; and

(b) the VAT invoice is issued, or the payment is received, in accordance with normal practice in relation to the letting, hiring or rental of such assets.
11 Condition B cases involving normal commercial practice

There is no supplementary charge under this Schedule on a supply of goods or services within paragraph 2 or a grant of a right to goods or services within paragraph 3 if —

(a) the only relevant condition met is condition B; and
(b) the supply is made, or the right is granted, in accordance with normal commercial practice in relation to the supply of, or the grant of a right to, such goods or services.

12 Condition D cases involving hire purchase, conditional sale or credit sale of goods

There is no supplementary charge under this Schedule on a supply of goods within paragraph 2 if —

(a) the only relevant condition met is condition D;
(b) the VAT invoice —
   (i) relates to a sale of goods made under a hire-purchase, conditional sale or credit sale agreement, and
   (ii) forms part of that agreement, and
   (iii) is issued in accordance with normal commercial practice in relation to a supply made under such an agreement; and
(c) the basic time of supply of the goods is intended and expected to be within 6 months of the date of the VAT invoice which relates to the supply.

13 Normal commercial practice

In this Part of this Schedule, “normal commercial practice”, in relation to a supply or grant of a right, means —

(a) normal commercial practice of the supplier or grantor at a time when an increase in the rate of VAT in force under section 2 of the Act is not expected; or
(b) if the supplier or grantor has no such practice, the normal commercial practice of suppliers making similar supplies, or granters granting similar rights, in the Island at such a time.

14 Further exceptions

(1) The Treasury may by order provide that there is no supplementary charge under this Schedule on supplies (including grants of rights to goods or services) of a description specified in the order.
(2) An order under this paragraph may make provision having effect in relation to supplies of goods or services that are treated as taking place on or after 22 June 2010 or a later date.

PART 3 – LIABILITY AND AMOUNT

15 Liability

(1) A supplementary charge under this Schedule on a supply within paragraph 2 —
   (a) is a liability of the supplier (subject to sub-paragraph (3)); and
   (b) becomes due on the date of the VAT change (rather than at the time of supply).

(2) A supplementary charge under this Schedule on a supply consisting of the grant of a right to goods or services within paragraph 3 —
   (a) is a liability of the grantor (subject to sub-paragraph (3)); and
   (b) becomes due on the first occasion on or after the date of the VAT change on which the right is exercised (rather than at the time the right is granted).

(3) If, on the date on which the supplementary charge becomes due, the person who would be liable to pay the charge under sub-paragraph (1) or (2) —
   (a) is not a taxable person; but
   (b) is treated as a member of a group under sections 43A to 43D of the Act;

the supplementary charge is a liability of the representative member of the group.

16 Amount

(1) The amount of the supplementary charge on a supply within paragraph 2 is equal to the difference between —
   (a) the amount of VAT chargeable on the supply apart from this Schedule; and
   (b) the amount of VAT that would be chargeable on the supply if it were subject to VAT at the rate of 20%.

(2) The amount of the supplementary charge on a grant of a right to goods or services within paragraph 3 is equal to the difference between —
   (a) the amount of VAT chargeable on the grant of the right apart from this Schedule; and
   (b) the amount of VAT that would be chargeable on the grant of the right if it were subject to VAT at the rate of 20%.
(3) However, if the basic time of supply for some of those goods and services is before the date of the VAT change, sub-paragraph (2) has effect as if the references to the amount of VAT chargeable and to the amount of VAT that would be chargeable were references to the relevant proportion of each of those amounts.

(4) “The relevant proportion” is —

\[ \frac{P}{W} \]

where —

P is so much of the consideration for the grant of the right as is attributable on a just and reasonable basis to a right to the goods and services for which the basic time of supply is on or after the date of the VAT change; and

W is the whole of the consideration for the grant of the right.

PART 4 – LISTED SUPPLIES

17 “Listed supply”

(1) In this Schedule “listed supply” means a supply falling within sub-paragraph (2) —

(a) which is made for a consideration the whole or part of which is determined or payable periodically or from time to time; and

(b) which is treated as taking place by virtue of the issue of a VAT invoice or the receipt of a payment by the person making the supply.

(2) The following supplies fall within this sub-paragraph —

(a) a supply of services;

(b) a supply arising from the grant of a major interest in land;

(c) a supply of water other than —

(i) distilled water, deionised water or water of similar purity; or

(ii) bottled water;

(d) a supply of —

(i) coal gas, water gas, producer gases or similar gases; or

(ii) petroleum gases, or other gaseous hydrocarbons, in a gaseous state;

(e) a supply of power, heat, refrigeration or ventilation; and

(f) a supply of goods together with services in the course of the construction, alteration, demolition, repair or maintenance of a building or civil engineering work.
18 “Basic time of supply”: listed supplies

(1) For the purposes of this Schedule, in relation to a listed supply, the “basic time of supply” is the end of the period to which the VAT invoice or payment mentioned in paragraph 17(1) relates, except as provided in sub-paragraphs (2) and (4).

(2) Where the person making the supply issues an invoice —
   (a) in respect of part of the listed supply to which the VAT invoice or payment mentioned in paragraph 17(1) relates; and
   (b) for a period (a “billing period”) ending before the end of the period to which that VAT invoice or payment relates;

the “basic time of supply”, in relation to that part of the supply, is the end of the billing period.

(3) For the purposes of sub-paragraph (2), the listed supply (and the consideration for the supply) must be apportioned between periods on a just and reasonable basis.

(4) Where a listed supply is treated as taking place by virtue of —
   (a) the issue by the person making the supply of a VAT invoice relating to a premium for the grant of a tenancy or lease; or
   (b) the receipt by the person making the supply of such a premium;

the “basic time of supply” is the date of the grant of the tenancy or lease.

PART 5 – ADMINISTRATION AND INTERPRETATION

19 Person ceasing to be a taxable person before supplementary charge due

(1) This paragraph applies if, on the date on which a supplementary charge under this Schedule becomes due (the “due date”), the person who is liable to pay the charge under paragraph 15 is not a taxable person.

(2) The supplementary charge must be accounted for by that person in accordance with the Act (and regulations made under that Act) as if it were VAT due in the last period for which the person was required to make a return by or under the Act.

(3) If an amount assessed as due by way of supplementary charge under this Schedule would (in the absence of this sub-paragraph) carry interest from a date earlier than the due date, it is to be treated as only carrying interest from the due date.

20 Adjustment of contracts following the VAT change

(1) This paragraph applies where —
   (a) a contract for the supply of goods or services is made before the date of the VAT change; and
   (b) there is a supplementary charge under this Schedule on the supply.
(2) The consideration for the supply is to be increased by an amount equal to the supplementary charge, unless the contract provides otherwise.

21 Invoices

Regulations under paragraph 2A of Schedule 12 to the Act (VAT invoices) may make provision about the provision, replacement or correction of invoices in connection with a supplementary charge under this Schedule.

22 Interpretation: general

In this Schedule —

(a) “treated as taking place” means treated as taking place for the purposes of the charge to VAT, and

(b) references to the person by or to whom a supply is made (however expressed) are to the person by or to whom the supply is treated as being made for the purposes of the Act.

Schedule 1C

CATEGORISATION OF SUPPLIES: ANTI-FORESTALLING CHARGE TO VAT

PART 1 - ANTI-FORESTALLING CHARGE TO VAT

1 Introductory

In this Schedule —

“date of the VAT change” means 1 October 2012;

“pre-change supply” means a supply of a description specified in paragraph 3 which —

(a) is treated as taking place before the date of the VAT change; and

(b) if it had been treated as taking place on that date, would have been charged to VAT at the standard rate as a result of the amendments made by Schedule 1 to the Value Added Tax Act 1996 (Amendment) (No.2) Order 2013; and

“treated as taking place” means treated as taking place for the purpose of the charge to VAT.

2 The charge

(1) There is an anti-forestalling charge to value added tax on any pre-change supply which —

(a) is treated as taking place on or after 21 March 2012; and

(b) is a supply linked to the post-change period (see paragraph 4).
(2) “Chargeable pre-change supply” means a supply to which sub-

paragraph (1) applies.

(3) An anti-forestalling charge to value added tax under this Schedule is to be 
treated for all purposes as if it were value added tax charged in accordance with this Act.

3 The supplies

(1) The descriptions of supplies are —

(a) the supply, in the course of an approved alteration of a protected 
building, of any services, other than the services of an architect, 
surveyor or any person acting as consultant or in a supervisory 
capacity;

(b) the supply of building materials to a person to whom the supplier 
is supplying services within paragraph (a) which include the 
incorporation of the materials into the building (or its site);

(c) the grant of facilities for the self storage of goods; or

(d) the grant of a right to receive a supply within paragraph (c).

(2) The Notes to Group 6 in Schedule 9 have effect for the purposes of sub-

paragraph (1)(a) and (b) as they had effect for the purposes of items 1 to 3 of that Group 
on 21 March 2012.

(3) For the purposes of this Schedule a right to receive a supply includes —

(a) any option to receive that supply; and

(b) any interest deriving from such an option.

4 Supplies linked to the post-change period

(1) A supply of services within paragraph 3(1)(a) or (c) is linked to the post-

change period if, and to the extent that, the services are carried out or provided on or 
after the date of the VAT change.

(2) A supply of goods within paragraph 3(1)(b) is linked to the post-change 
period if, and to the extent that, the goods are incorporated into the building concerned 
(or its site) on or after that date.

(3) A supply within paragraph 3(1)(d) is linked to the post-change period if, 
and to the extent that, the services to which the grant relates are carried out or provided 
on or after that date.

5 Power to modify this Schedule

(1) The Treasury may by order modify this Schedule for the purposes of 

preventing an anti-forestalling charge from arising, in the circumstances specified in the 
order, in relation to any description of supplies specified in the order.

(2) An order under this paragraph may contain provisions having 
retrospective effect
(3) An order under this paragraph is subject to annulment in pursuance of a resolution of Tynwald.

**PART 2 - LIABILITY AND AMOUNT**

6 **Liability**

(1) An anti-forestalling charge under this Schedule on a chargeable pre-change supply —

   (a) is a liability of the supplier (subject to sub-paragraph (2)); and
   
   (b) becomes due on the date of the VAT change (rather than at the time of supply).

(2) If, on the date on which the anti-forestalling charge becomes due, the person who would be liable to pay the charge under sub-paragraph (1) —

   (a) is not a taxable person; but
   
   (b) is treated as a member of a group under sections 43A to 43C and 43E,

the anti-forestalling charge is a liability of the representative member of the group.

7 **Amount**

(1) The amount of the anti-forestalling charge on a chargeable pre-change supply is the amount of VAT that would be chargeable on the supply if it were subject to VAT at 20%.

This is subject to any reduction under sub-paragraph (2).

(2) If the chargeable pre-change supply is not wholly linked to the post-change period, the anti-forestalling charge is the relevant proportion of that amount.

(3) The relevant proportion is —

\[
\frac{P}{W}
\]

where —

P is so much of the consideration for the chargeable supply as is attributable, on a just and reasonable basis, to that part of the supply (or, in the case of a grant of a right, that part of the supply to which the right relates) which is linked to the post-change period;

W is the whole of the consideration for the chargeable pre-change supply.
PART 3 - ADMINISTRATION AND INTERPRETATION

8 Person ceasing to be taxable person before anti-forestalling charge due

(1) This paragraph applies if, on the date on which an anti-forestalling charge under this Schedule becomes due ("the due date"), the person who is liable to pay the charge under paragraph 5 is not a taxable person.

(2) The anti-forestalling charge must be accounted for by that person in accordance with this Act (and regulations made under this Act) as if it were VAT due in the last period for which the person was required to make a return by or under this Act.

(3) If an amount assessed as due by way of an anti-forestalling charge under this Schedule would (in the absence of this sub-paragraph) carry interest from a date earlier than the due date, it is to be treated as only carrying interest from the due date.

9 Adjustment of contracts following the VAT change

(1) This paragraph applies where —

(a) a contract for the supply of goods or services is made before the date of the VAT change, and

(b) there is an anti-forestalling charge under this Schedule on the supply.

(2) The consideration for the supply is to be increased by an amount equal to the anti-forestalling charge, unless the contract provides otherwise.

10 Invoices

Regulations under paragraph 2A of Schedule 12 (VAT invoices) may make provision about the provision, replacement or correction of invoices in connection with an anti-forestalling charge under this Schedule.

Schedule 2

REGISTRATION IN RESPECT OF TAXABLE SUPPLIES:
ISLAND-ESTABLISHMENT

Section 3(2)

Liability to be registered

1. (1) Subject to sub-paragraphs (3) to (7), a person who makes taxable supplies but is not registered under this Act becomes liable to be registered under this Schedule —

(a) at the end of any month, if the person is Island-established and the value of his taxable supplies in the period of one year then ending has exceeded £85,000; or
(b) at any time, if the person is Island-established and there are reasonable grounds for believing that the value of his taxable supplies in the period of 30 days then beginning will exceed £85,000.

(2) Where a business, or part of a business, carried on by a taxable person is transferred to another person as a going concern, the transferee is Island-established at the time of transfer and the transferee is not registered under this Act at that time then, subject to sub-paragraphs (3) to (7), the transferee becomes liable to be registered under this Schedule at that time if —

(a) the value of his taxable supplies in the period of one year ending at the time of the transfer has exceeded £85,000; or

(b) there are reasonable grounds for believing that the value of his taxable supplies in the period of 30 days beginning at the time of the transfer will exceed £85,000.

(2A) In determining the value of a person’s supplies for the purposes of sub-paragraph (1)(a) or (2)(a), supplies are to be taken into account (subject to sub-paragraphs (3) to (7)) whether or not the person was Island-established when they were made.

(3) A person does not become liable to be registered by virtue of sub-paragraph 1(1)(a) or (2)(a) if the Treasury is satisfied that the value of his taxable supplies in the period of one year beginning at the time at which, apart from this sub-paragraph, he would become liable to be registered will not exceed £83,000.

(4) In determining the value of a person’s supplies for the purposes of sub-paragraph (1)(a) or (2)(a), supplies made at a time when he was previously registered under this Act as above shall be disregarded if —

(a) his registration was cancelled otherwise than under paragraph 13(3), paragraph 11 of Schedule 2A, paragraph 6(2) of Schedule 3, paragraph 6(2) of Schedule 3A or paragraph 6(3) of Schedule 4, and

(b) the Treasury is satisfied that before his registration was cancelled he had given it all the information it needed in order to determine whether to cancel the registration.

(5) A person shall be treated as having become liable to be registered under this Schedule at any time when he would have become so liable under the preceding provisions of this paragraph but for any registration which is subsequently cancelled under paragraph 13(3), paragraph 11 of Schedule 2A, paragraph 6(2) of Schedule 3, paragraph 6(2) of Schedule 3A or paragraph 6(3) of Schedule 4 to this Act.

(6) A person shall not cease to be liable to be registered under this Schedule except in accordance with paragraph 2(5), 3 or 4.

(7) In determining the value of a person’s supplies for the purposes of sub-paragraph (1) or (2), supplies of goods or services that are capital assets of the business
in the course or furtherance of which they are supplied and any taxable supplies which would not be taxable supplies apart from section 7(4) shall be disregarded.

(8) Where, apart from this sub-paragraph, an interest in, right over or licence to occupy any land would under sub-paragraph (7) be disregarded for the purposes of sub-paragraph (1) or (2), it shall not be if it is supplied on a taxable supply which is not zero-rated.

(9) In determining the value of a person’s supplies for the purposes of sub-paragraph (1) or (2), supplies to which section 18B(4) (last acquisition or supply of goods before removal from fiscal warehousing) applies and supplies treated as made by him under section 18C(3) (self-supply of services on removal of goods from warehousing) shall be disregarded.636

(10) A person is “Island-established” if the person has a business establishment, or some other fixed establishment, in the Island or the United Kingdom in relation to a business carried on by the person.637

1A. (1) Paragraph 2 is 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 VAT.

(2) In determining for the purposes of sub-paragraph (1) whether any separation of business activities is artificial, regard shall be had to the extent to which the different persons carrying on those activities are closely bound to one another by financial, economic and organisational links.638

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

(2) The Treasury shall not make a direction under this paragraph naming any person unless it is satisfied —

(a) that he is making or has made taxable supplies; and

(b) that the activities in the course of which he makes or made those taxable supplies form only part of certain activities, the other activities being carried on concurrently or previously (or both) by one or more other persons; and639

(c) that, if all the taxable supplies of the business described in the direction were taken into account, a person carrying on that business would at the time of the direction be liable to be registered by virtue of paragraph 1.640

(d) [Repealed]641

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

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

(b) if it was later, the date with effect from which the single taxable person referred to in the earlier direction became liable to be registered under this Schedule.\(^4\)\(^2\)

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

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

(b) the date of the direction.

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

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

(a) the taxable person carrying on the business specified in the direction shall be registrable in such name as the persons named in the direction may jointly nominate by notice in writing given to the Treasury not later than 14 days after the date of the direction or, in default of such a nomination, in such name as may be specified in the direction;

(b) any supply of goods or services by or to one of the constituent members in the course of the activities of the taxable person shall be treated as a supply by or to that person;

(c) any acquisition of goods from a member State by one of the constituent members in the course of the activities of the taxable person shall be treated as an acquisition by that person;

(d) each of the constituent members shall be jointly and severally liable for any VAT due from the taxable person;

(e) without prejudice to head (d), any failure by the taxable person to comply with any requirement imposed by or under this Act shall be treated as a failure by each of the constituent members severally; and
(f) subject to heads (a) to (e), the constituent members shall be treated as a partnership carrying on the business of the taxable person and any question as to the scope of the activities of that business at any time shall be determined accordingly.

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

3. A person who has become liable to be registered under this Schedule shall cease to be so liable at any time if the Treasury is satisfied in relation to that time that he —

(a) has ceased to make taxable supplies; or
(b) is not at that time a person in relation to whom any of the conditions specified in paragraphs 1(1)(a) and (b) and (2)(a) and (b) is satisfied; or
(c) is not at that time Island-established (see paragraph 1(10)).

4. (1) Subject to sub-paragraph (2), a person who has become liable to be registered under this Schedule shall cease to be so liable at any time after being registered if the Treasury is satisfied that the value of his taxable supplies in the period of one year then beginning will not exceed £83,000.

(2) A person shall not cease to be liable to be registered under this Schedule by virtue of sub-paragraph (1) if the Treasury is satisfied that the reason the value of his taxable supplies will not exceed £83,000 is that in the period in question he will cease to make taxable supplies, or will suspend making them for a period of 30 days or more.

(3) In determining the value of a person’s supplies for the purposes of sub-paragraph (1), supplies of goods or services that are capital assets of the business in the course or furtherance of which they are supplied and any taxable supplies which would not be taxable supplies apart from section 7(4) shall be disregarded.

(4) Where, apart from this sub-paragraph, an interest in, right over or licence to occupy any land would under sub-paragraph (3) be disregarded for the purposes of sub-paragraph (1), it shall not be if it is supplied on a taxable supply which is not zero-rated.

Notification of liability and registration

5. (1) A person who becomes liable to be registered by virtue of paragraph 1(1)(a) shall notify the Treasury of the liability within 30 days of the end of the relevant month.

(2) The Treasury shall register any such person (whether or not he so notifies it) with effect from the end of the month following the relevant month or from such earlier date as may be agreed between it and him.
(3) In this paragraph “the relevant month”, in relation to a person who becomes liable to be registered by virtue of paragraph 1(1)(a), means the month at the end of which he becomes liable to be so registered.

6. (1) A person who becomes liable to be registered by virtue of paragraph 1(1)(b) shall notify the Treasury of the liability before the end of the period by reference to which the liability arises.

(2) The Treasury shall register any such person (whether or not he so notifies it) with effect from the beginning of the period by reference to which the liability arises.

7. (1) A person who becomes liable to be registered by virtue of paragraph 1(2) shall notify the Treasury of the liability within 30 days of the time when the business is transferred.

(2) The Treasury shall register any such person (whether or not he so notifies it) with effect from the time when the business is transferred.

8. Where a person becomes liable to be registered by virtue of paragraph 1(1)(a) and by virtue of paragraph 1(1)(b) or 1(2) at the same time, the Treasury shall register him in accordance with paragraph 6(2) or 7(2), as the case may be, rather than paragraph 5(2).

Entitlement to be registered

9. Where a person who is not liable to be registered under this Act and is not already so registered satisfies the Treasury that he —

(a) makes taxable supplies; or
(b) is carrying on a business and intends to make such supplies in the course or furtherance of that business,

it shall, if he so requests, register him with effect from the day on which the request is made or from such earlier date as may be agreed between it and him.

10. (1) Where a person who is not liable to be registered under this Act and is not already so registered satisfies the Treasury that he —

(a) makes supplies within sub-paragraph (2); or
(b) is carrying on a business and intends to make such supplies in the course or furtherance of that business,

and (in either case) is within sub-paragraph (3), it shall, if he so requests, register him with effect from the day on which the request is made or from such earlier date as may be agreed between it and him.

(2) A supply is within this sub-paragraph if —

(a) it is made outside the Island but would be a taxable supply if made in the Island; or
(b) it is specified for the purposes of section 26(2) in an order made under subsection (2)(c) of that section.546
(3) A person is within this sub-paragraph if —
   (a) he has a business establishment in the Island or his usual place of residence is in the Island; and
   (b) he does not make and does not intend to make taxable supplies.

(4) For the purposes of this paragraph —
   (a) a person carrying on a business through a branch or agency in the Island shall be treated as having a business establishment in the Island; and
   (b) “usual place of residence”, in relation to a body corporate, means the place where it is legally constituted.

Notification of end of liability or entitlement etc

11. A person registered under paragraph 5, 6 or 9 who ceases to make or have the intention of making taxable supplies shall notify the Treasury of that fact within 30 days of the day on which he does so unless he would, when he so ceases, be otherwise liable or entitled to be registered under this Act if his registration and any statutory provision preventing a person from being liable to be registered under different provisions at the same time were disregarded.

12. A person registered under paragraph 10 who —
   (a) ceases to make or have the intention of making supplies within sub-paragraph (2) of that paragraph; or
   (b) makes or forms the intention of making taxable supplies,

shall notify the Treasury of that fact within 30 days of the day on which he does so unless, in the case of a person ceasing as mentioned in sub-paragraph (a), he would, when he so ceases, be otherwise liable or entitled to be registered under this Act if his registration and any enactment preventing a person from being liable to be registered under different provisions at the same time were disregarded.

Cancellation of registration

13. (1) Subject to sub-paragraph (4), where a registered person satisfies the Treasury that he is not liable to be registered under this Schedule, it shall, if he so requests, cancel his registration with effect from the day on which the request is made or from such later date as may be agreed between it and him.

   (2) Subject to sub-paragraph (5), where the Treasury is satisfied that a registered person has ceased to be registrable, it may cancel his registration with effect from the day on which he so ceased or from such later date as may be agreed between it and him.

   (3) Where the Treasury is satisfied that on the day on which a registered person was registered he was not registrable, it may cancel his registration with effect from that day.
(4) The Treasury shall not under sub-paragraph (1) cancel a person’s registration with effect from any time unless it is satisfied that it is not a time when that person would be subject to a requirement to be registered under this Act.

(5) The Treasury shall not under sub-paragraph (2) cancel a person’s registration with effect from any time unless it is satisfied that it is not a time when that person would be subject to a requirement, or entitled, to be registered under this Act.

(6) In determining for the purposes of sub-paragraph (4) or (5) whether a person would be subject to a requirement to be registered at any time, so much of any provision of this Act as prevents a person from becoming liable to be registered when he is already registered or when he is so liable under any other provisions shall be disregarded.

(7) In this paragraph, any reference to a registered person is a reference to any person who is registered under this Schedule.

(8) This paragraph is subject to paragraph 18 of Schedule 3B (cancellation of registration under this Schedule of persons seeking to be registered under that Schedule, etc).647

Exemption from registration

14. (1) Notwithstanding the preceding provisions of this Schedule, where a person who makes or intends to make taxable supplies satisfies the Treasury that any such supply is zero-rated or would be zero-rated if he were a taxable person, it may, if he so requests and it thinks fit, exempt him from registration under this Schedule until it appears to it that the request should no longer be acted upon or is withdrawn.

(2) Where there is a material change in the nature of the supplies made by a person exempted under this paragraph from registration under this Schedule, he shall notify the Treasury of the change —

(a) within 30 days of the date on which it occurred; or

(b) if no particular day is identifiable as the day on which it occurred, within 30 days of the end of the quarter in which it occurred.

(3) Where there is a material alteration in any quarter in the proportion of taxable supplies of such a person that are zero-rated, he shall notify the Treasury of the alteration within 30 days of the end of the quarter.

Power to vary specified sums by order

15. The Treasury may by order substitute for any of the sums for the time being specified in this Schedule such greater sums as it thinks fit.

Supplementary

16. The value of a supply of goods or services shall be determined for the purposes of this Schedule on the basis that no VAT is chargeable on the supply.
17. Any notification required under this Schedule shall be made in such form and manner and shall contain such particulars as may be specified in regulations or by the Treasury in accordance with regulations.648

18. In this Schedule, “registrable” means liable or entitled to be registered under this Schedule.

19. References in this Schedule to supplies are references to supplies made in the course or furtherance of a business.

Schedule 2A649

REGISTRATION IN RESPECT OF TAXABLE SUPPLIES BY NON-ISLAND ESTABLISHMENT

1 Liability to be registered

(1) A person becomes liable to be registered under this Schedule at any time if conditions A to D are met.

(2) Condition A is that —
   (a) the person makes taxable supplies; or
   (b) there are reasonable grounds for believing that the person will make taxable supplies in the period of 30 days then beginning.

(3) Condition B is that those supplies (or any of them) are or will be made in the course or furtherance of a business carried on by the person.

(4) Condition C is that the person has no business establishment, or other fixed establishment, in the Island or the United Kingdom in relation to any business carried on by the person.

(5) Condition D is that the person is not registered under this Act.

2 Further provisions about liability to be registered

(1) A person does not become liable to be registered by virtue of paragraph 1(2)(b) if the reason for believing that taxable supplies will be made in the 30-day period mentioned there is that a business, or part of a business, carried on by a taxable person is to be transferred to the person as a going concern in that period.

(2) But if the transfer takes place, the transferee becomes liable to be registered under this Schedule at the time of the transfer if conditions A to D in paragraph 1 are met in relation to the transferee at that time.

(3) In determining for the purposes of sub-paragraph (2) whether condition B is met, the reference in paragraph 1(3) to a business is to be read as a reference to the business, or part of the business, that is transferred to the transferee.
3 Person treated as having become liable to be registered

A person is treated as having become liable to be registered under this Schedule at any time when the person would have become so liable under paragraph 1 or 2 but for any registration that is subsequently cancelled under —

(a) paragraph 11;
(b) paragraph 13(3) of Schedule 2;
(c) paragraph 6(2) of Schedule 3;
(d) paragraph 6(2) of Schedule 3A; or
(e) paragraph 6(3) of Schedule 4.

4 Cessation of liability to be registered

(1) A person does not cease to be liable to be registered under this Schedule except in accordance with sub-paragraph (2).

(2) A person who has become liable to be registered under this Schedule ceases to be so liable at any time if the Treasury is satisfied that —

(a) the person has ceased to make taxable supplies in the course or furtherance of a business carried on by the person; or
(b) the person is no longer a person in relation to whom condition C in paragraph 1 is met.

5 Notification of liability and registration: paragraphs 1(2)(a) or 2(2)

(1) A person who becomes liable to be registered by virtue of paragraph 1(2)(a) or 2(2) must notify the Treasury of the liability before the end of the period of 30 days beginning with the day on which the liability arises.

(2) The Treasury must register any such person (whether or not the person so notifies it) with effect from the beginning of the day on which the liability arises.

6 Notification of liability and registration: paragraph 1(2)(b)

(1) A person who becomes liable to be registered by virtue of paragraph 1(2)(b) must notify the Treasury of the liability before the end of the period by reference to which the liability arises.

(2) The Treasury must register any such person (whether or not the person so notifies it) with effect from the beginning of the period by reference to which the liability arises.

7 Notification of end of liability

(1) A person registered under paragraph 5 or 6 who, on any day, ceases to make or have the intention of making taxable supplies in the course or furtherance of a business carried on by that person must notify the Treasury of that fact within 30 days beginning with that day.
(2) But the person need not notify the Treasury if on that day the person would otherwise be liable or entitled to be registered under this Act (disregarding for this purpose the person’s registration under this Schedule and any enactment that prevents a person from being liable to be registered under different provisions at the same time).

8 Cancellation of registration

(1) The Treasury must cancel a person’s registration under this Schedule if —
   (a) the person satisfies it that the person is not liable to be registered under this Schedule; and
   (b) the person requests the cancellation.

(2) The cancellation 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 Treasury and the person.

(3) But the Treasury must not cancel the registration with effect from any time unless it is satisfied that it is not a time when the person would be subject to a requirement to be registered under this Act.

9 Power to cancel registration: person ceased to be liable to be registered

(1) The Treasury may cancel a person’s registration under this Schedule if it is satisfied that the person has ceased to be liable to be registered under this Schedule.

(2) The cancellation is to be made with effect from —
   (a) the day on which the person ceased to be so liable; or
   (b) such later day as may be agreed between the Treasury and the person.

(3) But the Treasury must not cancel the registration with effect from any time unless it is satisfied that it is not a time when the person would be subject to a requirement, or entitled, to be registered under this Act.

10 Paragraphs 8 and 9: supplementary

In determining for the purposes of paragraphs 8 and 9 whether a time is a time when a person would be subject to a requirement, or entitled, to be registered under this Act, so much of any provision of this Act as prevents a person from becoming liable or entitled to be registered when the person is already registered or when the person is so liable under any other provision must be disregarded.

11 Power to cancel registration: person not liable to be registered on day of
registration

(1) The Treasury may cancel a person’s registration under this Schedule if it is satisfied that the person was not liable to be registered under this Schedule on the day on which the person was registered.

(2) The cancellation is to be made with effect from the day on which the person was registered.

12 Paragraphs 8 to 11: supplementary

Paragraphs 8 to 11 are subject to paragraph 18 of Schedule 3B (cancellation of registration under this Schedule of persons seeking to be registered under that Schedule etc).

13 Exemption from registration

(1) The Treasury may exempt a person from registration under this Schedule if the person satisfies it that the taxable supplies that the person makes or intends to make —

(a) are all zero-rated; or

(b) would all be zero-rated if the person were a taxable person.

(2) The power in sub-paragraph (1) is exercisable only if the person so requests and the Treasury thinks fit.

(3) If there is a material change in the nature of the supplies made by a person exempted under this paragraph, the person must notify the Treasury of the change —

(a) within 30 days beginning with the day on which the change occurred; or

(b) if no particular day is identifiable as that day, within 30 days of the end of the quarter in which the change occurred.

(4) If it appears to the Treasury that a request under this paragraph should no longer be acted upon on or after any day or has been withdrawn on any day, it must register the person who made the request with effect from that day.

(5) A reference in this paragraph to supplies is to supplies made in the course or furtherance of a business carried on by the person.

14 Supplementary

Any notification required under this Schedule must be made in such form and manner and must contain such particulars as may be specified in regulations or by the Treasury in accordance with regulations.
Schedule 3

Section 3(2)

Liability to be registered

1. (1) A person who —
   
   (a) is not registered under this Act; and
   
   (b) is not liable to be registered under Schedule 2 or 2A,

becomes liable to be registered under this Schedule on any day if, in the period beginning with 1 January of the year in which that day falls, that person has made relevant supplies whose value exceeds £70,000.

(2) A person who is not registered as mentioned in sub-paragraph (1)(a) and (b) becomes liable to be registered under this Schedule where —

   (a) that person has exercised any option, in accordance with the law of any member State where he is taxable, for treating relevant supplies made by him as taking place outside that member State;

   (b) the supplies to which the option relates involve the removal of goods from that member State and, apart from the exercise of the option, would be treated, in accordance with the law of that member State, as taking place in that member State; and

   (c) that person makes a relevant supply at a time when the option is in force in relation to him.

(3) A person who is not registered or liable to be registered as mentioned in sub-paragraph (1)(a) and (b) becomes liable to be registered under this Schedule if he makes a supply in relation to which the following conditions are satisfied, that is to say —

   (a) it is a supply of goods subject to a duty of excise;

   (b) it involves the removal of the goods to the Island by or under the directions of the person making the supply;

   (c) it is a transaction in pursuance of which the goods are acquired in the Island from a member State by a person who is not a taxable person;

   (d) it is made at a time after the coming into force of this Schedule and in the course or furtherance of a business carried on by the supplier; and

   (e) it is not anything which is treated as a supply for the purposes of this Act by virtue only of paragraph 5(1) or 6 of Schedule 5.

(4) A person shall be treated as having become liable to be registered under this Schedule at any time when he would have become so liable under the preceding provisions of this paragraph but for any registration which is subsequently cancelled under paragraph 6(2), paragraph 13(3) of Schedule 2, paragraph 11 of Schedule 2A, paragraph 6(2) of Schedule 3A or paragraph 6(3) of Schedule 4.
(5) A person shall not cease to be liable to be registered under this Schedule except in accordance with paragraph 2.

(6) In determining for the purposes of this paragraph the value of any relevant supplies, so much of the consideration for any supply as represents any liability of the supplier, under the law of a member State, for VAT on that supply shall be disregarded.

(7) For the purposes of sub-paragraphs (1) and (2) supplies to which section 18B(4) (last acquisition or supply of goods before removal from fiscal warehousing) applies shall be disregarded.

2. (1) Subject to sub-paragraph (2), a person who has become liable to be registered under this Schedule shall cease to be so liable if at any time —

(a) the relevant supplies made by him in the year ending with 31 December last before that time did not have a value exceeding £70,000 and did not include any supply in relation to which the conditions mentioned in paragraph 1(3) were satisfied; and

(b) the Treasury is satisfied that the value of his relevant supplies in the year immediately following that year will not exceed £70,000 and that those supplies will not include a supply in relation to which those conditions are satisfied.

(2) A person shall not cease to be liable to be registered under this Schedule at any time when such an option as is mentioned in paragraph 1(2) is in force in relation to him.

Notification of liability and registration

3. (1) A person who becomes liable to be registered under this Schedule shall notify the Treasury of the liability within the period of 30 days after the day on which the liability arises.

(2) The Treasury shall register any such person (whether or not he so notifies them) with effect from the day on which the liability arose or from such earlier time as may be agreed between it and him.

Request to be registered

4. (1) Where a person who is not liable to be registered under this Act and is not already so registered —

(a) satisfies the Treasury that he intends —

(i) to exercise an option such as is mentioned in paragraph 1(2) and, from a specified date, to make relevant supplies to which that option will relate;

(ii) from a specified date to make relevant supplies to which any such option that he has exercised will relate; or
(iii) from a specified date to make supplies in relation to which the conditions mentioned in paragraph 1(3) will be satisfied; and

(b) requests to be registered under this Schedule,

the Treasury may, subject to such conditions as it thinks fit to impose, register him with effect from such date as may be agreed between it and him.

(2) Conditions imposed under sub-paragraph (1) —

(a) may be so imposed wholly or partly by reference to, or without reference to, any conditions prescribed for the purposes of this paragraph; and

(b) may, whenever imposed, be subsequently varied by the Treasury.

(3) Where a person who is entitled to be registered under paragraph 9 or 10 of Schedule 2 requests registration under this paragraph, he shall be registered under that Schedule, and not under this Schedule.

Notification of matters affecting continuance of registration

5. (1) Any person registered under this Schedule who ceases to be registrable under this Act shall notify the Treasury of that fact within 30 days of the day on which he does so.

(2) A person registered under paragraph 4 by reference to any intention of his to exercise any option or to make supplies of any description shall notify the Treasury, within 30 days of exercising that option or, as the case may be, of the first occasion after his registration when he makes such a supply, that he has exercised the option or made such a supply.

(3) A person who has exercised such an option as is mentioned in paragraph 1(2) which, as a consequence of its revocation or otherwise, ceases to have effect in relation to any relevant supplies by him shall notify the Treasury, within 30 days of the option’s ceasing so to have effect, that it has done so.

(4) For the purposes of this paragraph a person ceases to be registrable under this Act where —

(a) he ceases to be a person who would be liable or entitled to be registered under this Act if his registration and any enactment preventing a person from being liable to be registered under different provisions at the same time were disregarded; or

(b) in the case of a person who (having been registered under paragraph 4) has not been such a person during the period of his registration, he ceases to have any such intention as is mentioned in paragraph 4(1)(a).
Cancellation of registration

6. (1) Subject to paragraph 7, where a person registered under this Schedule satisfies the Treasury that he is not liable to be so registered, it shall, if he so requests, cancel his registration with effect from the day on which the request is made or from such later date as may be agreed between it and him.

(2) Where the Treasury is satisfied that, on the day on which a person was registered under this Schedule, he —
(a) was not liable to be registered under this Schedule; and
(b) in the case of a person registered under paragraph 4, did not have the intention by reference to which he was registered,
it may cancel his registration with effect from that day.

(3) Subject to paragraph 7, where the Treasury is satisfied that a person who has been registered under paragraph 4 and is not for the time being liable to be registered under this Schedule —
(a) has not, by the date specified in his request to be registered, begun to make relevant supplies, exercised the option in question or, as the case may be, begun to make supplies in relation to which the conditions mentioned in paragraph 1(3) are satisfied; or
(b) has contravened any condition of his registration,
it may cancel his registration with effect from the date so specified or, as the case may be, the date of the contravention or from such later date as may be agreed between it and him.

Conditions of cancellation

7. (1) The Treasury shall not, under paragraph 6(1), cancel a person’s registration with effect from any time unless it is satisfied that it is not a time when that person would be subject to a requirement to be registered under this Act.

(2) The Treasury shall not, under paragraph 6(3), cancel a person’s registration with effect from any time unless it is satisfied that it is not a time when that person would be subject to a requirement, or entitled, to be registered under this Act.

(3) The registration of a person who has exercised such an option as is mentioned in paragraph 1(2) shall not be cancelled with effect from any time before 1 January which is, or next follows, the second anniversary of the date on which his registration took effect.

(4) In determining for the purposes of this paragraph whether a person would be subject to a requirement, or entitled, to be registered at any time, so much of any provision of this Act as prevents a person from becoming liable or entitled to be registered when he is already registered or when he is so liable under any other provision shall be disregarded.
8. The Treasury may by order substitute for any of the sums for the time being specified in this Schedule such greater sums as it thinks fit.

Supplementary

9. Any notification required under this Schedule shall be made in such form and manner and shall contain such particulars as may be specified in regulations or by the Treasury in accordance with regulations.

10. For the purposes of this Schedule a supply of goods is a relevant supply where —
   (a) the supply involves the removal of the goods to the Island by or under the directions of the person making the supply;
   (b) the supply does not involve the installation or assembly of the goods at a place in the Island;
   (c) the supply is a transaction in pursuance of which goods are acquired in the Island from a member State by a person who is not a taxable person;
   (d) the supply is made at a time after the coming into force of this Schedule and in the course or furtherance of a business carried on by the supplier; and
   (e) the supply is neither an exempt supply nor a supply of goods which are subject to a duty of excise or consist in a new means of transport and is not anything which is treated as a supply for the purposes of this Act by virtue only of paragraph 5(1) or 6 of Schedule 5.

Schedule 3A

REGISTRATION IN RESPECT OF DISPOSALS OF ASSETS FOR WHICH A VAT REPAYMENT IS CLAIMED

Liability to be registered

1. (1) A person who is not registered under this Act, and is not liable to be registered under Schedule 2, 2A, 3 or 4, becomes liable to be registered under this Schedule at any time —
   (a) if he makes relevant supplies; or
   (b) if there are reasonable grounds for believing that he will make such supplies in the period of 30 days then beginning.

   (2) A person shall be treated as having become liable to be registered under this Schedule at any time when he would have become so liable under sub-paragraph (1) but for any registration which is subsequently cancelled under paragraph 6(2),
paragraph 13(3) of Schedule 2, paragraph 11 of Schedule 2A, paragraph 6(2) of Schedule 3 or paragraph 6(3) of Schedule 4.

(3) A person shall not cease to be liable to be registered under this Schedule except in accordance with paragraph 2.

2. A person who has become liable to be registered under this Schedule shall cease to be so liable at any time if the Treasury are satisfied that he has ceased to make relevant supplies.

Notification of liability and registration

3. (1) A person who becomes liable to be registered by virtue of paragraph 1(1)(a) shall notify the Treasury of the liability before the end of the period of 30 days beginning with the day on which the liability arises.

(2) The Treasury shall register any such person (whether or not he so notifies it) with effect from the beginning of the day on which the liability arises.

4. (1) A person who becomes liable to be registered by virtue of paragraph 1(1)(b) shall notify the Treasury of the liability before the end of the period by reference to which the liability arises.

(2) The Treasury shall register any such person (whether or not he so notifies it) with effect from the beginning of the period by reference to which the liability arises.

Notification of end of liability

5. (1) Subject to sub-paragraph (2), a person registered under paragraph 3 or 4 who ceases to make or have the intention of making relevant supplies shall notify the Treasury of that fact within 30 days of the day on which he does so.

(2) Sub-paragraph (1) does not apply if the person would, when he so ceases, be otherwise liable or entitled to be registered under this Act if his registration and any enactment preventing a person from being liable to be registered under different provisions at the same time were disregarded.

Cancellation of registration

6. (1) Subject to sub-paragraph (3), where the Treasury is satisfied that a registered person has ceased to be liable to be registered under this Schedule, it may cancel his registration with effect from the day on which he so ceased or from such later date as may be agreed between it and him.

(2) Where the Treasury is satisfied that on the day on which a registered person was registered he was not registrable, it may cancel his registration with effect from that day.

(3) The Treasury shall not under sub-paragraph (1) cancel a person’s registration with effect from any time unless it is satisfied that it is not a time when that person would be subject to a requirement, or entitled, to be registered under this Act.
(4) In determining for the purposes of sub-paragraph (3) whether a person would be subject to a requirement, or entitled, to be registered at any time, so much of any provision of this Act as prevents a person from becoming liable or entitled to be registered when he is already registered or when he is so liable under any other provision shall be disregarded.

Exemption from registration

7. (1) Notwithstanding the preceding provisions of this Schedule, where a person who makes or intends to make relevant supplies satisfies the Treasury that such supply is zero-rated or would be zero-rated if he were a taxable person, it may, if he so requests and it thinks fit, exempt him from registration under this Schedule.

(2) Where there is a material change in the nature of the supplies made by a person exempted under this paragraph from registration under this Schedule, he shall notify the Treasury of the change —
   (a) within 30 days of the date on which the change occurred; or
   (b) if no particular date is identifiable as the day on which it occurred, within 30 days of the end of the quarter in which it occurred.

(3) Where there is a material alteration in any quarter in the proportion of relevant supplies of such a person that are zero-rated, he shall notify the Treasury of the alteration within 30 days of the end of the quarter.

(4) If it appears to the Treasury that a request under sub-paragraph (1) should no longer have been acted upon on or after any day, or has been withdrawn on any day, it shall register the person who made the request with effect from that day.

Supplementary

8. Any notification required under this Schedule shall be made in such form and manner and shall contain such particulars as may be specified in regulations or by the Treasury in accordance with regulations.657

9. (1) For the purposes of this Schedule a supply of goods is a relevant supply where —
   (a) the supply is a taxable supply;
   (b) the goods are assets of the business in the course or furtherance of which they are supplied; and
   (c) the person by whom they are supplied, or a predecessor of his, has received or claimed, or is intending to claim, a repayment of VAT on the supply to him, or the importation by him, of the goods or of anything comprised in them.

(2) In relation to any goods, a person is the predecessor of another for the purposes of this paragraph if —
(a) that other person is a person to whom he has transferred assets of his business by a transfer of that business, or part of it, as a going concern;

(b) those assets consisted of or included those goods; and

(c) the transfer of the assets is one falling by virtue of an order under section 5(3) (or under an enactment re-enacted in section 5(3)) to be treated as neither a supply of goods nor a supply of services;

and the reference in this paragraph to a person’s predecessor includes references to the predecessors of his predecessor through any number of transfers.

(3) The reference in this paragraph to a repayment of VAT is a reference to such a repayment under a scheme embodied in regulations made under section 39.

Schedule 3B658

SUPPLY OF ELECTRONIC SERVICES IN MEMBER STATES: SPECIAL ACCOUNTING SCHEME

Section 3A

PART 1 – REGISTRATION

The register

1. Persons registered under this Schedule are to be registered in a single register kept by the Treasury for the purposes of this Schedule.

Persons who may be registered

2. (1) A person may be registered under this Schedule if he satisfies the following conditions.

   (2) Condition 1 is that the person makes or intends to make qualifying supplies in the course of a business carried on by him.

   (3) Condition 2 is that the person has neither his business establishment nor a fixed establishment in the Island or the United Kingdom or in a member State in relation to any supply of goods or services.

   (4) [Repealed]659

   (5) [Repealed]660

   (6) Condition 3 is that the person is not identified under any provision of the law of a member State which implements Section 2 of Chapter 6 of Title XII of the VAT Directive.661

(8) [Repealed]663

Qualifying supplies

3. (1) In this Schedule, “qualifying supplies” means a supply of electronically supplied services, telecommunication services or broadcasting services to a person who —

(a) belongs in the Island, United Kingdom or a member State; and
(b) is not a relevant business person.

(2) In sub-paragraph (1) —
“broadcasting services” means radio and television broadcasting services;
“electronically supplied services” has the same meaning as in Schedule 4A (see paragraph 9(3) and (4) of that Schedule);
“telecommunication services” has the same meaning as in Schedule 4A (see paragraph 8(2) of that Schedule).664

Registration request

4 (1) If a person —
(a) satisfies the Treasury that the conditions in paragraph 2 are satisfied in his case, and
(b) makes a request in accordance with this paragraph (a “registration request”),

the Treasury must register him under this Schedule.

(2) Sub-paragraph (1) is subject to Article 58b of Implementing Regulation (EU) No 282/2001.665

(3) A registration request must contain the following particulars —
(a) the name of the person making the request;
(b) his postal address;
(c) his electronic addresses (including any websites);
(d) where he has been allocated a number by the tax authorities in the country in which he belongs, that number;
(e) the date on which he began, or intends to begin, making qualifying supplies.

(4) A registration request must include a statement that the person making the request has no business establishment, and no fixed establishment, in the Island, the United Kingdom or in a member State.666
(5) A registration request must —
   (a) contain any further information, and any declaration about its contents, that the Treasury may by regulations require;
   (b) be made by such electronic means, and in such manner, as the Treasury may direct or may by regulations require.\footnote{667}

5. \footnote{Repealed}^\text{668}

Registration number

6. On registering a person under this Schedule, the Treasury must —
   (a) allocate a registration number to him, and
   (b) notify him electronically of the number.

Obligation to notify changes

7. (1) \footnote{Repealed}^\text{669}
   (2) \footnote{Repealed}^\text{670}
   (3) A notification under Article 57h of Implementing Regulation (EU) No 282/2011 must be given by such electronic means, and in such manner, as the Treasury may direct or may by regulations prescribe.\footnote{671}

Cancellation of registration

8. (1) The Treasury must cancel a person’s registration under this Schedule if —
   (a) he notifies it that he has ceased to make, or to have the intention of making, qualifying supplies,
   (b) it otherwise determines that he has ceased to make, or to have the intention of making, qualifying supplies,
   (c) he notifies it that he has ceased to satisfy the conditions in any of sub-paragraphs (3) to (6) of paragraph 2,
   (d) it otherwise determines that he has ceased to satisfy any of those conditions, or
   (e) it determines that he has persistently failed to comply with his obligations under this Schedule or Implementing Regulation (EU) No 282/2011.\footnote{672}
   (2) \footnote{Repealed}^\text{673}
   (3) \footnote{Repealed}^\text{674}

9. \footnote{Repealed}^\text{675}
PART 2 – OBLIGATIONS FOLLOWING REGISTRATION, ETC

Liability for VAT

10.  (1) A person is liable to pay VAT under and in accordance with this Schedule if —

(a) he makes a qualifying supply, and

(b) he is registered under this Schedule when he makes the supply.

(2) The amount of VAT which a person is liable to pay by virtue of this Schedule on any qualifying supply is to be determined in accordance with sub-paragraphs (3) and (4) (and the VAT is to be paid without any deduction of VAT pursuant to Article 168 of Directive 2006/112/EC).676

(3) If the qualifying supply is treated as made in the Island, the amount is the amount of VAT charged on the supply under this Act (see paragraph 17(2)).677

(4) If the qualifying 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.678

(5) Where a person is liable to pay VAT by virtue of this Schedule, any amount falling to be determined in accordance with sub-paragraph (3) is to be regarded for the purposes of this Act as VAT charged in accordance with this Act.679

Obligation to submit special accounting returns

11.  (1) A person who is, or has been, registered under this Schedule must submit a return (a “special accounting return”) to the Treasury for each reporting period.

(2) Each quarter for the whole or any part of which a person is registered under this Schedule is a “reporting period” in the case of that person.

(3) [Repealed]680

(4) [Repealed]681

(5) [Repealed]682

(6) [Repealed]683

Further obligations with respect to special accounting returns

12.  (1) A special accounting return must be made out in sterling.684

(2) Any conversion from one currency into another for the purposes of sub-paragraph (1) shall be made by using the exchange rates published by the European Central Bank —

(a) for the last day of the reporting period to which the special accounting return relates, or

(b) if no such rate is published for that day, for the next day for which such a rate is published.
(3) A special accounting return must be submitted to the Treasury within the period of 20 days after the last day of the reporting period to which it relates.

(4) A special accounting return must be submitted by such electronic means, and in such manner, as the Treasury may direct or may by regulations prescribe.

Payment of VAT

13. (1) A person who is required to submit a special accounting return must, by the deadline for submitting the return, pay to the Treasury the amount of VAT that the person is liable, in accordance with paragraph 10, to pay on qualifying supplies treated as made by the person in the reporting period to which the return relates.685

(2) A payment under this paragraph must be made in such manner as the Treasury may direct or may by regulations prescribe.

Obligations to keep and produce records

14. (1) A person must keep records of the transactions which he enters into for the purposes of, or in connection with, qualifying supplies made by him at any time when he is registered under this Schedule.

(2) The records to be kept must be such as will enable the tax authorities for the member State in which a qualifying supply is treated as made to determine whether any special accounting return which is submitted in respect of that supply is correct.

(3) Any records required to be kept must be made available —

(a) to the tax authorities for the member State in which the qualifying supply to which the records relate was treated as made, if they so request, or

(b) to the Treasury, if it so requests.

(4) Records must be made available electronically under sub-paragraph (3).

(5) The records relating to a transaction must be maintained for a period of ten years beginning with the 1st January following the date on which the transaction was entered into.

Treasury’s power to request production of records

15. (1) The Treasury may request a person to make available to it electronically records of the transactions entered into by him for the purposes of, or in connection with, qualifying supplies to which this paragraph applies.

(2) This paragraph applies to qualifying supplies which —

(a) are treated as made in the Island, and

(b) are made by the person while he is identified under any provision of the law of a member State which implements Section 2 of Chapter 6 of Title XII of the VAT Directive.686
PART 3 – UNDERSTATEMENTS AND OVERSTATEMENTS OF ISLAND VAT

16 Assessments: general modifications of section 73

(1) For the purposes of this Schedule, section 73 (failure to make returns etc.) is to be read as if —
   (a) the reference to subsection (1) of that section to returns required under this Act included relevant special scheme returns; and
   (b) references in that section to a prescribed accounting period included a tax period.

(2) See also the modifications in paragraph 16A.

(3) In this Schedule, “relevant special scheme return” means a special scheme return that is required to be made (wholly or partly) in respect of supplies of scheme services that are treated as made in the Island.687

16A Assessment in connection with increase in consideration

(1) Sub-paragraphs (2) to (4) make modifications of sections 73 and 76 which —
   (a) have effect for the purposes of this Schedule; and
   (b) are in addition to any other modifications of those sections made by this Schedule.

(2) Section 73 has effect as if the following were inserted after subsection (3) of that section —

   “(3A) Where a person has failed to make an amendment or notification that the person is required to make under paragraph 16K of Schedule 3B in respect of an increase in the consideration for an Island supply (as defined in paragraph 16K(7)), the Treasury may assess the amount of VAT due from the person as a result of the increase to the best of its judgment and notify it to the person.

   (3B) An assessment under subsection (3A) —
   (a) is of VAT due for the tax period mentioned in paragraph 16K(1)(a) of Schedule 3B; and
   (b) must be made within the time limits provided for in section 77, and must not be made after the later of —
       (i) 2 years after the end of the tax period referred to in paragraph 16K(1)(a); and
       (ii) one year after evidence of facts sufficient in the opinion of the Treasury to justify making the assessment comes to its knowledge.
(3C) Subject to section 77, where further evidence such as is mentioned in subsection (3B)(b)(ii) comes to the Treasury’s knowledge after it has made an assessment under subsection (3A), another assessment may be made under that subsection, in addition to any earlier assessment.”.

(3) The reference in section 73(9) to subsection (1) of that section is taken to include a reference to section 73(3A) (as inserted by sub-paragraph (2)).

(4) Section 76 (assessment of amounts due by way of 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) (as inserted by sub-paragraph (2)).

16B  Assessments: consequential modifications

References to prescribed accounting periods in the following provisions are to be read in accordance with the modifications made by paragraphs 16 and 16A —

(a) section 74 (interest on VAT recovered or recoverable by assessment);

(b) section 76 (assessment of amounts due by way of penalty, interest or surcharge); and

(c) section 77 (assessment: time limits and supplementary assessments).

16C  Deemed amendments of relevant special scheme returns

(1) Where a person who has made a relevant special scheme return makes a claim under paragraph 16l(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 Treasury a notice relating to the return under paragraph 16K(2)(b) (increase or decrease in consideration), the relevant special scheme return is taken for the purposes of this Act to have been amended by that information.

(3) Where (in a case not falling within sub-paragraph (1) or (2)) a person who has made a relevant special scheme return notifies the Treasury (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.

(4) The Treasury may by regulations —
(a) specify within what period and in what form and manner notice may be given under sub-paragraph (3); or
(b) require notices to be supported by documentary evidence described in the regulations.690

16D Interest on VAT: “reckonable date”

(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 Treasury was 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 special scheme return was required to be made for the tax period to which the amount assessed relates.

(5) Where section 74(1) or (2) (interest on VAT recovered or recoverable by assessment) applies in relation to an amount assessed under section 73(3A) (as inserted by paragraph 16A(2)), the “reckonable date” for the purposes of section 74(1) or (2) is taken to be the day after the end of the tax period referred to in paragraph 16K(2).691

16E Default surcharge: notice of special surcharge period

(1) A person who is required to make a relevant special return for a tax period is regarded for the purposes of this paragraph and paragraph 16F as being in default in respect of that period if either —
   (a) conditions 1A and 2A are met; or
   (b) conditions 1B and 2B are met.

   This is subject to paragraph 16G.

(2) For the purposes of sub-paragraph (1)(a) —
   (a) condition 1A is that the tax authorities for the administering member State have not received the return by the deadline for submitting it;
(b) condition 2A is that those tax authorities have, in accordance with Article 60a of the Implementing Regulation, issued a reminder of the obligation to submit the return.

(3) For the purposes of sub-paragraph (1)(b) —

(a) condition 1B is that, by the deadline for submitting the return, the tax authorities for the administering member State have received the return but have not received the amount of VAT shown on the return as payable by the person in respect of the tax period;

(b) condition 2B is that those tax authorities have, in accordance with Article 60a of the Implementing Regulation, issued a reminder of the VAT outstanding.

(4) The Treasury may serve on a person who is in default in respect of a tax period a notice (a “special surcharge liability notice”) specifying a period —

(a) ending on the first anniversary of the last day of that tax period; and

(b) beginning on the date of the notice.

(5) A period specified under sub-paragraph (4) is a “special surcharge period”.

(6) If a special surcharge liability notice is served in respect of a tax period which ends at or before the end of an existing special surcharge period, the special surcharge period specified in that notice must be expressed as a continuation of the existing special surcharge period (so that the existing period and its extension are regarded as a single special surcharge period).  

16F Further default after service of notice

(1) If a person on whom a special surcharge liability notice has been served —

(a) is in default in respect of a tax period ending within the special surcharge period specified in (or extended by) that notice; and

(b) has outstanding special scheme VAT for that tax period,

the person is to be liable to a surcharge of the amount given by sub-paragraph (2).

(2) The surcharge is equal to whichever is the greater of —

(a) £30; and

(b) the specified percentage of the person’s outstanding special scheme VAT for the tax period.

(3) The specified percentage depends on whether the tax period is the first, second or third etc in the default period in respect of which the person is in default and has outstanding special scheme VAT, and is —
(a) for the first such tax period, 2%;
(b) for the second such tax period, 5%;
(c) for the third such tax period, 10%;
(d) for each such tax period after the third, 15%.

(4) “Special scheme VAT”, in relation to a person, means VAT that the person is liable to pay to the tax authorities for the administering member State under a special scheme in respect of supplies of scheme services treated as made in the Island.

(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).

16G Default surcharge: exceptions for reasonable excuse etc

(1) A person who would otherwise have been liable to a surcharge under paragraph 16F(1) is not liable to the surcharge if the person satisfies the Treasury or, on appeal, the tribunal that, in the case of a default which is material to the surcharge —

(a) the special scheme return or, as the case may be, the VAT shown on that return, was despatched at such a time and in such manner that it was reasonable to expect that it would be received by the tax authorities for the administering member State within the appropriate time limit; or

(b) there is a reasonable excuse for the return or the VAT not having been so despatched.

(2) Where sub-paragraph (1) applies to a person —

(a) the person is treated as not having been in default in respect of the tax period in question; and

(b) accordingly, any special surcharge liability notice the service of which depended on that default is regarded as not having been served.

(3) A default is “material” to a surcharge if —

(a) it is the default which gives rise to the surcharge, under paragraph 16F(1); or

(b) it is a default which was taken into account in the service of the special surcharge liability notice on which the surcharge depends and the person concerned has not previously been liable to a surcharge in respect of a tax period ending within the special surcharge period specified in or extended by that notice.
(4) A default is left out of account for the purposes of paragraphs 16E(4) and 16F(1) if —
   (a) the conduct by virtue of which the person is in default is also conduct falling within section 69(1) (breaches of regulatory provisions); and
   (b) by reason of that conduct the person concerned is assessed to a penalty under that section.

(5) If the Treasury, so directs, a default in respect of a tax period specified in the direction is to be left out of account for the purposes of paragraphs 16E(4) and 16F(1).

(6) Section 71(1) (meaning of "reasonable excuse") applies for the purposes of this paragraph as it applies for the purposes of sections 59 to 70.

16H Interest in certain cases of official error

(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 Treasury —
   (a) a person has accounted, under a special scheme, for an amount by way of Island VAT that was not Island VAT due from the person, and as a result the Treasury is liable under paragraph 16I to pay (or repay) an amount to the person; or
   (b) (in a case not falling within paragraph (a)), a person has paid, in accordance with an obligation under a special scheme, an amount by way of Island VAT that was not Island VAT due from the person and which the Treasury are in consequence liable to repay to the person.

(2) Section 78 has effect as if the condition in section 78(1)(a) were met in relation to that person.

(3) In the application of section 78 as a result of this paragraph, section 78(12)(b) is read as providing that any reference in that section to a return is to a return required to be made under a special scheme.

(4) In section 78 in its application as a result of this section, "output tax" has the meaning that that expression would have if the reference in section 24(2) to a "taxable person" were to a "person".

16I Overpayments

(1) A person may make a claim if the person —
   (a) has made a special scheme return for a tax period relating wholly or partly to supplies of scheme services treated as made in the Island;
(b) has accounted to the tax authorities for the administering member State (whether that is the Island, the United Kingdom or a member State) for VAT in respect of those supplies; and

(c) in doing so has brought into account as Island VAT due to those authorities an amount (“the overpaid amount”) that was not Island 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 Treasury) an amount by way of Island VAT that was not Island 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 Treasury —

(a) has assessed the person to VAT for a tax period; and

(b) in doing so, has 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 Treasury must repay the overpaid amount to the person.

(5) Where a person makes a claim under sub-paragraph (3), the Treasury 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 Treasury 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 period during which the special scheme return may be amended under Article 61) to the Treasury.

(8) Sub-paragraphs (1) and (2) do not require any amount to be repaid except so far as that is required by Article 63 of the Implementing Regulation.696

16J Overpayments: supplementary

(1) In section 80 —

(a) subsections (3) to (3C) (unjust enrichment); and
Value Added Tax Act 1996

Schedule 3B

(b) subsections (4A), (4C) and (6) (recovery by assessment of amounts wrongly credited),

have effect as if a claim under paragraph 16I(1) were a claim under section 80(1), a claim under paragraph 16I(2) were a claim under section 80(1B) and a claim under paragraph 16I(3) were a claim under section 80(1A).

(2) In section 80(3) to (3C), (4A), (4C) and (6), as applied by sub-paragraph (1) —

(a) references to the crediting of amounts are to be read as including the payment of amounts; and

(b) references to a prescribed accounting period include a tax period.

(3) The Treasury is not liable to repay the overpaid amount on a claim made —

(a) under paragraph 16I(2); or

(b) as mentioned in paragraph 16I(7)(b), if the claim is made more than 4 years after the relevant date.

(4) On a claim made under paragraph 16I(3), the Treasury is not liable to credit the amount not due if the claim is made more than 4 years after the relevant date.

(5) The “relevant date” is —

(a) in the case of a claim under paragraph 16I(1), the end of the tax period mentioned in paragraph 16I(1)(a), except in the case of a claim resulting from an incorrect disclosure;

(b) in the case of a claim under paragraph 16I(1) resulting from an incorrect disclosure, the end of the tax period in which the disclosure was made;

(c) in the case of a claim under paragraph 16I(2), the date on which the payment was made; or

(d) in the case of a claim under paragraph 16I(3), the end of the quarter in which the assessment was made.

(6) A person makes an “incorrect disclosure” where —

(a) the person discloses to the tax authorities in question (whether the Treasury or the tax authorities for the administering member State) that the person has not brought into account for a tax period an amount of Island 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.697

16K Increase or decrease in consideration for a supply

(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 an Island supply; and
(b) after the return has been made the amount of the consideration for the Island 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 Treasury 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 an Island 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 Treasury, 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 —
(a) the change to which an amendment or notice under sub-paragraph (2) relates is a decrease in the consideration for an Island supply, the amendment or notice has effect as a claim; or
(b) a claim is made the Treasury 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 Treasury 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; or
(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 “Island supply” means a supply of scheme services that is treated as made in the Island.

16L Bad debts

Where a participant in a special scheme —

(a) has submitted a special scheme return to the tax authorities for the administering member State; and

(b) amends the return to take account of the writing-off as a bad debt of the whole or part of the consideration for a supply of scheme services that is treated as made in the Island,

the amending of the return may be treated as the making of a claim to the Treasury for the purposes of section 36(2) (bad debts: claim for refund of VAT).

16M Penalties for errors: disclosure

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 the Treasury about that for the purposes of paragraph 9 of Schedule 24 to the Finance Act 2007, as it has effect in the Island.

PART 4 – APPLICATION OF PROVISIONS RELATING TO VAT

Registration under this Act

17. (1) Notwithstanding any provision in this Act to the contrary, a participant in the special scheme is not required to be registered under this Act by virtue of making qualifying supplies.

(2) Where a participant in the special scheme (“the scheme participant”) makes relevant supplies, it is to be assumed that the scheme participant is registered under this Act. That assumption applies 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 Treasury may specify by regulations.
(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 Island.\(^703\)

(4) References in this Schedule to a person being registered under this Act do not include a reference to that person being registered under this Schedule.\(^704\)

De-registration

18. Where a person who is registered under Schedule 2 or 2A solely by virtue of the fact he makes or intends to make qualifying supplies satisfies the Treasury that he intends to apply for —
   (a) registration under this Schedule, or
   (b) identification under any provision of the law of a member State which implements Section 2 of Chapter 6 of Title XII of the VAT Directive,\(^705\)

it may, if he so requests, cancel his registration under Schedule 2 or, as the case may be, 2A with effect from the day on which the request is made or from such later date as may be agreed between him and the Treasury.\(^706\)

18ZA Scheme participants who are also registered under this Act

(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. However, the person is so required if 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 to which the person —
   (a) is subject under or by virtue of this Act; and
   (b) 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 Island.
(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.707

18A Value of supplies to connected persons

In paragraph 1 of Schedule 6 (valuation: special cases), the reference to a supply made by a taxable person is to be read as including a supply of scheme services that is made by a participant in the special scheme (and is treated as made in the Island).708

VAT representatives

19. Section 48(1ZA) (VAT representatives) does not permit the Treasury to direct a participant in the special scheme to appoint a VAT representative.709

Appeal

20. (1) An appeal shall lie to a tribunal with respect to any of the following —

(a) the registration or cancellation of the registration of any person under this Schedule;

(b) a refusal to make a repayment under paragraph 16I (overpayments), or a decision by the Treasury as to the amount of the repayment due under that provision;710

(c) a refusal to make a repayment under paragraph 16K(4) (decrease in consideration); or711

(d) any liability to a surcharge under paragraph 16F (default surcharge).712

(2) Part V (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).713

(3) Where the Treasury has made an assessment under section 73 in reliance on paragraph 16 or 16A —

(a) section 83(1)(p)(i) applies as if the relevant special scheme 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.714

21. [Repealed]715

Refund of Island VAT
22. (1) The provisions which give effect to the 1986 VAT Refund Directive in the Island have effect in relation to a participant in the special scheme, but with the following modifications.

(2) The provision which gives effect to Article 2(1) of the 1986 VAT Refund Directive (as at 9th April 2003, see regulation 186 of the Value Added Tax Regulations 1996) shall apply in relation to a participant in the special scheme, but only so as to entitle him to a refund of VAT charged on —

(a) goods imported by him into the Island, and
(b) supplies made to him in the Island,

in connection with the making by him of qualifying supplies while he is a participant in the special scheme.

(3) The following provisions shall be omitted.

(4) The first provision is that which gives effect to Article 1(1) of the 1986 VAT Refund Directive, so far as it requires a member State to prevent a person who is deemed to have supplied services in that member State during a period from being granted a refund of VAT for that period (as at 9th April 2003, see regulation 188(2)(b) of the Value Added Tax Regulations 1996).

(5) The second provision is that which gives effect to Article 2(2) of the 1986 VAT Refund Directive (which permits member States to make refunds conditional upon the granting by third States of comparable advantages regarding turnover taxes: as at 9th April 2003, see regulation 188(1) of the Value Added Tax Regulations 1996).

(6) The third provision is that which gives effect to Article 2(3) of the 1986 VAT Refund Directive (which permits member States to require the appointment of a tax representative: as at 9th April 2003, see regulation 187 of the Value Added Tax Regulations 1996).

(7) The fourth provision is that which gives effect to Article 4(2) of the 1986 VAT Refund Directive (which permits member States to provide for the exclusion of certain expenditure and to make refunds subject to additional conditions).


PART 5 – SUPPLEMENTARY

Interpretation

23. (1) In this Schedule —

“the 1977 VAT Directive” [Repealed]\(^716\)

“the 2002 VAT Directive” [Repealed]\(^717\)
“Article 26c” [Repealed] 718

“administering member State”, in relation to a special scheme, means the member State under whose law the scheme is established (whether that is the Island, the United Kingdom or a member State); 719

“the Implementing Regulation” means Implementing Regulation (EU) No 282/2011; 720

“Island VAT” means VAT which a person is liable to pay (whether in the Island or a member State) in respect of qualifying supplies treated as made in the Island at a time when the person is or was a participant in the special scheme; 721

“participant in the special scheme” means a person who —

(a) is registered under this Schedule; or

(b) is identified under any provision of the law of another member State which implements Section 2 of Chapter 6 of Title XII of the VAT Directive; 722

“qualifying supply” has the meaning given by paragraph 3;

“registration number” means the number allocated to a person on his registration under this Schedule in accordance with paragraph 6(a);

“registration request” is to be construed in accordance with paragraph 4(1)(b);

“relevant special scheme return” has the meaning given by paragraph 16(3); 723

“reporting period” is to be construed in accordance with paragraph 11(2); 724

“scheme services” means electronically supplied services, broadcasting services or telecommunication services (and in this definition “electronically supplied services”, “broadcasting services” and “telecommunication services” have the same meaning given by paragraph 3(2)); 725

“special accounting return” is to be construed in accordance with paragraph 11(1);

“special scheme” means —

(a) the accounting scheme under this Schedule; or

(b) any other scheme, under the law of a member State, implementing Section 2 of Chapter 6 of Title XII of the VAT Directive; 726

“special scheme return” means —

(a) a special accounting return; or

(b) a value added tax return submitted to the tax authorities of a member State; 727

“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;\(^728\)

“\textit{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 364 of the VAT Directive (as substituted by Article 5(11) of Council Directive 2008/8/EC);\(^729\)

“\textit{the VAT Directive}” has the meaning given by paragraph 2(7).\(^730\)

(2) References in this Schedule to a qualifying supply being “treated as made” in a member State are references to its being treated as made —

(a) in the Island, by paragraph 15 of Schedule 4A (place of supply of services: special rules), or\(^731\)

(b) in a member State, by virtue of any provision of the law of that member State which gives effect to that Article.

(3) [Repealed]\(^732\)

\section*{Schedule 4}

\textbf{REGISTRATION IN RESPECT OF ACQUISITIONS FROM MEMBER STATES}

Section 3(2)

\textit{Liability to be registered}

1. (1) A person who —

(a) is not registered under this Act; and

(b) is not liable to be registered under Schedule 2, 2A or 3,\(^733\)

becomes liable to be registered under this Schedule at the end of any month if, in the period beginning with 1 January of the year in which that month falls, that person has made relevant acquisitions whose value exceeds £85,000.\(^734\)

(2) A person who is not registered or liable to be registered as mentioned in sub-paragraph (1)(a) and (b) becomes liable to be registered under this Schedule at any time if there are reasonable grounds for believing that the value of his relevant acquisitions in the period of 30 days then beginning will exceed £85,000.\(^735\)

(3) A person shall be treated as having become liable to be registered under this Schedule at any time when he would have become so liable under the preceding provisions of this paragraph but for any registration which is subsequently cancelled under paragraph 6(3), paragraph 13(3) of Schedule 2, paragraph 11 of Schedule 2A, paragraph 6(2) of Schedule 3 or paragraph 6(2) of Schedule 3A.\(^736\)
(4) A person shall not cease to be liable to be registered under this Schedule except in accordance with paragraph 2.

(5) In determining the value of any person’s relevant acquisitions for the purposes of this paragraph, so much of the consideration for any acquisition as represents any liability of the supplier, under the law of a member State, for VAT on the transaction in pursuance of which the acquisition is made, shall be disregarded.

(6) In determining the value of a person’s acquisitions for the purposes of sub-paragraph (1) or (2), acquisitions to which section 18B(4) (last acquisition or supply of goods before removal from fiscal warehousing) applies shall be disregarded.

2. (1) Subject to sub-paragraph (2), a person who has become liable to be registered under this Schedule shall cease to be so liable if at any time —

(a) his relevant acquisitions in the year ending 31 December last before that time did not have a value exceeding £85,000; and

(b) the Treasury is satisfied that the value of his relevant acquisitions in the year immediately following that year will not exceed £85,000.

(2) A person shall not cease to be liable to be registered under this Schedule at any time if there are reasonable grounds for believing that the value of that person’s relevant acquisitions in the period of 30 days then beginning will exceed £85,000.

Notification of liability and registration

3. (1) A person who becomes liable to be registered under this Schedule shall notify the Treasury of the liability —

(a) in the case of a liability under paragraph 1(1), within 30 days of the end of the month when he becomes so liable; and

(b) in the case of a liability under paragraph 1(2), before the end of the period by reference to which the liability arises.

(2) The Treasury shall register any such person (whether or not he so notifies it) with effect from the relevant time or from such earlier time as may be agreed between it and him.

(3) In this paragraph “the relevant time” —

(a) in a case falling within sub-paragraph (1)(a), means the end of the month following the month at the end of which the liability arose; and

(b) in a case falling within sub-paragraph (1)(b), means the beginning of the period by reference to which the liability arose.

Entitlement to be registered etc

4. (1) Where a person who is not liable to be registered under this Act and is not already so registered satisfies the Treasury that he makes relevant acquisitions, it shall,
if he so requests, register him with effect from the day on which the request is made or from such earlier date as may be agreed between it and him.

(2) Where a person who is not liable to be registered under this Act and is not already so registered —

(a) satisfies the Treasury that he intends to make relevant acquisitions from a specified date; and

(b) requests to be registered under this Schedule,

the Treasury may, subject to such conditions as it thinks fit to impose, register him with effect from such date as may be agreed between it and him.

(3) Conditions imposed under sub-paragraph (2) —

(a) may be so imposed wholly or partly by reference to, or without reference to, any conditions prescribed for the purposes of this paragraph; and

(b) may, whenever imposed, be subsequently varied by the Treasury.

(4) Where a person who is entitled to be registered under paragraph 9 or 10 of Schedule 2 requests registration under this paragraph, he shall be registered under that Schedule, and not under this Schedule.

Notification of matters affecting continuance of registration

5. (1) Any person registered under this Schedule who ceases to be registrable under this Act shall notify the Treasury of that fact within 30 days of the day on which he does so.

(2) A person registered under paragraph 4(2) shall notify the Treasury, within 30 days of the first occasion after his registration when he makes a relevant acquisition, that he has done so.

(3) For the purposes of this paragraph a person ceases to be registrable under this Act where —

(a) he ceases to be a person who would be liable or entitled to be registered under this Act if his registration and any statutory provision preventing a person from being liable to be registered under different provisions at the same time were disregarded; or

(b) in the case of a person who (having been registered under paragraph 4(2)) has not been such a person during the period of his registration, he ceases to have any intention of making relevant acquisitions.

Cancellation of registration

6. (1) Subject to paragraph 7, where a person registered under this Schedule satisfies the Treasury that he is not liable to be so registered, it shall, if he so requests,
cancel his registration with effect from the day on which the request is made or from such later date as may be agreed between it and him.

(2) Subject to paragraph 7, where the Treasury is satisfied that a person registered under this Schedule has ceased since his registration to be registrable under this Schedule, it may cancel his registration with effect from the day on which he so ceased or from such later date as may be agreed between it and him.

(3) Where the Treasury is satisfied that, on the day on which a person was registered under this Schedule, he —
   (a) was not registrable under this Schedule; and
   (b) in the case of a person registered under paragraph 4(2), did not have the intention by reference to which he was registered,

it may cancel his registration with effect from that day.

(4) Subject to paragraph 7, where the Treasury is satisfied that a person who has been registered under paragraph 4(2) and is not for the time being liable to be registered under this Schedule —
   (a) has not begun, by the date specified in his request to be registered, to make relevant acquisitions; or
   (b) has contravened any condition of his registration,

it may cancel his registration with effect from the date so specified or, as the case may be, the date of the contravention or from such later date as may be agreed between it and him.

(5) For the purposes of this paragraph a person is registrable under this Schedule at any time when he is liable to be registered under this Schedule or is a person who makes relevant acquisitions.

Conditions of cancellation

7. (1) The Treasury shall not, under paragraph 6(1), cancel a person’s registration with effect from any time unless it is satisfied that it is not a time when that person would be subject to a requirement to be registered under this Act.

(2) The Treasury shall not, under paragraph 6(2) or (4), cancel a person’s registration with effect from any time unless it is satisfied that it is not a time when that person would be subject to a requirement, or entitled, to be registered under this Act.

(3) Subject to sub-paragraph (4), the registration of a person who —
   (a) is registered under paragraph 4; or
   (b) would not, if he were not registered, be liable or entitled to be registered under any provision of this Act except paragraph 4,

shall not be cancelled with effect from any time before 1 January which is, or next follows, the second anniversary of the date on which his registration took effect.
(4) Sub-paragraph (3) does not apply to cancellation under paragraph 6(3) or (4).

(5) In determining for the purposes of this paragraph whether a person would be subject to a requirement, or entitled, to be registered at any time, so much of any provision of this Act as prevents a person from becoming liable or entitled to be registered when he is already registered or when he is so liable under any other provision shall be disregarded.

Exemption from registration

8. (1) Notwithstanding the preceding provisions of this Schedule, where a person who makes or intends to make relevant acquisitions satisfies the Treasury that any such acquisition would be an acquisition in pursuance of a transaction which would be zero-rated if it were a taxable supply by a taxable person, it may, if he so requests and it thinks fit, exempt him from registration under this Schedule until it appears to it that the request should no longer be acted upon or is withdrawn.

(2) Where a person who is exempted under this paragraph from registration under this Schedule makes any relevant acquisition in pursuance of any transaction which would, if it were a taxable supply by a taxable person, be chargeable to VAT otherwise than as a zero-rated supply, he shall notify the Treasury of the change within 30 days of the date on which he made the acquisition.

Power to vary specified sums by order

9. The Treasury may by order substitute for any of the sums for the time being specified in this Schedule such greater sums as it thinks fit.

Supplementary

10. Any notification required under this Schedule shall be made in such form and manner and shall contain such particulars as may be specified in regulations or by the Treasury in accordance with regulations. 741

11. For the purposes of this Schedule an acquisition of goods from a member State is a relevant acquisition where —

(a) it is a taxable acquisition of goods other than goods which are subject to a duty of excise or consist in a new means of transport;

(b) it is an acquisition otherwise than in pursuance of a taxable supply and is treated, for the purposes of this Act, as taking place in the Island; and

(c) the event which, in relation to that acquisition, is the first relevant event for the purposes of taxing that acquisition occurs after the coming into force of this Schedule.
PART 1 - GENERAL EXCEPTIONS

1 Services relating to land

(1) A supply of services to which this paragraph applies is to be treated as made in the country in which the land in connection with which the supply is made is situated.

(2) This paragraph applies to —

(a) the grant, assignment or surrender of any interest in or right over land;

(b) the grant, assignment or surrender of a personal right to call for or be granted any interest in or right over land;

(c) the grant, assignment or surrender of a licence to occupy land or any other contractual right exercisable over or in relation to land (including the provision of holiday accommodation, seasonal pitches for caravans and facilities at caravan parks for persons for whom such pitches are provided and pitches for tents and camping facilities);

(d) the provision in an hotel, inn, boarding house or similar establishment of sleeping accommodation or of accommodation in rooms which are provided in conjunction with sleeping accommodation or for the purpose of a supply of catering;

(e) any works of construction, demolition, conversion, reconstruction, alteration, enlargement, repair or maintenance of a building or civil engineering work; and

(f) services such as are supplied by estate agents, auctioneers, architects, surveyors, engineers and others involved in matters relating to land.

(3) In sub-paragraph (2)(c) “holiday accommodation” includes any accommodation in a building, hut (including a beach hut or chalet), caravan, houseboat or tent which is advertised or held out as holiday accommodation or as suitable for holiday or leisure use.

(4) In sub-paragraph (2)(d) “similar establishment” includes premises in which there is provided furnished sleeping accommodation, whether with or without the provision of board or facilities for the preparation of food, which are used by, or held out as being suitable for use by, visitors or travellers.
2 Passenger transport

(1) A supply of services consisting of the transportation of passengers (or of any luggage or motor vehicles accompanying passengers) is to be treated as made in the country in which the transportation takes place, and (in a case where it takes place in more than one country) in proportion to the distances covered in each.

(2) For the purposes of sub-paragraph (1) transportation which takes place partly outside the territorial jurisdiction of a country is to be treated as taking place wholly in the country if —

(a) it takes place in the course of a journey between two points in the country (whether or not as part of a longer journey involving travel to or from another country); and

(b) the means of transport used does not (except in an emergency or involuntarily) stop, put in or land in another country in the course of the journey between those two points.

(3) For the purposes of sub-paragraph (1) a pleasure cruise is to be regarded as the transportation of passengers (so that services provided as part of a pleasure cruise are to be treated as supplied in the same place as the transportation of the passengers).

(4) In sub-paragraph (3) “pleasure cruise” includes a cruise wholly or partly for education or training.

3 Hiring of means of transport

(1) A supply of services consisting of the short-term hiring of a means of transport is to be treated as made in the country in which the means of transport is actually put at the disposal of the person by whom it is hired.

But this is subject to sub-paragraphs (3) and (4).

(2) For the purposes of this Schedule the hiring of a means of transport is “short-term” if it is hired for a continuous period not exceeding —

(a) if the means of transport is a vessel, 90 days; and

(b) otherwise, 30 days.

(3) Where —

(a) a supply of services consisting of the hiring of a means of transport would otherwise be treated as made in the Island; and

(b) the services are to any extent effectively used and enjoyed in a country which is not a member State,

the supply is to be treated to that extent as made in that country.

(4) Where —

(a) a supply of services consisting of the hiring of a means of transport would otherwise be treated as made in a country which is not a member State; and
(b) the services are to any extent effectively used and enjoyed in the Island,

the supply is to be treated to that extent as made in the Island.

4  [Repealed]743

5  Restaurant and catering services: general

(1) A supply of services to which this paragraph applies is to be treated as made in the country in which the services are physically carried out.

(2) This paragraph applies to the provision of restaurant services and the provision of catering services, other than the provision of services to which paragraph 6 applies.

6  EC on-board restaurant and catering services

(1) A supply of services consisting of

(a) the provision of restaurant services; or

(b) the provision of catering services,

on board a ship, aircraft or train in connection with the transportation of passengers during an intra-EU passenger transport operation is to be treated as made in the country in which the relevant point of departure is located.744

(2) An intra-EU passenger transport operation is a passenger transport operation which, or so much of a passenger transport operation as, —

(a) has as the first place at which passengers can embark a place which is within the European Union;745

(b) has as the last place at which passengers who embarked in a member State can disembark a place which is within the European Union; and746

(c) does not include a stop at a place which is not within the European Union and at which passengers can embark or passengers who embarked in a member State can disembark.747 748

(3) “Relevant point of departure”, in relation to an intra-EU passenger transport operation, is the first place in the intra-EU passenger transport operation at which passengers can embark.749

(4) A place is within the European Union if it is within any member State (including the Island).750

(5) For the purposes of this paragraph the return stage of a return passenger transport operation is to be regarded as a separate passenger transport operation; and for this purpose —
(a) a return passenger transport operation is one which takes place in more than one country but is expected to end in the country in which it begins; and
(b) the return stage of a return passenger transport operation is the part of it which ends in the country in which it began and begins with the last stop at a place at which there has not been a previous stop during it.

(6) In this paragraph, “within the European Union” includes within the Island.

7 Hiring of goods

(1) Where —

(a) a supply of services consisting of the hiring of any goods other than a means of transport would otherwise be treated as made in the Island; and
(b) the services are to any extent effectively used and enjoyed in a country which is not a member State,

the supply is to be treated to that extent as made in that country.

(2) Where —

(a) a supply of services consisting of the hiring of any goods other than a means of transport would otherwise be treated as made in a country which is not a member State; and
(b) the services are to any extent effectively used and enjoyed in the Island,

the supply is to be treated to that extent as made in the Island.

8 Broadcasting services

(1) This paragraph applies to a supply of services consisting of the provision of —

(a) [Repealed]
(b) radio or television broadcasting services.

(2) [Repealed]

(3) Where —

(a) a supply of services to which this paragraph applies would otherwise be treated as made in the Island; and
(b) the services are to any extent effectively used and enjoyed in a country which is not a member State,

the supply is to be treated to that extent as made in that country.
(4) Where —
   (a) a supply of services to which this paragraph applies would otherwise be treated as made in a country which is not a member State; and
   (b) the services are to any extent effectively used and enjoyed in the Island,

the supply is to be treated to that extent as made in the Island.

**PART 2 – EXCEPTIONS RELATING TO SUPPLIES MADE TO RELEVANT BUSINESS PERSON**

9 **Electronically-supplied services**

(1) Where —
   (a) a supply of services consisting of the provision of electronically supplied services to a relevant business person would otherwise be treated as made in the Island; and
   (b) the services are to any extent effectively used and enjoyed in a country which is not a member State,

the supply is to be treated to that extent as made in that country.

(2) Where —
   (a) a supply of services consisting of the provision of electronically supplied services to a relevant business person would otherwise be treated as made in a country which is not a member State; and
   (b) the services are to any extent effectively used and enjoyed in the Island,

the supply is to be treated to that extent as made in the Island.

(3) Examples of what are electronically supplied services for the purposes of this Schedule include —
   (a) website supply, web-hosting and distance maintenance of programmes and equipment;
   (b) the supply of software and the updating of software;
   (c) the supply of images, text and information, and the making available of databases;
   (d) the supply of music, films and games (including games of chance and gambling games);
   (e) the supply of political, cultural, artistic, sporting, scientific, educational or entertainment broadcasts (including broadcasts of events); and
   (f) the supply of distance teaching.
(4) But where the supplier of a service and the supplier’s customer communicate via electronic mail, this does not of itself mean that the service provided is an electronically supplied service for the purposes of this Schedule.

9A Admission to cultural, educational and entertainment activities etc

(1) A supply to a relevant business person of services to which this paragraph applies is to be treated as made in the country in which the events in question actually take place.

(2) This paragraph applies to the provision of —
(a) services in respect of admission to cultural, artistic, sporting, scientific, educational, entertainment or similar events (including fairs and exhibitions); and
(b) ancillary services relating to admission to such events.\(^{755}\)

9B Transport of goods

Where —

(a) a supply of services to a relevant business person consisting of the transportation of goods would otherwise be treated as made in the Island or the United Kingdom, and

(b) the transportation takes place wholly outside the member States, the supply is to be treated as made wholly outside the member States.\(^{756}\)

9C Ancillary transport services

(1) Where —

(a) a supply of services to a relevant business person consisting of ancillary transport services would otherwise be treated as made in the Island or the United Kingdom, and

(b) the services are physically performed wholly outside the member States, the supply is to be treated as made wholly outside the member States.

(2) In sub-paragraph (1)(a) “ancillary transport services” means loading, unloading, handling and similar activities.\(^{757}\)

9D Repair services: contracts of insurance

(1) This paragraph applies to a supply of services consisting of the repair of tangible movable property where —

(a) the supply is pursuant to a claim made under a contract of insurance, and
(b) the supply is made to a relevant business person who is not the
person insured.

(2) Where —

(a) a supply of services to which this paragraph applies would
otherwise be treated as made in the Island, and

(b) the services are effectively used and enjoyed outside the territories
of the member States,

the supply is to be treated as made where it is used and enjoyed.

(3) Where —

(a) a supply of services to which this paragraph applies would
otherwise be treated as made outside the territories of the member
States, and

(b) the services are effectively used and enjoyed in the Island,

the supply is to be treated as made in the Island. 758

9E Telecommunications services

(1) This paragraph applies to a supply of services to a relevant business
person consisting of the provision of telecommunication services.

(2) In this Schedule “telecommunication services” means services relating to
the transmission, emission or reception of signals, writing, images and sounds or
information of any nature by wire, radio, optical or other electromagnetic systems,
including —

(a) the related transfer or assignment of the right to use capacity for
such transmission, emission or reception; and

(b) the provision of access to global information networks.

(3) Where —

(a) a supply of services to which this paragraph applies would
otherwise be treated as made in the Island; and

(b) the services are to any extent effectively used and enjoyed in a
country which is not a member State,

the supply is to be treated to that extent as made in that country.

(4) Where —

(a) a supply of services to which this paragraph applies would
otherwise be treated as made in a country which is not a member
State; and

(b) the services are to any extent effectively used and enjoyed in the
Island,

the supply is to be treated to that extent as made in the Island. 759
PART 3 – EXCEPTIONS RELATING TO SUPPLIES NOT MADE TO RELEVANT BUSINESS PERSON

10 Intermediaries

(1) A supply of services to which this paragraph applies is to be treated as made in the same country as the supply to which it relates.

(2) This paragraph applies to a supply to a person who is not a relevant business person consisting of the making of arrangements for a supply by or to another person or of any other activity intended to facilitate the making of such a supply.

11 Transport of goods: general

(1) A supply of services to a person who is not a relevant business person consisting of the transportation of goods is to be treated as made in the country in which the transportation takes place, and (in a case where it takes place in more than one country) in proportion to the distances covered in each.

(2) For the purposes of sub-paragraph (1) transportation which takes place partly outside the territorial jurisdiction of a country is to be treated as taking place wholly in the country if —

(a) it takes place in the course of a journey between two points in the country (whether or not as part of a longer journey involving travel to or from another country); and

(b) the means of transport used does not (except in an emergency or involuntarily) stop, put in or land in another country in the course of the journey between those two points.

(3) This paragraph does not apply to a transportation of goods beginning in one member State and ending in another (see paragraph 12).

12 Intra-EU transport of goods

A supply of services to a person who is not a relevant business person consisting of the transportation of goods which begins in one member State and ends in another is to be treated as made in the member State in which the transportation begins.

13 Ancillary transport services

(1) A supply to a person who is not a relevant business person of ancillary transport services is to be treated as made where the services are physically performed.

(2) “Ancillary transport services” means loading, unloading, handling and similar activities.
13A Long-term hiring of means of transport

(1) A supply to a person who is not a relevant business person (“the recipient”) of services consisting of the long-term hiring of a means of transport is to be treated as made in the country in which the recipient belongs.

But this is subject to sub-paragraph (2) and paragraph 3(3) and (4).

(2) A supply to a person who is not a relevant business person (“the recipient”) of services consisting of the long-term hiring of a pleasure boat which is actually put at the disposal of the recipient at the supplier’s business establishment, or some other fixed establishment of the supplier, is to be treated as made in the country where the pleasure boat is actually put at the disposal of the recipient.

(3) For the purposes of this Schedule, the hiring of a means of transport is “long-term” if it is not short term (as to the meaning of which see paragraph 3(2)).

14 Valuation services etc

A supply to a person who is not a relevant business person of services consisting of the valuation of, or carrying out of work on, goods is to be treated as made where the services are physically performed.

14A Cultural, educational and entertainment services etc

(1) A supply to a person who is not a relevant business person of services to which this paragraph applies is to be treated as made in the country in which the activities concerned actually take place.

(2) This paragraph applies to the provision of —

(a) services relating to cultural, artistic, sporting, scientific, educational, entertainment or similar activities (including fairs and exhibitions), and

(b) ancillary services relating to such activities, including services of organisers of such activities.

15 Electronically supplied, telecommunication and broadcasting services

(1) A supply to a person (“the recipient”) who is not a relevant business person of services to which this paragraph applies is to be treated as made in the country in which the recipient belongs (but see sub-paragraph (3) and paragraph 8).

(2) This paragraph applies to —

(a) electronically supplied services (as to the meaning of which see paragraph 9(3) and (4)),

(b) telecommunication services (as to the meaning of which see paragraph 9E(2)), and

(c) radio and television broadcasting services.
(3) Sub-paragraph (1) does not apply in relation to a supply of services where —
   (a) the supplier of the services belongs in only one member State;
   (b) the services are supplied to relevant EU persons;
   (c) the value of the supply, taken together with the value of relevant
       supplies already made by the supplier in the calendar year in which
       the supply is made, does not exceed £8,818; and
   (d) the value of relevant supplies made by the supplier in the calendar
       year preceding that in which the supply is made did not exceed
       £8,818,

unless the supplier has made an election under this paragraph or under
the law of a member State in which the supplier belongs that the supply is
to be treated as made in the country in which the recipient belongs.765

(4) An election may be made for the purposes of this paragraph by a supplier
who belongs in the Island in relation to relevant supplies made by that
supplier.766

(5) An election under this paragraph must —
   (a) be made by notice in writing;
   (b) specify the date on which the election is made; and
   (c) be received by the Treasury no later than 30 days after that date.767

(6) An election made by a supplier under this paragraph has effect in relation
to relevant supplies made by that supplier —
   (a) on the day on which the election is made;
   (b) on subsequent days in the same calendar year; and
   (c) in the next two calendar years.768

(7) For the purposes of this paragraph —
   (a) “relevant EU persons” means persons belonging in a member State
       or member States other than that in which the supplier belongs;
   (b) “relevant supplies” means supplies to relevant EU persons of
       services to which this paragraph applies; and
   (c) references to the value of supplies are to their value excluding
       VAT.769 770

16 Other services provided to recipient belonging outside European
Union771

(1) A supply consisting of the provision to a person (“the recipient”) who —
   (a) is not a relevant business person; and
   (b) belongs in a country which is not a member State,
of services to which this paragraph applies is to be treated as made in the country in which the recipient belongs.

(2) This paragraph applies to —
   (a) transfers and assignments of copyright, patents, licences, trademarks and similar rights;
   (b) the acceptance of any obligation to refrain from pursuing or exercising (in whole or in part) any business activity or any rights within paragraph (a);
   (c) advertising services;
   (d) services of consultants, engineers, consultancy bureaux, lawyers, accountants, and similar services, data processing and provision of information, other than services relating to land;
   (e) banking, financial and insurance services (including reinsurance), other than the provision of safe deposit facilities;
   (f) the provision of access to, or transmission or distribution through —
      (i) a natural gas system situated within the territory of a member State\(^{11}\) or any network connected to such a system, or
      (ii) an electricity system, or
      (iii) a network through which heat or cooling is supplied, and the provision of other directly linked services;\(^{772}\)
   (g) the supply of staff; and
   (h) the letting on hire of goods other than means of transport.
   (i) [Repealed]\(^{773}\)
   (j) [Repealed]\(^{774}\)
   (k) [Repealed]\(^{775}\)

PART 4 – INTERPRETATION

17 For the purpose of this Schedule, the Island is to be construed as part of the United Kingdom.

Schedule 5

MATTERS TO BE TREATED AS SUPPLY OF GOODS OR SERVICES

Section 5

\(^{11}\) For the purpose of VAT, the Island is treated as if part of a member State.
1. (1) Any transfer of the whole property in goods is a supply of goods; but the transfer —
   (a) of any undivided share of the property, or
   (b) of the possession of goods,

is a supply of services, subject to sub-paragraph (2).

(2) If the possession of goods is transferred —
   (a) under an agreement for the sale of the goods, or
   (b) under agreements which expressly contemplate that the property also will pass at some time in the future (determined by, or ascertainable from, the agreements but in any case not later than when the goods are fully paid for),

it is then in either case a supply of the goods.

2. [Repealed]776

3. The supply of any form of power, heat, refrigeration or other cooling or ventilation is a supply of goods.777

4. The grant, assignment or surrender of a major interest in land is treated as a supply of goods.

5. (1) Subject to sub-paragraph (2), where goods forming part of the assets of a business are transferred or disposed of by or under the directions of a person carrying on the business so as no longer to form part of those assets, whether or not for a consideration, that is a supply by him of goods.

   (2) Sub-paragraph (1) does not apply where the transfer or disposal is —
      (a) a business gift the cost of which, together with the cost of any other business gifts made to the same person in the same year, was not more than £50,778
      (b) the provision to a person, otherwise than for a consideration, of a sample of goods.779

(2ZA) In sub-paragraph (2) —

“business gift” means a gift of goods that is made in the course or furtherance of the business in question;

“cost”, in relation to a gift of goods, means the cost to the donor of acquiring or, as the case may be, producing the goods;

“the same year”, in relation to a gift, means any period of twelve months that includes the day on which the gift is made.780

(2A) For the purposes of determining the cost to the donor of acquiring or producing goods of which he has made a gift, where —
(a) the acquisition by the donor of the goods, or anything comprised in the goods, was by means of a transfer of a business, or a part of a business, as a going concern,

(b) the assets transferred by that transfer included those goods or that thing, and

(c) the transfer of those assets is one falling by virtue of an order under section 5(3) (or under an enactment re-enacted in section 5(3)) to be treated as neither a supply of goods nor a supply of services,

the donor and his predecessor or, as the case may be, all of his predecessors shall be treated as if they were the same person.781

(3) [Repealed]782

(4) Where by or under the directions of a person carrying on a business goods held or used for the purposes of the business are put to any private use or are used, or made available to any person for use, for any purpose other than a purpose of the business, that is a supply of services.

(4A) Sub-paragraph (4) does not apply (despite paragraph 9(1)) to —

(a) any interest in land;

(b) any building or part of a building;

(c) any civil engineering work or part of such a work;

(d) any goods incorporated or to be incorporated in such a building or civil engineering work (whether by being installed as fixtures or fittings or otherwise);

(e) any ship, boat or other vessel; or

(f) any aircraft.783

(5) Neither sub-paragraph (1) nor sub-paragraph (3) shall require anything which a person carrying on a business does otherwise than for a consideration in relation to any goods to be treated as a supply except in a case where that person or any of his predecessors is a person who (disregarding this paragraph) has or will become entitled —

(a) under sections 25 and 26, to credit for the whole or any part of the VAT on the supply, acquisition or importation of those goods or of anything comprised in them; or

(b) under a scheme embodied in regulations made under section 39, to a repayment of VAT on the supply or importation of those goods or of anything comprised in them.784

(5A) In relation to any goods or anything comprised in any goods, a person is the predecessor of another for the purposes of this paragraph if —

(a) that other person is a person to whom he has transferred assets of his business by a transfer of that business, or a part of it, as a going concern;
those assets consisted of or included those goods or that thing; and
the transfer of the assets is one falling by virtue of an order under section 5(3) (or under an enactment re-enacted in section 5(3)) to be treated as neither a supply of goods nor a supply of services;

and references in this paragraph to a person’s predecessors include references to the predecessors of his predecessors through any number of transfers.785

(6) Anything which is a supply of goods or services by virtue of sub-paragraph (1) or (4) is to be treated as made in the course or furtherance of the business (if it would not otherwise be so treated); and in the case of a business carried on by an individual —

(a) sub-paragraph (1) applies to any transfer or disposition of goods in favour of himself personally; and
(b) sub-paragraph (4) applies to goods used, or made available for use, by himself personally.

(7) The Treasury may by order substitute for the sum for the time being specified in sub-paragraph (2)(a) such sum, not being less than £10, as it thinks fit.786

6. (1) Where, in a case not falling within paragraph 5(1), goods forming part of the assets of any business —

(a) are removed from any member State by or under the directions of the person carrying on the business; and
(b) are so removed in the course or furtherance of that business for the purpose of being taken to a place in a member State other than that from which they are removed,

then, whether or not the removal is or is connected with a transaction for a consideration, that is a supply of goods by that person.

(2) Sub-paragraph (1) does not apply —

(a) to the removal of goods from any member State in the course of their removal from one part of that member State to another part of the same member State; or
(b) to goods which have been removed from a place outside the member States for entry into the territory of the European Union and are removed from a member State before the time when any EU customs debt in respect of any EU customs duty on their entry into that territory would be incurred.787

7. Where in the case of a business carried on by a taxable person, goods forming part of the assets of the business are, under any power exercisable by another person, sold by the other in or towards satisfaction of a debt owed by the taxable person, they shall be deemed to be supplied by the taxable person in the course or furtherance of his business.
8. (1) Where a person ceases to be a taxable person, any goods then forming part of the assets of a business carried on by him shall be deemed to be supplied by him in the course or furtherance of his business immediately before he ceases to be a taxable person, unless —

(a) the business is transferred as a going concern to another taxable person; or

(b) the business is carried on by another person who, under regulations made under section 46(4), is treated as a taxable person; or

(c) the VAT on the deemed supply would not be more than £1,000.

(2) This paragraph does not apply to any goods in the case of which the taxable person can show to the satisfaction of the Treasury —

(a) that no credit for input tax has been allowed by him in respect of the supply of the goods, their acquisition from a member State or their importation from a place outside the member States;

(b) that the goods did not become his as part of the assets of a business, or part of a business, which was transferred to him as a going concern by another taxable person; and

(c) that he has not obtained relief in respect of the goods under article 1 of the Value Added Tax and Car Tax (No. 2) Order 1973 (tax of duty-paid stock held at commencement of VAT).

(3) This paragraph does not apply where a person ceases to be a taxable person in consequence of having been certified under section 54.

(4) The Treasury may by order increase or further increase the sum specified in sub-paragraph (1)(c).

9. (1) Subject to sub-paragraphs (2) and (3), paragraphs 5 to 8 have effect in relation to land forming part of the assets of, or held or used for the purposes of, a business as if it were goods forming part of the assets of, or held or used for the purposes of, a business.

(2) In the application of those paragraphs by virtue of sub-paragraph (1), references to transfer, disposition or sale shall have effect as references to the grant or assignment of any interest in, right over or licence to occupy the land concerned.

(3) Except in relation to —

(a) the grant or assignment or a major interest; or

(b) a grant or assignment otherwise than for a consideration,

in the application of paragraph 5(1) by virtue of sub-paragraph (1) the reference to a supply of goods shall have effect as a reference to a supply of services.

(4) In this paragraph “grant” includes surrender.

10. (1) Sub-paragraph (2) applies where —
(a) a person carrying on a business or any of that person’s predecessors has been allowed credit under sections 25 and 26 of the Act for input tax on the basis that the input tax is attributable to a thing done or to be done which is or would be a paragraph 5(4) supply;

(b) some or all of that credit was allowed before 22 January 2010;

(c) disregarding sub-paragraph (2), the thing done or to be done is not or would not be a paragraph 5(4) supply;

(d) the credit allowed as mentioned in sub-paragraph (a) is not reversed in full.

(2) The thing done or to be done is to be treated for the purposes of the Act as if it were or would be a paragraph 5(4) supply.

(3) But sub-paragraph (2) does not confer on the person allowed credit as mentioned in sub-paragraph (1)(a) any entitlement to that credit under sections 25 and 26 of the Act.

(4) For the purposes of sub-paragraph (1) credit for input tax is allowed under sections 25 and 26 of the Act to the extent that the credit is claimed, and the claim is satisfied by one or more of the following —

(a) the deduction of input tax under section 25(2) of the Act from any output tax that is due to the Treasury;

(b) a payment by the Treasury in respect of the credit under section 25(3) of the Act; or

(c) the setting off of the credit against a sum payable to the Treasury, whether under section 81(3) of that Act or section 130 of the Finance Act 2008 of Parliament (as it has effect in the Island) or otherwise.

(5) In this paragraph —

“paragraph 5(4) supply” means a supply under paragraph 5(4) of Schedule 5 to the Act (goods held or used for the purposes of a business which are put to private use etc);

“predecessor” has the same meaning as in paragraph 5 of that Schedule.\textsuperscript{791,792}
Schedule 5A\textsuperscript{793}

GOODS ELIGIBLE TO BE FISCALLY WAREHOUSED

Section 18B

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SCHEDULE 5B

[1996/32/Sch. 13]

THIRD COUNTRY GOODS FULFILMENT BUSINESSES: PENALTY

1 Liability to a penalty
(1) A penalty is payable by a person ("P") who —
   (a) carries on a third country goods fulfilment business; and
   (b) is not an approved person.
(2) In this Schedule references to a “contravention” are to acting as mentioned in sub-paragraph (1).

2 Amount of penalty
(1) If the contravention is deliberate and concealed, the amount of the penalty is the maximum amount (see paragraph 9).
(2) If the contravention is deliberate but not concealed, the amount of the penalty is 70% of the maximum amount.
(3) In any other case, the amount of the penalty is 30% of the maximum amount.
(4) The contravention is —
   (a) “deliberate and concealed” if the contravention is deliberate and P makes arrangements to conceal the contravention; and
   (b) “deliberate but not concealed” if the contravention is deliberate but P does not make arrangements to conceal the contravention.

3 Reductions for disclosure
(1) This paragraph provides for reductions in penalties under this Schedule where P discloses a contravention.
(2) P discloses a contravention by —
   (a) telling the Treasury about it;
   (b) giving the Treasury reasonable help in identifying any other contraventions of which P is aware; and
   (c) allowing the Treasury access to records for the purpose of identifying such contraventions.
(3) Disclosure of a contravention —
   (a) is “unprompted” if made at a time when P has no reason to believe that the Treasury has discovered or is about to discover the contravention; and
   (b) otherwise, is “prompted”.

SCHEDULE 5B

[1996/32/Sch. 13]
(4) In relation to disclosure, “quality” includes timing, nature and extent.

(5) Where P discloses a contravention, the Treasury must reduce the penalty to one that reflects the quality of the disclosure.

(6) If the disclosure is prompted, the penalty may not be reduced below —
   (a) in the case of a contravention that is deliberate and concealed, the maximum amount;
   (b) in the case of a contravention that is deliberate but not concealed, 35% of the maximum amount; and
   (c) in any other case, 20% of the maximum amount.

(7) If the disclosure is unprompted, the penalty may not be reduced below —
   (a) in the case of a contravention that is deliberate and concealed, 30% of the maximum amount;
   (b) in the case of a contravention that is deliberate but not concealed, 30% of the maximum amount; and
   (c) in any other case, 10% of the maximum amount.

4 Special reduction

(1) If the Treasury thinks it right because of special circumstances, it may reduce a penalty under this Schedule.

(2) In sub-paragraph (1), “special circumstances” does not include ability to pay.

(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.

5 Assessment

(1) Where P becomes liable for a penalty under this Schedule, the Treasury must —
   (a) assess the penalty;
   (b) notify P; and
   (c) state in the notice the contravention in respect of which the penalty is assessed.

(2) 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.

(3) A penalty under this Schedule is recoverable as a debt due to the Crown.
(4) An assessment of a penalty under this Schedule may not be made later than one year after evidence of facts sufficient in the opinion of the Treasury to indicate the contravention comes to its knowledge.

(5) Two or more contraventions may be treated by the Treasury as a single contravention for the purposes of assessing a penalty under this Schedule.

6 Reasonable excuse

(1) Liability to a penalty does not arise under this Schedule in respect of a contravention which is not deliberate if P satisfies the Treasury or (on an appeal made to the VAT and Duties Tribunal) the tribunal that there is a reasonable excuse for the contravention.

(2) For the purposes of sub-paragraph (1), where P relies on any other person to do anything, that is not a reasonable excuse unless P took reasonable care to avoid the contravention.

7 Companies: officer’s liability

(1) Where a penalty under this Schedule is payable by a company in respect of a contravention which was attributable to an officer of the company, the officer is liable to pay such portion of the penalty (which may be 100%) as the Treasury may specify by written notice to the officer.

(2) Sub-paragraph (1) does not allow the Treasury to recover more than 100% of the penalty.

(3) In the application of sub-paragraph (1) to a body corporate other than a limited partnership that has elected to have legal personality under section 48B of the Partnership Act 1909, “officer” means —

(a) a director;
(b) a manager;
(c) the registered agent of a limited liability company; and
(d) a secretary.

(4) In the application of sub-paragraph (1) to a limited partnership that has elected to have legal personality under section 48B of the Partnership Act 1909, “officer” means a member.

(5) In the application of sub-paragraph (1) in any other case, “officer” means —

(a) a director;
(b) a manager;
(c) a secretary; and
(d) any other person managing or purporting to manage any of the company’s affairs.
(6) Where the Treasury has specified a portion of a penalty in a notice given to an officer under sub-paragraph (1) —
   (a) paragraph 4 applies to the specified portion as to a penalty;
   (b) the officer must pay the specified portion before the end of the period of 30 days beginning with the day on which the notice is given;
   (c) sub-paragraphs (3) to (5) of paragraph 5 apply as if the notice were an assessment of a penalty; and
   (d) paragraph 8 applies as if the officer were liable to a penalty.

(7) In this paragraph —
   “company” means a body corporate (including a limited partnership that has elected to have legal personality for the purposes of section 48B of the Partnership Act 1909) or unincorporated association but does not include a partnership, a local authority or a local authority association.

8 Double jeopardy

P is not liable to a penalty under this Schedule in respect of a contravention in respect of which P has been convicted of an offence.

9 The maximum amount

(1) In this Schedule “the maximum amount” means £10,000.

(2) If it appears to the Treasury that there has been a change in the value of money since the last relevant date, it may by regulations substitute for the sum for the time being specified in sub-paragraph (1) such other sum as appears to it to be justified by the change.

(3) In sub-paragraph (2), “relevant date” means —
   (a) the date on which this Schedule comes into operation; and
   (b) each date on which the power conferred by that sub-paragraph has been exercised.

(4) Regulations under this paragraph do not apply to any contravention which occurs wholly before the date on which they come into operation.
PART 1

VALUATION OF SUPPLIES OF FUEL FOR PRIVATE USE

A1 Option for valuation on flat-rate basis

(1) This paragraph applies if, in a prescribed accounting period, supplies of goods by a taxable person (“P”) arise by virtue of paragraph 5(1) of Schedule 5 (but otherwise than for a consideration) where road fuel is or has previously been supplied to or imported or manufactured by P in the course of P’s business is provided for, or appropriated to, private use.

(2) For this purpose “road fuel is provided for, or appropriate to, private use” if —

(a) it is provided or to be provided by P —

(i) to an individual for private use in the individual’s own car or a car allocated to the individual; and

(ii) by reason of the individual’s employment;

(b) where P is an individual, it is appropriated or to be appropriated by P for private use in P’s own car; or

(c) where P is a partnership, it is provided or to be provided to any of the individual partners for private use in that partner’s own car.

(3) P may opt for all supplies of goods within sub-paragraph (1) made by P in the prescribed accounting period to be valued on the flat-rate basis.

(4) On the flat-rate basis, the value of all supplies made to any one individual in respect of any one car is that determined in accordance with an order under paragraph B1.

B1 (1) The Treasury must, by order, make provision about the valuation of supplies on the flat-rate basis.

(2) In particular, an order under this paragraph must —

(a) set out a table (“the base valuation table”) by reference to which the value of supplies is to be determined until such time as the base valuation table is replaced under paragraph (b);

(b) provide that at regular intervals —

(i) the amounts specified in the base valuation table are to be revalorised by the Treasury in accordance with the order; and

(ii) a table (an “updated valuation table”) containing the revalorised amounts is to take effect (and replace any existing table) in accordance with the order; and

(c) require the Treasury to publish an updated valuation table before it takes effect, together with a statement specifying the date from which it has effect.
(3) An order under this paragraph may provide for the base valuation table and any updated valuation table to be implemented or supplemented by either or both of the following —

(a) rules set out in the order which explain how the value is to be determined by reference to any table;

(b) notes set out in the order with respect to the interpretation or application of any table or any rules or notes.

(4) Rules or notes may make different provision for different circumstances or cases. 799

C1 Interpretation

(1) For the purposes of this Part of this Schedule —

(a) any reference to an individual’s own car is to be construed as including any car of which for the time being the individual has the use, other than a car allocated to the individual;

(b) subject to sub-paragraph (2), a car is at any time to be taken to be allocated to an individual if at that time it is made available (without any transfer of the property in it) either to the individual or to any other person, and is so made available by reason of the individual’s employment and for private use; and

(c) fuel provided by an employer to an employee and fuel provided to any person for private use in a car which, by virtue of paragraph (b), is for the time being taken to be allocated to the employee is to be taken to be provided to the employee by reason of the employee’s employment.

(2) For the purposes of this Part of this Schedule, in any prescribed accounting period a car is not regarded as allocated to an individual by reason of the individual’s employment if —

(a) in that period it was made available to, and actually used by, more than one of the employees of one or more employers and, in the case of each of them, it —

(i) was made available to that employee by reason of the employment; but

(ii) was not in that period ordinarily used by any one of them to the exclusion of the others;

(b) in the case of each of the employees, any private use of the car made by the employee in that period was merely incidental to the employee’s other use of it in that period; and

(c) in that period it was not normally kept overnight on or in the vicinity of any residential premises where any of the employees was residing, except while being kept overnight on premises occupied by the person making the car available to them.
(3) In this Part of this Schedule —

“employment” includes any office, and related expressions are to be construed accordingly;

“car” means a motor car as defined in paragraph 1A(4) and (5);

“road fuel” means hydrocarbon oil as defined by the Hydrocarbon Oil Duties Act 1986 (see section 1(2) of that Act) on which duty has been or is required to be paid in accordance with that Act.

(4) The Treasury may, by order, amend the definition of “road fuel” in sub-paragraph (3).

PART 2

OTHER PROVISIONS

1. (1) Where —

(a) the value of a supply made by a taxable person for a consideration in money is (apart from this paragraph) less than its open market value, and

(b) the person making the supply and the person to whom it is made are connected, and

(c) if the supply is a taxable supply, the person to whom the supply is made is not entitled under sections 25 and 26 to credit for all the VAT on the supply,

the Treasury may direct that the value of the supply shall be taken to be its open market value.

(2) A direction under this paragraph shall be given by notice in writing to the person making the supply, but no direction may be given more than 3 years after the time of the supply.

(3) A direction given to a person under this paragraph in respect of a supply made by him may include a direction that the value of any supply —

(a) which is made by him after the giving of the notice, or after such later date as may be specified in the notice, and

(b) as to which the conditions in paragraphs (a) to (c) of sub-paragraph (1) are satisfied,

shall be taken to be its open market value.

(4) This paragraph does not apply to a supply to which paragraph 8A or 10 applies.

(5) For the purposes of this paragraph any question whether a person is connected with another shall be determined in accordance with paragraph 14.
1A. (1) Where —
   (a) the value of a supply made by a taxable person for a consideration is (apart from this sub-paragraph) less than its open market value,
   (b) the taxable person is a motor manufacturer or motor dealer,
   (c) the person to whom the supply is made is —
       (i) an employee of the taxable person,
       (ii) a person who, under the terms of his employment, provides services to the taxable person, or
       (iii) a relative of a person falling within sub-paragraph (i) or (ii),
   (d) the supply is a supply of services by virtue of sub-paragraph (4) of paragraph 5 of Schedule 5 (business goods put to private use etc),
   (e) the goods mentioned in that sub-paragraph consist of a motor car (whether or not any particular motor car) that forms part of the stock in trade of the taxable person, and
   (f) the supply is not one to which paragraph 1 applies,

the Treasury may direct that the value of the supply shall be taken to be its open market value.

(2) A direction under this paragraph shall be given by notice in writing to the person making the supply, but no direction may be given more than 3 years after the time of the supply.

(3) A direction given to a person under this paragraph in respect of a supply made by him may include a direction that the value of any supply —
   (a) which is made by him after the giving of the notice, or after such later date as may be specified in the notice, and
   (b) as to which the conditions in paragraphs (a) to (f) of sub-paragraph (1) are satisfied,

shall be taken to be its open market value.

(4) In this paragraph —

“motor car” means any motor vehicle of a kind normally used on public roads which has three or more wheels and either —
   (a) is constructed or adapted solely or mainly for the carriage of passengers, or
   (b) has to the rear of the driver’s seat roofed accommodation which is fitted with side windows or which is constructed or adapted for the fitting of side windows,

but does not include any vehicle excluded by sub-paragraph (5);

“motor dealer” means a person whose business consists in whole or in part of obtaining supplies of, or acquiring from a member State or importing, new
or second-hand motor cars for resale with a view to making an overall profit on the sale of them (whether or not a profit is made on each sale);

“motor manufacturer” means a person whose business consists in whole or part of producing motor cars including producing motor cars by conversion of a vehicle (whether a motor car or not);

“relative” means husband, wife, brother, sister, ancestor or lineal descendant;

“stock in trade” means new or second-hand motor cars (other than second-hand motor cars which are not qualifying motor cars within sub-paragraph (6)) which are —

(a) produced by a motor manufacturer or, as the case may require, supplied to or acquired from a member State or imported by a motor dealer, for the purpose of resale, and

(b) are intended to be sold —

(i) by a motor manufacturer within 12 months of their production, or

(ii) by a motor dealer within 12 months of their supply, acquisition from a member State or importation, as the case may require,

and such motor cars shall not cease to be stock in trade where they are temporarily put to a use in the motor manufacturer’s or, as the case may be, the motor dealer’s business which involves making them available for private use.

(5) The vehicles excluded by this sub-paragraph are —

(a) vehicles capable of accommodating only one person;

(b) vehicles which meet the requirements of Schedule 3 to the Road Vehicles (Construction, Equipment and Weights) Regulations 2002 and are capable of carrying twelve or more seated persons;

(c) vehicles of not less than three tonnes unladen weight (as defined in the Table to regulation 2(1) of the Road Vehicles (Construction, Equipment and Weights) Regulations 2002);

(d) vehicles constructed to carry a payload (the difference between —

(i) a vehicle’s kerbside weight (as defined in the Table to regulation 3(1) of the Road Vehicles (Maintenance and Use) Regulations 2002) and,

(ii) its maximum gross weight (as defined in the Table),

of one tonne or more;

(e) caravans, ambulances and prison vans;

(f) vehicles constructed for a special purpose other than the carriage of persons and having no other accommodation for carrying persons than such as is incidental to that purpose.
For the purposes of this paragraph a motor car is a “qualifying motor car” if —

(a) it has never been supplied, acquired from a member State, or imported in circumstances in which the VAT on that supply, acquisition or importation was wholly excluded from credit as input tax by virtue of an order under section 25(7); or

(b) a taxable person has elected under such an order for it to be treated as such.

The Treasury may by order amend any of the definitions in this paragraph.

2. Where —

(a) the whole or part of a business carried on by a taxable person consists in supplying to a number of persons goods to be sold, whether by them or others, by retail, and

(b) those persons are not taxable persons,

the Treasury may by notice in writing to the taxable person direct that the value of any such supply by him after the giving of the notice or after such later date as may be specified therein shall be taken to be its open market value on a sale by retail.

2A. (1) This paragraph applies if —

(a) a taxable person (“P”) makes a supply of road fuel for a consideration;

(b) the recipient of the supply is —

(i) connected with P; or

(ii) an employee or partner of P or a person who is connected with such an employee of partner;

(c) the value of the supply would (in the absence of this paragraph) be less than its open market value; and

(d) the recipient of the supply is not entitled to credit for the whole of the input tax arising on the supply.

(2) The value of the supply is to be taken to be an amount equal to its open market value.

(3) For the purposes of this paragraph —

(a) “road fuel” means hydrocarbon oil as defined by the Hydrocarbon Oil Duties Act 1986 (see section 1(2) of that Act (hydrocarbon oil)) on which duty has been or is required to be paid in accordance with that Act; and

(b) any question whether a person is connected with another is to be determined in accordance with section 119C of the Income Tax Act 1970 (connected persons).
(4) The Treasury may, by order, amend the definition of “road fuel” in subparagraph (3)(a).

3. (1) Where —

(a) any goods whose supply involves their removal to the Island —

(i) are charged in connection with their removal to the Island with a duty of excise; or

(ii) on that removal are subject, in accordance with any provision for the time being having effect for transitional purposes in connection with the accession of any State to the European Union, to any EU customs duty or agricultural levy of the European Union; or

(b) the time of supply of any dutiable goods, or of any goods which comprise a mixture of dutiable goods and other goods, is determined under section 18(4) to be the duty point,

then the value of the supply shall be taken for the purposes of this Act to be the sum of its value apart from this paragraph and the amount, so far as not already included in that value, of the duty or, as the case may be, agricultural levy which has been or is to be paid in respect of the goods.

(2) In this paragraph “dutiable goods” and “duty point” have the same meanings as in section 18.

4. (1) Sub-paragraph 2 applies where —

(a) goods or services are supplied for a consideration which is a price in money;

(b) the terms on which those goods or services are so supplied allow a discount for prompt payment of that price;

(c) payment of that price is not made by instalments; and

(d) payment of that price is made in accordance with those terms so that the discount is realised in relation to that payment.

(2) For the purposes of section 19 (value of supply of goods or services) the consideration is the discounted price paid.

(3) In this paragraph —

“relevant supply” means a supply of radio or television broadcasting services made by a taxable person who is not required by or under an enactment to provide a VAT invoice to the person supplied; and

“telecommunication services” has the same meaning as in paragraph 8(2) of Schedule 4A.

5. [Repealed]
6. (1) Where there is a supply of goods by virtue of —
   (a) an order made by the Treasury under section 5(5); or
   (b) paragraph 5(1) or 6 of Schedule 5 but otherwise than for a consideration; or
   (c) paragraph 8 of Schedule 5,

then, except where the person making the supply opts under paragraph A1(3) for valuation on the flat-rate basis or paragraph 10 applies, the value of the supply shall be determined as follows.807

(2) The value of the supply shall be taken to be —
   (a) such consideration in money as would be payable by the person making the supply if he were, at the time of the supply, to purchase goods identical in every respect (including age and condition) to the goods concerned; or
   (b) where the value cannot be ascertained in accordance with paragraph (a), such consideration in money as would be payable by that person if he were, at that time, to purchase goods similar to, and of the same age and condition as, the goods concerned; or
   (c) where the value can be ascertained in accordance with neither paragraph (a) nor paragraph (b), the cost of producing the goods concerned if they were produced at that time.

(3) For the purposes of sub-paragraph (2) the amount of consideration in money that would be payable by any person if he were to purchase any goods shall be taken to be the amount that would be so payable after the deduction of any amount included in the purchase price in respect of VAT on the supply of the goods to that person.

7. (1) Where there is a supply of services by virtue of —
   (a) an order made by the Treasury under section 5(4); or
   (b) paragraph 5(4) of Schedule 5 but otherwise than for a consideration;

the value of the supply shall be taken to be the full cost to the taxable person of providing the services except where paragraph 10 applies.

(2) Regulations may, in relation to a supply of services by virtue of paragraph 5(4) of Schedule 5 (but otherwise than for a consideration), make provision for determining how the full cost to the taxable person of providing the services is to be calculated.808

(3) The regulations may, in particular, make provision for the calculation to be made by reference to any prescribed period.809

(4) The regulations may make —
   (a) different provision for different circumstances;
(b) such incidental, supplementary, consequential or transitional provision as the Treasury thinks fit.\textsuperscript{810}

8. Where any supply of services is treated by virtue of section 8, or any supply of goods is treated by virtue of section 9A, as made by the person by whom they are received, the value of the supply shall be taken —

(a) in a case where the consideration for which the services or goods were in fact supplied to him was a consideration in money, to be such an amount as is equal to that consideration; and\textsuperscript{811}

(b) in a case where that consideration did not consist or not wholly consist of money, to be such an amount in money as is equivalent to that consideration.\textsuperscript{812}

8A (1) This paragraph applies where —

(a) a supply (“the intra-group supply”) made by a member of a group (“the supplier”) to another member of the group is, by virtue of section 43(2A), excluded from the supplies disregarded under section 43(1)(a); and

(b) the representative member of the group satisfies the Treasury as to the value of each bought-in supply.

(2) “Bought-in supply”, in relation to the intra-group supply, means a supply of services to the supplier to which section 43(2A)(c) to (e) refers, so far as that supply is used by the supplier for making the intra-group supply.

(3) The value of the intra-group supply shall be taken to be the total of the relevant amounts in relation to the bought-in supplies.

(4) The relevant amount in relation to a bought-in supply is the value of the bought-in supply, unless a direction is made under sub-paragraph (5).

(5) If the value of a bought-in supply is less than its open market value, the Treasury may direct that the relevant amount in relation to that supply is its open market value.

(6) A direction under this paragraph must be given by notice in writing to the representative member, but no direction may be given more than 3 years after the time of the intra-group supply.

(7) The Treasury may by order vary the provision made by this Schedule about the value of supplies of the kind mentioned in sub-paragraph (1)(a).

(8) An order under sub-paragraph (7) may include incidental, supplemental, consequential or transitional provision (including provision amending sections 43 or 83).\textsuperscript{813}

9. (1) This paragraph applies where a supply of services consists in the provision of accommodation falling within paragraph (d) of Item 1 of Group 1 in Schedule 10 and —
(a) that provision is made to an individual for a period exceeding 4 weeks; and
(b) throughout that period the accommodation is provided for the use of the individual either alone or together with one or more other persons who occupy the accommodation with him otherwise than at their own expense (whether incurred directly or indirectly).

(2) Where this paragraph applies —
(a) the value of so much of the supply as is in excess of 4 weeks shall be taken to be reduced to such part thereof as is attributable to facilities other than the right to occupy the accommodation; and
(b) that part shall be taken to be not less than 20 per cent.

10. (1) This paragraph applies to a supply of goods or services, whether or not for a consideration, which is made by an employer and consists of —
(a) the provision in the course of catering of food or beverages to his employees, or
(b) the provision of accommodation for his employees in a hotel, inn, boarding house or similar establishment.

(2) The value of a supply to which this paragraph applies shall be taken to be nil unless the supply is for a consideration consisting wholly or partly of money, and in that case its value shall be determined without regard to any consideration other than money.

11. (1) Subject to the following provisions of this paragraph, where —
(a) there is a supply of goods or services; and
(b) any sum relevant for determining the value of the supply is expressed in a currency other than sterling,

then, for the purpose of valuing the supply, that sum is to be converted into sterling at the market rate which, on the relevant day, would apply in the Island to a purchase with sterling by the person to whom they are supplied of that sum in the currency in question.

(2) Where the Treasury has published a notice which, for the purposes of this paragraph, specifies —
(a) rates of exchange; or
(b) methods of determining rates of exchange,

a rate specified in or determined in accordance with the notice, as for the time being in force, shall apply (instead of the rate for which sub-paragraph (1) provides) in the case of any supply by a person who opts, in such manner as may be allowed by the Treasury, for the use of that rate in relation to that supply.

(3) An option for the purposes of sub-paragraph (2) for the use of a particular rate or method of determining a rate —
(a) shall not be exercised by any person except in relation to all such supplies by him as are of a particular description or after a particular date; and

(b) shall not be withdrawn or varied except with the consent of the Treasury and in such manner as it may require.

(4) In specifying a method of determining a rate of exchange a notice published by the Treasury under sub-paragraph (2) may allow a person to apply to the Treasury for the use, for the purpose of valuing some or all of his supplies, of a rate of exchange which is different from any which would otherwise apply.

(5) On an application made in accordance with provision contained in a notice under sub-paragraph (4), the Treasury may authorise the use with respect to the applicant of such a rate of exchange, in such circumstances, in relation to such supplies and subject to such conditions as it thinks fit.

(6) A notice published by the Treasury for the purposes of this paragraph may be withdrawn or varied by a subsequent notice published by the Treasury.

(7) The time by reference to which the appropriate rate of exchange is to be determined for the purposes of valuing any supply is the time when the supply takes place; and, accordingly, the day on which it takes place is the relevant day for the purposes of sub-paragraph (1).

12. Regulations may require that in prescribed circumstances there is to be taken into account, as constituting part of the consideration for the purposes of section 19(2) (where it would not otherwise be so taken into account), money paid in respect of the supply by persons other than those to whom the supply is made.

13. A direction under paragraph 1 or 2 may be varied or withdrawn by the Treasury by a further direction given by notice in writing.

14. (1) For the purposes of paragraph 1 any question whether a person is connected with another shall be determined in accordance with this paragraph.

(2) A person is connected with an individual if that person is the individual’s husband or wife, or is a relative, or the husband or wife of a relative, of the individual or of the individual’s husband or wife.

(3) A person, in his capacity as trustee of a settlement, is connected with any individual who in relation to the settlement is a settlor, with any person who is connected with such an individual and with a body corporate which, under sub-paragraph (4) is deemed to be connected with that settlement.

(4) For the purposes of sub-paragraph (3), a body corporate shall be deemed to be connected with a settlement if the body corporate is controlled by the trustees of or a beneficiary under the settlement.

(5) Except in relation to acquisitions or disposals of partnership assets pursuant to bona fide commercial arrangements, a person is connected with any person
with whom he is in partnership, and with the husband or wife or a relative of any individual with whom he is in partnership.

(6) A company is connected with another company —

(a) if the same person has control of both, or a person has control of one and persons connected with him or he and persons connected with him, have control of the other, or

(b) if a group of two or more persons has control of each company, and the groups either consist of the same persons or could be regarded as consisting of the same persons by treating (in one or more cases) a member of either group as replaced by a person with whom he is connected.

(7) A company is connected with another person, if that person has control of it or if that person and persons connected with him together have control of it.

(8) Any two or more persons acting together to secure or exercise control of a company shall be treated in relation to that company as connected with one another and with any person acting on the directions of any of them to secure or exercise control of the company.

(9) In this paragraph —

“company” includes any body corporate or unincorporated association, but does not include a partnership, and this paragraph shall apply in relation to any unit trust scheme (as defined in section 26 of the Collective Investment Schemes Act 2008) as if the scheme were a company and as if the rights of the unit holders were shares in the company;814

“control” includes circumstances where a person exercises, or is able to exercise or is entitled to acquire, control, whether direct or indirect, over a company’s affairs;

“relative” means brother, sister, ancestor or lineal descendant;

“settlement” includes any disposition, trust, covenant, agreement or arrangement;

“settlor”, in relation to a settlement, means any person by whom the settlement was made; and a person shall be deemed for the purposes of this paragraph to have made a settlement if he has made or entered into the settlement directly or indirectly, and in particular (but without prejudice to the generality of the preceding words) if he has provided or undertaken to provide funds directly or indirectly for the purpose of the settlement, or has made with any other person a reciprocal arrangement for that other person to make or enter into the settlement.

Schedule 8

VALUATION OF ACQUISITIONS FROM MEMBER STATES - SPECIAL CASES

Section 20
1. (1) Where, in the case of the acquisition of any goods from a member State —

(a) the relevant transaction is for a consideration in money;
(b) the value of the relevant transaction is (apart from this paragraph) less than the transaction’s open market value;
(c) the supplier and the person who acquires the goods are connected; and
(d) that person is not entitled under sections 25 and 26 to credit for all the VAT on the acquisition,

the Treasury may direct that the value of the relevant transaction shall be taken to be its open market value.

(2) A direction under this paragraph shall be given by notice in writing to the person by whom the acquisition in question is made; but no direction may be given more than 3 years after the relevant time.

(3) A direction given to a person under this paragraph in respect of a transaction may include a direction that the value of any transaction —

(a) in pursuance of which goods are acquired by him from a member State after the giving of the notice, or after such later date as may be specified in the notice; and
(b) as to which the conditions in sub-paragraph (1)(a) to (d) are satisfied,

shall be taken to be its open market value.

(4) For the purposes of this paragraph the open market value of a transaction in pursuance of which goods are acquired from a member State shall be taken to be the amount which would fall to be taken as its value under section 20(3) if it were for such consideration in money as would be payable by a person standing in no such relationship with any person as would affect that consideration.

(5) For the purposes of this paragraph any question whether a person is connected with another shall be determined in accordance with paragraph 14 of Schedule 7.

(6) A direction under this paragraph may be varied or withdrawn by the Treasury by a further direction given by notice in writing.

2. (1) Where, in such cases as the Treasury may by regulations prescribe, goods acquired in the Island from a member State —

(a) are charged in connection with their removal to the Island with a duty of excise; or
(b) on that removal are subject, in accordance with any provision for the time being having effect for transitional purposes in connection with the accession of any State to the European Union, to any EU customs duty or agricultural levy of the European Union,
then the value of the relevant transaction shall be taken for the purposes of this Act to be the sum of its value apart from this paragraph and the amount, so far as not already included in that value, of the duty or, as the case may be, agricultural levy which has been or is to be paid in respect of those goods.

(2) Sub-paragraph (1) shall not require the inclusion of any amount of duty or agricultural levy in the value of a transaction in pursuance of which there is an acquisition of goods which, under section 18(4), is treated as taking place before the time which is the duty point within the meaning of that section.

3. Where goods are acquired from a member State in pursuance of anything which is treated as a supply for the purposes of this Act by virtue of paragraph 5(1) or 6 of Schedule 5, the value of the relevant transaction shall be determined, in a case where there is no consideration, as follows.

(2) The value of the transaction shall be taken to be —

(a) such consideration in money as would be payable by the supplier if he were, at the time of the acquisition, to purchase goods identical in every respect (including age and condition) to the goods concerned; or

(b) where the value cannot be ascertained in accordance with paragraph (a), such consideration in money as would be payable by the supplier if he were, at that time, to purchase goods similar to, and of the same age and condition as, the goods concerned; or

(c) where the value can be ascertained in accordance with neither paragraph (a) nor paragraph (b), the cost of producing the goods concerned if they were produced at that time.

(3) For the purposes of sub-paragraph (2) the amount of consideration in money that would be payable by any person if he were to purchase any goods shall be taken to be the amount that would be so payable after the deduction of any amount included in the purchase price in respect of VAT on the supply of the goods to that person.

4. Subject to the following provisions of this paragraph, where —

(a) goods are acquired from a member State; and

(b) any sum relevant for determining the value of the relevant transaction is expressed in a currency other than sterling,

then, for the purpose of valuing the relevant transaction, that sum is to be converted into sterling at the market rate which, on the relevant day, would apply in the Island to a purchase with sterling by the person making the acquisition of that sum in the currency in question.

(2) Where the Treasury have published a notice which, for the purposes of this paragraph, specifies —

(a) rates of exchange; or
(b) methods of determining rates of exchange,

a rate specified in or determined in accordance with the notice, as for the time being in force, shall apply (instead of the rate for which sub-paragraph (1) provides) in the case of any transaction in pursuance of which goods are acquired by a person who opts, in such manner as may be allowed by the Treasury, for the use of that rate in relation to that transaction.

(3) An option for the purposes of sub-paragraph (2) for the use of a particular rate or method of determining a rate —

(a) shall not be exercised by any person except in relation to all such transactions in pursuance of which goods are acquired by him from a member State as are of a particular description or after a particular date; and

(b) shall not be withdrawn or varied except with the consent of the Treasury and in such manner as it may require.

(4) In specifying a method of determining a rate of exchange a notice published by the Treasury under sub-paragraph (2) may allow a person to apply to the Treasury for the use, for the purpose of valuing some or all of the transactions in pursuance of which goods are acquired by him from a member State, of a rate of exchange which is different from any which would otherwise apply.

(5) On an application made in accordance with the provision contained in a notice under sub-paragraph (4), the Treasury may authorise the use with respect to the applicant of such a rate of exchange, in such circumstances, in relation to such transactions and subject to such conditions as it thinks fit.

(6) A notice published by the Treasury for the purposes of this paragraph may be withdrawn or varied by a subsequent notice published by the Treasury.

(7) Where goods are acquired from a member State, the appropriate rate of exchange is to be determined for the purpose of valuing the relevant transaction by reference to the relevant time; and, accordingly, the day on which that time falls is the relevant day for the purposes of sub-paragraph (1).

5. In this Schedule —

“relevant transaction”, in relation to any acquisition of goods from a member State, means the transaction in pursuance of which the goods are acquired;

“the relevant time”, in relation to any such acquisition, means —

(a) if the person by whom the goods are acquired is not a taxable person and the time of acquisition does not fall to be determined in accordance with the regulations made under section 12(3), the time of the event which, in relation to the acquisition, is the first relevant event for the purposes of taxing the acquisition; and

(b) in any other case, the time of acquisition.
Schedule 9

ZERO-RATING

Section 30

PART I – INDEX TO ZERO-RATED SUPPLIES OF GOODS AND SERVICES

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<td>Clothing and footwear</td>
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<td>Construction of buildings etc</td>
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</tbody>
</table>

PART II – THE GROUPS

GROUP 1 - FOOD

The supply of anything comprised in the general items set out below, except —

(a) a supply in the course of catering; and
(b) a supply of anything comprised in any of the excepted items set out below, unless it is also comprised in any of the items overriding the exceptions set out below which relates to that excepted item.

General items

Item No.

1. Food of a kind used for human consumption.
3. Seeds or other means of propagation of plants comprised in item 1 or 2.

4. Live animals of a kind generally used as, or yielding or producing, food for human consumption.

**Excepted items**

<table>
<thead>
<tr>
<th>Item No.</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Ice cream, ice lollies, frozen yogurt, water ices and similar frozen products, and prepared mixes and powders for making such products.</td>
</tr>
<tr>
<td>2.</td>
<td>Confectionery, not including cakes or biscuits other than biscuits wholly or partly covered with chocolate or with some product similar in taste and appearance.</td>
</tr>
<tr>
<td>3.</td>
<td>Beverages chargeable with any duty of excise specifically charged on spirits, beer, wine or made-wine and preparations thereof.</td>
</tr>
<tr>
<td>4.</td>
<td>Other beverages (including fruit juices and bottled waters) and syrups, concentrates, essences, powders, crystals or other products for the preparation of beverages.</td>
</tr>
<tr>
<td>4A.</td>
<td>Sports drinks that are advertised or marketed as products designed to enhance physical performance, accelerate recovery after exercise or build bulk, and other similar drinks, including (in either case) syrups, concentrates, essences, powders, crystals or other products for the preparation of such drinks.</td>
</tr>
<tr>
<td>5.</td>
<td>Any of the following when packaged for human consumption without further preparation, namely, potato crisps, potato sticks, potato puffs, and similar products made from the potato, or from potato flour, or from potato starch, and savoury food products obtained by the swelling of cereals or cereal products; and salted or roasted nuts other than nuts in shell.</td>
</tr>
<tr>
<td>6.</td>
<td>Pet foods, canned, packaged or prepared; packaged foods (not being pet foods) for birds other than poultry or game; and biscuits and meal for cats and dogs.</td>
</tr>
</tbody>
</table>
| 7.       | Goods described in items 1, 2 and 3 of the general items which are canned, bottled, packaged or prepared for use —  
  (a) in the domestic brewing of any beer;  
  (b) in the domestic making of any cider or perry;  
  (c) in the domestic production of any wine or made-wine. |

**Items overriding the exceptions**

<table>
<thead>
<tr>
<th>Item No.</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Yogurt unsuitable for immediate consumption when frozen.</td>
</tr>
</tbody>
</table>
2. Drained cherries.

3. Candied peels.

4. Tea, mate, herbal teas and similar products, and preparations and extracts thereof.

5. Cocoa, coffee and chicory and other roasted coffee substitutes, and preparations and extracts thereof.

6. Milk and preparations and extracts thereof.

7. Preparations and extracts of meat, yeast or egg.

Notes:

(1) “Food” includes drink.

(2) “Animal” includes bird, fish, crustacean and mollusc.

(3) A supply of anything in the course of catering includes —

(a) any supply of it for consumption on the premises on which it is supplied; and

(b) any supply of hot food for consumption off those premises.

(3A) For the purposes of Note (3), in the case of any supplier, the premises on which food is supplied include any areas set aside for the consumption of food by that supplier’s customers, whether or not the area may also be used by the customers of other suppliers.

(3B) “Hot food” means food which (or any part of which) is hot at the time it is provided to the customer and —

(a) has been heated for the purposes of enabling it to be consumed hot;

(b) has been heated to order;

(c) has been kept hot after being heated;

(d) is provided to a customer in packaging that retains heat (whether or not the packaging was primarily designed for that purpose) or in any other packaging that is specifically designed for hot food; or

(e) is advertised or marketed in a way that indicates that it is supplied hot.

(3C) For the purposes of Note (3B) —

(a) something is “hot” if it is at a temperature above the ambient air temperature; and

(b) something is “kept hot” after being heated if the supplier stores it in an environment which provides, applies or retains heat, or takes other steps to ensure it remains hot or to slow down the natural cooling process.
(3D) In Notes (3B) and (3C), references to food being heated include references to it being cooked or reheated. 823

(4) Item 1 of the items overriding the exceptions relates to item 1 of the excepted items.

(5) Items 2 and 3 of the items overriding the exceptions relate to item 2 of the excepted items, and for the purposes of item 2 of the excepted items “confectionery” includes chocolates, sweets and biscuits; drained, glace or crystallized fruits; and any item of sweetened prepared food which is normally eaten with the fingers.

(6) Items 4 to 7 of the items overriding the exceptions relate to item 4 of the excepted items. 824

(7) Any supply described in this Group shall include a supply of services described in paragraph 1(1) of Schedule 5.

GROUP 2 - SEWERAGE SERVICES AND WATER

Item No.

1. Services of —
   (a) reception, disposal or treatment of foul water or sewage in bulk; and
   (b) emptying of any cesspools, septic tanks or similar receptacles which are used otherwise than in connection with the carrying on in the course of a business of a relevant industrial activity.

2. The supply, for use otherwise than in connection with the carrying on in the course of a business of a relevant industrial activity, of water other than —
   (a) distilled water, deionised water and water of similar purity,
   (b) water comprised in the excepted items set out in Group 1, and
   (c) water which has been heated so that it is supplied at a temperature higher than that at which it was before it was heated. 825

Note: “Relevant industrial activity” means any activity described in any of Divisions 1 to 5 of the 1980 edition of the publication prepared by the Central Statistical Office and known as the Standard Industrial Classification.

GROUP 3 - BOOKS ETC

Item No.


2. Newspapers, journals and periodicals.

3. Children’s picture books and painting books.
4. Music (printed, duplicated or manuscript).

5. Maps, charts and topographical plans.

6. Covers, cases and other articles supplied with items 1 to 5 and not separately accounted for.

Notes:

(1) Items 1 to 6 —
   (a) do not include plans or drawings for industrial, architectural, engineering, commercial or similar purposes; but
   (b) include the supply of services, in respect of goods comprised in the items, described in paragraph 1(1) of Schedule 5.

(2) Items 1 to 6 do not include goods in circumstances where —
   (a) the supply of the goods is connected with a supply of services, and
   (b) those connected supplies are made by different suppliers.

(3) For the purposes of Note (2) a supply of goods is connected with a supply of services if, had those two supplies been made by a single supplier —
   (a) they would have been treated as a single supply of services, and
   (b) that single supply would have been a taxable supply (other than a zero-rated supply) or an exempt supply.

GROUP 4 - TALKING BOOKS FOR THE BLIND AND DISABLED AND WIRELESS SETS FOR THE BLIND

Item No.

1. The supply to the Royal National Institute for the Blind, the National Listening Library or other similar charities of —
   (a) magnetic tape specially adapted for the recording and reproduction of speech for the blind or severely disabled;
   (b) apparatus designed or specially adapted for the making on a magnetic tape, by way of the transfer of recorded speech from another magnetic tape, of a recording described in paragraph (f);
   (c) apparatus designed or specially adapted for transfer to magnetic tapes of a recording made by apparatus described in paragraph (b);
   (d) apparatus for re-winding magnetic tape described in paragraph (f);
   (e) apparatus designed or specially adapted for the reproduction from recorded magnetic tape of speech for the blind or severely disabled and which is not available for use by other than the blind or severely disabled.
(f) magnetic tape upon which has been recorded speech for the blind or severely disabled, such recording being suitable for reproduction only in the apparatus mentioned in paragraph (e);^332

(g) apparatus solely for the making on a magnetic tape of a sound recording which is for use by the blind or severely disabled;^333

(h) parts and accessories (other than a magnetic tape for use with apparatus described in paragraph (g)) for goods comprised in paragraphs (a) to (g);

(i) the supply of a service of repair or maintenance of any goods comprised in paragraphs (a) to (h).

2. The supply to a charity of —

(a) wireless receiving sets; or

(b) apparatus solely for the making and reproduction of a sound recording on a magnetic tape permanently contained in a cassette, being goods solely for gratuitous loan to the blind.

Note: The supply mentioned in items 1 and 2 includes the letting on hire of goods comprised in the items.

GROUP 5 - CONSTRUCTION OF BUILDINGS, ETC

Item No.

1. The first grant by a person —

(a) constructing a building —

(i) designed as a dwelling or number of dwellings; or

(ii) intended for use solely for a relevant residential or a relevant charitable purpose; or

(b) converting a non-residential building or a non-residential part of a building into a building designed as a dwelling or number of dwellings or a building intended for use solely for a relevant residential purpose,

of a major interest in, or in any part of, the building, dwelling or its site.

2. The supply in the course of the construction of —

(a) a building designed as a dwelling or number of dwellings or intended for use solely for a relevant residential purpose or a relevant charitable purpose; or

(b) any civil engineering work necessary for the development of a permanent park for residential caravans,
of any services related to the construction other than the services of an architect, surveyor or any person acting as a consultant or in a supervisory capacity.

3. The supply to a relevant housing association in the course of conversion of a non-residential building or a non-residential part of a building into —
   (a) a building or part of a building designed as a dwelling or number of dwellings; or
   (b) a building or part of a building intended for use solely for a relevant residential purpose,

of any services related to the conversion other than the services of an architect, surveyor or any person acting as a consultant or in a supervisory capacity. 834

4. The supply of building materials to a person to whom the supplier is supplying services within item 2 or 3 of this Group which include the incorporation of the materials into the building (or its site) in question.

Notes:
(1) "Grant" includes an assignment or surrender.
(2) A building is designed as a dwelling or a number of dwellings where in relation to each dwelling the following conditions are satisfied —
   (a) the dwelling consists of self-contained living accommodation;
   (b) there is no provision for direct internal access from the dwelling to any other dwelling or part of a dwelling;
   (c) the separate use, or disposal of the dwelling is not prohibited by the terms of any covenant, statutory planning consent or similar provision; and
   (d) statutory planning consent has been granted in respect of that dwelling and its construction or conversion has been carried out in accordance with that consent.
(3) The construction of, or conversion of a non-residential building to, a building designed as a dwelling or a number of dwellings includes the construction of, or conversion of a non-residential building to, a garage provided that —
   (a) the dwelling and the garage are constructed or converted at the same time; and
   (b) the garage is intended to be occupied with the dwelling or one of the dwellings.
(4) Use for a relevant residential purpose means use as —
   (a) a home or other institution providing residential accommodation for children;
   (b) a home or other institution providing residential accommodation with personal care for persons in need of personal care by reason
of old age, disablement, past or present dependence on alcohol or
drugs or past or present mental disorder;
(c) a hospice;
(d) residential accommodation for students or school pupils;
(e) residential accommodation for members of any of the armed forces;
(f) a monastery, nunnery or similar establishment; or
(g) an institution which is the sole or main residence of at least 90 per
cent of its residents,

except use as a hospital, prison or similar institution or an hotel, inn or similar
establishment.

(5) Where a number of buildings are —
(a) constructed at the same time and on the same site; and
(b) are intended to be used together as a unit solely for a relevant
residential purpose;

then each of those buildings, to the extent that they would not be so regarded but for this
Note, are to be treated as intended for use solely for a relevant residential purpose.

(6) Use for a relevant charitable purpose means use by a charity in either or
both the following ways, namely —
(a) otherwise than in the course or furtherance of a business;
(b) as a village hall or similarly in providing social or recreational
facilities for a local community.

(7) For the purposes of item 1(b), and for the purposes of these Notes so far as
having effect for the purposes of item 1(b), a building or part of a building is “non-
residential” if —
(a) it is neither designed, nor adapted, for use —
   (i) as a dwelling or number of dwellings, or
   (ii) for a relevant residential purpose; or
(b) it is designed, or adapted, for such use but —
   (i) it was constructed more than 10 years before the grant of the
       major interest; and
   (ii) no part of it has, in the period of 10 years immediately
       preceding the grant, been used as a dwelling or for a
       relevant residential purpose. 835

(7A) For the purposes of item 3, and for the purposes of these Notes so far as
having effect for the purposes of item 3, a building or part of a building is “non-
residential” if —
(a) it is neither designed, nor adapted, for use —
   (i) as a dwelling or number of dwellings, or
(ii) for a relevant residential purpose; or

(b) it is designed, or adapted, for such use but —

(i) it was constructed more than 10 years before the commencement of the works of conversion, and

(ii) no part of it has, in the period of 10 years immediately preceding the commencement of those works, been used as a dwelling or for a relevant residential purpose, and

(iii) no part of it is being used. 836

(8) References to a non-residential building or a non-residential part of a building do not include a reference to a garage occupied together with a dwelling.

(9) The conversion, other than to a building designed for a relevant residential purpose, of a non-residential part of a building which already contains a residential part is not included within items 1(b) or 3 unless the result of that conversion is to create an additional dwelling or dwellings.

(10) Where —

(a) part of a building that is constructed is designed as a dwelling or number of dwellings or is intended for use solely for a relevant residential purpose or relevant charitable purpose (and part is not); or

(b) part of a building that is converted is designed as a dwelling or number of dwellings or is used solely for a relevant residential purpose (and part is not) —

then in the case of —

(i) a grant or other supply relating only to the part so designed or intended for that use (or its site) shall be treated as relating to a building so designed or intended for such use;

(ii) a grant or other supply relating only to the part neither so designed nor intended for such use (or its site) shall not be so treated; and

(iii) any other grant or other supply relating to, or to any part of, the building (or its site) an apportionment shall be made to determine the extent to which it is to be so treated.

(11) Where, a service falling within the description in items 2 or 3 is supplied in part in relation to the construction or conversion of a building and in part for other purposes, an apportionment may be made to determine the extent to which the supply is to be treated as falling within item 2 or item 3.

(12) Where all or part of a building is intended for use solely for a relevant residential purpose or a relevant charitable purpose —

(a) a supply relating to the building (or any part of it) shall not be taken for the purposes of items 2 and 4 as relating to a building intended
for such use unless it is made to a person who intends to use the building (or part) for such a purpose; and

(b) a grant or other supply relating to the building (or any part of it) shall not be taken as relating to a building intended for such use unless before it is made the person to whom it is made has given to the person making it a certificate in such form as may be specified in a notice published by the Treasury stating that the grant or other supply (or a specified part of it) so relates.

(13) The grant of an interest in, or in any part of —

(a) a building designed as a dwelling or number of dwellings; or
(b) the site of such a building;

is not within item 1 if —

(i) the interest granted is such that the grantee is not entitled to reside in the building or part, throughout the year; or
(ii) residence there throughout the year, or the use of the building or part as the grantee’s principal private residence, is prevented by the terms of a covenant, statutory planning consent or similar permission.

(14) Where the major interest referred to in item 1 is a tenancy or lease —

(a) if a premium is payable, the grant falls within that item only to the extent that it is made for consideration in the form of the premium; and

(b) if a premium is not payable, the grant falls within that item only to the extent that it is made for consideration in the form of the first payment of rent due under the tenancy or lease.

(15) The reference in item 2(b) of this Group to the construction of a civil engineering work does not include a reference to the conversion, reconstruction, alteration or enlargement of work.

(16) For the purpose of this Group, the construction of a building does not include —

(a) the conversion, reconstruction or alteration of an existing building; or

(b) any enlargement of, or extension to, an existing building except to the extent the enlargement or extension creates an additional dwelling or dwellings; or

(c) subject to Note (17) below, the construction of an annexe to an existing building.

(17) Note (16)(c) shall not apply where the whole or a part of an annexe is intended for use solely for a relevant charitable purpose and —
(a) the annexe is capable of functioning independently from the existing building; and

(b) the only access or where there is more than one means of access, the main access to:
   (i) the annexe is not via the existing building; and
   (ii) the existing building is not via the annexe.

(18) A building only ceases to be an existing building when:
   (a) demolished completely to ground level; or
   (b) the part remaining above ground level consists of no more than a single facade or where a corner site, a double facade, the retention of which is a condition or requirement of statutory planning consent or similar permission.

(19) A caravan is not a residential caravan if residence in it throughout the year is prevented by the terms of a covenant, statutory planning consent or similar permission.

(20) Item 2 and Item 3 do not include the supply of services described in paragraph 1(1) or 5(4) of Schedule 5.

(21) In item 3 “relevant housing association” means —
   (a) a private registered provider of social housing within the meaning of section 80(3) of the Housing and Regeneration Act 2008 (c.17 of Parliament) (provider of social housing);
   (b) a registered social landlord within the meaning of Part 1 of the Housing Act 1996 (c.52 of Parliament) (Welsh registered social landlords);
   (c) a registered social landlord within the meaning of the Housing (Scotland) Act 2001 (asp 10 of the Scottish Parliament) (Scottish registered social landlords); or
   (d) a registered housing association within the meaning of Part II of the Housing (Northern Ireland) Order 1992 (Northern Irish registered housing associations).

(22) “Building materials”, in relation to any description of building, means goods of a description ordinarily incorporated by builders in a building of that description, (or its site), but does not include —
   (a) finished or prefabricated furniture, other than furniture designed to be fitted in kitchens;
   (b) materials for the construction of fitted furniture, other than kitchen furniture;
   (c) electrical or gas appliances, unless the appliance is an appliance which is —
(i) designed to heat space or water (or both) or to provide ventilation, air cooling, air purification, or dust extraction; or

(ii) intended for use in a building designed as a number of dwellings and is a door-entry system, a waste disposal unit or a machine for compacting waste; or

(iii) a burglar alarm, a fire alarm, or fire safety equipment or designed solely for the purpose of enabling aid to be summoned in an emergency; or

(iv) a lift or hoist;

(d) carpets or carpeting materials.

(23) For the purposes of Note (22) the incorporation of goods in a building includes their installation as fittings.

(24) Section 30(3) does not apply to goods forming part of a description of supply in this Group.

GROUP 6 - PROTECTED BUILDINGS

Item No.

1. The first grant by a person substantially reconstructing a protected building, of a major interest in, or in any part of, the building or its site.

2. [Repealed]840

3. [Repealed]841

Notes:

(1) “Protected building” means a building which is designed to remain as or become a dwelling or number of dwellings (as defined in Note (2)) or is intended for use solely for a relevant residential purpose or a relevant charitable purpose after the reconstruction or alteration and which, in either case, is —

(a) registered in the register maintained under the Town and Country Planning Act 1991; or

(b) an ancient monument, within the meaning of the Manx Museum and National Trust Act 1959.

(2) A building is designed to remain as or become a dwelling or number of dwellings where in relation to each dwelling the following conditions are satisfied —

(a) the dwelling consists of self-contained living accommodation;

(b) there is no provision for direct internal access from the dwelling to any other dwelling or part of a dwelling;
(c) the separate use, or disposal of the dwelling is not prohibited by the terms of any covenant, statutory planning consent or similar provision,

and includes a garage (occupied together with a dwelling) either constructed at the same time as the building or where the building has been substantially reconstructed at the same time as that reconstruction.

(3) Notes (1), (4), (6) and (12) to (14) of Group 5 apply in relation to this Group as they apply in relation to that Group but subject to any appropriate modifications.\textsuperscript{842}

(4) For the purposes of item 1, a protected building is not to be regarded as substantially reconstructed unless, when the reconstruction is completed, the reconstructed building incorporates no more of the original building (that is to say, the building as it was before the reconstruction began) than the external walls, together with other external features of architectural or historic interest.\textsuperscript{843}

(5) Where part of a protected building that is substantially reconstructed is designed to remain as or become a dwelling or a number of dwellings or is intended for use solely for a relevant residential or relevant charitable purpose (and part is not) —

(a) a grant relating only to the part so designed or intended for such use (or its site) shall be treated as relating to a building so designed or intended for such use;\textsuperscript{844}

(b) a grant relating only to the part neither so designed nor intended for such use (or its site) shall not be so treated; and\textsuperscript{845}

(c) in the case of any other grant relating to, or to any part of, the building (or its site), an apportionment shall be made to determine the extent to which it is to be so treated.\textsuperscript{846}

(6) to (10) [Repealed]\textsuperscript{847}

GROUP 7 - INTERNATIONAL SERVICES

Item No.

1. The supply of services of work carried out on goods which, for that purpose, have been obtained or acquired in, or imported into, the Island or any of the member States and which are intended to be, and in fact are, subsequently exported to a place outside the Island and the member States —

(a) by or on behalf of the supplier; or

(b) where the recipient of the services belongs in a place outside the Island and the member States, by or on behalf of the recipient.

2. The supply of services consisting of the making of arrangements for —

(a) the export of any goods to a place outside the Island and the member States;
Value Added Tax Act 1996

Schedule 9

(b) a supply of services of the description specified in item 1 of this Group; or

(c) any supply of services which is made outside the Island and the member States.

Note:

This Group does not include any services of a description specified in Group 2 or Group 5 of Schedule 10.

GROUP 8 - TRANSPORT

Item No.

1. The supply, repair or maintenance of a qualifying ship or the modification or conversion of any such ship provided that when so modified or converted it will remain a qualifying ship.848

2. The supply, repair or maintenance of a qualifying aircraft or the modification or conversion of any such aircraft provided that when so modified or converted it will remain a qualifying aircraft.849

2A. The supply of parts and equipment, of a kind ordinarily installed or incorporated in, and to be installed, or incorporated in —

   (a) the propulsion, navigation or communication systems; or

   (b) the general structure,

of a qualifying ship or, as the case may be, aircraft.850

2B. The supply of life jackets, life rafts, smoke hoods and similar safety equipment for use in a qualifying ship or, as the case may be, aircraft.851

3. (a) The supply to and repair or maintenance for a charity providing rescue or assistance at sea of —

   (i) any lifeboat;

   (ii) carriage equipment designed solely for the launching and recovery of lifeboats;

   (iii) tractors for the sole use of the launching and recovery of lifeboats;

   (iv) winches and hauling equipment for the sole use of the recovery of lifeboats;

   (b) the construction, modification, repair or maintenance for a charity providing rescue or assistance and recovery at sea of slipways used solely for the launching and recovery of lifeboats;
(c) the supply of spare parts or accessories to a charity providing rescue or assistance at sea for use in or with goods comprised in paragraph (a) or slipways comprised in paragraph (b);

(d) the supply to a charity providing rescue or assistance at sea of equipment that is to be installed, incorporated or used in a lifeboat and is of a kind ordinarily installed, incorporated or used in a lifeboat;\(^{852}\)

(e) the supply of fuel to a charity providing rescue or assistance at sea where the fuel is for use in a lifeboat.\(^{853}\)

4. Transport of passengers —

(a) in any vehicle, ship or aircraft designed or adapted to carry not less than 10 passengers; or\(^{854}\)

(b) by the Post Office or a universal service provider in the United Kingdom; or\(^{855}\)

(c) on any scheduled flight; or

(d) from a place within to a place outside the Island or vice versa, to the extent that those services are supplied in the Island.

5. The transport of goods from a place within to a place outside the Island and the member States or vice versa, to the extent that those services are supplied within the Island.

6. Any services provided for —

(a) the handling of ships or aircraft in a port, customs and excise airport or outside the Island; or

(b) the handling or storage —

   (i) in a port,

   (ii) on land adjacent to a port,

   (iii) in a customs and excise airport, or

   (iv) in a transit shed,

   of goods carried in a ship or aircraft.\(^{856}\)

7. Pilotage services.

8. Salvage or towage services.

9. Any services supplied for or in connection with the surveying of any ship or aircraft or the classification of any ship or aircraft for the purposes of any register.

10. The making of arrangements for —

    (a) the supply of, or of space in, any ship or aircraft.\(^{857}\)
(b) the supply of any service included in items 1 and 2, 3 to 9 and 12; or

(c) the supply of any goods of a description falling within items 2A or 2B, or paragraph (d) of item 3.

11. The supply —

(a) of services consisting of —

(i) the handling or storage of goods at, or their transport to or from, a place at which they are to be exported to or have been imported from a place outside the Island and the member States; or

(ii) the handling or storage of such goods in connection with such transport; or

(b) to a person who receives the supply for the purpose of a business carried on by him and who belongs outside the Island, of services of a description specified in paragraph (a) of item 6, item 9 or paragraph (a) of item 10 of this Group.

12. The supply of a designated travel service to be enjoyed outside the Island and the European Union, to the extent to which the supply is so enjoyed.

13. Intra-EU transport services supplied in connection with the transport of goods to or from the Azores or Madeira or between those places, to the extent that the services are treated as supplied in the Island.

Notes:

(A1) In this Group —

(a) a “qualifying ship” is any ship of a gross tonnage of not less than 15 tons which is neither designed nor adapted for use for recreation or pleasure; and

(b) a “qualifying aircraft” is any aircraft which —

(i) is used by an airline operating for reward chiefly on international routes; or

(ii) is used by a State institution and meets the condition in Note (B1).

(B1) The condition is that the aircraft —

(a) is of a weight of not less than 8,000 kilograms; and

(b) is neither designed not adapted for use for recreation or pleasure.

(C1) In Note (A1)(b) —

“airline” means an undertaking which provides services for the carriage by air of passengers or cargo (or both);
“State institution” has the same meaning as in Part B of Annex X to the Council Directive 2006/112/EC\(^\text{12}\) on the common system of value added tax (transactions which member States may continue to exempt).\(^{865}\)

(1) In items 1 and 2 the supply of a qualifying ship or, as the case may be, aircraft includes the supply of services under a charter of that ship or aircraft except where the services supplied under such a charter consist wholly of any one or more of the following—

(a) transport of passengers,
(b) accommodation,
(c) entertainment,
(d) education,

being services wholly performed in the Island.\(^{866}\)

(2) Items 1, 2, 2A, 2B and 3 include the letting on hire of the goods specified in the items.\(^{867}\)

(2A) Items 2A and 2B do not include the supply of parts and equipment to a Department or a United Kingdom Government department unless—

(a) they are installed or incorporated in the course of a supply which is treated as being made in the course or furtherance of a business carried on by the department; or

(b) the parts and equipment are to be installed or incorporated in ships or aircraft used for the purpose of providing rescue or assistance at sea.\(^{868}\)

(3) Item 3 shall not apply unless, before the supply is made, the recipient of the supply gives to the person making the supply a certificate stating—

(a) the name and address of the recipient,

(b) that the supply is of a description specified in item 3 of this Group.

(4) “Lifeboat” means any vessel used or to be used solely for rescue or assistance at sea.

(5) Item 4 does not include the transport of passengers—

(a) in any vehicle to, from or within—

(i) a place of entertainment, recreation or amusement; or

(ii) a place of cultural, scientific, historical or similar interest, by the person, or a person connected with him, who supplies a right of admission to, or a right to use facilities at, such a place;

(b) in any motor vehicle between a car park (or land adjacent thereto) and an airport passenger terminal (or land adjacent thereto) by the

person, or a person connected with him, who supplies facilities for the parking of vehicles in that car park; or

(c) in an aircraft where the flight is advertised or held out to be for the purpose of —

(i) providing entertainment, recreation or amusement; or

(ii) the experience of flying, or the experience of flying in that particular aircraft,

and not primarily for the purpose of transporting passengers from one place to another.

(5A) “Universal service provider” means a person who provides a universal postal service (within the meaning of the Postal Services Act 2000 (an Act of Parliament), or part of such a service in the United Kingdom.

(6) For the purposes of Note (5), any question whether a person is connected with another shall be determined in such manner and by reference to such criteria as may be prescribed in regulations.

(7) In Note (5)(b), “motor vehicle” means a mechanically propelled vehicle intended or adapted for use on the roads.

(7A) Item 4(a) includes the transport of passengers in a vehicle —

(a) which is designed, or substantially and permanently adapted, for the safe carriage of a person in a wheelchair or two or more such persons, and

(b) which, if it were not so designed or adapted, would be capable of carrying no less than 10 persons.

(8) Item 6 does not include the letting on hire of goods.

(9) “Port”, “customs and excise airport” and “transit shed” have the same meaning as in the Management Act.

(10) Except for the purposes of item 11, paragraph (a) of item 6, item 9 and paragraph (a) of item 10 only include supplies of services where the ships or aircraft referred to in those paragraphs are qualifying ships or, as the case may be, aircraft.

(11) “Designated travel service” has the same meaning as in the Value Added Tax (Tour Operators) Order 1988.

(12) “Intra-EU transport services” means —

(a) the intra-EU transport of goods within the meaning of the Value Added Tax (Place of Supply of Services) Order 1993;

(b) ancillary transport services within the meaning of the Value Added Tax (Place of Supply of Services) Order 1993 which are provided in connection with intra-EU transport of goods; or

(c) the making of arrangements for the supply by or to another person of a supply within (a) or (b) or any other activity which is intended to facilitate the making of such a supply,
and, for the purpose of this Note only, the Azores and Madeira shall be each treated as a separate member State.\textsuperscript{875}

GROUP 9 - CARAVANS AND HOUSEBOATS

1. Caravans which exceed the limits of size of a trailer for the time being permitted to be towed on roads by a motor vehicle having a maximum gross weight of 3,500 kilogrammes and which —

   (a) were manufactured to standard BS 3632:2005 or BS 3632:2015 approved by the British Standards Institution, or\textsuperscript{876}

   (b) are second hand, were manufactured to a previous version of standard BS 3632 approved by that Institution and were occupied before 6 April 2013.\textsuperscript{877}

2. Houseboats being boats or other floating decked structures designed or adapted for use solely as places of permanent habitation and not having means of, or capable of being readily adapted for, self-propulsion.

3. The supply of such services as are described in paragraph 1(1) or 5(4) of Schedule 5 in respect of a caravan or a houseboat comprised respectively in items 1 and 2.

Note:

This Group does not include —

   (a) removable contents other than goods of a kind mentioned in item 4 of Group 5; or\textsuperscript{878}

   (b) the supply of accommodation in a caravan or houseboat.

GROUP 10 - GOLD

1. The supply, by a Central Bank to another Central Bank or a member of the London Gold Market, of gold held in the Island.

2. The supply, by a member of the London Gold Market to a Central Bank, of gold held in the Island.

Notes:

(1) “Gold” includes gold coins.

(2) Section 30(3) does not apply to goods forming part of a description of supply in this Group.

(3) Items 1 and 2 include —

   (a) the granting of a right to acquire a quantity of gold; and
(b) any supply described therein, which, by virtue of paragraph 1 of Schedule 5, is a supply of services.

GROUP 11 - BANK NOTES

Item No.

1. The issue by a bank of a note payable to bearer on demand.

GROUP 12 - DRUGS, MEDICINES, AIDS FOR THE DISABLED, ETC

Item No.

1. The supply of any qualifying goods dispensed to an individual for that individual’s personal use on the prescription of an appropriate practitioner where the dispensing is by a registered pharmacist.

2. The supply to a disabled person for domestic or his personal use, or to a charity for making available to disabled persons, by sale or otherwise, for domestic or their personal use, of —

(a) medical or surgical appliances designed solely for the relief of a severe abnormality or severe injury;
(b) electrically or mechanically adjustable beds designed for invalids;
(c) commode chairs, commode stools, devices incorporating a bidet jet and warm air drier and frames or other devices for sitting over or rising from a sanitary appliance;
(d) chair lifts or stair lifts designed for use in connection with invalid wheelchairs;
(e) hoists and lifters designed for use by invalids;
(f) motor vehicles designed or substantially and permanently adapted for the carriage of a person in a wheelchair or on a stretcher and of no more than 11 other persons;
(g) equipment and appliances not included in paragraphs (a) to (f) designed solely for use by a disabled person;
(h) parts and accessories designed solely for use in or with goods described in paragraphs (a) to (g);
(i) boats designed or substantially and permanently adapted for use by disabled persons.

2A. (1) The supply of a motor vehicle (other than a motor vehicle capable of carrying more than 12 persons including the driver) to a person (“P”) if —

(a) the motor vehicle is a qualifying motor vehicle by virtue of paragraph (2) or (3);
(b) P is a disabled person to whom paragraph (4) applies; and
(c) the vehicle is supplied for domestic or P’s personal use.

(2) A motor vehicle is a “qualifying motor vehicle” by virtue of this paragraph if it is designed to enable a person to whom paragraph (4) applies to travel in it.

(3) A motor vehicle is a “qualifying motor vehicle” by virtue of this paragraph if —
   (a) it has been substantially and permanently adapted to enable a person to whom paragraph (4) applies to travel in it; and
   (b) the adaptation is necessary to enable P to travel in it.

(4) This paragraph applies to a disabled person —
   (a) who usually uses a wheelchair; or
   (b) who is usually carried on a stretcher.

2B. (1) The supply of a qualifying motor vehicle (other than a motor vehicle capable of carrying more than 12 persons including the driver) to a charity for making available, by sale or otherwise to a person to whom paragraph (3) applies, for domestic or the person’s personal use.

(2) A motor vehicle is a “qualifying motor vehicle” for the purposes of this item if it is designed or substantially and permanently adapted to enable a disabled person to whom paragraph (3) applies to travel in it.

(3) This paragraph applies to a disabled person —
   (a) who usually uses a wheelchair; or
   (b) who is usually carried on a stretcher.

3. The supply to a disabled person of services of adapting goods to suit his condition.

4. The supply to a charity of services of adapting goods to suit the condition of a disabled person to whom the goods are to be made available, by sale or otherwise, by the charity.

5. The supply to a disabled person or to a charity of a service of repair or maintenance of any goods specified in item 2, 2A, 6, 18 or 19 and supplied as described in that item.

6. The supply of goods in connection with a supply described in item 3, 4 or 5.

7. The supply to a disabled person or to a charity of services necessarily performed in the installation of equipment or appliances (including parts and accessories therefor) specified in item 2 and supplied as described in that item.
8. The supply to a disabled person of a service of constructing ramps or widening doorways or passages for the purpose of facilitating his entry to or movement within his private residence.\footnote{\ref{891}}

9. The supply to a charity of a service described in item 8 for the purpose of facilitating a disabled person’s entry to or movement within any building.\footnote{\ref{892}}

10. The supply to a disabled person of a service of providing, extending or adapting a bathroom, washroom or lavatory in his private residence where such provision, extension or adaptation is necessary by reason of his condition.\footnote{\ref{893}}

11. The supply to a charity of a service providing, extending or adapting a bathroom, washroom or lavatory for use by disabled persons —

   (a) in residential accommodation, or

   (b) in a day-centre where at least 20 per cent. of the individuals using the centre are disabled persons,\footnote{\ref{894}}

where such provision, extension or adaptation is necessary by reason of the condition of the disabled persons.\footnote{\ref{895}}

12. The supply to a charity of a service of providing, extending or adapting a washroom or lavatory for use by disabled persons in a building, or any part of a building, used principally by a charity for charitable purposes where such provision, extension or adaptation is necessary to facilitate the use of the washroom or lavatory by disabled persons.\footnote{\ref{896}}

13. The supply of goods in connection with a supply described in items 8, 9, 10 or 11.

14. The letting on hire of a motor vehicle for a period of not less than 3 years to a disabled person in receipt of a disability living allowance by virtue of entitlement to the mobility component or of mobility supplement where the lessor’s business consists predominantly of the provision of motor vehicles to such persons.\footnote{\ref{897}}

15. The sale of a motor vehicle which had been let on hire in the circumstances described in item 14, where such sale constitutes the first supply of the vehicle after the end of the period of such letting.

16. The supply to a disabled person of services necessarily performed in the installation of a lift for the purpose of facilitating his movement between floors within his private residence.\footnote{\ref{898}}

17. The supply to a charity providing a permanent or temporary residence or day-centre for disabled persons of services necessarily performed in the installation of a lift for the purpose of facilitating the movement of disabled persons between floors within that building.\footnote{\ref{899}}

18. The supply of goods in connection with a supply described in item 16 or 17.
19. The supply to a disabled person for domestic or his personal use, or to a charity for making available to disabled persons, by sale or otherwise, for domestic or their personal use, of an alarm system designed to be capable of operation by a disabled person, and to enable him to alert directly a specified person or a control centre.  

20. The supply of services necessarily performed by a control centre in receiving and responding to calls from an alarm system specified in item 19.

Notes:

(1) Section 30(3) does not apply to goods forming part of a description of supply in item 1, nor to other goods forming part of a description of supply in this Group, except where those other goods are acquired from a member State or imported from a place outside the member States by a disabled person for domestic or his personal use, or by a charity for making available to disabled persons, by sale or otherwise, for domestic or their personal use.

(2) Any person who is chronically sick or disabled is “disabled” for the purposes of this Group.

(2A) In item 1, “qualifying goods” means any goods designed or adapted for use in connection with any medical or surgical treatment except —

(a) hearing aids;
(b) dentures; and
(c) spectacles and contact lenses.

(2B) In item 1 “appropriate practitioner” means —

(a) a registered medical practitioner;
(b) a registered dentist;
(c) a community practitioner nurse prescriber;
(d) a nurse independent prescriber;
(e) an optometrist independent prescriber;
(f) a pharmacist independent prescriber;
(g) a supplementary prescriber.

For the purposes of this Note, “community practitioner nurse prescriber”, “nurse independent prescriber”, “optometrist independent prescriber”, “pharmacist independent prescriber” and “supplementary prescriber” have the meanings given in article 1(2) of the Prescription Only Medicines (Human Use) Order 1997.

(2C) In item 1, “registered pharmacist” means a person who is registered in the Register of Pharmacists as defined by Schedule 2 to the Medicines Act 2003.

(3) Item 2 shall not include hearing aids (except hearing aids designed for the auditory training of deaf children), dentures, spectacles and contact lenses but shall be deemed to include —

13 SI 1997 No. 1830, as applied in the Island by SD11/05
(a) clothing, footwear and wigs;
(b) invalid wheelchairs, and invalid carriages; and^{908}
(c) renal haemodialysis units, oxygen concentrators, artificial respirators and other similar apparatus.

(4) The supplies described in items 1, 2 and 2A include supplies of services of letting on hire of goods comprised in the items.^{909}

(4A) In item 1 the reference to personal use does not include any use which is, or involves, a use by or in relation to an individual while that individual, for the purposes of being provided (whether or not by the person making the supply) with medical or surgical treatment, or with any form of care —
   (a) as an in-patient or resident in a relevant institution which is a hospital or nursing home; or
   (b) is attending at the premises of a relevant institution which is a hospital or nursing home.^{910}

(4B) Subject to Notes (4C) and (4D), in item 2 the reference to domestic or personal use does not include any use which is, or involves, a use by or in relation to a disabled person while that person, for the purposes of being provided (whether or not by the person making the supply) with medical or surgical treatment, or with any form or care —
   (a) is an in-patient or resident in a relevant institution; or
   (b) is attending at the premises of a relevant institution.^{911}

(4C) Note (4B) does not apply for the purpose of determining whether any of the following supplies falls within item 2, that is to say —
   (a) a supply to a charity;
   (b) a supply by a person mentioned in Note (4H) of an invalid wheelchair or invalid carriage;
   (c) a supply by a person mentioned in Note (4H) of any parts or accessories designed solely for use in or with an invalid wheelchair or invalid carriage.^{912}

(4D) Note (4B) applies for the purpose of determining whether a supply of goods by a person not mentioned in Note (4H) falls within item 2 only if those goods are —
   (a) goods falling within paragraph (a) of that item;
   (b) incontinence products and wound dressing; or
   (c) parts and accessories designed solely for use in or with goods falling within paragraph (a) of this Note.^{913}

(4E) Subject to Note (4F), item 2 does not include —
   (a) a supply made in accordance with any agreement, arrangement or understanding (whether or not legally enforceable) to which a
person mentioned in Note (4H) is or has been a party otherwise than as the supplier; or
(b) any supply the whole or part of the consideration for which is provided (whether directly or indirectly) by a person mentioned in Note (4H).\textsuperscript{914}

(4F) A supply to a disabled person of an invalid wheelchair or invalid carriage is excluded from item 2 by Note (4E) only if —
(a) that Note applies in relation to that supply by reference to a person mentioned in Note (4H); or
(b) the whole of the consideration for the supply is provided (whether directly or indirectly) by a person mentioned in Note (4H).\textsuperscript{915}

(4G) In Notes (4), (4C) and (4F), the references to an invalid wheelchair and to an invalid carriage do not include references to any mechanically propelled vehicle which is intended or adapted for use on roads.\textsuperscript{916}

(4H) The persons referred to in Notes (4C) to (4F) are —
(a) the Department of Health and Social Care; or\textsuperscript{917}
(ab) [Repealed]\textsuperscript{918}
(b) another person who is engaged in the carrying out of any activity in respect of which a relevant institution is required to be approved, licensed or registered as the case may be, would be so required if not exempt.\textsuperscript{919}

(4I) In Notes (4A), (4B) and (4H), “relevant institution” means any institution (whether a hospital, nursing home or other institution) which provides care or medical or surgical treatment and is either —
(a) approved, licensed or registered in accordance with the provisions of any enactment; or
(b) exempted by or under the provisions of any enactment from any requirement to be approved, licensed or registered.\textsuperscript{920}

(4J) For the purposes of item 11 “residential accommodation” means —
(a) a residential home, or
(b) self-contained living accommodation,
provided as a residence (whether on a permanent or temporary basis or both) for disabled persons, but does not include an inn, hotel, boarding house or similar establishment or accommodation in any such type of establishment.\textsuperscript{921}

(4K) In this Group “washroom” means a room that contains a lavatory or washbasin (or both) but does not contain a bath or a shower or cooking, sleeping or laundry facilities.\textsuperscript{922}

(4L) [Repealed]\textsuperscript{923}
(4M) For the purposes of Notes (4N) to (4S), the supply of a motor vehicle is a “relevant supply” if it is a supply of goods (which is made in the Island).924

(4N) In the case of a relevant supply of a motor vehicle to a disabled person (“the new supply”), items 2(f) and 2A do not apply if, in the period of 3 years ending with the day on which the motor vehicle is made available to the disabled person —

(a) a reckonable zero-rated supply of another motor vehicle has been made to that person; or

(b) that person has made a reckonable zero-rated acquisition, or reckonable zero-rated importation, of another motor vehicle.925

(4O) If a relevant supply of a motor vehicle is made to a disabled person and —

(a) any reckonable zero-rated supply of another motor vehicle has previously been made to the person; or

(b) any reckonable zero-rated acquisition or importation of another motor vehicle has previously been made by the person,

the reckonable zero-rated supply or (as the case may be) reckonable zero-rated importation or acquisition is treated for the purposes of Note (4N) as not having been made if either of the conditions in Note (4P) is met.926

(4P) The conditions mentioned in Note (4O) are that —

(a) at the time of the new supply (see Note (4N)) the motor vehicle mentioned in Note (4O)(a) or (b) is unavailable for the disabled person’s use because —

(i) it has been stolen; or

(ii) it has been destroyed, or damaged beyond repair (accidentally, or otherwise in circumstances beyond the disabled person’s control); or

(b) the Treasury is satisfied that (at the time of the new supply) the motor vehicle mentioned in Note (4O)(a) or (b) has ceased to be suitable for the disabled person’s use because of changes in the person’s condition.927

(4Q) In the case of a relevant supply of a motor vehicle to a disabled person, items 2(f) and 2A cannot apply unless the supplier —

(a) gives to the Treasury, before the end of the period of 12 months beginning with the day on which the supply is made, any information and supporting documentary evidence that may be specified in a notice published by it; and

(b) in doing so complies with any requirements as to any method set out in the notice.928

(4R) In the case of a relevant supply of a motor vehicle to a disabled person, items 2(f) and 2A cannot apply unless, before the supply is made, the person making the supply has been given a certificate in the required form which —
(4S) The information that may be required under Note (4Q)(a) includes —
(a) the name and address of the disabled person and details of the person’s disability; and
(b) any other information that may be relevant for the purposes of that Note,

(4T) In Notes (4N) to (4S) —

“in the required form” means complying with any requirements as to form that may be specified in a notice published by the Treasury;

“reckonable zero-rated acquisition”, in relation to a motor vehicle, means an acquisition of the vehicle from another member State in a case where —
(a) VAT is not chargeable on the acquisition as a result of item 2(f) or 2A; and
(b) the acquisition takes place on or after 1 April 2017;

“reckonable zero-rated importation”, in relation to a motor vehicle, means an importation of the vehicle from a place outside the member States in a case where —
(a) VAT is not chargeable on the importation as a result of item 2(f) or 2A; and
(b) the importation takes place on or after 1 April 2017;

“reckonable zero-rated supply”, in relation to a motor vehicle, means a supply of the vehicle which —
(a) is a supply of goods;
(b) is zero-rated as a result of item 2(f) or 2A; and
(c) is made on or after 1 April 2017.  

(4U) In items 2A and 2B references to design, or adaptation, of a motor vehicle to enable a person (or a person of any description) to travel in it are to be read as including a reference to design or, as the case may be, adaptation of the motor vehicle to enable the person (or persons of that description) to drive it.

(5) Item 14 applies only —
(a) where the vehicle is unused at the commencement of the period of letting; and
(b) where the consideration for the letting consists wholly or partly of sums paid to the lessor by the appropriate Department or Board or
the Ministry of Defence on behalf of the lessee in respect of the
mobility component of the disability living allowance or mobility
supplement to which he is entitled.

(6) In item 14 —
   (a) “disability living allowance” is a disability living allowance within
the meaning of section 71 of the Social Security Contributions and
Benefits Act 1992 (an Act of Parliament) as that Act has effect in the
Island; and
   (b) “mobility supplement” is a mobility supplement within the
meaning of article 26A of the Naval, Military and Air Forces etc.
(Disablement and Death) Service Pensions Order 1983 (of
Parliament), article 25A of the Personal Injuries (Civilians) Scheme
1983 (of Parliament) or article 3 of the Motor Vehicles (Exemption

(7) Where in item 3 or 4 the goods are adapted in accordance with that item
prior to their supply to the disabled person or the charity, an apportionment shall be
made to determine the supply of services which falls within item 3 or 4.933

(8) In item 19 or 20, a specified person or control centre is a person or centre
who or which —
   (a) is appointed to receive directly calls activated by an alarm system
described in that item, and
   (b) retains information about the disabled person to assist him in the
event of illness, injury or similar emergency.934

GROUP 13 - IMPORTS, EXPORTS, ETC

Item No.

1. The supply before the delivery of an entry (within the meaning of regulation 5 of
the Customs Controls on Importation of Goods Regulations 1994) under an agreement
requiring the purchaser to make such an entry of goods imported from a place outside
the member States.935

2. The supply to or by an overseas authority, overseas body or overseas trader,
charged with the management of any defence project which is the subject of an
international collaboration arrangement or under direct contract with any government
or government sponsored international body participating in a defence project under
such an arrangement, of goods or services in the course of giving effect to that
arrangement.

3. The supply to an overseas authority, overseas body or overseas trader of jigs,
patterns, templates, dies, punches and similar machine tools used in the Island solely for
the manufacture of goods for export to places outside the member States.

Notes:
Schedule 9

Value Added Tax Act 1996

(1) An “international collaboration arrangement” means any arrangement made —

(a) between the Government and the government of one or more other countries, or any government sponsored international body for collaboration in a joint project of research, development or production; and

(b) which includes provision for participating governments to relieve the cost of the project from taxation.

(2) “Overseas authority” means any country other than the Island or any part of or place in such a country or the government of such country, part or place.

(3) “Overseas body” means a body established outside the Island.

(4) “Overseas trader” means a person who carries on a business and has his principal place of business outside the Island.

(5) Item 3 does not apply where the overseas authority, overseas body or overseas trader is a taxable person, a member State, any part of or place in a member State, the government of any such member State, part or place, a body established in a member State or a person who carries on business, or has a place of business, in a member State.

GROUP 14

GROUP 15 - CHARITIES ETC

Item No.

1. The sale, or letting on hire, by a charity of any goods donated to it for —

   (a) sale,
   (b) letting,
   (c) sale or letting,
   (d) sale or export,
   (e) letting or export, or
   (f) sale, letting or export. 937

1A. The sale, or letting on hire, by a taxable person of any goods donated to him for —

   (a) sale,
   (b) letting,
   (c) sale or letting,
   (d) sale or export,
   (e) letting or export, or
   (f) sale, letting or export,
if he is a profits-to-charity person in respect of the goods.938

2. The donation of any goods for any one or more of the following purposes —
   (a) sale by a charity or a taxable person who is a profits-to-charity person in respect of the goods;
   (b) export by a charity or such a taxable person;
   (c) letting by a charity or such a taxable person.939

3. The export of any goods by a charity to a place outside the member States.

4. The supply of any relevant goods for donation to a nominated eligible body where the goods are purchased with funds provided by a charity or from voluntary contributions.

5. The supply of any relevant goods to an eligible body which pays for them with funds provided by a charity or from voluntary contributions or to an eligible body which is a charitable institution providing care or medical or surgical treatment for disabled persons.940

6. Repair and maintenance of relevant goods owned by an eligible body.

7. The supply of goods in connection with the supply described in item 6.

8. The supply to a charity of a right to promulgate an advertisement by means of a medium of communication with the public.941

8A. A supply to a charity that consists in the promulgation of an advertisement by means of such a medium.942

8B. The supply to a charity of services of design or production of an advertisement that is, or was intended to be, promulgated by means of such a medium.943

8C. The supply to a charity of goods closely related to a supply within item 8B.944

9. The supply to a charity, providing care or medical or surgical treatment for human beings or animals, or engaging in medical or veterinary research, of a medicinal product where the supply is solely for use by the charity in such care, treatment or research.

10. The supply to a charity of a substance directly used for synthesis or testing in the course of medical or veterinary research.

Notes:

(1) Item 1 or 1A does not apply unless the sale or letting —
   (a) takes place as a result of the goods having been made available —
      (i) to two or more specified persons, or
to the general public,
for purchase or hire (whether so made available in a shop or elsewhere), and
(b) does not take place as a result of any arrangements (whether legally binding or not) relating to the goods and entered into, before the goods were made so available, by —
(i) each of the parties to the sale or letting, or
(ii) the donor of the goods and either or both of those parties. 945

1A For the purposes of items 1, 1A and 2, goods are donated for letting only if they are donated for —
(a) letting, and
(b) re-letting after the end of any first or subsequent letting, and
(c) all or any of —
(i) sale,
(ii) export, or
(iii) disposal as waste,
if not, or when no longer, used for letting. 946

1B Items 1 and 1A do not include (and shall be treated as having not included) any sale, or letting on hire, of particular donated goods if the goods, at any time after they are donated but before they are sold, exported or disposed of as waste, are whilst unlet used for any purpose other than, or in addition to, that of being available for purchase, hire or export. 947

1C In Note (1) “specified person” means a person who —
(a) is disabled, or 948
(b) is entitled to any one or more of the specified benefits, or
(c) is both disabled and so entitled. 949 950

1D For the purposes of Note (1C) the specified benefits are —
(a) supplementary benefit or income support under Part VII of the Social Security Contributions and Benefits Act 1992 (of Parliament), as that Act has effect in the Island;
(b) an income-based jobseeker’s allowance within the meaning of section 1(4) of the Jobseekers Act 1995 (of Parliament), as that Act has effect in the Island;
(c) a family income supplement under Part VII of the Social Security Contributions and Benefits Act 1992 (of Parliament), as that Act has effect in the Island;
(d) disability working allowance under Part VII of the Social Security Contributions and Benefits Act 1992 (of Parliament), as that Act has effect in the Island. 951
(1E) For the purposes of items 1A and 2 a taxable person is a “profits-to-charity” person in respect of any goods if —

(a) he has agreed in writing (whether or not contained in a deed) to transfer to a charity his profits from supplies and lettings of the goods, or

(b) his profits from supplies and lettings of the goods are otherwise payable to a charity. 952

(1F) In items 1, 1A and 2, and any Notes relating to any of those items, “goods” means goods (and, in particular, does not include anything that is not goods even though provision made by or under an enactment provides for a supply of that thing to be, or be treated as, a supply of goods). 953

(2) “Animals” includes any species of the animal kingdom.

(3) “Relevant goods” means —

(a) medical, scientific, computer, video, sterilising, laboratory or refrigeration equipment for use in medical or veterinary research, training, diagnosis or treatment;

(b) ambulances;

(c) parts or accessories for use in or with goods described in paragraph (a) or (b);

(d) goods of a kind described in item 2 of Group 12;

(e) motor vehicles (other than vehicles with more than 50 seats) designed or substantially and permanently adapted for the safe carriage of a disabled person in a wheelchair provided that —

(i) in the case of vehicles with more than 16 but fewer than 27 seats, the number of persons for which such provision shall exist shall be at least 2;

(ii) in the case of vehicles with more than 26 but fewer than 37 seats, the number of persons for which such provision shall exist shall be at least 3;

(iii) in the case of vehicles with more than 36 but fewer than 47 seats, the number of persons for which such provision shall exist shall be at least 4;

(iv) in the case of vehicles with more than 46 seats, the number of persons for which such provision shall exist shall be at least 5;

(v) there is either a fitted electrically or hydraulically operated lift or, in the case of vehicles with fewer than 17 seats, a fitted ramp to provide access for a passenger in a wheelchair. 954

(f) motor vehicles (with more than 6 but fewer than 51 seats) for use by an eligible body providing care for blind, deaf, mentally
disabled or terminally sick persons mainly to transport such persons;\textsuperscript{955}

(g) telecommunication, aural, visual, light enhancing or heat detecting equipment (not being equipment ordinarily supplied for private or recreational use) solely for use for the purpose of rescue or first aid services undertaken by a charitable institution providing such services.

(4) “Eligible body” means —

(a) the Department of Health and Social Care;\textsuperscript{956}

(ab) [Repealed]\textsuperscript{957}

(b) a hospital whose activities are not carried on for profit;

(c) a research institution whose activities are not carried on for profit;

(d) a charitable institution providing care or medical or surgical treatment for disabled persons;\textsuperscript{958}

(e) a charitable institution providing rescue or first-aid services.

(4A) Subject to Note (5B), a charitable institution shall not be regarded as providing care or medical or surgical treatment for disabled persons unless —

(a) it provides care or medical or surgical treatment in a relevant establishment; and

(b) the majority of the persons who receive care or medical or surgical treatment in that establishment are disabled persons.\textsuperscript{959 960}

(4B) “Relevant establishment” means —

(a) a day-centre, other than a day-centre which exists primarily as a place for activities that are social or recreational or both; or

(b) an institution which is —

(i) approved, licensed or registered in accordance with the provisions of any enactment; or

(ii) exempted by or under the provisions of any enactment from any requirement to be approved, licensed or registered.\textsuperscript{961}

(5) Any person who is chronically sick or disabled is “disabled” for the purposes of this Group.\textsuperscript{962}

(5A) Subject to Note (5B), items 4 to 7 do not apply where the eligible body falls within Note (4)(f) unless the relevant goods are or are to be used in a relevant establishment in which that body provides care or medical or surgical treatment to persons the majority of whom are disabled.\textsuperscript{963}

(5B) Nothing in Note (4A) or (5A) shall prevent a supply from falling within items 4 to 7 where —

(a) the eligible body provides medical care to disabled persons in their own homes;\textsuperscript{964}
the relevant goods fall within Note (3)(a) or are parts or accessories for use in or with goods described in Note (3)(a); and

(c) those goods are or are to be used in or in connection with the provision of that care.  

(6) Item 4 does not apply where the donee of the goods is not a charity and has contributed in whole or in part to the funds for the purchase of the goods.

(7) Item 5 does not apply where the body to whom the goods are supplied is not a charity and has contributed in whole or in part to the funds for the purchase of the goods.

(8) Items 6 and 7 do not apply unless —

(a) the supply is paid for with funds which have been provided by a charity or from voluntary contributions, and

(b) in a case where the owner of the goods repaired or maintained is not a charity, it has not contributed in whole or in part to those funds.

(9) Items 4 and 5 include the letting on hire of relevant goods; accordingly in items 4, 5 and 6 and the notes relating to those items, references to the purchase or ownership of goods shall be deemed to include references respectively to their hiring and possession.

(10) Item 5 includes computer services by way of the provision of computer software solely for use in medical research, diagnosis or treatment.

(10A) Neither of items 8 and 8A includes a supply where any of the members of the public (whether individuals or other persons) who are reached through the medium are selected by or on behalf of the charity. For this purpose “selected” includes selected by address (whether postal address or telephone number, e-mail address or other address for electronic communications purposes) or at random.

(10B) None of items 8 to 8C includes a supply used to create, or contribute to, a website that is the charity’s own. For this purpose a website is a charity’s own even though hosted by another person.

(10C) Neither of items 8B and 8C includes a supply to a charity that is used directly by the charity to design or produce an advertisement.

(11) In item 9 “medicinal product” means a medicinal product or veterinary medicinal product within the meaning of the Medicines Act 2003.

(12) [Repealed]

GROUP 16 - CLOTHING AND FOOTWEAR

Item No.
1. Articles designed as clothing or footwear for young children and not suitable for older persons.

2. The supply to a person for use otherwise than by employees of his of protective boots and helmets for industrial use.

3. Protective helmets for wear by a person driving or riding a motor bicycle or riding a pedal cycle.971

Notes:

(1) “Clothing” includes hats and other headgear.

(2) Item 1 does not include articles of clothing made wholly or partly of fur skin, except —
   (a) headgear;
   (b) gloves;
   (c) buttons, belts and buckles;
   (d) any garment merely trimmed with fur skin unless the trimming has an area greater than one-fifth of the area of the outside material or, in the case of a new garment, represents a cost to the manufacturer greater than the cost to him of the other components.

(3) “Fur skin” means any skin with fur, hair or wool attached except —
   (a) rabbit skin;
   (b) woolled sheep or lamb skin; and
   (c) the skin, if neither tanned nor dressed, of bovine cattle (including buffalo), equine animals, goats or kids (other than Yemen, Mongolian and Tibetan goats or kids), swine (including peccary), chamois, gazelles, deer or dogs.

(4) Item 2 applies only where the goods to which it refers are —
   (a) goods which —
      (i) are manufactured to standards approved by the British Standards Institution, and
      (ii) bear a marking indicating compliance with the specification relating to such goods; or
   (b) goods which —
      (i) are manufactured to standards which satisfy requirements imposed (whether under the law of the Island or of a member State) for giving effect to Directive of the Council of the European Communities dated 21st December 1989 No. 89/686/EEC or to that directive as amended by Council Directives 93/68/EEC of 22nd July 1993, 93/95/EEC of 29th October1993 and 96/58/EC of 3rd September 1996, and972
(ii) bear any mark of conformity provided for by virtue of that Directive, or (as the case may be) that Directive so amended, in relation to those goods.\textsuperscript{973,974}

(4A) Item 3 does not apply to a protective helmet unless —

(a) it is of a type that on 30th June 2000 is prescribed by regulations made under section 24 of the \textit{Road Traffic Act 1985} (types of helmet recommended as affording protection to persons on or in motor cycles from injury in the event of accident); or

(b) it is of a type that —

(i) is manufactured to a standard which satisfies requirements imposed (whether under the law of the Isle of Man, the United Kingdom or the law of a member State) for giving effect to Council Directive 89/686/EEC of 21st December 1989 as amended by Council Directives 93/68/EEC of 22nd July 1993, 93/95/EEC of 29th October 1993 and 96/58/EC of 3rd September 1996; and

(ii) bears any mark of conformity required by virtue of those Directives.\textsuperscript{975}

(5) Items 1, 2 and 3 include the supply of services, in respect of goods comprised in the items, described in paragraph 1(1) or 5(4) of Schedule 5, but, in the case of goods comprised in item 2, only if the goods are for use otherwise than by employees of the person to whom the services are supplied.

\textbf{GROUP 17}\textsuperscript{976}

\textbf{GROUP 18 – EUROPEAN RESEARCH INFRASTRUCTURE CONSORTIA}\textsuperscript{977}

\textbf{Item No.}

1. The supply of goods or services to an ERIC.

\textbf{Notes:}


(2) Item 1 applies only where the following requirements are met —

(a) the statutory seat of the ERIC referred to in Article 8(1) of Council Regulation (EC) No 723/2009 is located in a member State;

(b) the goods or services are for the official use of the ERIC;

(c) a certificate in writing has been given to the supplier on behalf of the ERIC that —

(i) the requirement in paragraph (a) is met in relation to the supply, and
(ii) the relief is not precluded by the limitations and conditions referred to in Note (3); and

(d) VAT would have been chargeable on the supply but for item 1.

(3) Item 1 is subject to the limitations and conditions laid down in the agreement between the members of the ERIC referred to in Article 5(1)(d) of Council Regulation (EC) No 723/2009.
Schedule 9A

ANTI-AVOIDANCE PROVISIONS: GROUPS

Section 43(9)

Power to give directions

1. (1) Subject to paragraph 2, the Treasury may give a direction under this Schedule if it appears to it in any case —

(a) that a relevant event has occurred;
(b) that the condition specified in sub-paragraph (3) is fulfilled;
(c) that that condition would not be fulfilled apart from the occurrence of that event; and
(d) in the case of an event falling within sub-paragraph (2)(b), the transaction in question is not a supply which is the only supply by reference to which the case falls within paragraphs (a) to (c).

(2) For the purposes of this Schedule, a relevant event occurs when a person —

(a) begins to be, or ceases to be, treated as a member of a group; or
(b) enters into any transaction.979

(3) The condition mentioned in sub-paragraph (1) is that —

(a) there has been, or will or may be, a taxable supply on which VAT has been, or will or may be, charged otherwise than by reference to the supply’s full value;
(b) there is at least a part of the supply which is not or, as the case may be, would not be zero-rated; and
(c) the charging of VAT on the supply otherwise than by reference to its full value gives rise or, as the case may be, would give rise to a tax advantage.

(4) For the purposes of this paragraph the charging of VAT on a supply (“the undercharged supply”) otherwise than by reference to its full value shall be taken to give rise to a tax advantage if, and only if, a person has become entitled —

(a) to credit for input tax allowable as attributable to that supply or any part of it, or
(b) in accordance with regulations under section 39, to any repayment in respect of that supply or any part of it.

(5) The cases where a person shall be taken for the purposes of sub-paragraph (4) to have become entitled to a credit for input tax allowable as attributable to the undercharged supply, or to a part of it, shall include any case where —
(a) a person becomes entitled to a credit for any input tax on the supply to him, or the acquisition or importation by him, of any goods or services; and

(b) whatever the supplies to which the credit was treated as attributable when entitlement to it arose, those goods or services are used by him in making the undercharged supply, or a part of it.

(6) For the purposes of sub-paragraphs (4) and (5) where —

(a) there is a supply of any of the assets of a business of a person ("the transferor") to a person to whom the whole or any part of that business is transferred as a going concern ("the transferee"), and

(b) that supply is treated, in accordance with an order under section 5(3), as being neither a supply of goods nor a supply of services,

the question, so far as it falls to be determined by reference to those assets, whether a credit for input tax to which any person has become entitled is one allowable as attributable to the whole or any part of a supply shall be determined as if the transferor and the transferee were the same person.

(7) Where, in a case to which sub-paragraph (6) applies, the transferor himself acquired any of the assets in question by way of a supply falling within paragraphs (a) and (b) of that sub-paragraph, that sub-paragraph shall have effect, as respects the assets so acquired, of requiring the person from whom those assets were acquired to be treated for the purposes of sub-paragraphs (4) and (5) as the same person as the transferor and the transferee, and so on in the case of any number of successive supplies falling within those paragraphs.

(8) For the purposes of this paragraph any question —

(a) whether any credit for input tax to which a person has become entitled was, or is to be taken to have been, a credit allowable as attributable to the whole or any part of a supply, or

(b) whether any repayment is a repayment in respect of the whole or any part of a supply,

shall be determined, in relation to a supply of a right to goods or services or to a supply of goods or services by virtue of such a right, as if the supply of the right and supplies made by virtue of the right were a single supply of which the supply of the right and each of those supplies constituted different parts.

(9) References in this paragraph to the full value of a supply are references to the amount which (having regard to any direction under paragraph 1 of Schedule 7) would be the full value of that supply for the purposes of the charge to VAT if that supply were not a supply falling to be disregarded, to any extent, in pursuance of section 43(1)(a).
(10) References in this paragraph to the supply of a right to goods or services include references to the supply of any right, option or priority with respect to the supply of goods or services, and to the supply of an interest deriving from any right to goods or services.

*Restrictions on giving directions*

2. (1) The Treasury shall not give a direction under this Schedule by reference to a relevant event if it is satisfied that —

   (a) the change in the treatment of the person, or

   (b) the transaction in question,

had as its main purpose or, as the case may be, as each of its main purposes a genuine commercial purpose unconnected with the fulfilment of the condition specified in paragraph 1(3).

   (2) This paragraph shall not apply where the relevant event is the termination of a person’s treatment as a member of a group by a notice under section 43C(1) or (3).

*Form of directions under Schedule*

3. (1) The directions that may be given by the Treasury under this Schedule are either —

   (a) a direction relating to any supply of goods or services that has been made, in whole or in part, by one person to another; or

   (b) a direction relating to a particular person.

   (2) A direction under this Schedule relating to a supply shall require it to be assumed (where it would not otherwise be the case) that, to the extent described in the direction, the supply was not a supply falling to be disregarded in pursuance of section 43(1)(a).

   (3) A direction under this Schedule relating to a person shall require it to be assumed (where it would not otherwise be the case) that, for such period (comprising times before the giving of the direction or times afterwards or both) as may be described in the direction, the person —

   (a) did not fall to be treated, or is not to be treated, as a member of a group, or of a particular group so described; or

   (b) fell to be treated, or is to be treated, as a member of any group so described of which, for that period, it was or is eligible to be a member.

   (4) Where a direction under this Schedule requires any assumptions to be made, then —

   (a) so far as the assumptions relate to times on or after the day on which the direction is given, this Act shall have effect in relation to such times in accordance with those assumptions; and
(b) paragraph 6 shall apply for giving effect to those assumptions in so far as they relate to earlier times.

(5) A direction falling within sub-paragraph (3)(b) may identify in relation to any times or period the person who is to be assumed to have been, or to be, the representative member of the group at those times or for that period.\(^985\)

(6) A direction under this Schedule may vary the effect of a previous direction under this Schedule.

(7) The Treasury may at any time, by notice in writing to the person to whom it was given, withdraw a direction under this Schedule.

(8) The refusal or non-refusal by the Treasury of an application such as is mentioned in section 43B shall not prejudice the power of the Treasury to give a direction under this Schedule requiring any case to be assumed to be what it would have been had the application not been refused or, as the case may be, had it been refused.\(^986\)

\textit{Time limit on directions}

4. (1) A direction under this Schedule shall not be given more than six years after whichever is the later of —

(a) the occurrence of the relevant event by reference to which it is given; and

(b) the time when the relevant entitlement arose.

(2) A direction under this Schedule shall not be given by reference to a relevant event occurring on or before 28th November 1995.

(3) Subject to sub-paragraphs (1) and (2), a direction under this Schedule —

(a) may be given by reference to a relevant event occurring before the coming into force of this Schedule; and

(b) may require assumptions to be made in relation to times (including times before 29th November 1995) falling before the occurrence of the relevant event by reference to which the direction is given, or before the relevant entitlement arose.

(4) For the purposes of this paragraph the reference, in relation to the giving of a direction, to the relevant entitlement is a reference to the entitlement by reference to which the requirements of paragraph 1(4) are taken to be satisfied for the purposes of that direction.

\textit{Manner of giving directions}

5. (1) A direction under this Schedule relating to a supply may be given to —

(a) the person who made the supply to which the direction relates; or

(b) any person who, at the time when the direction is given, is the representative member of a group of which the person mentioned
in paragraph (a) was treated as being a member at the time of the supply. 987

(2) A direction under this Schedule relating to a person ("the relevant person") may be given to that person or to any person who at the time when the direction is given is, or in pursuance of the direction is to be treated as, the representative member of a group of which the relevant person —

(a) is treated as being a member;
(b) was treated as being a member at a time to which the direction relates; or
(c) is to be treated as being, or having been, a member at any such time. 988

(3) A direction given to any person under this Schedule shall be given to him by notice in writing.

(4) A direction under this Schedule must specify the relevant event by reference to which it is given.

Assessment in consequence of a direction

6. (1) Subject to sub-paragraph (3), where —

(a) a direction is given under this Schedule, and
(b) there is an amount of VAT ("the unpaid tax") for which a relevant person would have been liable before the giving of the direction if the facts had accorded with the assumptions specified in the direction,

the Treasury may, to the best of its judgment, assess the amount of unpaid tax as tax due from the person to whom the direction was given or another relevant person and notify its assessment to that person.

(2) In sub-paragraph (1) the reference to an amount of VAT for which a person would, on particular assumptions, have been liable before the giving of a direction under this Schedule is a reference to the aggregate of the following —

(a) any amount of output tax which, on those assumptions but not otherwise, would have been due from a relevant person at the end of a prescribed accounting period ending before the giving of the direction;
(b) the amount of any credit for input tax to which a relevant person is treated as having been entitled at the end of such an accounting period but to which he would not have been entitled on those assumptions; and
(c) the amount of any repayment of tax made to a relevant person in accordance with regulations under section 39 but to which he would not have been entitled on those assumptions.
(3) Where any assessment falls to be made under this paragraph in a case in which the Treasury is satisfied that the actual revenue loss is less than the unpaid tax, the total amount to be assessed under this paragraph shall not exceed what appears to it, to the best of its judgment, to be the amount of that loss.

(4) For the purposes of the making of an assessment under this paragraph in relation to any direction, the actual revenue loss shall be taken to be equal to the amount of the unpaid tax less the amount given by aggregating the amounts of every entitlement —
   (a) to credit for input tax, or
   (b) to a repayment in accordance with regulations under section 39,
which (whether as an entitlement of the person in relation to whom the assessment is made or as an entitlement of any other person) would have arisen on the assumptions contained in the direction, but not otherwise.

(5) An assessment under this paragraph relating to a direction may be notified to the person to whom that direction is given by being incorporated in the same notice as that direction.

(6) An assessment under this paragraph shall not be made —
   (a) more than one year after the day on which the direction to which it relates was given, or
   (b) in the case of any direction that has been withdrawn.

(7) Where an amount has been assessed on any person under this paragraph and notified to him —
   (a) that amount shall be deemed (subject to the provisions of this Act as to appeals) to be an amount of VAT due from him;
   (b) that amount may be recovered accordingly, either from that person or, in the case of a person who is for the time being treated as a member of a group, from the representative member of that group; and
   (c) to the extent that more than one person is liable by virtue of any assessment under this paragraph in respect of the same amount of unpaid tax, those persons shall be treated as jointly and severally liable for that amount.

(8) Sub-paragraph (7) does not have effect if or to the extent that the assessment in question has been withdrawn or reduced.

(9) Sections 74 and 77(6) apply in relation to assessments under this paragraph as they apply in relation to assessments under section 73 but as if the reference in subsection (1) of section 74 to the reckonable date were a reference to the date on which the assessment is notified.

(10) Where by virtue of sub-paragraph (9) any person is liable to interest under section 74 —
(a) section 76 shall have effect in relation to that liability with the omission of subsections (2) to (6); and

(b) section 77, except subsection (6), shall not apply to an assessment of the amount due by way of interest;

and (without prejudice to the power to make assessments for interest for later periods) the interest to which any assessment made under section 76 by virtue of paragraph (a) may relate shall be confined to interest for a period of no more than two years ending with the time when the assessment to interest is made.

(11) In this paragraph “a relevant person”, in relation to a direction, means —

(a) the person to whom the direction is given;

(b) the person who was the representative member of any group of which the person mentioned in paragraph (a) was treated as being, or in pursuance of the direction is to be treated as having been, a member at a time to which the assumption specified in the direction relates; or

(c) any person who, in pursuance of the direction, is to be treated as having been the representative member of such a group.

7. (1) References in this Schedule to being treated as a member of a group and to being eligible to be treated as a member of a group shall be construed in accordance with sections 43 to 43D.

(2) For the purposes of this Schedule the giving of any notice or notification to any receiver, liquidator or person otherwise acting in a representative capacity in relation to another shall be treated as the giving of a notice or, as the case may be, notification to the person in relation to whom he so acts.
Schedule 10
EXEMPTIONS
Sections 8 and 31

PART I – INDEX TO EXEMPT SUPPLIES OF GOODS AND SERVICES

BETTING, GAMING, DUTIABLE MACHINE GAMES AND LOTTERIES
BURIAL AND CREMATION
CULTURAL SERVICES ETC
EDUCATION
FINANCE
FUND RAISING EVENTS BY CHARITIES AND OTHER QUALIFYING BODIES
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SUPPLIES OF SERVICES BY GROUPS INVOLVING COST SHARING
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SUBSCRIPTIONS TO TRADE UNIONS, PROFESSIONAL BODIES AND OTHER PUBLIC INTEREST BODIES
SUPPLIES OF GOODS WHERE INPUT TAX CANNOT BE RECOVERED

PART II

GROUP 1 - LAND

Item No.

1. The grant of any interest in or right over land or of any licence to occupy land, other than —

   (a) the grant of the fee simple or customary fee simple in —

   (i) a building which has not been completed and which is neither designed as a dwelling or number of dwellings nor intended for use solely for a relevant residential purpose or a relevant charitable purpose;
(ii) a new building which is neither designed as a dwelling or number of dwellings nor intended for use solely for a relevant residential purpose or a relevant charitable purpose after the grant;

(iii) a civil engineering work which has not been completed;

(iv) a new civil engineering work;

(b) [Repealed]993

c) the grant of any interest, right or licence consisting of a right to take game or fish unless at the time of the grant the grantor grants to the grantee the fee simple of the land over which the right to take game or fish is exercisable;

d) the provision in an hotel, inn, boarding house or similar establishment of sleeping accommodation or of accommodation in rooms which are provided in conjunction with sleeping accommodation or for the purpose of a supply of catering;

e) the grant of any interest in, right over or licence to occupy holiday accommodation;

f) the provision of seasonal pitches for caravans, and the grant of facilities at caravan parks to persons for whom such pitches are provided;

g) the provision of pitches for tents or of camping facilities;

h) the grant of facilities for parking a vehicle;

i) the grant of any right to fell and remove standing timber;

j) the grant of facilities for housing, or storage of, an aircraft or for mooring, or storage of, a ship, boat or other vessel;

(ja) the grant of facilities for the self storage of goods;994

(k) the grant of any right to occupy a box, seat or other accommodation at a sports ground, theatre, concert hall or other place of entertainment;

(l) the grant of facilities for playing any sport or participating in any physical recreation;

(la) the grant of facilities to a person who uses the facilities wholly or mainly to supply hairdressing services; and995

(m) the grant of any right, including —

(i) an equitable right, or

(ii) a right under an option or right of pre-emption,

to call for or be granted an interest or right which would fall within any of paragraphs (a) or (c) to (la).996

Notes:
(1) “Grant” includes an assignment or surrender and the supply made by the person to whom an interest is surrendered when there is a reverse surrender.

(2) A “reverse surrender” is one in which the person to whom the interest is surrendered is paid by the person by whom the interest is being surrendered to accept the surrender.

(3) A building shall be taken to be completed when an architect issues a certificate of practical completion in relation to it or it is first fully occupied, whichever happens first; and a civil engineering work shall be taken to be completed when an engineer issues a certificate of completion in relation to it or it is first fully used, whichever happens first.

(4) Notes (2) to (10) and (12) to Group 5 of Schedule 9 apply in relation to this Group as they apply in relation to that Group.

(5) A building or civil engineering work is new if it was completed less than 3 years before the grant.

(6) Subject to Note (7), the grant of the fee simple or customary fee simple in a building or work completed before 1 April 1989 is not excluded from this Group by paragraph (a)(ii) or (iv).

(7) Note (6) does not apply where the grant is the first grant of the fee simple or customary fee simple made on or after 1 April 1989 and the building was not fully occupied, or the work not fully used, before that date.

(8) [Repealed] 1997

(9) Where a grant of an interest in, right over or licence to occupy land includes a valuable right to take game or fish, an apportionment shall be made to determine the supply falling outside this Group by virtue of paragraph (c).

(10) “Similar establishment” includes premises in which there is provided furnished sleeping accommodation, whether with or without the provision of board or facilities for the preparation of food, which are used by or held out as being suitable for use by visitors or travellers.

(11) “Houseboat” includes a houseboat within the meaning of Group 9 of Schedule 9.

(12) Paragraph (e) includes —

(a) any grant excluded from item 1 of Group 5 of Schedule 9 by Note (13) in that Group;

(b) any supply made pursuant to a tenancy, lease or licence under which the grantee is or has been permitted to erect and occupy holiday accommodation.

(13) Paragraph (e) does not include a grant in respect of a building or part which is not a new building of —

(a) the fee simple or customary fee simple, or
(b) a tenancy, lease or licence to the extent that the grant is made for a consideration in the form of a premium.

(14) “Holiday accommodation” includes any accommodation in a building, hut (including a beach hut or chalet), caravan, houseboat or tent which is advertised or held out as holiday accommodation or as suitable for holiday or leisure use, but excludes any accommodation within paragraph (d).

(15) A seasonal pitch for a caravan is —

(a) a pitch on a holiday site other than an employee pitch, or

(b) a non-residential pitch on any other site.\(^{998}\)

(15A) In this Note and in Note (15) —

“employee pitch” means a pitch occupied by an employee of the site operator as that person’s principal place of residence during the period of occupancy;

“holiday site” means a site or part of a site which is operated as a holiday or leisure site;

“non-residential pitch” means a pitch which —

(a) is provided for less than a year, or

(b) is provided for a year or more and is subject to an occupation restriction,

and which is not intended to be used as the occupant’s principal place of residence during the period of occupancy;

“occupation restriction” means any covenant, statutory planning consent or similar permission, the terms of which prevent the person to whom the pitch is provided from occupying it by living in a caravan at all times throughout the period for which the pitch is provided.\(^{999}\)

(16) “Mooring” includes anchoring or berthing.

(16A) In paragraph (ja) —

“facilities for the self storage of goods” means the use of a relevant structure for the storage of goods by the person (or persons) to whom the grant of facilities is made, and

“goods” does not include live animals.\(^{1000}\)

(16B) For the purposes of Note (16A), use by a person with the permission of the person (or any of the persons) to whom the grant of facilities is made counts as use by the person (or persons) to whom that grant is made.\(^{1001}\)

(16C) A grant of facilities for the self storage of goods does not fall within paragraph (ja) if —

(a) the person making the grant (“P”) —

(i) is doing so in circumstances where the relevant structure used is, or forms part of, a relevant capital item; and
(ii) is connected with any person who uses that relevant structure for the self storage of goods;

(b) the grant is made to a charity which uses the relevant structure solely otherwise than in the course of a business; or

(c) in a case where the relevant structure is part of a building, its use for the storage of goods by the person (or persons) to whom the grant is made is ancillary to other use of the building by that person (or those persons).1002

(16D) In Notes (16A) and (16C) “relevant structure” means the whole or part of —

(a) a container or other structure that is fully enclosed, or

(b) a unit or building.1003

(16E) In Note (16C)(a)(i) “relevant capital item” means a capital item which —

(a) is subject to adjustments of input tax deduction by P under regulations made under section 26(3), and

(b) has not yet reached the end of its prescribed period of adjustment.1004

(17) Paragraph (1) shall not apply where the grant of the facilities is for —

(a) a continuous period of use exceeding 24 hours; or

(b) a series of 10 or more periods, whether or not exceeding 24 hours in total, where the following conditions are satisfied —

(i) each period is in respect of the same activity carried on at the same place;

(ii) the interval between each period is not less than one day and not more than 14 days;

(iii) consideration is payable by reference to the whole series and is evidenced by written agreement;

(iv) the grantee has exclusive use of the facilities; and

(v) the grantee is a school, a club, an association or an organisation representing affiliated clubs or constituent associations.

(18) Paragraph (1a) does not apply to a grant of facilities which provides for the exclusive use, by the person to whom the grant is made, of a whole building, a whole floor, a separate room or a clearly defined area, unless the person making the grant or a person connected with that person provides or makes available (directly or indirectly) services related to hairdressing for use by the person to whom the grant is made.1005

(19) For the purposes of Note (18) —

(a) “services related to hairdressing” means the services of a hairdresser’s assistant or cashier, the booking of appointments, the laundering of towels, the cleaning of facilities subject to the grant,
the making of refreshments and other similar services typically used in connection with hairdressing, but does not include the provision of utilities or the cleaning of shared areas in a building; and

(b) it does not matter if the services related to hairdressing are shared with other persons.\footnote{1006}

(20) For the purposes of Notes (16C) and (18) any question whether a person is connected with any other person is to be determined in accordance with section 119C of the Income Tax Act 1970 (connected persons).\footnote{1007}

GROUP 2 - INSURANCE\footnote{1008}

Item No.

1. Insurance transactions and reinsurance transactions.\footnote{1009}

2 and 3. [Repealed]\footnote{1010}

4. The provision by an insurance broker or insurance agent of any of the services of an insurance intermediary in a case in which those services —

(a) are related (whether or not a contract of insurance or reinsurance is finally concluded) to an insurance transaction or a reinsurance transaction; and\footnote{1011}

(b) are provided by that broker or agent in the course of his acting in an intermediary capacity.

Notes:

(1) For the purposes of item 4 services are services of an insurance intermediary if they fall within any of the following paragraphs —

(a) the bringing together, with a view to the insurance or reinsurance or risks, of —

(i) persons who are or may be seeking insurance or reinsurance, and

(ii) persons who provide insurance or reinsurance;

(b) the carrying out of work preparatory to the conclusion of contracts of insurance or reinsurance;

(c) the provision of assistance in the administration and performance of such contracts, including the handling of claims;

(d) the collection of premiums.

(2) For the purposes of item 4 an insurance broker or insurance agent is acting “in an intermediary capacity” wherever he is acting as an intermediary, or one of the intermediaries, between —

(a) a person who provides insurance or reinsurance, and\footnote{1012}
(b) a person who is or may be seeking insurance or reinsurance or is an insured person.

(3) Where —
   (a) a person ("the supplier") makes a supply of goods or services to another ("the customer"),
   (b) the supply of the goods or services is a not a zero-rated supply,
   (c) a transaction under which insurance is to be or may be arranged for the customer is entered into in connection with the supply of the goods or services,
   (d) a supply of services which are related (whether or not a contract of insurance is finally concluded) to the provision of insurance in pursuance of that transaction is made by —
      (i) the person by whom the supply of the goods or services is made, or
      (ii) a person who is connected with that person and, in connection with the provision of that insurance, deals directly with the customer,
   and
   (e) the related services do not consist in handling of claims under the contract for that insurance,

those related services do not fall within item 4 unless the relevant requirements are fulfilled.

(4) For the purpose of Note (3) the relevant requirements are —
   (a) that a document containing the statements specified in Note (5) is prepared;
   (b) that the matters that must be stated in the document have been disclosed to the customer at or before the time when the transaction mentioned in Note (3)(c) is entered into; and
   (c) that there is compliance with all such requirements (if any) as to —
      (i) the preparation and form of the document,
      (ii) the manner of disclosing to the customer the matters that must be stated in the document, and
      (iii) the delivery of a copy of the document to the customer,
   as may be set out in a notice that has been published by the Treasury and has not been withdrawn.

(5) The statements referred to in Note (4) are —
   (a) a statement setting out the amount of the premium under any contract of insurance that is to be or may be entered into in pursuance of the transaction in question; and
(b) a statement setting out every amount that the customer is, is to be or has been required to pay, otherwise than by way of such a premium, in connection with that transaction or anything that is to be, may be or has been done in pursuance of that transaction.

(6) For the purposes of Note (3) any question whether a person is connected with another shall be determined in accordance with paragraph 14 of Schedule 7.

(7) Item 4 does not include —
(a) the supply of any market research, product design, advertising, promotional or similar services; or
(b) the collection, collation and provision of information for use in connection with market research, product design, advertising, promotional or similar activities.

(8) Item 4 does not include the supply of any valuation or inspection services.

(9) Item 4 does not include the supply of any services by loss adjusters, average adjusters, motor assessors, surveyors or other experts except where —
(a) the services consist in the handling of a claim under a contract of insurance or reinsurance;
(b) the person handling the claim is authorised when doing so to act on behalf of the insurer or reinsurer; and
(c) that person’s authority so to act includes written authority to determine whether to accept or reject the claim and, where accepting it in whole or in part, to settle the amount to be paid on the claim.

(10) Item 4 does not include the supply of any services which —
(a) are supplied in pursuance of a contract of insurance or reinsurance or of any arrangements made in connection with such a contract; and
(b) are so supplied either —
(i) instead of the payment of the whole or any part of any indemnity for which the contract provides, or
(ii) for the purpose, in any other manner, of satisfying any claim under that contract, whether in whole or in part.

GROUP 3 - POSTAL SERVICES

Item No.

1. The supply of public postal services by a universal service provider.

2. The supply of goods by a universal service provider which is incidental to the supply of public postal services by that provider.

Notes:
(1) “Universal service provider” means —
(a) the Post Office; and
(b) a person who provides a universal postal service, or part of such a service,
in the Island.

(2) Subject to the following notes, “public postal services”, in relation to a universal service provider, means any public postal services which the provider is required to provide in the discharge of a duty imposed by statute.

(3) Public postal services include postal services which the universal service provider provides to allow a person access to the provider’s postal facilities, where such services are provided pursuant to an Act of Tynwald.

(4) Services are not “public postal services” if —
(a) the price is not controlled by or set by the Post Office and the Department for Enterprise14; or
(b) any of the other terms on which the service is provided are freely negotiated.

(5) But Note (4) does not apply if a duty requires the universal service provider to make the services available to people generally —
(a) in the case of the Post Office, where the price is not controlled by or set in accordance with Note (4)(a), at the same price;
(b) in the case of any other provider, where the price is not controlled by or under a section 12 licence, at the same price; or
(c) where terms are freely negotiated as mentioned in Note (4)(b), on those terms.

(6) In this Group —
“access point” means any box, receptacle or other facility provided by a universal service provider for the purpose of receiving relevant postal packets or any class of relevant postal packets, for onward transmission in connection with the provision of a universal postal service;

“permitted limits”, in relation to the dimensions of a postal packet, means the minimum and maximum dimensions laid down in the Convention and the Agreement concerning Postal Parcels adopted by the Universal Postal Union;

“postal facilities”, in relation to a universal service provider, means the resources and systems deployed by the provider, for the purposes of discharging —

14 Under section 13 of the Post Office Act 1993 (c.20) the Post Office may make a scheme for determining charges for postal services following consultation with the Department for Enterprise. Section 13(6) of that Act requires such a scheme to be laid before Tynwald as soon as may be possible after it is made.
(a) in the case of the Post Office, a duty imposed by statute; or
(b) in the case of any other provider, any duty to provide a universal postal service or part of such a service;

“postal services” means the service of conveying postal packets from one place to another by post, the incidental services of receiving, collecting, sorting and delivering such packets and any other service which relates to any of those services and which is provided in conjunction with any of them;

“relevant postal packets” means postal packets whose weight does not exceed 30 kilograms and whose dimensions fall within permitted limits; and

“section 12 licence” means a licence granted under section 12 of the Post Office Act 1993.

(7) For the purposes of this Group, a “universal postal service” is provided if —

(a) subject to paragraphs (d) and (e) —
   (i) at least one delivery of relevant postal packets is made every working day to the home or premises of every individual or other person in the Island or another identifiable point for the delivery of relevant postal packets; and
   (ii) at least one collection of relevant postal packets is made every working day from each access point;

(b) a service of conveying relevant postal packets from one place to another by post and the incidental services of receiving, collecting, sorting and delivering such packets are provided at affordable prices determined in accordance with a public tariff; and

(c) a registered post service is provided at such prices.

However —

(d) the interruption, suspension or restriction of any service in cases of emergency; or

(e) the conclusion with customers of individual agreements as to prices,

shall not be taken to preclude the provision of a universal postal service.

(8) References to the provision of a universal postal service shall, in relation to a universal service provider who provides part of a universal postal service, be construed as references to the provision of that part of such a service.

GROUP 4 - BETTING, GAMING AND LOTTERIES

Item No.

1. The provision of any facilities for the placing of bets or for the playing of any games of chance for a prize.
1A. The provision of any facilities for the playing of dutiable machine games (as defined in Part 1 of Schedule 24 to the Finance Act 2012 (machine games duty), as it has effect in the Island) but only to the extent that —

(a) the facilities are used to play such games; and

(b) the takings and payouts in respect of those games are taken into account in determining the charge to machine games duty.\textsuperscript{1015}

2. The granting of a right to take part in a lottery.

Notes:

(1) Items 1 and 1A do not include —

(a) admission to any premises; or

(b) the granting of a right to take part in a game in respect of which a charge may be made by virtue of regulations under section 11 or 12M of the Casino Act 1986; or\textsuperscript{1016}

(c) the provision by a club of such facilities to its members as are available to them on payment of their subscription but without further charge; or

(d) [Repealed]\textsuperscript{1017}

(e) the provisions of any facilities for the playing of any games of chance for a prize which constitutes illegal gambling in the Island.\textsuperscript{1018}

(1A) Item 1 does not apply to the provision of facilities to the extent that the facilities are used to play a relevant machine game (as defined in section 23A).\textsuperscript{1019}

(2) “Game of chance” —

(a) includes —

(i) a game that involves both an element of chance and an element of skill,

(ii) a game that involves an element of chance that can be eliminated by superlative skill, and

(iii) a game that is presented as involving an element of chance, but

(b) does not include a sport.\textsuperscript{1020}

(3) A person plays a game of chance if they participate in a game of chance —

(a) whether or not there are other participants in the game, and

(b) whether or not a computer generates images or data taken to represent the actions of other participants in the game.\textsuperscript{1021}

(4) “Prize” does not include the opportunity to play the game again.\textsuperscript{1022}

(5) [Repealed]\textsuperscript{1023}
(6) "Illegal gaming in the Island" means any gaming, within the meaning of section 1 of the Gaming, Betting and Lotteries Act 1988, which is either prohibited under that Act or is not exempted by that Act.\textsuperscript{1024}

(7) and (8) [Repealed]\textsuperscript{1025}

GROUP 5 - FINANCE

Item No.

1. The issue, transfer or receipt of, or any dealing with, money, any security for money or any note or order for the payment of money.

2. The making of any advance or the granting of any credit.

2A. The management of credit by the person granting it.\textsuperscript{1026}

3. The provision of the facility of instalment credit finance in a hire-purchase, conditional sale or credit sale agreement for which facility a separate charge is made and disclosed to the recipient of the supply of goods.

4. The provision of administrative arrangements and documentation and the transfer of title to the goods in connection with the supply described in item 3 if the total consideration therefor is specified in the agreement and does not exceed £10.

5. The provision of intermediary services in relation to any transaction comprised in item 1, 2, 3, 4 or 6 (whether or not any such transaction is finally concluded) by a person acting in an intermediary capacity.\textsuperscript{1027}

5A. The underwriting of an issue within item 1 or any transaction within item 6.\textsuperscript{1028}

6. The issue, transfer or receipt of, or any dealing with, any security or secondary security being —

(a) shares, stock, bonds, notes (other than promissory notes), debentures, debenture stock or shares in an oil royalty; or

(b) any document relating to money, in any currency, which has been deposited with the issuer or some other person, being a document which recognises an obligation to pay a stated amount to bearer or to order, with or without interest, and being a document by the delivery of which, with or without endorsement, the right to receive that stated amount, with or without interest, is transferable; or

(c) any bill, note or other obligation of the Treasury or of a Government in any part of the world, being a document by the delivery of which, with or without endorsement, title is transferable, and not being an obligation which is or has been legal tender in any part of the world; or
(d) any letter of allotment or rights, any warrant conferring an option to acquire a security included in this item, any renounceable or scrip certificates, rights coupons, coupons representing dividends or interest on such a security, bond mandates or other documents conferring or containing evidence of title to or rights in respect of such a security; or

(e) units or other documents conferring rights under any trust established for the purpose, or having the effect of providing, for persons having funds available for investment, facilities for the participation by them as beneficiaries under the trust, in any profits or income arising from the acquisition, holding, management or disposal of any property whatsoever.

7. [Repealed][1029]

8. The operation of any current, deposit or savings account.

9. The management of —

   (a) an authorised scheme under Schedule 1 to the Collective Investment Schemes Act 2008;

   (b) an international scheme under Schedule 2 to the Collective Investment Schemes Act 2008;

   (c) a recognised scheme under Schedule 4 to the Collective Investment Schemes Act 2008 that is not an umbrella fund; or

   (d) a sub-fund of a recognised scheme.[1030]

10. The management of a closed-ended collective investment undertaking.[1031]

Notes:

(1) Item 1 does not include anything included in item 6.

(1A) Item 1 does not include a supply of services which is preparatory to the carrying out of a transaction falling within that item.[1032]

(2) This Group does not include the supply of a coin or a banknote as a collectors’ piece or as an investment article.

(2A) and (2B) [Repealed][1033]

(3) Item 2 includes the supply of credit by a person, in connection with a supply of goods or services by him, for which a separate charge is made and disclosed to the recipient of the supply of goods or services.

(4) This Group includes any supply by a person carrying on a credit card, charge card or similar payment card operation made in connection with that operation to a person who accepts the card used in the operation when presented to him in payment for goods or services.
(5) For the purpose of item 5 “intermediary services” consist of bringing together, with a view to the provision of financial services —

(a) persons who are or may be seeking to receive financial services, and

(b) persons who provide financial services,

together with (in the case of financial services falling within item 1, 2, 3 or 4) the performance of work preparatory to the conclusion of contracts for the provision of those financial services, but do not include the supply of any market research, product design, advertising, promotional or similar services or the collection, collation and provision of information in connection with such activities.\(^{1034}\)

(5A) For the purposes of item 5 a person is “acting in an intermediary capacity” wherever he is acting as an intermediary, or one of the intermediaries, between —

(a) a person who provides financial services, and

(b) a person who is or may be seeking to receive financial services.\(^{1035}\)

(5B) For the purposes of notes 5 and 5A “financial services” means the carrying out of any transaction falling within item 1, 2, 3, 4 or 6.\(^{1036}\)

(6) In item 9 —

“authorised scheme”, “international scheme” and “recognised scheme” have the same meaning as in the Collective Investment Schemes Act 2008;

“umbrella scheme” means a collective investment scheme under which the contributions of the participants in the scheme and the profits or income out of which payments are to be made to them are pooled separately in relation to the separate parts of the scheme property;

“sub-fund” means a separate part of the property of an umbrella scheme that is pooled separately.\(^{1037}\)

(6A) For the purposes of Item 9 a collective investment scheme, or sub-fund, that is not for the time being marketed in the Island or the United Kingdom is to be treated as falling within paragraph (c) or (d) only if —

(a) it has been marketed in the Island or the United Kingdom, or

(b) at least 5% of its shares or units are held by, or on behalf of, investors who are in the Island or the United Kingdom.\(^{1038}\)

(6B) In Item 10 —

“closed-ended collective investment undertaking” means an undertaking in relation to which the following conditions are satisfied —

(a) its sole object is the investment of capital, raised from the public, wholly or mainly in securities; and

(b) it manages its assets on the principle of spreading investment risk; and
(c) all of its ordinary shares (of each class if there is more than one) or equivalent units are included in the official list maintained by the Financial Services Authority pursuant to section 74(1) of the Financial Services and Markets Act 2000 (of Parliament); and

(d) all of its ordinary shares (of each class if there is more than one) or equivalent units are admitted to trading on a regulated market situated or operating in the United Kingdom;

“regulated market” has the meaning given in section 103(1) of the Financial Services and Markets Act 2000 (of Parliament).  

(7) [Repealed]

GROUP 6 - EDUCATION

Item No.

1. The provision by an eligible body of —
   (a) education; or
   (b) [Repealed]
   (c) vocational training.

2. The supply of private tuition, in subjects ordinarily taught in a school or university, by an individual teacher acting independently of an employer.

3. The provision of examination services —
   (a) by or to an eligible body; or
   (b) to a person receiving education or vocational training which is —
       (i) exempt by virtue of items 1, 2 or 5; or
       (ii) provided otherwise than in the course or furtherance of a business.

4. The supply of any goods or services (other than examination services) which are closely related to a supply of a description falling within item 1 (the principal supply) by or to the eligible body making the principal supply provided —
   (a) the goods or services are for the direct use of the pupil, student or trainee (as the case may be) receiving the principal supply; and
   (b) where the supply is to the eligible body making the principal supply, it is made by another eligible body.

5. The provision of vocational training, and the supply of any goods or services essential thereto by the person providing the vocational training, to the extent that the consideration payable is ultimately a charge to funds provided out of the General Revenue.

6. The provision of facilities by —
(a) a youth club or an association of youth clubs to its members; or
(b) an association of youth clubs to members of a youth club which is a member of that association.

Notes:

(1) For the purposes of this Group an “eligible body” is —

(a) a school within the meaning of the Education Act 2001, and which —
   (i) within the meaning of that Act, either is provisionally, finally or deemed to be registered as a school in a register of independent schools or is a school in respect of which grants are made by the Department of Education, Sport and Culture to the proprietor or managers of that school; or
   (ii) is a maintained school within the meaning of the Education Act 2001;

(b) University College Isle of Man;

(c) a public body of a description in Note (5) to Group 7;

(d) a body which —
   (i) is precluded from distributing and does not distribute any profit it makes; and
   (ii) applies any profits made from supplies of a description within this Group to the continuance or improvement of such supplies;

(e) a body not falling within paragraphs (a) to (d) which provides for the teaching of English as a foreign language.

(2) A supply by a body, which is an eligible body only by virtue of falling within Note (1)(d), shall not fall within this Group insofar as it consists of the provision of anything other than the teaching of English as a foreign language.

(3) “Vocational training” means training, re-training or the provision of work experience for —

(a) any trade, profession or employment; or

(b) any voluntary work connected with —
   (i) education, health, safety, or welfare; or
   (ii) the carrying out of activities of a charitable nature.

(4) “Examination services” include the setting and marking of examinations, the setting of educational or training standards, the making of assessments and other services provided with a view to ensuring educational and training standards are maintained.

(5) For the purposes of item 5 a supply of any goods or services shall not be taken to be essential to the provision of vocational training unless the goods or services in question are provided directly to the trainee.
(6) For the purposes of item 6 a club is a "youth club" if —
(a) it is established to promote the social, physical, educational or spiritual development of its members;
(b) its members are mainly under 21 years of age; and
(c) it satisfies the requirements of Note (1)(a)(i) and (ii).

GROUP 7 - HEALTH AND WELFARE

Item No.

1. The supply of services consisting in the provision of medical care by a person registered or enrolled in any of the following —
(a) the register of medical practitioners or the register of medical practitioners with limited registration;
(b) either of the registers of ophthalmic opticians or the register of dispensing opticians kept under the Opticians Act 1989 (an Act of Parliament) or either of the lists kept under section 9 of that Act of bodies corporate carrying on business as ophthalmic opticians or as dispensing opticians;
(c) the register referred to in the Health Professions Order 2002;\(^\text{1046}\)
(cia) the register of osteopaths maintained in accordance with the provisions of the Osteopaths Act 1993 (an Act of Parliament);\(^\text{1047}\)
(cib) the register of chiropractors maintained in accordance with the provisions of the Chiropractors Act 1994 (an Act of Parliament);\(^\text{1048}\)
(d) the register of qualified nurses, midwives and health visitors kept under section 10 of the Nurses, Midwives and Health Visitors Act 1997 (an Act of Parliament);\(^\text{1049}\)
(e) the register of dispensers of hearing aids or the register of persons employing such dispensers maintained under section 2 of the Hearing Aid Council Act 1968 (an Act of Parliament).\(^\text{1050}\)

2. The supply of any services consisting in the provision of medical care, or the supply of dental prostheses, by —
(a) a person registered in the dentists’ register;
(b) a person enrolled in any roll of dental auxiliaries having effect under section 45 of the Dentists Act 1984 (an Act of Parliament);
(c) [Repealed]\(^\text{1051}\)

2A. The supply of any services or dental prostheses by a dental technician.\(^\text{1052}\)

3. The supply of any services consisting in the provision of medical care by a person registered in the register of pharmaceutical chemists kept under the Pharmacy Act 1954
(an Act of Parliament) or the Pharmacy (Northern Ireland) Order 1976 (an enactment of Parliament).\textsuperscript{1053}

4. The provision of care or medical or surgical treatment and, in connection with it, the supply of any goods, in any hospital or state-regulated institution.\textsuperscript{1054}

5. The provision of a deputy for a person registered in the register of medical practitioners or the register of medical practitioners with limited registration.

6. Human blood.

7. Products for therapeutic purposes, derived from human blood.

8. Human (including foetal) organs or tissue for diagnostic or therapeutic purposes or medical research.

9. The supply by —
   (a) a charity,
   (b) a state-regulated private welfare institution or agency, or\textsuperscript{1055}
   (c) a public body,

of welfare services and of goods supplied in connection with those welfare services.\textsuperscript{1056}

10. The supply, otherwise than for profit, of goods and services incidental to the provision of spiritual welfare by a religious community to a resident member of that community in return for a subscription or other consideration paid as a condition of membership.

11. The supply of transport services for sick or injured persons in vehicles especially designed for that purpose.

Notes:

(1) Item 1 does not include the supply of the service of the letting on hire of goods other than such a supply which is in connection with a supply of other services comprised in the item.

(2) Paragraphs (a) to (d) of item 1 and paragraphs (a) and (b) of item 2 include supplies of services made by a person who is not registered or enrolled in any of the registers or rolls therein specified where the services are wholly performed or directly supervised by a person who is so registered or enrolled.

(2A) Item 3 includes supplies of services made by a person who is not registered in either of the registers specified in that item where the services are wholly performed by a person who is so registered.\textsuperscript{1057}

(3) Item 3 does not include the supply of the service of the letting on hire of goods.

(4) In item 9, “public body” means —
(a) a Government authority within the meaning of section 41(6);
(b) a local authority;
(c) a body which acts under any enactment or instrument for public purposes and not for its own profit and which performs functions similar to those of a Government authority or local authority.

(5) In item 9 “welfare services” means services which are directly connected with —

(a) the provision of care, treatment or instruction designed to promote the physical or mental welfare of elderly, sick, distressed or disabled persons,
(b) the care or protection of children and young persons, or
(c) the provision of spiritual welfare by a religious institution as part of a course of instruction or a retreat, not being a course or a retreat designed primarily to provide recreation or a holiday,

and, in the case of services supplied by a state-regulated private welfare institution, includes only those services in respect of which the institution is so regulated.1058

(6) Item 9 does not include the supply of accommodation or catering except where it is ancillary to the provision of care, treatment or instruction.

(7) In this group “state-regulated” means approved, licensed, registered or exempted from registration by the Department of Health and Social Care or other authority pursuant to a provision of an Act of Tynwald.1059

GROUP 8 - BURIAL AND CREMATION

Item No.

1. The disposal of the remains of the dead.

2. The making of arrangements for or in connection with the disposal of the remains of the dead.

GROUP 9 - SUBSCRIPTIONS TO TRADE UNIONS, PROFESSIONAL BODIES AND OTHER PUBLIC INTEREST BODIES1060

Item No.

1. The supply to its members of such services and, in connection with those services, of such goods as are both referable only to its aims and available without payment other than a membership subscription by any of the following non-profit making organisations —

(a) a trade union or other organisation of persons having as its main object the negotiation on behalf of its members of the terms and conditions of their employment;
(b) a professional association, membership of which is wholly or mainly restricted to individuals who have or are seeking a qualification appropriate to the practice of the profession concerned;

(c) an association, the primary purpose of which is the advancement of a particular branch of knowledge, or the fostering of professional expertise, connected with the past or present professions or employments of its members;

(d) an association, the primary purpose of which is to make representations to the Government on legislation and other public matters which affect the business or professional interests of its members;

(e) a body which has objects which are in the public domain and are of a political, religious, patriotic, philosophical, philanthropic or civic nature.\textsuperscript{1061}

Notes:

(1) Item 1 does not include any right of admission to any premises, event or performance, to which non-members are admitted for a consideration.

(2) “Trade union” has the meaning ascribed in section 23(1) of the Trade Unions Act 1991.

(3) Item 1 shall include organisations and associations the membership of which consists wholly or mainly of constituent or affiliated associations which as individual associations would be comprised in the item; and “member” shall be construed as including such an association and “membership subscription” shall include an affiliation fee or similar levy.

(4) Paragraph (c) does not apply unless the association restricts its membership wholly or mainly to individuals whose present or previous professions or employments are directly connected with the purposes of the association.

(5) Paragraph (d) does not apply unless the association restricts its membership wholly or mainly to individuals or corporate bodies whose business or professional interests are directly connected with the purposes of the association.

GROUP 10 - SPORTS, SPORTS COMPETITIONS AND PHYSICAL EDUCATION

Item No.

1. The grant of a right to enter a competition in sport or physical recreation where the consideration for such grant consists in money which is to be allocated wholly towards the provision of a prize or prizes awarded in that competition.

2. The grant, by an eligible body established for purposes of sport or physical recreation, of a right to enter a competition in such an activity.\textsuperscript{1062}
3. The supply by an eligible body to an individual of services closely linked with and essential to sport or physical education in which the individual is taking part.\textsuperscript{1063}

Notes:

(1) Item 3 does not include the supply of any services by an eligible body of residential accommodation, catering or transport.\textsuperscript{1064}

(2) [Repealed]\textsuperscript{1065}

(2A) Subject to Notes (2C) and (3), in this Group “eligible body” means a non-profit making body which —

(a) is precluded from distributing any profit it makes, or is allowed to distribute any such profit by means only of distributions to a non-profit making body;

(b) applies in accordance with Note (2B) any profits it makes from supplies of a description within Item 2 or 3; and

(c) is not subject to commercial influence.\textsuperscript{1066}

(2B) For the purposes of Note (2A)(b) the application of profits made by any body from supplies of a description within Item 2 or 3 is in accordance with this Note only if those profits are applied for one or more of the following purposes, namely —

(a) the continuance or improvement of any facilities made available in or in connection with the making of the supplies of those descriptions made by that body;

(b) the purposes of a non-profit making body.\textsuperscript{1067}

(2C) In determining whether the requirements of Note (2A) for being an eligible body are satisfied in the case of any body, there shall be disregarded any distribution of amounts representing unapplied or undistributed profits that falls to be made to the body’s members on its winding-up or dissolution.\textsuperscript{1068}

(3) In item 3 an “eligible body” does not include —

(a) a local authority; or

(b) a Government authority within the meaning of section 41(6).\textsuperscript{1069}

(4) For the purposes of this Group a body shall be taken, in relation to a sports supply, to be subject to commercial influence if, and only if, there is a time in the relevant period when —

(a) a relevant supply was made to that body by a person associated with it at that time;

(b) an emolument was paid by that body to such a person;

(c) an agreement existed for either or both of the following to take place after the end of that period, namely —

(i) the making of a relevant supply to that body by such a person; or
(ii) the payment by that body to such a person of any emoluments.\textsuperscript{1070}

(5) In this Group “the relevant period”, in relation to a sports supply, means —

(a) where that supply is one made before 1st January 2003, the period beginning with 14th January 1999 and ending with the making of that sports supply; and

(b) where that supply is one made on or after 1st January 2003, the period of three years ending with the making of that sports supply.\textsuperscript{1071}

(6) Subject to Note (7), in this Group “relevant supply”, in relation to any body, means a supply falling within any of the following paragraphs —

(a) the grant of any interest in or right over land which at any time in the relevant period was or was expected to become sports land;

(b) the grant of any licence to occupy any land which at any such time was or was expected to become sports land;

(c) a supply arising from a grant falling within paragraph (a) or (b), other than a grant made before 1st April 1996;

(d) the supply of any services consisting in the management or administration of any facilities provided by that body;

(e) the supply of any goods or services for a consideration in excess of what would have been agreed between parties entering into a commercial transaction at arm’s length.\textsuperscript{1072}

(7) A supply which has been, or is to be or may be, made by any person shall not be taken, in relation to a sports supply made by any body, to be a relevant supply for the purposes of this Group if —

(a) the principal purpose of that body is confined, at the time when the sports supply is made, to the provision for employees of that person of facilities for use for or in connection with sport or physical recreation, or both;

(b) the supply in question is one made by a charity or local authority or one which (if it is made) will be made by a person who is a charity or local authority at the time when the sports supply is made;

(c) the supply in question is a grant falling within Note (6)(a) or (b) which has been made, or (if it is made) will be made, for a nominal consideration;

(d) the supply in question is one arising from such a grant as is mentioned in paragraph (c) and is not itself a supply the consideration for which was, or will or may be, more than a nominal consideration; or

(e) the supply in question —
(i) is a grant falling within Note (6)(a) or (b) which is made for no consideration; but

(ii) falls to be treated as a supply of goods or services, or (if it is made) will fall to be so treated, by reason only of the application, in accordance with paragraph 9 of Schedule 5, of paragraph 5 of that Schedule.\textsuperscript{1073}

(8) Subject to Note (10), a person shall be taken, for the purposes of this Group, to have been associated with a body at any of the following times, that is to say —

(a) the time when a supply was made to that body by that person;

(b) the time when an emolument was paid by that body to that person;

or

(c) the time when an agreement was in existence for the making of a relevant supply or the payment of emoluments,

if, at that time, or at another time (whether before or after that time) in the relevant period, that person was an officer or shadow officer of that body or an intermediary for supplies to that body.\textsuperscript{1074}

(9) Subject to Note (10), a person shall also be taken, for the purposes of this Group, to have been associated with a body at a time mentioned in paragraph (a), (b) or (c) of Note (8) if, at that time, he was connected with another person who in accordance with that Note —

(a) is to be taken to have been so associated at that time; or

(b) would be taken to have been so associated were that time the time of a supply by the other person to that body.\textsuperscript{1075}

(10) Subject to Note (11), a person shall not be taken for the purposes of this Group to have been associated with a body at a time mentioned in paragraph (a), (b) or (c) of Note (8) if the only times in the relevant period when that person or the person connected with him was an officer or shadow officer of the body are times before 1st January 2000.\textsuperscript{1076}

(11) Note (10) does not apply where (but for that Note) the body would be treated as subject to commercial influence at any time in the relevant period by virtue of —

(a) the existence of any agreement entered into on or after 14th January 1999 and before 1st January 2000; or

(b) anything done in pursuance of any such agreement.\textsuperscript{1077}

(12) For the purposes of this Group a person shall be taken, in relation to a sports supply, to have been at all times in the relevant period an intermediary for supplies to the body making that supply if —

(a) at any time in that period either a supply was made to him by another person or an agreement for the making of a supply to him by another was in existence; and
(b) the circumstances were such that, if —
   (i) that body had been the person to whom the supply was made or (in the case of an agreement) the person to whom it was to be or might be made; and
   (ii) Note (7) were to be disregarded to the extent (if at all) that it would prevent the supply from being a relevant supply,

the body would have fallen to be regarded in relation to the sports supply as subject to commercial influence.1078

(13) In determining for the purposes of Note (12) or this Note whether there are such circumstances as are mentioned in paragraph (b) of that Note in the case of any supply, that Note and this Note shall be applied first for determining whether the person by whom the supply was made, or was to be or might be made, was himself an intermediary for supplies to the body in question, and so on through any number of other supplies or agreements.1079

(14) In determining for the purposes of this Group whether a supply made by any person was made by an intermediary for supplies to a body, it shall be immaterial that the supply by that person was made before the making of the supply or agreement by reference to which that person falls to be regarded as such an intermediary.1080

(15) Without prejudice to the generality of subsection (1A) of section 43, for the purpose of determining —
   (a) whether a relevant supply has at any time been made to any person;
   (b) whether there has at any time been an agreement for the making of a relevant supply to any person; and
   (c) whether a person falls to be treated as an intermediary for the supplies to any body by reference to supplies that have been, were to be or might have been made to him,

references in the preceding Notes to a supply shall be deemed to include references to a supply falling for other purposes to be disregarded in accordance with section 43(1)(a).1081

(16) In this Group —
   “agreement” includes any arrangement or understanding (whether or not legally enforceable);
   “emolument” means any emolument the amount of which falls or may fall, in accordance with the agreement under which it is payable, to be determined or varied wholly or partly by reference —
   (i) to the profits from some or all of the activities of the body paying the emolument; or
   (ii) to the level of that body’s gross income from some or all of its activities;
“employees”, in relation to a person, includes retired employees of that person;
“grant” includes an assignment or surrender;
“officer”, in relation to a body, includes —
   (i) a director of a body corporate; and
   (ii) any committee member or trustee concerned in the general
        control and management of the administration of the body;
“shadow officer”, in relation to a body, means a person in accordance with whose
   directions or instructions the members or officers of the body are
   accustomed to act;
“sports land”, in relation to any body, means any land used or held for use for or
   in connection with the provision by that body of facilities for use for or in
   connection with sport or physical recreation, or both;
“sports supply” means a supply which, if made by an eligible body, would fall
   within Item 2 or 3.1082

(17) For the purposes of this Group any question whether a person is
   connected with another shall be determined in accordance with section 839 (connected
   persons) of the Taxes Act 1988 (an Act of Parliament).1083

GROUP 11 - FUND-RAISING EVENTS BY CHARITIES AND OTHER QUALIFYING BODIES1084

Item No.

1. The supply of goods and services by a charity in connection with an event —
   (a) that is organised for charitable purposes by a charity or jointly by
       more than one charity,
   (b) whose primary purpose is the raising of money, and
   (c) that is promoted as being primarily for the raising of money.

2. The supply of goods and services by a qualifying body in connection with an event —
   (a) that is organised exclusively for the body’s own benefit,
   (b) whose primary purpose is the raising of money, and
   (c) that is promoted as being primarily for the raising of money.

3. The supply of goods and services by a charity or a qualifying body in connection
   with an event —
   (a) that is organised jointly by a charity, or two or more charities, and
       the qualifying body,
(b) that is so organised exclusively for charitable purposes or exclusively for the body’s own benefit or exclusively for a combination of those purposes and that benefit,

(c) whose primary purpose is the raising of money, and

(d) that is promoted as being primarily for the raising of money.

Notes:

(1) For the purpose of this Group “event” includes an event accessed (wholly or partly) by means of electronic communications.

For this purpose “electronic communications” includes any communications by means of a telecommunications system (within the meaning of the Telecommunications Act 1984).

(2) For the purposes of this Group “charity” includes a body corporate that is wholly owned by a charity if —

(a) the body has agreed in writing (whether or not contained in a deed) to transfer its profits (from whatever source) to a charity, or

(b) the body’s profits (from whatever source) are otherwise payable to a charity.

(3) For the purpose of this Group “qualifying body” means —

(a) any non-profit making organisation mentioned in item 1 of Group 9;

(b) any body that is an eligible body for the purposes of Group 10 and whose principal purpose is the provision of facilities for persons to take part in sport or physical education; and

(c) any body that is an eligible body for the purposes of item 2 of Group 12.

(4) Where in a financial year of a charity or qualifying body there are held at the same location more than 15 events involving the charity or body that are of the same kind, items 1 to 3 do not apply (or shall be treated as having not applied) to a supply in connection with any event involving the charity or body that is of that kind and is held in that financial year at that location.

(5) In determining whether the limit of 15 events mentioned in Note (4) has been exceeded in the case of events of any one kind held at the same location, disregard any event of that kind held at that location in a week during which the aggregate gross takings from events involving the charity or body that are of that kind and are held in that location do not exceed £1,000.

(6) In the case of a financial year that is no longer or shorter than a year, Notes (4) and (5) have effect as if for “15” there were substituted the whole number nearest to the number obtained by —

(a) first multiplying the number of days in the financial year by 15, and

(b) then dividing the result by 365.
(7) For the purposes of Notes (4) and (5) —
   (a) an event involves a charity if the event is organised by the charity or a connected charity;
   (b) an event involves a qualifying body if the event is organised by the body.

In this Note “organised” means organised alone or jointly in any combination, and “organising” in Note (8) shall be construed accordingly.

(8) Items 1 to 3 do not include any supply in connection with an event if —
   (a) accommodation in connection with the event is provided to a person by means of a supply, or in pursuance of arrangements, made by —
      (i) the charity or any of the charities, or the qualifying body, organising the event, or
      (ii) a charity connected with any charity organising the event, and
   (b) the provision of the accommodation is not incidental to the event.

(9) For the purposes of Note (8) the provision of accommodation is incidental to the event only if accommodation provided to the person by such means, or in pursuance of such arrangements, as are mentioned in paragraph (a) of that Note —
   (a) does not exceed two nights in total (whether or not consecutive), and
   (b) is not to any extent provided by means of a supply to which an order under section 53 applies.

(10) For the purposes of Notes (7)(a) and (8), two charities are connected if —
   (a) one is a charity for the purposes of this Group only by virtue of Note (2) and the other is the charity that owns it, or
   (b) each is a charity for the purposes of this Group only by virtue of Note (2) and the two of them are owned by the same charity.

(11) Items 1 to 3 do not include any supply the exemption of which would be likely to create distortions of competition such as to place a commercial enterprise carried on by a taxable person at a disadvantage.

GROUP 12 - CULTURAL SERVICES ETC

Item No.

1. The supply by a public body of a right of admission to —
   (a) a museum, gallery, art exhibition or zoo; or
   (b) a theatrical, musical or choreographic performance of a cultural nature.
2. The supply by an eligible body of a right of admission to —
   (a) a museum, gallery or art exhibition or zoo; or
   (b) a theatrical, musical or choreographic performance of a cultural nature.

Notes:

(1) For the purposes of this Group “public body” means —
   (a) a local authority;
   (b) a government authority within the meaning of section 41(6).

(2) For the purposes of item 2 “eligible body” means any body (other than a public body) which —
   (a) is precluded from distributing, and does not distribute, any profit it makes;
   (b) applies any profits made from supplies of a description falling within item 2 to the continuance or improvement of the facilities made available by means of the supplies; and
   (c) is managed and administered on a voluntary basis by persons who have no direct or indirect financial interest in its activities.

(3) Item 1 does not include any supply the exemption of which would be likely to create distortions of competition such as to place a commercial enterprise carried on by a taxable person at a disadvantage.

(4) Item 1(b) includes the supply of a right of admission to a performance only if the performance is provided exclusively by one or more public bodies, one or more eligible bodies or any combination of public bodies and eligible bodies.

GROUP 13 - SUPPLIES OF GOODS WHERE INPUT TAX CANNOT BE RECOVERED

Item No.

1. A supply of goods in relation to which each of the following conditions is satisfied, that is to say —
   (a) there is input tax of the person making the supply (“the relevant supplier”), or of any predecessor of his, that has arisen or will arise on the supply to, or acquisition or importation by, the relevant supplier or any such predecessor of goods used for the supply made by the relevant supplier;
   (b) the only such input tax is non-deductible input tax; and
   (c) the supply made by the relevant supplier is not a supply which would be exempt under Item 1 of Group 1 of Schedule 10 but for an option to tax any land under Part 1 of Schedule 11.
Notes:

(1) Subject to Note (2), in relation to any supply of goods by the relevant supplier, the goods used for that supply are —
   (a) the goods supplied, and
   (b) any goods used in the process of producing the supplied goods so as to be comprised in them.

(2) In relation to a supply by any person consisting in or arising from the grant of a major interest in land (“the relevant supply”) —
   (a) any supply consisting in or arising from a previous grant of a major interest in the land is a supply of goods used for the relevant supply, and
   (b) subject to paragraph (a), the goods used for the relevant supply are any goods used in the construction of a building or civil engineering work so as to become part of the land.

(3) Subject to Notes (7) to (10), non-deductible input tax is input tax to which Note (4) or (5) applies.

(4) This Note applies to input tax which (disregarding this Group and regulation 106 of the Value Added Tax Regulations 1996 (de minimus rule)) is not, and will not become, attributable to supplies to which section 26(2) applies.

(5) This Note applies to input tax if —
   (a) disregarding this Group and the provisions mentioned in Note (6), the relevant supplier or a predecessor of his has or will become entitled to credit for the whole or a part of the amount of that input tax; and
   (b) the effect (disregarding this Group) of one or more of those provisions is that neither the relevant supplier nor any predecessor of his has or will become entitled to credit for any part of that amount.

(6) The provisions mentioned in Note (5) are —
   (a) Article 5 of the Value Added Tax (Input Tax) Order 1993 (no credit for input tax on goods or services used for business entertainment);
   (b) Article 6 of that Order (no credit for input tax on non-building materials incorporated in building or site);
   (c) Article 7 of that Order (no credit for input tax on motor cars);
   (d) any provision directly or indirectly re-enacted (with or without modification) in a provision mentioned in paragraphs (a) to (c).

(7) For the purposes of this Group the input tax of a person shall be deemed to include any VAT which —
   (a) has arisen or will arise on a supply to, or acquisition or importation by, that person; and
(b) would fall to be treated as input tax of that person but for its arising when that person is not a taxable person.

(8) Subject to Note (9), the input tax that is taken to be non-deductible input tax shall include any VAT which —

(a) is deemed to be input tax of any person by virtue of Note (7); and

(b) would be input tax to which Note (4) or (5) would apply if it were input tax of that person and, in the case of a person to whom section 39 applies, if his business were carried on in the Island.

(9) Non-deductible input tax does not include any VAT that has arisen or will arise on a supply to, or acquisition or importation by, any person of any goods used for a supply of goods ("the relevant supply") if —

(a) that VAT; or

(b) any other VAT arising on the supply to, or acquisition or importation by, that person or any predecessor of his of any goods used for the relevant supply,

has been or will be refunded under section 33, 33A, 33B, 39 or 41.\textsuperscript{1088}

(10) Input tax arising on a supply, acquisition or importation of goods shall be disregarded for the purposes of determining whether the conditions in Item No. 1(a) or (b) are satisfied if, at a time after that supply, acquisition or importation but before the supply by the relevant supplier, a supply of the goods or of anything in which they are comprised is treated under or by virtue of any provision of this Act as having been made by the relevant supplier or any predecessor of his to himself.

(11) In relation to any goods or anything comprised in any goods, a person is a predecessor of another ("the putative successor") only if Note (12) or (13) applies to him in relation to those goods or that thing; and references in this Group to a person's predecessors include references to the predecessors of his predecessors through any number of transfers and events such as are mentioned in Notes (12) and (13).

(12) This Note applies to a person in relation to any goods or thing if —

(a) the putative successor is a person to whom he has transferred assets of his business by a transfer of that business, or a part of it, as a going concern;

(b) those assets consisted of or included those goods or that thing; and

(c) the transfer of the assets is one falling by virtue of an order under section 5(3) (or under an enactment re-enacted in section 5(3)) to be treated as neither a supply of goods nor a supply of services.

(13) This Note applies to a person in relation to any goods or thing if —

(a) those goods or that thing formed part of the assets of the business of that person at a time when it became a member of a group of which the putative successor was at that time the representative member.\textsuperscript{1089}
(b) those goods or that thing formed part of the assets of the business of that person, or of any other person who was a member of the same group as that person, at a time when that person was succeeded as the representative member of the group by the putative successor; or

(c) those goods or that thing formed part of the assets of the putative successor at a time when it ceased to be a member of a group of which the person in question was at the time the representative member.

(14) References in Note (13) to a person’s being or becoming or ceasing to be a member of a group or the representative member of a group are references to its falling to be so treated for the purposes of section 43.

(15) In Notes (11) to (13) the references to anything comprised in other goods shall be taken, in relation to any supply consisting in or arising from the grant of a major interest in land, to include anything the supply, acquisition or importation of which is, by virtue of Note (2), taken to be a supply, acquisition or importation of goods used for making the supply so consisting or arising.

(16) Notes (1) and (2) to Group 1 shall apply for the purposes of this Group as they apply for the purposes of that Group.

GROUP 14 - INVESTMENT GOLD

Item No.

1. The supply of investment gold.

2. The grant, assignment or surrender of any right, interest, or claim in, over or to investment gold if the right, interest or claim is or confers a right to the transfer of the possession of investment gold.

3. The supply, by a person acting as agent for a disclosed principal, of services consisting of —

   (a) the effecting of a supply falling within item 1 or 2 that is made by or to his principal, or

   (b) attempting to effect a supply falling within item 1 or 2 that is intended to be made by or to his principal but is not in fact made.

Notes:

(1) For the purposes of this Group “investment gold” means —

   (a) gold of a purity not less than 995 thousandths that is in the form of a bar, or a wafer, of a weight accepted by the bullion markets;

   (b) a gold coin minted after 1800 that —

      (i) is of a purity of not less than 900 thousandths,
Value Added Tax Act 1996

Schedule 10A

(ii) is, or has been, legal tender in its country of origin, and

(iii) is of a description of coin that is normally sold at a price that does not exceed 180% of the open market value of the gold contained in the coin; or

(c) a gold coin of a description specified in a notice that has been published by the Treasury for the purposes of this Group and has not been withdrawn.

(2) A notice under Note (1)(c) may provide that a description specified in the notice has effect only for the purposes of supplies made at times falling within a period specified in the notice.

(3) Item 2 does not include —

(a) the grant of an option, or

(b) the assignment or surrender under an option at a time before the option is exercised.

(4) This Group does not include a supply —

(a) between members of the London Bullion Market Association, or

(b) by a member of that Association to a taxable person who is not a member or by such a person to a member.

GROUP 15 – SUPPLIES OF SERVICES BY GROUPS INVOLVING COST SHARING

Item No

1. The supply of services by an independent group of persons where each of the following conditions is satisfied —

(a) each of those persons is a person who is carrying on an activity (“the relevant activity”) which is exempt from VAT or in relation to which the person is not a taxable person within the meaning of Article 9 of Council Directive 2006/112/EC (OJ L347, 11.12.2006. p.1);

(b) the supply of services is made for the purpose of rendering the members of the group the services directly necessary for the exercise of the relevant activity;

(c) the group merely claims from its members exact reimbursement of their share of the joint expenses; and

(d) the exemption of the supply is not likely to cause distortion of competition.

Schedule 10A

FACE-VALUE VOUCHERS ISSUED BEFORE 1 JANUARY 2019
Section 51B

Meaning of “face-value voucher” etc

1. (1) In this Schedule “face-value voucher” means a token, stamp or voucher (whether in physical or electronic form) that represents a right to receive goods or services to the value of an amount stated on it or recorded in it.

(2) References in this Schedule to the “face value” of a voucher are to the amount referred to in sub-paragraph (1).

Nature of supply

2. The issue of a face-value voucher, or any subsequent supply of it, is a supply of services for the purposes of this Act.

Treatment of credit vouchers

3. (1) This paragraph applies to a face-value voucher issued by a person who —

(a) is not a person from whom goods or services may be obtained by the use of the voucher, and

(b) undertakes to give complete or partial reimbursement to any such person from whom goods or services are so obtained.

Such voucher is referred to in this Schedule as a “credit voucher”.

(2) The consideration for any supply of a credit voucher shall be disregarded for the purposes of this Act except to the extent (if any) that it exceeds the face value of the voucher.

(3) Sub-paragraph (2) does not apply if any of the persons from whom goods or services are obtained by the use of the voucher fails to account for any of the VAT due on the supply of those goods or services to the person using the voucher to obtain them.

(4) The Treasury may by order specify other circumstances in which sub-paragraph (2) does not apply.1098

Treatment of retailer vouchers

4. (1) This paragraph applies to a face-value voucher issued by a person who —

(a) is a person from whom goods or services may be obtained by the use of the voucher, and

(b) if there are other such persons, undertakes to give complete or partial reimbursement to those from whom goods or services are so obtained.

Such a voucher is referred to in this Schedule as a “retailer voucher”.

1098
(2) The consideration for the issue of a retailer voucher shall be disregarded for the purposes of this Act except to the extent (if any) that it exceeds the face value of the voucher.

(3) Sub-paragraph (2) does not apply if —
(a) the voucher is used to obtain goods or services from a person other than the issuer, and
(b) that person fails to account for any of the VAT due on the supply of those goods or services to the person using the voucher to obtain them.

(4) Any supply of a retailer voucher subsequent to the issue of it shall be treated in the same way as the supply of a voucher to which paragraph 6 applies.

Treatment of postage stamps

5. The consideration for the supply of a face-value voucher that is a postage stamp shall be disregarded for the purposes of this Act except to the extent (if any) that it exceeds the face value of the stamp.

Treatment of other kinds of face-value voucher

6. (1) This paragraph applies to a face-value voucher that is not a credit voucher, a retailer voucher or a postage stamp.

(2) A supply of such a voucher is chargeable at the rate in force under section 2(1) (standard rate) except where sub-paragraph (3), (4) or (5) applies.

(3) Where the voucher is one that can only be used to obtain goods or services in one particular non-standard rate category, the supply of the voucher falls in that category.

(4) Where the voucher is used to obtain goods or services all of which fall in one particular non-standard rate category, the supply of the voucher falls in that category.

(5) Where the voucher is used to obtain goods or services in a number of different rate categories —
(a) the supply of the voucher shall be treated as that many different supplies, each falling in the category in question, and
(b) the value of each of those supplies shall be determined on a just and reasonable basis.

Vouchers supplied free with other goods or services

7. Where —
(a) a face-value voucher (other than a postage stamp) and other goods or services are supplied to the same person in a composite transaction, and
(b) the total consideration for the supplies is no different, or not significantly different, from what it would be if the voucher were not supplied,

the supply of the voucher shall be treated as being made for no consideration.

Exclusion of single purpose vouchers

7A. Paragraphs 2 to 4, 6 and 7 do not apply in relation to the issue, or any subsequent supply, of a face-value voucher that represents a right to receive goods or services of one type which are subject to a single rate of VAT.1099

Face-value vouchers: transitional provisions

7B. (1) Sub-paragraph (2) applies where —
   (a) a face-value voucher issued before 10 May 2012 is used on or after that date to obtain goods or services;
   (b) paragraphs 2 to 4, 6 and 7 would not have applied in relation to the issue, or any subsequent supply, of the voucher because of paragraph 7A if the voucher had been issued on or after 10 May 2012; and
   (c) VAT is not payable under the law of a member State on the supply of the voucher to the user.

(2) The use of the voucher is to be treated for the purposes of this Act as a supply of the goods or services by the person from whom they are obtained to the user of the voucher.1100

Interpretation

8. (1) In this Schedule —
   “credit voucher” has the meaning given by paragraph 3(1);
   “face value” has the meaning given by paragraph 1(2);
   “face-value voucher” has the meaning given by paragraph 1(1);
   “retailer voucher” has the meaning given by paragraph 4(1).

(2) For the purposes of this Schedule —
   (a) the “rate categories” of supplies are —
      (i) supplies chargeable at the rate in force under section 2(1) (standard rate),
      (ii) supplies chargeable at the rate in force under section 29A (reduced rate),
      (iii) zero-rated supplies, and
      (iv) exempt supplies and other supplies that are not taxable supplies;1101
(b) the “non-standard rate categories” of supplies are those in sub-
paragraphs (ii), (iii) and (iv) of paragraph (a);

(c) goods or services are in a particular rate category if a supply of
those goods or services falls in that category.

(3) A reference in this Schedule to a voucher being used to obtain goods or
services includes a reference to the case where it is used as part-payment for those goods or services.
VAT TREATMENT OF VOUCHERS ISSUED ON OR AFTER 1 JANUARY 2019

1. **Meaning of “voucher”**
   
   (1) In this Schedule “voucher” means an instrument (in physical or electronic form) in relation to which the following conditions are met.
   
   (2) The first condition is that one or more persons are under an obligation to accept the instrument as consideration for the provision of goods or services.
   
   (3) The second condition is that either or both of —
   
   (a) the goods and services for the provision of which the instrument may be accepted as consideration; and
   
   (b) the persons who are under the obligation to accept the instrument as consideration for the provision of goods or services, are limited and are stated on or recorded in the instrument or the terms and conditions governing the use of the instrument.
   
   (4) The third condition is that the instrument is transferable by gift (whether or not it is transferable for consideration).
   
   (5) The following are not vouchers —
   
   (a) an instrument entitling a person to a reduction in the consideration for the provision of goods or services;
   
   (b) an instrument functioning as a ticket, for example for travel or for admission to a venue or event; and
   
   (c) postage stamps.

2. **Meaning of related expressions**
   
   (1) This paragraph gives the meaning of other expressions used in this Schedule.
   
   (2) “Relevant goods or services”, in relation to a voucher, are any goods or services for the provision of which the voucher may be accepted as consideration.
   
   (3) References in this Schedule to the transfer of a voucher do not include the voucher being offered and accepted as consideration for the provision of relevant goods or services.
   
   (4) References in this Schedule to a voucher being offered or accepted as consideration for the provision of relevant goods or services include references to the voucher being offered or accepted as part consideration for the provision of relevant goods or services.
VAT treatment of vouchers: general rule

3 VAT treatment of vouchers: general rule

(1) The issue, and any subsequent transfer, of a voucher is to be treated for the purposes of this Act as a supply of relevant goods or services.

(2) References in this Schedule to the “paragraph 3 supply”, in relation to the issue or transfer of a voucher, are to the supply of relevant goods or services treated by this paragraph as having been made on the issue or transfer of the voucher.

4. Single purpose vouchers: special rules

(1) A voucher is a single purpose voucher if, at the time it is issued, the following are known —

(a) the place of supply of the relevant goods or services; and

(b) that any supply of relevant goods or services falls into a single supply category (and what that supply category is).

(2) The supply categories are —

(a) supplies chargeable at the rate in force under section 2(1) (standard rate);

(b) supplies chargeable at the rate in force under section 29A (reduced rate);

(c) zero-rated supplies; and

(d) exempt supplies and other supplies that are not taxable supplies.

(3) For the purposes of this paragraph, assume that the supply of relevant goods or services is the provision of relevant goods or services for which the voucher may be accepted as consideration (rather than the supply of relevant goods or services treated as made on the issue or transfer of the voucher).

5. Multi-purpose vouchers: special rules

A voucher is a multi-purpose voucher if it is not a single purpose voucher.
7. (1) Any consideration for the issue or subsequent transfer of a multi-purpose voucher is to be disregarded for the purposes of this Act.

(2) The paragraph 3 supply made on the issue or subsequent transfer of a multi-purpose voucher is to be treated as not being a supply within section 26(2).

8. (1) Where a multi-purpose voucher is accepted as consideration for the provision of relevant goods or services, for the purposes of this Act —

(a) the provision of the relevant goods or services is to be treated as a supply; and

(b) the value of the supply treated as having been made by paragraph (a) is determined as follows.

(2) If the consideration for the most recent transfer of the voucher for consideration is known to the supplier, the value of the supply is such amount as, with the addition of the VAT chargeable on the supply, is equal to that consideration.

(3) If the consideration for the most recent transfer of the voucher for consideration is not known to the supplier, the value of the supply is such amount as, with the addition of the VAT chargeable on the supply, is equal to the face value of the voucher.

(4) The “face value” of a voucher is the monetary value stated on or recorded in —

(a) the voucher; or

(b) the terms and conditions governing the use of the voucher.

9 Intermediaries

(1) This paragraph applies where —

(a) a voucher is issued or transferred by an agent who acts in their own name; and

(b) the paragraph 3 supply is a supply of services to which section 47(3) would apply (apart from this paragraph).

(2) Section 47(3) does not apply.

(3) The paragraph 3 supply is treated as both a supply to the agent and a supply by the agent.

10. Nothing in this Schedule affects the application of this Act to any services provided, by a person who issues or transfers a voucher, in addition to the
issue or transfer of the voucher.

11  Composite transactions

(1)  This paragraph applies where, as part of a composite transaction —
(a)  goods or services are supplied to a person; and
(b)  a voucher is issued or transferred to that person.

(2)  If the total consideration for the transaction is not different, or not significantly different, from what it would be if the voucher were not issued or transferred, the paragraph 3 supply is to be treated as being made for no consideration.
Introduction

1 Overview of the option to tax

(1) This Part of the Schedule makes provision for a person to opt to tax any land.

(2) The effect of the option to tax is dealt with in paragraph 2 (exempt supplies become taxable), as read with paragraph 3.

(3) Grants are excluded from the effect of paragraph 2 by —

(a) paragraph 5 (dwellings designed or adapted, and intended for use, as dwelling etc),
(b) paragraph 6 (conversion of buildings for use as dwelling etc),
(c) paragraph 7 (charities),
(d) paragraph 8 (residential caravans),
(e) paragraph 9 (residential houseboats),
(f) paragraph 10 (relevant housing associations), and
(g) paragraph 11 (grant to individual for construction of dwelling).

(4) Paragraphs 12 to 17 (anti-avoidance: developers of land etc) provide for certain supplies to which any grant gives rise to be excluded from the effect of paragraph 2.

(5) Paragraphs 18 to 30 deal with —

(a) the scope of the option to tax,
(b) the day from which the option to tax has effect,
(c) notification requirements,
(d) elections to opt to tax land subsequently acquired,
(e) the revocation of the option,
(f) the effect of the option to tax in relation to new buildings, and
(g) requirements for prior permission in the case of exempt grants made before the exercise of an option to tax.

(6) Paragraphs 31 to 34 deal with definitions which apply for the purposes of this Part, as well as other supplemental matters.
2 Effect of the option to tax: exempt supplies become taxable

(1) This paragraph applies if —
   (a) a person exercises the option to tax any land under this Part of this Schedule, and
   (b) a grant is made in relation to the land at any time when the option to tax it has effect.

(2) If the grant is made —
   (a) by the person exercising that option, or
   (b) by a relevant associate (if that person is a body corporate),

the grant does not fall within Group 1 of Schedule 10 (exemptions for land).

(3) For the meaning of “relevant associate”, see paragraph 3.

3 Meaning of “relevant associate”

(1) This paragraph explains for the purposes of this Part of this Schedule what is meant by a “relevant associate” in a case where a person (“the opter”) exercises an option to tax in relation to any building or land.

(2) A person is a relevant associate of the opter if under sections 43A to 43E (groups of companies) the person —
   (a) was treated as a member of the same group as the opter at the time when the option first had effect,
   (b) has been so treated at any later time when the opter had a relevant interest in the building or land, or
   (c) has been treated as a member of the same group as a person within sub-paragraph (a) or (b) of this paragraph at a time when that person had a relevant interest in the building or land.

(3) But a person (“P”) ceases to be a relevant associate of the opter in relation to the building or land in the following circumstances.

(4) P ceases to be a relevant associate of the opter in relation to the building or land at the time when all of the following conditions are first met —
   (a) P has no relevant interest in the building or land,
   (aa) where P has disposed of such an interest, it is not the case that a supply for the purposes of the charge to VAT in respect of the disposal —
      (i) is yet to take place, or
      (ii) would be yet to take place if one or more conditions (such as the happening of an event or the doing of an act) were to be met,
(b) P or the opter is not treated under sections 43A to 43E as a member of the group mentioned above, and

(c) P is not connected with any person who has a relevant interest in the building or land where that person is the opter or another relevant associate of the opter.\textsuperscript{1111} \textsuperscript{1112}

(5) P also ceases to be a relevant associate of the opter in relation to the building or land if P —

(a) meets conditions specified in a public notice (see paragraph 4), or

(b) gets the permission of the Treasury (also, see that paragraph).

The time when P ceases to be a relevant associate of the opter is determined in accordance with that paragraph.\textsuperscript{1113}

(6) In this paragraph “relevant interest in the building or land” means an interest in, right over or licence to occupy the building or land (or any part of it).

4 Permission for a body corporate to cease to be a relevant associate of the opter

(1) This paragraph applies for the purposes of paragraph 3(5) in relation to a person (“P”) who has been a relevant associate of the opter.\textsuperscript{1114}

(2) If the conditions specified in the public notice under paragraph 3(5)(a) are met in relation to P, P ceases to be a relevant associate of the opter only if notification of those conditions being met is given to the Treasury.\textsuperscript{1115}

(3) The notification must —

(a) be made in a form specified in a public notice,

(b) state the day from which P is to cease to be a relevant associate of the opter (which may not be before the day on which the notification is given),\textsuperscript{1116}

(c) contain a statement by P certifying that, on that day, the conditions specified in the public notice under paragraph 3(5)(a) are met in relation to P, and\textsuperscript{1117}

(d) contain other information specified in a public notice.

(4) An application for the prior permission of the Treasury must —

(a) be made in a form specified in a public notice,

(b) contain a statement by P certifying which (if any) of the conditions specified in the public notice under paragraph 3(5)(a) are met in relation to P, and\textsuperscript{1118}

(c) contain other information specified in a public notice.

(5) If P gets the prior permission of the Treasury, P ceases to be a relevant associate of the opter from —

(a) the day on which the Treasury gives its permission, or
(b) such earlier or later day as it specifies in its permission.1119

(6) The Treasury may specify an earlier day only if —
   (a) P has purported to give a notification of P’s ceasing to be a relevant associate of the opter,1120
   (b) the conditions specified in the public notice are not, in the event, met in relation to P, and1121
   (c) the Treasury considers that the grounds on which those conditions are not so met are insignificant.

(7) The day specified may be the day from which P would have ceased to be a relevant associate of the opter if those conditions had been so met.1122

(8) The Treasury may specify conditions subject to which its permission is given and, if any of those conditions are broken, it may treat the application as if it had not been made.

Exclusions from effect of option to tax

5 Dwellings designed or adapted, and intended for use, as dwelling etc

(1) An option to tax has no effect in relation to a building or part of a building if the building or part of the building is designed or adapted, and is intended, for use —
   (a) as a dwelling or number of dwellings, or
   (b) solely for a relevant residential purpose.

(2) In relation to the expression “relevant residential purpose”, see the certification requirement imposed as a result of the application of Note (12) of Group 5 of Schedule 9 by paragraph 33 of this Schedule.

6 Conversion of buildings for use as dwelling etc

(1) An option to tax has no effect in relation to any grant made to a person (“the recipient”) in relation to a building or part of a building if the recipient certifies that the building or part of the building is intended for use —
   (a) as a dwelling or number of dwellings, or
   (b) solely for a relevant residential purpose.

(2) The recipient must give the certificate to the person making the grant (“the seller”) —
   (a) within the period specified in a public notice, or
   (b) if the seller agrees, at any later time before the seller makes a supply to which the grant gives rise.

(3) The recipient may give the certificate to the seller only if the recipient —
   (a) intends to use the building or part of the building as mentioned above,
(b) has the relevant conversion intention, or
(c) is a relevant intermediary.

(4) The recipient is a relevant intermediary if —
(a) the recipient intends to dispose of the relevant interest to another person, and
(b) that other person gives the recipient a certificate stating that the other person has the relevant conversion intention or the relevant disposal intention.

(5) For this purpose a person has the relevant disposal intention if —
(a) the person intends to dispose of the relevant interest to a third person, and
(b) the third person gives a qualifying certificate to the person.

(6) A person (P) gives a qualifying certificate to another if P gives a certificate to that other person stating that P has the relevant conversion intention or intends to dispose of the relevant interest to another person (Q) who has given a certificate to P stating —
(a) that Q has the relevant conversion intention, or
(b) that Q intends to dispose of the relevant interest to another person who has given a qualifying certificate to Q,
and so on (in the case of further disposals of the relevant interest).

(7) In this paragraph —
“the relevant conversion intention”, in relation to a person, means an intention of the person to convert the building or part of the building with a view to its being used as mentioned above, and
“the relevant interest”, in relation to any interest in the building or part of the building to which the grant gives rise, means the whole of that interest.

(8) For the purposes of this paragraph a building or part of a building is not to be regarded as intended for use as a dwelling or number of dwellings at any time if there is intended to be a period before that time during which it will not be so used (but disregarding use for incidental or other minor purposes).

(9) For the purposes of this paragraph the reference to use solely for a relevant residential purpose is to be read without regard to Note (12) of Group 5 of Schedule 9 (which would otherwise apply as a result of paragraph 33 of this Schedule).

(10) The Treasury may publish a notice for the purposes of this paragraph —
(a) preventing a person from giving any certificate under this paragraph unless the person meets conditions specified in the notice,
(b) specifying the form in which any certificate under this paragraph must be made, and
(c) specifying any information which any certificate under this paragraph must contain.

7 Charities

(1) An option to tax has no effect in relation to any grant made to a person in relation to a building or part of a building intended by the person for use —

(a) solely for a relevant charitable purpose, but

(b) not as an office.

(2) In relation to the expression “relevant charitable purpose”, see the certification requirement imposed as a result of the application of Note (12) of Group 5 of Schedule 9 by paragraph 33 of this Schedule.

8 Residential caravans

(1) An option to tax has no effect in relation to any grant made in relation to a pitch for a residential caravan.

(2) A caravan is not a residential caravan if residence in it throughout the year is prevented by the terms of a covenant, statutory planning consent or similar permission.

9 Residential houseboats

(1) An option to tax has no effect in relation to any grant made in relation to facilities for the mooring of a residential houseboat.

“Mooring” includes anchoring or berthing.

(2) In this paragraph —

(a) “houseboat” means a houseboat within the meaning of Group 9 of Schedule 9, and

(b) a houseboat is not a residential houseboat if residence in it throughout the year is prevented by the terms of a covenant, statutory planning consent or similar permission.

10 Relevant housing association

(1) An option to tax has no effect in relation to any grant made to a relevant housing association in relation to any land if the association certifies that the land is to be used (after any necessary demolition work) for the construction of a building or buildings intended for use —

(a) as a dwelling or number of dwellings, or

(b) solely for a relevant residential purpose.

(2) The association must give the certificate to the person making the grant (“the seller”) —

(a) within the period specified in a public notice, or
(b) if the seller agrees, at any later time before the seller makes a supply to which the grant gives rise.

(3) In this paragraph “relevant housing association” means —

(a) a private registered provider of social housing within the meaning of section 80(3) of the Housing and Regeneration Act 2008 (c.17 of Parliament) (provider of social housing);

(b) a registered social landlord within the meaning of Part 1 of the Housing Act 1996 (c.52 of Parliament) (Welsh registered social landlords);

(c) a registered social landlord within the meaning of the Housing (Scotland) Act 2001 (asp 10 of the Scottish Parliament) (Scottish registered social landlords); or

(d) a registered housing association within the meaning of Part II of the Housing (Northern Ireland) Order 1992 (Northern Irish registered housing associations).\(^\text{1123}\)

(4) For the purposes of this paragraph the reference to use solely for a relevant residential purpose is to be read without regard to Note 12 of Group 5 of Schedule 9 (which would otherwise apply as a result of paragraph 33 of this Schedule).

(5) The Treasury may publish a notice for the purposes of this paragraph —

(a) specifying the form in which any certificate under this paragraph must be made, and

(b) specifying any information which any certificate under this paragraph must contain.

11 Grant to individual for construction of dwelling

An option to tax has no effect in relation to any grant made to an individual if —

(a) the land is to be used for the construction of a building intended for use by the individual as a dwelling, and

(b) the construction is not carried out in the course or furtherance of a business carried on by the individual.

Anti-avoidance

12 Developers of exempt land

(1) A supply is not, as a result of an option to tax, a taxable supply if —

(a) the grant giving rise to the supply was made by a person (“the grantor”) who was a developer of the land, and

(b) the exempt land test is met.

(2) The exempt land test is met if, at the time when the grant was made (or treated for the purposes of this paragraph as made), the relevant person intended or expected that the land —
(a) would become exempt land (whether immediately or eventually and whether or not as a result of the grant), or
(b) would continue, for a period at least, to be exempt land.

(3) “The relevant person” means —
(a) the grantor, or
(b) a development financier.

(4) For the meaning of a development financier, see paragraph 14.

(5) For the meaning of “exempt land”, see paragraphs 15 and 16.

(6) If a supply is made by a person other than the person who made the grant giving rise to it —
(a) the person making the supply is treated for the purposes of this paragraph as the person who made the grant giving rise to it, and
(b) the grant is treated for the purposes of this paragraph as made at the time when that person made the first supply arising from the grant.

(7) For a special rule in the case of a grant made on or after 19th March 1997 and before 10th March 1999, see paragraph 17.

(8) Nothing in this paragraph applies in relation to a supply arising from —
(a) a grant made before 26th November 1996, or
(b) a grant made on or after that date but before 30th November 1999, in pursuance of a written agreement entered into before 26th November 1996, on terms which (as terms for which provision was made by that agreement) were fixed before 26th November 1996.

13 Meaning of grants made by a developer

(1) This paragraph applies for the purposes of paragraph 12.

(2) A grant made by any person (“the grantor”) in relation to any land is made by a developer of the land if —
(a) the land is, or was intended or expected to be, a relevant capital item (see sub-paragraphs (3) to (5)), and
(b) the grant is made at an eligible time as respects that capital item (see sub-paragraph (6)).

(3) The land is a relevant capital item if —
(a) the land, or
(b) the building or part of a building on the land,
is a capital item in relation to the grantor.

(4) The land was intended or expected to be a relevant capital item if the grantor, or a development financier, intended or expected that —
(a) the land, or
(b) a building or part of a building on, or to be constructed on, the land,

would become a capital item in relation to the grantor or any relevant transferee.

(5) A person is a relevant transferee if the person is someone to whom the land, building or part of a building was to be transferred —

(a) in the course of a supply, or
(b) in the course of a transfer of a business or part of a business as a going concern.

(6) A grant is made at an eligible time as respects a capital item if it is made before the end of the period provided in the relevant regulations for the making of adjustments relating to the deduction of input tax as respects the capital item.

(7) But if —

(a) a person other than the grantor is treated by paragraph 12(6) as making the grant of the land, and
(b) the grant is consequently treated as made at what would otherwise be an ineligible time,

the grant is treated instead as if were not made at an ineligible time.

(8) In this paragraph a “capital item”, in relation to any person, means an asset falling, in relation to the person, to be treated as a capital item for the purposes of the relevant regulations.

(9) In this paragraph “the relevant regulations”, as respects any item, means regulations under section 26(3) and (4) providing for adjustments relating to the deduction of input tax to be made as respects that item.

14 Meaning of “development financier”

(1) This paragraph explains for the purposes of paragraphs 12 to 17 what is meant, in relation to the grantor of any land, by a development financier.

(2) A “development financier” means a person who —

(a) has provided finance for the grantor’s development of the land, or
(b) has entered into any agreement to provide finance for the grantor’s development of the land,

with the intention or in the expectation that the land will become exempt land or continue (for a period at least) to be exempt land.

(3) For the purposes of this paragraph references to finance being provided for the grantor’s development of the land are to doing (directly or indirectly) any one or more of the following —

(a) providing funds for meeting the whole or any part of the cost of the grantor’s development of the land,
(b) procuring the provision of such funds by another,
(c) providing funds for discharging (in whole or in part) any liability that has been or may be incurred by any person for or in connection with the raising of funds to meet the cost of the grantor’s development of the land, and
(d) procuring that any such liability is or will be discharged (in whole or in part) by another.

(4) For the purposes of this paragraph references to providing funds for a particular purpose are to —
(a) the making of a loan of funds that are or are to be used for that purpose,
(b) the provision of any guarantee or other security in relation to such a loan,
(c) the provision of any of the consideration for the issue of any shares or other securities issued wholly or partly for raising those funds,
(d) the provision of any consideration for the acquisition by any person of any shares or other securities issued wholly or partly for raising those funds, or
(e) any other transfer of assets or value as a consequence of which any of those funds are made available for that purpose.

(5) For the purposes of this paragraph references to the grantor’s development of the land are to the acquisition by the grantor of the asset which —
(a) consists in the land or a building or part of a building on the land, and
(b) is, or (as the case may be) was intended or expected to be, a relevant capital item in relation to the grantor (within the meaning of paragraph 13).

(6) For this purpose the reference to the acquisition of the asset includes —
(a) its construction or reconstruction, and
(b) the carrying out in relation to it of any other works by reference to which it is, or was intended or expected to be, a relevant capital item (within the meaning of paragraph 13).

(7) In this paragraph “arrangement” means any agreement, arrangement or understanding (whether or not legally enforceable).

15 Meaning of “exempt land”: basic definition

(1) This paragraph explains for the purposes of paragraphs 12 to 17 what is meant by exempt land.

(2) Land is exempt land if, at any time before the end of the relevant adjustment period as respects that land —
(a) a relevant person is in occupation of the land, and
(b) that occupation is not wholly, or substantially wholly, for eligible purposes.

(3) Each of the following is a relevant person —
   (a) the grantor,
   (b) a person connected with the grantor,
   (c) a development financier, and
   (d) a person connected with a development financier.

(3A) Where a person ("P") is in occupation of the land at any time before the end of the relevant adjustment period as respects that land, P is treated for the purposes of sub-paragraph (2) as not in occupation of the land at that time if —
   (a) the building occupation conditions are met at that time, or
   (b) P’s occupation of the land arises solely by reference to any automatic teller machine of P.\textsuperscript{1124}

(4) The relevant adjustment period as respects any land is the period provided in the relevant regulations (within the meaning of paragraph 13) for the making of adjustments relating to the deduction of input tax as respects the land.

(5) For the purposes of this paragraph any question whether a person’s occupation of any land is “wholly, or substantially wholly,” for eligible purposes is to be decided by reference to criteria specified in a public notice.

15A Meaning of “exempt land”: the building occupation conditions

(1) For the purposes of paragraph 15(3A), the building occupation conditions are met at any time (“the time in question”) if —
   (a) the grant consists of or includes the grant of a relevant interest in a building, and
   (b) P does not, at the time in question, occupy
      (i) any part of the land that is not a building, or
      (ii) more than the maximum allowable percentage of any relevant building.\textsuperscript{1125}

(2) For the purposes of sub-paragraph (1)(b)(i) and (ii) occupation by a person connected with P is treated as occupation by P if that occupation is not wholly, or substantially wholly, for eligible purposes.\textsuperscript{1126}

(3) For the purposes of sub-paragraph (1)(b)(i) occupation by a person of —
   (a) land used for the parking of cars of other vehicles, or
   (b) land that is within the curtilage of a building,

is disregarded if the occupation is ancillary to the occupation by that person of a building.
(4) In sub-paragraph (1)(b)(ii) —

"the maximum allowable percentage" means —

(a) 2% where P is the grantor or a person connected with the grantor, and

(b) 10% where P is a development financier or a person connected with a development financier (but not also the grantor), and

"relevant building" —

(a) means a building any relevant interest in which is included in the grant, other than any part of such a building in which, immediately before the grant, neither the grantor nor any person connected with the grantor held a relevant interest, but

(b) does not include any building P’s occupation of which arises solely by reference to any automatic teller machine of P.¹¹²⁷

(5) The way in which occupation by a person of a building is measured for the purposes of sub-paragraph (1)(b)(ii) is to be determined in accordance with conditions specified in a public notice.*¹¹²⁸

(6) In this paragraph “relevant interest”, in relation to a building or part of a building, means any interest in, right over or licence to occupy the building or part.

(6A) Sub-paragraph (5) of paragraph 15 (determination of whether occupation "wholly, or substantially wholly" for eligible purposes to be by reference to criteria in public notice) applies for the purposes of this paragraph.¹¹²⁹

(7) Sub-paragraphs (4) to (7) of paragraph 18 (meaning of “building”) apply for the purposes of this paragraph.¹¹³⁰

16 Meaning of “exempt land”: eligible purposes

(1) This paragraph explains what is meant for the purposes of paragraph 15 by a person occupying land for eligible purposes.

(2) A person cannot occupy land at any time for eligible purposes unless the person is a taxable person at that time (but this rule is qualified by sub-paragraphs (5) and (6)).

(3) A taxable person occupies land for eligible purposes so far as the occupation is for the purpose of making creditable supplies (but this rule is qualified by sub-paragraphs (5) to (7)).

(4) “Creditable supplies” means supplies which —

(a) are or are to be made in the course or furtherance of a business carried on by the person, and

(b) are supplies of such a description that the person would be entitled to a credit for any input tax wholly attributable to those supplies.
(5) Any occupation of land by a body to which section 33 applies (local authorities etc) is occupation of the land for eligible purposes so far as the occupation is for purposes other than those of a business carried on by the body.

(6) Any occupation of land by a Government authority (within the meaning of section 41) is occupation of the land for eligible purposes.

(7) [Repealed]\textsuperscript{131}

(8) If a person occupying land —

\begin{itemize}
  \item[(a)] holds the land in order to put it to use for particular purposes, and
  \item[(b)] does not occupy it for any other purpose,
\end{itemize}

the person is treated for the purposes of this paragraph, for so long as the conditions in paragraphs (a) and (b) continue to be met, as occupying the land for the purposes for which the person proposes to use it.

(9) If land is in the occupation of a person (“A”) who —

\begin{itemize}
  \item[(a)] is not a taxable person, but
  \item[(b)] is a person whose supplies are treated for the purposes of this Act as made by another person (“B”) who is a taxable person,
\end{itemize}

the land is treated for the purposes of this paragraph as if A and B were a single taxable person.

(10) For the purposes of this paragraph a person occupies land —

\begin{itemize}
  \item[(a)] whether the person occupies it alone or together with one or more other persons, and
  \item[(b)] whether the person occupies all of the land or only part of it.
\end{itemize}

17 \textbf{Paragraph 12: grants made on or after 19th March 1997 and before 10th March 1999}

(1) A grant in relation to land which was made —

\begin{itemize}
  \item[(a)] on or after 19th March 1997, and
  \item[(b)] before 10th March 1999,
\end{itemize}

is treated for the purposes of paragraph 12 as made on 10th March 1999 if, at the time of the grant, the capital item test was met.

(2) The capital item test was met if the person making the grant, or a development financier, intended or expected that —

\begin{itemize}
  \item[(a)] the land, or
  \item[(b)] a building or part of a building on, or to be constructed on, the land,
\end{itemize}

would become a capital item in relation to the grantor or any relevant transferee but it had not become such an item.
(3) For the purposes of that test “capital item” and “relevant transferee” have the meaning given by paragraph 13.

Scope of the option, its duration, notification etc

18 Scope of the option

(1) An option to tax has effect in relation to the particular land specified in the option.

(2) If an option to tax is exercised in relation to —
   (a) a building, or
   (b) part of a building,

the option has effect in relation to the whole of the building and all the land within its curtilage.

(3) If an option to tax —
   (a) is exercised in relation to any land, but
   (b) is not exercised by reference to a building or part of a building,

the option is nonetheless taken to have effect in relation to any building which is (or is to be) constructed on the land (as well as in relation to land on which no building is constructed).

(4) For the purposes of this paragraph —
   (a) buildings linked internally or by a covered walkway, and
   (b) complexes consisting of a number of units grouped around a fully enclosed concourse,

are treated as a single building.

(5) But for those purposes —
   (a) buildings which are linked internally are not treated as a single building if the internal link is created after the buildings are completed, and
   (b) buildings which are linked by a covered walkway are not treated as a single building if the walkway starts to be constructed after the buildings are completed.

(6) In this paragraph a “building” includes —
   (a) an enlarged or extended building,
   (b) an annexe to a building, and
   (c) a planned building.

(7) In this paragraph “covered walkway” does not include a covered walkway to which the general public has reasonable access.
19  The day from which the option has effect

(1)  An option to tax has effect from —
    (a)  the start of the day on which it is exercised, or
    (b)  the start of any later day specified in the option.

(2)  But if, when an option to tax is exercised, the person exercising the option
    intends to revoke it in accordance with paragraph 23 (revocation of option: the “cooling
    off” period), the option is treated for the purposes of this Act as if it had never been
    exercised.

(3)  An option to tax may be revoked in accordance with paragraph 22(2) or
    (3) and any of paragraphs 23 to 25, but not otherwise.

(4)  This paragraph needs to be read with —
    (a)  paragraph 20 (requirement to notify the option), and
    (b)  paragraph 29(3) (application for prior permission in the case of an
         exempt grant before the exercise of an option to tax).

20  Requirement to notify the option

(1)  An option to tax has effect only if —
    (a)  notification of the option is given to the Treasury within the
         allowed time, and
    (b)  that notification is given together with such information as the
         Treasury may require.

(2)  Notification of an option is given within the allowed time if (and only if)
    it is given —
    (a)  before the end of the period of 30 days beginning with the day on
         which the option was exercised, or
    (b)  before the end of such longer period beginning with that day as the
         Treasury may in any particular case allow.

(3)  The Treasury may publish a notice for the purposes of this paragraph
    specifying —
    (a)  the form in which a notification under this paragraph must be
         made, and
    (b)  the information which a notification under this paragraph must
         contain.

(4)  Notification of an option to tax does not need to be given under this
    paragraph if the option is treated as exercised in accordance with paragraph 29(3).

21  Real estate elections: elections to opt to tax land subsequently acquired

(1)  A person (E) may make an election (a “real estate election”) for this
    paragraph to have effect in relation to —
(a) relevant interests in any building or land which E acquires after the election is made, and
(b) relevant interests in any building or land which a person acquires after the election is made at a time when the person is a relevant group member.  

(2) If E makes a real estate election —

(a) E is treated for the purposes of this Part of this Schedule as if E had exercised an option to tax in relation to the building or land in which the relevant interest is acquired,
(b) that option is treated for those purposes as if it had been exercised on the day on which the acquisition was made and as if it had effect from the start of that day, and
(c) paragraph 20 does not apply in relation to that option,

but this sub-paragraph is subject to sub-paragraphs (3) to (5).

(3) A person (P) is not to be treated as a result of this paragraph as exercising an option to tax in relation to any building or land where at any time —

(a) P, or any person who was a relevant group member at that time, exercises an option to tax in relation to the building (or part of the building) or land apart from this paragraph, and
(b) that option has effect from a time earlier than the time from which an option to tax exercised by P in relation to the building or land would otherwise have been treated as having effect as a result of this paragraph.

(4) A person (P) is not to be treated as a result of this paragraph as exercising an option to tax in relation to any building or land in which a relevant interest is acquired (“the later interest”) if —

(a) the person making the acquisition in question held another relevant interest in that building or land before P makes a real estate election, and
(b) the person making the acquisition in question continues to hold that other relevant interest at the time when the later interest is acquired.

(5) A person is not to be treated as a result of this paragraph as exercising an option to tax in relation to any building or land if —

(a) a relevant interest in the building or land is acquired as mentioned in sub-paragraph (1), and
(b) on the relevant assumptions the case would fall within paragraph 28 (pre-option exempt grants: requirement for prior permission before exercise of option to tax).

(6) The relevant assumptions are that —
(a) the effect of this paragraph is disregarded, and
(b) the day from which the person would want the option to tax to have effect for the purposes of paragraphs 28 or 29(3) is the day on which the relevant interest is acquired.

(7) A real estate election has effect only if —
(a) notification of the election is given to the Treasury before the end of the period of 30 days beginning with the day on which it was made or such longer period as the Treasury may in any particular case allow,
(b) the notification is made in a form specified in a public notice, and
(c) the notification contains information so specified.

(8) The Treasury may at any time require a person who has made a real estate election to give to the Treasury information specified in a public notice before the end of —
(a) the period of 30 days beginning with that time, or
(b) such longer period as the Treasury may in any particular case allow.

(9) If a person (P) does not comply with that requirement —
(a) the Treasury may revoke the election, and
(b) that revocation has effect in relation to relevant interests in any building or land acquired after the notified time by P or a person who is a relevant group member at the time of acquisition.\textsuperscript{1134}

“The notified time” means the time specified in a notification given by the Treasury to P (which may not be before the notification is given).

(10) A real estate election may not be revoked except in accordance with sub-paragraph (9).

(11) If a real estate election made by a person (P) is revoked in accordance with that sub-paragraph, another real estate election may be made at any subsequent time by —
(a) P, or
(b) any person who is a relevant group member at that subsequent time,\textsuperscript{1135}

but only with the prior permission of the Treasury.

(12) In this paragraph —

“relevant group member”, in relation to any person (“P”) making a real estate election and any time, means a person who is treated under sections 43A to 43E as a member of the same group as P at that time, and\textsuperscript{1136}
“relevant interest”, in relation to any building or land, means any interest in, right over or licence to occupy the building or land (or any part of it).

(13) For the purposes of this paragraph, the time at which a relevant interest in any building or land is acquired is —
   (a) the time at which a supply is treated as taking place for the purposes of the charge to VAT in respect of the acquisition, or
   (b) if there is more than one such time, the earliest of them.\textsuperscript{1137}

(14) For the purposes of sub-paragraph (13)(a), any order under section 5(3)(c) that would otherwise have effect that the acquisition in question is to be treated as neither a supply of goods nor a supply of services is to be disregarded.\textsuperscript{1138}

22 Real estate elections: supplementary

(1) This paragraph applies if, at any time (“the relevant time”), a person (E) makes a real estate election under paragraph 21.

(2) An option to tax exercised in relation to any building or part of any building before the relevant time by —
   (a) E, or
   (b) any relevant group member,

is treated for the purposes of this Part of this Schedule as if it had been revoked from the relevant time if, at that time, neither E nor any relevant group member has a relevant interest in that building.

(3) An option to tax exercised in relation to any land (otherwise than by reference to any building or part of a building) before the relevant time by —
   (a) E, or
   (b) any relevant group member,

is treated for the purposes of this Part of this Schedule as if it had been revoked in accordance with sub-paragraph (4) from the relevant time if, at that time, neither E nor any relevant group member has a relevant interest in only some of it.

(4) The option is treated for the purposes of this Part of this Schedule as if it had been revoked in relation to —
   (a) that land, or
   (b) the parts of that land in which neither E nor any relevant group member has a relevant interest at the relevant time,

as the case may be.

(5) Sub-paragraphs (2) and (3) are subject to paragraph 26 (anti-avoidance).

(6) An option to tax (“the original option”) exercised in relation to any land (otherwise than by reference to any building or part of a building) before the relevant time by —
(a) E, or
(b) any relevant group member,

may, in circumstances specified in a public notice, be converted by E into separate options to tax if, at the relevant time, E or any relevant group member has a relevant interest in the land or any part of it.

(7) The original option is converted into separate options to tax different parcels of land comprised in that land or part.

(8) Those separate options to tax are treated for the purposes of this Part of this Schedule —

(a) as if they had been exercised by E, and
(b) as if they had effect from the time which the original option had effect.

(9) But —

(a) those separate options to tax are treated for the purposes of paragraph 3(2) as if they had effect from the relevant time, and
(b) paragraph 23 (revocation of an option: the “cooling off” period) does not apply to those separate options to tax.

(10) The notification of the election given by E must identify —

(a) the separate options to tax treated as exercised by E as a result of sub-paragraphs (6) to (8), and
(b) the different parcels of land in relation to which those separate options to tax are treated as having effect.

(11) In this paragraph —

(a) any reference to any relevant group member is to a body corporate which is a relevant group member at the relevant time, and
(b) any reference to any relevant group member, in relation to any relevant interest in any building or land (or any part of it), is to any relevant group member regardless of whether it has exercised an option to tax the building or land (or any part of it).

(12) In this paragraph “relevant group member” and “relevant interest”, have the meaning given by paragraph 21.

(13) In this paragraph any reference to a real estate election under paragraph 21 does not include an election which is made under sub-paragraph (11) of that paragraph.

23 Revocation of option: the “cooling off” period

(1) An option to tax any land exercised by any person (“the taxpayer”) may be revoked with effect from the day on which it was exercised if —
(a) the time that has lapsed since the day on which the option had effect is less than 6 months,

(b) [Repealed] 1139

(c) no tax has become chargeable as a result of the option,

(d) there is no relevant transfer of a business as a going concern (see sub-paragraph (2)), and

(e) notification of the revocation is given to the Treasury (see sub-paragraph (3)).

(2) There is no relevant transfer of a business as a going concern if, since the option had effect, no grant in relation to the land has been made which is treated as neither a supply of goods nor a supply of services because —

(a) the supply is a supply of the assets of a business by the taxpayer to a person to whom the business (or part of it) is transferred as a going concern, or

(b) the supply is a supply of assets of a business by a person to the taxpayer to whom the business (or part of it) is so transferred.

(3) The notification of the revocation must —

(a) be made in a form specified in a public notice, and

(b) contain information so specified.

(4) The Treasury may publish a notice for the purposes of this paragraph providing that a revocation under this paragraph is effective only if —

(a) the conditions specified in the notice are met in relation to the option, or

(b) the taxpayer gets the prior permission of the Treasury on an application made to it before the end of the 6 month period mentioned above.

(5) A notice under sub-paragraph (4) may —

(a) provide that, in a case falling within paragraph (a) of that sub-paragraph, the taxpayer must certify that the conditions specified under that paragraph are met in relation to the option,

(b) specify the form in which an application under paragraph (b) of that sub-paragraph must be made,

(c) provide that an application under that paragraph must contain a statement by the taxpayer certifying which (if any) of the conditions specified under sub-paragraph (4)(a) are met in relation to the option,

(d) specify other information which an application under sub-paragraph (4)(a) must contain, and

(e) provide that the Treasury may specify conditions subject to which its permission is given and, if any of those conditions are broken, the Treasury may treat the revocation as if it had not been made.
24 Revocation of option: lapse of 6 years since having a relevant interest

(1) An option to tax exercised by any person in relation to any building or land is treated for the purposes of this Part of this Schedule as revoked if the person does not have a relevant interest in the building or land throughout any continuous period of 6 years beginning at any time after the option has effect.

(2) The option to tax is treated for the purposes of this Part of this Schedule as revoked from the end of that period.

(3) In this paragraph “a relevant interest in the building or land” means an interest in, right over or licence to occupy the building or land (or any part of it).

(4) This paragraph is subject to paragraph 26 (anti-avoidance).

25 Revocation of option: lapse of more than 20 years since option had effect

(1) An option to tax any land exercised by any person (“the taxpayer”) may be revoked if the time that has lapsed since the day on which the option had effect is more than 20 years and —

(a) at the time when the option is to be revoked the conditions specified in a public notice are met in relation to the options (in which case, see sub-paragraphs (2) to (4)), or

(b) the taxpayer gets the prior permission of the Treasury (in which case, see the remaining sub-paragraphs).

(2) If the conditions specified in the public notice are met in relation to the option, the revocation has effect only if notification of the revocation is given to the Treasury.

(3) The notification must —

(a) be made in the specified form,

(b) state the day from which the option is to be revoked (which may not be before the day on which the notification is given),

(c) contain a statement by the taxpayer certifying that, on that day, the conditions specified in the public notice are met in relation to the option, and

(d) contain other information specified in a public notice.

(4) If —

(a) notification of the revocation of an option is given to the Treasury on the basis that the conditions specified in the public notice were met in relation to the option, but

(b) it is subsequently discovered that those conditions were not met in relation to the option,

the Treasury may nonetheless treat the option as if it had been validly revoked in accordance with this paragraph.
(5) An application for the prior permission of the Treasury must —
   (a) be made in a form specified in a public notice,
   (b) contain a statement by the taxpayer certifying which (if any) of the 
       conditions specified in the public notice under sub-
       paragraph (1)(a) are met in relation to the option, and
   (c) contain other information specified in a public notice.

(6) If the taxpayer gets the prior permission of the Treasury for the revocation 
    of an option, the option is revoked from —
   (a) the day on which the Treasury gives its permission, or
   (b) such earlier or later day or time as it may specify in its 
       permission.\footnote{1140}

(7) The Treasury may specify an earlier day or time only if —
   (a) the taxpayer has purported to give a notification of the revocation 
       of the option,
   (b) the conditions specified in the public notice are not, in the event, 
       met in relation to the option, and
   (c) the Treasury considers that the grounds on which those conditions 
       are not so met are insignificant.\footnote{1141}

(8) The Treasury may specify a day or time under sub-paragraph (6)(b) by 
    reference to the happening of an event or the meeting of a condition.\footnote{1142}

(9) The Treasury may specify conditions subject to which its permission is 
    given and, if any of those conditions are broken, it may treat the revocation as if it had 
    not been made.

26 Revocation of option under paragraph 22(2) or (3) or 24: anti-avoidance

(1) Sub-paragraphs (2) and (3) of paragraph 22 (revocation of option to tax 
    where a real estate election is made) do not apply if condition A or B is met.

(2) Paragraph 24 (lapse of option to tax) does not apply if condition A, B or C 
    is met.

(3) Condition A is that —
   (a) the opter, or a relevant associate of the opter, disposes of a relevant 
       interest in the building or land before the relevant time, and
   (b) at the relevant time, a supply for the purposes of the charge to VAT 
       in respect of the disposal —
       (i) is yet to take place, or
       (ii) would be yet to take place if one or more conditions (such 
           as the happening of an event or the doing of an act) were to 
           be met.

(4) Condition B is that —
(a) the opter is a body corporate that was, at any time before the relevant time, treated under sections 43A to 43D3 as a member of a group (“the group”), and

(b) before the relevant time, a relevant associate of the opter in relation to the building or land ceased to be treated under those sections as a member of the group without at the same meeting the conditions in sub-paragraph (5).

(5) A person (“A”) meets the conditions in this sub-paragraph if —

(a) A has no relevant interest in the building or land,

(b) where A has disposed of such an interest, it is not the case that a supply for the purposes of the charge to VAT in respect of the disposal —

(i) is yet to take place, or

(ii) would be yet to take place if one or more conditions (such as the happening of an event or the doing of an act) were to be met, and

(c) A is not connected with any person who has a relevant interest in the building or land where that person is the opter or another relevant associate of the opter.

(6) Condition C is that the opter is a body corporate and, at the relevant time, a relevant associate of the opter in relation to the building or land —

(a) is treated under sections 43A to 43D as a member of the same group as the opter, and

(b) holds a relevant interest in the building or land or has held such an interest at any time within the previous 6 years.

(7) In this paragraph —

“relevant interest in the building or land” means an interest in, right over or license to occupy the building or land (or any part of it);

“the relevant time”, in relation to any option to tax, means the time from which the option would (but for this paragraph) have been treated as revoked as a result of paragraph 22(2) or (3) or 24;

“opter” means the person who exercised the option to tax in question.1143

27 Exclusion of new building from effect of an option

(1) This paragraph applies if —

(a) a person (“the taxpayer”) has at any time opted to tax any land,

(b) at any subsequent time the construction of a building (“the new building”) on the land begins, and

(c) no land within the curtilage of the new building is within the curtilage of an existing building.
(2) The taxpayer may exclude —
   (a) the whole of the new building, and
   (b) all the land within its curtilage,

from the effect of the option if notification of that exclusion is given to the Treasury.

(3) The exclusion has effect from the earliest of the following times —
   (a) the time when a grant of an interest in, or in any part of, the new building is first made,
   (b) the time when the new building, or any part of it, is first used,
   (c) the time when the new building is completed.

(4) The notification of the exclusion must —
   (za) be given before the end of the period of 30 days beginning with the day on which it is to have effect or such longer period as the Treasury may in any case allow,\textsuperscript{1144}
   (a) be made in a form specified in a public notice,
   (b) state the time from which it is to have effect, and\textsuperscript{1145}
   (c) contain other information so specified.

(5) Sub-paragraphs (4) to (6) of paragraph 18 (meaning of “building”) apply for the purposes of this paragraph as they apply for the purposes of that paragraph.

(6) For the purposes of this paragraph the reference to the construction of a building is to be read without regard to Note (17) or (18)(b) of Group 5 of Schedule 9 (which would otherwise apply as a result of paragraph 33 of this Schedule).

(7) The Treasury may publish a notice for determining the time at which the construction of a building on any land is to be taken to begin for the purposes of this paragraph.

28 Pre-option exempt grants: requirement for prior permission before exercise of option to tax

(1) This paragraph applies if —
   (a) a person wants to exercise an option to tax any land with effect from a particular day,
   (b) at any time (“the relevant time”) before that day the person has made, makes or intends to make an exempt supply to which any grant in relation to the land gives rise, and
   (c) the relevant time is within the period of 10 years ending with that day.

(2) The person may exercise the option to tax the land only if —
   (a) the conditions specified in a public notice are met in relation to the land, or
(b) the person gets the prior permission of the Treasury (but see also paragraph 30).

(3) The Treasury must refuse its permission if it is not satisfied that there would be a fair and reasonable attribution of relevant input tax to relevant supplies.

(4) For this purpose —

“relevant input tax” means input tax incurred, or likely to be incurred, in relation to the land, and

“relevant supplies” means supplies to which any grant in relation to the land gives rise which would be taxable (if the option has effect).

(5) In deciding whether there would be a fair and reasonable attribution of relevant input tax to relevant supplies, the Treasury must have regard to all the circumstances of the case.

(6) But it must have regard in particular to —

(a) the total value of any exempt supply to which any grant in relation to the land gives rise and which is made or to be made before the day from which the person wants the option to have effect,

(b) the expected total value of any supply to which any grant in relation to the land gives rise that would be taxable (if the option has effect), and

(c) the total amount of input tax incurred, or likely to be incurred, in relation to the land.

29 Paragraph 28: application for prior permission

(1) An application for the prior permission of the Treasury under paragraph 28 must —

(a) be made in a form specified in a public notice,

(b) contain a statement by the applicant certifying which (if any) of the conditions specified in the public notice under paragraph 28(2)(a) are met in relation to the land, and

(c) contain other information specified in a public notice.

(2) The Treasury may specify conditions subject to which its permission is given and, if any of those conditions are broken, it may treat the application as if it had not been made.

(3) If the applicant (A) gets the prior permission of the Treasury, A is, as a result of this sub-paragraph, treated for the purposes of this Part of this Schedule as if A had exercised the option to tax the land with effect from —

(a) the start of the day on which the application was made, or

(b) the start of any later day specified in the application.
30  **Paragraph 28: purported exercise where prior permission not obtained**

(1) This paragraph applies if —
   (a) an option to tax was purportedly exercised in a case where, before the option could be exercised, the prior permission of the Treasury was required under paragraph 28, and
   (b) notification of the purported option was purportedly given to the Treasury in accordance with paragraph 20.

(2) The Treasury may, in the case of any such option, subsequently dispense with the requirement for its prior permission to be given under paragraph 28.

(3) If the Treasury dispenses with that requirement, a purported option —
   (a) is treated for the purposes of this Part of this Schedule as if it had instead been validly exercised, and
   (b) has effect in accordance with paragraph 19.

**Supplementary provisions**

31  **Timing of grant and supplies**

(1) This paragraph applies if —
   (a) an option to tax is exercised in relation to any land,
   (b) a grant in relation to the land would otherwise be taken to have been made (whether in whole or in part) before the time when the option has effect, and
   (c) the grant gives rise to supplies which are treated for the purposes of this Act as taking place after that time.

(2) For the purposes of this Part of this Schedule, the option to tax has effect, in relation to those supplies, as if the grant had been made after that time.

32  **Supplies in relation to a building where part designed or intended for residential or charitable use and part designed or intended for other uses**

Note (10) of Group 5 of Schedule 9 applies for the purposes of this Part of this Schedule.

33  **Definitions in Schedules 9 or 10 that are applied for the purposes of this Schedule**

In this Part of this Schedule, references to the expressions listed in the first column are to be read in accordance with the provisions listed in the second column —

<table>
<thead>
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<td>Note (2) to Group 5 of Schedule 9</td>
</tr>
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<td>completion of a building</td>
<td>Note (3) to Group 1 of Schedule 10</td>
</tr>
<tr>
<td>construction of a building</td>
<td>Notes (16) to (18) to Group 5 of Schedule 9</td>
</tr>
<tr>
<td>construction of a building intended for use as a dwelling or a number of dwellings</td>
<td>(but see paragraph 27(6) of this Schedule)</td>
</tr>
<tr>
<td>grant</td>
<td>Note (1) to Group 5 of Schedule 9</td>
</tr>
<tr>
<td>use for a relevant charitable purpose</td>
<td>Notes (1) and (2) to Group 1 of Schedule 10</td>
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<tr>
<td>use for a relevant residential purpose</td>
<td>Notes (6) and (12) to Group 5 of Schedule 9</td>
</tr>
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</table>

34 Other definitions etc

(1) In this Part of this Schedule —

"notification" means written notification, and

"permission" means written permission.

(2) For the purposes of this Part of this Schedule any question whether a person is connected with another person is to be decided in accordance with section 119C of the Income Tax Act 1970; but this is subject to sub-paragraph (2A).

(2A) For the purposes of this Part of this Schedule, a body corporate is not connected with another body corporate only because both are under the control of —

(a) the Crown,
(b) a Minister of the Crown,
(c) a government department, or
(d) a United Kingdom government department.

(2B) In sub-paragraph (2A) "control" has the same meaning as in section 119A of the Income Tax Act 1970.

(3) Any reference in any provision of this Part of this Schedule to a public notice is to a notice published by the Treasury for the purposes of that provision.

PART 2 – RESIDENTIAL AND CHARITABLE BUILDINGS: CHANGE OF USE ETC

35 Introductory

(1) This Part of this Schedule applies where one or more relevant zero-rated supplies relating to a building (or part of a building) have been made to a person ("P").

(2) In this Part of this Schedule —

"relevant zero-rated supply" means a grant or other supply which relates to a building (or part of a building) intended for use solely for —

(a) a relevant residential purpose, or
(b) a relevant charitable purpose,
and which, as a result of Group 5 of Schedule 9, is zero-rated (in whole or in part);

“relevant premises” means the building (or part of a building) in relation to which a relevant zero-rated supply has been made to P;

“relevant period”, in relation to relevant premises, means 10 years beginning with the day on which the relevant premises are completed.

(3) Where P is a person treated as a member of a group under sections 43A to 43D, any reference in this Part of this Schedule to P includes a reference to any member of that group.\1149\1150

36 Disposal of interest or change of use following relevant zero-rated supply

(1) Paragraph 37 applies on each occasion during the relevant period when —

(a) there is an increase in the proportion of the relevant premises falling within sub-paragraph (2) or (3), and

(b) as a result, the proportion of the relevant premises so falling (“R2”) exceeds the maximum proportion of those premises so falling at any earlier time in the relevant period (“R1”).

(2) The relevant premises fall (or part of the relevant premises falls) within this sub-paragraph if P has, since the beginning of the relevant period, disposed of P’s entire interest in the relevant premises (or part).

(3) The relevant premises fall (or a part of the relevant premises falls) within this sub-paragraph if —

(a) those premises do not (or that part does not) fall within sub-paragraph (2), and

(b) those premises are (or that part is) being used for a purpose that is neither a relevant residential purpose nor a relevant charitable purpose.

(4) Sub-paragraph (5) applies where —

(a) only a proportion of the use of the relevant premises (or the use of a part of those premises) is for a relevant residential purpose or a relevant charitable purpose, and

(b) that use is not confined to a part of those premises (or of that part) which is used solely for a relevant residential purpose or a relevant charitable purpose.

(5) Where this sub-paragraph applies, sub-paragraph (3) applies as if —

(a) the same proportion of the relevant premises (or part) were being used for a relevant residential purpose or a relevant charitable purpose, and
(b) the remainder of the relevant premises (or part) were being used for a purpose that is neither a relevant residential purpose nor a relevant charitable purpose.

(6) Where P is a charity using the relevant premises (or a part of the relevant premises) as a village hall or similarly in providing social or recreational facilities for a local community the premises are (or the part is) treated as being used for a relevant charitable purpose whether or not any person in occupation is using the premises (or part) for a relevant charitable purpose.\textsuperscript{1151}

37 Charge to VAT

(1) Where this paragraph applies, P’s interest, right or licence in the relevant premises held immediately prior to the time when the increase referred to in paragraph 36(1) occurs is treated for the purposes of this Part of this Schedule as —

(a) supplied to P for the purposes of a business which P carries on, and

(b) supplied by P in the course or furtherance of that business immediately prior to the time of that increase.

(2) The supply is taken to be a taxable supply which is not zero-rated as a result of Group 5 of Schedule 9.

(3) The value of the supply is taken to be —

(a) in the case of the first deemed supply under this paragraph, the amount obtained by the formula —

\[ R2 \times Y \times \left( \frac{120-Z}{120} \right) \],

and

(b) in the case of any subsequent deemed supply under this paragraph, the amount obtained by the formula —

\[ (R2 - R1) \times Y \times \left( \frac{120-Z}{120} \right) \].

(4) For the purpose of sub-paragraph (3) —

(a) R1 and R2 have the meaning given by paragraph 36(1)(b),

(b) Y is the amount that yields an amount of VAT chargeable on it equal to —

(i) the VAT which would have been chargeable on the relevant zero-rated supply, or

(ii) if there was more than one supply, the aggregate amount of the VAT which would have been chargeable on the supplies, had the relevant premises not been intended for use solely for a relevant residential purpose or a relevant charitable purpose, and

(c) Z is the number of whole months since the day on which the relevant premises were completed.\textsuperscript{1152}

38 Supplies in relation to a building where part designed for residential or
charitable use and part designed for other uses

Note (10) of Group 5 of Schedule 9 applies for the purposes of this part of this Schedule.

39 Definitions

In this Part of this Schedule, references to the expressions listed in the first column are to be read in accordance with the provisions listed in the second column —

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PART 3 – GENERAL

40 Benefit of consideration for grant accruing to a person other than the grantor

(1) This paragraph applies if the benefit of the consideration for the grant of an interest in, right over or licence to occupy land accrues to a person (“the beneficiary”) other than the person making the grant.

(2) The beneficiary is to be treated for the purposes of this Act as the person making the grant.

(3) So far as any input tax of the person actually making the grant is attributable to the grant, it is to be treated for the purposes of this Act as input tax of the beneficiary.

Schedule 11A

DISCLOSURE OF AVOIDANCE SCHEMES BEFORE 1 MAY 2019

Section 58A

Interpretation

1. In this Schedule —

   “designated scheme” has the meaning given by paragraph 3(4);  
   “non-deductible tax”, in relation to a taxable person, has the meaning given by paragraph 2A;  
   “notifiable scheme” has the meaning given by paragraph 5(1);  
   “scheme” includes any arrangements, transaction or series of transactions;
“**tax advantage**” is to be read in accordance with paragraph 2.

**Obtaining a tax advantage**

2. (1) For the purposes of this Schedule, a taxable person obtains a tax advantage if —

   (a) in any prescribed accounting period, the amount by which the output tax accounted for by that person exceeds the input tax deducted by him is less than it would otherwise be,

   (b) that person obtains a VAT credit when they would not otherwise do so, or obtains a larger VAT credit or obtains a VAT credit earlier than would otherwise be the case,

   (c) in a case where that person recovers input tax as a recipient of a supply before the supplier accounts for the output tax, the period between the time when the input tax is recovered and the time when the output tax is accounted for is greater than would otherwise be the case, or

   (d) in any prescribed accounting period, the amount of that person’s non-deductible tax is less than it would otherwise be.

(2) For the purposes of this Schedule, a person who is not a taxable person obtains a tax advantage if their non-refundable tax is less than it would otherwise be.

(3) In sub-paragraph (2), “**non-refundable tax**”, in relation to a person who is not a taxable person, means —

   (a) VAT on the supply to that person of any goods or services, and

   (b) [Repealed]¹¹⁵⁶

   (c) VAT paid or payable by that person on the importation of any goods,¹¹⁵⁷

but excluding (in each case) any VAT in respect of which that person is entitled to a refund from the Treasury by virtue of any provision of this Act.¹¹⁵⁸

**Meaning of “non-deductible tax”**

2A. (1) In this Schedule “**non-deductible tax**”, in relation to a taxable person, means —

   (a) input tax for which that person is not entitled to credit under section 25, and

   (b) any VAT incurred by that person which is not input tax and in respect of which that person is not entitled to a refund from the Treasury by virtue of any provision of this Act.

(2) For the purposes of sub-paragraph (1)(b), the VAT “incurred” by a taxable person is —

   (a) VAT on the supply to that person of any goods or services, and
(b) [Repealed]\[1159

(c) VAT paid or payable by that person on the importation of any goods.\[1160 1161

Designation by order of avoidance schemes

3. (1) If it appears to the Treasury —

(a) that a scheme of a particular description has been, or might be, entered into for the purpose of enabling any person to obtain a tax advantage, and

(b) that it is unlikely that persons would enter into a scheme of that description unless the main purpose, or one of the main purposes, of doing so was the obtaining by any person of a tax advantage,

the Treasury may by order designate that scheme for the purposes of this paragraph.

(2) A scheme may be designated for the purposes of this paragraph even though the Treasury is of the opinion that no scheme of that description could as a matter of law result in the obtaining by any person of a tax advantage.

(3) The order must allocate a reference number to each scheme.

(4) In this Schedule “designated scheme” means a scheme of a description designated for the purposes of this paragraph.

Designation by order of provisions included in or associated with avoidance schemes

4. (1) If it appears to the Treasury that a provision of a particular description is, or is likely to be, included in or associated with schemes that are entered into for the purpose of enabling any person to obtain a tax advantage, the Treasury may by order designate that provision for the purposes of this paragraph.

(2) A provision may be designated under this paragraph even though it also appears to the Treasury that the provision is, or is likely to be, included in or associated with schemes that are not entered into for the purpose of obtaining a tax advantage.

(3) In this paragraph “provision” includes any agreement, transaction, act or course of conduct.

Meaning of “notifiable scheme”

5. (1) For the purposes of this Schedule, a scheme is a “notifiable scheme” if —

(a) it is a designated scheme, or

(b) although it is not a designated scheme, conditions A or B are met in relation to it.

(2) Condition A is that the scheme includes, or is associated with, a provision of a description designated under paragraph 4.
(3) Condition B is that the scheme has as its main purpose, or one of its main purposes, the obtaining of a tax advantage by any person.

_Duty to notify the Treasury_

6. (1) This paragraph applies in relation to a taxable person where —

(a) the amount of VAT shown in a return in respect of a prescribed accounting period as payable by or to him or to him is less than or greater than that it would be but for any notifiable scheme to which he is party,

(b) he makes a claim for the repayment of output tax or an increase in credit for input tax in respect of any prescribed accounting period in respect of which he has previously delivered a return and the amount claimed is greater than it would be but for such a scheme, or

(c) the amount of that person’s non-deductible tax in respect of any prescribed accounting period is less than it would be but for such a scheme.\(^\text{1162}\)

(2) Where the scheme is a designated scheme, the taxable person must notify the Treasury within the prescribed time, and in such form and manner as may be required by or under regulations, of the reference number allocated to the scheme under paragraph 3(3).

(2A) Sub-paragraph (2) does not apply to a taxable person in relation to any scheme if that person has on a previous occasion —

(a) notified the Treasury under that sub-paragraph in relation to the scheme, or

(b) provided the Treasury with prescribed information under sub-paragraph (3) (as it applied before the scheme became a designated scheme) in relation to the scheme.\(^\text{1163}\)

(3) Where the scheme is not a designated scheme, the taxable person must, subject to sub-paragraph (4), provide the Treasury within the prescribed time, and in such form and manner as may be required by or under regulations, with prescribed information relating to the scheme.

(4) Sub-paragraph (3) does not apply where the scheme is one in respect of which any person has previously —

(a) provided the Treasury with prescribed information under paragraph 9, and

(b) provided the taxable person with a reference number notified to him by the Treasury under paragraph 9(2)(b).

(5) Sub-paragraph (3) also does not apply where the scheme is one in respect of which the taxable person has on a previous occasion provided the Treasury with prescribed information under that sub-paragraph.\(^\text{1164}\)
(6) This paragraph has effect subject to paragraph 7.

*Exemptions from duty to notify under paragraph 6*

7. (1) Paragraph 6 does not apply to a taxable person in relation to a scheme —

(a) where the taxable person is not a group undertaking in relation to any other undertaking and conditions A and B, as they have effect in relation to the scheme, are met in relation to the taxable person, or

(b) where the taxable person is a group undertaking in relation to any other undertaking and conditions A and B, as they have effect in relation to the scheme, are met in relation to the taxable person and every other group undertaking.

(2) Condition A is that the total value of the person’s taxable supplies and exempt supplies in the period of twelve months ending immediately before the beginning of the relevant period is less than the minimum turnover.

(3) Condition B is that the total value of the person’s taxable supplies and exempt supplies in the prescribed accounting period immediately preceding the relevant period is less than the appropriate proportion of the minimum turnover.

(4) In sub-paragraphs (2) and (3) “the minimum turnover” means —

(a) in relation to a designated scheme, £600,000, and

(b) in relation to any other notifiable scheme, £10,000,000.

(5) In sub-paragraph (3) “the appropriate proportion” means the proportion which the length of the prescribed accounting period bears to twelve months.

(6) The value of a supply of goods or services shall be determined for the purposes of this paragraph on the basis that no VAT is chargeable on the supply.

(7) The Treasury may by order substitute for the sum for the time being specified in sub-paragraph (4)(a) or (b) such other sum as it thinks fit.

(8) This paragraph has effect subject to paragraph 8.

(9) In this paragraph —

“relevant period” means the prescribed accounting period referred to in paragraph 6(1)(a), (b) or (c),

“undertaking” means:

(a) a body corporate, partnership or a limited liability company, or

(b) an incorporated association carrying on a trade or business, with or without a view to profit.

“group undertaking” means an undertaking which is:

(a) a parent undertaking or subsidiary undertaking of that undertaking, or
(b) a subsidiary undertaking of any parent undertaking of that undertaking.

Power to exclude exemption

8. (1) The purpose of this paragraph is to prevent the maintenance or creation of any artificial separation of business activities carried on by two or more persons from resulting in an avoidance of the obligations imposed by paragraph 6.

(2) In determining for the purposes of sub-paragraph (1) whether any separation of business activities is artificial, regard shall be had to the extent to which the different persons carrying on those activities are closely bound to one another by financial, economic and organisational links.

(3) If the Treasury makes a direction under this section —

(a) the persons named in the direction shall be treated for the purposes of paragraph 7 as a single taxable person carrying on the activities of a business described in the direction with effect from the date of the direction or, if the direction so provides, from such later date as may be specified in the direction, and

(b) if paragraph 7 would not exclude the application of paragraph 6, in respect of any notifiable scheme, to that single taxable person, it shall not exclude the application of paragraph 6, in respect of that scheme, to the persons named in the direction.

(4) The Treasury shall not make a direction under this section naming any person unless it is satisfied —

(a) that he is making or has made taxable or exempt supplies,

(b) that the activities in the course of which he makes those supplies form only part of certain activities, the other activities being carried on concurrently or previously (or both) by one or more persons, and

(c) that, if all the taxable and exempt supplies of the business described in the direction were taken into account, conditions A and B in paragraph 7(2) and (3), as those conditions have effect in relation to designated schemes, would not be met in relation to that business.

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

(6) A direction under this paragraph remains in force until it is revoked or replaced by a further direction.

Voluntary notification of avoidance scheme that is not designated scheme

9. (1) Any person may, at any time, provide the Treasury with prescribed information relating to a scheme or proposed scheme of a particular description which is (or, if implemented, would be) a notifiable scheme by virtue of paragraph 5(1)(b).
(2) On receiving the prescribed information, the Treasury may —
   (a) allocate a reference number to the scheme (if it has not previously
done so under this paragraph), and
   (b) notify the person who provided the information of the number
allocated.

Penalty for failure to notify use of notifiable scheme

10. (1) A person who fails to comply with paragraph 6 shall be liable, subject to
sub-paragraphs (2) and (3), to a penalty of an amount determined under paragraph
11.

(2) Conduct falling within sub-paragraph (1) shall not give rise to liability
under this paragraph if the person concerned satisfies the Treasury or, on appeal, a
tribunal that there is a reasonable excuse for the failure.

(3) Where, by reason of conduct falling within sub-paragraph (1) —
   (a) a person is convicted of an offence (whether under this Act or
otherwise), or
   (b) a person is assessed to a penalty under section 60 or a penalty for a
deliberate inaccuracy under Schedule 24 to the Finance Act 2007
(c.11 of Parliament, as it has effect in the Island), \textsuperscript{1166}

that conduct shall not give rise to a penalty under this paragraph.

Amount of penalty

11. (1) Where the failure mentioned in paragraph 10(1) relates to a notifiable
scheme that is not a designated scheme, the amount of the penalty is £5,000.

(2) Where the failure mentioned in paragraph 10(1) relates to a designated
scheme, the amount of the penalty is 15 per cent. of the VAT saving (as determined under
sub-paragraph (3)).

(3) For this purpose the VAT saving is —
   (a) to the extent that the case falls within paragraph 6(1)(a), the
aggregate of —
      (i) the amount by which the amount of VAT that would, but
for the scheme, have been shown in returns in respect of the
relevant periods as payable by the taxable person exceeds the
amount of VAT that was shown in those returns as payable by him, and
      (ii) the amount by which the amount of VAT that was shown in
such returns as payable to the taxable person exceeds the
amount of VAT that would, but for the scheme, have been
shown in those returns as payable to him,
(b) to the extent that the case falls within paragraph 6(1)(b), the amount by which the amount claimed exceeds the amount which the taxable person would, but for the scheme, have claimed, and

(c) to the extent that —
   (i) the case falls within paragraph 6(1)(c), and
   (ii) the excess of the notional non-deductible tax of the taxable person for the relevant periods over their non-deductible tax for those periods is not represented by a corresponding amount by virtue of paragraph (a) or (b) is part of the VAT saving.

the amount of the excess.1167

(4) In sub-paragraph (3)(a) and (c) “the relevant periods” means the prescribed accounting periods beginning with that in respect of which the duty to comply with paragraph 6 first arose and ending with the earlier of the following —
   (a) the prescribed accounting period in which the taxable person complied with that paragraph, and
   (b) the prescribed accounting period immediately preceding the notification by the Treasury of the penalty assessment.1168

(5) In sub-paragraph (3)(c), “notional non-deductible tax”, in relation to a taxable person, means the amount that would, but for the scheme, have been the amount of their non-deductible tax.1169

Penalty assessments

12. (1) Where any person is liable under paragraph 10 to a penalty of an amount determined under paragraph 11, the Treasury may, subject to sub-paragraph (3), assess the amount due by way of penalty and notify it to him accordingly.

(2) The fact that any conduct giving rise to a penalty under paragraph 10 may have ceased before an assessment is made under this paragraph shall not affect the power of the Treasury to make such an assessment.

(3) In a case where —
   (a) the penalty falls to be calculated by reference to the VAT saving as determined under paragraph 11(3), and
   (b) the notional tax cannot readily be attributed to any one or more prescribed accounting periods,

the notional tax shall be treated for the purposes of this Schedule as attributable to such period or periods as the Treasury may determine to the best of its judgement and notify to the person liable for the penalty.1170

(3A) In sub-paragraph (3) “the notional tax” means —
(a) the VAT that would, but for the scheme, have been shown in returns as payable by or to the taxable person, or

(b) any amount that would, but for the scheme, have been the amount of the non-deductible tax of the taxable person.\textsuperscript{1171}

(4) No assessment to a penalty under this paragraph shall be made more than two years from the time when facts sufficient, in the opinion of the Treasury, to indicate that there has been a failure to comply with paragraph 6 in relation to a notifiable scheme came to the Treasury’s knowledge.

(5) Where the Treasury notifies a person of a penalty in accordance with sub-paragraph (1), the notice of assessment shall specify —

(a) the amount of the penalty,

(b) the reasons for the imposition of the penalty,

(c) how the penalty has been calculated, and

(d) any reduction of the penalty in accordance with section 70.

(6) Where a person is assessed under this paragraph to an amount due by way of penalty and is also assessed under section 73(1), (2), (7), (7A) or (7B) for any of the prescribed accounting periods to which the assessment under this paragraph relates, the assessments may be combined and notified to him as one assessment, but the amount of the penalty shall be separately identified in the notice.

(7) If an amount is assessed and notified to any person under this paragraph, then unless, or except to the extent that, the assessment is withdrawn or reduced, that amount shall be recoverable as if it were VAT due from him.

(8) Subsection (10) of section 76 (notification to certain persons acting for others) applies for the purposes of this paragraph as it applies for the purposes of that section.

13. Regulations under this Schedule —

(a) may make different provision for different circumstances, and

(b) may include transitional provisions or savings.
Schedule 11B

Section 58A(2)

DISCLOSURE OF AVOIDANCE SCHEMES AFTER 1 MAY 2019

PART 1 – DUTY TO DISCLOSE AVOIDANCE SCHEMES ETC.

1 Interpretation

In this Schedule —

“introducer” has the meaning given in paragraph 7;
“makes a firm approach” has the meaning given in paragraph 8;
“marketing contact” has the meaning given in paragraph 8;
“notifiable arrangements” has the meaning given in paragraph 2(1);
“notifiable proposal” has the meaning given in paragraph 2(3);
“officer” has the same meaning as in section 184(1) of the Customs and Excise Management Act 1986;
“promoter” has the meaning given in paragraph 6;
“tax advantage” has the meaning given in paragraph 5.

“Notifiable arrangements” and “notifiable proposal”

2 “Notifiable arrangements” and “notifiable proposal”

(1) “Notifiable arrangements” means any arrangements not excluded by sub-paragraph (2) which —

(a) fall within any description prescribed by the Treasury by regulations;
(b) enable, or might be expected to enable, any person to obtain a tax advantage in relation to VAT that is so prescribed in relation to arrangements of that description; and
(c) are such that the main benefit, or one of the main benefits, that might be expected to arise from the arrangements is the obtaining of that tax advantage.

(2) Arrangements that meet the requirements in sub-paragraph (1)(a) to (c) are not notifiable arrangements if they implement a proposal which is excluded from being a notifiable proposal by sub-paragraph (4).

(3) “Notifiable proposal” means a proposal for arrangements which, if entered into, would be notifiable arrangements (whether the proposal
relates to a particular person or to any person who may seek to take advantage of it).

(4) A proposal is not a notifiable proposal if any of the following occur before 1 May 2019—
(a) a promoter first makes a firm approach to another person in relation to the proposal;
(b) a promoter makes the proposal available for implementation by any other person; or
(c) a promoter first becomes aware of any transaction forming part of arrangements implementing the proposal.

3 (1) The Treasury may apply to the tribunal for an order that —
(a) a proposal is notifiable; or
(b) arrangements are notifiable.

(2) An application must specify —
(a) the proposal or arrangements in respect of which the order is sought; and
(b) the promoter.

(3) On an application the tribunal may make the order only if satisfied that paragraph 2(1)(a) to (c) applies to the relevant arrangements and that they are not excluded from being notifiable by paragraph 2(2).

4 (1) The Treasury may apply to the tribunal for an order that —
(a) a proposal is to be treated as notifiable; or
(b) arrangements are to be treated as notifiable.

(2) An application must specify —
(a) the proposal or arrangements in respect of which the order is sought; and
(b) the promoter.

(3) On an application the tribunal may make the order only if satisfied that the Treasury —
(a) has taken all reasonable steps to establish whether the proposal or arrangements are notifiable; and
(b) has reasonable grounds for suspecting that the proposal or arrangements may be notifiable.

(4) Reasonable steps under sub-paragraph (3)(a) may (but need not) include taking action under paragraph 27 or 28.

(5) Grounds for suspicion under sub-paragraph (3)(b) may include —
the fact that the relevant arrangements fall within a description prescribed under paragraph 2(1)(a);
(b) an attempt by the promoter to avoid or delay providing information or documents about the proposal or arrangements under or by virtue of paragraph 27 or 28;
(c) the promoter’s failure to comply with a requirement under or by virtue of paragraph 27 or 28 in relation to another proposal or other arrangements.

Where an order is made under this paragraph in respect of a proposal or arrangements, the relevant period for the purposes of sub-paragraph (1) of paragraph 9 or 10 in so far as it applies by virtue of the order is the period of 11 days beginning with the day on which the order is made.

An order under this paragraph in relation to a proposal or arrangements is without prejudice to the possible application of any of paragraphs 9 to 13, other than by virtue of this paragraph, to the proposal or arrangements.

5 “Tax advantage”

(1) A person (P) obtains a tax advantage in relation to VAT if —
(a) in any prescribed accounting period, the amount by which the output tax accounted for by P exceeds the input tax deducted by P is less than it would otherwise be;
(b) P obtains a VAT credit when P would otherwise not do so, or obtains a larger credit or obtains a credit earlier than would otherwise be the case;
(c) in a case where P recovers input tax as a recipient of a supply before the supplier accounts for the output tax, the period between the time when the input tax is recovered and the time when the output tax is accounted for is greater than would otherwise be the case;
(d) in any prescribed accounting period, the amount of P’s non-deductible tax is less than it otherwise would be;
(e) P avoids an obligation to account for tax.

(2) In sub-paragraph (1)(d) “non-deductible tax”, in relation to a taxable person, means —
(a) input tax for which that person is not entitled to credit under section 25 of this Act; and
(b) any VAT incurred by that person which is not input tax and in respect of which that person is not entitled to a refund from the Treasury by virtue of any provision of this Act.

(3) For the purposes of sub-paragraph (2)(b), the VAT “incurred” by a taxable person is —
(a) VAT on the supply to that person of any goods or services;
(b) VAT on the acquisition by that person from another member State of any goods; or
(c) VAT paid or payable by that person on the importation of any goods from a place outside the member States.

(4) A person who is not a taxable person obtains a tax advantage in relation to VAT if that person's non-refundable tax is less than it otherwise would be.

(5) In sub-paragraph (4) “non-refundable tax” means —
(a) VAT on the supply to that person of any goods or services;
(b) VAT on the acquisition by that person from another member State of goods;
(c) VAT paid or payable by that person on the importation of any goods from a place outside the member States,

but excluding (in each case) any VAT in respect of which the person is entitled to a refund from the Treasury by virtue of any provision of this Act.

(6) Terms used in this paragraph which are defined in section 94 of this Act have the meanings given by that section.

6 “Promoter”

(1) This paragraph describes when a person (P) is a promoter in relation to a notifiable proposal or notifiable arrangements.

(2) P is a promoter in relation to a notifiable proposal if, in the course of a relevant business, P —
(a) is to any extent responsible for the design of the proposed arrangements;
(b) makes a firm approach to another person (C) in relation to the proposal with a view to P making the proposal available for implementation by C or any other person; or
(c) makes the proposal available for implementation by other persons.

(3) P is a promoter in relation to notifiable arrangements if —
(a) P is by virtue of sub-paragraph (2)(b) or (c) a promoter in relation to a notifiable proposal which is implemented by the arrangements; or
(b) if in the course of a relevant business, P is to any extent responsible for —
   (i) the design of the arrangements; or
   (ii) the organisation or management of the arrangements.
(4) In this paragraph “relevant business” means any trade, profession or business which involves the provision to other persons of services relating to VAT.

(5) A person is not to be treated as a promoter by reason of anything done in prescribed circumstances.

(6) In the application of this Schedule to a proposal or arrangements which are not notifiable, a reference to a promoter is a reference to a person who would be a promoter under this paragraph if the proposal or arrangements were notifiable.

7 “Introducer”

(1) A person is an introducer in relation to a notifiable proposal if the person makes a marketing contact with another person in relation to the proposal.

(2) A person is not to be treated as an introducer by reason of anything done in prescribed circumstances.

(3) In the application of this Schedule to a proposal or arrangements which are not notifiable, a reference to an introducer is a reference to a person who would be an introducer under this paragraph if the proposal or arrangements were notifiable.

8 “Makes a firm approach” and “marketing contact”

(1) A person makes a firm approach to another person in relation to a notifiable proposal if the person makes a marketing contact with the other person in relation to the proposal at a time when the proposed arrangements have been substantially designed.

(2) A person makes a marketing contact with another person in relation to a notifiable proposal if —

(a) the person communicates information about the proposal to the other person;

(b) the communication is made with a view to that other person, or any other person, entering into transactions forming part of the proposed arrangements; and

(c) the information communicated includes an explanation of the tax advantage that might be expected to be obtained from the proposed arrangements.

(3) For the purposes of sub-paragraph (1) proposed arrangements have been substantially designed at any time if by that time the nature of the transactions to form part of them has been sufficiently developed for it to be reasonable to believe that a person who wished to obtain the tax advantage mentioned in sub-paragraph (2)(c) might enter into —

(a) transactions of the nature developed; or
(b) transactions not substantially different from transactions of that nature.

9 Duties of promoter in relation to notifiable proposals or notifiable arrangements

(1) A person who is a promoter in relation to a notifiable proposal must, within the relevant period, provide the Treasury with prescribed information relating to the proposal.

(2) In sub-paragraph (1) “the relevant period” is the period of 31 days beginning with the relevant date.

(3) In sub-paragraph (2) “the relevant date” is the earliest of the following —
   (a) the date on which the promoter first makes a firm approach to another person in relation to the proposal;
   (b) the date on which the promoter makes the proposal available for implementation by any other person; or
   (c) the date on which the promoter first becomes aware of any transaction forming part of notifiable arrangements implementing the proposal.

10 (1) A person who is a promoter in relation to notifiable arrangements must, within the relevant period after the date on which the person first becomes aware of any transaction forming part of the arrangements, provide the Treasury with prescribed information relating to the arrangements.

(2) In sub-paragraph (1) “the relevant period” is the period of 31 days beginning with that date.

(3) The duty under sub-paragraph (1) does not apply if the notifiable arrangements implement a proposal in respect of which notice has been given to the Treasury under paragraph 9(1).

11 (1) This paragraph applies where a person complies with paragraph 9(1) in relation to a notifiable proposal for arrangements and another person is —

   (a) also a promoter in relation to the proposal or a promoter in relation to a notifiable proposal for arrangements which are substantially the same as the proposed arrangements (whether they relate to the same or different parties); or
   (b) a promoter in relation to notifiable arrangements implementing the proposal or notifiable arrangements which are substantially the same as notifiable arrangements implementing the proposal (whether they relate to the same or different parties).
(2) Any duty of the other person under paragraph 9(1) or 10(1) in relation to the notifiable proposal or notifiable arrangements is discharged if —

(a) the person who complied with paragraph 9(1) has notified the identity and address of the other person to the Treasury or the other person holds the reference number allocated to the proposed notifiable arrangements under paragraph 20(1); and

(b) the other person holds the information provided to the Treasury in compliance with paragraph 9(1).

12 (1) This paragraph applies where a person complies with paragraph 10(1) in relation to notifiable arrangements and another person is —

(a) a promoter in relation to a notifiable proposal for arrangements which are substantially the same as the notifiable arrangements (whether they relate to the same or different parties); or

(b) also a promoter in relation to the notifiable arrangements or notifiable arrangements which are substantially the same (whether they relate to the same or different parties).

(2) Any duty of the other person under paragraph 9(1) or 10(1) in relation to the notifiable proposal or notifiable arrangements is discharged if —

(a) the person who complied with paragraph 10(1) has notified the identity and address of the other person to the Treasury or the other person holds the reference number allocated to the notifiable arrangements under paragraph 20(1); and

(b) the other person holds the information provided to the Treasury in compliance with paragraph 10(1).

13 Where a person is a promoter in relation to two or more notifiable proposals or sets of notifiable arrangements which are substantially the same (whether they relate to the same parties or different parties) the person need not provide information under paragraph 9(1) or 10(1) if the person has already provided information under either of those paragraphs in relation to any of the other proposals or arrangements.

14 Duty of promoter: supplemental information

(1) This paragraph applies where —

(a) a promoter (P) has provided information in purported compliance with paragraph 9(1) or 10(1), but

(b) the Treasury believes that P has not provided all the prescribed information.
(2) The Treasury may apply to the tribunal for an order requiring P to provide specified information about, or documents relating to, the notifiable proposal or arrangements.

(3) The tribunal may make an order under sub-paragraph (2) in respect of information or documents only if satisfied that the Treasury has reasonable grounds for suspecting that the information or documents —
   (a) form part of the prescribed information; or
   (b) will support or explain the prescribed information.

(4) A requirement by virtue of sub-paragraph (2) is to be treated as part of P’s duty under paragraph 9(1) or 10(1).

(5) In so far as P’s duty under sub-paragraph (1) of paragraph 9 or 10 arises out of an order made by virtue of sub-paragraph (2) above the relevant period for the purposes of that sub-paragraph (1) is —
   (a) the period of 11 days beginning with the date of the order; or
   (b) such longer period as the Treasury may direct.

15 Duty of person dealing with promoter outside the Island or United Kingdom

(1) This paragraph applies where a person enters into any transaction forming part of any notifiable arrangements in relation to which —
   (a) a promoter is resident outside the Island or United Kingdom; and
   (b) no promoter is resident in the Island or United Kingdom.

(2) The person must, within the relevant period, provide the Treasury with prescribed information relating to the arrangements.

(3) In sub-paragraph (2) “the relevant period” is the period of 6 days beginning with the day on which the person enters into the first transaction forming part of the arrangements.

(4) Compliance with paragraph 9(1) or 10(1) by any promoter in relation to the arrangements discharges the person’s duty under sub-paragraph (1).

16 Duty of parties to notifiable arrangements not involving promoter

(1) This paragraph applies to any person who enters into any transaction forming part of notifiable arrangements as respects which neither that person nor any other person in the Island or United Kingdom is liable to comply with paragraph 9(1), 10(1) or 15(2).

(2) The person must at the prescribed time provide the Treasury with prescribed information relating to the arrangements.

17 Duty to provide further information requested by the Treasury

(1) This paragraph applies where —
(a) a person has provided the prescribed information about notifiable proposals or arrangements in compliance with paragraph 9(1), 10(1), 15(2) or 16(2); or

(b) a person has provided information in purported compliance with paragraph 15(2) or 16(2) but the Treasury believes that the person has not provided all the prescribed information.

(2) The Treasury may require the person to provide —

(a) further specified information about the notifiable proposals or arrangements (in addition to the prescribed information under paragraph 9(1), 10(1), 15(2) or 16(2));

(b) documents relating to the notifiable proposals or arrangements.

(3) Where the Treasury imposes a requirement on a person under this paragraph, the person must comply with the requirement within —

(a) the period of 10 working days beginning with the day on which the Treasury imposed the requirement; or

(b) such longer period as the Treasury may direct.

18 (1) This paragraph applies where the Treasury —

(a) has required a person to provide information or documents under paragraph 17; but

(b) believes that the person has failed to provide the information or documents required.

(2) The Treasury may apply to the tribunal for an order requiring the person to provide the information or documents required.

(3) The tribunal may make an order imposing such a requirement only if satisfied that the Treasury has reasonable grounds for suspecting that the information or documents will assist the Treasury in considering the notifiable proposals or arrangements.

(4) Where the tribunal makes an order imposing such a requirement, the person must comply with the requirement within —

(a) the period of 10 working days beginning with the day on which the tribunal made the order; or

(b) such longer period as the Treasury may direct.

19 Duty of promoters to provide updated information

(1) This paragraph applies where —

(a) information has been provided under paragraph 9(1), or 10(1) about any notifiable arrangements, or proposed notifiable arrangements, to which a reference number is allocated under paragraph 20; and
(b) after the provision of the information, there is a change in relation to the arrangements of a kind mentioned in sub-paragraph (2).

(2) The changes referred to in sub-paragraph (1)(b) are —

(a) a change in the name by which the notifiable arrangements, or proposed notifiable arrangements, are known; or

(b) a change in the name or address of any person who is a promoter in relation to the arrangements or, in the case of proposed arrangements, the notifiable proposal.

(3) A person who is a promoter in relation to the notifiable arrangements or, in the case of proposed notifiable arrangements, the notifiable proposal must inform the Treasury of the change mentioned in sub-paragraph (1)(b) within 30 days after it is made.

(4) Sub-paragraphs (5) and (6) apply for the purposes of sub-paragraph (3) where there is more than one person who is a promoter in relation to the notifiable arrangements or proposal.

(5) If the change in question is a change in the name or address of a person who is a promoter in relation to the notifiable arrangements or proposal, it is the duty of that person to comply with sub-paragraph (3).

(6) If a person provides information in compliance with sub-paragraph (3), the duty imposed by that sub-paragraph on any other person, so far as relating to the provision of that information, is discharged.

20 Arrangements to be given reference number

(1) Where a person (P) complies or purports to comply with paragraph 9(1), 10(1), 15(2) or 16(2) in relation to any notifiable proposal or notifiable arrangements, the Treasury may within 90 days allocate a reference number to the notifiable arrangements or, in the case of a notifiable proposal, to the proposed notifiable arrangements.

(2) If Treasury does so it must notify the number to P and (where the person is one who has complied or purported to comply with paragraph 9(1) or 10(1)), to any other person —

(a) who is a promoter in relation to —

(i) the notifiable proposal (or arrangements implementing the notifiable proposal); or

(ii) the notifiable arrangements (or proposal implemented by the notifiable arrangements); and

(b) whose identity and address has been notified to the Treasury by P.

(3) The allocation of a reference number to any notifiable arrangements (or proposed notifiable arrangements) is not to be regarded as constituting any indication by the Treasury that the arrangements would or could as a matter of law result in the obtaining by any person of a tax advantage.
(4) In this Part of this Schedule “reference number”, in relation to any notifiable arrangements, means the reference number allocated under this paragraph.

21 Duty of promoter to notify client of number

(1) This paragraph applies where a person who is a promoter in relation to notifiable arrangements is providing (or has provided) services to any person (“the client”) in connection with the arrangements.

(2) The promoter must, within 30 days after the relevant date, provide the client with prescribed information relating to any reference number (or, if more than one, any one reference number) that has been notified to the promoter (whether by the Treasury or any other person) in relation to —

(a) the notifiable arrangements; or

(b) any arrangements substantially the same as the notifiable arrangements (whether involving the same or different parties).

(3) In sub-paragraph (2) “the relevant date” means the later of —

(a) the date on which the promoter becomes aware of any transaction which forms part of the notifiable arrangements; and

(b) the date on which the reference number is notified to the promoter.

(4) But where the conditions in sub-paragraph (5) are met the duty imposed on the promoter under sub-paragraph (2) to provide the client with information in relation to notifiable arrangements is discharged.

(5) Those conditions are —

(a) that the promoter is also a promoter in relation to a notifiable proposal and provides services to the client in connection with them both;

(b) the notifiable proposal and the notifiable arrangements are substantially the same; and

(c) the promoter has provided to the client, in a form and manner specified by the Treasury, prescribed information relating to the reference number that has been notified to the promoter in relation to the proposed notifiable arrangements.

(6) The Treasury may give notice that, in relation to notifiable arrangements specified in the notice, promoters are not under the duty under sub-paragraph (2) after the date specified in the notice.

22 Duty of client to notify parties of number

(1) In this paragraph “client” means a person to whom 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.
(2) Sub-paragraph (3) applies where the client receives prescribed information relating to the reference number allocated to the arrangements or proposed arrangements.

(3) The client must, within the relevant period, provide prescribed information relating to the reference number to any other person —
   (a) who the client might reasonably be expected to know is or is likely to be a party to the arrangements or proposed arrangements; and
   (b) who might reasonably be expected to gain a tax advantage in relation to VAT by reason of the arrangements or proposed arrangements.

(4) In sub-paragraph (3) “the relevant period” is the period of 30 days beginning with the later of —
   (a) the day on which the client first becomes aware of any transaction forming part of the notifiable arrangements or proposed notifiable arrangements; and
   (b) the day on which the prescribed information is notified to the client by the promoter under paragraph 21.

(5) The Treasury may give notice that, in relation to notifiable arrangements or a notifiable proposal specified in the notice, persons are not under the duty under sub-paragraph (3) after the date specified in the notice.

(6) The duty under sub-paragraph (3) does not apply in prescribed circumstances.

23 Duty of client to provide information to promoter

(1) This paragraph applies where a person who is a promoter in relation to notifiable arrangements has provided a person (“the client”) with the information prescribed under paragraph 23(2).

(2) The client must, within the relevant period, provide the promoter with prescribed information relating to the client.

(3) In sub-paragraph (2) “the relevant period” is the period of 11 days beginning with the later of —
   (a) the date the client receives the reference number for the arrangements; and
   (b) the date the client first enters into a transaction which forms part of the arrangements.

(4) The duty under sub-paragraph (2) is subject to any exceptions that may be prescribed.

24 Duty of parties of notifiable arrangements to notify the Treasury of
number, etc.

(1) Any person (P) who is a party to any notifiable arrangements must provide the Treasury with prescribed information relating to —
(a) any reference number notified to P under paragraph 21 or 22; and
(b) the time when P obtains or expects to obtain by virtue of the arrangements a tax advantage in relation to VAT.

(2) Regulations made by the Treasury may —
(a) in prescribed cases, require information prescribed under sub-paragraph (1) to be given to the Treasury —
(i) in the prescribed manner;
(ii) in the prescribed form;
(iii) at the prescribed time; and
(b) in prescribed cases, require the information prescribed under sub-paragraph (1) and such other information as is prescribed to be provided separately to the Treasury at the prescribed time or times.

(3) In sub-paragraph (3) “prescribed” includes being prescribed in a document made under a power conferred by regulations made by the Treasury.

(4) The Treasury may give notice that, in relation to notifiable arrangements specified in the notice, persons are not under the duty under sub-paragraph (1) after the date specified in the notice.

(5) The duty under sub-paragraph (1) does not apply in prescribed circumstances.

25 Duty of promoter to provide details of client

(1) This paragraph applies where a person who is a promoter in relation to notifiable arrangements is providing (or has provided) services to any person (“the client”) in connection with the arrangements and either —
(a) the promoter is subject to the reference number information requirement; or
(b) the promoter has failed to comply with paragraph 9(1) or 10(1) in relation to the arrangements (or the notifiable proposal for them) but would be subject to the reference number information requirement if a reference number had been allocated to the arrangements.

(2) For the purposes of this paragraph “the reference number information requirement” is the requirement under paragraph 21(2) to provide to the client prescribed information relating to the reference number allocated to the notifiable arrangements.
(3) The promoter must, within the prescribed period after the end of the relevant period, provide the Treasury with prescribed information in relation to the client.

(4) In sub-paragraph (3) “the relevant period” means such period (during which the promoter is or would be subject to the reference number information requirement) as is prescribed.

(5) The promoter need not comply with sub-paragraph (3) in relation to any notifiable arrangements at any time after the Treasury has given notice under paragraph 21(6) in relation to the arrangements.

26 Enquiry following disclosure of client details

(1) This paragraph applies where —

(a) a person who is a promoter in relation to notifiable arrangements has provided the Treasury with information in relation to a person (“the client”) under paragraph 25(3) (duty to provide client details); and

(b) the Treasury suspects that a person other than the client is or is likely to be a party to the arrangements.

(2) The Treasury may by written notice require the promoter to provide prescribed information in relation to any person other than the client who the promoter might reasonably be expected to know is or is likely to be a party to the arrangements.

(3) The promoter must comply with a requirement under or by virtue of sub-paragraph (2) within —

(a) the relevant period; or

(b) such longer period as the Treasury may direct.

(4) In sub-paragraph (3) “the relevant period” is the period of 11 days beginning with the day on which the promoter receives the notice under sub-paragraph (2).

27 Pre-disclosure enquiry

(1) Where the Treasury suspects that a person (P) is the promoter or introducer of a proposal, or the promoter of arrangements, which may be notifiable, they may by written notice require P to state —

(a) whether in P’s opinion the proposal or arrangements are notifiable by P; and

(b) if not, the reasons for P’s opinion.

(2) The notice must specify the proposal or arrangements to which it relates.

(3) For the purposes of sub-paragraph (1)(b) —
(a) it is not sufficient to refer to the fact that a lawyer or other professional has given an opinion;
(b) the reasons must show, by reference to this Part of this Schedule and regulations under it, why P thinks the proposal or arrangements are not notifiable by P; and
(c) in particular, if P asserts that the arrangements do not fall within any description prescribed under paragraph 2(1)(a), the reasons must provide sufficient information to enable the Treasury to confirm the assertion.

(4) P must comply with a requirement under or by virtue of sub-paragraph (1) within —
   (a) the relevant period; or
   (b) such longer period as the Treasury may direct.

(5) In sub-paragraph (4) “the relevant period” is the period of 11 days beginning with the day on which the notice under sub-paragraph (1) is issued.

28 Reasons for non-disclosure: supporting information

(1) Where the Treasury receives from a person (P) a statement of reasons why a proposal or arrangements are not notifiable by P, the Treasury may apply to the tribunal for an order requiring P to provide specified information or documents in support of the reasons.

(2) Must comply with a requirement under or by virtue of sub-paragraph (1) within —
   (a) the relevant period; or
   (b) such longer period as the Treasury may direct.

(3) In sub-paragraph (2) “the relevant period” is the period of 15 days beginning with the day on which the order concerned is made.

(4) The power under sub-paragraph (1) —
   (a) may be exercised more than once; and
   (b) applies whether or not the statement of reasons was received under paragraph 27(1)(b).

29 Provision of information to the Treasury by introducers

(1) This paragraph applies where the Treasury suspects —
   (a) that a person (P) is an introducer in relation to a proposal; and
   (b) that the proposal may be notifiable.

(2) The Treasury may by written notice require P to provide the Treasury with one or both of the following —
(a) prescribed information in relation to each person who has
provided P with any information relating to the proposal;
(b) prescribed information in relation to each person with whom P has
made a marketing contact in relation to the proposal.

(3) A notice must specify the proposal to which it relates.

(4) P must comply with a requirement under sub-paragraph (2) within —
(a) the relevant period; or
(b) such longer period as the Treasury may direct.

(5) In sub-paragraph (4) “the relevant period” is the period of 11 days
beginning with the day on which the notice under sub-paragraph (2) is
given.

30 Legal professional privilege

(1) Nothing in this Part of this Schedule requires any person to disclose to the
Treasury any privileged information.

(2) In this Part of this Schedule “privileged information” means information
with respect to which a claim to legal professional privilege could be
maintained in legal proceedings.

31 Information

(1) This paragraph applies where a person is required to provide information
under paragraph 21(2) or 22(3).

(2) The Treasury may specify additional information which must be provided
by that person to the recipients under paragraph 21(2) or 22(3) at the same
time as the information referred to in sub-paragraph (1).

(3) The Treasury may specify the form and manner in which the additional
information is to be provided.

(4) For the purposes of this paragraph “additional information” means
information supplied by the Treasury which relates to notifiable proposals
or notifiable arrangements in general.

32 (1) The Treasury may specify the form and manner in which
information required to be provided by or under any of the information
provisions must be provided if the provision is to be complied with.

(2) The “information provisions” are paragraphs 9(1), 10(1), 15(2), 16(2), 17(2),
19(3), 21(2), 22(3), 24(1) and (3), 25(3), 26(2), 27(1), 29(2) and 31(2).

33 No duty of confidentiality or other restriction on disclosure (however
imposed) prevents the voluntary disclosure by any person to the Treasury
of information or documents which the person has reasonable grounds for
suspecting will assist the Treasury in determining whether there has been a breach of any requirement imposed by or under this Part of this Schedule.

34 (1) The Treasury may publish information about —

(a) any notifiable arrangements, or proposed notifiable arrangements, to which a reference number is allocated under paragraph 20; and

(b) any person who is a promoter in relation to the notifiable arrangements or, in the case of proposed notifiable arrangements, the notifiable proposal.

(2) The information that may be published is (subject to sub-paragraph (4)) —

(a) any information relating to arrangements within sub-paragraph (1)(a), or a person within sub-paragraph (1)(b), that is prescribed information for the purposes of paragraph 9, 10, 15 or 16;

(b) any ruling of a court or tribunal relating to any such arrangements or person (in that person’s capacity as a promoter in relation to a notifiable proposal or arrangements);

(c) the number of persons in any period who enter into transactions forming part of notifiable arrangements within sub-paragraph (1)(a); and

(d) any other information that the Treasury considers it appropriate to publish for the purpose of identifying arrangements within sub-paragraph (1)(a) or a person within sub-paragraph (1)(b).

(3) The information may be published in any manner that the Treasury considers appropriate.

(4) No information may be published under this paragraph that identifies a person who enters into a transaction forming part of notifiable arrangements within sub-paragraph (1)(a).

(5) But where a person who is a promoter within sub-paragraph (1)(b) is also a person mentioned in sub-paragraph (4), nothing in sub-paragraph (4) is to be taken as preventing the publication under this paragraph of information so far as relating to the person’s activities as a promoter.

(6) Before publishing any information under this paragraph that identifies a person as a promoter within sub-paragraph (1)(b), the Treasury must —

(a) inform the person that it is considering doing so; and

(b) give the person reasonable opportunity to make representations about whether it should be published.

35 (1) This paragraph applies if —

(a) information about notifiable arrangements, or proposed notifiable arrangements, is published under paragraph 34;
(b) at any time after the information is published, a ruling of a court or tribunal is made in relation to tax arrangements; and
(c) the Treasury is of the opinion that the ruling is relevant to the arrangements mentioned in paragraph (a).

(2) A ruling is “relevant” to the arrangements if —
(a) the principles laid down, or reasoning given, in the ruling would, if applied to the arrangements, allow the purported advantage arising from the arrangements in relation to VAT; and
(b) the ruling is final.

(3) The Treasury must publish information about the ruling.

(4) The information must be published in the same manner as the Treasury published the information mentioned in sub-paragraph (1)(a) (and may also be published in any other manner that the Treasury considers appropriate).

(5) A ruling is “final” if it is —
(a) a ruling of the High Court; or
(b) a ruling of any other court or tribunal in circumstances where —
   (i) no appeal may be made against the ruling;
   (ii) if an appeal may be made against the ruling with permission, the time limit for applications has expired and either no application has been made or permission has been refused;
   (iii) if such permission to appeal against the ruling has been granted or is not required, no appeal has been made within the time limit for appeals; or
   (iv) if an appeal was made, it was abandoned or otherwise disposed of before it was determined by the court or tribunal to which it was addressed.

(6) Where a ruling is final by virtue of sub-paragraph (ii), (iii) or (iv) of sub-paragraph (5)(b), the ruling is to be treated as made at the time when the sub-paragraph in question is first satisfied.

(7) In this paragraph “tax arrangements” means arrangements in respect of which it would be reasonable to conclude (having regard to all the circumstances) that the main purpose, or one of the main purposes, was the obtaining of a tax advantage.

36 Power to vary certain relevant periods
The Treasury may by regulations amend this Part of this Schedule with a view to altering the definition of “the relevant period” for the purposes of —
paragraph 4(6);
paragraph 9(1);
paragraph 10(1);
paragraph 14(5);
paragraph 15(2);
paragraph 22(3);
paragraph 23(2);
paragraph 25(3);
paragraph 26(3);
paragraph 27(4);
paragraph 28(2); or
paragraph 29(4).

37 Penalty for failure to comply with duties under Part 1 (apart from paragraph 24)

(1) A person who fails to comply with any of the provisions of Part 1 of this Schedule mentioned in sub-paragraph (2) is liable —

(a) to a penalty not exceeding —

(i) in the case of a failure to comply with paragraph 9(1), 10(1), 15(2), 16(2) or 17, £600 for each day during the initial period for which the failure continues (but see also paragraphs 40(4) and 41); and

(ii) in any other case, £5,000; and

(b) if the failure continues after a penalty is imposed under paragraph (a), to a further penalty or penalties not exceeding £600 for each day on which the failure continues after the day on which the penalty under paragraph (a) was imposed (but excluding any day for which a penalty under this paragraph has already been imposed).

(2) Those provisions are —

(a) paragraph 9(1) (duty of promoter in relation to notifiable proposal);

(b) paragraph 10(1) (duty of promoter in relation to notifiable arrangements);

(c) paragraph 15(2) (duty of person dealing with promoter outside the Island or United Kingdom);

(d) paragraph 16(2) (duty of parties to notifiable arrangements not involving promoter);

(e) paragraph 17 (duty to provide further information requested by the Treasury);

(f) paragraph 19 (duty of promoters to provide updated information);

(g) paragraph 21(2) (duty of promoter to notify client of reference number);

(h) paragraph 22(3) (duty of client to notify parties of reference number);
(i) paragraph 23(2) (duty of client to provide information to promoter);

(j) paragraph 25(3) (duty of promoter to provide details of clients);

(k) paragraph 26(3) (enquiry following disclosure of client details);

(l) paragraphs 27(4) and 28(2) (duty of promoter to respond to inquiry);

(m) paragraph 29(4) (duty of introducer to give details of persons who have provided information or have been provided with information; and

(n) paragraph 31 (duty to provide additional information.

(3) In this paragraph “the initial period” means the period —

(a) beginning with the relevant day; and

(b) ending with the earlier of the day on which the penalty under sub-paragraph (1)(a)(i) is determined and the last day before the failure ceases.

(4) For the purposes of sub-paragraph (3)(a) “the relevant day” is the day specified in relation to the failure in the following table —
### Schedule 11B

**Value Added Tax Act 1996**

<table>
<thead>
<tr>
<th>Failure</th>
<th>Relevant day</th>
</tr>
</thead>
<tbody>
<tr>
<td>A failure to comply with paragraph 9(1) or 10(1) in so far as it applies by virtue of an order under paragraph 4</td>
<td>The first day after the end of the relevant period described in paragraph 4(6)</td>
</tr>
<tr>
<td>A failure to comply with paragraph 9(1) or 10(1) in so far as it applies by virtue of an order under paragraph 14(2)</td>
<td>The first day after the end of the relevant period (whether that is the period described in sub-paragraph 14(5)(a) or that period as extended by a direction under paragraph 14(5)(b)</td>
</tr>
<tr>
<td>Any other failure to comply with sub-paragraph (1) of paragraph 9</td>
<td>The first day after the end of the relevant period described in paragraph 9(2)</td>
</tr>
<tr>
<td>Any other failure to comply with sub-paragraph (1) of paragraph 10</td>
<td>The first day after the end of the relevant period described in paragraph 10(2)</td>
</tr>
<tr>
<td>A failure to comply with paragraph 15(2)</td>
<td>The first day after the end of the relevant period described in paragraph 15(3)</td>
</tr>
<tr>
<td>A failure to comply with paragraph 16(2)</td>
<td>The first day after the latest time by which paragraph 16(2) should have been complied with in the case concerned</td>
</tr>
<tr>
<td>A failure to comply with paragraph 17</td>
<td>The first day after the end of the period within which the person must comply with paragraph 17</td>
</tr>
</tbody>
</table>

38

(1) In the case of a failure to comply with paragraph 9(1), 10(1), 15(2), 16(2) or 17, the amount of the penalty under paragraph 37(1)(a)(i) is to be arrived at after taking account of all relevant considerations.

(2) Those considerations include the desirability of the penalty being set at a level which appears appropriate for deterring the person, or other persons, from similar failures to comply on future occasions having regard (in particular) —

(a) in the case of a penalty for a promoter’s failure to comply with paragraph 9(1), 10(1) or 17, to the amount of any fees received, or likely to have been received, by the promoter in connection with the notifiable proposal (or arrangements implementing the notifiable proposal), or with the notifiable arrangements; and

(b) in the case of a penalty for a relevant person’s failure to comply with paragraph 15(2), 16(2) or 17, to the amount of any advantage gained, or sought to be gained, by the person in relation to any tax prescribed under paragraph 2(1)(b) in relation to the notifiable arrangements.
(3) In sub-paragraph (2)(b) “relevant person” means a person who enters into any transaction forming part of notifiable arrangements.

(4) If the maximum penalty under paragraph 37(1)(a)(i) appears inappropriately low after taking account of all relevant considerations, the penalty is to be of such amount not exceeding £1 million as appears appropriate having regard to those considerations.

39 (1) This paragraph applies where a failure to comply with a provision mentioned in paragraph 37(2) concerns a proposal or arrangements in respect of which an order has been made under paragraph 3 or 4.

(2) The amounts specified in paragraph 37(1)(a)(i) and (b) are increased to £5,000 in relation to days falling after the end of the period of 11 days beginning with the day on which the order is made.

40 (1) The Treasury may by regulations vary —

(a) any of the sums for the time being specified in paragraph 37(1);
(b) the sum for the time being specified in paragraph 38(4);
(c) the period for the time being specified in paragraph 39(2); and
(d) the sum for the time being specified in paragraph 39(2).

(2) Regulations under this paragraph may include incidental or transitional provision.

41 Where it appears to an officer that —

(a) a penalty under paragraph 37(1)(a) has been imposed in a case where the maximum penalty is set by paragraph 37(1)(a)(i); and
(b) the maximum penalty was calculated on the basis that the initial period began with a day later than that which the officer considers to be the relevant day,

an officer may commence proceedings for a re-determination of the penalty.

42 Penalty for failure to comply with duties under paragraph 24

(1) A person who fails to comply with —

(a) paragraph 24(1); or
(b) regulations under paragraph 24(3),

is liable to a penalty not exceeding the relevant sum.

(2) The relevant sum is £5,000 in respect of each scheme to which the failure relates unless the person falls within sub-paragraph (3) or (4).
(3) If the person has previously failed to comply with paragraph 24(1) or regulations under paragraph 24(3) on one (and only one) occasion during the period of 36 months ending with the date on which the current failure began, the relevant sum is £7,500 in respect of each scheme to which the current failure relates (whether or not the same as any scheme to which the previous failure relates).

(4) If the person has previously failed to comply with paragraph 24(1) or regulations under paragraph 24(3) on two or more occasions during the period of 36 months ending with the date on which the current failure began, the relevant sum is £10,000 in respect of each scheme to which the current failure relates (whether or not the same as any scheme to which any of the previous failures relates).

(5) In this paragraph “scheme” means any notifiable arrangements.

43 Penalty proceedings before the Tribunal

(1) An officer may commence proceedings before the Tribunal for any penalty under paragraph 37(1)(a).

(2) Proceedings for a penalty may not be commenced more than 12 months after evidence of facts sufficient to justify the bringing of proceedings comes to the knowledge of the Treasury.

(3) If the Tribunal decides that the penalty is payable by the person the penalty is for all purposes to be treated as if it were tax charged in an assessment and due and payable.

44 Assessment of penalties under paragraph 37(1)(b) or 42

(1) Where a person is liable to a penalty under paragraph 37(1)(b) or 42 an officer may assess the amount due by way of a penalty.

(2) An assessment may not be made more than 12 months after evidence of facts sufficient to justify the making of the assessment first comes to the knowledge of the Treasury.

(3) A notice of an assessment under sub-paragraph (1) stating —
   (a) the date on which it is issued; and
   (b) the time within which an appeal against the assessment may be made,

must be served on the person liable to the penalty.

(4) After the notice has been served the assessment may not be altered except in accordance with this paragraph or on appeal.

(5) If it is discovered by an officer that the amount of a penalty assessed under this paragraph is or has become insufficient the officer may make an assessment in a further amount so that the penalty is set at the amount which, in the officer’s opinion, is correct or appropriate.
(6) A penalty imposed by a decision under this paragraph —
   (a) is due and payable at the end of the period of 30 days beginning
       with the date of the issue of the notice of the decision; and
   (b) is to be treated for all purposes as if it were tax charged in an
       assessment and due and payable.

45 Reasonable excuse

(1) Liability to a penalty under this Part of this Schedule does not arise in
    relation to a particular failure to comply if the person concerned (P)
    satisfies the Treasury or the relevant tribunal (as the case may be) that
    there is 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 P’s control;
   (b) where P relied on any other person to do anything that cannot be a
       reasonable excuse unless P took reasonable care to avoid the
       failure;
   (c) where P had a reasonable excuse but the excuse has ceased, P is to
       be treated as continuing to have the excuse if the failure is remedied
       without unreasonable delay after the excuse ceased; and
   (d) reliance on advice is to be taken automatically not to be a
       reasonable excuse if the advice was addressed to, or was given to,
       a person other than P or takes no account of P’s individual
       circumstances.

46 (1) The making of an order under paragraph 3 or 4 against P does not
    in itself mean that P either did or did not have a reasonable excuse for non-
    compliance before the order was made.

(2) Where an order is made under paragraph 3 or 4 then for the purposes of
    paragraph 45 —
   (a) the person identified in the order as the promoter of the proposal
       or arrangements cannot, in respect of any time after the end of the
       prescribed period mentioned in paragraph 39, rely on doubt as to
       notifiability as a reasonable excuse for failure to comply with
       paragraph 9(1) or 10(1); and
   (b) any delay in compliance with that provision after the end of that
       period is not capable of being a reasonable excuse unless
       attributable to something other than doubt as to notifiability.
Schedule 12

GENERAL

Section 58

[1973/1/1(2)]

1. (1) VAT shall be under the care and management of the Treasury

(2) All money and securities for money collected or received for or on account of VAT shall be paid into the General Revenue.

Accounting for VAT and payment of VAT

[1973/1/30]

2. (1) Regulations under this paragraph may require the keeping of accounts, the making of returns and the submission of information in such form and manner as may be specified in the regulations or by the Treasury in accordance with the regulations.

(2) and (2A) [Repealed]

(3) Regulations under this paragraph may require the submission to the Treasury by taxable persons, at such times and intervals, in such cases and in such form and manner as may be —

(a) specified in the regulations; or

(b) specified by the Treasury in accordance with the regulations;

of statements containing such particulars of transactions in which the taxable persons are concerned and to which this sub-paragraph applies, and of the persons concerned in those transactions, as may be so specified.

(3ZA) Sub-paragraph (3) above applies to —

(a) transactions involving the movement of goods between member States or between the Island and member States; and

(b) transactions involving the supply of services to a person in a member State other than the United Kingdom who is required to pay VAT on the supply in accordance with provisions of the law of that other member State giving effect to Article 196 of Council Directive 2006/112/EC [OJ L.347, 11.12.2006, p.1].

(3A) Regulations under this paragraph may require the submission to the Treasury by taxable persons, at such times and intervals, in such cases and in such form and manner as may be —

(a) specified in the regulations, or

(b) specified by the Treasury in accordance with the regulations,
of statements containing such particulars of supplies to which section 55A(6) applies in which the taxable persons are concerned, and of the persons concerned in those supplies, as may be so specified.\textsuperscript{1180}

(3B) Regulations under this paragraph may make provision for requiring —

(a) a person who first makes a supply of goods or services to which section 55A(6) applies (a “reverse charge supply”),\textsuperscript{1181}

(b) a person who ceases making reverse charge supplies without intending subsequently to make such supplies, or

(c) a person who has fallen within paragraph (b) but who nonetheless starts to make reverse charge supplies again,

to give to the Treasury such notification of that fact at such time and in such form and manner as may be specified in the regulations or by the Treasury in accordance with the regulations.\textsuperscript{1182}

(4) Regulations under this paragraph may make provision in relation to cases where —

(a) any goods which are subject to a duty of excise or consist in a new means of transport are acquired in the Island from a member State by any person;

(b) the acquisition of the goods is a taxable acquisition and is not in pursuance of a taxable supply; and

(c) that person is not a taxable person at the time of the acquisition,

for requiring the person who acquires the goods to give to the Treasury such notification of the acquisition, and for requiring any VAT on the acquisition to be paid, at such time and in such form or manner as may be specified in the regulations or (in the case of the notification requirement) by the Treasury in accordance with the regulations.\textsuperscript{1183}

(5) Regulations under this paragraph may provide for a notification required by virtue of sub-paragraph (4) —

(a) to contain such particulars relating to the notified acquisition and any VAT chargeable thereon as may be specified in the regulations or by the Treasury in accordance with the regulations;\textsuperscript{1184}

(b) to be given, in prescribed cases, by the personal representative, trustee in bankruptcy, receiver, liquidator or person otherwise acting in a representative capacity in relation to the person who makes that acquisition.

(5A) Regulations under this paragraph may make provision —

(a) for requiring the relevant person to give to the Treasury such notification of the arrival in the Island of goods consisting of a means of transport, at such time and in such form and manner, as may be specified in the regulations or by the Treasury in accordance with the regulations; and
(b) where notification of the arrival of a means of transport acquired from a member State, or imported from a place outside the member States, is required by virtue of paragraph (a), for requiring any VAT on the acquisition or importation to be paid at such time and in such manner as may be specified in the regulations.\(^{1185}\)

(5B) The provision that may be made by regulations made by virtue of sub-paragraph (5A) includes —

(a) provision for a notification required by virtue of that sub-paragraph to contain such particulars relating to the notified arrival of the means of transport and any VAT chargeable on its acquisition or importation as may be specified in the regulations or by the Treasury in accordance with the regulations;

(b) provision for such a notification to be given by a person who is not the relevant person and is so specified, or is of a description so specified;

(c) provision for such a notification to contain a declaration, given in such form and by such person as may be so specified, as to the information contained in the notification; and

(d) supplementary, incidental, consequential or transitional provision (including provision amending any provision made by or under this Act or any other enactment).\(^{1186}\)

(5C) Subsection (3) of section 95 (orders subject to Tynwald approval) applies to a statutory document containing any regulations made by virtue of sub-paragraph (5A) which amend an enactment as it applies to an order within subsection (4) of that section.\(^{1187}\)

(5D) For the purposes of sub-paragraph (5A) —

“means of transport” has the same meaning as it has in this Act in the expression “new means of transport” (see section 93);

“relevant person”, in relation to the arrival of a means of transport in the Island, means —

(a) where the means of transport has been acquired in the Island from a member State, the person who so acquires it;

(b) where it has been imported from a place outside the member States, the person liable to pay VAT on the importation; and

(c) in any other case —

(i) the owner of the means of transport at the time of its arrival in the Island; or

(ii) where it is subject to a lease or hire agreement, the lessee or hirer of the means of transport at that time.\(^{1188}\)

(6) Regulations under this paragraph may make special provision for such taxable supplies by retailers of any goods or of any description of goods or of services or
any description of services as may be determined by or under the regulations and, in particular —

(a) for permitting the value which is to be taken as the value of the supplies in any prescribed accounting period or part thereof to be determined, subject to any limitations or restrictions, by such method or one of such methods as may have been described in any notice published by the Treasury in pursuance of the regulations and not withdrawn by a further notice or as may be agreed with the Treasury; and

(b) for determining the proportion of the value of the supplies which is to be attributed to any description of supplies; and

(c) for adjusting that value and proportion for periods comprising two or more prescribed accounting periods or parts thereof.

(7) Regulations under this paragraph may make provision whereby, in such cases and subject to such conditions as may be determined by or under the regulations, VAT in respect of a supply may be accounted for and paid by reference to the time when consideration for the supply was received; and any such regulations may make such modifications of the provisions of this Act (including in particular, but without prejudice to the generality of the power, the provisions as to the time when, and the circumstances in which, credit for input tax is to be allowed) as appear to the Treasury necessary or expedient.

(8) Regulations under this paragraph may make provision whereby, in such cases and subject to such conditions as may be determined by or under the regulations —

(a) VAT in respect of any supply by a taxable person of dutiable goods; or

(b) VAT in respect of an acquisition by any person from a member State of dutiable goods,

may be accounted for and paid, and any question as to the inclusion of any duty or agricultural levy in the value of the supply or acquisition determined, by reference to the duty point or by reference to such later time as the Treasury may allow.

In this sub-paragraph “dutiable goods” and “duty point” have the same meanings as in section 18.

(9) Regulations under this paragraph may provide for the time when any invoice described in regulations made for the purposes of section 6(8)(b) or 12(1)(b) is to be treated as having been issued and provide for VAT accounted for and paid by reference to the date of issue of such an invoice to be confined to VAT on so much of the value of the supply or acquisition as is shown on the invoice.

(10) Regulations under this paragraph may make provision —

(a) for treating VAT chargeable in one prescribed accounting period as chargeable in another such period; and
(b) with respect to the making of entries in accounts for the purpose of making adjustments, whether for the correction of errors or otherwise; and

(c) for the making of financial adjustments in connection with the making of entries in accounts for the purpose mentioned in paragraph (b); and

(d) for a person, for purposes connected with the making of any such entry or financial adjustment, to be required to provide to any prescribed person, or to retain, a document in the prescribed form containing prescribed particulars of the matters to which the entry or adjustment relates; and

(e) for enabling the Treasury, in such cases, as it may think fit, to dispense with or relax a requirement imposed by regulations made by virtue of paragraph (d).

(11) Regulations under this paragraph may make different provision for different circumstances and may provide for different dates as the commencement of prescribed accounting periods applicable to different persons.

(11A) Regulations under this paragraph may include incidental, supplemental, consequential, saving, transitional or transitory provision.

(12) The provisions made by regulations under this paragraph for cases where goods are treated as supplied by a taxable person by virtue of paragraph 7 of Schedule 5 may require the VAT chargeable on the supply to be accounted for and paid, and particulars thereof to be provided, by such other person and in such manner as may be specified by the regulations.

(13) Where, at the end of a prescribed accounting period, the amount of VAT due from any person or the amount of any VAT credit due would be less than £1 that amount shall be treated as nil.

VAT invoices

2A. (1) Regulations may require a taxable person supplying goods or services to provide an invoice (a “VAT invoice”) to the person supplied.

(2) A VAT invoice must give —

(a) such particulars as may be prescribed of the supply, the supplier and the person supplied;

(b) such an indication as may be prescribed of whether VAT is chargeable on the supply under this Act or the law of a member State;

(c) such particulars of any VAT that is so chargeable as may be prescribed.
(3) Regulations may confer power on the Treasury to allow the requirements of any regulations as to the information to be given in a VAT invoice to be relaxed or dispensed with.

(4) Regulations may —
(a) provide that the VAT invoice that is required to be provided in connection with a particular description of supply must be provided within a prescribed time after the supply is treated as taking place, or at such time before the supply is treated as taking place as may be prescribed;
(b) allow for the invoice to be issued later than required by the regulations where it is issued in accordance with general or special directions given by the Treasury.

(5) Regulations may —
(a) make provision about the manner in which a VAT invoice may be provided, including provision prescribing conditions that must be complied with in the case of an invoice issued by a third party on behalf of the supplier;
(b) prescribe conditions that must be complied with in the case of a VAT invoice that relates to more than one supply;
(c) make, in relation to a document that refers to a VAT invoice and is intended to amend it, such provision corresponding to that which may be made in relation to a VAT invoice as appears to the Treasury to be appropriate.

(6) Regulations may confer power on the Treasury to require a person who has received in the Island a VAT invoice that is (or part of which is) in a language other than English to provide them with an English translation of the invoice (or part).

(7) Regulations under this paragraph —
(a) may be framed so as to apply only in prescribed cases or only in relation to supplies made to persons of prescribed descriptions;
(b) may make different provision for different circumstances.¹¹⁹²

Self-billed invoices

2B. (1) This paragraph applies where a taxable person provides to himself a document (a “self-billed invoice”) that purports to be a VAT invoice in respect of a supply of goods or services to him by another taxable person.

(2) Subject to compliance with such conditions as may be —
(a) prescribed,
(b) specified in a notice published by the Treasury, or
(c) imposed in a particular case in accordance with regulations,
a self-billed invoice shall be treated as the VAT invoice required by regulations under paragraph 2A to be provided by the supplier.

(3) For the purposes of section 6(4) (under which the time of supply can be determined by the prior issue of an invoice) a self-billed invoice shall not be treated as issued by the supplier.

(4) For the purposes of section 6(5) and (6) (under which the time of supply can be determined by the subsequent issue of an invoice) a self-billed invoice in relation to which the conditions mentioned in sub-paragraph (2) are complied with shall, subject to compliance with such further conditions as may be prescribed, be treated as issued by the supplier.

In such a case, any notice of election given or request made for the purposes of section 6(5) or (6) by the person providing the self-billed invoice shall be treated for those purposes as given or made by the supplier.

(5) Regulations under this paragraph —
(a) may be framed so as to apply only in prescribed cases or only in relation to supplies made to persons of prescribed descriptions;
(b) may make different provision for different circumstances.1993

Electronic communication and storage of VAT invoices etc

3. (1) Regulations may prescribe, or provide for the Treasury to impose in a particular case, conditions that must be complied with in relation to —
(a) the provision by electronic means of any item to which this paragraph applies;
(b) the preservation by electronic means of any such item or of information contained in any such item.

(2) The items to which this paragraph applies are —
(a) any VAT invoice;
(b) any document that refers to a VAT invoice and is intended to amend it;
(c) any invoice described in regulations made for the purposes of section 6(8)(b) or 12(1)(b).

(3) Regulations under this paragraph may make different provision for different circumstances.1994

Power to require security and production of evidence

[1973/1/32]

4. (1) The Treasury may, as a condition of allowing or repaying input tax to any person, require the production of such evidence relating to VAT as it may specify.
(1A) If it thinks it necessary for the protection of the revenue, the Treasury may require, as a condition of making any VAT credit, the giving of such security for the amount of the payment as appears to it appropriate.

(2) If it thinks it necessary for the protection of the revenue, the Treasury may require a taxable person, as a condition of his supplying or being supplied with goods or services under a taxable supply, to give security, or further security, for the payment of any VAT that is or may become due from —

(a) the taxable person, or
(b) any person by or to whom relevant goods or services are supplied.

(3) In sub-paragraph (2) “relevant goods or services” means goods or services supplied by or to the taxable person.

(4) Security under sub-paragraph (2) shall be of such amount, and shall be given in such manner, as the Treasury may determine.

(5) The powers conferred on the Treasury by sub-paragraph (2) are without prejudice to its powers under section 48(7).

[1973/1/33]

Recovery of VAT, etc

5. (1) VAT due from any person shall be recoverable as a debt due to the Crown.

(2) Where an invoice shows a supply of goods or services as taking place with VAT chargeable on it, there shall be recoverable from the person who issued the invoice an amount equal to that which is shown on the invoice as VAT or, if VAT is not separately shown, to so much of the total amount shown as payable as is to be taken as representing VAT on the supply.

(3) Sub-paragraph (2) applies whether or not —

(a) the invoice is a VAT invoice issued in pursuance of paragraph 2(1); or

(b) the supply shown on the invoice actually takes or has taken place, or the amount shown as VAT, or any amount of VAT, is or was chargeable on the supply; or

(c) the person issuing the invoice is a taxable person;

and any sum recoverable from a person under the sub-paragraph shall, if it is in any case VAT, be recoverable as such and shall otherwise be recoverable as a debt due to the Crown.

(4) The Treasury may by regulations make provision —

(a) for authorising distress to be levied on the goods and chattels of any person refusing or neglecting to pay —

(i) any amount of VAT due from him, or

(ii) any amount recoverable as if it were VAT due from him;
(b) for the disposal of any goods or chattels on which distress is levied in pursuance of the regulations; and
(c) for the imposition and recovery of costs, charges, expenses and fees in connection with anything done under the regulations.\textsuperscript{1196}

(5) The provision that may be contained in regulations under paragraph (4) shall include, in particular —
(a) provision for the levying of distress, by any person authorised to do so under the regulations, on goods or chattels located at any place whatever (including on a public highway); and
(b) provision authorising distress to be levied at such time of the day or night, and on any such day of the week, as may be specified or described in the regulations.\textsuperscript{1197}

(6) Regulations under paragraph (4) may —
(a) make different provision for different cases; and
(b) contain any such incidental, supplemental, consequential or transitional provision as the Treasury thinks fit.\textsuperscript{1198}

\textit{Distraint for overdue VAT}

6. (1) If a person neglects or refuses to pay VAT, or any amount recoverable as if it were VAT (including any sum required by way of security under subsection (7) of section 48), which he is required to pay under this Act or any regulation under this Act, the Treasury may by notice in writing require that person to pay such VAT within 14 days of the delivery of the notice.

(2) No notice shall be served under sub-paragraph (1) until 30 days after the VAT becomes due.

(3) A notice issued under sub-paragraph (1) shall be served in accordance with section 99.

(4) If the person on whom notice is served does not pay the sum due within the said period of 14 days, the Treasury may issue to the appropriate Coroner a warrant in such form as is prescribed in regulations.

(5) A warrant issued under this paragraph shall be enforceable in the same manner as an execution of the High Court.

(6) Without prejudice to the generality of sub-paragraph (5), sections 13 to 14A of, and Schedules 1 to 2A to the \textit{Administration of Justice Act 1981} shall apply, with the necessary modifications, to the enforcement of a warrant issued under this paragraph as they apply to the enforcement of an execution of the High Court.

(7) This paragraph is without prejudice to —
(a) paragraph 5(4) and any regulations under that paragraph; and
(b) any other remedy available for the recovery of unpaid VAT.
Power to set aside warrants under paragraph 6

7. (1) Where the Chief Registrar is, on the application of a person named in a warrant issued under paragraph 6, satisfied that —

(a) the sum due under the warrant has been paid in full; or

(b) the notice issued under sub-paragraph (1) of that paragraph was not served in the manner required by sub-paragraph (3) of that paragraph; or

(c) there is an error on the face of the warrant, the Chief Registrar may, on such terms as he thinks fit, set aside the warrant.

(2) If, on application under this paragraph, the Chief Registrar is satisfied that there is an error on the face of the warrant, but that the applicant is not prejudiced thereby, he may dismiss the application on such terms as he thinks fit.

(3) Whenever the Chief Registrar entertains a doubt as to any question of law arising in the course of any application under this paragraph, he may refer the question to a Deemster for his opinion.

(4) An application under this paragraph shall be made in writing to the Chief Registrar within 14 days of the date on which the warrant first came to the notice of the applicant and on receipt of the application the Chief Registrar shall stay the enforcement of the warrant and shall give notice to the Treasury forthwith.

(5) The application shall be in such form and contain such information as the Chief Registrar may require.

(6) The Chief Registrar may adopt any method of procedure which he may consider to be convenient and to afford a fair and equal opportunity to the applicant and the Treasury to present their respective cases.

(7) An application under this paragraph may be determined without a hearing but where a hearing is held it shall be informal and in private.

(8) A decision of the Chief Registrar to set aside a warrant shall not prejudice any VAT properly due under this Act.

(9) Where the Chief Registrar sets aside a warrant —

(a) the Treasury shall not be prevented, except in a case to which sub-paragraph (1)(a) of this paragraph applies, from issuing a fresh warrant in place of that set aside;

(b) no person shall be liable for anything previously done in good faith under the warrant.

Duty to keep records

[1973/1/34]

8. (1) Every taxable person shall keep such records as the Treasury may by regulations require and every person who, at a time when he is not a taxable person, acquires in the Island from a member State, or in the possession of a fiscal
warehousekeeper, any goods which are subject to a duty of excise or consist in a new means of transport shall keep such records with respect to the acquisition (if it is a taxable acquisition and is not in pursuance of a taxable supply) as the Treasury may so require.\textsuperscript{1199}

(2) Regulations under sub-paragraph (1) may make different provision for different cases and may be framed by reference to such records as may be specified in any notice published by the Treasury in pursuance of the regulations and not withdrawn by a further notice.

(3) The Treasury may require any records kept in pursuance of this paragraph to be preserved for such period not exceeding 6 years as it may specify in writing (and different periods may be specified for different cases).\textsuperscript{1200}

(4) The duty under this paragraph to preserve records may be discharged —
   (a) by preserving them in any form or by any means, or
   (b) by preserving the information contained in them in any form or by any means,

subject to any conditions or exceptions specified in writing by the Treasury.\textsuperscript{1201}

(5) The Treasury may by regulations make provision about the form in which, and means by which, records are to be kept and preserved.

Regulations under this sub-paragraph may not make provision requiring records to be kept or preserved in electronic form which has effect before 1 April 2019.\textsuperscript{1202}

(6) Regulations under sub-paragraph (5) may —
   (a) make different provision for different cases;
   (b) provide for any provision of the regulations to be subject to conditions or exceptions specified in writing by the Treasury;
   (c) include incidental, supplemental, consequential, saving, transitional or transitory provision.\textsuperscript{1203}

(7) If regulations under sub-paragraph (5) make provision requiring records to be kept or preserved in electronic form they must make provision for a taxable person to be exempt from those requirements for any month (“the current month”) if —
   (a) the value of the person’s taxable supplies, in the period of one year ending with the month before the current month, was less than the VAT threshold; and
   (b) the person was not subject to those requirements in the month before the current month.\textsuperscript{1204}

(8) The regulations may modify the exemption for cases where a business or part of a business carried on by a taxable person is transferred to another person as a going concern.\textsuperscript{1205}
(9) The “VAT threshold” means the amount specified in paragraph 1(1)(a) of Schedule 2 on the first day of the current month.

(10) Regulations under sub-paragraph (5) requiring records to be kept or preserved in electronic form may (among other things) make provision —

(a) as to the electronic form in which records are to be kept or preserved;

(b) for the production of the contents of records kept or preserved in accordance with the regulations;

(c) as to conditions that must be complied with in connection with the keeping or preservation of electronic records;

(d) for treating records as not having been kept or preserved unless conditions are complied with;

(e) for authenticating records;

(f) about the manner of proving for any purpose the contents of any records (including provision for the application of conclusive or other presumptions).

(11) Regulations under sub-paragraph (5) requiring records to be kept or preserved in electronic form may —

(a) allow any authorisation or requirement for which the regulations may provide to be given by means of a specific or general direction given by the Treasury;

(b) provide that the conditions of an authorisation or requirement are to be taken to be satisfied only where the Treasury is satisfied as to specified matters.

8A. (1) The Treasury may direct any taxable person named in the direction to keep such records as it specifies in the direction in relation to such goods as it so specifies.

(2) A direction under this paragraph may require the records to be compiled by reference to VAT invoices or any other matter.

(3) The Treasury may not make a direction under this paragraph unless it has reasonable grounds for believing that the records specified in the direction might assist in identifying taxable supplies in respect of which the VAT chargeable might not be paid.

(4) The taxable supplies in question may be supplies made by —

(a) the person named in the direction, or

(b) any other person.

(5) A direction under this paragraph —

(a) must be given by notice in writing to the person named in it,

(b) must warn that person of the consequences under section 69B of failing to comply with it, and
(c) remains in force until it is revoked or replaced by a further direction.

(6) The Treasury may require any records kept in pursuance of this paragraph to be preserved for such period not exceeding 6 years as it may require.

(7) Paragraph 8(4) (preservation of information by means approved by the Treasury) applies for the purposes of this paragraph as it applies for the purpose of that paragraph.\(^{1209}\)

(8) This paragraph is without prejudice to the power conferred by paragraph 8(1) to make regulations requiring records to be kept.

(9) Any records required to be kept by virtue of this paragraph are in addition to any records required to be kept by virtue of paragraph 8.\(^{1210}\)

Furnishing information and production of documents

[1973/1/35]

9. (1) The Treasury may by regulations make provision for requiring taxable persons to notify to the Treasury such particulars of changes in circumstances relating to those persons or any business carried on by them as appear to the Treasury to be required for the purpose of keeping the register kept under this Act up to date.

(2) Every person who is concerned (in whatever capacity) in the supply of goods or services in the course or furtherance of a business or to whom such a supply is made and every person who is concerned (in whatever capacity) in the acquisition of goods from a member State and every person who is concerned (in whatever capacity) in the importation of goods from a place outside the member States in the course or furtherance of a business shall —

(a) furnish to the Treasury, within such time and in such form as it may reasonably require, such information relating to the goods or services or to the supply, acquisition or importation as the Treasury may reasonably specify; and

(b) upon demand made by an authorised person, produce or cause to be produced for inspection by that person —

(i) at the principal place of business of the person upon whom the demand is made or at such other place as the authorised person may reasonably require, and

(ii) at such time as the authorised person may reasonably require,

any documents relating to the goods or services or to the supply, acquisition or importation.

(3) Where, by virtue of sub-paragraph (2), an authorised person has power to require the production of any documents from any such person as is referred to in that sub-paragraph, he shall have the like power to require the production of the documents concerned from any other person who appears to the authorised person to be in
possession of them; but where any such other person claims a lien on any document produced by him, the production shall be without prejudice to the lien.

(4) For the purposes of this paragraph, the documents relating to the supply of goods or services, to the acquisition of goods from a member State or to the importation of goods from a place outside the member States shall be taken to include any profit and loss account and balance sheet relating to the business in the course of which the goods or services are supplied or the goods are imported or (in the case of an acquisition from a member State) relating to any business or other activities of the person by whom the goods are acquired.

(5) An authorised person may take copies of, or make extracts from, any document produced under sub-paragraph (2) or (3).

(6) If it appears to an authorised person to be necessary to do so, he may, at a reasonable time and for a reasonable period, remove any document produced under sub-paragraph (2) or (3) and shall, on request, provide a receipt for any document so removed; and where a lien is claimed on a document produced under sub-paragraph (3), the removal of the document under this sub-paragraph shall not be regarded as breaking the lien.

(7) Where a document removed by an authorised person under sub-paragraph (6) is reasonably required for the proper conduct of a business he shall, as soon as practicable, provide a copy of the document, free of charge, to the person by whom it was produced or caused to be produced.

(8) Where any documents removed under the powers conferred by this paragraph are lost or damaged the Treasury shall be liable to compensate their owner for any expenses reasonably incurred by him in replacing or repairing the documents.

(9) For the purposes of this paragraph a person to whom has been assigned a right to receive the whole or any part of the consideration for a supply of goods or services shall be treated as a person concerned in the supply.

1211

Power to take samples

[1973/1/36]

10. (1) An authorised person, if it appears to him necessary for the protection of the revenue against mistake or fraud, may at any time take, from the goods in the possession of any person who supplies goods or acquires goods from a member State, such samples as the authorised person may require with a view to determining how the goods or the materials is of which they are made ought to be or to have been treated for the purposes of VAT.

(2) Any sample taken under this paragraph shall be disposed of and accounted for in such manner as the Treasury may direct.

(3) Where a sample is taken under this paragraph from the goods in any person's possession and is not returned to him within a reasonable time and in good condition the Treasury shall pay him by way of compensation a sum equal to the cost of the sample to him or such larger sum as it may determine.
Power to require the opening of machines on which relevant machine games are played

[1973/1/36A]

11. An authorised person may at any reasonable time require a person making such a supply as is referred to in section 23(1) or any person acting on his behalf.

   (a) to open any machine on which relevant machine games (as defined in section 23A) are capable of being played; and

   (b) to carry out any other operation which may be necessary to enable the authorised person to ascertain the amount which, in accordance with section 23(3), is to be taken as the value of supplies made in the circumstances mentioned in subsection (1) of that section in any period.

Entry and search of premises and persons

[1973/1/37]

12. (1) For the purpose of exercising any powers under this Act an authorised person may at any reasonable time enter premises used in connection with the carrying on of a business.

   (2) Where an authorised person has reasonable cause to believe that any premises are used in connection with the supply of goods under taxable supplies or with the acquisition of goods under taxable acquisitions from member States and that goods to be so supplied or acquired are on those premises, or that any premises are used as a fiscal warehouse, he may at any reasonable time enter and inspect those premises and inspect any goods found on them.

   (2A) The power under sub-paragraph (2) to inspect any goods includes, in particular,

      (a) power to mark the goods, or anything containing the goods, for the purpose of indicating that they have been inspected, and

      (b) power to record any information (which may be obtained by electronic or any other means) relating to the goods that have been inspected.

   (3) If a justice of the peace is satisfied on information on oath that there is reasonable ground for suspecting that a fraud offence which appears to be of a serious nature is being, has been or is about to be committed on any premises or that evidence of the commission of such an offence is to be found there, he may issue a warrant in writing authorising subject to sub-paragraphs (5) and (6), any authorised person to enter those premises, if necessary by force, at any time within one month from the time of the issue of the warrant and search them; and any person who enters the premises under the authority of the warrant may —

      (a) take with him such other persons as appear to him to be necessary;

      (b) seize and remove any documents or other things whatsoever found on the premises which he has reasonable cause to believe may be
required as evidence for the purposes of proceedings in respect of a fraud offence which appears to him to be of a serious nature; and

(c) search or cause to be searched any person found on the premises whom he has reasonable cause to believe to be in possession of any such documents or other things;

but no woman or girl shall be searched except by a woman.

(4) In sub-paragraph (3), “a fraud offence” means an offence under any provision of section 72(1) to (8).

(5) The powers conferred by a warrant under this paragraph shall not be exercisable —

(a) by more than such number of authorised persons as may be specified in the warrant; nor

(b) outside such times of day as may be so specified; nor

(c) if the warrant so provides, otherwise than in the presence of a constable in uniform.

(6) An authorised person seeking to exercise the powers conferred by a warrant under this paragraph or, if there is more than one such authorised person, that one of them who is in charge of the search shall provide a copy of the warrant endorsed with his name as follows —

(a) if the occupier of the premises concerned is present at the time the search is to begin, the copy shall be supplied to the occupier;

(b) if at that time the occupier is not present but a person who appears to the authorised person to be in charge of the premises is present, the copy shall be supplied to that person; and

(c) if neither paragraph (a) nor paragraph (b) applies, the copy shall be left in a prominent place on the premises.

Order for access to recorded information, etc

[1973/1/37A]

13. (1) Where, on an application by an authorised person, a justice of the peace is satisfied that there are reasonable grounds for believing.

(a) that an offence in connection with VAT is being, has been or is about to be committed, and

(b) that any recorded information (including any document of any nature whatsoever) which may be required as evidence for the purpose of any proceedings in respect of such an offence is in the possession of any person,

he may make an order under this paragraph.
(2) An order under this paragraph is an order that the person who appears to the justice to be in possession of the recorded information to which the application relates shall —

(a) give an authorised person access to it, and

(b) permit an authorised person to remove and take away any of it which he considers necessary, not later than the end of the period of 7 days beginning on the date of the order or the end of such longer period as the order may specify.

(3) The reference in sub-paragraph (2)(a) to giving an authorised person access to the recorded information to which the application relates includes references to permitting the authorised person to take copies of it or to make extracts from it.

(4) Where the recorded information consists of information stored in any electronic form, an order under this paragraph shall have effect as an order to produce the information in a form in which it is visible and legible or from which it can readily be produced in a visible and legible form and, if the authorised person wishes to remove it, in a form in which it can be removed.1217

(5) This paragraph is without prejudice to paragraphs 9 and 12.

(6) Without prejudice to any other provision of this Act or any public document made under it, in this paragraph “an offence in connection with VAT” means —

(a) any act or omission which constitutes an offence in relation to value added tax charged under or by virtue of this Act or any other statutory provision; and

(b) any act or omission which constitutes an offence under or in relation to value added tax charged under or by virtue of an Act of Parliament or any legislation of a member State of the European Union if that act or omission would constitute an offence if it had occurred in the Island.1218 1219

Procedure where documents etc are removed

[1973/1/37B]

14. (1) An authorised person who removes anything in the exercise of a power conferred by or under paragraph 12 or 13 shall, if so requested by a person showing himself.

(a) to be the occupier of premises from which it was removed, or

(b) to have had custody or control of it immediately before the removal,

provide that person with a record of what he removed.

(2) The authorised person shall provide the record within a reasonable time from the making of the request for it.
(3) Subject to sub-paragraph (7), if a request for permission to be granted access to anything which —

(a) has been removed by an authorised person, and
(b) is retained by the Treasury for the purpose of investigating an offence,

is made to the officer in overall charge of the investigation by a person who had custody or control of the thing immediately before it was so removed or by someone acting on behalf of such a person, the officer shall allow the person who made the request access to it under the supervision of an authorised person.

(4) Subject to sub-paragraph (7), if a request for a photograph or copy of any such thing is made to the officer in overall charge of the investigation by a person who had custody or control of the thing immediately before it was so removed, or by someone acting on behalf of such a person, the officer shall —

(a) allow the person who made the request access to it under the supervision of an authorised person for the purpose of photographing it or copying it, or
(b) photograph or copy it, or cause it to be photographed or copied.

(5) Where anything is photographed or copied under sub-paragraph (4)(b) the photograph or copy shall be supplied to the person who made the request.

(6) The photograph or copy shall be supplied within a reasonable time from the making of the request.

(7) There is no duty under this paragraph to grant access to, or to supply a photograph or copy of, anything if the officer in overall charge of the investigation for the purposes of which it was removed has reasonable grounds for believing that to do so would prejudice —

(a) that investigation;
(b) the investigation of an offence other than the offence for the purposes of the investigation of which the thing was removed; or
(c) any criminal proceedings which may be brought as a result of —

(i) the investigation of which he is in charge, or
(ii) any such investigation as is mentioned in sub-paragraph (b).

(8) Any reference in this paragraph to the officer in overall charge of the investigation is a reference to the person whose name and address are endorsed on the warrant or order concerned as being the officer so in charge.

Order to comply with requirement

[1973/1/37C]

15. (1) Where, on an application made by way of complaint as mentioned in sub-paragraph (2), a court of summary jurisdiction is satisfied that a person has failed to comply with a requirement imposed by paragraph 14, the court may order that person
to comply with the requirement within such time and in such manner as may be specified in the order.

(2) An application under sub-paragraph (1) shall be made —

(a) in the case of a failure to comply with any of the requirements imposed by paragraph 14(1) and (2), by the occupier of the premises from which the thing in question was removed or by the person who had custody or control of it immediately before it was so removed, and

(b) in any other case, by the person who had such custody or control.

Evidence by certificate, etc

[1973/1/39]

16. (1) A certificate of the Treasury.

(a) that a person was or was not, at any date, registered under this Act; or

(b) that any return required by or under this Act has not been made or had not been made at any date; or

(c) that any statement or notification required to be submitted or given to the Treasury in accordance with any regulations under paragraph 2(3) or (4) has not been submitted or given or had not been submitted or given at any date; or

(d) that any VAT shown as due in any return or assessment made in pursuance of this Act has not been paid;

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

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

(3) Any document purporting to be a certificate under sub-paragraph (1) or (2) shall be deemed to be such a certificate until the contrary is proved.

Schedule 12A

MUTUAL RECOVERY

1 MARD


2 Treasury functions

The Treasury is the competent authority and central liaison office in the Island for the purposes of all matters under MARD.
3 Exchange of Information

(1) No obligation to secrecy imposed by statute or otherwise precludes a public authority (or anyone acting on behalf of a public authority) from disclosing information or documents if the disclosure is made for the purpose of giving effect, or enabling effect to be given, to MARD or a MARD-related instrument.

(2) Sub-paragraph (1) applies, in particular, to any disclosure in connection with a request or proposed request by or on behalf of an applicant authority of a member State for assistance in accordance with MARD.

(3) Sub-paragraph (2) does not limit sub-paragraph (1).

4 Onward disclosure of information received from the Treasury

(1) A public authority commits an offence if —

(a) it discloses relevant information or documents; and

(b) the disclosure is not permitted by sub-paragraph (3).

(2) “Relevant information or documents” means that —

(a) (which the public authority has received from the Treasury by virtue of paragraph (3); and

(b) it relates to a person whose identity is specified in the disclosure or can be deduced from it.

(3) A disclosure is permitted by this sub-paragraph if it is made—

(a) in accordance with paragraph 3;

(b) in accordance with another enactment permitting the disclosure;

(c) in pursuance of a court order;

(d) for the purposes of civil proceedings (whether or not within the Island);

(e) for the purposes of a criminal investigation or criminal proceedings (whether or not within the Island);

(f) with the consent of each person to whom the information relates; or

(g) with the consent of the Treasury.

(4) Sub-paragraph (1) applies to each of the following as it applies to a public authority—

(a) an employee or agent of the public authority;

(b) anyone providing services or exercising functions on behalf of the public authority; and

(c) anyone authorised by the public authority to receive information on its behalf.
5 **Defences to an offence under paragraph 4**

It is a defence for a person charged with an offence under paragraph 4 to prove that the person reasonably believed—

(a) that the disclosure was lawful; or

(b) that the information had already and lawfully been made available to the public.

6 **Penalties for an offence under paragraph 4**

A person guilty of an offence under paragraph 4 is liable—

(a) on summary conviction, to custody for a term not exceeding 6 months or a fine not exceeding £5,000, or to both; or

(b) on conviction on information, to custody for a term not exceeding 2 years or a fine, or both.

7 **Enforcement of foreign claims in the Island**

(1) This paragraph applies if an applicant authority of a member State makes a request in accordance with MARD for recovery in the Island of a claim.

(2) The claim in relation to which such a request is made is referred to as “the foreign claim”.

(3) Such steps may be taken by the Treasury or on its behalf to enforce the foreign claim as might be taken (whether or not by the Treasury) to enforce a corresponding Island claim.

(4) “Steps” includes any legal or administrative steps, whether by way of legal proceedings, distress or otherwise.

(5) The steps mentioned in sub-paragraph (4) include exercising any powers to set-off that the Treasury would have been entitled to exercise if the foreign claim had been payable to it under an enactment.

(6) Any enactment or rule of law relating to a corresponding Island claim in the Island is to apply, with any necessary adaptations, in relation to the foreign claim.

(7) The enactments applied by sub-paragraph (6) include in particular those relating to the recovery of penalties and to the charging and recovery of interest on unpaid amounts.

8 **Corresponding Island claim**

(1) In relation to a foreign claim, “corresponding Island claim” means a claim in the Island of a kind that appears to the Treasury to correspond most closely to the kind of foreign claim to which the foreign claim belongs.

(2) A corresponding Island claim may only be one which involves value added tax.
9 Application of relevant enactments

(1) In relation to any kind of foreign claim, the Treasury may by regulations make provision as to the application, non-application or adaptation of any enactment or rule of law relating to corresponding Island claims.

(2) Paragraph 7(6) is to be read subject to any provision so made.

10 Power to make further provision

The Treasury may by regulations make provision about procedural or other supplementary matters for the purpose of giving effect to MARD and any MARD-related instrument.

11 Contested claims

(1) The taking or continuation of steps against a person under paragraph 7 must be suspended if the person shows that relevant proceedings are pending, or about to be instituted, before a court, tribunal or other competent body in the member State in question.

(2) “Relevant proceedings” are proceedings relevant to the person’s liability on the foreign claim.

(3) Relevant proceedings are “pending” so long as any appeal may be brought against any decision in the proceedings.

(4) Sub-paragraph (1) does not apply to steps that may be taken or continued against the person by the application (by virtue of paragraphs 7(6) and 9 of an enactment or rule of law that permits such steps to be taken or continued in similar circumstances in the case of a corresponding Island claim.

(5) Sub-paragraph (1) ceases to apply if the relevant proceedings are not prosecuted or instituted with reasonable speed.

12 Claims determined in the claimant’s favour

(1) Steps under paragraph 7(3) must not be taken or continued against a person if a final decision on the foreign claim has been given in the person’s favour by a court, tribunal or other competent body in the member State in question.

(2) For this purpose, a final decision is one against which no appeal lies or against which an appeal lies within a period that has expired without an appeal having been brought.

(3) If the person shows that such a decision has been given in respect of part of the foreign claim, steps under paragraph 7(3) must not be taken or continued in relation to that part.
13 Liability to pay

In relation to any steps against a person under paragraph 7(3), no question may be raised as to the person’s liability on the foreign claim except as mentioned in paragraph 12.

14 Presumption of liability

For the purpose of steps under paragraph 7(3), a request made by an applicant authority in a member State is taken to be duly made in accordance with MARD unless the contrary is proved.

15 Interpretation

In this Schedule—

“applicant authority” has the same meaning as in MARD;

“MARD-related instrument” means any EU instrument (including one made after this Schedule comes into operation) that lays down detailed rules for implementing MARD; and

“public authority” means a person with functions of a public nature.

16 Outstanding requests

Any outstanding request for assistance made in accordance with the Directive of the Council of the European Commission (EC) No. 2008/55 [OJ No. L150, 10.6.08, p.28] before 1 January 2012 is to be treated on and after that date for the purposes of this Schedule as if it had been made in accordance with MARD.

17 Application

This Schedule has effect in relation to the recovery of sums becoming due at any time, whether before or after the date when this Schedule came into operation.

Schedule 13

CONSTITUTION AND PROCEDURE OF THE TRIBUNAL

Section 82

Establishment of the Tribunal

1. (1) There shall continue to be a Tribunal known as the VAT and Duties Tribunal.

(2) Any reference in any enactment to a value added tax tribunal (or to a VAT tribunal) shall be construed in accordance with paragraph (1), and cognate expressions shall be construed similarly.
Sittings of the Tribunal

2. The Tribunal shall sit at such times and places as it may from time to time determine.

Composition of the Tribunal

3. (1) The Tribunal shall consist of a chairman sitting —
   (a) with two Tribunal members; or
   (b) with one Tribunal member; or
   (c) alone.

   (2) If the Tribunal consists of the chairman sitting with 2 Tribunal members its decisions shall be taken by a majority of votes.

   (3) If the Tribunal consists of the chairman sitting with one other Tribunal member, the chairman shall have a casting vote.

Membership of the Tribunal

4. (1) For each sitting of the Tribunal —
   (a) the chairman shall be —
      (i) the Senior President of Tribunals appointed under section 2 of the Tribunals, Courts and Enforcement Act 2007 (of Parliament);
      (ii) the President of the chamber, established under section 7 of that Act, that deals with value added tax appeals in the United Kingdom ("the Chamber President"); or
      (iii) a judge of either the First-tier Tribunal or the Upper Tribunal established under section 3 of that Act authorised by the Chamber President; and
   (b) the other 2 members shall be selected from the panel of Tribunal members constituted under paragraph 5 of this Schedule by the Chamber President or a judge falling within paragraph (a)(iii) authorised by the Chamber President.

   (2) Section 4 of the Tribunals Act 2006 (constitution of Part 2 tribunals under that Act) does not apply to the VAT and Duties Tribunal.1221

5. There shall be a panel of Tribunal members appointed in accordance with the Tribunals Act 2006 after consultation with the Chamber President.1222
Rules of procedure

6. Rules of procedure

(1) Rules made under section 8 of the Tribunals Act 2006 with respect to the Tribunal may include provision —

(a) about the joinder of appeals brought by different persons if a notice is served under section 61 and the appeals relate to, or to different portions of, the basic penalty referred to in the notice; and

(b) for any directly applicable Community legislation relating to any duty of customs or any enactment relating to any duty of customs or excise, to apply as if the amount awarded were an amount of duty which the appellant is required to pay.

(2) Before making rules under section 8 of the Tribunals Act 2006 concerning the Tribunal the Council of Ministers must consult the Chamber President.

7. (1) A person who fails to comply with a direction or summons issued by the Tribunal under rules referred to in paragraph 6 shall be liable to a penalty not exceeding £1,000.

(2) A penalty for which a person is liable under sub-paragraph (1) may be awarded summarily by the Tribunal even if no proceedings for its recovery have been commenced.

(3) An appeal shall lie to the High Court from the award of a penalty under this paragraph and the High Court may either confirm or reverse the decision of the Tribunal or reduce or increase the sum awarded.

(4) A penalty awarded under this paragraph shall be recoverable as if it were VAT due from the person liable for the penalty.

Schedule 14

TRANSITIONAL PROVISIONS AND SAVINGS

Section 101

General provisions

1. (1) The continuity of the law relating to VAT shall not be affected by the substitution of this Act for the enactments repealed by this Act and earlier enactments repealed by and corresponding to any of those enactments (“the repealed enactments”).

(2) Any reference, whether express or implied, in any enactment or other document (including this Act or any Act amended by this Act) to, or to things done or falling to be done under or for the purposes of, any provision of this Act shall, if and so far as the nature of the reference permits, be construed as including, in relation to the times, years or periods, circumstances or purposes in relation to which the corresponding provision in the repealed enactments has or had effect, a reference to, or
as the case may be, to things done or falling to be done under or for the purposes of, that corresponding provision.

(3) Any reference, whether express or implied, in any enactment or other document (including the repealed enactments and enactments and documents passed or made or otherwise coming into existence after the commencement of this Act) to, or to things done or falling to be done under or for the purposes of, any of the repealed enactments shall, if and so far as the nature of the reference permits, be construed as including, in relation to the times, years or periods, circumstances or purposes in relation to which the corresponding provision of this Act has effect, a reference to, or as the case may be to things done or falling to be done under or for the purposes of, that corresponding provision.

(4) Without prejudice to paragraphs (1) to (3), in any case where as respects the charge to VAT on any supply, acquisition or importation made at a time before the commencement of this Act but falling in a prescribed accounting period to which Part I applies —

(a) an enactment applicable to that charge to VAT is not re-enacted in this Act or is re-enacted with amendments which came into force after that time, or

(b) a repealed enactment corresponding to an enactment in this Act did not apply to that charge to VAT,

any question arising under Part I and relating to that charge to VAT shall continue to be determined in accordance with the law in force at that time.

Validity of subordinate legislation

2. So far as this Act re-enacts any provision contained in a public document made in exercise of powers conferred by any Act, it shall be without prejudice to the validity of that provision, and any question as to its validity shall be determined as if the re-enacted provision were contained in a public document made under those powers.

Provisions related to the introduction of VAT

3. Where a vehicle in respect of which purchase tax was remitted under section 21 of the Purchase Tax Act 1949 (vehicles for use outside the Island) is brought back to the Island the vehicle shall not, when brought back, be treated as imported for the purpose of VAT chargeable on the importation of goods.

Supply in accordance with pre-21.4.75 arrangements

4. Where there were in force immediately before 21 April 1975 arrangements between any predecessor of the Treasury and any taxable person for supplies made by him (or such supplies made by him as were specified in the arrangements) to be treated as taking place at times or on dates which, had section 6(10) been in force when the arrangements were made, could have been provided for by a direction under that section, he shall be treated for the purposes of that section as having requested the
Treasury to give a direction thereunder to the like effect, and the Treasury may give a direction (or a general direction applying to cases of any class or description specified in the direction) accordingly.

The Tribunal

5. (1) Any appointment to the panel of Tribunal members of the Tribunal for the Island current at the commencement of this Act shall continue as if made by the Council of Ministers under Schedule 13.

(2) Any appeal pending before a tribunal immediately before the commencement of this Act shall be continued as if it had been begun before the Tribunal.

Overseas suppliers accounting through their customers

6. Notwithstanding the repeal by the Value Added Tax and Other Taxes Act 1973 (Amendment) (No. 2) Order 1993 of section 24B of the 1973 Act, that section shall continue to apply in relation to any supply in relation to which section 14 does not apply by virtue of section 14(8), and for the purposes of this paragraph section 24B shall have effect as if it were included in Part III of this Act, any reference in section 24B to any enactment repealed by this Act being read as a reference to the corresponding provision of this Act.

Zero-rated supplies of goods and services

7. (1) A supply of services made after the commencement of this Act in pursuance of a legally binding obligation incurred before 21 June 1988 shall if —

(a) the supply fell within item 2 of Group 8A of Schedule 4 to the 1973 Act immediately before 1 April 1989, and

(b) it was by virtue of article 1 of the Value Added Tax and Other taxes Act 1973 (Amendment) Order 1989 a zero-rated supply,

be a zero-rated supply for the purposes of this Act.

(2) Where a grant, assignment or other supply is zero-rated by virtue of this paragraph, it is not a relevant zero-rated supply for the purposes of Part 2 of Schedule 11.

Bad debt relief

8. (1) No claim for a refund may be made in accordance with section 15B of the 1973 Act (old scheme for bad debt relief) at any time after 19th March 1997.

(2) Claims for refunds of VAT relating to supplies made after 31 March 1989 and before the commencement of this Act may be made in accordance with section 36 of this Act but —
(a) a claim shall not be made under section 36 in relation to any supply as respects which a claim is made under section 15B of the 1973 Act, and
(b) in relation to supplies made before 1 April 1992 subsection (1)(c) of that section shall have effect with the substitution of “one year” for “6 months”.

Supplies during construction of buildings and works

9. [Repealed]\(^{1228}\)

Offences and Penalties

10. Where an offence for the continuation of which a penalty was provided has been committed under an enactment repealed by this Act, proceedings may be taken under this Act in respect of the continuance of the offence after the commencement of this Act in the same manner as if the offence had been committed under the corresponding provision of this Act.

11. Part IV of this Act, except section 72, shall not apply in relation to any act done or omitted to be done before 25th July 1985, and the following provisions of this Schedule shall have effect accordingly.

12. (1) Section 72 shall have effect in relation to any offence committed or alleged to have been committed at any time ("the relevant time") before the commencement of this Act subject to the following provisions of this paragraph.

(2) Where the relevant time falls before 15 October 1985, section 72 shall apply —

(a) with the substitution in subsection (1)(b), (3)(ii) and (8)(b) of “2 years” for “7 years”;

(b) with the omission of subsections (2) and (4) to (7).

13. (1) The provisions of this paragraph have effect in relation to section 59.

(2) Section 59 shall apply in any case where a person is in default in respect of a prescribed accounting period which has ended before the commencement of this Act, but shall have effect in any case where the last day referred to in subsection (1) of that section falls before 1 October 1993 subject to the following modifications —

(a) for the words “a prescribed accounting period” in subsection (2)(a) there shall be substituted “any two prescribed accounting periods”; 

(b) with the addition of the following paragraph in subsection (2) —

“(aa) the last day of the later one of those periods falls on or before the first anniversary of the last day of the earlier one; and”;

(c) for the words “period referred to in paragraph (a)” in subsection (2)(b) there shall be substituted “later period referred to in paragraph (aa)”;

and
(d) for the words “a default in respect of a prescribed accounting period and that period” in subsection (3) there shall be substituted “defaults in respect of two prescribed accounting periods and the second of those periods”.

(3) Section 59 shall have effect, in any case where a person has been served with a surcharge liability notice and that person is in default in respect of a prescribed accounting period because of a failure of the Treasury to receive a return or an amount of VAT on or before a day falling before 30 September 1993 with the omission of —

(a) subsection (4)(b);

(b) the words in subsection (5) “and for which he has outstanding VAT”;

(c) subsection (6).

14. (1) Section 63 does not apply in relation to returns and assessments made for prescribed accounting periods beginning before 1 April 1990 but subject to that shall have effect in relation to the cases referred to in the following sub-paragraphs subject to the modifications there specified.

(2) Subsection (1) shall have effect in a case falling within paragraph (b) of that subsection where the assessment was made on or before 10 March 1992 with the substitution of “20 per cent.” for “15 per cent.”.

(3) In relation to any prescribed accounting period beginning before 1 January 1995 section 63 shall have effect with the substitution —

(a) for the words in subsection (2) following “exceeds” of “either 30 per cent. of the true amount of the VAT for that period or whichever is the greater of £10,000 and 5 per cent. of the true amount of VAT for that period.” and with the omission of subsections (4) to (6); and

(b) for the words in subsection (8) from “subsections” to “statements” of “subsection (7) that the statement by each of those returns is a correct statement”.

(4) In relation to any prescribed accounting period beginning before 1 June 1994 section 63 shall have effect with the substitution for subsection (3) of the following subsection —

“(3) Any reference in this section to the VAT for a prescribed accounting period which would have been lost if an inaccuracy had not been discovered is a reference to the aggregate of —

(a) the amount (if any) by which credit for input tax for that period was overstated; and

(b) the amount (if any) by which output tax for that period was understated;
but if for any period there is an understatement of credit for input tax or an
overstatement of output tax, allowance shall be made for that error in
determining the VAT for that period which would have been so lost.”
and in subsection (8) for “this section” there shall be substituted “subsection (5) and (7)
above”.

15. (1) In relation to any prescribed accounting period beginning before 1
December 1993 section 64 shall have effect subject to the following modifications —

(a) in subsection (1)(b) for the words from “whichever” to “period”
there shall be substituted “whichever is the greater of £100 and 1
per cent. of the true amount of VAT for that period”;
(b) for subsections (2) and (3) there shall be substituted —

“(2) Subsection (3) applies in any case where —

(a) there is a material accuracy in respect of any two prescribed
accounting periods, and
(b) the last day of the later one of those periods falls on or before the
second anniversary of the last day of the earlier one, and
(c) after 29 July 1988 the Treasury serves notice on the person
concerned (“a penalty liability notice”) specifying as a penalty
period for the purposes of this section a period beginning on the
date of the notice and ending on the second anniversary of that
date.

(3) If there is a material inaccuracy in respect of a prescribed accounting
period ending within the penalty period specified in a penalty liability notice served on
the person concerned that person shall be liable to a penalty equal to 15 per cent. of the
VAT for that period which would have been lost if the inaccuracy had not been
discovered”;

(c) in subsection (4) for “(5)” there shall be substituted “(7)”; and
(d) in subsection (6) the words from “except” to the end shall be
omitted.

(2) A penalty liability notice shall not be served under section 64 by reference
to any material inaccuracy in respect of a prescribed accounting period beginning before
1 December 1993, and the penalty period specified in any penalty liability notice served
before that day shall be deemed to end with the day before that day.

16. Section 70 shall not apply in relation to any penalty to which a person has been
assessed before 27 July 1993 and in the case of any penalty in relation to which that
section does not apply by virtue of this paragraph, section 60 shall have effect subject to
the following modifications —

(a) in subsection (1) for “subsection (6)” there shall be substituted
“subsections (3A) and (6)”;
(b) after subsection (3) there shall be inserted —
“(3A) If a person liable to a penalty under this section has co-operated with the Treasury in the investigation of his true liability to tax or, as the case may be, of his true entitlement to any payment, refund or repayment, the Treasury or, on appeal, the Tribunal may reduce the penalty to an amount which is not less than half what it would have been apart from this subsection; and in determining the extent of any reduction under this subsection, the Treasury or Tribunal shall have regard to the extent of the co-operation which the person concerned has given to the Treasury in its investigation.”;

c) in subsection (4)(b) for the words from “under” to “this section” there shall be substituted “to reduce a penalty under this section, as provided in subsection (4), and, in determining the extent of such a reduction in the case of any person, the Treasury or Tribunal will have regard to the extent of the co-operation which he has given to the Treasury in its investigation”;

and in section 61(6) for “70” there shall be substituted “60(3A)”.

17. Section 74 shall not apply in relation to prescribed accounting periods beginning before 1 April 1990 and subsection (3) of that section shall not apply in relation to interest on amounts assessed or, as the case may be, paid before 1 October 1993.

Importation of goods

18. Nothing in this Act shall prejudice the effect of any transitional provision having effect immediately before the commencement of this Act relating to any importation of goods and the legislation repealed by this Act, shall continue to apply in relation to that importation as if this Act had not been enacted.

Assessments

19. An assessment may be made under section 73 in relation to amounts paid or credited before the commencement of this Act but —

(a) in relation to an amount paid or credited before 27 July 1990 section 73(2) shall have effect with the omission of the words from “or which” to “out to be”, and

(b) in relation to amounts repaid or paid to any person before the passing of the Finance Act 1982 section 73 shall have effect with the omission of subsection (2).

Set-off credits

20. Section 81 shall have effect in relation to amounts becoming due before 10 May 1994 with the omission of subsections (4) and (5).
VAT Tribunal

21. (1) Without prejudice to paragraph 1, section 83 applies to things done or omitted to be done before the coming into force of this Act and accordingly references in Part V to any provision of this Act includes a reference to the corresponding provision of the enactments repealed by this Act or by any enactment repealed by such an enactment.

(2) Section 84 shall have effect before 1 January 1995 with the substitution for subsection (5) of the following subsection —

“(5) No appeal shall lie with respect to any matter that has been or could have been referred to arbitration under section 127 of the Management Act as applied by section 16”.

Car Tax

22. Notwithstanding the repeal by this Act of any enactment relating to car tax, the transitional and saving provisions in the Car Tax (Abolition) Order 1993 [S.D. 71/93] shall continue to apply in relation to car tax as if this Act had not been enacted.

Failures to notify and unauthorised issue of invoices

23. In the case of penalties assessed before 1 January 1995 and in the case of supplementary assessments where the original assessment was made before that date, section 67(4) shall have effect as if —

(a) in paragraph (a), “10 per cent.” were substituted for “5 per cent.”;
(b) in paragraph (b), “20 per cent.” were substituted for “10 per cent.”;
(c) in paragraph (c), “30 per cent.” were substituted for “15 per cent.”.


24. (1) The amendments made to section 9A by article 4 of the Value Added Tax Act 1996 (Amendment) Order 2011 have effect in relation to supplies made on or after 1 January 2011.

(2) The amendments made to section 24 by article 5(2), (4) and (7) of the Value Added Tax Act 1996 (Amendment) Order 2011 are taken to have come into operation with effect from 1 January 2011 and apply in relation to VAT incurred by a taxable person on or after that date.

(3) The amendments made to Schedule 5 by Article 7 of the Value Added Tax Act 1996 (Amendment) Order 2011 do not apply in relation to an asset in respect of which the person in question or any of the person’s predecessors incurred VAT before 1 January 2011.
(4) However, if VAT is incurred by such a person before that date in respect of the asset, VAT incurred by such a person on or after that date in respect of the asset is not to be treated as referable to that person’s business purposes by virtue of paragraph 5(4) and (6) to the Act if, and to the extent that, the asset is used or to be used for that person’s private use or the private use of that person’s staff, or more generally for purposes other than those of that person’s business.

(5) The amendments made by article 8 of the Value Added Tax Act 1996 (Amendment) Order 2011 to Group 8 of Schedule 9 have effect in relation to supplies made, and acquisitions and importations taking place, on or after 1 January 2011.\textsuperscript{1230 1231}

### Schedule 15

#### AMENDMENTS

Section 101(2)

[Sch 15 amended by Harbours Act 2010 Sch 5, and amends the following Acts —
Customs and Excise Management Act 1986 q.v.
Customs and Excise Act 1993 q.v.]

### Schedule 16

#### REPEALS

Section 101(3)

### PART I – REPEAL OF ACTS

Part I repeals the following Act wholly —
Value Added Tax and Other Taxes Act 1973

and the following Acts in part —
European Communities (Isle of Man) Act 1973
Civil Evidence Act 1973
Harbours (Amendment) Act 1984
Licensing and Registration of Vehicles Act 1985
Treasury Act 1985
Customs and Excise Management Act 1986
Hydrocarbon Oil Duties Act 1986

### PART II – REPEAL OF PUBLIC DOCUMENTS

Part II repeals the following Orders wholly —
Value Added Tax and Car Tax (No. 2) Order 1973 (GC82/73)
Value Added Tax (Isle of Man) (General) Order 1974 (GC16/74)
Value Added Tax Act 1996

Schedule 16

Value Added Tax (Isle of Man) (Change of Rate) Order 1974 (GC123/74)
Value Added Tax and Car Tax Order 1975 (GC53/75)
Value Added Tax and Car Tax (No. 2) Order 1975 (GC95/75)
Value Added Tax and Car Tax (No. 2) Order 1976 (GC119/76)
Value Added Tax and Car Tax Order 1977 (GC171/77)
Value Added Tax and Car Tax (No. 2) Order 1977 (GC232/77)
Value Added Tax (Isle of Man) (Consolidation) Order 1978 (GC8/78)
Value Added Tax and Car Tax (No. 2) Order 1978 (GC174/78)
Value Added Tax (Isle of Man) (Finance) Order 1979 (GC88/79)
Value Added Tax (Isle of Man) (International Services) Order 1979 (GC89/79)
Value Added Tax (Isle of Man) (Medical Goods and Services) Order 1979 (GC91/79)
Value Added Tax (Isle of Man) (General) Order 1979 (GC131/79)
Value Added Tax (Isle of Man) (International Services) (No. 2) Order 1979 (GC183/79)
Value Added Tax and Car Tax Order 1979 (GC184/79)
Value Added Tax (International Services) Order 1980 (GC19/80)
Value Added Tax (Fuel and Power) (Metrication) Order 1980 (GC20/80)
Car Tax (Description of Vehicles) Order 1980 (GC22/80)
Car Tax (United Kingdom) Order 1980 (GC30/80)
Value Added Tax (United Kingdom) Order 1980 (GC31/80)
Value Added Tax and Car Tax Order 1980 (GC65/80)
Value Added Tax (Fuel and Power) Order 1980 (GC84/80)
Value Added Tax (Gold) Order 1980 (GC85/80)
Value Added Tax (Transport) Order 1980 (GC86/80)
Value Added Tax and Car Tax (No. 2) Order 1980 (GC127/80)
Value Added Tax and Car Tax (No. 3) Order 1980 (GC230/80)
Value Added Tax (United Kingdom) (Amendment) Order 1980 (GC251/80)
Value Added Tax (Education) Order 1980 (GC272/80)
Value Added Tax (Competitions) Order 1980 (GC303/80)
Value Added Tax and Car Tax Order 1981 (GC42/81)
Value Added Tax (Handicapped Persons and Charities) Order 1981 (GC44/81)
Value Added Tax (Betting Gaming and Lotteries) Order 1981 (GC100/81)
Value Added Tax and Car Tax (No. 2) Order 1981 (GC196/81)
Value Added Tax (Insurance) Order 1982 (GC15/82)
Value Added Tax (Handicapped Persons and Charities) Order 1982 (GC51/82)
Value Added Tax (Finance) Order 1982 (GC86/82)
Value Added Tax (Double Glazing) Order 1982 (GC210/82)
Value Added Tax (Health) Order 1983 (GC70/83)
Value Added Tax and Car Tax Order 1983 (GC80/83)
Value Added Tax (Charities, Etc.) Order 1983 (GC271/83)
Value Added Tax Order 1984 (GC57/84)
Value Added Tax (Handicapped Persons) Order 1984 (GC90/84)
Car Tax (Vehicles for the Handicapped) Order 1984 (GC104/84)
Value Added Tax (Lifeboats) Order 1984 (GC105/84)
Value Added Tax (Charities, Etc.) Order 1984 (GC127/84)
Value Added Tax (Marine etc. Insurance) Order 1984 (GC190/84)
Value Added Tax (Handicapped Persons) (No. 2) Order 1984 (GC192/84)
Value Added Tax and Car Tax Order 1984 (GC205/84)
Value Added Tax (No. 2) Order 1984 (GC290/84)
Value Added Tax (Protected Buildings) Order 1985 (GC49/85)
Value Added Tax (Optical Appliances) Order 1985 (GC52/85)
Value Added Tax (Charities, Etc.) Order 1985 (GC79/85)
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Value Added Tax (Reverse Charge) (No. 2) Order 1993 (SD515/93)
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1 Subs (1) amended by SD534/10 effective 4/1/2011.
2 Subs (2) amended by SD446/97.
3 Subs (2) amended by SD168/00.
4 S 3A inserted by SD264/03 and amended by SD2018/0335, effective in relation to supplies made on or after 01/01/2019.
5 Subs (1) amended by SD501/96.
6 Subs (9) repealed by SD859/03.
7 Subs (14A) inserted by SD204/98 and amended by SD596/09 effective in relation to supplies made on or after 1/1/2010 - see also transitional provisions in art. 7.
8 Subs (15) amended by SD859/03.
9 Subs (1) amended by SD501/96 and by SD596/09 effective in relation to supplies made on or after 1/1/2010 - see also transitional provisions in art. 7.
10 Subpara (ii) amended by SD588/12.
11 Subs (10) repealed by SD596/09.
12 Subs (11) amended by SD596/09 effective in relation to supplies made on or after 1/1/2010 - see also transitional provisions in art. 7.
13 Ed. note. SD596/09 provides that the powers contained in subs (6) may be exercised at any time on or after the date on which SD596/09 comes into operation [1/1/2010] - see also transitional provisions in art. 7.
14 S 7A inserted by SD596/09 effective in relation to supplies made on or after 1/1/2010 - see also transitional provisions in art. 7.
15 Subs (1) substituted by SD596/09 effective in relation to supplies made on or after 1/1/2010 - see also transitional provisions in art. 7.
16 Subs (2) substituted by SD596/09 effective in relation to supplies made on or after 1/1/2010 - see also transitional provisions in art. 7.
17 Subs (4A) inserted by SD596/09 effective in relation to supplies made on or after 1/1/2010 - see also transitional provisions in art. 7.
18 Subs (5) amended by SD596/09 effective in relation to supplies made on or after 1/1/2010 - see also transitional provisions in art. 7.
19 Subs (6) repealed by SD596/09.
20 Subs (7) added by SD224/97 and amended by SD596/09 effective in relation to supplies made on or after 1/1/2010 - see also transitional provisions in art. 7.
21 Para (a) amended by SD596/09 effective in relation to supplies made on or after 1/1/2010 - see also transitional provisions in art. 7.
22 Subs (8) added by SD224/97. Para (b) amended by SD596/09 effective in relation to supplies made on or after 1/1/2010 - see also transitional provisions in art. 7.
23 Para (c) amended by SD2014/0293 effective in relation to supplies made on or after 1/1/2015.
24 Para (a) inserted by SD2014/0293 effective in relation to supplies made on or after 1/1/2015.
25 Para (b) inserted by SD2014/0293 effective in relation to supplies made on or after 1/1/2015.
26 Subs (5) amended by SD2014/0293 effective in relation to supplies made on or after 1/1/2015.
27 Subs (6) substituted by SD2014/0293 effective in relation to supplies made on or after 1/1/2015.
28 S 9 substituted by SD596/09 effective in relation to supplies made on or after 1/1/2010 - see also transitional provisions in art. 7.
29 S 9A heading amended by SD12/11.
30 Subs (5) substituted by SD12/11 effective 1/1/2011.
31 S 9A inserted by SD568/04.
32 Subs (1) amended by SD501/96.
33 Subs (1) amended by SD501/96.
34 Para (a) amended by SD0606/12.
35 Para (c) amended by SD0606/12 and by Statute Law Revision Act 2017 s 48.
36 Para (a) amended by SD0606/12 and by Statute Law Revision Act 2017 s 48.
37 Para (b) amended by Statute Law Revision Act 2017 s 48.
38 Para (b) amended by SD0606/12.
39 S 16 amended by SD0606/12.
40 Subs (2) amended by SD0606/12.
41 Para (a) amended by SD0606/12.
42 Subs (1A) inserted by SD544/05.
43 Subs (5) substituted by SD79/96.
44 Subs (5A) inserted by SD79/96.
45 Para (b) amended by SD0606/12.
Para (b) amended by SD0606/12 and by Statute Law Revision Act 2017 s 48.

Para (a) amended by SD0606/12.

Para (b) amended by SD0606/12.

Para (c) amended by Statute Law Revision Act 2017 s 48.

Subs (9) amended by SD2019/0413.

S 18A inserted by SD501/96.

Para (d) amended by SD588/12.

Para (d) amended by SD588/12.

Subs (2A) inserted by SD588/12.

Para (c) amended by Statute Law Revision Act 2017 s 48.

S 18B inserted by SD501/96.

Para (c) amended by SD588/12.

Subs (1A) inserted by SD588/12.

Para (b) amended by Statute Law Revision Act 2017 s 48.

S 18C inserted by SD501/96.

S 18D inserted by SD501/96.

S 18E inserted by SD501/96.

S 18F inserted by SD501/96.

S 18G inserted by SD2018/0111.

S 18H inserted by SD2018/0111.

S 18I inserted by SD2018/0111.

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S 18N inserted by SD2018/0111.

Subs (1) amended by SD501/96.

Subs (1) amended by SD79/96 and by SD0606/12.

Para (b) substituted by SD79/96.

Para (c) inserted by SD79/96.

Subs (2) amended by SD79/96 and by SD645/06.

Subs (2A) inserted by SD645/06.

Subs (2B) inserted by SD645/06.

Subs (4) added by SD79/96 and amended by SD503/99 with saving and by SD534/10 effective 4/1/2011.

Subs (5) substituted by SD503/99 with saving.

Subs (6) substituted by SD503/99 with saving.

Subs (6A) added by SD503/99 with saving.

Subs (6B) added by SD503/99 with saving.

Subs (6C) added by SD503/99 with saving.

Subs (6D) added by SD503/99 with saving and amended by SD153/09.

S 22 repealed by SD375/96.
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87 S23 substituted by SD667/12.
88 S 23A inserted by SD667/12.
89 Subs (3) repealed by SD12/11 effective 1/1/2011.
90 Subs (5) amended by SD12/11 effective 1/1/2011.
91 Subs (5A) inserted by SD12/11 effective 1/1/2011.
92 Subs (5B) inserted by SD12/11 effective 1/1/2011.
93 Para (a) amended by SD229/03.
94 Para (e) added by SD12/11 effective 1/1/2011.
95 Subs (6A) inserted by SD12/11 effective 1/1/2011.
96 Subs (7) repealed by SD12/11 effective 1/1/2011.
97 Subs (4) amended by SD12/11 effective 1/1/2011.
98 Subs (1A) inserted by SD2017/0222.
99 S 26AA inserted by SD860/02.
100 Para (e) amended by SD2018/0024.
101 S 26AAB inserted by SD2017/0222.
102 S 26AB inserted by SD441/07.
103 S 26A inserted by SD241/02.
104 Subs (2AA) inserted by SD224/97.
105 Subs (2A) inserted by SD375/96.
106 S 29A inserted by SD270/01.
107 Subs (2A) inserted by SD79/96.
108 Subs (5) substituted by SD79/96.
109 Subs (8A) inserted by SD501/96.
110 Para (b) amended by SD501/96
111 Subs (10) amended by SD501/96
112 Subs (3) inserted by SD588/12.
113 Subs (4) inserted by SD588/12.
114 Subs (8) added by SD79/96.
115 Para (d) amended by Social Services Act 2011 Sch 3.
116 Subs (4) substituted by SD219/09.
117 S 33A inserted by SD270/01.
118 S 33B inserted by SD2015/0159 in relation to supplies made, and acquisitions and importations taking place, on or after 1 April 2015.
119 S 33C inserted by SD2015/0159 in relation to supplies made, and acquisitions and importations taking place, on or after 1 April 2015.
120 Subs (1) substituted by SD375/96.
121 Subs (1A) inserted by SD375/96.
122 Subs (1B) inserted by SD375/96.
123 Subs (1C) inserted by SD375/96.
124 Subs (1D) inserted by SD375/96.
125 Subs (2) amended by SD588/12.
126 Subs (4) added by SD375/96 and amended by SD507/01.
127 Subs (4A) inserted by SD507/01.
Subs (5) added by SD375/96.
Para (a) amended by SD526/98.
Subs (3) substituted by SD132/99 with saving.
Subs (3A) inserted by SD526/98.
Para (b) repealed by SD224/97.
Subs (4A) repealed by SD860/02.
Para (c) amended by SD526/98.
Para (e) amended by SD503/99 with saving.
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Subs (9) added by SD224/97.
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S 36A inserted by SD518/02.
Subs (2) amended by SD606/12.
Para (za) inserted by SD588/12.
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Para (ba) inserted by SD596/09 effective 1/1/2010.
Para (c) substituted by SD588/12.
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S 39A inserted by SD596/09 effective 1/1/2010.
Subs (2) repealed by SD588/12.
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Para (b) amended by SD79/96.
Subs (1) amended by SD568/04 and by SD2019/0413.
Subpara (ii) amended by SD2019/0413.
Original subs (1A) repealed by SD375/96. Subs (1A) inserted by SD708/96, with saving, and amended by SD2019/0413.
Subs (1B) inserted by SD708/96 with saving.
Subs (2) amended by SD224/97.
Para (a) amended by SD596/09 effective in relation to supplies made on or after 1/1/2010 but see saving in art. 2(4) - see also transitional provisions in art. 7.
Para (c) amended by SD224/97 and by SD596/09 effective in relation to supplies made on or after 1/1/2010 but see saving in art. 2(4) - see also transitional provisions in art. 7.
Subs (2A) inserted by SD708/96 with saving.
Subs (2B) inserted by SD708/96 with saving.
Para (c) amended by SD588/12.
Subs (2C) inserted by SD708/96 with saving and amended by SD224/97.
Para (c) amended by SD596/09 effective in relation to supplies made on or after 1/1/2010 but see saving in art. 2(4) - see also transitional provisions in art. 7.
166 Subs (2D) inserted by SD708/96 with saving and amended by SD596/09 effective in relation to supplies made on or after 1/1/2010 but see saving in art. 2(4) - see also transitional provisions in art. 7.
167 Para (b) substituted by SD596/09 effective in relation to supplies made on or after 1/1/2010 but see saving in art. 2(4) - see also transitional provisions in art. 7.
168 Subs (2E) inserted by SD708/96 with saving.
169 Subss (3) to (8) repealed by SD503/99.
170 Subs (9) added by SD375/96.
171 Subs (1) amended by SD2019/0413.
172 Subs (2) repealed by SD2019/0413.
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174 Subs (4) inserted by SD2019/0413.
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176 Subs (6) inserted by SD2019/0413.
177 Subs (7) inserted by SD2019/0413.
178 S 43A inserted by SD503/99.
179 S 43AZA inserted by SD2019/0413.
180 Subs (1) amended by SD2019/0413.
181 S 43AA inserted by SD568/04.
182 Subs (1) amended by SD568/04, by SD571/04 and by SD2019/0413.
183 Para (a) amended by SD568/04 and by SD2019/0413.
184 Para (b) amended by SD2019/0413.
185 Para (d) amended by SD2019/0413.
186 Subs (2) amended by SD2019/0413.
187 Para (b) amended by SD2019/0413.
188 Subs (3) amended by SD2019/0413.
189 Para (a) amended by SD568/04 and by SD2019/0413.
190 Para (b) amended by SD568/04 and by SD2019/0413.
191 S 43B inserted by SD503/99.
192 Subs (1) amended by SD2019/0413.
193 Para (a) amended by SD2019/0413.
194 Para (b) amended by SD568/04 and by SD2019/0413.
195 Subs (3) amended by SD2019/0413.
196 Para (a) amended by SD2019/0413.
197 Para (b) amended by SD2019/0413.
198 S 43C inserted by SD503/99.
199 S 43D inserted by SD503/99.
200 Subs (1) amended by SD2019/0413.
201 Subs (2) amended by SD2019/0413.
202 Para (b) amended by SD2019/0413.
203 Subs (3) amended by SD2019/0413.
204 Para (b) amended by SD2019/0413.
205 Subs (5) amended by SD2019/0413.
S 43E inserted by SD568/04.

Para (a) amended by SD2019/0413.

Para (b) amended by SD2019/0413.

Subs (1) amended by SD79/96.

Subs (2A) inserted by SD79/96.

Subs (3) amended by SD79/96 and by SD2014/0293 effective in relation to supplies made on or after 1/1/2015.

Subs (4) inserted by SD2014/0293 effective in relation to supplies made on or after 1/1/2015.

Subs (5) inserted by SD2014/0293 effective in relation to supplies made on or after 1/1/2015.

Subs (6) inserted by SD2014/0293 effective in relation to supplies made on or after 1/1/2015.

S 48 heading amended by SD2016/0274.

Para (b) substituted by SD270/01.

Para (ba) inserted by SD270/01.

Para (c) amended by SD2016/0274.

Subs (1) amended by SD2016/0274.

Subs (1ZA) inserted by SD2016/0274.

Subs (1A) inserted by SD270/01.

Para (aa) inserted by SD2016/0274.

Para (b) substituted by SD588/12.

Subs (1B) inserted by SD270/01.

Para (a) amended by SD2016/0274.

Para (b) amended by SD2016/0274.

Subs (2) substituted by SD270/01 and amended by SD2016/0274.

Subs (2A) inserted by SD270/01 and amended by SD2016/0274.

Para (c) inserted by SD2016/0274.

Subs (4A) inserted by SD588/12.

Subs (7) amended by SD2016/0274.

Subs (7A) inserted by SD2015/0029.

Subs (7B) inserted by SD2016/0274.

Subs (7C) inserted by SD2016/0274.

Subs (9) inserted by SD2016/0274.

Para (a) amended by SD616/07.

Para (b) amended by SD616/07.

Subs (1) amended by SD616/07.

Subs (2) amended by SD616/07.

Subs (2A) inserted by SD616/07.

Para (a) amended by SD616/07.

Subs (4) added by SD616/07.

Subs (5) added by SD616/07.

Subs (6) added by SD616/07.
245 S 50A inserted by SD79/96.
246 S 51A inserted by SD79/96 and repealed by SD341/08.
247 S 51B heading amended by SD2019/0174.
248 Renumbered as subs (1) by SD2019/0174.
249 Subs (2) inserted by SD2019/0174.
250 S 51B inserted by SD229/03.
251 S 51C inserted by SD2019/0174.
252 S 51D inserted by SD2019/0174.
253 Para (d) amended by SD2019/0413.
254 Subs (2) amended by SD588/12.
255 Para (a) amended by SD588/12.
256 Subs (1) amended by SD588/12.
257 Para (a) substituted by SD79/96 and amended by SD375/96.
258 Para (c) added by SD79/96.
259 S 55A heading amended by SD0606/12.
260 Para (a) amended by SD806/10 effective 1/11/2010.
261 Para (b) amended by SD806/10 effective 1/11/2010.
262 Para (a) amended by SD806/10 effective 1/11/2010.
263 Subs (2) amended by SD806/10 effective 1/11/2010.
264 Subs (2) amended by SD588/12.
265 Para (a) amended by SD806/10 effective 1/11/2010.
266 Para (b) amended by SD806/10 effective 1/11/2010.
267 Subs (9) amended by SD806/10 effective 1/11/2010.
268 Subs (9A) inserted by SD2019/0174.
269 Para (a) amended by SD806/10 effective 1/11/2010.
270 Para (b) amended by SD806/10 effective 1/11/2010.
271 Subs (11) amended by SD806/10 effective 1/11/2010.
272 S 55A inserted by SD441/07 and amended by SD806/10 effective 1/11/2010.
273 S 56 repealed by SD288/13 in relation to prescribed accounting periods beginning on or after 1/2/14.
274 S 57 repealed by SD288/13 in relation to prescribed accounting periods beginning on or after 1/2/14.
275 S 58A inserted by SD568/04 and substituted by SD2019/0174.
276 Definition of “legislation” amended by SD0606/12.
277 S 58B inserted by SD146/07.
278 S 58C inserted by SD146/07.
279 S 58D inserted by SD616/07.
280 Subs (1) amended by SD375/96.
281 Subs (1A) inserted by SD375/96.
282 Subs (11) added by SD375/96.
283 S 59A added by SD375/96.
284 S 59B inserted by SD375/96.
SD596/09 provides that, despite the repeal of section 60 by SD596/09, section 60 shall continue to have effect in respect of conduct involving dishonesty which does not relate to an inaccuracy in a document or a failure to notify the Treasury of an under-assessment by the Treasury.

S 60 repealed by SD194/08 and by SD596/09 with savings - see art. 10.

S 61 repealed by SD638/08.

Subs (1) substituted by SD503/99 with saving.

Subs (1A) inserted by SD503/99 with saving.

Subs (1B) inserted by SD2017/0135.

Para (c) inserted by SD2017/0135.

Subs (2) substituted by SD503/99 with saving.

Subs (3) amended by SD501/96.

Subs (4) amended by SD501/96.

Ss 63 and 64 repealed by SD596/09.

Subs (7) added by SD538/07.

Subs (7) amended by SD250/09.

Subs (10) added by SD441/07.

Para (a) amended with modifications by SD79/96 and by SD168/00.

Para (a) amended with modifications by SD79/96 and by SD168/00.

Para (b) amended by SD168/00.

Para (a) amended by SD168/00 and by SD588/12.

Para (ba) inserted by SD441/07.

Para (c) amended by SD375/96.

Para (f) inserted by SD501/96.

Para (g) inserted by SD2018/0119.

Subs (2) amended by SD591/06.

Para (a) amended by SD375/96.

Para (b) amended by SD375/96.

Para (c) amended by SD250/09.

Para (a) amended by SD250/09.

S 69A inserted by SD540/00.

Para (a) amended by SD250/09.

S 69B inserted by SD591/06.

S 69C inserted by SD2018/0024.

S 69D inserted by SD2018/0024.

S 69E inserted by SD2018/0024.

S 70 heading amended by SD2018/0024.

Subs (1) amended by SD540/00, by SD568/04 and by SD2018/0024.

Subs (5) inserted by SD2018/0024.

Subs (11) amended by SD229/03.

Para (b) amended by SD168/00 and by SD588/12.

Subs (6A) inserted by SD216/08.

Subs (7A) inserted by SD501/96.
325 Subs (7B) inserted by SD501/96.
326 Subs (9) amended by SD501/96.
327 Para (c) amended by SD168/00 and by SD588/12.
328 The prescribed rate is 5% per year - see SD964/08.
329 Subs (4) amended by SD207/10 effective 1/1/2010.
330 Para (a) amended by SD375/96 and by SD2018/0335, effective in relation to supplies made on or after 01/01/2019.
331 Para (b) amended by SD591/06 and by SD2018/0024.
332 Subs (1) amended by SD591/06 and by SD2018/0024.
333 Para (a) amended by SD375/96.
334 Subs (3A) inserted by SD2018/0335, effective in relation to supplies made on or after 01/01/2019.
335 Subs (5) amended by SD501/96 and by SD2018/0335, effective in relation to supplies made on or after 01/01/2019.
336 Subs (10) amended by SD224/97.
337 S 76A inserted by SD2018/0335, effective in relation to supplies made on or after 01/01/2019.
338 Para (a) substituted by SD219/09.
339 Para (b) substituted by SD219/09.
340 Para (c) added by SD219/09.
341 Subs (2) substituted by SD503/99 with saving and amended by SD2018/0335, effective in relation to supplies made on or after 01/01/2019.
342 Subs (2A) inserted by SD503/99 with saving.
343 Subs (3) amended by SD2018/0335, effective in relation to supplies made on or after 01/01/2019.
344 Subs (4) substituted by SD639/08.
345 Subs (4A) inserted by SD639/08.
346 Subs (4B) inserted by SD639/08.
347 Para (aa) inserted by SD588/12.
348 Subs (4C) inserted by SD639/08.
349 Para (a) amended by SD639/08.
350 Para (b) repealed by SD639/08.
351 Para (a) substituted by SD283/07.
352 Para (b) substituted by SD283/07.
353 Para (c) added by SD283/07.
354 Subs (1) amended by SD283/07.
355 Subs (9) substituted by SD616/07.
356 Subs (9A) inserted by SD616/07.
357 Subs (9B) inserted by SD616/07.
358 S77AA inserted by SD229/03.
359 Subs (1) amended by SD843/11.
360 Para (a) substituted by SD11/12.
361 Para (b) amended by SD544/05, by SD925/08 and by SD843/11.
Subs (2) substituted by SD568/04 and amended by SD925/08.
Subs (4) substituted by SD11/12.
Subs (6) to (13) repealed by SD843/11.
Definition of “the Act of Accession 2003” repealed by SD925/08.
Definition of “competent authority” amended by SD10/04.
Definition of “information” inserted by SD843/11.
S 77A inserted by SD182/98.
S 77B inserted by SD2016/0274.
Cross-heading inserted by SD2018/0119.
S 77C heading substituted by SD2018/0119.
Subs (1) amended by SD2018/0119.
Subs (10) repealed by SD2018/0119.
Subs (12) amended by SD2018/0119
S 77C inserted by SD2016/0274.
S 77CA inserted by SD2018/0119.
S 77D heading substituted by SD2018/0119.
Subs (1) amended by SD2018/0119.
Subs (9) substituted by SD2018/0119.
S 77D inserted by SD2016/0274.
S 77E heading substituted by SD2018/0119.
Subs (7) substituted by SD2018/0119.
S 77E inserted by SD2016/0274.
S 77F inserted by SD2018/0119.
Para (a) amended by SD544/05 with saving.
Subs (1A) inserted by SD708/96 with saving.
Para (c) added by SD596/09 effective 1/1/2010.
Para (d) added by SD596/09 effective 1/1/2010.
Para (e) added by SD596/09 effective 1/1/2010.
Para (f) added by SD596/09 effective 1/1/2010.
Para (g) added by SD596/09 effective 1/1/2010.
Subs (8) substituted by SD224/97.
Subs (8A) inserted by SD224/97.
Subs (9) substituted by SD224/97.
Subs (11) substituted by SD219/09.
Para (a) substituted by SD708/96 with saving.
S 78A inserted by SD708/96 with saving.
Para (c) inserted by SD270/01.
Para (d) inserted by SD2015/0159 in relation to supplies made, and acquisitions and importations taking place, on or after 1 April 2015.
Para (b) amended by SD503/99 with saving.
Subs (2A) inserted by SD503/99 with saving.
Subs (3) amended by SD503/99 with saving.
403 Para (c) added by SD270/01.
404 Para (d) inserted by SD2015/0159 in relation to supplies made, and acquisitions and importations taking place, on or after 1 April 2015.
405 Para (b) amended by SD270/01 and by SD2018/0024.
406 Subs (7) amended by SD503/99 with saving.
407 Subs (1) substituted by SD544/05 with saving.
408 Subs (1A) inserted by SD544/05 with saving.
409 Subs (1B) inserted by SD544/05 with saving.
410 Subs (2) amended by SD544/05 with saving.
411 Subs (2A) inserted by SD544/05 with saving.
412 Subs (3) amended by SD544/05 with saving.
413 Subs (3A) substituted by SD544/05 with saving.
414 Para (a) amended by SD544/05 with saving.
415 Subs (3B) inserted by SD224/97.
416 Para (a) amended by SD0606/12.
417 Subs (3C) inserted by SD224/97.
418 Subs (4) substituted by SD219/09.
419 Subs (4ZA) inserted by SD544/05 with saving.
420 Subs (4ZB) inserted by SD544/05 with saving.
421 Subs (4A) substituted by SD544/05 with saving.
422 Subs (4AA) inserted by SD216/08.
423 Subs (4B) repealed by SD544/05
424 Subs (4C) inserted by SD708/96 and amended by SD216/08.
425 Subs (4D) inserted by SD224/97.
426 Subs (5) repealed by SD708/96.
427 Subs (7) substituted by SD544/05 and amended by SD2018/0335, effective in relation to supplies made on or after 01/01/2019..
428 Subs (8) added by SD708/96.
429 Subs (9) added by SD708/96.
430 Subs (10) added by SD708/96.
431 Subs (11) added by SD708/96.
432 S 80AA inserted by SD639/08.
433 Para (a) amended by SD544/05 with saving.
434 Para (b) amended by SD544/05 with saving.
435 Para (a) amended by SD544/05 with saving.
436 Para (b) substituted by SD544/05 with saving.
437 Para (c) amended by SD544/05 with saving.
438 Para (a) amended by SD544/05 with saving.
439 S 80A inserted by SD224/97. Subs (7) amended by SD544/05 with saving.
440 Subs (1A) inserted by SD544/05 with saving.
441 Subs (1B) inserted by SD544/05 with saving.
442 Subs (1C) inserted by SD544/05 with saving.
443 Subs (1D) inserted by SD544/05 with saving.
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444 Subs (1E) inserted by SD544/05 with saving.
445 S 80B inserted by SD224/97.
446 Subs (3A) inserted by SD708/96 with saving.
447 Subs (4) substituted by SD79/96.
448 Subs (4A) added by SD79/96.
449 Subs (4B) added by SD79/96.
450 Subs (4C) added by SD79/96 and substituted by SD639/08.
451 S 81A inserted by SD708/96.
452 Heading to Part V amended by SD218/09 (see transitional provisions art 5).
453 Para (da) inserted by SD501/96.
454 Para (db) inserted by SD2018/0111. [Editorial note: Sections 18G to 18M inserted by SD2018/0111 with effect from 26/03/2018 for the purposes of making secondary legislation and 01/04/2019 for all other purposes. See Art.2 of SD2018/0111.]
455 Para (dc) inserted by SD2018/0111. [Editorial note: Section 18M inserted by SD2018/0111 with effect from 26/03/2018 for the purposes of making secondary legislation and 01/04/2019 for all other purposes. Schedule 5B inserted by SD2018/0111 with effect from 01/04/2019. See Art.2 of SD2018/0111.]
456 Para (ea) inserted by SD241/02.
457 Para (fa) inserted by SD636/97.
458 Para (ha) inserted by SD596/09 effective 1/1/2010.
459 Para (k) substituted by SD503/99.
460 Para (ka) inserted by SD503/99.
461 Para (l) amended by SD229/03.
462 Para (n) amended by SD591/06.
463 Para (na) inserted by SD2018/0024.
464 Para (nb) inserted by SD2018/0024.
465 Subpara (ii) amended by SD501/96.
466 Para (ra) inserted by SD229/03.
467 Para (rb) inserted by SD2016/0274.
468 Para (sa) inserted SD708/96 with saving.
469 Para (t) amended by SD708/96 with saving and by SD544/05 with saving.
470 Para (ta) inserted by SD224/97 and amended by SD544/05 with saving.
471 Para (v) amended by SD571/04 and by SD588/12.
472 Para (wa) inserted by SD375/96.
473 Para (wb) inserted by SD341/08.
474 Para (z) substituted by SD859/03.
475 Para (zza) inserted by SD591/06.
476 Para (za) inserted by SD487/02.
477 Para (zb) inserted by SD568/04.
478 Para (zc) inserted by SD568/04.
479 Para (zd) inserted by SD2018/0024.
480 Para (zz) amended by SD0606/12.
481 Subs (2) added by SD218/09 (see transitional provisions art 5).
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482 S 83 amended by SD218/09 (see transitional provisions art 5).
483 S 83A inserted by SD218/09 (see transitional provisions art 5).
484 S 83B inserted by SD218/09 (see transitional provisions art 5).
485 S 83C inserted by SD218/09 (see transitional provisions art 5).
486 S 83D inserted by SD218/09 (see transitional provisions art 5).
487 S 83E inserted by SD218/09 (see transitional provisions art 5).
488 S 83F inserted by SD218/09 (see transitional provisions art 5).
489 Subs (4) substituted by SD2014/0217 effective in relation to requests for a review out of time notified to the Treasury on or after 1/7/2014.
490 S 83G inserted by SD218/09 (see transitional provisions art 5).
491 Subs (2) repealed by SD218/09 (see transitional provisions art 5).
492 Subs (3) substituted by SD218/09 (see transitional provisions art 5) and amended by SD2016/0274.
493 Subs (3A) inserted by SD708/96 with saving and substituted by SD218/09 (see transitional provisions art 5).
494 Subs (3B) inserted by SD218/09 (see transitional provisions art 5).
495 Subs (3C) inserted by SD218/09 (see transitional provisions art 5).
496 Subs (4A) inserted by SD503/99.
497 Subs (4B) inserted by SD503/99.
498 Subs (4C) inserted by SD503/99.
499 Subs (4D) inserted by SD503/99.
500 Para (a) amended by SD218/09 (see transitional provisions art 5).
501 Subs (4E) inserted by SD241/02.
502 Subs (4F) inserted by SD229/03.
503 Subs (4G) inserted by SD229/03.
504 Subs (5) amended by SD218/09 (see transitional provisions art 5) and by SD2016/0274.
505 Subs (6) amended by SD218/09 (see transitional provisions art 5) and by SD2018/0335, effective in relation to supplies made on or after 01/01/2019.
506 Subs (6A) inserted by SD568/04 and amended by SD218/09 (see transitional provisions art 5).
507 Subs (7) amended by SD224/97 and by SD218/09 (see transitional provisions art 5).
508 Subs (7A) inserted by SD375/96 and amended by SD218/09 (see transitional provisions art 5).
509 Subs (7ZA) inserted by SD341/08 and amended by SD218/09 (see transitional provisions art 5).
510 Subs (7B) inserted by SD591/06 and amended by SD218/09 (see transitional provisions art 5).
511 Subs (8) repealed by SD218/09 (see transitional provisions art 5).
512 Para (b) amended by SD218/09 (see transitional provisions art 5).
513 Para (c) added by SD218/09 (see transitional provisions art 5).
514 Para (d) added by SD218/09 (see transitional provisions art 5).
515 Subs (9) amended by SD218/09 (see transitional provisions art 5).
Subs (1) amended by SD218/09 (see transitional provisions art 5).
S 85A inserted by SD218/09 (see transitional provisions art 5).
S 85B inserted by SD218/09 (see transitional provisions art 5).
Para (b) amended by SD0606/12
Subs (5) amended by SD859/03.
Subs (6) amended by SD859/03.
Subs (3) amended by SD341/08.
Subs (1) amended by SD0606/12.
Subs (6) amended by SD0606/12.
Subs (1) amended by SD0606/12.
Subs (2) amended by SD0606/12.
Subs (3) amended by SD0606/12.
Subs (3) repealed by SD654/99.
Subs (6) amended by SD616/07.
S 93A inserted by SD688/10 effective 1/9/2010.
S 93B inserted by SD688/10 effective 1/9/2010.
S 93C inserted by SD688/10 effective 1/9/2010.
S 93D inserted by SD688/10 effective 1/9/2010.
S 93E inserted by SD688/10 effective 1/9/2010.
S 93F inserted by SD688/10 effective 1/9/2010.
S 93G inserted by SD688/10 effective 1/9/2010.
Definition of “member State” amended by SD0606/12.
Definition of “Commissioners” inserted by SD242/05.
Definition of “relevant business person” inserted by SD596/09 effective in relation to supplies made on or after 1/1/2010 - see also transitional provisions in art. 7.
Para (a) amended by SD0606/12.
Para (b) amended by SD0606/12 and by Statute Law Revision Act 2017 s 48.
Subs (3) amended by SD0606/12.
Subs (5) amended by SD596/09 effective in relation to supplies made on or after 1/1/2010 - see also transitional provisions in art. 7.
Para (b) amended by SD341/08.
Subs (7A) inserted by SD224/97.
Subs (7AA) inserted by SD229/03.
Subs (7B) inserted by SD224/97.
Subs (9) added by SD113/06 and amended by SD0606/12.
Subs (1) amended by SD596/09 effective in relation to supplies made on or after 1/1/2010 - see also transitional provisions in art. 7.
S 94A inserted by SD204/98.
S 94A inserted by SD2014/0293 effective in relation to supplies made on or after 1/1/2015.
S 94B inserted by SD503/99 and substituted by SD639/08.
Para (a) amended by SD596/09 effective in relation to supplies made on or after 1/1/2010 - see also transitional provisions in art. 7.
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554 Subpara (i) amended by SD2017/0135.
555 Subpara (ii) inserted by SD2017/0135.
556 Para (ca) inserted by SD571/04 and amended by SD2019/0413.
557 Subpara (i) amended by SD2017/0135.
558 Para (ea) inserted by SD441/07.
559 Para (eb) inserted by SD616/07.
560 Para (fa) inserted by SD591/06.
561 Para (g) added by SD568/04.
562 Para (h) added by SD571/04 and amended by SD588/12 and by SD288/13.
563 Subs (6) amended by SD2017/0135.
564 Para (a) amended by SD242/05.
565 Para (e) amended by SD242/05.
566 Para (h) amended by SD0606/12.
567 Para (b) amended by SD270/01.
568 ADO (ss 30(4), 57(4), 96 to 99, 102, 103, para 15 of Sch 2, para 9 of Sch 4) 21/2/1996; (remaining provisions) 1/3/1996 (SD80/96).
569 Sch 1 substituted by SD270/01.
570 Subpara (3) amended by SD820/08.
571 Item 1 substituted by SD2019/0291, effective in relation to supplies made on or after 1/10/2019 except for supplies paid for before that date or made pursuant to a contract entered into before that date.
572 Item 2 substituted by SD2019/0291, effective in relation to supplies made on or after 1/10/2019 except for supplies paid for before that date or made pursuant to a contract entered into before that date.
573 Item 3 inserted by SD2019/0291, effective in relation to supplies made on or after 1/10/2019 except for supplies paid for before that date or made pursuant to a contract entered into before that date.
574 Note A1 inserted by SD2019/0291, effective in relation to supplies made on or after 1/10/2019 except for supplies paid for before that date or made pursuant to a contract entered into before that date.
575 Para (f) repealed by SD2019/0291, effective in relation to supplies made on or after 1/10/2019 except for supplies paid for before that date or made pursuant to a contract entered into before that date.
576 Para (g) repealed by SD2019/0291, For the purposes of this Group “relevant housing association” has the meaning given by Note (21) of Group 5 of Schedule 9 (zero-rating: construction of buildings etc.)
577 Para (h) added by SD202/04 (as amended by SD568/04).
578 Para (i) added by SD171/05.
579 Para (j) added by SD171/05.
580 Para (k) added by SD886/05.
581 Note 3 repealed by SD288/13.
582 Note 4 inserted by SD2019/0291, effective in relation to supplies made on or after 1/10/2019 except for supplies paid for before that date or made pursuant to a contract entered into before that date.
Note 5 inserted by SD2019/0291, effective in relation to supplies made on or after 1/10/2019 except for supplies paid for before that date or made pursuant to a contract entered into before that date.

Item 8A inserted by SD236/02.

Item 8B inserted by SD236/02.

Para 1(1) amended by SD236/02.

Para 4(d) amended by SD236/02.

Para 4A inserted by SD236/02.

Para 4B inserted by SD236/02.

Item (aa) inserted by SD454/09.

Item (b) substituted by SD454/09.

Note 2A inserted by SD454/09.

Para 4(2)(aa) inserted by SD236/02.

Para 5(2)(a) substituted by SD236/02.

Para 7(2) substituted by SD236/02.

Para 7(3) to (5) repealed by SD236/02.

Para 7(6) amended by SD236/02.

Heading substituted by SD236/02.

Item 1 amended by SD236/02.

Para (a) amended by SD236/02.

Para (b) amended by SD236/02.

Para 2 substituted by SD236/02.

Heading amended by SD989/07.

Subpara (1) substituted by SD236/02.

Subpara (2) amended by SD989/07.

Item (a) amended by SD989/07.

Subitem (ii) amended by SD989/07.

Item (c) amended by SD989/07.

Item (b) amended by SD236/02.

Para 3A inserted by SD236/02.

Para 4A inserted by SD236/02.

Para 5(1)(a) amended by SD236/02.

Para 5(1)(b)(i) amended by SD236/02.

Para 5(1)(b)(ii) amended by SD236/02.

Para 5(1)(b)(iii) amended by SD236/02.

Para 5(1)(b) amended by SD236/02.

Para 5(2) amended by SD236/02.

Group 11 inserted by SD538/07 and continued by SD501/08.

Group 12 inserted by SD538/07 and continued by SD501/08.

Group 13 inserted by SD289/13.

Sch 1A inserted by SD583/09.

Sch 1B inserted by SD534/10 operative 19/10/2010 and effective on and after 22/6/2010.
623 Sch 1C inserted by SD588/12.
624 Definition of “pre-change supply” amended by SD289/13.
625 Schedule heading amended by SD588/12.
626 Item (a) amended by SD189/11, by SD196/12, by SD208/13, by SD2014/114, by SD2015/0133, by SD2016/0162 and by SD2017/0113.
627 Item (b) amended by SD189/11, by SD196/12, by SD208/13, by SD2014/114, by SD2015/0133, by SD2016/0162 and by SD2017/0113.
628 Subpara (1) amended by SD588/12 applies to supplies made on or after 1/1/12.
629 Item (a) amended by SD189/11, by SD196/12, by SD208/13, by SD2014/114, by SD2015/0133, by SD2016/0162 and by SD2017/0113.
630 Item (b) amended by SD189/11, by SD196/12, by SD208/13, by SD2014/114, by SD2015/0133, by SD2016/0162 and by SD2017/0113.
631 Subpara (2) amended by SD616/07 and by SD588/12 applies to supplies made on or after 1/1/12.
632 Subpara (2A) inserted by SD588/12 applies to supplies made on or after 1/1/12.
633 Subpara (3) amended by SD189/11, by SD196/12, by SD208/13, by SD2014/114, by SD2015/0133, by SD2016/0162 and by SD2017/0113.
634 Item (a) amended by SD168/00 and by SD588/12.
635 Subpara (5) amended by SD168/00 and by SD588/12.
636 Subpara (9) added by SD501/96.
637 Subpara (10) inserted by SD588/12 applies to supplies made on or after 1/1/12.
638 Para 1A inserted by SD224/97.
639 Item (b) amended by SD244/97.
640 Item (c) amended by SD224/97.
641 Item (d) repealed by SD224/97.
642 Subpara (4) amended by SD224/97.
643 Item (c) inserted by SD588/12 applies to supplies made on or after 1/1/12.
644 Subpara (1) amended by SD189/11, by SD196/12, by SD208/13, by SD2014/114, by SD2015/0133, by SD2016/0162 and by SD2017/0113.
645 Subpara (2) amended by SD189/11, by SD196/12, by SD208/13, by SD2014/114, by SD2015/0133, by SD2016/0162 and by SD2017/0113.
646 Subpara (2) substituted by SD224/97.
647 Subpara (8) added by SD264/03.
648 Para 17 amended by SD588/12.
649 Sch 2A inserted by SD588/12 applies to supplies made on or after 1/1/12.
650 Item (b) amended by SD588/12.
651 Subpara (4) amended by SD168/00 and by SD588/12.
652 Subpara (7) added by SD501/96.
653 Para 9 amended by SD588/12.
654 Sch 3A inserted by SD168/00.
655 Subpara (1) amended by SD588/12.
656 Subpara (2) amended by 588/12.
657 Para 8 amended by SD588/12.
Sch 3B inserted by SD264/03.

Subpara (4) repealed by SD2018/0335, effective in relation to supplies made on or after 01/01/2019.

Subpara (5) repealed by SD2018/0335, effective in relation to supplies made on or after 01/01/2019.

Subpara (6) amended by SD2018/0335, effective in relation to supplies made on or after 01/01/2019.

Subpara (7) substituted by SD2018/0335, effective in relation to supplies made on or after 01/01/2019.

Subpara (8) repealed by SD2018/0335, effective in relation to supplies made on or after 01/01/2019.

Para 3 substituted by SD2018/0335, effective in relation to supplies made on or after 01/01/2019.

Subpara (2) amended by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.

Subpara (4) substituted by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.

Subpara (5) substituted by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.

Para 5 (and heading) repealed by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.

Subpara (1) repealed by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.

Subpara (2) repealed by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.

Subpara (3) amended by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.

Item (e) amended by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.

Subpara (2) repealed by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.

Subpara (3) repealed by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.

Para 9 (and heading) repealed by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.

Subpara (2) amended by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.

Subpara (3) amended by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.

Subpara (4) amended by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.

Subpara (5) substituted by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.
Subpara (3) repealed by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.

Subpara (4) repealed by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.

Subpara (5) repealed by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.

Subpara (6) repealed by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.

Subpara (1) amended by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.

Subpara (1) amended by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.

Item (b) amended by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.

Para 16 substituted by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.

Para 16A inserted by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.

Para 16B inserted by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.

Para 16C inserted by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.

Para 16D inserted by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.

Para 16E inserted by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.

Para 16F inserted by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.

Para 16G inserted by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.

Para 16H inserted by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.

Para 16I inserted by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.

Para 16J inserted by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.

Para 16K inserted by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.

Para 16L inserted by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.

Para 16M inserted by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.

Para 17 renumbered by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.
Subpara (2) inserted by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.

Subpara (3) inserted by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.

Subpara (4) inserted by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.

Item (b) amended by SD2018/0335, effective in relation to supplies made on or after 01/01/2019.

Para 18 amended by SD588/12 and by SD2018/0335, effective in relation to supplies made on or after 01/01/2019.

Para 18ZA inserted by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.

Para 18A inserted by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.

Para 19 amended by SD2016/0274.

Item (b) substituted by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.

Item (c) substituted by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.

Item (d) inserted by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.

Subpara (2) substituted by SD218/09 (see transitional provisions art 5).

Subpara (3) inserted by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.

Para 21 (and heading) repealed by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.

Definition of “the 1977 VAT Directive” repealed by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.

Definition of “the 2002 VAT Directive” repealed by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.

Definition of “Article 26c” repealed by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.

Definition of “administering member State” inserted by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.

Definition of “the implementing Regulation” inserted by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.

Definition of “Island VAT” inserted by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.

Definition of “participant in the special scheme” substituted by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.

Definition of “relevant special scheme return” inserted by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.

Definition of “reporting period” inserted by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.
725 Definition of “scheme services” inserted by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.
726 Definition of “special scheme” inserted by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.
727 Definition of “special scheme return” inserted by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.
728 Definition of “tax period” inserted by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.
729 Definition of “value added tax return” inserted by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.
730 Definition of “the VAT Directive” inserted by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.
731 Item (a) amended by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.
732 Subpara (3) repealed by SD2018/0355, effective in relation to supplies made on or after 01/01/2019.
733 Para (b) amended by SD588/12.
734 Subpara (1) amended by SD189/11, by SD196/12, by SD208/13, by SD2014/114, by SD2015/0133, by SD2016/0162 and by SD2017/0113.
735 Subpara (2) amended by SD189/11, by SD196/12, by SD208/13, by SD2014/114, by SD2015/0133, by SD2016/0162 and by SD2017/0113.
736 Subpara (3) amended by SD168/00 and by SD588/12.
737 Subpara (6) added by SD501/96.
738 Item (a) amended by SD189/11, by SD196/12, by SD208/13, by SD2014/114, by SD2015/0133, by SD2016/0162 and by SD2017/0113.
739 Item (b) amended by SD189/11, by SD196/12, by SD208/13, by SD2014/114, by SD2015/0133, by SD2016/0162 and by SD2017/0113.
740 Subpara (2) amended by SD189/11, by SD196/12, by SD208/13, by SD2014/114, by SD2015/0133, by SD2016/0162 and by SD2017/0113.
741 Para 10 amended by SD588/12.
742 Sch 4A inserted by SD596/09 effective in relation to supplies made on or after 1/1/2010 - see also transitional provisions in art. 7.
743 Para 4 repealed by SD596/09.
744 Subpara (1) amended by SD0606/12.
745 Item (a) amended by SD0606/12.
746 Item (b) amended by SD0606/12.
747 Item (c) amended by SD0606/12.
748 Subpara (2) amended by SD0606/12.
749 Subpara (3) amended by SD0606/12.
750 Subpara (4) amended by SD0606/12.
751 Subpara (6) amended by SD0606/12.
752 Para 8 heading amended by SD2017/0227, effective in relation to supplies of services made on or after 01/11/2017.
753 Item (a) repealed by SD2017/0227, effective in relation to supplies of services made on or after 01/11/2017.
754 Subpara (2) repealed by SD2017/0227, effective in relation to supplies of services made on or after 01/11/2017.
755 Para 9A inserted by SD596/09 effective in relation to supplies made on or after 1/1/11.
756 Para 9B inserted by SD693/12 effective in relation to supplies made on or after 20/12/12.
757 Para 9C inserted by SD693/12 effective in relation to supplies made on or after 20/12/12.
758 Para 9D inserted by SD2016/0241 effective in relation to supplies made on or after 01/10/16.
759 Para 9E inserted by SD2017/0227, effective in relation to supplies of services made on or after 01/11/2017.
760 Para 12 heading amended by SD0606/12.
761 Para 13A inserted by SD596/09 effective in relation to supplies made on or after 1/1/13.
762 Para 14A inserted by SD596/09 effective in relation to supplies made on or after 1/1/11.
763 Subpara (1) amended by SD2018/0335, effective in relation to supplies made on or after 01/01/2019.
764 Item (b) amended by SD2017/0227, effective in relation to supplies of services made on or after 01/11/2017.
765 Subpara (3) inserted by SD2018/0335, effective in relation to supplies made on or after 01/01/2019.
766 Subpara (4) inserted by SD2018/0335, effective in relation to supplies made on or after 01/01/2019.
767 Subpara (5) inserted by SD2018/0335, effective in relation to supplies made on or after 01/01/2019.
768 Subpara (6) inserted by SD2018/0335, effective in relation to supplies made on or after 01/01/2019.
769 Subpara (7) inserted by SD2018/0335, effective in relation to supplies made on or after 01/01/2019.
770 Para 15 substituted by SD2014/0337 effective in relation to supplies made on or after 1/1/2015.
771 Para 16 heading amended by SD0606/12.
772 Item (f) substituted by SD7/11 effective in relation to supplies made on or after 1/1/2011.
773 Item (i) repealed by SD2014/0337 effective in relation to supplies made on or after 1/1/2015.
774 Item (j) repealed by SD2014/0337 effective in relation to supplies made on or after 1/1/2015.
775 Item (k) repealed by SD2014/0337 effective in relation to supplies made on or after 1/1/2015.
Para 2 repealed by SD79/96.

Para 3 amended by SD12/11 effective 1/1/2011.

Item (a) substituted by SD571/03 (as amended by SD568/04).

Item (b) substituted by SD666/11.

Subpara (2ZA) inserted by SD571/03 (as amended by SD568/04).

Subpara (2A) inserted by SD204/98 with saving.

Subpara (3) repealed by SD666/11.

Subpara (4A) inserted by SD12/11 effective 1/1/2011.

Subpara (5) amended by SD204/98 with saving and by SD168/00.

Subpara (5A) inserted by SD204/98 with saving.

Subpara (7) added by SD375/96.

Item (b) amended by SD0606/12 and by Statute Law Revision Act 2017 s 48.

Item (c) amended by SD98/00.

Item (b) amended by SD616/07.

Subpara (4) added by SD616/07.

Para 10 added by SD14/11 effective 1/1/2011.

Ed. note: SD14/11 provides that paragraph 10 (as added) is to be treated as having always had effect.

Sch 5A inserted by SD501/96.

Heading amended by SD0606/12.

Sch 5B inserted by 2018/0111.

Sch 6 repealed by SD596/09.

Part 1 inserted by SD288/13 in relation to prescribed accounting periods beginning on or after 1/2/14.

Para A1 inserted by SD288/13 in relation to prescribed accounting periods beginning on or after 1/2/14.

Para B1 inserted by SD288/13 in relation to prescribed accounting periods beginning on or after 1/2/14.

Para C1 inserted by SD288/13 in relation to prescribed accounting periods beginning on or after 1/2/14.

Subpara (4) amended by SD588/12.

Para 1A inserted by SD571/04.

Para 2A inserted by SD288/13 effective in relation to supplies of goods on or after 17/7/13 and supplies of goods in the period beginning 11/12/12 and ending immediately before 17/7/13 if, and to the extent that the goods are not made available before the end of that period to the person to whom they are supplied.

Subitem (ii) amended by SD0606/12.

Para 4 substituted by SD2014/132 in relation to relevant supplies made on or after 01/05/2014.

Para 5 repealed by SD229/03.

Subpara (1) amended by SD288/13 in relation to prescribed accounting periods beginning on or after 1/2/14.

Subpara (2) added by SD616/07.
Subpara (3) added by SD616/07.
Subpara (4) added by SD616/07.
Subpara (a) amended by SD544/05 with saving.
Para 8 amended by SD544/05 with saving.
Para 8A inserted by SD588/12 effective in relation to supplies made on or after 17/7/12.
Item (b) amended by SD0606/12.
Entry amended by SD2017/0135.
Entry amended by SD2017/0135.
Item 4A inserted by SD289/13.
Note (3) amended by SD289/13.
Note (3A) inserted by SD289/13.
Note (3B) inserted by SD289/13.
Note (3C) inserted by SD289/13.
Note (3D) inserted by SD289/13.
Note (6) amended by SD503/99.
Para (c) added by SD605/96.
Notes amended by SD666/11.
Note 2 inserted by SD666/11 effective in relation to supplies made on or after 19/07/11.
Note 3 inserted by SD666/11 effective in relation to supplies made on or after 19/07/11.
Heading amended by SD2017/0135.
Para (a) amended by SD2017/0135.
Para (e) amended by SD2017/0135.
Para (f) amended by SD2017/0135.
Para (g) amended by SD2017/0135.
Item 3 amended by SD208/10 effective 1/4/2010.
Note (7) substituted by SD507/01.
Note (7A) inserted by SD507/01.
Para (a) amended by SD234/02.
Note (17) amended by SD234/02.
Note (21) substituted by SD208/10 effective 1/4/2010.
Item 2 repealed by SD289/13 effective 1/10/12 (repeal effective for relevant supplies 01/10/15 – for definition of relevant supplies see SD289/13).
Item 3 repealed by SD289/13 effective 1/10/12 (repeal effective for relevant supplies 01/10/15 – for definition of relevant supplies see SD289/13).
Note (3) amended by SD289/13 effective 1/10/12 (amendment effective for relevant supplies 01/10/15 – for definition of relevant supplies see SD289/13).
Note (4) substituted by SD289/13 effective 1/10/12 (substitution effective for relevant supplies 01/10/15 – for definition of relevant supplies see SD289/13).
Para (a) amended by SD289/13 effective 1/10/12 (amendment effective for relevant supplies 01/10/15 – for definition of relevant supplies see SD289/13).
Para (b) amended by SD289/13 effective 1/10/12 (amendment effective for relevant supplies 01/10/15 – for definition of relevant supplies see SD289/13).
Para (c) amended by SD289/13 effective 1/10/12 (amendment effective for relevant supplies 01/10/15 – for definition of relevant supplies see SD289/13).
Notes (6) to (10) repealed by SD289/13 effective 1/10/12 (repeal effective for relevant supplies 01/10/15 – for definition of relevant supplies see SD289/13).
Item 1 substituted by SD78/96.
Item 2 substituted by SD78/96.
Item 2A inserted by SD78/96.
Item 2B inserted by SD78/96.
Para (d) added by SD180/02.
Para (e) added by SD569/06.
Para (a) amended by SD128/01.
Para (b) amended by SD12/11 effective 1/1/2011.
Para (b) substituted by SD279/02.
Para (a) amended by SD78/96.
Para (b) amended by SD78/96.
Para (c) added by SD78/96 and amended by SD180/02.
Para 12 amended by SD0606/12.
Para 13 amended by SD0606/12.
Para (b) substituted by SD12/11 effective in relation to supplies made, and acquisitions and importations taking place, on or after 1/1/2011.
Note (A1) inserted by SD78/96.
Note B1 inserted by SD12/11 effective in relation to supplies made, and acquisitions and importations taking place, on or after 1/1/2011.
Note C1 inserted by SD12/11 effective in relation to supplies made, and acquisitions and importations taking place, on or after 1/1/2011.
Note (1) amended by SD78/96.
Note (2) amended by SD78/96.
Note (2A) inserted by SD78/96.
Note (5A) inserted by SD12/11 effective 1/1/2011.
Note (7A) inserted by SD128/01.
Note (9) amended by SD279/02 (as amended by SD518/02).
Note (10) amended by SD78/96.
Para (a) amended by SD0606/12.
Para (b) amended by SD0606/12.
Note (12) amended by SD0606/12.
Subitem (a) amended by SD2015/0410.
Item 1 substituted by SD289/13.
Para (a) amended by SD289/13.
Heading amended by SD2017/0135.
880 Item 1 substituted by SD874/09 effective 2/12/2009.
881 Para (f) amended by SD127/01.
882 Para (g) amended by SD2017/0135.
883 Para (i) amended by SD2017/0135.
884 Item 2 amended by SD2017/0135.
885 Item 2A inserted by SD127/01 and substituted by SD2017/0135.
886 Item 2B inserted by SD2017/0135.
887 Item 3 amended by SD2017/0135.
888 Item 4 amended by SD2017/0135.
889 Item 5 amended by SD127/01 and by SD2017/0135.
890 Item 7 amended by SD2017/0135.
891 Item 8 amended by SD2017/0135.
892 Item 9 amended by SD2017/0135.
893 Item 10 amended by SD2017/0135.
894 Para (b) amended by SD2017/0135.
895 Item 11 substituted by SD171/00 with saving and amended by SD2017/0135.
896 Item 12 amended by SD2017/0135.
897 Item 14 amended by SD2017/0135.
898 Item 16 amended by SD2017/0135.
899 Item 17 amended by SD2017/0135.
900 Item 19 amended by SD2017/0135.
901 Note (1) amended by SD2017/0135.
902 Note (2) substituted by SD2017/0135.
903 Note (2A) inserted by SD17/98.
904 “Registered medical practitioner” means a fully registered person within the meaning of the Medical Act 1985.
905 “Registered dentist” means a registered dentist within the meaning of the Dental Act 1985.
906 Note (2B) inserted by SD874/09 effective 2/12/2009.
907 Note (2C) inserted by SD874/09 effective 2/12/2009.
908 Para (b) amended by SD17/98.
909 Note (4) amended by SD127/01 as amended by SD233/02.
910 Note (4A) inserted by SD17/98.
911 Note (4B) inserted by SD17/98 and amended by SD2017/0135.
912 Note (4C) inserted by SD17/98.
913 Note (4D) inserted by SD17/98.
914 Note (4E) inserted by SD17/98.
915 Note (4F) inserted by SD17/98 and amended by SD2017/0135.
916 Note (4G) inserted by SD17/98.
917 Para (a) substituted by SD155/10 Sch 11 and amended by SD2014/08.
918 Para (ab) inserted by SD155/10 Sch 11 and repealed by SD2014/08.
919 Note (4H) inserted by SD17/98.
920 Note (4I) inserted by SD17/98.
Note (4J) inserted by SD171/00 with saving and amended by SD2017/0135.

Note (4K) inserted by SD171/00 with saving.

Note (4L) inserted by SD127/01 and repealed by SD2017/0135.

Note (4M) inserted by SD2017/0135.

Note (4N) inserted by SD2017/0135.

Note (4O) inserted by SD2017/0135.

Note (4P) inserted by SD2017/0135.

Note (4Q) inserted by SD2017/0135.

Note (4R) inserted by SD2017/0135.

Note (4S) inserted by SD2017/0135.

Note (4T) inserted by SD2017/0135.

Note (4U) inserted by SD2017/0135.

Note (7) amended by SD2017/0135.

Para (b) amended by SD2017/0135.

Item 1 amended by SD375/96. See SD211/94.

Group 14 repealed by SD217/00.

Item 1 substituted by SD171/00 with saving.

Item 1A inserted by SD171/00 with saving.

Item 2 substituted by SD171/00 with saving.

Item 5 amended by SD2017/0135.

Item 8 substituted by SD171/00 with saving.

Item 8A inserted by SD171/00 with saving.

Item 8B inserted by SD171/00 with saving.

Item 8C inserted by SD171/00 with saving.

Note (1) substituted by SD171/00 with saving.

Note (1A) inserted by SD171/00 with saving.

Note (1B) inserted by SD171/00 with saving.

Para (a) amended by SD2017/0135.

Para (c) amended by SD2017/0135.

Note (1C) inserted by SD171/00 with saving.

Note (1D) inserted by SD171/00 with saving.

Note (1E) inserted by SD171/00 with saving.

Note (1F) inserted by SD171/00 with saving.

Para (e) amended by SD2017/0135.

Para (f) amended by SD2017/0135.

Para (a) substituted by SD155/10 Sch 11 and amended by SD2014/08.

Para (ab) inserted by SD155/10 Sch 11 and repealed by SD2014/08.

Para (d) amended by SD2017/0135.

Para (b) amended by SD2017/0135.

Note (4A) inserted by SD708/96 with saving and amended by SD2017/0135.

Note (4B) inserted by SD708/96 with saving.

Note (5) substituted by SD2017/0135.
Note (5A) inserted by SD708/96 with saving and amended by SD2017/0135.
Para (a) amended by SD2017/0135.
Note (5B) inserted by SD708/96 with saving.
Note (10A) inserted by SD171/00 with saving.
Note (10B) inserted by SD171/00 with saving.
Note (10C) inserted by SD171/00 with saving.
Note 11 substituted by Medicines Act 2003 Sch 3.
Note 12 repealed by Medicines Act 2003 Sch 3.
Item 3 amended by SD129/01.
Subpara (i) amended by SD129/01.
Subpara (ii) amended by SD129/01.
Note (4) amended by SD420/00.
Note (4A) substituted by SD129/01.
Group 17 repealed by SD935/10.
Group 18 inserted by SD726/12 effective in relation to importations, acquisitions or supplies made on or after 1/1/13.
Sch 9A inserted by SD375/96.
Subpara (2) amended by SD2019/0413.
Para (a) amended by SD2019/0413.
Subpara (2) added by SD503/99 and amended by SD2019/0413.
Para (a) amended by SD2019/0413.
Para (b) amended by SD2019/0413.
Subpara (3) amended by SD2019/0413.
Subpara (5) amended by SD2019/0413.
Subpara (8) amended by SD503/99.
Para (b) amended by SD2019/0413.
Subpara (2) amended by SD2019/0413.
Para (b) amended by SD2019/0413.
Para (b) amended by SD2019/0413.
Para (c) amended by SD2019/0413.
Subpara (1) amended by SD503/99.
Para (b) repealed by SD341/08.
Para (ja) inserted by SD289/13.
Para (la) inserted by SD289/13.
Para (m) amended by SD289/13.
Note (8) repealed by SD341/08.
Note (15) substituted by SD25/12.
Note (15B) inserted by SD25/12.
Note (16A) inserted by SD289/13.
Note (16B) inserted by SD289/13.
Note (16C) inserted by SD289/13.
Note (16D) inserted by SD289/13.
1004 Note (16E) inserted by SD289/13.
1005 Note (18) inserted by SD289/13.
1006 Note (19) inserted by SD289/13.
1007 Note (20) inserted by SD289/13.
1008 Group 2 substituted by SD224/97.
1009 Item 1 substituted by SD892/04.
1010 Items 2 and 3 repealed by SD892/04.
1011 Para (a) amended by SD892/04.
1012 Para (a) amended by SD892/04.
1013 Group 3 substituted by SD12/11 effective 1/1/2011.
1014 Item 1 amended by SD800/06.
1015 Item 1A inserted by SD667/12.
1016 Para (b) amended by Casino (Amendment) Act 2012 Sch.
1017 Para (d) repealed by SD667/12.
1018 Para (e) added by SD665/07.
1019 Note (1A) inserted by SD667/12.
1020 Note (2) substituted by SD800/06.
1021 Note (3) substituted by SD800/06.
1022 Note (4) substituted by SD800/06.
1023 Note (5) repealed by SD667/12.
1024 Note (6) added by SD665/07.
1025 Notes (7) and (8) repealed by SD800/06.
1026 Item 2A inserted by SD486/03.
1027 Item 5 substituted by SD132/99.
1028 Item 5A inserted by SD132/99.
1029 Item 7 repealed by SD132/99.
1030 Item 9 substituted by SD822/08.
1031 Item 10 added by SD676/08 and substituted by SD822/08.
1032 Note (1A) inserted by SD132/99.
1033 Notes (2A) and (2B) repealed by SD486/03.
1034 Note (5) substituted by SD132/99.
1035 Note (5A) inserted by SD132/99 and amended by SD486/03.
1036 Note (5B) inserted by SD132/99.
1037 Note (6) substituted by SD822/08.
1038 Note (6A) inserted by SD676/08 and substituted by SD822/08.
1039 Note (6B) inserted by SD822/08.
1040 Note (7) repealed by SD596/09.
1041 Para (b) repealed by SD281/13 except for a supply of services made pursuant to a written contract entered into before 1/8/13 if the supply is within the scope of that contract as it stood immediately before that date.
1042 Item (i) amended by SD155/10 Sch 10 and by SD2017/0325.
1043 Item (ii) amended by Education Act 2001 Sch 10.
1044 Subpara (a) amended by Education Act 2001 Sch 10.
Note (1)(b) substituted by Statute Law Revision Act 2017 s 48.
Para (c) substituted by SD208/10 effective 1/4/2010.
Para (ca) inserted by SD426/98.
Para (cb) inserted by SD218/00.
Para (d) amended by Statute Law Revision Act 1997 Sch 1 with effect from 19/6/1997.
Item 1 amended by SD117/07.
Item 2 amended by SD117/07. Para (c) repealed by SD117/07.
Item 2A inserted by SD117/07.
Item 3 amended by SD117/07.
Item 4 amended by SD193/02.
Para (b) amended by SD68/03.
Item 9 substituted by SD193/02.
Note (2A) in inserted by SD7/97.
Note (5) substituted by SD193/02.
Note (7) added by SD193/02 and amended by SD155/10 Sch 11 and by SD2014/08.
Heading substituted by SD654/99.
Para (e) added by SD654/99.
Item 2 amended by SD502/99.
Item 3 amended by SD502/99 and by SD2014/0417 effective in relation to relevant supplies made on or after 1/1/2015.
Note (1) amended by SD502/99.
Note (2) repealed by SD2014/0417 effective in relation to relevant supplies made on or after 1/1/2015.
Note (2A) inserted by SD502/99.
Note (2B) inserted by SD502/99.
Note (2C) inserted by SD502/99.
Note (3) amended by SD502/99.
Note (4) added by SD502/99.
Note (5) added by SD502/99.
Note (6) added by SD502/99.
Note (7) added by SD502/99.
Note (8) added by SD502/99.
Note (9) added by SD502/99.
Note (10) added by SD502/99.
Note (11) added by SD502/99.
Note (12) added by SD502/99.
Note (13) added by SD502/99.
Note (14) added by SD502/99.
Note (15) added by SD502/99.
Note (16) added by SD502/99.
Note (17) added by SD502/99.
Group 11 substituted by SD170/00.
1085 Group 12 added by SD447/96.
1086 Group 13 added by SD654/99.
1087 Para (c) amended by SD341/08.
1088 Note (9) amended by SD270/01 and by SD2015/0159 in relation to supplies made, and acquisitions and importations taking place, on or after 1 April 2015.
1089 Para (a) amended by SD2019/0143.
1090 Para (b) amended by SD2019/0413.
1091 Para (c) amended by SD2019/0413.
1092 Note (13) amended by SD2019/0413.
1093 Note (14) amended by SD2019/0413.
1094 Group 14 added by SD704/99.
1095 Group 15 inserted by SD588/12.
1096 Sch 10A inserted by SD229/03.
1097 Sch 10A sub-heading amended by SD2019/0174.
1098 Subpara (4) added by SD591/06.
1099 Para 7A inserted by SD588/12 applies to vouchers supplied on or after 10/5/12.
1100 Para 7B inserted by SD588/12 applies to vouchers supplied on or after 10/5/12.
1101 Subitem (iv) amended by SD571/03.
1102 Sch 10B inserted by SD2019/0174.
1103 Sch 11 substituted by SD341/08.
1104 Subpara (1) amended by SD2019/0413.
1105 Item (c) amended by SD577/09 and by SD2019/0413.
1106 Subpara (2) amended by SD2019/0413.
1107 Subpara (3) amended by SD2019/0413.
1108 Item (a) amended by SD577/09 and by SD2019/0413.
1109 Item (aa) inserted by SD577/09 and amended by SD2019/0413.
1110 Item (b) amended by SD2019/0413.
1111 Item (c) amended by SD2019/0413.
1112 Subpara (4) amended by SD2019/0413.
1113 Subpara (5) amended by SD2019/0413.
1114 Subpara (1) amended by SD2019/0413.
1115 Subpara (2) amended by SD2019/0413.
1116 Item (b) amended by SD2019/0413.
1117 Item (c) amended by SD2019/0413.
1118 Item (b) amended by SD2019/0413.
1119 Subpara (5) amended by SD2019/0413.
1120 Item (a) amended by SD2019/0413.
1121 Item (b) amended by SD2019/0413.
1122 Subpara (7) amended by SD2019/0413.
1123 Subpara (3) amended by SD207/10 effective in relation to supplies made on or after 1/4/2010 other than a supply arising from a grant made before 1/4/2010.
1124 Subpara (3A) substituted by SD45/11 effective in relation to supplies made on or after 1/3/2011 other than a supply arising from a grant made before 1/3/2011.
Item (b) amended by SD45/11 effective in relation to supplies made on or after 1/3/2011 other than a supply arising from a grant made before 1/3/2011.
Subpara (2) amended by SD45/11 effective in relation to supplies made on or after 1/3/2011 other than a supply arising from a grant made before 1/3/2011.
Subpara (4) substituted by SD45/11 effective in relation to supplies made on or after 1/3/2011 other than a supply arising from a grant made before 1/3/2011.
See para 34(3) of Schedule 11 to the Act for the definition of “public notice” for the purposes of Part 1 of that Schedule.
Subpara (6A) inserted by SD45/11 effective in relation to supplies made on or after 1/3/2011 other than a supply arising from a grant made before 1/3/2011.
Para 15A inserted by SD207/10 effective in relation to supplies made on or after 1/4/2010 other than a supply arising from a grant made before 1/4/2010.
Item (b) repealed by SD45/11 effective 1/3/2011.
Item (b) amended by SD2019/0413.
Item (a) amended by SD2019/0413.
Item (b) amended by SD2019/0413.
Item (b) amended by SD2019/0413.
Definition of “relevant group member” amended by SD2019/0413.
Subpara (13) added by SD577/09.
Subpara (14) added by SD577/09.
Item (b) repealed by SD207/10 effective 1/4/2010.
Item (b) amended by SD577/09.
Subpara (7) amended by SD577/09.
Subpara (8) substituted by SD577/09.
Para 26 substituted by SD577/09.
Item (za) inserted by SD577/09.
Item (b) substituted by SD577/09.
Subs (2) amended by SD577/09.
Subs (2A) inserted by SD577/09.
Subs (2BA) inserted by SD577/09.
Subpara (3) amended by SD2019/0413.
Para 35 substituted by SD45/11 effective in relation to buildings that are completed on or after 1/3/2011.
Para 36 substituted by SD45/11 effective in relation to buildings that are completed on or after 1/3/2011.
Para 37 substituted by SD45/11 effective in relation to buildings that are completed on or after 1/3/2011.
Sch 11A inserted by SD568/04.
Sch 11A heading amended by SD2019/0174.
Definition of “non-deductible tax” inserted by SD587/05.
Item (b) repealed by SD2019/0174.
Item (c) amended by SD2019/0174.
Para 2 substituted by SD587/05 with savings.
Item (b) repealed by SD2019/0174.
Item (c) amended by SD2019/0174.
Para 2A inserted by SD587/05 with savings.
Item (c) added by SD587/05 with savings.
Subpara (2A) inserted by SD587/05 with savings.
Subpara (5) substituted by SD587/05 with savings.
Definition of “relevant period” amended by SD587/05.
Item (b) amended by SD250/09.
Item (c) added by SD587/05 with savings.
Subpara (4) amended by SD587/05 with savings.
Subpara (5) added by SD587/05 with savings.
Subpara (3) substituted by SD587/05 with savings.
Subpara (3A) inserted by SD587/05 with savings.
Sch 11B inserted by SD2019/0174.
Heading amended by SD859/03.
Subpara (1) amended by SD859/03, by SD588/12 and by SD2018/0024.
Subparas (2) and (2A) repealed by SD859/03.
Item (b) substituted by SD588/12.
Subpara (3) amended by SD596/09 and by SD588/12.
Subpara (3ZA) amended by SD596/09 effective 1/1/2010.
Item (b) substituted by SD588/12.
Subpara (3A) inserted by SD441/07 and amended by SD588/12.
Item (a) amended by SD806/10.
Subpara (3B) inserted by SD445/07 and amended by SD588/12.
Subpara (4) amended by SD588/12.
Item (a) amended by SD588/12.
Subpara (5A) inserted by SD588/12.
Subpara (5B) inserted by SD588/12.
Subpara (5C) inserted by SD588/12.
Subpara (5D) inserted by SD588/12.
Item (d) added by SD375/96.
Item (e) added by SD375/96.
Subpara (11A) inserted by SD2018/0024.
Para 2A inserted by SD859/03.
Para 2B inserted by SD859/03.
Para 3 substituted by SD859/03.
Para 4 substituted by SD229/03.
Subpara (4) substituted by SD2015/0029.
Subpara (5) substituted by SD2015/0029.
Subpara (6) inserted by SD2015/0029.
Subpara (1) amended by SD501/96.
Subpara (3) amended by SD639/08.
Subpara (4) substituted by SD639/08.
Subpara (5) substituted by SD2018/0024.
Subpara (6) substituted by SD2018/0024.
Subpara (7) inserted by SD2018/0024.
Subpara (8) inserted by SD2018/0024.
Subpara (9) inserted by SD2018/0024.
Subpara (10) inserted by SD2018/0024.
Subpara (11) inserted by SD2018/0024.
Subpara (7) substituted by SD639/08.
Para 8A inserted by SD591/06.
Subpara (9) added by SD503/99.
Para heading substituted by SD667/12.
Para (a) substituted by SD667/12.
Para (b) amended by SD667/12.
Subpara (2) amended by SD501/96.
Subpara (2A) inserted by SD591/06.
Subpara (4) amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 29.
Item (b) amended by SD0606/12.
Subpara (6) added by Criminal Justice Act 2001 s 51.
Sch 12A repealed by SD638/08, subsequently inserted by SD843/11.
Para 4 substituted by Value Added Tax (Amendment) Act 2009 s 1.
Para 5 substituted by Tribunals Act 2006 Sch 3 and amended by Value Added Tax (Amendment) Act 2009 s 1.
Subpara (1) amended by Legislation Act 2015 s 99.
Note: SD639/08 refers to “paragraph 6(2)”. It is clear that the intention was to amend paragraph 7(2).
Subpara (2) amended by SD639/08.
Subpara (1) substituted by SD224/97.
Para 9 repealed by SD341/08.
Cross-heading added by SD12/11 effective 1/1/2011.
Subpara (5) amended by SD666/11.
Para 24 added by SD12/11 effective 1/1/2011.